

MHCM 6320 Corporate Compliance and Legal Issues in Healthcare

Chapter 12: Keeping The Program Current

Chapter 13: Enforcement Dealing With Non-Compliance

Week 8 Lecture Notes

Internal and External Audits, in addition to regular supervision and enforcement of policies and procedures will reveal the need for taking corrective actions. The absence of an external audit should never be taken as evidence that everything is being done correctly. Rather it is a certainty for healthcare providers that among the multitude of regulatory agencies and payers, more than one of them is actively watching your operation – and, in addition, there is likely one or more employees with concerns or suspicions that could lead to a call for audit.

Likewise, the belief that speed should give way to accuracy is an often applied error. While accuracy is certainly required, it should never interfere with timely actions.

Creation and maintenance of a compliance program as well as a training program is not only worthwhile but can make delivery of care more efficient and cost-effective. By avoiding audits and penalties from non-compliance, good programs are more than self supporting. In addition, they provide peace of mind and comfort to those employees that have strong moral and ethical bases – which are the employees that every organization wants and needs.

Good compliance programs and employees well-trained within them will improve service and will improve profitability. Lack of reputation loss will bring additional patients into the practice and will encourage payers to recommend the organization.

Plans should be updated regularly, at least once a year. Other causes for updates would be the issuance of new regulations or a major change in the law/s. If your organization has service locations in various states, each plan must be updated to the laws and regulations of the state in which it provides services. State specific health insurance carriers and fiscal intermediaries may issue directives that will necessitate an update to your plan, as will updates to federal agency requirements. CMS publishes quarterly updates to its rules, and the OIG issues annual work plan outlines that could be the occasion for updating your plan.

There are a number of other agencies and organizations listed in the Text that may cause the need for updating your plan as well.

It is necessary that your organization publish a description of all levels of disciplinary actions that may be invoked when a staff member has allegedly violated a company policy or procedure, along with the anticipated penalty or punishment to be carried out for such violation. Then, the organization should carefully follow due process in any implementation of such discipline.

Due process requires notice and a hearing. The notice must include a description of the policy or law with which the member is alleged to have failed to comply. This notice must be very specific and limited. There must be a statement or summary of what evidence or information is relied upon in the allegation. A description of the process that is to be followed in determining whether and what disciplinary action is to be taken must be provided. There must be a description of the process to be followed by the employee in order to defend or explain the actions alleged. There must be a hearing in which a determination is made and then an implementation of the determined disciplinary action. Finally, there must be a right of appeal for the accused, and this right must be described in the process.

There should be an established set of levels for discipline, beginning with a warning, and progressing through informal disciplinary action through punitive action to termination.

As a part of the due process and before assessment of any discipline, there should be a confirmation of knowledge on the part of the accused. A series of violations certainly portends a higher level of potential penalty or punishment, and an even higher level is one where the offense causes a disruption of the facility systems.