



# **CORPORATE COMPLIANCE**

## **Self-Study Guide**

**Corporate Compliance Program Overview**

The Corporate Compliance Program of Pike Health Services, Inc. (PHS) was established to maintain compliance with all federal, state, and local laws and regulations. No trustees, physicians, or employees have the authority to act contrary to the provisions of the law, or to direct others to do so. PHS is committed to the prevention of fraud and abuse. Any employee or agent of PHS who has knowledge of facts concerning the organization's activities, which he or she believes might violate the law, has the obligation to report the matter of suspected or known non-compliance.

A Corporate Compliance Officer is responsible for overseeing and directing the Corporate Compliance Program, in conjunction with the Compliance Committee. The Compliance Committee is composed of the President/CEO; Vice Presidents of Finance, Human Resources, and Operations; Corporate Compliance Officer; and a cross section of department management.

Education and training are key factors in the success of the Corporate Compliance Program. PHS will provide the necessary and appropriate training to all employees, depending on the employee's duties, to ensure compliance with all applicable laws and regulations.

**Obligations of Employees**

Employees are expected to use their best practices in working for the organization. These practices include a commitment to comply with the organization's policies; all applicable federal, state, and local laws and regulations; and policies relating to the Corporate Compliance Program. Obligations under the Corporate Compliance program apply to all full-time and part-time employees, as well as volunteers working for PHS.

All employees and volunteers are expected to comply with the policies of the Corporate Compliance Program, including the following:

- Attending required educational and training sessions relating to the Corporate Compliance program;
- Understanding and adhering to the standards and policies of the Corporate Compliance Program, especially those which relate to the employee's function within the Hospital;
- Being aware of Corporate Compliance program procedures, including the mandatory duty of employees to report known or suspected violations of laws/regulations/policies;
- Understanding that retaliation against any person who makes a report in good faith is prohibited;
- Seeking guidance and training when necessary; and

- Acknowledging, in writing, acceptance and understanding of the Corporate Compliance program and its requirements.

Employees are obligated to report any information that leads them to suspect non-compliance with organization policy and/or applicable laws or regulations, or any situations where proposed conduct may constitute such non-compliance (referred to as “Compliance Incident”). Failure to report a Compliance Incident is itself a violation of organization policy and may result in disciplinary action, or termination, if appropriate.

### **Reporting a Non-Compliance Issue**

Any employee who has knowledge of Compliance Incidents that he or she believes might violate the law has an obligation, without fear of retribution, to report the non-compliance issue.

Reports should be based on information which the employee believes to be true, either based on firsthand knowledge, or based on other information which has a high degree of credibility. If any employee is unsure whether certain actions or behaviors constitute a violation of laws or regulations, the individual is encouraged to discuss the situation with the Corporate Compliance Officer.

Employees may use any of the following methods to report a non-compliance issue:

- Verbal or written explanation of the suspected violation to the immediate supervisor;
- Verbal or written explanation of the suspected violation to the Corporate Compliance Officer;
- Calling the Compliance Hotline at **740-947-6464**; or
- Contacting a member of the Compliance Committee.

Any reports made to a supervisor must be immediately forwarded to the Corporate Compliance Officer. When reporting a Compliance Incident, employees have the right to remain anonymous.

Employees making a report should maintain all information related to the report in strict confidence, and should not discuss such information, except with organization officials addressing the matter. PHS will maintain the identity of the reporting individual, if known, in strict confidence. The employee’s identity may be disclosed only to the President/CEO, legal counsel, and/or the auditors (and to their collective support personnel, to the extent necessary to create and file documents related to the report). Additionally, disclosures will be made consistent with the organization’s legal and fiduciary obligations, i.e., disclosures to the government. However, depending on the nature of the issue, the identity of the reporting individual may become obvious to other employees during the investigation.

Any employee who makes a report, in good faith, will not be subject to disciplinary action, and will not be penalized for making a report. Any employee involved in reprisals or other actions

against a reporting individual will be subject to disciplinary action and/or termination when appropriate. The submission of a false or misleading report constitutes a violation of organization policy, and will subject the employee or agent to disciplinary action, including termination when appropriate.

