



# Compliance Awareness Training

# Objectives

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- Introduce Compliance Officer and Committee Staff
- Understand and accept governmental involvement in healthcare
- Become familiar with Beacon Specialized Living Services, Inc. Compliance program
- Introduce federal and state fraud & abuse laws that apply
- Become familiar with internal & external audit and investigation procedures



# Compliance is...

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- A program specifically designed to combat fraud and abuse in the healthcare setting.
- **Policies and Procedures apply to EVERYONE.**



# Your Corporate Compliance Officer

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**Melissa Williams**

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Specialized Living

# The Compliance Committee

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**Melissa Williams**  
Chief Compliance and  
Administrative Officer



**Michelle Tuyls**  
VP of Human Resources



**Darren Hodgdon**  
CEO



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# Our Goals

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- Assure that patient bills are complete and accurate
- Supply adequate documentation to support services billed
- Detect wrongdoings and take corrective measures
- Promote ethical behavior



# Components of Our Compliance Program

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- Establish Compliance Standards
- Education and Training
- Techniques to detect incorrect billing
- Investigation and remediation processes in problematic areas



# Corporate Integrity Agreements

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Contracts between a healthcare provider and the Office of the Inspector General of the U.S. Department of Health & Human Services



# CIA Fast Facts

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- Newly implemented contract audit units (CAU)
- 2,525 Currently being monitored
- 1,075 of which are professional providers



# Obligations

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Beacon Specialized Living Services, Inc. must establish a compliance program designed to ensure compliance with Federal Health Care



# Compliance Officer & Committee

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- Develops and implements policies, procedures, and practices designed to ensure compliance
- Adheres to the
  - Requirements set forth in policy
  - Requirements of Federal Health Care programs



# Annual Review Policy

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- Staff members must certify annually that they have received, read, understand, and agree to abide by Organization and Employee Code of Ethics Policy.
- Compliance Policies must be reviewed annually.



# Written Standards

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- Organization & Employee Code of Ethics Policy
- Policies and Procedures



# Code of Conduct

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- All employees and affiliated professionals with Beacon Specialized Living Services, Inc. shall conduct all activities in a manner that will promote integrity and compliance while practicing sound ethical and professional judgment.



# Code of Conduct

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- All employees and affiliated professionals of Beacon Specialized Living Services, Inc. shall abide by regulations set forth by the state and federal healthcare programs.
- Beacon Specialized Living Services, Inc. employees and affiliated professionals shall prepare complete and accurate medical records, financial information, and bills.



# Code of Conduct

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- Beacon Specialized Living Services, Inc. employees and affiliated professionals shall report suspected noncompliant behavior that violates any statute, regulation, or guideline applicable to a state or Federal healthcare program or Beacon Specialized Living Services, Inc.'s policies. All reports are **confidential**. All employees have the right to remain anonymous. Beacon Specialized Living Services, Inc. **will not** retaliate upon any employee that reports suspect behaviors in any form or fashion.



# Code of Conduct

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- All employees shall attend and/or complete the mandated training requirements in a timely manner.
- All employees shall participate in any reviews, investigations, or audits whether conducted by an internal or external agency.



# Code of Conduct

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- All employees shall disclose to the compliance officer any information received from the state or federal healthcare programs or their agents.
- All employees shall refuse any type of illegal offers, remuneration, or payments to induce referrals or preferential treatment from a third party.



# Code of Conduct

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- All employees shall adhere to the Organization & Employee Code of Ethics Policy as a condition of employment at Beacon Specialized Living Services, Inc.
- All employees and affiliated professionals can be suspended, terminated, or barred from further employment or affiliation with Beacon Specialized Living Services, Inc. as a result of non-compliant behavior.



# Reminder

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- New employees must receive Organization & Employee Code of Ethics Policy within 2 weeks of employment



# Policies and Procedures

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- Beacon Specialized Living Services, Inc. policies and procedures are based on state and Federal law, and TJC (The Joint Commission).



# Policies and Procedures

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- Employees shall not accept anything of value from any provider of health care services or products, with the exception of promotional items of only nominal value.



# Policies and Procedures

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- Failure to meet education and training program requirements in a timely manner will result in disciplinary action, up to and including termination.



# Compliance Training Element

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- Compliance Awareness
- Specific Job Related



# Compliance Training Element

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- All persons in supervisory positions are responsible for ensuring that each employee reporting to them has attended the compliance training.
- Managers and supervisors are responsible for informing employees that strict adherence to compliance laws, regulations and policies are a condition of their employment.



