§ 2899. Definitions. As used in this article, the following words and phrases shall have the following meanings:

1. "Criminal history information" shall mean a record of pending criminal charges, criminal convictions which have not been vacated or reversed, information from the federal bureau of investigation as a result of a national criminal history record check, and certificates filed pursuant to subdivision two of section seven hundred five of the correction law and which the division of criminal justice services is required to maintain pursuant to subdivision six of section eight hundred thirty-seven of the executive law.

2. "Determination" shall mean the decision made by the department after reviewing criminal history information to approve or disapprove a prospective employee's eligibility for employment by a provider. All such determinations shall be made in accordance with subdivision five of section eight hundred forty-five-b of the executive law.

3. "Employee" shall mean any person to be employed or used by a provider, including those persons employed by a temporary employment agency, to provide direct care or supervision to patients or residents. Persons licensed pursuant to title eight of the education law or article twenty-eight-D of this chapter are excluded from the meaning of employee under this article. Such term shall not include volunteers.

4. "Permanent record" shall mean a permanent, written record of a determination and the criminal history information maintained by the department.

5. "Prospective employee" shall mean any individual, not currently an employee, who files an application for employment as an employee with a provider and the provider has a reasonable expectation to hire such individual as an employee.

* 6. "Provider" shall mean: (a) any residential health care facility licensed under article twenty-eight of this chapter; or any certified home health agency, licensed home care services agency or long term home health care program certified under article thirty-six of this chapter;

any hospice program certified pursuant to article forty of this chapter; or any adult home, enriched housing program or residence for adults licensed under article seven of the social services law; or (b) a health home, or any subcontractor of such health home, who contracts with or is approved or otherwise authorized by the department to provide health home services, including enrollees who are under twenty-one years of age, under section three hundred sixty-five-l of the social services law, except for a health home, or any subcontractor of such health home, who contracts with or is approved or otherwise authorized by the department to provide health home services to all those enrolled pursuant to a diagnosis of a developmental disability as defined in subdivision twenty-two of section 1.03 of the mental hygiene law; or any entity that provides home and community based services to enrollees who are under twenty-one years of age under a demonstration program pursuant to section eleven hundred fifteen of the federal social security act.

* NB Effective until March 31, 2032

* 6. "Provider" shall mean any residential health care facility licensed under article twenty-eight of this chapter; or any certified home health agency, licensed home care services agency or long term home health care program certified under article thirty-six of this chapter; or any adult home, enriched housing program or residence for adults licensed under article seven of the social services law.

* NB Effective March 31, 2032

7. "Temporary employee" shall mean any employee who has been temporarily approved for employment pending a determination by the department.