Changing from Reactive to Proactive Monitoring

The Importance of Collaboration between Compliance and Human Resources

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Today’s Presenters

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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

Let’s Start with the Basics
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**.

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.
Polling Question
How many people currently complete exclusion checks for all states?

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

$129,827
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.

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)
Proactive Monitoring

It is so important.

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.
Pre-Hire vs. Ongoing Monitoring

**Ongoing Monitoring**

Section 6501 of the ACA / OIG Special Advisory

**Ongoing Monitoring Items:**
- OIG-LEIE
- SAM.gov
- 42 State Lists
- OFAC
- License

**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

**Background Check**

Section 15 USC 1681a(y)

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

Proactive Monitoring

Sanctions → Licenses → Exclusions

<table>
<thead>
<tr>
<th>June 2016</th>
<th>June 2017</th>
<th>July 2017</th>
<th>January 2018</th>
<th>January 2018</th>
<th>May 2018</th>
</tr>
</thead>
<tbody>
<tr>
<td>Allegation of theft of money from patient</td>
<td>Licensing Board issues Administrative Action against person</td>
<td>No defense by person so Board revoked license</td>
<td>OIG excluded person for 1128(b)(4) - License Revocation</td>
<td>SAM excludes person based on OIG exclusion</td>
<td>Person changes their name, moves, and is issued a new license.</td>
</tr>
</tbody>
</table>

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?*
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

Compliance and HR Collaboration
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**?

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**
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

HR and Compliance Collaboration

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

<table>
<thead>
<tr>
<th>Human Resources</th>
<th>Both</th>
<th>Compliance</th>
</tr>
</thead>
<tbody>
<tr>
<td>- Payroll</td>
<td>- License Management</td>
<td>- Regulatory Updates</td>
</tr>
<tr>
<td>- Benefits</td>
<td>- Exclusion Monitoring</td>
<td>- Policy/Procedure Review</td>
</tr>
<tr>
<td>- Recruitment</td>
<td>- Hotline Investigations</td>
<td>- Audits</td>
</tr>
<tr>
<td>- Training</td>
<td>- Monitoring Consistent</td>
<td>- Code of Conduct</td>
</tr>
<tr>
<td>- Onboarding</td>
<td>Disciplinary Actions</td>
<td>- Fed/State Reporting</td>
</tr>
<tr>
<td>- Retention</td>
<td>- Retaliation</td>
<td>- Risk Assessment</td>
</tr>
<tr>
<td>- Disciplinary Action</td>
<td>- Investigations</td>
<td>- HIPAA</td>
</tr>
</tbody>
</table>
Messinging 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

Compliance Metrics
They Aren’t Just for Compliance Anymore

<table>
<thead>
<tr>
<th>Human Resources</th>
<th>Quality</th>
<th>Finance/Revenue Cycle</th>
<th>Relationships</th>
</tr>
</thead>
<tbody>
<tr>
<td>Staffing ratio</td>
<td>Quality Measures</td>
<td>Billing errors</td>
<td>Conflicts of interest</td>
</tr>
<tr>
<td>Hotline Calls</td>
<td>Medication errors</td>
<td>60 day overpayments</td>
<td>Third Party Vetting</td>
</tr>
<tr>
<td># of licenses</td>
<td># of incidents</td>
<td></td>
<td></td>
</tr>
<tr>
<td># of excluded providers</td>
<td># of readmissions</td>
<td></td>
<td></td>
</tr>
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</table>
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**
“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?

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?
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?
Contact Us

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Resources
Helpful Resources

- ProviderTrust Resources
- Healthcare Compliance Association (HCCA)
- OIG Work Plan
- OIG Exclusions Program
Resources

- CMS Guidelines and OIG Special Advisory Bulletin on Enforcement

- One Measuring Compliance Program Effectiveness: A Resource Guide

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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
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

Physician's License Revoked in TN

- 5 deadly patient overdoses from over-prescribing

- Moved from TN to Indiana and began practicing again