

Annual Compliance Update

Introduction – A Message from Our CEO



At VITAS, we embrace four core values:

- Patients and families come first
- We take care of each other
- I'll do my best today and do even better tomorrow
- I'm proud to make a difference

Simple and profound, our VITAS values guide everything we do, each and every day. Our values are at the core of our sustained success at VITAS.

As I reflect on the VITAS Compliance and Ethics Program, I recognize that these values also have another purpose. They form one of the key ways we hold each other accountable at VITAS.

As you participate in this training, think about our Compliance and Ethics Program in the same way as you think of our core values – as something to live by each day.

At the heart of our Compliance and Ethics Program at VITAS is a simple guideline: Do the right thing. Every day. Every time. An effective compliance program, like the one at VITAS, promotes honest, ethical behavior in the day-to-day operations of our organization. It's the expectation we have as the leader in end of life care.

We're counting on you to promote honest, ethical behavior in the day-to-day operations of VITAS.

Thank you and please know how proud I am of your commitment to VITAS, your commitment to our core values and your commitment to do the right thing. Every day. Every time.

Sincerely,

A handwritten signature in black ink that reads "Nick Westfall". The signature is fluid and cursive, with a long horizontal flourish extending to the right.

Nick Westfall, CEO

Module 1 – Compliance Program Defined

A compliance program is a centralized process to identify, correct and prevent illegal and inappropriate conduct and to promote honest, ethical behavior in the day-to-day operations of an organization. That's a long way of saying that compliance is about doing what's right. Compliance

programs are implemented in a variety of industries to address a broad spectrum of legal and regulatory requirements.



Compliance is about doing what is right.

For compliance programs to be meaningful, people must understand its positive benefits. If implemented correctly, a compliance program can improve the quality of business operations, reduce risks, and support the ongoing success of the organization.

Compliance is also important in healthcare organizations because we are regulated by the Federal Government. Healthcare fraud is the number one priority of the Department of Justice after violent crime. VITAS receives much of its reimbursement through Federal and state healthcare programs, and this imposes on us a special responsibility. That's why we established our compliance policies and Code of Ethical and Legal Conduct in 1995. Today this policy affirms:

VITAS employees and agents must know that hospice services will only be reimbursed if ordered, certified, covered, provided, and reasonable and necessary for the patient, given his or her clinical condition. VITAS will only seek reimbursement for services it has reason to believe are reasonable and necessary for the palliative care and management of the terminal illness and were ordered by a physician or other appropriately licensed individual.

Although those words were written more than 20 years ago, there remains no clearer statement of our collective commitment to serving our patients' best interests and living up to our regulatory obligations.

In this section about the VITAS Compliance and Ethics Program, we will review several key topics:

- What makes a compliance program effective?
- How am I part of VITAS' Compliance and Ethics Program?

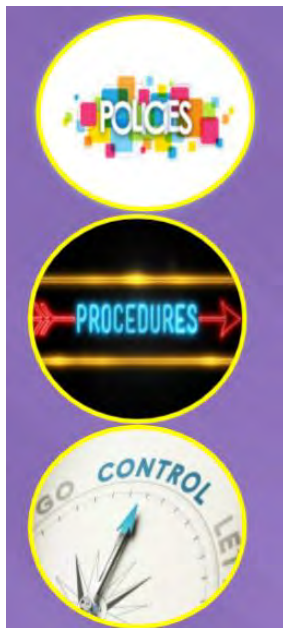
- Why is compliance important?

What makes a compliance program effective?

Over the past couple of decades, organizations have realized that having an effective compliance program is important because of how it promotes honest, ethical behavior. The Office of Inspector General (OIG) has established broad guidelines for how a compliance program should be structured, and the VITAS Compliance and Ethics Program is organized around eight guiding principles established by the OIG.

1. Having **Written Policies, Procedures and Controls** related to compliance, including anti-kickback rules, billing practices and adhering to laws and regulations.

Examples:

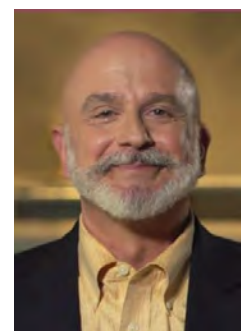


Policies: Policy 1:04B *Prohibition on Kickbacks and Relationships/Contractual Arrangements with Referral Sources* and 1:04C *Marketing Practices* specify that it is illegal to give, or take anything of value as an inducement for the referral of a patient, or for arranging a service where payment may be made under federal health care programs.

Procedures: VITAS has established a process to assure that once an overpayment is identified and quantified, it is returned within 60 days as required by CMS rules.

Controls: Quality reviews conducted at the program level are intended to control any issues related to failure to adhere to hospice requirements and Medicare Conditions of Participation.


2. **Compliance and Ethics Oversight** tailored to the size and complexity of operations also makes a compliance program effective. At VITAS, the Chief Compliance Officer, Bob Miller, directs the program and chairs the VITAS Compliance Committee. Reports about VITAS' compliance program are made by the Chief Compliance Officer to the VITAS Governing Body on a quarterly basis and to VITAS' parent corporation (Chemed) Audit Committee on a regular basis. To further enhance our ethics oversight, Elizabeth DeLaOssa and Mary Hensley were appointed as Regional Compliance Advocates (RCAs), assisting Bob by travelling to programs and providing



compliance guidance and documentation review that includes two main areas:

