



# **BUILDING AND EVALUATING EFFECTIVE HOTLINE PROGRAMS**

# WHO WE ARE



For over 30 years Strategic Management has provided compliance advisory services exclusively in the healthcare sector to more than 3,000 organizations, including development, evaluation, management, and enhancement of compliance programs.



The Compliance Resource Center provides tools and support for compliance programs, including hotline services, sanction checking/resolution services, policy development, etc



SAI360 is the leading cloud software provider connecting GRC, EHS, Sustainability and Learning. Our SAI360 platform streamlines workflow and drives outcomes through flexible, scalable, and configurable modules.

# PRESENTERS



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CEO Strategic Management



**Shelby Cole**  
Compliance Resource Center

# AGENDA

- BACKGROUND ON HOTLINES
- RECEIVING HOTLINE COMPLAINTS
- PROGRAM TO RESPOND TO COMPLAINTS AND ALLEGATIONS
- HOTLINE PROGRAM ONGOING MONITORING & AUDITING

# WHY A HOTLINE

- USSC: Have and publicize a system that allows for anonymity or confidentiality, whereby employees may report or seek guidance regarding potential or actual criminal conduct without fear of retaliation.
- DOJ: “Compliance Program Effectiveness Guidelines” has 18 questions focused on hotline operations
- OIG: Maintenance of a process, such as a hotline, to receive complaints; and compliance communication, including hotlines, is a critical element of any effective compliance program
- CMS mandatory guidelines call for hotlines
- SOX Act, HIPAA & Supreme Court underscore importance

# HOTLINE BENEFITS FOR EMPLOYERS AND EMPLOYEES

1. Reporting anonymously/confidentially w/o fear of retaliation
2. Provides alternative communication channel with employees
3. Managers can't hide misconduct, if employees can report it
4. Management benefits from employee experience and insights
5. Demonstrates commitment of about employee concerns
6. Identifies where operations warrant review
7. Detect violations of Code, policies, laws and regulations



**STRATEGIC MANAGEMENT**

# **RECEIVING HOTLINE REPORTS**

# Hotline must...

1. Be readily available (e.g. 24 hours a day, 365 days a year)
2. Be both live and web-based reporting
3. Provide ground rules to reporters
4. Not trace or record calls, phone numbers or IP addresses
5. Follow standardize question/reporting
6. Permit choice to remain anonymous or self identify
7. Provide a PIN for future communication
8. Provide protection of identity for confidential callers
9. Have reports of calls submitted the same day of call
10. Have a log to track actions from receipt to resolution



# INTERNALLY ANSWERED HOTLINES

- All calls should be answered where others cannot overhear
- Internal hotline need “backstopping” against tracing
- All caller identification systems have to be blocked
- Those answering calls should not be visible to the work force
- Confidence comes from neither party knowing each other
- Using people part time to answer not a good option
- Calls generally limited to be answered during business hours

# VENDORS ARE MORE COST EFFECTIVE

- Vast majority of organizations use vendors to answer calls
- Few organizations can afford to staff a 24/7 hotline
- Staff better trained/experience in handling complainants
- Callers more comfortable providing information to outsiders
- Far less costly than operating a hotline internally
- Vendors can amortized cost of operation over many clients
- Cost after set up should be about \$1/employee/year

# EVALUATING HOTLINE VENDOR SERVICES

## CHECKLIST

- How many years of hotline experience?
- Amount of experience in the health care sector?
- Do their contract specify timeliness in reporting?
- Personalized with a responsible account manager?
- Are those answering calls trained on HIPAA Privacy?
- Will they sign and adhere to a HIPAA BAA?
- Provide routine versus urgent methods of reporting?
- Any other supporting services or help desk?

# EVALUATING HOTLINE VENDOR SERVICES

## CHECKLIST

- Do they provide anonymous reporting?
- Do they provide live operator + web-based reporting?
- Do they provide caller PINs?
- Cost of service?
- Deliver report methods? (should be via web, not email)
- Do they permit cancellation at any time by simple notice?
- Do they permit termination with simple written notice?
- Who owns the telephone number, you or they?
- Do they provide a single contact point for all issues?
- How do they provide reports of calls (using email is not secure)?



