Inside the Beltway: Compliance Effectiveness Tips

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Disclaimer

The materials and views expressed in this presentation are the views of the presenter and not necessarily the views of the North Shore-LIJ Health System.
GOALS OF THE PRESENTATION

- Understand the latest government guidance on compliance effectiveness
- Helpful tips to demonstrate compliance effectiveness
- Learn how to leverage internal and external compliance data
- Answer your questions
Conference Materials

- Sample Annual Risk Assessment
- Sample Semi-Annual Risk Assessment
- Sample Work Plan
- Risk Assessment and Annual Work Plan Development Policy
- Hospital Compliance Program Self-Assessment Tool
- Compliance Effectiveness Case Studies
OIG and NYS OMIG
GENERAL STANDARDS

- Organization exercises due diligence
- Organization promotes a culture encouraging ethical and lawful conduct
- Compliance program is reasonably designed, implemented, and enforced
- Failure to prevent or detect a specific offense does not necessarily mean that the program is not generally effective
GAO Report: Early Evidence of Compliance Program Effectiveness is Inconclusive

- Refunds of provided-identified overpayments
- Self-disclosures of potential misconduct
- Frequency of disciplinary actions for non-compliant employees
- Increased corporate awareness of compliance program
HCCA AND OIG JOINT REPORT: BUILDING A PARTNERSHIP FOR EFFECTIVE COMPLIANCE

- Baseline (e.g., initial) audits
- Proactive audits (based upon industry or internal risk factors)
- Issue-based (when the provider knows there is a problem and is trying to ascertain the depth of the problem)
HCCA and OIG Joint Report: Building a Partnership for Effective Compliance 

- Audit results
- Logs of hotline calls and their resolution
- Corrective action plans
- Due diligence regarding business transactions
- Records of disciplinary action
HCCA and OIG Joint Report: Building a Partnership for Effective Compliance continued…

- Documentation of modification and distribution of policies
- Records of disclosures and refunds to federal health care programs
- Records of training programs
OMIG - COMPLIANCE PROGRAM EFFECTIVENESS

- Compliance Program Assessment Tool
  http://www.omig.ny.gov/data/content/view/81/206/

- Compliance Alert #7 - Effectiveness Review Process
  http://www.omig.ny.gov/data/content/view/215/299/

- OMIG Effectiveness PowerPoint Presentation
OMIG HOSPITAL COMPLIANCE PROGRAM
GUIDANCE

- History of OMIG Hospital Compliance Guidance
- Recommendations Section
- Resource and State Medicaid Agency Websites Section

OMIG COMPLIANCE PROGRAM EFFECTIVENESS CERTIFICATION

OMIG's Compliance Program Assessment Form provides a full analysis of each element and all the requirements under each element. It can be accessed at the following link: Compliance Program Review Assessment Form.

<table>
<thead>
<tr>
<th>Question</th>
<th>Yes</th>
<th>No</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Have you implemented written policies and procedures that describe compliance expectations which support a compliance program?</td>
<td></td>
<td></td>
</tr>
<tr>
<td>2. Have you designated an employee vested with responsibility for the day-to-day operation of the compliance program?</td>
<td></td>
<td></td>
</tr>
<tr>
<td>3. Is there routine training and education of all affected employees and persons associated with the provider, including executives and governing body members, on compliance issues, expectations and the compliance program?</td>
<td></td>
<td></td>
</tr>
<tr>
<td>4. Do all employees and persons associated with the provider have access to the Compliance Officer to allow for compliance issues to be reported, including a method for anonymous reporting?</td>
<td></td>
<td></td>
</tr>
<tr>
<td>5. Have disciplinary policies been implemented and enforced to encourage good faith participation in the compliance program by all affected individuals?</td>
<td></td>
<td></td>
</tr>
<tr>
<td>6. Do you have a system for routine identification of compliance risk areas specific to your provider type and do you conduct audits of those risk areas?</td>
<td></td>
<td></td>
</tr>
<tr>
<td>7. Do you have a system in place for investigating and responding to compliance issues as they are raised, including reporting compliance issues to DOH or OMIG and refunding overpayments?</td>
<td></td>
<td></td>
</tr>
<tr>
<td>8. Have you implemented a policy of non-intimidation and non-retaliation for good faith participation in the compliance program?</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Provider certifies that the provider and its affiliates have adopted, implemented and maintain a compliance program that meets the requirements of SSL §363-d and 18 NYCRR Part 521.

If you determine that your compliance program does not meet the requirements of SSL §363-d and 18 NYCRR Part 521, please check this box.

