Best Practices and Practical Tips for Reporting to and Educating the Board of Directors

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September 7, 2017 / 10:10AM Ritz Carlton-Reynolds, Lake Oconee

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University of Rochester Self-Disclosure 'Factored Into' FCA Resolution Over Modifier

When University of Rochester Medical Center realized it had overcharged Medicare by using modifier 25 too liberally on claims for eye procedures, it informed the U.S. attorney's office. Little did it know that a whistleblower had already filed a false claims lawsuit against the western New York medical center for the same reason.

The self-disclosure still did some good. Although University of Rochester Medical Center agreed to pay $113,722 to resolve false claims allegations in a settlement announced June 9, the self-disclosure—and its track record of coming forward with overpayments—softened the blow, says Chief Compliance Officer Ted Case. "The fact we had done self-disclosures received favorable comment in the government's press release and hopefully favorable treatment in terms of outcome," he says.

Self-disclosures won't necessarily derail a false claims case. "It doesn't mean we won't resolve cases under the False Claims Act just because they made a self-disclosure," says Michael Gadarian, assistant U.S. attorney in the U.S. Attorney's Office for the Northern District of New York. But "at a high level, the settlement factored into the terms of the resolution."

WHY?

OIG'S Practical Guidance for Health Care Governing Boards on Compliance Oversight, 2015

Top Line Summary

- The new Guidance emphasizes the important role of the Board in ensuring a company's effective compliance structure. According to the OIG, this role requires (1) a working knowledge of the legal, regulatory and organizational landscapes, (2) open, robust and regular communication with management, and (3) a meaningful assessment of the compliance program.

- Emerging industry trends, including a heightened focus on lowering costs and increasing quality, are generating new incentives and compliance risks. The Board should work with the company's management to identify and address these new risks.

- The Guidance calls on Boards to encourage companies to make compliance an enterprisewide responsibility through incentives, penalties and/or management certifications.

https://oig.hhs.gov/compliance/compliance-guidance/docs/Practical-Guidance-for-Health-Care-Boards-on-Compliance-Oversight.pdf

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WHY?

Measuring Compliance Program Effectiveness:
A Resource Guide from the OIG, 2017

Element 2: Compliance Program Administration

	What to Measure	How to Measure
	Board of Directors:	
2.1	Active Board of Directors	• Review minutes of meetings where Compliance Officer reports in-person to the Audit and Compliance Committee of the Board of Directors on a quarterly basis • Conduct inventory of reports given to board and applicable committees.
2.2	Board understanding and oversight of their responsibilities	• Review of training and responsibilities as reflected in meeting minutes and other documents (training materials, newsletters, etc.). Do minutes reflect board's understanding? • Review/audit board education – how often is it conducted? Conduct interviews to assess board understanding.
2.3	Appropriate escalation to oversight body	• Review minutes/checklist in compliance officer files
2.4	Commitment from top	• Review compliance program resources (budget, staff). • Review documentation to ensure staff, board and management are actively involved in the program. • Conduct interviews of board, management and staff.
2.5	Process for escalation and accountability	Process review (document review, interviews, etc.). Is there timely reporting and resolution of matters?

https://oig.hhs.gov/compliance/101/files/HCCA-OIG-Resource-Guide.pdf

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WHAT TO REPORT

-"The Board should receive regular reports regarding the organization's risk mitigation and compliance efforts…" - Practical Guidance, 2015.

Compliance Program Update

➢ This report summarizes the progress and status of the Compliance Program for the 2Q2017. Key components of this report include:

- ▪ Top Compliance Initiatives (p. 3)
- ▪ 2017 Compliance Work Plan (pp. 4-5)
- ▪ Work Plan — Completed and 2Q Pending Items (pp. 6-10)
- ▪ Physician Arrangements Monitoring Update (pp. 11-17)
- ▪ Other Audit & Compliance Updates (p. 18-22)
- ▪ Reported Compliance Matters Summary (pp. 23-30)
- ▪ Compliance Dashboard (pp. 31-35)
- ▪ Board Education: Benefits of Self-Disclosure (p. 36)

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PREPARE

➤ Know the <u>Members</u> of the Board

➤ Know the <u>Staff</u> that will be attending the meeting

➤ Know the <u>Auditors</u> that will be presenting as standard or guest participants

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EVERYBODY HATES SURPRISES …

➢ Discuss Report with Leadership prior to Board Presentation.

