COMPLIANCE & Ethics

A Guide to the Development of a Compliance Program

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Contents

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Introduction

Agencies face an increasing number of challenges in order to remain compliant with the growing list of laws and regulations. In today's highly-scrutinized environment, Medicaid fraud investigations, audits, fraud prosecutions, and civil actions are on the rise. Many organizations are looking for guidance on how to fulfill their compliance and ethics obligations--and how to do so efficiently and effectively, while still providing quality services to those they support.

Federal regulations and laws in several states require that agencies receiving funding from Medicaid or other governmental sources have a formal compliance and ethics program. Human and social service agencies have a duty to make sure procedures are in place to provide reasonable assurance of compliance with governing law. This means having systems in place to identify, prevent, and report fraud, waste, and abuse.

It is just as important to remember the purpose of the rules, regulations, laws, and guidelines—they were established to protect the health and safety of the people you support. Ethics means having a commitment to doing the right thing. Compliance means having a commitment to doing things the right way. This means that agencies must have both the desire and the expertise to develop, implement, and maintain a good program.

This booklet provides an outline for the development of a basic compliance and ethics program along with suggestions for implementation.

Your Compliance and Ethics Program-Best Practices

One of the basic steps to an effective compliance and ethics program is to embrace a culture of transparency. This means that management and the governing body must be committed to doing the right thing, and doing it the right way. Here are some best practices to consider.

1 ***Know the difference between your Compliance and Ethics Program and your Compliance Plan.***

- A **Compliance and Ethics Program** is a commitment made by the agency to follow the rules and to do the right thing. It is a set of formal systems to prevent fraud, waste, and abuse; detect and respond to potential problems and improve internal controls. It cannot exist only on paper. It needs to be part of the agency's culture and should continue to develop in response to change.

- A **Compliance Plan** is a written document that describes the policies and procedures an agency follows regarding compliance. The document itself should be reviewed regularly and revised as needed to ensure it is always an accurate reflection of agency practices and regulations.

2 ***Write basic compliance policies and procedures, and develop a schedule to review them periodically. Write them in layman's terms so that they are useful and easily understood. Tackle those you need the most first, and have a schedule to develop new policies and procedures.***

Policies and procedures should contain the following elements:

- Title of the policy, title of the person who developed it, date developed, date(s) of any revisions.

- Policy statement.

- List of procedures to be followed, including position titles of people who are responsible for making sure each step of the procedure is implemented.

- List of forms or other documents staff need to use to support the policy and procedure.

- Training plan: who needs training regarding this policy, how often, and who is responsible for making sure the training is done?

- Monitoring plan: who is going to make sure that the policy is followed?

3 *Develop an annual compliance work plan, and use that plan to stay on track. Make it manageable!*

Types of items to include in the compliance work plan are:

- Development of new policies and procedures.

- Review/revision of existing policies and procedures.

- Schedule for internal audits.

- Preparation for known external audits/dates of known external audits.

- Plan for ongoing staff training.

- Plan for ongoing staff communication (e.g. changing the style of your hotline poster every few months).

- Preparation/presentation of regular reports to the Board of Directors.

- Review/update of Compliance Program (Is it meeting your needs? Have regulations changed that need to be reflected in the program?)

- Review/update of the Compliance Plan.

4 *Have a regular schedule for Compliance Committee Meetings and maintain effective documentation.*

- Follow a regular agenda for each meeting—you can add items as needed, but using the same subject categories helps make sure you didn't forget to discuss something.

- Keep meeting minutes, including what was discussed, what follow up is needed or planned, and the name/title of the person who is responsible for follow up.

- If possible, the committee should be a sub-committee of the governing body; at least one member of the governing body should be a committee member.

5 *Train, train, train!*

- Develop general compliance and ethics training for new hires. Commit to a timeframe by which new employees will receive training (i.e. within the first 90 days of hire).

- Develop position-specific compliance and ethics training. Identify what training is needed based on position/job description (e.g. a staff member in the finance office would receive different position-specific compliance training than a case manager).

- Plan to train all staff on general compliance and ethics issues several times a year ("refresher" training). This will need to be done more frequently if regulatory changes occur that need to be communicated to staff. Position specific refresher training should be planned as needed.

