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# A Healthcare Employer Guide to Hiring People with Arrest and Conviction Records

SEIZING THE OPPORTUNITY  
TO TAP A LARGE, DIVERSE  
WORKFORCE

**NELP**  
NATIONAL  
EMPLOYMENT  
LAW  
PROJECT

**SAFER**  
FOUNDATION  
A Road Back

SEPTEMBER 2016

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The National Employment Law Project (NELP) is a non-profit research and advocacy organization that partners with local communities to secure the promise of economic opportunity for today's workers.



For 44 years, Safer Foundation has been supporting the efforts of people with arrest and conviction records to become employed members of the community, and as a result reduce recidivism.

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**“Our need for workers in healthcare is almost insatiable. If we only look at the population that has a perfect education, the perfect physical abilities, the perfect background, we can’t meet [demand]. It’s a business rationale, it’s not just philanthropic or just a mission.”**

**PAMELA PAULK**

*Former Senior V.P. of Human Resources,  
Johns Hopkins Hospital & Health System  
May 7, 2015*



# A. Executive Summary

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## A Growing Need for Healthcare Workers

As healthcare employers are well aware, growth in healthcare jobs is projected to far exceed other industries over the next decade, with employment in the healthcare and social assistance sector adding 3.8 million jobs to become the largest employment sector in the nation.<sup>1</sup> You may have already observed increased demand for healthcare services as a result of changes made by the Affordable Care Act and the demographic shift led by aging baby boomers. To meet this demand, you'll need to implement appropriate workforce development strategies and invest in qualified workers.

## An Undiscovered Pool of Diverse and Valuable Talent

An often overlooked and underutilized pool of talented individuals is eager to become a part of your workforce and help you meet increased demand. Every year, nearly 700,000 people reenter society from incarceration; they are among the estimated 70 million adults in the U.S. who have an arrest and conviction record.<sup>2</sup> A disproportionate number of people with records are people of color, who have mostly been charged with non-violent crimes. Employers who have taken part in programs to give these individuals a second chance have praised their enthusiasm, worth ethic, and loyalty.

People with records have limited employment opportunities in the healthcare industry for a myriad of reasons, including employer attitudes and misperceptions; the often overly stringent background checks required for occupational certifications and licenses; lack of guidance in properly hiring people with records; and the underutilization of rehabilitative legal mechanisms that allow hospitals and other healthcare employers to hire people with records.

Given the burgeoning market for healthcare services and the forecasted competition for skilled workers, we encourage you to fully consider qualified people with records when filling healthcare job openings. The singular

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**This toolkit avoids the use of stigmatizing labels, like “ex-offender” or “felon,” in favor of the term “people with records,” which seeks to decouple an individual’s past mistakes from his or her future potential.**

## A. Executive Summary

demand for workers combined with the nation's recognition of the need for criminal justice reform presents an opportunity for you to invest in previously untapped talent pools, including people with arrest or conviction records.

### Let's Seize the Opportunity

As the healthcare industry continues to grow, employers have an opportunity to launch innovative workforce development strategies to assure a diversified pipeline of qualified healthcare workers.

Businesses of all sizes and types come and go in the communities they serve. However, healthcare organizations help keep many communities afloat and steady, even in hard financial and uncertain times.

Adopting a hiring policy for people with records can help you achieve your business objectives while advancing your mission to serve the public. Consult this toolkit for guidance on implementing a hiring program for people with records.

Several healthcare providers and trainers featured in the toolkit are at the forefront of a movement to invest in workforces in underserved communities. We can all learn from their experiences in developing policies and practices that work.

With the guidance provided in the toolkit, you can be proactive in recruiting people with records from your community. Please share this toolkit with your HR and talent acquisition teams. And good luck as you begin your journey!

#### **LEADERSHIP AT THE FEDERAL LEVEL**

Look for an upcoming report from the U.S. Department of Health and Human Services (HHS), Office of the Assistant Secretary for Planning and Evaluation (ASPE), on employment in the healthcare sector for people with records. The report is part of a national initiative to improve opportunities for people with arrest and conviction records. **Expected release: late 2016.**

## Melody Young: A Success Story

A large part of Melody Young’s life is service to others. As a nurse, she devotes her time at work to meeting the needs of her patients. She volunteers her free time as an anti-violence community activist and participates in local government. She believes that change and growth are possible for anyone and always asks youth the million dollar question: “What do you want to be in life?” For Ms. Young, the answer to that question was simple, but achieving her dream of becoming a nurse was a bit more complicated.



Photo used with permission of Melody Young

Ms. Young began her career in healthcare years ago as a home health aide. After a drug offense, however, she was sent to prison. It was a frightening place, and she quickly realized that she didn’t belong there and decided to turn things around. She earned an early release based upon her outstanding behavior.

Upon release, Ms. Young found a job at a restaurant. But she wanted to accomplish more. She took a chance and entered the CNA training program at a nursing home. Three months later, she was hired by the Rehabilitation Institute of Chicago, but her time there was cut short. Without a “healthcare waiver,” Illinois law prohibited her from working in a healthcare setting. The hospital terminated her, losing a reliable, loyal, and passionate employee who was beloved by both patients and staff.

**“I have confidence not arrogance. I live by how I can accommodate the person with quality patient care. I do all that I can for my patients. It’s not just a job.”**

Ms. Young was not deterred. With the help of the Safer Foundation, she secured a healthcare waiver.<sup>3</sup> She set out to earn her nursing degree, first receiving her associate degree in nursing and later her LPN degree.<sup>4</sup>

Ms. Young’s first nursing position was at a nursing home, where she was hired after sharing her story of struggle and perseverance. Her commitment and professionalism were rewarded when she became a nurse at the nursing home. A skilled worker, her certifications include CPR instruction, wound care, IV therapy, and medical surgery geriatrics.

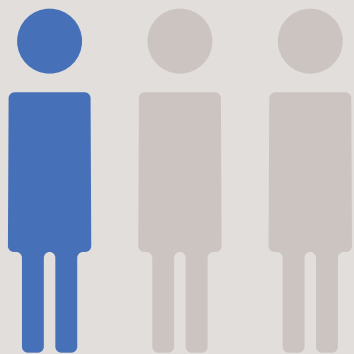
Today, Ms. Young is employed by the U.S. Department of Veterans Affairs. She approaches every new opportunity by asking what she can do to accommodate and bond with patients and co-workers. “I have integrity, and that leads to advancement,” she explains.

Ms. Young was pardoned by the governor in 2015.

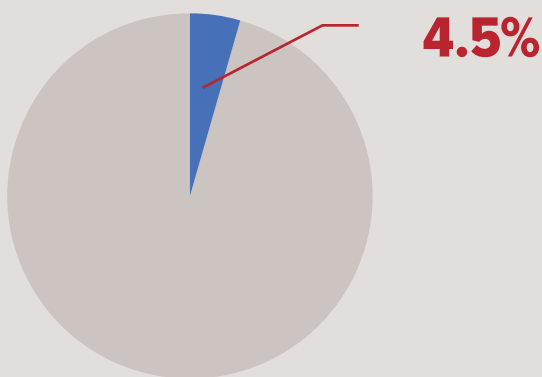
## A Look at the Numbers

We are all affected when millions of Americans—both men and women, particularly people of color—are locked out of jobs because of an arrest or conviction record.

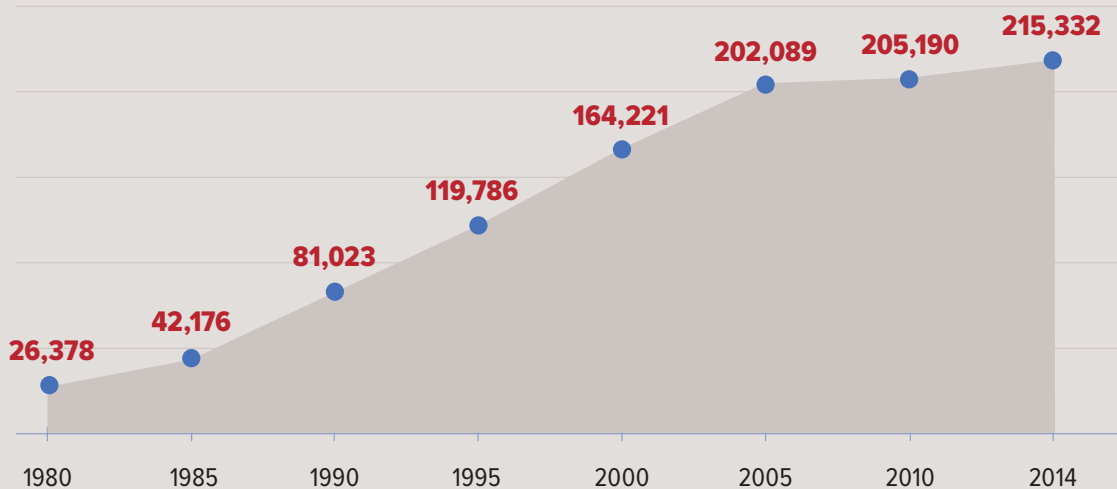
**70 MILLION PEOPLE** in the U.S. have a record. That's nearly **1 IN 3 ADULTS**.<sup>5</sup>



**ONLY 4.5%** of U.S. arrests involved violent crimes in 2014.<sup>6</sup>



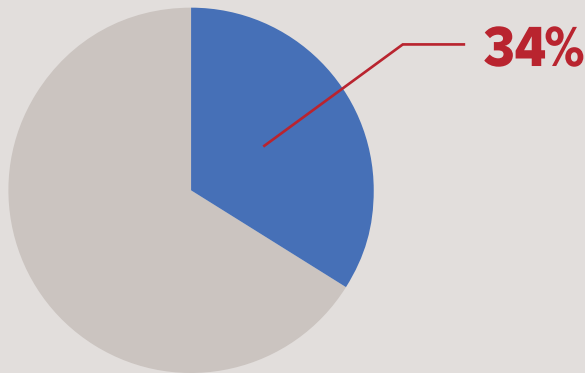
Incarceration of **WOMEN** grew **700%** from 1980–2014.<sup>7</sup>





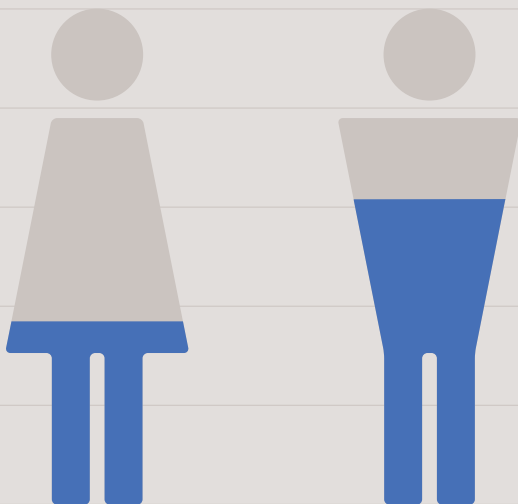
## A Look at the Numbers

**MEN** with a **CRIMINAL RECORD** account for about **34%** of the **UNEMPLOYED** prime working age **MEN**.<sup>8</sup>

