

# Real-World Strategies for Identifying, Measuring, and Reporting Risk

Health Care Compliance Association Compliance Institute

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## About Me

- Worked in health care 20 years and 18+ in compliance
- Served as:
  - Vice President, Corporate Responsibility, for Catholic Health Initiatives and its KentuckyOne Health division, Denver, CO and Louisville, KY
  - Vice President for Compliance and Privacy for Jewish Hospital & St. Mary's HealthCare, Louisville, KY
  - Privacy Officer for Jewish Hospital Healthcare Services, Louisville, KY
  - Privacy Officer for University of Kentucky Chandler Medical Center, Lexington, KY
- 2018 Certified Nursing Assistant in Kentucky
- 2016 Graduate of FBI Compliance Academy
- Faculty member for Health Care Compliance Association Basic Compliance Academy
- Member of Health Care Compliance Association
- Member of Kentucky Association of Health Care Facilities Regulatory Committee
- Member of Post-Acute Compliance Consortium
- Compliance Committee Member for Passport Health Plan



## About Signature HealthCARE

Signature HealthCARE has a vision to **radically change** the landscape of healthcare, forever.

**Founded in 2007, Signature HealthCARE** is a health care and rehabilitation company with 115 locations in 10 states and more than 17,000 employees.

A growing number of Signature centers are earning five-star ratings from CMS.

**It's more than a corporation... it's a revolution.**



## Awards and Recognition

**QAPI (Quality Assurance & Performance Improvement) Accreditations and Embracing Quality Awards – 2018**



**Certified Great Place to Work – 2018**

**Best Nursing Homes, U.S. News & World Report – 2018**



**5-time Inc. 5000 Honoree - 2017**

**Modern Healthcare's 'Best Places to Work' for the 3<sup>rd</sup> time - 2013**



*“There are risks and costs to a program of action, but they are far less than the long-range risks and costs of comfortable inaction.”*

~ John F. Kennedy

## **Objectives**

- Learn how to refine your risk assessment process so it not only involves the right people, information, and implementation, but also conveys the importance and impact to your business decision makers
- Discuss how to quantify business risk exposure and think like your CEO so you can get buy-in from your leadership team
- Understand common barriers to success and how to overcome them

## Poll

### HOW MANY OF YOU REPRESENT?



- ACADEMIC HEALTH CARE
- NON-PROFITS
- FOR-PROFITS
- PUBLICLY TRADED ENTITIES

## Risk Assessment Process



## What is a Risk Assessment?

### A Risk Assessment:

- Is a five-stage systematic process of evaluating the potential risks that may exist in an organization, project or activity.
- Is conducted by a group of individuals representing different functions in an organization to identify and analyze potential events that may negatively impact individuals, assets, and/or the environment.
- Analyzes what can go wrong, how likely it is to happen, what the potential consequences are, and help an organization determine risk mitigation steps and establish controls.
- Helps the organization judge “the tolerability of the risk on the basis of a risk analysis” while considering influencing factors.



## What is a Risk Assessment?



Compliance Risk Assessment focused on regulatory requirements

Interviews + Surveys



COSO Cube

Enterprise Risk Assessment following COSO or RIMS

*\* Sarbanes-Oxley requires this for publicly traded companies*

## Why should a health care entity do a Risk Assessment?

- Comply with Federal Sentencing Guidelines and OIG Compliance Program guidance
- Requirement in current Corporate Integrity Agreements
- Address areas of increased government scrutiny
- Be proactive vs. reactive
- Identify and prioritize risk
- Design controls to protect the organization
- Allocate resources
- Develop Internal Audit and Compliance Monitoring plans
- Prevent and reduce compliance issues
- Decrease or prevent potential fines and expense to the organization



## Who should conduct a Risk Assessment?

- **All healthcare providers that participate in federal healthcare programs, including but not limited to:**
  - Durable Medical Equipment companies
  - Emergency transport services
  - Health insurance companies
  - Hospitals and health systems
  - Home health agencies
  - Hospice
  - Pharmaceutical manufacturers
  - Physician practices
  - Skilled Nursing Facilities
  - Etc.



## Who should conduct the Risk Assessment?

• A Risk Assessment is a **team** effort:

- Compliance
- Internal Audit
- Legal
- Risk Management
- Operations



## Poll



WHO ELSE WOULD YOU INCLUDE  
IN THE PROCESS?

