

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

This document describes what was included as of January 2011 in Nebraska statutes and regulations relevant to the Centers for Medicare & Medicaid Services' National Background Check Program. Nebraska has 12 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 |
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| Specific facility and provider types | The State covers all nine long term care (LTC) facility and provider types named in the Patient Protection and Affordable Care Act of 2010 (Affordable Care Act): skilled nursing facilities, nursing facilities, home health agencies, hospice care providers, LTC hospitals, personal care service providers, adult day care providers, residential care providers, and intermediate care facilities for the mentally retarded (ICF-MRs). |
| 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 | Statutes and regulations indicate that the State allows for provisional employment at the employer's discretion, but do not clarify the provisional employment period. |
| Definition of direct patient access employee | Nebraska does not have a definition of direct patient access employee. However, in Nebraska, unlicensed direct care staff are required to have criminal background checks. The definition of unlicensed direct care staff varies by LTC facility type. In summary, these individuals manage, supervise, or provide assistance with activities of daily living, health maintenance activities, and other activities related to the daily needs of patients. |
| Provision of criminal background check results to employee | Not addressed. |
| Expiration of criminal history background check results | Not addressed. |

| Key Feature | Description |
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| <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. Not addressed. 3. Not addressed. 4. Not addressed. |
| State-identified convictions | Not addressed. |
| Opportunity to contest accuracy of background check findings | Not addressed. |
| Ability to remove hiring prohibition based on rehabilitation factors | Not addressed. |
| Rehabilitation/mitigation process for negative fitness determinations | Not addressed. |
| Independence of appeal or review process | Not clear. |

State Statutes and Regulations

| Citation | Description |
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| Nebraska Revised Statutes (Neb.Rev.Stat.) § 71-5908(2) | This has to do with the Department of Public Health's adoption of regulations on conducting criminal background checks on all persons employed as direct care staff at assisted living facilities. |

| Citation | Description |
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| Neb.Rev.Stat. §§ 71-401 through 71-465 | This is about the Health Care Facility Licensure Act. |
| Neb.Rev.Stat. § 38-131 | This indicates that an applicant for an initial license to practice a profession that is authorized to prescribe controlled substances shall be subject to a criminal background check. |
| Neb.Rev.Stat. § 29-3525 | This has to do with the review of a person's own information in criminal history record information systems, as well as fingerprinting to verify identity. |
| 175 Nebraska Administrative Code (Neb. Admin. Code) Chapter 4, 006.03A | This regulation has to do with criminal background and registry checks for non-licensed direct care staff of assisted living facilities. |
| 175 Neb. Admin. Code Chapter 5, 006.03A | This regulation has to do with criminal background and registry checks for non-licensed direct care staff of adult day centers. |
| 175 Neb. Admin. Code Chapter 12, 006.04A3 | This regulation has to do with criminal background and registry checks for non-licensed direct care staff of skilled nursing facilities, nursing facilities, and intermediate care facilities. |
| 175 Neb. Admin. Code Chapter 9, 006.11 | This regulation indicates that LTC hospitals must meet the requirements of regulations applicable to skilled nursing facilities, nursing facilities, and intermediate care facilities. |
| 175 Neb. Admin. Code Chapter 14, 006.04A1 | This regulation has to do with criminal background and registry checks for non-licensed direct care staff of home health agencies. |
| 175 Neb. Admin. Code Chapter 16, 006.05C | This regulation has to do with criminal background and registry checks for non-licensed direct care staff of hospices. |
| 175 Neb. Admin. Code Chapter 17, 006.03D | This regulation has to do with criminal background and registry checks for non-licensed direct care staff of ICF-MRs. |
| 471 Neb. Admin. Code Chapter 15, 006.03A1 through 006.03A2 | These regulations have to do with criminal background and registry checks for providers of personal assistance services. |

Key

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