ADMINISTRATIVE REGULATIONS

Regulations and notices published herein, pursuant to General Statutes Sections 4-168 and 4-173, are printed exactly as submitted by the forwarding agencies. These, being official documents submitted by the responsible agencies, are consequently not subject to editing by the Commission on Official Legal Publications.

A cumulative list of effective amendments to the Regulations of Connecticut State Agencies may be found in the Connecticut Law Journal dated August 4, 2015.

DEPARTMENT OF PUBLIC HEALTH

Notice of Policies and Procedures

Notice is hereby given that the Department of Public Health is adopting the policies and procedures published below concerning ''Policies and Procedures For The Implementation Of The Criminal History and Patient Abuse Background Search Program For Long-Term Care Facilities'' under the authority granted to the department by section 19a-491c of the Connecticut General Statutes. Notice is also hereby given, in accordance with Section 4-168(a) of the Connecticut General Statutes, that the Department of Public Health proposes these policies and procedures as an amendment to the Regulations of the Connecticut State Agencies.

Statement of purpose: The purpose of these policies and procedures is to (A) implement the criminal history and patient abuse background search program; (B) by establishing the process for long term care facilities to follow when registering for the system and contacting individuals for employment; (C) and creating a new section 19a-491c-1 of the Regulations of Connecticut State Agencies.

Persons wishing to present their views and arguments regarding these policies and procedures are invited to do so in writing within thirty (30) days of publication of this notice. A public hearing will be scheduled if requested by fifteen (15) or more persons, a governmental subdivision or agency, or an association having not less than fifteen (15) members, provided that notice of such request is made within (30) thirty days of publication of this notice to: Commissioner of Public Health, Department of Public Health, 410 Capitol Avenue, MS #13COM, P.O. Box 340308, Hartford, Connecticut 06134-0308; telephone number (860) 509-7101.

Copies of these proposed policies and procedures may be obtained from Pat Trella, Office of Licensure, Regulation and Compliance, Department of Public Health 410 Capitol Avenue, MS#12LEG, PO Box 340308, Hartford, CT 06134 Phone: (860) 509-8137, e-mail: patricia.trella@ct.gov.

Jewel Mullen, M.D., M.P.H., M.P.A.
Commissioner

Policies And Procedures For The Implementation Of The Criminal History And Patient Abuse Background Search Program For Long-Term Care Facilities

In accordance Section 19a-491c and until such time regulations are developed, the Commissioner of Public Health shall implement the following policies and procedures as regulation:

Department of Public Health Policy and Procedure No. 15-01

Section 1. Definitions. As used in sections 1 through 11

(1) ''Department'' means the Department of Public Health.

(2) ''DESPP'' means the Department of Emergency Services and Public Protection.

(3) ''FBI'' means the Federal Bureau of Investigation.

(4) ''ABCMS'' means the Applicant Background Check Management System, an electronic web-based system maintained by the Department to facilitate, process, evaluate, transmit and record criminal history and patient abuse background searches conducted by long-term care facilities pursuant to section 19a-491c of the Connecticut General Statutes.

(5) ''Criminal history and patient abuse background search'' or ''background search'' shall have the same meaning provided in section 19a-491c of the Connecticut General Statutes.

(6) ''Direct access'' shall have the same meaning as provided in section 19a-491c of the Connecticut General Statutes.

(7) ''Disqualifying offense'' shall have the same meaning as provided in section 19a-491c of the Connecticut General Statutes.

(8) ''Long-term care facility'' shall have the same meaning as provided in section 19a-491c of the Connecticut General Statutes.

(9) ''Volunteer'' for the purpose of this program means an individual who a long-term care facility reasonably expects will regularly perform duties that are substantially similar to those of an employee with direct access.

(10) ''Home health agency'' shall have the same meaning as provided in in section 19a-490 of the Connecticut General Statutes.

(11) ''Long-term care services'' means the provision of supportive or health services to a patient or resident of a long-term care facility.

(12) ''Individual'' means any person required to submit to a background search pursuant to section 19a-491c of the Connecticut General Statutes.

Section 2. Applicability

(a) A long-term care facility is not required to comply with these policies and procedures with respect to any individual who is employed, contracting or volunteering with said long-term care facility prior to the date the long-term care facility is phased in to the implementation of this program pursuant to the provisions of section 19a-491c of the Connecticut General Statutes.

(b) The DPH shall notify affected long-term care facilities of planned ABCMS implementation and system training through utilization of the Everbridge system or

other electronic means in addition to publication in the Connecticut Law Journal as specified in subsection (g) of section 19a-491c of the Connecticut General Statutes.

(c) Upon a change in ownership of any long-term care facility subject to the provisions of section 19a-491c of the Connecticut General Statutes, any individual in the employ, contract or volunteer of said facility at the time of such change of ownership shall not be required to submit to a background search pursuant to the provisions of section 19a-491c solely as a result of such change in ownership.

