How To Design and Implement a Corporate Compliance Program

Where We’ve Been, Where We’re Going, How We’ll Get There and What You Can Do When We Arrive

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What Is A Corporate Compliance Program?

• What is “corporate compliance?”
  – Written & operational commitment to honoring all laws applicable to NFs-including OBRA, state licensure, billing

• What is a corporate compliance program?
  – A “roadmap” for how you take a variety of complex laws and:
    • Ensure your company follows them
    • Have a system for teaching employees about the laws and this “roadmap” you’ve created to ensure compliance
    • A way to prevent, detect and correct violations
    • A system of sanctions for violators
    • A system of reporting suspected violations
    • A way to periodically check/revise your “roadmap”
A Little History

- 2000—OIG 1st compliance guidance for NFs

- “Earlier that same year”-AHCA published the “Redbook,” industry’s first compliance guidance, published before OIG published its guidance

- First industry to do this

- Based on compliance guidance for other industries like hospitals and clinical labs
Now, 8 Years Later, Where Are We?

- Eight years of actual experience with these programs
- Several weeks ago, OIG supplemental guidance issued
  - Supplemental, not replacement, guidance
  - Focuses on new/revised/enhanced “risk areas” for NFs
    - We’ll talk about these in a bit and more in later webinars

- **What else have we learned?**
  - The biggest obstacle to effective compliance programs is programs that are overly-complex, hard to develop, manage, teach and revise as law and practices change
  - We also know more about NF operations and have lots of new data and tools to help measure the industry’s performance

- **The reasons for revising the “Redbook” now**
So, Here’s The Plan

• We’re revising the Redbook and teaching it as we go
• Via monthly webinars and postings to the AHCA website
• Our firm, compliance officers, & OIG technical assistance
• We’ll start with today’s background and some “how to get started” steps, move next to building the mechanics of an “effective” compliance program
  – A note on “effectiveness” of compliance programs
• Then end in early 2009 with a discussion of risk areas
  – The laws you must follow restated in summaries, employee codes of conduct/standards and some practical pointers on how you develop those, teach them, and monitor your compliance
We Have Three Major Goals

• Give the original compliance guidance fresh paint
  – Reorganize it, make it simpler, make it easier to use

• Renovate the original guidance
  – To reflect OIG statements since the original 2008 NF guidance, industry practices, and the OIG’s 2008 supplemental guidance

• Put in some new appliances that:
  – Make it current; and
  – Help you teach compliance in your company

• Comparison of compliance programs to building a house
  – We need to simplify these concepts
  – And give you, the teachers, a teaching tool that can work for all levels of employees
  – Question: How do you get your compliance knowledge from your head to your Board, owners, and employees at all levels?

• So we’ll compare the elements of an “effective” compliance programs to stages of home building & ownership

• And give you the substantive knowledge and model language you need, and a tool to teach these concepts to your company colleagues at all levels
The Website Materials

• We start with an introduction that you can use to teach
• Then some key terms: Building Tools: Terms You Need to Know
  – Modify these and all parts of guidance to fit your needs
• Then “The Basics: What is a Compliance Program and Why Do You Need One?”
  – Long list of benefits from OIG and your colleagues
  – Compliance programs are voluntary; Compliance is not
  – Better view of your own operations, quality and performance
  – Systematic way to measure/enforce compliance
  – Commitment to your residents/customers (including payers)
• Your house keeps out the weather. Compliance programs help keep out “inclement” elements that hurt quality & cost money
Blueprint—Elements of An Effective Compliance Program

• Compliance officer/committee (architect/general contractor)
• Effective lines of communication
• Creation & retention of records
• Effective training & education
• Compliance as part of employee performance
• Internal auditing & monitoring
• Responding to violations & corrective actions
• Assessing effectiveness of your program
• Policies, procedures and code of conduct
A Recommended Approach: Our House Analogy

