

Billing & Coding Professionals and the Pressure to Commit Fraud

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Let's Connect!

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On the Agenda

- What is Compliance?
- Out of Compliance?
 - A Biller's Liability
- Do's and Don'ts of Compliance
- Enforcement actions against Billers
- Q&A



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COMPLIANCE BASICS

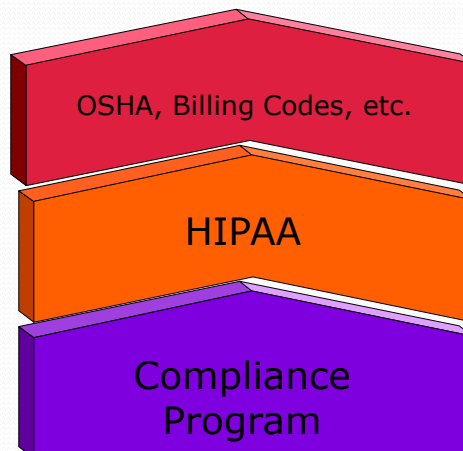
Compliance is...

- Requirements of payors and the government
- Requires due diligence



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Compliance is the Foundation



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Compliance Programs Generally

Compliance programs are essential to promote organization adherence to federal and state laws and payer requirements.

Compliance programs protect against:

- Fraud
- Waste
- Abuse, like improper billing
- Liability



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Goal of Compliance Plan

- Early detection and prevention of problems before they occur
- Like “preventative medicine” for your office



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Compliance is a Team Effort



- Confidentiality
- Appropriate patient care
- Correct billing
- Proper documentation and coding
- Follow up on problems
- Training, communication and education

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The 7 Elements

1. Written Policies and Procedures

- Address specific areas of potential fraud
- Including:
 - Claims submission process
 - Code gaming
 - Financial relationships



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2. Designate a Compliance Officer

- Responsible for operating and monitoring the compliance program,
- Report directly to CEO and governing body,
- Periodically revise and update program,
- Review employees' certifications
- Develop training program,
- Coordinate internal compliance review,
- Investigate and act
- Etc.



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3. Effective Training and Education



- Regular, effective education and training programs for all employees
- Detailed and comprehensive

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Training should cover:



- Compliance generally
- Specific billing and coding procedures
 - Specific Government and private payor reimbursement principles,
 - Improper alterations to documentation,
 - Proper documentation of services rendered,
 - Signing forms for physicians without authorization,
 - Duty to report misconduct,
 - And more

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4. Effective Lines of Communication



- Creation of a process to receive complaints
- Access to Compliance Officer

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5. Internal Monitoring and Auditing



- Use audits and risk evaluation techniques to monitor compliance and reduce identified problem areas
- For example, spot-checking work of coding and billing personnel periodically
- Internal and external audits

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6. Disciplinary Guidelines

- Develop system to respond to allegations of improper/illegal activities
- Enforce appropriate disciplinary action
- Background/Reference check of new employees



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7. Prompt Responses & Corrective Action

- Investigate and correct identified problems
- Develop policies addressing the non-employment of sanctioned individuals
- Report violations



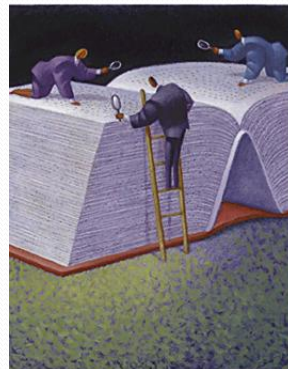
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AUDITS

an essential tool

Audits v Monitoring

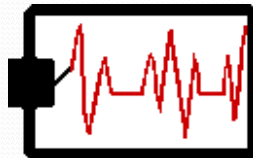
- Audit
 - Examine records to check their accuracy
 - To make an adjustment or correction of accounts
- Internal or external
- Regular
- Review of variety of charts
 - Per location
 - Per physician



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Auditing v Monitoring

- Monitor
 - To check the quality or content
 - To keep track of systematically with a view of collecting information
 - Test or sample on a regular basis
 - Day to day, looking for inconsistencies and issues



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Audits

- Should do both internal and external
- Healthcare attorney (privilege)
- Know when to quit and train
- Audits go hand in hand with training and education
- Document, document, document!



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Critical Elements of Any Audit

- Reasonable assessment
- State Goals and Objectives
- Carefully plan process
- Outline criteria
- Define critical stopping points
- Conduct interviews



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Characteristics Of An Audit

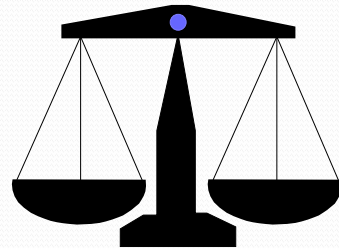
- Look at practice areas
- Physician office records, hospital records, procedure records, etc.
- Do audit of each location
- Sampling of all payors
- Interview of staff prior to audit
- Establish stopping points



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Results of Audit

- Work with counsel
- Have accurate supporting information
- If problem, demonstrate situation was fixed immediately
- Provide education and retain copies
- Monitor to ensure that fix worked!



