

HCCA



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I believe the Compliance Institute (CI) is the most effective compliance conference in the world; however, that is not why I would go to the annual meeting of my profession.

I would go to sip orange juice in the morning and meet someone new who happens to have the same issues I do.

I would go for that first break in the morning to run into that person I had always wanted to meet and be reminded that we are in a great profession with a wonderful mission.

I would go to have lunch and listen in on the conversations and realize my problems are their problems.

I would go to drink a beer at the reception and listen to Al Josephs, John Steiner and Kelly Nueske tell funny stories that make me forget my challenges for the moment.

I would go to skip a session, sit in the lobby with a colleague, and solve a private difficult problem I have.

I would go to the CI to go to dinner with an old friend.

I would go to the annual meeting of my profession so I could come back reenergized, confident, and proud to be a member of this profession.

That's why I would go!

Roy Snell, CEO HCCA



COMPLIANCE INSTITUTE



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How can CEOs and board members keep score on compliance risks?

By Bill Moran and Catie Heindel, JD

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The U.S. Sentencing Commission and the Office of Inspector General (OIG) gave health care institutions a clear guide to effective compliance programs when they laid out the seven elements. Any hospital that has looked at the effectiveness of their compliance program knows and understands the elements; and in all likelihood, the CEO and board members have been exposed to them. These elements have been a solid guide for measuring the structure of the compliance program and how it should be carried out. Effective guidance at the top of the organization, strong policies and procedures, on-going monitoring and auditing (including yearly risk assessments), effective training, open lines of communication, quick response to deficiencies, and consistent enforcement of disciplinary standards have become recognizable yardsticks for taking stock of the compliance program.

Although the seven elements have been indispensable for judging whether the compliance program is properly up and running, it doesn't necessarily lay out the specific risks. The elements tell you what the end game should be for the structure and process of the compliance program, but leaves the risk content up to the health care

provider to determine. As a result, CEOs and board members in the hospital environment, who understand the structure and processes required by the seven elements, need to know more. They need to know to which risks they should pay attention, and the relative differences between them. They need to know which risks can cause them the most headaches. They understand that a solid risk assessment process is required, but they need to know how to assess the outcomes of the risk assessment. They need the answers to questions such as: Are there broad categories of risk? How many are there? What are the risk areas within those risks? Are there key questions I should ask about the categories and risk areas? Is there a way to quantify the risks? In other words, can someone give me a scorecard to keep track of regulatory risks?

I would like to suggest that based on my experience in the Office of Inspector General, my observations of health care clients I have worked with, and discussions with expert colleagues, there are answers to these questions.

To the CEO and board member, I would say there are ten major categories of risk to which you need to pay attention. From an enforcement perspective, these are the categories that have been around over the longest period of time and received the most attention. These are the categories that are still relevant in today's environment. The ten categories are:

- Anti-kickback and Stark
- Emergency Medical Treatment and Active Labor Act (EMTALA)

- Health Insurance Portability and Accountability Act (HIPAA)
- Research
- Quality
- Cost reports
- Laboratory services
- Physicians at Teaching Hospitals (PATH)
- Corporate governance and compliance
- Claims development and submission

Many hospitals will need to address all ten categories, but some will not. Hospitals that are not teaching hospitals will not need to address PATH. Some hospitals do not conduct research. Certain other hospitals do not have an Emergency Department.

Each of the categories contains key risk areas, which can be expressed through questions asked about the category. To quantify the risks, you can assign values or numbers to the answers to those questions. After answering all the questions, you can add up the numbers and evaluate how well you are doing. You now have a scorecard to inform yourself about your compliance risks. See Chart A on page 38 for an example scorecard, including risk questions and suggested values.

As you notice in the chart, not all risk categories have the same value. Some, such as anti-kickback and Stark and claims development and submission, are ranked higher due to their inherent risks and strong enforcement by the government. Also, risk areas within the categories can also differ in value due to focused regulations, strong enforcement, or other factors. Every hospital system will have their own unique issues, so the values assigned should be modified based on past and current actual experiences.

