CCQC Compliance Training

Compliance Officers
Community of Practice
Provider Actions

• Develop your compliance program’s action plan for this year using the OIG Workplan.
• Determine the effectiveness of your compliance program and beef it up if necessary.
3 Characteristics of a Compliance Program

• They should help employees understand what is appropriate behavior and how to comply with the laws and regulations that apply to your work

• Once people know what is acceptable they should encourage compliance

• They should check to make sure the message has been received and that employees are complying
3 Reasons for a Compliance Program

• To prevent unwanted events from happening - intentionally and unintentionally
• To help the organization learn about these unwanted events first
• If they do occur and the organization does not learn about them first, an effective plan can help mitigate or reduce negative effects by showing that they are exceptions.
US Sentencing Guidelines

- Written standards of conduct
- High level individuals responsible to oversee compliance
- Due care taken not to delegate to those who may engage in illegal activity
- Effective training and education
- Monitoring systems and hotlines
- Disciplinary systems
- Reasonable steps taken to respond appropriately to detected offenses.
First Steps

• Board Resolution in support of program
  – Board training
  – Allocation of initial resources
    • Elements of the compliance budget?

• Management training

• Appointing a Compliance Officer
  – Permanent or temporary appointment
  – More than one person
  – External or internal appointment
First Steps

• Appointing members of the implementation committee
  – Temporary or permanent
  – Usually internal only
  – Board representation?

• Baseline risk assessment to identify high risk areas
The Approach

• Two-pronged:
  – Development of infrastructure
  – Mitigation and management of risk
  – Management’s decisions are key to balance
The Approach

- HCCA – to evaluate your compliance program analyze two dimensions:
  - Effort: time, money, resources, commitment to building infrastructure and on-going work
  - Outcomes: impact of the effort of the organization in creating real change in high risk areas.
    - practices
    - culture
The Plan: Key Issues

- **Written**
  - Generic: what you are doing now and what you plan to do
  - Culturally appropriate
  - Accessible
  - Reviewed for modifications, changes in law
  - Approved by Board of Directors
  - Policy or plan
The Action Plan

- Separate from generic compliance plan or policy
- Action oriented
- Year 1: describes your timeline and activities for design and implementation
- Year 2 and on: based on prior year’s findings, activities
- Approved by the Board
Element 1: Standards, Policies and Procedures

- Code of Conduct: organizational values and expectations
- Compliance Policy and Procedure: concerned specifically with compliance infrastructure
- Operational Policy and Procedure: address principal legal and regulatory risks of organization
Element 1: Standards, Policies and Procedures

• Code of conduct
  – The standard list:
    • Regulatory compliance: emphasis on billing
    • Reporting of non-compliant behavior
    • Confidentiality
    • Documentation
    • Conflicts of interest
    • Business relationships
Element 1: Standards, Policies and Procedures

– The standard list continued:
  • Workplace relationships
  • Using company resources
  • Health and safety
  • Government billing
  • Political contributions

– Are there unique issues for behavioral health?
– Are there unique issues for CO?
Element 1: Standards, Policies and Procedures

• Compliance Policy
  – Policy describes implementation of elements
    • Acknowledgements

• Operational Policy, especially in high risk areas, add compliance issues
  • Include:
    – Monitoring and auditing – how will you do?
    – Discipline – what will be the consequences?
    – How to report instances of non-compliance – reinforcing duty to report
Element I: Responsibilities

• Board: review, assist in development, oversee
• Management: cheerleaders, trainers, developers of policy, implementation in areas of responsibility
• Compliance Officer and Committee: coordinate, implementation strategy, trainers, developers of policy and procedure
Management of operations in each area is responsible for creating the processes that will deliver services to consumers. They are also responsible for designing quality assurance policies and procedures and any other internal controls that will assure that services are delivered in accordance with the overall mission of the organization.

