

When Worlds Collide: Peer Review, Compliance Investigations and False Claims Act Risk Management

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Key Objectives

- At the end of this session participants will be able to:
 - understand the interrelated nature of issues that frequently arise in peer review and compliance investigations and the legal repercussions of the overlapping obligations
 - understand the impact on peer review and compliance efforts of the affirmative obligation to report and return overpayments
 - begin developing practical strategies for maintaining effective peer review processes while ensuring robust compliance efforts and minimizing the risk of FCA liability



Overview: Peer Review, Compliance and FCA Risk Management

- Three Different Worlds that Intersect and Overlap with Increasing Frequency
- Emerging issues
 - Real Life Experiences!
 - Affirmative Reporting Obligations
 - Quality of Care CIA's
 - Governance
 - Peer Review/ Case Law Update
- Differing Worlds and Perspectives
- Coordinating Investigations
- Preserving Confidentiality
- Practical Approaches

Spectacular (and tragic) Failures of Hospital Peer Review and Compliance

- United Memorial Hospital
 - Physician allowed to grant his own privileges
 - Repeated complaints about care and volume with no action (complaining individuals labeled as uncooperative, replaceable)
 - Board told they lacked power to initiate review of physician quality
 - MEC finally did a review, intentionally selecting a reviewer who would not antagonize the doctor
 - Review was unable to conclude if procedures were medically necessary because of inadequate documents. Physician told to improve his documentation
 - Impact:
 - Multiple patient deaths
 - Adverse publicity
 - Federal and state criminal investigations, prosecution and convictions
 - Civil and administrative liability for hospital and physicians

Spectacular Failures (continued)

- Tenet Healthcare – Redding Memorial
 - 10 years of complaints regarding volume and medical necessity with little action
 - 4 CMS, Licensing, and Joint Commission surveys – all noting peer review problems (including condition level deficiency)
 - FBI Raid
 - Impact
 - Hundreds of unnecessary procedures performed
 - Divestiture of hospital
 - \$54 Million FCA settlement from Tenet and hospital
 - \$32.5 Million from physicians
 - \$395 Million to settle medical malpractice lawsuits
- More Recently:
 - King’s Daughters Medical Center in Ashland Kentucky agrees to pay almost \$41 million to settle false claims and Stark allegations stemming from medically unnecessary coronary stents and diagnostic catheterizations. May 2014



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Spectacular Failures (continued)

- Pacific Hospital, Long Beach California
 - Billed workers’ compensation insurers for spinal surgeries performed on patient who had been referred by physicians who were paid kickbacks for referrals.
 - The referrals led to more than \$500 million in fraudulent billings
 - Kickbacks concealed by entering into bogus contracts with the doctors
 - Inflated prices for medical devices and used the, now-repealed, CA law that allowed hospitals to pass on the full cost of the device to workers’ compensation insurers
 - Former owner, Michael Drobot, admitted he paid bribes to State Senator to keep the “pass-through” law on the books
 - Former owner agreed to plead guilty to paying bribes and kickbacks. Possible federal prison term 10 years.
 - Civil case by the State Compensation Insurance Fund pending



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Spectacular Failures (continued)

- Physician Owned Distributorships (PODs)
 - Device companies that have surgeons as owners or investors. Hospitals, where the physicians have staff privileges, purchase the devices and the physician owners may use the device in surgery (typically commodity spine products such as screws and plates)
 - OIG issued special fraud alert in 2013 warning about both patient safety and fraud risks of buying surgical products from PODs
 - OIG reports show hospitals purchasing from PODs performed more than 28% more spinal surgeries than hospitals that did not purchase from PODs
 - DOJ conducting a False Claims Act investigation against at least one neurosurgeon who practiced in California and Michigan.
 - Government alleges that physician's ownership interest caused him to perform unnecessary surgeries
 - Physician insists that he was never paid to use specific equipment

Affirmative Reporting Obligations

- ACA imposes legal obligation to report and return overpayments (effective 1/1/2011)

(d) REPORTING AND RETURNING OF OVERPAYMENTS—

(1) IN GENERAL — If a person has received an overpayment, the person shall—

(A) report and return the overpayment to the Secretary, the State, an intermediary, a carrier, or a contractor, as appropriate, at the correct address; and

(B) notify the Secretary, State, intermediary, carrier, or contractor to whom the overpayment was returned in writing of the reason for the overpayment.

