Establishing a Compliance Partnership with Human Resources

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Presented by:
Jane Garlinghouse & Dany Valenzuela
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Objectives

- To Establish an understanding of Human Resources’ Critical Linkages to a Compliance Program
- To Provide an Overview of Primary Human Resources Functions and Compliance Related Work within those Functions
- To Demonstrate how Human Resources Functions Support Compliance
- To Illustrate how Human Resources has Facilitated Operationalizing a Compliance Program in the Kaiser Permanente California Regions
Human Resources Conversation

- Strategy
- Labor/Employee Relations
- Workforce Planning / Recruitment Retention
- Customer Service Orientation
- Information Management
- Organization Development, Education & Training
- Compliance

- Diversity/EEO
- Employment Costs
- Compensation & Benefits
Elements of KP’s Compliance Program

1. Compliance Accountabilities: Designation of a compliance officer and compliance committee that are accountable for compliance program development and implementation, Nationally, within Regions, within functions

2. Standards of Conduct and Written Policies and Procedures: Articulate the organization’s commitment to comply with applicable laws and regulations

3. Education and Training Programs: General sessions for new employees, annual updates and specialized training for high risk areas

4. Effective Lines of Communication: Routine access and a hotline to provide anonymous reporting, protection from retaliation, and prompt investigations

5. Audits, ongoing Monitoring, Risk Assessments: Ensure compliance effectiveness and assist in the reduction of identified problem areas

6. Due Diligence in Screening, Hiring and Discipline: Policies in dealing with sanctioned individuals and entities; discipline and mechanisms to consistently enforce standards and ensure a compliance workforce

7. Reporting & Prompt Responses to Detected Offenses: Initiate corrective and preventive actions, and self-reporting violations to government agencies
Why an HR and Compliance Partnership?

• To position HR and Compliance as full business partners in supporting a comprehensive compliance program throughout the organization
• To frame, align and integrate the work of compliance into the functions of Human Resources
• To enhance and facilitate embedding compliance into operations
• To share Best Practices
HR Compliance Functions

Accountability, Policies, Communication, Audit & Monitoring

HR Administration
Policies and Procedures
Legal & Regulatory Requirements
Organizational Development
Workforce Management

How HR Supports Compliance

• Policies - establish clear expectations and systems of accountability
• Monitor Regulatory Compliance
• Reporting
• Record Keeping
HR Compliance Functions

Screening and Hiring

Employment
- Job Descriptions
- Job Postings
- Recruitment
- Employee Screening
- Selection
- Internal Transfers
- Promotions
- Exit Interviews

How HR Supports Compliance

- Employment Verifications
- Monitor Sanctions and exclusion lists
- Prevent Conflict of Interests
- Hire qualified people
- Support Affirmative Action and EEOC guidelines
HR Compliance Functions

Education & Training

Education & Training
- New Employee Orientation
- Mandatory Training
- Manager Training
- Annual Updates
- Staff Inservice

How HR Supports Compliance

- Ensure understanding of compliance
- Educate on laws, regulations & policies
- Communicate reporting mechanisms
- Ensure proper documentation, coding & billing procedures
HR Compliance Functions

Accountability

Performance Management
- Succession Planning
- Staff Development
- Performance Evaluation
- Competency Assessment
- Reporting

How HR Supports Compliance

- Promote Employees with high integrity
- Meet regulatory requirement for competent workforce
- Establish performance expectations
HR Compliance Functions

Labor & Employee Relations

Labor & Employee Relations
Contract Negotiations
Grievances/Arbitrations
Dispute Resolution
Contract Interpretation
Employee Recognition
Employment & Labor Standards

How HR Supports Compliance

- Employee accountability
- Consistent Discipline
- Non-retaliation for reporting
- Corrective Action
- Rewards for Compliant Behavior
- Risk Assessment
HR Compliance Functions

Audit, Monitoring, Risk Assessments, Reporting

Compensation, Benefits & Payroll
- Compensation Equity
- Total Compensation
- Pay Practices
- Payroll Management
- Contract Employees
- Job Classifications

How HR Supports Compliance

- Prevent Discriminatory Pay Practices
- Protect KP Assets
- Audit & monitor for timecard fraud
- Ensure Benefit eligibility
Human Resources Functions & Compliance

- HR Administration - Policies, records, accountability, reporting, monitor and audit requirements
- Employment - screening, qualified individuals
- Education and Training - required compliance training, tracking and trending
- Performance Management - compliance expectations, rewards, risk assessments
- Labor and Employee Relations - consistent discipline, non-retaliation for reporting, corrective action
- Compensation, Benefits and Payroll - audit and monitor accounting controls, legal requirements
Compliance Program Seven Elements & HR Shared Accountabilities

