

"Internal Investigations Handbook"

Stephen A. Miller, 2006, 129 pages, HCPro, \$99.00

Review by Norman M. Goldfarb

"Internal Investigations Handbook" is a pragmatic handbook about internal investigation policies and procedures, how to initiate and conduct investigations, and how to disclose (or not) the results. The book addresses hospital investigations of potentially illegal conduct, such as overbilling Medicare, but much of the guidance is useful for investigations of policy violations, such as conflict of interest rules, at other healthcare facilities as well.

The book consists of six chapters:

- Introduction to internal investigations
- When to conduct an internal investigation
- The investigation process
- Preserving attorney-client privilege and work product protection
- What to do with investigation results
- How to respond to search warrants

The Office of Inspector General (OIG) has published "Compliance Program for Hospitals," which is based on federal sentencing guidelines that strongly encourage internal investigations and disclosure of findings to government authorities. However, an inept investigation may very well dig the hole a lot deeper. For example, if you do not protect attorney-client privilege, the government gets to read internal emails that lay out their case for them. If you interview employees improperly, they can sue you for invasion of privacy, intentional infliction of emotional distress, defamation and even false imprisonment. False imprisonment does not require physical restraint; verbal intimidation may be adequate.

Employees being interviewed may have the following concerns:

- Fear that they may have unknowingly done something wrong and may lose their jobs
- Concern that they may implicate a coworker and be responsible if he loses his job
- Fear of being viewed as disloyal or a "rat" by other employees
- Concern about having to work with an accused employee who is later found not to have done anything wrong
- Concern about being sued by an accused employee for defamation.

The primary ways to address these concerns are to explain clearly what is going on, treat everyone with respect, and stress their duty to the organization and the patients.

The chapter on search warrants reveals that television depictions are not far from the truth. Mattresses may not be sliced open, but expect an exercise in intimidation. A team of too many uniformed, armed officers will probably arrive without advance notice. Their primary responsibility is not to protect your rights. For example, consenting to the search waives your rights to file certain objections later. (However, they can conduct the search without your permission.) They are not required to read your employees their rights, so send everyone home who is not needed to follow the officers around and take detailed notes on what they inspect and collect.

The book includes four tools, which are also provided in electronic form on an enclosed CD-ROM:

- Sample board resolution authorizing an internal investigation
- Sample memorandum to employees about a new internal investigation
- Sample notice to employees: Responding to investigators
- Model disclosure letter and review mechanism

The book is available at <http://www.hcpro.com> and bookstores.

Reviewer

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