Section 3. Registration and User Accounts

(a) Each long-term care facility shall register and maintain accurate and up-to-date registration and contact information, including an active email address, within the ABCMS to receive timely notifications, communications and background search results within the ABCMS.

(b) Long-term care facilities may utilize the services of a third-party vendor, entity, agency or contractor for staffing and/or background check processing purposes under the ABCMS. The third-party staffing vendor, entity agency or contractor may act as the designee for long-term care facilities and shall establish registration and user accounts within the ABCMS. If a long-term care facility utilizes the service of a third party staffing and/or background check processing vendor, entity, agency or contractor, the long-term care facility shall be responsible for obtaining reasonable assurances that said third party staffing and/or background check processing vendor, entity, agency or contractor has complied with all applicable provisions within section 19a-491c of the Connecticut General Statutes and these provisions.

(c) Each long-term care facility shall inform the Department within 5 business days of any change in the long-term care contact information or active email address related to the ABCMS. Long-term care facilities shall respond within 5 business days to any direct request or communication from the Department within the ABCMS.

(d) Each long-term care facility shall ensure that passwords and other ABCMS account requirements are maintained and active. Requirements include access to an appropriate internet browser as may be specified by the Department.

(e) Each long-term care facility shall maintain the status of the employment, contract or volunteer affiliation of any individual in the ABCMS and shall reflect within the ABCMS the termination of any such individual from employment or affiliation with said long-term care facility within 5 business days of such event.

(f) Each long-term care facility shall use information obtained from an individual or the Department for the purpose of conducting a background search solely for the purpose of processing the required background search under this program.

(g) The ABCMS shall record the information and records submitted by long-term care facilities for individuals and the results of the registry checks and criminal history records checks in accordance with section 19a-491c of the Connecticut General Statutes.

Section 4. Consent to Conduct Background Search and Fingerprint Information Form

(a) Each individual must complete a Long-Term Care Background Search Consent and Disclosure form (''Consent and Disclosure Form'') as published by the Department and available to long-term care facilities through the ABCMS. Each long-term care facility shall ensure that the Consent and Disclosure Form is completed, signed and dated by the individual. A copy of section 19a-491c of the Connecticut

General Statutes shall accompany the Consent and Disclosure Form provided to each individual.

(b) A copy of the Consent and Disclosure Form executed by an individual shall be maintained within the individual's personnel file for the duration of an individual's employment, contract for services or volunteer affiliation with the long-term care facility. If a long-term care facility initiates the process of registering an individual within the ABCMS but does not so employ or otherwise utilize the services of said individual as may be covered under section 19a-491c of the Connecticut General Statutes, a copy of the Consent and Disclosure Form completed by the individual shall be maintained on file by, and readily accessible to, the long-term care facility for not less than one year from the date the individual registration into the ABCMS was initiated by the long-term care facility.

(c) Each long-term care facility shall obtain the individual identification information required by DESPP for the processing of the state and national criminal history record check as indicated on a Fingerprinting Information Form available through the ABCMS.

Section 5. Individual Registration within the ABCMS

(a) For each individual subject to a background search by a long-term care facility, the long-term care facility shall register the individual within the ABCMS by submitting all required data, including an individual's name, address, prior residences or states of employment during the preceding three years, maiden name or other names, social security number, date of birth and other data that may be required for the purpose of registering an individual within the ABCMS and obtaining a state and national criminal history record check through DESPP.

Section 6. Registry Checks

(a) Once a long-term care facility has successfully registered an individual within the ABCMS and completed all required preliminary data fields within the ABCMS, the long-term care facility shall conduct a check of all relevant registries listed within the ABCMS for a finding of a disqualifying offense, including: the national sex offender registry; Connecticut sex offender registry; Connecticut Department of Social Services Administrative Actions List; Office of the Inspector General exclusion list; Connecticut Nurse Aide Registry maintained by the Department pursuant to section 20-102bb of the general statutes; the Department's Practitioner Licensing and Investigations Section License Verification System; and the Connecticut Judicial Branch Criminal Convictions Database. The Department shall provide long-term care facilities with web-based links to all required registries within the ABCMS.

(b) A long-term care facility shall alert the Department, through the ABCMS, of any registry check that may indicate the existence of a disqualifying offense. The Department shall review the registry information and make a final determination as to the existence of a disqualifying offense, update the status of the registry check result within the ABCMS and provide notice in writing to the individual with an opportunity to obtain a waiver of the disqualifying offense.

(c) If the findings of the registry checks do not reveal a disqualifying offense, the long-term care facility shall record this clearance in the ABCMS and the long-term care facility shall be authorized to continue with the process, through the ABCMS, for the collection and submission of an individual's fingerprints for the performance of state and national criminal history records checks conducted in accordance with section 29-17a of the general statutes.

Section 7. Criminal History Record Check Fees, Fingerprinting Authorization Forms and Fingerprinting

(a) Long-term care facilities shall electronically submit payment for all fees required for fingerprint processing and state and national criminal history record checks.