• Accountability
  – HR Compliance Infrastructure
  – Establish a system of accountability for employees and physicians

• Policies and Procedures
  – Human Resources Compliance Policies
  – Ensure P&P include core compliance requirements and appropriate compliance language
  – Communicate policies to workforce
Compliance Program Seven Elements & HR Shared Accountabilities

• Education and Training
  – Compliance Orientation for New Employees, annual updates for current employees, and HR compliance specialty training
  – Tracking and Trending of Training
  – Legislative updates to appropriate work groups

• Communication
  – Policies
  – Open Lines for Reports of Misconduct (locally and national hotline)
Compliance Program Seven Elements & HR Shared Accountabilities

- Audit and Monitoring
  - Employment Law, Regulations and Standards
  - Conducting HR Risk Assessments
- Due Diligence in Screening, Hiring & Discipline
  - Employee background checks
  - Policies on handling sanctioned providers
  - Clearly articulated consequences for acts of non-compliance
Compliance Program Seven Elements & HR Shared Accountabilities

- Reporting and Corrective Action
  - Internal Reporting of non-compliance
  - Appropriate Reporting to outside agencies
  - Corrective Action Plans for findings of non-compliance
The California Experience – Operationalizing a Human Resource Compliance Program

7 Element Framework

- Compliance Accountabilities & Infrastructure
- Code of Conduct, Policies & Procedures
- Education & Training
- Effective Lines of Communication
- Audits, Monitoring & Risk Assessments
- Screening, Hiring & Discipline
- Reporting & Corrective Action

Compliance Program Elements
HR Compliance Accountabilities: Infrastructure

Director
Human Resources Compliance

Northern California Analyst
HR Consultant Policies/Procedures Communications

Southern California Analyst
Compliance Consultants Regulatory, Employment Auditing/Monitoring Training/Education

EEO/Diversity Consultants AAPs & Reporting Auditing/Monitoring

Investigators Internal EEO Compliants External Agency Charges
HR Compliance Accountabilities

HR Compliance Director

• Represent HR on Regional Compliance Committee

• Represent California Regions on National Compliance Roundtable

• Participate on HIPAA, JCAHO, NCQA committees/audit teams for HR compliance readiness

• Participate on Regional Privacy, Confidentiality, Security and Access Committees

HR Policy Consultant

• Review Policies for regulatory compliance

• Develop New Policies - (e.g. HIPAA Privacy and Security)

• Communicate implementation plans and policy revisions (e.g. Web & E-Mail)

• Develop procedures to administer policies & conduct training (e.g. Exit management)

• Develop Guidelines to interpret Policies (e.g. Financial Hardship)
HR Compliance Accountabilities

**Investigation Unit**

- Investigate and respond to internal and external agency EEO charges
- Report, trend and analyze data to develop corrective action plans
- Train and educate staff and employees on laws, policies, regulations and requirements
- Develop communication vehicles to reinforce compliance/policy requirements

**Compliance Consultants**

- Conduct auditing and monitoring to ensure regulatory, legal and policy screening requirements are met (e.g. OIG, background, INS, academic, employment and licensure)
- Prepare materials for and conduct annual compliance training; develop and present specialized training for HR and the organization
HR Compliance Accountabilities: Embedding in the Organization

- **Job Descriptions**: Reflect regulatory and compliance requirements & articulate KP’s compliance expectations. Sample Language:

  “Upholds Kaiser Permanente’s Policies and Procedures, Principles of Responsibility, and applicable state, federal and local laws.”

- **Initial Employment Assessment**: Ensure employee meets performance expectations of the position

- **Annual Performance Evaluations**: Assessment of and feedback regarding KP’s regulatory, compliance and competency requirements

- **New Employee Orientation**: Provide overall compliance information including code of conduct, and department specific requirements

- **Specialized Training**: Functional high risk training (e.g., HR trains on Employment Law, New State or Federal Regulations, Policy Interpretations, etc.)
HR Policy & Procedure Accountabilities

• **Definition of Compliance at KP:** Systematic adherence to applicable KP Policies, local, state and federal laws, regulations and accreditation standards.

• **HR Develops:**
  – **Regional Policies/Procedures:** Articulate organization’s expectation that all employees comply with laws and regulations: employment practices, employee rules and regulations, time off, health and safety, employee relations, benefits and, wage and salary administration.