Affirmative Reporting Obligations

- Any overpayment retained by a person after the deadline for reporting and returning the overpayment under paragraph (2) is an **obligation** (as defined in the False Claims Act)
- False Claims Act (as amended in 2009) imposes liability for a person who “knowingly conceals or knowingly and improperly avoids or decreases an **obligation** to pay or transmit money or property to the Government”
- “knowingly” includes reckless disregard, deliberate ignorance

Consequences: Quality of Care CIA's

- Training
 - Medical staff peer review procedures
 - Medical staff credentialing and privileging
 - Quality assessment and performance improvement activities
- Peer Review Consultant
 - Assess and evaluate the peer review, credentialing, privileging, medical staff training, and discipline practices
 - Strengths and weaknesses in peer review
 - Conclusions and recommendations shall be provided to OIG
- Engage Independent Review Organization

Consequences: Quality of Care CIA's

- **Physician Executive**
 - Responsible for oversight of medical staff quality, including performance improvement, quality assessment, patient safety, utilization review, medical staff peer review, medical staff credentialing and privileging, medical staff training, medical staff discipline
 - Physician executive shall be a member of senior management of the hospital
 - Physician executive shall make periodic (at least quarterly) reports regarding quality of care directly to the Board of Directors
 - Minimum – 1.0 FTE
- **Policies**
 - Medical staff credentialing and privileging procedures including collecting, verifying, and assessing current licensure, education, relevant training, experience, ability and competence
 - Monitoring practitioners with current privileges
 - Review by Physician Executive and Medical Staff Executive Committee
 - Reporting to the Governing Board credentialing and privileging activities

Governance – Another Three Worlds that Intersect and Overlap: Governing Body, Hospital and the Medical Staff

- General duties of Dignity Health Board of Directors
- Delegation of duties from Dignity Health to HCB
- HCB's roles and responsibilities
 - California hospital licensure law
 - The Joint Commission accreditation standards
 - Medicare Conditions of Participation
 - Medical Staff Bylaws
- Oversight of the medical staff credentialing and peer review functions
- Oversight of quality of care

Delegation of Duties from Dignity Health Board to HCB

- Compliance with state and federal law
- Compliance with The Joint Commission accreditation standards and Medicare Conditions of Participation
- Professional and general liability considerations, including negligent credentialing decisions
- Medical Staff oversight, credentialing and peer review
- Quality of patient care and services



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Governing Body Responsibility for Quality of Care

- HCB is responsible for assuring that:
 - Health care services at the hospital are high quality, safe, effective, efficient and consistent with community standards
 - Ongoing quality assessment, performance improvement, patient safety and utilization management activities of the hospital are consistent with standards, policies and procedures established by Dignity Health Board and Dignity Health Quality Committee
 - Quality and patient safety issues at the hospital are addressed and resolved appropriately



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Responsibility for Quality of Care

- HCB shall assure that medical staff:
 - Participates in the measurement, assessment and improvement of clinical and non-clinical processes affecting patient care
 - Takes a leadership role where the clinical processes are the primary responsibilities of physicians
- Activities of hospital with respect to quality of care shall be reported to HCB and to Dignity Health Quality Committee



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Responsibility for Medical Staff Matters

- Physicians, dentists and other practitioners practicing at the hospital shall be organized into a Medical Staff that is responsible to the HCB and Dignity Health for:
 - The adequacy and quality of medical care rendered to patients at the hospital
 - The ethical and professional practices of its members
- The Medical Staff shall be governed by a Medical Executive Committee and such officers as are selected in accordance with the MS Bylaws



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Responsibility for Medical Staff Matters

- There shall be Medical Staff Bylaws, Rules and Regulations setting forth the Medical Staff's organization and governance
- MS Bylaws shall be consistent with:
 - The Joint Commission accreditation standards
 - Applicable law
 - Dignity Health corporate policies
 - Articles of incorporation and bylaws of Dignity Health
 - Ethical and Religious Directives for Catholic Health Services or the Dignity Health Statement of Common Values



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Responsibility for Medical Staff Matters

- Medical Staff is responsible:
 - To the HCB and Dignity Health board for the quality of medical care provided by medical staff members and other practitioners to patients of the hospital
 - For ensuring that professional care furnished to the hospital's patients by medical staff members is of high quality, safe, efficient and effective and meets the professional standards of the community, hospital and Dignity Health
 - To discharge responsibilities by meeting regularly to review, analyze and appraise its clinical experience and quality of care rendered by members of the medical staff



