Compliance Privacy and Diversion Education – All Staff

ASPIRUS HEALTH

Passion for excellence. Compassion for people.

Objectives

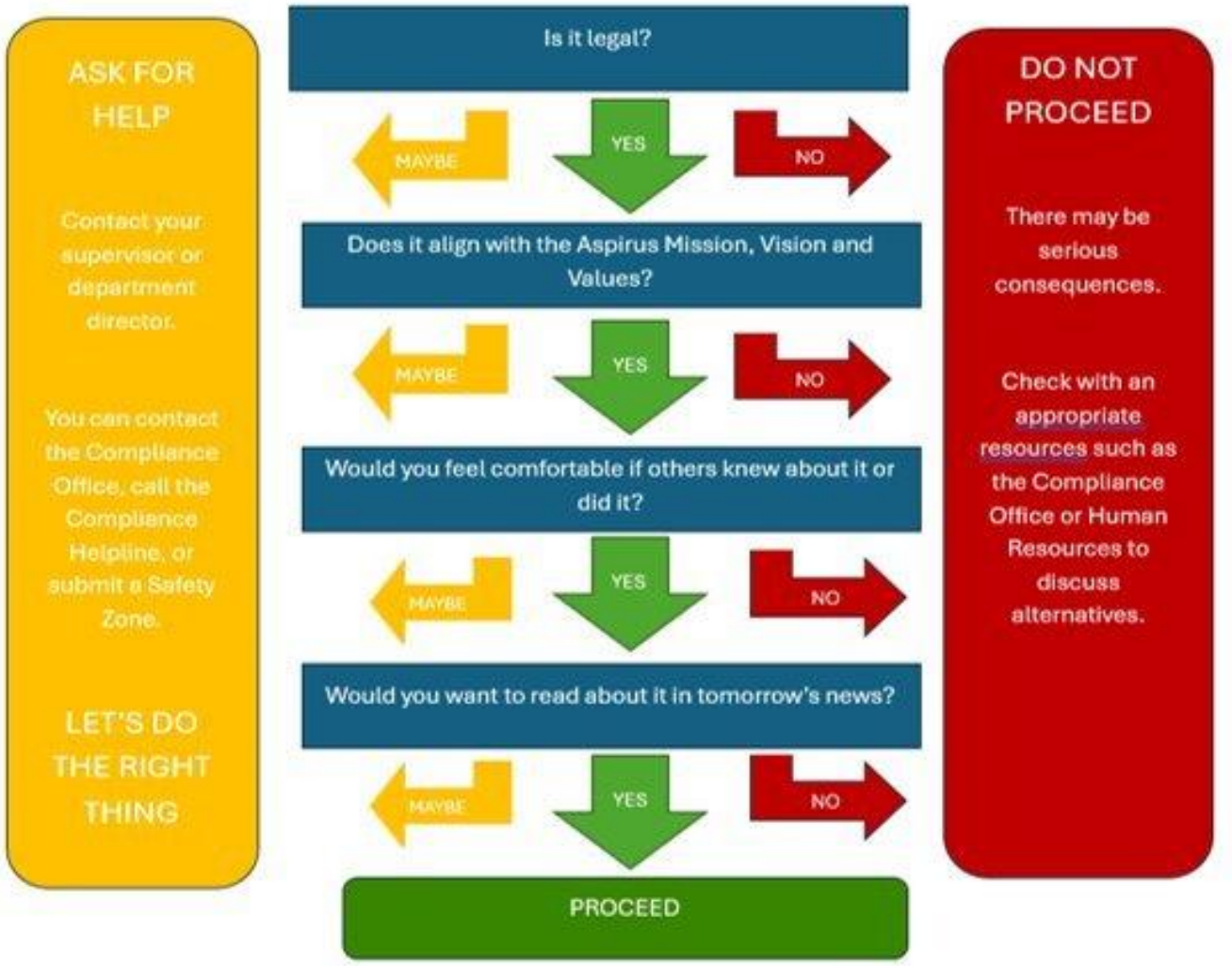
By the end of this course, learners will:

- Understand the components of the Aspirus Compliance Program and role of the employee has in the Code of Conduct
- Recognize regulatory laws that lead to potential legal liability
- Identify regulations that support the safety of Protected Health Information (PHI)
- Describe controlled substance diversion and the monitoring by the government due to potential abuse and/or addiction

Foundation of the Aspirus Compliance Program

Aspirus Ethical Expectations

- Applies to everyone every day
- When making decisions or taking actions, consider:



7 Elements of an Effective Compliance Program

Based on the General Compliance Program Guidance from the Office of Inspector General (OIG)

Written Policies and Code of Conduct

Put Policies and Code of Conduct in writing and use them as the foundation for the entire program.

