

What Every Compliance Officer Needs in Their Toolkit

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Bret S. Bissey, MBA, FACHE, CHC, CMPE Healthcare Compliance Executive / Consultant

- 30 years of diversified healthcare management, operations and compliance experience
- Former SVP, chief of ethics and compliance officer at UMDNJ
 - Credited with re-engineering the compliance program of the nation's largest free-standing public health sciences university
 - Successfully led the compliance program to adhere to CIA with DHHS/OIG that occurred following a Deferred Prosecution Agreement
- Chief compliance and privacy officer at Deborah Heart and Lung Center
 - Three-year CIA, first settlement of Voluntary Disclosure Protocol
 - Compliance program recognized by HCCA as a "Best Practice"
- Certified in HCCA and the Medical Group Management Association
- Author of Compliance Officer's Handbook



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Presentation Objectives

- Think about resources needed to be an effective compliance officer.
- Develop strategies to achieve organizational goals.
- Market the position and the compliance program.
- Understand your obstacles to organizational success and personal satisfaction.

Peter Drucker on Healthcare:

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"Even small Healthcare institutions are complex, barely manageable places... Large healthcare institutions may be the most complex organizations in human history."

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What Do You Need in Your Toolkit?

- Independence.
- Access to the board.
- Authority and respect.
- An appropriate budget.
 - FTEs, consultants, technology, audits.
- Knowledge.
- Information.
 - Measurement.
- Contracting (Focus Arrangements).
- HIPAA / IT Security Support

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**What Do You Need in Your Toolkit?
(Continued)**

- Tone at the top.
 - Proactive or reactive?
 - Expense or an investment?
- Ability to constantly educate.
- Tap into a network of outside resources.
- Someone to talk to when times get tough.
- Validation of your efforts.
- Intangibles.
- Thick skin.

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Compliance Is Pretty Basic

- Seven Elements of the OIG Model Compliance Program:



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Independence

- Can you make the proper decision without fear of some sort of retaliation?
- Examples:
 - The lead admitter of patients to your hospital is in violation of the medical records completion policy – can you revoke privileges as policy states?
 - The president's relative is asking to review sensitive and confidential information related to an upcoming community fundraiser. Can you treat person as if they were a normal citizen?
- Who validates this independence?

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Compliance and Operations

- Compliance needs to be independent from operations.
- Many CIAs state "any noncompliance job responsibilities of the Compliance Officer shall be limited and must not interfere with the Compliance Officer's ability to perform the duties outlined in this CIA."
- This is a "big" deal that won't work in many organizations...

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Access to the Board

- Can you communicate with the board whenever you want without second guessing yourself?
- Are you "steered away" from speaking with the board?
- Do you report to the board?
- Are board members involved in the compliance program oversight?
- What is the compliance knowledge level of the board?
 - Engage experts to assist in program functioning and validation of "effectiveness" of compliance program.
 - Can you get assistance (externally) when you deem necessary?
- Information flow from entity.
 - Is the board receiving all necessary information?

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Authority and Respect

- Do people know the compliance officer?
- Is the person taken seriously?
- Do players try to intimidate the compliance officer?
 - What happens in these circumstances?
- What is the relationship with the CFO, COO, CMO?
 - Who calls meetings, set agendas, etc.?
- What is the attendance at your compliance committee meetings?
 - Do you track attendance? What happens if someone doesn't attend? Are there consequences?
- How do you influence this?

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An Appropriate Budget

- Who defines what is appropriate?
- Have any validation efforts been performed to review the potential ROI of your compliance program?
- Specific activities.
 - Sanction screening.
 - Contract management and reporting.
 - Dealing with Focused Arrangements.
 - Audits (routine and for-cause).

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An Appropriate Budget (Continued)

- External effectiveness reviews.
- Education resources.
 - Internal.
 - Computerized training.
 - Focused in-person training.
- Conflict of Interest disclosure and management.
- Hotline services.
- Investigation resources.

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An Appropriate Budget (Continued)

- Staff.
- Relationship with Internal Audit.
- Do you have enough people to do the job?
- How do you justify your budget?
- Expense or investment?
- Proactive or reactive?

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Budget Analytics

- Based upon operating and FTE budgets approved by board, compliance committee or audit committee.
- Operating budget variance (\$\$ and %).
 - Why a variance? Consultants?
- FTE budget variance (\$\$ and %).
 - Is there turnover? Why?
 - Are there unfilled vacancies? Why?
 - What corrective action is proposed?
- Trending of budget and actual expenses during past several years.
- Good management dictates that you operate department within acceptable budget...
 - Being under budget doesn't mean you are doing a good compliance job!

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Knowledge

- The compliance officer should be a subject matter expert.
 - Certification to validate.
- However, no one in this business knows everything.
- It is OK to say "I need help" – are you able to get help when you need it?
 - Example: coding and reimbursement issues...

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Information

- Access to data?
- Delinquent Contract Management Reports.
 - How frequent? Is the information shared?
- Conflict of Interest disclosures.
 - Management reports, tracking, etc...
- Are overpayments being repaid?
 - Management reports, tracing, etc...
- Where is the risk in the organization?
- You need current information to answer.

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Measurement: Annual Audit Work Plan Completion

- Based upon approved annual work plan.
 - By compliance committee or audit committee or board.
- How many projects were on original plan?
- How many projects were added during year?
- How many were completed? Not completed?
- Trend to answer resources and accurate planning.
- If you are missing either, bad budget or operational problem.