### **Response, Investigation, and Outcome of Non-Compliance Reports**

When making a non-compliance report, employees will receive a response to their report. Depending on the nature of the issue, the response may be that the questioned practice is proper, that the questioned practice is improper and has been corrected, or that the questioned practice is being investigated.

If the questioned practice is under investigation, or has not yet been resolved, the reporting employee will be informed of the expected time needed to resolve the issue. At the end of this time period, the reporting employee should be informed of the resolution, or if the issue is not yet resolved, of its progress. This procedure shall continue until the reporting employee is informed of the issue's final resolution. If the reporting individual remained anonymous, the status of the report and/or investigation cannot be communicated to the employee.

Responding to a report may involve complex legal or policy review that is handled by senior management, typically with guidance from counsel. If the result of the investigation indicates that corrective action is required, PHS will determine and implement steps to be taken. Employees should not attempt to investigate or take remedial action to respond to a Compliance Incident on their own, whether with respect to their own or someone else's conduct. Such actions may adversely affect the ability to investigate or otherwise address the matter and take the best responsive action. However, in the case of an emergency, employees should take appropriate steps to promptly halt any violation and report the matter as required.

Employees are expected to cooperate with any investigation or other effort to respond to a report. Direct or indirect efforts by an employee to cover up any violation of law, regulations or withholding information, fabricating an inaccurate or misleading version of the facts, creating misleading documents, altering or destroying records or other such deceptive conduct will not be tolerated.

### **Government Investigations**

Representatives of federal and state agencies, including the FBI, may contact employees at home or in the office. If an employee is contacted by an investigator, the employee shall notify his/her immediate supervisor, who in turn shall notify the Corporate Compliance Officer, before the employee submits to an interview. PHS expects employees to cooperate with requests for information by outside agencies as required by law, without compromising patient, client, or employee confidentiality, or interrupting services to patients or clients.

Government representatives have the right to ask to speak with employees, and employees have the right to be interviewed by the representative, or to decline such an interview.

If an investigator visits an employee at home, and the employee wishes to submit to an interview, it is the employee's right to insist that the interview take place in the office during normal business hours and to have an attorney present. The employee also has the right to politely decline the interview.

PHS will make an attorney available for an in-office interview upon an employee's request, but the attorney will be representing PHS – not the employee personally. The attorney, however, can advise the employee as to whether the matter under investigation warrants an employee obtaining a personal attorney. Most investigations would not require an employee to have personal representation.

A variety of federal and state governmental agencies are known to possibly become involved in investigating health care providers for various reasons, including but not limited to the following: Office of Inspector General; Health Care Financing Administration; Federal Bureau of Investigations; Department of Defense; United States Attorney's Office; AdmanaStar Federal, Inc.; Ohio Attorney General's Office; Ohio Department of Health; Ohio Department of Health and Human Services; and State of Ohio Auditor's Office.

### **The Deficit Reduction Act of 2005 – Fraud and Abuse**

Pike Health Services, Inc. (PHS) is committed to its role in preventing health care fraud and abuse, and complying with the applicable state and federal laws related to health care fraud and abuse. The Deficit Reduction Act of 2005 requires information about both the federal False Claims Act and other laws, including state laws, dealing with fraud, waste, and abuse and “whistleblower” protections for reporting these issues.

The Centers for Medicare & Medicaid Services (CMS) defines “fraud” as the intentional deception or misrepresentation that an individual knows to be false, or does not believe to be true, and makes, knowing that the deception could result in an unauthorized benefit to himself or another person. CMS defines “abuse” as incidents or practices of providers that are inconsistent with sound medical practice and may result in unnecessary costs, improper payment, or the payment for services that either fail to meet professionally recognized standards of care or are medically unnecessary.

The Federal False Claims Act (FCA) imposes civil liability on any person or entity who:

- Knowingly files a false or fraudulent claim for payments to Medicare, Medicaid, or other federally funded health care program;
- Knowingly uses a false record or statement to obtain payment on a false or fraudulent claim from Medicare, Medicaid, or other federally funded health care program;
- Conspires to defraud Medicare, Medicaid, or other federally funded health care program by attempting to have a false or fraudulent claim paid;
- Falsely certifying the type or amount of property to be used by the Government;

- Certifying receipt of property on a document without completely knowing that the information is true;
- Knowingly buying Government property from an unauthorized officer of the Government; and
- Knowingly making, using, or causing to be made or used a false record to avoid, or decrease an obligation to pay or transmit property to the Government.

