

HEALTHCARE COMPLIANCE

Build customer
loyalty, protect
your bottom line,
prevent hefty fines.

cliniconex

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HIPAA. The Physician Self-Referral Law (aka Stark law). The **Anti-Kickback Statute**. **Price transparency**. These are just some of the regulations keeping American healthcare companies moving toward compliance, safety and continuous quality improvement.

The price of not meeting these strict compliance regulations can be steep. When there is a proven violation, companies open themselves up to everything from hefty fines and legal fees, to reputational damage and the resulting loss of business.

The more than 15,000 seniors' homes in the U.S. must agree to guidelines established by The Centers for Medicare & Medicaid Services (CMS) before they can accept benefits and payments from both **Medicare and Medicaid**. Failure to meet the guidelines can result in fines averaging \$28,000 per violation and even exclusion from government programs.

This potential financial impact and subsequent loss of reputation is why more healthcare providers are turning their attention and budgets to putting solid compliance programs in place. It just makes good business sense and gives staff, shareholders, residents and their families an added sense of security.



UNDERSTANDING COMPLIANCE

At its most basic level, compliance is defined as the ongoing process of meeting or exceeding the legal, ethical and professional standards that apply to a particular organization or provider.

The scope for compliance programs covers everything from patient care, billing, reimbursement, managed care contracting, research standards, Occupational Health and Safety and HIPAA privacy and security.

It calls for a compliance culture to be ingrained within an organization. This means promoting preventing, detecting and resolving issues that do not comply with government and ethical guidelines.

Benefits of building a compliance-first culture

It's important to involve stakeholders from all departments to build a solid compliance program:

- Residents and families/caregivers have a role to play because they know if the quality of care they were promised and outlined in their care plan is being met. Involving them early on also ensures they have a clear understanding of their personal responsibility when it comes to compliance practices. Some institutions establish resident councils to get feedback on compliance and other care-related issues.
- All staff from nurses, and support workers, to the cleaning and kitchen staff, know the risks most likely to arise in their roles and responsibilities; they can help you determine compliance gaps and recommend which measures need to be taken to avoid risks.
- Measure your compliance practices against industry best practices which provide a competitive advantage that can be promoted to potential clients.



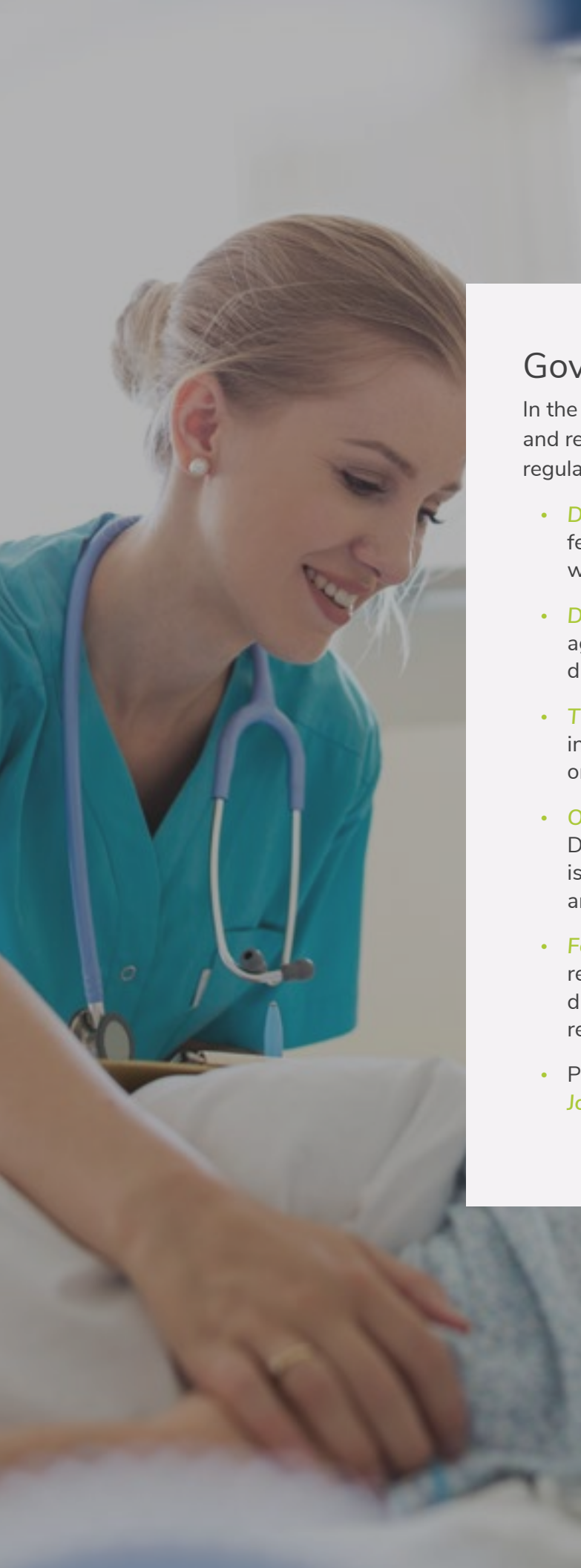
Having a say will ensure that all internal stakeholders buy into the policies and procedures and champion them among their co-workers and fellow residents. This ownership creates a compliance culture, not one that just blindly follows a set of rules without understanding the critical importance of 'why.'

Despite the increases in compliance costs because of the number of regulations that must be followed, and the need to prepare for heightened scrutiny, studies show that it is more costly not to meet compliance standards, by at least 2.7 times. The cost of compliance, on average, is approximately \$5.5 million whereas the cost for noncompliance is approximately \$15 million—almost three times as much.

The need for compliance experts is also on the rise. According to Deloitte's [compliance survey 2021](#), 35% of those surveyed said they expect an increase in compliance headcount, citing maturing compliance frameworks, broader organizational growth and an increase in regulatory requirements.

“ An increase in the volume of regulatory change over the year has driven a reduction in their ability to meet all of the demands placed on them by the business. 61% of respondents noted that the recent level of regulatory change has had an adverse impact on the compliance function's ability to perform its role effectively.

Having a strong compliance program in place and the budget to back it, is a strong motivator for compliance experts to join your team.



Government oversight

In the United States, there are several layers of governing and regulatory bodies responsible for ensuring compliance regulations are followed. They include:

- **Department of Health and Human Services (DHS):** A federal agency focused on improving the health, safety and well-being of all Americans.
- **Drug Enforcement Administration:** A federal government agency tasked with combating drug trafficking and distribution in the U.S., including prescription drugs.
- **The Joint Commission:** A not-for-profit institution that introduced a standard for the accreditation of healthcare organizations in the U.S.
- **Office of the Inspector General:** An office within the U.S. Department of Health and Human Services whose mission is to protect the integrity of DHS programs through audits and investigations.
- **Food and Drug Administration (FDA):** An entity that regulates the information that must be included and disclosed on prescription drugs. The FDA also approves or rejects drugs to be used in healthcare.
- Professional certifications such as that provided by the **Joint Commission**.



REASONS TO CARE

When it comes to choosing the right residence best suited to an individual's needs, potential clients do their due diligence. The Centers for Medicare & Medicaid Services (CMS) created the **Five-Star Quality Rating System** to help consumers, their families and caregivers compare nursing homes and to identify areas where families will want to ask questions. The Nursing Home **Care Compare** website features a quality rating system that gives each nursing home a rating of between 1 and 5 stars.

