Bureau of Health Facility Licensing and Certification

Direct Access Clearance System (DACS)
DACS was created to help protect one 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(9) 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”
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
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
WHY WOULD SOMEONE BE DENIED?

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
WHY WOULD SOMEONE BE DENIED?

As required by Utah Code Subsection 26-21-204, 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, they may not have direct patient access:

**Offenses Against the Person**
- Felony
- Misdemeanor – A, B, C

**Offenses Against Property**
- Felony
- Misdemeanor – A

**Pyramid Scheme Act**
- Felony
- Misdemeanor - A
WHY WOULD SOMEONE BE DENIED?

Offenses Against the Administration of Government
- Felony
- Misdemeanor – A

Offenses Against Public Order and Decency
- Felony
- Misdemeanor – A

Bestiality
Lewdness – Sexual Battery
Lewdness involving a child
- Felony
- Misdemeanor – A, B, C
WHY WOULD SOMEONE BE DENIED?

Offenses Against Public Health, Safety, Welfare, and Morals

• Felony
• Misdemeanor - A

Prostitution
Pornography
Contributing to delinquency of a minor

• Felony
• Misdemeanor – A, B, C
DENIED - NOW WHAT?
APPEAL PROCESS

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 BCI Program Manager

2. **Informal Discussion**
   Reviewed by Division Director

3. **Formal Hearing**
   Reviewed by Administrative Law Judge
DENIED – NOW WHAT?
APEAL OUTCOMES

- Uphold the Not Eligible determination
- Overturn the Not Eligible determination
- Issue a temporary clearance 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
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 as listed below.

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Utah Administrative Code
R432-35 Background Screening – Health Facilities
https://rules.utah.gov/publicat/code/r432/r432-035.htm#T7

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