



Bureau of Licensing and Certification

Office of Background Processing (OBP)

Direct Access Clearance System (DACCS)

Disclaimer: This presentation is a general overview of the rule covering the Direct Access Clearance System. You are responsible for familiarizing yourself with the complete rule and statute regarding Background Screenings.

WHAT IS DACS

R432-35



DACS was created to help protect some of Utah's most vulnerable populations. It is an automated fingerprint-based background check system which allows online tracking of applicants and sends auto generated notifications.

DACS allows the background check clearance to be shared among long term care providers.

DACS BASICS



- Applicants are required to sign a criminal background screening authorization form
- Applicants must be entered into the system within 5 working days of engagement
- Applicants must be Live Scan fingerprinted within 15 working days of engagement
- Applicants can be provisionally employed while background checks are processing
- Utilizes information from other state agencies, such as the Nurse Aide Registry and the Utah Department of Occupational and Professional Licensing
- Requires Public Safety to store fingerprints thus allowing a rap back process

Who Needs To Be Entered Into DACS?



Anyone with Direct Patient Access.

R432-35-3(10) states, “Direct Patient Access means for an individual to be in a position where the individual could, in relation to a patient or resident of the covered body who engages the individual:

- a) cause physical or mental harm;
- b) commit theft; or
- c) view medical or financial records”

Who Needs To Be Entered Into DACS?

Examples of individuals who need to be entered into DACS include (but are not limited to):

- Nursing Assistant
- Personal Care Aide
- Licensed Nurse
- Executives and Administrative Staff
- Owner
- Dietary Staff
- Housekeeping Staff
- Maintenance Staff
- Transportation Staff
- Providers of medical, therapeutic or social services
- Providers of laboratory and radiology services

SOURCES FOR BACKGROUND REVIEW



- R432-35-7 specifies the records used for making determinations:
 - Utah Criminal History Records
 - FBI Records available to State
 - Juvenile Court Records
 - Anyone under 28 or
 - Anyone with a conviction
 - Adult Protective Services Substantiated Abuse Findings
 - Child Protective Services Substantiated Abuse Findings

SOURCES FOR BACKGROUND REVIEW



Public Registries Reviewed

- Utah Certified Nurse Aide Registry Exclusion List
- National Nurse Aide Registry Exclusion List
- Office of Inspector General Exclusionary List
- Department of Occupational and Professional Licensing
- Utah Nurse Aide Registry Certification
- Other participating state registries

EXCLUSION FROM DIRECT PATIENT ACCESS – SHALL DENY



1(a) Pursuant to Section 26-21-204, any individual or covered individual who has been convicted, has pleaded no contest, or is subject to a plea in abeyance or diversion agreement, within the past **10** years, for any offense listed below,

shall not have direct patient access:

- (i) any felony or class A misdemeanor under the Utah Code;
- (ii) any felony, class A or B misdemeanor under Subsection 76-6-106(2)(b)(i)(A) Criminal Mischief - Human Life;
- (iii) any felony or class A, B or C misdemeanor under the following Utah Code:
 - (A) Title 76-4 Enticement of a Minor;
 - (B) Title 76-5 Offenses Against the Person;
 - (C) Section 76-9-301.8, Bestiality;

Continued.....

EXCLUSION FROM DIRECT PATIENT ACCESS – SHALL DENY



1(a) Pursuant to Section 26-21-204, any individual or covered individual who has been convicted, has pleaded no contest, or is subject to a plea in abeyance or diversion agreement, within the past **10** years, for any offense listed below,

shall not have direct patient access:

- (D) Section 76-9-702 through 702.1 Lewdness - Sexual Battery
- (E) Section 76-9-702.5 and 76-9-702.7 Lewdness Involving Child - Voyeurism offenses;
- (F) Section 76-10-1201 through 76-10-1228, Pornographic and Harmful Materials and Performances;
- (G) Section 76-10-1301 through 1314, Prostitution; and
- (H) Section 62A-3-305 failure to report suspected abuse, neglect, or exploitation of a vulnerable adult.

EXCLUSION FROM DIRECT PATIENT ACCESS – MAY DENY



1(b) Except as listed above in 1(a), if an individual or covered individual has been convicted, has pleaded no contest, or is subject to a plea in abeyance or diversion agreement, for the following offenses, the Department **may consider** approving an individual for direct patient access:

- (i) any felony or class A misdemeanor under the Utah Code;
- (ii) any felony, class A or B misdemeanor under Subsection 76-6-106(2)(b)(i)(A) Criminal Mischief - Human Life;
- (iii) any felony or class A, B or C misdemeanor under the following Utah Code:
 - (A) Title 76-4 Enticement of a Minor;
 - (B) Title 76-5 Offenses Against the Person;
 - (C) Section 76-9-301.8, Bestiality;

Continued.....

