Part B Insider (Multispecialty) Coding Alert

Compliance: Tighten Up Your Compliance Program With Answers to These 3 FAQs

Quick tips help you identify your practice's risk areas.

Our article in last week's Part B Insider, "5 Tips Keep Your Compliance Problems at Bay," generated a lot of reader interest, and it looks like many subscribers have compliance questions of their own. We picked the top three questions that you submitted and asked **Martie Ross, Esq.**, a partner with Spencer Fane Britt & Browne LLP's healthcare group, to offer her expert advice. Read on for the answers to your compliance questions.

Know Your Risk Areas

Question 1: We are creating a compliance plan and we were told to identify our potential risk areas (e.g., what might catch an auditor's eye if we are ever audited). How can we identify these risk areas? Would it be through selfaudits, or a consultant, attorney, etc.?

Answer: There are common areas of risk that all medical practices share, and addressing these matters should be a priority, Ross says. "First, the practice should focus on compliance with the Stark Law and Anti-Kickback Statute," she advises. "The starting point for this analysis is compiling a comprehensive list of the health care providers (a) from which the practice or any of its physicians receive anything of value, and (b) to which the practice or any of its physicians provide anything of value."

That list would include, for example, a hospital that leases space to the practice, pharmaceutical representatives who bring lunch for the physicians and staff, and any nursing homes for which one of the doctors serves as medical director. "The compliance officer should understand the nature of each relationship, and determine whether it complies with the Stark Law and Anti-Kickback Statute," Ross advises.

With respect to coding and billing, a practice should audit claims submitted for evaluation and management services to determine whether those services have been coded accurately based on the documentation in the medical record. If the practice includes mid-level practitioners, there should be regular reviews to ensure ongoing compliance with the "incident to" and shared visit rules, Ross explains.

Create Compliance Culture in Your Practice

Question 2: While creating the compliance plan, some of our employees have gotten nervous, asking whether we are seeking out wrongdoing and they are worried that we'll target them. How do we explain that the compliance plan isn't a witch hunt?

Answer: Your practice should make a commitment to a culture of compliance, in which they are encouraged to stay compliant so the practice continues running smoothly -- not as a way to get anyone in trouble.

"Each employee should feel empowered to identify possible issues and bring those matters to the compliance officer's attention," Ross says. "That requires the practice to clearly communicate those expectations, provide appropriate training, maintain and promote reporting mechanisms, and promptly respond to employees' questions and reported concerns."

To continue the compliance culture, practice employees should be encouraged to participate in professional organizations to learn from their peers in other practices.

Look for Upcoding--And Downcoding

Question 2: If a coder catches a physician who is constantly "upcoding," she will usually bring it to the doctor's attention. However, I've noticed that the physician who owns our practice chronically "downcodes," but the coder (who is often the only person who sees the claims before they go to Medicare) doesn't point it out to the doctor. Isn't it just as important to point out any type of inappropriate coding, or should practices focus on catching upcoding only?

Answer: "There's a fine distinction between not doing things wrong and doing things right, but it's an important one," Ross says. "Focusing exclusively on upcoding means you want not to do things wrong, and avoid any scrutiny. By contrast, focusing on accurate coding shows a commitment to doing things right."

When a practice's compliance program is based on doing things right, it maintains its effectiveness over the long term. If you start by worrying about how not to do things wrong, however, you'll find it's much harder to maintain the program, as it feeds negative energy in the organization, she advises.

Send your additional compliance questions to our editor, Torrey Kim, CPC, CGSC, at torreyk@codinginstitute.com.