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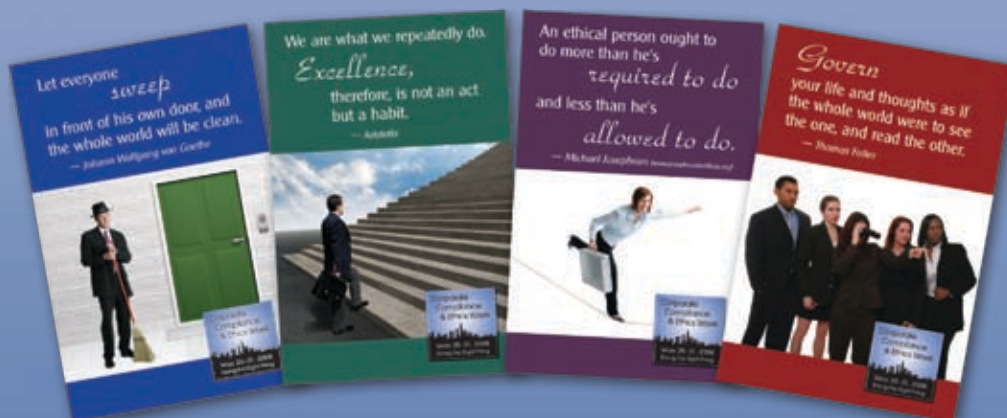
President Elect of the American Health
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Ten tips for leveraging your compliance committee

By **Cornelia M. Dorfschmid, PhD**

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Hospitals that have an organizational structure that values compliance are more likely to have an effective compliance program and are better suited to prevent, detect, and correct problems. The operation and daily management of a corporate compliance program is typically structured around the seven elements of an effective compliance program. These seven elements were identified by the Office of Inspector General (OIG) of the U.S. Department of Health and Human Services in various guidance documents:¹

1. Designation of a compliance officer (CO) and compliance committee;
2. Development of compliance policies and procedures, including standards of conduct;
3. Development of open lines of communication;
4. Appropriate training and education;
5. Internal monitoring and auditing;
6. Response to detected deficiencies; and
7. Enforcement of disciplinary standards, including sanction screening.

In addition to these seven elements, which are the hallmark of an effective compliance program, due diligence also includes conducting routine risk assessments.² These basic elements by now are well known, but the assignment of responsibilities associated with them is sometimes less clear. In fact, the OIG and American Health Lawyers Association (AHLA) in a joint guidance document noted that the experience of many organizations is that compliance pro-

gram implementation lags where there is poor distribution of responsibility, authority, and accountability beyond the compliance officer.³ The neglect of assignment of responsibilities other than those of the compliance officer especially can be an impediment to success.

The focus of the discussion here is on the first of the seven elements – the responsibilities assigned to committees, and how compliance officers can leverage the compliance committee(s) for support to execute their own responsibility, create useful feedback loops, and thus, speed up the response time to detect and correct compliance risks.

Executive level and board level committees

The important role of corporate leadership and executive oversight is usually defined at two levels: the board level and the executive level. Best practice involves committees responsible for compliance at both levels, and two different types of compliance committees, along with the compliance officer function, constitute the compliance program's infrastructure and core strength. Compliance officers should therefore pursue the implementation of a board-level compliance committee and an executive compliance committee, but remain aware of their differences in order to leverage their beneficial impact on the compliance program.

Especially for larger organizations, a board level compliance committee that oversees the program is advisable. Such a committee may be a standalone compliance committee or a subcommittee dealing solely with compliance issues of a board committee, or it may be integrated into a board committee that is charged with a variety of oversight functions such as

audit, ethics, compliance, or quality of care. From a corporate governance perspective especially, the particular stipulations of the Tenet Healthcare Corporation Corporate Integrity Agreement (CIA)⁴ are of interest, because the CIA is quite specific with respect to the duties of a board level committee, and CIAs can serve as guidance toward best practices. From the Tenet CIA, one may conclude that a board committee should perform an annual review of the compliance program effectiveness, retain an independent individual or entity with expertise in compliance to assist in overseeing and reviewing the compliance program, meet at least quarterly, and monitor performance of the compliance officer and the executive compliance committee. The board-level compliance committee's role is one of oversight and monitoring, does not interfere with routine operations of the program, and serves as a means of independent checks and balances.

On the other hand, an executive-level compliance committee (a must for a compliance program of any size organization) has more of a partnership aspect and its proper function is to advise and support the compliance officer in the operation of the compliance program. It must be properly structured so that it strengthens the reporting and accountability to the board. It should not, however, assume the responsibility of operating the compliance program. Best practice is to include the chief executive officer (CEO), chief operating officer (COO), chief financial officer (CFO), and senior executives of other relevant departments, such as the billing office, clinical departments, Human Resources, Internal Audit, and Legal, with the compliance officer as chairperson.

