

# Memorandum

PREPARED FOR:

Joint Task Force on Hospital Discharge Challenges

DATE: March 18, 2024

BY: LPRO Staff

RE: Criminal Records Checks for Health Care Professionals



**LPRO**  
LEGISLATIVE POLICY  
AND RESEARCH OFFICE

This memorandum addresses background checks for people in Oregon to become authorized to provide health and personal care services, including background checks of individuals seeking professional licensure and pre-employment screening in certain health or personal care settings.

This memo includes:

- an overview of state policies and procedures regarding background checks for health and personal care workers.
- how fingerprints are collected and retained.
- what is known about processing times and delays.
- recent legislative actions in Oregon and other states.

State agencies performing other types of background checks, such as for education professionals, are beyond the scope of this memo. Details about specific health licensing boards and offices are presented in an Appendix.

## What Is a Background Check?

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Background checks are commonly used to screen individuals who seek positions of trust, such as nurses, personal care workers, and long-term care administrators. “Background check” is a general term that can refer to a range of activities, including verification of an individual’s employment or education history, as well as review of criminal justice records (described below). These activities help establish an individual’s “fitness” (suitability or appropriateness) for the job they seek and can be the basis for the state or an employer denying, suspending, or revoking the right to work in certain positions or settings.

The term “criminal records check” refers to the review of specific law enforcement records such as arrests, charges, sentencing, confinement, parole, and release, that may occur as part of a background check.<sup>1</sup> A criminal records check can include:

- a name-based search of records in the Law Enforcement Data System (LEDS) maintained by Oregon State Police (OSP);
- a fingerprint-based review of state criminal offender records in the Western States Information Network (WSIN); or

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<sup>1</sup> ORS 181A.010(2) and 181A.170(1)

- a fingerprint-based review of national records from the Federal Bureau of Investigation (FBI).<sup>2</sup>

Agencies that are authorized to require a criminal records check for non-criminal justice purposes, such as pre-employment screening, may either directly search records in LEDS or request that OSP conduct a fingerprint-based check of state and federal records and provide the results to the requesting agency.<sup>3</sup>

The Oregon Department of Administrative Services (DAS), in consultation with OSP, determines:

- categories of people who may be subject to criminal records checks by state government and other qualified entities;
- information that must be collected from a subject individual, including whether a nationwide fingerprint-based check must be conducted;
- types of crimes that can be considered in determining fitness;
- the process for appealing a fitness determination unless otherwise specified in law..<sup>4</sup>

Agencies that are authorized to conduct criminal records checks determine which categories of individuals and crimes they will consider through agency-specific administrative rules developed in consultation with OSP.<sup>5</sup>

## Who Conducts Checks of Health Care Workers?

Within the health and social care sectors, a wide range of entities may require criminal records checks for non-criminal justice administrative purposes. These include:

- **State Government.** Oregon state government entities, including professional boards and state agencies, are authorized to require fingerprint-based records checks on certain subject individuals such as employees, vendors, and contractors, to determine an individual's fitness to perform work.<sup>6</sup>
- **Qualified Entities.** Certain health and social care entities may request that a state agency conduct records checks on individuals who seek to become

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<sup>2</sup> OAR 407-007-0210; communication with Wendy Landers, Division Director, Oregon State Police on March 7, 2024.

<sup>3</sup> ORS 181A.195(2) through (9)

<sup>4</sup> ORS 181A.215(2)

<sup>5</sup> ORS 181A.195(9)

<sup>6</sup> ORS 181A.195 and ORS 174.111



employees, volunteers, or contractors providing care to children, older adults, and people with disabilities.<sup>7</sup>

Criminal records checks of health and social care workers generally occur through three processes:

- direct inquiries by some professional boards,
- indirect inquiries by professional boards through the OHA Health Licensing Office, and
- inquiries made through the ODHS-OHA Background Check Unit.

These are described further below.

