

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

This document describes what was included as of January 2011 in New Hampshire statutes and regulations relevant to the Centers for Medicare & Medicaid Services' National Background Check Program. New Hampshire 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 eight 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, hospices, LTC hospitals, personal care service providers, adult day care providers, and residential care providers.
Registry checks	Not addressed.
Fingerprinting	Not addressed.
Rap back	Not addressed.
Provisional employment	Not addressed.
Definition of direct patient access employee	New Hampshire does not have a definition of direct patient access employee; however, any staff, contract staff, or volunteers who have direct contact with patients, handle records, or handle bodily fluids are required to have criminal background checks. Every facility that is licensed has to conduct background checks. The State recommends that anyone routinely in the LTC facility have a background check.
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 bar LTC employment for convictions of these federally mandated disqualifying crimes. 3. Not addressed. 4. Not addressed.
<p>State-identified convictions</p>	<p>See Appendix A – State-identified Disqualifying Convictions. New Hampshire 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 provides 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>The State provides independence of the appeal or review process.</p>

State Statutes and Regulations

Citation	Description
New Hampshire Revised Statutes Annotated (RSA) § 151:2-d	This indicates that, prior to a staff member beginning work that will require direct contact with clients, hospitals, nursing homes, home health agencies, hospices, residential care centers, and adult day care providers must obtain a criminal background check on the staff member.
RSA § 161-I:6-a	This indicates that employment or an offer of employment with a personal care services agency requires a criminal background check if the scope of employment includes the provision of services in a client's home or otherwise involves direct contact with a client.
RSA § 151:2-d.II	This indicates that an applicant submitting an initial application for licensure or certification of a hospital, nursing home, home health agency, residential care center, or adult care provider must submit results of criminal record checks from the Department of Safety for the applicant, the licensee (or certificate holder, if other than the applicant), the administrator, and each household member 17 years of age or older, if any, who reside at the facility.
New Hampshire Code of Administrative Rules (N.H. Code Admin. R.) He-P 802.17	This regulation has to do with hospitals and hospices and imposes a series of requirements prior to staff employment, among them obtaining and reviewing a criminal record check from the Department of Safety.
N.H. Code Admin. R. He-P 804.18	This regulation has to do with nursing homes, assisted living facilities, and similar residential care facilities and imposes a series of requirements prior to staff employment, among them obtaining and reviewing a criminal record check from the Department of Safety.
N.H. Code Admin. R. He-P 805.18	This regulation has to do with "assisted living residence-supported residential health care" facilities and imposes a series of requirements prior to staff employment, among them obtaining and reviewing a criminal record check from the Department of Safety.
N.H. Code Admin. R. He-P 809.17	This regulation has to do with home health care agencies and imposes a series of requirements prior to staff employment, among them obtaining and reviewing a criminal record check from the Department of Safety.
N.H. Code Admin. R. He-P 818.19	This regulation has to do with adult day care programs and imposes a series of requirements prior to staff employment, among them obtaining and reviewing a criminal record check from the Department of Safety.
N.H. Code Admin. R. Saf-C 5703.12	This regulation is about the procedure for correcting criminal history record information.

Key

§ - Section

§§ - Sections

Appendix A – State-identified Disqualifying Convictions

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

- a felony in any State,
- sexual assault,
- other violent crimes,
- assault,
- fraud,
- abuse, and
- neglect or exploitation.