



Health Care Worker Registry, 525 W. Jefferson St., Fourth Floor, Springfield, IL 62761  
Phone: (844) 789-3676 Fax: (217) 524-0137 Email: [dph.hcwr@illinois.gov](mailto:dph.hcwr@illinois.gov)

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## FREQUENTLY ASKED QUESTIONS: WAIVERS

### WAIVER REQUIREMENTS

#### I WAS TOLD I NEED A WAIVER. WHY?

You have applied for a position with a health care employer as a direct care worker or—for a long-term care facility—as a worker who has or may have access to residents, their living quarters, or their financial medical, or personal records (access worker). When you applied for that position, the health care employer sent you to have your fingerprints scanned for a background check. When the Health Care Worker Registry (HCWR) received the results of your background check, we determined that you have one or more convictions that are considered [disqualifying offenses](#). If you have any disqualifying convictions, you are **not eligible to work for a health care employer** as a direct care worker or—for a long-term care facility—as an access worker **unless you have been granted a Health Care Worker Waiver** (waiver). A waiver allows you to work for a health care employer in spite of your disqualifying convictions.

#### I NEVER SERVED ANY TIME IN JAIL/PRISON. HOW CAN I HAVE DISQUALIFYING CONVICTIONS?

You might have a disqualifying conviction, even if you were not sent to jail. While an individual may be fined, given probation or conditional discharge, or given some sentence other than jail, any sentence will usually be considered a conviction. If you are unsure whether an arrest or charge became a conviction, contact the circuit clerk of the county in which you were arrested. If you believe there is an error in your background check, you may contact the Illinois State Police Bureau of Identification at (815) 740-5160.

#### AM I ELIGIBLE TO APPLY FOR A WAIVER?

If your background check discloses one or more disqualifying convictions, you may be eligible to apply for a waiver. First, you must meet certain time restrictions that limit when you may apply for a waiver. These time restrictions are based on the number and type of disqualifying convictions you have. When the HCWR sends you a letter after making a determination on your background check, we will tell you whether you are eligible to apply for a waiver, as well as when you may apply, if you will be eligible at a later date.

In addition to meeting the time restrictions, all obligations to the court must be complete (except for scheduled payments of court-imposed fines or restitutions) before you are eligible to apply for a waiver. You must have paid (or you must demonstrate that you are making payments on) any fines or restitution. You must also have successfully completed any required probation,

conditional discharge, parole, or mandatory supervised release to be eligible to apply for a waiver. If you were ordered to complete a drug and/or alcohol recovery program as part of your judgment, you must have satisfactorily completed that program as well.

### THE HCWR TOLD ME I WASN'T ELIGIBLE FOR A WAIVER BECAUSE I AM A LICENSED NURSE OR BECAUSE I AM NOT IN A DIRECT CARE POSITION. WHAT DOES THIS MEAN?

We **cannot process a waiver application** for any employee that **does not fall under the jurisdiction of the HCWR**. The HCWR is governed by the Health Care Worker Background Check Act [[225 ILCS 46](#)] and the Health Care Worker Background Check Code [[77 Ill. Adm. Code 955](#)]. The Act and the Code mandate that the following types of employees fall under the HCWR's jurisdiction:

- For **all** health care employers - an **unlicensed** individual employed as a home health care aide, a nurse aide, a personal care assistant, a private duty nurse aide, a day training personnel, or an individual working in any similar health-related occupation **where he/she provides direct care**
- Additionally, for **long-term care facilities ONLY** - an **unlicensed** individual who has or may have contact with **long-term care residents** or access to the living quarters or financial, medical, or personal records of **long-term care residents** (access workers).

Therefore, the only employees who fall under the HCWR's jurisdiction are **unlicensed** staff providing direct care, as well as **unlicensed staff in long-term care facilities** who have access to resident's living quarters or records. **Licensed staff** (such as nurses) **do not fall under the HCWR jurisdiction**. Likewise, staff who do not provide direct care (**except for access workers in long-term care facilities**) also **do not fall under the HCWR jurisdiction**. If a background check for an employee who does not fall under the jurisdiction of the HCWR discloses disqualifying convictions, we **cannot process a waiver application** for that employee because that employee is not under our jurisdiction.

### DOES MY WAIVER REMOVE MY CRIMINAL CONVICTIONS?

No. A waiver does not change your criminal record; your convictions will still appear on your background check. A waiver makes you eligible to work in spite of your disqualifying convictions.

## WAIVER PROCESS

### ONCE I SUBMIT A WAIVER APPLICATION, WILL I BE ABLE TO RETURN TO WORK IMMEDIATELY? HOW LONG DOES IT TAKE FOR A WAIVER APPLICATION TO BE PROCESSED?

Waivers are not granted automatically. The entire waiver process usually takes between six and eight weeks from the time the Health Care Worker Registry (HCWR) receives your waiver application. If we have to return the waiver application to you to request additional information, that will delay the waiver process. The following are all considered in determining whether your waiver application will be granted:

- Your age at the time of the offense;
- Your work history;
- Your criminal history in Illinois and other states;
- The amount of time since your last conviction;
- The severity of your conviction;
- The circumstances surrounding your conviction; and
- Other evidence that you provide.

### WILL I BE NOTIFIED WHEN MY WAIVER HAS BEEN PROCESSED?

Yes, you will receive a letter notifying you of the outcome of your waiver application.

### HOW LONG IS MY WAIVER VALID? DOES IT EXPIRE?

If you are granted a waiver, it is in effect unless and until you are convicted of another disqualifying offense. If that happens, your waiver will be automatically revoked. Once you meet all eligibility requirements, you may apply for another waiver after your original waiver has been revoked.

### MY EMPLOYER IS ASKING FOR A COPY OF MY WAIVER LETTER, BUT I HAVE LOST IT. CAN I GET ANOTHER COPY?

We can send you a copy of your waiver letter upon request. Your original waiver letter, however, **is not valid for employment purposes**. You could have been convicted of another disqualifying conviction after your waiver was granted; in that case, the HCWR would have automatically revoked your waiver. If you have had no additional disqualifying convictions, your waiver is still valid. The only way an employer can verify the validity of your waiver is to look at your profile on the HCWR. Employers are **required** to check the HCWR to determine an employee's eligibility for work.

In fact, your employer **does not have the right** to see your original waiver letter, because that letter lists all of your disqualifying convictions. You may request a Registry Verification Letter from the HCWR, which provides the information from your profile but does not list your disqualifying convictions