Crowe

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20 Years as a
Compliance Professional:

Hard Lessons Learned & Ideas for Improvement

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20 Years as a Compliance Professional

Overview

- Sharing lessons from 60+ Compliance Program Assessments

- The importance of the Three Lines of Defense and Compliance Programs

- Thriving vs. Surviving as a Compliance Officer/Department

Lessons Learned From Over 60 Compliance Program Assessments

Lessons Learned

Unfavorable Reporting Structures

Poor reporting structures, although potentially devastating, can be "cured"

- Executive Sessions
- Regular-meetings with CEO (with agenda and minutes)
- Unfettered access to Board
- Oversight by Board – input regarding annual review

Lack of relationships with the Board and with Leadership

- Personal and business relationships
- Is the position and person respected?

Lessons Learned

**Failure to continually educate Board and Leadership**

- What compliance actually is
- What a risk assessment actually is
- The Three Lines of Defense Risk Model
- Confusion regarding what compliance does and why
- Yes – Management, Board and Leadership should know the 7 elements
- How Management can be effective Compliance participants
- The notion that Compliance is Everyone's job

Lessons Learned

Inability to effectively document the existence of their compliance program

- Lack of Compliance Department "generalist" to document 7 elements and help operations document same
- Creating the Compliance Foundation
- Creating an outline plan for the future
    - Day 1 – 30
    - Day 31 – 60
    - Day 61 – 90
    - Long Term: 3 to 5 Year Plan
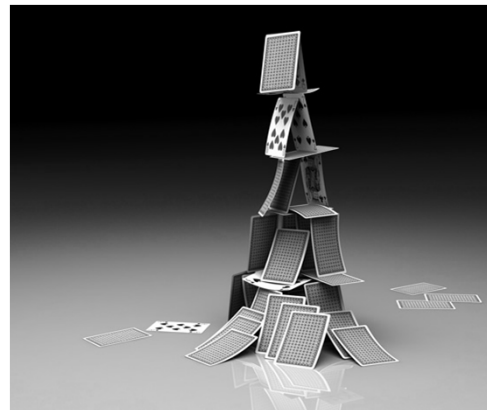
Lack of a 90 Day Plan for New Compliance Officers

Task #	Month 1
1	Meet Executive Leadership and Board Members
2	Meet operational departments
3	Meet physicians and research leadership
4	Work with Executive Management to distribute email announcement
5	Obtain calendar of existing operational meetings
6	Discuss and agree upon compliance committee membership
7	Receive update regarding investigations and special projects
8	Strategize on how to support investigations and special projects
9	Create compliance team
10	Create compliance orientation training and training for operational departments
11	Assess Training processes
12	Review any existing code of conduct or business ethics type policies
13	Assess hotline posters/television screens
14	Review compliance program document
15	Understand corrective actions already in place and assess status
16	Interview employees regarding perception of compliance and conduct walkthroughs

Lack of a 90 Day Plan for New Compliance Officers

Task #	Month 2
17	Modify compliance plan, if necessary
18	Learn the hospitals' and business areas' processes
19	Review process to ensure appropriate awareness of regulatory updates
20	Review and understand how policies are created and approved at hospitals
21	Assess previous Compliance Committee attendance and perception of the Committees
22	Consider reconfiguring the Compliance Committee membership
23	Review to what extent compliance training has been provided to the Board
24	Review previous Board reports
25	Develop structure to report compliance issues to the Board

Lack of a 90 Day Plan for New Compliance Officers

Task #	Month 3
26	Develop plan to review compliance committee minutes
27	Ensure proper procedures exist for Master Vendor list, background checks, OIG exclusion lists
28	Review existing auditing and monitoring workplans and templates
29	Understand cost reporting processes
30	Review and assess Contracting processes and physician arrangements
31	Begin performing compliance program self-assessment

