EMPOWERING COMPLIANCE OFFICERS TO DRIVE BETTER HEALTH AND BUSINESS OUTCOMES

How effective regulatory change management practices help healthcare organizations mitigate risk

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FROM CHAOS TO CONFIDENCE

Contents

Introduction

When it comes to regulatory change management, healthcare organizations face a lot of complexity and confusion. The following figures on compliance spending and staffing give a sense for the complicated risk environment and what's at stake:

- Health systems, hospitals, and post-acute care (PAC) providers spend nearly $39 billion, annually, on the administrative activities related to regulatory compliance, according to the American Hospital Association's Regulatory Overload Report.
- An average size hospital dedicates 59 FTEs to regulatory compliance, with doctors and nurses making up more than a quarter of these roles.

These numbers underscore how regulatory change management is everyone's job in a healthcare organization – not just the compliance officer's responsibility. Regulatory change management is foundational to compliance, and regulatory compliance is not optional.

When there's a new regulation, your organization must comply and continue to comply as regulations change. If regulatory change management is not handled effectively, the organization is at much higher risk. And patient care and financial returns can suffer.

Three compliance experts – Shawn DeGroot, president of Compliance Vitals; Charles Mazer, director of Corporate Compliance at NewYork-Presbyterian; and Ken Zeko, principal advisor / attorney at Hall Render Advisory Services – share their experiences with helping healthcare organizations reduce risk through strong regulatory change management practices.

–SHAWN DEGROOT
President
Compliance Vitals

–CHARLES MAZER
Director of Corporate Compliance
NewYork-Presbyterian

–KEN ZEKO
Principal advisor / attorney
Hall Render Advisory Services

In addition, industry research offers insights into compliance professionals' best practices for lessening organizational risk through regulatory change management.

Explore how compliance professionals can implement effective regulatory change management practices to help their healthcare organizations mitigate risk by:

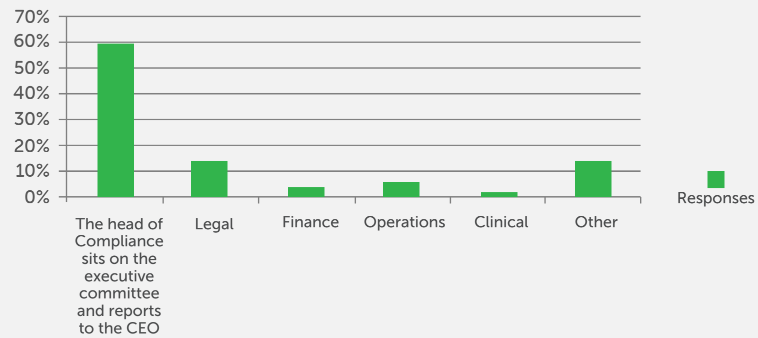
- Establishing processes for regulatory change management
- Developing power skills for influence

Establishing processes for regulatory change management

The goal of most healthcare organizations is to save and improve lives while delivering healthy financial returns. As a compliance officer, you're integral to achieving these goals. That's why Compliance holds such a senior position in the organization. Nearly 60 percent of compliance professionals we surveyed reported that their chief compliance officer (CCO) sits on the leadership committee and reports directly to the CEO. A far smaller number report to Legal, Finance, Operational or Clinical department heads, according to YouCompli's recent survey of U.S. healthcare compliance professionals.

Compliance leaders help the organization decide which regulations to respond to and how to adapt policies and procedures appropriately. That guidance enables organizations to deliver excellent patient care and see strong financial results.

Which department does your Compliance function report to?



"It's Compliance's job to make sure operational areas that touch patient care operate more efficiently," Ken Zeko explains. "That leads to more revenue the organization can spend on patient care. But if an organization gets it wrong, it has to dip into its coffers to spend on things like fines and lawyers."

Regulatory change management processes must be intentional, repeatable, and scalable. Having a standard approach for implementation makes complying with new regulations and changes as simple
as possible.

"Rely on your processes," advises Charles Mazer, director of Corporate Compliance at NewYork-Presbyterian. "The benefit of having a process is that no matter your size or focus, if you have a process embedded, you're reducing the regulatory risk your organization faces."