- A review of 5 admissions for each team looking for consistency in documentation.
 - Attending team meetings. The RCA does documentation education and then, after listening to report on a number of patients, selects five for review of the Plan of Care Review form. The evaluation is to ensure that what was discussed in IDG matches what is documented in the summary. The RCA then conducts an exit meeting with management and the Performance Improvement Specialist in order to assist the program in developing a PI Program to address any findings.
3. At first, the phrase **Delegation of Authority** may seem puzzling. It means is that VITAS is committed to exercising diligence so that individuals who provide patient care and oversee billing services are ethical and are appropriately screened and trained. Background screening of new employees is an important component to this element, as is ongoing monitoring of the *OIG's List of Excluded Individuals and Entities*.
 4. Another key element is **Employee Education and Communication**. Training is the cornerstone of any compliance program. VITAS' compliance training program begins in orientation and continues each year with this training module, the *VITAS Annual Compliance Update*. Of course, communication is a two-way street and VITAS also encourages employees to reach out when they have a compliance or ethics concern. We will talk more about this later, but two key ways VITAS encourages communication is through a non-retaliation policy and providing for the anonymous reporting of concerns on VITAS' Compliance Hotline (1-800-638-4827).
 5. Formal reporting of VITAS compliance **Monitoring and Auditing** activity is made at the quarterly VITAS Compliance Committee meeting. These metrics reflect the size and scope of VITAS as an organization and the care and services provided to VITAS' patient population. Quality Assessment and Performance Improvement reviews are conducted under the direction of local program leadership and the local QAPI Committee to help focus employees on improving care and documentation at the bedside.

6. VITAS is also committed to **Promotion of the Compliance Program and Enforcement of Violations**. As noted above, the VITAS Compliance Program is “front and center” in new employee orientation and throughout the employee’s tenure with VITAS. In addition, VITAS has established a website dedicated to enhanced employee communication around compliance matters, www.vitas.com/culture-of-compliance. These materials, and other timely compliance-related matters are developed into articles for ongoing communication in the VITAS employee newsletter, *VITAL Signs*. Enforcement of violations is a phrase that sounds tough – and it is.



Enforcement of violations is a phrase that sounds tough – and it is.

As outlined in the Code of Conduct, personnel who violate the law, VITAS policies, the Code of Conduct, and/or VITAS Standards are subject to disciplinary action. Depending on the severity of the issue, this includes action up to and including termination of employment.

7. **Responding to Incidents**. In the compliance lexicon, an “incident” might be a compliance or ethics concern relayed through a Compliance Hotline call or a compliance matter that comes to our attention by another means such as monitoring and auditing activities. Whatever means brings the concern to our attention, VITAS has established a procedure to ensure that compliance concerns or allegations are responded to in a timely manner. This process is overseen by the VITAS Compliance Officer, and documentation of each investigation is reported to the VITAS senior leadership and the VITAS Compliance Committee. In addition, VITAS institutes corrective measures with respect to any identified deficiencies and operates in compliance with the False Claim Act and the Patient Protection and Affordable Care Act with respect to any known overpayments resulting from compliance monitoring.
8. Last, but surely not least, is VITAS’ **Ongoing Risk Assessment** process. A group of senior executives participates in this process to identify key compliance risks. Such a risk may be identified because of a change in policy or procedure, a regulatory change, results of a comparative billing report, an OIG report or alert or for another reason. At VITAS, the Annual Compliance Risk Assessment process helps to set priorities for the following year’s Annual Compliance Work Plan.

In addition to its eight guiding principles regarding hospice, each year the OIG publishes a Work Plan which contains areas specific to hospice within which the OIG currently believes

there may be vulnerabilities. VITAS monitors these activities to determine what actions are appropriate. The current OIG Work Plan includes the following hospice specific areas:

- A review of hospice medical records to determine compliance with Medicare regulations
- Medicare payments made outside of the Medicare Hospice Benefit
- Review of Hospice Inpatient and Aggregated Cap Calculations

We will review some of these policies, procedures and controls as we talk about compliance risks later in this module. While these establish VITAS' approach to compliance, it may be even more important that each employee commits to following VITAS' *Code of Ethical and Legal Conduct* (Code of Conduct) upon hire. The Code of Conduct outlines each employee's responsibilities to be familiar with and conform to sound business practices. We will review the Code of Conduct in more detail shortly.

We've reviewed the elements that make a compliance program effective. The fact that VITAS has these structures and processes in place should give you confidence in the company's intention to promote ethical behavior.

You want to know what REALLY makes a compliance program effective? It's people. It's you. It's your commitment to doing the right thing. That's why VITAS created a Code of Conduct – to help you understand your part in making our compliance program effective.

What makes a
compliance
program
effective?
It's YOU!

How am I part of VITAS' Compliance and Ethics Program?

As noted above, many aspects of the VITAS Compliance and Ethics Program are embedded in the Code of Conduct. The Code of Conduct spells out YOUR responsibilities as a VITAS employee or volunteer.

- To observe the tenets of the VITAS Compliance Policy in the performance of one's duties.
- To familiarize oneself with sound business practices and procedures that are consistent with the VITAS Compliance Policy, including such operating policies and procedures as may be developed in furtherance of the VITAS Compliance Policy, and to adhere to such practices and procedures.
- To participate actively in all applicable education and training programs associated with the VITAS Compliance Policy.

- To consult on a timely basis with the VITAS Compliance Officer regarding any questions as to the interpretation or potential applicability of the VITAS Compliance Policy or the Code of Conduct.
- To report promptly apparent and actual violations of the VITAS Compliance Policy or the Code of Conduct to the VITAS Compliance Officer and/or the VITAS Compliance Committee.
- To otherwise support the purposes of the VITAS Compliance Policy.

So, you are following the Code of Conduct right this minute by participating in this training program! You're also following the Code of Conduct every day when you do what Nick Westfall said in the introduction to this training – any time you “do the right thing.” Lastly, you're following the Code of Conduct when you talk to your supervisor or to the VITAS Compliance Officer when you observe something that does not seem to be a sound business practice.