- Develop both initial and refresher training for the governing body. General training should be done with all board members initially and then continued as new board members are appointed. Refresher training should be done at regularly scheduled intervals (at least annually).

- Train in real language with real-life scenarios. Make sure your staff knows what "compliance and ethics" means and how it applies to their everyday work.

6 *Maintain training records.*

- Keep documentation that shows the content of the training, date it was provided, and who attended. Examples of documentation to retain include trainer outlines, handouts, sign in sheets, and meeting minutes).

7 *Use a Compliance and Ethics Hotline to establish open communication.*

- Advertise the hotline as much as possible. Use posters, publish information on the agency intranet, and send out email blasts…whatever works for your agency. Talk often about reporting concerns and using the hotline.

- Promote the fact that people have the option to report anonymously.

- Teach people what it means to report in good faith.

- Make the hotline an option in your agency phone directory.

- In addition to a telephone hotline, consider having an email address that can be used to report compliance concerns.

- Maintain log of calls/contacts with the Compliance Officer (actions taken, investigations performed, and results).

8 Practice what you preach.

- Promote an agency-wide culture that encourages ethical conduct and commitment to compliance. Doing the right thing is what compliance is all about.

- Make sure your "open door policy" is actual, not just on paper. Staff will know if you're just giving them lip service. The Compliance Officer and other senior level managers should be visible, accessible, and available.

- Be responsive. You do not have to give people the answer they want, but you do have to provide respectful, timely responses to issues raised by staff, board members, and others.

- Thank people for coming to you with their concerns, and reassure employees that they will not be penalized for following your guidelines and procedures for bringing a complaint to your attention.

- Make sure supervisors at all levels understand what "non-retaliation" means and that they know how to keep retaliation from happening.

9 Try not to let the same problem happen twice.

- You are going to find problems. At least you should, if you have an effective auditing and monitoring system. The key is to correct something when you find it and put systems in place to prevent it from happening again.

- Discipline where needed. Remember that the word discipline means "to teach" and at times your disciplinary approach might be to provide re-training. The type and amount of discipline should depend on the severity of the offense and the frequency of the offender (and be sure to follow your agency's progressive discipline policy). Consistency is critically important.

10 Pay attention to your program—all the time.

- Your Compliance and Ethics Program is not something you can develop and then put on a shelf to collect dust. Things change quickly—you will make changes to your program and your plan based on regulatory changes, things that happen within your agency, recommendations from outside auditors, recommendations from your own audits, results of investigations…the list is seemingly endless. The point is that your program cannot stay static.

- If you feel like you are always talking about compliance and ethics, you are on your way to having a good program. Compliance and ethics should be on everyone's minds all the time.

Your Written Compliance Plan - The Basics

Here are some basic subject areas to consider when constructing a compliance plan. Items should be described in more detail based on the specific regulations governing your agency, as well as your agency's policies and culture.

SECTION 1: INTRODUCTION

Preface

- State the agency has developed a Compliance and Ethics Program

- Define the purpose of the program (develop effective internal controls; promote adherence to law; prevent/detect fraud, waste, and abuse; assist agency employees, consultants, members of the Board of Directors, and others in resolving issues of ethics, legal compliance, and appropriate conduct).

- Compliance Plan is part of the agency's overall Compliance and Ethics Program (provides details and standards of conduct)

Agency Mission Statement

- Insert your mission statement here. Include your vision and values statements if you think they are applicable to the Compliance Plan.

Commitment to Compliance

- Describe the agency's commitment to compliance (e.g. commitment to providing high quality care; commitment to high ethical standards; commitment to comply with all governing laws and regulations).

- State the Compliance and Ethics Program has been established to further these goals (i.e. to assist employees, management, consultants, governing body, etc. to comply with the law and to conduct business in an ethical manner.

- Note it is a team effort to create a workplace that values commitment to honesty, fairness, and compliance with the law (everyone should take personal responsibility to commit to the terms of the program).

- Include a disclaimer that the Compliance and Ethics Program and accompanying Compliance Plan serve as a guide for workplace conduct but they cannot address every situation; emphasize there is an expectation that everyone will exercise good judgment.