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Duties of HCB under California Law

- The Governing Body shall adopt written bylaws in accordance with legal requirements that provide for:
 - Identification of purposes of hospital and means of fulfilling them
 - Appointment and reappointment of medical staff members
 - Appointment and reappointment of one or more dentists, podiatrists, and/or clinical psychologists to the medical staff, when dental, podiatric, and/or clinical psychological services are provided
 - Formal organization of the medical staff with appropriate officers and bylaws
(Title 22 California Code of Regulations Section 70701)



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Duties of HCB under California Law

- Medical staff membership is restricted to physicians, dentists, podiatrists, and clinical psychologists who are competent in their fields and worthy in character and professional ethics
- Self-government by the medical staff with respect to professional work performed in the hospital, periodic meetings of the medical staff to review and analyze their clinical experience, and requirement that medical records of patients be the basis for such review and analysis
- Preparation and maintenance of complete and accurate medical record for each patient
(Title 22, California Code of Regulations Section 70701(a)(1))



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Duties of HCB under California Law

- Require that the medical staff:
 - Establish controls designed to ensure the achievement and maintenance of high standards of professional ethical practices
 - Be able to demonstrate that all members of the medical staff are able to perform surgical and/or other procedures competently and to the satisfaction of an appropriate committee of the staff at the time of original application for appointment to the medical staff and at least every two years thereafter
(Title 22, California Code of Regulations, Section 70701(a)(7))

Duties of HCB under California Law

- Assure that medical staff bylaws, rules and regulations are subject to governing body approval, which shall not be withheld unreasonably.
- Establish an effective means for medical staff to participate in the development of hospital policies.
- *(Title 22, California Code of Regulations, Sections 70701(a)(6), (8) and (9))*

Duties of HCB under California Law

- Each hospital shall have an organized medical staff responsible to the governing body for the adequacy and quality of medical care rendered to patients in the hospital
- The medical staff, by vote of the members and with the approval of the governing body, shall adopt written by-laws which provide for formal procedures for the evaluation of staff, credentials.
- The bylaws, rules and regulations shall include ...provisions for the performance of generally all aspects of the professional services provided by medical staff members
(Title 22, California Code of Regulations, Section 70703)



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HCB Obligations Under the Medicare Conditions of Participation

- Ongoing program for quality improvement and patient safety is implemented and maintained that addresses improved quality of care and patient safety and sets clear expectations for patient safety
- Adequate resources are allocated for measuring, assessing, improving, and sustaining performance and reducing risks to patients (42 C.F.R. §482.21)
- Medical staff is accountable and responsible to the governing body for the adequacy and quality of medical care (42 C.F.R. §482.12 and 22 C.C.R. §70703)
- Medical staff establishes controls to ensure the achievement and maintenance of high standards of professional care (22 C.C.R. §70701)



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Duties of HCB under The Joint Commission Standards

- Leadership Standards (LD) applied to the governing body includes the safety and quality of care, treatment, and services including:
 - A culture that fosters safety as a priority for everyone who works in the hospital
 - The planning and provision of services that meet the needs of patients
 - The availability of resources for providing care, treatment and services
 - The existence of competent staff and other care providers



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Duties of HCB under The Joint Commission Standards

- The self-governing organized medical staff provides oversight of the quality of care, treatment and services delivered by practitioners who are credentialed and privileged through the medical staff process...and responsible for the ongoing evaluation of the competency of practitioners who are *privileged...subject to the ultimate authority and responsibility of the governing body for the oversight and delivery of healthcare rendered by licensed practitioners credentialed and privileged through the medical staff process*



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Duties of HCB under The Joint Commission Standards

- HCB is responsible to ensure quality of care at the local hospitals, including peer review ...
- ...and to participate in the peer review activities of the Medical Staff by (a) reviewing and approving the credentialing and corrective action recommendations of the Medical Staff; and (b) acting as an appellate review body under certain circumstances
- FPPE – Focused Professional Practice Evaluation
- OPPE – Ongoing Professional Practice Evaluation



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Peer Review Duties of HCB

What is Peer Review?

