

CUSTOMIZABLE COMPLIANCE PROGRAM TEMPLATE

COMPLIANCE PLAN TEMPLATE

The following Compliance Plan is a template, not a final document. You should edit it to include your practice's specific processes, procedures, policies, and information as appropriate.

[NAME OF YOUR PRACTICE]

COMPLIANCE PLAN

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- 1. OIG Compliance Program for Individuals and Small Group Physician Practices, October 2000
 - 2. Health Insurance Portability and Accountability Act of 1996

I. INTRODUCTION

1. [YOUR PRACTICE] recognizes the problem fraud and other deliberate misconduct in the health care industry poses to society and seeks to prevent and detect unlawful and /or unethical conduct by its employees and agents. Lakeshore is committed to developing an effective Corporate Compliance Plan ("Compliance Plan") in accordance with applicable laws and guidance from state and federal health care authorities. Through this Compliance Plan, [YOUR PRACTICE] wishes to promote full compliance with all legal duties applicable to [YOUR PRACTICE]. This Compliance Plan is designed to prevent misconduct, to detect misconduct if it occurs, to prevent future wrongdoings, and to create an atmosphere of awareness and accountability among the practice's health care providers, other employees and consultants. The following is the [PRACTICE NAME]'S Compliance Plan structured to meet the guidelines as set forth by the Office of the Inspector General of the Department of Health and Human Services and as required by the Patient Protection and Affordable Care Act.

2. Application of Compliance Program Guidance.

The Compliance Program:

1. Establishes a Code of Conduct to be followed by each Covered Individual.
2. Establishes an administrative framework for conducting an effective and diligent compliance effort.
3. Creates effective communication channels to deliver [YOUR PRACTICE'S] commitment to ethical business practices and to receive feedback regarding adherence to these practices.
4. Outlines a commitment to effective education and training of Covered Individuals regarding compliance requirements and the manner in which their job activities should be conducted so that they comply with applicable Federal and State law.
5. Implements monitoring and auditing functions to measure the effectiveness of the Compliance Plan and to address problems in an efficient and timely manner.
6. Employs enforcement and disciplinary standards that ensure that all practice health care providers, employees and consultants take their compliance responsibilities seriously.
7. Identifies the significant operating and legal risks faced by [YOUR PRACTICE] and develops a plan to minimize those risks.
8. Responds promptly to detected violations and implements effective corrective action.

[YOUR PRACTICE] is ultimately responsible for the operation and oversight of the Compliance Plan; however, day-to-day responsibility for operation and oversight of the Compliance Plan rests with the Compliance Officer. The Compliance Officer is supported by the Ethics & Compliance Committee.

The Compliance Plan is a comprehensive strategy to ensure

- a. That claims submitted to all payers, including private, government (Medicare and Medicaid), and other Federal agencies and individuals are consistently accurate.

- b. That practice employees comply with the applicable laws, policies and regulations relating to its participation in these programs.

II. COMPLIANCE PROGRAM ELEMENTS 1 – 7

Element 1: Written Policies and Procedures

- A. Standards of Conduct for [YOUR PRACTICE] Personnel.
- 1) Employees are expected to follow the standards set forth in this Compliance Plan, as well as all applicable laws.
 - 2) Employees will conduct business and personal activities with the highest level of integrity.
 - 3) No employee shall make, file, or use any false, fictitious, or fraudulent statements or documents in connection with the delivery of, or payment for, health care benefits, items, or services.
 - 4) No employee shall falsify, conceal, or cover up a material fact in the performance of their duties.
 - 5) Each employee will be responsible for reporting any violations of this plan to their immediate supervisor or the Compliance Officer, as appropriate.
 - 6) Employees will possess the necessary skills, quality assurance processes, systems, and appropriate procedures to ensure that all billing for government and commercial insurance programs are accurate and complete.
- B. Potential Risk Areas.
- 1) Billing for procedures, items or services that were not provided;
 - 2) Billing for procedures, items or services that are not documented;
 - 3) Submitting duplicate claims:
 - i. More than one claim for the same service;
 - ii. Claim is submitted to more than one primary payor at the same time;
 - 4) Up-coding:
 - i. Using a billing code that provides a higher payment rate than the billing code that accurately reflects the service furnished to the patient;
 - ii. Using a code that provides a higher payment rate than the code that accurately reflects the service furnished to the patient;

