

## **REFERENCE CHECKS---WHAT TO DO©**

**Veterinary Business Advisors, Inc.**  
**Flemington, New Jersey**  
**(908) 782-4426**  
**[www.veterinarybusinessadvisors.com](http://www.veterinarybusinessadvisors.com)**

What should you do when you receive a call for references about one of your former employees? What can you tell the prospective employer without putting your practice in “hot water”? What can you **not** tell the person doing the asking? What if the employee was fired for cause? How do you respond to the question of whether the employee is eligible for rehire? What if you are currently in a legal dispute with the former employee? Are the rules any different if the reference request is coming from a non-employer (i.e., mortgage broker)? Unless yours is the practice with zero turnover and staffed by deliriously happy employees, these are all situations we in the veterinary industry may face from time to time.

In an ideal world, reference checking would be unnecessary because employers could rely solely on statements made by applicants in resumes, employment applications, and interviews. However, in the real world, employers may be putting themselves at risk if they fail to confirm what applicants tell them. The magnitude of deception that occurs during the hiring process is staggering. Numerous studies report that 64% of job seekers overstate their accomplishments, while 71% misrepresent the number of years they held a position. In fact, 25% to 40% of applicants provide false, exaggerated, or misleading information about their qualifications or backgrounds.

So, are you unsure as to how your company should respond to a reference request about a former employee? Don't feel confident that your current practice is in compliance with applicable state laws? Take solace in the fact that you are not alone. In fact, a recent survey found that 75% of executives at large companies felt former employers give less information now than they did three years ago. But withholding critical information about ex-employees can lead to legal hot water, too. For example, if an employer fails to reveal during a reference check that someone stole on the job, and the newly hired employee then steals at his new job, the new employer could be sued for negligent hiring.

By now, it should be readily apparent that this is an extremely difficult subject to keep up with. While it would be great if there were simple, easy-to-understand right and wrong ways to handle reference checking, they simply do not exist. There are, however, a few procedures you should consider implementing to help protect you and your company:

- 1) Develop a policy that clearly states what information will be provided in a reference check and who is authorized to give the reference. Limit the number of



VETERINARY BUSINESS ADVISORS, INC.  
*Counsel for the Veterinary Profession*

- individuals responsible for receiving and handling reference requests and ensure they have been properly trained on how to respond. Assuming your practice isn't large enough to employ a Human Resources Manager, that individual will most likely be either the practice owner or the hospital manager or administrator. Be sure to communicate your policy to all employees by either including it in your Handbook or posting it in a conspicuous place and discussing it at your next staff meeting. Discuss the consequences of giving out references individually and remind employees that violating your practice's reference-giving policy can expose both the individual and the practice to liability for defamation charges.
- 2) Determine in what form you will accept incoming reference requests and how they will be handled. One option is to respond to oral requests from other companies with an immediate call back to verify the request is legitimate. Inform the requestor that you or someone authorized to provide this information will get back to them shortly and be sure to get the requestor's name, company and phone number before ending the call. If you prefer to go the "extra mile", you can require all references be submitted in writing, on letterhead of the company making the request, and signed by an authorized representative of that company.
  - 3) Regardless of how the request comes in, document the date of the request, the name of the former employee being referenced, the name of requesting party (company and individual), the purpose for which the reference is requested, and the information that is being provided. Be sure to retain this documentation in the employee's official personnel folder.
  - 4) Confirm that your former employee consents to your release of information and waives his or her right to legal action based on your references. This is normally accomplished through language in your job application containing such consent. Another way to secure this consent is by having the prospective employer ask the employee to sign and date a separate stand-alone authorization that they can fax to you for your records.
  - 5) Discuss references at the time of termination. Employees should be given the option of either a neutral reference or a truthful substantive reference. Employees should also be told that if they don't select an option, only a neutral reference will be given. If possible, have the departing employee sign a Reference Release Form authorizing your practice to provide pertinent information.
  - 6) If the former employee selected a neutral reference and prospective employers push for more, they can be told of the options given to the former employee and which option the employee selected. In this case, the former employee's selection may speak louder than your words-and with much less risk to you and your practice.
  - 7) Use standard form letters of recommendation for all employees terminated by layoffs or reductions-in-force. For each employee, state the business-related



VETERINARY BUSINESS ADVISORS, INC.  
*Counsel for the Veterinary Profession*

reason for the layoff or reduction-in-force and note that this does not reflect the employee's job performance. The letter should indicate that all affected employees were given the form letter and that the employer will release further information with the employee's express, written consent. Once the employee has given consent, any specific job performance information should be communicated directly to the prospective employer.

- 8) Make sure all the facts you are disclosing are accurate and verifiable. A reference check is not the forum to provide your opinions about the former employee. For most employers, simply communicating the dates of employment, positions held, and ending pay is an effective way to respond to requests for references.

The bottom line is there is no clear cut answer to this complex and potentially explosive issue. Each practice should establish its own reference request policy, develop the necessary form(s), designate and train specific personnel to provide references, and confine remarks to objective, truthful information. Knowing how to respond to these questions can help prevent you and your practice from being sued by a disgruntled former employee. And remember, while the truth is the best defense, you are not obligated to tell "the truth, the whole truth, and nothing but the truth".