

NOTICE OF MEETING

NORTH BROWARD HOSPITAL DISTRICT

BOARD OF COMMISSIONERS

A Compliance and Ethics Committee meeting will be held on Wednesday, December 11th, 2019, immediately following the Legal Affairs and Governmental Relations Committee meeting, at the Broward Health Corporate Spectrum Location: 1700 Northwest 49 Street, Fort Lauderdale, Florida, 33309. The purpose of this committee meeting is to review and consider any matters within the committee's jurisdiction.

Persons with disabilities requiring special accommodations in order to participate should contact the District by calling 954-473-7481 at least 48 hours in advance of the meeting to request such accommodations.

Any person who decides to appeal any decision of the District's Board with respect to any matter considered at these meetings will need a record of the proceedings, and for such purpose, may need to ensure that a verbatim record of the proceedings is made which record includes testimony and evidence upon which the appeal is to be based.

North Broward Hospital District Board Of Commissioners
1700 Northwest 49th Street, Suite #150, Ft. Lauderdale, 33309

COMPLIANCE AND ETHICS COMMITTEE MEETING Immediately Following the Governance Committee Meeting November 12, 2019

1. **NOTICE**

Notice of this meeting is attached to the official Minutes as EXHIBIT I. The official Agenda for this meeting, as presented for the consideration of the Committee, is attached to the official Minutes as EXHIBIT II.

2. **CALL TO ORDER** 11:10 a.m.

3. **COMMITTEE MEMBERS**

Present: Commissioner Nancy W. Gregoire, Chair
Commissioner Ray T. Berry
Commissioner Stacy L. Angier
Commissioner Marie C. Waugh

Not Present: Commissioner Christopher T. Ure, Vice Chair
Commissioner Andrew M. Klein

Senior Leadership

Additionally Present: Gino Santorio/President/Chief Executive Officer, Alan Goldsmith/Chief Administrative Officer, Alex Fernandez/Chief Financial Officer, Linda Epstein/Corporate General Counsel, Jerry Del Amo/Deputy, General Counsel

4. **PUBLIC COMMENTS** None

5. **APPROVAL OF MINUTES**

- 5.1. Approval of Compliance and Ethics Committee meeting minutes, dated September 11, 2019.

MOTION It was *moved* by Commissioner Berry, *seconded* by Commissioner Angier, to:

Approve the Compliance and Ethics Committee meeting minutes, dated September 11, 2019.

Motion *carried* unanimously.

6. TOPIC OF DISCUSSION

6.1. Chief Compliance Officer Report

6.1.1. Compliance Department Update

Mr. Kozik reported on the results from the completed Focus Arrangements and Tracking and Remuneration audits:

- CIA Year 4, Quarter 3, Focus Arrangement, 1.1% error rate
- Leases, 2.8% error rate
- On Call Coverage, 2.8% error rate
- Medical Director Agreements, 15.5% error rate

Mr. Kozik further reported on the following departmental activities since his last monthly report:

- Observation Stay, Condition 44 audit, pending and nearly completed.
- Acute Care Discharge Transfer audit, pending and nearly completed.
- Home Health Claims audit, completed at 0% error rate.
- Letter received on August 21, 2019 from SafeGuard Services who were engaged by CMS to conduct audits of claims received by Medicaid providers at Broward Health Medical Center between October 1, 2014 and March 31, 2018. SafeGuard final report pending.
- Enterprise Risk Assessment audit results identified 19 system wide high-risk areas. Each high-risk area will be assigned a senior leader and team to implement risk mitigation plan, increase effectiveness of controls and establish target dates.
- Compliance Work Plan in progress and will be presented on to the Executive Compliance Group, followed by the Board.
- Finalization of contract with the organization conducting HIPAA Patient Privacy Review is in progress.
- A Compliance Coding Specialist had been retained, who will be performing bi-annual comprehensive coding accuracy audit on all hospital coders.
- In an effort to reduce errors identified within internal and external compliance audits, members convened by Broward Health's regional CFOs were in the process of documenting best practices to avoid denials based upon not following a specific National Converge Determination (NCD) or Local Coverage Determination (LCD).
- Compliance report of activity for the 4th reporting period completed and will be reported to the Executive Compliance Work Group, Board Members, and annual report.
- Letter received from the Office of Civil Rights (OCR) regarding a patient complaint. After an internal review by Broward Health's Privacy staff, it was determined that no breach had occurred.
- Automation and tracking organization's conflict of interest issues will be put through C-360. Full implementation anticipated by mid-December.

