General Compliance and Ethics Training
Welcome To Broward Health Compliance and HIPAA Training

• All Broward Health employees, medical providers, contractors, students and volunteers must complete this Training.

• This module addresses your compliance and HIPAA responsibilities and describes Broward Health responsibilities under the Corporate Integrity Agreement with the federal government.
Message From The CEO

Compliance is a top priority for Broward Health. Our Compliance Program is critical and we expect you to know and understand your responsibilities under the Program. We expect each of you to be leaders in our efforts to comply with all applicable laws and regulations. We also expect that if you have any questions or concerns that you will raise them through the appropriate channels at Broward Health, described in this training program.

Please take the time to thoroughly review our Compliance/HIPAA training. You may contact our Chief Compliance Officer, at 954.473.7500 if you have any questions or need clarification about any of the training materials.

Thank you for your participation.

Gino Santorio
President/Chief Executive Officer
I am very excited to come onboard as your new Chief Compliance Officer. I have worked in healthcare compliance for over 20 years in many settings including large systems and academic medical centers. One thing that I have learned is that the success of any Compliance Program really depends on you—your willingness to follow the laws and regulations that govern Broward Health and to participate actively in our Program. All of us at one time or another are confronted with issues, problems or questions at work. The most important thing I want you to remember is that you are never alone—there are many channels through which you can get your questions answered or issues resolved. Of course those channels start with your manager and can include other resources such as Human Resources or Quality but please be assured my door is always open. I look forward to meeting and working with as many of you as I can.

Brian W. Kozik, CHC, CCEP, CHPC, Chief Compliance Officer
Contact Information: bkozik@browardhealth.org or 954.473.7548
Training Includes FIVE Sections

1. Broward Health’s Corporate Compliance Program
2. Broward Health’s Corporate Integrity Agreement Obligations
3. Key Laws, Regulations and Compliance High-Risk Areas
4. HIPAA Compliance
5. Compliance Comprehension Test
Training Objectives

• Upon completion of this training, you should:
  
  ▪ Be aware of **health care laws/regulations** affecting your job and complying with them
  
  ▪ Understand **Broward Health’s Compliance Program** and responsibilities under our Corporate Integrity Agreement
  
  ▪ Understand how to **protect patient privacy** information
  
  ▪ Know when/how to **report Compliance/Privacy concerns**
What is Compliance?

Compliance means following the laws, rules and regulations, and policies set by the Federal and State governments. It also means following internal policies and procedures, and the Code of Conduct.

Our Compliance Program was established to prevent violations of laws, regulations, Code of Conduct and policies; detect violations if they occur; and correct issues that could lead to future problems.
We Have a Compliance Program to…

• Encourage ethics and integrity for all we do at Broward Health
• Identify problems early so that they can be quickly fixed
• Improve the quality of care we provide our patients
• Minimize billing errors—it speeds up proper payment of claims
• Reduce the risk of a government audit/investigation
• Avoid violation of laws and regulations
• Decrease penalties in the event of a violation
Broward Health’s Compliance Program

Broward Health’s Compliance Program is designed to assist our mission of providing quality health care services that meet our community needs; by adhering to all laws, and rules and regulations; and remaining committed to our core values of quality, responsibility, and integrity.

Our Compliance Program helps us keep sight of our goals.
Vanguard Healthcare Agrees to Resolve False Claims Act Liability

Vanguard agreed to pay more than $18 million to resolve a lawsuit brought by the United States and the State of Tennessee for billing the Medicare and Medicaid programs for grossly substandard nursing home services. The suit alleged that they were responsible for five Vanguard-owned skilled nursing facilities submitting false claims for nursing home services that were grossly substandard or worthless. In particular, it alleged that the five facilities failed to administer medications as prescribed; failed to provide standard infection control, resulting in urinary tract infections and wound infections; failed to provide wound care as ordered; failed to take prophylactic measures to prevent pressure ulcers, such as turning and repositioning; used unnecessary physical restraints on residents; and failed to meet basic nutrition and hygiene requirements of residents. The lawsuit further alleged that the defendants were responsible for the submission of hundreds of preadmission forms by these facilities to TennCare, Tennessee’s Medicaid Program, which contained forged nurse or physician signatures.
Why is the Previous Slide Important?

• Compliance is **linked** to other values that are held dear to health systems, mainly, quality of care and patient safety.
• Improper or deficient care can lead to false billing practices.
• False billing practices - such as billing for services not provided due to deficient or unsafe care - can violate federal and state regulations.
• Violations of federal and state regulations can lead to substantial monetary penalties and exclusion from participating in federal health care programs.
• That is **not** Broward Health!
Everyone Plays an Important Role

• Broward Health’s Compliance Program depends on everyone at Broward Health’s participation.

• The management team is responsible for ensuring that employees under their direct supervision – in addition to themselves – comply with all applicable laws, regulations and compliance standards and policies.

• They are also responsible for fostering a work environment wherein employees are comfortable asking questions, raising issues, and identifying actual or potential incidents of non-compliance.

• Managers should encourage their employees to come forward and must also take appropriate action in response to questions or disclosures, including informing the Compliance Officer as appropriate.
Let’s Be Clear

• The success of the Broward Health Compliance/Privacy Program depends on YOU.
• Everyone has a role to play.
• Managers are important because they set the tone.
• We follow all applicable laws, regulations, rules and policies.
• If you are not sure, ASK.
• You should never feel isolated when confronted with an issue, problem or question. We are here to help.
The Corporate Integrity Agreement (CIA)

- The CIA is a contract entered into with the Department of Health & Human Services ("DHHS") Office of Inspector General ("OIG") to promote compliance with all Federal health care laws and rules and regulations. It lays out requirements that must be met during the period of the agreement.

