

Can Healthcare Reimagine Compliance as a Catalyst for Optimal Patient Outcomes?

Introduction

Healthcare's ever-evolving labyrinth of regulations and compliance requirements presents Chief Compliance Officers with a formidable challenge - striking a delicate balance between adhering to intricate rules and providing optimal patient care is a constant endeavor.

What key issues and solutions must chief compliance officers grapple with?

To answer this question, we chatted with Robbi-Lynn Watnik, JD, CHPC, Senior Consultant at Strategic Management. Watnik has extensive experience in healthcare compliance, including her contributions to the development of the very first compliance guidance documents.

Says Watnik, many organizations still need to get the ball rolling on their compliance needs in a smart and strategic way.

"A lot of times, someone will say, 'I have a question.' We respond, 'Do you have a compliance program?' 'No,' they say. We respond, 'Let's start there.'"

"It's like trying to build an airplane while you're flying," she explains. "You've got to build the structure first."

Four Key Issues

In the pages to follow, Watnik sheds light on the complexities and nuances that Chief Compliance Officers must navigate to ensure their organizations operate within the bounds of the law, while upholding the highest standards of patient-centric care.



Issue 1: Adherence to Regulations vs. Patient-Centered Care

One of the most profound challenges in healthcare compliance? The tension between adhering to regulations and providing optimal care for patients. This balance is critical as compliance officers navigate through the complexities of laws such as the Federal Anti-Kickback Statute and the Physician Self-Referral Law, which significantly impact operational decisions.

Watnik highlights scenarios where providers identify specialized services or treatments that may not be covered by Medicare, private insurance, or other payers because they believe these interventions aren't in the patient's best interest.

This approach, she says, can prove problematic.

"Sometimes the laws aren't always on the providers' side to do what's best for the patient. It sounds kind of crazy," she stresses.

"You want to be in the facility to guide and provide, and to be able to say, 'This patient needs this now.' Is that because you want the Medicare reimbursement? Maybe. But the other side of it is you as a provider have that expertise to know what's best for the patient."

"The patient may need to go get a specialized service. Medicare may not cover it. Private insurance may not cover it. You want to cover it, but can you?" Watnik asks.

What's next? Compliance Officers, says Watnik, must guide providers through the legal and ethical boundaries, exploring options like advanced beneficiary notices, charity care, and case-by-case evaluations.

This approach, she says, involves striking a balance between compliance and advocating for patients' well-being.

In 1996, the Office of Inspector General (OIG) adopted the standards originally developed by the United States Sentencing Committee. [In November 2023, the OIG updated these standards.](#) Watnik compares this to when you add a Bill of Rights to the Constitution.

Below are seven standards the HHS General Compliance Program Guidance (GCPG) developed to emphasize a proactive approach to compliance, aiming to integrate ethical conduct into healthcare organizations' daily operations.

Seven Elements of an Effective Compliance Program

- 1. Written Policies and Procedures:** Establish a Code of Conduct and compliance procedures that reflect the organization's commitment to legal and ethical behavior.
- 2. Compliance Leadership and Oversight:** Appoint a Compliance Officer to monitor the program and form a Compliance Committee to support compliance efforts. Ensure the governing body is knowledgeable and involved in compliance activities.
- 3. Training and Education:** Provide regular training to ensure all employees understand their compliance responsibilities.
- 4. Effective Lines of Communication with the Compliance Officer and Disclosure Program:** Keep open lines of communication between employees and the Compliance Officer, and ensure mechanisms are in place for anonymous reporting.
- 5. Enforcing Standards:** Establish appropriate consequences for instances of noncompliance as well as incentives for compliance.
- 6. Risk Assessment, Auditing, and Monitoring:** The risk assessment helps to identify, analyze, and respond to risks; monitoring corrective action to mitigate the risks is followed up with audits.
- 7. Responding to Detected Offenses and Developing Corrective Action Initiatives:** Address violations effectively and adjust the compliance program to prevent future issues.

The landscape of compliance education has undergone a notable shift. At the center of this shift, the HHS-OIG emphasizes the importance of comprehensive training programs as part of the seven elements of effective compliance. Here, ongoing education is essential for maintaining an effective compliance program.

