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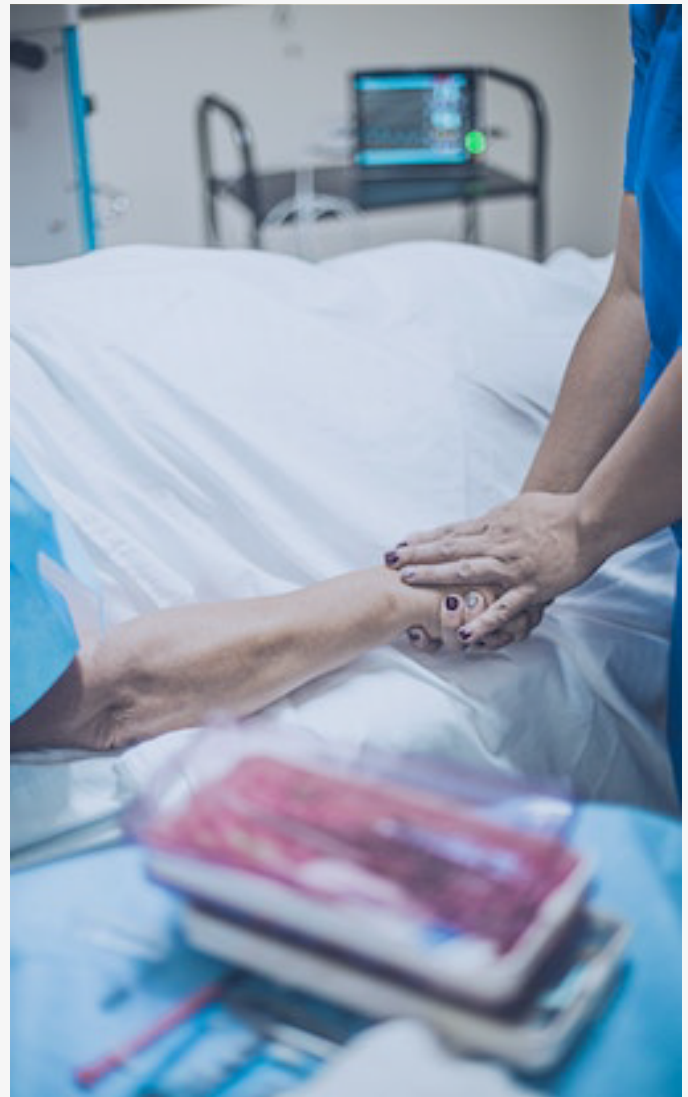
SHIFT CHANGE



Traditional & Emerging Home Healthcare Models and the Importance of Screening/Credentialing of Staff

INTRODUCTION

Assisting with daily living activities, treating an illness or injury, providing clinical excellence, and serving with compassion are all commonly part of the mission statements of home healthcare agencies (HHA). Delivering quality patient care and positive patient outcomes is the purpose of an HHA. HHAs must hire and retain competent, qualified care providers to achieve this purpose and deliver on their core values. Hiring decisions impact many facets of the organization – from the quality of patient care to financial aspects, including procurement of insurance and costs related to staff training and attrition.



The demand for in-home services continues to rise due to an aging population, societal preferences for increased convenience, and technological innovations that have allowed services to be available in private homes previously only provided in hospitals or other healthcare facilities. This demand has sparked additional home healthcare models, including technology-based platforms and self-directed care models, that present new challenges related to staff screening. We look at the different types of home healthcare business models, best practices for screening staff, and related organizational benefits and examine hypothetical claim situations related to staff screening.

HOME HEALTHCARE MODELS

Traditional home healthcare agencies hire staff to provide care in a patient's home. A nurse supervisor typically meets with the patient and family to evaluate the patient's needs and determine if the HHA can provide the care requested. Once approved, the HHA determines the days and services to offer. Depending upon the need, multiple staff members may provide care to the patient. A field supervisor checks in with the patient and staff to ensure appropriate care is given.



Newer models of home healthcare include self-directed care and technology-based platforms. In self-directed care models, patients choose whom they want to provide their care, often a family member or a close friend, and the state pays the selected caregiver. The states in which these programs often operate ask existing, traditional HHAs to take on self-directed care patients and manage the payroll and administration of patient care.

Many patients prefer to know their caregivers, and self-directed care models allow reimbursement to those already providing services. However, this model does not negate the importance of appropriate staff screening.

