

# **Mandatory Compliance is Here: Lessons Learned from CIAs**



**HCCA- HEALTHCARE ENFORCEMENT CONFERENCE**  
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## **Session Objectives**



- Lessons learned from and SNF CIA, including challenges in working with the OIG, Federal Monitors and operationalizing changes
- Review of the RoP for SNFs and Mandatory Compliance Program under F895: Compliance and Ethics Program
- Tools and strategies for implementation and risk assessment specific for SNFs

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## Topics



- Experience with Corporate Integrity Agreement
- Brief Overview of Fraud and Abuse Laws
- Recent FCA Cases in Post-Acute Care
- Anatomy of a False Claims Act (FCA) Case
- Corporate Integrity Agreement (CIA) Elements
- Case Studies: CIA Experience
- RoP F895 – Compliance and Ethics Program
- Compliance Risks in LTC
- Questions and Answers

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## Experience with CIA

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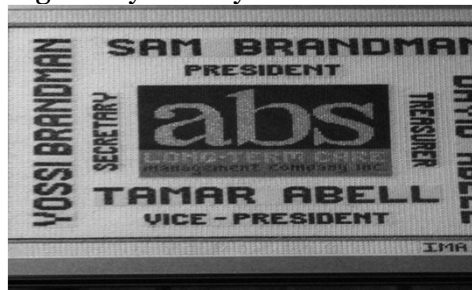
## Who Am I and Why You Should Listen to Me!



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## My Tale of Woe

- ABS Management
  - Third Generation
  - Rural Facilities
  - “Typical” Regulatory History



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## So What Happened?



- Qui Tam Relator / Whistleblower
- Worthless Care
- Settlement
  - Monetary settlement
  - CIA
    - ✦ Quality of Care
    - ✦ 5 years
    - ✦ Federal Monitors

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## Corporate Integrity Agreement



- OIG enforced
- Typically 5 years
- Successor Liability- Stays with the facility even with new ownership
  - Foundations - Westgate Hills
  - Andover Subacute
  - Extendicare

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## **Corporate Integrity Agreement**



- CIA requirements:
  - Hire compliance officer and appoint compliance committee
  - Develop written standards and policies
  - Implement comprehensive employee training program
  - Retain IRO and/ or Quality Monitor to conduct reviews
  - Establish confidential disclosure program
  - Restrict employment of ineligible persons
  - Report overpayments and other reportable requirements to Quality Monitors
  - Provide implementation and annual reports to OIG
- Breach of CIA requirements can result in Stipulated Penalty

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## **Brief Overview of Fraud and Abuse Laws**



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## Brief Overview of Fraud and Abuse Laws



### Fraud and Abuse Laws

- False Claims Act (FCA)
- Anti-Kickback Statute (AKS)
- Stark Law
- Exclusion Statute
- Civil Monetary Penalties

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## False Claims Act (FCA)



- Submission of false claims to government
- Can arise from violation of AKS
- Does not require “intent”
- Includes “Reverse False Claim” – retaining an overpayment
- Deliberate ignorance or reckless disregard is enough

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## False Claims Act (FCA)



- Financial risks under FCA (treble damages and \$11,000 per claim)
- New DOJ guidelines for “cooperation” credit when defendants cooperate during FCA investigation
  - Voluntarily disclosing misconduct unknown to the DOJ
  - Undertaking thorough root cause analysis of the misconduct
  - Disciplining or replacing those responsible
  - Accepting responsibility for misconduct
  - Strengthening compliance efforts to prevent recurrence
  - Credit could reduce damages multiplier and civil penalties

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## **Anti-Kickback Statute (AKS)**



- Prohibits “remuneration” for referrals for federal healthcare business
- Asking for, or offering, remuneration is violation
- Can result in prison, fines, penalties and exclusion
- States may have their own AKS

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## **Recent FCA Cases**

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## Recent FCA Cases



### 06/08/2018 – Signature Healthcare (125 SNFs)

- \$30 million settlement for allegations –
- Billing for rehab services that were not medically necessary, reasonable, and skilled
  - Unrealistic financial goals
  - Scheduling therapy at highest level without regard to patient need
- Submission of forged certifications of skilled nursing need to Tennessee Medicaid

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## Recent FCA Cases



### 06/25/2018 – Caris Healthcare (Hospice)

- \$8.5 million settlement for allegations –
  - Company set aggressive admissions and census targets
  - Patients were admitted and recertified but did not have a terminal prognosis
  - Internal audits, the CMO and nurses caring for the patients, raised concerns regarding ineligibility
  - Provider continued to submit claims and took no meaningful steps to determine if improper payments had been received

