
Integrity Program Compliance Manual



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INTEGRITY PROGRAM COMPLIANCE MANUAL

POLICY STATEMENT

The Ohio State University (the “University”), including specifically, University Hospitals and University Hospitals East, (collectively “OSUH”), the Arthur G. James Cancer Hospital and Research Institute (“CHRI”), University affiliated clinics and health care facilities, MedOhio Family Care Centers (“MedOhio”) and the College of Medicine, (collectively, the “University Medical Center”), requires all employees, agents and medical staff members (collectively, “University Representatives”) to act in an ethical and legal manner, consistent with all applicable governmental and professional standards and requirements. This Integrity Program (the “Program”) is designed to enhance and further demonstrate the University Medical Center’s commitment to honest and fair dealing. The guiding principles of the Program are *honesty, integrity, commitment, and openness*.

University Representatives are expected to deal fairly and honestly with patients, suppliers, third-party payors, and staff, as well as with their professional associates. It is the responsibility of each University Representative to comply with this Program. The granting of medical staff privileges at any University Medical Center facility is contingent upon acceptance of and compliance with the Program. This Integrity Program Compliance Manual (“Manual”) sets out the Program and provides guidance on the Program’s implementation. The Program described in this document is intended to establish a framework for legal compliance by the University Medical Center. It is not intended to set forth all of the substantive programs and practices of the University Medical Center that are designed to achieve compliance. The University Medical Center already maintains various compliance practices and those practices continue to be part of its overall legal compliance effort.

PURPOSES AND OBJECTIVES OF THE INTEGRITY PROGRAM

The purposes and objectives of the Program are to:

- (1) establish standards and procedures to be followed by all University Representatives to affect compliance with applicable federal, state and local laws, regulations and ordinances;
- (2) designate a University official responsible for directing the effort to enhance compliance, including implementation of the Program;
- (3) document the compliance efforts;
- (4) ensure Discretionary Authority is given to appropriate persons;
- (5) provide a means for communicating to all University Representatives the ethical standards and procedures all are expected to follow;
- (6) establish minimum standards for billing and collection activities, including a system of monitoring and oversight of billing activity to ensure adherence to the standards and procedures established;
- (7) provide a means for reporting apparent illegal activity to the appropriate authorities;
- (8) provide for the enforcement of the ethical and legal standards;
- (9) provide a mechanism to investigate any alleged violations and to prevent violations in the future;
- (10) increase training of medical staff members and billing personnel concerning applicable billing requirements and University Medical Center's policies; and
- (11) provide for regular review of overall compliance efforts, including Clinical Department specific plans, to ensure that practices reflect current requirements and that other adjustments are made to improve the Program.

STANDARDS

PATIENT CARE

Assignment. University Representatives are prohibited from knowingly, or willfully violating the terms of the assignment or agreement under which he or she is a participating physician or supplier.

Limiting Patient Services. University Representatives are prohibited from knowingly accepting a payment as an inducement to reduce or limit medically necessary services provided to patients who are entitled to benefits.

Medical Records. All medical records, including lab reports, must be complete, accurate and legible.

Patient Discharge. University Representatives are prohibited from knowingly giving false or misleading information that could reasonably be expected to influence the decision when to discharge a person from a hospital.

Quality of Treatment and Service. All required inspections, tests, and reports must be properly completed. No University Representative will falsify any inspection or test results or any entries in any report.

BILLING PRACTICES

Billing activities are expected to be performed in a manner consistent with Medicare, Medicaid and other third party payors regulations and requirements including the Medicare Hospital Manual (HIM 10), the Ohio Administrative Code for Medicaid, the American Medical Association's Physicians' Current Procedure Terminology (CPT), the Medicare Diagnostic Related Group (DRG) coding requirements and other applicable regulations. The following conduct is unacceptable by University Representatives when billing patients, third party payors or others, including Medicare and Medicaid:

- A. knowingly and willfully making, or causing to be made, any false statement or representation of material fact in any application for any benefit or payment under a federal health care program; **Federal Anti-Kickback Statute 42 U.S.C. § 1320a-7b(a)(1).**
- B. knowingly and willfully making, or causing to be made, any false statement or representation of a material fact for use in determining rights to a benefit or payment under a federal health care program; **Federal Anti-Kickback Statute 42 U.S.C. § 1320a-7b(a)(2).**
- C. concealing or failing to disclose an event affecting the initial or continued right to any benefit or payment, with the intent to fraudulently secure the benefit or payment in an amount greater than is due or when no such benefit is authorized; **Federal Anti-Kickback Statute 42 U.S.C. § 1320a-7b(a)(3).**
- D. knowingly and willfully converting a benefit or payment for a use other than for the use of the person in whose name the application for the benefit was made; **Federal Anti-Kickback Statute 42 U.S.C. § 1320a-7b(a)(4).**
- E. presenting or causing to be presented a claim for a physician's service for which payment may be made under a federal health care program when the individual who furnished the service was not licensed as a physician; **Federal Anti-Kickback Statute 42 U.S.C. § 1320a-7b(a)(5).**
- F. presenting, or causing to be presented, a claim:
 - (1) for an item or service that is known or should have been known not to have been provided as claimed; **Federal Anti-Kickback Statute 42 U.S.C. § 1320a-7a(a)(1)(A).**
 - (2) for an item or service that is known or should have been known to be false, improper, or fraudulent; **Federal Anti-Kickback Statute 42 U.S.C. § 1320a-7a(a)(1)(B).**
 - (3) for physician services, or an item or service incident to the physician services where the individual was not licensed as a physician, the license was obtained through a misrepresentation of material fact, it was falsely represented to the patient that the physician was certified in a medical specialty; **Federal Anti-Kickback Statute 42 U.S.C. § 1320a-7a(a)(1)(C).**
 - (4) for a medical or other item or service furnished during a period in which the person was excluded from a federal healthcare program; **Federal Anti-Kickback Statute 42 U.S.C. § 1320a-7a(1)(D).**

