

**PART XIX. CRIMINAL HISTORY RECORD
INFORMATION**

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**CHAPTER 701. NURSE AIDE TRAINING PROGRAM APPLICANT
CRIMINAL HISTORY RECORD INFORMATION**

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Authority

The provisions of this Chapter 701 issued under the Nurse Aide Resident Abuse Prevention Training Act (63 P. S. §§ 671—680), unless otherwise noted.

Source

The provisions of this Chapter 701 adopted July 28, 2000, effective July 29, 2000, 30 Pa.B. 3776, unless otherwise noted.

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GENERAL

§ 701.1. Definitions.

The following words and terms, when used in this chapter, have the following meanings, unless the context clearly indicates otherwise:

Act—The Nurse Aide Resident Abuse Prevention Training Act (63 P. S. §§ 671—680).

Applicant—An individual applying for admission into a program.

CHRI—*Criminal History Record Information*—A report of criminal history from the State Police or a statement that its central repository contains no information; or a report of criminal history from the Federal Bureau of Investigation, or a statement that its files contain no information.

Department—The Department of Education of the Commonwealth.

Enrollment—Approval of an applicant for admission in a program.

Facility—An institution or agency that sponsors a program.

Nurse aide—An individual providing nursing or nursing-related services to residents in a nursing facility or skilled nursing facility. The term does not include an individual who is a licensed health professional or an individual who volunteers to provide the services without monetary compensation.

Program—The State approved nurse aide training program.

RESPONSIBILITIES OF FACILITIES AND DESIGNATED REPRESENTATIVE

§ 701.11. Submission of CHRI report.

The facility shall require an applicant to submit a CHRI report, which was obtained in the preceding 1-year period, prior to enrolling as a nurse aide student into the program, according to one of the following:

(1) The facility shall require all applicants who have resided in this Commonwealth for a minimum of 2 full years prior to their dates of application to obtain a CHRI report from the State Police.

(2) The facility shall require all applicants who have resided in this Commonwealth less than 2 full years prior to their dates of application to obtain a CHRI report from the Federal Bureau of Investigation by contacting the Department for the required form.

§ 701.12. Receipt and review of CHRI report by facility.

In receiving and reviewing CHRI reports, the facility shall do the following:

(1) The facility administrator shall designate in writing the appropriate facility representative, to review the CHRI report for enrollment eligibility and maintain a copy of the designation in the facility's file.

(2) The facility's designated representative shall receive the applicant's original CHRI report or a copy thereof.

- (3) The facility's designated representative shall review the CHRI report in the following manner:
- (i) Sign and date a copy of the CHRI report.
 - (ii) Review the CHRI report for the offenses listed in § 701.13 (relating to nonacceptance of certain applicants).
 - (iii) Place the signed and dated copy of the CHRI report in a specific file for all CHRI reports.

Cross References

This section cited in 22 Pa. Code § 701.16 (relating to violations).

§ 701.13. Nonacceptance of certain applicants.

The facility and its designated representative may not enroll a nurse aide applicant whose CHRI report indicates the applicant has been convicted of any of the following offenses:

- (1) An offense designated as a felony under The Controlled Substance, Drug, Device and Cosmetic Act (35 P. S. §§ 780-101—780-144).
- (2) An offense under one or more of the following provisions of 18 Pa.C.S. (relating to crimes and offenses):
 - (i) Chapter 25 (relating to criminal homicide).
 - (ii) Section 2702 (relating to aggravated assault).
 - (iii) Section 2901 (relating to kidnapping).
 - (iv) Section 2902 (relating to unlawful restraint).
 - (v) Section 3121 (relating to rape).
 - (vi) Section 3122.1 (relating to statutory sexual assault).
 - (vii) Section 3123 (relating to involuntary deviate sexual intercourse).
 - (viii) Section 3124.1 (relating to sexual assault).
 - (ix) Section 3125 (relating to aggravated indecent assault).
 - (x) Section 3126 (relating to indecent assault).
 - (xi) Section 3127 (relating to indecent exposure).
 - (xii) Section 3301 (relating to arson and related offenses).
 - (xiii) Section 3502 (relating to burglary).
 - (xiv) Section 3701 (relating to robbery).
 - (xv) A felony offense under Chapter 39 (relating to theft and related offenses) or two or more misdemeanors under Chapter 39.
 - (xvi) Section 4101 (relating to forgery).
 - (xvii) Section 4114 (relating to securing execution of documents by deception).
 - (xviii) Section 4302 (relating to incest).
 - (xix) Section 4303 (relating to concealing death of child).
 - (xx) Section 4304 (relating to endangering welfare of children).
 - (xxi) Section 4305 (relating to dealing in infant children).
 - (xxii) Section 4952 (relating to intimidation of witnesses or victims).

- (xxiii) Section 4953 (relating to retaliation against witness or victim).
- (xxiv) A felony offense under section 5902(b) (relating to prostitution and related offenses).
- (xxv) Section 5903(c) or (d) (relating to obscene and other sexual materials and performances).
- (xxvi) Section 6301 (relating to corruption of minors).
- (xxvii) Section 6312 (relating to sexual abuse of children).
- (3) A Federal or out-of-State offense similar in nature to those crimes listed under paragraph (1) or (2).

Cross References

This section cited in 22 Pa. Code § 701.12 (relating to receipt and review of CHRI report by facility); and 22 Pa. Code § 701.16 (relating to violations).

§ 701.14. Notification to applicant regarding CHRI report.

The facility shall notify the applicant in writing which is clear and understandable, if the decision not to admit the applicant is based in whole or in part on the CHRI report.

§ 701.15. Confidentiality of information.

The facility shall establish a policy that ensures the confidentiality of the CHRI report by placing it in a locked file cabinet or similar storage area and ensuring that the CHRI report is not available to anyone who is not directly involved in evaluating the applications for enrollment into the program, except State and Federal personnel who monitor the program.

§ 701.16. Violations.

(a) An individual who is responsible for reviewing and approving applications for enrollment into the program (that is, the facility's designated representative) and who willfully fails to comply with § 701.12(2) and (3) or § 701.13 (relating to receipt and review of the CHRI report by facility; and nonacceptance of certain applicants) shall be subject to a civil penalty as provided for in § 701.21 (relating to responsibilities of the Department).

(b) A facility administrator who willfully fails to comply with § 701.12(1) shall be subject to a civil penalty as provided in § 701.21.

Cross References

This section cited in 22 Pa. Code § 701.21 (relating to responsibilities).

RESPONSIBILITIES OF THE DEPARTMENT

§ 701.21. Responsibilities of the Department.

- (a) The Department will determine compliance violations.

(b) As part of the routine monitoring of facilities, the Department's monitoring staff will record the name of the designated facility representative and review the facility's files of all nurse aide students who are enrolled in the program after July 29, 2000.

(c) The Department will receive and investigate complaints which allege violations of the act or this chapter.

(d) Based upon the information gathered as part of its routine monitoring or its investigation of a complaint, the Department may hold a hearing to determine violations of § 701.16 (relating to violations).

(1) The procedures for the hearing will conform to 2 Pa.C.S. (relating to administrative law and procedure).

(2) After the hearing, the Department may assess a civil penalty of not more than \$2,500 per violation.

Cross References

This section cited in 22 Pa. Code § 701.16 (relating to violations).

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