



## COMMUNICATING WITH REGULATORS & ENFORCEMENT AVOIDING PITFALLS

### BOARD AUDIT AND COMPLIANCE COMMITTEE CONFERENCE

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## COMMUNICATING WITH REGULATORS & ENFORCEMENT PROFESSIONALS - PRESENTERS



- » **James Rough** President, SunHawk Consulting, LLC.
- » **Chris Schrank**, Special Agent In Charge, HHS Office of Inspector General, Office of Investigations, Los Angeles Regional Office
- » **Gerry Roy**, Chief Compliance, Security, and Privacy Officer, Phoenix Children's Hospital

## BACKGROUND



• The following presentation is a collection of observations based on experience of moderating 13 different Panels starting over last five years:

- 20+ different individuals
- 10+ different Agencies - Federal and State
- 4 different States
- Common Theme of many Compliance Presentations

**“It’s important to get to know your Regulator before  
you have an issue”**

## EFFECTIVE COMMUNICATION GETS RESULTS



- Communication in Consulting Projects
- How Hard is Communication with:
  - Yourself?
  - Family?
  - Friends?
  - Behavioral Studies by Krems, Dunbar, (ASU go Devils!) and Neuberg observed the natural size of group conversation maxes out at 4 (+ or – 1) depending on the topic
  - Shakespeare

**EFFECTIVE COMMUNICATION EXAMPLE - LAUGHTER****Verbal vs Non-Verbal**

- Recent Behavioral Studies Example: Differences between polite and spontaneous laughter
  - According to Neuroscientist Sophie Scott, Experiments confirm laughter always means something. It's a code our brains are always trying to decipher.

**COMMUNICATION WITH REGULATORS SHOULD BE CONSIDERED A RISK - CASE EXAMPLE****Second Law of Thermodynamics -  
physicsforidiots.com:**

“The entropy of an isolated system, not in equilibrium, will tend to increase over time, approaching a maximum value at equilibrium.”

## **QUESTIONS THE BOARD SHOULD BE ASKING WHEN DISCUSSING REGULATORY ISSUES**



1. Your Attorney says it is legal, however what is the intent of the law?
2. What is the regulator's perspective on the subject?
3. Is your Organization avoiding bringing up the topic based on fear?
4. Is your Organization waiting for the Regulator to raise a concern?
5. Has your Organizations communication evolved into a negotiation instead of a working relationship?

## **QUESTIONS YOU SHOULD BE ASKING YOURSELF/MANAGEMENT TO HELP UNDERSTAND YOUR RISKS (CONTINUED)**



7. Does your Organization have respect for the regulator?
8. Are your Organizations data submissions coming back as incomplete or with errors?
9. Are your Organization's Regulatory / Compliance Teams stretched too thin?
  - Is there too much on your plate?
  - Is your Organizations team rushing to complete document requests?

## QUESTIONS YOU SHOULD BE ASKING YOURSELF (CONTINUED)



10. Does the Organizations Regulator have a high turnover rate?

11. Does your Organization have a high turnover rate?

12. Is there a literal communication barrier?

- English second language
- Thick / heavy accent
- Use of translators

## COMMUNICATING WITH REGULATORS & ENFORCEMENT PROFESSIONALS – BEST PRACTICES



### Three simple, but critical best practices:

1. Be available and helpful.
2. Listen, and remember the Regulators are human - not things.
  - They don't bite, I promise
3. Be accurate, but timely with your responses.

## HOW DOES MANAGEMENT BUILD A WORKING RELATIONSHIP WITH ITS REGULATOR?



**Get to know your regulator before you have a problem.**




1. Don't communicate Corporate / National positions when dealing with State or County Regulations.
2. When the Regulator has a Request, explain to them you will get an answer right away or you will find the person that can get the answer.
3. When your regulator calls, answer the phone with "What can I do to help you?"

## HERE TO HELP - ANY QUESTIONS?



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Mr. Rough is Founder and President of SunHawk Consulting, LLC. a US based Disputes, Compliance, and Investigations Consulting Group. Mr. Rough is a Certified Healthcare Compliance Professional, Certified Fraud Examiner, Certified Compliance and Ethics Professional and Adjunct Professor for the Sandra Day O'Connor College of Law at Arizona State University's Healthcare Compliance Course.

For 17 years, U.S. and international clients have trusted Mr. Rough to perform independent investigations and compliance effectiveness assessments; consult on complex contract disputes; perform data analytics, and advise white-collar defense counsel in criminal, civil and class-action proceedings.

Mr. Rough regularly advises clients on multiple topics, including the False Claims Act, Affordable Care Act, Medical Loss Ratios (MLR), Usual and Customary Rates in Healthcare Industry, Claims Data Analytics, Statistical Analytics, Fraud Prevention and Investigation, and technical accounting for revenue recognition.