• **HR Communicates:**
  – **Principles of Responsibility:** Describes KP’s code of conduct for all employees, physicians and contractors.
  – **Conflict of Interest Statement/Policy:** Situations where an individual in position of authority influences decisions in a manner that will result in personal gain or benefits.
HR Policy & Procedure Accountability
Compliance Integration into Operations

Internal Policies and Procedures

Principles of Responsibility:
- Conflicts of Interest
- Political Activities
- Community Involvement
- Media Contact
- Equal Opportunity
- Protecting Assets
- Confidentiality of Information

KP Results:
- Quality of Care
- Customer Satisfaction
- Financial Health

Local, State and Federal Laws and Regulations

Work Practices and Standards
HR Policy & Procedure Accountability
Embedding Compliance Foundations

Sample HR Policies and Compliance Foundation

- **Employment**: Financial Hardship Policy-IRS Regulations
- **Employee Rules**: Obligations Regarding Confidentiality-Medical Information Act, Title 22 of the California Code, Joint Commission and NCQA
- **Time Off**: Vacation, Sick Leave Policies - Federal Family and Medical Leave Act, Voting, Military Service, Workers’ Compensation, etc.
- **Health and Safety**: Threat Management Policies - Federal Drug-Free Workplace Act, Department of Transportation, etc.
- **Employee Relations**: Freedom from Harassment Policy-Title VII and other Federal and State discrimination laws
- **Wage and Salary**: Federal Fair Labor Standards Act, Industrial Welfare Commission Orders
HR Policy & Procedure Accountability

Policies: The policy below formed the foundation for 2001 Annual Regional Compliance Training and Employee Reaffirmation of compliance expectations in preparation for NCQA audits. HR Compliance support includes policy review and readiness for all audits.
HR Education & Training Accountability

- **New Employee Orientation:** Compliance culture, code of conduct, how to report non-compliance, overview of laws, regulations, P&P

- **Manager Training:** Present compliance expectations with HR Policies that operationalize employment laws and regulatory compliance requirements

- **Annual Compliance Update:**
  - **2001** Principles of Responsibility, Waste Fraud Abuse, Compliance/Ethics Hotline
  - **2002** Obligations Regarding Confidentiality, Electronic Asset Usage
  - **2003** HIPAA Awareness Training and Privacy and Security Policies/Procedures
HR Education & Training Accountability

• **Human Resources Specialized Training:**
  - Employment Law
  - Pay Discrimination
  - Exemption Testing
  - Disability Management
  - Regulatory Standards for HR

• **Legislative Briefings:** Review and comment on pending legislation impact on HR; implementation and communication of impact of passed State or Federal Legislation on HR.
HR Education and Training Accountability: Keeping HR Knowledge Current

- **Monitoring pending Legislation:** Review the impact of pending Senate and State Bills in State of California in addition to Federal Laws and Regulations changes.

- **Implementing Passed Legislation:** Develop companion policies, procedures, audits and reviews to ensure compliance. Communicate new policies and revisions of existing policies.

- **Web based tools and E-Communications:** Participate in professional groups, professional and trade publications, seminars and educational programs as needed.

- **Conducting Internal Audits:** Understand compliance requirements and our performance. Develop action plans, training, and re-training to enhance compliance performance/results.
HR Education & Training Accountability: Training Health Care Staff

- **Health Care Workforce:** Diverse workforce with varied educational backgrounds required HR to develop diverse delivery modalities.

- **Training Delivery Modalities:** Stand and Deliver, Self-Paced Study Books, Videos, Department In services, Just-In-Time Training and Self Paced Materials/References, E-Learning and Web Based Programs. Similar content must appeal and be relevant to all audiences.

- **Tracking and Trending Requirements:** Development of capabilities to track compliance with training at the department and aggregate levels; report on compliance and trend effectiveness of training content and administration.
HR Communication Accountabilities:

Objectives:

- To meet Regulatory Requirements for Centers for Medicare & Medicaid Services
- To allow for communication channel for addressing compliance issues and concerns
- To allow for internal review, investigation and resolution of reported issues
- To use a risk assessment tool
- To highlight opportunities for policy development, changes in practice, training and measuring effectiveness of compliance
- To trend and analyze issues reported
HR Communications Accountabilities

- **Create Culture and Climate:** Foster an environment where employees feel free to report issues of concern to management without fear of retaliation.

- **Communicate Policies and Programs:** Review, develop, revise and communicate policies to ensure reporting avenues are accessible.

- **HR Compliance Staff, Compliance Officer, Privacy Officer, HR/EEO Investigator:**
  - Serve as neutral employee advocates concerning compliance, ethics, integrity, waste, fraud and abuse reporting.
  - Work collectively to develop programs and policies defining expectations for employees on compliance.
HR Communication Accountabilities

- **Internal Complaint Procedures**: Allowing employees to change employment actions, policies, governance, rules, processes.

- **Grievance Procedures**: Involving the representatives of employees into the process of resolving compliance concerns.

- **Web Sites, Phones, Suggestion Boxes, E-mail Boxes**: Creation of various anonymous reporting avenues at the worksite for employee use.

