

## Compliance Orientation Programs – Engaging your Board, and Management and Staff Early



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## Communication and Education

- To effectively implement a Compliance and Audit program, develop your board, management, and staff, you need to:
  - define roles and accountability
  - assess and discuss activities and risks
  - develop a strategy and plan
  - communicate the plan
  - evaluate the outcomes



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## Objectives



- Understand the key messages that should be delivered during board, management and staff orientation
- Discuss various methods for deploying effective compliance orientation and other education
- Discuss how to get the most out of the limited time available for orientation

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## Goal of Orientation

- Understand expectations and organization's culture of compliance
- Bring new member (board, executive, staff) expectations in line with organizational expectations
- Communicate the big picture
- Learn what questions to ask
- Understand specific roles and responsibilities
- Help the new member successfully contribute to your compliance program



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## Orientation Pitfalls

- Too much information condensed into too little time
- Tedious and dull
- Assumes new member understands the organizational culture
- Competes with all other areas, tasks and functions requiring orientation
- One shot deal



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## Communication Opportunities

- Committee charters
  - Roles, responsibilities and accountability
- Written Standards
  - Definitions
  - Bylaws and policies
  - Code of Conduct
  - Compliance plan and annual work plan
- Strategic planning
  - scorecards and dashboards



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# The Compliance Program, the Roles & Responsibilities

The Board Orientation to the Compliance Program

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## An Effective Board



- A few keys to an effective Board
  - An effective board supports the work of the organization it serves
  - Is completely aware of its duties and responsibilities.
  - Adapts and develops to meet the business' needs to accomplish the goals
  - The board must be able to evaluate the business' needs, create planning processes and establish priorities

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## Board Oversight

- Excerpt from “Interview with James G. Sheehan, New York State Medicaid Inspector General” full text available at [www.hcca-info.org](http://www.hcca-info.org)
- Five reasons board members should be concerned:
  - Right thing to do
  - Fiduciary and legal duty
  - Specific reporting requirements
  - State requirements
  - Board members can face personal exposure



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## Board Oversight

- Board role to be educated
- Board can be held responsible for neglecting their duty of oversight
- The biggest problem with oversight is failing to ask the tough questions, failing to require and review compliance metrics, and failing to require education for the board and senior managers



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## Duty of Care

- This determines whether the directors acted:
  - in good faith
  - level of care that an ordinary prudent person would in like circumstances
  - in a manner they reasonably believe is in the best interest of the corporation



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## Governance, Compliance & Audit Guidance Resources

- U.S. Sentencing Guidelines (USSG) Revisions 11/2010
- Office of Inspector General (OIG)
- Driving for Quality in Acute Care: A Board of Directors Dashboard
- AHLA/OIG Board Resource
- Health Care Compliance Association
- Society of Corporate Compliance and Ethics
- The Governance Institute

<http://www.governanceinstitute.com/Membership/AboutMembership/tabid/169/Default.aspx>



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## Board Compliance Program Orientation

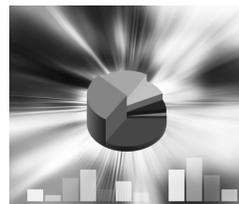


- Compliance plan (roles)
- Compliance annual work plans (roles)
- Question Board members should ask (role)
- Compliance report
  - content to communicate program activities and effectiveness
- Measures - accountability through organizational strategy map and scorecard
- Discuss outcomes of other organizations such as Caremark

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## Effective Communication Through Evaluation

- Intentional communication strategy
  - Risks
  - Internal controls assessment
  - Regulatory environment
  - Internal compliance trends
  - Goals
  - Responsibilities
  - Accountability
- A picture is worth a thousand words



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## Use Generative Questions

- Prepare packet of material for advance reading
- Use generative questions to orient new members to the organization's culture, program components, resources, and vulnerabilities



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## Use Generative Questions

- Focus limited time on generative questions (to generate discussion and self-discovery):
  - What aspects of the Compliance Charter could create tension between plan objectives and operations?
  - Our risk based audit plan is intended to discover vulnerabilities and potentially findings that will require self-disclosure. Have we correctly structured our plan to focus our efforts within the risk tolerance of the organization?



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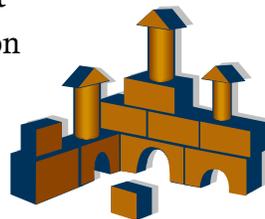
# The Compliance Program, the Roles & Responsibilities

## Senior Leadership Orientation to the Compliance Program

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## Communication and Educational Opportunities

- Standards of Conduct
- Compliance Plan
- Annual work plan and the content
  - Internal controls ongoing evaluation
  - Risk assessment and mitigation
  - Audit plans and outcomes
  - Ongoing education
  - Metrics



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## Communication and Educational Opportunities

- Response to investigation and external inquires
- Updates on any corrective action plans (CAPS)
- Overview of the regulatory environment and new regulations
- New systems and processes



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## Communication and Educational Opportunities

- Definitions (alphabet soup)
- Get on the same page (handbooks)
- Tribal Warfare



“language is the most powerful communication tool available to humans. It can be used to link people together and push them apart...” quote from book: Tribal Warfare in Organizations, Turning Conflict into Negotiated Peace – by Peg Neuhauser

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## Communication and Educational Opportunities



- Compliance Plan establishes the framework and elements of an effective compliance program consistent with U.S. Federal Sentencing Guidelines and the Office of Inspector General.
- The annual work plan outlines the activities of the compliance and audit department for that year. It includes an assessment of internal trends, regulatory environment and risks to the organization, and a discussion with senior leadership and the board regarding those priorities.