## When should Risk Assessment be done?

- Anytime, but they should be done about the same time annually:
  - Typically begun during the third and fourth quarters of the organization's fiscal year
  - Usually started during budget planning cycle
  - Continuous process



## Risk Assessment Process

- Various ways to do it
- Decide whether to focus on compliance risks only or take an Enterprise Risk Management approach
- Develop best method for your organization and scale it to organization's complexity





## Risk Assessment Process

### Adopt Risk Assessment Policy and process that details:

- Who is responsible for the Risk Assessment process
- What process or framework is used to conduct the assessment
- When the annual assessment is conducted
- Where the assessment will be conducted (scope)
- How the results will be risk ranked, prioritized and scored
- How the results will be analyzed and used to create auditing and monitoring plans
- How the Internal Audit Plan and Compliance Monitoring Plan will be put together and approved by the Compliance Committee and the Board
- How action plans will be tested and followed up



## Risk Identification

### Various methodologies and tools can be used to identify risks within the organization:

- Data Mining
- Interviews
- Management Input
- Surveys

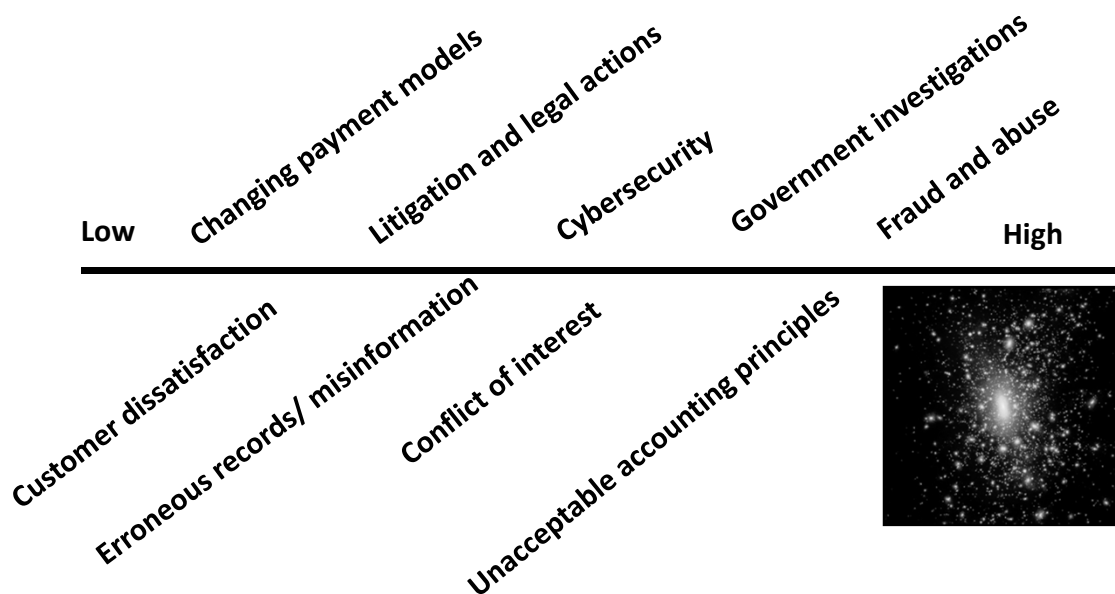


## Risk Identification

### • Document Review

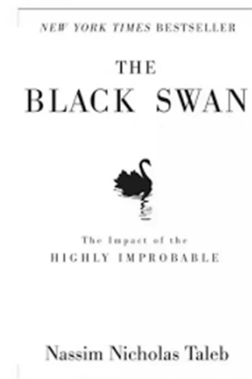
- Compliance Program Guidance
- Corporate Integrity Agreements
- Courts
- Government Agency Priorities
- Industry Newsletters
- Interviews
- Laws
- NCDs/LCDs
- New Payment Models
- OIG Audits
- OIG Work Plan and updates
- OIG Fraud Alerts
- PEPPER Reports
- Previous Audits and Reviews
- Regulations
- Special Advisory Bulletins
- State and federal survey results
- Third Party Litigation

## What are some universal business risks?



## What are some universal business risks?

- Black Swan Events:
  - an event or occurrence that deviates beyond what is normally expected of a situation that would be extremely difficult to predict
  - an outlier that carries an extreme impact, usually catastrophic
  - the event is a surprise to the observer
- Examples:
  - 9/11
  - Black Monday (1987) (2015)
  - dot com bubble (2001)
  - Brexit



## Risk Identification

The types of risk varies based on type of entity and the departments within the entity. Here are some examples of areas to review:

