

Tracking Compliance Issues

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1 Leading Person-Centered Care



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2 Leading Person-Centered Care



Learning Outcomes

- Upon completing this session, participants will be able to:
 1. Know what issues should be tracked
 2. Know best sources for information and frequency
 3. How to develop a dashboard
 4. Develop a formal board report



OIG Identifies Problems with the Hospice Program?

Problem Areas in the Medicare Hospice Benefit



Patients have limited access to hospice quality of care information.



Most hospices that participate in Medicare have at least one deficiency in the quality of care they provide, and hundreds are poor performers.



Hospice patients face barriers to making complaints, and hospice and surveyor reporting requirements are limited.



The current payment system creates incentives for hospices to minimize services and seek patients with uncomplicated needs.

OIG.HHS.GOV

Health Care Fraud Prevention & Enforcement Action Team (HEAT) Activity

- [In 2023, CMS implemented a provisional period of enhanced oversight due to the rapid hospice growth for potentially fraudulent hospices in Arizona, California, Nevada, & Texas.](#)
- [California Leads the State-Level Battle Against Hospice Fraud](#)
 - CDPH implemented new policies to address fraud with the most significant action in 2021 which is a moratorium on hospice licensing, except in circumstances in which a community has a demonstrated need for an additional provider. CDPH does report a decline in new hospice licenses.
 - Collaborating with CHAPCA to create more regulations to become effective in Jan 2025 to ensure that hospices in California are safe and effective for patients

As Identified by HCCA-OIG – Compliance Program Effectiveness

- **Compliance Program Elements**
 - **Suggested Dashboard Items**
 - Communication, Education, and Training on Compliance Issues
 - Monitoring, Auditing, and Internal Reporting Systems
 - Discipline for Non-Compliance
 - Investigations and Remedial Measures

OIG Compliance Program Guidance's (CPGs)

- Developed CPGs as voluntary, nonbinding guidance documents to encourage the development and use of internal controls to monitor adherence to applicable statutes, regulations, and program requirements.
- Notification to the public of federal fraud and abuse laws, compliance programs basics, operating effective compliance programs, and OIG processes and resources
- [General Compliance Program Guidance](#) November 2023

What Do I Track

1. All government reports related to hospice
 - a) Office of Inspector General [e.g. Report (OEI-02-17-00020)]
 - b) [CMS.gov Hospice Center](#)
 - c) [PEPPER Reports \(Program for Evaluating Payment Patterns Electronic Report\)](#) – currently unavailable
 - d) All MACs (Medicare Administrative Contractors) that we submit claims to for payment

J6 – NGS	J15 – CGS
JK – CGS	JM – Palmetto GBA

What Do I Track

2. All compliance hotline or web portal issues that come in
3. All phone calls or e-mails to me directly that involve a compliance incident
4. All medical record requests (from state agency or an attorney)
5. All additional documentation requests from a Medicare or Medicaid contractor
6. All state surveys and licensure surveys

Checking In – By show of hands

- How many of you give a report to the board of directors?
- How many of you know your agency sees the value of compliance?
- How many of you receive calls before a problem occurs?

Are You Responsible for Doing All of the Activities

Not necessarily...

- You are responsible for collecting results and ensuring follow up
- You may be working with Education/Training to ensure compliance education is administered to all staff
- If someone wants to perform External Audit you may be responsible for reminding them to get an attorney and conduct under privilege



Are You Responsible for Doing All of the Activities

- You may be working with HR to determine the levels of discipline for compliance violations or making recommendations on certain situations
- **You are most likely responsible for:**
 - Ensuring that corrective action plans are written after internal and external audits are completed
 - Conducting compliance hotline investigations or coordinating investigations
 - Reporting findings after investigations and
 - Determining next steps

Do You Have A Compliance Hotline?

- Consider using a third-party service...
- Ensure everyone knows the number or how to reach your compliance line.
- Have a designated person to handle calls and determined how investigations will be handled.
- What about a web site for reporting?

Do You Have A Compliance Hotline?

- If use a third-party service include tracking and reporting...
- Review monthly, respond quickly, address as needed
- Document resolution to investigation
- Seek legal counsel if warranted, (e.g. overpayment, improper admission, questionable signature issues, discrimination or harassment)

Hotline Best Practices

- Provide anonymity as appropriate and allowable
- Line should be available 24/7
- If using 3rd party, is it an industry expert? You want someone that specializes in healthcare
- As the compliance officer you should have 24/7 access to hotline issues that come in and have a back up plan for vacations/medical leave/etc.

