

“A Day In The Life Of A General Counsel” Scenario Questions

As you reflect on the “A Day In The Life Of A General Counsel” scenario, please consider, and be prepared to answer, the following questions. We often want “more information” before answering, but in our roles as General Counsels, there is rarely time for “more information.” Accordingly, you will have to go with what you have read in the scenario. Also, please pose additional questions or spot issues that may not be specifically addressed by the below questions. Please share your knowledge and experience so that we can all learn from each other!

1. What risks does Dakotas’ financial condition pose for the organization and what is your role, if any, in addressing those risks. What specific actions will you take or recommend relative to Americas Health Care’s threat to not renew the Medicare Advantage contract, and relative to bond covenants, investor concerns, and the line of credit?
2. What governance issues do you see? How would you go about addressing those issues?
3. How do you assess the “Legal-Compliance” relationship “tension,” and do you address it now or let things “play out?”
4. How will you address the concerns raised by your thirty (30) year paralegal, the anonymous letter you received, and your #2’s reaction to those concerns?
5. Your #2 has essentially notified you that she is considering leaving the organization. You had no idea this was coming, and she did not share the reason for her potential departure. You depend on this individual for many things and the thought of her leaving and the disruption it will cause – both to you and the legal department – is significant. What are you going to do?
6. Based on the descriptions in the scenario, how would you describe the current organizational culture and upon what do you base your assessment? Describe any positive and any negative aspects of the culture. How does culture affect the organizational performance? What, if anything, could a General Counsel do in this “culture” space?

7. The Chief Physician Executive clearly had a strong negative reaction to your comments. In light of this, would you have done anything differently? And what, if anything, do you do with him now?
8. The Chief Operations Officer wants you to “go to the Board” about the allegedly undisclosed risks of moving deeper into risk based care products AND the memo from the CEO to the Board of the potential M&A “target” containing representations about Dakotas’ expertise in risk based products? Is it your role to “go to the Board” at this time – or ever? Explain your assessment and describe how you will manage this request.
9. The CEO (your supervisor) has given you clear direction in several areas – physician compensation, dropping Medicare fee for service patients, changing out the physician compensation consultant, “dealing with” the employee who raised the RAF score issue. How and when do you respond to your supervisor’s “direction” and the manner in which it was given?
10. How would you define “psychological safety,” and does it exist in the Dakotas organization? How could the General Counsel influence this aspect of organizational culture?
11. The COO has presented you with a memo that you have never seen before – one that was authored by your CEO and directed outside of your organization to another organization. What are the implications of this memo, both internally and externally? What, if anything, are you going to do about the fact that these discussions are further along than you realized and you have not been consulted?
12. How would you assess the Executive Team dynamics and what factors did you consider in arriving at your assessment? As you reflect on your comments at the Executive Team meeting and now have the benefit of hindsight, would you do anything differently in terms of your own communications?
13. This scenario illustrates the many challenges your organization faces – both internally and externally. Many of your department members have seen the tension in the organization, including among senior leaders, and the media has reported on the declining financial performance. They want to know “what’s going on – should I

be looking for another job?” How much do you share with your direct reports and department overall – and why?