

NAVIGATING THE MAZE

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COMPLIANCE QUALITY RISK

Compliance, quality, and risk have traditionally been areas of confusion. There are so many areas of crossover it can be difficult to determine the separation between them and in some cases, there is no separation. This can be especially difficult in facilities that have separate compliance, quality and risk departments. Understanding how they are the same and how they are different is the first step. We are all working towards the same goals of increasing customer satisfaction, achieving better quality outcomes, decreasing malpractice, increasing billing compliance, improving documentation, and receiving appropriate reimbursement.¹

COMPLIANCE

A compliance program is a systematic process aimed at ensuring that the organization and its employees comply with applicable laws, regulations, and standards.² This includes the development and support of a culture that promotes prevention, detection, and resolution of conduct that does not conform to Federal or State law, or the facility's ethical and business policies.³ Compliance programs include strategies to ensure the submission of consistently accurate claims to federal, state, and commercial payers⁴ and to protect the privacy of protected health information and the security of electronic protected health information.

There are seven elements to a program. Those elements include:

1. Policies & Procedures/Standards of Conduct
2. Compliance Officer/Compliance Committee
3. Lines of Open Communication
4. Training and Education
5. Monitoring and Auditing
6. Response and Prevention
7. Enforcement and Discipline



Everyone describes or names these elements a little differently but they all agree on the content of each element. An eighth element, program review, was introduced in section 6102 of the Affordable Care Act. The element has always been alluded to in the various compliance guidance documents but was never separated out as an individual element.

To be effective, a program must address the organization's business activities and risks then educate individuals whose jobs could have an impact on those risks.⁵ The program should include auditing and reporting functions to measure compliance and the effectiveness of the program, provide for prompt remediation of identified problems, and contain enforcement and discipline components.⁶

The Office of Inspector General in their 2000 Compliance Program Guidance for Nursing Facilities describes several benefits to a successful compliance program,

- the formulation of effective internal controls to ensure compliance with statutes, regulations and rules;
- demonstrating to employees and the community of the commitment to responsible corporate conduct;
- the ability to obtain an accurate assessment of employee and contractor behavior;
- an increased likelihood of identifying and preventing unlawful and unethical behavior;
- the ability to quickly react to employees' operational compliance concerns and effectively target resources to address those concerns;
- improving the quality, efficiency, and consistency of providing services;
- providing a mechanism to encourage reporting of potential problems and allow for internal inquiry and corrective action;
- a centralized source for the distribution of information related to health care statutes, regulations and other program directives;
- a mechanism to improve internal communications;
- procedures that allow prompt and thorough investigations of alleged misconduct; and
- through early detection and reporting, minimizing loss to the Government from false claims, and reducing the facilities exposure to civil damages and penalties, criminal sanctions, and administrative remedies.⁷



QUALITY



The Quality Assurance and Performance (QAPI) guide developed by CMS, the University of Minnesota and Stratis Health does a great job of explaining what quality programs are. They describe QAPI programs as systematic, comprehensive, data-driven,

proactive approaches to performance management and improvement that improves the quality and safety of care.⁸ There are two components to quality programs, quality assurance and performance improvement. Quality assurance is the "... process of meeting quality standards and assuring that care reaches an acceptable level."⁹ Performance improvement is a "... pro-active and continuous study of processes with the intent to prevent or decrease the likelihood of problems by identifying areas of opportunity and testing new approaches to fix underlying causes of persistent/systemic problems."¹⁰

The program has five basic elements,

1. design and scope;
2. governance and leadership;
3. feedback, data systems and monitoring;
4. performance improvement projects; and
5. systematic analysis and systemic action.¹¹

There are several features or benefits to the program described in the QAPI guide. When implemented the program allows the facility to use data to identify problems, opportunities for improvement and set priorities for action.¹²

The program allows the facility to build on the resident's/patient's own goals for health, quality of life, and activities. It allows the resident/patient/family voices to be heard when setting both goals and evaluating progress and incorporates them into a broadly shared mission.¹³ QAPI programs allow for the development of improvement project teams and support the performance of a root cause analysis in order to get to the underlying cause of the problem. It allows for the elimination of problems at the source.¹⁴ QAPI also sets the foundation for a feedback and monitoring system to help sustain continuous improvement.



