Resolution Supporting Criminal Background Checks for Nurses Applying for State Licensure

Resolution Summary

While most interaction between nurse and patient is mutually beneficial, there is always a chance that the health care provider is capable of harm, incompetence, neglect or abuse. There is a measure of trust that the patient has in the nurse, as patients are often times vulnerable, disabled and susceptible to malicious intent. In the interest of protecting the public, nurses are held to a high standard. It is the duty of the state board of nursing to determine which individuals that are applying for licensure pose any type of risk to the public. A biometric based background check is essential to making this determination.

Traditionally, inquiries into an applicant’s background have taken the form of a question on an application form, and case-by-case reviews were used to determine application status. In 1990, the first board of nursing conducted criminal background checks on licensure applicants. Soon, other boards began to explore requiring such checks. By 1996, the National Council of State Boards of Nursing (NCSBN) adopted a resolution directing NCSBN to develop resources to support member boards’ decision-making regarding criminal convictions. In response to that resolution, policy recommendations and a supporting paper, Criminal Convictions and Nursing Regulation, were brought to the 1998 Delegate Assembly. That year a policy recommendation was adopted that recommended boards of nursing conduct criminal background checks on applicants for nurse licensure.

In 1998, NCSBN developed a paper titled Uniform Core Licensure Requirements, which contained conduct expectations for self-reports, including all felony convictions, all plea agreements and misdemeanor convictions of lesser included offenses arising from felony arrests. Biometric based criminal background checks were included to validate self-reports. This requirement was found to be consistent with the aforementioned policy recommendation to conduct criminal background checks on candidates for nurse licensure. In the autumn of 2004, NCSBN developed a model process for conducting criminal background checks. Today, many boards of nursing are more interested in how to conduct such checks, and support biometric based criminal background checks.

In 2005, NCSBN adopted the Model Process for Criminal Background Checks and the supporting concept paper, Using Criminal Background Checks to Inform Licensure Decision Making, for use by member boards. This resolution encourages states to enact legislation requiring comprehensive national criminal background checks for all applicants for nurse licensure and to work with state boards of nursing to implement this policy.

Additional Resource Information

Criminal Convictions and Nursing Regulation: A Supporting Paper

Using Criminal Background Checks to Inform Licensure Decision Making
-- National Council of State Boards of Nursing (2005)
Nurses Background Check Management Directives

- Management Directive #1: Create a sense of urgency concerning the need for criminal background checks for nursing applications and licensure as a public safety issue.
- Management Directive #2: Support efforts to better serve the public through diligent and thorough screening of all nursing applicants.
- Management Directive #3: The Council of State Governments’ Health Policy Task Force will post approved resolution on The Council of State Governments’ Web site and work with the National Council of State Boards of Nursing to ensure distribution to a wide audience in the states and nationally.
WHEREAS,   nurses work with 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,   applicants for nurse licensure with criminal histories may not be truthful on applications, and fingerprint based background checks are valuable in identifying past criminal behavior;

WHEREAS,   in 1990 the California Board of Registered Nursing began to conduct fingerprint based criminal background checks, and in 1998 the National Council of State Boards of Nursing (NCSBN) reported five states were authorized to use fingerprint based criminal background checks and that number increased to 18 boards of nursing in 2005 utilizing criminal background checks. That progress has been significant, but more states need to address this issue;

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;

BE IT NOW THEREFORE RESOLVED, that The Council of State Governments urges states to conduct biometric based criminal background checks on all nurse licensure applicants (both for initial licensure, and subsequent licensure endorsement into other states and territories) through including this provision in the jurisdiction’s Nurse Practice Act;

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 national criminal background checks, considering the following policy questions:
1. Assess and strategize what are the current workload and resource implications?
2. What are the questions needed on the licensure application regarding an applicant’s criminal past?
3. Should criminal background checks be implemented from a point forward or with grandfathering of individuals already licensed?
4. Should temporary permits be issued for nurse licensure applicants awaiting criminal background checks?
5. What will the policy for non-readable fingerprints entail?
6. What will the appeal process be for an applicant or licensee?

Adopted this 4th Day of December, 2005, at the CSG Annual Task Force and Committee Meeting in Wilmington, Delaware

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Governor Ruth Ann Minner   Assemblyman Lynn Hettrick
2005 CSG President          2005 CSG Chair