The Intricate Journey of Auditing and Monitoring Clinical Contractual Agreements

Introduction

John Allen, Clinical Administrator
Network development and financial analysis of new practice acquisitions and partnerships for various departments and service lines.

Cathy Masoud, Compliance Manager
Planning and implementation of new initiatives. Managing compliance with applicable Federal and State laws, regulatory requirements, and relevant policies and procedures.
Objectives

- Identify and outline the plan to determine scope, necessary components to verify obligations are being met and methods for reporting results.
- Discuss common goals, areas of compromise and deliverables in order to actively manage clinical contractual agreements.
- Share lessons learned both good and bad from large, small and in-between sized clinical contractual agreements.

Constantly Changing

Healthcare delivery continues to change for many reasons, including: aging (people are living longer) increased population, costs of doing business, providing care, regulatory requirements, maintaining and improving infrastructure, state-of-the-art equipment, information technology, electronic medical records, decline in the number of primary care physicians, the availability of specialty care in urban versus rural areas, adequate staffing, over-crowded emergency rooms, complex disease management, serious injury/trauma, drug addiction, overdose, payment denials, audits, law suits, etc.
**Constant evaluation**

- Develop an Auditing and Monitoring Plan
- Conduct periodic audits to identify deficiencies
  - Coding and billing documentation submitted to Medicare, Medicaid and other payers may or may not be included
- Implement corrective action plan for identified deficiencies
- Follow-up to make sure CAP was completed

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**Kentucky and surrounding states**

![Map of Kentucky and surrounding states](image)
**UK HealthCare is**

the University of Kentucky’s clinical enterprise.
Overview

- 1086 beds
- UK Albert B. Chandler Hospital
- UK Good Samaritan Hospital
- Kentucky Children’s Hospital
- Over 80 specialized clinics, 140+ outreach programs and a team of 9,000 physicians, nurses, pharmacists and health care workers
- Six health profession colleges:
  - Dentistry
  - Health Sciences
  - Medicine (regional campuses in Bowling Green and Northern Kentucky)
  - Nursing
  - Pharmacy
  - Public Health

Expanding through Partnerships
### WHY audit and monitor?

One of the seven critical elements of a compliance program is ongoing auditing and monitoring. The U.S. Department of Health and Human Services (HHS) Office of Inspector General (OIG) calls for auditing and monitoring as “an ongoing evaluation process (that) is critical to a successful compliance program.”

### OIG Compliance Program Guidance

Auditing and Monitoring should be:
- An ongoing process
- Thorough with regular reporting to senior officials, including the board
- Regular periodic audits by qualified people focusing on programs with substantive exposure to government enforcement actions
- Ensuring compliance with specific federal, state and internal rules and policies
Auditing vs. Monitoring

- Often referred to interchangeably, although they have very different meanings.
- Similar tasks with separate concepts and activities.
- Can benefit from each other.

Balancing Activities

Monitor

Audit
Auditing and Monitoring Responsibilities

- Organization
- Operations
  - Compliance
  - Internal Audit

AUDITING
Audit [au.dit] audited; auditing; audits

Verb

1. To perform an audit of or for
   • Audit the books
   • Audit the company
2. To attend (a course) without working for or expecting to receive credit

Auditing

• Formalized approach, independent and objective
• Performed by someone who has no vested interest in the outcomes of business area being reviewed
• Established approach and methodology for sampling
• Communication with recommendations and corrective action measures, followed by documented follow-up of corrective actions
<table>
<thead>
<tr>
<th>Compliance Audit</th>
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<tr>
<td>• Ensures a company meets the requirements of an outside governing body.</td>
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<td>• Comprehensive review of an organization’s adherence to regulatory guidelines.</td>
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<tr>
<td>• Focuses on an organization’s commitment to a set of regulatory guidelines or its adherence to a specific contract or terms of agreement.</td>
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<tr>
<th>Clinical Contractual Agreements</th>
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<tr>
<td>Contract compliance is simply adhering to the terms of the contract. While the Office of Strategic Healthcare Contracting is responsible for drafting, approving and executing as well as renewing the contract, clinical departments are responsible for administering and managing the agreements, and for ensuring compliance.</td>
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Getting Started

• Purpose
• Scope
• Methodology
• Internal Control
• Resources

Audit Process

• Select contracts to be audited based on type and potential risk
• Assess activities
• Identify obligations
• Determine appropriate methodology, which may include:
  • Review contract(s) and supporting documentation
  • Observation of activities
  • Interview(s) responsible/involved parties
  • Sampling and testing
• Verify terms of agreement(s) are being met
• Draft summary report