- (5) which is for a pattern of medical or other items or services that a person knows or should know are not medically necessary; **Federal Anti-Kickback Statute 42 U.S.C. § 1320a-7a(1)(E).**
- G. knowingly presenting, or causing to be presented, a request for payment in violation of the terms of an assignment or an agreement with the payor; **Federal Anti-Kickback Statute 42 U.S.C. § 1320a-7a(a)(2).**
- H. knowingly giving information which is false or misleading that could reasonably be expected to influence the decision when to discharge a Medicare beneficiary from the hospital; **Federal Anti-Kickback Statute 42 U.S.C. § 1320a-7a(3).**
- I. knowingly offering to or transferring remuneration to any individual eligible for Medicare or Medicaid benefits which is likely to influence such individual to order or receive items or services from a particular provider, practitioner or supplier for which payment may be under Medicare or Medicaid; **Federal Anti-Kickback Statute 42 U.S.C. § 1320a-7a(5).**
- J. knowingly arranging or contracting with an individual or entity who is excluded from participation in a federal health care program for the provision of items or services for which payment may be made under such program; **Federal Anti-Kickback Statute 42 U.S.C. § 1320a-7a(6).**
- K. knowingly paying or accepted payment to induce a physician to reduce or limit services provided to Medicare or Medicaid beneficiaries; **Federal Anti-Kickback Statute 42 U.S.C. § 1320a-7a(b).**
- L. knowingly filing a false or fraudulent claim for payment to the federal or state government, knowingly using a false record or statement to obtain payment on a false or fraudulent claim, delivering less property than certified in a receipt, or making a false statement to conceal an obligation; **Civil False Claims Act 31 U.S.C. §3729(a).**
- M. entering into any agreement, combination, or conspiracy to defraud the federal or state government or any department or agency thereof, by obtaining or attempting to obtain the payment or allowance of any false or fictitious claim; **Civil False Claims Act 31 U.S.C. §3729(a).**
- N. knowingly and willfully embezzling, stealing or converting to the use of any person other than the rightful owner, or intentionally misapplying any moneys, funds, securities, premiums, credits, property or other assets of a health care benefit program; **Embezzlement and Theft 18 U.S.C. § 669.**
- O. knowingly and willfully falsifying, concealing, or conveying by trick or scheme or making any materially false, fictitious or fraudulent statements or representations or making or using any materially false writing or document in connection with the delivery of or payment for health care benefits, items or services; **Fraud and False Statements 18 U.S.C. § 1035.**
- P. claiming, charging, accepting or receiving any payments for outpatient automated laboratory tests, unless the test components are medically necessary and billed in accord with the number of tests in the automated laboratory panel as prescribed in the Medicare Hospital Manual (HIM 10, Sec. 439) and by Ohio Medicaid Rule 5101:3 as applicable; **Program Memorandum (Intermediaries/Carriers), HCFA-Pub. 60 A/B, Transmittal No.**

AB-95-13, Nov. 1, 1995 and prosecuted under the Federal Anti-Kickback Statute and Civil False Claims Act.

- Q. claiming, charging, accepting or receiving any payments for physician services rendered by Residents in a nonprovider setting¹ unless the time spent by the Resident in patient care activities in the nonprovider setting is not included in the hospital's full time equivalency count for direct graduate medical education ("GME") cost purposes; 42 C.F.R §415.200, et. seq. and prosecuted under the Federal Anti-Kickback Statute and Civil False Claims Act.
- R. claiming, charging, accepting or receiving any payments for the services of Residents providing Moonlighting Services; or 42 C.F.R §415.200, et. seq. and prosecuted under the Federal Anti-Kickback Statute and Civil False Claims Act.
- S. claiming, charging, accepting or receiving any payments for services furnished in Teaching Settings involving Residents unless the services are personally furnished by the Teaching Physician or unless otherwise permitted as set forth in the next section below. 42 C.F.R §415.170, et. seq. and prosecuted under the Federal Anti-Kickback Statute and Civil False Claims Act.

¹ A nonprovider setting includes such settings as such as a nursing home, free standing clinic or a physician's office.

TEACHING SETTINGS

Whenever services are furnished in a Teaching Setting involving Residents, it is unacceptable for University Representatives to bill patients, third party payors or others, including Medicare and Medicaid², unless the services are furnished jointly by a Teaching Physician and Resident, or by a Resident in the presence of a Teaching Physician, except as otherwise provided below:

- A. Evaluation and Management (“E&M”) Services.
 - (1) The Teaching Physician must be present for the key portion of the time during the performance of the service for which payment is sought. If the Teaching Physician believes that a key portion of an entire evaluation cannot be identified, the Teaching Physician should be present for the entire service. The Teaching Physician need not duplicate the Resident services. However, the Teaching Physician is required to verify key portions of a service and perform certain key portions.
 - (2) In the case of services such as E&M services, for which there are several levels of service available for reporting purposes, the appropriate billing level must reflect the extent and complexity of the service if the service has been fully furnished by the Teaching Physician. If the medical decision-making in an individual service is highly complex to an inexperienced Resident, but straight-forward to the Teaching Physician, the charge submitted should be at the lower level reflecting the involvement of the Teaching Physician in the service. Therefore, when determining at what level the Teaching Physician’s services should be billed, consideration should be given to the level of service required to be performed by the Teaching Physician in accordance with *Documentation Guidelines for Evaluation and Management Services* adopted by the Health Care Financing Administration (“HCFA”).
 - (3) In the case of both hospital inpatient and outpatient E&M services, the Teaching Physician must be present during the key portion of the visit, although there is an exception to this physical presence requirement for certain low and mid-level evaluations.
 - (4) The Teaching Physician must in a timely fashion personally document in writing or via dictated note in the medical record that the Teaching Physician was physically present during the portion of any E&M service that determines the level of service billed in accordance with the *Documentation Guidelines for Evaluation and Management Services* adopted by HCFA. The documentation by the Teaching Physician may be brief, summary comments that tie into the Resident’s entry in the medical record and which confirm or revise the key elements of the service provided.
 - (a) The key elements to include in documentation of an initial hospital care, emergency department visit, new patient office visit, office or hospital consultation include (i) relevant history of present illness and prior diagnostic tests, (ii) major findings of the physical examination, (iii) assessment, clinical impression or diagnosis, and (iv) plan of care.

² Generally, the Medicaid requirements for billing by Teaching Physicians is consistent with the requirements outlined in this section. However, several key distinctions exist that require special attention relating to the provision of certain inpatient and outpatient services by a Teaching Physician in order to bill Medicaid. These different requirements are specified in the next section.

Illustration 1 - All required elements are obtained personally by the Teaching Physician without a Resident present. In this situation, a Resident may or may not have performed an independent service.

- If no Resident has seen the patient, the Teaching Physician should document on the same basis he or she would document an E&M service in a non-teaching setting.

- If a Teaching Physician's service follows a Resident's service, then the Teaching Physician's documentation should refer to the Resident's note and provide summary comments that establish, revise, or confirm the Resident's findings and the appropriate level of service required by the patient. For example, the Teaching Physician would not have to restate the review of systems and family social history in the case of an initial hospital service. However, the Teaching Physician would have to examine and question the patient to verify the key findings of the Resident's notes since he or she was not present during the Resident's interaction with the patient.