- Broward Health entered into a 5 year CIA with the DHHS OIG on August 31, 2015 and was related to allegations investigated by the DOJ and OIG regarding physician compensation agreements not in compliance with Stark Law or Anti-kickback Statute (covered on slides 52-57). Terms of the CIA applies to all Covered Persons, including:
  - Officers, directors and employees
  - Contractors, subcontractors, agents, and others providing patient care items or services or who perform Broward Health billing or coding functions
  - Physicians/non-physician practitioners who are Medical staff members
The Seven Elements of Broward Health’s Compliance and Ethics Program

They Conform to our Corporate Integrity Agreement and Office of Inspector General Compliance Program Guidance
I. Compliance Written Guidance

• Broward Health has implemented written compliance guidance, including the Code of Conduct and Compliance Program policies and procedures.

• The Broward Health Code of Conduct is located in **MyPlace** on the Broward Health intranet site and the Broward Health Internet website: [BrowardHealth.org/compliance](http://BrowardHealth.org/compliance). A copy is following this module.

• Performance review standards include following the Code and policies, as well as on-time completion of assigned compliance training.

**CIA Requires**

- Annually review and update the Code and Compliance policies and make sure they are available to all Covered Persons.
- Make following Compliance policies part of employees’ performance evaluations.
- Making sure individuals know they have a duty to report violations.
- Maintain and enforce a non-retaliation policy.
- Maintain full set of compliance policies including developing and implementing special Anti-Kickback Statute and Stark Law policies/procedures.
Our Code Of Conduct

• It was just updated and approved by our Board in February!
• Our Code describes the standards and fundamental rules of ethical business practice that govern our operations. It affirms our guiding principles, including those professional and legal standards that apply to our daily activities.
• We must comply with the Code. Failure to do so may result in adverse action up to termination.

Our responsibilities include:

▪ Following our values, Code, and policies/procedures
▪ Caring for our patients properly and compassionately and protecting their health information in accordance with HIPAA
▪ Learning/complying with job-related laws, rules and regulations
▪ Treating each other with dignity and respect
▪ Conducting business in a professional manner
▪ Identifying practices which may be unlawful
▪ Reporting any concerns of violations of law, regulations, Code, policies
▪ Protecting the assets of the organization including our most important asset - You
Our Code Of Conduct

Our code clearly states our obligations to:

- Maintain accurate and complete records of patient information to fulfill the requirements set forth in our policies, accreditation standards and applicable laws and regulations.
- Make every effort to prevent, detect, and report any fraudulent, wasteful or abusive activity that may affect our resources or interactions with federal, state or local governments.
- Submit accurate claims and reports to federal, state and local governments and other payers.
- Refrain from offering any improper inducement or favor to patients, physicians or others to encourage the referral of patients to our facilities.
- Respect and protect patients’ health and personal information in all forms, including paper, electronic, verbal, telephonic, etc.
- Perform services and maintain business relationships to promote the best interests of Broward Health and its patients.
- Complete – accurately and promptly – any conflict of interest forms as required.
- Notify the payer of payment of payment errors and process refunds promptly and accurately.
Comments From Our Leaders

“Broward Health’s culture of compliance depends on all of us. By committing to the standards outlined in this Code, we can ensure our patients are cared for with the highest level of integrity. Thank you for your ongoing commitment to patient care and for upholding the guidelines and principles of Broward Health’s Code of Conduct.”

Gino Santorio
President/Chief Executive Officer
North Broward Hospital District d/b/a Broward Health

“An effective Compliance Program is the cornerstone of any successful healthcare organization. The North Broward Hospital District Board of Commissioners has adopted a Code of Conduct in order to promote our healthcare system’s culture of compliance and transparency. This culture must be ingrained in all levels of the organization, and each of us must be committed to serving patients in an honest and ethical manner.”

Andrew Klein, Esq.
Chair, Board of Commissioners
North Broward Hospital District d/b/a Broward Health
Let’s Be Clear

- **You** are responsible for reading and understanding the Code. Please do it!
- If you see something, say something.
- If you have questions ask your manager or call the Corporate Compliance Department at **954.473.7500**.
Compliance Policies & Procedures

• Broward’s Code of Conduct outlines the basic Pillars in support of our mission and guidance for everyone in our work environment.
• Supporting and reinforcing these basic principles are specific compliance-related policies and procedures.
• And yes, you need to know and understand these also.
Broward Health Non-Retaliation Policy

**Retaliation** is any adverse action taken against an individual for reporting a suspected violation of law, rules and regulations, the Code of Conduct and policies and procedures.

Broward Health is committed to protecting anyone reporting a suspected violation from any form of retaliation and this commitment is reinforced in the Code of Conduct and our **Non-Retaliation Policy (GA-004-305)**.

Anyone participating in a retaliation can be subject to disciplinary action up to termination.

