

[Practice Logo]

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# ***Code of Conduct***

**[Date Adapted]**

## **Overview**

This Compliance Plan Code of Conduct has been prepared in accordance with the recommendations of the Office of Inspector General (OIG) of the United States Department of Health and Human Services to more effectively assure adherence to federal health care statutes and regulations, as well as federal, state, and private insurance program requirements. It creates internal controls to reduce errors while furthering our mission of providing quality medical care to our patients.

**[Practice Name]** (“**[Practice Name]**” or “the practice”) formally adopted this Compliance Plan Code of Conduct and related documents on **[Date Adapted]**. These documents clarify the practice’s ongoing commitment to compliance with applicable federal and state law and the program requirements of federal, state, and private health care plans as well as sound and ethical business practice. **[Practice Name]** physicians, officers, managers, support staff and, where appropriate, contractors and other agents are expected to abide by the Compliance Plan including the Code of Conduct and related policies and procedures.

**[Practice Name]** is fully committed to compliance with regulations covering our coding, documentation, billing and financial record keeping. This commitment includes all physicians, clinical staff, management, business office staff, and contractors engaged for services. Compliance in these areas is challenging because the regulatory requirements governing professional fee reimbursement are complex and changing.

***Your Commitment to Our Code of Conduct***

The Compliance Plan Code of Conduct will be distributed to every employee, including physicians, at the time of employment and thereafter annually. Employees will be asked to sign the attached Acknowledgement Form indicating they have read, understand, and agree to abide by the Code of Conduct. Physicians and support staff who miss the initial training sessions will be scheduled for an individual training session. It is imperative that every employee attend one of these educational programs and agree to abide by the Compliance Plan Code of Conduct. The Compliance Manager will ensure that all physicians and employees have signed the Acknowledgement Form and maintain a file of those forms.

Similarly, the Code of Conduct will be distributed to independent contractors and agents that may provide service with compliance indications. They are expected to comply with the Compliance Plan Code of Conduct.

All new employees will receive training on the Compliance Plan Code of Conduct as part of their orientation session. Employees who are transferred to another department will receive training on how the Compliance Plan relates to their new position. New employees and transfers will be asked to sign another Acknowledgement Form.

Any employee, including any physician, who fails to comply with this Code of Conduct and associated policies and procedures, will be subject to disciplinary action.

### ***Communicating Compliance Concerns***

The cornerstone to **[Practice Name]**'s compliance program is the expectation that every physician and support person report compliance concerns without fear of reprisal or disciplinary action.

Every employee is expected to report any compliance concerns they may have to the Compliance Manager. Such concerns will be investigated and promptly resolved. Employees are also encouraged to submit suggestions on ways to improve our compliance program.

There are several ways you can report any concerns. These methods are designed to provide additional protection, including reasonable attempts to maintain your anonymity, should you identify a compliance concern.

### ***How to Express a Concern***

The practice's Compliance Program requires your supervisor to report any employee's compliance concerns directly to the Compliance Manager regardless of whether your supervisor believes the concern has merit. If you are not comfortable submitting a report directly to your supervisor, you may communicate your concern verbally or in writing to the Compliance Manager.

***Compliance is Part of Each Employee's Job Duties & Responsibilities***

All employees, including management and physicians, receive Performance Evaluations at designated intervals. These Performance Evaluations will include assessment of each employee's successes and failures with respect to their specific duties and responsibilities under the compliance program.

Each employee's job description will include requirements related to the Compliance Plan. The promotion of, and adherence to, the elements of the compliance program will be considered when evaluating the performance of managers and supervisors.

In addition, all managers and supervisors involved in the coding, and claims development and submission processes should discuss with all supervised employees the compliance policies and legal requirements applicable to their function.

***Disciplinary Actions for Failure to Follow Compliance Policies***

An effective compliance program depends upon each physician and staff member fulfilling their duties and responsibilities with respect to the Compliance Plan. Managers, supervisors, medical staff, and support staff will be held accountable for failing to comply with, or for the foreseeable failure of their subordinates to adhere to, the applicable standards, laws, and procedures that are within the scope of their job duties and responsibilities.

