



**Compliance Investigations  
Beyond the Basics**

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**Objectives**

- Preparation is the key.
- Provide insight on key aspects of finding the answers.
- The interview is more than just the questions.

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**Definition**

Investigation.....careful inquiry or research...**fact finding**....information gathering.



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Tools & Techniques


**Preparation**

**Fail to prepare**

**Prepare to Fail**



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Tools & Techniques

Policy & procedure



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**When Must You Investigate**


Any time there is:

- A potential for harm to a patient
- An allegation of a violation of law
- A report of improper conduct
- A potential for a government overpayment
- A potential for an overpayment by any other third-party payer
- A potential for whistleblower activity



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**Tools & Techniques**

**Investigation Guide**

Who?  
What?  
Where?  
When?  
Why?  
How?



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**Scenarios**

1.) There is an allegation that the Director of Food Service is using a non-approved provider and the cost for product is significantly higher.

2.) There have been complaints against the Director of Security alleging falsification of safety inspection documentation.

3.) There is an allegation by a vendor that the organization is using another vendor because it is owned by a physician.

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**Tools & Techniques**


**Attorney Client Privilege**

›When

- Discuss with counsel?
- Potential for publicity?
- Prior to beginning investigation?
- Severity of allegations?
- When you realize it is big?



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### Tools & Techniques

#### Attorney Client Privilege

- For legal advise in anticipation of litigation
- How is it Obtained?
- Request from the attorney
- You can request it orally or in writing
- How to avoid waiving it once created
- Mark the top of your email "Attorney-Client Privilege"
- Do not copy/forward or otherwise disclose to unnecessary recipients
- Instruct recipients accordingly - shows intent that if be privileged
- Can copy all necessary parties within corporation and agents thereof who are assisting the attorney



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### The Investigation

#### How is the concern or complaint received?

- In person, telephone, letter, hotline call, from administration, email, colleague, exit interviews, audits
- Anonymity



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### The Investigation

#### Analyze complaint or concern:

- Is there an impact on patient safety, health or quality of care?
- Immediate notification(s) needed?
- What is really going on?
- Changing facts –fact finding
- Detailed description of issue



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### The Investigation

Analyze complaint or concern (cont.)

- Individuals involved-who knew, who should have known?
- Is there monetary impact?
- Based on information initially received, is there any activity/behavior that needs immediate intervention?
- Practice continues or has it stopped?




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### The Investigation

Decide what resources are required

- Subject matter experts
- Additional investigators
- Others based on complexity, sensitivity or nature of the issue




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### The Investigation

Other resources:

- Legal counsel
- Auditors
- Medical or clinical personnel
- Risk Management
- Revenue Cycle/PFS
- Security or Law enforcement
- HIPAA/Privacy/Security
- Human Resources




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### The Investigation

➤ Develop investigative plan and strategy

Who      What  
When     Where  
Why      How

➤ Now is the time to determine what documentation you will need to review.



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### The Investigation

➤ Review of documents – may include:

Personnel records, Medical records  
Billing records, Accounts Payable, Policies,  
Regulations  
Contracts, Leases, **Emails**, Letters to file, Call  
schedules, Work schedules,  
IT usage/access logs



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### The Interview

Conduct Interviews:

➤ Select order of individuals to be interviewed - in most if not all cases, interview the complainant **first**.

➤ Possible witnesses

➤ Subject of investigation – in most cases interview the subject **last**.



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### The Interview

- Who
- Union
- How many
- Room set-up
- Location
- Equipment
- Notes



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### The Interview

- Set the tone
- Questions
  - Based on pre-interview preparation
  - Open ended
  - Develop additional questions based on answers
  - Observe the interviewee

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### The Investigation

**Maintaining Documentation Requirements:**

- Report Details
  - Incident Database
  - Narrative Format
    - ✓ Event
    - ✓ Documents Gathered
    - ✓ Interviews
    - ✓ Findings (based on facts)
- Distribution of Documentation

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### The Investigation

- Prepare analysis and conclusions
- Analyze/review all notes and documents
- Are more interviews or re-interviews needed?
- Are conclusions substantiated?
- Prepare draft report.
- Provide to counsel.



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### The Investigation

- Take appropriate action
- Ensure appropriate action is taken
- May include disciplinary action and/or corrective actions such as process change, policy change, **refund**, counseling, education, follow up auditing/monitoring



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### Common Problems

- Failure to understand the issue and its ramifications
- Not identifying who is going to be in charge of the investigation
- Not clarifying who will participate in the investigation and their roles



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### Common Problems

- Assigning the investigation to someone with an interest in the outcome
- Assigning the investigation to someone who may have been part of the problem
- Failing to keep senior management advised of the existence and nature of the investigation
- Losing the privilege



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### Common Problems

- Failure to create records which are important to the investigation
- Failure to preserve records which are important to the investigation
  - .Interview notes
  - .Interview summaries
  - .Schedule of interviews
  - .Information supporting conclusions
  - .Circulated draft reports
  - .Expert reviews
  - .Reports to executive leadership



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### Summary

#### Preparation



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### Summary

- Identifying issues requiring investigation
  - .Clarifying the underlying issues
- Planning the Investigation
  - .May involve cooperation with other departments (compliance, legal, risk, etc.)
- The Investigation
  - .Fact-finding
  - .Preserving evidence, conducting interviews, maintaining documentation, making recommendations




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### Summary

#### Policies & procedures




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### Questions



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