

SERENITY BEHAVIORAL HEALTH SYSTEMS

SUBJECT: CRIMINAL HISTORY RECORD CHECKS
POLICY NUMBER: HR-41
EFFECTIVE DATE: January 2009
SUPERSEDES: N/A
LAST REVISION DATE: March 2009

POLICY:

It is the policy of Serenity Behavioral Health Systems (SBHS) to be concerned about the health and safety of all individuals and the safeguarding of SBHS property. It is the policy of SBHS that all reasonable efforts will be made to provide a safe and secure environment for clients, staff and any other work-related contacts. Based on this objective, a criminal history record check will be completed on the top applicant being considered for employment in any job with SBHS. Criminal history record checks are also to be completed on individuals with whom SBHS contracts to perform direct care, treatment and/or custodial services.

GENERAL PROVISIONS:

- I. All applicants who are selected for employment to any position with SBHS are required to undergo a criminal history record check.

- II. All applicants/employees are required to disclose felony convictions on their Application For Employment, and all applicants are required to disclose convictions and/or pending charges on State Security Questionnaire/Loyalty Oath forms.
 - A. Material falsification or misrepresentation of any information, including criminal history is prohibited and may result in an applicant not being employed or separation of an employee.

NOTE: “Material” refers to information that directly influences and/or impacts the hiring decision based on records, credentials and/or qualifications.

 - B. Individuals who are not employed due to falsification or misrepresentation of information are not eligible for consideration for employment with SBHS for a minimum of six (6) months from the date the violation is discovered.

- III. Employees are required to notify their supervisor or human resources/personnel representative of any arrests and/or convictions within five (5) calendar days of the date of arrest or conviction. A determination of appropriate action will be made on a case-by-case basis.

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CRIMES THAT RESTRICT EMPLOYMENT:

- I. Individuals who have been convicted of a crime listed in this section, or any other offense committed outside of the State of Georgia that would have been considered one of these crimes if committed in Georgia, are disqualified from employment as indicated below.

- II. There is a mandatory disqualification from employment in positions subject to criminal history record checks for a minimum of five (5) years from the date of conviction, plea of nolo contendere, or release from incarceration or probation, whichever is later, for the following crimes:
 - A. Murder or Felony Murder
 - B. Attempted Murder
 - C. Kidnapping
 - D. Rape
 - E. Armed Robbery
 - F. Robbery
 - G. Cruelty to Children
 - H. Sexual Offenses
 - I. Aggravated Assault
 - J. Aggravated Battery
 - K. Arson
 - L. Theft by taking (O.C.G.A. §16-8-2), by deception (O.C.G.A. §16-8-3) or by conversion (O.C.G.A. §16-8-4)
 - M. Forgery (in the first or second degree.)

- III. SBHS is prohibited from hiring into positions providing services, support, care and treatment of any persons convicted of child, individual or patient abuse, child, individual or patient neglect, and child, individual or patient mistreatment.
 - A. This is a permanent hiring prohibition.
 - B. Any request for exceptions to this prohibition will be closely reviewed on a case-by case basis by the Chief Executive Officer.

- IV. The following minimum sanctions are to be imposed on applicants who have been convicted of a criminal drug offense:
 - A. Disqualification from employment in any position for a period of two (2) years from the date of conviction for the first offense; and
 - B. Disqualification from employment in any position for a period of five (5) years from the most recent date of conviction for the second or subsequent offense.

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NOTE: For purposes of this disqualification, “conviction” does not include treatment under the Georgia First Offender Act or a plea of nolo contendere. Refer to SBHS HR Policy HR-28.1 – Drug-Free Work Place.

- V. Applicants/employees may also be disqualified from employment, as determined appropriate by the Human Resource Manager or Chief Executive Officer, if criminal history records indicate any of the following that have direct relevancy to the responsibilities or duties of the position:
 - A. Any other conviction or pattern of convictions
 - B. A pattern of recent arrests
 - C. A significant recent arrest. Disqualification to apply until such time as the charge is resolved.

AWARENESS STATEMENT:

- I. All employees who access, process, receive or review criminal history record information is required to sign an Awareness Statement form. The Rules of the Georgia Crime Information Center (GCIC) Council require signed Awareness Statements to be placed in employees’ official personnel files.
- II. Copies of signed Awareness Statements must be on file with the Human Resources Department before criminal history record information may be lawfully disseminated.
- III. Criminal history record information will not be given to employees of SBHS who do not have a signed Awareness Statement on file with Human Resources Department.

