

Evaluating Compliance Program Effectiveness

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Every organization that hopes to receive government credit for reducing criminal sentences and civil fines and penalties must be able to prove the effectiveness of its compliance program. Effectiveness is also necessary to keep compliance programs cost efficient and meaningful within their organizations. In an era of shrinking budgets, a compliance department that is unable to demonstrate its efficacy is at risk of losing organizational support.

This need to measure effectiveness has existed since the Federal Sentencing Guidelines first established the structure of compliance programs more than a decade ago. Yet the standards for effective compliance have gone largely undefined. While regulators have consistently required efficacy, they have given little guidance on how to determine it.

For compliance programs, this makes the challenge “Prove it” just a little more challenging. The first step toward demonstrating effectiveness is to define your goals. The next best steps, according to a new guide by the Health Care Compliance Association (HCCA), are to measure your efforts in six key areas and track the outcomes.

Defining Results

In part, a compliance program’s effectiveness will be a reflection of the organization’s culture. Is there top-down support for the program? Does the organization’s management embrace the program in its day-to-day management of the company, or does it tacitly encourage behavior that is inconsistent with an ethical business culture? Is the program adequately funded and staffed to achieve effectiveness?

Demonstrating a program’s actual efficacy, however, requires criteria. Effectiveness is commonly defined as “producing a decided, decisive, or desired effect capable of producing a result.” Compliance programs must define the results they attempt to achieve and the results that will demonstrate to leadership that their organizations’ compliance dollars are well spent.

The various interested government agencies have given some indication of the results they expect to see from an effective compliance program. The Federal Sentencing Guidelines state that a program must be effective in preventing and detecting criminal conduct. This focus on stopping crime is not surprising, as the guidelines were established to ensure consistent sentencing of criminals.

The Office of Inspector General’s Compliance Program Guidance for Hospitals states that the desired outcome of an effective program is to “promote adherence to applicable Federal and State law, and the program requirements of Federal, State and private health plans.”¹

The Government Accounting Office was probably most precise when it stated in a 1999 report to Congress that the “principal measure of a compliance program’s effectiveness is its ability to prevent improper Medicare payments.”²

These clues to the desired outcome of an effective compliance program are helpful, but they do not offer the structured guidance that would allow compliance programs to measure effectiveness in a recognized and accepted way.

Designing Measures

In 2003 HCCA released a guide for healthcare organizations titled “Evaluating and Improving a Compliance Program: A Resource for Health Care Board Members, Health Care Executives, and Compliance Officers.”³ The publication is the result of an 18-month collaboration by a task force of 30 compliance industry experts and government representatives. Evaluating effectiveness can be achieved, the task force suggests, by measuring the efforts that an organization commits to its compliance program and the outcomes that those efforts achieve.

The task force divides effective compliance programs into six key components:

1. Policies and procedures
2. Ongoing education and training
3. Open lines of communication
4. Ongoing monitoring and auditing
5. Enforcement and discipline
6. Investigation, response, and prevention

The group explains the rationale for each component, identifies the relevant issues typically addressed in building or operating the appropriate system, and provides suggestions for implementation. Brief discussions cover the roles of the compliance officer, organizational management, and the board as related to each component of the program. Perhaps most helpful, the guide includes several questions whose answers take measure of a compliance program's effectiveness in each of the six components (see sidebar "[A for Effort, A for Outcome](#)").

Evolving from Art to Science

The HCCA guide is the result of the first of a two-phase process. The second phase is the development of tools for conducting effort and outcome measures. This work has been delegated to HCCA compliance focus groups, each group being tasked with development of measurement tools specific to an industry or focus. The resulting tools will be posted on the HCCA Web site for use by members.

The need to formally evaluate compliance programs will only increase. The United States Sentencing Commission recently received a report from its Ad Hoc Advisory Group on the Organizational Sentencing Guidelines recommending that organizations be required to periodically evaluate the effectiveness of their compliance efforts. Evaluation standards will no doubt develop, and what is now art may one day become science. But organizations cannot afford to wait for the science to be perfected. To receive credit for effective compliance, every organization must include evaluation and measurement of effectiveness as a component of its program.

A for Effort, A for Outcome

HCCA recommends that an organization evaluate the effectiveness of its compliance program by measuring the efforts that it commits to the program and the outcomes that those efforts achieve. For example, to measure the effectiveness of a monitoring and auditing component, HCCA suggests these and several other questions:

Efforts

- Is the organization conducting a regular auditing and monitoring program consistent with the size, complexity, and scope of its business operations?
- To the extent possible, is audit staff responsible for conducting the audits independent from the areas of the organization that it is auditing?
- Have written corrective action plans been produced and followed when adverse findings were made?

Outcome

- Does analysis of the results of repeat audits indicate an upward trend of improvement in the organization's understanding of and compliance with internal and external standards?

Notes

1. Office of Inspector General. "Compliance Program Guidance for Hospitals." Reprinted in Federal Register 63, no. 35 (Feb. 23, 1998): 8987.
Available online at <http://oig.hhs.gov/authorities/docs/cpghosp.pdf>.
2. Government Accounting Office. "Medicare: Early Evidence of Compliance Effectiveness Is Inconclusive" (April 15, 1999): 3.
Available online at www.gao.gov/archive/1999/he99059.pdf.
3. Health Care Compliance Association. "Evaluating and Improving a Compliance Program: A Resource for Health Care Board Members, Health Care Executives, and Compliance Officers." 2003. Available online at www.hcca-info.org under "Compliance Info."

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