

# POST-ACUTE COMPLIANCE OFFICERS:

HOW DO YOU PREPARE FOR  
CONSTANT CHANGE AND THE  
UNKNOWN OF THE REGULATORY  
ENVIRONMENT?

**2018 HCCA COMPLIANCE INSTITUTE  
LAS VEGAS, APRIL 15**



## Karla Dreisbach, CHC, CHPC

- Vice President of Compliance, Friends Services for the Aging
- [Dreisbach@fsainfo.org](mailto:Dreisbach@fsainfo.org)

## Betsy Wade, MPH, CHC

- Corporate Compliance Officer, Signature Healthcare Consulting Services, LLC
- [bwade@shccs.com](mailto:bwade@shccs.com)

## Jeremy D. Kuhn, PT, JD, CHC

- Corporate Compliance Officer/Privacy Officer, Care Initiatives
- [jkuhn@careinitiatives.org](mailto:jkuhn@careinitiatives.org)

## Connie Rhoads

- Vice President Corporate Compliance/Privacy Officer, Christian Horizons
- [crhoads@chliving.org](mailto:crhoads@chliving.org)

## Barbara J. Duffy

- Shareholder, Director of Litigation, Lane Powell
- [duffy@lanepowell.com](mailto:duffy@lanepowell.com)

## WHAT WE WILL COVER

Context for  
Compliance in  
the Post Acute  
Field

Current  
Challenges Each  
of The Panelists  
Face

What Role, if any, Does  
The Current CIA  
Environment Play In  
Your Priorities and  
Efforts With Your  
Board/Governing  
Organization

How Does Your  
Organization  
Invest/Prioritize  
Compliance

- What is Are You  
Currently Looking At  
and Why;

How to Find Your  
Seat At the Table

- Board Engagement;
- How To Get It and  
Keep It;
- Board Training

# CONTEXT

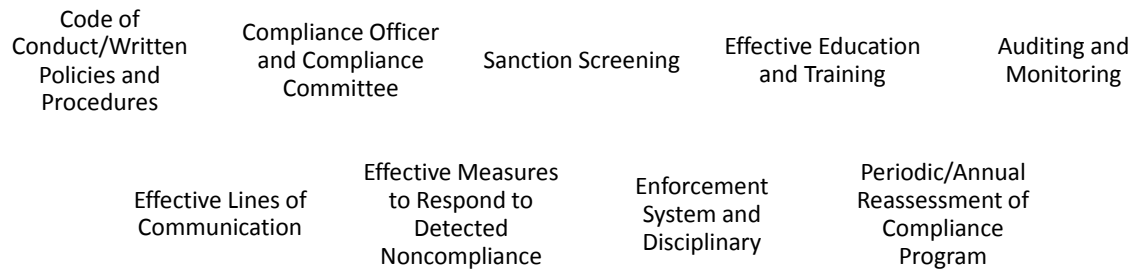
A109

## COMPLIANCE PROGRAM REQUIREMENTS

U.S. Sentencing Commission	Office of Inspector General	US Department of Justice	Centers for Medicare and Medicaid Services
<ul style="list-style-type: none"><li>• Federal sentencing Guidelines, Chapter 8, "Effective Compliance Program"</li></ul>	<ul style="list-style-type: none"><li>• Compliance Program Guidance for Nursing Facilities - 2000 &amp; 2008</li><li>• Guidance for Oversight of Compliance for Health Care Boards – 2016</li><li>• Measuring Compliance Program Effectiveness: A Resource Guide – 2017</li></ul>	<ul style="list-style-type: none"><li>• Evaluation of Corporate Compliance Programs - 2017</li><li>• Recent Settlement Agreements</li></ul>	<ul style="list-style-type: none"><li>• Requirements of Participation for Nursing Facilities - 2016</li><li>• Phase III Compliance Program</li></ul>



## COMPLIANCE PROGRAM ELEMENTS (CMS)



## FRAUD AND ABUSE LAWS

### Federal Anti-kickback Statute

- Criminal Statute That Prohibits The Exchange (Or Offer To Exchange) , Of Anything Of Value In An Effort To Induce (Or Reward) The Referral Of Federal Health Care Program Business

### Stark Law

- Physician Self Referral Law Prohibits Physicians From Referring Patients To Receive “Designated Health Services” Payable By Medicaid Or Medicare From Entities With Which They Or An Immediate Family Member Has A Financial Relationship, Unless An Exception Applies

### The False Claim Act (FCA)

- Knowingly Making, Using Or Causing To Be Made A False Record Or Statement Material To A False Or Fraudulent Claim
- Statutory Penalties
- Administrative Penalties
- Whistleblower Provisions

## Slide 5

---

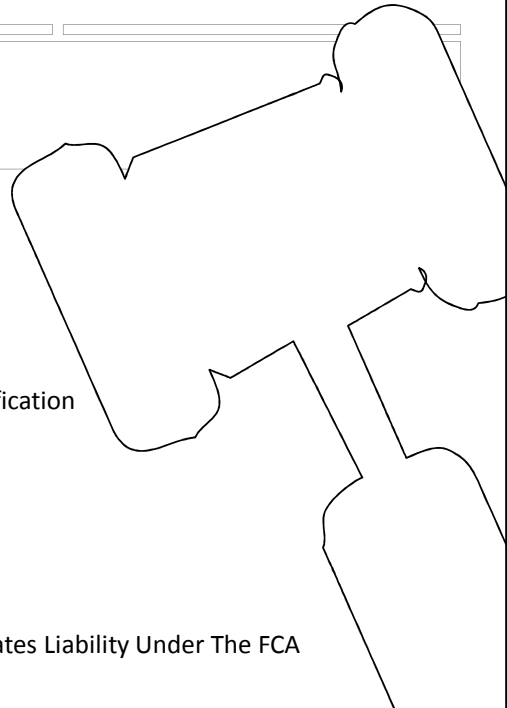
**A110**

**Karla**

Author, 3/4/2018

## FRAUD AND ABUSE LAWS

- 60 Day Repayment Rule
  - Duty To Investigate
  - Exercise Reasonable Diligence
  - Quantify Amount Of Overpayment
  - Report And Return Overpayment Within 60 Days Of Quantification
  - Overpayment Is An Overpayment Regardless Of Cause
    - Human Or System Error
    - Mistake
    - Fraudulent Behavior
- Can Be A Be Considered A “False Claim”
  - Failure To Timely Report And Return And Overpayment Creates Liability Under The FCA