“Peer Review” is a broad umbrella term covering quality review functions involving the professional practice of members of the medical staff (and allied health professionals staff)



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Peer Review Duties of HCB – Three Areas of Responsibility

- Credentialing: Oversight of evaluation of the qualifications, character and fitness of applicants for appointment to the medical staff, in order to determine their eligibility for membership and the grant of specified clinical privileges (part of FPPE)
- Ongoing Evaluation: Oversight of professional practice trends and identification of any “red flags” (OPPE)
- Focused Review, Evaluation, and Corrective Action: Review as needed to address potential substandard clinical care and direct issues that may pose a threat to patient safety (FPPE)



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Peer Review Duties of HCB – Key Issues

- The governing body is responsible to ensure peer review activities are effective, unbiased and performed in accordance with applicable law
- The governing body acts as an appellate review body on individual medical staff corrective actions and appeals of credentialing decisions, and must avoid undue involvement in early processes of medical staff peer review



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Peer Review...Who is accountable?

- Government Perspective...
 - “Do the organization’s competency assessment and training, credentialing, and peer review processes adequately recognize the necessary focus on clinical quality and patient safety issues?”
- Who is responsible for evaluating effectiveness of peer review?
 - Compliance
 - Medical Staff
 - External
 - Governance Oversight
- Management and oversight of corrective actions

Peer Review Duties of HCB – Key Issues

- National Practitioner Data Bank and California Medical Board requirements mean nearly all corrective actions (and resignations in the face of corrective actions) are reportable
- Liability risks for failed peer review include:
 - “Negligent credentialing” lawsuits by patients (Elam)
 - Unfair competition/antitrust lawsuits by physicians
 - Civil rights and Denial of Due Process claims by physicians

Peer Review Duties of HCB – Key Issues

- Governing body members have an obligation to
 - Preserve the confidential discussions in board meetings in strictest confidence
 - Use such information solely to carry out one's responsibilities as a Board Member.
- Medical Staff related discussions and decisions are particularly sensitive and must not be discussed outside of HCB meetings or outside of presence of legal counsel
- Waiver of the protections and privileges

Peer Review Duties of HCB – Negligent Credentialing

- A hospital owes patients a duty to exercise due care in the selection and retention of independent physicians who utilize the facility and they may be held liable for damages resulting from negligence in this duty. *Elam v. College Park Hospital (1982) 132 Cal.App.3d 332*
- All concerns must be fully investigated, and appropriate patient protection measures must be taken if warranted by the conclusions

Key Questions for Consideration by HCB

- If HCB discovers quality issues, how should it respond?
- If the problem is not resolved by HCB, what are the next steps open to or required by HCB to correct the problem?
- How should the following physician issues be addressed:
 - Failure to follow patient safety policies
 - Physicians with practice patterns that adversely affect the hospital's ability to deliver quality health care
- What information should be provided to the Board to satisfy the Board's oversight obligations related to credentialing and quality?
- How does the Board demonstrate appropriate oversight?



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Peer Review Duties of HCB – Statutory Authority to Take Action

- It is the policy of this state that peer review be performed by licentiates, subject to the following limitations:
 - The governing bodies of acute care hospitals have a legitimate function in the peer review process. In all peer review matters, the governing body shall give great weight to the actions of peer review bodies and, in no event, shall act in an arbitrary or capricious manner
 - In the event the peer review body fails to take action in response to a direction from the governing body, the governing body shall have the authority to take action against a licentiate. Such action shall only be taken after written notice to the peer review body and shall fully comply with the procedures and rules applicable to peer review proceedings
(*Business and Professions Code Sections 809.05(a) and (c)*)



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Recent California Peer Review Cases

- On June 6, 2013, the California Supreme Court ruled unanimously in *El-Attar v. Hollywood Presbyterian Medical Center* that the delegation of a peer-review matter to the hospital's governing board did not violate a physician's common law right of fair procedure.
- In *El-Attar*, the California Supreme Court determined that while a hospital's governing board must give great weight to the actions of the medical staff, it may take unilateral action if warranted. It also clarified that the standard by which any bylaws deviations would be reviewed is "fairness" and importantly found that it is not inherently unfair for the governing body to appoint a hearing committee.

Recent California Peer Review Cases

- CMS for 10 years advised Hollywood Presbyterian Medical Center (HPMC) should resolve deficiencies in the oversight of its quality assurance program or risk exclusion from Medicare and Medicaid.
- HPMC governing board formed an ad hoc committee that identified Dr. El-Attar as one of several physicians involved in clinically inappropriate consultations with ED patients.
- The ad hoc committee conducted an internal audit that documented serious problems with El-Attar's practice.
- El-Attar applied for, and the HPMC Medical Executive Committee (MEC) recommended, El Attar's reappointment.

