

## **Recommended ‘Best Practice’ Guidelines for Background Screening in Health Care Industry**

In the health care industry, where millions of patients – often in vulnerable and compromised positions – put their lives in the hands of trusted caregivers every day, the importance of background screening for current and potential staff members goes beyond cost, compliance, and legal liability issues. It can be a matter of life or death.

Such was the case with Charles Cullen, a former nurse who in 2003 told authorities he had murdered as many as 40 patients through lethal injections during the 16 years he worked at 10 hospitals around the country. While those hospitals that did review Cullen’s work history had charges against them dropped because reference checks of past employers did not reveal any past firings or suspensions, a more thorough and investigative background screening could have uncovered his negative behavior patterns and prevented his access to patients.

To ensure the safety of both patients and health care staff, and to avoid catastrophic hires like Cullen, it is imperative that *all* health care employees – from doctors and nurses to the hospital’s maintenance workers – undergo a criminal background check during the hiring process, and a background screening process should be ongoing for existing staff as well.

The following list outlines three critical reasons hospitals and health care providers are strongly encouraged to screen both prospective hires and their existing employees:

- **Danger to Patients:** A prospective employee who has been convicted of a violent or drug-related crime is unsuitable for a job in close proximity to patients, as this situation could expose both the patients and the hospital to enormous risk.
- **Danger to Staff:** If an employee with a violent criminal past is hired, fellow staff members are extremely vulnerable, as they are often busy caring for patients and not watching their co-workers. Instruments and medications can be used to cause harm.
- **Potential Lawsuits:** If patients or staff members are harmed as a result of insufficient background screening, they can sue the hospital for negligent hiring. These lawsuits can be expensive and – in some cases – the courts may award compensation totaling millions of dollars to victims of workplace violence.

Hospitals are advised to follow the “best practice” procedures presented in this article to achieve the most effective background screenings possible. Best practices are typically defined as the most efficient and effective way of accomplishing a task based on repeatable procedures that have been proven successful in achieving a desired outcome over a long period of time, and for a large amount of people.

If hospitals and health care providers have best practice procedures firmly in place before an applicant applies for a job, they stand a much better chance of avoiding negligent or catastrophic hires that could potentially cost their organizations time, money, and unwanted negative publicity. The following are suggested best practice guidelines for hospitals and health care providers to consider before proceeding with actual background screenings:

- Grading System: Using a Pass/Fail or Green/Yellow/Red grading system, health care employers should decide beforehand how they will proceed if they encounter a “hit” (criminal conviction) during an applicant’s background screening. They also need to decide how to weigh each past crime with the type of job they are applying for, to ensure both the safety of employees and the privacy rights of applicants.
- Background Screening Providers: Health care organizations are encouraged to utilize a licensed and experienced background screening firm. If an organization uses material obtained through a background screening provider, the organization must comply with the federal Fair Credit Reporting Act (FCRA).
- Fair Credit Reporting Act: The Fair Credit Reporting Act (FCRA) requires that health care employers provide the applicant with a clear and conspicuous notice separate from the employment application. They must also tell the applicant that a “consumer report” (background screening report) may be requested for employment purposes, and obtain the applicant’s written consent to search for the information.
- Basic Information: Health care organizations should obtain the applicant’s full name, current address, Social Security number, work history (including names and addresses of former employers), job titles, dates of employment, references, reasons for leaving, and the applicant’s written consent to contact references. However, employers should never ask about the applicant’s protected characteristics (such as race).
- Red Flags: When reviewing job applications and resumes, health care employers should look for: inappropriate, peculiar, or suspicious answers; long and unexplained gaps in employment (which could mean time spent in prison), or; a history of numerous brief jobs in many places (which could signal that the applicant was fired or left before being caught in a misdeed). These “red flags” may be a cause for concern.

Hospitals, nursing homes, clinics and other health care organizations are encouraged to screen all of their applicants and workers following the same stringent requirements used for verifying the competency and backgrounds of doctors – a process known as “credentialing.”

- Doctors/Physicians: Extensive credentialing provides health care employers with information on a candidate’s licensure, performance, working style, clinical knowledge, and professional privileges. Physician profiles give detailed information on a physician’s education, medical residency, work history, licensure, and

disciplinary action. A medical malpractice history determines if the candidate has an undesirable history of involvement in medical malpractice lawsuits.

- Nurses: Screening nurses can prove to be tougher than screening doctors, because nurses are hired more frequently and from all over the world. Checking the background and experience of a nurse may be far more complex than checking a physician's past history, since employers may have to run background checks in other countries. Also, while there are national and state data banks listing physicians, as of yet there are no such databases for nurses, which may complicate matters.