NOTICE & CONSENT FORM:

- I. Notification that a criminal history record check is required prior to employment with SBHS must be included on all job announcements.
- II. Applicants/employees are to be advised of the required criminal history record check during the interview process.
- III. At the time of the interview, applicants/employees are to complete the Consent for Release of Information form. Applicants/employees who refuse to sign the Consent for Release of Information form will not be given further consideration for employment. Applicants/employees are to be advised that they may be denied employment or separated based on information received on criminal history record checks.
- IV. Once the hiring supervisor has selected an individual to be offered employment, the hiring supervisor must forward the completed Consent for Release of Information form for that individual to Human Resources. For the remaining individuals in the pool of a

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applicants, the Consent for Release of Information form should be attached to and filed with the application, as no criminal history check is necessary for those individuals.

- V. Following receipt of the Consent for Release of Information form by Human Resources for the selected applicant/employee, a name and social security number check will be conducted through the Georgia Crime Information Center (GCIC) system.
- VI. If information is discovered that appears to warrant an “unfavorable” employment decision, the applicant/employee must be given an opportunity to provide an explanation prior to removing the applicant from consideration or separating the employee.
- VII. If an applicant/employee is denied further consideration for employment based on the GCIC system check, the applicant/employee must be given separate written notification that discloses the specific information used to make the employment determination.

FINGERPRINTING:

- I. Once the hiring supervisor has selected an individual to be offered employment, the hiring supervisor must forward the completed Consent for Release of Information form for that individual to Human Resources. For the remaining individuals in the pool of applicants, the Consent for Release of Information form should be attached to and filed with the application, as no criminal history check is necessary for those individuals.
- II. The selected applicant/employee must be fingerprinted prior to employment. Fingerprinting will be completed by appropriately trained staff of Cogent the Georgia Applicant Processing Services (GAPS) who has been awarded the contract by the Georgia Bureau of Investigation (GBI) as the designated collection site to provide electronic fingerprint submission services for the State of Georgia applicants.
- III. During SBHS pre-employment processing, the designated HR Personnel Technician will register the new employee with Cogent prior to sending them to the fingerprint collection site. Fingerprint services will not be provided to applicants that have not been registered by SBHS. There will be no data collection or registration at the fingerprint selection site.
- IV. Once the new employee is registered, a receipt will be printed and issued to the new employee to take to Cogent indicating that SBHS pays the required processing fee for applicants and employees directly to Cogent. All employees must present a qualified state or federal photo ID to the collector before fingerprints are taken.
- V. The results of the Criminal History Background Check will be provided to the Department of Human Resources Office of Investigative Services (OIS). Fingerprint search results and associated rap sheet, if applicable, will be available for review by OIS through the Cogent secured website within 24-48 hours after the employee is fingerprinted and the transactions submitted to OIS.

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- VI. Cogent will advise the OIS of any findings, including pending charges and/or convictions, which occurred. OIS will then advise SBHS of any findings including pending charges and/or convictions.
- VII. After completion of the fingerprinting process, the Human Resources Manager will advise the hiring manager and/or the CEO of one of the following:
 - A. There is a criminal history record that would prohibit hiring or requires dismissal; or
 - B. There is a criminal history record that may be job-related and requires close review.
- VII. If information is discovered that appears to warrant an “unfavorable” employment decision, the applicant/employee may be given an opportunity to provide an explanation prior to removing the applicant from consideration or separating the employee.
- VIII. The written determination concerning the criminal history information must be maintained by SBHS and must be filed separately from any type of personnel file.
 - A. If the determination from Human Resources shows that there is no criminal history, no further action by the hiring program is necessary.
 - B. If the determination from Human Resources shows that there is a criminal history that prohibits employment, the CEO is to take appropriate employment action.
 - C. If the determination from Human Resources shows that there is a criminal history that may be job-related, a final determination regarding employment will be made by the CEO.
- IX. If there is a pending charge, the CEO or Human Resources Manager must meet with the applicant/employee to discuss the current status and specific facts.
 - A. An applicant who refuses to discuss a pending charge will not be employed. An employee who refuses to discuss a pending charge is subject to disciplinary action, up to and including dismissal.
 - B. The applicant/employee is required to notify the Human Resources Manager when a disposition of the pending charge is made.
 - C. A determination of appropriate action based on the disposition will be made on a case-by-case basis.

