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MAY 2019

Are You Prepared For The 2019 Nursing Home Compliance Program Mandate?

On November 28, 2019, skilled nursing facilities (SNF) and nursing homes will be required to adopt and implement a compliance program as a condition for participation in Medicare and Medicaid. On that date, state survey agencies will begin reviewing nursing homes' implementation of effective compliance programs. It is expected this will be an aggressive area of enforcement, so it is important to make sure your SNF and nursing home compliance program is satisfactory. The mandate identifies elements of an effective compliance program, including:

1. Compliance program structure and oversight;
2. Implementing written policies and standards of conduct;
3. Conducting effective training and education;
4. Developing effective lines of communication;
5. Enforcing standards through well-publicized disciplinary guidelines;
6. Conducting internal monitoring and auditing; and
7. Promptly investigating complaints and detected offenses and developing correcting action.

Following these general guidelines will help SNFs and nursing homes meet the new mandate requirements. However, there is not "one size fits all" compliance program. Each program should be tailored to the specific organization. The mandate also requires training for all employees to help create a culture of compliance within the nursing facility.

Each entity will be required to have a designated compliance officer for larger organizations (those with five or more facilities), as well as a designated compliance liaison at each facility of the larger operation. The compliance liaison cannot float between facilities: There must be a liaison at each facility if the organization has five or more facilities. If the organization has less than five facilities, it does not need a compliance liaison at each facility. The compliance officer can have another role, such as a quality assurance coordinator or a grievance officer. However, the compliance officer

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cannot be a subordinate to the CEO, CFO, or general counsel. The compliance officer can also be an outside consultant.

Having a designated compliance officer will help nursing facilities meet the mandated requirements and further the purpose of the compliance mandate. The compliance program mandate is intended to help prevent accidental and intentional violations, detect violations when they occur, and correct non-compliance. Implementing an effective compliance program can reduce your facility's risk of financial and legal exposure, enhance quality of care and resident satisfaction, and boost the facility's reputation within the community. Thus, it is important and mandatory to review and implement an effective compliance program.

Many SNFs and nursing homes have a compliance program in place. However, it may not meet all of the new requirements imposed by CMS. A review of your current compliance program is recommended in order to meet this new mandate.

Health Education Strategies, Inc. (HESI) and Peak Performance Physicians, LLC (Peak) have developed resources to address these compliance requirements ranging from the initial development and implementation of a corporate compliance program to providing an assessment of an existing compliance plan to serving the role as the designated compliance officer. The fees for these services vary depending upon the scope of work.

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