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Open lines of communication in a skilled nursing facility

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Many healthcare organizations, including skilled nursing facilities (SNFs), promote an open-door policy where employees feel comfortable approaching their supervisor and reporting any potential problem without fear of retaliation or retribution. In addition to having an open-door policy, healthcare organizations may also advocate following the chain of command when discussing issues ranging from insufficient staffing levels to lack of supplies for delivering care and unfair labor practices. These methods for communication are appropriately given emphasis in the SNF's general employee orientation, employee handbook, and staff training and education.

In 2000, the Office of Inspector General (OIG) published voluntary guidance (updated in 2008) for SNFs to consider when developing a compliance program.^[1] One of the seven basic program elements outlined in the guidance for developing a compliance program is “the creation and maintenance of an effective line of communication between the compliance officer and all employees, including a process, such as a hotline or other reporting system, to receive complaints, and the adoption of procedures to protect the anonymity of complainants and to protect whistle blowers from retaliation.” For SNFs—whether stand-alone or part of a regional or national system—that are under a mandated corporate integrity agreement (CIA) with the Department of Health & Human Services (HHS), OIG, establishment of a confidential disclosure program is required and must include a mechanism, usually a toll-free compliance telephone line, to enable individuals to disclose, to the compliance officer or some other person who is not in the disclosing individual's chain of command, any identified issues or problems.^[2] The CIA requires the confidential disclosure program to have:^[3]

- A policy that emphasizes nonretribution and nonretaliation,
- A reporting mechanism for anonymous communications,
- Expectations for employees and all those considered as covered persons to report suspected violations of any federal healthcare program requirements to the compliance officer or other appropriate individuals,
- A process for thoroughly investigating reports received through the program,
- Appropriate follow-up that includes corrective actions to remediate improper practices,
- Tracking of reports (e.g., disclosure log) received through the program by the compliance officer or designee within the prescribed time, and
- Reporting of the status of the confidential disclosure program—at a minimum to the compliance committee.

Both the OIG voluntary guidance for SNFs and the requirements the OIG imposes through CIAs offer useful direction about how to structure and execute a system of open communication.

Nonretaliation and nonretribution

The concepts of nonretaliation and nonretribution are fundamental to maintaining effective and open lines of communication. The SNF's policy regarding nonretaliation and nonretribution should be clear and well publicized to all employees. Since policies help define the culture of an organization by providing a framework for day-to-day activities, consideration should be given to ensuring the policies are written to the reading level of the intended users. In SNFs, the intended users can range from executives and senior management level to direct care staff. Likewise, access to policies is critical. A growing number of SNFs publish their policies and procedures online, integrating the documents into the SNF's intranet; some SNFs still maintain paper-based policy and procedure manuals. In whatever format the SNF chooses to publish its policies, employees need to be trained on how to access appropriate policies. A variety of methods is also used to publicize nonretaliation or nonretribution policies (e.g., code of conduct, newsletter, general employee meetings, employee handbook, periodic reminders inserted with employee paychecks, and compliance bulletin boards with periodic updates). A code of conduct that articulates the SNF's commitment to a culture of compliance offers employees a measure of assurance that it is okay to ask questions or raise concerns when improper conduct is suspected. In addition to codes of conduct, a written memorandum from the SNF's owner, president, or CEO showing commitment to opening the lines of communication and encouraging the reporting of problems or issues without fear of retaliation or retribution is a powerful method for promoting the code of conduct. The fear of retaliation or retribution is real and discourages employees from coming forward.^[4] In SNFs that do not have effective open lines of communication, the void creates the potential for whistleblowing as an alternate means of reporting problems. The compliance officer plays an important role in the creation and measurement of the effectiveness of the lines of communication. For example, the compliance officer can periodically interview employees about their comfort level regarding reporting problems or issues concerning the SNF. The compliance officer can also hold regular informal meetings with employees and discuss nonretaliation or nonretribution policies.

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