



THE
LONG-TERM CARE
COMPLIANCE
TOOLKIT

Nancy J. Beckley, MS, MBA, CHC
Maureen McCarthy, RN, BS

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FOREWORD

Before you begin reviewing this toolkit, you must understand that compliance is not an option; it is a government-mandated requirement, and it is not just another burden of complex policies and procedures made up by federal bureaucrats to reduce fraud and abuse. Rather, as a healthcare provider, it is your responsibility to do your part to reduce improper payments, protect the rapidly depleting Medicare Trust Fund, and, most importantly, protect your organization and its reputation.

No one is immune from compliance issues. I have worked for companies in which compliance with federal regulations was an absolute condition of employment and the compliance message was communicated to employees on a regular basis, yet there were still issues of concern that arose and had to be dealt with.

As a former Medicare fraud investigator, I investigated cases in which entire entities were held liable for large overpayments due to the action of a single rogue employee. In my current practice, we have worked with clients who had to voluntarily disclose overpayments, refund money, and even terminate their billing privileges because of the egregious actions of a lone employee and management's inability to identify and correct said employee's indiscretions. It is a fact of life in today's society that people do not always act in the most honorable manner. It is a fact of life that employees of an organization may act in a way that is detrimental to the organization as a whole despite management's efforts to encourage differently. In some cases, the acts may be knowing and willful, and in some cases, they may be unintentional.

Regardless, these acts lead to improper payments for services, which results in the misuse of federal funds, increased federal debt, increased healthcare costs, and eventually increased insurance

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premiums, increased taxes, or a reduction in benefits, which causes widespread budgetary issues for the government, employers, and individuals.

Healthcare fraud and abuse affects every single one of us and is certainly not a victimless crime, as some may believe. Compliance, therefore, is your responsibility. Even more important, in order for a compliance program to be effective, it must have the expressed commitment and support from every single member of management. It is a sound business choice to protect your business. It also offers additional benefits, such as effective internal controls, which provide an organization the ability to obtain an accurate assessment of employee and contractor behavior. This assessment eventually leads to an improvement in the overall quality and efficiency in the services you provide to your residents.

An effective compliance program increases the likelihood of identifying and preventing unethical or criminal behavior by your employees or other individuals. It also allows you to respond quickly and accurately to any compliance concerns identified by employees, patients, families, or subcontractors. Detecting, reporting, and resolving compliance issues early not only minimize the loss to the government, it also minimizes the provider's exposure to penalties. A comprehensive and effective compliance program that has the full support of all management enhances the overall structure of the facility operations and provides for consistency between related entities, various departments, and different locations.

In addition, I believe we have entered into a new era in government oversight and compliance. I have worked in the healthcare industry for 15 years, and never before have I seen the government more intent on reducing improper payments. So, what caused this shift in priorities? Clearly the healthcare reform law has played a huge role. Even before the reform initiatives were being debated publicly, the administration increased funding for program integrity activities significantly. Even more telling was that this increase came during a period with a struggling economy.

In his address to Congress on healthcare reform September 9, 2009, President Barack Obama stated, "We've estimated that most of this plan can be paid for by finding savings within the existing health-care system—a system that is currently full of waste and abuse." One of the arguments used to help

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promote and support the reform legislation was that it was intended to be budget neutral. Therefore, the increased spending in program integrity activities would increase the government's return on its investment by reducing what they determine to be improper payments and help offset the costs to implement the healthcare reform legislation.

As part of the Patient Protection and Affordable Care Act, the government mandated that healthcare providers implement a comprehensive and effective compliance program. Written into the law, it was mandated that the long-term care industry be the first healthcare provider group to meet this requirement. This was certainly intentional. In fact, the only industry to be mandated in the law was the long-term care industry, and the remaining provider types were left up to the discretion of the U.S. Department of Health and Human Services secretary. The long-term care industry has been ripe with potential compliance issues that have often resulted in improper payments, violations of state or federal statutes, and, in the worst of cases, abuse of elderly and/or indigent patients who simply cannot protect themselves.

For this reason, the industry is at the forefront of the compliance issue and should use this opportunity to improve the overall reputation of long-term care providers, affording residents with nothing but the highest quality of care and thus becoming a trusted partner with all those involved in the fight against health fraud and abuse. An effective compliance program provides a mechanism that brings both the private and public sectors together to not only reach a mutual goal of reducing fraudulent and abusive practices but to also improve operational efficiency, improve the quality of healthcare services, and reduce the overall costs of healthcare.

Overall, the National Health Care Anti-Fraud Association (NHCAA) conservatively estimates that 3% of all healthcare payments are fraudulent, while many federal law enforcement agencies estimate as high as 10%. With the ever-increasing healthcare expenditures in our country, the numbers of potentially fraudulent payments could exceed a staggering \$200 billion per year! As a healthcare provider and integral partner in our country's healthcare system, we each have a responsibility in combating these crimes. An effective and comprehensive compliance program is one way you can.

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Another important item to note is that, in order for a compliance program to be successful, it must be a constant living and breathing program integrated into every aspect of your facility's business operations. All too often, providers purchase or implement a compliance program, and it gets placed on a shelf somewhere gathering dust. I'm sure everyone would agree that this is not effective. This toolkit aims to help you lay the very important foundation of your program. However, federal, state, and private payer requirements change regularly.

As such, all the elements of your compliance program should be updated and revised frequently as well. The items in this toolkit, which are divided into the seven elements of a comprehensive compliance program, should be customized and tailored specifically to your organization. Regarding those seven elements, I would like to provide some additional insight and guidance prior to your organization's implementation or restructuring of its compliance program.

Implementing Written Policies, Procedures, and Standards of Conduct

Most entities should already have well-developed policies and procedures for daily operations. Existing policies can be expanded and revised, and additional policies should be drafted. In reviewing the toolkit, you will find "risk areas" that the Office of Inspector General has determined affects the long-term care industry. Your policies should address these areas and highlight the procedures your organization will put in place to ensure that these identified vulnerabilities are addressed. The policy would define the specific procedures that an employee must follow when completing certain activities associated with the "risk areas," which would ensure that the task is properly fulfilled and any compliance concerns are avoided. Keep in mind that some of these policies may seem obvious, but procedures should still be clear, as adherence to them is a definitive requirement for all those affected by the particular policy.

Your standards of conduct should definitely include the clearly delineated top-down commitment to compliance from the most senior management. In organizations where this commitment is evident and unwavering, the employees often share in that same commitment, fostering an environment of ethical and compliant behavior. The standards of conduct are essentially a foundation for employees

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that define your values and tenets as a healthcare provider. Essentially, you are telling your employees that you expect them to behave professionally, ethically, and with integrity in all aspects of daily operations. Be sure to get your employees to sign the Acknowledgment of Compliance provided in this toolkit, indicating that they read and understood the standards of conduct.

Designating a Compliance Officer and Compliance Committee

Having a trusted and responsible person that reports directly to the governing board is imperative to the success of a compliance program. This individual will be responsible for overseeing all aspects of the implementation of the program and reporting its progress on a regular basis to senior management. This individual will also be primarily responsible for evaluating your program needs and tailoring the tools provided within this toolkit to best meet those in a timely manner. Again, keep in mind that this toolkit is not designed to be a turnkey compliance program but rather a foundation to build upon and develop specifically for your needs. Once implemented, the compliance officer will be responsible for overseeing every aspect of it, from investigating and responding to detected offenses to conducting and monitoring ongoing training, internal auditing, etc. This individual must remain unbiased, critical, and well respected while gaining the support and trust of both management and staff.

Depending on the size of your organization, it may not warrant a full-time position. If the compliance officer is not a full-time role, be sure his or her duties are clearly delineated so as to avoid other assignments becoming a priority. One of these most important duties will be to develop and continue the momentum of a compliance program, accomplishment of its objective, and a continuous communication of the compliance message. I'd also recommend encouraging this individual to get involved in an organization that provides tools and training to compliance professionals, such as the Health Care Compliance Association (HCCA).

