

Department of Health and Human Services
Office of Inspector General



Office of Audit Services

August 2025 | A-04-24-08104

Alabama Did Not Always Verify Selected Nursing Homes' Compliance With Background Check Requirements

REPORT HIGHLIGHTS



August 2025 | A-04-24-08104

Alabama Did Not Always Verify Selected Nursing Homes' Compliance With Background Check Requirements

Why OIG Did This Audit

- Background checks for employees in long-term care facilities (nursing homes) are an important safety measure that can help protect some of the most vulnerable populations.
- Approximately 1.4 million people reside in nursing homes, with more than half of them relying on Medicaid to pay for their long-term care.
- This audit examined whether Alabama ensured that selected nursing homes complied with Federal and State requirements that prohibit the employment of individuals with disqualifying backgrounds.

What OIG Found

Alabama did not ensure, for the audit period of January 1, 2022, to April 8, 2024, that some of the nursing homes reviewed in our sample complied with Federal and State requirements that prohibit the employment of individuals with disqualifying background checks.

- Specifically, for the 439 nursing home employees we sampled, we found that for 139, the nursing homes either did not meet Federal requirements by having a background check completed before beginning work, did not meet State requirements by querying the Alabama Elderly and Adult in Need of Protective Services Abuse Registry (the Registry) before the employee began work, or a combination of both.

What OIG Recommends

We recommend that Alabama:

- develop a process for verifying that nursing homes complete a background check and a Registry query before employees begin work,
- educate nursing homes on the importance of conducting timely background checks and Registry queries,
- require nursing homes to develop policies and procedures to conduct Registry queries before employees begin work, and
- conduct a review of nursing homes' compliance with background checks and Registry check requirements.

In written comments on our draft report, the State agency agreed with our first recommendation, but neither agreed nor disagreed with the remaining recommendations. However, the State agency described actions that it has taken or will take to address all our recommendations.

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INTRODUCTION

WHY WE DID THIS AUDIT

Background checks for employees are an important safety measure that can help protect the approximately 1.4 million residents of Medicare/Medicaid-certified long-term care facilities (nursing homes).¹ Oversight and management of nursing homes are crucial for the safety of long-term care residents.

As part of its oversight activities, the Office of Inspector General (OIG) is conducting a series of audits nationwide regarding employment in nursing homes of individuals whose criminal background checks identified information or events that should have disqualified those individuals from being hired based on Federal and State requirements (disqualifying backgrounds).^{2, 3} This report focuses on selected nursing homes in Alabama.

Among other things, the Patient Protection and Affordable Care Act (signed into law in 2010) enacted the National Background Check Program for Long-Term-Care Providers, to assist States in developing and improving systems to conduct Federal and State background checks.⁴

OBJECTIVE

Our objective was to determine whether the Alabama Department of Public Health (State agency) ensured, for the period of January 1, 2022, to April 8, 2024, that selected nursing homes in Alabama complied with Federal and State requirements that prohibit the employment of individuals with disqualifying backgrounds.

BACKGROUND

Federal Requirements for Long-Term Care Facilities

Federal regulations at 42 CFR § 483.12(a)(3) prohibit nursing homes from employing or otherwise engaging individuals who have a history of disqualifying offenses. Specifically, this prohibition applies to individuals who have:

- been found guilty of abuse, neglect, exploitation, mistreatment of residents, or misappropriation of resident property by a court of law;

¹ More than half of these nursing home residents depend on Medicaid to pay for their long-term care.

² All references to “background checks” in this report refer to criminal background checks, State nurse aide registry checks, or professional license checks.

³ See Appendix B for related OIG reports.

⁴ Section 6201 of the Patient Protection and Affordable Care Act, P.L. No. 111-148 (Mar. 23, 2010).

- had a finding entered into the State nurse aide registry;⁵ or
- had a disciplinary action in effect against their professional license by a State licensure body because of a finding of abuse, neglect, exploitation, mistreatment of residents, or misappropriation of resident property.⁶ See Appendix C for definitions of abuse, neglect, exploitation, and related terms.

