

# COMPLIANCE IN THE 21<sup>ST</sup> CENTURY: CURRENT TRENDS

Presented by  
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# Investigative Process

## Other pro-active tools:

- Undercover officers or confidential informants
- Audio/video recordings
- Wiretaps
- Trackers and geo-location technology
- Sophisticated data analysis



# What is Title 18 USC Section 1347?

- Whoever knowingly and willfully executes, or attempts to execute, a scheme or artifice -
  1. to defraud any health care benefit program; or
  2. to obtain , by means of false or fraudulent pretenses, representations, or promises, any of the money or property owned by, or under the custody or control of, any health care benefit program , in connection with the delivery of or payment for health care benefits, items, or services.
- Criminal fines and imprisonment not more than 10 years; if the violation results in serious bodily injury imprisonment not more than 20 years; if the violation results in death, imprisonment for any term of years or for life.

# What makes 18 USC 1347 different?

It applies to any public or **private plan** or contract, affecting commerce, under which any medical benefit, item, or service is provided to any individual, and includes any individual or entity who is providing a medical benefit, item, or service for which payment may be made under the plan or contract.

# Recent False Claims Indictments, Convictions & Settlements



## South Miami Hospital to pay \$12 million to Settle FCA Allegations

On December 7, 2016 the U.S. Attorneys Office, Southern District of Florida, along with a team of investigators from the U.S. Department of Human Services, the Defense Criminal Investigation Service and the Office of Personnel Management announced the settlement. South Miami Hospital settled allegations that it had violated the FCA by submitting false claims to multiple federal health care programs for medically unnecessary heart procedures by Dr. John R. Dylewski.

- Suit was brought under **qui tam** provisions of the FCA by two whistleblowers.
- The two physicians claimed to have personal knowledge of Dylewski and the hospital performing a number of unnecessary cardiac procedures.
- Procedures were performed for the sole purpose of increasing reimbursements from Medicare and other federally-funded healthcare programs.

# Southeast Orthopedics Specialists Agree to \$4.488 Million Settlement in False Claims

The U.S. Attorney's Office, Middle District of Florida announced in December, 2016 that Southeast Orthopedic Specialists (SOS) agreed to pay **\$4.488M** to resolve allegations that the medical group had violated the FCA by seeking reimbursement for services not medically necessary and reasonable. The U.S. alleges the questionable bills include knowingly billing for:

- Certified that certain standards related to the “meaningful use” of electronic health records were met, when in fact they were not.
- Certain claims as “incident to” physician supervision when none was present or no verification of a physician being present.
- Certain claims using Modifier 25 signifying that a separate evaluation & management service was performed, when there was no separate service.
- Certain claims using Modifier 59 signifying two procedures (rather than one) were billable, when the procedures should have appropriately been billed as one.
- Scheduling patient follow-up appointments 12-14 weeks post op in an effort to dodge Medicare's 90-day diagnosis-related group charge.
- Ultrasound –guided injections routinely in the absence of medical necessity.
- Certain physical therapy claims using Modifier KX to exceed the Medicare cap, in the absence of medical necessity.

# Doctor Convicted in Elaborate Scheme of Taking Bribes for Test Referrals to New Jersey Clinical Lab

On March 6, 2017 the U.S. Attorney's office, District of New Jersey announced Dr. Bernard Greenspan, a family doctor practicing in Bergen County, New Jersey was convicted of all 10 counts of an indictment charging him with accepting bribes from Biodiagnostic Laboratory Services (BLS) in exchange for test referrals.

- Greenspan was convicted of (1) count of conspiring to commit violations of the Anti-Kickback Statute, the Federal Travel Act and wire fraud. (3) substantive violations of the Anti-Kickback Statute. (3) substantive violations of the Federal Travel Act. (3) substantive violations of wire fraud.
- Greenspan received approximately **\$200K** in bribe payments and solicited and received other bribes from BLS between March 2006 and April 2013.
- Approximately \$3M in lab business for BLS was generated by Greenspan's referrals.
- **43 convictions – 29 of them doctors** thus far have resulted from the bribery scheme investigation. Organizers have admitted to millions of dollars in bribes and more than **\$100M** in Medicare and various private insurance payments to BLS. This is believed to be the largest number of medical professionals ever prosecuted in a bribery case.
- More than **\$12M** has been recovered through forfeiture. On June 28, 2016, BLS pleaded guilty and was required to forfeit all assets. Dr. Greenspan's sentencing is scheduled for June 20, 2017.



## Doctor Agrees to \$300,000 Settlement in False Health Care Claims

The U.S. Attorney's office, Eastern District of Washington announced on March 16, 2017 that Dr. Romeo Pavlic, a Spokane-area cardiologist, agreed to settle against allegations that he repeatedly billed false Medicare and Medicaid claims for services and tests to vulnerable patients, when in fact he did not.

- Calls for Dr. Pavlic to pay **\$279,190** to the U.S. and **\$20,810** to the State of Washington for payments he allegedly took through knowingly false billing.
- Dr. Pavlic would conduct "cardio-clinics" at Lakeland Village, a State operated facility that provides training, education and healthcare for about 250 individuals with profound physical and mental disabilities between Jan. 2010 - Dec. 2013.
- The U.S. alleges that Dr. Pavlic would conduct these clinics approximately once a month where he would see approximately 20-35 patients over 2-3 hours, scheduling at 5-10 minute intervals.
- Dr. Pavlic would routinely bill Medicare and Medicaid for a longer and more detailed patient evaluation than provided and for a complete echocardiogram when was only providing a limited EKG.
- In December of 2012 Dr. Pavlic was warned in writing his questionable billing compared to other cardiologist in the area and despite this clear warning, he continued to bill for full tests that were not provided.

## Medical Equipment Biller Sentenced to Four Years in Prison

On March 2, 2017 Elma Myles, a biller for RX Resources and Solutions (RXRS) a Medical Equipment Provider located in Randallstown, Maryland was sentenced to four years in prison, in connection with her role in a health care fraud scheme, aggravated identity theft and defrauding the IRS by failing to file tax returns.

- Myles' plea agreement stated she conspired with Harry Crawford, the owner of RXRS to bill for adult incontinent supplies that were never provided, overcharge for supplies that were delivered and bill for supplies that were unneeded and not prescribed.
- Myles submitted fraudulent claims for the above mentioned items to Medicare and other health care benefits programs by using the personal identity information of clients.
- Approximately \$1.2 million in Medicare losses for incontinent supplies alone were fraudulently billed based on a RXRS billing analysis from 2007 to 2014.

## New Jersey Doctor, Oncology Practice and Manager Pay \$1.7 Million to Settle False Claims

The U.S. Attorney's office, District of New Jersey announced on February 16, 2017 that Dr. Kenneth D. Nahum, his oncology practice and practice manager (Ann Walsh, his wife) agreed to pay the U.S. **\$1.7M** to resolve allegations that they illegally imported and used unapproved chemotherapy drugs and illegally billed Medicare.

- Chemotherapy drugs unapproved by the FDA were ordered by the practice, Dr. Nahum and Walsh, from a foreign distributor for use at the practice between April 2010 and January 2011.
- The practice allegedly violated the False Claims Act by submitting claims to Medicare for reimbursement for the unapproved drugs allegedly injected into their patients. Medicare will only reimburse for drugs approved for use in the U.S.

## Two Florida Doctors Settle in False Claims Act Allegations

The U.S. Attorney's office, Southern District of Florida announced on February 7, 2017 that Dr. Gary Marder consented to a final judgment of over **\$18 million**. In addition Dr. Robert Kendall agreed to pay **\$250,000** to the United States. Payments are to settle allegations that they both violated the False Claims Act.

- A qui tam lawsuit was filed by whistleblower, Theodore A. Schiff, M.D.
- Dr. Marder, the owner and operator of the Allergy, Dermatology & Skin Cancer Centers located in Port St. Lucie and Okeechobee, is alleged to have knowingly submitted false claims to federal healthcare programs. These false claims include medically unnecessary biopsies/radiation therapy services, radiation therapy services performed and radiation therapy services performed without direct supervision and by unlicensed and/or unqualified physician assistants.
- Dr. Kendall is alleged to have submitted false laboratory service claims to federal and state healthcare programs with kickbacks to and improper financial relationships with Dr. Marder.
- The Court granted summary judgment in favor of the U.S. with respect to Dr. Marder and made no determination of liability against Dr. Kendall.

# 21<sup>st</sup> Century Oncology and Physicians Involved in Multiple Settlements

Four physicians named in settlement between 21<sup>st</sup> Century Oncology and the U.S. government, a case which resulted in a tip from a whistleblower. Dr. Spellberg's former medical assistant was fired after raising concerns about testing practices.

**December 2015 - 21<sup>st</sup> Century Oncology** agreed to pay **\$19.75M** to settle these FCA violation allegations:

- Billing medically unnecessary lab urine tests (FISH)
- Paid bonuses to physicians in part by encouraging them to order these tests

**January 2016 – Dr. David Spellberg** agreed to pay **\$1.05M** to settle allegations that he violated the FCA by causing claims to be submitted to federal health care programs for medically unnecessary lab tests.

**March 2016 – 21<sup>st</sup> Century Oncology** agreed to pay nearly **\$34.7M** to settle these FCA violation allegations:

- Performed and billed for medically unnecessary procedures (Gamma Function)
- Defendants billed for procedure when results were not reviewed by a physician in timely manner
- Defendants billed for procedure when no result was available due to technical failures

**August 2016 – Dr. Robert Scappa** agreed to pay **\$250K** to settle allegations that he violated the FCA by causing claims to be submitted to federal health care programs for medically unnecessary lab tests

**February 2017 – Dr. Meir Daller** agreed to pay **\$3.81M** to settle allegations that he violated the FCA by causing claims to be submitted to federal health care programs for medically unnecessary lab tests

To date there is no settlement on record with Dr. Steven Paletsky,

# California Court Unseals FCA Whistleblower Suit against United Health Group and WellMed Medical

In February, the federal government intervened in, and the District Court for the Central District of California unsealed, a whistleblower's False Claims Act (FCA) suit against UnitedHealth Group (UnitedHealth) and WellMed Medical Management Inc. (a company acquired by UnitedHealth). The whistleblower in the case, Benjamin Poehling, the director of finance for a UnitedHealth subsidiary, alleges that the insurer and 12 other health plans, including Aetna, Inc. and Humana, Inc., defrauded Medicare by engaging in a scheme that submitted false risk adjustment information to the Centers for Medicare and Medicaid Services (CMS) over a period of 10 years. The suit alleges that the practice of "upcoding" risk adjustment claims may have enriched UnitedHealth and the other defendants by "hundreds of millions—and likely billions—of dollars for over a decade."

Employees, including the whistleblower, were evaluated based on their ability to maximize revenue through risk adjustment, goals that were achieved not only through upcoding on the back end of the process, but by paying bonuses to physicians to find evidence of diseases or conditions that justified higher risk adjustment scores.

**Aside from the sheer scope of the alleged fraud, the UnitedHealth case is significant for two additional reasons.**

- First, UnitedHealth represents the largest managed care/Medicare Advantage plan in which the government has intervened based on irregularities in risk adjustment submissions.
- Second, UnitedHealth is the first large FCA matter in which the new Trump Department of Justice has decided to intervene, so for those in doubt as to whether FCA enforcement would continue at the record-setting pace initiated under the Obama administration, wonder no more—it will.

# Illinois Hospice Administrator Sentenced to 28 Months in March 2017 for \$20M Hospice Fraud

Gwen Hilsabeck, together with the owner of Passages Hospice, LLC Seth Gillman, fraudulently billed Medicare for a higher level of care than required for certain patients. Passages, Hilsabeck and Gillman, along with two other employees were indicted in 2014.

Hilsabeck pled guilty in February 2016, after taking part in a fraud scheme and admitted to altering patient records when Passages was targeted for a Medicare audit. Hilsabeck and Gillman also instituted a bonus system that rewarded nursing directors and other staff for placing patients in a higher level of care. Hilsabeck also received bonuses.

Hilsabeck and the other defendants were ordered to pay **\$9M** in restitution. The other four convicted defendants include:

- The former Director of Nursing Assistants
- The former Director of Clinical Services
- The former Compliance Officer
- The former Head of Marketing

Hospice owner Gillman, also an attorney, received a 6 ½ year sentence. With respect to Hilsabeck, prosecutors originally asked for a five-year sentence, but acknowledged that Gillman was the orchestrator of the scheme.



# What is the Exclusion Statute?

- OIG may exclude providers from participation in Federal health care programs.
- Two categories of exclusions
  - Mandatory exclusions – imposed on the basis of convictions for
    - Medicare or Medicaid fraud
    - Patient abuse or neglect
    - Felony convictions for other health-care-related fraud, theft, or financial misconduct
    - Felony convictions for unlawful manufacture, distribution, prescription, or dispensing controlled substances





# Exclusion Statute

Permissive exclusions – based on sanctions by other agencies, such as state medical boards or misconduct including defaulting on health education loans or providing unnecessary or substandard care.

- Excluded providers may not bill Medicare or Medicaid, nor may their services be billed indirectly through an employer or group practice.
- Employers are responsible for screening professionals and staff for exclusion status.

# What is the Civil Monetary Penalties Law?

- OIG may seek civil monetary penalties for a wide variety of abusive conduct, including presenting a claim that is false or fraudulent because it is for a medically unnecessary procedure.
- OIG may also impose penalties for violating the Medicare assignment agreement by overcharging or double billing Medicare patients.
- Penalties range from \$10,000 to \$50,000 per violation.



# Civil Monetary Penalties Law

## Examples of misconduct include:

- Violating FCA or Anti-kickback Statute.
- Violating Medicare physician agreement.
- Providing false or misleading information expected to influence a decision to discharge.
- Failing to provide adequate medical screening for patients who present to a hospital emergency department with an emergency medical condition or in labor.
- Making false statements or misrepresentations on applications or contracts to participate in federal health care programs.

# Your best protection: An Effective Compliance Program

“We expect that every health care provider will have an effective compliance program.”

*Daniel Levinson, Inspector General, Office of the Inspector General, 2009 Compliance Institute, Las Vegas, NV*

# The Seven Components

1. Conducting internal monitoring and auditing through the performance of periodic audits
2. Implementing compliance and practice standards through the development of written standards and procedures.
3. Designating a compliance officer or compliance contacts to monitor compliance efforts and enforce practice standards.
4. Conducting appropriate training and education on practice standards and procedures.
5. Responding appropriately to detected violations through the investigation of allegations and the disclosure of incidents to appropriate Government entities.
6. Developing open lines of communication to keep practice employees updated regarding compliance activities. No retaliation policy.
7. Enforcing disciplinary standards through well-publicized guidelines.

## Creating the Plan

- What will the Plan encompass?
  - HIPAA? (a/k/a “the 800 lb gorilla in the room”)
  - OSHA?
  - ADA?
  - – Corporate/Medicare Compliance?
    - Fee-for service v. at risk managed care?
    - Quality Payment Programs
    - Credentialing/licensure?

# Creating the Plan

- Where to start....
  - OIG's Compliance Guidance
    - Physicians
    - 3<sup>rd</sup> party billing companies
    - Home health, hospice, DMEPOS, Hospitals, SNF, pharma, ambulance providers
    - <http://oig.hhs.gov/compliance/compliance-guidance/index.asp>
  - Your State
    - NY's Office of Medicaid Inspector General
    - [www.omig.ny.gov](http://www.omig.ny.gov)
  - Managed Care contracts
    - Advantage Plans' mandatory fraud & abuse training



# Creating the Plan

## Identifying your risk areas\*

- Coding and billing
  - FFS
  - MRAs
- Reasonable and necessary services
  - Screening vs. medically necessary services
- Medical record documentation
  - EMR risks
- CMS 1500 form documentation
- Kickbacks, inducements, Stark II
  - Need for good health care legal counsel

## Risk Area: Reasonable and necessary services

Medicare law requires that in order for expenses incurred for items or services to be covered, they must be "reasonable and necessary for the diagnosis or treatment of illness or injury or to improve the functioning of a malformed body member."

CMS Glossary for Beneficiaries defines medical necessity as: "Services or supplies that: are proper and needed for the diagnosis or treatment of your medical condition, are provided for the diagnosis, direct care, and treatment of your medical condition, meet the standards of good medical practice in the local area, and aren't mainly for the convenience of you or your doctor. "

# Additional Risk Areas

- LCDs and other 3<sup>rd</sup> party payer policies
- ABNs
- DME and HHA certifications
- Hospice CTIs and NOEs
- Teaching physicians
- Third-party billing services
  - Does your billing company have a compliance program?
- Professional courtesy
- Refunds issued timely
  - Medicare's 60-day rule
- Record retention policies
- Incident-to services
  - And other Physician Supervision requirements
- If NPPs, billed appropriately
  - Scope of practice (MAs)
  - Incident to

## Creating the Plan

- Identify who should be involved
  - Compliance Officer
  - Billing Department staff
  - EMR super user
  - Do you need a Compliance Committee?

# Creating the Plan

- When & how to do chart audits
  - Who
    - Who will do it
    - Who will be audited
  - When
    - Frequency
  - What
  - How
  - Then what.....

# Chart Audits: General Steps

- Identify the purpose of the audit
  - Investigation?
  - QA, process improvement?
- Identify your population & sample selection technique
- Determine what data collection tool(s) will be used
- Analyze results for findings and follow-up action

## What type of audit is it?

- Baseline (10-20 claims/provider)
- Focused Review (5-10 claims/provider)
- General Annual (10-20 claims/provider)

Prospective? (“today”s charges)

Retrospective? (w/in the last 6 months.)

What about attorney-client privilege?

