

Seven Steps to Corporate Compliance: the HIM Role

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Today, healthcare providers in all settings are developing and implementing compliance programs in an effort to ensure ethical business practices in accordance with compliance program guidance from the Department of Health and Human Services Office of the Inspector General (OIG). This is becoming necessary due to the increased severity of penalties established by the Health Insurance Portability and Accountability Act (HIPAA) of 1996 (public law 104-191) and the Balanced Budget Act of 1997 (public law 105-33). By ensuring ethical business practices through compliance programs, healthcare providers are reducing their risk of criminal and civil litigation.

As part of the process that is vital to accurate billing, HIM professionals should be involved in the development of a corporate compliance program. HIM skills that are fundamental to effective compliance include:

- a strong knowledge base and experience in appropriate coding and billing practices
- knowledge of multiple reimbursement systems
- knowledge of multiple regulations, standards, policies, and requirements pertaining to clinical documentation, coding, and billing
- knowledge of multiple third-party payer requirements
- the ability to accurately interpret and implement regulatory standards
- the ability to interpret legal requirements
- an established rapport with physicians and other healthcare practitioners
- strong managerial, leadership, and interpersonal skills
- strong analytical skills

HIM professionals are well suited to guiding the development and implementation of a corporate compliance program based on their skills and experience ensuring compliance within the HIM department. At a minimum, the HIM professional should, as part of the compliance committee, collaborate with other healthcare professionals in the development of the corporate compliance program by participating in the process and by sharing expertise to ensure compliance throughout the organization. Furthermore, partnering with HIM professionals to develop a corporate compliance program can bring improved health record documentation, improved coding accuracy, prevention of billing errors, and provision of a mechanism to identify problem areas.

There are a number of ways for HIM professionals to contribute to the development of their organizations' corporate compliance programs. These contributions revolve around the seven key elements of a corporate compliance program. The key elements, modeled after the Federal Sentencing Guidelines, are incorporated into all of the OIG's current compliance program guidances. They also provide the main structural components to corporate integrity agreements used in Medicare fraud and/or abuse settlements.

The information that follows is only a guide. Tailor each component to meet the internal needs of your facility.

Oversight

The oversight of HIM compliance begins with the corporate compliance officer—a corporate role for which HIM professionals are uniquely qualified to serve, with their management, leadership, communication skills and knowledge of myriad regulatory and reimbursement requirements. Given that accurate documentation, coding, and billing are imperative to healthcare compliance, the HIM professional's skill set is the perfect match for the position at any organization.

An HIM professional should always serve on the organization's compliance committee (regardless of whether the corporate compliance officer is an HIM professional—it is essential to have the perspective of an HIM department staff member). In addition, there are other key compliance positions for HIM professionals, such as corporate compliance auditor and compliance coding specialist.

Policies and Procedures

The OIG recommends that an organization's policies and procedures address areas of special concern, as identified by the OIG in its Compliance Guidance for Hospitals. Many of these risk areas fall within the realm of HIM, including billing for items or services not rendered, providing medically unnecessary services, upcoding, DRG creep, outpatient services rendered in connection with inpatient stays, unbundling, documentation issues, and billing for discharge in lieu of transfer.

Specific issues to address when creating HIM compliance policies are the education and training requirements for HIM personnel, including billing and coding personnel. HIM policies and procedures should ensure that:

- coding and billing are based on accurate and timely medical record documentation
- all rejected claims pertaining to diagnosis and procedure codes are reviewed
- proper and timely documentation of all physician and other professional services is obtained prior to billing
- compensation for coders and consultants does not provide any financial incentive to improperly coded claims
- a process for pre- and post- submission review is in place
- the proper selection and sequencing of diagnoses occurs
- the correct application of official coding rules and guidelines occurs
- a process for reporting potential/ actual violations exists
- a process for identification of coding errors is in place

HIM professionals must actively participate in the development of organization-wide policies and procedures pertaining to accurate, complete, and timely documentation and proper coding practices. This includes documentation and coding policies and procedures that may lie outside the functions of the HIM department (e.g., chargemaster maintenance, review of claim rejections due to coding and documentation issues, outpatient registration, and the receipt of documentation from physicians' offices supporting medical necessity of diagnostic tests). It should also include involvement in creating policies and procedures related to the organization's health record retention and maintenance of patient confidentiality, developed in accordance with federal and state requirements.