## U.S. DEPARTMENT OF JUSTICE (DOJ) INITIATIVES



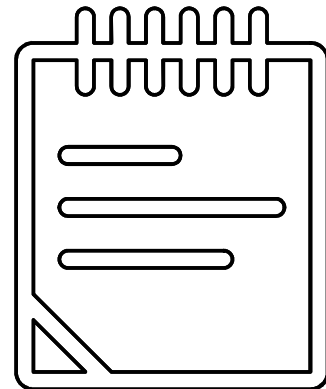
Deputy Attorney General Yates Issues Memo, “Individual Accountability For Wrongdoing,” On Corporation Cooperation With Identification Of Culpable Individuals, Sept. 9, 2015 (“Yates Memo”)

Assistant Attorney General Caldwell Outlines How Criminal Division Compliance Counsel Will Identify Effective Compliance Programs, November 2, 2015

DOJ Fraud Division Issues “Evaluation Of Corporate Compliance Programs, February 2017

## YATES MEMO: "INDIVIDUAL ACCOUNTABILITY FOR WRONGDOING"

- Six Steps To Strengthen Pursuit Of Individual Corporate Wrongdoing
  - Redress Misconduct
  - Deter Future Wrongdoing
- Both Criminal And Civil Corporate Investigations Should Focus On Individuals From The Inception Of The Investigation
- Absent Extraordinary Circumstances, No Corporate Resolution Will Provide Protection From Criminal Or Civil Liability For Any Individuals



## DOJ EFFECTIVE COMPLIANCE

Do Directors And Senior Managers Provide Strong And Visible Support For The Compliance Program?

Do People Who Are Responsible For Compliance Have The Appropriate Authority?

Do They Have Access To Adequate Funding And Necessary Resources?

## DOJ EFFECTIVE COMPLIANCE

Are Compliance Policies  
Clear And In Writing?

Are Policies Effectively  
Communicated To All  
Employees?

Are Policies And  
Procedures Reviewed And  
Revised To Keep Them Up  
To Date With Evolving  
Risks And Circumstances?

Are There Mechanisms To  
Enforce Compliance  
Evenhandedly?

Are Third Party Vendors  
And Consultants Informed  
About Compliance  
Expectations?

## CHANGING ENFORCEMENT ENVIRONMENT

**DOJ Launches 10 Elder Justice Task Forces Including Eastern District Of PA, March 30, 2016**

- Pursue Nursing Homes That Provide Grossly Substandard Care

**Centers For Medicare And Medicaid Services (CMS)  
Releases New Civil Money Penalty (CMP) Analytic Tool**



## OIG ISSUANCES

Annual Work Plan

Compliance Program Guidance's (CPGs)

Fraud Alerts, Special Advisory Bulletins, Audit Reports

Corporate Integrity Agreements (CIAs)

“Compliance 101” Educational Materials and Podcasts

## NEW COMPLIANCE RISKS

### Federal Civil Penalties Inflation Adjustment Act Improvements Act Of 2015

- Requires Agencies To Adjust Their  
CMPs Annually Based On The CPI  
Using Data From October Of Each Year

### CMS Issues Revised Regulations For SNFs September 28, 2016

- Three Phases
  - November 2016
  - November 2017
  - November 2019

A111  
A112

## NEW CMS COMPLIANCE REGULATIONS

Effective November 28, 2019

Effectiveness Of Compliance & Ethics Program Will Be Subject To Survey BUT...

- Still Remains Subject To Other Governmental Interpretations

## CONSEQUENCES OF NONCOMPLIANCE

Hebrew Homes Health Network - FL

- 5 year Corporate Integrity Agreement
- Alleged kickbacks for Medical Director contracts and issues with therapy billing

Lemington Home for the Aged - PA

- \$5.75 million verdict against officers and board members of nursing home
- Claim that the leaders of the nursing home had breached their fiduciary duty by mismanaging the home after warnings from auditors and the death of two residents

Episcopal Ministries to the Aging - MD

- \$1.3 million in settlements related to Kindred/Rehab Care therapy billing practices

ArchCare - NY

- \$3.5 million settlement related to failing to prevent a rehab subcontractor from overbilling Medicare for therapy

Slide 15

---

- A111 Author, 3/6/2018
- A112 Author, 3/6/2018

## RESOURCES

Federal Sentencing  
Guidelines:

- <http://www.ussc.gov/guidelines/2015-guidelines-manual/archive/2011-8b21>

OIG Voluntary  
Compliance  
Program  
Documents

- <https://oig.hhs.gov/compliance/compliance-guidance>

Corporate Integrity  
Agreements:

- <https://oig.hhs.gov/compliance/corporate-integrityagreements/cia-documents.asp>

## RESOURCES

CMS Proposed Rules  
on Compliance:

- <http://www.gpo.gov/fdsys/pkg/FR-2015-07-16/pdf/2015-17207.pdf> (see page 42267)

U.S. Department of  
Justice, Evaluation  
of Corporate  
Compliance  
Programs:

- <https://www.justice.gov/criminal-fraud/page/file/937501/download>

DOJ “Yates Memo”:

- <http://www.justice.gov/dag/file/769036/download>

## RESOURCES

OIG Supplemental  
CPG for Nursing  
Facilities:

- [http://oig.hhs.gov/compliance/compliance-guidance/docs/complianceguidance/nhg\\_fr.pdf](http://oig.hhs.gov/compliance/compliance-guidance/docs/complianceguidance/nhg_fr.pdf)

OIG CPG for Nursing  
Facilities:

- <http://oig.hhs.gov/authorities/docs/cpgnf.pdf>

HHS OIG, Practical  
Guidance for Health  
Care Governing  
Boards on  
Compliance  
Oversight, (April  
2015):

- <http://oig.hhs.gov/compliance/compliance-guidance/docs/Practical-Guidance-for-Health-Care-Boards-on-Compliance-Oversight.pdf>

## HOW DOES YOUR ORGANIZATION INVEST/PRIORITIZE COMPLIANCE



## "GARDEN VARIETY" TOPICS

### Routine Risks to Consider Investing Time & Resources to Monitor

- Monthly Exclusion Checks (Employees & Vendors)
- Monitoring Licensure/Certifications
- Hotline/Non-hotline contacts with compliance department
- OIG Work Plan Risk Areas
- PEPPER Report Risk Areas
- PUF Report Risks
- Pre-bill documentation audits
- HIPAA Breach Analysis (as needed)
- Contractor compliance

