

Request for Criminal Background Check

By signing and submitting Criminal Background Check, I certify that this application is complete and all information provided is true and accurate and contains no willful falsifications or misrepresentation. I understand that falsifications, representations, or omissions may disqualify me from consideration to this position. I hereby authorize responsible person to contact current and previous employers for verification, conduct a background investigation, and check my driving

Background Checks: How to Mitigate Risk of Employees (Without Creating New Risks!)

Article by Andrew Gwynn, Driven Hire

You must conduct background checks in a veterinary practice

According to a recent Society of Human Resources Management study, 80 percent of all employers conduct criminal background checks as part of their hiring process. That means 100 percent of convicted people end up working at 20 percent of companies. Don't let this be your practice!

The safety of your employees, customers and the general public is the most compelling reason to run background checks. The OSHA act of 1970 states that employers must provide a workplace that is 'free from known and recognizable hazards.' This includes people. If one of the estimated 2 million workplace violence incidents happens at your practice, the first question asked by the victim's attorney is whether the company knew or could have known that this person was capable of violence. The presence of controlled drugs, sensitive customer and employee information, and many other factors compel the responsible practice owner to screen their applicants for criminal history.

Background check laws complicate the process

The fastest growing employment class action lawsuit in the United States is the background check (Fair Credit Reporting Act or FCRA) lawsuit. Plaintiff's attorneys have figured out that it's easy to sue a company for background check policies, practices or paperwork. The EEOC is highly involved to ensure that your hiring practices aren't intentionally or unintentionally discriminatory. States and cities are passing laws that affect the paperwork, the hiring decision, and the timing of the background check. Not doing it right is risky, but not as risky as hiring the wrong person.

What are the biggest compliance risks?

Paperwork. Check your Disclosure and Authorization Form. According to the FCRA, you must obtain an individual's written consent to conduct a background check for employment purposes. This disclosure and authorization must be a stand-alone and separate document. Stand-alone means not part of any other agreement, like your

"The presence of controlled drugs, sensitive customer and employee information, and many other factors compel the responsible practice owner to screen their applicants for criminal history."

employment application. Separate means no other agreements included. We still frequently see forms that include a liability release or waiver. The courts have repeatedly ruled that asking someone to consent to their background check and anything else on one document invalidates the document. Check your forms!

Other things that affect your background check forms are whether you check credit, whether you are having a third party contact references, and the state/city that the business is located in and the state/city the applicant lives in. It's hard to keep all that straight. You can either use a background check company that keeps your forms up to date for you, or contact an employment attorney.

Adverse Action. If you screen someone out, fire someone, deny someone a promotion, etc. based all or in part on the information found on a background check, you have taken an adverse action against them. There is a specific, two-step process that the FCRA requires if you take an adverse action against an employee or applicant. You send a pre-adverse action letter, along with a copy of the report, and a copy of the FCRA rights summary, to the applicant. Then you allow the person a reasonable period of time to respond (identity theft and human error can cause background checks to be wrong). After the waiting period, you send a final adverse action letter. Your hiring decision isn't final until the process is complete. Make sure your letters are up to date for the state you are operating in.

Policies. We all want simple, checklist-style hiring criteria. We want to draft policies that say things like 'we don't hire felons' or 'we don't hire anyone with a drug conviction.' According to the EEOC, that's a no-no. Many big companies have been sued by the EEOC and private attorneys because their 'neutral' background check policy unintentionally

affected a certain protected class. Your policy should say that you consider each applicant's criminal history and the position they are applying for, and that you will conduct an individualized assessment to determine if the individual's criminal history is substantially related to their ability to do the job. You read that right. Hiring is a subjective decision and no two cases are the same. The background screening process must include a case by case assessment, and your policy should say that to comply.

Finding great employees is difficult. Getting background checks is cheap and easy when compared to the cost of a bad hire. Compliance with background check laws is getting more complicated. You need a great background check company that will help you with policies, paperwork, and best practices, or you need a good attorney who will keep these up to date for you. You have to do background checks, so make sure you're doing them correctly.

For more information, contact Andrew Gwynn at Driven Hire, www.drivenhire.com, 214.733.8555.

Driven Hire is an MWI Animal Health Distinct Advantage™ program partner. To discuss how your practice can qualify for a free Distinct Advantage program membership, contact your MWI Territory Manager.

Distinct Advantage™
AmerisourceBergen