

Therapy Check-In: Keeping Compliance in Focus

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Why Compliance Matters

Regulatory Requirements



- ◆ Compliance with local, state, and federal regulations is mandatory
- ◆ Highlighted in OIG work plan

Safety and Risk Management



- ◆ Adherence to standardized protocols and best practices
- ◆ Mitigating risks through regular risk assessments and implement corrective action plans






Quality Care



- ◆ Ensures consistent, high-quality care that leads to improved resident experience and outcome

Benefits of a Good Compliance Program



-  1 Increase the potential of proper submission and payment of claims
-  2 Reduce billing mistakes
-  3 Improve the results of reviews conducted on Medicare claims
-  4 Avoid the potential for fraud, waste and abuse
-  5 Promote resident safety and ensure delivery of high quality resident care



Key Compliance Standards

- ◆ Federal and State Regulations
- ◆ HIPAA Privacy and Security
- ◆ Employee Screening and Employment Laws
- ◆ State Licensing and Certification
- ◆ State Practice Act



Therapy Models

Contracted

Therapy services are provided by an external company contracted by organization.

In-House

Therapy services are provided by therapists who are directly employed by organization.

Management Agreement

Therapy services are provided by organization's own therapists and management support is contracted.



Advantages

Challenges

Contracted

- Reduced Administrative Burden
- Resources & Specialization

- Community Integration
- Quality Control

In-House

- Cost Management
- Direct Control
- Team Cohesion

- Administrative Burden
- Limited Resources & Specialization

Management Agreement

- Resources & Specialization
- Direct Control

- Accountability



Similarities across all models



1

Provide high-quality care and improve the residents' quality of life

2

Adhere to the same federal and state regulatory standards and guidelines

3

Effective collaboration with other healthcare providers

4

Liability remains with organization

7 Elements of an Effective Compliance Program

Written Policies and Procedures

Compliance Leadership and Oversight

Training and Education

Effective Lines of Communication

Risk Assessment, Auditing and Monitoring

Enforcing Standards

Responding to Offenses and Corrective Action





Written Policies and Procedures Code of Conduct

Articulates the organization's expectations of employees & summarizes basic legal principals related to compliance

Employees & new hires should sign certifying they have received, read and will abide by code of conduct

- On hire
- Annually

Maintain uniform written standards and procedures, which identify applicable laws and regulations, provide guidance relating to potential risk areas



Policies and Procedures



- ☒ Documentation standards
- ☒ Amending documentation in EMR
- ☒ Billing and coding
- ☒ Quality Assurance
- ☒ Storage, retention and disclosure of resident records
- ☒ Therapeutic modalities
- ☒ Telehealth
- ☒ Clinical internships



● ELEMENT 2



Compliance Leadership and Oversight



Appoint an individual or individuals who oversee the implementation and day-to-day operations of the compliance program



- ◆ Serves as focal point for compliance activities
- ◆ Unfettered access to President, CEO, owner, governing body, other senior management and legal counsel
- ◆ Integrity and objectivity not to compromise the program
- ◆ Provides guidance and support

**COMPLIANCE
OFFICER**

A background image showing a group of business professionals in a meeting room, seated around a large conference table with microphones and documents.

Compliance Program Oversight

Approving
Standards of
Conduct

- Understanding and administering the compliance program structure

- Being informed about the outcomes of audits and monitoring

- Reporting on compliance enforcement activity

- Reviewing and performing effectiveness assessments of the compliance program



New hire orientation

- Compliance program overview
- Full code of conduct
- Initial signed attestation
- Hotline access and use
- HIPAA privacy and security

Annual training

- Compliance program updates
- Review of code of conduct
- HIPAA updates



Effective Lines of Communication

Access to the
Compliance Officer

- ◆ Available to all employees, independent contractors, residents and family members
- ◆ Prominently posted in common areas
- ◆ Allows community opportunity to correct errors and omissions without government oversight
- ◆ Provides ability to report anonymously
- ◆ Reduces potential for whistleblower actions

Risk Assessment, Auditing and Monitoring



Conducted at least annually

Identify, analyze, and respond to risks

Include risks from a variety of external and internal sources

Create a work plan around areas of risks



Potential Risk Areas

- ◆ Coding and billing
- ◆ Reasonable and necessary services
- ◆ Documentation
- ◆ License and certification renewals
- ◆ Exclusion screenings
- ◆ Incentive plans