Although this provision of Federal regulations does not explicitly require that background checks of Federal or State criminal history records be conducted, the prohibition on the employment in nursing homes of individuals who have disqualifying histories implicitly means that a background check must be performed to ensure that employees are free from disqualifying offenses based on 42 CFR § 483.12(a)(3). Interpretive guidelines for this regulation from the Centers for Medicare & Medicaid Services (CMS) state that “[f]acilities must be thorough in their investigations of the histories of prospective staff.”⁷

State Requirements for Long-Term Care Facilities

Alabama regulations require that nursing homes must operate and provide services in compliance with applicable Federal, State, and local laws, regulations, codes, and accepted professional standards and principles that apply to professionals providing services in such facilities.⁸

As of July 1, 2023, Alabama service providers must query the State’s Elderly and Adult in Need of Protective Services Abuse Registry (the Registry) to confirm whether any prospective employees hired on or after January 1, 2023, are listed.^{9, 10} The registry contains the names of individuals found to have committed abuse or other acts against an elderly person or an adult in need of protective services.^{11, 12} This requirement is in addition to the background checks

⁵ The [Alabama Certified Nurse Aide Registry](#) can be used to verify the status of a certification and review adverse actions taken against an individual. Accessed on May 1, 2025.

⁶ 42 CFR § 483.12(a)(3)(iii) only addresses applicable disciplinary actions that are in effect against an individual’s professional license.

⁷ CMS, State Operations Manual (SOM), Appendix PP, F606.

⁸ Ala. Admin. Code r. 420-5-10-.03(3).

⁹ According to Ala. Admin. Code r. 660-5-41-.07(II)(14)(a)(f-g), a service provider includes long-term care facilities and skilled nursing facilities.

¹⁰ Ala. Admin. Code r. 660-5-41-.07(II)(8)(c) and 660-5-41-.07(III)(8)(A).

¹¹ According to Ala. Admin. Code r. 660-5-41-.07(II)(14)(a)(f-g), a service provider includes long-term care facilities and skilled nursing facilities.

¹² Ala. Admin. Code r. 660-5-41-.07(II)(8)(c) and 660-5-41-.07(III)(8)(A).

required under 42 CFR § 483.12(a)(3) to ensure an individual is free from disqualifying offenses.¹³ See the figure below for State and Federal background check criteria.

FIGURE: STATE AND FEDERAL BACKGROUND CHECK CRITERIA



See Appendix D for a description of Federal and State nursing home background check requirements.

Alabama Department of Public Health State Survey Background Check Process

The State agency is responsible for ensuring that nursing homes comply with Federal and State requirements and performs standard surveys of facilities every 12 to 15 months. The State agency's current policies and procedures do not require surveyors to review background checks as part of their standard surveys. However, during a facility survey for an allegation of abuse and neglect, State officials review five employee files and determine if background checks were completed and if there were any disqualifying offenses. Any individual who has a substantiated allegation is reported to their licensing board for further action and has their name placed in the Registry. The State agency also investigates any allegations brought to them of abuse, neglect, misappropriation, or mistreatment of elderly residents.

HOW WE CONDUCTED THIS AUDIT

As of November 27, 2023, 216 nursing homes in Alabama were certified by Medicaid.¹⁴ From this list of nursing homes, we selected a nonstatistical sample of 20, based on their geographic

¹³ The State agency anticipates that an explicit State-specific requirement for prospective nursing home employees to complete a background check before beginning work will be implemented in the fall of 2025.

¹⁴ We obtained the list of nursing homes from the [Alabama Public Health Facilities Directory](#), which is an online resource maintained by the State agency. Accessed on May 1, 2025.

location and risk factors, including the number of deficiencies (as determined by F tags¹⁵) related to abuse, neglect, and exploitation as reported by State surveyors. We obtained the employee rosters from each nursing home in our sample as of April 8, 2024.