Illustration 2 - All required elements are obtained by the Resident in the presence of, or jointly with, the Teaching Physician and documented by the Resident. In this situation, the Resident's note may document the Teaching Physician's direct observation, performance, and personal input into the key elements. The Teaching Physician's personal documentation may be limited; at a minimum, it must include a confirmation of each component of the Resident's documentation and the Teaching Physician's presence during the service. The combination of entries must be adequate to substantiate the level of service required by the patient.

Illustration 3 - Selected required elements of the service, for example, history and physical examination are obtained by the Resident independently. The Teaching Physician repeats the key elements of the examination. These elements are discussed with the Teaching Physician either prior to or after the Teaching Physician's personal service. In this situation, the Resident's note may document the Teaching Physician's input into the history and medical decision-making. The Teaching Physician's note must include summary comments that revise or confirm the findings of the Resident's physical examination and discussion of the history and medical decision-making. The combined entries must be adequate to substantiate the level of service required by the patient and billed by the Teaching Physician.

- (b) Key elements of subsequent hospital care or an established patient office visit include a history, physical examination, and medical decision making. Documentation must include two of the three key elements described above and the key elements documented must demonstrate the Teaching Physicians involvement in the key elements of the services required.

B. Exceptions to E&M Services Furnished in Certain Primary Care Centers.³

- (1) In the case of certain E&M codes of lower and mid-level complexity,⁴ the Teaching Physician may claim payment for services furnished by a Resident without the presence of the Teaching Physician only if the services are provided in a hospital or another ambulatory care entity in which the time spent by the Residents in patient care activities is included in determining direct GME payments to a Teaching Hospital by the hospital's fiscal intermediary.
- (2) Family Practice, General Internal Medicine, Geriatric Medicine, Pediatrics and Obstetrics/Gynecology residency programs may qualify for an exception upon application for the exception and approval by the appropriate Medicare carrier. To qualify for this exception, the following criteria must be met:
 - (a) The patients seen must be an identifiable group of individuals who consider the primary care center to be the continuing source of their health care in which services are furnished by Residents under the supervision of Teaching Physicians;
 - (b) The range of services provided by Residents at the primary care center must include (i) acute care for undifferentiated problems or chronic care for ongoing conditions, (ii) coordination of care furnished by the physicians, and (iii) comprehensive care not limited by organ system or diagnosis;
 - (c) The services are provided by Residents who have completed more than six months of an approved residency program; and
 - (d) The Teaching Physician does not supervise more than four Residents at any one time, the Teaching Physician is immediately available and has no other conflicting responsibilities⁵, the Teaching Physician reviews with each Resident during or immediately after each patient visit the patient's medical history, physical examination, diagnosis and record of tests or therapies, and the Teaching Physician documents in the medical record his or her management responsibility and participation in the review and direction of the services furnished to each patient.

C. Surgical and High Risk Procedures.

(1) Major Surgery.

- (a) In the case of surgical, high risk or other complex procedures, the Teaching Physician is present during all critical portions of the procedure;⁶ provided, however, that the Teaching Physician's presence

³ These exceptions do not apply to services rendered by Teaching Physicians to patients covered by Medicaid.

⁴ For new patients CPT codes 99201, 99202 and 99203; for established patients CPT codes 99211, 99212 and 99213.

⁵ The Teaching Physician must have no other conflicting demand or administrative duty that would not allow the Teaching Physician to intervene in the care of the patient if necessary.

⁶ In the case of maternity services, the same surgical physical presence requirements apply.

is not required during opening and closing of the surgical field unless it is considered the key portion of the procedure.⁷

- (b) The Teaching Physician is immediately available to furnish services during the entire procedure. If the Teaching Physician is not immediately available, the Teaching Physician can arrange for another physician to be immediately available to intervene.
 - (c) As part of the major surgery, the Teaching Physician is responsible for pre-operative, operative and post-operative care. The Teaching Physician may determine which post-operative visits are to be considered key and require the Teaching Physician's presence. However, if the patient's post-operative period extends beyond the patient's discharge and the Teaching Physician will not be involved in the patient's follow-up care, the Teaching Physician must follow the instructions for billing less than the global surgical fee.
 - (d) If the Teaching Physician bills for two overlapping surgeries, the Teaching Physician must be present during the key portion of both operations and the Teaching Physician must personally document the key portion of both procedures in a manner sufficient to clearly reflect that the Teaching Physician was immediately available to return to either procedure in the event of a complication.
 - (e) The Teaching Physician may use his or her medical judgment as to what constitutes the critical portion of the procedure. However, if the Teaching Physician is not present for the entire procedure, the Teaching Physician must document what is considered the critical portion of the surgery and that the Teaching Physician was present during that critical portion.
- (2) Minor Procedures. In the case of minor procedures, considered to be procedures which only take a few minutes to complete such as a simple suture, the Teaching Physician must be present for the entire procedure in order to bill for the procedure.
 - (3) High Risk Procedures. In the case of other complex or high-risk procedures, where Medicare policy or the CPT description indicates that the procedure requires the personal supervision of its performance by a physician, the Teaching Physician must be physically present. High risk procedures include the following:
 - (a) interventional radiological and cardiologic supervision and interpretation codes;
 - (b) cardiac catheterization;

⁷ The Teaching Physician is responsible for the preoperative, operative and post-operative care of the patient. If the Teaching Physician will not be involved in the post-operative follow-up care, billing for less than the global surgical package may be required. In the case of maternity services, the Teaching Physician must be present for a certain minimum number of prepartum and postpartum visits in order to bill for the global procedure. Different conditions must be met relating to the provision of surgical services by Teaching Physicians and certain minor surgical procedures when performed by Residents, even when the Teaching Physician is physically present.

- (c) cardiovascular stress tests; and
- (d) transesophageal echocardiography.

D. Diagnostic Services.

- (1) In the case of diagnostic procedures performed through an endoscope, the Teaching Physician is present during the entire viewing which includes insertion and removal of the device.
- (2) In the case of interpretation of diagnostic radiology and other diagnostic tests, the Teaching Physician must personally review the image and the Resident's interpretation, document such review and indicate whether the Teaching Physician is in agreement with the findings of the Resident or edit the findings.
- (3) In the case of pathology, the Teaching Physician must review the specimen or study and the Resident's interpretation, document such review and indicate whether the Teaching Physician is in agreement with the findings of the Resident or edit the findings.