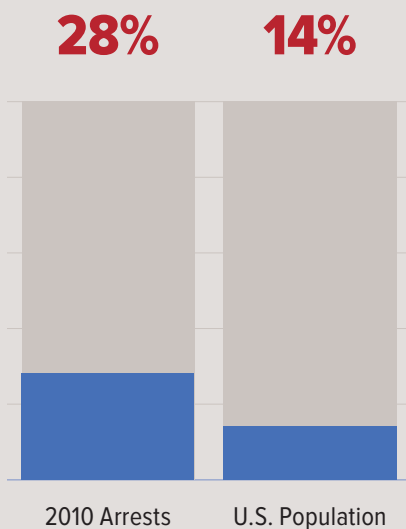


Only **34%** of **TEXAS WOMEN** were employed 8–10 months after release from prison (compared to **60%** of **MEN**).<sup>10</sup>

**34%** vs. **60%**

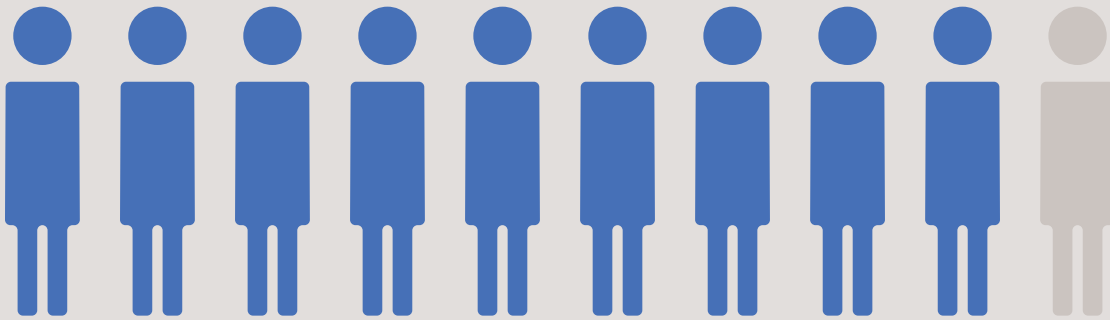


**28%** of **ALL 2010 ARRESTS** were of **AFRICAN AMERICANS**, despite African Americans comprising **ONLY 14%** of the **U.S. POPULATION**.<sup>9</sup>



**NEARLY HALF** of U.S. children have at least one parent with a record.<sup>11</sup>

The stigma of a record is devastating to employment prospects.



**9 IN 10** employers conduct **CRIMINAL BACKGROUND CHECKS**.<sup>12</sup>

**HALF** of the records in the FBI database are **INACCURATE**.<sup>13</sup>

 Background checks for employment using **FBI DATA** grew **600%** from 2002–12 (17 million total).



**27,254 RESTRICTIONS** in state laws may limit someone with a record from obtaining an occupational license.<sup>14</sup>

A criminal record **REDUCES** the likelihood of a job callback by **50%**.<sup>15</sup>

**When given a fair chance to work, people with records make good employees, whose employment helps improve our economic health and public safety.**

Putting **100 formerly incarcerated** people back to work could increase their **lifetime earnings** by **\$55 million**, increase their **income tax contributions** by **\$1.9 million**, and boost **sales tax revenue** by **\$770,000**. And it would save **\$2 million** in criminal justice expenditures.<sup>16</sup>

**MORE  
PRODUCTIVE**

Studies have found workers with records to be **MORE** productive than other workers and have **LESS** job turnover.<sup>17</sup>

Harvard researchers observed that **MILITARY MEMBERS** with felony convictions are promoted **FASTER** and were **NO MORE** likely to be discharged.<sup>18</sup>



**\$78 – \$87  
BILLION LOST**

Employment is the **#1** most important factor for decreasing recidivism.<sup>19</sup>



America's GDP lost an estimated **\$78 BILLION – \$87 BILLION** in 2014 because people with felony records could not participate in the labor market.<sup>20</sup>

## B. How to Use this Toolkit

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**T**his toolkit will equip you with the knowledge you need to recruit and hire qualified workers with records in your community, implement best practices for employing people with records, and establish your organization as a leader in using innovative workforce strategies to promote the health and safety of your community.



### MAKING THE CASE FOR BOTTOM-LINE RESULTS

**Sections C and D** of this toolkit further explain how hiring people with records can improve your bottom line and help fulfill your mission for better patient care and community health outcomes. This toolkit also provides guidance on building critical top-down support for implementing an initiative to hire people with records as staff.



### SIX STEPS TO AN EFFECTIVE HIRING PROGRAM

**Section E** equips you with a step-by-step guide to help you or your human resources personnel navigate the hiring process while ensuring compliance with the relevant federal, state, and local laws and effectively balance the factors that govern the screening of people with an arrest or conviction record.



### LEARN FROM OTHER EMPLOYERS

**Section F** explores best practices used by model healthcare employers to successfully hire people with records, and details the key steps they take in their hiring protocols. **Section G** offers guidance on how to collaborate with trainers and community intermediaries who work to connect employers and candidates in order to develop a robust, reliable, and resilient pipeline of qualified, diverse workers.

Materials in this toolkit are available for download at [www.nelp.org](http://www.nelp.org) and [www.saferfoundation.org](http://www.saferfoundation.org)

## C. Myth-Busters: Hiring People with Records

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**M**aking decisions based on inaccurate assumptions does a disservice to your business and community. This section addresses some common misperceptions about hiring people with records so that you and your HR staff can make fully informed decisions.

### **MYTH #1: I will be exposed to substantial negligent-hiring liability if I hire someone with a record.**

**FACT:** Negligent hiring liability is not a substantial risk. Most people with records have offenses that do not pose the “foreseeable” risk of harm that is legally required to prove negligent hiring. As a healthcare employer, you can avoid potential risk of liability by evaluating both the applicant and job opening—taking into account the age of the offense, the nature of the position, and the degree of on-the-job supervision by other employees. In contrast, if your business instead adopts a blanket “no hire” policy for people with records, you may well find your business in violation of the federal civil rights laws that protect workers from hiring discrimination.

Moreover, “[n]o research has shown that workplace violence is generally attributed to employee ex-offenders or that hiring ex-offenders is causally linked to increased workplace violence.”<sup>21</sup>

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Check whether your state also provides specific protection against negligent hiring liability when hiring people with records by consulting the Resources in Appendix B of this toolkit.

## C. Myth-Busters: Hiring People with Records

### MYTH #2: People with records won't be reliable employees.

**FACT:** Workers with records have been shown to have higher retention on the job<sup>22</sup> and have been promoted at a higher rate than other employees.<sup>23</sup> For example, a three-year tracking study of a Johns Hopkins Hospital program that hired nearly 500 people with records from the Baltimore area resulted in zero “problematic” terminations of employees with a record.<sup>24</sup>

### MYTH #3: Federal and state laws regulating healthcare employment prevent me from hiring people with records.

**FACT:** While federal and state laws often require background checks of many categories of healthcare workers, the laws do not prohibit hiring anyone with a record. Instead, for certain healthcare occupations, the laws list specific offenses, such as serious felonies, that prevent the individual from being licensed or certified by the state. In addition, many laws and regulations allow for “waivers,” “certificates of rehabilitation,” and appeal processes that allow an individual with a disqualifying record to demonstrate that she does not pose a risk of safety or security on the job. Moreover, because of the significant racial impact of wholesale criminal record exclusions on people of color, the U.S. Equal Employment Opportunity Commission (EEOC) has cautioned employers not to rely on state laws in defense of their hiring practices.<sup>25</sup>

#### THE FACTS ABOUT RECIDIVISM

The latest research makes clear that a person's chances of recidivism decline significantly over time, including for people with felony records. For example, the risk that an individual with a burglary record will commit another crime is no greater than the risk for any other person in the general population after 3.8 years have passed since the individual's offense. The likelihood that an individual with an assault record will commit another crime is no greater than the likelihood of any other person in the general population after 4.3 years have passed since the individual's offense.<sup>26</sup>



**“Cultural competency is crucial to closing disparities in health and education. Services that are respectful of and responsive to the beliefs, practices, and cultural and linguistic needs of diverse communities are needed to help bring about positive outcomes. Communities and their education and health care systems must be able to address the needs of their diverse populations without cultural differences hindering the conversation and delivery of services.”**

*From: Investing in Boys and Young Men of Color: The Promise and Opportunity*  
Rhonda Bryant, Linda Harris, and Kisha Bird at Center for Law and Social Policy <sup>27</sup>

# D. Access an Untapped Workforce of People with Records for Bottom-Line Results

## *The Benefits of Hiring People with Arrest or Conviction Records*

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**N**early one in three American adults of working age has an arrest or conviction record.<sup>28</sup> If properly leveraged, these 70 million people can enhance your workforce. This untapped talent pool is already being sought by industry leaders looking to remain competitive in a global economy. In 2016, Johns Hopkins Hospital and Health System joined nearly 200 major corporations, including American Airlines, the Coca-Cola Company, Google, PepsiCo, and Facebook, in signing the White House **Fair Chance Business Pledge**. The pledge symbolizes a dedicated effort to providing economic opportunity for all, by embracing fair-chance hiring of people with records and setting an example for other businesses. A moral case can be made for hiring underrepresented groups, but hiring people with records is also good business.

Interested in signing the pledge? Visit <https://www.whitehouse.gov/issues/criminal-justice/business-pledge>





## D. Access an Untapped Workforce of People with Records for Bottom-Line Results



### WHITE HOUSE FAIR CHANCE BUSINESS PLEDGE: *Johns Hopkins Hospital and Health System*<sup>29</sup>

The Johns Hopkins Hospital and Health System's (JHHS) practice of providing access and opportunity to the returning citizens of Baltimore is not a charitable endeavor, but a strategic part of the way we conduct our business. We are not just an organization that conducts business in Baltimore, but an integral part of the community—interwoven and connected for 126 years and counting.

When Mr. Hopkins endowed the Hospital, he recognized that the service we provide can only have a positive lasting impact if all members of the community are a part of JHHS mission. We have made sure to keep Mr. Hopkins' directives, which in many ways mirror the Fair Chance Business Pledge, at the forefront of all that we do. This is evidenced in our hiring practice, which embraces our community's citizens who meet our hiring requirements—including returning citizens.

We have banned the box in our hiring process and have an established practice of individually reviewing applicants that have a criminal background. This thoughtful, detailed process has enabled us to have a strong returning citizen hire rate over the years.

