HealthStream Regulatory Script

Rapid Regulatory Compliance: Non-clinical: Part I:
Corporate Compliance, Sexual Harassment, Patient Rights, Confidentiality, HIPAA, Grievances

Release Date: August 2009
HLC Version: 603

Lesson 1: Introduction
Lesson 2: Corporate Compliance and Ethics
Lesson 3: Patient Rights
Lesson 1: Introduction

Welcome to Rapid Regulatory Compliance: Non-clinical: Part I.

As your partner, HealthStream strives to provide its customers with excellence in regulatory learning solutions. As new guidelines are continually issued by regulatory agencies, we work to update courses, as needed, in a timely manner. Since responsibility for complying with new guidelines remains with your organization, HealthStream encourages you to routinely check all relevant regulatory agencies directly for the latest updates for clinical/organizational guidelines.

If you have concerns about any aspect of the safety or quality of patient care in your organization, be aware that you may report these concerns directly to The Joint Commission.
Course Rationale

This course will rapidly review and update your knowledge of:
- Compliance and ethics
- Patient rights
- Patient care and protection

Note: This course provides essential information for non-clinical staff. If you are new to any of the topics presented here, consider taking the full-length course on that topic.
### Course Outline

<table>
<thead>
<tr>
<th>FLASH ANIMATION: Course Map</th>
</tr>
</thead>
<tbody>
<tr>
<td>Lesson 1: Introduction</td>
</tr>
<tr>
<td>Lesson 2: Corporate Compliance and Ethics</td>
</tr>
<tr>
<td>- Compliance laws and regulations</td>
</tr>
<tr>
<td>- Potential consequences of noncompliance</td>
</tr>
<tr>
<td>- Compliance programs</td>
</tr>
<tr>
<td>Lesson 3: Patient Rights</td>
</tr>
<tr>
<td>- Confidentiality</td>
</tr>
<tr>
<td>- Participation in treatment</td>
</tr>
<tr>
<td>- Decisions</td>
</tr>
<tr>
<td>- Respect, safety, and nondiscrimination</td>
</tr>
<tr>
<td>- Grievances</td>
</tr>
</tbody>
</table>

This introductory lesson gave the course rationale.

Lesson 2 will discuss corporate compliance and ethical issues in healthcare. This includes laws and regulations, consequences of noncompliance, and features of a compliance program.

Lesson 3 will focus on patient rights including confidentiality, patient participation, respect, safety, and nondiscrimination. Grievances are also discussed.
Lesson 2: Compliance and Ethics

### Introduction

Welcome to the lesson on compliance and ethics.

This lesson covers:
- Corporate compliance
- Sexual harassment

---

**FLASH ANIMATION: Lesson Map**

Lesson 2: Corporate Compliance and Ethics
- Compliance laws and regulations
- Potential consequences of noncompliance
- Compliance programs
Corporate compliance means following business laws.

Laws for healthcare are:
- Medicare regulations
- Federal False Claims Act
- Stark Act
- Anti-Kickback Statute
- Sections of the Social Security Act
- Mail and wire fraud statutes
- EMTALA
- HIPAA
- “Red Flags” Rule

Let’s take a closer look at each of these on the following screens.
Let’s look first at:
- **Medicare regulations**
- **Federal False Claims Act**
- **Stark Act**

Click on each for a brief review of key points.

### Medicare regulations
Any facility that participates in Medicare must follow Medicare regulations. For example, facilities must:
- Meet standards for quality of care
- Not bill Medicare for unnecessary care
- Not bill Medicare for costs that are higher than the usual cost
- Follow other rules for claims and billing

### Federal False Claims Act
The False Claims Act makes it illegal to submit a falsified bill to a government agency. This act:
- Applies to healthcare because Medicare is a government agency
- Allows a citizen who has evidence of fraud to sue on behalf of the government. This "whistleblower" is protected from retaliation for reporting the fraud.

