

North Broward Hospital District Board of Commissioners
1700 Northwest 49th Street, Suite #150, Ft. Lauderdale, FL 33309

COMPLIANCE AND ETHICS COMMITTEE MEETING
Immediately following the Audit Committee Meeting
Tuesday, January 18, 2022

The Compliance and Ethics Committee Meeting of the North Broward Hospital District was held on January 18, 2022, immediately following the Audit Committee Meeting, at the Broward Health Corporate Spectrum Location, 1700 NW 49th Street, Suite 150, Fort Lauderdale, Florida 33309.

1. **NOTICE**

Notice and Agenda, titled EXHIBIT I and EXHIBIT II, are attached to the official meeting book archived at the Board of Commissioners' Office. Supporting documents, if applicable, are attached to these minutes, titled EXHIBIT III. Exhibits are presented for consideration of the Committee.

2. **CALL TO ORDER**

There being a quorum present, the meeting was called to order by Chair Nancy W. Stamper at 10:47 a.m.

3. **COMMITTEE MEMBERS**

Present:

Commissioner Christopher J. Pernicano
Commissioner Levi G. Williams, Jr.
Commissioner Marie C. Waugh (via Teams)
Commissioner Stacy L. Angier
Commissioner Nancy W. Stamper, Chair

Not Present:

Commissioner Jonathan K. Hage
Commissioner Ray T. Berry, Vice Chair

Senior Leadership

Additionally Present:

Shane Strum, President, Chief Executive Officer
Ken Hetlage, Interim Chief Operating Officer
Alex Fernandez, SVP, Chief Financial Officer
Linda Epstein, Corporate General Counsel

4. PUBLIC COMMENTS

Chair Stamper opened the floor for public comments, in which there were none.

5. APPROVAL OF MINUTES

Without objection, Chair Stamper approved the minutes, dated September 8, 2021.

Motion *carried* without dissent.

6. TOPIC OF DISCUSSION

- 6.1. Chief Compliance Officer Report (Presenter – Brian Kozik, Chief Compliance and Privacy Officer)

Fiscal Year (FY) '22 Work Plan

- 22 audits scheduled
 - 7₅ audits in-process
 - 11₅ audits planned
 - 4 to complete this fiscal year. Moving 2 of the 4 to next fiscal year (see below)

Mr. Kozik reported that two (2) audits are being moved to the FY'23 Work Plan.

- Tracking and Renumeration: Grants. The Internal Audit Department conducted two (2) grant audits this current fiscal year:
 - Based upon Internal Audit's review of the grants noted, it was determined that the following compliance grant audits should be moved.
 - Ryan White; and
 - Healthcare for Homeless.
 - Standard Operating Procedure: Adding and Removing Practitioners from Hospital-Based and Early Steps Agreements. While researching this procedure prior to audit initiation, it was found that there is a need for implementing process improvements and updates. Until all the process improvements and updates have been implemented and are functioning as intended, completing an audit of the current process may not be a benefit to the District. After all improvements have been in place and functioning for at least six months, an audit could be performed. Therefore this audit will be moved to the FY'23 Work Plan.

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- Referral Source Arrangements and Tracking and Remuneration Audit:
 - Status: Completed.
 - Objective: Randomly selected 50 Referral Source Arrangements and measured them against 10 data points for a total of 950 points.
 - Audit Period: FY'21 Quarters 3 and 4.
 - Result: Very positive, less than a 1% overall error rate, which did not result in a repayment to a third party.
 - Corrective action/plan: Management agreed to take corrective action.

- Emergency Department Infusion Therapy Probe Audit – Infusion therapy is the administration of fluids through an intravenous injection.
 - Status: In process.
 - Objective: Determine whether infusion, injection and/or hydration services provided in the ED and billed by the hospitals meet Medicare reimbursement requirements.
 - Audit Period: January 1, 2021 – March 31, 2021.
 - Result: Pending.
 - Corrective action/plan: Pending.