HIM professionals can use their knowledge of coding and billing requirements and computer systems to recommend system edits and reminders—this will reduce coding and billing errors. They are also an important resource for clarification of coding and documentation protocols and development of tools and processes to promote compliance with those protocols. Furthermore, their knowledge of monitoring processes to ensure HIM compliance with the various regulatory bodies (e.g., Medicare, Medicaid, Emergency Medical Treatment and Active Labor Act [EMTALA], and Joint Commission on Accreditation of Healthcare Organizations) makes them good candidates to assist in the development and implementation of corrective action plans.

HIM professionals should be key contributors to the development and promotion of the corporate compliance program. Written policies and procedures should reflect current regulatory requirements and guidance from the model compliance programs. Furthermore, the policies and procedures must be appropriately maintained, reviewed, and revised.

Education

One of the key elements in a compliance program is effective education, training, and continual retraining for all employees—at all levels—on applicable local, state, and federal regulations and other payer requirements. Training programs should be detailed and comprehensive, covering general areas of compliance and specific policies and procedures. Even in the absence of specifically delegated compliance duties, HIM expertise is necessary in all aspects of the design, development, and implementation of compliance education.

Design education and training to meet the educational needs of all employees. This may lead to the creation of internal and/or external educational programs. Use educational strategies to ensure that appropriate information is correctly disseminated. Separate the training into two sessions—general and focused—depending on the employees' involvement in various compliance risk areas. Design a general session for all employees, keeping in mind that more focused sessions may be required depending on employee tasks. Develop focused training programs for all employees who participate in high-risk activities, such as coding, billing, and patient confidentiality. Focused training programs should also be developed in response to regulatory changes, identified areas of deficiency, investigative focus, or corrective action plans. The educational structure should include a projected number of minimum education hours per year—designed to appropriately address the needs of different employees.

HIM professionals should provide input and guidance on the content and structure of the general sessions. Factor adherence to provisions of the compliance program into annual employee evaluations. Provide continual involvement in identification, revision, and updating educational sessions and materials. More specifically, HIM professionals should develop and disseminate information about patient confidentiality and record retention policies and procedures. Get involved in the development and maintenance of an attestation of employee understanding of the material presented. Adequate records of attendance and educational materials should be maintained as well.

Use HIM skills and knowledge to educate physicians and facility staff on coding, documentation, and compliance. HIM professionals are uniquely qualified to develop and implement educational training programs involving HIM and related processes, such as physician and ancillary staff education related to coding and documentation. They should, therefore, be responsible for current and ongoing employee education related to those areas. HIM professionals can assist in identification of areas requiring specific training and in the development and implementation of training in those areas. Make sure to select timely and relevant educational topics assimilated through review of health information processes. Specific focus topics include:

- specific government and private payer reimbursement principles
- appropriate documentation practices
- relationship of coding to documentation
- regulatory rules and requirements pertaining to coding, billing, and documentation
- proper selection and sequencing of diagnoses
- impact of documentation on the clinical, operational, and financial aspects of healthcare delivery
- medical necessity
- chargemaster development and use
- improper alterations to documentation

- confidentiality
- record retention
- physician-specific education related to documentation, coding, and reimbursement rules
- duty to identify and appropriately report misconduct

In light of the government's patient education initiative to help identify and report fraud, HIM professionals must take responsibility for enabling patients to understand health information practices. Teach patients about access to patient records and the relationship of record documentation to the patient billing process. Enhanced patient understanding will help reduce patient dissatisfaction and beneficiary reports of fraud.

HIM professionals need to develop comprehensive education and training for the HIM components of the corporate compliance program. The OIG expects education to cover the applicable statutes, rules, and program instructions.

The education and training policies should include a plan to address the risk areas for fraud, waste, and abuse; the integrity of the patient information system; and the methodology to ensure accuracy of documentation, coding, and billing processes. In addition, education should reflect the current reimbursement principles set forth in applicable statutes and regulations as well as federal, state, and payer healthcare program requirements.

HIM professionals must develop and coordinate compliance education and training programs in a timely manner. Relevant education and training resource materials should be maintained, updated, and made available to all appropriate personnel. Be sure to include resources for current regulations, coding, documentation, and billing.

