

Criminal Records Review Program:

Types of Criminal Record Checks:

- The *Criminal Record Review Act* ensures that people who work with or may potentially have unsupervised access to children or vulnerable adults undergo a criminal record check by the Criminal Records Review Program (CRRP). Criminal Records Review Program is in the Ministry of Public Safety
- Ministry of Public Safety has created guidelines for two types of criminal records checks: vulnerable sector checks and non-vulnerable sector checks; the vulnerable sector checks are more thorough, as they include adverse events that didn't result in an arrest/conviction.¹
- However, unlike criminal record checks done through the RCMP, criminal record checks done through the CRRP only report on incidents that indicate that an individual would pose a risk to a child or vulnerable adult, whereas RCMP criminal record checks report on everything.
- The type of criminal record checks relevant to the continuing care sector, and health care sector more generally, are the vulnerable sector check through the CRRP.
- Cost \$28 per check. Online service guide for organizations:
<http://www2.gov.bc.ca/assets/gov/public-safety-and-emergency-services/crime-prevention/criminal-record-check/guide-onlineservice.pdf>

About the Criminal Records Review Act:

Non-Regulated Health Professionals

- Criminal Records Review Act² requires employees working with vulnerable adults to undergo a criminal records check every five years, and to provide their employer with a criminal records check (or a criminal records check verification for new hires).
- Where working with vulnerable adults means working with vulnerable adults directly or having or potentially have unsupervised access to vulnerable adults in the ordinary course of employment and/or in the practice of employment
- This includes care aides, but does not usually include food service workers, janitors etc.³
- If an existing employee's criminal records check expires, and they have not yet completed a new criminal records check, their work with children and vulnerable adults must cease until the updated criminal record check is complete (as per the residential care regulations RCR 37(1)).

¹ <http://www2.gov.bc.ca/gov/content/safety/crime-prevention/criminal-record-check>
<http://www2.gov.bc.ca/assets/gov/public-safety-and-emergency-services/crime-prevention/criminal-record-check/modelpolicyguidelines.pdf>

² http://www.bclaws.ca/EPLibraries/bclaws_new/document/ID/freeside/00_96086_01

³ As confirmed by the Justice Institute by email.

- This contradicts what is in the Criminal Records Review Act, which states that they may continue working as long as they have provided verification that they have sent in a consent form they can work with children and or vulnerable adults. But the Residential Care Regulations take precedent.

The language of the Criminal Records Review ACT (CRRRA) act is:

General duty of employers

8 (1) *Subject to subsection (1.1), an employer must ensure that every individual who is hired for employment involving work with children or work with vulnerable adults and every employee who works with children or works with vulnerable adults undergoes*

(a) a criminal record check, or

(b) a criminal record check verification.

Existing employees

10 (1) *An employee who works with children or works with vulnerable adults must*

(a) undergo a criminal record check at least once every 5 years, and

(b) provide to his or her employer a criminal record check authorization or a criminal record check verification authorization, as applicable, at least once every 5 years after the date on which the employee provided to his or her employer the employee's last criminal record check authorization or criminal record check verification authorization.

(2) If an employee does not provide a criminal record check authorization or a criminal record check verification authorization as required by subsection (1) or section 12,

(a) the employee must not work with children or work with vulnerable adults until the employee has provided the criminal record check authorization or criminal record check verification authorization, as applicable, and

(b) the employer of the employee must ensure that the employee does not work with children or work with vulnerable adults until the employee has provided a criminal record check authorization or criminal record check verification authorization, as applicable.

The relevant language of the Residential Care Regulations (RCR) is:

Division 1 — General Staffing Requirements

Character and skill requirements

37 (1) *A licensee must not employ a person in a community care facility unless the licensee or, in the case of a person who is not the manager, the manager has obtained all of the following:*

(a) a criminal record check for the person;

Criminal Record Checks through Care Aide Registry/ Health Care Assistant Programs:

- The Care Aide Registry does not require registrants to have undergone a criminal records check⁴
- To be able to register with the Care Aide Registry, Health Care Assistants must have completed a recognized Health Care Assistant (HCA) program in British Columbia. The list of recognized programs can be found here: <http://www.cachwr.bc.ca/About-the-Registry/List-of-HCA-programs-in-BC.aspx>
- As part of the standardized admission, all recognized HCA in BC have applicants undergo a criminal records check.
- This suggests that our members do not need to undertake a new criminal records check if the care aide has been accepted into a HCA program within the last five years. But may need to update if accepted more than five years ago.
- Also, if the care aide graduated from a HCA program not recognized by the Care Aide Registry, may not have had criminal records check. For example: The Stratford Career Institute Health Care Aide Program is not recognized by the BC Care Aide Registry.

Regulated Health Professionals (i.e. “Registrants”)

- The Act also requires everyone governed by the health professions act to get a criminal records check every five years in order to be able to be registered with their governing bodies (i.e. the colleges)⁵
- The criminal record checks/verifications done by the colleges are precisely what is needed by the employers.
- The Criminal Records Review Program has confirmed that in order to fulfill their duties under the act, employers may check with the appropriate colleges to confirm that their health care professional is registered and a member in good standing.
- I also confirmed verbally with one of the colleges (the CRNBC) that while a college may not provide information about a registrant’s criminal records check directly to the employer, that the colleges routinely provide letters to their registrant’s confirming the date and result of their last criminal records check. The registrant is thereafter free to provide this letter to their employer as proof of the outcome and date of their last criminal records check.

The language in the act is:

Existing registered members

⁴ <http://www.cachwr.bc.ca/About-the-Registry/Registrant-FAQ.aspx>

⁵ The CRNBC also has a pretty thorough overview of this process on their website:
<https://www.crnbc.ca/Registration/Pages/CriminalRecordCheck.aspx>

15 (1) A registered member must

(a) undergo a criminal record check at least once every 5 years, and

(b) provide to his or her governing body a criminal record check authorization or a criminal record check verification authorization, as applicable, at least once every 5 years after the date on which the registered member provided to his or her governing body the registered member's last criminal record check authorization or criminal record check verification authorization.

(2) If a registered member does not provide the criminal record check authorization or criminal record check verification authorization as required by subsection (1) or section 17,

(a) the registered member must not work with children or work with vulnerable adults until the registered member has provided the criminal record check authorization or criminal record check verification authorization, as applicable, and

(b) the governing body must investigate or review the registration of the registered member and take appropriate action under the Act that governs the governing body.

(3) If a registered member carries on his or her occupation as an employee, the governing body must take reasonable steps to notify the registered member's employer that it is taking action under subsection (2) (b).

Conclusion:

- Our members need to ensure that every employee that works with vulnerable adults has an up-to-date criminal records review:
 - Professional: need to make sure they are currently registered with the relevant college; may also ask employees to provide a letter from their college detailing the date and outcome of their last criminal records check.
 - Non-Professional: need to ensure that they undergo a criminal records review every 5 years through the Criminal Records Review Program's online service guide for organizations (cost \$28 per criminal records check)
 - Workers not providing direct care: no criminal records check needed, as long as they do not have unsupervised access to vulnerable adults