Track Additional Documentation Requests (ADRs)

- This could be any medical record request from an insurer, MAC, UPIC, RAC, CERT, SMRC, etc.
- Track date requested, when due, when completed
- Track who requested record and is it prepay or post-pay
- Track if you must file an appeal
- Follow through on all levels of appeal(s) unless you agree with the decision

Example of ADR Tracking

ADR's (30 DAY RESPONSE)	Redeterminations (120 days to respond)		Reconsiderations (180 days to respond)		To ALJ (60 days to respond)		To Appeals Council Review (60 days to respond)			
Patient Name	Level	Location	Date Rec'd	Amount	Dates Audited	Due Date	DATE SENT	OWNER	Status	Comments/Notes
			1/1/2019			1/30/2019				

Medical Record Requests

- All requests for records by state agency:
 - Adult Protective Services
 - Death of minor or disabled on hospice
 - Secondary insurance (Cancer Policy)
 - All requests from attorneys

What About Data Points

- TMF PEPPER Reports – currently on hold
- Data from Hospice Proposed and Final Rules
- NCLOS – (Palmetto GBA) [Non-Cancer Length of Stay]
- State Survey and Licensure
- NHPCO Data Reviews / Reports
- Internal Standards – e.g., length of stay, live discharge, GIP and CHC

Targeted Probe & Educate (TPE)

- Maximum Acceptable Denial Percentages per MAC:
 - **National Government Services (NGS): 15%**
 - **CGS Administrators, LLC (CGS): <25%**
 - **Palmetto GBA (PGBA): 20%**

PEPPER Report Target Areas

Hospice Training & Resources (cbrpepper.org) – currently unavailable

- Live Discharges No Longer Terminally Ill
- Live Discharges Revocations
- Live Discharges Length of Stay 61-179 Days
- Long Length of Stay
- Routine Home Care in Assisted Living Facility
- Routine Home Care in Nursing Facility
- Routine Home Care in Skilled Nursing Facility
- Episodes without GIP or CHC

Emergency Preparedness

- Have disaster drills been completed?
- Do we have a disaster plan?
- Is it documented?
- Did you have an actual disaster?
- Is it documented?
- **Again - Compliance Officer is making sure this has been met but may not be the one carrying out the plan.**

Emergency Preparedness & State Survey

- §418.113 Emergency Preparedness –
 - Participate in a full-scale exercise that is community-based every 2 years; or when a community-based exercise is not accessible, conduct an individual facility-based functional exercise every years.
 - If real disaster occurs, you can skip the next full-scale community-based exercise.
 - Inpatient hospice facility include planning for infectious diseases; and conduct exercise to test emergency plan annually

Quality/ Safety/Oversight – CMS Memo Ref: QSO-20-12-All

Effective immediately, survey activity is limited to the following (in Priority Order):

- All **immediate jeopardy complaints** (cases that represents a situation in which entity noncompliance has placed the health and safety of recipients in its care at risk for serious injury, serious harm, serious impairment or death or harm) and allegations of abuse and neglect;
- Statutorily required recertification surveys (Nursing Home, Home Health, Hospice, and ICF/IID facilities);

Resource Guides for Measuring Compliance Program Effectiveness

- [Measuring Compliance Program Effectiveness: A Resource Guide](#)
- [OIG Workplans](#)
- [OIG Compliance for Hospice](#)
- [General Compliance Program Guidance](#)

Prioritizing Compliance Issues – Setting Goals



How to Address Data Points

- See where you compare to your peers.
- Are you above or below average?
- Do you need to review records or trends?
- After completing analysis, document your findings, even if you determine no actions required.
- Include information in your next board report.

Develop a Plan for the Weak Areas of Organization

- What is the timeline for implementing a process and completing the actions...
- Is there a need for budget approval/ Board approval/ or is it an easy internal fix...
- How will you define success?

Board Reporting or Governing Body

- What does your board need to see?
- What does the board want to see?



The Board Report Should Be Comprehensive

- Annual Conflict of Interest completed
- Review of Board Requirements
- Annual Compliance Training
- Annual Policy and Procedure or Operations updates approved
- Board Approval of Administrator
- Minutes reviewed and approved from prior meeting

The Board Report Should Be Comprehensive

- Regulatory updates since last meeting and changes going forward prior to next meeting
- QAPI – may be done by someone else or you wear two hats
- Status of Medical Record Requests and determinations at all levels
- Corrective Action Plans related to any External Audits or Internal Audit Trends – even if conducted by other departments.