We randomly selected 20 employees per nursing home for an initial sample of 400 employees. We also reviewed all incident reports that contained allegations of employee-to-resident abuse, neglect, and exploitation at each selected nursing home for our audit period of January 1, 2022, through April 8, 2024, involving nursing home employees or contracted employees.¹⁶ As a result of our review of these reports, we nonstatistically selected 39 additional employees (for a total of 439 employees) identified from the incident reports for review of the items listed below because these employees were at higher risk for abuse and neglect than the employees we randomly selected.

We conducted announced visits at each of the 20 selected nursing homes and verified that each sampled employee:

- had a completed background check that met Federal and State requirements;
- possessed a license that was in good standing and clear of:
 - emergency actions,
 - disciplinary actions, and
 - public complaints related to disqualifying offenses;
- was not listed on OIG’s List of Excluded Individuals and Entities (LEIE);¹⁷
- did not have adverse findings listed in the Alabama Certified Nurse Aide Registry; and
- was not listed on the Registry, if applicable.¹⁸

We also reviewed each sampled nursing home’s policies and procedures related to employee background checks and employee files to determine whether the nursing home properly safeguarded residents from employees who were prohibited from being employed under the provisions of applicable requirements.

¹⁵ An F tag is a Federal tag number used to identify areas of non-compliance in long-term care facilities. F tags are defined by CMS and are used by State surveyors when a facility has not met a Federal standard. The F tags for freedom from abuse, neglect, and exploitation are F600–F610.

¹⁶ Incident reports contain self-reported allegations from the nursing home by the administrator or authorized official. An allegation is an assertion of noncompliance with Federal health and safety regulations. This definition also covers allegations of abuse, neglect, and exploitation of nursing home residents (SOM, chapter 5, §§5010, 5310).

¹⁷ During our audit, a corporation that owned two of the nursing homes we selected in our sample disclosed, through OIG’s Self-Disclosure Protocol, that it had employed two individuals listed on OIG’s LEIE who had worked at three nursing homes. The corporation entered into a settlement agreement with OIG. These two employees were not selected as part of our sample.

¹⁸ The absence of a Registry query prior to July 1, 2023, did not constitute noncompliance with the applicable requirement, nor did it demonstrate any failure on the part of the State survey agency to ensure compliance.

In addition, we reviewed the State agency's survey process to determine if the surveys included a review of nursing homes' compliance with background checks and Registry check requirements as part of the regular recertification surveys.

We conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

See Appendix A for the details of our audit scope and methodology.

FINDINGS

The State agency did not always ensure, for the period January 1, 2022, to April 8, 2024, that the nursing homes reviewed in our sample complied with Federal and State requirements prohibiting the employment of individuals with disqualifying backgrounds. Specifically, of the 439 nursing home employees we sampled, we found that 139 either did not meet Federal requirements of having a background check completed before beginning work, did not meet State requirements of having a State Registry query before beginning work, or did not meet both State and Federal requirements.

The State agency did not have a process for verifying that nursing homes completed background checks or Registry queries before hiring staff. In addition, the State agency lacked sufficient oversight of the nursing homes to ensure staff properly applied Federal and State requirements for prospective employees. These failures increased the risk that residents at these nursing homes were vulnerable to employees who had a history of disqualifying offenses per 42 CFR § 483.12(a)(3) or were listed on the Registry. Because the State agency did not review nursing homes' compliance with background check requirements during its periodic surveys, these errors were not detected and addressed.

FEDERAL BACKGROUND CHECK REQUIREMENTS WERE NOT COMPLETED FOR SOME EMPLOYEES HIRED BEFORE JANUARY 1, 2023

Of the 439 nursing home employees we sampled, 243 were hired before January 1, 2023.¹⁹ We found that 192 of those employees met Federal requirements by having a background check conducted before they began work. However, 51 sampled employees did not meet Federal requirements and either had a background check completed after beginning work (32

¹⁹ Because Ala. Admin. Code r. 660-5-41-.07(III)(8)(A) only requires nursing homes to query the Registry for employees hired on or after January 1, 2023 (Ala. Admin. Code r. 660-5-41-.07(II)(8)), 243 sampled employees were not subject to this State requirement.

employees) or did not have a background check completed at all (19 employees).^{20, 21} The 32 employees who had background checks completed after beginning work ultimately did not have any disqualifying criminal records that would preclude employment.