Management of administrative functions is responsible for creating the processes to collect and record service delivery transactions, to create complete and correct billing and payables interface with external parties, to record these transactions accurately in the accounting records, and to assure that appropriate internal controls are in place to safeguard the assets of the organization.
Element 2: Compliance Officer and Committee

- The internal structure of the program
  - Reporting relationships
    - CCO
    - CCO and committee
  - Relationship of Board to program
  - Relationship of program to senior management
  - Relationship of program to other structures, e.g. QI
Element 2: Compliance Officer and Committee

- The internal structure of the program
  - Single site Agencies
  - Multi-site organizations
  - Integrated Delivery Systems
    - Networks
    - Multi-agency
Element 2: Compliance Officer and Committee

• Who should it be?
  • Qualifications?
    – Credentials
    – Experience
    – Comfort at senior levels of the organization
  • Should not report to CFO, internal Council
  • One person or multiple people?
  • Shared with other agencies?
  • Full or part time?
Element 2: Compliance Officer and Committee

• Compliance Committee - who should it be?
  • Able to handle confidential information
  • Able to discern and manage risk
  • Willing to work to model compliance for organization
  • Able to keep compliance program on track
  – Do not have it mirror your senior management team if you can avoid it
Element 2: Compliance Officer and Committee

• The authority of the compliance officer:
  – The ability to stop the submission of any data they believe is problematic
  – The authority to review any and all documents they need in order to perform their job
Element 2: Responsibilities

- Board of Directors: allocate resources, appoint a compliance contact, approve appointments, monitor efforts
- Management: appoint CCO/committee, participate on committee, incorporate compliance concerns into agenda
- Compliance Officer: organize committee, determine charter, develop relationships of program to management, documentation
Element 3: Due Diligence on Staffing

- Due Diligence at Hiring and On-going Review of:
  - Employees
  - Agents
  - Contractors, subcontractors
  - Large vendors
  - Board of Directors members
Element 3: Due Diligence on Staffing

- At hiring: include primary source documentation of licenses, other key credentials; references; application
- On-going:
  - Excluded and debarred lists – these will coordinate nationally and among health care programs
  - National Practitioner Data Bank
  - State lists: licensing, other
Element 3: Responsibilities

- Board of Directors: approve policy; receive reports of any problems
- Management: ensures HR policy is carried out; monitors effort; disciplinary actions
- Compliance: receives reports of policy implementation and disciplinary actions; random audits of HR records
Element 4: Training and Education

• Compliance Training
  – New Staff
  – Veteran Staff
  – Medical Staff Orientation and Compliance Training
  – Training independent contractors
  – Training subcontractors
  – Training temp staff
  – High risk areas
Element 4: Responsibilities

- Board: reviews reports on status of training, ensures there is an annual training plan
- Management: provides funding, enforces training requirements, disciplines those who do not comply with requirements
- Compliance Officer: organizes, trains, tracks, evaluates, modifies
Element 5 Pt 1: Effective Lines of Communication

- The active and willing assistance of employees is critical
  - Lines of communication to management and to the CCO must be visible, trusted
- Tying the willingness of employees to report and/or self-report to organizational values
- Permeation to ALL levels of organization
Element 5 Pt 1: Effective Lines of Communication

- The Hotline
  - Giving employees options
    - Getting the full loop if you can
    - Small organization/site issues
  - Make sure you track what you get
Element 5 Pt 1: Effective Lines of Communication

• **Employee Promises**
  – We will get back to people who call the hotline or report in good faith
  – We will protect their confidentiality for as long as we can
  – We will investigate all credible reports
  – We will make sure no one suffers any retaliation for good faith reporting.

