Quality Colloquium
August 19, 2008

Corporate Responsibility and Health Care Quality

Lewis Morris
Office of Inspector General
Board Awareness of Quality Issues

“The level of knowledge of landmark Institute of Medicine (IOM) quality reports among CEOs and board chairs was remarkably low.... There were significant differences between the CEOs' perception of the level of knowledge of their board chairs and the board chairs' self-perception.”

“Getting the Board on Board: Engaging Hospital Boards in Quality and Patient Safety” Joint Commission Journal on Quality and Patient Safety, Volume 32, Number 4, April 2006.
“Corporate Responsibility and Health Care Quality:
A Resource for Health Care Boards”

- Third in a series of guides
- Joint public sector/private sector effort
- Educational information, not mandates
- Assists boards in exercising their fiduciary responsibilities

Available at:
- oig.hhs.gov/fraud/docs/complianceguidance
Defining quality of care

- “Crossing the Quality Chasm” (IOM) definition of health care quality
  - Safe
  - Effective
  - Patient-centered
  - Timely
  - Efficient
  - Equitable

- Public and private quality initiatives provide benchmarks
  - National Quality Forum, Joint Commission, Leapfrog, CMS
Board’s Fiduciary Duty of Care

- **Duty of care**
  - Acting in “good faith”
  - Prudent person standard
  - Reasonably acting in the best interest of the entity

- **“Reasonable inquiry” standard**
  - Appropriate level of due diligence to allow an informed decision

- **Application**
  - Decision-making functions
  - Oversight functions
Duty of Care and Quality

Emerging quality of care issues
- IOM reports
- Collaboration among providers of care
- Monitoring and reporting requirements
- Payment policies

Significant opportunities and risks
- Reimbursement
- Transparency
- Public/private collaboration
- Government enforcement
The “bottom line”

- Quality is an essential component of the mission of the health care providers
- Quality must receive the same level of Board attention as the corporation’s financial viability
- Quality and cost efficiency are complementary, not contradictory, elements of an effective health care system
- Unique opportunity for leadership and positive change
Government Enforcement and Quality

- **Enforcement priority**
  - DOJ, OIG and State Attorneys Generals
  - Training and collaboration
  - Federal and state “Whistleblower” statutes

- **Prosecutive theories**
  - Criminal violations
  - False claims based on “failure of care” and “worthless services”
  - Medically unnecessary services
  - Failure to meet professional recognized standards
Enforcement Tools & Sources

- Whistleblowers, Ombudsman, Licensure Boards
- Mining of quality/reimbursement data
- Civil penalties, criminal fines and exclusion
- Corporate Integrity Agreements
  - Independent reviews and quality monitors
  - Board certifications (e.g., Tenet Healthcare Corp.)
  - Stipulated penalties
Suggested Questions for Directors

- Quality goals and institutional leadership?
  - Understanding structures & processes
  - Linkage between quality, peer review and compliance

- Board orientation and expertise?
  - Dashboards and benchmarks
  - Recruiting expertise
Suggested Questions for Directors

- Coordination with compliance program?
  - Integration of regulatory compliance
  - Quality and risk assessment/corrective actions

- Internal reporting and communications?
  - “Whistleblower” protections
  - Culture of candor
Suggested Questions for Directors

- Adequate resources?
  - Staffing levels
  - Acquisition of new technologies and services

- Addressing specific quality concerns and adverse events?
  - Quality and the peer review process
  - Responding to incidents of deficient care