



## **LOOKING AHEAD TO 2014 IN LONG TERM CARE** **by Kimberli Poppe-Smart**

As we find ourselves in 2014, issues in U.S. healthcare are polarized and pressurized, creating an environment of uncertainty and anxiety for consumers and providers. On the public front the nation's leaders are debating the pros and cons of changes in healthcare coverage. In the back room, healthcare and insurance industry leaders and financial gurus are pacing and wringing their hands as they attempt to envision a successful outcome for the current crisis in healthcare delivery and financing.

At a recent meeting of the nation's past and present Medicaid Directors and various consultants, presentation after presentation was made about the changing landscape. Speaker after speaker stood at the podium in over a dozen education sessions and spoke about efforts to manage costs and provide healthcare for many of the nation's neediest individuals. There were presentations to aid in the deciphering of the Affordable Care Act and all the related nuances, innovative demonstration projects for managing citizens dually eligible for Medicare and Medicaid, projects to manage high cost patients more efficiently, chronic disease management, and the like.

In each session of the conference that this author attended, when it came to the specialty of long term care, the presentations left a void as the speaker's voice trailed off, mentioning only that long term care remains a concern. There was no substantive discussion about how these leaders in the Medicaid environment intend to manage the growing aging population, the growing need for rehabilitation services, the increasing demands of well-informed residents and family members who are insisting upon individualized but non-therapeutic diets and alternative treatments and how failing to meet those demands may or may not create compliance concerns for providers. The only mention of long term care financing was an aside that Medicare officials are looking forward to the day when they can reduce payments to skilled nursing facilities in the dual-eligible pilot projects. In follow-up with a U.S. Senator, it is clear that these and similar concerns for long term care providers are not at the forefront of any current leading debates and are not in scope for at least 18 months. As we wait, a crisis brews.

Over the next year we will present a series of articles on relevant related topics, including the concerns raised above, in the realm of organizational compliance. A few of the topics we will explore include:

- Dissecting Corporate Integrity Agreements and similar materials to find clues on what an "effective" compliance program looks like.
- Highlighting the OIG Work Plan and HHS's program integrity auditing and monitoring efforts.
- Analysis of "worthless services" and other violations of the False Claims Act.
- The impacts of regulatory issues on civil litigation.
- Review of new guidance, pilot projects and other initiatives.

- Key organizational strategies to embrace and maintain a culture of compliance.

This is the season when we like to contemplate those things we will improve in the year to come. Sometimes we reduce those commitments to writing, creating a resolution to guide our efforts as we step forward with a renewed vision for our journey. As 2013 closes out and you, like your employees and peers, contemplate how you will improve yourself and your organization in 2014, you are encouraged to consider the possibility of improving your organization's performance and maintaining a favorable compliance track record by managing habits.

Changing the habits of an organization requires the habits of many people to change and the outcomes can be extremely powerful; resulting in lasting change and a more gratifying work environment. Just like individual resolutions, the first step in creating positive organizational change is to become aware of the habits that need to change. Just as you may become aware of your need to increase your physical activity, eat more greens, or spend more time with your children, the organization must first become aware of its inefficiencies and habits that create imbalance or enterprise risk.

As a leader in your organization take some time to reflect on the habits in daily routines and identify opportunities for improvement. Take time to contemplate what habits should define your organization's culture and realize that you can create that culture by strategically planning to change a few things in the organization. Just as in your personal life, trying to change too much all at once can derail you from achieving any of your goals. Prioritize those habits that, if changed, will have an obvious impact. For example, individualized care planning is a high priority for state surveyors. Are your residents central to the individualization of their care plan development or, are care planning meetings held at time when residents have competing activities such as bathing, treatments, therapies and the like? Examine whether the staff can alter their work flow to be more accommodating to residents and their families and allow greater exchange of care planning priorities and desired outcomes. Changing organizational habits that lead to improved resident participation in the care planning process can lead to reduced criticism by oversight agencies and increased partnership with residents and their families. Improved relationships and effective communication have been shown to reduce litigation exposure.

Another critical area where habit may be stagnating your growth and have an eventual detrimental impact on your organization is in the monitoring of quality measures. For example, are you monitoring and appropriately responding to subtle changes in conditions that, if addressed earlier and appropriately would result in an improved care experience? Do you wait until the resident has lost 5% of their weight in 30 days or 10% in 90 days to institute new interventions? Earlier indicators of actual or impending weight loss, like decreased appetite and food intake, could be identified and communicated within the team in a timely manner and responded to promptly with appropriate interventions. Perhaps the resident is experiencing depression or is lonely and addressing those needs through increased socialization or therapeutic support would lessen the need for appetite stimulants, invasive blood tests and more drastic interventions.

These scenarios are presented as thought-starters for your analysis of organizational habits and room for improvement with planned change. Identifying the opportunities for change and prioritizing them are the beginning. There are many resources available that elaborate the ways that habits impact outcomes and how to successfully effectuate change. One such resource is *The Power of Habit: Why We Do What We Do in Life and Business* by Charles Duhigg. This book provides an explanation of habit, including brain chemistry, that helps put this phenomenon in perspective. Mr. Duhigg describes how habits can be successfully changed by building "cues" into our lives and organizational systems to shape our behaviors towards the desired outcomes.

Your organization's habits may have developed by accident but by focusing on a few key areas, and sticking with it, you can redefine those habits and create the culture you envision for improved experiences of staff, residents and families.

---

About the author:

A senior associate at Wroten & Associates, Kimberli M. Poppe-Smart has united her nearly 30-year nursing career with over a decade of legal experience into a health care risk management and compliance specialist. Her most recent experience as an appointed leader in state government, overseeing Medicaid, survey and certification and a myriad of additional state-administered program add a depth of knowledge and experience rarely seen in the litigation arena. Ms. Poppe-Smart earned a diploma in registered nursing in 1983, a bachelor of science in nursing in 1992 and graduated cum laude from Thomas Jefferson School of Law in San Diego, CA in 2002.

Ms. Poppe-Smart is a Wroten & Associates litigation team member as well as an expert in identifying and managing risks and implementing enterprise risk management plans and strategies. She has spoken nationally on health care topics including quality assurance, risk management and compliance.

For more information on Wroten & Associates please visit [www.wrotenlaw.com](http://www.wrotenlaw.com) . Email Ms. Smart at [kpsmart@wrotenlaw.com](mailto:kpsmart@wrotenlaw.com)