Six Steps to Compliance for Small Practices

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Developing a compliance plan for a small physician practice can be easier than you'd think. The author offers six things HIM professionals can do to ensure a practice's compliance.

Developing a compliance plan can be a considerable task for a hospital that has significant resources. But if you work for a small physician practice, it can seem like an insurmountable task. How can you assess your risk, set measurable goals, and determine your progress in developing a compliance plan for your practice? This article offers suggestions and guidance that may help make the development of a compliance plan seem manageable.

Where to Start?

A good guide to use in developing a compliance plan comes from the Office of Inspector General (OIG), which has developed numerous guidelines for various healthcare settings, including individual and small group practices. To start developing a compliance program, identify risk areas associated with coding, billing, documentation, and medical necessity. Remember this rule of thumb-whatever effort you make in developing a compliance program, you must be able to show that it is **effective**.

The OIG has detailed seven basic components of a compliance program, which closely tie in with the US federal sentencing guidelines.[1] These components are:

- internal standards and procedures
- internal monitoring and auditing
- designation of a compliance officer
- training and education
- responding appropriately to detected violations
- open lines of communication
- enforce disciplinary standards

These guidelines explain the criteria that the courts would use to determine penalties in a compliance case. Remember, the goal of any compliance plan is to be **effective**. Even smaller practices can incorporate many components into everyday functions of the practice to help ensure the effectiveness of a compliance program.

Assess Your "Compliance Risk"

The next step is to assess your risk-that is, those actions or situations that facilitate noncompliance with laws and regulations, potentially leading to civil or criminal penalties. The OIG has identified four potential risk areas affecting physician practices:[2]

- coding and billing
- reasonable and necessary services
- documentation
- improper inducements

In this article, we will focus on the first three risk areas and how and when they may be perceived as "fraud."

Not all actions resulting in inappropriate payment should be perceived as fraudulent. An act of fraud must be intentional or reckless-actual knowledge of the falsity or a deliberate ignorance of the falsity of the claim must be shown.[3] Both the False Claims Act and the Civil Monetary Penalties Law are important regulations that address acts of fraud. However, innocent

errors may occur in any setting. Mechanisms should be in place within a small physician practice to help alleviate even innocent errors.

The OIG's Compliance Program for Individual and Small Group Physician Practices states, "...this guidance for physicians does not suggest that physician practices implement all seven components of a full-scale compliance program, [rather]...the guidance emphasizes a step-by-step approach to follow in developing and implementing a voluntary compliance program."

When planning the development of a compliance program, you need to understand your practice. Recognizing and understanding the weaknesses or vulnerabilities of your business operations (such as billing) will help ascertain your areas of risk. Ask yourself the questions listed in "Is Your Practice at Risk?"

Answering these questions will help you analyze where your practice is today and what tools you have available, help set goals that can reasonably be attained, and aid in setting timelines to achieve the goals.

Six Steps to Compliance

Step one: Compile, assess, and update standards and procedures. Too often, a practice does not have written policies or procedures for everyday functions. The office functions on "head knowledge" and fails to plan for the day when the person with all the knowledge may not be available.

One major benefit of written procedures is that they reinforce consistency among office staff. Frequently, different processes are followed within the same practice, depending on the person performing the function. Effectively written procedures allow other staff to perform functions competently and completely during times of planned and unplanned absences. Claims submission should not stop because the biller is on vacation.

To start, compile policies and procedures for commonly performed functions, such as coding office visits or posting remittances. Then ask staff to document the steps that they actually follow when performing a function. Compare the actual steps of the documented procedure to the staff's documented steps-they may not be the same. Ask questions before jumping to conclusions. Be skeptical if the answer is, "That's the way it has always been done."

Begin to list coding and billing questions that have arisen in the past. Use information from a variety of sources, e.g., local medical review policies (LMRPs), Medicare bulletins, and denial information, to identify the first areas to address. Once developed, ensure that policies and procedures are readily available and updated at regular intervals. Be sure to make the policies and procedures position dependent rather than person dependent.

It may also be helpful to evaluate general policy information from other practices and modify policies to fit individual needs. For example, Columbia HCA offers free access to its compliance policies on its Web site (www.hcahealthcare.com, click on ethics and compliance).

Step two: Incorporate monitoring and auditing processes. Incorporate monitoring processes that will help ensure compliance into each policy or procedure. Monitoring can be part of the everyday process and may be performed internally or by external consultants. A small office may not be able to afford external services. If so, consider using tools such as concurrent random audits, denial notices, and system edits to help with the monitoring process.