An effective regulatory change management approach includes tools and processes that enable you to:

- Know what has changed and its impact on the healthcare organization
- Decide whether, and how, a change relates to your organization
- Manage the rollout and accountability of requirements
- Verify progress and completion by required dates

Scalable, repeatable processes take significant guesswork out of managing regulatory changes – reducing risk for your organization overall.

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Explosion of telehealth services

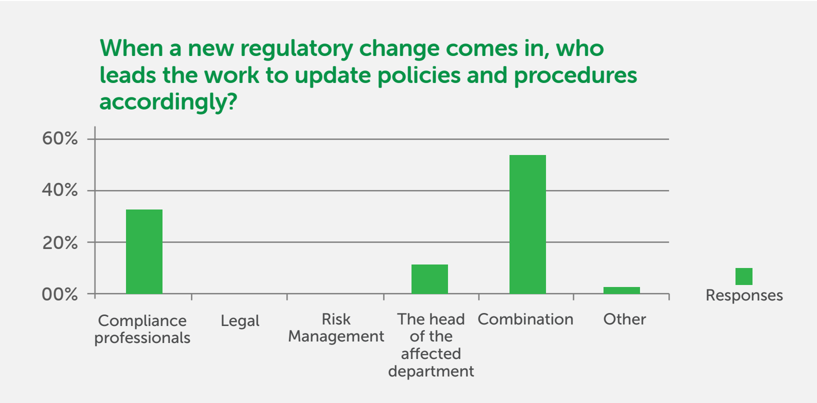
The immediate expansion of telehealth is an example of how compliance added value by providing guidance for regulatory change management, says Shawn DeGroot, president of Compliance Vitals. She explains that telehealth became an acceptable modality of delivering healthcare when providers were unable to physically examine patients due to the COVID-19 pandemic. Extensive risks were involved, including complex state licensing rules, privacy and security risks, consent issues, point of service billing requirements, limited English proficiency rules, and more.

"Compliance was in the background to establish the infrastructure in a compliant manner for continued quality of care," DeGroot says. She notes that in the future, healthcare compliance officers will encounter regulatory change management again with modification to policies, procedures, and practices that were instituted based on multiple waivers from CMS that may end or be modified.

"Having Compliance at the table to establish telehealth infrastructure may have avoided penalties on the backend for healthcare organizations that will be audited," DeGroot adds.

A team sport

The telehealth example illustrates how regulatory change management is a team sport. The industry data demonstrates how common this dynamic is. The recent YouCompli survey asked which department takes the lead when a new regulatory change comes in. Respondents' top answer was the Compliance department – if one department leads. Yet 53% of indicated their organizations take a team approach to leading regulatory change.



A team approach is valuable in making sure all the stakeholders are at the table. But managing the complexities of shared leadership often falls to the compliance officer.

That's why leading through influence is key to effective regulatory change management and helping healthcare organizations mitigate risk.

Developing power skills for influence

Being an effective influencer requires a solid knowledge base about your organization and the ability to develop strong relationships. Yet influence skills don't come naturally to everyone.

If you're uncomfortable with skills that may seem more suited for sales roles, don't be intimidated.

The compliance experts offer tips for being a successful influencer: know the "who," be at the right tables, measure what matters, and know the business.

Know the "who"

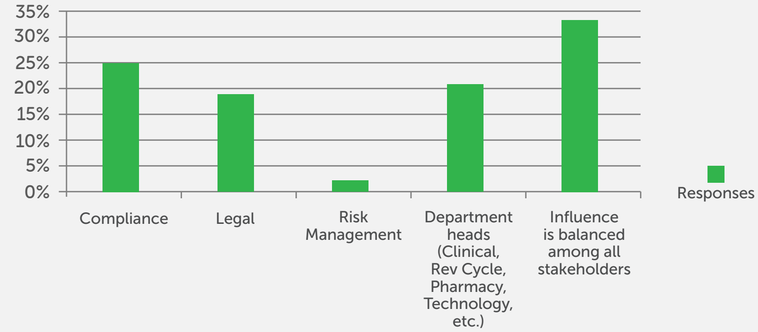
To be a leader in your organization, you need to know who the key influencers and decision makers are. This means understanding who is responsible for making decisions, who leads implementation, and who will champion the change for the long haul.

