

HEALTH CARE COMPLIANCE

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Background

- 1990s – few healthcare compliance programs
- 2001 – standard in healthcare industry



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Federal Sentencing Guidelines

- Developed to provide greater fairness, certainty and effectiveness in federal sentencing and eliminate judicial discretion
- Defines a base fine based on the applicable offense level or pecuniary gain or loss, whichever is higher
- Uses a multiplier based on a culpability score

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Corporate Compliance Program

- Benefits
 - Proactive in preventing and detecting improper conduct
 - May be mitigating factor in reducing fines or penalties or preventing probationary period
 - May prevent government-mandated program
 - May prevent exclusion

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Corporate Compliance Program

- Seven Basic Elements
 - Written standards of conduct, including written policies and procedures to promote compliance;
 - Designation of chief compliance officer and other appropriate bodies – compliance committee;
 - Establishment of regular, effective education and training programs;

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Corporate Compliance Program

- Seven Basic Elements
 - Establishment of a mechanism to respond to allegations of improper or illegal activities and enforce appropriate disciplinary action;
 - Maintenance of a “hotline” to receive complaints anonymously and protect whistleblowers from retaliation;
 - Use of auditing and monitoring to evaluate compliance; and
 - Investigation and remediation of identified problems and development of policies to prevent employment/retention of sanctioned individuals.

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Corporate Compliance Program

- Effective Programs
 - High-level involvement to support program – senior management, board of directors
 - Written policies and procedures targeting key issues such as billing, coding, referrals
 - On-going education – refreshing knowledge, updating knowledge;
 - Compliance committee that includes representatives from top management;



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Corporate Compliance Program

- Effective Programs
 - Compliance officer reports to high-level official, board
 - Routine compliance audits of operations and facilities;
 - Proper due diligence in hiring employees who have not been excluded or have criminal records;
 - Detection and prevention of offenses;
 - Swift investigation and correction of violations of law;
 - Actual anonymous reporting without retaliation.

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Corporation Integrity Agreements (CIAs)

- A 3 – 5 year agreement
- Between healthcare provider and government
- Usually with settlement of fraud and abuse
- Required specific monitoring and reporting
- Generally more stringent and expensive to implement than compliance plan

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Model Corporate Compliance Programs

- Hospitals
- Clinical laboratories
- DME, prosthetics, orthotics, and supplies providers
- Third-party medical billing companies
- Hospices
- Nursing facilities
- Medicare+Choice organizations
- Individual and small group physician practices
- Home health agencies



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Key Risk Areas Identified by OIG

- Coding & billing
 - Duplicate billing
 - Improper use of modifiers
 - Billing for services not documented properly
 - Routine waiver of co-payments, deductibles
 - Improper discounts
 - Inadequate resolution of overpayments



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Key Risk Areas Identified by OIG

- Marketing
- Referrals
- Cost reporting
- Employee screening
 - Background checks
 - Licensure/certification



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Current Climate

- Effective Program vs. Ineffective Program
 - Education
 - Audits
 - Revised policies/procedures
 - Regular review
- More CIAs
- HIPAA Compliance