For more information, see *Policy 1:04 VITAS Compliance Policy* and the *Code of Ethical and Legal Conduct*, or the *VITAS Employee Handbook (January 2020)*, starting on page 30. These materials are online on myVITAS or in hard copy in your program office.

Why is compliance important? It's about Corporate Integrity

There is one last item to discuss before we move on. We've been talking about how an effective compliance program helps assure the integrity of the organization, and VITAS has been developing and improving its compliance program for years. Now we have additional help in this process. In October of 2017, VITAS signed what's called a Corporate Integrity Agreement (CIA) with the OIG. Typically five years in length, a CIA helps to strengthen the entity's compliance program so that it can be more effective and so that future issues will be prevented or identified, reported and corrected.

Through this CIA, VITAS has made the following commitments:

1. To maintain and improve our compliance program based on the elements contained in the OIG's guidelines for compliance programs as outlined above.

2. To establish a relationship with an Independent Review Organization which will conduct an annual Claims Review of a sampling of Medicare beneficiary claims to help assure the soundness of our claims management processes.
3. Lastly, an implementation phase and annual reporting related to the other two responsibilities and in the case of certain types of reportable events.

We want you to be aware of these commitments VITAS made through the CIA, in full transparency, because we want to emphasize the importance of your part in helping make VITAS' Compliance and Ethics Program as effective as possible.

Module 2 – Compliance Risk Defined

Compliance Risk Defined

It is critical to make a link between a compliance program and the concept of risk. We reviewed early on in this module that since VITAS gets much of its reimbursement through Federal and state healthcare programs, this imposes on us special responsibilities.

Compliance risk can be defined by the types of threats a compliance program helps to prevent. These include the threat of legal sanctions, financial loss, improper payments, or loss of reputation as a result of an organization's failure to comply with laws, regulations, best practices, proper conduct and standards of ethical behavior.



Compliance risk can be defined by the types of threats a compliance program helps to prevent.

Some of these risks are created by the kind of work VITAS does, as a provider of hospice and palliative care. Some of the risks we will review in this section are more general.

Hospice Specific Risks

- Hospice Admission/Discharge Issues
- Improper Arrangements with Health Care Providers
- Billing Practices
- Clinical Issues
- Marketing Practices

General Compliance Risks

- Conflicts of Interest
- Anti-Kickback
- Abuse and Neglect
- Stark Regulations
- Vulnerabilities highlighted in the OIG Annual Work Plan

We will start by looking at the risks that are specific to hospice and how these are addressed at VITAS, and then move on to the more general issues. These hospice specific risk areas have been identified by the OIG in guidelines it published in 1999 to help hospice providers understand the kinds of risks inherent in our work with patients and families.

Hospice Admission/Discharge Issues

This is a very broad area of potential risk, and so it is best to break it apart into its component parts, which include:

Example	How Addressed at VITAS
<p>Admission issues such as failure to disclose the palliative nature of hospice, admitting patients who are not terminally ill and do not meet other eligibility criteria, or false, untimely, or forged physician certifications or re-certifications.</p> 	<p>This is why VITAS carefully constructed admission processes and consent forms to make sure that the patient and physician(s) can make an informed decision about the patient’s admission to hospice. It is also why we do not incentivize (or bonus) admission personnel or physicians because they are involved in the initial certification or recertification process. We want to be sure each patient/legal representative understands VITAS’ services and we do not want the physician(s) making certification decisions with any improper pressure.</p> <p>Any forged, backdated or intentionally misleading documentation is obviously improper and this is especially true of documents upon which VITAS relies in order to bill for services, such as physician certifications.</p>
<p>Continuing eligibility means the obligation to monitor a patient’s condition to assure the patient is discharged at the point he or she is no longer eligible.</p> 	<p>The decision whether to recertify a patient or, conversely, to discharge a patient with an extended prognosis, belongs to the hospice physician with the support of the hospice team. Recent rule changes mean that patients who remain on service for 180 days or greater or who have entered into their 3rd hospice benefit period will have each recertification made based on a face-to-face encounter between the patient and the hospice physician or nurse practitioner, so that the patient’s continuing eligibility can be more accurately established by the recertifying physician. CMS’ comparative billing reports (called PEPPER reports) show that VITAS programs are consistent with peer programs when it comes to the number of extended prognosis discharges and in terms of length of stay.</p>
<p>Revocation: The patient has a right to revoke the Medicare Hospice Benefit at any time</p>	<p>The decision whether to revoke a Medicare Hospice Benefit election belongs to the patient or his or her legal representative, <u>NOT</u> to the hospice. Some hospices may</p>


and for any reason. However, pressuring a patient to revoke is improper.




encourage the patient to revoke when the patient is still eligible for and desires care, but the care has become too expensive for the hospice to deliver. VITAS' policies prohibit this behavior, and CMS' PEPPER Reports show that the number of revocations at VITAS programs is consistent with peer programs.

Improper Arrangements with Health Care Providers


The second area of risk specific to hospice work has to do with contracting with other providers who deliver services on our behalf or facilities in which we care for patients.



