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Quality improvement, patient safety, and the zeal to comply:

What a CPA and a radiologist bring to Compliance leadership

an interview with Don Sinko and Mark Sands

See page 18

29

OIG, EHR,
and audit logs:
Thinking ahead

Cornelia M. Dorfschmid and
Bernard McClellan

33

Billing data:
Tools to maximize
data mining
efforts

Melissa McCarthy

37

Getting
and keeping
your board
engaged

Paul P. Jesepe

41

Beyond the
hospital walls:
Compliance with
provider-based clinics

Wendy Wright

by Lisa Shuman, MPA

Effective compliance training for small physician practices

- » Assign a well-informed individual to lead the compliance training.
- » Develop effective and efficient training materials and methods.
- » Create an interactive training environment with real-life scenarios.
- » Ingrain compliance into the culture and daily activities of employees.
- » Ensure that employees understand “duty to report” and “non-retaliation.”

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To date, most smaller physician practices have not taken the time or effort to develop a compliance program, long advocated by the U.S. Department of Health & Human Services (HHS) Office of Inspector General (OIG) in their voluntary compliance guidance.¹ Physician practices may see a compliance program as just another burden on their limited resources that could be set aside for a future time. Well, that time is now approaching. Under Section 6401 of the Patient Protection and Affordable Care Act (PPACA),² healthcare entities and providers, including physician practices of all sizes, must establish a compliance program that will be defined by the Centers for Medicare & Medicaid Services (CMS). These core elements will be mandated, as a condition of enrollment in Medicare, Medicaid, and the Children’s Health Insurance Program (CHIP). Entities will have to attest to or certify their compliance with these standards as a condition of participation in federally funded programs. CMS has not yet published these standards in the Federal Register. However most larger healthcare entities have already implemented compliance



Shuman

programs based on the seven elements of the OIG voluntary compliance program guidance that will be the basis of the new mandated program standards. In this, they have a major jump start over those entities that have held back on their compliance program development. Now, smaller physician practices will not have the option of staying on the sidelines.

To begin preparation for these new obligations, physician practices should review the OIG’s compliance program guidance for individual and small group physician practices. What will be quickly noted is that compliance training and education is a critical element of an effective compliance program. Further, physician practices must comply with the Health Insurance Portability and Accountability Act of 1996 (HIPAA). Therefore, practices should incorporate HIPAA into their general compliance training and/or develop a separate HIPAA training to ensure that all employees are knowledgeable and compliant with HIPAA regulations. The compliance officer or a compliance professional is often responsible for training employees on the compliance program elements and healthcare fraud and abuse regulations.

Training materials

What this means is that even the smallest physician practice will have to develop effective

training as part of their compliance program development. The challenge will be to develop training materials that are effective in communicating the compliance obligations of the entire medical staff and employees. The most effective manner would be to use an interactive training program with real-life scenarios that illustrate what is expected of people in the work environment. In addition, the materials will have to adequately describe how the compliance program works and key laws and regulations that must be followed. It must also give guidance as to what individuals should do if they observe violations of law, regulations, or practice policies. All physician practices should ask the following questions:

- ▶ Does your practice have a tight budget that does not allow for expensive training methods?
- ▶ Is there someone prepared to manage the compliance program and administer training to employees?
- ▶ How will you update training materials on a periodic basis/as needed?
- ▶ How will you be able to document that the training was delivered?
- ▶ What evidence will there be that the training was effective in meeting its objectives?
- ▶ How can you make training an ongoing process that helps create a culture of compliance?
- ▶ How can you make sure everyone is aware of their duty to report perceived issues?

In furtherance of meeting all these objectives, physician practices may consider the following methods to implement effective and efficient compliance training and education, and to create a culture of compliance within their organization.

Find inexpensive and useful training materials and methods

Small physician practices that have a tight compliance budget may first examine government agency websites for free training resources.

For instance, the Compliance 101 webpage of the OIG website (oig.hhs.gov/compliance/101) contains free educational materials, including the Health Care Fraud Prevention and Enforcement Action Team Provider Compliance Training (HEAT) video and audio podcasts, webcast modules, and presentation materials. The OIG's Compliance 101 webpage also provides compliance education materials specific to physicians, and healthcare boards.³ Similarly, the Office for Civil Rights (OCR) website provides six education programs for healthcare providers on compliance with different aspects of the HIPAA Privacy and Security Rules (www.hhs.gov/ocr/privacy/hipaa/understanding/training).⁴

Medium or large physician practices may consider training courses from outside seminars/webinars and/or hiring outside organizations to assist with their training needs. Outside organizations can provide compliance and HIPAA training and other specialized training for the compliance officer, compliance committee (if applicable), and employees through a variety of methods that include (but are not limited to) in-person training, virtual training through webinars, training manuals/booklets, self-paced PowerPoint training presentations, and train-the-trainer presentations.

Practices should have a well-informed individual who understands the regulatory expectations to manage the compliance program and lead the trainings. Compliance officers or individual(s) who are new to the compliance field or need a refresher may consider receiving a more detailed in-person training prior to training the employees in the practice. Compliance professionals can also use a train-the-trainer presentation to train employees or to educate managers on how to train employees. Outside organizations can assist with training presentations, as well as introductory compliance training or HIPAA training packages at a reduced cost. Further, physician

practices may decide to hire consultants with compliance expertise to review their existing training materials and training methods.

