

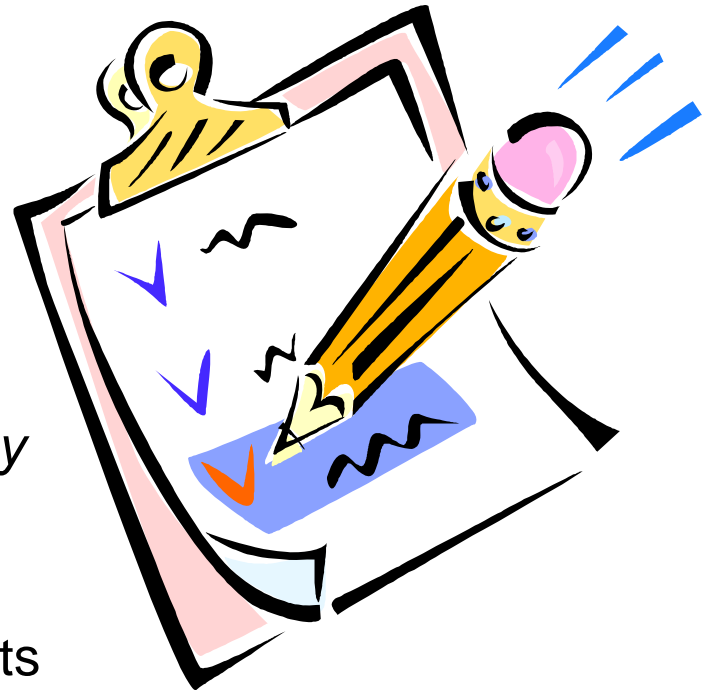
Oregon Medical Association  
October 20, 2009

# **Compliance Overview**

Mark A. Bonanno, Esq.

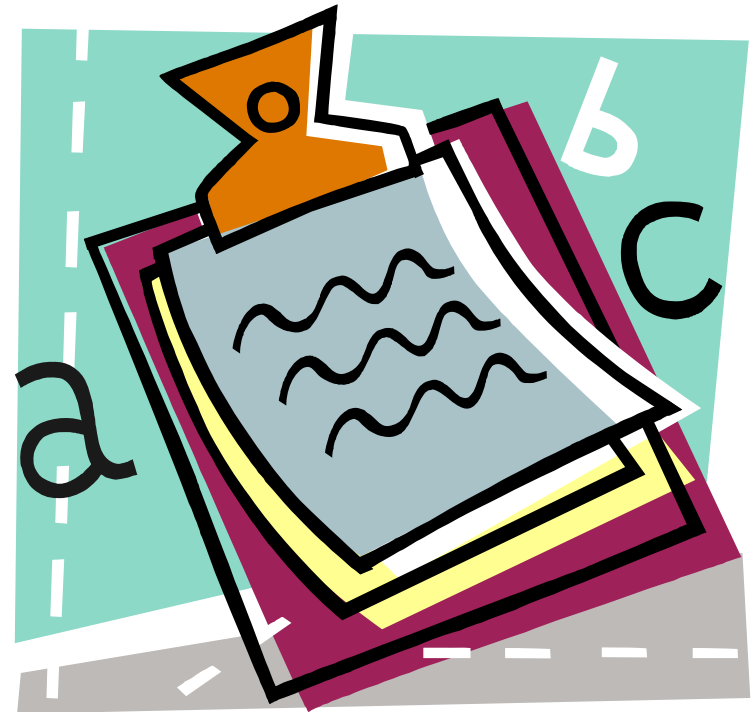
# Seminar Summary

- **Part I**  
Compliance Overview and Operation  
*Bonanno, Brady*
- **Part II**  
Special Issues in Compliance  
*Apgar, Bonanno, Crew, Parrott, Storey*
- **Part III**  
Responding to Problems or Complaints  
*Brady, Schleef, Robbins*



# Compliance Overview

- Why do we have compliance planning?
- What is compliance planning?
- How do you implement compliance planning?