Our long standing partnerships with community based partners, particularly those that serve returning citizens, and understand our organization and the work we do, provides us with a pipeline of talented applicants. We share our practices with other Baltimore City companies and encourage dialogue on the importance of engaging all of our citizens in the employment process.

Lastly, our organization's unwavering commitment to Baltimore City and Maryland is reflected in our Institution's leadership, managerial and supervisory staff, who understand that we have a lot of talented people in our community. We recognize that we cannot afford to let good talent get away—especially talent that might need a second chance.

# Bottom-Line Benefits

*of hiring people with arrest or conviction records from your community:*



## D. Access an Untapped Workforce of People with Records for Bottom-Line Results

### 1. Enlarge Your Local Talent Pool with Qualified Candidates

Competitive companies cannot afford to overlook 70 million potential employees of diverse backgrounds. This is especially true with the skills shortage in the healthcare industry, where cultural competency is key to delivering quality and effective healthcare that responds to the needs of the community. Through simple and efficient programs, such as employee-led training and robust recruiting, this accessible and driven talent pool can strengthen your business and lead to better health outcomes. Community intermediaries can help streamline hiring processes by vetting, training, recommending, and continuously supporting applicants. These partners decrease costs by delivering qualified applicants specifically suited to your needs.

### 2. Reduce Recruiting Costs

Qualified applicants are vital to growth, but finding them can be expensive. Community intermediaries that prepare people with records for employment can significantly reduce these costs. These partners can assist you in recruiting more skilled individuals for hard-to-fill positions. The result?

- » **Increased output of services**
- » **For the same expenditure of resources**
- » **Equating to more profit**

Intermediary organizations connect employers with candidates. They provide training and employment services for those seeking employment and are essential partners for employers. Community-based nonprofits, training organizations, governmental agencies, government-funded job centers, and workforce development boards are examples of intermediary groups you can identify in your region.

Community intermediaries recruit candidates based on your demands and qualifications. Vetted candidates are then trained based on the needs of your company then sent directly to you for interviews. Successful candidates are provided support services after being hired, and unsuccessful candidates receive follow-up assistance to address issues that prevented them from being hired. All of these essential services are provided with a community partner and reduce employer costs.



For more information on working with intermediary organizations, see Section G of this toolkit.

# Opportunities in Healthcare & Middle-Skill Jobs<sup>30</sup>

## SAN FRANCISCO / BAY AREA

21 to 23 percent of healthcare jobs are middle skilled; healthcare jobs requiring less than a bachelor's degree are expected to grow 16 percent in 10 years and pay a median hourly wage of \$29.32.

## NEW YORK CITY

14 percent projected growth rate for healthcare sector between 2014 and 2019; 37 percent of healthcare occupations are middle skilled; over 25,000 postings across positions in five occupation areas that require less than a bachelor's degree.

## CHICAGO

More than 410,000 total healthcare jobs in 2014; 10 percent healthcare job growth projected between 2014 and 2019; healthcare jobs comprise 23 percent of middle-skill online job postings for jobs earning at least a living wage.

## COLUMBUS

Middle-skill healthcare job growth of 14 percent projected between 2013 and 2018; approximately 2,051 annual openings for middle-skill healthcare jobs between 2013 and 2018.

## LOS ANGELES

596,000 healthcare jobs; 23 percent are middle skilled; \$37.51 median hourly wage; 29,500 middle-skill healthcare job postings between July 2013 and July 2014.

## DALLAS-FORT WORTH

32,990 online job postings for healthcare jobs July 2013-June 2014; 5.5 percent average annual job growth projected for middle-skill healthcare jobs between 2013 and 2018.

### 3. Advance Your Corporate Social Responsibility, Diversity, and Compliance with Employment Laws

A growing number of “ban the box” laws now apply to private employers.

People of color are disproportionately represented among those with arrest or conviction records, making that population particularly diverse. And diversity pays. McKinsey & Company found that diverse companies perform 35 percent better than industry averages.<sup>31</sup> One major advantage of diversity is innovation, which spurs growth. In response to a Forbes survey of large firms, 85 percent opined that diversity is key to driving innovation.<sup>32</sup> Diverse companies stand ready to capitalize on a progressively diverse society.

In addition to driving innovation, the increased diversity resulting from hiring people with records also better positions private employers to comply with the anti-discrimination and affirmative action mandates and the minority-owned business preferences that apply to federal contractors, as has been emphasized by both the Equal Employment Opportunity Commission (EEOC) and the Department of Labor’s Office of Federal Contract Compliance Programs (OFFCP). Similarly, healthcare employers are in a good position to avoid legal challenges by taking steps to fully comply with the federal consumer protection laws regulating background checks for employment and the growing number of “ban the box” laws that now apply to private employers.



Please see Appendix C for more information.

#### COMMUNITY VALUE OF HIRING PEOPLE WITH RECORDS

- Strengthen the local economy by reducing unemployment
- Increase economic self-sufficiency, which supports strong and healthy families
- Improve the health and safety of the community with lower rates of crime and recidivism by increasing employment of those with prior convictions.<sup>38</sup>

### 4. Reduce Turnover & Increase Productivity by Hiring Loyal, Committed Personnel

Qualified employees are vital to growth within the sector and meeting the increasing demand for a skilled workforce, but finding them can be expensive. Retention of skilled employees is essential to the success of the healthcare industry, which faces the challenges of an annual turnover rate of 19.2

## D. Access an Untapped Workforce of People with Records for Bottom-Line Results

percent.<sup>33</sup> Lost productivity and other factors associated with turnover typically cost an employer **21 percent of an employee's salary**.<sup>34</sup>

People with records have proven themselves to be loyal, committed employees. A three-year tracking study of a program at Johns Hopkins Hospital that hired nearly 500 people with records from the Baltimore area documented the low turnover rate and high retention rate of their target group after 40 months.<sup>35</sup> The retention rate for people with records surpassed the rate for similarly-situated employees without an arrest or conviction record. In addition, zero “problematic” terminations involved people with records.



Evolv, a data provider that studies employee retention, found that workers with records were more productive than those without an arrest or conviction record. According to Evolv’s CEO, the increased productivity is likely related to the employees feeling “a sense of loyalty to the companies that took the risk to hire them.”<sup>36</sup> In addition, the Social IMPACT Research Center researched a transitional job program that employed people facing employment barriers and reported that

employers supported the program because it was “lowering the cost of hiring new employees and increasing business productivity [and] improving financial well-being and customer satisfaction.”<sup>37</sup> One-third of those who participated in the program were people with records and recently released from prison (within the last two years).

## 5. Improve Quality of Care & Health Outcomes

In addition to increasing your bottom line, engaging communities through hiring people with records can also improve your quality of care. Employees from the community have a distinctive understanding of how cultural, environmental, and local resources influence health outcomes and healthy lifestyles. As a result, qualified community workers with records can create more effective links between vulnerable populations and the healthcare system. These individuals also display strong compassion in delivering quality patient

## D. Access an Untapped Workforce of People with Records for Bottom-Line Results

care to those in their community. What is the tangible impact?

- » **Increased knowledge by healthcare employees and patients**
- » **Improved access to care**
- » **Better health outcomes for vulnerable communities**
- » **More effective disease prevention**

For example, reentry community health workers hired from the local community increase appointment-keeping and prescription regimen adherence while facilitating several other high-value preventive measures for high-risk populations, rehabilitative care, and health education.<sup>39</sup> Moreover, employing people with records, who are historically underrepresented in the job market, contributes to a variety of socioeconomic and health benefits for those individuals and their families. The result? Healthier communities with less crime and recidivism and an improved economic climate.

## 6. Access Significant Tax Credits & Cost-Free Employee Insurance



The government incentivizes hiring these qualified applicants with records through the **Work Opportunity Tax Credit** and wage subsidies related to federal job-training and other workforce development programs. The tax credit offers between \$1,500 and \$2,400 per year for each qualified candidate hired, depending on the number of hours worked in the first year. Some states and cities offer additional tax credits.

The **Federal Bonding Program** minimizes perceived risks of hiring these qualified applicants. The program provides “fidelity bonds” for employees with conviction histories to insure employers against losses caused by any dishonest acts of an employee. Employers receive the bond free of charge for at least the first six months of employment.



Review the Resources in Appendix B for more information.

## Improved Health Outcomes by Employing Community Health Workers

### Transitions Clinic Network

(TCN) is a national network of primary care clinics that address the needs of recently released prisoners with chronic medical conditions. For over a decade, the clinics have employed community health workers (CHWs) with a history of incarceration to provide culturally appropriate healthcare. In order to facilitate such hiring, TCN clinics have successfully worked with human resources departments in the wide variety of healthcare

settings in which TCN clinics operate, including county hospital systems and public universities. **Over time, Transitions Clinic Network has observed improved health outcomes for their patients, when compared with expedited primary care facilities that do not employ CHWs with conviction histories.** In a randomized controlled trial, the patients of the TCN program reduced their emergency department utilization by about 50 percent over 12 months, thus also reducing healthcare costs.<sup>40</sup> The success of the TCN model demonstrates that employing people with records in healthcare settings is not only feasible and cost-effective, but necessary to ensuring positive health outcomes for our country's most marginalized communities.



CHW Ronald Sanders (right) assists TCN patient

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Did you know that, by 2020, 157 million people in the U.S. are expected to have one chronic condition while 81 million are expected to have multiple chronic conditions? Chronic illness especially impacts people of color and those with low incomes, both of whom already face poorer health outcomes than the general population.<sup>41</sup>



## D. Access an Untapped Workforce of People with Records for Bottom-Line Results

### A Snapshot of Healthcare Workers



#### FRONTLINE HEALTHCARE WORKERS

According to the Frontline Health Workers Coalition, “frontline workers” are “often based in the community and come from the community they serve and play a critical role in providing a local context for proven health solutions, and they connect families and communities to the health system. They are the first and the only link to health-care for millions of people, are relatively inexpensive to train and support, and are capable of providing many life-saving interventions.”<sup>42</sup>

**Responsibilities:** First point of contact when answering phones; arranging transportation for patients; arranging appointments; patient follow-up; and taking vital signs.

**Roles:** Customer service; administrative support; direct care in health education, chronic disease, rehabilitative care, and preventive services.

**Examples:** Medical assistants; medical records & health information technicians; administrative assistants; home care aides, and community health workers.<sup>43</sup>

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#### ENTRY-LEVEL HEALTHCARE JOBS

Entry-level positions generally require a GED or high school diploma as well as limited training and experience.

**Examples:** certified nursing assistant; home health aide; personal care aide; food service assistant; transporter; environmental services assistant; health information clerk; and emergency medical technician.

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#### MIDDLE-SKILL HEALTHCARE OCCUPATIONS

Middle-skill jobs do not require a bachelor’s degree, but these skilled positions require some education and training (e.g., associate degree/certifications) beyond high school and more experience.

