Models of Compliance in Higher Education: Challenges and Opportunities

PRESENTED BY:
SHERYL VACCA, UNIVERSITY OF CALIFORNIA
SHERYL.VACCA@UCOP.EDU

LARRY PLUTKO, UNIVERSITY OF TEXAS
LPLUTKO@UTSYSTEM.EDU

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Session Objectives

- Review what has been, what is current, and what is likely in the future for models of compliance in higher education
- Identify the challenges for each of the compliance models related to higher education
- Discuss the opportunities for each of the compliance models related to higher education
What Have We Learned from Early Models?

- Healthcare compliance programs are more mature and therefore AMC’s have increased maturity especially due to regulatory drivers, ie: PATH settlements, etc.
- The design of compliance programs is the focus, little emphasis on effectiveness of programs (however, not just higher education issue)
  - Academic institutions have struggled with implementing compliance programs due to unique challenges
- Research compliance has been the common denominator for higher education and AMC’s partly due to regulatory drivers, ie: NIH, NSF, etc. and federal funding

**ONE SIZE DOES NOT FIT ALL!**
Compliance Programs in Higher Education – Current

- **Centralized Coordinated Model**
  - Single university-wide Compliance Officer
  - Leaders and administrators – liaisons with CO
    - Some are dedicated resources, some are sharing another responsibility
  - Used at many large research institutions with multiple campuses and schools

- **Board Committee Oversight**
- **High Level Management Committees with “working committees”**
- **Reporting of university-wide CO varies, ie: directly to Board, College President, Legal, Provost**
- **CO skill set varies, ie: audit, legal, operational**
Compliance Programs in Higher Education – Current (cont)

- Decentralized Model
  - Compliance Officer at school level, risk level (ie: athletics, research, etc.)
  - May/may not have other staff for supporting the structure
  - Horizontal relationship of these CO’s with central compliance personnel
    - Some programs have no centralized CO function..ownership at local level, systemwide leverage is at minimal
- Reporting commonly to Dean of School or risk head (ie: VCR for Research Compliance)
- CO skill sets vary, ie: subject matter experts related to risk oversight, school, etc.
Why We Are Currently at the Crossroads?

- **Significant increase in Federal Regulations**
  - 2008 economic downturn presents great challenges for continued compliance funding and additional resources needed

- **Increasing expectation of external stakeholders, ie:**
  - public, regulatory agencies, alumni, donors, etc.

- **International business focus increasing**
  - Perceptions of increased revenues
  - Competition to do business internationally in higher education

- **Higher Education Compliance Programs are still in flux partly due to regulatory drivers, partly due to funding streams, partly due to core mission of organization.**
Bob Dylan on Change

“Come gather round people wherever you roam
And admit that the waters around you have grown
And accept it that soon you'll be drenched to the bone
If your time to you is worth saving
Then you'd better start swimming or you'll sink like a stone
For the times, they are a changing.”
What Does the Future Hold?
Defining Risk

- Three primary areas (buckets) of risk:
  - Academic medical center compliance risks
  - Research compliance risks
  - “All else” compliance risks

- Different/same drivers for each of these risks (federal, state, public, political, academic, etc.)

- Risk area resources need to be dedicated

- Compliance cannot be all things to all people and prioritization is imperative

- Risk area compliance must have management and operational ownership for risk mediation
What Does the Future Hold?
Content-Focused Compliance

- Early and current models of compliance have been focused on program design, right out of the Federal Sentencing Guidelines “playbook” – elements important but difficult to achieve a stronghold in higher education environment
  - “State of the art programs will be of little consequence if an organization cannot demonstrate that it’s programs were:
    1) designed to address a specific body of risk; and
    2) contributed to an explicit program outcome”. *

  *Lisa Kuca, Member of USSC Federal Sentencing Guidelines Ad Hoc Advisory Committee; Director of Corporate Compliance: Holland + Knight; Federal Court-Appointed “Special Master”

- Path of least resistance focuses a shift to risk content-focused compliance services and resident expertise partly due to higher education focus (easier path to focus on “known” risk areas vs. “general” risk areas:
  - University of California System Compliance: Luanna Putney, Ph.D., dedicated to research compliance and unique the culture of academic research
  - University of Texas System Compliance: CJ Wolf, MD., dedicated to academic medicine compliance and the unique culture of physicians and other clinical personnel
What Does the Future Hold?
Content-Focused Compliance (cont)

- These risk content experts have had great success in bringing together other content experts at the institutional levels. Again, partly due to common denominator of risk.
  - Can be costly to organization due to fragmented approach
  - Key drivers are economy, academic focus and regulatory

- **Challenge:** Ownership by leadership of risks outside of “risk content area” (higher education model encourages fragmentation and individual risk focus vs. integrated approach with values/rules based focus)
  - Less ability to increase efficiencies, leverage models, education, etc.
What Does the Future Hold?
Employing Innovation

- **Education is a priority for risk mitigation**
- **Emergence of inter-university compliance consortia:**
  - Employs decentralized best practices models for key risks and taps into content expertise across universities and university systems
  - Encourages “virtual staff” models in times of severe budget cuts
  - Regulatory and political drivers will encourage this approach as well
- **Deployment of online tools to monitor compliance**
  - Medical billing compliance monitoring tools for physicians
  - Clinical trials management systems
  - Export Control references and resources
  - Policy systems improved to “real time”, ie: U of Mich
  - LMS
- **University compliance education summits – still money and resources for this effort** (geographic locations, local resource experts, use of education facilities)
- **Use of generic education modules which could be customized vs. starting from scratch**
- **Information Sheets (UC handout)**
- **Context Sheets (UC handout)**
- **Compliance Webinar Academies**
  - Hedge against travel restrictions and limited conference budgets
  - Ability to bring world-class compliance education directly to key personnel, management, and governance, 24/7
Change Leads to Opportunities

The opportunity for compliance to:

- work smarter and develop ways to engage employees, faculty, and students in their own environments
- embrace the role of educator, mentor, and facilitator
- assist management with the integration of ethics into compliance programs
- better adapt to the changing regulatory requirements and the ability to deploy resources and content expertise across the university enterprise