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- Joint meetings between the compliance and legal departments will continue on a monthly basis.
- An Enforcement Conference in Washington D.C. attended by Mr. Kozik and two compliance staff members.
- A hepatitis vaccination waiver was granted by the Monitor.

* Please note, 6.1.3. CIA Update was given prior to the 6.1.2. IRO Update

6.1.3. CIA Update

- October 31, 2019, letter from the Monitor reported all outstanding issues from the 2nd and 3rd annual reports had been cleared.
- November 1, 2019, letter from Monitor reported reportable events disclosed since the beginning of the CIA had been closed as well.
- Follow up request from Monitor on (2) pending reportable events
 - Physician on the excluded list refund for services
 - Sleep Study, six year review and payback
- Extension was provided until January 3, 2020 for submission of annual report.

6.1.2. IRO Update

- September 27, 2019, received IRO Draft Systems Review Report.
 - October 21, 2019, received Draft Report reference to Exhibit C regarding Policies & Procedures with IRO's recommendations for enhancements. Recommendations being implemented.
- October 21, 2019 through 22, 2019, IRO visit to Spectrum. Delivery of final transaction and system report anticipated by December 13, 2019.
- September 2, 2019, samples provided to Monitor by IRO. Broward Health and IRO recommended two groups of arrangements, being Best Choice and certain committee meeting arrangements, be excluded. Monitor approved exclusion.
- September 2019, (5) HIPAA breaches reported to Monitor from Broward Health North (2) and Broward Health Medical Center (3).
- February 14, 2019, letter sent to Monitor regarding (2) Reportable Events:
 - Certification letter provided by the CFO related to the suspension of a physician, in which a refund in the amount of \$568.34 was made to appropriate payers.
 - Certification letter provided by the CFO related to an overpayment on cardiac devices, which was completely refunded to Medicare and any other applicable Federal Healthcare Program payers.
- Three waivers related to CIA and FMV language were granted by Monitor.
- Board and Audit Committee Compliance Conference scheduled February 24 and 25, 2020.
- IRO Plan of Correction Subcommittee chaired by Ms. Epstein moving forward.

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- In year-4 of the CIA, between August 31, 2018 and August 30st, 2019, the compliance department opened 119 disclosures and closed 495 disclosures.

6.1.2. Annual Report Update

Ms. Pizano-Urbina, Director, Focus Arrangements, reported on the progress regarding the completion of the Annual Report and its extension.

Ms. Brown, Director of Compliance and Privacy, provided status on the Annual Report from a compliance operational standpoint, which included the progress of the collection of required certifications and completed disclosure summaries.

6.2. Regulatory Environment Update

Mr. Forman acknowledged his one-year anniversary as Broward Health's Compliance Consultant. He briefly spoke about the continuation of focus on the auditing and monitoring processes. He also mentioned continuous focus on the resulting plan of corrections, the progress that has been made within risk assessments, and sustainability involving matters within the Corporate Integrity Agreement.

Discussion ensued regarding a meeting between the Monitor and Board Members.

7. **ADJOURNMENT** 11:52 a.m.

MOTION It was *moved* by Commissioner Angier, *seconded* by Commissioner Waugh to:

Adjourn the Compliance and Ethics Committee meeting.

Motion *carried* unanimously.

Respectfully submitted,
Commissioner Stacy L. Angier, Secretary/Treasurer

FY2019 - FY2020
Compliance Work Plan

#	Topic	Region	Audited by:	Expected Completion Date	Actual Completion Date	Status	Results
1	<p>Home Health Review a sample of medical records to determine whether Home Health claims were submitted in accordance with CMS policies and regulations. To be eligible for Medicare home health services, a patient must have Medicare Part A and/or Part B and:</p> <p>1. Be confined to the home; 2. Need skilled services; 3. Be under the care of a physician; 4. Receive services under a plan of care established and reviewed by a physician; and 5. Have had a face-to-face encounter with a physician or allowed non-physician practitioner (NPP). Care must be furnished by or under arrangements made by Medicare-participating Home Health Agency (HHA). ☐</p>	Gold Coast Home Health and Hospice	Henry Ortiz	5/31/2019		Pending Closure	Pending
2	<p>Registered Nurse On-Site Visits Review a sample of hospice patients, with a length of service greater than or equal to 14 days, to determine whether a registered nurse made an on-site visit to the patient's home at least once every 14 days as required in 42 CFR §418.76(h)(1)(i).</p>	Gold Coast Home Health and Hospice	Ember Howell- Lopez	8/1/2018	3/19/2018	Complete	47 out of 48 charts reviewed were compliant with RN on-site face to face visit.
3	<p>Sleep Disorder Clinics Review a sample of medical records, of patients who received multiple sleep studies, to determine if documentation supports medical necessity of repeat sleep studies.</p>	BHMC BHN BHCS (No sleep lab at BHIP)	Ember Howell- Lopez	2/22/2019	2/7/2019	Complete	92% Error Rate \$35,419.97 payback completed. Six year look back completed, extrapolation amount calculation in process by outside counsel.
4	<p>Physician at Teaching Hospitals Review a sample of Surgical Residents' medical records in a three month period with the GC modifier to ensure the documentation supports what was billed. The sample should not include primary care. Additionally, interview residents and physicians to ensure we are following our policies and procedures, as well as ACGME requirements.</p>	Medical Centers	Baker Newman & Noyes (Ember)	FY2020		In Process	Pending