- Medical Directorships and Similar Administrative Services Arrangements
 - Status: In process.
 - Objective: Ensure medical directorships and similar administrative services arrangements had an active timesheet in ServiceNow and, to verify internal controls for agreements and payments were appropriate and consistent with agreement requirements.
 - Audit Period: January 1, 2021 through June 30, 2021.
 - Result: Pending.
 - Corrective action/plan: Pending.

- Emergency Medical Treatment and Active Labor Act (“EMTALA”)
 - Broward Health Coral Springs (BHCS)
 - Status: In process.
 - Objective: EMTALA sets out specific guidelines that hospitals with dedicated emergency room departments must follow, such as: providing medical screening examination, posting signs specifying rights of individuals, adopting policies and procedures to comply with the regulation, maintaining on-call logs, transfer logs and central logs, and providing appropriate transfer of patients determined to have an emergent medical condition.
 - Audit Period: July 1, 2020 Through December 31, 2020.
 - Result: Pending.
 - Corrective action/plan: Pending.
 - Broward Health Medical Center (BHMC)
 - Status: Completed.
 - Objective: To determine BHMC’s compliance with EMTALA requirements.
 - Audit Period: January 1, 2021 through June 30, 2021.

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- Result: Minor findings; Scope was divided into two parts. Part 1: Onsite visit to the ED and a review of internal processes. Part 2: A review of records from the transfer log to assess if the procedures in place comply with EMTALA requirements.
 - Part 1: Noted a deficiency related to signage and, the Transfer Form.
 - Part 2: Noted no issues.
- Corrective action/plan: Management took corrective action during the review.

- Covered Persons Screening
 - Status: In process.
 - Objective: Review select agreements from C360 that have a covered person designation to ensure contractors are completing exclusion screenings on their employees, as agreed upon in the executed agreement.
 - Audit Period: July 1, 2020 through December 31, 2020.
 - Result: Pending.
 - Corrective action/plan: Pending.

- Coding Audits:
 - Status:
 - BHCS: Completed.
 - BHN: Completed.
 - BHIP: Completed.
 - BHMC: In process.
 - Objective: To review inpatient and outpatient coding to ensure it meets federal coding guidelines and Broward Health's accuracy rate of 95%.
 - Audit Period:
 - BHCS FY'21 Quarter 1
 - BHN FY'21 Quarter 1
 - BHIP FY'21 Quarter 2
 - BHMC FY'21 Quarter 2
 - Result: All regions exceeded Broward Health's accuracy rate of 95%.
 - Corrective action/plan: N/A.

- Florida Department of State – On November 1, 2021 letter received indicating that Broward Health is required by Rule to annually submit to the Division of Library and Information Services “a signed statement attesting to the agency’s compliance with records disposition laws, rules and procedure. There were three sections to be completed by December 31, 2021:
 - Section I: Compliance Certification – Attest that Broward Health is following the Rule related to all public records regardless of medium or format (i.e., paper, electronic, including email, microfilm, audio, video, etc.). The system must provide the number of cubic feet of records during the FY. Reported for FY'21 the system disposed of 8,000 cubic feet of records.
 - Section II: Agency Information – This section is completed by CFO, Alex Fernandez, requiring no changes.

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- Section III: Records Management Liaison Officer - This section is completed by Chief Compliance Officer, requiring no changes.
- Status: Completed.

- Centers for Medicare & Medicaid Services (CMS): Targeted Probe and Education – Broward Health Medical Center (BHMC) received a letter on December 17, 2021 from CMS indicating that they were re-starting the Targeted and Probe and Education audits. The letter reported that BHMC had over 20 unique discharges for DR 885 between October 1, 2020 and September 30, 2021. DRG 885 is classified as a major diagnostic category related to mental diseases and disorders. CMS provided a sample of 20 claims for review. Select documentation must be provided by February 7, 2022. Within 60 days, CMS will review the documentation and contact the facility to discuss the review and, provide any necessary education. In turn, after the education, CMS will re-audit a sample to ensure continued compliance. All the requested documentation will be provided by the deadline.
 - Status: In process.
 - Objective: To ensure claims billed met billing requirements.
 - Audit Period: October 1, 2020 through September 30, 2020.
 - Result: Pending.
 - Corrective action/plan: Pending.