(b) All fees required for fingerprint processing and state and national criminal history records checks shall be paid in a manner and form as prescribed by the DESPP and/or any third-party payment vendor for the purpose of processing any and all fee payments under this program. Long-term care facilities shall timely establish and maintain active payment subscriber accounts with the DESPP and/or any third-party vendor for the purpose of processing fee payments under this program as may be necessary.

(c) The failure of a long-term care facility to establish and/or maintain active payment subscriber accounts with the DESPP and/or any third-party payment vendor for the purpose of payment for all fees required for fingerprint processing and state and national criminal history record checks may result in the immediate disabling of said long-term care facility's access to the ABCMS until such required payment subscriber account is successfully established and/or maintained.

(d) Within available federal grant appropriations, the Department shall offset the cost of fingerprint processing to the greatest extent possible.

(e) A Fingerprinting Authorization Form published by the Department and available to long-term care facilities through the ABCMS shall be completed and provided to the individual to take to an authorized DESPP location. Individuals may only utilize DESPP locations identified through the ABCMS for the purposes of fingerprint processing under this program. Long-term care facilities shall maintain a copy of the completed Fingerprinting Authorization Form, signed and dated by the individual, on file by, and readily accessible to, the long-term care facility for not less than one year from the date the individual signed the Fingerprinting Authorization Form.

(f) The individual shall have thirty (30) calendar days from the date of authorization to submit his or her fingerprints through the DESPP or his or her application shall be deemed closed and the individual shall be required to commence the fingerprint authorization process, including long-term care facility responsibility for payment of all required fingerprinting and processing fees, from the beginning.

(g) A long-term care facility shall record any period of conditional employment for an individual, in accordance with the relevant provisions for conditional employment contained within section 19a-491c of the General Statutes, within the ABCMS within five (5) business days.

(h) As a result of a demonstrated inability to sufficiently capture fingerprints from an individual, the Department, at its discretion, may permissibly allow a name and date of birth search to substitute for a fingerprint-based background check pursuant to section 19a-491c of the Connecticut General Statutes.

Section 8. Criminal History Records Check Results

(a) The DESPP shall report the results of the state and national criminal history records checks electronically through the ABCMS.

(b) Prior to forwarding the results of the state criminal history record check received from DESPP to a requesting long-term care facility through the ABCMS, the Department shall review such criminal history record for the existence of a

disqualifying offense and update the ABCMS accordingly. The Department shall provide, through the ABCMS, automated notice to a long-term care facility of the results of the criminal history record check pursuant to the provisions of section 19a-491c of the Connecticut General Statutes.

(c) In accordance with federal law, the Department shall not transmit the results of national criminal history record checks to long-term care facilities and shall only review said national criminal history record check for the existence of a disqualifying offense.

(d) If the results of the criminal history records check include a disqualifying offense, the ABCMS shall be updated to reflect the disqualification and the Department shall notify the individual of the disqualification in writing and provide the individual with an opportunity to seek a waiver of the disqualifying offense. The individual's state criminal history record shall remain available for review by a requesting long-term care facility for a maximum of thirty (30) calendar days of receipt through the ABCMS.

(e) If the results of the state criminal history record check include a criminal record, but do not include a disqualifying offense, the individual's state criminal history record results shall remain available for review by a requesting long-term care facility for a maximum of thirty (30) calendar days of receipt through the ABCMS. The individual shall be alerted to the existence of a state criminal history record and shall be entered into the ABCMS as an individual with no record of a disqualifying offense pursuant to section 19a-491c of the Connecticut General Statutes.

Section 9. Waivers

(a) Waivers granted pursuant to the provisions of section 19a-491c of the Connecticut General Statutes shall be valid only for the specific disqualifying offense identified and only in connection with the specific position in a long-term care facility for which the individual is being considered.

(b) Waiver application forms and instructions shall be provided to an individual with a disqualifying offense and shall be accessible electronically through the ABCMS.

Section10. Emergency Suspension

(a) During the course of an emergency or significant disruption to internet capabilities, ABCMS system functionality or state or long-term care facility workforce, the Department may, in its discretion, temporarily suspend a long-term care facility's requirement to process individuals through the ABCMS as a result of such emergency or significant disruption to internet capabilities, ABCMS system functionality or state or long-term care facility workforce, for a period of time not to exceed sixty calendar days. In the event the Department temporarily suspends a long-term care facility's requirement to process individuals through the ABCMS, any such individual shall be subject to on-site supervision during such period and the long-term care facility shall require that the individual sign a statement, prior to any direct access to patients or residents in the provision of long-term care services, affirming that the individual has not committed a disqualifying offense and that the existence of a disqualifying offense shall constitute good cause for termination if discovered at a later date. Upon notification by the Department as to the conclusion of any suspension under this provision, long-term care facilities shall process any affected individual through the ABCMS within fourteen calendar days.