

SNF Compliance on a Quarter

Leveraging Your Resources to Implement an Effective Audit Plan

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Presenters

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Disclaimer

The information presented today represents our professional views and perspectives and not that of our organizations. The elements of an effective compliance risk assessment must be individually determined for each facility/organization.

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Objectives



Identify the key risk areas within the skilled nursing environment.



Be able to develop a SNF audit and monitoring work plan.



Understand how to effectively implement an audit and monitoring work plan using available resources.

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Poll Question

Chose one of the options below to describe the size of your compliance department:

- a) Its just me, myself, and I.
- b) I am fortunate to have a team of 2-5 individuals.
- c) I am beyond lucky to have more than 5 individuals on my team.

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Poll Question

Chose one of the three options below to describe your compliance department's budget:

- a) Budget, what budget?
- b) I'm satisfied. But a little more wouldn't hurt!
- c) I'm flush with cash!

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Identifying your Organization's Risk

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- What is risk?
- Why do I do a risk assessment?



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Identifying Your Organization's Risks

Department of Justice
Evaluation of Corporate Compliance Programs

Is the Corporation's Compliance Program **Well Designed**?

The "critical factors in evaluating any program are whether the program is adequately designed for maximum effectiveness in preventing and detecting wrongdoing by employees and whether corporate management is enforcing the program or is tacitly encouraging or pressuring employees to engage in misconduct." JM 9-28.800.

The starting point for a prosecutor's evaluation of whether a company has a well-designed compliance program is to understand the company's business from a commercial perspective, how the company has **identified, assessed, and defined** its risk profile, and the degree to which the program devotes appropriate scrutiny and resources to the spectrum of risks.

Department of Justice, 2019 (updated June 2020)

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Identifying Your Organization's Risks

Department of Justice
Evaluation of Corporate Compliance Programs

Questions to Consider

- What methodology has the company used to identify, analyze, and address the particular risks it faces?
- Does the company give greater scrutiny, as warranted, to high-risk transactions?
- Is the risk assessment current and subject to periodic review?
- Does the company have a process for tracking and incorporating into its periodic risk assessment lessons learned?

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Identifying Your Organization's Risks

State Operations Manual
Guidance for Surveyors for Long Term Care Facilities

§483.85(1) Has been reasonably designed, implemented, and enforced so that it is likely to be effective in **preventing and detecting criminal, civil, and administrative violations** under the Act and **in promoting quality of care**

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Identifying Your Organization's Risks

“The compliance risk assessment will help the organization understand the **full range of its risk exposure**, including the likelihood that a risk event may occur, the reasons it may occur, and the potential severity of its impact. An effectively designed compliance risk assessment also helps organizations prioritize risks, map these risks to the applicable risk owners, and effectively allocate resources to risk mitigation. “

– Deloitte, 2015

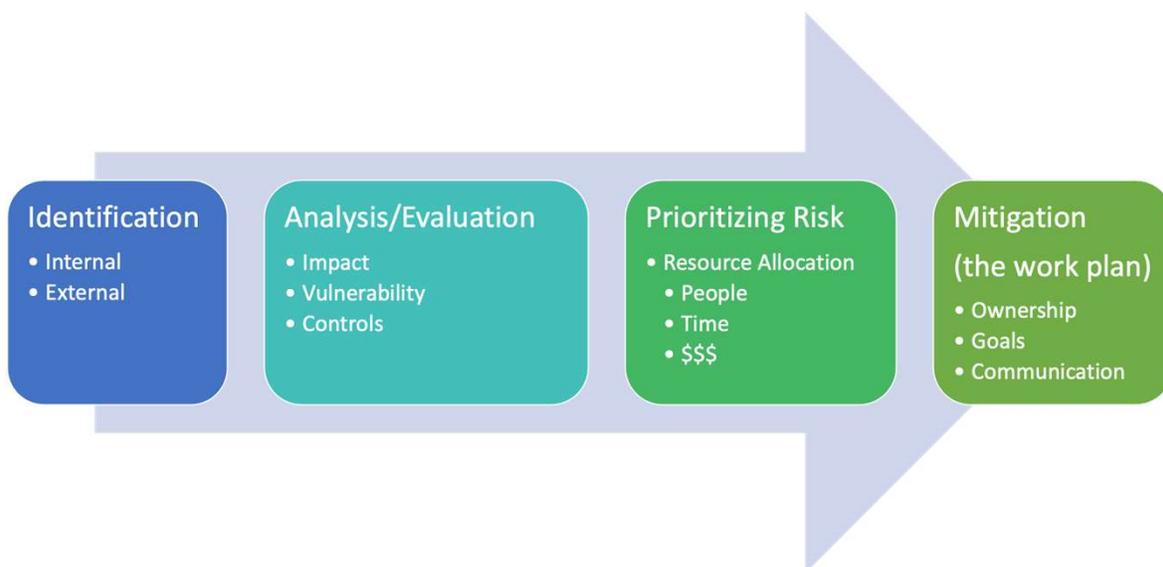
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Identifying Your Organization's Risks

