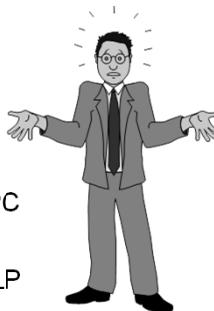


Compliance Investigations Beyond the Basics

HCCA Puerto Rico Regional 2017
Dwight Claustre, CHC-F, CHRC, CHPC
Director
Aegis Compliance & Ethics Center, LLP



Objectives

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



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



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



Tools & Techniques

Investigation Guide

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



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.

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?**



Tools & Techniques

Attorney Client Privilege

- For legal advice 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 it be privileged
 - Can copy all necessary parties within corporation and agents thereof who are assisting the attorney



The Investigation

How is the concern or complaint received?

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



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



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?

The Investigation

Decide what resources are required

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



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

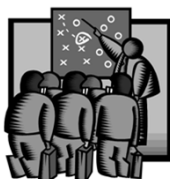


The Investigation

- Develop investigative plan and strategy

Who	What
When	Where
Why	How

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



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



The Interview

- Set the tone
- Questions
 - Based on pre-interview preparation
 - Open ended
 - Develop additional questions based on answers
 - Ask to repeat

The Investigation

Maintaining Documentation Requirements:

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



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.



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



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

Summary

Policies & procedures



Questions



dclaustre@aegis-compliance.com
623-866-9106