Example	How Addressed at VITAS
<p>Improper relinquishment of core services and professional management responsibilities to other providers, such as nursing homes, volunteers and privately paid professionals.</p> 	<p>The hospice plan of care specifies the scope and frequency of services provided to the patient by each member of the team, including volunteers. When a patient is admitted to a nursing facility, the plan of care is coordinated so that it is clear which responsibilities fall to the nursing facility, and which responsibilities fall to the hospice. It is appropriate that basic care and services continue to be provided by the nursing facility as they continue to be reimbursed room and board payments for providing these services.</p>
<p>Offering or providing gifts, free services, or other incentives to patients, relatives of patients, physicians, nursing facilities, hospitals, contractors or other potential referral sources for the purpose of</p>	<p>It is illegal to give, or take anything of value as an inducement for the referral of a patient or for arranging a service where payment may be made under Federal health care programs. Otherwise known as a “kickback,” it is never appropriate to offer something of value with the expectation that this will result in a referral or admission. VITAS' contracting and marketing practices as outlined in Policy 1:04B <i>Prohibition on Kickbacks and</i></p>

<p>inducing referrals.</p> 	<p><i>Relationships/Contractual Arrangements with Referral Sources</i> and <i>1:04C Marketing Practices</i> provides a fuller explanation of VITAS’ standards of practice and examples of acceptable and unacceptable practices in marketing to potential referral sources.</p> <p>Hospice Representatives and Liaisons are trained extensively and evaluated based on these principles. VITAS’ contracting policies and procedures assure that proper approvals are obtained and legal review occurs whenever changes to VITAS standard contracts are proposed.</p>
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Billing Practices

The third hospice-specific area of risk has to do with billing practices. Some of these issues are technical in nature whereas some of them have a basis in clinical practices.

Example	How Addressed at VITAS
<p>Technical Billing Issues include improper identification of the location where the services are delivered and knowing misuse of provider certification processes.</p> 	<p>These two examples are highlighted here by the OIG because they can impact the amount of reimbursement the hospice receives. This is because reimbursement rates are tied to the local service area and different areas of the country are reimbursed at different rates.</p> <p>Technical billing issues extend beyond these two points, and VITAS has invested in system safeguards built into Vx and in policy (<i>Policy 1:04A Compliance with Billing and Coding Standards</i>) to help manage these and other issues. The addition of the FRS role in 2009 and the oversight of local management personnel reviewing each key billing document are key controls meant to assure that billing is accurate prior to a bill being submitted. VITAS’ Revenue Cycle Management department provides further oversight on a monthly basis to assure the integrity of the billing process.</p>
<p>Clinical Billing Issues include billing for a higher level of care than necessary, billing for substandard care and billing for care provided by</p>	<p>This is an area where the interdisciplinary team’s oversight of the patient’s care is critical, including working with the physician to determine when a patient is eligible for a higher level of care. The physician must assure that he or she orders a return to routine level of care as soon as the</p>

<p>unqualified or unlicensed personnel.</p> 	<p>patient’s crisis has passed. The team is also responsible for assuring that the care delivered to the patient and family meets standards of practice.</p> <p>The IDG must assure that the clinical progression of the patient’s disease and medical condition are properly documented. The IDG must utilize the appropriate types of services based upon the patient’s identified needs.</p> <p>VITAS’ onboarding process and ongoing governance of employee credentials prevents billing for care by unqualified or unlicensed personnel. <i>Policy 8:99 Employee Reporting Loss of License, Exclusion, Arrests or Convictions</i> now requires employees to report any of such matters by the next working day to their Business Manager or the VITAS Compliance Hotline (800-638-4827). Exclusion in this context refers to the OIG’s ability to exclude individuals from participation in Federal health care programs.</p>
<p>Knowing failure to return an overpayment.</p> 	<p>As noted above, VITAS investigates compliance incidents and evaluates the outcome to determine any remedial measures necessary, including the potential need to refund an overpayment. VITAS has established a process to assure that once an overpayment is identified and quantified, it is returned within 60 days as required by CMS rules.</p>

Clinical Practices

There were clinical practices reviewed in the previous section that had to do with billing practices. This section is focused on risks associated with clinical/quality issues.

Examples	How Addressed at VITAS
<p>Underutilization, inadequate management and oversight of subcontracted services, deficient coordination of volunteers.</p>	<p>As noted above, the oversight of the IDG is critical to caring for patients in the most vulnerable moments of their lives. So when the IDG meets to review the plan of care on a bi-weekly basis part of what the team is assessing is how the interventions being provided are meeting the needs of the patient and family. This includes oversight of</p>



subcontracted services, such as physical therapy, and volunteer services. Assuring adequate utilization of services would also fall under this category and not underutilizing services for the purpose of curbing expenses.

Falsified medical records or plans of care, back-dating. **Failure to adhere to hospice requirements** and Medicare Conditions of Participation.



VITAS policy and procedure and, most significantly, the Code of Conduct, prohibit such behavior. Quality reviews conducted at the program level are intended to identify any such issues and address them through individual performance improvement plans. Information related to regulatory surveys and claims denials are also reviewed by the Compliance Committee to assure that any trends are addressed.



Non-response to late hospice referrals by physicians.



VITAS measures speed to response at the bedside and prides itself for quickly responding to referrals. We want to have the reputation in the community as the hospice that responds most quickly and most effectively, even if the referral is made in the evening or on a weekend. This is not only a good business practice, but when a patient is in need of service it rises to the level of an ethical obligation. Even so, with a median length of stay of 16 days, it is clear that many patients are referred to hospice too late to fully benefit from the variety of services that VITAS can offer.

Marketing Practices

The last key area specific to hospice providers has to do with how we market our services.

Examples	How Addressed at VITAS
<p>Engaging in high-pressure marketing of hospice care, improper patient solicitation activities, or using incomplete, misleading or deceptive marketing materials.</p> 	<p>VITAS' marketing practices are outlined in Policy 1:04C <i>Marketing Practices</i>, which prohibits these types of activities, and provides examples of acceptable and unacceptable practices in marketing to potential referral sources. For example, it is improper for a hospice to arrange with the administration of a nursing facility to review patient records without the patient's permission, solely to determine if they are eligible for hospice care and to solicit hospice referrals – a practice sometimes referred to as trolling for patients.</p> <p>Care is taken so that marketing materials do not create the perception that the initial terminal prognosis is of limited importance or that hospice benefits may routinely be provided over an indefinite time period.</p>
<p>Sales Commissions must be structured appropriately and must not be based on improper factors.</p> 	<p>At VITAS, sales commissions for Hospice Representatives are based on admissions only, and not on any other factors (such as length of stay) that might provide inappropriate incentives to the sales team. Additionally, Hospice Representatives are prohibited from doing program presentations or obtaining consents because these activities might create the appearance that the representative is unduly influencing the patient/family's decision making.</p>

