

Features of State statutes and regulations relevant to the National Background Check Program: Rhode Island

This document describes what was included as of January 2011 in Rhode Island statutes and regulations relevant to the Centers for Medicare & Medicaid Services' National Background Check Program. Rhode Island 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
Specific facility and provider types	The State covers five 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, 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	Rhode Island does not have a definition of direct patient access employee. However, background checks are required for all employees and contract staff, but not for volunteers.
Provision of criminal background check results to employee	Not addressed.
Expiration of criminal history background check results	Statutes and regulations indicate that criminal history background check results do not expire.

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. Rhode Island 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 does not provide a way to contest the accuracy of background check findings.</p>
<p>Ability to remove hiring prohibition based on rehabilitation factors</p>	<p>Not addressed.</p>
<p>Rehabilitation/mitigation process for negative fitness determinations</p>	<p>The State’s process takes into account the elapsed time since the disqualifying conviction took place and rehabilitation.</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
General Laws of Rhode Island §§ 23-17.4-27, 23-17.4-28, and 23-17.4-32	These have to do with criminal record reviews for staff of assisted living residences.
General Laws of Rhode Island §§ 23-17.17.34, 23-17.35, and 23-17-39	These have to do with criminal record reviews for staff of nursing facilities, home nursing care providers, and home care providers.
General Laws of Rhode Island §§ 23-17.17.1-17, 23-17.17.1-18, and 23-17.17.1-18	These have to do with criminal record reviews for staff of nursing service agencies.
General Laws of Rhode Island § 23-17-37	This contains a list of disqualifying offenses and a definition of "conviction."
General Laws of Rhode Island §§ 12-1.3-1 through 12-1.3-4	These are about the expungement of criminal records.
Code of Rhode Island Rules 23-1-52-ADP §§ 5.22 through 5.28	These have to do with criminal record checks for adult day care employees and include accompanying definitions.
Code of Rhode Island Rules 23-1-52-ADP §§ 1.6 (direct care staff) and 1.8 (disqualifying information)	These are also about criminal record checks for adult day care employees and include accompanying definitions.
Code of Rhode Island Rules 23-17-HNC/HC/PRO §§ 12.16 through 12.22	These are about criminal record checks for prospective and new employees of nursing facilities, home nursing care providers, and home care providers, "if that employment involves routine contact with a patient or resident, without the presence of other employees."
Code of Rhode Island Rules 23-17-HNC/HC/PRO §§ 10.3 g) ii), 11.3 f), and 12.7 h)	These cover other regulations relating to criminal record checks for staff of home nursing care providers and home care providers.
Code of Rhode Island Rules 23-17.4 -ALR §§ 8.14 through 8.20	These are about criminal record checks for prospective and new employees of assisted living residences who have routine contact with a resident or access to a resident's belongings or funds.

Citation	Description
Code of Rhode Island Rules 23-17.4-ALR §§ 3.1 and 8.13	These have to do with other regulations on criminal record checks for staff of assisted living residences.
Code of Rhode Island Rules 23-17-NF §§ 14.1 through 14.7	These are about criminal record checks for prospective and new employees of nursing facilities who have routine contact with a resident without the presence of other employees.

Key

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Appendix A – State-identified Disqualifying Convictions

The State-identified disqualifying convictions are:

- murder,
- voluntary manslaughter,
- involuntary manslaughter,
- first degree sexual assault,
- second degree sexual assault,
- third degree sexual assault,
- assault on persons 60 years of age or older,
- assault with intent to commit specified felonies (murder, robbery, rape, or burglary),
- felony assault,
- patient abuse, or neglect or mistreatment of patients,
- burglary,
- first degree arson,
- robbery,
- felony drug offenses,
- larceny, and
- felony banking law violations.