- Internal Sources
 - Information generated from within the organization (i.e., internal audit results).
- External Sources
 - Includes Information obtained from outside of the organization. Can include aggregate data from similar organization(s) (i.e., OIG Work Plan).

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Basic Risk Assessment Process



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Internal Sources

- State Survey, JACHO, and other agency annual or complaint survey results
- ADR, TPE, RAC, ZPIC findings
- PEPPER Reports
- Quality Measures and 5 Star Ratings
- Patient, family, employee complaints
- Patient and Employee Satisfaction Survey Results
- Audit and Monitoring findings
- Hotline Call Trends
- Reports and Investigation Findings
- Interviews

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External Sources

- OIG Work Plan
- OIG Audit Reports
- Recent Enforcements
 - OIG/Provider settlement agreements
 - Corporate Integrity Agreements
 - OCR
 - State enforcement actions
- CMS Surveyor's Guidance
 - Elder abuse and neglect
 - IJ changes
- Headlines

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Identifying Your Risks

Using The Headlines

October 10, 2017

Court upholds \$1.2 million judgment against former SNF operator in resident abuse case

News

She was pulled off the toilet by her hair. Often unreported, nursing home abuse on the rise.

Updated Aug 09, 2019; Posted Jul 31, 2019

CORONAVIRUS

'The care was horrendous' | Concern sets in as elderly abuse reports drop drastically during coronavirus pandemic

LOCAL

Camera caught nursing home staff mocking resident. Investigators find more problems.

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Nursing home accused of using 'sham medical director' to fuel kickback scheme

Record-Setting Nursing Home Fraud Case Ends in \$44M Judgment

HEADLINES

Failure to terminate access of departing employee leads to HIPAA penalty

Nursing Home Snapchat Photo Sharing Scandal Uncovered

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Poll Question

Which of the following areas would you consider your organization's largest compliance risk in 2021?

- a) Quality of care
- b) Human Resources
- c) Billing and Coding
- d) Privacy
- e) Security

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Common Risks in the SNF Setting

- Elder Abuse, Neglect, & Exploitation
- ICD- 10 Coding Accuracy
- Medical Necessity (SNF certification)
- Claim Denials
- I9 Compliance
- PBJ Reporting Compliance
- Impermissible Disclosures
- MDS Coding Accuracy
- Incidents/Accidents
- Fraud, Waste and Abuse
- RAC/SMRC contractor approved issues
- Survey deficiencies
- Litigation
- Care Planning
- Emergency Preparedness
- Cost reporting
- Background & Exclusion checks
- HIPAA
- Drug diversion

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Prioritizing Your Risks

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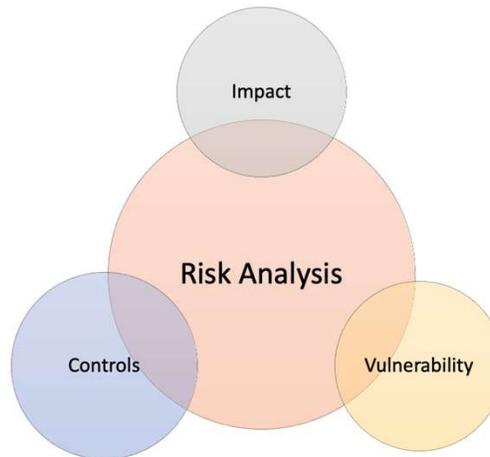
Poll Question

Do you complete an organizational risk assessment annually?