# Bedtime Story

- \$100 Starbucks Cards
- Eat What You Kill MRI
- \$50,000 for Alzheimer's
- Cash Flow Woes
- E&M Witch Hunt
- The Flawless Surgery



# Bedtime Story Strategy

- The ostrich approach
- Not really a defense
- But be careful to not turn innocent stories into nightmares



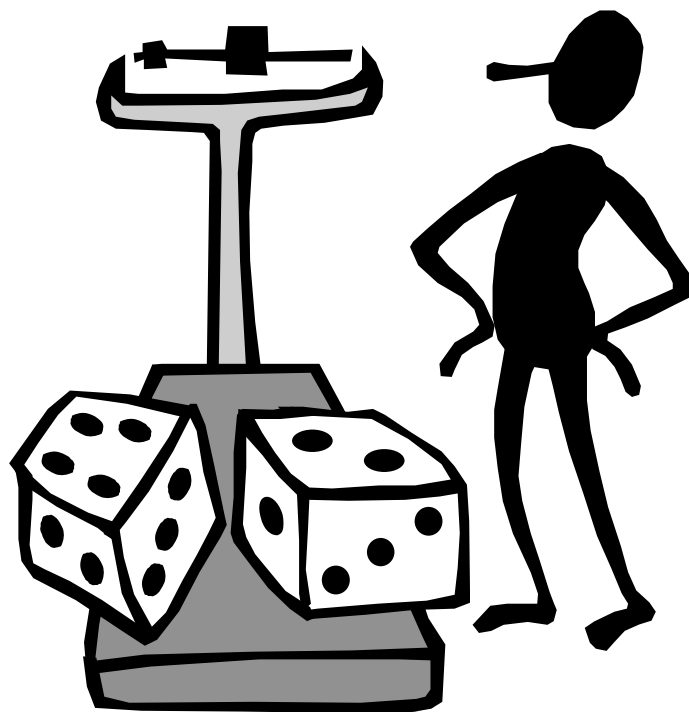
# Why Compliance?

- Always been a part of medical practices, just did not know it
- Compliance as we know it today, born out of HIPAA



# What is Compliance?

In a nutshell, compliance is about identifying what legal risks affect your business and taking steps to minimize those risks.



# Informal Compliance

- Simple ad hoc actions
- No written plan
- Like wearing casual jeans, but at least you are still wearing something





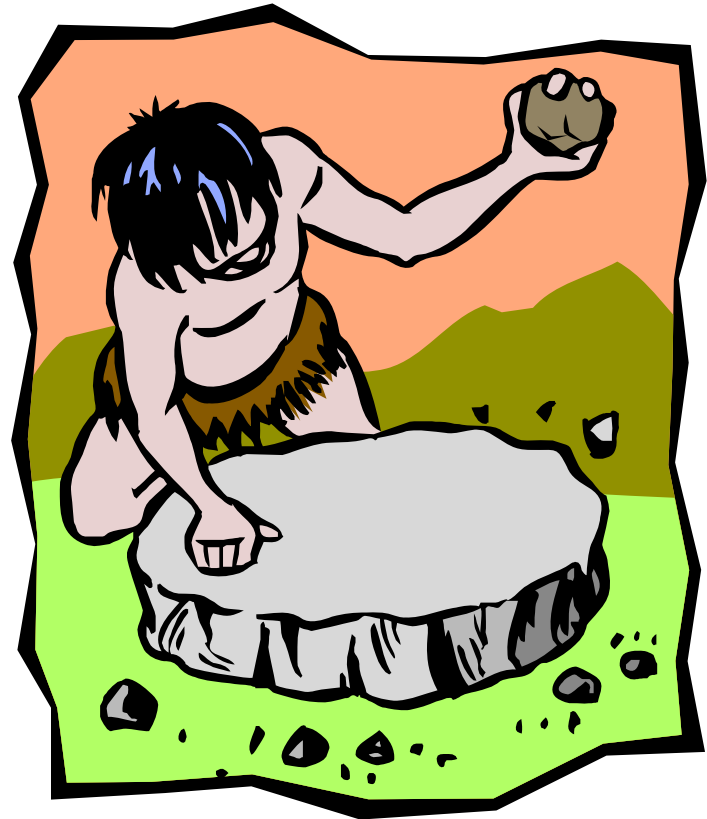
# Formal Compliance

- More studied approach
- Written plan
- Like wearing tailored suit, and it must be maintained



# How to Implement Compliance?

- Focus on formal compliance
- How to start if not formal yet
- How to improve if already formal



