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A check a day keeps the bad apple away

Mandatory criminal records screening for physicians may be little more than a bow to an unnecessary formality in the eyes of Canadian regulators, but practitioner licensing bodies elsewhere in the world contend such screening is crucial to weeding out bad apples.

Canadian medical regulatory authorities, including ones that perform background checks as a condition of entry to practice, argue that such screening is largely superfluous. They assert that the number of doctors who lie about previous criminal charges or convictions is negligible and could easily be found out through less systematic methods such as self-disclosure (www.cmaj.ca/lookup/doi/10.1503/cmaj.109-4113).

But similar regulatory bodies in the United States, Australia and England assert that background checks identify shady characters who would otherwise slip through the vetting cracks and have proven an invaluable tool in obtaining more rapid treatment for doctors who might, for example, be inclined to seek solutions from a bottle.

"There are not a lot of physicians who have been convicted of a felony. But they do exist and it's incumbent upon us when we license somebody to ensure that they meet the minimum qualifications," says Kathleen Selzler Lippert, executive director of the Kansas State Board of Healing Arts — one of 45 state medical licensing boards in the US that conduct background checks at entry to practice. "We expect people to be honest and this provides an independent verification."

Some medical regulatory authorities who have introduced background checks as a matter of course were surprised to discover just how many applicants either forgot or lied about their criminal past.

The North Carolina Medical Board wasn't aware it had a "fairly significant problem" until mandatory screening for new applicants was introduced in 2003, says Jean Fisher Brinkley, director of public affairs for the board. Now, there's some type of positive hit for "maybe as much as one in five applications," and "it would be fair to say the vast majority of that 10 to 20 percent" had not been disclosing their criminal histories.

State licensing boards do not appear to keep formal statistics on the number of applicants who are denied licensure because of their criminal record. But numerous cases have been reported across the country, Drew Carlson, director of communications for the Federation of State Medical Boards, writes in a statement.

The Oklahoma State Board of Medical Licensure and Supervision, for example, has handled about 10 such cases in the past five years, Executive Director Lyle Kelsey writes in an email.

Meanwhile, the Australian Health Practitioner Regulation Agency rolled out a national screening program for 10 health professions and the 2011 findings indicated that 2992, or 6% of health care practitioners, had a criminal history (www.ahpra.gov.au/documents/default.aspx?record=WD11%2f6030&dbid=AP&chksum=pTM1u6EU%2betQIekGFKrfOQ%3d%3d). Of those, 15% were serious enough to potentially affect the practitioner's registration and the agency subsequently imposed

conditions on the registration of eight physicians. “The fact that there were any adverse outcomes on someone's registration suggests to us that it's a worthwhile mechanism,” says Communications Advisor Nicole Newton.

Physicians in England are also required to undergo criminal records screening to get on regional registration lists in order to treat patients. “At least 130,000 unsuitable people have been prevented from working with vulnerable groups” since England's Criminal Records Bureau opened in 2002, although the bureau doesn't track how many of those were physicians, Kirsty Gelsthorpe, a press officer for England’s Department of Health, writes in an email.

Fisher Brinkley says most charges and convictions flagged during screening are for “drug and alcohol related offenses, sometimes with traffic violations mixed in, and occasionally ... domestic violence.”

Gelsthorpe notes that such information can tip off medical regulators to “intervene at an early stage to provide support and remediation for physicians whose performance is beginning to fall away from the required standard.”

Fisher Brinkley says such remediation might involve mandating a physician to participate in a monitored treatment program for drug or alcohol problems, or to attend anger management therapy, she says.

Regulators have to “expect the unexpected,” Nancy Kerr, executive director of the Idaho Board of Medicine, writes in an email. That might include a “trend in reckless driving or driving under the influence.”

Although Canadian regulatory authorities are divided as whether monies should be spent on criminal record checks, international licensing bodies say the administrative and financial burden is nominal.

Moreover, they say, physicians aren’t offended. “There is a sense among physicians that such checks are part of the privilege of being in a self-regulated profession,” Carlson says.

Nor do checks appear to unduly delay licensure, although in some countries the process has been known to take up to six weeks, depending upon whether screening is conducted electronically. In Australia, “results are received for more than 80% of checks within 24–48 hours, so this has negligible impact on the timeframe for processing an application,” Dr. Joanna Flynn, chair of the Medical Board of Australia, writes in a statement.

Several jurisdictions that currently review only first-time applicants for licensure indicate that they may expand the scope of their programs to include all practicing physicians.

North Carolina, for example, has partnered with an independent monitoring agency to conduct ongoing surveillance of charges and convictions among registered physicians.

Australia plans to conduct rolling audits of registered physicians seeking license renewal and will be consulting on means of undertaking international criminal record checks of physicians seeking to set up a shingle Down Under. — Lauren Vogel, *CMAJ*

Editor’s note:
Second of a three-part series:
Part 1: **Have you done time, doc?** (www.cmaj.ca/lookup/doi/10.1503/cmaj.109-4113).
Part 3: **Are you kidding, doc?**

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