Executive compliance committee

A properly structured executive-level compliance committee can serve as a buffer between the compliance officer and the board and

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facilitate proper allocation of compliance-related responsibilities. The compliance officer is responsible for implementing a program that ensures compliance with health care laws and regulations, provides an education and training program, and maintains a system to receive and respond to allegations and complaints. These three aspects alone impact a wide variety of operational and functional areas, but the execution and implementation of internal controls related to these processes cannot be the sole responsibility of the compliance officer. The demarcation of responsibilities and coordination between the Legal department, Human Resources, and Internal Audit work best if based on consensus and are documented in written policies and procedures. The executive compliance committee provides an avenue for bringing these departments together and formally defining an integrated and sustainable solution for both collaboration on compliance complaints and for violations of law or policy. The executive compliance committee should also oversee the separation of their duties.

A well-functioning executive compliance committee can also help properly manage the expectations of the board. A compliance officer who develops a proactive compliance program work plan that is approved by the executive compliance committee and then presents the work plan to the board is more likely to accommodate and anticipate the board's needs for information. By taking this approach, the compliance officer stands a better chance of avoiding too many ad hoc projects and requests triggered by a board that fears lack of timely and appropriate information.

The complexity of a compliance officer's job is, in part, due to compliance being interwoven into all areas of a hospital system's operation. Any effort to superimpose a compliance program onto operations is bound to fail. Superimposition will make department heads

less likely allies and more likely adversaries on the battleground for budget, resources, and sometimes blame shifting. The tone of an effective compliance program is set at the top, but the implementation must include weaving it collaboratively into the fabric of operations. An effective compliance committee, which can assist with this process, typically operates in a routine mode and tends to work well in both ordinary and extraordinary circumstances.

Ten To-Dos

Ten "to-dos" will help compliance officers make the most of their executive compliance committee and leverage it for support:

- 1 Implement a written compliance committee charter.
- 2 Establish subcommittees and special task forces.
- 3 Include senior leadership (CEO and representatives of all major departments).
- 4 Consider compliance committee members as partners.
- 5 Meet monthly, but no less than quarterly.
- 6 Standardize written agendas with routine and repetitive themes.
- 7 Provide honest and timely updates of positive and negative issues.
- 8 Develop metrics and summaries.
- 9 Use the monthly meetings as rehearsal for board meetings.
- 10 Keep it simple and have a sense of humor.

1. Implement a written compliance committee charter.

An executive compliance committee should operate under a board-approved written charter that includes assurances that an annual effectiveness review of the compliance program is performed. Other key responsibilities include: take meeting minutes; assure review of a standards of conduct; approve a budget/resources and annual compliance work plan; and develop and monitor a compliance risk and assessment process.

2. Establish subcommittees and special task forces.

The key leadership on the compliance committee may not have the time or tactical knowledge to address specific compliance areas. Subcommittees that include subject matter experts and functional area managers can address compliance related issues as working committees. Subcommittees for areas such as revenue cycle management, HIPAA, regulatory affairs, and medical affairs/quality of care are good examples. Another example may be a Recovery Audit Contractor (RAC) special task force that could examine enforcement initiatives and plans for getting RAC-ready for new Medicare contractors. An electronic medical record (EMR) special taskforce might facilitate major system upgrades and a move toward an EMR. Another example is regional or local compliance officers who can be organized into a subcommittee of the executive compliance committee.

3. Include senior leadership (CEO and representatives of all major departments).

Incomplete or unbalanced membership can undermine success. Compliance officers should avoid assembling individuals solely on the basis of good working relationships. Too diverse levels of rank of members can also create problems. All representatives of the major departments and facilities should be included. The inclusion of the following is a best practice: CEO, COO, CFO, chief medical officer (CMO), vice president of Nursing/chief nursing officer (CNO), chief information officer (CIO), legal counsel, and vice presidents of Internal Audit and Human Resources. The compliance officer commonly chairs the committee.

4. Consider compliance committee members as partners.

The takeaway from any lessons learned when working with successful compliance committees is the appreciation of the fact that any member should be regarded as a valued

partner in an alliance toward one goal: achieving and maintaining an effective compliance program. However, partnerships are only as lasting as they are valuable to both sides; therefore, compliance officers should develop a “customer service” oriented compliance approach toward other departments.

