Hospice Elements of a Compliance Program

Pam Saucier RN, BSN, MBA
Guardrails LLC
pam@guardrailsllc.com

Hallie DeCapp RN, BSN, CHC
The Long Hill Company
hdecapp@longhillcompany.com

1   Leading Person-Centered Care

❀ NHPCO

Disclosure

- *Pam Saucier and Hallie DeCapp*, faculty for this educational event, have no relevant financial relationship(s) with ineligible companies to disclose.

.

2   Leading Person-Centered Care

❀ NHPCO

Learning Outcomes

Upon completing this session, participants will be able to:

1. List the seven elements in a compliance program.
2. Develop a compliance committee and meeting agenda.
3. Describe how to identify important internal compliance monitors and audits.
4. Discuss the importance of an anonymous reporting option.
5. Explain the process for following-up on a reported compliance issue.

3   Leading Person-Centered Care   ❀ NHPCO
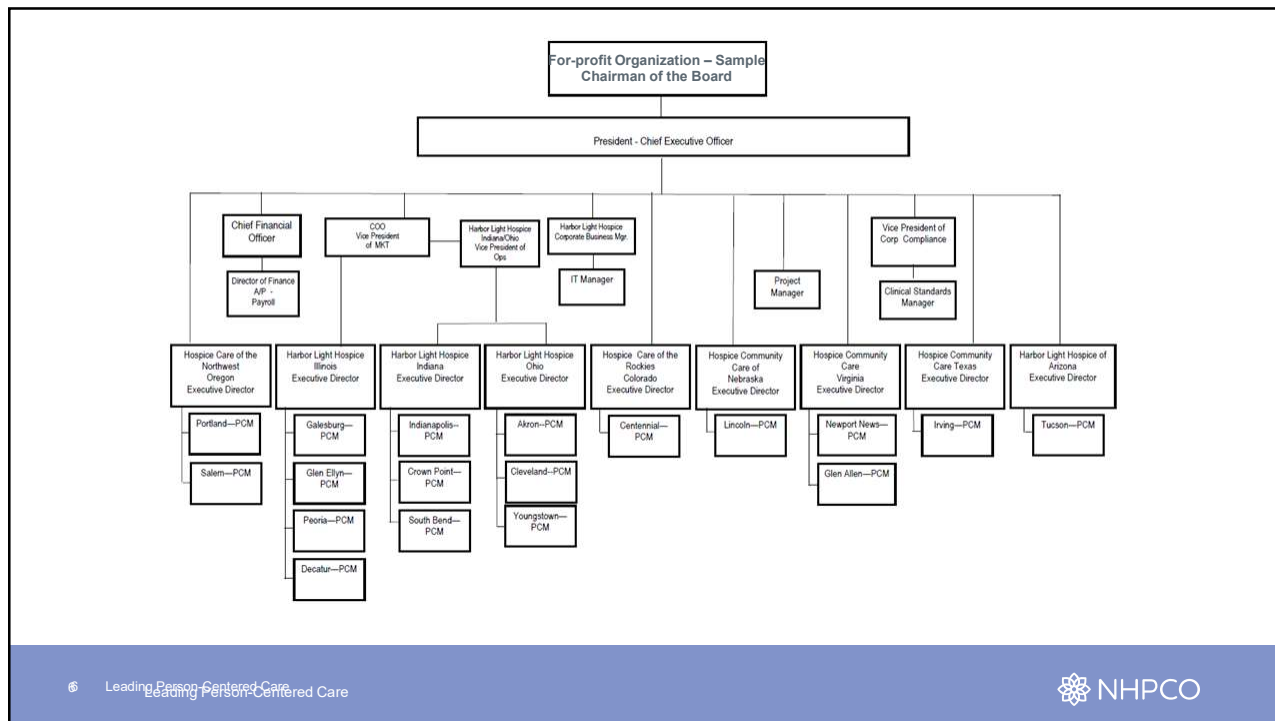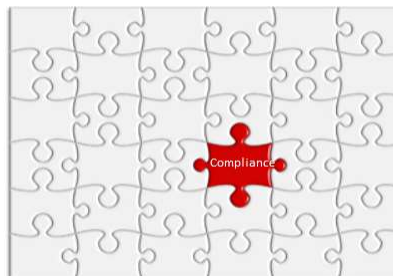
OIG Elements of a Compliance Program

