

# Compliance Is Not a Policy Manual, It's a Process



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# Objectives

- ▶ Learn the history of compliance
- ▶ Learn the elements required by OIG to have an effective Compliance Program
- ▶ Understand how these elements play a key role in the success of your Compliance Program
- ▶ Share case studies of non-compliance
- ▶ Learn best practice auditing & monitoring
- ▶ Learn why mapping policies is extremely important to the sustainability of your medical practice or organization

# Evolution of Compliance

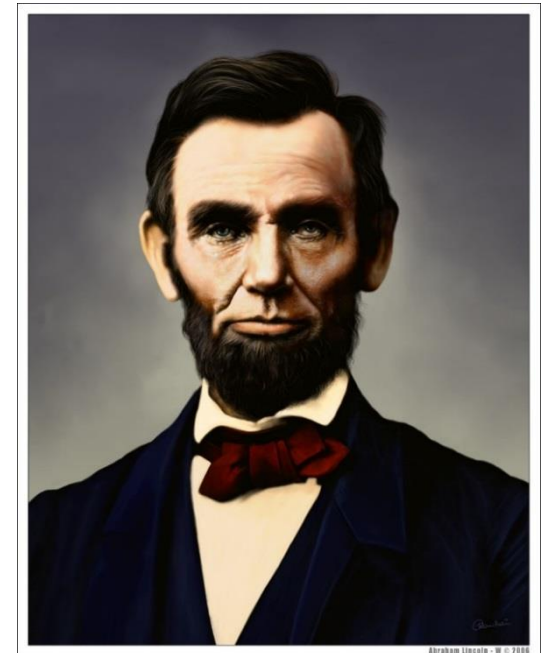
- ▶ 1972 Anti-Kickback Statute
- ▶ 1991 Federal Sentencing Guidelines
- ▶ 1996 Health Information Portability & Accountability Act
- ▶ 1998-2009 Voluntary OIG Compliance Program Guidance
- ▶ 2009 HITECH Act signed into law on Feb. 17, 2009, as part of the American Recovery and Reinvestment Act of 2009 (ARRA) economic stimulus bill
- ▶ 2010 PPACA (aka: Affordable Care Act) Requires Compliance Programs
- ▶ 2013 HIPAA Omnibus Rule

# False Claims Act

The False Claims Act was enacted on March 2, 1863, at President Lincoln's request. The purpose of the False Claims Act was to "aid in the effort to root out fraud against the government . . . (and) to encourage private individuals who are aware of fraud being perpetrated against the Government to bring such information forward."

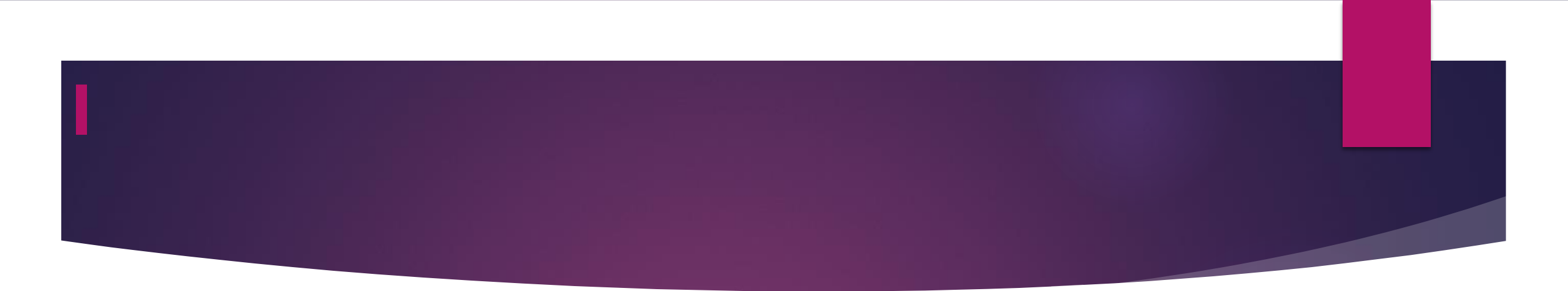
Honest Abe

He really couldn't tell a lie.....