➢ Be wary of matters under ACP – Coordinate with Legal.

➢ Is legal participating in the meeting? More likely than not if a privileged matter is to be discussed.

➢ Secure joint front with internal and outside auditors.

➢ Have the report available for the Board Members with at least one week in anticipation.

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GATHER AND FILTER YOUR DATA

➢ In preparing, consider that you have to be **concise** in your presentation… (if there is a need for additional documentation, make it an appendix to your written report).

➢ The **Work Plan Summary is Key** – Meet with your staff to determine status of projects at least two weeks prior to the presentation. Have summaries for Work Plan Items available.

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Compliance
2017 Project Work Plan

As of June 30, 2017

	General Risk Rank	Work Plan Action Item	Est. Completion Date	Percent Complete
1	● (red)	Hire Coding Managers/Compliance Staff	1Q2017	100%
2	● (yellow)	Education Templates for Committee Reporting	1Q2017	100%
3	● (yellow)	Review of Management Compliance Training Modules	1Q2017	100%
4	● (green)	Implement Non-Monetary Compensation Tracking System	1Q2017	100%
5	● (green)	Compliance Committee Charters	1Q2017	100%
6	● (red)	Implementation of HIPAA Monitoring Application	2Q2017	100%
7	● (yellow)	Implement Language Assistance Program	2Q2017	100%
8	● (red)	HIPAA Patients Rights Policy/Form Review	2Q2017	75%
9	● (red)	Imlement Two Midnight Rule Audit CAP	2Q2017	75%
10	● (red)	Physician Arrangements Training (to Management)	3Q2017	75%
11	● (yellow)	Compliance Policy Review Project	3Q2017	50%
12	● (yellow)	Implement Revised Code of Conduct Manual	3Q2017	40%
13	● (yellow)	Conduct Specialized Privacy Training for Pshyciatric Services	3Q2017	50%
14	● (yellow)	Implement CAP for Code:-----	3Q2017	75%
15	● (yellow)	New Employee Conflicts of Interest Forms	4Q2017	100%
16	● (yellow)	Medicaid Transportation Providers Checklist Review	4Q2017	100%
17	● (red)	Marketing Analysis of Compliance Intranet Site	4Q2017	48%
18	● (red)	Review Business Associate Agreement templates (Legal)	4Q2017	40%
19	● (red)	New OMIG Hospital Compliance Program Guidance Review	4Q2017	35%
20	● (red)	Review EMTALA Policies	4Q2017	25%
21	● (yellow)	Implement Clinical Research CAP	4Q2017	15%
22	● (yellow)	Pharmacy Checklist Review	4Q2017	0%

* Forwarded from 2016 Compliance Services Work Plan.
* All identified Work Plan items were based on the annual risk assessment and were all deemed to have a high risk impact. This risk ranking is designed to further stratify those Work Plan identified for the plan. Red = High impact risk, yellow = moderate impact risk, green = low impact risk.

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Compliance

2017 Audit Work Plan

As of June 30, 2017

General Risk Rank		Work Plan Action Item	Quarter Start	Percent Complete
1	🔴	Medicare Payments for Part B Claims with G Modifiers	1Q2017	100%
2	🔴	Medicare Brachytherapy	2Q2017	100%
3	🔴	E/M Services Provided During Global Surgery Periods	2Q2017	100%
4	🔴	Transfers to Inpatient Hospice Care	3Q2017	75%
5	🔴	Part B Imaging Services: Medicare Payments	3Q2017	50%
6	🟡	MS-DRGs Gastrointestinal Disorders	3Q2017	25%
7	🔴	Place-of-Service Errors	3Q2017	20%
9	🔴	Appropriateness of Medicare Payments for Polysomnography	4Q2017	0%

2017 Monitoring Work Plan

General Risk Rank		Work Plan Action Item	Quarter Start	Percent Complete
1	🔴	Physician Payments Monitoring (Quarterly)	1Q2017	50%
2	🟡	Gifts and Gratuities Monitoring (Semiannual)	1Q2017	50%
3	🔴	User Access Monitoring (monthly)	2Q2017	50%
4	🟡	Provider-Based Status Monitoring (Semiannual)	3Q2017	50%

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GATHER AND FILTER YOUR DATA

- The "Good, the Bad and the Ugly" must be part of the report… **In what order?**

- **Beware:** Usually the "Ugly" is ACP – let Legal handle that part of the presentation or defer.

