

## ***Code of Conduct: Your Shield Against Fraud and Abuse***

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There are measures practices can and should take to minimize the risk of fraud and abuse. Fraud is often reported by whistleblower employees, by those who have grown disgruntled because they cannot impact change within the practice, and by patients. Patients are encouraged to become active and report suspected fraud and abuse to their insurance carriers – even though they may not truly understand whether or not a practice is acting fraudulently. And now, the Center for Medicare and Medicaid Services (CMS) has essentially placed a “bounty” on physicians by hiring outside parties to review patient records. Those groups profit from the penalties and fees assessed against a practice or facility.

Physicians should wait no longer to protect themselves in this area; it is time to educate yourself, your employees and your patients. Examine the practice’s weaknesses and develop a plan to shore up those areas. One important and often overlooked step in this process is developing your practice’s Code of Conduct.

### **Code of Conduct**

The Code of Conduct can be the single most important document in a practice. It is a statement of commitment to compliance with regulations covering coding, documentation, billing and financial record keeping. It outlines your continuing commitment to educate both providers and employees of the practice in these four areas. Additionally, it places responsibility on each member of the practice to ensure it is compliant and, if not, to take steps to become compliant. Finally, the Code of Conduct sets up a method for employees to express their concerns regarding non-compliance internally and externally.

The Code of Conduct specifically addresses the seven components identified by the Office of the Inspector General:

**Conduct internal audits.** An ongoing evaluation process is critical to a successful compliance program. One of the most important things to consider in determining risk is recognizing those areas where the physician’s practice may be the most vulnerable. Voluntarily monitor your documents to ensure accuracy and compliance and submit clean claims to facilitate timely reimbursement.

Internal audits should ensure that billing forms, procedure and diagnosis codes, modifiers, medical necessity, etc. are supported by appropriate medical record documentation. Audits should also be conducted to ensure claim forms and patient statements are transmitted properly. Additionally, a periodic review should look at arrangements with other healthcare providers to guarantee the practice is adhering to anti-kickback and referral statutes, and marketing efforts do not induce patients to utilize services.

An internal audit should be conducted by a certified coding professional, a certified auditor, or someone well-trained in documentation and coding guidelines. Contracting with an experienced auditor is an option for practices that do not have a qualified individual on staff. If using an employee be sure the employee receives annual training on documentation, coding, and auditing through programs such as those offered by the Association of Dermatology Managers & Administrators (ADAM) annual meeting. Document this training just as you track your CME.

Schedule the audits, document the findings, and educate all providers on the findings.

**Implement compliance and practice standards.** Establish and implement compliance standards, policies and procedures to be followed by employees, providers, and agents that are reasonably capable of reducing the prospect of abusive or fraudulent conduct.

Many practices actively follow compliance guidelines but have not documented those guidelines as standards, policies, or procedures. Assign this task to an employee who is thoroughly familiar with the practice's policies and whether or not those policies and procedures are in compliance with federal and state regulations.

Once the policies and procedures have been created, distribute them among your staff and have everyone read them. Create a listing of the individual policies and procedures and have employees sign to acknowledge they have read them, understand them, and agree to comply with them. Any policies and procedures created subsequent to the initial grouping should go through a similar process. A review of the policies and procedures should also become a part of every staff meeting.

**Designate a compliance officer or contact.** Assign an individual in your practice with the responsibility of becoming the practice's compliance officer. This individual should not be the physician if a sole proprietor, nor should it be the person doing the billing if there is only one individual performing billing functions. Make sure the person designated as compliance officer is well-versed in compliance. If you do not have an appropriate individual within your practice, consider using an outside source. Again, this employee should receive regular training on the ever-changing compliance requirements. The Code of Conduct, standards, policies and procedures should not be a stagnant document but should be monitored and reviewed at least annually to ensure the practice is protected.

One caution: If you are delegating substantial discretionary authority to an employee, be sure that individual is reliable. A background check is an affordable safeguard for every practice.

**Conduct appropriate training and education.** Training and education are an important part of compliance efforts. Communicate your standards, policies, and procedures to all individuals in the practice. Require full participation in training programs and regularly disseminate publications relevant to the medical practice; examples might include insurance carrier newsletters, coding and billing newsletters, professional publications, etc. Create a simple routing form that identifies the document and to whom it was routed. Have those individuals sign and date the form after reviewing the information. Keep the publication and the routing slip in a secure location or scan into a file that is maintained long-term.

Be sure your practice has current CPT, ICD, and HCPCS code books available to the staff. Give your staff the opportunity to attend seminars, workshops, and other educational venues. Encourage active membership in organizations designed to educate such as ADAM for dermatology-specific education, certified coder chapters, nursing associations, etc. Your investment in training your staff will not only benefit your practice, but sends the message that you are investing in their future as well.

**Respond appropriately to detected offenses and developing a corrective plan.** Enforce the standards, policies and procedures consistently throughout the practice using appropriate disciplinary mechanisms including, as appropriate, discipline of individuals for the failure to detect an offense. Adequate discipline of individuals responsible for an offense is a necessary component of enforcement; however, the form of appropriate discipline will be case specific.

(Note: If using employment contracts be sure your contracts include clauses requiring adherence to your Code of Conduct, billing standards, policies and procedures.)

**Develop open lines of communication.** Provide your employees and providers with a variety of means of communication. This can and should include regular staff meetings, a suggestion box, a personal meeting to discuss concerns, and possibly an off-site telephone number where employees can anonymously record or report their concerns.

Listen to your employees when they come to you with questions and concerns. They are trying to help you improve your practice's compliance. If you're not sure they are correct, ask an expert for advice. If possible, get their opinion in writing and keep it with your educational materials.

Respond to your employees' questions and concerns. Many times we spend time researching and resolving an issue but never let the person who brought it to our attention know the steps that were taken. This perceived lack of response is often what drives an employee to be disgruntled.

**Enforce disciplinary standards through well-publicized guidelines.** Your Compliance Officer should investigate every complaint or allegation of abusive or fraudulent activities related to reimbursement for services from employees, patients, or other sources. The Compliance Officer should also be responsible for ensuring the compliance plan is followed by every person in the office. Repeat offenders and intentional violations need to be evaluated for appropriate disciplinary action up to and including termination of employment. The investigations should be well-documented and include conclusions reached and actions taken. Disciplinary action should include additional training for individuals, although the cost of the training does not necessarily need to be covered by the practice.

Documenting and implementing these steps will provide a firm foundation for your practice's compliance.

Compliance programs are available through various healthcare resources; however, the best compliance plans are those that are individualized for your practice. Practice management consultants or companies often provide this service. A word of caution: Purchasing a generic compliance plan and putting it on the shelf without following the other steps, may cause more harm than benefit.

Will a Code of Conduct and its supporting policies and procedures prevent fraud and abuse in your practice? As long as someone is watching the practice to ensure this roadmap to compliance is closely followed, the likelihood of fraud and abuse are greatly reduced.

But remember: While development and implementation of a Code of Conduct is certainly a measure of protection, The Bottom Line is that unless this becomes an integrated part of your practice, it is merely words on paper.

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