In this month’s edition of Compliance Matters, we introduce the fourth element of an effective compliance program: Open Lines of Communication. The best planned and most comprehensive compliance program will be rendered ineffective if staff aren’t aware of it or lack clarity about their role within the compliance framework. You’ll want to ensure that the agency’s standards of conduct, internal compliance, and quality assurance activities and expectations are distilled throughout the organization, including the Board of Directors. What mechanisms does your agency have in place to facilitate communication with staff? Do you have a means to provide for anonymous reporting of suspected fraud, waste and abuse? Does the agency’s Board of Directors understand the role they play? These are just a few key questions to consider as you continue to develop and enhance your compliance programs.

Getting the message out to your employees and stakeholders will make your program more sustainable and, over time, create a culture of compliance and ethics within your organization.

Thank you to everyone who participated in our November 9th Compliance Forum. We had great representation from across the network and really outstanding presenters. Please check the DBHIDS website, under the Compliance page, for the speaker presentations. We are reviewing the evaluations and will update you on the 2017 planning process in future editions.

Enjoy,

Donna E.M. Bailey
Chief of Staff & Compliance Officer
Be prepared, the new year will likely mean a request to have another network update of provider staff rosters. There have been some slight modifications to the staff roster template. The most current version of the CBH Staff Roster template is always available on-line at:

http://dbhids.org/providers-seeking-information/community-behavioral-health/cbh-compliance/

Also in the coming weeks, CBH providers will receive a request to attest that all staff are meeting the training requirements for their positions. Obviously, there are different training requirements based on the position held. For example, training requirements for some BHRS positions are far greater than say for an outpatient therapist. You can see the complete list of required trainings in our Manual for Review of Provider Personnel Files (MRPPF) available at the same link provided earlier.

NPAU staff are exploring the potential of using DBH IDS e-learning resources to help streamline both the staff roster requirements and provision and tracking of trainings for individual staff. We will keep you posted on our progress in this section in coming newsletters!

From the Junk Drawer...

A true hodge-podge of things for this edition from the junk drawer!

Compliance shifted from mailing hard copy result and resolution letters to e-mail delivery. This was done for several reasons that included reducing costs, reducing the risk of mis-delivered mail and to try to combat the number of instances when providers reported not receiving hard copy results sent via the postal service. This also allows us to send the electronic version(s) of associated spreadsheets. Hopefully, this makes the process of responding to the audits easier for both our providers and the compliance staff who review them. There are two crucial steps that our providers can take to help make sure this process is successful. First, please ensure that your e-mail contacts are current and accurate by reporting any changes to your assigned Provider Relations Representative. Second, if you have not already done so, please register with Protected Trust as all reports will be sent via this service to meet HIPAA requirements.
The 2016 CBH Provider Satisfaction Survey is live!! The survey can be accessed using this link:


PLEASE take a moment to let us know how we are doing. We have added new questions related to compliance this year and truly value your feedback! And unlike when I point out to my wife that one time in a month I do the dishes, we are not just looking for positive strokes! We want your honest feedback on not only what works well but where we may fall short and have room to improve. You have the option to complete sections that are relevant to you and skip those that are not. So if your work at your agency is limited to Compliance and you only want to respond to those questions, you may!!

A Provider Notice was posted on November 18th related to group size limits. This topic was also covered in the inaugural edition of Compliance Matters back in the summer of 2015. The notice can be found on-line on our webpage at:


Highlights of the notice include reaffirming that traditional group therapy is capped at 10 clients. Psycho-ed groups, while not permitted to be billed as a stand-alone service, are capped at 15 clients when conducted as an adjunct to other more traditional treatment modalities (individual therapy for example). Our providers must have a mechanism in place to ensure that reviewers can determine the number of group participants, being cognizant of privacy concerns and regulations.

