



NON-MEDICAL HOME CARE AGENCY

**POLICY &
PROCEDURE
MANUAL**

**CRIMINAL
BACKGROUND
CHECK**

TABLE OF CONTENTS

Chapter 1: General Policy	5
1.1 Purpose.....	5
1.2 Scope.....	5
1.3 Compliance.....	5
1.4 Importance of Criminal Background Checks	5
1.5 Conditional Employment.....	6
1.6 Criminal Records Check Requirements	6
1.7 Disqualifying Offenses	6
1.8 General Duty to Ensure Safety	6
1.9 Commitment to Safety and Compliance	6
Chapter 2: Legal Compliance	7
2.1 Purpose.....	7
2.2 Additional Authority	7
2.3 Scope.....	7
2.4 Responsible Party.....	7
2.5 Definitions	7
2.6 Policy Statement.....	7
2.7 Policy	7
2.8 Procedure	8
Chapter 3: Types of Background Checks	9
3.1. Overview.....	9
3.2 Purpose.....	9
3.3 Additional Authority	9
3.4 Scope.....	9
3.5 Responsible Party.....	9
3.6 Policy Statement.....	9
3.7 Compliance with Ohio Revised Code 109.572	9
3.7.1 State Criminal Background Checks (BCI)	9
3.7.2 Federal Criminal Background Checks (FBI).....	10
3.8 Motor Vehicle Records.....	10
3.8.1 Compliance with Ohio Administrative Code 3701-60-05.....	10
3.8.2 Motor Vehicle Records Check Process	10
Chapter 4: Pre-employment Background Checks	11
4.1 Purpose.....	11
4.2 Additional Authority	11
4.3 Scope.....	11
4.4 Responsible Party.....	11
4.5 Policy Statement.....	11
4.6 Policy	11
4.7 Procedure	13
Chapter 5: Ongoing Background Checks	14
5.1 Purpose.....	14
5.2 Additional Authority	14
5.3 Scope.....	14
5.4 Responsible Party.....	14
5.5 Definitions	14
5.6 Policy Statement.....	14
5.7 Policy	14
5.8 Procedure	15

Chapter 6: Disqualifying Offenses.....	17
6.1 Purpose.....	17
6.2 Additional Authority	17
6.3 Scope.....	17
6.4 Responsible Party.....	17
6.5 Definitions	17
6.6 Policy Statement.....	17
6.7 Policy	17
6.8 Procedure	18
Chapter 7: Confidentiality and Recordkeeping	20
7.1 Purpose.....	20
7.2 Additional Authority	20
7.3 Scope.....	20
7.4 Responsible Party.....	20
7.5 Definitions	20
7.6 Policy Statement.....	20
7.7 Policy	20
7.8 Procedure	21
Chapter 8: Compliance Monitoring and Auditing	23
8.1 Purpose.....	23
8.2 Additional Authority	23
8.3 Scope.....	23
8.4 Responsible Party.....	23
8.5 Definitions	23
8.6 Policy Statement.....	23
8.7 Policy	23
8.8 Procedure	24
8.9 Compliance Monitoring and Auditing Best Practices.....	Error! Bookmark not defined.
Chapter 9: Conditional Employment	Error! Bookmark not defined.
9.1 Purpose.....	Error! Bookmark not defined.
9.2 Additional Authority	Error! Bookmark not defined.
9.3 Scope.....	Error! Bookmark not defined.
9.4 Responsible Party.....	Error! Bookmark not defined.
9.5 Definitions	Error! Bookmark not defined.
9.6 Policy Statement.....	Error! Bookmark not defined.
9.7 Policy	Error! Bookmark not defined.
9.8 Procedure	Error! Bookmark not defined.
9.9 Compliance Monitoring	Error! Bookmark not defined.
Chapter 10: Adverse Action Process	Error! Bookmark not defined.
10.1 Purpose.....	Error! Bookmark not defined.
10.2 Additional Authority	Error! Bookmark not defined.
10.3 Scope.....	Error! Bookmark not defined.
10.4 Responsible Party.....	Error! Bookmark not defined.
10.5 Definitions	Error! Bookmark not defined.
10.6 Policy Statement.....	Error! Bookmark not defined.
10.7 Policy	Error! Bookmark not defined.
10.8 Procedure	Error! Bookmark not defined.
10.9 Compliance Monitoring	Error! Bookmark not defined.
Chapter 11: Exceptions and Special Circumstances	Error! Bookmark not defined.
11.1 Purpose.....	Error! Bookmark not defined.
11.2 Additional Authority	Error! Bookmark not defined.
11.3 Scope.....	Error! Bookmark not defined.
11.4 Responsible Party.....	Error! Bookmark not defined.
11.5 Definitions	Error! Bookmark not defined.
11.6 Policy Statement.....	Error! Bookmark not defined.
11.7 Policy.....	Error! Bookmark not defined.
11.8 Procedure.....	Error! Bookmark not defined.
11.9 Compliance Monitoring	Error! Bookmark not defined.
Forms and Templates.....	25
ITEM 1: Background Check Consent Form	25

ITEM 2: Pre-Adverse Action Notice25

ITEM 3: Rights Under the Fair Credit Reporting Act (FCRA)25

ITEM 4: Final Adverse Action Letter25

XYZ AGENCY

CRIMINAL BACKGROUND CHECK P&P MANUAL

Chapter 1: General Policy

Policy Number: CBP-001

Effective Dates: July 1, 2024

Reviewed and Revised Dates: June 1, 2024

Policy Title: General Policy to Criminal Background Checks

1.1 Purpose

The purpose of this policy is to outline the procedures and requirements for conducting criminal background checks for all potential and current caregivers at XYZ Non-Medical Home Care Agency. Ensuring the safety and security of our clients is paramount. Conducting thorough background checks is essential to comply with state and federal regulations and to maintain the trust and safety of those we serve.