The non-retaliation policy does not mean that people who violate the Code and self report cannot be subject to sanctions, however, self reporting will be an important factor in deciding on the severity of the sanctions. It is always better to self-report.
II. Compliance Program Structure

Chief Compliance Officer (CCO):
• Develops/oversees our compliance program. Reports to Board Compliance Committee
• Chairs Broward Health’s Executive Compliance Group
• Monitors operations to verify they follow Compliance Program Guidance
• Makes reports to the Board of Commissioners

Executive Compliance Group (ECG):
• Meets at least monthly and oversees and supports the compliance program
• Consists of members of our senior leadership team

CIA Requires

- Employ a Chief Compliance Officer to run the Compliance Program (CP). CCO should not be subordinate to either the CFO or General Counsel.
- Maintain an Executive Compliance Committee (ECG) with members of senior management to help with the Compliance Program.
- Have Board of Commissioners oversee the CP. Commissioners must certify annually to the OIG that Broward Health has implemented an effective CP.
- Annually, senior management must certify they have supported the CP and their department is in compliance with applicable Federal health care program requirements and CIA.
III. Open Lines of Communication

• Managers must have an open door policy for employees to report any issues or concerns.

• All Covered Persons have a duty to report suspected violations of law, regulation, or Broward Health’s Code and policies to their supervisor, other member of management, or to the Corporate Compliance and Ethics Department.

• Anonymous reports may also be made to the Compliance Hotline.

• Retaliation is not permitted against anyone who reports an issue or concern in good faith.

CIA Requires

☑ Maintain a Disclosure Program to enable individuals to disclose, outside of their chain of command, any potential violations law, regulations, or Broward Health Code and policies.
☑ Disclosures must be entered into the Disclosure Log within 2 business days of disclosure.
☑ Provide covered persons alternative ways to report including a hotline to report anonymously.
☑ Protect against retribution or retaliation for reporting violations.
Reporting Concerns and Violations

Covered Persons should report suspected violations of law, rules and regulations, Code of Conduct, and policies/procedures to a member of management, or Chief Compliance Officer. Reports can also be made by calling the Compliance Hotline at 1.888.511.1370.

The Compliance Hotline is available 24 hours a day, 365 days a year and is answered by an outside company that cannot record or trace calls, so you can remain **anonymous**. Reports are sent directly to Corporate Compliance for investigation and confidentiality of all reports is strictly maintained.
Failure to report a violation may result in **disciplinary action**
IV. Training and Education

*Everyone* receives mandatory annual compliance training on:
- Responsibilities under the Broward Health Compliance Program
- Code of Conduct/Compliance Policies and Procedures
- HIPAA Privacy and Security
- Corporate Integrity Agreement Requirements
- Focus Arrangements
- Overpayments
- Sanction Screens for Ineligible Persons

In addition, personnel involved in the processing of contractual arrangements receive specialized training on relevant rules and policies.

**CIA Requires**

- Develop and update annually a training plan. Must be approved by the Office of Inspector General (OIG), United States Department of Health and Human Services.
- Providing all new and existing Covered Persons with annual Compliance training and provide special training to the Board.
- Provide additional Compliance training to anyone involved in the physician contracting process.
V. Compliance Risk Monitoring/Auditing

Broward Health managers are responsible for the ongoing monitoring of compliance high-risk areas in their areas of operation. The Compliance Department audits to verify proper monitoring as part of its Compliance Work Plan that focuses on compliance risk areas, such as:

• Billing process and systems
• Proper and accurate documentation in the medical record
• Focus Arrangements
• Privacy and confidentiality

And we implement corrective action promptly and thoroughly.

CIA Requires

✓ Annually assess compliance risks and develop a compliance audit plan.
✓ Conduct audits to verify operations comply with established laws, rules, regulations and standards.
✓ Ensure corrective action is taken to address any deficiencies.
What Happens When We Receive Overpayment For Services?

- Broward Health’s CIA states that an overpayment is when we’re paid for federal health care program services in excess of the amount due.
- If Broward Health identifies an overpayment, it must notify the OIG and repay those federal health care dollars within 60 days after being identified.
- In accordance with the Affordable Care Act (ACA), if we don’t repay those federal health care dollars within 60 days, then we may be subject to penalties under the False Claims Act (see slide 45).
VI. Response/Prevention of Offenses

• As noted previously, everyone has an affirmative duty to promptly report upon discovery all suspected or actual violations of non-compliance of law, regulations, Code, or polices.

• The Chief Compliance Officer is responsible for the investigation of issues or allegations reported.

CIA Requires

✓ Ensure all Covered Persons are not excluded from participation in federal health care programs and implement a policy requiring immediate notification if a Covered Person becomes excluded.
✓ Investigate any credible reports of violations.
✓ Ensure any required corrective actions from violations are taken and appropriate disciplinary action is taken.
Broward Health’s Sanction Screening

• Broward Health will not employ or contract with any individual or vendor if they are excluded from participation in any Federal health care program.

• Broward Health screens all Covered Persons for exclusion before working with them, and then on a monthly basis thereafter.

• All Covered Persons are required to immediately report if they become a subject of adverse action by an duly authorized government regulatory agency, or if they are convicted of a criminal offense which may lead to exclusion.
VII. Enforcement & Discipline

• Broward’s Chief Compliance Officer (CCO) is responsible for verifying that appropriate action is taken in response to detected offenses.

• The CCO is also responsible for prompt and complete reporting as necessary of violations of federal law or regulation.

