Disclaimer

The information and any commentary contained in these training materials is for informational purposes only. The information and commentary in these materials do not—and are not intended to constitute advice (legal or otherwise) to any person or entity on a specific situation or matter. You should always consult a qualified professional for advice regarding and tailored to your specific circumstances.

Session Objectives

Understand what tools and resources are necessary for efficient and compliant operations.

Discover the agencies that could pay you a visit and what prompts the visit.

Understand your role and responsibilities if you have a visit.

Determine the training needed, policies needed and where to find the resources.
Tools and Resources Necessary for Efficient Compliant Operations

Business Items to Have in Place Based on Your Legal Entity

- **Professional Corporation (PC) (S-Corp)**
  - Articles of incorporation
  - By-laws
  - Minute books (annual meeting)
  - Buy-sell agreements
  - Employment agreements
- **Professional Limited Liability Company (PLLC)**
  - Articles of organization
  - Operating or partnership agreement and amendments
- **Sole Proprietor**

Compliance Plans are necessary for each entity

What Insurance is Needed for Your Practice?

- Assess and procure liability insurance
  - Malpractice
  - Cyber Liability
  - Board/Officer Liability
  - Key-person Insurance
  - Overhead Expense
  - Property and Casualty – General Liability
  - Employee Bond
  - Vehicle
  - Workers Compensation

Have a reputable general insurance agent as part of your team
The Difference Between Handbooks & Human Resource Procedure Manual???

Employee Handbook
- Written with employees as intended audience
- Layout of company policies and procedures by topic
- Outlines benefits, basic policies and conduct expectations

Human Resource Policies and Procedures
- Details every aspect of company policy, procedure for following policies and forms needed
- Reference tool for management team
- Provides references to federal and state laws that correlate to each policy

Human Resources – Employee Policies

- Pre-Employment
  - Reference checks
  - Background checks
  - Credit check
  - Drug tests

- Job Descriptions
  - Responsibilities, supervision and performance standards
  - Reviewed regularly and revised as necessary

- Salary vs. Hourly Employees
  - Exempt employees
    - Executive, administrative, professional & outside sales employees (marketing)
  - RNs may qualify but LPNs and MAs do not
  - www.DOL.gov

Financial Management Policy Examples

- Internal Controls
  - Multiple staff members should handle the flow of money
  - Checks and balances daily
  - Doctors should sign checks
  - Monitor company credit card use

- Cash Management Policies – Front and Back Office

- Internet usage (Social networking, email, shopping online)
  - Waste of company time
  - Posting pictures or patient information=breach
  - Risk of virus, phishing attacks
A Visit from the Government – It Happens

Agencies that Can Pay You a Visit

- **Regulatory Agencies** have been granted the authority by some branch of the government to "regulate" or enforce particular standards
  - These agencies may levy penalties, citations and fines and in some cases close a department or facility due to violations.
  - Examples include: CMS, OCR, OSHA, FDA, DOL
- **Enforcement Agencies** investigate accusations of waste, fraud, mismanagement and corruption with government funded programs
  - These agencies may levy civil and criminal penalties.
  - Examples include: OIG, FBI, Postal Inspection Services, Department of Justice

What Prompts a Visit?

**Start of Investigation - May be a Telephone Call**

- Telephone call – DOL
- EEOC
- Carrier Hotline Response

**Employee – Whistleblower?**

- Current Disgruntled Employee
- Former Employee
- Patient
Areas of Compliance

- **OIG Compliance Program**
  - Fraud, abuse & waste
  - Stark regulations: Prohibits referrals of Medicare patients to an entity that the physician owns
  - Anti-kickback rules: Prohibits offering inducements in exchange for Medicare/Medicaid patients
- **OSHA**
  - General duty clause: to ensure a safe workplace
  - Required bloodborne pathogens/hazardous communications training for at-risk employees:
    - At employment
    - Every 12 months

Laws and Regulations for HIPAA

- **HIPAA Privacy**
  - Focus is the use/disclosure of protected health information (PHI) in any form (paper, electronic, oral communication)
  - Requires written policies/procedures
  - Initial training of workforce
- **HIPAA Security**
  - Focus is the protection of the confidentiality, integrity, and availability of all electronic PHI that is created, received, maintained, or transmitted
  - Security Officer
  - Requires written policies/procedures
  - Risk analysis (also required for Meaningful Use)
  - Initial training and periodic updates as needed

Business Risk Management

Laws and Regulations

- **Breach Notification**
  - Unauthorized access, use or disclosure of PHI
  - Written notification of patient, government and in some cases the local media
  - Requires policy/procedure
  - Train workforce to avoid, recognize and report breaches to privacy officer
- **Laboratory/CLIA**
  - CLIA certificate
  - Review proficiency test results
  - Review/correct previous inspection deficiencies
What to Do if They Arrive at the Door

- Ask for identification
- Contact your corporate attorney
- Request a copy of search warrant
- Direct agents to administrator/compliance officer
- Employees do not have to speak with agents and may wait until they have an attorney present
- Monitor the search and take notes—do not volunteer any information
- If they take a picture, you take a picture
- Avoid obstruction of justice
- Insist on an inventory, match it to the one you created

How to Avoid the Knock at the Door

- Hire competent employees
- Have a compliance plan and train employees
- Set standards and procedures
- Monitor keys areas of compliance
- Have a grievance plan for employees and patients
- Do routine reviews of policies, procedures, credit balance processes
- Provide open lines of communication
- Have your CPA and Attorney on retainer
Determine Your Needs for Compliance – Policy and Training

Resources by Topic

OSHA
- www.osha.gov
  - https://www.tn.gov/workforce/section/tosha
  - Manuals: www.doctors-management.com

HIPAA
- Privacy - www.hhs.gov/hipaa
  - Breach Notification - www.hhs.gov/hipaa/for-professionals/breach-notification/index.html

CLIA

Compliance
- OIG – www.oig.hhs.gov
- Compliance Plan Toolkit: MGMA Item E8779 = $299 for Members/$450 – non-members $450

Human Resources
- Job Descriptions – MGMA Bookstore
- HR Policies and Procedures – MGMA Bookstore #8538 - $105 members

Employee Handbook
- MGMA – E-book Item E8804 – Members- $59.00/Nonmember-$98.00
- NOLO – E-book – Create Your Own Employee Handbook - $34.99
- SHRM – Employee Handbook Builder - Members $350
Questions?

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