

Conducting Background Checks – An Important Risk Management Tool

According to Employment Screening Resources (ESR), health care providers pay \$100 million in damages in a single year resulting from injury claims involving staff members with criminal records hired by hospitals or health care facilities. This is a sizeable sum, yet the price is infinite when compared to the cost of negative publicity or the suffering of victims and their families.

These types of losses can occur when a hospital or health care facility fails to pre-screen job applicants thoroughly. Making the mistake of not checking the background and credentials of a job candidate in the medical field can be a potentially deadly mistake. Failing to conduct a background check can also make health care organizations vulnerable to a lawsuit and allegations of negligence, if mistakes are made by medical staff members. However, a thorough risk management program that includes a background check policy can assist in reducing legal risks and placing patients in the hands of qualified professionals.

Legal Duty of Due Diligence

Hospitals and health care facilities have a legal duty to exercise due diligence when hiring their staff. This means that the facility must exercise a reasonable amount of care to hire people who will not present an undue risk of harm onto patients and other staff members while performing their job duties. Hospitals and health care facilities are also at risk of being placed on the Medicare Sanction List of Excluded Individuals and Entities. This list was created by the Department of Health and Human Services and contains the names of those excluded from

receiving federal assistance (Medicare and Medicaid, for instance) because of hiring indiscretions. If facilities conduct background checks as part of a risk management program, they are proactively ensuring that job candidates are not on this list and are not a danger to others.

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Why Are Background Checks Important?

Conducting a background check is critically important to any health care organization and its staff. Hiring someone who is a danger to others can be a matter of life and death for a patient and can pose serious financial risks for the organization. According to ESR, approximately 2,000 doctors are subject to disciplinary action because of accusations of the following: incompetence, gross negligence, moral unfitness, workplace violence, embezzlement, property damage, sexual abuse, fraud, practicing while impaired, professional misconduct and failure to disclose a prior disciplinary action. There are also many claims relating to fraudulent licenses and qualifications.

Provided by Medical Society of Virginia Insurance Agency

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Advantages of Pre-screening

Approximately 10 percent of all job applicants have a criminal record that would compromise their job placement, yet they do not disclose this information. Therefore, consider these advantages of pre-screening potential employees:

- Discourages applicants from hiding a criminal background or falsifying their credentials
- Eliminates any uncertainties about applicants in the hiring process
- Demonstrates due diligence to hire applicants that do not pose a liability
- Encourages the need to be honest while going through the hiring process

Creating a Screening Program

To create an effective screening program at your facility, consider the following recommendations.

- Educate your hiring managers on the policy when implementing it. While doing so, create a policy statement that outlines your facility's commitment to hiring qualified professionals to benefit other staff members, patients and the community at large.
- Share the details of the screening program with each department, specifically the department heads. If staff members understand the program, they are more likely to assist with the process to make it more successful.
- Determine the level of screening that is appropriate for each position. The screening should vary, but should remain consistent between similar positions. For instance, a hospital does not need to screen as intensely for their janitorial staff as they would for a doctor because there are less risks involved in a janitor's job duties.
- Determine which parts of the screening process

should be done in-house and what needs to be completed by a professional screening organization. This will depend on your facility's resources. For many screening tasks, such as criminal background checks, using an outside organization is more cost-effective and thorough.

- Select an outside professional screening organization to assist in the hiring process. Consider the following for each organization before selecting one to assist your facility:
 - Level of expertise in the screening arena and your field specifically
 - Understanding of legal compliance during the pre-screening and hiring process
 - Level of personal service to your facility and ability to assist your HR department with hiring tasks
 - Ability to help train new hires
 - Familiarity with the health care field
 - Possesses a solid performance guarantee that screening and reports will be done promptly
- Create customized forms to attach to each application for the pre-screening process.
- Designate a staff member to be in charge of the process and to help select candidates from a large pool of applicants to move on to pre-screening. This person is also in charge of assisting when the screening process reveals negative results regarding potential job candidates.

Recommended Screenings

Once an organization has deemed that a job candidate could potentially be a good fit for a position, the pre-screening process can begin. Since pre-employment screening is governed by the Fair Credit Reporting Act

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(FCRA), applicants must sign a written consent form outlining that the health care facility or a third party may investigate his/her background. Therefore, if any negative information is found, the applicant will receive a copy of the report, along with a statement of their rights. This gives the applicant the opportunity to object, in case the information is not accurate.

Typically, a hospital or health care facility would screen candidates in two areas: medical credentials and general due diligence background information relating to the position. In addition, contact professional references, verify clinical activity for the previous few months, etc.

The following information outlines the sources of background information, the reason(s) to obtain this information and where it can be found for medical personnel.

- Credentials
 - Used to verify information relating to the candidate's credentials. Look at a physician credential's report including:
 - Candidate's full name
 - Date of birth
 - Gender
 - Current practice location
 - Educational background
 - State in which the physician is licensed
 - Honors and specialty certificates
 - Determine whether sanctions have been imposed on him/her by the DEA, FDA or Department of Health and Human Services
 - Records concerning disciplinary action from the 67 State Medical and Osteopathic Boards (covers every state in the United States.)
- Background screening information and records
 - Used to conduct a due diligence search.
 - Investigate the following information:
 - Criminal check of the state courts for felonies and misdemeanors.
 - Search of government databases for outstanding criminal warrants throughout the U.S.
 - Search of upper level civil courts to reveal any suits or judgments.
 - Search of the federal district court (criminal and civil) where the candidate has lived, worked or studied.
 - Look at a credit report to uncover past addresses, past employment, liens, bankruptcies and judgments.
 - Look at a state driving record to identify any substance abuse violations.
- Additional Information
 - Supplements credential information.
 - Investigate the following information:
 - Educational background
 - Employment background and verification
 - References

For assistance on how to protect your organization when hiring new staff, consult your legal counsel. To learn more about insuring your facility and its staff members, contact us today at 877.226.9357.