



# *HCCA's 12<sup>TH</sup> ANNUAL* COMPLIANCE INSTITUTE

APRIL 13–16, 2008 | NEW ORLEANS, LA | HILTON RIVERSIDE NEW ORLEANS

## Compliance 101

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# Why are Compliance Programs Important?

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- Raise Awareness
- Mitigation Factor
- Communicate Commitment
- Avoid CIA (Corporate Integrity Agreement)
- Reduce Threat of Qui-Tams (Whistleblower)

# How Comprehensive Should a Compliance Program Be?

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- Medicare Billing Compliance
- Medicaid
- Employment/Labor Law
- Therapy Centers
- Safety
- EMTALA (Emergency Medical Treatment & Active Labor Act)
- HIPAA Privacy & Security
- Research
- Stark
- Anti-kickback
- Sarbanes-Oxley
- Quality
- Accreditation
- Other Federal &/or State Laws

# What is a Compliance Program

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- A comprehensive program to prevent and detect violations of law or policy
- Defines expectation for employees for ethical and proper behaviors when conducting business
- Demonstrates the organization's commitment to "doing the right thing"
- Encourages problems to be reported
- Provides a mechanism for constant monitoring
- Recommended by government

# Who Needs a Compliance Program?

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You do!



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# Evolving Expectations for Compliance Programs

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- Report of the Ad Hoc Advisory Group on the Organizational Sentencing Guidelines
- CMS Compliance Program Effectiveness

# United States Sentencing Guidelines

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- Effective November 1, 1991
- Control sentencing of organizations for most federal criminal violations
- Sentencing credit for “effective programs to prevent and detect violations of law”



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## Report of the Ad Hoc Advisory Group on the Organizational Sentencing Guidelines



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# Ad Hoc Advisory Group

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- Report published October 7, 2003
- <http://www.ussc.gov/corp/advgrprpt/advgrprpt.htm>
- Effective November 1, 2004



# Recommendations

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- “culture” of compliance
- defining compliance standards & procedures
- spelling out compliance obligations
- adequate resources
- clarifying employee screening practices

## Recommendations, cont.

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- Training an essential element
- Mandating means for anonymous reporting
- add, “specifically encourage prevention and deterrence of violations of the law as part of compliance programs”
- “ongoing risk assessments” if credit expected

# CMS Effectiveness Project

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- Leadership Buy-in
- Importance of the Compliance Officer
- CO's relationships across the entity
- Use of available data
- Integration of auditing
- Financial processes including coding



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## Organizations Steps to an Effective Compliance Program

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# Organizational Relationships and Support

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- Board
- Senior Leadership
- Management
- Providers
- Staff
- Finance and Budget



# Seven Essential Elements of a Compliance Program

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“The Seven Elements of a compliance program are important individually, but are most effective on an interdependent basis.” CMS

# Seven Elements

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- Standards and Procedures
- Education and Training
- Oversight
- Monitoring and Auditing
- Reporting
- Enforcement and Discipline
- Response and Prevention

# Standards and Procedures

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- Code of Conduct
  - Simple, short and separate from policies and procedures
  - Provide to all new employees, staff and vendors and during annual compliance training
  - Outline specific legal duty
  - Post prominently – posters and/or intranet
  - Use of attestations

# Standards and Procedures

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- Policies and Procedures
  - Senior leadership endorsed/approved including Board
  - Follow institutional template
  - Periodically reviewed and revised

# Education and Training

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- Role of Compliance Officer in developing
- Specific to roles and responsibilities
- Use training to focus on key risk areas
- Physician training most effective with personal approach
- Essential to reinforcing importance of your compliance program
- Everyone – 1 hour
- High risk areas – 3 hours
- Required under Deficit Reduction Act

# Oversight (Authority and Resources)

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- Board's Role
- Audit and Compliance Committee
- Compliance Officer
- Compliance Committee
- Other Committees
- Distributed Compliance Positions
- Subject Matter Experts

# Monitoring and Auditing

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- Internal “Audits” and Compliance “Reviews”
- Importance of Annual Plan
- Addition of ad hoc projects
- Concurrent vs. Retrospective
- Sharing results across the organization

# Reporting and Investigation

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## Hotline

- Electronic tracking of investigations and results
- Reporting to leadership
  - More than numbers
  - Nature of calls and contacts
  - Multiple methods of communication
- Non-retaliation policy
- Confidentiality and Anonymity
- Use of exit interviews for identifying potential areas of concern

# Enforcement and Discipline

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- Sanctions for non-compliant behaviors
- Consistency
- OIG Sanctions
- GSA Sanctions
- Incentives

# Response and Prevention

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- Internal Investigations
  - Is it really a problem?
  - How serious is it?
  - Are there sufficient facts to investigate
- Role of Legal Counsel
- Interviews and discovery
- Document, document, document
- Create/Revise Policy

# Compliance Plan

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- OIG Work Plan
- OIG Advisory Opinions
- OIG Fraud Alerts
- OIG Settlements
- State AGs
- AUSA Settlements/Convictions

# OIG Guidance

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- Voluntary Disclosure
- Hospital
- Laboratory
- Home Health
- Third Party Billing
- DME
- Hospice
- Medicare + Choice
- Nursing Facilities
- Ambulance
- Pharma
- Hospital Supplemental
- Research (draft)



# Enforcement Fads

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- 1970's - Political corruption
- 1980's - Defense fraud
- 1990's - Health care fraud
- 2000's - Corporate governance/accounting fraud

# Escaping the Spotlight

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- Maintain Commitment
- Be Vigilant in Latest Areas of Enforcement Agency interests

# OIG Savings and Recoveries

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- Fiscal Year 2007 HHS OIG Semiannual Report to Congress
- \$43.08B in savings
  - \$39B in implemented recommendations & other actions
  - \$1.9B in audit receivables
  - \$2.18B in investigative receivables

# Summary

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- HCCA's Annual Survey Summary Results
- Benchmarking
- Effectiveness Evaluations