Advanced Healthcare Compliance Issues: 2017

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Goals for Today

- **Foundations of Healthcare Compliance - A Lawyer’s Role in Effective Compliance**
- **Key Enforcement Issues**
  - False Claims Act and Overpayments - Understanding the Changing Laws and What Issues to Focus on in 2017
  - Telehealth - This Growing Industry Creates a Multitude of Risks and Getting Ahead of the Curve is a Must
  - Advanced Practice Providers - The Rise of APPs Leaves Many Organizations Not Understanding the Complexity of Laws
  - Physician Compensation and the Stark Law - With MACRA, Integration, and New Payment Models What Should We Focus On?
Foundations of Compliance: What is the Lawyer’s Role?

- Compliance in General
  - Awareness of Risks
  - Systems to Mitigate Risks
  - Partner with Business Leaders
  - Reduce Threats of Whistleblowers
- Compliance Comprehensiveness
  - Billing - Medicare/Medicaid/Third Party Payors
  - Employment Law - Safety/Risk/Quality
  - Facilities - EMTALA/Research/Accreditation
  - Fraud - Stark/Kickbacks/State and Federal Laws
Foundations of Compliance: What is the Lawyer’s Role?

- Compliance and the Practice of Law
  - Typically CCO Separate from General Counsel
- Lawyer as Influencer
  - Boards
  - Senior Leadership
  - Management
- Focus on Providing Value in the Development of:
  - Policies/Procedures
  - Education/Training
  - Response/Prevention
Foundations of Compliance: Advising Clients Amid Increased Scrutiny

- What is Operationally Sensitive Compliance? PARTNERSHIPS
- How to Advise Clients on Emerging Issues and Amid Increased Scrutiny? Maintaining the Balance of Trusted Advisor and Critical Partner
- Key Enforcement Areas
  - Overpayments and the False Claims Act
  - Telehealth
  - Advanced Practice Providers
  - Physician Compensation and the Stark Law
Issue #1 - False Claims Act and Overpayments

- False Claims Act Updates and Overpayments
- Identification of Overpayment
  - What Does Reasonable Diligence Include?
  - What is Credible Information and What Does it Trigger?
  - How to Quantify the Overpayment?
- Examples and Case Studies
  - Kane ex rel. New York v. Healthfirst, Inc.
  - U.S. ex rel. Odumosu v. Pediatric Servs. of Am. Healthcare
- Opportunities - Stress Developing Policies and Procedures
Issue #2 - Telehealth

- Growing Sub-Industry - $38 Billion by 2022
- Complex Interdisciplinary Compliance Issues
- Licensure
  - Physician Must be Licensed in the State the Patient is Located
  - Exceptions: Consults, Border States, Telemedicine License, Follow Up Care
- Fraud and Abuse Issues
  - Fee Splitting and Corporate Practice of Medicine
- Indiana Specific Laws
- Opportunities - Understand the Changing Laws and Develop Robust Guidelines
Issue #3 - Advanced Practice Providers

- Growing Professional Workforce - 300,000 and Growing
- Complex State and Federal Laws
- Overview and Case Study
  - Education/Training/Quality/Specialization
- Liability
  - Who is Liable for the APP’s Care?
- Scope of Practice
  - Do We Document Scope of Practice?
- Billing for Services
  - Incident To? Shared Billing?
- Opportunities - Develop Rules for Organizations to Avoid Risk
Issue #4 - Physician Compensation

Is Physician Compensation Still a Hot Topic?

- 2017 - Mercy Hospital settled for nearly $34 million
- 2016 - Memorial Medical Center settled for nearly $10 million
- 2015 - Adventist Health settled for $120 million
- 2015 - North Broward Hospital settled for $70 million
- 2015 - Columbus Regional Health System settled for $35 million and Dr. Andrew Pippas (the sole physician at issue) settled for $425,000
- 2015 - Tuomey Hospital settled for $73 million and CEO to pay $1 million
- 2014 - Halifax Health settled for $85 million

Compliance Tip #1 - Demystify the Complexity for Organizations
Issue #4 - Physician Compensation

Employment Exception
Issue #4 - Physician Compensation

Employment and Personal Services Exceptions
Issue #4 - Physician Compensation

Top Compliance Issues in Physician Compensation

- MACRA and Value Based Payments - Incorporating Value?
- Physician Compensation Governance - Is it an Issue to Have Interested Parties Making Compensation Decisions?
- Payment for Personally Performed Services - Does the Stark Law Require All Services to be Personally Performed?
- Payment for Advanced Practice Provider Oversight - How Does State Law Impact Paying Physicians for Oversight?

Compliance Tip #2 - Find the Gray Area and Be Consistent With Your Approach