The Ohio Administrative Code 3701-60 and the Ohio Revised Code 3721.121 mandate criminal background checks for caregivers to protect vulnerable populations receiving home health care services. These regulations are designed to prevent individuals with disqualifying criminal histories from providing direct care services, thus ensuring a safe environment for clients.

1.2 Scope

This policy applies to all potential and current caregivers employed by XYZ Non-Medical Home Care Agency. It encompasses the procedures for conducting initial background checks for new hires as well as periodic checks for current employees, in accordance with the Ohio Revised Code 3721.121, which mandates background checks for caregivers in long-term care facilities, including home health agencies.

By extending this policy to all caregivers, we ensure consistent application of safety standards across our entire workforce. This comprehensive approach helps in maintaining a high level of care and protection for all individuals receiving services from our agency.

1.3 Compliance

1. Ohio Administrative Code 3701-60:

- a. Establishes comprehensive rules for conducting criminal background checks for employees and applicants providing direct care services.
- b. Requires home health agencies to conditionally employ applicants for up to 60 days, provided specific conditions are met, including the submission of fingerprint impressions and timely requests for criminal records checks ([Ohio Administrative Code 3701-60-07](#)).
- c. Mandates background checks within specified timelines and at regular intervals thereafter ([Ohio Administrative Code 3701-60-06](#)).

2. Ohio Revised Code 3721.121:

- a. Mandates criminal records checks for employees and applicants providing direct care services in long-term care facilities, including home health agencies.
- b. Requires criminal background checks for new hires and every five years for current employees to ensure ongoing compliance and safety ([Ohio Revised Code 3721.121](#)).

1.4 Importance of Criminal Background Checks

Background checks are crucial in identifying any past criminal behavior that could pose a risk to the clients under our care. This process helps maintain a safe environment, building trust with our clients and ensuring that our caregivers meet the highest standards of integrity and reliability. Adhering to these regulations not only fulfills our legal obligations but also aligns with our commitment to providing quality and safe home care services.

1.5 Conditional Employment

Under Ohio Administrative Code 3701-60-07, XYZ Non-Medical Home Care Agency can conditionally employ an applicant for up to 60 days before obtaining a criminal records check. This conditional employment is subject to the following conditions:

1. The state and national database review must not reveal any disqualifying information.
2. The applicant must provide fingerprint impressions before starting conditional employment.
3. The agency must request the criminal records check within five business days of the applicant's conditional employment start date.

If the criminal records check is not obtained within 60 days or if it reveals disqualifying offenses, the agency must terminate the conditional employment, unless exceptions outlined in the Ohio Administrative Code 3701-60-09 apply.

1.6 Criminal Records Check Requirements

As per Ohio Administrative Code 3701-60-06, XYZ Non-Medical Home Care Agency must conduct criminal background checks on employees providing direct care:

- i. For employees hired before January 1, 2008, checks must be conducted within 30 days of their hire date anniversary and at least every five years thereafter.
- ii. For employees hired on or after January 1, 2008, checks must be conducted within 30 days of their five-year hire date anniversary and at least every five years thereafter.

1.7 Disqualifying Offenses

Ohio Administrative Code 3701-60-08 and 3701-60-09 specify offenses that permanently or temporarily disqualify individuals from employment in direct care positions. The exclusionary periods range from five to ten years for certain offenses. Exceptions include minor drug offenses with no exclusionary period, court-certified qualifications for employment, offenses prior to 2013, and pardons.

1.8 General Duty to Ensure Safety

By adhering to these regulations, XYZ Non-Medical Home Care Agency fulfills its general duty to ensure the safety of its clients, as mandated by the Ohio Administrative Code 3701-60 and Ohio Revised Code 3721.121. This comprehensive framework for criminal background checks helps maintain a high standard of care and protects the well-being of those we serve.

1.9 Commitment to Safety and Compliance

XYZ Non-Medical Home Care Agency is unwavering in its commitment to maintaining a safe and secure environment that is fully compliant with all applicable legal standards and regulations set forth by Ohio health authorities. We diligently adhere to Ohio Health Regulations to ensure the safety and well-being of our clients and employees. This dedication to safety and compliance underscores our mission to provide the highest quality of care while upholding the integrity and trust placed in our services. Through continuous monitoring, regular updates to our policies, and rigorous adherence to regulatory requirements, we strive to foster an environment where safety and compliance are paramount.

Chapter 2: Legal Compliance

Policy Number: [REDACTED]
Effective Dates: [REDACTED]
Reviewed and Revised Dates: [REDACTED]
Policy Title: Criminal Background Check Legal Compliance

2.1 Purpose

The purpose of this policy is to ensure that XYZ Non-Medical Home Care Agency complies with all federal, state, and local regulations regarding criminal background checks. This policy ensures accurate and fair reporting in accordance with the Fair Credit Reporting Act (FCRA), Ohio's Fair Hiring Act (HB 56), and local ban-the-box laws. This commitment is essential for maintaining the safety, security, and trust of our clients and the integrity of our workforce.

2.2 Additional Authority

- i. **Fair Credit Reporting Act (FCRA)**
- ii. **Ohio's Fair Hiring Act (HB 56)**
- iii. **Local Ban-the-Box Laws**
- iv. **Ohio Administrative Code 3701-60**
- v. **Ohio Revised Code 3721.121**

2.3 Scope

This policy applies to all potential and current caregivers employed by XYZ Non-Medical Home Care Agency, including full-time, part-time, and temporary staff involved in direct care services.

