

## NEWS & VIEWS

A Complimentary Newsletter from Med-Net Concepts, LLC

*A Network of Healthcare Compliance & Consulting Companies*

**Free Webinar: OSHA Comes Knocking**  
**See Below for More Details**

**Register Now**

### **Effective Screening of Employees Reduces the Risk for Abuse, Neglect, and Fraud**

*By: Louise Lindsey*

Since the passage of the Affordable Care Act of 2010, all skilled nursing homes have been required to follow specific federal compliance directives regarding the development and implementation of a compliance program that involves internal policies, procedures, and controls. The aim of these compliance programs is to prevent and detect violations of applicable law, regulations, and ethical standards, such as fraud, waste, and abuse. The Office of Inspector General (OIG) is responsible for oversight and enforcement of these mandated healthcare compliance programs.

The effective date for Phase 3 implementation of the Centers for Medicare & Medicaid Services' (CMS) Requirements of Participation necessitating skilled nursing facilities to have a compliance and ethics program in place was November 28, 2019.

OIG requires a compliance and ethics program to include these seven elements:

1. Standards, Policies, and Procedures
2. Compliance Program Administration
3. Screening and Evaluation of Employees, Physicians, Vendors, and Other Agents
4. Communication, Education, and Training on Compliance Issues
5. Monitoring, Auditing, and Internal Reporting Systems
6. Discipline for Non-Compliance
7. Investigations and Remedial Measures

Along with incorporating the seven elements required by OIG, there are three suggested goals to help ensure an effective compliance program. They are as follows:

- Prevent, detect, and correct illegal or non-compliant behavior to ensure the highest standards of quality care.
- Provide safe mechanisms for reporting and seeking help with compliance-related questions or concerns.
- Develop a strong program that sets high expectations and communicates those expectations to all employees. (Note: It has been estimated that 98% of non-compliance occurs due to the employee being unaware or the expectations were not made clear.)

Federal law requires OIG to exclude from participation in any federal health care programs (including among others, Medicare, Medicaid, TRICARE, and veterans' programs) any individual, vendor, or entity

involved in providing products and services who has been convicted of any of the following:

- Medicare or Medicaid fraud
- Patient abuse or neglect
- Felony convictions for other healthcare-related fraud, theft, or financial misconduct
- Felonies for unlawful manufacture, distribution, prescription, or dispensing of controlled substances

A nursing home that fails to run thorough background checks on prospective employees opens itself up to major risks that can result in catastrophic consequences ranging from lawsuits to sensational media headlines that tend to create a negative public image for that nursing home. Maybe more significantly, that failure can result in a nursing home being excluded from participation in Medicare and Medicaid reimbursement for the services and care provided to the residents in their facility. Exclusion poses a real threat to a facility's ability to continue operating.

Additionally, employing or using the services and products provided by excluded individuals and entities puts residents at risk for abuse, neglect, and exploitation, and may contribute to criminal behavior resulting in fraud, waste and abuse. Here are just two of the many examples that appropriate screening and evaluation of employees prior to their being hired could have prevented:

### **Nurse Convicted of Crimes Never Faced a Background Check**

In January 2018, a former nurse was convicted and sentenced to 12 years in prison for molesting at least 10 residents in nursing homes across Colorado and Wyoming. He still faces more charges in Wyoming. At the time of the incident, Colorado did not perform background checks or fingerprint nurses

Victims of the nurse's assaults told prosecutors that he gave them powerful narcotics supposedly to treat their migraine headaches.

The nurse also had previously been arrested for driving under the influence (DUI) and convicted of child abuse in 2011. The state of Alaska had rescinded his nursing license in 2014. However, the state of Colorado did not suspend his license until 2016.

### **"Impostor Nurse" Charged with Fraud, Identity Theft**

A woman in North Carolina stole the identity of a Tennessee registered nurse and worked for more than six years for at least eight healthcare providers that included nursing homes, rehabilitation and assisted living facilities, a doctor's office, and home health agencies. The woman was charged with wire fraud, healthcare fraud, and identity theft. She used the identity of several licensed nurses with similar names to gain employment.

Prosecutors reported that the woman had been convicted in 2003 on federal embezzlement charges, and that she had claimed she held a nursing degree from two colleges.

Court records indicate that the woman made numerous false entries in patients' medical records and submitted false claims to public and private healthcare benefit programs. Two of her former employers repaid over \$500,000 to healthcare benefit programs for the fraudulent claims the woman submitted.

### **Screening and Evaluation of Employees**

Nursing homes are dependent on their staff members to provide the care the residents in their facilities require. However, this dependence on staff makes nursing homes vulnerable to acts of abuse and neglect committed by rogue employees. To avoid hiring individuals who have committed crimes and abuse, nursing homes generally rely on a background check process. When surveyed, 98% of nursing homes report performing background checks before hiring any employee.

Although federal and state authorities urge nursing homes to complete rigid and thorough background checks, some studies have shown that more than 90% of nursing homes have at least one employee who has been convicted of a crime and almost half have five or more employees who have been convicted of a crime. (<http://www.nursinghomeabuseguide.org>)

### **Suggestions for Developing an Effective Employee Check Policy**

- **Use license verifications:** Since most states require that doctors and nurses pass background checks to be licensed, a facility can eliminate some of the liability risk by verifying that prospective employees hold valid licenses and are in good standing with their state's licensing board.
- **Verify education:** Doctors, nurses, and other healthcare professionals in general must complete rigorous educational requirements; therefore, a facility should verify the completion of a prospective employee's education with those institutions.
- **Run identity verifications and alias searches:** Although practicing under false identities may be difficult, it happens all too frequently, particularly by stealing the identity and licensing information

of someone from another state with the same name or one that is similar. Running background checks on each alias that may turn-up can help ensure that well-hidden red flags are exposed. Performing Social Security Number searches often will uncover alternate names that an applicant may have used in the past.