A compliance committee will be integral in assisting the compliance officer with accomplishing certain tasks. For example, in drafting and developing policies and procedures, a committee of individuals from various areas or departments most affected by the policy would be the best option for assessing the procedures and drafting the policies.

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In addition, the compliance committee can assist the compliance officer in developing a training and education program that best meets the needs of the organization and determining a strategy to promote and foster that environment of compliance with other staff and within their own internal departments. While the compliance committee may not necessarily have specific compliance program-related tasks, such as investigating detected offenses, it can serve as the frontline messenger and communicator and act as an extension of the compliance officer. This committee will be integral in getting the program customized and implemented effectively.

Conducting Effective Training and Education

Training and education is, in my opinion, one of the most important pieces of the compliance puzzle for obvious reasons. If your staff is not trained on what is expected of them and what they can and cannot do or how they should do it, then the potential for violations is substantially increased. Your staff should undergo general compliance training, which educates them on the components of the internal compliance program, such as the Standards of Conduct, how to report suspected violations, and what will happen if they are noncompliant. It should include an overview of federal and state laws and statutes that affect healthcare providers, such as the federal anti-kickback statute, Stark law, and both federal and state false claim provisions. It should also include education of the consequences involved in violating such regulations, including civil monetary penalties, exclusion, and license revocations. The training program should consist of more job-specific training for various staff, including individual health insurance reimbursement requirements (especially Medicare and Medicaid), documentation guidelines, claims submission procedures, marketing practices, and internal policies.

In addition to being one of the most important pieces of the program, it can also easily be the largest and most fluid. As most of you know, government laws and reimbursement policies are constantly changing, and, as such, the training program must also be revised to reflect the most current information. You may identify areas that require additional training based on feedback from employees and management, or through the results of an internal or external audit. Don't limit the type of training you offer to your staff and consider a wide variety of methods, such as face to face, Web-based tutorials, and audio conferences. You can also incorporate an ongoing training component into regularly scheduled meetings with particular staff or through monthly newsletters. You have

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an opportunity to be very creative in the training piece, and I highly recommend thinking outside the box.

Developing Effective Lines of Communication

The most important part of developing effective lines of communication in relation to the compliance program is assuring staff that they have full access to the compliance officer to address concerns, ask questions, or report violations. Every single employee should be able to name the compliance officer and know how to reach him or her. The compliance officer should develop a policy with list-specific procedures that employees can follow if they need clarification on another policy or have questions regarding compliance issues. When it comes to reporting suspected violations, employees should have multiple reporting paths they can follow. This is important, because reporting issues is the key to making a compliance program successful. However, if an employee or individual is not comfortable doing so, it will not happen. Individuals should feel at ease communicating directly with their manager or compliance officer but also have the ability to send electronic communication or communicate anonymously. One example is a toll-free anonymous reporting hotline that is monitored by an external agency or internally by compliance staff.

Although employees should be assured that they can report information without fear of retribution, many individuals still desire anonymity, and it must be offered. Any complaints received should clearly be logged and tracked by the compliance officer and/or compliance department staff. Each of the potential reporting paths should be published and well known to all employees. This toolkit provides you with a hotline poster for this purpose.

Conducting Internal Monitoring and Auditing

Like training and education, I consider the internal monitoring and auditing element one of the most critical pieces of an effective compliance program. You must know that the policies and procedures you have drafted and implemented are being followed appropriately. If they're not, either they need to be revised or there are potential violations that exist. It is the duty of a responsible healthcare provider to monitor their claims and the care being provided. Not only should the audit determine whether the

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internal policies and procedures are being followed, but it should also determine that federal and state laws and regulations are being adhered to and that individual payer requirements are being met.

All too often, I see providers conducting audits that are not effective because they are not comprehensive enough. It is important to develop an ongoing audit schedule and plan. Don't limit yourself to just one annual audit. You can break up your audit schedule into monthly or quarterly audits and focus on different aspects of your organization each time. Some of the other areas that the OIG recommends focusing on when auditing your facility includes an assessment of relationships with outside vendors, physicians, or referral sources to determine that the relationship is appropriate and does not violate any regulations.

You should examine internal complaint logs to ensure the complaints were addressed and resolved sufficiently or to discern whether a pattern of problems exists with a particular employee or policy. It is a good idea to conduct unannounced audits or mock surveys at different locations during different times, and the audit should always include a random sample of claims. In addition, if you identified a particular issue in a previous audit, it is always a good idea to generate a sample specifically related to that issue to ensure that the problem has been rectified.

Some other recommendations from the OIG include interviews with personnel in management, operations, and billing or perhaps physicians or authorized persons that order services and any independent contractors that may perform those services. You may wish to develop surveys or questionnaires for your employees to help you identify specific areas of concern or where you should focus your audit activities.

Often, oversight agencies determine where to focus their audit efforts based on analysis of claims data. Since you own the data that is transmitted to them, you can also conduct your own data analysis to uncover deviations or outliers. For example, if your facility has a high percentage of claims submitted with particular codes that are reimbursed at a higher level than others, it might be seen as a red flag that should be reviewed to determine whether those codes are appropriate. Some agencies might see a spike in billing in a particular area or that a large percentage of their population is receiving high-level therapy services. Keep in mind that data analysis in itself is not an indication that

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something is wrong, but it is a tool that oversight agencies use to focus their efforts, and providers should be more proactive in utilizing and understanding their data.

Whether you choose an outside independent organization to review your files or do so internally, make sure you have qualified clinical staff that not only understand the services provided clinically but also understand the coverage policies associated with the services. The auditors must be objective and independent of influence from management and have access to all the necessary staff, resources, and policies in order to adequately assess any potential issues. The audit will result in a comprehensive report that summarizes the review and the outcome and, if appropriate, develops a corrective action plan that identifies the cause of the problem(s), how it will be corrected, and who is responsible.

Keep in mind that audits are designed to identify issues or problems and get them corrected. They should be used as a compliance and educational tool. The findings of these audits should be used by management to determine where to focus additional oversight, education, and training. Also, be aware that the healthcare reform legislation includes a requirement that if a provider identifies an overpayment by the government, it must be refunded within 60 days of the identification.

Enforcing Standards Through Well-Publicized Disciplinary Guidelines

This is an area that some people are uncomfortable discussing, but it is essential in order for the compliance program to work. If an employee violates any policy or does not adhere to the standards of conduct he or she agreed to, there must be consequences. The egregiousness of the violation can determine the severity of the consequences. Your internal management and human resource staff can help in developing these policies, but they should be clear and published so that employees are aware. Furthermore, they must be adhered to when a violation does occur in order for them to be respected and effective in your organization. All new employees should be trained on these standards and the effects of violating them when they are hired.

Of course, the compliance staff should conduct a comprehensive investigation, and it should be documented before implementing any disciplinary actions, but those actions should be as swift as possible. If the violation has not resulted in the termination of an employee, that employee should be

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subjected to additional training, developing and adhering to a corrective action plan, follow-up reviews, and more severe disciplinary sanctions if the problem or issue continues.

Responding Promptly to Detected Offenses and Developing Corrective Action

As stated earlier, if you identify that an overpayment exists, the government now mandates that it be refunded within 60 days. However, before even getting to this point, the organization must respond to any reports of potential violations or detected offenses. It goes without saying that this has to be accomplished swiftly. A comprehensive investigation should occur, and it should be the priority of the compliance staff. The quicker these issues are identified and resolved, the lower the risk of additional scrutiny, overpayments, or penalties.

The message of compliance should become integrated into every single aspect of doing business as a healthcare provider. Organizations that implement a comprehensive compliance program and consistently convey the importance of that program to employees, residents, and contractors position themselves as leaders in providing quality healthcare to residents. In purchasing *The Long-Term Care Compliance Toolkit*, you have taken the first step toward program implementation and, ultimately, toward achieving compliance success within your organization. I commend you on that step.