2.4 Responsible Party

[REDACTED]

2.5 Definitions

- i. **FCRA:** A federal law regulating the collection, dissemination, and use of consumer information, including background checks.
- ii. **Ban-the-Box Laws:** Laws that prohibit employers from asking about an applicant's criminal history on initial job applications.
- iii. **Ohio Administrative Code 3701-60:** State regulations governing background checks for home health agencies.
- iv. **Ohio Revised Code 3721.121:** State law mandating background checks for long-term care facility employees.

2.6 Policy Statement

XYZ Non-Medical Home Care Agency is committed to complying with all applicable federal, state, and local laws regarding criminal background checks. [REDACTED]

2.7 Policy

1. **Fair Credit Reporting Act (FCRA) Compliance**
 - a. **Disclosure and Authorization:** [REDACTED]

- b. **Pre-Adverse Action:** [REDACTED]
 - c. **Dispute Resolution:** [REDACTED]
 - d. **Final Adverse Action:** [REDACTED]
 - e. **Seven-Year Lookback:** [REDACTED]
2. **Ohio's Fair Hiring Act (HB 56) Compliance**
- a. **Initial Applications:** Public employers, including XYZ Agency, will not include any questions about an applicant's criminal background on employment applications.
 - b. **Conditional Job Offers:** Employers can inquire about criminal convictions during interviews or after a conditional job offer.
 - c. **Individualized Assessment:** Before deciding not to hire a candidate based on their criminal history, XYZ Agency will [REDACTED]
 - d. **Sealed Records:** Public employers cannot ask about or consider sealed criminal records.
3. **Local Ban-the-Box Laws Compliance**
- a. XYZ Agency will adhere to local ordinances promoting fair hiring by removing criminal history questions from initial job applications. This includes [REDACTED]
4. **Ohio Administrative Code 3701-60 Compliance**
- a. **Conditional Employment:** Applicants may be conditionally employed for up to 60 days, provided that the state and national database review does not reveal disqualifying information, and the applicant provides fingerprint impressions before starting.
 - b. **Timely Background Checks:** The agency must request the criminal records check within five business days of the applicant's conditional employment start date.
 - c. **Regular Intervals:** Background checks are required within specified timelines and at regular intervals thereafter.
5. **Ohio Revised Code 3721.121 Compliance**
- a. **New Hires and Current Employees:** Mandates criminal records checks for new hires and every five years for current employees providing direct care services.
 - b. **Disqualifying Offenses:** Specifies offenses that disqualify individuals from employment in direct care positions.

2.8 Procedure

- 1. **Disclosure and Authorization:**
 - a. XYZ Agency will provide candidates with [REDACTED]
- 2. **Conducting Background Checks**
 - a. All background checks will be conducted in compliance with the FCRA, Ohio Administrative Code 3701-60, and Ohio Revised Code 3721.121.
- 3. **Adverse Action Process**
 - a. If adverse action is considered based on the background check results, XYZ Agency will [REDACTED]
- 4. **Recordkeeping**
 - a. All records of background checks, disclosures, and adverse actions will be maintained in compliance with legal requirements.

Chapter 3: Types of Background Checks

Policy Number: [REDACTED]
Effective Dates: [REDACTED]
Reviewed and Revised Dates: [REDACTED]
Policy Title: Types of Background Checks

3.1. Overview

At XYZ Non-Medical Home Care Agency, we prioritize the safety and well-being of our clients by adhering to stringent background check requirements for all employees and applicants providing direct care services. As mandated by Ohio law and federal regulations, we conduct both state and federal criminal background checks to ensure a secure and trustworthy workforce.

3.2 Purpose

This section outlines the types of background checks that XYZ Non-Medical Home Care Agency conducts on all potential and current caregivers. [REDACTED]
[REDACTED]
[REDACTED]

3.3 Additional Authority

- i. **Ohio Revised Code 109.572**
- ii. **Ohio Administrative Code 3701-60-05**
- iii. **Fair Credit Reporting Act (FCRA)**

3.4 Scope

This policy applies to all potential and current caregivers employed by XYZ Non-Medical Home Care Agency. It includes requirements for state and federal criminal background checks, [REDACTED]
[REDACTED]
[REDACTED]

3.5 Responsible Party

[REDACTED]
[REDACTED]

3.6 Policy Statement

XYZ Non-Medical Home Care Agency is committed to conducting comprehensive background checks on all potential and current caregivers. These checks include [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

3.7 Compliance with Ohio Revised Code 109.572

In accordance with Ohio Revised Code 109.572, XYZ Non-Medical Home Care Agency conducts comprehensive state criminal background checks through the Ohio Bureau of Criminal Identification and Investigation (BCI) for all prospective and current employees. This process is essential for verifying the criminal history of individuals entrusted with direct care responsibilities.

3.7.1 State Criminal Background Checks (BCI)

1. **For Employees Hired Before January 1, 2008:**

- a. Background checks are conducted within [REDACTED]
 - b. Subsequent checks are performed [REDACTED]
2. **For Employees Hired On or After January 1, 2008:**
 - a. Initial background checks are completed within [REDACTED]
 - b. Follow-up checks occur [REDACTED]

3.7.2 Federal Criminal Background Checks (FBI)

XYZ Non-Medical Home Care Agency also complies with federal requirements for background checks, particularly for individuals who [REDACTED]

1. **Non-Ohio Residents:**
 - a. Mandatory FBI checks are conducted to [REDACTED]
2. **Ohio Residents:**
 - a. At the agency's discretion, FBI checks may be conducted alongside [REDACTED]

3.8 Motor Vehicle Records

For employees and applicants whose job responsibilities include transporting clients or operating agency vehicles, XYZ Non-Medical Home Care Agency adheres to the motor vehicle records review requirements set forth in the Ohio Administrative Code 3701-60-05. This practice ensures that only qualified and safe drivers are entrusted with client transportation.

