Leveraging Compliance Practices With Business Practices

Renu Jha,
Director Compliance, Asia Pacific
Fresenius Medical Care

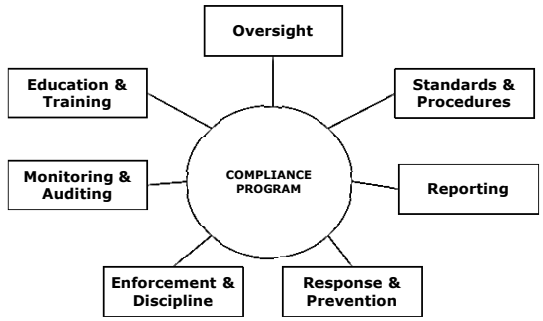
SCCE Conference, 13th July 2018

Agenda

1	7 Essential Elements of a Compliance Program
2	Compliance is Good for Business
3	How to Operationalize Compliance
4	The TOOL vs. The JOB of Compliance
5	Seat at the Table for Compliance
6	Simplify Tasks using Tools
7	Local Governance Structure
8	Leverage Compliance Champions
9	Effective Training
10	Incentives and Disciplinary Measures
11	How DOJ assesses Compliance Programs
12	Questions.

Disclaimer: The opinions expressed in this presentation are solely my own and do not express the views or opinions of my employer.

7 Essential Elements of a Compliance Program

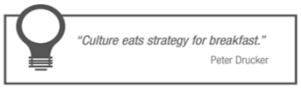


(paraphrased from the US Federal Sentencing Guidelines)

Compliance is Good for Business

Short Term Approach

Sustainable Approach



How to Operationalize Compliance

- ✓ **Identify High Risk Tasks**
- ✓ **Make sure they are performed correctly**
- ✓ **Its not enough to have policies and train**
- ✓ **Apply policy to operational tasks and job duties**
- ✓ **Focus on:**
  - ❖ **Risks**
  - ❖ **Controls**
  - ❖ **Procedures, Forms & Checklists**
  - ❖ **Monitoring**
  - ❖ **Auditing**
  - ❖ **Specific compliance trainings**

Compliance doesn't happen at the Program level, Risk level or Job-function level
IT HAPPENS AT THE TASK LEVEL

Source: blog.thebroadat.com

Integrating Compliance into Business Strategy
- An Example

- ✓ **Start with a risk area**. Example - 'Anti Corruption'
- ✓ **Choose a process under that risk**. Example – 'Getting a License'
- ✓ **Map out tasks that people do in that process**
- ✓ **Remember almost all processes end with someone getting paid**
- ✓ **If you need help in identifying processes consult your auditors**
- ✓ **Pick one of the high-risk tasks in the process** (it'll either be a **front-line task that creates the risk** e.g. 'engaging a third party' or a **gatekeeper task that controls the risk** e.g. 'approving 3rd party invoice')
- ✓ **Give employees something to read while they are actually doing the task** (using a **checklist while doing a high-risk task** vs. memorizing the red flags may both help in being compliant - the former is more likely to ensure compliance **CONSISTENTLY**)
- ✓ **Monitoring and reporting** - auditing is the way to gauge effectiveness of a compliance program (auditing tasks helps measure what people do **vs**. what they remember or think)

The TOOL vs. The JOB of Compliance

TRADITIONAL METHOD

- Do a risk assessment
- Spend a year refreshing old policies
- Then train everyone annually
- Get the Compliance Officer to travel to all sites and talk about policies
- Have the CEO talk about compliance at the company's annual meeting
- Adopt best in class policy training
- Hire a branding agency to create catchy slogans
- Don't give people tools to use and apply compliance in day to day tasks
- Keep promoting policy-level stuff
- Assume sales and marketing will figure out how to apply policies
- If not, they will call the HOTLINE