From OMIG's Website: https://www.omig.ny.gov/data/content/view/291/53/. 
2012 OIG Pharmaceutical Roundtable

- Flexible training methods needed (e.g., competency tests, quality vs. quantity)

- Allow scope of IRO’s review to vary based upon risk profile

- Management and Board member compliance certifications helpful

- Compliance Officer not be subordinate to GC or CFO

- Business units need to own “Compliance”

- Early involvement in business activities a key factor

- Use different methods in “Compliance Messaging”
Similar comments as the OIG Pharmaceutical Roundtable

Useful if negotiating a CIA

Compliance Officers favor management certifications

Be careful of “Checking the box” vs. “effectiveness”

Carefully consider the IRO’s scope
OIG RESOURCES – ASKING THE RIGHT QUESTIONS

- Physician Education

- Compliance Training

- Corporate Integrity Agreements

- OIG Compliance Guidance
  https://oig.hhs.gov/compliance/compliance-guidance/index.asp

- Board of Directors Guidance
  http://oig.hhs.gov/compliance/alerts/guidance/index.asp
HHS IG: DANIEL LEVINSON, “TRUSTEE ENGAGEMENT AND HOSPITAL SUCCESS”

- Compliance officer should not serve as hospital’s legal counsel

- Board needs a system for candid reporting: adverse events, patient complaints, medical and medication errors, patient quality, etc.

- The best boards are active, questioning and even skeptical concerning the hospitals they oversee
SCCE/HCCA April 2010 Report – The Relationship Between the BOD and the Compliance Officer

- Proper board and compliance officer relationship is critical
- Executive session meetings relatively uncommon
- Compliance reports substantively edited by General Counsel or others
Patient Protection and Affordable Care Act

- **PPACA § 6401(a)(7)**
  - Compliance program as a condition of enrollment
  - Secretary in consultation with OIG to work on core elements

- **PPACA § 6102** – Nursing Facilities and Skilled Nursing Facilities by March 23, 2013
Moneyball

- Based upon a book published by Michael Lewis about Oakland Athletics baseball team and general manager Billy Beane

- Oakland Athletics lower budget team competes effectively against higher budget teams like the NY Yankees

- Oakland Athletics used a unique statistical approach
Sample Data Mining Dashboard
(Non-North Shore-LIJ Data)
## Sample Data Mining Risk Report (Non-North Shore-LIJ Data)

<table>
<thead>
<tr>
<th>Risk Category</th>
<th>Claims</th>
<th>Total Charges</th>
<th>Average Charges</th>
<th>Tot Overall Amt at Risk</th>
</tr>
</thead>
<tbody>
<tr>
<td>Noncovered Service</td>
<td>4,145</td>
<td>9,187,151</td>
<td>2,216</td>
<td>3,129,920</td>
</tr>
<tr>
<td>Unit Count</td>
<td>3,800</td>
<td>25,455,329</td>
<td>8,585</td>
<td>10,535,024</td>
</tr>
<tr>
<td>OB Billing and Care</td>
<td>3,181</td>
<td>9,161,362</td>
<td>2,881</td>
<td>4,248,958</td>
</tr>
<tr>
<td>DRG Denial Risk</td>
<td>2,448</td>
<td>29,675,922</td>
<td>16,085</td>
<td>12,281,484</td>
</tr>
<tr>
<td>Short Stay</td>
<td>1,755</td>
<td>24,283,679</td>
<td>18,286</td>
<td>9,255,970</td>
</tr>
<tr>
<td>Transfer</td>
<td>1,241</td>
<td>16,155,732</td>
<td>16,882</td>
<td>8,312,849</td>
</tr>
<tr>
<td>Hosp Acquired Cond</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Vascular (Central Venous) Catheter Associated Infection (126)</td>
<td>4</td>
<td>332,517</td>
<td>83,129</td>
<td>142,371</td>
</tr>
<tr>
<td>Falls, Trauma or Injuries (132)</td>
<td>17</td>
<td>544,039</td>
<td>41,849</td>
<td>122,511</td>
</tr>
<tr>
<td>Air Embolism (129)</td>
<td>1</td>
<td>67,140</td>
<td>67,140</td>
<td>25,858</td>
</tr>
<tr>
<td>Catheter Associated UTI with POA not Y (121)</td>
<td>3</td>
<td>76,093</td>
<td>38,047</td>
<td>11,508</td>
</tr>
<tr>
<td>Glycemic Control Manifestation with POA not Y (122)</td>
<td>3</td>
<td>30,620</td>
<td>30,620</td>
<td>7,511</td>
</tr>
<tr>
<td>Stage III &amp; IV Pressure Ulcers (131)</td>
<td>1</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Total: Hosp Acquired Cond</td>
<td>27</td>
<td>1,050,409</td>
<td>50,019</td>
<td>309,759</td>
</tr>
<tr>
<td>Diag Related</td>
<td>2</td>
<td>37,825</td>
<td>18,913</td>
<td>20,006</td>
</tr>
<tr>
<td>Total: Selected Filter(s)</td>
<td>16,599</td>
<td>115,007,408</td>
<td>7,963</td>
<td>48,093,970</td>
</tr>
</tbody>
</table>
California Data Mining

