

WHAT ARE COMPLIANCE BEST PRACTICE STANDARDS

By Richard P. Kusserow, CEO of SMSInc

Today the focus on compliance is with the program enhancement and increased effectiveness. There is various compliance guidance offered by the Federal Sentencing Commission, DHHS Office of Inspector General (OIG), Joint Commission on Accreditation of Healthcare Organizations (JCAHO), Sarbanes-Oxley Act, and other authoritative bodies that provide added insights on raising the compliance bar at an organization. The problem is all the guidance is presented in general terms and do not explain how they can be put into effect. In short, the guidance provides the “what” but not the “how”. It is becoming increasingly evident that the “how” is the most important part of building an effective program. The purpose of this article is to make the case those employing best practice standards is the key to effective compliance programs.

Over the years as result of extensive experience a number of best practice compliance program standards have emerged. Over the last seventeen years, our firm has worked with over 700 health care organizations in the development, enhancement and evaluation of compliance programs. The firm’s executive includes the former DHHS Inspector General, Principal Deputy IG, Assistant IGs, Regional IGs, as well as retired Regional Administrators and other executives from the Center for Medicare/Medicaid Services (CMS). The collective experience of working, both as regulators and enforcement agency executives, as well as with providers in the health care industry has resulted in a body of knowledge as to how to apply best practice standards in meeting and implementing compliance guidance from the government. In addition, this experience provides added value and improves compliance program outcomes. The following examines various definitions of best practices, as well as their benefits and how to apply them in connection with compliance programs.

Best Practices are often related to other terminology such as Best Approaches, Lessons Learned, and Evidence-Based Recommendations. There is no universally accepted definition of a “best practice”. The terms “best practice” and “lessons learned” are often used interchangeably. A Best Practice can be defined as a technique or methodology that, through experience and testing, has proven to reliably lead to a desired result. A commitment to using the best practices in any field is a commitment to using all the knowledge and experience at one’s disposal to ensure success. Best Practices can be most easily understood as techniques or methodology that, through experience and research, has proven to reliably lead to a desired result. They can also be defined as management practices and work processes that lead to optimal results in reducing the risk of compliance violations or other unwanted events that could give rise to potential liability. As a further refinement of the term, one should consider best practice is a technique or methodology that, through experience and evaluation, has proven to reliably lead to a desired result. A commitment to using the best practices in any field is a commitment to using all the knowledge and experience at one’s disposal to ensure success. The term is used frequently in the fields of health care and government administration.

As a contrast, lessons learned are usually best approaches and practices that have not been evaluated as rigorously as best practices, but that still offer ideas about what works best in a given situation. They can also be examples of how *not* to do something. Also, lessons are often “lessons from” a specific program or project and are not universal in scope or application. Best Practices can be summarized as those specific business

processes that work for one organization and create ideas, options, and insights for other organizations.

Benefits of Adopting Best Practices

There are many benefits for entities applying the best practice standards. The most important benefit is improving program effectiveness. Other benefits include:

- Development of mutual trust between the provider and oversight agencies
- Creation of a shared vision by which the organization conducts its business
- Establishing objectives that connects with the organization's mission and vision
- Aligning qualitative and quantitative objectives with objectives and strategic plans
- Promoting effective relations between compliance and the organization's methods of operation
- Identifying benefits of compliance for employers and other stakeholders and express them in terms which are meaningful to them

The U.S. General Services Administration has jurisdiction across all federal agencies. They have defined Best Practices as methods, processes, or practices about which one or more of the following pertain:

- It produces superior results (as in meeting compliance objectives);
- It leads to exceptional performance (in reducing compliance risks and liabilities);
- It is recognized by an industry expert (e.g. SMSInc in understanding what OIG, DOJ and USSC are looking to see);
- It is deemed so by an organization's customers (these include patients, employees, payors, etc.); and/or
- It is clearly a new or innovative use of personnel, resources, or technology to achieve desired outcomes.

In discussing the Benefits of Best Practices for health care providers, the following might be considered:

1. **Reduce Costs:** Health care providers often do not have the deep financial pockets to "re-invent the wheel". By learning what other organizations have successfully done, a provider can save money without testing new ideas.
2. **Avoid Mistakes:** Solving compliance problems on your own can result in costly errors. Learning what others have done can keep your organization from making costly mistakes.
3. **Find New Ideas:** Adopting the "Not-Invented-Here" attitude can spell disaster for health care organizations not in close touch with the ever changing regulatory, enforcement and tort liability environment. It is always a prudent practice to borrow the best from beyond one's own organization.
4. **Improve Performance:** When health care entities look for best practices from the outside, it tends to raise the bar of performance and set new standards of excellence to propel your company forward.
5. **Reduces the Risk/Liability of Non-Compliance.** A compliance program should have two objectives. First to reduce the likelihood of an unwanted event or act



that could give rise to a liability (e.g. enforcement action, unlawful harassment suit, tort suit by patients, bad publicity that would harm reputation, injuries, discrimination complaint, union complaint, etc.). Second, should one of these unwarranted events take place, to learn about it first and fast for expeditious remedial actions.

Steps for Best Practices

1. Identify opportunities for compliance program improvement through independent reviews and evaluations
2. Establish metrics to measure compliance program improvements
3. Collect information on the successful, best practices of other organizations
4. Modify the best practices for the specific culture and environment of the organization
5. Implement the process then measure the results