3.8.1 Compliance with Ohio Administrative Code 3701-60-05

In alignment with Ohio Administrative Code 3701-60-05, our agency conducts thorough reviews of the Ohio Bureau of Motor Vehicles (BMV) records for applicable employees and applicants. This step is vital for verifying the driving history and credentials of those responsible for operating agency vehicles or transporting clients.

3.8.2 Motor Vehicle Records Check Process

1. **Initial Review:**
 - [REDACTED]
2. **Ongoing Monitoring:**
 - Regular checks of motor vehicle records are performed to ensure continued compliance and safety standards.
3. **Criteria for Evaluation:**
 - Driving history, including any violations, suspensions, or accidents, is thoroughly assessed.
 - Only individuals with clean or acceptable driving records, as determined by agency policy, are permitted to drive on behalf of the agency.

These measures help maintain a high standard of safety and reliability in our transportation services.

Chapter 4: Pre-employment Background Checks

Policy Number: [REDACTED]

Effective Dates: [REDACTED]

Reviewed and Revised Dates: [REDACTED]

Policy Title: Procedures for Conducting Pre-employment Background Checks

4.1 Purpose

The purpose of this policy is to detail the procedures for conducting pre-employment criminal background checks for all potential caregivers at XYZ Non-Medical Home Care Agency. This policy ensures compliance with the Fair Credit Reporting Act (FCRA), Ohio Revised Code 109.572, and relevant EEOC guidelines. It aims to maintain a safe environment for our clients by thoroughly vetting all applicants and current employees.

4.2 Additional Authority

- i. **Fair Credit Reporting Act (FCRA)**
- ii. **Ohio Revised Code 109.572**
- iii. **Equal Employment Opportunity Commission (EEOC) Guidelines**

4.3 Scope

This policy applies to all potential and current caregivers employed by XYZ Non-Medical Home Care Agency. It outlines the procedures for conducting background checks, including notice and consent, initiating checks, reviewing results, conducting individualized assessments, and adverse action procedures.

4.4 Responsible Party

[REDACTED]

4.5 Policy Statement

XYZ Non-Medical Home Care Agency is committed to ensuring the safety and well-being of its clients by conducting comprehensive pre-employment background checks. These checks are conducted in compliance with federal and state regulations to ensure that all potential and current caregivers meet the highest standards of trustworthiness and suitability for their roles.

4.6 Policy

1. Notice and Consent

Compliance: Fair Credit Reporting Act (FCRA)

a. Advance Written Notice:

[REDACTED]

b. Written Consent:

[REDACTED]

c. Right to Obtain a Copy:

[REDACTED]

d. **Right to Dispute Errors:** [REDACTED]2. **Initiating Checks****Compliance:** Ohio Revised Code 109.572

- a. **Electronic Submissions:** XYZ Agency will use electronic submissions via [REDACTED] to initiate background checks. These systems provide a secure and efficient method for conducting background checks.

b. **WebCheck Process:**

- i. **Access:** [REDACTED]
- ii. **Submission:** [REDACTED]
- iii. **Verification:** [REDACTED]
- iv. **Transmission:** Fingerprints are securely transmitted to the Ohio Bureau of Criminal Identification and Investigation (BCI) for processing.
- v. **Processing:** BCI processes the fingerprints, checking them against criminal records and other databases.
- vi. **Results:** The results are returned electronically to the applicant or employer.

c. **Card Scan Process:**

- i. **Access:** [REDACTED]
- ii. **Submission:** [REDACTED]
- iii. **Verification:** [REDACTED]
- iv. **Transmission:** Fingerprints are securely transmitted to BCI for processing.
- v. **Processing:** BCI processes the fingerprints, checking them against criminal records and other databases.
- vi. **Results:** The results are returned electronically to the applicant or employer.

3. **Reviewing Results and Individualized Assessment****Compliance:** EEOC Guidelines

- a. **Evaluate Findings:** Once the background check results are received, the HR Department must review the findings, considering:

- i. [REDACTED]
- ii. [REDACTED]
- iii. **Job Requirements:** The specific requirements of the job being applied for.

- b. **Individualized Assessment:** An individualized assessment must be conducted to ensure that the decision is not based on discrimination. This assessment considers:

- i. [REDACTED]
- ii. [REDACTED]
- iii. **Evidence of Rehabilitation:** Evidence that the applicant has taken steps to rehabilitate and demonstrate good conduct since the offense.

4. **Adverse Action Procedures****Compliance:** Fair Credit Reporting Act (FCRA)

- a. **Pre-Adverse Action Notice:** [REDACTED]

- [REDACTED]
- [REDACTED]
- b. **Reasonable Opportunity to Respond:** The applicant must be given a reasonable opportunity to dispute the accuracy or completeness of the information in the report.
 - c. **Final Adverse Action Letter:** If the agency decides to take adverse action based on the background check results, it must send a final adverse action letter to the applicant. This letter must include:
 - i. [REDACTED]
 - ii. **Consumer Reporting Agency Information:** The name, address, and phone number of the consumer reporting agency that provided the report.
 - iii. **Notice of Rights:** A statement informing the applicant of their right to obtain a free copy of the report from the consumer reporting agency within 60 days and their right to dispute the accuracy or completeness of the information.