## Who should do the audit?

- Office Manager/Compliance Officer
- OM/CO and physicians/nurses
- Shared among staff
- Consultant

Whoever you choose, (s)he should understand both the coding and clinical elements as well as how to apply medical necessity/LCD criteria



# What are you looking for?

- Levels of E/M service
- Ancillary services
  - IPPE/AWV
  - Orders for diagnostics, infusion, therapy
  - Staff credentials
- Separate reports (tests, procedures)
- DRG outliers
- Long length of stay for hospice or home health
- Can you read it?
- Can you tell who provided the service?
  - Is it billed under that provider?
- Any incident-to issues?
- ICD-10 code supported by documentation
- Medical necessity

## Now that you have the information...

- Written report
  - Privileged?
- Incorporate into compliance records
- Meeting
  - With counsel
  - With physician(s)
  - With staff
  - Compliance Committee
- Change forms
- Change processes
- Refund any overpayments
- Self disclosure
  - Consult counsel
- Education & training
- Disciplinary action per your compliance program

## Post Audit Follow-Up

- Education
  - Physicians, NPPs, nurses, technicians
  - Staff (registration, coding/billing, administrative)
- Processes to prevent identified errors from reoccurring.
- Ongoing monitoring techniques
  - ADRs or denials
  - Productivity reports
- Schedule the next audit!

## Incident-to

Can the physician bill for services provided by the nurse practitioner or physician assistant?

- High risk area that is poorly understood

## “Incident to” Benefit

- Its own benefit category
- Under §1861(s) of the Social Security Act:
  - Medicare pays for certain services and supplies furnished incident to a physician's/NPP's services and for which payment is not made under a separate benefit category.

## ‘Incident to’ Requirements

- The services/supplies are an integral, although incidental, part of the physician’s/NPP’s professional services.
  - Course of treatment initiated by physician
  - Physician involvement reflected as continuing active participation in the patient’s management/care
- The services/supplies are of a type that are commonly furnished in a physician’s office or clinic.
  - Rules out services performed in the hospital

## ‘Incident to’ Requirements, cont’d

- The services/supplies are furnished under the physician’s direct personal supervision.
  - A member of the group who is physically in the office suite
- The ARNP/PA is a Medicare Provider
- The services/supplies are furnished by an individual who qualifies as an employee of the physician.
  - W2, 1099 or leased employee
  - Cannot bill for the hospital’s PA/ARNP

## NPPs and “Incident to”

- Never bill incident-to:
  - New patients or consultations
  - Established patient with a new problem
  - In any inpatient setting or at home
- Can bill incident-to
  - Established patient, without a new problem, and with direct physician supervision
- Never assume a 3<sup>rd</sup> party payer recognizes an NPP's services as incident-to
  - Verify whether the payer includes NPPs as covered providers.
    - BCBS
    - UHC



# Shared/Split E&M Visits

- For Inpatient/Outpatient Hospital and the ED

## Split/Shared E&M Services

- Physician and NPP both perform face-to-face visits with the patient
  - Each documents and signs their own encounter note
  - Select the code based on combined content of the 2 notes.
  - Can bill Medicare via either the physician or NPP.

# Back to that compliance plan...

## Insufficient Compliance Plans

- NY OMIG Bureau of Compliance conducts effectiveness reviews of New York Medicaid providers' compliance programs.
- Insufficiencies mean a provider does not have an effective compliance program.”

# Insufficiency Elements #1 and #2

## **Element (1) Written policies and procedures**

1. No compliance program, code of conduct, policies or procedures on compliance.

## **Element (2) Designate an employee vested with responsibility**

### **1. Compliance Officer Reporting**

- a. Compliance officer reporting to chief financial officer.
- b. Organization chart indicates a reporting structure to the CEO or other senior administrator, but the actual reporting relationship is to the CFO or other conflict-of-interest position.

2. Compliance officer's non-compliance functions, if any, conflict with pursuit of compliance duties. For example, the compliance officer should not also serve as the chief financial officer or administrator over the billing function.

## Insufficiency Elements #3 and #4

### **Element (3) Training and education**

1. Compliance training program does not include the governing board, senior management, staff or other essential parties.

### **Element (4) Communication lines to the responsible compliance position**

1. No method of anonymous disclosure to the compliance function exists.

2. No or little meaningful communication between the compliance function and the governing board and/or senior management on compliance-related issues.

## Insufficiency Elements #5 and #6

### **Element (5) Disciplinary policies to encourage good faith participation**

1. Failure to have effective disciplinary policies or policies that exist and are not enforced.
2. Unequally applied disciplinary policies. For example, suspension or firing of a line staff employee when the employee violates the code of conduct, but no such similar treatment for a senior management person for the same or similar violation.

### **Element (6) A system for routine identification of compliance risk areas**

1. There is no routine system to identify compliance risk areas. This could be through self-directed oversight or internal audits or outside reviewers.
2. No effective entries into logs for complaints, hot-line calls, drop-boxes, e-mails or in-person disclosures to the compliance function.

## Insufficiency Elements #7 and #8

### **Element (7) A system for responding to compliance issues**

1. Failure to respond to matters identified to the provider by OMIG or other NYS or federal regulatory bodies as program deficiencies or weaknesses.

### **Element (8) A policy of non-intimidation and non-retaliation**

1. Failure to investigate reports of intimidation and retaliation reported by individuals disclosing violations of the compliance program.



## In Conclusion

- The goal of voluntary compliance programs is to provide a tool to strengthen the efforts of health care providers to prevent and reduce improper conduct.
- A well-designed compliance program can:
  - Speed and optimize proper payment of claims;
  - Minimize billing mistakes;
  - Reduce the chances that an audit will be conducted by CMS or the OIG; and
  - Avoid conflicts with the self-referral and anti-kickback statutes.
- Physicians should view compliance programs as analogous to practicing preventive medicine for their practice.



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# Measuring Compliance Program Effectiveness: A Resource Guide

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*HCCA-OIG Compliance Effectiveness Roundtable  
Roundtable Meeting: January 17, 2017 | Washington, DC*



## Measuring Compliance Program Effectiveness – A Resource Guide

### HCCA-OIG Compliance Effectiveness Roundtable Roundtable Meeting: January 17, 2017 Washington DC

#### Introduction

On January 17, 2017, a group of compliance professionals and staff from the Department of Health and Human Services, Office of Inspector General (OIG) met to discuss ways to measure the effectiveness of compliance programs. The intent of this exercise was to provide a large number of ideas for measuring the various elements of a compliance program. Measuring compliance program effectiveness is recommended by several authorities, including the United States Sentencing Commission (see, Chapter 8 of the United States Sentencing Guidelines). This list will provide measurement options to a wide range of organizations with diverse size, operational complexity, industry sectors, resources, and compliance programs.

During the meeting on January 17, the participants broke into 4 groups of 10 attendees to discuss 2 elements of a compliance program at a time. During four sessions, every participant had a chance to suggest ideas about “what to measure” and “how to measure” with respect to all seven elements of a compliance program. We used the following categories, from the Health Care Compliance Association’s *CHC Candidate Handbook: Detailed Content Outline*, as a guide to ensure that all elements of a compliance program were covered:

#### Compliance Program Elements:

1. Standards, Policies, and Procedures
2. Compliance Program Administration
3. Screening and Evaluation of Employees, Physicians, Vendors and other Agents
4. Communication, Education, and Training on Compliance Issues
5. Monitoring, Auditing, and Internal Reporting Systems
6. Discipline for Non-Compliance
7. Investigations and Remedial Measures

We have listed below many individual compliance program metrics. The purpose of this list is to give health care organizations as many ideas as possible, be broad enough to help any type of organization, and let the organization choose which ones best suit its needs. This is not a “checklist” to be applied wholesale to assess a compliance program. An organization may choose to use only a small number of these in any given year. Using them all or even a large number of these is impractical and not recommended. The utility of any suggested measure listed in

this report will be dependent on the organization's individual needs. Some of these suggestions might be used frequently and others only occasionally. The frequency of use of any measurement should be based on the organization's risk areas, size, resources, industry segment, etc. Each organization's compliance program and effectiveness measurement process will be different. Some may not apply to the organization's environment at all and may not be used.

Any attempt to use this as a standard or a certification is discouraged by those who worked on this project; one size truly does not fit all.

### **Element 1: Standards, Policies, and Procedures**

- A. Conduct periodic reviews of policies, procedures, and controls.
- B. Consult with legal resources.
- C. Verify that appropriate coding policies and procedures exist.
- D. Verify that appropriate overpayment policies and procedures exist.
- E. Integrate mission, vision, values, and ethical principles with code of conduct
- F. Maintain compliance plan and program.
- G. Assure that a nonretribution/nonretaliation policy exists.
- H. Maintain policies and procedures for internal and external compliance audits.
- I. Verify maintenance of a record retention policy.
- J. Maintain a code of conduct.
- K. Verify maintenance of:
  - 1. A conflict of interest policy
  - 2. Appropriate confidentiality policies
  - 3. Appropriate privacy policies
  - 4. Policies and procedures to address regulatory requirements (e.g., the Emergency Medical Treatment and Labor Act (EMTALA), Clinical Laboratory Improvement Amendments (CLIA), Anti-Kickback, research, labor laws, Stark law).
- L. Verify appropriate policies on interactions with other healthcare industry stakeholders (e.g., hospitals/physicians, pharma/device representatives, vendors).
- M. Assure policies and procedures address the compliance role in quality of care issues.
- N. Verify maintenance of a policy on gifts and gratuities.
- O. Verify maintenance of standards of accountability (e.g., incentives, sanctions, disciplinary policies) for employees at all levels.
- P. Maintain a Compliance Department operations manual.
- Q. Verify maintenance of policies on waivers of co-payments and deductibles.
- R. Assure governance policies related to compliance are appropriately maintained.

**Source: CHC Candidate Handbook: Detailed Content Outline**

## Element 1: Standards, Policies, and Procedures

|      | What to Measure                                      | How to Measure                                                                                                                                                                                                                                                                                                                                                                                                                            |
|------|------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|      | <b>Access:</b>                                       |                                                                                                                                                                                                                                                                                                                                                                                                                                           |
| 1.1  | Accessibility                                        | <ul style="list-style-type: none"> <li>• Review link to employee accessible website/intranet that includes the Code of Conduct</li> <li>• Survey - Can you readily access or reference policies and procedures? (Yes/No/Don't know)</li> <li>• Survey - How and where do employees actually access policies and procedures?</li> <li>• Test key word search (searchable)</li> <li>• Audit and interview staff to show policies</li> </ul> |
| 1.2  | Actual Access                                        | Audit how many actual "hits" on policies and procedures                                                                                                                                                                                                                                                                                                                                                                                   |
| 1.3  | Accessible language for code, standards and policies | Flesch Kincaid measuring standard – no more than 10th grade reading level                                                                                                                                                                                                                                                                                                                                                                 |
| 1.4  | Compliance program awareness and communication       | <ul style="list-style-type: none"> <li>• Survey employees to determine the extent to which the code of conduct and other compliance communications are available to employees</li> <li>• Review to ensure the standards, policies, and awareness material is updated and distributed within organization's guidelines</li> </ul>                                                                                                          |
| 1.5  | Impaired or disabled accessibility                   | Review accessibility options. Look at methods and speak to individuals.                                                                                                                                                                                                                                                                                                                                                                   |
| 1.6  | Policy communication                                 | Communication strategy of policies                                                                                                                                                                                                                                                                                                                                                                                                        |
| 1.7  | Availability of policy content                       | Conduct surveys and observation                                                                                                                                                                                                                                                                                                                                                                                                           |
|      | <b>Accountability:</b>                               |                                                                                                                                                                                                                                                                                                                                                                                                                                           |
| 1.8  | Accountability                                       | Policy Coordinator designated                                                                                                                                                                                                                                                                                                                                                                                                             |
| 1.9  | Ownership and accountability of policies             | Audit process of how policies get enforced by chain of command when compliance is not the final approver. Is management taking responsibility for implementing and following policies?                                                                                                                                                                                                                                                    |
| 1.10 | Routine policies and procedures                      | Confirm that listed owner of each policy and procedure is the actual owner.                                                                                                                                                                                                                                                                                                                                                               |

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|      | <b>Review/Approval Process:</b>                                                            |                                                                                                                                                                                                                            |
| 1.11 | Annual review and Board approval of Compliance Plan                                        | Audit: Review of Board minutes                                                                                                                                                                                             |
| 1.12 | Compliance documentation operations manual                                                 | Compliance or other oversight committee to review annually to ensure it is up to date.                                                                                                                                     |
| 1.13 | Maintenance of policies                                                                    | Check last review or revision                                                                                                                                                                                              |
| 1.14 | Number of policies reviewed and is the review timely                                       | Process review/audit. Use checklist to ensure all basic policy elements are in place, updated consistently and reviewed/approved by appropriate parties.                                                                   |
| 1.15 | Policy approvals                                                                           | Checklist audit. Create list of policies, review committee and board minutes to ensure all approvals have been obtained.                                                                                                   |
| 1.16 | Policy review process                                                                      | Audit process by which policies and procedures are prepared, approved, disseminated, etc.                                                                                                                                  |
| 1.17 | Process for ensuring full organizational participation in policy and procedure development | Review documentation/minutes to verify input considered and solicited for policy and procedure development and review                                                                                                      |
| 1.18 | Process for review and approving                                                           | Check for written process                                                                                                                                                                                                  |
|      | <b>Quality:</b>                                                                            |                                                                                                                                                                                                                            |
| 1.19 | Are policies (and procedures) as good as industry practice                                 | Peer reviews                                                                                                                                                                                                               |
| 1.20 | Integrity of Process for developing and implementing policies and procedures               | Audit policy and procedure on policy and procedures                                                                                                                                                                        |
| 1.21 | Language and reading level of policies                                                     | Are policies written in plain language, appropriate grade reading level and written in applicable languages for organization? Policy review, Word grade level review and interviews of staff to make sure they understand. |
| 1.22 | Language translation                                                                       | Audit or process review. Are policies and the code of conduct translated into appropriate languages for organization?                                                                                                      |
| 1.23 | Usefulness                                                                                 | SURVEY - Do department policies and procedures assist you in doing your job effectively? (Yes/No/Don't know)                                                                                                               |



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| 1.24 | Need for policies that don't exist                                                       | Interview staff to determine if they need the certain policies to strengthen internal controls.                                                                                                       |
| 1.25 | Policies and procedures                                                                  | Request review from external experts                                                                                                                                                                  |
|      | <b>Assessment:</b>                                                                       |                                                                                                                                                                                                       |
| 1.26 | Assessment of all company policies                                                       | Check list of policies; which are compliance and which are business                                                                                                                                   |
| 1.27 | Essential compliance policies and procedures exist                                       | Can staff actually articulate policies and procedures; test staff                                                                                                                                     |
| 1.28 | Existence of procedure to support policy                                                 | Audit for procedure to support policy                                                                                                                                                                 |
| 1.29 | Fundamental policies and procedures in place                                             | Have focus groups of work units/departments to determine whether they understand the policies and procedures necessary to do their jobs.                                                              |
| 1.30 | Identifiability                                                                          | <ul style="list-style-type: none"> <li>• Index of policies available and current</li> <li>• Numbered policies, not just titles</li> </ul>                                                             |
| 1.31 | List of policies are applicable to employees                                             | Supervisors to assess direct staff                                                                                                                                                                    |
| 1.32 | Are those affected by policy given the opportunity to weigh in on policy when developed? | Focus groups and interviews of those affected by policy.                                                                                                                                              |
| 1.33 | List of required policies                                                                | Create checklist to make sure minimum policies are in place and then audit against the list.                                                                                                          |
| 1.34 | Effectiveness of policies                                                                | Effectiveness of policies based on the submission hotline calls                                                                                                                                       |
| 1.35 | Policies and procedures that have been identified as part of corrective action           | Process review. Conduct annual meeting with compliance and legal to look at databases and control and prioritize review to ensure implementation and ongoing compliance with policies and procedures. |
| 1.36 | Policies for high risk and operational areas                                             | Audit                                                                                                                                                                                                 |
| 1.37 | Policies, standards and procedures are based on assessed risks                           | Risk assessment, policy exists for each risk identified in the risk assessment (coverage of a specific risk topic)                                                                                    |
| 1.38 | Policy inventory to ensure no overlap and contradiction of policies                      | Create inventory and analyze inventory. Analyze and review past efforts. Look at various departments that might have overlapping policies.                                                            |
| 1.39 | Policy review following investigation/issue                                              | Top policies implicated in an investigation are reviewed to determine if policy ambiguous, complex, fails to adequately safeguard issues. Validate through audit.                                     |

