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# COMPLIANCE TODAY

Volume Nine  
Number Seven  
July 2007  
Published Monthly

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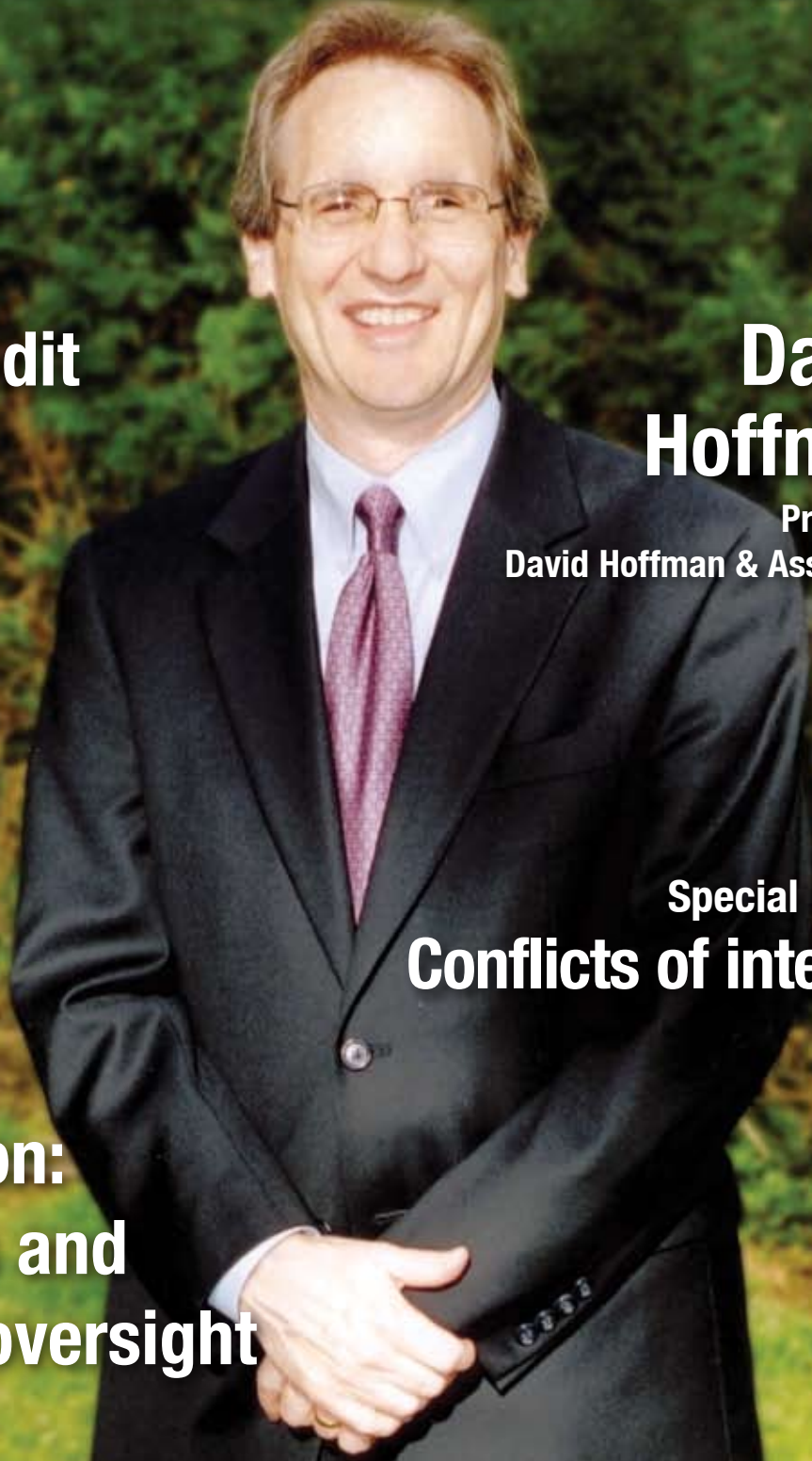
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## Traps and pitfalls for compliance officers

By Joseph M. Watt

*Editor's Note: Joseph Watt, partner, is a member of BKD Health Care Group, a division of BKD, LLP in Kansas City, Missouri. He may be reached by e-mail at [jwatt@bkd.com](mailto:jwatt@bkd.com).*

*This is the second part of a two-part series. The first part, "How to transform your compliance committee into a lean, mean, fraud-fighting machine," appeared in our May 2007 issue, beginning on page 36.*

“Joe, can I see you a minute?” asked the hospital chief executive officer. “You have been doing a wonderful job as the chief financial officer, so I’ve decided to recommend you to the board of directors as our new compliance officer. I know you are busy and have not had any formal training on the responsibilities of a corporate compliance officer, but I believe you can handle it.”

Do you recognize this situation? This scenario is one of the first ways that health care organizations and chief executive officers (CEOs) often deal with corporate compliance and the designation of a compliance officer (CO). It could be in a slightly different form (e.g., you are the risk manager, director of nursing, or the chief operations officer; aren’t busy with your current role; or have *some* training on corporate compliance). The truth is that many individuals who are asked to be the organization’s CO are often too busy with their current responsibilities and have little or no corporate compliance training.

The CO faces many challenges, especially in the corporate compliance world. Some common challenges include:

- Overextended job responsibilities
- No description of job responsibilities
- Lack of knowledge and training
- Inactive compliance committee
- Lack of support and resources

## Guidance on the compliance function

The Office of Inspector General (OIG) suggested every hospital designate a CO to serve as the focal point for compliance activities in its *Compliance Guidance for Hospitals (Guidance)* published February 23, 1998. OIG says the compliance function may be the sole responsibility or one that is added to other management responsibilities, depending on the size and complexity of the organization. If the CO has other management responsibilities within the organization, he or she must prioritize to focus on the compliance function. The board of directors and CEO must not overwhelm him/her with too many other management responsibilities. If the CO is overloaded with other management responsibilities, the health care organization’s compliance program is likely to become ineffective and falter.

