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Compliance 101: The seven essential elements of an effective compliance program, Part 1: Standards of conduct

- » Learn to identify deficiencies in the administration of an existing process.
- » Update your standards of conduct regularly and get executive support for implementation.
- » The standards of conduct are allocated into three functional areas—legal, finance, and clinical.
- » Ensure a smooth implementation by finding creative ways to engage employees.
- » Standards of conduct are interrelated with the other elements of an effective compliance program.

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You were just hired as the compliance officer of a hospital system and learned during orientation that your company has standards of conduct (also called a code of conduct). However, no specific information was provided. Rather, everyone at orientation was instructed to read them later. Furthermore, everyone was instructed to sign a form indicating they read, understand, and will abide by the standards. When you inquired about the content prior to signing, you were told it was the usual stuff. What should you do? Where should you turn?

Before making waves and upsetting your new employer, read the standards of conduct that evening. If there is anything that makes

you lose sleep, make it part of your job description to improve or change it.

What comprises effective standards of conduct? The standards are essentially allocated to three functional areas: legal, finance, and clinical. You should involve each of these departments in the drafting of your hospital's standards.

Standards of conduct provide a basis from which many, if not all, of the organization's policies and procedures will be used in providing important guidance to the organization's workforce. Debbie Troklus and Gregory Warner state in *Compliance 101* that:

Every health care organization that bills Medicare should also review the compliance Program Guidance for Third-Party Medical Billing Companies for the seventeen



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risk areas and seven coding risk areas, and have compliance policies and procedures for all relevant areas. No matter the size or setting, every organization needs policies and procedures for: internal assessments, record retention, self-disclosure, regular Medicare sanction checks, billing policies, unbundling, credit balance, no charge visits, incomplete/unsuccessful procedures, and documentation requirements.

The first four (internal assessments, record retention, self-disclosure, regular Medicare sanction checks) are allocated to the legal functional area. The next four (billing policies, unbundling, credit balance, no charge visits) are allocated to the finance functional area. The last two (incomplete/unsuccessful procedures, and documentation requirements) are allocated to the clinical functional area. The role of the compliance officer is to ensure the standards are complete and effective.

Legal

Given the high level of regulation and oversight by external entities, several objectives are fulfilled when organizations seek out and validate policies and procedures to ensure compliance with legal requirements. Validity and consistency are inherent when policies and procedures reference underlying laws and regulations; laws and regulations also provide important insight for content in terms of training and education with respect to the compliance program.

For example, changes in the requirements of a valid contract with a particular type of entity should be incorporated into contract-related policies. As the organization effectively communicates these changes, new employee orientation and ongoing employee training and

education programs will need to be modified to reflect these changes.

Involving the Legal department's input also provides an element of validation that many people may find reassuring, which in turn may prompt a higher sense of obligation in adopting and following the organization's standards of

conduct. So often we hear the question, "Has this been run by Legal?" with respect to documents that are of a high priority or importance. Though the actual input in terms of content to the standards of conduct from the Legal department may be minimal or primarily

one of lending another pair of eyes to provide feedback, the impression and value of having the standards of conduct reviewed by the Legal department should not be overlooked.

Finance

By implementing standards of conduct, organizations demonstrate their commitment to compliance. Simply documenting the standards of conduct is not sufficient. The culture must reflect awareness, methodical delivery, and ethical decision-making to support that the standards of conduct are meaningful.

Finance is a highly visible area and subject to operational scrutiny. An effective auditing and monitoring program is the best approach for this area. Documenting guidelines that detail audit scope, audit frequency (i.e., monthly, quarterly), communication method, and reporting audience demonstrates commitment. By establishing and conducting routine audits, Finance will have more time to investigate, develop a remediation plan, and reduce the impact of risks.

As the complexity of the regulatory environment increases, external auditors (ZPICs) become increasingly detailed in their reviews. In many cases, this results in payment denials.

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Clinical

Documentation and billing irregularities are the most common fraud and abuse offenses. Therefore, clinical standards of conduct as well as specific clinical policies and procedures are imperative. Keep the following in mind as you develop your clinical policies and procedures:

- ▶ Explicit delineation of duties and responsibilities for physicians and other billable providers,
- ▶ An effective Forms Committee that approves standardized templates,
- ▶ A process for insurance verification and referrals,
- ▶ Accurate and timely medical record documentation,
- ▶ Proficient coding personnel,
- ▶ ICD-10 readiness of coding personnel and billing systems,
- ▶ Proper billing for incomplete or unsuccessful procedures, and
- ▶ Adherence to supervision requirements for residents and fellows.

Other

Referrals are another consideration for your standards of conduct. Clearly describe the Stark Law, the Anti-Kickback Statute, and prohibited practices for your organization.

Non-retaliation is necessary to encourage employees to report unethical or illegal activities. An open-door policy should be combined with a hotline or other anonymous reporting method. When employees know they can report without retaliation, a culture of trust is established.

The OIG Exclusions List should be reviewed regularly. Contracting with a company to provide this service for your hospital saves much time and money by freeing your employees for other tasks. Monthly or quarterly reports are provided by the contracted company.

Inventory maintenance and a safe physical environment are other considerations for your standards of conduct. All employees should

be aware of reporting methods for malfunctioning or substandard inventory, as well as maintaining the physical environment of the hospital. Instilling a sense of pride in the physical surroundings creates a peaceful environment for your patients.

Corporate culture impacts reactions and perceptions of employees and patients. A culture that promotes dignity, mutual respect, trust, and pride is contagious. You will see the results in your satisfaction surveys.

Over the next six months, update the standards, distribute updates in the form of a compliance newsletter (or an article in your company's newsletter), and host a Compliance open house. Display a couple of standards each week on tent cards in the cafeteria, employee dining room, lobby, and/or waiting rooms.

At the end of the 6-month period, present the updated standards of conduct and request attendees to sign that they have received and understand the information. Create computer-based learning (CBL) modules with test questions. You will need executive support to require annual CBL education and testing. Usually, the offer of prizes leads to higher participation. Prizes can be in the form of marketing giveaways or a discounted/free lunch in the cafeteria. Winners can be determined in variety of ways. For example, the first three people to successfully complete the CBL, or a drawing for those who scored 90% or better on their first attempt.

Now, relax. You have provided a solid set of standards for your hospital and demonstrated to your employer that you have the hospital's best interests in mind. Your ongoing review and updates to the standards will prove you are a professional of the highest caliber. 🍀

Note: Part 2 of this series will describe the second element of an effective compliance program—designating a chief compliance officer and other appropriate bodies.