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## Recent FCA Cases



### 07/18/2018 – Consultants and 9 SNFs

- \$10 million settlement for allegations of –
  - Medically unnecessary rehab and inflated RUG levels
  - Corporate policies and practices that encouraged therapy delivery without regard for patient's individual clinical needs
  - False claims resulted from inflated RUG levels
- Consultants were Southern SNF, Dynamic Rehab
- 9 SNFs in GA and FL

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## Recent FCA Cases



### 08/23/2018 – Reliant Rehab

- \$6.1 million for allegations that it offered improper inducements
  - Kickbacks to SNFs and MDs to promote its therapy business
  - ARNPs to work at client SNFs without charge or for a nominal, below market fee, to induce or reward SNFs for contracts
  - MDs above market compensation to supervise and collaborate with Reliant ARNPs

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## Recent FCA Cases



### 01/28/2019 – Clear Choice and Orlando SNF

- \$1.5 million settlement paid by
  - SNF, NHA, management company, owners, orthopedic surgeon
- Allegations included -
  - Payments to the physician under “sham medical director” agreement
  - Payments designed to induce illegal referrals of patients to the SNF for rehab
  - Settlement covered a similar agreement with a related HHA
  - Agreements violated the Stark law
  - Use of “intricate kickbacks using directorships and other misrepresented positions”

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## Recent FCA Cases



### 02/05/2019 – TN Health Management (THM)

- \$9.7 million settlement paid for FCA allegations -
  - Submission of false claims to TennCare (Tennessee Medicaid) by its 27 SNFs
  - TennCare requires that a placement evaluation be conducted and certified by an MD for admission to a SNF
  - THM submitted admission evaluations with photocopied or pre-signed MD certifications
  - Allegations encompassed 8 years (2010 – 2017)

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## Recent FCA Cases



### 06/11/2019 – Chicago PT Center and 4 SNFs

- \$9.7 million settlement paid for allegations -
  - Providing unnecessary services to increase Medicare payments
  - Upcoding patients by furnishing skilled therapy to patients who did not need it or could not benefit from it
  - Part of an effort to bill the highest possible amount to Medicare
  - Owner of PT Center agreed to be excluded for 5 years from all federal programs

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## Recent FCA Cases - HHA



### 05/24/2019 – Doctor's Choice (Sarasota, FL)

- Government intervened in qui tam case
- Allegations of:
  - Kickback payments to 3 physicians under sham medical director agreements
  - Some HHA employees were paid in a manner that accounted for the volume of referrals by their physician spouses (Stark law violation)

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## Recent FCA Cases - IRF



### 06/28/2019 – Encompass Health IRF

- \$48 million settlement to resolve allegations of a “nationwide scheme”
- Allegations included:
  - Providing inaccurate info to Medicare to maintain IRF status and to earn high rate of reimbursement
  - Admission that were not medically necessary
  - Some patients were too sick or disabled to participate in or benefit from intensive inpatient therapy

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## Recent FCA Cases – “Worthless Care”



### 10/10/2014 – Extendicare Health Services

- \$38 million settlement in Worthless Care case – 33 SNFs in 8 states
- Also involved its subsidiary rehab company
- All 146 SNFs in 11 states came under 5-year CIA
- Was the largest failure of care settlement with a SNF chain
- Allegations that Medicare and Medicaid were billed for “materially substandard nursing services that were so deficient that they were effectively worthless”
- Medicare was also billed for medically unreasonable and unnecessary rehabilitation therapy services

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## Recent FCA Cases – “Worthless Care”



### 05/21/2015 – 2 California SNFs

- \$3.8 million settlement
- Allegations that the SNFs:
  - Overmedicated the elderly and vulnerable residents, causing infection, sepsis, malnutrition, dehydration, falls, fractures, pressure ulcers, and even premature death
- Entered into 5-year CIA

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## Recent FCA Cases – “Worthless Care”



### 10/24/2016 – Texas Nursing Homes

- \$5.3 million settlement in Worthless Care case
- Allegations that SNFs billed Medicare and Medicaid for “materially substandard” nursing services
  - Medication errors
  - Failure to follow MD orders
  - Inadequate pressure ulcer care, infection control, mental health treatment, capital expenditures and equipment
  - Failed to investigate and report serious incidents

