



# Don't Skimp On Screening

*In addition to criminal background checks, there are other precautions providers can take to ensure the quality of the caregivers they hire.*

**T**HE REVOLVING DOOR OF LONG term care employment—especially among frontline caregivers—makes recruiting and retaining qualified employees a constant struggle for today's providers. It also creates a situation in which some facilities may find themselves desperate to fill key staff positions in order to meet or maintain minimum staffing requirements.

But even under the most dire circumstances, providers should perform maximum due diligence in the form of employee screening before hiring anyone who could potentially harm the facility or its patients. This means, in addition to any state-required background checks, being alert to suspicious patterns in employment, education, and license renewal and perhaps expanding background checks to include employment verification, education verification, and checks of health-care-related databases.

Effective employee screening accomplishes more than simply protecting patients: It can help facilities hire individuals who are more likely to perform well, meet the objectives of their positions, and contribute to the long-term profitability of the organization.

## Regulatory Landscape

Support for stronger background-check policies and practices for the long term care profession is gathering steam at the federal level. In December 2003, Congress passed the Medicare Prescription Drug Improvement and Modernization Act of 2003, which, among numerous other provisions,

creates a 10-state pilot program for national and state background checks on candidates for direct patient-access jobs in long term care. The pilot program is currently targeted to extend through 2007, pushing any passage of a final rule on this issue well into the future.

Many states already require varying levels of background checks, such as abuse-registry checks and statewide criminal record searches, for long term care employees. Some states have made it a crime to misrepresent a criminal background on a job application, while others have identified a set of disqualifying convictions for certain positions within long term care.

## Weeding Out Fraudulent Applicants

The vital need for thorough criminal background checks has been played out time and again in long term care. In March 2003, for example, an investigation by the New York Medicaid Fraud Control unit revealed three certified nurse assistants (CNAs) were among several employees at county-run nursing facilities who lied about their criminal backgrounds on job applications. Two CNAs had failed to note that they had previously been convicted of crimes—one of reckless endangerment and the other of forgery. These two CNAs were later charged with neglecting an elderly female patient at the nursing facility where they had been employed.

According to the investigation, another CNA indicated on the job application that he had not been convicted of a crime, when he had actually

been convicted twice of robbery and once of criminal use of a firearm. This individual was later charged with stealing personal property from staff and patients while on the job.

In May 2004, multiple investigations by the Louisiana attorney general's office led to the arrest of five individuals working in the elder-care profession, two of whom lied on their employment applications. A criminal background check revealed one of the individuals had been arrested 13 times with three convictions, including one for simple burglary. Unfortunately, despite recurring instances of fraudulent conduct by poorly screened employees, many health care sectors—long term care included—continue to limit background checks to state-required searches of registries or statewide criminal-record repositories.

But limiting background checks to state-required areas only may well be leaving facilities vulnerable to liabilities that could, in a worst-case scenario, critically threaten their operations.

In West Virginia, for example, long term care facilities receiving Medicare or Medicaid are required to check the state's Nurse Aide Abuse Registry before hiring a CNA. However, an audit conducted in early 2002 revealed that five CNAs listed on the registry for violations were working in nursing facilities when they shouldn't have been. In three of the five cases, the individuals were found working in the dietary or housekeeping departments—

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not as CNAs. They weren't checked against the abuse registry because the state only requires checks for CNA candidates, and the facilities limited their checks to what was required.

### **Beware Of Diploma Mills**

When verifying education, providers should be mindful of the growing epidemic of diploma mills—organizations of dubious accreditation that sell bogus educational degrees to individuals in return for little or no coursework. A number of top-level federal government agency employees, including medical administration personnel, were recently found to hold degrees from these fraudulent organizations. Many diploma mills attempt to “stay under the radar” by operating under names intentionally similar to well-known, reputable institutions.

Providers should be aware that there

are several additional search options to supplement the standard state-required checks through record repositories like state police departments. Some statewide searches take excessive amounts of time and may not provide access to a job candidate's most current or complete records. These searches can be supplemented with county criminal searches in counties where an applicant has resided.

Providers should never gloss over valuable health care databases that can reveal otherwise hidden aspects of an applicant's background. One database that is billed as a “voluntary” source of information, but actually carries significant implications if it is not searched, is the Office of Inspector General List of Excluded Individuals and Entities (LEIE). The LEIE database provides information to the health care profession, patients, and the public regarding

individuals and entities currently excluded from participation in Medicare, Medicaid, and other federal health care programs. One of the effects of exclusion is that no program payment will be made to any entity in which an excluded individual is serving as an employee, administrator, operator, or in any other capacity.

### **Drug Testing, DOT Compliance**

Additional cases of long term care employee misconduct suggest a growing need for drug testing in the employee screening process.

For one nursing facility chain in North Carolina, drug testing reportedly became standard practice after it came under fire in 2004 for alleged employee drug use. In 2003, a Montana nursing facility reached a settlement with the family of a patient after a drug-addicted nursing facility administrator repeatedly stole the patient's pain medication. To maximize effectiveness, drug-testing programs can be designed to screen for a customized panel of drugs, including key substances employees may be in contact with as part of their job duties.

If a facility employs drivers who provide transportation for patients in vehicles designed to carry more than 16 passengers (including the driver), providers may also be subject to Department of Transportation (DOT) regulations for driver drug and alcohol testing. These regulations include random testing in accordance with mandated test percentages and post-accident testing. A facility may also need to maintain driver documentation in keeping with DOT driver qualification file requirements, including a road test certification, medical examiner's certificate, motor vehicle record history, employment history, and more. ■

### **For More Information**

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