Compliance Effectiveness Strategies
HOW TO SUCCEED AS A COMPLIANCE PROFESSIONAL

Deann M. Baker, CHC, CCEP, CHRC
Compliance Officer Sutter Health- Sutter Care at Home

Dwight Claustre, CHC-F, CCEP, CHRC
Director, AEGIS Compliance & Ethics Center, LLP

Shawn DeGroot, CHC-F, CCEP, CHRC, CHPC
Associate Director, Navigant

Discussion Goals

+ Establishing a compliance plan and program through collaboration
+ Positioning yourself in alignment with corporate strategy to advance the compliance program
+ Best approaches to advance the compliance program
+ Please participate; a discussion can’t happen without you
Process of Our Review & Discussion

- Federal Sentencing Guideline (FSG) elements and roles of the Board, Leadership and the Compliance Executive
- Compliance strategies, resources and important documents to support our message

FSG Elements of An Effective Compliance & Ethics Program

- Assessment of Effectiveness
  - C & E Program Evaluation
- Auditing & Monitoring
  - Ongoing Testing of Controls to Address Risk
- Risk Assessment
  - Evaluation and Prioritization of Risks & Identification of Mitigation Strategies
- Detection, Remediation & Enforcement
  - Timely Response to Misconduct, Consistent Sanctions, Exclusion Screening, & CAPs
- High Level Oversight
  - Compliance Officer Role & Compliance Committee & Governance
  - Board of Directors
  - Compliance elements in place
  - Leadership commitment to participate
  - An effective compliance program
- Establish Standards
  - Develop and Disseminate Policies & Standards for Business Conduct
- Promote a C & E Culture
  - Performance Incentives “Tone at the top” – Just Culture
- Open Lines of Communications
  - Confidential Message Line, Surveys & Exit Interviews
- Education/Training
  - Roles, Values & Risk Based
Federal Sentencing Guidelines (FSG)

§ 8B2.1. Effective Compliance and Ethics Program
+ an organization shall— (1) exercise due diligence to prevent and detect criminal conduct; and (2) otherwise promote an organizational culture that encourages ethical conduct and a commitment to compliance with the law.

+ Such compliance and ethics program shall be reasonably designed, implemented, and enforced so that the program is generally effective in preventing and detecting criminal conduct.

High-level Oversight
Board & Leadership Set the Tone

+ (2) (A) The organization’s governing authority shall be: knowledgeable about the content and operation of the compliance and ethics program and shall exercise reasonable oversight

+ (B) High-level personnel Specific individual(s) within high-level personnel shall be assigned overall responsibility for the compliance and ethics program.

+ (C) Specific individual(s) within the organization shall be delegated day-to-day operational responsibility for the compliance and ethics program.
Discussion – High-level Oversight

+ Define Roles & Responsibilities
  • Board, CEO, Leadership & Compliance Officer
+ Establish Relationships & Trust
  • Key Partners
  • Conversations
+ Align with Corporate Strategy
  • Data and Metrics
  • Incentives
  • Tools/Resources

Role of the CEO & Leadership

“What you allow you encourage”
Michael Josephson
Compliance Officer Responsibilities

- CO priorities and Executive Leadership priorities.

Compliance/Regulations

Manage Operations

Reduce Costs

Growth

Limit/Reduce Initiatives

The Compliance Officer
Compliance Officer Role

+ “Accountability is equally important, and belongs to the business line. The role of the compliance officer is to make sure that the business line knows the compliance risks, not to assume them, the panelists said. Partial quote - Gregory J Millman with the Wall Street Journal Blog: “Risk and Compliance Journal “The Morning Risk Report: Compliance Verses Growth”


Strategies For a Seat at The Table

+ Leadership qualities are essential
Strategic Planning Method

- Strategic planning is a method that defines the goals and objectives of business and how to get there.
- Without strategic planning there is no clear direction.
- A plan must prioritize and coordinate the effort and resources.
- Failure to achieve a specific goal or action step requires a review of the plan.
- Learn from your efforts and make corrections that will improve your planning process.