E. Time Based Services.

- (1) For procedure codes determined on the basis of time, the Teaching Physician must be present for a period of time for which the claim is made. The Teaching Physician may not add time spent by the Resident in the absence of the Teaching Physician to the time spent by the Resident and the Teaching Physician with the patient.
- (2) Examples of services falling into this category include:
 - (a) individual medical psychotherapy;
 - (b) critical care services;
 - (c) E&M codes in which counseling or coordination of care dominates more than fifty percent of the encounter, and time is considered the key or controlling factor to qualify for a particular level of E&M service;
 - (d) prolonged service; and
 - (e) care plan oversight.

F. Anesthesia. In the case of anesthesia:

- (1) the teaching anesthesiologist is present in the operating room for the critical or key portions of the procedure, including induction and emergence, and he or she is immediately available to furnish services during the entire procedure;
- (2) the teaching anesthesiologist documents in the medical record as to the key portions of the service for which he or she is present; and

- (3) the teaching anesthesiologist is in the operating suite during the portions of the procedure not considered to be critical or key.

The teaching anesthesiologist's presence is not required during the preoperative or post-operative visits.

G. Psychiatry.

In the case of psychiatry, the Teaching Physician concurrently observes the service provided by the Resident by the use of a one-way mirror or video equipment. Monitoring by audio-only equipment is not sufficient.

H. Assistant at Surgery.

- (1) The services of an assistant at surgery justify the services of a physician assistant due to exceptional medical circumstances,⁸ such as emergency, life-threatening situations such as multiple traumatic injuries which require immediate attention.
- (2) If a primary surgeon has an across the board policy of never involving Residents in the preoperative, operative or post-operative care of his or her patients, billing for assistant at surgery services may be allowable.⁹
- (3) Teams of physicians may be required for complex medical procedures, such as multistage transplant surgery and coronary bypass surgery. Each Teaching Physician is engaged in a different level of activity different from assisting the surgeon in charge of the case. If a team surgery charge is submitted, additional billing should not be submitted.

⁸ Payment for these services are subject to special Medicare limitations.

⁹ Generally, this exception applies to community physicians who have no involvement in the hospital's GME program and such services are subject to additional Medicare limitations.

TEACHING SETTINGS: SPECIAL MEDICAID REQUIREMENTS¹⁰

In addition to the billing requirements for Teaching Physicians specified above, more stringent criteria apply when billing patients covered by Medicaid for the following services:

A. Inpatient Hospital Services.

1. The Teaching Physician may be reimbursed for hospital inpatient services (exclusive of surgical procedures) when services are performed by a resident under the direct supervision (in the presence of the Teaching Physician); or
2. The Teaching Physician may be reimbursed for hospital inpatient services (exclusive of surgical procedures) when services are performed by a Resident under general supervision¹¹ of the Teaching Physician as long as the following conditions are met and documented in the medical record:
 - (a) (i) The Teaching Physician was the patient's personal physician prior to hospitalization; or (ii) the patient was referred to the Teaching Physician by the patient's personal physician; or (iii) as part of the hospital duties, the Teaching Physician was assigned as attending staff by a prearranged rotational schedule; and
 - (b) (i) The patient's entire hospital stay falls within the Teaching Physician's rotational duty; or (ii) the Teaching Physician begins treatment when the patient is admitted even though the Teaching Physician's rotational duty has not yet begun; or (ii) the Teaching Physician continues to treat or supervise the care of the patient even after the Teaching Physician's rotational duty has ended.

B. Outpatient and Primary Care Services.

The Teaching Physician must either personally perform the service or be present at the time the service is furnished to be paid under Medicaid. Exceptions for certain low or mid-level evaluations do not exist.

C. Emergency Department.

The Teaching Physician must either personally perform the service or be present at the time the service is furnished to be paid under Medicaid.

D. Surgical Procedures.

(1) Major Surgery.

The Teaching Physician will be reimbursed for a major surgical procedure if performed by a Resident under the direct personal supervision (in the presence) of the Teaching Physician.

¹⁰ Per Rule 5101:3-4-05 of the Ohio Administrative Code.

¹¹ General supervision means the Teaching Physician is available, but not necessarily present in the office suite or clinic, to provide those medical services which constitute the practice of medicine and surgery.

(2) Minor Surgical Procedures.

The Teaching Physician may not bill for certain surgical procedures when they are performed by Residents, regardless of the presence of the Teaching Physician. These include:

- (a) superficial biopsies,
- (b) simple needle biopsies or aspirations,
- (c) simple or superficial incision and drainage procedures,
- (d) strappings,
- (e) introduction of a needle or intracatheter in a vein (e.g., starting IV's),
- (f) routine venipunctures for specimen collection,
- (g) urine catheterizations for specimen collection,
- (h) transfusion of blood or blood components,
- (i) push transfusions,
- (j) arterial punctures,
- (k) simple sutures for superficial or subcutaneous wound or injury repairs (not a part of a multiple trauma injury),
- (l) therapeutic apheresis,
- (m) destruction or removal of simple lesions, any method,
- (n) bone marrows and bone marrow biopsies,
- (o) removal of surface warts,
- (p) spinal punctures, diagnostic,
- (q) amniocentesis,
- (r) fetal nonstress test,
- (s) fetal oxytocin stress test,
- (t) removal of foreign body, external eye, superficial,
- (u) removal of foreign body from external auditory canal,
- (v) removal of impacted cerumen,
- (w) debridement, mastoidectomy, cavity, simple (routine cleaning), and
- (x) myringotomy without anesthesia.

CLAIMS FOR LABORATORY SERVICES

University Representatives shall take reasonable steps to ensure that all claims for clinical and diagnostic laboratory testing services are accurate and correctly identify the services ordered by the physician (or other authorized requestor) and performed by the laboratory. Written policies and procedures shall be developed which shall require at a minimum, that:

- A. Laboratory services are billed only after they are performed;
- B. Bills are only submitted medically necessary services;
- C. Bills are submitted only for those tests actually ordered by a physician and provided by the hospital laboratory;
- D. The CPT or HCPCS code used by the billing staff accurately describes the service that was ordered by the physician and performed by the laboratory;
- E. The coding staff: (1) only submit diagnostic information obtained from qualified personnel; and (2) contact the appropriate personnel to obtain diagnostic information in the event that the individual who ordered the test has failed to provide such information; and
- F. Where diagnostic information is obtained from a physician or the physician's staff after receipt of the specimen and request for services, the receipt of such information is documented and maintained.