1) Implementation of written policies, procedures and standards of conduct
2) Designation of a Compliance Officer and Compliance Committee
3) Conducting compliance training and education programs
4) Developing effective lines of communication for compliance issues
5) Conducting internal compliance monitoring and auditing
6) Enforcement of standards of conduct through well-publicized disciplinary guidelines
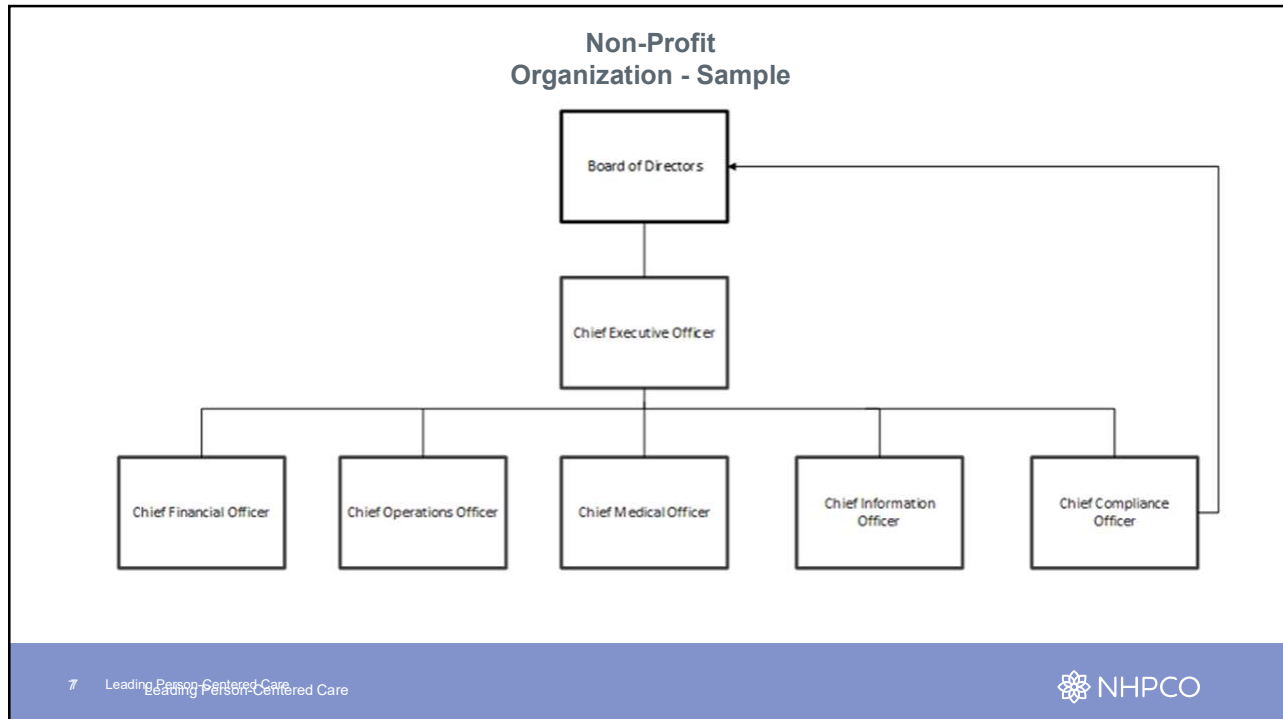7) Responding promptly to detected offenses and undertaking corrective action

Source: OIG Compliance Program Guidance for Hospices, 1999

4   Leading Person-Centered Care   ❀ NHPCO

Where Does Compliance Fit In?