CBH Compliance has two new additions! Emily Junod joins our team as of November 28th! Emily will serve primarily as Compliance Analyst on the Routine Investigative and Training Unit (RITU). Emily comes to us after most recently working in CBH’s Clinical Management on the Children’s UR team. Andrew Robertson joins Compliance on December 5th as a Compliance Analyst assigned to the Special Investigative Unit (SIU). Andrew is likely familiar to a number of our providers as he comes to us from the Network Improvement and Accountability Collaborative (NIAC).

More Compliance staff good news as Marie Raupp becomes the latest CBH Compliance staff to earn a certification related to healthcare compliance! Marie, our Manager of Compliance, successfully passed the Certification in Healthcare Compliance (CHC) exam earlier this year!

Did you know that CMS provides information on their website to help physicians avoid committing fraud in the Medicare and Medicaid systems? Their guide can be found here:

I should provide a disclaimer before I start. I am not an attorney and I did not even stay at a Holiday Inn Express last night, nor do I play an attorney on TV. If you or your agency have specific questions about the legal ramifications of the Yates memo, you should consult with your counsel.

In September 2015, Sally Quillian Yates, Deputy Attorney General, sent a memo to essentially all Department of Justice (DOJ) staffers directing the DOJ to more vigorously pursue individual actors in fraud cases. For years in healthcare compliance the outcome of most fraud investigations that were determined to be founded included settlements that resulted in the entity entering into a Corporate Integrity Agreement (CIA). In some cases, entities were excluded from further participation in Federal programs but it was comparatively rare to have individuals held accountable for fraudulent activities. High profile cases such as the Enron scandal frustrated many in the public for the lack of individual accountability for fraudulent activities.

The 2015 Yates memo, which can be seen at the link provided at the end of this article, attempted to change the focus of DOJ investigations. What are some of the important take-aways from the Yates memo for our provider network?

First, I anticipate an even greater utilization of individual exclusions as a result of the memo. As DOJ agents identify an increasing number of individuals that can be shown to have been instrumental or complicit in committing fraud, those individuals will face the probability of being excluded from future participation in the Federal healthcare system. This will increase the need for our providers to be diligent in the screening of ALL staff and contractors against the three exclusion lists noted in the Summer 2015 issue of Compliance Matters. In fact, that trend appears to have already started as there have been over 10,000 new exclusions entered into the LEIE database.

Second, it is clear that meeting the 7 required elements of an effective compliance program will no longer be ‘enough’ to avoid treble damages and penalties levied by DOJ. Rather, that becomes the base and NOT meeting the requirements of the seven elements will be viewed as a failure to meet minimum standards. Providers will need to be even more diligent in ensuring that internal auditing and safeguards are effective in uncovering individuals who may be attempting to or committing fraud. The agency will need to then self-report those individuals to receive ‘cooperation credit’.

Third, there is likely to be an increase in DOJ investigations leading to criminal prosecution cases. The memo clearly requires that civil and criminal attorneys for the DOJ remain in routine contact and consultation with each other. Couple this with the provision that absent exceptional circumstances, cooperation credit for an agency will not extend to individuals, and the stage seems to be set for an increase in the DOJ pursuing criminal convictions for individuals involved.

I strongly encourage our providers and their Boards to review the Yates memo in its entirety. Take steps now to ensure that your agency is actively screening for excluded staff and contractors and equally importantly, know the steps to take if a staffer or contractor is found on the list. Now would also be a good time for a thorough review of your agency’s policies and practices to ensure that your internal compliance program effectively screens for potential fraudulent activities by your staff.

- Ken Inness, Director of Compliance


Yates Memo:
https://www.justice.gov/opa/file/769036/download
It’s Elementary...

Compliance Matters will use this column to publish an article each quarter regarding one of the seven core elements of a successful compliance program, as outlined by provisions in the Patient Protection and Affordable Care Act 42 U.S.C. § 18001 (2010)

We have made it to the fourth installment of our series reviewing the seven elements of an effective compliance plan. This installment deals with the importance of maintaining open lines of communication.