COST REPORT

The University Medical Center written policies shall include procedures that seek to ensure full compliance with applicable statutes, regulations and program requirements and private payor plans. Procedures shall ensure that:

- A. Costs are not claimed unless based on appropriate and accurate documentation;
- B. Allocations of costs to various cost centers are accurately made and supportable by verifiable and auditable data;
- C. Unallowable costs are not claimed for reimbursement;
- D. Accounts containing both allowable and unallowable costs are analyzed to determine the unallowable amount that should not be claimed for reimbursement;
- E. Costs are properly classified;
- F. Fiscal intermediary prior year audit adjustments are implemented and are either not claimed for reimbursement or claimed for reimbursement and clearly identified as protested amounts on the cost report;
- G. All related parties are identified on Form 339 submitted with the cost report and all related party charges are reduced to cost;
- H. Requests for exceptions to TEFRA (Tax Equity and Fiscal Responsibility Act of 1982) limits and the Routine Cost Limits are properly documented and supported by verifiable and auditable data;
- I. University Medical Center's procedures for reporting of bad debts on the cost report are in accordance with Federal statutes, regulations, guidelines and policies;
- J. Allocations from a hospital chain's home office cost statement to individual hospital cost reports are accurately made and supportable by verifiable and auditable data; and
- K. Procedures are in place and documented for notifying promptly the Medicare fiscal intermediary or any other applicable payor of errors discovered after the submission of University Medical Center cost reports, and where applicable, after the submission of a hospital chain's home office cost statement.
- L. Procedures are in place to determine: (1) whether University Medical Center is properly reporting bad debts to Medicare; and (2) all Medicare bad debt expenses claimed, to ensure that the University Medical Center's procedures are in accordance with applicable Federal and State statutes, regulations, guidelines and policies. In addition, such a review shall ensure that University Medical Center has appropriate and reasonable mechanisms in place regarding beneficiary deductible or copayment collection efforts and has not claimed as bad debts any routinely waived Medicare copayments and deductibles, which waiver also constitutes a violation of the Federal Anti-Kickback Statute. University Medical Center may consult with the appropriate fiscal intermediary as to bad debt reporting requirements, if questions arise.

POLICIES AND CREDIT BALANCES

Procedures are in place to provide for the timely and accurate reporting of Medicare and other Federal health care program credit balances.

ILLEGAL ACTIVITIES

It is unacceptable for University Representatives to:

Bribes. Accept or give bribes.

Conspiracy. Enter into an agreement to commit any offense against the federal or state government in any manner or for any purpose, and acting to effect the object of the conspiracy.

Falsifying Documents. Knowingly and willfully falsify, conceal or cover up by any trick, scheme, or device a material fact, or make any false, fictitious or fraudulent statements or representations, or make or use any false writing or document knowing the same to contain any false, fictitious or fraudulent statement or entry in any matter within the jurisdiction of any department or agency of the federal or state government.

Facility Certification.

- A. knowingly and willfully making, or causing to be made, a false statement or representation of material fact with respect to the conditions or operation of any institution, facility or entity in order that such entity may qualify, either initially or upon recertification, for participation in the Medicare or Medicaid Program; or
- B. knowingly and willfully making, or causing to be made, a false statement or representation of material fact with respect to information regarding, ownership and control of a facility.

Obstructing Justice. Obstruct or corruptly influence, or endeavor to obstruct, administration of the law before an agency of the federal or state government.

Misprison of Felony. Having knowledge of the actual commission of a felony, and concealing and failing to report the commission of the felony to the appropriate enforcement authority.

Schemes to Defraud.

- A. Devise or intend to devise any scheme to defraud or obtain money or property by means of false or fraudulent pretenses, representations or promises, or for purposes of executing such scheme to do so, placing in any post office or authorized depository for such matter, or taking or receiving therefrom, any such matter or thing, or knowingly causing it to be delivered by mail;
- B. Transmit, or cause to be transmitted, any writings, signs, or sounds by some means of wire (including telephone), radio, or television communication, for purposes of executing any scheme to defraud or for obtaining money or property by means of false or fraudulent pretenses, representations or promises; or
- C. Falsely make, alter, or forge any proposal, contract, or other writing.

Theft. Take, convert, consume or use property or funds belonging to the University Medical Center or any company or private person without the owner's consent.

KICKBACKS

Any University Representative is prohibited from knowingly and willfully soliciting or receiving, or offering or paying, any remuneration (including any kickback, bribe, or rebate) directly or indirectly, in cash or in kind, in return for, or to induce:

- A. referring an individual to a provider for the furnishing of, or arranging for the furnishing of, any item or service for which payment may be made under the Medicare or Medicaid program or any federal funded health program except the Federal Employee Health Benefit Program; or
- B. purchasing, leasing, ordering, arranging, or recommending purchasing, leasing, ordering, of any good, facility, service or item for which payment may be made in whole or in part by Medicare or Medicaid or any federal funded health program except the Federal Employee Health Benefit Program.

Exemptions. Although certain exemptions may apply to the kickback prohibition, *no significant transaction is to be undertaken without the approval from the appropriate Compliance Program Official.*

PROHIBITED REFERRALS

No University Representative shall make a referral for a designated health service to an entity in which he or she (or an Immediate Family Member) has a financial relationship. To knowingly submit or cause to be submitted a bill or claim for reimbursement for services provided pursuant to such a prohibited referral is unacceptable conduct.

For purposes of this prohibition, the term “financial relationship” includes:

Ownership or investment interest through equity, debt or other means including an interest in an entity holding an ownership or investment interest in any entity actually furnishing the designated health services;

or

Compensation arrangement involving any remuneration to physician or Immediate Family Member.

For purposes of this prohibition, “designated health services” include:

- Laboratory services
- Physical therapy and speech language pathology services
- Occupational therapy services
- Radiology services, including magnetic resonance imaging, computerized axial tomography scans, and ultrasound services
- Radiation therapy services and supplies
- Durable medical equipment and supplies
- Parenteral and enteral nutrients, equipment and supplies
- Prosthetics, orthotics, and prosthetic devices and supplies
- Home health services
- Outpatient prescription drugs
- Inpatient and outpatient hospital services

Although certain exceptions may apply to this financial relationship prohibition, ***no significant transaction is to be undertaken without approval from the appropriate Compliance Program Official.***

ANTITRUST

The University Medical Center will comply with all laws pertaining to restraint of trade and unfair competition. Such laws generally forbid any kind of understanding or agreement, whether written or verbal, between competitors to fix or control fees for services, or to engage in any other conduct that restrains competition.

