

# Compliance and Quality



EDUCATING MANAGEMENT AND THE BOARD  
OF DIRECTORS USING A QUALITY CONTROL  
GRID

# Quality of Care and Compliance Risk



- Focus of federal government as it looks at how to overhaul healthcare, increase quality and reduce costs simultaneously.
  - DOJ, OIG backing on this – they have been successful in using quality in false claims actions, setting fines, developing and imposing corporate integrity agreements, excluding providers
  - Many CIA's now based on improving quality of care within nursing homes, rehab facilities, PRTFs, other service types

# Conceptual Framework



- Non-medically necessary services increase risk to the individual as well as increasing costs
- Generally accepted standards of care – usually included in most definitions of medical necessity
  - “worthless services” – insufficient staffing, insufficiently trained staff; poor and unsafe environmental conditions, harm to the individual
- Regulatory compliance as additional QA measures are introduced into regulation such as evidence based practices
- Certification on each claim

# Impact on the Business Paradigm



- Can compliance, risk management, and quality improvement remain separate? Should they?
- Advice at this time is no
  - Silo's of information increase corporate risk
  - Resources are not always directed to highest priority issues or even recognized as high priority
- Generally agree that quality and risk should report up through compliance

# Why Compliance on Top?



- **Compliance:** reviews and tests the internal controls and operational/clinical systems for compliance with regulation and law.
- **Quality Improvement:** improves quality of care through focused interventions in areas of strategic importance to the organization.
- **Risk Management:** identifies, investigates, and reports on incidents. May suggest changes to reduce future risk.

# Why Compliance On Top?



- Compliance is the only department that evaluates both quality of care and incidents through the filter of overall corporate risk.
  - Quality improvement may seek to implement initiatives that are not simply risk reducing but are of competitive importance to the organization - concern that these will always be subordinate to compliance based initiatives

# Advice on Quality of Care



- **Directed to Boards of Directors**
  - **OIG's Website: Corporate Responsibility and Health Care Quality: A Resource for Health Care Boards of Directors**
  - **Corporate Integrity Agreements also imposing board obligations for satisfaction**
  - **However, the advice provides a good framework for management as well**

# OIG Advice



- Consider your ability to answer the following 10 questions about the quality programming:
  1. Purpose, measurement of work or progress, accountability for progress, benchmarks used.
  2. Measures used to determine quality, who does this, are there overlaps and how are those handled, who integrates it all?
  3. How is quality built into P&P, what internal controls, who makes sure staff know what to do and organization's expectations?

# OIG Advice



4. How is board educated and oriented to quality, is it continuing, are there subject experts on your board?
5. What does board need to know to evaluate quality, who gives them this information, how often?
6. How are walls broken between compliance and quality, quality and risk?
7. Who protects reporters from retaliation?

# OIG Advice



8. How are patient needs linked to clinical resources, what metrics involved, do they include acuity, who decides, how?
9. Is quality prominent in training, evaluations, peer review, etc. How?
10. How are errors, risks, deficiencies identified and addressed by both board and management? How is corporate exposure managed in these situations?

## Question #5



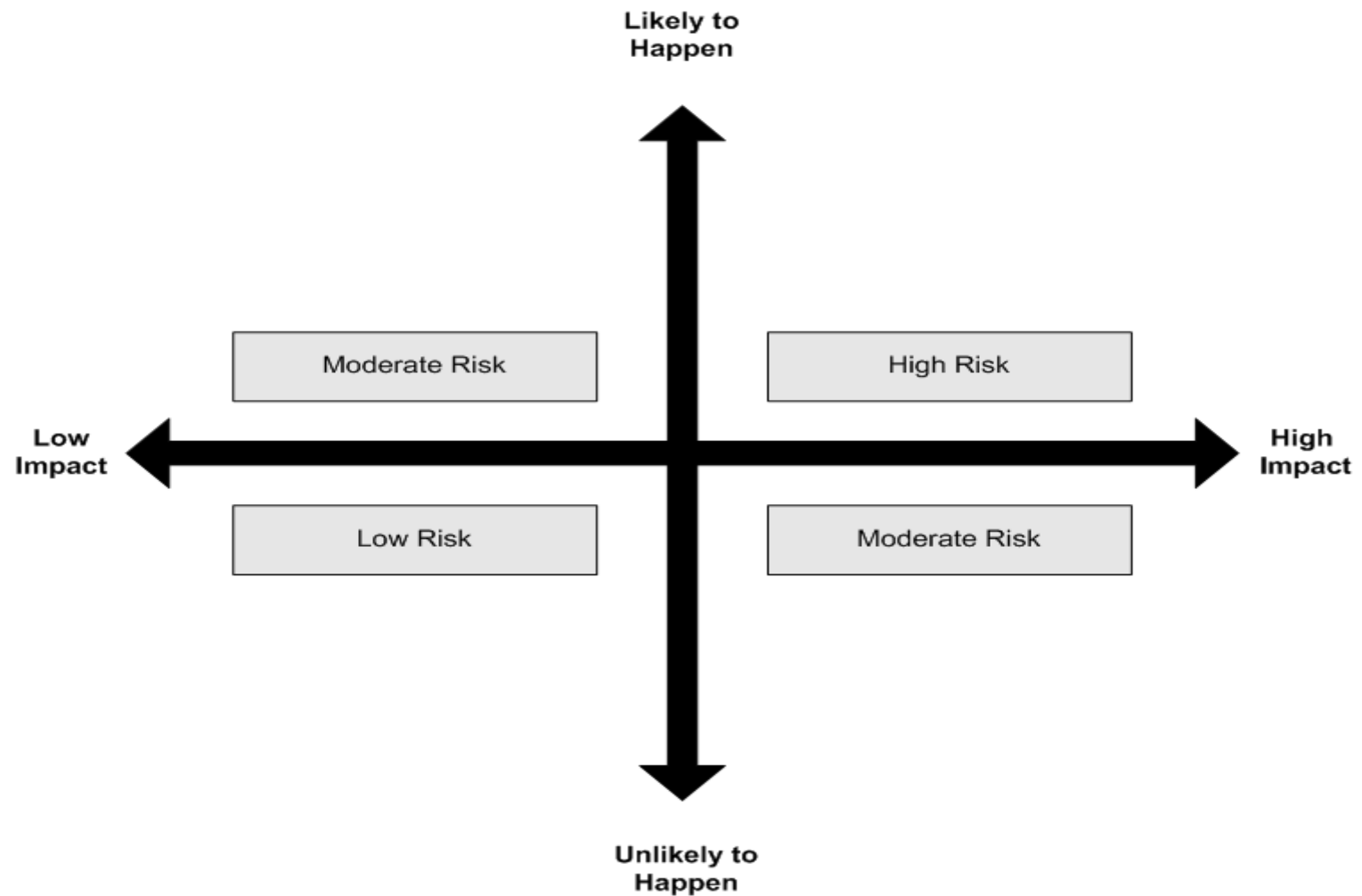
- What does the board need to know to evaluate quality?
  - Subject experts important
  - But much of this information given to board by management
  - How is this done in such a way that the board understands not just the risks, but also the organization's methodology for managing the risk

