

SAMPLE COMPLIANCE PLAN FOR PHYSICIAN AND DENTAL PRACTICES

_____(The Medical Practice)_____ voluntarily implements a compliance program aimed at fraud, waste, and abuse prevention while at the same time advancing the mission of providing quality patient care. Our compliance efforts are aimed at prevention, detection, and resolution of variances.

The eight elements of _____(The Medical Practice)_____ Compliance Plan are:

1. Commitment to Compliance
 - A. Standards of Conduct
 - B. Medical Necessity
 - C. Billing
 - D. Reliance on Standing Orders
 - E. Compliance with Applicable HHS Fraud Alerts
 - F. Marketing
 - G. Anti-Kick Back/Inducements
 - H. Retention of Records/Documentation
2. Designation of a Compliance Officer/Committee
3. Conducting Training and Education Programs
4. Communication
5. Disciplinary Guidelines
6. Auditing and Monitoring
7. Corrective Action
8. Response to Special Agent's Visit for the Purpose of Investigating Allegations of Fraud and Abuse

SAMPLE COMPLIANCE FORM (CONT.)

I. COMMITMENT TO COMPLIANCE

A. Standards of Conduct

____ (The Medical Practice) promotes adherence to the Compliance Program as a major element in the performance evaluation of all staff members.

____ (The Medical Practice) employees are bound to comply, in all official acts and duties, with all applicable laws, rules, regulations, standards of conduct, including, but not limited to laws, rules, regulations, and directives of the federal government and the state of Florida, and rules policies and procedures of ____ (The Medical Practice) _____. These current and future standards of conduct are incorporated by reference in this Compliance Plan.

All candidates for employment shall undergo a reasonable and prudent background investigation, including a reference check. Due care will be used in the recruitment and hiring process to prevent the appointment to positions with substantial discretionary authority, persons whose record (professional licensure, credentials, prior employment, any criminal record) gives reasonable cause to believe the individual has a propensity to fail to adhere to applicable standards of conduct.

All new employees will receive orientation and training in compliance policies and procedures. Participation in required training is a condition of employment. Failure to participate in required training may result in disciplinary actions, up to and including, termination of employment.

Every employee is asked to sign a statement certifying they have received, read, and understood the contents of the compliance plan.

Every employee will receive periodic training updates in compliance protocols as they relate to the employee's individual duties.

Non-compliance with the plan or violations will result in sanctioning of the involved employee(s) up to, and including, termination of employment.

B. Medical Necessity

____ (The Medical Practice) will take reasonable measures to ensure that only claims for services that are reasonable and necessary, given the patient's condition, are billed.

Documentation will support the determinations of medical necessity when providing services.

____ (The Medical Practice) is aware that Medicare will only pay for tests that meet the Medicare coverage criteria and are reasonable and necessary to treat or diagnose a patient. Therefore, ____ (Physician name) ____ will use prudent ordering practices.

In requesting diagnostic procedures or tests, ____ (Physician name) ____ will make an independent medical necessity decision with regard to each item ordered. A diagnosis will be submitted for all tests ordered. Documentation of findings and diagnoses will support the medical necessity of the service.

____ (Physician name) understands that Medicare generally does not cover routine screening tests and that organ and disease-related panels will be billed when all components are medically necessary.

____ (Physician name) will order tests or services believed to be appropriate for the treatment of the patient.

Advance Beneficiary Notices (ABN) are used when there is a likelihood that an ordered service will not be paid. The patient will be notified, in writing, of the likelihood that the service will not be paid before the service is provided. The ABN will only include those specific tests that do not meet Medicare criteria for medical necessity. Patients will never be offered blank ABNs to sign.

SAMPLE COMPLIANCE PLAN (CONT.)

C. Billing

All claims for services submitted to Medicare or other health benefits programs will correctly identify the services ordered. Only those tests ordered by an authorized physician that are performed and that meet Medicare's or the health benefits program's criteria will be billed.

Intentionally or knowingly upcoding (the selection of a code to maximize reimbursement when such code is not the most appropriate descriptor of the service offered) may result in immediate termination. (Physician name) must provide documentation to support the CPT, HCPCS, and/or ICD-9-CM codes used based on medical findings and diagnoses.

D. Reliance on Standing Orders

Standing orders will not be prohibited for an extended course of treatment. However, when standing orders are utilized, (Physician name) should prescribe a fixed term of validity, must renew the order upon its expiration if continued treatment is indicated, and should periodically confirm in writing the need for continued treatment.