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## Recent FCA Cases – “Worthless Care”



### 05/31/2017 –SNF in New Jersey (Andover)

- \$888,000 settlement for materially substandard or worthless nursing services to some patients billed to Medicaid
- Services failed to meet federal standards of care and federal statutory and regulatory requirements
- \$395K to federal government
- \$492K to State of New York

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## Recent FCA Cases – “Worthless Care”



### 02/02/2018 –SNF in Memphis (Spring Gate)

- \$500,000 settlement to US and Tennessee Medicaid
- For allegations of materially substandard services that were so deficient that they were essentially worthless
- Resulted from qui tam lawsuit
- SNF entered into 5-year CIA

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## Recent FCA Cases – “Worthless Care”



### 02/28/2019 – Vanguard Healthcare and 5 SNFs

- \$18 million settlement to resolve allegations of billing Medicare and Medicaid for “grossly substandard” nursing home care
- CEO and Director of Operations also paid \$250,000 as part of the settlement
- Allegations included failure to:
  - Administer medications or provide wound care as prescribed
  - Provide standard infection control
  - Meet basic nutrition and hygiene requirements
  - Take steps to help prevent development of pressure ulcers
- Also alleged to submit preadmission forms with forged nurse or MD signatures

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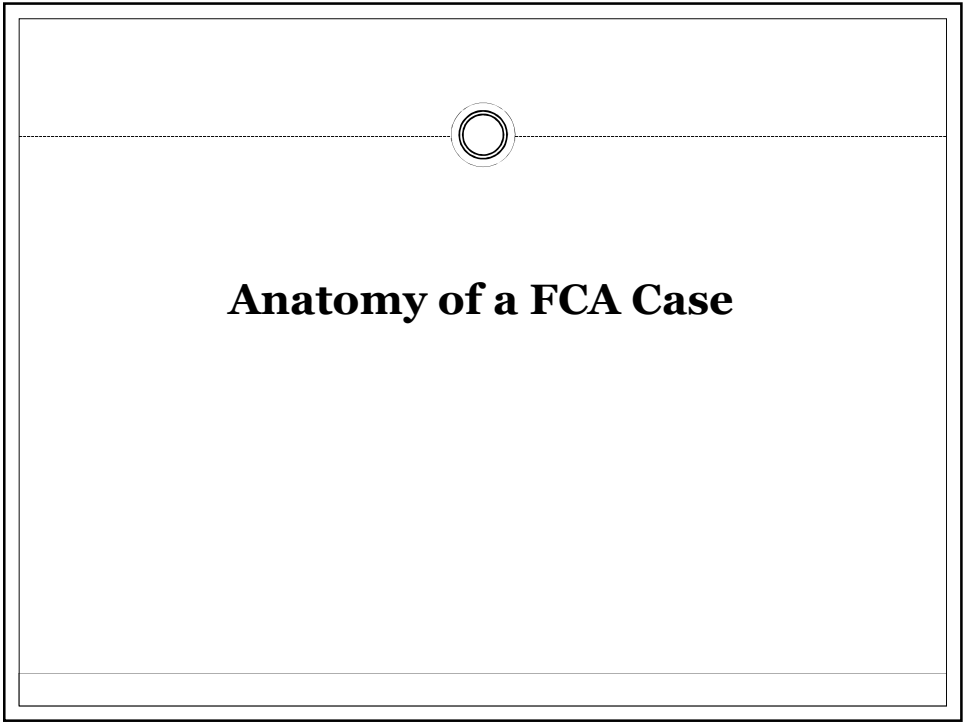
## Polling Question # 1



