So, You Think You Have an Effective Compliance Program: Think Again!

Introductions

Course road map
  - How can we use data analytics to objectively pursue or measure compliance program effectiveness (or, where does your data point)?
  - Training and monitoring
    - Where should we focus?
    - Are we spending our resources in the correct areas?
  - Using dashboards (or other techniques) to present important information to senior management and/or to your board
    - Program effectiveness
    - Risk area identification
    - Monitoring results

Let’s get started
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- Monitoring of compliance program effectiveness by senior management and/or board members
  - Common theme in recent corporate integrity agreements (CIAs)
    - Tenet Healthcare Corp.
    - University of Medicine and Dentistry of New Jersey
  - Common CIA requirements include
    - Conducting compliance effectiveness surveys/reviews
    - The board certifying compliance program effectiveness
    - Hiring independent advisors to assist with compliance and measurement of compliance effectiveness
    - Board examining effectiveness measures for each of the 7 elements of a compliance program
    - Providing board members with information on the organization’s compliance safeguards for all key risk areas

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- What is data analytics?
  - The De facto “9th element” of an effective compliance program
  - Using available data from different sources to:
    - Identify compliance risks
    - Identify the magnitude/intensity of the risk
    - Identify trends in the risk
    - Identify target areas for reducing or mitigating the overall risk
    - Assess the effectiveness of your compliance program efforts in terms of mitigating the risk
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- Factors to consider
  - Data availability
  - Data integrity
  - Ability to identify the baseline (what's right)
  - Ability to identify the outliers (what's wrong)
  - Ability to energize resources to get the data you need (e.g., IT, human, etc.)
  - Ability to design (and produce) useful and accurate reports to help you use the data
  - Ability to correct (or address) identified problems, risks or issues

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- How can we use data analytics to pursue or measure compliance effectiveness?
  - Using data analytics to help you identify and/or assess compliance risks v. using data analytics to help you measure compliance effectiveness
  - Identify what you are trying to pursue/measure
  - Identify the data or information you have available to help you measure effectiveness
  - Identify the mechanisms by which you can turn this data/information into a process for pursuing or measuring compliance effectiveness
  - Identify what data/information can be provided to senior management and/or the board
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First steps

- Perform an inventory of available data and data sources
  - Physician practice or hospital billing systems
  - Hotline system
  - Learning management system
  - Financial systems
  - Other systems
- Determine whether the data you have available will answer the questions you have about the risk or about your program effectiveness
- Determine how easy it will be to acquire the data you need
- Once you have the data, determine who can help you “understand the tale” the data is telling you
- Determine the best ways to use this data to measure compliance awareness, effectiveness or focus

Potential data sources –

- Hotline call data
- Compliance awareness and/or effectiveness survey data
- Compliance newsletter reader volume and/or web page hits
- Training data
- Data on auditing/monitoring activities and results
- IRS Form 990 information
- Hospital cost reports
- Physician/hospital coding and billing data
- Data on physician – hospital contracts and/or incentive programs
- Background checks/excluded party checks data
- Outside/external audit data (e.g., CERT, RAC, MIP, etc.)
- Billing refund/repayment data
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Questions to consider as you move through this process

- Are we effectively identifying trends with respect to high-risk compliance issues/areas?
  - Is the risk better controlled now than it was before?
  - If yes, why (e.g., better/more training, more focus, more resources, etc.)?
  - Can we measure the improvement (if any)?
  - How are we reporting this to those who need to know?

- Are we effectively identifying problem individuals and/or entities who are creating or increasing the compliance risk?

- How are we using data analytics to help us with our risk assessments?
  - A risk assessment might not be a good indicator of true risk
  - Can data analytics help us to validate the risk assessment we’ve done?
  - Is data analytics a more effective way of identifying what monitoring and training activities need to be implemented?

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- Triangulation of data points
  - High number of hotline calls/complaints from or about Department X
  - High number of refunds from Department X
  - High number of complex contracts involving Department X
  - High number of failed audits/reviews
  - Other data

- What is the story your data is telling you?
  - Our compliance efforts may not be effective with respect to this department?
  - We need to change our risk assessment with respect to this department?
  - We need to enhance our training efforts with respect to this department?

- What story can you now tell your senior management and/or board?
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- Where else does your data point?
  - Changes to those risks identified as being “high”?
  - Changes to monitoring plans or monitoring focus?
  - Changes to training/education plans or focus (e.g., priorities)?
  - Changes to resource allocation (within the Compliance Office and within the institution)?
  - Changes to the frequency of reporting to senior management and/or the board?
  - Changes to corrective action or disciplinary action plans or focus?

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- Training and monitoring
  - Are you using your available data or information to identify training and monitoring needs?
  - Understand that your risks (and, therefore, your training focus) will change during the course of a year
    - Does your risk assessment change as your data changes?
    - Do your monitoring efforts/plans change as your data changes?
  - Reviewing your web-based or other training programs to see whether you are addressing the current risk (i.e., what is your data telling you?)
  - Dealing with changes that have to be made halfway through the budget, fiscal or reporting year
    - Changes to your budget
    - Changes to your staff
    - Changes to your reporting frequency or focus to senior management and/or the board
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- What do we need to discuss with senior management and/or the board?
  - How do senior managers or board members measure compliance program effectiveness?
    - Number or frequency of external audits/reviews?
    - Dollars refunded (billing, research, contract, etc.)?
    - Number or frequency of embarrassing articles in the local newspaper?
    - Results of compliance program awareness or effectiveness surveys?
  - What are the expectations of senior managers and/or the board?
    - Reporting frequency
    - Style or type of reports
    - Data elements to include in reports
  - What role (with respect to compliance) does your senior management and/or board play?
    - Provide advice and guidance to the Compliance Office
    - Responsible for high-level monitoring of the overall compliance program
    - Make final decisions about focus, policy, resources and training

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- Data dashboards
  - Again, identify the reason for providing this data to the senior management and/or the board
    - Identification of the current risks?
    - Identification of current risk mitigation strategies (e.g., training)?
    - Identification of current monitoring activities?
    - Identification of current monitoring results?
    - Measurement of compliance program effectiveness in addressing the risk?
  - What should be the format of the reports you provide to senior management and/or the board?
    - Written summaries
    - Tables, charts and graphs
    - Combination of both styles/forms
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- What do you want your senior management and/or board to walk away from the meeting with when you are done?

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- Few senior managers or board members are experts in regulatory compliance
  - Keep it simple!
  - Condense raw data into bite-sized pieces
  - Report the good news, as well as where improvements are necessary (and what you are doing to implement the improvements)
  - Differentiate routine monitoring reports from reports about significant events

Questions?
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