4.7 Procedure

1. **Notice and Consent**
 - a. **Disclosure Statement:** [REDACTED]
 - b. **Consent Form:** [REDACTED]
2. **Initiating Checks**
 - a. **Electronic Submissions:** [REDACTED]
 - b. **Verification and Transmission:** [REDACTED]
 - c. **Processing and Results:** [REDACTED]
3. **Reviewing Results and Individualized Assessment**
 - a. **Evaluate Findings:** Assess the background check results, considering the [REDACTED], [REDACTED], and job requirements.
 - b. **Conduct Individualized Assessment:** Review the relevance of the [REDACTED], [REDACTED], and evidence of rehabilitation.
 - c. **Document Assessment:** Document the individualized assessment process, including the rationale for any decisions made based on the assessment.
4. **Adverse Action Procedures**
 - a. **Pre-Adverse Action Notice:** If adverse action is being considered, send a pre-adverse action notice to the applicant, including a copy of the background check report and a summary of their rights.
 - b. **Allow for Disputes:** Provide the applicant with a reasonable opportunity to dispute the accuracy or completeness of the report.
 - c. **Final Adverse Action Letter:** If adverse action is taken, send a final adverse action letter, including all required information about the consumer reporting agency and the applicant's rights.

Chapter 5: Ongoing Background Checks

Policy Number: [REDACTED]
Effective Dates: [REDACTED]
Reviewed and Revised Dates: [REDACTED]
Policy Title: Ongoing Background Checks

5.1 Purpose

The purpose of this policy is to detail the procedures for conducting ongoing criminal background checks for all current caregivers at XYZ Non-Medical Home Care Agency. This policy ensures compliance with Ohio Administrative Code 3701-60-05 and aims to maintain the safety and integrity of our services through continuous monitoring of caregiver backgrounds.

5.2 Additional Authority

- i. **Ohio Administrative Code 3701-60-05**

5.3 Scope

This policy applies to all current caregivers employed by XYZ Non-Medical Home Care Agency. It outlines the procedures for conducting annual background checks, mandates self-reporting of any arrests or convictions by caregivers, and defines the review and action steps based on background check results.

5.4 Responsible Party

[REDACTED]

5.5 Definitions

- i. **Ongoing Background Checks:** Annual reviews of criminal records for current caregivers.
- ii. **Self-Reporting:** Mandatory disclosure by caregivers of any new arrests or convictions.
- iii. **Disqualifying Offenses:** Crimes that disqualify an individual from employment in direct care positions.

5.6 Policy Statement

XYZ Non-Medical Home Care Agency is committed to ensuring the safety and well-being of its clients through rigorous ongoing background checks. This policy mandates annual checks and self-reporting by caregivers to comply with Ohio Administrative Code 3701-60-05. [REDACTED]

5.7 Policy

1. Annual Checks

Compliance: Ohio Administrative Code 3701-60-05

- a. XYZ Agency will conduct annual criminal background checks for all current caregivers to monitor their criminal history.
- b. The annual check process includes:

- i. [REDACTED]
- ii. [REDACTED]

iii. [REDACTED]

2. Reporting by Caregivers

Compliance: Ohio Administrative Code 3701-60-05

- a. Caregivers are required to self-report any arrests or convictions that occur during their employment.
- b. The self-reporting process includes:
 - i. **Immediate Notification:** Caregivers must notify the HR Department immediately if they are arrested or convicted of a crime.
 - ii. **Documentation:** Caregivers must provide documentation related to the arrest or conviction, including court records or police reports.
 - iii. **Confidentiality:** The information provided by caregivers will be kept confidential and used solely for the purpose of evaluating their employment status.

3. Review and Action

Compliance: Ohio Administrative Code 3701-60-05

- a. After conducting the annual background check or receiving a self-report, the HR Department will review the results and determine necessary actions.
- b. The review process includes:
 - i. **Evaluation of Offenses:** [REDACTED]
 - ii. **Individualized Assessment:** [REDACTED]
 - iii. **Mitigating Circumstances:** [REDACTED]
- c. Based on the review, necessary actions may include:
 - i. **Additional Training:** Provide additional training to the caregiver to address any identified gaps in knowledge or behavior.
 - ii. **Job Duty Review:** Reassess and potentially modify the caregiver's job duties to ensure they do not pose a risk to clients.
 - iii. **Termination:** Terminate the employment of caregivers who have committed disqualifying offenses that impact their ability to provide safe care.

5.8 Procedure

1. Annual Checks

- a. **Notification:** Inform caregivers at the start of their employment and annually thereafter about the ongoing background check policy.
- b. **Initiation:** The HR Department will initiate the annual background check process using WebCheck or card scan systems.
- c. **Verification and Review:** Verify the results for completeness and accuracy, and review them to identify any new offenses.
- d. **Record Maintenance:** Maintain records of annual background checks securely and confidentially.

2. Reporting by Caregivers

- a. **Immediate Notification:** Require caregivers to notify the HR Department immediately upon arrest or conviction.
- b. **Documentation Submission:** Caregivers must submit relevant documentation to the HR Department.
- c. **Confidentiality Assurance:** Ensure that all information provided by caregivers is handled confidentially.

