

**Mandatory Compliance Programs:
Lower Risk and Improve Operations
(Mandatory and *Mandatory!*)**

ACHCA
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Tom Ealey

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Disclosure of Commercial Interests

Employment:
Alma College (Michigan)

Professor: At this time I have no commercial interests relevant to this program.

From time to time in the future I may work on consulting or commercial publishing projects involving long-term care.

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Tom Ealey has four decades of experience with long-term care as a consultant, writer, researcher and seminar leader. He writes frequently for the Health Care Compliance Association.

Tom is a professor of Business Administration at Alma College in Alma Michigan. He advises and lectures in the College's Integrated Health Studies Institute.

A hard copy handout will be provided, courtesy of Alma College. Free materials can be found at a Dropbox.com Long-term Care Share, link at <https://healthcarethinktank.blogspot.com>

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Feel free to ask questions, if I can I will answer them, if not I will try after the program, and you can always follow up via email.

Big **thank you** to the ACHCA staff.

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Compliance programs used to be “recommended”

although

many of us thought recommended meant “required”

Anyone know where the compliance idea came from?

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Then came

PPACA

Aka “ACA” or “Obamacare”

(seems like eons ago?)

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The Patient Protection and Affordable Care Act (Public Law 111-148) as supplemented by the Health Care and Education Reconciliation Act of 2010 (Public Law 111-152), often referred to as "PPACA" or "ACA"

Long-term care rules can be found at P. L. 111-148 Subtitle B, Nursing Home Transparency and Improvement, Part I, Section 6102

(if this is still in effect)

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As of March 23, 2013
Compliance programs are

REQUIRED

Except.....

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The regulations had not been written!

however

there was plenty of guidance available

Where did we start?

The 2008 OIG guidance statement

http://oig.hhs.gov/compliance/compliance-guidance/docs/complianceguidance/nhg_fr.pdf

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Other resources
Your (health care specialist) lawyer
Trade and professional associations including ACHCA
Health Care Compliance Association
Trade publications
Newsletters, websites

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The new regulations on conditions of participation arrived

*Medicare and Medicaid Programs;
Reform of Requirements for Long-Term Care Facilities*
Federal Register / Vol. 81, No. 192 / Tuesday, October 4, 2016

Nothing really shocking here.....

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The Long-term care difference

Not just billing integrity, but

Quality of care interacting with billing

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So what are the feds looking for?
According to the OIG.....

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Sufficient staffing

Comprehensive resident care plans

Medication management

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Psychotropic med utilization

Safety: mistreatment, neglect, abuse

Billing Integrity

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Anti-kickback regulations

(Illegal) supplementation

..... enough?

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Legal news:

Sally Yates became famous when President Trump
fired her from DOJ for insubordination.
Before that, she became famous for the 2015 "YATES MEMO"

Yates memo = white collar criminals should go to prison

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Why we should be very, very careful

Momence Meadows Nursing Center

U.S. ex rel. Absher v. Momence Meadows Nursing Center, 2:2004-cv-002289 (Aug. 20, 2014)

False claims gone wild!

Or maybe not..... (provider won on appeal)

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Recent and current litigation

Whistleblowers and the feds versus just about everybody!
Unnecessary and unreasonable amounts of therapy done to
residents who did not need it, then billed to the feds
Massive settlements and of course legal fees

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In the news.....

The Extencicare Settlement

Handout: we will look at the Corp Integrity Agreement

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And then we go back to the roaring 90s
therapy rears its' ugly head
Kindred Care (and affiliates) settled for big dollars
Genesis settled for big dollars
Repeat after me....

"reasonable and necessary"

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Litigation is pending with

HCR Manor Care

SavaSeniorCare LLC

(last fall Sava was thumped in an appeal trying to redefine the issues)

There is some hope on technical appeal grounds but do not use that as a rationale.

Repeat after me....

“reasonable and necessary”

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RUG fudging is a good way to get a beating

email is a government lawyer’s best friend

bonuses based on RUG fudging and minute stuffing – no no

corporate created “budget” (quota) numbers can be dangerous

HPL is not a solely adequate defense

Documentation must establish **“reasonable and necessary”**

which employee is your future whistleblower?

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CMS

2016/2017 Nursing Home Action Plan

Four Main Goals

Better care and lower costs

Prevention and population health

Expanded health care coverage

Enterprise excellence

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CMS - five principles of action
enhance consumer awareness
strengthen survey process, standards, training
improve enforcement activities
promote quality improvement
create strategic approaches through partnerships

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The news is not all bad....
Compliance can improve performance
Compliance can improve the revenue cycle

You are likely already doing much of the work anyway!

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Consider the benefits
improved billing cycle performance
develop training needs list
evaluate technology assets
extra review POC and follow through
one more look at medical records

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The 2008 guidance statement is a well written outline of the CMS-OIG expectations and focus

https://oig.hhs.gov/fraud/docs/complianceguidance/nhg_fr.pdf

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I. INTRODUCTION

Benefits and applications

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II. Reimbursement overview

Medicare and Medicaid

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III. Fraud and abuse risk areas

- Quality
- Accurate claims
- Anti-Kickback
- Other risk areas
- HIPAA

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IV. Other compliance considerations

- Ethics
- Program review

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V. Self reporting
updated since 2008

This is "call your lawyer" material

https://www.cms.gov/Medicare/Fraud-and-Abuse/PhysicianSelfReferral/downloads/6409_erdj_protocol.pdf

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So let's look at the basics of a program

Program design

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So let's look at the basics

Program design

Program review

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So let's look at the basics

Program design

Program review

Program operations

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So let's look at the basics

- Program design
- Program review
- Program operations
- Training and orientation

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So let's look at the basics

- Program design
- Program review
- Program operations
- Training and orientation
- Non-employees and the program

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So let's look at the basics

- Program design
- Program review
- Program operations
- Training and orientation
- Non-employees and the program
- Love your lawyer

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So let's look at the basics

- Program design
- Program review
- Program operations
- Training and orientation
- Non-employees and the program
- Love your lawyer
- Stay informed

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Again, handouts and additional (free) materials are available at a Dropbox link. Links to some of my recent journal publications are included in the share site.

Find the link at <https://healthcarethinktank.blogspot.com>

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THANK YOU!

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