Due to the increased desire for convenience and flexibility, like scheduling and managing care from mobile devices, technology-based platforms emerged for HHAs to integrate these tasks into their processes. Technology platforms often offer the ability to schedule services anytime and from various providers, including caregivers, CNAs, LPNs, and RNs.

These models provide convenience but can be problematic as some platforms focus more on the platform's use and accessibility than on the patient's safety and the needed level of care. The criteria required for providers to use platforms for referrals or patient matches also vary significantly by the technology platform. It is becoming more common to see hybrid HHAs combining traditional and technology-enabled platforms.



BEST PRACTICES FOR SCREENING/ CREDENTIALING OF STAFF

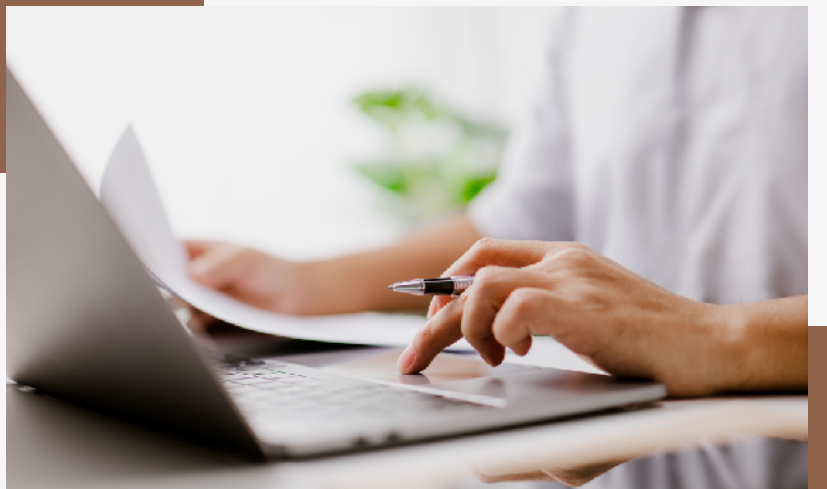
Finding and attracting qualified providers has become more challenging. Like many industries, the healthcare industry faces an unprecedented talent shortage. The United States Bureau of Labor Statistics anticipates that between 2020 and 2030, the need for additional nurses to reach more than 275,000. In addition, it's projected that the demand for new nurses will grow 9% faster "than all other occupations from 2016 through 2026."¹

The talent challenge for the home healthcare sector further increases as it competes with other healthcare facilities for qualified staff while at the same time facing an unprecedented demand for in-home services. In addition, the COVID-19 pandemic exacerbated the demand for healthcare staff and spurred record-high burnout, retirement, and resignation of employees.

Despite these challenges, applicant screenings are critical to making informed hiring decisions and ensuring quality patient care and overall business management. Home healthcare agencies have mandatory requirements based on their state and, if applicable, federal program participation. It may also vary based on the staff member's position, licensure, and qualification needs.

The following are the most common background checks performed:

- ⊙ National Criminal Records Check
- ⊙ State Criminal Record Check
- ⊙ County Criminal Record Check
- ⊙ National Sex Offender Registry
- ⊙ Identity Verification
- ⊙ Employment Verification
- ⊙ Education Verification
- ⊙ Motor Vehicle Records Search
- ⊙ Lab-based Drug Screen



However, there are no federal laws or regulations that require HHAs to conduct background checks before, during, or after an individual is hired. This presents potential gaps in screening requirements and increases exposure for both the HHA and the patients they serve.

HHAs in a state requiring only state-level checks must consider the Nursing Licensure Compact (NLC). Introduced in 2000, the NLC is an agreement between states that allows nurses to have one compact license enabling them to practice in other states who also participate in the agreement. Today, there are 39 NLC jurisdictions, including those pending implementation status.² In addition, there are continuing efforts by various states to bring uniformity to home healthcare agency hiring and screening.

Several of the background checks referenced above like the National Sex Offender Registry and Motor Vehicle Records (MVR) checks are worth breaking down in more detail and analyzing the importance of each level of criminal background checks.

↪ National Sex Offender Registry

Homecare services are provided to a vulnerable patient population and are often unsupervised. Unfortunately, this leaves HHAs and their providers open to verbal, physical, or sexual abuse allegations.

Due diligence on providers' background checks via Federal Registry Checks is critical to ensure patient safety and reduce liability from unforeseen allegations.

