

Changing from Reactive to Proactive Monitoring

The Importance of Collaboration between Compliance and Human Resources

April 26, 2019

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Today's Presenters



Dylan Thriffiley

AVP - Compliance & Regulatory Affairs |
Ochsner Health System



Donna Thiel

CCO | ProviderTrust

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Today's Agenda

1. Let's Start with the Basics
2. Proactive Monitoring
3. Compliance and HR Collaboration
4. Key Takeaways / Next Steps

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**Let's Start with
the Basics**

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What is an Exclusion?

- Administrative action taken against an [individual](#) or [entity/vendor](#) by the OIG
- OIG is in charge of enforcing exclusions against individuals or entities
- OIG mandates that healthcare organizations [do not hire](#) or do business with [“excluded or sanctioned”](#) individuals or entities/vendors
- If an individual or entity/vendor is excluded they are [prohibited](#) from participating in reimbursements for or from federally funded healthcare programs
- A person or entity can be excluded by a [Federal Agency \(OIG\)](#) or by a [State Medicaid Agency](#).

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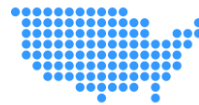
Exclusion Sources



OIG LEIE



SAM.gov
Formerly known as GSA (EPLS)



**42 State Medicaid
Exclusion Lists**

That makes a total of
44 different exclusion sources
to monitor.

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Polling Question

How many people currently complete exclusion checks for all states?

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The State of Exclusion



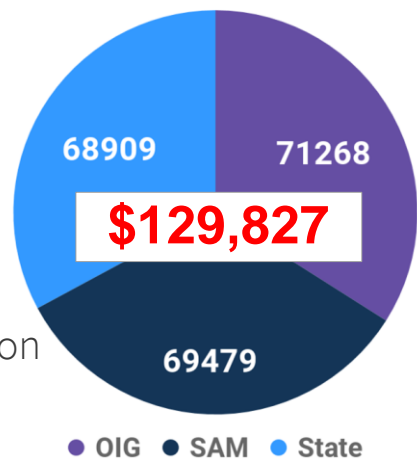
71,268 OIG Exclusions

69,479 SAM healthcare related exclusions

68,909 State Exclusions - 42 States

= **209,656 Total Healthcare Exclusions**

43% of all OIG Exclusions - License Revocation

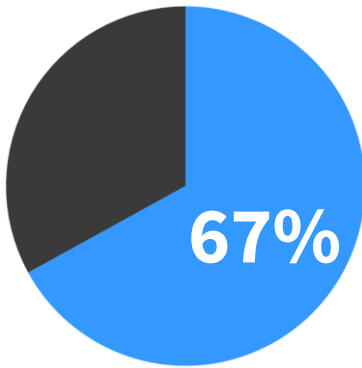


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Excluded Providers



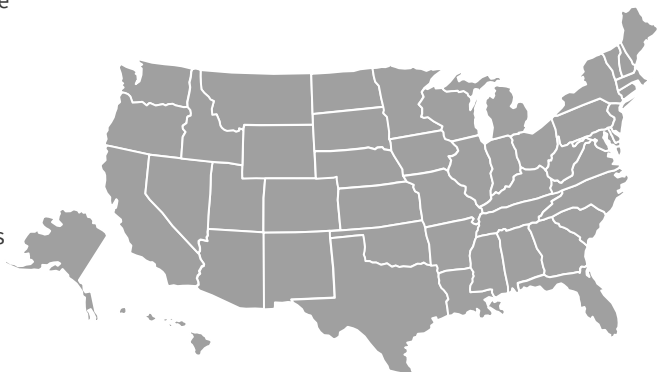
- Did you know that up to **67%** of state Medicaid exclusions are **not reported** or found on the OIG LEIE?
- Louisiana has 4,295 exclusions of which **48%** are **not** on the OIG list.
- On average, it takes **173 days** for a state exclusion to reach the OIG LEIE.

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Pre-hire and Beyond

- Background check results reflect a point in time
- Healthcare employees are mobile and it takes awhile for information to catch up to their employee record
- Ongoing monitoring, will help you find changes in employee history after background check (sanctions or disciplinary actions from primary source records)



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Proactive Monitoring

It is so important.

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Liability Starts, **Not Ends**, on Day 1

- When an employee walks in the door or a vendor is contracted, the risk is still present post-background check
- Employee and vendor monitoring is critical to conduct in a consistent and timely manner
- Possible risks that could show up would be: exclusions, sanctions / disciplinary actions, license status changes, etc.

