

The role of the compliance officer

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“He’s such a strange man. He doesn’t seem to know what’s right, only what’s legal.”

—*Agatha Christie*

Many compliance officers share the unease expressed in this quotation from one of Agatha Christie’s fictional characters. Compliance officers are a relatively new component of American medicine. Until 1996, individuals concerned with regulatory compliance were primarily found in the manufacturing and financial services sectors of the economy. However, once the U.S. Department of Health and Human Services (HHS) took an active interest in eliminating errors from the reimbursement for services provided under federally funded health care programs, health care institutions began to establish their own compliance programs and appoint compliance officers to oversee those programs. The programs all are designed to ensure that individuals within the institution are aware of, and are following, the complex regulations that relate to reimbursement. According to a 2002 survey by the Health Care Compliance Association (HCCA), 87 percent of health care organizations have active compliance programs in place.

In early 1998, the HHS Office of Inspector General (OIG) issued its compliance program guidance for hospitals (63 FR

8987). It was the second of 11 such guidances issued by the OIG to assist various segments within health care in establishing effective programs. In general, all of the guidelines are based on the seven steps of the federal sentencing guidelines (see sidebar, right). It is generally believed that implementation of the seven elements will prevent health care fraud and abuse, or at least mitigate the occurrence while demonstrating a good-faith effort by the institution to develop internal controls that promote adherence to applicable regulations. Fellows of the College may also be familiar with the OIG guidance issued for individual and small group practices (65 FR 59434), which was discussed in an article on page 8 of the March 2001 issue of the *Bulletin*. Recently, the OIG indicated its intent to issue compliance guidance for recipients of NIH research grants (68 FR 52783).

What I do

As executive director of the University of Chicago (IL) Practice Plan, in 1997, I was assigned the task of serving as the compliance officer for the university's Pritzker School of Medicine. A nascent compliance effort was in place at that time, which grew rapidly at the direction of the dean of the medical school and the hospital president to encompass the entire medical center. An oversight committee, consisting of the most senior officers of the institutions, was established to regularly review the compliance activities. Periodic reporting to trustee committees of the university and the hospitals also was established. The medical center compliance office has grown over the past six years in both personnel and resources to meet the ongoing challenges of effective compliance education and monitoring.

The role of the compliance officer in an academic medical center is fairly well prescribed as a constant element of each of the OIG's compliance guidances. It is recommended that the compliance officer be relatively high level, with direct access to the institution's governing structure. The compliance officer's responsibilities include overseeing and reporting on the compliance program, revising the program in response to changing needs or regulations, and coordinating the institution's compliance educational effort. The compliance officer plays a key role in the human resources area to coordinate, screen, investigate, and/or partici-

Elements of effective compliance programs

- Developing standards of conduct; implementing policies and procedures.
- Designating a compliance officer and compliance committee.
- Conducting effective training and education.
- Developing effective lines of communication, including a hotline and policy of nonretaliation.
- Conducting internal monitoring and auditing.
- Enforcing standards through disciplinary guidelines.
- Responding to potential problems; corrective action procedures.

Source: U.S. Sentencing Commission Guidelines, *Guidelines Manual*, § 3E1.1, November 2002.

pate in corrective actions and to ensure that the atmosphere promotes ethical conduct, free of retaliation. The OIG also recommends that the compliance officer have unfettered access to all pertinent records and to staff members, as well as high-level cooperation from the institution's legal counsel.

The University of Chicago Medical Center devotes significant effort to these tasks. For instance, each year we provide two hours of mandatory compliance education to all physicians, residents, and staff who are involved in any aspect of health care reimbursement. In addition to providing compliance training to several hundred new house staff, support staff, and faculty who join the medical center each year, we provide ongoing education to approximately 2,400 individuals through a series of training options, including Web-based interactive learning modules and in-person didactic sessions. This extensive educational undertaking is only accomplished with the full backing of department chairs and senior managers who help remind staff of the yearly training and who support the rare suspension for failure to meet the educational requirement. The compliance office staff review thousands of medical records annually according to a predetermined schedule to ensure accurate

coding and billing. As a result of these internal audits, faculty members and coding personnel receive individual reports regarding their level of accuracy, along with focused education and reauditing where necessary. The goal is to provide the information and tools to foster ethical behavior by each individual. Organizations are far better off when an intrinsic culture of ethical behavior is cultivated rather than when they rely solely on a compliance program that is externally motivated.

Thousands of compliance professionals from various disciplines are working within health care today. More than 55 percent of compliance officers have held their position for less than three years. Most compliance officers hold a master's degree or have an advanced accounting degree. According to HCCA, 16 percent of compliance officers have a JD. Only 4 percent have a medical degree, and they are usually at large academic medical centers where such physicians frequently fulfill other roles. Regardless of whether an institution has a physician as a compliance officer, it is critical to involve physicians in the compliance process. The more visible that involvement is, the more likely it is that physicians will be fully engaged. Open and candid communication, within the limits of due process, engenders a sense that all of the compliance procedures are fair and equitable.

HIPAA compliance

Finally, effective compliance programs may serve as both a model and a resource for other regulatory challenges. In 2002, 89 percent of compliance officers had the Health Insurance Portability and Accountability Act (HIPAA) privacy regulation as part of their yearly goals. Given the nature of the implementation tasks and deadlines required by HIPAA, it was not surprising that the accountability and collaboration that grow out of effective compliance programs was tapped for HIPAA.

As a case in point, the University of Chicago Medical Center's Compliance Office assumed responsibility for planning and providing the education and training to more than 10,000 individuals throughout the institution in preparation for the April 2003 effective date of the HIPAA privacy rule. In addition, the organizational model for cor-

porate oversight of compliance was adapted to create a similar oversight group for the various components of the HIPAA regulations. In serving as the medical center's privacy officer, I have engaged many of the same key individuals in making the HIPAA regulations part of the fabric of the institution. Although a central coordination and monitoring function is in place, privacy and security are becoming the daily responsibility of all members of the organization with access to protected health information. It is clear that our patients expect us to safeguard their information; only by following the regulations will we continue to earn their trust. Whether it relates to honest and accurate billing, or to patient confidentiality, we should accept only the highest standards of ethical conduct. □

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