- a) Yes, I'm diligent!
- b) We're a little hit and miss.
- c) Well.....

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Analyzing Your Risks



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Risk Impact

- **Mission/ Reputation**
 - Consider the potential damage to the organization's brand.
 - What is the likelihood the risk will result in a lost of trust, decreased employee morale, bad press, negative internet and social media reviews or discussions?
- **Legal**
 - Could the risk result in a regulatory or legal action brought against the organization and/or employees that could result in fines and penalties?
- **Financial**
 - Could the risk negatively impact the organization's bottom line or potential future earnings?

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Vulnerability

Likelihood

- Is this risk common within the industry based on historical evidence (i.e., Headlines)?
- Does the organization's history lead you to believe the risk can occur within the next twelve months?
- Is the likelihood of risk limited to a single facility or an isolated occurrence?

Detectability

- What automated safeguards are in place to identify errors?
- What are the proactive or retrospective processes in place to identify failures?
- Is there a level of management oversight that currently exists?

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Additional Considerations

Internal Controls

- Analyze the proactive controls that currently exist
 - Are there existing internal audit and monitoring process in place?
 - Are policies and procedures in place?
 - Has employee training occurred ?
 - Are performance metrics in place that are routinely reviewed?

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Sample Risk Matrix

IMPACT	High	Medium	High	High
	Medium	Low	Medium	High
	Low	Low	Low	Medium
		Low	Medium	High
		VULNERABILITY		

PivotPoint, 2016

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Sample Risk Matrix

IMPACT	High	Medium	High	High	<p>Vulnerability</p> <ul style="list-style-type: none"> • Low: Would hardly ever happen • Medium: Could happen • High: Will most likely happen <p>Impact to Organization</p> <ul style="list-style-type: none"> • Low: Little to no impact • Medium: Moderate impact • High: Significant impact
	Medium	Low	Medium	High	
	Low	Low	Low	Medium	
		Low	Medium	High	
		VULNERABILITY			

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Poll Question

After reviewing industry headlines, recently published OIG audit findings, and your therapy utilization trends, you've identified Medicare Part B therapy overutilization as a risk to your organization.

How would you rate the potential impact of this risk to your organization's **mission**:

- a) Low
- b) Moderate
- c) High

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Poll Question

After reviewing industry headlines, recently published OIG audit findings, and your therapy utilization trends, you've identified Medicare Part B therapy overutilization as a risk to your organization.

How would you rate the potential **legal** impact to your organization?

- a) Low
- b) Moderate
- c) High

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Poll Question

After reviewing industry headlines, recently published OIG audit findings, and your therapy utilization trends, you've identified Medicare Part B therapy overutilization as a risk to your organization.

How would you describe the likelihood that you will **detect** failures associated with this risk before they negatively impact your organization?

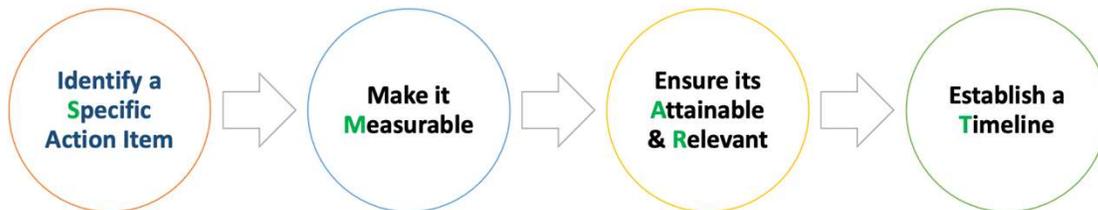
- a) Low
- b) Moderate
- c) High

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Establishing a Realistic Work Plan

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Using SMART to Establish Your Work Plan



