Hiring and Onboarding Process Guidance

Having standardized processes in place throughout hiring and onboarding can set employers up for success both organizationally and legally. A documented hiring and onboarding process, if implemented correctly, can reduce legal risks. This article will provide basic guidance for effective hiring and onboarding. Since employment laws vary by city, county, and state, seek specific advice according to your location's employment ordinances.

Prior to Sending an Offer Letter

Once you select a candidate who meets your job description/qualifications, such as the necessary skills, level of experience, educational requirements, and license/certifications required for the posted position, we recommend that you have a policy/process in place to complete the following tasks in a timely manner.

1. Release Forms

At the time of the interview, obtain a release form giving you legal permission to access protected information. Release forms must be in writing and signed and dated by job applicants. We recommend having the applicant's signature witnessed by an employee within the organization who also signs and dates the release form.

Include a release statement for each type of information you will be seeking, such as references from former employers, personal references, educational records, driving records, and so on. Some states and cities have laws prohibiting questions about an applicant's pay history, so be sure to check applicable laws before asking about salary history.

2. Background Checks

Background checks for healthcare employees are crucial to ensure the safety and quality of care provided to patients. At minimum, the organization should complete a criminal background check from all states that an individual has lived/work. There is variation in state law regarding inquiring about an applicant's criminal record until the job interview or, in some cases, after a position has been offered. States may also prohibit employment of individuals with certain criminal convictions; usually these involve unsupervised access to children, vulnerable adults, or the disabled. It is important to know and to comply with state-specific guidelines. Due to this complexity many organizations use a third-party service to conduct these checks. If your organization is considering implementing ongoing periodic background checks as part of your HR process, legal counsel should be consulted before instituting this practice to ensure all legal considerations and requirements are properly accounted for.

3. Reference Checks

Make sure the staff members who interview applicants communicate that no job offer will be made until references are verified. Call or write each reference provided. If you are unable to contact a reference, or you find the information is not beneficial, you will need to document the contact attempt. Fully document all information you receive. If you don't obtain sufficient information through your reference check, you can ask the job applicant for more details or for additional references.

As noted above, some cities and states are starting to enact laws prohibiting employers from asking an applicant about their pay history with current and/or former employees. Therefore, any such inquiry should be made only after verifying that no such laws exist in the jurisdiction.

Misrepresentations on employment applications or material omissions of information that are uncovered during a reference check generally constitute a legitimate, nondiscriminatory reason for denying an application or for withdrawing a job offer. Retain your documentation, whether or not you hire the applicant. The United States Equal Employment Opportunity Commission (EEOC) considers reference-check documents as legal records of hiring decisions and requires employers to retain such documents for one year.

4. License/Certification Verification(s)

Check licenses and certification status as applicable for the role and level of hire. Go directly to the issuing board for primary source verification. Prior to making a job offer, verify that the applicant meets the licensing/certification requirements. Some provider organizations utilize a Credentialing Verification Organization (CVO) for primary source verification. While there are many benefits to delegating credentialing, delegation does not remove all responsibility from the organization.

Sending the Conditional Offer of Employment Letter

Follow your organizational policy and procedure concerning who should make the job offer, how the offer is made, and what is covered in the offer. Make sure all staff members involved in the process are aware of your organization's specific process. Some organizations like to make a verbal offer. If a verbal offer is made, we recommend always following up with a written offer. A job-offer letter should clearly state that the offer is conditional. The offer should include, at a minimum, the following information:

- Identify the job specifically by job title and department.
- Provide the date when employment begins.
- Give the starting salary by the hour, week, or month.
- State how long the offer will remain open.
- Let the candidate know whom to contact with any questions about the job offer.
- Explain when the person would become eligible for specific benefits, such as health insurance.
- Identify any contingencies, such as a successful completion of a physical exam or drug test.

The Americans with Disabilities Act states that medical exams can be required only after an applicant is given a conditional job offer, but before they start work—and as long as such exams are given to all entering employees in the same job category.