E. Compliance with Applicable HHS Fraud Alerts

 (The compliance officer and/or compliance committee) will review the Medicare Fraud Alerts. The (officer/committee) will terminate any conduct criticized by the Fraud Alert immediately, implement corrective actions, and take reasonable actions to ensure that future violations do not occur.

F. Marketing

 (The Medical Practice) will promote only honest, straightforward, fully informative, and non-deceptive marketing.

G. Anti-Kickback/Inducements

 (The Medical Practice) will not participate in nor condone the provision of inducements or receipt of kickbacks to gain business or influence referrals. (Physician name) will consider the patient's interests in offering referral for treatment, diagnostic, or service options.

Any employee involved in promoting or accepting kickbacks or offering inducements may be terminated immediately.

H. Retention of Records/Documentation

 (The Medical Practice) will ensure that all records required by federal and/or state law are created and maintained. All records will be maintained for a period of no less than seven years.

Documentation of compliance efforts will include staff meeting minutes, memoranda concerning compliance protocols, problems identified and corrective actions taken, the results of any investigations, and documentation supportive of assessment findings, diagnoses, treatments, and plan of care.

SAMPLE COMPLIANCE FORM (CONT.)

II. DESIGNATION OF A COMPLIANCE OFFICER AND/OR A COMPLIANCE COMMITTEE

____ (The Practice) designates ____ (compliance officer and/or compliance committee) to serve as the coordinator of all compliance activities.

Compliance Officer:

The responsibilities of the compliance officer are:

- Overseeing and monitoring the implementation of the compliance program.
- Reporting monthly/quarterly to the practice's responsible body on the progress of implementation and assisting the practice in establishing methods to improve efficiency and quality of services and to reduce the vulnerability to allegations of fraud, waste, and abuse.
- Developing and distributing all written compliance policies and procedures to all affected employees.
- Periodically revising the program in light of changes in the needs of the organization and in the law; and changes in policies and procedures of government and private payor health plans.
- Developing, coordinating, and participating in a multifaceted educational and training program that focuses on the elements of the compliance program and seeks to ensure that all employees are knowledgeable of, and comply with, pertinent federal, state, and private payor standards.
- Ensuring that all physicians and dentists are informed of compliance program standards with respect to coding, billing, documentation, and marketing, etc.
- Assisting in coordinating internal compliance review and monitoring activities, including annual or p.r.n. reviews of policies.
- Independently investigating and acting on matters related to compliance, including the flexibility to design and coordinate internal investigations.
- Developing policies and programs that encourage managers and employees to report suspected fraud and other improprieties without fear of retaliation.

The compliance officer has the authority to review all documents and other information relative to compliance activities, including, but not limited to, requisition forms, billing information, claims information, and records concerning marketing efforts and arrangements with clients.

Compliance Committee:

____ (The Medical Practice) will designate a compliance committee to advise the compliance officer and assist in the implementation of the compliance program as needed.

The functions of the compliance committee are:

- Analyzing the practice's regulatory environment, the legal requirements with which it must comply, and specific risk areas.
- Assessing existing policies and procedures that address risk areas for possible incorporation into the compliance program.
- Working within the practice's standards of conduct and policies and procedures to promote compliance.
- Recommending and monitoring the development of internal systems and controls to implement standards, policies, and procedures as part of the daily operations.

SAMPLE COMPLIANCE PLAN (CONT.)

- Determining the appropriate strategy/approach to promote compliance with the program and detection of any potential problems or violations.
- Developing a system to solicit, evaluate, and respond to complaints and problems.

III. CONDUCTING EFFECTIVE TRAINING AND EDUCATION

_____(The Medical Practice)_____ requires all employees to attend specific training upon hire and on an annual and p.r.n. basis thereafter. This will include training in federal and state statutes, regulations, program requirements, policies of private payors, and corporate ethics. The training will emphasize the practice's commitment to compliance with these legal requirements and policies.

The training programs will include sessions highlighting the practice's compliance program, summaries of fraud and abuse laws, discussions of coding requirements, claim development, claim submission processes, and marketing practices that reflect current legal and program standards.

The compliance officer/committee member will document the attendees, the subjects covered, and any materials distributed at the training sessions.

Basic training will include:

- Government and private payor reimbursement principles.
- General prohibitions on paying or receiving remuneration to induce referrals.
- Proper translation of narrative diagnoses.
- Only billing for services ordered, performed, and reported.
- Duty to report misconduct.

