



HCCA'S 12<sup>TH</sup> ANNUAL **COMPLIANCE INSTITUTE**  
FORENSIC  
APRIL 13-16, 2008 | NEW ORLEANS, LA | HILTON RIVERSIDE NEW ORLEANS

## Compliance Risk Management

How to Deliver and Implement a Compliance Risk Assessment  
ADVISORY

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2008  
New Orleans  
COMPLIANCE  
INSTITUTE  
April 13-16, 2008  
[www.compliance-institute.org](http://www.compliance-institute.org)  
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## Agenda

1. Why perform a formal compliance risk assessment ?
2. How to develop organizational support and sponsorship
3. How to conduct a compliance risk assessment
4. Reporting the results: leadership and the Board
5. Corrective action planning and implementation



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## Chapter 1

### – Why perform a formal compliance risk assessment ?

- The learning objective is to provide an understanding of why the current regulatory and competitive landscape requires organizations to undertake a compliance risk assessment
  - Regulatory influences - more than ever
  - The benefit of being proactive
  - The risk of being complacent



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## Why Perform a Formal Compliance Risk Assessment?

### Regulatory Influences

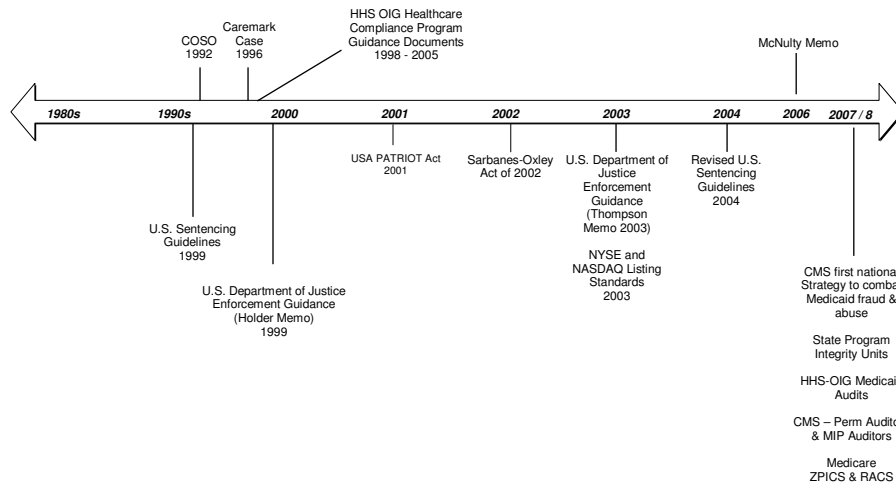
- CMS national strategy to combat fraud & abuse in Medicaid program
- Medicaid Integrity Program (MIP)
- State Program Integrity Units
- HHS-OIG Medicaid Audits
- CMS – Perm Auditors & MIP Auditors
- Medicare ZPICS & RACS
- U.S. Federal Sentencing Guidelines requirement
- Strongly recommended by OIG/AHLA guidance for healthcare boards
- Thompson and McNulty memos
- Boards have a heightened awareness and liability post Enron/Worldcom/SOX
  - NY State – Office of the Medicaid Inspector General – compliance program effectiveness – what is the board doing ?



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## Convergence of Regulatory Challenges: A Time Line



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## Benefits of a Formal Compliance Risk Assessment

- You don't know what you don't know
- Gets the attention and interest of top management and the Board (interviewees)
- Indirectly provides compliance training for top management and the Board
- Post Enron/WorldCom/SARBOX Board members are significantly more concerned about their personal liability and responsibility as Board members
- Board members are being increasingly held to a higher standard of accountability and don't want to be viewed as willfully ignorant or condoning
- Provides an action plan to address your risk profile



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## If You Are Still in Doubt...

- U.S. Federal Sentencing Guidelines Culpability Score and resulting fines/penalties may increase significantly if your organization is deemed to not have an effective compliance program
- You should be able to answer “Yes” to the following questions:
  - Did your organization incorporate and follow applicable industry practices?
  - Was the Compliance program given adequate resources?
  - If your organization is large did you devote more formal operations and greater resources in meeting the requirements than a small organization?
  - Did your organization perform a periodic risk assessment and develop a risk assessment tool which is re-evaluated on a regular basis to ensure you are addressing specific industry high risk areas?