Governance and Compliance Professionals

Delegate an individual or group with operational responsibility, autonomy, and authority.

Training

Create effective, ongoing training methods.

Communication

Establish open lines of communication.

Auditing and Monitoring

Use internal tools to evaluate program effectiveness and detect criminal conduct.

Investigations

Encourage employees to raise concerns and have investigative procedures in place. Resolve identified problems promptly and add related issues to monitoring activities.

Enforcement of Standards

Establish appropriate incentives for compliance and disciplinary actions for violations.

Aspirus Compliance Program

- Established to support our culture of ethical behavior and
  - Prevent noncompliance,
  - Detect noncompliance, and
  - Correct noncompliance

- Ensures compliance with ethical and legal standards including:
  - Aspirus Code of Conduct
  - Aspirus Policies and Procedures
  - Federal, state and local laws and regulations
  - Government healthcare program requirements

- The Aspirus Code of Conduct is the foundation of our Compliance Program.

Everyone is Involved in Compliance

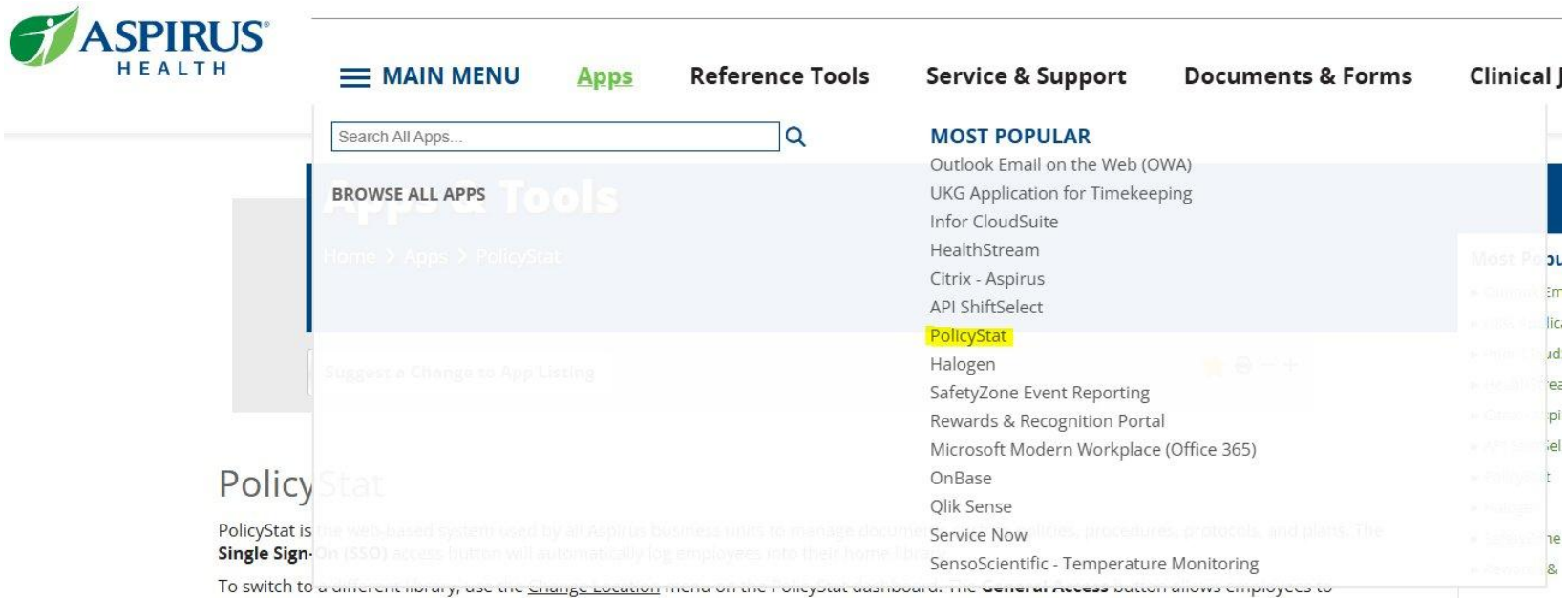
- By doing our jobs in an ethical, effective, and professional manner
- By following our Policies and Code of Conduct
- By reporting concerns and questions to your supervisor

