

# PreCheck Pulse:

Healthcare  
Employment  
Screening  
Trends  
Report



**2016 Edition**

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## Introduction

Healthcare is an industry that relies on trust. Patients expect their providers to keep them safe, give them proper treatment, exercise the correct judgment in dispensing medication, protect their privacy and data, and work with them on financial matters with discretion and respect.

Appropriate screening of all employees is a key part of building that trust, but it's not always easy for organizations to comply with the wide variety of federal, state and local regulations that govern the screening process.

PreCheck recently surveyed healthcare organizations to learn about how they handle background checks, screenings and other employment issues, and some of those findings are surprising. This white paper shares the results of that survey, providing context for what we learned and offering recommendations for healthcare organizations looking to build the safest and most effective workforce possible.



## Exclusion Screening

**Survey Results:** *Thirty-four percent of respondents said their organizations run OIG or other exclusionary checks only at the time of hire. Only 20 percent of them do so every year, while 23 percent do so monthly.*

### The lists they check include:

- OIG List of Excluded Individuals Entities, 70 percent
- GSA System for Award Management, 32 percent
- State Medicaid exclusion list, 17 percent
- All available published state Medicaid exclusion lists, 12 percent
- OFAC/Terrorist List, 9.4 percent

*Almost 20 percent of respondents said they didn't know what lists they check.*

The Affordable Care Act has raised the stakes for employers when it comes to checking the OIG exclusion list. Under the ACA, employers are held liable for hiring excluded individuals who will be paid using Federal healthcare dollars. The exclusion includes federal lists as well as any of the 37 state Medicaid lists, plus the District of Columbia. When it comes to state Medicaid exclusion lists, an exclusion on one state list is equivalent to an exclusion from all states.

To ensure full compliance, employers would have to check the OIG list monthly, when it's updated. The Department of Health and Human Services itself has made this recommendation.

Employers that check lists only once a year may go months before they discover an excluded employee. They may have hired someone who's embroiled in a legal matter in another state that hasn't been resolved, for example. For many employers, the level and frequency of checking is often



34% run OIG checks at the time of hire

20% run OIG checks annually

23% run OIG checks monthly

a matter of balancing risk and cost. But while financial constraints can make it hard for some organizations to check as often as they would like, the penalties for bad hires can be financially catastrophic. Civil Monetary Penalties can be levied up to \$10,000 per item claimed or service furnished. OIG auditors have been known to do random audits, and million-dollar fines are not unheard of. It may come down to a cost you can't afford not to pay.

Outsourcing exclusionary background checks can help relieve both this burden and this risk. Rather than employing people to dig through the OIG LEIE manually, it may make more sense to hire experts with proprietary software that can do the heavy lifting.

## Drug Testing

**Survey Results:** *Forty percent of employers said they drug test through an outsourced partner, while 38 percent perform the tests themselves on-site. Eleven percent said they don't drug test at all.*

*When it comes to physicians, about a third of respondents said they drug test at the time of hire. A full 45 percent said they don't drug test physicians at all. Seven percent of physicians face random tests as part of an overall drug testing program.*

Even people with serious addiction issues can avoid taking drugs long enough to pass an employment drug test, making random drug testing a more reliable practice. A 2014 opinion article by Daniel R. Levinson, Inspector General of the U.S. Department of Health and Human Services, and Erika T. Broadhurst, a special agent for HHS, recommended random drug tests for all healthcare workers with access to drugs.

“Even people with serious addiction issues can avoid taking drugs long enough to pass an employment drug test.”