The 51 employees did not meet Federal background check requirements because the State agency did not: (1) have policies and procedures in place to ensure nursing homes request a background check before employees began work, and (2) did not review nursing homes' compliance with Federal background check requirements as part of its periodic nursing home surveys.

Failure by the nursing homes to conduct background checks increased the risk that residents at these nursing homes were vulnerable to employees who had a disqualifying history per 42 CFR § 483.12(a)(3).

FEDERAL AND STATE BACKGROUND CHECK AND REGISTRY QUERY REQUIREMENTS WERE NOT COMPLETED FOR SOME EMPLOYEES HIRED FROM JANUARY 1, 2023, THROUGH APRIL 8, 2024

Of the 439 nursing home employees we sampled, 196 employees began work between January 1, 2023, and April 8, 2024, which was the end of our audit period. We found that 108 of those employees met Federal background check and State Registry query requirements. For the remaining 88 sampled employees, however, the nursing homes had a combination of errors related to Federal background check and State Registry query requirements.²² Specifically, for 75 sampled employees, the nursing homes either submitted a Registry query but did not receive the results until after the employee started work (40 employees) or the nursing homes never submitted the Registry query at all (35 employees). The 40 employees who had a Registry query completed after beginning work ultimately did not have any disqualifying records that would preclude employment. In addition, these 75 sampled employees had a completed Federal background check that was submitted and received before beginning work that did not include any disqualifying records.

For 11 employees, the nursing homes did not complete Federal background checks before the employees began working. In addition, the nursing homes did not follow State requirements: Seven employees began work after the nursing homes submitted Registry queries but before the nursing homes received a response, while four employees began working without any query being submitted to the Registry. The seven employees for whom nursing homes completed a Registry query after beginning work ultimately did not have any disqualifying records that would preclude employment.

²⁰ These 32 sampled employees worked at 12 nursing homes.

²¹ These 19 sampled employees worked at 8 nursing homes.

²² No errors were reported for employees that fell into the grace period of Jan. 1, 2023 (the hire date that the requirement applies to), through July 1, 2023 (the date by which the nursing homes should have queried the Registry).

For the remaining two employees, the nursing homes did not complete a Federal background check before the employees began working. However, the nursing homes did meet State requirements by having the Registry queried before these two employees began working.

These errors occurred because the State agency did not:

- have a process for verifying that nursing homes completed background checks or Registry queries before hiring staff;
- provide education to nursing homes on the importance of conducting timely background checks and Registry queries;
- ensure the nursing homes had established policies and procedures that addressed the State requirement to query the Registry prior to employees beginning work; and
- review nursing homes' compliance with background check requirements during periodic surveys.

In addition, the staff at some of the nursing homes did not properly apply Federal and State background check requirements for prospective employees.

These errors increased the risk that residents at these nursing homes were vulnerable to employees who had a disqualifying record per 42 CFR § 483.12(a)(3) or were listed on the Registry.

RECOMMENDATIONS

We recommend that the Alabama Department of Public Health:

- develop a process for verifying that nursing homes complete a background check and a Registry query before employees begin work,
- educate nursing homes on the importance of conducting timely background checks and Registry queries,
- require nursing homes to develop policies and procedures to conduct Registry queries before employees begin work, and
- conduct a review of nursing homes' compliance with background checks and Registry check requirements.

STATE AGENCY COMMENTS AND OFFICE OF INSPECTOR GENERAL RESPONSE

In written comments on our draft report, the State agency agreed with our first recommendation, but did not indicate whether it agreed with our remaining recommendations. However, the State agency described actions that it has taken or will take to address all our recommendations. Specifically, for our first recommendation, the State agency has instituted measures to improve oversight of nursing homes background checks for prospective employees and provided current and incoming staff training and tools to verify nursing homes compliance with Federal and State requirements.

