



Oregon

John A. Kitzhaber, MD, Governor

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February 5, 2015



The Honorable Senator Devlin
The Honorable Representative Buckley
900 Court Street NE
H-178 State Capitol
Salem, OR 97301-4048

Re: Ready to Work Registry for Long Term Care

Dear Legislators:

Nature of the Report

The purpose of this letter is to provide an update on the Department's implementation of the "Ready to Work" Registry. HB4151 contained the following budget note:

The Department of Human Services will report to the Joint Committee on Ways and Means during the 2015 Legislative Session on the "ready to work" registry and associated rules required under HB 4151 (2014). The report should also include a section on the feasibility of developing a comprehensive (diverse care settings) and multipurpose (employment, referral, certification, background check, abuse) care worker registry, including potential efficiencies, benefits, costs, and barriers. Lastly, the report will provide an update on how administrative rule changes required by HB 3168 (2013) have reduced duplicative background check counts and decreased waiting times for applicants.

Agency Action

INITIAL "READY TO WORK" REGISTRY

Implementation of the "Ready to Work" registry, known in its initial state as the Long Term Care Registry (The Registry or LTCR), is occurring over four phases:

- Phase 1: April-July 2014 (Completed)
- Phase 2: August-December 2014 (Completed)
- Phase 3: January 2015-March 2015 (In Progress)
- Phase 4: April 2015-December 2015 (Future)

Phase 1: Completed

Upon passage of HB 4151 (2014) into law, the Department of Human Services (DHS) began to identify stakeholders in the process of implementing the Registry outlined in Section 6.

The Department also began analyzing statutory language that defined all the types of positions and facilities included by the Legislature in HB 4151 Section 6 (see Addendum B). The following roles were designated for inclusion in the Registry:

- Licensees, employees, students and volunteers at nursing facilities and skilled nursing facilities
- Licensees, employees, students and volunteers at assisted living facilities and residential care facilities
- Licensees, employees, students and volunteers at Aging and People with Disabilities (APD) adult foster homes
- Homecare workers (for APD)
- Personal support workers (for DD)
- Personal support workers or personal care attendants (for MH)
- Contractors and temporary workers at such facilities or programs.

During this period, the Department also began conversations between the Centers for Medicare and Medicaid Services (CMS) and Tailored Solutions, the Background Check Unit's (BCU) contractor for the Criminal Records Information Management System (CRIMS).

These discussions were focused on preparation of handling all checks required by CMS for recipients of Medicare and Medicaid funds, including the federal Office of the Inspector General (OIG) and System for Award Management (SAM), and other states' Medicare/Medicaid provider exception lists. Work orders for the CMS-related preparatory changes in CRIMS were issued to Tailored Solutions.

Phase 2: Completed

In July 2014, the BCU convened an initial workgroup to begin to identify a basic structure and approach to the establishment of the Registry, and potential barriers. The workgroup consisted of representatives from impacted DHS and Oregon Health Authority (OHA) program areas.

The workgroup determined that while all groups now included in the Registry by HB 4151 Section 6 required background checks, each group had varying certification periods, and some groups (for example, Nursing Facilities) previously had no requirement for rechecks. In addition, statutorily established crime lists for the varying roles differed between roles. Analysis occurred on how to structure the Registry with these clashing requirements.

From the workgroup's planning, a framework and timetable was established for the implementation of the Registry. Due to the size of the working population affected by the Registry, the workgroup agreed that subject individuals would be evaluated for inclusion in the Registry as of implementation rather than retroactively.

