



Does Your Ethics and Compliance Training Meet the Standard?

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All of us in the compliance world have heard, many times, that any effective compliance and ethics program must include training. Since we already know the requirement, you are probably reading this article for one of two reasons: (1) You have no idea how to tackle your first training effort, or (2) You've completed at least one round of training and you are starting to wonder how to improve or increase interest the next time around. I will strive to offer ideas that will meet both needs.

When the Government Speaks

Let me start at the root of any compliance discussion – what the government requires. There are several OIG model compliance guidance documents available currently, and each contains some general and some specific requirements. If you are part of an organization whose business falls under one of these model plans, then your list of government requirements is already written. But for those entities that cannot claim a model guidance document tailored to their businesses, these requirements make a good checklist when you begin training design for new or refresher programs.

Requirements of Almost All Model Programs

The common general requirements among nearly all current guidance documents include:

- All employees should be trained periodically - preferably each year. Annual refresher training is specified in the newest guidance for Individual and Small Group Physician Practices.
- Standards of conduct should be distributed to all employees.
- Content should discuss the compliance program itself and applicable statutes and regulations.
- Individuals working in risk areas and specific employee groups, such as managers and corporate officers, should receive specialized training in topics related to their responsibilities.
- New employees should undergo training soon after their start date. While no timeframe is specified in most model program documents, many organizations include compliance training with orientation or at least within 30-60 days of starting. This 60-

day requirement is specified in the compliance guidance for Individual and Small Group Physician Practices.

- General compliance training should talk about the commitment to corporate ethics and compliance, risk areas, each employee's role, the consequences of misconduct, compliance as a condition of continued employment, and raising issues to management. Some of these topics are not specified in the Individual and Small Group Physician Practices guidance.
- A variety of training formats can be used as well as outside or inside trainers.
- Adequate records should be kept regarding training sessions including attendance logs and materials distributed.
- Cultural diversity, skills, experience and knowledge of individual employees must be taken into account in the program design and materials.
- Participation in training should be a factor in annual employee evaluations. This is not specified in the Individual and Small Group Physician Practices guidance.

Some Additional Requirements

Some specific requirements of individual guidance documents follow. These are good to incorporate into any compliance and ethics training program:

- At the end of each training session, employees must sign and date a certification that states their commitment to and knowledge of the organization's Code of Conduct. (Third-Party Medical Billing Company and Durable Medical Equipment (DME) model programs.) Employees are usually okay about signing something that says they were trained, but they sometimes object to a certification that says they understand the Code.
- Certifications should be kept in employee personnel files. (Third-Party Medical Billing Company and DME model programs.)
- Contracted consultants, physicians and other agents should undergo the same training or at least receive the standards of conduct and sign a similar certification. (Third-Party Medical Billing Company and DME model programs) It would be even better to offer training tailored to these groups.

How Many Hours to Train

No minimum number of training hours is specifically mandated in any of the model program documents, but we can turn to recent corporate integrity agreements (CIAs) to get a feel for what the government expects as a minimal time commitment. Some of the older CIAs, such as the Caremark agreement, required one hour of training annually for all employees. Newer CIAs, however, are much tougher requiring at least two hours of general training for all employees annually plus at least three more hours of specialized education for specific risk area personnel.

What to Talk About

The Basics

After the list of required topics outlined by the government, you may think that there is no time for anything else. But it is crucial to design your program around a theme or an overarching message to keep your audience engaged and to weave the program together

as a coherent whole. A program that jumps from commitment, to laws, to consequences, to reporting, and ends with the inevitable “you could be fired if you are not in compliance” sounds authoritarian and disjointed – as well as boring, no matter how you sugar-coat it. Your program needs more.