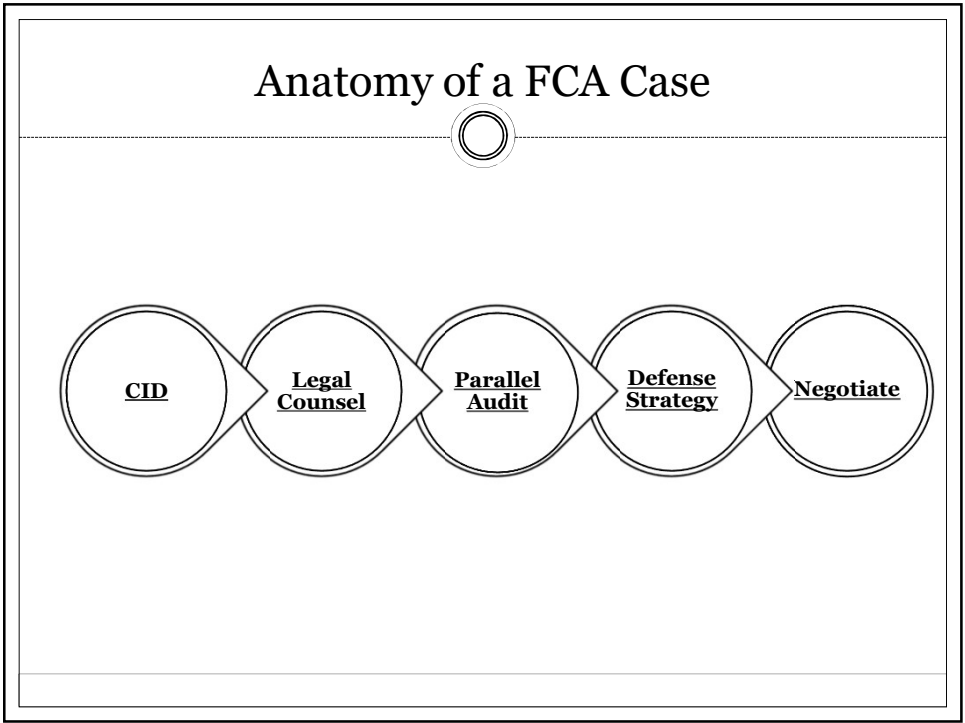
- Have any of you had experience with a Worthless Care investigation or FCA case?

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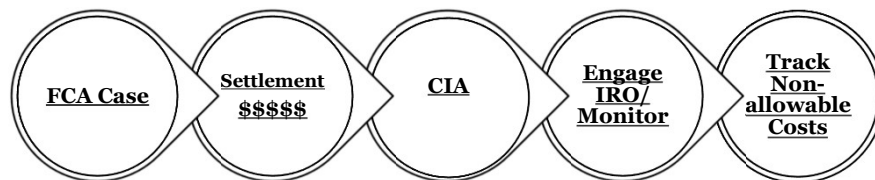


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## Anatomy of a FCA Case



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## Polling Question # 2

- Have any of you had experience under a Corporate Integrity Agreement?

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## What will this cost me?



- Costs associated with CID and/or FCA case
  - Legal counsel
  - Parallel audit
  - Experts
  - Document production and management
- Financial costs of FCA settlement
- Estimated Costs under a CIA

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## 5-Year CIA – Worthless Care Case



### **Estimated Costs 500-bed SNF – Year 1**

○ Training employees and tracking	\$ 97,500
○ Exclusion checks	4,000
○ Hotline	2,000
○ Legal	10,000
○ Quality monitor	50,000
○ Implementation (consultants, new staff)	150,000
○ Compliance officer	<u>100,000</u>

Cost Year 1	<b><u>\$413,500</u></b>
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## 5-Year CIA – Worthless Care Case



### Estimated Costs 500-bed SNF – Year 2

○ Training employees and tracking	\$ 97,500
○ Exclusion checks	4,000
○ Hotline	2,000
○ Legal	10,000
○ Quality monitor	30,000
○ Implementation (consultants, new staff)	100,000
○ Compliance officer	<u>60,000</u>

Cost Year 2 **\$303,500**

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## 5-Year CIA – Worthless Care Case



### Estimated Costs 500-bed SNF – Year 3

○ Training employees and tracking	\$ 97,500
○ Exclusion checks	4,000
○ Hotline	2,000
○ Legal	10,000
○ Quality monitor	20,000
○ Implementation (consultants, new staff)	40,000
○ Compliance officer	<u>60,000</u>

○ Year 3 Costs **\$233,500**

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## 5-Year CIA – Worthless Care Case



### Estimated Costs 500-bed SNF – Year 4

○ Training employees and tracking	\$ 97,500
○ Exclusion checks	4,000
○ Hotline	2,000
○ Legal	-0-
○ Quality monitor	20,000
○ Implementation (consultants, new staff)	40,000
○ Compliance officer	<u>60,000</u>
○	
Year 4 Costs	<b><u>\$223,500</u></b>

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## 5-Year CIA – Worthless Care Case



### Estimated Costs 500-bed SNF – Year 5

○ Training employees and tracking	\$ 97,500
○ Exclusion checks	4,000
○ Hotline	2,000
○ Legal	-0-
○ Quality monitor	20,000
○ Implementation (consultants, new staff)	30,000
○ Compliance officer	<u>60,000</u>
○	
Year 5 Costs	<b><u>\$213,500</u></b>

