Compliance Challenges: The Best Defense Is A Good Offense
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Heightened scrutiny from federal regulators is increasing the pressure felt throughout the healthcare industry for compliance. Most healthcare organizations already strained by time, resources and finances, are challenged to keep pace with the rules and regulations and to ensure the compliance program they have in place is effective.

In response, many organizations are adopting an ad-hoc approach to compliance program management---one which often adds time, costs, and resources. This is not the best approach to establishing an offensive stance to compliance management. Instead, organizations must focus their time and resources on addressing the seven critical elements covered in this paper for establishing an effective compliance program.
Compliance is a ‘Critical Condition’

Seven Elements of a Compliance Program

1. Written Policies, Procedures and Standards of Conduct

2. Compliance Officer, Compliance Committee and High Level Oversight

3. Effective Training and Education

4. Open Lines of Communication

5. Well-Publicized Disciplinary Standard

6. Effective System for Monitoring, Auditing and Identifying Compliance Risks

7. Procedures and System for Prompt Response to Compliance Issues

1. **Written Policies, Procedures and Standards of Conduct:**

   Demonstrate a commitment to compliance and ethical practices. Have written policies that are regularly distributed to all staff members. Develop written standards such as a code of conduct and procedures for your staff manual that is specific to your healthcare business. This work may be performed internally or by hiring a consultant or attorney to assist in drafting the policies. Once established, these policies must be followed and updated regularly or additional problems can arise.

2. **Compliance Officer, Compliance Committee and High Level Oversight:**

   Designate compliance officer and/or compliance committee to directly report to the owner(s) or organization’s executives, and who are separate from the legal and financial roles in the business. The guidelines emphasize that the owner(s) or executives be engaged in the compliance program, mandating that they be “knowledgeable” of the content and operation of the program,
“exercise reasonable oversight” of implementation and effectiveness, and receive training and education on the program structure and operation.

The perfect scenario is to appoint one individual with the educational background and the inclination to handle the many details of this position who is to be responsible for the oversight and daily implementation of the compliance program.

3. Effective Training and Education:

Provide compliance training at least annually and at new employee orientations and include the designated Compliance Officer. All staff members involved in the administration or delivery of benefits should also receive fraud, waste and abuse (“FWA”) training on a regular basis.

Ultimately, the Compliance Officer or committee determines which employees need training and when. The training may be delivered in a variety of ways. A guideline that can be used for the amount of training needed is through CIAs (Corporate Integrity Agreements) which typically require 1-3 hours of education annually. The primary goals of training are to ensure that all employees:

- know how to perform their jobs in compliance with regulations such as HIPAA and OSHA
- understand that compliance is a condition of continued employment.

4. Open Lines of Communication:

Have an effective manner of communicating from the owners or executives to the entire organization. The written policies and procedures must require all employees to report any compliance concerns and violations that exist or are suspect. Therefore, it is important for employees to feel that they may report suspected fraud, waste or abuse without fear of retribution.

Providing this means of communication should enable the practice to catch errors or potential fraud in the early stages preventing larger problems and diminishing whistleblower liability in the future.

To have open lines of communication, it is most effective to allow employees to maintain anonymity whenever possible. There is a much greater likelihood that an employee will report if they can do so anonymously and after work hours. Hotlines are a good solution.

5. Well-Publicized Disciplinary Standards:

Establish and publicize disciplinary policies and procedures for all employees stipulating expectations for compliance issue reporting and resolution, and for participation in required training. This information should be included in your organization’s policies and procedures and code of conduct.
While establishing these guidelines and regularly educating your employees about them is important; all employees must perceive that these disciplinary standards are being carried out in a fair, equitable and consistent manner.

6. Effective System for Monitoring, Auditing and Identifying Compliance Risks:

Create and implement an effective system for routine, internal monitoring and internal and external audits to ensure ongoing program compliance. The most critical areas involve billing, coding, documentation and relationships with third parties. Other areas that require regular monitoring involve OSHA, HIPAA, and screening employees against the OIG LEIE (List of Excluded Individuals and Entities) in order to comply with the Exclusion Statute.

It is important to conduct self-auditing and monitoring on a continual basis. The entire staff should be trained and responsible for the process of evaluation. At least once annually, the results of the audit should be documented and reported to the governing body or owners of the business.

7. Procedures and System for Prompt Response to Compliance Issues:

Conduct timely, well-documented and reasonable inquiries into any potential non-compliance issue within two weeks after it was identified. Actions must focus on correcting the root cause of the non-compliance issue.

If a problem is detected, it means the compliance program is working and there is no reason for alarm. However, follow-up is important as the issue must be investigated and corrected. In some cases, it may be advisable to proceed under attorney client privilege. A valuable resource when addressing such issues is the updated Provider Self-Disclosure Protocol issued April 17, 2013 by OIG.

While all healthcare organizations are required to adopt and manage a compliance program, the expectation is that the compliance program is tailored to the specific needs and resources of the organization.

Other areas that require regular monitoring involve OSHA, HIPAA, and screening
Excuse for not taking the offensive lead...

There is none.

While having an effective compliance program certainly mitigates your risks of fines or sanctions, implementing a comprehensive compliance program provides additional benefits by:

- minimizing mistakes and possibly enhancing revenue through improved coding and documentation
- streamlining the business side of healthcare
- providing for increased staff communication and improved patient care

Healthcare organizations must keep pace with an overwhelming volume of rules and regulations. Whether your organization is a hospital network or healthcare system, private physician practice, skilled nursing facility, healthcare billing company, etc. as a healthcare provider, you are burdened with the implications of the Patient Protection and Affordable Care Act (PPACA) and the American Recovery and Reinvestment Act (ARRA). In this whitepaper we have attempted to help you mitigate your risks by outlining the seven critical elements of a compliance program in the healthcare industry. Healthcare organizations of all sizes must demonstrate that they are committed and invested in effective compliance programs. Compliance with federal healthcare rules and regulations may be challenging, yet mitigating risks by adopting a comprehensive compliance program that addresses these seven elements is not only the best defense but the greatest offense.

OUR SOLUTION

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