# Compliance Training Element

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- It is every employee's responsibility to report suspected violations of the laws, regulations and policies, or other questionable conduct.



# Compliance Training Element

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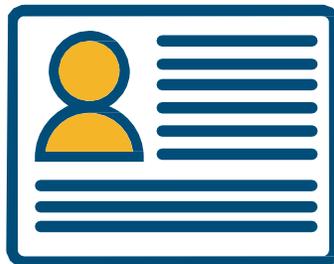
- Beacon Specialized Living Services, Inc. will not knowingly employ or engage in business with anyone who is currently under sanction or exclusion from participation in federal health care programs.



# Ineligible Persons

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- Any individual or entity who is currently excluded, debarred or otherwise ineligible to participate in Federal healthcare programs or has been convicted of a criminal offense related to the provision of health care items or services, but has not been excluded, debarred or otherwise declared ineligible.



# 5 Year Mandatory Exclusions

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Persons Convicted of:

- Program related crimes
- Crimes related to patient abuse/neglect
- Felony fraud convictions against healthcare programs
- Felony convictions for the illegal manufacture or distribution of controlled substances.



# Some Exclusions Statistics

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- 799 prosecutions or settlements in FY 2005
- 79% were healthcare cases
- For FY 2005 HHS/OIG also excluded a total of 3,804 individual and entities, barring them from participating in Medicare, Medicaid, and other federal and state health care programs.



# Some Exclusions Statistics

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- For FY 2005 DHHS collected more than \$423 million in disallowances of improperly paid health care funds, based on HHS/OIG recommendations.



# Documentation

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- Beacon Specialized Living Services, Inc. adopts and supports the CMS (HCFA) documentation guidelines.
- It is the physician, nurse, case managers, home managers or direct care staffs responsibility to properly document all services in the Residents' Case Record.



# Signatures

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- The signature of the physician, nurse, case managers, therapist or aides on the skilled note documents that services have been provided and supports billing for services.
- Professional documentation in the residents' case record supports the bill being submitted.



# Compliance Audits

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- All compliance audits shall be conducted prior to billing
- The Billing Specialist is responsible for completing pre bill audits



# Compliance Review Procedures

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- Assess the adequacy of billing
- Assess the adequacy credentialing practices
- Continuous quality improvement measures in place and audits conducted by qualified staff



# Audit Report Billing – Error Examples

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- Inadequate documentation to support the code billed.
- Absence of MD order



# Worst Case Scenario

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- A breach of these Compliance procedures could cause Beacon Specialized Living Services, Inc. to become ineligible from participating in any Federal healthcare programs.



# How the Government Pays for Healthcare Services

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- **MEDICARE**: Managed by a branch of the U.S. Federal Department of Health & Human Services – CMS (HCFA)
- **MEDICAID**: Department of Health & Human services, subsidized through Federal and state dollars



# Governmental Beneficiaries

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- **MEDICARE:**
  - The elderly, 65+
  - The disabled
  - Those with end-stage renal disease
- **MEDICAID:**
  - State residents
  - Low-income families that can't afford health insurance



# Beneficiary Statistics

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- In 2007, 2.4 million individuals received homecare services from 8,100 Medicare certified agencies.



# Medicare Beneficiary Bill of Rights

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- Assures access to needed services
- Protection against unethical practices
- Right to receive emergency services
- Right to information on all treatment options
- Right to know how the plan pays doctors
- Right to appeal decisions on payment or services offered



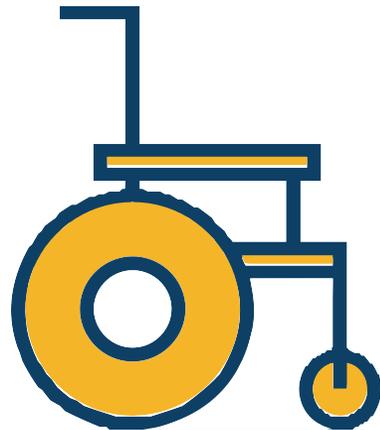
# Medicare – Part A

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Pays for:

