

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

This document describes what was included as of January 2011 in Nevada statutes relevant to the Centers for Medicare & Medicaid Services' National Background Check Program. Nevada has three relevant statutes, 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 six 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, personal care service providers, residential care providers, and intermediate care facilities for the mentally retarded..
Registry checks	Not addressed.
Fingerprinting	All applicants for employment with one of the six listed facility or provider types are fingerprinted.
Rap back	Not addressed.
Provisional employment	The State offers applicants provisional employment during the background check process and during a 30-day correction period after the background check process has been completed.
Definition of direct patient access employee	Nevada does not have a definition for direct patient access employee. However, the State requires employees or contractors in the applicable LTC facilities to undergo background checks. This includes everyone working in the identified LTC facility types, except individuals who are hired for/by a specific resident (e.g., if the patient has a hairdresser come to the facility, or if the resident hires a personal certified nursing assistant, those individuals are not covered under Nevada's background check requirements). Anyone providing periodic/usual work (e.g., lawn maintenance) is required to have background checks.
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. State statutes may bar LTC employment for convictions of some of these federally mandated disqualifying crimes, but do not cover all possible such crimes. 2. State statutes may bar LTC employment for convictions of some of these federally mandated disqualifying crimes, but do not cover all possible such crimes. 3. State statutes may bar LTC employment for convictions of some of these federally mandated disqualifying crimes, but do not cover all possible such crimes. 4. State statutes bar LTC employment for convictions of these federally mandated disqualifying crimes.
State-identified convictions	See Appendix A – State-identified Disqualifying Convictions. Nevada identifies various disqualifying convictions. More information on the disqualifying convictions can be found in Appendix A.
Opportunity to contest accuracy of background check findings	The State provides a way to contest the accuracy of background check findings.
Ability to remove hiring prohibition based on rehabilitation factors	The State does not provide the ability to remove a hiring prohibition based on rehabilitation.
Rehabilitation/mitigation process for negative fitness determinations	Not addressed.
Independence of appeal or review process	The State provides independence of the appeal or review process.

State Statutes and Regulations

Citation	Description
Nevada Revised Statutes (NRS) §§ 449.176 – 449.188.	This deals with the State criminal history check (with fingerprints) required within 10 days of hiring or entering into a contract with an independent contractor for a person to work in a skilled nursing facility, intermediate care facility, home health agency, personal care agency, or assisted living facility, and every 5 years thereafter.
NRS § 176A.850 (see § 176A.850(1)(I))	These deals with honorable discharges from probation; there is no need to inform employers of convictions in this situation.
Nevada Administrative Code 179.090 – 179.110	This deals with the procedures for challenging and appealing criminal record history information.

Key

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§§ - Sections

Appendix A – State-identified Disqualifying Convictions

The State-identified disqualifying convictions are:

- murder, voluntary manslaughter, or mayhem,
- assault with intent to kill or to commit sexual assault or mayhem,
- sexual assault, statutory sexual seduction, incest, lewdness or indecent exposure, or any other sexually related crime that is punished as a felony,
- prostitution, solicitation, lewdness or indecent exposure, or any other sexually related crime that is punished as a misdemeanor, if it took place in the immediately preceding seven years,
- a crime involving domestic violence that is punished as a felony,
- a crime involving domestic violence that is punished as a misdemeanor, if it took place in the immediately preceding seven years,
- abuse or neglect of a child or contributory delinquency,
- a violation of any Federal or State law regulating the possession, distribution, or use of any controlled substance or any dangerous drug as defined in chapter 454 of NRS, if it took place in the immediately preceding seven years,
- abuse, neglect, exploitation, or isolation of older persons or vulnerable persons, including, without limitation, a violation of any provision of NRS 200.5091 to 200.50995, inclusive, or a law of any other jurisdiction that prohibits the same or similar conduct,
- a violation of any provision of law relating to the State Plan for Medicaid or a law of any other jurisdiction that prohibits the same or similar conduct, if the violation took place in the immediately preceding seven years,

- a violation of any provision of NRS 422.450 to 422.590 (i.e., Nevada crimes relating to the Medicaid program), inclusive,
- a criminal offense under the laws governing Medicaid or Medicare, if the offense took place in the immediately preceding seven years,
- any offense involving fraud, theft, embezzlement, burglary, robbery, fraudulent conversion, or misappropriation of property, if the offense took place in the immediately preceding seven years,
- any other felony involving the use or threatened use of force or violence against the victim or the use of a firearm or other deadly weapon, and
- attempt or conspiracy to commit any of the above offenses, if the attempt or conspiracy took place in the immediately preceding seven years.