Federal Sentencing Guidelines
Developed by the U.S. Sentencing Commission, an independent commission established by the Sentencing Reform Act of 1984, the sentencing guideline are designed to standardize sentencing practices in the federal courts by “avoiding unwarranted sentencing disparities among defendants with similar records who have been found guilty of similar conduct….” Chapter 8 of the Sentencing Guidelines applies to the sentencing of organizations convicted of crimes. The guidelines encourage corporation to be “good corporate citizens” and they can receive a reduction in fines based on a “culpability score”. Several factors are considered in computing the “culpability score” one factor scored is if the organization has an effective program (Compliance Program) in place to prevent, detect, and discourage violations of the law; self-reported the violations; accepted responsibility for the violation; and cooperated with the government.

Holder Memorandum (as revised on January 20, 2003)
The Memorandum was written by Larry D. Thompson, Deputy Attorney General, U.S. Department of Justice, Office of the Attorney General and it address the “Principles of Federal Prosecution of Business Organizations.” The principles are provided as a guide to the DOJ prosecutors when they make the decision whether to seek charges against a business organization. The memorandum includes a section on “Charging a Corporation: Compliance Programs”. This section addresses the importance of evaluating the “efficacy of corporate governance mechanisms in place within the corporation, to ensure that these measures are truly effective rather than mere paper programs.” (Compliance Programs)

OIG Compliance Program Guidance
“The creation of compliance program (Compliance Programs) guidance is a major initiative of the OIG in its efforts to engage the private health care community in preventing the submission of erroneous claims and in combating fraudulent conduct. In the past several years the OIG has developed and issued compliance guidance directed at a variety of segments in the health care industry. The development of these types of compliance program guidance is based on our belief that a health care provider can use internal controls to more efficiently monitor adherence to applicable statutes, regulation and program requirements” (OIG background information provided in the Federal Register when publishing compliance program guidance for Individual and Small Group Physician Practices). Copies of all compliance program guidance can be found on the OIG website at http://www.hhs.gov.oig.

Represents a GAO study of the impact compliance programs (Compliance Programs) are having on preventing improper Medicare payments. While the report was not able to determine the effectiveness of compliance it stated “... the effectiveness of compliance programs is difficult to determine with certainty, HHS-OIG, HCFA, Justice and providers themselves believe that compliance programs can reduce improper Medicare payments:

HCCA Reference Guide Evaluating and Improving a Compliance Program
The introduction states “….the objective of a compliance program (Compliance Programs) is to create a process for identifying and reducing risk and improving internal controls. Stated another way, from a legal enforcement standpoint, an effective compliance program reduces the likelihood that an organization will be found to have recklessly disregarded or deliberately violated the law. The aim of this document is to be a fluid guide to common indicators and recommended best practices for compliance programs, not a collection of rigid standards.”

OIG Resource Guide on Corporate Responsibility and Corporate Compliance
The introduction states; “Corporate responsibility issues fill the headlines. Corporate directors are under scrutiny as never before. The Sarbanes-Oxley Act, state legislation, agency pronouncements, court cases and scholarly writings provide
rules, regulations, interpretations, and prohibitions. While all Boards of Directors must address these issues, directors of health care organizations also have important responsibilities relating to corporate compliance requirements unique to the health care industry. The continuing expansion of health care regulatory enforcement and compliance activities is converging with the heightened attention being given to corporate director responsibilities in ways that are critically important to all health care organizations. In this context, enhanced oversight of corporate compliance programs (Compliance Programs) is widely viewed as consistent with the spirit of federal and state corporate responsibility initiatives.”

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**New Regulations without links to Corporate Compliance Programs**

**GAO Report on Governance and Accountability (GAO-03-419SP, January 2003)**

*Excerpt from report:*

“On December 9, 2002, GAO convened a governance and accountability forum for the purpose of identifying past, pending, and proposed actions designed to protect the public interest by

- identifying challenges to improving public confidence in U.S. corporate governance and accountability systems to assist regulators, the accounting profession, and boards of directors and management of public companies to effectively implement the Sarbanes-Oxley Act of 2002 and other related regulatory actions and

- placing special interest on steps designed to enhance independence of the corporate governance system and enhancing the accounting/auditing and attest/assurance models for the 21st century.

Specifically, the forums focused on fours interrelated areas-corporate governance, the financial reporting model, the accounting profession and regulation and enforcement.”

**Sarbanes-Oxley**

Enacted in July of 2002 the Sarbanes-Oxley Act addresses a fundamental policy concern for corporate responsibility in the reporting of financial information. The act speaks to the role corporate governance is expected to play in financial reporting and places restrictions on accountant and lawyers working for corporations.