*Note: State laws also focus on False Claims in addition to the Federal False Claims Act.*

### Stark Act
The Ethics in Patient Referrals Act (EPRA) is also called the Stark Act. This Act makes it illegal for physicians to refer patients to facilities or providers:
- If the physician has a financial relationship with the facility or provider
- If the physician’s immediate family has a financial relationship with the facility or provider

*Note: This law does not apply in certain cases.*
Let's next look at:
- **Anti-Kickback Statute**
- **Sections of the Social Security Act**
- **Mail and wire fraud statutes**

Click on each for a brief review of key points.

**CLICK TO REVEAL**

**Anti-Kickback Statute**
The Medicare and Medicaid Patient Protection Act of 1987 is also called the Anti-Kickback Statute (AKBS). This act makes it illegal to **give or take** kickbacks, bribes, or rebates for healthcare that will be paid for by a government program.

*Note: This law does not apply in certain cases.*

**Sections of the Social Security Act**
The Social Security Act makes it illegal for hospitals to:
- Pay physicians to encourage them to limit services to Medicare or Medicaid patients.
- Offer gifts to Medicare or Medicaid patients, to get their business

**Mail and wire fraud statutes**
Mail and wire fraud statutes make it illegal to use the U.S. Mail or electronic communication as part of a fraud. For example, these statutes make it illegal to mail a fraudulent bill to Medicare.
Finally, let’s look at:
- **EMTALA**
- **HIPAA**
- **“Red Flags” Rule**

Click on each for a brief review of key points.

<table>
<thead>
<tr>
<th>CLICK TO REVEAL</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>EMTALA</strong></td>
</tr>
<tr>
<td>The Emergency Medical Treatment and Active Labor Act (EMTALA) is also called the Patient Anti-Dumping Statute. This statute requires Medicare hospitals to provide emergency services to all patients, whether or not the patient can pay. Hospitals are required to:</td>
</tr>
<tr>
<td>• Screen patients who <em>may</em> have an emergency condition</td>
</tr>
<tr>
<td>• Stabilize patients who <em>have</em> an emergency condition</td>
</tr>
</tbody>
</table>

**HIPAA**

HIPAA is the Health Insurance Portability and Accountability Act. The HIPAA Rule protects a patient’s right to privacy of health information. This act requires healthcare businesses to follow standards for how to:

- Perform electronic transactions
- Maintain the security of health information
- Ensure the privacy of health information
- Use identifiers for health business employers

**“Red Flags” Rule**

The “Red Flags” Rule protects patients from identity theft. “Red Flags” are warning signs that signal the risk for identity theft. Hospitals must:

- Identify relevant “Red Flags”
- Detect “Red Flags”
- Prevent and mitigate identity theft
- Update programs periodically
When a provider is convicted of breaking any of the laws for healthcare, penalties can include:

- Criminal fines
- Civil damages
- Jail time
- Exclusion from Medicare or other government programs

In addition, a conviction can lead to serious public relations harm.
To help prevent misconduct, healthcare facilities have corporate compliance programs.

A good compliance program reduces the risk of fraud.

It does so by giving guidelines for how to do your job in an ethical and legal way.

A copy of your facility’s compliance program should be readily available to you. Ask your supervisor for more information.
Sexual Harassment

Title VII of the Civil Rights Act of 1964 defines sexual harassment. This definition is summarized in the graphic to the right.

To work toward eliminating sexual harassment in your facility:
- Be aware of the definition
- If you are a victim, confront the harasser directly, if you feel able to do so.
- Follow your facility’s policies and procedures for reporting harassment.

Summary of Title VII Definition of Sexual Harassment

Sexual harassment involves the following actions:
- Sexual advances,
- Requests for sexual favors, or
- Other sexual conduct…

When these actions are unwelcome and:
- Affect job status,
- Interfere with work performance, or
- Create a hostile work environment.
Welcome to the lesson on patient rights.

