



SONIC
HEALTHCARE
USA

Quality is in our DNA

Lessons Learned from a Whistleblower

How to Strengthen Your Compliance Program, Address the Concerns of Whistleblowers Before They Become Qui Tam Relators, and Use Your Compliance Program to Preemptively Identify and Address Issues as They Arise



Introduction

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A Whistleblower's Perspective...

“Whistle-blowing, is not an act of disloyalty, but the ultimate manifestation of employee loyalty to the organization ... allegiance to the organization’s mission, its goals, its value statement, and its code of conduct.”

Retaliation against Whistle-Blowers: No Good Deed Goes Unpunished
October 2012

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Themes of the story...

- **The Compliance Program**
- Outside Legal Opinion (Verbal)
- Retaliation by Middle Manager
- Communication with the Whistleblower during Investigations
- Human Resources Issues



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Whistleblower Statistics

60% Received No Response

85% Blew Whistle TWICE Internally

39% <2yrs with Company

Source: "Raising Concerns at Work: Whistleblowing Guidance for Workers and Employers in Health and Social Care"

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Whistleblower Reporting

How Incident Was Reported	Percent Utilizing Reporting Method
Supervisor	82%
Higher Management	52%
Human Resources	32%
Hotline/Help Line	16%
Ethics Officer	15%
Outside person (not governmental or regulatory authority)	13%
Legal	11%
Governmental or Regulatory Authority	9%

Overall, 20% of reporters ever chose to tell someone outside the company.

Responses total more than 100% because respondents selected all that applied.
National Business Ethics Survey 2013. www.ethics.org

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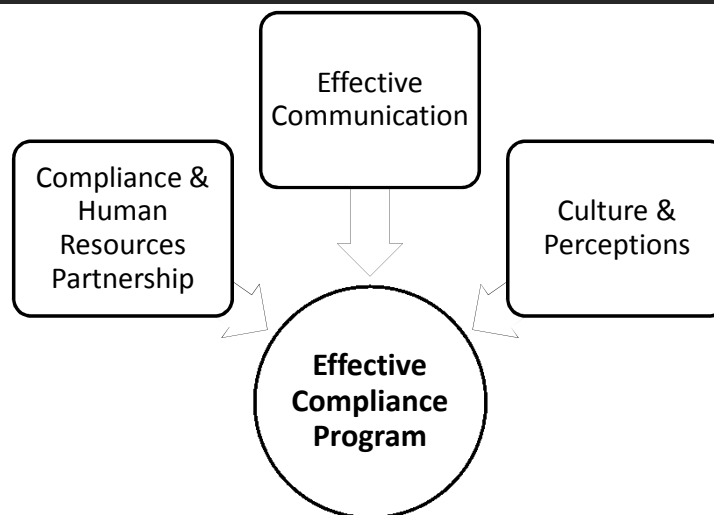
Themes of the story...

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Preventing a Qui Tam Lawsuit



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Key Components of a Compliance Program



1. Written policies and procedures
2. Compliance professionals
3. Effective training
4. Effective communication
5. Enforcement of standards
6. Internal monitoring
7. Prompt response



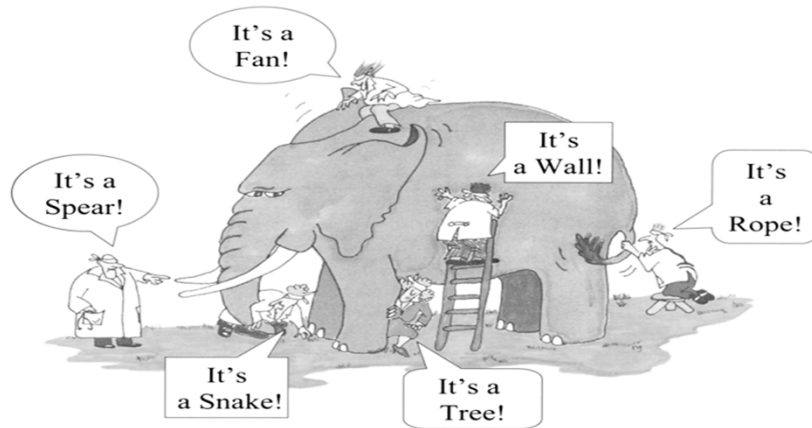
Issues



- Claims
- Arrangements
- Marketing



Perception The Blind Men and the Elephant



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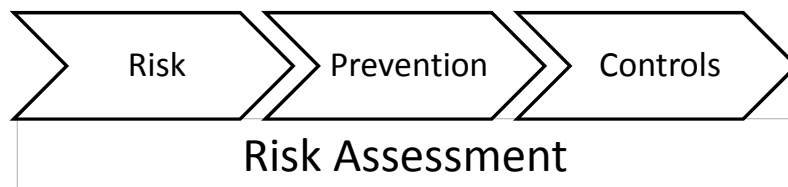
Proactively Address Perceptions with your Compliance Program

- Are all Seven Elements in place?
- Do employees know the controls in place to address the risks that pertain to their job?
 - Inform them of the specific risks and how the company works to prevent & deter them.
 - Engage them as the experts on their job to enhance the Compliance Program

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Proactively Address Perceptions with your Compliance Program

- Approach Education as though you are training every employee to be a Compliance Officer. Explain “Why”.
- Risk Assessment- Increase employee engagement by including the department in the development.