Strategy Prioritization Matrix

<table>
<thead>
<tr>
<th>Level of Impact</th>
<th>Degree of Risk/Difficulty</th>
</tr>
</thead>
<tbody>
<tr>
<td>Low Impact, Low Risk/Difficulty</td>
<td>Low Impact, High Risk/Difficulty</td>
</tr>
<tr>
<td>High Impact, Low Risk/Difficulty</td>
<td>High Impact, High Risk/Difficulty</td>
</tr>
</tbody>
</table>

High

Low

2015 HCCA Compliance Institute
Define Why, What & How

Picture It
## Set Clear Goals & Measures

<table>
<thead>
<tr>
<th>COMPLIANCE ELEMENT/FOCUS</th>
<th>METRICS, &amp; DATA COMPILATION &amp; EVALUATION</th>
<th>REPORT TO</th>
<th>REPORTING FREQUENCY</th>
<th>CORPORATE STRATEGY/INITIATIVES AND GOALS</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>EDUCATION AND TRAINING</strong></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Compliance Type of activities: Required education and training - tracked by area</td>
<td>Compliance Report pulled from On-line system</td>
<td>Executive Compliance Committee (ECC) BOD Committee and other</td>
<td>Quarterly and Annual</td>
<td>People - Invest in Our People - Satisfaction 1. Maintain a qualified workforce. 2. Demonstrate effectiveness and meet compliance program element “Education”.</td>
</tr>
<tr>
<td>Annual Compliance: Refresher on DRA/FCA, Hotline/Reporting, COC, Privacy/S, etc.</td>
<td>Online training maintained in system - Education/Org Development maintain data and pull reports</td>
<td>Managers</td>
<td>Monthly reports distributed to managers</td>
<td></td>
</tr>
<tr>
<td>New Hire Compliance Training: Initial DRA/FCA, Hotline/Reporting, COC, Privacy/S, etc.</td>
<td>Live training and/or on-line system - Education/Org Development maintain data and pull reports</td>
<td>Managers</td>
<td>Monthly reports distributed to managers</td>
<td></td>
</tr>
<tr>
<td>Target Education - such as position specific and education identified as part of a CAP</td>
<td>Live maintained in system. Participation/signature sheets sent to upload in the system by Education/Org Development and generate reports monthly</td>
<td>Managers</td>
<td>Monthly reports distributed to managers</td>
<td></td>
</tr>
<tr>
<td>Evaluation of Education/training effectiveness</td>
<td>Online testing - pass/fail</td>
<td>Org Development</td>
<td>Annual</td>
<td>2015 HCCA Compliance Institute</td>
</tr>
</tbody>
</table>

### STANDARDS OF WRITTEN CONDUCT & POLICIES

<table>
<thead>
<tr>
<th>COMPLIANCE ELEMENT/FOCUS</th>
<th>METRICS, &amp; DATA COMPILATION &amp; EVALUATION</th>
<th>REPORT TO</th>
<th>REPORTING FREQUENCY</th>
<th>CORPORATE STRATEGY/INITIATIVES AND GOALS</th>
</tr>
</thead>
<tbody>
<tr>
<td>Compliance Type of Activity: Routine communication of written standards to workforce; identify if it's response to a CAP.</td>
<td>Compliance Report pulled from Policy, Procedure Management System (PPMS) Performance Metrics report</td>
<td>ECC BOD Committee and other</td>
<td>Quarterly and Annual</td>
<td>Community - Increase Corporate Responsibility 1. Community Participation - 2. Community Commitment</td>
</tr>
<tr>
<td><strong>A Compliance Policies and Procedures</strong></td>
<td># of policies by area assigned # of policies attested to within timeline</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>B Code of Conduct attestation</strong></td>
<td>Current workforce: # attested/# of workforce; New workforce: # attested/# of new workforce</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>C Confidentiality attestation</strong></td>
<td>Current workforce: # attested/# of workforce; New workforce: # attested/# of new workforce</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

### RISK ASSESSMENT AND ANNUAL WORK PLAN

<table>
<thead>
<tr>
<th>COMPLIANCE ELEMENT/FOCUS</th>
<th>METRICS, &amp; DATA COMPILATION &amp; EVALUATION</th>
<th>REPORT TO</th>
<th>REPORTING FREQUENCY</th>
<th>CORPORATE STRATEGY/INITIATIVES AND GOALS</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>A Evaluate &amp; Assess Compliance Risk</strong></td>
<td>Compliance Report Pulled from Data Base: # of projects identified for work plan to be resourced internally/externally or not at all and participation in ECC meetings</td>
<td>ECC BOD Committee and other</td>
<td>Quarterly and Annual</td>
<td>Community - Increase Corporate Responsibility 1. Community Participation - 2. Community Commitment</td>
</tr>
<tr>
<td><strong>B Area</strong></td>
<td># Program, Dept. Div. Risk Areas evaluated</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>C Priority/Risk Level at:</strong></td>
<td># High Med Low</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td><strong>D Define annual work plan</strong></td>
<td>Evaluate completion of projects and participation</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