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## Communication and Educational Opportunities

- Internal Control is a broadly defined as a process, implemented by Board of Directors, management and other personnel, designed to provide reasonable assurance regarding the achievement of objectives in the following categories:
  - Effectiveness and efficiency of operations
  - Reliability of financial reporting, and
  - Compliance with applicable laws and regulations
- A system of effective internal controls helps identify and manage risks

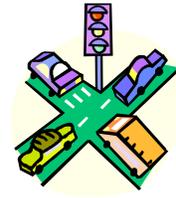


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## Communication and Educational Opportunities

- Internal controls assessment and discussion
  - Policies, standards, procedures, and guidelines
  - Monitoring frequency and documentation
  - Education of new personnel
  - Management approvals
  - Quality reviews
  - Automation and program structure, etc.

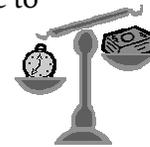


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## Communication and Educational Opportunities

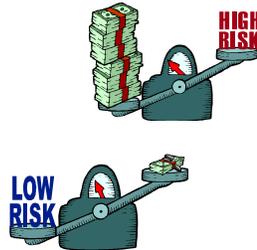
- Risk Assessment
  - Eighth element of an effective compliance program
  - Government guidance
    - Federal Sentencing Guidelines: “Organizations shall periodically assess the risk of criminal conduct and shall take appropriate steps...”
    - OIG Program Guidance: “Institutions should consider conducting risk assessments to determine where to devote audit resources...”



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## Communication and Educational Opportunities

- Risk assessment is the determination of quantitative or qualitative value of risk related to a concrete situation and a recognized threat (hazard)
- Quantitative risk assessment
  - Magnitude and Probability
- Risk Tolerance considerations
  - Cultural; Strategic; and Capacity



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## Communication and Education Opportunities

- Discuss effectiveness
  - US Sentencing Guidelines
  - OIG Guidance and Supplemental Compliance Program Guidance
  - American Health Lawyers Association and OIG Resource documents
  - Corporate Integrity Agreements



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## Communication and Education Opportunities

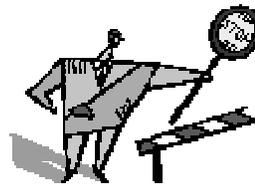
- Discuss effectiveness evaluation and measures:
  - Eight elements (+ Ethics)
    - Authority
    - Policy and Procedures (including Standards of Conduct)
    - Training and Education
    - Reporting
    - Auditing and Monitoring
    - Response and Prevention
    - Enforcement
    - Risk Assessment and Work Plan Development



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## Communication and Education Opportunities

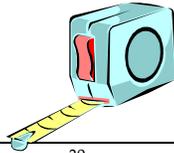
- Discuss Barriers to Effectiveness
  - Compliance Officer role
  - Written standards of conduct
  - Ongoing workforce education
  - Open lines of communication
  - Disciplinary actions
  - Response to findings
  - Detection activities: Auditing , Monitoring and Risk Assessment



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## Communication and Education Opportunities

- Tools for Measuring Effectiveness
  - “Evaluating and Improving a Compliance Program: A Resource for Health Care Board Members, Health Care Executives and Compliance Officers” An HCCA Resource
  - Available on home page of HCCA website:  
<http://www.hcca-info.org>



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## Communication and Education Opportunities

- Tools for Measuring Effectiveness:
  - OIG Supplemental CPG for Hospitals:
    - Developed a monitoring tool based on supplemental guidance
    - Benchmarked status of program against new standards



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## Communication and Education Opportunities

- Reporting Measurement Activities:
  - Provides board and senior leadership education
  - Understand risk position
  - Strategic alignment
  - Required as part of oversight duty
  - Sufficiency of budget and resources



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## The Compliance Program, the Roles & Responsibilities

Staff Orientation to the Compliance Program

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## Communication and Educational Opportunities

- Focus on few “key” messages
  - Responsibility for compliance and the reason for it
  - Standards of Conduct
  - Program structure
  - Key regulatory concerns
    - False Claims – fraud, waste and abuse
    - Physician relationships
    - HIPAA and Privacy
  - How to report concerns and non-retaliation



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## Staff Orientation

- When faced with a compliance or ethical decision, ask yourself:
  - What is the law, rule, regulation, policy or procedure?
  - Am I being fair, honest, and acting in a manner consistent with our values?
  - Does it feel like the right thing to do?
  - How would it look in the newspaper?
- If you know it's wrong, ***Don't Do It!***
- If you're not sure... ***Ask Before You Act!***



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## Staff Orientation

- Stand out in new employee orientation
  - Use games, scenario's, role play
- Orientation as an on-going process
  - On-boarding and welcome
  - New employee orientation
  - 90 day "touch base"
  - Compliance as a part of new employee evaluation
  - On-going communication and education



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## Conclusion



- Orientation and education with both the Senior Leadership and the Board should be part of your ongoing activities to communicate
- Compliance /corporate documents like the compliance plan and committee charters should communicate the activities, the roles and responsibilities, and evaluation and reporting processes
- Evaluate your resources and the methods available and consider your current culture

# Questions

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