

THE HEALTHCARE BUSINESS LETTER

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HIPAA and Medicare Compliance – A Human Resource Issue

By Bruce A. Hupfer and James A. Muschler

Are you sure your staff is adequately trained, appropriately monitored and categorically compliant with federal guidelines? Failure to address these concerns in your compliance initiative or written compliance program will put your practice at risk for audits, sanctions or loss of ability to treat and bill Medicare or Public Aid patients. Here are the most important areas of human resource management, which should be addressed in your practice's compliance initiatives.

A Code of Conduct

Developing standards of conduct is the first step in the creation of an effective compliance program. Your practice should develop its own standards of conduct based on the risks specific to its potential violations of mandated guidelines. A high degree of compliance can be assured by publicly stating the practice's expectations with a written Code of Conduct. This set of standards should cover issues with respect to:

- Medicare billing
- E/M and CPT coding
- third party billing practices
- your relationships with third party business associates
- HIPAA and privacy issues
- consent forms
- documentation of services performed

All team members must be informed and should understand the organization's commitment to upholding these standards. The objective of a written and published Code of Conduct is to create and understanding of the practice's commitment to compliance throughout the practice. This commitment can be clearly established through policy manuals, employee handbooks, ongoing staff education, strategic medical staff training, routine documentation and coding audits, and policies to sanction those who, despite these efforts, continue to violate the practice's written standards. The OIG (Office of Inspector General) advises that upon development, the practice's Code of Conduct and compliance policies should be distributed and/or made continually available to all employees, contractors and agents. In addition, once implemented, these materials should be reviewed at least annually and be revised when necessary.

Written Policies and Procedures

To be effective, the Code of Conduct must be reinforced with basic policies regarding both Medicare and HIPAA compliance. Written policies and procedures are essential to all successful physician practices, regardless of size of the practice or the geographic location you serve. Policies must explain the necessary details in clear and plain language. The procedures by which compliance will be measured are to be incorporated into the practice's standard operating procedures.

The federal government offers healthcare providers two strategies for meeting the goal of developing policies and procedures:

- Developing written compliance manuals for the practice;
- Reviewing/updating the practice's clinical forms periodically (at least once each year) to make sure they contain the documentation required for the level of coding and reimbursement.

Written policies and procedures would be helpful in assuring compliance in the following areas:

- Employee recruiting, hiring, training, monitoring, and testing;
- Creation and maintenance of consent and patient encounter forms (scheduling/patient registration sign-in forms, patient history) to protect patient privacy;
- Protection of phi (private health information) contained in the practice charge master and patient billing statements;
- Training, monitoring and testing of coding/billing competency and responsibilities;
- Training, monitoring and testing of audits and proper coding initiatives;

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- Training of patient outreach/customer communication skills, outsourcing, marketing;
- Implementation and use of quality of service and health-care surveys.

The best way for the practice to begin to develop policies and procedure manuals is to start by creating a topical human resources “binder.” This manual should address those issues your practice has identified potential risk of violating the standards of compliance. Tailor the manual to those issues that are specific to your practice. Focus on the significant risk areas and special concerns your practice has identified through independent audits by both coding professionals and Medicare and HIPAA compliance experts. Add appendices with relevant items such as HCEA directives, carrier bulletins, informative summaries of OIG documents (e.g., Special Fraud Alerts, Advisory Opinions), inspection and audit reports. Create a comprehensive manual, which covers the areas of risk identified in your audit. Larger practices with multiple locations may need to develop and customize these manuals by department or location.

We recommend each employee be provided with his or her own manual. New employees would receive both the practice’s Code of Conduct and policies/procedures manual when hired. Distribution of these manuals should be documented. New employee orientation training should include an explanation of the content, intent, and importance of the Code of Conduct and the policies/procedures manual. It is imperative all practice manuals be reviewed regularly (at least annually) and updated accordingly.

Conducting Comprehensive Training and Education

An effective training program is extremely important in developing the skills to make your practice perform more effectively and efficiently. The government has mandated both physician and medical staff education is a necessary part of any compliance program. The OIG currently recommends that education programs should be tailored to the physician and/or specific practice needs.

While training can be accomplished through a variety of means (e.g. on site training sessions, outside seminars, newsletters, office bulletin boards, etc.), it is important to define the training objectives, determine who needs the training, and agree on when and how often the training should be offered.

