



Notice of Instruction

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Notice of Instruction Number 012221: Attestation of Compliance Forms

TO: All PSA 6 Providers

FROM: Abbie Walters, Senior Contract Manager

DATE: January 22, 2021

SUBJECT: Attestation of Compliance Forms

The purpose of this Notice is to inform service providers of a change to the Department of Elder Affairs (DOEA) Forms 235 and 236. This change impacts Area Agencies on Aging, services providers, and any local subcontractors and vendors that contract directly or indirectly with the DOEA. It is the responsibility of the service provider to inform their subcontractors and vendors of this update.

The attachments to this Notice replace:

- DOEA Form 235, Affidavit of Compliance – Employer Form, dated September 21, 2017 and
- DOEA Form 236, Affidavit of Compliance – Candidate Form, dated July 30, 2019.

Both forms have been renamed:

- DOEA Form 235, is now DOEA Form 235, Attestation of Compliance – Employer Form, dated January 19, 2021 and
- DOEA Form 236 is now DOEA Form 236, Attestation of Compliance – Candidate Form, dated January 19, 2021.

These forms are now available on the DOEA website under Background Screening at the following location:

<http://elderaffairs.state.fl.us/doea/bs/DOEA%20Form%20235-%20Affidavit%20of%20Compliance-%20EMPLOYER,%20April%202012.pdf>.

Each Area Agency on Aging, service provider, subcontractor, and vendor that contracts directly or indirectly with the DOEA shall solely use the updated forms effective immediately.

If you have questions, please contact your contract manager. Thank you.

Attachments:

DOEA Form 235, Attestation of Compliance – Employer Form (dated January 19, 2021)

DOEA Form 236, Attestation of Compliance – Candidate Form (dated January 19, 2021)

BACKGROUND SCREENING

Attestation of Compliance - Employer

AUTHORITY: This form is required annually of all employers to comply with the attestation requirements set forth in section 435.05(3), Florida Statutes.

- The term “employer” means any person or entity required by law to conduct background screenings, including but not limited to, Area Agencies on Aging/Aging and Disability Resource Centers, Lead Agencies, and Service Providers that contract directly or indirectly with the Department of Elder Affairs (DOEA), and any other person or entity which hires employees or has volunteers in service who meet the definition of a direct service provider. See §§ 435.02, 430.0402, Fla. Stat.
- A direct service provider is “a person 18 years of age or older who, pursuant to a program to provide services to the elderly, has direct, face-to-face contact with a client while providing services to the client and has access to the client’s living area, funds, personal property, or personal identification information as defined in s. 817.568. The term includes coordinators, managers, and supervisors of residential facilities and volunteers.” § 430.0402(1)(b), Fla. Stat.

ATTESTATION:

As the duly authorized representative of

Employer Name

located at _____,
Street Address City State ZIP code

I, _____ do hereby affirm under penalty of
Name of Representative

perjury that the above named employer is in compliance with the provisions of Chapter 435 and section 430.0402, Florida Statutes, regarding level 2 background screening.

Signature of Representative

Date



BACKGROUND SCREENING

Attestation of Compliance - Candidate

AUTHORITY: This form is required of all candidates who are direct service providers when claiming an exception to Level 2 background screening set forth in sections 430.0402(2) and (3), Florida Statutes, or to comply with the attestation requirements set forth in section 435.05(2), Florida Statutes.

This form is required by **all candidates** to comply with:

- The attestation requirement of **section 435.05(2), Florida Statutes**, which states that “every employee required to undergo Level 2 background screening must attest, subject to penalty of perjury, to meeting the requirements for qualifying for employment pursuant to this chapter and agreeing to inform the employer immediately if arrested for any of the disqualifying offenses while employed by the employer;” **AND**
- The proof of screening within the previous 5 years in **section 408.809(2), Florida Statutes**, which requires proof of compliance with Level 2 screening standards that have been screened through the *Care Provider Background Screening Clearinghouse* created under **section 435.12, Florida Statutes**, or screened within the previous 5 years by the Agency, Department of Health, Department of Elder Affairs, the Agency for Persons with Disabilities, Department of Children and Families, or the Department of Financial Services for an applicant for a certificate of authority to operate a continuing care retirement community under **Chapter 651, Florida Statutes**, if that agency is not currently implemented in the Care Provider Background Screening Clearinghouse.

