



Congratulations on that New Acquisition!

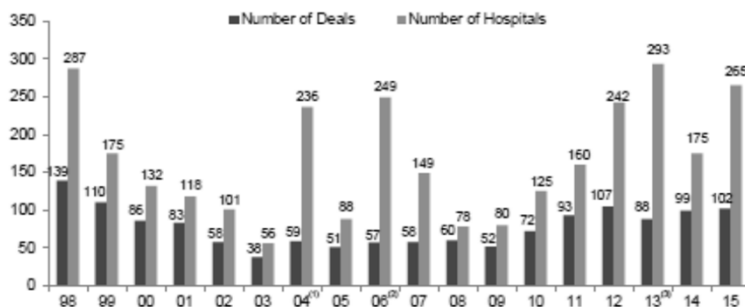
Compliance Lessons Learned the Hard Way

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Announced Hospital Mergers & Acquisitions, 1998-2015



Source: Irving Levin Associates, Inc. (2016). *The Health Care Services Acquisition Report, Twenty-Second Edition*.
⁽¹⁾ In 2004, the privatization of Select Medical Corp., an operator of long-term and acute-care hospitals, and divestiture of hospitals by Tenet Healthcare Corporation helped to increase the number of hospitals affected.
⁽²⁾ In 2006, the privatization of Hospital Corporation of America, Inc. affected 176 acute-care hospitals. The acquisition was the largest health care transaction ever announced.
⁽³⁾ In 2013, consolidation of several investor-owned systems resulted in a large number of hospitals involved in acquisition activity. Chart 2.10 in 2009 and earlier years' Chartbooks.

Agenda

- **Overview of Cleveland Clinic Health System and Compliance structure**
- **Compliance reporting lines and its relevance to acquisitions**
- **How Compliance can add value in the due diligence process**
- **Recommendations for a compliance-focused due diligence**

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Disclaimers

- **We are not lawyers!**
- **We don't have all the answers**
- **We will share what we've learned through experience**
- **We will ask you to share your experience**

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Cleveland Clinic Health System



- 7.1M Outpatient Visits
- 161,664 Acute Admissions
- 3,584 Physicians & Scientists
- 51,487 Employed Caregivers
- 28.5M sq. ft. Facility Space
- 10 Regional Hospitals
- 150+ Northern Ohio Outpatient Locations
- Staff physicians are salaried; on one year contracts

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National & International Locations



- Canada – Executive Health, Sports Health and Rehabilitation
- Nevada – Lou Ruvo Center for Brain Health, Glickman Urological & Kidney Institute
- Florida – Integrated Medical Campus in Weston; Outpatient Locations in West Palm Beach
- Abu Dhabi - Partnership with Mubadala Development Co.
- London – In Progress

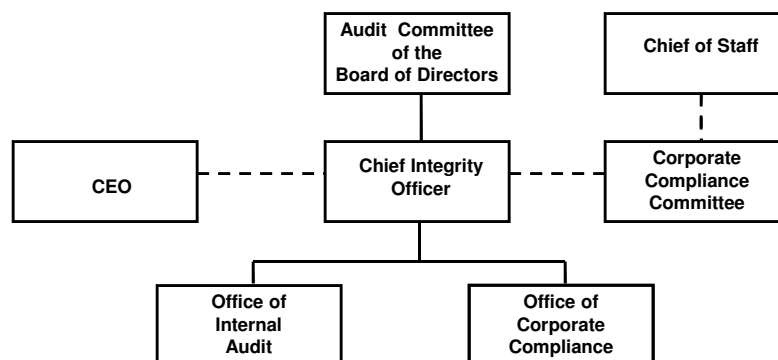
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Cleveland Clinic Health System

- Chief Integrity Officer serves as the Clinic's Compliance Officer
- Positioned in the C-suite
- Collaborative, but independent relationship with Chief Legal Officer, Chief Financial Officer
- Oversees Compliance & Internal Audit

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Chief Integrity Officer Reporting Lines



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Reporting Lines Are Relevant to New Acquisitions

- **Due diligence process is typically led by attorneys**
- **In some entities, the Compliance Officer reports to the Legal Officer**
- **The Legal Officer, Compliance Officer and Privacy Official may be one and the same person**
- **What difference does it make?**

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Complimentary but Different Roles

- **Legal Department**
 - **Zealously defend & protect the entity's interests**
 - **Assists in defining & establishing standards**
 - **Give sound legal advice**
 - **Generates documentation that is protected from disclosure**
- **Compliance Department**
 - **Zealously prevents, detects & remedies misconduct**
 - **Supports a culture of accountability and integrity**
 - **Advises "Do the Right Thing"**
 - **Generates documentation that may be disclosed**
 - **Independent**

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The Whole Truth (Compliance)



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The Truth (Legal)



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Assumption Traps

- **Compliance should not assume that the legal team will evaluate all compliance topics & documents during due diligence**
- **The legal team should not assume they know all compliance topics & documents to evaluate during due diligence**

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Why Compliance & Audit Need to be Part of Due Diligence

- **Assess internal controls and their effectiveness**
- **Evaluate effectiveness of the target entity's compliance program**
- **Identify potential barriers that could delay integration**
- **Determine compliance with HIPAA Privacy & Security Rules**
- **Prioritize post-acquisition plans**

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What Can Go Wrong?

- **60 Day Rule**
- **Successor liability**
- **Incompatibility of billing and other systems**
- **Preparedness for unannounced surveys and audits in the immediate post-acquisition phase**

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Compliance Due Diligence

- **Compliance Officer to Compliance Officer interview**
- **Documents to review:**
 - **Code of Conduct**
 - **Compliance hotline data & trends (incl. no. anonymous reports)**
 - **Compliance Committee composition, minutes, agendas**
 - **Deficit Reduction Act (Employee Handbook, False Claims Act materials)**

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Compliance Due Diligence

- **Documents to review (cont'd)**
 - **Training completion rates (FWA, Privacy, Security Awareness)**
 - **Government audits, reviews and investigations (OIG, FDA, OCR)**
 - **Results of coding audits**
 - **PEPPER reports**
 - **Summary of overpayments that have been returned (and timeliness of repayment)**

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Compliance Due Diligence

- **Documents to review (cont'd)**
 - **Exclusion screening**
 - **Enforcement of disciplinary policies (for all position levels)**
 - **Policies and procedures**
 - **Claims**
 - **Privacy & security**
 - **Teaching & supervision**
 - **Security risk analysis and risk management**
 - **Business Associate Agreements**

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Compliance Due Diligence

- **Documents to review (cont'd)**
 - **Documentation of IRB or Privacy Board waivers, Data Use Agreements**
 - **Breach reports to HHS**
 - **Breach risk assessments**
 - **Medical record requests & turn-around times**
 - **ACO compliance program documentation**
 - **Process & procedures for claims**
 - **Procedures for supervision**

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Integration Priorities

- **Code of Conduct**
- **Promote compliance Help Lines/Hotlines**
- **Any impending regulatory deadlines**
- **Coding/billing reviews**
- **Remediate any issues**

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Integration Priorities (cont'd)

- **Compliance Committee & related documentation**
- **Coding compliance**
- **Risk Assessment (general compliance & HIPAA)**
- **Re-evaluate covered entity status (including affiliated entities, OHCAs etc.)**

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Start Early

- **Consult with Legal at Letter of Intent (LOI) stage or earlier**
- **Provide LOI “wish list” (document review, access to people/info)**
- **Share concerns; seek advice**
- **Ask about successor liability**

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Questions?

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