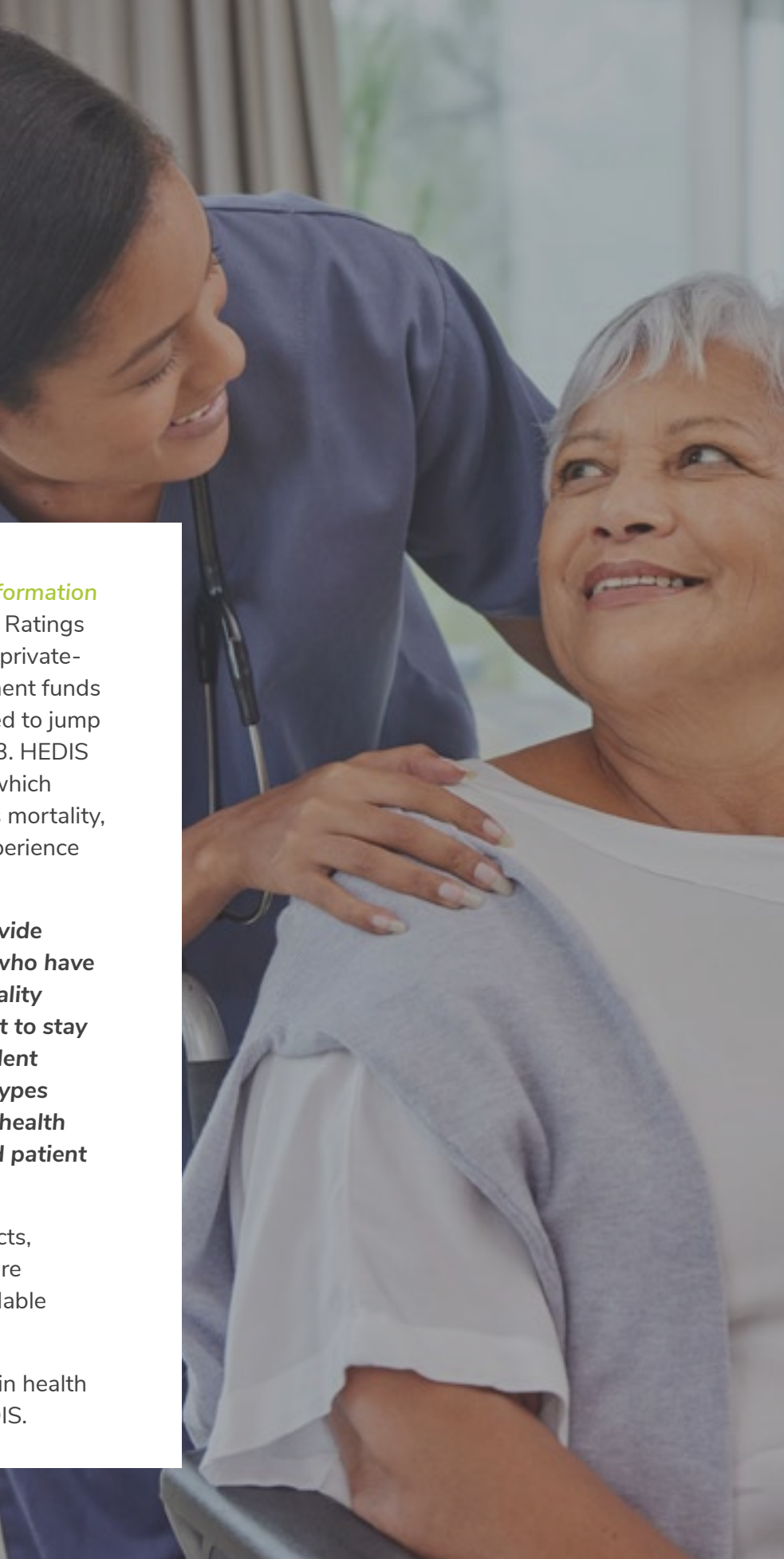
Nursing homes with 5 stars are considered to have above-average quality and nursing homes with 1 star are considered to have quality much below average. There is one overall 5-star rating for each nursing home, and separate ratings for health inspections, staffing and quality measures.



Case in point: New York State

In New York State, the rating system can have a decided positive or negative impact on the future of your business:

- **Regulators:** A nursing home's star rating could affect its ability to obtain New York State Certificate of Need (CON) approval for facility renovations, restructurings or sales/purchases. CON applicants' 5-star ratings are now reviewed for this purpose.
- **Providers and practitioners:** When nurses and doctors discharge patients from hospitals, they often use the ratings in referral decisions. Some Performing Provider Systems—the large provider networks operating throughout the State and New York's vision for delivery system reform—are also relying on the ratings to select their network partners.
- **Insurers:** Insurers consider these ratings when setting up their service networks. Several Medicaid plans will not include nursing homes with less than 3-star ratings in their networks. Taken together, these insurers control – or will soon control – the majority of nursing home revenues.
- **Lenders and investors:** The U.S. Department of Housing and Urban Development (HUD) is an important nursing home lender. They now use star ratings as a component of their risk assessment. Several other lenders and institutional investors include 5-star ratings on their underwriting checklists.



The Healthcare Effectiveness Data and Information Set (HEDIS) is a key component of its Star Ratings program for Medicare Advantage Plans (a private-payer health plan that the federal government funds and regulates) where enrolment is expected to jump by 12% to nearly 23 million people in 2023. HEDIS consists of several different measures on which healthcare providers are evaluated such as mortality, the safety of care, readmission, patient experience and timely and effective care.

“**Value-based care agreements provide financial incentives for providers who have a record of delivering the high-quality care that our members need to get to stay healthy,”** said John J. Burke, president of **WellCare of New York**. **“These types of agreements place the focus on health outcomes, preventive services and patient satisfaction.**”

Wellcare offers a range of Medicare products, including Medicare Advantage and Medicare Prescription Drug Plans, which offer affordable coverage beyond Original Medicare.

More than 190 million people are enrolled in health plans that report quality results using HEDIS.



Why reputation matters

Clearly, reputation matters when it comes to attracting new business.

A quick look at the facts:

5%

of Google searches are health-related

79%

of prospects run searches before booking an appointment at a senior home

94%

of prospects use online reviews to evaluate providers

1-6

Online reviews needed for potential clients to form an opinion about your company

A strong compliance program can help you attract the more than 80% of your potential clients checking you out online.

Then there are potential investors. Why would any investor want to associate themselves with your brand if you have a less-than-stellar reputation? You can bet that an important aspect of an investor's due diligence is determining any reputational risks they may face by investing in your business.

Need another compelling reason? Today, more than 90% of companies use social media for recruiting. Statistics show that 83% of **survey respondents** said they're influenced by reviews when making application decisions and almost half reported that company reputation influences their job offer decisions. 75% said they would not be willing to work for a company with a bad reputation—even those without jobs.

Clearly, people want to feel good about where they work.



BUILDING YOUR COMPLIANCE PROGRAM FROM THE GROUND UP

The starting point for any world-class ethics and compliance framework starts at the top, and the sense of responsibility they share to protect the shareholders' reputational and financial assets. The board and senior management need to do more than pay lip service to ethics and compliance. A strong compliance program which protects reputation and maintains financial stability, requires that they empower and properly resource those with the day-to-day responsibilities to mitigate risks and build organizational trust.



People are suspicious of leaders who are closed about their values or standards. Stakeholders assume if you value nothing, you'll value anything." Thomas Rollauer, executive director, Deloitte Center for Regulatory Strategies.

The program has to support and enhance the existing corporate culture which typically covers standards regarding patient care, a code of conduct and ethics, personnel matters and policies to comply with government standards. A strong, measurable compliance program can positively contribute to the corporate culture as long as it's not seen as an impediment to driving change.



Hire or appoint a Chief Compliance Officer (CCO)

The CCO has day-to-day responsibility for managing compliance and reputational risks. A skilled CCO can create a competitive edge for organizations and oversee the creation of or modifications to an existing one.

Assess your risk

A risk assessment is designed to detect, monitor, assess, mitigate and prevent risks to residents. Areas to assess for risk include accreditation compliance, resident safety and quality (e.g. infection control, medication practices), emergency and disaster readiness and vendor risk management. Assessing these risks helps you to develop a comprehensive program that everyone can buy into, protects your reputation and ensures compliance with government regulations.

Ethics and compliance risk assessments are not just about process—they are also about understanding the risks that an organization faces. The risk assessment focuses senior management on those risks that are most significant within the organization and provides the basis for determining the actions necessary to avoid, mitigate or remediate those risks.

Plan it out

Develop a detailed framework and plan to clearly spell out how your program is going to work at a practical level. For example, ensure it incorporates policies and procedures, education, communication and action steps to follow if offences occur. Get employees and residents involved in the planning so that all aspects of care are taken into consideration.

Training and retraining essential

The plan is only a piece of paper until it's incorporated into the culture of your organization. This requires a training program that is designed for those who need the training, how they like to receive information and how often and how much training is required for each specific function.

Clear reporting process

Processes on how to report non-compliance need to be clear, easy and, more importantly, protect those reporting the suspected violation. Take every opportunity to remind employees and residents on when, why and how they should take action if necessary.

