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Moving From Reactive to Proactive Compliance May Reduce Risks

By Nina Youngstrom

When an orthopedic surgeon demanded very generous compensation, the hospital weighed its clinical and business needs against the compliance risks. It had to act fast, because the orthopedic surgeon threatened to go elsewhere. With the clock ticking, the vice president in charge of high-risk arrangements had no time to analyze data, including the orthopedic surgeon's clinical patterns and productivity, and make an informed hiring recommendation. She crossed her fingers and sent the contract to the CEO for a signature.

"You're in a hostage-like situation," said Amit Vaishampayan, vice president of the Coker Group. "It may backfire." The hospital could be paying the physician above-market value, which is risky under the fraud and abuse laws, and the VP may be personally on the hook in light of the Department of Justice Yates memo.

This is a classic example of the fallout from a reactive regulatory compliance program, which is less effective than a proactive compliance program, Vaishampayan said at a Dec. 14 webinar^[1] sponsored by the Health Care Compliance Association. With reactive compliance programs, hospitals are often "held hostage" to physician demands when under pressure to recruit them quickly, for example, he said.

"If you have a proactive approach and the systems in place, and they're working correctly, they should be able to identify high-risk arrangements early on and have documented procedures to follow," he said. "There will always be one-off, last-minute stressful arrangements—there's no avoiding bumps in the road—but that should be the exception and not the norm."

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