

Multidisciplinary practices require keen compliance tactics

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Many healthcare providers have begun to recognize the potential benefits — in patient care and in practice growth — that can be obtained when MDs, DOs, DCs and PTs work together. By working together all participants add valuable expertise to their practices, resulting in improved patient care, convenience, and better patient service.

If you are thinking about transforming your clinic into a multidisciplinary practice — one that offers multiple healthcare and healing professions and disciplines in one legal entity — you cannot afford to be misinformed. Misinformation can lead to noncompliance. And noncompliance is something you do not want to happen.

A failure to be in compliance means that you will not be allowed to participate in federal or state funded programs; you could lose your license to practice; and you could be subject to civil and criminal penalties.

To avoid legal problems and to make sure you create a clinic that helps your patients in the best possible ways, let's look at a number of things you should put on your checklist:

- **Engage a healthcare attorney.** If you are considering establishing a multidisciplinary clinic, hire a healthcare attorney in the state in which the multidisciplinary practice is to provide services. State corporate laws and scope of practice regulations control how multidisciplinary practices must be formed and operated. These requirements vary dramatically from state to state. Only an attorney who specializes in healthcare can make your corporate structure comply with the law.

- **Take a multidisciplinary approach to compliance.** Your professional support team should take a multidisciplinary approach, with non-lawyer professionals working in conjunction with lawyers.

When lawyers and other professionals from various disciplines such as accountants and management consultants work together, the results are excellent. The professionals from the non-legal disciplines are typically pleased with this approach, since they no longer have to attempt to understand or interpret laws. Each specialist works within his or her expertise.

- **Hold proper shareholder meetings.** The courts consider observance of corporate formalities as important evidence in deciding whether or not your professional corporation is

operating as a legal entity. Properly held meetings of shareholders and directors are the key to a formal operation.

These formalities are often the source of authority for those who act on behalf of the corporation. Officers, directors and employees who act without authority (that is, without proper approval of the shareholders or the directors, properly made and recorded in the corporate minutes) may be personally liable for their acts.

If your state's legal structure requires you to form two or more corporations to establish a multidisciplinary practice, meetings must be held for *each* corporation. Each corporation must have two meetings: One for the shareholders to re-elect the directors and one for the directors to have a business meeting. Minutes must be taken, voted on and approved.

- **Review your corporate documents regularly.** Your corporate documents are living entities and should not be shelved in a box but should be reviewed by a team of counselors on a regular basis to assure compliance.

Your attorney should review the corporate agreements comprising your multidisciplinary practice, which describe the duties and obligations of each corporation to the other. Have your attorney check with your state to be sure that all required forms, documents, and reports are filed with the Secretary of State on a timely basis.

Be sure to make your state aware if you hire a new medical director who is a shareholder. Be sure that your corporate documents reflect the new medical director's financial contribution.

Review the direction of your practice. Have any changes been made? If so, review them with your attorney to be sure that you are compliant.

- **Implement appropriate accounting procedures.** Accounting is not just a yardstick to figure out how much money you made last year or what your tax liability is. Used properly, accounting also helps you identify trends in sales and expenditures.

The ability to track and identify trends allows you to make decisions that can boost your profitability and enable you to avoid cash shortages. If you operate in a multiple corporate structure, pay particular attention to the invoicing between the companies. You must keep very careful, meticulous, well-organized records.

One reason to keep good records is for tax purposes. If you ever get audited, the tax people are going to want to see invoices and receipts, not just cancelled checks. If you can't

produce the invoices and receipts requested during an audit, the IRS will not be understanding about it!

Be sure that your accountant compiles a quarterly audit of the documentation for funds flowing between corporations. And be sure that all charges and receipts are substantiated by invoices at “fair market value.”

- **Comply with Stark regulations.** Under Stark regulations, physicians (including DCs) are prohibited from referring patients for certain designated health services reimbursable by Medicare or Medicaid to any entity with which the physicians have financial relationships.

This law applies to virtually *every* multidisciplinary practice, as designated health services include physical therapy services and rehabilitation. Even referrals within the same corporate entity or partnership are subject to this restriction. As a result, unless a legal exception from Stark can be satisfied, such relationships are fraught with illegality.

- **Maintain an OIG compliance program.** Your compliance program serves as prevention — not a panacea. Be sure that your compliance manual is up to date with your baseline audit; policies; procedures; record of ongoing training; reporting and corrective action; and ongoing prospective auditing reports.

Keep your practice is up-to-date on all CPT coding changes by regularly checking updated coding resources.

- **Adhere to HIPAA compliance rules.** Ask each patient to sign the HIPAA Notice of Information Practices and keep the document on file. Review all contracts with outside vendors and suppliers to be sure that they are OIG- and HIPAA-compliant.

Check to make sure that you have HIPAA Business Associate Agreements signed for all applicable business associates to ensure that they are complying with HIPAA regulations.

Remember that all new employees must sign a document stating that they have received or read a copy of your Compliance Policies and Procedures and a your Employee Office Policy. You should perform employee reviews minimally on an annual basis.

Your practice team also needs feedback on how well they are carrying out their duties. Update job descriptions minimally once a year and ask affected employees to sign the updates. Keep a record of your employee reviews — even when favorable. (Employees should also sign all reviews.)

- **Keep a daily practice journal.** This journal, kept in a bound notebook, is a detailed log of all the daily occurrences in your practice. Maintaining this journal, whose entries should be signed or initialed, is a particularly important procedure in a multidisciplinary practice.

The journal includes hiring of new staff members, new equipment acquisition, equipment maintenance and calibration schedules, staff training and meetings.

In a multidisciplinary practice, the team approach to care requires interaction and communication between the physicians and physical therapists comprising the practice. These meetings should occur on a regular schedule and should be documented.

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