

214.075 HEALTH-RELATED LICENSING BOARDS; CRIMINAL BACKGROUND CHECKS.

Subdivision 1. **Applications.** (a) By January 1, 2018, each health-related licensing board, as defined in section 214.01, subdivision 2, shall require applicants for initial licensure, licensure by endorsement, or reinstatement or other relicensure after a lapse in licensure, as defined by the individual health-related licensing boards, to submit to a criminal history records check of state data completed by the Bureau of Criminal Apprehension (BCA) and a national criminal history records check, including a search of the records of the Federal Bureau of Investigation (FBI).

(b) An applicant must complete a criminal background check if more than one year has elapsed since the applicant last submitted a background check to the board.

Subd. 2. **Investigations.** If a health-related licensing board has reasonable cause to believe a licensee has been charged with or convicted of a crime in this or any other jurisdiction, the health-related licensing board may require the licensee to submit to a criminal history records check of state data completed by the BCA and a national criminal history records check, including a search of the records of the FBI.

Subd. 3. **Consent form; fees; fingerprints.** (a) In order to effectuate the federal and state level, fingerprint-based criminal background check, the applicant or licensee must submit a completed criminal history records check consent form and a full set of fingerprints to the respective health-related licensing board or a designee in the manner and form specified by the board.

(b) The applicant or licensee is responsible for all fees associated with preparation of the fingerprints, the criminal records check consent form, and the criminal background check. The fees for the criminal records background check shall be set by the BCA and the FBI and are not refundable. The fees shall be submitted to the respective health-related licensing board by the applicant or licensee as prescribed by the respective board.

(c) All fees received by the health-related licensing boards under this subdivision shall be deposited in a dedicated account in the special revenue fund and are appropriated to the Board of Nursing Home Administrators for the administrative services unit to pay for the criminal background checks conducted by the Bureau of Criminal Apprehension and Federal Bureau of Investigation.

Subd. 4. **Refusal to consent.** (a) The health-related licensing boards shall not issue a license to any applicant who refuses to consent to a criminal background check or fails to submit fingerprints within 90 days after submission of an application for licensure. Any fees paid by the applicant to the board shall be forfeited if the applicant refuses to consent to the criminal background check or fails to submit the required fingerprints.

(b) The failure of a licensee to submit to a criminal background check as provided in subdivision 3 is grounds for disciplinary action by the respective health-related licensing board.

Subd. 5. **Submission of fingerprints to the Bureau of Criminal Apprehension.** The health-related licensing board or designee shall submit applicant or licensee fingerprints to the BCA. The BCA shall perform a check for state criminal justice information and shall forward the applicant's or licensee's fingerprints to the FBI to perform a check for national criminal justice information regarding the applicant or licensee. The BCA shall report to the board the results of the state and national criminal justice information checks.

Subd. 6. **Alternatives to fingerprint-based criminal background checks.** The health-related licensing board may require an alternative method of criminal history checks for an applicant or licensee who has

submitted at least three sets of fingerprints in accordance with this section that have been unreadable by the BCA or the FBI.

Subd. 7. **Opportunity to challenge accuracy of report.** Prior to taking disciplinary action against an applicant or a licensee based on a criminal conviction, the health-related licensing board shall provide the applicant or the licensee an opportunity to complete or challenge the accuracy of the criminal history information reported to the board. The applicant or licensee shall have 30 calendar days following notice from the board of the intent to deny licensure or to take disciplinary action to request an opportunity to correct or complete the record prior to the board taking disciplinary action based on the information reported to the board. The board shall provide the applicant up to 180 days to challenge the accuracy or completeness of the report with the agency responsible for the record. This subdivision does not affect the right of the subject of the data to contest the accuracy or completeness under section 13.04, subdivision 4.

Subd. 8. **Instructions to the board; plans.** The health-related licensing boards, in collaboration with the commissioner of human services and the BCA, shall establish a plan for completing criminal background checks of all licensees who were licensed before the effective date requirement under subdivision 1. The plan must seek to minimize duplication of requirements for background checks of licensed health professionals. The plan for background checks of current licensees shall be developed no later than January 1, 2017, and may be contingent upon the implementation of a system by the BCA or FBI in which any new crimes that an applicant or licensee commits after an initial background check are flagged in the BCA's or FBI's database and reported back to the board. The plan shall include recommendations for any necessary statutory changes.

History: 2013 c 108 art 10 s 9