Status Key

Pending= Carry over to FY 2020 **In Process**= Has started

Pending Closure =Final report submission

Complete= Audit final

FY2019 - FY2020
Compliance Work Plan

#	Topic	Region	Audited by:	Expected Completion Date	Actual Completion Date	Status	Results
5	Medical Devices Review of a sample of claims, related to Cardiac devices that Broward Health received for free or at a reduced cost due to recall, defects, or samples, to determine compliance with Medicare rules and regulations. Specifically, Medicare Claims Processing Manual Chapter 4, Section 61.3.5 and Chapter 32, Section 67.2.1	Medical Centers	Henry Ortiz Lilian Eymann	11/1/2018	7/1/18	Complete	58/79 were compliant. For the 21 claims that were out of compliance a refund of \$200,355.20 was made to the Federal Government. In addition, the CFO provided the OIG Monitor with a signed certification in September 2019 that the refund was processed.
6	Terminally-Ill Patients in Hospice (Re-certification) Review of medical records of hospice patients in the third benefit periods or greater to determine if the face-to-face encounter and recertification requirements were met.	Gold Coast Home Health and Hospice	Janice Dunbar Ember Howell-Lopez	1/9/2018	9/24/2018	Complete	No issues were identified with billing and payments for the records reviewed.
7	Physician Billing and Coding The code sets to bill for Evaluation and Management (E/M) services are organized into various categories and levels. A review of 25 encounters per physician at each facility was done to ensure that documentation supports the E/M level billed.	Community Health Services (CHS) Children's Diagnostic and Treatment Center (CDTC)	Ember Howell-Lopez	Not indicated	03/08/2019 CHS 10/12/2017 CDTC	Complete	CHS facilities combined (40 providers) 278 claims reviewed ; Over coding errors: 59; Under coding errors: 34; Total combined errors: 93; Overall Error Rate: 33%. For complete details of audit see final audit report CT#9549. CDTC (6 providers) 130 claims reviewed; Over coding errors: 9; Under coding errors: 10; Total combined errors: 19; Overall Error Rate: 15%.
8	Observation/MOON/Condition Code 44 Review a sample of medical records, from BHN, to evaluate BHN's process with respect to CMS requirements for Medicare Outpatient Observation Notice (MOON) and patient notification requirements are met.	BHN	Lilian Eymann	6/30/2019		In Process	Pending

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FY2019 - FY2020
Compliance Work Plan

#	Topic	Region	Audited by:	Expected Completion Date	Actual Completion Date	Status	Results
9	Two-Midnight Rule Review a sample of Medicare claims from each facility, including the review of all relevant documentation, to validate appropriateness of admission based on the two-midnight rule.	Medical Centers	Baker Newman & Noyes (Ember)	FY2020		In Process	Pending
10	Inpatient Psychiatric Hospital Services Certification and Recertification Review a sample of Inpatient Psychiatric medical records at BHMC & BHIP for patients with stays longer than 30 days to determine of certification and recertification requirements were met.	BHMC BHIP	Lucia Pizano-Urbina Eloisa Gomez	FY2020		Pending	N/A
11	EMTALA: Medical Screening Examination Conduct gap analysis of current processes regarding medical screening examinations as it relates to EMTALA and regulatory requirements.	Medical Centers	Lucia Pizano-Urbina Adlin Tuya Christopher Cuellar Deanna Nicolozakes	FY2020		Pending	N/A
12	Focus Arrangements CIA YR4 - Q1 (September 2018 - November 2018) A review of the Focus Arrangements Tracking System, internal review and approval process, and other Focus Arrangements Procedures on at least an annual basis and to provide a report on the results of such review to the Compliance Committee.	System-Wide	Eloisa Gomez Henry Ortiz	4/5/2019	4/5/2019	Complete	There were 10 total errors or 2.08% error rate. No deficiencies were found in 22 of the 30 contracts reviewed. There were 4 or less deficiencies found in the remaining 8 contracts. The audit showed significant improvement over the CIA Y3 Audit with an overall error rate of 2.08% versus 17% last year.

