

COMPLIANCE & ETHICS



OVERVIEW

Did you know that in 2014 the United States collected \$2.3 billion in healthcare fraud judgments and settlements and convicted 734 people of healthcare fraud (Department of Justice [DOJ] & Department of Health and Human Services [HHS], 2015)? Did you know that the Office of Inspector General excluded over 4000 individuals from participating in Medicare, Medicaid, and other federal healthcare programs (DOJ & HHS, 2015)?

These numbers emphasize the importance of compliance programs in the healthcare industry. Compliance is one word that you will hear frequently in healthcare. All healthcare organizations have laws, rules, and regulations that they must follow. Additionally, there is an expectation that persons working in healthcare will act in an ethical manner. Corporate compliance programs help healthcare organization prevent, detect, and correct unlawful and unethical behavior.



LEARNING OBJECTIVES

- Describe the requirements of the False Claims Act and Deficit Reduction Act
- Recognize fraudulent and other types of improper conduct
- Describe common high-risk areas for fraudulent conduct



COMPLIANCE PROGRAMS

THE FALSE CLAIMS ACT

- Knowingly submitting or causing the submission of false claims for payment by the government
- Knowingly making, using, or causing to be made or used a false record or statement material to a false claim



WHISTLEBLOWERS

The False Claims Act contains provisions that encourage people to expose fraudulent activity or poor quality of care to the federal government. It does this by allowing a person, commonly referred to as a whistleblower, to sue a person or organization that has violated the False Claims Act on behalf of the government.

If the government decides to pursue the suit brought by the whistleblower, the whistleblower can be entitled to anywhere between 15 and 25% of the award or settlement. If the government declines to pursue the matter, the whistleblower can still move forward with the suit in which case they are entitled to between 25 and 30% of the award or settlement (FCA, 2012).



DEFICIT REDUCTION ACT

- ☐ The federal False Claim Act
- ☐ The administrative remedies for false claims
- ☐ Any state laws pertaining to civil or criminal penalties for false claims
- ☐ Whistleblower protections under these federal and state laws
- ☐ The roles of these laws in preventing and detecting fraud, waste, and abuse



BENEFITS OF A COMPLIANCE PROGRAM

- ☐ Providing concrete demonstration that your organization is committed to ethical corporate conduct
- ☐ Increasing the likelihood of identifying and preventing unethical or unlawful conduct
- ☐ Prompting you and other employees to be vigilant for compliance violations
- ☐ Providing a mechanism to encourage employees to report potential problems and allow for appropriate internal inquiry and corrective actions
- ☐ Improving the quality, efficacy, and consistency of care and services
- ☐ Helping to reduce you and your organization's exposure to civil damages, penalties, and criminal sanctions



ELEMENTS OF A COMPLIANCE PROGRAM

- 1) Developing compliance policies and procedures including standards of conduct
 - 2) Designating a compliance officer and committee
 - 3) Developing open lines of communication
 - 4) Conducting effective training and education
 - 5) Developing internal auditing and monitoring systems
 - 6) Enforcing standards through disciplinary guidelines
 - 7) Responding to detected offenses through the development of a plan of correction
- (OIG Supplemental Compliance Program Guidance, 2008)



FRAUD, WASTE, AND ABUSE

Waste – At the beginning of the continuum is waste. Waste is an unintentional overutilization, underutilization, or misuse of resources. Waste also includes incurring unnecessary costs because of inefficient or ineffective practices, systems, or controls.

Abuse – Further down the continuum of improper acts is abuse. Abuse covers practices that are inconsistent with sound fiscal, business, or medical practices resulting in unnecessary costs, improper payment, or payment for services that fail to meet professional standards of care or that are medically unnecessary.

Fraud – At the far end of the continuum is fraud. Fraud is the intentional deception or misrepresentation made by a person with the knowledge that the deception or misrepresentation could result in benefit to said person or another person. It includes violations of the False Claims Act.



ANTI-KICKBACK STATUTE

- Prohibits healthcare organizations from giving or accepting kickbacks, bribes, rebates, or any other kind of payment made to arrange a deal that involves federal dollars
- Forbids not just cash payments, but discounted products, bundled services, compensation in kind and other reciprocal arrangements
- Includes both giving and receiving parties
- May lead to civil or criminal penalties, including fines and imprisonment.



ETHICAL CONDUCT

The term compliance refers to what is mandatory under the law. In other words, “Can I do this?” However, compliance programs should extend not only to lawful conduct, but also to ethical conduct.

Ethics are the standards of conduct that define what is morally right and wrong. In other words, “Should I do this?” These standards will help you make the right decision in tough situations you may face when working in healthcare.

You can use ethics to help you determine how you should act in relationships and toward other people. Many of the decisions you make involve other people. When you act with honesty, integrity, and compassion, the people around you will trust you and your decision-making abilities.

Ethics are important because sometimes it is not easy to decide what is right and what is wrong. Many of the choices you will have to make in your workplace will be unclear and/or complicated. The good news is that using ethics will help you make good choices in all types of situations.



REPORTING COMPLIANCE ISSUES

- Every employee is responsible for reporting ANY potential violations
- Failure to report potential violation can lead to disciplinary action
- Compliance hotline
- No retaliation
- You must know who your compliance office is



RISK AREAS

- Quality of Care
- Billing
- Documentation
- Kickbacks
- Gifts



CONCLUSION

Now that you have finished reviewing the course content, you should have learned the following:

Your organization's compliance program is designed to prevent, detect, and correct unlawful and unethical conduct specifically fraudulent conduct. You play a vital role in ensuring the effectiveness of your organization's compliance efforts. Your day-to-day responsibilities must include compliance with legal and ethical principles. Always be on the lookout for potential non-compliance. If you see something that is not right, report it! Make sure that you are familiar with your organization's policies and procedures regarding legal and ethical conduct. Recognize your responsibility in making sure your compliance program is successful.

