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# OIG NEWS

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## **Educational Resource to Assist Boards of Directors Oversee Corporate Compliance**

A flood of corporate scandals have dominated newspaper headlines in recent months, bringing industry leaders under increasing scrutiny. Public outrage about the corporate wrongdoing has fueled passage of the Sarbanes-Oxley Act and state legislation designed to increase corporate responsibility.

To promote corporate compliance in the health care industry, the HHS Office of Inspector General (OIG) and the American Health Lawyers Association (AHLA) today released an educational resource to help boards of directors meet their oversight responsibilities. Entitled “Corporate Responsibility and Corporate Compliance: A Resource for Health Care Boards of Directors,” the document poses a series of 18 questions boards can ask their management team. These questions are designed to help board members to both educate themselves on how the organization handles compliance issues and to ensure that the organization complies with applicable fraud and abuse laws and regulations.

“Corporate board members are reminded that, besides their fiduciary responsibilities, they have an obligation to understand the corporate compliance challenges of their organizations,” said Inspector General Janet Rehnquist. “They are obligated to obtain from management the information necessary to satisfy their duty of care as directors.”

Among the questions posed in the document are: “What is the process by which the organization evaluates and responds to suspected compliance violations? How are reporting systems, such as the compliance hotline, monitored to verify appropriate resolution of reported matters?”

The document points out that boards have a duty to oversee senior management's operation of the company's compliance program to ensure the organization is following relevant laws and regulations. The document also 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."

The document features a description of a board member's general "duty of care," defined as the "obligation of corporate boards of directors to exercise the proper amount of care in their decision-making process." A three-part duty of care test is included: boards must act 1) in "good faith," 2) with the level of care that an ordinarily prudent person would exercise, and 3) in a manner that they reasonably believe is in the best interests of the corporation.

The document, which can be found on the OIG Web site at:

<http://oig.hhs.gov/fraud/docs/complianceguidance/040203CorpRespRsceGuide.pdf>

was the focus of remarks by Chief Counsel to the OIG Lewis Morris at an annual AHLA conference, the *Institute on Medicare and Medicaid Payment Issues*.

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