- Use "easy to understand" charts… there is no time for complicated graphs.

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GATHER AND FILTER YOUR DATA

➢ **Dashboards** are necessary but they have to be easy to understand, refrain from using more than three (3) colors for status/ risks.

➢ When using dashboards, always educate. Depending upon the topic and priorities, you may want to do the education piece at the beginning or through the discussion of the dashboard elements.

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Compliance Dashboard 2017

Metric	System Services	training Site	Ancillary Services	Med. Group	Health Plan	Hospital A	Hospital B B.1	Hospital B B.2	Hospital C	Hospital D D.1	Hospital D D.2	Hospital E E.1	Hospital E E.2	Hospital D D.1	Hospital D D.2	Clinic X	SNF	Totals
Yearly Compliance Training (2nd Quarter) (25%) - Completion of Compliance training by 6/30/17																		
2Q2017	100%	91%	96%	100%	93%	88%	93%	90%	91%	97%	100%	98%	95%	92%	100%	72%	92%	95%

Metric	System Services	training Site	Ancillary Services	Med. Group	Health Plan	Hospital A	Hospital B B.1	Hospital B B.2	Hospital C	Hospital D D.1	Hospital D D.2	Hospital E E.1	Hospital E E.2	Hospital D D.1	Hospital D D.2	Clinic X	SNF	Totals
New Hire Orientation Compliance Training (20%) - Completion within 30 Days of Hire																		
January 2017	92%	92%	38%	100%	100%	81%	82%	100%	95%	83%	100%	94%	75%	75%	50%	0%	38%	64%
February 2017	84%	82%	79%	100%	67%	78%	80%	78%	81%	86%	92%	71%	83%	100%	71%	0%	100%	78%
March 2017	97%	86%	72%	N/A	100%	76%	85%	92%	79%	62%	69%	80%	67%	80%	71%	0%	100%	79%
April 2017	100%	77%	87%	N/A	75%	93%	71%	78%	88%	78%	100%	55%	75%	80%	67%	0%	100%	80%
May 2017	97%	100%	90%	100%	68%	97%	86%	79%	95%	76%	100%	77%	71%	88%	67%	20%	100%	87%
June 2017	79%	88%	76%	100%	100%	90%	71%	81%	95%	80%	100%	78%	83%	60%	80%	0%	100%	80%
July 2017	81%	90%	72%	100%	100%	88%	95%	97%	84%	85%	92%	91%	93%	92%	100%	0%	100%	88%
August 2017																		
September 2017																		
October 2017																		
November 2017																		
December 2017																		
Yearly Total:	90%	88%	73%	100%	87%	86%	81%	86%	88%	79%	93%	78%	78%	82%	72%	3%	91%	79%
2016 Benchmark	89%	82%	80%	86%		80%	84%		75%	85%		78%		78%			89%	81%

Metric	System Services	training Site	Ancillary Services	Med. Group	Health Plan	Hospital A–B	Hospital C	Hospital D	Hospital E	Hospital D	Clinic X	SNF	Totals
Compliance Committee Attendance (5%)													
1Q2017	83%	76%	78%	92%	91%	100%	79%	100%	88%	100%	N/A	88%	89%
2Q2017	60%	76%	89%	N/A	91%	79%	79%	90%	88%	100%	N/A	100%	85%
3Q2017		N/A	89%	N/A	73%	93%	86%	60%	55%	70%	N/A		
4Q2017													
Yearly Total:	72%	76%	85%	92%	85%	91%	81%	83%	77%	90%		94%	87%
2016 Benchmark	83%	76%	92%	64%	63%	92%	87%	95%	79%	87%		86%	82%

