

How the Affordable Care Act Impacts Compliance and Ethics Programs of Long-Term Care Facilities

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As the US population continues to age, the Affordable Care Act (ACA) is taking a hard look at long-term care (LTC) facilities in an effort to improve patient care and financial responsibility. Faced with greater scrutiny and pressures to comply with stringent quality-of-care regulations, LTC facilities are looking for ways to drive greater efficiency, especially as more patients gain access to health insurance in the coming years. With the implementation of health care

reform, many anticipate industry-wide consolidation and major adjustments to payment structure and payer contracts for health care services as a result of broader integrated care.

To bolster oversight and accountability, Section 6102 of the ACA requires owners, operators, and administrators of LTC facilities to adopt effective compliance and ethics programs that prevent and detect criminal, civil, and administrative violations and promote quality of care. By now LTC facilities should have evaluated and modified their compliance programs to include the below measures.

ACA Compliance Program Requirements

The ACA provides a general accountability overview that requires LTC compliance programs to have included the following eight components by March 23, 2013:

- Develop compliance standards that reduce the prospect of criminal, civil, and

administrative violations.

- Identify executive personnel within the organization to assure compliance.
- Avoid assigning responsibility to individuals likely to commit criminal, civil, or administrative violations.
- Communicate compliance standards to employees and agents through publications and training.
- Implement measures to achieve compliance, such as monitoring and auditing procedures to detect noncompliance.
- Consistently enforce compliance standards, including effective disciplinary mechanisms in the event of noncompliance.
- Apply mechanisms that correct noncompliance and prevent recurrence of noncompliance.
- Periodically assess compliance programs to determine if modifications are necessary

based on changes within the organization.

The US Department of Health and Human Services and the Office of Inspector General (OIG) have been appointed to provide comprehensive guidelines for LTC facilities. While no specific guidelines have been proposed to date, this doesn't exempt LTC facilities from implementing effective compliance and ethics programs.

Until the official regulations become available, in addition to the above, LTC facilities should reference the OIG's previously issued compliance program guidelines for nursing facilities in 2000 and supplemental compliance program guidelines in 2008 for further guidance and information on an effective compliance program. Furthermore, LTC facilities should regularly evaluate their compliance protocols and internal controls to monitor adherence to ACA regulations and program requirements.

ACA Transparency Provisions

The ACA also includes provisions to improve transparency around LTC business operations. The Centers for Medicare & Medicaid Services (CMS), which oversees these provisions, hasn't yet published final regulations or time frames for reporting the information. However, LTC facilities should start planning ahead now. Three critical areas LTC

owners and administrators should be prepared to disclose include:

Ownership and Financial Relationships

The ACA requires nursing homes to disclose detailed information about their organizational structures and entities and individuals with at least a 5 percent ownership interest. In addition, nursing homes must disclose individuals and entities that provide governance, management, administration, operational, financial, and clinical services, including consultants.

Nurse Staffing

The ACA requires LTC facilities to provide accurate data on nurses and other care staff from payroll records, agency contracts, and cost reports. Eventually LTC facilities will be asked to report the total number of residents, resident case mix, turnover and retention rates, and daily hours of care provided by each direct care employee category for both regular and contract employees.

Financial Information

The ACA requires LTC providers to categorize, in detail, expenditures from all payment sources on their cost reports and indicate whether the expenses are for:

- Direct care, including nursing, therapy, or medical services

- Indirect care, including house-keeping and dietary services
- Capital expenses, such as building and land costs
- Administrative services

CMS is expected to make the expense data available to the public later this year. Further guidance will likely be released later this year as well, including an outline of what makes an effective compliance program.

We're Here to Help

Moss Adams LLP will continue to monitor for any ACA developments and issue alerts as they happen. In the meantime, to assess how the ACA will impact your organization and for questions about how to comply with the upcoming regulations, please contact your Moss Adams health care professional.

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See more at: <http://www.mossadams.com/Articles/2013/May/ACA-Long-Term-Care-Mandates#sthash.qkHtu3Ni.dpuf>

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