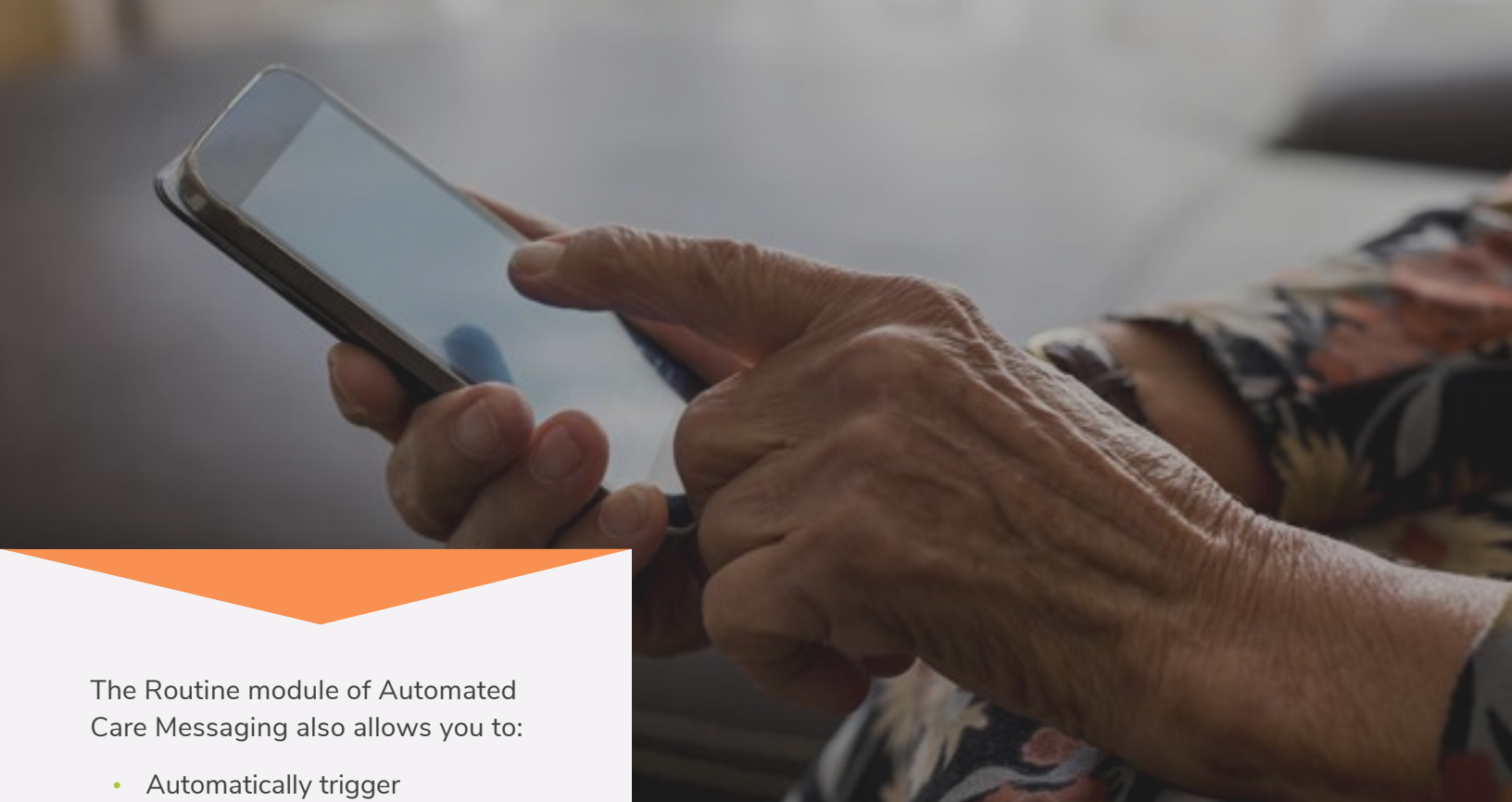
Communicate and then communicate again

Use every available tool to remind staff and residents of their compliance rights and responsibilities.

Tip! Use automated messaging for secure communications

An automated messaging system such as **Cliniconex's** Automated Care Messaging solution provides a centralized way to send secure messages to specific targeted groups via voice, text or email. You can view the messages sent and get detailed reports showing outcomes.





The Routine module of Automated Care Messaging also allows you to:

- Automatically trigger notifications to families when an event is added to a resident's calendar
- Respond to a family's request to confirm, cancel or request a callback
- Create custom workflow rules to trigger messages
- Trigger workflows based on responses
- Customize messaging by facility, event type
- Log communications and outcomes in resident charts.

Clear measurements and audits

There's an old adage that you can't manage what you don't measure; this is the case with compliance. Otherwise, how could you know if your program is working? You can rely on your internal audit department or hire an auditing company to support your efforts. Use the information to refine your plan and share it so everyone knows exactly where they stand. Results should be built into your communications outreach.

Respond to detected offences

Enforcement and disciplinary provisions are needed to build credibility in your compliance program. They need to be consistent and appropriate, including termination. At the same time, you need to ensure flexibility for mitigating circumstances. Everyone needs to understand their role in this process.

Stay current with regulatory change

Laws, regulations and standards change and you need to be able to change with them. Your compliance program is not a one-and-done. It needs to be updated at least annually (or more depending on if new regulations are announced) to ensure that you are meeting your compliance requirements.



UNDERSTANDING THE PITFALLS OF NON-COMPLIANCE

Now that you know what compliance is and how to build a plan, what exactly is **non-compliance**? In general, non-compliance in healthcare is when individuals do not follow the rules, regulations and laws that relate to healthcare practices.

While non-compliance can cover both internal and external rules and regulations, most healthcare non-compliance issues deal with patient safety, the privacy of patient information and billing practices.

Ordinary vs. gross negligence

It's important to understand the difference between ordinary non-compliance versus gross negligence.

The key difference is based on whether the healthcare organization willfully or voluntarily knew they were putting their clients in danger.

Putting strong policies and procedures in place can help safeguard you against this risk because it demonstrates that you have put processes in place, even if they were not followed exactly. Simply put, establishing systems, protocols and safeguards from the start will reduce your liability.

While HIPAA compliance is often thought of as the only real concern, the consequences of non-compliance are a much broader topic than just meeting HIPAA requirements. Your organization must also comply with an array of other requirements, including federal and state regulations, accreditation standards, internal policies and procedures, financial requirements, and OSHA standards, to name just a few.