Recent California Peer Review Cases

- The HPMC governing board denied El-Attar's reappointment, overruling the HPMC MEC.
- El-Attar requested a hearing and the HPMC MEC advised the governing board that "since the MEC did not summarily suspend [El-Attar's] privileges, did not recommend any adverse action relating to [El-Attar] ... and since the requested hearing would be to review actions by the Governing Board; it should be the Governing Board and not the MEC which arranges and prosecutes the requested hearing."
- The governing board impaneled a judicial review committee (JRC) comprised of six medical staff physicians.
- The JRC held a hearing and determined that the denial of El-Attar's reappointment was reasonable and warranted because his medical skills were dangerously substandard, and he had behavioral problems. On appeal, the governing board concurred with the JRC's findings.

Recent California Peer Review Cases

- El-Attar next sought relief in state court, losing at trial but **prevailing** in the California Court of Appeals.
- The California Supreme Court reviewed was solely whether the HPMC MEC's delegation of arranging El-Attar's peer-review hearing to the governing board had violated his rights to fair procedure.
- The California Supreme Court thus determined that because there were no facts demonstrating the unfairness of the process, and because the governing board has ultimate responsibility for the health and safety of hospital patients, the HPMC did not violate El-Attar's fair procedure rights by permitting the governing board direct control of the peer-review process

Recent California Peer Review Cases

- *El-Attar* case is good for California hospitals and medical staffs.
- Concludes that no provision of California's peer-review statutes (Cal. Bus. & Prof. Code 805 et seq.) prohibits delegation of a peer-review hearing to a hospital governing board or any designee of the medical staff.
- Decision reaffirms, "Not every violation of a hospital's internal procedures provides grounds for judicial intervention."
- *El-Attar* is a reminder that the primary purpose of the peer-review process is to protect patients
- Reaffirms California's longstanding policy that **hospital governing boards have the ultimate authority to ensure that substandard physicians are removed from hospital staffs.**

Recent California Peer Review Cases

Fahlen v. Sutter Central Valley Hospitals

On February 20, 2014 the California Supreme Court unanimously held that if a physician claims an adverse peer review action was taken in retaliation against him or her for reporting quality of care issues, the **physician may file a civil whistleblower lawsuit challenging the adverse action without first exhausting the available administrative and legal remedies.**

Recent California Peer Review Cases

- *Fahlen* was denied reappointment by a final decision of a hospital's board, and filed a lawsuit challenging that adverse decision without first obtaining court review through a writ of mandate proceeding.
- The lawsuit included a whistleblower claim under Health & Safety Code Section 1278.5, relying on a 2007 amendment to that statute that added physicians to the list of individuals authorized to bring a claim of alleged retaliation for reporting quality of care concerns.
- A number of statutory and common law claims that California courts have long held damages claims are precluded unless and until an adverse peer review action has been overturned through a writ proceeding.

Recent California Peer Review Cases

- The trial court refused to dismiss these claims
- The hospital appealed
- The Court of Appeal agreed with the hospital that the majority of the physician's claims were barred by his failure to seek a writ of mandate, but held that the whistleblower claim under Section 1278.5 was not subject to the longstanding exhaustion of remedies requirement.
- The California Supreme Court accepted review to address this issue.

Recent California Peer Review Cases

- In a unanimous decision, the Supreme Court ruled that Section 1278.5 authorizes a physician to proceed with a statutory claim of retaliation without exhausting administrative remedies
- and, if the claim is based on a final adverse decision by the hospital's board, without first overturning that adverse decision through a writ of mandamus.
- Creates a significant exception to existing law
- Hospitals now face the potential of a civil lawsuit any time a peer review proceeding is initiated against a physician who has complained about any quality of care issues.

Recent California Peer Review Cases

Impact:

- Parallel peer review and civil litigation proceedings.
 - At the same time that a medical staff peer review hearing is under way, there may also be civil litigation under way involving the same matters as the peer review hearing.
 - Arguably, witnesses in the hearing, for example, may also find themselves subpoenaed for depositions or other discovery efforts in the litigation.

