Feature

Compliance Program Effectiveness: Using Peer Review to Assess Your Program

By Jan Coughlin, CHC, CPC, MT (ASCP), SI

The Compliance Auditing and Monitoring Focus Group of the Health Care Compliance Association (HCCA) and Association of Healthcare Internal Auditors (AHIA) members continue to examine opportunities to improve compliance auditing and monitoring capabilities in order to gain greater leverage and improved effectiveness of combined compliance and internal audit resources to address issues within healthcare organizations. The focus group has developed guidance and reference materials on key aspects of healthcare compliance auditing and monitoring processes, including the *Seven Component Framework* which is comprised of the following activities:

- Perform a risk-assessment and determine the level of risk
- Understand laws and regulations
- Obtain and/or establish policies for specific issues and areas
- Educate on the policies and procedures and communicate awareness
- Monitor compliance with laws, regulations, and policies
- Audit the highest risk areas
- Re-educate staff on regulations and issues identified in the audit

This second article on compliance program effectiveness is intended to provide practical tools and techniques for conducting a peer review as a method to measure and improve the overall effectiveness of your organization's compliance program.

An effective compliance program is an expectation of governing boards and senior management, as well as a clear articulation by the federal government. It is a significant business risk for an organization to have an ineffective

compliance program and not know it. Creating an effective compliance program requires the ongoing commitment of the organization to comply with applicable laws and regulations and to invest the necessary resources to compliance related activities.

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There are several options currently available to assess compliance program effectiveness. One of the challenges is that standards for measuring compliance program effectiveness are still in their infancy and are not universally accepted, either by healthcare compliance organizations, or by the government.

The previous article by the focus group summarized each of these approaches. This article provides an in-depth analysis of the Peer Review option.

Using Peer Review to Assess the Effectiveness of a Compliance Program

The Charter of the Corporate Compliance Committee for my organization (Scripps Health in San Diego, CA) requires a periodic review to assess the compliance program's effectiveness. This is consistent with the requirement for our internal audit function to have a peer review at least every five years to meet *The International Standards for the Professional Practice of Internal Auditing* promulgated by the Institute of Internal Auditors. After evaluating several options, we decided that a peer review of the Compliance Program

was the best option. Conducting a peer review using experienced compliance professionals has the advantage of bringing first-hand knowledge of the most current compliance processes, techniques, best practices, and addressing the dynamics and cultures of

large complex organizations. Advantages of peer review are two-fold in that the review can address the interests of the reviewer(s), as well as those being reviewed. Our decision to use a peer review process developed in part from our successful experience with other healthcare industry examples, such as clinical laboratory accreditation reviews and internal audit quality assurance reviews, both of which are based on peer review.

College of American Pathologist (CAP) Laboratory Accreditation Program (LAP)

The goal of the College of American Pathologist (CAP) Laboratory Accreditation Program (LAP) is to improve the quality of clinical lab services through voluntary participation, professional peer review, education, and compliance with established performance standards. Successful completion of the LAP has deemed status as equivalent to, or is more strigent than CMS's regulations and is also recognized by the **Joint Commission on Accreditation of Healthcare Organizations** *(JCAHO) as deemed accredation.The CAP Laboratory Accreditation Program utilizes*

multi-disciplinary teams of practicing lab professionals as inspectors. "Lab professionals are involved on both sides of the inspection process, so there is always a healthy exchange of ideas and discussion of the latest lab techniques that goes beyond regulatory requirements. There is something valuable to take away from every inspection."[1]

The Institute of Internal Auditors (IIA) Quality Assessment

The Institute of Internal Auditors (IIA) is an international professional association of more than 122,000 members. Throughout the world, The IIA is recognized as the internal audit profession's leader in certification, education, research, and technological guidance.[2] IIA Standard 1312 requires every internal audit department to have an external quality assessment at least once every five years. The IIA has developed a Quality Assessment (QA) process to facilitate meeting this standard. The IIA review is typically one to two weeks and is conducted with a project manager and one or more volunteers. The IIA has developed a comprehensive QA manual that includes several assessment tools.