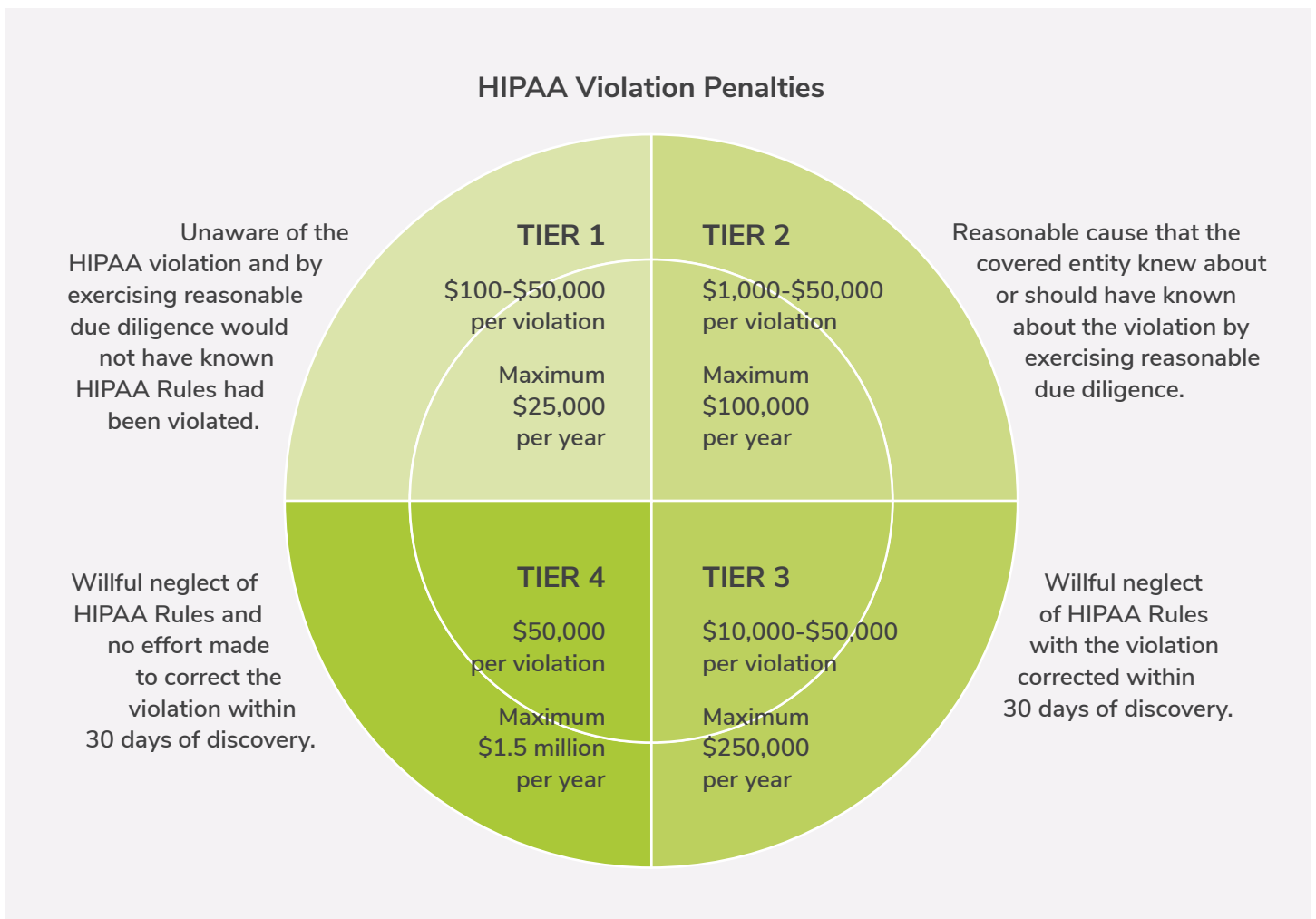
Cost of non-compliance

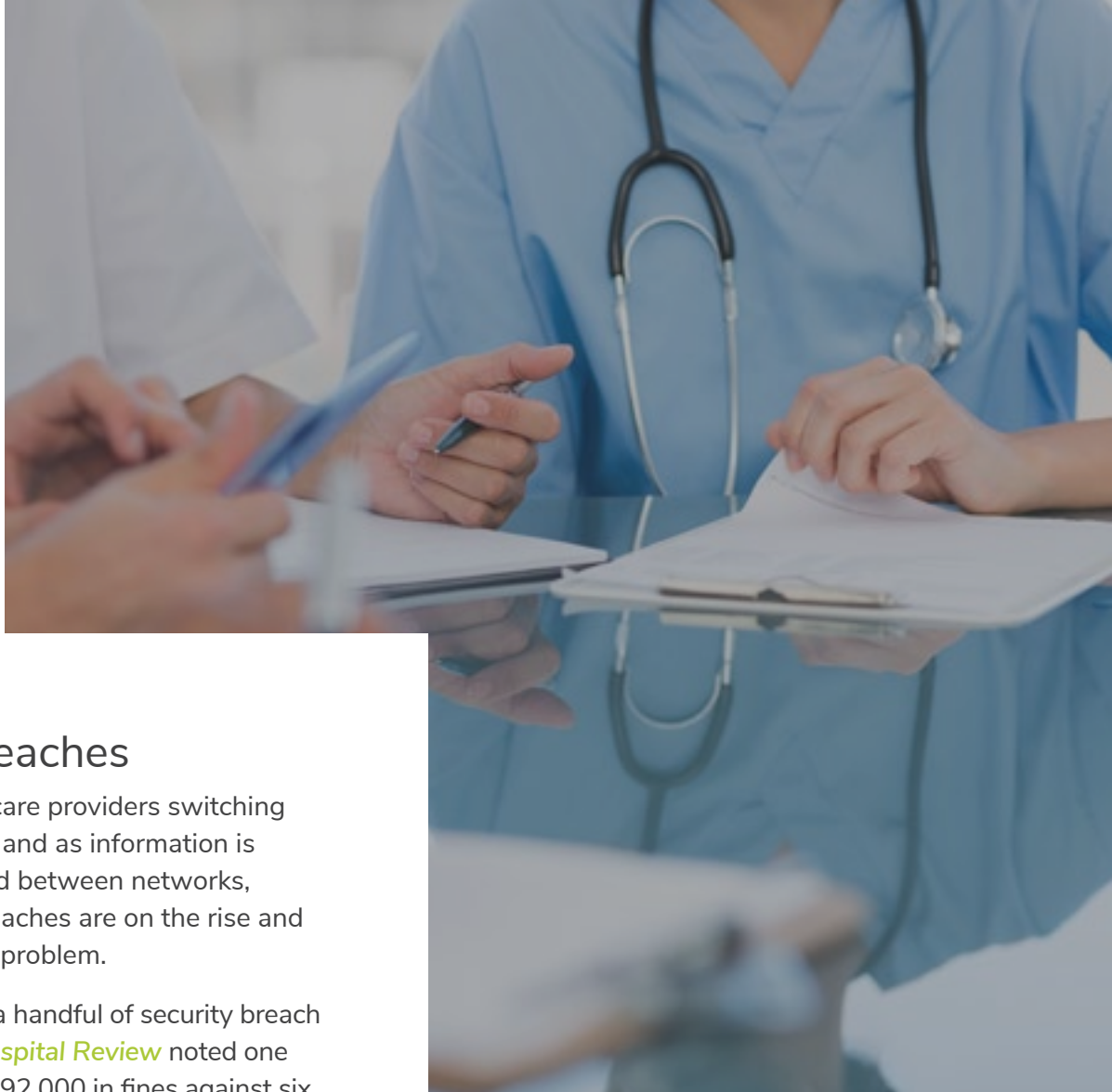
The potential risk involved is far-reaching. How much could it cost your organization if you do not get control of this issue? [This study of 46 organizations by the Ponemon Institute](#) put the cost of non-compliance to be about 3.5 times higher than compliance (\$820/employee for non-compliant organizations vs. \$222/employee for compliant organizations), with an average of \$9.6 million in costs for non-compliant organizations.

But the costs go beyond just dollars. Non-compliance leaves you at risk for financial losses, security breaches, license revocations, business disruptions, poor patient care, erosion of trust and a damaged reputation.

Here is a quick overview of the impact of non-compliance.

To get a feel for the stiff financial cost of non-compliance in healthcare, an overview of [HIPAA Resolution Agreements](#) from the Department of Health and Human Services (HHS) Office for Civil Rights (OCR). In 2020, \$13,554,900 was paid to OCR to settle HIPAA violation cases and fines can be up to \$1.5 million per incident per year.





Security breaches

With more healthcare providers switching to digital systems, and as information is increasingly shared between networks, electronic data breaches are on the rise and becoming a major problem.

In a review of just a handful of security breach cases, *Becker's Hospital Review* noted one case that levied \$792,000 in fines against six hospitals and a nursing home “for failing to prevent unauthorized access to confidential patient information.” In another case, a Boston hospital agreed to pay the U.S. government \$1 million to settle allegations (involving the loss of documents) that the hospital violated the HIPAA privacy rule.

Should a facility receive a citation for this deficiency, they may be subject to a fine, a stop on Medicare reimbursement (denial of payment), or worse, depending on the scope and severity of the offence.



WHAT IS AN F-TAG AND WHY SHOULD YOU CARE

A **federal tag (or F-tag)** number corresponds to a specific regulation within the U.S. Code of Federal Regulations. For example, **F880** refers to the regulation requiring nursing facilities establish and maintain “an infection prevention and control program designed to provide a safe, sanitary and comfortable environment and to help prevent the development and transmission of communicable diseases and infections.”

How F-tags work

At least once a year, surveyors from the **Centers for Disease Control and Prevention** inspect long-term care (LTC) facilities across the U.S. to assess their compliance with federal regulations for the health, safety and well-being of residents and staff.

The facility then receives a report detailing the areas the staff must address to remain compliant with federal regulations.

Report on nursing home oversight

A recent report by the Long-Term Care Community Coalition, **Broken Promises: An Assessment of Nursing Home Oversight**, provides an analysis of survey and enforcement data at the state, regional, and federal levels with a focus on all U.S. states and the 10 Regional Offices of the Federal Centers for Medicare and Medicaid Services (CMS) tasked with overseeing the performance of the state enforcement agencies in their respective regions of the country.

Annually, surveyors substantiated one violation for every 13 nursing home residents from 2018 to 2020 (0.07 citations per resident per year).

Of the 290,289 total citations, 95% were identified as causing neither harm nor immediate jeopardy to any resident in the facility (5% were categorized as Harm (G or above), including 1.8% of citations that were Immediate Jeopardy (J or above). Infection Prevention & Control (F880) citations accounted for 7.8% of all deficiencies.

The report says that nationwide, with over 15,000 nursing homes serving over one million residents on any given day, federal data indicate an average of 2,126 fines per year are imposed. This is the equivalent of 1.6 fines per 1,000 nursing home residents.

The average fine was \$29,000 while the median fine was \$11,700.

TOP TEN F-TAG VIOLATIONS


Although there are a total of 209 F-tags, below is a list of the Top Ten most cited by health officials.

1. **F884** requires homes to report to the [National Health Safety Network \(NHSN\)](#) information such as:
 - suspected and confirmed COVID-19 infections among residents and staff
 - personal protective equipment and hand hygiene supplies; and,
 - resident beds and census.

