The 7 Key Elements of a Practice Compliance Plan

By - R. Thomas Loughrey, MBA and Richard P. Ley
Seven Elements to the Plan:

1. Standards of Conduct
2. The Compliance Officer
3. Education and Training
4. Reporting Problems and Incidents
5. Responding To Problems & Enforcement
6. Audits & Monitoring Compliance
7. Response Plan & Corrective Actions

Element One: A Standard or Code of Conduct

Our practice is fully committed to compliance with regulations covering our coding, documentation, billing and financial record keeping. This commitment includes all physicians, clinical staff, management, business office staff and contractors we engage for services.

1. We are committed to providing clear standards of performance and we shall be accountable for all our actions as a company and as individuals.

2. We are committed to adhering to all federal and state rules and regulations regarding the payment of claims for our services.

3. We are committed to the education of our employees and physicians as well as the use of constructive discipline when and where necessary to maintain our adherence.

Goals for Compliance

To educate all physicians and staff regarding federal, state and private payer health program laws and/or rules and regulations.

To communicate clearly to our patients the integrity of billing procedures and policies.

To conduct business ethically.

To evaluate internal coding, billing and documentation policies and procedures

To implement steps to improve ethical coding and billing practices.

To protect our practice from unethical employees who do not respond to training, education and other disciplinary measures.

Code of Conduct

This office will not charge for services not rendered to patients.

Documentation of services rendered will be complete and legible.

Evaluation and Management coding will adhere to established Medicare and/or CPT™ guidelines for all payers as appropriate.

Diagnosis codes reported will be descriptive of the purpose for which a service is performed.

Modifiers will be used only when justified by the rules.

Medical necessity requirements will be observed and followed.

Medicare and CPT™ guidelines will be reviewed on an ongoing basis.

This office will incorporate commitment to compliance in all internal documents, including our personnel manual, criteria for hiring, evaluations and job descriptions.
Specific Actions

1. The practice will have established compliance standards and procedures to be followed by its employees and other agents that are reasonably capable of reducing the prospect of abusive or fraudulent conduct.

2. Specific individual(s) within high-level personnel of the organization will have overall responsibility to oversee compliance with such standards and procedures.

3. The practice will use due care not to delegate substantial discretionary authority to individuals whom the organization knows, or should know, through exercise of due diligence, has a propensity to engage in inappropriate activities.

4. The practice will take steps to communicate effectively its standards and procedures to all employees and other agents, e.g. by requiring participation in training programs or by disseminating publications that explain in practical manner what is required.

5. The practice will take reasonable steps to achieve compliance with its standards, e.g., by utilizing monitoring and auditing systems reasonably designed to detect inappropriate conduct by its employees and other agents and by having in place and publicizing a report system whereby employees and other agents could report inappropriate conduct by others within the organization without fear of retribution.

6. The standards will be consistently enforced through appropriate disciplinary mechanisms, including, as appropriate, discipline of individuals responsible for the failure to detect an offense. Adequate discipline of individuals responsible for an offense is a necessary component of enforcement; however, the form of discipline that will be appropriate will be case specific.

7. After an offense has been detected, the practice will take all reasonable steps to respond appropriately to the offense and to prevent further similar offenses - including any necessary modifications to its program to prevent and detect violations of law.

Element 2: The Compliance Officer

\= The office manager shall be responsible for the implementation of the compliance plan and for maintaining an ongoing program of compliance through education, training and the development of appropriate policies and procedures.

\= The compliance officer has all authority necessary to accomplish the goals of the compliance plan with the subsequent responsibility to assure the practice is in full compliance with all regulatory requirements.

\= In the event the compliance officer is not fulfilling the duties described, the practice assumes the obligation of fulfilling the duties of the compliance officer.

Job Description

This position is responsible for the development, implementation, training and enforcement of the compliance plan approved by the practice. The compliance officer will work with other members of management, physicians and staff to ensure that documentation, coding, billing and related procedures are fully compliant.
**Duties and Activities**

- Development and supervision of training and educational materials for physicians and staff
- Design, supervision and interpretation of internal audit activities
- Establishing confidential and non-retributory reporting mechanisms for suspected violations
- Investigation and remediation of suspected violations
- Input to employee evaluations for compliance purposes
- Regular and timely reporting to management on violations, remediation and any disciplinary action taken
- Review of publications and outside training to stay current in regulatory requirements
- Maintenance of resources available for compliance education and training
- Maintain all records relating to compliance training, investigations, remediation and discipline

**Requirements**

- Verbal and written communication skills
- Knowledge of principles of billing and coding including appropriate documentation
- Leadership ability
- Ability to work independently and with teams
  - Along with the ability to recognize when it is appropriate to work in either mode
- Analytical abilities
- Ability to constructively discipline others

