



## NEWS & VIEWS

A Complimentary Newsletter from Med-Net Concepts, LLC

*A Network of Healthcare Compliance & Consulting Companies*

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### Managing Your Hotline

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The Office of Inspector General's (OIG) Seven Basic Compliance Elements calls for the "creation and maintenance of an effective line of communication between the compliance and ethics officer and all employees, including a process, such as a hotline or other reporting system, to receive complaints, and the adoption of procedures to protect the anonymity of complainants and to protect whistleblowers from retaliation."

In practical terms, this means not only having an open and clear path for communication between staff and management, but also to provide for anonymous, retaliation-free transmission of information pertaining to any type of illegal or improper activity affecting any of the facility's operations. This hotline number should be readily available to all employees, independent contractors, residents, and family members. This can be done by circulating the number through leaflets and posters, including it in employee handbooks, and posting it prominently in all staff-used areas, such as lounges, on bulletin boards, etc. These advisory notices should also state that all reports made on the hotline can be made anonymously. In addition, it should be made clear that significant violations of compliance policies or federal healthcare program statutes will be documented and investigated promptly to determine their veracity.

In this regard, the compliance and ethics officer should ensure that a full log of all calls made and follow-up (investigations and results), is kept and is available for inspection by the authorities. All such information, redacted of individual identifiers, should be included in reports sent to the governing body, the CEO, and, of course, the compliance and ethics committee.

The facility must ensure that all reports made on the hotline are kept anonymous, whether requested or not. There must also be a procedure in place so that all reports are protected and guarded to retain confidentiality.

It should be kept in mind that there are methods of communication which are not anonymous, and which should be avoided when setting up a hotline. These methods can include telephone lines with caller ID or reverse lookup capabilities, and emails which can reveal sender address or location. In the case of "suggestion" or "drop boxes," make sure that there is no camera surveillance of that area.

While it should be stressed that a guarantee of anonymity is a primary protection for anybody making a report, it should also be made clear that there may be circumstances where this anonymity may be lifted. Such circumstances can include the severity of claims, the extent of the legal ramifications of a resulting investigation, etc.

Occasionally, a hotline call will be made by someone who does not remain anonymous. In such a case, the person making the call must be assured that their anonymity will be respected, unless, of course, the nature of the investigation makes it otherwise impossible.

The principle of non-retaliation must also be stressed. Any employee, resident, contractor, or resident's family member must be completely assured that raising allegations of any type of breach will not result in the victimization of the person making the report.

It is worth noting that it is incorrect to presume that every facility must have its own hotline. The OIG has recognized that this may not be possible for financial or organizational reasons, and allows for the creation of other methods of hotline implementation, such as outsourcing, a single national hotline number, or, even in special cases, the substitution of hotlines with written methods of confidential information exchange.

A hotline forms a part of any long-term care facility's internal reporting system, but what exactly is meant to be reported? A hotline is primarily meant to allow staff and other individuals to report anything that is, or appears to be, a violation of law, rule, regulation, or company policy. In this regard, all potential users of the hotline should be made aware that they have a legal obligation to report any activity, or lack of activity, which is or might be considered a breach of legal guidelines.

Reportable activities could include employee misconduct, any suspected violations of company compliance policies, and, of course, suspected violations of federal, state, or local laws. Resident rights violations should also be reported, as well as breaches of Medicare or Medicaid rules and regulations, theft, bribery, environmental hazards, and any type of criminal activity. Other, more subtle, violations can include breaches of the rules governing self-referrals (also known as Stark violations), kickbacks, fraudulent billings, and conflicts of interest in the supplier and user chain.

Information obtained over the hotline may also provide valuable insight into management practices and operations, whether reported problems are actual or perceived. This means that issues raised by staff, contractors, residents, or family members, whether they deal with illegal activity or not, can all be of great value in helping guide the facility toward overall best practice. Examples of issues which could be raised in this manner might be the way in which staff are treated, breakdowns in the facility's logistical supply chain, examples of favoritism, or any of a host of non-criminal issues which may hinder the facility's operations.