Example of a Comprehensive Board Report



Annual Or Quarterly Corporate Compliance Report Template part 1

- Compliance Training
 - This section should provide an overview and summary of any training related to corporate compliance that the agency provided to employees during the reporting period.
- Billing Compliance, Financial Audits & Contract Review
 - This section should list and identify all billing reviews, financial audits, and contract compliance monitoring that took place during the reporting period. This should include all internal and external reviews.
 - This section should provide a summary of findings of each review both positive and of concern. Should describe action the agency is taking to resolve any negative finding, deficiency/concern.

Annual Or Quarterly Corporate Compliance Report Template part 2

- Billing Compliance, Financial Audits & Contract Review

- **Examples:**

- Internal Utilization reviews
- State Medicaid Review
- Annual Accounting Audit
- Vendor Contract Review



Annual Or Quarterly Corporate Compliance Report Template part 3

- **Licensing, Accreditation & Safety Reviews / Inspections**
 - This section should provide a list of any and all licensing and accreditation reviews, as well as safety inspections that occurred during the reporting period.
 - **Examples:**
 - Council on Accreditation (COA)
 - CHAPS/JACHO/ACHC
 - State Licensing Body / State Survey
 - State and Local Fire Inspections / Emergency Preparedness Participation
 - Health Department Inspections
- **National Accreditation Status**
 - This section provides a summary of the agency's current status with any of their national accrediting bodies. Should include the date(s) that any annual reports were submitted and if they were accepted.

Annual Or Quarterly Corporate Compliance Report Template part 4

- **Compliance Violation**
 - This section specifically highlights and compliance violation that have occurred during the reporting period. Describe what action have been or are being taken to bring the agency back into compliance.
 - **Examples:**
 - State Survey / Licensure Plan of Correction
 - Environmental Protection Agency (EPA)
 - Loss Prevention/Workman's Comp/Insurance Reviews
 - Medicare / Medicaid Medical Record Review
 - State and Local Fire Inspections / Occupational Safety and Health Organization (OSHA)

Annual Or Quarterly Corporate Compliance Report Template part 5

- Risk Management
 - This section provides and overview of what the agency identifies as it's top ten risk. This should include a description of how those risk were identified and what the potential impact of each is. Finally, this section should describe the actions the agency is taking to mitigate the risk identified
 - **Examples:**
 - Threats to major infrastructure (electric, plumbing, facilities)
 - Threats related to technology
 - Threats to Security (physical and electronic)
 - Threats to Management and Leadership (policy, procedure, succession plan)
 - Threats to funding and financial stability
 - Threats related to the workforce

Annual Or Quarterly Corporate Compliance Report Template part 6

- Review of Insurances
 - This section provides a comprehensive overview of all insurance coverage the agency has in affect. Should also identify steps being taken to address and shortfalls in coverage.
 - **Examples:**
 - Physical Assets and Property Coverage
 - General Liability
 - Professional Liability
 - Workman's compensation/Unemployment
 - Business Operational Coverage (Disaster Recovery)
 - Umbrella Coverage

Annual Or Quarterly Corporate Compliance Report Template part 7

- Civil Rights Violations, Grievances (patient and employee), and Legal Issues
 - This section provides a comprehensive overview of any reported client rights violations and grievances (patient and employees). This section should describe the actions the agency took to investigate reports, findings of the investigation and steps to correct any wrongdoing.
 - This section also describes any litigation and /or legal concerns that the agency is facing or currently involved in.
- Other
 - This section provides opportunity to describe any other type of potential violation or concern that was reported during the year.
 - This section also allows for a summary of any additional actions that agency has taken to mitigate future risk.

Lessons Learned from an Audit

- Documentation is key but too much is a nightmare.
- Follow up is imperative and documentation of the follow up is essential.
- Know your process and follow it. If it does not work or is not correct, fix it.
- Follow the instructions of your legal team and ask questions when you do not understand. Don't assume anything.
- Know the company record retention policy. What do you have, and how long do you keep it?

Lessons Learned from an Audit

- Read everything sent from entity reviewing the records or conducting the audit.
- Read responses, briefs, etc. Ask questions.
- Results from contractor review are important.
- Appeals decisions are important.
- Corrective actions plans are important.

References

- Federal Register – Modernization of Compliance Program Guidance Documents www.govinfo.gov/content/pkg/FR-2023-04-25/pdf/2023-08326.pdf
- [Problems the OIG has Identified with the Hospice Program](#)

Team Discussion Questions

- What did the faculty share that you found thought provoking?
- Did you identify specific issues that should be tracked?
- Do you have a better understanding of how to develop a formal board report?
- Who else on your team would benefit from this information?



Q & A

Thank You!

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