



# Ensuring Compliance in a Post-COVID World

Montana Hospital Association  
Compliance & Risk Management Conference

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Presented by:  
**PYA and Hall-Render**

## COVID-19 Now . . . and Later

- ✓ The New Normal
- ✓ Fraud, Waste, and Abuse
- ✓ Waivers and Exceptions
- ✓ Regulatory Enforcement
- ✓ Emergency Preparedness
- ✓ Telehealth
- ✓ Funding
- ✓ Coding and Billing Confusion
- ✓ Nursing Facilities
- ✓ Information Governance
- ✓ Data Privacy, Protection, and Security
- ✓ Competition and Antitrust
- ✓ Returning to Work

Clients in ALL  
 **50**  
STATES

Consistently ranked  
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HEALTHCARE CONSULTING  
firm in the U.S.  
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**INSIDE**  
PUBLIC ACCOUNTING  
**TOP 100**  
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2019

O V E R  
**1200**  
Healthcare  
valuation opinions  
rendered annually

**TOP 15** **LARGEST**  
**AUDITOR**  
of AHA's Top U.S. Multi-Hospital Systems  
- Ames Research Group

**4,932**  
Number of healthcare projects  
during 2018

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## Firm Overview

As the nation's largest health care-focused law firm, Hall Render is distinguished by our attorneys' extensive knowledge and experience.

Our health law attorneys provide the nation's best health systems, hospitals, physician organizations and other health care industry partners with legal and strategic counsel on all aspects of health care regulatory, business, compliance and operational matters.

Commitment and experience complement our genuine understanding of the evolving landscape of today's health care industry. Simply stated, **our attorneys know your business.**



# The New Normal

- Compliance is now fully engaged in managing the day-to-day COVID-19 firefighting.
- Compliance teams need to quickly pivot and consider the risks and challenges created by these rapid and radical changes.
- It is imperative for Compliance to perform a risk assessment in order to quickly understand the new circumstances and address the risks.
- Compliance must manage the changing risks through expedited actions:
  - Seeking relief from regulators
  - Updating policies and internal controls
  - Properly escalating issues
- Pull together teams and relevant information for informed conversations about new and emerging risks.

Relief Funding

Top Fraud Schemes

Free COVID-19  
Testing

Whistleblowers

# Waivers and Exceptions

- “1135 Waiver” is authorized by section 1135 of the SSA; allows CMS to waive certain requirements during national emergencies
- Over 130 blanket waivers
  - Examples:
    - CAH bed count and LOS – waiving 25 bed count; 96-hour length of stay
    - Swing Bed – eliminates the requirement of a prior 3-day inpatient stay
    - EMTALA – may direct patients to off-site locations for screening
    - Telehealth – expanded benefit, not just rural
      - Physicians licensed in on state can provide services to patient in another state
      - Allow setting to include patient’s home
      - HIPAA sanctions/penalties waived with privacy provision

# Regulatory Enforcement

- Enforcement will not ease.
- Organizations are still expected to closely monitor, adapt, and test their own compliance programs.
- Regulators will evaluate how effectively an organization is using internal data to evaluate and improve compliance programs, policies, and training.
- Investment in the compliance function will be assessed as part of an organization's commitment to prevent, detect and remediate fraudulent conduct.
- Regulators will also likely consider a program's efficacy by examining the factors that went into how the organization designed the compliance program to prevent, detect and remediate misconduct.



# Emergency Preparedness

- Resource Allocation
  - Staffing – reallocation, furloughs, training for new processes, etc.
  - Equipment – ventilators, laboratory equipment, cleaning/disinfection, air handling
  - Supplies – testing, PPE, disposables
- Ethics Policy and Procedure
- Contact Tracing
- Tabletop Exercises
- Travel and Visitation
- Business Continuity
- Employee Safety

# Telehealth

- Expanded List of Approved Telehealth Services
- Technology Requirements
- Eligible Providers
- Billing and Reimbursement
- RHCs and FQHCs
- Medicare Coverage for Communication Technology-Based Services

# Funding

- Paycheck Protection Program
- Medicare Accelerated and Advance Payments
- CARES Act Provider Relief Fund
- FEMA Assistance

# Coding and Billing Confusion

- Revisions to codes for laboratory testing
- Add-on payment to DRG rates (maybe)
- Use of –CS modifier
- Reporting patient homes as alternative sites
- New condition codes for emergency authorizations
  - Effective February 2021

# Nursing Facilities

- Incident Command
- Staffing Shortages
- Employee and Resident Safety
- Resident Care – Physical and Mental Health
- Screening
- Privacy
- Transport
- PPE adequacy and supply chain
- Vaccinations

# Information Governance

- Regulatory compliance will not become any less of a challenge for companies in a post-COVID world.
- Regulators have reported that implementation or enforcement of regulations, codes, or laws will not be delayed due to the pandemic.
- Information governance becomes more urgent than ever before for organizations due to proliferation of remote workforces.
- Fundamental information governance technologies:
  - A centralized digital repository for warehousing data and controlling and auditing access to it, as well as to other mission-critical documents or material
  - Preventative measures to thwart “shadow IT” and the increased risk for the organization
  - Focus on privacy, confidentiality, and information security

# Data Privacy, Protection and Security

- Privacy and personal information considerations:
  - Review existing privacy policies to ensure the policies cover the disclosure of PII to governmental agencies for requested emergency purposes, including public health.
  - Consider what information an organization disclose if employees or customers have tested COVID-19 positive.
- Data protection and cybersecurity considerations:
  - With most employees working from home, there are increased cybersecurity issues or risks.
  - Consider infrastructure support, remote access requirements and policies, training, and auditing.
- COVID-19 has opened a gate to hackers using the current circumstance for nefarious purposes.
  - Send regular security reminders to all employees and other relevant personal to be vigilant against potential cyber-scams, phishing and attack.