— Wayne H. van Halem, CFE, AHFI



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Nancy J. Beckley, MS, MBA, CHC, is the president of Nancy Beckley & Associates, LLC, a rehab compliance consulting firm in Milwaukee. She has a national reputation as a leader in compliance and has provided guidance in the development of compliance programs for all segments of the rehabilitation industry, including long-term care, home health, and durable medical equipment. She has also provided expert guidance to clients that are under probe reviews, ZPIC and PSC reviews, as well as corporate integrity agreements.

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INTRODUCTION

There has never been a better time to evaluate your preexisting compliance program or to develop a new compliance program. The Office of Inspector General (OIG), part of the U.S. Department of Health and Human Services (HHS), began publishing model compliance guidelines following the Balanced Budget Act of 1997. The model guidance for hospitals was released in 1998, and in 2000 the guidance for nursing facilities was published (see Section 8), providing a model for nursing facilities to develop what was referred to as a voluntary compliance program, thus indicating that the guidance did not encompass binding standards for nursing facilities. Instead, the guidance represented a “suggestion on how nursing facilities can best establish internal controls and prevent fraudulent activities,”¹ according to the OIG.

Based on the Federal Sentencing Guidelines, the original guidance in 2000 identified seven elements for an effective compliance program:²

1. Implementing written policies, procedures, and standards of conduct
2. Designating a compliance officer and compliance committee
3. Conducting effective training and education
4. Developing effective lines of communication
5. Conducting internal monitoring and auditing
6. Enforcing standards through well-publicized disciplinary guidelines
7. Responding promptly to detected offenses and developing corrective action

Introduction

In 2008, the OIG issued a Supplemental Compliance Program Guidance (CPG) for Nursing Facilities³ (see Section 8). This provided an update to the original 2000 guidance with new recommendations and, most importantly, an expanded discussion of risk areas. The notice stated that the update “responds to developments in the nursing facility industry, including significant changes in the way nursing facilities deliver, and receive reimbursement for, healthcare services, evolving business practices and changes in the Federal enforcement environment.” Risk areas further identified for discussion included quality of care, claims submissions, and the federal anti-kickback statute, as well as other areas that were emerging in 2008.

The 2008 guidance’s detailed discussion of fraud and abuse areas includes:

1. Quality of care
2. Submission of accurate claims
3. Federal anti-kickback statute
4. Physician self-referrals
5. Antisupplementation
6. Medicare Part D

According to the OIG, “neither this supplemental CPG, nor the original 2000 Nursing Facility CPG, is a model compliance program. Rather, the two documents collectively offer a set of guidelines that nursing facilities should consider when developing and implementing a new compliance program or evaluating an existing one. We are mindful that many nursing facilities have already devoted substantial time and resources to compliance efforts. For those nursing facilities with existing compliance programs, this document may serve as a roadmap for updating or refining their compliance plans. For facilities with emerging compliance programs, this supplemental CPG, read in conjunction with the 2000 Nursing Facility CPG, should facilitate discussions among facility leadership regarding the inclusion of specific compliance components and risk areas.”⁴

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The 2010 Patient Protection and Affordable Care Act included increased fraud enforcement provisions and moved to make compliance programs mandatory. Although the full details of the nature of the mandatory compliance programs have yet to be defined, the long-term care industry was identified as the first provider type to be subject to this mandate. A fairly aggressive schedule has been implemented:

- By December 31, 2011, the secretary of HHS shall establish and implement a quality assurance and performance improvement (QAPI) program for nursing facilities that will address best practices. Within one year following the promulgation of the Secretary's QAPI program regulations, a nursing facility must submit a plan to HHS to meet such standards and implement such best practices.
- By March 23, 2012, the Secretary of HHS, working jointly with the OIG, must promulgate regulations for "an effective compliance program" for nursing facility operating organizations.
- By March 23, 2013, skilled nursing facilities (SNF) and other nursing facilities must have "in operation" a compliance and ethics program that meets the law's criteria.
 - By March 23, 2013, the Secretary of HHS shall complete "an evaluation" of the compliance and ethics programs that SNFs and other nursing facilities will be required to establish.

This is all playing against a backdrop of increased oversight and enforcement activities in federal healthcare programs.

For nursing facilities preparing or updating compliance programs, the starting point will likely be a baseline risk assessment. Several layers should begin to emerge within the risk assessment: general risks that are associated with participation in federal healthcare entitlement programs such as Medicare, Medicaid, and TriCare; risks associated with the long-term care industry, including those specifically identified in the 2008 OIG Supplemental Guidance; any risk linked to compliance with the contractor's local coverage determination; and, finally, facility-specific risk. For example, a facility should take into account any prior audits (including the results from facility-specific internal and external audits), denials, or recoupments.

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Adding to the challenge of compliance plan development, implementation, and evaluation is the almost endless number of federal and state programs established to examine everything from medical records, coding, claims, and Medicare application forms and attestations.

In looking to these oversight and investigative authorities for guidance in risk assessment, it will be essential to familiarize yourself with several key programs and initiatives:

- Recovery Audit Contractor (RAC) program
- Medicaid Integrity Program
- Medicaid RAC program (for each state)
- Zone program integrity contractor
- Program safeguard contractors
- Medicare medical review policy
- Local coverage determinations
- National coverage determinations
- *Conditions of Participation* and other state survey guidelines

Much attention has been garnered in the medical community and even in the popular press regarding the hundreds of millions of dollars recouped by the U.S. Department of Justice, the OIG, and through the RAC program. Although much of the outright fraudulent behavior has been attributed to sham operators, there has been much recoupment from trusted community providers who simply played loose with the billing and coding rules even while delivering and documenting quality care.

In June 2011, Medicare released the parameters for a new fraud fighting program. The Centers for Medicare & Medicaid Services (CMS) “will begin using innovative predictive modeling technology to fight Medicare fraud. Similar to technology used by credit card companies, predictive modeling

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helps identify potentially fraudulent Medicare claims on a nationwide basis, and will help stop fraudulent claims before they are paid. This initiative builds on the new anti-fraud tools and resources provided by the Affordable Care Act that are helping move CMS beyond its former ‘pay & chase’ recovery operations to an approach that focuses on preventing fraud and abuse before payment is made.”⁵ The effective implementation date for this new program was July 1, 2011.

Of significance to the long-term care industry is the emphasis on quality of care as an area of compliance. The OIG has dedicated a page to Quality of Care Corporate Integrity Agreements on its website and has also identified a number of nursing facilities currently under the terms of such an agreement.

For providers, the stakes for participation in federal healthcare programs could not be higher. We hope that the tools found in this toolkit provide assistance and guidance in developing and enhancing your compliance program.

References

1. *Federal Register* 2000; 65 (52), p. 14289–14306.
2. *Ibid.*
3. *Federal Register* 2008; 73 (190), p. 56832–56848.
4. *Federal Register* 2008; 73 (190), p. 1.
5. CMS Office of Public Affairs press release. New technology to fight Medicare fraud. June 17, 2011.