An essential component of an effective compliance program is one that provides proper education and training for all personnel—including managers, supervisors, employees, and physicians. Include all independent contractors and other external agents as well. Ask these entities to sign an agreement of understanding and compliance with the organization's compliance program as part of their contractual agreement.

Provide all education and training within a structured format that outlines content, audience, and time frames for completion. Implementing an educational program should be an ongoing process that includes the training of new personnel and continuous retraining of current personnel.

Communication

The OIG's Compliance Guidance for Hospitals states, "an open line of communication between the compliance officer and hospital personnel is equally important to the successful implementation of a compliance program and the reduction of any potential for fraud, abuse and waste."¹

The HIM professional has the ability to effectively communicate a culture of corporate compliance by:

- encouraging communication for reporting incidents of potential fraud through corporate policies addressing confidentiality, anonymity, and non-retaliation
- adequately outlining how potential problems should be reported, according to a specific chain of command
- emphasizing that reporting potential problems is the duty of all employees
- supporting the use of the compliance hotline to report potential problems
- ensuring that employees know how to access the compliance officer to clarify a hospital policy or procedure or to ask a question

- establishing communication through e-mail, memos, newsletters, and suggestion boxes
- thoroughly communicating and conspicuously posting the hotline telephone number
- encouraging employees to ask questions and report possible problems
- presenting compliance material in a non-threatening manner that does not negatively affect employee morale or relationships with managers
- communicating without patronizing
- building on the idea that healthcare employees are honest and ethical individuals

Collaborate with the business office, chief financial officer, and chief executive officer to develop mechanisms to communicate new or revised regulatory requirements or reimbursement policies in an effective and timely manner to all affected personnel to ensure coding and billing accuracy. Also, establish procedures to obtain clarification from the payer or another official source when questions arise. HIM professionals should serve as the key corporate resource for questions and clarification of health information documentation and coding requirements. Their education, background, and skills related to documentation and coding make them the logical choice to work as or with the corporate compliance officer on communicating corporate compliance to regulations, policies, and guidelines related to documentation and coding.

Disciplinary Policy and Action

According to the OIG, "an effective compliance program should include guidance regarding disciplinary action for corporate officers, managers, employees, physicians, and other healthcare professionals who have failed to comply with the healthcare organization's standards of conduct, policies and procedures, federal, state, or private payer healthcare program requirements, or federal and state laws, or those who have otherwise engaged in wrongdoing, which has the potential to impair the organization's status as a reliable, honest and trustworthy provider. The OIG believes that corporate officers, managers, supervisors, medical staff, and other healthcare professionals should be held accountable for failing to comply with, or for the foreseeable failure of their subordinates to adhere to, the applicable standards, laws, and procedures."²

The compliance program should include a written policy statement setting forth the disciplinary actions for corporate officers, managers, employees, physicians, and other healthcare professionals who fail to comply with facility standards and policies, and applicable federal and state statutes and regulations. Disciplinary actions can range from verbal warnings to suspension, revocation of privileges (pursuant to any applicable peer review procedures), termination, or financial penalties.

The written policy should specify the procedures for handling disciplinary problems and identify who will be responsible for taking appropriate action. Some disciplinary actions can be handled by department managers, whereas others may need to be resolved by administration (e.g., issues involving high-level personnel or physicians).

All employees should be subject to the same disciplinary action for committing similar offenses. It is critical to publish the written policy on improper conduct and educate officers, physicians, and employees about compliance. The consequences of noncompliance should be consistently applied and enforced. The commitment to compliance applies to all personnel levels within the organization.

HIM management personnel should collaborate with human resources, the compliance officer, and other department managers to develop policies and procedures to determine disciplinary action for managers, employees, contractors, and physicians who fail to comply with the organization's and state and federal standards. Organizational policies and procedures should cover the processes for imposing disciplinary action, including levels of authority for imposing various types of discipline, proper documentation of offenses and actions taken, protocol for reporting disciplinary actions to the compliance officer, and appropriate followup measures.

Ensure that all HIM contractual arrangements require the contractor to comply with the healthcare organization's standards and policies and procedures and all applicable laws and regulations. Contracts should spell out the consequences of non-compliance on the part of the contractor, including immediate termination of the contract if serious non-compliance issues

occur. Educate HIM contractors on the organization's standards, policies, and procedures, and procure a signed agreement from the contractor that they will abide by these standards.

