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Sample Healthcare Compliance Program

1. Introduction

COMPANY is committed to establishing and maintaining an effective compliance program in accordance with the compliance program guidance published by the Office of Inspector General, U.S. Department of Health and Human Services ("OIG Guidance"). The purpose to our Compliance Program is to seek to prevent and detect violations of law and company policy.

2. Statement of Policy on Ethical Practices (Policy)

COMPANY has a policy of maintaining the highest level of professional and ethical standards in the conduct of its business. COMPANY places the highest importance on its reputation for honesty, integrity, and high ethical standards. This Policy is a reaffirmation of the importance of the highest level of ethical conduct and standards. These standards can be achieved and sustained only through the actions and conduct of all personnel of the COMPANY. Each and every employee, including management employees, of the COMPANY is obligated to conduct himself/herself in a manner to ensure the maintenance of these standards. Such actions and conduct will be important factors in evaluating an employee's judgment and competence, and an important element in the evaluation of an employee for raises and for promotion. Employees who ignore or disregard the principles of this Policy will be subject to appropriate disciplinary actions. Employees must be cognizant of all applicable federal and state laws and regulations that apply to and affect the COMPANY's documentation, coding, billing, and competitive practices, as well as the day-to-day activities of the COMPANY and its employees and agents. Each employee who is materially involved in any of the COMPANY'S documentation, coding, billing or competitive practices has an obligation to familiarize himself or herself with all such applicable laws and regulations and to adhere at all times to the requirements thereof. Where any question or uncertainty regarding these requirements exists, it is incumbent on, and the obligation of, each employee to seek guidance from a knowledgeable officer of, or attorney for, the COMPANY.

3. Written Standards and Procedures

The COMPANY has created numerous compliance policies and procedures that articulate the COMPANY'S commitment to comply with all Federal, and State regulations. Many of these policies/procedures are designed to prevent fraud and abuse by providing guidelines for individuals working in certain "at-risk" areas. Our compliance standards apply equally to ALL employees regardless of tenure or rank within the organization. It is the responsibility of each employee to become familiar with the standards and procedures that apply to their day-to-day activities and to comply with such policies at all times. In addition, acceptance of the Code of Conduct is a mandatory aspect of employment which must be reaffirmed annually by each employee.

In particular, and without limitation, each is employee is prohibited from directly or indirectly engaging or participating in any of the following:

- Improper Claims - Presenting or causing to be presented to the U.S. government or any other healthcare payor a claim:
 - Item or Service Not Provided as Claimed - For a medical or other item or service that such person knows or should know was not provided as claimed, including a pattern or practice of presenting or causing to be presented a claim for an item or service that is based on a code that such person knows or should know will result in a greater payment to the claimant than the code such person knows or should know is applicable to the item or service actually provided;
 - False Claim - For a medical or other item or service and such person knows or should know the claim is false or fraudulent;
 - Excluded Provider - For a medical or other item or service furnished during a period in which such person knows or should know the claimant was excluded from the program under which the claim was made;
 - Not Medically Necessary - For a pattern of medical or other items or services that such person knows or should know are not medically necessary;
- False Statement in Determining Rights to Benefits - Making, using, or causing to be made or used any false record, statement, or representation of a material fact for use in determining rights to any benefit or payment under any healthcare program;
- Conspiracy to Defraud - Conspiring to defraud the U.S. government or any other healthcare payor by getting a false claim allowed or paid;
- Provision of Care to Contract HMO Patients - Knowingly failing to provide covered services or necessary care to members of a health maintenance organization with which the COMPANY has a contract;
- Healthcare Fraud/False Statements Relating to Healthcare Matters - Executing or attempting to execute a scheme or artifice to defraud any healthcare benefit program or to obtain, by means of false, fictitious, or fraudulent pretenses, representations or promises, any of the money or property owned by, or under the custody or control of, any healthcare benefit program;
- Failure to Report Violations to Compliance Coordinator - Failing to promptly report to the Compliance Coordinator (as defined below) any instance of noncompliant conduct, including without limitation violations of the standards described above, with respect to the COMPANY or any of its employees which is known to such person.

4. Appointment of Compliance Coordinator & Compliance Committee

To oversee and implement the COMPANY's Compliance Program, the COMPANY has appointed _____ as its Compliance Coordinator. The COMPANY has chosen its Compliance Coordinator based on his or her outstanding record of commitment to honesty, integrity, and high ethical standards, and on the officer's knowledge and understanding of the applicable laws and regulations. The Compliance Coordinator will provide for education and training programs for employees, respond to inquiries from any employee regarding appropriate billing, documentation, coding, and business practices and investigate any allegations of possible impropriety.