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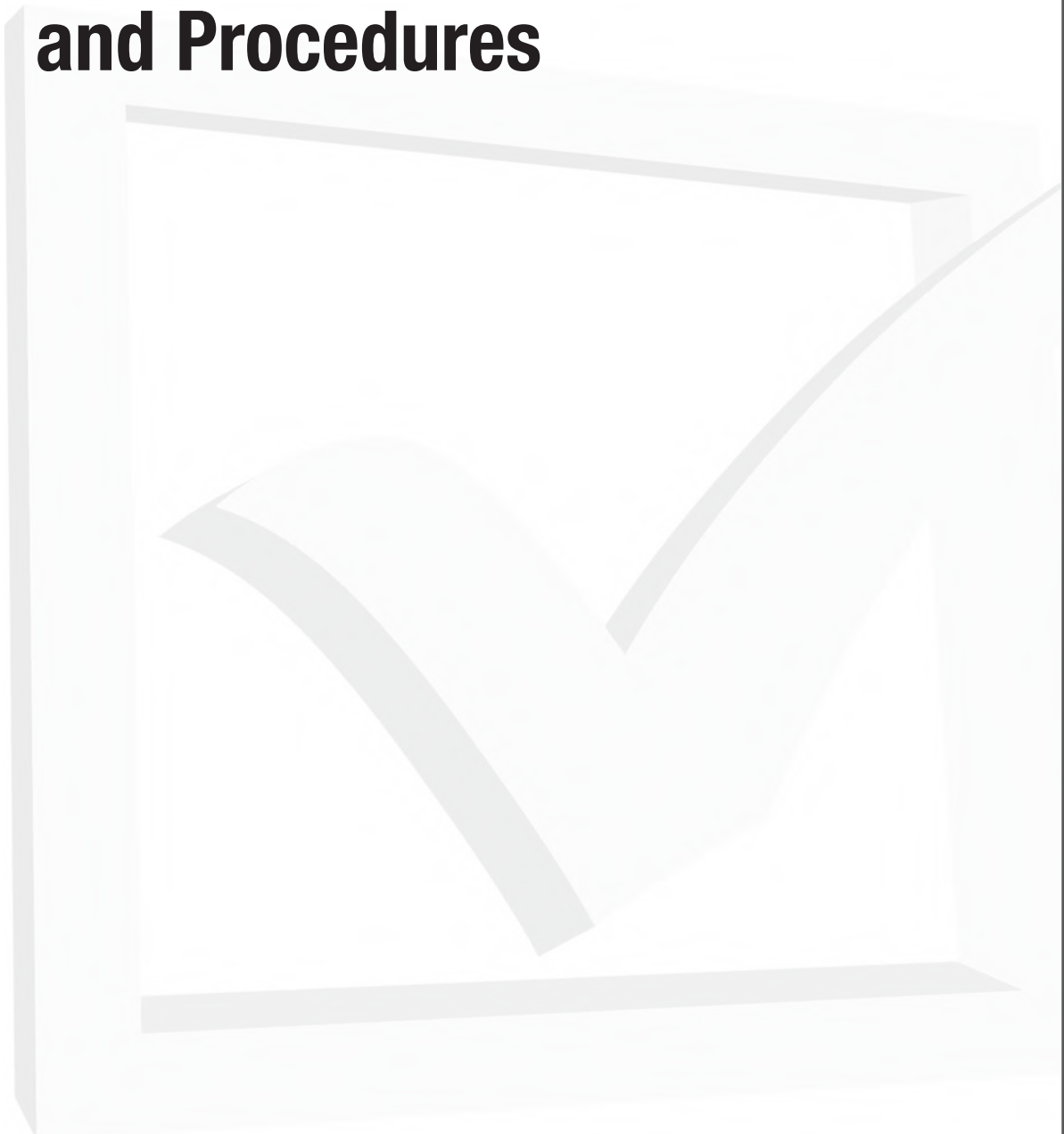
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Section 1

Written Policies and Procedures



Sample Corporate Compliance Program

ABC's Mission

The mission of ABC is to care for and improve the health of our patients with compassion and a special concern for the underserved, poor, and elderly.

Our vision

ABC will be the provider of choice for patients, physicians, and employees in this region. Our decisions and actions will be patient centered, compassionate, and of the highest quality. Our care will be supported by a highly trained and committed workforce, advanced technology, and strong teaching programs.

Our core values

Justice: Respecting the dignity of all persons

Service: Extending ourselves to heal and comfort our community

Stewardship: Utilizing our resources to realize the maximum benefits to our patients, employees, and the larger community we serve

Dignity: Respecting the inherent value of each person

Excellence: Pursuing only the highest standards of quality in all that we do

Integrity: Demonstrating open, honest, and sincere behavior in all our interactions

The Compliance Program

ABC is committed to the highest standards of ethics, honesty, and integrity in pursuit of its mission. Members of all Boards of Trustees, the president, members of senior management, employees, members of the medical staff, volunteers, vendors, independent contractors, and others representing ABC are expected to adhere to these standards of conduct in the discharge of their duties. The ABC Corporate Compliance Program (“program”) demonstrates the commitment to ethical conduct and compliance by setting forth guidelines for conduct designed to prevent and detect violations of law, and by

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encouraging compliance by providing support, training, and educational resources to assist ABC in fulfilling its responsibilities. The program is designed to assist and facilitate ABC in fulfilling its compliance responsibilities by creating a process to monitor compliance efforts and documenting the expectations for members of the ABC community in the performance of their responsibilities at ABC.

Organizational structure

ABC has an Executive Management Compliance Committee (EMCC), chaired by the director of compliance and internal audit/corporate compliance officer (CCO), and comprised of members of senior management necessary to support the CCO in fulfilling his or her responsibilities under the compliance program. The CCO reports on compliance activities to the Audit, Compliance, and Risk Committee (ACR) of the ABC Board of Trustees and to the chief executive officer (CEO) of ABC.

The Internal Audit and Compliance Department

- CCO
- Compliance specialist
- Internal auditor

The Executive Management Compliance Committee

The EMCC is comprised of members of senior management of the ABC and affiliated ABC entities. Management will be invited to attend when appropriate, specifically, for example, the director of patient accounting, director of health information management and privacy officer (“privacy officer”), director of technology and operations and security officer (“security officer”), and director of care management.

The EMCC has oversight responsibilities for the compliance activities of ABC and assists in fulfilling its legal compliance obligations, providing support for functions related to ABC operations and activities. This committee provides a forum for discussion of compliance-related issues and the status of action plans developed to resolve those issues. The EMCC oversees the following areas of compliance activity:

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- Informing, training, and educating the ABC community about the ABC Code of Conduct (“code”) and ethical obligations under that code
- Monitoring compliance activities, including policies, procedures, training, and education programs
- Serving as a resource to ABC on matters of compliance and legal and regulatory changes and assessing and identifying areas of risk
- Maintaining the anonymous hotline managed by an independent outside vendor for confidential reporting of compliance matters
- Assisting operational units in developing corrective action plans
- Recommending and reviewing disciplinary action for violations of the code

The EMCC advises the CCO and assists in the development and implementation of the Compliance Program. The duties and responsibilities of the EMCC include:

- Assisting in the development of a risk-based compliance plan that addresses regulatory compliance with all governing bodies and regulatory agencies, including but not limited to Centers for Medicare & Medicaid Services (CMS), [insert state] Department of Social Services (DSS), [insert state] Department of Public Health (DPH), Office of Inspector General (OIG).
- Delegating primary responsibility for compliance with standards and regulations of the Department of Labor (DOL), Internal Revenue Service (IRS), Drug Enforcement Administration (DEA), and Quality Improvement Organizations (QIO).
- Coordinating efforts, communication, and reporting between the CCO, General Counsel, internal auditor, security officer, privacy officer, and compliance management in operating departments to ensure effective monitoring and reporting. Within the various departments of the facility, the system, and its entities, management will have day-to-day oversight and responsibility to ensure that internal controls over compliance are in place and working effectively.
- Maintaining a system to solicit, evaluate, and respond to complaints and problems.

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- Periodically reviewing the results of monitoring and auditing activities performed by internal audit and compliance.
- Periodically reviewing the Code of Conduct policies and procedures as well as other compliance-related policies as requested. Approving appropriate additions, deletions, and/or revisions as recommended by the CCO and General Counsel. Ensuring all officers, directors, and employees are familiar with the Code of Conduct through training and educating and fulfilling their duties for completing the annual disclosure statement.
- Monitoring compliance education activities and scope and providing input to the overall content of annual training. In addition, ABC entities and departments may consult with the CCO regarding general and specialized compliance training sessions based on entity and department requirements.
- Performance of a compliance effectiveness performance assessment to identify inherent business risks and evaluate internal compliance controls necessary for an effective compliance program. The assessment may include an evaluation of policies and implementing procedures, the accuracy of medical coding and billing, and the level of employee awareness regarding compliance programs. From the assessment, the EMCC will approve recommendations for improvement and support the implementation of those actions.