**Responsibility & Authority**

- **Responsibility:**
  - The compliance officer is responsible to the physician owners.
- **Authority:**
  - The compliance officer shall have all authority required to meet the goals of the compliance plan within the time frame approved by management including necessary funding and resources as may be approved by management.
Element 3: Education & Training

**Interpretation**

- The education and training aspect of this plan is to ensure that physicians and staff, as well as agents of the practice, understand their respective roles as it relates to complying with rules and regulations for billing for professional services.
- The training and education issues of particular importance deal with fraud and abuse: identifying it, reporting it, correcting it and training others in the process.
- The following topics could be included in a training and education program:
  - Introduction to the compliance plan
  - Documentation guidelines for E&M coding
  - Use of charge documents (superbill, encounter forms, routing slips, etc.)
  - Procedure coding (CPT and HCPCS)
  - Diagnosis coding (ICD-9)
  - Proper use of modifiers
  - Correct Coding Initiative – Bundled code pairs
  - Balance billing requirements, refunds, etc.
  - Consultation vs. visit requirements
  - Results of chart audits
  - Open Q&A sessions

**Other Resources:**

- CPT / ICD-9 books
- Outside training sessions
- Specialty specific journals
- AMA – Coding Assistant™
- Part B News
- Websites - MedLearn
  - OIG: [www.hhs.gov/progorg/oig](http://www.hhs.gov/progorg/oig)
  - CMS: [www.hhs.cms.gov](http://www.hhs.cms.gov)
  - AHIMA (American Health Information Management Association): [www.ahima.org](http://www.ahima.org)

**More Resources:**

- Medicare Carrier’s Manual (rules and regulations)
- Federal Register (rules and regulations)
- Correct Coding Initiative (rules and regulations)
- State Medicare Bulletins (rules and regulations)
- Coverage Issues Manual (rules and regulations)
- Medicare Fee Schedule Database (rules and regulations)
- Private carrier bulletins (rules and regulations)
- HCPCS (procedure, drug, and supply codes)
- RBRVS or an Relative Value for Physicians™ (fee development resource)

**Documentation:**

- Every employee and physician shall have a log maintained of education and training. A copy of this log shall be maintained in the personnel file of each employee.
- Any employee or physician taking outside education should provide a copy of the course outline or Table of Contents for the course to document the training received outside the practice.
Element 4: Reporting Problems & Incidents

**Interpretation:**

\(=\) The success of our compliance plan depends on the ability of employees, managers and providers to report potential abusive and fraudulent situations. Our goal is to create an atmosphere in which detection is encouraged for the purpose of training and educating individuals in proper compliance.

\(=\) It is absolutely prohibited by any person in the practice, or an agent of the practice, to take punitive action in retribution against an employee who brings possible violations to our attention.

\(=\) For this purpose, a communication mechanism shall include some means of effectively communicating problems in a confidential manner. Employees are encouraged to use the communication forms and to type responses if true anonymity is desired.

**Implementation:**

\(=\) In most circumstances the observer should complete the "Confidential Incident Report".

\(=\) The report should be given directly to the compliance officer.

\(=\) If the observer wishes to remain anonymous, the report may be discretely left on the compliance officer’s desk or mailed to the compliance officer directly marked “Personal & Confidential”.

\(=\) If the observer needs to explain the report and is reluctant to speak with the compliance officer or another supervisor, the observer may contact our practice attorney at ______________. Our attorney is obligated to not reveal any information about the identity of the observer to us. Our interest is in correcting the problem, not punishing the messenger.

\(=\) Management will address the problem and provide a response to all reports.

\(=\) If the observer feels that all reports have gone unheeded by the supervisor, compliance officer, attorney and physicians, the observer has the right to contact the regulatory entity, whether that is the private payer or the Medicare carrier or Inspector General’s office. This should only be done when the practice is completely disregarding the reports. The Fraud Hotline Number is: 1-800-HHS-TIPS (1-800-447-8477)

Element Five: Responding To Problems & Enforcement

**Interpretation:**

\(=\) The compliance officer is responsible for investigating every complaint or allegation of abusive or fraudulent activities related to reimbursement for services.

\(=\) The compliance officer is also responsible to see that the compliance plan is followed by every person in the office.

\(=\) Repeat offenders and intentional violations shall be evaluated for appropriate disciplinary action up to and including termination.

\(=\) In serious cases involving repeated violations or intentional violations the compliance officer may work with legal counsel in the process.

