

Compliance Plans Now Mandatory for Long-Term Care Facilities

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If you are a long-term care (LTC) facility that bills Medicare or Medicaid, you must have a corporate compliance plan for 2020.

This is the first full year that the Centers for Medicare and Medicaid Services (CMS) will require LTC facilities to have a compliance plan as a condition of participation. This mandatory requirement of the Affordable Care Act became effective at the end of 2019, with no further extensions.

This mandate requires LTC facilities to communicate their compliance plans to all staff - including contractors and volunteers - consistent with their compliance roles. This includes conducting training and orientation programs for staff, or the dissemination of written materials that adequately address each person's compliance-related functions. Also, staff must be given the ability to report compliance violations anonymously and without retribution. Facilities must enforce their compliance requirements by disciplining not only the violators, but also the managers responsible for failing to detect or report violations.

If your organization has five or more facilities, it must conduct annual compliance training for all affected staff. Written materials will not suffice. Also, it must designate a compliance officer for the entire organization, as well as compliance liaisons at each facility. The compliance officer must report directly to the organization's governing body on matters of compliance, not the CEO or general counsel.

Organizations with less than five facilities can assign compliance responsibilities to high-level managers or board members. However, these cannot be hollow assignments. They must be backed with adequate resources and authority to enforce compliance standards.

Seasoned veterans of the long-term care industry will recognize the similarity between these requirements and the Compliance Program Guidance for Nursing Facilities (and supplemental guidance) previously issued by the Office of Inspector General of the Department of Health and Human Services. This prior guidance still provides good overall recommendations for an effective compliance program, but now these compliance guidelines are mandatory.

Facilities should expect that surveyors will request and inspect their compliance plan and supporting policies, as well as training materials, compliance hotline and other components of an effective compliance program. An initial step is to create or update the organization's compliance binder to include the compliance plan, code of conduct and supporting policies. These policies should include audit, training, discipline, non-retaliation, billing, record-keeping and other policies necessary to meet the minimum standards. Ideally, these policies should cross-reference each other, and work together, so that they not only satisfy the surveyors, but also provide staff with clear guidance concerning their compliance responsibilities and the organization's overall commitment to compliance.

If you have any questions about these new requirements, or how best to establish an effective corporate compliance plan, please [contact me](#) or anyone in the [Barley Snyder Senior Living Industry Group](#).

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