Recent California Peer Review Cases

Recommendations:

- Investigate promptly and vigorously every complaint by a physician regarding quality of care issues
- address any quality of care complaints made by the physician in written decisions including whether the complaints had merit, and whether the proceeding was retaliatory in any way
- Analyze for the factors necessary to establish immunity under HCQIA and California Civil Code Section 43.7 — and be sure that those factors are being met.

Recent California Peer Review Decisions

- IMPORTANT TO NOTE THAT :
 - HCQIA provides immunity from civil money damages for participants in professional review actions (peer review), except for damages relating to civil rights actions. In addition, immunity from damages shall not be available to any one who knowingly provides false information to a professional review body.
 - The Supreme Court noted, it is possible that findings made, and issues determined, by a hospital board in a final peer review decision will be given preclusive effect in a subsequent whistleblower lawsuit.
 - Statutory immunities will often provide the best defense to a whistleblower claim,-- critical that the peer review is conducted in a such a way as to trigger those immunities.

Differing Worlds...The Peer Review Perspective

- Goal: Root out error, correct, but maintain confidentiality; confidentiality encourages vigorous effort
- Overlay is standard of care, not regulatory
 - Actual vigor and efficacy variable and questionable
- Cultural resistance to openness
- Delicacy of efforts to improve; Physicians usually not hospital employees
- No real hotlines; fear of retaliation often exists
- Mostly disincentives for reporting (liability, chilling of peer review)

Differing Worlds...The Compliance Perspective

- Goal: Root out error, correct (potentially including repayment and disclosure), evaluate vulnerability of future failure, monitor corrective action
- Regulatory overlay: “Follow the law”
- Enforcement pressure:
 - Encourages vigorous effort
 - Actual vigor and efficacy growing as a result
 - Obligations and/or incentives (e.g., more lenient treatment) for reporting
- Cultural change constantly favors openness
 - Provider organization (e.g., hospital) usually controls employees
 - Hotlines

Differing Worlds...The FCA Risk Management Perspective

- Goal: Ensure that when peer review or compliance investigations identify potential overpayments
 - any actual overpayments identified are reported/returned within 60 days of identification
 - any determinations that issues do not issues identified did not result in overpayments are well-documented
- Overlay is judicial review: how would a judge or jury view the facts?

Can these worlds exist separately ?

- Peer review problems become compliance nightmares:
 - Sluggish peer review
 - Disruptive practitioners
 - Dysfunctional board-medical staff relationship
- Compliance problems become peer review nightmares:
 - Physician hearing rights
 - Transparency
 - Reporting obligations/Disclosure
- Decisions about how to address problems identified in both peer review and compliance investigations can now trigger False Claims Act liability

Coordinating Investigations

- How can you conduct a peer review investigation without compromising the organization's ability also to conduct a compliance investigation?
- How can you conduct a compliance investigation with compromising the medical staff from conducting an effective peer review?
- How can you ensure that peer review and compliance investigations do not heighten the risk of FCA liability tied to failure to report and return overpayments?

Coordinating Investigations

- Avoiding compromise....
 - Peer review and compliance actions proceed on a separate track
 - Does the compliance officer know what is going on?
 - Does the medical staff know what is going on?
 - Confidentiality concerns: The leaky medical staff

Coordinating Investigations

- Reporting obligations: do they jeopardize compliance disclosures?
 - Physician hearing rights
 - Outside investigations triggered
 - State medical boards
 - Joint Commission
 - CMS

Preserving Confidentiality

- Discovery protections:
 - Can you preserve discovery protections while allowing disclosure of sensitive but important information to your own compliance officials?
 - Can you preserve discovery protections while relying on documentation of peer review decision-making to defend a FCA case alleging failure to report overpayments?
- Is it necessary to step outside the immunities available in order to conduct compliance investigations and disclosures?
- Are there alternatives?

Practical Approaches

- A medical staff quality-compliance checklist
- Board, medical staff, and compliance programs must be functional
 - Dispute-resolution processes
 - Involve medical staff leadership in compliance planning (seek buy-in) and emerging compliance issues:
 - NCDs, LCDs
 - Clinical Documentation Programs
 - Privacy
 - OIG Work Plan, Risk Assessments, investigations

Practical Approaches

- Compliance function must communicate with peer review function
 - Administrative level
 - Board level – a must
- Standardize documentation of decision-making process with respect to overpayment determinations

Three Different Worlds x's Two

- Peer Review, Compliance and FCA Risk Management
- Governing Body, Hospital, and its Medical Staff

QUESTIONS?