Even after all full-time health care employees have been checked – from anesthesiologists to X-ray technicians – the process is far from over. Other persons who can and do gain access to hospitals and health care facilities must also be screened. These people may include:

- Temporary Workers: If temporary workers are hired by outside staffing firms, best practice procedures demand that these staffing firms conduct the same background check used by the hospital's HR department.
- Vendors and Contractors: Vendors and contractors are usually screened through the hospital's security division, with the same level of screening used for regular employees. This process also verifies the capabilities and integrity of potential and existing vendors, including business entities, key vendor employees, and vendor employees who work with client personnel.
- Volunteers: Professional background screening companies offer volunteer background checks to provide risk management for health care organizations and promote security for communities.
- Clinical Placement Students: Professional background screening companies also provide student background checks for clinical placements, and the credentials needed to enter clinical rotations, which ensure student safety and Joint Commission (formerly JCAHO) compliance.
- Interns: Often brought on board by the credentialing department, interns need to have the same background check as other employees, and hospitals must have proper coordination throughout all departments to ensure that everyone follows best practice guidelines.

Best practice guidelines call for a comprehensive overview of an applicant's background to avoid the pitfalls of inadequate screening, such as inaccuracies and missed information. The ideal background search depends on a number of factors – organizational type, job type, industry, and laws or regulations. However, the most common background checks will have two main categories: criminal background checks and employment/education verifications.

**Criminal Background Checks** can range from quick and simple online checks, to extensive and thorough searches of courthouses and databases by experienced investigators. Best practices demand the latter course of action for effective screening.

- Social Security Number (SSN) Address Locator: This is the first step in background checks and acts as the foundation for a proven screening methodology, because it not only reveals identifying information – such as name and name variations, and date of birth – but also provides an accounting of resident history by uncovering current and former addresses. By cross-referencing addresses uncovered by the SSN trace with addresses provided by the applicant, the background screening firm can order the appropriate criminal searches based on a minimum of the last seven years of address history. This methodology restricts applicants from omitting a place of residence where they may have a pending charge, arrest, or criminal record.
- County Criminal Search: This is an extensive “hands-on” search conducted by researchers at county court houses nationwide to uncover felony and misdemeanor convictions. Employers are encouraged to conduct a criminal search for each county in which applicant has lived. In 12 states – California, Colorado, Kansas, Maryland, Massachusetts, Montana, Nevada, New Hampshire, New Mexico, New York, Texas, and Washington – background screening firms can only report criminal cases that are no older than seven years from date of conviction, release from jail, prison, or parole. However, some of these states will allow background screening to go beyond seven years if the position the applicant has applied for meets certain salary requirements.
- Statewide Criminal Search: Ordering a statewide search is dependent upon whether the state(s) of residence offer record repositories that meet standards for data accuracy. Currently, less than half of all U.S. states offer such repositories. In those states, county searches are performed.
- Nationwide ‘US Crim’ Search: Since crimes are not isolated to where people live and work – individuals can commit offenses in places they visit or pass through – this search provides another layer of security in the screening process with same-day access to the most comprehensive multi-jurisdictional criminal database available, containing millions of offense records. Possible “hits” uncovered by the ‘U.S. Crim’ will automatically be verified by county and/or statewide searches.
- Federal Criminal Search: Since many crimes – like tax evasion, mail fraud, and drug trafficking – may only be reported in federal district courts, this search investigates the federal courts for crime convictions that occurred on federal property and convictions of federal law violations. Again, the address history uncovered by the SSN trace helps determine jurisdictions for federal criminal record searches.

- National Wants and Warrants: This search identifies any current arrest warrants in addition to the criminal history search, as these charges do not appear in court records until a ruling is made.
- Sex Offender Registry Search: This search utilizes the National Sex Offender Registry list and related individual state lists as tools for discovering if an applicant has criminal records in any other jurisdictions that they did not disclose.

**Verifications** can be life-saving in the health care industry. A recent study by the Society of Human Resource Management (SHRM) found that 53 percent of all job applications contained inaccurate information. This figure takes on greater importance in the health care field, where an employee can pose a danger to vulnerable patients and fellow staff members.