In August 2014 the BCU brought together a Rules Advisory Committee to construct and finalize the rules for the Registry, as well as evaluate proposed structure and user interfaces. While others were invited to participate, active membership of the Rules Advisory Committee included representatives from the following organizations:

- Aging and People with Disabilities (APD)
- Background Check Unit (BCU)
- Home Care Commission (HCC)
- Leading Age Oregon
- Office of Adult Abuse Prevention and Investigation (OAAPI)
- Office of Developmental Disability Services (ODDS)
- Office of Licensing and Regulatory Oversight (OLRO)
- Oregon Health Care Association (OHCA)
- Providence
- Provider Relations Unit (PRU)
- Service Employees International Union (SEIU)

In addition, because of the scope of populations potentially served by subject individuals coming statutorily under the umbrella of the Registry, the following organizations were also consulted regarding changes to the BCU's provider rules: Child Welfare Program; Lane County Council of Governments; Northwest Senior and Disability Services; Multnomah County Senior Services; Association of Oregon

Community Mental Health Programs; Holt International; Christian Family Adoptions; Maple Star Oregon; Alliance of Children's Programs; Oregon Rehabilitation Association; Oregon Alliance of Senior and Health Services; the American Civil Liberties Union; and the Department of State Police.

In August and September 2014, the hiring process occurred for the Operations and Policy Analyst 1 position granted by the Legislature to manage the Registry. Final updates to CRIMS were implemented over December while BCU began to communicate information on the coming changes to Qualified Entity Designees (employers) throughout Oregon.

The Registry rules went into effect on December 1, 2014. The Registry itself became operational at the beginning of January 2015.

Phase 3: In Progress

In the second week of January 2015, the Department reconvened the initial workgroup membership together with new members invited from Multnomah County and the OHA Addictions and Mental Health (AMH) program to continue work on maximizing the potential scope of the Registry.

Over the next three months, the workgroup will identify additional rule barriers to the ongoing expansion of the Registry within the Department and the Authority. The workgroup will also evaluate the performance of the Registry and recommend updates to enhance user satisfaction and improve processes.

Phase 4: Future

Phase 4 will be dedicated to implementing the recommendations affecting rules and business tools identified in Phase 3.

Current Registry Status

While the effects of the Registry's portability will be developing over the next two years due to recertification periods of the affected employee populations, at the end of the first month of operation:

- The Registry serves 780 private, non-profit, and public organizations (Qualified Entities) with 2,516 Qualified Entity Designees running background checks with BCU
- 3,257 people have been listed on the Registry

- 46 employers have already been able to utilize the Registry to avoid duplicative background checks

COMPREHENSIVE “READY TO WORK” REGISTRY

The Background Check Unit began an assessment of the feasibility of developing a comprehensive, diverse multi-care worker registry. This registry would include individuals with completed criminal records checks, appropriate abuse checks, licensure and certification. This registry would allow Qualified Entities and other facilities that provide care to have more immediate access to qualified, background checked individuals improving their ability to provide appropriate staffing. It also has the potential of easing the administrative burden placed on potential employees as their professional licensure or certification could have portability and be easily accessible by prospective employers.

The initial assessment demonstrated this would be a significant undertaking with substantial barriers. The criminal records check rules have been slowly standardized over a period of years through collaboration, stakeholder involvement and continuous process improvements which assisted in the implementation of the “background check” registry described above. The administrative rules that regulate the 217 existing licensing and certification registries have not enjoyed this standardization. In addition to vastly varying administrative rules, these provider groups are also separated by numerous, different collective bargaining agreements.

Based on this initial assessment, it would take a significant effort to first identify the stakeholders and the relevant regulations including statutes, administrative rules, collective bargaining agreements and policies. Once complete, a cross-agency workgroup would need to be convened to begin recommending changes to the regulations to facilitate the standardization needed to develop this registry. At that point, a full report could be made as to the potential efficiencies, benefits, costs, barriers and solutions.

HB 3168 (2013) UPDATE

HB 3168 from the 2013 session gave the Department of Administrative Services the rulemaking authority for criminal records checks. The goal of this legislation was a single set of statewide rules that would provide more uniform rules for fitness determination based on the vulnerable population being served.