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The screenshot shows the 'OIG Self-Disclosure Information' page. At the top, there are logos for the Office of Inspector General and the U.S. Department of Health & Human Services. The main heading is 'OIG Self-Disclosure Information'. Below this, there is a navigation bar with links for 'REPORT FRAUD', 'Home', 'FAQs', 'FOIA', 'Contact', 'Download Reader', and a mobile icon. The page content includes the Office of Inspector General logo and name, a search bar, and a navigation menu with links for 'About OIG', 'Reports & Publications', 'Fraud', 'Compliance', 'Exclusions', 'Newsroom', and 'Careers'. The main content area is titled 'Self-Disclosure Information' and contains text explaining the reporting process. A sidebar on the right has a section 'I'm looking for' with a dropdown menu and a list of topics including 'Accountable Care Organizations', 'Advisory Opinions', 'Compliance Resource Portal', 'Compliance Guidance', 'Corporate Integrity Agreements', and 'Open Letters'.



OIG Self-Disclosure Protocol

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U.S. Department of Health & Human Services
Office of Inspector General
 U.S. Department of Health & Human Services

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About OIG Reports & Publications Fraud Compliance Exclusions Newsroom Careers

Home > Compliance > Self-Disclosure Information

Provider Self-Disclosure Protocol

Providers who wish to voluntarily disclose self-discovered evidence of potential fraud to OIG may do so under the Provider Self-Disclosure Protocol (SDP). Self-disclosure gives providers the opportunity to avoid the costs and disruptions associated with a Government-directed investigation and civil or administrative litigation.

Have you or any of your affiliates submitted a self-disclosure to the OIG in the past or currently have one pending? If so, please identify the submission date of the self-disclosure and list the name of the entity and affiliates.

Self-Disclosure Online Submission

I'm looking for
 Let's start by choosing a topic
 Select One

- Accountable Care Organizations
- Advisory Opinions
- Compliance Resource Portal
- Compliance Guidance
- Corporate Integrity Agreements
- Open Letters
- RAT-STATS

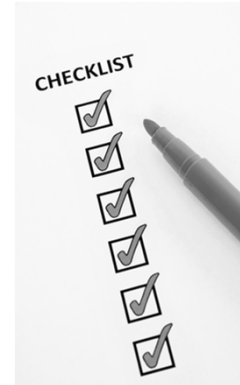


On-Line Submission to OIG

Self-Disclosure Online Submission

OIG Self-Disclosure Protocol

- Make sure the submission is complete.
- Consult OIG's website at: oig.hhs.gov.



Benefits of Self-Disclosure to OIG



- Cooperative Process.
- Likely pay a lower multiplier on single damages.
- Usually no integrity obligations.



U.S. Sentencing Guidelines (Chapter 8)

§8B2.1. Effective Compliance and Ethics Program

(a) To have an effective compliance and ethics program, for purposes of subsection (f) of §8C2.5 (Culpability Score) and subsection (b)(1) of §8D1.4 (Recommended Conditions of Probation - Organizations), an organization shall—

- (1) exercise due diligence to prevent and detect criminal conduct; and
- (2) otherwise promote an **organizational culture** that encourages ethical conduct and a commitment to compliance with the law.

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What is Organizational Culture?

A Set of shared values, written and unwritten rules that guide employee behavior.

It affects the way people and groups interact with each other, with clients, and with stakeholders. In addition, organizational culture may affect how much employees identify with an organization thus impacting performance and morale.

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Organizational Culture

What influences culture?

- **Artifacts**- Visible components of culture
 - Rituals and Ceremonies: New Hire/Annual Training, awards, Policies & Procedures
 - Symbols & Slogans-summarize intrinsic behavior.
 - Example: "No excuses, just results" or "Patients First"
- **Values** - the kind of behavior the organization wants to promote and reward vs. what behavior is actually promoted and rewarded.
- **Stories** - Narratives based on true events. Stories become company heroes. Good or bad. Employees relate to the current organization due to events that happened in the past and carries on the legacy.

