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Governor

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Commissioner



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MEMORANDUM

TO: Joint Standing Committee on Health and Human Services
FROM: Office of Aging and Disability Services & Division of Licensing and Certification
DATE: April 14, 2021
RE: Responding to questions re: LD 958

Are there plans for national background checks in the future?

Not at this time. If a worker has a conviction in a health care setting in or out of Maine, this may be discoverable with Maine Background Check process. However, this process is highly dependent on other states entering exclusions into OIG database. There are alternate vendors that employers can choose. Per the Maine Background Check Center rules, employers may seek approval from the Department to continue use of an alternate vendor to conduct all comprehensive background checks.

You heard that one of the issues is people not turning up to work and I can see how that relates to EVV. But there seems to also be concern about the unregulated c. 129. What are the requirements here? Are those folks subject to background checks, EVV, any other oversight?

Under Ch. 129, people working for personal care agencies and home health aides are subject to background checks and a registration fee. Under Ch. 129, there is no additional statutory authority for sanctions, however when Licensing and Certification or the Office of Aging and Disability Services receive complaints of abuse neglect or exploitation those are referred to Adult Protective Services for follow-up.

Do we have an indication of how many direct care workers have exemptions/waivers after a background check?

As of 03/31/2021 there are:

- 23 DCW applications that have been granted a waiver. A typical waiver example is for someone who has demonstrated rehabilitation, has a willing employer sponsor and will be monitored.
- 11 DCW applications that have had a waiver denied.

Are there direct care workers who are not subject to a background check?

Any direct care worker who is not working for a mandated user of the Maine Background Check Center (MBCC), such as unlicensed facilities, are not subject to background checks. An example: Unlicensed Independent Living situations where people are paying privately for their services.

Is there any oversight for private contractors?

There are 2 types of “private contractors” that the MBCC deals with. The first is an Alternate Vendor as described in question #1. The Department has no oversight of these. The second is a 3rd Party. These are companies that the provider hires to run their applicants through the MBCC. They are usually smaller places that outsource their HR management and the private contractor has MBCC credentials and performs their Maine based checks through the Department. These contractors do have oversight as they are treated just like any other MBCC user.

Does the department have any data on complaints for home care? LTCOP does, but does DHHS? If so, can you provide it please.

Yes, see below:

Personal Care Agencies

Year: 2019

Total Number of Intakes: 142

Total Number of Investigations: 45

Allegations	Total Number
Administration/Personnel	1
Admission, Transfer & Discharge Rights	2
Fraud/False Billing	7
Misappropriation of Property	41
Other	58
Pharmaceutical Services	2
Quality of Care/Treatment	5
Resident/Patient/Client Abuse	10
Resident/Patient/Client Neglect	10
Resident/Patient/Client Rights	7
State Licensure	1
Unqualified Personnel	2
Falsification of Records/Reports	0
Infection Control	0

Year: 2020

Total Number of Intakes: 71

Total Number of Investigations: 0

Allegations	Total Number
Administration/Personnel	0
Admission, Transfer & Discharge Rights	0
Fraud/False Billing	2
Misappropriation of Property	26
Other	15
Pharmaceutical Services	0
Quality of Care/Treatment	8
Resident/Patient/Client Abuse	7
Resident/Patient/Client Neglect	7
Resident/Patient/Client Rights	2
State Licensure	0
Unqualified Personnel	4
Falsification of Records/Reports	1
Infection Control	0

Year: 2021

Total Number of Intakes: 15

Total Number of Investigations: 0

Allegations	Total Number
Administration/Personnel	0
Admission, Transfer & Discharge Rights	0
Fraud/False Billing	1
Misappropriation of Property	2
Other	5
Pharmaceutical Services	0
Quality of Care/Treatment	0
Resident/Patient/Client Abuse	2
Resident/Patient/Client Neglect	3
Resident/Patient/Client Rights	0
State Licensure	0
Unqualified Personnel	0
Falsification of Records/Reports	0
Infection Control	2

Home Health Agencies

Year: 2019

Total Number of Intakes: 63

Total Number of Investigations: 8

Allegations	Total Number
Admission, Transfer & Discharge Rights	2
Fraud/False Billing	2
Misappropriation of Property	28
Nursing Services	1
Other	4
Quality of Care/Treatment	4
Resident/Patient/Client Abuse	8
Resident/Patient/Client Neglect	4
Resident/Patient/Client Rights	7
Restraints/Seclusion - General	1
Unqualified Personnel	1

Year: 2020

Total Number of Intakes: 40

Total Number of Investigations: 0

Allegations	Total Number
Admission, Transfer & Discharge Rights	1
Fraud/False Billing	3
Misappropriation of Property	19
Nursing Services	1
Other	2
Quality of Care/Treatment	2
Resident/Patient/Client Abuse	3
Resident/Patient/Client Neglect	4
Resident/Patient/Client Rights	3
Unqualified Personnel	2

Year: 1/1/2021 to 4/9/2021

Total Number of Intakes: 12

Total Number of Investigations: 0

Allegations	Total Number
Misappropriation of Property	7
Quality of Care/Treatment	1
Resident/Patient/Client Abuse	1
Resident/Patient/Client Neglect	2