STRATEGIC MANAGEMENT

**PROGRAM TO  
RESPOND TO HOTLINE  
COMPLAINTS &  
ALLEGATIONS**

# COMMON HOTLINE RELATED POLICIES

- **Code of Conduct** addresses Hotline availability & how to use it
- **Duty to Report Policy** establishes affirmative duty to report violations of laws, regulations, Code, policies & other wrongdoing
- **Investigation Policy** provides guidance on investigating reports
- Coordination of investigations policies with HR & Legal Counsel
- **Non-Retaliation Policy** that guards against anyone taking reprisals against someone filing a complaint via the hotline.
- **Anonymity Policy** guaranteeing the right of callers to leave reports without identifying themselves
- **Confidentiality in Reporting Policy** to ensure that a person who requests confidentiality when reporting is guarded in this
- **Hotline Auditing and Monitoring Policies** to verify and validate proper functioning

# HOTLINE PROMOTION & ACCESS

## OIG Compliance Guidance

- How well is the hotline publicized?
- Is the hotline number made readily available to all employees by conspicuously posting the telephone number in common work areas?

## DOJ Prosecutors ask

- How is the reporting mechanism publicized?
- Does the company take measures to test whether employees are aware of the hotline and feel comfortable using it?
- How has the company assessed whether its employees know when to seek advice and whether they would be willing to do so?

# WHERE EMPLOYEES LEARN ABOUT THE HOTLINE

- Compliance training programs
- Code of Conduct
- Posters
- Printed materials (e.g., newsletters)
- From supervisors/managers
- Internet/Organization Intranet
- Word of mouth
- Special events (e.g., Compliance Week)



# TIPS IN PROMOTING THE HOTLINE

## Hotline promotion:

- Signage/posters
- Wallet cards, pens, mouse pads, giveaways
- Phone stickers, badge labels, screensavers
- Intranet
- Compliance Week

## Awareness of the hotline through:

- Annual training, new hire training, other related training
- Code of Conduct
- Employee newsletter
- E-mail reminders
- Real life scenarios

# HOTLINE PROMOTION & ACCESS

## USSC

- Take reasonable steps to communicate compliance periodically and in a practical manner by conducting effective training programs

## DOJ Prosecutors ask

- How is the reporting mechanism publicized to employees?

## OIG Compliance Guidance

- Employees, contractors & others in the workplace should be trained on hotline.
- Duty to report, Confidentiality/Anonymity, Non-retaliation
- Purpose is to increase employees' knowledge, as well as comfort and confidence in reporting

# Oversight of the Hotline

- Management/Board Compliance Oversight Committees
- Monitor operation with summary reports of the activities
- Assist in promoting compliance through the hotline
- Approving policies for the management of the operation
- Empower investigation and resolution of allegations

# Non-Retaliation/Non-Retribution

## OIG Compliance Guidance

- Need to take all necessary steps to prevent intimidation, threats, coercion, discrimination against, or any other retaliatory action against anyone for reporting to the hotline in good faith perceived wrongdoing
- Should take adverse action against those violating policy

## DOJ Prosecutors ask

- What evidence that complaint-handling process includes proactive measures to create a workplace atmosphere without fear of retaliation, appropriate processes for the submission of complaints, and processes to protect whistleblowers?

# Confidential REPORTING

- **USSC.** Have and publicize a system that allows for confidential reporting by employees reporting or seeking guidance regarding potential violations without fear of retaliation.
- **OIG Compliance Guidance.** Should always strive to maintain confidentiality of employee's identity and once accepted, management assumes responsibility for that person.
- **DOJ Prosecutors asks** whether the company have anonymous reporting mechanism, if not, why not; if employees were able to confidentially report allegations of a breach of company's code of conduct, policies, or suspected or actual misconduct?