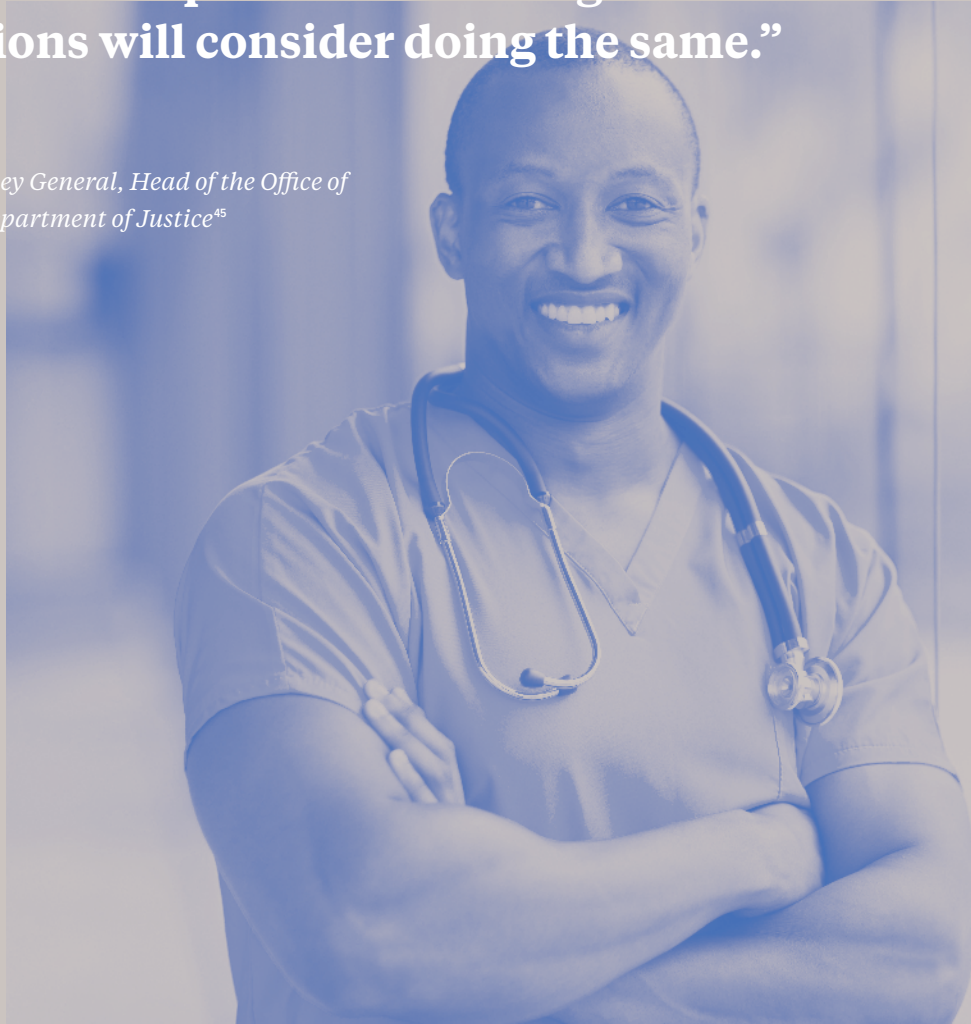
**Examples:** licensed practical nurse; certified medical assistant; and phlebotomy technician.<sup>44</sup>

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**“Th[e] new [U.S. Department of Justice, Office of Justice Programs] policy statement replaces unnecessarily disparaging labels with terms like ‘person who committed a crime’ and ‘individual who was incarcerated,’ decoupling past actions from the person being described and anticipating the contributions we expect them to make when they return. We will be using the new terminology in speeches, solicitations, website content, and social media posts, and I am hopeful that other agencies and organizations will consider doing the same.”**

**KAROL MASON**

*U.S. Assistant Attorney General, Head of the Office of Justice Programs, Department of Justice<sup>45</sup>*



# E. A Step-by-Step Guide to Hiring People with Arrest or Conviction Records

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**W**e've already highlighted how a huge number of job-seekers are held back by their record: nearly one in three adults have an arrest or conviction record<sup>46</sup> that can reduce his or her chances of a callback or job offer by 50 percent.<sup>47</sup> But employers also lose out if they **ignore a large talent pool** by prematurely discounting applicants with an arrest or conviction record. Use the following guide to learn how to tap this talent pool by implementing fair hiring policies that reduce bias, bring employers into compliance with federal civil rights and consumer protection laws, assist employers in demonstrating their due diligence in adopting best practices, and strike a balance between **fairness, quality, and safety**.

## STEP 1: Adopt humanizing language when describing people with records

When describing this population on job postings, applications, internal assessments, and among staff, avoid terminology such as “ex-offender” or “ex-convict.” Even the term “formerly incarcerated” can be stigmatizing because not all individuals with a criminal record have been incarcerated—some have never even been convicted of an offense. Moreover, such terminology focuses a person’s identity not on their capabilities but on former involvement in the criminal justice system. A better alternative would be to adopt language that centers on the person, such as a person with an arrest or conviction record, as opposed to ex-felon or ex-offender.

## STEP 2: Eliminate blanket bans against hiring people with records and adopt fair screening standards

Review the hiring criteria for an open position and remove blanket exclusions of applicants with a record. Do not assume someone is automatically disqualified from employment in healthcare solely because that person has a record. State laws requiring background checks of healthcare workers are usually nuanced and may moderate broad employment restrictions by providing protections to

## E. A Step-by-Step Guide to Hiring People with Arrest or Conviction Records

healthcare employers and jobseekers (e.g., Illinois' healthcare waivers). Only when necessary should you include in the job posting the specific convictions and arrests (or class of convictions and arrests) that are statutorily disqualifying or may form a significant barrier to hiring an applicant.

As required by the federal civil rights laws (Title VII of the Civil Rights Act of 1964), which regulate criminal background checks because of their disproportionate impact on people of color, employers must take into account the background of the job applicant, not just the record. According to guidelines issued in 2012 by the U.S. Equal Employment Opportunity Commission (EEOC), the employer must consider

- » **The age of the offense**
- » **The nature of the offense**
- » **Whether the individual's record is directly related to the job**
- » **Any evidence of rehabilitation**

Finally, limit your background check to those aspects that are relevant and whose consideration is allowed by law. Depending on the state, it may be illegal to screen out people based on arrest records and to consider convictions older than a specified number of years.

By strictly complying with these civil rights protections, employers avoid discouraging potential candidates from applying, which helps expand the talent pool for recruitment.

### THE 2012 EEOC GUIDANCE IS HAVING AN IMPACT ON EMPLOYER HIRING PRACTICES.

In a 2015 survey, 72 percent of employer respondents asserted that they perform “individualized assessments” of candidates with records—an increase from 64 percent of respondents in 2014—thus indicating that “the EEOC’s guidance continues to have a growing impact on employer hiring practices.”<sup>48</sup>

## STEP 3: Eliminate criminal history inquiries from job applications (“ban the box”)

**To ensure a fair process, you should wait until the end of the hiring process to ask about an applicant's record.** Delaying arrest and conviction record inquiries is necessary for several reasons. Including such questions on an application can have a “chilling effect” on potential applicants with a criminal record. Your ideal candidate might be deterred from even applying.

## E. A Step-by-Step Guide to Hiring People with Arrest or Conviction Records

By removing criminal history inquiries from applications, employers are able to draw from a wider talent pool, while still conducting a background check later in the hiring process. Even employers and HR professionals with good intentions may be affected by unconscious bias and inadvertently exclude qualified applicants with a record. Without early access to record information, employer callback decisions won't be based on arrest or conviction history—but rather on the strength of the applicant's qualifications.

### BAN THE BOX—GIVING PEOPLE WITH RECORDS A FAIR CHANCE FOR EMPLOYMENT

“Banning the box” means removing criminal history inquiries from job applications and delaying background checks until after an interview or conditional offer of employment. Such delayed inquiries prevent the stigma of a criminal record from overshadowing a job candidate's qualifications.

Ban-the-box policies have been embraced by 24 states and over 130 localities, covering more than half of the nation's workforce. In 2015, President Obama directed federal agencies to ban the box. A number of corporations—including Starbucks, Facebook, and Koch Industries—and philanthropies have also adopted fair-chance hiring policies.

State and local ban-the-box policies cover government employers, including many public healthcare delivery providers. In addition, nine states and many of the nation's largest cities (including Baltimore, Chicago, New York City, Philadelphia, San Francisco, Seattle, and Washington, D.C.) expressly cover not just public employers, but private employers as well. Some ban-the-box laws exempt certain healthcare positions from coverage. Fair-chance policies have proven effective; for example, since banning the box, Durham County, North Carolina has nearly tripled the number of applicants with criminal records who are recommended for hire.<sup>49</sup>

### STEP 4: Avoid making suitability decisions based on self-disclosure

To employers, self-reporting questions during interviews or on applications can be a test of a candidate's integrity. The expectation of self-disclosure, however, undermines the goal of fair chance hiring policies, which were developed to highlight what matters most—qualifications, work experience, and competence.

## E. A Step-by-Step Guide to Hiring People with Arrest or Conviction Records

Besides, self-disclosure questions do not make for quick and simple responses. The rap sheet is a complicated document, and the reliability of third-party background checks is spotty. Well-intentioned applicants/candidates may be unable to recall the details of their conviction history out of confusion or misinformation rather than conscious omission. Or, hiring managers may have in hand an inaccurate background check report that does not corroborate a candidate’s account.

» **Capitalize employment opportunities with a rational analysis—not an impulsive rejection.**

### STEP 5: If a background check is necessary, use a reliable screening firm and provide the applicant an opportunity to verify the accuracy of the information



Employers and commercial reporting agencies that conduct private background checks must comply with the federal consumer protection law, called the Fair Credit Reporting Act (FCRA), which regulates background checks for employment.

Before obtaining a background check, FCRA requires that the applicant be provided a disclosure document that:

- Conspicuously indicates that the background check is for employment purposes; and
- Obtains the candidate’s written consent to perform a background check.