One pitfall is not having a clear understanding of the CO’s role and responsibilities, because the organization has not properly identified and documented a job description. Organizations need to critically evaluate the roles and responsibilities of the CO to make sure he/she can carry out his/her assigned duties. Often, the responsibilities are so extensive that they would be impossible for the CO to accomplish.

For example, consider the following language found in many compliance plans. “The CO will develop and perform all compliance training for the hospital.” Is it reasonable for

the CO to develop and perform all hospital compliance training? Many COs could develop and perform compliance orientation and annual training for an entire hospital. However, what about billing and coding training, specialized training in other risk areas, and department-specific training? Even in the smallest hospitals, it would be a daunting challenge for the CO to possess the time, skills, and knowledge to develop and perform all of the compliance training for the hospital.

It is critical for the CO to review responsibilities as documented in the compliance plan and his/her job description to determine if the responsibilities are accurate and properly reflect the expectations.

## Invest in compliance personnel

Once the organization and the CO determine the job responsibilities are reasonable and in line with compliance plan expectations, it is important for the CO to receive proper training and knowledge. In cases where the “chosen one” is selected for the CO position as described above, his/her training and experience in dealing with compliance issues will most likely be limited. The organization must invest appropriate resources in training and educating the CO.

At a minimum, the CO should receive initial training on the OIG’s seven elements of an effective compliance program through professional organizations, seminars, Webcasts, compliance boot camps, and other options. The initial training should be the foundation, so the CO understands his/her roles and responsibilities. In addition to basic training, the CO may need education on specific risk areas and needs of the organization. Training topics may include fraud and abuse laws and regulations, coding and billing requirements, department-specific compliance issues, and credentialing, among others.

### Create an effective committee

Another trap that can snag a CO is an inactive or ineffective compliance committee. OIG recommends that a compliance committee be established to advise the CO and assist in the implementation of the compliance program. The CO typically is the committee chairperson, responsible for its activities, coordinating meetings, reporting on audits, and monitoring activities, hotline calls, investigations, and disciplinary actions.

A critical element in establishing an effective compliance committee is the committee composition. The CO should evaluate existing committee members to determine if all risk areas of the organization are represented. For example, if the organization has a home health agency, a long-term care facility, and a physician practice—and none of the committee members represent these areas—the organization could be at risk for unidentified and unmonitored compliance issues in these service lines. The OIG's *Guidance* should be reviewed for examples of pertinent risk areas.

Conducting effective and regular compliance committee meetings can help the CO reduce the likelihood of committee dysfunction. The CO must create each meeting agenda, maintain minutes, communicate clearly, discuss appropriate matters, keep the members focused, keep meetings flowing, and make sure agenda items are addressed and not carried from one meeting to the next without being resolved. In addition, the CO also must determine the appropriate frequency for committee meetings and make sure they address the organization's compliance needs.

A sample compliance committee meeting agenda may include:

- Review and approval of prior meeting minutes
- Discussion of any new business

- Discussion of activity on the committee's annual work plan
- Review of reported items on the hotline or other incident reporting channels
- Education update on any new compliance issues
- Report on the status of auditing and monitoring activities
- Review of any disciplinary actions
- Report on any compliance updates or alerts from regulatory agencies

Operating an effective compliance committee can improve a CO's performance and reduce the likelihood of a compliance issue going undetected for a long time.

### Visible means of support

The CO can only be effective if he/she has upper management support and the resources to carry out his/her responsibilities. The OIG's 1998 *Guidance* stated, "Every effective compliance program must begin with a formal commitment by the hospital's governing body." To gain the support of management and the board of directors, the CO must demonstrate the relationship between compliance activities and keeping the organization out of trouble while creating an environment of good corporate citizenship.

Like many other issues affecting health care organizations, each CO's situation will be different and specific to his/her organization. The traps and pitfalls highlighted above reflect some of the issues that can cause a CO to become frustrated if not properly addressed and resolved in a timely manner. The CO has a tough job. It can be even tougher if he/she is facing internal challenges with his/her heavy workload, extensive role and responsibilities, inadequate training and education, an inactive or ineffective compliance committee, and lack of support from management and the board of directors. Effective organizations

and COs have the ability to turn these traps and pitfalls into strengths and effective tools to provide their compliance program with a greater opportunity for success. ■

## VOLUNTEER IN 2008 with HCCA's Compliance Caring for the Community!



Come to the Compliance Institute early and join us in a wonderful networking opportunity to help others! We will be volunteering with the New Orleans Area Habitat for Humanity (NOAHH) for our 2008 project on Saturday, April 12, 2008, in New Orleans, LA.

NOAHH volunteers work in partnership with staff, qualified homeowners, and sponsors to eliminate substandard housing in New Orleans. This partnership builds simple affordable homes that are sold to the homeowner with a long-term, interest-free mortgage.

At the worksite, we have experienced staff and volunteers to teach and guide our new volunteers. There are also a number of tasks that can be performed that do not require serious lifting, so everyone can participate! No experience is required. All the instruction that you need will be given on-site.

You will be able to register for this event on your 2008 Compliance Institute registration form. Please contact Lizza Catalano at [lizza.catalano@hcca-info.org](mailto:lizza.catalano@hcca-info.org) with any questions. ■

**This article, published in the July 2007 issue of *Compliance Today*, appears here with permission from the Health Care Compliance Association. Please call 888 580-8373 with copy requests.**