This form must be maintained in the candidate’s personnel file, if hired, or with the Human Resources Department. If this form is used as proof of screening for an administrator or chief financial officer to satisfy the requirements of an application for a health care provider license eligibility or monitoring purposes, please attach a copy of the screening results and submit the application.

The term “candidate” as used herein refers collectively to **all persons** required by law to undergo a background screening. This includes, but is not limited to, persons who are determined to be a direct service provider. A direct service provider is a person at least 18 years of age who, pursuant to a program to provide services to the elderly, has direct face-to-face contact with a client while providing services and has access to the client’s living areas, funds, personal property, or personal identification information as defined in F.S. 430.0402(1) (b), Florida Statutes. A direct service provider also includes coordinators, managers, and supervisors of residential facilities and volunteers.

Personal identification information defined in F.S. 817.568(1)(f), F.S. means “any name or number that may be used, alone or in conjunction with any other information, to identify a specific individual, including any:

1. Name, postal or electronic mail address, telephone number, social security number, date of birth, mother’s maiden name, official state-issued or United States-issued driver’s license or identification number, alien registration number, government passport number, employer or taxpayer identification number, Medicaid or food assistance account number, bank account number, credit or debit card number, or personal identification number or code assigned to the holder of a debit card by the issuer to permit authorized electronic use of such card;
2. Unique biometric data, such as fingerprint, voice print, retina or iris image, or other unique physical representation;
3. Unique electronic identification number, address, or routing code;
4. Medical records;
5. Telecommunication identifying information or access device; or
6. Other number or information that can be used to access a person’s financial resources.” 7.

EMPLOYER: IF A CANDIDATE IS HIRED AND IS DETERMINED TO BE A DIRECT SERVICE PROVIDER, THIS COMPLETED FORM MUST BE RETAINED IN THE EMPLOYEE’S FILE. IF AN EXCEPTION TO BACKGROUND SCREENING IS CLAIMED, A COPY OF THE REQUIRED EVIDENCE MUST BE ATTACHED TO THIS FORM.

STEP ONE: Complete identification information.

Candidate Name	Position Applied For

Employer	

STEP TWO: The candidate must review the following list of disqualifying offenses set forth in Chapters 430 and 435, Florida Statutes.

You must attest to meeting the requirements for employment and you may not have been arrested for and awaiting final disposition of, have been found guilty of, regardless of adjudication, or have entered a plea of nolo contendere (no contest) or guilty to, or have been adjudicated delinquent and the record has not been sealed or expunged for, any offense prohibited under any of the following provisions of state law or similar law of another jurisdiction:

Criminal offenses listed in section 435.04, F.S.

