



ENSURING BOARD COMPLIANCE SUPPORT: THE ALPHA AND OMEGA

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THE ALPHA

Gaining the support from the Board of Directors (“Board”) for the healthcare compliance program (CP) begins with establishing a proper Board level committee, such as a Compliance Committee. When establishing the Compliance Committee it is imperative to implement a well prepared and thorough committee charter that sets forth the Compliance Committee’s duties, responsibilities and fiduciary obligations. Drafting the right kind of charter and related operational policies must explain how the Compliance Committee will meet their obligations, which is critical to gaining support from the Board.

Compliance Committee charter must clearly state expectations and oversight responsibilities of the members. Additionally, the construction and content of the charter needs to be adapted to the organization. The basic framework of the charter should include:

- That the Compliance Committee is comprised of three to five Board members and is independent of management.
- At least one member is knowledgeable about the standard seven elements of a CP.
- That the Compliance Committee meets at least four times annually and more frequently if needed.
- That meeting minutes will be document to show key discussions, decisions and recommendations.
- That the Compliance Committee will keep the Board informed on the status of the CP.

The Board should also maintain a thorough charter that outlines their structure and oversight responsibilities. Specifically the charter should include the Board’s duties, including but not limited to the following.

- Provide active oversight of the CP
- Evaluate CP performance including how compliance matters are handled
- Ensure implementation of compliance related policies for high risk operations and programs
- Understand enforcement laws and legal/compliance requirements so to identify and assess risks
- Promote corporate responsibility and compliance with laws, regulations, industry guidelines and policies to protect the organization’s mission and its workforce and patients
- Promote and ensure meaningful compliance education is provided to all covered persons
- Oversee how compliance risks are evaluated, managed and mitigated
- Recognize the highest compliance risk areas and how they are being managed
- Keep up to date with emerging compliance issues
- Ensure identified compliance issues are resolved through corrective action measures
- Ensure the ongoing enforcement of compliance policies and procedures
- Help identify potential instances of non-compliance and potential waste, fraud and abuse
- Understand metrics that evidence CP is meeting its objectives and responsibilities.

THE OMEGA

Once charters and policies have been developed and implemented for Board level oversight of the healthcare compliance program the next step is to identify the critical information needed by the Compliance Committee. The right kind of information will capture the Compliance Committee's interest and lead to needed empowerment for the program. The Compliance Committee will want to know whether the overall operation of the healthcare compliance program is reducing the likelihood of wrongful acts creating financial liabilities, litigation, bad press and/or loss of community confidence in the provider. To do so the Compliance Committee must create a framework for reporting on the health compliance program as a whole, as well as to examine each element.

The U.S. Department of Health and Human Services Office of Inspector General (OIG) includes in their numerous healthcare compliance program guidance documents two methods for obtaining credible evidence of CP effectiveness. One of the methods is by anonymous survey of employees. The OIG noted that "as part of the review process, the compliance officer or reviewers should consider techniques such as...using questionnaires developed to solicit impressions of a broad cross-section of the hospital's employees and staff." They further reinforced this by stating it "recommends that organizations should evaluate all elements of a CP through employee surveys. Results from a professionally administered healthcare compliance survey can provide a very powerful report to the Board and the Compliance Committee. The results identify relative strengths and areas that warrant attention in the healthcare compliance program.

Utilization of compliance surveys is easy and relatively inexpensive. But healthcare compliance surveys provide powerful independent and credible evidence about the effectiveness of your program. The use of surveys also signals to the workforce that you value their opinion, underscores the organization's commitment to them and that their input is used to make positive changes. There are really two general types of surveys that can be utilized, the Compliance Culture Survey and the Compliance Knowledge Survey.

Compliance Culture Surveys are useful in measuring change in the compliance environment over a period of time. The Compliance Culture Survey focuses on the beliefs and values that guide the thinking and behavior of employees within an organization. The questions examine the extent to which individuals, coworkers, supervisors and leaders demonstrate commitment to compliance. This Survey is extremely useful to assess the current state of the compliance climate or culture of an organization. The question's response option is Likert Scale, which offers a series of answers that range from "Strongly Disagree" to "Strongly Agree" with the statement presented in each question.

Compliance Knowledge Surveys are used most often with mature healthcare compliance programs to learn the program's process in reaching employees. The Survey tests employees' knowledge of the healthcare compliance program's structure and operations, including the understanding of the role of the Compliance Officer, how the hotline functions, etc. This is useful in providing empirical evidence of the advancement of program knowledge, understanding and effectiveness. The question's response option is closed ended, using "Yes," "No," and "I don't know."

Although anyone can draft a questionnaire in a matter of hours, it does not mean it will produce reliable, valid and credible results, especially to an outside party. Internally developed and administered surveys may be questioned as to potential bias or reliability. It is far better to use a valid and independently administered survey that has been tested over many organizations and is administered through a web-based system that ensures confidentiality of participants. The fact is that using a

professional survey service specializing in healthcare compliance is [surprisingly inexpensive](#) and less costly than developing and delivering a survey in house. The ideal survey would be one that not only provides statistical results, but can be compared to a large universe that has the added value of seeing how an organization compares to all others who have used the instrument.

If an organization decides to conduct an annual compliance survey, it is advisable to alternate between the two types, rather than using the same survey each year. The reason being is that use of the same survey every year diminishes its value. Alternating between two types of surveys will provide different and increased insight about your healthcare compliance program.

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