

Background Checks - You Can't Afford Not to Do Them

Whether you handle your own background checks on new employees or outsource the process, the value outweighs the potential cost of hiring someone who has not been properly vetted. The successful and compliant hiring process should follow specific steps to ensure a good hire. Those steps include application, phone interview, face to face interview, interview evaluation and finally the contingent offer of employment. The chosen applicant should be provided with the written offer contingent on satisfactory completion of reference checks, drug screen and criminal background check.

The level of background check should be related to the position being filled. Typically, the information received in a formal background check include:

- Credit Reports (especially important on employees who will have financial responsibilities)
- Motor Vehicle Record Checks
- Academic Credentials Verification
- Bankruptcy Records
- Criminal Background Records
- Court Records
- Work Reference Checks

If your practice conducts your own background checks, it is important to be familiar with standards under the federal Fair Credit Reporting Act (FCRA). Additionally, some state laws may add additional requirements. Employers should obtain a signed release from the applicant which indicates that they understand that the employer may ask for confidential information from previous employers.

Criminal background checks reduce the incidence of theft and embezzlement, will limit your exposure for negligent hiring and may help reduce concerns related to potential for workplace violence. Reference checks provide proof of dates of employment, duties performed, job titles, skills and abilities, and verification of reference letters.

In 2010, the Tennessee General Assembly passed the Elderly and Disabled Adults Protection Act (T.C.A. § 63-1-149) which requires that employers must perform a background check OR a registry check on any individual that will be providing direct patient care before they are employed or contracted. The practice may perform their own registry check or outsource the process to outside professionals. The registry check must include the following:

1. The registry check provides a state-by-state look in any state which the person being hired has lived in the past seven (7) years of the national sex offender public registry which is coordinated by the United States Department of Justice as well as the sexual offender registry maintained by the Tennessee Bureau of Investigation.
2. Any adult registry maintained for any state that the applicant lived in the seven (7) years prior to application.
3. The Tennessee Department of Health's Elder Abuse Registry.



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Links to the details of this law and other registries and can be accessed at:

<https://www.tn.gov/content/dam/tn/health/documents/pc1084.pdf>

<https://www.tn.gov/tbi/general-information/redirect-tennessee-sex-offender-registry-search/sex-offender-registry-search.html>

<https://www.nsopw.gov/>

<https://www.tn.gov/didd/divisions/protection-from-harm/abuse-registry.html>

If the individual being hired will be providing direct patient care and is listed on one of these registries, the individual may not be employed in Tennessee. In addition, the application of the individual who is not offered the position due to being on one of these registries must be maintained with the results of the background check or registry review done by the practice or outside agency in a secure location for future reference.

CMS Medicare/Medicaid requires all health care providers to check the List of Excluded Individuals/Entities (LEIE) database to ensure the new hire is not listed: https://oig.hhs.gov/exclusions/exclusions_list.asp

Additionally, all practices must review this database monthly to confirm that no employees have been added. In Tennessee, the contract that TennCare Managed Care Contractor(MCC) signs with TennCare and the one that a provider signs with a MCC requires providers to check the LEIE database monthly for compliance. It is therefore recommended that the practice keep records of these reviews.

For a minimal fee the employer can outsource all of these pre-hire investigation processes. There are several excellent regional agencies in the states covered by SVMIC and you can check with the local medical society or MGMA Chapter for their recommendations on vendors. Additionally, most states have a state website available:

<https://www.alea.gov/sbi/criminal-justice-services/criminal-records/alabama-background-check>

<https://www.ark.org/criminal>

https://gta.georgia.gov/gta-services/data-sales/georgia-felon-search?utm_source=felonsearch.georgia.gov&utm_medium=redirect&utm_campaign=tld

http://mississippi.freebackgroundcheck.org/free_public_records_by_state.html

<https://www.tn.gov/tbi/article/background-checks>

<https://www.kroll.com/en/services/compliance-risk-and-diligence/screening-and-due-diligence>

Documentation must be maintained in the employee's file that a background or registry check was performed with a copy of the results attached to the individual's application. If the individual is found to be ineligible based on the registry or background check, the practice should maintain the application with the results of inquiry/background check for a year from the date of the rejection letter.