The duties and responsibilities of the Compliance Coordinator shall include, but are not limited to, the following:

- a. working with the chief executive officer, chief financial officer, chief operating officer, and general counsel in the preparation and development of, and overseeing the implementation of, written guidelines on specific federal and state legal and regulatory issues and matters involving ethical and legal business practices, including, without limitation, documentation, coding, and billing practices with respect to requests for payments and/or reimbursements from Medicare or any other federally funded healthcare program
- b. developing and implementing an educational training program for COMPANY personnel, including medical staff, independent contractors who furnish medical services, management, and all other employees, to ensure understanding of federal and state laws and regulations involving ethical and legal business practices including, without limitation, documentation, coding, and billing practices with respect to requests for payments and/or reimbursements from Medicare or any other federally funded healthcare program
- c. handling inquiries by employees regarding any aspect of compliance
- d. investigating any information or allegation concerning possible unethical or improper business practices and recommending corrective action when necessary
- e. providing guidance and interpretation to the chief executive officer and COMPANY personnel, in conjunction with the COMPANY's legal counsel, on matters related to the Compliance Program
- f. planning and overseeing regular, periodic audits of the COMPANY's operations to identify and rectify any possible barriers to the efficacy of the Compliance Program, and to monitor activities to verify the effectiveness of the compliance program.
- g. developing policies and programs that encourage managers and employees to report suspected fraud and other improprieties without fear of retaliation
- h. preparing at least annually a report to the chief executive officer concerning the compliance activities and actions undertaken during the preceding year, the proposed compliance program for the next year, and any recommendations for changes in the Compliance Program

- i. coordinating personnel issues with the COMPANY's human resources office (or its equivalent) to ensure that the National Practitioner Data Bank and Cumulative Sanction Report have been checked with respect to all employees, medical staff and independent contractors
- j. ensuring that medical staff and independent contractors and agents who furnish medical services to the COMPANY are aware of the COMPANY's Compliance Program including, without limitation, its policies with respect to the specific areas of documentation, coding, billing, and competitive practices
- k. Overseeing the compliance hotline and independently investigating and acting on matters related to compliance.
- l. Developing policies, materials, and programs that encourage employees to report suspected fraud, abuse, or inappropriate behavior.
- m. performing such other duties and responsibilities as the chief executive officer may request.

The compliance committee was established to advise the Compliance Coordinator, and to provide assistance with the implementation and maintenance of the compliance program. The compliance committee's duties include:

- a. Implementing changes to the program as they are developed by the Compliance Coordinator.
- b. Analyzing the facilities environment with regards to compliance risk areas and forwarding potential issues to the Compliance Coordinator for investigation and resolution.
- c. Assessing existing policies and procedures and recommending changes/improvements to the Compliance Coordinator.
- d. Working with the appropriate COMPANY departments to develop procedures and deliver training for compliance purposes.
- e. Documenting attendance at training and ensuring that all employees receive any applicable mandatory training and education.
- f. Recommending and monitoring, in conjunction with the relevant departments, the development of internal processes and controls to ensure that the day-to-day operations at the facility are in compliance with all applicable rules and regulations.
- g. Encouraging employees to step forward and report any and all instances of misbehavior.

5. Mechanism for Voicing Concerns

One function of the Compliance Program is to proactively identify issues and prevent compliance problems from developing.

Under the Code of Conduct, all employees are responsible for promptly raising concerns about any possible misconduct, including suspected

violations of any Federal healthcare program requirements or of the COMPANY's policies and procedures. This includes the potential misconduct of fellow employees, consultants, and contract or temporary workers.