Employees, physicians, or associates who deliberately make a false accusation with the purpose of harming or retaliating against others will be subject to corrective action.

Please see the attached policy entitled "*Disciplinary Actions for Failure to Follow Compliance Policies*".

***Components of Our Compliance Program***

The Office of Inspector General's compliance program guidance for small group physician practices contains seven components that provide a solid basis upon which a physician practice can create a voluntary compliance program. Those components include:

1. Conducting internal and external monitoring and auditing through the performance of periodic audits;
2. Implementing compliance and practice standards through the development of written standards and procedures;
3. Designating a Compliance Manager or contact to monitor compliance efforts and enforce practice standards;
4. Conducting appropriate training and education on practice standards and procedures;
5. Responding appropriately to detected offenses and developing corrective action through the investigation of allegations and the disclosure of incidents to appropriate government entities;
6. Developing open lines of communication, such as (1) discussions at staff meetings regarding how to avoid erroneous or fraudulent conduct, (2) e-mails, (3) management meeting minutes, and (3) community bulletin boards, to keep practice employees updated regarding compliance activities; and
7. Enforcing disciplinary standards through well-publicized guidelines.

**1. Auditing and Monitoring**

An on-going evaluation process is important to a successful compliance program. This ongoing evaluation includes not only whether the practice's standards and procedures are in fact current and accurate, but also whether the compliance program is working, i.e., whether individuals are properly carrying out their responsibilities and claims are submitted appropriately. Therefore, an audit is an excellent way for a practice to ascertain what, if any, problem areas exist and focus on the risk areas associated with those problems. It is **[Practice Name]**'s goal to voluntarily monitor our documents to insure accuracy and compliance, and to submit "clean claims" to facilitate timely reimbursement.

Internal audits will be conducted on a routine basis to ensure that:

- Billing forms, CPT codes, ICD-10 codes, modifiers, "medical necessity," "incident-to billing," etc. are supported by appropriate medical documentation;
- That insurance claim forms and patient statements are properly transmitted;
- That **[Practice Name]** avoids instances of unbundling, clustering, upcoding, and other improper activity designed to increase reimbursement;
- That arrangements with other health care providers adhere to anti-kickback and referral statutes; and
- That marketing efforts do not improperly induce patients to utilize services.

## **2.     *Establishing Practice Standards and Procedures***

Written standards and procedures are a central component of any successful compliance program. Those standards and procedures help to reduce the prospect of erroneous claims and fraudulent activity by identifying risk areas for the practice and by establishing tighter internal controls to counter those risks, while helping to identify areas of atypical or abnormal billing practices.

**[Practice Name]** has numerous policies and procedures in place which relate to the Compliance Plan. A few examples include:

- Writing off deductibles and/or copayments;
- Refund of credit balances;
- Changing codes identified by the provider on patient encounter forms;
- Medical records documentation requirements;
- Responding to payer denials or requests for additional information;
- (T)OSHA compliance programs;
- HIPAA Privacy and Security compliance programs;
- Employee handbook; and
- Various competencies, protocols, and other documents designed to educate and guide physicians and employees on complying with federal and state laws.

All policies and procedures related to the Compliance Plan will include a statement that the policy and/or procedure is included in **[Practice Name]**'s Compliance Plan, was developed under the principles of the Compliance Plan Code of Conduct, and that the physicians and employees are expected to express any concerns they have with the Policy and Procedure – including how it is actually applied – to the Compliance Manager. Specific policies and procedures which are part of **[Practice Name]**'s Compliance Plan will be distributed based upon each employee's job duties and responsibilities.

### ***Coding and Billing***

As a general policy, physicians and physician extenders are expected to:

- Accurately select appropriate procedure codes, diagnosis codes, and modifiers on **[Practice Name]**'s encounter form; or
- In the event correct codes are not evident at the time of service, provide sufficient, explicit information that will allow billing staff to select appropriate codes.



