



*Creating a Culture of Integrity, Fairness and Respect*

## SPOTLIGHT INTERVIEW SERIES: THE HOSPICE BOARD'S KEY ROLES IN COMPLIANCE



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### KEY TAKEAWAYS

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The basic responsibilities of any board, whether of a healthcare organization or not, are basically the same. But when it comes to compliance oversight, healthcare board members need to be aware of the regulatory and enforcement complexities of healthcare.

Board members should be familiar with several key documents that relate to compliance programs and the board's oversight role in that area. The first is a chapter in the United States Federal Sentencing Guidelines for Organizations (FSG) which describes the essential elements of an effective compliance program which apply to any organization. The Department of Justice and the Health and Human Services Office of the Inspector General have published other guidance for evaluating compliance programs and the role of the board. Corporate Integrity Agreements provide guidance on what the government considers to be effective compliance programs for specific healthcare businesses, such as hospice.

A board member needs to be able to understand two basic things: 1) the scope and structure of the compliance program through the lens of the seven elements of the FSG, and 2) concerns or issues that the compliance department has about its program.

With even a partially effective compliance program, an organization should expect to receive reports of non-compliant activity. The board should expect the Compliance Officer to report on the ensuing investigations at board meetings. C-suite misconduct might rise to a level of



concern such that the board might ask the investigators to report directly to the board, or even create an independent committee of non-interested board members to oversee the investigation.

Responding to any external inquiry will inherently be a more costly and involved process. Boards should know that many external investigations may run for two or more years. They should assure themselves that the internal response is well-resourced and expect regular reports on the investigation and any remedial steps to address uncovered issues.

## ADDITIONAL RESOURCES

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Department of Justice Criminal Division Evaluation of Corporate Compliance Programs  
<https://www.justice.gov/criminal-fraud/page/file/937501/download>

White Paper – The Seven Elements of an Effective Compliance and Ethics Program  
<https://www.slideshare.net/IUgrad2002/seven-elements-of-effective-compliance-programs>

Practical Guidance for Health Care Governing Boards on Compliance Oversight  
<https://oig.hhs.gov/compliance/compliance-guidance/docs/practical-guidance-for-health-care-boards-on-compliance-oversight.pdf>

Corporate Integrity Agreement between the Office of Inspector General of Health and Human Services and South Miami Hospital  
[https://oig.hhs.gov/fraud/cia/agreements/South\\_Miami\\_Hospital\\_Inc\\_12052016.pdf](https://oig.hhs.gov/fraud/cia/agreements/South_Miami_Hospital_Inc_12052016.pdf)

Agreement between Tenet and United States Department of Justice  
<https://www.justice.gov/opa/file/899961/download>

Compliance and Governance for Health Care Organizations by Gabriel L. Imperato, Esq. and Anne N. Branan, Esq. [https://assets.hcca-info.org/Portals/0/PDFs/Resources/Conference\\_Handouts/Audit\\_Compliance\\_Committee\\_Conference/2014/Compliance-and-Governance-for-Health-Care-Organizations.pdf](https://assets.hcca-info.org/Portals/0/PDFs/Resources/Conference_Handouts/Audit_Compliance_Committee_Conference/2014/Compliance-and-Governance-for-Health-Care-Organizations.pdf)

Department of Justice Increases Focus on Organizational Compliance by Gabriel Imperato, Esq.  
[https://assets.corporatecompliance.org/Portals/1/PDF/Resources/past\\_handouts/CEI/2018/105\\_imperato\\_handout9.pdf](https://assets.corporatecompliance.org/Portals/1/PDF/Resources/past_handouts/CEI/2018/105_imperato_handout9.pdf)



## BOARD DISCUSSION GUIDE

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1. Is our board clear on what the government considers to be an effective compliance program?
2. Can each of us describe to an investigator the key elements of our organization's compliance program?
3. Can we cite examples of how we've addressed lapses in compliance and/or ethics (identification, root cause analysis, repayment, discipline, and remediation, as applicable)?
4. Are we satisfied that our compliance program is based upon prioritized results of a compliance risk assessment process?
5. Are we satisfied that our compliance program is adequately resourced (dollars and expertise)?