## SMALL-MEDIUM PROVIDER: WHAT DO I LOOK AT?

### Community Level Adherence to Compliance Program Requirements

- Sanctions Checks
  - Upon hire or engagement
- Compliance Training
  - Onboarding timeline
  - Compliance vs. completion rates
  - Vendor training
- Compliance Program Effectiveness Survey Results

A114

## SMALL-MEDIUM PROVIDER: WHAT DO I LOOK AT?

### From a claim's risk perspective: external data

Program for Evaluating Payment Patterns Electronic Report (PEPPER)	Report Portal: <a href="https://securefile.tmf.org/#">https://securefile.tmf.org/#</a>
	Data: <a href="https://www.pepperresources.org/Data">https://www.pepperresources.org/Data</a>
Medicare Provider Utilization and Payment Data: SNFs	<a href="https://www.cms.gov/Research-Statistics-Data-and-Systems/Statistics-Trends-and-Reports/Medicare-Provider-Charge-Data/SNF.html">https://www.cms.gov/Research-Statistics-Data-and-Systems/Statistics-Trends-and-Reports/Medicare-Provider-Charge-Data/SNF.html</a>
Nursing Home Compare	Compare Portal: <a href="https://www.medicare.gov/nursinghomecompare/search.html">https://www.medicare.gov/nursinghomecompare/search.html</a>
	Nursing Homes Compare Datasets: <a href="https://data.medicare.gov/data/nursing-home-compare">https://data.medicare.gov/data/nursing-home-compare</a>

A115

## SMALL-MEDIUM PROVIDER: WHAT DO I LOOK AT?



### From a claim's risk perspective: internal data

- Length of stay
- ADL index
- Admit to evaluation variance
- Acuity levels
- Re-hospitalization rates
- Unplanned discharges
  - Day of the week
- Admit/discharge day of the week
- RUG percentage
- COT percentage
- RUG levels over the episode of care
- Diagnosis Codes
- Utilization rates for MDS scrubber

## Slide 23

---

**A114**    **Connie**  
Author, 3/4/2018

## Slide 24

---

**A115**    **Connie**  
Author, 3/4/2018



A116

## SMALL-MEDIUM PROVIDER: WHAT DO I LOOK AT?



### Majority of SNF billing falls to Rehab RUGs:

- Questions to ask:
  - Do your services or those of your contractors provide dynamic, skilled care?
  - Do those services meet all the regulatory requirements?
  - Does the documentation support the need, level and length of service?

A117

## SMALL-MEDIUM PROVIDER: WHAT DO I LOOK AT?



### Getting the Answers

- Therapy Systems Assessment
  - Develop in partnership with your rehab management or contractor
  - Onsite visits: observations, interviews, participation in key IDT meetings, operations and metrics reviews
  - Seize opportunities to tighten processes, coach and educate

## Slide 25

---

**A116**    **Connie**  
Author, 3/4/2018

## Slide 26

---

**A117**    **Connie**  
Author, 3/4/2018

A118

## THERAPY SYSTEMS ASSESSMENT

Gym Observations	Therapist Interviews
Observe treatments across disciplines Wheelchair Free Zone? Services uniquely delivered per discipline? Any duplication of services? Match findings to clinical documentation	Assess therapist working knowledge of Medicare regulations Any barriers in IDT communication? Use sessions to coach/educate where clarification is needed Provide opportunity for 1 on 1 conversation with the Compliance Officer

A119

## SAMPLE INTERVIEW QUESTIONS

How are you made aware of regulatory changes?

Are you currently using Group Therapy with any of your patients?

How are RUG levels determined for new admissions and how do you determine if changes may need to be made?

Therapists: Can you provide treatment on the same day as an evaluation?

How do you bill for documentation?

If one therapy service discontinues care, does the RUG level change?

## Slide 27

---

**A118**    **Connie**  
Author, 3/4/2018

## Slide 28

---

**A119**    **Connie**  
Author, 3/4/2018

## THERAPY SYSTEMS ASSESSMENT

Operations Review	Metrics Review
Licensure Annual Compliance Training Documentation of Any State Required Supervision Quality Assurance Program Access to Policies & Procedures Physical Plant Review	Coding: Varied and Discipline Appropriate Minutes: Planned vs. Delivered Service Logs: Trends? Spikes in Care Near ARD? Time from Admit to Evaluation Delays? Barriers?

## THERAPY SYSTEMS ASSESSMENT FINDINGS

### Share the results on exit

- Clinician Huddle
- IDT Huddle

### Document findings and share:

- SNF and their senior leadership
- Corporate Compliance Committee
- Board Compliance and Quality Improvement Committee

### Corrective Action Plans

- As needed, implement and set up monitoring

## THERAPY SYSTEMS ASSESSMENT



- For more information on what the OIG expected a Therapy Systems Assessment to address, see Appendix C, Page 47 of the Christian Homes CIA:

[https://oig.hhs.gov/fraud/cia/agreements/Christian\\_Homes\\_Inc\\_12172015.pdf](https://oig.hhs.gov/fraud/cia/agreements/Christian_Homes_Inc_12172015.pdf)

- *See Handouts for TSA Agenda of Events Outline and Sample Interview Questions for Therapists*

A123

## COMPLIANCE INVESTMENTS

### Hospice Program

#### AUSA Civil Investigative Demand ("CID")

- Prompted by complaints
- Interrogatories; Requests for Production; Small sample of patient files reviewed
- Focus on eligibility determinations, length of stay, documentation of ongoing medical necessity, interest in the relationship between our SNFs and our Hospice programs
- Resolved without settlement

#### UPIC (Advanced) Education Letters

- Emphasized compliance with federal Medicare rules and policy
- No specific requests for patient files



## COMPLIANCE INVESTMENTS

### Response

- Engagement of outside legal counsel with compliance programming expertise
- Internal comprehensive review of all existing policies concerning hospice referral, eligibility, documentation practices, medical necessity, discharge, relationship with referral sources, auditing and monitoring
- Third-party engagement of nationally recognized consultant group specializing in hospice expertise to provide immediate review of entire hospice caseload
- Re-education of all personnel involved with hospice referral, admission and case-management
- Adoption of "Documentation Integrity Program"