The Executive Management Compliance Committee consists of the following members:

- President and CEO
- Senior vice president, chief medical officer, and chief quality officer
- Senior vice president, chief financial officer, and chief operating officer
- Vice president, human resources
- Vice president, information services and chief information officer

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- Vice president, General Counsel
- Vice president, patient services
- Vice president, business development
- Executive director, ABC
- Medical director, quality assurance and utilization
- Director, quality improvement
- Director of compliance and internal audit/corporate compliance officer

The Audit, Compliance, and Risk Committee

The Audit, Compliance, and Risk Committee (ACR) is a standing committee of the ABC Board of Trustees and provides a direct, open channel of communication to the board for the external and internal auditors, chief financial officer, and corporate compliance officer.

The ACR is comprised of five to eight trustees and/or such other nontrustees as the board may appoint. At least one ACR member shall have accounting or related financial management experience. All voting members shall meet the standards for trustee independence. The ACR oversees the comprehensive audit, risk, and compliance functions and programs.

The ACR ensures that quality accounting practices, internal controls, and independent, external auditors are retained to deter and uncover fraud, anticipate financial and nonfinancial risks, and promote accurate, high-quality, and timely disclosure of financial and related information to the board and others as appropriate.

The ACR also has full power and authority, as delegated by the ABC board, to engage the independent external auditors and approve the provision of all special, nonaudit services that may be undertaken by the external auditors.

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Specific ACR responsibilities may include:

- Approving the scope and approach of external audit services, reviewing the audit results, and overseeing follow-up on significant findings.
- Overseeing the adequacy of internal controls.
- Overseeing the quality, integrity, appropriateness, and acceptability of financial reports and accounting policies and practices and the processes that produce them.
- Overseeing the management of risk.
- Overseeing the internal audit function, including reviewing and approval of the annual work plan, coordination of the plan with the independent auditors, as necessary, and the overseeing of special projects, including any corresponding work plans.
- Overseeing the maintenance of regular unimpeded access to ABC's internal auditor on at least a quarterly basis. The Internal Audit Plan may include specific topics selected from the current or previous year's OIG Work Plan.

The ACR also ensures compliance with legal, regulatory, and other policies, procedures, and laws, as well as the ABC Code of Conduct. Specific responsibilities include:

- Oversight of the compliance program—its implementation and assessment of any exposures
- Oversight of the yearly conflict of interest survey and reporting process
- Oversight of yearly assessment to ensure that the ABC board is comprised of a majority of independent trustees

Board of Trustees

The chief compliance officer (CCO) reports directly to the Audit, Compliance, and Risk Committee of the Board of Trustees. The board receives at least quarterly briefings from the CCO on areas of

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significant compliance risk. The board also receives guidance on compliance from the Audit, Compliance, and Risk Committee.

Document retention

All documents will be maintained for a period of time, consistent with state or federal laws and ABC policy.

Policies and procedures

All policies and procedures related to the compliance program or any federal healthcare rule or regulation shall be reviewed and revised on a yearly basis or as necessary.

ABC Code of Conduct

The following areas are covered in the ABC Code of Conduct:

- How to report violations of the standards
- Following all federal healthcare program rules and regulations
- Compliance with the law
- Providing excellent patient care
- Preparing and submitting accurate claims
- Protecting confidential information
- Adhering to antireferral and healthcare fraud and abuse legislation
- Not accepting inappropriate gifts or gratuities
- No inappropriate gifts to patients, physicians, and vendors
- Avoiding conflicts of interest
- Following antitrust regulations

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- Keeping accurate and complete records
- Conducting political activities according to the law
- Protecting the environment
- Providing a safe workplace
- Not tolerating harassment or discrimination
- Appropriately using assets
- Protecting access to information systems
- Adhering to intellectual property laws
- Privacy and security of confidential patient, employee, and business information collected and maintained by ABC

ABC's Code of Conduct provides the guiding standards of conduct for all members of the ABC community and sets forth ABC's commitment to good practices and compliance with applicable laws and regulations. Senior management is responsible for ensuring that the Code of Conduct is observed by all members of the ABC community under their direct and indirect supervision.

Statement of receipt and acknowledgment

ABC employees and contracted individuals shall acknowledge receipt of the ABC Code of Conduct and acknowledge individual responsibility for knowing and adhering to the code annually. The code shall be signed by all employees as part of the new employee orientation and during their annual performance review process.

Compliance with the law

ABC is committed to compliance with all applicable laws, rules, and regulations. It is the responsibility of each member of the ABC community to follow, in the course and scope of his or her employment at, or affiliation with, ABC, all applicable laws, rules, regulations, and policies and to

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maintain an educational, healthcare, and business environment that is committed to integrity and ethical conduct.

Documentation of research and healthcare services

ABC is committed to the accurate and complete documentation of research and healthcare services and the conduct of research with scientific integrity. ABC has adopted policies and procedures designed to deal with misconduct in research. It is essential that the conduct of clinical research activities and the delivery of healthcare services be conducted and documented as required by applicable laws, rules, and regulations. Federal regulations relating to accurate reporting and appropriate expenditure of grant funds shall be followed. Additionally, members of the ABC community shall follow laws and regulations governing the requirements of billing for healthcare services.

Kickbacks

ABC is committed to following federal and state anti-kickback laws and regulations. When someone who can influence ABC purchasing decisions takes money or anything of value from a vendor, it may be considered a kickback and is illegal. Additionally, members of the ABC community should be aware that if someone refers a patient to another provider and receives something of value in exchange, it may be considered a kickback. Anti-kickback rules also apply to the recruitment of physicians and the acquisition of physician practices.

Market competition

ABC is committed to complying with state and federal antitrust (monopolies) laws and regulations. ABC policy and business practices prohibit setting charges in collusion with competitors, certain exclusive arrangements with vendors, and the sharing of confidential information with competitors. Additionally, members of the ABC community are prohibited from sharing confidential information with competing providers, such as salaries or charges for services rendered.

Purchasing

All purchasing decisions shall be made without any conflicts of interest. Any concerns about the legality of a proposed transaction, such as inducements offered by a vendor or supplier, should be discussed with the supervisor, General Counsel, or the CCO.

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Conflict of Interest

ABC is committed to following and enforcing its conflict-of-interest policy. All members of the ABC community should avoid potential or perceived conflict of interest. Any concerns about a proposed transaction that may involve inducements offered by a vendor, supplier, or a business relationship with a company that is connected with you or a family member should be discussed with the CCO.

Screening to ensure eligibility to participate in federal healthcare programs

All employees, medical staff members, contractors, and vendors providing services to ABC shall comply with all applicable laws and ABC policies. The organization reviews at least once per year all employees, medical staff members, and contractors and vendors of the organization against Medicare exclusion lists. A similar scan is run for all new employees and vendors of the organization prior to hiring these individuals to provide services to the organization.

Environment

ABC is committed to complying with all applicable environmental laws and maintaining all necessary environmental permits and approvals. Environmental compliance includes the proper handling, storage, use, shipment, and disposal of all materials that are regulated under any applicable environmental law. If any employee has knowledge that a spill, release, or discharge of any material regulated pursuant to an applicable environmental law has occurred, the employee shall immediately report such an event in accordance with the ABC Safety Manual to ensure the necessary actions are taken. Necessary action may include evacuating employees, reporting such event to a governmental authority, if required, pursuant to any environmental law, and containing and cleaning up any such spill, release, or discharge. Employees should also report any other violations of applicable environmental law of which they have knowledge that could endanger the health and safety of other individuals.

