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Compliance News

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HCCA's Y Comply April 2015 *Deann M. Baker, CHC, CCEP, CHRC*

INSIDE THIS ISSUE

- 1 Y Comply
- 1 All Roads Lead to Compliance
- 2 Developing a Meaningful Compliance Work Plan
- 3 What's New @ BCG Research
- 4 S.M.A.R.T.

"The road to success is always under construction."
-Arnold Palmer

Many of us enjoy watching television game shows. Some require knowledge and skill, while others are purely games of risk and guessing. It can be entertaining.

In business organizations, we have to be careful to know and understand the risks and certainly not guess, but more than that, to conduct due diligence. Due diligence is the care that a reasonable person exercises, and is a level of judgment, scrutiny, and caution a person takes to avoid harm to other persons or property. The outcome of not carrying out proper due diligence in an area of risk can carry a high price, which is not an entertaining prospect.

An area of risk where organizations need to exercise due diligence is in the area of screening individuals hired or contracted. The Federal Sentencing Guidelines (FSG) for Effective Compliance and Ethics programs addresses this risk and states: "The organization shall use reasonable efforts not to include within the substantial authority personnel of the organization whom the organization knew, or *should have known through the exercise of due diligence*, has engaged in illegal activities or other conduct *inconsistent with an effective compliance and ethics program*." In plain and simple language that means companies need to use care to avoid hiring or contracting with those who are not trustworthy or honest.

Please see *Y-Comply* on page 2

All Roads Lead to Compliance

Recently, at the Health Care Compliance Association National Convention in Orlando, FL the week of April 19th, Dan Levinson, the Inspector General of the OIG, was the first key note speaker. The following is a summarization from his speech *All Roads Lead to Compliance*. You can read the whole speech at www.oig.hhs.gov.

Please see *All Roads Lead to Compliance* on page 3

Developing a Meaningful Compliance Work Plan

Written by Julia Steggerda

Margaret Hambleton was an educator/speaker at the HCCA National Convention and presented the class: Developing a Meaningful Compliance Work Plan. The following is a summarization of the informative workshop.

According to Hambleton, a work plan is defined as a document that provides a roadmap designed to connect opportunity to evaluation of adequate resources. It is the result of risk assessments performed by the organization. All assessments of work should be both structural and substantive. A work plan reflects the organization itself, the mission of the organization, and the strategy, operations, and risk

Y-Comply from page 1 Developing a Meaningful...continued page 4



A part of conducting due diligence is taking into consideration guidance provided, and the activities carried out, by enforcement agencies. For instance, organizations in the U.S. that participate in federal healthcare programs are required to screen employees and contractors to ensure they are not excluded from doing business with federal healthcare programs. The enforcement agency, the Office of Inspector General (OIG) of the Department of Health and Human Services, for many years has completed monthly updates to their database system of the names of those individuals and organizations excluded from participation with federal healthcare programs. We could then conclude that monthly screening by organizations would be a best practice.

The price of conducting screening more frequently may be of concern, but what about the potential cost of identifying an excluded individual or entity two, six, or 12 months after they were hired or contracted? The cost and consequences of addressing a finding caused by lack of diligence could be a much higher price to pay. What price might the company pay for a lost reputation with customers, business partners, or others?

Screening processes particularly impact professionals in the workplace that are involved in hiring, contracting, or purchasing, but we all have a responsibility to be aware of these types of requirements and risks. How organizations conduct screening has a direct correlation to the effectiveness of the compliance and ethics program, helps ensure a right organizational culture, and protects a good reputation.

What's New @ BCG Research

Compliance Program Evaluation Audit has been very popular this spring. Every participating facility has stated, in so many words, that the dialogue it produces helps them realize the holes in their programs, and guides them in a direction of action plans for the future. If you are interested in having me come to your facility for a Compliance Program Evaluation Audit, let me know. I'm booking now for September, October and November. Also, this is a great time to plan your OIG Compliance Education for your staff. Spots left in September, October and a few spots left in November. Let me know if you want me to come out for an education session.