Prohibited Conduct. The following conduct is prohibited:

- A. Attempts to unlawfully monopolize the provision of medical services;
- B. Fixing or unlawfully controlling fees or prices, including setting unreasonably low fees or prices to drive or keep competitors out of the market;
- C. Telling a supplier that the decision to purchase goods or services is dependent upon the supplier's seeking medical services at the University Medical Center; or engaging in any other tying arrangements (conditioning the sale of one product on an agreement to do other business);
- D. Unlawfully reducing or eliminating competition over price, terms of business or services offered; and
- E. Unlawfully refusing to deal with, or to boycott, suppliers, third party payors or other providers.

MISREPRESENTATIONS

No University Representative shall make any misrepresentation or dishonest statement in conducting business related to the delivery of health services. All statements made on behalf of the University Medical Center must be backed by an adequate basis for belief or made in a context in which the lack of such basis is clearly understood. Honesty based on clear communications is the cornerstone of ethical disclosure of information.

Reporting Information. University Representatives must report and record all information accurately and honestly, whether on patient records, requests for payment, time cards, clinical research records, financial reports or otherwise. The deliberate organization of information in such a way as to mislead or misinform those who receive it is prohibited.

Books And Records. With respect to the books, records, and financial reports reflecting the assets, liabilities, balances, revenues, expenses, and activities of the University Medical Center and other related or affiliated facilities, the following conduct is prohibited:

- A. Establishing or maintaining numbered or secret accounts or unrecorded funds or assets;
- B. Making or directing false or misleading entries on official books or records for any reason;
- C. Approving or making transactions or payments with the intention, understanding or knowledge that any part of such payment or transaction is to be used for any purpose other than that described by the documents supporting the payment or transaction;
- D. Submitting bills or statements for services containing false or misleading entries; and
- E. Destroying records other than in accordance with the applicable records retention/destruction policy.

RETENTION OF RECORDS

University Medical Center shall provide for the implementation of a records system. This system shall establish policies and procedures regarding the creation, distribution, retention, storage, retrieval and destruction of documents to include: (1) all records and documentation, e.g., clinical and medical records and claims documentation, required either by Federal or Ohio law for participation in federal health care programs; and (2) all records necessary to protect the integrity of University Medical Center's compliance process and confirm the effectiveness of the program, including documentation that employees were adequately trained; reports from University Medical Center's hotline, including the nature and results of any investigation that was conducted; modifications to the compliance program; self-disclosure; and the results of University Medical Center's auditing and monitoring efforts.

HEALTH AND SAFETY

University Representatives shall comply with all applicable laws, regulations and ordinances relating to the creation and maintenance of a safe work place, including specifically existing University policies relating to the Occupational Safety and Health Act (“OSHA”), which are hereby incorporated by reference, and any subsequent amendments thereto.

ENVIRONMENTAL PROTECTION

The University Medical Center will comply with all federal, state and local laws, regulations and ordinances relating to environmental protection, and in particular with laws, regulations and ordinances relating to the disposal of medical wastes. University Representatives shall ensure that steps are taken to assure that the disposal of all medical and hazardous waste produced is conducted pursuant to all local, state and federal laws and in accordance with existing University policies relating to the disposal of hazardous waste, which are hereby incorporated by reference, and any subsequent amendments thereto.

DISCRIMINATION

Discrimination or harassment of applicants, employees or those conducting business on the basis of race, religion, color, national origin, handicap, medical condition, disability, marital status, age, or gender is unacceptable and will not be tolerated. University Representatives must comply with existing University policies concerning discrimination and sexual harassment, which are hereby incorporated by reference, and any subsequent amendments thereto.

CONFLICTS OF INTEREST

Conflicts of interest, and even the appearance of conflicts, must be avoided. A conflict of interest arises if a person's judgment and discretion is or may be influenced by personal considerations, or if the interests of the University are jeopardized. Each situation is different, and many factors will need to be considered to determine if there is a conflict of interest. If applicable, University Representatives must comply with Ohio Ethics Law (Chapter 102 and Section 2921.42 of the Revised Code) and with existing University policies regarding conflicts, including religious or ethical conflicts in the provision of patient care, which are hereby incorporated by reference, and any subsequent amendments thereto. The following should be considered:

Disclosure of Relationships. University Representatives must promptly disclose any existing or new relationships that may give the appearance of a conflict of interest to the appropriate Compliance Officer.

Investments. Substantial ownership in a competitor, supplier or an entity which refers patients may create a conflict of interest. Any doubts or questions about an investment should be reported to the appropriate Compliance Officer.

Nepotism. Immediate Family Members should not supervise or report to each other.

Outside Business Activities. Other outside employment is prohibited to the extent it interferes with an employee's performance. Equipment, materials or proprietary information owned by the University Medical Center should not be used for any outside employment or purpose.

Seminars, Symposiums, Papers and Articles. University Representatives are encouraged to participate in seminars and symposiums, and to submit papers and articles for publication. Honoraria or reimbursement for expenses from others may be accepted, as long as they do not pose a conflict of interest.

RESEARCH ACTIVITIES

University Representatives shall conduct research activities in accordance with protocols adopted by the University Medical Center and shall use grant monies only for the grant purposes specified. It is unacceptable for University Representatives to engage in scientific misconduct to include the plagiarism and falsification of data.

OTHER RISK FACTORS

Written policies and procedures shall be developed for each function or department of the University Medical Center with an emphasis on areas of specified concern identified by the Office of the Inspection General through its investigation and audit function and as identified in the OIG's Annual Work Plan.

Areas of special concern include the following:

- A. Billing for items or services not actually rendered;¹²
- B. Providing medically unnecessary services;¹³
- C. Upcoding;¹⁴
- D. "DRG creep";¹⁵
- E. Outpatient services rendered in connection with inpatient stays;¹⁶
- F. Teaching physician and resident requirements for teaching hospitals;¹⁷
- G. Duplicate billing;
- H. False cost reports;
- I. Unbundling;¹⁸
- J. Billing for discharge in lieu of transfer;¹⁹
- K. Patients' freedom of choice;²⁰

¹² Billing for services not actually rendered involves submitting a claim that represents that the provider performed a service all or part of which was simply not performed.

¹³ A claim requesting payment for medically unnecessary services intentionally seeks reimbursement for a service that is not warranted by the patient's current and documented medical condition. See 42 U.S.C. 1395y(a)(1)(A) ("no payment may be made under part A or part B for any expenses incurred for items or services which . . . are not reasonable and necessary for the diagnosis or treatment of illness or injury or to improve the functioning of the malformed body member").

¹⁴ "Upcoding" reflects the practice of using a billing code that provides a higher payment rate than the billing code that actually reflects the service furnished to the patient.