- Bad debt
- Billing and coding
- Clinical quality
- Clinical research
- Cost reports
- Credentialing
- Credit balances
- Documentation
- Emergency Preparedness
- Environmental
- Excluded providers
- Finance
- HIPAA Privacy and Security
- Information Technology
- Licensure
- Marketing
- Medical Necessity
- Mergers, Acquisitions and Divestitures
- Physician Transactions (Stark)
- Policies and Procedures
- Record retention
- Regulatory
- Reimbursement
- Staffing and Payroll Based Journal
- State and federal surveys

## Sample steps and timeline for Risk Assessment process

- **Q3:**
  - Develop Risk Assessment questions, compliance effectiveness survey and assess OIG Work Plan and schedule interviews
  - Launch Risk Assessment process with documentation review, interviews with key management and compliance effectiveness survey (Allow a month to complete)
- **Q4:**
  - Review and risk rank results of interviews and compliance effectiveness survey (Allow two weeks to complete)
  - Develop Internal Audit Plan, Compliance Monitoring Plan, Compliance Plan and any action plans and present to Compliance Committee and Board for approval
- **Q1:**
  - Launch Internal Audit Plan, Compliance Monitoring Plan, Compliance Plan and implement any action plans
- **Q2-Q4:**
  - Conduct auditing and monitoring, implement action plans assess action plans

**Repeat Cycle Annually!!!**

## Risk Ranking and Prioritization



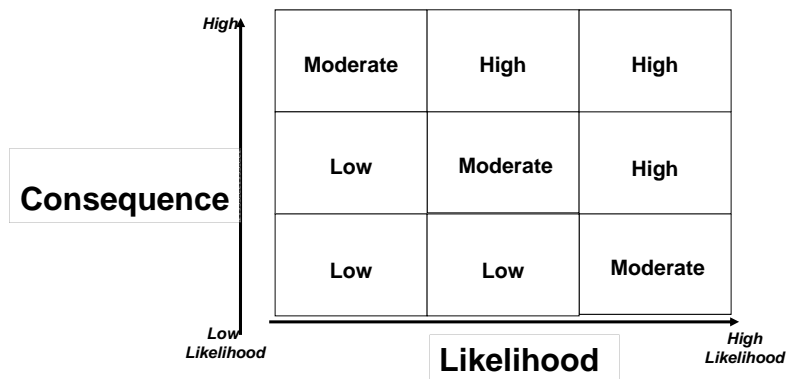
## Risk Ranking

Once risks have been identified, there are various ways to rank them:

- Red, yellow, green
- Low, moderate, high
- Numeric ranking
- By likelihood of occurrence – improbable, remote, occasional, frequently, all the time
- Impact of occurrence – minimal/negligible, slight, moderate, critical/serious, catastrophic
- Categorically by type of impact, such as compliance, financial, legal and reputational



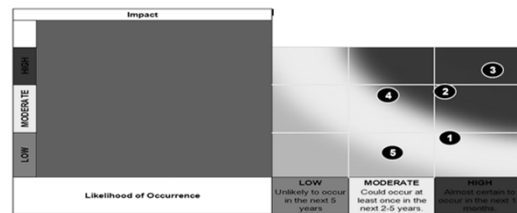
## Risk Ranking



## Risk Prioritization

- Based on the Risk Rankings, determine areas that present highest risk to company
- Can be done different ways
  - Simple list
  - Charts and graphs
  - Heat map
  - Others

RISK ASSESSMENT SCORECARD		
Risk Rating Scale		
#	Threat Category	RISK PRIORITY
1	Stark Laws & Kickback Statutes	90
2	Privacy and Security	100
3	Disaster Recovery	80
4	Antitrust/Competition Laws	60
5	Corporate Culture	50



## Risk Assessment Results and Auditing and Monitoring Plans



## Auditing and Monitoring Plans

- **Use prioritized results from the Risk Assessment to develop work plans for the following fiscal year:**
  - Develop Compliance Monitoring Plan
  - Develop Internal Audit Plan
- **Have Compliance Committee and Board approve plans**



## Auditing and Monitoring Plans

### What should you include in monitoring and auditing?

- Recurring items to be reviewed annually at corporate and entity level, such as:
  - Compliance education completion
  - Hotline call analysis (types of calls, number of calls, by entity/region/state)
  - Whether hotline calls were logged within 2 business days
  - Repayments within 60 days (government audits, internal audits, compliance monitoring, investigations)
  - Staffing ratios against state mandates
  - Star ratings
  - Expired licenses
  - Excluded providers
- One-time items based on results of risk assessment