This lesson addresses:
- Confidentiality
- Patient participation in treatment decisions
- Respect, safety, and nondiscrimination
- Grievances

FLASH ANIMATION: Lesson Map

Lesson 3: Patient Rights
- Confidentiality
- Participation in treatment
- Decisions
- Respect, safety, and nondiscrimination
- Grievances
Confidentiality

Patients have the right to privacy and confidentiality.

Always use a private place for:
- Case discussion and consultation
- Patient examination and treatment

A patient’s medical records may be shared with:
- Clinicians involved in the patient’s case
- Regulatory agencies looking into a facility’s quality of care
- Other people with a legal or regulatory right to see the records

**Protected healthcare information should not be shared with ANYONE else.**

Only authorized employees should have access to areas where medical records are stored.
Confidentiality: HIPAA

The HIPAA Privacy Rule is part of HIPAA.

The Privacy Rule:
- Sets standards for when patient information may be disclosed
- Sets standards for protecting the privacy of patient information
- Sets severe civil and criminal penalties for people who violate a patient's privacy

To maintain compliance with HIPAA:
- Share patient health information only with people who need to know.
- When there is a need to know, share the minimum amount of information needed.
Patient confidentiality is not absolute.

A provider may have a duty to breach confidentiality in some cases.

Examples are:
- A patient threatens serious self-harm or harm to someone else.
- The patient is a suspected victim of child abuse or neglect.
- The information relates to a crime.
- The patient is a healthcare provider, and has a condition that makes him or her a danger to patients.
- The patient is not fit to drive.
Confidentiality: Necessary Breaches

Before revealing patient information, be sure to check state and local laws.

Review HIPAA guidelines for allowed disclosures of protected health information.

If you decide to go forward with a disclosure:

- Talk to the patient first. Ask for the patient’s consent. Ideally, the patient will consent to the disclosure. If not, it is still okay to reveal the information, if you have determined that it is legal and ethical to do so.
- Disclose the information in a way that minimizes any harm to the patient.
- Follow state and federal guidelines for disclosing the information.
Participation in Treatment Decisions: Disclosure

Patients have the right to:
- Participate in decisions about their care
- Set the course of their treatment
- Refuse treatment

To make informed decisions about treatment, patients must be given full and accurate information.
Patients have the right to respectful care.

Respect means valuing the patient’s:
- Needs
- Desires
- Feeling
- Ideas

Treat patients with common courtesy.

For example:
- Knock and wait before entering a patient’s room
- Respond politely to patients
- Listen to patients
- Remain compassionate
Patients have the right to safety and security.

Do your part to ensure a safe environment of care for your patients.

Know your facility’s policies for:
- Environmental safety
- Infection control
- Security

Report to your supervisor immediately if:
- You think a patient may be a victim of abuse.
- A patient asks for protection from abuse.
All patients have the right to fair and equal healthcare.

This is true regardless of:
- Race
- Ethnicity
- National origin
- Religion
- Political affiliation
- Level of education
- Place of residence or business
- Age
- Gender
- Marital status
- Personal appearance
- Mental or physical disability
- Sexual orientation
- Genetic information
- Source of payment
Grievances

Patients have the right to complain about the quality of their care.

Many patient complaints can be addressed quickly.

When complaints cannot be resolved quickly and easily, patients have the right to file a grievance.

A grievance is a formal complaint.

Common Causes for Complaint

- Waiting times
- Operating hours
- Conduct of staff
- Adequacy of staff
If a patient wants to file a grievance:

- Explain the grievance process at your facility. This includes the name of the staff person the patient should contact.
- Explain that grievances may be filed with state agencies. This is true whether or not the patient has already used the facility’s internal grievance process.
- Give the patient the phone number and address for filing a grievance with the state.
<table>
<thead>
<tr>
<th>#</th>
<th>Term</th>
<th>Definition</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>CDC</td>
<td>Centers for Disease Control and Prevention</td>
</tr>
<tr>
<td></td>
<td>CMS</td>
<td>Centers for Medicare and Medicaid Services</td>
</tr>
</tbody>
</table>
Final Exam

1. Which of the following is a key law for regulating the healthcare industry?
   a. EMTALA
   b. Fairness Doctrine
   c. Glass-Steagall Act
   d. Cross-ownership Prohibition

   Correct: A
   Rationale: EMTALA, or the patient anti-dumping statute, makes it illegal for hospitals to refuse emergency care on the basis of ability to pay.

