



**GOVERNANCE  
SERIES**

# Translating Corporate “Responsibility” Legislation and Guidance into Good Governance

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Since Enron, corporate scandals seem to be emerging everywhere. Newspapers inform us daily of yet another corporation accused of wrongdoing. A direct result of these corporate scandals is the advent of the corporate responsibility “movement,” which has as its touchstone the American Competitiveness and Corporate Accountability Act of 2002, more commonly referred to as “Sarbanes-Oxley” after the legislation’s chief sponsors, U.S. Senator Paul Sarbanes (D- Maryland) and U.S. Representative Michael Oxley (R-Ohio).

In addition to prompting passage of Sarbanes-Oxley, which applies only to publicly traded, for-profit companies, the recent wave of corporate scandals has turned the focus of many regulators, both state and federal, on **corporate responsibility legislation aimed at the nonprofit sector.**

- ◆ In June 2004, the Senate Finance Committee held hearings entitled, “Charity Oversight and Reform: Keeping Bad Things from Happening to Good Charities.”<sup>1</sup>
- ◆ The Committee released a so-called “discussion draft” of “Tax Exempt Governance Proposals,”<sup>2</sup> which outlined proposals “for reforms and best practices...to encourage and foster additional comments and suggestions as the Finance Committee continues to consider possible legislation” to regulate nonprofits in a manner similar to the regulation of their for-profit counterparts.<sup>3</sup>

1 To read a transcript of the hearing, go to [www.finance.senate.gov/sitepages/hearing062204.htm](http://www.finance.senate.gov/sitepages/hearing062204.htm)

2 [www.finance.senate.gov/hearings/testimony/2004test/062204stfdis.pdf](http://www.finance.senate.gov/hearings/testimony/2004test/062204stfdis.pdf)

3 Ibid.

*While many health center Board members are generally aware of progress of the corporate responsibility movement, it is important to understand the specific implications of such legislation on health centers.*

- ◆ In 2005, the Panel on the Nonprofit Sector (which was formed at the urging of the Senate Finance Committee) issued a set of recommendations and an Interim Report based on the Finance Committee's discussion draft.<sup>4</sup> Federal regulatory initiatives include corporate compliance guidance published by the U.S. Department of Health and Human Services ("HHS") Office of the Inspector General ("OIG") that many health centers have adopted as part of their own corporate compliance programs.<sup>5</sup>

Moreover, many states have jumped on the nonprofit corporate responsibility bandwagon. In the Fall of 2004, the California Nonprofit Integrity Act (the "California Act") of 2004 was signed into law by Governor Schwarzenegger. The California Act took effect on January 1, 2005. While similar measures in New York and Massachusetts have not yet been enacted, passage of some form of corporate responsibility legislation for nonprofits in those states appears imminent.<sup>6</sup>

While many health center board members are generally aware of the progress of the corporate responsibility movement, it is important to understand the specific implications of such legislation on health centers. Under the Section 330 implementing regulations, a health center's board of directors must ensure that the health center is operated in compliance with all applicable federal, state and local laws and regulations.<sup>7</sup> By extension, a health

center's board of directors should have a general understanding of the legal environment in which the health center operates – in this case an environment that must embrace the idea of "corporate responsibility." As noted above, the corporate responsibility movement is manifesting itself through the enactment of legislation and issuance of guidance on both the federal and state levels.

This information bulletin:

- ◆ Discusses corporate responsibility legislation and guidance that is most relevant to health centers;
- ◆ Includes recommendations for good governance practices;
- ◆ Offers "real world" advice for board members attempting to differentiate between "legal requirements" and "best practices" as they determine how best to proceed in this ever more regulated environment.

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4 To read the recommendations and Interim Report, go to [www.nonprofitpanel.org](http://www.nonprofitpanel.org).

5 This information bulletin does not cover all of the corporate responsibility legislation and guidance that has been published since the beginning of the movement. Rather, it focuses on corporate responsibility legislation and guidance most relevant to health centers (*i.e.*, Sarbanes-Oxley type legislation, and guidance from the IRS and the HHS OIG).

6 This information bulletin does not discuss state-specific corporate responsibility legislation. Health center Boards of Directors are advised to consult with legal counsel regarding the impact of state legislation on the health center.

