

# Compliance Program, Code of Conduct, and HIPAA

# Agenda

- Introduction to Compliance
- The Compliance Program
- Code of Conduct
- Reporting Concerns
- HIPAA

# Why have a Compliance Program

- Procedures to follow applicable laws
- Guidance for employees to perform duties in an ethical manner
- Create a culture of proactive adherence
- Training on FWA
- Required by ACA





# Compliance Program

- There are 7 elements to a compliance program:
  1. Designating a compliance officer and compliance committee.
  2. Implementing written policies, procedures and standards of conduct.
  3. Conducting effective training and education.
  4. Developing effective lines of communication.
  5. Conducting internal monitoring and auditing.
  6. Enforcing standards through well-publicized disciplinary guidelines.
  7. Responding promptly to detected offenses and undertaking corrective action.

# Risk Assessment

- Annual Risk Assessment
  - ✓ Interviews
  - ✓ Past audits
  - ✓ OIG
  - ✓ NEWS STORIES!!
- Continuous assessment of compliance risks and identification of areas for improvement.

# Duty to Report Compliance Issues

- You have a duty to report suspected misconduct. You can contact:
  - ✓ Supervisor
  - ✓ Department Compliance Liaison
  - ✓ Compliance Officer, Melinda Montoya
    - (775) 982-5596
  - ✓ Anonymous 3<sup>rd</sup> Party Compliance Hotline
    - (800) 611-5097
  - ✓ Confidential Reporting form on the Intranet



Compliance Concern

# Code of Conduct

- Establishes Renown's expectations for the conduct of all employees.
  1. Compliance with Laws and Regulations
  2. Quality of Care
  3. Workplace Conduct
  4. Privacy and Confidentiality
  5. Business and Personal Conduct
  6. Financial Reporting
  7. Government Relations
  8. Research, Investigations, and Clinical Trials
  9. Community Relationships

# Standard 1: Laws & Regulations

## EMTALA

- Emergency Medical Treatment and Active Labor Act
  - ✓ Ensures access to emergency services regardless of patients ability to pay.
  - ✓ Requires hospitals to perform a medical screening and form a treatment plan based on the screening
- The maximum penalty for an EMTALA violation is \$103,139
- Applies to committing the violation and to failure to report the violation



# Fraud, Waste, and Abuse

- Renown is committed to preventing and detecting any Fraud, Waste, or Abuse related to Federal and State, and Commercial healthcare programs.
  - ✓ **Fraud:** obtain money or property from health care benefit program under knowingly false pretenses.
  - ✓ **Abuse:** similar to fraud, but the misrepresentation was not known or intentional.
  - ✓ **Waste:** overutilization or misuse of services that result in unnecessary cost to the health care system.

# Fraud or No Fraud?

- Walt owns and operate a clinic that submits claims to Medicare. Walt has been submitting claims to Medicare for medical services and wants to make sure he gets reimbursed as much as possible. He submits claims information that represent services that were not actually provided and gets paid.
- Additionally, Walt has received reimbursement for prescriptions for an expensive chemotherapeutic drug that was not medically necessary, not prescribed by a doctor, and not provided to the patient.
- Walt figures since Medicare paid the claims he in the clear.

**What do you think?**

# Federal False Claims Act

- Imposes liability on persons who *knowingly and willfully make materially false, fictitious or fraudulent statements in connection with the delivery or payment of health benefits*; and
- Can result in administrative, criminal or civil penalties:
  - ✓ Civil Monetary Penalties
  - ✓ Up to 5 years imprisonment
  - ✓ Exclusion from Medicare/Medicaid

# Nevada False Claims Act

- Nevada Submission of False Claims to State or Local Government Act (Nevada False Claims Act)
- State version of the False Claims Act: Imposes liability for false claims if the State of Nevada or a political subdivision provided any portion of the payment.

## Federal Penalties

- **False Claims Act**
  - \$10,781 - \$21,562 per claim
  - Three times the amount of damages that the Federal government sustains because of the false claim
  - Exclusion from participation in all Federal health care programs
  - Corporate Integrity Agreement
    - 3 or 5 years
    - Stipulates compliance obligations



# Whistleblowers or “Qui Tam”

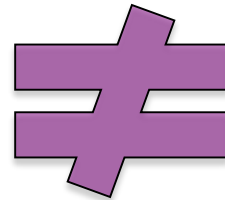
- Federal False Claims Act and the Nevada False Claims Act, and many other laws provide a Whistleblower provision.
- Individuals may bring suit against an organization
  - ✓ The Whistleblower, if successful, may receive up to a maximum of 30% of monies from the lawsuit.