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Pre-Hire vs. Ongoing Monitoring

Ongoing Monitoring

Section 6501 of the ACA / OIG Special Advisory

Subtitle F—Additional Medicaid Program Integrity Provisions

SEC. 6501. TERMINATION OF PROVIDER PARTICIPATION UNDER MEDICAID IF TERMINATED UNDER MEDICARE OR OTHER STATE PLAN.

Section 1902(a)(39) of the Social Security Act (42 U.S.C. 1396a(a)) is amended by inserting after "1128A," the following: "terminate the participation of any individual or entity in such program if (subject to such exceptions as are permitted with respect to exclusion under sections 1128(e)(3)(B) and 1128(d)(3)(B)) participation of such individual or entity is terminated under title XVIII or any other State plan under this title."

SEC. 6502. MEDICAID EXCLUSION FROM PARTICIPATION RELATING TO CERTAIN OWNERSHIP, CONTROL, AND MANAGEMENT AFFILIATIONS.

Section 1902(a) of the Social Security Act (42 U.S.C. 1396a(a)), as amended by section 6401(b), is amended by inserting after paragraph (77) the following:

"(78) provide that the State agency described in paragraph (9) exclude, with respect to a period, any individual or entity from participation in the program under the State plan if such individual or entity owns, controls, or manages an entity that (or if such entity is owned, controlled, or managed by an individual or entity that)—

"(A) has unpaid overpayments (as defined by the Secretary) under this title during such period determined by the Secretary or the State agency to be delinquent;

"(B) is suspended or excluded from participation under or whose participation is terminated under this title during such period; or

"(C) is affiliated with an individual or entity that has been suspended or excluded from participation under this title or whose participation is terminated under this title during such period."

Ongoing Monitoring Items:

- OIG-LEIE
- SAM.gov
- 42 State Lists
- OFAC
- License

Background Check

Section 15 USC 1681a(y)

Typical Pre-Hire Items:

- Criminal records based on residence
- Professional License Verification
- Previous Employment Verification
- Motor Vehicle Record
- Credit Report
- DEA Registration
- OIG-LEIE
- TB Test
- Drug Screening
- Checking of References
- Verification of Education

1) Does a consumer process as was assessed—A communication is described in this subsection if—
(A) but for subsection (b)(2)(D), the communication would be a consumer report;
(B) the communication is made to an employer in connection with an investigation of—
(i) suspected misconduct relating to employment; or
(ii) compliance with Federal, State, or local laws and regulations, the rules of a self-regulatory organization, or any preexisting written policies of the employer;
(C) the communication is not made for the purpose of investigating a consumer's credit worthiness, credit standing, or credit capacity; and
(D) the communication is not provided to any person except—
(i) to the employer or an agent of the employer;
(ii) to any Federal or State officer, agency, or department, or any officer, agency, or department of a unit of general local government;
(iii) to any self-regulatory organization with regulatory authority over the activities of the employer or employee;
(iv) as otherwise required by law; or
(v) pursuant to section 1681f of this title.

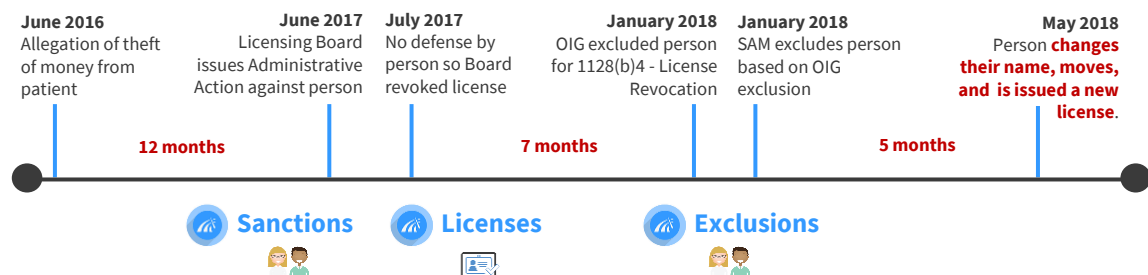
*requires a release and authorization under FCRA, as amended.

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Proactive Monitoring

Sanctions → Licenses → Exclusions



In June 2018 (2 years later), this person starts working at your company **with a new name, in a new state, and with a new license. *Would you catch it?***

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Smarter Monitoring

- **Proactive approach** - monitor professional licenses for any sanctions/revocations before an exclusion results
- **Search and monitor** all former and nicknames of employees
- **Partner with a third-party** who has a larger database

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Compliance and HR Collaboration

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Is Collaboration Important?