For our second recommendation, the State agency stated it conducted a training session with State surveyors that was incorporated into its training plan for new hires and current staff. In addition, the State agency will work with the Alabama Nursing Home Association to publish reporting requirements in weekly newsletters sent to nursing homes and conduct webinars to review abuse reporting requirements. Furthermore, the State agency will post reporting requirements and related information on its website and provide this information in an email to the nursing homes.

For our third recommendation, the State agency stated that it is in the process of amending its nursing home rules and will require providers to develop policies and procedures for conducting background checks. For our fourth recommendation, the State agency stated that it will conduct a review of nursing home policies and procedures and perform a random review of documents for compliance with background check requirements. In addition, the State agency plans to hire additional staff to review nursing homes' documents and their implementation of procedures.

In addition, the State agency provided technical comments which included suggested changes for the titles of our findings and provided an updated implementation date for State-specific background check requirements for nursing home employees.

We are pleased that the State agency concurred with our first recommendation, and we appreciate that it shared the actions it plans to implement to address all recommendations. We revised portions of this report to address the State agency's technical comments. The State agency's comments are included in their entirety as Appendix E.

APPENDIX A: AUDIT SCOPE AND METHODOLOGY

SCOPE

As of November 27, 2023, 216 nursing homes in Alabama were Medicaid certified.²³ For the 216 nursing homes, we took the following steps:

- determined the number of healthcare-related deficiencies for each nursing home as reported by State surveyors, using Medicare's Nursing Home Care Compare website;²⁴
- determined the number of F tags related to abuse, neglect, and exploitation deficiencies;
- analyzed survey findings to determine the nature of the abuse, neglect, and exploitation deficiencies to focus on those potentially related to nursing home staff malfeasance; and
- considered the geographic location of the nursing home so that we could group them into clusters for review purposes.

Using the above criteria, we nonstatistically selected 20 nursing homes for review, including site visits.

We obtained the employee rosters from each nursing home in our sample as of April 8, 2024. For each nursing home employee roster, we removed duplicate employee entries. We then randomly selected 400 employees—20 employees per nursing home—using OIG Office of Audit Services statistical software.²⁵ We also reviewed all incident reports that contained allegations of employee-to-resident abuse, neglect, and exploitation at each selected nursing home for our audit period of January 1, 2022, through April 8, 2024. As a result of our review of these reports, we nonstatistically selected 39 additional employees (for a total of 439 employees) identified from the incident reports for review of the items listed below because these employees were at higher risk for abuse and neglect than the employees we randomly selected.

We conducted announced visits at each of the 20 selected nursing homes and verified that each sampled employee had a background check or a Registry query completed that met Federal and State requirements; had a license in good standing that was clear of emergency actions,

²³ We obtained a list of nursing homes from the Alabama Public Health Care Facilities Directory, which is an online resource maintained by the State agency.

²⁴ Medicare's [Nursing Home Care Compare](#) website is an online tool provided by CMS that contains a search engine to find and compare Medicare-certified nursing homes based on location, measures of quality of care, and staffing.

²⁵ We consecutively numbered the items in each roster. We then generated 20 random numbers for each roster and selected the corresponding employees for review.

disciplinary actions, and public complaints related to disqualifying offenses; was not listed on the OIG's LEIE list; did not have adverse findings listed in Alabama's Certified Nurse Aide Registry; and had no findings of abuse, neglect, or exploitation recorded on the Registry.

We reviewed only those internal controls that were significant to our audit objective. We examined the effectiveness of internal controls related to employee background checks, including the nursing homes' policies and procedures. Specifically, we reviewed employee files at each sampled nursing home.

We also reviewed the State agency's survey process to determine if the surveys included a review of nursing homes' compliance with background checks and Registry check requirements as part of the regular recertification surveys.

We conducted our audit from January 2024 to February 2025.

