Successful Strategies for Teaching Physicians

Terri L. Gilbert, Senior Manager,
Aegis Compliance & Ethics Center,
LLP

Session Friendly Interaction

• Introduce yourselves to your constituents
• Engage in short conversations
• Discuss what you would like to take away from today’s session
Let’s Talk Compliance!

• What is the first thing you do/did as a Compliance Initiative in your Academic Clinical Practice?
Definition of Compliance

1. the act of **conforming**, acquiescing, or yielding.
2. a tendency to **yield readily** to others, especially in a **weak and subservient way**.
3. conformity; accordance: in compliance with **orders**.
4. cooperation or **obedience**: Compliance with the law is expected of all.
In the Beginning...

- Compliance initiatives
- What are your risks?
- Know the players
- Know the areas/departments
- Know your physicians/providers
- Communicate, communicate, communicate!
- You are not alone

WHY??

- Protection of your organization
- Doing business the right way
- Proactively reduces risk
  - Compliant billing
  - Provider education
  - Encourages process reviews and corrections
History Overview

• Important year – 1995
• The beginning of PATH audits and settlements
  – University of Pennsylvania - $30 million
  – University of Pittsburgh - $17 million
  – Thomas Jefferson University - $12 million
  – University of Washington - $35 million
  – University of Virginia - $1.5 million

My Worry List

• What keeps you up at night?
• What makes your organization stand out?
• Where are there limited controls?
• What are your outliers?
• Others?
Oversight of the Health Care Industry

Effective Healthcare Compliance Program

7 Elements of an Effective Healthcare Compliance Program
The Most Important Elements for Your Success?

- Physician buy-in
- Physician Champion
- Backup by leaders
- No surprises!

Let’s Review the

1. Written Standards of Conduct, Policies, and Procedures
2. Oversight and Organization of the Compliance Program
3. Education and Training
4. Open Lines of Communication
5. Auditing and Monitoring
6. Promptly Responding to Compliance Violations
7. Enforce the Compliance Program through Disciplinary and Incentive Guidelines
Written Standards of Conduct, Policies, and Procedures

- Code of Conduct
- Policies
- Compliance Plan/Program
- Benchmark with other similar organizations
- If you write it...

What is the Structure of the Compliance Process?

- Compliance Officer
- Board of Directors
- Compliance Committee
- Coding and Compliance professionals
- Follow written structure
Education and Training

• “Official” education and training program
• Communicate often to everyone
• Develop a yearly plan for education and training
• Provider shadowing
• Track

Open Lines of Communication

• Anonymous HELPLINE
  – Internal or External
  – Web reporting
• Employees know how and where to report
  – Office
  – Phone
  – Email
• Multi-level reporting
  – Management, HR, You, Helpline
Auditing and Monitoring

• Where you will spend some time – lots of risks to look at in this area especially if your program is new
• Move toward a proactive instead of a reactive model
• Track
• The 60-Day Rule information

Auditing and Monitoring

• Internal?
• Outsourced?
• Defining parameters
• Education (continuous improvement)
  – Real Time Provider Shadowing
  – Include actual scenarios
  – Must be relevant, timely and meaningful
Auditing and Monitoring

- Audit looking at risk
- Was it successful?
  - Yes
  - No
- Continuous reflection and improvement
- Perpetual education!

Promptly Responding to Compliance Violations

- All calls investigated and provided with a response
- Prompt Response
What To Do...?

- INCENTIVES!
- Be positive
- Must be consistent throughout for the same violation
- Follow through
- Possible external review under “attorney-client privilege”
- Celebrate successes

Enforce the Compliance Program through Disciplinary and Incentive Guidelines

- Discipline = equal for all similar fact patterns
  - Progressive discipline policies
    - Re-audits
    - 100% mandatory review
    - Suspend billing
- Incentives
  - Performance Evaluations
  - Reward System
  - Monetary penalties
  - Compliance & Ethics Week
Let Us Delve Into Risks

Risk Assessment Priorities

What Size Are Your Rocks?
Analysis of Risk Assessment

• What is the importance and urgency?
• List out your highest risks based on the assessment
• Outlier billing patterns – Bell Curve Data

Teaching Physician Focus

• Documentation
  – Evaluation and Management (E&M)
    • Time based
    • Consultations
  – Surgical – major, minor, scopic procedures
  – Electronic Medical Record
• Concurrent procedures
• Mid level providers
• Supervision
Teaching Physician Focus

- Primary care physical presence exception
- Acceptable attestations
- Staffing and schedules
- Scribes
- Student documentation

Provide Definitions for Risk Assessment

- Importance – how important is this to the organization?
- Urgency – how quickly do we need to address this issue?
- Impact – what impact will this risk have on our organization if it happens?
- Likelihood – how likely is this risk to occur to our organization?
Risk Assessment

• For high or medium risks, think through possible factors that are already in place
  – Policies
  – Procedures
  – Audits
  – Checklists

Where are some of your risks that you may want to audit?