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Auditing versus Monitoring

Auditing

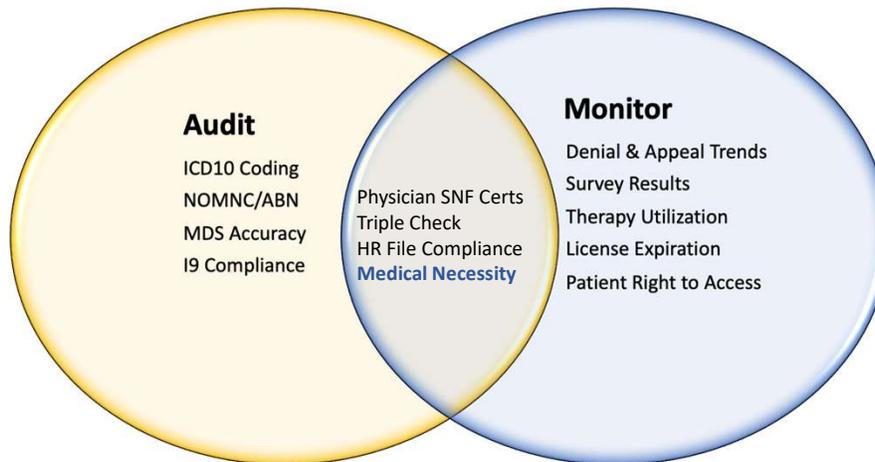
- More formalized process
- Targeted procedure; point-in time
- Requires planning, sampling, testing and validation
- Requires objectivity/independence
- Established approach and methodology for selecting the sample for the audits
- Designed to evaluate and improve effectiveness of processes and related controls

Monitoring

- Less formalized approach
- Continuous procedure
- Typically driven by the management team to validate that the implemented processes are effective
- Day-to-day reviews
- Not necessarily independent
- Monitoring is useful in detecting areas that require further scrutiny

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SNF Audit and Monitoring Examples



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Identifying Action Items

Medicare B Therapy Overutilization

Audit

- Medical necessity for active stays
- Technical review

Monitor

- Length of stay/Saturation
- Financials
- CPT code usage
- Appeal trends

Educate

- Skilled vs. custodial services
- Documentation to support medical necessity
- Policies & regulations
- JIMMO

Policy & Procedure

- Code of conduct
- Billing and coding
- False claims; FWA
- Over payment

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Identifying Action Items

Incidences of Abuse, Neglect, & Exploitation

Audit

- Employee & agency files
- Timely reporting
- Employee interviews

Educate

- Definitions
- Reporting
- Policies & regulations

Monitor

- Training completion reports
- Self-reports
- Survey findings

Policy & Procedure

- Elder abuse prevention
- Discipline
- Sanction Screening; background checks

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Identifying the Responsible Party

Senior Leadership

Regional Team

Contract Providers (i.e., contract therapy)

Department Heads

Facility Staff

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{INSERT ORGANIZATION NAME}									
Sample Compliance Workplan									
Risk Area	Activity	Action Plan	Responsible Party	Audit/ Monitoring Freq	Activity Due Date	Date Last Activity Performed	Sample Size	# Issues Identified	Date of Next Audit/ Monitor
Quality of Care/Resident Safety									
Incidences of abuse, neglect, & exploitation	E&A	Quarterly staff interviews/ rounds to validate understanding of definition of abuse, neglect, and exploitation	VP Clinical Services/ Compliance	Monthly					
	Monitor	Administrators/DONs will submit all 2567 and survey findings to compliance for review	VP Clinical Services/ Compliance	Quarterly					
Human Resources									
PBJ Reporting Accuracy	A&M	Proactive review of random sample Payroll/Time system PBJ titles & job codes	Facility Admin	Quarterly					
I9 Compliance	E&A	Onsight review for I9 completion compliance and retention compliance	Floating HRD/ Compliance	Quarterly					
Therapy Services									
MCB Overutilization	Audit	Review all POCs for physician certification compliance	Directors of Rehab/ Compliance	Monthly					
	P&P	Overpayment Policy Review & Revisions	Compliance Committee	Annually					
	Monitor	Validate completion of monthly MCB triple check	Clinical, Rehab, Compliance	Monthly					

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Implementing Your Plan



Consider current best practices



Use Your Resources



3rd party vendor oversight

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Resources

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