- 5) Unbundling: the practice of submitting bills in fragmented fashion to maximize the reimbursement for various tests or procedures that are required to be billed together and therefore at a reduced cost;
- 6) Using improper Medicaid or Medicare billing rates;
- 7) Inappropriate balance billing;
- 8) Inadequate resolution of overpayments;
- 9) Incorrectly or improperly recording receivables;
- 10) Failing to implement or follow marginal internal fiscal controls, including separation of duties;
- 11) Failure to maintain the confidentiality of information/records;
- 12) Lack of integrity in computer systems;
- 13) Alteration of documentation;
- 14) Destroying records/documentation without proper authority.
- 15) Blocking investigations;
- 16) [PRACTICE LEADERSHIP] overlooking, disregarding, defending, or affirmatively concealing illegal billing practices.

C. Claim Development and Submission Process. [YOUR PRACTICE] will:

- 1) Provide a mechanism for the billing or reimbursement staff to communicate effectively and accurately with the clinical and coding staff;
- 2) Provide for proper and timely documentation of all physician and other professional services prior to billing to ensure that only accurate and properly documented services are billed;
- 3) Emphasize that claims will be submitted only when appropriate documentation supports the claims and only when such documentation is maintained, appropriately organized in legible form, and available for audit and review. The documentation, which may include patient records, should record the time spent in conducting the activity leading to the record entry and the identity of the individual providing the service; the hospital will consult with its medical staff to establish other appropriate documentation guidelines;
- 4) Ensure practice records and clinical notes used as a basis for a claim submission are appropriately organized in a legible form so they can be audited and reviewed;

- 5) Ensure that the diagnosis and procedures reported on the reimbursement claim are based on the examination and treatment record and other authorized documentation;
- 6) Establish a process for pre- and post-submission review of claims to ensure claims submitted for reimbursement accurately represent services provided, are supported by sufficient documentation and are in conformity with any applicable coverage criteria for reimbursement;
- 7) Ensure all billings to government and private insurance payers reflect true and accurate information and conform to all pertinent Federal and state laws and regulations.
- 8) Implement a periodic manual review to determine the appropriateness of billing each outpatient service claim, to be conducted by one or more appropriately trained individuals familiar with applicable billing rules.

D. Health Insurance Portability and Accountability Act of 1996 (HIPAA). Practice personnel will comply with requirements as mandated by HIPAA and will complete annual HIPAA training. There are essentially three areas of HIPAA Compliance of concern to practice personnel:

- 1) Privacy
 - i. Practice personnel may not use or disclose protected health information unless the patient has authorized or consented, or unless HIPAA specifically permits or requires.
 - ii. HIPAA permits practice personnel to use or disclose PHI without patient consent only for Payment and Healthcare Operations.
- 2) Security
 - i. Practice personnel will ensure that they do not disclose information that compromises the security, confidentiality, or integrity of protected health information (PHI).
 - ii. Practice personnel will adhere to the practice's established policies and procedures and administrative, physical and technical controls to ensure protection of PHI.
- 3) Breach Notification
 - i. Practice will have an established breach notification process for responding to unauthorized disclosures of PHI.
 - ii. Practice will conduct periodic breach notification response exercises to ensure effective breach investigations and timely notifications.
- 4) Standard Electronic Transactions

i. Practice personnel with adhere to the HIPAA requirement that providers doing business electronically will use the same standardized health care transactions, code sets, and identifiers.

ii. Standard transactions for Electronic Data Interchange (EDI) to transmit health care data include: Claims and encounter information, payment and remittance advice, and claims status and inquiry

E. Credit Balances. Credit balances occur when payments, allowances, or charge reversals posted to an account exceed the charges to the account. The appropriate manager will diligently review the claims/account reports for credit balances and determine the reason for occurrence and required action.

