

Adopt Article 4, Fingerprinting and Criminal Record Checks, Section 6460

- (a) Definitions. For purposes of this section, the following terms shall have the following associated meanings:
- (1) Federal Tax Information or FTI: return or return information as defined in 26 U.S.C. § 6103(b)(1)-(2).
 - (2) Personal Identifying Information or PII: information which can be used to distinguish or trace an individual's identity such as their name, social security number, biometric records, etc. alone, or when combined with other personal or identifying information which is linked or linkable to a specific individual, such as date and place of birth, mother's maiden name, etc., consistent with the definition in Office of Management and Budget Circular M-07-16.
 - (3) Personal Health Information or PHI: protected health information or individually identifiable health information as defined in 45 C.F.R. 160.103.
 - (4) Service Center: to be defined
 - (5) County Center: to be defined
- (b) The California Health Benefit Exchange (Exchange or Covered California) shall require fingerprint images and associated criminal history information from individuals whose duties include or would include any of the following:
- (1) Access to Federal Tax Information.
 - (2) Access to Personal Identifying Information.
 - (3) Access to Personal Health Information.
 - (4) Access to confidential or sensitive information provided by a member of the public including, but not limited to, a credit card number or social security account number.
 - (5) Access to cash, checks, or other accountable items.
 - (6) Responsibility for the development or maintenance of the CalHEERS system and other critical automated systems of the Exchange.
 - (7) Access to information technology systems of the Exchange.
 - (8) Responsibility for the performance of any Service Center or County Center duties or functions.
- (c) Individuals whose duties require fingerprinting under paragraph (b) shall submit fingerprint images and all related information to the Department of Justice for the purpose of obtaining information as to the existence and nature of a record of state and federal level convictions and arrest or whether the applicant was released on bail or his own recognizance pending trial or appeal.

- (d) The Exchange shall investigate the criminal history of individuals whose duties require fingerprinting under paragraph (b) in order to make a final determination of an individual's fitness to perform duties or functions that would include any of those specified in paragraph (b).
- (e) If the state or federal level criminal records contain a conviction of a felony or a misdemeanor related to theft, fraud, dishonesty, or a crime of moral turpitude or a pending criminal charge for any of these crimes, it shall be justification for denial to an individual to serve in an Exchange role that requires fingerprinting. A plea of guilty or no contest, a verdict resulting in a conviction, or the forfeiture of bail, shall be a conviction pursuant to Government Code section _____ irrespective of a subsequent order under Penal Code section 1203.4.
- (f) When considering background information received pursuant to this section, the Exchange shall take under consideration any evidence of rehabilitation, including participation in treatment programs as well as the age and specifics of the offense.
- (g) As a condition of appointment, an individual whose duties require fingerprinting under paragraph (b) shall certify whether his or her fingerprints have been furnished to the Department of Justice in compliance with this section. Proof of fingerprint submission can be met as follows:
 - (1) Electronic fingerprint submissions. A notarized copy of the Request for Live Scan Services form # BCIA 8016 (January 2011) shall be provided as proof of fingerprint submission. If a notarized copy cannot be provided, the individual shall be fingerprinted.
 - (2) Manual fingerprint submission. If an individual initially used the manual method of fingerprinting, the individual shall be fingerprinted.
- (h) The Exchange shall pay any costs for furnishing the fingerprints and conducting the searches of all employees and prospective employees.
- (i) This section does not apply to individuals identified in paragraph (b) whose appointment occurred prior to [OAL Effective Date].

Authority: Government Code 100504

Reference: Government Code _____, Penal Code 11105