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| 1.40 | Routine policies and procedures are addressed and filter down.                 | Review department and committee agendas to ensure policies are addressed                                                                                                                                                                                           |
|      | <b>Code of Conduct:</b>                                                        |                                                                                                                                                                                                                                                                    |
| 1.41 | Code of Conduct                                                                | Audit: Review dates, board approvals, distribution processes, attestations, survey employees for understanding, conduct focus groups.                                                                                                                              |
| 1.42 | Compliance program awareness and communication                                 | Survey employees to determine the extent to which they know the content of the Standards of Conduct (SOC) and how to access it.                                                                                                                                    |
| 1.43 | Integrate mission, vision, values, and ethical principles with code of conduct | Compare code with mission and vision statements to see if it includes elements/statements. Check to see if code is accessible to employees                                                                                                                         |
| 1.44 | Maintenance of code of conduct                                                 | Is code written, posted for employees, documented frequency of reviews, and survey/test employees on ability to locate it                                                                                                                                          |
| 1.45 | Distribution                                                                   | Documentation of Code of Conduct distribution tracking and results over past two years for all employees, employed physicians, allied health professionals, independent (contracted) physicians, volunteers and vendors/contractor/consultants in the organization |
| 1.46 | Orientation                                                                    | Audit to ensure all employees receive orientation to the SOC and compliance policies within 30 days of hire.                                                                                                                                                       |
| 1.47 | Staff understanding of code of conduct and policies and procedures             | <ul style="list-style-type: none"> <li>Review test scores after training.</li> <li>Conduct interviews.</li> </ul>                                                                                                                                                  |
|      | <b>Updates:</b>                                                                |                                                                                                                                                                                                                                                                    |
| 1.48 | Compliance program communication of rule changes                               | Review periodically and at rule changes – Audit to ensure there is adequate communication to employees, including changes in policy/procedure.                                                                                                                     |
| 1.49 | New and updated policy distribution and education of appropriate staff         | Process review - Does organization have formal process to make workforce aware of new policies or changes in policies?                                                                                                                                             |
| 1.50 | Practices implemented after new policy                                         | Audit practices and review committee minutes and other documentation to determine how new policies are implemented.                                                                                                                                                |
|      | <b>Understanding:</b>                                                          |                                                                                                                                                                                                                                                                    |
| 1.51 | Understanding of Policies/Procedures                                           | <ul style="list-style-type: none"> <li>Conduct surveys and/or focus groups on specific policies</li> </ul>                                                                                                                                                         |

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|      |                                                                                                          | <ul style="list-style-type: none"> <li>• Audit adherence to policy/procedure</li> </ul>                                                                                                                          |
| 1.52 | Orientation                                                                                              | Ensure employees are provided instruction by knowledgeable personnel for questions/clarity                                                                                                                       |
| 1.53 | Policies reflect practice                                                                                | Use policies as audit tool and then interview, observe and conduct document review to ensure policies are being followed.                                                                                        |
| 1.54 | Questions asked by employees                                                                             | System in place to track employee questions and concerns to ensure consistent guidance. Track departments where questions come from to deploy additional education where necessary.                              |
| 1.55 | Understandable to board and c-suite                                                                      | Test board and c-suite on location and understanding                                                                                                                                                             |
| 1.56 | Understandable to employees                                                                              | <ul style="list-style-type: none"> <li>• Reading comprehension test</li> <li>• Situational tests</li> <li>• Test of location</li> </ul>                                                                          |
|      | <b>Compliance Plan:</b>                                                                                  |                                                                                                                                                                                                                  |
| 1.57 | Maintain compliance plan and program                                                                     | Review written plan or written schedule of compliance activities                                                                                                                                                 |
| 1.58 | Maintain compliance department operations manual                                                         | <ul style="list-style-type: none"> <li>• Audit existence of written manual, handbook, or reference guide</li> <li>• Test whether the manual is current</li> </ul>                                                |
|      | <b>Confidentiality Statements:</b>                                                                       |                                                                                                                                                                                                                  |
| 1.59 | Verify maintenance of appropriate confidentiality policies                                               | <ul style="list-style-type: none"> <li>• Audit procedure for obtaining confidentiality statements from employees</li> <li>• Audit employee files for signed confidentiality statements from employees</li> </ul> |
|      | <b>Enforcement:</b>                                                                                      |                                                                                                                                                                                                                  |
| 1.60 | Compliance with policies                                                                                 | Conduct interviews, observation.                                                                                                                                                                                 |
| 1.61 | Policy violations                                                                                        | Audit policy and procedures to make sure practice consistent with policy.                                                                                                                                        |
| 1.62 | Adherence to policies and procedures for cases involving patient harm and reporting to regulatory agency | Review policies and procedures and cases involving patient harm and validate proper reporting to regulatory agency                                                                                               |

## **Element 2: Compliance Program Administration**

- A. Maintain a compliance budget (e.g., contribute to planning, preparing, and monitoring financial resources).
- B. Report compliance program activity to the governance board/committee.
- C. Coordinate operational aspects of a compliance program with the oversight committee.
- D. Collaborate with others to institute best compliance program.
- E. Coordinate organizational efforts to maintain a compliance program.
- F. Define scope of compliance program consistent with current industry standards.
- G. Assure that the compliance oversight committee's goals and functions are outlined.
- H. Evaluate the effectiveness of the compliance program on a periodic basis.
- I. Maintain knowledge of current regulatory changes and interpretation of laws.
- J. Assure the credibility and integrity of the compliance program.
- K. Recognize the need for outside expertise.
- L. Oversee a compliance education program.
- M. Verify the organization has defined the authority of the compliance officer at a high level.
- N. Verify the governing board understands its responsibility as it relates to the compliance program and culture.
- O. Assure that the role of counsel in the compliance process has been defined.
- P. Define the responsibilities, purpose, and function for all compliance staff.
- Q. Assure staffing for the compliance program.
- R. Verify compliance risk assessments are conducted periodically.
- S. Participate in the development of internal controls and systems to mitigate risk.
- T. Incorporate relevant aspects of regulatory agencies' focus into compliance operations.
- U. Oversee integration of the compliance program into operations.
- V. Develop an annual compliance work plan.
- W. Demonstrate independence and objectivity in all aspects of compliance program.
- X. Maintain an independent reporting structure to the governing body (e.g., Board, Physician Practice Executive Committee).

**Source:** *CHC Candidate Handbook: Detailed Content Outline*

## Element 2: Compliance Program Administration

|     | What to Measure                                                                | How to Measure                                                                                                                                                                                                                                                                                                                                        |
|-----|--------------------------------------------------------------------------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|     | <b>Board of Directors:</b>                                                     |                                                                                                                                                                                                                                                                                                                                                       |
| 2.1 | Active Board of Directors                                                      | <ul style="list-style-type: none"> <li>Review minutes of meetings where Compliance Officer reports in-person to the Audit and Compliance Committee of the Board of Directors on a quarterly basis</li> <li>Conduct inventory of reports given to board and applicable committees.</li> </ul>                                                          |
| 2.2 | Board understanding and oversight of their responsibilities                    | <ul style="list-style-type: none"> <li>Review of training and responsibilities as reflected in meeting minutes and other documents (training materials, newsletters, etc.). Do minutes reflect board's understanding?</li> <li>Review/audit board education – how often is it conducted? Conduct interviews to assess board understanding.</li> </ul> |
| 2.3 | Appropriate escalation to oversight body                                       | <ul style="list-style-type: none"> <li>Review minutes/checklist in compliance officer files</li> </ul>                                                                                                                                                                                                                                                |
| 2.4 | Commitment from top                                                            | <ul style="list-style-type: none"> <li>Review compliance program resources (budget, staff).</li> <li>Review documentation to ensure staff, board and management are actively involved in the program.</li> <li>Conduct interviews of board, management and staff.</li> </ul>                                                                          |
| 2.5 | Process for escalation and accountability                                      | Process review (document review, interviews, etc.). Is there timely reporting and resolution of matters?                                                                                                                                                                                                                                              |
|     | <b>Compliance Budget:</b>                                                      |                                                                                                                                                                                                                                                                                                                                                       |
| 2.6 | Appropriate oversight of budget                                                | Review charter of governing body (Board) to verify it includes approval of compliance budget                                                                                                                                                                                                                                                          |
| 2.7 | Budget is based on an assessment of risk and program improvement/effectiveness | Is the Board's approval of the budget based on identified risks and effectiveness evaluation/program improvement?                                                                                                                                                                                                                                     |
| 2.8 | Sufficient compliance program resources (budget, staffing)                     | Review budget and staffing to ensure significant risks are managed appropriately                                                                                                                                                                                                                                                                      |
|     | <b>Compliance Committees:</b>                                                  |                                                                                                                                                                                                                                                                                                                                                       |

|      |                                                                                 |                                                                                                                                                                                                                                                                                                                                                                            |
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| 2.9  | Active involvement of compliance committee members                              | Track percentage of attendance of each compliance committee member over the last year                                                                                                                                                                                                                                                                                      |
| 2.10 | Assure that the compliance oversight committee goals and functions are outlined | Review charter of committee                                                                                                                                                                                                                                                                                                                                                |
| 2.11 | Committee structure                                                             | Review documentation of structure of committees as well as charters. Ensure no conflicting charters.                                                                                                                                                                                                                                                                       |
| 2.12 | Compliance committee composition and attendance                                 | Review charter and minutes to assure attendance.                                                                                                                                                                                                                                                                                                                           |
| 2.13 | Cascade administration of compliance program throughout the organization        | Different operational areas give some certification/disclosure to the compliance office                                                                                                                                                                                                                                                                                    |
| 2.14 | Composition of Compliance Committee                                             | Review organizational chart to validate correct composition                                                                                                                                                                                                                                                                                                                |
| 2.15 | Effectiveness of compliance committee meetings                                  | Keep executive report card by member qualitative/quantitative with indicators of contribution on topics                                                                                                                                                                                                                                                                    |
| 2.16 | Engagement                                                                      | In the last two years, have the compliance committee meetings been held in accordance with the charter?                                                                                                                                                                                                                                                                    |
| 2.17 | Engagement of Directors/Managers                                                | Review committee structure to evaluate how directors/managers are participating in Compliance Operational Committee(s) meeting includes agenda, minutes, attendance and reports from subcommittees                                                                                                                                                                         |
| 2.18 | Executive Leadership engaged in Compliance Program                              | Review frequency of meetings, membership, attendance, agenda and minutes over the past year of the Compliance Executive Committee to include all members of the Senior Executive team receiving information directly from the Compliance Officer                                                                                                                           |
|      | <b>Accountability:</b>                                                          |                                                                                                                                                                                                                                                                                                                                                                            |
| 2.19 | Leadership accountability                                                       | <p>Audit documentation and conduct interviews. Some examples might include:</p> <ul style="list-style-type: none"> <li>• Employee education completion rates</li> <li>• Demonstration of promotion of compliance (e.g., town hall meeting presentations, newsletters, etc.)</li> <li>• Completion of audit or review action items within established time frame</li> </ul> |
| 2.20 | Management accountability for compliance                                        | <p>Process and document review and interviews.</p> <ul style="list-style-type: none"> <li>• Is there a mapping of operational or management responsible for championing compliance?</li> </ul>                                                                                                                                                                             |

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|      |                                                                                                                                                                                         | <ul style="list-style-type: none"> <li>• Is there a mapping of management responsible for key areas of compliance to ensure accountability?</li> <li>• Does top management support the compliance team?</li> </ul>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |
|      | <b>Compliance Officer:</b>                                                                                                                                                              |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |
| 2.21 | Competency                                                                                                                                                                              | <ul style="list-style-type: none"> <li>• Certification (CHC, CHPC, CHRC)</li> <li>• Annual evaluation, coaching, corrective action, professional development</li> </ul>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |
| 2.22 | Is the compliance officer a key stakeholder in the strategic initiatives of the organization                                                                                            | <ul style="list-style-type: none"> <li>• Review participation of compliance officer in strategic planning process and due diligence processes.</li> </ul>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |
| 2.23 | Compliance department involvement in enterprise-wide initiatives/entities/strategies (e.g., involvement or penetration in joint venture initiatives and other organizational inventory) | <ul style="list-style-type: none"> <li>• Process review, including review of organizational chart to ensure compliance captures enterprise-wide entities.</li> <li>• Interviews with compliance and other committees.</li> </ul>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |
| 2.24 | Compliance independence/compliance structure                                                                                                                                            | <ul style="list-style-type: none"> <li>• Does the reporting structure reflects the "express" authority required?</li> <li>• Audit program charters (compliance program or Audit committee)</li> </ul>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |
| 2.25 | Compliance integration                                                                                                                                                                  | Audit to determine the extent to which compliance officer is involved in training, policy development, marketing and other operational aspects of the business                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                       |
| 2.26 | Compliance Officer reporting structure and oversight to ensure direct access to C suite and board                                                                                       | <ul style="list-style-type: none"> <li>• Document review - Look at organizational chart and conduct interviews.</li> <li>• Review board minutes and documentation that there are regular meetings with CEO and or appropriate parties.</li> <li>• Ensure compliance officer has authority and is comfortable to go to board.</li> </ul>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |
| 2.27 | Compliance officer's independence/objectivity                                                                                                                                           | <ul style="list-style-type: none"> <li>• Review compliance officer's job description. Does s/he report directly to CEO, board (not CFO or Legal)? Conduct interviews, focused groups, audit.</li> <li>• Seating location of compliance with the business, senior teams are together, and dotted line on org chart</li> <li>• Interview compliance officer to see if they feel they have independence, do they document disagreements, is there executive session for audit committee.</li> <li>• Interview the board, review minutes, and interview the CCO</li> <li>• Review of written organizational structure</li> <li>• Verify the Compliance Officer has the independent authority to retain outside legal counsel</li> <li>• Review if there is screening of compliance officer material to the Board of Directors</li> </ul> |

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|      |                                                                                                  | <ul style="list-style-type: none"> <li>Regular executive session of the Compliance Officer with the Audit and Compliance Committee of the Board</li> </ul>                                                                                                                                                                                                                                                                                                                                                                                                                       |
| 2.28 | Credibility of compliance officer                                                                | Job Description review, ongoing training of compliance officer, basic competencies, certifications, reporting structure                                                                                                                                                                                                                                                                                                                                                                                                                                                          |
| 2.29 | How much authority does the compliance officer have to start a working group to look at changes? | <ul style="list-style-type: none"> <li>Have needed changes been made, and if not, why not?</li> <li>What authority does the compliance officer have and how does he or she exercise it?</li> <li>Where is the compliance team with regards to identifying working groups to help attack a new compliance risk?</li> </ul>                                                                                                                                                                                                                                                        |
| 2.30 | How supported the compliance officer feels                                                       | <ul style="list-style-type: none"> <li>Interview compliance officer;</li> <li>Documentation review.</li> </ul>                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |
| 2.31 | Organizational perception of compliance officer and corporate compliance program                 | <p>Survey employees regarding:</p> <ul style="list-style-type: none"> <li>Their perception of the compliance officer role.</li> <li>Whether they know who the compliance team is, how to get to them and, what to tell them.</li> <li>Is the compliance staff approachable?</li> <li>Are the compliance staff solution facilitators or looked at as the organizational police force?</li> </ul>                                                                                                                                                                                  |
| 2.32 | Compliance problem solving and adequacy of process                                               | Process review                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |
|      | <b>Staffing:</b>                                                                                 |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |
| 2.33 | Adequacy of staffing and resources                                                               | <ul style="list-style-type: none"> <li>FTEs assigned to compliance function</li> <li>Review compliance matters and if they have been addressed timely.</li> <li>Review and ensure policies and procedures are implemented and being followed.</li> <li>Review documentation of reports to committee(s) and board.</li> <li>Assess status of work plan and any delays.</li> <li>Ensure documentation of risk assessment.</li> <li>Review documentation regarding discussions at board level regarding budget.</li> <li>Review benchmarking data from similar entities.</li> </ul> |
| 2.34 | Assurance of staffing                                                                            | Review qualifications of staff; ratio of compliance staff to business, compensation to the business                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |
| 2.35 | Adequacy of compliance staff based on risk assessment                                            | Risk assessment considers the number and competency of staff required to address risk                                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |



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|      | <b>Compliance Plan:</b>                                |                                                                                                                                                                                                                                                                                                                                                                                               |
| 2.36 | Compliance plan assessments                            | <ul style="list-style-type: none"> <li>• Document review, including compliance plan and policies.</li> <li>• Is there an external review conducted periodically?</li> <li>• What is the role of internal audit with regarding to compliance?</li> <li>• How does internal audit interact with compliance?</li> <li>• Benchmark program with similar sizes within the same industry</li> </ul> |
| 2.37 | Compliance plan process                                | Audit process for development of the annual compliance plan.                                                                                                                                                                                                                                                                                                                                  |
| 2.38 | Compliance organization                                | Assess the positioning and effectiveness of the compliance organization staff, titles, organizational chart, pay, promotion records compared to other areas within the organization                                                                                                                                                                                                           |
| 2.39 | Document that establishes the authority of the program | Document review, meeting minutes for approval.                                                                                                                                                                                                                                                                                                                                                |
| 2.40 | Perception of compliance program                       | Survey employees                                                                                                                                                                                                                                                                                                                                                                              |
|      | <b>Culture:</b>                                        |                                                                                                                                                                                                                                                                                                                                                                                               |
| 2.41 | Accountability                                         | SURVEY - Does the compliance department have an impact on how you do your job? (Yes/No/Don't know)                                                                                                                                                                                                                                                                                            |
| 2.42 | Accuracy and Trust in Monitoring                       | SURVEY: Do you believe the information from your department is reported with a high degree of integrity and accuracy? (Yes/ No/Don't know)                                                                                                                                                                                                                                                    |
| 2.43 | Culture                                                | Conduct cultural survey (interviews, confidential surveys, focus groups, etc.) and report findings to compliance committee and board. Review minutes to ensure report out and action plan established.                                                                                                                                                                                        |
| 2.44 | Effectiveness of compliance program in the field       | Survey of field compliance people                                                                                                                                                                                                                                                                                                                                                             |
| 2.45 | What is company doing to drive compliance culture?     | Surveys. <ul style="list-style-type: none"> <li>• What does company incentivize?</li> <li>• What does the company promote and look down on?</li> <li>• Is compliance program tied to mission, vision, values?</li> </ul>                                                                                                                                                                      |
| 2.46 | Employee comments from "Rounding"                      | Audit the tracking of what employees report when proactively asked by compliance department (or leadership, etc.) and how this information is managed and reported.                                                                                                                                                                                                                           |

