The Oversight Role of the Audit Committee in Healthcare
Supporting Effective Compliance Programs

By Julie J. Ward, CHC, CIA

To be effective, a healthcare organization’s compliance program must be an integral part of strategic planning, ongoing operations, and daily decision-making. In order to support the audit committee’s oversight role, the organization’s compliance officer should provide regular and succinct communication. In its oversight role, the audit committee should ask the necessary questions to assure itself of the program’s effectiveness.

A healthcare organization’s board of directors often delegates oversight of compliance program activities to the audit committee. Although oversight may be delegated to a committee with different responsibilities, such as mission or quality, in this article we refer to the committee responsible for overseeing compliance as the audit committee.

A typical audit committee meets once per quarter, and members have the critical responsibility of understanding and overseeing the effectiveness of the organization’s compliance program. With the high volume of information presented in a short time at these meetings, it is important to make the most of these opportunities. Effective communication between the compliance officer and the audit committee is vital for effective oversight of the compliance program. Therefore, compliance officers must meet the challenge of providing the appropriate level of detail in a written report in advance of the meeting and a concise presentation of important trends and risks during the meeting.

The attributes of an effective compliance program, as defined by the U.S. Department of Health and Human Services Office of Inspector General (OIG), provide a framework that includes governance oversight. To exercise its fiduciary responsibilities, the audit committee should receive regular reports on the elements of an effective compliance program:

- High-level oversight
- Standards of conduct
- Open lines of communication
- Education and training
- Risk assessment, auditing, and monitoring
- Response to detected deficiencies
- Consistent enforcement standards

Throughout this article, readers will find portions of sample reports the audit committee might receive from the compliance officer, as well as groups of questions the audit committee should consider asking the compliance officer. By addressing these questions, the audit committee will go a long way toward fulfilling its fiduciary responsibility of providing oversight of the effectiveness of the organization’s compliance program.
High-Level Oversight

The OIG recommends that a healthcare organization designate a high-level individual to oversee all aspects of a compliance program, including program effectiveness. In addition, the OIG recommends that a compliance committee be established to advise the compliance officer and assist with managing the program. Although the compliance officer is an important individual, the tone at the top and the overall culture of an organization are the keys to the success of the compliance program.

Sample Audit Committee Report Excerpt

<table>
<thead>
<tr>
<th>Compliance Program Oversight</th>
</tr>
</thead>
<tbody>
<tr>
<td>The compliance committee’s membership was expanded to include a medical staff representative. The committee’s membership now includes:</td>
</tr>
<tr>
<td>- Compliance officer – chair</td>
</tr>
<tr>
<td>- General counsel</td>
</tr>
<tr>
<td>- Internal audit manager</td>
</tr>
<tr>
<td>- Health information management director</td>
</tr>
<tr>
<td>- Risk management director</td>
</tr>
<tr>
<td>- Quality director</td>
</tr>
<tr>
<td>- Patient financial services director</td>
</tr>
<tr>
<td>- Nursing director</td>
</tr>
<tr>
<td>- Medical staff member</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Compliance Program Effectiveness</th>
</tr>
</thead>
<tbody>
<tr>
<td>The annual compliance program effectiveness assessment was conducted. The assessment identified the following needs:</td>
</tr>
<tr>
<td>- Focusing on delivering education annually to all employees</td>
</tr>
<tr>
<td>- Conducting a thorough annual compliance-related risk assessment as an area for improvement</td>
</tr>
<tr>
<td>- Following up more consistently to confirm that corrective actions have been implemented and are effective</td>
</tr>
</tbody>
</table>

Suggested Audit Committee Questions

1. How is the organization's compliance program structured?
2. Has management allocated sufficient resources to the program?
3. Does the tone at the top support a culture of ethics and integrity?
4. Does the compliance officer have sufficient authority to manage the program effectively?
5. What are the annual goals of the program?
6. Does the organization periodically evaluate the effectiveness of the program?
Standards of Conduct, Policies, and Procedures

It is critical for an organization to create a culture of integrity and communicate to employees the standards and procedures to which they should adhere – as well as the consequences for them when standards are not met. Therefore, the organization should have standards of conduct – approved by the board of directors – that articulate the organization’s commitment to ethical business practices and describe the behavior expected of all full-time, part-time, temporary, and contracted employees, volunteers, medical staff, board members, contractors, and vendors.