¹⁵ "DRG creep" is the practice of billing using a Diagnosis Related Group (DRG) code that provides a higher payment rate than the DRG code that accurately reflects the service furnished to the patient.

¹⁶ Hospitals that submit claims for non-physician outpatient services that were already included in the hospital's inpatient payment under the Prospective Payment System (PPS) are in effect submitting duplicate claims.

¹⁷ Duplicate billing occurs when the hospital submits more than one claim for the same service or the bill is submitted to more than one primary payor at the same time. Although duplicate billing can occur due to simple error, systematic or repeated double billing may be viewed as a false claim, particularly if any overpayment is not promptly refunded.

¹⁸ "Unbundling" is the practice of submitting bills piecemeal or 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.

¹⁹ Under the Medicare regulations, when a prospective payment system (PPS) hospital transfers a patient to another PPS hospital, only the hospital to which the patient was transferred may charge the full DRG; the transferring hospital should charge Medicare only a per diem amount.

²⁰ This area of concern is particularly important for hospital discharge planners referring patients to home health agencies, DME suppliers or long term care and rehabilitation providers.

- L. Failure to refund credit balances;
- M. Incentives that violate the Federal Anti-Kickback Statute or other similar Federal or State statute or regulation;²¹
- N. Joint Ventures;
- O. Financial arrangements between hospitals and hospital-based physicians;
- P. Knowing failure to provide covered services or necessary care to members of a health maintenance organization; and
- Q. Patient dumping.²²

²¹ Excessive payment for medical directorships, free or below market rents or fees for administrative services, interest-free loans and excessive payment for intangible assets in physician practice acquisitions are examples of arrangements that may run afoul of the Federal Anti-Kickback Statute. See 42 U.S.C. 1320a-7b(b).

²² The Patient Anti-Dumping Statute, 42 U.S.C. 1395dd, requires that all Medicare participating hospitals with an emergency department: (1) Provide for an appropriate medical screening examination to determine whether or not an individual requesting such examination has an emergency medical condition; and (2) if the person has such a condition, (a) stabilize that condition; or (b) appropriately transfer the patient to another hospital.

CONFIDENTIALITY

Investigations. The identity of any person who reports any alleged unethical or illegal conduct to a Compliance Program Official shall be held in confidence and not disclosed except as permitted or required by law. All reports of alleged unethical or illegal conduct shall be held in confidence and in a secure manner. Disclosure of such confidential information shall be made only on a need to know basis and as permitted or required by law. Unauthorized disclosure of confidential information shall be grounds for appropriate disciplinary action.

Patient Information. All University Representatives shall maintain the confidentiality of patient records and medical and other information to the extent required by law and must comply with existing University policies regarding patient confidentiality, which are hereby incorporated by reference, and any subsequent amendments thereto. No patient records may be released without the patient's consent or a court order.

Prohibition Against Obtaining Confidential Information. Improper means to acquire confidential information about others should not be used. This includes unauthorized copying or removal of information, as well as hiring a competitor's employee to obtain confidential information. It also includes receiving information from a person known to be violating his or her obligation to keep information confidential.

ORGANIZATION OF THE COMPLIANCE PROGRAM

SCOPE OF THE COMPLIANCE PROGRAM

There shall be a single Compliance Program for the University Medical Center, including OSUH, OSUHE, CHRI, University affiliated clinics and health care facilities, MedOhio, The College of Medicine and all employees, agents and medical staff members thereof. Ultimate responsibility for the Program is vested in the University Board of Trustees and the President of the University. The OSUH Board of Trustees and the CHRI Board of Trustees are also responsible for creating and maintaining an atmosphere conducive to the ethical conduct and compliance of the Program. The granting of medical staff privileges at any University Medical Center facility is contingent upon acceptance and compliance with the Program. The Chief Medical Officer of OSUH shall be responsible for the overall implementation of the Program at the Medical Center. Additionally, all University Representatives are required to participate in the Compliance Program.

COMPLIANCE PROGRAM OFFICIALS

Certain individuals are specifically responsible for the operation and functioning of the Program as set forth below.

Chief Medical Officer. The Chief Medical Officer will be responsible for overall implementation of the Program at the University Medical Center and is responsible for creating and maintaining an atmosphere conducive to ethical conduct and compliance with the Program.

Administrators. The Executive Director of OSUH and Director of CHRI are responsible for creating and maintaining an atmosphere conducive to ethical conduct and compliance with the Program.

Compliance Director. The Chief Medical Officer, in consultation with the Executive Director of OSUH and Director of CHRI, will appoint a Compliance Director who will be responsible for the dissemination, execution and functioning of the Program at the University Medical Center. The Compliance Director shall be an attorney licensed to practice in Ohio and shall act as legal counsel to the University Medical Center with regard to the Program. The appointment of the Compliance Director is subject to the approval of the President of the University. The Compliance Director shall be assisted by one or more Compliance Officers.

Compliance Officers. The Compliance Director, in consultation with the Chief Medical Officer, may appoint one or more Compliance Officers who shall be responsible for the functioning of the Program in their respective areas of responsibility and who shall report to the Compliance Director on all matters relating to the Program. Each Chief of a clinical department as recognized in the medical staff bylaws of OSUH and each Chief of a clinical section as recognized in the medical staff bylaws of CHRI shall be appointed as Compliance Officers for their respective departments and sections.

DUTIES AND RESPONSIBILITIES

The Compliance Program Officials shall perform the following duties and responsibilities.

Compliance Director. The Compliance Director shall:

- A. direct the operation of the Program;
- B. designate, coordinate, and monitor the performance of the Compliance Officers under the Program;
- C. report to the Chief Medical Officer and/or the OSUH and CHRI boards concerning the operation of the Program;
- D. work in cooperation with legal counsel to conduct the investigations of any alleged unethical and legal activity;
- E. ensure investigations into alleged violations of the Program are completed promptly;
- F. upon completion of each investigation, recommend to the Chief Medical Officer appropriate corrective action regarding any apparent unethical or illegal activity, including a recommendation of referral to the appropriate enforcement agency if there is clear and convincing evidence of the commission of a felony.
- G. assist management and human resources personnel with respect to formulating appropriate corrective action for violations of the Program;
- H. recommend Program changes to the Chief Medical Officer;
- I. ensure the Program is effectively communicated to all University Representatives who are subject to the Program; and
- J. ensure the development of education and training material consistent with the Program and assure that all personnel receive timely and complete education regarding the Program;
- K. review, revise and formulate policies as necessary in conjunction with applicable University Representatives;
- L. oversee audits, both internal and external, to evaluate compliance; and
- M. prepare an annual report to the OSUH and CHRI boards evaluating compliance efforts and recommending improvements to the Program.