## State Licensing Boards and Offices

Certain professional licensing boards are authorized to request fingerprint-based records checks of people applying for recognition to practice as health professionals.<sup>8</sup> Some boards work directly with OSP to gather records and determine an individual's fitness for employment or licensure (see Exhibit 1, next page).<sup>9</sup> These boards may enter into an agreement with OSP to directly access LEDS and check criminal records.<sup>10</sup> Boards and other qualified entities without LEDS access may also request a criminal records check from OSP's Criminal Justice Information Services (CJIS) division.<sup>11</sup>

Nineteen other boards and regulating programs are administratively supported by OHA's Health Licensing Office (HLO).<sup>12</sup> The HLO holds an agreement with OSP to access LEDS for criminal records checks and works with OSP on behalf of its participating boards and programs to conduct fingerprint-based records checks on individuals applying for licensure or authorization to work.<sup>13</sup>

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<sup>7</sup> ORS 181A.190(1) and (2)

<sup>8</sup> ORS 676.160 and 676.303

<sup>9</sup> For example, see Occupational Therapy Licensing Board, "Applications." Oregon.gov. Available at <https://www.oregon.gov/otlb/Pages/Applications.aspx>. See appendix for additional details.

<sup>10</sup> OAR 257-015-0080

<sup>11</sup> OAR 257-010-0025(1)

<sup>12</sup> ORS 676.560; communication with Robert Borthwell, Director, Health Licensing Office on March 7, 2024.

<sup>13</sup> ORS 676.303(1) and (3); communication with Robert Borthwell, Director, Health Licensing Office on March 7, 2024.



## Exhibit 1: Boards That May Require Fingerprint-Based Background Checks

Directly Request <sup>14</sup>	Request Through the OHA Health Licensing Office <sup>15</sup>
<ul style="list-style-type: none"> <li>• Board of Chiropractic Examiners</li> <li>• Board of Dentistry</li> <li>• Board of Examiners for Speech-Language Pathology and Audiology</li> <li>• Board of Licensed Professional Counselors and Therapists</li> <li>• Board of Licensed Social Workers</li> <li>• Board of Massage Therapists</li> <li>• Board of Medical Imaging</li> <li>• Board of Naturopathic Medicine</li> <li>• Board of Nursing</li> <li>• Board of Optometry</li> <li>• Board of Pharmacy</li> <li>• Board of Physical Therapy</li> <li>• Board of Psychology</li> <li>• Medical Board</li> <li>• Mental Health Addiction and Certification Board of Oregon<sup>16</sup></li> <li>• Occupational Therapy Licensing</li> <li>• Oregon Health Authority (to the extent that the OHA licenses emergency medical services providers)</li> <li>• State Mortuary and Cemetery Board</li> <li>• Veterinary Medical Examining Board</li> </ul>	<ul style="list-style-type: none"> <li>• Advisory Council on Hearing Aids</li> <li>• Art Therapy Program</li> <li>• Behavior Analysis Regulatory Board</li> <li>• Board of Athletic Trainers</li> <li>• Board of Certified Advanced Estheticians</li> <li>• Board of Cosmetology</li> <li>• State Board of Denture Technology</li> <li>• State Board of Direct Entry Midwifery</li> <li>• Board of Electrologists and Body Art Practitioners</li> <li>• Board of Licensed Dietitians</li> <li>• Board of Sign Language Interpreters</li> <li>• Environmental Health Registration Board</li> <li>• Genetic Counseling Program</li> <li>• Lactation Consult Program</li> <li>• Long Term Care Administrators Board</li> <li>• Music Therapy Program</li> <li>• Respiratory Therapist and Polysomnographic Technologist Licensing Board</li> <li>• Sexual Offense Treatment Board</li> <li>• Temporary Staffing Agency Program</li> </ul>

Source: Legislative Policy and Research Office

## Oregon Health Authority and Department of Human Services

Oregon Health Authority (OHA), Oregon Department of Human Services (ODHS), and Oregon Employment Department (OED) are authorized to conduct criminal records checks for certain health care workers, including:

<sup>14</sup> ORS 676.160 and 676.303

<sup>15</sup> ORS 676.303 and 676.612(3)

<sup>16</sup> OAR 309-019-0130(1)(A) and (B)



- **agency employees, contractors, subcontractors, vendors, and volunteers** (and people seeking these roles)<sup>17</sup>
- **people seeking to be employed with OHA- or ODHS-licensed or regulated provider entities** such as county health departments, community mental health programs, and developmental disability programs<sup>18</sup>
- **employees, contractors, and volunteers of other non-licensed or regulated entities** that provide care or placement services for children, older adults, and people with disabilities<sup>19</sup>

