

Fingerprint-Based Criminal Background Checks for Health Profession Licensure

By Johnny Xu and Debra Miller

The FBI has been using fingerprints to link perpetrators and crimes since at least 1924 and switched over to using computers to track fingerprints in October 1980.¹ Since July 1999, the FBI has been using the Integrated Automated Fingerprint Identification System, the largest fingerprint database in the world.² Increasingly, state laws require fingerprint-based criminal background checks for licensure of various health professions.

While fingerprints are commonly used to solve crimes and secure convictions in court, they also have become an important tool for other public safety and security functions of government. The health care arena is one such example.

The various state boards that govern health professions such as doctors, nurses, emergency medical technicians and physical therapists are charged under state laws to ensure the people entering these vital fields are intellectually competent in their subject area, have had the proper training and are of high moral character.

This moral character, an archaic term, is assessed through a criminal background check to ensure patient safety and takes on an added dimension of importance because of concerns for the safety of patients, who may be treated in their own homes. Before the sophisticated national fingerprint identification system, applicants for health licensure were usually asked to self-declare whether they had been convicted of a criminal offense. In addition, some states could run a record check of convictions within their own borders. In neither instance could a state licensing board be confident that an applicant did not have a previous criminal conviction in another jurisdiction, under another name or simply fail to disclose a criminal conviction. According to the FBI, its system maintains more than 59 million criminal history records and receives 9,000 new records and 104,000 fingerprint submissions each day.³

State boards of nursing have led the way in transitioning to fingerprint-based background checks; California, an early adopter, has required them since 1990.⁴ The National Council of State Boards of Nursing supports fingerprint-based background checks as the most reliable method of

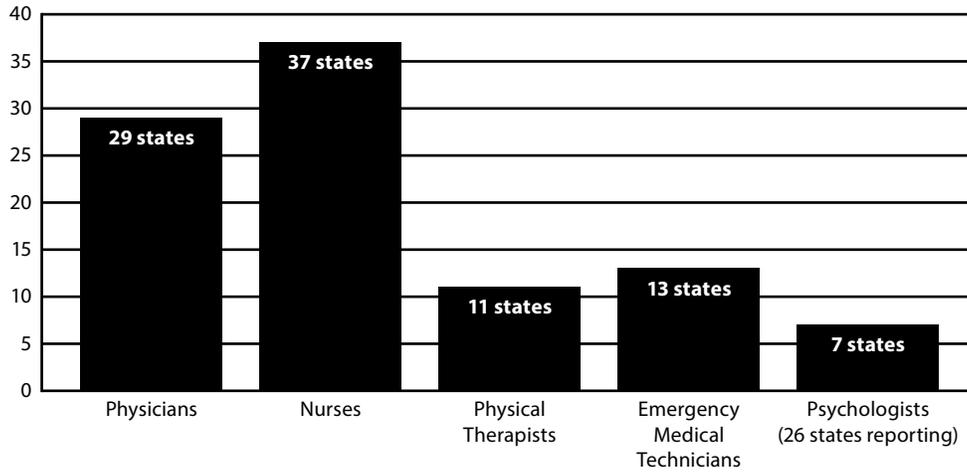
checking an applicant's criminal background.⁵ The fingerprint-based background check will identify convictions anywhere in the United States and works regardless of the use of multiple names or aliases. The Council of State Governments adopted a resolution in December 2012 that supports fingerprint-based background checks for nurses applying for licensure.⁶

Figure A shows the utilization of fingerprint criminal background checks in a number of health professions, including nurses, physicians, emergency medical technicians and physical therapists. Some data are available on licensure requirements for psychologists, but they are incomplete.

In 2014, 37 states required fingerprint criminal background checks for nursing.⁷ According to the Federation of State Medical Boards, 29 states had fingerprint criminal background check requirements for doctors in 2013.⁸ In other health professions, states are moving to require fingerprint checks for licensure—13 states for emergency medical technicians and 11 states for physical therapists, according to national organizations representing the professions.^{9,10} The Association of State and Provincial Psychology Boards collected data from 26 states through a listserv questionnaire. Seven of the responding states had adopted fingerprint-based criminal background check requirements, although Alabama's 2013 statute requires a technical amendment in order to meet federal FBI requirements to utilize its system.