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## Make or Buy?

- Short Answer – Both
- Buying
  - Good business practice is to periodically have outside independent experts perform a formal compliance risk assessment which provides:
    - More credibility with the Board and top management
    - Multiple, independent and varied expert resources – a fresh look
    - Results - auditing and monitoring compliance plan



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## Make or Buy?

- Make
  - In interim periods, use the methodology and format used by the outside experts to perform annual compliance risk assessments with internal compliance personnel
  - Tag-along with the outside experts during the formal risk assessment to learn how they conduct the interviews
  - Take advantage of knowledge that you may acquire through the use of outside resources



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## Chapter 2

- How to develop organizational support and sponsorship
  - The learning objectives are to provide understanding of key organizational dynamics that enhance or serve as obstacles to getting this process approved and implemented
    - Past experiences
    - Timing
    - Available resources
    - Alignment with key organizational objectives
    - Budgeting & other considerations



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## Developing Organizational Support

### – Past Experiences to Consider

- Is this the first risk assessment ?
- What is the organizational appetite for risk assessment ?
- When was the last risk assessment ?
- How was the last one received ?
- Were you the person that initiated the last one ?
- Is the same management team at the helm ?
- Did the organization effect necessary change ?
- Do you sense great organizational resistance ?



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## Developing Organizational Support

### – Timing

- Where are you in the fiscal year ?
- Are there competing initiatives ?
- Are there other outside initiatives ?
- Are key players going to be available ?
- What is the attention span of the organization ?
- When are the next board meetings ?
- Are there any major internal inquiries ongoing ?



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## Developing Organizational Support

- Available resources
  - What is the availability of internal participants ?
    - » The Board, CEO, CFO, COO, GC, Med Director, others
  - If performing the assessment internally, do you have:
    - » Independent objectivity ?
    - » Knowledge to establish a broad risk profile ?
    - » An understanding of the relative risks ?
    - » The availability of a regulatory resource ?
    - » A methodology that has been validated ?
    - » The time to perform the assessment ?
    - » The organizational presence ?
    - » The interview skills ?
    - » The facilitation skills ?



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## Developing Organizational Support

- Alignment with key organizational objectives
  - Where is the organization from a strategic perspective ?
  - Is the organization pro-active or re-active ?
  - Is your program a "real" program ?
  - Is your organization obsessed with growth ?
  - Are you included in key strategic planning sessions ?
  - Do you *really* have support from the top ?
  - Do you *really* have the resources you need ?
  - Are your compliance committee meetings well attended ?



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## Developing Organizational Support

- Budgeting and other considerations
  - How much can you spend on external consultants ?
    - » You get what you pay for – make sure you get what you *need*
  - Do you have the resources you need to do it internally ?
    - » Regulatory resource / internal counsel / access to counsel
  - Be careful what you ask for....you may find it!
  - Now what ?
  - Is the organization ready for required next steps ?



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## Chapter 3

- How to conduct a compliance risk assessment
  - The learning objective is to provide an understanding of key steps to designing and implementing an effective risk assessment
    - Planning and kick off
    - Document review
    - Conducting management interviews
    - Rating and ranking methodologies
    - Compiling the risk profile
    - Analyzing and sharing the data
    - Prioritizing the risk profile



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## Conducting the Risk Assessment

- Planning and kick off
  - Scheduling interviews
    - » How much time do you need and when do you need it ?
  - Targeting the right areas (80/20)
  - Effectively communicating the objectives
    - » Who, what, why, where, when
    - » What do you need ME to do ?
  - What is your plan and how are you staying on plan ?
  - Consistent treatment across the board
  - Ensuring people are prepared when you arrive
  - Privilege or not privilege ?
  - If external – how should you be involved ?



