Using Controlled Self-Assessment to Determine Compliance Risk

John Falcetano, CHC-F, CCEP, CHRC, CIA
University Health Systems of Eastern Carolina
Jfalcetano@suddenlink.net
252-847-0125

Agenda

• Discuss internal controls and how they relate to compliance.
• Discuss how Control Self-Assessment can assist in identifying risk.
• Discuss universal business risks.
• Identify things that can affect risk.
• Discuss approaches to risk assessment.
• Understand the importance of prioritizing risk.
• Controlling action plans that address risk.
Internal Controls: How does this relate to compliance?

Definition of Internal Controls

- A process effected by an entity's board of directors, management, and other personnel designed to provide reasonable assurance regarding the achievement of objectives.
Commission Of Sponsoring Organizations (COSO)

- "COSO" provides a sound basis for establishing internal control systems and determining their effectiveness.

- Objectives of an internal control system:
  1. Efficient and effective operations,
  2. Accurate financial reporting, and
  3. Compliance with laws and regulations.

Types of Internal Controls

- Preventive

- Detective

- Directive
The Business Case for a Strong Internal Control Program

Upside

Downside

• “incumbent upon a health system’s corporate officers and managers to provide ethical leadership to the organization and to assure that adequate systems are in place to facilitate ethical and legal conduct”

Per OIG Guidance
Examining Effectiveness of Internal Controls Through Control Self-Assessment

Why?

- Line Staff
- Soft Controls
- Team Approach
- Manager Involvement
- Employee Buy-in
Benefits of Conducting CSA

• Increases scope
• Targets audit work
• Frees internal audit resources
• Increases awareness
• Motivates personnel

Controlled Self-Assessment (CSA)

• Reviews:
  – Key business objectives
  – Risks involved in achieving objectives
  – Internal controls to manage those risks
Management Team as Leaders

Primary Objectives of Internal Controls

Accomplishment of organizational objectives and goals
Three Primary Approaches to Control Self-Assessment

• Facilitated Team Meetings/Workshops
• Questionnaires/Surveys
• Management-Produced Analysis

Four Types of CSA Facilitated Meetings Formats

• Control-based
• Process-based
• Objective-based
• Risk-based
Controlled-based CSA

• Focus is on internal controls

Process-based CSA

• Focus on examining the steps/activities performed within selected processes
Objective-based CSA

• Focuses on best way to accomplish an objective
• Significant input from the work unit

Risk-based CSA

• Focus on identifying and managing risk
• Examines control activities to ensure the control is sufficient to manage risk
Risk-based CSA

- Barriers
- Roadblocks
- Red Tape
- Hindrances

Characteristics of Risk-based CSA

Objective

- Risks
- Controls
- Residual Risks
- Assessment
The organization shall . . .

(A) Assess periodically the risk that criminal conduct will occur, including assessing the following:

(i) The nature and seriousness of such criminal conduct . . .

(ii) The likelihood that certain criminal conduct may occur because of the nature of the organization’s business . . .

(iii) The prior history of the organization . . .

What is Risk?

- Risk is something that might prevent an organization from meeting an objective.
Universal Business Risks

Things that Affect Risk

- Organizational Ethics
- Financial Demands
- Technology
- Competition
- Mergers/Joint Ventures/Acquisitions/Alliances
- Laws/Rules/Regulations
- Unknown
Enterprise Risk Management

Enterprise-Wide Risk Assessment

- Strategic
  - Strategy
  - Goals
  - Mission
  - Objectives
  - Alliances
  - Joint Ventures
  - Outsourcers
  - Third Parties
Enterprise-Wide Risk Assessment

- Operational Risk Management
  - Insurance
    - Property
    - Casualty
    - Liability
  - Risk Management
- Information
- Security
- Asset Protection
- Corporate Ethics
- Culture

Enterprise-Wide Risk Assessment

- Financial
  - Credit
  - Capital Markets
  - Treasury Risk
  - Market Risk
  - Liquidity Risk
  - Economic
  - Financial Internal Control
Enterprise-Wide Risk Assessment