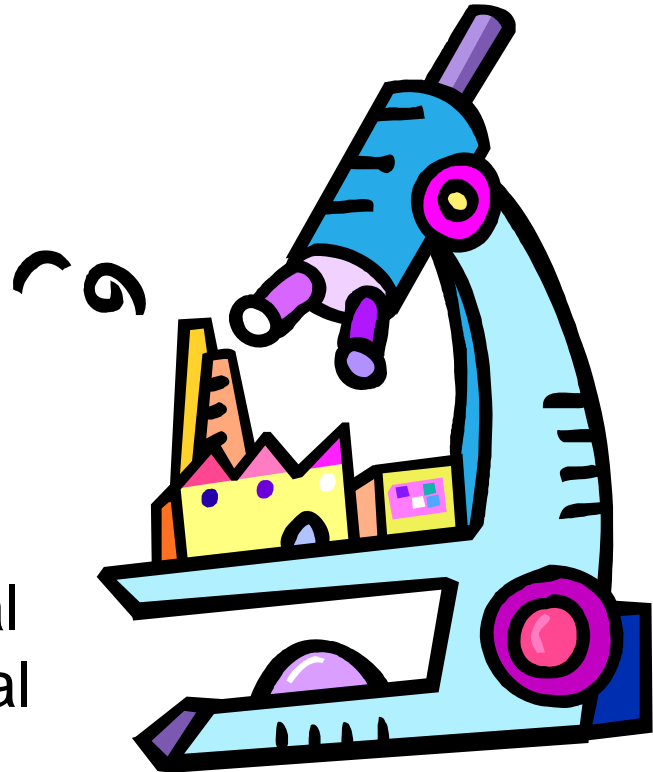
# Seven Basic Elements

- OIG Guidance
- All compliance plans need tailoring to the size and specialty of the business
- Do not add things you will not do or follow



# Element One

- Auditing and Monitoring
- An ongoing evaluation of the physician practice to update policies and determine if compliance efforts are working
- Most important task for informal compliance planning and critical for formal compliance program



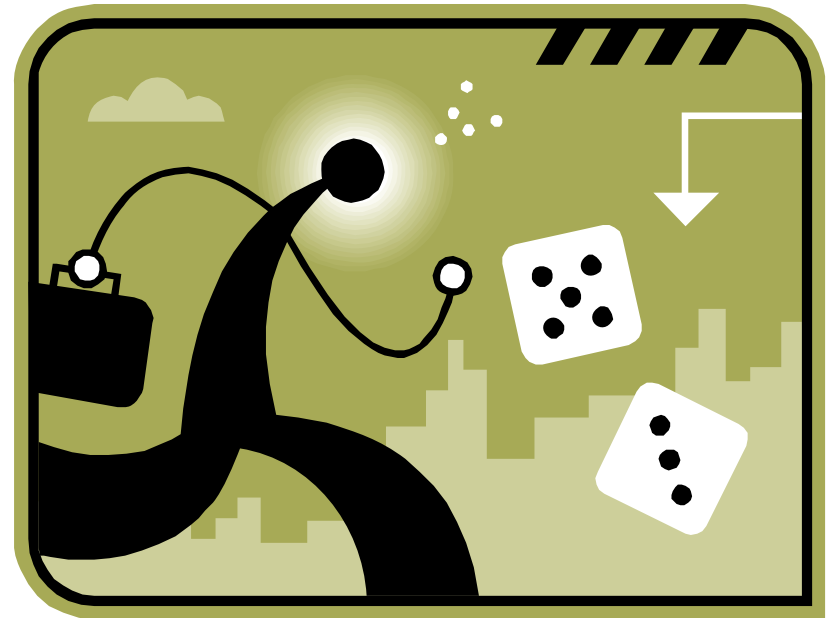
# Auditing and Monitoring

- How to start
- Identify significant risk areas
- Audit or review identified risk areas
- Usually focus on coding and billing first, but consider other areas like employment laws, HIPAA, etc.



