

# HCCA COMPLIANCE TODAY

Volume Twelve  
Number Eight  
August 2010  
Published Monthly



HEALTH CARE  
COMPLIANCE  
ASSOCIATION

**Meet the Co-Chairs of HCCA's  
New England Regional  
Conference, Lawrence  
Vernaglia and Steve Friedman**

PAGE 14

**Feature Focus:**

**The new frontier:  
Compliance issues  
under the Health  
Care Reform Law**

PAGE 32

**Earn CEU Credit**

[WWW.HCCA-INFO.ORG/QUIZ](http://WWW.HCCA-INFO.ORG/QUIZ) — SEE PAGE 47

**RESEARCH CONSENTS AND  
PATIENT MEDICAL RECORDS:  
REQUIREMENTS AND BEST  
PRACTICES**

PAGE 22

# Letter from the CEO

## Tipping point

I think the implementation of compliance programs and the evolution of the compliance profession may have hit a tipping point. I am not just talking about in any particular industry; I am talking about all industries in the U.S. Check that, I am going out on a limb. I think we have hit a tipping point for the implementation of compliance programs as a part of the global economy. I try to be brutally honest, so I am going to have to tell you that I may be getting a bit carried away on the global piece, but hear me out. Decide for yourself.

Well, there is no doubt that for some industries the debate is over. The tipping point is long gone for some, such as health care, defense, all governmental contractors, academic institutions, utilities, energy, etc. And the naysayers that said compliance professionals and compliance programs were a fad and would fade away? They are sitting on the side of the road eating crow and wishing they hadn't missed the bus.

All other industries in the U.S. are actively working on implementing compliance programs. This is the "current" tipping point for this group. There is a lot of activity. The USSC just proposed changes to Chapter 8 of the Federal Sentencing Guidelines. The changes were the most significant, in my opinion, since their inception in 1991. They have stated that the compliance officer should report to the Board. In addition, the government passed a regulation requiring those who have more than \$5M in government contracts to have compliance programs. In May 2010, Congress passed a law stating that the Inspector Generals can no longer be fired without approval of their governing body, a long-time best practice for compliance programs.

I have been watching this evolution for about 15 years. When health care got into compliance, there was an interesting "sub" tipping point. It was the fact that everyone and their brothers wanted in on the act. Auditors, general counsel, vendors, consultants, risk managers, even some in the enforcement community thought this whole thing was their creation and they were taking credit for it or going to control it. Some were trying to muscle in for money or control. It was a regular fracas. In the end, health care compliance professionals (now 6,500 of them members

in their professional association, HCCA) took control of their profession. Many of the wannabees left altogether, or began to work constructively with the profession.

The same thing now seems to be happening in all other industries. For profits, nonprofits, government agencies, vendors, consultants, academics, etc., all think this is their thing. It's chaos, but it's a good sign that what happened in health care is happening in other industries. We are starting to see many signs that, eventually, the professionals will control the profession in all industries.

There are many examples of people meddling with our profession. The guys who are really interesting are the GRC guys. When something big occurs, some people grab what you have and put their spin on it. In this case, they tied two really popular words (risk and governance) to compliance, and claimed they had the latest and greatest thing. They are riding on the coattails of compliance. It's a good sign, but it's a little maddening when they take such a simple and successful concept as a compliance program and *complicate the living daylights* out of it. The reason compliance programs work is because they are simple: Find and fix problems by using tools such as auditing, risk assessment, investigations, hotlines, discipline/incentives, etc. GRC is a frightening example of the failed logic that more is better. There are 200-page descriptions of their "simple solution" to our regulatory compliance programs. They have flowcharts that resemble an instruction manual for the space shuttle. Some compliance professionals prefer to just find and fix problems.

However, the reasonable or positive perspective is that at least they have coattails to ride upon. At least the concepts of compliance professionals and compliance programs have become popular enough to have knockoffs, and so many people are trying to grab attention.