METHODOLOGY

To accomplish our objective, we took the following steps:

- reviewed applicable Federal and State requirements;
- interviewed State agency officials to gain an understanding of the State agency's oversight of nursing homes' background check processes and internal controls;
- interviewed Alabama Department of Public Health officials to gain an understanding of the State's Certified Nurse Aide licensure site, and the process for handling complaints against an individual's license;
- obtained a list of 216 nursing homes in Alabama that are Medicaid certified from the Alabama Public Health Care Facilities Directory, which we used to nonstatistically select the 20 nursing homes for review.²⁶
- removed duplicate entries on each of the 20 selected nursing homes' employee rosters and used the results to randomly select a sample of 20 employees for each nursing home (400 employees in total);
- interviewed administrators and other officials from the selected nursing homes to gain an understanding of each nursing home's background check policies and procedures;

²⁶ [Alabama Public Health Facilities Directory](#). Accessed on May 1, 2025.

- reviewed incident reports and nonstatistically selected 39 additional employees for review because these employees were at higher risk for abuse and neglect than the employees we randomly selected;
- verified that each of the 439 sampled employees (400 randomly selected and 39 nonstatistically selected) had proof that they:
 - completed a background check;
 - possessed a license in good standing that was clear of emergency actions, disciplinary actions, and public complaints related to disqualifying offenses;²⁷
 - were not listed on OIG’s LEIE list;²⁸
 - did not have any adverse findings in the Alabama Certified Nurse Aide Registry; and
 - did not have a finding of abuse, neglect, or exploitation recorded on the Registry;²⁹ and
- discussed the results of our audit with State agency officials.

We conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

²⁷ Available online at <https://abn.alabama.gov/applications/LicenseLookup.aspx>. Accessed on May 1, 2024.

²⁸ Available online at <https://exclusions.oig.hhs.gov>.

²⁹ Documentation located in employee files at individual nursing homes.

APPENDIX B: RELATED OFFICE OF INSPECTOR GENERAL REPORTS

Report Title	Report Number	Date Issued
<i>Florida Ensured that Nursing Homes Complied With Federal Background Check Requirements</i>	<u>A-04-23-08100</u>	4/26/2024
<i>Louisiana Should Improve Its Oversight of Nursing Homes' Compliance With Requirements That Prohibit Employment of Individuals With Disqualifying Background Checks</i>	<u>A-06-21-02000</u>	11/29/2023
<i>National Background Check Program for Long-Term-Care Providers: An Interim Assessment</i>	<u>OEI-07-20-00181</u>	5/9/2022
<i>National Background Check Program for Long-Term-Care Providers: Assessment of State Programs Concluded in 2019</i>	<u>OEI-07-20-00180</u>	9/2/2020
<i>National Background Check Program for Long-Term-Care Providers: Assessment of State Programs Concluded in 2017 and 2018</i>	<u>OEI-07-18-00290</u>	8/21/2019
<i>National Background Check Program for Long-Term-Care Providers: Assessment of State Programs Concluded Between 2013 and 2016</i>	<u>OEI-07-16-00160</u>	4/22/2019
<i>National Background Check Program for Long-Term-Care Employees: Interim Report</i>	<u>OEI-07-10-00420</u>	1/19/2016

APPENDIX C: GLOSSARY OF TERMS

The terms “abuse,” “neglect,” “exploitation,” “mistreatment,” and “misappropriation of resident property” are defined under Federal regulations (42 CFR § 483.5) as follows:

- *Abuse* is the willful infliction of injury, unreasonable confinement, intimidation, or punishment with resulting physical harm, pain, or mental anguish. Abuse also includes the deprivation by an individual, including a caretaker, of goods or services that are necessary to attain or maintain physical, mental, and psychosocial well-being. Instances of abuse of all residents, irrespective of any mental or physical condition, cause physical harm, pain, or mental anguish. It includes verbal abuse, sexual abuse, physical abuse, and mental abuse including abuse facilitated or enabled through the use of technology. *Willful*, as used in this definition of abuse, means the individual must have acted deliberately, not that the individual must have intended to inflict injury or harm.
- *Neglect* is the failure of the [nursing home], its employees or service providers to provide goods and services to a resident that are necessary to avoid physical harm, pain, mental anguish, or emotional distress.
- *Exploitation* means taking advantage of a resident for personal gain through the use of manipulation, intimidation, threats, or coercion.
- *Mistreatment* means inappropriate treatment or exploitation of a resident.
- *Misappropriation of resident property* means the deliberate misplacement, exploitation, or wrongful, temporary, or permanent use of a resident’s belongings or money without the resident’s consent.

