

Quarterly reports to the board Audit & Compliance Committee: Tips

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One of a compliance officer's duties includes reporting to and working with their compliance committees. This also includes regularly reporting to the board-level audit and compliance committee or similar committee of the organization that is tasked with the oversight of the compliance program. Smaller organizations may not have a board-level committee for the compliance function, and the full board or governing body may have to be briefed on compliance operations. It is fairly typical and a best practice that boards or board committees meet and receive reports from the compliance officer on a quarterly basis. Some boards of a semi-governmental nature, such as hospital districts, may even meet monthly.

Reporting to the governing body is a crucial element of an effective compliance program. The reporting needs to be informative and enable boards and board committees to exercise their due diligence, conduct proper and effective oversight, and allocate appropriate funding and budgets for the compliance program. Compliance officers' reporting should also help board committee members remain aware of internal risks and industry compliance risks so they can develop risk control strategies and remain proactive in the long term.

Every compliance officer who has ever prepared the quarterly board materials and reports knows that the time until the next board committee meeting always comes faster than expected. Making the meeting preparations and content presentation efficient, concise, and comprehensive while

allowing board committees to react and provide input is a critical success factor. Efficient presentations can be mastered by having a standard agenda format and using report templates and formats that are repetitive and intuitive, but that also allow for detailed reports to be provided and attached separately to the main report materials. The following are ten tips that compliance officers may keep in mind when developing a routine for reporting to the board audit and compliance committee in the midst of compliance operations, routine duties, and other challenges many compliance officers often face.

1. Agenda items

Keeping a standard set of agenda items that touch upon the seven elements of an effective compliance program each quarter will help compliance officers organize a plan and approach from the start. It will also make drafting the annual report on the compliance program easier, because much has already been reported by the time an annual summary becomes necessary. It may not be necessary to have detailed content or reports on every element at each meeting, but keeping on top of each element throughout the year will take the pressure off when it comes to the annual review and report. Board committee members will have already heard about many issues and had the opportunity to provide feedback on such issues, which will help limit the amount of surprising updates by the time of the annual report. The following list includes some standard agenda items/elements and parts of a template:

- Committee name
- Date/Time
- Location
- Meeting time opened

- Introduction
- Attendance
- Conflicts of interest
- Regulatory update/Education
- Written guidance/Policies
- Training/Education initiatives
- Hotline activity
- Auditing and monitoring/Risk assessment
- Enforcement and sanction screening
- External audits/Investigations
- Executive session
- Approval of meeting minutes
- Meeting adjourned/Next meeting date

Taking minutes of the meeting will also be easier if a standard agenda template is used. If the board committee is a joint committee between the audit and compliance departments, the compliance officer should carve out a set time and discuss needed time allocation with the board committee chair. Having a minimum of 30 to 60 minutes per quarter available for the compliance officer to report to and interact with board committee members can be considered a reasonable request for time and practice. The necessary time for the compliance portion of the joint committee also depends on the size and complexity of the organization and may therefore be well over one hour.

2. Executive Compliance Committee

Board presentations and reports are either for informational purposes only or may also involve a vote or approval from board committee members. It is best to run through and/or discuss requests and materials that require a motion or approval with the Executive Compliance Committee (i.e., the management-level compliance committee) first to get feedback and buy-in from management. A dry run, at least for some aspects, can be beneficial to prepare for the final reporting.

3. Executive session

It is useful to allow for an executive session as a set agenda item, where board committee members and the compliance officer can talk confidentially without management being present. An executive session may not be needed every time, and may also depend on how the particular board committee meeting progresses. However, compliance officers should avoid scheduling this session on the agenda only when there is trouble, because it may raise suspicion among staff.

4. Regulatory update/board education

The OIG, in its various compliance guidance documents, has consistently emphasized the importance for boards of directors to understand and be fully engaged in their oversight responsibility. Boards and board audit and compliance committee members, who may have delegated oversight duties, often come from different industries.

Boards should develop a formal plan to stay abreast of the ever-changing regulatory landscape and operating environment. The plan may involve periodic updates from informed staff or review of regulatory resources made available to them by staff....In addition, Boards may want

management to create a formal education calendar that ensures that Board members are periodically educated on the organizations' highest risks.^[1]

Not all members may be familiar with the latest healthcare compliance trends and enforcement areas. However, all members need to be able to make reasonably informed decisions and be in a position to ask the right questions of management and the compliance officer. Therefore, ensuring that boards are regularly informed on high-risk areas; fraud, waste, and abuse issues; Anti-Kickback Statute/Stark Laws and policies; OIG Advisory Opinions and audits; government enforcement trends; major applicable CMS developments; as well as internal reviews is an important responsibility of compliance officers. Although the compliance officer does not shoulder that educational responsibility alone, and may recruit legal and other subject matter experts for help, he/she should ensure regular board education is completed at least once a year for a total of two hours. It is a recommended best practice to have regulatory updates and education as a routine agenda item to promote important updates and evidence compliance program effectiveness.

5. Information versus motions/decisions

Board audit and compliance committee members typically need to review many materials that are often hundreds of pages long or more. Compliance officers should clarify in the agenda outline which materials are meant to be for information only and which ones are those on which the compliance officer needs to receive approval or a motion. It would be best to coordinate with the board committee chair on a preferred format or standard forms to present and get motions approved. The forms can then be signed by the board chair or other member, if the motion is approved.