# ANONYMOUS REPORTING

- **USSC.** Have and publicize a system that allows for anonymous reporting by employees regarding potential or actual criminal conduct without fear of retaliation.
- **OIG Compliance Guidance.** Employees should be permitted to report matters anonymously and this means no way to trace source of contact. Attempts to identify anonymous sources should result in adverse action
- **DOJ Prosecutors ask** If employees able to anonymously report violations the Code of Conduct, policies, or suspected or actual misconduct?

# HOTLINE CALL VOLUME

- Call volume average is 1 call per 1000 employees per month
- On average 70% of complaints/allegations reported to the hotline
- Recent/new training about the hotline
- Release of promotional material about the hotline
- Level of employee confidence in management address problems
- Events that excite employee awareness of work place problems
- Changes in the work conditions
- Publicity, good or bad, about the organization
- Regulatory agency interest shown in the organization
- New and/or unpopular policies being initiated
- Actions and activities by regulatory/enforcement authorities

# MANAGING HOTLINE INFORMATION

- **OIG Compliance Guidance** calls for maintaining a log to track date, time, nature of information provided, how was the matter resolved and that a summary of the hotline operations should be reported to CEO, compliance committee & board
- **DOJ Prosecutors ask** how the hotline information was collected, tracked, analyzed, and properly investigated; and if the investigations were properly documented



# CONTINUED COMMUNICATION WITH CALLERS

- Establish a secure means by which to ask follow-up questions of reporters and/or provide with them with feedback, as appropriate.
- Ensure callers are provided with reassurance their report has been received and will receive appropriate attentions

# HOTLINE INFORMATION RULES

**DOJ Prosecutors asks** if the Compliance Officer had access to information needed to investigate allegations?

## **OIG Compliance Guidance calls for**

- Defining roles for accessing hotline information
- Establishing report dissemination protocols
- Establishing investigator assignment protocols
- Establishing/following records management policy
- Maintaining reports while being investigated
- Ensuring Limited access controls
- Providing secure storage of information
- Proper transmission of information security

# Records Management

- Record creation, tracking, retention, storage, retrieval & destruction
- Critical to control information from receipt through resolution
- Have policies with HR & Legal Counsel regarding respective roles
- Must keep records in limited access secure area
- Must be easily accessible in case of audits or possible litigation
- Define roles (e.g. Administrator, back-up, investigator, etc.)
- Establish report dissemination protocols
- Establish/follow records management policy
- Secure storage of all information (Beware loose paper)
- Ensure transmission security (Beware of e-mail)

# REPORTING TO MANAGEMENT

- Hotline management requires regular summary reports be submitted to senior management, informing them of significant findings and recommendations arising from calls
- Summary reports of findings, actions, and recommendations should be included in reports to the governing body, the CEO, and Compliance Committees.
- Never report to oversight committees details about investigations in progress.



**STRATEGIC MANAGEMENT**

# **INVESTIGATING HOTLINE REPORTS**

# TRIAGING COMPLAINTS/ALLEGATIONS

- All calls should be evaluated promptly
- Decide upon what actions are warranted
- Determine who to be responsible for acting upon the information
- Some matters may required direct Legal Counsel involvement
- Most call will be HR related (e.g. favoritism, unfair treatment, harassment, and employee relations issues).
- Many complaints include multiple allegations
- Sound working relationship with HR & Legal Counsel critical

# COMPLIANCE V. HUMAN RESOURCES

## INVESTIGATIVE JURISDICTION

### COMPLIANCE OFFICE

- Billing/coding issues
- Conflicts of Interest
- Records Documentation
- Contracts/Agreements
- Referral Source Arrangements
- Patient confidentiality
- Embezzlement/Theft
- False expense, reports, etc.
- Fraud/Theft/Embezzlement
- False Claims
- Retaliation of retribution
- Safety, health or environment
- HIPAA Privacy/Security issues

### HUMAN RESOURCES

- Adverse working conditions
- Worker Benefit Issues
- Fair Employment Act
- Alcohol/Drug abuse
- Staffing issues
- Time and Attendance Problems
- ERISA
- Discrimination/EEOC Issues
- Unqualified persons
- Unlawful/Sexual Harassment
- Unfair treatment
- Disrupting, threatening behavior
- Nepotism
- Health Care Coverage Issues
- COBRA Benefits
- Retribution/retaliation