In the event of a claim denial or a payer's request for information, any changes to the original claim must be supported by documentation in the medical record. Billing staff will not routinely change procedure or diagnostic codes or attach modifiers to bypass a payer's claims processing edits. Again, any code changes must be supported by documentation in the medical record. Providers will cooperate with billing staff when questions arise.

Compensation for billing department staff, including coders and billing consultants, will not provide any financial incentive to improperly code claims for greater payment. Compensation arrangements for providers will comply with Stark and other applicable state laws.

### ***Medical Record Documentation***

Historically, providers documented their records as they felt appropriate. While this did not compromise patient care, documentation requirements for reimbursement purposes are much more explicit today.

**[Practice Name]** recognizes the need to tailor records based upon physician specialty and the types of patients typically encountered. Therefore, a standardized medical record which meets provider needs with respect to patient care *and* payer requirements will be utilized.

Any amendments to medical records after creation must clearly indicate when the revision was made, the date it was made, and be signed by the individual amending the record. If an entry in the original medical record is incorrect, a line should be drawn through the incorrect entry so the original entry is still legible. As stated previously, the correction should also indicate why it is being made, the date of the change, and the signature and name of the person making the revision.

A written Compliance Manual will be maintained, reviewed and updated at least annually. Employees will be notified of any relevant changes. The Compliance Manual will contain information relative to:

- Patient registration forms;
- History and physical examination forms;
- Patient charge forms (superbills, encounter forms, etc.);

- Patient statements;
- Coding and billing responsibilities and procedures;
- Patient communication policies such as:
  - Advance Beneficiary Notices
  - Patient recall procedures
  - Appointment cancellation policies
  - Laboratory and test reporting procedures
  - Billing and payment policies
- The identification of existing clinical protocols, pathways or treatment guidelines; and
- Record retention.

The compliance program will document the billing process from the time the patient is scheduled for a service through the patient contact, the coding of services and diagnoses, the input to the data system, through the preparation of claims and posting of payments and adjustments.

Employees will be trained regarding the contents of the Compliance Program at time of employment and on an annual basis.

### **3.     *Designation of Compliance Manager***

**[Compliance Manager Name]** will be the Compliance Manager for **[Practice Name]** and is responsible for implementing the compliance plan, for maintaining an ongoing program of compliance through education, training, and development of appropriate policies and procedures.

The duties of the Compliance Manager are attached to this document.

The Compliance Manager will be charged with:

- Ensuring that the Compliance Plan accomplishes its objectives;
- Accepting and investigating any employee's compliance concerns and questions; and
- Ensuring that appropriate training and educational programs are conducted based upon each employee's needs.

All employees should cooperate with the Compliance Manager as required.

#### **4.     *Training and Education***

Training and education are an important part of any compliance program. It is **[Practice Name]**'s policy to require training and educational programs for all employees, particularly with respect to each employee's specific responsibilities under the Compliance Plan.

Topics included in the training and education program will be repeated on a regular basis. Each new employee will be introduced to the compliance program during their orientation period. Employees will participate in the education programs appropriate to their position. Topics include:

- Introduction to the compliance plan
- Documentation guidelines for E&M coding
- Use of charge documents (encounter forms)
- Procedure and diagnosis coding
- Proper use of modifiers
- Correct Coding Initiative
- Balance billing requirements, refunds, etc.
- Consultation versus visit requirements
- Results of chart audits
- Open Question and Answer sessions
- Federal and state statutes
- Private payer policies

**[Practice Name]** also maintains resources such as the current CPT, ICD-10, and HCPCS manuals, various dermatology-specific journals, Medicare Manuals and bulletting, TriCare provider manuals, private carrier bulletins, etc.

If you believe you need training specific to your job requirements, you should make a request directly to your supervisor or the Compliance Manager.

**5.     *Responding to Detected Offenses and Developing Initiatives***

Violations of **[Practice Name]**'s compliance program, significant failures to comply with applicable federal or state law, and other types of misconduct threaten **[Practice Name]**'s status as a reliable, honest, and trustworthy source of health care. Consequently, upon receipt of reports or reasonable indications of suspected noncompliance, the Compliance Manager will investigate allegations to determine whether a significant violation of applicable law or the requirements of the compliance program has indeed occurred and, if so, take decisive steps to correct the problem. Such steps may involve development of a corrective action plan, the return of any overpayments, and other measures designed to correct the error and prevent recurrence.