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## Conducting the Risk Assessment

- Document review
  - Why do you need to review documents ?
  - What documents do you need ?
    - » Previous audits
    - » Hotline reports
    - » External evaluations
    - » Previous risk assessment reports
    - » Documentation of controls
    - » Corrective action plans
    - » Policies and procedures
  - Detail or high level review ?



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## Conducting the Risk Assessment

- Conducting management interviews
  - Who do you need to speak with ?
    - » Alone or assisted ?
  - Communicating the objectives
  - Ensuring the interviewee is prepared
  - A level playing field....if you build it they will come
  - Are you a capable interviewer ?
  - What are you going to ask ?
  - Asking the tough questions
  - Getting a tough answer
  - Keeping the conversation on track and meaningful



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## Conducting the Risk Assessment

- Rating and ranking methodologies
  - Consistency is critical
  - Likelihood of the risk
  - Significance or impact if the risk occurs
  - Mitigating factors to consider
  - Red, Yellow, Green
  - One through Ten
  - High, Medium, Low
  - Embracing the organizational vernacular



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## Conducting the Risk Assessment

- Compiling the risk profile
  - How to organize the data
    - » By functional area
    - » By risk categories
    - » By High, Medium, Low
    - » All of the above ?
    - » None of the above ?



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## Conducting the Risk Assessment

- Analyzing and sharing the data
  - Understanding the data
  - Anticipating the reaction to the data
  - Is this really what you said ?
  - Is this really what you meant ?
  - Who needs to see the results (at this point) ?
  - Avoiding data overload



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## Conducting the Risk Assessment

- Prioritizing the risk profile
  - So many risks...so little time
  - Which high risks are really high risks ?
    - » Why is THAT a high risk ?
    - » What does high risk really mean ?
    - » He said low risk, she said high risk...now what ?
    - » Understanding your vulnerabilities
    - » Protecting the innocent



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## Chapter 4

- Reporting the results: Leadership and the Board
  - The learning objective is to understand how to properly lay the groundwork for presenting the findings
    - Understanding potential pitfalls
    - Reporting to interviewees
    - Reporting to your compliance committee
    - Reporting to executive leadership
    - Reporting to the Board
    - Selling the message to the Board
    - Obtaining necessary endorsements and resources



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## Reporting the Results

- Understanding potential pitfalls
  - Vetting the data – “I didn’t say that”
  - Changing of the guard
  - The messenger
  - You can’t “*unring* the bell”
  - I am trying to run a business here
  - Now what do you want me to do ?



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## Reporting the Results

- Reporting to interviewees
  - When will I see the report ?
    - » You may or may not
  - What do you need me to do next ?
    - » Please stand by
  - Keeping constituents appropriately informed
    - » Big picture objective
    - » Probable next steps
    - » Specific responsibilities



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## Reporting the Results

- Reporting to your compliance committee
  - Vetting the data
  - Distilling key information
  - Strategic planning of next steps
    - » What are realistic objectives ?
    - » What are you trying to achieve ?
    - » How are you going to get there ?
  - Setting time frames for next steps



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## Reporting the Results

- Reporting to executive leadership & the Board
  - Understanding the dynamics
  - Understanding the big picture
  - Understanding your obligations and responsibilities
  - Real life examples
  - What are the implications ?
  - What do you need me (us) to do ?
  - What if it does not go well ?
    - » What's your back up plan ?
  - Educating the Board
  - Getting commitment on next steps



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## Chapter 5

- Corrective action planning and implementation
  - The learning objectives will be to provide an understanding for necessary steps to manage the identified risks
    - Establishing accountability
    - Trust but verify....What's your corrective action plan ?



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## Corrective Action Planning and Implementation

- Establishing accountability
  - Who owns it ?
  - Who controls it ?
    - Understanding "upstream and downstream implications"
  - Where is it broken ?
  - Documenting the ownership



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## Corrective Action Planning and Implementation

– Trust but verify .... What's your corrective action plan ?

- Where is it broken ?
- Policy and procedure development
- Developing and delivering effective training
- Developing and implementing auditing and monitoring plans



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Questions?



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