From the topics covered in Weeks 3-4, select one law related to financial management in health care organizations. We discussed such laws as False Claims Act, Stark Law etc. Include a cover page and a list of references at the end of the paper in APA Format. Paper will be double spaced and be 4-5 pages in 12 point New Times Roman font.

Outline: Must use the underlined headings from the outline below in your paper and the paper must be in narrative form not outline or bullet format. 5% penalty deducted from paper if underlined headings not used in your paper.

1. Name of the Law and or laws:

State the official title of the federal and/or state law, the statute and section number. Must be either a federal staute or state statute and you must cite both if applicable. Thus if there is both a federal and state law that covers your subject picked then you must cite both. Do not assume that there is just a federal and or state law. In most cases there is both a federal and state law. You must use the laws cited in this section throughout the rest of the paper.

2. Management's Financial Responsibilities:

What are the health care organization's responsibilities under this financial management statute you stated above? Provide a comprehensive discussion of three (3) specific responsibilities under the financial management statute. State specifically after each responsibility where this responsibility is stated in the federal or state law. Describe the appropriate behavior and expectation. Include the citations and source of documents describing the organization's responsibilities.

3. Consequences for Ethical or Legal Breach:

Discuss in general the civil and criminal consequences from the law. Then identify from the news, three (3) specific case examples of health care organizations or health care providers found guilty of a legal or ethical breach relative to the law you have cited in first part of paper. Identify the specific legal and/or ethical breach and the penalties assessed to the health service organizations and/or individuals found guilty of violating the law or ethics [provide citation of law]. At the end of each case, discuss in detail whether you agree or not with the decision and why. Bring in the facts of the case to support your comments. Students should use a minimum of three (3) documented specific examples retrieved from the print media.

4. HCO Management's remedial steps to reverse the non-compliance organizations:

Describe in detail three (3) specific management actions or remedial steps you would take to ensure the financial management in the health care organization meets or exceeds the federal law or state law relative to the requirements of the law you cited above. Discuss specifically how each of the three management actions specifically meets or exceeds the specific federal or state law you cited. Note: These actions may include specific uses of technology, procedures, human resource training, and other management tools. However these action steps must be within the control of a manager.

5. Conclusion: Summary your findings above.

6. Reference List [APA Format]

The paper must be:

- Late penalties: See Course Syllabus.
- Be sure and use the underlined headings found in the outline below in your paper. Paper must be in narrative format not outline or bullets.
- Double spaced and be 4-5 pages in 12 point New Times Roman font.
- Include a cover page [not counted as a page] which should have student name and title of your paper [Provide a short name for the legal responsibility the specific health care organization has for one type of patient right in a specific setting]
- At the end of the paper a list of references in APA Format [not counted as a page]

Governance and Fraud in Health Care Organizations: Legal and Ethical Responsibilities False Claims Act in Healthcare

False Claims Act

Name of the Law

The Federal and State False Claims Act (FCA), 31 U.S.C. §§ 3729 – 3733 is a Federal and State Law enacted in 1863 by the U.S. Congress. The FCA has been independently enacted by 31 American states including Arkansas, Hawaii, California, Connecticut, Michigan, Illinois, Indiana, Maryland, Colorado, Georgia, Oklahoma, Texas, and North Carolina.

Management's Financial Responsibilities

Kickbacks: The management has the financial responsibility of ensuring ethical practice in patient referrals, and they are prohibited by the Act from soliciting payment or receiving money or property or remuneration as a reward for patient referrals. According to the Federal Anti-Kickback statute 42 U.S.C. § 1328-7b(b) of the Federal False Claims act, healthcare managers are prohibited from offering payment or solicitation or receipt of money, property or remuneration as a reward for patient referrals or the referral of health care services that are payable by a Federal health care program. The healthcare managers should act diligently in ensuring that the referrals made or accepted from other healthcare institutions are just and ethical as provided by the FCA. The healthcare managers are responsible for the kickbacks performed by their institution for improved Federal financing of healthcare packages like Medicare and Medicaid that help in the facilitation of equitable and quality health care for all.

Improper Financial Motive/Interest: According to the Federal Stark Law, 42 U.S.C. § 1395nn and 1396b, physicians within the healthcare system are prohibited from investment interests and the establishment of compensation arrangements in collaboration with health provision entities through patient referrals or payment of goods/services that are payable by Medicare or Medicaid. Patient referrals and goods/services should be evaluated frequently and scrutinized by healthcare managers to enhance accountability. They should ensure that the physicians or any other healthcare personnel do not interfere with the patient referrals or payment of goods or services to ensure that the Federal Medicare and Medicaid programs are protected from exploitation.

Verification of Pharmaceutical Supplies: The healthcare management has an obligation of presenting certified bills without alterations for payment by the government healthcare programs. All services listed for payment must be approved as medically necessary and as actual events. The managers are held by the government contract and therefore should not falsify the certification of these procurement processes. According to the FCA § 3729(b) (1), any claim to the government requires adequate knowledge requirements without reckless distortion or falsification of information. Healthcare managers are expected to undertake strict supervision and assessment of all procurement procedures to avoid falsification of information that is punishable by the Federal and State FCA (Legal Information Institute, 2017).