- Inpatient hospital care
- Home healthcare
- Hospice care

*Primarily financed by taxes and the Federal Insurance Contributions Act (FICA)*



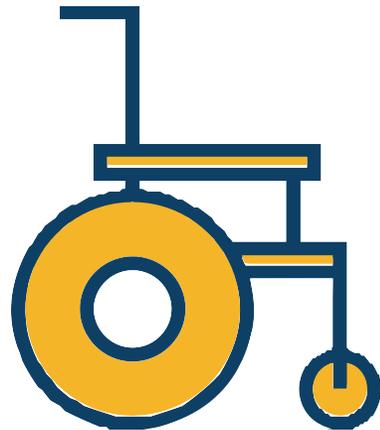
# Medicare – Part B

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Pays for:

- Doctors' services
- Ambulance services
- Some supplies, drugs, and medical equipment
- Lab & diagnostic services
- Some other practitioners (PT, OT, CRNA, NP)

*Primarily financed by premiums paid by enrollees.*



# Medicare Regulations

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“No payment shall be made for services or items, which are not reasonable and necessary for the diagnosis and treatment of the patient.”

“Medically necessary” services are defined as safe & effective, consistent with symptoms/diagnosis, necessary & consistent with medical standards, and those furnished at the most appropriate levels.



# “Medical Necessity” Determination

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- Medical Record must include documentation that substantiates that the provider had reason to believe that the services for which a claim (bill) was submitted were medically necessary.
- Services must be ordered by a physician or other appropriately licensed individual.



# Fraud and Abuse



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# What's the Difference?

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- **Fraud** = Felony
  - Knowingly, willfully, intentionally, deliberately, and charging for services not provided miscoding and falsely documenting
- **Abuse**: unknowing and unintentional



# Examples of Fraud

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- Billing for services not done
- Asking for, receiving, or offering a bribe or kickback
- Falsifying information on any document(s)
- Selling or sharing a patient's information
- Using codes to insure that the services will be paid



# Fraudulent Statements

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- Healthcare providers are prohibited from making false or fraudulent statements or causing such statements to be made when they are used to obtain payment



# Criminal False Statements Related to Health Care Matters

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- Knowingly and willfully make or use any false, fictitious or fraudulent statements in connection with healthcare benefits, items or services.
- Conceal or cover-up by any trick, scheme, or device.



# Criminal False Statements

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- Falsely certifying that services were:
  - Medically necessary
  - Up-coding; billing for services not actually rendered
  - Making false statements for which certification is required; charging rates in excess of established rates

These are felonies and carry fines



# Examples of Abuse

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- Routinely submitting duplicate claims
- Using codes to describe more complex procedures than what was actually performed



# Legal Standard

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It is a **felony** for any person to knowingly submit, or cause another to submit a false or fraudulent claim for payment to a governmental agency



# Laws & Regulations

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- False Claims Act
- Stark Prohibitions
- Anti-Kickback Legislation Qui Tam (Whistleblower Act)
- EMTALA
- HIPAA



# False Claims Act

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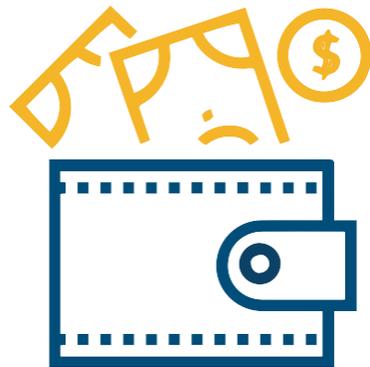
- Imposes civil liability on any person or entity who submits a false or fraudulent claim for payment to the United States government
- Also prohibits making a false record or statement to get a false claim paid by the government; conspiring to have a false or fraudulent claim by the government; and causing someone else to submit a false claim



# Monetary Damages

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- A person who violates the False Claims Act must repay three times the amount of damages suffered by the government plus a mandatory civil penalty of at least \$5,500 and no more than \$11,000 per claim.
- A person who submits 50 false claims for \$50 each is liable for between \$282,500 and \$557,500 in damages.



# Stark Prohibitions

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- Legislation that prohibits a physician from referring Medicare or Medicaid patients to an entity for designated health services (DHS) if the physician or an immediate family member has a financial relationship with that entity.
- Only items and services payable by Medicare or Medicaid are DHS.



# Stark Prohibitions

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- CMS (HCFA) has designated certain Medicare CPT/HCPCS codes to define all DHS in certain categories: clinical lab services, physical therapy, occupational therapy, radiology and certain other imaging services, and radiation therapy services.