Other Compliance Risk Areas

As noted when we started this review of risks, the areas above are particular to VITAS' primary operations as a hospice provider. The risks we will review next are more general in nature. These include:

Issue	How Addressed at VITAS
Conflicts of Interest	<p>A conflict of interest is said to exist when an employee is in a situation where they are tempted to put their personal interests (or those of a close friend or family member) ahead of the company's obligations to its corporate purpose or to the public interest. Conflicts of interest are addressed in the Employee Handbook starting on page 29, and we will have a special focus on this subject shortly.</p>
Anti-Kickback	<p>The subject of kickbacks was addressed above, but to reinforce the concept, a kickback is the payment of any improper remuneration to any present or prospective customers, suppliers, contractors, or third party payors in return for or to induce payments or the referral of business to VITAS. The same concept works in reverse – it is inappropriate to accept remuneration to refer a patient to a third party.</p> <p>The OIG is especially concerned about the potential for kickbacks in arrangements between hospices and nursing homes. The following are examples of the kind of activities are prohibited:</p> <ul style="list-style-type: none"> • Offering free/below-market-value goods to induce a nursing home to refer patients to us. • Paying room and board to the nursing home in excess of what the nursing home would have received directly from Medicaid had the patient not been enrolled in hospice. • Paying above fair market value for additional non-core services not included in Medicaid's room and board. • Providing free or below-market-value care to nursing home patients receiving payment under the Medicare Skilled Nursing Facility benefit with the expectation that the patient will receive hospice services once skilled days end.

Issue	How Addressed at VITAS
	<ul style="list-style-type: none"> • Overlap in services that a nursing home provides, which results in insufficient care provided by a hospice to a nursing home resident. • Providing hospice staff/care to the nursing home to perform duties that otherwise would be performed by the nursing home. • Providing hospice services in a nursing home before a written agreement has been finalized and the other provider has been sufficiently screened.
Abuse/Neglect	<p>Abuse is defined as an act, or failure to act, on the part of a caretaker or another individual that results in death or serious physical or emotional harm. Neglect is defined as a passive form of abuse in which a perpetrator is responsible for but fails to provide adequate care to a victim who is unable to care for him- or herself.</p> <p>Every employee should know the reporting requirements in your state, including mandated reporting laws and timeframes for verbal and written reporting. Your team Social Worker or Team Manager are excellent resources for this type of information.</p> <p>Under section 1150B of the Social Security Act, employees have special reporting requirements in long term care facilities, including reporting “reasonable suspicion of a crime” as defined under local law. The severity of the suspected crime will determine the timeframe limit in which reporting must be done:</p> <ul style="list-style-type: none"> • There is a two hour limit for reporting serious bodily injury, such as sexual or physical abuse to a resident or anything that causes extreme pain or substantial risk of death. • There is a 24 hour limit for reporting other types of crimes. • Reports must be made directly to law enforcement and the state survey agency. <p>Since we work as a team, always involve your team manager, the PCA and the GM right away when you</p>

Issue	How Addressed at VITAS
	believe there to be abuse or neglect. Additional guidance on this subject can be found in the <i>VITAS Standard for Responding to Abuse, Neglect and Exploitation</i> which can be found in the Secure Content Locker and myVITAS on the clinician’s VITAS-owned devices so it is immediately accessible to field staff who might be confronting such a situation.

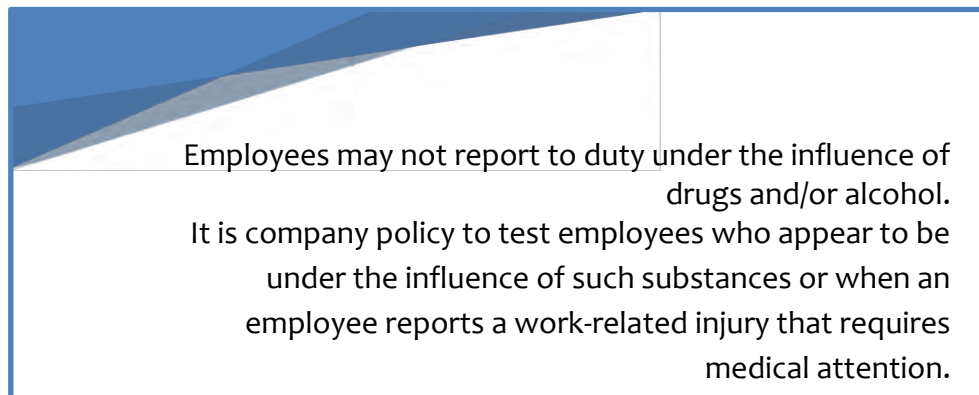
More information can be found in the *VITAS Standard for Responding to Abuse, Neglect and Exploitation*.

Issue	How Addressed at VITAS
Stark Regulation	<p>The Federal Physician Self-Referral Law, often referred to as the Stark Law, prohibits a physician from referring certain health services payable by Medicare or Medicaid to a healthcare organization in which the physician (or an immediate family member) has an ownership/investment interest or with which he or she has a compensation arrangement, unless an exception applies. It also prohibits a healthcare provider from billing for services furnished as a result of a prohibited referral.</p> <p>Hospice services are not within the list of Stark’s “designated health services.” While Stark may not currently impact the majority of VITAS’ business and operations, the Stark Law and accompanying regulations are lengthy and quite complicated. It is always best to consult with the Compliance or Legal Department if you have any questions about Stark and its applicability.</p>
OIG Annual Work Plan	In addition to its overall guidance regarding hospice, each year the OIG publishes a Work Plan which contains areas specific to hospice within which the OIG currently believes there may be vulnerabilities. VITAS monitors these activities to determine what actions are appropriate. The

Issue	How Addressed at VITAS
	<p>current OIG Work Plan has the following hospice specific areas:</p> <ul style="list-style-type: none"> • A review of hospice medical records to determine compliance with Medicare regulations. • An evaluation of the frequency of onsite nursing visits to assess the quality of care and services. • Trends in hospice deficiencies and complaints. • Medicare payments for unallowable overlapping claims made outside the Medicare Hospice Benefit. • Protecting Medicare Hospice beneficiaries from harm.