CIA Requires

- Must notify OIG within 30 days after discovery of any ongoing investigation or legal proceeding conducted or brought by a governmental entity or its agents involving an allegation that Broward Health has committed a crime or engaged in fraudulent activities
- Must report certain events to OIG within 30 days of discovery including:
  - A substantial Overpayment (> $25,000)
  - A probable violation of criminal, civil, or administrative laws applicable to any Federal health care program for which penalties or exclusion may be authorized
  - Employment of or contracting with a Covered Person who is an Ineligible Person
Applicable Compliance and Ethics Program Policies and Procedures

You can find these policies and procedures in PolicyStat:
BrowardHealth.policystat.com/

- Disclosure Program, Policy No. GA-004-233
- Open Lines of Communications, Policy No. GA-004-234
- Amendment and Approval of Compliance and Ethics Policies, Policy No. GA-004-236
- Policies and Procedures Glossary, Policy No. GA-004-237
- Enforcement of Disciplinary Standards, Policy No. GA-004-238
- Response and Prevention of Offenses, Policy No. GA-004-242
- Compliance and Ethics Training and Education, Policy No. GA-004-245
- Chief Compliance Officer: Appointment, Roles, and Responsibilities, Policy No. GA-004-250
- Compliance Committee: Appointment, Roles, and Responsibilities, Policy No. GA-004-251
- Deficit Reduction Act, Policy No. GA-004-285
- Background Screening and Ineligible Persons, Policy No. GA-004-290
- Gifts and Interactions with Industry, Policy No. GA-004-291
- Government Investigation Policy, Policy No. GA-004-295
Applicable Compliance and Ethics Program Policies and Procedures

You can find these policies and procedures in PolicyStat: 
BrowardHealth.policystat.com/

- Internal Reporting of Potential Compliance Issues, Policy No. GA-004-300
- Non-Retaliation Policy, Policy No. GA-004-305
- Monitoring and Auditing, Policy No. GA-004-345
- Overpayment Policy, Policy No. GA-004-493
- Courtesies to Physicians and Immediate Family Members, Policy No. GA-004-405
- Amendment of Protected Health Information, Policy No. GA-004-011
- Facsimile Transmission of PHI, Policy No. GA-004-050
- Identity Protection via Alias, Policy No. GA-004-060
- Minimum Necessary for Uses, Disclosures and Requests, Policy No. GA-004-100
- Notice of Privacy Practices for the Protection of Medical Information, Policy No., GA-004-110
- Notification to Affected Individuals of a Breach of Unsecure PHI, Policy No., GA-004-115
- Release of Protected Health Information, Policy No. GA-004-145
- Use and Disclosure of Protected Health Information Not Requiring an Authorization, Policy No. GA-004-195
Who is Responsible for Compliance?

EVERYONE at Broward Health is responsible for following the Compliance Program and obeying all laws, rules and regulations, and policies and procedures.

So don’t do this ...............
Dr. Charles Gerardi (76, Dunedin) pleaded guilty to obstructing a Medicare audit. He faces a maximum penalty of 5 years in federal prison.

According to the plea agreement, in 2012, a federal Medicare auditor performed an audit of Gerardi’s employer related to 350 claims, and more than 2,300 individual services that Gerardi had purportedly performed. In response to the audit request, Gerardi provided the auditor with a series of fabricated records, which were designed to fraudulently support the medical necessity of the claims. Gerardi knew that the claims under review were not otherwise supportable, and fabricated the records for the purpose of impeding the auditor's performance of the audit.
Section 2:

Additional Mandates for Broward Health Under the Corporate Integrity Agreement
Additional CIA Requirements

• **Independent Review Organization (IRO).** An IRO was engaged to perform an annual Arrangements and Transactions Review to verify to the OIG that these functions are operating properly.

• **Annual certifications.** Senior managers must certify annually to the OIG that Broward Health is in compliance with the CIA and Federal laws.

• Broward Health developed and implemented written policies and procedures regarding the **identification, quantification, and repayment of Overpayments** (money Broward Health has received in excess of the amount due and payable under Federal health care program requirements).
CIA-Mandated Annual Reports

- Detailed report on the status of the Compliance Program.
- Activities and findings, including any changes to Broward Health’s Code of Conduct or Policies and Procedures.
- Any changes to the Focus Arrangements Tracking System.
- A description of and any changes to the risk assessment and internal review process.
- Summaries of certain types of disclosures made pursuant to the Disclosure Program, and a summary of Reportable Events.
- Must include in the annual report the certifications of the Certifying Employees (senior leadership) stating that they know and understand all compliance requirements for the areas reporting to them.
CIA Mandate - Focus Arrangements

A Focus Arrangement is a contractual arrangement between Broward Health and a source of healthcare business which involves, either directly or indirectly, an offer, payment or a provision of anything of value.

In response to the CIA, Broward Health created Focus Arrangements policies and procedures and systems so that we comply with the Anti-Kickback Statute, Stark Law and similar regulations. These include the following:

- A centralized Focus Arrangements Tracking System (C360).
- Requirement that arrangements must be set forth in writing and signed by all parties.
- Arrangements must include a written certification that all parties will not violate the Anti-Kickback Statute and Stark Law (these regulations are explained under Section 3 – Laws, Regulations, High Risk Areas).
- New and renewed Focus Arrangements must follow the Focus Arrangement review and approval process.
- We must track remunerations (something of value) to ensure all Focus Arrangement payments are done in accordance with the contract and the law.
- Any party with who we enter into Arrangement must receive our Code, Anti-Kickback and Stark Law policies and procedures.
Tracking Remuneration

Tracking remuneration involves verifying:

• The Focus Arrangement is administered and paid consistent with the terms of the agreement.

• Supporting documentation (such as timesheets) are validated to ensure the time worked is consistent with the contract.

• Internal controls are in place to assure proper payments are being made.

