

Complete Healthcare Compliance Manual

Developing Core Departmental Relationships

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Compliance departments have a wide scope of responsibilities, yet compliance staff and budgets are limited. This makes building cross-functional partnerships important as a low-cost, high-return place for compliance departments to focus their energy. Cross-functional partnerships also allow compliance departments to ensure that their policies and procedures are integrated within the business, a key focus of the U.S. Department of Justice's (DOJ) *Evaluation of Corporate Compliance Programs*.

A great example of why cross-departmental relationships are important comes up in third-party due diligence. Third-party due diligence programs are complex and one of the most resource-intensive, time-consuming components of a compliance program. If a compliance department tries to screen every third party on its own, it will quickly run out of time, not be aware of every third party, and become frustrated quickly. The reality is that third parties are selected and onboarded by the business. The compliance department should try to embed basic third-party due diligence within business processes, requiring compliance department involvement when elevated due diligence is necessary.

The DOJ has focused lately on whether policies have been “operationalized.” Its *Evaluation of Corporate Compliance Programs* makes inquiries regarding the “operational integration” of a company's policies and procedures. It is a compliance department's ability to get policies and procedures integrated throughout the organization that can make or break a program.

Opportunities for compliance departments to build relationships with other business departments are beneficial. Those relationships help mitigate risk, strengthen the compliance program, and improve organizational culture by leveraging the roles and responsibilities held by other departments. How can you initiate those important relationships? They often require a very simple first step: asking for a meeting. Coming into that meeting with specific areas for cross-departmental collaboration is critical, and learning about how the compliance program is or isn't working in practice is just as important.

Nursing Leadership

Nurses are key to the frontline, hands-on care of the patient population. The physical, mental, and spiritual demands implicit in serving in a nursing leadership capacity are extraordinary. With that backdrop, making certain that compliance program messaging is concise, targeted, and specific is imperative to the success of any nursing compliance education and training.

There is considerable evidence that employee perceptions about compliance programs and an employee's resultant willingness to report known and/or suspected misconduct is influenced by how regularly leaders talk about compliance, ethics, and privacy. In many healthcare operations, particularly acute-care hospitals, nursing teams often represent the largest cohort of employees. Logically, by extension, nursing leaders are integral business partners and collaborators with compliance to assist in raising awareness about obligations to report

misconduct, in reinforcing policies of non-retaliation, and in other compliance program expectations. Barriers to effective collaboration between compliance and nursing leadership are many, but the rewards associated with overcoming those barriers and to ultimately achieving an open and bidirectional dialogue between nursing leadership and the compliance function make this a relationship well worth the time and effort.

Physician Leadership

In the healthcare setting, physicians play key leadership roles, so their support is critical for any compliance program's success. There will be frequent situations when a physician's support can make all the difference. Compliance officers should try to find a physician champion—someone who understands and supports the mission of the compliance program and who will back up the compliance officer when needed.

Not having physician buy-in is one of the biggest obstacles to implementing an effective compliance program. But there are effective ways for a compliance officer to communicate what compliance entails to physicians.

These ways include:

- Discussing both business and clinical aspects of an issue
- Emphasizing clinical and fiscal improvements
- Building trust through involvement
- Involving physicians early in the process
- Giving physicians plenty of data
- Working one-on-one with physicians
- Cultivating the early adopters and enthusiasts
- Being a partner, not a dictator
- Communicating often and effectively^[8]

The earlier a compliance officer achieves physician buy-in, the better it will be for the program. Invite physicians to be members of the compliance committee and actively seek their input throughout the program's start-up—and beyond.

Staff

For a compliance program to succeed, staff members need to be on board as well. They must be convinced that looking for problem areas in an organization is not the sole responsibility of the compliance department—it is *everyone's* job. Education is the first step, but a compliance officer should also look for ways to heighten awareness on a daily basis. Some organizations distribute cups or pens with a compliance slogan and the organization's name or logo at the launch of a compliance program. If the budget permits, these items can increase awareness and foster cooperation.

Staff buy-in will directly correlate with the organization's ability to foster an environment of trust. Accepting and adhering to the non-retaliation policy will be the best way to ensure active staff participation. Rewarding and thanking those who come forward to do the right thing will provide immediate positive feedback to staff and reap long-term rewards for the compliance program overall.

Human Resources Department

A natural partner for the compliance department is the human resources (HR) department. HR directly affects organizational culture by acting as the primary interface between an organization and each individual employee, second only to a person's direct supervisor. So, HR has the pulse of an organization overall as well as the ability to change an organization's habits for better or worse.

The following are specific areas where compliance should sync with HR.

Internal Investigations

This may be the single most time-consuming area for many compliance departments. Considering that internal investigations are typically an outgrowth of company policies, they test an organization's willingness to practice what it preaches. Across the board, the majority of internal investigations are directly related to areas for which HR takes responsibility. Being able to jointly address these concerns, not only from an HR standpoint, but also from an organizational culture standpoint, is key to supporting and developing the values set forth in the organization's code of conduct. Unless internal investigations reflect this set of values, employees will soon lose faith that their organization's internal policies have any true meaning in day-to-day operations.

Annual Reviews and Compensation

It is common for organizations to have annual or more frequent performance reviews. The compliance department can partner with HR to ensure that annual reviews reflect employees' adherence to supporting compliance within the organization. This can include completing annual compliance training or other compliance requirements as a component of their review. It is typical for organizations to link any bonus and merit considerations to an employee's performance review. In the healthcare provider setting, healthcare systems need to ensure their physicians' compensation is at fair market value. The Stark Law, federal Anti-Kickback Statute, and tax-exempt laws all require physician compensation arrangements to be at fair market value. Compliance needs to coordinate with HR to ensure the physician contract and compensation approval process has adequate controls to comply with these regulatory requirements.

Training

HR departments are often knee-deep in various training programs, many of which should align with compliance-focused training. Coordinating on the format, delivery, and tracking of training modules is an easy win that can create efficiencies for both departments.

Organizational Culture

No department will be as invested in efforts to build and develop organizational culture as HR. For reasons including recruitment, retention, and employee morale, HR is a natural ally in defining and building organizational culture.

Onboarding

The HR department or persons responsible for the point at which your company onboards a new supplier, vendor, or customer are critical for managing risk. This point, often when these entities are input into a company's systems, applications, and products—or tracking system—offers an opportunity to ensure that the eyes and ears of the company understand what is expected from employees. HR departments may work with a

compliance perspective. Departments should have new employees and contractors complete initial compliance related training, complete a conflicts of interest disclosure form, sign a confidentiality pledge, and complete other regulatory-related requirements.

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