2015 HCCA Compliance Institute
Clear Expectations, Integrity + Accountability Help Build **Trust**

+ "An organization that wants to empower its team members doesn’t give out power haphazardly, like writing blank checks. Instead, empowerment needs to come with terms attached, so people *know how their results will be measured*. **Trust grows**, on the other hand, when *expectations are clear*, when people know what they’ve been empowered to do, and when they can focus on doing it."

  “Joel Peterson, Chairman, JetBlue Airways

---

**Board, CEO & CCO Roles Documents**

+ OIG 8/7/12 Focus on Compliance: The Next Generation of CIAs
  https://oig.hhs.gov/compliance/compliance-guidance/docs/Focus_on_Compliance.pdf

+ CCO


+ Board responsibilities:
  http://managementhelp.org/boards/

  Corporate Responsibility and Corporate Compliance:
  https://oig.hhs.gov/fraud/docs/complianceguidance/040203CorpRespRscgGuide.pdf

  Corporate Responsibility and Health Care Quality:
  https://oig.hhs.gov/fraud/docs/complianceguidance/CorporateResponsibilityFinal%204-07.pdf
Promote a Compliant & Ethical Culture
Incentivize performance and promote a Just Culture

+ (6) The organization's compliance and ethics program shall be promoted and enforced consistently throughout the organization through (A) appropriate incentives to perform in accordance with the compliance and ethics program;

PROMOTING RESPONSIBLE & ETHICAL BEHAVIOUR

Discussion - Promote a Compliant & Ethical Culture

+ Define Roles & Responsibilities
  - Board, CEO, Leadership & Compliance Officer
+ Establish Relationships & Trust
  - Key Partners
  - Conversations
+ Align with Corporate Strategy
  - Data and Metrics
  - Incentives
  - Tools/Resources
The Budget Reflects Organizational Values

“Regardless of the type of reward, developing criteria for incentives, implementing it, and executing a plan of action will benefit the organization, demonstrate effectiveness, and create awareness of the compliance program in a positive manner.” Shawn DeGroot, Associate Director at Navigant Consulting

Tools (Metrics for Accountability)

<table>
<thead>
<tr>
<th>CHM SERVICE AREA LEADER/FACILITY COMPLIANCE AUDIT COMPLIANCE PROGRAM OBJECTIVES</th>
</tr>
</thead>
<tbody>
<tr>
<td>Hospital Compliance:</td>
</tr>
<tr>
<td>Facility Compliance:</td>
</tr>
<tr>
<td>Provider Compliance:</td>
</tr>
<tr>
<td>Contract Compliance:</td>
</tr>
<tr>
<td>Financial Compliance:</td>
</tr>
<tr>
<td>Regulatory Compliance:</td>
</tr>
<tr>
<td>Risk Management:</td>
</tr>
<tr>
<td>Operations Management:</td>
</tr>
<tr>
<td>Information Management:</td>
</tr>
<tr>
<td>Clinical Compliance:</td>
</tr>
<tr>
<td>Professional Development:</td>
</tr>
<tr>
<td>Quality Improvement:</td>
</tr>
<tr>
<td>Patient Safety:</td>
</tr>
<tr>
<td>Risk Management:</td>
</tr>
<tr>
<td>Operations Management:</td>
</tr>
<tr>
<td>Information Management:</td>
</tr>
<tr>
<td>Clinical Compliance:</td>
</tr>
<tr>
<td>Professional Development:</td>
</tr>
<tr>
<td>Quality Improvement:</td>
</tr>
<tr>
<td>Patient Safety:</td>
</tr>
</tbody>
</table>

2015 HCCA Compliance Institute
Behavior & Perception Matters

Pause
Time for a break!
Establish Written Standards for Conduct
Code of Conduct, Policies & Procedures (communicate)

+ (b) Due diligence and the promotion of an organizational culture that encourages ethical conduct and a commitment to compliance with the law within the meaning of subsection (a) minimally require the following:

+ (1) The organization shall establish standards and procedures to prevent and detect criminal conduct.

