

Laurie Glaze, Chair

Adoptation

Avondale House

Bering Omega Community Services

Care for Elders

Career and Recovery
Resources, Inc.

Catholic Charities of the
Archdiocese of Galveston-Houston

ChildBuilders

CHILDREN AT RISK

Christ the Good Shepherd
Catholic Church

Coalition for Behavioral
Health Services

Collaborative for Children

Communities In Schools

DePelchin Children's Center

Family Services of Greater Houston

Fort Bend Regional Council on
Substance Abuse, Inc.

Gateway to Care

Good Neighbor Healthcare Center

Gulf Coast CHIP Coalition

Harris County Healthcare Alliance

Healthcare for the
Homeless-Houston

Houston Area Association for the
Education of Young Children

Houston Food Bank

IntraCare Hospitals

Jewish Family Service

Justice for Children

Legacy Community Health
Services, Inc.

Memorial Hermann
Healthcare System

Mental Health Association
of Greater Houston

NAMI Metropolitan Houston

Neighborhood Centers, Inc.

Northwest Assistance Ministries

San Jose Clinic

SEARCH

South County Community Clinic,
DBA The Community Clinic

Spaulding for Children

Target Hunger

Texas Children's Hospital

The Arc of Greater Houston

The Center for Success
and Independence

The Arrow Project

The Network of Behavioral
Health Providers

United Way of Greater Houston

Wesley Community Center

YMCA of Greater Houston

Community Care: Criminal Background of Personal Care Attendants

Position Statement approved by One Voice: November 6, 2006

Issue/Concern: Personal care attendants provide in-home care to the frail elderly and disabled Texans who wish to remain in their own homes. Attendant services¹ are needed to prevent early and/or inappropriate institutionalization, which costs the state significantly more money². However, a person who has been convicted of crimes against another person, Medicaid fraud, an improper relationship with a student, or placing another in imminent danger of serious (deadly) injury can be hired to work in the homes of our elderly and disabled. Even though background checks (DPS) are required for all job applicants, Code 250.06 of the Texas Health and Safety code does not bar hiring people who have committed crimes, including those mentioned. Criminals are often hired, and our most vulnerable populations are put at significant safety risks.

Specific Policy Recommendation(s): Amend Chapter 250.006 of the Texas Health and Safety Code

(A person for whom the facility³ is entitled to obtain criminal history record information may not be employed in a facility if the person has been convicted of an offense listed in this subsection⁴) by adding the following convictions as reasons barring employment as a personal care attendant:

1. An offense under Section 21.08, Penal Code (indecent exposure);
2. An offense under Section 21.12, Penal Code (improper relationship between educator and student);
3. An offense under Section 21.15, Penal Code (improper photography or visual recording);
4. An offense under section 22.05, Penal Code (deadly contact);
5. An offense under section 22.021, Penal Code (aggravated sexual assault);
6. An offense under Section 22.07, Penal Code (terroristic threat);
7. An offense under Section 33.021, Penal Code (online solicitation of a minor);
8. An offense under Section 34.002, Penal Code (money laundering);
9. An offense under Section 35A.02, Penal Code (Medicaid fraud);
10. An offense under Section 37.12, Penal Code (false identification as peace officer);
11. An offense under Section 38.02, Penal Code (failure to identify {if a fugitive});
12. An offense under Section 42.01, Penal Code (disorderly conduct {firearm in public place});
13. An offense under Section 42.09, Penal Code (cruelty to animals).

How does this issue/recommendation relate to prevention and early intervention or maximizing federal funds for health and human services? When our elderly and disabled citizens of all ages choose to remain in their homes, they often need the support of attendant care. Without restrictions on hiring, these citizens are often unknowingly put in dangerous situations.

Supporting Facts/Research/Resources:

If an agency/facility receives a notice that a person has been convicted of an offense (after running the DPS criminal check) other than those constituting a bar to employment, the agency/facility must determine whether the offense is a contraindication to employment.⁵

Community Care: Criminal Background of Personal Care Attendants

Position Statement approved by One Voice: November 6, 2006 (cont.)

Supporting Facts/Research/Resources:

- ★ Two surveys, in California, 1988 and Texas, 2000, revealed that the number of individuals with criminal records applying for in-home support jobs is rising⁶.
- ★ Due to the scarcity of home-care attendants, experts acknowledge that some agencies will inevitably employ people with criminal histories. An agency might evaluate how likely an individual is to harm or exploit a senior citizen based on the crime committed, and then decide whether or not to hire⁷.

Legislative Outcome: Senator Jane Nelson authored SB199, **which passed into law**. Representative Rose sponsored the bill in the House.

¹ Attendants provide help with activities of daily living such as eating, dressing, bathing, using the toilet, walking, shopping, preparing meals and doing laundry.

² Nursing Home costs:

http://www.dads.state.tx.us/services/dads_help/care_locations/nursing_homes.html ;

Community Care costs: <http://www.dads.state.tx.us>

³ "Facility" includes nursing homes, assisted living, and others including: (C) a home and community support services agency licensed under Chapter 142: h

<http://www.capitol.state.tx.us/statutes/docs/HS/content/htm/hs.004.00.000250.00.htm>

⁴ <http://www.capitol.state.tx.us/statutes/docs/HS/content/htm/hs.004.00.000250.00.htm>

⁵ <http://www.dads.state.tx.us/handbooks/appendix/02.htm>

^{6,7} Nerenbert, Lisa. Preventing Elder Abuse by in-Home Helpers. National Center on Elder Abuse, Washington, D.C. June 2002

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