As YouCompli survey findings show, this is not always straightforward. When asked who has the most weight in organizational decision making, 33% of respondents said, "Influence is balanced among all stakeholders."

NewYork-Presbyterian's Charles Mazer found a way to address this organizational challenge.

"We have a stakeholder relationship map," Mazer explains. "Everybody in our department has quarterly contacts with anyone who's VP and above, so that we know what's going on and if a regulatory change is affecting someone. And our process for regulatory change management is to have a committee that every regulatory change goes through. This gives us a standard process for implementation."

For regulatory changes that require some analysis or to determine the appropriate policy change, who has the most weight in organizational decision making?



Ken Zeko of Hall Render Advisory Services likens knowing the who to having a regulatory rolodex.

Zeko says it's important to identify – ahead of time – the department leaders and operational stakeholders in highly regulated areas and build relationships with them. He points to Revenue Cycle, Quality, Lab and Pharmacy, Legal, HIM, and Compliance as critical departments.

Developing strong relationships throughout the organization helps ensure that you're in the loop when decisions are being made.

"Often Compliance ends up fixing situations when fines arise or if there's an investigation," says Compliance Vitals' Shawn DeGroot. "Partnering with Compliance on the front end can reduce risk immensely."

"A challenge is that nobody sees Compliance as revenue generating," adds Mazer. "We're seen as something people have to deal with. Fundamentally, part of it is about how we can position ourselves in a better light. We need to show that if we're brought on to these strategic endeavors early, we can help guide program development and patient care in a way that reduce risks for the hospital reputationally and financially."

Be at the right tables

Getting ahead of organizational risk requires being at the right table when strategic decisions are being made.

"You can't be a strategic advisor if you're not at the strategy table," says Zeko. "Being prepared when a regulatory change comes in starts with compliance officers being visible across the organization. This ensures that compliance officers realize where the impact will be and can effectively partner with the affected operational areas to make reasonable changes and mitigate risk."

DeGroot agrees: "Relationship building should be a daily occurrence for CCOs."

"If compliance folks aren't embedded enough with operational folks, they're not aware to what extent they're marshaling or assessing risks related to new regulatory changes," Zeko adds. "I'm a big fan of operational compliance committee meetings once or twice a month. It's a working committee to look into compliance issues so that the compliance officer isn't the only one doing the heaving lifting."

Zeko explains another benefit of regular operational compliance committee meetings: "It's an opportunity for the compliance officer to say, 'We identified this new regulation as a risk. What are we doing about it? Do we need new policies or procedures written? Any new training or monitoring or auditing activity because of it?'"

The good news is that the relationships are there. In fact, 80% of compliance professionals we surveyed agreed or strongly agreed that they have the relationships across their organizations to find owners or partners to handle new regulatory changes.

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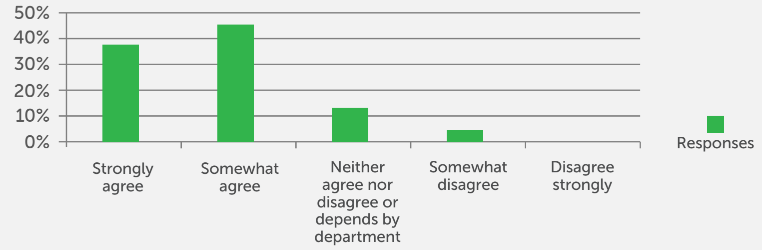
–SHAWN DEGROOT
President
Compliance Vitals

Of course, these relationships vary by department: the degree of regulatory change they experience affects their engagement with Compliance. As you form relationships across the organization, you also need to help leaders determine the most effective approach for mitigating risk in each area.

To what extent do you agree with this statement? "I have the relationships across my organization to effectively find the right owner and hand off responsibility for new reg changes."



Measure what matters

Whether you're talking with Pharmacy or Revenue Cycle colleagues, they want to know that you understand what matters to them. You can demonstrate an understanding of operational leaders' respective areas by presenting metrics and business cases in a way that resonates with their motivators.