A124

## WHAT ARE YOU MONITORING IN 2018?

Risk  
Assessment

OIG Work  
Plan

OIG Audits

CIAs

Program  
Guidance



## Slide 34

---

**A124**

**Betsy**

Author, 3/4/2018

A125

## WHAT ARE YOU MONITORING IN 2018?

Annual, new  
employee and topic  
specific education  
completion rates

Hotline calls and  
investigations

Excluded providers  
for employees,  
physicians and  
vendors

Licensure for clinical  
staff

PBJ submissions

Staffing ratios by  
state

Survey tags and  
CMPs

New life safety  
requirements

Resident trust funds

A126

## WHAT ARE YOU MONITORING IN 2018?

Repayments  
within 60 days

Medical director  
payments

Non-monetary  
compensation

Open payments  
database

Inappropriate  
discharges

New Advanced  
Beneficiary Notice  
(ABN)

PEPPER reports  
for SNFs and  
Home Health

Research, clinical  
trials and federal  
grants

Nurse Practitioner  
billing and coding

Psychotropic  
medication use

Telehealth  
consents

HIPAA privacy –  
distribution of  
NPP, opt outs, etc.

Slide 35

---

**A125**     Betsy  
Author, 3/4/2018

Slide 36

---

**A126**     Betsy  
Author, 3/4/2018

# CURRENT CHALLENGES YOU FACE

A127

SMALL-MEDIUM PROVIDER: WHAT CHALLENGES ME?

- Make the biggest footprint despite limited resources
- Spread is key for single/small compliance departments especially with multiple site, multiple agencies, multiple state operations

## **SPREAD: SPREADING**

- transitive verb

1 a) to open or expand over a larger area

b) to stretch out

2 a) to distribute over an area

b) to cover completely

3 a) to make widely known; spread the news

b) to extend the range

## Slide 38

---

**A127**

**Connie**

Author, 3/4/2018

A128

## GAINING SPREAD

Every new employee, contractor, subcontractor must understand their responsibility for compliance. Onboarding is key:

- Employee Handbook
- Vendor Compliance Handbook
- Include intro to compliance in standard orientation across all agencies
- Role specific onboard compliance training: Board, Admins, Business Office, Billers, MDS Coordinators

A129

## EXTENDING THE ARMS OF COMPLIANCE

Compliance Liaisons

- Role added to all SNF Administrators job description/responsibilities
- Compliance provides orientation to and ongoing training for this role
- Measurement of success in this role is included in Performance Appraisals

**Slide 39**

---

**A128**    **Connie**  
Author, 3/4/2018

**Slide 40**

---

**A129**    **Connie**  
Author, 3/4/2018

## CREATING AND MAINTAINING SPREAD

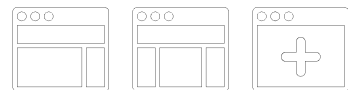
### IGNITE

- New management onboard meeting
- Open Door Policy: Foster a Speak Up/Listen Culture
- Tone from the Middle: Management's Responsibility for Compliance

### THRIVE

- Senior management meeting 3x year
- Admins, DONs, Corporate
- Compliance presents or offers Q/A on audit results, regulatory changes, or Work Plan initiatives

## COMPLIANCE AND ETHICS PROMOTION



- TRAINING
- Combination LMS, burst video and in-person
  - LMS allows consistent training and improved tracking
  - Short, burst trainings seem to increase engagement and retention
  - Value of small group engagement with the Compliance Officer should not be discounted
- PROMOTION: Annual Compliance and Ethics Week Activities
  - Most successful campaign so far:
    - Is Your Pet Destined for Stardom? Compliance Poster Contest
    - Employees submit photos/slogans in poster templates
    - Corporate prints and distributes in time for C&E Week
    - Board C&QI Committee picks top 13 included into annual Compliance Calendar



A135

## CAMPAIGN SUCCESS:

- Early notification
- If all employees do not have email, is texting an option?
- To get things rolling, share some possible slogans
- If slogan submissions are harsh or not appropriate, contact the pet owner, brainstorming a slogan provides another educational opportunity

**2017 CONTEST**

Is **YOUR** Pet destined for Stardom?  
Capture your pet's best celebrity snapshot  
and add a caption promoting our compliance  
program, HIPAA, or the hotline.

**I Smell Noncompliance!**  
Do your actions pass the sniff test?

**COMPLIANCE ISN'T ABOUT POINTING FINGERS!**  
COMPLIANCE PROVIDES PREVENTS PROTECTS.

**Come On, What Are You Hiding?**  
Compliance is about transparency. Do your part to keep us compliant!

**Submit your entries by Friday, September 29th**  
Submissions should include a large, high quality photo along with a compliance slogan and can be sent to [compliance@chiving.org](mailto:compliance@chiving.org) or sent via text to 314.941.1624. Include your location, name, and position as well as your Pet's name with your submission.  
Entries will be used to create posters which will be sent back to the location and displayed as part of the 2017 Compliance and Ethics Week Awareness, November 5<sup>th</sup>-11<sup>th</sup>. A selection of entries will be included in the 2018 Compliance Calendar with credits listed for the "celebrity" and their owner.  
**Questions? Contact [compliance@chiving.org](mailto:compliance@chiving.org)**

A136

**CareLink**  
Enter your picture and saying in this space – between the CHI and Compliance Week logos.

**The Safe Haven**  
Enter your picture and saying in this space – between the CHI and Compliance Week logos.

**Senior Care Pharmacy Services**  
Enter your picture and saying in this space – between the CHI and Compliance Week logos.

**christian horizons**  
a new pathway  
Enter your picture and saying in this space – between the CHI and Compliance Week logos.

**Compliance Slogans**

- An Ethical Workplace is Your Right and Your Responsibility
- Ask before you Act
- Be Good, Do Good.
- Be Honest. Be Respectful. Be Responsible.
- Be The Best!
- Because we care, we're compliance aware.
- Before leaving the scene, clear your desk and your screen!
- Being in Compliance Is Something To Celebrate.
- Care. Comply.
- Control + Alt + Delete...When You Leave Your Seat
- Compliance Is A State Of Mind!
- Compliance is a Frame of Mind, Get the Picture?
- Compliance is Everyone's Responsibility
- Compliance Starts With You!

