Effective Compliance Program Elements - #3 Training and Education

By: Philip Hammarberg and David Traskey

Philip Hammarberg: Welcome to the Garfunkel Wild Podcast. My name is Philip Hammarberg and I'm here with David Traskey. We're both partners with Garfunkel Wild.

Philip Hammarberg: Today, we're going to be discussing the features that make up effective compliance programs. OIG has identified 7 elements of an effective compliance program. We're going to be discussing the 3rd element: training and education.

Philip Hammarberg: David, what can you tell us about training and education?

David Traskey: Hi, Phil, thanks for having me today. I think, before we hop into training and education, one of the things that I would like to, sort of revisit is, in the previous podcasts, we focused on how everyone within an organization is responsible for fostering a culture of compliance.

David Traskey: It doesn't matter what your rank or your title, or your level of seniority is or isn't. A culture of compliance starts at the top of the organization, and the most successful ones, compliance permeates every layer of the organization. And so the key question is, well, how do you start to create that culture?

David Traskey: The one answer, one of many answers, is through training and education. Typically the organization's Compliance Officer and their Compliance Committee, along with input from the C-suite and or the Board of Directors, develops an annual education plan, training plan that specifically addresses an organization's unique needs.

David Traskey: Ultimately, this is a situation where you're sort of, as you would say, Phil, training the end user to be aware of certain aspects of the compliance program. And this is typically most often done through either something like a series of PowerPoints or maybe computer-based training, a pre-recorded training, or even sometimes in-person trainings

Philip Hammarberg: Okay, interesting. So who typically takes these trainings?

David Traskey: Typically all board members, officers, employees, contractors, and medical staff, if there are any. Also important to note that new hires should receive the compliance training as soon as possible upon hiring, ideally within 30 days of starting.

David Traskey: In addition to taking it, it's important to document and memorialize records if you're in the compliance office to be able to demonstrate that these individuals completed the training. This can be done in a variety of different ways. Maybe by using like a sign-in sheet, or if it's an electronic program by generating an electronic certificate of completion.

David Traskey: It's also really important that the training that's being presented is accessible to all audiences, and it should be part of a condition of their continued employment within the organization. It's important to consider, depending on your staff, whether or not these materials need to be translated into other languages.

David Traskey: As I mentioned a minute ago, one of the ways to ensure that folks complete the training is to tie it to their employment and their performance evaluations such that they're aware that the failure to comply with the training requirements could result in consequences, up to and including termination. And also, as I said, completion of the training should be a basic requirement for each employee's or their or contractor's annual performance evaluation.

Philip Hammarberg: Okay, what are some of the topics that are typically addressed during the training?

David Traskey: Well as we talked about in one of the previous podcasts, Phil, as you know, compliance is not a one-size-fits-all scenario. So there's going to be some key topics, I think that would be common to all compliance programs and education and training.

David Traskey: But also it's important to recognize that the training and education has to be tailored or targeted to specific risk areas that are maybe unique to a particular organization or entity.

David Traskey: But if we're talking about the common key topics, I would probably offer the following: first would be the existence or the elements of the organization's compliance program and how to report potential concerns in good faith without fear of reprisal or retaliation.

David Traskey: Some subtopics of this may include things like identifying who the Compliance Officer is, and what role they play, the role of the Compliance Committee, the organization's commitment to open communication and non-retaliation, as well as the consistent and impartial application of the organization's policies and procedures.

David Traskey: One of the other key topics that's necessary to include is the commitment of the organization to complying with Federal and state standards that are applicable to the entity. This might be, for example, the False Claims Act, the Anti-kickback

Statute, the Stark Law, and the state companions to these laws. It could also be others, like the Civil Monetary Penalties Law, as well as HIPAA, privacy and security issues.

David Traskey: Some other things that may be common to all training and education programs are things like training and educating on any concerns that may have been identified in audits, program evaluations, or investigations. We also commonly see training and education on conflicts of interest, issues of board governance and oversight, as well as any changes or updates in applicable laws, rules, or regulations, and as I mentioned risk areas that are unique to the entity there.

David Traskey: And then, just to sort of close the loop on this, the other part of training and education relates to sort of targeted areas, and it may be that the Compliance Officer or the Compliance Committee develops targeted training for certain individuals based on their roles within the organization. So, for example, if you're involved in billing and coding, there may be supplemental training on that. There could also be supplemental training on things like medical record documentation and medical necessity. Things like gifts or other beneficiary inducements. How to navigate interactions with physicians and other referral sources and training and education related to sales and marketing.

David Traskey: But what's really important at the end of the day is regardless of what the topic is and/or the format, that participants to the training have an opportunity to ask questions and get answers from the compliance team.

Philip Hammarberg: So, David, with these trainings, where can an entity get materials from?

David Traskey: There's a variety of different ways to source your materials for training and education purposes. One would be, depending on the size and of your organization and the personnel that you have, you may be able to develop these trainings in-house. Other times we see organizations using a third party vendor, or they contract with an external training partner, for example, like GW, well, that's one of the things that I do in my role in the Compliance Department is to train our clients on relevant matters.

David Traskey: Again, the other option that I would say is for small to medium sized entities, sometimes budget is an issue. If some of these other options may be outside of your budget, OIG also has some complementary materials on its website, and to the extent that you're venturing out into cyberspace and looking at other items or other sources for materials, just make sure that they're coming from reputable sources.

Philip Hammarberg: That's important to know. Is there anything else you'd like to add?

David Traskey: I think so. I mean, oftentimes organizations are busy, and compliance efforts are maybe not always viewed in the most favorable light. You know, that they're a speed bump to progress, perhaps, but it is really important that we create that culture of compliance and one of the ways in which you can do that is by what I call sort of normalizing the idea of compliance.

David Traskey: Right? So even though the training and education that we've spent the last few minutes talking about occurs annually, it's really important that that training and education is not limited to a one time a year event, rather, what I would say is, entities can look for different ways to sort of weave in compliance into the day-to-day aspects of the work that they do.

David Traskey: So, for example, you might consider, maintaining a frequently asked questions, document, or your materials, your compliance training materials, on an intranet available to your target audience so that they can go back and review it if they have questions. You might consider, including a line item or an agenda item that addresses a compliance issue when you have a regularly scheduled meeting, whether it's an executive leadership meeting, a medical staff meeting, or some sort of an all hands meeting. And then it sounds sort of silly, but one of the other ways that you can kind of make sure that compliance is on the top of everyone's mind is by posting short video clips, or even having a screen saver that has some compliance information on it. Maybe posters that are in physical spaces or virtual spaces where people can see them with some regularity. Or maybe it's something as easy as having a newsletter or an article in in the organization's publication that appears with some regularity.

David Traskey: Again, it's all about creating that culture of compliance and keeping compliance. The importance of compliance on the top of folks' mind as they go throughout their day.

Philip Hammarberg: Excellent. Thank you, David. And thank you to the listeners. You know we'll continue this compliance series next time.