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Contracting Best Practices

- Realize the threat of whistleblowers / Who might be a whistleblower?
- Application of False Claims Act.
- In writing, signed by both parties.
- In a database or contract management system.
- No relationship to referrals.
- Documentation related to FMV determination.
- Job description.
 - Perform evaluation of performance.
- Position or activity justification.

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Contracting Best Practices (Continued)

- Keep documentation that the contract work is necessary and at fair market value.
- Implement or maintain a process that covers the initiation, development, review, approval and performance (i.e., the life cycle).
 - Needs assessment/commercially reasonable.
 - Fair market value documentation.
 - Legal review by experienced counsel with expertise in the Anti-Kickback Statute and Stark Law.
 - Approval by appropriate members of management and governing bodies.
 - Payment and performance review and approvals.
- Documentation of all internal controls, the purpose of which is to ensure that all new and existing or renewed arrangements do not violate the Anti-Kickback Statute and Stark Law.

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Contracting Best Practices (Continued)

- If paid for time related to activity, ensure a system is in place to track, monitor and report time and effort.
 - Ensure checks and balances are in place.
- Track nonmonetary compensation.
- Conflict of interest disclosure.
- Keep documentation of negotiations / Proactively manage any complaints and concerns.
- Organize your data / Detail tracking of remuneration to and from all parties to arrangements.
 - If services are involved, track service and activity logs.
 - If space or equipment is involved, monitor the use of leased space or equipment.
- Require all "covered persons" to sign an agreement to follow the organization's code of conduct in connection with arrangements.

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Contracting Best Practices (Continued)

- Have the compliance officer and Internal Audit review the arrangements database, contract approval process and other arrangement procedures.
- Provide a report of the results of such review to the compliance committee.
- Implement effective responses, including investigation, corrective action and disclosure when suspected violations are discovered.

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Tone at the Top

- Free and open dialogue with the board.
- Inclusion and involvement is key.
- Is compliance a standing agenda item in board and/or audit committee meetings?
- Authority and control without intimidation.
- The separation of compliance and legal.
- How interested is the top of the organization in compliance?
- Are they reactive or proactive?

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Education

- Ability to be creative in education venues.
- Do you give quizzes to assess retention of information?
- You need to do some personalized education.
- You need to be selling the program constantly.
- There is value in having an outside speaker.
 - Especially important for C-suite and board (in many situations).

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To Whom Do You Talk When You Are Having a Tough Day, Week, Year?

- Networking with fellow compliance officers.
- Budget for an external coach, validator.
- You need to understand that your actions and decisions many times are not going to win you friends.
- How do you keep your sanity?

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Validation of the Compliance Program

- Ask your board to support a periodic assessment of the compliance program.
 - Focus on any gaps to Best Practice.
- Your colleagues will like to hear you are getting audited!
- Have findings presented to board, audit committee and compliance committee.

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Intangibles



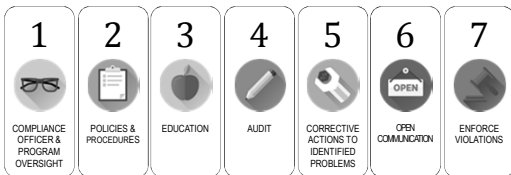
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Conclusion

- The Compliance Officer position is not easy.
- The tools described could make it easier to be successful in your professional endeavors.

Compliance Is Pretty Basic


- Seven Elements of the OIG Model Compliance Program:



If an organization is found guilty of a violation of state or federal laws, the government may offer a reduction in penalties if an effective compliance program is in place.

Q&A

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BACKGROUND

- Bret is a nationally recognized expert and veteran in healthcare compliance.
- Bret has more than 30 years of diversified healthcare management, operations and compliance experience, and presented at more than 100 regional and national industry conferences and meetings on numerous compliance topics.
- Bret is a fellow of the American College of Healthcare Executives.
- Bret is the author of *The Compliance Officer's Handbook*, which was published in 2006.
- From 2010 to 2013, he was the Senior Vice President, Chief Ethics and Compliance Officer of the University of Medicine and Dentistry of New Jersey (UMDNJ). There he successfully re-engineered the nation's largest sector compliance and ethics program under a rigorous Corporate Integrity Agreement (CIA) with the HHS OIG.
- Bret has taught undergraduate and graduate courses as an adjunct faculty member at College of St. Francis, Joliet, Illinois and Allentown College of St. Francis De Sales, Center Valley, Pennsylvania.
- He is certified in the Health Care Compliance Association and the Medical Group Management Association. He is a past president (2001-2003) for Region 2 of the HCCA.

PROFESSIONAL & INDUSTRY EXPERIENCE

- Bret is a recognized thought management leader experienced in performing consulting engagements and providing compliance expertise to hospital and healthcare clients.
- At UMDNJ, the largest public sciences university in the country, Bret reported to the Chairman of the Audit Committee of the Board of Trustees and University President. There he managed 40 compliance, ethics and investigators professionals and an annual operating budget of \$5.2 million.
- Bret has extensive experience in providing Compliance Effectiveness Reviews for clients.
- Bret provides compliance education to a wide-variety of healthcare clients.
- Bret was responsible for the development and ongoing management of the Corporate Compliance Program, which resulted from the nation's first Voluntary Disclosure Settlement (October, 1998) at a specialty hospital with more than 90 employed physicians. HCCA recognized the compliance program as a "Best Practice."

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PROFILE
Provides compliance expertise to hospital and healthcare organizations.

EDUCATION & HONORS
BS - Business Administration, Shippensburg University
MBA - Marketing and Healthcare Administration, Wilkes College
Health Care Compliance Association Certified
Medical Group Management Association - CMPE
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