What to Audit

- ◆ Physician certifications
- ◆ KX utilization
- ◆ CO/CQ modifiers
- ◆ Progress notes every 10 visits (Medicare B)
- ◆ Sanction Screenings
- ◆ License and certification renewals
- ◆ Compliance training

Auditing

- Formal, systematic review of processes, documents, and practices
- Periodic, comprehensive, and prospective or retrospective
- Completed by independent party

Monitoring

- Ongoing, continuous oversight of operations
- More proactive and real-time
- Completed by department staff and report to operations leadership or compliance officer



Therapist Visit Requirements Report

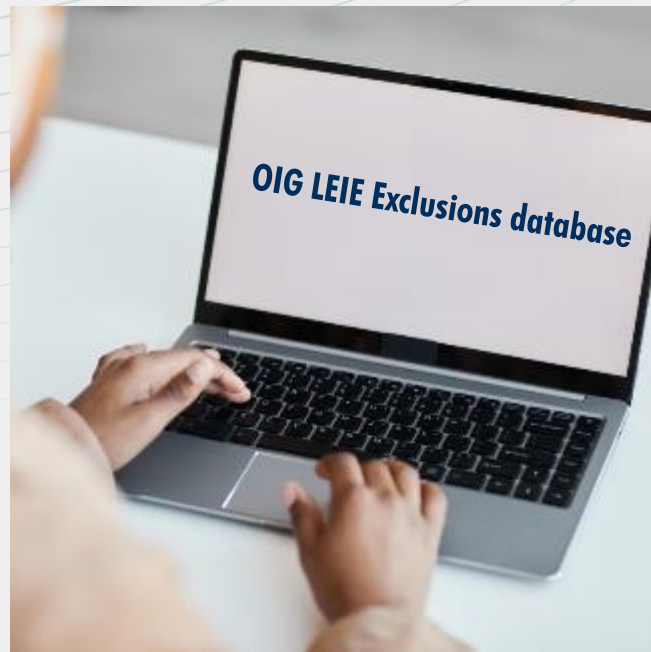
Patient Name	Discipline	LTV	Visits Since LTV	Visits Remaining
Buffay, Phoebe	PT	08/07/2024	1	8
Burke, Richard	OT	07/24/2024	9	0
Geller, Monica	OT	08/02/2024	1	8
Geller, Ross	PT	08/13/2024	0	9
Green, Rachel	OT	07/25/2024	7	2
Hostenstein, Janice	ST	08/07/2024	2	7
Tribbiani, Joey	PT	07/16/2024	5	4

Physician E-Signatures

Discipline: PT							
Document Sent for Physician Signature	Document Type	Document Status	Signing Provider	Status Change Date	Days In Queue	Therapist Name	Patient Name
8/3/2024 4:34 PM	Recertification	Pending	Howser, Doogie	8/13/2024 4:34 PM	1	Crane, Frasier	Kent, Clark
8/7/2024 4:32 PM	Recertification	Pending	Howser, Doogie	8/14/2024 1:52 PM	28	Crane, Frasier	Prince, Diana
8/5/2024 5:27 PM	Evaluation	Signed	Howser, Doogie	7/16/2024 4:51 PM	1	Crane, Frasier	Stark, Tony
8/5/2024 4:31 PM	Evaluation	Pending	Howser, Doogie	7/25/2024 4:31 PM	20	Moon, Daphne	Parker, Peter
8/7/2024 10:50 AM	Recertification	Pending	Howser, Doogie	7/27/2024 10:50 AM	18	Moon, Daphne	Odinson, Thor
8/10/2024 4:25 PM	Evaluation	Pending	Howser, Doogie	8/10/2024 4:25 PM	4	Moon, Daphne	Wayne, Bruce