IV. DEVELOPING EFFECTIVE LINES OF COMMUNICATION

_____(The Medical Practice)_____ will protect whistle-blowers from retaliation.

_____(The Medical Practice)_____ will establish a procedure so that employees may seek clarification from the compliance officer/committee in the event of any confusion or questions regarding a policy or procedure.

_____(A hot line/question box/mail box)_____ will be established so that employees may anonymously consult with the _____(compliance officer/committee)_____ with questions or report violations. _____(A newsletter/bulletin board/communication book/e-mail/written memorandum)_____ will be used to communicate responses to anonymous inquiries or reports, as well as to communicate other information regarding compliance and compliance activities.

Any potential problem or questionable practice which is, or is reasonably likely to be, in violation of, or inconsistent with, federal or state laws, rules, regulations, or directives or _____(the Medical Practice)_____ rules or policies relative to the delivery of healthcare services, or the billing and collection of revenue derived from such services, and any associated requirements regarding documentation, coding, supervision, and other professional or business practices must be reported to the _____(Compliance Officer/Committee)_____.

Any person who has reason to believe that a potential problem or questionable practice is or may be in existence should report the circumstance to the _____(Compliance Officer/Committee)_____. Such reports may be made verbally or in writing, and may be made on an anonymous basis.

The _____(Compliance Officer/Committee)_____ will promptly document and investigate reported matters that suggest substantial violations of policies, regulations, statutes, or program requirements to determine their veracity. The compliance officer will maintain a log of such reports, including the nature of the investigation and its results.

SAMPLE COMPLIANCE FORM (CONT.)

The (Compliance Officer/Committee) will work closely with legal counsel who can provide guidance regarding complex legal and management issues.

V. DISCIPLINARY GUIDELINES

All members of (the Medical Practice) will be held accountable for failing to comply with applicable standards, laws, and procedures. Supervisors and/or managers will be held accountable for the foreseeable compliance failures of their subordinates.

The supervisor or manager will be responsible for taking appropriate disciplinary actions in the event an employee fails to comply with applicable regulations or policies. The disciplinary process for violations of compliance programs will be administered according to practice protocols (generally oral warning, written warning, suspension without leave, leading to termination) depending upon the seriousness of the violation. The (Compliance Officer/Committee), as well as legal counsel, may be consulted in determining the seriousness of the violation. However, the (Compliance Officer/Committee) should never be involved in imposing discipline.

If the deviation occurred due to legitimate, explainable reasons, the compliance officer and supervisor/manager may want to limit disciplinary action or take no action. If the deviation occurred because of improper procedures, misunderstanding of rules, including systemic problems, the practice should take immediate actions to correct the problem.

When disciplinary action is warranted, it should be prompt and imposed according to written standards of disciplinary action.

Within 30 working days after receipt of an investigative report, the supervisor and/or Chief Officer of (the Medical Practice) shall determine the action to be taken upon the matter. The action may include, without limitation, one or more of the following:

- 1) Dismissal of the matter.
- 2) Verbal counseling.
- 3) Issuing a warning, a letter of admonition, or a letter of reprimand.
- 4) Entering into and monitoring a corrective action plan. The corrective action plan may include requirements for individual or group remedial education and training, consultation, proctoring, and/or concurrent review.
- 5) Reduction, suspension, or revocation of clinical privileges.
- 6) Suspension or termination of employment.
- 7) Modification of assigned duties.
- 8) Reduction in the amount of salary compensation.

The Chief Officer shall have the authority to, at any time, suspend summarily the involved provider's clinical privileges or to summarily impose consultation, concurrent review, proctoring, or other conditions or restrictions on the assigned clinical duties of the involved provider in order to reduce the substantial likelihood of violation of standards of conduct.

VI. AUDITING AND MONITORING

The (Compliance Officer/Committee) will conduct ongoing evaluations of compliance processes involving thorough monitoring and regular reporting to the officers of (the Medical Practice).

The (Compliance Officer/Committee) will develop audit tools designed to address the practice's compliance with

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laws governing kickback arrangements, physician self-referral prohibition, CPT, HCPCS, and ICD-9-CM coding and billing, claim development and submission, reimbursement, marketing, reporting, and record-keeping. Internal audits will be conducted on a ___(quarterly/semi-annual/annual)___ basis.

The audits will inquire into compliance with specific rules and policies that have been the focus of Medicare fiscal intermediaries or carriers as evidenced by the Medicare Fraud Alerts, OIG audits, and evaluations and publicly announced law enforcement initiatives. Audits should also reflect areas of concern that are specific to ___(the Medical Practice)___.