**Slide 43**

---


**A135**    **Connie**  
Author, 3/4/2018


**Slide 44**

---

**A136**    **Connie**  
Author, 3/4/2018


A137


  
christian horizons  
a new pathway



Celebrity: Cliff  
Location: Sunset Park  
Date: 10/10/10

Who you gonna call?  
Ghostbusters?  
No! Call the Compliance Hotline!



  
christian horizons  
a new pathway

**COMPLIANCE WARRIOR**



Celebrity: Nemo  
Location: Larkspur  
TV: 10/10/10

**Be Bold! Be Brave!  
Be Compliant!**



A138


  
christian horizons  
a new pathway



Celebrity: Nemo  
Location: Larkspur  
TV: 10/10/10

I see what you did there...  
Thank you for doing your  
part to keep us in  
compliance!



  
christian horizons  
a new pathway



Celebrity: Nemo  
Location: Larkspur  
TV: 10/10/10

**Think BEFORE you act!**  
**The consequences of  
non-compliance are no fun!**



Slide 45

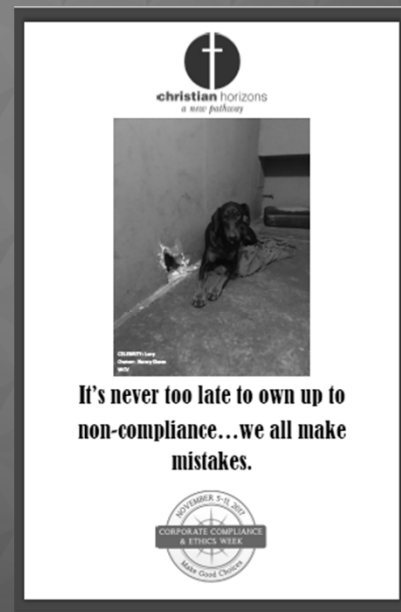
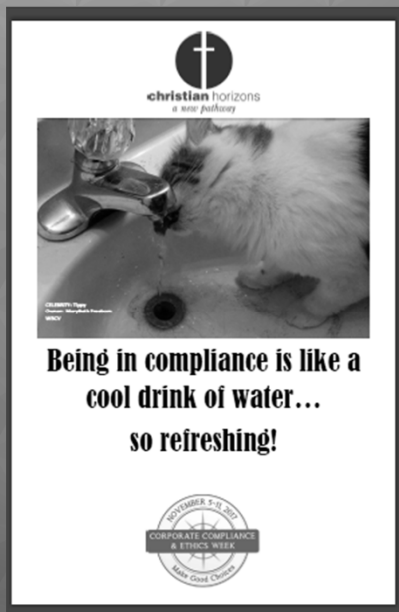
---

**A137**    **Connie**  
Author, 3/4/2018

Slide 46

---

**A138**    **Connie**  
Author, 3/4/2018



## FINDING YOUR SEAT AT THE DECISION MAKING TABLE

### Board Engagement

- How To Get It and Keep It

### Board Training

## Slide 47

---

**A139**

**Connie**

Author, 3/4/2018

## SEAT AT THE TABLE - INFLUENCE

- Value in sharing “real life” stories about the troubles of other entities/boards with my governing board
- Inviting outside compliance counsel to a board meeting once every couple years
- Share every board guidance and governing resource that has been published by OIG or HCCA or other credible health care compliance associations
- Yates Memo – repeatedly mentioned



## SEAT AT THE TABLE – NOT INVITED

- Operational Siloes can lead to missed opportunities for compliance to be at the table and contribute to organizational solutions and risk mitigation
- Organizational managers don't recognize
  - (or take credit for) the several “compliance” efforts they are engaging in
- Territorialism can reduce effectiveness of compliance programming
  - (i.e. compliance personnel seen as an outsider or creating a hassle)



## Role of the Board

Board must act in good faith in exercise of its oversight responsibility, including making inquiries to ensure:

- A corporate information and reporting system exists
- The reporting system is adequate to assure the Board that appropriate information related to compliance with applicable laws will come to its attention timely and as a matter of course.
- Regulatory awareness of State and Federal oversight for lines of business