Specific
Measurable
Attainable
Relevant
Time-based

All Roads Lead to Compliance from page 1

Almost every child in the US is taught how to draw a road in their elementary art class. Why a road? It's not just because the lines are easy to draw. A horizontal road, when depicted, is an incredibly captivating scene for humans. It draws us in by creating a sense of moving forward, traveling from where we currently are. To travel along a road, we must first ask ourselves where we are, where are we going, and how do we get there? In his discussion on compliance, Dan Levinson discusses these questions and how to move your organization forward, focusing on the 4 P's: Patient Engagement, Payment Delivery, Performance Measures, and Program Integrity.

The first "P", Patient Engagement, looks at how we are engaging our employees to create a knowledgeable workforce. By engaging employees, patients will feel more included and cared for.

Under Payment Delivery, Levinson noted that most health care money is public money and therefore must be accounted for. HHS OIG has over 600 auditors in the government system all together.

The third P focuses on performance measures– looking at how an organization will evaluate and manipulate data.

The last P, Program Integrity, stresses the importance of a solid compliance program. Every organization needs to be a representative of a good compliance program. There are seven elements of compliance and it is up to your compliance officer to promote the conversations of a good and effective compliance program. Resources available through the OIG include: Compliance 101 webpage, 2015 Work Plan, Federal Sentencing Guidelines, and Corporate Integrity Agreements (CIA's). CIA's can also provide details on how to craft the best compliance plan. Important things to think about with Program Integrity are understanding who you are doing business with (partners and referrals) and what is your relationship with these partners. It is also necessary to understand the variety of laws and regulations including false claims act, anti-kickback, civil monetary laws, and the exclusions of law stark.

Levinson asks: "Where are you headed?" Seek a road that will lead to enhanced quality of care and smarter spending on wellness. These are the future in health care. We are moving into a world that will no longer focus on one organization, but rather on three components: the provider, the patient, and the payer. We can create a better future by serving the 4 P's effectively and connecting well with those we are serving and doing business.

Continued from *Developing a Meaningful Compliance Work Plan* on page 2

tolerance. It should be dynamic and engaging.

Work plan components include four elements: an awareness survey, an effective evaluation, a risk assessment, and strategy and operational alignment. All assessments of work should be both structural and substantive and surveys should be kept short and simple. Best practices recommend no more than 15 questions.

The first component, an awareness survey, evaluates how aware employees are with the organization compliance plan. Second, the effectiveness evaluations assess the overall success of the organization in meeting its goals. Common ways to measure effectiveness include the use of surveys, interviews, documentation, benchmarking, recording existing measures, and compliance training quizzes. The third component, a risk assessment, evaluates how well the organization's data matches the results of similar goals provided by the government. This component should provide insight to the potential residual risk facing the organization when compared to what the government directs.

When evaluating your risk and risk tolerance, it is important to first identify the risks your organization face. A risk is anything that can occur that would have a harmful effect on the organization. Risk tolerance is a measure of the amount of risk an organization can sustain. After identifying all risks, Hambleton suggests organizations perform audits, review the OIG Work Plan for guidance on areas the OIG is focusing on in the current year, read literature on applicable risks, and then prioritize your risk findings. A risk assessment is crucial as it will enable an organization to be proactive instead of reactive, it will raise awareness, and will ultimately improve your program. The risk assessment will point out the vulnerabilities of the organization, likelihood of failure, and the history of success or failure against each risk. Once there is a risk assessment in place, a work plan can be easily developed. When creating your work plan in response to your risk assessment, understand and record the root cause or potential failure and then drill down on why this may occur. If you can identify under what conditions a risk is likely to occur, it will be easier to create a plan that helps you mitigate the risk, or respond quicker to it should it occur. In this process, Hambleton suggests involving key stake holders. Finally, when planning each element, be SMART!

Specific
Measurable
Attainable
Relevant
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Planning and recording your risk mitigation and recovery processes in this way will lead to a clear and focused work plan.

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