Variables to consider:
- Type of hospice
- Census
- Number of Employees
- Profit vs Non-profit
- Accredited vs non-accredited
- State regulations

❀ NHPCO

Sample organizational chart titled "For-profit Organization – Sample" with hierarchy from Chairman of the Board, President - Chief Executive Officer, and various executive directors and PCM locations.

❀ NHPCO

Non-Profit Organization - Sample

```
                          Board of Directors
                                 |
                        Chief Executive Officer
       _____|_____
      |            |            |              |              |
Chief Financial  Chief       Chief Medical  Chief          Chief Compliance
Officer          Operations  Officer        Information     Officer
                 Officer                    Officer
```

#1: Policies & Procedures

- Based on state and federal laws, regulations, compliance risks and clinical standards of practice. May also be based on accreditation standards, if accredited.
    - If policies and procedures are purchased, must be reviewed and updated to fit organization's practices
- CoP: governing body appoints administrator who ensures that policies and procedures are written and kept up to date
    - Administrator job description
    - Minutes of governing body meetings

#1: Policies & Procedures

- User friendly for staff
  - Simple and concise
  - Format easily followed
  - No need to quote laws, standards, etc.
- Available to all staff regardless of location 24/7 including contract staff and volunteers as applicable
  - Need for online versus paper
- Reviewed at internals per policy
- Proof of reading by staff for major policies and procedures

9 Leading Person-Centered Care

NHPCO

#1: Standards of Conduct

- Frequently known as Code of Conduct
- Sets clear expectations of behavior for the board, staff, volunteers, contractors & third party vendors including consequences
- Articulates the hospice's commitment to comply with all Federal, State, accrediting standards (if applicable), with an emphasis of preventing fraud & abuse
- States the hospice mission, goals and ethical requirements
- Promotes integrity, supports objectivity and fosters trust

10 Leading Person-Centered Care

NHPCO

#1: Standards of Conduct

- Addresses conflicts of interest
- Comprehensible in language and reading level
- Length of document must be considered
- Signature by all employees needed
  - At orientation
  - Every two years or when updated
- Reviewed every two years minimum
- Review by attorney recommended

NHPCO

#2: Compliance Officer

- Leadership position
- Compliance responsibilities detailed in job description
- Perceived as
  - Utmost integrity
  - Respected
  - Knowledgeable
  - Fair
- Reports to Board and CEO
- Subject to criminal charges and fines

NHPCO

#2: Compliance Committee

- **Board Compliance Committee**
  - Senior staff
  - Compliance Officer
  - Board members
- **Organizational Compliance Committee**
  - Compliance Officer
  - Operations/Clinical
  - Finance
  - Human Resources
 - IT

NHPCO

#2: Quarterly Compliance Meeting Agenda

- ✓ Risk Assessment Log
- ✓ Compliance Audits
- ✓ Education/Training
- ✓ Finance
- ✓ HIPAA Security & Security
- ✓ Human Resources Log

NHPCO

#3: Training & Education

OIG recommends requiring staff to attend specific training on a periodic basis, including training on:

- Federal and State statutes, regulation, and guidelines
- Corporate ethics
- Fraud and abuse laws
- Patient rights
- Claim development and submission
- Marketing practices
- Compliance with Medicare CoPs
- Duty to report misconduct

NHPCO
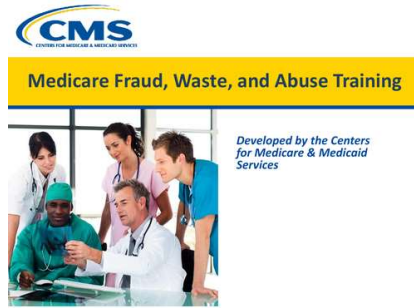
#3: Methods of Training Staff

- Annual at a minimum (Staff and Board of Directors)
- Classroom-Based Training Programs
- Interactive Training
  - ➢ Role playing
  - ➢ Educational games
  - ➢ Simulations
- Staff meetings or IDG meetings
- Newsletters
- Videos
- Postings
- Online courses
- Computer screens

