

The Ultimate Guide to Outsourcing Elements of Your Compliance Program

We're answering the Why, When, Where, Who, What and How

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Overview

Outsourcing compliance program elements that do not directly involve your core business has become a significant trend in business over the last decade. Why is that? Business leaders have learned to focus the company's talent, resources and expertise on what makes them successful and to outsource non-core functions to firms that are experts in their respective fields.

The practice of outsourcing compliance-related functions has long since reached corporate compliance programs, which is evidenced by the number of firms specializing in compliance and ethics hotlines, exclusion and sanctions screening, and compliance and privacy training. However, a new trend is emerging. More and more healthcare organizations, from physician practices to health systems, are looking to outside compliance experts to assist with enhancing, evolving and managing their compliance programs.

Many healthcare Board members and executives have a number of questions when considering engaging an outside compliance expert. This Whitepaper answers the most common questions and helps guide healthcare Board members and executives to making the right decision for their company.



Answering the Questions

Why Outsource the Compliance Officer Role?

After the Great Resignation in 2021, and with many Compliance Officers opting for an early retirement, healthcare organizations are finding themselves looking to fill critical compliance roles, including Corporate Compliance Officers. This has lead healthcare Board members and executives to think outside the box to fills these gaps. One solution is engaging outside compliance experts to step into the role of Interim Compliance Officer and other Compliance Department roles such as Compliance Analyst, Compliance Manager and Compliance Director.

A healthcare organization of any size can appoint an Interim Compliance Officer, or interim compliance staff, to build, enhance or manage its Compliance Program. HHS Office of Inspector General (OIG) recognizes the practice of engaging an outside Compliance Officer in situations where staff limitations, such as compliance experience or knowledge, warrants outsourcing the Compliance Officer role while the organization seeks a qualified permanent candidate. However, the Department of Justice and HHS OIG do not consider outsourcing the Compliance Officer role as an acceptable permanent solution. Where in, small healthcare organizations, such as physician practices, who's business operations do not require a full-time Compliance Officer, have the support of the OIG to engage a permanent outsourced Compliance Officer.

In addition to lacking internal compliance experience and knowledge, cost is another reason why healthcare organizations seek an outside compliance expert. In many cases, engaging a compliance expert to temporarily fill the role, while searching for a permanent candidate, typically costs less than immediate hiring an employee for the sake filling a crucial role for the organization. Other reasons that may drive an organization to outsourcing include:

- Need for a subject matter expert.
- Immediate need to fill the Compliance Officer role.
- Ability to leverage services or deliverables without reinventing the wheel.
- Need to pick up where the former Compliance Officer left off to avoid a learning curve.

When to Bring in an Outside Compliance Expert?

When considering whether an Interim Compliance Officer is right for your organization, several circumstances should be considered. First, consider the current state of your Compliance Program. Healthcare organizations at the front end of establishing its Compliance Program should consider bringing in a compliance expert with the experience of developing and implementing effective compliance programs. An outside compliance expert can move the development process forward rapidly and efficiently before turning the Program over to a permanent Compliance Officer.

Second, consider engaging an outside compliance expert to fill a vacant position, whether Corporate Compliance Officer or other Compliance Department positions, such as Compliance Analyst, Compliance Manager, or Compliance Director. Turnover among in-house Compliance Officers has become an industry-wide problem aggravated by the COVID-19 Pandemic and the Great Resignation when retirement rates increased and many changed professions. An outside expert consultant can manage the Program until a suitable replacement is hired, which typically takes four months.

Third, a government investigation is a driving factor to bring in an outside compliance consultant to shore up the Compliance Program in anticipation of settlement agreements with the DOJ and OIG. If an organization fails to evidence an active and effective compliance program, the OIG may include annual attestations by the Board and leadership in the Corporate Integrity Agreement (CIA). The purpose of the annual attestations is for the Board and leadership to evidence their oversight responsibility of the Compliance Program. Additionally, CIAs often require the Board to engage an outside compliance expert to ensure the Board understands compliance and its oversight responsibilities. Here an ounce of prevention, may avoid having a pound of cure.

Where to Find a Compliance Expert?

The first starting point is an internet search to find professional journal articles and blogs on the subject of interim Compliance Officers and outsourced compliance staff. These resources can provide additional insight, and also identify experts on the subject. Additional internet searches can yield consulting firms that provide interim Compliance Officer and compliance staff services.

Who is the Right Fit for the Organization?

A key to maintaining compliance program operations during a gap in permanent staff is finding qualified outside compliance experts that have experience in building, assessing and managing effective compliance programs. An outside compliance expert is an individual who possess the experience with and detailed knowledge of federal and state laws and regulations, as well as in dealing with a wide range of compliance issues.