Many monitoring tools and suggestions can be found online (see "Compliance Help Online"). The carrier often provides basic information that may be incorporated into a template for monitoring purposes.

An obvious but often overlooked compliance tool is the OIG's online database of excluded individuals/entities, listing more than 18,000 individuals and entities currently excluded from program participation. (This site is available at www.hhs.gov/oig/cumsan/index.htm). Whether your practice is hiring a billing clerk or a physician, check this site prior to extending a job offer. It's easy to use (and free) and may give a measure of relief and protection from hiring someone who is not allowed to do business with the government.

Step three: Assign responsibility for compliance oversight to someone in the office. In small offices, personnel wear many hats. Responsibility can be a shared function between physician(s) and staff or can be a sole responsibility. However, someone must be held accountable to ensure that policies and procedures are written, that monitoring occurs, that compliance

issues-once identified-are investigated, that appropriate training is provided, and that discipline policies are enforced. Consult legal counsel if any potential compliance issue is identified, then follow the recommendation of counsel for investigation.

Step four: Build in training and education. Training and education of employees and physicians is a major factor for ensuring compliance. Take advantage of external training, which is often offered at low cost. This may include carrier training (online and seminar format) or local or state society conferences, such as are offered by AHIMA component state associations.

Networking can open a wide variety of possibilities. Experts in the field will often offer to provide education, and the cost can be shared by a group of practices. Training materials may also be purchased and used at the employees' convenience.

If training time is very limited, develop "short notes" and take about five minutes out of a staff meeting to highlight a compliance topic. When a physician or staff person is newly hired, incorporate the basics of your compliance program into the orientation. Be specific about expectations from the very beginning to alleviate potential misunderstandings that may lead to noncompliance. Consider developing competency tests for training that incorporate training and monitoring of knowledge into one process.

Assign personnel to be responsible for reading incoming information, such as Medicare bulletins, and updating the other staff as well as physicians. Determine how the updates will occur-in a memo, meeting, or informal discussion, for example.

Step five: Enforce disciplinary standards. Employees and physicians must understand that compliance is serious. Noncompliance can affect both the individual and the practice. The practice's viability depends on team effort to ensure compliance with laws, rules, and regulations. Clearly detail actions that will be taken in cases of noncompliance, and enforce them, if necessary. The loss of gainful employment from the practice should be included as a final disciplinary action.

Step six: Ensure open communication. Communication is the key to the success of a compliance program. Identifying compliance issues should be seen in the context of ensuring high-quality patient care and billing appropriately for services provided. Employees should not be discouraged from asking questions and clarifying issues.

Moreover, compliance should be a concern of all employees within the practice, including physicians. Try to communicate a philosophy of improvement through cooperation. And help employees understand compliance-related scenarios-for example, develop training to help employees understand basic compliance actions that may be taken by the government, such as subpoenas, and the employees' responsibilities in responding to them.

Ensuring compliance, even in the smallest of practices, doesn't have to be a major undertaking. Acting ethically and responsibly is a good first step. Consider compliance requirements when documenting procedures, develop open lines of communication, and build monitoring into everyday tasks to promote consistency and effectiveness within a practice.

Remember that compliance is everyone's business. The purpose of an effective compliance program is to prevent unethical or unlawful behavior, stop the behavior if it is discovered, and take steps to ensure that the behavior will not occur in the future. Working as a team within a practice will help everyone realize that each member plays an important role in the compliance effort.

Check Your Progress

How can you measure your progress toward establishing a compliance program in your practice? Here's an example of goal setting, timeline, and steps of achievement.				
Goal	**Timeline**	**Rationale**	**Implementation Steps**	**Measurable Success**
1. Develop coding and billing policies and	One year for completion of all	Ensure that your practice has in place policies and	**1.** Review OIG compliance plan for individual and small	**1.** High-risk areas are identified.

procedures (P&P) consistent with compliance requirements.	necessary policies	procedures to address high-risk issues identified by the OIG and HCFA.	group physician practices. **2.** Review and trend Medicare claim denials. **3.** Identify high-risk areas for the practice. **4.** Evaluate local medical review policies for high-risk areas. **5.** Develop list of desired policies for development. **6.** Assign responsibility for P&P development. **7.** Monitor progress of P&P development. **8.** Finalize P&P with physician endorsement.	**2.** Policies are developed for each high-risk issue. **3.** Personnel are knowledgeable and can articulate policies. **4.** All employees have access to P&P.
2. Monitor high-risk areas for compliance.	Ongoing	To detect noncompliance and promote ongoing compliance with existing policies.	**1.** Identify high-risk areas. **2.** Perform initial issue-specific audits. **3.** Develop timeline for consistent periodic monitoring. **4.** Build a monitoring process into each high-risk policy or procedure. **5.** Offer training, where necessary, to facilitate staff participation in the monitoring process.	**1.** Audit results are within acceptable parameters. **2.** Communication lines are open and encourage issue identification/ discussion. **3.** Education is conducted when necessary-improvement is seen in deficient areas. **4.** Claim denials decrease. **5.** Risk decreases.