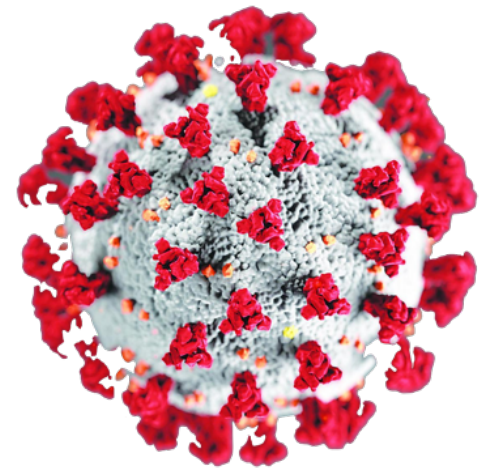
# Competition and Anti-Trust

- Business must continue to be conducted during the pandemic and new ways of doing business in the “new normal” has introduced significant challenges.
- Healthcare concerns are communicated more regularly, both directly and indirectly, in the effort to treat patients, test drug therapies, develop treatment regimes, conduct research to find a vaccine, etc.
- Issues
  - Sharing information while avoiding exchange of “competitively sensitive information”
  - Merger issues
  - Furloughed employees seeking employment with competing organizations



# Returning to Work

- Once lockdowns lift around the country, compliance teams must tailor preventative measures for the organization to:
  - Reduce risks for employees returning to the workplace; and
  - Respond rapidly and effectively if an infection occurs.
- As organizations develop plans for the return of staff, compliance teams need to help determine the arrangements ensure that necessary health and safety standards are met while ensuring compliance with regulations.
- CDC and state and local health departments have guidance on the issues to consider for that strategy of returning staff to the workplace.



# PYA COVID-19 Educational Resources

## ARTICLES

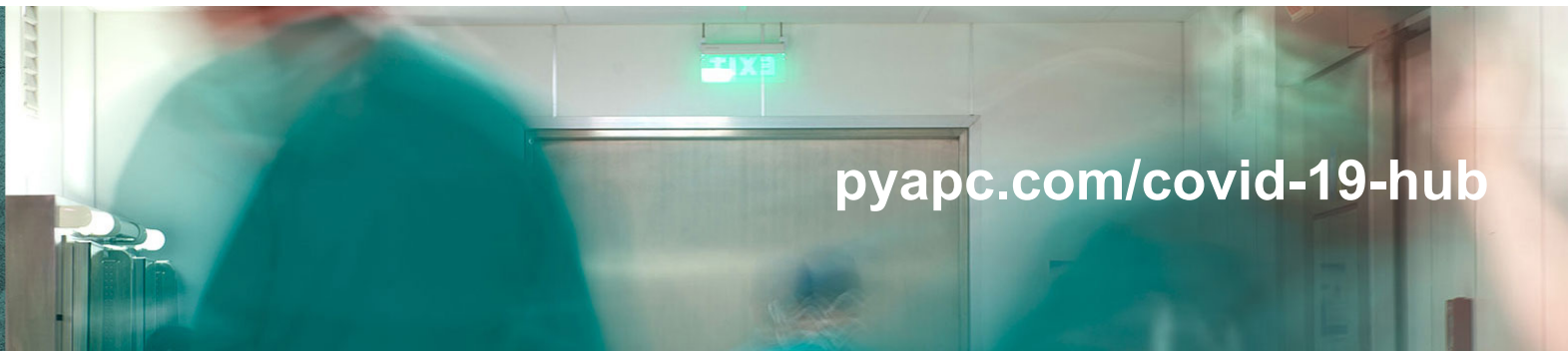
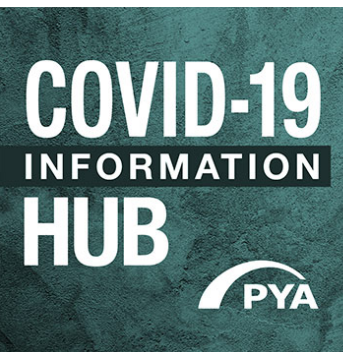


- [The Compliance Officer's Role in the COVID-19 Pandemic: A Checklist of Compliance Considerations for Healthcare Providers](#)
- [Systemic Noncompliance — It's Not Just About Breaches Anymore](#)
- [Provider Relief Fund Reporting and Audit Requirements Considerations Infographic](#)
- [PRF Update: HHS Revises Definition of "Lost Revenue," Clarifies Definition of "Reporting Entity," and Expands Phase III Eligibility](#)
- [COVID-19 Relief Funding, Loan Sources, And Obligations Breakdown](#)

## WEBINARS



- [On-Demand Webinar: "Cybersecurity During COVID-19: A Look Behind the Scenes"](#)
- [On-Demand Webinar: "Compliance With New Provider Relief Funds Reporting Requirements"](#)





# Questions?

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# Thank you!

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