Risk areas can change over time, so the scorecard will need to be updated periodically.

Continued on page 38

I suggest updating once a year when the new OIG Work Plan is published, or at a time when significant new legislation is passed.

Over the past ten years or so, compliance programs have established themselves as a vital part of the health care system. CEOs and board members have become more familiar

with the structure and process of the compliance program. The compliance scorecard can be used to help the CEO and board members delve a little deeper into the enforcement risks the hospital system is facing. It can provide them with the quantitative data they need to help evaluate and track those risks. ■

Category	Questions	Points Awarded / Per question	Total Points	
Anti-kickback/ Stark	Are all physician contracts in a single database?	Yes: 3 pts	No: 0 pts ___/3	
	How many independent physicians have an administrative contract (teacher, director)?	0-3: 1 pt	>4: 0 pts ___/1	
	Is there a written need for the administrative function?	Yes: 2 pts	No: 0 pts ___/2	
	Is there a written statement why this person is best for the function?	Yes: 2 pts	No: 0 pts ___/2	
	Does the contract accurately describe the task?	Yes: 2 pts	No: 0 pts ___/2	
	Is the contract actively monitored for performance?	Yes: 2 pts	No: 0 pts ___/2	
	Do all independent physician contracts meet the AKS/Stark requirements, including fair market value?	Yes: 4 pts	No: 0 pts ___/4	
	TOTAL POINTS		___/16	
EMTALA	Are there adequate procedures to ensure every Emergency Dept (ED) patient receives a medical exam?	Yes: 1 pt	No: 0 pts ___/1	
	Are medical exams given in order of need?	Yes: 1 pt	No: 0 pts ___/1	
	Is every ED patient stabilized prior to transfer?	Yes: 2 pts	No: 0 pts ___/2	
	Have any physicians not responded when called?	Yes: 0 pts	No: 1 pt ___/1	
	Are the required signs posted?	Yes: 1 pt	No: 0 pts ___/1	
	Are there any pending complaints or adverse publicity regarding the ED?	Yes: 1 pt	No: 0 pts ___/1	
	TOTAL POINTS		___/7	
HIPAA Privacy and Security	Do the safeguards to protect personal health information (PHI) comply with federal regulations?	Yes: 3 pts	No: 0 pts ___/3	
	Have necessary procedures to comply with the HITECH breach notification rule been implemented?	Yes: 1 pt	No: 0 pts ___/1	
	Have necessary procedures to comply with the HITECH Business Associates provisions been implemented?	Yes: 1 pt	No: 0 pts ___/1	
	Have necessary procedures to comply with the HITECH limits on use and disclosure provisions been implemented?	Yes: 1 pt	No: 0 pts ___/1	
	Have necessary procedures to comply with the HITECH individual rights provisions been implemented?	Yes: 3 pts	No: 0 pts ___/3	
	Do the security procedures adequately address the required administrative, physical and technical safeguards?			___/10
		TOTAL POINTS		___/10
Clinical Research	Is there an effective system for time and effort reporting?	Yes: 1 pt	No: 0 pts ___/1	
	What is the error rate when billing for a patient enrolled in clinical research?	<3%: 3 pts	>3%: 0 pts ___/3	
	Do patients understand the consent forms?	Yes: 2 pts	No: 0 pts ___/2	
	Do we have adequate procedures to ensure against researcher misconduct?	Yes: 2 pts	No: 0 pts ___/2	
	What is the percentage of principal investigators who receive money from pharmaceutical, medical device, or other sources?	<25%: 2 pts	>25%: 0 pts ___/2	
	TOTAL POINTS		___/10	
Quality of Care	Do procedures exist that ensure accurate data in reporting Quality information?	Yes: 2 pts	No: 0 pts ___/2	
	Are any providers ordering medically unnecessary services?	Yes: 0 pts	No: 2 pts ___/2	
	Are any providers ordering too few services?	Yes: 0 pt	No: 2 pts ___/2	
	How many never events have occurred in the last quarter?	None: 2 pts	≥1: 0 pts ___/2	
	Are there procedures to ensure that providers are properly credentialed and have no sanctions?	Yes: 2 pts	No: 0 pts ___/2	
		TOTAL POINTS		___/10
Cost Reports	Are there procedures in place to ensure compliance with bad debts regulations?	Yes: 2 pts	No: 0 pts ___/2	
	Are there procedures in place to ensure compliance with credit balances regulations?	Yes: 2 pts	No: 0 pts ___/2	
	Are there procedures in place to ensure compliance with wage indices regulations?	Yes: 1 pt	No: 0 pts ___/1	
	Are there procedures in place to ensure compliance with Disproportionate Share Hospital regulations?	Yes: 1 pt	No: 0 pt ___/1	
	Are there procedures in place to ensure compliance with discounts regulations?	Yes: 1 pt	No: 0 pts ___/1	
		TOTAL POINTS		___/7