# Kickbacks

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Knowingly and willfully soliciting, receiving, or offering to pay remuneration in cash or other valuables for:

- Referring an individual or arrangement for the furnishing of services/items payable by Medicare or Medicaid
- The purchasing or leasing of any goods or services for which payment can be made under any federal health care program



# Kickback Consequences

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- Offenders face a fine of no more than \$25,000 or imprisonment of no more than 5 years.
- Anyone who receives, offers, or pays illegal remuneration commits a felony.



# Kickback Settlements

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## NY Diagnostic Lab Employee

- Paid kickbacks to a clinic manager in return for laboratory testing referrals
- Sentenced to 3 years probation and a \$4000 fine



# Kickback Settlements

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## Georgia Podiatrist

- Illegally accepted kickbacks from a Durable Medical Equipment (DME) owner in return for the referral of patients requiring lymphedema pumps.
- Sentenced to 2 years probation and \$16,200 fine.



# Charging vs Billing

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- Charging is NEVER optional (professional and technical)
- Billing is optional (professional component only)



# Why We Must Charge

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- Can be considered a kickback
- Considered a discrimination of patients based on ability to pay
- Needed to recognize revenue
- Serves as work load indicators
- To track type and amount of services rendered
- Aids in determining budget and staff needs



# QUI TAM (Whistleblower Act)

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- Individuals can bring suit against violators of Federal laws on their own behalf as well as the government's
- Suits are usually brought by employees
- It is the responsibility of the individual employee to report any knowledge of a false claim, fraudulent or abusive activity
- Anyone who lawfully acts to report false claims is protected from discharge, demotion, suspension, threats, harassment, and discrimination

Report False Claims to:  
Melissa Williams,  
Chief Compliance Officer  
(269) 427-8400



You can find additional information on the Whistleblowers Act in the Employee Handbook, Postings, or on the Organization Website” Policy Manual” page



# QUI TAM (Whistleblower Act)

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- If the government proceeds with the suit the whistleblower receives 15 to 25% of settlement.
- If the government does not proceed and the individual continues he receives 25 to 30% of the settlement



Did you know...

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Over \$530 million has been paid to whistleblowers!



# Settlements

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- \$875 million – TAP Pharmaceuticals, illegal pricing and marketing of its drug Lupron; entered a 7 year CIA
- \$745 million (+i) – HCA ( \$66,271,476 to whistleblowers)
- \$7 million American Home Health; documentation inadequate to show valid MD order and medical necessity (forged or absent)



# The OIG's Compliance Activities



# OIG Areas of Interest

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- One day hospital stays
- Hospital discharges/readmissions
- Patient transfers
- Reassignment
- Non-physician practitioners



# Other Watchful Eyes

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- External Reviewers
- Beneficiaries are being taught what to watch for and can receive a \$1,000 fraud finders fee
- Medical Professionals
- Past or present employees (Whistleblowers)
- Accreditation & Regulatory Agencies



# High-Risk Factors

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- Large bed size
- Are a teaching facility
- Have a high volume of inpatients and outpatients
- High percentage of discharges that are Medicare or Medicaid beneficiaries



# Investigations & Reviews



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# Investigation Methods

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- Letter of consent
- Subpoenas
- Unannounced surveys/audits
- Search warrants
- Request for information



# External Investigations

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- Conducted by agencies outside of the facility
- DOJ – FBI
- OIG
- CMS (formerly HCFA)
- Triggered by an accusation, utilization reports, legislation



# Responding to Request for Information

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- Before you speak with anyone check their identification
  - Business card
  - ID badge
- You are under **NO OBLIGATION** to speak with anyone who comes to your home.



# Responding to Request for Information

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- Contact the Compliance Office immediately.
- Refer all written requests to the Compliance Office.
  - Subpoenas
  - Letters from intermediaries
  - Search warrants



# Don't Keep Quiet!

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Report suspicious or Questionable behavior

- Manager, department head, administrator
- Contact the Compliance Office
- Compliance Access Line



# Non-Retribution Policy

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Beacon Specialized Living Services, Inc. **will not** take action toward anyone that reports a possible violation.

- Calls are confidential
- Reference numbers identify the caller
- Able to find out more about inquiry later



# Reporting Activities

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- The compliance office will investigate the alleged activity.
- If misconduct was identified, the areas in non-compliance will be educated.
- The concerned reporter can be contacted about the results and subsequent actions taken.



# OIG Compliance Hotline

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- Approximately 6,875 calls are received per month.
- In FY 2005:
  - Led to recoveries in excess of \$226,203,428