HIM staff must be educated on the organization's disciplinary policies in order to fully comprehend the consequences of non-compliance. Apply disciplinary policies consistently and fairly within each manager's area of responsibility and work with human resources, other department managers, and administration to ensure that organizational standards and state and federal laws and regulations are enforced consistently across the organization.

HIM supervisors should know how to provide proper training and oversight for their areas of responsibility, as they can be held accountable for their subordinates' non-compliance. Supervisors should be aware of their responsibilities in disciplining employees appropriately and consistently.

Incorporate the promotion of, and adherence to, the elements of the organization's compliance program into the performance evaluations of HIM managerial and supervisory staff. Evaluate whether fair and consistent disciplinary actions were taken, and whether proper training and guidance was provided to staff members. In addition, incorporate adherence to the compliance program into the performance evaluations of non-supervisory HIM staff. Just as lack of adherence to the compliance program should have a negative impact on a performance evaluation, demonstrated commitment to the effectiveness of the compliance program (such as successful identification and resolution of a problem or implementation of process improvements to achieve accurate and complete medical record documentation) should have a positive impact.

HIM supervisors should help develop sanctions for physicians who fail to comply with the organization's or federal and state standards. This includes sanctions for failure to comply with documentation completion requirements as stipulated in medical staff bylaws, rules, and regulations. Enforcement should be consistent. Incidents of non-enforcement or inconsistent enforcement should be reported to the compliance officer. Sanctions might include revocation of clinical privileges (for serious violations) or financial penalties. Factor adherence to the applicable elements of the compliance program into the physicians' reappointment credentialing process.

Auditing and Monitoring

Auditing and monitoring an organization's operations are key to ensuring compliance and adherence to their policies and procedures. Auditing and monitoring can also identify areas of potential risk and those areas where additional education is required. All potential areas of risk and those currently identified by the OIG as targets on their work plan should be audited, including:

- DRG miscoding
- miscoded observational stays
- duplicate outpatient billings
- services billed under arrangement
- transfers billed as discharges
- 72-hour window rule
- medical necessity
- PATH
- partial hospitalization

HIM professionals can use their expertise in designing audit protocols and analyzing data to assist other departments in developing auditing and monitoring processes and evaluating the results. The HIM professional may also assist in the actual

audits of other departments. HIM professionals also can use their data analysis skills to help administration and/or the corporate compliance officer analyze the findings of audit activities.

The laboratory department is an excellent area for HIM professionals to provide assistance in interpreting medical necessity requirements.

HIM professionals come in contact with information and data that span many areas. A thorough knowledge of the corporate compliance program and accrediting and regulatory requirements will let them be strong members of the organization's auditing and monitoring team. In this role, HIM professionals can help identify problems, develop creative solutions, and perform continuous monitoring.

HIM professionals may also be able to identify problems that others might not be aware of, thanks to their knowledge and exposure to much of the organization's data. For example, a coder reviewing a record might notice that organ donation forms are not being filled out correctly or consistently. This deficiency could have severe consequences; physicians need to be notified and the problem investigated and corrected. This deficiency is not something a coder needs to review in order to code the medical record, but based on their knowledge base, he or she would probably notice the trend and then report it to a supervisor. Knowledge of general good record keeping, as well as knowledge of standards and guidelines, help HIM professionals pinpoint trends and errors that otherwise might go unnoticed.

Problem Resolution and Corrective Action

HIM professionals must play a major role in any corporate compliance program, including the areas of problem resolution and corrective action. By knowing what the accepted practices should be, they can identify areas in which an institution is not in compliance.

When identifying a potential problem or problematic trend, an investigation must take place to determine the seriousness and scope (see "[Taking Action](#)").

It is vital that an HIM professional sit on the compliance committee. The committee will no doubt discuss many topics that affect the HIM department, and an HIM representative can provide valuable insight. The HIM representative's diverse knowledge can also provide assistance in identifying problem areas and working to resolve problems. HIM professionals can also assist in performing audits to identify problems, look for solutions, and ensure that solutions are working.

All documentation related to potential problems, problem resolution, and corrective action must include a full description of the process, notes from interviews with involved individuals, copies of the guidelines, procedures, etc., and the final results of the investigation. The corporate compliance officer should maintain documentation. HIM professionals should assist in the appropriate storage of these documents, as recovery in the event of an external audit is vital.

