

July 24, 2023

To Whom It May Concern:

Thank you for the opportunity to comment on Docket 051. I am chief compliance officer for a small healthcare practice of under 500 employees. From my perspective as a compliance officer, I would like to comment on two areas where the proposed standards must be strengthened. I am quoting Gerry Zack, the CEO of the Health Care Compliance Association (HCCA), the professional organization of which I am a member, and the Society of Corporate Compliance and Ethics (SCCE):

I. Inquiry of Chief Compliance Officer
AS 2405.06a.(3)
AS 2110.57

“At various points throughout the standards, auditors are directed to make inquiries about compliance with the audit committee, management, the internal audit function (see AS 2405.06a), and in-house legal counsel (see AS 2110.57d). But nowhere does it require auditors to speak with the person in charge of compliance. A critical step in drawing important conclusions about the compliance program’s ability to prevent, identify and investigate compliance issues should involve speaking with the person(s) who has direct responsibility for the program. The standard (AS 2110.57) refers to making inquiries of “others” likely to have knowledge about instances of noncompliance. Why not require auditors to make this inquiry with the head of compliance? Who is best suited to discuss the state of compliance – hopefully it’s the chief compliance officer.

In one section of the standards (AS 2110.56c), PCAOB begins a requirement with “If the company has an internal audit function,.....”. Similar language could be used with respect to this inquiry of the chief compliance officer.

The two most important places in the proposed standards where this inquiry of the chief compliance officer should be addressed are in AS 2405.06a.(3) and AS 2110.57.”

II. Inquiry of Board-Level Committee with Compliance Risk Oversight
AS 2110.56b(5)

“Secondly, on a related matter, the proposed standard’s guidance on inquiries of the audit committee (See AS 2110.56b(5)) states that auditors should ask about how the committee exercises oversight of the fraud risk assessment process, but it does not ask about compliance risk oversight. As we all know, an audit (or other) board-level committee should have responsibility for oversight of the compliance and ethics program. Accordingly, to adequately evaluate how a company manages compliance risk, auditors should ask the audit [or appropriate board-level] committee about its oversight of the compliance and ethics program, too.

The long and short of it is that the proposed revisions place an appropriate level of attention on learning about a company’s compliance and ethics program. But they do so without ever requiring the auditors to communicate directly with the chief compliance officer. While many auditors already do this as a matter of practice, this should be explicitly stated in the standards, so that auditors receive the most accurate information from the correct source.”

Sincerely,

Rory Kaneshiro