# OIG Compliance Program Guidelines

1. Conducting internal monitoring and auditing
2. Implementing compliance and practice standards
3. Designating a Compliance Officer or contact
4. Conducting appropriate training and education

- 
5. Responding appropriately to detected offenses and developing corrective action
  6. Developing open lines of communication
  7. Enforcing disciplinary standards through well publicized guidelines

# Our Government Takes Non-Compliance with Federal Regulations Seriously

## Key Agencies in Healthcare Compliance

- Department of Health & Human Services (HHS)
- Office for Civil Rights (OCR)
- Office of Inspector General (OIG)
- Department of Justice (DOJ)

All can come knocking on your door at any time.....

# Compliance Enforcers -HEAT

- ▶ In May 2009, DOJ and HHS announced the creation of the Health Care Fraud Prevention and Enforcement Action Team (HEAT)

## **Mission**

- ▶ To gather resources across government to help prevent waste, fraud and abuse in the Medicare and Medicaid programs.
- ▶ To reduce skyrocketing health care costs and improve the quality of care by ridding the system of perpetrators
- ▶ Highlight best practices
- ▶ Build upon partnership with DOJ
- ▶ State of the art technology and improved data sharing and analytics.



# Compliance Enforcers -Occupational Safety & Health Association (OSHA)

- ▶ As part of the United States Department of Labor, OSHA is the federal agency charged with ensuring employee safety and healthful environments in the workplace.
- ▶ Common standards applying to the medical office include:
- ▶ Bloodborne Pathogens Standard ( Universal precautions)
- ▶ Hazard Communication (MSDS)
- ▶ Ionizing Radiation (limiting exposure, protective gear, radiation monitors)
- ▶ General Emergency Action Plan
- ▶ OSHA Poster
- ▶ Electrical safety
- ▶ Exit routes
- ▶ Reporting Occupational Injuries and Illnesses

# Compliance Enforcers -Clinical Laboratory Improvement Amendments (CLIA)

- ▶ Ensures the accuracy and reliability of laboratory testing
- ▶ All facilities performing at least one lab test are required to have a CLIA Certificate
- ▶ CLIA regulations apply to laboratory testing in all settings including commercial, hospital and physician office laboratories
- ▶ CLIA Waived Test
- ▶ Provider-Performed Microscopy (PPM)
- ▶ Moderate Complexity Tests
- ▶ High Complexity Tests

**Not Clinical Trials or Research**

# Compliance Enforcers -Unified Program Integrity Contractor (UPIIC)



- ▶ Zone Program Integrity Contractors (ZPICs)
- ▶ Program Safeguard Contractors (PSCs)
- ▶ Medicare-Medicaid Data Match (Medi-Medi) programs
- ▶ Medicaid Integrity Contractors (MICs)