In addition, hotline reports may reveal failures in company policies, such as security breaches, inadvertent understaffing, and other administrative issues. If left uncorrected, these types of issues may later take on more severe ramifications, as any action which might negatively affect the care given to residents can be construed as fraud, waste, and abuse by the OIG.

It is also important to ensure that the hotline reporting facility is available on a 24-hour basis, and that there is always a quick and thorough response to any allegation.

Having established the legal necessity of possessing a hotline, and of the nature of the information it is meant to convey, it is now necessary to map out the practical steps which must be taken to ensure that the hotline works properly. In order to make this happen, a facility should have policies and procedures in place to:

- Properly guide employees, contractors, residents, and resident families to whom and when they should be communicating compliance matters
- Ensure that everyone is confident that they can report compliance matters to management without fear of retaliation
- Ensure that everyone reports issues through the proper channels (to make sure they do not abuse the hotline for purely administrative issues)
- Ensure that everyone has the proper motives for reporting compliance matters on the hotline

These policies and procedures should help ensure that all employees, contractors, residents, and resident families are thoroughly educated on the purpose and use of the hotline.

Everyone who can use the hotline should have confidence that any genuine issue raised will be acted upon, and not ignored or covered up. This must include, for example, disciplinary action for corporate officers, managers, healthcare professionals, and other employees at all levels within the company who have failed to adhere to an organization's standards of conduct, federal healthcare program requirements, or federal or state laws.

In addition, it is important that any call to a hotline and subsequent investigation be fully documented. This is vital to demonstrate the effectiveness of a company's compliance program. All audit results, logs of hotline calls and their resolution, corrective action plans, due diligence efforts regarding business transactions, disciplinary actions, modification and distribution of policies and procedures, and records of employee training, including the number of training hours, must be secured and maintained. If a hotline service is outsourced, the compliance and ethics officer must ensure that incoming logs are provided directly and unchanged to company personnel, and that there is never any possibility of conflict of interest arising with regard to the outside service provider.

A hotline can be a powerful tool in the ongoing fight against fraud, waste, and abuse, and is beneficial to the good operating procedure of a long-term care facility. It can allow previously undetected issues to be brought to management's attention before it is too late.

Hotlines are only as good as the people behind them though, and should be answered by someone with direct compliance responsibilities and experience. All calls should be taken seriously, evaluated, and, if the issues raised show merit, acted upon. A facility must ensure that investigations which follow hotline calls are carried out to the highest possible standard.

All calls made must be taken seriously even if they at first seem to be frivolous. Calls can only be dismissed when fully peer-reviewed by the compliance and ethics committee, and even in such cases, full documentation of the reasons given for that decision must be maintained and included in any reports.

If the issue raised is clearly not frivolous, then a prompt investigation must follow. The results of the investigation—carried out according to the facility's preset policies—must be fully documented, and reported upward to the relevant authorities.

If the investigation finds that disciplinary steps are required, such procedures must be immediately instituted without fear or favor, and all necessary follow-up with relevant parties conducted in the shortest possible time. If the investigation results in any policy changes, these must be adequately communicated to everyone inside the organization, once again using the facility's established channels. Once the investigation is complete, an action plan must be developed to address all issues raised, and procedural changes implemented to prevent a recurrence of the same issue.

Finally, if, in the opinion of the compliance and ethics committee, any incidents raised on the hotline need to be reported to outside authorities such as the Department of Health or law enforcement, there should be no delay in that matter either.

## New, NAB/NCERS Approved Series On Data Security Now Available

This Data Security Program for Long-Term and Post-Acute Healthcare Professionals presents core knowledge for leaders in the field of long-term care management with regard to data security requirements. The information in the six modules in the series provides foundational and advanced information that enables leaders to establish data security programs by knowing what is required of them, their data security officer, their facility, and their staff. Upon completion of the program, learners will be able to demonstrate their proficiency, knowledge, and skill in the area of data security and program oversight for both resident and staff private information.

For information on ordering this new series on Data Security click on the link below that will take you to the Med-Net Concepts Store.

<https://mednetcompliance.com/store/product/nab-ncers-approved-course-on-data->

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