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## 5-Year CIA – Worthless Care Case



### **Estimated Costs 500-bed SNF – Years 1 to 5**

○ Year 1	\$ 413,500
○ Year 2	303,500
○ Year 3	233,500
○ Year 4	223,500
○ Year 5	<u>213,500</u>

Year 1 - 5 Costs      **\$ 1,387,500**

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## Working with the OIG



- Negotiate well - 5 year commitment
- Build a relationship - goes a long way
- Implementation report
  - Communicate
- Monthly calls
- Annual report
  - Be precise

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## Working with Federal Quality of Care Monitor



- Meeting prior to contract
- Transparency
- Take charge of monitor's visits
  - Prepare Show and Tell
- Proactive Approach
  - What keeps us up at night
- Use Them!
  - Dashboard development
  - Policy review

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## Working with the OIG - Site Visit



- Propose an agenda to the OIG
- Prepare Key Staff Members
  - OIG personnel are attorneys
  - Review with key staff members- “key points”
  - Review with Federal Monitor
  - Review of code of conduct and compliance training

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## Working with the OIG - Site Visit



- Document request
  - Most recent annual report
  - Compliance report presented at last board meeting
  - Current Dashboard
  - Completed QAPI project and ongoing- facility choice
  - List of all current employees that include name, title and employment start date.
  - Disclosure Log

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## Staff Interview



- Staff Interview
- Key employees plus 4 additional
  - How did the CIA change the way the facility operates?
  - What system was implemented that you felt was a “game changer”?
  - How do you communicate with the compliance officer?
  - How are initiatives deployed to the front line staff?
  - Describe a typical day
  - Greatest challenge of the CIA?

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## Verification of Training



- Review of Training documents
- Evidence of compliance training of the 15 staff members pulled for exclusion
- How does facility verify that all staff is trained
- Where does the training “needs” come from
- How do you prove competency with a training
- What method is used for training
- How is the facility prepping content /staying current and relevant

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## Exclusion Check Verification



### Exclusion

- 15 staff members
  - ft and part time
  - varied departments
  - pre hire and monthly
- Process for completing the Exclusion checks

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## Owner /BOD Interview



- Money spent in capital investment to date and what was done
  - EMR
- How is preventative maintenance evaluated
- Vision of life after CIA
- System for dealing with overpayment

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## And the OIG says...



### ***Common denominator for success:***

- Empowering the Compliance Officer
- Know your Data
- Take it seriously
- Leadership backing the process



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## And Tamar Says....



- Rome Wasn't Built in a Day
- Don't Fake it Till You Make It
- Top Down Before bottom Up
- Know Thyself
- "But Why?"
- It's a Team Sport



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## **Requirements of Participation – F895 Mandatory Compliance and Ethics Program**

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## Mandatory Compliance for SNFs is Here

### Mandatory Compliance and Ethics Program

Phase 3 - November 28, 2020???



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## Can Feel Very Overwhelming



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## Evolution of Compliance in LTC



- **Federal Sentencing Guidelines**
  - Established in 1991
- **OIG Compliance Guidance**
  - Began in 1998
  - Various provider types
  - Voluntary
- **Affordable Care Act**
  - March 2010
  - General provision calling for compliance /CMS to work with OIG
  - Oct 2016- outline of general requirements

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## And finally... F895



- **Updated Requirements of Participation**
  - Part of Phase 3 rollout
  - Mandatory effective November 28, 2020
    - ✦ QAPI and Compliance
  - Incorporated into the state survey process
  - Federal Sentencing Guidelines and OIG have similar approaches
  - Comment period ended Sept 16 , 2019

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## What does §42 U.S.C 483.85 require?



- “We propose to remove many of the requirements from this section not expressly required by statute. Proposed revisions include removing the requirements for a compliance officer and compliance liaisons and revising the requirement for reviewing the program from annually to biennially.”