Many background check companies produce out-of-date or inaccurate criminal history information. When selecting a screening firm, ask about their process to verify the reliability of the firm. Some indicators of reliability include policies that demonstrably comply with the FCRA. When generating reports, reliable screening firms use records from the court of a candidate’s county or state of residence and not database searches alone. A firm should use at least two pieces of information—name and date of birth—to generate a match and report a positive record. Accreditation from an organization such as the National Association of Professional Background Screeners may also be a helpful indicator of reliability.<sup>50</sup>

## E. A Step-by-Step Guide to Hiring People with Arrest or Conviction Records

### STEP 6: Send a “pre-adverse action” notice with a copy of the background report and allow the applicant to produce evidence of rehabilitation

If the employer decides to deny employment based on the background check report, the applicant must also be provided a “pre-adverse action” notice, which provides the applicant an opportunity to review the report and challenge the accuracy of the information. The pre-adverse action notice should include a copy of the background check, a summary of the candidate’s rights under FCRA, and a reasonable timeline within which a candidate should respond.<sup>51</sup>

As required by many “ban the box” laws and consistent with the EEOC’s criminal background check guidelines, employers should also notify the applicant of the specific offense that is considered disqualifying and provide an opportunity to present evidence of rehabilitation before making a final hiring decision.

In addition, the EEOC urges employers to consider the following mitigating evidence as part of an “individualized assessment”:

- The facts or circumstances of the offense;
- Evidence of work history;
- Rehabilitation efforts such as education and training; and
- Employment or character references<sup>52</sup>

Some states also issue evidence of rehabilitation (e.g., Illinois’ Certificates of Relief from Disability) that reaffirms a person’s successful rehabilitation. By providing room for mitigating evidence, employers help protect themselves against liability for violations of civil rights laws.

### STEP 7: HIRE THE CANDIDATE or formally rescind the offer

After considering the additional information, if you still deem the candidate unfit for the job, notify him or her in writing that you are rescinding the offer and explain the reasons for your decision.

But if you consider the candidate qualified for the job after assessing the mitigating evidence, hire the applicant.

## High Road Employers

Employers who provide meaningful jobs with living wages and favorable benefits

### EQUALS

Higher retention + High productivity

### LEADING TO

An overall stronger bottom line as companies reduce recruitment costs and increase productivity

## E. A Step-by-Step Guide to Hiring People with Arrest or Conviction Records

### KAISER PERMANENTE'S BACKGROUND CHECK PROCESS

To apply for a position at Kaiser Permanente, the individual creates an account online that includes his or her profile, qualifications, and skills. When a particular position of interest to the individual is posted, he or she provides a “submission of interest” for the position. In 2014, Kaiser Permanente ended the practice of requesting criminal history information from the applicant as part of the “submission of interest” process. The criminal background check does not take place until Kaiser Permanente has extended a conditional offer of employment to the individual.



Consistent with the requirements of the consumer laws regulating employers and background check companies, Kaiser Permanente provides the individual with a consent form to sign because the criminal background check is initiated by an outside vendor. The form also describes the individual’s right to receive a copy of the criminal history report and the other requirements of the consumer laws. Consistent with the California law that regulates background checks prepared by private companies for employers, Kaiser Permanente limits the background check to convictions that occurred within the past seven years and does not include arrests that did not lead to conviction (pending cases are included), infractions, or cases that have been dismissed. Background checks required by state law for licensing or certification are conducted by the State of California Department of Justice.

Because Kaiser Permanente is a recipient of federal funding, it must also check the Fraud and Abuse Control Information System (FACIS) to determine if care providers are prohibited from receiving federal funds because of sanctions or discipline imposed by a government body. Importantly, Kaiser Permanente recruiters review the background check report provided by the vendor—it is not reviewed by the hiring managers. Kaiser Permanente does not apply a specific “matrix” of disqualifying offenses as part of the screening process, and instead it evaluates each applicant’s information individually and takes into account the job functions of the specific position. Kaiser Permanente seeks to screen out individuals with a violent offense or a conviction that would be a risk to its members or patients. Depending on the nature of the position, more minor offenses like drunk or disorderly conduct or driving under the influence (DUI) are often not considered disqualifying, depending upon the circumstances.

If there is a conviction of concern to the recruiter or an open arrest, the recruiter follows a structured process to engage with the individual about the nature of the offense and to solicit other explanatory information. As required by the consumer protection laws, if the offense disqualifies the individual from the position, Kaiser Permanente will issue an “adverse action” letter, allowing the individual to challenge the accuracy of the information.





## A Hiring Manager's Key for Hiring People with an Arrest or Conviction Record

**DURING** policy review on the use of background checks, consider:

- Who will have access to the record?
- Who will provide the record? If a consumer reporting agency:
  - \* How careful and accurate is their process?
  - \* What and how many pieces of information do they match before issuing a positive report? (Name and date of birth should be the baseline.)

**BEFORE** including a record-based exclusion on a job posting, consider:

- Is the disqualifying offense directly related to the position?
- For the particular position, are there any statutory bars to hiring people with a certain conviction? If so:
  - \* Are they lifetime bars?
  - \* Are they mandatory or discretionary, i.e., does the law require that employers not hire people with a disqualifying offense, or can hiring managers exercise discretion?

**AFTER** extending a conditional offer of employment and receiving the applicant's background history, consider:

- Does the nature of an offense have any bearing on the job sought?
  - \* Will the nature of the job sought, such as easy access to medications or patient information or direct patient-care responsibilities, allow a particular past offense to recur?
- If the conviction is related to the nature of the job, how long ago did the offense occur?
  - \* Have a few years passed without incident? (The likelihood of re-offending declines significantly with time; a person who has not committed an offense over the past several years is no more likely to commit a crime than anyone else in the general population.)
- Has the person taken rehabilitative steps since the conviction? (For instance, did she obtain an education or gain work experience?) And are those rehabilitative steps reflected in the way she explains her history of arrest or conviction?

## E. A Step-by-Step Guide to Hiring People with Arrest or Conviction Records

### Ernesto Diaz: A Success Story<sup>53</sup>

For the past six years, Ernesto Diaz has been a hard-working employee of Royal Ambulance in Northern California. He has filled multiple roles at the company, progressing from an entry-level position to management.

Mr. Diaz's interest in healthcare began during a low point in his life. As a teenager in Berkeley, California, he became involved with gangs, sold drugs, and got into fights. He cycled in and out of jail, was expelled from high school, and eventually ended up in juvenile detention for assault with a deadly weapon and battery. While there, he took a first-aid class with a visiting firefighter, and "it sparked an interest in helping people," he says. Through a program that later evolved into the nationally recognized Alameda County EMS Corps,<sup>54</sup> Mr. Diaz was able to begin first responder training while incarcerated, and later obtained his EMT certification after his release. He soon began working at Royal Ambulance, and that's when "something clicked," he says. "Friends around me continued to go to jail. But I was so fed up with it. I felt proud of myself—I had a job and responsibility... I needed to put that other stuff behind me."

Mr. Diaz began as an intern; at only 18, he didn't yet satisfy Royal's age requirement for EMTs. Instead, he worked with the billing and operations departments and was soon hired as a biller. Desiring more responsibility, he later transitioned into the marketing department, where he quickly proved himself as a successful account manager. The company promoted Mr. Diaz to his current position as regional manager. He trains and supervises account managers and teaches classes to employees at skilled nursing facilities on topics such as administering CPR and recognizing the signs of a stroke. One of his favorite aspects of the job is client interaction—transporting patients to medical appointments and checking in on how they're doing.

Still only in his 20s, Mr. Diaz aspires to climb even higher: "My biggest goal is to get back into school." He has his sights on a college diploma.



Photo used with permission of Ernesto Diaz



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**“We have a philosophy that Johns Hopkins is ‘of the community’ of Baltimore. We need to do something about creating opportunities. This community has disproportionately high rates of unemployment, dysfunctional families, crime, abandoned homes, etc. It is in our best interest to take constructive steps to introduce the people of East Baltimore into the workforce.”**

**RONALD R. PETERSON**

*President of Johns Hopkins Hospital & Health System*

# F. Chart New Territory

## Model Employer Practices for Hiring People with Records

### 1. Johns Hopkins Hospital & Health System: *An Employer Model for Hiring*

Johns Hopkins Hospital and Health System, under the leadership of President Ronald Peterson and Senior Director of Central Recruitment Services Michele Sedney, is the premier model of a healthcare employer successfully hiring people with records from the community into entry-level and middle-skill positions.



Johns Hopkins is a worldwide and nationally acclaimed hospital and health-care system with more than 40,000 employees. As the second-largest employer in Maryland, it attracts 9,000 to 12,000 applicants per month and hires 1,800 people per year.<sup>55</sup> Johns Hopkins launched an initiative to hire those in the Baltimore community with records after recognizing the hospital had a need to find stable, reliable employees to fill entry-level, higher-turnover positions. By hiring from this population, the hospital system advanced its mission to better serve the local community. The program has been widely recognized as a national leader in promoting the hiring of people with records.



**“First and foremost, this is a good business decision. These are good, loyal, solid workers. And I have the numbers to prove it.”<sup>56</sup>**

#### **SPOTLIGHT: CHAMPION OF CHANGE**

Pamela Paulk was honored as a 2014 White House Champion of Change for leading the Johns Hopkins initiative to hire people with arrest or conviction records while serving as senior vice president of human resources. She was appointed president of Johns Hopkins Medicine International in January 2015.

F. Chart New Territory

## What do the numbers show?

### BETTER RETENTION

A 2009 study at John Hopkins of about 500 hires of people with records showed their **RETENTION RATE OUTMATCHED** that of **EMPLOYEES WITHOUT RECORDS** after 40 months.

### NO PROBLEMATIC TERMINATIONS

What about those with higher-level offenses? Johns Hopkins conducted a study of 79 employees with more serious records for **3-6 YEARS** after their hiring date.<sup>57</sup>



At the end of the study period **73** individuals were still employed and only **ONE** was involuntarily terminated.

### CAREFUL SCREENING



With or without a record, not all people are well suited for a career in healthcare. Johns Hopkins attributes much of its program’s success to **THOROUGH SCREENING**.

**100%** of their candidates have their background checked after an offer is extended: **50%** are hired; **25%** are ruled out based on conviction background; **25%** are ruled out for other reasons.

For over a decade, **5%** of each year’s total hires have had a record, and **20% OF ENTRY-LEVEL HIRES HAVE HAD A RECORD**.

## F. Chart New Territory

### COMMON POSITIONS:

While many people with records at Johns Hopkins are hired into entry-level positions, such as food service technician, environmental services technician, and clerical positions, some are placed in middle- or high-skill positions in IT and clinical roles. Johns Hopkins staff also have access to career development opportunities and funding for additional certification and training.