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FY2019 - FY2020
Compliance Work Plan

#	Topic	Region	Audited by:	Expected Completion Date	Actual Completion Date	Status	Results
13	<p>Focus Arrangements CIA YR4 - Q2 (December 2018-February 2019) A review of the Focus Arrangements Tracking System, internal review and approval process, and other Focus Arrangements Procedures on at least an annual basis and to provide a report on the results of such review to the Compliance Committee.</p>	System-Wide	Eloisa Gomez Henry Ortiz	Not Indicated	6/19/2019	Complete	There were total of 18 errors or 2.25% error rate for Qtr. 2. No deficiencies were found in 34 of the 50 contracts reviewed. There were 4 or less deficiencies found in the remaining 16 contracts.
14	<p>Focus Arrangements CIA YR4 - Q3 (March 2019 - May 2019) A review of the Focus Arrangements Tracking System, internal review and approval process, and other Focus Arrangements Procedures on at least an annual basis and to provide a report on the results of such review to the Compliance Committee.</p>	System-Wide	Eloisa Gomez Henry Ortiz	Not Indicated	10/3/2019	Complete	The audit revealed an overall error rate of 1.1%.The results continue to reveal compliance with our policies, procedures, and CIA requirements related to the Focus Arrangements contracting process.
15	<p>Focus Arrangements CIA YR4 (August 30, 2018 -August 31, 2019) A review of the Focus Arrangements Tracking System, internal review and approval process, and other Focus Arrangements Procedures on at least an annual basis and to provide a report on the results of such review to the Compliance Committee.</p>	System-Wide	Eloisa Gomez Henry Ortiz	11/30/2019		In Process	N/A
16	<p>Covered Person Audit Review a random sample of executed Focus Arrangement and non-Focus Arrangement contracts that have been deemed Covered Persons. Verify that the Covered Person language was included in the executed contract. A review of the contract files to verify the training certification was completed by all individuals providing services and that the training certification was uploaded to the contract file.</p>	System-Wide	Eloisa Gomez	3/29/2019	4/18/2019	Complete	Completed a review of a random sample of 50 executed Focus Arrangement and non-Focus Arrangement contracts that have been deemed Covered Persons, against 2 data points for a total of 100 points. Results: Overall Error Rate of 3% Deficiencies – 3 out of 100

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FY2019 - FY2020
Compliance Work Plan

#	Topic	Region	Audited by:	Expected Completion Date	Actual Completion Date	Status	Results
17	Non- Focus Arrangements Review a sample of Non-Focus Arrangement contracts to verify that the internal review and approval process is working as intended.	System-Wide	Eloisa Gomez	FY2021		Pending	
18	GME A review to ensure that FTEs were claimed for Medicare GME reimbursement in accordance with Federal requirements.	BHMC	Lucia Pizano-Urbina	FY2022		Pending	N/A
19	Acute Discharge Transfers The OIG will determine if Medicare appropriately paid hospitals' inpatient claims subject to the post-acute care transfer policy when (1) patients resumed home health services after discharge or (2) hospitals applied condition codes to claims to receive a full DRG payment.	BHN	Lilian Eymann	6/30/2019		In Process	Pending
20	Tracking Remuneration- Lease Agreements A review of 25 randomly selected lease agreements from Compliance 360 to verify if the internal controls are in place for tracking remuneration related to lease agreements and if they are effective and working as designed.	System-Wide	Lucia Pizano-Urbina	8/31/2019	9/26/2019	Complete	Overall error rate was 2.8%. Deficiencies were found in 3 out of the 25 agreements reviewed.
21	Tracking Remuneration- On-Call Coverage Agreements A review of 25 randomly selected on-call agreements from Compliance 360 to verify if the internal controls are in place for tracking remuneration related on-call arrangements and if they are effective and working as designed.	System-Wide	Henry Ortiz	8/31/2019	9/26/2019	Complete	Overall error rate was 2.8%. Deficiencies were found in 5 out of the 25 on-call agreement payments reviewed.
22	Tracking Remuneration- Medical Director Agreements A review of 25 randomly selected medical director timesheets from ServiceNow to verify if the internal controls in place for tracking remuneration related to medical directorship agreements and if they are effective and working as designed.	System-Wide	Eloisa Gomez	8/31/2019	9/26/2019	Complete	Overall error rate was 15.5%. Compliance is currently working with stakeholders to determine plan of correction.

