

Evaluation of Compliance Program Structure and Accountabilities

As compliance programs have continued to mature over recent years, one challenge remains that has not been addressed, the establishment of benchmarks. Every organization seeks to quantify their compliance efforts and determine if they are sufficient, lacking, or excessive. The pressure to understand the appropriateness of the compliance program comes from a desire to improve, organizational pressures on resources, the need to stay competitive in the marketplace, and the ability to demonstrate to regulators that the compliance program is effective.

Compliance benchmarking is difficult because of the unique nature and characteristics of each payor organization, which differ in size, scope, services, customer mix, market, competition, as well as unique histories. The HCCA Special Committee for Payors formed a work group for the specific purpose of answering the question...how do we know if our compliance program structure and accountabilities are right for our organization? The work group identified key factors that have a significant impact on most, if not all, organizations and assigned a risk scoring methodology to those factors. The methodology allows only factors applicable to the organization to be computed in the risk score.

The resulting performance measurement tool includes benchmarking data from a survey conducted with the participation of HCCA payor organization members. The survey asked for basic data regarding the organization and their compliance program. The survey identified trends in certain risk factors and how compliance programs have managed those risks. The benchmarking information was used to develop the performance measurement tool.

How to use the Performance Measurement Tool

Organizational Risk Factors (Page 1). Use each line item on the first page of the tool to identify where your organization fits on the risk scale. Use the criteria in the cells *as a guideline* for the risk score you assign, as they are only *recommended* levels. Additionally, if there is a risk factor not included that is appropriate for your organization, create an additional factor. The point of page one is that you assign risk to your organization, *in relation to other payor organizations*. You are not limited to whole numbers on the risk scale (1, 3, and 5). Use fractions (such as 2.5) if you feel your organization fits between the increments given. The purpose of page one is to calculate an overall risk score (which is the average of individual risk factor scores) for your organization.

Determine if all risk factors are of equal weight for your organization, or if certain factors should carry a higher weight. Apply your weighting of the risk factors to the grid scoring. (Note: Make sure to normalize your weighting to equal 1 overall, or apply the non-normalized weighting to the risk impact on Compliance Program Structure and Accountabilities on page 2.)

Compliance Risk Impact (Page 2). After you have determined a total risk score, go to page 2, Risk Impact on Compliance Program and Structure and Accountabilities, for guidance on your compliance program. On this page are general benchmarks for structure, staffing, and reporting accountabilities based on the responses to the HCCA payor organizations survey.

The benchmarks are not intended as absolute standards. They are a first attempt to develop an evaluation of payor industry, as well as individual, compliance programs. Each organization is unique and caution should be used when referring to the performance measurement tool.

Compliance Program Structure and Accountabilities – Performance Measurement Tool (Page 1)

	Organizational Factors that Impact Compliance Risk			
Risk Factors	Score	1	3	5
1) Tax Status	Weight = 1 Score =	For-profit, privately held.	For-profit, publicly held. Non-profit entity.	Mix of for-profit and non-profit entities.
2) Operations	Weight = 1 Score =	Single state operation	Operate in multiple states	National operations
3) Size of Workforce	Weight = 1 Score =	1,000 to 10,000	10,000+	30,000+
4) Premium Revenue >\$5M (HIPAA standard)	Weight = 1 Score =	No		Yes
5) Legal Structure	Weight = 1 Score =	1 legal entity or 1 parent corporation with subsidiaries	> 5 separate legal entities, not organized under one parent company	> 10 separate legal entities, not organized under one parent company
6) Boards Accountable for Compliance	Weight = 1 Score =	1 Board of Directors	Multiple Boards, operating dependently	Multiple boards, operating independently
7) Contracting Parties	Weight = 1 Score =	Commercial only.	Commercial and single (type of) Government contract. Multiple Government contracts.	Commercial and multiple Government contracts.
8) Insurance Products	Weight = 1 Score =	Single product.	Multiple insurance products governed by <u>similar</u> requirements / regulations.	Multiple insurance products (HMO, PPO, POS, indemnity), governed by <u>different</u> types of requirements / regulations.
9) Integrated System	Weight = 1 Score =	Payer only	Payer with limited number of health care services provided directly	Fully integrated health care system
10) Covered Lives	Weight = 1 Score =	500,000+	3,000,000+	5,000,000+
11) Regulated Functions Delegated to Vendors	Weight = 1 Score =	No regulated functions delegated to vendors	Minority of regulated functions delegated	Majority of regulated functions delegated
12) Vendors Performing Regulated Functions	Weight = 1 Score =	Single vendor.	Multiple vendors, but one vendor per delegated regulated function.	Multiple vendors performing the same delegated regulated functions.
13) Physician Model and Liability	Weight = 1 Score =	Contracted network. Payer assumes limited liability.	Combination of employed and contracted physicians.	Physicians employed. Contracted physicians, payer assumes full liability.
14) Recent Sanction History	Weight = 1 Score =	Nominal or no sanctions, fines, or penalties.	Significant (compared to revenue) civil sanctions, fines, or penalties.	Substantial (compared to revenue) civil sanctions, or under CIA or other agreement with Government, or criminal sanctions.
15) TOTAL RISK SCORE				