Conclusion

Given HIM professionals' training, skills, and commitment to professional ethics, their contribution to the development and implementation of the corporate compliance program is invaluable. HIM professionals should demonstrate their value in corporate compliance by proactively providing information on their capabilities related to each of the seven steps and by providing current information on government initiatives to administration. Develop and implement an HIM compliance program to demonstrate your abilities to top-level management.

When developing and implementing a corporate compliance program, remember that the OIG recognizes the establishment of an effective compliance program. The OIG views it as a sincere effort by the healthcare provider to comply with applicable state and federal standards.

Use existing quality monitoring programs, policies, procedures, education program schedules, etc. to reduce the amount of time and effort needed to develop your HIM or corporate compliance program. The key is not the size of the program manual, but the success it achieves in ensuring compliance through outcomes and ongoing refinement of the processes.

Taking Action

If a routine coding quality audit shows a pattern of coding errors, the HIM professional should take the following action:

- have another HIM professional review the records to verify the existence of the coding problem, and, based on guidelines, verify that the coding practice was truly improper
- notify the compliance committee (or other group, based on organizational structure) of the problem and state that the problem is being investigated
- once approval from the compliance committee and/or the organization's legal counsel is obtained, expand the record sample to include a larger population, in order to determine the true extent of the problem, the number of coders involved, and the number of records
- once the extent of the problem is determined, immediately educate coders (or other staff) to obliterate the problem. Revise procedures to prevent recurrence and take disciplinary action when appropriate
- identify the source of the problem. Document the reason for the error, along with the corrective action taken, in the event of an external audit
- consult legal counsel and report the problem to the payer(s) if advised to do so. In the event of overpayment, work with the business office to ensure immediate refunds
- perform an additional audit within a few months to ensure resolution of the problem. Perform more expansive audits into other potential problem areas to ensure overall coding compliance

Notes

1. Department of Health and Human Services. "Compliance Program Guidance for Third-Party Medical Billing Companies." Available at www.dhhs.gov/progorg/oig.

2. *Ibid.*

References

Department of Health and Human Services. "Compliance Program Guidance for Third-Party Medical Billing Companies." Available at www.dhhs.gov/progorg/oig.

Journal of AHIMA, January 1998 and January 1999 issues

Prophet, Sue. *Health Information Management Compliance—A Model Program for Healthcare Organizations*. Chicago, IL: AHIMA, 1998.

Resource List

Publications

- *Journal of AHIMA*, January 1998 and January 1999 issues
- Department of Health and Human Services. "Compliance Program Guidance for Clinical Laboratories." Available at www.dhhs.gov/progorg/oig.
- Department of Health and Human Services. "Compliance Program Guidance for Home Health Agencies." Available at www.dhhs.gov/progorg/oig.

- Department of Health and Human Services. "Compliance Program Guidance for Hospitals." Available at www.dhhs.gov/progorg/oig.
- Department of Health and Human Services. "Compliance Program Guidance for Third-Party Medical Billing Companies." Available at www.dhhs.gov/progorg/oig.
- Prophet, Sue. *Health Information Management Compliance—A Model Program for Healthcare Organizations*. Chicago, IL: AHIMA, 1998.
- United States Sentencing Commission Guidelines, Guidelines Manual, 8A1.2. Available at www.ussc.gov.

Web Sites

- AHIMA—www.ahima.org
- *Federal Register*—www.access.gpo.gov/su_docs/aces/aces140.html
- Medicare—www.hcfa.gov/medicare/mcarpti.htm
- OAS (information on recent audits)—www.dhhs.gov/progorg/oas
- OEI (information on investigations)—www.dhhs.gov/progorg/oei
- OIG (compliance program guidance)—www.dhhs.gov/progorg/oig

Prepared by

AHIMA's Compliance Task Force:

Cheryl Hammen, ART (chair, Compliance Task Force)
Gloryanne Bryant, ART, CCS
Rachel Driggs, MBA, RRA
Kathleen Frawley, JD, MS, RRA
Sister M. Nika Lee, RRA
Susan Manning, JD, RRA
Denisha Torres, RRA
LaVonne Wieland, ART
Sue Prophet, RRA, CCS (staff liaison)

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