

HCCA



**HEALTH CARE
COMPLIANCE
ASSOCIATION**

COMPLIANCE TODAY

**Volume Twelve
Number Six
June 2010
Published Monthly**

Opening day of the 14th Annual Compliance Institute

SEE PHOTO ALBUM ON PAGE 38

Earn CEU Credit

WWW.HCCA-INFO.ORG/QUIZ — SEE PAGE 29



Feature Focus:

**Mandatory compliance
programs: Advantages,
disadvantages, and
trends**

PAGE 25

**Meet
Anne Feierstein, Director
of Quality Management at
Senior Whole Health**

PAGE 14

**What the small
provider needs to know**

PAGE 30



What the small provider needs to know

By **Tamar Abell, MA-CCC-SLP, LNHA**

Editor's note: Tamar Abell is Vice-President with ABS Management Company in Chicago, a long-term care management group that owns and operates facilities throughout the Midwest. Ms. Abell is a third-generation nursing home owner and operator. She may be contacted by e-mail at tabell@upstairsolutions.com.

The Office of Inspector General (OIG) has made improving quality of care in nursing homes a top priority. For the past decade, nursing homes have been a particular focus for OIG, due in part to the increasing number of beneficiaries who live in long-term care (LTC) facilities and the unique vulnerabilities associated with this population. Over the last seven years, many nursing home chains and individual health care facilities have agreed to operate under Corporate Integrity Agreements (CIAs) with independent quality monitors. Since 2002, more than 1,300 health care facilities, most of them nursing homes, have operated for some period of time under quality-of-care CIAs.¹

I am a third-generation owner/operator in LTC, and over the years, our facilities enjoyed an excellent reputation. Our facilities, which primarily serve a geriatric population, are located in rural areas. Like most “mom and pop” providers, we were very involved in the day-to-day operations of our facilities, but lacked the formal corporate compliance

program seen with larger providers. In late 1999, we entered into a management agreement for a large inner-city facility with a predominantly mentally ill population. We managed the facility for 18 months, during which time we had several surveys with no tags of “actual harm.” In May 2000, the facility became the focus of an extensive federal survey that began with more than a dozen federal officials marching into the lobby, armed with subpoenas for financial and patient care records. Unbeknownst at the time was that the investigation was prompted as a result of the allegations of a whistleblower who was recently fired from the company. In June 2000, we terminated our management contract and within a few months, the facility was decertified and converted to condominiums.

Over the next four years, our management company was extensively investigated by the Department of Justice and OIG, and we were eventually sued by the federal government, based on the False Claims Act. We negotiated a \$2 million settlement fee with OIG, and on November 22, 2004, I became a recipient of a 5-year quality-of-care CIA for our seven skilled facilities and our management company. Under the CIA, we were required to execute extensive training programs and implement quality-of-care processes and structures. In addition, we were overseen by independent quality monitors. Important lesson learned: Never say “It can't happen to me.”

Although this was a very trying time for my family, I certainly have new insight into the value of a corporate compliance program and the “how to” for small providers. One major misconception is that a corporate compliance program is expensive. Not true—you can't afford *not* to have a compliance program. It was not a large monetary investment that led us to the level of quality and the compliance

program that exists in our facilities today, but rather a reallocation of resources and commitment to compliance. Today we consider ourselves leaders in LTC and in training and compliance.

Additionally, as the House and Senate debated the final health care reform bill, they agreed that an increased focus on compliance programs; the reduction of fraud, waste, and abuse of health care dollars; and quality of care must remain paramount!

Getting Started

Here's what you need to do to get started with a proactive corporate compliance program.

1. Assess your compliance program. Become familiar with the OIG recommendations for compliance and Corporate Integrity Agreements. Where do you begin? Start, as I did, by carefully studying a CIA (hopefully not your own!). The OIG website posts all CIAs, and they are an excellent reference tool to guide you in what your compliance program should look like. I would recommend routinely checking the OIG website (<http://oig.hhs.gov/>) for updates and recommendations, as well as the websites for the national associations for their compliance program “how-to's.”

