

Guidance Paper on Student and Faculty Criminal Background Checks

Georgia Hospital Association

2005

## **Student and Faculty Criminal Background Checks**

### **An Overview:**

Hospitals are increasingly requiring completion of a criminal background check (CBC) for students and faculty who come to their facilities for clinical instruction. This practice evolved for two reasons. First, especially in light of recent criminal activities against patients by professionals, hospitals based on ethical and liability grounds want protection in knowing anyone who provides patient care does not have a record that may place their patients at risk. Second, a JCAHO revised standard (Standard HR.1.20) addressed criminal background checks for students and volunteers. Although the standard does not mandate them, many have erroneously interpreted the standard to mean that checks must be completed on students and they must be at the same level as employees. Confounding this issue also is the fact that currently, the Georgia Board of Nursing does not require criminal background checks for nurses for licensure. Requiring criminal checks on students has led to several issues for hospitals and schools.

### **Mandates and Standards:**

In Georgia, there is no statutory requirement for criminal background checks for health care workers except for Certified Nursing Assistants working in nursing homes and some staff working with children. Student background checks are not addressed. In addition, currently, the Georgia Board of Nursing and other professional licensing agencies such as Pharmacy and Physical Therapy do not require checks for licensure or for students.

JCAHO standards do not require CB checks of students or faculty. HR standard 1.20 does state that the checks must be completed on students if it is required by law or regulation, or if the hospital has a policy specifically requiring them of students and faculty. If it is a requirement before placement, it does not have to be at the same level as employees (Appendix A).

### **The Hospital Perspective**

Although not a regulatory or accreditation mandate, criminal background check requirements for students and faculty who use the hospital as a clinical instruction site are quickly becoming a standard for many communities in the United States and Georgia. This comes from a concern regarding the safety of our patients and the liability risk if a student or faculty harms a patient. Without mandates, hospitals are frequently applying employee requirements to students and faculty. This becomes an issue because hospitals have various levels of checks and time frames for completion. One key is the question of when a hospital considers the time of student "employment". Some want a CBC completed within 30 days of beginning the clinical rotation on site, similar to a new employee, while others will accept a check that has been completed at the beginning of the student's clinical rotation. Similar conflicts arise with faculty. This leads to repeat CB checks being required of a student throughout their education. This is in contrast to only requiring an initial check for a new employee. Repeated checks are a financial and time burden on the student and educational institution.

Tracking and evaluating student and faculty CB checks can be time consuming for hospitals. Confirming and reviewing results must be designated to a specific person. In addition, any negative finding must be evaluated and discussed with the appropriate individuals in order to make a determination of allowing placement of the individual. Hospitals vary on documentation requirements. Some prefer to keep a certificate on file for each student and faculty person, while others are comfortable with an electronic file or web access to the file.

### **School Perspective:**

Nursing and allied health schools support hospitals who require student and faculty CBC. However, due to legal constraints, University System of Georgia schools are limited in their level of involvement with obtaining and evaluating student CBC. On the advice of the Board of Regents attorney, USG schools can not require a CBC for admission, base admission or student placement on CBC results, include the cost of a CBC in tuition or fees, or make a determination for a hospital on accepting a student for clinical placement. Faculty can not view student criminal background check information, except to be informed of the completion of the check. They may counsel a student regarding his/her CBC, if the student initiates the discussion. Faculty may also have to assist students in finding an alternate site. If a student can not complete their clinical education requirements due to issues in their CBC, students will receive a failing grade for failure to complete the requirements of the course.

Schools may inform students that clinical sites may require criminal background checks during the application process. They may also provide information on the procedures for obtaining a CBC and providing hospitals with reports, including designating a CBC preferred vendor. Students are responsible for ordering and payment of the CBC to the designated copy via the company web site.

At present hospitals have various requirements and time frames for CBC completion. This causes a time burden on the school staff to adhere to varying requirements at multiple clinical sites and to assist students to meet the requirements.

Faculty checks should include the necessary reviews; however, should not include personal checks that are irrelevant to clinical supervision. For example, faculty express dissatisfaction with credit report information being required. The school will have the responsibility to review CBC for clinical faculty and confer with facilities with any issue found on a report.

### **Student Perspective:**

The requirement for completion of a criminal background check for students has increased over the last two years. Students may not be aware and not prepared for examination of their criminal history in association with the clinical components of their degrees. Students need to be informed of these requirements for some clinical facilities during the admission process in order to make decisions about application. It is also suggested that students review their CBC, much like reviewing credit reports, so mistakes or other issues can be addressed before hospitals make a determination of student acceptance. The financial cost of the CBC can also be a burden for students already struggling to meet educational and living costs.

