

Q & A Series on the Current State of Healthcare Compliance

[Richard P. Kusserow](#) | June 2024

Part IV: Additional Webinar Questions

On April 30, 2024, Strategic Management Services and SAI360 hosted the Current State of Healthcare Compliance Programs: 2024 Benchmark Results Webinar. The speaker, Richard Kusserow, former HHS Inspector General and CEO of Strategic Management, reviewed the results of the 15th Annual Healthcare Compliance Benchmark Survey and provided his analysis of the results and the changing landscape of compliance departments.

The Webinar was well attended, and many participants asked thoughtful and insightful questions that would be informative to our blog readership at large. We are kicking off a four-part series answering the questions received related to the results and findings discussed during the Webinar.

Part IV of the series will focus on questions regarding various elements of an effective compliance program.

The Survey found “Responding to New Law and Regulations” as the biggest risk concern. Why do you think this is the case?

The regulatory and enforcement environment undergoes constant change, with federal and state authorities regularly introducing new laws and regulations. It creates an added burden to keep abreast of it, particularly for individuals in New York or California. Being able to do this is apparently becoming a challenge for Compliance Officers who are already burdened with managing numerous aspects of the Compliance Program.

Can you talk more about training and communications? What should we be doing beyond orientation and annual training?

The OIG General Compliance Program Guidance offers many suggestions that would answer this question. They note that the Compliance Officer should develop an annual training plan for all covered persons that includes topics such as: (a) the identity and role of the compliance officer and Compliance Committees; (b) the importance of open communication with the compliance officer; (c) various ways individuals can raise compliance questions and concerns with the compliance officer; (d) nonretaliation for disclosing or raising compliance concerns (e.g., hotline); and (e) means through which the entity enforces its written policies and procedures equitably and impartially. This training is expected to take about one to two hours. They also call for targeted training of about 6 hours for individuals engaged in compliance high-risk areas that address any compliance risks specific to their roles and responsibilities. This training should address applicable health care program rules applicable to the entity's business. Depending on the learners' roles, these may include, for example, billing, coding, documentation, medical necessity, beneficiary inducements, gifts, interactions with physicians and other sources or recipients of referrals of Federal health care program business, and sales and marketing practices. In addition, the education and training program should include a requirement that licensed personnel complete all education and training mandated by the licensing board that governs their license.

Please comment on whether investigation interviews should be conducted under oath.

As a general rule, compliance investigations should **not** include placing someone under oath. Internal compliance investigations are administrative in nature and are not done under the lawful authority of a duly authorized enforcement agency. Law enforcement agencies have the legal authority to take legal action for false statements made in connection with an investigation. If someone provides false and misleading information, administrative, not legal, action is involved. The larger response to this question is that those conducting internal investigations should not try to take on the role of a law enforcement officer.

Screening an individual (Sanction Screenings) without SSN or DOB – how do you handle them?

In order to definitively identify someone on a sanction listing, it is necessary to have a unique identifier such as an SSN, Tax ID, License, National Provider Number, etc. Name matches, date of birth, professional specialty, etc. are not unique identifiers, as more than one person may have the same information.

You can keep up-to-date with Strategic Management Services by following us on [LinkedIn](#).



About the Author

Richard P. Kusserow established Strategic Management Services, LLC, after retiring from being the DHHS Inspector General, and has assisted over 2,000 health care organizations and entities in developing, implementing and assessing compliance programs.