"Know your audience in order to understand their definition of effectiveness," advises Charles Mazer. "Understanding who you're speaking to is important because the relationship defines everything. If I'm speaking to an operations person, they don't care how many reviews I'm doing. But the board cares. If I'm speaking to the board, the more reviews the better."

The metrics you choose to evaluate the effectiveness of your regulatory change management program will vary, depending on your audience.

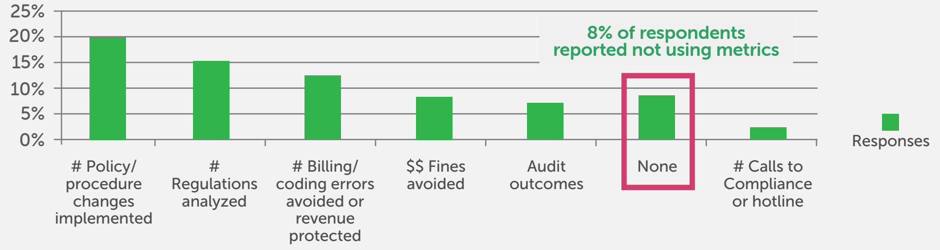
When monitoring privacy issues, for example, you may measure the number of inappropriate accesses and resolutions. To determine the efficacy of your training, Shawn DeGroot recommends having employees demonstrate competencies both pre- and post-training.

The YouCompli survey asked compliance professionals which metrics they use to demonstrate value. Answers varied, including the dollar amounts of fines avoided and the number of policy or procedures implemented or updated.

Surprisingly, 8% of respondents indicated they don't use any metrics!

It's a missed opportunity. Without metrics, it's impossible for you to prove how regulatory change management practices are helping your organizations reduce risk.

What metrics do you use to demonstrate the value the Compliance function brings to your organization or to show that your Compliance function is effective?



For a starting point on metrics to measure how well you're managing regulatory change, consider the seven elements for compliance program effectiveness. Healthcare compliance officers often rely on the seven elements as key performance indicators (KPIs) to measure whether their organization's compliance goals are achieved.

Element-based KPIs are a useful gauge of whether compliance activities are achieving results. For example, a common organization-wide goal is requiring 100% of new employees to complete a Code of Conduct acknowledgment.

Hall Render Advisory Services' Ken Zeko recommends another set of measurements: culturally impactful metrics.

"Culturally impactful metrics emphasize getting compliance officers in the right rooms – ahead of regulatory change or organizational growth," he says. "These metrics underscore the importance of compliance professionals genuinely knowing the business of the organization and how it generates revenue."

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Hall Render Advisory Services

Examples of culturally impactful metrics include the number of

- Compliance roadshow sessions completed
- Meetings between the compliance officer and board members
- Surveys conducted to assess employees' knowledge of compliance issues

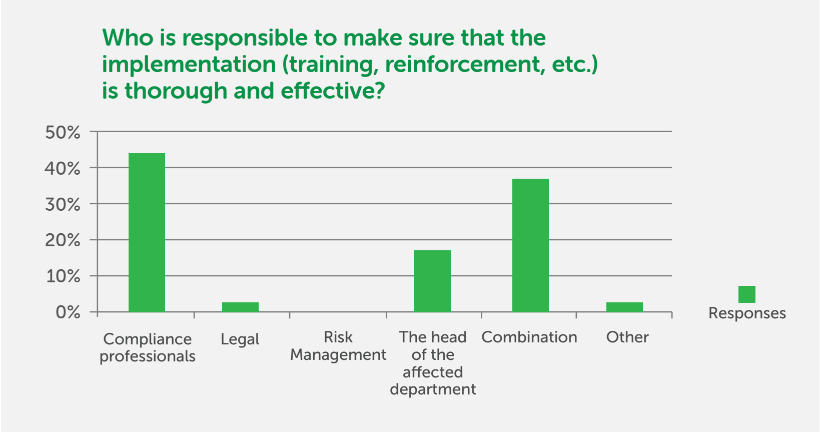
As you customize metrics to your audiences' specific needs, keep in mind how your recommendations will impact other areas of the business.