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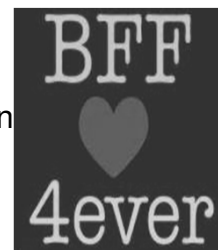
Compliance & HR Partnership

Organizational Culture Indicators You Need to Know:

- Employee Satisfaction Surveys
- Disgruntled departments, employees, and leaders-Why?
- Exit Interviews

Human Resources Partnership:

- Include/Inform of Compliance Investigation
- Know HR protocol
- Inform of potential Retaliation scenarios
- Exit Interviews
- New Hire Training
- Culture Strategy



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OIG.HHS.GOV



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About OIG Reports & Publications Fraud Compliance Exclusions Newsroom Careers

Fraud Risk Indicator

OIG assesses future trustworthiness of defendants in civil healthcare fraud cases

[Learn More >>](#)

I'm looking for

Let's start by choosing a topic

Select One ▾

EXCLUSIONS DATABASE

REPORT FRAUD

What's New Latest Enforcement Actions




Compliance Resources Portal



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Home > Compliance > The Compliance Resource Portal

COMPLIANCE RESOURCES

This page provides links to handy resources for the public that can help ensure that you are in compliance with Federal health care laws.

-  **Toolkits**
-  **Provider Compliance Resources and Training**
-  **Advisory Opinions**
-  **Voluntary Compliance and Exclusions Resources**
-  **Special Fraud Alerts, Other Guidance, and Safe Harbor Regulations**

I'm looking for

Let's start by choosing a topic

Select One ▾

Email your suggestions for new OIG compliance resources



This is not intended to be a formal agency solicitation. OIG welcomes ideas for new compliance resources that would be helpful to the health care community and that are consistent with OIG's mission, in any format. The receipt of a suggestion does not obligate OIG to take any action.



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About OIG Reports & Publications Fraud Compliance Exclusions Newsroom Careers

Home > Compliance > Advisory Opinions

Advisory Opinions

In accordance with section 1128(D)(b) of the Social Security Act (42 U.S.C. 1320a-7(b)) and 42 CFR part 1008, OIG issues advisory opinions about the application of OIG's fraud and abuse authorities to the requesting party's existing or proposed business arrangement. As required by the statute, these advisory opinions are being made available to the public through this OIG Web site.

One purpose of the advisory opinion process is to provide meaningful advice on the application of the anti-kickback statute and other OIG sanction statutes in specific factual situations. Please note, however, that advisory opinions are binding and may legally be relied upon only by the requestor. Since each opinion will apply legal standards to a set of facts involving certain known persons who

Related

- Recent Advisory Opinions
- Advisory Opinion FAQs
- CMS Advisory Opinion Website
- Compliance Guidance
- Enforcement Actions
- Advisory Opinion Archive

I'm looking for

Let's start by choosing a topic

Select One

- Accountable Care Organizations
- Advisory Opinions
- Compliance Resource Portal
- Compliance Guidance
- Corporate Integrity Agreements
- Open Letters

Special Fraud Alerts

- June 25, 2014
- Laboratory Payments to Referring Physicians

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About OIG Reports & Publications Fraud Compliance Exclusions Newsroom Careers

Home > Compliance > Special Fraud Alerts

Special Fraud Alerts

06-25-2014

- Special Fraud Alert: Laboratory Payments to Referring Physicians

03-26-2013

- Special Fraud Alert: Physician-Owned Entities

01-13-2010

- Updated Special Fraud Alert: Telemarketing by Durable Medical Equipment Suppliers
- OIG Letter Regarding Updated Special Fraud Alert (03-02-2010): Telemarketing by Durable Medical Equipment Suppliers
- CMS Telemarketing Frequently Asked Questions

03-03-2003

- Special Fraud Alert: Telemarketing By Durable Medical Equipment Suppliers

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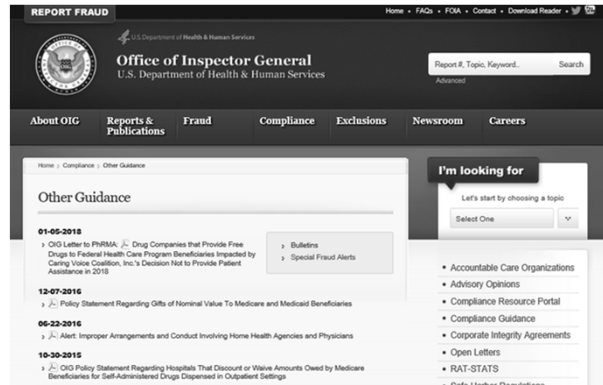
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- Open Letters
- RAT-STATS
- Safe Harbor Regulations
- Self-Insurer Information

Other Guidance

- June 9, 2015
- Physician Compensation Arrangements May Result in Significant Liability



In Conclusion

- ✓ Make sure you have a strong compliance program
- ✓ Establish/strengthen internal auditing – and self-disclose identified issues as appropriate
- ✓ Address all concerns without prejudging merit
- ✓ Work on the “tone at the middle” - most employees report issues to their supervisor before reporting outside the company
- ✓ Assess and influence culture - create a culture of compliance
- ✓ Utilize OIG resources