F. Integrity of Data Systems Procedures. To ensure and maintain the accuracy and integrity of electronic data systems used for claims submission, collections, credit balances and other relevant reports, the practice will:

- 1) Ensure data is backed up on a regular basis;
- 2) Ensure regularly scheduled virus checks are performed;
- 3) Ensure electronic data is protected against unauthorized access or disclosure by limiting access to data systems to only authorized personnel (password protected)

G. Retention of Records.

- 1) Each employee is responsible for the integrity and accuracy of the practice's documents and records, not only to comply with regulatory and legal requirements but also to ensure that records are available to defend business practices and actions.
- 2) No one may tamper with, alter, or falsify information on any record or document.
- 3) Patient records and business documents and records are retained in accordance with the applicable federal and state laws and regulations records retention requirements.

i. Patient records and business documents include paper documents such as letters and memos, computer-based information such as e-mail or computer files, and any other medium that contains information about the practice or its business activities.

ii. This also includes:

1. All records and documentation required by either federal or state law and the program requirements of federal, state and private health plans (for billing companies, this will include all documents related to the billing and coding process).

2. Records listing the persons responsible for implementing each part of the compliance plan.

3. All records necessary to protect the integrity of the billing office's compliance process and confirm the effectiveness of the program.

iii. No one may remove or destroy these documents prior to the specified destruction date.

H. Compliance as an Element of a Performance Plan. The promotion of and adherence to the elements of this compliance program will be a factor in evaluating the performance of all employees. All practice managers and/or supervisors involved in the claims submission, collection, auditing, etc., processes will:

- 1) Discuss with all supervised employees and relevant contractors the compliance policies and legal requirements applicable to their function;
- 2) Ensure employees are periodically trained in new compliance policies and procedures.
- 3) Inform all supervised personnel that strict compliance with these policies and requirements is a condition of employment;
- 4) Disclose to all supervised personnel that the practice will take disciplinary action up to and including termination for violation of these policies or requirements.
- 5) Be sanctioned for failure to instruct adequately their subordinates or for failure to detect noncompliance with applicable policies and legal requirements, where reasonable diligence on the part of the manager or supervisor should have led to the discovery of any problems or violations.

Element 2: Designation of a Compliance Officer and a Compliance Committee.

To ensure an effective compliance program, [YOUR PRACTICE] will designate a compliance officer not assigned directly to the practice but has oversight authority over the practice and has direct access to the command group.

A. The [YOUR PRACTICE] Compliance Officer, [insert Name, Position, Telephone #], will:

- 1) Oversee and monitor implementation of the Compliance Program.
- 2) Review the program to ensure relevance and compliance with current Federal and state laws, rules and regulations.

- 3) Ensure the components of the Compliance Program are implemented to reduce fraud, waste, abuse, and mismanagement within the business office and throughout the revenue cycle.
- 4) Ensure that contractors, vendors, and agents who furnish medical services to the facility are aware of the facility's compliance program and its respective coding and billing policies and procedures.
- 5) Have the authority to review all documents and other information relevant to compliance activities.
- 6) Assist the business office and internal review activities in conducting internal compliance reviews, including reviews of departments involved in the revenue cycle within the facility.
- 7) Investigate issues related to compliance.
- 8) Take corrective action and document compliance issues as necessary.
- 9) Encourage reporting of suspected fraud, waste, abuse, or mismanagement (without fear of retaliation) through training and other means of communication.
- 10) Notify employees of applicable regulations, procedures, and guidelines.
- 11) Report to the compliance committee on the progress of the compliance program. Similarly, report the results of any audits, fraud, waste, abuse, and mismanagement investigations, and any resulting employee discipline.

