

## Nursing Facilities: New Voluntary Compliance Program Guidance From HHS Office Of Inspector General.

On March 16, 2000 the Office of Inspector General (OIG), U.S. Department of Health and Human Services, issued a Compliance Program Guidance document for nursing facilities.

The OIG has suggestions for nursing facilities' internal programs that encourage compliance with the Federal regulations the OIG enforces. Strictly speaking these are only suggestions and are not new binding regulations or new Federal standards for the nursing home industry.

The document is available in its entirety on the Internet from the OIG's website: <http://www.hhs.gov/org>.

The document is quite lengthy and is full of generalities. We would like to excerpt what we believe are some of the more concrete suggestions to be found within the document.

A nursing home should have a written mission statement. The mission statement should include a statement of the nursing home's commitment to patient care that complies with Federal standards and its commitment to prevention of fraud and abuse of Medicaid and Medicare funds and of patient's resources.

A compliance officer should be designated. The compliance officer will be the person directly responsible for the nursing home's adherence to Federal patient-care standards and for prevention of fraud and financial abuse. The compliance officer should report directly to top management, i. e. the owner, corporate board of directors or chief operating officer.

Once there is a compliance officer, effective lines of communication should exist between all employees and the compliance officer. There should be a way for the compliance officer to receive complaints anonymously and confidentially.

The nursing home should have a written policy that protects whistleblowers from retaliation. The compliance officer should be given the responsibility and the authority to prevent such retaliation.

The OIG encourages nursing homes to obtain all relevant Medicare and Medicaid manuals and to make them accessible to

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***The Office of Inspector General (OIG), U.S. Department of Health and Human Services has issued a Compliance Program Guideline for nursing facilities.***

***It contains the OIG's suggestions how nursing facilities can best establish internal controls to prevent fraudulent activities.***

***This Guideline is not mandatory. The OIG stated expressly that this Guidelines is intended only to encourage voluntary compliance and that the contents of the Guideline are not meant as new standards for the nursing home industry.***

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employees. For information how to obtain the manuals go to <http://www.hcfa.gov>.

The OIG encourages nursing homes to pay special attention to periodic Special Advisory Bulletins from the OIG which are posted at the OIG's website <http://www.dhhs.gov/progorg/oig/frdalrt/index.htm>.

Notices about specific problem areas the OIG will be looking for should be placed in the internal policies and procedures manual that is read by employees of the facility.

The OIG says employees who provide direct patient care should be educated that the OIG, HCFA, U.S. Justice Department and state enforcement agents are always on the lookout for certain special target areas of concern:

Absence of a comprehensive and accurate assessment of each resident's functional capacity and a comprehensive care plan that includes measurable objectives

and timetables to meet the resident's medical, nursing, mental and psychosocial needs;

Inappropriate or insufficient treatment and services to address residents' clinical conditions, including pressure ulcers, dehydration, malnutrition, bladder incontinence and mental or psychosocial problems;

Inadequate staffing levels and insufficiently trained or supervised staff;

Failure to provide appropriate services to assist residents with activities of daily living, e.g. feeding, dressing, bathing, etc.;

Failure to provide an ongoing activities program to meet the individual needs of all residents;

Failure to report incidents of mistreatment, neglect or abuse to the administrator of the facility and other officials as required by law;

Discriminatory admissions or improper denial of access to care;

Verbal, mental or physical abuse, corporal punishment and involuntary seclusion;

Inappropriate use of physical or chemical restraints;

Failure to insure that residents have personal privacy and access to their personal records upon request and that the privacy and confidentiality of those records are protected;

Denial of a resident's right to participate in care and treatment decisions; and

Failure to safeguard residents' financial affairs.

The OIG also has a long list of suggestions for instructing clerical employees who code and bill for services. The OIG has particular concern for Medicare Part A billing for nursing home residents who are not eligible, "upcoding" of residents' medical conditions to enhance reimbursement rates, and billing for items like combs, brushes, toothpaste, etc. that are included in the per diem rate.

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