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**HET | Washington
Executive Course**

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The High Cost of Non-Compliance

Background

- Contractor to Department of Defense, Co-CEO & Partner, 17 Years
- Volunteer Board President for Adult Care Facility, 13 Years
- CCO Regional Skilled Nursing Homes, Assisted Living, SDC, Foundation
- CCO; CCS Managed Long Term Care, CHHA, Social Day Care
- Certified Compliance Executive [CCE]
- Health Ethics Trust [HET] Peer Review Committee
- Fellow HET
- NYS Home Care Association [HCANYS]

Compliance Challenges & Costs

It is not just adhering to the many rules and regulations of State and Federal government but it is the impact of these same regulations to an organization's business operations and **costs**.

Compliance activities and practices will help to prevent misunderstandings, duplication/repetitive actions by personnel, prevent non-compliance penalties and fines, excessive labor time cost, prevention of added loss of revenue and spotting trends and patterns.

When the Government Makes Contact

- Health Information Portability & Accountability Act [HIPAA]
- Deficit Reduction Act [DRA] >5M in annual Medicaid payments
- False Claims Act [FCA] prohibits HC workers knowingly submitting false claims billings; Whistleblower laws
- Fraud Waste & Abuse Detection & Special Investigations Unit [SIU]
- Sanctions/Exclusions List Reporting
- OIG/State Office of Medicaid Inspector General Work Plans
- Information Blocking [Office of National Coordinator for Health Information Technology or ONC] any practice likely to interfere with, prevent, discourage or inhibit the access, exchange or use of electronic health information [EHI]. FWA: impeding innovations/advancements in healthcare access, exchange and its use.

In Reply to Government

Effective Corporate Compliance Plan:

- How effective are your Policies & Procedures? Current? Can be a weak area – who is in charge to regularly track for P&P updates
- All about Risk: Risk Areas identified in order to mitigate the Risk of regulatory issues, non-compliance and your time & costs

Preventive Cost Measures:

Cost Saver Activities

- **Emails sent with PHI** to wrong personnel/provider
- Repetition of same mistakes
- **“Secure”** emails with PHI
- **Phishing** – do not open any emails or link if email not known.
- **Training focus** on learning and understanding P&P + awareness
- **Authorizations** must be correct!
- Conflict of Interest: Employees **using position or for confidential information** during organization’s worktime and **does not conflict with one’s work**
- **What is your Turnover Rate [TR] % vs Industry Standard?**

More Cost Measures

- **Compliance Risk Committee meetings quarterly + Mini'**
- Purpose: identify Risk Areas
 - Risk Chart for each Operational Area with Accountable party
 - Monitor & Review for Risk – Trends and Patterns
 - Self-Assessments
- Sanctions Monthly Reporting – databases such as:
 - www.oig.hhs.gov; www.epls.gov any matches?

FWA: A Distinction to be Made

Fraud: intentional deception or misrepresentation by person with knowledge that deception could result in some unauthorized benefit to self or other:

- Submitting false records; up-coding; unnecessary services; duplicate billing; falsifying medical necessity.

Waste: overutilization of services; not thought to be result of criminal negligence

Abuse: practices that directly/indirectly result in unnecessary cost and not consistent with sound fiscal, business or medical practices:

- Unnecessary cost to State/Federal government; or in reimbursement for services not medically necessary; fails professional standards such as incomplete record keeping, untrained or minimally trained staff.

FWA: No Room At Our Place

- **Risk based - not just policy based**
- Your Compliance Work Plans by month
- Fines, Penalties [FCA], Public Trust, Reputation, Cost
- Referrals to government
- Verifying services by provider; Electronic Visit Verification [EVV]
- Vendor Annual Certification
- Reporting/Self-Reporting – Compliance Champions

HIPAA & Confidentiality:

There Is a Difference

— — —
HIPAA Privacy: personally identifiable health information & access to it [PHI]

- *Privacy Log Report Every Year [January]*

Breach Low Probability [4 steps] for unauthorized access/acquisition of or access without valid authorization

1] Type of PHI [identifiers]

2] Name of Individual Entity who received PHI from your unauthorized person

3] Type of Exposure [misdirected email; billing statement to wrong address]

4] Mitigation of Risk [recalled; PHI destroyed by receiving party or recalled]

Confidentiality: Much broader and more inclusive than HIPAA – not just clinical information, but also it is business information such as financial data, revenue figures, lists of suppliers/vendors, strategies & more

Quick Quiz

What to do if you just sent an email with PHI, to the wrong party:

- i. Recall – Open sent message; click Message Tab
- ii. Select Actions
- iii. Recall this Message
- iv. If not recalled, call party to whom sent email immediately – request deletion & obtain confirmation
- v. Report

Before sending, confirm "send-to" address; use "secure" with PHI

Training, Education: The Culture of the Organization

- **Code of Business Ethics & Conduct Summary Booklet**
 - Educate-at-hire Orientation;
 - Annual Compliance training *for all*
 - **Board training 2 Years**
 - Vendor credentialing/re-credentialing
 - Employee Handbook
 - **On-going communication - Newsletters, Website, Meetings**
 - *Hotline – Anonymous & Confidential*
- Reporting: Duty & Responsibility – if not, become part of problem
No procrastination even if under lots of pressure, stress, deadline [ethical thin ice]

Social Media: Quiz Question

- ***Are your employees permitted to comment on Facebook, Twitter, Instagram or is it assigned to the organization's designated representative?***
- Do you really need to reply or comment?
- Have written policy on Social Media?

Reporting An Issue

- Compliance Program – obligation to report even without all information
 - Prompt investigation
- Credit person for reporting
- New hires & Exit interviews
- Ensure disciplinary standards are consistently enforced

**Increases in Compliance cases is a good statistic -
government wants to see activity**

Reporting

- **Encourage person to report what they know**
- **Non-Retaliation & Non-Intimidation**
 - Stress Confidentiality; Safe & Secure
- **When Interviewing**
 - CCO/CCS **represents Compliance** in responding to issue
 - **Fact-finding investigation** - determine if issues are correct
 - **Not investigating a person** – imperative to see if problem exists and can be fixed – corrective action
 - **Do not talk about interview with others** but should advise Supervisor that interview occurred

Metrics

- **CCO/CCS Reports:** Leadership management; Staff; Board with the facts:
 - Metrics: # of cases, investigations, inquiries, questions = trends/patterns
- Attend Compliance association meetings & educational courses



**When All Said & Done:
Identify Risk Areas, Mitigate &
Do Right**
Compliance Is a Priority



**Thank you!
Questions?**

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