Aspirus Code of Conduct

- We treat all patients, employees, physicians, and visitors with respect, dignity, and courtesy.
- We represent Aspirus services and capabilities accurately and fairly to the public.
- We adhere to comparable standards of care throughout the organization.
- We provide necessary services within the capabilities of Aspirus and will seek to avoid unnecessary or non-effective care within the parameters of patients' rights and existing policies.
- We provide patients information about their rights and provide patients the ability to maximize those rights through advocacy procedures and complaint/grievance processes.
- We adhere to local, state, and federal laws and regulatory agency requirements.
- The plan of care and provision of patient care will be based upon the physician's judgment, needs of the patient, policies, protocols and standards, and not based upon the patient's ability to pay or other issues not related directly to patient care (i.e., culture, race, gender).

Policies and Procedures

- Policies and Procedures
  - Available on the Intranet within PolicyStat (highlighted below)
  - Follow them consistently
  - Ask for help if you cannot locate or have questions about a policy



Government Inquires

It is the policy of Aspirus to cooperate with all government investigations and requests for documents while protecting its legal interests.

- If an agent of the government presents and requests information from your area, please do the following:
  - Notify your leader and Compliance immediately
  - Request identification
    - They should be able to produce a badge or other identification
    - A copy of the identification should be obtained and retained
      - A business card may be presented
      - By law, government badges may not be copied
  - Ask the purpose of the investigation
  - A copy of written documents regarding the investigation should be obtained including any: search warrant, subpoena, letter, or list of information sought

- Before the investigation begins, an introductory meeting with leadership should be requested.

Fraud

- Generally, fraud is defined as the wrongful or criminal deception intended to result in financial or personal gain. Fraud includes false representation of fact, making false statements, or by concealment of information.

- Examples:
  - Billing for services that did not happen
  - Billing for services that are not appropriately documented

- Additional Resource:
  - http://oig.hhs.gov/compliance/physician-education/index.asp

Waste and Abuse

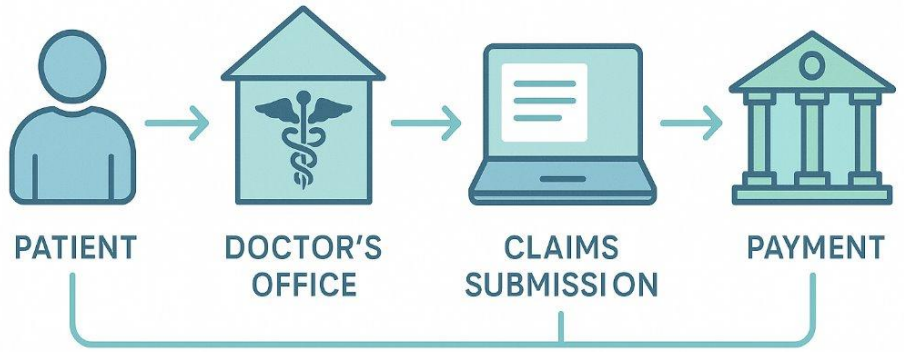
- **Waste** is defined as the thoughtless or careless expenditure, mismanagement, or abuse of resources to the detriment (or potential detriment) of the U.S. government. Waste also includes incurring unnecessary costs resulting from inefficient or ineffective practices, systems, or controls.

- **Abuse** is defined as excessive or improper use of a thing, or to use something in a manner contrary to the natural or legal rules for its use. Abuse can occur in financial or non-financial settings.

- Examples:
  - Billing for services that are not medically necessary
  - Furnishing supplies that are not medically necessary

Accurate Billing

- Aspirus provides medically necessary services.
- We bill only for services and supplies provided to the patient.
- Any employee that suspects or becomes aware of a billing error should report their concerns immediately.



Documentation Requirements

- If a service is not documented, we cannot validate that it occurred.
- Do not document if an exam, procedure, or service was not performed.
- Professionalism
  - Patients and other members of care team have almost immediate access to read their records through the patient portal; therefore, it is best to have documentation be pertinent to the patient's care.
  - Be clear, concise and respectfully address concerns.
  - Use language that accurately documents the patient's health status.
  - Medical jousting of a colleague's care of a patient in the patient note is not professional.

Payer Audits

- It is very common for insurance companies to request patient records to verify correct payment.
  - Government Insurance (Medicare & Medicaid)
  - Commercial Insurance (Blue Cross Blue Shield, Humana, United Healthcare, etc.)