Compliance Dashboard 2017

Metric	System Services	training Site	Ancillary Services	Med. Group	Health Plan	Hospital A	Hopsital B		Hospital C	Hospital D		Hospital E		Hospital D		Clinic X	SNF	Totals
							B.1	B.2		D.1	D.2	E.1	E.2	D.1	D.2			
Physician Arrangements Monitoring Performance (20%)																		
1Q2017	73%	52%	33%	63%	80%	90%	87%		92%	90%		88%		41%		N/A	89%	71%
2Q2017	80%	75%	60%	74%	91%	93%	82%	80%	88%	95%	90%	85%	89%	60%			95%	86%
3Q2017																		
4Q2017																		
Yearly Total:	77%	64%	47%	69%	86%	92%	85%		90%	93%		87%		51%			92%	79%
2016 Benchmark	74%	84%	68%	89%		76%	87%		73%	90%		84%		57%			70%	77%
Privacy & Security Walkthrough Performance (10%)																		
1Q2017	85%	100%	93%	100%	90%	87%	96%		100%	95%		100%		100%		N/A	100%	96%
2Q2017	85%	N/A	95%	N/A	90%	85%	84%		100%	97%		100%		100%		N/A	100%	94%
3Q2017																		
4Q2017																		
Yearly Total:	85%	100%	94%	100%	90%	86%	90%		100%	96%		100%		100%			100%	95%
2016 Benchmark	85%	90%	88%	96%		88%	95%		100%	93%		90%		93%			98%	77%
GRAND TOTALS:	86%	84%	78%	91%	89%	88%	88%	88%	91%	91%	94%	89%	87%	81%	81%	N/A	94%	87%

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Compliance Dashboard Definitions

The purpose of the Compliance Dashboard is to measure the effectiveness of the Compliance Program's infrastructure, progress, and commitment based on measurable objectives. This document describes how each metric is defined, measured and scored.

Yearly Compliance Training (2nd Quarter)   Yearly Compliance Training will be conducted in third (2nd) quarter in 2017. This metric will measure the percentage of on-time completions in 3rd quarter for each Ministry/region/service line. The metric calculates the total number of compliance training assignments in the quarter compared with the number of on-time completions within the quarter. Late or incomplete assignments are not given credit for this metric. Employees on a leave of absence will not be counted in the denominator of this metric. *Example* : If 100 associates are assigned compliance training and 90 of them complete the training on time, this will result in a 90% score on the Compliance Dashboard for this metric. *Threshold requirements* : >100% completion will be considered accomplishing this objective (green score). A score of 99%-90% will be considered partial accomplishment (yellow score). Any score less than 90% will be considered not meeting this objective (red score).

New Hire Orientation Training   New Hire Orientation training is comprised of a group of online training modules which new associates are required to complete within 30 days of hire. This metric will be measured monthly by comparing the total number of assignments due in a given month against those that were completed within the 30 day requirement. *Example* : If 50 new associates are assigned NHO training in a given month and 40 of them complete the training on time, this will result in an 80% score on the Compliance Dashboard for this metric. *Threshold requirements* : The expectation is that 100% of all associates will complete their NHO training on time according to this definition. 100% completion will be considered accomplishing this objective (green score). A score of >90% will be considered partial accomplishment (yellow score). Any score less than 90% will be considered not meeting this objective (red score).

Compliance Committee Attendance   Each Region of major service line has a dedicated Compliance Committee to address the implementation of Presence Health's Compliance Program within its respective sphere of operations. For purposes of this metric, the Corporate Services Compliance Committee is the Executive Compliance Committee. Each Compliance Committee has a defined list of members as governed by its Charter. Compliance Committees meet quarterly. Attendance at these meetings demonstrates the region/service line's commitment to compliance oversight. This metric will be measured as a simple percentage of attendance against the defined Charter's membership. *Example* : If 7 of the 10 committee members, as defined by that committee's Charter, attend a committee meeting, that region/service line will achieve a 70% for that quarter. *Threshold requirements* : The goal for Compliance Committee membership is 75% each quarter. A score of >75% attendance will considered accomplishing this objective (green score). Less than 75% attendance will be considered not meeting this objective (red score).

DISCUSSING THE WORK PLAN, AUDITS AND CAP's

-"The Board should ensure that management consistently reviews and audits risk areas, as well as develops, implements, and monitors corrective action plans." - Practical Guidance, 2015.

- ➤ **EMPHASIZE** on the compliance priorities.