### HOW DOES JOHNS HOPKINS DO IT? IS IT DIFFICULT?

*No, it's much like a regular application process.*

1. Typical application and interview process (no questions about history of arrests or convictions)
2. If selected, a conditional offer is made
3. After the conditional offer, the background check is conducted
4. Results of background check are reviewed by the human resources investigator/screener

When assessing the relevance of an applicant's background, Johns Hopkins considers the following factors:

- Job and duties
  - Time, nature, and number of convictions
  - Circumstances and relationship between convictions
  - Time between conviction and decision to hire
  - Attempts at rehabilitation by the applicant
  - Employment before and after to judge the extent of rehabilitation
  - Age at time of the conviction
  - Whether applicant disclosed information
  - Impact of conviction and relevance to security and safety of employees, patients, and visitors
5. If an applicant is hired, his or her background file is kept confidential by HR, and the manager is only notified if necessary.
  6. When needed, a coach is assigned to support an applicant's transition

**JOHNS HOPKINS' TOP FACTORS LEADING TO SUCCESS**

- Identify and collaborate with reputable local intermediaries for referrals; help referrers build the pre-hire curriculum to meet your specific needs
- Receive support for program from security staff
- Screen closely
- Provide internships
- Utilize job coaches for transition into employment
- Have top-down leadership support

## 2. Mount Sinai Health System, Institute for Advanced Medicine, Coming Home Program: *An Employer Model for Hiring Community Health Workers*<sup>58</sup>



The Mount Sinai Health System, Institute for Advanced Medicine's Coming Home Program is located in New York City. Since the program's inception in 2006, it has served more than 3,000 patients returning home from prison and jail and has successfully employed nine formerly incarcerated staff members.

The Coming Home Program (CHP) operates out of a hospital-based clinic (part of a six-site network of hospital and community clinics caring for more than 13,000 patients with or at-risk for HIV/AIDS). CHP's mission is to improve the physical and mental health and emotional and social well-being of people with a history of incarceration during their transition from prison or jail to their communities. The threefold objectives are to:

- Provide **continuity of care** from incarceration through reentry and beyond
- Offer **targeted counseling and supportive services** from formerly incarcerated staff
- Ensure all clinic staff are able to work effectively with formerly incarcerated people through **ongoing training**



From left to right: Beth Hribar, CHP Program Director; Emily Gertz, Director of Special Projects; Debra Barnes, CHP Peer; Iris Bowen, CHP Coordinator; Edwin Lopez, CHP Peer; Mary Johnson, CHP Clinical Director; Sylviah Nyamu, Research Assistant. Photo used with permission of the Coming Home Program.

### **SAMPLE COMING HOME PROGRAM JOB POSTING** *Community Health Advocate*

The Institute for Advanced Medicine (IAM) is recruiting a Community Health Advocate (CHA). The CHA will support patients of the Institute who are formerly incarcerated to promote engagement in healthcare and other social services during the transition from prison/jail to the community.

The CHAs will play a key role in the Institute's Coming Home Program (CHP) which strives to improve the mental and physical health and social and emotional well-being of people with a history of incarceration by providing linkage to care, offering supportive counseling, and implementing staff training to ensure that all IAM employees are knowledgeable about the experience of incarceration.

The CHA will perform a number of tasks including: visiting patients at their home or in the community, meeting with patients in the IAM, accompanying patients to medical and other appointments, providing supportive counseling, educating patients about chronic disease management, conducting outreach, collaborating with the healthcare team, and tracking all activities.

The ideal candidate will be formerly incarcerated with at least three years of professional experience. The candidate should be adaptable to change, mature, able to problem solve, and diplomatic. Candidates should also have good time management, excellent verbal communication skills and a strong sense of appropriate boundaries. The position requires organizational skills, computer literacy, a desire to learn and grow, and the capacity to work well with a diverse group of people including healthcare providers and administrators.

The shared experience between the Community Health Advocate and the patient is critical to this role; a direct and personal understanding of incarceration and sensitivity to the challenges of reentry are required. A willingness to disclose your personal experience of incarceration with staff and patients is also required.



## F. Chart New Territory

### HOW DOES MOUNT SINAI'S COMING HOME PROGRAM RECRUIT AND RETAIN FORMERLY INCARCERATED STAFF?

Unlike Johns Hopkins, which emphasizes confidentiality and keeps all criminal background files within the human resources department, **the lynchpin** of the Coming Home Program is staff transparency about their criminal justice history and use of their background of incarceration to more effectively serve patients.

However, the program relies on a network of intermediaries for referrals and the vetting process is nearly identical to staff without criminal histories. All potential hires go through the corporate human resources process. The major difference in approach is that applicants are notified that they will be expected to share their incarceration history with other staff members as well as patients.

### WHAT TO KEEP IN MIND WHEN YOU'RE TRYING TO START A PROGRAM WITHIN YOUR ORGANIZATION?: *Advice from Emily Gertz, Director of Special Projects for the Institute for Advanced Medicine*

#### PATIENCE IS KEY

Implementing a program within a hospital takes time. But as long as you have champions leading the initiative, the program can grow and build momentum.

#### NOT ALL STAFF IDENTIFY IN THE SAME WAY

There may be staff who have arrest or conviction records or who are formerly incarcerated and do not want to self-identify if their job does not require disclosure of their justice involvement.

#### INDIVIDUAL STAFF EXPERIENCES

Depending on their incarceration experience, some staff members may need more support and training to address the impact incarceration has had on them.

### 3. Roseland Community Hospital: *Hiring for Healthcare Career Pathways*

Roseland Community Hospital (“RCH”) has served the residents of Chicago’s far South Side for more than 85 years.<sup>59</sup> As a non-profit, safety net hospital, Roseland has long been dedicated to serving the community to the fullest extent possible. More recently, however, the hospital leadership recognized that providing opportunities for workers with conviction records was an important part of that mission. “People make mistakes. Things happen,” says Paulette Clark, Roseland’s human resources manager. “If people want to turn their lives around and we can help, then we’d like to do that.” After coming to that realization, the HR team obtained the approval of the hospital CEO, which provided them with top-down support for hiring those with records.



Working with Safer Foundation, Roseland decided to hire workers as part of a healthcare career pathway program. The employees start in lower-level positions, receive training from Roseland, and eventually advance into patient-care positions. Safer Foundation helped find qualified applicants, and the HR team examined the applicants’ resumes holistically, looking for indications they were making efforts to leave their pasts behind them. The managers who would oversee the work of the new employees interviewed the applicants, and, when the results of those interviews came back favorably, the applicants were offered positions. Things are going well, and Roseland hopes to continue hiring people as a part of this pathway program. As Clark sees it, “People deserve a second chance. We’re open to giving them opportunities.”<sup>60</sup>

## CAREER PATHWAYS HELP EMPLOYERS OVERCOME STAFFING CHALLENGES

Healthcare employers benefit from investing in career pathways for people with records who are hired into entry-level positions. This workforce development strategy is essential to reducing costs while improving patient care and filling vacancies in higher-level positions.

### STRENGTHEN YOUR BOTTOM LINE & GROW YOUR OWN TALENT FROM ENTRY-LEVEL WORKERS

CONCERNS	GOALS
Lack of diversity in your talent pool	Increase diversity of workforce
Low quality staff	Increase access to quality talent
Shortage of frontline and middle-skill workers	Overcome shortage of frontline and middle-skill workers
Difficulties ensuring quality patient care	Improve service delivery and health outcomes
Reduced productivity and a rise in associated costs	Maintain high standards of skill among frontline and middle-skill staff, thereby freeing up physicians for their own work
High turnover among frontline workers	Increase retention by providing opportunity for career advancement from entry-level positions
High cost of recruiting new employees	Decrease recruiting costs by working with community intermediaries



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**“Criminal justice reform efforts are sweeping across the nation; from the halls of Congress in Washington, D.C. to Safer Foundation’s home state Illinois and beyond. As our nation faces the reality that mass incarceration has been a failure, we are now moving to reduce the number of people in our jails and prisons. The next big issue we face is how we will integrate those coming out of our jails and prisons into our communities in a productive way. Opening career opportunities in industries with explosive growth must be one of the key success factors for successful reentry.”**

**VICTOR DICKSON**

*President & CEO, Safer Foundation*

# G. Leverage Community Intermediaries

## *How to Build Partnerships to Source and Develop Diverse Talent*

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**A**cross the nation, key factors in healthcare have converged to create a workforce picture that has many skilled positions going unfilled, while at the same time, thousands of working-age people with records should be gainfully employed but cannot find jobs.

While most of the 70 million people with a record have old or minor offenses, some may have more recent interactions with the criminal justice system. In such cases, the need for workforce development has a promising partner in prison “reentry” policy. Paired with reentry programs, workforce development for people with records serves the dual goal of overcoming skill shortages and improving community health outcomes.

Local community-based intermediary groups connect the surging employer demand with the employment needs of this target population. These partners assist businesses in finding qualified candidates **at reduced costs**.

### Creating Value through Intermediaries

Below are **Seven Tips** for developing and building lasting, successful, and mutually beneficial relationships with local sourcing partners.

**TIP #1: Conduct preliminary research of the key players in your region that are successfully working with people who were formerly incarcerated or have an arrest or conviction record.**

Some intermediaries may not work exclusively with people with records. However, they can serve as valuable partners, especially if they focus on workforce development and providing training and employment opportunities. The preferred sourcing partners are reputable community organizations

## G. Leverage Community Intermediaries

that work with people with records for vocational and job readiness training and employment related services, while also providing ongoing support for referred candidates.

### **TIP #2: Reach out to the identified intermediaries to begin the conversation and see what they have to offer.**



You may find out there is one community intermediary that can assist you in education, job-readiness training, and employment referrals exclusively for people with records. Or perhaps there is a group that focuses on soft-skills training for healthcare, offering a seamless and efficient career pathway in healthcare that includes education, training, and employment services.

The closer the collaboration among community intermediaries working in tandem to build and diversify the pipeline of healthcare talent, the better the results for your organization—so seek ways to connect these groups. For example, if there is an intermediary focusing on training and employment opportunities for people with records and another group focusing on training at-risk populations in key healthcare career pathways, try to develop a three-fold collaboration where the employer, healthcare trainer, and workforce development intermediary are working closely together.

### **TIP #3: Develop points of contact and build relationships.**

These partnerships are critical in allowing intermediaries to become familiar with your organization and understand your specific hiring needs. Develop communication strategies around competency needs, demand planning, talent-flow analysis, and shared goals.

## G. Leverage Community Intermediaries

### TIP #4: Provide your contacts with a pre-hire curriculum to meet your existing and future needs and to achieve your organization's objectives.

Inform your intermediary of required credentials and certifications; educational requirements; preferred or required training and experience; any necessary certificates or waivers; desired employee skills, behavior, and other qualities; and any reference requirements.

### TIP #5: Share open positions with intermediaries.

Work with your contacts to agree upon a notification process for suitable open positions. In addition, you should develop a system to obtain and assess candidates sent to your organization through your intermediaries. Ask your contacts whether job descriptions are needed.

### Tip #6: Keep an open line of communication.

Communication and feedback is the key to assuring that intermediaries provide the training and skills for the talent you need. Be honest if you are noticing missing competencies among referred candidates. Intermediaries need this feedback to improve their candidate screening, support, and training processes. Give your intermediaries regular feedback on referral quality through email or conference calls (we suggest bi-weekly).



