

# Member Memo



To: BCCPA Service Provider Members

From: Michael Kary, Director of Policy and Research

Date: February 22, 2016

Re: Criminal Records Review Act

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## OVERVIEW:

- As outlined in the [Criminal Records Review Act \(CRRRA\)](#), employers have an obligation to ensure that all care staff that work directly with vulnerable adults undergo a Criminal Records Review every five years. The Criminal Records Review Act was [amended on March 14, 2013](#).
- Recently, BCCPA members have expressed concerns around the administrative burden of undertaking criminal record checks for all care staff every five years, as well as uncertainty around the type of criminal record check required.
- The BCCPA has undertaken a review of the legislation and has been in contact with the regulatory colleges as well as the Ministry of Public Safety & Solicitor General, to clarify these issues for our members.
- The BCCPA has confirmed that care homes have a responsibility to ensure that all employees working directly with residents who have unsupervised access to residents undergo a criminal records check every five years.
- Criminal records check undertaken directly by the care home must be done through the [Criminal Records Review Program \(CRRP\)](#), which is in the Ministry of Public Safety & Solicitor General. Criminal Records Checks should not be done through the RCMP and/or the Ministry of Justice, as this does not fulfill the requirements under the Act. A list of offenses reviewed by the CRRP can be found [here](#).
- However, care homes do not have an obligation under the Act to initiate and pay for all criminal records checks from their employees; they merely have a responsibility to ensure that they have been undertaken, and that the employee in question does not pose a risk to vulnerable residents.

- For example, if the employee has undergone and passed a criminal records check within the last five years (such as through a previous employer, or through their schooling), the care home simply has to confirm this. This can be done directly through the Criminal Records Review Program, through a process called a *Criminal Records Check Verification*, where the employee provides consent for the CRRP to provide the care home with the results of the previous criminal records check.
- Furthermore, the CCRP reports that in the case of employees regulated under the [Health Professionals Act](#), the care home only has to confirm that the employee is registered with the appropriate college and is a member in good standing – as health professionals are required by the CRRP to undergo a criminal records review every five years in order to be registered with their College.

## BACKGROUND:

### ***BC Criminal Records Review Act Amendments***

As outlined in a [letter](#) from the Criminal Records Review Program, changes were made to the CRRP in order to increase efficiency for clients by allowing the results of checks to be shared between employers. Specifically, Employers covered under the Act are now able to share, for free, the results of their clear criminal record checks with other organizations registered with the CRRP to decrease the number of multiple checks and the associated fees.

### ***Responsibilities of Employers***

As outlined in [section 8](#) of the Criminal Records Review Act, the general duty of employers is to ensure that every individual who is hired for employment to work with vulnerable adults undergoes a criminal records review every five years, including informing individual employees of this requirement.

Within the CRRP “Working with Vulnerable Adults” is defined as working with vulnerable adults directly or having or potentially having unsupervised access to vulnerable adults: (a) in the ordinary course of employment; (b) in the practice of an occupation; (c) during the course of an education program, or (d) while providing services as a volunteer (see [section 1](#) of the act).

Thus, those employees who do not work with residents directly, and do not have unsupervised access to residents, do not require a Criminal Records Review.

### ***Responsibilities of a Governing Body and its Registrants***

As outlined in [section 13](#) of the Criminal Records Review Act, Governing bodies - such as the Regulatory Colleges - have a responsibility to ensure that registered individuals and every individual who applies for registration undergoes a criminal records check. [As per section 14](#), The registrant themselves have a responsibility to provide consent to undergo this criminal records check

This criminal records check is the same as the one required by employers, and while colleges may not share the date or results of the criminal records review directly with employers, they can confirm that the employee is registered with the college and is a member in good standing.

Furthermore, the employee themselves may request a letter from the college outlining when they last underwent a criminal records review and its results. The employee may share this letter with whomever they want, including their employer, as proof of the criminal records check.

### ***Criminal Record Checks undertaken by the BC Care Aide Registry***

The Care Aide Registry does not require registrants to undergo a criminal records check. However, the BC Care Aide Registry does require registrants to be graduated from an approved Health Care Assistant Program, which do require Criminal Records Checks as a part of the admission requirements.

### ***Responsibilities of Education Institutions (e.g. Health Care Assistants Colleges)***

As outlined in [section 17.1](#) of the CRRA, educational institutions, such the Health Care Assistants Programs, have a responsibility to ensure that every registered student who will work with children or work with vulnerable adults undergoes a criminal record check. Thus, new graduates from approved Health Care Assistant Programs may have a recent criminal records check, which the care home simply has to confirm.