B. The [YOUR PRACTICE] Compliance Committee will:

- 1) At a minimum, be comprised of representatives from: the [INSERT NAMES TO REFLECT THE FOLLOWING ACTIVITIES (Patient Records, Patient Coding, Coding Auditors, Clinical Operations, Clinic Administration, Resource Management, Data Quality/Health Information Management, Legal Office, Internal Review, etc.)]
- 2) Advise the Compliance Officer and assist in the implementation of the compliance program.
- 3) Assess compliance violation investigations to determine whether a violation of the compliance plan actually exists.
- 4) Continually assess current policies and procedures to ensure compliance, relevance, and practicability.
- 5) Work with appropriate personnel to develop standards of conduct and policies and procedures, to promote adherence to the practice compliance program.
- 6) Monitor internal controls to implement the program and recommend changes as needed.

- 7) Ensure periodic audits of claims development and claims processing procedures are performed and that internal fiscal and administrative controls are implemented and adhered to.

Element 3: Conducting Effective Training and Education.

- A. Initial Compliance Training. All new employees will receive an initial training session that will cover the topics and guidance set forth in this plan before they begin their assigned duties. Statement acknowledging employee's commitment to and receipt of the compliance plan and code conduct will be signed and dated, and retained in the employee's personnel file.
- B. Annual Compliance Training. All personnel will attend training on an annual basis, including appropriate training in federal and state statutes, regulations and guidelines, and ethics. Sessions will emphasize the organization's commitment to compliance with these legal requirements and policies, compliance program, summarizing fraud and abuse statutes and regulations, Federal, State, coding requirements, claim submission processes, and employee code of conduct. Statement acknowledging employee's commitment to the code conduct will be signed and dated, updated as needed, and retained in the employee's personnel file.

Element 4: Developing Effective Lines of Communication.

- A. Access to the Compliance Officer: Access to the compliance officer is available through [appointed meetings, question/complaint box and hotlines]. The compliance officer will be available to any member of the practice that needs assistance in determining compliance issues and conduct. The compliance officer is the lead representative in preserving the ethical and legal stance of the organization. As an advocate of compliance related issues and conduct he or she works and communicates closely with the chain of command to ensure the organization is operating within the state and federal laws:
 - 1) The Compliance Officer, (Name/telephone number/e-mail address);
 - 2) The Compliance Question/Complaint Box, located (location);
 - 3) [Telephone Hotline];
 - 4) [E-mail Hotline];
 - 5) [Web based Hotline];
- B. Additionally, employees may use other agencies to report suspected healthcare billing-related fraud, waste, abuse or mismanagement:
 - 1) [STATE] Inspector General [Telephone # and or Hotline #]
 - 2) [STATE] Attorney General [Telephone # and or Hotline #]
 - 3) Department of Health and Human Services OIG [Telephone # and or Hotline #]

Element 5: Enforcing Standards through Well-Publicized Disciplinary Guidelines.

Disciplinary action will be applicable to all individuals within the practice who fail to comply with their obligations. When there is information of potential violations or misconduct, the Compliance Officer has the responsibility of conducting an investigation. An internal investigation would include interviews and a review of medical record, billing, and other relevant documents. To assure protections from coerced disclosure of information gained through investigative interviews, the investigation maybe referred to qualified legal counsel. The attorney/client privilege will afford a level of protection in the event that the OIG or other agency requests information developed in the course of an internal investigation.

- A. New Employee Policy. New employees and other individuals new to the practice or position will be trained to ensure that their work is consistent with standards to prevent fraud, waste, abuse, or mismanagement. The practice is responsible for providing the same training to individuals who may provide services for the practice (such as an independent contractor) even though these individuals are not employees of the practice.
- B. [YOUR PRACTICE] disciplinary policy outlining disciplinary actions against practice staff members and contract employees who do not follow the policies and procedures of [YOUR PRACTICE's] Compliance Plan/Program are [located at/in regulation/memo/website where policy can be found] or [as follows: list disciplinary policy].

Element 6: Auditing and Monitoring.