↪ Motor Vehicle Records (MVR)

An inherent exposure that comes with providing home care services is employees' use of company vehicles, personal vehicles, or clients' vehicles. Unfortunately, accidents and motor vehicle violations are not uncommon. Existing employees are just as susceptible, and the organization should be proactive.

A recommended best practice is running MVRs at the time of hire and annually. Documented procedures should support this to address policy violations.

↪ Level of Background Checks

County Background Checks – include a background check for criminal charges and convictions at the local/county courthouse.

State Background Checks – include background checks of crimes prosecuted at the state level.

Federal Background Checks – include a background check for crimes prosecuted at the federal level. These are often less frequent but more serious crimes, such as illegal possession of firearms, distribution of drugs, and other major felonies.³

²Department of Health and Human Services, Officer of Inspector General. Available from: <https://www.oig.hhs.gov/oei/reports/oei-07-10-00422.pdf>.

³National Council of State Boards of Nursing (NCSBN). 15 October 2022. <https://www.ncsbn.org/nurse-licensure-compact>

Understanding the information used as part of the criminal background search is essential. For example, the name and address of candidates are foundational to every background check and, if changed during the last seven years, a background check may only partially capture the proper data to assess a prospective provider thoroughly. Background checks should include all current and former names and fully verify that the addresses and names are valid.⁴



A 2019 story where Misty Dawn Holloway faked being a nurse for six years highlights the importance of proper and thorough screening. In this instance, Holloway found a licensed nurse whose name was similar to hers and lied about why her name was different, which enabled Holloway to work for multiple healthcare companies for six years and led to several injured patients.⁵

Ultimately, making informed hiring decisions benefits HHAs and their patients. In addition, organizations benefit by having a background screening process, which increases the HHA's defensibility in case of a lawsuit.

ORGANIZATIONAL BENEFITS

Informed hiring with staff screening and credentialing provides organizational benefits, including lower hiring and training costs, minimal turnover, increased patient safety, and reduced financial liability. With less staff turnover, HHAs provide better patient care and safety. Happy patients result in word-of-mouth referrals and business growth, allowing HHA to succeed in providing care.



Alternatively, caregivers with prior convictions or licensing issues are more likely to have repeated patient and/or property-related offenses, resulting in unhappy clients, financial costs, and potential lawsuits. Hiring candidates with prior license and/or criminal issues potentially cost a significant amount in fines and lawsuits.

⁴ DataCheck. 23 October 2022. www.datacheckinc.com.

⁵ Orange Tree. 23 October 2022. blog.orangetreescreening.com.

EXAMPLES OF LAWSUITS

Scenario #1:

Ashley, who was estranged from her husband, required assistance caring for their 10-year-old developmentally disabled daughter, Heather. Ashley contacted ABC Home Health, the designated regional program provider, after learning about a self-directed care program in which the state would compensate her mother, Naomi, for caring for Heather. She and Naomi completed the necessary paperwork. Naomi also underwent state and federal criminal background checks, a drug test, and a sex offender registry screening. Naomi also revealed that she had previous substance abuse convictions but had been sober for 15 years with no arrests. Heather was enrolled in the self-directed care program as a result, and Naomi began caring for Heather while being paid by ABC Home Health. ABC Home Health sent a field nurse supervisor every few weeks to check in on Heather's care. Ashley came home one day from work to find Heather unresponsive in the bathtub. Naomi was present, but she appeared to be under the influence of drugs and had possibly overdosed. Naomi and Heather were taken to the hospital for treatment; Naomi was examined and released, but Heather died due to her injuries and could not be revived. Several months later, Ashley's ex-husband filed a wrongful death lawsuit against her, Naomi, and ABC Home Health.

During the lawsuit, ABC Home Health provided documentation demonstrating evidence of Naomi's background check, including multiple-level criminal background checks, a sex offender registry check, drug testing during the hiring phase, and random testing, all of which Naomi passed. ABC Home Health also provided documentation of the field supervisor's regular visits to check on Heather's care, one of which occurred two days before Heather died. ABC Home Health's insurance carrier successfully defended the lawsuit. Due to ABC Home Health's diligence in implementing appropriate protocols and documenting its supervisory visits, the court ultimately awarded no damages. The defense costs were \$75,000.