Confidentiality

ABC is committed to the appropriate protection of confidential information. The organization is required under the Health Insurance Portability and Accountability Act of 1996 (HIPAA) rules and regulations to protect the confidentiality of patient protected health information. Many members of the ABC community have access to various forms of sensitive, confidential, and proprietary

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information. ABC policy prohibits seeking, disclosing, or giving of such information, including confidential information, except as allowed or required by law.

Controlled substances

ABC prohibits the unlawful possession, use, manufacture, or distribution of illegal drugs and alcohol on its property or as part of any ABC sponsored activity. Additionally, members of the medical staff, including those who maintain Drug Enforcement Agency (DEA) registration, shall comply with all federal and state laws regulating controlled substances.

Discrimination

ABC is committed to the principles of equal employment and affirmative action. ABC does not discriminate on the basis of race, color, religion, sex, national or ethnic origin, age, disability, sexual orientation, or military service in administration of educational policies, programs, or activities; its admission policies; scholarship and loan programs; athletic or other institution-administered programs; or employment. The human resources (HR) department has responsibility for monitoring affirmative action and assisting with application and interpretation of laws that impose those obligations on ABC.

Any member of the ABC community who experiences harassment or discrimination on the basis of sex, race, color, religion, national origin, age, disability, or sexual orientation should immediately seek assistance from HR. HR either receives, or is informed of, all complaints of unlawful discrimination raised within the ABC community and assists in the resolution of those complaints. ABC prohibits retaliation against members of the ABC community who, in good faith, make complaints of harassing or discriminatory conduct.

Response to investigation

ABC is committed to cooperating with government investigators as required by law. If an employee receives a subpoena, search warrant, or other similar document, referring to any ABC entity, before taking any action, the employee shall immediately contact the Office of General Counsel. The Office of General Counsel is responsible for authorizing the release or copying of documents. If a government

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investigator, agent, or auditor comes to ABC, a supervisor, the CCO, the Office of General Counsel, or the administrator may be contacted prior to an employee cooperating with such investigator, agent, or auditor.

Compliance training

ABC is committed to providing compliance training and education with applicable laws, rules, and regulations. All employees, contracted individuals, and trustees of the organization will receive compliance training each year, specifically related to the Code of Conduct and ABC's compliance program. Employees in specific departments or job functions, such as billing, coding, nursing and physicians, may receive, as needed, additional specific hours of training each year related to compliance and their job function.

Medical staff that do not participate in general compliance training (online or in person) will receive a compliance training package that includes the ABC Code of Conduct and policies, procedures, and training materials, as applicable.

Billing and claims

ABC is committed to charging, billing, documenting, and submitting claims for reimbursement for ABC services in the manner required by applicable laws, rules, and regulations. All employees should know and carefully follow the applicable rules for submission of bills and claims for reimbursement on behalf of ABC entities. If you know or suspect that a bill or claim for reimbursement is incorrect, you are required to report it immediately to your supervisor or to the CCO. If the organization becomes aware of any overpayments, the overpayments shall be repaid to the fiscal intermediary or other payer in accordance with federal and state law and applicable rules and regulations. Remedial action shall be completed as required.

Patient referrals

ABC is committed to the lawful referral of ABC patients to services outside ABC for the delivery of appropriate patient care. If a referring physician, or his or her immediate family member, has an ownership or investment interest in, or a compensation arrangement with, the entity to which a patient is referred, and payment for the referred services will be made from a federal or state

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healthcare program, such as Medicare or Medicaid, a federal law, commonly referred to as the “Stark Law,” may prohibit the referral. No ABC physician shall refer a patient for services in violation of the law. If a physician has questions about referrals, he or she should consult with the CCO or the Office of General Counsel.

Reportable event

If the organization becomes aware of any reportable event, such as reimbursement overpayment or criminal activity, it shall be reported as required under federal or state law.

Cost reporting

ABC files a cost report with the Medicare program each fiscal year, which includes fiscal, statistical, and operational information about the facility. ABC has taken steps to ensure the completeness and accuracy of the information that is submitted in these filings.

Disciplinary action

All members of the ABC workforce community carry out their duties pursuant to ABC policies and as required by law. ABC workforce members may report violations of local, state, or federal laws, rules, or regulations to the CCO, a supervisor, General Counsel, or HR. Failure to report violations may result in disciplinary actions up to and including termination. Disciplinary actions shall abide by all substantive and procedural protections applicable to the ABC Discipline and Termination Policy or other applicable ABC policies and procedures.

The CCO has no disciplinary enforcement authority; the CCO may investigate, evaluate, and make recommendations consistent with ABC policies and procedures as they apply to employees and the medical staff. Any disciplinary action shall be determined in conjunction with the HR department and enforced by the appropriate supervisor.

Reporting compliance concerns

ABC is committed to following local, state, and federal laws, rules, and regulations. The CCO shall ensure that the hotline is available to report potential violations. ABC workforce members are required to report to the CCO, a supervisor, or the hotline any potential ABC job-related criminal

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conduct or other situation that may endanger the health and safety of any individual. All persons making reports are assured that such reports will be treated confidentially and shared with others only on a bona fide need-to-know basis. ABC will take no adverse action against persons making reports in good faith and prohibits retaliation against persons who make reports in good faith. False accusations made with the intent of harming or retaliating against another person may subject the accuser to disciplinary action up to and including termination.

Members of the ABC community wanting to report a violation or a potential problem may contact the COO [insert phone number] or the confidential hotline at [insert phone number].

Sample Corporate Compliance Program courtesy of Hospital of Saint Raphael in New Haven, CT. Reprinted with permission.

Sample Nursing Facility Code of Conduct & Compliance Guide

Disclaimer: This guide is provided only as a sample and may or may not reflect all the elements of any individual nursing facility compliance guide.

[Insert company logo]

ABC Nursing Facility

Compliance Program Guide/Code of Conduct

[Insert date]

Message from Board of Directors or chief executive officer

Our success and reputation are dependent not only on the quality of services provided to our clients but also on the way in which we do business. ABC's ambition is to become a leader in the industry. For us, becoming a national leader means not only establishing facilities across the country where we provide loving care and professional services but also setting the standard through exemplary business practices and ethical behavior.

ABC has a long history of adhering to and promoting strong professional ethics. It is, and must continue to be, a key part of our culture. Integrity enters into everything we do and is a central part of our philosophy to "do the right thing." We have developed the ABC Compliance Program Guide to establish a shared vision of standards and practices for the organization, grouping them together in a single document. Its principles must guide each one of us in the performance of our daily functions. The long-term success of ABC depends on the attention paid by each one of us to uphold the highest ethical standards and business practices. It is our business that requires this and our reputation that is at stake.

The leadership team and stockholders of ABC have pledged their support along with me to uphold the Compliance Program Guide and support the compliance program. Your commitment is essential to the shared values that unite us as an organization, guide our decisions and actions, and promote the highest quality of care. I/we expect each one of you to ensure compliance with the rules defined in the Compliance Program Guide. In this way we will be able to achieve our ambition of leadership, which goes hand in hand with the ethical and professional manner in which we must conduct our business on a daily basis.

[Insert signature of board or chief executive officer]

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Introduction

The United States Sentencing Commission defines a compliance program as a “program that has been reasonably designed, implemented, and enforced so that it generally will be effective in preventing and detecting criminal conduct. Failure to prevent or detect the instant offense, by itself, does not mean that the program is not effective. The hallmark of an effective program to prevent and detect violations of law is that the organization exercises due diligence in seeking to prevent and detect criminal conduct by its employees or other agents.”

The compliance program (policies and procedures described in this Compliance Program Guide [guide]) is intended to establish a framework to be used by ABC for current product and services as well as business development to ensure compliance. It is not intended to set forth all the substantive programs and practices of ABC that are designed to achieve compliance.

ABC recognizes the need to conduct business with honesty and integrity and in compliance with all applicable federal and state laws. This recognition is supported by an organizational commitment to promote ethical and compliant business operations through the implementation of a systematic plan. ABC is committed to conducting its business according to the highest standards of honesty and fairness. This commitment to observing the highest ethical standards is designed not only to ensure compliance with the applicable laws and regulations in the various jurisdictions where we operate but also to earn and keep the continued trust of our clients, shareholders, personnel, and business partners.