NGSN is a healthcare-associated infection tracking system under the [Centers for Disease Control and Prevention \(CDC\)](#). It provides governments at all levels with data needed to identify problem areas, measure the progress of prevention efforts and ultimately eliminate healthcare-associated infections.

The reports must be uploaded to the NHSN website every seven days and one staff member and a backup need to be assigned to ensure this data is compiled and sent.

It also requires that residents, their representatives and families be notified by the next day of any confirmed infections of COVID-19.

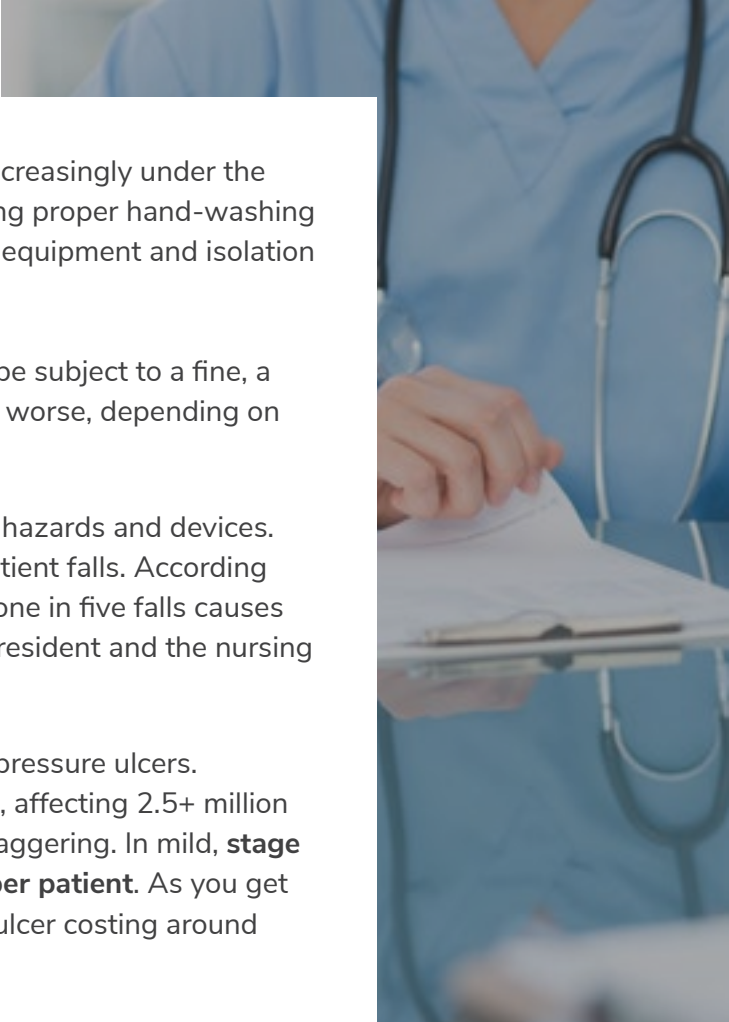


Tip! Use automated messaging for secure communications

An automated messaging system such as [Cliniconex's](#) Automated Care Messaging (ACM) solution ensures you are compliant with F-Tag responsibilities such as the need to inform residents and families of any COVID-19 outbreaks and to record messages to demonstrate this has been done.

ACM provides a centralized way to send secure messages to specific targeted groups via voice, text or email in minutes. Automatic, auditable logs are created, enabling users to view the messages sent and get detailed reports showing outcomes.

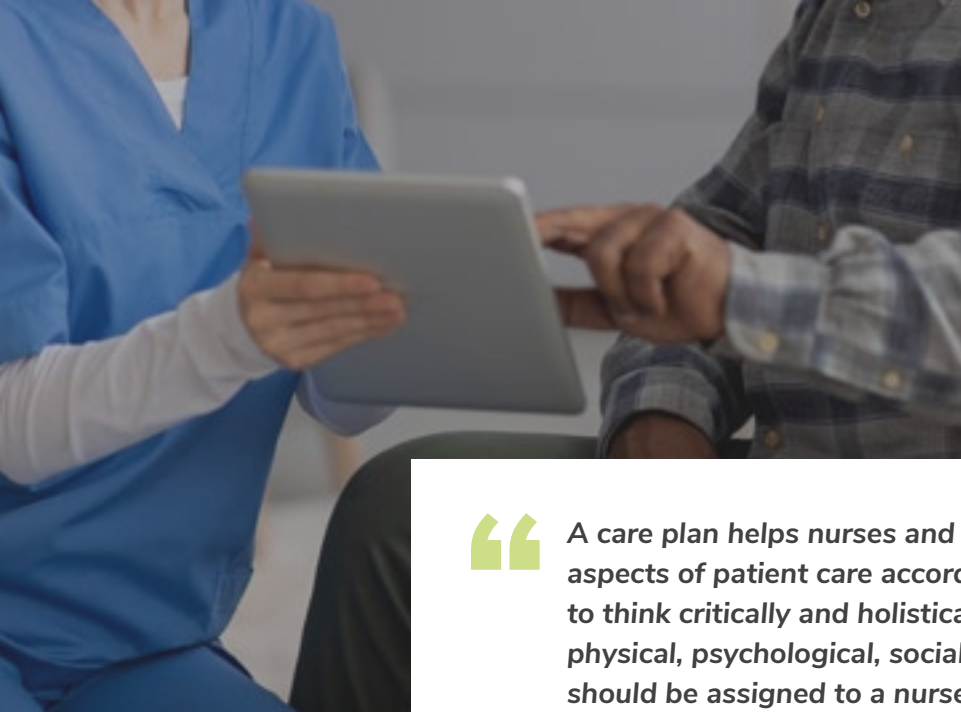
Penalties for non-compliance can result in fines of \$1,000 and can increase by \$500 each subsequent week the facility fails to submit relevant data.

- 
2. **F880** covers infection protection and control protocols increasingly under the microscope because of the pandemic. As well as following proper hand-washing protocols, compliance also relates to personal protective equipment and isolation requirements.

Should a citation for this deficiency be issued, they may be subject to a fine, a stop on Medicare reimbursement (denial of payment), or worse, depending on the scope and severity of the offence.

3. **F689** is to enforce rules that facilities be free of accident hazards and devices. The primary reason that this makes the Top Ten list is patient falls. According to the Centers for Disease Control and Prevention data, one in five falls causes serious injury and other negative outcomes for both the resident and the nursing home provider.
4. **F686** covers the treatment/services to prevent and heal pressure ulcers. Unfortunately, pressure ulcers are a common occurrence, affecting 2.5+ million residents annually. The cost of non-prevention can be staggering. In mild, **stage 1 cases, pressure ulcer treatment costs roughly \$418 per patient.** As you get into other stages, the cost jumps rapidly, with a stage 2 ulcer costing around \$3,674 per patient and stage 3 estimated at \$8,741.
5. **F684** covers Quality of Care which is a commonly cited tag that includes a wide range of issues. Quality of care is the fundamental principle that applies to all treatment and care provided to facility residents. Based on the comprehensive assessment of a resident, the facility must ensure that residents receive treatment and care in accordance with professional standards of practice, the comprehensive person-centered care plan and the resident's choices. Person-centered care is designed to support the resident in making their own choices and having control over their daily lives.
6. **F677** covers activities of daily living assistance and includes everything from bathing and grooming to eating and dressing, and incontinence care and toileting. Citations often relate to grooming because these are time- and labour-intensive tasks that require hands-on care.
7. **F656** is the need to develop and implement comprehensive care plans. This plan spells out what each resident needs in terms of support and is considered crucial to ensuring a client gets the right level of care in line with their needs, and goals in a way that suits them. It guides health and care professionals as they deliver care to a person and is their primary source of information when doing so.

According to the University of St. Augustine for Health Sciences, the **five components to a care plan** include assessment, diagnosis, outcomes and planning, implementation and evaluation.



A care plan helps nurses and other care team members organize aspects of patient care according to a timeline. It's also a tool for them to think critically and holistically in a way that supports the patient's physical, psychological, social, and spiritual care. Sometimes a patient should be assigned to a nurse with specific skills and experience; a care plan makes that process easier. For patients, having clear goals to achieve will make them more involved in their treatment and recovery.

Tip! Use PointClickCare® to strengthen care services

PointClickCare is a cloud-based health record system that takes a person-centered approach to managing senior care, critical to developing a measurable care plan. PointClickCare automates several clinical processes and helps to remove manual activities associated with delivering and documenting care.



Benefits include:

- Giving you better visibility into your resident's health status and enabling you to develop service plans and improve outcomes more quickly.
- Managing the entire medication ordering and distribution process to avoid confusion with ordering medical supplies. PointClickCare's Medication Management is proven to reduce errors associated with manual medication processes with intuitive technology that ensures the right resident receives the right medication, with the right dose, at the right time.
- Helping you to capture unscheduled services at the point of care to provide support information for review and justify increased service levels and additional charges for residents.