- A. Post-submission Reviews: Periodic post-submission review of claims will be performed to ensure claims submitted for reimbursement accurately represent services provided, are supported by sufficient documentation, conform with applicable coverage criteria for reimbursement, revenue is recorded properly and the account is finalized appropriately;
- B. Practice Quarterly Compliance Audits: The Compliance Officer will engage a disinterested reviewer to conduct quarterly compliance audits. The results of this audit will be reported to the Compliance Committee for review and recommended action, as appropriate;
- C. Compliance Program Effectiveness: The Compliance Officer must regularly review the implementation and execution of the compliance program elements. The review will be conducted as least annually and include an assessment of each of the basic elements individually, as well as the overall success of the program. This review will help identify any weaknesses in [YOUR PRACTICE's] compliance program and implement appropriate changes. A copy of this review should be retained for seven years.
- D. Exit Interviews: Practice health providers, employees and consultants who are ending their employment with [YOUR PRACTICE] are asked to participate in an exit interview. The exit interview will be conducted by the Compliance Officer or the practice's human resources manager. One of the purposes of the exit interview is to determine if the departing individual has knowledge of any potential unprofessional, unethical, illegal, or non-compliant conduct so that [YOUR PRACTICE] may evaluate the potential misconduct and take any necessary corrective action. The interview may also be used to obtain information about unsafe or unsound business practices. The human resources manager will notify the Compliance Officer of any departing

Covered Individual who identifies compliance concerns and will encourage the individual to contact the Compliance Officer directly. Compliance concerns identified through exit interviews will be processed in the same fashion as other identified compliance concerns. Departing Individuals may be required to sign a summary of any perceived misconduct reported.

Element 7: Responding to Detected Offenses and Developing Corrective Action Initiatives.

- A. Common compliance violations that can result in disciplinary action.
 - 1) Involvement in non-compliant conduct and/or activity;
 - 2) Failure to report known non-compliant conduct and/or activity.
 - 3) Supervisors who were aware or should have been aware of non-compliant conduct or activity and failed to correct deficiencies.
- B. Investigations and Reporting Procedures: All violations will be assessed by the Compliance Committee to determine whether a violation of the compliance plan actually exists. If so and the individual(s) involved are part of the practice staff, then a determination that the conduct was negligence and/or inadvertent or willful and/or knowingly conducted should be made. If the individual(s) involved are outside the staff, the Compliance Committee will forward their findings to the appropriate external organization.
 - 1) Negligence and/or Inadvertent Conduct: If it is determined, after investigation that non-compliant conduct occurred because of negligence or inadvertence, the matter shall be handled by the appropriate supervisor, who shall inform the Compliance Officer of the offense and corrective action taken to address the problem. Any individual dissatisfied with the corrective action imposed by his/her supervisor may appeal the decision to the Compliance Officer within ten (10) business days from the date of imposition of the corrective action. Such appeal shall be by written letter to the Compliance Officer stating the reasons why the corrective action is not appropriate. The Compliance Officer shall schedule a meeting within a reasonable time to review the request and either affirm or modify the corrective action.
 - 2) Willful, Knowing Conduct and/or Gross Negligence: If it is determined, after investigation, that non-compliant conduct occurred as a result of willful and knowing action or gross negligence, then the matter shall be referred to the Compliance Officer for corrective action. The practice Compliance Officer shall determine the response and appropriate corrective action, in light of all available information. An individual dissatisfied with the corrective action imposed by the practice Compliance Officer may utilize standard appeal procedures.
- C. Corrective Actions: Appropriate corrective action measures shall be determined on a case-by-case basis. Disciplinary action, if required, and in the support of the practice's Compliance Program will be managed in accordance with the disciplinary policies outlined in Element 5 of this plan.

ELEMENT 8 - NON-RETALIATION

[YOUR PRACTICE] has adopted a strict policy of non-retaliation. Under no circumstance will a health care provider, employee or consultant, who in good faith reports a potential compliance issue, be retaliated against or otherwise disciplined solely for reporting the potential compliance issue. A report, even if later deemed to be inaccurate or not to involve actual misconduct, will be considered a “good faith” report as long as it is reasonable to believe that the reporting individual acted in good faith at the time the report was made and had a good faith factual basis for the report.

