Updated OIG Guidance Expands Compliance Accountability for Nursing Facility Leadership and Investors

Sally Enoh | January 2025

In November 2024, the OIG's updated compliance program guidance for nursing facilities marked a significant shift in how federal authorities view accountability and ethical leadership in long-term care settings. Since the previous guidance was issued in 2008, the healthcare landscape has evolved dramatically. The industry has witnessed major changes in reimbursement models, ownership structures, regulatory enforcement priorities, and patient care standards. The release of this guidance was a pivotal moment, but the ongoing challenge lies in understanding its implications and incorporating its recommendations into daily operations. As nursing facilities continue to navigate complex regulatory requirements in 2025, the guidance provides a framework for fostering compliance, financial transparency, and ethical leadership. The following are some of the key highlights of the updated guidance.

Broader Scope of Responsibility. The updated guidance broadens the scope of compliance program responsibility. Earlier directives emphasized compliance officers and management teams, focusing on operations within the facility itself. The updated guidance recognizes that nursing facilities are often integrated into larger, multifaceted corporate entities and extends its expectations beyond administrators and department heads. The OIG explicitly addresses corporate executives, owners, and investors, making it clear that those occupying the highest levels of organizational hierarchy share responsibility for adherence to federal healthcare program requirements, as well as for the quality and safety of the resident experience. This expanded view of accountability comes as regulators pay closer attention to the increasingly complex web of financial and ownership arrangements, including the involvement of private equity investors. The revised guidance names corporate-level oversight as a key element of an effective compliance program. Owners and investors are expected not only to provide adequate resources for compliance efforts but also to engage actively in understanding the facility's risk areas and ensuring that measures are in place to detect, prevent, and address misconduct. The OIG now regards these parties as stewards of both organizational integrity and resident welfare and rejects the notion that compliance can be delegated solely to lower-level staff.

Greater Attention to Financial Oversight. Another significant shift involves the OIG's sharper focus on patterns of related-party transactions and the potential for misrepresenting facility profitability. The original guidance broadly encouraged transparency and honesty in financial dealings, but the new iteration hones in on specific practices that can misalign incentives and implicate resident care. Regulators now point to "tunneling"—a practice in which owners and operators may mask or distort profitability through inflated payments to related parties—underscoring that such schemes can harm not only the integrity of reimbursement but also the standard of care. The attention given to these financial flows signals that oversight bodies are prepared to hold individuals personally accountable if they turn a blind eye to questionable dealings that enrich investors at the expense of resident safety and overall quality.

Practical Steps for Compliance Success. The updated guidance speaks to the maturation of compliance concepts in healthcare. The industry has reached a stage where compliance is no longer solely about avoiding overt fraud or illegal schemes. Instead, it is about cultivating a transparent, ethically sound environment where executives, managers, and investors proactively contribute to the delivery of safe, high-quality care.

Compliance Considerations. In implementing and maintaining effective compliance programs for nursing facilities, organizations must consider the following:

1. **Ensure leadership engagement**: Executives, board members, and investors must actively participate in compliance oversight, providing resources and support to address risk areas.
2. **Conduct targeted financial audits**: Regularly audit related-party transactions, ownership structures, and payments to related entities to enhance transparency and mitigate financial risks.
3. **Revise compliance policies**: Update policies to reflect expanded corporate-level accountability and include safeguards for financial integrity and operational transparency.
4. **Invest in leadership-specific training**: Implement targeted, scenario-based training for leadership teams, focusing on their roles in risk prevention and ethical decision-making.
5. **Embed compliance into strategic decision-making**: Integrate compliance into leadership's long-term planning processes to ensure accountability aligns with operational goals and resident care outcomes.

This guest blog was from Sally Enoh, JD, MCRM, CHC, CHPC. For more information on this subject, contact the author at senoh@strategicm.com.

About the Author:

Sally Enoh, a law school graduate with a master's in Healthcare Regulatory Compliance and Risk Management, is skilled in regulatory research and analysis of federal health care regulations including the False Claims Act, Anti-kickback Statute, and HIPAA Privacy and Security Rules. Ms. Enoh assists senior consultants on engagements, such as program development, implementation, evaluation, and management. Additionally, Ms. Enoh performs reviews of compliance programs, evaluates clients' adherence to Corporate Integrity Agreement requirements, and provides compliance advisory services.