8. F761 covers the labelling and safe storing of drugs and biologicals. It requires that drugs and biologicals must be labelled in accordance with currently accepted professional principles, and include the appropriate accessory and cautionary instructions, and the expiration date when applicable.

All drugs and biologicals must be stored in locked compartments under proper temperature controls, and only authorized personnel have access to the keys. The facility must provide separately locked, permanently affixed compartments for storage of controlled drugs listed in Schedule II of the Comprehensive Drug Abuse Prevention and Control Act of 1976 and other drugs subject to abuse. The exception is when the facility uses single-unit package drug distribution systems in which the quantity stored is minimal and a missing dose can be readily detected.

9. F609 is the reporting of alleged violations. The resident has the right to be free from abuse, neglect, misappropriation of resident property and exploitation. This includes, but is not limited to, freedom from corporal punishment, involuntary seclusion and any physical or chemical restraint not required to treat the resident's medical symptoms. It also includes the deprivation by an individual, including a caretaker, of goods or services that are necessary to attain or maintain physical, mental and psychosocial well-being.

You are expected to develop and implement written policies and procedures to prohibit and prevent such abuses (including training, communications and documentation) and establish protocols to investigate allegations. Events must be reported within two hours of the suspected abuse if it resulted in bodily injury and within 24 hours if no abuse was involved and no bodily injury was inflicted. Reports must be filed within five working days.

Skilled nursing facilities that receive the red alert icon will have their health inspection rating capped at a maximum of two stars.



Tip! Build a whistleblowing compliance culture and program

Zachary Amos, an editor with ReHack Magazine, says there are five steps to developing and fostering a **whistleblowing compliance program** including encouraging a speak-up culture and a commitment to investigate every alleged incident.



Employers should foster a friendly, open and secure workplace where staff members feel free to voice concerns. A whistleblowing policy demonstrates a company's commitment to hearing employees' concerns, even though the law does not force firms to have one.

10. F885 ensures that you have a policy and procedure for informing residents, representatives, families and staff about COVID-19 that includes a reporting time frame. How will this communication be completed? Who will communicate, and who is the backup? Document the information along with the specifics of the process. Are you using different modes of communication—electronic, paper, in-person meetings, or phone calls? Whatever the mechanism, make sure staff can relay the process back to surveyors.

Tip! Use automated messaging for secure communications

An automated messaging system such as **Cliniconex's** Automated Care Messaging system provides a centralized way to send secure messages to staff, family members and residents about COVID-19 information as well as serve all of your communication needs. Messages can be sent to specific targeted groups via voice, text or email. You can also view the messages sent and get detailed reports showing outcomes.

Automated Care Messaging comes with an in-app library of over 50 ready to use message templates, making communication even simpler. Compliance related templates include:

- COVID-19 updates
- OSHA reporting
- Medicaid 3 Day hold rule notices
- Care plan updates
- Discharge planning

Cliniconex also provides a number of **Toolkits** for various use cases like operational efficiencies, regulatory compliance, emergency preparedness and staff satisfaction. Each toolkit provides users with a checklist and message templates, uses cases and best practices to help further their use of ACM – without having to think about what features and messages to use and when.



Tip! Searchable F-tag database

Experience Care has curated a list of F-tag resources that facilities can utilize to guide their staff, prevent F-tags and understand the survey process better. This includes a sortable F-tag spreadsheet, 2021 updated F-tag codes, nursing home deficiency trends, FAQs for nursing home enforcement and 12 other such resources by the CMS and other accredited sources.

RESOLVING F-TAG CITATIONS

Annually (and sometimes more!) surveyors visit care facilities across the U.S. to assess their compliance with federal regulations for the health, safety and well-being of residents and staff.

After the inspection, the facility receives a report detailing the areas the staff must address to remain compliant with federal regulations. The F-tag, or federal tag number, refers to the code's section relating to a particular deficiency.

Patricia Howell, RN, BSN, WCC, CFCS and clinical support manager at McKesson Medical-Surgical, said in [a recent article](#) that she defines F-tags as patient-centered and the foundation of quality care—though they may carry a negative association for nursing home employees. **McKesson Medical Surgical** is a medical distributor offering medical supplies, healthcare solutions, distribution services and clinical resources.

Whether you're reviewing a compliance issue among these commonly cited F-tags—or others not on this list—there are a few universal principles Howell recommends for bringing your community into compliance (and keeping it there).



Investigate: Employ the root cause analysis strategy to drill down on a problem area instead of assuming you know the reason or guessing what it might be. Are outside visitors complying with your care community's policies and procedures? You might have 100% compliance from your staff on hand-washing, but you keep having infection control issues. Part of root-cause analysis includes considering every person who passes through your doors.

Evaluate: Make regular risk assessments. Know your residents well to better understand the problems, hazards and risks unique to your community. For example, is an access door close to the locked memory care unit left open every time a vendor comes? "Look at the problems and trends in your community, check the pulse and always ask why," says Howell.

Educate: Take advantage of all available resources to learn best practices and new procedures and stay updated on changing regulatory requirements. Share this valuable information with everyone in your care facility who would benefit from it.

Notate: Write it down! Howell can't emphasize this enough. There's no proof that something happened without written records that include essential details such as dates, times, persons involved, protocols initiated, care delivered and so on. Leaders must develop (and put in writing) their plans to resolve issues revealed by their risk assessments, their plans to address citations and any/all care plans for residents.

Communicate: Howell says that when you've done the hard work of documentation, plan creation and implementation, make sure everyone knows about it. Hold team huddles with the entire staff covering every shift. What good is a new hand-washing protocol if the housekeeping staff, who visit resident rooms in a hands-on way daily, don't know to comply with it—or if no one is even checking on their compliance?

Advocate: "Find your champions and lean on them," says Howell. "It doesn't always have to be the director of nursing." By encouraging all staff to spearhead initiatives, conduct risk assessments or encourage new ideas for compliance resolution, you give them a voice—improving staff morale, which then helps improve resident care.

Integrate: Reporting requirements and regulatory changes are happening all the time and you can't hit pause on daily care and services when you need to catch up. What you can do—even at an additional cost—is take advantage of tech tools or hire additional personnel to lighten the load for frontline staff.

Update: Keep an eye on your progress rather than waiting until the next survey and make changes accordingly. Howell also endorses a "check the checkers" policy for accountability. For example, if you've delegated the oversight of a new safety plan to your maintenance director, don't just assume the work is getting done. Check-in to verify and check any documentation indicating it has been done.



USING TECHNOLOGY TO EMBRACE COMPLIANCE

A recent *OECD Report Empowering the healthcare Worker: strategies to make the most of the digital revolution* points out that failure to leverage digital technologies to deliver the right information and knowledge at the right time is a significant missed opportunity to improve care.

“**For instance, 10% of patients are unnecessarily harmed during care, most frequently due to information and knowledge not reaching the right person at the right time. The health burden of this shortcoming in OECD countries is on par with that of diseases such as multiple sclerosis and some cancers.**