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| 2.47 | Measuring effectiveness of executive communication on compliance                                                                 | Track on-line engagement (clicks) and survey audience                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                              |
|      | <b>Incentives:</b>                                                                                                               |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |
| 2.48 | Aligning performance management system (promotion system) with ethics and compliance objectives                                  | Audit criteria of promotion, bonuses and assignments                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |
| 2.49 | Compliance and Ethics Role/participation for developing the incentive system                                                     | Have an outside independent expert audit the incentive system and compliance officer's participation                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |
| 2.50 | Is incentive system consistent with compliance program                                                                           | Employee Survey                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |
|      | <b>Performance Evaluations:</b>                                                                                                  |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |
| 2.51 | Proper alignment of compliance objectives with organizational performance incentives (promotions/performance appraisals/bonuses) | <ul style="list-style-type: none"> <li>• Audit disciplinary records and performance evaluations for consistency with compliance</li> <li>• Audit/Review of process for performance incentives (promotions/performance appraisals/bonuses) criteria to include compliance components</li> </ul>                                                                                                                                                                                                                                                                                                                                                                                                                                     |
| 2.52 | "Compliance" as a performance appraisal element                                                                                  | <ul style="list-style-type: none"> <li>• Audit performance appraisals. Some options include: <ul style="list-style-type: none"> <li>○ Acknowledgment of no disciplinary action</li> <li>○ Education completion</li> <li>○ Documentation of promotion of compliance</li> </ul> </li> <li>• Are merit increases tied to performance?</li> <li>• Does completion of compliance education, promotion of compliance through words, actions or no documented disciplinary action and/or, completion of corrective action plans within the due dates play a role into the calculation of merit increase?</li> <li>• Compliance is part of the annual performance evaluation and HR knows how to evaluate issues for compliance</li> </ul> |
| 2.53 | Manager performance evaluations                                                                                                  | Managers have open door policy, communicate compliance directives/initiatives, address compliance matters and effectiveness is noted in performance evaluation.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                    |
| 2.54 | Is compliance taken into account in promotion decisions?                                                                         | Review promotion lists and documentation to support promotion. Did the individual actively promote compliance?                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |
| 2.55 | Organizational Retaliation                                                                                                       | Track whistleblower promotion, bonuses, sick days, disciplinary, corrective action measures and exit interview over long term                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                      |

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|      | <b><i>Risk Assessments:</i></b>                                                                                                |                                                                                                                                                                                                                                                                                                                                                                                                                                                       |
| 2.56 | Compliance Resource knowledge and competence                                                                                   | Survey, focus groups and interviews                                                                                                                                                                                                                                                                                                                                                                                                                   |
| 2.57 | Compliance staff knowledge of current regulatory changes and laws                                                              | Document review and interviews. Review certificates of attendance at conferences/other educational events, “tools” used to keep compliance staff current, compliance budget (to support access to current regulatory changes and laws).                                                                                                                                                                                                               |
| 2.58 | Monitoring of regulations that impact the organization                                                                         | Document and process review, interviews. <ul style="list-style-type: none"> <li>• Is there a policy and procedure?</li> <li>• Is there evidence that regulations, etc. are disseminated and implemented?</li> <li>• Are there designated individual(s) that monitor laws, regulations, policies that impact organization?</li> <li>• How do they get the information and what do they do with it to make sure it gets to the right people?</li> </ul> |
| 2.59 | Risk Assessment Cycle                                                                                                          | <ul style="list-style-type: none"> <li>• Audit adherence to risk assessment cycle</li> <li>• Annual documented risk assessment has been communicated to oversight committee</li> </ul>                                                                                                                                                                                                                                                                |
| 2.60 | Risk based work plan that covers compliance plan elements with board approval and regular reporting on those projects to board | Compliance Committee and board minutes review.                                                                                                                                                                                                                                                                                                                                                                                                        |
| 2.61 | Work plan development based on risk assessment                                                                                 | Process and document review.                                                                                                                                                                                                                                                                                                                                                                                                                          |
| 2.62 | Prioritization of risk and consultation with applicable risk partners (i.e., legal, HR, IT, risk management, etc.)             | Documentation and process review. Is there a risk based plan? How was it developed?                                                                                                                                                                                                                                                                                                                                                                   |
| 2.63 | Exit interview                                                                                                                 | Compliance concerns that come up in exit interviews are addressed                                                                                                                                                                                                                                                                                                                                                                                     |
|      | <b><i>Compliance Work Plan:</i></b>                                                                                            |                                                                                                                                                                                                                                                                                                                                                                                                                                                       |
| 2.64 | Compliance work plan                                                                                                           | Audit to ensure the work plan is developed and implemented and it is followed-through and outcomes are reported to compliance committee or to governing body                                                                                                                                                                                                                                                                                          |

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| 2.65 | Effectiveness of compliance program                                                           | Written annual work plan that includes minutes                                                                                                                                                                                         |
|      | <b>Legal Counsel's Role:</b>                                                                  |                                                                                                                                                                                                                                        |
| 2.66 | Role of counsel in compliance process                                                         | Interview counsel regarding their involvement. <ul style="list-style-type: none"> <li>• When they are brought into matters?</li> <li>• Where is counsel situated in relation to compliance officer on organizational chart?</li> </ul> |
| 2.67 | Existence and adherence to policy on involvement of legal in handling matters under privilege | Review policy and sample areas that were referred to legal followed the policy                                                                                                                                                         |
|      | <b>Other:</b>                                                                                 |                                                                                                                                                                                                                                        |
| 2.68 | Job descriptions of management                                                                | Review of management job descriptions. Do managers have concrete compliance deliverables other than training and abiding by Code of Conduct?                                                                                           |

### **Element 3: Screening and Evaluation of Employees, Physicians, Vendors and other Agents**

- A. Assure organization has processes in place to identify and disclose conflicts of interest.
- B. Assure inclusion of compliance obligations in all job descriptions.
- C. Assure inclusion of compliance accountabilities as an element of performance evaluation.
- D. Verify background/sanction checks are conducted in accordance with applicable rules and laws (e.g., employment, promotions, credentialing).
- E. Assure compliance-sensitive exit interviews occur.
- F. Monitor government sanction lists for excluded individuals/entities (e.g., OIG, GSA, SDN, SDGT).
- G. Verify due diligence is conducted on third parties (e.g., consultants, vendors, acquisitions).
- H. Assure corrective action is taken based on background/sanction check findings.

**Source:** *CHC Candidate Handbook: Detailed Content Outline*

### Element 3: Screening and Evaluation of Employees, Physicians, Vendors and other Agents

|     | What to Measure                                                                                            | How to Measure                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |
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|     | <b><i>Accountability for screening:</i></b>                                                                |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |
| 3.1 | The individual(s) responsible for exclusion screening has clear accountability for the screening function. | <ul style="list-style-type: none"> <li>Audit the job description, training material, orientation material, and annual performance evaluation of the individual(s) responsible for exclusion screening to ensure this responsibility is clearly articulated and performance is measured.</li> <li>Annually review/discuss the exclusion screening process individually with each person responsible for sanction check screening; review the document retention processes to ensure documentation of the screening function, response to findings, and corrective actions are adequately maintained.</li> </ul> |
|     | <b><i>Conflict of Interest:</i></b>                                                                        |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |
| 3.2 | Potential conflicts of interest are disclosed.                                                             | Audit the conflict of interest disclosures for completeness and the extent to which those who complete the disclosure information.                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |
| 3.3 | The organization conducts effective education on Conflict of Interest (COI)                                | <ul style="list-style-type: none"> <li>Review training materials and interview staff to determine the effectiveness of the education.</li> <li>Audit completed attestations or disclosures to ensure individuals are disclosing conflicts according to education provided.</li> </ul>                                                                                                                                                                                                                                                                                                                          |
|     | <b><i>Employee accountability:</i></b>                                                                     |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                |
| 3.4 | The extent to which employees are made aware of compliance expectations.                                   | Conduct focused interviews with employees and audit the performance review process to ensure compliance expectations are well understood and employees are held accountable for these expectations.                                                                                                                                                                                                                                                                                                                                                                                                            |
| 3.5 | Accountability for compliance is clearly articulated in employee performance evaluations.                  | Audit performance evaluations to ensure compliance obligations are clearly articulated and performance against these requirements is measured.                                                                                                                                                                                                                                                                                                                                                                                                                                                                 |
| 3.6 | Accountability for compliance is clearly articulated in employee job descriptions.                         | Audit job descriptions to ensure compliance obligations are clearly articulated.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |

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| 3.7  | Employees are provided education regarding their compliance obligations and they understand these requirements.                                                                                | <ul style="list-style-type: none"> <li>• Audit employee education files to ensure education is being provided according to the organizations training plans and/or policies and procedures.</li> <li>• Review post-tests to confirm understanding.</li> <li>• Interview employees to confirm their understanding of their compliance obligations and responsibilities.</li> </ul> |
|      | <b><i>Employee disclosure:</i></b>                                                                                                                                                             |                                                                                                                                                                                                                                                                                                                                                                                   |
| 3.8  | The organization has established a policy that requires prospective and current employees, and prospective and current vendors to disclose to the organization if they are or may be excluded. | <ul style="list-style-type: none"> <li>• Audit and conduct a document review to ensure disclosure requirements are clearly articulated in the policy and disclosures are being made as required.</li> <li>• Conduct a policy review to ensure that that immediate reporting is a requirement for employees and a provision in vendor agreements.</li> </ul>                       |
|      | <b><i>Employee screening:</i></b>                                                                                                                                                              |                                                                                                                                                                                                                                                                                                                                                                                   |
| 3.9  | All employees are screened prior to hire.                                                                                                                                                      | Audit human resource files to ensure documentation supports that newly hired employees were screened prior to their first day worked.                                                                                                                                                                                                                                             |
| 3.10 | Screening considers other names/alias and States used by a prospective employee.                                                                                                               | Review applications for each type of screening (criminal, OIG, SAM, State, SSN, etc.) and audit to determine if screening was completed against other names/states used by the prospective employee.                                                                                                                                                                              |
| 3.11 | The organization has defined which employees, vendors, medical staff, and others will undergo criminal, financial and/or other background checks prior to hire.                                | <ul style="list-style-type: none"> <li>• Perform assessment/audit to ensure the organization had identified which individuals receive criminal, financial, Social Security trace, drug screening, or other background checks.</li> <li>• Audit to ensure such background checks are being performed and reviewed prior to employment.</li> </ul>                                  |
| 3.12 | The organization has defined criteria for review of criminal, financial, and/or other background checks and hiring decision are made based on this established criteria.                       | Perform assessment/audit to ensure the organization has established criteria to evaluate the acceptability of a candidate based on findings of criminal, financial, or other background check(s) used by the organization.                                                                                                                                                        |
| 3.13 | Employees are provided education regarding the organization's screening process.                                                                                                               | Interview employees and conduct documentation reviews to confirm that employees understand the importance of not letting licenses expire and the effect of exclusion.                                                                                                                                                                                                             |

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| 3.14 | The organization ensures that applicants for employment understand disclosure requirements.                                                                                                                                                                                                  | Review employment applications to ensure disclosure is made to prospective employees, including exclusion and background screening requirements, and these screenings are completed.                                                                                                                                                                                                                                                                                                                                                                                     |
| 3.15 | The organization has established a policy regarding the frequency of screening.                                                                                                                                                                                                              | <ul style="list-style-type: none"> <li>• Perform a document review to ensure the frequency of screening is being done in accordance with policy.</li> <li>• Audit the screening process to ensure screening is being completed according to policy.</li> </ul>                                                                                                                                                                                                                                                                                                           |
| 3.16 | The organization has established sufficient controls in the hiring process and vendor engagement process to prevent the organization from hiring an ineligible individual or entity.                                                                                                         | <ul style="list-style-type: none"> <li>• Audit, perform document review, interviews staff and vendors, and conduct datamining to determine if sufficient controls are in place to prevent the organization from hiring an “ineligible” individual or entity.</li> <li>• Use data-mining to compare lists of new employees with due diligence lists.</li> <li>• Ensure the vendor master file is updated with vendors that have been screened.</li> </ul>                                                                                                                 |
| 3.17 | The organization has established a screening program that is consistent with all laws and regulations.                                                                                                                                                                                       | Conduct a legal review and analysis of screening process to ensure it is being administered in a manner consistent with federal and state laws.                                                                                                                                                                                                                                                                                                                                                                                                                          |
| 3.18 | The organization has established a process to screen employees and other relevant individuals at least monthly.                                                                                                                                                                              | Audit screening process to ensure screening of employees and other relevant individuals is being conducted at least monthly and according to policy.                                                                                                                                                                                                                                                                                                                                                                                                                     |
| 3.19 | <p>The organization has established a policy and procedure which defines the screening requirements for employees, vendors, medical staff and others.</p> <p>The policies include description of the databases that individuals will be screened against and the frequency of screening.</p> | <ul style="list-style-type: none"> <li>• Conduct a document review to verify the policy and procedure has been established, is complete, and audit to ensure screening is being conducted consistent with policy.</li> <li>• Perform assessment/audit to ensure organization has identified which lists to check and how often each is checked and the screenings are being checked per policy.</li> <li>• Perform assessment/audit to ensure all relevant types of individuals and entities (employees, temps, vendors, etc.) are being screened per policy.</li> </ul> |
| 3.20 | The organization has a process to determine when additional screening may be necessary based on findings from compliance investigations. (Relevant event (situational) screening (R.E.S.))                                                                                                   | Conduct a review of compliance investigation files to determine if consideration for additional screening is warranted and review the results of additional screening completed as part of the investigation process (situational) when applicable                                                                                                                                                                                                                                                                                                                       |

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| 3.21 | The organization has a policy and procedure which articulates the process for screening, investigation of potential “hits,” actions taken in response to a positive finding, tracking exclusions, and communication to appropriate stakeholders.                         | Conduct documentation review and audit to ensure screening is being completed according to policy requirements and that all process elements related to investigation, resolution, tracking, and communication are being managed according to policy requirements.                                                                                                                                                                                    |
|      | <b>Exit Interviews:</b>                                                                                                                                                                                                                                                  |                                                                                                                                                                                                                                                                                                                                                                                                                                                       |
| 3.22 | Employee awareness of organization’s compliance program.                                                                                                                                                                                                                 | Review organization’s employee termination process such as exit interviews, surveys, and/or questionnaires to test for employee awareness of the organization’s compliance program.                                                                                                                                                                                                                                                                   |
| 3.23 | Employee exit interviews are conducted and employees are asked about the compliance program and any concerns, risks, violations or failures of the compliance program.                                                                                                   | <ul style="list-style-type: none"> <li>Review organization’s employee termination process such as exit interviews, surveys, and/or questionnaires to ensure compliance program questions are incorporated into exit interviews and the exit interviews are reviewed and evaluated.</li> <li>Audit to ensure all terminated/separating employees have completed an exit interview and that compliance questions are included and evaluated.</li> </ul> |
| 3.24 | Vendors and other 3 <sup>rd</sup> parties are interviewed at the termination of the engagement and asked about their awareness of the compliance program and any concerns, risks, violations, or failures of the compliance program.                                     | Review organization’s vendor termination/off-boarding process such as interviews, surveys, and/or questionnaires to ensure compliance program questions are incorporated into the process and interviews/results are reviewed and evaluated.                                                                                                                                                                                                          |
| 3.25 | The organization has established a policy and procedure for conducting exit interviews for employees leaving the organization. The exit interview process includes questions related to compliance obligations and any known violations of law, policies, or procedures. | Review policy and procedure to ensure the organization has an established process. Audit exit interview files to ensure interviews are being conducted according to policy. Review to ensure that any identified violations of law, policy or procedure are thoroughly investigated.                                                                                                                                                                  |
|      | <b>High Risk Screening:</b>                                                                                                                                                                                                                                              |                                                                                                                                                                                                                                                                                                                                                                                                                                                       |
| 3.26 | The organization has established a policy identifying high risk positions in the organization that may require additional screening.                                                                                                                                     | Conduct policy review to ensure high risk positions (e.g., clinicians working with children or mental health, cash handlers) are identified in policy, and the policy includes a description of any                                                                                                                                                                                                                                                   |



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|      |                                                                                                                                                                                           | additional screening requirements (fingerprinting, financial background checks, etc.). Review employment and vendor files to ensure the additional screening is occurring according to policy.                                                                                                                                              |
|      | <b><i>Licensure:</i></b>                                                                                                                                                                  |                                                                                                                                                                                                                                                                                                                                             |
| 3.27 | The organization has a process to ensure that individuals who transfer positions within the organization are appropriately licensed and credentialed for the job they will be performing. | Audit and conduct a document review, audit to ensure a process for examination of licenses and credentials is established for employees transferring positions within the organization. Audit to confirm process is being followed and individuals transferred have appropriate license and credentials for the position they are assuming. |
| 3.28 | The organization has established a policy and procedure for licensure and certification reviews, including review upon hire, upon transfer, and during renewal periods.                   | Perform document review and audit to ensure a policy for verification and review of license and certification, including source verification, exists and licenses and certifications are consistently reviewed according to policy.                                                                                                         |
|      | <b><i>Response to Exclusion:</i></b>                                                                                                                                                      |                                                                                                                                                                                                                                                                                                                                             |
| 3.29 | Appropriate action is taken in response to potential and identified exclusion                                                                                                             | Audit to ensure refunds are initiated if required and employment, contract, or medical staff action is taken upon discovery (including vendors).                                                                                                                                                                                            |
|      | <b><i>Response to Screening:</i></b>                                                                                                                                                      |                                                                                                                                                                                                                                                                                                                                             |
| 3.30 | The organization takes action on the results of screening.                                                                                                                                | Perform a document review to ensure screening results are being evaluated and appropriate action is taken where necessary.                                                                                                                                                                                                                  |
| 3.31 | The organization has established a process for investigation and resolution of positive "hits."                                                                                           | Audit process to ensure "hits" are investigated and that false positives are resolved when there is confirmation that the individual does not match the excluded individual.                                                                                                                                                                |
| 3.32 | The organization has a policy and procedure in place that articulates how potential sanctions will be evaluated and resolved.                                                             | Conduct document and process review and audit recent identified sanctions to ensure the evaluation and resolution is consistent with policy.                                                                                                                                                                                                |
|      | <b><i>Vendor:</i></b>                                                                                                                                                                     |                                                                                                                                                                                                                                                                                                                                             |
| 3.33 | Vendors and other 3rd parties adequately satisfy compliance obligations                                                                                                                   | Conduct audit of vendors and other 3rd parties to ensure they have documented evidence of required compliance training, orientation to the organizations Standards of Conduct, orientation to applicable compliance policies and procedures.                                                                                                |