Since peer reviews of compliance programs are not yet well established, this approach required Scripps to use available resources to develop the framework, process, and tools used in the review. Scripps was fortunate to be able to have Mary Findley, Vice President/Corporate Compliance Officer for Baylor Health Care System in Dallas, Texas, conduct this peer review of the Scripps Compliance Program in 2005. The review was designed to evaluate the overall effectiveness of the Scripps Corporate Compliance Program and to assist in the development of a process improvement action plan for areas of improvement and/or further enhancement. The scope of the review conducted did not constitute an examination in accordance with the *International Standards for the Professional Practice of Internal Auditing,* generally accepted auditing standards or attestation standards, and did not include an evaluation of Scripps' internal controls. The review was also not intended to include an opinion on Scripps' degree of compliance with applicable laws and regulations.

Considerations when Conducting a Peer Review

Current Options to Assess Compliance Program Effectiveness

Internal Review—Self Assessment or Using Internal Audit

Professional Consulting Firm

Government Review—voluntary or involuntaryPeer Review

Peer Review

When using peer review as the mechanism for assessing your compliance program effectiveness, there are several factors that must be considered. It is advisable to articulate the scope and expectations in an engagement letter with the reviewer(s). Key considerations include:

- maintaining confidentiality
- ensuring independence, integrity, and objectivity
- using due professional care
- selecting qualified reviewer(s)
- defining the scope and purpose of the peer review
- planning an organized review process, and
- determining who will receive the peer review results

Suggested Components of a Compliance Program Peer Review

Many tools can be used to assure a successful peer review. Information will need to be gathered and analyzed; having the right tools provides an easy way to define the scope of the review, and will help the reviewer understand how the organization has put the compliance program into operation.

Evaluation Tool

A critical component of a peer review is an evaluation tool or checklist (based on a set of standards) against which the compliance program is measured. There should be a defined rating system and criteria for scoring responses on the evaluation tool. Scripps and Baylor co-developed an evaluation tool using several resources including the *United States Sentencing Commission Guidelines for Organizations and Entities*; the *OIG Compliance Program Guidance for Hospitals (February 1998)*; the *OIG Supplemental*

Compliance Program Guidance for Hospitals (January 2005); and the Health Care Compliance Association resource document *Evaluating and Improving a Compliance Program*. The evaluation tool we developed is now included in the HCCA *Health Care Auditing & Monitoring Tools* manual published in 2006. It is time again to review and update our evaluation tool, to ensure it reflects the latest regulatory information available and our industry's best practices. The tool consisted of 75 questions in the following categories:

- Compliance Program Organization & Oversight (6 questions)
- Policies & Procedures - Code of Conduct (9 questions)
- Reporting & Communication (13 questions)
- Education & Training (10 questions)
- Risk Assessment, Auditing & Monitoring (14 questions)
- Investigation, Response & Prevention (13 questions)
- Enforcement of Disciplinary Standards (10 questions)

Scoring/Rating Answers to the Evaluation Standards

Without a generally accepted method, scoring the evaluation standards proved to be a challenging part of the peer review methodology for our Compliance Program Effectiveness Assessment. For our review, we obtained examples of tools from previous HCCA presentations and industry examples (CAP and IIA). These scoring tools ranged from assigned points to more qualitative measures such as "meets or does not meet" the particular indicator. We decided to use a modification of the IIA Quality Assessment scoring method so that evaluation standards were scored as:

N= Not Implemented or Does Not Meet the Standard;

P= Partially Meets the Standard;

G= Generally Meets the Standard;

and

B= Represents a "Best Practice" for the Standard.

Questions scored as "N" or "P" were specifically discussed in the peer review report.