- **43%** of exclusions relate to **Licensure** actions
- **License** monitoring is “typically” handled by **HR**
- **Exclusion** monitoring is “typically” handled by **Compliance**
- What if you could “**prevent**” an exclusion?
- **Joint** messaging is so **important**
- Wouldn't it be nice to have a **partner**?



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Collaboration Starts at the Beginning

- **Background Checks** (Criminal, Abuse Registries, OIG LEIE)
- **State** and **Federal Documentation** Requirements
- **Licensing** and **Certification** Requirements
- **Mandatory Compliance Messaging** upon hire
- Dissemination of **Code of Conduct** and **Employee Handbook**



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The Seven Elements of Compliance

Who Knew It Was Meant for HR & Compliance?



1. Policies & Procedures
Employee Handbook



2. Compliance Officer



3. Education & Training



4. Monitoring & Auditing
H/R Audits
New hire compliance



5. Reporting



6. Enforcement & Discipline



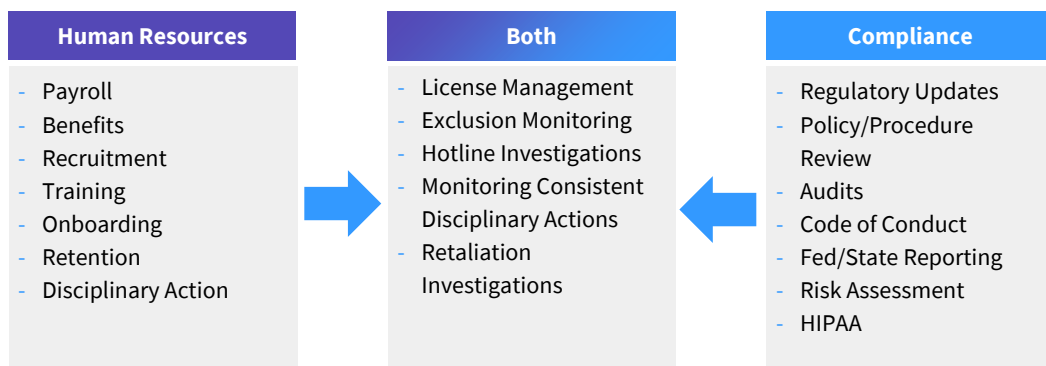
7. Response & Prevention
75% of hotline calls relate to HR

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HR and Compliance Collaboration

It happens every day, even if you don't realize it

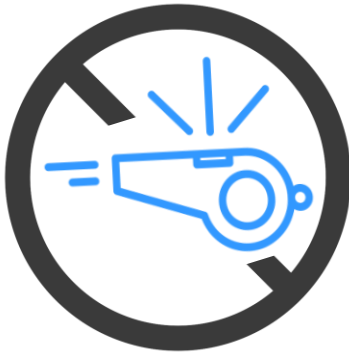


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Messaging Matters

Building a Culture of Compliance



- HR and Compliance share a consistent message of “Doing the Right Thing”
- A culture of consistency and fairness helps prevent “whistleblowers”
- HR and Compliance should be familiar faces to all employees
- The Code of Conduct and Employee Handbook jointly guide employees on expected behavior
- One hotline or two? It doesn’t matter but a fair, respectful and expeditious response does

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Compliance Metrics

They Aren’t Just for Compliance Anymore



Human Resources

- Staffing ratio
- Hotline Calls
- # of licenses
- # of excluded providers



Quality

- Quality Measures
- Medication errors
- # of incidents
- # of readmissions



Finance/Revenue Cycle

- Billing errors
- 60 day overpayments



Relationships

- Conflicts of interest
- Third Party Vetting

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What Metrics can HR & Compliance Share?



- Training
- Compliance hotline
- Turnover
- Employee discipline
- License Monitoring
- Exclusion Monitoring
- Sanction Monitoring

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Key Takeaways & Next Steps

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“People” Data

What do you know?

- Do you have all the information you need?
- Do you have a central repository of all information?
- What current processes do you have today that require paper tracking/excel spreadsheets?
- If you are a health system with multiple locations do you store everything centrally or is licensure information maintained in different facilities or in different departments?
- How do you ensure your “people” data is accurate and up-to-date?

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Measuring Your Exclusion Monitoring

- What sources do you monitor today?
- Do you capture former names of your employees?
- Do you monitor all of your vendors/contractors?