States vary in their approaches to this health licensure issue. For example, every health licensing board in California requires a fingerprint-based check.¹¹ New York, on the other hand, does not require a criminal background check for any of its 52 state-regulated professions.¹² Teachers are

Figure A: States with Licensure Requirements for Fingerprint-based Criminal Background Checks



Sources: National Association of State EMS Officials. (2014). *EMS Criminal History Check Map*.
 Miller, D., and Byrd, M. (2013). Nurse Licensure Criminal Background Checks. *Capitol Facts and Figures*, The Council of State Governments. <http://knowledgecenter.csg.org/kc/content/nurse-licensure-criminal-background-checks>.
 Core Medical Group. (2014). *Physical Therapist License Processing Timeframes by State*. Retrieved from <http://www.coremedicalgroup.com/job-seekers/resources/pt-licensure/>.
 Association of State and Provincial Psychology Boards, (2014). *Does Your Board Require Fingerprint Criminal Background Checks for Licensure?* BARC Listserv Posting Response Summary provided in correspondence with The Council of State Governments.
 Federation of State Medical Boards, (2013). *Criminal Background Checks*. Retrieved from http://www.fsmb.org/pdf/GRPOL_Criminal_Background_Checks.pdf.

required to submit a fingerprint background check in New York, but that’s because they are not regulated under the same statute as other professions.¹³

Besides California, the states of New Jersey, Ohio and Texas require fingerprint-based checks for a variety of health professions. Alabama, Louisiana and North Carolina have recently transitioned to fingerprinting or are in the process of doing so for psychologists.¹⁴

As states move to update licensure statutes with the most reliable criminal background check requirement—a fingerprint check by the FBI—there has been some pushback against the use of fingerprint-based criminal background checks. In Minnesota, the most recent state to pass fingerprint check legislation for nurse licensure in 2013, the Minnesota Nurses Association, an affiliate of National Nurses United, a nurse’s union, cited three reasons to oppose the proposed legislation. First, the association contended the self-disclosure

requirement when applying to become a nurse already served as a criminal background check and thus fingerprinting would be redundant.¹⁵ Second, current Minnesota law requires health institutions to report detrimental conduct to the board of nursing.¹⁶ Third, the association believed such legislation was overreaching and would give the nursing board too much discretion and power.¹⁷ Essentially, the association believes the board may have too much latitude in determining if a nurse can be rehabilitated or should be fired, in ways that may violate state employment law.

Despite these arguments, the Minnesota legislature adopted fingerprint criminal background checks for nurses and all other health licensure boards in 2013. Legislators argued it was a matter of public protection and provided consistency across all health licensing boards, which license professionals to work with vulnerable or dependent people.¹⁸

In 2014, the Minnesota House and Senate unanimously adopted a bill to extend fingerprint criminal background checks to a large group of workers who are not professionally licensed and provide care for the elderly, disabled and other vulnerable groups. Eventually, according to media coverage, an estimated 150,000 to 200,000 workers in child-care centers, nursing homes, mental hospitals and other state licensed programs will undergo such screening.¹⁹ As of May 15, the bill was awaiting the signature of Gov. Mark Dayton but is expected to go into effect in October.²⁰

CSG is working with a variety of health professions to explore interstate compacts to facilitate the recognition of professional licenses across state borders. The adoption of fingerprint-based criminal background checks is an issue that will be considered in each compact effort. The general goal of compacts is to create uniformity among states and states differ in how they perform criminal background checks for health professionals.

Notes

¹FBI. *Integrated Automated Fingerprint Identification System*. Retrieved from http://www.fbi.gov/about-us/cjis/fingerprints_biometrics/iafis/iafis.

²Ibid.

³Ibid.

⁴Board of Registered Nursing, California Department of Consumer Affairs, *History of the Board*. Retrieved from http://www.rn.ca.gov/about_us/history.shtml.

⁵Miller, D., and Byrd, M. (2013). Nurse Licensure Criminal Background Checks. *Capitol Facts and Figures*, The Council of State Governments.

⁶Ibid.

⁷Ibid.

⁸Federation of State Medical Boards. (2013). *Criminal Background Checks*. Retrieved from http://www.fsmb.org/pdf/GRPOL_Criminal_Background_Checks.pdf.

⁹National Association of State EMS Officials. (2014). *EMS Criminal History Check Map*.

¹⁰Core Medical Group. (2014). *Physical Therapist License Processing Timeframes by State*. Retrieved from <http://www.coremedicalgroup.com/job-seekers/resources/pt-licensure/>.

¹¹Association of State and Provincial Psychology Boards. (2014). *Does Your Board Require Fingerprint Criminal Background Checks for Licensure?* BARC Listserv Posting Response Summary. Correspondence with The Council of State Governments.

¹²Ibid.

¹³Ibid.

¹⁴Ibid.

¹⁵Minnesota Nurses Association. (2012). *MN Law Already Requires Criminal Background Checks on Nurses*. <http://mn.nurses.org/sites/default/files/documents/2012%20criminal%20background%20FACTS.pdf>.

¹⁶Ibid.

¹⁷Ibid.

¹⁸Byrd, Marina. (September 12, 2013). "Minnesota Requires Background Checks for Health Licenses," *Capitol Ideas E-Newsletter*, The Council of State Governments. http://www.csg.org/pubs/capitolideas/enews/issue122_5.aspx.

¹⁹Chris Serres. "New scrutiny for caregivers, including fingerprints." *Minneapolis State Tribune*, May 14, 2014. <http://www.startribune.com/lifestyle/health/259161861.html?page=all&prepage=1&c=y#continue>.

²⁰Ibid.

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