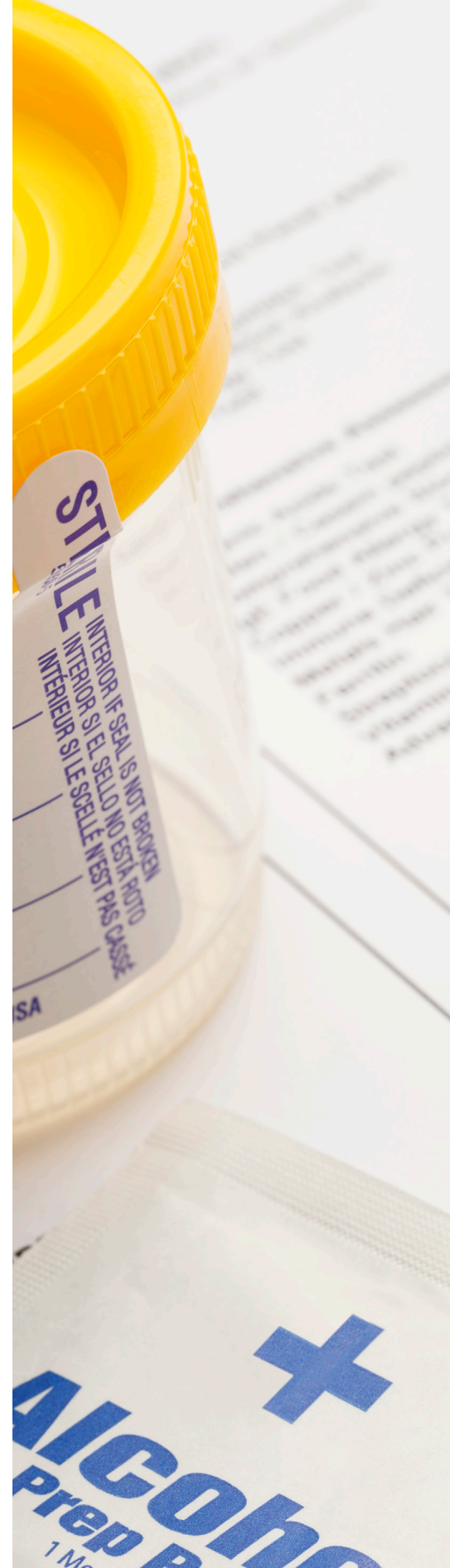
Low rates of drug testing can bring several risks to healthcare organizations:

- Loss of productivity.
- Compromised patient safety.
- Compromised safety of other employees.

No matter what kind of drug testing policy you want to implement, it should be clear regarding how often you will test and what drugs you will test for. Pay attention to state laws and policies, and invite legal counsel to help you draft a policy that works for your organization. States where recreational or medical marijuana is legal will have their own issues, for example.

It's important to not let these challenges become a barrier to drug testing, however. Ignoring the issue puts you, your organization and your patients at risk. Instead, build a clear-cut drug testing policy that protects everyone involved.

Organizations that perform drug testing must have a defined process to keep track of specimens, document the chain of custody and so on. Dealing with labs directly may save money in the short run, but in the long run, healthcare organizations still will face overhead costs, collection costs and other add-ons.



## Criminal Records & Background Screening Policies

**Survey Results:** *Eighty-five percent of respondents say they run criminal background checks at the time of hire only. Even when employees are promoted or there are patient complaints, organizations aren't checking whether criminal actions put them or their patients at risk. Thirty-nine percent reported that they review their policies annually, while 36 percent said they do so every two to five years.*

*More interestingly, only half of healthcare organizations said they have implemented policies to comply with the EEOC's 2012 Enforcement Guidance on employers' use of criminal records. Eighteen percent said they haven't, while 29 percent said they didn't know.*

These numbers could reflect either a lack of awareness about the EEOC's Enforcement Guidance or a lack of incorporation of that guidance into an existing screening program. It's critical to not just understand the EEOC's position with respect to employers' use of conviction records, but to acknowledge it by referencing it in a screening program. More importantly, incorporating key best-practice elements into actual policies, processes and documentation is vital to demonstrate a good faith effort.

Criminal check policies must acknowledge the federal, state and local laws that affect them in some way, such as the federal Fair Credit Reporting Act, state background check requirements for specific positions, state restrictions on use of credit checks, Ban the Box ordinances and so on. At minimum, the screening policy should cover:

- Whether background checks are conducted in-house by HR/security departments or by a third party.
- How frequent screening is conducted (time of hire, biennially, annually, etc.).



**85%**  
of respondents  
say they only  
run criminal  
background  
checks  
at the time  
of hire.

- What populations are screened.
- What the background check consists of, especially if the screening components differ across positions or employee vs. non-employee populations (e.g. volunteers, students assigned for clinical rotation, appointed physicians, etc.).
- Guidance for the decision-making process once screening results are returned, including adjudication steps.

Employers that choose ongoing screening in addition to screening applicants at time of hire need to determine specifically what they will require in terms of the ongoing monitoring plan. Criminal history searches only within a specified jurisdiction? Perhaps a “nationwide” database search with appropriate verification in addition to a current county search? The county search would yield the most accurate information because the county court is where the criminal-history record is filed, but a broader search could yield results for crimes committed in a neighboring county or committed while the employee was on vacation, passing through a location, and so on.

Organizations should review these policies annually to ensure they follow best practices. The process should include a timeline of steps and be clear about who is accountable for each. In addition, an ongoing monitoring program has to evolve to continue to protect employers, patients and co-workers as well as applicants’ rights. Healthcare organizations should work closely with counsel to determine the most appropriate frequency of background screening for their organization.