- Healthcare Compliance Association (HCCA) Compliance Today article summarized a coding issue at one California Hospital whereby 16.1% of their Medicare patients aged 65 and older suffered from Kwashiorkor.

- The California Hospital’s percentage, when compared to California state data, was 70 times the state average of 0.2%.
March 2012 OIG Report: Early Assessment of Audit Medicaid Integrity Contractors (MIC)

- OIG analyzed 370 MIC audits between Jan. and June 2010

- Some Key Findings:
  - 81% of the audits did not or were unlikely to identify overpayments
  - There were no overpayment findings in 85 audits
  - 39% (144 audits) were ongoing and unlikely to identify overpayments
  - 11% of the audits found overpayments totaling $6.9 million
  - Only 7 audits found overpayments greater than $100K
  - One audit had an overpayment finding of $6,012 where the potential overpayment had been identified as $2,948,137
STRATEGIC RISK MANAGEMENT

- Anticipate the Risk
- Assess the Risk
- Act Against the Risk
- Adopt a Plan

*Be Prepared...*
Risk assessments rarely conclude that everything is under control
Compiled semi-annually and the areas covered include the following:

- The status of ongoing Compliance initiatives
- Key changes and updates to pertinent rules and regulations
- Risk profile chart
- Health System financial data and benchmarks
RISK ASSESSMENT RESOURCE GUIDE continued...

- Government audit data trends and Health System government audits
- Internal audits conducted
- Health System voluntary disclosures
- Health System developments
- Compliance Help-Line trend analysis
DETERMINING POTENTIAL RISK AREAS

- Interviews of key personnel
- External work plans from OIG and OMIG are reviewed
- Prevalent industry topics also reviewed
- Internal data mining, through third party software
- Financial data is assessed to evaluate reimbursement trends
- Audit items that pertain to the Health System are placed on a “potential audit” list
- Prior year audits/re-audits
The purpose of this graph is to provide a visual depiction of high risk issues which may impact the Health System based upon our analysis. The graph does not include all proposed audits, initiatives or risks, but provides a high-level overview of the compliance risks that may impact NSLIJ.

**KEY:**
- Red=High Risk
- Yellow=Med. Risk
- Green=Low Risk
Work Plan Structure

- Investigative Coding Audits
  - Billing complaints
  - Inappropriate documentation

- Professional Fee Coding Audits
  - Modifier assignment
  - Physician Supervision
  - High volume providers

- Facility – Inpatient and Outpatient
  - MS-DRG Reviews
  - Clinics
  - Ambulatory Surgery Unit

- Data Mining
  - Missing charges
  - Supply units

- Home Health, Skilled Nursing, Hospice and Laboratory
  - RUG Coding
  - Trends in Laboratory Utilization

- HIPAA

- Non-Coding Audit Initiatives
  - Policy revisions/creation
  - Electronic Medical Record Access
  - Compliance Survey
Audit Efficiency

Audits can only be as effective and efficient as you are

- Utilize technology whenever possible to cover more ground

- Complicated reviews may require additional credentialed resources

- One audit may take 100 hours and be of little benefit while another audit may take 10 hours and may be of great benefit

- All comes down to weighing the risk as well as the benefit to the organization
## Methods to Assess a Compliance Program