The Compliance Officer/Committee shall conduct exit interviews of personnel in order to solicit information concerning potential problems and questionable practices.

The ___(Compliance Officer/Committee)___ should be aware of patterns and trends in deviations identified by the audit that may indicate a systemic problem.

VII. RESPONDING TO DETECTED OFFENSES AND DEVELOPING CORRECTIVE ACTION INITIATIVES

Violations of ___(the Medical Practice)___'s compliance program, failure to comply with applicable state or federal law, and other requirements of government and private health plans, and other types of misconduct may threaten the practice's status as a reliable, honest, and trustworthy provider, capable of participating in federal healthcare programs. Detected, but uncorrected, misconduct may seriously endanger the mission, reputation, and legal status of the practice. Consequently, upon reports or reasonable indications of suspected noncompliance, the ___(Compliance Officer/Committee)___ must initiate an investigation to determine whether a material violation of applicable laws or requirements has occurred.

The steps in the internal investigation may include interviews and a review of relevant documentation. Records of the investigation should contain documentation of the alleged violation, a description of the investigative process, copies of interview notes and key documents, a log of witnesses interviewed and the documents reviewed, the results of the investigation, and the corrective actions implemented.

If an investigation of an alleged violation is undertaken, and the ___(Compliance Officer/Committee)___ believes the integrity of the investigation may be hampered by the presence of employees under investigation, those employees should be removed from their current work activities pending completion of that portion of the investigation. These employees will be temporarily suspended with pay pending the outcome of the investigation.

Additionally, the ___(Compliance Officer/Committee)___ must take appropriate steps to secure or prevent the destruction of documents or other evidence relevant to the investigation.

If the results of the internal investigation identify a problem, the response may be immediate referral to criminal and/or civil law enforcement authorities, development of a corrective action plan, a report to the government, and submission of any overpayments, if applicable. If potential fraud or violations of the False Claims Act are involved, the Compliance Officer/Committee should report the potential violation to the Office of the Inspector General or the Department of Justice.

When making a repayment for an overpayment, the Practice should inform the payor of the following: (1) the refund is being made pursuant to a voluntary compliance program; (2) a description of the complete circumstances prompting the overpayment; (3) the methodology by which the overpayment was determined; (4) any claim-specific information used to determine the overpayment; and (5) the amount of the overpayment.

The Chief Officer of ___(the Medical Practice)___ shall have the authority and responsibility to direct repayment to payors and the reporting of misconduct to enforcement authorities as is determined, in consultation with legal counsel, to be appropriate or required by applicable laws and rules.

If the Chief Office of ___(the Medical Practice)___ discovers credible evidence of misconduct and has reason to believe that the misconduct may violate criminal, civil, or administrative law, then the Compliance Officer/Committee will promptly report the matter to the appropriate government authority within a reasonable time frame, but not more than 60 days after determining that there is credible evidence of a violation.

SAMPLE COMPLIANCE FORM (CONT.)

Office of Inspector General Hotline: 1-800-HHS-TIPS (1-800-447-8477)

When reporting misconduct to the government, the compliance officer should provide all evidence relevant to the potential violation of applicable federal or state laws and the potential cost impact.

VIII. RESPONSE TO SPECIAL AGENTS VISIT FOR THE PURPOSE OF INVESTIGATING ALLEGATIONS OF FRAUD AND ABUSE

In the event special agents visit _____ (the Medical Practice) _____ for the purpose of investigating fraud and abuse allegations:

- Request a copy of the search warrant and the affidavit supporting it.
- Record names of all agents and agencies they represent.
- Ask the agent to secure the premises but to delay the search until counsel can be notified. If this request is refused, do not deny admission to the premises, which could be construed as obstruction of justice.
- Ask for a delay until all patients have been seen.
- Accompany the agents during the search.
- Record beginning and ending times of the search, items taken, areas searched, types of documents taken, photographs taken, questions asked or comments made, and requests made by agents.
- Identify and request copies of items essential to daily operation.
- If employees are interviewed, debrief them after the search.

This plan has attempted to provide the foundation for development of an effective and cost-efficient compliance program.

This Compliance Plan may be altered or amended in writing only with the concurrence of the Chief Officer of _____ (the Medical Practice) _____. The adoption of this Compliance Plan has been approved and authorized as designated below, effective this _____ day of _____, _____.

(THE MEDICAL PRACTICE)

By: _____ Date: _____