7 See 42 CFR §51c.304(d)(3)(v).

## CORPORATE RESPONSIBILITY LEGISLATION: SARBANES-OXLEY

In all but two of its provisions, Sarbanes-Oxley applies solely to publicly traded, for-profit corporations (*i.e.*, corporations that are required to register with the U.S. Securities and Exchange Commission).<sup>8</sup> Nevertheless, many of the key governance and accountability provisions are finding their way into the nonprofit sector through legislative efforts on the State level, as well as through the development of “best practices” implemented by the nonprofit sector itself. Accordingly, health center boards of directors should have a general understanding of the key features of this important law.

*In a nutshell, for health centers, the most relevant portions of Sarbanes-Oxley are the provisions related to:*

- ◆ **Internal and external audit-related functions of corporations;**
- ◆ **Certification of financial statements; and**
- ◆ **Conflict of interest transactions.**

Internally, Sarbanes-Oxley requires that the independent audit committee of the board of directors of a publicly traded corporation maintain certain qualifications and functions. Externally, Sarbanes-Oxley creates specific requirements related to the audit firm hired by the corporation. Sarbanes-Oxley also requires chief executive officers and chief financial officers to certify the correctness of the financial statements of their corporations. In addition, Sarbanes-Oxley precludes corporations from providing loans to members of their boards of directors or other executives.

### Independent Audit Committee

If the board of directors of a publicly traded company has established an audit committee, Sarbanes-Oxley requires that the committee be comprised solely of members of the board of directors who are considered “independent.” Under the Act, a board member is considered “independent” if (s)he:

- ◆ Does not accept any consulting, advisory or other compensatory fee from the company (other than any compensation normally provided to members of the board of directors) **AND**
- ◆ Is not affiliated with the management of the company.

Further, the company must disclose whether a member of its audit committee is a “financial expert.”

The purpose of the audit committee is to oversee and monitor the work of the outside audit firm, with direct responsibility for the audit firm’s appointment and compensation. In order to perform its oversight and monitoring functions, Sarbanes-Oxley requires that the board of directors provide the audit committee with the authority to retain its own counsel and other related advisers, as necessary. The rationale for creating an audit committee is to remove control of the outside audit from the company’s management and “interested” board members, a situation which many experts equated with asking the fox to guard the hen house. An independent audit committee assures a more honest look at the financial health of the company.

### Application to Health Centers

While health centers generally are not required to have an independent audit committee, they may want to consider establishing one using the Sarbanes-Oxley composition and functional requirements as a guide.<sup>9</sup> An accurate depiction of the health center’s finances, including the expenditure of all its grant monies, is as important to a health

8 Two of the provisions of Sarbanes-Oxley apply beyond the scope of publicly traded, for-profit corporations. First, Sarbanes-Oxley contains a provision that makes it a crime to alter, cover up, falsify or destroy any document to prevent its use in an official proceeding, such as an OIG investigation or a bankruptcy proceeding. Second, Sarbanes-Oxley contains a new whistleblower protection.

9 California health centers that are subject to the California Act are required to establish an independent audit committee.

center as it is to a for-profit company. Most health centers expend more than \$500,000 annually in federal grant monies and therefore must have an OMB Circular A-133 audit performed each year by an independent audit firm. The establishment of an audit committee of the board of directors of a health center to oversee the external audit is one way to ensure that the health center's outside audit firm is meeting its responsibilities.<sup>10</sup>

### Audit Committee Membership

If a health center chooses to form an audit committee, members of the audit committee should be "independent" (*i.e.*, the members should have no conflict of interest, financial or otherwise). Audit committee membership is distinguishable from general membership on the board of directors because, unlike audit committee members, members of the board of directors may have permissible conflicts of interest with the board of directors or the health center, provided that such conflicts are managed appropriately. For example, a health center board may include a local specialty provider who furnishes services to the medically underserved population served by the health center and who works in conjunction with the health center to ensure the availability of such services. On its face, the specialty

provider's relationship with the health center creates a conflict of interest with his or her role as a board member. This conflict of interest does not mean that the specialty provider cannot serve on the board, however, provided that the provider recuses himself or herself from any discussions and/or voting (depending on the circumstances) related to his or her collaboration with the health center to provide services and any other necessary steps to manage the conflict of interest are taken.

**A financial expert** — If possible, the audit committee should include a "financial expert" among its members.<sup>11</sup> The final rules promulgated under Sarbanes-Oxley by the Securities and Exchange Commission define an "audit committee financial expert" as a person with all of the five following attributes:

1. An understanding of generally accepted accounting principles and financial statements;
2. The ability to assess the general application of such principles in connection with the accounting for estimates, accruals, and reserves;
3. Experience preparing, auditing, analyzing, or evaluating financial statements that present a breadth and level of complexity of accounting issues that are

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generally comparable to the breadth and complexity of issues that can reasonably be expected to be raised by the registrant's financial statements, or experience actively supervising one or more persons engaged in such activities;

4. An understanding of internal controls and procedures for financial reporting; **AND**
5. An understanding of audit committee functions.