- The patient record must be complete and accurate for:
  - Quality of patient care
  - Patient safety
  - To ensure proper payment

- We promptly provide records to authorized reviewers.

- If you receive a payor letter in your area, please reach out to Revenue Cycle and Compliance.

Patients' Rights

- Patients have the right to:
  - Safe treatment
  - Courteous treatment
  - Privacy and confidentiality
  - Information about their treatment options
  - Choose between treatment alternatives or to decline treatment
  - Examine and understand their medical bills
- If the patient has a healthcare directive, we honor their wishes.
- If the patient is hearing impaired or has difficulty with the English language, we provide an interpreter or translator.

EMTALA

Emergency Medical Treatment and Labor Act

- Emergency care is provided to any person who comes to the hospital and requests care
  - Regardless of their ability to pay or insurance coverage
  - Treatment is not delayed to obtain financial information
  - Assist individuals who are looking for the Emergency Department
  - Do not deter patients from seeking care
- **If you feel that another entity has violated the EMTALA regulations, please report it to Compliance immediately as there is a 72-hour requirement for reporting to the state.**

Financial Services

- Any patient questions on bills or charges can be referred to the Financial Counselors.
- Patients may be eligible for federal, state, local, or Aspirus assistance programs.
- Financial Counselors assist patients with the application process.
- Uninsured patients may be eligible for a discount on medically necessary services.
- Financial Care Center (800) 624-3570
- Financial Counselors (866) 972-1772

Licensing and Certifications

- Licensure and Certification
  - If it is required for your job role, keep it current.
  - Keep track of your continuing education requirements and due dates.
  - If your certification or license lapse, please immediately notify your leader and Human Resources.
  - Perform duties within your scope of practice.
  - Follow your profession's Code of Ethics.

Solicitation and Acceptance of Gifts

- Employees may not accept personal gifts, favors, or compensation from:
  - Patients or their representatives
  - Vendors or other individuals or organizations seeking a business relationship with Aspirus
- Cash gifts (including gift cards) are prohibited.
- Perishable or consumable gifts (candy, donuts, or flowers) to a team are permitted.
- Any questions about whether or not a certain gift is acceptable can be directed to your Leader, Human Resources, or Compliance.
- Patients, families, vendors or others wanting to make a charitable contribution to the organization can be referred to the local Aspirus Health Foundation.

Document Retention

- Aspirus policy is to keep important documents, paper or electronic, in a secure and orderly manner.
- Documents are kept for a specified period of time per the Administrative Record Retention & Destruction Policy.
- Any scheduled destruction shall be suspended for records involved in any open investigation, audit, or litigation.

Reporting Compliance Concerns

- We want to hear if you have a compliance concern.
- Expect to be asked for specific information about the concern.
- There will be no retaliation for reporting a compliance concern in good faith.
- You may discuss your concerns with your Supervisor, Department Leader, Vice President, Human Resources or Compliance.
- Examples may include:
  - Anything that might be an improper billing or coding practice should be reported.
  - If you identify a practice that doesn’t follow established policy or procedure.
  - Concerns about adherence to laws or regulatory requirements.
  - If in doubt, ask anyway. It's better to check things out than to let an error go unidentified.

Privacy of Patient Information

Why Should I Be Concerned About Privacy?

- Patients expect and deserve privacy.
  - Remember to knock on doors and to introduce yourself.
  - Patients must be able to visit in person or on the phone in private.
  - Remember to use a low voice when asking patients to validate personal information in shared spaces.
  - When speaking with patients on the phone ask them to confirm their information rather than you repeating it back in a space where others are present.

- Patients come to us with sensitive and personal information.

- Not following privacy laws could put our patients, staff and Aspirus at risk.

Examples of Appropriate and Inappropriate Uses & Disclosures

- Employees may only access, use and/or disclose patient information as it relates to job responsibilities.

- Example scenarios that are **NEVER** acceptable:
  - Using the Electronic Medical Record (EMR) to look up your neighbor's email address.
  - Using the EMR to look up a patient after hearing a story about a car accident on the news.
  - Sharing patient information with your spouse, family or friends.
  - Viewing tracker boards, patient lists or schedules out of curiosity.
  - Descriptions or discussion of a patient on social media violates a patient's privacy, even if names are not used and no harm is intended. Refrain from sharing patient experiences on social media.
  - Using IT resources to get access to patient information or other confidential information that is not necessary to your role.