6. Metrics and charts

Any compliance program should be able to report on measures or metrics that cover the compliance program elements as well as compliance risk areas. These may include statistics and metrics on general compliance program training completion rates, E/M level coding accuracy rates, modifier billing accuracy rates, short-stay billing compliance, physician arrangements review-and-approval compliance rates, hotline trends, signage and acknowledgment statistics, credentialing and certifications, conflict-of-interest survey completion rates, business associate agreement compliance, etc. A standard and proposed board-approved set of measures or metrics that is tracked from quarter to quarter, or every other quarter, allows for insight into performance improvements and trends. It also illustrates the challenges faced by the compliance program and significant ups/downs in risk areas to board committee members. Presenting metrics will also support budgeting and audit plans. Typically, tabulating and graphing the measures or metrics will take significant effort to prepare and review—data analysis takes time and effort to complete accurately, and showcasing results is prudent. An annual report by the compliance officer could then provide the year in review, measure by measure.

A good idea when measures or metrics are presented is to include a summary chart or graphics presentation. Any ranking, scoring, or color scheme to facilitate understanding (e.g., red/yellow/green), threshold markers, display of acceptable ranges, etc. will be beneficial. The audit/finance community is much more accustomed to this type of tracking than most compliance officers, because they regularly track numerous metrics, days cash on hand, arrears, collection rates, etc. The compliance officer may strive to do the same with compliance operations, because metrics and graphic illustrations can help paint a clearer picture of the compliance program. I have also found in my own work life that the sheer effort of putting

something into a chart or graph may facilitate better organization of a project, and the data and information that is captured in reviews/audits and other initiatives is presented more clearly and is meaningful. A chart, graph, or summary table is always appreciated by busy committee members, and the details can be reported elsewhere.

7. Attachments with detail

If reports include audit reports or a lengthy/complex elaboration on a topic, it may be a good idea to prepare a detail reports set and only make a summary report set part of the main materials to be discussed and presented in the board audit and compliance committee meeting. Both sets should be submitted prior to the meeting. This way committee members, especially those focused on the compliance versus audit issues of the audit and compliance committee, can review as much detail as needed before the meeting (or also after) and have necessary information/background to challenge and follow up with or seek clarification from the compliance officer. Having two sets of reports also allows the committee members to focus on the bigger picture in the meeting itself and the main risk issues or compliance concerns presented by the compliance officer. The compliance officer should still provide well-organized detailed reports to avoid getting too many questions and wasting face time with committee members, which could possibly create unnecessary follow-up tasks. There should be a balance between the summary and detail portions of the board material, and there should be no data dumping or report dumping in attachments, in order to avoid overwhelming committee members.

8. Corrective action plans

If board audit and compliance committee members ask about follow up, the compliance officer should provide corrective action plans (CAPs) and a remediation status update as an agenda item

during the following meeting(s). Aside from a board committee's specific requests, compliance officers should periodically report on the status of various CAPs in relation to results from audits and investigations by compliance. For internal purposes, the compliance officer should keep an ongoing CAP log to be constantly prepared for board reports. However, the compliance officer must mind confidentiality and privilege issues when reporting out CAPs. A good working relationship with the legal department to coordinate, as appropriate, on reporting to board committee members on sensitive audits and investigations is a big plus.

9. Time allocation

The compliance officer should coordinate the time allocated for reports during the meeting with the board or board committee chair and others tasked with scheduling. Board audit and compliance committees often have numerous review obligations of a financial nature, and the compliance officer may be pressed for getting through their presentation fast and efficiently. The presentation time allotted to compliance officers may vary from quarter to quarter, but hearing from the compliance officer for any time less than 15 to 30 minutes, four times a year, may not be sufficient. Good compliance programs need to have sufficient involvement by and interaction with the board or board committee so committee members get adequate and timely information and can also assess the performance of the compliance officer.

10. Charter

A board audit and compliance committee should maintain a written charter that is reviewed annually and updated as needed, and they should keep meeting minutes. The charter should set forth meeting frequency and other committee duties related to audit and compliance. If there is no charter in place, the compliance officer should make every effort to have one implemented

and approved by the board. There should be sufficient language that covers the duties and activities of the “compliance” portion of the board audit and compliance committee. It would also be best if the charter states that the compliance officer makes periodic reports directly to the committee. Successful board audit and compliance committees should periodically hear from the compliance officer directly and in an unfiltered manner. Compliance officers need periodic face time with the committee in order to complete all initiatives and achieve necessary compliance program goals.

Takeaways

- Compliance officers need a routine for effective, quarterly reporting to the governing board.
- Regulatory updates and educational agenda items are critical.
- Reports should be concise and enable boards to make decisions/motions.
- Discuss major issues with management-level compliance committee first.
- Summary charts and graphs are success factors that can be used to hold member attention.

1 HHS OIG, AHIA, AHLA, HCCA, “Practical Guidance for Health Care Governing Boards on Compliance Oversight,” April 20, 2015. <https://bit.ly/2BdHEpw>