

Seven Elements of a Hospital's Corporate Compliance Program: Time for an Internal Check-Up

By Marc Stein, MBA



Based on the increasing scrutiny of regulatory agencies and new compliance initiatives (e.g., False Claims Act, Recovery Audit Contractors, Fraud Enforcement and Recovery Act, Deficit Reduction Act, New Jersey Office of Medicaid Inspector General, etc.), hospitals should perform an evaluation of the effectiveness of their Corporate Compliance Program (CCP). This evaluation should include a review of the seven elements of a comprehensive compliance program as well as the approach to develop a risk assessment and prioritization of compliance activities.

Per the Office of Inspector General of the Department of Health and Human Services (OIG), *Compliance Program Guidance for Hospitals ("Model Guidance")*, compliance programs are designed to establish a culture within a hospital that promotes prevention, detection, and resolution of instances of conduct that do not conform to federal and state law and federal, state and private payer healthcare program requirements, as well as the hospital's ethical and business policies. In practice, the compliance program effectively should articulate and demonstrate the organization's commitment to the compliance process. The existence of benchmarks that demonstrate implementation and achievements is essential to any effective compliance program. Eventually, a compliance program should become part of the fabric of routine hospital operations.

The model guidance and other regulations include the following seven elements of an effective CCP:

1. Written Standards and Procedures

A vital element of an effective CCP is the development and dissemination of compliance and ethics standards. Formal standards take the form of a Code of Conduct (Code) and policies and procedures.

The Code should reflect an assessment of the compliance risks that have been identified in the hospital. The Code should at a minimum include the following components: (1) a statement of the hospital's mission and values; (2) a summary of the standards of conduct that are expected of the organization's employees; (3) a statement that discipline

will be imposed for failure to adhere to the Code; and (4) identification of the resources available to the hospital's employees to ask questions and obtain additional information.

Policies and procedures should be developed and updated to reflect current areas of compliance risk. These policies and procedures should cover issues raised in the annual OIG Work Plans including but not limited to: (1) billing; (2) coding; and (3) prohibiting vendor and employment relationships with sanctioned entities or individuals, etc.

The hospital should implement a formal communication program (via web, e-mail or meetings) to department heads of changes made in the CCP.

2. Oversight

In order to facilitate the CCP, it must have a strong leader. The second element requires hospitals to designate a high-level employee to be the Chief Compliance Officer (CCO) and oversee all aspects of the CCP. The CCO competencies should meet the standards of the role and make certain that he/she receives the appropriate training – and have adequate time, given other responsibilities, effectively to perform the role and be held accountable.

In addition, other appropriate bodies, (e.g., a Corporate Compliance Committee charged with the responsibility of operating and monitoring the compliance program, etc.) should be implemented. The CCO should provide a report to this Committee which should include applicable statistics regarding the number of hotline calls, number of employees trained in compliance issues, summary of compliance reports, etc.

3. Education and Training

In addition to developing and distributing the Code, employees must understand it. The hospital should develop and implement regular, effective education and training programs for all affected employees. Mandatory in-service employee training and new employee orientation should include a discussion about corporate compliance as well as a required test. Departmental level reinforcement of compliance training for the

specific risk areas during the year should be tracked and captured by the CCO. In order to facilitate the hospital's compliance training needs, a detailed compliance training architecture, including areas of risk and applicable level of employee to be trained, should be developed. Training topics should include but not be limited to coding requirements, claims development and submission processes, third party billing policies, medical necessity standards, documentation guidelines and records requirements, anti-kickback and anti-referral laws, patient confidentiality, system security, etc.

4. Maintenance of a Process for Reporting Exceptions

To empower every employee as a member of the compliance team, hospitals should create a reporting mechanism for employees and whistleblowers to voice allegations or concerns without fear of retaliation. The hospital should create and maintain a process, such as a hotline, to receive complaints and an adoption of procedures to protect the anonymity of complainants and to protect callers from retaliation. The hotline should be a toll free line available 24 hours per day, seven days per week. The hotline information should be included on the hospital's website and intranet. The hotline should be routinely checked to ensure that it is working. Many hospitals utilize unbiased third-party vendors that offer anonymous telephone and Web site reporting for allegations of fraud, misconduct, and noncompliance.

5. Development of a System to Respond to Allegations of Improper Activities, Accompanied by Appropriate Discipline

To set up these rules and standards there must be consequences and those consequences should be levied consistently regardless of the employee's status within the hospital. This should include, as appropriate, the discipline of individuals responsible for failure to detect an offense. A process should be developed to identify procedures to be followed once a complaint or question has been received. This process should include the role of the CCO and legal counsel, when appropriate, in the detailed investigation.

6. Auditing and Monitoring

Hospitals should employ a means to audit and monitor internal systems and verify compliance. Monitoring techniques include the reviewing of operations, billing and related functions, on-site visits, and interviewing staff members. Audits can be performed by independent auditors/vendors or internal audit staff. This monitoring and reporting of findings should be administered by the CCO.

The CCO, in conjunction with the appropriate subject matter hospital stakeholders (including the CEO), should develop an

overall risk assessment based on his/her evaluation of the healthcare regulatory environment (e.g., OIG Work Plan, Medicare, Medicaid, etc.) taking into consideration the hospital's operating environment. Based on the risk assessment performed by the stakeholders and resource constraints, the CCO should prioritize which audits and monitoring should be performed (which can subsequently be re-evaluated as changing conditions/regulations/laws dictate). The CCO then presents the master audit/monitoring plan to the appropriate Corporate Compliance Committee (which might be combined with an Audit Committee) for approval.

In addition, the CCO should develop automated monitoring systems or manual processes to check compliance rates and implementation effectiveness. This can be summarized on an Executive Scorecard/Dashboard routinely to monitor compliance related activities. This information should be reported to the Corporate Compliance Committee. The CCO should reinforce who is responsible to take corrective action when monitoring reveals exceptions. Roles and responsibilities should be clearly defined to determine the root cause of the problem, determine the method of correction, and communicate the appropriate standards more clearly.

7. Response and Prevention

Finally, the hospital must respond. Even with standards and procedures in place and an avenue for employees to voice concerns, progression and improvement will not occur unless the hospital responds to the offense and continues to make concerted efforts toward preventing similar conduct.

Conclusion

Based on the recent regulatory activity on the federal and state level, each hospital can't afford to sit on the sideline and assume that its CCP is working and meeting all the current regulatory compliance requirements. It is time for every hospital to "kick the tires" of its CCP and evaluate its effectiveness in the current regulatory environment. It is important for hospitals to ask for an unbiased external review of their compliance processes to limit their exposure to being cited for a non-functioning compliance plan and the financial penalties that are attributable thereto.

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