



# 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



The HHS OIG analyzed nursing home deficiencies that were identified by State survey agencies across the Nation for calendar years 2013 through 2017. They then produced a data brief that offers CMS and other stakeholders (e.g., State agencies and nursing home management) insight into deficiency trends at nursing homes nationwide. It also complements their previous report on State agencies' verification of correction of nursing home deficiencies. Their objective was to analyze trends in the deficiencies that State agencies identified in nursing home surveys across the nation. Access the report [here](#).

### **Louisiana Nursing Home Bookkeeper Accused of Stealing More than \$20k from Residents**

A bookkeeper at a Louisiana nursing home was charged with theft after police say she falsified checks out of an account that had been set up for residents. The 47-year-old was accused of writing over 50 checks that were made out to petty cash that she endorsed. According to police, the total amount missing from residents' accounts at the nursing home was \$20,480.85. The police chief said when they questioned her, she told police that she used the money to pay the insurance policies for the residents, but she could not provide the documentation to prove the payments. During their investigation, the police chief said they found a trash bag of shredded papers in her office with what appeared to be numerous checks, copies of checks, and bookkeeping records.

### **Compliance Perspective:**

Audits should be performed to ensure that nursing home residents' personal funds and property are protected. Compliance Officers must check that audits are effective. Ineffective audits resulting in theft of resident funds and property may be viewed as systemic failure leading to allegations of false claims based upon substandard quality of care and exploitation of residents.

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### **Ohio Nurse Accused of Stealing Morphine, Replacing It with Water**

An Ohio nurse was accused of stealing pain medication from residents while working at a nursing home. The woman, 43, was indicted on two counts each of tampering with drugs, illegal processing of drug documents, drug possession, and theft. Prosecutors said she removed bottles of morphine and hydromorphone from a medication cart on March 1 and March 7. She then removed some of the liquid opiate medication and added water to the bottles to conceal the theft, diluting the drugs.

### **Former Massachusetts Nurse Pleads Guilty to Tampering with Liquid Morphine**

A former registered nurse pleaded guilty in federal court May 7 to diverting liquid morphine intended for hospice patients at a Boston nursing home. The man, 49, had tampered with bottles of liquid morphine that doctors had prescribed for two hospice patients under his care. In each instance, he took the liquid morphine for his own use and then replaced it with saline or Benadryl in an attempt to cover up his crime. A few months later, while employed at a different Boston nursing home, he took for his own use liquid morphine from a bottle prescribed to an elderly hospice patient under his care. He then falsely represented in the medical file of the patient, and in the nursing home's Medication Administration Record, that the liquid morphine for that patient was pure, when it wasn't.

### ***QAPI Perspective:***

Diversion of medication remains a concern in most nursing homes. Early identification of the signs and behaviors associated with substance use disorder and drug diversion reduces the risk of harm to patients and providers. Nursing homes must ensure there are policies, procedures, and practices that audit accountability of all nurses involved in medication administration/storage/and other use. Pharmacy policies will aid nursing in ensuring safe practices are maintained. Education is pivotal to ensure nurses understand safe practices as well as auditing practices including shift-to-shift count of narcotics, receiving narcotics, disposing of narcotics, and documenting use of narcotics. Nurses' education should also include addressing impaired coworkers.

### **Ransomware, Privilege Misuse, Insider Errors Dominate Healthcare Breaches**

The healthcare industry is now the single largest target for ransomware attacks, while privilege misuse and insider errors accounted for over 80 percent of all healthcare data breaches in 2018, according to the [Beazley 2019 Breach Briefing](#) and [Verizon's annual Data Breach Investigations report](#). According to the Beazley briefing, the healthcare sector makes up 34 percent of all ransomware attacks—a direct result of the vulnerability of that sector due to the confidential, and often time-critical, nature of online patient records. The Verizon report in turn showed that 81 percent of all healthcare data breaches were the result of privilege misuse and operator errors. The report also revealed that in the healthcare sector the majority of breaches were tied to internal threats, but that 6 percent of those incidents were motivated by “fun,” 3 percent for convenience, and another 2 percent were related to espionage.

