Trustee Insights

FIDUCIARY DUTIES

The Impact of Organizational Culture on Compliance

Part 2 of a two-part series delving into how the board can impact organizational compliance and culture

Virtually every health care organization has a "compliance program" and most governing boards understand that the board has an oversight responsibility when it comes to compliance. But do board members understand the scope of the terms compliance and oversight and how that oversight responsibility translates into actual board activities? In **Part 1** of this series, we explored the board's oversight responsibility and offer practical tips to enhance the board's execution of that critical responsibility. In Part 2 of this series, we offer a more holistic view of compliance and how organizational culture either fosters or undermines a culture of compliance.

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We've all heard the phrase "culture eats strategy for lunch," and it's true. Organizations invest time and money on strategy, but usually not so much on organizational culture. Culture is often seen as the purview, or problem, of the chief human resources officer. Yet, the culture of a company is perhaps the single biggest factor that will either support or undermine the organization's ability to achieve its strategic objectives. Similarly, organizational culture will either enhance or undermine the organization's compliance posture.

So, what is organizational culture and how does it impact the effectiveness of the compliance program? I submit that organization culture is defined by those observable workplace behaviors that reflect the demonstrated values of the organization's leaders. Importantly, it's not about what leaders say, it's about what leaders do. This is sometimes referred to as the 'say-do' ratio, and there is often a gap between what leaders say and how they actually behave. This ratio has a profound impact on the culture of the organization and, in turn, its compliance posture.

Consider a broader, more robust, definition of compliance, one that goes beyond legal compliance and also fosters a culture of ethical decision-making resulting from values driven leadership. This more holistic definition of compliance examines exposures caused by those leader behaviors which are inconsistent with claimed values and, which, in turn, undermine organizational culture. This broader definition suggests that everything the organization's leaders do should not be just legal and compliant, but also ethical and in the best interest of patients. Financial and reputational exposure can be created by projects or decisions that were arguably legal but were not ethical or the right thing to do. The root cause of these exposures may well be a weak organizational culture. From a governing board perspective, adopting a more holistic definition of compliance and truly looking closely at the organization's culture can offer key information about the likely effectiveness of the organization's compliance program. Let's look at a few examples of how this might work.

Psychological Safety

Every compliance program relies on the willingness of employees to identify and report concerns about organizational actions or inactions. Our employees are the eyes and ears of the organization, and they see and hear more than any group of leaders, or the governing board can ever hope to see or hear. It is imperative that employees feel not only safe to express their concerns, but also valued and celebrated for doing so, even when the concern expressed is about an executive or leader in the organization.

Unfortunately, employees who come forward are sometimes berated or shut down, embarrassed and ultimately disregarded. This type of environment is a direct reflection of the lack of psychological safety that should be a pillar of every effective compliance program. Experiences like this have a chilling effect on employees and word gets around that the leaders don't value honesty and candor and may not truly value compliance. As a board member, what do you know about the psychological safety of your organization? If the answer is not much, there are ways to find out. Employee experience of work surveys, leader evaluations or quietly visiting care settings to observe and interact with employees can yield valuable information. Asking to see exit interviews of departing leaders and commissioning an external culture assessment can be highly informative for the board.

Executive Accountability

As a board member, do you have visibility into the day-to-day performance and behaviors of the executives who lead your organization? Board members typically see members of management 4-6 times per year, and always in the very controlled setting of a board or committee meeting. Unless board members take affirmative steps to learn more, they are operating on a very limited data set when assessing the performance and behaviors of the leaders who profoundly impact culture. Conducting 360 reviews of the CEO and key leaders can provide the board with insightful information about leader behavior and performance, and from that the board can surmise how this might be impacting organizational culture. Yet, many boards never see these reports — nor do they ask for them. As a result, board members might believe, for example, that the leaders have created a psychologically safe culture where employees are encouraged to raise concerns to leadership, and yet a 360 survey could tell a very different tale. Imagine the powerful message that would be conveyed if the organization knew that the governing board would see the results, including the results of these reviews.

Root Cause Analyses

Another valuable source of information is a root cause analysis (RCA). Most health care organizations do RCAs of adverse clinical events which are designed to identify what went wrong in the clinical setting, but they are not done as often on failed business deals or projects. While the board cannot analyze every failed venture, consider commissioning a review of the material projects or deals that went badly. These reviews will often illuminate some failures of process, such as due diligence that wasn't as detailed as it needed to be, or a risk analysis that was disregarded in favor of getting the deal done. When the board demonstrates a keen interest in the diligence with which leaders pursue major activities, this sends an important message to leaders, employees and staff. It also signals the board's commitment to doing the right things in the right way — which is another pillar of an effective compliance program.

History Can Predict the Future

We've all heard the phrase "history repeats itself," yet we are living in an age where history is often ignored or rewritten. Understanding the organization's history, both good and bad, can inform the present and sometimes predict the future. The most valuable board orientation sessions contain a meaningful discussion of the organization's history and what lessons leaders learned from the past. Learning from mistakes and committing to doing things differently is a powerful part of organizational culture, and board members have a role in preserving that history and learning from it.

What Is The Organization Incentivizing?

Incentive compensation can be an effective tool in driving performance but can also have unintended consequences. Rewarding executives for improved operating margins can inadvertently encourage inappropriate expense reductions or aggressive billing approaches or poorly planned and executed acquisitions that promise revenue growth which never materializes. Common quality or utilization metrics like reduced patient days can inadvertently cause premature discharges that are not in the patient's best interest. Incentivizing the reduction of days in accounts receivable can result in write-offs of otherwise collectible accounts. Incentive plans that go astray can send the wrong message to employees about what the organization truly values. Also, the absence of compliance or culture metrics can also send an unintended message about the importance of these principles.

The Accountability Gap

Finally, the retention and promotion of executives and other senior leaders whose performance and/or behaviors do not align with what the organization claims as its values reverberates around the organization and often completely derails employee engagement and performance. This failure to hold leaders accountable undermines organizational culture and can derail the effectiveness of the compliance program. When employees see leaders pushing the envelope to achieve a desired financial result, they conclude that financial performance takes precedence. When employees see leaders getting away with berating and shutting down employees trying to express concerns about compliance or other matters, they come to believe that compliance is not truly important because those who should care don't want to hear about it. And when employees do not feel heard in the organization, they often find another route to express their views, like going directly to the government to lodge a complaint about the company.

A strong organizational culture will greatly enhance the effectiveness of the organization's compliance plan, and board members who actively engage in the culture arena will have a force multiplier impact on overall organizational performance.

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