The Equal Employment Opportunity Commission (EEOC) allows employers to conduct preemployment testing to aid in the selection and hiring process. However, any disability-related inquiries or medical exams must be clearly job-related. They must be directly connected to required job skills and responsibilities and be able to give reasonable expectation of the ability of an applicant to succeed in the job.

Drug screening may also be conducted. No federal law prohibits employers from requiring candidates to submit to a drug test, but some states impose specific testing requirements, so employers should check state and local laws.

Company-required tests should be validated. This means that the test has been examined to make sure it has no adverse impact on any group protected by fair employment laws. If you use a preemployment test, be sure to give the test to all applicants for the same position—no exceptions.

Call, email, or send a letter to each applicant who came in for an interview or recently sent an application and did not get the job. This alerts candidates that they were not hired and that the job opening is now closed.
In the event you need to rescind a job offer, it is important that you handle the matter properly to minimize potential risk exposure. Confirm the reason for retracting. Is it related to an internal reason (exceeding your hiring budget, offer sent to wrong candidate, double filling a position, etc.)? Is it related to an external reason (fabricating work history, failure to pass drug screen test, lying about licenses, etc.)? Confirm that the rescinding offer is not based on a discriminatory reason (e.g., discrimination on the basis of the employee's membership in a protected class or is retaliation for engaging in protected whistleblowing activity). It is recommended that a legal review of the offer and of the reasons for the withdrawal is conducted prior to speaking with the candidate.

Following the legal review, call the candidate to let them know that the offer is being rescinded and why.

If your organization made the offer in error:	If you are rescinding the offer due to a screening issue:
• Explain the error. • Apologize for the error. • Follow up the phone call with a notice in writing.	• Notify them that the call is confidential and that they have the right to explain or refute any information discovered. • Explain concerns without judgment or accusations of dishonesty. • Follow up the phone call with a notice in writing.

Other Hiring Considerations

Notification to Medical Professional Liability Insurance

Depending on your policy and the specialty of the new hire, providers may need to be endorsed onto your policy to insure coverage. Please contact your underwriter or broker to see what criteria or applications may be needed in order to provide coverage.

Marijuana

States that have legalized marijuana have done so under the assumption that responsible use is possible, similar to the role of alcohol in popular culture. While the laws are changing, company policies often haven't moved at the same speed. The HR Hero link on the Physician Insurance website is an excellent resource to help navigate the complex and ever-evolving federal and state-specific laws.

New Employee Orientation and Onboarding

Orientation focuses on paperwork, training, compliance, protocols, and procedures. Onboarding focuses on helping new hires create connections with people in your organization during their initial employment and throughout their employ. Effective onboarding is a journey that takes the employee from orientation to integration to achieving productivity.

Without an organized and reliable orientation process, you increase your risk exposure in multiple ways, including:

- Inefficiencies in care provided,
- Potential increase in claims due to lack of knowledge of procedure and policies,
- Increased employee turnover, and
- Barriers to the defense of a claim due to gaps in education during orientation.

In business, a standardized orientation/onboarding process assumes all candidates start at the same place. In health care, this may not always be true. Depending on the individual experience or role the candidate was hired to provide, the onboarding process may vary. Employers' understanding of what new hires already know or have been screened for and what they need to know helps expedite the narrowing of the skills gap through targeted training.

Depending on the size of your organization and the role of the person requiring onboarding (employed vs. contact worker, volunteer, student, etc.), this process can be organized in numerous ways. For new employees it is important that the HR Director/Clinic Manager encourages active dialogue. You may be onboarding one employee or an entire group; they may be for the same/similar positions or for totally different positions/departments. All employed staff members need a general orientation that includes the following topics:

- Company history, products/services, management structure, and philosophy
- Company rules and regulations (absences, use of phones, parking, etc.)
- Orientation period (avoid terms *probationary period* and *permanent employment*)
- Pay schedules (including timecards or sheets)