Any course of action relating to this policy will be dealt with on a case-by-case basis but will generally follow the guidelines specified below. In the event of serious infractions (willful and repeated violations), the Compliance Manager may be assisted by legal counsel.

- Re-bill any claims that were improperly coded and submitted
- Prompt and voluntary refund of any payments received in error
- Disciplinary action with offenders

**6. *Developing Open Lines of Communication***

The success of our compliance plan depends on the ability of employees, managers and providers to report potential abusive and fraudulent situations. Our goal is to create an atmosphere in which detection is encouraged for the purpose of training and educating individuals in proper compliance.

It is absolutely prohibited by any person in the practice, or an agent of the practice, to take punitive action in retribution against an employee who brings possible violations to our attention.

For this purpose, a communication mechanism shall include some means of effectively communicating problems in a confidential manner. Staff should recognize that there is an “open-door” policy to communicate perceived problems to the Compliance Manager. Any staff member should feel free to communicate with the Compliance Manager, on an anonymous basis if desired, about any billing, coding, or documentation concern. If desired, the report may be discreetly left on the Compliance Manager’s desk or mailed to the Compliance Manager directly marked “Personal and Confidential.”

If the employee needs to explain the report and is reluctant to speak with the Compliance Manager or another supervisor, the observer may contact our practice attorney: **[Practice’s Attorney]** at **[Attorney Firm]** in **[City, ST]**. Our attorney is obligated to not reveal any information about the identity of the observer to us. Our interest is in correcting the problem, not punishing the messenger.

The Compliance Manager will address the problem and provide a response to all reports.

If the employee feels that all reports have gone unheeded by the supervisors, Compliance Manager, attorney and providers, the employee has the right to contact the regulatory entity, whether that is the private payer, the Medicare carrier, or the Inspector General’s office. This should only be done when the practice is completely disregarding the reports. The Fraud Hotline Number is 1-800-447-8477.

## **7. *Enforcing Disciplinary Standards***

The Compliance Manager is responsible for investigating every complaint or allegation of abusive or fraudulent activities related to reimbursement for services.

The Compliance Manager is also responsible to see that the Compliance Plan is followed by every person in the office. Additionally, repeat offenders and intentional violations shall be evaluated for appropriate disciplinary action up to and including termination.

In serious cases involving repeated violations or intentional violations the Compliance Manager may work with legal counsel in the process.

The Compliance Manager shall work with the practice to review the results of investigations and implement appropriate policy and procedure changes as well as train personnel in the revised policies and procedures.

The following disciplinary actions may be taken as part of an enforcement program:

- Additional training for individuals including a requirement that the individual be responsible for the expense of the cost of the training;
- Focused monitoring of offender's continued adherence to policies and procedures through a new probationary period;
- Information included as disciplinary action in offender's personnel file;
- Verbal warnings;
- Written warnings
- Suspension with pay;
- Suspension without pay; and
- Termination of employment.

***Laws and Guidelines Covered by This Code of Conduct***

The Compliance Plan Code of Conduct encompasses compliance with federal and state laws and payer guidelines with respect to reimbursement for patient services, referrals for tests and other services, and any business arrangements that could be construed as a kickback. These laws include but are not necessarily limited to the following:

- Health Insurance Portability and Accountability Act of 1996
- Federal False Claims Act
- False, Fraudulent, Fictitious Claims Act
- False Statements Act
- Mail and Wire Fraud statutes
- Social Security Act
- Civil monetary penalties
- Conspiracy to commit offenses to defraud the United States Government
- Anti-Kickback legislation
- Limitation on Certain Physician Referrals (Stark I and Stark II)
- State laws regarding Medicaid fraud, false statements, and physician referrals, etc.

**[Practice Name]** also intends to comply with federal and state regulations and payer billing guidelines.