Corporate Compliance
This course addresses:

- Overview of Compliance
- Regulatory Environment
- Enforcement Priorities
- Compliance Program at MSHA
What is Compliance?

Complying with all the laws and regulations that govern our operations.

Compliance is:

Doing the right thing !!!
Why is Compliance so Important?

Healthcare is one of the most highly regulated industries in the nation. Below are just a few of the governmental agencies that govern our operations:

- Centers for Medicare and Medicaid Services (CMS)
- Department of Health and Human Services (DHHS)
- Office of Inspector General (OIG)
- Office for Civil Rights (OCR)
- Occupational Safety and Health Administration (OSHA)
- State of Tennessee Department of Health
- Department of Justice (DOJ)
Why is Compliance so Important?

Since the mid-1990’s, detecting and punishing healthcare fraud and abuse has been one of the Federal government’s top priorities. CMS has teamed up with the OIG and the DOJ to investigate healthcare organizations for fraudulent and abusive practices.

The following slides will discuss the differences between fraud and abuse, the fines and penalties that can be accessed for violations, government focus areas, and recent cases that show how serious the government is in fighting healthcare fraud and abuse.
Healthcare Fraud

_Fraud-_ to **knowingly** and **willfully** deceive or misrepresent the facts with the **intent** to receive an unauthorized benefit.

*You know it is wrong but you do it anyway!*
Healthcare Abuse

Abuse - actions that directly or indirectly result in an unauthorized benefit, but were NOT committed knowingly, willfully, and intentionally.

Healthcare abuse is different from fraud in that it does not require a showing of intent. In an abuse situation, you may not have even known you were doing anything wrong but because you received an unauthorized benefit you could still be guilty of abusing the healthcare system.

- Everyone makes mistakes, but if you don’t look for your mistakes and fix them or if you don’t stay up-to-date on regulations and make changes accordingly, your mistakes can be viewed as an abusive practice.
Focus Areas of the Federal Government

Some of the key focus areas the government reviews for fraud or abusive practices are:

- Billing for Services Not Provided
- Providing and Billing for Medically Unnecessary Services
- Not Providing Medically Necessary Services in an Emergency
- “Upcoding” – which is misreporting diagnosis codes on the bill to obtain a higher reimbursement
- Billing for Inpatient Services when a Patient should be in an Outpatient Status.
- Relationships with Physicians and Vendors – looking for illegal bribes, kickbacks, or rebates to induce referrals.
Focus Areas of the Federal Government (continued)

- Financial Statement Reporting
- Wage and Hour Laws
- Medicare Cost Reporting
- Privacy and Security Regulations (see separate CBL on Privacy and Security)
- OSHA Regulations
- Environmental Laws
- Providing Safe, Quality Care to Patients
Focus Areas of the Federal Government (continued)

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Fraudulent and Abusive Practices Can Result In

Civil Action:

Under the Tennessee False Claims Acts, and the Federal False Claims Act civil action may be brought against any person who “knowingly” submits or causes another to submit a false or fraudulent claim for payment by the respective government agency which can result in significant fines and penalties.
Civil Action:

For each incorrectly submitted claim, the government can collect $2,500 up to $11,000 per claim and up to three times any overpayment amounts.

100 incorrect claims can result in over $1,000,000 in fines and penalties.
Civil Action:

Under the False Claims Acts mentioned, an individual may act as a relator and bring a civil action (commonly referred to as a qui tam lawsuit) under each act for both the individual and for the state (under the Tennessee Acts and the Virginia Act) and/or the United States Government (under the Federal Act).

If the civil qui tam lawsuit is successful, the relator (commonly referred to as a whistleblower) will be entitled to 15 percent to 30 percent of the government’s recovery as well as reasonable attorneys’ fees and costs.
Under each of the False Claims Acts, there are specific protections for whistleblowers to protect them from being discharged, demoted, suspended, threatened, harassed, or in any other manner discriminated against as a result of initiating the lawsuit.