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| 3.34 | The organization has established a process to ensure vendor and other third party agreements are managed consistent with the terms of the agreement.                                                                                                                      | Conduct a document review and interviews to ensure there is communication between lawyers who develop the agreements and facility level personnel managing the engagement to make sure it is implemented and being managed according to the terms of the agreement.                                                                                                                                                                                                                           |
| 3.35 | The organization requires vendors and other third parties to certify screening has been completed as required by the agreement.                                                                                                                                           | Audit to determine that vendors respond to request for certification. Review process to determine that actions taken for failure to respond or provide required certifications are consistent with the agreement. Ensure that response to certification is reviewed by an appropriate individual and communicated to facility operations. Audit to ensure that renewal decisions consider compliance with certification requirements.                                                         |
| 3.36 | The organization has established a policy outlining the compliance obligations of vendors and other third parties (including adherence to the Standards of Conduct). Vendor agreements include the right to audit the vendor to ensure compliance with their obligations. | Conduct document review and perform audits to ensure vendors meet the compliance obligations required.                                                                                                                                                                                                                                                                                                                                                                                        |
| 3.37 | The organization has established a policy prohibiting vendors that are excluded from working in the organization.                                                                                                                                                         | Audit exclusions to ensure policy is being adhered to.                                                                                                                                                                                                                                                                                                                                                                                                                                        |
|      | <b>Vendor Screening:</b>                                                                                                                                                                                                                                                  |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |
| 3.38 | Vendors and other 3 <sup>rd</sup> parties are adequately screened for exclusion.                                                                                                                                                                                          | <ul style="list-style-type: none"> <li>• Audit vendor records and cross check to ensure the vendor is adequately screened, in accordance with agreement and/or entity requirements.</li> <li>• Develop checklist of criteria for vendor compliance review and audit against that list for vendor screening requirements.</li> <li>• Survey peer organizations to ensure the organization's vendor and 3<sup>rd</sup> party screening process is consistent with industry practice.</li> </ul> |
| 3.39 | The organization has an effective process to review third party vendors.                                                                                                                                                                                                  | <p>Audit and conduct a document review to ensure:</p> <ul style="list-style-type: none"> <li>• Third party contracts allow for organization to review vendor files for compliance with screening requirements.</li> </ul>                                                                                                                                                                                                                                                                     |

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|      |                                                                                                                                                | <ul style="list-style-type: none"> <li>• The organization has requested the third party's policy and procedure related to vendor screening of employees.</li> <li>• The organization conducts reviews of third party contracts.</li> <li>• The organization has established a policy on how often screenings are required to be done by the third party.</li> <li>• The organization has established a policy requiring third parties to produce proof that they are checking their employees.</li> <li>• The organization has established a policy establishing which databases third parties are checking, especially regarding practitioners, including geographic specifics (state databases).</li> <li>• The organization has established a process for independent evaluation of what screening the vendor is supplying.</li> </ul> |
| 3.40 | The organization has requirements, via policy or contractual terms, for screening of first-tier, downstream and related entities (contractors) | Audit to verify evidence that contractors are being screened pursuant to contractual requirements.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                        |

#### **Element 4: Communication, Education, and Training on Compliance Issues**

- A. Disseminate regulatory guidance material.
- B. Communicate compliance information throughout the organization.
- C. Assure compliance training occurs.
- D. Distill complex laws and regulations into a format employees can understand.
- E. Assure workforce staff are educated on compliance policies.
- F. Assure a mechanism exists to evaluate employee understanding of compliance responsibilities.
- G. Promote a culture of compliance throughout the organization.
- H. Encourage employees to seek guidance and clarification when in doubt.
- I. Participate in continuing education to maintain professional competence.
- J. Verify participation in ongoing compliance training programs is tracked.
- K. Assure general compliance training is conducted for all employees, physicians, vendors, and other agents.
- L. Assure risk-specific training is conducted for targeted employees.
- M. Provide HR and management with training to recognize compliance risk associated with employee misconduct.

**Source:** *CHC Candidate Handbook: Detailed Content Outline*

## Element 4: Communication, Education, and Training on Compliance Issues

|     | What to Measure                                                                                                                                                                                             | How to Measure                                                                                                                                                                                                                                                                                                                                                                                                               |
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|     | <b>Training:</b>                                                                                                                                                                                            |                                                                                                                                                                                                                                                                                                                                                                                                                              |
| 4.1 | The organization provides risk area specific training to employees designated to be in high risk positions.                                                                                                 | <ul style="list-style-type: none"> <li>• Audit to ensure the organization has designated the positions deemed to be high risk (coding, billing, physicians, etc.) and established training requirements for these high risk positions.</li> <li>• Compare risks posed by these positions against training materials to ensure specific risks are addressed.</li> <li>• Audit high risk training completion rates.</li> </ul> |
| 4.2 | The organization has established a compliance training plan. The organization assures that training is completed according to the established plan. The training plan is periodically updated or refreshed. | <ul style="list-style-type: none"> <li>• Conduct document review to ensure the training plan exists and includes required training, expected audience, topics covered, and method for deployment.</li> <li>• Audit sign-in sheets or other tracking tools to ensure individuals are attending required training.</li> <li>• Review to ensure training plan is periodically updated.</li> </ul>                               |
| 4.3 | The organization defines the appropriate audience for each type of compliance training (general, issue specific, high risk, etc.).                                                                          | <ul style="list-style-type: none"> <li>• Audit job codes to ensure the correct training has been assigned.</li> <li>• Review job codes to ensure training, including job specific job training is being conducted according to the established training plan.</li> </ul>                                                                                                                                                     |
| 4.4 | The organization offers CEU's, when appropriate, for its compliance education and training.                                                                                                                 | <ul style="list-style-type: none"> <li>• Perform a documentation review to determine the extent to which the organization offers CEUs for compliance training.</li> <li>• Evaluate the effect of offering CEUs on training completion rates.</li> </ul>                                                                                                                                                                      |
| 4.5 | The organization has established a process, policy and/or procedure to communicate and provide training to employees on new laws, regulations, policies, and procedures.                                    | Conduct a document review to ensure a process for communicating and training employees on new laws, regulations, policies, and procedures has been established and such communication and training is being conducted consistent with the established process.                                                                                                                                                               |
| 4.6 | The organization has established a policy requiring compliance training and education. The organization                                                                                                     | <ul style="list-style-type: none"> <li>• Conduct a document review to ensure a policy has been established and it is periodically updated.</li> </ul>                                                                                                                                                                                                                                                                        |

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|      | regularly updates the education policy and monitors compliance with training requirements.                                                                                                                                                                                                                               | <ul style="list-style-type: none"> <li>Confirm by audit that employees are completing educational requirements according to the policy.</li> </ul>                                                                                                                                                                                               |
| 4.7  | Compliance education/information is included in all education deployed throughout organization.                                                                                                                                                                                                                          | Conduct a documentation review to verify that at least one compliance related topic/slide is included in every educational presentation, program, or module deployed throughout the organization.                                                                                                                                                |
| 4.8  | The organization bases training for individuals who are designated to be in high-risk positions on a formal process for assessing risk and evaluating control vulnerabilities. The organization develops issue-specific training based on the results of the risk assessment and identified internal control weaknesses. | <ul style="list-style-type: none"> <li>Conduct a review of the process the organization has for assessing risk and evaluating control weaknesses.</li> <li>Review the training plan and training materials to ensure the training addresses those issues that are of significant risk and that the organization may be vulnerable to.</li> </ul> |
| 4.9  | The organization has created their compliance training program around job families to address specific risks identified within a job family.                                                                                                                                                                             | <ul style="list-style-type: none"> <li>Audit the compliance training program to determine if training is tailored to the risks identified and associated with specific job families.</li> <li>Audit to ensure training is assigned based on job families.</li> </ul>                                                                             |
| 4.10 | The organization evaluates policy and compliance failures and provides re-education to applicable staff.                                                                                                                                                                                                                 | <ul style="list-style-type: none"> <li>Audit files of known policy or compliance failures to ensure re-training is considered as part of corrective action.</li> <li>Audit to ensure the re-training is completed.</li> <li>Track for reoccurrences to determine the effectiveness of the re-training and employee understanding.</li> </ul>     |
| 4.11 | The organization tracks disclosure reports (hotline calls, direct contacts to the compliance department) following employee education to determine the extent to which the education was effective at raising employee awareness of specific areas of vulnerability.                                                     | <ul style="list-style-type: none"> <li>Monitor, audit and review disclosure tracking logs to evaluate the effect of education on disclosures.</li> <li>Track how employees become aware of issues to analyze the effect training has on employee awareness and reporting.</li> </ul>                                                             |
| 4.12 | The organization maintains documentation of all education provided.                                                                                                                                                                                                                                                      | <ul style="list-style-type: none"> <li>Conduct document review and audit to ensure all compliance related education is documented, including material covered, attendees, and deployment method.</li> <li>Audit to ensure documentation of post-training tests is maintained to evaluate employee level of understanding.</li> </ul>             |

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| 4.13 | The organizations training plan is regularly updated to address new laws and regulations.                                                                                                                                                    | Obtain from counsel list of new laws and regulations and audit against training plan to ensure new laws are adequately addressed.                                                                                                                                                                                                                                                                         |
| 4.14 | The organization has considered the most effective method for compliance education deployment.                                                                                                                                               | <ul style="list-style-type: none"> <li>Review the training plan to ensure the organization has considered the most effective method of disseminating training to employees, medical staff, contractors, leadership, Board, and others (on-line, written, in-person, small or large group, etc.).</li> <li>Audit training records to determine if training has been deployed according to plan.</li> </ul> |
| 4.15 | The organization has established a formal method for orienting new employees to the compliance program and their obligations and responsibilities.                                                                                           | <ul style="list-style-type: none"> <li>Audit to ensure employees have received their compliance orientation consistent with the orientation policy.</li> <li>Review names, dates and materials used to orient new employees to the compliance program over the past 2 years</li> </ul>                                                                                                                    |
| 4.16 | The organization has considered the accessibility of compliance education to individuals with disabilities or language barriers and provides education in various formats to accommodate individuals with disabilities or language barriers. | Survey employees with communication issues or disabilities to ensure the education was accessible and understandable.                                                                                                                                                                                                                                                                                     |
| 4.17 | Employees of the organization perceive compliance education as useful and sufficient to address the compliance requirements in their job.                                                                                                    | Survey employees to understand their perception of compliance training usefulness and sufficiency.                                                                                                                                                                                                                                                                                                        |
| 4.18 | The organization has established a method(s) to evaluate the effectiveness of compliance education.                                                                                                                                          | <ul style="list-style-type: none"> <li>Conduct document review to determine if the organization has established a method for evaluating the effectiveness of compliance training.</li> <li>Audit incident logs and hotline reports to evaluate the effect training has had on behavior.</li> </ul>                                                                                                        |
| 4.19 | The organization measures the effectiveness of training through the use of post-training tests or evaluations.                                                                                                                               | <ul style="list-style-type: none"> <li>Conduct document review to evaluate the existence of post-training tests or evaluations.</li> <li>Review to confirm the results of post-training tests or evaluations are evaluated and tracked.</li> <li>Review to confirm modifications to training materials considers feedback from post-training tests or evaluations.</li> </ul>                             |
| 4.20 | The organization integrates specific risks identified through the risk assessment process into compliance training.                                                                                                                          | Compare risk assessment to training plan to ensure the high risk issues identified are included in the training plan.                                                                                                                                                                                                                                                                                     |

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| 4.21 | The organization solicits feedback from employees on compliance training needs. Employee recommendations are included in training modules disseminated.          | <ul style="list-style-type: none"> <li>• Conduct document review to ensure employees surveyed for their training/education needs and what feel they need training on.</li> <li>• Interview staff to assess effectiveness of training plan</li> <li>• Confirm that training considers employee feedback.</li> </ul>                 |
| 4.22 | The organization has established a policy regarding the frequency of required compliance training.                                                               | Audit training logs to ensure compliance related training is disseminated and completed as required by policy.                                                                                                                                                                                                                     |
| 4.23 | The organization updates compliance training based on new policies, procedures, processes, laws, and regulations.                                                | <ul style="list-style-type: none"> <li>• Review education update process.</li> <li>• Verify issues identified through the risk assessment, issue tracking system, and other internal and external tracking systems are considered and evaluated as training programs are updated.</li> </ul>                                       |
| 4.24 | The organization evaluates training effectiveness.                                                                                                               | Conduct knowledge survey 6 months after training is deployed.                                                                                                                                                                                                                                                                      |
|      | <b>Accountability:</b>                                                                                                                                           |                                                                                                                                                                                                                                                                                                                                    |
| 4.25 | The organization has established an incentive program that ties, in part, meeting compliance objectives to incentive payments and other perks.                   | Review performance evaluations to ensure they include compliance elements as part of performance, merit, and incentive review.                                                                                                                                                                                                     |
| 4.26 | The organization has established mechanisms to ensure that employees are held accountable for their compliance obligations.                                      | <ul style="list-style-type: none"> <li>• Review job descriptions and performance evaluations for specific compliance metrics.</li> <li>• Review Standards of Conduct and other awareness information to ensure compliance obligations are clearly articulated, including the requirement to report compliance concerns.</li> </ul> |
| 4.27 | The organization has a mechanism in place to evaluate the extent to which employees understand their compliance responsibilities.                                | Survey employees to test their understanding of their compliance obligations and responsibilities.                                                                                                                                                                                                                                 |
| 4.28 | The organization holds management employees accountable for ensuring their employees understand the Standards of Conduct and compliance related responsibilities | Review department meeting minutes and conduct random staff interviews to determine if first-line managers discuss compliance obligations with their direct reports and that staff understand specific compliance requirements associated with their job.                                                                           |

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| 4.29 | The organization has established a policy regarding sanctions for those employees who don't complete required compliance training and sanctions employees according to the established guidelines.                                                                                                                              | <ul style="list-style-type: none"> <li>Document review and audit to ensure a policy exists related to sanctions for failure to complete compliance training.</li> <li>Audit to ensure policy is being followed as described.</li> </ul>                                                                                                                                                                                                                                     |
|      | <b>Awareness:</b>                                                                                                                                                                                                                                                                                                               |                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |
| 4.30 | Employees are aware of and understand the organization's compliance program and understand their responsibilities under the program.                                                                                                                                                                                            | Survey employees.                                                                                                                                                                                                                                                                                                                                                                                                                                                           |
| 4.31 | The organization promotes compliance through activities such as Compliance Awareness Week, Compliance Fairs, or other employee involvement activities.                                                                                                                                                                          | Review if and how the organization engages in activities designed to promote compliance awareness.                                                                                                                                                                                                                                                                                                                                                                          |
|      | <b>Board:</b>                                                                                                                                                                                                                                                                                                                   |                                                                                                                                                                                                                                                                                                                                                                                                                                                                             |
| 4.32 | The organization has established specific compliance competencies for members of the Board Composition and appropriate governing committees.                                                                                                                                                                                    | Perform a document review to ensure sufficient compliance competencies exist within the Board and appropriate governing committee membership.                                                                                                                                                                                                                                                                                                                               |
| 4.33 | The organization has established a formal program to orient new Board members and senior leaders to the compliance program and their obligations and responsibilities.                                                                                                                                                          | <ul style="list-style-type: none"> <li>Conduct document review to determine if the organization has formalized a compliance orientation program for new executives and new Board members.</li> <li>Conduct an audit to ensure orientation is provided as required by the orientation policy.</li> <li>Review names, dates and materials used to orient new members of the Board of Directors and senior leaders to the compliance program over the past 2 years.</li> </ul> |
| 4.34 | The organization's training plan provides for specific education that will be provided to the Board and senior executives. The plan includes the topics that will be covered, the frequency of training, includes current industry developments and resources, and provides education on their responsibilities for compliance. | Review training materials provided to the Board and senior executives and conduct personal interviews to ensure training is provided pursuant to the plan and the level of understanding of the material presented.                                                                                                                                                                                                                                                         |