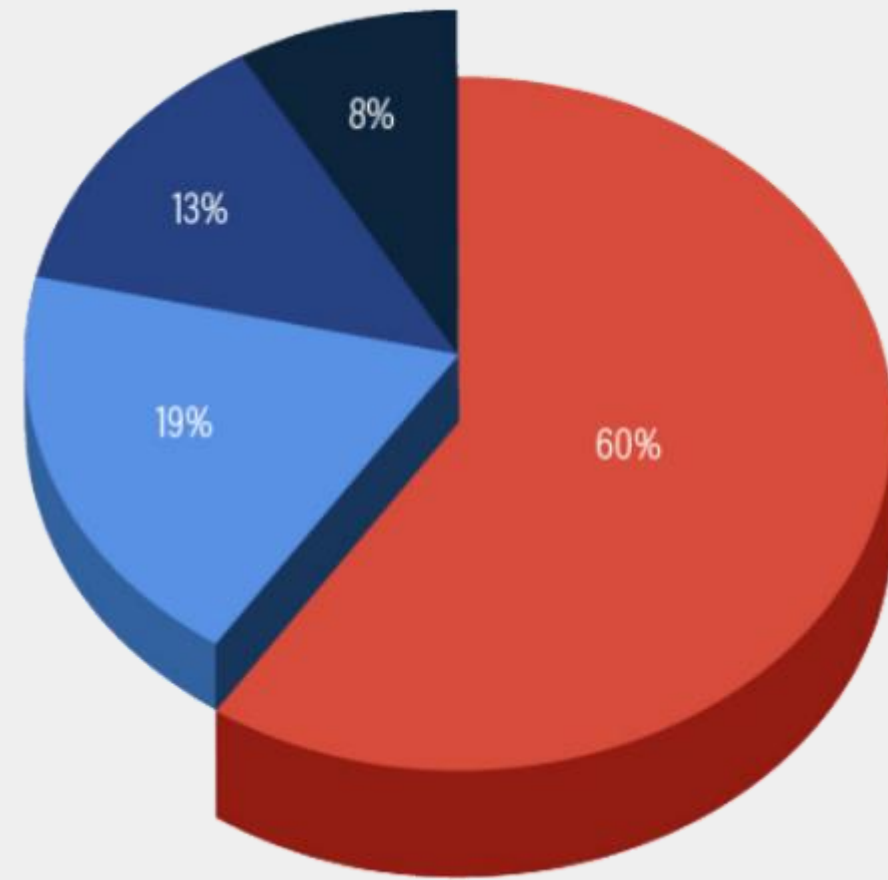
Monthly Sanction Screening



- ◆ All employees on hire and ongoing
- ◆ All vendors and contractors upon engagement and ongoing
- ◆ Exclusion Lists
 - OIG Exclusion Database
 - System for Award Management
 - State Medicaid Provider Exclusion List
- ◆ Prohibited from hiring or contracting with individuals or entities that are excluded from participation in Federal or State healthcare programs
- ◆ Organization is subject to significant fines and penalties