Remember:

MSHA operates under a system-wide no-retaliation philosophy which means that team members will not be retaliated against for reporting, in good faith, compliance and ethical concerns.
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Criminal Prosecutions

In some cases the government may elect to press criminal charges resulting in prison sentences and hefty fines.
Fraudulent and Abusive Practices Can Result In

Administrative Sanctions

This means an individual or entity is Temporarily or Permanently Excluded from participating in Federally Funded Programs
The Corporate Compliance Program at MSHA is based on the core values of the organization.

MSHA wants to do the right thing!

The Program was established in the mid-1990’s using the governmental guidance provided in the Federal Sentencing Guidelines.

The following slides outline benefits of the Compliance Program, the 7 elements of the Program and what the Program means to you as a team member of MSHA.
Element 1: Policies/Procedures and Standards of Conduct

MSHA has detailed policies and procedures that document the organization’s intent and specific operating procedures.

It is your responsibility as a team member to know about the rules, regulations, policies and procedures that affect your job.

Help the organization to remain compliant in your area of responsibility by staying up-to-date and initiating changes to departmental policies and procedures as needed.
Element 1: Policies/Procedures- Code of Ethics and Business Conduct

The core policy that outlines the standards and expectations of all MSHA team members in conducting business and providing care to our patients is the Code of Ethics and Business Conduct.

All team members, physicians, and business partners have been given a copy of the Code and is expected to abide by the Code at all times.

Anyone found in violation of the Code is subject to disciplinary action, up to and including termination or barred from doing business with MSHA.
To oversee and drive our Compliance efforts, MSHA has a System Compliance Officer. To assist with the compliance efforts in managing the day-to-day operations of the Compliance Program, several Facility Compliance Officers have been appointed.

MSHA Compliance Officer: **Tim Belisle**
Element 2: Compliance Officer and Committee

MSHA has several Compliance Committees to assist with the Compliance efforts: Washington County, Sullivan County, Carter County and Smyth County Committees.
Element 3: Training and Education
Element 4: Effective Lines of Communication

One of the most important elements of the compliance program is providing employees a means to report their concerns or ask questions. Throughout MSHA, there are several persons you can contact with your questions or concerns.

- Your supervisor, manager, or department director
- Facility Compliance Officer
- MSHA Compliance Officer
- Human Resources representative
- Legal Services
- Medical Ethics Consultant
Element 4: Effective Lines of Communication

MSHA has also implemented a Compliance Hotline, a toll-free line that is available 24 hours a day, seven days a week for you to communicate your concerns or questions regarding the ethics or legal business practices of MSHA. You can remain anonymous in calling this line if you do not want to identify yourself.
Element 4: Effective Lines of Communication

As an employee of MSHA, you have the right and responsibility to report quality of care or patient safety issues. You are encouraged to report issues internally so they can be addressed immediately.

You may also report these concerns to the Joint Commission via their website or by phone.

www.jcaho.org

(630)792-5636
Element 5: System of Response & Disciplinary Procedures

MSHA takes reported concerns seriously and each one is thoroughly reviewed and dealt with appropriately.
Element 6: Auditing and Monitoring
Element 7: Remediation of systemic problems

If problems are identified, they should be resolved in a timely fashion in order to prevent future errors from occurring.

It is very important to notify Corporate Audit and Compliance Services or the Legal Department via the avenues discussed previously so issues can be resolved quickly.

Another part of this element is to make sure MSHA is not employing or doing business with any individuals or entities that have been excluded from federally funded programs.

*MSHA performs “sanction checks” on all new hires and new vendors before they are employed or contracted.*
What Are Your Responsibilities? (continued)

- Immediately report any potential non-compliance issues to appropriate MSHA personnel.
- Always do what’s right the first time.
- Use your best judgement - when in doubt, seek advice.
Corporate Compliance Program

If you would like further information on the MSHA Corporate Compliance Program or the Corporate Audit and Compliance Services department, check our Web page on the Intranet under Department Sites or give us a call.

The CACS staff is available to answer your questions regarding Compliance topics.