2. It starts at the top. A culture of compliance needs to be initiated from the top of the organization. A corporate compliance program is not a binder that sits on a shelf; it must be an engrained culture in an organization. Our CIA was quality care-based, and oversight of our quality-of-care systems became the cornerstone of our compliance program. As owner and part of the board of directors, I let our staff clearly know that we were embracing our compliance plan and this is *the* culture of our organization. As owners, we became more involved in the Quality Assurance (QA) process, by actually

participating in the QA meetings. I recently participated in a HCCA/OIG roundtable discussion about Dashboards for Quality of Care, and the panel agreed that whether you are an organization with 200 facilities or a single-building operator, the concerns for monitoring quality of care were more or less the same.²

3. Corporate compliance officer. If you don't have one, start recruiting today! In a small organization, the corporate compliance officer (CCO) may have multiple roles, but the individual must be respected throughout the company and be given autonomy by the board. The CCO's focus should be both financial, as in traditional corporate compliance roles, and uniquely geared to examining and tracking quality of care and staff adoption of expected services and care skills.

4. Formalized training and tracking program. During our CIA implementation period, we were faced with the challenge of effectively training 800 employees for 4 hours within 120 days across 350 miles! We developed an online training and tracking system to be sure that we reliably met this requirement. A formalized, consistent, staff training program is one of the fundamental building blocks of a solid compliance program. The employee who is hired on Friday, while the director of nursing is on vacation, needs to have the same training as the staff who are part of an official orientation program. This investment in training soon became a stand-alone online senior-care education business for me; Upstairs Solutions was launched as a separate entity in 2005. I like to say we made lemonade from lemons; our "home spun" online training program is now a nationally recognized training company. Upstairs Solutions now trains LTC staff throughout the U.S., from small single owner/operator locations to multi-chain multi-state organizations. Whether you choose to go with

e-learning, traditional training, or a blended learning approach, make sure the training is consistent, effective, trackable, and addresses best practices. In addition, your training constantly needs to be re-evaluated to be sure it reflects the findings of the Quality Assurance Committee.

5. Review policies and code of conduct. Be sure your corporate compliance policies and nursing policies are relevant, reflect best practices, and have an interdisciplinary focus. It is imperative that your staff and vendors understand your organization's code of conduct. It has become our organization's policy that the code of conduct is reviewed and signed upon hire, and then annually thereafter, by all staff, vendors, and physicians.

6. Internal Audit systems and QA Committee. No facility or organization is perfect. We are people taking care of people. What is critical is that a system is in place to find your own problems, and when things are not perfect, that you have a plan to find the source of the problem, a plan for correcting it, and a plan monitoring that correction for effectiveness. I believe one of the most significant changes in our organization is the efficacy of our QA program. Our staff now understands how to properly conduct a root cause analysis and make meaningful changes to our systems through continuous quality improvement. It is the role of the QA Committee to oversee clinical improvement and compliance issues throughout the organization. The findings of the QA meeting are shared with the board of directors. We have evolved from a reactive organization to a proactive one.

7. Compliance hotline. Make sure there is a mechanism in place for staff, families, residents, and vendors to voice their grievances or concerns without fear of retaliation or retribution for reports made in good

faith. However, in the case of an employee or vendor, that protection does not extend to include protection from disciplinary action for involvement with the issue or incident by the reporting individual. We established an 800 number that was prominently posted at each facility and was monitored by our corporate compliance officer. The calls and resolution of complaints were shared with the board.

8. Exclusion checks. OIG Compliance Guidelines for health care providers and health care entities dictate that they check the OIG List of Excluded Individuals/Entities prior to hiring or contracting with potential employees and vendors. Be sure your organization has a system in place to screen potential hires and vendors against the OIG Exclusion List and the General Services Administration (GSA) Excluded Parties List System (EPLS, available at <https://www.epls.gov/>) to screen out individuals who are barred from federal programs. We check all employees prior to hire, and periodically thereafter, through the tracking system of Upstairs Solutions. These checks are logged into the learning management system and are easily accessible. This is an area of focus for OIG and should be implemented as part of your hiring process and ongoing compliance program.

At the end of the day, whether you are part of a large organization or a single building operator, we all have the same goal. We are looking to provide the best care for our residents in a safe and loving environment. A meaningful corporate compliance program that addresses quality of care as well as financial issues must be the cornerstone of your organization's mission and culture. ■

¹ U.S. House of Representatives Committee on Energy and Commerce, Subcommittee on Oversight and Investigations, testimony of Lewis Morris, Chief Counsel to the Inspector General, May 15, 2008.
² OIG Government-Industry Roundtable "Driving for Quality in Long-Term Care: A Board of Directors Dashboard" (PDF file), downloaded from OIG website, <http://www.oig.hhs.gov/fraud/docs/complianceguidance/Roundtable013007.pdf>, accessed January 2, 2010.