

Does Your Ophthalmic Practice Have a Compliance Plan? It's More Important Than Ever

With fraud and abuse enforcement efforts at their peak, having an effective practice compliance plan in place is more important now than ever before. Yet, many practices believe compliance planning to be difficult and few are willing to dedicate precious resources to compliance efforts.

Understanding the fundamentals of fraud and abuse compliance makes developing and implementing an effective compliance plan relatively easy and inexpensive.

Why Do It?

Defending against an accusation of a fraud and abuse violation can be at least as costly as paying the penalty for an actual violation. The purpose of a compliance plan is to identify areas of existing or potential noncompliance and correct them on an on-going basis. Having fraud and abuse compliance safeguards in place will help your practice avoid inquiries from investigative agencies altogether.

Additionally, a working compliance plan may help mitigate practice liability in the event of a civil or criminal prosecution, by demonstrating that the practice has taken definite steps to be compliant.

What Is It?

A compliance plan must include written statements and policies, but typically exists not as a single document or "manual" but as an organized, documented *initiative*. Compliance documents may be contained in shareholder and board minutes, your policy manual, etc.

A small to medium sized ophthalmology practice cannot -- and is not expected to -- commit the same level of resources to compliance that a hospital system or national reference laboratory would. Further, the compliance issues for a single-specialty practice are unique. To be effective, your compliance plan must be tailored to your practice's specific needs and resources.

Where to Start?

To ensure that your compliance plan is right for your practice, start with a fraud and abuse audit of all practice areas potentially affected by federal and state fraud and abuse legislation. Audit at least the following:

- coding/documentation;
- billing/collection policies, procedures;
- relationships with other providers, contractors; and
- income division arrangements.

Outside Help

Using outside expert help for this critical phase in compliance plan development will identify areas of concern and develop third-party credibility, giving "objectivity" to the audit.

If an outside attorney assists you, information and documentation generated as part of the audit may be protected from disclosure to investigators under "attorney-client privilege." Generally, investigators may not compel a client to disclose confidential communications with its lawyer if those communications are for the purpose of obtaining legal advice. Otherwise, documents generated by a practice as part of an internal compliance audit must generally be disclosed to investigators, upon request.

Framework

The findings of your audit will set the framework for developing your compliance plan. In your plan:

- give special attention to any areas of specific concern identified by the audit;
- include measures for monitoring the effectiveness of corrective measures; and
- establish safeguards against future non-compliance in those areas.

Make sure your plan includes the following seven basic elements recommended by the Office of the Inspector General of the US Department of Health and Human Services:

1. Designation of a chief compliance officer and other appropriate bodies to implement and monitor practice compliance efforts.
2. Development and distribution of written compliance policies and procedures.
3. Development and implementation of employee compliance education and training.
4. A process to report compliance-related complaints anonymously.
5. A system to respond to allegations of non-compliance and to enforce disciplinary action against employees who violate practice policies or legislation.
6. Mechanisms to monitor on-going practice compliance.
7. Mechanisms to investigate and correct identified problem areas and screen previously sanctioned employees out of the employment process.

Conclusion

Give your practice the important protection of a compliance plan. Fraud and abuse investigation agencies show no signs of slowing. Penalties for violations are steep. There is no better time to begin developing your practice compliance plan.

A version of this article was submitted for publication in Ophthalmology Management. It was reviewed and updated in 2006. Permission is hereby granted for the reprinting and use of this article provided that such distribution is free, and provided that the source and ownership of this material is acknowledged to be The Health Care Group, Inc.®. This article can be found online at www.healthcaregroup.com.