Access

- Access to programs or systems within Aspirus should be granted on an as needed basis only.
- If you are getting requests for reports or access that is not typically granted for a position or department, you should verify that the request is legitimate and meets the standards for Aspirus.
  - If something is unclear, check with a supervisor or Compliance.
- It is important to remember that data being used inappropriately within our own system can still result in a breach notification to the Office of Civil Rights (OCR).
- If you are receiving requests to grant access to outside vendors or entities, we need to make sure that the appropriate agreements are in place such as a business associate agreement. Business associate agreements require our vendors to follow the same HIPAA requirements that Aspirus does.

Access

Based on your role or position, especially IT, has broad access throughout the system to confidential business information as well as patient information.

It is important to remember that accessing this information is only to be done as needed for the work you are being asked to do.

It is inappropriate to go into folders or files without a legitimate business need.

Remoting into workstations should only be done for requested assistance by the user.

First Line of Defense

- IT is often the first area to see issues that may result in a privacy concern. Examples include:
  - Suspicious access patterns
  - Reports of lost or stolen devices
  - Phishing or ransomware events involving ePHI
  - Vendors reporting compromised data

- Events that potentially impact patient privacy or other data protected under Aspirus confidentiality policies should be reported to Compliance, immediately.

Do this to Protect Patient Information

- Use shred bins when disposing of patient information
- Always verify that you have the correct patient when scheduling or registering patients for their appointments
  - Check additional identifier with patient same name, same date of birth. Example use address or phone number
- Be aware of your surroundings
- Be aware of common names
- Verify the guarantor at every visit
- Confirm patient details at every visit
- Use a privacy screen on your workstation
- Lock your workstation, do not share passwords

Don’t Do: Breach of Information

- Ask patients, “is everything still the same?”
- Skip the verification process just because you know the patient
- Leave patient information unattended at your workstation
- Leave your workstation unlocked
- Let visitors wander unattended

Protecting Patient Information

What can I do to protect patient information?

What Will Happen if a Patient's Privacy Is Violated?

How will Aspirus know?

- Aspirus monitors medical record access on a regular and ongoing basis and has taken action – up to and including termination of employment – when access was found to be inappropriate.

- Some privacy violations require us to notify the patient and report to the Office for Civil Rights (OCR).

- Civil and criminal penalties are possible, ranging from $145 to $2.1 million annually per facility and potential imprisonment.

DEPARTMENT OF HEALTH & HUMAN SERVICES · USA

Office for Civil Rights

What is the Federal Law That Applies to What We Have Been Discussing?

Health
Insurance
Portability and
Accountability
Act

HIPAA Privacy Rule of 1996
45 C.F.R. parts of 160 & 164

What else do I need to know about HIPAA?

1

Protected Health Information includes diagnoses, procedures, patient identification, billing and clinical information whether on paper, electronic, or verbal.

2

Patients have a right to receive a copy of their medical record.

3

Patients have a right to request an amendment to their medical record.

4

Notify the Privacy Officer of privacy incidents such as lost, stolen, or inappropriately accessed information.

Accessing Yourself or a Family Member's Medical Record

Accessing your personal medical records is only to be done via MyAspirus or a release of information submitted to Health Information Management.

Accessing medical records of family members or other relatives cannot be done using your work credentials. Even with written consent, the access of a family member’s or relative’s medical record must be requested through Health Information Management.

If a family member wants you to be able to see their records, the family member must complete the process to grant access via the Proxy invite in the Friends and Family invite page in My Aspirus. You CAN NOT access via the EMR only the proxy link.

Aspirus monitors medical record access by providers and employees on a regular basis and has taken action, up to and including termination of employment, when access was found to be inappropriate.

Photography, Audio/Video and Other Imaging

Photography, audio/video recording, and other imaging can be taken at the provider's direction

It is the policy of Aspirus to allow the use of photography, audio/video recording, and other imaging for the purposes of patient care, diagnosis and treatment, education or training purposes, quality, safety and performance improvement, and to document suspected patient abuse or neglect.

Photography, audio/video recording, and other imaging must be taken: 1. Using Aspirus devices, or 2. In limited circumstances, using a personal device only when using an Aspirus application that has been approved. Photography, audio/video recording, and other imaging may NOT be taken using the standard photo/video apps on the device.

Patients have the right to refuse photography, audio/video recording, and other imaging.