### Tip #7: Track & evaluate referred candidates.

Collecting certain data regarding your employees with records will help you make informed decisions about future recruitment strategies. Moreover,

## G. Leverage Community Intermediaries

### A Close Look at One Intermediary’s Venture: Paving the Way to Healthcare Opportunities in Chicago

For over 43 years, Safer Foundation has helped people with arrest or conviction records become employed, productive members of society. After observing the growth of the healthcare industry, Safer announced the Safer Demand Skills Collaborative—at its 2015 healthcare forum, co-sponsored by Congressman Danny Davis. Through the Demand Skills Collaborative, Safer develops public and private partnerships among employers, trainers, and industry experts to create demand skills training that leads to living-wage careers for candidates in high-need communities.



From Left to Right: Pamela Paulk, former VP of Human Resources, Johns Hopkins Hospital & Healthcare System; Victor Dickson, President & CEO, Safer Foundation; Congressman Danny Davis, 7th District, IL; Melody Young, LPN

The 2015 forum brought together 30 high-level healthcare executives involved in hiring decisions. It was a first step in facilitating increased hiring of people with records by healthcare employers in the Chicago area. Ten healthcare organizations, including a major hospital network, federally qualified health centers, and safety net hospitals, expressed interest in working with Safer to increase hiring of people with records. Given the positive response, Safer expanded its programming to take on this critical challenge. As of July 2016, Safer has referred ten people with records—nine of whom were retained for more than 90 days—in federally qualified health centers, a major hospital network, and local community hospitals. The positions include: house-keeping, CNA, CMA, transporter, treatment counsellor.

#### CHALLENGES IN ASSISTING HEALTHCARE EMPLOYER PARTNERS:

- Identifying qualified candidates with an interest in healthcare
- Finding and working with qualified, reputable healthcare trainers and referral organizations
- Helping candidates apply for an Illinois healthcare worker waiver
- Developing relationships with healthcare employers
- Helping employers develop trainings on hiring people with records



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sharing tangible successes will help build confidence throughout your organization about hiring people with records. To get started, identify and commit to tracking key success measures such as the following:

- Cost savings
- Employee productivity and job performance
- Number of candidates placed into internships and the number of those interns hired into permanent positions
- Breakdown of placements into entry-level, middle-skill, and more advanced positions ;
- Number of employees with records that advance to higher-skill positions;
- Retention and turnover rates
- Number of involuntary terminations and “problematic” terminations (i.e., those involving an incident)
- Employee satisfaction

### Preparing to Meet Future Needs: Workforce Development Best Practices for Employers

Anticipating changes to the sector, some healthcare providers, trainers, and service providers have developed strategies that leverage partnerships, career pathways, and coaching to improve service and community health outcomes. Their talent-pipeline management strategies combine career advancement, networked recruitment of job-ready workers, and employer-driven customized education and training. The following are some of the proven ways you can help your business grow and thrive within the community you serve.



#### **FILL FRONTLINE AND MIDDLE-SKILL JOBS THROUGH LOCAL RECRUITMENT**

Health centers that help meet the needs of underserved communities have received stimulus payments through the Affordable Care Act. According to the U.S. Department of Health and Human Services, health centers serve one in seven people living in poverty.<sup>61</sup> Their focus on primary care emphasizes preventive care, patient education, and self-care coaching. The task of patient

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education is increasingly being delegated to frontline workers who enjoy significant direct patient interaction.

However, high turnover in frontline positions hinders the primary goal of preventive healthcare by eroding the knowledge, skill, and experience levels needed in these positions to enable improved health outcomes. This, in turn, adds to the work of clinicians and reduces their productivity.

You can meet your primary care goals, improve patient interaction, and increase retention by leveraging partnerships for local recruitment. Several intermediaries have a long history of serving distressed communities. In addition to the services they provide, these intermediaries have the knowledge and credibility needed to create a locally based talent pipeline.

**Example:** The Baltimore Alliance for Careers in Healthcare (BACH) is a workforce development consortium that serves a dual customer role of training frontline healthcare workers for high-growth, high-shortage hospital jobs and creating a talent pipeline at all entry-level positions through local partnerships. In an effort to overcome the shortage of frontline staff, BACH undertook a gap analysis to determine local demand and supply characteristics. They found that local recruitment and training would be an important tool in meeting staffing demands and addressing high local unemployment (43 percent of city residents ages 16 and over were out of the workforce and 31 percent lacked a high school diploma<sup>62</sup>). With intervention and outreach to community-based organizations in distressed neighborhood, BACH developed a network to lay the groundwork for local healthcare training.

### IMPLEMENT EMPLOYER-LED TRAINING PROGRAMS

Not all post-secondary training programs are designed to meet employers' needs for workers who are job-ready upon graduation and capable of critical thinking and multitasking. As an employer, you may also need non-clinical skills, such as knowledge in health information technology, which may not be a readily accessible credential. Three-way partnerships between employers, colleges, and community-based intermediaries can address this misalignment between supply and demand by creating the right talent pipeline for your workforce demands.

Partnerships whose members are aligned in their expectations, methods, and mission effectively marshal resources to train for job placement, career progression, and quality service provision.

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**Example:** The Allied Health Care Career Network (AHCCN) in Chicago is comprised of seven diverse training partners. Each of the partners provides a different service as part of a wide range of training—from language and basic education remediation, to training for lower-skill jobs like home health aides, to professional training and credentialing for middle- to high-skill nursing positions.

Partners in the AHCCN are in the process of implementing a soft-skills training that uses psychological self-sufficiency to build a talent pipeline that possesses not only technical but also career skills critical for on-the-job success. Agreements among network members consist of shared goals and practices. Mutual accountability is enforced through memoranda of understanding that define conditions of participation. The network's governance policy is reviewed annually.



### TAILOR TRAININGS TO THE EMPLOYEE

Community-based intermediaries are equipped to provide comprehensive wrap-around support services to new recruits and trainees in need of extra services. Coupled with workforce development, their knowledge and referral network can create a stable pipeline that meets both the workforce demands of employers and training needs of employees. As partners, they can help you reduce expenditures on screening and recruitment and those resulting from high turnover.

**Example:** Some employer members of BACH have developed career pathways to recruit and train entry-level incumbent employees for frontline job vacancies. In so doing, the cost of employing new workers can be reduced if incumbent employees undertaking career advancement choose to hold their job while they train and employers with the capacity are able to provide necessary support. The supports can include covering the cost of training or logistics such as transportation until an incumbent employee is trained and qualified to apply for a frontline job.

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### EXAMPLE OF CAREER PATHWAY:

CAREER MAP FOR PATIENT CARE POSITIONS			
STEP #1 8TH GRADE – HS/GED	STEP #2 HS/GED	STEP #3 HS/GED – AA	STEP #4 AA – BS
<p><b>Transporter</b> <b>Duties:</b> Transports patients, equipment, and supplies.</p> <p><b>Food Service Assistant</b> <b>Duties:</b> Prepares and serves food to patients, staff, and visitors.</p> <p><b>Environmental Services Assistant</b> <b>Duties:</b> Performs a variety of cleaning functions.</p>	<p><b>Nurse Extender</b> <b>Duties:</b> Under the direction of an RN, provides a variety of environmental, nutritional, clinical support, and transportation services and activities to promote patient comfort and satisfaction.</p> <p><b>Other Requirements:</b> Certified nursing assistant license required in some states; six months of acute care experience; training that teaches the following skills: IV starts, EKGs, Foley catheters, blood drawing, oxygen therapy, NG tubes, suctioning, drain managements, and wound care.</p> <p><b>Nursing Assistant</b> <b>Duties:</b> Under the direct supervision of an RN, performs delegated patient care functions of an uncomplicated nature.</p> <p><b>Other Requirements:</b> Nursing assistant certification in some states.</p>	<p><b>Licensed Practical Nurse</b> <b>Duties:</b> Under the direct supervision of an RN, provides direct patient care for an assigned group of patients.</p> <p><b>Other Requirements:</b> Graduation from approved practical nursing education program; current license.</p> <p><b>Medical Assistant</b> <b>Duties:</b> Obtains accurate patient information and creates a positive office image by responding professionally to all patients, staff, and other customers.</p> <p><b>Other Requirements:</b> One year of medical office experience; basic computer experience.</p>	<p><b>Registered Nurse (RN)</b> <b>Duties:</b> Assesses, plans, implements, and evaluates nursing care of patients from admission through discharge.</p> <p><b>Other Requirements:</b> Valid RN license; some previous related clinical experience may be required.</p>

#### KEY

HS = high school  
 GED = high school equivalency  
 AA = associate degree (2 yrs.)  
 BS = bachelor's degree (4 yrs.)

#### NAVIGATING CAREER MAPS:

Each position category (patient care, administrative, technician), includes a series of steps from left to right. Generally, education, experience, and salary increase as you move to the right across the map. Within a given step, there is sometimes an increase in the required experience and education/training as you move from the bottom to the top of the page.

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**Example:** The AHCCN strives to accommodate adult workers in career training. The network includes partners that utilize contextualized bridging in basic education for individuals testing below 8th grade. Contextualized bridging combines remedial training with basic job-specific knowledge. By making training job-relevant even for basic education, employer and trainee needs are simultaneously addressed.

Reducing the opportunity cost of career training and advancement is crucial to developing an engaged and trained workforce. For low-income adults with records, quitting a job for a career advancement opportunity can be straining. Trainers with the AHCCN also develop partner college-approved curriculum that is relatively condensed and scheduled to accommodate working adults allowing them to hold their jobs, support their families and simultaneously pursue career advancement opportunities.

### FORGE CAREER PATHWAYS

Demand for post-secondary education in the healthcare sector continues to grow. In order to meet minimum qualifying standards for mid- to high-skill positions, applicants must at least have an associate or bachelor's degree. In 2010, the Institute of Medicine recommended that by 2020, 80 percent of nurses hold a Bachelor of Science degree. Simultaneously, positions along the career ladder are either being eliminated or their qualifications are increased ("credential creep").<sup>64</sup> As a result, training costs can increase dramatically, reducing both accessibility and economic mobility and leaving the talent pipeline dry.

#### Two ways to restore steps in the career ladder are:

1. Optimizing credential attainment through "stackable credentials"—defined by the U.S. Department of Labor as "a part of a sequence of credentials that can be accumulated over time to build up an individual's qualifications and help them to move along a career pathway or up a career ladder to different and potentially higher-paying jobs."<sup>65</sup>
2. Utilizing competency-based career mapping—an evaluation of various roles throughout your organization that entails comparing and connecting competency/skill requirements to better identify paths of employee advancement.



Entry-level workers at MEDSTAR Good Samaritan Hospital (Baltimore) take the next step in their career development. Graduating cohort of CNAs. Photo used with permission of BACH.

