

# CORPORATE COMPLIANCE Is NOT ENOUGH

*Catholic Healthcare Organizations Should Aim  
at the Development of Ethical Cultures*

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**A**cross the nation, Catholic health-care organizations are scrambling to meet the demands of the compliance programs the federal government has strongly recommended for them. Fortunately, these organizations already possess certain cost-effective resources—their ethicists and ethics committees. Ethicists would do well to suggest ways in which ethics committees might play a valuable role in this regard. A careful reading of the compliance literature will reveal that a “compliance” program should in fact be an ethics/compliance program.

## **ORGANIZATIONAL ETHICS AND “COMPLIANCE”**

The “compliance” movement, which has helped focus attention on organizational ethics, was born in the 1980s when the public became concerned about procurement irregularities in the nation’s defense industry.

As a result of that concern, 18 defense contractors drew up six guiding principles that became known as the Defense Industry Initiative on Business Ethics and Conduct. The principles required each of the contractors to:

- Adopt a code of ethics
- Institute ethics training
- Create a mechanism whereby employees could report instances of possible misconduct
- Monitor compliance of federal procurement laws, voluntarily disclosing any violations
- Attend best-practices forums
- Be accountable to the public

In 1991 these six principles were adopted by the United States Sentencing Commission (USSC) when it urged all U.S. companies to develop ethics/compliance programs. The commission said that firms employing executives found guilty of illegal acts might have their “culpability scores” reduced if they offered ethical

education to employees. Such education, the USSC said, should include interactive, face-to-face training sessions with a focus on difficult cases that were typical of the industry.

In the late 1980s and early 1990s, many businesses developed ethics/compliance programs, but healthcare organizations were generally slower to do so. Then, in February 1998, the Office of the Inspector General (OIG) of the U.S. Department of Health and Human Services released a model compliance program for healthcare, encouraging hospitals and healthcare systems to adopt it or a similar program (see James F. Gunn, Evan R. Goldfarb, and J. Stuart Showalter, “Creating a Corporate Compliance Program,” *Health Progress*, May-June 1998, pp. 60-63).

Although many healthcare organizations (including some Catholic organizations) have followed the OIG’s advice, they tend to interpret it narrowly, creating ethics/compliance programs that focus on the development of internal controls and the monitoring of rules, regulations, and laws, especially those relating to fraud, billing, coding, and similar matters.

It is true that any ethics/compliance program must have a regulatory focus, but that in itself is insufficient. The founders of the compliance movement hoped it would lead organizations to develop not just a list of dos-and-don’ts but a corporate ethical culture. No ethics/compliance program can be truly effective without a code of ethics and ethics education for all members of the organization.

## **THREE ETHICAL ASSUMPTIONS**

A well-designed compliance program (and its accompanying educational process) should be based on three assumptions:

- Each human being is a moral agent acting out of his or her personal ethic. Educating and



empowering each person as a moral agent would strengthen the organization's ethos.

- Healthcare professionals are accountable to the ethical codes of conduct of their various professions. However, these codes are often too abstract to help the professional make specific decisions. Honest, continuing dialogue with colleagues (in their professional associations and on the job) would contribute to development of both professionals and the professions themselves.

- Each Catholic healthcare system has developed its own organizational ethic, though in some cases this may not have been put into a formal code. The ethic is based on the organization's philosophy and mission statements and the *Ethical and Religious Directives for Catholic Health Care Services*. Many systems have also delineated core values. All of these elements call employees to shape their behavior in ways that go beyond mere compliance with laws and regulations.

Catholic healthcare organizations struggle to give their stated values and mission concrete form in the services they offer and the managerial decisions they make. Because the OIG's model program requires a systematic education that reaches all employees, compliance programs can be an important tool in furthering this effort.

### **ETHICS/COMPLIANCE EDUCATION**

However, educating thousands of employees is not an easy task. Leaders will want the educational process to be consistent, but they may also be tempted to narrow it down to dos and don'ts. Although the dos-and-don'ts approach can clarify rules in a few specific circumstances, it is a basically passive model. More active educational strategies are required in teaching employees how to recognize ethical issues and bring them to colleagues' and supervisors' attention. The rapid changes in contemporary healthcare call for this kind of ethical alertness and sensitivity.

Education of the active type takes time, partly because it usually involves the discussion of case studies by employees, each of whom will see the issue from a slightly different angle. This kind of education is best done in departments, allowing members to reflect on their own departmental ethical standards, common challenges to those standards, and perplexing ethical "gray areas." Ideally, such a process would stimulate ongoing

ethical discussion in all departments. This continuing education would, rather than simply teach employees rules and regulations, encourage them to discuss the ethical dilemmas arising in the normal flow of work and thereby participate in solving them (or at least seek the advice necessary for solving them). By introducing employees to ethical discussion and the clarification of ethical responsibility, an organization will strengthen its ethics.

### **ETHICS EDUCATION AT MERCY REGIONAL**

If corporate compliance is treated solely as a risk-management endeavor—one aimed at avoiding possible penalties for regulatory or legal infractions—an opportunity to accomplish more will have been lost. Time and resources are required in creating any kind of compliance program. In Catholic healthcare, such programs should not be purely defensive. They should actively link compliance to mission and values.

Mercy Regional Health System Greater Cincinnati is currently creating this kind of program, called the "Corporate Responsibility Program." The system's board has chosen a healthcare attorney to serve as its full-time corporate responsibility officer and has appointed a systemwide ethics committee to oversee the program. In conjunction with Catholic Healthcare Partners, its parent system, Mercy Regional is also creating an ethics education program. Mercy Regional's Organizational Development and Human Resources departments are helping to integrate corporate responsibility, ethics education, new employee orientation, and performance evaluation.

The task is not easy. The creation of values-driven programs will require creative cooperation among Mercy Regional's attorneys, ethicists, ethics committees, and its various departments.

### **COMPLIANCE IS NOT ENOUGH**

Corporate responsibility programs should aim to help employees comply with laws, rules, and regulations, and—more important—help organizations develop their own ethical cultures. Developing such a culture is absolutely necessary for organizations in the Catholic health ministry. Organizations that fail to develop an ethical culture, and instead focus solely on making sure that legal requirements are met, are likely to breed cynicism among their employees. The spirit of Catholic social ethics and the identity of Catholic healthcare organizations deserve better than that. □