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[1] College of American Pathologists–Accreditation and Laboratory Improvement. December 2006.
[2] The Institute of Internal Auditors (IIA) (http://www.theiia.org/theiia/). December 2006.

Document Review

To assist the peer reviewer(s) in tangibly assessing the standards on the evaluation tool, it is important to provide documentary evidence of how the compliance program is put into operation at the organization. Providing key documents in advance of the on-site visit by the reviewer minimizes the amount of time the reviewer will need to spend at the organization. The documents should also provide a broad overview of the compliance program, allowing the reviewer to formulate ideas for specific questions and areas of focus. Documents that should be provided are grouped into categories related to the seven elements of the compliance program. The document "binders" assembled for the peer review can then be maintained and are readily available for external regulatory agencies and/or external auditors hired by the organization that may want to review the compliance program. The Suggested Documents for Review of Compliance Program Effectiveness we developed is included in the HCCA Health Care Auditing & Monitoring Tools manual published in 2006.

Confidential Survey of Key Compliance Program Customers

A valuable technique in the peer review process is to confidentially survey key individuals in the organization about the compliance program. Completion of a confidential survey, with access to the results by the reviewer(s) prior to the on-site visit, is an excellent way for the reviewer(s) to develop a feel for issues and better focus their on-site time on potential issues or areas of weakness. Scripps developed a confidential web-based on-line survey consisting of 26 questions that was sent electronically to over forty individuals. A commercially available internet-based survey tool/ website was used to deploy the survey with results viewable only to the reviewer. Because the survey results were not anonymous, the reviewer could follow up directly with an individual on specific questions or issues identified during the on-site interviews. Exhibit 1 shows the questions used.

Interviews of Key Persons

In assessing the compliance program it is important for the reviewers to meet face-to-face with key compliance program customers and obtain their candid feedback, including suggestions for improving the compliance program. Interview questions should be determined in advance and standardized as much as possible, but can also be tailored to include specific questions triggered by the individuals' role, review of documents, or responses received during the advance confidential survey of key compliance program customers. These interviews are preferably conducted during the on-site visit, but can also be done by phone if schedules do not permit the interviews to take place during the on-site visit. Exhibit 2 shows a list of suggested persons to interview.

On-Site Visit by the Reviewer(s)

The on-site visit by the reviewer(s) is the key component to the peer review. While on-site, the reviewer will review the Evaluation Tool Checklist questions with the Chief Compliance Officer or designee and will personally observe

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Exhibit 1

Survey questions (rated on a scale of 1 = Disagree to 5 = Strongly Agree) used were as follows:

1. On an overall basis, the Compliance Program seems well planned and organized.
2. The written annual Compliance Plan(s) is effective in describing the Compliance Program.
3. Objectives for the compliance program are clearly communicated and tracked.
4. Stated annual Compliance Program objectives are met each year.
5. Corporate Compliance Committee meetings that I attend are worthwhile.
6. Frequency and duration of the Corporate Compliance Committee meetings are appropriate.
7. Business Unit specific Compliance Committee meetings I attend are worthwhile.
8. Compliance training conducted over the last year was effective.
9. Compliance-related policies are understandable and current.
10. Compliance-related policies are communicated to and understood by affected constituents.
11. Compliance Hot-line availability is known by management and staff.
12. Compliance Department staff is competent and has the skills and experience required.
13. Compliance Department is responsive to your requests for information.
14. Compliance Department staff is available to participate in meetings when requested.
15. Compliance investigations and audits are of a high overall quality.
16. Compliance audits were conducted of key risk areas.
17. Written reports for investigations and audits are understandable and fair.
18. Written reports are completed and issued on a timely basis.
19. Compliance Department recommendations are appropriate from a risk cost/ benefit standpoint.
20. The organization follows-up on recommendations and corrective actions from compliance reports.
21. Disciplinary actions resulting from compliance violations are taken when necessary.
22. Disciplinary actions resulting from compliance violations are consistently applied.
23. Compliance Department adds value by identifying and communicating compliance risks.
24. Management understands the importance of compliance and makes it a priority.
25. The organization has an effective Compliance Program.

