

IV. Plan Documents

Large Medical Groups

Documents usually maintained as part of compliance efforts include:

1. Code of Conduct
2. Reporting Mechanism for Compliance Concerns/Complaints
3. Policies and Documentation of Training/Education Programs, Topics Covered, and Attendees
4. Compliance Officer/Contact’s Duties and Responsibilities
5. All Policies/ Procedures Related to Billing and Coding Activities
6. Log of Compliance Incident Reports, Results of Investigations, and Corrective Action
7. Minutes of Compliance Committee Meetings
8. Listing of Board of Director Actions Related to Compliance Issues
9. Contracts with Compliance Implications
10. Disciplinary Actions
11. Other Topics

Plan Documents
Large Group

TIP → **Don’t get behind maintaining these important documents.** Conceivably, poorly maintained compliance documents could indicate an ineffective compliance program.

The Compliance Officer should be responsible for maintaining all documents related to the Compliance Program. These documents should be maintained such that they are up-to-date and ready for immediate review by the Compliance Committee, internal auditors, government investigators, and others.

Files should include current minutes of meeting; formal actions related to compliance; disciplinary actions; etc. Make sure that names of Committee members, the Compliance Officer and like are current. Similarly, keep references current for aspects in the plan such as corporate names; department names; department heads; phone numbers; addresses; and the like.

This Chapter provides illustrations of items 1 - 4 above which serve as the basis for a written compliance plan.

Item 5 requires collecting and filing of all of a medical group’s current written policies related to billing and coding activities. In some groups, these policies will be extensive.

Existing policies/procedures should be reviewed by the Compliance Officer/Contact for compliance issues. Newly developed policies should be reviewed for compliance issues before adoption and copies should be maintained in this file as well. Part of the auditing process will include review of adherence to written policies. **Always keep the original policy and any revisions dated so that effective dates are easily determined.**

Item 9 requires collection of contracts with compliance implications such as potential “payments for referrals” and Stark I or II issues. Current and future contracts should be reviewed for compliance concerns.

The remaining items above are files maintained with the applicable documents and references.

The sample documents provided in this chapter are for a *larger medical practice* which has elected to implement a comprehensive compliance program which closely follows the OIG’s “model” discussed in applicable OIG *Guidances*. This Chapter includes the elements which should produce an *effective* compliance program (if implemented and maintained aggressively).¹

In Chapter 5, you will find sample documents that illustrate an *affordable approach to a compliance program for smaller medical practices*. The premise underlying the second set of documents is that many *smaller* medical practices will find it difficult to implement the type of comprehensive compliance plan that may be appropriate for larger group practices. For example, many smaller practices will likely not invest in hiring a full-time compliance officer. Smaller practices may be able to handle the essential compliance officer’s duties and responsibilities by the alternatives discussed in Chapter 2.

If you intend for the compliance plan to afford whatever leniency might be available in the event of a violation, this “modified” plan may not meet all the OIG’s requirements. **But, if implemented and maintained properly, you should be able to avoid most compliance problems in the first place.** The “modified” plan is far better than doing nothing because your group believes it cannot afford to implement the more comprehensive program. Obviously, the closer your program is to the OIG’s “models” the better.

What Is the Difference Between a Large and a Small Medical Practice?

Even though the OIG issued a compliance program guidance for *small group practices*, the OIG really doesn’t define the difference between a large and small practice. Here is what the OIG’s *Guidance* says:

... . . . The difference between a small practice and a large practice cannot be determined by stating a particular number of physicians. Instead, our intent in narrowing the guidance to the small practices subset was to provide guidance to those physician practices whose financial or staffing resources would not allow them to implement a full scale, institutionally

structured compliance program as set forth in the Third Party Medical Billing Guidance or other previously released OIG guidance. A compliance program can be an important tool for physician practices of all sizes and does not have to be costly, resource-intensive or time-intensive.

[In your authors’ experience] If you look at the difference between a compliance plan for large and small medical practice, the large group will usually have/need a Compliance Officer who devotes at least 60% of their time to compliance program issues. Very large groups will have at least one full-time compliance staffer and appropriate clerical help. Large practices will also spend more on the administrative aspects of a compliance program and will likely have a Compliance Committee (or something similar). Large groups will likely need to spend considerably more in the auditing function.

If we were forced to set a threshold, it is your authors’ experience that a substantial number of medical groups with 8 to 12 physicians would fall within the *large* group category. A group that approaches 20 physicians will usually fall into what we consider a large group in the context of compliance plans.