Chart continued on page 50

How can CEOs and board members keep score on compliance risks? ...continued from page 38

Laboratory Services	Does billing occur after services are performed?	Yes: 1 pt	No: 0 pts	___/1	
	Are the bills for medically necessary services?	Yes: 1 pt	No: 0 pts	___/1	
	Are the tests ordered by the physician and provided by the hospital laboratory?	Yes: 1 pt	No: 0 pts	___/1	
	Do the CPT and HCPCS code accurately describe what was ordered?	Yes: 1 pt	No: 0 pt	___/1	
	When diagnostic information is obtained after receipt of the request for services, is the information documented and maintained?	Yes: 1 pt	No: 0 pts	___/1	
	TOTAL POINTS			----- ___/5	
Physicians at Teaching Hospitals (PATH)	Do the physicians who provide or supervise services provide correct documentation of services?	Yes: 1 pt	No: 0 pts	___/1	
	Is the appropriate documentation placed in the patient record and signed by the teaching physician?	Yes: 1 pt	No: 0 pts	___/1	
	Does the physician document their presence during the key portion of the service?	Yes: 2 pts	No: 0 pts	___/2	
	When the physician provides evaluation and management (E&M) services, does the patient's medical record include the applicable key components of the E&M service provided or supervised?	Yes: 1 pt	No: 0 pt	___/1	
	TOTAL POINTS			----- ___/5	
Corporate Governance and Compliance	Is the board of directors educated, informed, and active in major compliance issues?	Yes: 2 pts	No: 0 pts	___/2	
	Is there an annual risk assessment that is informed by qualitative and quantitative analysis?	Yes: 2 pts	No: 0 pts	___/2	
	Are major risks monitored and audited?	Yes: 2 pts	No: 0 pts	___/2	
	Are major risks reported to the executives and board of directors?	Yes: 2 pts	No: 0 pt	___/2	
	Is there a robust risk remediation process, including new/amended policies and procedures, and solid education and training?	Yes: 2 pts	No: 0 pts	___/2	
	TOTAL POINTS			----- ___/10	
Claims Development and Submission	What is the error rate determined by the staff?	<3%: 5 pts	3-5%: 2 pts	>5%: 0 pts	___/5
	What is the error rate determined by external auditors?	<3%: 4 pts	3-5%: 2 pts	>5%: 0 pts	___/4
	What is the number of additional documentation requests from payers per month?	<3/month: 3pts		>3/month: 0 pts	___/3
	What is the number of denials by payer per month?	<2 and/or <\$10K: 4 pts		>2 and/or >\$10K: 0 pts	___/4
	What is the number of audit recommendations for claims improvement?	<5/year: 3pts.		>5/year: 0 pts	___/4
	TOTAL POINTS			----- ___/20	
TOTAL SCORECARD POINTS:			_____/100		
SCORECARD GUIDE to POINTS:					
90-100 pts = In good shape 80-90 pts = Needs some work 70-80 pts = Need some help 70 and below = Need lots of help					