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Employees

- Need to be re-educated on policies and procedures



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Out of Compliance?

Biller and coder fraudulent activity

- Unbundling codes
- Upcoding
- Kitchen Sink Coding
- Inconsistent Coding
- Inflated Charges
- Using inappropriate modifiers
- Reporting unlisted codes without documentation
- Etc.



What is a Biller's Obligation?

- Precarious position
- Billers and billing companies in a unique position to discover fraud, waste, abuse and mistakes on the part of the provider for which they furnish services
- Allegiance to physician versus commitment to compliance with laws



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You Can't Ignore It

- You can be responsible
- Need to take action



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What Should You Do If The Practice Is Out Of Compliance?

- IT DEPENDS
- If you think the compliance program is out of date, you don't know who the officer is, the policies are not accurate, etc., speak to the compliance officer
- Anonymous channel within entity
- Hopefully they will address your concerns
- If not, proceed up chain of command



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What Should You Do If You Find Misconduct?

- Report the issue to the Compliance Officer
- No response, proceed up chain of command
- No response, put concern in writing
- Uncertain, contact healthcare attorney for guidance
- Do not submit questionable claims
- Include claim specific information and rationale



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Then,

- If you find credible evidence of continued misconduct, flagrant or fraudulent or abusive conduct:
 - Do not submit false or inappropriate claims
 - Always seek guidance from healthcare attorney
 - If you are an independent billing company, you may need to terminate the contract with that office
 - Report to the Compliance Officer or appropriate person



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After Reporting

- Take corrective actions
- Prompt identification of any overpayment to the provider and affected payor
- Impose proper disciplinary action if applicable



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**Make sure to always follow
the rules, even when your
healthcare provider doesn't
want you to**



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Compliance Do's and Don'ts

DO vs DON'T

Do

- Audit! Make sure your plan is working



Don't

- Leave the binder on the shelf and forget about it



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DO vs DON'T

Do

- Update at least annually!



Don't

- Assume the program is okay as is



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DO vs DON'T

Do

- Document!
 - Make sure to routinely document any incidents that arise and steps taken



Don't

- Take action and fail to write it down
 - If you didn't document, it didn't happen



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DO vs DON'T

Do

- Ask questions and take an interest



Don't

- Assume that everyone is always in compliance



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DO vs DON'T

Do

- Ensure that patient records and passwords are not visible



Don't

- Leave post its with passwords and patient files on desks



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DO vs DON'T

Do

- Take concerns seriously and follow up on complaints regarding compliance, improper billing, etc.



Don't

- Fail to show evidence of follow-up in regard to any complaints



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Why Should You Care?

Enforcement Action

- Medical biller sentenced to 45 months in prison and \$1 million restitution
- Chicago
- Convicted of fraud and false statements
- Billed Medicare for services not provided



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Enforcement Action



- Detroit-area medical biller sentenced to 50 months in prison and ordered to pay \$3.25 million
- Knowingly submitted fraudulent bills on behalf of a physician

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Enforcement Action

- Miami Medical Biller pled guilty for role in \$63 million fraud and money laundering case
- 11 years in prison
- \$100,000 fine
- Consultant and Medicare biller
- Directed payment of kickbacks in exchange for Medicare beneficiary referrals



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Case Study



- Rickard & Associates represented a biller who unknowingly billed for a provider who was committing fraud
- Medicaid Fraud
 - Potential penalty: 4 years and/or \$50,000
- Health Care Fraud
 - Potential penalty: 4 years and/or \$50,000

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Case Study

- Rickard & Associates represented a large physician group working in four states in the Midwest
- In order to get claims paid, billers added hypertension code to the claims in order to get paid
- Client spent \$2 Million in legal fees
- Client paid \$10 Million to the government to settle the case



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OIG Recovery at a Glance in a Year

Statistic	Amount
Expected Audit Recoveries	\$1,199,088,845
Expected Investigative Recoveries	\$2.73 billion
Criminal Actions	710
Civil Actions	736

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False Claims Enforcements

- In one year, False Claims Act settlements and judgements **exceeded \$2.2 billion**
- Recoveries since 1986 total **over \$72 billion**



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Non-Compliance is Costly

- Prison time
- Fines and penalties
- Corporate Integrity Agreements



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In Summary

- Compliance is here to stay
- Foundation
- Need a complete compliance program
- Billers can be personally liable
 - Prison time
 - Fines & Penalties
- Federal government cares – so you should too



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Any Questions?

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