HealthCare
Documentation for Auditing

- Engagement letter
- Audit
- Variance discussion
- Summary
- Follow-up

Sample Review Sheet

<table>
<thead>
<tr>
<th>Contract #</th>
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<tbody>
<tr>
<td>Effective Date</td>
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<tr>
<td>Review Date</td>
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<tr>
<td>End Date</td>
</tr>
<tr>
<td>Contract Name</td>
</tr>
<tr>
<td>Contracting Party</td>
</tr>
<tr>
<td>Contact Name and e-mail</td>
</tr>
<tr>
<td>Frequency</td>
</tr>
<tr>
<td>Auto Renew</td>
</tr>
<tr>
<td>Description</td>
</tr>
<tr>
<td>Reimbursement</td>
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<tr>
<td>Billing</td>
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<tr>
<td>Payments</td>
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<td>BAA</td>
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Areas of Concern

- Current contract term
- Location, frequency and/or activity changes
- Billing process and/or payments
- Paper medical records versus EMR
- Ownership of medical records
- Supporting documentation (time sheets, clinic schedules, etc.)
- Fair market value (FMV)
- Payments

Auditing – Fair Market Value (FMV)

Fair Marker Value (FMV) is defined by: The International Glossary of Business Valuation Terms issued by the American Institute of Certified Public Accountants (AICPA), the American Society of Appraisers, the Canadian Institute of Chartered Business Valuations, the National Association of Certified Valuations Analysts, and the Institute of Business Appraisers as:

“The price expressed in terms of cash equivalents, at which property would change hands between a hypothetical willing and able buyer and a hypothetical willing and able seller, acting at arm’s length in an open and unrestricted market, when neither is under compulsion to buy or sell and when both have reasonable knowledge of relevant facts.”
Ownership of Medical Records

Any and all patient medical records generated in connection provided with any services pursuant to this agreement shall be maintained by the party specified in part C of Exhibit A. The party who has the obligation to maintain such medical records shall maintain medical records in compliance with and for all periods required by law. The party maintaining medical records pursuant to this agreement, if any, will, upon request from the other party, make such records reasonably available to the other party to the extent permitted by law.
Monitor [mon-i-tor]

Noun
1. an instrument or device used for observing, checking, or keeping a continuous record of a process or quantity.

Verb
1. observe and check the progress or quality of (something) over a period of time; keep under systematic review
Monitoring

- Less structured than auditing
- Not performed by audit personnel
- Periodic spot checks – daily, weekly or monthly
- Reviews are on-going (checking and measuring)
- Not necessarily independent of business unit (self-reviews, peer-reviews, etc.)
- Part of doing business and approach may be informal

Operations Model

- Once the activity has been identified
- Create work flow to map patient visit from start to finish
- Billing model
- Physician credentialing and/or hospital privileging, if applicable
- Identify systems for:
  - Scheduling, registration, collection of co-pay, rooming, vitals, etc.
  - Physician documentation
  - Coding and billing
- Security of PHI during transportation
Monitoring 101

- Appropriate Internal controls
- Policies
- Procedures

Monitoring

Plan

Do

Check

Repeat
### Types of Agreements

- Clinical Services Agreements
  - Telemedicine
- Lease and other related services
- Medical Directorship Agreements
- Personal Services Agreements
- Professional Services Agreements

### Clinical Services Agreement

A legally binding contract that sets forth the terms and conditions under which UK will provide clinical services to another entity at designated times at a reimbursement rate set forth in the contract.

- Used for Telemedicine
**Lease and Related Services Agreement**

A legally binding contract that sets forth the terms and conditions under which UK will procure the use of space and/or staff for the use of conducting business, usually a physician clinic.

**Medical Directorship Agreement**

A legally binding contract that sets forth the terms and conditions under which a UK physician will provide medical direction services at designated times at a reimbursement rate set forth in the contract.
Personal or Professional Services Agreement

A legally binding contract whereby an individual, firm, partnership, or corporation is to perform certain services requiring professional skill or professional judgment for a specified period of time at an agreed upon price.

Other Types of Agreements

- Affiliation
- Network affiliation
- Clinical education
- Education
- On-site clinical education affiliation
- International affiliation or exchange
Red Flags

Stay aware!
Request a copy of the final executed agreement and make sure you understand contractual obligations.
## Things to Remember

- Contractual agreements require on-going review (both routine monitoring and auditing at least annually)
- Don’t set up and then forget it
- Check with partner to see how they think it’s going
- Ask faculty and staff how they think it’s going
- Change, renew or exit agreement as needed

## Summarily

- Clinical contractual agreements are not easy.
- One size doesn’t fit all.
- Understand the agreement and process.
- Devote the necessary amount of time, resources and people needed to appropriately manage the agreement.
- Develop a plan for an on-going business operations model.
- Implement methods for monitoring.
- Treat each agreement as special, because it is.
- Don’t just save it upon completion, stay involved.
Questions

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Thank you!