# An Approach



- Using compliance methodology to identify and evaluate quality of care risk and quality controls and their effectiveness
- Exercise can be used as an education tool for both management and for the board simultaneously
- Goal is to educate, not scare the board
- Management must be able to evaluate and communicate risk levels

# Determining Level Of Risk



# Internal Controls



- A process effected by an entity's board of directors, management and other personnel designed to provide reasonable assurance regarding the achievement of objectives.
  - Effectiveness and efficiency of operations.
  - Reliability of financial reporting.
  - Compliance with applicable laws and regulations.

# Internal Controls



- Likely to happen and unlikely to happen are impacted by the robustness of the internal controls in place
  - Some risk is always there
  - In some areas, even with high risk, internal controls may not be used to the extent they could be because it creates a competitive disadvantage, is too expensive for level of effectiveness, etc.

# Quality Controls



**Quality control (QC)** has a narrower focus than quality assurance. Quality control focuses on the process of producing the product or service with the intent of eliminating problems that might result in defects.

*Think of an internal control focused on the quality of the service delivered.*

# Areas of Quality Risk



- Where has quality of care been the focus of federal or state compliance overseers.
- Usual suspects: seclusion and restraint; unsafe environments; MDs without licenses; readmissions, others?
  - Often quality of care issues as they relate to high compliance risk are associated with inpatient or residential programming
  - What are outpatient risk? How do we think out of the box on these quality of care issues?

# Musings on Areas of Quality Risk



- Medical care: cost, lack of nursing support, side effects of meds, black box warnings
- Paraprofessionals and peer professionals: education and training, lack of tools to support their work, cost of clinical supervision
- Children's services: family-based models, schools demanding medicated kids, training of staff, effectiveness of intermittent care

# Musings on Areas of Quality Risk



- Long term care models: no alternatives risks patient dumping, articulating the benefit, chronic care models vs recovery
- Individualized treatment: difficult process not highly valued by provider, treatment planning as an event not a process
- Substance abuse services: group vs individual models of care; readmissions,

# Educating the Board



- Need a format for discussion and education – using a grid allows for easy access to the information, allows for training over time so not overwhelmed. Allows for more depth in training than often seen in board training. Allows for input by your board experts.
  - Allows for discussion among risk, compliance, and quality to develop
- **Creating a quality grid**
  - Potential quality problem – remember these can include areas that are specific to you or generic to the industry
  - Reasons for concern or “realities on the ground” - former are more likely to be within your control, realities are often less in your control

# Educating the Board



## ✦ **Creating a Quality Grid**

- Results: these are the actual risks that result from the above
- Possible Solutions for the Industry
  - These are more focused on advocacy issues and as a way for the board to evaluate your solutions
    - how are you attempting to fill gaps, etc.
- Your solutions: list here all your quality controls, gaps, risk of gaps, future work and priority

# Annual Task



- Continuous updating would be best – but at least annually look at changes, additions, etc.
- Make sure it gets into board minutes – good content for the annual board retreat

# How Does This Help Meet Federal Expectations



- The grid provides critical information for the board to be able to confidently and knowledgably ask the remaining 9 questions. For Example:

Question 1: Purpose, measurement of work or progress, accountability for progress, benchmarks used.

- ✦ Purpose should be risk related and can now be evaluated
- ✦ Measurements can be better evaluated –are they focused? Do they provide the information we and management needs?
- ✦ Are the benchmarks adequate given the state of the industry as well as the state of the organization

# Summary



- The education of the Board of Directors on the quality of care risks and the organizations actions to reduce those risks are now an area of federal and state oversight
- Compliance and quality are now inextricably entwined with one another in the eyes of the payers
- The silo's that can be created by having risk, quality and compliance in separate departments should be evaluated in terms of the increase in corporate risk

# Thank You!



MARY THORNTON

[MTHORNTON@MARYTHORNTON.COM](mailto:MTHORNTON@MARYTHORNTON.COM)

617-730-5800

1579 DRIFT ROAD WESTPORT, MA 02790