

Information in State statutes and regulations relevant to the National Background Check Program: Indiana

This document describes what was included as of January 2011 in Indiana statutes and regulations relevant to the Centers for Medicare & Medicaid Services' National Background Check Program. Indiana has nine relevant statutes and regulations, all of which were used in gathering information for this document, and which are listed below in the State Statutes and Regulations section.

Key Feature	Description
Specific facility and provider types	The State covers seven of the long term care (LTC) facility and provider types named in the Patient Protection and Affordable Care Act of 2010 (Affordable Care Act), namely: skilled nursing facilities, nursing facilities, home health agencies, hospice care providers, LTC hospitals, personal care service providers, and residential care providers.
Registry checks	Statutes and regulations indicate that the State conducts a State-based search of abuse and neglect registries.
Fingerprinting	Not addressed.
Rap back	Not addressed.
Provisional employment	Not addressed.
Definition of direct patient access employee	Indiana does not define direct patient access employees. However, those who operate or administer health care facilities (as well as those who operate entities that contract employees to health care facilities) are required to apply for a copy of each job applicant's State nurse aide registry report (if a nurse aide) and conduct a limited criminal background check for other employees or health care professionals. If the job applicant lived outside of Indiana at any time during the two years immediately before the hire date, a national criminal history background check or an expanded criminal history check must be done for that person.
Provision of criminal background check results to employee	Not addressed.
Expiration of criminal history background check results	Not addressed.

Key Feature	Description
<p>Inclusion of disqualifying crimes specified in section 6201 of the Affordable Care Act:</p> <ol style="list-style-type: none"> 1. Medicare/Medicaid program-related crimes (42 U.S.C § 1320a-7(a)(1)) 2. Convictions related to patient abuse/neglect (42 U.S.C § 1320a-7(a)(2)) 3. Felony convictions related to health care fraud (42 U.S.C § 1320a-7(a)(3)) 4. Certain felony convictions related to controlled substances (42 U.S.C § 1320a-7(a)(4)) 	<ol style="list-style-type: none"> 1. Not addressed. 2. State statutes and regulations may bar LTC employment for convictions of some of these federally mandated disqualifying crimes, but do not cover all possible such crimes. 3. Not addressed. 4. Not addressed.
<p>State-identified convictions</p>	<p>See Appendix A – State-identified Disqualifying Convictions. Indiana identifies various disqualifying convictions. More information on the disqualifying convictions can be found in Appendix A.</p>
<p>Opportunity to contest accuracy of background check findings</p>	<p>The State does not provide a way to contest the accuracy of background check findings.</p>
<p>Ability to remove hiring prohibition based on rehabilitation factors</p>	<p>The State does not provide the ability to remove a hiring prohibition based on rehabilitation factors.</p>
<p>Rehabilitation/mitigation process for negative fitness determinations</p>	<p>Not addressed.</p>
<p>Independence of appeal or review process</p>	<p>Not clear.</p>

State Statutes and Regulations

Citation	Description
Indiana Code § 16-28-13	This has to do with the criminal history of nurse aides and certain other employees not licensed by a licensing board who are employed by a home health agency, hospital, hospice, or "health facility."
Indiana Code § 16-18-2-167	This includes the definition of "health facility."
Indiana Code § 16-27-2	This is about criminal background checks for employees of home health care agencies and personal care agencies.
Indiana Code § 12-10-3-2	This includes the definition of "endangered adult."
Indiana Code § 25-1-1.1-4	This has to do with the national criminal history check requirement for individuals applying for an initial license or an initial certificate to practice certain health care-related professions.
Indiana Code § 25-1-1.1-2	This includes a list of disqualifying offenses.
410 Indiana Administrative Code (IAC) 16.2-0.5-1, 16.2-1.1-14, and 16.2-1.1-62	This is a regulation that implies that "health facility" means a LTC facility, to include "comprehensive care facilities" and "residential care facilities."
410 IAC 16.2-3.1-14(a) and (f)	This is about comprehensive care facilities, covering the issues of screening employees and the employer's duty to check the nurse aide registry.
410 IAC 16.2-5-1.4(a)	This is about residential care facilities' screening of employees.

Key

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Appendix A – State-identified Disqualifying Convictions

The State-identified disqualifying convictions include, but are not limited to:

- a sex crime,
- exploitation of an endangered adult,
- failure to report the battery, neglect, or exploitation of an endangered adult,
- murder,
- voluntary manslaughter,
- theft, if the person's conviction for theft occurred less than 5 years before his or her employment application date, or 10 years before such date if the employer is a home health or personal care agency,

- involuntary manslaughter, if within the previous 5 years from the employment application date,
- felony battery, and
- a felony offense relating to controlled substances (within the previous 5 years).

The State-identified disqualifying convictions for home health care agencies and personal care agencies, specifically, are:

- exploitation of an endangered adult,
- failure to report battery, neglect, or exploitation of an endangered adult,
- theft,
- rape,
- criminal deviate conduct, and
- any felony that is substantially equivalent to any of these.