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FY2019 - FY2020
Compliance Work Plan

#	Topic	Region	Audited by:	Expected Completion Date	Actual Completion Date	Status	Results
23	<p>Same Day Readmission Review a sample of Medicare Claims for same day readmission to determine whether BH Hospitals billed Medicare for same-day readmissions in accordance with Federal requirements: 1) a second patient admission when the patient was transferred within the same hospital 2) Whether the readmission claim should have been a continuation of the initial admission 3) Premature or incorrect discharges 4) Medical conditions that do not require readmission after a discharge 5) 3 day payment rule implications</p>	System-Wide	Baker Newman & Noyes (Ember)	FY20		Pending	
24	<p>Medicare Billing of Critical Care E&M codes 99291 & 99292 Review a sample of paid Medicare claims with billed CPT codes 99291 or 99292. The code sets to bill for Critical Care Evaluation and Management (E/M) services are organized into two levels: 99291- First 30-74 minutes; and 99292- each additional 30 minutes. Critical care is direct delivery by a physician(s) or other qualified health care professional of medical care for a critically ill or critically injured patient. A critical illness or injury acutely impairs one or more vital organ systems such that there is high probability of imminent or life threatening deterioration in the patients condition. Billing for critical care is based on the amount of time spent engaged in work directly related to the individual patient's care whether that time was spent at the bedside or elsewhere on the floor or unit.</p>	System-Wide	TBD	FY20		Pending	
25	<p>Clinical Trials Billing and Coding Review of Hospital Claims Review a sample of paid Medicare claims to determine whether Medicare properly paid for the routine costs of qualifying clinical trials for reasonable and necessary items and services based on the National Coverage Determination (NCD).</p>	System-Wide	TBD	FY20		Pending	
26	<p>Medicare Payments for Bariatric Procedures Review a sample of paid Medicare claims for Bariatric Procedures will be done to determine if supporting documentation for bariatric services performed met the conditions for coverage and were supported in accordance with Federal requirements.</p>	BHMC	TBD	FY20		Pending	

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Audit Log
FY2020

Audit Number	Name of Audit	Status	Auditor
1	Home Health	Pending closure	Henry Ortiz
2	Registered Nurse On-Site Visits	Complete	Ember Howell-Lopez
3	Sleep Disorder Clinics	Complete	Ember Howell-Lopez
4	Physician at Teaching Hospitals	Pending	BNN
5	Medical Devices	Complete	Lili Eymann
6	Terminally-Ill Patients in Hospice (Re-certification)	Complete	Janice Dunbar
7	Physician Billing and Coding	Complete	Ember Howell-Lopez
8	Observation/Moon/Condition code 44	In process	Lili Eymann
9	Two-Midnight Rule	In process	BNN
10	Inpatient Psychiatric Hospital Services Certification and Recertification	Pending	Lucia Pizano-Ubina Eloisa Gomez
11	EMTALA: Medical Screening Examination	Pending	Lucia Pizano-Urbina Adlin Tuya Christopher Cuellar Deanna Nicolozakes
12	Focus Arrangements CIA YR4-Q1 (September 2018 - November 2018)	Complete	Eloisa Gomez Henry Ortiz
13	Focus Arrangements CIA YR4-Q2 (December 2018-February 2019)	Complete	Eloisa Gomez Henry Ortiz
14	Focus Arrangements CIA YR4-Q3 (March 2019 - May 2019)	Complete	Eloisa Gomez Henry Ortiz
15	Focus Arrangements CIA YR4 (August 31,2018 -August 30, 2019)	Pending	Eloisa Gomez Henry Ortiz
16	Covered Person Audit	Complete	Eloisa Gomez
17	Non-Focus Arrangements Review a sample of Non-Focus Arrangement contracts to verify that the internal review and approval process is working as intended.	Pending	Eloisa Gomez
18	GME	Pending	Lucia Pizano-Ubina
19	Acute Discharge transfers	In process	Lili Eymann
20	Tracking Remuneration- Lease Agreements	Complete	Lucia Pizano-Ubina
21	Tracking Remuneration- On call Coverage Agreements	Complete	Henry Ortiz
22	Tracking Remuneration- Medical Director Agreements	Complete	Eloisa Gomez
23	Same Day Readmission	Pending	BNN
24	Medicare Billing of Critical Care E&M codes	Pending	TBD
25	Clinical Trials Billing & Coding review	Pending	TBD
26	Medicare Payments for Bariatric Procedures	Pending	TBD