REVIEW OF INFORMATION IN PERSONNEL RECORDS:

- I. The designated Personnel Technician must compare the information received from the Department of Human Resources OIS with information provided by applicants and or employees on the Applications for Employment and, for applicants, on the State Security Questionnaire/Loyalty Oath forms.

NOTE: The Human Resources staff is to ensure that State Security Questionnaire/Loyalty forms have been properly notarized in the presence of applicants.

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- II. Any discrepancies must be discussed with applicants/employees. Applicants/employees must be given an opportunity to provide a written explanation of discrepancies to the Chief Executive Officer or Human Resources Manager prior to any action being initiated. A determination of appropriate action will be made after receipt of the written explanation.
- III. The Human Resources Manager is to contact the hiring manager if applicants/employees did not disclose criminal history information on Applications for Employment or State Security Questionnaire/Loyalty Oath forms.

NOTE: Minor traffic offenses would not warrant disciplinary action or separation unless such offenses are relevant to the job or the number of offenses indicates a serious lack of judgment. DUIs and other serious traffic-related infractions are not considered “minor traffic offenses.”

- IV. If it is determined that an applicant/employee provided material falsification or misrepresentation of any information on Applications for Employment or Security Questionnaire/Loyalty Oath forms, the applicant will not be employed, or the employee will be separated from employment.

NOTIFICATION OF EMPLOYMENT DECISION:

- I. If an applicant is eliminated from consideration for a position based on a criminal history record check, or if an employee is separated, the applicant/employee must be given separate written notification that discloses the specific information used to make the employment determination.

NOTE: Failure to provide this notification to affected applicants and employees is a misdemeanor.

- II. The Human Resources Department must keep copies of the following written documents when individuals are not employed or are separated from employment as a result of criminal history record checks:
 - A. For Applicants:
 - 1. Disclosure of information received from Department of Human Resources OIS
 - 2. Notice of withdrawal of offer of employment (if an offer had been made).
 - B. For Classified Employees:
 - 1. Disclosure of information received from Department of Human Resources OIS Separation and Notice of Separation.
 - C. For Unclassified Employees:
 - 1. Disclosure of information received from Department of Human Resources OIS for separation
 - 2. Notice of separation.

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MAINTENANCE OF RECORDS:

- I. Criminal history record information must be maintained separately from any type of personnel file.
 - A. This information, when not in use, must be stored in a locked cabinet. Areas in which the information is processed and handled should be out of public view and restricted to authorized staff in the performance of their official duties.
 - B. Criminal history record information is accessible only to authorized employees who have a need to know.
- II. SBHS will maintain criminal history record information for at least three (3) years. SBHS should retain criminal history record information based on established records retention schedules for SBHS.
- III. All conviction data received can only be used for making employment decisions and will not be released or otherwise disclosed, except to a person or agency with a legal right to inspect the criminal history record file.
 - A. The release of criminal history record information to unauthorized individuals may be grounds for disciplinary action, up to and including dismissal.
 - B. Criminal penalties may be imposed for unlawfully accessing or communicating criminal history record information.

REFERENCES:

- I. O.C.G.A. §31-7-350 *et seq.*, §35-3-30 *et seq.*, and §49-2-14
- II. Criminal Code of Georgia (O.C.G.A. Title 16)
- III. Code of Federal Regulations 42, IV, § 483.420 (d) (1) (iii)
- IV. Rules of the Georgia Crime Information Center Council
- V. SBHS Human Resource/Personnel #HR-28.1 – Drug-free Work Place
- VI. DHR Policy 504

ATTACHMENTS:

- I. [Consent](#) For Release of Information SBHS Form 348
- II. [Awareness](#) Statement SBHS Form 583
- III. [Sample](#) Disclosure Of Information Received From Department of Human Resources OIS (Applicant) SBHS Form 610
- IV. [Sample](#) Disclosure Of Information Received From Department of Human Resources OIS (Separation) SBHS Form 934

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APPROVAL SECTION:

Chief Executive Officer

Date

Committee Chairperson

Date

RESCISSION SECTION:

Chief Executive Officer

Date

REVIEW SECTION:

Committee Chairperson

Date

Committee Chairperson

Date

Committee Chairperson

Date