Decision-Making

Some programs talk about ethics theory. This is dangerous. Employees do not respond well to theory since it is abstract and makes them wonder what the program is really supposed to accomplish. It is better to emphasize good decision-making and ethical reasoning. Some organizations construct four or five step decision-making tools, usually based on an acronym that spells out an organizational value or element of the program. While these can be effective, we have had better reactions to shorter tools. Shorter is usually easier to understand and more memorable, and addresses the issue of wide ranging learning levels.

Combining Ethics with Compliance

The challenges and consequences of sound decision-making should not be limited to compliance issues only. Ethical situations and values need to be incorporated. While many healthcare compliance professionals agree with this philosophy, the main focus and theme of the typical training program in a health care organization is still the regulations. Coding and billing, PATH, EMTALA and other regulatory issues are certainly important, but they are not the only issues. For compliance messages to take root and embed themselves into the culture, training must engage the personal values and emotions of employees. And that calls for discussion of organizational values, people topics like fair treatment and respect, the employees’ own good sense, and patient care.

General compliance or integrity training must then straddle the dual areas of compliance and ethics. But this approach will probably not fulfill your need for more extensive compliance training. It is helpful to plan from the beginning to offer special compliance sessions for specific groups to ensure that these people understand the rules and regulations that pertain to them. When this gets put off, it can fall off the list when you run short of time or money.

Who Needs to be Involved

Compliance Officer

It always amazes me to think about the number of people that need to work together to launch a compliance training program. In my former life, we held a celebration at the launch of integrity training for those who worked on the program. The room was packed. The compliance officer certainly can’t do it alone, although he or she should be the master architect and overseer of the process. If this falls to HR, as do so many training programs, there must be excellent communication between the HR designee and the compliance officer to ensure that the program ends up with the right messages and tone.

Executive and Senior Management

Executive management must be involved, hopefully in several ways. We've heard about the power of "tone at the top" and its importance to the success of a compliance program. A well-crafted message from a senior manager lends credibility and endorsement to the training and helps employees to buy in. The message from management usually addresses the purpose of the training program and the importance of sound business conduct. In addition, if senior managers kick-off live training personally or go even further to train a few sessions, the message is even stronger. A personal appearance by a senior manager coupled with a good quality video of the CEO or Chairman of the Board delivering the keynote message can be very inspirational.

I need to say a word here about the meaning of "quality video". Real people saying a scripted piece on film can come across flat and contrived. And it is far better to use an approach that showcases your leader at his or her best. If your CEO is a natural in front of the camera, go ahead and script him or her. But if he or she freezes up, sounds like they are reading lines, or has "deer in the headlights" syndrome, it would be better to utilize clips of an informal interview where the CEO is engaged in natural conversation. Alternately, consider using graphics with CEO voice over to break up the executive monologue and add pacing. The point is to know how your leader comes across best. I have viewed training videos where the CEO is painfully uncomfortable and not presented in a way that plays off his or her strengths. As a viewer, it makes me feel embarrassed. So be careful.

Human Resources

Another group that should be involved in training development is Human Resources. If HR is not driving the whole effort, they should be pulled in early in the process. They are the keepers of employee records and, as we've noted in the government model programs, they need to interphase with your compliance program to track employee attendance, link attendance to performance appraisals, ensure timely training of new employees, and potentially to file signed certifications in personnel files. These tasks become extraordinarily difficult without HR cooperation.

Coordinators

In widely dispersed organizations with many physical locations, an HR designee can play a vital role in coordinating the training sessions. This is true no matter what platforms you choose to launch training. For live programs, the coordinator can schedule sessions, get materials to trainers, receive back attendance logs and certifications, and follow up on any employees who fall through the cracks. The coordinator is usually responsible for sending out and receiving back materials for self-study programs and tracking attendance, either manually or electronically, for computer-based training. Coordinators are especially important in situations where more than one training platform is utilized. The coordination role is vitally important since proper orchestration of logistics is absolutely key to the success of your program.