Elements/Applicability of the Compliance Program
List what is included in the program with a very brief description of each item.

Elements
- Standards of Conduct and Written Policies and Procedures
- Compliance Oversight
  - ▸ Corporate Compliance Officer
  - ▸ Corporate Compliance Committee
- Compliance Training and Education
- Enforcement and Discipline
- Identification of Compliance Risk Areas
- Effective and Confidential Compliance Communication and Reporting
- Responding to Compliance Issues/Corrective Action
- Non-Intimidation/Non-Retaliation

Applicability
- Billing (including controls to ensure documentation contains billable elements)
- Payments (including bidding processes for vendor services)
- Quality of Care/Medical Necessity (including utilization review and management)
- Governance (including a conflict of interest policy)
- Mandatory Reporting
- credentialling (including details about process, frequency, tracking, and documentation)
- Any other risk areas identified by individual agencies (including demonstration of due diligence)

Compliance Plan
- Written framework detailing formal systems to prevent fraud, waste, and abuse.
- Note that the plan will constantly be reassessed, revised, and redistributed as risk areas are identified.

SECTION 2: ELEMENTS/APPLICABILITY OF THE COMPLIANCE AND ETHICS PROGRAM

Standards of Conduct and Written Policies and Procedures

• State the agency has adopted written policies and procedures that describe compliance obligations and expectations.

• Explain this includes a code of ethics/code of conduct; explain the purpose of a code of ethics/conduct (e.g. written standards of conduct have been developed that promote the agency's commitment to compliance and to describe compliance obligations and expectations).

• Describe agency policy regarding the prevention of fraud, waste, and abuse.

• List the elements of policies/procedures (e.g. title, date developed, date(s) of revisions, etc.).

• State how the code of ethics/code of conduct and the compliance plan are distributed to new employees, new members of the governing body, new vendors, new contractors, etc.

Compliance Oversight

• Corporate Compliance Officer (including role and responsibilities. The Compliance Officer should report directly to the Executive Director or other senior level manager. The Compliance Officer should also provide periodic reports to the governing body. Your structure should be noted in the plan).

• Corporate Compliance Committee (make sure to include membership, role, and responsibilities).

Compliance Training and Education

• The training you refer to in your plan should be specific to compliance; its purpose should be to provide general compliance information to all employees, as well as focused technical training to those programs that have the ability to put the agency at a greater degree of compliance exposure.

• Indicate how frequently training will be provided (e.g. within 90 days of hire and annually thereafter, etc.).

- Content of training (make sure to indicate that training will include identification of existing laws, regulations, and protocols applicable to compliance with billing requirements; Federal False Claims Act; administrative remedies for false claims; any state laws pertaining to civil or criminal penalties for false claims and statements; whistleblower protections under the Federal False Claims Act and related state laws; the role of laws and regulations in preventing and detecting fraud, waste, and abuse in Federal healthcare programs; and anything else your agency deems as a necessary part of compliance training).

- New employee orientation—standard and job-specific.

- Ongoing employee training ("refresher" or as-needed training).

- Face-to-face training for employees who bill Medicaid.

- Training for managers, senior executives, and the Compliance Committee.

- Training for clinical consultants and contracted vendors who bill Medicaid.

- Training for Board of Directors (orientation for new members and "refresher" training on an on-going basis).

- Statement that indicates records of training will be maintained.

Effective and Confidential Compliance Communication and Reporting

- Access to the Corporate Compliance Officer.

- Hotline/Helpline (note that this is available to everyone: staff, governing body members, people receiving supports, etc.).

- Confidential/anonymous reporting/questions.

- New employee policy—background, reference, and exclusion list checks.

- credentialling checks.

- Communication with governmental agencies (who is responsible to do this; note the agency will cooperate; note when counsel will be contacted).

- Record retention (include information that the agency will comply with Federal and State laws regarding the retention of records).

Enforcement and Discipline

- Enforcement of the compliance and ethics program.

- Expectation of good faith participation by employees.