The Agency for Health Care Administration (AHCA) Updates:

- AHCA – BHMC received (3) letters from AHCA informing that Health Management Systems, Inc. (“HMS”) was contracted for an audit:
 - (1) dated 12/9/2021; and
 - (2) dated 12/16/2021.
 - Status: In process.
 - Objective: Perform Medicaid recovery activities.
 - All (3) letters indicated that HMS identified Medicaid payments that appear to be in excess of ACHA’s liability.
 - Audit Period:
 - Letter (1) – Paid claims totaling \$703,483.17 for the period 12/9/2016 through 12/9/2021.
 - Letter (2) – Paid claims totaling \$152,877.56 for the period 12/16/2016 through 12/16/21.
 - Letter (3) – Paid claims totaling \$2,457.07 for the period 12/16/2016 through 12/16/21.
 - Result: Pending
 - ACHA will begin recouping the abovementioned payments if information is not provided within 30 days disputing the takebacks.
 - BHMC’s Health Information Management (HIM) department is going to request an extension to research validity.
 - Corrective action/plan: Pending.

AHCA – Broward Health Coral Springs received (2) AHCA letters.

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- (1) dated 12/9/2021; and
 - (1) dated 12/16/2021.
 - Status: In process.
 - Objective: Perform Medicaid recovery activities.
 - Both letters indicated that HMS identified Medicaid payments that appear to be in excess of ACHA's liability.
 - Audit Period:
 - Letter (1) – Paid claims totaling \$38,844.54 for the period 12/9/2016 through 12/9/2021.
 - Letter (2) – Paid claims totaling \$7,568.83 for the period 12/16/2016 through 12/16/2021.
 - Result: Pending.
 - Corrective action/plan: Pending.
- AHCA – Broward Health Imperial Point received one letter from ACHA dated 12/16/2021.
 - Status: In process.
 - Objective: Perform Medicaid recovery activities.
 - Letter indicated that HMS identified Medicaid payments that appear to be in excess of ACHA's liability.
 - Audit Period: Paid claims totaling \$30,229.45 for the period 12/16/2016 through 12/16/2021.
 - Result: Pending.
 - Corrective action/plan: Pending.
- AHCA – Broward Health North received (3) separate letters from AHCA.
 - (1) dated 12/16/2021;
 - (1) dated 12/17/2021; and
 - (1) dated 12/9/2021.
 - Status: In process.
 - Objective: Perform Medicaid recovery activities.
 - All (3) letters indicated that HMS identified Medicaid payments that appear to be in excess of ACHA's liability.
 - Audit Period:
 - Letter (1) – Paid claims totaling \$42,378.58 for the period 12/16/2016 through 12/16/2021.
 - Letter (2) – Paid claims totaling \$3,323.84 for the period 12/17/2016 through 12/17/2021.
 - Letter (3) – Paid claims totaling \$30,022.65 for the period 12/9/2016 through 12/9/2021.
 - Result: Pending
 - ACHA will begin recouping the aforementioned payments if information is not provided within 30 days disputing the takebacks.
 - BHN's Health Information Management (HIM) department is going to request an extension to research validity.
 - Corrective action/plan: Pending.

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- No Surprises Act (“NSA”)
 - Effective January 1, 2022
 - Congress established into law the ~~No Surprises Act~~ NSA, which establishes significant financial protections for patients nationwide. The NSA most notably shields patient against the practice of “balance billing” by healthcare providers (i.e., seeking payment from patients beyond the patients’ specified cost-sharing obligations) in certain out-of-network contexts.
 - The Legal Department has been coordinating with the relevant BH departments to ensure compliance with these new requirements.