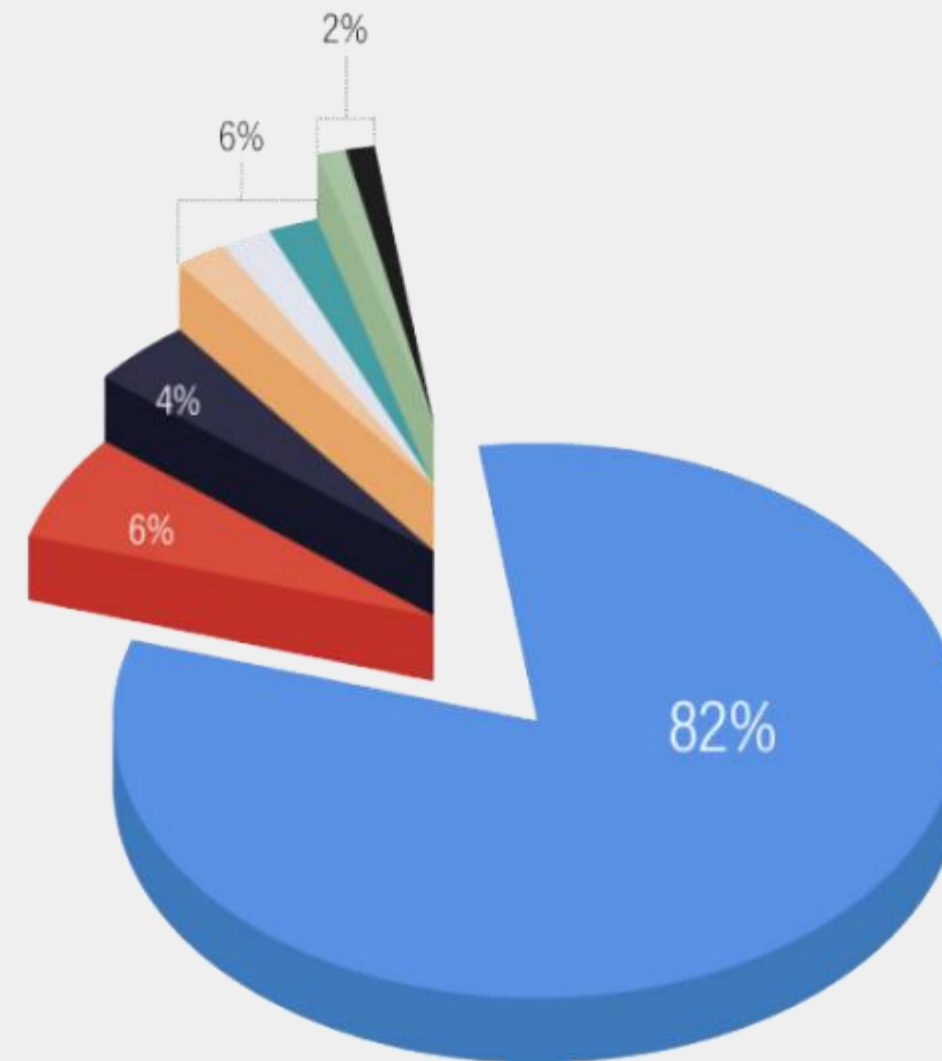


OIG List of Excluded Individuals/Entities 2023



Mandatory Exclusions

1128a1: Conviction of program-related crimes. Minimum Period: 5 years	23806
1128a2: Conviction relating to patient abuse or neglect. Minimum Period: 5 years	7630
1128a3: Felony conviction relating to health care fraud. Minimum Period: 5 years	5219
1128a4: Felony conviction relating to controlled substance. Minimum Period: 5 years	3262



Permissive Exclusions

1128b4 License Revocation or Suspension	31649
1128b14 Default on Federal Loan Obligation	2225
1128b8 Entity Controlled by Sanctioned Party	1496
1128b1 - Misdemeanor HCF or other Felony	888
1128b5 Exclusion or Suspension State Health Program	804
1128b7 Fraud or Kickbacks	698
1128b3 Misdemeanor Drug Conviction	322
Other Permissive Exclusions	219



Enforcing Standards



An effective program should include disciplinary policies that set out consequences of violating standards of conduct, policies and procedures



Intentional noncompliance should result in appropriate discipline



All employee levels should be subject to the same types of discipline for similar offenses



ELEMENT 6

- ◆ Job description and performance evaluations linked to compliance
- ◆ Clear Policies and Procedures
- ◆ Regular audits and corrective action plans as needed
- ◆ Mandatory staff training and continuing education
- ◆ Use of technology to ensure compliance



Methods for Upholding Standards

Response and Prevention – Investigative Tools

● ELEMENT 7

Responding to Offenses and Corrective Action

Document review

Policies and procedures related to topic

Prior QAPI or similar audits

Training related to the topic

Probe audits

- Initiated once potential issues are identified
- Expanding a sample provides a more realistic estimate of the scope of the problem



ELEMENT 7

- ◆ Findings from routine audits that reveal potential compliance concerns
- ◆ Staff report or hotline call
- ◆ Licensure issue
- ◆ Staff listed on the exclusion list
- ◆ Payment error
- ◆ Government audit



TARGET
PROBE &
EDUCCATE

What Could Trigger an Internal Investigation?

