Congratulations on that New Acquisition!

Compliance Lessons Learned the Hard Way

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Announced Hospital Mergers & Acquisitions, 1998-2015
Agenda

- Overview of Cleveland Clinic Health System and Compliance structure
- Compliance reporting lines and its relevance to acquisitions
- How Compliance can add value in the due diligence process
- Recommendations for a compliance-focused due diligence

Disclaimers

- We are not lawyers!
- We don’t have all the answers
- We will share what we’ve learned through experience
- We will ask you to share your experience
Cleveland Clinic Health System

- 7.1M Outpatient Visits
- 161,664 Acute Admissions
- 3,584 Physicians & Scientists
- 51,487 Employed Caregivers
- 28.5M sq. ft. Facility Space
- 10 Regional Hospitals
- 150+ Northern Ohio Outpatient Locations
- Staff physicians are salaried; on one year contracts

National & International Locations

- Canada – Executive Health, Sports Health and Rehabilitation
- Nevada – Lou Ruvo Center for Brain Health, Glickman Urological & Kidney Institute
- Florida – Integrated Medical Campus in Weston; Outpatient Locations in West Palm Beach
- Abu Dhabi - Partnership with Mubadala Development Co.
- London – In Progress
Cleveland Clinic Health System

- Chief Integrity Officer serves as the Clinic’s Compliance Officer
- Positioned in the C-suite
- Collaborative, but independent relationship with Chief Legal Officer, Chief Financial Officer
- Oversees Compliance & Internal Audit

Chief Integrity Officer Reporting Lines
Reporting Lines Are Relevant to New Acquisitions

- Due diligence process is typically led by attorneys
- In some entities, the Compliance Officer reports to the Legal Officer
- The Legal Officer, Compliance Officer and Privacy Official may be one and the same person
- What difference does it make?

Complimentary but Different Roles

- **Legal Department**
  - Zealously defend & protect the entity’s Interests
  - Assists in defining & establishing standards
  - Give sound legal advice
  - Generates documentation that is protected from disclosure

- **Compliance Department**
  - Zealously prevents, detects & remedies misconduct
  - Supports a culture of accountability and integrity
  - Advises “Do the Right Thing”
  - Generates documentation that may be disclosed
  - Independent
The Whole Truth (Compliance)

The Truth (Legal)
Assumption Traps

• Compliance should not assume that the legal team will evaluate all compliance topics & documents during due diligence
• The legal team should not assume they know all compliance topics & documents to evaluate during due diligence

Why Compliance & Audit Need to be Part of Due Diligence

• Assess internal controls and their effectiveness
• Evaluate effectiveness of the target entity’s compliance program
• Identify potential barriers that could delay integration
• Determine compliance with HIPAA Privacy & Security Rules
• Prioritize post-acquisition plans
What Can Go Wrong?

- 60 Day Rule
- Successor liability
- Incompatibility of billing and other systems
- Preparedness for unannounced surveys and audits in the immediate post-acquisition phase

Compliance Due Diligence

- Compliance Officer to Compliance Officer interview
- Documents to review:
  - Code of Conduct
  - Compliance hotline data & trends (incl. no. anonymous reports)
  - Compliance Committee composition, minutes, agendas
  - Deficit Reduction Act (Employee Handbook, False Claims Act materials)
Compliance Due Diligence

• Documents to review (cont’d)
  - Training completion rates (FWA, Privacy, Security Awareness)
  - Government audits, reviews and investigations (OIG, FDA, OCR)
  - Results of coding audits
  - PEPPER reports
  - Summary of overpayments that have been returned (and timeliness of repayment)

Compliance Due Diligence

• Documents to review (cont’d)
  - Exclusion screening
  - Enforcement of disciplinary policies (for all position levels)
  - Policies and procedures
    • Claims
    • Privacy & security
    • Teaching & supervision
  - Security risk analysis and risk management
  - Business Associate Agreements
Compliance Due Diligence

- Documents to review (cont’d)
  - Documentation of IRB or Privacy Board waivers, Data Use Agreements
  - Breach reports to HHS
  - Breach risk assessments
  - Medical record requests & turn-around times
  - ACO compliance program documentation
  - Process & procedures for claims
  - Procedures for supervision

Integration Priorities

- Code of Conduct
- Promote compliance Help Lines/Hotlines
- Any impending regulatory deadlines
- Coding/billing reviews
- Remediate any issues
Integration Priorities (cont’d)

- Compliance Committee & related documentation
- Coding compliance
- Risk Assessment (general compliance & HIPAA)
- Re-evaluate covered entity status (including affiliated entities, OHCAs etc.)

Start Early

- Consult with Legal at Letter of Intent (LOI) stage or earlier
- Provide LOI “wish list” (document review, access to people/info)
- Share concerns; seek advice
- Ask about successor liability
Questions?

Cleveland Clinic

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