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Lack of a 3 to 5 Year Plan

Strategic Objectives	Action Steps	Responsible Parties	3	6	9	12	15	18
			Timeframe for Completion (Months)					
REFRESH AWARENESS OF THE COMMITMENT TO AND IMPORTANCE OF COMPLIANCE	Message from the CEO	CEO	x					
	Message from Board	Board	x					
	Message from Compliance Officer	CEO	x					
	Kick-off Operational Compliance Committee	CEO	x					
	Develop and promote Compliance Program "branding"	Communications		x	x			
	Introduction in Various Leadership Forums	Various	x	x				
	Create Compliance Committee Charter	Compliance Office		x	x			
	Consider developing Compliance Department Internship	Compliance Committee	x					
	Develop and Implement Quarterly "Do The Right Thing" Award	Compliance Office	x	x	x	x		
	Review Intranet / Internet / TV Monitor / Hotline compliance visibility	Compliance Office		x	x			
	Develop and execute slate of activities for March Compliance Week to promote awareness	Compliance Officer		x				
	Meet with department management and create calendar of operational meetings	Compliance Office	x	x				
	Create and role out Compliance Road Show		x					
DEVELOP CONSISTENT DEFINITION OF AND INCREASE UNDERSTANDING OF WHAT COMPLIANCE MEANS AT THE DEPARTMENT LEVEL	Form task force/compliance team to develop consistent definition of compliance	Compliance Committee	x					
	Develop departmental compliance program standards and expectations	Task Force		x				
	Increase Compliance awarenes with leaders who have limited interaction with Compliance	Compliance Officer	x					
	Increase understanding of Compliance with Board of Directors	Compliance Officer		x				
	Increase understanding of Compliance with Department Management	Compliance Officer	x					
	Provide detailed training of Compliance expectations for employees	HR/Compliance/Training		x				
	Select and train departmental compliance liaisons	Compliance Committee		x				
INCREASE PROGRAM LEVEL AND DEPARTMENT LEVEL ACCOUNTABILITIES FOR PROGRAM DEVELOPMENT	Assign individuals to oversee the development of department level compliance programs	Compliance Committee		x				
	Select pilot department to proceed through the development process	Compliance Committee		x				
	Select department to develop and implement departmental compliance program	TBD		x	x			
	Direct additional departments to develop and implement departmental programs	TBD			x	x		
	Direct remainder of departments to develop and implement departmental programs	TBD				x	x	
	Establish rotation for Compliance meetings with operational management	Compliance Officer		x				
ORGANIZE OUTCOMES TO BOLSTER THE EFFECTIVENESS OF THE PROGRAM	Create Big Compliance Book to tell the story of compliance	Compliance Office	x	x				
	Project manage Compliance Assessment recommendations	Compliance Office	x	x				
	Compile departmental activities to support corporate level Compliance initiatives	Compliance Office			x	x	x	x
	Auditing / Monitoring		x	x	x	x	x	x
	Review Risk Assessment Processes and Documentation		x	x				
	Review and Update Compliance Training		x	x				
	Department level metrics roll up to Compliance Committee				x	x	x	x
	Develop data analytics capabilities				x	x	x	x

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Lessons Learned

Lack of documented operational monitoring efforts

- Physician Arrangements
- Coding Compliance
- Security
- Quality

Consistent enforcement and discipline

- Telling the story/providing examples
- Inconsistent enforcement of policies and disciplinary actions will undermine the Compliance program
- Rewarding Compliance behavior

Lessons Learned

Lack of visibility of Compliance Officer

- Create a list of operational standing meetings and attend them
- Provide Leadership with venues for inclusion of Compliance
- Rounding/Conduct walkthroughs
- Create a Compliance Road show, sell the program

Lack of a True Operational Compliance Committee

Depending on the size of some organizations, the Operational Compliance Committee would likely consist of approximately 10 – 20 people. Participants are optimally not part of the executive team, but are department leaders or their delegates. Typical committee representation may include the following functions:

- Chief Compliance Officer – Chair
- Legal/Risk
- HIM
- Utilization Management
- Quality
- Revenue Cycle/Finance
- Pharmacy
- Laboratory
- Research
- Admitting/Registration

- Emergency Department
- Radiology
- Physician Leadership
- Nursing
- Information Systems
- Human Resources
- Health Plan
- HIPAA Privacy and Security
- Provider Services

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Lack of a True Operational Compliance Committee

The typical functions of the Operational Compliance Committee are:

- Assist and advise Compliance Officer with all aspects of the compliance program
- Develop, implement and report on compliance efforts occurring in their respective department
- Assist in monitoring the effectiveness of the overall Compliance program
- Assist with compliance risk identification and risk mitigation
- Assess and advise on compliance policies and procedures
- Oversee and advise on Compliance training
- Oversee compliance auditing and monitoring
- Assess and advise on reported compliance matters
- Oversee the status of corrective actions

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Lack of a True Operational Compliance Committee

The meetings are expressly and solely dedicated to Compliance issues and the Committee establishes accountability for ongoing Compliance risk monitoring to the operational leaders on the committee.

A typical agenda would include the discussion of:

- Regulatory and Compliance updates

- Operational Compliance monitoring and auditing activities by each member of the committee

- Compliance training

- Actions to continue to enhance each of the 7 elements of an effective Compliance program

- Addressing ad-hoc compliance issues

It is common for such committees to invite guests that may offer a topically relevant view-point as appropriate. It is not uncommon for CEO's to participate at least periodically, thus bolstering the importance of Compliance.