**HELP FIGHT**  
FRAUD.  
WASTE.  
ABUSE.



# Anti-Kickback Statute

Prohibits soliciting, receiving, offering or paying for referrals



# Stark Law

- Stark Law applies only to physicians and their immediate family members only.
- The Stark law generally prohibits a physician from making referrals for Medicare-covered designated health services (DHS) to an entity with which the physician or an immediate family member has a “financial relationship.”
- Stark Law has exceptions in which the relationship must fit, or it can't or shouldn't be done.



# Non-Monetary Compensation

- Compensation from Renown to a physician or his/her immediate family member in non-cash items or services that does not exceed an annual limit. (\$398 for CY 2017)
  - ✓ Cannot relate to volume or value of patient referrals
  - ✓ Cannot be solicited by the referring physician
  - ✓ Does not violate Anti-Kickback Statute or any other law.
- Must be tracked by the Compliance Department
- All questions need to be directed to the Compliance Officer.

# Standard 2: Quality of Care

- Provide only medically necessary services
- Treat all patients with dignity and respect
- Act in the best interest of the patient
- Ensure proper documentation of services provided



# Standard 3: Workplace Conduct and Employment Practices

- Safe Workplace
  - ✓ Zero Tolerance
- Harassment
  - ✓ Verbal and non-verbal
- Discrimination
  - ✓ Fair Treatment



Title VII of the Civil Rights Act forbids discrimination in **any aspect** of employment, including:

- Hiring and firing
- Compensation, assignment, or classification of employees
- Transfer, promotion, layoff, or recall
- Job advertisements
- Recruitment
- Testing
- Use of company facilities
- Training and apprenticeship programs
- Fringe benefits
- Pay, retirement plans, and disability leave
- Other terms and conditions of employment

# Standard 4: Privacy and Confidentiality

- Protection of patient privacy and confidentiality is of utmost importance
  - ✓ Protected Health Information (PHI - HIPAA)
  - ✓ Personnel Information
  - ✓ Proprietary Information
  - ✓ Security
  - ✓ Social Media



# Standard 5:

## Business and Personal Conduct

- Employees are expected to act in the best interest of Renown and its patients.
  - ✓ Conflict of Interest
  - ✓ Gifts and Gratuities
  - ✓ Outside Activities
  - ✓ Family Members
- Inappropriate or disruptive conduct will not be tolerated.

# Standard 6: Financial Reporting

- Use Renown's assets and resources in the most effective and efficient manner.
- Documentation and reporting of financial information must be timely and accurate.
- Renown is responsible for timely and accurate submission of reports to regulatory agencies.
- Knowingly submitting false cost reports to the government is a form of false claims.

# Standard 7: Government Relations

- It is important to separate personal political activities from your professional duties.
- Renown funds and/or resources are not to be used to contribute directly or indirectly to public political campaigns.
- If Renown were to be involved in a political activity, it could jeopardize our non-profit status.



# Standard 8: Research, Investigations & Clinical Trials

- Follow all applicable research guidelines and privacy policies and maintain the highest standards of ethics and accuracy.
- Ensure the services are billed correctly to either the research study or third-party payer.





# Standard 9: Community Relationships

- It is Renown's vision that this organization be recognized as a true and trusted community asset.
- Marketing practices and contract negotiations must be accurate and reflective of the organization's vision and mission.

# Compliance is YOUR Responsibility!!

- Perform job duties in accordance with:
  - ✓ Laws and regulations
  - ✓ Renown policies and procedures
- Duty to report any suspected misconduct or potential compliance violations.
- Do you reasonably believe a compliance violation has occurred and are you reporting in good faith?

# Non-Retaliation Policy

- Individuals who report a possible compliance issue are protected from Non-Retaliation laws.
  - ✓ Federal and Nevada law
  - ✓ Renown's Non-Retaliation Policy



# HIPAA

- Three rules of HIPAA:
  - ✓ Am I acting in the best interest of the *patient*?
  - ✓ Do I need to access this information to *do my job*?
  - ✓ Did I *log off* (or lock) my workstation?

*For anything else, ask!*

# HIPAA

- Health Insurance Portability and Accountability Act (HIPAA) was passed in 1996.
  - ✓ Protects the use and release of a patient's health information.
- All employees of Renown Health must obey HIPAA laws.
- Privacy and confidentiality are needed to build a trusting relationship with patients.