## Auditing and Monitoring Results and Action Plans

- Conduct auditing and monitoring and report out findings to management, the Compliance Committee and the Board
- Develop Corrective Action Plans with owner
- Conduct follow up to test effectiveness of Action Plans
- Document, document, document



## Overwhelmed?





## How Risk Assessment and Compliance Effectiveness Tie Together



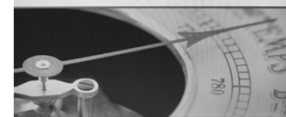
## How Risk Assessment and Compliance Effectiveness Tie Together

**Risk Assessment is a key component of measuring Compliance Program effectiveness and was included in two Compliance Program Effectiveness guidance documents released in 2017 by the OIG and the DOJ:**

- Measuring Compliance Program Effectiveness: A Resource Guide (HCCA-OIG Compliance Effectiveness Roundtable, (p. 15, 2.56-2.63)
- U.S. Department of Justice (DOJ) Compliance Program Effectiveness documents (p.4-5, number 5)

### Measuring Compliance Program Effectiveness: A Resource Guide

HCCA-OIG Compliance Effectiveness Roundtable Roundtable Meeting: January 17, 2017 | Washington, DC



## Why do a Risk Assessment?

### *Measuring Compliance Program Effectiveness: A Resource Guide*

2.56	Compliance Resource knowledge and competence	Survey, focus groups and interviews
2.57	Compliance staff knowledge of current regulatory changes and laws	Document review and interviews. Review certificates of attendance at conferences/other educational events, tools used to keep compliance staff current, compliance budget (to support access to current regulatory changes and laws.
2.58	Monitoring of regulations that impact the organization	Document and process interviews (Refer to Guide for list of questions)
2.59	Risk Assessment Cycle	Audit adherence to risk assessment cycle and annual documented risk assessment has been communicated to oversight committee
2.6	Risk based work plan that covers compliance plan elements with board approval and regular reporting on those projects to board	Compliance Committee and board minutes review
2.61	Work plan development based on risk assessment	Process and document review
2.62	Prioritization of risk and consultation with applicable risk partners (legal, HR, IT, risk management)	Documentation and process review. Is there a risk based plan? How was it developed?
2.63	Exit interview	Compliance concerns that come up in exit interviews are addressed

## Why do a Risk Assessment?

- **U.S. Department of Justice (DOJ) Compliance Program Effectiveness documents (p.4-5, number 5)**
  - **Risk Management Process** – What methodology has the company used to identify, analyze and address the particular risks it faced?
  - **Information Gathering and Analysis** – What information or metrics has the company collected and used to help detect the type of misconduct in question? How has the information or metrics informed the company’s compliance program?
  - **Manifested Risks** – How has the company’s risk assessment process accounted for manifested risks?

## Tools and Resources



## Risk Assessment and Compliance Effectiveness Tools

- **Sample Risk Assessment policy**
- **Sample Risk Assessment questions**
- **Sample Risk Assessment Scoring Matrix**
- **Sample Risk Prioritization Scorecard**
- **Sample Internal Audit Plan**
- **Sample Compliance Monitoring Plan**
- **Sample Compliance Program Effectiveness Gap Analysis Tool**
- **Sample Compliance Committee and Board Reporting Scorecard**

**ALL OF LIFE IS THE  
MANAGEMENT OF RISK,  
NOT ITS ELIMINATION**

WALTER WRISTON

## Compliance Risk Assessment and Effectiveness Resources

- Measuring Compliance Effectiveness: A Resource Guide (March 27, 2017)  
<https://www.oig.hhs.gov/compliance/compliance-resource-portal/files/HCCA-OIG-Resource-Guide.pdf>
- U.S. Department of Justice Evaluation of Corporate Compliance Programs (February 2017)  
<https://www.justice.gov/criminal-fraud/page/file/937501/download>
- U.S. Sentencing Commission Guidelines (November 2013)  
[http://www.uscc.gov/sites/default/files/pdf/guidelines-manual/2013/manual-pdf/2013 Guidelines Manual Full.pdf](http://www.uscc.gov/sites/default/files/pdf/guidelines-manual/2013/manual-pdf/2013%20Guidelines%20Manual%20Full.pdf)

## Questions?

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If you don't invest in risk management, it doesn't matter what business you're in, it's a risky business.

— Gary Cohn —

AZ QUOTES