



# Corporate Compliance Essentials

*A meaningful compliance program that addresses quality of care and financial issues must be the cornerstone of every provider's mission and culture.*

**T**ODAY'S SKILLED NURSING FACILITIES (SNFs) see more acute patients than ever before, while government investigations of these facilities are increasing. Between 2005 and 2007, more than 91 percent of nursing facilities were cited for deficiencies during annual surveys, with quality-of-care deficiencies on the rise.

## Changing Formal Agreements

Historically, Corporate Integrity Agreements (CIA), or agreements between the Office of Inspector General (OIG) and a health care provider as part of a settlement for alleged civil wrongdoing relating to federal health law, dealt almost exclusively with reimbursement and fraudulent practices related to billing.

That all changed in 2000, when the first CIA that focused on quality of care went into effect. Since then, more than 35 nursing facility companies have entered into such agreements. Today, a typical quality-of-care CIA lasts between three and five years and can cost a provider anywhere from \$250,000 to \$5 million in settlement and litigation costs.

According to David Zimmerman, professor of industrial and systems engineering at the University of Wisconsin-Madison, the emphasis on quality

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## GETTING STARTED

**1. Cultivate a culture of compliance.** A culture of compliance needs to be initiated from the top down and must be ingrained into the organization. Owners and management should become familiar with the OIG guidelines for corporate compliance and the current quality assurance process within their own organizations.

One way providers can get started is to take the current code of conduct and compliance policies, dust them off, and make them real—make them part of the company's day-to-day operations. Having the staff review and sign the code of conduct annually will help maintain the desired culture.

**2. Appoint a corporate compliance officer.** A corporate compliance officer will lead the organization's compliance program by examining and tracking quality-of-care and financial issues. In a small organization, this officer may have multiple roles, but regardless of size, the compliance officer must be respected throughout the company and be given autonomy by the board of directors to create an internal audit and quality assurance infrastructure that will serve as the backbone of the compliance program.

**3. Train staff.** A formal and consistent training program is one of the fundamental building blocks of a solid compliance program. Training can reach staff in many forms, including online, e-learning modules; traditional, in-house classes and seminars; or a combination of both. Regardless of the format in which it is presented, training must be monitored and reevaluated on a regular basis for its ability to meet compliance goals.

## 4. Establish a complaint hotline.

Employees, residents, and families need a mechanism to voice their concerns in a nonretaliatory fashion, and, therefore, a formal hotline should be instituted. The hotline number will need to be prominently posted at each facility and monitored by the corporate compliance officer.

**5. Check exclusion lists.** Prior to hiring or contracting with potential employees and vendors, providers must check OIG's List of Excluded Individuals and Entities (LEIE, <http://exclusions.oig.hhs.gov/>), as well as pertinent state-based registries. Once a person is on these lists of exclusions, federal health care programs, including Medicare and Medicaid, will not pay for services furnished by that person.

*Source: "The Case for Compliance," Upstairs Solutions, Skokie, Ill.*

of care surfaced when OIG became concerned that providers under CIAs that were also facing bankruptcy might take shortcuts in quality of care.

Also worth noting is the fact that the

government has broadened its investigatory range to include nursing facility companies of all sizes.

The federal government's pursuit of more transparency within SNFs

has gone beyond the annual survey. According to attorney Alan Schabes, of Benesch, Friedlander, Coplan & Aronoff, the government is now spending more and more time investigating possible claims against nursing facility providers based on violations of the federal False Claims Act (FCA).

Such claims are frequently based on the assertion that the services that were provided were of such poor quality that they were “worthless services.”

The government has also continued to leverage exclusion, or the revoking of a nursing facility provider’s right to participate in and receive payments, from Medicare and Medicaid programs.

### Health Reform Law Implications

Citing clients who have spent upwards of \$100,000 just on a single FCA investigation, Schabes says meeting today’s quality-of-care requirements means going above and beyond the annual survey.

The health care reform law, also known as the Patient Protection and Affordable Care Act of 2010, mandated nursing facility compliance by 2013. This law also appears to require a mandatory compliance and ethics program for all physicians, small and large nursing facilities, pharmacies, medical equipment suppliers, and more.

While the specifics of the new law have yet to be spelled out, the OIG compliance program guidelines for nursing facilities are likely to provide a model for compliance requirements.

The law also requires a standardized training program for all compliant providers. Compliance training should reach the entire staff and have some ability to track its own effectiveness. Consistent and targeted training for care providers, managers, administrative staff, corporate officers, facility directors, and even family members at each level will further the culture of compliance throughout the organization and ensure training goals are met.

Staff training should be provided in a practical way, such as through live

in-person training, videos, and publications, depending on the employee’s needs.

Training materials and methods should also take into account the skills, experience, and knowledge of each trainee.

Simply put, the better trained the staff, the better the quality of care and the more compliant a facility will be.

### Staff Training Essential

Zimmerman notes that training will play a key role in any compliance program “because compliance is necessary at all levels of the organization, right down to the caregivers that are the certified nurse assistants.”

This is not something that is naturally taught in technical education programs or nursing schools, Zimmerman says, so organizations need to ensure that all employees are aware of what

the rules are with respect to compliance with regulations.

Effective training will not only instruct on care issues, but also on what needs to be reported, how it should be reported, and provide an overall review of an organization’s reporting process.

Also important is the presence of an evaluation process to ensure that the training was effective, including the evaluation of clinical competencies associated with the training. Truly effective corporate compliance programs will include a thorough internal infrastructure of policies and procedures that include checks and balances at every level of the organization.

As the penalties and liabilities for insufficient oversight rise and the 2013 compliance deadline approaches, SNFs will determine the best way to incorporate compliance into the day-to-day operations of their facilities. ■

## Not-For-Profit Award

### Recognizes Resident Programs, Community Benefits!

Has your facility come up with a really effective program to enhance the quality of life of your residents? Or does it have a unique community benefit program? If so, you should apply for the American Health Care Association/National Center for Assisted Living “Not-For-Profit Facility of the Year” award. The winning AHCA/NCAL member facility will be presented with the award at its 62nd Annual Convention & Expo in Las Vegas this September.

Last year’s award winner was Geer Nursing and Rehabilitation Center for its “Dial A Ride” program, where drivers make medical appointments for residents when rides are definitely available. Talk about client-friendly!

To fill out an application, go to [www.ahcanal.org/about\\_ahca/Documents/NFPProgramAwardApplication.pdf](http://www.ahcanal.org/about_ahca/Documents/NFPProgramAwardApplication.pdf). The due date is June 6, 2011.

Questions? Contact Melilssa Temkin at [mtemkin@ahca.org](mailto:mtemkin@ahca.org).



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