Further, under the Sarbanes-Oxley final rules, in order to qualify as an "audit committee financial expert" a person must have acquired the above listed attributes through any one or more of the following:

- ◆ Education and experience as a principal financial officer, principal accounting officer, controller, public accountant or auditor, or experience in one or more posi-

<sup>10</sup> The establishment of an audit committee does not excuse the board of directors from meeting the composition requirements set forth in Section 330(k) of the Public Health Service Act and its implementing regulations. The composition requirements still apply.

<sup>11</sup> While not required, it is preferably that the financial expert be a member of the health center's board of directors.

tions that involve the performance of similar functions;

- ◆ Experience actively supervising a principal financial officer, principal accounting officer, controller, public accountant, auditor, or person performing similar functions;
- ◆ Experience overseeing or assessing the performance of companies or public accountants with respect to the preparation, auditing, or evaluation of financial statements; **OR**
- ◆ Other relevant experience; and, if other relevant experience is what qualifies the director, that experience must be described.<sup>12</sup>

*BoardSource*, a national organization devoted to advising nonprofit boards, recommends with respect to the audit committee of a nonprofit that “at least one member of the audit committee should meet the criteria of financial expert and have adequate financial savvy to understand, analyze, and reasonably assess the financial statements of the organization and the competency of the auditing firm.”<sup>13</sup>

### Audit Committee Relationship to Board Finance Committee

The audit committee should be separate from the finance committee of the board.<sup>14</sup> Simply making the finance committee the audit committee is not the most desirable approach because the finance committee can include the Chief

Financial Officer (“CFO”) of the health center or some other person in the health center’s finance department, which would prevent the audit committee from being wholly independent of health center management. (The CFO may, however, be asked to assist the audit committee in its work.) Further, combining the two committees could detract from the principle that the audit committee should have as its sole responsibility oversight of the health center’s relationship with the outside auditors and ensuring auditor independence. possible pull quote Of course, asking volunteer board members to take more time out of their busy schedules to serve on another board committee and finding a volunteer board member with all the qualifications of a “financial expert” may prove difficult for some health centers. In trying to recruit board members to serve on an audit committee, health centers should remind them that serving on the audit committee, while an important task, should not be extremely time-consuming because the task is quite limited.

### Audit Committee Liaison Function

In addition to ensuring that the independent audit firm has the capacity, qualifications, and experi-

ence to conduct an A-133 audit – which, as health centers know, is not the case for all audit firms – the audit committee could serve as liaison between the full board of directors and the independent audit firm when the procurement of audit services is undertaken and while the audit firm performs its work. The liaison function should not, however, remove from the full board the ultimate responsibility of reviewing and approving the final audit.

### Recommendations in a Nutshell

- ◆ Consider creating an independent audit committee.
- ◆ Consider including a “financial expert” on the audit committee.

## Independent Auditor Requirements

Sarbanes-Oxley also creates specific requirements related to the independent audit firm.

1. First, publicly traded companies are required to rotate the partner who is responsible for their audits at least once every five years. However, it is important to note, while there is a require-

<sup>12</sup> See 17 CFR PARTS 228, 229 and 249 and Item 401(h)(2) of Regulation S-K, Item 401(e)(2) of Regulation S-B, Item 16A(b) of Form 20-F, and paragraph (8)(b) of General Instruction B to Form 40-F.

<sup>13</sup> “The Sarbanes-Oxley Act and Implications for Nonprofit Organizations,” *BoardSource* and Independent Sector, [www.boardsource.org/clientfiles/Sarbanes-Oxley.pdf](http://www.boardsource.org/clientfiles/Sarbanes-Oxley.pdf).

<sup>14</sup> Please note that Sarbanes-Oxley does not prohibit dual membership on the audit and finance committees; however, certain state laws may include such prohibition.

*Some experts argue that rotating audit firms on the whole every five years is an even better way to ensure independence and thoroughness of an audit.*

ment of rotation of the audit partner, there is no corresponding requirement that the audit firm itself be changed.