EXCLUSION FROM DIRECT PATIENT ACCESS – MAY DENY



1(b) Except as listed above in 1(a), if an individual or covered individual has been convicted, has pleaded no contest, or is subject to a plea in abeyance or diversion agreement, for the following offenses, the Department **may consider** approving an individual for direct patient access:

- (D) Section 76-9-702 through 702.1 Lewdness - Sexual Battery
- (E) Section 76-9-702.5 and 76-9-702.7 Lewdness Involving Child - Voyeurism offenses;
- (F) Section 76-10-1201 through 76-10-1228, Pornographic and Harmful Materials and Performances;
- (G) Section 76-10-1301 through 1314, Prostitution; and
- (H) Section 62A-3-305 failure to report suspected abuse, neglect, or exploitation of a vulnerable adult.

EXCLUSION FROM DIRECT ACCESS



We may deny clearance based on:

- The type of offense;
- The severity of offense; and
- Potential risk to patients or residents

In addition, we may review the following factors:

- Types and number
- Passage of time
- Surrounding circumstances
- Intervening circumstances
- Steps taken to correct or improve

APPEAL PROCESS (excludes SHALL DENY)



Three Levels of Appeal

Each request for appeal **must be received within 30 days** of denial notice or denial action

1. **Administrative Review**

Reviewed by OBP Program Manager

2. **Informal Discussion**

Reviewed in person with the Division Director

3. **Formal Hearing**

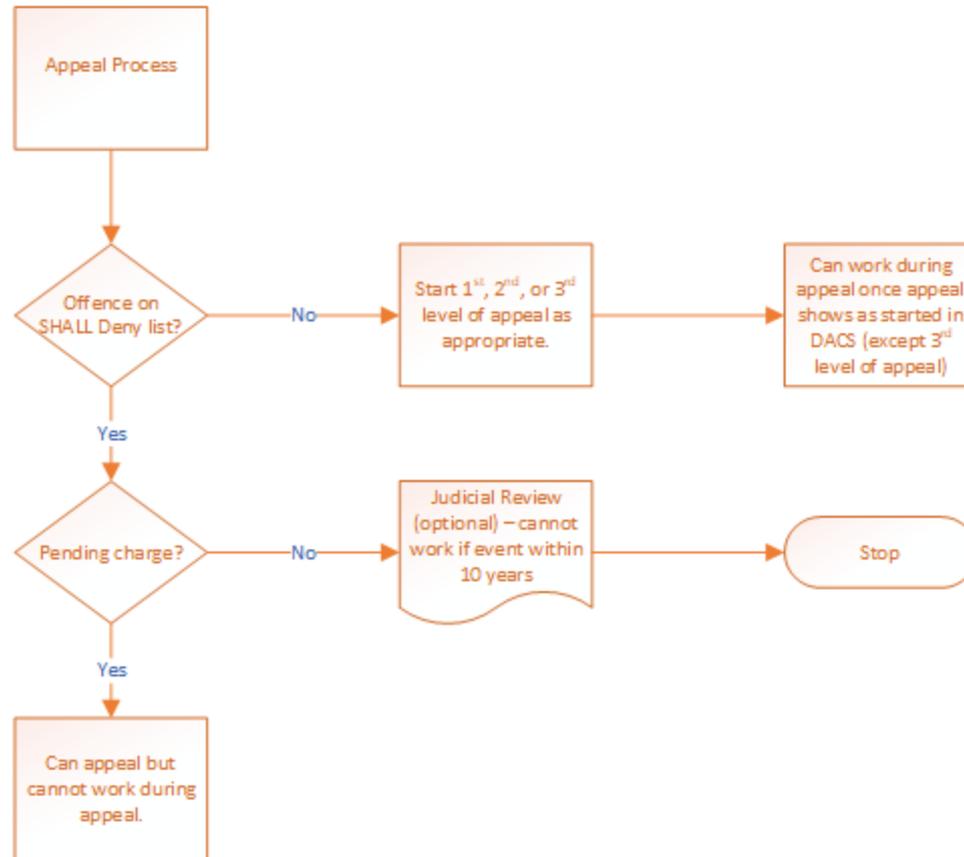
Reviewed by Administrative Law Judge

APPEAL PROCESS (excludes SHALL DENY)



- **Uphold the Not Eligible determination**
- **Overturn the Not Eligible determination**
- **Place the person on probation with conditions which may include:**
 - Random drug and/or alcohol screening
 - Counseling
 - Limit the employment to specific health care provider types
 - Monthly/Quarterly reports from
 - Supervisor
 - Counselor
 - Parole officer

APPEAL OVERVIEW



EXCLUSION FROM DIRECT ACCESS – SHALL DENY



A **SHALL DENY** cannot be overturned through the first two levels of the appeal process. However, the person can appeal to the 3rd level - Formal Hearing and the Administrative Law Judge will determine if the rule has been correctly applied.

When a **SHALL DENY** is appealed the person will remain **Not Eligible and** cannot return to work during the appeal process.

CONTACT INFORMATION



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References



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Utah Administrative Code

R432-35 Background Screening – Health Facilities

<https://adminrules.utah.gov/public/search/432-35/,Current%20Rules>

Utah Code Annotated

https://le.utah.gov/xcode/Title26/Chapter21/26-21-P2.html?v=C26-21-P2_1800010118000101