- a. Employees should raise concerns before problems develop. This is one of their *most important responsibilities as an employee of the COMPANY*.
- b. Employees should first discuss a concern with their immediate supervisor, who is closest to the situation and best able to help.
- c. If an employee is uncomfortable discussing a concern with their immediate supervisor, the employee should report the concern to someone in an appropriate position, such as Human Resources, Quality Assurance; Regulatory Compliance; Legal; Billing/Finance; or Corporate Compliance Coordinator.
- d. Employees should never undertake to investigate an issue themselves. The Compliance Coordinator will review the matter and if there is a reason for concern.
- e. All employees, contractors and vendors are also encouraged to contact the Compliance Coordinator to ask questions or seek guidance regarding specific activities or policies and procedures.
- f. The COMPANY will treat calls about compliance concerns in a manner that is confidential, but also consistent with the need to investigate, cooperate with the government, and comply with legal obligations. A log will be maintained by the Compliance Coordinator that records all calls to the hotline, including the nature of the call, and the resolution of the issue identified. The Corporate Compliance Coordinator will respond promptly to all concerns received on the Compliance Hotline by carefully evaluating each potential issue before it is referred for investigation or other appropriate follow-up. A summary of the hotline activity will be included in the periodic reports from the Compliance Coordinator to the CEO/BOD.
- g. The COMPANY recognizes that employees may be reluctant to report concerns if they believe that doing so may result in retaliation or harassment. **The COMPANY's compliance policy is to protect employees from retaliation and maintain confidentiality in respect to all concerns raised. The COMPANY's managers, supervisors and employees must not engage in retaliation, retribution or any form of harassment directed against an employee who has reported, or is considering reporting, a compliance concern.** Any manager, supervisor or employee who engages in such retribution, retaliation or harassment is subject to discipline, up to and including termination. For contractors, such actions may lead to the termination of the contract under which their services are provided to the COMPANY.

6. Training and Education

Training and education is an essential component of an effective compliance program. The amount of training provided to employees will be directly related how much their job requires them to be involved with the provision

of services, or in the coding and billing of services. All employees will receive mandatory compliance training as part of their new employee orientation. In addition, mandatory subject specific training will be provided based on the employees' position and responsibilities within the organization. Attendance and participation in mandatory training is a condition of continued employment and failure to comply with training requirements will result in disciplinary action. Adherence to the provisions of the compliance program and attendance and participation in compliance training will be a factor in the annual performance evaluation of each employee.

7. Auditing and Monitoring

Ongoing auditing and monitoring is an essential part of any effective compliance program. Auditing and monitoring activities shall be conducted on an ongoing basis under the direction of the Corporate Compliance Coordinator. These auditing and monitoring activities will be designed to address compliance with laws governing CPT, HCPCS, and ICD-9 coding, claim development and submission, reimbursement, cost reporting, and marketing. In addition, the auditing activities will focus on compliance with specific rules and policies that have been identified by Medicare, the OIG, or the Fiscal Intermediary as high risk areas. Any overpayments discovered as a result of our auditing activities shall be promptly refunded to the applicable payer with appropriate documentation and an explanation of the reason for the refund.

As part of the monitoring process, the Compliance Coordinator will utilize techniques such as:

- On-site visits.
- Review of billing edit reports generated by the COMPANY (CCI, OCE, medical necessity) and discussions as to how such edits are resolved prior to billing an account.
- Interviews with personnel involved in management, operations, coding, billing, patient care, and other relevant activities.
- Questionnaires developed to solicit information from a broad cross-section of COMPANY staff.
- Reviews of financial records and medical record documentation for a sample of patient accounts.
- Trend analyses that seek to identify deviations, positive or negative, in specific risk areas over a given time period.

8. Response and Prevention

Violations of the COMPANY's compliance program threaten our status as a reliable, honest and trustworthy provider and may result in our being excluded from participating in Federal healthcare programs. For this reason, the Compliance Coordinator will promptly respond to any and all reports of

non-compliance. Records of such investigations will contain documentation of the alleged violation, a description of the investigative process, copies of interview notes and key documents, and the results of the investigation. If the Compliance Coordinator determines that disciplinary action is necessary, it will be prompt, and imposed in accordance with the COMPANY's policies and procedures.

If the Compliance Coordinator discovers credible evidence of misconduct and, after a reasonable inquiry, has reason to believe that the misconduct may violate criminal, civil or administrative law, then the Compliance Coordinator shall promptly report the existence of such misconduct to the appropriate governmental authority, demonstrating good faith and willingness to work with government authorities to correct and remedy the problem.

9. Enforcement and Discipline

The *Code of Conduct* applies to employees at all levels at all locations within the organization and will be enforced regardless of an employee's position, rank, or tenure. Failure by any employee to comply with applicable regulations or COMPANY policies and procedures will subject the employee, including supervisors who ignore or fail to detect misconduct or who have knowledge of the conduct and fail to correct it, to disciplinary action up to and including termination from employment. The COMPANY's policy and procedure manual sets forth the degrees of disciplinary action that may be imposed on employees for failing to comply with COMPANY policies. Intentional or reckless noncompliance will subject the transgressor to more significant sanctions than unintentional noncompliance or honest mistakes. Disciplinary action will be taken on a fair and equitable basis and will be applied in an appropriate and consistent manner - all levels of employees are subject to the same disciplinary action for the commission of similar offenses.