Risk

CMS describes risk management broadly as “...any activity, process, or policy to reduce liability exposure.”¹⁵ The Student Edition of the Risk Management Handbook for Health Care Organizations indicates that the purpose of a risk management program is to “...protect the organization against risks associated with accidental losses, regardless of the cause.”¹⁶ There are five key elements to a risk management program. They include authority, visibility, communication, coordination and accountability.¹⁷ The risk manager needs to have the authority to see information, investigate concerns, and facilitate changes. They need to be highly visible in the organization and coordinate with other departments such as quality and compliance.



As previously indicated the risk management program is responsible for protecting the facility against losses and their scope would include those areas that create the risk for losses to include patient care, medical staff, employees, property, financial, and hazardous materials.¹⁸

The process for risk management is similar to a quality improvement process. First are the identification and analysis of loss exposures, then the consideration of alternative risk techniques, selecting the best techniques, implementing them and then monitoring their effectiveness and making improvements as needed.¹⁹

SIMILARITIES AND DIFFERENCES

As you have can see by the brief descriptions of each area, compliance, quality and risk are very similar in their overall goals. There are more similarities then there are differences leading to confusion as to who is responsible for a specific area or concern. All three areas in one form or fashion are responsible for reducing costs, improving care and ensuring compliance with rules and regulations.

COMPLIANCE

- Reduce costs through the prevention of fraud and abuse

QUALITY

- Reduce Costs by improving systems, processes and patient care

RISK

- Reduce Costs to the facility by mitigating and preventing lawsuits and losses

Each area provides training and education, performs investigations, ensures accurate reporting and strives to gain staff buy-in.

Depending on the size of the facility, there may be a different individual assigned to each area or there may be a combination of assignments. It is important to remember that segregation and the creation of silos in these three areas can create risk in itself. This does not mean that these three areas should be combined, what it does mean is that the overlaps and differences between the areas should be recognized and addressed. Ensure that the individuals responsible for each area communicate and recognize the similarities. For example, investigations may overlap and information can be shared in order to reduce duplication.

Conclusion



Compliance, quality, and risk share more similarities than differences. Recognition will reduce risk to your facility. Educate your employees regarding the goals and benefits of each area. Foster the relationships between the departments to allow for recognition of those similarities and differences in order to promote efficiency across the organizations, reduce repetition, achieve goals, and decrease False Claims Act Risk.²⁰



- ¹ McLaughlin, M.E. & Wiggins, J. (n.d.). *Compliance, risk management, and quality assurance: How to play in the same sandbox*. Available from; <http://docplayer.net/9589807-Compliance-risk-management-and-quality-assurance-how-to-play-in-the-same-sandbox.html>
- ² Josephs, A., Ortquist, S., Saunders, B.L., Snell, R., Troklus, D. (Eds.). (2015). *The Health Care Compliance Professional's Manual*.
- ³ Publication of the OIG Compliance Program Guidance for Hospitals; 63 Federal Register 35 (1998, February 23). Available from <https://oig.hhs.gov/authorities/docs/cpghosp.pdf>
- ⁴ Ibid ref #2
- ⁵ Ibid ref #2
- ⁶ Ibid ref #2
- ⁷ Publication of the OIG Compliance Program Guidance for Nursing Facilities. 65 Federal Register 52 (2000, March 16). Available from <https://oig.hhs.gov/authorities/docs/cpgnf.pdf>
- ⁸ Centers for Medicare & Medicaid Services (CMS), University of Minnesota, Stratis Health. (n.d.). *QAPI at a glance: A step by step guide to implementing quality assurance and performance*. Available from <https://www.cms.gov/Medicare/Provider-Enrollment-and-Certification/QAPI/downloads/QAPIAtAGlance.pdf>
- ⁹ Indem page 2
- ¹⁰ Indem page 2
- ¹¹ Indem
- ¹² Indem
- ¹³ Indem
- ¹⁴ Indem
- ¹⁵ OIG Final Report: Risk Management at Health Centers (OEI-01-000050). Available from <https://oig.hhs.gov/oei/reports/oei-01-03-00050.pdf>
- ¹⁶ Carroll, R. Ed. (2009). *Risk management handbook for health care organizations*. Student Editions. Available from http://www.icahn.org/files/Quality/Quality_Resources/Risk_Management_Student_Edition.pdf
- ¹⁷ Indem
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- ²⁰ McLaughlin, M.E. & Wiggins, J. (n.d.). *Compliance, risk management, and quality assurance: How to play in the same sandbox*. Available from; <http://docplayer.net/9589807-Compliance-risk-management-and-quality-assurance-how-to-play-in-the-same-sandbox.html>

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