- Think of compliance programs in two distinct chunks:
  1. The house—the physical/mechanical structure that will house the laws, policies, employee codes of conduct that define how you do business (how you “comply”)
     - Compliance officer, committee, reporting mechanisms, training, audits, disciplinary tools & other process tools that answer “do we have a program, is it effective, are we complying?”
  2. The furniture/appliances—the laws you must follow expressed via summaries, employee standards and codes of conduct
     - What laws are we required to follow, what ethical practices, what standards of care

You’d build your house before you furnish it
- Same with compliance programs
Getting Started

• To build a house, you need commitment to:
  – Plan & design the house
  – Build & furnish it
  – Inspect, maintain & repair it
  – Renovate & repair it from time to time and
  – Ensure repairs/renovations work as planned

• Compliance programs require commitment of:
  – Owners, Board of Directors & managers (the owners)
  – Compliance officer and committee (architect, contractor, workers)
  – All employees/contractors (the family/guests who will use it)
A Special Note on Boards of Directors

• OIG focus on Boards of Directors
  – Or partners (partnerships) or owners (sole proprietors) or members (limited liability companies)

• Four OIG publications on their roles – see Web materials

• Duty to act with the care an ordinarily prudent person would exercise in like circumstances and in a manner they reasonably believe furthers best interests of the company

• Duty of reasonable inquiry about operations
  – This presumes knowledge and thus learning, asking questions, getting satisfactory answers and monitoring responses
OIG: Specific Steps for the Board

• Require regular reports by compliance officer about operations, including quality of care
• Educate themselves about compliance (quality), using outside experts where necessary, to have sufficient knowledge to ask meaningful questions
• Provide sufficient resources for compliance
  – Both the compliance program and daily operations
• Require regular reports on quality (QIs, survey results, customer satisfaction, employee satisfaction) & financial
• Validate reports from staff, where needed, with outside experts where appropriate
Other Board of Directors’ Considerations

• Adopting the compliance program meaningfully
  – Must understand it to accomplish this
• More than perfunctory quarterly reports
• Giving compliance officer access & authority
• Being “taskmasters” for all operations issues
• How’d this happen, how are we fixing it, how have the fixes worked, how to ensure this doesn’t happen again?
  – See “A Board of Directors’/Owners’ Checklist: Understanding and Monitoring Quality of Care”
• Adopting a “Corporate Philosophy Statement”
“I Promise to Build You a Quality House”

- Corporate philosophy statements
  - Written goal statement of daily compliance
  - Including commitment of sufficient resources
- Can be simple and should be
- Sample in the Web materials
  - This is the first “chunk” you could lift into your program and modify to fit your company
  - Can be one paragraph, or longer like the sample
- A word of “scale” of compliance programs
  - No “one size fits all”
Where Are We Now?

• Given you teaching tools for program background
  – What are compliance programs?
  – Why do I need one?
  – What are the elements? (we’ll each explore in future sessions)
  – How do I get started?
  – Have I focused enough on my Board / owners?
  – Corporate philosophy statements?

• What about the OIG’s supplemental guidance?
  – We’ll get there
  – We’ll explore the expanded risk areas, what they mean and how you can approach including them in your program

• We’re still building the house; that’s the furniture
“This Doesn’t Match My Current Program”

• We’ve flipped the structure to focus on the house first and then the furniture (risk areas)
  – It’s all still there, just reorganized

• The “house” hasn’t changed in OIG Supplemental Guidance but the “furniture” has
  – Supplemental risk areas focus heavily on quality:
    • Med errors, care plans, staffing, role of medical directors

• We’re involving compliance offers to help put those very big goals into real world contexts
  – Example: How do you monitor “sufficient staffing”
Questions and Next Webinar

• Questions?
• Next Webinar is November 25, 2008, 2:00PM, Eastern. It will cover the next two concepts listed in the introduction:
  – The Architect and General Contractor – Your Compliance Officer;