

AN ACT

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IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

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To amend, on a temporary basis, the Health-Care Facility Unlicensed Personnel Criminal Background Check Act of 1998 to limit the period in which criminal convictions would bar an unlicensed person from employment with a health care facility to the 7 years preceding the criminal background check, to authorize a health care facility to seek reimbursement from the prospective employee or contract worker of the fees the facility pays for the required criminal background check, and to make technical amendments.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Health-Care Facility Unlicensed Personnel Criminal Background Check Temporary Amendment Act of 2001".

Sec. 2. The Health-Care Facility Unlicensed Personnel Criminal Background Check Act of 1998, effective April 20, 1999 (D.C. Law 12-238; D.C. Official Code § 44-551 *et seq.*), is amended as follows:

(a) Section 2 (D.C. Official Code § 44-551) is amended as follows:

(1) Paragraph (1) is redesignated as paragraph (1C).

(2) New paragraphs (1A) and (1B) are added to read as follows:

"(1A) "Contract worker" means a compensated contractor for whom it is foreseeable he or she will come in direct contact with patients.

"(1B) "Criminal background check" means an investigation into a person's criminal history to determine whether, within the 7 years preceding the background check, the person has been convicted in the District of Columbia, or in any other state or territory of the United States where such person has worked or resided, of any of the offenses enumerated in section 3(e) or their equivalent in another state or territory."

(3) Paragraph (2) is repealed.

(4) New paragraphs (4), (5), (6), and (7) are added to read as follows:

"(4) "Nurse Aide Abuse Registry" means a record, maintained by the District of Columbia in accordance with section 4211 of the Omnibus Budget Reconciliation Act of 1987, approved December 22, 1987 (101 Stat. 1330-182; 42 U.S.C. § 1396r), and 29 DCMR § 3250-3254, containing names of individuals who worked as nurse aides and were determined to have

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abused or neglected, or misappropriated the property of, a nursing home resident.

"(5) "Person" means an individual.

"(6) "Private agency" means an entity or person that offers customer assistance in the use of criminal background checks for employment purposes.

"(7) "Unlicensed person" means a person not licensed pursuant to the District of Columbia Health Occupations Revision Act of 1985, effective March 25, 1986 (D.C. Law 6-99; D.C. Official Code § 3-1201.01 *et seq.*), who functions in a complementary or assistance role to licensed health care professionals in providing direct patient care or in performing common nursing tasks. The term "unlicensed person" includes nurse aides, orderlies, assistant technicians, attendants, home health aides, personal care aides, medication aides, geriatric aides, or other health aides. The term "unlicensed person" also includes housekeeping, maintenance, and administrative staff for whom it is foreseeable that the prospective employee or contract worker will come in direct contact with patients."

(b) Section 3 (D.C. Official Code § 44-552) is amended as follows:

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(1) Subsection (a) is amended by striking the phrase "apply to persons licensed" and inserting the phrase "apply to persons employed on or before the effective date of the Health-Care Facility Unlicensed Personnel Criminal Background Check Emergency Amendment Act of 2001, passed on an emergency basis on June 26, 2001 (Enrolled version of Bill 14-266), persons licensed" in its place.

(2) Subsection (b) is amended to read as follows:

"(b) No facility shall employ or contract with any unlicensed person until a criminal background check has been conducted for that person. Each facility shall inform each prospective employee or contract worker that the facility is required to conduct a criminal background check before employing or contracting with an unlicensed person."

(3) Subsection (e) is amended as follows:

(A) Strike the lead-in language and insert the following language in its place:

"No facility shall employ or contract with any unlicensed person if, within the 7 years preceding a criminal background check conducted pursuant to this section, that person has been convicted in the District of Columbia, or in any other state or territory of the United States where such person has worked or resided, of any of the following offenses or their equivalent in another state or territory:"

(B) Paragraph (9) is repealed.

(C) Paragraph (12) is amended by striking the phrase "distribution, possession, or possession with intent" and inserting the phrase "distribution or possession with intent" in its place.

(4) Subsection (f) is repealed.

(5) Subsection (g) is amended by striking the phrase "Except as provided in subsection (f) of this section, no facility shall employ or contract with any person who is not a licensed professional" and inserting the phrase "No facility shall employ or contract with any unlicensed person" in its place.

(6) Subsection (h) is amended to read as follows:

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"(h) Each facility may obtain a criminal background check from the Metropolitan Police Department, the U.S. Department of Justice, or from a private agency. The facility shall pay the fee that is established and charged by the entity that provides the criminal background check results. Nothing in this subsection shall preclude the facility from seeking reimbursement of the fee paid for the criminal background check from the applicant for employment or contract work."

**Sec. 3. Fiscal impact statement.**

The Council adopts the attached fiscal impact statement of the Chief Financial Officer as the fiscal impact statement required by section 602(c)(3) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(3)).

**Sec. 4. Effective date.**

(a) This act shall take effect following approval by the Mayor (or in the event of veto by the Mayor, action by the Council to override the veto), approval by the Financial Responsibility and Management Assistance Authority as provided in section 203(a) of the District of Columbia Financial Responsibility and Management Assistance Act of 1995, approved April 17, 1995 (109 Stat. 116; D.C. Official Code § 47-392.03(a)), a 30-day period of Congressional review as provided in section 602(c)(1) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(1)), and publication in the District of Columbia Register.

(b) This act shall expire after 225 days of its having taken effect.

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Chairman  
Council of the District of Columbia

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Mayor  
District of Columbia