Scenario #2:

Susan and her husband worked full-time, cared for their two children, and needed a caregiver for her mother, Gwen. She wanted the caregiver to check in on her mom daily and ensure she took her medicine and ate nutritious meals as her mother became increasingly forgetful. Susan discovered HHC.com online and reviewed its website, which offers online scheduling home care services and detailed notes on each day's activities in a secure online portal for review. According to the website, it employs competent, experienced caregivers who manage their schedules and are not employees of HHC.com. Susan completed the service request form on HHC.com. Gwen was cared for during the first month by several caregivers who arrived on time and left detailed notes on each day's activities. Susan logged into their online portal two months into using HHC.com to review notes on Gwen's care and became concerned as there weren't any notes on her mother's care for three days.

Susan contacted HHC.com and was told to send all correspondence via the website, which she did. Susan drove to her mother's house after being unable to reach her by phone, where she discovered her mother unconscious and immediately dialed 911. Gwen had fallen, hit her head, and broke her hip because the last caregiver had left the house three days earlier.

⁶ Moore, Robert. Citizen Tribune. "Alleged fake nurses face federal charges." 23 October 2022.

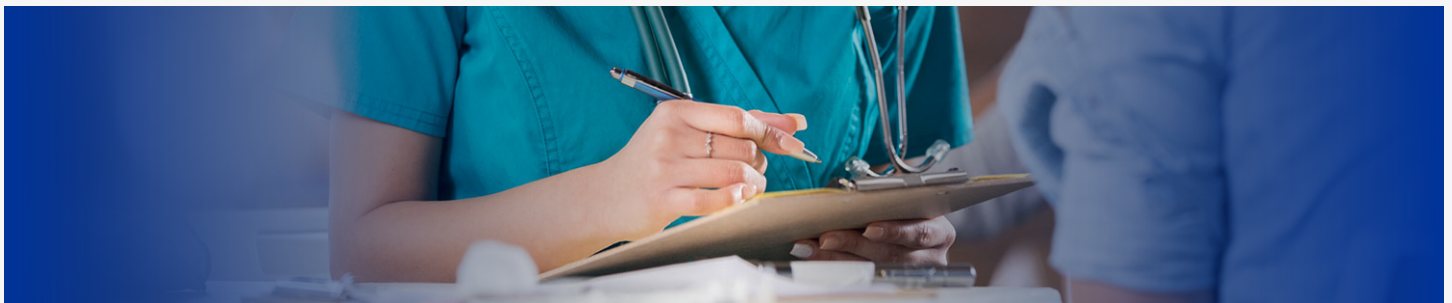
https://www.citizentribune.com/news/local/alleged-fake-nurse-faces-federal-charges/article_f8fc5c6a-1781-11ea-8b6b-0bc5df264087.html.

Gwen was treated for her injuries and underwent multiple surgeries at the hospital; however, she never fully recovered and died six months later. Susan filed a lawsuit against HHC.com and the individual caregivers in the aftermath of this tragedy

According to the lawsuit, HHC.com did not screen the caregivers beyond verifying their identity for payroll purposes. Furthermore, the caregiver who was scheduled to look after her mother for three days was in jail on criminal charges and had a previous criminal record. HHC.com claimed that because the caregivers were independent contractors and HHC.com only provided a technology platform to connect caregivers and patients, it was not required to screen them using its website. However, the statement on the HHC.com website about "competent experienced caregivers" could lead a reasonable person to believe that HHC.com provided oversight and screening of the caregivers through the site. As a result, Susan was awarded hundreds of thousands of dollars in damages by the court.

CONCLUSION

While **Scenario #2** involves a technology platform, the issues outlined are similar to the scrutiny any HHA undergoes during litigation. This includes its advertising practices and screening procedures expected by a reasonable patient. Whether caregivers are employees or independent contractors, most patients and their families expect an HHA to conduct appropriate screening procedures. A lack of screening procedures is often indefensible. Being proactive and diligent in screening is critical to managing business operations, preserving brand recognition, and providing a safe place for employees and patients.



Although HHAs continue to face staffing shortages and operate on limited margins, ignoring the importance of comprehensive screening practices can be detrimental. Done right, full background screenings take time and involve some expense. If an HHA does not have internal resources, many credible third-party vendors provide detailed and comprehensive background checks.

Consistent and thorough screening practices are vital to delivering quality patient care. The upfront expense is more than offset by facilitating informed hiring decisions, mitigating the risk of lawsuits, and contributing to employee and patient safety and satisfaction. In addition, it is an invaluable investment towards finding and retaining quality providers to continue to deliver on the commitment to providing quality care.



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