- Employee discipline (re-training, progressive discipline, termination, etc. It should be noted if discipline re: compliance will follow agency's regular personnel policies; should also note what actions will be taken if an investigation involves the Executive Director or a member of the governing body).

- Sanctions for encouraging, associating with, or participating in noncompliant behavior, as well as for failure to report suspected problems.

Identification of Compliance Risk Areas

Note the agency will commit to a mechanism for routing identification of compliance risk areas, including but not limited to:

- Internal and external audits

- Tracking of internal audit outcomes and action taken

- Periodic review of audit frequency and focus (based on risk factors)

- Evaluation of potential or actual non-compliance resulting from audits

- credentialling (including employees, governing body members, contractors, and vendors where appropriate)

- Mandatory reporting

- Governance

- Quality of care

- Explanation of what monitoring means (to control and direct day-to-day operations) and how the agency plans to impose monitoring standards.

- Explanation of what auditing means (look-back testing of monitoring systems to ensure they are working) and how the agency plans to perform audits.

- Information about the agency's mechanisms for routine identification of compliance risk areas, including procedures to conduct audits (note that records of internal audits, plans of correction, and verification of follow up should be maintained).

- This section should include specifications of a compliance work plan.

Responding to Compliance Issues/Corrective Action
- Process for identification, investigation, and correction of compliance problems.

- Process for external self-reporting—including process for identifying, responding, and reporting compliance problems to legal counsel/regulatory agencies.

- Mechanism for refunding overpayments/erroneous payments.

Non-Intimidation/Non-Retaliation
- Non-retaliation/non-intimidation for good faith participation, including compliance with the Federal False Claims Act and whistleblower protections.

OTHER SECTIONS: ATTACHMENTS TO YOUR COMPLIANCE PLAN
- Acknowledgement Statement (to show receipt of Compliance Plan and agreement to abide by the terms listed in the plan). This should be the last page of the plan or handed out separately so trainee(s) can retain the plan and the trainer can retain the acknowledgment.

- List of policies and/or procedures that have been implemented relative to compliance.

- Code of Conduct statement.

- Corporate Compliance Officer's job description.

- Cover page should show the agency name/address, title of the document, date originally adopted by the Board of Directors, and any dates that the plan was updated/re-approved by the Board of Directors (think "living, breathing document").

Developing Your Code of Conduct

When you begin to develop a Code of Conduct, remember that it should support other agency policies, including your Compliance Plan and Personnel Policies (employee handbook). The Code of Conduct is not a place to restate policy; it should highlight specific areas in which you want employees and others to focus (e.g. your Code of Conduct will outline measures to avoid conflicts of interest, and should have a separate conflict of interest policy that details your expectations).

Start with an introduction. Why does the agency have a written Code of Conduct? What is the purpose of the code? Why is it important? To whom does it apply? (e.g. employees, volunteers, consultants, board members, officers, etc.). Your introduction should reflect that the Code of Conduct will represent the values and expectations of the organization. It is also important to emphasize that the code will talk about doing the right thing (following the law, acting honorably, treating each other with respect, etc.).

List your standards of conduct. What do you expect people to do? What do you expect them not to do? Make sure to emphasize that everyone has a personal responsibility to incorporate the positions of the code in their everyday work environment. Use common language that can be easily understood. Sentences should be brief—a statement does not have to be long to make an impact.

Take care relative to your level of specificity. How much detail and explanation you include in your Code of Conduct largely depends on your agency culture and how specific you think you need to be for your employees and others to understand what you are asking of them. Keeping it as brief and simple as possible is recommended.

SAMPLE STANDARDS OF CONDUCT

Your Code of Conduct should contain the standards that are most applicable to your organization and should be as long or as short as you deem necessary. Remember, these are just ideas. Your agency will want to add, exclude, or re-word items as you see fit. Here are some examples of standards of conduct.

Confidentiality
- Ensure appropriate use and protection of agency information, maintain high standards of confidentiality.

Conflict of Interest
- Avoid conflicts of interest.

- Immediately disclose potential conflicts of interest to your supervisor or Corporate Compliance Officer.

Employment and Labor Laws
- Comply with employment and labor laws.