In addition, the standards should include information summarizing requirements and penalties related to fraud and abuse, false claims, privacy and security, and conflicts of interest. In support of the standards of conduct, policies and procedures should be in place to provide specific direction in various risk areas. The audit committee should periodically review and update the standards of conduct as well as the policies to remain consistent with regulations and business practices.

### Sample Audit Committee Report Excerpt

#### Standards of Conduct
The compliance committee reviews the standards of conduct annually to determine whether updates or changes are necessary. After the most recent review, no modifications were recommended.

#### Compliance-Related Policies and Procedures
The audit committee has reviewed and updated the following policies:

- Privacy and security policy
- Nonretaliation policy
- False claims policy
- Compliance reporting policy

#### Conflicts of Interest
On an annual basis, the organization’s directors, officers, and select employees are required to complete a conflict-of-interest disclosure questionnaire. One hundred percent of those who were required to complete the questionnaire did so. The compliance officer investigated and addressed each of the disclosures that involved a potential conflict of interest.

### Suggested Audit Committee Questions

1. What steps has management taken to gain acceptance of the standards of conduct throughout the organization, including among employees, medical staff, volunteers, contractors, vendors, and board members?
2. How does management know that the standards of conduct are understood and accepted throughout the organization?
3. Does the organization have policies in place that address compliance risk areas, such as excluded-individual screening, accurate claims submission, nonretaliation, and protection of whistleblowers?
Reporting: Open Lines of Communication
The OIG encourages the use of “hotlines,” emails, written memoranda, newsletters, and other forms of information exchange to maintain open lines of communication within the organization, encouraging individuals to ask questions and report concerns. Specifically, organizations should create and maintain a reporting mechanism for employees to voice allegations and concerns anonymously and without fear of retaliation. The compliance officer should provide the audit committee with summary information about calls and reports received, including details about any significant issues identified, any trends or patterns in reports or calls, and any corrective actions taken to remediate identified concerns.

Suggested Audit Committee Questions
1. How are reporting systems, such as the compliance hotline, monitored to verify that reported matters have been resolved appropriately?
2. What actions are taken currently to inform employees of the availability of the hotline and other reporting mechanisms and to encourage their use without fear of retaliation?
3. Are significant issues that come to light investigated without retaliation, and are corrective actions taken?
4. Are patterns or trends in calls or reports identified and further investigated?

Sample Audit Committee Report Excerpt

<table>
<thead>
<tr>
<th>Category</th>
<th>Total Calls</th>
<th>Substantiated</th>
<th>Corrective Action</th>
</tr>
</thead>
<tbody>
<tr>
<td>Fraud, Waste, and Abuse</td>
<td>1</td>
<td>1</td>
<td>Accounts were rebilled, coders were educated, and monitoring was put into place.</td>
</tr>
<tr>
<td>Management</td>
<td>5</td>
<td>1</td>
<td>A manager was counseled.</td>
</tr>
<tr>
<td>Human Resources</td>
<td>10</td>
<td>0</td>
<td></td>
</tr>
<tr>
<td>Policies and Procedures</td>
<td>5</td>
<td>1</td>
<td>Employees were re-educated and disciplined.</td>
</tr>
<tr>
<td>Privacy and Security</td>
<td>15</td>
<td>1</td>
<td>An employee was re-educated about what type of information shouldn’t be put on a white board.</td>
</tr>
<tr>
<td><strong>TOTAL</strong></td>
<td><strong>36</strong></td>
<td><strong>4</strong></td>
<td></td>
</tr>
</tbody>
</table>

The five calls in the “Management” category were from the same department. The manager was new to the organization and was not following the policy on overtime appropriately.