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| 4.35 | The organization provides senior leadership and board member compliance education and they adjust strategy and operations in response to the training and other information provided to them.                                                                                                                                                   | <ul style="list-style-type: none"> <li>• Conduct a document review to determine the responses/questions posed by senior leaders and Board members after training.</li> <li>• Evaluate effect of training on the organization's operations and strategy.</li> <li>• Track questions posed by senior leaders and Board members to determine level of understanding of material presented.</li> </ul> |
|      | <b>Communication:</b>                                                                                                                                                                                                                                                                                                                           |                                                                                                                                                                                                                                                                                                                                                                                                    |
| 4.36 | The organization's performance appraisals and job descriptions include the requirement for employees to promote compliance. Employees at all levels of the organization can and do articulate the compliance/ethics message. There is a requirement that managers insert compliance messages into meetings and other communications with staff. | Perform a document review, conduct employee personal file audits, and interview or survey employees to ensure the organization's compliance program, including expectations and responsibilities are formally and informally communicated to the employee population.                                                                                                                              |
| 4.37 | A compliance program communication plan is developed and implemented.                                                                                                                                                                                                                                                                           | <ul style="list-style-type: none"> <li>• Review the organization's communication plan to ensure the plan addresses key messaging for employees.</li> <li>• Conduct focus group discussions and survey employees on the effectiveness of this messaging.</li> </ul>                                                                                                                                 |
| 4.38 | The compliance department/staff regularly present compliance program information and updates at staff meetings, other department meetings, board meetings, town halls, and other forums.                                                                                                                                                        | <ul style="list-style-type: none"> <li>• Conduct a document review to ensure the compliance department/staff regularly provide updates to the organization and is a visible presence at various meetings.</li> <li>• Confirm the organization documents and tracks all such presentations.</li> </ul>                                                                                              |
| 4.39 | The organization requires compliance representatives to be present at every senior management and governance-level meeting.                                                                                                                                                                                                                     | <ul style="list-style-type: none"> <li>• Conduct a documentation review to verify there is an expectation for compliance to be represented at all senior management and governance-level meeting.</li> <li>• Confirm by audit that a compliance representative has attended all such meetings.</li> </ul>                                                                                          |
| 4.40 | The organization provides compliance information, training, and updates in a manner that is understandable for employees (reading level, languages, case studies, verbal communication)                                                                                                                                                         | <ul style="list-style-type: none"> <li>• Survey employees to determine the effectiveness and level of understanding by employees to the material presented.</li> <li>• Conduct post-training evaluations.</li> <li>• Review and track questions and disclosures made following the dissemination of information and education.</li> </ul>                                                          |

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| 4.41 | The organization ensures there is adequate two-way communication between the compliance department staff and employees such as periodic check-ins with employees and follow-up with employees who report concerns. | <p>Survey employees to determine:</p> <ul style="list-style-type: none"> <li>• their perception of how accessible the compliance staff is,</li> <li>• if they know to report concerns, and</li> <li>• if they believe their concerns are taken seriously and are adequately addressed.</li> </ul>                                                                                                                                                                |
|      | <b>Competency:</b>                                                                                                                                                                                                 |                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |
| 4.42 | The organization has defined the competencies required for the compliance staff including requirements for certification or other specific skills/expertise.                                                       | Review job descriptions and personnel files for all compliance staff to ensure specific compliance competencies and certification requirements are designated and the staff possess the required competencies/certifications.                                                                                                                                                                                                                                    |
| 4.43 | The organization requires all compliance staff to maintain their competency by attending appropriate educational sessions.                                                                                         | <ul style="list-style-type: none"> <li>• Conduct a documentation review to verify that requirements for compliance staff education, including professional development, are established.</li> <li>• Audit to verify that compliance staff attend education as required.</li> <li>• Review compliance department budget to ensure sufficient resources are devoted to providing appropriate education (including conferences) to the compliance staff.</li> </ul> |
| 4.44 | The organization provides focused education to compliance staff members to ensure they are competent in evaluating and investigating issues.                                                                       | <ul style="list-style-type: none"> <li>• Conduct document review to evaluate the education provided to compliance staff.</li> <li>• Review to ensure compliance staff being trained on conducting internal investigations, audits, performing risk assessments, vulnerability analysis, etc.</li> </ul>                                                                                                                                                          |
| 4.45 | Development plan for compliance staff                                                                                                                                                                              | Review documentation of development plan and monitor to ensure that plan requirements are completed annually or as otherwise specified in the plan                                                                                                                                                                                                                                                                                                               |
|      | <b>Culture:</b>                                                                                                                                                                                                    |                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |
| 4.46 | The organization has established a culture of compliance.                                                                                                                                                          | <ul style="list-style-type: none"> <li>• Survey all employees to determine the extent to which employees believe there is a culture of compliance in the organization and employee understanding of the compliance culture.</li> <li>• Review the organization's compliance training material to determine if scenario based training and/or other interactive training methods are used to promote understanding.</li> </ul>                                    |
|      | <b>Incentives:</b>                                                                                                                                                                                                 |                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |

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| 4.47 | The organization has established methods for rewarding and recognizing employees for compliance activities. | Review incentive, rewards, and recognitions programs to ensure successful achievement of compliance metrics are considered when recognizing and rewarding employees and leadership.                                                                                                                                                 |
|      | <b><i>Vendors and Volunteers:</i></b>                                                                       |                                                                                                                                                                                                                                                                                                                                     |
| 4.48 | The organization has established the training requirements for vendors.                                     | <ul style="list-style-type: none"> <li>• Conduct document review to ensure the organization has established training requirements for vendors.</li> <li>• Review files to ensure vendors have completed training as required.</li> <li>• Conduct site visits to review vendor employee completion of required education.</li> </ul> |
| 4.49 | The organization has established the compliance training requirements for volunteers.                       | <ul style="list-style-type: none"> <li>• Conduct document review to ensure the organization has established training requirements for volunteers.</li> <li>• Review files to ensure volunteers have completed training as required.</li> </ul>                                                                                      |

### **Element 5: Monitoring, Auditing, and Internal Reporting Systems**

- A. Protect anonymity and confidentiality within legal and practical limits.
- B. Publicize the reporting system to all workforce members, vendors, and agents.
- C. Assure monitoring occurs for violations of laws and regulations.
- D. Conduct organizational risk assessments.
- E. Develop work plan based on risk assessment.
- F. Maintain reporting system(s) to enable employees to report any noncompliance (e.g., hotline).
- G. Respond to compliance concerns expressed by employees through internal reporting.
- H. Assure the existence of procedures for monitoring adherence to compliance policies and procedures.
- I. Conduct compliance audits.
- J. Analyze compliance audit results (e.g., track, trend, benchmark).
- K. Develop an annual compliance audit plan.
- L. Evaluate results of audits conducted by external entities.
- M. Monitor that retaliation for reporting compliance concerns has not occurred.
- N. Recognize need for attorney consultation in the auditing/monitoring process.
- O. Employ auditing methodologies that are objective and independent.
- P. Determine sampling methodology consistent with circumstances.
- Q. Assure a timely response is made to reported compliance concerns.

- R. Monitor management's implementation of corrective action plans.  
S. Provide timely feedback to management on compliance concerns based on audit results.

**Source:** *CHC Candidate Handbook: Detailed Content Outline*

| Element 5: Monitoring, Auditing, and Internal Reporting Systems |                                                                            |                                                                                                                                                                                                                                                                                                                                                                           |
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|                                                                 | What to Measure                                                            | How to Measure                                                                                                                                                                                                                                                                                                                                                            |
|                                                                 | <b>Reporting System:</b>                                                   |                                                                                                                                                                                                                                                                                                                                                                           |
| 5.1                                                             | Accessibility of reporting system                                          | Interviews. Surveys. Ask employees and managers if the reporting system is accessible to them. Is it available in languages that are most spoken in the organization?                                                                                                                                                                                                     |
| 5.2                                                             | Adherence to 60-day overpayment rule                                       | Review incident tracker; ensure days to open or days to close do not exceed that timeframe. Track efforts to identify; status benchmarks specific days to completion.                                                                                                                                                                                                     |
| 5.3                                                             | Trust in the system                                                        | Survey - Do you feel you can freely report ethics and compliance issues without fear of retaliation from managers? (Yes/No/Don't Know).                                                                                                                                                                                                                                   |
| 5.4                                                             | Reporting and Investigation Process                                        | Review external benchmarking reports (# of calls, time it takes to close cases, anonymous, etc.).                                                                                                                                                                                                                                                                         |
| 5.5                                                             | Reporting system – compliance response to reporters                        | Document review. Focused groups and speaking with employees about hotline. <ul style="list-style-type: none"> <li>• Are calls made through reporting system responsive to reporters?</li> <li>• Are policies followed regarding the response to reports received?</li> <li>• Are reports responded to on regular intervals and updated appropriately?</li> </ul>          |
| 5.6                                                             | Reporting System: Hotline/Direct contacts                                  | Document review, audit. <ul style="list-style-type: none"> <li>• Are hotline calls or matters brought to the attention of the compliance department (direct contacts) categorized, trended, and reported to the compliance committee and board level committee?</li> <li>• Are there tracking, trending and reporting of how these matters have been resolved?</li> </ul> |
| 5.7                                                             | Reporting to compliance (hotline, report to the compliance officers, etc.) | Reports reflect communication methods (call, anonymous, email, direct, etc.)?                                                                                                                                                                                                                                                                                             |

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| 5.8  | Thoroughness of investigation files                      | Review 5 investigation files for summary of issue, interviews conducted and summary of interviews, investigation summary and results/conclusion and corrective action (as applicable).                                                                                                                                                                                          |
| 5.9  | Time to respond to incident report                       | Review date reported, date responded, date investigation closed.                                                                                                                                                                                                                                                                                                                |
| 5.10 | Promotion of reporting system                            | Documentation review. Interviews, visual walk-throughs. <ul style="list-style-type: none"> <li>• Are hotline posters hanging in conspicuous areas?</li> <li>• Interview staff – do they know how to report?</li> <li>• Audit use of reporting system (how frequently is it used)? Consider internal or external reporting benchmarks.</li> </ul>                                |
| 5.11 | Published reporting system                               | Survey. <ul style="list-style-type: none"> <li>• Is there a hotline, compliance officer?</li> <li>• How to report?</li> <li>• How to find information?</li> </ul>                                                                                                                                                                                                               |
| 5.12 | Demonstration of a formal compliance program             | Document review. Is there identification of prioritization of key compliance indicators; reporting and escalating to compliance oversight committee?                                                                                                                                                                                                                            |
| 5.13 | Documentation to support resolution of reported matters. | Audit. Document review.                                                                                                                                                                                                                                                                                                                                                         |
| 5.14 | Effectiveness of compliance department                   | Document review, surveys, interviews, focus groups. <ul style="list-style-type: none"> <li>• Is there a report card on associates' comfort level?</li> <li>• Do they know who to go to with concerns?</li> <li>• Do they know whom to trust?</li> <li>• Is there follow-through?</li> <li>• What is the trust and integrity around members of compliance department?</li> </ul> |
| 5.15 | Discipline for non-compliance                            | Document review, interviews. Monitor to ensure discipline policies are followed.                                                                                                                                                                                                                                                                                                |
| 5.16 | Effectiveness of Follow-up to Compliance Concerns        | Interview/survey caller for satisfaction with follow-up of concern.                                                                                                                                                                                                                                                                                                             |
| 5.17 | Culture Survey                                           | Document review, assessment of responses. Do culture surveys include questions such as: <ul style="list-style-type: none"> <li>• Do you know how to report concerns?</li> <li>• Are you willing to report concerns?</li> </ul>                                                                                                                                                  |

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|      |                                                              | <ul style="list-style-type: none"> <li>Do you trust that concerns will be addressed fairly when reported?</li> </ul>                                                                                                                                                                                    |
| 5.18 | Awareness and effectiveness of internal reporting system     | Review system use. Look to make sure employees, vendors, contractors can report; gauge the level of retaliation; individual comfort of reporting systems; survey. Conduct interviews.                                                                                                                   |
| 5.19 | Awareness of the discipline                                  | Survey.                                                                                                                                                                                                                                                                                                 |
| 5.20 | Hotline reporting system/vendor                              | <p>Monitor.</p> <ul style="list-style-type: none"> <li>Are test calls of the system conducted?</li> <li>Are the calls answered?</li> <li>If external vendor, are they following the organization's documented notification protocol?</li> </ul>                                                         |
| 5.21 | Internal reporting from business partners, contractors, etc. | <p>Contract review and interviews.</p> <ul style="list-style-type: none"> <li>Is compliance department aware of the contracts with business partners, contractors, etc.?</li> <li>Is there an inventory of partners?</li> <li>Do they know how to contact compliance department with issues?</li> </ul> |
| 5.22 | Investigation resolution and timeliness                      | <p>Documentation review.</p> <ul style="list-style-type: none"> <li>Are reports closed timely?</li> <li>Are there completion notes and dates matters and submitted to board?</li> </ul>                                                                                                                 |
| 5.23 | Presence of Internal Reporting System                        | Review policies and procedures and mechanisms for internal reporting. Are matters being reported according to policy? What should be reported up in regards to compliance? Check to see if it has been reported up appropriately.                                                                       |
| 5.24 | Process of how a concern is handled                          | Review documentation that reflects this process; audit case files to demonstrate this decision process was followed. Is it a management issue, legal issue, other? Is there a triage tree?                                                                                                              |
| 5.25 | Subordinate conduct                                          | Interviews. Document reviews. Does organization measure whether line managers are monitoring the conduct of their subordinates?                                                                                                                                                                         |
| 5.26 | Written escalation process                                   | Documentation review. Is there a written procedure to determine at what point a matter must be reported to the board, committee, or government agency?                                                                                                                                                  |
|      | <b>Risk Assessments:</b>                                     |                                                                                                                                                                                                                                                                                                         |
| 5.27 | Risk Assessment                                              | <p>Documentation/process review.</p> <ul style="list-style-type: none"> <li>Is there a documented enterprise-wide risk assessment?</li> </ul>                                                                                                                                                           |

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|      |                                                                                               | <ul style="list-style-type: none"> <li>• What is the work plan creation process?</li> <li>• Is internal audit included?</li> <li>• Is a fraud risk assessment conducted?</li> <li>• Is this information used as a basis for creating the auditing and monitoring plan or work plan?</li> </ul>                                                                                                                                                                                         |
| 5.28 | Risk Assessment Process                                                                       | <p>Process map of risk assessment process.</p> <ul style="list-style-type: none"> <li>• Who participates?</li> <li>• How are topics prioritized?</li> <li>• What is the process?</li> <li>• How are mitigation steps determined?</li> <li>• Is education provided?</li> <li>• How are the results reported?</li> </ul>                                                                                                                                                                 |
| 5.29 | Risk based work/audit plan                                                                    | Document review. Is the compliance work/audit plan based on a documented risk assessment and is it risk based?                                                                                                                                                                                                                                                                                                                                                                         |
| 5.30 | Follow-up to Risk Assessment                                                                  | Review process for findings of risk assessment and whether implemented; audit or monitor implementation; audit and monitor as necessary after implementation to mitigate risk (closing the loop).                                                                                                                                                                                                                                                                                      |
| 5.31 | Frequency of risk assessment, scope and coverage and tools used for risk assessment           | Audit the risk assessment process for these areas.                                                                                                                                                                                                                                                                                                                                                                                                                                     |
| 5.32 | Information flow from business units to compliance department for the risk assessment process | Interviews.                                                                                                                                                                                                                                                                                                                                                                                                                                                                            |
| 5.33 | Internal audit department's relationship with compliance department                           | <p>Document review, interviews.</p> <ul style="list-style-type: none"> <li>• Is risk assessment utilized to create annual audit plan?</li> <li>• Who participates in the risk assessment?</li> <li>• Are there routine interactions between compliance and internal audit?</li> <li>• How many internal audit hours are designated for compliance related work?</li> <li>• Or, how are audits delegated to internal audit or compliance after risk assessment is completed?</li> </ul> |
| 5.34 | Is auditing and monitoring based on risk areas identified in risk assessment process          | Review risk assessment process and what audits and monitoring are on work plans.                                                                                                                                                                                                                                                                                                                                                                                                       |

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| 5.35 | Monitoring effectiveness                                                          | Document review. Is the monitoring plan linked to risk assessments to make sure highest risk areas are covered?                                                                                                                                                                                                                                                            |
| 5.36 | Participation of business leadership in risk resolution                           | Verify that risk reporting is going to business leadership; routine inclusion of risks at compliance committee; assessment of effective follow-up when risk resolution is off-track.                                                                                                                                                                                       |
|      | <b>Monitoring and Auditing Work Plan:</b>                                         |                                                                                                                                                                                                                                                                                                                                                                            |
| 5.37 | Method to create audit plan                                                       | Document/process review. <ul style="list-style-type: none"> <li>• What internally and externally are used to create the risk based plan?</li> <li>• Is a review of submitted corrective action plans included in the review and planning process?</li> </ul>                                                                                                               |
| 5.38 | Audit and monitoring based on risk assessment                                     | Document review comparison of audit/monitoring plan.                                                                                                                                                                                                                                                                                                                       |
| 5.39 | Approval process of work plans                                                    | Review minutes of Board and Compliance Committee meetings.                                                                                                                                                                                                                                                                                                                 |
| 5.40 | Auditing and monitoring process                                                   | Document and process review. How is annual work plan developed? Who is responsible for it?                                                                                                                                                                                                                                                                                 |
| 5.41 | Are there sufficient audits conducted?                                            | Documentation review. Look at audit plan, including “ad hoc” audits that were unplanned, but conducted in response to a matter.                                                                                                                                                                                                                                            |
| 5.42 | Audit inventory                                                                   | Document review. Is there an inventory of all audits being conducted either by internal staff or external consultants in the organization?                                                                                                                                                                                                                                 |
| 5.43 | Compliance department role in establishing audit plan                             | Review of audit plan and process to ensure compliance is key stakeholder and part of the process.                                                                                                                                                                                                                                                                          |
| 5.44 | Defined process to hire outside experts to conduct audit/investigation and review | Review policy and procedures and interview decision makers on the process and criteria to trigger the hiring of outside experts to conduct audit/investigation and review.                                                                                                                                                                                                 |
| 5.45 | Completion rate for compliance work plan                                          | Audit or document review. <ul style="list-style-type: none"> <li>• Were the items on the work plan completed by the due date?</li> <li>• If not, do compliance committee and board level committee minutes reflect discussion about this?</li> <li>• If work plan was changed, is there compliance committee and board committee documentation to support this?</li> </ul> |