Responding to Offenses and Corrective Action

- ◆ If credible evidence of misconduct is found, organization must notify the proper government authority
- ◆ Prompt self-reporting will demonstrate good faith effort
- ◆ Repay any overpayments received from Medicare or Medicaid within 60 days after identification

Assessing Compliance Effectiveness



Evaluation of how a compliance program performs during the organization's day-to-day operations becomes the critical indicator to determining whether a program is effective and consistent with CMS requirements



Therapy Compliance Challenges

Adherence to
federal and state
regulations



HIPAA
Compliance



Quality of Care
and Compliance
Monitoring



Staff Training and
Competency



Risk Management



Reimbursement



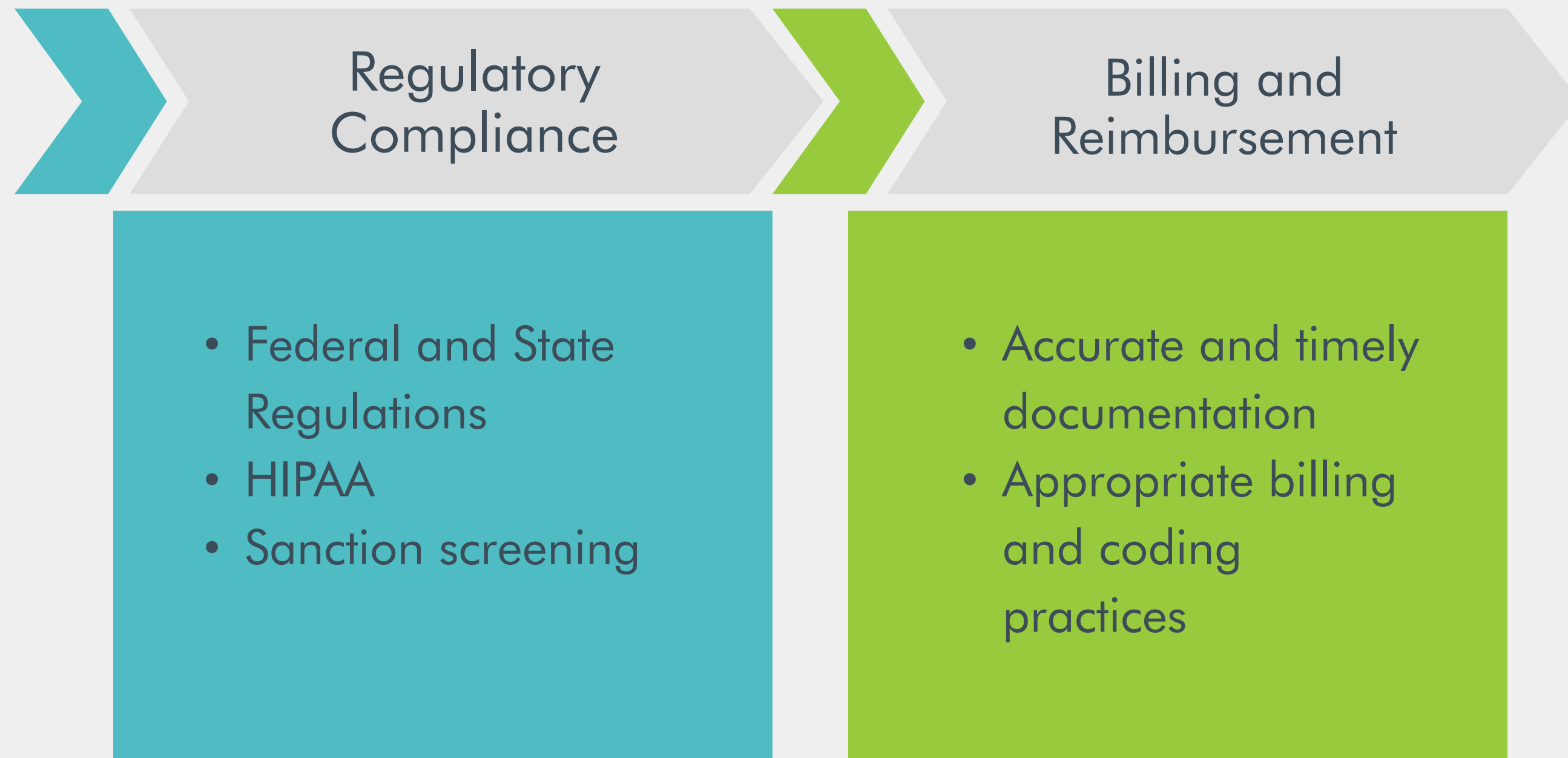
Survey and Audit
Readiness



Contractual Obligations
and Performance Metrics



Challenges





Quality of care

- Consistent standards of practice
- Compliance oversight
- Audits and reviews

Survey and Audit Readiness

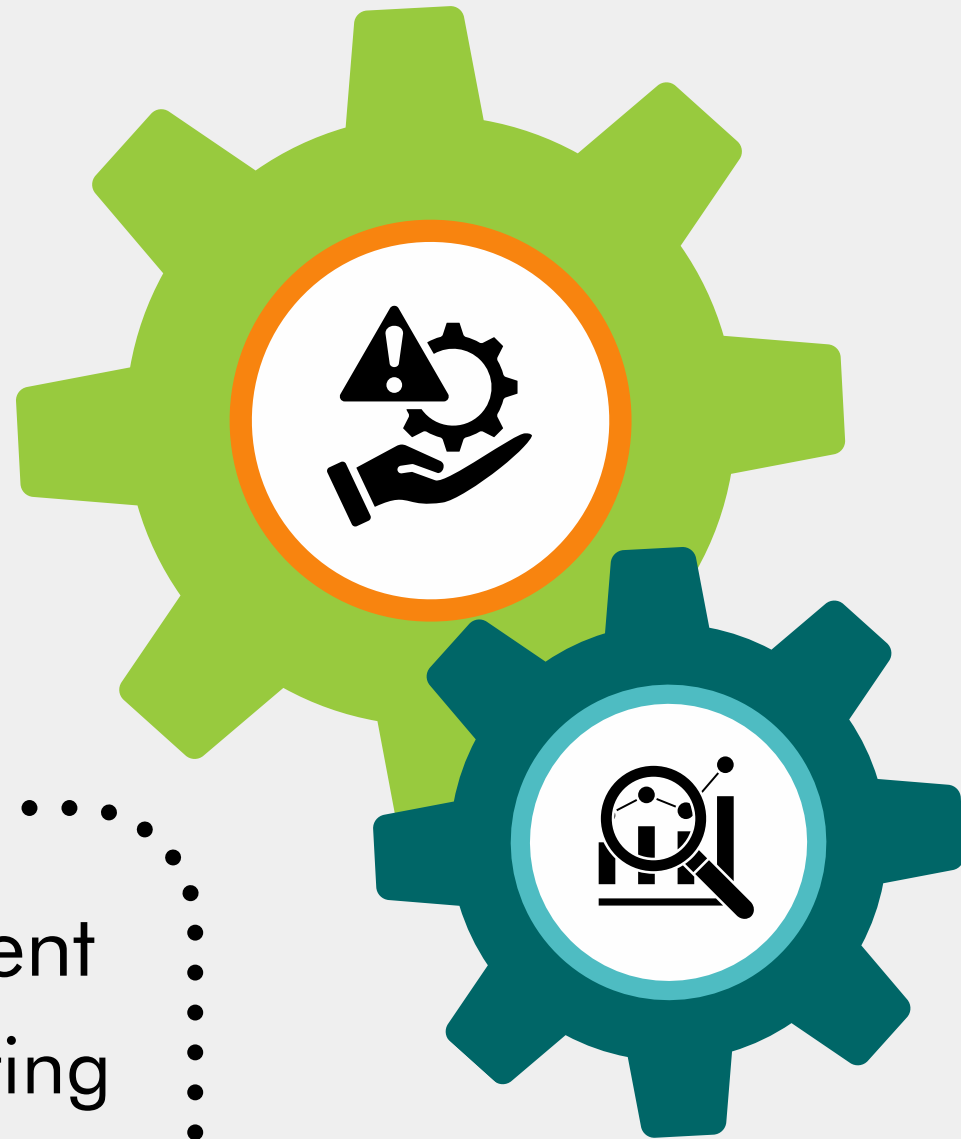
- Documentation compliance
- Survey preparation

Staff training and competency

- Licensing and certification
- Ongoing education

Challenges

Challenges



Risk management

- Incident reporting
- Liability insurance

Contractual Obligations and Performance Metrics

- Contract Compliance
- Regular auditing/monitoring

Compliance Implications With Change in Therapy Provider

Revenue Cycle Management

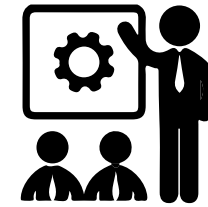
- Billing responsibility
- Triple Check Process

Staff Transition

- Training and Integration
- Therapist credentialing

HIPAA

- Access Controls and Authentication
- Secure Communication Channels
- Data Storage and Retention



Provider Agreement

- Contractual Obligations
- Business Associate Agreement

Resident Rights and Continuity of Care

- Resident Notification
- Prevent interruption of services

Maintaining Standards of Care

- Quality assurance program
- Auditing and monitoring

Risk Management

- Access to resident data post transition
- Ongoing monitoring post transition

How do you verify the credentials, licenses, and exclusion status of your therapists?