Professional Conduct
- Work cooperatively and respectfully with all agency representatives and the general public to fulfill your obligations and to provide high quality services.

- Refrain from any sort of harassment or discrimination.

Fair and Ethical Dealing
- Refrain from misrepresentations. Be honest. Tell the truth.

- Deal openly and honestly with fellow employees, customers, contractors, governmental agencies, and others.

- Commit to fairness.

- Do not report false or misleading information.

Record Keeping, Financial Controls, and Protection of Assets
- Submit accurate billing and financial reports.

- Do not falsify documents or records.

- Engage in appropriate fundraising.

- Ensure that documents are signed and dated contemporaneously.

- Strive to complete documentation in a timely manner and without error. If errors occur, follow the applicable regulations and policies relative to disclosure and correction.

- Adhere to tax-exempt requirements.

- Report and take steps to control theft.
- Do not engage in theft, fraud, embezzlement, or other acts of dishonesty.

- Ensure proper use and protection of agency assets.

- Ensure proper use and care of the assets of individuals who the agency supports.

- Use supplies, equipment and services in a manner that avoids waste.

- Refrain from personal financial transactions between agency representatives and people receiving our services.

Compliance with Laws, Rules, and Regulations
- Be familiar with and comply with laws, regulations, and policies governing your area and immediately report noncompliance.

- Ensure facility certification.

- Obtain appropriate credentialling or licensure and training before using equipment or carrying out duties where credentialling or licensure is required.

- Comply with environmental and workplace health and safety requirements.

- Ensure proper control of medications.

Other
- Take steps to identify, prevent, and report suspected abuse or neglect.

- Refrain from accepting inappropriate gifts or entertainment.

- Ensure appropriate political participation/government relations.

- Maintain high standards of business and ethical conduct in accordance with applicable federal, state and local laws and regulations including those related to fraud, waste and abuse.

- Report when a violation of this Code of Conduct may have occurred.

Here are more ideas about ways to word your standards of conduct

- I understand that my consistent participation is important and I will honor my time and service commitment.

- I will respect the rights, dignity and worth of all people involved within the program. I will be a positive role model for the clients with which I have contact.

- I understand that the relationship between the clients and me is important and I will not include other people in our activities, including members of the client's or my family.

- I understand that my role as a volunteer (or employee) is a matter of trust and will not pursue any activities with the client(s) outside the confines of the organization's program.

- I understand that I may learn personal information about others that I will keep confidential.

- I will not engage in activities that pose a serious risk of injury to myself and others, including but not limited to, use of alcohol or drugs (illegal or that impair my ability to perform my duties), or smoking in the presence of clients.

- I will refrain from any form of personal abuse towards others, including verbal, physical and emotional abuse.

- I will not engage in any inappropriate contact or relationship with a client or other participant of the organization's programs.

- I will be alert to any form of abuse from other sources directed toward clients. If observed, I understand my duty to immediately intervene to protect the health and safety of the client. I will report observed or suspect abuse to the appropriate party immediately.

- I will not arrange nor participate in any overnight activities (or other prohibited activities) without express permission from the organization.

- I will inform the client's family of any activity plans and obtain their approval as needed.

- I will not buy gifts nor give money to any client. Whenever in doubt of the appropriateness of a modest gift I will check with the organization.

- I will maintain regular contact with my supervisor by responding promptly to any calls, letters, or other means of communication. I also understand that the organization may request a meeting to discuss my participation and I will respond promptly.

- I understand that if a problem arises between the client and/or the client's family or caregiver, I will contact the organization immediately.

- I understand the importance of ending my involvement with the organization properly therefore I will participate in the organization's exit or termination procedures.

- I agree to follow all established rules and guidelines of the organization

- I have read and agree to abide by the [Name of organization]'s Code of Conduct. I understand that if I violate this Code of Conduct I will be subject to a range of consequences, up to and including termination of employment or being prohibited from participating in any activities or programs of the organization.

Be sure to state it is expected that people will sign an acknowledgement confirming they received and read the Code of Conduct and they understand and agree to their responsibilities related to implementation of the code. The acknowledgement should be separate from the actual Code of Conduct (since the employee should keep the copy of the Code of Conduct).