The Compliance Officer and [YOUR PRACTICE’s] officers and managers are charged with the continuing responsibility to ensure that neither [YOUR PRACTICE] nor any of its health care providers, employees or consultants retaliate against or punish any individual who makes a good faith report of potential non-compliance. Concerns about possible retaliation or harassment should be reported to the Compliance Officer. Any Covered Individual that is found to have retaliated against an individual for reporting in good faith a potential compliance issue will be subject to discipline under this Compliance Plan up to, and including, termination of the Covered Individual’s relationship with [YOUR PRACTICE].

Where a health care provider, employee or consultant reports his or her own personal misconduct, he or she will not be discharged, demoted, suspended, harassed or discriminated against solely because the Covered Individual reported his or her own personal misconduct. A health care provider, employee or consultant cannot avoid discipline by reporting his or her own personal misconduct, self-reporting may be considered as a mitigating factor in any disciplinary action. In evaluating such individual’s misconduct, [YOUR PRACTICE] also will consider whether the facts underlying the self-reporting were previously known to [YOUR PRACTICE], whether the discovery of the facts was imminent and whether the individual’s self-reporting was complete and truthful.

III. COMPLIANCE PROGRAM EFFECTIVENESS.

1. Code of Conduct. The following general principles apply to every employee. Where a situation is not covered by the standards set forth, health care providers, employees and consultants shall apply the principles set forth in this plan in determining whether their conduct is proper. Each covered individual is expected to abide by the following general principles:

- A. Serve the public, and treat all persons employed by or associated with the PRACTICE with respect, concern, courtesy, and responsiveness.
- B. Support equal treatment of all patients, employees and other persons associated with the facility, or obtaining or providing services to the facility, without regard to race, gender, color, age, religion, national origin, veterans’ status, marital status, sexual orientation, or individual disabilities.
- C. Avoid actual or potential conflicts of interest including the appearance of a conflict of interest, except as allowed by this policy or other facility policies.
- D. Promptly report to your supervisor any situation in which a covered individual reasonably feels that they may be or may become involved in a conflict of interest, whether or not such situation is specifically described in this policy.

- E. Recognize that personal gains from employment or service to the facility are limited to respect, recognition, salary, and normal employee benefits.
- F. Demonstrate the highest standards of personal integrity in all actions related to or affecting the business of the facility.
- G. Not use your relationship with the facility to bestow any benefit on anyone related to the person by family, business, or social relationship.
- H. Not disclose or use or allow others to use confidential information obtained as the result of your relationship with the facility for private gain or private purposes.
- I. Not accept any fee, compensation, gift, payment of expense, or any other thing of monetary value except as authorized by policies of the facility.
- J. Not engage in outside employment except as authorized by policies of the facility. No covered individual shall hold a public office or employment that is incompatible with their duties and obligations.
- K. Not use facility time, property, equipment, supplies, or support services for private gain, or private purposes, except such limited use as authorized by policies of the facility.

2. Regular Review of Compliance Program Effectiveness. This Compliance Plan is intended to be flexible and readily adaptable to changes in regulatory requirements and in the healthcare system as a whole. This plan shall be reviewed annually and modified, as necessary. This Compliance Plan shall be certified by the [YOUR PRACTICE's] Compliance Committee upon implementation and when major revisions are required.

IV. SELF-REPORTING.

If credible evidence of misconduct is discovered and, after reasonable inquiry, it is determined that this misconduct may have violated criminal, civil, or administrative law, the [YOUR PRACTICE's] legal office/counsel should be contacted promptly to determine self-reporting requirements.

V. CONCLUSION.

The compliance program as presented in this document establishes a framework for effective billing and legal compliance by the practice. It does not set forth all of the practice's substantive programs and policies that are designed to achieve compliance. The practice has already established various compliance policies. Those and future policies will be a part of its overall compliance enforcement program.