



**North Carolina Department of Health and Human Services  
Division of Facility Services • Mental Health Licensure and Certification Section**

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Michael F. Easley, Governor

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Stephanie M. Alexander, Chief

**Notice**

**To:** Licensed 122-C Providers  
**From:** Stephanie Alexander, Chief  
**Date:** May 23, 2005  
**Re:** **Criminal Background Checks: Additional Information Regarding Recently Passed Legislation**

As communicated to you in my March 28, 2005 letter, the North Carolina General Assembly recently passed a new law (Senate Bill 41), which expands your responsibility to conduct criminal background checks on unlicensed employees. The law went into effect March 23, 2005 and requires you to conduct a criminal background check on all prospective employees who may have direct access to clients you serve. This includes direct care positions, administrative positions and any other support positions that have contact with clients.

The law requires that, for those prospective employees who have lived in North Carolina *less than* five consecutive years, a national criminal records check must be obtained. For those prospective employees who have lived in North Carolina for *more than* five years, only a state criminal records check is required. In addition, the law requires that all contract agencies whose employees have direct access to your clients must comply with this new law.

We have received updated information regarding implementation of this law from the manager of the DHHS Criminal Record Check Unit, Ms. Melynda Swindells. Below, in italics, is her correspondence. Enclosed are two documents referred to in her message: Frequently Asked Questions (FAQ) and the Applicant Request for Criminal History Record Information forms.

If you have questions concerning any of the above information, please contact the central Criminal Records Check Unit at 919-773-2856 or 1-800-859-0829 (in-state calls only).

*Good morning.*

*My name is Melynda Swindells and I am the new manager of the DHHS Criminal Record Check Unit. Since the passage of Senate Bill 41 (SB 41) requiring all direct access employees hired after March 23, 2005 who have not lived in North Carolina for the past 5 years to now have a national background check completed, we at DHHS have received many phone calls. We began working on a Frequently Asked Question (FAQ) document to assist providers as we navigate this uncharted area. I have been impressed with so many of you who have already begun moving in this direction prior to the passage of SB 41. Attached you will find two documents; the FAQ document as well as a release form. First, the FAQ document is a compilation of the most common questions (and answers) we have received/given regarding SB 41. The second document is the North Carolina Health and Human Services Applicant Request for Criminal History Record Information release form. If a hit occurs on the North Carolina check, DHHS will provide you, as the employer, with a copy of the State report; however, State and Federal law prohibits DHHS from releasing any information contained on the national check. This release form attached to this email is the required form an applicant must fill out and submit to DHHS when his/her fingerprints are sent to the SBI so that DHHS may release the national hit information directly to the applicant (see questions #6 & #7 of the FAQ document). There has been concern that many providers, who have already contacted Harold Nance at the SBI, have not received their access agreements yet in order to start the fingerprinting process. Those access agreements are not available at this time, but we anticipate them being ready in the near future. See question #17 for clarification on operating procedure(s) until the access agreements are available.*

*If you have additional questions regarding this email or SB 41 after reviewing this information, please do not hesitate to contact me. We are here to assist you in anyway possible. I look forward to working with you in the future.*

*Melynda Swindells  
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