Clearly state what will happen if someone violates the Code of Conduct. Will violations result in disciplinary action up to and including termination of employment or dismissal? Does the agency reserve the right to immediately discipline or terminate in accordance with the grievousness of the situation? If yes, say so.

Clearly state to whom people should bring their questions or concerns. If you have a chain of communication or problem review procedure, reference it here. Emphasize people's duty to report if they have a concern. This is another good place to re-emphasize your Compliance Hotline/Helpline and your policy on non-retaliation.

Make sure to date the Code of Conduct. When you update it, note the revision date on the code. Remember that any updates need to be distributed/reviewed with all applicable parties (employees, volunteers, governing body, etc.) and you will need to collect new acknowledgement statements when that occurs.

Implementing the Compliance and Ethics Program

Organizing the draft for your compliance and ethics program is the first step of implementation. Below is a guideline for drafting your program, and presenting it to the management team as well as the Board of Directors.

FINALIZE PLANS FOR YOUR COMPLIANCE AND ETHICS PROGRAM

- Write a draft of your Compliance Plan.

- Write a draft of your Code of Conduct.

- Identify members of Corporate Compliance Committee.

- Present the draft Compliance Plan/Code of Conduct to Corporate Compliance Committee members.

  ‣ The Executive Director should explain the concepts of the Compliance and Ethics Program (what it is; why the agency is implementing it; why it is important; why they were selected to be on the committee; the committee's role and purpose; and that cooperation and support of the program is an expectation). The Corporate Compliance Officer should present the Compliance Plan/Code of Conduct to the committee.

- Present the draft Compliance Plan/Code of Conduct to management team.

  ‣ The Executive Director should send a strong message to managers about the Compliance and Ethics Program (what it is; why it is being implemented; why it is important; the management team's role and purpose; and that cooperation and support of the program is an expectation). Consider doing this both verbally and in writing. The Compliance Officer can present the Compliance Plan/Code of Conduct to the management team.

- Establish deadlines for Compliance Committee members/managers to ask questions and give feedback about the draft plan.

- Work with your IT department set up the Hotline/Helpline (phone, email, and any other electronic method you plan to use). If you plan to use the agency Intranet to publicize compliance information, prepare that as well. This way, things are ready to "go live" when you need them.

- Receive feedback from Corporate Compliance Committee members and management team; finalize Compliance Plan and Code of Conduct.

PRESENT INFORMATION TO THE GOVERNING BODY FOR REVIEW, APPROVAL, AND ADOPTION

- Present Compliance Program, including the Compliance Plan and Code of Conduct to the Board of Directors for review. Recommend adoption (might need a Board Resolution prepared).

    ‣ The Board should receive a similar message as the management team regarding the importance of the Compliance and Ethics program and the need for everyone to support it.

- Ensure the meeting minutes reflect presentation of the Compliance and Ethics Program and the action taken by the Board relative to the program, the Compliance Plan, and the Code of Conduct.

- If the program is adopted, this can count as your first compliance training with the governing body. Note this in the meeting minutes.

TRAINING

- Once the Compliance and Ethics Program, Compliance Plan, and Code of Conduct are adopted, provide initial compliance training to managers and supervisors. Remember that this group will also need additional training about how to respond to staff questions and concerns.

- Train existing staff.

- Make sure to keep good records of all training sessions (e.g. trainer outline, sign in sheets, handouts). Ensure that each staff member signs an acknowledgement statement that they received the Compliance Plan and the Code of Conduct; retain the statements in employee personnel files.

- Include Compliance training in your new hire training program. It is important that this is done immediately, so as not to create gaps and ensure everyone receives training.

- Determine how you are going to distribute the Compliance Plan/Code of Conduct to consultants, vendors, volunteers, etc. Work with applicable departments and personnel to implement the process (as an initial distribution and then on an on-going basis).

COMMUNICATION

- Publish Hotline/Helpline materials. If you are putting information on your agency's intranet, make that available and publicize it.

- Ask supervisors to include a brief section about compliance in their departmental staff meetings. This will help get people talking about compliance all the time.