### ***Risk Management Perspective:***

At orientation, and through periodic training, staff should be aware of IT system threats and how best to avoid malicious communications. Facility and senior management should be aware of staff using personal computers and cell phones for work purposes. Internal and external audits should ensure that IT systems access and devices used are appropriately only for current employees.

#### **Drunk Sisters Arrested in Ohio Nursing Home**

Police went to an Ohio nursing home at 9:30 p.m. May 6 on a report of two women who were belligerent and refusing to leave the facility. The fire department also arrived, since a fire alarm had been pulled at the center. Police found the women yelling at staff from inside their mother's room. They said the staff would not allow them to enter, so one of them began hitting all the buttons in the entryway and pulled the fire alarm. The facility's staff told police they did not wish to pursue charges, but wanted the two escorted from the building. During this time, the women continued to yell and argue. Police told them that due to their drunkenness, they needed to find rides home and not drive. They continued to be argumentative and not call anyone for rides. They refused a ride to the station where they could then call someone. They were arrested after they were uncooperative in responding to any of the officers' requests. They refused to take breath tests at the station. They were also charged with obstructing official business.

#### ***Risk Management/Safety Perspective:***

As we strive to be constantly aware of our environment as caregivers, we should not only pay attention to residents, but also to their families. Expect the unexpected, and try to keep issues from escalating.

#### **Founder and Four Executives of Insys Therapeutics Convicted of Racketeering Conspiracy**

The founder and four former executives of Insys Therapeutics Inc. were convicted by a federal jury in Boston in connection with bribing medical practitioners to prescribe Subsys, a highly-addictive fentanyl spray intended for cancer patients experiencing breakthrough pain, and for defrauding Medicare and private insurance carriers. From May 2012 to December 2015, the defendants conspired to bribe practitioners, many of whom operated pain clinics, in order to induce them to prescribe Insys's fentanyl-based pain medication, Subsys, to patients often when medically unnecessary. The defendants used pharmacy data to identify practitioners who either prescribed unusually high volumes of rapid-onset opioids, or had demonstrated a capacity to do so, and bribed and provided kickbacks to the practitioners to increase the number of new Subsys prescriptions, and to increase the dosage and number of units of Subsys. The defendants also measured the success of their criminal enterprise by comparing the net revenue earned from targeted practitioners with the total value of bribes and kickbacks paid. The defendants used this information to reduce or eliminate bribes paid to practitioners who failed to meet satisfactory prescribing requirements, which they determined to be the net revenue equal to at least twice the amount of bribes paid to the practitioner.

#### ***Compliance Perspective:***

This highlights the need for the compliance officer to ensure that services, drugs, and equipment are medically necessary. It is risky to assume that a physician's order will always be viewed as necessary by a third party payor.

Yours truly,



**David S. Barmak, JD, CEO.**



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## MONTHLY HEALTHCARE COMPLIANCE AUDIT TOOLS

**Med-Net Academy provides monthly healthcare compliance audit topics with audit tools which cover current healthcare compliance subjects of interest such as Emergency Preparedness, Antibiotic Stewardship, and Resident-to-Resident Altercation. Topics are developed by Betty Frandsen, Vice President of Professional Development, and her staff. They are used by our Healthcare Compliance Specialists when conducting staff training and facilitating compliance committee meetings. This healthcare compliance audit material is password protected for our clients' use. If you are not a client, [click HERE](#) to learn how you can become one.**

- OIG Exclusion List
- Interventions to Prevent Burns from Liquids
- Resident-to-Resident Altercation
- Antibiotic Stewardship
- Minimizing Risk of Resident Self-Induced Harm
- Preventing Sexual Harassment
- Interview Questions
- HIPAA Privacy Requirements
- Ransomware
- HH Inappropriate Client Drug Use
- Inappropriate Resident Drug Use
- Entrapment Risks and Bed Rails
- Family Medical Leave Audit
- New Survey Process
- And many more!



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