- (a) Section 393.135, relating to sexual misconduct with certain developmentally disabled clients and reporting of such sexual misconduct.
- (b) Section 394.4593, relating to sexual misconduct with certain mental health patients and reporting of such sexual misconduct.
- (c) Section 415.111, relating to adult abuse, neglect, or exploitation of aged persons or disabled adults.
- (d) Section 782.04, relating to murder.
- (e) Section 782.07, relating to manslaughter, aggravated manslaughter of an elderly person or disabled adult, or aggravated manslaughter of a child.
- (f) Section 782.071, relating to vehicular homicide.
- (g) Section 782.09, relating to killing of an unborn quick child by injury to the mother.
- (h) Chapter 784, relating to assault, battery, and culpable negligence, if the offense was a felony.
- (i) Section 784.011, relating to assault, if the victim of the offense was a minor.
- (j) Section 784.03, relating to battery, if the victim of the offense was a minor.
- (k) Section 787.01, relating to kidnapping.
- (l) Section 787.02, relating to false imprisonment.
- (m) Section 787.025, relating to luring or enticing a child.
- (n) Section 787.04(2), relating to taking, enticing, or removing a child beyond the state limits with criminal intent pending custody proceedings.
- (o) Section 787.04(3), relating to carrying a child beyond the state lines with criminal intent to avoid producing a child at a custody hearing or delivering the child to the designated person.
- (p) Section 790.115(1), relating to exhibiting firearms or weapons within 1,000 feet of a school.
- (q) Section 790.115(2)(b), relating to possessing an electric weapon or device, destructive device, or other weapon on school property.
- (r) Section 794.011, relating to sexual battery.
- (s) Former s. 794.041, relating to prohibited acts of persons in familial or custodial authority.
- (t) Section 794.05, relating to unlawful sexual activity with certain minors.
- (u) Chapter 796, relating to prostitution.
- (v) Section 798.02, relating to lewd and lascivious behavior.
- (w) Chapter 800, relating to lewdness and indecent exposure.
- (x) Section 806.01, relating to arson.
- (y) Section 810.02, relating to burglary.
- (z) Section 810.14, relating to voyeurism, if the offense is a felony.
- (aa) Section 810.145, relating to video voyeurism, if the offense is a felony.
- (bb) Chapter 812, relating to theft, robbery, and related crimes, if the offense is a felony.
- (cc) Section 817.563, relating to fraudulent sale of controlled substances, only if the offense was a felony.
- (dd) Section 825.102, relating to abuse, aggravated abuse, or neglect of an elderly person or disabled adult.

(ee) Section 825.1025, relating to lewd or lascivious offenses committed upon or in the presence of an elderly person or disabled adult.

(ff) Section 825.103, relating to exploitation of an elderly person or disabled adult, if the offense was a felony.

(gg) Section 826.04, relating to incest.

(hh) Section 827.03, relating to child abuse, aggravated child abuse, or neglect of a child.

(ii) Section 827.04, relating to contributing to the delinquency or dependency of a child.

(jj) Former s. 827.05, relating to negligent treatment of children.

(kk) Section 827.071, relating to sexual performance by a child.

(ll) Section 843.01, relating to resisting arrest with violence.

(mm) Section 843.025, relating to depriving a law enforcement, correctional, or correctional probation officer means of protection or communication.

(nn) Section 843.12, relating to aiding in an escape.

(oo) Section 843.13, relating to aiding in the escape of juvenile inmates in correctional institutions.

(pp) Chapter 847, relating to obscene literature.

(qq) Section 874.05(1), relating to encouraging or recruiting another to join a criminal gang.

(rr) Chapter 893, relating to drug abuse prevention and control to include the use, possession, sale, or manufacturing of illegal drugs, only if the offense was a felony or if any other person involved in the offense was a minor.

(ss) Section 916.1075, relating to sexual misconduct with certain forensic clients and reporting of such sexual misconduct.

(tt) Section 944.35(3), relating to inflicting cruel or inhuman treatment on an inmate resulting in great bodily harm.

(uu) Section 944.40, relating to escape.

(vv) Section 944.46, relating to harboring, concealing, or aiding an escaped prisoner.

(ww) Section 944.47, relating to introduction of contraband into a correctional facility.

(xx) Section 985.701, relating to sexual misconduct in juvenile justice programs.

(yy) Section 985.711, relating to contraband introduced into detention facilities.

(ZZ) Section 741.28 relating to domestic violence.

Criminal offenses found in section 430.0402, F.S.

(a) Section 409.920, relating to Medicaid provider fraud.

(b) Section 409.9201, relating to Medicaid fraud.

(c) Section 741.28, relating to domestic violence.

(d) Section 817.034, relating to fraudulent acts through mail, wire, radio, electromagnetic, photoelectronic, or photooptical systems.

(e) Section 817.234, relating to false and fraudulent insurance claims.

(f) Section 817.505, relating to patient brokering.

(g) Section 817.568, relating to criminal use of personal identification information.

