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Benchmarking Compliance Programs

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Health Care Compliance Association®

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Agenda

1. **Introduction**

2. **Benchmarking and Effectiveness**

3. **Elements to Consider in Your Benchmarking Efforts**

4. **Q&A**

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Introduction

Bret S. Bissey, MBA, FACHE, CHC, CMPE
Senior vice president, Compliance Services

- 30 years of diversified healthcare management, operations and compliance experience.

- Former SVP, chief of ethics and compliance officer at UMDNJ.

  o Credited with re-engineering the compliance program of the nation's largest free-standing public health sciences university.

  o Successfully led the compliance program to adhere to CIA with DHHS/OIG that occurred following a Deferred Prosecution Agreement.

- Chief compliance and privacy officer at Deborah Heart and Lung Center.

  o Three-year CIA, first settlement of Voluntary Disclosure Protocol.

  o Compliance program recognized by HCCA as a "Best Practice."

- Certified in HCCA and the Medical Group Management Association.

- Author of Compliance Officer's Handbook.

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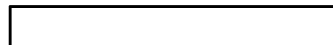
Benchmarking and Effectiveness

Government Guidance – "Gold" Standard

Original OIG Compliance Program Guidance for Hospitals:

- "Effective" is referenced 19 times.

- Means it is important.

- OIG states it needs "benchmarking" compliance program progress but doesn't provide much direction.

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Benchmarking – OIG Mentions Two Examples

1. **Claims processing**

- Establish a benchmark for error rates.

  - o You will need to decide:

    - CIA Standard?

    - True error rate or Net Dollar Value?

    - Sample Size?

    - Consistency of Universe?

    - Prospective or Retrospective?

    - Etc…

- Monitor error rates over time.

- Goal – show improvement.

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Benchmarking – OIG Mentions Two Examples

2. Surveys

- Objective: How well do your covered persons understand the operations of the compliance program and their applicable obligations?

- Why are surveys important?

- 2004 Amendment to U.S. Sentencing Commission guidelines calls out the significance of compliance "culture" and states businesses must "promote an organizational culture that encourages ethical conduct and a commitment to compliance with the law."

- OIG Compliance Program Guidance for Hospitals states that Compliance or reviewers use techniques, such as questionnaires developed to solicit impressions of a broad cross-section of hospital staff….

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Benchmarking Surveys

- **Compliance culture – attempt to measure covered persons' attitudes and views regarding the organization's commitment to compliance.**
   - Is it real or a sham?

- **Employee compliance knowledge.**

- **Goal – provide evidence of program effectiveness.**
   - Your leadership and board should be asking for this.
     - Elements to include: employee surveys, management assessments, audit results vs. benchmark, investigation numerics, disciplinary numerics, trending overpayments, employee feedback….

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Compliance Culture Survey

Focus is on the beliefs and values of the organization's members.

- Can all levels demonstrate commitment to compliance?
- Examples:
  - If an overpayment is needed to be refunded, is there any conflict in it occurring?
  - If a senior-level executive made an unethical or improper decision, would it be addressed?
  - If a major referring physician were involved in an unethical business practice, would your leadership make the proper decisions that are consistent with your compliance program?

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Compliance Knowledge Survey

Test knowledge of compliance program structure and operations.

- Who is the compliance officer?
- If you observed an unethical decision, illegal behavior, patient harm or violation of law or regulation, where would you report this incident(s)?
- Has your compliance message reached and resonated with your target audience?
- Both types of surveys allow you to benchmark and measure compliance effectiveness over time.
  - Goal is that survey trend shows better results….

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Elements to Consider in Your Benchmarking Efforts

- **Hotline Calls.**
- **Education.** ⟶
  - • Staff.
  - • Physicians - Focus Arrangements.
  - • Board.
  - • Executives.
- **Audit/Monitoring Results**
- **Potential Areas of Trending Your Coding, Billing Results.**
- **Audit Benchmarking Scorecard.**
- **Annual Audit Work Plan Completion.**
- **Budget Analytics.**
- **Other Data Points to Trend by Year.**

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Hotline Calls – Benchmarking

- **Do you include just calls or all matters "logged" by Compliance?**
- **Need to ensure you have a consistent measurement…**
- **How many of those matters resulted in:**
  - o Investigations?
  - o Remediation?
  - o Paybacks?
  - o Disciplinary actions?
  - o Other?
- **Trending data is the key….**
- **What is your baseline?**
- **Deal with the compliance naysayers in your organization.**
  - o "This is only for HR matters"…. "it is a waste of time"

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Education – Benchmarking

- **How much compliance education is enough?**
- **Follow DHHS OIG CIA requirement or establish your own expectations?**
    - Have Board support.
- **Establish standard for different groups – "I like the following:"**
    - Staff except housekeeping and food service – 1 hour annually.
    - Executives – 2 hours annually.
    - Physicians – 2 hours annually.
    - Board – 2 hours annually.
    - *Exception – those involved in negotiating physician or referral arrangements 2 hours plus specific training on Stark and Anti-Kickback Statute by an expert…
- **Can your organization tolerate this?**
    - Answer will tell you about your compliance culture.