## COMPLIANCE CHALLENGES FOR THE BOARD

Don't understand it

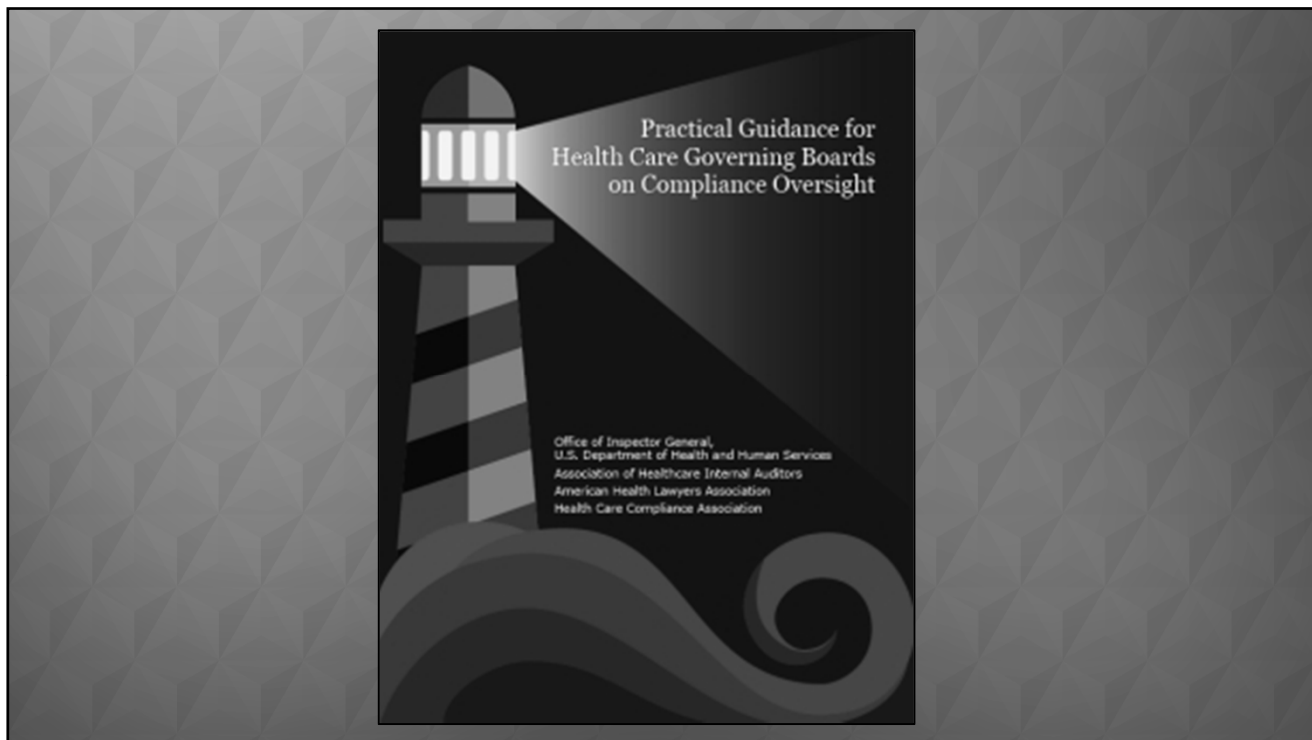
Can feel operational

Technical and Complex

**Scary**

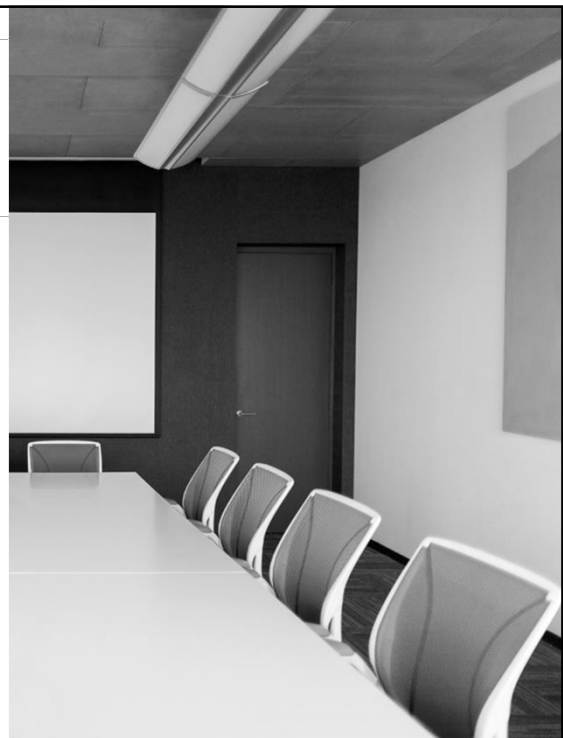






## COMPLIANCE OVERSIGHT COMMITTEE OF THE BOARD

- Oversee Implementation and operation of the program
- Review reports, statistical trends and recommendations from the compliance officer
- Specific education and training
  - Compliance and regulatory issues
  - Clinical and billing issues
- Ability and time to focus
- Staff compliance committee may directly report
  - Sharing of compliance committee minutes
- Forwards issues to the full board



## COMPLIANCE PROGRAM KNOWLEDGE

- Orientation To Compliance Program – New Board Members
- Structure of the Compliance Program
  - Compliance Officer
  - Compliance Committee
  - Hotline
- Highest Risk Areas For Organization
  - Annual Risk Assessment
  - Annual Compliance Work Plan
- Ongoing Education
  - Regulations For Lines Of Business
  - Changes In Regulations Affecting Organization



## REGULATORY OVERSIGHT

Health Care	Dept. of Health	Annual - on site for 4-days with 3-5 surveyors	Medicare and Medicaid Licensure of the skilled nursing facility and HR Two surveys, Nursing Facilities and Life Safety for fire safety and building code compliance	2/12/2015	Nursing facility: Deficiencies - 3 level D - two were various documentation issues ....	Plan of Correction completed and accepted April 7, 2015 ; Plan of correction completed on 3-17 and compliance obtained
	Dept. of Human Services	Bi-Annual on site 2 days; 2 surveyors	Utilization Review of documented MDS assessments, RUG categories and financial elements. Review required preadmission and admission information for residents (OBRA-PASSAR and Resident Rights)	7/16/2015	0 errors on the OBRA review; MDS review has 4 errors out of 379 RUGS score with a 1.06 error rate	No plan of correction needed due to low percentage rate of error.
	XXXConsultants	Quarterly on site	Medicaid Case Mix and Medicare Part A clinical documentation analysis. Looking for ways to improve the Case Mix index to increase accuracy of Medicaid and Medicare billing; also beginning to assess compliance with ICD-10 coding	9/25/2015	Suggested opportunities improve documentation to capture accurate reimbursement	Recommendations followed by RNAC
	Compliance	4 x/ yr. on site. 2 surveyors	Reviews clinical documentation to support Medicare Part A and B claims. Also completes a DOH Mock survey-looking for possible deficiencies in Nursing facility survey and Life Safety survey.	October 13,14,15 2015	Action plan with many details completed as follow through. Highlights were focused on resident care plan completion and updating. Life safety issues noted	Corrections made- action plan intervention to be completed by 12-7-2015 in preparation for the actual DOH survey

## COMPLIANCE COMMITTEE MINUTES - SAMPLE

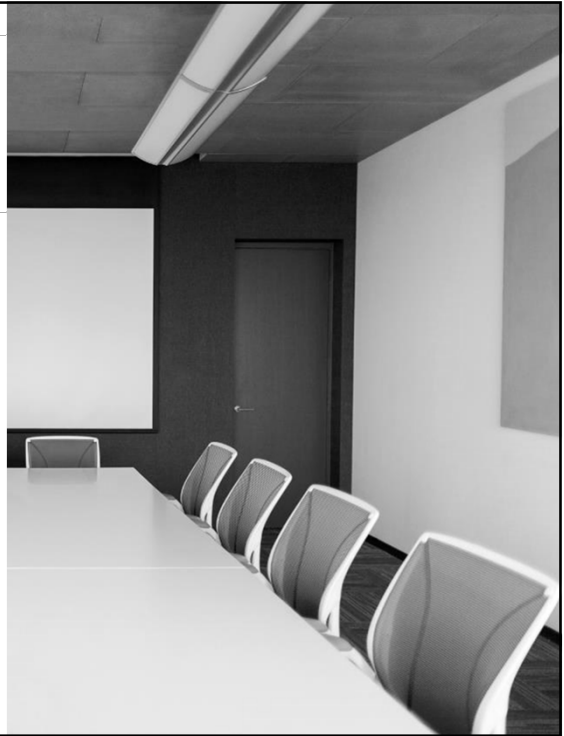
<b>Topic:</b> <i>(Use standard agenda items)</i> <i>Please note the items in italics listed with each section are intended as examples and should be removed from actual minutes</i>	<b>Discussion:</b> <i>(provide a brief description of the conversation such as the use of bullet points)</i>	<b>Plan:</b> <i>What is to be done to address the identified issue; provide appropriate details i.e., how, what resources, where etc.</i>	<b>Responsible Person</b>	<b>Target Date</b>
<b>Old Business:</b> <i>Review all outstanding issues from previous meetings. All items from last meeting's "Plan" column should be addressed as old business.</i>				
<b>Review of Work /Audit Plan:</b> <i>review your work plan to determine if you are on target, adding or re-prioritizing issues, reminding members of future reporting responsibilities.</i>				
<b>Standard Agenda Items:</b>				
<b>Quarterly reports completed by External Consultants</b> <i>Type of review, summary of outcomes and Corrective Measures and Action Plans put into place.</i>				
<b>Education sessions/ workshops related to compliance</b> <i>including position title of those who attended, either held by community or attended by employees i.e.- Medicare billing seminar</i>				
<b>Report on Exclusion Check status OIG/GSA, State Medicaid Screening</b> <i>Reviews completed for both Employees and Vendors with the outcomes</i>				