• Compliance
  – Operations Compliance
  – Business
  – SEC
  – NASDAQ
  – NYSE
  – Regulatory

Identifying Regulatory Compliance Risks

• Health Care CMS
• Congress
• Supreme Court
• Federal Circuit Courts
• Departmental Appeals
• OIG
• PROs
• Carriers
• PRRB

• FAA
• OPOs
• SEC
• IRS
• EPA
• FTC
• FCC
• HHS/HRSA
• JCAHO
Identifying Regulatory Compliance Risks

- Intermediaries
- Regional Offices
- Medicare Integrity Program Contractors
- DME Regional Contractors
- Regional Home Health Intermediaries
- DEA
- NRC
- DOL
- FBI
- Treasury
- DOJ
- OSHA
- DOT
- FDA

State Level

- Survey and Certification
- Courts
- Attorney Generals
- Medicaid
- Health Boards
- Medical Boards
- Local Governments
- Licensure
E-Health Risk

- Ability to Audit
- Violations
- External Penetration
- Education
- Record Retention

CMS Areas of High Risk Fraud

- Sudden changes in billing
- Spike billing
- Billing by inappropriate specialties
- Billing of inappropriate diagnoses
- Increased beneficiary complaints
- Compromised beneficiary and/or provider identities
- Geographical changes in billing
CMS Areas of High Risk Fraud

- High comprehensive error rate testing (CERT) rate
- Identity theft (provider and beneficiary)
- Beneficiary recruitment (capping)
- Out of the norm
- Deceased patients
- Billing for Part B instead of Part A
- Physician/Patient billing relationship
- Deceased physicians

Compliance Risks

- Physician Billing and Coding
- Laboratory
- Radiology
- Research & Grants
- Retirement/Benefits
Management Responsibility

- Identifying risk
- Implementing controls or other techniques to manage risk
  - Avoid risk
  - Transfer risk
  - Accept risk
  - Reduce or mitigate risk

Who Manages Risk?

- Administration
- Compliance
- Internal Audit
- Legal
- Quality
- Risk Management
ANNUAL COMPLIANCE RISK ASSESSMENT

Risk Assessment Approach

What are the steps?
Risk Assessment Approach

- Determine the scope and preliminary list of compliance risks to be assessed
- Identify key compliance risk-related data
- Finalize set of risks to be assessed
- Evaluate control activities and level of risk mitigation
- Calculate risk concern level and rank risk areas
- Confirm risk evaluation results
- Create action plan

Risk Assessment

*Purpose:* Evaluate risk areas under the direction of counsel

- Review existing organizational documents
- Conduct interviews with individuals from Compliance Team, management, billing, etc.
- Test transactions based on interviews
- Conduct a baseline review
- Develop a list of risk areas
A Risk Assessment Review Will

• Reduce the settlement if investigated
• Demonstrate to prosecutors that treble damages are unnecessary
• Demonstrate to the OIG that a corporate integrity agreement (CIA) is unnecessary or should be reduced
• Clarify necessary budgeting expenses for compliance
• Prioritize existing compliance resources
• Fulfill your board’s compliance oversight responsibility
• Determine whether education has been adequate and whether staff understands policies and procedures
• Establish whether employees trust and use the anonymous reporting mechanism
• Ensure that reported incidences are resolved appropriately

“In addition, the audits and reviews should inquire as to compliance with specific rules and policies that have been the focus of particular attention on the part of the intermediaries or carriers, law enforcement as evidenced by OIG Special Fraud Alerts, OIG audits and evaluations, and law enforcement’s initiatives.”

http://oig.hhs.gov/publications/workplan.html
Risk Identification

- Interviews
- Document review
  - Compliance Program Guidance
  - OIG Work Plan
  - Fraud Alerts
  - Special Advisory Bulletins
  - Management Input
  - Previous Audits/Reviews
  - Industry Newsletters
  - Third Party Litigation
- Employee surveys
- Other?