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| 5.46 | Periodic reviews of monitoring and auditing plan                                 | Document review. Is monitoring and auditing plan reviewed periodically at the compliance committee and board level committee to make sure it is still fit for purpose and focused on high-risk areas for the organization?                                                                                                      |
| 5.47 | Random auditing is conducted to identify unknown risks                           | Portion of the audit plan is based on random selection.                                                                                                                                                                                                                                                                         |
| 5.48 | Effectiveness of gift policy and procedure                                       | Survey on gift policy awareness and audit gift registry or system for compliance with P&P.                                                                                                                                                                                                                                      |
|      | <b>Audit Process:</b>                                                            |                                                                                                                                                                                                                                                                                                                                 |
| 5.49 | The need for the advice of counsel related to audits                             | Review of referral process to track attorney referral. Is organization tracking that attorney is consulted when audit findings note issues?                                                                                                                                                                                     |
| 5.50 | Validate the organization is conducting audits                                   | Process review.                                                                                                                                                                                                                                                                                                                 |
| 5.51 | Audit results and actions in response to audit is reported to the governing body | Review of minutes.                                                                                                                                                                                                                                                                                                              |
| 5.52 | Audit results are part of performance reports and/or incentives                  | Documentation review.                                                                                                                                                                                                                                                                                                           |
| 5.53 | Authority to initiate audit                                                      | Document review. Interviews. Audit. <ul style="list-style-type: none"> <li>Is there documentation outlining who is authorized to initiate an audit, including the engagement of outside consultants?</li> <li>How is this done?</li> <li>How thorough is it?</li> </ul>                                                         |
| 5.54 | Audit process                                                                    | Process review. Documentation review. Are audits defined with issue, scope, objectives, and resources?                                                                                                                                                                                                                          |
| 5.55 | Accountability                                                                   | Create audit reports for compliance audits identifying purpose, scope, sample selection (if applicable), findings, conclusion, and recommendations.                                                                                                                                                                             |
| 5.56 | Audit benchmarks                                                                 | Audit of audits for benchmarking - Are the audit findings actionable?                                                                                                                                                                                                                                                           |
| 5.57 | Compliance audit results                                                         | Process review and document review. <ul style="list-style-type: none"> <li>Are audit results being analyzed, tracked, trended and reported?</li> <li>For example, how often are education or policies and procedure changes needed?</li> <li>Is management (not compliance) responsible for corrective action plans?</li> </ul> |

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|      |                                                                 | <ul style="list-style-type: none"> <li>Is compliance monitoring corrective action plans to completion and then conducting follow-up audits to ensure the actions remain in place?</li> </ul>                                                                                                                                                               |
| 5.58 | Meaningfulness of audits                                        | Review of audit tool.                                                                                                                                                                                                                                                                                                                                      |
| 5.59 | Report results                                                  | Documentation review. <ul style="list-style-type: none"> <li>How is resolution of deficiency documented?</li> <li>How does the department document? How does the department track what was accomplished (metric: spreadsheet - database)?</li> </ul>                                                                                                       |
| 5.60 | Reporting of audit results                                      | Process review. Documentation review. <ul style="list-style-type: none"> <li>Are audit results are reported to operations?</li> <li>Compliance Committee?</li> <li>Governing body?</li> </ul>                                                                                                                                                              |
|      | <b>Corrective Action Plans:</b>                                 |                                                                                                                                                                                                                                                                                                                                                            |
| 5.61 | Depth and breadth of root cause analysis                        | Audit and interview process to determine if proper depth and breadth of root cause of concern and proper incorporation into corrective action plan.                                                                                                                                                                                                        |
| 5.62 | Accountability of corrective action                             | Review agendas, minutes and reports to compliance committee on corrective action plans.                                                                                                                                                                                                                                                                    |
| 5.63 | Action plans in response to an audit finding                    | Audit of audits to ensure action plans are documented.                                                                                                                                                                                                                                                                                                     |
| 5.64 | Are identified refunds tracked, documented and returned timely? | Audit and review of documentation to ensure check went out.                                                                                                                                                                                                                                                                                                |
| 5.65 | Audit and investigation trending                                | Validation reviews of corrective action plans. Are audit and investigation findings tracked for trends? Root cause analysis? Fix for entire system?                                                                                                                                                                                                        |
| 5.66 | Corrective Action Plans                                         | Document review. Audit. <ul style="list-style-type: none"> <li>Is there a documented follow up process to make sure management has completed items in corrective action plans?</li> <li>Were the corrective actions successful in correcting the deficiency?</li> <li>Are follow up audits conducted to ensure corrective actions do not lapse?</li> </ul> |
| 5.67 | Reporting of untimely corrective actions                        | Validation audits/follow-up audits. If there are un-timely corrective actions, are they reported to the compliance committee and governing body?                                                                                                                                                                                                           |
| 5.68 | Timely corrective actions (new safeguards/controls)             | Audit to ensure audits have corrective action documented in a timely fashion.                                                                                                                                                                                                                                                                              |

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|      | <b>Auditors:</b>                                                                                                               |                                                                                                                                                                                                                                 |
| 5.69 | Auditing the auditors                                                                                                          | Hire third party to audit auditors or individual contributors; validate audit results.                                                                                                                                          |
| 5.70 | Auditors develop audit instructions                                                                                            | Document review. Are there guidelines in place?                                                                                                                                                                                 |
| 5.71 | Auditors skill set and competency to audit the issue                                                                           | Review audit work product, personnel files, etc.                                                                                                                                                                                |
| 5.72 | Independence                                                                                                                   | Audit for Independence - Review to ensure no vested interest in outcomes, meet independence requirement as defined by yellow book.                                                                                              |
| 5.73 | Process to evaluate auditor skill set to ensure the right audit resources are selected (internal audit, outside auditor, etc.) | Review of auditor background and skill set.                                                                                                                                                                                     |
| 5.74 | Standardization of audit process - auditors approach audits in the same way                                                    | Audit review to monitor for consistency.                                                                                                                                                                                        |
|      | <b>Non-Retaliation:</b>                                                                                                        |                                                                                                                                                                                                                                 |
| 5.75 | Monitoring for retaliation                                                                                                     | Exit interviews/employee surveys.                                                                                                                                                                                               |
| 5.76 | Retaliation                                                                                                                    | Surveys, focus groups, individual questioning, exit interviews.                                                                                                                                                                 |
|      | <b>Vendor oversight:</b>                                                                                                       |                                                                                                                                                                                                                                 |
| 5.77 | Vendor oversight                                                                                                               | <ul style="list-style-type: none"> <li>Review vendor certifications; track consequences for vendors not adhering to compliance program.</li> <li>Ensure all vendor contracts include consistent compliance language.</li> </ul> |

## **Element 6: Discipline for Non-Compliance**

- A. Recommend disciplinary action when noncompliance is substantiated.
- B. Promote discipline proportionate to violation.
- C. Promote discipline consistent with policies and procedures.
- D. Verify that discipline is enforced consistently throughout all levels of the organization.
- E. Monitor for consistent documentation of disciplinary action.
- F. Recommend action for individuals and entities that have been excluded from government programs.
- G. Verify that compliance-related violations are addressed in disciplinary policies.
- H. Coordinate with management that timely disciplinary action is taken.
- I. Verify that disciplinary action is reported to regulatory body when required.

**Source:** *CHC Candidate Handbook: Detailed Content Outline*

| <b>Element 6: Discipline for Non-Compliance</b> |                                                     |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |
|-------------------------------------------------|-----------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|                                                 | <b>What to Measure</b>                              | <b>How to Measure</b>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                     |
|                                                 | <b>Consistency:</b>                                 |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                           |
| 6.1                                             | Fairness and consistency in disciplinary process    | Sample – audit. <ul style="list-style-type: none"><li>• Is the disciplinary action policy consistently followed?</li><li>• Does the compliance committee review and measure fairness and consistency in policy application?</li><li>• Audit discipline personnel files – consider creating predefined discipline matrices and audit against these.</li><li>• Interview on perception of discipline applied, survey on perception.</li><li>• Is disciplinary action in proportion to matter?</li><li>• Is there consistency for similar matters?</li></ul> |
| 6.2                                             | Approach to determining type of disciplinary action | Review of P&P. <ul style="list-style-type: none"><li>• Auditing/testing to determine whether there is a common approach to analyzing the discipline aspect of resolution.</li><li>• Are there steps embedded into protocol?</li></ul>                                                                                                                                                                                                                                                                                                                     |

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| 6.3  | Compliance officer input into disciplinary action decisions | Interview CCO, outcomes review, and audit. Are compliance officer's recommendations taken seriously?                                                                                                                                                                                                                                                                          |
| 6.4  | Decision-making parties                                     | <ul style="list-style-type: none"> <li>• Audit personnel files.</li> <li>• Policy review.</li> <li>• Is there a disciplinary action committee approach to review results of investigation and previous actions and to make decisions?</li> <li>• Are the appropriate parties (e.g. Legal, HR, Compliance, etc.) part of discipline action decision-making process?</li> </ul> |
| 6.5  | Thoroughness of disciplinary P&P                            | Review criteria of including compliance violations and well-defined sanctions for consistent application of disciplinary policies.                                                                                                                                                                                                                                            |
| 6.6  | Timeliness of disciplinary action                           | HR audit of files. Is timely discipline and action carried out?                                                                                                                                                                                                                                                                                                               |
|      | <b>Awareness:</b>                                           |                                                                                                                                                                                                                                                                                                                                                                               |
| 6.7  | Understanding                                               | Survey - Is poor performance on compliance responsibilities grounds for disciplinary action?                                                                                                                                                                                                                                                                                  |
| 6.8  | Accuracy                                                    | Verifying that person completed the compliance expectations that were attested to.                                                                                                                                                                                                                                                                                            |
| 6.9  | Compliance goals                                            | Documentation review. Is there consideration of compliance activities in daily activities? Review performance evaluations- Were goals accomplished?                                                                                                                                                                                                                           |
| 6.10 | Compliance incentives                                       | Process review; interviews of leadership and staff interviews. What is the role of compliance when it is implemented?                                                                                                                                                                                                                                                         |
| 6.11 | Incentive policy                                            | Document review, interviews, and focus groups. <ul style="list-style-type: none"> <li>• Does the organization distribute badges for centers, or departments for participation in compliance training?</li> <li>• Are there contests for compliance training and publishing of test scores?</li> </ul>                                                                         |
| 6.12 | Distinction between disciplinary action and non-retaliation | Interviews, reviews of policies, etc. Assess the effectiveness of the organizational distinction between discipline and non-retaliation and make sure there are appropriate protections regarding non-retaliation.                                                                                                                                                            |

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| 6.13 | Education to ensure employees know expectations                                                 | Audit communications regarding expectations and discipline possible. Compare policy and Standards of Conduct to ensure they are clear regarding disciplinary action.                                                                                                                                                                                    |
| 6.14 | Employee awareness of disciplinary action policy                                                | Interviews, surveys, etc. Do employees understand there are discipline consequences for non-compliance?                                                                                                                                                                                                                                                 |
| 6.15 | Employee, vendor, contractor knowledge of code of conduct and their compliance responsibilities | Audit documentation. <ul style="list-style-type: none"> <li>Do employees, vendors, and contractors know their responsibilities regarding code of conduct?</li> <li>Do they sign annual attestations?</li> </ul>                                                                                                                                         |
| 6.16 | Transparency regarding lessons learned                                                          | Document review. Are the lessons learned from disciplinary action conveyed and used as an educational tool for organization?                                                                                                                                                                                                                            |
| 6.17 | Culture                                                                                         | Survey - Do you feel employees who engage in improper work-related activities will be caught?                                                                                                                                                                                                                                                           |
| 6.18 | Non-retaliation for good faith reporting                                                        | Review demotions, terminations and conduct employee surveys.                                                                                                                                                                                                                                                                                            |
| 6.19 | Proactive education on violation and discipline                                                 | Review policy and procedure and education and training                                                                                                                                                                                                                                                                                                  |
| 6.20 | Recognition and appreciation                                                                    | Focus groups, interviews. <ul style="list-style-type: none"> <li>Are there recognition and appreciation programs that do not include incentivizing with money?</li> <li>For example, are there newsletters, reports to governing body, website announcements to recognize those for exhibiting compliance and ethical behaviors and actions?</li> </ul> |
|      | <b>Documentation:</b>                                                                           |                                                                                                                                                                                                                                                                                                                                                         |
| 6.21 | Discipline transparency                                                                         | Documentation review. Are high-level results from disciplinary action published (e.g., # of terminations, # of counseling, # of suspensions, and # of corrective action plans)?                                                                                                                                                                         |
| 6.22 | Oversight                                                                                       | Review minutes for number of disciplinary actions for compliance and HIPAA violations in last year reported to the Compliance Committee (dashboard)                                                                                                                                                                                                     |
| 6.23 | Adequate documentation                                                                          | Review/audit disciplinary files for supporting documentation of disciplinary action.                                                                                                                                                                                                                                                                    |
| 6.24 | Compliance in business plans                                                                    | Document, process review. <ul style="list-style-type: none"> <li>Is there a leadership scorecard that includes compliance metrics?</li> <li>Are there compliance incentives built into business plans?</li> </ul>                                                                                                                                       |

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| 6.25 | Notification of licensing boards                                     | HR file audit - before issue is closed, is documentation present and included in tracking system?                                                                                                                                                                                                                                                                           |
| 6.26 | Policy                                                               | Document review. Audit. Is there a documented policy addressing discipline for non-compliance?                                                                                                                                                                                                                                                                              |
| 6.27 | Policy exceptions                                                    | File review of exceptions. Are exceptions tracked, documented, and evaluated? Who gets to make the decision regarding exceptions? Is this process documented?                                                                                                                                                                                                               |
| 6.28 | Reporting to regulatory authorities                                  | Audit. Document review. <ul style="list-style-type: none"> <li>• Look at criteria for reporting and timeliness achieved.</li> <li>• Audit cases and track.</li> <li>• Ensure timely reporting to regulatory authorities of potential violations and discipline to demonstrate organization's commitment to compliance.</li> </ul>                                           |
| 6.29 | Scope and inclusion of disciplinary action pertaining to the culture | Investigate breadth of discipline and inclusion, audit disciplinary files, and conduct interview. Does discipline include those who know about it and didn't report it or caused it to happen but did not actually do it?                                                                                                                                                   |
| 6.30 | Scope of disciplinary action                                         | Audit to verify - Are there disciplinary actions/consequences for not reporting?                                                                                                                                                                                                                                                                                            |
| 6.31 | System allows for documentation of compliance issues                 | Document/System review. Does HR system have mechanism for recording and tracking compliance offenses?                                                                                                                                                                                                                                                                       |
|      | <b>Promotion Criteria:</b>                                           |                                                                                                                                                                                                                                                                                                                                                                             |
| 6.32 | Promotion Criteria                                                   | Review if compliance considerations were included in promotion process and criteria.                                                                                                                                                                                                                                                                                        |
| 6.33 | Senior executive performance reviews                                 | Process, document review. <ul style="list-style-type: none"> <li>• Before promotion, does compliance conduct interview to identify or discuss compliance issues?</li> <li>• Does head of compliance participate in the reviews of senior executives?</li> <li>• Is there talk about compliance initiatives with regards to senior executive performance reviews?</li> </ul> |
| 6.34 | Performance reviews                                                  | Document review. <ul style="list-style-type: none"> <li>• Is there recognition of compliance efforts in performance reviews?</li> <li>• Is compliance built into the performance evaluation for rewarding employees and disciplinary action?</li> </ul>                                                                                                                     |

## **Element 7: Investigations and Remedial Measures**

- A. Communicate noncompliance through appropriate channels.
- B. Assure development of corrective action plans in response to noncompliance.
- C. Monitor the effectiveness of corrective action plans in response to noncompliance.
- D. Assure remedial efforts are implemented to reduce risk.
- E. Cooperate with government inquiries and investigations.
- F. Investigate matters related to noncompliance in a fair, objective, and discrete manner.
- G. Assure records are maintained on compliance investigations.
- H. Participate in negotiation with regulatory agencies.
- I. Assure that overpayments to payers are refunded in a timely manner.
- J. Collaborate with legal counsel regarding voluntary disclosures.
- K. Coordinate investigations to preserve privileges, as applicable.
- L. Facilitate independent investigations when necessary.
- M. Recommend modification of corrective action plans.
- N. Recognize need for subject matter experts.
- O. Assure documents relevant to an investigation are preserved.
- P. Assure investigation personnel have the necessary skill sets.
- Q. Institute immediate measures as necessary to mitigate ongoing harm.
- R. Recommend measures to address substantiated incidence of retaliation.

