



MED-NET CONCEPTS LETTER ©

Where Compliance and Ethics, Risk Management/Safety, Quality Assurance and Performance Improvement, Reimbursement and Law Come Together.

Vol. 1, Issue 2

August 14, 2018

Dear Colleague,

Awareness is the first step toward an effective Compliance, Risk Management, Quality Assurance, Performance Improvement, and Law program. The following true reports are intended to broaden your understanding and awareness of potential exposures of liability throughout healthcare settings with the expectation that, as a starting point, forewarned is forearmed.

We believe a first-hand opinion of our sector of healthcare provides invaluable insight into the daily challenges facing our community.

Remember, it is important to immediately report any abuse of residents/patients, no matter the circumstances.

Please contact us for additional information as well as to discuss potential proactive programs to detect, prevent, and mitigate potential exposures and damages.

ALERTS



The CMS issued a clarification on Facility Requirements to Prevent Legionella Infections. It states that facilities must develop and adhere to policies and procedures that inhibit microbial growth in building water systems that reduce the risk of growth and spread of legionella and other opportunistic pathogens in water. More information is provided **here**.

A healthcare provider was found to have discriminated against an employee on the basis of his age.

A physician was told her competency was in question and steadily saw her patients transferred to younger physicians. A jury awarded the physician millions of dollars as a result of her age discrimination lawsuit.

Risk Management/Safety Perspective: Patient transfers based upon competency would have been acceptable; however, transfers based upon age were unlawful.

A woman was a few days away from starting a new job as a nurse at a healthcare provider until the job offer was rescinded due to a rumor.

The healthcare provider received information from the woman's former employer that she "may not be a good fit" with her future employer. Subsequently, the job offer was rescinded, and she sued for breach of contract.

Risk Management/Safety Perspective: Employment decisions must be based upon job performance, whether with a current employer, or a previous employer, when determining employment suitability.

The Equal Employment Opportunity Commission claimed a Maine truck-driving company discriminated against disabled job applicants after it was found that the company conducted screening to reject disabled candidates.

In response to an alleged violation of the Americans with Disabilities Act (ADA), the EEOC claimed a truck driving company discriminated against qualified disabled applicants due to its practice of "disability screenings." Despite having licenses to drive trucks in the state of Maine, applicants were tested for pre-existing injuries via physical tests.

Risk Management/Safety Perspective: Such alleged conduct violates the Americans with Disabilities Act (ADA) which prohibits employers from discriminating based on disability and expressly prohibits employers from using qualification standards that screen out or tend to screen out applicants regarded as disabled unless the standard is shown to be job-related for the position in question and consistent with business necessity. The ADA also requires employees with disabilities be provided a reasonable accommodation, unless it causes an undue hardship to the employer.

Midwest nursing home fined for improper care and neglect.

The nursing home failed to properly care for its residents after an investigation concluded negligence contributed to the deaths of three residents. On several occasions, the facility failed to provide much needed care and attention that could have helped saved the lives of the residents.

QAPI Perspective: Ignoring the needs of residents, particularly when they involve failure to provide interventions to sustain life, is a violation of the most basic standards of care. Both the individuals who failed to act and those who failed to report their observations of neglect are considered responsible. Train all staff to understand that they are mandated reporters.

A nurse stole opioids “because of her fear of being fired.”

A nurse was charged with a felony for theft after taking opioids from the nursing home where she was employed. The nurse, apparently drunk during her shift, took the medication and left the facility after fears she would be fired because of her intoxication.

QAPI Perspective: Diversion of resident medications is an act of fraud when Medicare or Medicaid monies are used to acquire opioids for residents’ pain control, and an act of abuse/neglect if as a result the residents’ pain is untreated. Every nurse should be trained in observing for signs of drug diversion and active substance abuse in coworkers, with the expectation that prompt reporting of observations will occur.

Yours truly,



David S. Barmak, JD, CEO.

AFFILIATES

Med-Net Academy, LLC

- Education Programs
- E-learning
- Webinar
- Videoconference

Med-Net Compliance, LLC

- Compliance and Ethics Programs
- Compliance/Privacy Officer Mentoring

Med-Net Healthcare Consulting, LLC

- Quality Assurance Performance Programs
- Administrator/Director of Nursing mentoring

Med-Net IPA, LLC

- Network of healthcare providers
- Managed care organization contracting

Med-Net Rehabilitation Solutions, LLC

- Rehabilitation/Reimbursement Programs
- Director of Rehabilitation Mentoring

Med-Net Risk Management, LLC

- Risk Management/Safety Programs
- Administrator/Human Resource Mentoring

EDITORIAL ADVISORY BOARD

- Barbara Bates, MSN, RN
- David S. Barmak, JD, CEO
- Sylvia Bennett, BSN, RN
- Betty Frandsen, MHA, RN, NHA
- Marshall Goldberg, SC.D, NHA
- Marianna Kern Grachek, MSN, RN, NHA, HSE
- Jo Ann Halberstadter, JD
- Rona Wiedmayer, MA
- Linda Winston, MSN, RN

PRODUCTION STAFF

- R. Louise Lindsey, DD, MA, Editor
- Jeannine LeCompte, Publisher

STAY UP-TO-DATE WITH COMPLIANCE NEWS

Read the Med-Net Compliance blog by going to

[mednetcompliance.com/healthcare-compliance-blog/](https://www.mednetcompliance.com/healthcare-compliance-blog/)



Med-Net Compliance, LLC develops and coordinates an ethics and compliance program for healthcare providers. Read more at <https://www.mednetcompliance.com>.