Know the business

Serving as strategic business partner to the larger organization involves knowing the business of the organization and how it generates revenue. NewYork-Presbyterian's Charles Mazer explains how his team builds business acumen.

"Our Compliance team is asked to complete a Revenue Cycle Academy," Mazer says. "We need to be able to understand the business to work effectively in the space. Compliance is always tasked with explaining the benefit of acting compliantly to a business unit. It might not be revenue generating, but it's risk mitigating. It's what to do because it's in your best interest."

Knowing the business involves making sure your recommendations are practical for other teams to implement. Identifying compliance champions is a way to make sure you don't have to do all the heaving lifting. This is crucial to a successful Compliance function, because your work doesn't end when the new policy or procedure is adopted. More than 40% of the compliance professionals in our survey reported that they are responsible for successful implementation of policies and procedures resulting from a regulatory change. Another 35% have at least some role.



"Artful communication is crucial, especially when you're influencing other departments," says Compliance Vitals President Shawn DeGroot. "Whenever something impacts the organization – and has a dramatic outcome that either reduced risk or improved business outcomes – identify compliance champions to hold up the people who reported the issues. If a physician is a compliance champion and advocate, it resounds throughout the organization! This approach not only builds relationships, it ensures that more than just the CCO is acting as the face of compliance and change management."

Appointing a clinical liaison boosted Charles Mazer's regulatory change management practices.

"We identified a clinical liaison who can help with advocacy consistently rather than choosing a different person each time," Mazer says. "That compliance liaison goes to board meetings and serves as a bridge between compliance and providers."

Ken Zeko also advocates appointing compliance champions.

"When I conduct compliance program assessments, I often see that the CCO or compliance team doesn't know who their compliance champions are," Zeko says. "Once they're identified, the CCO should put these people on a pedestal. Make them part of an internal center of compliance excellence and hold them up as a North Star for other departments to imitate."

Also, DeGroot recommends "making lemonade out of lemons." She recalls the disciplinary process when an employee violated a social media policy and forwarded inappropriate information on a personal cell phone.

As this was the first policy infraction and the employee was a valuable part of the workforce, the individual was required to provide education at team meetings, to managers and staff on the social media policy for a period of a year as a condition of their continued employment. This approach for the individual to "be the voice of compliance" worked surprisingly well.

"I've seen people become passionate about compliance," DeGroot says.

Another way for compliance professionals to better know the business is through mentoring, Zeko says. He suggests connecting with a C-suite level executive who can nurture you and open doors for you.

Zeko says getting to know the business and developing relationships is crucial to enabling you to "win hearts and minds."

Mazer agrees. "Relationship building should be the biggest chunk of where CCOs spend their time. If people trust you and you have a relationship with them, they immediately believe what you're saying."

With that trust in place, you and your colleagues can work together to manage regulatory change and reduce risk in the organization.

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NewYork-Presbyterian

Conclusion

A healthcare compliance officer's role is a tall order: Enabling the organization to deliver excellent patient care and a healthy financial return, while reducing regulatory risk. Effective regulatory change management practices can help you lighten the load in mitigating risk for your organization.

This requires two components: establishing standard processes and developing influencer skills. Prioritizing these two areas will make it easier to manage ongoing regulatory changes and to serve as a strategic partner to the business.

First, create regulatory change management processes that are intentional, repeatable, and scalable. Establishing a standard approach to implementation makes it easier to comply with new regulations and updates as they come in.

Then, become a successful influencer. Embrace the four power skills: know the "who," be at the right tables, measure what matters, and know the business.

By combining these skills with established processes for managing regulatory change, you'll be best positioned to drive better health and business outcomes for your organization. Effective regulatory change management practices can help you mitigate risk and add value in your organization.

Appendix

About the experts

Shawn DeGroot, CHC-F, CCEP, CHRC, CHPC is president of Compliance Vitals, providing consulting services for clients in need of practical guidance in a complex healthcare regulatory environment. Shawn has expertise in developing compliance and privacy programs that were nonexistent to enhancing existing programs to be robust and effective. Additional experience includes corporate integrity agreements, compliance effectiveness, expert witness for privacy matters and interim compliance and privacy officer.