Federal Register / Vol. 84, No. 138 / Thursday, July 18, 2019 / Proposed Rules

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## 8 Elements of a Compliance Program



- 1. Compliance and Ethics Standards**
- 2. Program Oversight**
- 3. Sufficient Resources and Authority**
- 4. Screening of Individuals**
- 5. Effective Communication of Standards**
- 6. Reasonable Steps to Achieve Compliance**
- 7. Consistent Enforcement**
- 8. Actions to Take**

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## Element #7- Reasonable Steps to Achieve Compliance

- Audit and Monitoring of Compliance System
  - Clinical
  - Financial
- System of checks and balance
- Data, Data, Data
  - ✦ Identify and review variations from established baselines
  - ✦ Measurable outcomes
- “In God we trust- all others must use Data”  
Statistician’s Credo (and verified by the OIG)

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## Falls Tracking

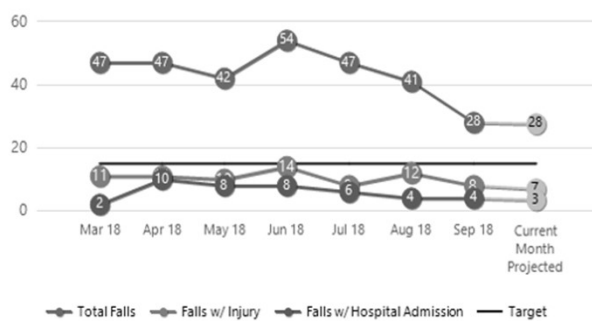
### MD Facility

[View Incident List](#)

[View Residents with Repeat Incidents](#)

#### Falls Monthly Trend

Current Month	Actual	Projected
Total Falls	8	28
Falls w/ Injury	2	7
Falls w/ Hospital Admission	1	3

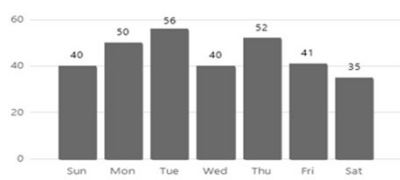


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## Fall Tracking

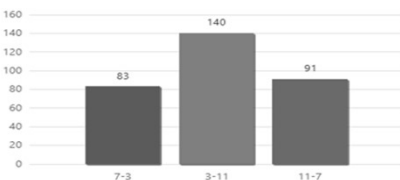
Summary by Day of Week

	# by Day	% by Day
Sunday	40	12.7%
Monday	50	15.9%
Tuesday	56	17.8%
Wednesday	40	12.7%
Thursday	52	16.6%
Friday	41	13.1%
Saturday	35	11.1%
<b>Total</b>	<b>314</b>	<b>100%</b>



Summary by Shift and Unit

#	7-3	3-11	11-7	Total
Cedar Winds North	18	39	28	<b>85</b>
Willow Bend North	18	21	12	<b>51</b>
Maple Springs North	12	27	9	<b>48</b>
Willow Bend South	9	20	14	<b>43</b>
Maple Springs South	10	19	9	<b>38</b>
Cedar Winds South	10	12	14	<b>36</b>
Elmhurst Transitional Care	6	2	5	<b>13</b>
<b>Total</b>	<b>83</b>	<b>140</b>	<b>91</b>	<b>314</b>



%	7-3	3-11	11-7	Total
Cedar Winds North	5.7%	12.4%	8.9%	<b>27.1%</b>
Willow Bend North	5.7%	6.7%	3.8%	<b>16.2%</b>
Maple Springs North	3.8%	8.6%	2.9%	<b>15.3%</b>
Willow Bend South	2.9%	6.4%	4.5%	<b>13.7%</b>



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## Fall Tracking -Drill Down

