

## SERENITY BEHAVIORAL HEALTH SYSTEMS

**SUBJECT:** CRIMINAL HISTORY RECORD CHECKS  
**POLICY NUMBER:** HR-41.00  
**EFFECTIVE DATE:** May 1997  
**SUPERSEDES:** N/A  
**LAST REVISION DATE:** October 2011

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### **POLICY:**

It is the policy of Serenity Behavioral Health Systems (SBHS) to be concerned about the health and safety of all individuals and the safeguarding of SBHS property. It is the policy of SBHS that all reasonable efforts will be made to provide a safe and secure environment for individuals, staff and any other work-related contacts. Based on this objective, a criminal history record check will be completed on the selected applicant being considered for employment in any job with SBHS. Criminal history record checks are also to be completed on individuals with whom SBHS contracts to perform direct care, treatment and/or custodial services.

### **GENERAL PROVISIONS:**

- I. All applicants who are selected for employment to any position with SBHS are required to undergo a Federal Bureau of Investigation criminal history record check.
- II. SBHS is responsible for ensuring that a criminal history record check is completed on each employee and that the results are reviewed by the DBHDD Office of Incident Management and Investigations/Criminal Records Section in accordance with this policy.
- III. For employees working in a Licensed Personal Care Home, it is required by the Health Care Regulations Facility to have a copy of their criminal history record check on file at the Personal Care Home.
- IV. All applicants/employees are required to disclose felony convictions on their Application For Employment, and all applicants are required to disclose convictions and/or pending charges on State Security Questionnaire/Loyalty Oath forms.
  - A. Material falsification or misrepresentation of any information, including criminal history is prohibited and may result in an applicant not being employed or separation of an employee.

**NOTE:** "Material" refers to information that directly influences and/or impacts the hiring decision based on records, credentials and/or qualifications.

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- B. Individuals who are not employed due to falsification or misrepresentation of information are not eligible for consideration for employment with SBHS for a minimum of six (6) months from the date the violation is discovered.
  
- V. Employees are required to notify their supervisor or human resources/personnel representative of any arrests and/or convictions within five (5) calendar days of the date of arrest or conviction. A determination of appropriate action will be made on a case-by-case basis.

**CRIMES THAT RESTRICT EMPLOYMENT:**

- I. Individuals who have been convicted of a crime listed in this section, or any other offense committed outside of the State of Georgia that would have been considered one of these crimes if committed in Georgia, are disqualified from employment as indicated below.
  
- II. There is a mandatory disqualification from employment in positions subject to criminal history record checks for a minimum of five (5) years from the date of conviction, plea of nolo contendere, or release from incarceration or probation, whichever is later, for the following crimes:
  - A. Murder or Felony Murder
  - B. Attempted Murder
  - C. Kidnapping
  - D. Rape
  - E. Armed Robbery
  - F. Robbery
  - G. Cruelty to Children
  - H. Sexual Offenses
  - I. Aggravated Assault
  - J. Aggravated Battery
  - K. Arson
  - L. Theft by taking (O.C.G.A. §16-8-2), by deception (O.C.G.A. §16-8-3) or by conversion (O.C.G.A. §16-8-4)
  - M. Forgery (in the first or second degree.)
  
- III. SBHS is prohibited from hiring into positions providing services, support, care and treatment of any persons convicted of child or individual abuse, child or individual served neglect, and child or individual mistreatment. This is a permanent hiring prohibition.
  
- IV. The following minimum sanctions are to be imposed on applicants who have been convicted of a criminal drug offense:
  - A. Disqualification from employment in any position for a period of two (2) years from the date of conviction for the first offense; and

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- B. Disqualification from employment in any position for a period of five (5) years from the most recent date of conviction for the second or subsequent offense.

NOTE: For purposes of this disqualification, “conviction” does not include treatment under the Georgia First Offender Act or a plea of nolo contendere. Refer to SBHS HR Policy HR-28.01 – Drug-Free Work Place.

- V. Applicants/employees may also be disqualified from employment, as determined appropriate by the Human Resource Manager or Chief Executive Officer, if criminal history records indicate any of the following that have direct relevancy to the responsibilities or duties of the position:

- A. Any other conviction or pattern of convictions
- B. A pattern of recent arrests
- C. A significant recent arrest. Disqualification to apply until such time as the charge is resolved.

**RELEASE OF CRIMINAL HISTORY RECORD INFORMATION**

FBI regulations do not allow for the release of Criminal History Record Information to SBHS. DBHDD is required to make suitability determinations for SBHS. SBHS will only be notified of the eligibility of the applicant to provide services to DBHDD.

