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HET Certification
Intensive Course

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The High Price of Non-Compliance

Background

- Contractor to Department of Defense, Co-CEO
- Volunteer Board President for Adult Care Facility
- CCO Regional Skilled Nursing Home
- CCO; CCS Managed Long Term Care
- Health Ethics Trust [HET] Peer Review Committee
- Certified Compliance Executive [HET]
- Fellow of HET
- NYS Home Care Association [HCANYS]

Corporate Compliance Is What?

Providing healthcare services in a lawful and ethical manner of integrity and responsibility

Patient-centered service of highest quality with all relevant federal and state laws consistent with policies and procedures

Corporate wide program encouraging self-examination, identifying risk area, continuous improvement and training



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.

Appropriate Compliance activities and practices will help to eliminate duplication and repetitive actions by the organization's personnel, prevent non-compliance penalties and fines, excessive time and energy, and the prevention of loss of revenue.

When the Government Makes Contact: Rules, Regulations, Time, Documentation

- Health Information Portability & Accountability Act [HIPAA]
- Deficit Reduction Act [DRA]
- False Claims Act [FCA]
- Fraud Enforcement & Recovery Act [FERA]
- Fraud Waste & Abuse Detection/Special Investigations Unit [SIU]
- Sanctions/Exclusions Reporting
- OIG/State Office of Medicaid Inspector General/AG
- Centers for Medicare & Medicaid Services [CMS]
- Information Blocking [ONC]

In Reply to Government

Effective Corporate Compliance Plan:

- Not Just Policy & Procedures
- Risk Awareness & Audits – Risk Areas identified in order to reduce risk of regulatory and non-compliance
- Promoting a Corporate Compliance Culture for all employees, management, stakeholders/Board

Preventive Cost Measures:

Conflicts of Interest

Conflicts of Interest: not using position or confidential information during organization's worktime for personal gain

Make sure any outside work does not conflict with your regular work

Disclose to Compliance/Supervisor/Management any potential conflict of interest

Preventive Cost Measures

- Using Essential Elements of Corporate Compliance Plans
 - **State [8] and Federal [7]; training with examples**
- **Compliance Risk Committee meetings**
- Identify Risk Areas for non-compliance
 - Risk Chart for Operations & Accountable party
 - Audit Chart – list Risk, Purpose, Timeframe
- Sanctions Monthly Reporting – databases such as:
 - www.oig.hhs.gov; www.epls.gov
- Fraud, Waste & Abuse [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.

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.

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

Fraud, Waste, Abuse: Stamp Out

- **Enforcement Environment: Risk based - not just policy based**
- OIG and State OMIG Work Plans
- Qui Tam: private citizen "relator" who initiates action on behalf of government
- Fines, Penalties [FCA], Public Trust, Reputation, Cost
- Referrals to government
- Verifying services by provider at contract and renewal; EVV
- Vendor Annual Certification

HIPAA & Confidentiality: There Is a Difference

Privacy: personally identifiable health information & access to it
Privacy Every Year [January]

Breach/Low Probability [4 steps]

PHI: Protected Health Information

HIPAA: Health Insurance Portability & Accountability Act

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

Training, Education: The Culture of the Organization

Code of Business Ethics & Conduct -
overview of P&P's

Learning and Education at
hire/orientation; annual compliance
training - re-enforcement for all
employees; board; vendors

Handbook

Promote anonymous hotline

On-going communication through
Newsletters, Website, Meetings

Acknowledgment of Reporting: Duty
& Responsibility – if not, become
part of problem

Do not procrastinate even if under
lots of pressure, stress, deadline
[ethical thin ice] – talk to
Supervisor/CCO/CCS/CEO

Quick Quiz

- — —1. What to do if you just sent an email to the wrong person:
- i. Recall – Open sent message; click Message Tab
 - ii. Select Actions;
 - iii. Recall this Message;
 - iv. **Message recalled or not**
 - v. If not recalled, call party sent email - request deletion and obtain confirmation.

Lesson: before sending, confirm "send-to" address

2. What is: do not write this down or share with anyone?

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 need to comment?
- Have written policy on Social Media?

Any Issue to Report?

- — — • Compliance Program – promotes obligation to report any violations or potential violations
- Action for failure by not reporting – price of time lost to resolve situation
 - Prompt investigation demonstrates intent to uncover & resolve
 - Asking probing questions; repeat questions in different way
- Credit person for reporting/HR - not just the negative
- New hires; exit interviews – ***duty & responsibility to report***
- Ensure disciplinary standards are consistently enforced
- ***Increases in cases is a good statistic - government wants to see activity***

Do Not Be Afraid

- Non-Retaliation & Non-Intimidation
 - Stress Confidentiality; Safe & Secure
 - Job Status is ok if participating in good faith
- Interviewing
 - CCO/CCS represents Compliance in responding to issue
 - Fact-finding investigation to 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

Read All About It

- CCO/CCS reports at appropriate meetings to provide updates for leadership; staff; board; management
- ***Provide statistics: # of cases, investigations, inquiries/questions***
- ***Keep good records, Metrics Chart, documentation, Memos, Logins***
- Annual Compliance self-assessment; Privacy Log
- ***Corporate Compliance Matters*** newsletter: re-enforce with examples; quizzes [Q&A]; acronyms
- Attend Compliance association meetings; educational courses



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



**Thank you!
Questions?**

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