



Compliance: Now More Than Ever

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With regard to health care compliance plans, there are those providers who have done a plan; those who have been forced by the government to have a plan; and those who should have a plan. These comments are directed to all.

When viewing a growing enforcement between the Anti-Kickback Statute (AKS) together with a newly linked Stark law with the False Claims Act (FCA), a provider's main line of defense lies in meaningful and effective compliance plans. Recent FCA Amendments make enforcement easier for the government in both civil and criminal matters, and leaves providers more vulnerable to attack, regardless of a provider's lack of intent. A compliance plan is effective protection for the provider. A compliance plan calls for greater provider self-reliance and can even assist during outside challenges by third party payors.

The substantive meaning of compliance, long defined and tested in non-healthcare industries such as banking and securities regulation, is well suited to protect providers in the healthcare arena. However, to implement a compliance plan today is to make it a no-nonsense, fully operative detection and corrective mechanism for a doctor's practice, his/her joint physician arrangements, and relationships with hospitals and other institutional and non-institutional structures.

Compliance today involves honest and meaningful commitment to the long-term. Compliance must not represent a threat, but a real opportunity to the physician for growth and avoidance of problems.

It is important to continuously review (1) physician contracts; (2) procedure and billing codes for services; (3) Fair Market Value (FMV) issues; (4) joint venture entities; (5) leases of space and equipment and the like. There are reasonably priced resources in external and independent auditing for large and small provider entities, which can tailor expenses, hold them down, and do a credible job for the physician.

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As a helping tool, compliance, within an entity, must defy cronyism and injudicious behavior, and look to honest and fearless expressions of error by providers and their correction. Positive professional self-improvement is a strong, legitimate goal of compliance. Within the confusing puzzle of proper documentation, billing requirements, repayment issues, and on and on, ad infinitum, lie the rewards of safety and the reasonable exchange of information and views that can lead to just results for all parties. In fact, both government and providers are burdened with multiple tasks and must afford time to bring civility and good faith to the table.

If there is an effective compliance plan, providers can better deal with assertions of authority. Government, as well as providers, must work to answer questions, not just ask them.

Quality compliance means effective self-auditing as a process that can be in place and that can be as good or better than third party auditing or law enforcement auditing. Anticipating what third parties might do will narrow the adverse field and give the provider and his staff a sharper knowledge and focus when facing third party assault. Provider compliance can be enhanced in difficult and questionable areas. Fear and uncertainty can be diminished by bringing knowledge to different problems.

Walking the straight line with an honest approach to service, quality, billing, and reimbursement requirements confronts even the most hostile of third party enforcers with provider confidence and knowledge. Assisting providers are professional advisors and lawyers, accountants and claim consultants who are at the ready. Let substantive compliance begin.