

PUBLIC HEALTH CODE (EXCERPT)
Act 368 of 1978

333.21313 Owner, operator, and governing body of home for aged; responsibilities and duties; good moral character; issuance of license by department; criminal history check and criminal records check required; renewal of license; storage of fingerprints in automated fingerprint identification system database; convictions.

Sec. 21313.

(1) The owner, operator, and governing body of a home for the aged are responsible for all phases of the operation of the home and shall assure that the home maintains an organized program to provide room and board, protection, supervision, assistance, and supervised personal care for its residents.

(2) The owner, operator, and governing body shall assure the availability of emergency medical care required by a resident.

(3) The owner, operator, or member of the governing body of a home for the aged and the authorized representative shall be of good moral character.

(4) The department of human services shall not issue a license to or renew the license of an owner, operator, or member of the governing body, who has regular direct access to residents or who has on-site facility operational responsibilities, or an applicant, if an individual or the authorized representative, if any of those individuals have been convicted of 1 or more of the following:

(a) A felony under this act or under chapter XXA of the Michigan penal code, 1931 PA 328, MCL 750.145m to 750.145r.

(b) A misdemeanor under this act or under chapter XXA of the Michigan penal code, 1931 PA 328, MCL 750.145m to 750.145r, within the 10 years immediately preceding the application.

(c) A misdemeanor involving abuse, neglect, assault, battery, or criminal sexual conduct or involving fraud or theft against a vulnerable adult as that term is defined in section 145m of the Michigan penal code, 1931 PA 328, MCL 750.145m, or a state or federal crime that is substantially similar to a misdemeanor described in this subdivision within the 10 years immediately preceding the application.

(5) The applicant for a license for a home for the aged, if an individual, shall give written consent at the time of license application and the authorized representative shall give written consent at the time of appointment, for the department of state police to conduct both of the following:

(a) A criminal history check.

(b) A criminal records check through the federal bureau of investigation.

(6) Unless already submitted under subsection (5), an owner, operator, or member of the governing body who has regular direct access to residents or who has on-site facility operational responsibilities for a home for the aged shall give written consent at the time of license application for the department of state police to conduct both of the following:

(a) A criminal history check.

(b) A criminal records check through the federal bureau of investigation.

(7) The department of human services shall require the applicant, authorized representative, owner, operator, or member of the governing body who has regular direct access to residents or who has on-site facility operational responsibilities to submit his or her fingerprints to the department of state police for the criminal history check and criminal records check described in subsections (5) and (6).

(8) Not later than 1 year after the effective date of the 2012 amendatory act that amended this subsection, all owners, operators, and members of the governing body of homes for the aged who have regular direct access to residents or who have on-site facility operational responsibilities and all authorized representatives shall comply with the requirements of this section.

(9) The department of human services shall request a criminal history check and criminal records check in the manner prescribed by the department of state police. The department of state police shall conduct the criminal history check and provide a report of the results to the licensing or regulatory bureau of the department of human services. The report shall contain any criminal history information on the person maintained by the department of state police and the results of the criminal records check from the federal bureau of investigation. The department of state police may charge the person on whom the criminal history check and criminal records check are performed under this section a fee for the checks required under this section that does not exceed the actual cost and reasonable cost of conducting the checks.

(10) Beginning the effective date of the 2012 amendatory act that added this subsection, if an applicant, authorized representative, owner, operator, or member of the governing body who has regular direct access to residents or who has on-site facility operational responsibilities applies for a license or to renew a license to operate a home for the aged and previously underwent a criminal history check and criminal records check required under

subsection (5) or (6) or under section 134a of the mental health code, 1974 PA 258, MCL 330.1134a, and has remained continuously licensed or continuously employed under section 20173a or under section 34b of the adult foster care facility licensing act, 1979 PA 218, MCL 400.734b, after the criminal history check and criminal records check have been performed, the applicant, authorized representative, owner, operator, or member of the governing body who has regular direct access to residents or who has on-site facility operational responsibilities is not required to submit to another criminal history check or criminal records check upon renewal of the license obtained under this section.

(11) The department of state police shall store and maintain all fingerprints submitted under this act in an automated fingerprint identification system database that provides for an automatic notification at the time a subsequent criminal arrest fingerprint card submitted into the system matches a set of fingerprints previously submitted in accordance with this act. At the time of that notification, the department of state police shall immediately notify the department of human services. The department of human services shall take the appropriate action upon notification by the department of state police under this subsection.

(12) An applicant, owner, operator, member of a governing body, or authorized representative of a home for the aged shall not be present in a home for the aged if he or she has been convicted of either of the following:

- (a) Vulnerable adult abuse, neglect, or financial exploitation.
- (b) A listed offense as defined in section 2 of the sex offenders registration act, 1994 PA 295, MCL 28.722.

History: 1978, Act 368, Eff. Sept. 30, 1978 ;-- Am. 2010, Act 381, Imd. Eff. Dec. 22, 2010 ;-- Am. 2012, Act 51, Imd. Eff. Mar. 13, 2012
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