

ARKANSAS REGISTER

Transmittal Sheet

Use only for **FINAL** and **EMERGENCY RULES**



Secretary of State

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For Office

Use Only:

Effective Date _____ Code Number _____

Name of Agency Department of Human Services

Department Division of Provider Services & Quality Assurance

Contact Mac Golden E-mail Mac.E.Golden@dhs.arkansas.gov Phone 501.320.6383

Statutory Authority for Promulgating Rules Arkansas Code Annotated § 25-10-126

Rule Title: Rules and Regulations for Conducting Criminal Record Checks for Employees of Long Term Care Facilities

Intended Effective Date

(Check One)

☐ Emergency (ACA 25-15-204)

☐ 10 Days After Filing (ACA 25-15-204)

☒ Other 12/1/2019
(Must be more than 10 days after filing date.)

Legal Notice Published

Final Date for Public Comment

Reviewed by Legislative Council

Adopted by State Agency

Date

9/12/2019

10/11/2019

11/15/2019

12/1/2019

Electronic Copy of Rule e-mailed from: (Required under ACA 25-15-218)

Thomas Herndon

thomas.herndon@dhs.arkansas.gov

11/15/2019

Contact Person

E-mail Address

Date

CERTIFICATION OF AUTHORIZED OFFICER

I Hereby Certify That The Attached Rules Were Adopted
In Compliance with the Arkansas Administrative Act. (ACA 25-15-201 et. seq.)

Signature

501.396.6174

gerald.sharum@dhs.arkansas.gov

Phone Number

E-mail Address

Director of the Division of Provider Services & Quality Assurance

Title

11/15/2019

Date

RULES FOR CONDUCTING CRIMINAL RECORD CHECKS FOR EMPLOYEES OF LONG TERM CARE FACILITIES

304 If the facility cannot verify that the applicant has lived continuously in the state for the past five (5) years, the facility shall also perform a national criminal history records check on the applicant. The facility shall provide the applicant with the following:

- A form DMS-736;
- A pre-printed Fingerprint Card provided by the Office of Long Term Care;
- A form FBI-1 DHS Verification; and
- An envelope addressed as provided in DMS-736.

The facility may assist the applicant with the completion of the documents.

The applicant shall take the documents to law enforcement and request that law enforcement complete the fingerprint process, the Fingerprint Card, and the FBI-1 DHS Verification Form.

Law enforcement shall then place those items, along with the DMS-736, into the envelope, addressed as provided in DMS-736, and seal the envelope. The applicant shall return the sealed envelope to the facility.

The facility shall place the sealed envelope from the applicant into a second envelope, addressed as provided in DMS-736, along with any checks/payments/fees. The facility shall seal the second envelope and return it to the Office of Long Term Care.

NOTE: A national criminal history records check shall not be performed on any individual whom the facility can verify has lived continuously in the state for the past five (5) years or who provides care to residents of a service provider subject to a professional license. See Section 502 for the complete list of excluded professions.

OFFICE OF LONG TERM CARE
REQUEST FOR CRIMINAL RECORD CHECK
AR920160Z

- Items Needed:
1. This form correctly completed
 2. \$13.25 check/money order made payable to "Arkansas State Police"
 3. One completed fingerprint card
 4. Completed FBI-1 Verification Form

Please see the back of this form for instructions on routing and completion of the fingerprint card.

Facility ID Code (701) _____ Facility Type: ☐ NF ☐ ADC/ADHC ☐ ALF1/ALF2 ☐ HDC ☐ ICF/MR ☐ PAHI ☐ RCF ☐ OTHER

Name of Facility Submitting Form

Facility Contact Person

Facility Address City State Zip Code Telephone Number (include area code)

NOTE: The DMS-736 should only be submitted for those applicants that cannot show proof of Arkansas residency for the last five consecutive years.

Applicant/Employee to be checked: _____
Last Name First Name Middle Name

Maiden Name Aliases Date of Birth (mo/day/yr) Race Sex (M/F)

Applicant/Employee's address City State Zip Code

Social Security Number Driver's License Number State of Issuance

Current or last employer and address City State

Note: The name, address and date of birth listed above must appear on a valid identification document issued by a government entity. Please list the document used if not the person's driver's license: _____

Job Title or Position Name Applying For: _____

State CRC Search ID No.: _____

The person listed above must list all past felony or misdemeanor charge(s) for which he/she was found guilty of or plead guilty or nolo contendere to:
(Use Additional Pages if Necessary)

<u>Date of Charge</u>	<u>Location (City and State)</u>	<u>Description of charge</u>	<u>Sentence/Disposition</u>
_____	_____	_____	_____

Notice: Your current or potential employer may receive a determination of employment eligibility. Prior to completion of a criminal record check, the employer may choose to deny an employee unsupervised access to a person to whom the employer provides care. Any challenge to the accuracy of the report should be directed to the State Identification Bureau (501) 618-8500, #1 State Police Plaza Drive, Little Rock, AR 72209.

I, the undersigned, hereby give my consent for the Arkansas State Police to conduct the required criminal record checks on myself and release any results to the Department of Human Services. I understand that my fingerprints will be used to conduct a FBI criminal records search. I further authorize a FBI records check. I further authorize the Department of Human Services to issue determinations of employment eligibility to my current or potential employer, including a private placement agency or contracted staffing company. I understand that I may challenge the accuracy and completeness of any information in any report and obtain a prompt determination as to the validity of the challenge before a final determination is made. I understand that any background check and the results thereof shall be handled in accordance with the requirements of Pub. L. No. 92-544.

Providing false information on this form is a violation of Arkansas law and is punishable as set forth in Arkansas Code § 5-53-103.

