



Department of Health

ANDREW M. CUOMO
Governor

HOWARD A. ZUCKER, M.D., J.D.
Commissioner

SALLY DRESLIN, M.S., R.N.
Executive Deputy Commissioner

September 8, 2017

Mr. Kenneth Shulman
Assistant Comptroller
Division of State Government Accountability
NYS Office of the State Comptroller
110 State Street, 10th Floor
Albany, New York 12236

Dear Mr. Shulman:

Pursuant to the provisions of Section 170 of New York State Executive Law, I hereby transmit to you a copy of the New York State Department of Health's comments related to the Office of the State Comptroller's final audit report 2016-S-65 entitled, "Criminal History Background Checks of Unlicensed Healthcare Employees."

Please feel free to contact Estibaliz Alonso, Acting Assistant Commissioner, Office of Governmental and External Affairs, at (518) 473-1124 with any questions.

Sincerely,

Howard A. Zucker, M.D., J.D.
Commissioner of Health

Enclosure

cc: Ms. Alonso

**Department of Health
Comments on the
Office of the State Comptroller's
Final Audit Report 2016-S-65 entitled,
Criminal History Background
Checks of Unlicensed Healthcare
Employees**

The following are the Department of Health's (Department) comments in response to the Office of the State Comptroller's (OSC) Final Audit Report 2016-S-65 entitled, "Criminal History Background Checks of Unlicensed Healthcare Employees."

General Comments

OSC's stated objective for the audit was to determine if the Department is monitoring whether nursing homes, home health care agencies and adult care facilities are performing required background checks of unlicensed persons to adequately safeguard patients. We were pleased to see that your review of Department activities showed greater than 99.92% compliance rate, out of 28,474 rap sheets audited over a nearly three-year period.

The Department of Health is committed to protecting the safety and well-being of elderly and vulnerable populations served by a Residential Health Care Facility, Adult Care Facility, Licensed Home Care Agency, Certified Home Health Agency or Long Term Care Program. Any persons employed or used by such facilities and agencies must be fingerprinted and have a criminal history record check performed by Criminal History Record Check (CHRC), if such persons provide direct care or supervision to a patient or resident.

CHRC has grown significantly over the past decade and has performed more than 1.7 million eligibility determinations since 2006. Today, CHRC requests more criminal history information from the NYS Division of Criminal Justice Services (DCJS) than any other agency. CHRC has adopted new technologies and system improvements to accommodate the increasing numbers of reviews and to reduce response times. For example, in 2009, CHRC transitioned from conventional "ink and roll" fingerprint impressions, which often resulted in a high rejection rate from DCJS and the FBI, to the use of live-scan technology. Employee's fingerprints are now scanned and electronically sent to DCJS for processing, resulting in dramatically faster and more accurate reviews. In addition, whenever possible, CHRC has adopted electronic communication systems, thereby reducing mailing costs and delays.

Recommendation

Continuously monitor and analyze CHRC data to ensure determination letters are sent to applicants and employers timely for all rap sheets that staff have reviewed and perfected.

Response

The Department agrees with OSC's recommendation regarding the creation of a new customized report to assist CHRC in tracking and handling those instances where a rap sheet is marked as perfected within the CHRC database, but no legal determination letter is sent out. As referenced in the Audit Report, the NYS Office of Information Technology Services (ITS) is already upgrading CHRC's tracking system to address this issue and further increase productivity. Additionally, CHRC maintains a hotline for applicants and providers to call if there is any delay in processing time.