



**THE COUNCIL OF STATE GOVERNMENTS**

**RESOLUTION SUPPORTING CRIMINAL BACKGROUND  
CHECKS FOR NURSES APPLYING FOR STATE LICENSURE**

**Resolution Summary**

The role of state boards of nursing is to protect the public against unsafe practitioners and ensure that those who are licensed are safe to practice. These state boards license approximately 3.2 million nurses, including licensed practical/vocational nurses, registered nurses, and advanced practice registered nurses. Most states have one licensing board for all nurses in the state. Four states have separate licensing boards for licensed practical/vocational nurses (California, West Virginia, Louisiana, and Georgia). Nebraska has a separate licensing board for advanced practice registered nurses.

A significant number of applicants for nurse licensure have criminal histories. Out of the first 11,846 fingerprints processed in Kansas, nearly 15% of licensee applicants had criminal histories<sup>1</sup>. Many of these transgressions may be relatively innocuous. However, there are a significant number of instances in which a nurse with a criminal history violated public trust and jeopardized the safety of patients. For example, a nursing school graduate in Kansas submitted an application for licensure<sup>2</sup>. The background check revealed that the applicant had five drug and alcohol convictions<sup>3</sup>. The name on the convictions did not match the name the graduate put on the licensure application<sup>4</sup>. Only a fingerprint based background check could have revealed these convictions. In another example from Texas, the Board of Nursing granted restricted licensure to a nurse with a known non-violent criminal history<sup>5</sup>. Several months later, the state's Rap Back program automatically alerted the Board to the fact that authorities recently arrested the nurse for the aggravated sexual assault of two patients<sup>6</sup>. Upon learning of these arrests, the Board immediately suspended the nurse's license to make certain no other patients could be

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<sup>1</sup> Blubaugh, MSN, RN, Mary. (2012). Using Electronic Fingerprinting for Criminal Background Checks. *Journal of Nursing Regulation*, Volume 2 (Issue 4), 50-52.

<sup>2</sup> Blubaugh (2012).

<sup>3</sup> Blubaugh (2012).

<sup>4</sup> Blubaugh (2012).

<sup>5</sup> Based on conversations with the Texas Board of Nursing.

<sup>6</sup> Based on conversations with the Texas Board of Nursing.

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endangered<sup>7</sup>. Boards of nursing need criminal history information to ensure that a nurse is unlikely to harm patients. Those most at risk of harm include the young, disabled, and elderly populations.

Criminal background checks (CBCs) are an effective tool to ensure public safety because criminal histories often indicate potential for future criminal behavior. Statistics from the U.S. Department of Justice confirmed that over two-thirds of released prisoners are rearrested within three years<sup>8</sup>. Results from the Federal Background Check Pilot Program for Long-Term Care Workers (2008) showed that over the course of the study, conducting CBCs prevented more than 9,500 applicants with a history of substantiated abuse or a violent criminal record from working with and preying upon frail elders and individuals with disabilities<sup>9</sup>.

While nearly all jurisdictions ask applicants to self report any criminal history upon application for licensure, data reflect that many nurses with criminal histories fail to self report. In Kansas, 29% of nurses with criminal histories seeking initial licensure failed to disclose a criminal history during the initial period of implementation<sup>10</sup>. Prior to enactment of CBCs, the Texas Board of Nursing identified 35 applicants who failed to disclose criminal background information on their applications<sup>11</sup>. After instituting CBCs, the Board identified 262 applicants who failed to disclose a criminal history<sup>12</sup>. This demonstrates that CBCs more effectively uncover the identity of nurses with criminal histories, many of which would not otherwise disclose offenses if simply asked to self report.

The implementation process is simple. Applicants can go directly to the board of nursing for fingerprinting or any other facility designated by the board. Fingerprints can be obtained via live scan or paper and ink. Once collected, the fingerprints are sent to the FBI. The FBI conducts the background search and sends this information to the board. Then, the board decides how to process this information.

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<sup>7</sup> Based on conversations with the Texas Board of Nursing.

<sup>8</sup> Langan, PhD, Patrick A, & Levin, PhD, David J. (2002). Recidivism of Prisoners Released in 1994. *Bureau of Justice Statistics Special Report*, June 2002, NCJ 193427. See: <http://bjs.ojp.usdoj.gov/content/reentry/recidivism.cfm>

<sup>9</sup> Senate Special Committee on Aging. (2008.) Building on Success: Lessons learned from the federal background check pilot program for long term care workers. See: <http://aging.senate.gov/letters/bcreportexccsummary.pdf>

<sup>10</sup> Blubaugh (2012).

<sup>11</sup> Based on conversations with the Texas Board of Nursing.