Exhibit 2

Chief Audit Executive	Chief Medical Officer	Director, Internal Audit
Chief Compliance Officer	Chief Nursing Officer	Director, HIM/ Coding
Chief Executive Officer	General Counsel	Director, Patient Financial Services
Chief Financial Officer	VP/ Director Human Resources	Compliance Department Staff
Chief Information Officer	VP/ Director Reimbursement	Compliance Committee Member(s)
Chief Operating Officer	VP/ Director Risk Management	Member, Board Oversight Committee

compliance program elements, including documentation of activities in action. Information gained from the document review, interviews, and confidential surveys are all assimilated into the assessment of each standard.

Report of the Peer Review Assessment

A written report on the peer review assessment is the key deliverable. The report should focus on summarizing measures against established standards/criteria, issues identified, and recommendations for improvement. In addition to the summary, specific metrics from any of the tools used should also be included, such as a summary of the Evaluation Tool Checklist scores, and a summary of the confidential survey results. The report should include Compliance management's responses and corrective action plans as an appendix, if possible. The report should be addressed to and reviewed with the level of management responsible for supervising the Chief Compliance Officer, generally the CEO, and should also be shared with the Corporate Compliance Committee and the applicable committee of the Board.

Using the Tools Developed for the Peer Review throughout the Year

Most of the tools developed for the peer review can be used internally by the compliance department throughout the year for periodic self-assessment and for management reporting purposes. Surveys can be easily tailored to query specific departments or groups, and are a good way to do a needs-assessment to determine compliance education focus areas, to identify risk areas for further review, or to determine specific issues or areas to audit. In our experience it is advantageous to conduct such surveys in advance of preparing the annual

compliance plan and/or annual audit plan.

Specific compliance program effectiveness metrics that may be assessed during the peer review can also be monitored monthly or quarterly and presented to the Corporate Compliance Committee and to the Board. These ongoing measures include:

- Tracking completion of corrective

> **A written report on the peer review assessment is the key deliverable.**

actions noted in compliance investigation or audit reports
- Tracking completion of action items from compliance meeting minutes
- Coding and claims accuracy data
- Hotline (and other reported issues) data and trends by category and business unit
- Status of compliance plan annual objectives
- Compliance education statistics
- Externally reported quality data and trends

Conclusion

An effective compliance program is an expectation of governing boards, senior management, and the federal government. While the healthcare compliance industry is not yet ready to endorse an official set of compliance program effectiveness standards, there is sufficient information available to

do a meaningful assessment of your compliance program. Compliance functions should evaluate their compliance programs for effectiveness. Start by completing a comprehensive self-assessment or facilitated self-assessment using an independent peer compliance professional. Such a self-assessment will provide you with a better sense of the current state of your program, provide you with a road map for the most beneficial improvements, and prepare you for a more formal review. Keeping the initial assessment simple and focusing on the seven elements prescribed by the OIG in their compliance guidance, is a good place to start. **NP**

About the AHIA/HCCA Focus Group

The AHIA/HCCA Focus Group will continue to address compliance auditing and monitoring directives through white papers, articles and educational initiatives. The focus group welcomes your feedback and requests to address particular matters related to auditing and monitoring. Please submit your request directly to any member of the focus group.

Focus group members:

Randall Brown, Baylor Health Care System

Jan Coughlin, Scripps Health

Debra Muscio, Central Connecticut Health Alliance

Mark P. Ruppert, Cedars-Sinai Health System

Jan Coughlin is Director, Corporate Compliance Program & Privacy Officer with Scripps Health — Audit & Compliance Services. She may be reached by e-mail at: Coughlin.Jan@ scrippshealth.org.