



## **Structuring, Implementing and Monitoring Service Contracts: A Team Sport of Compliance, Quality, Legal and Human Resources**

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## **Considerations when dealing with vendors**

- Due diligence – beyond price, why do business with this vendor?
- Do they have a financial and performance track record?
- Who else will you be dealing with: employees, independent contractors, affiliates?
- Will they be on-site? Will they bring their own equipment?

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## Joint Commission Requirements LD.3.50

**Standards for Oversight of Contracted Services applies to contracts for the provision of care, treatment, and services provided to the organization's patients.**

- Licensed professional service,
- Personal care or support,
- Pharmacy dispensing,
- Clinical/consultant pharmacist,
- Long term care pharmacy,
- Ambulatory infusion,
- Home medical equipment
- Clinical respiratory
- Hospice

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## Exclusions

- Administrative Services
  - Billing
  - Marketing
  - Management Consulting
  - Supply and Environmental Support
  - Materials Management
  - Landscaping
  - Outside Security

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## Focus on Provider Responsibility

- “The same level of high-quality care should be delivered to patients regardless of whether the services are provided directly by the organization or through contractual agreement.” Legal may just see these as additional terms, but there is also a clinical component that must involve the organizations employees and medical staff

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## Joint Commission Requirements

- The Provider evaluates the contracted care, treatment and services to determine whether they are being provided according to contract and the level of safety and quality that hospital expects. Historically service contracts only contained legal requirements and sometimes “Exhibits” were attached.

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## Joint Commission Requirements (cont'd)

- The Provider retains over all responsibility and authority for services performed under a contract. Generally legal responsibility for a contractor's employees were the contractors alone and liability was under the contractor.

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## Elements of Performance

- Two standards for two types of direct care contractors
  - Physician contractors (Physician Assistants, Perfusionists) must be credentialed by the Medical Staff Office.
  - Nurse, Techs, EMT contractors must go through HR for processing, just like an employee, and go through orientation.

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## Contract “Must Haves”

- Regular monitoring of services and expectations
- Nature and scope of services
- A statement including the language that says the Provider is ultimately responsible for all contract services
- Competency, how it is continuously measured by the contractor
- Even if the contractor is accredited by TJC, these measures must be included in the contract

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## Contract “Must Haves” (cont’d)

- Additional requirements for contractors in direct patient care must be spelled out, such as yearly TB skin testing and Hepatitis vaccination etc.
- AQMD testing requirements for dialysis machines and handling of toxic chemicals
- Process for removal of contractor’s employees
- Designated Leader must sign off on contract.

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## Contract “Should Haves”

- Business Associate Agreement if vendor will handle or receive protected health information including breach notification
- Covenant for vendor and its agents to comply with applicable policies, laws & regulations, licensing requirements
- Covenant to cooperate with your QA, infection control, patient satisfaction and other applicable programs
- Self-reporting obligations

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## Contract “Should Haves”

- No assignment by Vendor without advance consent
- Termination for recurring breaches even if there is a cure
- Indemnity
- Outline of remedies and consequences if quality measures not achieved/sustained

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## Implementation

- Requires coordination between:
  - Administration
  - Human Resources
  - The Medical Staff Office
  - Quality
  - Legal
  - Contractor & his employees
  - Clinical Departments that will host the contractor

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## Obtaining buy off by your internal stake holders

- Who is the corporate sponsor (VP etc.)?
- What Department will be monitoring the contractor?
- Where will the documentation of monitoring reside?
- What should the evidence of competency look like and where should it reside?
- Who will pay for the HR processing? Contractor? Department?
- Who will assume responsibility that all the terms of the agreement will be followed by the contractor?
- Who will perform the periodic review?

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## ○ ○ ○ | Agreement on Implementation

- Create a Policy and Procedure
- Everyone should understand who must work with legal to create the contract
- Create an addendum of all the service terms to use when the vendor already has a contract
- Ultimately there should be a shared database where everyone can check on the contract and terms

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## ○ ○ ○ | Who Cares?

- The Joint Commission during their survey will ask for this documentation
- State HHS when they come for a validation survey
- Your risk manager and insurance carrier if there is a problem with a Contractor
- Licensing Agencies if there is a problem Contractor
- The OIG, if you didn't check the exclusion list

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## Lessons learned....

- Coordinating all the clinical areas is like herding cats, take a deep breath and be patient.
- Check all your contracts there may be pieces of the requirement that you can salvage.
- Set up a spread sheet so that all the elements may be checked off as you go.
- If you are the keeper of the documentation make sure there is a shared database do that others can access it.

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## Tools discussion

- Vendor Tracking Software
  - Provides tracking of direct patient care contractors medical , vaccinations, background and OIG checks
  - Generally doesn't track your contract or other issues like monitoring. Evaluations can be uploaded.

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## Tools discussion (cont'd)

- Contract Tracking Software
  - Allows for tracking of due dates
  - Monitors for contract type
  - Reports available by contract type
  - You can put the HR and Medical Staff information into it but then you are doing the monitoring

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## Tools discussion (cont'd)

- Document Tracking Software
  - Does everything Vendor and Contract tracking software provides and process flow with electronic signature and version control
  - Is not generally an ASP model
  - Is more expensive to purchase implement and maintain.
  - Requires a purchase of hardware and maintenance

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## Examples and Samples

- Definition of levels of service contracts
- Amendments
- Manual tracking on a shared drive
- Policy and Procedure

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## Questions

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