§ 16.34 Certain information regarding persons working with people with developmental disabilities.

(a) Upon a request to the justice center for criminal history information for a prospective employee or volunteer pursuant to section eight hundred forty-five-b of the executive law, the justice center shall notify the office, and if the office has available, after a reasonably diligent search a substantiated report that the prospective employee or volunteer engaged in behavior that constituted abuse or serious neglect of a patient or consumer in a program licensed, operated, or certified by the office, the office shall cause to be furnished a summary of such report or reports to the provider that requested the criminal history information from the justice center with respect to such prospective employee or volunteer; provided, however, summary reports provided shall be limited to substantiated reports based on investigations that commenced prior to the effective date of this section. Such summary report shall be provided to the authorized person as defined in paragraph (b) of subdivision one of section eight hundred forty-five-b of the executive law and at that same time the office shall furnish such documents to the prospective employee or volunteer at the address for such person listed on the request.

(b) The summary report provided by the office to a provider of services pursuant to subdivision (a) of this section shall be received by the provider subject to the confidentiality provisions of subdivision seven of section eight hundred forty-five-b of the executive law.

(c) For the purposes of this section the following terms shall have the following meanings:

1. "abuse" shall mean physical abuse, sexual abuse, or psychological abuse; and

2. "serious neglect" shall mean intentional acts or omissions that endanger the life or health of a person receiving services.

3. "substantiated report" shall mean that, after investigation, the commission on quality care and advocacy for persons with disabilities or the office has determined, in writing, that a report filed by such commission, by the office, or by a provider certified by the office,

meets the criteria of abuse or serious neglect, as defined in this section, of a patient or consumer in a program licensed, operated, or certified by the office and that the report and credible information submitted support the relevant allegations in the report or shall mean that the prospective employee or volunteer was either found guilty in a disciplinary proceeding, or there was a settlement agreement in which the prospective employee or volunteer admitted guilt.

(d) Nothing in this section shall be interpreted to limit the office's ability to investigate abuse, neglect or maltreatment, whether intentional or unintentional, under current law or regulations.