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Meet Paul J. McNulty

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Ten reasons your compliance program is outdated

By Katie Weaver

Today's highly litigious and increasingly regulated society requires your organization's compliance program to be more comprehensive than ever before. Here are just a few of the many examples that illustrate this point:

- Rite Aid agrees to pay \$1 million to settle HIPAA privacy case¹
- US Labor Department fines US Minerals LLC more than \$158,000 for safety violations, endangering its workers²
- Employee files wrongful termination lawsuit³
- Financial reform legislation passes⁴

Below are ten reasons your organization's compliance program (and your policies and procedures) may need to be updated.

1. Can you ensure ongoing compliance with escalating requirements?

The new financial reform legislation will bring an onslaught of regulatory requirements to organizations of all types. Increased enforcement from other agencies such as the Federal Trade Commission (FTC), the Office for Civil Rights (OCR) and the Department of Health and Human Services (DHHS) is causing many organizations to re-examine their current processes. In order to ensure compliance, organizations must ensure all

employees are trained and understand their individual requirements for state and federal regulations.

2. Are your policies keeping up with escalating risks, threats, and challenges?

Regulations, risks, and threats are constantly changing. Are you updating your policies and procedures, or are they still the same as the first day you created them? Your organization's policies and procedures should be constantly evolving as risks, regulations, and best practices change. It is also critical to ensure the updated policies are communicated to and acknowledged by employees and third-parties on an ongoing basis.

3. Are you avoiding expensive and embarrassing incidents?

Do your employees understand your organization's requirements for protecting sensitive and personal information? Are you exposing the organization to expensive and embarrassing data breaches, lawsuits, losses and mistakes by not implementing clearly defined policies? Increasing fines and irreversible reputational damage can cause many organizations to fail.

4. Have you replaced status quo methodologies?

The first step for many organizations, when determining their compliance program, is the

assessment. Requirements are then established and the appropriate policies and procedures are developed. However, this is where many organizations stop. Organizations create a policy manual or binder or Intranet content to distribute to their employees and never look back. Do you really think your employees are reading manuals and Intranet posts and identifying the specific roles and responsibilities that apply to them?

5. Do your employees understand organizational expectations?

Without comprehensive policies and procedures, it is difficult for new and existing employees to understand the organization's culture, expectations, and requirements. Employees need to be reminded of their specific roles and responsibilities, as well as employment policies for vacation time, sick time, health care, etc.

6. Are you engaging your employees?

Did you encourage participation from your employees when creating your compliance program? If employees are educated and understand their roles in the organization's activities, overall morale and productivity will increase. If employees are involved and are aware of why certain procedures are put in place, they are also much more likely to follow them.

7. Are you hearing the “I never got that e-mail” excuse from employees?

If your organization is just blasting your policies out to your people in e-mails and memos, how do you know if anyone received the e-mail or read the policies, or even understood them? Do you have documentation needed to hold your employees accountable for non-compliance?

8. Are you including all necessary personnel and third parties?

It is critical for organizations of all sizes to not only create ongoing comprehensive policies and procedures, but to ensure that those policies have been implemented at the individual level, read, understood, and acknowledged by all employees (staff, management, third parties, vendors, contractors, first responders, etc.). Numerous regulations, including HIPAA/HITECH⁵ now hold organizations responsible for third-party failures.

9. Are you prepared for disaster?

Do your employees know what to do in the event of a disaster? What is the organization’s emergency plan? Should they evacuate? Where do they go? Where is the emergency call list? Are your systems backed-up on a daily basis? It is critical for your organization to ensure you have developed a plan and all individuals understand their requirements before, during, and after an emergency situation occurs.

10. Do you have legal-ready and audit-ready documentation?

Are employees signing off on policies required by federal and state regulations? Regulations cite that implementing policies, procedures,

plans, and processes mean your organization has documentation and proof that employees have read, understood, and acknowledged their roles and responsibilities. Documentation is critical for legal due diligence and end-of-year reporting.

Lessons learned continue to show that even though you may have a binder of the best policies, plans, and procedures in the world, if you have not updated and implemented your program at the individual level, you may find yourself facing lawsuits, breaches, fines, unwanted headlines, losses, etc. How does your compliance program add up?

Editor’s note: Katie Weaver provides marketing and client support for Awareity, headquartered in Lincoln, Nebraska. She helps organizations cut costs and improve awareness, accountability, and CYA at the individual-level. Katie blogs at <http://blog.awareity.com>. She may be contacted at info@awareity.com.

Notes:

- 1 Department of Health Human Services, press release, July 20, 2010. Available at <http://www.hhs.gov/ocr/privacy/hipaa/enforcement/examples/riteaidresagr.html>
- 2 US Department of Labor, OSHA Regional News Release, August 5, 2010. Available at http://www.osha.gov/pls/oshaweb/owadisp.show_document?p_table=NEWS_RELEASES&p_id=18120
- 3 Kyla Asbury: Woman sues FedEx for wrongful termination. Available at <http://www.wvrecord.com/news/228679-woman-sues-fedex-for-wrongful-termination>.
- 4 Brady Dennis: Congress passes financial reform bill. *Washington Post*, July 16, 2010. Available at <http://www.washingtonpost.com/wp-dyn/content/article/2010/07/15/AR2010071500464.html>
- 5 Health Insurance Portability and Accountability Act of 1996 (HIPAA) and The Health Information Technology for Clinical Health Act (HITECH Act)

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