

## Information in State statutes and regulations relevant to the National Background Check Program: North Dakota

This document describes what was included as of January 2011 in North Dakota statutes and regulations relevant to the Centers for Medicare & Medicaid Services' National Background Check Program. North Dakota has five 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.

<b>Key Feature</b>	<b>Description</b>
Specific facility and provider types	The State covers one of the long term care (LTC) facility and provider types named in the Patient Protection and Affordable Care Act of 2010 (Affordable Care Act): personal care service providers. (See the first citation under State Statutes and Regulations, below.)
Registry checks	Not clear.
Fingerprinting	Not addressed.
Rap back	Not addressed.
Provisional employment	Not addressed.
Definition of direct patient access employee	North Dakota does not have a definition of direct patient access employee, nor does it require formal criminal background checks for LTC facility employees. However, individual providers have the discretion to determine whether a background check is needed.
Provision of criminal background check results to employee	Not addressed.
Expiration of criminal history background check results	Not addressed.

<b>Key Feature</b>	<b>Description</b>
<p>Inclusion of disqualifying crimes specified in section 6201 of the Affordable Care Act:</p> <ol style="list-style-type: none"> <li>1. Medicare/Medicaid program-related crimes (42 U.S.C § 1320a-7(a)(1))</li> <li>2. Convictions related to patient abuse/neglect (42 U.S.C § 1320a-7(a)(2))</li> <li>3. Felony convictions related to health care fraud (42 U.S.C § 1320a-7(a)(3))</li> <li>4. Certain felony convictions related to controlled substances (42 U.S.C § 1320a-7(a)(4))</li> </ol>	<ol style="list-style-type: none"> <li>1. Not addressed.</li> <li>2. Not addressed.</li> <li>3. Not addressed.</li> <li>4. Not addressed.</li> </ol>
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

<b>Citation</b>	<b>Description</b>
North Dakota Administrative Code (N.D.A.C.) § 75-03-23-07	This indicates that a provider or an individual seeking designation as a qualified service provider of home- and community-based services under the Service Payments for Elderly and Disabled Program or the Medicaid Waiver for the Aged and Disabled Program must not have been found guilty of, pled guilty to, or pled no contest to a list of "direct bearing" crimes, or have been determined by the Department of Human Services not to have been sufficiently rehabilitated from any other offense.
N.D.A.C. § 33-07-03.2-07(3)(b)	This indicates that the nursing facility governing body must approve and ensure implementation of written personnel policies and procedures, including provisions for checking State registries and licensing boards for current licensure or registry status and history of disciplinary actions prior to hiring.
N.D.A.C. § 33-07-03.2-03	This has to do with the applicant for a nursing facility license furnishing a signed and notarized statement to the State describing every criminal proceeding within five years of the date of the application in which the licensee or shareholders, or other controlling or managing persons, have been convicted (or a nolo contendere plea has been accepted) of a criminal offense related to the operation, management, or ownership of a nursing facility.
N.D.A.C. §§ 33-43-01-01 through 33-43-01-26	These have to do with nurse aide training, nurse aide competency evaluation, and the nurse aide registry.
N.D.A.C. § 33-07-03.2-25	This indicates that nursing facilities may offer adult day care services with the approval of the Department of Health.

### Key

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