

NATIONAL CONGRESS ON HEALTHCARE COMPLIANCE

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Living Under A Corporate Integrity Agreement After a Voluntary Disclosure

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**DEBORAH HEART AND LUNG CENTER
BECOMES THE NATION'S FIRST
VOLUNTARY DISCLOSURE**

Mandates the creation of a **three year
Corporate Integrity Agreement**

What is Involved in a Voluntary Disclosure?

- Many internal and external assessments
- Hiring proper assistance
- Ability to learn from others whom preceded you.... DHLC did not have that option
- You must have an ability to be patient

Steps of Voluntary Disclosure

- **“Houston, we have a problem....”** - concern(s) need to be validated & quantified
- Internal and/or External Auditors, Lawyers, Compliance Experts
- Probe Samples, Confidence Intervals, Error Rates, Full Audit (?), Statistically Valid Sample Size, etc.....
- Decision on significance of issue ... is it material??

Negotiating the Settlement

- Are you dealing with billing errors or false claims?
- Does the Settlement include:
 - dollar for dollar paybacks?
 - double or treble damages?
 - fines and/or penalties?
 - Implementation of a Corporate Integrity Agreement?

Negotiating the Settlement

Elements of the Settlement (cont...)

Length of CIA (3 Years or 5 Years)

Audit Requirements

Oversight Requirements (IRO's, etc....)

Reporting Requirements

From the time DHLC contacted the US
Attorneys for Voluntary Disclosure it took
__ months to settle

Why the Voluntary Disclosure?

- Inappropriately billed physician services during 1994 and 1995
- Expressed Concerns of Medical Staff
- Issue could turn into “the snowball rolling down the hill” if nothing were done
- It is the prudent decision

Why the Voluntary Disclosure?

Uniqueness of Institution

- 79 years in existence and have never billed a patient
- Corporate motto **“There should be no price tag on a human life”**
- Funded significantly by a primarily 50,000 member volunteer “foundation”

Other Factors

- Application for Advisory Opinion on historical practice of waiving all patient co-insurances and deductibles - initiated in 1997
- Issuance of Advisory Opinion # 01-07 provides commentary on historical billing policy - July, 2001

Other Factors

- A Specialty Hospital
- Increased competition on the horizon for Open Heart Surgery and Cardiac Services in New Jersey and Southeastern Pennsylvania

THE DEBORAH SETTLEMENT

- 3 Year CIA
- \$ 840,000 Overpayments & Interest - **no double or treble damages and no fines or penalties**
- Mandates the employment of a CCO, Compliance Committee and other model elements

THE DEBORAH SETTLEMENT

- Annual Audit

Statistically Valid Random
Sample

Performed Internally or
Externally

- Policies and Procedures

CORPORATE INTEGRITY AGREEMENT

- Living, Breathing Document
- Must be viewed that you are “*Living Under the Microscope*”
- It requires that many organizations change their management philosophies/beliefs immediately - it should make compliance a part of the culture

Operationalizing the CIA Following a Voluntary Disclosure

Decisions & Resources needed (IMO):

CCO direct report to the Board

CCO can not become involved in
any day to day operations of
institution

Internal Audit Function

Billing Audit Function

Operationalizing the CIA

Management Relationships

An effective relationship between the CFO/COO and CCO is critical

Recommendations of CCO many times require action by either the CFO or COO

The Impact of the Voluntary Disclosure on the Required Annual Audit

- Our agreement states:
 - audit shall be conducted by selecting a *statistically valid random sample of claims*
 - and
- It can be performed *Internally or Externally*
- Lack of Definition - creates room for interpretation & debate.....

Annual Audit (cont.)

- The following issues/items become important:

Potential Conflicts of Interest with
Internal Staff performing the audit

Creates the classical business argument: is it proper to do the review internally to save \$\$ or perform it externally based upon your compliance programs' (CCO's) concerns.

Learned Experiences

One Consultant wrote to a Board Member while selling their organization to perform the audit, the following;

“... our fees anticipate a product that will be acceptable to the OIG for your CIA, and *probably not be scrutinized by them....*”

Education

- What does the settlement require?
- Is it really necessary that employees working in food services or housekeeping be required to receive 3 hours of annual compliance education?
- What is the goal of the education?

On Going Investigation(s)

- Everything must be documented - not just items related to the Voluntary Disclosure
- Under a CIA, nobody is permitted to say or think,
 - “... it was only 20 claims...”
 - “...it was just a honest mistake...”
 - “... we are too busy to be concerned with this...”
 - “...we can never document this much...”

On Going Investigation(s)

Under a CIA - how does this requirement normally change your organizational culture?

Impact of Voluntary Disclosure

Reporting

The goal is to prove that you are making every effort to be compliant

All elements of your compliance program need to be documented

This is a major undertaking!

Closing Thought

**A CIA following a
Voluntary Disclosure is
different than a normal
CIA**