3. Review and Action

- a. **Evaluation of Offenses:** Assess the nature and gravity of the offense, time passed, and relevance to job duties.
- b. **Individualized Assessment:** Conduct a thorough assessment considering mitigating circumstances and potential for rehabilitation.
- c. **Determine Actions:**
 - i. **Additional Training:** Identify training needs and arrange for the caregiver to complete additional training programs.
 - ii. **Job Duty Review:** Reassess the caregiver's job duties and make modifications if necessary to protect client safety.
 - iii. **Termination:** Make the decision to terminate employment if the offense disqualifies the caregiver from providing direct care.

Chapter 6: Disqualifying Offenses

Policy Number: [REDACTED]

Effective Dates: [REDACTED]

Reviewed and Revised Dates: [REDACTED]

Policy Title: Disqualifying Offenses

6.1 Purpose

The purpose of this policy is to detail the specific offenses that disqualify applicants and current employees from working in caregiving roles at XYZ Non-Medical Home Care Agency. This policy ensures compliance with Ohio Administrative Code 3701-60-05 and provides clear guidelines for identifying disqualifying offenses and procedures for potential waivers.

6.2 Additional Authority

- i. **Ohio Administrative Code 3701-60-05**
- ii. **Ohio Administrative Code 3701-60-08**
- iii. **EEOC Guidelines**

6.3 Scope

This policy applies to all potential and current caregivers employed by XYZ Non-Medical Home Care Agency. It includes a list of [REDACTED]

6.4 Responsible Party

[REDACTED]

6.5 Definitions

- **Disqualifying Offenses:** Specific criminal offenses that preclude an individual from employment in a caregiving role.
- **Case-by-Case Waivers:** Procedures that allow for the consideration of exceptions to disqualifications based on individual circumstances.

6.6 Policy Statement

XYZ Non-Medical Home Care Agency is committed to ensuring the safety and well-being of its clients by strictly adhering to state regulations regarding disqualifying offenses. This policy outlines the specific crimes that disqualify individuals from employment and provides a structured process for evaluating potential waivers in compliance with EEOC guidelines.

6.7 Policy

1. List of Specific Offenses

Compliance: Ohio Administrative Code 3701-60-05

The following list of specific offenses disqualifies an individual from working in a caregiving role at XYZ Non-Medical Home Care Agency:

- a. **Felony Convictions:** Any felony conviction, especially those related to abuse, neglect, or misappropriation of funds.
- b. **Misdemeanor Convictions:** Certain misdemeanor convictions, particularly those involving abuse, neglect, or misappropriation of funds.

- c. **Sex Offenses:** Convictions for sex offenses, including rape, sexual assault, and other sexual offenses.
- d. **Child Abuse:** Convictions for child abuse or neglect.
- e. **Financial Crimes:** Convictions for financial crimes, such as theft, embezzlement, and fraud.
- f. **Drug-Related Offenses:** Convictions for drug-related offenses, including drug trafficking and possession.
- g. **Violent Crimes:** Convictions for violent crimes, including assault, battery, and homicide.
- h. **Theft:** Convictions for theft, including grand theft and petty theft.

These offenses are considered disqualifying due to their severity and the potential risk they pose to the safety and well-being of clients in a caregiving environment.

2. Case-by-Case Waivers

Compliance: EEOC Guidelines

While certain offenses are disqualifying, XYZ Non-Medical Home Care Agency may consider waivers on a case-by-case basis, particularly for offenses that may be mitigated by individual circumstances or evidence of rehabilitation. The process for requesting and considering waivers includes:

- a. **Application for Waiver:** [REDACTED]
- b. **Review Process:** The HR Department will review the waiver application, [REDACTED]
- c. **Individualized Assessment:** An individualized assessment will be conducted in accordance with EEOC guidelines to ensure that the decision is fair and non-discriminatory. This assessment will consider:
 - i. [REDACTED]
 - ii. [REDACTED]
 - iii. **Impact on Employment:** The potential impact of the offense on the individual's ability to perform caregiving duties and the safety of clients.
- d. **Decision:** Based on the assessment, the HR Department will make a decision to approve or deny the waiver. The decision will be documented, and the applicant will be informed in writing.

6.8 Procedure

1. Identifying Disqualifying Offenses

- a. **Initial Screening:** [REDACTED]
- b. **Annual Checks:** Ongoing background checks will be conducted annually to monitor current caregivers for any new disqualifying offenses.

2. Application for Waiver

- a. **Submission:** Individuals seeking a waiver must submit a written application, including:
 - i. **Details of the Offense:** A detailed description of the disqualifying offense, including the date of conviction and nature of the crime.

- ii. **Mitigating Factors:** Information on any mitigating circumstances, such as rehabilitation efforts, time elapsed since the offense, and evidence of positive conduct.
- iii. **Supporting Documentation:** Any relevant documents that support the waiver request, such as certificates of rehabilitation, character references, and court records.

3. Review and Assessment

- a. **Review Process:** The HR Department will review the waiver application, [REDACTED]
[REDACTED]
[REDACTED]
- b. **Individualized Assessment:** An individualized assessment will be conducted to ensure a fair and non-discriminatory decision. This will include:
 - i. **Relevance to Job Duties:** Evaluating how the offense affects the individual's ability to perform job duties safely.
 - ii. **Mitigating Circumstances:** Considering factors such as rehabilitation efforts, lack of recurrence, and positive conduct since the offense.
 - iii. **Safety Considerations:** Assessing the potential impact on client safety and the integrity of care provided.

4. Decision and Documentation

- a. **Decision:** The HR Department will make a decision to approve or deny the waiver based on the assessment.
- b. **Notification:** The applicant will be informed of the decision in writing, including reasons for the decision if the waiver is denied.
- c. **Record Keeping:** All documents related to the waiver request, assessment, and decision will be securely maintained in compliance with agency policies and legal requirements.