This guide is not intended to be an exhaustive guide to all the detailed rules and regulations governing the services provided by ABC. Rather, it is intended to establish certain guiding principles and corporatewide policies designed to ensure that each ABC facility and its personnel have a common vision of ABC’s ethical standards and operate in accordance with those standards.

The guide is directed at providing business conduct and operational guidance to employees, independent contractors, and consultants who may be engaged in activities that pose specific areas of risk or vulnerability for ABC.

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Some specific areas of potential risk or vulnerability include daily activities related to contracting, sales and marketing, claims processing, integrity of data systems, and record retention. The guide establishes minimum standards to be observed by all ABC employees, independent contractors, consultants, board members, and investors and includes the following policies:

1. Quality-of-care policy statement
2. Contract review policy statement
3. Employee background checks
4. Prohibition against retaliation
5. Discipline for violations
6. Responding to government investigations
7. Prohibition on kickbacks
8. Record retention
9. Periodic testing of claims system
10. Conflict-of-interest policy statement
11. Billing and coding policy statement
12. Accounting and financial reporting policy statement
13. Training
14. Monitoring and auditing
15. Annual risk assessment

Compliance and Ethics Rules

Our Professional Ethics Reflect ABC's Vision and Values Statement

Professional ethics at ABC reflect our vision and values. This vision and these values guide daily behavior and underlie the provisions in this guide.

ABC Vision Statement

[Insert vision statement]

ABC Mission Statement

[Insert mission statement]

ABC Mission to Customers

[Insert mission statement]

ABC Mission to Employees

[Insert mission statement]

Answers to Commonly Asked Questions

1. Who does this guide apply to?

Unless specifically stated otherwise, the policies set forth in this guide apply to all ABC companies and to their directors, officers, and employees and independent contractors doing business with or on behalf of ABC and its wholly owned subsidiaries.

2. What are my responsibilities as an ABC employee?

As an ABC employee, you are expected to conduct yourself in a manner appropriate for your work environment and to be sensitive to and respectful of the concerns, values, and preferences of others, including your fellow employees, patients, and clients. All ABC employees are expected to familiarize themselves with the policies in this guide and to abide by them in the daily performance of their job responsibilities. ABC employees are encouraged to promptly report any practices or actions that they believe to be inappropriate or inconsistent with the policies and procedures set forth in this guide or that they believe may compromise the ethical standards or integrity of ABC.

3. How do I report misconduct or other matters that I believe should be reported under the policies and procedures set forth in this guide?

ABC has adopted a policy statement on handling employee complaints in addition to a whistleblower policy as noted in the Employee Handbook. Taking proactive steps to prevent problems is part of the ABC culture and speaking to the right people is one of your first steps to understanding and resolving what often can be difficult questions. All ABC employees are encouraged to promptly report any practices or actions that they believe are inappropriate or inconsistent with company policy, including but not limited to those policies and procedures set forth in this guide. Anyone reporting misconduct in good faith will be protected against retaliation.

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Employees are encouraged to report to their immediate supervisor or alternatively may choose to report to the human resources department or the chief compliance officer. Anonymous reporting is also permitted by calling the compliance hotline at [insert phone number].

4. What is a “hotline”?

A hotline provides a risk-free way for you to anonymously report suspected violations of ABC compliance policies or procedures or the Code of Conduct as outlined in the Employee Handbook.

5. What should I report to the hotline?

You may use the hotline to report any and all concerns that you may have about ABC, your fellow teammates, clients, and patients. However, the hotline should be used primarily to report violations related to employee conduct, violations of ABC Nursing Facility Compliance Guide policies, and any suspected violations of federal, state, or local law, which may include but are not limited to the following:

- Medicare/Medicaid rules and regulations
- Self-referral laws (also known as Stark violations)
- Anti-kickback statute, theft, or bribe violations
- Fraudulent billings or collections
- Environmental hazards
- Conflicts of interest
- Any and all potential criminal violations

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6. Who do I contact if I have a question?

The guide can serve only as a general standard of conduct. It cannot substitute for personal integrity and good judgment and cannot spell out the appropriate response to every type of situation that may arise. If you have questions about the interpretation or application of the policies or procedures of this guide to a particular situation, or if you believe that there is a conflict between the policies of this guide and other ABC policies, please consult your immediate supervisor, the department of human resources, or the chief compliance officer.

Compliance Program Policies

Compliance Committee

The ABC Corporate Compliance Committee will administer ABC's corporate compliance program. The chief compliance officer shall chair the Corporate Compliance Committee. The purpose of this Committee is to monitor the organization to ensure consistent application of relevant laws and rules, including those relating to billing and collection practices, to proactively identify problem areas, and to recommend, establish, and implement, as appropriate, solutions and system improvements.

The Corporate Compliance Committee may consist of representatives from the following ABC departments and/or groups:

- Compliance
- Finance
- Human resources
- Operations management
- Clinical operations management
- Information systems and technology

ABC may engage outside legal counsel and/or expert consultants to assist the Corporate Compliance Committee, as appropriate. ABC's governing body may also approve adjustments to Compliance Committee membership, from time to time.

Quality of Care Policy

ABC will provide high-quality, cost-effective care to patients in accordance with the highest professional standards. We will respect each patient's dignity and their right to privacy of their

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medical information in accordance with operative rules and regulations, including the Health Insurance Portability and Accountability Act of 1996 (HIPAA) privacy regulations. We will listen to our patients, their families, and visitors to understand any concerns or complaints and will involve patients in the decision-making process regarding their care and quickly and efficiently respond to their questions, concerns, and needs.

We will maintain complete and accurate medical records and accurately communicate information to patients, families, and payers, including insurance companies and health plans, as requested and appropriate. Only those clinical staff appropriately licensed and credentialed will provide patient evaluations, and they will supervise all care provided by assistants and aides. All licensed and professional staff will maintain their credentials in good standing and will keep current in practice techniques and emerging areas of clinical practice to enhance patient care.

Compliance Training and Education Policy

We recognize and understand that ongoing investment in and commitment to effective training at all levels is essential to attain the desired standards of excellence in service and to adhere to our compliance program. ABC's "do the right things" philosophy is instilled in every employee, and the commitment to compliance and ethical behavior begins at new-employee orientation.

All ABC employees undergo annual training that contains—as necessary and appropriate to their job title and function—any new, updated, or revised information, policies, or procedures regarding patient care, billing, documentation, confidentiality, privacy, security, and other pertinent company policies and procedures. Ad hoc training for appropriate department directors is also utilized, including in response to audit and monitoring findings.

Contract Review Policy

ABC will have all contracts where the other party is a referral source or potential referral source and all other material contracts to which ABC is a party, assumes obligations for, or incurs liability under review by legal counsel prior to ABC entering into such agreements. The term "contract" is defined as

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any written agreement, including Memorandum of Understanding, Letter of Intent, Letter Agreement, Countersigned Letter of Understanding, Proposal, etc., which ABC is a party to, assumes obligations under, or incurs liability for. (A “material contract” is a contract with an annual expenditure greater than \$5,000 or with a term longer than one year and for which ABC has no ability to terminate without reason or cause prior to expiration of that term.) Legal counsel is responsible for performing compliance and legal reviews. Directors, or other authorized ABC representatives, may not enter into, or sign, any contract with a referral source or potential referral source or any material contract prior to the completion of a contract review and approval by legal counsel.

Employee Background Check Policy

ABC will conduct routine and customary criminal background checks and investigations for state licensure, including sanctions and/or exclusions from any federal healthcare program, for all employment applicants and independent contractors who are offered a position and (i) who are licensed healthcare providers or (ii) whose employment or contractor duties involve direct patient care, information technology, finance, or billing and claims processing.

