

Compliance and Ethics Committee Chief Compliance Officer's Report

Judy Ringholz

Chief Compliance Officer

January 31, 2024

AGENDA

- Recent Enforcement Actions
- Quarterly Compliance Training
- Broward Health Compliance Program
Self-Assessment

***Recent
Enforcement
Actions***

ASCENSION HEALTH SYSTEM SETTLED 4 ENFORCEMENT ACTIONS IN 2 ½ YRS

Remuneration Provided to Physicians

- April 30, 2021: Three Ascension Texas hospitals paid \$21 million for allegedly paying above FMV remuneration to physician groups.
- February 28, 2023: Ascension Sacred Heart Pensacola paid \$2.4 million for allegedly paying remuneration to a physician group in the form of free or below FMV space, equipment and personnel.
- November 30, 2023: Ascension Sacred Heart Pensacola paid \$100,000 for allegedly paying remuneration to a physician group in the form of below fair market value personnel.

Employment of Excluded Individual

- August 24, 2023: Ascension Providence Rochester Hospital in Michigan paid \$545,834.37 for employing an individual that it knew or should have known was excluded from participation in Federal health care programs.

US ATTORNEY'S OFFICE FILED A COMPLAINT AGAINST A STEWARD HOSPITAL, STEWARD MEDICAL GROUP, AND STEWARD HEALTH CARE SYSTEM

- December 15, 2023:

Complaint alleges violations of the Stark Law and the False Claims Act (FCA) by paying a cardiac surgeon above FMV incentive compensation that took into account the volume and/or value of his referrals.

DECEMBER 15, 2023: COMMUNITY HEALTH NETWORK PAID \$345 MILLION FOR ALLEGEDLY VIOLATING THE FCA AND THE STARK LAW

- Beginning in 2008, senior management recruited hundreds of physicians for employment for the purpose of capturing their lucrative “downstream referrals”.
- Paid them salaries that were significantly higher – sometimes as much as double – what they were receiving in their own private practices.

DECEMBER 15, 2023: COMMUNITY HEALTH NETWORK PAID \$345 MILLION FOR ALLEGEDLY VIOLATING THE FCA AND THE STARK LAW

- Knowingly provided the valuation firm with false compensation figures, so it would render a favorable opinion, and ignored the firm's repeated warnings regarding the legal perils of overcompensating its MDs.
- Awarded financial incentive bonuses to physicians based on reaching a target of referrals.

Compliance Training

**GREG DEMSKE,
FORMER CHIEF
COUNSEL TO
FORMER HHS-OIG
INSPECTOR
GENERAL, DAN
LEVINSON**

<https://www.youtube.com/watch?v=fndbDclELds>

Provides:
Guidance for
Health Care
Boards (4:18)

HOW DOES YOUR ORGANIZATION IDENTIFY, AUDIT, AND MONITOR RISK AREAS?

Response:

- Provide education and training on how to identify a compliance issue:
 - Broward Health Code of Conduct
 - Compliance Training (General and Specific)
 - Policies and Procedures
- Build trusting relationships with BH leaders and workforce members and encourage including Compliance during planning stages when new programs and initiatives are being considered

HOW DOES YOUR ORGANIZATION IDENTIFY, AUDIT, AND MONITOR RISK AREAS (CONT'D)?

Response:

- Assign a dedicated compliance officer to each region/entity to foster relationships and to better understand service lines and their associated risks
- Refer to the OIG Work Plan, as well as compliance risks identified within our industry and within our organization to develop the annual Broward Health Compliance Work Plan, which includes items that focus on auditing and monitoring

HOW DOES YOUR ORGANIZATION IDENTIFY, AUDIT, AND MONITOR RISK AREAS (CONT'D)?

Response:

- Review CMS Open Payments Database for all employed physicians and APRNs
- Participate in relevant committee meetings:
 - Peer Review
 - Medical Executive Committee
 - National Coverage Determinations (NCDs) / Local Coverage Determinations (LCDs)
- Exclusion Screening (onboarding and monthly)
 - Workforce Members
 - Medical Staff
 - Contractors and Vendors

DOES YOUR BOARD LEARN OF ALL SIGNIFICANT COMPLIANCE ISSUES?

Response: Yes

IS SOMEONE RESPONSIBLE FOR KEEPING THE BOARD INFORMED?

Response: Yes, CCO reports quarterly and prn

IS YOUR ORGANIZATION LOOKING AT NEW RISK AREAS AND DEVELOPING APPROPRIATE SAFEGUARDS?

Response: Yes

Example:

- NCDs / LCDs
- Regulatory Compliance Committee
(to be formed in 2024)

DOES YOUR COMPLIANCE OFFICER REPORT DIRECTLY TO THE BOARD?

Response: Yes

DOES THE COMPLIANCE OFFICER HAVE SUFFICIENT PROMINENCE AND INFLUENCE WITHIN THE ORGANIZATION?

Response: Yes

- Presentation during corporate leader meeting
- Emails to entire workforce
- Senior leaders seek guidance proactively

HOW DOES YOUR ORGANIZATION ENCOURAGE COMMUNICATION BETWEEN COMPLIANCE STAFF AND THE REST OF THE ORGANIZATION?

Response:

- CCO emails to entire workforce
- CCO presentation during corporate leader meeting
- RCOs conduct live compliance training at New Employee Orientation, Ambulatory Division Orientation, Nursing Orientation
- CCO and RCOs attend meetings throughout BH
- RCOs participate in rounding

ARE COMPLIANCE GOALS PERIODICALLY ADJUSTED TO ACCOUNT FOR PAYMENT REFORMS AND NEW QUALITY STANDARDS?

Response: Yes

Example:

- NCDs / LCDs

HOW DOES THE BOARD ENCOURAGE MANAGERS TO INCORPORATE COMPLIANCE CONSIDERATIONS INTO DAY-TO-DAY DECISION-MAKING?

Response:

- Introduction to the Broward Health Code of Conduct co-signed by Board Chairman and BH President/CEO
- Encouragement by Chairman and individual commissioners during monthly Board meetings
- Board Compliance Committee Chairwoman attends and participates during Executive and Regional Compliance Committee Meetings

DOES THE BOARD HOLD KEY EMPLOYEES ACCOUNTABLE FOR FOLLOWING COMPLIANCE STANDARDS AND PROCESSES?

Response: Yes

- Commissioners ask probing questions during briefings and monthly Board meetings until they attain a level of comfort
- Employees at every level are subject to disciplinary action for non-compliance

HOW DO YOU KNOW WHETHER YOUR ORGANIZATION'S COMPLIANCE PROGRAM IS EFFECTIVE?

Response:

- Seven elements are addressed in work plan
- Compliance training is required; status of completion is monitored; may not “test out”
- Appropriate concerns are reported
- Concerns are reported via variety of mechanisms
- Concerns are timely investigated and resolved

HOW DO YOU KNOW WHETHER YOUR ORGANIZATION'S COMPLIANCE PROGRAM IS EFFECTIVE? (CONT'D)

Response:

- Issues are identified and corrected through multiple metrics reported at regional compliance committee meetings (e.g., IMM)

***Ethics is doing the right thing...
...even when no one is watching.***

[Aldo Leopold]