

Don't Be Wearing A Dunce Cap When It Comes To Compliance

Karen Bommelje, Senior Manager Compliance
Simione Healthcare Consultants



- List the Seven Elements of an Effective Compliance Program
- Describe How an Effective Compliance Program Will Reduce Risk
- Evaluate the Effectiveness of Your Agency's Compliance Program
- List the Key Elements of a Risk Assessment



THEN

- In 1983-relatively unmonitored
- Primarily care provided in the home
- Predominantly provided to patients with Cancer diagnosis

NOW

- 1989 -Focus shifts when benefit broadened to cover non-cancer diagnoses
- Allowed in Nursing Homes
- Broadened Benefit = More people into program
- Increase in non Cancer diagnosis

Importance of Compliance in Today's Environment *(or “avoid wearing a dunce hat”)*

- The rise in beneficiaries equates to dramatic increase in spending



- Along with the increase in spending comes increased government scrutiny



Importance of Compliance in Today's Environment *(or “avoid wearing a dunce hat”)*

- Justice Department recovers over **\$4.7 Billion** from FCA Cases FY 2016
- Increase in Qui Tam suits & recoveries FY 2016 – 702 suits = **\$2.9 Billion**
- Spotlight on C-Suite in healthcare fraud investigations
- New RAC dedicated to HH, Hospice , & DME



Importance of Compliance in Today's Environment *(or “avoid wearing a dunce hat”)*

- Justice Department adds new official as Compliance Counsel - chief role to determine effectiveness of Compliance Programs
- Data Mining
- OIG Work Plan
 - Identified vulnerabilities in payment, compliance, oversight, and quality of care concerns
 - Compliance with Medicare requirements
 - Frequency of Nurse on-site visits



Seven Elements – “ABC’s of Compliance”

- Implementing Written Policies, Procedures, & Standards of Conduct
- Establishing Compliance Oversight
- Training & Education
- Monitoring & Auditing
- Reporting & Investigation
- Enforcement & Discipline
- Response & Prevention



- Develop compliance-related policies & procedures based on areas of risk & related to:
 - Auditing & Monitoring
 - Compliance Record Retention
 - Self-disclosure
 - Regular Sanction Checks
 - Specific risk areas:
 - Conflict of interest
 - Billing
 - Third party relationships



- Code of Conduct - confirmation of organization's support of compliance conduct & includes:
 - Compliance expectations for all employees
 - Reflects cultures & values of organization – enterprise wide
 - Consistent with company policies and procedures
 - Training provided specifically to the code
 - Summarizes specific compliance guidelines
 - Clear understanding of universal enforcement and disciplinary actions for non-compliance



- Compliance Officer & Compliance Committee
 - Oversight & monitoring implementation & ongoing operation of the compliance program
 - Regular reporting to Governing Body/Board of Directors, CEO, & Compliance Committee
 - Periodic revisions of program
 - Develop, coordinate, & participate in compliance training
 - Ensure independent contractors & 3rd parties aware of agency compliance program requirements



- Compliance Officer & Compliance Committee
 - Ensuring appropriate background and exclusion checks are done to avoid use of excluded individuals & contractors
 - Assist with auditing & monitoring activities
 - Independent investigation and action on matters related to compliance
 - Identification & prioritization of risk
 - Reviewing & assessing compliance policies & procedures



- Compliance Officer & Compliance Committee
 - Assisting with development of standards of conduct & policies & procedures
 - Conducting annual review of Compliance Plan
 - Determination of strategy to promote compliance
 - Develop system to solicit, evaluate, and respond to complaints and problems



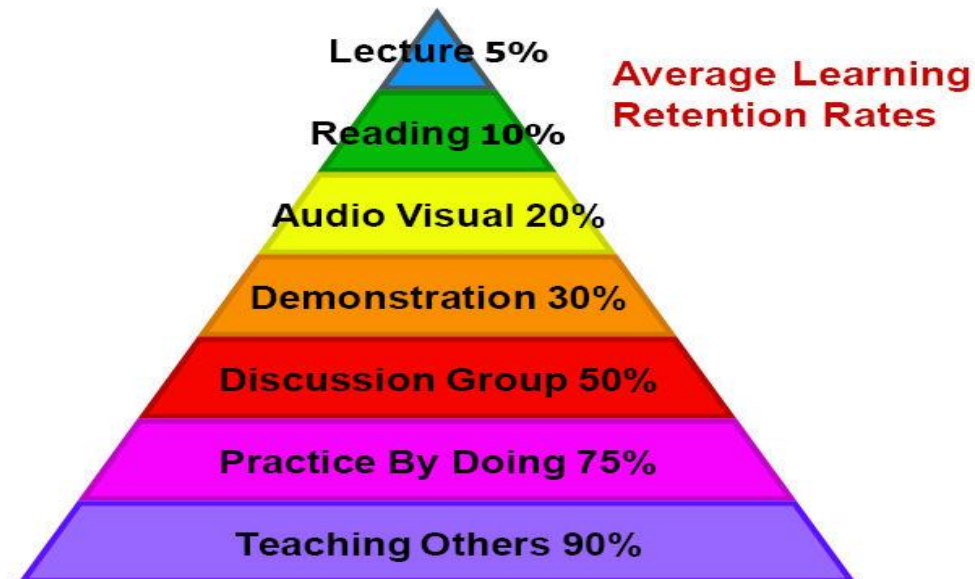
- General Compliance Education to Include:
 - Elements of the Compliance Program
 - Organization's Code of Conduct
 - Reporting System
 - Individual accountability for reporting suspected non-compliance
 - Non-retaliation policy
 - Who is the Compliance Officer
 - Explanation for fraud, waste, and abuse
 - Ethics
 - Privacy