Five privacy complaints were reported via reporting channels other than the hotline activity recorded in the table. Two of those complaints were substantiated breaches involving inappropriate disclosures of patient information to family members who were not authorized to receive the information. The employees involved were disciplined and educated on the proper procedure for sharing patient information with families.
Education and Training

An effective compliance program includes the education of corporate officers, managers, employees, contractors, and physicians about compliance program standards and procedures as well as related responsibilities. Additional education about specific risk areas should be provided to those who work or practice in areas with higher inherent risk.

Sample Audit Committee Report Excerpt

**New-Employee Education**
All new employees received compliance education within 30 days of being employed, as required by policy, and they signed the “Compliance Program Acknowledgment Statement” indicating that they understand their responsibilities related to the compliance program and will act accordingly.

**Annual Education**
Ninety-eight percent of employees and contractors completed the annual compliance program education in the past year.

**Compliance Risk-Specific Education**
Education was provided to billing staff on the requirements for applying modifier 59. This modifier must be applied appropriately to avoid making improper payments.

**Suggested Audit Committee Questions**
1. Is compliance program education provided to the entire organization?
2. Has the effectiveness of compliance program education been assessed, and, if so, what were the results?
3. What policies and other measures have been developed to enforce education requirements and provide remedial education as needed?
Risk Assessment, Auditing, and Monitoring
An annual risk assessment as well as auditing and ongoing monitoring are important components of an effective compliance program. A robust risk assessment process identifies risk areas that become part of the annual compliance work plan. In order to assess and address risks on an ongoing basis, organizations should employ a means to audit and monitor internal systems to identify potential gaps in compliance with applicable laws, regulations, and policies. Monitoring and auditing help identify potential compliance concerns early, thereby substantially reducing exposure to government or whistleblower claims.

Sample Audit Committee Report Excerpt

Compliance Risk Assessment
A recently conducted compliance program risk assessment led to the development of the Annual Compliance Work Plan attached to this report.

Fiscal Year Compliance Plan Update
Following is a summary of progress made on the current compliance work plan.

<table>
<thead>
<tr>
<th>Item</th>
<th>Q1</th>
<th>Q2</th>
<th>Q3</th>
<th>Q4</th>
<th>Corrective Action</th>
</tr>
</thead>
<tbody>
<tr>
<td>Notice of Privacy Practices</td>
<td>99%</td>
<td>98%</td>
<td>98%</td>
<td>95%</td>
<td>A new employee was re-educated.</td>
</tr>
<tr>
<td>Facility Coding Accuracy</td>
<td>95%</td>
<td>96%</td>
<td>96%</td>
<td>95%</td>
<td></td>
</tr>
<tr>
<td>Professional Billing Coding Accuracy</td>
<td>85%</td>
<td>88%</td>
<td>92%</td>
<td>95%</td>
<td>An ongoing monitoring process was implemented, and physicians were educated.</td>
</tr>
<tr>
<td>Emergency Medical Treatment and Active Labor Act (EMTALA) Assessment – Signage and Logs</td>
<td>60%</td>
<td>90%</td>
<td>92%</td>
<td>97%</td>
<td>Education was conducted, and new processes were implemented.</td>
</tr>
<tr>
<td>Home Health Coding Accuracy</td>
<td>98%</td>
<td>98%</td>
<td>97%</td>
<td>98%</td>
<td></td>
</tr>
<tr>
<td>Medical Record Access Audit</td>
<td>100%</td>
<td>95%</td>
<td>100%</td>
<td>90%</td>
<td></td>
</tr>
<tr>
<td>Admission Necessity for Inpatients</td>
<td>75%</td>
<td>90%</td>
<td>95%</td>
<td>95%</td>
<td>An additional case manager was hired to cover weekends.</td>
</tr>
</tbody>
</table>

Emerging Risk Areas Related to the Compliance Program
The compliance department monitors significant compliance investigations and regulatory developments in the healthcare industry. The following noteworthy areas are summarized in an appendix:
- Health Insurance Portability and Accountability Act enforcement actions and penalties
- OIG investigation of physical therapy billing