### **Best Practice Tip**

At minimum, the screening policy should cover:

- Are background checks are conducted in-house or by a third party.
- Frequency of screening.
- Who is screened.
- Screening components and how they differ across positions or employee.
- The decision-making process, including adjudication steps.



PreCheck has continued to see a trend of screening employee populations post-hire, whether that's occurring annually, biennially or less frequently. Employers can't ignore that sometimes employees get into trouble after they are hired, and they can't always be relied upon to report arrests or convictions.

But whether an employer just conducts time of hire screening or ongoing screening, it must have a documented program. The EEOC can investigate employers based on filed complaints. But the existence of a thoughtful and documented program is evidence of a good faith effort to comply with its Enforcement Guidance. Investigations can be invasive and extremely burdensome, and can evolve into a fishing expedition if the employer has no or minimal policies and procedures in place. The EEOC may ask for years of historical records and data to look for a pattern of systemic employment discrimination. That's why it's so important to have adequate documentation that not only states a company's hiring position but also documents the rationalization behind individual hiring decisions that involve criminal history. Performing well-documented individualized assessments is essential.





## Healthcare License Management

**Survey Results:** *Forty-four percent of respondents said they use enterprise software for healthcare license management, while 27 percent use spreadsheets, 13 percent use a third-party credentials-monitoring tool, and 7 percent still use paper to manage healthcare license monitoring.*

As with background checks and drug testing, license and certification credentialing continues throughout the employee's tenure while in applicable job functions. And as with other administrative tasks, revalidating these licenses and certifications can be burdensome for organizations of all sizes. The concept seems to be straightforward until the finer details are revealed. Some of the challenges include:

- Changes in legislation.
- Changes in verification methods and information provided by the boards and organization.
- Variable search methods from one board to the next.
- Hundreds of acronyms, as well as a variety of specialties and new certification types.

Organizations that mishandle license monitoring requirements are at risk of significant monetary penalties in the form of Medicare/Medicaid reimbursements, but the hit to your reputation is harder to erase. In either case, it is very important to be able to prove you have a documented process in place that is followed diligently to prove intent to comply.



A software platform dedicated to license management can help. Audits, reminders and job codes can activate credentialing and report the status of gaps in licensure. Consistent standards that are tracked and recorded result in better care throughout the organization, and they send a subtle message of greater accountability to the license holder regarding timely renewals. Once records are standardized with a management platform, leaders can better track the compliance level of licensed staff system wide. It also eliminates any gray areas regarding who is required to have what in any given job and/or department.

## Physician Trends

**Survey results:** *Twenty-four percent of respondents said they employ all the physicians at their organizations, while 53 percent employ some and appoint or privilege other physicians. More than 20 percent said they only appoint physicians.*

*Sixty-eight percent of respondents said they conduct background checks on both employed and appointed physicians, while 16 percent said they conduct background checks on employed physicians only. One percent said they don't conduct background checks on physicians at all.*

*The study also found that 78 percent of respondents said it was very important that human resources and medical staff services are aligned, with only 19 percent saying it's somewhat important. Clearly, compliance is an issue that goes beyond HR and Medical Staff Services and includes compliance officers and departments as well.*

Hospitals and health groups are dealing with an influx of new employees: physicians. According to the Physicians Foundation, 53 percent of physicians described themselves as employees in 2014, up from 44 percent in 2012 and 38 percent in 2008. The proportion of physicians in solo practice dropped from 25 percent in 2012 to 7 percent in 2014.



According to Paul Keckley of Navigant Healthcare, this rise brings challenges for healthcare organizations. Physicians are looking for the kind of autonomy, support and influence that they may have had at their own practices; employers are trying to balance that with compensation and recruiting practices that help them get the talent they need.

In addition, employers may face internal tensions as they manage the credentials of employed physicians. Both the HR department and Medical Staff Services will keep files, and, according to an article by lawyers Catherine Ballard and Jennifer Nelson Carney in MedStaff News, it's vital that each department clearly understand what should be in each file, how information should (or should not) be shared, and who has jurisdiction over the information.

This tension often is best addressed by strong internal processes and a collaborative relationship between HR and MSS. Ballard and Carney recommend that organizations establish two processes: one that assigns issues to one department or the other, and one that deals with unexpected issues as they arise. A sexual-harassment allegation against an employed physician, for example, may be better suited for an HR investigation, while complaints about an employed physician's bedside manner may be more effectively handled by MSS, as physicians may be more receptive to a peer review in such a case.

In 2015, the Inspector General of the Department of Health and Human Services announced an initiative to help organizations better understand the cross-disciplinary collaboration required to build an effective and comprehensive compliance program. The resulting report, Practical Guidance for Health Care Governing Boards on Compliance Oversight, was produced with the American Health Lawyers Association, the Association of Healthcare Internal Auditors and the Health

### Best Practice Tip

Eliminate internal tension between HR and MSS departments by establishing two processes.

