

Creating a Compliant Office

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Why Create a Compliant Office, One with a Compliance Program?

- Important
- Necessary
- Provides Structure
- Invokes Professionalism
- Instills Pride in Work
- Creates Profit

AOPA's view on "Why Compliance Programs?"

- Compliance = commitment
 - Commitment to do the right thing
- Compliance = integrity
 - Running your business the right way
- Compliance = honesty
 - Open communication with patients and payors
- Compliance = profit
 - Get paid and stay paid

Best Compliance Programs

Small or large office,
the best compliance programs
are produced from
a strong foundation of
ETHICS.

Where do we find guidance on Ethics in O&P?

- Code of Professional Responsibility (ABC)
- Code of Ethics (BOC)
- O&P Code of Interaction with Healthcare Professionals (AOPA)
- American Medical Association Code of Ethics (physicians, allied health, etc.)

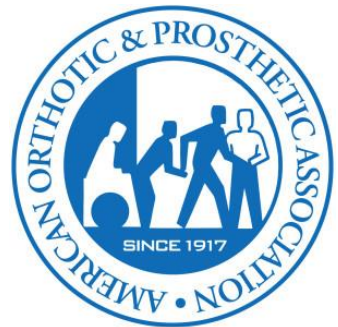
Benefits of Compliance Plans based on Ethics

- Ethical practice is sound business.
- Unethical decisions can produce short-term gain, but long-term loss.
- Companies that train their staff in ethical standards financially outperform those that do not.
- Ethical companies prosper more in the long run by earning respect and trust of consumers and others.

OIG Compliance Program Guidance for the DMEPOS Industry

<https://oig.hhs.gov/authorities/docs/frdme.pdf>

Compliance Program Guidance for the DMEPOS Industry developed by the Office of Inspector General in cooperation with, and with input from, the Health Care Financing Administration (HCFA), the Department of Justice (DOJ) and representatives of various trade associations and health care practice groups.



OIG Compliance Program Guidance

The creation of compliance program guidance:

- helps combat fraud and abuse;
- monitors adherence to applicable statutes, regulations and program requirements; and
- furthers the fundamental mission of all DMEPOS suppliers, to provide quality items, service, and care to patients



Factors to Consider

- Size differential:
 - employees and gross revenue
 - number of locations
 - type of equipment provided
 - corporate structure
- Every supplier can and should strive to accomplish the objectives and principles underlying all of the compliance policies and procedures recommended within this guidance.

Culture of Compliance

- Establish a culture that promotes prevention, detection, and resolution of conduct that does not conform to rules/laws:
 - Federal and State law,
 - Federal, State and private payor health care program requirements,
 - Supplier's ethical and business policies.
- Supplier's commitment to ethical conduct.
- Benchmarks that demonstrate implementation and achievements
- Part of the fabric of routine DMEPOS supplier operations.

Compliance programs guide...

- DMEPOS people - owner(s), governing body (e.g., board of directors or trustees), chief executive officer (CEO), president, vice president(s), managers, sales representatives, billing personnel, and others
- DMEPOS billing departments specifically – acts as an internal quality assurance control in the reimbursement and payment areas, where claims and billing operations are often the source of fraud and abuse, and therefore, historically have been the focus of Government regulation, scrutiny, prosecution and sanctions.

Commitment to program

- Supplier's owner(s), corporate officers, and managers
- Words and actions of a supplier's leadership serves as measure of the organization's commitment to compliance.
- Mission statements articulate commitment to high ethical standards.

Compliance programs provide suppliers...

- Method that may improve quality of service and reduction of waste;
- Central coordinating mechanism for furnishing and disseminating information and guidance rules & regulations;
- Beneficial investment that advances both the supplier's organization and the stability and solvency of the Medicare program.

Benefits of a Compliance Program

The OIG believes an effective compliance program provides a mechanism that brings the public and private sectors together to reach mutual goals of

1. reducing fraud and abuse,
2. improving operational quality,
3. improving the quality of health care services and
4. reducing the cost of health care.

The benefits may also show...