Discussion - Written Standards for Conduct

+ Define Roles & Responsibilities
  • Board, CEO, Leadership & Compliance Officer
+ Establish Relationships & Trust
  • Key Partners
  • Conversations
+ Align with Corporate Strategy
  • Data and Metrics
  • Incentives
  • Tools/Resources
### Tool for Discussion and Evaluation

<table>
<thead>
<tr>
<th></th>
<th>A</th>
<th>B</th>
<th>C</th>
<th>D</th>
<th>E</th>
<th>F</th>
<th>G</th>
<th>H</th>
<th>I</th>
<th>J</th>
<th>K</th>
<th>L</th>
<th>M</th>
<th>N</th>
<th>O</th>
<th>P</th>
<th>Q</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

### Open Lines of Communication

Confidential Message Line, Surveys & Exit Interviews

1. (5) The organization shall take reasonable steps—(C) to have and publicize a system, which may include mechanisms that allow for anonymity or confidentiality, whereby report or seek guidance regarding potential or actual criminal conduct without fear of retaliation.
Discussion - Open Lines of Communication

+ Define Roles & Responsibilities
  - Board, CEO, Leadership & Compliance Officer
+ Establish Relationships & Trust
  - Key Partners
  - Conversations
+ Align with Corporate Strategy
  - Data and Metrics
  - Incentives
  - Tools/Resources

Tools for Discussion and Evaluation
Education and Training
Annual, Role Based and Targeted

+ (4) (A) The organization shall take reasonable steps to communicate periodically and in a practical manner its standards and procedures, and other aspects of the compliance and ethics program, to the individuals referred to in subparagraph (B) by conducting effective training programs and otherwise disseminating information appropriate to such individuals' respective roles and responsibilities.

Discussion - Education/Training Roles

+ Define Roles & Responsibilities
  • Board, CEO, Leadership & Compliance Officer
+ Establish Relationships & Trust
  • Key Partners
  • Conversations
+ Align with Corporate Strategy
  • Data and Metrics
  • Incentives
  • Tools/Resources

...AND ACTION!
Compliance Training Can Be Fun

Connect to Purpose

Corporate Compliance & Ethics Week

Awareness Opportunities Help Create a Culture:

+ Products, logos and ideas and themes

3/17/2015
Additional Awareness Resources

+ Expert Videos:
  - https://www.youtube.com/playlist?list=PLA_9sigAHJtNirLcl-VgZ21x2NoWh47
  - https://www.youtube.com/playlist?list=PLA_9sigAHJtO700skURwmWBB3j5C1sd4

+ Pamphlets and whitepapers

+ Y-Comply: a compliance-related article delivered electronically four times annually to help communicate the value and purpose of compliance and ethics to the general workforce.
Detection, Remediation & Enforcement
Screening, Response and Corrective Action Plans

+ (3) The organization shall use reasonable efforts not to include individuals whom engaged in illegal activities or other conduct inconsistent with an effective compliance and ethics program.

+ (7) the organization shall take reasonable steps to respond to prevent further similar criminal conduct, including making any necessary modifications to the organization's compliance and ethics program.

Discussion - Detection, Remediation & Enforcement

+ Define Roles & Responsibilities
  • Board, CEO, Leadership & Compliance Officer
+ Establish Relationships & Trust
  • Key Partners
  • Conversations
+ Align with Corporate Strategy
  • Data and Metrics
  • Incentives
  • Tools/Resources

TRUST
—but verify

—Ronald Reagan
Screening Best Practice

+ Updated Special Advisory Bulletin on Effect of Exclusion from Participation in Federal Health Care Programs

OIG updates the LEIE **monthly**, so screening employees and contractors each month best minimizes potential overpayment and CMP liability. Additionally, in January 2009, CMS issued a State Medicaid Director Letter (SMDL) recommending that States require providers to screen all employees and contractors **monthly**.