- ➤ There is a written report, there is a slide report and there is the verbal report.

  - *Depending on the format (and time allotted) for the presentation, you may use at least two of these.*

- ➤ **PRIORITIZE:** If written report is available prior to the meeting, you do not have to go through every topic/ slide of the report.

- ➤ Specific topics present perfect opportunities to **EDUCATE**.

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# FOLLOW UP ON COMPLIANCE PROGRAM REGULAR ACTIVITIES

- New cases vs. Closed cases within the Quarter

- Reported Cases by Matter

- Intake of Reports

- Dashboard Controls (Privacy / Training / Compliance Participation)

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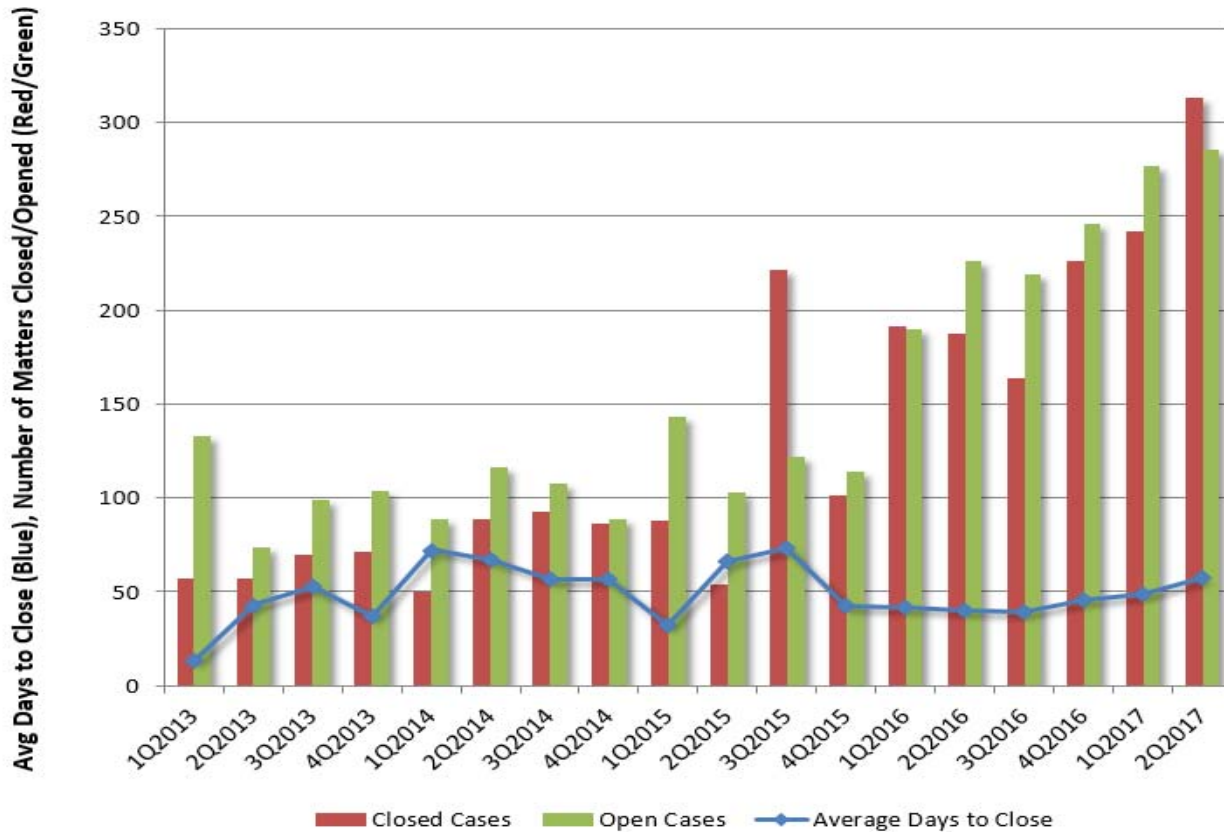
Total Reported Compliance Matters
1Q2013 – 2Q2017
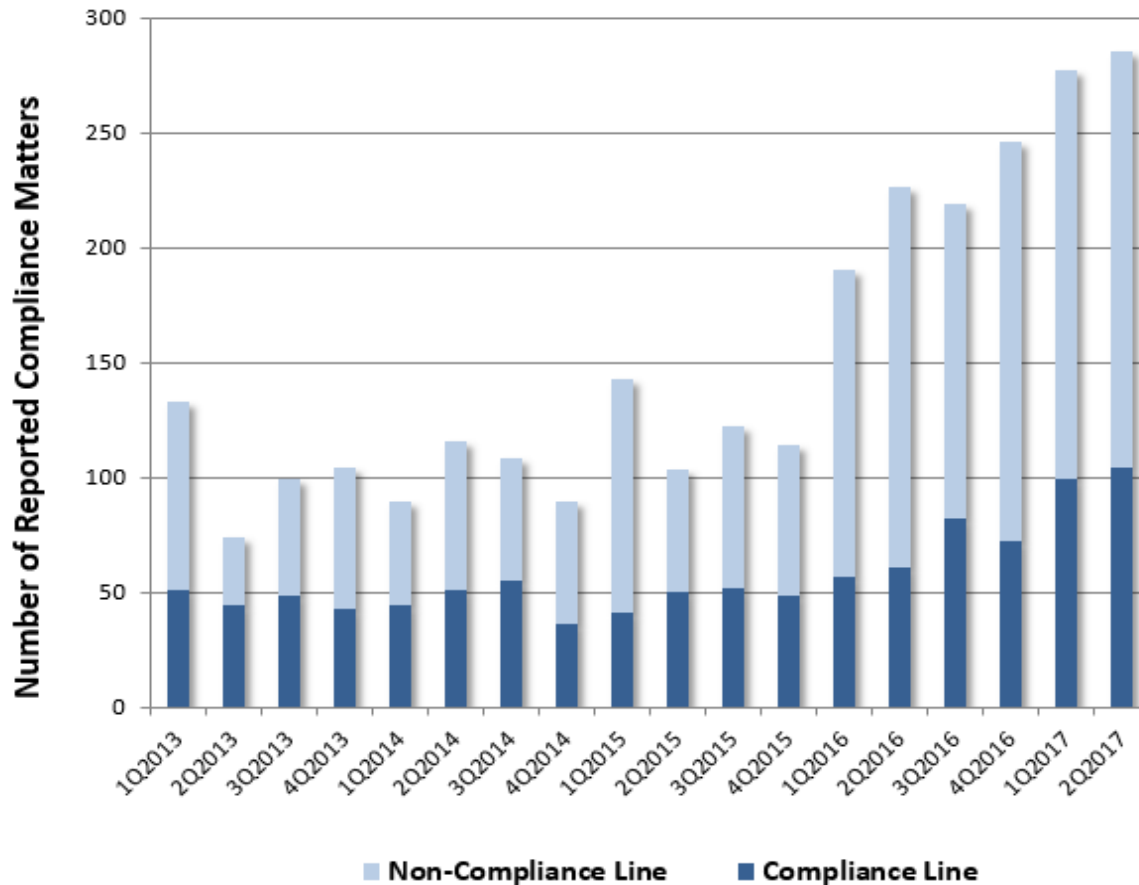
A total of **285** new compliance matters were reported in 2Q2017, the highest reported amount to date with a similar result on Compliance Line reported cases. Increased awareness and resources continues to drive these trends.