- Good Faith Cost Estimates
 - Effective January 1, 2022
 - Providers will be required to provide a *Good Faith Cost Estimate* outlining the cost of services to uninsured / self-pay patients whenever such a patient: (i) schedules an appointment at least 3 days in advance or, (ii) inquiries about the cost of services.

- New Compliance Line
 - Broward Health has shifted hotline vendors.
 - The shift is transparent to the caller.
 - The new vendor allows the system to have the call bridge into Broward Health’s disclosure system.
 - The new vendor also has been provided with the questions needed to determine if there is sufficient information to start an investigation.
 - New form provided for individuals to disclose any potential or, actual issues that is on the Internet and Intranet.

- Conflict of Interest Annual Survey
 - Planning underway for FY’22 conflict of interest annual survey.
 - Goal is to have surveys completed by April 1, 2022.

- Whistleblower Policy Training
 - Board passed Resolution FY21-11, which establishes procedures for handling whistleblower complaints.
 - Purpose is to ensure the protection of individuals making complaints and create a procedure for prompt and fair investigation and resolution regarding retaliation against whistleblowers.
 - Whistleblower Policy Training was rolled out on December 1, 2021 via HealthStream and, individuals were requested to complete the training within 30 days.

- Document and Policy Changes
 - All User email distributed on November 4, 2021 regarding changes to the contracting documentation process.

- Medical Staff Pre-Screening Form no longer required. The Medical Staff should continue to provide proof of Board Certification or Board Eligible status.

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- Fair Market Reports
 - The Fair Market Value and Commercial Reasonableness requirements and exceptions in PolicyStat.
- Conflict of Interest Form and Disclosure Form for Physician Ownership & Financial Arrangements
 - COI and FOD policies were combined and merged into one disclosure form.
 - The revised disclosure is valid for one calendar year from signature date.
 - The Disclosure form will no longer be an exhibit to the contract templates and the contract language has been updated to include a reference to the Disclosure form.
- Compliance Training Certification
 - No longer required; the compliance training certifications will be included in the onboarding process.
- Corporate Compliance & Ethics Week
 - Kick-off email message to all employees from Brian Kozik, Chief Compliance and Privacy Officer, thanking all employees for their role in compliance program, discussed the District's Compliance Relations Council.
 - Included invitation for additional members;
 - Shared contact for human resource issues;
 - Discussed business courtesies;
 - Provided a complete contact list of compliance staff;
 - Discussed updated Code of Conduct; and
 - Conducted site visits.
- Policy Subcommittee
 - The sub-committee was formed during year 4 of the Corporate Integrity Agreement (CIA)
 - The sub-committee was charged with ensuring that all compliance policies are reviewed annually, sent to the Executive Compliance Group (ECG) for review / approval and, communicated to all employees.
 - The Compliance Department maintains a grid of all compliance policies with the review date and, their next review date. As policies are reviewed, they are also shared with Legal. Since this process has worked extremely well for the past 2 years, it was decided that the sub-committee no longer needs to meet. Should the need arise in the future, sub-committee will reconvene.
- Staffing
 - (1) staff member transferred to the BHMC
 - Replacement hired.
 - (1) staff member left the department.
 - (1) staff member internally promoted to role of Regional Compliance Officer at BHCS.

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6.2. Compliance Education - Corporate Compliance and Individual Accountability
(Presenter – Brian Kozik, Chief Compliance and Privacy Officer)

Mr. Kozik provided an overview on Corporate Compliance and Individual Accountability, which included Deputy Attorney General Sally Yates’ memo (Yates Memo) requiring corporations to disclose “relevant facts about individuals involved in corporate misconduct” to receive credit from the Department of Justice when resolving fraud cases.

For further detail, related slides are available within the January 2022 Compliance and Ethics Committee Meeting book on the Board of Commissioners’ webpage.

7. **ADJOURNMENT**

There being no further business on the agenda, the Chair adjourned the meeting at 11:06 a.m.

Respectfully submitted,
Commissioner Christopher J. Pernicano, Secretary/Treasurer