• Working with stakeholders to monitor all payments for Focus Arrangements and report variances to Compliance.
Tracking Remuneration

Examples of Tracking Remuneration Controls:

• Reviewing Medical Director timesheets to verify the hours and work reported are consistent with duties in contract

• Reviewing employed physician payroll payments to verify they do not surpass the maximum compensation enumerated in contract

• Verifying that physicians on-call coverage contracts are paid with the correct daily call rate

• Conducting walk-throughs of medical office space to verify physician tenants are using the space agreed upon and not using additional space not listed in the agreement
Section 3:

Laws, Regulations, High-Risk Areas
Healthcare Laws and Regulations

The Federal government spends almost a trillion dollars a year on the Medicare and Medicaid programs and they estimate that fraud for these programs is in the range of $30 billion to $100 billion every year. This means not only are there a lot of laws and regulations for the health care industry, but also that the government closely watches to make sure health care organizations follow these laws and regulations.

Key Definitions
Fraud is intentional misrepresenting of facts, lying, or hiding information to get a payment or benefit for yourself or someone else.
Waste is causing unnecessary costs as a result of poor management, practices, systems or controls.
Abuse is excessive or improper use of government resources.
Examples of Fraud, Waste, Abuse

• Medicare **fraud** includes:
  ▪ Knowingly billing for services not furnished or supplies not provided
  ▪ Billing for non-existent prescriptions
  ▪ Altering claims, medical records, or receipts to receive higher payment

• Medicare **waste** includes:
  ▪ Excessive and unnecessary office visits
  ▪ Prescribing more medications than necessary
  ▪ Ordering excessive laboratory tests

• Medicare **abuse** includes:
  ▪ Billing for unnecessary medical services
  ▪ Billing for brand name drugs when generics are dispensed
  ▪ Charging excessively for services or supplies
  ▪ Misusing codes on a claim, such as up-coding or unbundling codes
Federal False Claims Act

**False Claims Act (FCA)** prohibits submitting false claims for payment to the government for programs like Medicare and Medicaid.

Claims may be considered **false** if service is:

- Not actually provided
- Provided but is already included on another claim
- Coded wrong
- Not supported by the medical record
- Attempt to get paid more than we should
False Claims Act

• Civil liability for knowingly submitting, or causing submission of, a false or fraudulent claim to the Federal Government.

• Specific intent to defraud is not required to violate the civil FCA.

• Civil penalties for violating the FCA may include fines of up to 3X the amount of damages sustained by the Government as a result of the false claims, plus up to $21,916 per false claim filed.

• Individuals or entities may also face exclusion, criminal fines and/or penalties including imprisonment.
Federal False Claims Act

You do not have to intentionally submit a false claim to violate the False Claims Act.

You can be punished if you act with deliberate ignorance or disregard of the truth.

That is why it is important for Broward Health to understand how to properly bill, have policies and procedures to make sure we are billing properly, and for employees to report any concerns of suspected wrongdoing.
Broward Health is committed to:

• Following all billing guidelines
• Submitting accurate and truthful claims
• Maintaining accurate/complete records
• Billing only for services:
  ▪ Medically necessary
  ▪ Properly authorized
  ▪ Appropriately documented

Broward Health has implemented policies/procedures ensuring any overpayments identified are repaid; and take steps to correct any issues that caused them.
Banner Health Agrees to Pay Over $18 Million to Settle False Claims Act Allegations

The settlement resolves allegations that 12 Banner Health hospitals knowingly overcharged Medicare patients unnecessarily. In particular, the United States alleged that from Nov. 1, 2007 through Dec. 31, 2016, Banner Health billed Medicare for short-stay, inpatient procedures provided at the 12 hospitals that should have been billed on a less costly outpatient basis. The settlement also resolves allegations that Banner Health inflated in reports to Medicare the number of hours for which patients received outpatient observation care during this time period.

Banner Health also entered into a corporate integrity agreement with the U.S. Department of Health and Human Services – Office of Inspector General (HHS-OIG) requiring the company to engage in significant compliance efforts over the next five years. Under the agreement, Banner Health is required to retain an independent review organization to review the accuracy of the company’s claims for services furnished to federal health care program beneficiaries.
Skyline Urology to Pay $1.85 Million to Settle FCA Allegations of Medicare Overbilling

Between Jan. 1, 2013, and Dec. 31, 2016, Skyline allegedly submitted false claims to the Medicare program for evaluation and management (E&M) services that were not allowable under Medicare. Medicare generally prohibits healthcare providers from separately billing for E&M services provided on the same day as another medical procedure, unless the E&M services are significant, separately identifiable, and above and beyond the usual preoperative and postoperative care associated with the medical procedure. If an E&M service satisfies these criteria, the provider can use a billing code known as “Modifier 25” to bill for the significant and separately identifiable E&M services.

In this case, the government alleged that Skyline Urology used Modifier 25 to improperly unbundle routine E&M services that were not separately billable from other procedures performed on the same day, and, as a result, improperly claimed compensation from Medicare for certain urological services.
Anti-Kickback Statute (AKS)

AKS prohibits asking for or receiving anything of value in exchange for referrals of Federal health care program patients.

Kickbacks can be:
- Cash/cash equivalent (gift cards, certificates, or vouchers)
- Gifts or any physical item
- Travel, meals, or entertainment
- Access to opportunities or events that would not normally be available
- Free clerical or clinical staff services
- Free or below fair market value rent
- Excessive compensation for medical directors
Anti-Kickback Statute

Both asking for and receiving anything of value in exchange for referrals is a crime under the Anti-Kickback Statute (AKS). It applies to both payers and recipients of kickbacks.

The AKS is a **criminal** law which means violations can result in prison sentences, as well fines of up to $50,000 per kickback, plus three times the value of the kickback.

