Why People Fail To Comply

For legal professionals · Fair Notice

A diagnostic frame for reviewing non-compliance — and how to tell capacity failure from a decision.

THE COMPLIANCE STACK

Meeting a single ordinary condition requires a chain of discrete cognitive operations. The chain is invisible to people for whom it is automatic.

To attend one appointment, a person must:

1. Register the requirement when told
2. Encode it into a durable external record
3. Retrieve it at the right time, days or weeks later
4. Initiate the sequence of actions required to arrive
5. Solve any transport, childcare, or work conflict
6. Tolerate the anxiety of attending
7. Arrive

> **Failure at any single link produces an identical observable outcome: absence.** The record shows “failed to appear.” It does not show which link broke, and nothing in ordinary practice asks.

FAILURE-POINT ANALYSIS

WHAT YOU OBSERVE	LIKELY LINK	PRACTICE RESPONSE
Missed one, attended the rest	Encoding or retrieval	Reminder system, not a violation
Attended none, no contact	Registration or initiation	Direct contact; re-explain with teach-back
Attended early, stopped abruptly	Overload, or a life event	Ask what changed
Attended, complied wrongly	Comprehension	Written plain-language terms
Complied, failed to report it	Prospective memory	Structured monthly check-in
Avoided contact after one failure	Shame spiral	Proactive outreach, explicit no-penalty framing

THE SHAME SPIRAL

This one deserves emphasis. **One missed appointment frequently produces total disengagement**, because the person becomes more afraid of the consequence of the first failure than of the consequence of disappearing.

Proactive outreach after a single miss prevents a disproportionate share of total program failure. It is also the cheapest intervention available to any office.

THE CURE WINDOW

Proposal: a 72-hour outreach window before a violation is filed for a non-appearance or reporting failure. Direct contact — call or text, not mail — establishing what happened and rescheduling.

It costs one phone call	A violation costs a hearing, a calendar slot, counsel time, and frequently custody.
It distinguishes capacity failure from absconding	No current process does this.
It preserves program integrity	A person who cannot be reached in 72 hours is a different case — and now you have documented that.
It requires no legislative change	In most jurisdictions this is a practice decision.

A question worth asking in your own office: *what would have to be true for us to adopt a 72-hour cure window next month?*

A DIAGNOSTIC QUESTION FOR THE NEXT REVIEW

In the last violation you handled — **which link broke?**

The honest answer is almost always that nobody asked. That is not a criticism of anyone's practice. It is a description of a process that was never built to ask.

WHAT THIS IS NOT

None of this excuses conduct or reduces anyone's accountability. Participants in our programs remain fully responsible for every obligation they hold. What changes is the accuracy of the inference drawn from a failure — and, where an office chooses, the design of the condition itself.

Fair Notice provides educational programming and does not offer legal advice, legal representation, clinical diagnosis, or treatment. This material is general professional education and is not advice about any matter. Rules of professional conduct, accessibility obligations, and procedure vary by jurisdiction and change — confirm current requirements with your own counsel and your court's ADA coordinator. Prevalence figures are research estimates that vary by study, setting, and screening method. All Fair Notice services are free.