Outside compliance experts must be individuals with hands-on experience in a variety of circumstances and settings that make them experts. Furthermore, the right outside compliance expert can



bring experience on meeting compliance requirements imposed by regulatory bodies, thereby managing regulatory risks for the organization. They can quickly detect and address non-compliance with applicable laws and regulations, such as Anti-Kickback and Stark Law violations, improper coding and billing and Medicaid or Medicare program rules.

As such, it is best to identify a compliance-focused firm with a long track record of providing interim Compliance Officer and outsourced compliance staff services. Consider a firm with an established reputation in the healthcare compliance sector. It is critical the firm understands the healthcare industry, the enforcement landscape and the changing healthcare regulatory environment. Additionally, it is critical the firm has created, implemented and maintained healthcare compliance programs for organizations of different provider types and various sizes and organizational structure. Having experience with a variety of organizations can ensure that the outside compliance expert can quickly adapt to your organization and identify and implement solutions to enhance the compliance program's operations. Additionally, the outside compliance expert can leverage the experience and knowledge of their colleagues to address unique compliance risks that they may not have personally handled before.

There are many issues and factors to consider in making the right decision as to what is required and who best to meet those needs. Consider the following when engaging outside compliance experts:

- The current compliance needs of the organization.
- A proposed scope of work with objectives and goals for the engagement.
- An estimated number of hours aligned with a reasonable budget.
- The outside expert's work history/employers and major professional accomplishments related to type of work they are being engaged for.
- Interview prospective consultant in advance for compatibility.

Consider avoiding outside experts that are independent and are not back by a healthcare consulting firm. It is important to engage a firm that holds multimillion dollar liability insurance. Also, avoid firms that provide similar interim Compliance Officer and compliance staff services but in a different sector, such as financial, environmental, transportation, and energy.

What Level of Support is Needed From the Compliance Expert?

Once the decision has been made to outsource compliance work to outside experts, next you must determine the level and scope of support needed to maintain or enhance the Compliance Program. Before engaging an outside compliance expert, you should determine a scope of work based on:

- The prior Compliance Officer's workload and job responsibilities.
- The maturity of the Compliance Program.
- Current or pending external audits or government investigations.
- Timing of recurring compliance operations, such as deliver of annual compliance program training, annual compliance policy updates, Board meetings.
- Reasonable timeline on hiring a permanent Compliance Officer.

Even for large organizations, a true compliance expert can hold the Compliance Program together for several months without having to be on-site full time. Many organizations can run compliance programs efficiently through using an expert for 50-80 hours per month, for up to 6 months, until having a permanent Compliance Officer in place becomes critical. Small organizations, such as physician practices, will need a compliance expert for only half the time.



Due to advances in technology, not all hours need to be worked on-site at the organization's offices. However, the key to successful remote engagements, is to have the compliance expert on-call to address any emergent issues and, when necessary, to be on-site when it is important to show that the outside expert has appropriate oversight of the Compliance Program.

How to Use a Compliance Expert to Your Advantage?

The organization must leverage the expertise of an outside compliance consultant who has a wide breadth of experience and may also have expertise in a particular compliance area, such as investigations, auditing and monitoring, research compliance or development and implementation of a compliance program. The key for bringing optimum return on cost is ensuring added value in addition to day-to-day management of the Compliance Program. An outside compliance expert can:

- Examine the Program to confirm strengths and identify opportunities for improvement.
- Conduct an independent evaluation of the Program and present to executive management and the Board.
- Review the Code of Conduct, compliance policies and other written guidance.
- Evaluate the quality and effectiveness of compliance training.
- Assess high-risk areas that warrant attention.
- Determine resources needed to effectively operate the Compliance Program.
- Identify and evaluate candidates for the permanent Compliance Officer position.
- Provide a “road map” for the incoming permanent Compliance Officer to continue the development and enhancement of the Compliance Program.

What's Next?

Finding a properly qualified Compliance Officer or compliance staff can be a significant challenge for organizations. Using an outside compliance expert to keep all the bases covered is a solution to the staffing problem. The guidance set forth in this Whitepaper offers tips and insight to consider when seeking an outside compliance expert.

Strategic Management Services empowers health care organizations to meet federal and state compliance requirements by providing specialized products and services developed by proven industry experts. Founded in 1992 by the former Inspector General of the U.S. Department of Health & Human Services, Richard Kusserow, Strategic Management was the first health care consulting firm to focus on corporate compliance and ethics initiatives. Since then, we have helped more than 3,000 health care organizations strengthen compliance operations through highly-specialized compliance services. If you would like to learn more about how Strategic Management Services can help support and enhance your compliance program, contact us by calling (800) 683-9601 or through our website at <https://compliance.com/contact-us/>.



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