# What is Protected Health Information?

- Protected Health Information (PHI) is:
  - ✓ Information related to a patient's past, present or future physical and/or mental health or condition
  - ✓ That includes at least one of 18 personal identifiers
  - ✓ In any format (written, oral, or electronic (know as ePHI))



# 18 Personal Identifiers

Name	URL address	Health plan beneficiary numbers
Address	IP address	Device identifiers and serial numbers
Elements of date except year	Social Security Number	Vehicle identifiers and serial numbers
Phone number	Account numbers	Biometric identifiers
Fax number	License numbers	Full face photos and other comparable images
Email address	Medical record numbers	Any other unique identifying number, code or characteristic

# Sharing Need-to-Know Information

- Disclosures without patient authorization:
  - ✓ To the patient
  - ✓ For treatment
  - ✓ To process payments
  - ✓ To carry out general healthcare operations
  - ✓ As required by law
- Only share a patient's medical or personal information with other healthcare workers on a need-to-know basis.
- You must even be careful when telling others about the admission or discharge of a patient.



# Securing and Protecting Patient Info

- Passwords
- Access to patient areas
- Disclosures to family/friends of patient

GOSSIP IS NEVER OK!! Is your curiosity worth your job?



# Electronic transmission of Patient Information

- Verify recipient information!!
- Emails
- Faxes
- Texts

Don't be this guy!



iMessage  
Today 7:39 PM

Hey dr park this is matt from the [REDACTED] vascular lab, i have an outpatient here with an external iliac occlusion with cold foot pain and numbness that started 3 days ago what should i do with her

Hi this is Hannah I think you have the wrong number but I googled it and I'm pretty sure u need to put a stent in her left radial artery, best of luck Matt!

Delivered

# Other Practices for Protecting Confidentiality

- Taking records offsite
- Hallway conversations
- Incidental disclosures



# Minimum Necessary Standard

- Is it YOUR job to disclose the information?
- Do not disclose more than is necessary
- Do not access more than is needed to perform YOUR job!

***THIS DOES NOT APPLY TO TREATMENT!***

# Dealing with the Media

- Should the media approach you, contact your leader and/or security immediately.
- Renown is private property. The media do not have the right to film or take photographs.



# Patient Rights

- Inspect and copy
- Request an amendment
- An accounting of disclosures
- Request restrictions
- Request confidential communications
- Receive Notice of Privacy Practices

# HIPAA Privacy Breach

- Was PHI accessed or disclosed improperly?
- Notifications
- What can happen to you?
- What can happen to Renown?

To Our Members  
Safety  
It was reported on March 15, 2013, that a computer tagged for destruction was stolen from one of our facilities in Burlington, North Carolina. The incident affected 115 Maryland residents and the data elements included the patient first and last name, date of birth, and the Medicare Subscriber numbers.

Personal, financial and medical information is one of our top priorities, and we have state-of-the-art information security systems to protect your information. However, despite our efforts, Anthem Blue Cross was the target of a very sophisticated external cyber attack. These attackers gained unauthorized access to Anthem's IT system and have obtained personal information from our current and former members such as their names, birthdays, medical IDs/social security numbers, street addresses, email addresses and employment information, including income data. Based on what we know now, there is no evidence that credit card or medical information (such as claims, test results or diagnostic codes) were targeted or compromised.

Once the attack was discovered, Anthem immediately made every effort to close the security vulnerability, contacted the FBI and began fully cooperating with their

# HIPAA In the News



- February 2017: Memorial Healthcare System paid a \$5.5 million fine after employees were found to have stolen over 100,000 patient identities and used them to file fraudulent tax returns.
- November 2016: UMASS Amherst paid a \$650,000 fine after malware was discovered on its systems.
- December 2016: Renown Health terminated 11 employees for inappropriate access into a patient's chart. Not one employee cited lack of training as a reason for access.





# When in doubt ...

- Ask questions and find the right answer
- Use other compliance resources
- Use common sense and professional judgment
- Report issues immediately to your supervisor, Chief Compliance and Privacy Officer, Confidential Reporting Form on Intranet, or the Compliance Hotline
- Melinda M. Montoya
- Renown Vice President, Chief Compliance and Privacy Officer
  - ✓ P: 775-982-5596 [melinda.montoya@renown.org](mailto:melinda.montoya@renown.org)
- Anonymous Compliance Hotline
  - ✓ 800-611-5097
- Contact Brian Colonna, HIPAA Privacy Coordinator
  - ✓ P: 775-982-6487 [bcolonna@renown.org](mailto:bcolonna@renown.org)