Within ODHS and OHA, the background check unit (BCU) is an inter-agency service that acts on behalf of both agencies in performing most records checks.<sup>20</sup>

The BCU maintains the Oregon Criminal History and Abuse Records Data System (ORCHARDS), a portal for agencies and qualified entities to submit records check requests.<sup>21</sup> ORCHARDS is available to 1) providers regulated by OHA and ODHS, as well as 2) nonregulated providers who meet certain criteria to use the BCU Clearinghouse, such as entities providing care or placement services for youth, older adults, and people with disabilities.<sup>22</sup>

Criminal records checks are requested from BCU through ORCHARDS.<sup>23</sup> BCU first conducts criminal records checks through LEDS.<sup>24</sup> If a national records check is needed, BCU completes its review of state records and then requests OSP conduct a fingerprint-based check of federal records with FBI.<sup>25</sup> The BCU only considers criminal history as allowed in its “weighing test.”<sup>26</sup>

ODHS and OHA may choose to hire an individual on a preliminary basis if a background check has been conducted but further investigation or work is needed to complete a full

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<sup>17</sup> ORS 181A.195 and OAR 407-007-0000 to -0100

<sup>18</sup> ORS 181A.200; OAR 407-007-0200 to -0370; OAR 943-007-0001 to -0501

<sup>19</sup> ORS 181A.190

<sup>20</sup> OHA authorizes ODHS to act on its behalf in carrying out background checks and screening and aligns its rules for applicable programs and individuals with ODHS rules. OAR 943-007-0001(1-7).

<sup>21</sup> ORCHARDS was developed in 2013 as part of the Center for Medicare and Medicaid Services’ (CMS) National Background Check Program that awards grants to states to design programs that streamline background checks for employees with direct patient access. See Centers for Medicare & Medicaid Services, “National Background Check Program.” Accessed March 18, 2024

<sup>22</sup> ORS 181A.190; Oregon Department of Human Services. “BCU Clearinghouse: Background Checks.” Oregon.gov. Accessed March 18, 2024

<sup>23</sup> OAR 407-007-0030(5)

<sup>24</sup> OAR 407-007-0030(2)

<sup>25</sup> OAR 407-007-0030(3)

<sup>26</sup> OAR 407-007-0030(5) and OAR 407-007-0060.



fitness test.<sup>27</sup> In these situations the individual typically may work in a limited capacity under supervision; individuals who were previously found fit during a background check can be hired on a preliminary basis and work without supervision.<sup>28</sup>

## How Are Fingerprints Collected and Retained?

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The Department of Administrative Services contracts with Fieldprint, Inc., a third-party vendor, to provide electronic fingerprint collection for all state agencies.<sup>29</sup> Individuals may visit one of 1,900+ Fieldprint collection sites in any state and do not need to be physically present in Oregon.<sup>30</sup> Individuals must first submit forms to the agency or board initiating the criminal records check process and obtain a Fieldprint code before scheduling a fingerprint collection appointment (see Appendix for details by board). Some agencies also hold agreements with local law enforcement agencies to collect and transmit fingerprints to OSP.<sup>31</sup> Unless otherwise provided for through program funding, individuals pay a fee to Fieldprint at the time of fingerprint collection.<sup>32</sup>

The state destroys any fingerprint records after the information is provided back to the requesting agency.<sup>33</sup> The state also requires the FBI to return any fingerprint cards provided by OSP.<sup>34</sup>

**Two exceptions** are noted and described further below:

- ORCHARDS maintains results of records checks for “portability” for certain workers.<sup>35</sup>
- OSP is authorized to operate a voluntary fingerprint retention program.<sup>36</sup>

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<sup>27</sup> OAR 407-007-0065(1-4)

<sup>28</sup> OAR 407-007-0065(4)

<sup>29</sup> ORS 181A.170(1)(b) and (4); Oregon Department of Human Services. “Fingerprinting for Background Checks.” Oregon.gov. Accessed March 18, 2024.

<sup>30</sup> Fieldprint. “Fieldprint Livescan Fingerprinting Network.” Accessed March 18, 2024.