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	Risk Impact on Compliance Program Structure and Accountabilities		
TOTAL RISK SCORE	Range 0 to 23.5	Range 23.6 to 46.5	Range 46.6 to 70
Program Structure and Accountability Components:	Compliance Risk is Low. Recommendations below to address.	Compliance Risk is Medium. Recommendations below to address.	Compliance Risk is High. Recommendations below to address.
1) Compliance Staff (FTEs)	1 compliance professional for every 50,000 to 100,000 covered lives.	1 compliance professional for every 100,000 to 200,000 covered lives.	1 compliance professional for every 200,000 to 300,000 covered lives.
2) Compliance Officer (CO) Accountabilities	CO may have privacy and operations accountabilities.	CO may have privacy accountabilities, but NO operations accountabilities.	Dedicated CO, or may have privacy accountabilities, but NO operations accountabilities.
3) Compliance Hotline and Staff	Process to report compliance and ethics concerns anonymously and without fear of retaliation.	Hotline with compliance staff to manage as part of their accountabilities. Call intake delegated to vendor if call volume >20 calls per month.	Hotline with dedicated compliance staff to manage. Staffing ratio of 1 FTE to every 30,000 employees or 1 FTE for every 20 calls per month. Call intake delegated to vendor.
4) Reporting Directly into Compliance	Internal Audit, Privacy, Fraud, Investigations	Privacy, Fraud, Investigations	Privacy, Medicare / Federal Programs, Investigations
5) Reporting Indirectly to Compliance	Security	Internal Audit, Security, Medicare / Federal Program	Finance, Human Resources, Internal Audit, Security, Fraud
6) “Chief” Compliance Officer (most senior in organization)	CCO is a Senior Manager or higher, reporting to the CEO and/or Board.	CCO is part of the Executive Leadership team, reporting to the CEO and/or Board.	CCO has the highest position (below CEO), reporting to CEO and/or Board.
7) Compliance Officer Reporting to Board	CO reports to a Board Committee on a routine basis.	CO reports to a Board Committee <u>or</u> Full Board on a routine basis.	CO reports to a Board Committee on a routine basis and Full Board ad hoc.
8) Dedicated Management Compliance Committees	Centralized committee with compliance accountabilities that may or may not be a dedicated compliance committee.	Multiple, dedicated compliance committees that tend to be centralized.	Multiple, dedicated compliance committees that tend to be both centralized and decentralized, with a coordinated effort.
9) Dedicated Board Compliance Committees	No dedicated board committee to oversee compliance.	Yes, Board committee dedicated to oversee compliance that may have other governance accountabilities.	Yes, Board committee dedicated to oversee compliance that may have other governance accountabilities.
10) Compliance Activities Compliance investigations, audits, risk assessments, training, monitoring, communication and analysis of laws and regulations, code of conduct, interfacing with regulators, and Sarbanes-Oxley	Compliance staff performs all listed activities, EXCEPT Sarbanes-Oxley compliance.	Compliance staff performs all listed activities. Shared accountability w/ HR for Compliance Training. Shared accountability with Business Units for Interfacing with Regulators. Shared accountability with Compliance Committees for Compliance Monitoring.	Compliance staff performs all listed activities. Shared accountabilities for most activities with Compliance Committees, Internal Audit, Legal, Finance, Business Units, Human Resources, or Government Relations.