



The Compliance Officer's Playbook

THE IMPORTANCE OF A COMPREHENSIVE COMPLIANCE PROGRAM



A comprehensive nursing facility compliance program is a key component to reducing fraud and abuse, enhancing healthcare providers' operations, improving the quality of healthcare services, and reducing overall costs.

Compliance programs help nursing facilities provide quality care, prevent submitting false or inaccurate claims or cost information to federal healthcare programs, and avoid engaging in other illegal actions.

Additionally, a nursing facility may gain benefits by demonstrating its commitment to honest and respectful corporate citizenship, while improving its reputation in the market.

CREATING A WINNING STRATEGY

1 Establish Oversight

In addition to a dedicated compliance officer, establishing a corporate compliance committee will assist in the development, implementation, and oversight of the compliance program. To cover every angle and viewpoint, a compliance committee should be comprised of vested multidisciplinary team members with a variety of personalities and skills.

The committee will assist by advising and recommending on all aspects of compliance, including:

- Analyzing legal requirements for compliance and determine risk factors
- Review or assist in developing policies, procedures, and standards of conduct
- Developing internal systems and controls to enable the compliance program
- Creating mechanisms to report any potential violations
- Put a system in place to respond to complaints
- Monitor audits and investigations to identify areas for improvements, and take corrective action

2 Develop and Document Policies and Procedures

Written compliance standards, procedures, and practices will guide the nursing facility and the conduct of its employees through its day-to-day operations. The compliance officer, compliance committee, and operational leaders should be involved in the development of these standards.

An effective compliance program will include specific policies and procedures for different functional areas, including clinical, financial, operations, and administration.

Code of Conduct

Starting the documentation process with the nursing facility's code of conduct will help guide the development of the other documents. The code of conduct should be a brief statement that summarizes the organization's expectations for employee conduct and behavior, along with basic legal requirements for operation.

Policies and Procedures

Prepare policies and procedures that are developed to prevent fraud and abuse and reduce risk. Some specific risk areas to address include:

- Quality of care
- Residents' rights
- Billing and cost reporting
- HIPAA requirements
- Employee screening
- Kickbacks, inducements, and self-referrals

Provide the code of conduct in applicable languages and develop a process for employees to sign that they have read and agree to abide by the code.

3

Develop and Deliver Effective Training and Education

Even the most comprehensive compliance programs can have failures if employees do not adequately comprehend the expectations of their roles. Training and educating employees on the compliance policies and procedures is crucial to success.

Some best practices:

- Start with general sessions that summarize the program and tailor more specific training issues based on employees' roles in the organization.
- Include a plan to continually retrain employees.
- Train new employees soon after they have started working.
- Include all stakeholders, including contractors, physicians, and other agents.
- Design materials with consideration of employees' skills, experience, and knowledge.
- Document formal training when completed.
- Consider using interactive and online training.
- Provide training in different languages.

4

Develop Effective Lines of Communication

A successful compliance program relies on the ability for employees to have easy access to the compliance officer and to be able to easily ask questions, voice concerns, and report problems. To encourage open communications, confidentiality and non-retaliation policies should be developed and shared with all employees.

Nursing homes are required to post the names, addresses, and telephone numbers of all pertinent state client advocacy groups.

The compliance officer should be viewed as a resource to employees for clarification of policies. Any questions should be documented and dated and, where appropriate, shared with other staff. Policies, procedures, and training materials may need to be updated to more clearly address the issue in question.

To establish open lines of communication, a multi-point approach helps ensure employees feel comfortable submitting questions, suggestions, or reporting an issue. Methods of communication should be anonymous and may include:

- Emails
- Newsletters
- Suggestion boxes
- Phone hotline

5 Monitoring and Auditing

An effective compliance program should include thorough monitoring and auditing of its components and implementation. The compliance officer should document the findings and suspected noncompliance, and assess next steps with senior management and the compliance committee.

Assessments can be performed by internal or external resources and should focus on the nursing facility's day-to-day operations, its compliance to the rules overseeing claims development, billing and cost reports, and Medicare requirements.

Establishing and Enforcing Disciplinary Guidelines

Disciplinary guidelines should outline the consequences of violating the nursing facility's standards for code of conduct, policies, and procedures. Intentional violation should be subject to significant disciplinary actions. Such actions can range from oral warnings, written warnings, suspension, termination, or financial penalties as appropriate.



Policies and procedures should identify actions for violating standards, and should identify who is responsible for taking action.

Best practices:

- Publish and distribute disciplinary standards for improper conduct
- Subject all levels of employees to the same disciplinary enforcement for similar offenses

7 Response and Prevention

Upon receipt of reports or reasonable evidence of suspected noncompliance, a timely and efficient response should be presented to the requestor. Any documentation should be in a well-organized and usable format. The compliance officer and senior management should immediately investigate the complaint to determine if violation of a law or the compliance program has occurred. If so, take decisive steps to correct the problem, which may include a corrective action plan, the return of any overpayments, a report to the government, and/or a referral to criminal and/or civil law enforcement authorities.

Where allegations of fraud exist, an internal investigation may be required and will include interviews and review of relevant documents. On occasion, the nursing facility may need to engage outside counsel, auditors, or healthcare experts to assist in an investigation.

The investigative file may include:

- Documentation of the alleged violation
- A description of the investigative process
- Copies of interview notes and key documents
- Review for HIPAA compliance
- Utilize medical record matrix (when EHR modules were implemented)
- A log of the witnesses interviewed and the documents reviewed
- Results of the investigation

Regarding prevention, the compliance officer should review the circumstances around the basis for the allegation and determine if similar problems exist and if the policies and procedures should be modified to prevent the allegation from occurring again.

CONCLUSION

These guidelines attempt to provide a foundation for nursing facilities' compliance program. However, each program should be adjusted to accommodate differences including size of facility, its unique mission and organizational structure, and employee landscape. Also, statutes, regulations and guidelines of the federal healthcare programs, and policies and procedures of private health plans, should be considered and integrated into every nursing facility's compliance plan.

Helpful Resource:

<https://oig.hhs.gov/compliance/compliance-guidance/index.asp>

To learn how Excelas can help you effectively respond to audits, claims and litigation, contact us at 440-442-7310 or <mailto:info@excelas1.com>.