\(=\) The compliance officer shall work with the practice to review the results of investigations and implement appropriate policy and procedure changes as well as train personnel in the revised policies and procedures.
**Implementation:**

- Investigate all Confidential Incident Reports
- Establish all facts surrounding the incident through interviews and review of documents
- Review incidents in light of existing policies, procedures and training
- Revise policies and procedures as indicated
- Provide education and training as indicated
- Correct any submitted claims and provide refunds

**Enforcement:**

- The following disciplinary actions may be taken as part of an enforcement program:
  - Additional training for individuals including a requirement that the individual be responsible for the expense of the cost of the training
  - Focused monitoring of offender’s continued adherence to policies and procedures through a new probationary period
  - Information included as disciplinary action in offender’s personnel file
  - Suspension with pay
  - Suspension without pay
  - Termination

**Element Six: Audits and Monitoring Compliance**

**Interpretation:**

- Audits serve the purpose of determining the current and historic state of compliance as well as creating the subject material for training and education. Re-auditing and monitoring progress can determine the effectiveness of the training.
- The compliance officer shall determine the timing and the extent of any audits and how the audits should be conducted (internal audits vs. outside audits)
- All employees are involved in the monitoring process through their everyday work assignments. When an employee feels that compliance is not being maintained the monitoring process shall have a mechanism for reporting such variances
Implementation:

- The billing process should be documented from the time the patient is scheduled for a service through the patient contact, the coding of the services and diagnoses, the input to the data system, preparation of claims and posting of payments and adjustments.
- Certain areas (notably coding and posting) deserve special attention during audits. Repetitious errors are most common here, e.g.; one code for all established patient visits or consistent use of level three hospital visit code instead of discharge code on day of discharge.
- The practice is committed to regular small-scale audits on a relatively frequent basis as opposed to less frequent large-scale audits.
- Audits shall focus on the work of new employees and physicians within their first six months.
- Chart reviews shall include all levels of services for new and established patients.
- The practice shall periodically have a sample of audited charts reviewed by a qualified external auditor for quality assurance.

Desk Audit:

Since desk audits are less time-consuming and less costly than full chart audits, the practice will periodically limit the audit to the following types:

- EOB Review – Purpose: to determine patterns of charges at various levels, payer denials and code changes, over-payments, duplicate charges.
- Charge Report – Purpose: to determine levels of codes submitted and distribution by provider and site.
- Provider Production Reports - Purpose: to determine reasonableness of number of charges per day.
- General Chart Review – Purpose: to determine the physical chart integrity, legibility of records, ease of data access.

Element Seven: Response Plan & Corrective Actions

Interpretation:

- In the course of any audit or investigation of a Confidential Incident Report should any violation of law be determined, the compliance officer will be responsible for a timely and positive response to the infraction.
- The practice has no obligation to report every infraction to regulatory authorities. Refunding overpayments and implementing our internal disciplinary and training programs will deal with any violations.

Implementation:

- Any course of action relating to this policy will be dealt with on a case-by-case basis but will generally follow the guidelines specified .
- In the event of serious infractions (willful violations and repeated violations), the compliance officer may be assisted by legal counsel.
- Re-bill any claims that were improperly coded and submitted
- Prompt and voluntary refund of any payments received in error
- Disciplinary action with offenders
Procedure for External Investigations:

Despite the best efforts of the practice to have in place policies and procedures to prevent, detect and correct abusive or fraudulent incidents, law enforcement agencies and private third party payers may conduct their own investigations and audits of our practice. The following protocols will apply to any such investigation:

1. Any requests for records should be responded to on a timely basis. Requests for copies of the medical record relating to a single date of service do not need to be copied to the compliance officer. The compliance officer should first review requests for multiple days of service, or multiple patient records.

2. Such records should be copied and provided only to those third party payers that have a right to the record.

3. Any requests for records (or subpoena) for records presented on site require the immediate notification of the compliance officer, or if unavailable, a senior member of management. Staff should be courteous and professional at all times.

4. The investigator’s identification should be seen and the name of the investigator(s) recorded.

5. The compliance officer should notify legal counsel if the request is for an immediate production of the records or a search warrant for records.

6. In the event the investigators have a proper search warrant, they will be entitled to immediate access to the records.

7. Staff should produce any records requested without comment. All statements should come from the compliance officer or senior manager with the advice of legal counsel.

8. Staff and the compliance officer should closely observe the search and take notes regarding materials taken.

9. The investigators should provide an inventory of everything seized and taken.

About the authors - R. Thomas (Tom) Loughrey and Richard Ley are co-founders of Economedix, LLC, and the developers of Practice Management Seminar Series, a group of distance-learning courses provided over the Internet. Both Mr. Loughrey and Mr. Ley graduated from Penn State University and Mr. Loughrey went on to earn his MBA from the University of Florida in Health and Hospital Administration. Additionally, he maintains professional memberships in the Medical Group Management Association, the Health Care Financial Management Association, the American College of Health Care Administrators and the American Association of Medical Society Executives. Prior to forming Economedix, Mr. Loughrey was President of Conomikes Associates and Mr. Ley was President & CEO of Costar Research. Tom Loughrey can be reached at tloughery@economedix.com and Richard Ley can be reached at rley@economedix.com. The firm’s toll free number is 877-401-9655 and the URL is http://YourMedPractice.com.