The following are the types of training every practice should incorporate into their compliance program:

1. Compliance Training

According to OIG, all employees should receive training on how to perform their jobs in compliance with the standards of applicable regulations. In addition, each employee should understand that full compliance is a condition of his or her continued employment. Training should center on the explanation of why the practice is developing and establishing these standards and written policies. The training should emphasize that following these stated

policies and procedures will not get a practice employee in trouble, but violating these standards could result in termination of their employment at the practice.

2. Coding and Billing Training

Proper documentation of services performed including E/M and CPT coding training for these services are high on the governments list of recommendations. Training on federal health care program requirements may be necessary for certain members of the physician practice staff depending on their respective responsibilities. Those individuals who are directly involved with the coding, billing or other aspects of the federal health care programs should receive education and training specific to their job responsibilities. Examples of coding and billing topics include:

- Documentation of services rendered and Coding requirements;
- Signing forms for a physician without the physician’s authorization;
- Ramifications for altering medical records;
- Reporting misconduct;
- Billing standards and procedures and submission of accurate bills for services
- Legal sanctions for submitting deliberately false or reckless billings;

3. Continuing Education on Compliance Issues

While there is no set formula for identifying how often these training sessions should occur, the OIG recommends there be at minimum one annual training event for all individuals involved in the coding and billing aspects of the practice. In addition, they advise new billing and coding employees be trained on compliance related materials within 60 days of assuming their job duties. Training should be supervised and understanding should be monitored and tested by an experienced practice employee or hired outside independent compliance consultant.

Developing Accessible Lines of Communication

Staff meetings regarding fraudulent or erroneous conduct keep practice employees updated regarding compliance activities. Open lines of communication are an essential component of an effective compliance program. The OIG recognizes that various forms of communications are more conducive, given the varying nature and scale of practices. They acknowledge that in a small physician practice setting the communication element can be met by implementing a clear “open door” policy between the physicians, staff and compliance personnel. Conspicuous notices posted in common areas and/or the development and placement of a compliance bulletin board can go a long way in creating the necessary information exchange to assure compliance.

A system for effective communication regarding compliance issues should include the following:

- The requirement that employees report conduct that a reasonable person would, in good faith, believe to be fraudulent or erroneous;
- Creation of a user-friendly process, such as an anonymous drop box, for effectively reporting fraudulent or erroneous conduct;
- Provisions in the policies and procedures which state that a failure to report fraudulent or erroneous conduct is a violation of the compliance program;
- Development of a simple and readily accessible procedure to process reports of fraudulent or erroneous conduct;
- Utilization of a process that maintains the confidentiality of the persons involved in the alleged fraudulent or erroneous conduct and the person making the allegation; and
- Provisions in the policies and procedures that there will be no retribution for reporting conduct which a reasonable person acting in good faith would have believed to be fraudulent or erroneous.

A major component of good communications is the development of “mutual trust.” Central to building such trust is knowing whom to turn to for assistance on these matters without fear of retribution. While anonymity may be hard to assure, trust requires that “best efforts” be undertaken to maintain the confidentiality of a reporting employee’s identity. In addition, respect should be shown when questions on compliance related matters are asked or potential compliance violations are reported.

Enforcing Disciplinary Standards

It is vitally important in today’s compliance-driven world that the practice assures that employees are aware that compliance is mandatory and violations will be dealt with uniformly. Effective physician practice compliance programs should include procedures for enforcing and disciplining individuals who violate the practice’s standards of conduct. Enforcement and disciplinary provisions or “teeth” are necessary to make any compliance program effective at ensuring full compliance. The use of a hierarchy of sanctions, proceeding from various administrative procedures (e.g. warnings, written reprimands, probation, demotion, termination, and criminal prosecution) would be a necessary part of any effective compliance program.

The key is that disciplinary mechanisms be firm, but flexible. Flexible enough to account for mitigating or aggravating circumstances. The program should specify that those individuals who fail to detect or report violations of the compliance program may also be subject to disciplinary measures, including termination of their employment at the practice.

It is vitally important the practice’s disciplinary guidelines and hierarchy of sanctions be clearly disseminated through written publication in both employee handbooks

and policy and procedure manuals. It is imperative the practice clearly documents any communication resulting in the finding of non-compliant conduct. It is also important when hiring new employees that the practice conduct routine checks to assure all current and potential practice employees are not listed on the OIG or GSA lists of individuals excluded from participation in federal health care or government procurement programs.