Emphasizes Watnik regarding these seven criteria elements, if you're just getting started, try this first:

- Have a Code of Conduct. This should be short and easy to read. It should also hit the high points easily so you can deliver information effectively and efficiently.
- Look at your baseline policies for each one of the seven elements.
- Dig into questions such as:
 - » What does that mean to us as a doctor's office or other institution, whatever you are defined as?
 - » How do we approach staff needs?
 - » Are we a small staff, like a family, or a bigger staff that perhaps feels more dispersed?
 - » How does this rapport and level of connection impact patient care?

Issue 2: Evolving Compliance Education and Practical Experience

Times are changing in terms of what high-quality Compliance Officer education looks like compared to recent decades. "Those of us who have been doing this a while came into it generally because someone threw a back door open for us," she notes. "Someone had to fill the position, so we stepped in."

How can the gap be bridged between theoretical knowledge and practical applications? Watnik suggests fostering collaboration. Exposure to direct patient care, even as a volunteer, will help get a better feel of what it's like to be in a hospital or healthcare setting.

"By melding academic knowledge with practical insights, organizations can cultivate a well-rounded and impactful approach to healthcare compliance," she concludes.

Issue 3: Tailoring Compliance Programs to Specific Healthcare Settings

Tailoring compliance programs to address the unique challenges of different healthcare settings is essential.

Consider, for example, how the HHS-OIG outlines the necessity of adapting compliance measures to effectively address the specific risks associated with various healthcare environments such as hospitals, nursing homes, and physician offices.

Watnik underscores the importance of tailoring compliance programs, policies, and procedures to the unique nuances of each healthcare setting. “A major issue for a physician office is going to be different than a major risk for a nursing home or for a hospital,” she explains.

She stresses the importance of starting with a general Code of Conduct and delving deeper into specific risks, “When building a compliance program, start with a code of conduct that outlines the high-level principles and then delve deeper into the specific risks and challenges faced by that particular setting.”

For instance, the intricacies of the Anti-Kickback Statute may manifest differently in a hospital versus a physician’s office.

Furthermore, the dynamics of small and large healthcare facilities can influence compliance implementation. “In smaller settings, where staff relationships are akin to a family, certain risks may be more apparent and directly impact patient care,” she says.

“Conversely, in larger, dispersed facilities, some risks may be less visible but still require attention.”

Issue 4: Leveraging Technology and Data Analytics in Compliance

In an era where technological advancements are reshaping various industries, healthcare compliance is no exception. The use of technology and data analytics plays a pivotal role in modernizing compliance efforts.

According to the HHS-OIG, for instance, effective compliance programs increasingly incorporate technological tools to conduct risk assessments, perform auditing and monitoring, and streamline organizational communications.

On that note, Watnik recognizes the potential of artificial intelligence (AI) and data analytics in enhancing compliance efforts, particularly in areas such as metrics analysis and risk assessment.

However, she also acknowledges the need for a balanced approach—one that harmonizes cutting-edge technology with patient-focused care. She notes, “You can look at a partnership of the folks that are really into tech and us folks that are still ‘old school’ doing it by pen and paper.”

“There’s an opportunity for really good partnerships between those that understand the AI world and all the tech, and those of us who are more patient focused. And you can be both,” she explains. “It’s about having both and melding them together. What a great program you’d have if you could do this. You’d have all these metrics, statistics, all that work happening without spending hours analyzing every line.”

By fostering partnerships between tech-savvy professionals and seasoned compliance experts, organizations can leverage the power of data and analytics while maintaining a steadfast commitment to compassionate, personalized patient care.

FINAL THOUGHTS

As Chief Compliance Officers navigate the intricate web of healthcare regulations, more nuanced, adaptable approaches that balance legal compliance with patient-centered care are needed. The significance of practical knowledge and a deep understanding of the healthcare environment can help drive ongoing change.

What's needed next? A more proactive, nuanced, and adaptable approach to compliance. One that balances legal requirements with the need to prioritize patient care.

By embracing collaboration between seasoned professionals and the next generation of practitioners, leveraging technology judiciously, and tailoring compliance strategies to specific healthcare settings, Chief Compliance Officers can uphold the highest standards of patient care while adhering to the intricate tapestry of regulations that govern the industry.

As Watnik concludes, a tri-fold strategy is necessary to drive ongoing industry transformation: "Continuous education, open communication, and a willingness to explore innovative solutions are essential for addressing the evolving challenges of healthcare compliance."

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