(h) Section 817.60, relating to obtaining a credit card through fraudulent means.

(i) Section 817.61, relating to fraudulent use of credit cards, if the offense was a felony.

(j) Section 831.01, relating to forgery.

(k) Section 831.02, relating to uttering forged instruments.

(l) Section 831.07, relating to forging bank bills, checks, drafts, or promissory notes.

(m) Section 831.09, relating to uttering forged bank bills, checks, drafts, or promissory notes.

Criminal offenses found in other sections.

(n) Section 775.21, sexual predator.

(o) Section 775.261, Career offender.

(p) Section 943.0435, Sexual offender; unless the requirement to register as a sexual offender has been removed pursuant to section 943.04354.

I have been granted an Exemption from Disqualification through one of the following Specified Agencies:

- | | |
|---|--|
| <input type="checkbox"/> Department of Elder Affairs | <input type="checkbox"/> Department of Financial Services |
| <input type="checkbox"/> Agency for Healthcare Administration | <input type="checkbox"/> Department of Health |
| <input type="checkbox"/> Agency for Persons with Disabilities | <input type="checkbox"/> Department of Juvenile Justice |
| <input type="checkbox"/> Department of Children and Family Services | <input type="checkbox"/> Division of Vocational Rehabilitation |

Date of Decision: _____

**** A copy of the Exemption from Disqualification decision letter must be attached****

STEP THREE: The candidate must complete this section if claiming an exception to level 2 background screening conducted by the Department of Elder Affairs. If not claiming an exception, then skip to Step Four.

If you are claiming that you qualify for an exception to level 2 background screening pursuant to sections 430.0402(2) or (3), Florida Statutes, and thereby, you are not required to undergo background screening through the Department of Elder Affairs, please indicate the type of exception and attach the required evidence.

EXCEPTION:

- Attorney - _____ (initials) An attorney in good standing with the Florida Bar if you are providing a service within the scope of your licensed practice.

Evidence: A copy of the screen shot of your membership in good standing with the Florida Bar.

- Relative - _____(initials) A relative of the client.
Evidence: Circle your relationship to the client: husband, wife, father, mother, son, daughter, brother, sister, grandmother, grandfather, great-grandmother, great-grandfather, grandson, granddaughter, uncle, aunt, first cousin, nephew, niece, father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, sister-in-law, stepfather, stepmother, stepson, stepdaughter, stepbrother, stepsister, half brother, or half sister.

- Volunteer - _____(initials) A volunteer who assists for less than 20 hours per month and you are not listed on the FDLE Career Offender Search database or the Dru Sjodin National Sex Offender Public Website.

Evidence: A copy of your search results screen shot from each criminal database showing no records were found.

EMPLOYER: IT IS THE EMPLOYER'S RESPONSIBILITY TO VERIFY THE AUTHENTICITY AND ACCURACY OF ANY DOCUMENTATION REQUIRED AS EVIDENCE OF AN CANDIDATE'S QUALIFICATION FOR AN EXCEPTION.

STEP FOUR: Each candidate determined to be a direct service provider must complete the required attestation below.

Claiming an Exception: If you are claiming that you qualify for an exception to level 2 background screening, you are not required to undergo background screening through the Department, and you must sign the attestation below.

Not Claiming an Exception: If you are *not* claiming one of the exceptions to level 2 background screening listed in Step Three, you must complete level 2 background screening through the Department. Once you have been determined qualified for service by the Department, you must sign the attestation below.

ATTESTATION

Under penalty of perjury, I _____, hereby swear or affirm that I meet the requirements for qualifying for employment pursuant to the background screening standards set forth in Chapter 435 and section 430.0402, Florida Statutes. In addition, I agree to immediately inform my employer if arrested or convicted of any of the disqualifying offenses while employed by my employer.

Candidate Signature

Date

EMPLOYER: ONCE THE ATTESTATION IS SIGNED, KEEP THIS COMPLETED FORM IN THE CANDIDATE'S FILE.