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Lack of Effective Compliance Narrative

Compliance offices must be able to effectively narrate or evidence the existence of their organization's Compliance efforts. Essentially, Compliance departments should be able to "tell the story" of compliance activities at their organization. The following sample table of contents provides an example of how Compliance departments can organize their documentation in an effective manner:

Manuals, plan, or other documents that describe the entity's approach to managing the Compliance program, such as:

- Organizational chart
- Budget
- Board meetings
- Compliance program document
- Compliance program roles, responsibilities
- Code of conduct
- Annual report

Boards' resolutions, agendas, or minutes that describe Boards' roles in overseeing Compliance:

- Board audit/Compliance committee charter
- Compliance committee charter
- Compliance department charter
- Operational Compliance committee charter
- Operational Compliance committee and Board audit/Compliance committee agendas and meeting minutes that describe the committees' roles in overseeing Compliance program

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Lack of Effective Compliance Narrative

Summaries of self-reporting, disclosures, incidents and corrective action plans:

- Savings to entity (i.e. If the Organization's Compliance efforts result in reduced payments related to external audits, the Compliance Office should track that difference.),
- Tracking, trending (areas responsible for overpayments)
- Disciplinary measures, if any associated with incidents

Compliance policies and supporting documents, such as policies related to:

- Self-disclosure
- Non-retaliation
- Corrective action
- Training
- Conflict of interest
- Risk assessment

Hotline information, such as past year's:

- Reports
- Tracking, trending metrics
- Significant incidents reports
- Efforts undertaken to raise hotline awareness

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Lack of Effective Compliance Narrative

Compliance risk assessments:

- Risk assessment process
- Risk assessment results

Compliance auditing/monitoring, such as:

- Auditing/monitoring findings
- Reports
- Corrective action plans
- Key Compliance and Operational metrics focused on outcomes.

Compliance Training and communications regarding compliance:

- Training modules
- Newsletters
- Updates
- Tracking/Trending (what happens when 100% don't complete)

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Lack of Effective Compliance Narrative

Documentation describing how business areas with compliance risks interact with the compliance program:

- Mini-compliance plan documents for areas that have compliance risks
- The departmental compliance plans should be based upon the traditional 7 elements of effective compliance programs and should evidence what the areas are doing regarding compliance roles/responsibilities, specific training (if any), risk identification, and monitoring activities

Policies for enforcing compliance standards:

- Discipline policy
- Tracking/trending areas responsible for infractions

Additional information regarding compliance effectiveness:

- Data analytics
- Integrity surveys
- 3rd party audits (governmental, legal, consulting)
- Repayments, self-disclosures, corrective action plans
- Compliance awards

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The Importance of the
Three Lines of Defense & Compliance Programs

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Three Lines of Defense

"The Third Line"
Internal Audit and possibly Compliance will provide independent oversight and auditing.

"The Second Line"
Compliance will provide compliance management, facilitation, framework and policies.

"The First Line"
Management is accountable for identification of risks, internal controls, compliance activities and monitoring in order to be compliant with laws and regulations.

Independent Oversight

Compliance, Legal, Risk, Quality

Business Compliance Ownership

Three Lines of Defense

- Exhausted parent with no help!

- Lack of understanding at operational level of what Compliance is and the three lines

- Failure to imbed three lines defense model into the organization

Thriving vs. Surviving as a Compliance Officer / Department

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Thriving vs. Surviving as a Compliance Officer/Department

Avoiding staying in the proverbial "sandbox"

- Conflicts of interest
- Privacy
- OIG Workplan
- Code of Conduct

Compliance as a strategic advisor/partner

Compliance being at the right tables

Understanding the business of your organization

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Thriving vs. Surviving as a Compliance Officer/Department

Possible Metrics to Track

- The number of Compliance Roadshow sessions completed

- The number of times the CEO overtly mentions the Compliance Officer by name and the Compliance Program

- The number of meetings between the Compliance Officer and Board Members

- The number of meetings between the Compliance Officer and CEO

- The number of surveys conducted which assess the employees knowledge of Compliance, the Compliance Officer, the culture of the organization, etc.

- The number of walkthroughs conducted by the Compliance Officer and/or their staff

- Whether or not the organization has conducted an independent compliance program assessment? If not, whether one has been budgeted?

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Thriving vs. Surviving as a Compliance Officer/Department

Possible Metrics to Track

- The number of individual calls/questions to members of the Compliance Department

- The number of operational department training sessions regarding specific compliance issues

- The number of operational Compliance Plan documents in existence

- The number of departmental monitoring assessments being performed

- To what extent the organization conducts Compliance Week activities

- The number of operational meetings the Compliance Officer and/or their staff attends

- How many speaking engagements or articles the Compliance Officer conducts/creates

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DA9 Slide 26 : Remove period from end of 2nd bullet. Like the others, it is not a sentence.
Deneweth, Angela, 11/16/2018

Thank You.

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