Statement on Oath: I state on oath that the representations made herein are true and correct.

Signature of Applicant/Employee Date

State of Arkansas, County of _____

Subscribed and sworn to before a Notary Public in and for the county and state aforesaid, this the _____ day of _____, (yr) _____.

Notary Public

(Notary Seal)

FOR ARKANSAS STATE POLICE USE ONLY
_____ 80000 National Background Check @ \$13.25

My commission expires on _____, (yr) _____.

INSTRUCTIONS FOR COMPLETING A CRIMINAL BACKGROUND CHECK

1. Applicant must:
 - a. Receive from the facility the form DMS-736, Fingerprint Card, FBI-1 Verification Form, and an envelope addressed to the Office of Long Term Care.
 - b. Complete form DMS-736. Return to facility so facility can make a copy for Employee File.
 - c. Take DMS-736, Fingerprint Card, FBI-1 Verification Form, and envelope to law enforcement.
 - d. Have law enforcement complete Fingerprint Card (see instructions below) and FBI-1 Verification Form, and place those documents into the envelope addressed to the Office of Long Term Care. Seal the envelope and return it to the applicant.
 - e. Return sealed envelope to facility.
2. Facility must:
 - a. Provide applicant the form DMS-736. Retain a copy of the completed form DMS-736 for Employee File.
 - b. Provide applicant with Fingerprint Card, FBI-1 Verification Form, and envelope addressed to the Office of Long Term Care.
 - c. Place the sealed envelope returned by the applicant into a second envelope addressed to the Office of Long Term Care along with any checks/payment and additional documentation.
 - d. Seal the second envelope and send it to the Office of Long Term Care, P.O. BOX 8059, MAIL SLOT S405, LITTLE ROCK, AR 72203-8059.

INSTRUCTIONS FOR COMPLETING THE FINGERPRINT CARD

The National Background Check requires a classifiable set of fingerprint impressions. The card will be rejected otherwise.

PLEASE TYPE OR PRINT THE INFORMATION CLEARLY AND LEGIBLY.

The fingerprint card MUST be a blue applicant card with the proper licensing entity ORI number preprinted. The proper Office of Long Term Care ORI # is AR920160Z, listed at the top of this page.

FINGERPRINT CARD: Do not leave any space blank except the *FBI NO.* FBI, *ARMED FORCES NO.* MNU, and *MISCELLANEOUS NO.* MNU fields, or any of the sections that state Leave Blank.

EMPLOYER AND ADDRESS: This is the space to provide the Service Provider name and address.

REASON FINGERPRINTED: "A.C.A. 20-38-101" is preprinted to specify the Long Term Care requirements related to background checks.

YOUR NO. OCA: Enter your Facility Code (also referred to as your CRC Code).

FOR SEX: Use "M" or "F".

FOR RACE: Use one of the following: A = ASIAN, B = BLACK, H = HISPANIC, I = INDIAN (AMERICAN), W = WHITE, or U = UNKNOWN.

FOR "HGT": Use feet and inches, such as 5'10".

FOR EYES AND HAIR: Use the following three character codes:

<u>EYES:</u>	BLU = BLUE	GRY = GRAY	MAR = MAROON	BRO = BROWN	GRN = GREEN
	PNK = PINK	BLK = BLACK	HAZ = HAZEL	XXX = UNKNOWN	

<u>HAIR:</u>	BAL = BALD	BLK = BLACK	BLN = BLOND	BRO = BROWN	GRY = GRAY
	RED = RED	SDY = SANDY	WHI = WHITE	XXX = UNKNOWN	

CITIZENSHIP: If USA citizen, use "US", or if a citizen of MEXICO, use "MEXICO", etc.

DATE OF BIRTH: Use numeric characters, such as 09-17-51 (MM/DD/YY).

PLACE OF BIRTH: Use State or country, such as "ARKANSAS" or "MEXICO", etc.

PRIVACY ACT STATEMENT

Authority: The FBI's acquisition, preservation, and exchange of fingerprints and associated information is generally authorized under 28 U.S.C. § 534. Depending on the nature of your application, supplemental authorities include Federal statutes, State statutes pursuant to Pub. L. 92-544, Presidential Executive Orders, and federal regulations. Providing your fingerprints and associated information is voluntary; however, failure to do so may affect completion or approval of your application.

Principal Purpose: Certain determinations, such as employment, licensing, and security clearances, may be predicated on fingerprint-based background checks. Your fingerprints and associated information/biometrics may be provided to the employing, investigating, or otherwise responsible agency, and/or the FBI for the purpose of comparing your fingerprints to other fingerprints in the FBI's Next Generation Identification (NGI) system or its successor systems (including civil, criminal, and latent fingerprint repositories) or other available records of the employing, investigating, or otherwise responsible agency. The FBI may retain your fingerprints and associated information/biometrics in NGI after the completion of this application and, while retained, your fingerprints may continue to be compared against other fingerprints submitted to or retained by NGI.

Routine Uses: During the processing of this application and for as long thereafter as your fingerprints and associated information/biometrics are retained in NGI, your information may be disclosed pursuant to your consent, and may be disclosed without your consent as permitted by the Privacy Act of 1974 and all applicable Routine Uses as may be published at any time in the Federal Register, including the Routine Uses for the NGI system and the FBI's Blanket Routine Uses. Routine uses include, but are not limited to, disclosures to: employing, governmental or authorized non-governmental agencies responsible for employment, contracting, licensing, security clearances, and other suitability determinations; local, state, tribal, or federal law enforcement agencies; criminal justice agencies; and agencies responsible for national security or public safety.

Signature of Applicant/Employee

Date