APPENDIX D: FEDERAL AND STATE NURSING HOME BACKGROUND CHECK REQUIREMENTS

FEDERAL REQUIREMENTS

Nursing homes are required to comply with health and safety requirements in Federal regulations (42 CFR part 483, subpart B) to participate in the Medicare and Medicaid programs.

Federal regulations at 42 CFR § 483.12(a)(3) prohibit nursing homes from employing or otherwise engaging individuals who have a history of disqualifying offenses. Specifically, this prohibition applies to individuals who have:

- been found guilty of abuse, neglect, exploitation, mistreatment of residents, or misappropriation of resident property by a court of law;
- had a finding entered into the State nurse aide registry; or
- a disciplinary action in effect against their professional license by a State licensure body because of a finding of abuse, neglect, exploitation, mistreatment of residents, or misappropriation of resident property.

STATE REQUIREMENTS

Ala. Admin. Code r. 420-5-10-.03 (1)-(3) requires that (1) a facility must be administered in a manner that enables it to use its resources effectively and efficiently to attain or maintain the highest practicable physical, mental, and psychosocial well-being of each resident; (2) a facility must be licensed under applicable State and local law; (3) the facility must operate and provide services in compliance with all applicable Federal, State, and local laws, regulations and codes, and with accepted professional standards and principles that apply to professionals providing services in such a facility.

Ala. Admin. Code r. 660-5-41-.07(II)(8) states that an employee is an individual who is either:

1. Hired directly or through a contract by a service provider who has duties that involve, or may involve, one-on-one contact with a patient, resident, or client.
2. A volunteer of a service provider who has duties that involve, or may involve, one-on-one contact with a patient, resident, or client.

Because the legislation does not indicate that it was intended to apply retroactively, this definition applies to those hired or volunteering on or after January 1, 2023.

Per Ala. Admin. Code r. 660-5-41-.07(III)(8)(A), for purposes of employment by a service provider, on or before July 1, 2023, a service provider shall query the Registry by submitting a

form to the Alabama Department of Human Resources regarding an individual who is an employee or prospective employee of the provider to confirm whether the following are true:

1. The individual has been convicted of a crime as stated in Section I of Ala. Admin. Code r. 660-5-41-.07.
2. An elder abuse protection order against the individual has been issued pursuant to Section 38-9F-4, Code of Alabama 1975.
3. A protection from abuse order has been issued against the individual pursuant to Chapter 5 of Title 30, Code of Alabama 1975, for the protection of an elderly person or an adult in need of protective services.
4. The Department of Human Resources has made a finding that the individual has committed an act of abuse, elder abuse, emotional abuse, exploitation, financial exploitation, intimidation, neglect, sexual abuse, or undue influence against an elderly person or an adult in need of protective services.

Ala. Admin. Code r. 660-5-41-.07(II)(14)(a)(f-g) states that a service provider includes: (f) long-term care facilities and (g) skilled nursing facilities.

APPENDIX E: STATE AGENCY COMMENTS



Scott Harris, M.D., M.P.H.
STATE HEALTH OFFICER

June 19, 2025

Truman M. Mayfield
Regional Inspector General
Office of Audit Services, Region IV
61 Forsyth Street, SW, Suite 3T41
Atlanta, GA 30303

Re: Report Number: A-04-24-08104

Dear Mr. Mayfield:

Thank you for sharing the draft OIG Audit Report with the Alabama Department of Public Health ("the Department"). The Department respectfully requests amendment of the following statements.

- Page 5 - **"Federal Background Check Requirements Were Not Completed for Employees Hired Before January 1, 2023."**

Amend to state, "Federal Background Check Requirements Were Not Completed for **Some** Employees Hired Before January 1, 2023."