# COMMON COMPLIANCE ISSUES REPORTED

1. Privacy/Information security
2. General inquiries concerning compliance, venting
3. Violation of the Code of Conduct/Policies
4. Conflict of Interest
5. Regulatory/Legal questions and issues
6. Falsified information (e.g., claims)
7. Business Practices



# INVESTIGATING HOTLINE COMPLAINTS

## DOJ PROSECUTORS ASK:

- How complaints evaluated to determine what investigation is needed?
- What resources are available to investigate suspected misconduct?
- Are complaints thoroughly & timely investigated?
- How are complaints routed to proper personnel for investigation?
- How has company assessed seriousness of allegations it received?
- Is there a well-functioning and funded investigation process?

## OIG GUIDANCE

- Promptly investigate all complaints and allegations
- Work with other departments and management to resolve
- Disclose when evidence of civil or criminal law violations
- Verify any corrective action measures taken
- Document receipt, investigation, resolution & corrective action

# INVESTIGATING HOTLINE COMPLAINTS

- Promptly investigate alleged violations of laws/regulations
- Hotline complaints must be independently investigated
- Appropriate corrective action promptly implemented.
- Must be able to review all relevant records
- Serious allegations involve interviews, document review
- May need assistance of Legal Counsel, auditors, or other experts
- Have a policy on when legal counsel should be involved
- Document all steps taken
- File interview notes and key documents
- Maintain a log of the witnesses interviewed
- Establish a process to document privileged investigations
- Detected but uncorrected misconduct may result in serious liability
- Take prompt disciplinary action where warranted
- Involve Legal Counsel if evidence of violations of laws/regulations

# MANAGEMENT OF HOTLINE CASES

- Case tracking number for the call report
- Date and time of receipt of the call
- Identity/phone number of the caller, if they provide it
- Location of the reported issue
- Department, program, or operation involved
- Description of the problem being reported
- Any monetary implications
- Name of designated action official assigned to the case
- Any action steps taken
- Final disposition
- Date the case was closed



**STRATEGIC MANAGEMENT**

**ONGOING  
MONITORING  
HOTLINE PROGRAM  
EFFECTIVENESS**

# ONGOING MONITORING

## PROGRAM MANAGER RESPONSIBILITY

1. Keep current with regulatory/enforcement standards
2. Ensures written guidance (P&Ps) is up to date
3. Training staff on complying with written guidance
4. Ongoing monitoring verifying staff following them
5. Verifying all P&Ps are in place & operating properly
6. Identifies weaknesses/improvement opportunities
7. Takes corrective action for program improvement

# DOJ PROSECUTORS ASK...

- How is reported information collected, tracked, analyzed & used information?
- Are reports and investigation findings analyzed for patterns of misconduct or other red flags for compliance weaknesses?
- Are complaints thoroughly & timely investigated?
- How are seriousness of allegations evaluated?
- Is there periodically testing effectiveness of hotline (e.g. tracking a report from start to finish)?
- Are reporting & investigating mechanisms sufficiently funded?

# OIG COMPLIANCE GUIDANCE

- A primary CO responsibility is monitoring and verifying hotline operates in conformance with its objectives and policies.
- OIG calls for ongoing monitoring of all program operations to verify following all protocols, policies and procedures
- Program manager are responsible for monitoring, so in the case of the hotline it is the Compliance Officer
- Also expects periodic ongoing auditing by independent reviewers, meaning it cannot be the Compliance Officer
- Results of reviews need to be provided to executive and board oversight committees in assessing the program effectiveness.