# Auditing and Monitoring

- How to improve
- Update policies on auditing and monitoring
- Re-evaluate risk areas, e.g., informed consent, billing rules, moving targets like Stark Law
- Consider fresh eyes for sample audits



# Element Two

- Standards and Procedures
- Written method for dealing with risk areas
- Must tailor written methods to your office



# Standards and Procedures

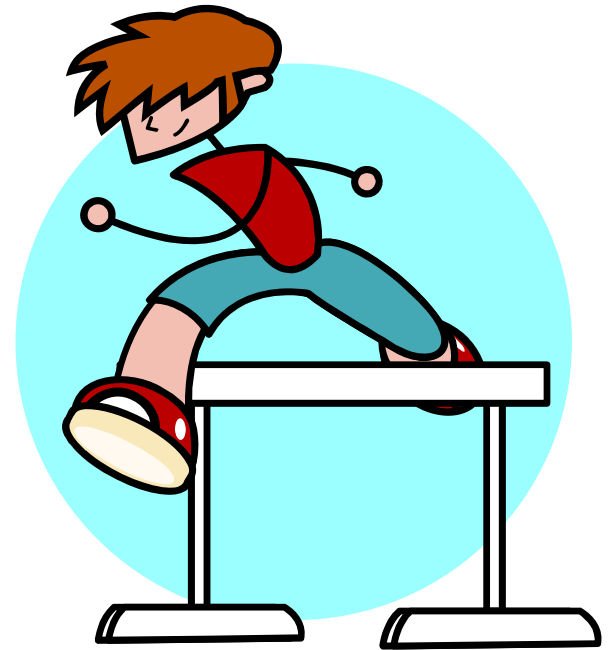
- How to start
- Develop simple standards and procedures manual
- Keep office forms fresh





# Standards and Procedures

- How to improve
- Update written standards and procedures at least annually
- Set bar where it needs to be, not needlessly too high



# Element Three

- Compliance Officer
- A person (or persons) in charge of compliance activities
- Prefer a toothy tiger in this role



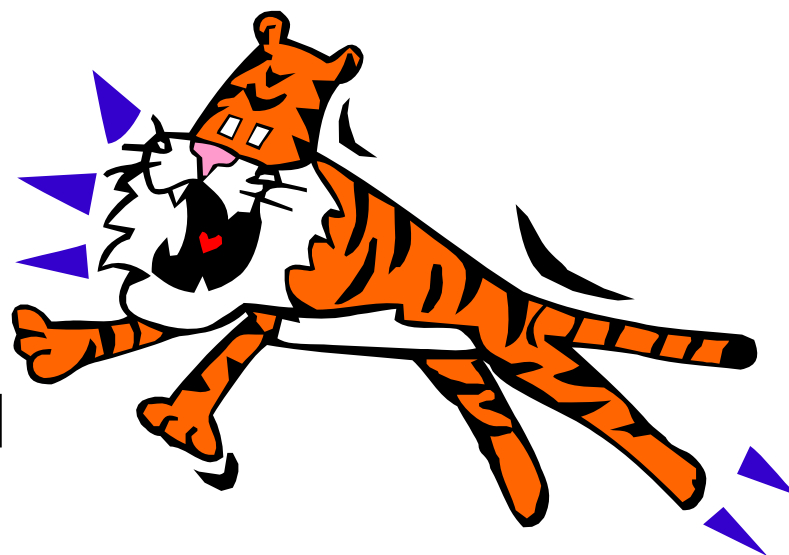
# Compliance Officer

- How to start
- Describe role and designate point person
- Consider delegating various functions internally and externally



# Compliance Officer

- How to improve
- Revise job description if current one is outdated
- Review delegation of compliance functions and make changes if there is little or no positive change in compliance efforts



# Element Four

- Training and Education
- Practice-specific training that effectively reduces problems in your risk areas
- Set physicians and staff up for success, not failure



# Training and Education

- How to start
- Start with mandatory and critical training
- Use cost-effective programs and materials
- Document training



# Training and Education

- How to improve
- Re-train at least annually
- Get rid of boring and outdated training materials
- Look to new technologies for cost-effective training (e.g., podcasts, webinars, etc.)