- Employment Verification: This process verifies dates of previous employment, position, starting and ending pay rate, performance, and reason for departure. No matter the size of the health care organization, hiring and retaining honest and qualified employees is critical. In the health care industry, it is imperative that employment verifications reveal inconsistencies about what the applicants report.
- Education Verification: Employers should ensure that the people they hire are properly educated to perform the duties their jobs will require. Education verification confirms degrees, diplomas, and certificates from universities, colleges and schools, and uncovers false or inconsistent information about their education. An unqualified or under-educated health care worker can cause harm to patients and fellow staff.
- Professional License Verification: This process – an obvious necessity in the health care industry – ensures full licensure, and verifies license status with the issuing authority, date of issuance, expiration date, and any disciplinary actions on file.
- Personal and Professional Reference Check: The reference check focuses on the “human” side of an applicant’s background by contacting colleagues, co-workers, and other references listed on the resume to assess capabilities, character and work record.

**Other Background Searches** could be very useful to the health care industry by providing in-depth views of applicants with regard to the type of employment they are seeking.

- OIG/GSA Name Search: This search is vital to the health care industry and is conducted through the Department of Health and Human Services (HHS), the Office of Inspector General (OIG), and the General Services Administration (GSA). The OIG/GSA database search locates individuals and entities that are excluded from participating in Medicare, Medicaid, or other federally-funded health care programs, and verifies that no prospective employees are included on these lists.
- Motor Vehicle Records (MVR) Examination: The MVR is important for examining drivers of all types – including commercial and emergency vehicles – and includes

license status, expiration date, and accident and violation history. While some organizations think driving records should be searched only if an applicant will operate a company vehicle, best practice guidelines reveal that MVRs can expose important character issues. An applicant's MVR may reveal a suspended license, arrest warrants, and drug- and alcohol-related driving offenses (such as DUIs), which may indicate a potential substance abuse problem that could affect job performance.

- Drug Test: This test will ensure a drug-free workplace and is a must in any health care-related environment. The potential for drug abuse by health care professionals, and the immense liability on health care organizations, calls for drug testing. Substance abuse testing helps organizations reduce drug and alcohol use and their effects in the workplace, and should be required for health care workers with access to medications in hospitals, nursing homes, pharmacies, medical and dental practices, pharmaceutical manufacturers, or any licensed medical profession.
- International Crime Search and Verification: Today's health care industry is experiencing increasing internationalization of its workforce. Since crime does not end outside the U.S. border, an international crime search and verification should be conducted for those who have lived, worked, and/or studied outside of the U.S.
- Form I-9 and E-Verify: These federal programs enable health care organizations to accurately and quickly perform employment eligibility verification, receive proactive notifications of expiring work authorizations, and help reduce the potential for identity theft.
- Identity Theft and Fraud: Since hospitals and health care providers store medical information concerning staff and patients, these organizations are targets for identity theft and fraud. Effective screening helps organizations avoid losses by uncovering such crimes in an applicant's history.
- Credit Report: The credit report check includes derogatory credit information and public filings such as bankruptcies, liens, and judgments, and is useful if the applicant will have check-writing privileges or access to company funds. Health insurance fraud is a major problem for hospitals, and people with troubled economic pasts may be more prone to commit such crimes.

Due to notification rights, employers must notify an applicant or employee if a criminal "hit" appears during a screening. Because laws differ from state to state, employers are advised to consult a licensed screening company to ensure compliance with both state and federal laws.

- Notification: If a health care employer decides not to hire an applicant based on their background screening report, the employer must inform the applicant of that decision, provide the summary of FCRA rights, and provide a period of a few days to allow applicants to explain themselves. Failure to comply with the FCRA provisions can

subject health care employers to damages and fines. Health care employers must also provide the applicant with a copy of the adverse background screening report, and a copy of the Federal Trade Commission's (FTC) "Summary of Your Rights Under the Fair Credit Reporting Act," which can be found at [www.ftc.gov](http://www.ftc.gov).

- **Re-Screening:** A background check is like a snapshot in time. And while a photograph always stays the same, the person in the photo changes. Hospitals and health care providers following best practices are encouraged to "re-screen" employees – especially during transfers and promotions –to uncover any changes in behavior that have occurred after the original screening. Re-screening helps hospitals and health care organizations manage ongoing compliance by detecting new offenses committed by current employees following their initial pre-employment screening.

Health care organizations should create well-defined best practice procedures to be followed for each new hire. By implementing and utilizing sound and comprehensive best practices, employers can meet compliance requirements, perform proper due diligence in background screening, and protect themselves against liability from negligent hiring litigation.

A successful background screening process helps health care organizations promote workplace safety, increase security for patients, and avoid the consequences of fraud, injuries, judgments, damages, and poor performance. Pre-employ.com, a nationwide leader in background screening services, has partnered with HASC to provide effective background screening solutions and training in best practice guidelines.

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