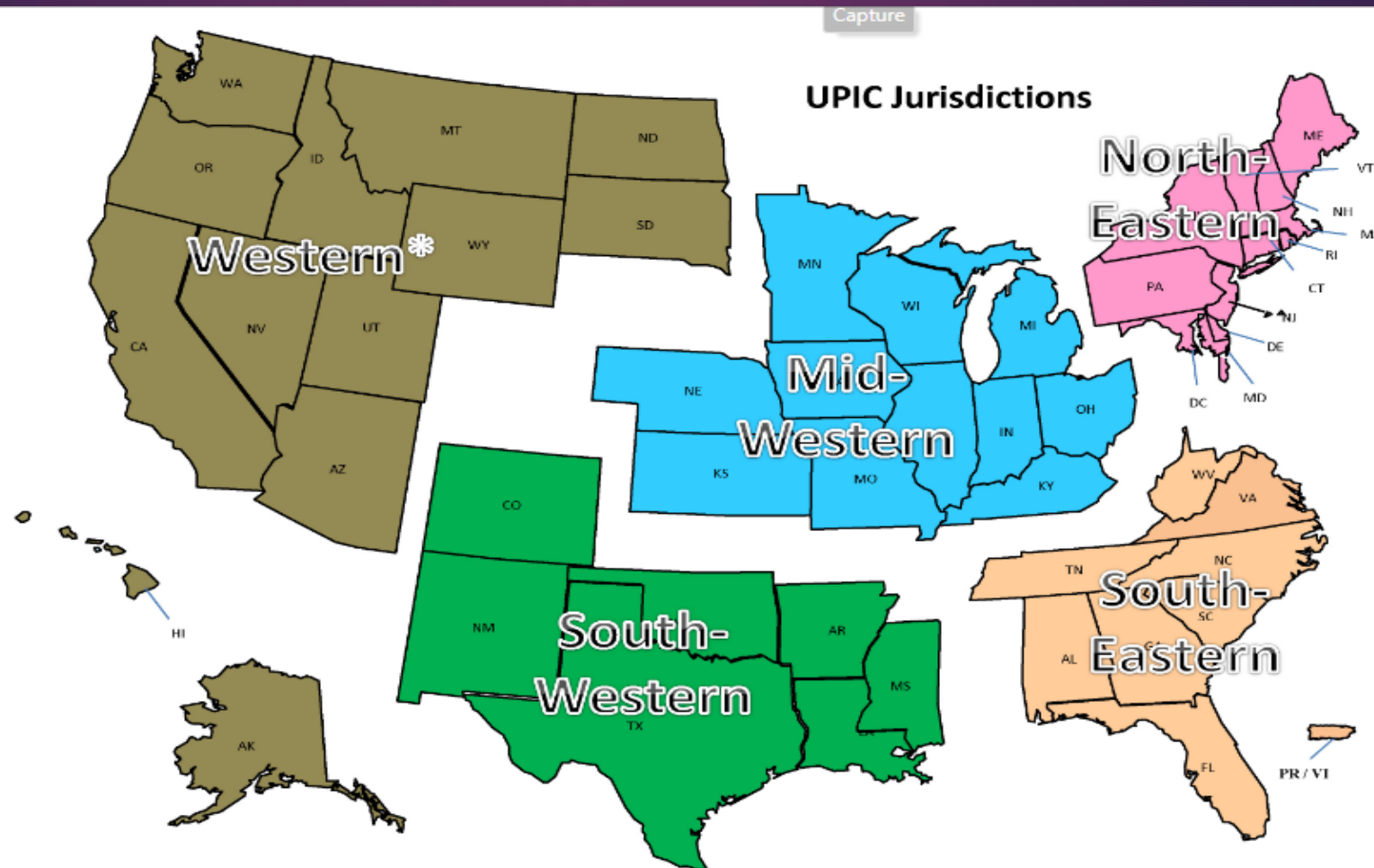
To better coordinate audits, investigations, and data analyses, and to lower the burden on providers, the UPIIC will combine and integrate these existing functions into a single contractor in a defined geographic area (UPIIC Jurisdiction) performing Medicare and Medicaid program integrity work on behalf of CMS.

# Compliance Enforcers -Unified Program Integrity Contractor (UPIIC)

**AdvanceMed** will perform fraud, waste and abuse (FWA) detection and prevention activities for Medicare and Medicaid claims processed within the **Midwestern** Jurisdiction. This covers the states of Illinois, Indiana, Iowa, Kansas, Kentucky, Michigan, Minnesota, Missouri, Nebraska, Ohio and Wisconsin

**SafeGuard Services** will perform fraud, waste and abuse detection and prevention activities for Medicare and Medicaid claims processed within the **Northeastern** Jurisdiction. This covers the states of Connecticut, Delaware, Maine, Massachusetts, Maryland, New Hampshire, New Jersey, New York, Pennsylvania, Rhode Island, Vermont and Washington DC.