Compliance Case Closure Summary
1Q2013 – 2Q2017

Average days to close cases (**blue** line) increased in 2Q2017 to **57** days due to the closure of several older cases. As previously reported, this is mainly due to the closure of Physician Arrangement Audits. As the resolution process for these types of cases continues to evolve, we will gradually see a decrease of the average days it takes to close a case. (Goal is to close in <45 days, on average).
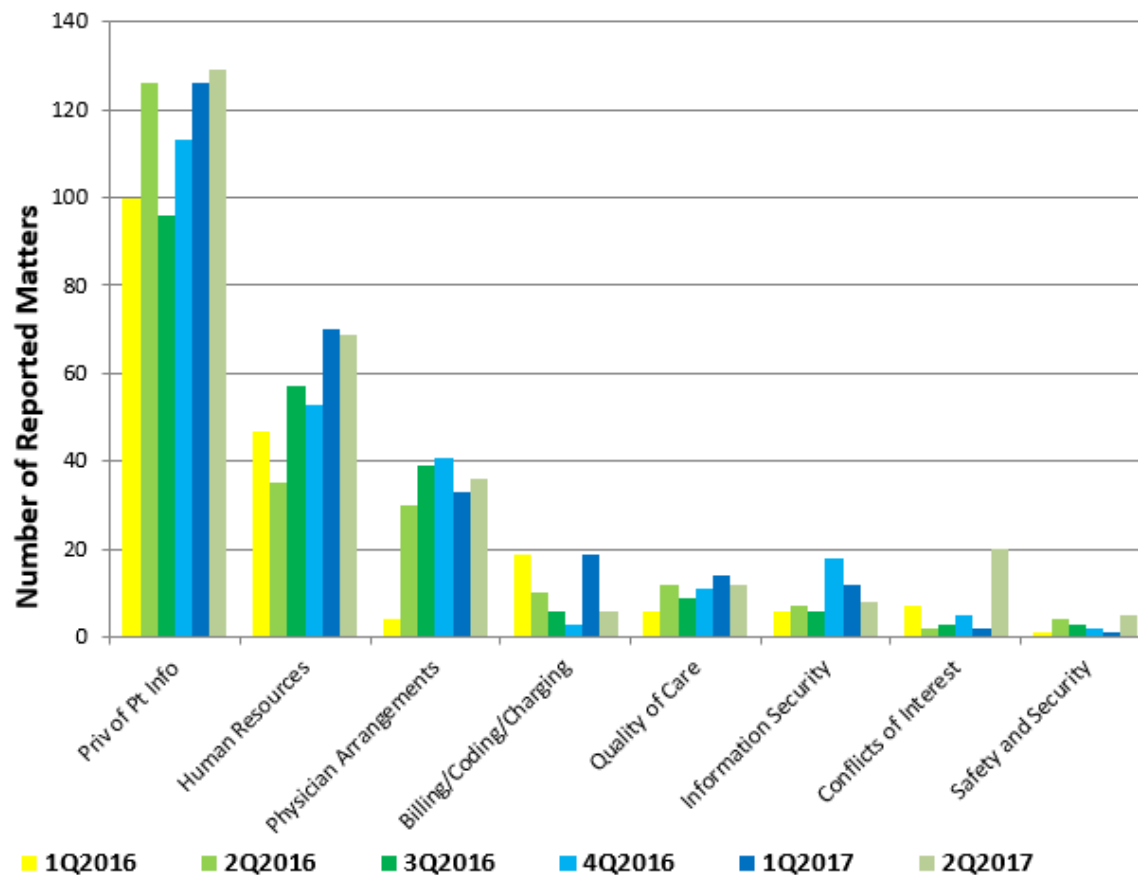
There were **285** opened cases (**green** column) and **313** closed cases (**red** column) in 2Q2017.

Increased efforts to solve physician arrangements issues led to a significant spike on closed cases in 2Q2017.

