

## **Criminal Background Checks** (Employment 9/06 Revised 9/2009, 4/2010)

Chapter 575 of the Law of 2004 requires providers of mental health services, including those licensed, who contract with or who are otherwise approved by the Office of Mental Health (OMH), to request OMH to obtain criminal history information from the Division of Criminal Justice Services (DCJS) concerning each prospective employee or volunteer who will have regular and substantial unsupervised or unrestricted contact with the providers' clients.

Transitional Living Services of Northern New York authorizes the Director of Human Resources to initiate a criminal background check concurrent with the consideration of employment or volunteer work of an applicant. The Director of Human Resources must notify the applicant under consideration in writing that the offer for employment or acceptance of volunteer work is conditional upon successful completion and review of the criminal background check. The notification must include a warning that falsification of information submitted on the Transitional Living Services of Northern New York application materials is cause for disqualification from consideration for employment or volunteer work.

The Director of Human Resources obtains consent from the applicant on the Applicant Consent Form. The applicant will be provided with an Applicant ID number by Transitional Living Services of Northern New York. At a LiveScan Station, the applicant is fingerprinted using LiveScan technology, which allows the immediate collection and transmission of electronic fingerprint images to DCJS.

If the application is withdrawn, a hiring decision is made or there is a separation from employment, Transitional Living Services will notify OMH within 14 days, and will document the notification.

OMH expects to receive criminal history report results from DCJS within 72 hours of successful transmission. It's important to note that, should the LiveScan be deemed of poor quality by DCJS and a criminal history check cannot be completed, the applicant must have his/her

fingerprints retaken. OMH will contact Transitional Living Services of Northern New York if this is necessary.

The Director of Human Resources will receive the results of the background check, if the results show no convictions, the applicant can be considered for employment or volunteer work. If DCJS indicates that the applicant has a criminal history in New York State, OMH will review the information. If the convictions do not rise to the level of disqualification for employment or volunteer service, the results are forwarded to the Executive Director to determine the suitability of individuals for specific positions.

Transitional Living Services has the right to provide prospective employees and volunteers with temporary approval status while the background check is still pending. While operating under temporary approval status, employees and volunteers will not be allowed unsupervised contact with client.

If the applicant's criminal history includes convictions for crimes that would disqualify him/her from consideration for employment or volunteer service, OMH will advise the applicant in writing of the possible bar to employment. The applicant may be asked to provide OMH with additional information to assist in the review process. In this case, the applicant has ten days from the date the letter is mailed to provide this information to OMH. Upon receipt of additional information, OMH will finish reviewing the case, and issue its final determination by letter to Transitional Living Services of Northern New York. This will include a summary of the criminal history information which formed the basis for the decision. Transitional Living Services will then provide a written explanation to the applicant regarding the OMH decision.

After the initial fingerprint submission to DCJS, applicant and employee fingerprints are retained by DCJS in what is referred to as "search and retain" status. This means that DCJS will continue to collect and disseminate subsequent arrest information on employees and volunteers. This information will be transmitted to OMH since the request for criminal history was submitted under OMH request. This arrest information will be relayed to Transitional Living Services of Northern New York. Upon notification by OMH of a current Chapter 575-fingerprinted employee's or volunteers subsequent arrest, Transitional Living Services of Northern New York must take appropriate action to ensure that the health, safety and welfare of clients are protected

and document these steps. Subsequent arrests could lead to suspension or disciplinary action up to and including termination, depending on the nature of the offense.

Upon separation of employment all applicants are removed from this system within 30 days of separation and information will no longer be provided to Transitional Living Services of Northern New York.

Transitional Living Services of Northern New York recognizes that its need to investigate an applicant's criminal history must be balanced with the need to protect that applicant's privacy. Transitional Living Services of Northern New York policy and state and federal laws recognize the applicant's right to privacy and prohibit employees and others from seeking, using, or disclosing personal information except within the scope of their assigned duties.

Criminal history information will be used only for the purpose of evaluating applicants for employment or volunteer work and shall in no way be used to discriminate on the basis of race, color, national origin, religion, sex, disability or age. Criminal history record information will not be made part of the applicant's file or the employee's file or communicated to any unauthorized person.

Performing a criminal background check does not relieve the Human Resource department of its obligation to perform reference checks, verify prior employment, obtain copies of licenses or certification required for the specific position and perform other checks.

*Please reference Transitional Living Services of Northern New York Personnel Policy and Procedure Manual Section 4.8 Records Retention Policy for information on document retention for subject individuals.*