- **Compliance/Ethics Hotline**: A toll free number operating 24 hours a day that allows concerns to be reported anonymously without fear of retribution.
HR Audit and Monitoring Accountability

• **External Audits:** Responsible for HR aspects of OFCCP, INS, JCAHO, NCQA, Department of Health, OSHA audits.

• **Internal Audits:** The Kaiser Board of Directors commissions internal auditors to conduct periodic audits with findings reported to the Board. HR audits include:
  

  – 2002 Payroll and Benefit Eligibility Audit.

• **Risk Assessment:** Audit findings are evaluated and rated as High, Medium or Low Risks. Action plans are first developed for High Risk areas, others follow.

• **HR Internal Monitoring:** HR conducts internal quarterly audits for adverse findings to ensure sustained compliance performance is maintained and adverse findings are remedied.
HR Audit & Monitoring Accountabilities

- **HR Quarterly Auditing and Monitoring:** HR compliance reports are prepared quarterly regarding compliance with INS, Employment Screening, Discrimination Testing, Exemption Testing, Minimum and Living Wage Ordinances, ERISA, EE0, Independent Contractors.

- **Management Reports, Analysis and Trending Communicated:** Reports to leadership on HR compliance performance and action plans implemented to remedy deficiencies.

- **Training Programs:** HR targets specialized compliance training and/or specialized manager HR compliance training.

- **Audit Findings:** Review of policies, procedures, and interpretative guidelines communicate compliance expectations to managers and HR community. Helps us gauge the effectiveness of our policies.

- **Risk Assessments:** Help focus efforts on areas of high risk in a systematic way.

- **Audit Results:** Ensures compliance standards are defined, financial assets of the organization are protected, expectations communicated, tools (policies, education and training) developed and implemented and risks minimized.
HR Screening, Hiring & Discipline Accountabilities

- **Posting Requirements**: Minimum posted requirement should be extracted from the job description and must be bona-fide.

- **Screening Requirements**: HR Policy and regulatory screening requirements: Employment (7-10 years); Academic (highest obtained); OIG (Sanction/Terrorist Lists); Licensure, Criminal Records (7 years).

- **Policy Requirements**: Develop policy and ensure requirements articulated. Develop notice requirements for the HR Recruitment Offices and candidate attestation for the revised application.

- **Legal and Regulatory Requirements**: Special legal requirements apply to the health care industry concerning sex crimes and drugs pursuant to Labor Code.

- **Auditing and Monitoring Compliance**: Over 18,000 employees hired per year in California regions. Each new hire, rehire and inter-regional transfer is screened and monthly we examine our enrolls to ensure each new hire was screened.

- **Falsification of Documents and Negligent Hiring Analysis**: HR provides consultation to hiring managers about employee retention and conducts spot audits regarding quality.
HR Reporting & Responding Accountabilities

Literature Reports:

- Institute of Medicine reports 44,000 - 98,000 patients die annually as a result of medical errors
- Institute of Medicine suggests that medical errors are the 8th leading cause of death in the US
- Medication errors result in 7,000 deaths per year, followed by surgical mistakes and complications
- Hospital costs of preventable adverse drug events cost over $2 billion dollars
- Errors result in “life and death situations”
HR Reporting & Responding Accountabilities

Responsible Reporting:
Building an HR Case for Compliance

• **Encouraging Responsible Reporting**: Creating non-retaliatory systems for employees to report. Increases likelihood of reporting.

• **Waste, Fraud and Abuse**: Creating an internal “We Tip” where these activities can be reported with our fear of recrimination or retaliation.

• **Rewards Program Offered**: As part of major investigations or extensive fraud case, rewards may be offered.

• **Compliance Program Rewards and Recognition**:
  – **Exemplary Voluntary Efforts Award (EVE)**
  – **NCQA 2002 Exceptional Rating**: recognition for tracking, trending and corrective actions for breaches of confidentiality
HR Reporting & Corrective Action Accountabilities

- **Traditional Progressive Disciplinary Steps:** Counseling; verbal warning; written warning; final warning/suspension; termination. Step taken based on incident.

- **Just Cause Standard:** Notice, requirements understood, fair and thorough investigation, consequences (punishment) fit the “crime”.

- **Corrective Action:** A non-punitive approach to resolve performance and behavior issues. Step 1: Discovering root cause of problem; Step 2: Developing action plan; Step 3: Implementing corrective action plan; Step IV: Day of decision; Step V: Termination.

- **Responsible Reporting/Blame Free Environment:** A non-retaliatory system that encourages employees to self report errors so that the effects of that error can be minimized and future errors averted.

- **Interest Based Problem Solving:** A problem solving approach: Step 1: Define the problem; Step 2: Determine the separate and mutual interests; Step 3: Develop the options; Step 4 Select a solution. Process is inclusive in including participants at all levels who participate in the process.
In Conclusion
Questions and Answers