Result: High rate of Non Compliance

OPERATIONAL METHOD

- Do a risk assessment
- Identify the riskiest activities handled by the company - Prioritize those
- Postpone refreshing outdated policies until you handle critical aspects first
- Realize you may have bad data, but you can still identify high risk activities
- Provide task-based training for targeted employees and third parties
- Provide checklists for tasks
- Have preventive & detective controls
- Collaborate with Finance, HR, Legal to **monitor activities**
- Enlist internal audit for periodic checks
- Move on to next highest-risk activity
- Avoid "reactionary" compliance tactics

Result: High rate of Compliance

DON'T CONFUSE the TOOL (Compliance Program) with the JOB (Mitigating Risk)

Seat at the Table for Compliance

- **Get past "paper compliance programs"**
  - ✓ Chief Compliance Officer (CCO)
  - ✓ Code of Conduct and Policies
  - ✓ Training (onsite and e-learning)
  - ✓ Monitoring and Reporting
  - ✓ Ethics Hotline
  - ✓ Status reports to Audit Committee
- **Does the CCO have a seat at the table** where organization's important business is discussed and decided?
- **Where is your CCO's Office?**

CCOs need TANGIBLE & INTANGIBLE Indicia of Empowerment

Simplify Tasks using Tools

BUILD **GUIDANCE** INTO **PROCESSES** TO MAKE COMPLIANCE **SIMPLE**

SOP

CHECKLIST

FORM

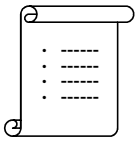
APPROVAL SYSTEMS

MONITOR & REPORT

Local Governance Structure

INCLUDE
OTHER FUNCTIONS
IN
ENSURING
COMPLIANCE

LOCAL GOVERNANCE COMMITTEE



CHARTER

Leverage Compliance Champions

LEVERAGE
BUSINESS
PEOPLE
TO BE
COMPLIANCE
EVANGELISTS

INFLUENCE

ENCOURAGE

COMMUNICATE

SUPPORT

Effective Training

REAL-WORLD APPLICATION
OF TRAINING
LEADS TO
COMPLIANCE

HOW PEOPLE LEARN

ENGAGE

RETAIN

TRANSFER i.e. APPLY

Incentives and Disciplinary Measures

INTEGRATE
COMPLIANCE
PERFORMANCE
INT
EMPLOYEE
PERFORMANCE
APPRAISAL

How DOJ assesses Compliance Programs

CULTURE

GOVERNANCE

1. Analysis and Remediation of Underlying Misconduct
2. Senior and Middle Management
3. Autonomy and Resources
4. Policies and Procedures
5. Risk Assessment
6. Training and Communications
7. Confidential Reporting and Investigation
8. Incentives and Disciplinary Measures
9. Continuous Improvement, Periodic Testing and Review
10. Third Party Management
11. Mergers and Acquisitions (M&A)

EDUCATION

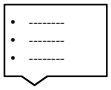
ACCOUNTABILITY

Culture

Is the **Tone At the Top**

STRONG

VISIBLE



EXPLICIT

Does your **Compliance Team Have**

STATURE

FUNDING

RESOURCES

Source: blog.thebroadst.com

Governance

IN WRITING

ARE THE COMPANY'S **POLICIES** AND **PROCEDURES**

UNDERSTANDABLE

EASILY FINDABLE

TRANSLATED/ LOCALIZED

REVIEWED & UPDATED TIMELY

Source: blog.thebroadat.com

Education

ARE THE COMPANY'S **TRAINING** AND **COMMUNICATIONS**

DELIVERED FREQUENTLY

GIVEN TO THIRD PARTIES

PRACTICAL: TELL WHAT TO DO

PRACTICAL: TELL WHO TO CALL

Source: blog.thebroadat.com

Accountability

DOES THE COMPANY **CONSISTENTLY** AND **FAIRLY**

REWARD GOOD BEHAVIOUR

HOLD THIRD PARTIES ACCOUNTABLE

PUNISH BAD BEHAVIOUR

Source: blog.thebroadat.com

Questions

Thank you very much for your attention!