Why Managing Physician Contracts is Like a Game of Whack-a-Mole and How to Position Your System to Win

HCCA Conference April 16, 2018

Agenda

1. OIG guidance related to physician contracts
2. Why physician contracts are so challenging
3. 5 operational and financial best practices
4. Case study from AMITA Health
5. Case study from Jefferson Health
AREA OF RISK

Physician agreements – PSAs and Employment

- Medical Directorships
- Co-Management
- On-Call
- Research and Teaching
- Clinical Integration
- Bundled Payment
- Employment
Summarized best in April 20, 2015 release of “Practical Guidance”

**Identifying and Auditing Potential Risk Areas**

Some regulatory risk areas are common to all health care providers. Compliance in health care requires monitoring of activities that are highly vulnerable to fraud or other violations. Areas of particular interest include referral relationships and arrangements, billing problems (e.g., upcoding, submitting claims for services not rendered and/or medically unnecessary services), privacy breaches, and quality-related events.

Source: Practical guidance for Health Care Boards on Compliance Oversight, AHIA, AHLA, HCCA and OIG, April 20, 2015

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**7 elements of safe harbor to confirm for physician arrangement compliance**

- Term of at least one year
- In writing by both parties
- Specify aggregate payment and set in advance
- Payment is reasonable and fair market value
- Compensation not related to volume or value of business
- Exact services to be performed must be outlined
- Services are commercially reasonable
## Summary of lessons learned from physician agreement settlements

1. Employment is not a safe harbor

2. Physicians being warned, shoulder responsibility with Fraud Alert

3. SRDP is always significantly less than cases that surface from relators (see OIG website for specifics: [http://www.oig.hhs.gov/compliance/self-disclosure-info/protocol.asp](http://www.oig.hhs.gov/compliance/self-disclosure-info/protocol.asp))

4. Yates Memo, executives you are now accountable as well

## WHY ARE PHYSICIAN CONTRACTS SO CHALLENGING
Compliant contract setup involves many steps

- Use Templates
- Annual review of all agreements
- Compliance audits
- Financial review

2 safe harbors are problematic over time

1. Payment is reasonable and fair market value
2. Exact services to be performed must be outlined
FMV breached because agreement isn’t followed

- **Operationally** FMV is not maintained when a monthly or annual maximum is exceeded
- **Contract is not adjudicated** financially on a consistent basis, or ever
- **Layering of agreements** leads to duplication of duties and time paid
- **Calculations** are incorrect
- **Math** is incorrect in the contract or so complex it is too difficult to follow

What the physician writes may not be a duty

- Room for error
- Frustrating for physicians
- Compliance risks
- Measuring spend

Most tracking currently takes place on paper and goes through a multitude of steps for approval and payment
Manual processes can lead to technical violations, i.e. paper time logs

BEST PRACTICES WHERE DOCUMENTATION IS NEEDED
1. Remove steps that aren’t adding value

Does the log meet the terms of the agreement?
1. Did the physician document the work?
2. Work is within scope of the agreement?
3. Physician signed the time log?
4. Did leadership confirm the work?
5. Did the work pass compliance audit?
6. Timeframe for submission is current?
7. Did the agreement expire?
8. Are approvals in place?
9. Has this payment already been made?
10. Is the pay at Fair Market Value?

2. Collect time logs for all non patient care activities for employed or independent

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<th>Hours</th>
<th>Notes</th>
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3. Standardize and streamline duties

- Ensure that the service line adheres to each hospital’s policies and procedures, applicable laws and regulations, accrediting body requirement and other regulatory compliance, and make recommendations to hospital personnel.
- The Director shall ensure compliance with regulatory agencies governing the medical staff, including the Joint Commission and state and federal agencies with the assistance of hospital personnel in the service.
- The Medical Director, in collaboration with the unit leadership, nursing director and hospital leadership, facilitates compliance with: department policies; TJC standards; federal rules and regulations; corporate integrity agreements

Reduce Variation
- Time consuming to check time log against specific duties each month – operational challenge

10 Unique Duties Per Facility
(10 x 60 = 600)

4. Approvers should be trained and have clear accountability

Access to physician’s historical and current logs

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<th>Approve</th>
<th>Name</th>
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<th>Start Date</th>
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Access to actual contract
4  Turn into one slide with following 2
Pascale Dargis, 9/16/2015
5. Mind the math not only with setup but with every payment

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<th>Avg Annual XHC</th>
<th>Avg Annual P&amp;I</th>
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| Total (22 Stores)          |                               | $633.00 | $633.00 | $782,970.00 | $782,970.00 | $782,970.00 | $782,970.00 | $782,970.00 | $782,970.00 |

CASE STUDY: AMITA HEALTH
Compliance Program AMITA Health

Phase I
1. Reduce contract variation – template contracts
2. Lock the documents to prevent edits
3. A/P accountable for verifying contract before payment

Phase II
1. Contract management system
2. Additional review of dates, amounts and live agreement
3. Stark/AKS training for management
4. Testing with audit

Phase III
1. FTE added in legal to review all payment requests
2. Sign off by Legal/ Compliance for all physician contracts
3. Training - people and expectations
4. Audit

Phase IV
1. Automation for input and approvals
2. Close gaps in process with automation solution
3. Training - people and expectations
4. Signature Authority defined
5. Reporting for Management
6. Audit
Compliance Program AMITA Health

Phase V
- Documenting FMV and Commercial Reasonableness
- Board approval of highly compensated physicians
- Data reporting provided metrics to evaluate the number of administrative service agreements and budgeted number of hours

CASE STUDY: JEFFERSON HEALTH
Jefferson Health

- Legal department oversees physician contracting
- Overtime, standardized templates and process for adding new agreements
- Identified documentation a problem - Where time logs were needed pain related to collecting paper time sheets, finding them, the time it took to pay and frustration for physicians
- Invested in automation to close identified gaps
- Some surprising results in the process

Jefferson Health

Quantifiable results in one year:
1. Physician satisfaction – leadership thought physicians would resist, yet not the case. Transparent; reminders; easier for them
2. Reimbursement improved – you heard that right, the lawyer found a way to improve reimbursement.. All admin hours go to the cost report
3. Improved contracts – better conversations with physicians and approvers on the actual work
   - One physician’s job too large, split
   - Better negotiations with academic partners
Jefferson Health

“Ah ha’s” identified through the process:
- Some physicians turn in exactly the amount of time allowed
- Hospital departmental leadership more involved in talking to the doctors now about the actual work
- Surprised how physicians are generally rule followers really grabbed the technology
- Data makes the audits better
- Opportunity to ensure reimbursement garnered is reflective of the administrative costs of physician agreements
- Time now spent analyzing the work and results as opposed to chasing documentation

Thank you!

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