# UPIC Territories



\*Other territories of the Western Jurisdiction to include American Samoa, Northern Marianas Islands and Guam

# Compliance Enforcers – Department of Justice (DOJ)

The following sections, designed to implement the prosecution priorities of the office, comprise the Criminal Division in the Houston Office:

- ▶ Asset Forfeiture/Financial Litigation
- ▶ Major Fraud
- ▶ Major Offenders
- ▶ Narcotics Enforcement
- ▶ **Program Fraud**
- ▶ Special Prosecutions
- ▶ Violent Offenders

# Compliance Enforcers - Office of Inspector General (OIG)

- ▶ Responsible for promoting efficiency and effectiveness in the Social Security Administration (SSA) programs
- ▶ Conducts and supervises a comprehensive program of audits and investigation
- ▶ Four potential risk areas that most affect:
  - Coding and Billing
  - Reasonable and Necessary Services
  - Documentation
  - Improper Inducements



# Compliance Enforcers - OIG

A nationwide network of audits, investigations, and evaluations results in timely information as well as cost-saving or policy recommendations for decision-makers and the public.

Assists in the development of cases for criminal, civil and administrative enforcement

## **FRAUD ALERTS**

<https://oig.hhs.gov/compliance/alerts/index.asp>

## **COMPLIANCE PROGRAM GUIDANCE**

<https://oig.hhs.gov/compliance/compliance-guidance/index.asp>



# All Compliance Enforcers

- ▶ Analyze Data
- ▶ Conduct Investigations
- ▶ Protect Program Dollars
- ▶ Identify Medicare and Medicaid Overpayments
- ▶ Provide support to Law Enforcement

You Should do the Same for Your Practice or Hospital!

Any Questions So Far?????



# What are Governmental Compliance Goals?

- ▶ The goal is to prevent fraud, waste and abuse and protect consumers and government health care programs
- ▶ Fraud: any type of intentional deception or misrepresentation made by a person with the knowledge of the deception
- ▶ Waste: over-use of services or other practices resulting in unnecessary costs
- ▶ Abuse: practices that are inconsistent with sound fiscal, business, or medical practices and result in an unnecessary cost to the state or federal government or health plan

# Corporate Integrity Agreements

- ▶ OIG negotiates corporate integrity agreements (CIA) with health care providers and other entities as part of the settlement of Federal health care program investigations arising under a variety of civil false claims statutes.
- ▶ Providers or entities agree to the obligations, and in exchange, OIG agrees not to seek their exclusion from participation in Medicare, Medicaid, or other Federal health care programs.
- ▶ CIAs have many common elements, but each one addresses the specific facts at issue and often attempts to accommodate and recognize many of the elements of preexisting voluntary compliance programs.

# CIA Requirements

- ▶ Hire a compliance officer/appoint a compliance committee;
- ▶ Develop written standards and policies;
- ▶ Implement a comprehensive employee training program;
- ▶ Retain an independent review organization to conduct annual reviews;
- ▶ Establish a confidential disclosure program;
- ▶ Restrict employment of ineligible persons;
- ▶ Report overpayments, reportable events, and ongoing investigations/legal proceedings; and
- ▶ Provide an implementation report and annual reports to OIG on the status of the entity's compliance activities.