- **Be comprehensive with your criminal checks:** Do not assume that making one criminal search will be enough to disclose an individual's entire background. There is no national database of criminal history information; consequently, it is necessary to review multiple sources to get a picture of an individual's past. A good place to start is at the county level and then move to multi-jurisdictional databases. Running address histories and then ordering county criminal checks for each of those locations may be helpful, since most crimes are committed close to where the person lives. County courthouses provide the best chance of finding criminal records.
- **Check available disciplinary databases:** Many states have databases that employers can search using the individual's name to discover if they have been disciplined by the state's Board of Medical Licensure and Supervision.
- **Check health inclusion lists:** Doctors and nurses do not just receive disciplinary actions from state boards. Sometimes a department in a state's government excludes medical professionals from programs like Medicare and Medicaid or sanctions them in another way.
- **Check the OIG's List of Excluded Individuals/Entities (LEIE)**
- **Reach out to previous employers:** Checking a prospective employee's employment history helps to ensure that the facts contained in their resume are true, and by speaking with previous employers, other issues may be revealed even though healthcare providers are very limited as to what information they can disclose about former employees.
- **Obtain a finger-print-based background check:** CMS is now using a Finger-Print-Based Background Check Contractor.
- **Test prospective employees for drugs:** Substance abuse is found in any profession, but it can be particularly catastrophic in a healthcare environment. Healthcare workers under the influence of drugs or alcohol are at significant risk of making mistakes that may cost residents their lives or impair their quality of life. Drug tests and substance abuse screening are especially important in view of the easier access healthcare workers have to addictive substances.
- **Consider conducting driving history checks for persons driving ambulances or vans, and credit history checks for individuals in charge of billing, payment, and residents' financial accounts.**
- **Check the social media background:** Social media background checks can flag behaviors that are unacceptable to the nursing home, e.g., use of derogatory language, expressions of sexist and religiously intolerant views, and posting of inappropriate pictures.

While these suggestions are intended to only outline various important best practices for what might be included in a facility's screening policy, they can go a long way toward mitigating the risks nursing homes have regarding their employees. A facility should also have a recurring practice of checking on employees requiring licensing and certifications, and consider screening all employees, physicians, vendors, and other agents of the facility against the OIG's List of Excluded Individuals and Entities on a monthly basis (<https://exclusions.oig.hhs.gov>).

As with all aspects of a facility's compliance and ethics program, all employees should be trained regarding the facility's employee checks policy and the expectation that they should report any suspicious violation to their superior or through the facility's Hotline.

## New CO-Q Certificate Program Prepares Candidates to Implement and Maintain CMS Phase 3 Compliance and Ethics Program Requirements

**Candidates who successfully complete the NAB approved seven element program, will also earn a total of 8.75 CEs.**

Med-Net Compliance, LLC is proud to announce the introduction of our Compliance Officer-Qualified Certificate Program to assist in preparing candidates to lead an effective Compliance and Ethics Program according to Centers for Medicare and Medicaid Services (CMS) Phase 3 compliance and ethics requirements. Upon successful completion of the program's curriculum and examination, Med-Net Compliance will award the Compliance Officer-Qualified (CO-Q) designation to participants.

The Compliance Officer-Qualified (CO-Q) designation can be earned by professionals who have demonstrated a high level of proficiency in the core standards of Compliance and Ethics Management. This designation is awarded through a comprehensive examination covering seven element compliance domains including: Standards, Policies, and Procedures; Program Administration; Screening and Evaluation of Employees, Physicians, Vendors, and Other Agents; Communication, Education, and Training; Monitoring, Auditing, and Internal Reporting Systems; Counseling and Discipline; and Investigations and Remedial Measures.

Candidates for the CO-Q designation are those who include compliance practices as an integral component of current or future professional responsibilities including: compliance officers, quality and risk management professionals, healthcare executives, and healthcare professionals with the requisite background.

For more information on the Compliance Officer-Qualified (CO-Q) Certificate Program, please go to the Med-Net Compliance website at:

<https://www.mednetcompliance.com/co-q-program/co-q-handbook/>

**Register Now**



Free Webinar Series:  
**COVID-19: OSHA Comes Knocking; Preparing for an OSHA Inspection**  
**Thursday, June 11, 2020**  
**2:00 PM EST**

## **Med-Net Concepts, LLC Affiliates**

[Med-Net Compliance, LLC](#)

[Med-Net Healthcare Consulting, LLC](#)

[Med-Net Risk Management, LLC](#)

[Med-Net IPA, LLC](#)

© 2014-2020 All Rights Reserved. Med-Net Compliance, LLC  
MED-NET COMPLIANCE, LLC An Independent Affiliate of MED-NET CONCEPTS, LLC

| [www.mednetcompliance.com](http://www.mednetcompliance.com) |

| [Med-Net Compliance Blog](#) |

[compliance@mednetconcepts.com](mailto:compliance@mednetconcepts.com)