ABC will not employ or contract with individuals or entities when a background check or investigation demonstrates that the individual or entity has been convicted of any felony criminal offense or sanctioned and/or excluded from any federal healthcare program within the past five years (e.g., Medicare fraud, money laundering, mail fraud, Stark Law violation, and anti-kickback statute violation). In addition, ABC will immediately suspend and/or terminate any current employee, or independent contractor, if ABC learns of any said conviction or sanction and/or exclusion.

All employment applicants are required to disclose at the time of application any criminal convictions, sanctions, and/or exclusions from any federal healthcare program. Any and all employment offers extended on behalf of ABC to persons subject to this policy are contingent upon successful passage of a criminal background investigation.

ABC also requires background checks from any temporary agency providing contracted persons to perform services for ABC. ABC requires written proof that said temporary personnel has not been

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subject to any criminal conviction or sanction and/or exclusion from any federal healthcare program prior to starting work with ABC.

Individuals subject to this policy are also subject to periodic background investigations during the term of their employment or independent contract relationship with ABC as follows:

- Criminal background check (annually)
- Office of Inspector General (OIG) list of excluded providers (monthly)

Policy Against Retaliation

ABC strictly prohibits any type of retaliation against any individual who, in good faith, reports any alleged compliance policy violation or illegal activity occurring at ABC. This policy is applicable to any report or violation made to a supervisor, a member of the executive management team, the chief compliance officer, or to any government official or entity.

Any person violating this policy will be subject to disciplinary action in accordance with the ABC Employee Handbook, which may include termination of employment.

Policy Against Kickbacks

ABC will not offer, pay, solicit, or accept any compensation, including any kickback, bribe, or rebate, directly or indirectly, overtly or covertly, in cash or in kind in exchange for a referral for admission or to induce purchasing, leasing, ordering, arranging for, or recommending the purchase, lease, or order of any good, facility, service, or item covered under a federal healthcare program.

ABC will not engage in transactions that violate relevant and applicable federal or state anti-kickback statutes.

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Discipline for Violations Policy

ABC will discipline, as appropriate, any employee or independent contractor who knowingly and willingly engages in activities that violate ABC's compliance program policies or procedures and/or applicable federal and state laws. Disciplinary action will be dispensed in a manner consistent with the ABC policy on Rules of Conduct, as defined in the Employee Handbook, and without regard to seniority, position, and/or title of the violator.

Accurate Books and Recordkeeping Policy

ABC will maintain accurate books and records in support of all claims filed for reimbursement from any federal, state, or private healthcare program. ABC's employees and contractors are prohibited from making false statements in any ABC book or record, including but not limited to all business records, patient medical records, and medical billing records, or on any ABC document prepared for or filed with any government or private entity or person.

Record Retention Policy

ABC shall retain all recorded information, regardless of medium, that is generated and/or received in connection with ABC transactions and legal obligations, for the applicable required retention period(s) as set forth under federal and state law or for a period of seven (7) years, whichever is longer.

ABC records will be destroyed after all applicable retention periods have expired. Records shall be kept in their original form or in an acceptable alternative form for storage. All records shall be maintained in a usable condition and in an appropriate environment to secure the integrity of the information. Confidentiality of all records pertaining to patient care or billing will be maintained in accordance with applicable federal and state laws and regulations.

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Billing and Coding Policy

ABC is committed to fair and accurate billing in accordance with all applicable federal and state laws and regulations, payer rules and procedures, and ABC policies and procedures. We understand that all claims for services submitted to any private insurance program or payer, Medicare, Medicaid, or other federally funded healthcare programs have to be accurate and correctly identify and document the services ordered and performed. ABC will bill only for services actually provided and documented in the patient's medical records and will charge for all healthcare services provided. ABC will not engage in and/or permit known upcoding or unbundling of services rendered and/or other improper billing practices intended to increase reimbursement.

ABC will require payment of insurance copayments and deductibles and will only waive required fees following a determination of patient financial need in accordance with ABC's applicable policies and procedures and after reasonable collection efforts have failed. ABC will use systematic methods for analyzing the payments received and will reconcile any overpayments in a timely manner after discovery, review, and confirmation that overpayment should not be applied to any outstanding accounts receivable owed to ABC.

ABC will assign diagnostic, procedural, and other billing codes that accurately reflect the services that were provided. ABC will periodically review coding practices and policies, including software edits, to facilitate compliance with all applicable federal, state, and private payer healthcare program requirements and will investigate inaccurate billings and payments to determine whether changes to current protocol or other remedial steps are necessary.

Periodic Testing of Claims System Policy

ABC will periodically audit its manual and automated billing systems to ensure proper operation of all steps required to generate claims for healthcare services. Comprehensive audits should be conducted no less than annually to ensure timely detection and corrective action of system failures or errors. If a billing systems audit reveals system failures or errors, the department manager responsible for the audit should immediately consult with the chief compliance officer to determine whether the failure necessitates corrective action.

Written Policies and Procedures

Regulatory Inquiries, Investigations, and Litigation Policy

Governmental agencies, regulatory organizations, and their authorized agents may, from time to time, conduct surveys or make inquiries that request information about ABC, its patients, or others that generally would be considered confidential or proprietary. All regulatory inquiries concerning ABC should be handled by the chief compliance officer and/or the human resources department.

Regulatory inquiries may be received by mail, e-mail, telephone, or personal visit. In the case of a personal visit, demand may be made for the immediate production or inspection of documents. ABC employees receiving such inquiries should refer such matters immediately to the chief compliance officer.

Conflict-of-Interest Policy

ABC expects officers, stockholders, employees, vendors, and volunteers to avoid any activities that may involve a conflict of interest. A “conflict of interest” exists when a person’s private interest interferes or even appears to interfere in any way with the business interests of ABC. Employees should avoid conflicts as well as the appearance of conflicts between their private interests and the business interests of ABC.

A conflict of interest may occur if outside activities or personal interests influence or appear to influence the ability of a person to make objective decisions in the course of their job responsibilities. Any questions about whether an outside activity might be or appear to be a conflict of interest should be directed to the chief compliance officer or the human resources department.

Accounting and Financial Reporting Policy

All accounting entries, as well as all internal and external ABC financial reports, must be prepared accurately and on a timely basis in accordance with generally accepted accounting principles (GAAP) and applicable government regulations.

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ABC shall maintain a high level of accuracy and completeness in the documentation and reporting of financial records. These records serve as a financial basis for managing ABC's business and are important in meeting our obligations to our patients, employees, suppliers, and others. They are also necessary for compliance with tax and financial reporting requirements. ABC maintains a system of internal controls to provide reasonable assurances that all financial transactions are executed in accordance with management authorization and are recorded in a proper manner so as to protect and maintain accountability of company assets.

Auditing and Monitoring Policy

ABC recognizes the need for ongoing internal auditing and monitoring to ensure a successful business and Compliance Program. As such, ongoing internal compliance auditing and monitoring is performed through the coordination of activities administered by appropriate personnel under the direction of the chief compliance officer. Areas of concern or vulnerability are addressed, when applicable, by way of a corrective action plan with appropriate follow-up.

ABC has established a compliance calendar on an annual basis that includes monitoring activities as well as informal and formal routine audit activities. ABC also recognizes the need for ongoing external auditing and monitoring to ensure our clients, investors, and employees that our commitment to compliance is supported objectively. Compliance monitoring and auditing will be conducted externally through payer audits, external accreditation agency review, if applicable, and independent third-party examination of annual financial reports and compliance activity.

Annual Identification of Risk Areas

ABC will annually review key areas of potential compliance risk and set forth a system to identify risk elements in each key area. The annual risk assessment will take into consideration the annual work plans published by the OIG of the U.S. Department of Health and Human Services. Applicable risk elements will be converted to routine monitoring and auditing activities.

Source: The Sample Nursing Facility Code of Conduct & Compliance Guide is courtesy of Nancy Beckley & Associates, LLC, Milwaukee.