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5 Key Steps to Employee Monitoring

1. Identify the state and federal **pre-hire requirements**
2. Create checklist to **confirm all requirements** are accounted for and assign responsibilities (HR will likely own the pre-hire tasks and Compliance will monitor for timely and accurate completion).
3. **Identify ongoing monitoring requirements** (E.g., OIG and state exclusions; licensure status and renewals; rescreening of criminal background check)
4. **Partnership between HR and Compliance** to define the process (Who, what, where, when, and how)
5. **Implement and communicate**

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Questions?

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Contact Us



Dylan Thriffiley
dylan.thriffiley@ochsner.org



Donna Thiel
dthiel@providertrust.com

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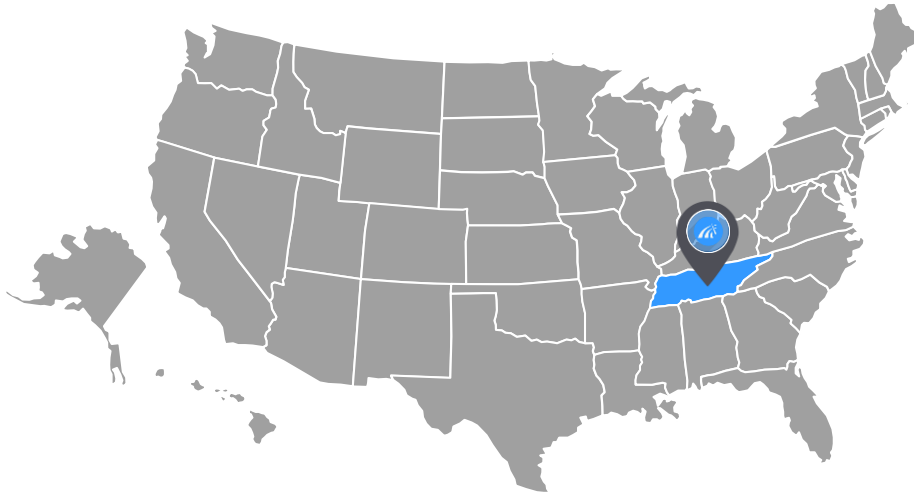
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Resources

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Made With in Nashville

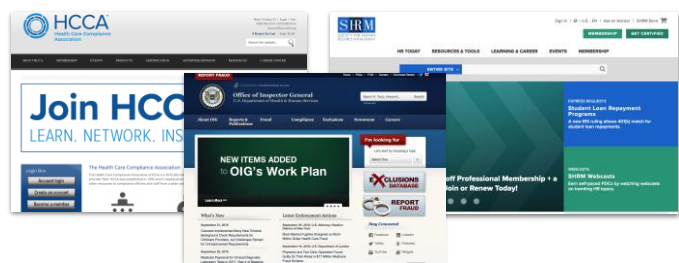
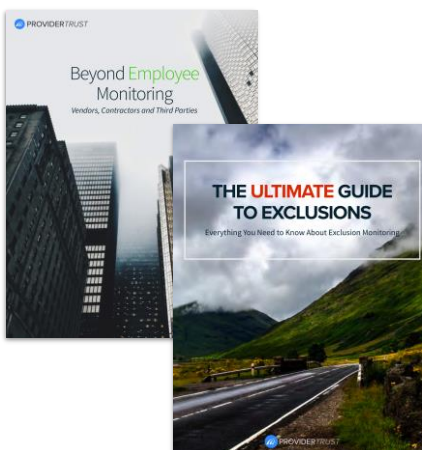
Healthcare compliance insights from America's healthcare capital



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Helpful Resources



- [ProviderTrust Resources](#)
- [Healthcare Compliance Association \(HCCA\)](#)
- [OIG Work Plan](#)
- [OIG Exclusions Program](#)

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Resources

- [CMS Guidelines](#) and [OIG Special Advisory Bulletin](#) on Enforcement
- One Measuring Compliance Program [Effectiveness](#): A Resource Guide



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A Few Headline Stories

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Revoked State Licenses



[USA Today License Revocations Story | 2018](#)

- Providers who lose their license in certain states, **move to pursue practice in another**
- **State license monitoring/credentialing** is essential to catch disciplinary actions

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HHS OIG | Over-prescribers



- [Nurse practitioner prescribed 51 pills a day](#) with an opioid dosage more than 31 times the current recommendation of the government
- Still maintains her license

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Revoked State Licenses

[Physician's License Revoked in TN](#)

- **5 deadly patient overdoses** from over-prescribing
- Moved from **TN** to **Indiana** and began practicing again



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