2. Second, the audit firm cannot provide consulting or other non-audit services, such as management or human resources services, to the company. It is important to note that, the Government Accountability Office (“GAO”), pursuant to its Government Auditing Standards (2003 Revision), GAO-03-673G, June 2003, also known as the “Yellow Book,” currently prohibits audit firms that are performing Circular A-133 audits from providing certain non-audit services. This requirement is intended to prevent some of the problems that occurred when accounting/audit firms consulted with publicly traded companies about certain accounting and business strategies in one capacity and then audited the same strategies in another capacity; again, a case of the fox guarding the hen house.

3. Finally, Sarbanes-Oxley precludes companies from using an outside audit firm if any of the company’s senior executives were employed at the audit firm during the one-year period preceding the audit.

### Application to Health Centers

Again, health centers are not required to abide by the Sarbanes-Oxley outside auditor requirements. However, health centers may want to use these requirements as a guide for dealing with their outside auditors. Accordingly, health centers should consider calling for a rotation of the lead audit partner on their outside audits every five years. Some experts argue that rotating audit firms on the whole every five years is an even better way to ensure independence and thoroughness of an audit.<sup>15</sup> As many health centers struggle to find audit firms that are familiar with their unique requirements in the first place, it may be unrealistic to expect that they would be able to find a new qualified audit firm every five years. Moreover, familiarity with an organization does not, per se, remove independence, but it is worth considering whether periodic change (at least in the lead person – the audit partner) may protect the audit from the possibility of complacency or favoritism. The concern expressed by legislators and regulators is that an audit partner who works with a

health center for a long time may overlook a problem (whether intentionally or not) that a fresh set of eyes would not. Therefore, in order to assist in preserving independence and ensuring that health center audits accurately reflect the financial status of the health center, health centers should consider requiring their outside audit firm to rotate the audit partner at least once every five years.

In addition, health centers should avoid engaging their outside audit firms to perform non-audit functions, such as consulting or management-related services that are prohibited under the GAO auditor independence standards for Circular A-133 audits. Finally, a health center should not use an outside audit firm to perform its audit if any of the health center’s senior managers was employed by audit firm in the one-year period preceding the audit.

### Recommendations in a Nutshell

- ◆ **Rotate the lead audit partner at least every five years.**
- ◆ **Do not utilize an audit firm to perform non-audit related functions prohibited by GAO independence standards.**
- ◆ **Do not use an audit firm from which a health center senior manager was hired in the one-year period preceding the audit.**

<sup>15</sup> Under the federal procurement standards, if federal grant funds are used to pay the costs of an audit, periodic solicitation of competitive bids for audit services is advised. See 45 CFR Section 74.40 et. seq.

## Corporate Responsibility for Financial Reports

Sarbanes-Oxley requires the Chief Executive Officer (“CEO”) and CFO of publicly traded companies to prepare a statement to accompany the audit report to the Securities and Exchange Commission (“SEC”) which certifies the “appropriateness of the financial statements and disclosures contained in the periodic report, and that those financial statements and disclosures fairly present, in all material respects, the operations and financial condition” of the company. Further, Sarbanes-Oxley suggests that the federal income tax returns of a company should be signed by its CEO. To the extent that a CEO and/or CFO knowingly misrepresents the condition of the company on the SEC certification, Sarbanes-Oxley imposes a fine of not more than \$500,000 and/or imprisonment of up to five years.

### Application to Health Centers

Obviously, health centers do not make certifications to the SEC regarding their financial statements and, therefore, this Sarbanes-Oxley provision does not suggest a specific parallel recommendation for health centers. However, this provision of Sarbanes-Oxley can be instructive to health centers. It is unlikely that a CEO or a CFO would want to assume legal responsibility for certifying the financial statements of the

health center. However, it is reasonable to expect them to thoroughly review and to fully understand the center’s financial statements. Accordingly, the CEO and, as importantly, the CFO, ought to have a certain degree of business expertise and proficiency in order to understand the financial condition of the health center.

*BoardSource*, in its recommendations to nonprofit organizations, notes that, “CEOs and CFOs, while they need not sign off on the financial statements of the organization, do need to fully understand such reports and make sure they are accurate and complete.”<sup>16</sup> Further, BoardSource recommends that the CEO and the CFO review the Form 990 before submission to ensure completeness, accurateness and timeliness.<sup>17</sup> We recommend a similar review of the A-133 audit.

It is important to remember that the health center’s board of directors has the fiduciary responsibilities to (1) ensure that financial reports are accurate; and (2) accept and approve the Form 990s and the A-133 audit.<sup>18</sup> Requiring senior management to engage actively in the review and approval of the health center’s financial condition may give some health center board members peace of mind when engaging in their own process of review and approval.