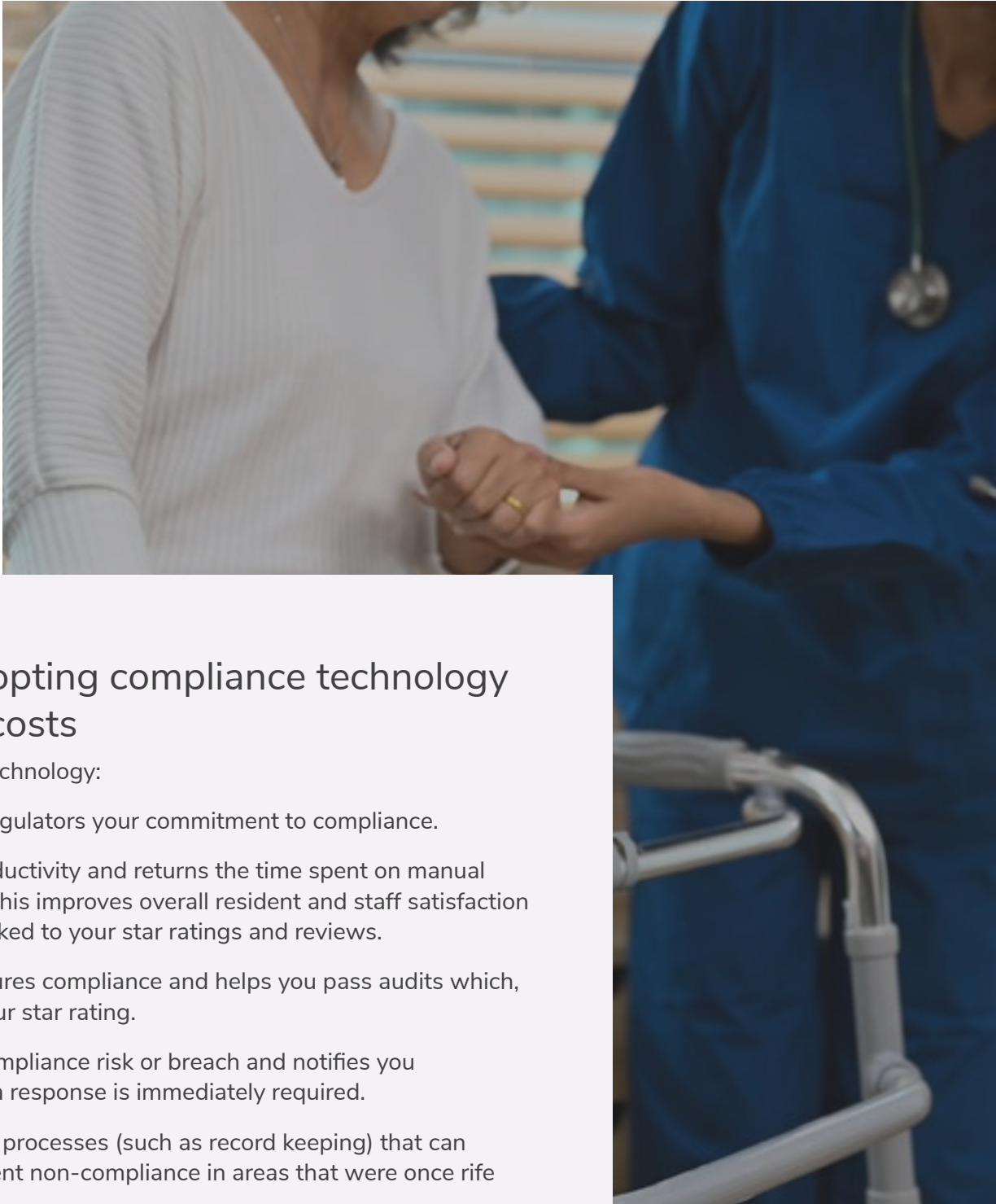
Given this backdrop, and the hefty fines that can result, the imperative for embracing compliance technology has never been more important.

In general, compliance technology is anything that helps you help your clients meet data security, cybersecurity, and any other regulations to which they must adhere. Compliance technology was initially nothing more than secure storage. Today, it consists of various tools that allow you to help your residents keep up to date with new and evolving regulations.

While you can deliver compliance management and assistance to your residents without relying on technology, you will increasingly find this an unsustainable approach.

Using technology to improve compliance can involve several processes, including:

- Automating processes and workflows, such as the checking of documents or the monitoring of systems.
- Organizing data in line with the relevant regulatory frameworks.
- Storing and managing data.
- Streamlining reporting processes to your clients or to the bodies to whom they are accountable for compliance.
- Making the processes around compliance more accessible, enabling residents to be more engaged in their compliance activities.



Benefits of adopting compliance technology outweigh the costs

Adopting compliance technology:

- Demonstrates to regulators your commitment to compliance.
- Increases staff productivity and returns the time spent on manual processes to care; this improves overall resident and staff satisfaction which is directly linked to your star ratings and reviews.
- Reduces risks, ensures compliance and helps you pass audits which, again, improves your star rating.
- Better detects a compliance risk or breach and notifies you automatically that a response is immediately required.
- Automates manual processes (such as record keeping) that can automatically prevent non-compliance in areas that were once rife with infractions.
- Cross-functional reporting better informs systems of finding, prioritizing and corresponding to the spectrum of risks within an organization, streamlining performance and driving business.

WHAT IS REGTECH ANYWAY?

One term you are going to be hearing a lot about is RegTech. RegTech is **a class of software applications for managing regulatory compliance**. It employs various technologies, including machine learning and artificial intelligence, to build enterprise-wide data governance and reporting. It consists of a group of companies that use cloud computing technologies through SaaS to help companies comply with regulations. SaaS or Software as a Service is a way of delivering applications over the Internet—as a service. Instead of installing and maintaining software, you simply access it via the Internet, freeing your company from complex software and hardware management.

RegTech was born after the 2008 financial crisis that ushered in an increase in financial sector regulation. It is a subset of FinTech—a group of technologies designed to automate the use and delivery of financial services. It stands for companies looking to solve the challenges of a technology-driven economy as a result of increased data breaches, cyber hacks and other fraudulent activities.

RegTech makes use of machine learning and big data technologies to reduce risks and support compliance.

These new technologies are intended to replace the current manual analysis and reporting methods. Companies invest in RegTech as a way to save time and money, allowing resources that were once devoted to regulatory compliance to be diverted to patient-centred care.

Global RegTech spend will exceed \$204 billion by 2026; accounting for more than 50% of all regulatory compliance spend for the first time. This spend will grow from \$68 billion in 2022; representing growth of some 200% over the next four years.

A [report by the American Hospital Association](#) found that an average-sized community hospital with 161 beds spends US\$7.6 million on compliance administration with that figure rising to US\$9 million for hospitals with intensive care.

With healthcare being a highly-regulated industry and the time, cost and potential errors in a manual compliance process, healthcare is ripe for RegTech innovation. The automation of processes could significantly increase the efficiency and effectiveness of healthcare services, along with promoting a healthy bottom-line.

CHALLENGES AND OPPORTUNITIES

Like financial services, healthcare is a highly-regulated industry where non-compliance can result in severe financial and reputational consequences. Unfortunately, there is only a little data and research available on the maturity of RegTech in the healthcare industry but limited parallels can be drawn between financial services and healthcare, particularly when it comes to the challenges and opportunities.

Although some of the steps toward establishing a compliance program through RegTech may be clear based on lessons learned from the financial industry, there's a long road ahead.

Tip: IT compliance checklist

IT compliance refers to the guidelines you must follow to ensure your processes are secure. Each guideline refers to rules for data, digital communications and infrastructure. When it comes to building infrastructure, the end goal is to safeguard data.





Before hiring a vendor, consider the following in your evaluation criteria:

- **Monitoring and reporting:** does it give you a real-time assessment of your systems?
- **Ease of use:** any software will fail if it's difficult to use or if the training is minimal and not built into your overall training and onboarding programs. If you want buy-in, involve the people who understand the requirements better than anyone—your staff.
- **Accessible software:** software must be accessible from any device—laptop, desktop, tablet, or phone.
- **End-to end security:** it must be built and authenticated by a third party to make sure your data is protected.
- **Secure storage:** cloud-based solutions are widely considered more secure than locally hosted systems.
- **Reliability:** with staff shortages and other challenges facing the industry there should be virtually no wait time for queries, searches or analytics.
- **Easily updatable:** make it easy for staff to add fields, customize page layouts and modify the configuration to accommodate changing regulations, new requirements or evolving priorities—without the help of IT or your software vendor.
- **Easily accessible:** allows you to access all relevant documentation, see the current status, and communicate across departments, functional areas and locations without leaving the platform. Every activity needs to be automatically logged for a clear audit trail.
- **Automation:** needs to automate workflows, assessments, attestations, alerts and action plans.
- **Integrate with other functions:** such as third-party risk management, internal audit and other risk management functions to give you an accurate picture of your total risk.
- **Customizable dashboards:** to enable you to get a clear picture of the metrics you care about most.
- **Click and point reporting:** critical for regulatory submissions, a comprehensive overview for executives and drill-down capabilities for tacticians.

Most standards fall into the following IT compliance checklist of categories:

- **Access and identity control** defines authentication and authorization rules.
- **Strict control over data sharing** with the public and residents.
- **Incident response** guides how you will mitigate, report and investigate a data breach.
- **Disaster recovery** defines your disaster recovery plan if your infrastructure fails.
- **Data loss prevention** spells out what you will do to protect business revenue and productivity, including backups, recovery and redundancy.
- **Protection against malware** across your IT environment, including servers and user devices.
- **Corporate security policies** to outline steps that staff must follow to protect data.

LACK OF INDUSTRY AND TECHNICAL EXPERTS

Like many other areas in the field, there is a critical lack of compliance officers in healthcare with RegTech experience, developers and project managers with the requisite skills, inconsistent regulations from jurisdiction to jurisdiction, cybersecurity threats and a dependence by many companies on legacy or manual systems.