Consequences for Ethical or Legal Breach

In the case involving a whistleblower and eClinicalWorks (ECW), which is a vendor of electronic health records, the latter was ordered to pay a settlement of $155 million by the Department of Justice for violation of the False Claims Act and the Anti-Kickback Statute (McGovern, 2017, p1) This was a record recovery of state funds in Vermont. According to the FAC, the healthcare service providers have the responsibility of ethical procedures in government contracts, especially on the provision of information about their products. This case followed the violation of the Health Information Technology for Economic and Clinical Health Act of 2009 that dictates the necessity for technology vendors to adhere to standard product requirements for endorsement by the Department of Health and Human Services. ECW was accused of presenting false information about its products that did not meet the required criteria. The ECW software packages were below criteria, and the company was accused of violating the False Claims Act in its bid of seeking payment for the incentives. ECW agreed to settle the amount and signed a 5-year Corporate Integrity Agreement (CIA) as a commitment to quality assurance for the end-users of their software (McGovern, 2017, p1). I agree with this move made by the Justice Department as it acted as a caution for other health care vendors to be wary of the consequences of the lack of adherence to set standards of products and services. It also acted as a promoter of quality control in the health care sector for improved products and ethical practices for effective government healthcare expenditure, and accountability.

SmithKline Beecham Clinical Laboratories, Inc. was forced to pay $334 million to the government for defrauding Medicare, Medicaid, as well as other government related insurance programs on healthcare in the 1990s. The case was reported by a former employee of SmithKline's National Billing System, Robert Melena. The case also enjoined two relators, Marc Raspanti and D. Ric Laigaie. The company had violated the False Claims Act through the use of a corrupt national billing system that led to fraudulent transactions. However, I disagree with the ruling as the amount is quite huge and there is the visible personal interest of the three whistleblowers as they seem to be pushing for the 15% compensation provided for by the False Claims Act. Mr. Merena's commitment in cooperation and suit proceedings presents questionable interests. This case proved the efficacy of the FCA at the state level and impacted greatly on the healthcare insurance billing (False Claims Act Resource Center, 2017, p1).

In 2014, Shire Pharmaceuticals, LLC agreed to pay a settlement of $56.5 million as a resolution for its drug marketing and promotion practices. The organization was accused of marketing attention deficit hyperactivity disorder (ADHD) drugs, Adderall XR, with misinformation about the drug's ability to improve academic performance, prevent loss of employment, crime, traffic accidents, and sexually transmitted diseases. The suit was filed by a former Shire executive and three former sales representative, who received a compensation of $5.9 million each. The settlement agreement was fair due to the continued practice of unethical marketing practices by the organization from 2004 to 2007 (False Claims Act – Whistleblowers Blog, 2014 p1). The complainants had direct interaction with the company's marketing strategies, and they were providing helpful information for public protection against fraud in drug quality. The company had the obligation of providing the right information in the advertisement, in accordance with the False Claims Act.

HCO Management's Remedial Steps to Reverse the Non-Compliant Organizations

HCO management can establish standard procurement practices or guidelines to help in improvement of ethical practice in incentive procurement. The False Claims Act provides for integrity measures in government processes, especially the payment procedures in government contracts. Each of the HBO managers should be able to enhance adherence to FCA regulations for effective relationships with the government in terms of contracts.

HCO managers should also establish effective human resource training systems and implement high performance and integrity standards within their organizations. Strict adherence to organizational policies by the employees is likely to improve performance, integrity, responsibility, and accountability in financial management. FCA establishes strict quality control and integrity measures that promote cohesion amongst healthcare managers. In the three suits highlighted in the previous section, it is evident that some employees hold high integrity qualities and are ready to fight against dishonesty and misinformation of their employers for the better good of the population. The managers should lead by example in integrity, and human resource

managers should be able to enroll high-integrity employees.

HCO managers can also use technology as a measure of tracking procurement procedures for enhanced employee monitoring. Technology is effective in monitoring as it can track the procedures to individual and hence the managers can be able to act swiftly before the organization is punished wholesomely. The FCA provides strict standards for technology and software incentives, and therefore the HBO management can be able to establish high-quality technology as a standard quality control and integrity evaluation procedure for improved communication. Communication plays vital role in the healthcare system, and HBO managers should embrace technology for convenient and reliable communication, and close employee monitoring.

Conclusion

The Federal and State False Claims Act (FCA), 31 U.S.C. §§ 3729 – 3733 facilitates healthcare management and acts as a government fund monitor. The standards and guidelines provided for by the Act present a convenient ground for healthcare management streamlining for improved service delivery to the people. Government funds come from the taxpayers, and therefore, taxpayers have to receive high-quality goods and services without compromise. In all the cases of The Shire, SmithKline, and eClinicalWorks, the FCA has proven effective, but the suits take long enough before proof and compensation. Healthcare managers should embrace the Federal and State Act for enforcement of integrity, accountability, and responsibility, especially in healthcare procurement. There is a need for close monitoring of government insurance and health programs for quality and ethical service delivery to the populations.

References

False Claims Act: Whistleblowers Blog. (2014). Shire Pharmaceuticals, LLC agrees to pay $56.5 million to resolve false claims act allegations regarding drug promotion practices. Pietragallo Gordon Alfano Bosick & Raspanti, LLP. Retrieved from http://www.fraudwhistleblowersblog.com/federal-false-claims-act/shire-pharmaceuticals-llc-agrees-to-pay-56-5-million-to-resolve-false-claims-act-allegations-regarding-drug-promotion-practices/

False Claims Act Resource Center. (2017). SmithKline Beecham Clinical Laboratories, Inc. pays $334 million in a historic settlement. Pietragallo Gordon Alfano Bosick & Raspanti, LLP. Retrieved from http://www.falseclaimsact.com/case/smithkline-beecham-clinical-laboratories-inc-pays-334-million-in-a-historic-settlement

Legal Information Institute (2017). 31 U.S. Code 3729 – False Claims Act. Legal Information Institute.

McGovern, B. (2017). $155 Million settlement of alleged false claims act violations underscores False Claims Act risks to health care vendors as well as providers. Cadwalader Wickersham & Taft LLP. Retrieved from http://www.lexology.com/library/detail.aspx?g=693aeddc-4bc4-49b3-97a9-e29356f8e19c