MED-NET CONCEPTS LETTER ©

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

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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

Cybersecurity remains a top priority for the Department of Health and Human Services (HHS). HHS has released the "Health Industry Cybersecurity Practices: Managing Threats and Protecting Patients" publication, which aims to provide voluntary cybersecurity practices to healthcare organizations of all types and sizes. Access it **here**.

Court OKs Nurse's 5-Year Sentence for Patient ID Theft

A nursing home employee was convicted of using information in her patients' medical charts to file fraudulent tax returns. There was sufficient evidence that the nursing home employee "used her position in the nursing home to improperly acquire the identification information of numerous residents," the court said. The defendant had argued that the government lacked evidence that she was in a professional or managerial position or that she had reviewed the charts of the nursing home residents whose identities were used to file fraudulent tax returns. But the panel disagreed, saying the jurors were correct in determining that a nurse or care worker can have access to medical charts that contain personal information such as Social Security numbers used for tax returns.

Risk Management perspective:

Policy/Procedure: Policies and procedures need to be current, including the Resident Bill of Rights.
Implementation: All staff should be educated during orientation and periodically as needed on the Resident Bill of Rights. Family and residents should be educated regarding financial threats and possible identity theft.
Audit: Periodically perform internal and external audits of the business office including residents' finances. Communicate with residents and family members regarding monitoring of their accounts for any abnormalities.

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New York Nurse Charged with Grand Larceny and Working with a Suspended License

A New York woman, 37, was charged with grand larceny and unauthorized practice of a profession for allegations that she fraudulently took over $20,000 in payment from a Rochester nurse staffing agency while practicing without a nursing license. The felony complaint alleges that the woman, who was previously registered as a licensed practical nurse, continued to work at a local nursing home even though her professional license was suspended.

Human Resources Perspective:

Policy/Procedure: Policies and procedures need to meet current guidelines including appropriate certification and licensure. When using agency staff the same requirements apply.
Implementation: Appropriate certification and licensure need to be provided before staff are allowed to work in any facility. The same requirement is in place for all agency staffing.
Audit: Periodically perform internal and external audits of the human resources documentation. All staff should be checked against the OIG exclusion list.

Louisiana Nursing Home Employee Accused of Scratching Resident to Show Her 'How It Feels'

A woman, 57 (Employee 1), at a Baton Rouge nursing home was arrested after an allegation that she scratched a resident's chest as a form of retaliation, according to Baton Rouge police. A witness to the incident told police that she (Employee 2) and Employee 1 were caring for the resident when the resident scratched Employee 1, who then responded, saying, "Let me show you how it feels." Employee 1 then scratched the resident. An administrator said vertical scratches were visible on the resident's chest.

Employee 1 resigned after an investigation into the incident started, an administrator told police. When questioned by investigators, Employee 1 said the resident was often combative and violent. Employee 1 told police she restrained the resident's hand on her chest and that the resident's scratch was self-inflicted. She added that she told a nurse her version of the story after the scratch happened, but Employee 2 had already reported the incident. Employee 1 was booked on counts of cruelty to persons with infirmities and simple battery of persons with infirmities.

QAPI Perspective:

Policy/Procedure: Policies and procedures need to meet current guidelines, including resident rights and responding to negative behaviors.
Implementation: Educate the staff on being aware of the resident's willingness to participate in care, and appropriate responses to negative behaviors. Resident care staff should communicate all issues to the supervisor and management.
Audit: Periodically perform internal and external audits, including care plans and MARs to ensure all negative behaviors are documented with appropriate responses.

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Thousands of Insurance Appeals Went to a Doctor Who Feds Say Is a Fraud

A seemingly successful orthopedic surgeon, who saw dozens of patients a day and brought in millions of dollars in fees for his suburban New York medical group, was inflating charges and billing for surgeries he didn't perform. The years-long fraud culminated in a guilty plea on a single count in federal court in 2013 which ended his surgical practice. According to federal prosecutors, while he was waiting to be sentenced, he had begun a new criminal scheme that would go undetected for years until he was arrested again in April. Over the next several months, thousands of patients received notices from several insurance companies that he had posed as another doctor in order to review their medical records in coverage disputes. At least 2,500 people nationwide were affected. In the latest criminal case, prosecutors say the surgeon defrauded six review companies for $876,000, using a fake Google email address, a shell company registered in the name of a family member to a Brooklyn address, and the credentials of another physician.

Chicago Psychologist Indicted for Allegedly Billing Medicare and Private Insurers for Services Not Rendered

A Chicago psychologist was indicted on federal fraud charges for allegedly submitting false claims to Medicare and private insurers. From 2011 to January 2018, she submitted fraudulent claims to Medicare and private insurers for mental health services that were not rendered. In some instances, she was out of the state on the dates she claimed to have provided the services. She also used some of her patients' names and dates of birth without their knowledge to create fictitious claim forms for the purported services. The indictment charges her with five counts of healthcare fraud and three counts of aggravated identity theft.

Risk Management perspective:

If a resident, their family member, or responsible party/bill payer sees discrepancies in statements from insurance companies, they should check with the appropriate billing office. If they are not satisfied with the response, they should notify the carrier as well as any appropriate regulatory agencies.

Policy/Procedure: Policies and procedures need to promote transparency so that auditing can be effective.
Implementation: Compliance and ethics code of conduct must be continuously presented to employees, independent contractors, temporary staff, vendors, and all other participants in the total delivery of care.
Audit: Periodically assess the policy and procedure and implementation to ensure they are comprehensive, complete, and current. Auditing needs to reflect multiple sources of oversight.

Yours truly,

David S. Barmak, JD, CEO.

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