Violations can also result in False Claims Act penalties.
Anti-Kickback Statute

Kickbacks are illegal because they can harm both the Federal health care program and the patients. Kickbacks can lead to:

- Making the wrong medical decision for the patient
- Overuse of services
- Increased costs
- Unfair competition
Stark Law

• In 1989, Congress passed the Ethics in Patient Referrals Act, which was dubbed Stark I after Rep. Pete Stark, a Democrat from California, who sponsored the initial bill.

• The original statute banned physician self-referral for designated services when a patient was covered by Medicare or another government payer. Self-referral occurs when physicians refer patients for designated health services to hospitals, labs and other entities from which they or an immediate family member benefit financially.

• Following are the designated health services:
  - Clinical laboratory services
  - Physical therapy services
  - Occupational therapy services
  - Outpatient speech-language pathology services
  - Radiology and certain other imaging services
  - Radiation therapy services and supplies
  - Durable medical equipment and supplies
  - Parenteral and enteral nutrients, equipment and supplies
  - Prosthetics, orthotics and prosthetic devices and supplies
  - Home health services
  - Outpatient prescription drugs
  - Inpatient and outpatient hospital services
Stark Law

- The intent was to eliminate any financial motivation for physicians to send patients for unnecessary testing that could raise overall healthcare costs.

- Stark Law has numerous exceptions, each of which carries its own detailed requirements. Many of the exceptions require compensation paid to a physician to not take into account the value or volume of a physician's referrals or other business generated between the contracted parties.

- Many exceptions also require the arrangement to be commercially reasonable and compensation to be at fair market value.
Stark Law

- Any provider organization that violates Stark must repay all Medicare funds paid under the improper arrangement. The organization could also face Medicare exclusion.
- If claims are submitted to government payers through an arrangement that violates Stark Law, the claims are rendered false or fraudulent, creating liability under the False Claims Act.
- Stark Law requires physicians receive only fair-market prices for their services.
- Common technical violations of Stark Law include lack of documentation to support fair market value, failure to accurately describe services rendered and failure to change the terms in writing when compensation or duties change.
- Broward Health has developed specific policies and procedures to comply with both Stark and the AKS.

Or this……………………………………
U.S. Joins False Claims Act Lawsuit Against Wheeling Hospital and Others Based on Improper Payments and Kickbacks to Physicians

The government intervened with respect to allegations that the Hospital, which is located in Wheeling, WV, violated the Stark Law and Anti-Kickback Statute, and that those violations were caused by R & V, Wheeling’s contracted management consultant, and Wheeling’s CEO.

The Stark Law prohibits a hospital from billing Medicare for services referred by physicians that have an improper financial relationship with the hospital. The Anti-Kickback Statute, in relevant part, prohibits offering or paying anything of value to encourage the referral of items or services covered by federal healthcare programs. The United States alleges that Wheeling’s compensation to a number of employed and contracted physicians violated these statutory prohibitions because that compensation was based on the volume or value of the physicians’ referrals or was above fair market value.

“Improper financial arrangements between hospitals and physicians threaten patient safety because they can influence the type and amount of health care that is provided,” said Assistant Attorney General Jody Hunt of the Department of Justice’s Civil Division. “The department is committed to taking action to eliminate improper inducements that can corrupt the integrity of physician decision-making.”
Criminal Health Care Fraud

Federal law prohibits knowingly and willfully executing, or attempting to execute, a scheme or artifice in connection with the delivery of or payment for health care benefits, items, or services to either:

• Defraud any health care benefit program, or

• Obtain, by means of false or fraudulent pretenses, representations, or promises, any of the money or property owned by, or under the control of, any health care benefit program.

Penalties for violations = fines and/or imprisonment.

Or this………………………………………..
Orchard Park Pain Doctor Pleads Guilty to Using Patient Names Fraudulently to Obtain Controlled Substances

Dr. Paul Biddle, 54, of Amherst, NY, pleaded guilty before U.S. District Judge to identity theft and possession of unlawful hydromorphone. The charges carry a maximum penalty of five years in prison. Biddle was an anesthesiologist and pain management doctor who also operated a medical marijuana practice. Between February 9, 2015 and October 16, 2017, the defendant was prescribing controlled substances for two deceased patients.

After the death of one of the patients, Biddle wrote 10 prescriptions using the deceased patient’s name and date of birth between November 21, 2016 and October 16, 2017. After the death of the second patient, the defendant wrote 23 prescriptions using that deceased patient’s name and date of birth between February 9, 2015 and August 7, 2017. All prescriptions were filled by a pharmacy in Tampa, FL, and shipped directly to the defendant’s home or office. Biddle was obtaining these prescriptions and using them himself.
This Next One is *Really* Bad
Detroit Area Doctor Sentenced to 45 Years in Prison for Providing Medically Unnecessary Chemotherapy to Patients

Farid Fata, M.D., a hematologist/oncologist who ran seven cancer centers in suburban Detroit was sentenced to 45 years in prison for his role in a health care fraud scheme that included giving chemotherapy to 553 patients who did not have cancer and submitting approximately $34 million in fraudulent claims to Medicare and private insurance companies. Fata admitted to prescribing and administering unnecessary aggressive chemotherapy, cancer treatments, intravenous iron, and other infusion therapies to patients in order to increase his billings to Medicare and other insurance companies.

Fata also admitted to soliciting kickbacks from Guardian Angel Hospice and Guardian Angel Home Health Care in exchange for his referral of patients to those facilities. He further admitted to using the proceeds from the health care fraud at his medical practice, MHO, to promote the carrying on of additional health care fraud at United Diagnostics, where he administered unnecessary and expensive positron emission tomography (PET) scans for which he billed a private insurer.