Prophecy Market Insights, a specialized market research, analytics, marketing and business strategy and solutions company, said in a **recent article** that heavily regulated industries equals a complex industry.

“**The general elements of a successful compliance officer in this field might well be similar to other industries, i.e experience in public policy, law, loss prevention, and strategic management, coupled with an agile workstyle and innovative mindset,”** Prophecy says. **“However, the specific knowledge is not as easily transferable and experience built up in the sector is extremely valuable.**

CYBERSECURITY THREATS MAJOR CHALLENGE

According to the **Chief Healthcare Executive** cyberattacks continued to target hospitals and health systems. Millions of Americans were affected by security breaches involving their private health information in 2022. Hospitals and health systems have become prized targets for cybersecurity attacks in recent years. Cybersecurity experts say **ransomware attacks involving hospitals are rising**, and they expect those attacks to continue.

Cybersecurity refers to today's defences of networks, data systems and programs from outside digital attacks. Holistic cybersecurity maintains safe and secure computer networks and all their accompanying data, files and programs while protecting against breaches, leaks or unauthorized access.

The U.S. Department of Health and Human Services publicly reports all breaches affecting at least 500 individuals. In 2022, the HHS Office of Civil Rights reported 600 breaches involving at least 500 people. However, some of the breaches involved hundreds of thousands of individuals.

Cyberattacks are proving to be very costly to hospitals and healthcare settings. **The average healthcare breach now costs more than \$10 million**, according to an analysis by IBM Security. Cyberattacks also pose **serious risks to patient safety**, and security experts have implored health systems to bolster their defences to protect patients.


Strong compliance management can help to manage this threat because it is the process of ensuring all workflow, internal policies and IT initiatives align with specific industry cybersecurity regulations. Your compliance efforts must be ongoing because the digital attack surface is always expanding.

According to [bultin](#), a career site dedicated to matching industry experts with industry needs, one of the difficulties with regulating [cybersecurity](#), and a deterrent up until this point, is that it is [an industry founded in](#) rule-breaking. How do you regulate a sector built to protect computer systems when the groups it is offering protection from operate outside of any rulebook, and constantly devise new means of breaching the systems they're targeting? Any regulatory framework can never be truly current; it's a question of being as up-to-date as possible, rather than absolutely so.

The government has used its discretion in penalizing HIPAA noncompliance "occurring in good faith" during the pandemic (a public health emergency) and beyond. This meant that the provision of telehealth services, for example, "allowing providers to deliver care through a broad range of devices and technology platforms," according to [this article](#) by attorneys at Faegre Drinker Biddle & Reath.

The Office of the Inspector General says it used the pandemic as a time to [investigate illicit areas of telehealth](#), such as scams that leverage aggressive marketing (for instance cold-calling patients) or provide fraudulent telemedicine services. The government will use these findings to [prioritize enforcement](#), with the Department of Justice's healthcare Fraud Unit explicitly stating it is "dedicated to rooting out schemes that have exploited the pandemic."

As such, it will be important for healthcare providers to provide records of their historical and ongoing marketing communications, including email campaigns and websites, to prove compliance.



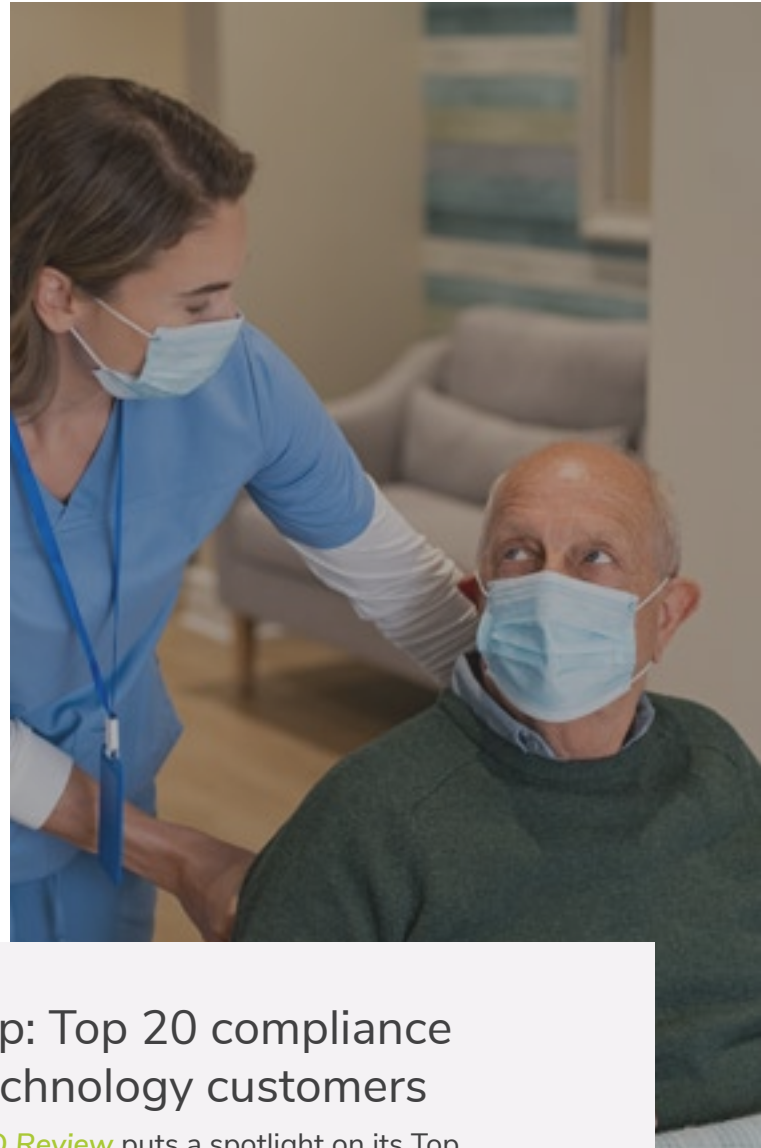
Tip: Automated Care Messaging keeps all historical messaging safely stored and easily retrievable

With [Cliniconex's](#) Automated Care Messaging (ACM) you can track all historical records. ACM sends out targeted messages to residents, families and staff in minutes via voice, text or email; logs all communications in resident's charts; syncs family contacts with a company's EHR; and automates day-to-day messaging with workflow rules.

The Routine Module of this automated care messaging also allows companies to automatically trigger notifications to families when an event is added to the resident's calendar. Families can then confirm, cancel or request a callback and workflows can be triggered based on responses.

You can also:

- Create custom workflow rules to trigger messages
- Customize messaging by facility, event type
- Families can confirm, cancel or request a call back
- Workflows can be triggered based on responses
- Communications and outcomes are logged in resident charts



Tip: Top 20 compliance technology customers

CIO Review puts a spotlight on its Top 20 Compliance Technology Solutions Companies for 2022.

AI and ML-based chatbots are being steadily adopted to eliminate time-consuming manual compliance-related activities. Robotic process automation (RPA) is another advanced technology that can streamline workflows, and reduce manual effort. RPA software tools can automate report generation and delivery, e-mail circulation, status updates, notifications, change tracking and different asset compliance programs.

In the wake of these developments, CIO Review reports that the global compliance technology market is projected to reach CAGR of 8.5% by 2025.



THE FINAL WORD

Senior care operators are facing some dire times ahead with:

1994 was the last severe staffing shortage

55% are predicting they will close their doors within a year if things continue the way they are

52% are reporting they are operating at a loss

62% rely on medicare payments but medicare payments only cover 86% of their costs

Technology can play a pivotal role in helping companies grapple with these changes by keeping you abreast of, and in compliance with the changing rules and regulations, cut costs, improve efficiencies, attract and retain staff and bring in new clients.

The bottom line is that it will help to drive up your star ratings which, in turn, enhances your reputation helping you to attract more business and increase bonus payments and rebates received by regular Medicare and Medicare Advantage Plans.

One thing is clear: automating, tracking and reporting communications is key to driving up your star ratings because it provides tangible proof that you are meeting the rules and regulations you are expected to follow.

Cliniconex's Automated Care Messaging is a powerful compliance tool you can use to close the communications and compliance gap and support your whole healthcare system. It currently provides services to 2,600+ senior care facilities representing 225,000+ residents across North America. Over seven million unique engagements were sent in 2021 improving communication and coordination to residents, resident families, staff, providers and other key stakeholders, returning over 1 million hours back to care.

This tool, which can be operational in one hour, can be used to enhance your competitiveness. Just a few examples include sending out automated reminders to reinforce appointments and close the loop with care managers. Responses are logged into your for analytics. It also automatically sends educational nudges that reinforce adherence. Periodic health surveys are sent, further enhancing patient-centred care.

Contact us to learn more.