

Risk Management and Background Checks — When it comes to your healthcare organization, you can't take chances

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Inadequate due diligence and negligent hiring practices in the healthcare sector harms not only an organization, but its patients, as well. Indeed, poor hiring can be cited as a contributing factor in the rise of lawsuits, medical malpractice claims and resultant multimillion dollar settlements.

Over the last few years, a number of factors have contributed to the quality of medical workforce personnel throughout the healthcare industry — particularly the issue of placing qualified employees into the appropriate positions.

Employers in the healthcare industry need to obtain a thorough understanding of a prospective employee's history, particularly if that person will have access to patients, medications and confidential information. Moreover, liability for negligent hiring and retention can occur if the healthcare organization fails to conduct a comprehensive background check on employees. Simply stated, the potential for lawsuits and corporate liability for negligent acts reinforces the importance of due diligence in hiring practices.

Pre-employment screening is one of the best risk-management defenses against workplace violence, abuse and theft, especially when it comes to hiring reliable and trustworthy workers. Not only is it possible for an employee steal prescription medications or abuse a patient, but a malevolent employee with access to critical system information could potentially inflict serious financial damage to a healthcare organization—putting jobs and even public welfare at risk. Used effectively, a pre-employment screening program can assist healthcare organizations to limit violence, deter abuse, protect company assets and confidential information, reduce liability, and prevent litigation related to hiring practices.

Criminal background checks can reveal whether a prospective employee has engaged in a violent crime or has been convicted of abuse or theft. Healthcare organizations can also use the screening process to determine whether an applicant has been honest through the initial application process. In fact, the Society of Human Resource Management reports that 53 percent of all job applications contain false information. Supplying false information on an employment application may indicate a potential hiring risk, and can be a justifiable cause for termination.

Tips to Lessen Liability Concerns before Hiring

Healthcare employers have a duty not to hire people whose criminal history indicates that they are unsuitable for the job. As such, these organizations must investigate a candidate or employee thoroughly, and carefully evaluate the information received from a background-check provider.

Tips to Reduce Liability

- Develop internal policies and mandate an organization-wide commitment to mitigate risk and promote a safe work environment
- Develop a pre-employment screening policy using background-check products and services to ensure safe hiring practices
- Follow all FCRA rules and regulations
- Perform due diligence in selecting the right screening supplier for your healthcare organization
- Use multiple screening products and develop position-specific standardized searches
- Establish criteria to evaluate information. For example, what will constitute disqualifying information?
- Incorporate applicant background information and release forms in an application or prehire package
- Eliminate subjective opinions to ensure consistency when interpreting results
- Conduct a periodic program review to ensure that all applicable policies are being adhered to
- Conduct periodic screening of employees to maintain a dependable healthcare workforce free of unlawful behavior

Knowing as much as possible about employees before they become intimately familiar with the organization is crucial. New hires must be able to interact successfully with both co-workers and patients. Furthermore, a number of positions may not be directly supervised on a constant basis, leaving the door open for potential liabilities. A thorough background check can identify applicants with high-risk factors, such as a criminal record, and provide valuable information that can help minimize an organization's exposure to such liabilities before an offer of employment has been extended.

Although pre-employment screening and background checks are important, periodic screening is also vital to mitigating unlawful behavior and maintaining a dependable healthcare workforce. For example, an applicant may pass an initial criminal background check but, after being hired, commit a criminal offense justifying termination. Since such actions could be imputed to employers, it is imperative that organizations periodically screen employees to identify those individuals who may have committed crimes. Additionally, to reduce the likelihood of an employment discrimination action, healthcare organizations should create a standard screening policy across the enterprise rather than conduct background checks on a case-by-case basis.

The Checks and Balances of Background Checks

It's important to investigate a candidate or employee thoroughly and evaluate the information received from a background-check provider. Companies should ensure that the information used to select or deny an individual candidate is based on established facts relevant to the position. In addition, a thorough background check should include a combination of national database and single-county searches.

When conducting background checks, companies must adhere to the Fair Credit Reporting Act (FCRA). The employer must obtain written authorization from the applicant that allows the company to perform a background check, obtain past education or employment references, obtain professional license reports, and so on. Additionally, if a background-check report produces negative or adverse information, the applicant, under FCRA guidelines, has a right to dispute the report.

A single negligent-hiring lawsuit can cost millions of dollars and healthcare organizations must be proactive to avoid such litigation. But even if a poor hiring decision doesn't result in a lawsuit, the subsequent negative publicity can cause irreparable damage to a company's reputation among patients, community leaders and other key stakeholders.

An employer's obligation to maintain a safe working environment arises from legal principles. By implementing a consistent screening policy, healthcare organizations will avoid costly hiring and recruiting mistakes, mitigate exposure to risk and litigation, and reassure employees that the individuals working with them have been properly investigated.