

# Criminal Background Checks

why, what, when, who, how & what if

Ben C. Watson, Ph.D.

Speech-Language Pathology

New York Medical College

Valhalla, NY

# My accomplices

J. Ehren, JD

University Registrar, New York Medical College

Wm. Allison

Director of Security, New York Medical College

# Why

- ASHA required? NO (but they ask)
- State Licensure required? Maybe (not in New York)
- JCAHO required? NO
- Affiliate required? Maybe

# Why

The AAMC lists four reasons for conducting CBCs:

- Bolster the public's trust in the medical profession
- Enhance the safety and well-being of patients
- Establish qualification for licensure
- Minimize the liability of medical schools and their affiliated clinics

# Why

NACUA describes three events to be avoided:

- Negligent admission
- Negligent placement
- Negligent re-admission

# What (flavor)

- Local
- State
- Federal
- International

# When

- Pre-admission
- Pre-matriculation
- Pre-externship

# Who

- Applicant (self-disclosure)
- Institution
- Affiliate
- Third party

We need a policy, or, at least, a plan  
(the “how” part)

# Some questions in search of a policy

- Does your state have a law that specifically precludes access to patients by individuals with criminal convictions?
- Does your state licensing board deny licenses to individuals with criminal conviction?
- Will you deny admission to applicants with certain convictions? (which ones?)
- Will you dismiss matriculated students for a new conviction or an old conviction discovered subsequently?

# Implementation Details

- Who will administer your CBC P & P?

Registrar

Campus security

Academic affairs

Admissions

- Who will pay?

Student

Institution

Affiliate

# Details, Details

- Where will CBC records be kept?
- Who has access to the records?

CBC are considered educational records under FERPA

# And more Details

- Who will evaluate the records?

Individual administrator or committee

- need for:  
continuity  
consistency  
perspective

# What If?

- What is a crime?
- How serious is serious?
- Type of crime?
- Specific circumstances . . .

# Circumstances to consider

- The act. . .

What was the crime?

Was the victim from a vulnerable population?

Was it a crime against property, not persons?

- How many offenses, or convictions?
- How long ago was the crime committed?

Is there a statute of limitations?

# Circumstances to consider

- Was the crime self-disclosed, but documented in a sealed juvenile record?
- Was there an actual conviction?

If a misdemeanor conviction, was the term of probation successfully served?

Was the judgment dismissed?

# Circumstances to consider

- Is there evidence of rehabilitation efforts since the conviction?
- What is past precedent of the institution?
- Is the crime an “automatic disqualifier” – what are these crimes? Who decides?

Report of the AAMC Criminal Background Check Advisory Committee (May, 2006). Association of American Medical Colleges, Washington, D.C.

Milan, S. (2007) So, the Applicant/Student has a criminal background: Now what? Joint Professional Development Conference for Financial Aid and Student Records, Association of American Medical Colleges,, Doubletree Paradise Valley, Scottsdale, AZ. January.

Ford, R., Milan, S., & Zimmerman, H. (2006). Students with Criminal Backgrounds: Checks and Balances. Virtual Seminar presented by the National Association of College and University Attorneys, June 15, 2006.

Milan, S. (2006). Student Criminal Background Checks. NACUA Notes, 4, 1. National Association of College and University Attorneys

Professional Liability and Risk Management for the Audiology and Speech-Language Pathology Professions. ASHA Technical report, 1993 – IV.