Privacy of Patient Information

- Artificial Intelligence (AI) is growing in popularity
  - Examples: ChatGPT and Google Gemini
- At this time, only Aspirus approved AI applications are allowed to be used.
  - Only use Aspirus approved devices, applications, or programs for assistance with things like documentation and other areas of practice.
- Refer to the Aspirus Policy: AI Use Policy

Compliance Concerns

- We just reviewed the elements of an effective compliance program and how the Aspirus staff adhere to Code of Conduct.
- We also covered privacy laws and how to protect patient information.
- A third aspect of compliance is related to drug diversion. In the following slides you will review drug diversion to your role, either clinical or non-clinical. Select your role below.

Choose Your Path

Controlled Substance Handling and Diversion-Clinical

ASPIRUS HEALTH

What is a Controlled Substance (CS)?

- A drug or substance that is tightly controlled and monitored by the government due to the potential for abuse and/or addiction.

- Drugs and other substances that are considered controlled substances under the Controlled Substances Act (CSA) are divided into five schedules.

Controlled Substances Schedules

- **Schedule I:** Drugs with a high abuse risk. These drugs have NO safe, accepted medical use in the United States.

- **Schedule II:** Drugs with a high abuse risk but also have safe and accepted medical uses in the United States. These drugs can cause severe psychological or physical dependence. Schedule II drugs include certain narcotics, stimulants, and depressant drugs.

- **Schedule III, IV, V:** drugs with an abuse risk less than Schedule II. These drugs also have safe and accepted medical uses in the United States. Schedule III, IV, or V drugs include those containing smaller amounts of certain narcotic and non-narcotic drugs, anti-anxiety drugs, tranquilizers, sedatives, stimulants, and non-narcotic analgesics.

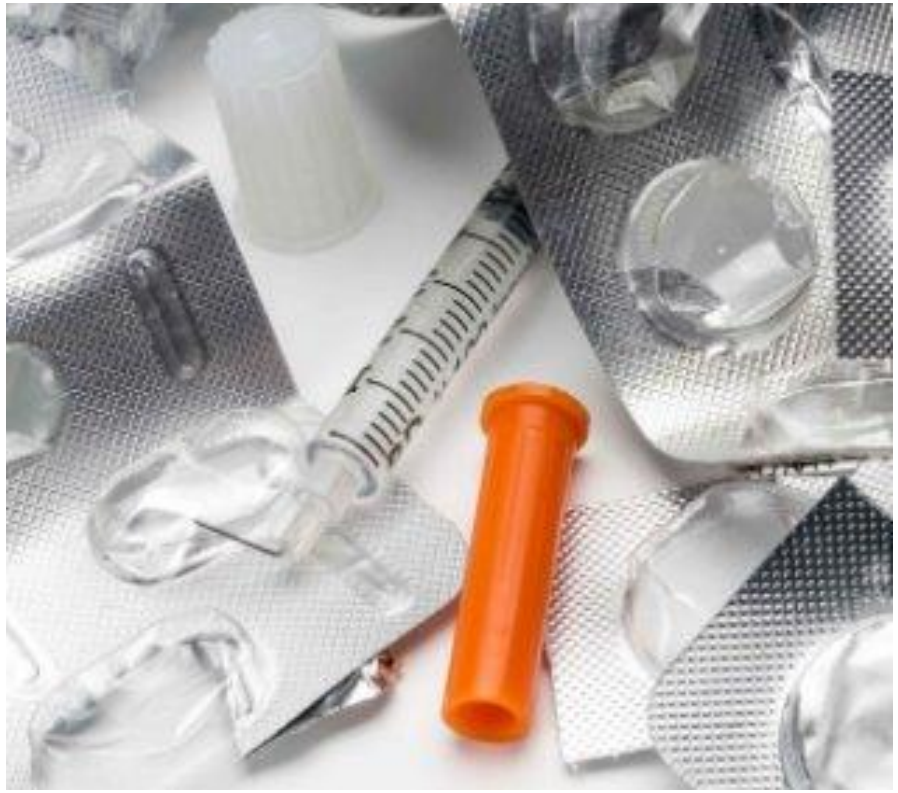
What is Drug Diversion?

- Intentionally and without proper authorization, using or taking possession of a prescription medication or medical gas from Aspirus supplies, Aspirus patients or through the use of Aspirus prescription, ordering, or dispensing systems.

- It involves the diversion of drugs from legal and medically necessary uses towards uses that are illegal and typically not medically authorized or necessary.