<table>
<thead>
<tr>
<th>Method</th>
<th>Pros</th>
<th>Cons</th>
</tr>
</thead>
<tbody>
<tr>
<td>Self-Assessment</td>
<td>• Cost effective</td>
<td>• Lack of independence</td>
</tr>
<tr>
<td></td>
<td>• Knowledgeable</td>
<td>• Potential bias</td>
</tr>
<tr>
<td></td>
<td>• Easier to organize</td>
<td>• Trend towards external</td>
</tr>
<tr>
<td>Peer Review</td>
<td>• Cost effective</td>
<td>• Difficult to find partner</td>
</tr>
<tr>
<td></td>
<td>• Practical guidance</td>
<td>• Confidentiality</td>
</tr>
<tr>
<td></td>
<td>• Learning opportunity</td>
<td>• Potential bias if co-peer</td>
</tr>
<tr>
<td>Outside Consultant</td>
<td>• Breadth of client base</td>
<td>• Cost</td>
</tr>
<tr>
<td></td>
<td>• Independence</td>
<td>• Increase in process time</td>
</tr>
<tr>
<td></td>
<td>• Credible if reputable firm used</td>
<td>• “Specific organization” operational expertise</td>
</tr>
<tr>
<td>Government Review</td>
<td>• Free if voluntary</td>
<td>• Costly if an investigation</td>
</tr>
<tr>
<td></td>
<td>• Government insight</td>
<td>• Not all government agencies view issues the</td>
</tr>
<tr>
<td></td>
<td>• Good enough for government, good enough for</td>
<td>same</td>
</tr>
<tr>
<td></td>
<td>us!</td>
<td>• Risk if program fails</td>
</tr>
<tr>
<td></td>
<td></td>
<td>• Disclaimer on “effective”</td>
</tr>
</tbody>
</table>
### Some Ways to Measure Effectiveness

<table>
<thead>
<tr>
<th>Item</th>
<th>2011 Results</th>
</tr>
</thead>
</table>
| ▪ Active Compliance Help-Line                                       | ▪ Over [X] calls  
                                                                   | ▪ Within industry average  
                                                                   | ▪ All issues resolved |
| ▪ Effective compliance training program                            | ▪ ~ [XX]% completed the training  
                                                                   | ▪ Won national award  
                                                                   | ▪ ~ [XX]% of employees found it effective  
                                                                   | ▪ [XX]% of employees received a passing test score |
| ▪ Strong voluntary disclosure program***                           | ▪ [X] disclosures - ~ $X million |
| ▪ Robust audit function                                             | ▪ Conducted [X] coding audits  
                                                                   | ▪ Confirmed [X]’s focus is correct  
                                                                   | ▪ Decreased error rate by [X]  
                                                                   | ▪ All CAPs completed |
| ▪ Written policies, procedures, standards of conduct               | ▪ [XX]% completed annual Code of Conduct certification  
                                                                   | ▪ [X] revised or new compliance policies |
### Some Ways to Measure Effectiveness (cont.)

<table>
<thead>
<tr>
<th>Item</th>
<th>2011 Results</th>
</tr>
</thead>
<tbody>
<tr>
<td>▪ Employees Awareness of Compliance Program</td>
<td>▪ [X]% employees knows the Compliance Officer by name</td>
</tr>
<tr>
<td></td>
<td>▪ [X]% of employees know how to contact the compliance office</td>
</tr>
<tr>
<td></td>
<td>▪ [X]% do not fear retaliation</td>
</tr>
<tr>
<td>▪ Risk Assessment and Work Plan Process</td>
<td>▪ Formal semi-annual review</td>
</tr>
<tr>
<td></td>
<td>▪ Interviewed and surveyed [X] employees and managers</td>
</tr>
<tr>
<td>▪ Exclusion Screening Process</td>
<td>▪ Monthly review</td>
</tr>
<tr>
<td></td>
<td>▪ [X] findings</td>
</tr>
<tr>
<td></td>
<td>▪ Audit of this process was favorable</td>
</tr>
<tr>
<td>▪ Favorable benchmarking against similar area providers</td>
<td>▪ Outside firms’ praise</td>
</tr>
<tr>
<td>▪ Outside validation by government agencies</td>
<td>▪ Government conducted [X] audits</td>
</tr>
<tr>
<td></td>
<td>▪ [X]% Financial error rate compared to revenue audited</td>
</tr>
</tbody>
</table>
What to Report to the Board

- Educate on industry developments
- Prioritize
- Risk assessments and work plans
- Audit status reports
- Annual, semi-annual or quarterly reports
- Proactive vs. reactive information
COMPLIANCE PRE-AUDIT TIPS

- Organizational Overview
- Compliance Logs
- Compliance Training Records
- Exclusion Screening
- Audit Process and Results
- HIPAA - Risk Assessment
- Compliance Committees
- Governance
- Conflicts of Interest
- Physician Compensation
- Soft Factors
- Compliance Policies and Code of Ethical Conduct

AUDIT CHECKLIST
- Audit Satisfactory
- Nonconformances Found
- Observations Made
Questions

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