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EMPLOYEE BACKGROUND SCREENING NOTES

Abstract: The Employee Background Screening helps prevent negligent hiring. These notes explain the legal obligations the employer has to their applicants/employees, the benefits of a background check and drug testing, and what a background check can tell.

Negligent Hiring

In today's litigious society the risks of hiring are significant. Several recent lawsuits have set legal precedents in the scope of negligent hiring.

Recent Case Law

- *The burden of performing background checks does not outweigh the necessity.*
- *Even if similar businesses in a specific industry are not currently performing background checks, the need to protect clients, employees, and assets creates the need for extensive screening.*
- *Outsourcing hires from agencies does not absolve the employer of responsibility for background checks.*
- *A company can be held liable for inadequate screening conducted by a contractor.*

(Employers who know or should have known that an employee posed a threat to the public may be liable for damages, even if the employee's transgressions were outside the scope of employment. A taxicab passenger injured in an accident may sue the cab company – but know if a convicted rapist follows a passenger home and assaults her the cab company could be liable.)

(If potential employers are going to contract this work out to an agency that performs background-screening services or begin to perform their own background checks certain legal obligations must be met.)

Legal Obligation

- The applicant must be notified in writing that a background check will be conducted.
- The applicant must provide written authorization to conduct the inquires.
(This can consist of a signature on a form provided by the potential employer.)

- The applicant must provide the following information for a search to be conducted:
 - Full name, including middle initial and former names*
 - Social security number*
 - Current and former addresses*
 - Date of birth*

- In the case that a credit check will be performed it must be done in accordance with the Fair Credit Reporting Act. (This means the information must be obtained from a licensed authorized credit-reporting agency. These agencies are Equifax, Experian, and TransUnion.)

- Background searches may be conducted for the past seven years.
 - (Ironically it is annual salary that determines how far back a background check can be conducted; under \$75,000 per year can search seven years back – over \$75,000 can search back 10 years.)*

Benefits of Performing Background Checks

- Prevent workplace violence.
 - (Not hiring those with a violent history or actual criminal convictions for violent crimes.)*

- Discover relevant background details and the potential impact upon your business.
 - (Specifics discussed in breakdown of screening services)*

- Reduce turnover
 - (Determine suitability before you commit to employment)*

- Timesaving
 - (Employing an agency will take the work out of potential employer's hands.)*

What Will A Background Check Tell You?

It is estimated that 35% to 40% of all applications and resumes contain misleading, inflated, or false information

- Social security number verification is the first step in a successful background search.
 - Courts, employers, and schools will often use this number to identify applicants.

- Criminal Conviction Searches
 - Dates
 - Charges
 - Dispositions
 - Sentences
 - (This information could be the most vital for a nursing home. Violent convictions could indicate potential for abusing residents. Convictions for theft could put your property and resident's in jeopardy.)*

- Employment Verification
 - Employment dates
 - Position
 - Salary
 - Reason for leaving
 - Full or part-time status
 - Supervisor
 - Eligibility for rehire

(This basic information will provide details that confirm information provided on an application. If an applicant lied that is a clear reflection of character. But a background check can provide greater insight into a candidate. Will they mesh with your corporate philosophy? Do they have undesirable characteristics? Are they willing to work hard? These questions designed for an applicant's supervisor will reveal organizational compatibility and desirability. Also, if you are considering an agency to perform these tasks for you whether they delve into this type of detail is an indication of their proficiency.)

1. How would you rate the applicant's work compared to others with the same responsibility?
2. Did the applicant require close supervision?
3. Where the applicant's assignments completed accurately and on-time?
4. What were the applicant's strong and weak points?
5. Was the applicant professional in manner and appearance?
6. How would you rate the applicant's communication skills?
7. How does the applicant work under pressure and stress?
8. What was the applicant's reason for leaving?
9. Do you recommend the applicant for this position?

- Driver's License Search
 - Current license information
 - Accidents
 - Suspensions and violations

(If employs are going to be engaged in the transport of residents it is essential you know if they have a current license and if they are not in fact a maniac behind the wheel. No need for speed.)

- Education – high school and beyond
 - Attendance
 - Major course of study
 - Degree obtained

- Professional License Verification
 - Type of license or certification
 - Date and place obtained

- Credit Reports
(Not necessarily for financial information, but will provide name, social security number, former addresses and prior employers. This verifies information provided by applicant.)

Drug Testing

Substance abuse testing has become commonplace in the employment screening process. For the long-term care industry this topic is of particular concern. Preventing violence in the workplace and patient abuse, theft of narcotics maintained in a nursing home, and theft to support a habit.

(If your going to contract for drug testing services, it should be comprehensive and include)

- An approved substance abuse and mental health service administration laboratory to do the actual analysis.
- Staffed by certified medical review officers available 24 hours a day, 7 days a week.
- Able to provide their clients with a written policy and perform on-site training.
- Availability of their employee training guidelines.
- 18-24 hour turnaround on negative results.
- Ability to test with either hair or urine