Assign issues to one department and unexpected issues to the other.

Each department should clearly understand who has jurisdiction over what information is kept.



Care Compliance Association.

With more organizations employing physicians, healthcare organizations will need to ensure they have the processes and systems in place to manage the special information considerations these employees bring. In addition, they will need to examine their background check policies to determine how they want to include and manage reports about the physicians they check.

## Contingent Hiring Policies and Adjudication

**Survey Results:** *Forty-eight percent of respondents said they don't have a contingent-hiring policy to manage employment that can't be verified in a timely manner or at all, while 41 percent do have such a policy. For those with a policy, 56 percent said they accept pay stubs and 56 percent accept W-2s. For education that can't be verified, 46 percent have a policy to manage it, while 42 percent do not. Acceptable items include sealed transcripts (65 percent), physical presentation of a diploma or degree to HR (61 percent), copies of diplomas or degrees (59 percent) and copies of transcripts (51 percent).*

*Thirty-one percent of respondents said they use a criminal record adjudication matrix to identify acceptable and unacceptable criminal histories to help decide how to treat records returned on a background check, while 56 percent said they do not. Almost a third said they require their background screening provider to provide such a matrix, while 43 percent said they do not. This ad-hoc approach can create confusion or varying standards when uncertainties arise.*

When employers create an employment screening program, they outline the standards for hiring and retention. For certain healthcare positions, this means that such policies can end up getting rather detailed. What position requires an active license? Do specific education requirements have to be met? What about evidence of previous employment in a specific position for a



minimum amount of time?

If these conditions for employment are part of a screening and adjudication program, employers should define items that are not required and what happens when certain items can't be produced or information can't be verified. A contingent-hiring policy is a Plan B for situations where school records were destroyed in a flood, a previous employer is out of business and so on, and outlines what the hiring party is then prepared to accept in lieu of the required information. If this is not documented, it can't be applied consistently.

A descending order of risk is a very logical approach. First and foremost, HR, counsel and leadership need to identify the key critical components of a background check that are non-negotiables and then create contingencies around the remaining components.

It's not unusual to find inconsistencies and misrepresented information on resumes. A 2014 survey conducted by CareerBuilder revealed:

- 58 percent of hiring managers detected a lie on a resume; 63 percent of healthcare employers surveyed indicated they have caught falsification in resumes.
- 51 percent of employers said catching a lie on a resume would be enough for them not to move forward, while 40 percent said it would depend on the type of lie.

Some of the most common resume padding included embellished skill sets or responsibilities, dates of employment, job titles, degrees, companies worked for and accolades or awards.

Regarding documentation, a best practice is to verify the provided document with the issuing organization, because falsification of documentation is so prevalent. If that's not possible, the employer needs to decide what it's willing

“HR, counsel and leadership need to identify the key critical components of a background check that are non-negotiables and then create contingencies around the remaining components.”



to accept.

## Conclusion

Clearly, adherence to healthcare employment-screening best practices isn't universal.

This gap represents a major opportunity for healthcare organizations to bring HR, compliance officers and medical staff services directors into alignment, both to improve on compliance and risk-reduction efforts and to free up their organization's resources for more strategic actions.

Moving forward, healthcare HR, medical staff services departments and compliance officers should continue to collaborate and rely on strong policies and procedures to help ensure organizations protect employees and maintain the trust patients place in them.

## Methodology

PreCheck surveyed 1,139 respondents and received 812 complete surveys from September to December 2015. Of the respondents who completed the survey, 78 percent were in medical staff services, 14 percent were healthcare HR and 7 percent were compliance. Of those who completed the survey, 43 percent worked at places with fewer than 1,000 employees, while 24 percent worked at places with 2,500 to 9,999 employees.





## Resources

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## About PreCheck

PreCheck, Inc. was founded in 1983 as a background investigation services firm. Responding to the healthcare industry's need for background investigation services, the company started focusing on the specialized requirements of hospitals, clinics and other healthcare providers in 1993. Our client-focused business approach has allowed the company to develop products to meet the growing and evolving needs of the healthcare industry.

PreCheck is now the largest provider of background and credentialing services to the healthcare industry and has expanded its services to assist hospital executives, healthcare human resources and compliance professionals, medical staffing managers, and clinical program directors with other essential functions.

Our suite of products includes outsourcing solutions for license management, health and drug screening, exclusion and sanction screening, immunization tracking, and online I-9 and E-Verify processing.



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