Module 3 – Drug Diversion

VITAS is committed to maintaining a safe, healthy and productive work environment for all employees. We recognize that our employees are our most valuable resource and are committed to maintaining their health and wellbeing and the wellbeing of our patients and families. VITAS developed *Policy 8:61 – Reasonable Cause Drug and Alcohol Testing* and *Policy 8:71 Drug-Free Workplace* to help achieve this expectation. VITAS expects that all employees will be free from the impairing effects of drugs or alcohol while at work to assure continuity of patient care and reduce the risk of patient harm.



Let's start by defining a "Reasonable Cause Drug Test." This is a drug or alcohol test conducted to determine an employee's fitness for duty when his/her behavior is indicative of being under the influence.

Among other things, such facts and inferences may be based on:

1. An employee is directly observed using or consuming drugs or alcohol while at work or on duty.
2. If an employee exhibits physical signs or behavior indicative of being under the influence, such as having slurred speech, difficulty focusing, difficulty staying awake, etc.
3. A report of drug or alcohol use provided by a reliable source, which has been independently corroborated.
4. Evidence that an employee has tampered with a drug or alcohol test during his/her employment with VITAS.
5. An unaccounted for or unexplained disappearance of drugs that were to be used for VITAS patients.

VITAS Policy 8:71 - *Drug-Free Workplace* requires that any employee who is involved in a work-related incident or accident must go to a designated collection site and submit to a test immediately.

Drug Diversion

Drug Diversion is the transfer of medication from a lawful to an unlawful channel of distribution or use.

Drug diversion by an employee can result in a negative impact on the quality of patient care, either because

the clinician is impaired or because the medication intended for the patient is diverted for another purpose. The most common reasons for a clinician to divert medications from their intended purpose are for personal use, financial gain through selling the medication or for use by a family member or friend.

Evidence of potential employee drug diversion may include the following:

- Information related by caregivers or staff about an employee behaving in an impaired manner.
- Medication count discrepancies.
- Override transactions on an automated dispensing unit.
- Improper entry of temporary patients on an automated dispensing unit.
- Dispensing of medications after patient discharge.
- Inaccurate accounting of wasted medications.
- Destruction of medications for patients after discharge in the homecare setting (not allowed by VITAS procedures).

If you observe or suspect a VITAS employee of drug diversion, immediately report this information to your supervisor. All medication count discrepancies are required to be documented.

It is a major rule violation for an employee to be: “Consuming, using or being under the influence of liquor, narcotics, drugs or any controlled substances on VITAS premises or while on duty or entering the premises of VITAS, any clients or patients.”

When a medication count discrepancy is identified by any employee, the primary nurse is responsible for completing a Patient, Family, Visitor Incident Report and a Medication Adverse Event Form to ensure details of the incident are documented and investigated in compliance with state and Federal regulations, as well as VITAS policies and standards.

In order to address the issue of potential employee drug diversion, VITAS has established a Drug Diversion Team (also known as DDT). This team is comprised of local program senior management, Regional Human Resources Director, assigned National Patient Care Administrator, program Vice Presidents of Operations, VP of Pharmacy Operations, Chief Nursing Officer, Chief Compliance Officer and assigned internal counsel.

All aspects of the testing process will be conducted with strict confidentiality, including collection, test results, reporting and record-keeping. Once a possible drug diversion incident has been investigated, a determination will be made on the appropriate action that should be taken.

To summarize:

- VITAS expects that all employees will be free from drugs and alcohol while at work.
- Reasonable cause drug testing will be conducted when an employee demonstrates behaviors indicative of being under the influence, such as slurred speech and difficulty focusing or staying awake.
- Drug diversion, which is the unlawful removal of a drug from its lawful intended recipient for personal use is illegal, unethical and negatively impacts patient care.
- Medication count discrepancies will be documented and investigated.
- If you suspect or observe drug diversion, immediately contact your supervisor.
- The VITAS Drug Diversion Team was created to address potential employee drug diversion.

At VITAS, the safety and wellbeing of our patients, families and employees is a top priority.

Module 4 – Focus on: HIPAA

HIPAA stands for Health Insurance Portability and Accountability Act (HIPAA). The Office of Civil Rights enforces the HIPAA Rules outlined below. Healthcare providers, known as ‘covered entities’ under HIPAA, are required to comply with the following:

- **Privacy Rule** protects the privacy of individually identifiable health information.
- **Security Rule** sets national standards for the security of electronic protected health information.
- **Breach Notification Rule** requires covered entities and business associates to provide notification following a breach of unsecured protected health information.

HIPAA Rules require providers to manage risks related to a patient’s protected health information (PHI) through physical and technical safeguards. VITAS HIPAA Privacy Officer (Bob Miller) and HIPAA Security Officer (Richard LaBella), together oversee VITAS’ compliance with various aspects of HIPAA rules.

The Security Officer conducts an annual HIPAA Risk Assessment to assure that electronic PHI is secured in VITAS’ technology systems. Physical security is managed chiefly through policies and procedures at the program level. Access to patient charts is controlled in each program so that only those with a need to know are permitted access. Inpatient units ensure that patient names are not visible to visitors. Programs conduct an annual review of HIPAA physical security processes to ensure appropriate adherence to best practices.