• **Note:** good faith
Element 5 Pt 1: Responsibilities

- **Board**: receives reports, provides oversight on issues identified, sets open communication tone
- **Management**: creates open culture, works with CCO on investigations, receives reports, acts on issues identified
- **Compliance Officer**: establishes and maintains mechanisms, investigates, reports, assists in development of open culture
Element 5 Pt 2: Auditing and Monitoring

- Test compliance with internal standards, external law and regulation
  - Goal is to identify weaknesses in systems
- Test implementation of compliance program elements
  - Goal is to identify adequacy of “effort” and measuring of outcomes of program
Element 5 Pt 2: Auditing and Monitoring

• What would you audit?
  – High risk areas only
  – Areas where a high degree of reliability is important
  – Areas where a one time snap shot of current ops is critical

• Could be an area of monitoring
  – Are you getting good information?
Element 5 Pt 2: Auditing and Monitoring

• What would you monitor?
  – Corrective action plans – did the intervention work?
  – Early identification of high risk areas
  – To confirm movement of behaviors
  – The effectiveness of the compliance program – self-assessment
Element 5 Pt 2: Auditing and Monitoring

- If you look you will find – don’t be taken by surprise
  - Repayments policies need to be in place first
- Integrating with training: getting behavior to change
  - High risk areas
  - New regulation
Element 5 Pt 2: Responsibilities

- Board: receives reports of findings, ensures there are adequate resources, ensures organization is responding
- Management: participates as needed, reviews findings, works to implement corrective action
- Compliance Officer: establishes plan with management/QI, reviews findings, assists management with corrective actions
Element 6: Disciplinary Standards

- Consequences: be honest – do they exist in your organization?
  - Equally at all levels?

- Holding management responsible for compliance in their area of responsibility
  - The compliance function does not usurp management’s role in ensuring compliance
  - The idea of foreseeable failure of subordinates
Element 6: Disciplinary Standards

- Is the problem systemic or individual?
  - Do you need to develop a corrective action plan
- Is it fraud or not?
  - Don’t jump to conclusions or underestimate the seriousness of violations
  - Bring your attorney in on these – not just your labor attorney
    - Reporting to law enforcement
    - Licensing
Element 6: Responsibilities

- Board: review of aggregate data
- Management: communicates standards, ties hiring and reviews to compliance, takes appropriate enforcement actions
- Compliance officer: not responsible for discipline, helps develop standards, oversees management’s actions for consistency, reports to management of breaches of policies and procedures, ensures documentation retained
Element 7: Responding to Detected Offenses

- Inquiries and investigations:
  - Why do compliance investigations happen?
    - Calls to hotline
    - Determining causes of increased denials or other potential problems uncovered by or reported to the compliance officer
    - Regular auditing and monitoring
    - Response to a known government investigation
    - Response to a known private payer investigation
Element 7: Responding to Detected Offenses

• Inquiries and investigations:
  – When to involve an attorney
    • If its not being conducted as a part of your routine auditing and monitoring – cannot be protected if a part of your routine
    • Err on the side of inclusion until the compliance officer is more experienced
    • This should be your fraud and abuse attorney
Element 7: Responding to Detected Offenses

- **Actions post-investigation**
  - Repayment; reversal of encounters
  - Disciplinary actions
  - Corrective action plan
  - Voluntary disclosure
Element 7: Responsibilities

- Board: assesses adequacy of response, collects input from CCO and attorney.
- Management: cooperates in investigations, commits appropriate resources to investigations, implements adequate corrective actions.
- Compliance Officer: primary responsibility for investigations, recommending corrective actions, reports to management and board.
Element “8”: On-going Risk Assessment

• Assess:
  – Nature and seriousness of the risk
  – Likelihood of reoccurrence because of the nature of the business – take steps to detect
  – Prior history of the organization

• Prioritize

• Modify your compliance efforts
Element “8”: Responsibilities

- **Board of Directors:** understand and question the risk; understand the prioritization and approve – OIG Guidances
- **Management:** ensure periodic risk assessments completed; take action to reduce risk
- **Compliance:** assess risk; participate in developing the modifications to program
How Much Should It Cost?

- Staff Costs
- Training Costs
- Some attorney costs
- Hotline if outsourced
- Audit costs – third party reviews
Thank You!

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