## COMPLIANCE COMMITTEE MINUTES - SAMPLE

<b>Internal Complaints/Concerns/Grievances</b> <i>i.e. type and summary of investigations; trends; response; action plans</i>				
<b>Hotline calls</b> <i>summary of calls received and the outcome, if none were received, state this</i>				
<b>Results of surveys by local, state or federal entities</b> <i>Type of survey, outcome, Plan of Correction developed</i>				
<b>Billing/Finance</b>				
<b>External Billing audit activities or requests; status and/or payback:</b> <i>Include ADRs and any RACs/ZPICs/MICs Appropriate Personnel to report no less than quarterly.</i>				
<b>Medicare A/Skilled HMO denial activity, status of appeals, trends and analysis</b> <i>Appropriate Personnel to report no less than quarterly.</i>				
<b>Medicare B/HMO denial activity, status of appeals, trends and analysis</b> <i>Appropriate Personnel to report no less than quarterly.</i>				
<b>(For those communities performing) E&amp;M billing services/Incident-To Hospice/Home Care: denial activity, status of appeals, trends and analysis</b> <i>Appropriate Personnel to report no less than quarterly.</i>				
<b>Triple Check summary of trends and corrective plans for all billing types</b>				
<b>HIPAA Privacy and Security</b>				
<b>Breach Investigations:</b> <i>Type of issue, investigation, outcome/plan</i>				
<b>Annual report to OCR completed</b>				
<b>Business Associate Agreements:</b> <i>Report on new and terminated vendors/contractors. Provide assurance that BAA was assessed and obtained as needed.</i>				
<b>Security Risk Assessment</b> <i>No less than annual report on status, plan of improvement</i>				
<b>Other Considerations</b>				
<b>Department /Licensed area report risk/potential risks related to their specific areas.</b>				

## BOARD REPORTING

- Annual Reporting On Compliance No Longer the Acceptable Standard
- Quarterly Reports
- High Level
- Educational and Informative
- Consistent format and content areas
- Dashboards



## BOARD REPORTING

- Update Annual Work Plan Activities
- Audits and Surveys
  - State/ Federal
  - External Contractors
- Regulatory Changes/Impact/Action Plan
- HIPAA Privacy Breaches
- Sanction Screening
- Hotline Calls
- Compliance and HIPAA training compliance

## ASSESSING EFFECTIVENESS – WHAT WE NEED TO LOOK AT

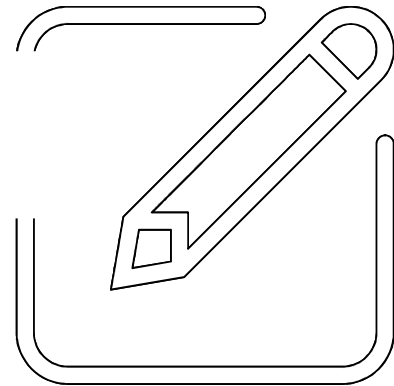
Culture

Engagement

Risk

Process  
Improvement

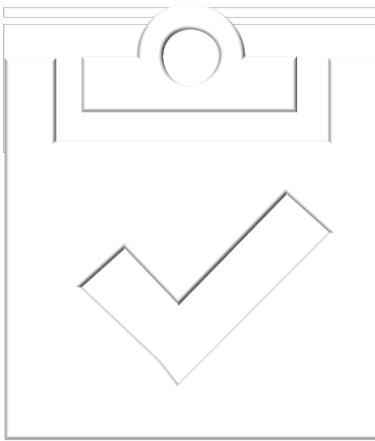
Regulations



1 .	Education and Training	Data Compilation	Report to	Reporting Frequency	Tie to Strategy
A	Annual Compliance Training completed	Online training maintained in system	Compliance Committee / Managers	Monthly Department Managers	Invest in qualified workforce
B	New Hire Compliance Training	Live Training completed with in 30days of hire	CC/ Managers	Monthly reports to Mangers	
C	Target Education per annual work plan	Live maintained in system; Signature sheets completed	CC/ Managers	Monthly to VP's and Directors	
D	Evaluation of Education/Training effectiveness	On line testing/ Pass/Fail Staff interviews; Hotline Reporting	Staff Development/ CC	Annual/ Quarterly	

2	Standards of Conduct/Policies	Data Compilation	Report to	Reporting Frequency
A	Code of Conduct reviewed and updated annually	Review of Compliance Committee minutes for evidence of review/dated revision	Board Committee or Other	Annual
B	Code of Conduct Acknowledgement	Current Workforce: %Signed New Workforce: % Signed Board : % Signed		
C	Compliance Policies and Procedure: Annual Review	Review by Compliance Committee: Revisions completed per required changes		

	Risk Assessment/Work Plan	Data Compilation	Report to	Reporting Frequency
A.	Evaluate and assess compliance risk	# of projects identified in work plan Resourced internally/externally	BOD or committee thereof; CEO	Quarterly and Annual
B.	Define Annual work plan	Evaluate completion of projects and participation Revised as needed through out the year		