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Audit/Monitoring – Benchmarking

- **Looking for improvement.**
- **Be careful – creative people can make audit results look better than they are.**
    - Must establish **_consistent_** measurements.
- **Consider using _Net Dollar Value Error Rate_ on consistent universe annually as one review.**
    - 50 claim randomly selected probe sample – consistent with OIG requirements.
    - Five percent or below is an acceptable error rate…
    - Great way to have a consistent measurement year after year.
- **Complement with other planned and focused reviews and trend the results.**
- **How many "for cause" reviews performed annually – comparison.**

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Potential Areas of Trending Your Coding, Billing Results

- **Short stays/outpatient/observation.**

- **E&M.**

- **Consultations.**

- **DRG – focused areas.**

- **Research billing.**

- **Demonstrate corrective actions.**

- **Validate that no "pattern or practice" evident.**

- **Attorney-client privilege considerations.**

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Audit Benchmarking Scorecard

	Net Dollar Value Error Rate yr 1	Net Dollar Value Error Rate yr 2
ANNUAL REVIEW	3.5%	5.2%
RISK AREA 1	10.9%	3.3%
RISK AREA 2	6.0%	4.5%
RISK AREA 3	2.1%	1.2%

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Annual Audit Work Plan Completion

- **Based upon approved annual work plan.**
  - o By Compliance/Audit Committee or Board.
- **How many projects were on original plan?**
- **How many projects were added during year?**
- **How many were completed? Not completed?**
- **Trend to answer resources and accurate planning.**
- **If you are missing either bad budget or operational problem.**

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Budget Analytics

- **Based upon operating and FTE budgets approved by Board or Compliance/Audit Committee.**
- **Operating budget variance ($$ and %).**
  - o Why a variance? Consultants?
- **FTE budget variance ($$ and %).**
  - o Is there turnover? Why?
  - o Are there unfilled vacancies? Why?
  - o What corrective action is proposed?
- **Trending of budget and actual expenses over past several years.**
- **Good management dictates that you operate department within acceptable budget…**
  - o Being under budget doesn't mean you are doing a good compliance job!

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Other Data Points to Trend by Year

- **Compliance presentations to senior management.**

- **New and renewed Focus Arrangements.**

- **Payments made to nonemployed physicians without an agreement.**

- **Payments made to nonemployed physicians without evidence of time and effort approval.**

- **Refunds**

- **Survey Results**

- **Quality Involvement… LD 04.03.09 "Clinical Vendors Evaluation"**

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CMS Hospital Conditions of Participation (COP)

- **Published in 1986**
- **Updated frequently**
  - Must check regularly for updates
- **Mandatory compliance**
  - Hospitals that participate in Medicare or Medicaid must meet the COPs for all patients

- **If Hospitals are not compliance – potential exclusion from Medicare & Medicaid program (i.e. – death sentence)**

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COP Contracted Services - Specific Requirement

Q: What are our responsibilities related to services provided by our contracted organization?

A: Leaders must oversee contracted services to make sure that they are provided safely and effectively. The only contractual agreements subject to the requirements at Standard LD.04.03.09 are those for the **provision of care, treatment and services provided to the hospital's (organization's) patients.** This standard does not apply to contracted services that are not directly related to patient care. The EPs do not prescribe the methods for evaluating contracted services; *leaders are expected to select the best methods for their hospital (organization) to oversee the quality and safety of services provided through contractual agreement*.

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Quality and Predicted Revenue Impact

- **By 2018, half of <u>Medicare</u> spending outside of managed care will be paid with incentives associated with achieving quality and managing costs.**

- **How to sell your compliance program – major point**
  - ** You just got the attention of your organization - $$$$

- **COP** LD.04.03.09 is what is being measured!

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Accreditation Trends

- Accrediting organizations now assess quality through the evaluation of vendors that provide clinical services.

- New accreditation and regulatory directives have required healthcare organizations to track quality performance metrics for vendors that provide direct patient care.