Charles Mazer is the director of Corporate Compliance for the NewYork-Presbyterian enterprise, one of the nation's most comprehensive, integrated academic health care delivery systems. He has oversight of compliance functions that cross the ten-hospital system and other affiliated entities. He has been with NYP for over seven years. Prior to joining NYP, he was a litigator with Latham & Watkins LLP in New York.

Ken Zeko is principal advisor/attorney at Hall Render Advisory Services. He is a licensed attorney with approximately 24 years of regulatory compliance experience. Ken has performed over 70 compliance program assessments. Ken has managed hundreds of coding compliance engagements. Ken assists clients with compliance program assessments, risk assessments, investigations, coding compliance engagements and Independent Review Organization (IRO) engagements.

About YouCompli

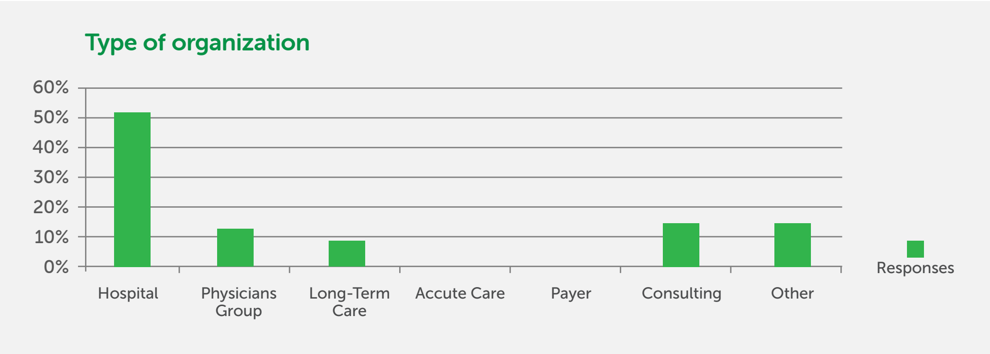
YouCompli is the only healthcare compliance solution combining actionable, legal and operational regulatory analysis with a simple SaaS workflow. Our compliance experts distill the complex regulatory changes issued by every healthcare regulator into a straightforward action plan that is completed within YouCompli software. The software guides users through a simple workflow to assign, manage, and track the rollout and completion of applicable regulatory requirements.

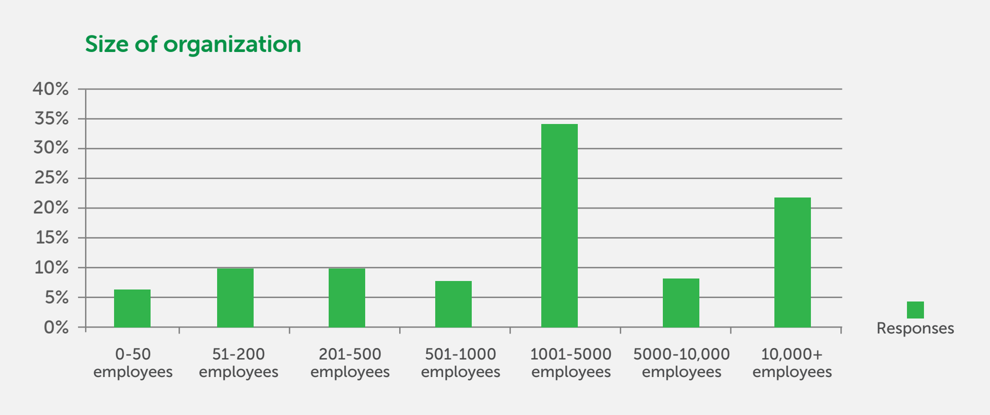
This one-two punch of intelligence and technology protects the whole organization and puts compliance officers at ease.

About the survey

This report includes data from YouCompli's inaugural Healthcare Compliance and Risk Management Survey. Data was collected from 49 healthcare compliance professionals between February 24 and March 10, 2022.

Respondents reported working in Compliance at Hospitals, Physicians Groups, Long-Term Care facilities, Consulting and other types of organizations. Nearly 65% work in organizations with more than 1,000 employees.





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