Trainers

Another important people choice to make for live programs is identifying trainers. All government model programs allow the use of internal or external trainers, as long as they are properly qualified to do the job. There are pros and cons to each choice. The use of internal trainers, especially management level operations people, shows a tremendous commitment to the importance of the program. However, an issue with the use of internal trainers is lack of time and experience. Operations and senior management staff trainers need to add integrity training to an already packed schedule. This makes preparation difficult and the training messages may not be delivered in a consistent manner, no matter how good your train-the-trainer efforts are.

Because of these challenges, in many cases training falls to the human resources department where there are usually some seasoned trainers. The problem here is that compliance becomes just another training session – over and done like benefits training or management skills training. Not that these programs aren't important, but the perception by employees is that it is a one time event instead of a component of a culture shift

Professional trainers offer an alternative to using internal staff. Again, there are positive and negative considerations. Professionals will deliver the program in a consistent and effective manner, however, the down side is that it costs more money. But if internal trainers are difficult to find due to skill level or busy schedules, outside trainers can be a good investment.

Vendors

A section on who should be involved would not be complete without a mention of vendors. This may be one of the most important people decisions you need to make. A good vendor of training services will listen closely to your ideas, needs and capabilities. He or she will not sell you something you don't need. And what the vendor does provide, whether it is program design, production or live training, should be cost effective and customized to your organization. Many organizations have felt ripped off and disappointed by off-the-shelf programs. Shop carefully and check references.

How to Put It Together

Format

One of your first decisions about training design will be in what format to present the program. Some CIAs have mandated live training for a specified number of hours annually. CIA mandates aside, live training is the method of choice to engage emotions and to model candor, commitment and discussion of issues. If one of your program objectives is to motivate employees to raise issues and ask for guidance before small concerns turn into big problems, live training does it best. Live sessions often incorporate slides, videos or group activities to enlist audiences on several levels.

Slide-making software coupled with LCD projectors allow creation of colorful and animated slideshow presentations. In our media savvy culture, good-looking electronic

presentations are expected. If you choose the video route, budget will be a factor. It is important to partner with a vendor who can produce a quality video for a reasonable price. The going rate is now about \$1000-\$1500 and more per finished minute of film. If you cannot afford good quality, don't choose video. Your learners were raised on "Star Wars". If your video quality is below par, they will spend the entire training session silently critiquing the film instead of absorbing its messages.

But sometimes the sheer scatter of employees over a large geographic area and the rising number of work-at-home staffers can make the logistics of face-to-face training nightmarish. This leads us to consider the many individual learning methods that are currently available. The low-tech, low-cost choice is some type of paper program such as a self-study workbook or a series of learning modules with post-testing. This approach is probably least engaging and poses a formidable logistics challenge.

With the coming of age of computer-based training (CBT), better self-study options are open. CBT is ideally suited to black and white regulatory compliance topics. Ethics and values messages are more difficult to convey since computers don't readily tap into values. However, some very effective ethics and compliance training is being launched via CBT. For workforces without consistent computer availability, kiosks can provide access to training. However, training a large number of employees with only a few kiosks can take a very long time. If most employees have access to a computer, very good programs can be offered via CD-ROM or the Internet. Audio and video components can add interest but will increase cost and may challenge hardware capability. I must add one cautionary note, especially in the health care setting. Many employees are still not comfortable with computers. That and the wide range of learning levels in the typical health care organization may limit CBT application for the time being.

Engaging the Learner

We know that different people learn in different ways. You may learn more from visual presentation and I may learn more from hearing the information. Because of this disparity, it is important to present your messages in a variety of ways during a single training session. In live training, incorporate segments that utilize several methods of communication and information processing. For instance, using a slideshow, video, group discussion and a written assessment together causes participants to listen, watch, switch attention between media, talk with peers, think and write while answering questions. Of course the more time you have, the more you can do, but it is very important to switch methods at frequent enough intervals to keep everyone engaged. In self-study formats, CBT allows the most flexibility. Such programs can use text, embedded video or still shots, audio streaming and interactive Q&A.

