

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

This document describes what was included as of August 2011 in Oklahoma statutes and regulations relevant to the Centers for Medicare & Medicaid Services' National Background Check Program. Oklahoma has seven 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, 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 during the background check process, but do not specify a provisional employment time period.
Definition of direct patient access employee	Oklahoma does not have a definition of direct patient access employee. However, criminal background checks are required for nurse aides, hospice employees or contract workers, Medicaid personal care assistants, and nontechnical service workers. Nurse aides are required to undergo background checks if they work in skilled nursing facilities, nursing facilities, home health agencies, adult day care providers, residential care facilities, or ICF-MRs. Nontechnical service workers are required to have background checks if they work in skilled nursing facilities or nursing facilities.
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. Not addressed. 3. Not addressed. 4. Not addressed.
<p>State-identified convictions</p>	<p>See Appendix A – State-identified Disqualifying Convictions. Oklahoma identifies various disqualifying convictions for nurse aides and nontechnical services workers. More information on the disqualifying convictions 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
Oklahoma Revised Statutes (ORS) 63-1-1950.1	This deals with the required pre-employment and pre-contracting criminal history checks for nurse aides and other non-licensed personnel who provide "nursing care, health-related services or supportive assistance to any individual" in a covered LTC facility or program. It includes a list of disqualifying crimes.
ORS 63-1-1950.6 through 63-1-1950.8	These deal with the required pre-employment criminal history checks for nontechnical services workers.
ORS 56-1025.2	This deals with the required pre-employment and pre-contracting criminal history checks for Medicaid personal care assistants who provide Medicaid services funded under the State Medicaid program Personal Care Program; these criminal history checks are required for individuals who are not certified nurse aides or licensed professionals.
ORS 74-150.9	This is about the State criminal history record system.
Oklahoma Administrative Code (O.A.C.) § 310:661-3-2(n)	This regulation deals with the criminal background checks required for hospice employees who have direct patient contact or access to patient records.
O.A.C. §§ 310:675-19-4, 310:675-7-8.1, and 310:675-11-8	These are about verification of compliance with criminal history background check requirements for nursing facilities, skilled nursing facilities, and ICF-MRs, as well as the maintenance of records.
O.A.C. § 375:9-1-3.1.	This is about the procedures used to challenge the accuracy of criminal history records.

Key

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§§ - Sections

Appendix A – State-identified Disqualifying Convictions

The State-identified disqualifying convictions for nurse aides are:

- assault, battery, or assault and battery with a dangerous weapon,
- aggravated assault and battery,
- murder or attempted murder,
- manslaughter, except involuntary manslaughter,
- rape, incest, or sodomy,
- indecent exposure and indecent exhibition,
- pandering,
- child abuse,
- abuse, neglect, or financial exploitation of any person entrusted to the care of such person,

- burglary in the first or second degree,
- robbery in the first or second degree,
- robbery or attempted robbery with a dangerous weapon or imitation firearm,
- arson in the first or second degree,
- unlawful possession or distribution of, or intent to distribute unlawfully, Schedule I through V drugs as defined by the Uniform Controlled Dangerous Substances Act,
- grand larceny, and
- petit larceny or shoplifting within the past seven years.

The State-identified disqualifying convictions for nontechnical services workers are:

- assault, battery, or assault and battery with a dangerous weapon,
- aggravated assault and battery,
- murder or attempted murder,
- manslaughter, except involuntary manslaughter,
- rape, incest, or sodomy,
- abuse, neglect, or financial exploitation of any person entrusted to his or her care,
- burglary in the first or second degree,
- robbery in the first or second degree,
- robbery or attempted robbery with a dangerous weapon or imitation firearm,
- arson in the first or second degree,
- unlawful possession or distribution of, or intent to distribute unlawfully, Schedule I through V drugs as defined by the Uniform Controlled Dangerous Substances Act,
- grand larceny, and
- petit larceny or shoplifting within the past seven years.