- Responsible corporate conduct;
- Assessment of behavior relating to fraud and abuse;
- Identification and prevention of criminal and unethical conduct;
- Reaction to employees' operational compliance concerns and capability to effectively target resources to address those concerns;
- Improvement of quality, efficiency, and consistency of providing services;
- Increased efficiency on the part of employees;

More benefits...

- Centralized source for distributing information;
- Improved internal communication;
- Methodology that encourages employees to report problems;
- Investigation of alleged misconduct;
- Immediate, appropriate, and decisive corrective action;
- Provide early detection and reporting false claims;
- Reduction of supplier's exposure to civil damages and penalties, criminal sanctions, and administrative remedies; and
- Enhancement of structure of the supplier's operations.

OIG's 7 Elements for an Effective Compliance Program

1. Implementing written policies, procedures and standards of conduct;
2. Designating a compliance officer and compliance committee;
3. Conducting effective training and education;
4. Developing effective lines of communication;
5. Enforcing standards through well-publicized disciplinary guidelines;
6. Conducting internal monitoring and auditing; and
7. Responding promptly to detected offenses and developing corrective action.

1. Written Standards, Policies & Procedures

The development and distribution of written standards :

- includes adherence to the compliance program as an element in evaluating managers and employees;
- addresses specific areas of potential fraud, such as the claims development and submission process; and
- addresses the financial relationships with physicians and/or other persons authorized to order DMEPOS.

Individual Policies

Standards of Conduct - The OIG recommends that the DMEPOS supplier develop standards of conduct for all affected employees that include a clearly delineated commitment to compliance by the DMEPOS supplier's senior management.

Written Policies for Risk Areas

- Billing for items or services not provided;
- Billing for services that the DMEPOS supplier believes may be denied;
- Duplicate billing;
- Billing for items or services not ordered;
- Using a billing agent whose compensation arrangement violates the reassignment rule;
- Upcoding;
- Unbundling items or supplies, etc.

Claims Development and Submission

- a. Medical
- b. Physician Orders
- c. CMNs
- d. Billing
- e. Selection of HCPCS Codes
- f. Valid supplier numbers
- g. Mail order supplies
- h. Assignment
- i. Liability issues
- j. Routine waivers of deductibles and co-insurance
- k. Capped rentals

Anti-Kickback and Self-Referral Concerns

The DMEPOS supplier should have policies and procedures in place with respect to compliance with Federal and State laws, including the anti-kickback statute, as well as the Stark physician self-referral law

Anti-Kickback Statute (Criminal Statute)

- The Anti-Kickback Statute is a CRIMINAL statute that “prohibits the knowing and willful offer, payment, solicitation, or receipt of remuneration to induce federal health-care program business.”
- In plain English, it is illegal to provide anything of value or perceived value, regardless of the monetary value, if the intent is to receive referrals of patients who are enrolled in government-funded healthcare programs.

Stark Law (Civil Statute)

- Prohibits physicians from making referrals for orthotics and prosthetics to entities in which the physician has an ownership or financial interest.
- Prohibits entities from presenting claims or bills to any individual, third-party payor, or other entity for orthotic and prosthetic services furnished pursuant to a prohibited referral.

Marketing

Where marketing is permitted, the DMEPOS supplier's compliance program should require honest, straightforward, fully informative and non-deceptive marketing.

Retention of Records

- Implementation of a records system.
- Records maintained for the length of time required by law and private payors, whichever is longer.
- Policies and procedures regarding the creation, distribution, retention, storage, retrieval, and destruction of documents.

HIPAA & Patient Records

In a nutshell, HIPAA and subsequent regulations require you to:

1. Safeguard patients' protected health information (PHI);
2. Limit the exposure or uses of the PHI to the minimum necessary amount;
3. Create procedures that limit who may access PHI;
4. Train all employees on how to protect PHI;
5. Notify patient if his/her PHI has been compromised or breached.

Compliance as an Element of a Performance Plan

- promotion of
- adherence to
- periodic training of
- readily available
- well-publicized
- signatures required

2. Designation of a Compliance Officer and a Compliance Committee

Compliance Officer - focal point; person of high integrity.