5. Meet monthly, but no less than quarterly.

Meetings should be frequent enough to engage busy executives and promote enough pressure on all participants for follow-up, progress, and corrective action. A compliance committee that meets less than quarterly is prone to loose momentum. In the absence of committee input and routine, many one-on-one meetings between the CO (who reports directly to the CEO in a best practice program) and CEO may be required on issues that are better resolved at a different level.

6. Standardize written agendas with routine and repetitive themes.

Written agendas and meeting minutes are part of a well-organized compliance committee. Agendas for regular meetings can be organized around the seven elements and include approval of meeting minutes. A special meeting once a year should include a compliance program effectiveness review, annual work plan, and budget on the agenda, with an action item to present results to the board. Occasional outside presenters on regulatory issues, industry developments, outside audits, or technical infrastructure will deepen the perspective of members and keep meetings interesting. A sample agenda illustrates the point:

Executive Compliance Committee - Meeting Agenda

- Approval of Meeting Minutes and Attendance
- Written Guidance, Standards of Conduct, and Policies & Procedures Update
- Major Complaints/Allegations and

Hotline Calls Summary

- Training and Education Activities and Metrics
- Regulatory Update/What's New
- Internal and External Compliance Audits and Reviews
- Subcommittee Update
- Outside Presenter
- Other Issues

7. Provide honest and timely updates of positive and negative issues

Bad news is best shared early so that it can be tackled from multiple fronts. It also builds trust, which is needed if teamwork is the modus operandi of the committee. Good news should also be shared routinely, and is best shared in simple graphs and charts to show trends and progress. A simple rule of thumb is to focus on the top three bad and good issues at every meeting.

8. Develop metrics and summaries.

Senior executives are busy, and basic metrics and summaries help to get the point across and provide updates on the program's performance. Typical metrics and summaries include compliance training completion rates, quarterly hotline call summary statistics, HIPAA complaint summaries, coding accuracy rates for quality assurance, and claims denial rates or error rates. Employee satisfaction rates in compliance-related surveys are additional measures to consider.

9. Use the monthly meetings as rehearsal for board meetings.

Presentations to the board, reports, and discussions with board-level committees or during a full board meeting are best rehearsed or at least discussed, where appropriate, with the compliance committee. It is best practice for compliance officers to have direct access to the board, but this direct access should be used carefully and with circumspection. Unless a committee member is the subject of a compliance violation or complaint, the more junior compliance officers can

gain perspective on compliance issues and concerns from discussion with department heads and executives on the committee, and even through rehearsals of presentations. Discussions at meetings will also help gauge whether the materials and concerns have reached a level of importance that truly deserves board attention.

10. Keep it simple and have a sense of humor.

More often than not, compliance officers have to be both strategic planners and fire fighters, all at the same time. However, senior executives should not be burdened with too much detail and all of the complexities of compliance program. Senior executives may have short attention spans and their own fires to fight and jobs to perform. Simplicity, honesty, and a sense of humor are the best strategy to retain their support. ■

- ¹ Department of Health and Human Services, Office of Inspector General, OIG Supplemental Compliance Program Guidance for Hospitals, Federal Register, Vol. 70, No. 19, January 31, 2005. Available at <http://oig.hhs.gov/fraud/complianceguidance.html>
- ² United States Sentencing Commission Guidelines Manual (November 2005), Supplement to Appendix C—Amendments to the Guidelines Manual, November 1, 2005. Available at <http://www.ussc.gov/2005guid/TABCON05.htm>
- ³ Department of Health and Human Services, Office of Inspector General, & The American Health Lawyers Association, Corporate Responsibility and Corporate Compliance: A Resource for Health Care Board of Directors, April 2003. Available at <http://oig.hhs.gov/fraud/complianceguidance.html>
- ⁴ Corporate Integrity Agreement between the Office of Inspector General of the Department of Health and Human Services and Tenet Healthcare Corporation, 09/27/2006. Available at <http://oig.hhs.gov/fraud/cia/index.html>

Be Sure to Get Your CHC CEUs

Inserted in this issue of **Compliance**

Today is a quiz related to this article: “Ten tips for leveraging your compliance committee” by Cornelia M. Dorfschmid, PhD beginning on page 4.

To obtain your CEUs, take the quiz and print your name at the top of the form. Fax it to Liz Hergert at 952/988-0146, or mail it to Liz's attention at HCCA, 6500 Barrie Road, Suite 250, Minneapolis, MN 55435. Questions? Please call Liz Hergert at 888/580-8373.

Compliance Today readers taking the CEU quiz have ONE YEAR from the published date of the CEU article to submit their completed quiz.