***Source: CHC Candidate Handbook: Detailed Content Outline***



## Element 7: Investigations and Remedial Measures

|     | What to Measure                                                                                                                       | How to Measure                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                   |
|-----|---------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|     | <b><i>Guidelines for Conducting an Investigation:</i></b>                                                                             |                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                  |
| 7.1 | The organization has guidelines established to ensure thorough, credible, and complete investigations are done in a consistent manner | Review guidelines, policy and procedure and/or protocol on conducting an investigation.                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                          |
| 7.2 | Effectiveness of investigative process                                                                                                | <p>Review process for common steps to embed into a protocol. Conduct a baseline review to understand what the mandatory parts of the investigation framework are and what may change due to situation or circumstance.</p> <ul style="list-style-type: none"> <li>• Is the overall investigation process driven by a policy and procedure, subject matter resource involvement, objective reviewer?</li> <li>• Is the process transparent (not everything placed under attorney client privilege)?</li> <li>• Is there a documented investigations process or procedure?</li> <li>• Are investigations being conducted consistent with written procedures?</li> <li>• Is there something that triggers a sentinel event, immediate reporting, the need for external consultants or attorneys?</li> <li>• What is the approval process?</li> <li>• What are timelines with regards to 60-day rule?</li> <li>• Is there a centralized process for keeping up with all investigations in process?</li> <li>• How much flexibility due to situation or circumstances is appropriate and how much needs to be controlled?</li> <li>• Next year, is the process tightened up going forward?</li> </ul> |
| 7.3 | Individual accountability as part of investigative plan.                                                                              | <p>Audit. Document review. Interviews.</p> <ul style="list-style-type: none"> <li>• Is there a baseline investigative plan that outlines <u>communication plan</u> for interviewing current or prior employees?</li> <li>• Does the investigative process include special attention to individual accountability?</li> <li>• Is there investigative mapping and outline to ask questions about who may be in the loop so compliance can be sure they are not part of reporting group?</li> <li>• Are there appropriate protections for people being interviewed and the representation of organization?</li> </ul>                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                                               |

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|      |                                                                                       | <ul style="list-style-type: none"> <li>Is there documentation that the individual is not given assurances that there are no repercussions for him/her?</li> </ul>                                                                                                                                                                                 |
| 7.4  | Type of documentation required for remedial measures and investigation                | Review policies and procedures on record retention and types of documentation                                                                                                                                                                                                                                                                     |
|      | <b>Content of Investigation Files:</b>                                                |                                                                                                                                                                                                                                                                                                                                                   |
| 7.5  | Assure records are maintained on investigation                                        | Audit to ask: <ul style="list-style-type: none"> <li>Is there a policy and procedure for documentation that needs to be maintained?</li> <li>Do investigative files match the policy requirements (determine what should be in the attorney file versus the investigation file)?</li> </ul>                                                       |
| 7.6  | Quality of the documentation                                                          | Assess whether the who, what, when and how is answered in every investigation; sample log entries                                                                                                                                                                                                                                                 |
| 7.7  | Assure documents relevant to an investigation are preserved                           | Read written policy and procedure for investigation records; read investigation files of HR, compliance, and/or legal to confirm compliance with retention period                                                                                                                                                                                 |
|      | <b>Quality and Consistency of Investigations:</b>                                     |                                                                                                                                                                                                                                                                                                                                                   |
| 7.8  | Quality and effectiveness of investigations                                           | Audit investigations to look at: <ul style="list-style-type: none"> <li>quality of questions asked and content considered, involved parties, and report out of findings;</li> <li>did they involve the appropriate parts of the organization;</li> <li>are they broad enough; and</li> <li>did they use internal or external auditors?</li> </ul> |
| 7.9  | Thoroughness, timeliness and consistency of investigation process among investigators | Audit investigation files                                                                                                                                                                                                                                                                                                                         |
| 7.10 | Triage process                                                                        | <ul style="list-style-type: none"> <li>Audit process to review whether allegations were appropriately and timely handled</li> <li>Dry run, test, mock report</li> </ul>                                                                                                                                                                           |
| 7.11 | Consistency of Investigations                                                         | Multiple anonymous (mock) reports on different issues to test process                                                                                                                                                                                                                                                                             |

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| 7.12 | Credibility of investigation and remediation process to third parties                               | Demonstrating it by mock presentation (devil's advocate) - role playing what a regulator might ask regarding the investigation and remediation process.                                                                                                                                                                                                                                             |
|      | <b><i>Tracking and Trending Investigations</i></b>                                                  |                                                                                                                                                                                                                                                                                                                                                                                                     |
| 7.13 | Investigation categorization process and trending                                                   | Documentation review and audit tracking system. Are investigations being categorized so they can be tracked, trended and reported to compliance committee, senior management and board?                                                                                                                                                                                                             |
| 7.14 | Retaining documentation of investigations in records management system (tracking, trending, review) | Review of documentation in system                                                                                                                                                                                                                                                                                                                                                                   |
| 7.15 | Documenting when issue is substantiated or not and reporting/trending                               | Review reports/process                                                                                                                                                                                                                                                                                                                                                                              |
| 7.16 | Compliance log (log and track investigations)                                                       | <ul style="list-style-type: none"> <li>• Does a log exist;</li> <li>• Does it have investigations and actions taken; and</li> <li>• Are there supporting files for each entry so that they can be reported on (HR, Billing) to report the trends?</li> </ul>                                                                                                                                        |
|      | <b><i>Escalation of Investigations</i></b>                                                          |                                                                                                                                                                                                                                                                                                                                                                                                     |
| 7.17 | Ensure adequate and timely escalation of investigation outcomes                                     | Audit sample of investigation files                                                                                                                                                                                                                                                                                                                                                                 |
| 7.18 | Significant investigations are reported to the governing body                                       | Review board minutes, review policies related to board reporting requirements.                                                                                                                                                                                                                                                                                                                      |
| 7.19 | Investigation reporting to senior leadership and board                                              | Document review, interviews. Are investigations being reported to senior leadership and the board?                                                                                                                                                                                                                                                                                                  |
|      | <b><i>Communication of Investigation Outcomes</i></b>                                               |                                                                                                                                                                                                                                                                                                                                                                                                     |
| 7.20 | The appropriate communication of the investigation outcomes (education)                             | <ul style="list-style-type: none"> <li>• Conduct an assessment at the conclusion of an investigation of additional communication to the organization for organizational learning and culture of compliance</li> <li>• Document review of meeting minutes and/or interim reports. Were investigations results reported to senior leadership and board? How were the results communicated?</li> </ul> |

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|      |                                                                                                  | <ul style="list-style-type: none"> <li>Review how results of internal investigations are shared with the organization's governing body, leadership and relevant departments.</li> </ul>                                           |
| 7.21 | Culture                                                                                          | Survey for whether employees believe that management and/or the compliance officer follows up on reports of compliance concerns and takes appropriate action whenever necessary?<br>(Yes/No/Don't know)                           |
| 7.22 | Perception of investigation results by employees and stakeholders                                | Focus groups or survey of employees                                                                                                                                                                                               |
| 7.23 | Communicate noncompliance through appropriate channels                                           | Read workgroup meeting minutes or emails to determine distribution list includes appropriate individuals (stakeholders, decision makers)                                                                                          |
|      | <b><i>Training of Investigators</i></b>                                                          |                                                                                                                                                                                                                                   |
| 7.24 | Staff who conduct internal investigations have the education necessary to conduct investigations | Peer review on similar organizations. Review of certifications and education provided.                                                                                                                                            |
| 7.25 | Number of employees with appropriate certifications that are conducting investigations           | Review list of investigators and their certifications                                                                                                                                                                             |
| 7.26 | Investigators have the skill set                                                                 | Interview investigators and look at work product for facts                                                                                                                                                                        |
| 7.27 | Training/competency of investigators                                                             | <ul style="list-style-type: none"> <li>Evaluate training transcripts, train them on investigation techniques;</li> <li>Review the type of training anyone conducting investigations has received over the past 2 years</li> </ul> |
|      | <b><i>Professionalism and Competency of investigators</i></b>                                    |                                                                                                                                                                                                                                   |
| 7.28 | Ensuring investigators are conducting investigation in professional and respectful manner        | Interview subjects                                                                                                                                                                                                                |
| 7.29 | Professionalism and effectiveness of investigators                                               | Conduct and observe mock interviews                                                                                                                                                                                               |
| 7.30 | Strength and credibility of investigation process                                                | Role play of investigation process                                                                                                                                                                                                |
| 7.31 | Investigate matters in a fair matter, objective and discreet manner                              | Peer benchmarking to evaluate: <ul style="list-style-type: none"> <li>the time it should take to conduct an investigation;</li> </ul>                                                                                             |

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|      |                                                                                            | <ul style="list-style-type: none"> <li>• what peers do to make sure investigations occur discreetly and timely</li> </ul>                                                                                                                                                                                         |
|      | <b><i>Independence of investigator</i></b>                                                 |                                                                                                                                                                                                                                                                                                                   |
| 7.32 | Objectivity of investigator                                                                | Interviews by external source with goal to ensure no internal organizational pressure on the investigators that is improper.                                                                                                                                                                                      |
| 7.33 | Assessing uniformity of using outside contractors and experts in the investigation process | Review policies and procedures and audit files for compliance                                                                                                                                                                                                                                                     |
| 7.34 | Independence and Objectivity of Investigation                                              | Review policies and procedures, survey employee perception, quality control process, etc.                                                                                                                                                                                                                         |
| 7.35 | Independence of investigation (no intimidation is occurring)                               | Work product and interviews; quality of process (avoid reporting structure conflicts of interest; direct-report)                                                                                                                                                                                                  |
|      | <b><i>Involvement of Legal Counsel</i></b>                                                 |                                                                                                                                                                                                                                                                                                                   |
| 7.36 | Coordinating investigations to protect privilege when necessary                            | Audit against policies and procedures to determine appropriate attachment of privilege                                                                                                                                                                                                                            |
| 7.37 | Collaborating with legal                                                                   | <ul style="list-style-type: none"> <li>• Look at work product to determine quality;</li> <li>• Ensure compliance leads the investigation (unless investigation is being conducted under privilege);</li> <li>• Interview compliance officer and legal counsel to determine the level of collaboration.</li> </ul> |
|      | <b><i>Timeliness of Response</i></b>                                                       |                                                                                                                                                                                                                                                                                                                   |
| 7.38 | Are immediate actions taken immediately                                                    | Audit investigation outcomes to see if timely                                                                                                                                                                                                                                                                     |
| 7.39 | Compliance officer authority                                                               | Interviews, document reviews. If concern is raised and it is harmful, management needs ability to react immediately even if it is before investigation is complete. Does the compliance officer have the ability and authority to stop an action (e.g., billing)?                                                 |
| 7.40 | Time to investigation closure                                                              | <ul style="list-style-type: none"> <li>• Track timeliness against benchmark established by organization;</li> <li>• Documentation review. Is length to close investigations being documented, tracked, trended and reported?</li> </ul>                                                                           |

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|      |                                                                                  | <ul style="list-style-type: none"> <li>Are resolution actions (e.g., education, new policy/procedure, corrective action plan, disclosure, repayment, etc.) being documented, tracked, trended and reported?</li> </ul>                                                        |
| 7.41 | Timely processing of refunds, self-disclosures                                   | Audit, monitor, document review of investigations that resulted in refunds, disclosures to ensure they were processed in a timely fashion.                                                                                                                                    |
| 7.42 | Self-Disclosure guidelines                                                       | Document review, interviews. <ul style="list-style-type: none"> <li>Are there written guidelines for self-disclosures?</li> <li>Do they address members impacted, information to be shared with regulators?</li> </ul>                                                        |
|      | <b><i>Corrective Action Plans / Remedial Measures</i></b>                        |                                                                                                                                                                                                                                                                               |
| 7.43 | Business leaders are accountable for follow-up to investigations                 | <ul style="list-style-type: none"> <li>Verification that investigative report is shared with those responsible for follow-up.</li> <li>Closure reports are provided to Compliance Committee.</li> <li>Audit post investigation to ensure resolution is maintained.</li> </ul> |
| 7.44 | Effectiveness of corrective actions                                              | Documentation review of corrective actions timeframes met, issues closed out, effective resolution.                                                                                                                                                                           |
| 7.45 | Structure                                                                        | Review how corrective action plans are created                                                                                                                                                                                                                                |
| 7.46 | Validate that corrective action plans are appropriate, implemented and effective | Review 3 corrective action plans to ensure identified all issues and conduct validation visits                                                                                                                                                                                |
| 7.47 | Accountability                                                                   | <ul style="list-style-type: none"> <li>Review how corrective action plans are tracked;</li> <li>Review how corrective action plans are reported to Compliance Executive Committee</li> </ul>                                                                                  |
| 7.48 | Ensure remedial measure for like findings are consistently implemented           | Audit                                                                                                                                                                                                                                                                         |
| 7.49 | Measuring sufficiency of corrective action plans that are developed              | Sample cases that were substantiated and review the corresponding corrective action plans to ensure they respond to issues identified in internal and external audits and investigations                                                                                      |
| 7.50 | Remedial actions - Appropriate remedial action occurred                          | Review investigation documentation, PowerPoint, training attestation is in the file.                                                                                                                                                                                          |

|      |                                                                                                              |                                                                                                                                                                                                                                                                                                                                                                                                            |
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| 7.51 | Ensure remedial efforts are established to reduce risk                                                       | Based on the outcome of the investigation; deficiency was fixed, evidence it was fixed, there are other items to review (ex. Charge master) look at the downstream impact - employees, systemic issues (beyond disciplinary action)                                                                                                                                                                        |
|      | <b>Root cause analysis</b>                                                                                   |                                                                                                                                                                                                                                                                                                                                                                                                            |
| 7.52 | Conduct root cause analysis to determine if findings need to be addressed in other parts of the organization | Audit documentation                                                                                                                                                                                                                                                                                                                                                                                        |
| 7.53 | Resolution of investigations                                                                                 | Audit. Was root cause resolved?                                                                                                                                                                                                                                                                                                                                                                            |
| 7.54 | Accountability/Structure                                                                                     | Obtain a list of ad hoc committees formed around specific compliance issue over the last 2 years                                                                                                                                                                                                                                                                                                           |
|      | <b>Adherence to non-retaliation policy</b>                                                                   |                                                                                                                                                                                                                                                                                                                                                                                                            |
| 7.55 | Monitoring how the reporter feels about having reported                                                      | Interview                                                                                                                                                                                                                                                                                                                                                                                                  |
| 7.56 | Ensure confidentiality of investigation process                                                              | Survey or focused groups, interview participants in investigations                                                                                                                                                                                                                                                                                                                                         |
| 7.57 | Exit interview process queries for retaliation                                                               | Review of exit interview process                                                                                                                                                                                                                                                                                                                                                                           |
| 7.58 | Culture: Retaliation                                                                                         | <p>Surveys, interviews, exit interviews.</p> <ul style="list-style-type: none"> <li>• Is there a policy statement in new employee orientation?</li> <li>• Are there communications?</li> <li>• Do employees know how to report potential instances?</li> <li>• Does the organization conduct culture surveys?</li> <li>• Is there a policy statement regarding no obstruction of investigation?</li> </ul> |
| 7.59 | Adherence to non-retaliation policy                                                                          | Survey participates in investigation to determine if they felt or feared retaliation                                                                                                                                                                                                                                                                                                                       |
| 7.60 | Substantiated retaliation                                                                                    | Audit                                                                                                                                                                                                                                                                                                                                                                                                      |
|      | <b>Government Inquiries/Investigations</b>                                                                   |                                                                                                                                                                                                                                                                                                                                                                                                            |

|      |                                                                                    |                                                                                                                                                                                                                                                                                                                                                                                     |
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| 7.61 | Cooperate with government inquiries/investigations                                 | <ul style="list-style-type: none"> <li>• Audit credit received for cooperation;</li> <li>• Read records that contain government correspondence with entity. Review and confirm appropriate responses were submitted on or before requested date.</li> </ul>                                                                                                                         |
| 7.62 | Strategic relationship with regulators                                             | Interviews. <ul style="list-style-type: none"> <li>• Is there a focused approach to building relationships with regulators?</li> <li>• Does staff seek out regulators at conferences, etc. to build relationships?</li> </ul>                                                                                                                                                       |
| 7.63 | Mock presentations                                                                 | Documentation review. Interviews. <ul style="list-style-type: none"> <li>• Does the organization conduct mock presentations (e.g., in-house attorney “acts” as government entity?</li> <li>• Compliance presents a discipline part of compliance program to in-house attorney for his/her review and comment.)</li> </ul>                                                           |
|      | <b>Monitoring Results</b>                                                          |                                                                                                                                                                                                                                                                                                                                                                                     |
| 7.64 | Validation that investigations are complete                                        | <ul style="list-style-type: none"> <li>• Auditing, documentation review, interviews after investigations are complete.</li> <li>• Is there a documented (3-6-9 months) timing interval to assess whether “action has traction?”</li> <li>• Is there a process to go back and prioritize or verify that plans or work units are following through on recommended actions?</li> </ul> |
| 7.65 | Review of investigations in future work planning                                   | <ul style="list-style-type: none"> <li>• Documentation review.</li> <li>• Is there an analysis of investigations to help inform future work plans?</li> </ul>                                                                                                                                                                                                                       |
| 7.66 | Long term effectiveness of remedial measures                                       | Audit - one year of remedial measures where active monitoring ended 6 months prior to validate that remediation still in place                                                                                                                                                                                                                                                      |
| 7.67 | How larger lessons can be conveyed to the organization                             | CO could review annually the reports to the board or broader communications to the entire organization; review education on trends and themes.                                                                                                                                                                                                                                      |
|      | <b>Awareness of Investigation Process</b>                                          |                                                                                                                                                                                                                                                                                                                                                                                     |
| 7.68 | Education on investigations process                                                | <ul style="list-style-type: none"> <li>• Audit, monitor training records and educational content.</li> <li>• Is training regarding the investigations process provided at hire and ongoing so employees know what to expect regarding the investigations process?</li> </ul>                                                                                                        |
| 7.69 | Strategic relationship with risk partners (i.e., Legal, HR, risk management, etc.) | Interview risk partners to determine interaction, involvement, knowledge.                                                                                                                                                                                                                                                                                                           |



|      | <b><i>Contract Provisions regarding Investigations</i></b>                                                         |                                                                                                                                                                                                                                      |
|------|--------------------------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 7.70 | Third party and non-employed clinician contracts to ensure they have an obligation to cooperate in investigations. | <ul style="list-style-type: none"> <li>• Contract review.</li> <li>• Inventory of agreements with 3rd parties and non-employed clinicians to make sure they understand their obligation to cooperate with investigations.</li> </ul> |
| 7.71 | Inventory of requirements in contracts                                                                             | Audit. Document review. Are there standard terms that must be included in contracts? A template can be used to ensure all requirements are in contracts.                                                                             |