Chapter 7: Confidentiality and Recordkeeping

Policy Number: [REDACTED]
Effective Dates: [REDACTED]
Reviewed and Revised Dates: [REDACTED]
Policy Title: Confidentiality and Recordkeeping

7.1 Purpose

The purpose of this policy is to ensure the confidentiality and proper recordkeeping of criminal background check results for all employees at XYZ Non-Medical Home Care Agency. This policy complies with the Fair Credit Reporting Act (FCRA) and Ohio Data Protection Acts, ensuring that sensitive information is protected and maintained securely.

7.2 Additional Authority

- i. **Fair Credit Reporting Act (FCRA)**
- ii. **Ohio Data Protection Acts**
- iii. **Ohio Recordkeeping Requirements**

7.3 Scope

This policy applies to all employees and potential hires at XYZ Non-Medical Home Care Agency. It includes procedures for protecting the confidentiality of background check results and guidelines for the secure retention and disposal of records.

7.4 Responsible Party

[REDACTED]

7.5 Definitions

- i. **Confidentiality:** Ensuring that information is accessible only to those authorized to have access.
- ii. **Recordkeeping:** The process of maintaining records securely and ensuring they are accessible for future reference.

7.6 Policy Statement

XYZ Non-Medical Home Care Agency is committed to maintaining the confidentiality and integrity of all background check information. This policy outlines the procedures for ensuring that background check results are securely stored, accessible only on a need-to-know basis, and properly disposed of when no longer required. Compliance with the FCRA and Ohio Data Protection Acts is mandatory to protect the privacy of individuals and uphold the agency's commitment to data security.

7.7 Policy

1. Data Protection

Compliance: FCRA and Ohio Data Protection Acts

- a. **Need-to-Know Basis:** Background check results are shared only [REDACTED]

- b. **Secure Storage:** All background check results are stored in a secure location. [REDACTED]
- c. **Access Control:** Access to background check results is controlled [REDACTED]
- d. **Disposal:** Background check results are disposed of securely when they are no longer needed. [REDACTED]

2. Record Retention

Compliance: FCRA and Ohio Recordkeeping Requirements

- a. **Retention Period:** Background check records are retained for [REDACTED]
- b. **Secure Storage:** All records are stored in secure locations, [REDACTED]
- c. **Access Control:** Access to background check records is controlled through secure methods, [REDACTED]
- d. **Disposal:** Records are disposed of securely when they are no longer needed. [REDACTED]

3. Compliance

- a. **FCRA Compliance:** XYZ Non-Medical Home Care Agency adheres to FCRA guidelines to ensure proper handling of background check information. Non-compliance with the FCRA can result in fines up to \$1,000 per violation and damages up to \$1,000 per violation.
- b. **Ohio Data Protection Acts Compliance:** Compliance with Ohio Data Protection Acts is mandatory. Non-compliance can result in fines up to \$5,000 per violation and damages up to \$5,000 per violation.
- c. **Recordkeeping Requirements Compliance:** XYZ Non-Medical Home Care Agency complies with Ohio Recordkeeping Requirements to avoid legal and financial penalties.

7.8 Procedure

1. Data Protection

- a. **Notification and Training:** All employees handling background check information are trained on data protection policies and procedures. They are notified of the importance of confidentiality and the methods for secure storage, access, and disposal.
- b. **Secure Storage Implementation:** Ensure that all background check results are stored in [REDACTED]
- c. **Access Control Implementation:** Implement secure access controls, [REDACTED]
- d. **Secure Disposal:** Develop and implement procedures for the secure disposal of background check records. [REDACTED]

2. Record Retention

- a. **Retention Schedule:** Establish and maintain a retention schedule for background check records, ensuring that they are retained for at least five years from the date of the check.
- b. **Secure Storage Maintenance:** Regularly review and update secure storage methods [REDACTED]
- c. **Access Control Review:** Periodically review access control measures to ensure that only authorized personnel have access to background check records.

- d. **Disposal Procedures:** Develop and implement procedures for the secure disposal of records that are no longer needed. [REDACTED]

3. Compliance Monitoring

- a. **Regular Audits:** Conduct regular audits to ensure compliance with FCRA, Ohio Data Protection Acts, and Ohio Recordkeeping Requirements. Address any identified issues promptly.
- b. **Employee Training:** Provide ongoing training for employees on confidentiality and recordkeeping policies. Update training materials as needed to reflect changes in regulations or internal policies.
- c. **Reporting and Documentation:** Maintain detailed records of compliance efforts, including training sessions, audits, and any corrective actions taken. This documentation will be used to demonstrate compliance in case of an audit or investigation.

Chapter 8: Compliance Monitoring and Auditing

Policy Number: [REDACTED]
Effective Dates: [REDACTED]
Reviewed and Revised Dates: [REDACTED]
Policy Title: Compliance Monitoring and Auditing

8.1 Purpose

The purpose of this policy is to ensure that XYZ Non-Medical Home Care Agency maintains compliance with relevant federal and state laws, regulations, and best practices related to criminal background checks. This policy outlines procedures for regular reviews, updates, and periodic audits to ensure the ongoing effectiveness and compliance of the background check process.

8.2 Additional Authority

- i. **Ohio Revised Code (ORC) Section 3701-60-05**
- ii. **Ohio Administrative Code (OAC) 3701-60-08**
- iii. **Ohio Revised Code (ORC) Section 117.11**
- iv. **Ohio Administrative Code (OAC) Rule 5101:9-9-29**

8.3 Scope

This policy applies to all employees and potential hires at XYZ Non-Medical Home Care Agency. It includes procedures for monitoring and auditing compliance with background check policies and ensuring adherence to legal standards and internal requirements.