- Page 6 - **"Federal and State Background Check and Registry Query Requirements Were Not Completed for Employees Hired From January 1, 2023, Through April 8, 2024."**

Amend to state, "Federal and State Background Check and Registry Query Requirements Were Not Completed for **Some** Employees Hired From January 1, 2023, Through April 8, 2024."

- Page 3, Footnote 13 – *"The State agency anticipates that an explicit State-specific requirement for prospective nursing home employees to complete a background check before beginning work will be implemented in the spring of 2025."*

Amend to update the Department implementation of a state requirement for background checks in **Fall 2025**.

The Department's response to the draft report is enclosed for your review and consideration. Do not hesitate to contact me at (334) 206-5259 or denise.milledge@adph.state.al.us should you have questions or comments.

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PHYSICAL ADDRESS The RSA Tower | 201 Monroe Street | Montgomery, AL 36104

alabamapublichealth.gov



Accredited Health Department

Page 2

Re: Report Number: A-04-24-08104

Sincerely,

A handwritten signature in blue ink, reading "Jacqueline D. Milledge". The signature is fluid and cursive, with the first name "Jacqueline" and last name "Milledge" clearly legible.

Jacqueline D. Milledge
Director, Bureau of Health Provider Standards

Enclosure

RESPONSE TO RECOMMENDATIONS

Provided below is the Department's response to each recommendation by the Office of Inspector General:

- *Develop a process for verifying that nursing homes complete a background check and a Registry query before employees begin work.*

The Department agrees with the recommendation to develop a verification process for nursing homes completing background checks and Registry checks. Such policy would

The Department has instituted measures to improve oversight of nursing homes background checks of prospective employees. Current and incoming staff received training and tools to verify nursing homes compliance with Federal and State requirements.

- *Educate nursing homes on the importance of conducting timely background checks and Registry queries.*

In a letter dated March 9, 2023, ADPH informed all nursing homes in the state via electronic mail on March 10, 2023, that:

"Approved on March 24, 2022, the legislators of the State of Alabama enacted a law, Shirley's Law [Ala. Code §38-9G-2 (2022)], which establishes the Alabama Elder and Adult in Need of Protective Services Abuse Registry, an elder abuse registry for nursing facilities and other elder care agencies to check for persons, convicted of certain crimes against elders. Shirley's Law, effective January 1, 2023, requires healthcare providers to search the registry for employees hired after January 1, 2023. regarding the state requirement to check the Alabama Department of Human Resources Elder Abuse Registry as a part of initial background checks and maintaining the results in employee files." The letter included instructions for accessing the abuse registry.

A training session to review Shirley's Law with long term care surveyors was conducted on July 8, 2024. This training is incorporated into the training plan for new hires and current staff in survey practice refresher training.

The Department participates on the Council for the Prevention of Elder Abuse on Elder Abuse, established through the State Legislature as an interagency council. The council's mission is to strengthen partnerships to protect elders and raise awareness of elder abuse issues through education, advocacy, and outreach meets multiple times a year.

The Department schedules quarterly meetings with the Alabama Nursing Home Association (NHA) and will collaborate with the NHA to publish reporting requirements in the NHA weekly newsletter sent to providers, present as an agenda item at NHA the annual conference to be held in September 2025, and conduct webinar training sessions to review abuse reporting requirements and related topics.

The Department will post reporting requirements and related information to the Health Provider Standards webpage and periodically, disseminate information in a mass email distribution to providers.

Alabama SSA Response to OIG Audit A04-24-08104 Draft Report (June 2025)

- *Require nursing homes to develop policies and procedures to conduct Registry queries before employees begin work.*

The Department is in the process of amending its nursing home rules and will require providers develop policies and procedures for conducting background checks that comply with Federal and State requirements.

- *Conduct a review of nursing homes' compliance with background checks and Registry check requirements.*

The Department will conduct review of nursing home policies and procedures, and random review of documents for compliance with Federal and State requirements and verification of implementation. In the case of investigations of abuse, neglect, exploitation, or misappropriation of property, focused will be conducted.

The Department plans to hire additional staff to review provider documents and implementation of procedures for compliance.

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