

COMPLIANCE TODAY



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A publication for
health care compliance
professionals

A black and white portrait of Dr. Bob Arnot, a middle-aged man with short, light-colored hair, wearing a dark suit jacket, a white dress shirt, and a dark tie with white polka dots. He is smiling slightly and looking directly at the camera.

meet
Dr. Bob Arnot

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REGISTER TODAY!

FOR THE HCCA/AHCA Fraud and Compliance Forum, WASHINGTON, DC-SEP 29-OCT 1, 2002 For info see p.26 or go to conference central on the HCCA Website: <http://www.hcca-info.org>

Letter from the CEO

ROY SNELL

Freddy Kruger's Nightmare on Compliance Street

Follow-up on compliance complaints is the "Freddy Kruger" of compliance professionals. As a compliance professional I was concerned that someone would submit a compliance issue and we would lose the complaint or not follow up "fast enough." My nightmares would involve a headline that went something like 'Compliance professional named in the whistleblowers complaint, "I told Roy about the problem and he did not do anything about it." The nastiest thing that can happen to a compliance professional is being accused of covering up or ignoring a complaint.

It has happened to two compliance professionals that I know of. Their names showed up in the complaints and one of them was used in the press, too. Whether or not it was groundless, the experience must have been a nightmare. Enron and WorldCom are accused by two whistleblowers of ignoring their concerns. If you really want to get an investigator stirred up, you must not only do something wrong but you must have been warned about it and ignored it.

The log

Most people keep a hot line or investigation log but it is often not automated. Hand written notes are transferred to a log in a spreadsheet or word processor. Keeping track of past versions of the log is a concern. Several people from the compliance team often get involved in investigations. If someone retrieves an older version of the log, updates old issues, and adds new issues you have a problem. The last set of revisions would be lost until the version SNAFU is caught. If not caught you may have the problem brought to your attention by an outside investigator who had been asked to follow up on your untimely response to someone's complaint.

Falling through the cracks

Another concern is managing all of the issues simultaneously. Investigations often have people outside of the compliance team working on a complaint. If one of the tasks assigned to

someone falls through the cracks you must catch it in a timely manner. Although most of the complaints are unfounded or minor there is always a sizable list to work on and tracking several issues simultaneously is a challenge.



Many departments are tracking many issues

The entire organization is ultimately responsible for tracking complaints. Human Resources has their list, Quality Assurance has theirs, the Legal Department has yet another list and many other departments are responsible for following up on their own issues. At least you hope they have a list and are following up on their issues.

Although the compliance office gets involved in major issues it is not practical or advisable to manage all complaints for all departments. Compliance teams are trained and passionate about following up. However, compliance teams often worry about other departments documenting, tracking their issues, and securing their information.

One shot at following up on complaints

A high school football coach once told me that when a player went down screaming in pain he would stay on the sidelines and let the trainer handle it. If a player went down and did not move he would run out on to field as fast as he could.

I feel the same way about people who register complaints. The person who checks in each week about their complaint is a bit of a pain but at least they are communicating and getting some feedback while the investigation is proceeding.

The meek

The screamers don't bother me as much as the people who register a complaint and never check in and wait for the outcome. Call me cynical, but I think some people may even log a complaint and hope you don't get the investigation done "quickly" and think they now have a better story for the outside investigator. Most investigators I know don't fall for this sort of thing and give compliance professionals the benefit of the doubt and ample time to follow up. It is a concern none the less.

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Investigations always take longer than expected and compliance professionals worry that the person registering the concern would think they were being ignored. People who register concerns believe that they are obligated to take the problem to someone outside the organization to ensure that they had done every thing they could to resolve the issue. The concern is that if they do not make an effort to stay informed they make unfounded assumptions about your efforts.

Some people feel that they have to go outside to protect themselves from being accused of knowing about the problem and not doing anything about it. If you do a good job documenting the investigation you can show the investigator that you were on top of it and more time should be given to resolve the issue. The challenge is to have impressive documentation that is orderly and shows continuous activity. You may also need to document that you have not gotten to that issue because you were working on other important issues.

Documentation is the best defense

Documenting investigation is not an

easy thing to do well. Notes are taken, documents are reviewed, people are interviewed, and the investigation log is updated. The problem is that all of this information is often kept in various files and locations. To demonstrate progress you will have to pull information from several locations, hoping that you get it all and that all activities had been recorded in a timely, orderly, and complete manner.

Another problem with documentation is that it should be secured. File cabinets and desktops are not the most effective storage devices. Employees working on various investigations sometimes work in cubicles. Many filing cabinets are in hallways. You can stress to everyone that they should be careful but you always wonder if the documents are stored and locked every night all year round. Documents are often taken to and from meetings in and out of the building. It is critical that they not be left unattended. Proper storage of all documents relating to an investigation is an important issue that must be addressed.

The nightmare that keeps on giving

Even after you leave an organization

you wonder if you can prove that you did enough. Did you leave behind effective documentation? Will they find it all? Will they try hard enough to find it? I recently spoke to someone who coordinated a large project that is now being investigated and his number one concern is that they are not trying hard enough to find and share the documents with the investigators. He has even gone back to the organization to help them but he feels a little helpless due to the lack of effort on their part. They seem to be more concerned about their current projects and appear unmotivated because they are very busy and have no personal stake in the outcome.

I have seen people do a great job of this and I know others who need help. It is an area of great concern and must be taken very seriously. Every individual in every organization should keep orderly documentation and properly track compliance issues. Nobody has more responsibility to ensure documentation is handled properly than compliance professionals. Problems originating from improper documentation can make Freddy Kruger look like a choir boy. ■

It's in the mail

The Health Care Compliance Association and Walker Information has mailed the 5th Annual Compliance Officer Survey to all HCCA members. This year, we've added additional questions to the survey related to compliance officer compensation as well as compliance training. Please be certain to take a few minutes to complete it and return it in the enclosed envelope to Walker Information. It must be received by **August 14, 2002** to be included in the results. HCCA and Walker Information plan to publish the results early in October 2002. ■