Elements of a Successful Corporate Integrity Agreement

HCCA Compliance Institute
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Agenda

I. Three Perspectives on the Elements of a Successful CIA
   • The OIG: Susan Gillin
   • The CCO: JoAnne Little
   • The IRO: Peter Dressel

II. Post-CIA Compliance Program Development Discussion

OIG

Susan Gillin
OIG’s New Model Corporate Integrity Agreement

(1) Evolution of CIAs
OIG priorities and monitoring experience
Feedback from providers and IROs
The progression of compliance in the health care industry
Trends in health care, and fraud, waste, and abuse

(2) Big Picture
Most providers have the basics and don’t need to be micromanaged by OIG
OIG is focused on early detection of risks and fraud through audits, disclosures, and risk assessments

Goals of the CIA
- Efficient and effective oversight
- Basic elements apply to most providers
- Time spent negotiating should decrease
- Provider must certify that it is in compliance with these elements
- More useful and relevant IRO reviews
- Careful and targeted risk assessments and internal audits
- Focus on risks particular to that provider type
- Simpler Annual Reports

Basic Elements of a CIA
- Corporate Integrity Agreement: Reporting to OIG of CMS and contractor audits
- Screening: SAM no longer required
- Compliance Officer must be member of senior management
- Training Plan P&Ps:
  - Provider determines their risk tolerance and implements the basics accordingly
  - No exception for part-time, because provider is free to adjust as appropriate
- Board Resolution and Training Board: Board expert is a heightened provision
- Overpayments: Establish a policy and link to the 60-day rule
CIA Claims Reviews

- Targeted to risks, not necessarily the covered conduct
- Removes the “Discovery Sample” in favor of one 100-claim sample
- Requires that the error rate be extrapolated as part of the Claims Review Report, but provider determines what “reasonable diligence” is required, to comply with the 60-day rule
- Repayment of extrapolated overpayment, further investigation, full sample review, or repayment of sample overpayment only
- "Medically necessary and appropriately documented" means medical review—IRO must use a medical reviewer

Claims Reviews, cont.

- Each year, the Population can be determined based on risk
  - Recommendations from provider
  - OIG data mining and analysis
  - Volume of types of claims compared to peers
  - Claim types at various locations
  - Risks in the industry
- For hospitals, the risk-based determination is the default Claims Review process
- OIG Compliance Monitor, Provider’s Compliance Officer, and IRO will begin discussing risk areas with many months left in the year

How to Negotiate Successfully

- Involve the compliance officer
- Suggest creative Claims Reviews that the provider will find useful
- Accept that the body of the CIA will be largely standard
- We are asking, “Why did the conduct happen?”
- Be transparent about corporate structure and relationships
- Think broadly about risk
- Think positively about compliance goals
CCO

JoAnne Little

LHC Group’s CIA: Lessons Learned

- Engage the right IRO
- Collaborate with the OIG and IRO on an ongoing basis
- Involve the Board
- Engage in a Culture of Compliance
- Concurrent Auditing and Monitoring
- Ensure adequate preparation for IRO activities

Engage the Right IRO

1. Reputable
2. Experienced in issues that form the basis of CIA
3. Right fit for the organization
4. Cost shouldn’t be sole determining factor
Ongoing Collaboration with the OIG and IRO

1. Issues pertaining to CIA
2. Issues not pertaining to CIA but within their expertise
3. Ongoing compliance program changes

Involving the Board

1. Board Training
2. Quarterly Reports to the Board on CIA Compliance
3. Quarterly Reports on Other Compliance Data
4. Annual in Person Reports from the IRO

Build a Culture of Compliance

1. Starts at top and includes all levels of organization
2. Compliance part of overall management strategy
3. Compliance has a seat at the table in all meetings/on all agendas
4. All levels of organization involved in compliance risk assessment
5. Provide guidance based on regulation; don't just give opinion
6. Compliance Department as a resource
7. Constant feedback and training:
   • Newsletters
   • Email “tips”
   • Regional/Divisional Presentations
   • Discussion topics in staff meetings
   • Audit reminders to discuss
8. Compliance Week
Concurrent Auditing and Monitoring

1. Develop expertise in regulations surrounding the items being audited
2. Ongoing internal auditing of conditions of payment
3. Internal auditing of issues identified through risk assessment hotline, exit interviews, etc.
4. Constant feedback to field of findings/opportunities
5. Individual and companywide feedback

Ensure Adequate Preparation for IRO Activities

1. Ongoing communication with IRO prior to their specific activities
2. Organization and preparation in advance
3. Break annual activities and reporting requirements into manageable pieces

IRO

Peter Dressel
Elements to a Successful IRO engagement

- **IRO team**
- **Early Involvement**
- **Communication Protocols**
- **Pre-Work**
- **Reporting**
- **Independence**

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1. Language may be overly broad or impractical
2. Work to resolve common issues (e.g., timing, scope, inconsistencies, sample frame, definition of an “error”)
3. Consider an “Early Work Plan” Submission
   - These are not usually required by the CIA
   - OIG will not formally “bless” it, but will provide input on areas of concern
   - Helps to avoid problems at the back-end
   - Creates an early opportunity to build rapport

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Elements to a Successful IRO engagement

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1. Be mindful of “Over-Disclosure”
   - Some issues require the IRO to exercise judgment or to choose a particular interpretation
   - Be mindful of the overall objectives of the CIA and the CIA’s language
   - Provide logic and rationale for key decisions

2. Formally Define Communication Process
   - Need to identify key stakeholders in the various processes
   - Need to decide when/how potential issues will be raised
   - Need to decide when/how potential issues will be dealt with
   - Consider communication with board and management on an ongoing basis

3. Early Site Visit
   - After the Implementation Report and before year-end
   - Focus on things that might facilitate a more efficient IRO review

4. Data Acquisition “Dry Run”
   - Obtaining data can often be more difficult than expected
   - Reconciling/validating data can also be challenging

5. Define the Strike Zone
   - Consider all forms of an exception based on the language of the CIA & related policies
   - Determine what will constitute a reportable exception
   - Ensure management buy-in – “Bad” - set reasonable expectations

6. Don’t simply report what is wrong
   - Provide information on underlying causes
   - Provide information on severity
   - Provide information on trending

7. Explain whether the company had already identified the issue, and/or what actions have already been
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- Most important aspect of the IRO engagement
- Independent of the company, but also of OIG
- Know the relevant independence guidance
- Have established routines for the ongoing monitoring of independence
- Identify and address issues as early as possible

Thank You for Your Time