2. What is the focus of the Stark Act?
   a. Falsified bills
   b. Ethics in patient referrals
   c. Protected health information
   d. Kickback, bribes, and rebates

   Correct: B
   Rationale: The Start Act makes it illegal for a provider to refer patients to a provider or facility with whom the referring provider has a financial relationship.

3. What is the focus of the Red Flags Rule?
   a. Identity theft
   b. Falsified bills
   c. Patient privacy
   d. Emergency care

   Correct: A
   Rationale: The Red Flags Rule, which is part of the Fair and Accurate Credit Transactions Act, helps protect individuals from identity theft.

4. Which law makes it illegal to give bribes for healthcare that will be paid for by a government program?
   a. EMTALA
   b. Stark Act
   c. Anti-kickback Statute
   d. Federal False Claims Act

   Correct: C
   Rationale: The Anti-kickback Statute makes it illegal to give or take kickbacks, bribes, or rebates for healthcare that will be paid for by a government program.
5. What is the purpose of a corporate compliance program?
   a. To help prevent fraud and misconduct
   b. To increase profits and executive bonuses
   c. To establish guidelines to prevent sentinel events
   d. To ensure that Standard Precautions are followed

Correct: A
Rationale: To help prevent misconduct, healthcare facilities have corporate compliance programs.

6. Which factor must be present for behavior to be considered sexual harassment?
   a. The behavior must be unwelcome.
   b. The behavior must be pre-meditated.
   c. The behavior must be directed at a woman.
   d. The behavior must involve physical contact.

Correct: A
Rationale: Sexual harassment is unwelcome behavior of a sexual nature that affects job status or creates a hostile work environment.

7. Which would be a violation of a patient's privacy and confidentiality?
   a. Sharing lab results with a nurse involved in the patient's care
   b. Sharing imaging results with a physician involved in the patient's care
   c. Gossiping about the patient's case with other staff members during a coffee break
   d. Disclosing the patient's medical record to a regulatory agency assessing quality of care

Correct: C
Rationale: Protected healthcare information should not be shared with anyone who does not need to know.

8. Which regulation sets standards for the disclosure of patient health information?
   a. HIPAA Privacy Rule
   b. Anti-kickback Statute
   c. Federal False Claims Act
   d. Mail and wire fraud statutes

Correct: A
Rationale: The HIPAA Privacy Rule sets standards for when patient information may be disclosed.
9. Which statement is true about patient rights?
   a. Patients must accept all treatment recommended by a physician.
   b. Physicians should set a course of treatment without consulting the patient.
   c. Physicians should make decisions about patient care without consulting the patient.
   d. Patients must be given full and accurate information about their condition and treatment options.

Correct D
Rationale: Patients have the right to make decisions about their own care; therefore, they must be given full and accurate information.

10. Which of the following is a patient right?
    a. Discrimination
    b. Respectful care
    c. Abusive providers
    d. Breach of confidentiality

Correct: B
Rationale: Patients have the right to respectful care.

11. What should you do if you think a patient may be a victim of abuse?
    a. Take the patient directly to a shelter
    b. Keep quiet to protect patient privacy
    c. Report to your supervisor immediately
    d. Tell your friends about your suspicions

Correct: C
Rationale: Report to your supervisor immediately if you think a patient may be a victim of abuse.

12. What is a grievance?
    a. A difficult patient
    b. A formal complaint
    c. A breach in protocol
    d. A healthcare problem

Correct: B
Rationale: A grievance is a formal complaint. Patients have the right to file grievances.