<sup>31</sup> Oregon Department of Human Services. “Fingerprinting for Background Checks.” Oregon.gov. Accessed March 18, 2024.

<sup>32</sup> Communication with Robert Borthwell, Director, Health Licensing Office, March 8, 2024.

<sup>33</sup> The Oregon Legislative Assembly passed HB4122 altering this law in the 2024 regular session. See p. 10 for details.

<sup>34</sup> ORS 181A.195

<sup>35</sup> ORS 181A.200

<sup>36</sup> ORS 181A.205; see footnote 33.



## ORCHARDS Portability for Direct Care Workers

The Legislative Assembly passed Senate Bill 725 in 2019 that prohibits OHA and ODHS from conducting criminal records checks of certain direct care workers more than once in a two-year period.<sup>37</sup>OHA and ODHS are required to adopt rules to determine when retained information may be used in lieu of a new criminal records check.<sup>38</sup>

ORCHARDS offers a searchable registry of direct care workers who have completed criminal records checks in order to reduce the need for recurring background checks.<sup>39</sup>ORCHARDS provides this records check “portability” for certain direct care workers employed with or as:

- homecare workers;
- personal support workers;
- personal care attendants;
- residential care, assisted living, and nursing facilities;
- residential training, supported living, employment supports entities; and
- Medicaid in-home care agencies.<sup>40</sup>

Because OHA and ODHS do not retain fingerprints, portability for eligible workers must be periodically renewed.

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<sup>37</sup> House Bill 2225 (2019 enrolled).

<sup>38</sup> ORS 181A.195(4) and 443.006

<sup>39</sup> OAR 407-007-0620

<sup>40</sup> OAR 407-007-0620(1); Oregon Department of Human Services. “ORCHARDS: Background Checks.” Accessed March 18, 2024





## OSP Voluntary Fingerprint Retention Program

In 2015, citing recommendations of the Oregon Elder Abuse Prevention Work Group on streamlining employee licensure and onboarding, the Legislative Assembly passed House Bill 2228, which directed OSP to establish a voluntary “record of arrest and prosecution background” (“rap back”) program to retain fingerprints received during criminal records checks and make these available for future checks.<sup>41</sup> The bill required the program be offered voluntarily to agencies, who in turn would offer subject individuals the option to participate.<sup>42</sup> The bill did not allow agencies or the FBI to use retained fingerprint records for any purpose other than future background checks.

OSP was subsequently unable to implement the program, which would have relied on the federal Rap Back program (see Exhibit 2), because federal guidance requires that participating states have authority to submit fingerprints and allow the FBI to retain the fingerprints for ongoing latent fingerprint matching.<sup>43</sup> The Legislative Assembly passed HB 4122 addressing this issue in 2024 (see p. 10).

## Exhibit 2: Federal Rap Back System

The federal Rap Back system provides participating entities with ongoing alerts of law enforcement encounters with individuals whose information is on record.

The FBI began promoting the system to states in 2013 to streamline pre-employment screenings. Prior to the FBI system, several states operated state-based rap back systems.

Proponents of the system note that it enables efficient processing of criminal records checks. Critics note that the system can contain incorrect information when states do not submit updated information such as court-ordered expungements. Information can also include arrests related to activities such as political protest (protected under the First Amendment), domestic violence incidents in which both abuser and victim are arrested, or activities that are crimes in other states but expressly legal in Oregon.

*See Kofman, A. February 4, 2017. “The FBI is Building a National Watchlist that Gives Companies Real-Time Updates on Employees.” The Intercept.*

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<sup>41</sup> ORS 181A.205

<sup>42</sup> House Bill 2228 (2015 enrolled)

<sup>43</sup> Federal Bureau of Investigation, “PIA: NGI Rap Back Service.” Accessed March 18, 2024





## What Is Known About Background Check Delays?

Stakeholders have reported delays in criminal records check processing for health care workers since the passage of House Bill 2228 (2015) with some noting delays continued in part because OSP was unable to join the federal Rap Back program (see above).<sup>44</sup>

Reported processing times for criminal records requests vary over time and by office, and there are no mandated timelines for processing; in 2021, most BCU requests were completed within 4-5 days.<sup>45</sup> Current records request processing times within CJIS are 15 hours to 3 days on average.<sup>46</sup>