Falls

Jan 1, 2018 - Mar 31, 2018

15 Rows Returned

Resident Name	Date	Day of Week	Shift	Time	Unit	Room	Place	Activity	Total Injuries	Sent to Acute Care Facility	PCC Resident #		
Resident A	3/30/2018	Fri	11-7	6:30 AM	2nd Floor (WH)	214-B	Resident Room	Sitting	0	No	3931	<a href="#">View Full Report</a>	<a href="#">View Care Plan</a>
Resident B	3/27/2018	Tue	11-7	5:30 AM	2nd Floor (WH)	220-A	Resident Room	Lying in bed	0	No	3935	<a href="#">View Full Report</a>	<a href="#">View Care Plan</a>
Resident C	3/17/2018	Sat	11-7	6:30 AM	1st Floor (WH)	106-B	Resident Room	Dressing	0	No	861	<a href="#">View Full Report</a>	<a href="#">View Care Plan</a>
Resident D	3/15/2018	Thu	11-7	6:15 AM	1st Floor (WH)	124-B	Resident Room	Transfer	0	No	3616	<a href="#">View Full Report</a>	<a href="#">View Care Plan</a>
Resident E	3/10/2018	Sat	11-7	5:30 AM	1st Floor (WH)	106-B	Resident Room	Transfer	0	No	861	<a href="#">View Full Report</a>	<a href="#">View Care Plan</a>
Resident F	3/8/2018	Thu	11-7	5:30 AM	1st Floor (WH)	108-A	Resident Room	Lying in bed	0	No	3914	<a href="#">View Full Report</a>	<a href="#">View Care Plan</a>
Resident G	3/8/2018	Thu	11-7	5:15 AM	1st Floor (WH)	104B	Hallway/Corridor	Ambulating	0	No	2251	<a href="#">View Full Report</a>	<a href="#">View Care Plan</a>
Resident H	3/5/2018	Mon	11-7	5:20 AM	1st Floor (WH)	104-A	Resident Room	Transfer	0	No	3613	<a href="#">View Full Report</a>	<a href="#">View Care Plan</a>
Resident I	2/19/2018	Mon	11-7	6:00 AM	2nd Floor (WH)	226-B	Resident Room	Sitting	0	No	3892	<a href="#">View Full Report</a>	<a href="#">View Care Plan</a>
Resident J	2/17/2018	Sat	11-7	5:00 AM	N/A	U/A	Resident Room	Ambulating	0	Yes	3697	<a href="#">View Full Report</a>	<a href="#">View Care Plan</a>
Resident K	2/12/2018	Mon	11-7	6:55 AM	1st Floor (WH)	113-A	Hallway/Corridor	Ambulating	0	No	3227	<a href="#">View Full Report</a>	<a href="#">View Care Plan</a>
Resident L	1/31/2018	Wed	11-7	6:30 AM	1st Floor (WH)	115-B	Resident Room	Lying in bed	0	No	1113	<a href="#">View Full Report</a>	<a href="#">View Care Plan</a>
Resident M	1/24/2018	Wed	11-7	5:30 AM	1st Floor (WH)	120-A	Resident Bathroom	Transfer	0	No	3663	<a href="#">View Full Report</a>	<a href="#">View Care Plan</a>
Resident N	1/10/2018	Wed	11-7	6:30 AM	2nd Floor (WH)	228-A	Resident Room	Lying in bed	0	No	3864	<a href="#">View Full Report</a>	<a href="#">View Care Plan</a>
Resident O	1/8/2018	Mon	11-7	6:00 AM	1st Floor (WH)	118-B	Resident Room	Lying in bed	0	No	2481	<a href="#">View Full Report</a>	<a href="#">View Care Plan</a>

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## Identifying High Risk

### Residents with Multiple Falls

Jun 1, 2018 - Oct 9, 2018

Resident Name	# of Falls	% of Total	Date	Time	Place	Activity	<a href="#">View Full Report</a>	<a href="#">View Care Plan</a>
[REDACTED]	12	8.1%	6/23/2018	10:00 PM	Other	Other	<a href="#">View Full Report</a>	<a href="#">View Care Plan</a>
			6/25/2018	10:55 AM	Other	Ambulating	<a href="#">View Full Report</a>	<a href="#">View Care Plan</a>
			6/28/2018	1:10 AM	Hallway/Corridor	Ambulating	<a href="#">View Full Report</a>	<a href="#">View Care Plan</a>
			7/7/2018	7:30 PM	Resident Room	Ambulating	<a href="#">View Full Report</a>	<a href="#">View Care Plan</a>
			7/8/2018	4:35 PM	Resident Room	Ambulating	<a href="#">View Full Report</a>	<a href="#">View Care Plan</a>
			7/15/2018	11:15 PM	Resident Room	Lying in bed	<a href="#">View Full Report</a>	<a href="#">View Care Plan</a>
			7/23/2018	9:30 AM	Common Area	Ambulating	<a href="#">View Full Report</a>	<a href="#">View Care Plan</a>
			7/23/2018	11:10 PM	Resident Room	Lying in bed	<a href="#">View Full Report</a>	<a href="#">View Care Plan</a>
			8/9/2018	7:30 PM	Common Area	Sitting	<a href="#">View Full Report</a>	<a href="#">View Care Plan</a>
			9/27/2018	5:00 AM	Resident Room	Sitting	<a href="#">View Full Report</a>	<a href="#">View Care Plan</a>
			10/4/2018	4:15 PM	Dining Room	Transfer	<a href="#">View Full Report</a>	<a href="#">View Care Plan</a>
			10/6/2018	6:30 PM	Common Area	Sitting	<a href="#">View Full Report</a>	<a href="#">View Care Plan</a>
[REDACTED]	9	6.0%	6/26/2018	6:40 PM	Other	Sitting	<a href="#">View Full Report</a>	<a href="#">View Care Plan</a>
			6/27/2018	2:50 AM	Resident Bathroom	Toileting	<a href="#">View Full Report</a>	<a href="#">View Care Plan</a>
			6/26/2018	6:40 PM	Other	Sitting	<a href="#">View Full Report</a>	<a href="#">View Care Plan</a>
			7/8/2018	7:30 PM	Other	Transfer	<a href="#">View Full Report</a>	<a href="#">View Care Plan</a>
			7/12/2018	9:00 PM	Other	Other	<a href="#">View Full Report</a>	<a href="#">View Care Plan</a>
			7/12/2018	7:30 PM	Other	Other	<a href="#">View Full Report</a>	<a href="#">View Care Plan</a>
			7/23/2018	7:55 PM	Resident Room	Other	<a href="#">View Full Report</a>	<a href="#">View Care Plan</a>
			8/7/2018	1:30 PM	Common Area	Sitting	<a href="#">View Full Report</a>	<a href="#">View Care Plan</a>
			8/15/2018	8:45 PM	Resident Room	Sitting	<a href="#">View Full Report</a>	<a href="#">View Care Plan</a>