- Specific Focused Training for High Risk Areas and Specialized Personnel to Include:
 - Actions outside scope of practice
 - Government & Private payer reimbursement principles
 - Third party relationships
 - Identification of Privacy breach
 - Stark/Anti-Kickback Laws
 - Submission of claims which do not meet payer requirements for reimbursement
 - Conflicts of Interest
 - Documentation to support services



- Training Adult Learners and Keeping Training “Fresh”:
 - Principles of Adult Learners
 - Use of different methods
 - Train the Trainer exercises



Knowledge
is
power!

Source: National Training Laboratories, Bethel, Maine

- **Step One – Conduct a Risk Assessment:**
 - Documentation, Coding, & Billing Reviews
 - OIG work Plan
 - OIG Fraud Alerts
 - Internal Audits
 - QAPI
 - Compliance
 - External audits
 - Commercial Payer
 - Medicaid
 - Consultant
 - State Survey
 - Accreditation Survey



- Next – Analyze Risk Assessment:
 - Identify key Priorities
 - Identify key Risks
 - Analyze & prioritize risks to guide auditing & monitoring
 - Collaborate to assess organization's risk tolerance
 - Develop realistic audit plan to address high risk areas



- **Auditing:**
 - Objective and Independent
 - Concurrent – “real time” to identify & address potential problems as they arise
 - Example-pre-billing audit – if problems identified, able to immediately implement corrections, education and prevention
 - Retrospective – baseline assessment or “snapshot” of a period of time in the past
 - Easier to collect information, however if problems identified, difficult to know how far back to audit and may require billing adjustments or paybacks and/or possible self disclosure



- **Monitoring:**
 - On-site visits
 - Interviews – management, operations, coding, claim submission
 - Questionnaires
 - Peer reviews
 - Documentation reviews
 - Trend analysis
 - Exit interviews
 - Hotline issues & trends



- Importance of communication in the Compliance process with open lines of communication between the Compliance Officer and personnel
- Open Door Policy
- Hot or Help Line
- No retaliation or retribution
- Confidentiality & Anonymity
- Specially trained staff
- Complaints logged & tracked
- Thorough investigation
- Responsiveness & feedback to caller



- Enforce the Standards of Conduct and Policies/Procedures by being Fair, Equitable, & Consistent
 - Discipline administered for non-compliant behavior
 - Employees have an obligation to report suspected non-compliance
 - Clear disciplinary procedures
 - Clear responsibility for actions
 - Fair & consistent discipline



- Conduct thorough Investigation & Documentation to include:
 - Description of potential misconduct & how reported
 - Description of investigative process
 - List of relevant documents reviewed
 - List of employees interviewed



- Conduct thorough Investigation & Documentation to include:
 - Employee interview questions & notes
 - Changes to policies/procedures if appropriate
 - Documentation of disciplinary action if appropriate
 - Investigative final report – allegation substantiated or not





WHAT DO THESE AGENCIES HAVE IN COMMON?

- Compassionate Care Hospice of New York
- Serenity Hospice & Palliative Care
- St. Joseph Hospice
- Hospice of the Comforter
- Kindred Healthcare
- Three Rivers Hospice
- Hernando Pasco Hospice

Agency X has and shall continue to maintain the aforementioned Compliance Program. X shall continue to participate in and comply with its Compliance Program which shall, at a minimum, include the following elements:

→ *Compliance Officer and Committee*

Compliance Officer: Agency X has and shall maintain an employee in the position of Compliance Officer for term of this CIA. The Compliance Officer shall be a member of senior management of Agency X shall report directly to the Chief Executive Officer of Agency X, and shall not be or be subordinate to the General Counsel or Chief Financial Officer of Agency X or have any responsibilities that involve acting in any capacity as legal counsel or supervising legal counsel functions for Agency X.

- Compliance Officer shall be responsible for, without limitation:
 - developing and implementing policies, procedures, and practices designed to ensure compliance with the requirements set forth in this CIA and with Federal health care program requirements
 - *Compliance Committee*. Within 90 days after the Effective Date, X shall appoint a Compliance Committee. The Compliance Committee shall, at a minimum, include the Compliance Officer and other members of senior management necessary to meet the requirements of this CIA (senior executives of relevant departments, such as billing, clinical, human resources, audit, and operations).