It is likely that our threshold is greater than that contemplated by the OIG and some other consultants. We believe that many groups up to roughly 15 - 20 physicians can mount an effective compliance program using the principles suggested in the OIG’s guidance for small groups provided there is a real commitment to compliance, the group employs knowledgeable billing staff, and the group performs periodic audits that are sufficiently rigorous to detect instances of serious billing improprieties.

¹To date, the OIG has not provided a “model” specifically for large group medical practices. However, the OIG’s guidances for *Third Party Billing Services* and *Solo and Small Group Practices* and OIG mandated compliance plans for medical practices (as part of an actual fraud/abuse settlement), indicate the basic elements needed.

The next page is an illustration of a cover letter for “kicking-off” a compliance program. **This cover letter allows you to begin implementation of a compliance program quickly.**

Then, we provide an illustration of a Code of Conduct and related documents which form the basis for a Compliance Plan.

These documents are on the CD-ROM that comes with the *Physician Compliance Plan Kit*. You can easily customize the documents for your group’s compliance plan program.

The Medical Group Compliance Program Announcement

March 30, 2003

Dear The Medical Group Employees:

I am sure all of you have seen media reports regarding health care fraud and abuse. Some health care organizations have seriously compromised their ability to survive because they have not taken appropriate efforts to ensure compliance with laws/rules applicable to billing for our services (and related activities). The Medical Group has a commitment to our patients and employees which mandates that we take every reasonable effort to ensure that we are in compliance with fraud and abuse laws.

While we believe our record clearly indicates we have always complied with the many and complex fraud and abuse laws, The Medical Group's Board of Directors has taken another step to enhance our ongoing efforts to ensure compliance in the future. On March 28, 2003, the Board of Directors adopted a formal Fraud and Abuse Compliance Plan to prevent problems from occurring. In the event a problem does occur, the Compliance Program is designed to identify the issue and set into motion a series of corrective actions.

As part of this program the Board of Directors established a *Compliance Committee*. Members of the Committee include myself (as chairperson), Dr. Parsons, Dr. White, Mrs. York (Group Administrator), Mr. Byrd (Director, Billing Office), Mrs. Klienow (Compliance Officer) and our attorney Mr. Clark. Additional members may be added in the future.

The Board of Directors also adopted the attached Code of Conduct. While we realize that this policy statement may be perceived by some employees as heavy-handed, it is for all of our benefit. Today, no medical group can afford not to take every reasonable effort to ensure compliance with fraud and abuse laws. The Medical Group has a commitment to our patients and our employees which requires us to maintain a strong, viable medical practice. We can only do this if we all work together to ensure that we comply with laws related to fraud and abuse, no matter how complex the rules may be, and no matter how difficult it is. All of The Medical Group's physicians and support staff will be asked to sign a form which indicates you read, understand, and agree to comply with the Code of Conduct and the Compliance Plan.

As you will see, a cornerstone of The Medical Group's compliance efforts is that we encourage you to report any compliance concerns you may have. The Compliance Plan describes a reporting system which should allow one to communicate any concerns they may have. **Please be assured that The Medical Group will not take any disciplinary action against anyone solely because they submit a compliance concern.** We need your input.

Continued.

Shortly, we will perform an intense audit of our current billing practices and related activities. Part of that audit will include interviews with employees – including physicians – who have jobs with duties and responsibilities which could impact our compliance efforts.

Your supervisor will notify you if you are scheduled for one of these interviews. If not scheduled, you may request an interview if desired by contacting your supervisor or myself. Please be assured that your comments will be kept confidential. The audit and interviews will be conducted by MAG Mutual HealthCare Solutions, Inc.¹ They have been instructed to keep employee comments confidential.

Should you have any questions regarding the compliance program, you may talk directly with your supervisor, the Compliance Officer, myself, or any member of the Compliance Committee.

I think most of you will see the benefit of and welcome implementation of this program. It will ensure the viability of our Medical Group so that we continue our mission to provide quality medical services to our patients. We appreciate your continued efforts in ensuring that The Medical Group complies with fraud and abuse laws.

Sincerely, Chairperson, Compliance Committee



The document above is an illustration of an announcement to all employees of the start of a compliance program. It is also used as a cover letter to a package of information given to new employees to train them with respect to the compliance program.

The next document is a description of the basic compliance program and establishes a Code-of-Conduct for the medical practice.

¹These audits do not have to be conducted by a consulting company; but, that option may prove beneficial if the group practice does not have sufficient resources to handle this important function internally. Periodic audits are the best way to make sure compliance efforts are working. Consultants will often have more experience identifying compliance risks.