# INVESTIGATING HOTLINE COMPLAINTS

- Are all allegations promptly investigated?
- Was effort among department coordinated to resolve allegations?
- Does the CO have authority for review all relevant records
- Were there interviews/document review evidenced in serious cases?
- Were all steps through resolution documented?
- Was a log of the witnesses interviewed maintained?
- Was there a process documenting investigations under privilege?
- Were interview notes and key documents properly filed?
- Were appropriate corrective actions promptly implemented?
- Where wrongdoing evidenced, was prompt disciplinary action taken?
- Verify any corrective action measures taken
- Did Legal Counsel address referral to outside authorities?
- Are their actions needed to improve timeliness of resolving complaints?



# REVIEW OF HOTLINE REPORTS

- Were all call reports acted upon same day of receipt?
- Were hotline complete & clear to permit appropriate action?
- Were allegations and complaints appropriately resolved?
- Was promised confidentiality maintained during investigations?
- Any reports of reprisals from those made hotline complaints?
- Any trending information suggesting systemic issues?

# REVIEW OF TRACKING DATA

- Determine annualized call volume as percentage of employees
- Review trending data for significant variations in call volume and whether such changes track with any management or policy changes
- Determine if CO and HR are retrieving calls in a timely manner
- Determine if there have been any complaints of managers retaliating against hotline callers
- If so, determine what corrective or disciplinary action measures were taken

# HUMAN RESOURCES

- Determine if protocol between HR & compliance is working
- Verify prompt action taken in resolution of their reports
- Verify they handled them in accordance with P/Ps
- Determine referred were acted upon properly & documented
- Assess whether callers' concerns properly addressed
- Verify HR properly documented actions on hotline reports
- Determine if HR handled callers' concerns promptly
- Assess coordination and cooperation of HR with the CO

# HOTLINE SECURITY

- Examine how reports/documents are handled & controlled
- Ensure information wasn't received/disseminated via email
- Verify reports are kept in a secure area with limited access
- Verify hotline reports kept in a secure area with limited access?
- Was information kept in storage accessible only by lock & key?
- Is there a log kept on who had access to hotline information?

# HOTLINE POLICY REVIEW

- Review call reports to ensure they follow written guidance
- Hotline availability is prominently explained in the Code
- Duty to Report Policy: Must report violations of laws, regulations, Code, policies, wrongdoing
- Investigation Policy: Provided guidance on investigations
- Protocol with Legal Counsel: Guides investigative roles
- Protocol with HR: Guides on coordination of personnel matters
- Non-Retaliation Policy: Prohibits reprisals for filing a complaint
- Anonymity Policy: Guarantees right to report w/o identification
- Confidentiality Policy: Ensures confidentiality when requested

# NON-RETALIATION/NON-RETRIBUTION

- Verify all necessary steps were taken to prevent intimidation, threats, coercion, discrimination against, or any other retaliatory action against anyone for reporting to the hotline in good faith perceived wrongdoing
- Determine if any complaint led to adverse action against those who violate this policy

# HOTLINE LOG

- Review how the organization resolved issues
- Identify data captured on the hotline log for each call
- Does log tracks calls from inception to resolution?
- Does log tracks who is charged with resolving issues?
- Does it maintain a time line on issues being tracked?
- Ensure the resolution of issue is noted

# REVIEW OF TRACKING DATA

- Determine annual call volume rate (as % of employees)
- Review trending data for call volume variation and if such changes track with any management or policy changes
- Evaluate CO and HRM coordination on call reports
- Were there any complaints of retaliation?
- If so, review what corrective actions were taken?



# MANAGEMENT OF HOTLINE CASES

## DO HOTLINE REPORTS INCLUDE....

- Case tracking number for the call report
- Date and time of receipt of the call
- Identity/phone number of the caller, if they provide it
- Location of the reported issue
- Department, program, or operation involved
- Description of the problem being reported
- Any monetary implications
- Identity of action official assigned to the case
- Any action steps taken
- Final disposition
- Date the case was closed

# CASE MANAGEMENT

- Has there been proper documentation for handling of all complaints received?
- Has there been coordination of all parties involved in resolving complaints?
- Has there been standardization and consistency in evaluation, investigation and resolution of complaints?
- Has there been tracking of data and trend analyses relating to hotline reports?



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**QUESTIONS?**