Seven Elements of Compliance & Higher Education

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Why I am qualified to speak about this??
Background to understand the applicability

Current Healthcare Regulatory Environment

HEALTHCARE IN 2013

Federal budget shortfalls
Medicare insolvent in 10 years
State budget shortfalls
Much attention of:
  US Attorneys,
  Department of Justice, and
  Office of Inspector General
Rules remain complex
Discussion Topics

- How Healthcare Compliance got to this Level and how it pertains to Higher Education??
- Why/What are the 7 elements
- How you can start utilizing the 7 right now
- NCAA and the OIG – will one follow the other??

Why Compliance?

- Corporate Compliance Programs are very common in many industries
- The government “recommends” Compliance Programs in Physician Practices, Research, Hospitals, Wall Street, Real Estate, etc..
- The existence of an effective Program minimizes the potential for errors and inappropriate conduct
- Such programs make good business sense
- Reputational Risk
COMPLIANCE EXPECTATIONS
SENTENCING GUIDELINES

1. Organization exercises due diligence to prevent and detect inappropriate conduct by the provider;

2. Organization promotes an organizational culture that encourages ethical conduct and is committed to compliance with the law; and

3. Compliance program is reasonably designed, implemented, and enforced so that the program is generally effective in preventing and detecting improper conduct. Failure to prevent or detect specific offenses does not necessarily mean that the program is not generally effective in preventing and detecting such conduct.

Federal Sentencing Guidelines most recent amendment effective 11/1/2010 Section 8B2.1(a)

UMDNJ Office of Ethics, Compliance and Corporate Integrity

If an organization is found guilty of State/Federal Laws the government may offer a reduction in penalties if an effective compliance program is in place
Compliance Program Goal

To prevent violations of laws and regulations and to make sure that if errors occur that the Organization responds immediately to resolve the problem.

Federal False Claims Act

History in Healthcare

Major fines and penalties which can result in huge settlements
What are the 7 Elements

Model Compliance Program

1) Compliance Officer & Program Oversight
2) Policies and Procedures
3) Education
4) Audit
5) Corrective Actions to Identified Problems
6) Open Communications
7) Enforce Violations
7 Elements

Many people will tell you…
  – We already know this
  – Not again, etc..

But, IMO
  – These are the basics of a compliance program where an institution either succeeds or fails when the “bell rings”…

Let’s review each element and discuss potential approaches and some examples of some that may work and some which may not work
Compliance Officer and Program Oversight

- Compliance Officer
  - Independence
  - Relationship to the Board
  - Relationship to President and “C” Suite
  - Relationship to Legal and Finance
  - Title / Office Location

Compliance Officer (cont..)

- Ability to hire outside counsel by themselves
- Ability to have their own budget
- Not looking to make friends
- Should they have a contract??
Compliance Officer and Program Oversight (cont.)

- Program Oversight
  - Involvement of Trustees, Board
  - Ability to override Management
  - Clear direction of oversight
  - Information flow from entity
    - Are they getting all necessary information?
  - Meet with Compliance Officer and Internal Audit without Management present
  - Compliance relationship to Internal Audit

Policies and Procedures

- Code of Conduct
  - Speaks to the compliance program at 30,000 feet
  - How it functions, who is responsible, how to share a concern, obligation to share a concern
  - Spells out expectations
  - Policies written that match your practices
  - *** if you’ve got a policy you better be conducting business in that manner
Education

- Baseline education for the employees, athletes, students, vendors, etc…
  - If there is a problem…
  - Our expectations of compliance program
  - How to report issues…
  - Why report issues
  - Sell the program
- Do you perform this internally or maybe hire an expert?
- In person or computer aided instruction?

Education (cont..)

- You will have separate educational sessions for different audiences
- Goal → you want problems or concerns identified early to an independent source (compliance)...
- Reinforce non-retaliation policy for reporting legitimate concerns…
Audit and Monitoring

- What are you looking for??
  - $$$$$
  - Relationships / Conflicts of Interest
  - Inappropriate behavior
  - Influences that are not ethical
- Annual Audit/Monitoring Work Plan
  - Involve the area in the development of plan
- For Cause Audits
- Where do they get reported??

Auditing and Monitoring (cont..)