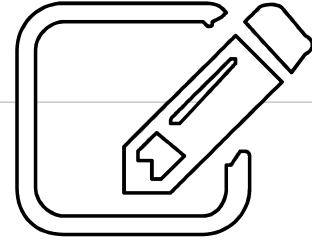
## COMPLIANCE PROGRAM EFFECTIVENESS - GOVERNANCE

Compliance Program Assessment		Compliance	Comments
Governance			
C 1	Compliance Program is reviewed by the Compliance Committee and status of overall compliance program is reported to the BOD no less than annually.	0	Review compliance committee minutes and or Compliance reports to the board.
C 2	New Board members receive training on the compliance program and receive the Code of Conduct and sign the initial attestation.	0	Review compliance minutes; specific training materials provided to the BOD for evidence of training.
C 3	New Board member training is tracked.	0	Review documentation; Board minutes or other to support
C 4	New Board member training is comprehensive.	0	Review materials provided to new board members
C 5	The BOD receives compliance information on regular basis, not less than quarterly.	0	BOD minutes reflect a compliance reporting no less than quarterly. (Can be in board minutes or a subcommittee of the board) May include dashboard or narrative data related to the annual work plan, eight elements of the compliance program, compliance committee minutes, etc.
C 6	BOD Compliance report reflects, at minimum, activities of the Compliance Committee including: Sanction Screening, Hotline calls, repayments, and terminations related to compliance.	0	Review report to the BOD for content and inclusion of required information.
C 7	BOD receive Quality of Care information, QAPI activity and receive the PCP dashboard at least quarterly.	0	Review documentation provided to the BOD
C 8	Annually all BOD members receive compliance education and reaffirm their commitment to the Code of Conduct and sign the compliance attestation.	0	Review BOD members list and compare to corresponding signed attestations of compliance
C 9	Annually all BOD members sign a Conflict of Interest Statement	0	Review records to support
C 10	CMS 555A has been updated in last five years and also updated with any change in authorized official.	0	Interview with appropriate staff. Review document
C 11	The BOD receives a copy of the Compliance Annual Work Plan.	0	Review Compliance minutes for evidence of review of Annual Work plan. Updates may be included in the
C 12	Updates on annual work plan are provided to the BOD on a quarterly basis	0	Review compliance information provided to the board from initiation of work plan.
C 13	The organizational chart reflects direct reporting structure from Compliance Officer/ Compliance Official to BOD.	0	Review organizational chart
C 14	Interview with the Board chair demonstrates knowledge and engagement in the Compliance program	0	Interview BOD chair or if Compliance and Quality Committee of the Board is in place, the chair of that committee. (Can share questions ahead of time)
Total Score:		0/70	0

## COMPLIANCE PROGRAM EFFECTIVENESS – CODE OF CONDUCT

C 33	The Code of Conduct is current.		
C 34	The Code of Conduct has been/is distributed to:		
C 35	All new employees during orientation (no later than 30 days after start date) receive the full COC with Commitment to Compliance/ Attestation signed.	0	Must receive full code.
C 36	All employees annually (tri-fold is acceptable) receive training and sign Commitment to Compliance/ Attestation.	0	Employed =Full ; Contract = Trifold Except Medical Director = Full
C 37	Physicians/ non-physician extenders receive tri-fold or are on annual vendor list.	0	Tri-fold
C 38	Volunteers.	0	Tri-fold
C 39	Adherence to the Code of Conduct is in vendor, contractor and consultant contracts and receive annual notification on the Code of Conduct, Elder Justice Act and as appropriate the Deficit Reduction Act.	0	Review of Sample of Contract/Vendor files. Review letter and file of who information was sent to and materials sent.
C 40	The current Code of Conduct is publicized to the community in general and is easily accessible. (required to be posted on website)	0	Observation. Must be current Code (2014 revision)
Total Score:		0/35	0

## COMPLIANCE DASHBOARD



### Basic Elements of Compliance Program

Reported to the organization board

- Minimum annually
- Recommend quarterly

Assists in keeping CEO/ Senior team apprised

Informs the oversight board of the compliance program

- Risky behavior by organizations subject to termination in the program

## MEASURING EFFECTIVENESS

ID	2017 Work Plan by Jan 30th	2017 Work Plan BOD approved	CC Minutes	Feb 6, 2017 Webinar	April 3, 2017 Webinar	June 12, 2017 Webinar	Aug 7, 2017 Webinar	Oct 2, 2017 Webinar	Dec 11, 2017 Webinar	PCCP Review CAP	Internal BOD Report	PCCP Annual Report to BOD	Percent of Completion
001	5	5	5	5	5	5	5	0	5	5	5	5	93%
002	5	5	5	5	5	5	5	5	5	5	5	5	95%
003	5	5	5	5	0	5	5	5	5	5	5	5	90%
004	5	5	5	5	5	5	5	5	5	5	5	5	100%
005	5	5	5	5	5	5	5	5	5	5	5	5	100%
006	5	5	5	5	5	5	5	5	5	5	5	5	98%
007	5	5	5	5	5	5	5	5	5	5	5	5	100%
008	5	5	5	5	5	5	5	5	5	5	5	5	100%
009	5	5	5	5	5	5	0	5	5	5	5	5	93%
010	5	5	5	5	5	5	5	5	5	5	5	5	98%
011	5	5	5	5	5	5	5	5	5	5	5	5	100%



## PROACTIVE VS. REACTIVE

### Corporate Compliance Agreement in 2004 (2 yrs)

- Mandatory adoption of corporate compliance program
- Followed “7 elements” as promoted by OIG Compliance Program Guidance
- Outside “Monitor” periodic evaluations during CCA period
- Quarterly reports to the board compliance committee
- Established direct reporting of Compliance Officer to board
- Annual report of the compliance program
- Justification of expense to obtain resources and networking opportunities

# THANK YOU!

**2018 HCCA COMPLIANCE INSTITUTE  
LAS VEGAS, APRIL 15**



#### **Karla Dreisbach, CHC, CHPC**

- Vice President of Compliance, Friends Services for the Aging
- [Dreisbach@fsainfo.org](mailto:Dreisbach@fsainfo.org)

#### **Betsy Wade, MPH, CHC**

- Corporate Compliance Officer, Signature Healthcare Consulting Services, LLC
- [bwade@shccs.com](mailto:bwade@shccs.com)

#### **Jeremy D. Kuhn, PT, JD, CHC**

- Corporate Compliance Officer/Privacy Officer, Care Initiatives
- [jkuhn@careinitiatives.org](mailto:jkuhn@careinitiatives.org)

#### **Connie Rhoads**

- Vice President Corporate Compliance/Privacy Officer, Christian Horizons
- [crhoads@chliving.org](mailto:crhoads@chliving.org)

#### **Barbara J. Duffy**

- Shareholder, Director of Litigation, Lane Powell
- [duffy@lanepowell.com](mailto:duffy@lanepowell.com)