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## Element #8- Actions to Take

- We found it- how do we fix it
- Proactive versus Reactive
- Systems to correct and maintain NOT a bandaid



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## So What's 5 Facilities exactly??



- Definition of 5 facilities?
- “Develop a compliance and ethics program that is appropriate for the complexity of the organization and facilities and that each facility assign a specific individual within the high-level personnel of the operating organizations with the overall responsibility to oversee compliance”

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## How to Prepare?



- Systems to monitor your data
- Make sure exclusion checks are completed
- Develop a Code of Conduct
- Create a “Compliance Binder”
- Start using compliance “lingo”

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## **Ready or Not – PDPM for SNFs is Here!**

***How should PDPM affect your Risk Assessment and Compliance Program Activities?***

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## **Risk Assessment under PDPM for SNF**

### **Why refocus compliance efforts for PDPM?**

- PDPM = most significant change since PPS began
- Risk of improper payment will change
- Change itself increases risk of error
- RoP – mandate Compliance Plan effectiveness
- CMS plans a “robust” monitoring program

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## Risk Assessment under PDPM for SNF



### What areas does CMS plan to monitor?

- Shifts in utilization patterns in clinical categories
- CMS noted that, “Some providers may stint on care”
- Coding of functional status in Section GG
- Changes in quality trends
- “Case-mix creep”

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## Risk Assessment under PDPM for SNF



### CMS has outlined major focus on therapy

- Changes in volume and intensity
- Changes in modes of delivery
- Increased use of concurrent and group
- Documentation to support group and concurrent
- Compliance with group and concurrent limits
- Effectiveness of therapy

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## Risk Assessment under PDPM for SNF



### How will CMS monitor?

- Therapy data on PPS Discharge assessment
- New QRP outcome and readmission measures
- Decline in QRP measures
- CMS will have many data sources available to track trends

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## Risk Assessment under PDPM for SNF



### Other Potential Concerns

- Increased coding of cognitive impairment and mechanically altered diet
- Increased coding of depression
- Unsupported and/or inaccurate ICD-10 coding
- Improper application of “Interrupted Stay Policy”
- Nursing notes that do not support daily skilled assessments or evidence skilled care
- Myriad of therapy-related risk areas

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## Risk Assessment under PDPM for SNF



### Auditing and Monitoring under PDPM

- Current auditing and monitoring protocols must be updated
- Risk areas under PDPM are materially different than under RUG-IV
- See suggested checklist of potential risk areas (Attached)
- Create a dashboard to track most critical areas
- Involve the entire team and encourage open communication

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## Auditing and Monitoring under PDPM



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## Resources



- [Claudia.Reingruber@saltmarshcpa.com](mailto:Claudia.Reingruber@saltmarshcpa.com) – Claudia Reingruber
- [Tbacompliance@gmail.com](mailto:Tbacompliance@gmail.com)- Tamar Abell
- [www.snfmetrics.com](http://www.snfmetrics.com) - Data Analytics

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## Mandatory Compliance is Here: Lessons Learned from CIA's



### Questions and Answers

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