- Who is responsible for reaction, corrective actions
- Do reports go the Board??
- Does Internal Audit or Compliance have the final say on results
- External Audit Assistance
  - Circumstances that warrant this??
  - *** Make sure you are hiring an expert…
Corrective Actions to Identified Problems

- You must be able to make decisions including corrective actions to issues.
- Are you prepared to handle the big case when it appears?
- Critical element if your compliance program is deemed to be effective.
- Examples of where sometimes this doesn’t work.

Open Communications

- Hotline
  - Do you handle internally or contract with an outside vendor?
  - You will get a high percentage of HR related calls… what is the danger?
  - Need to document all issues
  - Are you prepared to handle the big case when it appears?
  - Are you getting issues?
  - Don’t forget about web based, other ways to get issues
  - Assure confidentiality
Enforce Violations

- No matter who the offender is… sanctions must apply
  - Can you sanction the Heisman candidate the same as the liberal arts student???

- Organization’s compliance programs must be built to handle this requirement

- This is why your compliance officer must be a Senior Level Executive and independent.

Enterprise Risk Management

- ERM

- Is this the 8th element of an effective compliance program??
Compliance Officer

- If you are following all elements, this position can be very challenging…

- These are not popular positions

- Program needs to be sold…

- Must be able to deliver bad news..

Conflicts of Interest
Corporate Integrity Agreement in Healthcare

- The CIA is a result of the problems that were discovered at the University several years ago and led to the Deferred Prosecution Agreement (2006 – 2008) and the federal monitor.

- Many employees required to complete approximately one hour of training annually to ensure an understanding of the CIA and of our compliance programs. Other employees will be required to complete additional training, up to five hours annually, such as those employees whose responsibilities involve coding and submission of healthcare claims, documentation of medical records and the submission and preparation of cost reports and contracts.
  
  - Covered Persons – who are they???

- 7 elements plus other requirements

- Penalties for non compliance - draconian

- The CIA agreement covers a period of five years.

Corporate Integrity Agreement

Corporate Integrity Agreement ("CIA")

SIGNIFICANT BOARD ENGAGEMENT

Audit Committee Responsibilities

- Scheduled monthly meetings
- Detailed review of all audits
  - Compliance, Internal Audit, Privacy and Investigations
  - Other Senior Leaders participate
- Very interactive meetings

- They oversee the compliance and audit program
Corporate Integrity Agreement

CIA also requires:

- The engagement of one or more Independent Review Organizations to perform the following reviews:
  
  - Assess how we doing in compliance with the CIA Arrangements obligations
  
  - Assess and evaluate coding, billing and claims submission to the Federal health care programs and the reimbursement received (must repay any overpayments identified within 30 days)
  
  - Focused Arrangements
    - Results have improved from year 1
    - Opportunities identified for improvement
    - Engaged our own internal audit of process

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Corporate Integrity Agreement

CIA also requires:

- The Board annually engages an outside consultant to perform a compliance effectiveness review.

  - Very positive results in first 3 years
  - Very time consuming…
COMPLIANCE IS PRETTY BASIC

Seven Elements:
1. Compliance Officer & Program Oversight
2. Policies and Procedures
3. Education
4. Audit
5. Corrective Actions to Identified Problems
6. Open Communications
7. Enforce Violations

Questions?

Thank you.
Speaker Contact Information

- Bret S. Bissey, Senior Vice President, Chief Ethics & Compliance Officer, University of Medicine & Dentistry of New Jersey, is a nationally recognized professional in healthcare compliance with over 16 years of compliance-related experience. He joined UMDNJ in December 2010 and is responsible for managing the compliance and ethics program (40 FTEs and budget in excess of $5 million) of the largest public health sciences university in the United States to be in adherence with a rigorous 5-year corporate integrity agreement with the Department of Health and Human Services Office of Inspector General which followed a two-year period of Federal Monitor oversight.

- Bret is author of the Compliance Officer’s Handbook, published in 2006, and has presented at 80+ industry conferences/meetings. Bissey was chief compliance & privacy officer at Deborah Heart and Lung Center for 9 years where he oversaw the successful adherence to the three-year (1999–2001) Corporate Integrity Agreement. Bissey is a Fellow of the American College of Healthcare Executives, the Health Care Compliance Association (Certified-CHC), Healthcare Financial Management Association and the Ethics Officer Association. He is a Past President (2001-2003) for Region 2 (NY, NJ, PR and U.S. Virgin Islands) of the Health Care Compliance Association.

- Bret has also been in several senior-level management positions with consulting companies, academic medical centers and in the clinical research industry.

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