Alliance for Health Care Integrity

A Health Care Industry Initiative to
Integrate Compliance, Ethics, and Corporate Responsibility

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Robert Olson, PhD, MPH
Executive Director

October 25, 2002

Office of Public Affairs
U.S. Sentencing Commission
Suite 2-500 South Lobby
One Columbus Circle
Washington DC 20002

ATTN: The Advisory Group on Organizational Guidelines

We would like to provide testimony at the public hearing on November 14, 2002. Here is a summary of our proposed testimony. Since we have already submitted more extensive remarks (see our letters dated February 21, 2001; November 1, 2001; and May 15, 2002), as well as met with Sentencing Commission staff in April 2001, we will limit our testimony.

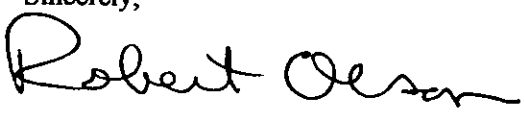
- We commend the Advisory Group for taking this third step in updating and enhancing the Organizational Guidelines. They have served industry, government, and the public well, but, as experience and research will attest, they can be further strengthened to achieve their goal of preventing corporate crime—and promoting ethical corporate cultures.
- The questions that the Advisory Group put to the public for a response by October 5, 2002, laid the groundwork for updating the guidelines. However, with the exception of question #6, they represent efforts only to tweak existing compliance measures. We believe these legalistic modifications will bring only marginal returns while, unfortunately, adding to the already heavy regulatory burden on corporations. What is needed is a paradigm shift, one that addresses the root causes of corporate malfeasance instead of just its symptoms.
- Our answer to question #6 is a resounding "Yes." The guidelines should encourage organizations to "foster ethical cultures" that support the spirit of the law, not just its letter. As research has documented, an emphasis on the former brings a stronger return on investment that the latter, while at the same time reducing regulatory burden and enhancing employee commitment to the organization's core values.
- The commitment of an organization to its core values—which in most cases are consistent with the core values that underlie governmental regulation—can be measured in a variety of ways. Head-counting the number of employees receiving booklets or being trained is the weakest. A stronger measure addresses the impact of booklets received or training attended. That is, it investigates changes in knowledge, attitude/values/beliefs, and short-term behavior of the employees—and compares them to established standards. The strongest measure relates these changes to outcomes desired by the organization—and the government—specifically, reductions in fraud, waste, and abuse. Impact and outcome evaluation, then,

operationalizes the organization's commitment to its core values, quantifying them according to standards it has established by itself or ones consistent with the broader industry.

- Because these standards are generally consistent with the core values that already underlie governmental regulation, "fostering [an] ethical culture" leverages the impact and outcome of compliance interventions. By integrating ethics and compliance, then, both organizations and the public get a much greater return on their investment.

We strongly endorse the Advisory Group's interest in moving the Organizational Guidelines to the next level, achieving the type of breakthrough that is made possible only by embracing a shift in paradigm. Guidelines that encourage organizations to foster ethical cultures will harness the power that results from commitment to the intent of regulation, rather than mere compliance with its technical details.

Sincerely,



Robert Olson, PhD, MPH
Executive Director

1035 Winthrop Drive, Corona CA 92882-6178
(714) 307-6400 bobolsonatahci@earthlink.net