Criminal records check processing times are one component of overall licensure or certification processing times. The average Oregon State Board of Nursing application processing time was 19 days at the end of 2023, down from 51 days in early 2023 (see Exhibit 3). When an application is received, licensing staff collect and review all supporting documents; these can include education transcripts, professional exams, and licensure verifications from other states in addition to criminal history records.<sup>47</sup>

### Exhibit 3: OSBN Applications and Processing Times

Quarter	Average Days	Total applications
Q1 2023	51	3,263
Q2 2023	51	3,170
Q3 2023	31	2,661
Q4 2023	19	2,250
Total		11,344

Source: Communication with Office of the Governor, January 18, 2024

<sup>44</sup> Amanda Dalton, Courtney Graham, Jack Dempsey, and Libby Batlan. Testimony in support of HB 4122. Available at

<https://olis.oregonlegislature.gov/liz/2024R1/Downloads/PublicTestimonyDocument/105223>

<sup>45</sup> Nicole Stapp. "SB 280 Letter of Information." April 27, 2021. Oregon Department of Human Services, Background Check Unit. Available at

<https://olis.oregonlegislature.gov/liz/2021R1/Downloads/PublicTestimonyDocument/27396>.

<sup>46</sup> Communication with Wendy Landers, CJIS Director, Oregon State Police, March 7, 2024.

<sup>47</sup> Communication with Governor's Office on behalf of Oregon State Board of Nursing and Oregon Medical Board, January 18<sup>th</sup>, 2024.



Licensing board representatives report that two primary factors can complicate the timely processing of applications:

- applicant engagement/response time (e.g., awaiting a job offer, finishing a residency, or deciding not to move forward); and
- a positive flag on fingerprint-based criminal records check or a “yes” response to application questions related to criminal history.<sup>48</sup>

Processes for investigating positive flags vary by board. For example, if an individual who has applied for licensure from the Occupational Therapy Licensing Board (OTLB) does not disclose a past arrest that is later flagged during a criminal records check, the person’s application is automatically flagged for review by the full board, which meets once per quarter, and the applicant may be fined \$1,000.<sup>49</sup> Individuals sometimes confuse reporting requirements for dismissed and expunged criminal records; while expunged records are not reported, dismissed charges do appear in a criminal records check and must be reported by the applicant to avoid delays.

Other factors can contribute to delays. Oregon State Board of Nursing notes health care workers, who must frequently wash hands in clinical settings, can be more likely to experience errors in the fingerprint collection process.<sup>50</sup> Availability of staffing resources to process background checks and review results are another contributing factor.

## What Actions Has Oregon Taken?

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In 2022, the Legislative Assembly considered Senate Bill 1512 A which would have prohibited a licensing board, commission, or agency from denying or revoking a license solely for reason that the individual was convicted of a crime not substantially related to work responsibilities. The bill did not pass.

More recent legislative activity in Oregon has focused on Oregon’s fingerprint retention laws. During the 2024 session, the Legislative Assembly enacted House Bill 4122 to require OSP to participate in the federal Rap Back program and retain fingerprint records obtained during criminal records checks.<sup>51</sup>

The bill makes Rap Back participation available to all state and local government agencies that conduct criminal records checks. It requires subject individuals to

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<sup>48</sup> Communication with Governor’s Office on behalf of Oregon State Board of Nursing and Oregon Medical Board, January 18<sup>th</sup>, 2024.

<sup>49</sup> Oregon Occupational Therapy Licensing Board. “Applications.” Accessed March 18, 2024

<sup>50</sup> Oregon State Board of Nursing, “Fingerprint Requirements,” Oregon.gov. Accessed March 18, 2024.