The Department of Human Services is collaborating very closely with the department as they facilitate workgroups to write the rules. Once the rules are published

(anticipated for fall of 2015) we expect to see a reduction in duplicative background checks as well as a decrease in waiting times for applicants and employers.

Action Requested

The Department of Human services requests that the Joint Committee on Ways and Means acknowledge receipt of this report.

Legislation Affected

None

If you have any questions or concerns please contact Frank T. Miles at (503) 507-7851 or email at frank.t.miles@state.or.us.

Sincerely,



Eric L. Moore
DHS Chief Financial Officer

cc: Sean Kolmer, Governor's Office
Laurie Byerly, Legislative Fiscal Office
Ken Rocco, Legislative Fiscal Office
George Naughton, Department of Administrative Services
Tamara Brickman, Department of Administrative Services
Art Ayre, Department of Administrative Services

Enclosures:

Addendum A
Addendum B

**ADDENDUM A: HB 4151 (2014) READY TO WORK REGISTRY
STATUTORY LANGUAGE**

SECTION 6. (1) As used in this section:

(a) “Facility” means:

(A) A long term care facility as defined in ORS 442.015;

(B) A residential care facility as defined in ORS 443.400, including but not limited to an assisted living facility; and

(C) An adult foster home as defined in ORS 443.705, but does not include adult foster homes licensed to provide care to persons with developmental disabilities or mental illness.

(b) “Home care worker” has the meaning given that term in ORS 410.600.

(2) The Department of Human Services shall augment the department’s existing criminal background check system with a regularly updated registry of all persons who work or are seeking to work:

(a) In a facility; or

(b) As a home care worker.

(3) A facility shall report information required pursuant to rules adopted by the department regarding persons who work or are seeking to work at the facility for maintenance of the registry established under subsection (2) of this section.

(4) The department shall adopt rules establishing:

(a) The information that must be reported by facilities;

(b) The form and frequency of reporting by facilities;

(c) Procedures and standards for the administration of the registry; and

(d) Guidelines and procedures for requests for and release of information from the registry.

**ADDENDUM B: STATUTORY DEFINITIONS FOR TERMS IN HB 4151
(2014)**

ORS 410.600 (8) “Home care worker” means:

(a) A person:

(A) Who is hired directly by an elderly person or a person with a physical disability or by a parent or guardian of an elderly person or a person with a physical disability;

(B) Who receives moneys from the Department of Human Services for the purpose of providing care to the elderly person or the person with a physical disability;

(C) Whose compensation is funded in whole or in part by the department, an area agency or other public agency; and

(D) Who provides either hourly or live-in home care services; or

(b) A personal support worker.

(9) “Person with a disability” means a person with a physical disability, developmental disability or mental illness.

(10) “Personal support worker” means a person:

(a) Who is hired by a person with a developmental disability or mental illness or a parent or guardian of a person with a developmental disability or mental illness;

(b) Who receives moneys from the department for the purpose of providing care to the person with a developmental disability or mental illness;

(c) Whose compensation is provided in whole or in part through the department, a support services brokerage or other public agency; and

(d) Who provides home care services in the home or community.

ORS 442.015: (18)(a) “Long term care facility” means a permanent facility with inpatient beds, providing:

(A) Medical services, including nursing services but excluding surgical procedures except as may be permitted by the rules of the Director of Human Services; and

(B) Treatment for two or more unrelated patients.

(b) “Long term care facility” includes skilled nursing facilities and intermediate care facilities but does not include facilities licensed and operated pursuant to ORS 443.400 to 443.455.

ORS 443.400 (5) “Residential care facility” means a facility that provides, for six or more socially dependent individuals or individuals with physical disabilities, residential care in one or more buildings on contiguous properties.

ORS 443.705 Definitions for ORS 443.705 to 443.825. (1) “Adult foster home” means any family home or facility in which residential care is provided in a homelike environment for five or fewer adults who are not related to the provider by blood or marriage.