Some of the more effective training designs incorporate case studies based on real issues that have occurred in the organization. Participants can talk about the cases in small groups, but during the facilitated debrief be careful not to put anyone "on the spot" by asking them to report what their group talked about. The topic of ethics and compliance can be stressful enough without "volunteering" attendees to do public speaking.

Also, the skills and learning level of the participants will affect their ability to engage. In health care settings, there is usually a large range of skills among participants. Training may need to include everyone from physicians all the way to non-English speaking hourly staff. I once even conducted a session with some deaf attendees. While there may be highly educated participants, any training should be written at a level that accommodates your least skilled learner. Explain words like “integrity” and “compliance” in appropriately simple terms. And before launch, test-drive your program with some of these least skilled employees. Their feedback is valuable – especially at a point when you can still change the program.

A simplified program may be boring for physicians and other professionals. Striking a balance can be difficult and it may make more sense to create a separate training program for physicians that focuses on issues unique to them. If you go down this path, consider alternative training formats and offering CME credit. You might try a grand rounds session given by a health care lawyer (including food!) or an audiotope series that physicians can listen to in their cars. Each physician group has its own personality, so it is wise to do some homework and find out what teaching method works for yours.

You will need to spend time focusing on the other end of the learning spectrum as well. Make a decision up front about how you will handle non-English speakers. We recommend separating out non-English speakers and using a bi-lingual trainer in a live session to communicate the messages. If there are several languages to deal with, consider training the supervisors with the general program and equipping them to communicate the program “meat” to their people in a staff meeting.

Materials

Your Code of Conduct will probably have a prominent place in your training program. A well-written and appealing format will increase the likelihood that employees will read and understand it. Stating your messages at an appropriate level is key. Too often Codes read like a legal brief or a scanty outline.

You may want to consider distributing a give-away during the training. This item is often a pocket card containing your toll-free number and decision-making model. But many organizations come up with imaginative items such as puzzles, paperweights, stickers, notepads and others. Give-aways are quick reminders of the training and they keep popping up long after the sessions are over.

Think about the kind of attendance or completion records you want to retain after the training and plan for it as part of your materials packet. You may use sign-in sheets, signed certifications, on-line registration forms or another method. It may be useful to get human resources involved in this decision, especially if the documentation needs to interphase with personnel records.

Testing

There is some controversy about the value of measuring what participants learn in ethics and compliance training. Should you assess learning immediately after the session, or six months later? What kind of questions will truly indicate what was learned? Should you simply monitor the change in number of calls or the number of issues raised to the compliance office after training? The model compliance programs require monitoring of your compliance program elements including training, but how should you do it?

The best way to measure compliance learning has not been established, but we have seen several approaches. One program asks several questions from the Code of Conduct as a pre-training test and asks them again immediately after training as a post-test. The results are then used for benchmarking and planning subsequent sessions. Another program asks questions about the ethical environment as part of an anonymous written evaluation at the end of training. Still another approach, which I favor, is to conduct focus groups with employees 6 to 12 months after training is completed to assess the ethical climate and identify any compliance issues that may still need to be addressed. This last approach is best for determining a change in employee behavior.

New versus Veteran Participants

New employees need different information than those who have been through at least one round of compliance training. Often new employee programs emphasize the components of the compliance program, the Code of Conduct and employee responsibilities to a greater extent than veteran programs. Your first year training program may continue to serve as your new employee program for years to come, if it is well crafted.

Veterans expect a more in-depth treatment of issues. They will be familiar with the program and will want to explore the gray areas of decision-making. After all, everyone knows how to choose right over wrong, but what about choosing between two right choices, where the only difference may be the consequences of the decision? For example, new employees may hear, “Don’t break patient confidentiality.” But veterans will want to talk about, “If someone’s life is in danger, should I break confidentiality to save it?” While some of these gray areas are risky, seasoned employees will eventually conclude that your program is only pabulum if you don’t go into the tough, real issues with honesty and candor.