Suggested Audit Committee Questions
1. How effective is the annual risk assessment process in identifying high-risk compliance concerns?
2. What assurance is there that high-risk items are being proactively monitored or audited?
3. How is the audit committee kept apprised of significant regulatory and industry developments that could affect the organization’s risk?
Response to Detected Deficiencies

Once a potential compliance issue has been identified, the organization must respond. Even when standards and procedures are in place and an avenue is available for employees to voice their concerns, progress will not be made unless the organization responds to the identified situation and makes concerted efforts to prevent similar conduct or issues from arising in the future.

Sample Audit Committee Report Excerpt

<table>
<thead>
<tr>
<th>Compliance Concerns Update</th>
</tr>
</thead>
<tbody>
<tr>
<td>The following compliance concerns were identified this past quarter:</td>
</tr>
</tbody>
</table>

- **Office for Civil Rights (OCR) complaint**
  A complaint from the OCR was received about disclosure of a patient’s protected health information in the emergency department. The investigation revealed that only appropriate information was written on a white board, not including the patient’s name. The OCR agreed and closed the case.

- **Emergency Medical Treatment and Active Labor Act**
  Emergency room staff reported receipt of a potentially inappropriate patient transfer. The event was investigated and reported appropriately to government authorities.

- **Government investigation**
  A letter was received from the Department of Justice requesting records related to a nationwide investigation into the medical necessity of the placement of coronary stents. Legal counsel is overseeing the record disclosure process.

**Suggested Audit Committee Questions**

1. What is the process by which the organization evaluates and responds to suspected compliance concerns?

2. What processes are in place so that appropriate measures are taken in response to identified weaknesses?

3. Has management provided the compliance officer with the necessary autonomy and sufficient resources to perform assessments and respond appropriately to compliance concerns?

4. Are compliance issues appropriately reported to the applicable government agency and repayments made as necessary?

5. Are corrective action plans implemented and appropriately followed up?
Consistent Enforcement Standards

Consequences for noncompliance should be in place, and those consequences should be applied consistently regardless of an individual’s position in the organization. An employee performance evaluation should include the employee’s commitment and adherence to the standards of conduct and the compliance program. In addition, employees, medical staff members, referring providers, contractors, and vendors should be screened periodically against governmental lists of excluded individuals and organizations. Healthcare organizations may not employ excluded individuals, and federal healthcare programs will not pay for services ordered or provided by excluded individuals.

Sample Audit Committee Report Excerpt

**Privacy Audit Committee Report Excerpt**

**Discipline**

Discipline was applied in relation to several privacy breaches.

**Excluded Individuals**

Prior to hire or contract execution, medical staff, referring providers, employees, vendors, and contractors are screened for excluded status. Ongoing monthly screening identified a nurse who was recently excluded by the OIG. The nurse was terminated, and a disclosure and repayment were made to the OIG.

**Suggested Audit Committee Questions**

1. Are disciplinary actions applied consistently across the organization?
2. Is a timely monitoring process in place to identify excluded individuals?
3. When identified, are excluded individuals addressed appropriately?

### Conclusion

An organization's compliance program supports leadership by proactively identifying and addressing compliance concerns, and the audit committee plays an important role in the program's oversight. An audit committee that considers the answers to the questions here and conducts appropriate oversight is not only fulfilling an important part of its fiduciary responsibilities but also increasing the likelihood of an effective compliance program.

Further, the compliance program cannot be viewed as an additional activity separate from day-to-day operations. It might seem cliché, but compliance is the responsibility of every member of the organization. To be truly effective, compliance must be an integral part of strategic planning, ongoing operations, and daily decision-making.

About CHAN Healthcare

Formed in 1997, CHAN Healthcare provides internal audit and targeted consulting services to more than 700 hospitals and healthcare organizations across the country. Our collaborative approach and operating philosophy make us an industry leader in internal audit services focusing on improving healthcare system operations.

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References