The Compliance Officer shall chair the Compliance Committee and the Committee shall support the Compliance Officer in fulfilling his/her responsibilities (shall assist in the analysis of risk areas and shall oversee monitoring of internal and external audits and investigations). The Compliance Committee shall meet at least quarterly. The minutes of the Compliance Committee meetings shall be made available to OIG upon request.

- The Governing Body shall, at a minimum, be responsible for the following:
 - meeting at least quarterly to review and oversee the Compliance Program, including but not limited to the performance of the Compliance Officer and Compliance Committee;
 - for each Reporting Period of the CIA, adopting a resolution, signed by each member of the Governing Body summarizing its review and oversight of compliance with Federal health care program requirements and the obligations of this CIA.

- ✓ *Code of Ethics.* X has and shall maintain for the term of the CIA a Code of Ethics to which X is subject.
- ✓ ...X shall make the performance of job responsibilities in a manner consistent with the Code of Ethics an element in evaluating the performance of all employees.
- ✓ *Policies and Procedures.* X represents that it has developed and implemented written Policies and Procedures regarding the operation of its Compliance Program.
- ✓ Throughout the term of this CIA, X shall enforce and comply with its Policies and Procedures and shall make such compliance an element of evaluating the performance of all employees.

- ✓ *Training Plan.* X represents that it has developed, and shall maintain, a written plan (Training Plan) that outlines the steps X will take to ensure that: (a) all Covered Persons receive adequate training regarding X CIA requirements and Compliance Program, including the Code of Ethics
- ✓ *Risk Assessment and Internal Review Process*

X has and shall maintain a centralized annual risk assessment and internal review process to identify and address risks associated with) the submission of hospice claims for items and services furnished to Medicare program beneficiaries

COMPLIANCE PLAN ELEMENTS IN CORPORATE INTEGRITY AGREEMENTS

- Mission and Core Values are supported by everyone
- Top Leadership develops a compliance plan that is based on current regulations and identified risks
- Leadership expectation is that ALL Managers understand how compliance affects their area of responsibility
- Resource allocation
- Clear lines of communication
- Accountability

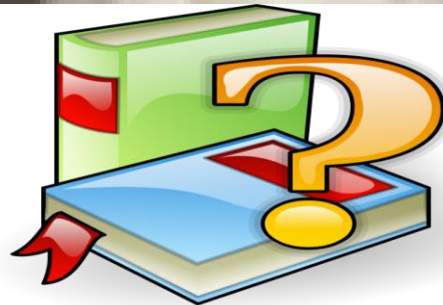
- No One Size Will Fit All
- Needs to Evolve and Change Based on Industry Changes and Trends
- Needs to Evolve and Change Based on Agency Changes and Identified Trends
- Consider a Compliance Program Risk Assessment and/or External Compliance Probe Audit to Validate Effectiveness of Compliance Program



NOW YOU KNOW YOUR ABCS



In order to prevent this!



SEE KAREN FOR:

- Best Practice Tips
- Compliance Program Checklist
- Upcoming Compliance and Ethics Forum

<http://www.cms.gov/Center/Provider-Type/Hospice-Center.html>

Chapter 3 - Verifying Potential Errors and Taking Corrective Actions

<http://www.cms.gov/Regulations-and-Guidance/Guidance/Manuals/Downloads/pim83c03.pdf>

Chapter 9 Medicare Benefit Policy Manual – Hospice regs:

<https://www.cms.gov/manuals/Downloads/bp102c09.pdf>

Hospice CoPs:

<http://www.gpo.gov/fdsys/pkg/CFR-2004-title42-vol2/pdf/CFR-2004-title42-vol2-chapIV.pdf> (go to page 825)

Chapter 11 Claims Processing Manual – Hospice

<https://www.cms.gov/manuals/downloads/clm104c11.pdf>

Medicare General Information, Eligibility, and Entitlement

Chapter 4 - Physician Certification and Recertification of Services

<https://www.cms.gov/manuals/downloads/ge101c04.pdf>

State Operations Manual

Chapter 2 - The Certification Process

<https://www.cms.gov/manuals/downloads/som107c02.pdf>

State Operations Manual – Hospice

http://www.cms.gov/Regulations-and-Guidance/Guidance/Manuals/downloads/som107ap_m_hospice.pdf

Office of Inspector General (OIG) Voluntary Compliance Guidance

www.oig.hhs.gov

NAHC (National Association of Home Care and Hospice) website www.nahc.org is a good resource for industry updates.

NHPCO (National Hospice and Palliative Care Organization) website www.nhpc.org is a good resource for hospice specific industry news and other hospice related information and education.

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Karen Bommelje
Woodstock, GA Office

203.848.2476
800.949.0388

kbommelje@simione.com

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