Pulling It Together

Making all these elements come together in a logical process is sometimes the most difficult task of all. Training development can get bogged down easily in internal politics and in the stacks of other work always on the compliance officer’s desk. Here is a checklist that I use to manage the project development. Some steps can occur simultaneously and in a different order, depending on your organization. But all steps need to be addressed before you are done:

- Get feedback from stakeholders regarding hot buttons issues for content. This could include representatives from legal, HR, administration, nursing, etc.
- Determine training format. If using CBT, contact IS to verify computer capability.

- Decide how many programs you are working on i.e. new and/or veteran, all employee program and/or compliance for special groups.
- Create timeline. Our experience has taught us that one training program takes from 3 to 4 months to totally produce depending on media used and how hard you drive development.
- Write outline of program.
- Determine what materials will be used in training.
- Get stakeholder and executive sign-off on basic plan.
- Determine what information you will collect from the training, who will do it and how it needs to be done.
- Identify trainers and coordinators, if applicable.
- For live programs, determine audience size. A smaller audience is better for interaction –about 15 - 25 participants. If larger sessions are necessary, consider incorporating small group exercises to facilitate discussion.
- Decide if you will do live training by department, job level, etc. or if you will conduct heterogeneous classes. Consider separate training for those with language barriers, learning disabilities and those at the other end of the learning spectrum, as previously described.
- Identify vendors for media, print work and training design and delivery, if necessary.
- Write training program.
- Get appropriate input and edit, as many times as necessary.
- Get final sign-off on content.
- Pilot program without media in front of selected audiences. Your program can undergo major changes based on the pilot feedback so it is best not to shoot video, print materials or write computer code until this step is completed.
- Edit program with pilot feedback.
- Create media and print materials.
- Design logistics, in other words – who has to do what when. This can never be too detailed.
- Train trainers and program coordinators, if applicable.
- Send out program announcements with instructions for how to register for a class or how to complete self-study material, whichever applies.
- Schedule live sessions, if applicable. Start training.
- Collect data as training continues and create reports for compliance files.
- Follow up on employees who missed training.
- Take a deep breath. It's all over.

And that's all you need to do.

When It's Over

New Hires and Tracking

After you complete a round of training, you will probably still need to ensure that new employees continue to go through the program in a timely manner. This may mean creating a process to make sure this happens and a mechanism for getting new hire training reports. You will also want to know that the documentation of your training

efforts is properly formatted for easy reference and filed appropriately. Many database programs are good for formatting purposes. I have been in the position of being deluged with data without a workable plan for sorting and filing it. The last thing you need is a huge box in a storeroom somewhere containing thousands of randomly filed certifications. Good luck in retrieving the one document you need for employee discipline or evaluation purposes.

Follow Up Communications

Training is never really over. This article would not be complete without mentioning the value of ongoing communications. This is probably the least expensive and most overlooked aspect of training. A single poster is not enough. Think of all the various ways information gets distributed in your organization and consider that platform for an ethics and compliance message. This may include newsletters, Intranet messages, payroll stuffers, bulletin board postings, lunch table cards, brochures, e-mail, and posters. You may even consider running a contest in your facility to have employees' children create ethics posters.

Any mechanism that will capture the attention of your employees with ethics and compliance messages at periodic intervals is fair game, as long as it is not considered silly or trivial in your culture. For subject matter, look to the policies in your Code of Conduct, sift through your hotline calls, find ethics quotes and cartoons, and check with other organizations to find out what's worked for them. If time and money are short, start with something small. Anything is definitely better than nothing.

What To Do Next

There is certainly no one way to do ethics and compliance training. The government gives us guidance regarding required elements, but the rest of the program is open to your creativity. It takes many people and many steps to produce good quality training that is interesting, informative and motivating. Your next step might be to decide if your current program plans meet that standard, and if not, to plan creative improvements.