- Hours of work and overtime policies
- Leave time (sick days, holidays, vacations, legally mandated leave, etc.)
- Employee benefits and eligibility: health insurance, disability insurance, life insurance, pension, educational assistance, etc.
- Completing tax, insurance, and other forms
- HIPAA training specific to your organization
- Company policies on discrimination, harassment, and retaliation; what to do if the employee has a complaint or concern; and code of conduct
- Diversity, equity, inclusion, and implicit bias
- Requests for accommodation due to disability or religion
- Employee’s responsibilities in the event of an internal or external disaster
- Key safety content (bomb threats, active shooter, fire safety and response, emergency responses)
- Location of the employee handbook (binder, paper copies, electronic, policy and procedure system, etc.)

Contract workers, agency staff, and volunteers may require only some of the information listed above. However, it is important that they receive most of the information from orientation, except for inapplicable pay and benefits information, for example.

After the general orientation, conduct a combination orientation/onboarding that is specific to the employee’s role in their department. This may start during the formal orientation process, or it can take place when they are formally transitioned to their manager/supervisor. Include information that is important for everyone working at your organization.

- Identify the employees’ main contact(s) for job-specific orientation/asking questions on the job.
- Give a tour of the department, an introduction to coworkers, and a review of locations of code carts/kits/defibrillators.
- Review job description and collect signature.
- Review department responsibilities.
- Review infection prevention practices.
- Go over company policies on discrimination, harassment, and retaliation and what to do if the employee has a complaint or concern (if not already addressed).
- Give information concerning safety rules and emergency exits—including the different color codes used for overhead paging—and what to do in case of fire.
- Provide details concerning housekeeping, including where to locate MSDS safety information; lunch and break provisions; location of restrooms, lockers, lunchroom, etc.; how to get tools, supplies; and equipment orientation.
- Review key policy and procedures, specific to positions (e.g., for nursing: medication administration, handoff protocols, patient rights, etc.) and where to find them (e.g., third-party software, binder, shared drive, etc.).
- Collaborate on and review employee goals.

Orientation and Onboarding Documentation

Be sure to fully document the orientation and onboarding process, including for contract workers, agency staff, and volunteers, so that the information and training provided can later be proven. Clearly outline and collect copies of forms/documents that require acknowledgement. Retain rosters of educational presentations, as well as the presentations themselves. Maintain all policies, including their prior versions. Checklists or computer software can help keep this process organized and allow for quick identification of outstanding items. Checklist examples can be found online, such as the Assistant Secretary for Preparedness and Response (ASPR TRACIE) Healthcare Facility Onboarding Checklist.

The importance of implementing hiring and onboarding processes cannot be overstated. The benefits of investing in these programs will strengthen your bottom line and protect you from risk exposures, including barriers to the defense of claims due to gaps in employee orientation. For more information, including templates, click on the HR Hero button on our online Resource Library. HR Hero is a trusted and industry-leading partner providing resources, documents, checklists, analysis of state and federal law, and more to help you navigate the complex and changing standards of Human Resources.

This information should be modified based on individual circumstances, professional judgment, and local resources. This document is provided for educational purposes and is not intended to establish guidelines or standards of care. Any recommendations contained within the document is not intended to be followed in all cases and does not provide any medical or legal advice.

Resources

Eaton, Noel, "New Employee Orientation," Presentation 1: "'How To' for Supervisors," BLR, accessed February 2, 2022, https://slideplayer.com/slide/13368995/.

HHS ASPR TRACIE, "Healthcare Facility Onboarding Checklist," *Healthcare Emergency Preparedness Information Gateway*, accessed February 2, 2022, https://files.asprtracie.hhs.gov/documents/healthcare-facility-onboarding-checklist-fillable-final.pdf.

The Joint Commission, "Competency Assessment vs Orientation," *Standards FAQs,* accessed February 2, 2022, https://www.jointcommission.org/standards/standard-faqs/office-based-surgery/human-resources-hr/000002152/.

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