Ways PHI is Communicated	How to Minimize Risk
<p>Verbally: Face-to-face conversations, talking over the phone, leaving information on answering machines, playing a voicemail on a speaker phone</p>	<ul style="list-style-type: none"> • Be aware of who might be within earshot, especially when in a public place • Verify the identity of the person to whom you are speaking • Do not leave PHI on an answering machine
<p>Written: Vx reports, case sheets, documentation, photocopies of medical records</p>	<ul style="list-style-type: none"> • Shred documents containing PHI as soon as you no longer need them • Keep a clean desk so that PHI is not visible to those passing by who may not have a need to know about the patient information on your desk • If you work in the field and must leave paper documentation in your automobile for a short

	<p>period of time, put it somewhere not visible such as the trunk</p> <ul style="list-style-type: none"> • If you see patient information discarded in the trash (rather than in a locked shredder bin), immediately report this to your supervisor
<p>Electronically: Texting, faxing, sending an email with patient information outside of VITAS</p>	<ul style="list-style-type: none"> • All VITAS-owned devices (computers, hand-held devices) are password protected and encrypted • Always use a fax cover sheet with the confidentiality clause and confirm the accuracy of the fax number • Never text a patient's name • Always use the encryption process if you must send PHI via email to someone outside the company's systems

Secure Email Encryption Required

YOU MUST USE THIS EMAIL ENCRYPTION PROCEDURE WHEN SENDING PHI OR SENSITIVE DATA TO NON-VITAS/EXTERNAL/3RD PARTIES.

1. Open a new email message in Outlook and enter the appropriate recipients, as usual.
2. In the **Subject** line, type the following:

Encrypt:

3. Leave at least one space after the colon and before you type the relevant subject descriptor. For example:

Encrypt: Request for Medical Records

Your message header will look similar to this:

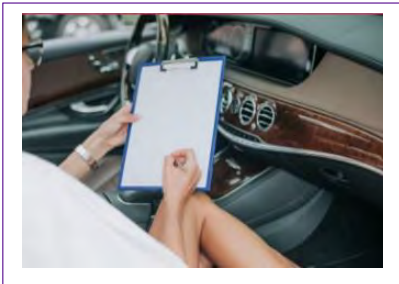
The screenshot shows an Outlook email header. On the left is a 'Send' button. To its right are three fields: 'To...' containing 'denisesleem@comcast.net', 'Cc...' which is empty, and 'Subject:' containing 'Encrypt: Request for Medical Records'.

4. Enter the information for the body of the email, as usual, and click the **[Send]** button to send.

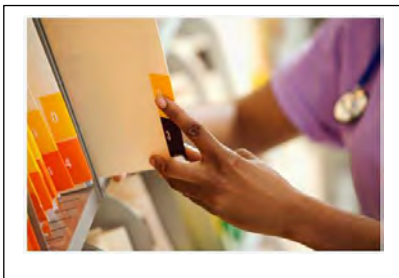
Breach Notification Obligations

What should you do if you think a breach has occurred? Notify your supervisor immediately if you believe there has been a breach of PHI or other patient identifying information that could result in identify theft. As required by the Department of Health and Human Services, if a breach has occurred, the provider must notify the affected individuals promptly.

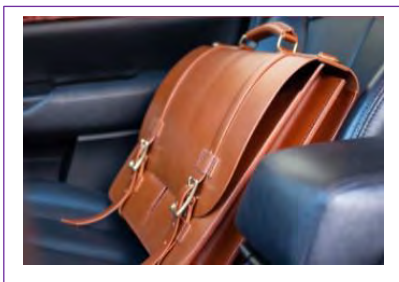
Examples: Here are examples of situations that triggered the requirement to provide notification to a patient that their information was disclosed.



Issue: An employee drove away while a clipboard containing face sheets for patients was on the roof of the car. The clipboard was not recovered. The employee was counseled and we provided notice to the affected families both by telephone and in writing. Because the information disclosed also included the patient's date of birth, there was a potential for identity theft so an offer of credit monitoring was extended to these families. A reminder training was conducted with all field staff in the program.



Issue: Medical records were requested by a QIO because the patient was appealing a decision to discharge the patient with an extended prognosis. Due to a clerical error, the wrong patient's records were inadvertently sent to the QIO. The employees involved were counseled, and notice was provided to the patient. All program staff involved in the appeal process were re-educated on best practices.



Issue: An employee had case sheets and visit documentation inside of a briefcase on the front seat of her car while she went into the grocery store. She came out to find her window smashed and the briefcase stolen. Presumably the thief was after money or a computer or something else of value that might be in the briefcase, but the patients involved had to be notified and the employee was disciplined for not following VITAS standards for protecting patient information. Plus, this occurred in a state with extra notification requirements, and this resulted in a department of health survey and investigation.

- See the next section for suggestions about how to minimize risk and avoid such situations.

The *HIPAA Breach Notification Policy 11:15* and the *VITAS Management Standard Protecting Patient Privacy* outline these principles and the process for determining whether a breach has occurred and the required notification process.

Protecting Paper Patient Records: Think about all the patient information you handle on any given day in your role at VITAS. As VITAS employees, we are each obligated to protect this information. We care for patients in the most vulnerable moments of their lives. As patient advocates, we want to eliminate the potential for the unintentional disclosure of protected health information or any information that might lead to identity theft.

A key concept related to this is called the **Minimum Necessary Standard**, and what it means is that one only accesses or retains the minimum amount of information necessary in order to perform their role. In this segment, we will focus on the risks associated with your need to have paper PHI with you so that you can do your job.

Only carry the amount of PHI with you that you need to perform your job responsibilities!