**What You've Known or Should Have Known!!!**

# COMPLIANCE

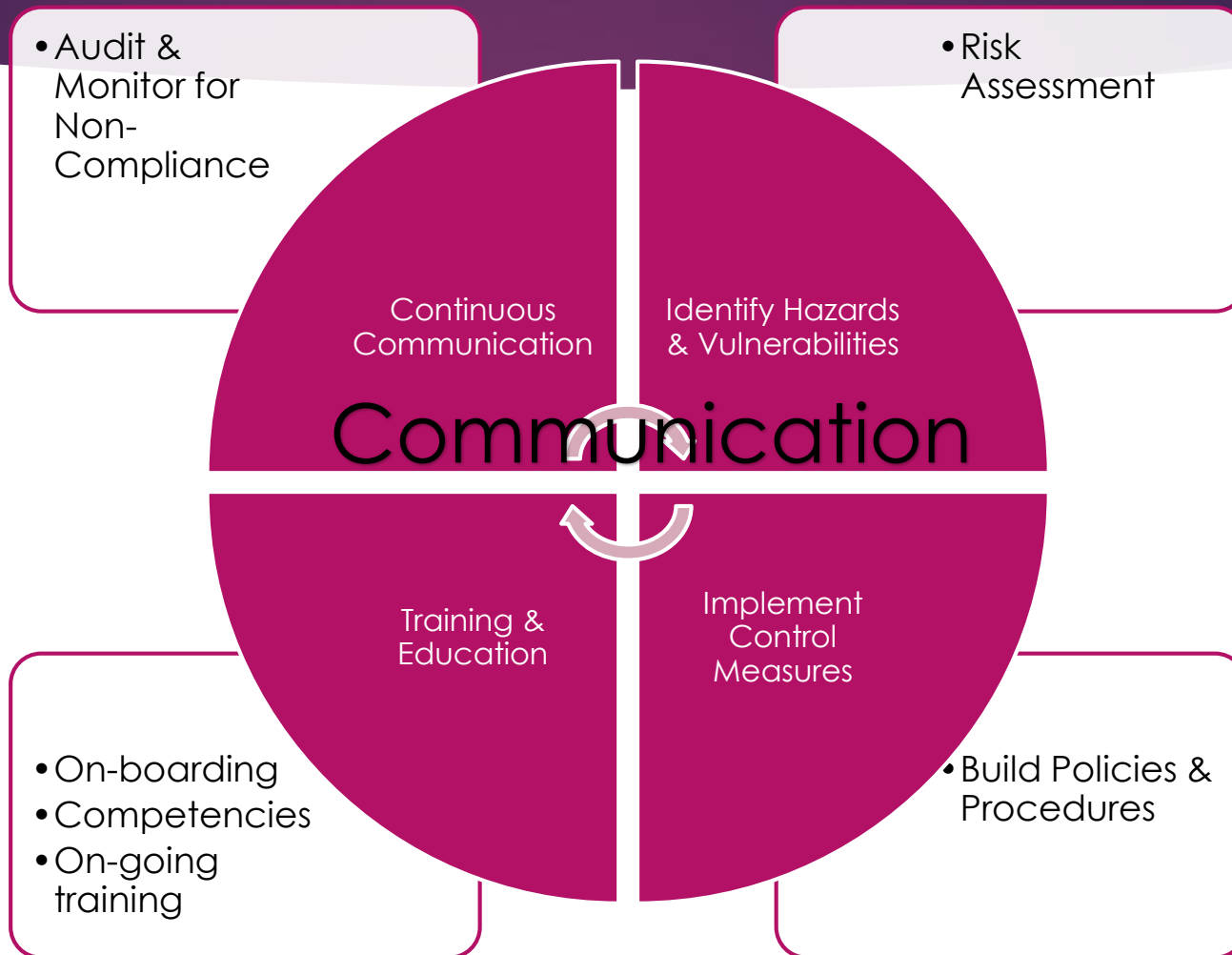
How do you get started?

Where should you look first?



**YOU DON'T KNOW, WHAT YOU DON'T KNOW**

# An Effective Compliance Program Process





# Our Risk Assessment....

| CPT                  | DR A        | DR B         | DR C        |
|----------------------|-------------|--------------|-------------|
| 99215                | 0           | 10           | 0           |
| 99214                | 0           | 3500         | 800         |
| 99213                | 6800        | 120          | 3000        |
| 99212                | 0           | 2750         | 550         |
| 99211                | 0           | 1000         | 55          |
| 99205                | 0           | 12           | 3           |
| 99204                | 0           | 2000         | 850         |
| 99203                | 1500        | 1650         | 1200        |
| 99202                | 0           | 0            | 6           |
| <b>Total<br/>Pts</b> | <b>8300</b> | <b>11042</b> | <b>6464</b> |

A dark purple gradient banner at the top of the page. Inside the banner, the text "What are Our Next Steps?" is written in white. To the right of the banner, there is a vertical pink bar.

What are Our Next Steps?

# Don't Let Compliance Intimidate You

**It takes less time**  
*to do things right*  
than to explain why  
you did it wrong.

*~Henry Wadsworth Longfellow*

Questions???

**Thank you for your time today, please be sure to complete your surveys!!!**

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