### ***Anti-discrimination***

Anyone initiating a *qui tam* case may not be discriminated or retaliated against in any manner by Pike Health Services, Inc. The employee is authorized under the FCA to initiate court proceedings to make him or her whole for any job-related losses resulted from any such discrimination or retaliation.

### ***Anti-Retaliation “Whistleblower” Protections***

Individuals within the organization who observe activities or behavior that may violate the law in some manner, and who report their observations either to management or to governmental agencies are provided protections under certain laws. For example, the Civil False Claims Act states that any employee who is discharged, demoted, suspended, threatened, harassed, or in any other manner discriminated against in the terms and conditions of employment because of lawful actions taken in furtherance of a *qui tam* action is entitled to recover damages.

### **Red Flags Rules: Identity Theft Prevention and Detection Program**

In 2007, the Federal Trade Commission (FTC) issued regulations known as the Red Flags Rules. “Red flags” are any suspicious patterns, practices, or specific activities that indicate the possibility of identity theft. The Red Flags Rules regulations require financial institutions and creditors to develop and implement written identity theft prevention programs, which provide procedures for identifying, detecting, and responding to red flags. Healthcare organizations fall under the category of a “creditor” since services are provided prior to billing for such services.

***Identifying Red Flags.*** In the course of caring for patients, PHS may encounter inconsistent or suspicious documents, information, or activity that may signal identity theft. To name a few, PHS identifies the following as potential red flags:

- A complaint or question from a patient based on the patient’s receipt of: a bill for another individual; a bill for a product/service that the patient denies receiving; a bill from a healthcare provider that the patient never patronized; or a notice of insurance benefits for services never received.
- Records showing medical treatment that is inconsistent with a physical examination or with a medical history as reported by the patient.

- A patient who has an insurance number, but never produces an insurance card or other physical documentation of insurance.
- A patient provides a photocopy of an insurance card and/or photo ID, and never produces original, hard-copy documentation.

**Detecting Red Flags.** PHS staff must be alert for discrepancies in documents and patient information that suggest the risk of medical identity theft or fraud. Patient Registration staff will verify the patient's identity, address, and insurance coverage at the time of patient registration.

Patients will be asked to produce both their insurance card and driver's license at the time of registration. If the patient does not have a driver's license, but has a state-issued photo ID, the patient must provide supporting correspondence containing their first and last name, and home address, **if the information is not provided on the state-issued photo ID**. If the patient is a minor, the parent(s) or guardian(s) are responsible for providing the information mentioned above. **This requirement shall not be waived at any time, except in emergency situations.**

Patient Registration staff should be alert for the possibility of medical identity theft if any of the red flags mentioned above are identified, or if any of the following occur:

- The patient's photograph on a driver's license or other photo ID does not resemble the patient.
- The patient submits a driver's license, insurance card, or other identifying information that appears to be altered or forged.
- The patient's signature does not match a signature in the organization's records.
- The Social Security Number or other identifying information provided by the patient is the same identifying information for another patient in the system.

**Responding to Red Flags.** If an employee identifies or detects potential or known fraudulent activity, or if a patient claims to be a victim of identity theft, the employee shall gather all supporting documentation and report the incident to his/her immediate supervisor, or the Corporate Compliance Officer. The Supervisor/Corporate Compliance Officer will investigate the situation to determine whether the activity is fraudulent or authentic.

If the activity is determined to be fraudulent, immediate action will be taken. Actions may include: cancellation of any transactions; notification to appropriate law enforcement, the affected patient, and/or the affected physician(s); and an assessment of the impact to the practice.

If a patient claims to be a victim of identity theft, the patient should be encouraged to file a police report for identity theft if he/she has not already done so, and should be encouraged to complete an ID Theft Affidavit. The situation will be investigated, and if it appears that the patient is in fact a victim of medical identity theft, remedial actions/notifications will be taken. Medical Records personnel will review the affected patient's record to confirm whether

documentation was made that resulted in inaccurate information, and if inaccuracies exist, notations will be made. Medical Records personnel will also determine whether any other records and/or providers are linked to the inaccurate information.

If it is determined that the patient is not a victim of medical identity theft, actions will be taken as deemed appropriate.