Commonly Diverted Controlled Substances

- Opioids
- Stimulants
- Hallucinogens
- Central nervous system depressants
- Anabolic steroids
- Benzodiazepines
- Antipsychotics
- Anesthetics



Why do we have to be so diligent about the control of these medications?

- It is a condition of our license with the DEA that we are keeping adequate control of these types of medications.
  - Following our policies and procedures allows us to track actions in the event of a discrepancy or investigation.
  - Allows us to explain our actions in the event of an external audit or investigation.

- Maintaining control of these medications keeps our patients and staff safe. We maintain control by:
  - Preventing medication tampering.
  - Preventing access to medications by unauthorized staff or unauthorized use.
  - Preventing medication errors.

Diversion in Healthcare

Roughly 10-15% of all healthcare workers will abuse controlled substances at some point in their career.

These medication are extremely powerful and even competent, hard-working and well-liked staff have the potential to divert. There is no profile!

Diversion may occur where and when you least expect it.

It happens in ALL areas of healthcare!

Consequences of Diversion

- Drug diversion outcomes may include:
  - Damaged careers
  - Civil and criminal penalties
  - Infectious disease outbreaks
  - Severe patient harm
  - Death

- Organizations have had to pay large fines to the government for not having proper controls in place around their controlled substances.

Diversion Issues

Patient Safety

- Diversion from the patient for personal use means:
  - Lack of therapeutically effective treatment.
    - Potential for infectious disease exposure through contaminated injection equipment and supplies.
- Health care provider may be impaired while providing patient care.

Diversion Issues Continued

Compliance Issues

- The patient is billed for medications not administered.
- May be viewed as fraud.

Health Care Provider Safety Issues

- Use of controlled substances often accelerates and there are physical consequences of addiction.

How to Handle Controlled Substances

- When you remove medications from the automated dispensing cabinet (ADC), they become your responsibility.
- Start with the lowest ordered dose.
- Only pull the quantity of medication that is needed for the patient at the time.
- Scan the medication and the patient at the time of administration.
- Do not place controlled substances in storage areas that are not secure.
- Do not wait to waste medications.
- Do not hand off drugs for administration or wasting by someone else.
- When wasting in the ADC, the person wasting the medication must sign in first. The witness will act as the cosigner.

Safe Practices to Avoid Diversion

- Use controlled substances in a dose size that minimizes waste.
- Use prefilled syringes in ready-to-use doses closest to what's needed.
- Pay attention to documentation, workflow, and timing.
  - Review medication administration history.
- Waste immediately and follow policy.
- Dispose of drugs safely per EPA requirements.
- Speak up if you ever suspect diversion.

Legal Issues

- Defined by the U.S. Drug Enforcement Administration (DEA)
- Diversion is required to be reported to the DEA, State Practice Boards, and in some instances local law enforcement.
- Diversion is loss or theft of property.

- **Drug/Medication Diversion is illegal and a federal crime.**

Signs and Symptoms of Potential Diversion

Physical Signs
Shakiness, tremors
Constricted or dilated pupils
Sweating or chills
Slurred speech
Unsteady gait
Changes in appearance
Needle tracks

Patterns
Increased absences
Extended breaks or bathroom visits
Suspicious drug administration entries or changes
Volunteers to admin narcotics
Medication discrepancies
Altered verbal/phone medication orders
Incomplete charting and/or med errors
Heavy wastage of drug
Patients complaining of unrelieved pain

Behavior Signs
Personality changes
Irritability or agitation
Falls asleep during downtime
Lack of concentration
Hyper or hypo-activity
Frequent complaints of pain
Wearing long sleeves when inappropriate

Examples of Diversion by Healthcare Professionals/Workers

- Stealing controlled substances from patients
- Falsifying documentation in the patient record to cover diversion
- Removing controlled substances from automated dispensing cabinets that are not intended for patient administration
- Utilizing the override function to obtain medications not for patient administration
- Replacing controlled substances with another product, such as saline

- **UT Southwestern to Pay $4.5 Million to Resolve Alleged Controlled Substance Act Violations That Permitted Drug Diversion by Staff**
  - The civil settlement – which also includes an extensive corrective action plan – is the culmination of a three-year-long joint DEA and U.S. Attorney's Office investigation of UTSW's handling of controlled substances, which began in December 2018 after two UTSW nurses overdosed on fentanyl and died at UTSW's Clements University Hospital. This marks the largest settlement involving allegations of drug diversion at a hospital in the state of Texas and the second largest in the nation.
  - https://www.justice.gov/usao-ndtx/pr/ut-southwestern-pay-45-million-resolve-alleged-controlled-substance-act-violations

Virtual Witness

- Signing into the ADC or physically signing a paper record to witness a waste, restocking, or count without being present and observing the activity is considered being a virtual witness.
- Being a virtual witness is **against policy** and **high-risk** behavior.
- Refuse to be a virtual witness at all times!