We live in an age with an unprecedented variety of communication options. You can actually make a telephone call from Daybrook, West Virginia without the need to use the less than desirable phone booth! When we are talking about open lines of communication related to a compliance plan, we are not referring to the ability to call from northern Marion County or being able to check your Farmville crops from the rim of the Grand Canyon (PLEASE, no Farmville requests). Rather, we are focused on two fairly distinct concerns specific to an agency’s compliance plan.

First, there must be a clear line of communication between the compliance department and the agency’s Board of Directors and/or executive leadership. The generally accepted best practice for compliance departments is to have the compliance department report directly to the Board of Directors. This can be accomplished in a number of ways, ranging from regular reports to the entire Board, to the establishment of a Board Compliance Committee. It is also important that compliance concerns are reported to the executive leadership of the agency and that these reports are prioritized for review and, when appropriate, action by the leadership of the agency. At the most basic level, this also means that agencies should adopt clear, open-door policies for the reporting of concerns to any executive in the agency and the adoption of clear non-retaliation policies for employees reporting concerns in good faith.

Second, agencies must take steps to ensure that there are multiple avenues to report concerns to the compliance department. Some employees may not be comfortable approaching an executive director or Board member to report a concern. This does not make their concerns any less valuable. There are a variety of ways for agencies to encourage reporting and foster an environment of “if you see something, say something”. This may include any of the following:

- Establish a Compliance phone hotline
- Adopt mechanism for phone hotlines to allow callers to place messages directly into voicemail rather than speaking with a staff person
- Ensure that hotlines are staffed by individuals who can communicate in the languages represented in the agency, or easy access to quick translators for phone referrals
- Establish e-mail tip mailboxes
- On-line portals for reporting concerns by staff and clients

The establishment of the various ways to report concerns is only the first step. It is also important for each agency to have clear policies and procedures related to how reports are logged, triaged, investigated, and referred outside the department when necessary. Additionally, the compliance department must maintain a record of the reports received and any follow-up taken as a result of the report.

Setting up a varied array of entry points for reports only to not act on reports received is just as bad as not having the mechanism in place. There may be instances that require investigations that lead to unpleasant discoveries resulting in financial impacts to the agency. It is always better to deal with these as early as possible. It is becoming increasingly difficult for you to find a corner of the earth where you can hide from problems. After all, the “dead zone” in Daybrook doesn’t even exist anymore!

- Ken Inness, Director of Compliance
**Matt’s Melted Snowman Bark**

Ingredients: White melting chocolate, mini Reese’s cups, Wilton candy eyes, orange sprinkles, red hot candy, pretzel sticks, and wax paper

1. Line cookie tray with wax paper
2. Melt chocolate according to directions
3. Cut bottoms of Reese’s cups and put back together slightly off alignment to give a “hat” look
4. Pour chocolate on baking mat and spread using spatula
5. Place “snowman” parts on top of the chocolate
6. Place in refrigerator for 10 minutes to set
7. Break in to pieces and Enjoy!

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**Ken’s Famous Pizza!**

1. Open App on Smart Phone to Favorite Pizza Joint.
2. Select closest shop to your current location.
4. Wait for knock on door.
5. If necessary, make self presentable.
6. Open door when representative from shop arrives.
7. Pay and Tip representative from shop in exchange for your pizza
8. Enjoy your pizza.

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**In the next issue:**

- CBH Compliance 2017 Work Plan
- Compliance Auditing and Monitoring
- 1+1 = 10 (Part Three!)

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Suggestions for future Compliance Matters features? Want to subscribe (it’s FREE)?

Contact Matthew Stoltz at [Matthew.Stoltz@phila.gov](mailto:Matthew.Stoltz@phila.gov)

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1-800-229-3050 or

CBH.ComplianceHotline@phila.gov
PUZZLING!

Word List:
- Attestation
- Communication
- Eagles
- Halloween
- Trainings
- Bulletin
- Costume
- Foliage
- Pumpkin Spice Latte
- Turkey
- Candy
- Cranberry
- Gratitude
- Sheetz
- Yates
- Thanksgiving
- Xtras