# Element Five

- Corrective Action
- Development of a plan to respond to detected problems
- Be methodical and do not create chaos





# Corrective Action

- How to start
- Clearly identify the problem and potential responses, first, before taking action
- The best thing an office can do is to remain calm and make educated decisions
- Do not take the ostrich approach



# Corrective Action

- How to improve
- Hire the right people for the proper response needed
- Be careful to not make mountains out of mole hills (i.e., what is fraud?)
- Adapt your compliance program if it fails to detect a problem that requires corrective action



# Element Six

- Communication
- Developing an open line of communication to prevent problems or to have a frank discussion of why a problem happened
- Become expert at listening



# Communication

- How to start
- Create open door policy for compliance officer (all the way up the chain)
- Gather accurate facts first before making any judgment calls



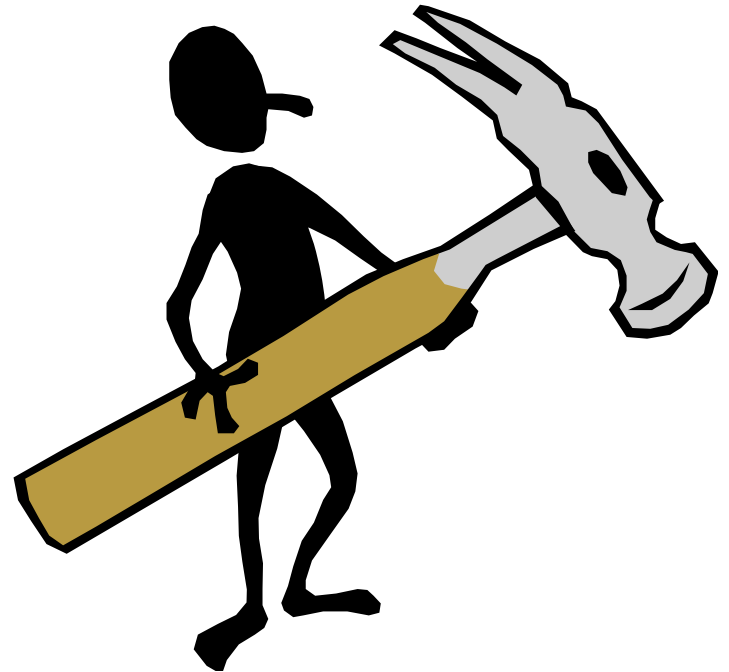
# Communication

- How to improve
- If not hearing about problems that exist, take off those headphones and take a walkabout in your office
- For smaller offices, consider replacing compliance officer with outside contact
- For larger offices, not hearing anything from the compliance officer should be a red flag that change is needed



# Element Seven

- Enforcement Procedures
- Procedures for enforcing and disciplining individual violations of a compliance program
- Establish clear expectations



# Enforcement Procedures

- How to start
- Treat like employment matter, and explain the consequences of not meeting expectations
- Of course, explain the expectations as well



# Enforcement Procedures

- How to improve
- Review and update current policies if they are not being followed
- Review the exclusion databases
- Be mindful and not afraid of a potential whistleblower





# Do's and Don'ts

## Do

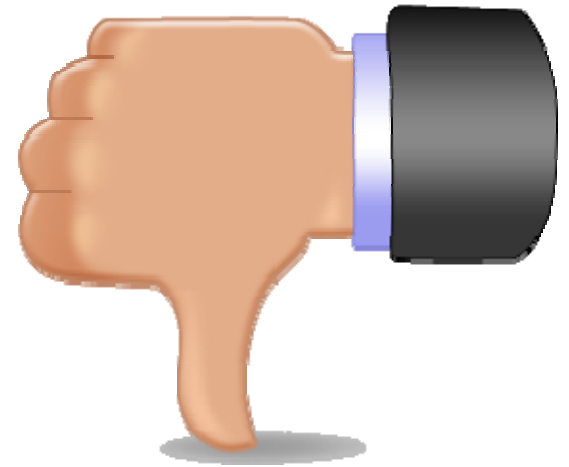
- Make policies plain and simple as possible
- Get the right people for the right job
- Clearly identify problems and responses



# Do's and Don'ts

## Don't

- Adopt a burdensome or inapplicable or unused compliance program
- Ignore the primary purpose of your business (health care)
- Make a federal case out of everything (literally)



# Morning After the Bedtime Story

- Starbucks cards
- MRI referrals
- Alzheimer's bounty
- Cash flow
- Witch hunt
- Flawless surgery



# Resources

- **OIG**

[oig/hhs/gov/authorities/docs/physician.pdf](https://oig/hhs/gov/authorities/docs/physician.pdf)

- **HCCA**

[hcca-info.org](https://hcca-info.org)

- **AMA**

[ama-assn.org](https://ama-assn.org)

- **OMA**

[theoma.org](https://theoma.org)