8.4 Responsible Party

[REDACTED]

8.5 Definitions

- i. **Compliance Monitoring:** The ongoing process of ensuring adherence to laws, regulations, and internal policies.
- ii. **Auditing:** The systematic review of records, procedures, and practices to assess compliance with established criteria.

8.6 Policy Statement

XYZ Non-Medical Home Care Agency is dedicated to maintaining the highest standards of compliance with all applicable laws and regulations related to criminal background checks. This policy provides a structured approach to compliance monitoring and auditing to ensure the effectiveness of our background check process and adherence to legal requirements.

8.7 Policy

1. Regular Reviews and Updates

Compliance: Ongoing legal and regulatory updates in Ohio provisions and codes

- a. **Legislative Changes:** The Compliance Officer will monitor changes in federal, state, and local laws and regulations related to background checks and employment screening. The background check policy will be updated accordingly to ensure continued compliance with the latest legal requirements.

- b. **Best Practices:** The Compliance Officer will stay informed about industry best practices and emerging trends in background check procedures. Relevant updates will be incorporated into the policy to maintain its effectiveness and efficiency.
- c. **Organizational Changes:** The policy will be reviewed and updated to reflect any changes within the organization, such as new positions, job descriptions, or hiring practices.
- d. **Feedback and Evaluation:** Feedback from stakeholders, including HR personnel, hiring managers, and legal counsel, will be gathered to identify areas for improvement. The policy's effectiveness will be evaluated, and necessary adjustments will be made.
- e. **Frequency:** Regular reviews and updates will be conducted at least annually, or more frequently if significant changes occur in legislation, best practices, or organizational structure.

2. Auditing

Compliance: Internal compliance requirements

- a. **Scope:** The scope of the audit will include a review of [REDACTED]
- b. **Sampling:** A representative sample of background check records will be selected for review, [REDACTED]
- c. **Documentation:** Documentation related to background checks, [REDACTED], will be reviewed to ensure compliance with legal requirements.
- d. **Interviews:** Interviews with relevant personnel, [REDACTED], will be conducted to assess their understanding of the background check policy and procedures.
- e. **Findings:** Any findings of non-compliance or areas for improvement will be documented and communicated to management and relevant stakeholders.
- f. **Corrective Action:** Corrective action plans will be developed and implemented to address any identified issues. Progress will be monitored to ensure that the organization remains in compliance.
- g. **Frequency:** Periodic audits will be conducted at least annually, or more frequently if significant changes occur in legislation, best practices, or organizational structure.

8.8 Procedure

1. Regular Reviews and Updates

- a. **Legislative Monitoring:** The Compliance Officer will regularly monitor updates to Ohio Revised Code (ORC) Section 3701-60-05, Ohio Administrative Code (OAC) 3701-60-08, and other relevant regulations. Subscriptions to legal update services and participation in industry associations will be maintained to stay informed about changes.
- b. **Policy Update Process:** When changes in legislation or best practices are identified, the Compliance Officer will draft updates to the background check policy. Draft updates will be reviewed by legal counsel and relevant stakeholders before being finalized.
- c. **Stakeholder Feedback:** Regular feedback sessions with HR personnel, hiring managers, and legal counsel will be scheduled to gather input on the policy's effectiveness and areas for improvement.
- d. **Annual Review:** An annual review of the background check policy will be conducted. Any necessary updates will be implemented, and the revised policy will be communicated to all relevant personnel.

2. Auditing

- a. **Audit Planning:** The Compliance Officer will develop an annual audit plan, outlining the scope, objectives, and timeline for the audit. The plan will be reviewed and approved by senior management.
- b. **Audit Execution:** Audits will be conducted by internal compliance officers or external auditors to ensure objectivity and independence. The audit will include:
 - i. **Procedure Review:** A review of background check procedures to ensure they align with the policy and legal requirements.

- ii. **Record-Keeping Review:** A review of background check records to ensure proper documentation and secure storage.
 - iii. **Confidentiality Measures:** An assessment of confidentiality measures to ensure background check results are protected and accessed only on a need-to-know basis.
 - iv. **Compliance Verification:** Verification of compliance with consent forms, disclosure statements, and adverse action notices as required by the FCRA and Ohio laws.
-
- c. **Interviews:** Interviews with HR staff and hiring managers to assess their understanding of the background check policy and their adherence to procedures.
 - d. **Audit Findings:** The findings of the audit will be documented in a detailed report, highlighting any instances of non-compliance or areas for improvement.
 - e. **Corrective Actions:** Corrective action plans will be developed and implemented to address identified issues. The Compliance Officer will monitor the progress of these actions to ensure timely resolution.
 - f. **Audit Frequency:** Periodic audits will be conducted annually, or more frequently if significant changes occur in legislation, best practices, or organizational structure. Additional audits may be conducted as needed based on identified risks or compliance concerns.

Forms and Templates

ITEM 1: Background Check Consent Form

ITEM 2: Pre-Adverse Action Notice

ITEM 3: Rights Under the Fair Credit Reporting Act (FCRA)

ITEM 4: Final Adverse Action Letter

Note to Readers:

Thank you for exploring this sample of our work. In order to maintain the brevity of our online showcase, we've provided only a selection from this piece.

Should you be interested in viewing the complete work or wish to delve deeper into our portfolio, please don't hesitate to reach out. We're more than happy to provide extended samples upon request.

Thank you,
The Write Direction Team