Corrective Action Plan Best Practice

+ Understanding the Root Cause(s) and impacts
+ Stakeholder expertise involved
+ Assigned responsibilities
+ Mitigation timelines
+ High-level oversight for accountability
+ Monitoring and reporting
+ Documenting all activities and completion (verify its fixed)
An Example from OSI CA

Assessment Activities
Auditing, Monitoring, Risk Assessment & Effectiveness

+ (5) The organization shall take reasonable steps—
  + (A) to ensure that the organization's compliance and ethics program is followed, including monitoring and auditing
  + (B) to evaluate periodically the effectiveness; and
  + (c) shall periodically assess the risk (b) to reduce the risk of criminal conduct identified through this process.
Discussion - Assessment Activities

+ Define Roles & Responsibilities
  - Board, CEO, Leadership & Compliance Officer
+ Establish Relationships & Trust
  - Key Partners
  - Conversations
+ Align with Corporate Strategy
  - Data and Metrics
  - Incentives
  - Tools/Resources

Demonstrating Our Value

Risk Assessment
+ An organization can fulfill its mission, achieve growth, improve quality and be more financially viable by conducting risk assessment. It’s a process that can help determine the best way to allocate its financial and human resources to minimize risk to accomplishing its goals.

+ It must be part of the plan & STRATEGY!
The Compliance Work Plan

- Auditing
- Monitoring
- Focused risk assessments
- Education
- Policy development and dissemination
- More

Assessment/Work Plan
### Risk Assessment

<table>
<thead>
<tr>
<th>Impact to the Organization</th>
<th>Vulnerability</th>
<th>Controls</th>
</tr>
</thead>
<tbody>
<tr>
<td>New or existing provider</td>
<td>Low</td>
<td>No</td>
</tr>
<tr>
<td>New facility</td>
<td>Low</td>
<td>No</td>
</tr>
<tr>
<td>New service line</td>
<td>Low</td>
<td>No</td>
</tr>
<tr>
<td>New location</td>
<td>Low</td>
<td>No</td>
</tr>
<tr>
<td>New product/service</td>
<td>Low</td>
<td>No</td>
</tr>
<tr>
<td>New technology</td>
<td>Low</td>
<td>No</td>
</tr>
<tr>
<td>New regulatory requirement</td>
<td>Low</td>
<td>No</td>
</tr>
<tr>
<td>New or increased risk</td>
<td>Low</td>
<td>No</td>
</tr>
</tbody>
</table>

### Risk Assessment Scoring Matrix

<table>
<thead>
<tr>
<th>Risk Area</th>
<th>Score</th>
<th>Impact to the Organization</th>
<th>Vulnerability</th>
<th>Controls</th>
</tr>
</thead>
<tbody>
<tr>
<td>New provider</td>
<td>1</td>
<td>Low</td>
<td>No</td>
<td></td>
</tr>
<tr>
<td>New facility</td>
<td>2</td>
<td>High</td>
<td>High</td>
<td>No</td>
</tr>
<tr>
<td>New service line</td>
<td>3</td>
<td>Very High</td>
<td>Very High</td>
<td>No</td>
</tr>
<tr>
<td>New location</td>
<td>4</td>
<td>Extreme</td>
<td>Extreme</td>
<td>No</td>
</tr>
<tr>
<td>New product/service</td>
<td>5</td>
<td>Extreme</td>
<td>Extreme</td>
<td>No</td>
</tr>
<tr>
<td>New technology</td>
<td>6</td>
<td>Extreme</td>
<td>Extreme</td>
<td>No</td>
</tr>
<tr>
<td>New regulatory requirement</td>
<td>7</td>
<td>Extreme</td>
<td>Extreme</td>
<td>No</td>
</tr>
</tbody>
</table>

**Notes:**
- Low: No risk or minimal risk.
- High: Significant risk requiring immediate action.
- Very High: Extremely high risk requiring immediate action.
- Extreme: Highest risk requiring immediate action.
- Controls may include: implementing new policies, training staff, etc.
A Few Leadership Resources

+ “Leadership: The Power of Emotional Intelligence” by Daniel Coleman
+ “Crucial Conversations” by Kerry Patterson
+ The Just Culture Organization www.justculture.org;

Contact Information

+ Deann Baker: bakerd3@sutterhealth.org; 707-864-4666
+ Dwight Claustre: dclaustre@aegis-compliance.com; 623-866-9106
+ Shawn Degroot: Shawn.degroot@navigant.com;