CORPORATE COMPLIANCE COMMITTEE

- Schedule regular Corporate Compliance Committee meetings (monthly meetings are recommended).

- Develop a basic agenda that the committee will use for its meetings.

- Plan that your first meeting will deal with "housekeeping" items. Examples include:

  ‣ Review of the standard agenda.

  ‣ Review of the committee's purpose statement.

  ‣ Discussion about this year's Compliance work plan (the committee should begin to develop the work plan; a good goal is to have a draft work plan completed by the end of the second meeting).

  ‣ Identification of compliance-related policies and procedures that need to be developed or revised (the committee should make a list and prioritize; development/revision of policies and procedures should be included in the work plan).

  ‣ Designation of an investigator for compliance investigations. This can be the Corporate Compliance Officer, but the committee should also consider if additional staff should be designated. The committee should assign responsibility for investigator training.

Some Regulations to Consider

HIPAA

Agencies must comply with all Health Insurance Portability and Accountability (HIPAA) Privacy and Security regulations. HIPAA compliance should be part of your agency's overall Compliance and Ethics program.

HITECH Act

Agencies should commit to comply with the Health Information Technology Economic and Clinical Health Act (HITECH) including but not limited to:

- Notification to individuals regarding breaches of PHI.

- Requirement that business associates share in civil or criminal liabilities and penalties.

- Risk assessment of what data sets could cause "harm" to an individual.

Red Flags Rule

Agencies should comply with the Red Flags Rules including but not limited to:

- Establishment of a written identity theft prevention program that identifies and detects relevant red flags and can mitigate identity theft.

- Periodic updates to the written identity theft prevention program.

- Medical-specific staff training regarding the identity theft prevention program.

- Documentation for oversight of service providers.

- Information about how the identity theft prevention program will be administered and how agencies will ensure management approval.

Key Points to Remember

Management support is critical to a successful Compliance and Ethics Program. Your program will need managers who can "walk the walk" and "talk the talk." Start your agency's commitment to compliance at the top, and expect all levels of staff to buy in to the program.

Focus on your mission statement. Your employees made a choice to work in the human services field because they want to help people—and your agency provides support to a vulnerable population. Remind staff that the people you support, and the resources that support them, need to be protected. Unfortunately, increased fraud, waste, and abuse of these resources have placed the human services field under intense scrutiny. By having a Compliance and Ethics Program, your agency demonstrates a commitment to "doing the right thing" and provides guidelines for ethical behavior.

Notes

About Irwin Siegel Agency, Inc.

Irwin Siegel Agency, Inc. (ISA) is a leading insurance and risk management organization serving the Human Service field and insures service providers in 50 states. ISA continues to set the standards of quality, innovation and value when it comes to developing new programs that meet the dynamic nature of the Human Services field.

We are here to support your efforts of supporting others, to provide the products and coverages your facilities need, to develop and share risk management tools and services to protect, while maintaining the compassion and education that holds ISA above ordinary insurance providers

Insurance coverages include General Liability, Professional Liability, Property, Inland Marine, Crime, Umbrella and Commercial Automobile. Additional coverages are available for Youth Protection, Directors & Officers, Volunteer Accident, Environmental and Pollution Liability, HIPAA Protector, and Workers' Compensation.

Are You Covered?

Some relevant products available through ISA include:

- Directors & Officers Liability Insurance
- NetProtect 360 - Network Security, Privacy Liability, and Identity Theft Coverage
- Health Insurance Portability & Accountability Act - HIPAA Coverage

Availability may vary by state

Sample of Available Resources

Printed Publications

- Safety Committee: A Guide to the Development and Implementation of an Effective Safety Committee
- Employee Dishonesty
- Investigation Process

Flyers & Bulletins

- Key Control
- Various Auto Related Bulletins
- Safety Card Series

Newsletters

- Executive Perspective
- Matter of Record
- Safety Matters

Video Lending Library

- Corporate Compliance Confidential
- Clients Rights are Human Rights
- Let's Get Hip About HIPAA

Partner Programs

- Online Training
- Background Checks and Screening Services
- Vehicle Incident Monitoring

And much more...

**Contact our Risk Management Department
for additional resources and partner services**

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