Discrepancy Resolution

- Finding a discrepancy does not indicate that the discrepancy is yours, only that an open discrepancy exists and needs to be addressed.
- Discrepancy resolution shall occur as soon as possible to prevent additional discrepancies from being created or by the end of shift.
- Follow the procedural steps when resolving a discrepancy which includes cycle count, reviewing transaction history, and involving leadership as needed.

Controlled Substance Handling and Diversion – Non-Clinical

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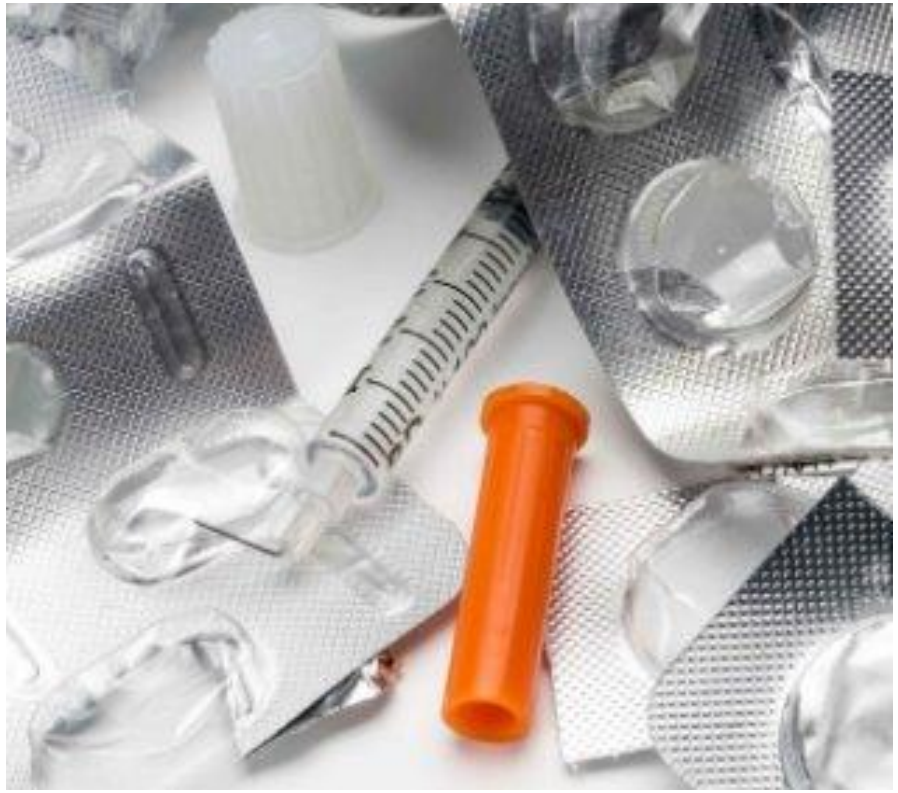

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Behavior Signs
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Irritability or agitation
Falls asleep during downtime
Lack of concentration
Hyper or hypo-activity
Frequent complaints of pain
Wearing long sleeves when inappropriate

Reporting suspicious behavior isn’t betrayal, it’s a critical tool for preventing drug diversion and saving a life.

Response to Detect and Prevent Diversion

- Following best practice and quality components
- Internal auditing/monitoring process
- Diversion response process
- Security monitoring

Diversion Prevention is Everyone's Responsibility

Compliance Concerns

- **All employees are expected to report any concerns they have about compliance, privacy and controlled substance diversion.**
  - Report to your department leadership
  - Refer to the Compliance Intranet page for more information for your executive and compliance team
  - You can also report to Compliance
    - E-mail – compliance@aspirus.org
    - SafetyZone – Ask a question or report a concern
    - Anonymous Compliance Helpline –1-800-450-2339
    - Chief Compliance & Privacy Officer
- **There is no retaliation for a good faith report of a compliance, safety, or quality issue.**

Quiz

Click the **Quiz** button to edit this object

Your participation is appreciated.

Please proceed to the next slide to exit the education and return to your HealthStream account.

Click Here to Close