How do you ensure that your team stays updated on the latest CMS regulations and other relevant federal, state, and payer guidelines?

Can you describe your internal auditing process for ensuring compliance with regulatory requirements? How often are audits conducted, and what areas do they cover?

What training programs do you have in place for your therapists regarding compliance with SNF regulations and best practices?

What is your process for reporting and documenting compliance concerns or violations within the therapy department?

What is your procedure for responding to audits, investigations, or regulatory inquiries involving therapy services?



Role of Leadership in Ensuring Compliance

- ◆ Set clear expectations and standards
- ◆ Support interdisciplinary collaboration
- ◆ Lead by example
- ◆ Provide resources and support for compliance efforts
- ◆ Ensure accountability at all levels



Real World Scenarios

License Renewal



- ◆ Therapist license expired end of September 2023. The therapist self-reported the oversight mid January 2024
- ◆ Therapist's license was reinstated mid February 2024
- ◆ Any reimbursements received for services provided by the therapist with an expired license are considered improper payments
- ◆ \$24,000 repayment to Medicare



Mitigation Strategies

Upon hire

- Assign therapy EMR to track license renewal along with role-based access
- System prevents therapists from documenting or billing if license expires



Renewal requirements vary from state to state

- Most state licenses renew every two years
- Set an alert for the renewal month/year or add to work plan to ensure compliance

Collaborate with HR to assist with tracking

Physician Certifications

- ◆ Routine Medicare B review was conducted in December 2023. Outcome revealed 57% error rate of missing physician certifications from personal and independent living
- ◆ Involved two different therapy providers. Provider A delivered services prior to January 2023. Provider B delivered services after January 2023
- ◆ Additional investigation revealed Provider A with 100% error rate and Provider B with 94% error rate of unsigned POC/UPOC
- ◆ \$411,419.93 repayment to Medicare

Mitigation Strategies

Leverage technology



Delayed certification



Contractual accountability



Regular auditing
and monitoring



Triple check process

CO and CQ Modifiers



- ◆ Routine Medicare B review was conducted in March 2023. Outcome revealed 21% error rate of missing CO and CQ modifiers on claims
- ◆ Therapy provider changed in February 2022. Reported integration issue between NetHealth and MatrixCare for some time
- ◆ Focused audit from February 2022 through February 2023 revealed 15 resident claims were impacted
- ◆ \$3757.76 repayment to Medicare



Ensure accurate set up in therapy EMR to append modifiers appropriately

Review export files for accuracy

Close monitoring of claims for minimum of 3 months with change in therapy provider and/or EMR

Check with managed care providers requirements

Triple check process



Mitigation Strategies



Sanction Screening

- ◆ Athletico Management, PT Network, and Dynamic Therapy Services employed an individual that it knew or should have known was excluded from participation in Federal health care programs
- ◆ \$51,268.02 repayment



Mitigation Strategies

Regular exclusion screenings:
upon hire and monthly after



Training and awareness
programs for all staff, vendor
and contractors



Documentation and record
keeping



Resources

United States Sentencing Commission Guidelines:

<https://www.ussc.gov/guidelines/2023-guidelines-manual-annotated>

OIG General Compliance Program Guidance:

<https://oig.hhs.gov/compliance/general-compliance-program-guidance/>

CMS Final Rules on Compliance: <http://www.gpo.gov/fdsys/pkg/FR-2015-07-16/pdf/2015-17207.pdf> (see page 42267)

Office of Civil Rights: <https://www.hhs.gov/hipaa/index.html>

OIG Advisory on Exclusions: [https:// chrome-extension://efaidnbmnnnibpcajpcglclefindmkaj/https://oig.hhs.gov/exclusions/files/sab-05092013.pdf](https://chrome-extension://efaidnbmnnnibpcajpcglclefindmkaj/https://oig.hhs.gov/exclusions/files/sab-05092013.pdf)

Questions

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