<sup>12</sup> Based on conversations with the Texas Board of Nursing.

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Every jurisdiction currently conducting criminal background checks places the cost of the service on the applicant.

Currently the National Council of State Boards of Nursing (NCSBN) is conducting a major initiative to assist boards in the adoption of state and federal criminal background checks. Of the nation's 55 boards of nursing (excluding U.S. territories), 40 boards conduct state and federal CBCs. Fifteen states, Alabama, Colorado, Connecticut, Hawaii, Maine, Massachusetts, Minnesota, Montana, Nebraska, New York, Pennsylvania, Vermont, Virginia, Washington, and Wisconsin do not. This disparity is disconcerting and constituents in states involved in the Nurse Licensure Compact are put at risk. Nurses with criminal licenses could take advantage of the Compact by seeking licensure in a less restrictive state, bypassing background check laws of more restrictive states, and freely practicing in any Compact state. The goal of the NCSBN initiative is to have all states enact state and federal CBCs by 2015.

### **Additional Resources**

- National Council State Boards of Nursing Website: CBC Call to Action Initiative -- [https://www.ncsbn.org/2946.htm?the\\_url=&rdePwdDays=9223372036854775807](https://www.ncsbn.org/2946.htm?the_url=&rdePwdDays=9223372036854775807)
- Blubaugh, MSN, RN, Mary. (2012). Using Electronic Fingerprinting for Criminal Background Checks. *Journal of Nursing Regulation*, Volume 2 (Issue 4), 50-52. – Available at: [https://www.ncsbn.org/CBC\\_article.pdf](https://www.ncsbn.org/CBC_article.pdf)
- Protecting the Public: State and federal Criminal Background Check Fact Sheet – Available at: [https://www.ncsbn.org/CBCs\\_General\\_October2012.pdf](https://www.ncsbn.org/CBCs_General_October2012.pdf)
- NCSBN is willing work with stakeholders by providing educational resources and expertise. Please feel free to contact NCSBN with any questions about this initiative at: [policyandgovernmentrelations@ncsbn.org](mailto:policyandgovernmentrelations@ncsbn.org).

### **CSG Management Directives**

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- **Management Directive #1:** The Council of State Governments will educate policymakers and other stakeholders of the urgent need for criminal background checks for nursing licensure as a public safety issue.
- **Management Directive #2:** The Council of State Governments' Health Policy Task Force will post approved resolution on The Council of State Governments' website.
- **Management Directive #3:** The Council of State Governments will distribute a copy of this resolution to appropriate legislative leaders, government stakeholders, external stakeholders, and state governors.
- **Management Directive #4:** Work with states considering the introduction of legislation related to criminal background checks to identify needs and concerns. Prepare and disseminate relevant tools and resources to these states.

## THE COUNCIL OF STATE GOVERNMENTS

### RESOLUTION SUPPORTING CRIMINAL BACKGROUND CHECKS FOR NURSES APPLYING FOR STATE LICENSURE

**WHEREAS**, nurses work with the sick, disabled, elderly and other vulnerable populations, and it is in the interest of public safety to review nurse licensure applicants' past criminal behavior in determining whether they should be granted a license to practice nursing in a state or territory;

**WHEREAS**, criminal histories are indicative of future criminal behavior, and data show that two-thirds of paroles released commit a new offense or violate parole within two years of release;

**WHEREAS**, applicants for nurse licensure with criminal histories may not reveal a positive criminal history on applications, and fingerprint based background checks are an effective tool to identify past criminal behavior and ensure ongoing patient safety;

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**WHEREAS**, of the nation's 55 boards of nursing (excluding U.S. territories), 40 boards conduct state and federal CBCs. Fifteen boards do not. This progress has been significant, but we need every state to conduct criminal background checks;

**WHEREAS**, boards of nursing assure the security and confidentiality of the background information and must comply with any state or federal requirements to obtain access to state criminal background checks, making this process fair to licensure applicants;

**WHEREAS**, Public Law 92-544 provides funding to the Federal Bureau of Investigations (FBI) for acquiring, collecting, classifying, preserving and exchanging identification records with duly authorized officials of the federal government, the states, boards of nursing, cities, and other institutions;

**NOW, THEREFORE BE IT RESOLVED**, that the Council of State Governments urges states to conduct fingerprint based criminal background checks on all nurse licensure applicants by enacting a relevant provision in the jurisdiction's Nurse Practice Act or relevant regulations;

**BE IT FURTHER RESOLVED**, that The Council of State Governments recommends that states work with their boards of nursing in developing plans to conduct nurse licensure comprehensive federal and state criminal background checks.

Adopted this \_\_\_ Day of December, 2012, at CSG's 2012 National Conference in Austin, Texas.