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Effective career pathways allow for stackable, industry-recognized credentials; multiple entry and exit points; flexible options; and work-based training. Partnerships can implement career pathways by identifying and strategizing around emerging occupations through dynamic, periodic short- and long-term labor market analyses and by connecting different jobs to develop multiple career pathways.

### PROVIDE MENTORSHIP

Healthcare training can be time intensive. Although training eventually pays off through employment in highly skilled jobs, these jobs often require an associate or bachelor's degree. Necessary training steps leading up to high-skill opportunities are typically shorter and lower paying. Mentorship is key to keeping trainees engaged throughout all stages of their training. Mentors can gain trainee buy-in by providing realistic expectations about training timelines and suggesting ways to alternate intervals of work with short-term training. Helping employees onto career pathways increases both skill and retention within your workforce.

**Example:** Some employers involved with BACH assign coaches to their incumbent worker-trainees. Coaches provide basic career guidance and coordinate between the employer and the trainee, checking in frequently during training and bringing specific challenges such as financial and transportation challenges to the employer's attention.

**Example:** AHCCN also provides a transition coordinator who helps implement trainings that lead to career pathways and not merely a job placement. In addition to identifying client needs and making referrals, transition coordinators gauge worker interest and competency, match those interests and skills with employer demands, and advise both on process and timeline. Transition coordinators also monitor clients for up to a year for job retention.



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**“As a country, we have to make sure that those who take responsibility for their mistakes are able to transition back to their communities. It’s the right thing to do. It’s the smart thing to do.”**

**BARACK OBAMA**

*President of the United States<sup>66</sup>*

# Conclusion

*Make an Impact Today*

The changing landscape of healthcare signals that it's time to re-think the historical perception that hospitals and primary care facilities are solely acute-care institutions. Healthcare entities generally do not re-locate and often serve as the largest local employers and economic engines. As such, these “anchor institutions” can help elevate economically marginalized communities by investing in surrounding underserved neighborhoods. By **hiring people with records from your community**, you can help improve your local economy, increase public safety, and achieve better health outcomes for your neighbors.

Healthcare employers face intense competition and a significant shortage of frontline and middle-skill workers. If employers neglect to implement new recruitment and hiring strategies, the industry will face tremendous challenges to meet the rising demand for a diverse workforce.

» **It's time to exercise your hiring power to unlock the potential of the 70 million Americans with records while reducing costs and improving patient care.**

Use this toolkit to become a champion in your organization for investing in employees with records while improving your bottom line and leading efforts to reduce recidivism.

**Let's work together to both build a skilled workforce that's ready to meet the demands of the 21st century economy and ensure economic opportunity for all Americans.**



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## Appendix B

# Resources

### 1. COLLATERAL CONSEQUENCES OF A RECORD

NELP, *A Healthy Balance, Expanding Healthcare Job Opportunities for Californians with a Criminal Record While Ensuring Patient Safety and Security*  
<http://www.nelp.org/content/uploads/2015/03/Healthy-Balance-Full-Report.pdf>

Illinois Dept. of Public Health, *Facts About the Waiver Application for Health Care Workers*  
[http://www.idph.state.il.us/nar/WAIVER\\_APPLICATION\\_Facts.pdf](http://www.idph.state.il.us/nar/WAIVER_APPLICATION_Facts.pdf)

American Bar Association, *National Inventory of the Collateral Consequences of Conviction*  
<http://www.abacollateralconsequences.org>

NELP, *Unlicensed and Untapped: Removing Barriers to State Occupational Licenses for People with Records*  
<http://www.nelp.org/publication/unlicensed-untapped-removing-barriers-state-occupational-licenses/>

The National Employment & Reentry Committee, *Federal Policy Recommendations to Increase Job Opportunities for Justice-Involved Workers*  
<http://hirenetwork.org/sites/default/files/The%20National%20Employment%20and%20Reentry%20Committee%20Recommendations.pdf>

### 2. HEALTHCARE WORKFORCE NEEDS

#### JPMorgan Chase & Co. Skills Gap Reports:

Chicago: <https://www.jpmorganchase.com/corporate/Corporate-Responsibility/document/54841-jpmc-gap-chicago-aw3-v2-accessible.pdf>  
Columbus: <https://www.jpmorganchase.com/corporate/Corporate-Responsibility/document/54841-jpmc-gap-columbus-aw4-online.pdf>

Dallas-Fort Worth: <https://www.jpmorganchase.com/corporate/Corporate-Responsibility/document/335911-jpmc-gap-dallas-aw5-online-2.pdf>

Los Angeles: <https://www.jpmorganchase.com/corporate/Corporate-Responsibility/document/54841-jpmc-gap-los-angeles.pdf>

New York: <https://www.jpmorganchase.com/corporate/Corporate-Responsibility/document/54841-JPMC-GAP-REP-AW6.pdf>.

San Francisco: <https://www.jpmorganchase.com/corporate/Corporate-Responsibility/document/54841-jpmc-gap-san-francisco-aw7.pdf>

#### Community Health Workers

U.S. Dept. of Health & Human Services, *ASPE Issue Brief: Community Health Workers: Roles and Opportunities in Health Care Delivery System Reform* (2016)  
<https://aspe.hhs.gov/sites/default/files/pdf/168956/CHWPolicy.pdf>

### 3. GUIDANCE TO RELEVANT LAWS

EEOC & Federal Trade Commission (FTC), *Background Checks: What Employers Need to Know*  
[https://www.eeoc.gov/eeoc/publications/background\\_checks\\_employers.cfm](https://www.eeoc.gov/eeoc/publications/background_checks_employers.cfm)

EEOC, *Enforcement Guidance on the Consideration of Arrest and Conviction Records in Employment Decisions under Title VII of the Civil Rights Act of 1964*  
[https://www.eeoc.gov/laws/guidance/arrest\\_conviction.cfm](https://www.eeoc.gov/laws/guidance/arrest_conviction.cfm)

FTC, *A Summary of Your Rights Under the Fair Credit Reporting Act*  
<https://www.consumer.ftc.gov/articles/pdf-0096-fair-credit-reporting-act.pdf>

### 4. EMPLOYER INCENTIVES

Federal Bonding Program  
<http://www.bonds4jobs.com/>

U.S. Dept. of Labor (DOL), Employment & Training Administration (ETA), *Employer's Guide to the Work Opportunity Tax Credit*  
[https://www.doleta.gov/business/incentives/opptax/PDF/WOTC\\_Employer\\_Guide.pdf](https://www.doleta.gov/business/incentives/opptax/PDF/WOTC_Employer_Guide.pdf)

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U.S. DOL, ETA, *WOTC Application Submission Processes by State*

[https://www.doleta.gov/business/incentives/opptax/pdf/WOTC\\_Submission\\_Processes\\_by\\_State.pdf](https://www.doleta.gov/business/incentives/opptax/pdf/WOTC_Submission_Processes_by_State.pdf)

U.S. DOL, ETA, *WOTC Tax Credit Amounts*

<https://www.doleta.gov/business/incentives/opptax/benefits.cfm>

U.S. DOL, ETA, *WOTC Tax Credit Calculation Chart*

[https://www.doleta.gov/business/incentives/opptax/PDF/WOTC\\_TAX\\_CREDIT\\_CALCULATION\\_CHART.pdf](https://www.doleta.gov/business/incentives/opptax/PDF/WOTC_TAX_CREDIT_CALCULATION_CHART.pdf)

IRS, *Form 5884: 2015 Work Opportunity Credit*

<https://www.irs.gov/pub/irs-pdf/f5884.pdf>

## 5. WORKFORCE DEVELOPMENT

U.S. Chamber of Commerce Foundation, *Building the Talent Pipeline: An Implementation Guide*

<https://www.uschamberfoundation.org/reports/building-talent-pipeline-implementation-guide>

U.S. DOL, Employment & Training Administration, *The Workforce Innovation and Opportunity Act*

[https://www.doleta.gov/WIOA/eta\\_default.cfm](https://www.doleta.gov/WIOA/eta_default.cfm)

New York Alliance for Careers in Healthcare

<http://nyachnyc.org/about-us/vision-mission/>

Kentucky Health Career Center

<http://kcc.kentuckianaworks.org/JobSeekers/KentuckyCareerCenterLocations/KentuckyHealthCareerCenter.aspx>

# Key Laws Regulating Employment Background Checks

**Fair-Chance Laws** delay employer inquiries about a job applicant’s conviction record until later in the hiring process. In their simplest form, ban-the-box laws (a subset of fair-chance laws) prohibit employers from including such questions on their job applications. More robust fair-chance laws require an employer to first extend a conditional offer of employment, or at least conduct an in-person job interview, before asking about the applicant’s record. They may also include other measures to ensure the accuracy and reliability of the background check process. Fair-chance policies are gaining momentum across the nation and have been adopted in numerous states and over 100 cities and counties. Most existing policies apply to only government employers, but laws governing the hiring practices of private employers are also spreading to new states and localities. Visit [www.nelp.org/campaign/ensuring-fair-chance-to-work/](http://www.nelp.org/campaign/ensuring-fair-chance-to-work/) for more information.

**The Fair Credit Reporting Act (FCRA)** regulates background checks obtained from a third-party consumer reporting agency. In order to be in compliance, employers must follow FCRA guidance before obtaining a background check (obtaining written authorization from a candidate) as well as before and after taking adverse action (providing candidate with pre-adverse action notice with a copy of her background report with summary of rights under FCRA and adequate response time; a notification as to the decision and reasoning in the event of a denial).

**Title VII of the Civil Rights Act of 1964** prohibits discrimination—both direct and disparate impact—in employment on the basis of race, color, religion, national origin, or gender. People with arrest or conviction records are protected under Title VII because the use of criminal background checks has a significant “disparate impact” on people of color. In 2012, the EEOC issued detailed guidelines regulating criminal background checks for employment under Title VII, precluding blanket restrictions against hiring people with records and requiring a case-by-case review of the individual’s application. However, a policy resulting in disparate impact will not necessarily violate Title VII if the

employer has considered the convictions in light of business necessity and established that its exclusions target specific conduct that would compromise the requirements of the job and there are no alternatives to such exclusions.

**Federal & State Occupational Licensing Laws** regulate licensed professions. Requirements for most licensed occupations vary by state, as do the specific occupations that are licensed. All states require a background check when licensing certain professions, including many healthcare positions, including long-term care workers, registered nurses, and certified nurse assistants. Some states have strict standards limiting employment of people with records for certain health care occupations (e.g., many nursing boards will not certify anyone with a felony record), and others provide special “waivers,” “certificates of rehabilitation,” and appeal processes allowing people with records to produce mitigating information and evidence of rehabilitation. Thus, health care employers and workers need to be well informed about their rights and responsibilities under the law of the state where they are located.



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