• Teaching physician guidance
• CERT
• OIG Work Plan
• Past Issues
• Outliers
• What about ICD-10?
• New Implementation /Laws
• What keeps you up at night?
• What makes your organization stand out?
• Where are there limited controls?
Comprehensive Error Rate Testing (CERT)

- Annually a statistically valid sample from billed claims
- Fee-for-service payments
- CMS initiative

### Comprehensive Error Rate Testing (CERT) – 2/8/2016

<table>
<thead>
<tr>
<th>Service Type</th>
<th>Improper Payment Rate</th>
<th>Improper Payment Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Inpatient Hospitals</td>
<td>6.2%</td>
<td>$7.0B</td>
</tr>
<tr>
<td>Durable Medical Equipment (DME)</td>
<td>39.9%</td>
<td>$3.2B</td>
</tr>
<tr>
<td>Physician/Lab/Ambulance</td>
<td>12.7%</td>
<td>$11.5B</td>
</tr>
<tr>
<td>Non-inpatient Hospital Facilities</td>
<td>14.7%</td>
<td>$21.7B</td>
</tr>
<tr>
<td><strong>Overall</strong></td>
<td><strong>12.1%</strong></td>
<td><strong>$43.3B</strong></td>
</tr>
</tbody>
</table>
CERT Error Categories

- No documentation
- Insufficient documentation
- Medical necessity
  - NCDs
  - LCDs
- Incorrect coding
- “Other”
  - Duplicate
  - Noncovered
  - Not allowed

EM Bell Curve
EM Bell Curve

Bell Curve Comparisons
Or, Do Your Rocks Resemble This?

Types and Timing of Audits

• Routine audit
• Focused audit
• Probe audit
• Expanded review audit
• Annual timeline defined
Attorney Client Privilege

OK – You found a real issue during your risk assessment or monitoring/auditing. What to do?

• Engage
• Confidential and Privileged Communication

Attorney Client Privilege Review

• Development of review plan
• Probe Audit
• Focused review
• RATSTATS
• Do I need a personal attorney?
OIG Work Plan


Annual OIG Work Plan

- Physician home visits
- Provider Based Status
- Clinical Laboratory Services
- SNF PPS Requirements
- Evaluation and Management Services (E&M)
New Implementation/Laws

• If they pass it, they will audit it!
  – Two Midnight Rule
  – Sunshine Act
  – Anesthesia services
  – Physician home visits
  – 60 day rule

Two Midnight Rule

• Difference between ordering “observation” or “in-patient” in the hospital
• The visit must span two midnights or fit an exception
• The government cares because it impacts reimbursement
• Document, Document, Document
Anesthesia Services

- Continued focus review by the OIG
- AA or QK modifiers
- “Reasonable and necessary” services
- Anesthesia services-non covered services
- Medical necessity

Physician Home Visits

- Reasonableness of service
  - “Reasonable and necessary”
- Since January 2013 Medicare has made $559 million in payments
- Physicians are required to document the medical necessity of a home visit in lieu of an office or outpatient visit
Prolonged Services

- Reasonableness of services
- Considered to be “rare and unusual”
- “Exception NOT the rule”

Or This?
Concurrent Surgeries

• Two or more overlapping surgeries
• Language in the Medicare Teaching Physician Guidelines are vague – “key and critical portions”, “immediately available”, etc.
• Train, Document and Track

Mid-Level Providers

• When a hospital inpatient, outpatient or emergency department Evaluation and Management (E/M) service is shared between a physician and a Non-Physician Practitioner (NPP) the service may be billed under either the physician's or the NPP's UPIN/PIN number.
  – Employed by same employer
  – Both fully credentialed
  – Both provide medically necessary face to face portion of the E/M encounter with the patient and document their participation
  – Documentation must substantiate medical necessity and support the level of E/M code submitted
STARK

• Prohibits a physician from making a referral for certain designated health services to an entity in which the physician (or immediate family) has an ownership interest unless an exception applies
• Most often – Agreements
  – More than 1 year
  – FMV
  – In writing
• Too good to be true?

Kickback

• Knowingly and willfully offer, pay, solicit or receive any remuneration directly or indirectly to induce or reward referrals of items or services
• Beware -
  – Below FMV
  – Free
  – State Law
  – What you “give” to patients
ICD-10

• ICD-10 is the 10th revision of the International Statistical Classification of Diseases and Related Health Problems (ICD), a medical classification list by the World Health Organization (WHO). It contains codes for diseases, signs and symptoms, abnormal findings, complaints, social circumstances, and external causes of injury or diseases.

• For 2016...
  – Codes for Disease and Procedural Classifications = 16,000 Codes

• For 2017...
  – 1,974 additions, 311 deletions, and 425 revisions
  – The resulting total for diagnosis codes is 71,486.
Clinical Documentation Improvement

- Clinician engagement
- Enhanced process
- Quality improvement
- Increased compliance
- Financial impact
- Minimizes “silos”
Don’t forget to CELEBRATE Ethics & Compliance Week!

SAVE THE DATE: CELEBRATE IN 2016
Corporate Compliance & Ethics Week NOVEMBER 6–12
Provide. Protect. Prevent. NEED IDEAS? CLICK HERE

Practical Tools for Living Compliance

• Online Sources – The Government is not TOP SECRET in compliance
  – https://www.cms.gov/
  – http://oig.hhs.gov/
  – http://www.hcca-info.org/
  – http://www.ahima.org/
  – http://www.justice.gov/
  – https://www.healthlawyers.org/Pages/Home.aspx
  – www.hcca-info.org
http://aegis-compliance.com/resources

Provider Resources

De-Stress Yourself

**Thank You for Your Involvement Today**