<sup>51</sup> Jules Dellinger. “HB 4122A Staff Measure Summary.” February 15, 2024. House Committee on Judiciary. Available at <https://olis.oregonlegislature.gov/liz/2024R1/Downloads/MeasureAnalysisDocument/81948>



participate in Rap Back if they undergo a background check with a participating agency. It requires participating agencies to provide certain information to subject individuals including how an individual may challenge the accuracy of information obtained.<sup>52</sup> The bill requires that agencies notify OSP, who shall notify FBI, when an individual is no longer employed or subject to participation in Rap Back and destroy any fingerprint records at that time.<sup>53</sup>

Advocates for HB 4122 argued it would expedite processing times and reduce employment barriers for people who have already submitted to a background check and are undergoing re-checks.<sup>54</sup> Opponents noted the system could lead to new employment barriers including:

- employer notifications of arrests and convictions could include information about activities that are illegal in other states but not in Oregon<sup>55</sup>
- FBI records may include arrest records without indicating that charges were dropped or a person was not convicted<sup>56</sup>

Following passage of HB 4122, an agency that wishes to participate in Rap Back must subscribe to the program through OSP and submit an implementation plan to a Legislative Assembly judiciary committee that includes:

- how the agency will ensure fingerprinting is accessible across geographic regions and provider settings;
- how the agency will ensure fingerprinting accessibility is not a barrier to enrollment for individuals;
- the estimated timeline for enrolling individuals;
- the agency's plan to educate individuals about the program; and
- projected costs to the agency and individuals to reduce barriers to fingerprinting.<sup>57</sup>

In developing an implementation plan to participate in Rap Back, an agency will need to consult with OSP and stakeholders including impacted providers and employees.<sup>58</sup>

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<sup>52</sup> House Bill 4122 (2024 enrolled)

<sup>53</sup> Id.

<sup>54</sup> Amanda Dalton, Courtney Graham, Jack Dempsey, and Libby Batlan. Testimony in support of HB 4122. Available at <https://olis.oregonlegislature.gov/liz/2024R1/Downloads/PublicTestimonyDocument/105223>

<sup>55</sup> Emily Hawley. Testimony on opposition of HB 4122. February 9, 2024. Available at <https://olis.oregonlegislature.gov/liz/2024R1/Downloads/PublicTestimonyDocument/107093>

<sup>56</sup> Id.

<sup>57</sup> House Bill 4122 (2024 enrolled)

<sup>58</sup> Id.



## What Steps Have Other States Taken?

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Other states' efforts to expedite processing times for healthcare worker background checks have focused on increasing staffing levels and implementing new online systems at licensing offices, though these changes can also place additional short-term demands on existing staff.<sup>59</sup> New Hampshire's governor also issued an executive order allowing the nursing board to make emergency changes to issue a provisional license after a fingerprinting appointment has been scheduled.<sup>60</sup>

Some states have identified people with criminal histories as candidates who could be recruited to fill entry-level post-acute health professional shortages and are working to reduce background check barriers for this population to become employed in healthcare settings.<sup>61</sup> For example, in 2017, Illinois began to allow people with felony convictions to petition for health care licenses.<sup>62</sup> In 2022, California passed Assembly Bill 1720 to simplify the process for home care aides and community-based caregivers with criminal histories to request exemptions during the background check process.<sup>63</sup> Research from Johns Hopkins Medicine's pilot program employing formerly homeless individuals with criminal backgrounds at its hospital found that over five years, these employees had lower rates of turnover than other employees and were not more likely to be fired.<sup>64</sup>

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<sup>59</sup> Mike Cherry. "Background Check Delays Prevent Health Workers from Starting Jobs." August 25, 2021. WMUR. Available at <https://www.wmur.com/article/background-check-delays-prevent-health-workers-from-starting-jobs/37399287>.

<sup>60</sup> Adiel Kaplan. "A Real Crisis': License Backlogs in Some States are Preventing Health Care Workers from Seeing Patients." February 13, 2022. NBC News. Available at <https://www.nbcnews.com/health/health-care/-real-crisis-license-backlogs-states-prevent-health-care-workers-seein-rcna14740>

<sup>61</sup> Megan Denver. "Recruitment, Assessment, and Retention in the Direct Care Workforce for Individuals with Criminal Records: A Comprehensive Model Approach." September 13, 2021. National Institute of Justice. Available at <https://nij.ojp.gov/topics/articles/recruitment-assessment-and-retention-direct-care-workforce-individuals-criminal>