**FINGERPRINTING:**

- I. SBHS employees must submit to a fingerprint based criminal background check. Applicants must be notified in writing prior to fingerprinting that they are being subjected to an FBI Criminal History Check and they have the right to challenge the contents of their Criminal History Record Information should they choose to do so.
- II. Fingerprinting must be conducted prior to employment where possible or within ten (10) business days of the employee’s start date.
- III. Specifically trained DBHDD personnel review the Criminal History Record Information and provide a determination as to the suitability of the individual to provide services at SBHS within seven (7) days of the receipt of the criminal record information.
- IV. SBHS is registered with the State Approved Vendor authorized to capture and submit fingerprint images for comparison with the Georgia and Federal Criminal Record Databases.
- V. SBHS is responsible for the proper registration of their employees. SBHS cannot use the GBI issued OAC numbers to register applicants for other agencies. SBHS assumes liability for registration errors that create additional costs for reprinting.

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- SBHS must provide the applicant's name, address, telephone number and applicant's email (if email is available).
- VI. SBHS is responsible for contacting the DBHDD Criminal Records Section for accurate registration information if they are not sure of the proper procedure to register an applicant/employee that will provide services for DBHDD.
  - VII. DBHDD Criminal Records Section cannot process inaccurate or invalid official documents or criminal records.
  - VIII. Within three (3) business days of the receipt of the incorrect information such as invalid court documents or criminal record request, Criminal Records Section staff notifies SBHS of the issue and the corrective action that must be taken in order to properly review the criminal record.
  - IX. Unless otherwise agreed, the cost of applicant/employee fingerprinting is paid by SBHS.

**NOTICE FROM THE OFFICE OF INCIDENT MANAGEMENT AND INVESTIGATIONS/CRIMINAL RECORDS SECTION.**

- I. The Criminal Records Section advises the applicant in writing of any findings or issues that need further documentation in order to make a suitability determination.
- II. If the written determination from the Criminal Records Section indicates the applicant has no criminal history then no further action by SBHS is necessary.
- III. If the determination from the Criminal Records Section indicates the applicant's criminal history information disclosed a conviction or other charge that prohibits employment as listed in this policy, the applicant will be notified he/she has fifteen days to challenge the contents of their criminal history record information before making the final notification of disqualification to SBHS.
- IV. If the applicant's/employee's Criminal History Record Information is not complete, such as a missing disposition, etc., the Criminal Records Section shall notify the applicant in writing of the issues and appropriate actions to take such as obtaining official court documents that indicate how a charge was disposed so that a proper determination can be made.
- V. Anyone who refuses to provide requested Certified Copies of Court Documents or to discuss the pending issues shall be ineligible to provide services for DBHDD on behalf of SBHS. Applicants will have forty-five (45) days to provide requested information. Upon expiration of the 45 days and the Criminal Records Section has not received the requested

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documents, the applicant will be deemed ineligible to provide services and the file will be closed. SBHS will be notified at that time of the applicant's status.

- VI. DBHDD does not provide copies of Result Letters after sixty (60) days of the initial letter. If a new Result Letter is needed, SBHS will be required to have the applicant/employee reprinted in order to obtain a new Result Letter.

**REJECTED FINGERPRINT IMAGES**

There are times when an applicant/employee fingerprint images are rejected by either the Georgia or Federal Integrated Automated Fingerprint Identification System (IAFIS). When rejections occur, SBHS is notified within two (2) business days of the receipt of the rejection regarding the reason the fingerprints were rejected and the corrective action that must be taken, such as a reprinting of the applicant's/employee's fingerprints. Below is information concerning rejected fingerprint images.

- I. Cogent Systems provides Rejection Notices, those notices will be sent to the Contract Agency by DBHDD Criminal Records Section Staff.
- II. Rejections can occur because of improper registration, bad fingerprint images or improperly trained operators.
- III. Rejections because of Registration Errors will require SBHS to have to re-register the applicant/employee and pay again.
- IV. Rejected Fingerprint Image Reprints must be completed at the site where the original fingerprints were taken within 90 days of the original fingerprinting to avoid additional fees.

**NOTIFICATION OF EMPLOYMENT DECISION**

SBHS will only be notified that the applicant is either eligible or ineligible to provide services. Once the notification is made no other action is required by SBHS.

**REFERENCES:**

- I. O.C.G.A. §31-7-350 *et seq.*, §35-3-30 *et seq.*, and §49-2-14
- II. Criminal Code of Georgia (O.C.G.A. Title 16)
- III. Code of Federal Regulations 42, IV, § 483.420 (d) (1) (iii)
- IV. Rules of the Georgia Crime Information Center Council
- V. SBHS Human Resource/Personnel #HR-28.01 – Drug-free Work Place
- VI. DBHDD Policy 04-104

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**ATTACHMENTS:**

- I. Consent For Release of Information SBHS Form 348
- II. Awareness Statement SBHS Form 583

**APPROVAL SECTION:**

\_\_\_\_\_  
Chief Executive Officer

\_\_\_\_\_  
Date

\_\_\_\_\_  
Committee Chairperson

\_\_\_\_\_  
Date

**RESCISSION SECTION:**

\_\_\_\_\_  
Chief Executive Officer

\_\_\_\_\_  
Date

**REVIEW SECTION:**

\_\_\_\_\_  
Committee Chairperson

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Date

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Committee Chairperson

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Committee Chairperson

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