### Recommendations in a Nutshell

- ◆ **The CEO and the CFO should have a solid understanding of the financial condition of the health center.**
- ◆ **The CEO and the CFO should review the A-133 audit and the Form 990 for completeness, accuracy and timeliness**

## CORPORATE RESPONSIBILITY GUIDANCE

In addition to learning from Sarbanes-Oxley, health centers can use some of the related guidance and “best practices” proposals that have been developed by various government agencies to evaluate, and possibly modify, their current corporate governance structure and functions. Numerous entities have developed or are in the process of developing “best practices” proposals related to corporate responsibilities, including government agencies, e.g., the Internal Revenue Service (“IRS”) and HHS.<sup>19</sup>

While health center boards should periodically evaluate governance practices and consider adopting some or all of these best practices,

16 “The Sarbanes-Oxley Act and Implications for Nonprofit Organizations,” *BoardSource* and Independent Sector, [www.boardsource.org/clientfiles/Sarbanes-Oxley.pdf](http://www.boardsource.org/clientfiles/Sarbanes-Oxley.pdf).

17 *Ibid.*

18 See e.g., 42 C.F.R. 51c.304(d)(3)(v).

19 Others: large, publicly traded corporations (e.g., Citigroup), regulatory agencies (e.g., the New York Stock Exchange (NYSE)), to name a few.

they should focus on the guidance and/or best practices that are clearly relevant. Any guidance that a health center utilizes should be tailored to the health center's specific characteristics and circumstances. Unmodified or unaltered guidance aimed at large public companies, or a large nonprofit health system, will not meet the needs of a health center, as it will most likely be overbroad, cumbersome, and possibly irrelevant. Finally, keep in mind that guidance is simply that. It does not carry the weight of law and, therefore, a health center is not bound by it. **A health center should adopt those aspects of "best practices" guidance that are useful to it, tailored to fit its own needs.**

## IRS Guidance

For the past several years, the IRS has been developing its own list of "best practices" for tax-exempt organizations. It is noteworthy that the Commissioner of the IRS testified at the Senate Finance Committee hearings regarding his concerns about problems in the charitable community.<sup>20</sup> In addition to acknowledging that the IRS expects to use its 2005 budget increase to "restore and reinvigorate our enforcement presence" with respect to tax-exempt entities, the

Commissioner discussed at length the need for improvements in governance of charitable organizations.<sup>21</sup> **Health centers should be aware of the likelihood that the IRS will publish formal "best practice" guidance for tax-exempt organizations in the near future.** Again, while these guidelines will not have the force of law, it is clearly advisable to pay attention to IRS pronouncements.

## HHS Guidance

Long before the passage of Sarbanes-Oxley, the OIG published a number of corporate compliance guidances for health care entities. Of particular importance to health centers is the OIG Compliance Program for Individual and Small Group Physician Practices, published on September 25, 2000.<sup>22</sup>

Many health centers are familiar with this guidance and have implemented corporate compliance programs. While the HHS guidances did not focus specifically on corporate responsibility, many of the components of the OIG-recommended compliance program complement the objectives of the corporate responsibility legislation and guidance. As stated by the OIG, the seven components of an effective compliance program are:

1. Conducting internal monitoring and auditing;
2. Implementing compliance and practice standards;
3. Designating a compliance officer or contact;
4. Conducting appropriate training and education;
5. Responding appropriately to detected offenses and developing corrective action;
6. Developing open lines of communication; and
7. Enforcing disciplinary standards through well-publicized guidelines.

Since passage of Sarbanes-Oxley, with its compliance guidance as a platform, the OIG has focused more heavily on corporate responsibility for health care organizations. To this end, the OIG, in conjunction with the American Health Lawyers Association, has issued two "educational resources" for boards of directors of health care organizations in order to promote corporate responsibility in the health care industry. Of all the guidance that a health center may want to consider using to improve its own governance structure, the OIG guidance is the most relevant and useful. The two educational resources published by the OIG are: "Corporate Responsibility and Corporate Compliance: A Resource for Health Care Boards of Directors" and "An Integrated Approach to Corporate Compliance."<sup>23</sup>

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20 To review the written statement, go to [www.irs.gov/pub/irs-news/ir-04-081.pdf](http://www.irs.gov/pub/irs-news/ir-04-081.pdf).

21 [www.irs.gov/pub/irs-news/ir-04-081.pdf](http://www.irs.gov/pub/irs-news/ir-04-081.pdf).