Compliance Committee - established to advise the compliance officer and assist in the implementation of the compliance program.

3. Conducting Effective Training and Education

Initial Training in Compliance

Format of the Training Program

Continuing Education on Compliance Issues

Three tips for training:

- First, prepare training on basic fundamentals.
- Second, create plans or modules that are more specific, such as billers and coders.
- Third, regularly update & deliver training.

4. Developing Effective Lines of Communication

Access to the Compliance Officer

- open lines of communication
- written confidentiality and nonretaliation policies developed
- distributed to all employees
- encourage communication and the reporting of potential fraud

Use of Hotlines and Other Forms of Communication (e-mails, written memoranda, newsletters, suggestion boxes)

Two areas to focus on...

- First, be sure employees are encouraged to use the established lines of communication, and communicate that they should not fear any retaliation or repercussions if they use the lines of communication to report fraud or abuse (whistleblower protections).
- Second, make sure that all questions and responses in regard to policies and procedures are documented, as they can be used in updating future versions of the policies and procedures.

5. Conducting Internal Monitoring & Auditing

An ongoing evaluation process is critical to a successful compliance program.

Disciplinary mechanisms enforce standards and policies addressing:

- employees who have violated internal compliance policies, applicable statutes, regulations, or Federal, State or private payor health care program requirements and
- the employment of sanctioned and other specified individuals.

Considerations for Effective Audits

- Frequency
- Number of charts to be reviewed
- Particular issues to be monitored
- Documentation of the results
- Personnel involved
- Discussion of the results, and
- Actions taken as a result

6. Enforcing Standards Through Well-Publicized Disciplinary Guidelines

An effective compliance program should include guidance regarding disciplinary action for corporate officers, managers, independent agents and other DMEPOS supplier employees who have failed to comply with the DMEPOS supplier's standards of conduct, policies and procedures, Federal and State statutes, rules, and regulations or Federal, State or private payor health care program requirements.

Well-Publicized Disciplinary Guidelines Should Include...

- Name of person in charge of handling disciplinary problems;
- Consequences of noncompliance and disciplinary action;
- Commitment to consistently apply and enforce disciplinary action for similar offenses; and
- Use of disciplinary tactics such as additional education, verbal warnings/write-ups, demotion and ultimately termination.

7. Responding to Detected Offenses and Developing Corrective Action Initiatives

Violations and Investigations

Reporting to the appropriate authorities in a timely manner

Corrective Actions

Steps for Investigation

1. Put an immediate halt to the issues/actions/questionable actions.
2. Determine the scope of the issue (ongoing issue or one-time).
3. Consider involving others in the investigation (counsel).
4. Determine the relevant facts.
5. Create a report outlining specifics of investigation.
6. Review the findings to determine your exposure/liability.
7. Determine a plan, how to correct the issue.
8. File copies of information of investigation in a secure location.

Constantly evolving...

Compliance is a dynamic process that helps to ensure that DMEPOS suppliers and other health care providers are better able to fulfill their commitment to ethical behavior.

Ultimately, it is OIG's hope that a voluntarily created compliance program will enable DMEPOS suppliers to meet their goals, improve the quality of service to patients, and substantially reduce fraud, waste, and abuse, as well as the cost of health care.

Again, the benefits of compliance plans based on ethics...

- Ethical practice is sound business.
- Unethical decisions can produce short-term gain, but long-term loss.
- Companies that train their staff in ethical standards financially outperform those that do not.
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10 Golden Rules of Professional Ethics

1. Always strive for excellence
2. Be trustworthy
3. Be accountable
4. Be courteous and respectful
5. Be honest, open and transparent
6. Be competent and improve continually
7. Always be ethical
8. Always be honorable and act with integrity
9. Be respectful of confidentiality
10. Set good examples

Conclusion

The OIG has attempted to provide a foundation to develop effective and cost-efficient supplier compliance program.

Each program must be tailored to fit the needs and resources of an individual supplier (depending on size, location, type of equipment or corporate structure).

The Federal and State health care statutes, rules, and regulations and Federal, State and private payor health care program requirements, should be integrated into every supplier's compliance program.

Questions?

Thank you!

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