NHPCO

#4: Developing Effective Lines of Communication for Reporting Compliance Concerns

- Relationship with Compliance Officer
  - Visibility
  - Approachable for all levels of staff
  - Availability
  - "Police"
  - Acceptance
  - Non-retaliatory
- Reminders
  - Website
  - Newsletters
  - Posters
  - Patient/Family Handbook
- Non-anonymous Reporting
  - Emails
  - Incident reports
  - Phone calls
  - Meeting/conversations

NHPCO

#4: Developing Effective Lines of Communication for Reporting Compliance Concerns

- Non-anonymous Reporting
  - Investigation more thorough
  - Complete documentation
  - Outcomes noticed by staff
  - Importance of compliance is highlighted

NHPCO

#4: Developing Effective Lines of Communication for Reporting of Compliance Concerns

- Per the OIG
  - The creation and maintenance of a process, such as a hotline or reporting system to receive complaints and ensure effective lines of communication between the compliance officer and all employees, and the adoption of procedures to protect the anonymity of complainants and to protect whistleblowers from retaliation.

#4: Anonymous Reporting Methods

- Allows reporter to remain anonymous
- Utilization of external vendor
    - Can build trust
  - Unable to trace reporter
- Drop box
- Compliance mailing address
- Concern if no anonymous concerns reported
- Limitations of Anonymous Reporting
  - Not enough information to investigate
  - Information provided to reporter limited

#4: Developing Effective Lines of Communication for Reporting of Compliance Concerns

- Non-Retaliation
  - Stated in Code of Conduct
  - Written policy stating retaliation, discrimination, harassment or job termination regardless of the results of expressed compliance concern
- Anonymous hotlines allow for non-retaliation by protecting the reporter's identity. Retaliation, discrimination, harassment, or job termination regardless of the results of the complaint

21   Leading Person-Centered Care   NHPCO

#4: Anonymous Reporting

- Availability of Anonymous Reporting expected by:
  - OIG – Office of Inspector General
  - DHHS
  - CMS
  - Accrediting organizations

22   Leading Person-Centered Care   NHPCO

#4: Compliance Concerns Reported

- Log your complaints/reports
- Reported compliance concerns can have significant consequences for organization
- Confidentiality/Attorney Client Privilege
- Monitor for trending
- Visibility/rumors
- High risk/Low risk
- Report at Compliance Committee

NHPCO

#5: Conducting Internal Monitoring & Auditing

- Identify all risks
- Rank risk areas by:
  - ➤ Likelihood or occurrence
  - ➤ Impact on the organization
- Develop & implement Compliance Audit Plan to monitor areas of high risk
- Provide periodic auditing of high-risk areas by to assure the effectiveness of the processes & monitors
- Update/reassess annually, or as often as necessary to maintain compliance
- Difference between QAPI and Compliance Auditing

NHPCO

#5: Hospice Risk Assessment

Source	Risks	Likelihood of occurrence			Controls			Impact			Risk Score
		1 Remote	2 Possible	3 Probable	1 Robust	2 Partial	3 Limited/None	1 Low	2 Moderate	3 Severe	
		The likelihood of occurrence within a year is remote or not likely; A policy/protocol is in place and is being followed	There is a possible or moderate likelihood of occurrence within a year; A policy/protocol is in place but is not followed	The likelihood of occurrence is almost certain or very likely to occur within a year; There is no policy or protocol in place	Formal controls and a comprehensive management system is in place	Many controls in place but management of the controls is limited	Very limited or no formal controls in place	Nominal financial losses; Manageable regulatory scrutiny and media exposure; No risk to the hospice's mission; No or minimal effect on patients	Serious financial losses; Potential regulatory mistrust and scrutiny; Significant media exposure; Some threat to the hospice's mission; Moderate effect on	Severe financial losses; Serious regulatory mistrust and scrutiny; Damage to reputation; Threatens the hospice's mission Severe effect on	
COMPLIANCE PROGRAM											
OIG Compliance Guidance	No effective corporate compliance program	1				2				3	6
OIG Compliance Guidance	No policy on non-retaliation for reporting a compliance issue		2			2			2		8
OIG Compliance Guidance	Failure to adhere to hospice licensing requirements and Medicare CoPs			3			3			3	27
OIG Compliance Guidance	Lack of mandatory compliance training for all staff, including physicians and contracted staff		2		1					3	6