Responding to Detected Offenses

Violations of a physician practice’s compliance program, significant failures to comply with applicable federal or state law, and other types of misconduct threaten a practice’s status as a reliable, honest, and trustworthy provider of health care services. Violations, when undiscovered and unreported, can undermine the development of a compliance culture at the practice. As professionals in our field we must routinely identify and detect fraudulent or erroneous conduct and aggressively work to correct it.

The OIG advises that, upon receipt of reports or reasonable indications of suspected noncompliance, it is important that the compliance officer or other practice employee investigate the allegations to determine whether a material violation of applicable law or the requirements of the compliance program has occurred. If so, the practice must take decisive steps to correct the problem. They identify the corrective steps to include the return of any overpayments, a report to the government, and/or a referral to law enforcement authorities.

The overall goal is to create compliant and appropriate professional behavior. There are several warning signs of a failing compliance program: high rates of rejected claims, pre-payment or post-payment reviews/audits by carriers. To assure compliance we must periodically review medical staff and employee performance in those areas high-risk for the practice. We must be diligent in our efforts to achieve full and complete compliance – our professional reputation is at stake!

The Need to Look Beyond

The acceleration of compliance activity gives us an indication of what the future will hold. The requirements placed on our human resource managers will be expanding dramatically. Issues ranging from OSHA requirements to PHI confidentiality under HIPAA will continue to expand the scope of healthcare practitioners.

For many, this expanding array of professional guidelines may soon require that you hire a human resources specialist to properly manage these functions. For smaller practices this may only mean that someone at your practice acquire the additional skills necessary to train, monitor and maintain compliance. For all practices the compliance mandated requirements mean that you must now routinely engage in strategic planning, putting human resource management at the forefront of your planning needs.

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Providing bundled solutions to today’s healthcare business office challenges

A well-run organization needs strong guidelines in the form of written policies and procedures. Ongoing training, effective communications strategies, and close monitoring are the cornerstone on which compliance is built. Indeed, these are also the keys to good business management. Thus, improved efficiency has been the by-product of those practices that have embraced compliance— not as a “necessary evil” but as an effective professional business strategy.

The ARSI Group

ARSI’s Practice Management Consulting Services are designed to work as your “success partner” in identifying deficiencies/opportunities, implementing industry best practices, achieving improved operating efficiencies and improving operational performance. We identify critical components of success, develop efficient and effective management processes, and implement a structured education and training program to facilitate the desired

changes in procedures. With this expertise, understanding, knowledge, and experience, ARSI is uniquely qualified to assist in maximizing your efficiency and effectiveness.

The ARSI Group, a unique consulting and training firm is organized to provide bundled business management solutions to healthcare providers. Our clients include Single and Multi-Specialty Physician Groups, Hospitals, Physician Hospital Organizations, Billing Organizations, Health Maintenance Organizations, Management Service Organizations and many other types of provider networks.

ARSI is acutely aware of the magnitude of the administrative challenges that physicians face. Our objective is to bring our clients the information and resources to achieve their goals.

Contact us at our customer service line (800) 800-1702 or you may reach one of our consultants on our consultants’ hot line at (866) 385-2774.



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An accomplished Marketing Executive and Practice Improvement Consultant, Mr. Bruce A. Hupfer is the Director and Consultant for Marketing and Business Development for The ARSI Group. A researcher and writer of several journal articles, he is a frequent contributor to AOA’s Practice Pointers. His education includes an MBA in Marketing and Finance and an MA in Sociology. Mr. Hupfer’s marketing strategies have received national recognition for outstanding sales programs, marketing campaigns, and business development strategies.

In addition to consulting, Mr. Hupfer has served as Director of Marketing for several large corporations and was a Federal Auditor with the US General Accounting Office. Evaluating ways to improve national programs through organizational restructuring, improved distribution, marketing, and deregulation, he developed many innovative tools for improving organizational performance while identifying over a billion dollars in tax savings. He is also the developer of ARSI’s Practice Performance Evaluation program and an expert on the development of compliance programs.



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His extensive experience includes developing healthcare business strategies, designing and re-engineering healthcare financial management and collection systems, customer service excellence, and corporate communications strategies.