Conference Board Report – Methods Utilized to Identify Risks

- Internal Document Review (e.g., hotline reports, internal audit reports) 81%
- Interviews of Leadership and Employees 79%
- Workforce Surveys 39%
- External Document Reviews (e.g., newsletters, third-party litigation) 33%
- Focus Groups 23%

2006 Compliance Program and Risk Assessment Benchmarking Survey
Other issues that keep you up at night?

Risk Ranking

<table>
<thead>
<tr>
<th>Likelihood</th>
<th>Insignificant</th>
<th>Minor</th>
<th>Moderate</th>
<th>Major</th>
<th>Catastrophic</th>
</tr>
</thead>
<tbody>
<tr>
<td>Almost Certain</td>
<td>Yellow</td>
<td>Red</td>
<td>Red</td>
<td>Red</td>
<td>Red</td>
</tr>
<tr>
<td>Likely</td>
<td>Yellow</td>
<td>Yellow</td>
<td>Red</td>
<td>Red</td>
<td>Red</td>
</tr>
<tr>
<td>Possible</td>
<td>Green</td>
<td>Yellow</td>
<td>Yellow</td>
<td>Red</td>
<td>Red</td>
</tr>
<tr>
<td>Unlikely</td>
<td>Green</td>
<td>Green</td>
<td>Yellow</td>
<td>Yellow</td>
<td>Red</td>
</tr>
<tr>
<td>Rare</td>
<td>Green</td>
<td>Green</td>
<td>Yellow</td>
<td>Yellow</td>
<td>Red</td>
</tr>
</tbody>
</table>
Research Risk Ranking Scale

Items for work plan

Level I = High Priority
• Must Do Items

Level II = Medium Priority
• Should Do Items

Level III = Low Priority
• If Times Permits Items

Annual Audit and Compliance Work Plan
Audits/Compliance Reviews

- Compliance
- Financial
- Operational
- Investigative
- Special Management Requests
- Due Diligence
- Attorney Work Product
- Outside Agency
- External Auditors
### Management Response Document

<table>
<thead>
<tr>
<th>Audit/Findings</th>
<th>Audit Recommendations</th>
<th>Action Plan</th>
<th>Responsible Party</th>
<th>Completion Date</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

### Management Response Follow-Up Review

Audit/Compliance Review: __________________________

Date: __________________

Reviewer: __________________

Directions: The reviewer shall evaluate if management has implemented corrective action by the assigned completion dates in accordance with the management response document submitted to the Audit and the Compliance Department.

<table>
<thead>
<tr>
<th>Recommendation</th>
<th>Management Response</th>
<th>Individual Assigned</th>
<th>Completion Date</th>
<th>Completed</th>
<th>Yes</th>
<th>No</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Audit or Compliance Staff Reviewer: __________________________

Date: __________________
Compliance Monitors

Quality Compliance Monitors

(Trend: ↑ = Positive  ↓= Negative)
April - June 2008

<table>
<thead>
<tr>
<th>Monitors</th>
<th>Target</th>
<th>Jan - Mar Quarter</th>
<th>April - June Quarter</th>
<th>Trending</th>
</tr>
</thead>
<tbody>
<tr>
<td>1) EMTALA</td>
<td>100%</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>2) Physician Contracts (expired)</td>
<td>100%</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>3) One Day Stays Medical necessity documentation</td>
<td>100%</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>4) Discharge Dispositions</td>
<td>100%</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>5) Rehab Discharge Dispositions</td>
<td>100%</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>6) OIG Sanctions/GSA Debarments/Terrorists List Verification</td>
<td>100%</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>7) Outside Agency Response Rate</td>
<td>100%</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>8) Coding Accuracy Rate</td>
<td>95%</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>9) Clean Claim Rate</td>
<td>80%</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
Personnel Access Control

Session Review
Name Three (3) Types of Internal Controls

Name Three (3) Benefits of Conducting CSA
Name Five (5) High-risk Fraud Areas Identified by CMS

Name Three (3) Universal Risks
What are two (2) things you should look at when Ranking Risk?

Name two (2) things a risk assessment can do
Name three (3) ways to identify compliance risk

Thank You! Questions?