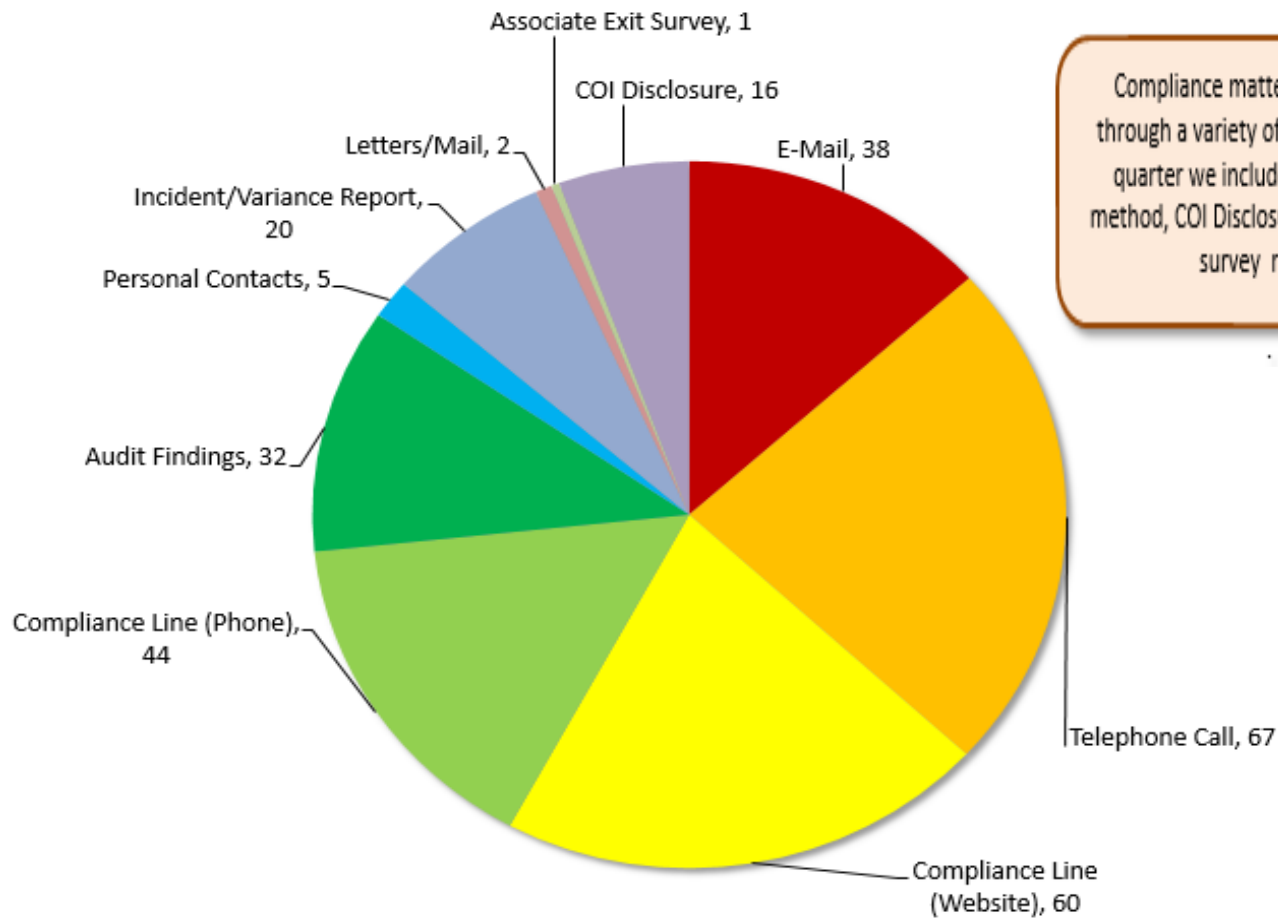# Investigated Compliance Matters by Type of Concern
1Q2016 – 2Q2017

Percentage-wise, trends remain constant as compared to the previous two (2) quarters. We saw an increase in Conflicts of Interest matters since issues identified through the COI Smart implementation were entered into Navex for proper case management.

Legend: ■ 1Q2016 ■ 2Q2016 ■ 3Q2016 ■ 4Q2016 ■ 1Q2017 ■ 2Q2017

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Reported Matters by Source
2Q2017

Associate Exit Survey, 1
COI Disclosure, 16
Letters/Mail, 2
Incident/Variance Report, 20
Personal Contacts, 5
Audit Findings, 32
Compliance Line (Phone), 44
Compliance Line (Website), 60
E-Mail, 38
Telephone Call, 67

Compliance matters are reported through a variety of methods. In this quarter we included a new intake method, COI Disclosure, as part of the survey review.

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USE THE BOARD TO YOUR ADVANTAGE

➤ The Board is not only the platform to report compliance matters but also a god venue to seek approval for new projects.

➤ Example: Physician Arrangement Monitoring Program – New Recruit

❖ **No begging!** You do need additional resources… "*The project __would be best implemented and more efficient__ with additional resources*".

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EDUCATION

➢ **Selection of the Topic**: By knowing your audience and establishing your priority, your topic selection will be easier.

➢ **Use real cases**: Other hospitals are great examples. For samples, follow publications, specifically *Report on Medicare Compliance*.

➢ **Outside resources**: *"Board members may also wish to take advantage of outside educational programs that provide them with opportunities to develop a better understanding of industry risks, regulatory requirements, and how effective compliance and ethics programs operate"*. Practical Guidance, 2015.

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QUESTIONS?

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