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Adapting to COVID-19, Provider's Compliance Program Assessment Was Partly Virtual

By Nina Youngstrom

Billings Clinic in Montana hadn't had a compliance program evaluation for a couple of years, and Compliance Officer Jeremy Lougee was anxious to get it underway, especially after a breach that had to be reported to the HHS Office for Civil Rights in 2018. Its ducks were in a row in November, with the consulting firm PYA due there in March. Then COVID-19 turned the world upside down. One way or another, however, Lougee was determined to forge ahead, even if it meant a virtual evaluation of the effectiveness of the compliance program.

"There was no way to do it in person, but there was never a question of if we would do it," he said. "The question was how we were going to do it. We needed to get it done."

So in another pandemic-driven adaptation, Billings Clinic wound up with a hybrid compliance program evaluation. PYA interviewed 84 clinic employees virtually and made one onsite visit to interview senior leaders, board members and physician leaders, said Shannon Sumner, principal and chief compliance officer with PYA in Brentwood, Tennessee. "There are some things you can't replicate virtually," she explained.

It worked out to Lougee's satisfaction. "We ended up with the product we needed," he said.

The compliance program assessment was a learning experience all the way around. One revelation: Despite rumors to the contrary, most physicians are receptive to information about regulations, billing and HIPAA, Lougee said. And they want data, including a new product introduced by Billings Clinic on monitoring physician coding. One physician "almost got up and kissed me," he said.

There are advantages and disadvantages to virtual compliance program evaluations. They can be more efficient because in-person scheduled meetings are held hostage to people arriving on time from different geographical locations. "We found with Microsoft Teams, meetings tend to be a lot more efficient. You have cameras on, and it's easier for people logistically to get to a meeting. You just click a link," he said. "Before COVID, I would walk five to seven miles a day because the campus is so spread out. People ended up late to another meeting" at Billings Clinic facilities, which include a hospital and level II trauma center.

But interviewing people on Zoom or Microsoft Teams has drawbacks, Sumner said. "When you have people in the room, you can gauge the body language," she explained. For example, if you ask about reporting compliance concerns and fear of retaliation at an in-person department meeting "and one employee looks at another, that's a tell-tale sign something is amiss. You can't tell that on video," Sumner said. "That's something you lose, and I don't think it will be replicated." Then again, when people are alone at home, they may be more candid than they would be otherwise.

Before PYA evaluators go onsite for part of the effectiveness assessment or do it virtually, they gather and review information from the organization for several weeks. That includes compliance policies and procedures or sample compliance reporting packages to the board or audit/compliance committee, Sumner said. The reporting may include self-assessments of the program conducted by the compliance officer; a compliance work plan (e.g.,

audits that have been or will be performed soon); results of compliance risk assessments; and examples of compliance training material, Sumner explained. “We would spend a couple of weeks reviewing them to see how it would influence some of our questions,” Sumner said.

Leaders Talked About Their Role in Compliance

Then came the sole onsite visit in early July. “For us to get a good feel for the compliance program, we have to understand the commitment by senior leadership and the board,” she said. “Without the tone at the top, there isn’t a true commitment to the compliance program,” and it will fail.

PYA met with the chairs of the board and the audit committee. “We talked about how they see their role in compliance and what their expectations are for senior leadership and management in terms of compliance,” Sumner said. She walked through case studies and discussed news articles relevant to health care fraud and abuse with senior leaders (including the CEO), board members and physician leaders. “It was having more of a free dialogue,” she said. “If you don’t have the three working together, no matter how hard Jeremy works,” there won’t be an effective compliance program.

During onsite visits, Sumner recommends compliance officers “shadow us when we do interviews for the compliance program evaluation.” Observing will sharpen the compliance officer’s skills in evaluating their program in the future. “Monitoring compliance isn’t fully Jeremy’s responsibility,” she noted. “It is the responsibility of the [operational] departments.”

‘Not Everybody Likes to Be On Camera’

Training was virtual, and it was a bit challenging, Sumner said. With compliance committee members together on a Zoom call or the audit committee on a Zoom call, some people are black boxes, because “not everybody likes to be on camera,” she explained. That worried her, because it was hard to determine if the people behind the curtain were truly engaged. But she got some insight when PYA did a “boot camp” training session with the compliance team, partly in person and partly remotely. She wasn’t sure how that would go for the remote participants, with some of them also choosing not to show their faces. The training covered regulations, the Department of Justice’s *Evaluation of Corporate Compliance Programs* and other topics. After a debrief, however, it was clear employees had been engaged, putting to rest concerns that virtual training makes it impossible to know whether people are paying attention. “You can’t judge just because they had a black screen,” Sumner said.

One of the surprises that came out of the process of evaluating the compliance program was the receptiveness of the physicians, Lougee said. “They want to understand the ‘why’ behind compliance.” That conflicted with the message he had gotten that physicians were too busy with the practice of medicine to worry about compliance. The physicians at Billings Clinic had an “appetite” for the information presented to them and a lot of curiosity. For example, he expected resistance to a new tool that monitors coding by physicians. It slices and dices the data to identify potential outliers among the physicians, such as potential upcoding and improper use of modifiers. “We’re not saying the physicians did anything wrong, but this is what the data looks like,” Lougee explained. “They are craving that.” There may be one or two people who will “get ticked off,” he said, “but most people in the room want to understand the data and learn the why behind it.”

After the experience with Billings Clinic, Sumner said she thinks it’s possible to do evaluations virtually, depending on the provider and how much information it will share electronically and through interviews on an application like Zoom or Microsoft Teams. “Before, I would have said, ‘No way,’” she explained. “This has caused us to have a conversation about what we can accomplish virtually. They can move forward with the evaluation virtually and still accomplish their objectives.”

And they may have no choice in the short term, Sumner said. “Organizations are going to have to be flexible going into next year. I think we’ll continue to see there will have to be a hybrid approach.”

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