				6. Potential compliance issues are identified and corrected. 7. The number of compliance issues decrease.
3. Offer/conduct training.	Ongoing	Well-trained and well-informed staff are cooperative, work as team players, and have a high level of integrity.	1. Identify training needs through monitoring, auditing, communications, etc. 2. Develop training materials in a variety of formats so that information can be easily understood. 3. Collaborate with similar practices to offer educational services. 4. Offer a variety of venues-office meetings, external sources, intranet, written communication, new employee orientation.	1. Verbalize understanding of pertinent compliance issues. 2. Increased consistency, efficiency and compliance for coding and billing processes. 3. Decrease of third-party denials.
4. Establish clear documentation guidelines.	Six months	Supporting documentation of provided services and medical necessity would aid in patient care, coding, billing, and appeals.	1. Select the preferred E/M coding guidelines (1995 or 1997). 2. Evaluate outside sources for recommendations.[4] 3. Develop a realistic documentation policy consistent with the practice. 4. Obtain endorsement from physicians.	1. Consistency in documentation practices. 2. Consistency and continuity of patient care. 3. Readily available documented support for billed services. 4. Consistency in monitoring and review methodology.

			5. Offer education to personnel who will be using these standards to review medical record entries for monitoring purposes.	

Is Your Practice at Risk?

Here are some questions to ask yourself as you assess your practice's areas of risk:

• What are the **most common services provided**, e.g., medical visits, ancillary testing, surgical procedures, etc?

• Do you **routinely receive denials** for a particular service? Are your services **routinely down-coded** by Medicare or any other payer?

• What are **high-risk issues** specific to our practice? Which take the most staff time to address? Which have the highest monetary impact?

• **Who performs coding** for these high-risk services? Does this person have coding credentials? When was the last time this person participated in a coding workshop?

• **Who performs claim completion and billing** for these high-risk services?

• Are coding and billing **processes manual or automated**?

• **What controls are currently in place?** For instance, does the electronic system let you know whether a code is missing a digit? Are different people posting charges and posting payments?

• **Do you already have processes in place** to address some of the risk areas, or will you have to start from scratch? (Many compliance related activities are already routinely performed in billing offices because they make good business sense.)

• Will one person be responsible for **coordinating the compliance effort**, or will the responsibility be built into multiple job descriptions?

• **What resources** are available (system, human and financial)?

• Are similar practices in the community willing to **collaborate** on portions of the program?

• Do local medical or health information societies offer **training or assistance**?

Compliance Help Online

The Internet can be a valuable tool for obtaining information on compliance programs. Some of the most helpful sites are listed below.

• AHIMA-www.ahima.org

• American Medical Association-www.ama-assn.org

• Department of Health and Human Services, Office of Inspector General-www.hhs.gov/progorg/oig

• Health Care Financing Administration-www.hcfa.gov

• Medicare and Medicaid Program Manuals Transmittals/Program Memos-
http://www.hcfa.gov/pubforms/progman.htm

• Medicare and Medicaid 2001 Program

Transmittals/ Program Memos-www.hcfa.gov/pubforms/transmit/transmittals/comm_date_dsc.htm

• OIG Red Book, a compendium of significant cost-saving recommendations-
www.dhhs.gov/progorg/oig/redbk/index.htm

• US Government Printing Office, with link to the online *Federal Register*-
www.access.gpo.gov/su_docs/

Notes

1. US Sentencing Guidelines, section 8A1.2, application note 3(k).

2. "OIG Compliance Program for Individual and Small Group Physician Practices." *Federal Register* 65, no. 194 (October 5, 2000): 59434-59452.

3. 31 USC 3729. Available at www.access.gpo.gov/ su_docs/aces/aces140.html.

4. *Principles of Medical Record Documentation* were developed by the American Health Information Management Association, the American Hospital Association, the American Managed Care and Review Association, the American Medical Association, the American Medical Peer Review Association, Blue Cross and Blue Shield Association and Health Insurance Association of America. These were adopted, modified and added to the 1997 Documentation Guidelines for Evaluation and Management Services published by HCFA. Also, carrier local medical review policies will often have documentation requirements listed for specific services.

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