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 continued...

- 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.

- 1. Have you implemented written policies and procedures that describe compliance expectations which support a compliance program? [ ] Yes [ ] No
- 2. Have you designated an employee vested with responsibility for the day-to-day operation of the compliance program? [ ] Yes [ ] No
- 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? [ ] Yes [ ] No
- 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? [ ] Yes [ ] No
- 5. Have disciplinary policies been implemented and enforced to encourage good faith participation in the compliance program by all affected individuals? [ ] Yes [ ] No
- 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? [ ] Yes [ ] No
- 7. Do you have a system in place for investigating and responding to compliance issues as they are raised, including reporting compliance issues to OMIG or OMIG and refunding overpayments? [ ] Yes [ ] No
- 8. Have you implemented a policy of non-intimidation and non-retaliation for good faith participation in the compliance program? [ ] Yes [ ] No

Provider certifies that the provider and its affiliates have adopted, implemented and maintain a compliance program that meets the requirements of SSL 5363-d and 18 NYCRR Part 521.

If you determine that your compliance program does not meet the requirements of SSL 5363-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”

2012 OIG CIA Roundtable

- 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

- Board of Directors Guidance

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>Total Overall Amt at Risk</th>
</tr>
</thead>
<tbody>
<tr>
<td>Uncovered Service</td>
<td>4,145</td>
<td>9,107,511</td>
<td>2,230</td>
<td>9,107,511</td>
</tr>
<tr>
<td>Unit Cost</td>
<td>3,000</td>
<td>25,455,379</td>
<td>8,485</td>
<td>25,455,379</td>
</tr>
<tr>
<td>Ob Billing and Care</td>
<td>3,181</td>
<td>9,181,362</td>
<td>2,881</td>
<td>9,181,362</td>
</tr>
<tr>
<td>DRG Denial-Rest</td>
<td>2,448</td>
<td>29,675,922</td>
<td>12,168</td>
<td>29,675,922</td>
</tr>
<tr>
<td>Short Stay</td>
<td>1,755</td>
<td>24,283,679</td>
<td>13,886</td>
<td>24,283,679</td>
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<tr>
<td>Transfer</td>
<td>1,241</td>
<td>18,156,732</td>
<td>14,694</td>
<td>18,156,732</td>
</tr>
<tr>
<td>New Acquired Cond</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Vascular (Central Venous) Catheter associated infection (125)</td>
<td>4</td>
<td>335,517</td>
<td>83,878</td>
<td>335,517</td>
</tr>
<tr>
<td>Falls, Trauma or injuries (128)</td>
<td>17</td>
<td>544,039</td>
<td>31,952</td>
<td>544,039</td>
</tr>
<tr>
<td>Air Embolism (126)</td>
<td>1</td>
<td>67,140</td>
<td>67,140</td>
<td>67,140</td>
</tr>
<tr>
<td>Catheter Associated UTI with POA not Y (121)</td>
<td>3</td>
<td>76,093</td>
<td>25,364</td>
<td>76,093</td>
</tr>
<tr>
<td>Glycemic control manifestation with POA not Y (122)</td>
<td>1</td>
<td>29,690</td>
<td>29,690</td>
<td>29,690</td>
</tr>
<tr>
<td>Stage II &amp; IV Pressure Ulcers (131)</td>
<td>1</td>
<td>87,140</td>
<td>87,140</td>
<td>87,140</td>
</tr>
<tr>
<td>Total: New Acquired Cond</td>
<td>27</td>
<td>1,059,499</td>
<td>40,020</td>
<td>1,059,499</td>
</tr>
<tr>
<td>Data Related</td>
<td>2</td>
<td>17,026</td>
<td>8,513</td>
<td>17,026</td>
</tr>
<tr>
<td>Total: Selected Filter(s)</td>
<td>15,059</td>
<td>115,087,408</td>
<td>7,694</td>
<td>115,087,408</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
RISK ASSESSMENT RESOURCE GUIDE

- 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

Risk Matrix and Work Plan Development

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

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## 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 same</td>
</tr>
<tr>
<td></td>
<td>• Good enough for government, good enough for 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>
<tbody>
<tr>
<td>Active Compliance Help-Line</td>
<td>• Over [X] calls</td>
</tr>
<tr>
<td></td>
<td>• Within industry average</td>
</tr>
<tr>
<td></td>
<td>• All issues resolved</td>
</tr>
<tr>
<td>Effective compliance training program</td>
<td>• ~ [XX]% completed the training</td>
</tr>
<tr>
<td></td>
<td>• Won national award</td>
</tr>
<tr>
<td></td>
<td>• ~ [XX]% of employees found it effective</td>
</tr>
<tr>
<td></td>
<td>• [XX]% of employees received a passing test score</td>
</tr>
<tr>
<td>Strong voluntary disclosure program***</td>
<td>• [X] disclosures - ~ $X million</td>
</tr>
<tr>
<td>Robust audit function</td>
<td>• Conducted [X] coding audits</td>
</tr>
<tr>
<td>Implemented new data mining tools</td>
<td>• Confirmed [X]’s focus is correct</td>
</tr>
<tr>
<td></td>
<td>• Decreased error rate by [X]</td>
</tr>
<tr>
<td></td>
<td>• All CAPs completed</td>
</tr>
<tr>
<td>Written policies, procedures, standards of conduct</td>
<td>• [XX]% completed annual Code of Conduct certification</td>
</tr>
<tr>
<td></td>
<td>• [X] revised or new compliance policies</td>
</tr>
</tbody>
</table>
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

Questions

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