

## **Background Checks: Now More Than Ever!**

By Rebecca Boartfield and Tim Twigg

Imagine hiring an employee who appears to be the perfect candidate only to be embezzled to the tune of thousands of dollars six months later. Imagine having one of your employees physically assaulted by a new hire who has “gone postal,” or more commonly finding out, after the fact, that the new hygienist does not have a valid license and did not work for the employer(s) listed on the résumé or application.

These are the types of scenarios that employers face when they fail to conduct a background check on all potential new hires. These examples, coupled with recent statistics, indicate that employers should no longer neglect conducting background checks during the recruiting process—the risks are too great.

According to the National Association of Professional Background Screeners, 56% of applicant-supplied information contains one or more significant discrepancies. In another study, it was found that over 36% of employment verifications uncovered inconsistencies from what had been stated on the application and 14% listed false or inconsistent information regarding education.

The risk and rise of violence in the workplace today also carries significant liability for employers. The National Institute for Occupational Safety and Health reports that 10-15 homicides occur in the workplace each week and an additional one million people are attacked.

Even if a bad hiring decision does not lead to serious harm to the practice and the employees, it contributes to higher turnover. The financial impact of turnover is conservatively estimated between \$10,000 and \$20,000, and depending upon the position, can be as much as two to three times the annual salary of the departing employee.

***Given the statistics and trends, employers should now be incorporating reference, education, licensure, and/or background checks as a standard part of the hiring process.***

These checks help decrease the risks by increasing hiring success and reducing potential problems associated with embezzlement, workers’ compensation, occupational licensing, and negligent hiring.

***Often, just the knowledge that a background check may be performed discourages applicants with a questionable background from applying.***

Today, failure to conduct a thorough background check can lead to charges of “negligent hiring.” Negligent hiring can occur when an applicant is hired and later commits a criminal or violent act in the workplace that results in personal injury to another individual. If it is shown that the employer did not exercise care or diligence to learn of the worker’s dangerous tendencies prior to hiring, then the liability may fall to the employer.

Courts have ruled against employers/companies that did not conduct proper pre-hire investigations that might have revealed an applicant’s propensity for serious misconduct. Employers have had to pay expenses

related to injuries sustained, as well as punitive damages, which have been awarded for gross negligence or recklessness in hiring a worker.

Often employers believe that background checks are limited to criminal reports, but in fact conducting a background check can consist of many different aspects. The comprehensiveness of the check will depend on the specific position needing to be filled.

**The employer can incorporate any or all of the following items:**

- Reference check
- Previous/current employment verification
- Identity verification/social security trace
- Criminal report
- Driving record search
- Bankruptcies, liens, judgments search
- Education verification
- Professional license verification
- Civil court search
- Workers' compensation report

While reference checking may be handled by the employer, background checks are typically performed by a third party. The results, i.e. criminal records, credit reports, and driving records, are considered "consumer reports" and are governed by The Fair Credit Reporting Act (FCRA) and occasionally state specific laws. Investigative consumer reports such as personal interviews with friends, neighbors, or associates of the applicant obtained directly by the employer or third-party agency may also be governed by the FCRA. Both the FCRA and state specific laws impose certain requirements when conducting a background check.

**Common procedural components include:**

1. Obtaining applicant's authorization for a background check, including a description of the nature and scope of the investigation, and provide information about the applicant's rights. (The applicant's authorization obtained and the above information should be provided on a document separate from the application.)
2. Requesting a background check from Bent Ericksen & Associates or other credible background checking agency.
3. Providing the necessary information (contact information, previous addresses, previous employer's, social security number, driver's license number, etc.) to the checking agency.
4. Receiving a background check report on the prospective employee.
5. Reviewing the results to help finalize the hiring decision.
6. If adverse action will be taken against the applicant based in any way upon the information in the report(s), the employer should:
  - Give the applicant notice of the adverse action,
  - Provide the applicant with the name and contact information of the reporting agency used,
  - Inform the applicant that the reporting agency didn't take the adverse action against the applicant,

- Notify the applicant that he/she can dispute the findings of the agency by taking up the matter with the reporting agency, and
- Inform the applicant that he/she is entitled to a free report from the reporting agency, if he/she makes the request within 60 days.

Prior to eliminating an applicant based on a background check, consider the relevancy of the information. For example, an applicant may be a great receptionist at the practice even though a DUI is on his/her record from five years ago. But, an applicant who has an embezzlement conviction would likely be eliminated for a financial coordinator position. Many employers are basing hiring decisions on highly prejudicial information which may have little to do with the true abilities of an applicant.

In addition, when receiving and using criminal reports, consider the amount of time that has passed since the conviction. Also, carefully consider arrests. An arrest does not correlate to a conviction as the person may have later been found innocent of all charges.

<b>Pre-Employment Reference and Background Checking Services from Bent Ericksen &amp; Associates</b>		
A variety of background and reference checking services from Bent Ericksen & Associates are available for employers who desire to improve their recruiting methods, increase their odds of hiring the right person the first time, and minimize liability involved with negligent hiring claims. An overview:		
✓	<b>Accurate</b>	We work in conjunction with a private investigation firm that investigates each applicant and provides the most accurate and reliable information.
✓	<b>Convenient</b>	The employer need only provide us with basic information, the Application and Authorization to Check References (Form #105), and we can perform any background check the employer chooses.
✓	<b>Personalized Service</b>	The employer has a “menu” of services available to access. Our service ranges from basic to comprehensive searches that will enable our customers to customize their needs to meet the individual positions for which they are recruiting for. In addition, our experienced staff is available anytime for consultation and personal assistance. Since the items included in a given background check will vary based on the position being filled, the following guide will help in determining what is most appropriate for differing scenarios.

<b>Basic Background Check</b>	Recommended before hiring any employee, regardless of position and would typically include: Reference checking, previous/current employment verification, identity verification/social security trace, criminal report, driving record search
<b>Extended Background Check-A</b>	When hiring an employee whose responsibility includes accounting or finances, it is recommended that you perform <b>bankruptcies, liens and judgments search in addition to the basic background check.</b>
<b>Extended Background Check-B</b>	When hiring an employee whose position requires license(s), certification(s) and/or specific educational background, it is recommended that you perform <b>an education verification and professional license verification in addition to the basic background check.</b>
<b>Comprehensive Background Check</b>	When hiring an associate or when considering a potential partner or buyer, it is recommended that you perform a <b>“Comprehensive Background Check”</b> which typically includes all of the above listed items plus <b>a civil court search.</b>
<p><b>Workers’ Compensation Report*</b></p> <p>*Some states do not allow release of workers’ compensation related information. For those states that allow release of workers’ compensation related information the amount, type and detail of information will vary and is not standardized.</p>	<p>One additional item that can be included with any of the above is a <b>Workers’ Compensation Report.</b> This report is recommended for any employee if workers’ compensation claims might be a concern or are common for the type of position. It is important to note that workers’ compensation inquiries can only be performed after a “conditional offer of employment” has been extended. The conditional offer essentially means that you have committed to hiring the person pending satisfactory completion of the workers’ compensation inquiry. Some states do not allow release of workers’ compensation related information. For those states that allow the release of workers’ compensation information, the amount, type, and detail of the information will vary and is not standardized.</p>

In summary, bad hiring decisions can and should be minimized. Employers, now more than ever, need to redirect their hiring techniques and incorporate all of the recruiting methods available to them. The emotional stress and cost associated with turnover and liability claims can no longer be left unchecked and unchanged. The tools are available, and the background checking services provided by Bent Ericksen & Associates make the process easier than ever.