- As a best practice, many organizations have also started to proactively assess contracts with nonclinical vendors, as well.
  - Association between supply chain and compliance
  - Efficiencies, expense reduction & compliance all go together

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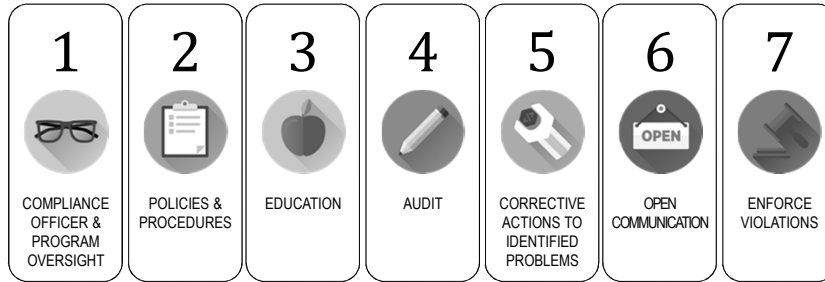**MediTract**

Elements to Consider in Your Benchmarking Efforts

Hotline Calls

Other Data Points to Trend by Year
- Refunds.
- Physician arrangements
- Survey results

Education

Budget Analytics

Audit/Monitoring

Annual Audit Work Plan Completion

Potential Areas of Trending Your Coding, Billing Results

Audit Benchmarking Scorecard

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Compliance is Pretty Basic

Seven Elements of the OIG Model Compliance Program:

1	2	3	4	5	6	7
COMPLIANCE OFFICER & PROGRAM OVERSIGHT	POLICIES & PROCEDURES	EDUCATION	AUDIT	CORRECTIVE ACTIONS TO IDENTIFIED PROBLEMS	OPEN COMMUNICATION	ENFORCE VIOLATIONS

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If an organization is found guilty of a violation of state or federal laws, the government may offer a reduction in penalties if an effective compliance program is in place.

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OIG CIA • Stark Law • Sunshine Act • The Joint Commission Standards (LD)

We know healthcare.

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PROFILE
Provides compliance expertise to hospital and healthcare organizations.

EDUCATION & HONORS

BS – Business Administration, Shippensburg University

MBA – Marketing and Healthcare Administration, Wilkes College

Health Care Compliance Association Certified

Medical Group Management Association – CMPE

Fellow of the American College of Healthcare Executives

BACKGROUND

- Bret has more than 30 years of diversified healthcare management, operations and compliance experience, and presented at more than 100 regional and national industry conferences and meetings on numerous compliance topics.
- He joined MediTract in September 2013 as a senior executive.
- Bret is a fellow of the American College of Healthcare Executives.
- From 2010 to 2013, he was the Senior Vice President, Chief Ethics and Compliance Officer of the University of Medicine and Dentistry of New Jersey (UMDNJ). There he successfully re-engineered the nation's largest sector compliance and ethics program under a rigorous Corporate Integrity Agreement (CIA) with the HHS OIG.
- Bret has taught undergraduate and graduate courses as an adjunct faculty member at College of St. Francis, Joliet, Illinois and Allentown College of St. Francis De Sales, Center Valley, Pennsylvania.
- He is certified in the Health Care Compliance Association and the Medical Group Management Association. He is a past president (2001-2003) for Region 2 of the HCCA.
- Bret is the author of The Compliance Officer's Handbook, which was published in 2006.

PROFESSIONAL & INDUSTRY EXPERIENCE

- At MediTract, Bret is responsible for thought management, enhancing product development, managing consulting engagements and providing compliance expertise to more than 1400 hospital and healthcare clients.
- At UMDNJ, the largest public sciences university in the country, Bret reported to the Chairman of the Audit Committee of the Board of Trustees and University President. There he managed 40 compliance, ethics and investigations professionals and an annual operating budget of $5.2 million.
- Bret improves compliance through the development and implementation of departmental and institutional processes and programs. He once developed a formal compliance process for a $1.7 billion international public company.
- Bret was responsible for the development and ongoing management of the Corporate Compliance Program, which resulted from the nation's first Voluntary Disclosure Settlement (October, 1998) at a specialty hospital with more than 90 employed physicians. HCCA recognized the compliance program as a "Best Practice."
- Bret uses his management leadership and direction to increase revenue. He once increased annual consulting revenue from $6 million to $11 million in one year. With his guidance, they signed contracts with many prestigious healthcare organizations and physician groups and gained recognition as one of the top 100 fastest-growing private companies in America as reported by Inc. Magazine (January 1998).

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Q&A

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