22 [www.oig.hhs.gov/authorities/docs/physician.pdf](http://www.oig.hhs.gov/authorities/docs/physician.pdf).

23 Readers can access both of these educational resources, as well as other OIG compliance-related resources, on the OIG's website at [www.oig.hhs.gov/fraud/complianceguidance.html](http://www.oig.hhs.gov/fraud/complianceguidance.html) under "compliance resource materials."

**“Corporate Responsibility and Corporate Compliance: A Resource for Health Care Boards of Directors”**  
(April 2, 2003)

This document provides an introduction to the board’s fiduciary duty of care for all health care providers (not only health centers or other nonprofit providers). The duty of care obligates corporate directors to exercise reasonable care in their decision-making process. The OIG poses a series of questions in the guidance designed to assist board members in educating themselves on compliance-related issues and in ensuring that the organization operates in compliance with applicable laws and regulations. These questions cover two areas:

- ◆ Structural questions to understand and oversee the scope,

structure, design, goals, and limitations of the compliance program and the level of resources necessary for effective implementation; and

- ◆ Operational questions to assist in periodic evaluation of the effectiveness of the program and its components, and the sufficiency of the organization’s reporting system.

In general, the OIG considers board monitoring of the corporation’s compliance program to be consistent with, and essential to, fulfilling the board’s duty of care. In particular, the board is obligated to make reasonable inquiry and have appropriate access to sufficient information to ensure proper and informed decision-making, and is responsible for overseeing management’s daily operation of the organization. As such, the OIG believes that the

board should be involved in the development, implementation and monitoring of the organization’s corporate compliance program, and advises boards that their “organization is at risk and directors, under extreme circumstances, may be at risk if they fail to reasonably oversee the organization’s compliance program or act as mere passive recipients of information.”

**“An Integrated Approach to Corporate Compliance”**  
(July 1, 2004)

As a supplement to the first guidance, the OIG issued a second educational resource for boards, addressing the respective roles of in-house counsel and the corporate compliance officer (including each position’s reporting relationship with the board) in supporting the board’s oversight authority, and the manner in which the two can be coordinated and integrated. Similar to the first resource, the document poses several questions to assure that:

- ◆ The board understands the scope of the compliance program and, in particular, the roles of the in-house counsel and the compliance officer; and
- ◆ Organizational processes are in place to ensure that the board receives appropriate information and candid assessments in connection with the compliance function in a timely manner.

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Of particular importance, this document discusses the recently amended Federal Sentencing Guidelines, which encourage “effective compliance and ethics programs” as “an incentive to organizations to reduce and ultimately eliminate criminal conduct by providing a structural foundation from which an organization may self-police its own conduct.”<sup>24</sup> According to the Sentencing Guidelines, “the prevention and detection of criminal conduct, as facilitated by an effective compliance and ethics program, will assist an organization in encouraging ethical conduct and complying fully with all applicable laws.”<sup>25</sup>

With respect to the role of the compliance officer, the Sentencing Guidelines state that, to be “effective,” the compliance officer must hold a high-level position within the organization that encompasses substantial control or a substantial policy-making role. Further, according to the guidance, the compliance officer (or other individuals responsible for daily operations of the compliance program) must: (1) have direct access to the board of directors, and (2) provide reports to the board at least annually. Accordingly, whether a health center chooses to combine compliance functions with another position or to maintain them as a separate position, the responsible individual should be part of the center’s senior management team.

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## CONCLUSION

There is little doubt that, whether or not health centers choose to adopt any of the recommendations set forth herein or to utilize any of the guidance described above, they will be required to comply with some form of corporate responsibility requirements in the near future. Whether it is through state non-profit corporate integrity legislation, like the California Act, or IRS best practices, health centers will be responsible for reviewing and, most likely, modifying their governance structure to establish an audit committee of the board and otherwise implement “good governance” practices. As such, at a minimum, any health center that does not have a formal corporate compliance program in place should immediately take steps to create and implement such a compliance program. It is also highly advisable for health center boards to review and discuss the issues addressed in this information bulletin, with a view towards implementation of the recommendations set forth herein, as appropriate to their health center.

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<sup>24</sup> [www.ussc.gov/2004guid/2004cong.pdf](http://www.ussc.gov/2004guid/2004cong.pdf).

<sup>25</sup> *Ibid*

*Whether it is through state nonprofit corporate integrity legislation, like the California Act, or IRS best practices, health centers will be responsible for reviewing and, most likely, modifying their governance structure to establish an audit committee of the board and otherwise implement “good governance” practices.*



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