When asked, the daughter of a patient did not mince words when she described Dr. Fata, who treated her 80-year-old father after he was diagnosed with pancreatic cancer. "We refer to him as a monster. My father passed away in 2009 at the hands of Dr. Fata. He took what God gave him as gifts to do good, to do evil."
Civil Monetary Penalty Legislation

• Authorizes civil monetary penalties (CMPs) for a variety of health care fraud violations.
• CMPs up to 3x the amount claimed for each item or service or up to 3x the amount of remuneration offered, paid, solicited, or received.
• CMPL violations include:
  ▪ Presenting a claim you know, or should know, is for an item or service not provided as claimed or is false and fraudulent;
  ▪ Presenting a claim you know, or should know, is for an item or service for which Medicare will not pay;
  ▪ Violating the AKS;
  ▪ Offering or providing inducement to beneficiaries to select a provider.
OIG Exclusion Authority

• The OIG must exclude (from federal health care programs) individuals and entities convicted of any of the following:
  • Medicare or Medicaid fraud and other offenses related to the delivery of items or services under Medicare or Medicaid
  • Patient abuse or neglect
  • Felony convictions for other health care-related fraud, theft, or other financial misconduct
  • Felony convictions for unlawful manufacture, distribution, prescription, or dispensing of controlled substances
  • Excluded individuals and entities may not participate in federal health care programs, or bill federal health care programs for services they order or perform. An employer or group practice that bills for an excluded individual’s services risks additional liability under the FCA.

See what happens if we hire an “excluded” individual or entity..........................
Oklahoma Assisted Living Facility Settles Case Involving Excluded Individual

On January 4, 2019, Baptist Village of Owasso (BVO), Owasso, Oklahoma, entered into a $96,020.92 settlement agreement with OIG. The settlement agreement resolves allegations that BVO employed an individual who was excluded from participating in any Federal health care program. OIG's investigation revealed that the excluded individual, an admission specialist, provided items or services to BVO's patients that were billed to Federal health care programs.
EMTALA

Emergency Medical Treatment and Active Labor Act (EMTALA) requires any individual who comes into the hospital requesting an evaluation for an emergency medical condition must be provided with a medical screening examination by a qualified medical professional to determine if they have an emergency medical condition.

If they have an emergency condition it must be stabilized or appropriately transferred to another facility for medical care, if the hospital is unable to provide the needed care.

Hospitals and physicians who violate EMTALA could receive large fines and harsh penalties.

Absolutely not this……………………………………
Alabama Hospital Settles Case Involving Patient Dumping Allegations

On December 21, 2018, Mobile Infirmary Medical Center (MIMC), Mobile, Alabama, entered into an $80,000 settlement agreement with OIG to resolve allegations that MIMC violated the Emergency Medical Treatment and Labor Act (EMTALA) when it failed to provide an adequate medical screening examination and stabilizing treatment for two individuals. The first patient, a 24-year-old male presented to MIMC's Emergency Department (ED) complaining of weakness and exhibited altered mental status. He was reportedly aggressive and non-compliant with staff directions. When he was leaving the ED he apparently collapsed. A security guard, a hospital employee, put him in a wheelchair and wheeled the patient off hospital property – where he was left on the ground. Approximately four hours later the patient was found cold, with decreased responsiveness. He was transported to another hospital by ambulance. He died two weeks later.

The second patient, a 35-year-old male, presented to MIMC's ED accompanied by his girlfriend. The patient complained of shortness of breath and chest pain. The patient requested to see a physician and became belligerent when a nurse asked him why. That led to the patient being escorted out of the ED by security. Several minutes later, the patient returned to the ED. This time, the patient's girlfriend drove up to the ambulance bay and reported that the patient had suffered a seizure and was lying in her truck. She was informed by staff that they would not help get the patient out of the truck. In addition, the security guard told her she had to leave. The patient's girlfriend then took him to another hospital where he was pronounced dead within 20 minutes of his arrival.
Physician Arrangements Policies

• Physician and Non-Physician Financial Arrangement Review, Approval and Tracking Policy - GA-004-441
  ▪ This policy explains the review and approval process when Broward Health enters into an arrangement with a source of healthcare referrals, such as physicians.

• Fair Market Valuation and Commercial Reasonableness Policy - GA-004-410
  ▪ This policy explains how Broward Health determines the fair market value of a referral source, such as a physician relationship, and the commercial reasonableness of that referral source.

• Disclosure of Physician Ownership and Financial Arrangements Policy - GA-004-417
  ▪ This policy explains the process for the identification and disclosure of physician financial arrangements with non-Broward Health entities.
Things We Want Our Physicians to Know

• We value all of our physicians whether they are our employees or simply have privileges with us. Here are some reminders we want to share:
  • Document medical care thoroughly and timely
  • Use your “inside voice” to prevent unauthorized verbal disclosures of Protected Health Information (PHI)
  • Follow our on-call policy
  • Help promote a safe and comfortable work environment for all
  • Disclose all ownership interests or business relationships with outside healthcare entities
  • Don’t request nurses to enter orders when you are on-site at the facility
  • Be familiar with the medical staff by-laws
  • Don’t store or text patient PHI on your unsecured personal cell phone
Section 4:
Health Insurance Portability and Accountability Act (HIPAA)
HIPAA

Health Insurance Portability and Accountability Act of 1996 (HIPAA) establishes requirements for protecting the privacy and security of patients’ protected health information (PHI).

All Broward Health employees have a duty to understand Broward’s HIPAA policies and procedures and to protect our patients’ PHI.
Protected Health Information (PHI)

• PHI includes medical records and any other individually identifiable health information in any form (written, verbal or electronic).