## **Conclusions and Recommendations:**

Due to patient and staff safety and liability concerns, criminal background checks for students and faculty are becoming a standard requirement for hospitals before clinical placement. Schools of nursing and allied health programs support this requirement but are under legal constraints regarding faculty involvement in the payment and evaluation of the checks. Students who are applying to these programs must be informed of this requirement and the financial and career implications of the CBC. In order to expedite the completion and evaluation of CB checks for students and faculty, schools and hospitals need to agree on a standard process that will minimize cost and time burdens for all involved. This should be done on a regional basis (such as Metro Atlanta) in order to meet the needs of multiple hospitals and schools who send students to many sites during their education. Other regions may decide on an alternative process when there are limited clinical sites and schools. Adherence to corporate CBC mandates must be taken into consideration.

## **Recommendations:**

- Develop a standard level of check for students and faculty, including time requirements, that all hospitals will agree to accept
  - Level 1 for students (Appendix B)
  - Level 2 for faculty (Appendix B)
- Develop an agreed upon process for students to order and pay for checks online
  - Student checks should be completed once at the beginning of their first clinical rotation. Should a student drop out of school, a new check must be completed upon return.
  - Faculty CBC will be completed upon employment at the education institution.
- Schools will inform students during the application process that a CBC may be required by facilities for clinical education and the financial responsibility for the student.
- Schools will give each student information regarding how to obtain a CBC and the process of evaluation and implications for negative checks.
- Students will be responsible for ordering and payment of the CBC
- Clear report certificates will be kept by students who will present to the hospital or be available online for access by facilities.
- Questionable results be viewed online by the hospital staff who will make the determination of acceptance. Hospitals will communicate acceptance issues with the appropriate faculty.
- Schools will develop a plan to counsel and assist students to find alternative to clinical rotations, if possible.
- Deans will work with clinical facilities and faculty regarding CBC issues related to faculty.

## Appendix A

### **Requirements for Criminal Background Checks from the Joint Commission Frequently Asked Questions (April, 2005).**

Q: What is the JCAHO requirement for criminal background checks and for which type of individual must it be performed?

A: Standard HR.1.20 for staff, students and volunteers who work in the same capacity as staff who provide care, treatment, and services, at EP 5 states criminal background checks are verified when required by law and regulation and organization policy.

This means that if state law, regulation or organization policy requires background checks on all employees, volunteers and students, JCAHO expects them to be done on all three categories.

If state law requires background checks on only specified types of health care providers (e.g. nursing assistants/child care workers), then JCAHO would require background checks on only those specified in state law (unless organization policy goes beyond state law).

If state law requires background checks on all "employees", the organization should seek an opinion from the state on what categories of health care workers are considered "employees". If the state clearly does not consider volunteers or students to be employees, then JCAHO would not require background checks on them (unless organization policy goes beyond state law and requires it).

If state law is ambiguous as to the definition of employee, the organization can define the scope of background checks to fit its own definition. As such, they may include or exclude students and volunteers, and JCAHO would survey to hospital policy.

In the absence of a state law on criminal background checks, each organization can develop its own expectations, e.g., and organization elects to screen employees and not students/volunteers. JCAHO would evaluate compliance with the organization's internal policy only. There would be no JCAHO expectation that an organization check categories of providers beyond what is required in their own policy, which must comply with law and regulation.

Accessed at [www.jcaho.org/standards](http://www.jcaho.org/standards)

## Appendix B

### Screening Requirements

#### **LEVEL 1 Screen**

*Recommended for students*

- Social Security Number Verification
- Criminal Search (7 years or up to 5 criminal searches)
- Violent Sexual Offender and Predator Registry search
- OIG List of Excluded Individuals/Entities
- GSA List of Parties Excluded from Federal Programs
- U.S. Treasury, Office of Foreign Assets Control (OFAC), List of Specially Designated Nationals (SDN)
- Government Suspect List
- Applicable State Exclusion List

#### **LEVEL 2 Screen**

*Recommended for faculty*

- Social Security Number Verification
- Criminal Search (7 years or up to 5 criminal searches)
- Employment Verification to include reason for separation and eligibility for re-employment for each employer (last 7 years)
- Violent Sexual Offender and Predator Registry search
- OIG List of Excluded Individuals/Entities
- GSA List of Parties Excluded from Federal Programs
- U.S. Treasury, Office of Foreign Assets Control (OFAC), List of Specially Designated Nationals (SDN)
- Government Suspect List
- Applicable State Exclusion List
- US Govt terrorist list search
- Education verification
- Professional license verification
- Certification & designations check
- Professional disciplinary action search
- Fraud and abuse control system search