<sup>62</sup> Sophie Quinton. "A new idea for filling hard-to-fill health-care jobs: Ex-offenders." April 29, 2017. The Washington Post. Available at [https://www.washingtonpost.com/national/health-science/a-new-idea-for-filling-hard-to-fill-health-care-jobs-ex-offenders/2017/04/28/fece52ae-2a9b-11e7-b605-33413c691853\\_story.html](https://www.washingtonpost.com/national/health-science/a-new-idea-for-filling-hard-to-fill-health-care-jobs-ex-offenders/2017/04/28/fece52ae-2a9b-11e7-b605-33413c691853_story.html)

<sup>63</sup> Spencer Hamer, et al. "2022 Health Care Employment Law Year in Review." February 20, 2023. K&L Gates. Available at <https://www.klgates.com/2022-Health-Care-Employment-Law-Year-in-Review-2-20-2023>

<sup>64</sup> Pamela D. Paulk. "The Johns Hopkins Hospital Success in Hiring Ex-Offenders." September 2016. Johns Hopkins Medicine. Available at <https://www.fair360.com/medialib/uploads/2016/09/Paulk-Presentation-Hiring-Ex-Offenders-09142016.pdf>



## Appendix: Boards and Criminal Records Checks

### Exhibit A. Health Professional Regulating Bodies and Criminal Records Checks

Regulating Body	Process	Required For	Not Required For
Oregon State Board of Nursing <sup>65</sup>	Applicants must first apply through OSBN online portal, then submit fingerprints via Fieldprint to OSP and FBI. <sup>66</sup> OSBN receives records from OSP.	<ul style="list-style-type: none"> <li>Applicants for a new license</li> <li>Reactivation of an expired license</li> </ul>	<ul style="list-style-type: none"> <li>On-time renewals (90 days prior to expiration date or 30 days after expiration date)</li> </ul>
Oregon Board of Physical Therapy <sup>67</sup>	Applicants must apply and obtain a code from the board before scheduling a fingerprint appointment. <sup>68</sup> OBPT receives records from OSP.	<ul style="list-style-type: none"> <li>Applicants for a new license or temporary permit</li> <li>Renewal of a license lapsed for more than 1 year (unless concurrently licensed in another state)</li> </ul>	<ul style="list-style-type: none"> <li>Renewal of licenses lapsed one year or less</li> <li>Oregon Compact Privilege</li> <li>Military Spouse Temporary Permit</li> </ul>
Occupational Therapy Licensing Board <sup>69</sup>	Applicants provide fingerprints to Fieldprint who forwards the records to OSP. <sup>70</sup> OTLB receives records from OSP.	<ul style="list-style-type: none"> <li>Applicants for new license or limited permit</li> <li>Renewal of a license more than one year following previous background check</li> </ul>	<ul style="list-style-type: none"> <li>Renewal of a lapsed license if background check previously completed in the prior year</li> </ul>

<sup>65</sup> OAR 851-001-0115

<sup>66</sup> Oregon State Board of Nursing, "Fingerprint Requirements," Oregon.gov. Accessed March 18, 2024. <https://www.osbn.org/>

<sup>67</sup> OAR 848-055-0001; OAR 848-010-0010 through 848-010-0035

<sup>68</sup> Oregon Board of Physical Therapy, "Background Checks." Oregon.gov. Accessed March 18, 2024.

<sup>69</sup> OAR 339-010-0012

<sup>70</sup> Occupational Therapy Licensing Board, "Applications." Oregon.gov. Accessed March 18, 2024.



Regulating Body	Process	Required For	Not Required For
Respiratory Therapist and Poly-somnographic Technologist Licensing Board <sup>71</sup>	The OHA Health Licensing Office conducts background checks on behalf of the board. <sup>72</sup> Fingerprints may be collected at Fieldprint or a law enforcement office. <sup>73</sup>	<ul style="list-style-type: none"> <li>• Applicants for new license</li> <li>• Renewal of an expired license</li> </ul>	<ul style="list-style-type: none"> <li>• Renewal of a current license within 45 days of expiration date</li> </ul>
Board of Licensed Professional Counselors and Therapists <sup>74</sup>	Fingerprints must be collected no more than 90 days prior to submitting an application and are forwarded to OSP and FBI. <sup>75</sup> BLPCT receives records from OSP.	<ul style="list-style-type: none"> <li>• Applicant for new license, including those from other states seeking reciprocity</li> <li>• Active licensees under investigation</li> <li>• Former applicants who reapply</li> <li>• Renewal of an expired license</li> </ul>	<ul style="list-style-type: none"> <li>• Renewal of an active license or lapsed license within grace period</li> </ul>
Board of Licensed Social Workers <sup>76</sup>	Applicants provide fingerprints to Fieldprint who forwards the records to OSP and FBI. <sup>77</sup> BLSW receives records from OSP.	<ul style="list-style-type: none"> <li>• Applicants for new license</li> <li>• Licensees under investigation</li> <li>• Reapplication for a surrendered license</li> </ul>	<ul style="list-style-type: none"> <li>• Reactivation of an inactive license</li> </ul>