The most important thing you can do to protect your patient’s privacy is to think about it – to be conscientious about how much information you have with you, which kind of information it is and how to protect it from loss or theft.

- How much information do you carry with you at any given time? Are you carrying around case sheets from inactive patients or census sheets you took from team meeting that you don’t really need? If so, you’re putting that information needlessly at risk for loss or theft. You should only carry the minimum necessary amount of PHI needed to perform your job duties.
- Every time you leave your car throughout the workday, think to yourself, “What’s the best way for me to handle the information I have with me? You should:

- Keep the documents in a briefcase or folder so that they cannot be casually seen.
- Keep the briefcase or folder near you in the patient's home where it cannot be viewed by third parties.
- If you feel that a particular patient's home poses an unusual risk, you should only leave PHI stored out of sight in a locked vehicle for a short period of time if, in your best judgement, doing so poses less risk of loss or theft than carrying it into the patient's home.
- What about when you get home at the end of the day? The same thought process applies. If you have PHI from the workday with you, you should:
 - Keep the documents in a briefcase or folder so that they cannot be casually seen.
 - Keep the brief case or folder in a safe place in your home where it cannot be viewed by third parties.
 - Given the high incidence of car thefts, PHI should not be left in the car overnight except in the extremely rare circumstance that the conditions in your home pose a greater risk than leaving the PHI in your car. For example, in a situation where you would leave other valuables (such as your wallet) in the car instead of bringing them into your home. Please discuss it with your supervisor if this is the case.
- Choose wisely among the options available to you – remember, your patients are depending on you to protect their privacy.

Texting of Patient Information Among Healthcare Providers: The CMS Survey and Certification group recently published a memorandum (S&C 18-10) that provides guidance about texting patient information and physician orders among the healthcare team. Consistent with VITAS' policies and procedures, the memo indicates that texting patient information among members of the health care team is only permissible if accomplished through a secure platform. VITAS does not currently provide such a platform, but does provide other secure methods to facilitate team communication, including encrypted email and password-protected VITAS-owned iPhones distributed to clinicians.

Texting of patient orders is prohibited regardless of the platform utilized. The memo states that Computerized Provider Order Entry (CPOE) is the preferred method of order entry by a provider. VITAS' vMOR system, which allows nurses to document a physician's order and the physician to approve such orders on secure VITAS-owned devices, is such a CPOE system.

VITAS Privacy Guidelines: Following these guidelines will put you in the best possible position to protect the patient information entrusted to you to do your job. Thank you for being patient advocates!

- Do not remove PHI from the VITAS office or IPU unless necessary to provide care in the field.
- When PHI is removed from a VITAS office or IPU, you should only take the minimum amount of PHI necessary to provide care.
- The PHI must be kept in a secure envelope, folder or binder and in a place where it may not be read by unauthorized persons.
- Never leave paper PHI or an electronic device containing PHI in the car overnight or for any other significant length of time. If you absolutely must leave PHI or an electronic device containing PHI in a vehicle for a short period of time in between team meeting or visits to the office, the vehicle must be locked and the materials kept out of sight (e.g., in the trunk if possible).
- Copies of records containing PHI shall be shredded or placed in a secure shred bin when they are no longer needed to provide care for the patient.
- Never remove electronic PHI from the office (such as a laptop containing PHI or a USB “flash” drive) unless the PHI stored on such device is encrypted.
- If you must take PHI to your home, the PHI should be kept in a secure place at all times and not left accessible to unauthorized individuals.

**VITAS HIPAA Policies
are in Section 11 of
the VITAS Policy
Manual and the VITAS
Management
Standard Protecting
Patient Privacy**

Social Media: In a related subject, as a reminder, our company implemented a policy about social media (*Policy 8:96 Social Media/Networking Policy*) in order to protect itself from unauthorized disclosures of confidential company business information. All employees should be cautious about using social media/networking sites. Here are few things to keep in mind:

- Employees are not authorized to speak on behalf of the company.



- Employees may not publically discuss or disseminate any company business information using any form of social media.
- Employees are not to use the company's equipment to conduct personal blogging or social networking activities.
- Employees may not state that the views expressed by them are the views of VITAS or any of its partners.
- Employees may not post any identifying information about patients or families on social media sites.

It is important to remember that violations of the policy may result in corrective action, up to an immediate termination.

Communication

Now that you've learned about VITAS' Compliance and Ethics Program, the Code of Ethical and Legal Conduct, the compliance risk areas most likely to arise in hospice, Conflicts of Interest, VITAS' HIPAA policies, and the other subjects covered in this training, we ask you to help us stay compliant. If you identify a compliance or ethics issues, talk to your manager, your PCA, your GM or your VP of Operations.



If that is not possible, or if you simply prefer to talk to someone outside your program, you can communicate directly with the VITAS Compliance Officer at:

VITAS Compliance Hotline 1-800-638-4827.

The VITAS Compliance Hotline gives employees an avenue to report potential compliance or ethics concerns if they do not feel comfortable speaking to their manager or someone else in a leadership role in the program.

There are two important things you should know about the VITAS Compliance Hotline and Compliance Investigation Process:



- VITAS has made provisions to ensure that such reports can be made anonymously if you prefer.
- Also, we want you to know that VITAS commits to a non-retaliation policy, meaning that individuals who report a compliance or ethics concern in good faith or who participate in a compliance investigation, will not be retaliated against. We WANT to hear from you if you have a concern.

VITAS has a non-retaliation policy, which means that retaliation will not be tolerated against anyone who reports a compliance or ethics concern in good faith.

Concerns addressing routine workplace matters may be referred to the Human Resources Department. If an investigation confirms the existence of a compliance issue, appropriate personnel will work closely with corporate and program managers to resolve the issue and take any necessary corrective or remedial measures.