• Individually Identifiable: explicitly linked to an individual or reasonably expected to permit individual identification.
PHI Includes

- Names
- Addresses
- Telephone numbers
- Birth Date
- Social Security Numbers
- Medical record/account numbers
- Health Plan Beneficiary Numbers
- Email Addresses
- Dates of Services
- Diagnoses
- Treatment Information
- Billing records
- X-rays
- Prescriptions
- Lab Work
- Test Results
Patients’ HIPAA Rights

1. Request certain restrictions on uses/disclosures of their PHI
2. Request alternative communication methods or addresses
3. Access, inspect, or get a copy of their medical record
4. Request an amendment (correction) to their PHI
5. Request an accounting of certain disclosures

Note: Patient authorization is not required if information is used for purposes of treatment, payment or healthcare operations. Questions about whether prior patient authorization is required should be directed to the Compliance Office.
Minimum Necessary Standards

• Everyone in the Broward Health workforce must follow proper procedures to ensure that only the minimum amount of health information is **used or disclosed** to accomplish the specific purpose.

• Request and/or access only the minimum amount of PHI necessary to accomplish the specific purpose of the request.
Disclosure of PHI to Patient Representatives

- Copies of PHI may, upon written request, be directly provided to a patient representative, after identity and authority verification.

- A patient representative has the same right as the patient to access or receive the patient’s PHI, except when limited by the patient or by applicable law and regulation.

- Contact the your regional Health Information Management (HIM) Department for the protocol to verify authority of a patient’s representative when it has not been documented in a patient consent form.
HIPAA Breach of PHI

- A HIPAA breach is the unauthorized acquisition, access, use, or disclosure of PHI which compromises its security and privacy.

- Every unauthorized disclosure or release of PHI must be reported immediately to the Compliance Office by calling 954-473-7500.

- Broward Health must provide notification in writing within **60 days** to affected individuals and Office of Civil Rights (OCR) upon discovery of PHI breach.

- Broward Health must document all breaches, and report all breaches to the OCR at the end of each calendar year, if not sooner.

- Vendors or third parties handling Broward Health patient PHI **must notify** us of any breach that has occurred with respect to their use or disclosure of PHI.
Promoting HIPAA Privacy

• HIPAA covers PHI **in all forms** (written, verbal or electronic).

• Store patient medical records containing PHI in a secure location (file cabinets, closed charts, charts turned over on your desk) that can only be accessed by employees with a **need to know**.

• Make reasonable efforts to limit PHI use, disclosure, and requests to the **minimum necessary** to accomplish the intended purpose.

• Use **reasonable precautions** when communicating with patients or accounts through the mail, email, by fax or by phone to avoid unauthorized or unpermitted disclosure of PHI.
HIPAA Provisions

- **HIPAA Privacy Rule:** Protects all Protected Health Information (PHI) in any form or media, whether electronic, paper or oral.

- **HIPAA Security Rule:** Broward Health must protect the confidentiality, integrity and availability of electronic PHI (ePHI).

- **Breach Notification Rule:** Requires notification of patients and the DHHS Office of Civil Rights (OCR) when there is a breach of PHI or ePHI.

Notable Florida State Laws

- **Florida Information Protection Act (FIPA):** Requires notification to the State Attorney General of breaches affecting more than 500 individuals in Florida.

- **Other Florida Privacy Laws:** Protections for Mental Health Records, Substance/Alcohol Abuse Treatment, STD/HIV and Aids Test Results, Records, or Treatment, and Domestic-Violence Related Treatment.
Patient PHI Access Rights

- Patients have **right to access, inspect, amend, and obtain** a copy of their PHI.
  - Applies to PHI in patient’s medical and billing record
  - Must provide access to PHI requested within 30 days
  - Must be provided in form and format requested

- Right applies to, but is not limited to:
  - Medical and billing records
  - Insurance information
  - Diagnostic test results
  - Clinical case notes
PHI and Broward Health Employees and Workforce Members

• Broward Health is not only an employer, but it is also a health care provider.
• Broward Health employees and workforce members seek treatment at Broward Health facilities.
• We are all held to a **very high standard of confidentiality**.
• **Do not** access patient electronic medical records unless it’s within your duties. In other words, **no snooping!**
• If you have been a patient at Broward Health, **do not** look up your own medical records. Sign up for the patient portal!
• Unauthorized or inappropriate access to patient information is a clear violation of federal and state law. Consequences can be serious!
Safeguarding PHI

1. Comply with the Broward Password Policy.
2. Don’t leave computer logged on if away from your desk or station.
3. Keep computer screen turned away from view by others.
4. Access a patient’s information only if required for work duties.
5. Never disclose your computer username or password.
6. Don’t open attachments from people you do not know.
7. Do not try to apply a virus fix described in an email.
8. Don’t email PHI to anyone outside of Broward that is not encrypted.
9. Do not store PHI on a personal device.
10. Use only Broward Health email accounts for patient or business communications.
Safeguarding PHI

11. User activity is tracked & audited in all databases containing PHI.
12. You are responsible for activity conducted under your username.
13. Always log-off when leaving the workstation.
14. Always lock and secure Broward Health equipment and devices.
15. Protect PHI by not discussing patient PHI in common areas.
16. Take care using Social Media websites while at work.
17. Don’t take pictures of patients.
18. Don’t send emails containing PHI to your personal email account.
19. Encrypt messages with PHI to non-Broward Health email address. Be sure to type “Confidential” in the subject line of the e-mail.