

24 NCAC 06A .0210 CONSENT TO BACKGROUND INVESTIGATION REQUIRED; RECENT CRIMINAL HISTORY CHECK

(a) The Commission, or a third-party contractor approved by the Commission, shall conduct a Background Investigation on the Applicant, Key Persons, and other Persons required to be disclosed on the application, as required by the Commission.

- (1) In the event an Applicant, its Key Persons, and its disclosed Persons have had a completed criminal history record check in the 12 months prior to the application, the Commission may, in its discretion, accept the results of that prior criminal history record check on submission of an affidavit that there has been no change in criminal history since the prior criminal history record check in this or another state or territories of the United States and the District of Columbia. The Commission or Director shall prescribe the form and contents of such affidavit.
- (2) The Commission shall not award a License if an Applicant, Key Person, or disclosed Person has been convicted in any jurisdiction of a felony, a gambling offense, a criminal offense involving moral turpitude or obstruction of justice, or any criminal offense involving dishonesty or breach of trust within 10 years of application.

(b) An Applicant for Licensure, Key Persons, and Persons required to be disclosed on the application as deemed necessary by the Commission shall consent to a criminal history record check, including criminal history record information obtained from the Federal Bureau of Investigation. Refusal to consent to a criminal history record check constitutes grounds for the Commission to deny Licensure summarily.

- (1) If used, criminal history record information obtained from the Federal Bureau of Investigation pursuant to this Rule shall include other state and national criminal history record information.
- (2) All criminal history record information obtained by the Commission pursuant to this Rule is subject to G.S. 18C-904(j), 18C-906(h), 18C-907(l), and 18C-916(b), is for the official use of the Commission only, and shall be kept confidential.
- (3) An Individual required to submit to a criminal history record check under this Rule shall submit to having their fingerprints taken.

(c) Individuals, Key Persons, and disclosed Persons required to participate in the Background Investigation required by these Rules or Articles 9 and 10 of the Act shall provide a statement that irrevocably gives consent to the Commission, Director, and their investigative contractors, and other authorized Persons acting on the Commission's behalf to:

- (1) verify all information provided in the application; and
- (2) conduct a Background Investigation.

(d) The statement shall be on a form made available by the Director and shall be submitted in a manner determined by the Director.

(e) The Director shall make available an affidavit form for those Individuals subject to the Background Investigation process who have completed a criminal history check in the 12 months prior to the application's submission.

- (1) A complete copy of the previous criminal history check shall be attached to the affidavit form.
- (2) The Director reserves the right, in their sole discretion, to undertake a supplemental or additional Background Investigation of any individual who submits an affidavit involving a prior criminal history check.

(f) If, while conducting a Background Investigation, a basis for recommending denial of a License is discovered, Commission staff shall:

- (1) informally notify the Applicant; and
- (2) if a final decision has not yet issued on the application, allow the application to be withdrawn or amended within a specified period.

(g) For an Applicant who has resided in any country other than the United States during the past 10 years, the Background Investigation shall require an international criminal history records check.

*History Note: Authority G.S. 18C-114(a)(14);
Previously adopted as Rule 1B-010;
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