If what happened in health care happens in all industries, most of this chaos and "interference" will fade away. However, we don't want *all* of it to fade away. We need and appreciate the great products and services that many consultants, vendors, and outside counsel provide. It's all a sign of the tipping point. Compliance programs and compliance professionals have arrived. There is no going back. Compliance programs and compliance professionals are now deemed to be an important part of the social order created by the rule of law. Compliance programs are increasingly considered an important part of our

*Continued on page 48*



successful economy, which is based on trust and the reliability of the U.S. Despite our problems, we are still one of the most trusted nations in the world, and we owe it to the rule of law and enforcement. We will be more successful in the global economy, because we have another tool that will help continue to convince companies from other countries that we can be trusted to do business fairly. Which brings me to the part where I am going to go a little over the top.

It appears that compliance professionals and compliance programs are reaching a tipping point in many other countries. SCCE has held training sessions in Canada, Brazil, the U.K. (London), and Switzerland. By no means have they all been wildly successful, but progress can be measured in more than just attendance. Subsequent to these activities, people from many countries have received SCCE CCEP certification. Some have spoken at conferences in the U.S. as a result of contacts made in other countries. Some are joining their compliance colleagues from around the world on SCCE NET (SCCE's social network for compliance professionals.) More people than ever realize that the rule of law is important, and compliance programs are an important part of the system.

There are more substantial global indications, such as the work of the OECD (the

Organization for Economic Co-operation and Development, a group of free market democracies, based in France), which just published a document suggesting that the implementation of compliance programs aids in the anti-corruption fight. There are 38 countries that have signed this agreement/commitment. South Africa has developed the King II report, which shows a commitment to compliance programs. Canada and other countries are showing interest. Most importantly, countries are going to have to prove they can be trusted to be involved in the global economy. Compliance programs and compliance professionals can help in that effort, and many have already taken steps in that direction. SCCE now publishes the Compliance Professional's Code of Ethics in English, Spanish, Portuguese, French, German, Italian, Serbian, Korean, Chinese, and Japanese. There are lots of exciting things going on.

Regardless of where you stand on the question of where the tipping point is, you have to agree that we are much further than where we were in the past. And although some people are trying to complicate, control, or compete with or our profession, it doesn't appear that they are getting much traction. It is a good sign that what we have is of value. It pushes us to work harder. In a way, it is helping us reach the tipping point, if in fact, we haven't done so already. ■



# CCB

**The Compliance Professional's Certification**

**The Compliance Certification Board (CCB) compliance certification examinations are available in all 50 states. Join your peers and demonstrate your compliance knowledge by becoming certified today.**

Congratulations!! The following individuals have recently successfully completed the CHC certification exam, earning their certification:

*Fahad Aziz Ahmed*  
*Andrea Ekeberg*  
*Aletheia Lawry*

Congratulations!! The following individuals have recently successfully completed the CHRC certification exam, earning their certification:

*Diane Marie Austin*

**The CCB offers certifications in Healthcare Compliance (CHC), Healthcare Research Compliance (CHRC), and the Certified in Healthcare Compliance Fellowship (CHC-F).**

**For more information about certification, please call 888/580-8373, email [ccb@hcca-info.org](mailto:ccb@hcca-info.org), or visit our website at [www.hcca-info.org](http://www.hcca-info.org).**

## HCCA Announces Its 2009 Top 5 Regional Conferences

**HCCA would like to congratulate the chairs and planning committees of the Top 5 HCCA Regional Conferences for 2009.**

**New England** — Boston, MA

Co-Chairs Lawrence Vernaglia, J.D., M.P.H. & Steve Friedman

**East Central** — Pittsburgh, PA

Chair Linda Lattner, CHC, ARM, MBA, BSN

**South Central** — Nashville, TN

Chair Donna Gilley, CHC, CCS, CCS-P

**West Coast** — Newport Beach, CA

Chair Dwight Claustre, CHC, CHRC

**Southwest** — Dallas, TX, Chair David Lancaster