General compliance training

The OIG's compliance program guidance recommends one hour of general compliance training, including the operation and importance of the compliance program, the repercussions for violating standards and procedures, and each employee's role in the operation of the compliance program. The training should emphasize that the purpose of the compliance program is to prevent, detect, and correct fraud and abuse. General compliance training should review the practices standards or code of conduct, as well as the seven components of an effective compliance program, including:

1. Monitoring and auditing of claims submitted for payment
2. Written standards and procedures
3. Responsible person to manage the compliance program
4. Compliance training and education
5. System to respond to detected violations
6. Means by which individuals may report perceived problems without fear of retribution
7. Enforcing disciplinary standards

Additionally, compliance training for physician practices should provide detail on applicable healthcare regulations and high-risk areas for physicians. For example, employees should receive ample training on the following federal fraud and abuse laws: (1) the False Claims Act (FCA); (2) the Anti-Kickback Statute; (3) the Physician Self-Referral Law (Stark law);

(4) the Exclusion Authorities; and (5) the Civil Monetary Penalties Law. Employees should also learn how to perform their jobs in compliance with the physician practices' standards and applicable regulations.

Employees should fully understand these regulations and be aware that violating laws or regulations could result in criminal penalties, civil fines, exclusion from the federal healthcare

programs, or loss of a medical license from a state medical board.

To protect the providers and the practice from receiving potential hefty fines, it is essential that all individuals in the organization are fully aware of the FCA

and other regulations. Notably, physician practices should ensure that employees understand their affirmative duty to report compliance violations, and that no retaliation or retribution will be taken against an employee who reports a perceived issue or violation "in good faith."

Training on compliance high-risk areas

In addition to general compliance training, certain members of the physician practice staff should receive specialized training on risk areas. Two to three hours of specialized training per year is best practice. Examples of risk areas for physician practices include: coding and billing, reasonable and necessary services, documentation, and self-referrals. Physician practices should ensure that all physicians receive training on how to properly document medical records, including signature and date requirements. Real-life scenarios or examples that relate to the employees' job function should be part of the training. The compliance officer or the individual who serves as compliance contact can also involve management or other staff in creating and conducting trainings.

The training should emphasize that the purpose of the compliance program is to prevent, detect, and correct fraud and abuse.

This may create more participation among employees with the training process. Policies, procedures, and training materials must also be up to date with current regulations.

Evidencing employee knowledge

Single location practice entities based out of one office may have a better idea of their employees' compliance knowledge than practices where employees work in different offices or travel to multiple locations. To make a live training more interactive, the trainer could hold discussions based on different scenarios, create compliance games, or hold a brown bag lunch. Making the training interactive will allow the trainer to evaluate gaps in compliance knowledge. To determine effectiveness of the training, employees should receive a test at the end to assess their knowledge. Once the employees have completed the test, they may also receive a certificate of training completion. Practices should maintain training sign-in sheets, versions of the training material, test results, and training certificates to document training completion and employee knowledge.

Ingraining compliance in daily operations

The OIG recommends that new employees receive compliance training as soon as possible. Existing employees should receive refresher training on an annual basis or as appropriate. Practices should also ingrain compliance into daily operations and activities. For example, billing staff may be responsible for providing weekly or monthly compliance updates to the practice manager or the individual responsible for compliance. To maintain a culture of compliance, physician practices can encourage employees to sign up for OIG's email updates to stay updated on regulations. Internal or external communications, such as email blasts and newsletters, may also contain regular compliance updates or tips that will keep employees current on new regulations. Further, the communications

team can help promote compliance events, such as HCCA's Corporate Compliance and Ethics Week (in autumn in 2015).

Conclusion

Physician practices should move now to build a compliance program and not wait until regulatory mandates go into effect. Note that the government recognizes that because physician practices vary in size and operation, there is no one "best" training method. However, all practices should have a well-informed individual charged with managing the compliance program who understands the regulatory expectations. This individual and the practice manager and owners should work to form a positive culture of compliance through initial and ongoing compliance training and activities, and commend employees for maintaining everyday compliance in the organization. Everyone in the practice needs to assume responsibility for compliance. The practice should be able to provide evidence of training everyone and maintain records of training sign-in sheets, test results, and training certificates.

A final note on physician practice compliance goes back to a realization by the OIG that small practices may have difficulties in being able to meet all the obligations in the compliance guidance with only internal resources. As such, OIG states that where a practice is too small to be able to develop, manage, and operate an effective compliance program within the practice, they may engage a compliance expert or firm to perform most of the work on a part-time, outsourced basis. This is something that small practices may find worth exploring before launching their compliance program effort. ☐

1. OIG Compliance Program for Individual and Small Group Physician Practices; Notice 65 Fed. Reg. 194; October 5, 2000. Available at <http://1.usa.gov/1np3hDY>
2. Patient Protection and Affordable Care Act, 42 U.S.C. § 6401; 2010.
3. Department of Health and Human Services Office of Inspector General. "Compliance Education Materials." Compliance 101 Web page. May 28, 2014. Available at <http://1.usa.gov/1nAGgIF>
4. Department of Health and Human Services Office for Civil Rights. "Helping Entities Implement Privacy and Security Protections Medscape Programs." Health Information Privacy Training Materials; May 28, 2014.