# WEST VIRGINIA CODE: §16b-15-1

**§16B-15-1. Definitions.**

As used in this article:

"Applicant" means an individual who is being considered for employment or engagement with the department, a covered provider or covered contractor.

"Background check" means a prescreening of registries specified by the Inspector General by rule and a fingerprint-based search of state and federal criminal history record information.

"Bureau" means a division within the Department of Health, Department of Human Services and Department of Health Facilities.

"Covered contractor" means an individual or entity, including their employees and subcontractors, that contracts with a covered provider to perform services that include any direct access services.

"Covered provider" means the following facilities or providers:

(i) A skilled nursing facility;

(ii) A nursing facility;

(iii) A home health agency;

(iv) A provider of hospice care;

(v) A long-term care hospital;

(vi) A provider of personal care services;

(vii) A provider of adult day care;

(viii) A residential care provider that arranges for, or directly provides, long-term care services, including an assisted living facility;

(ix) An intermediate care facility for individuals with intellectual disabilities;

(x) Any other facility or provider required to participate in the West Virginia Clearance for Access: Registry and Employment Screening program as determined by the Inspector General by legislative rule; and

(xi) Excludes medical foster home approved and annually reviewed by the United States

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Department of Veterans Affairs pursuant to 38 CFR §17.73.

"Department" means the Department of Health, Department of Human Services and Department of Health Facilities.

"Department employee" means any prospective or current part-time employee, full-time employee, temporary employee, independent contractor, or volunteer of the department.

"Direct access" means physical contact with a resident, member, beneficiary, or client, or access to their property, personally identifiable information, protected health information, or financial information.

"Direct access personnel" means an individual who has direct access by virtue of ownership, employment, engagement or agreement with the department, a covered provider, or covered contractor. Direct access personnel does not include volunteers or students performing irregular or supervised functions or contractors performing repairs, deliveries, installations or similar services for the covered provider. The director shall determine by legislative rule whether the position in question involves direct access.

"Director" means the Director of the West Virginia Clearance for Access: Registry and Employment Screening program.

"Disqualifying offense" means:

(A) A conviction of any crime described in 42 U. S. C. §1320a-7(a); or

(B) A conviction of any other crime specified by the Inspector General in rule, which shall include crimes against care-dependent or vulnerable individuals, crimes of violence, sexual offenses, and financial crimes.

"Negative finding" means a finding in the prescreening that excludes an applicant from direct access personnel positions.

"Notice of ineligibility" means a notice pursuant to §16-49-3 of this code that the Inspector General's review of the applicant’s criminal history record information reveals a disqualifying offense.

"Prescreening" means a mandatory search of databases and registries specified by the Inspector General in legislative rule for exclusions and licensure status prior to the submission of fingerprints for a criminal history record information check.

"Rap back" means the notification to the department when an individual who has undergone a fingerprint-based, state, or federal criminal history record information check has a subsequent state or federal criminal history event.

"State Police" means the West Virginia State Police Criminal Identification Bureau.

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