NHPCO

#5: Conducting Internal Monitoring & Auditing

Compliance Audit Plan		
Area of Compliance	Description	Frequency
Length of Stay	Review clinical documentation of patients with LOS > 180 days	Monthly
Hospice Eligibility at Admission	Review of clinical documentation at admission	Monthly
Informed Consents	Review of Informed Consents for completeness and accuracy	Quarterly
Hospice Aide Supervision	Review of documented supervision by RN of aide every 14 days	Quarterly

NHPCO

#5: Conducting Internal Monitoring & Auditing

Compliance Plan		
Area of Compliance	**Description**	**Frequency**
Emergency Disaster Plan	Review of patient priority codes, up to date plan, exercises, review of actual emergency	Annually
Marketing	Review of marketing materials, ridealongs with liaisons, survey of referral sources	Annually
Employee Files	Review of required documentation – background checks, clinical license, drivers license, auto insurance, etc.	Semi-annually

27   Leading Person-Centered Care   NHPCO

#5: Conducting Internal Monitoring & Auditing

Compliance Plan		
Area of Compliance	**Description**	**Frequency**
HIPAA Audit	Not for cause audit	Quarterly
HIPAA Audit	Phishing audit	Monthly
HIPAA Audit	Review of accessing of medical records	Monthly

28   Leading Person-Centered Care   NHPCO

#5: Conducting Internal Monitoring & Compliance

- Annual plan
- Plan updated as situations occur
- Approved by Governing Body
- Maintain documentation of audits

NHPCO

#6: Enforcing Standards of Compliance

- Policies
- Can be situation dependent
- Treat all employees in same manner
- Actions
  - Verbal warnings
  - Written warnings
  - Final warning
  - Termination

NHPCO

#7: Responding Promptly to Detected Offenses & Corrective Action

- Immediate response and investigation
- Determination if legal advice needed
  - Obtain law firm with hospice compliance experience
    - Overpayments
    - Clinical licenses
    - Fraudulent visits
- Objective investigations documented
- Corrective Action Plan
  - Training
  - Specific Audits
  - Ongoing Audits
  - Policy revisions
  - Overpayments
  - Maintain documentation

NHPCO

Culture of Compliance

- Top down
- Importance of positive relationships between compliance staff and employees
- Transparency is key
- Visibility
- Frequency of various types of communication

NHPCO

Resources

- OIG Compliance Program Guidance for Hospices, NR September 1999
- OIG Compliance Program Guidance for Hospices, FR October 1999
- Measuring Compliance Program Effectiveness: A Resource Guide
- Evaluation of Corporate Compliance Programs, DOJ April 2019
- Practical Guidance for Health Care Governing Boards on Compliance Oversight, OIG April 2015
- Compliance Policy Examples
- Policies required in the Medicare regulations
- Ongoing Monitoring Examples
- Hospice Risk Assessment Template

33   Leading Person-Centered Care

�֍ NHPCO

Questions?

34   Leading Person-Centered Care

✷ NHPCO

Contact Information:

Pam Saucier, RN, BSN, MBA
Compliance Consultant
Guardrails, LLC
pam@guardrailsllc.com

Hallie DeCapp RN, BSN, CHC
Vice President of Clinical Operations
The Long Hill Company
hdecapp@longhillcompany.com