<sup>71</sup> OAR 331-710-0010

<sup>72</sup> Health Licensing Office, "Respiratory Therapist and Polysomnographic Technologist Licensing Board," Oregon.gov. Accessed March 18, 2024.

<sup>73</sup> OAR 331-030-0004 to -0010.

<sup>74</sup> OAR 833-120-0011 through -0041; OAR 833-020-0011 through 833-020-0200

<sup>75</sup> Oregon Board of Licensed Professional Counselors and Therapists, "Fingerprinting Instructions." Oregon.gov. Available at [https://www.oregon.gov/oblpc/ Documents/Fingerprint\\_Instructions.pdf](https://www.oregon.gov/oblpc/ Documents/Fingerprint_Instructions.pdf).

<sup>76</sup> OAR 877-022-0005

<sup>77</sup> Board of Licensed Social Workers, "Applications." Oregon.gov. Accessed on March 18, 2024.



Regulating Body	Process	Required For	Not Required For
Oregon Department of Human Services and Oregon Health Authority <sup>78</sup>	Requests submitted through the BCU. Applicants provide fingerprints to Fieldprint who forwards the records to OSP and FBI. ODHS receives federal records from OSP.	<ul style="list-style-type: none"> <li>Employees, candidates, staffing agency employees, clients receiving employment supports, contractors, subcontractors, vendors, volunteers, and student workers</li> </ul>	<ul style="list-style-type: none"> <li>Human Resources may waive fingerprint requirements in some limited circumstances<sup>79</sup></li> </ul>
Mental Health and Addiction Certification Board of Oregon <sup>80</sup>	Applicants register with MHACBO in the Certemy online portal. <sup>81</sup> Employers request background checks through the ODHS Background Check Unit. <sup>82</sup>	<ul style="list-style-type: none"> <li>Clinical supervisors in SUD treatment programs</li> <li>Clinical supervisors in problem gambling and recovery</li> <li>Staff and volunteers who work in an OHA-regulated substance use, problem gambling, or mental health services program and are not otherwise licensed</li> </ul>	<ul style="list-style-type: none"> <li>Health professionals who are already licensed by certain other state bodies to provide care</li> </ul>

<sup>78</sup> OAR 407-007-000 through -0630

<sup>79</sup> OAR 407-007-0030(10)

<sup>80</sup> OAR 309-019-0125

<sup>81</sup> Mental Health and Addictions Certification Board of Oregon, “MHACBO Frequently Asked Questions.” Accessed on March 18, 2024.

<sup>82</sup> Providers are required to use OHA's standard criminal records check process for mental health service providers. See OAR 943-007-0001 through -0501 and OAR 309-019-0130(1)(a)(A).





Regulating Body	Process	Required For	Not Required For
Home Care Commission	Applicants register with the Home Care Commission. <sup>83</sup> Employers (“qualified entity”) request background checks through the ODHS Background Check Unit. <sup>84</sup>	<ul style="list-style-type: none"> <li>New applicants seeking employment as homecare, personal support, or personal care attendants<sup>85</sup></li> <li>Renewal of license every 2-3 years, no more than 120 days prior to expiration<sup>86</sup></li> </ul>	

Source: Legislative Policy and Research Office

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<sup>83</sup> OAR 418-020-0010 and 418-020-0020

<sup>84</sup> OAR 418-030-0020

<sup>85</sup> OAR 418-020-0020(1)(b)

<sup>86</sup> Oregon Dept. of Human Services, “Frequently Asked Questions Regarding Background Checks from Sis.” July 2022. Available at <https://sharedsystems.dhsosha.state.or.us/DHSForms/Served/de4277.pdf>.