Compliance Officers. Compliance Officers shall:

- A. coordinate the operation of the Program for their respective areas of responsibility;
- B. effectively communicate the requirements of the Program to University Representatives in their respective areas of responsibility;
- C. take appropriate steps to determine that anyone having Discretionary Authority has no history or known propensity to engage in illegal activities;

- D. promptly report to the Compliance Director if a University Representative with discretionary authority is discovered to have a propensity to engage in illegal activities;
- E. promptly respond to all reports of the alleged unethical or illegal conduct within their respective areas of responsibility;
- F. provide a means for employees within their respective areas to report alleged unethical or illegal activities directly to the Compliance Director;
- G. be familiar with all applicable laws, regulations and rules;
- H. monitor the activities of University Representatives to ensure compliance;
- I. immediately report any apparent illegal or unethical conduct discovered in his or her area to the Compliance Director.

Clinical Department and CHRI Section Chiefs. Clinical department and CHRI section chiefs shall:

- A. serve as Compliance Officers for their respective clinical departments and sections;
- B. work with other Compliance Program Officials to ensure communication of the Program standards and procedures to each medical staff member in each department or section;
- C. ensure that every person who is a member of the department or section attends a presentation regarding the Program at least annually;
- D. encourage every physician who is a member of the faculty or medical staff to report all alleged unethical or illegal conduct to the appropriate Compliance Officer;
- E. promptly report to the Compliance Director any reports of alleged unethical or illegal conduct received;
- F. have a duty to their respective OSUH and CHRI administrators and to the OSUH and CHRI boards to assure compliance with this program;
- G. also hold a commensurate compliance position within the governance structure of their private departmental practice group as provided in the University Medical Practice Plan. All audits, investigations, records, and proceedings of the group must be reported or available to its clinical department or section chief;
- H. as a dual representative of the University Medical Center and the private departmental practice group, make reports from and to each entity in a manner that preserves the confidentiality of the information and advice received from both entities; and whenever possible, confide information directly to the Compliance Director or other legal counsel for the University Medical Center or legal counsel for the private departmental practice group; and
- I. acting on behalf of the private departmental practice group obtain from the group's legal counsel a written opinion of substantial compliance with the Program acceptable to the Compliance Director.

Administrators. The Executive Director of OSUH, the Director of CHRI, and the various administrative heads of the University Medical Center shall:

- A. work with the Compliance Program Officials to ensure communication of the Program standards and procedures to all University Representatives who are engaged in coding and billing of patient services;
- B. ensure that each University Representative involved in coding and billing of patient services attends a presentation regarding the Program at least annually;
- C. encourage University Representatives to report all alleged unethical or illegal conduct to the appropriate Compliance Officer; and
- D. promptly report to the Compliance Director any reports of alleged unethical or illegal conduct received.

Chief Medical Officer. The Chief Medical Officer shall:

- A. be responsible for the overall implementation of the Program at the University Medical Center; and
- B. shall ensure that appropriate corrective action is promptly taken to effectively enforce the Program.

PROCEDURES FOR IMPLEMENTATION OF THE PROGRAM

The following procedures should be followed in carrying out the objectives of the Program. All University Representatives are expected to follow these procedures.

Guidelines. The Compliance Director shall ensure that guidelines for implementation of and compliance with the Program are prepared and provided to all University Representatives. In particular, guidelines regarding the justification and documentation requirements for Medicare and Medicaid billing, and submission of claims, shall be provided to all appropriate personnel.

Reporting Hotline. The Compliance Director shall establish a designated hotline extension to receive reports of alleged unethical or illegal conduct from employees or other persons, as well as to provide an access point for persons to receive information or ask questions concerning the Manual. Because failure to report criminal conduct can itself be a crime, the Program emphasizes the importance of reporting. Failure to report knowledge of wrongdoing may itself result in disciplinary action. Any manager or supervisor receiving a report of alleged unethical or illegal conduct must likewise immediately advise the Compliance Director or the appropriate Compliance Officer of every alleged violation.

- A. The Reporting Hotline is designed to receive reports of alleged unethical or illegal conduct which shall be immediately conveyed to the appropriate Compliance Officer. Reporting Hotline personnel shall document as much information as the informant will provide, including the informant's name, extension, department, and the nature of the conduct reported. In the event the informant chooses to remain anonymous, Reporting Hotline personnel will assign the informant member an identifying number and make arrangements to permit the informant to be advised of any action taken with respect to the informant's allegations. Reasonable efforts should be made to persuade the informant to disclose his or her identity to facilitate investigation of all allegations. An informant's identity shall be held in confidence as permitted or required by law.
- B. The Compliance Director shall ensure the Reporting Hotline is available on a 24 hour basis through a voicemail extension.
- C. The Reporting Hotline personnel shall make a record of each report of alleged unethical or illegal conduct received on the Hotline, including the department or section in question, the date and time the call is received, a summary of the conduct reported, the Compliance Officer to whom the report was referred for action, and the date on which the report was forwarded to the responsible Compliance Officer. The original record shall be maintained in a secure and confidential manner. A copy of the record shall be maintained for a period of six years after the report is made. At no time shall any copy of any report of alleged unethical or illegal conduct be placed in an informant's personnel file. The identify of all informants will be held in confidence, as may be permitted or required by law.
- D. The Compliance Director shall review the file of reports received on the Reporting Hotline at least monthly to ensure that each report received has been appropriately handled.

Direct Reports of Alleged Unethical or Illegal Conduct. Anyone may report instances of alleged unethical or illegal conduct directly to the Compliance Director, any Compliance Officer, or other appropriate University official. Such reports may be anonymous; however, informants are encouraged to provide as much information as possible, including their name, in order to facilitate investigation of all allegations. The identity of all informants will be held in confidence, as permitted or required by law.

No Retaliation. No adverse action or any form of retaliation shall be taken against any person who in good faith reports alleged unethical or illegal conduct.

Investigating Reports of Alleged Unethical or Illegal Conduct.

- A. Upon receiving a report of alleged unethical or illegal conduct, whether from the Reporting Hotline or a direct report, the Compliance Director shall, after consultation with legal counsel, promptly initiate an investigation. The Compliance Director may instruct other legal counsel, as appropriate, to conduct the investigation. Investigations may be referred to Compliance Officers responsible for specific departments or sections and may be conducted jointly with the respective private departmental practice group.
- B. A complete and accurate record of each investigation, including recommendations for corrective action shall be maintained by the Compliance Director for a period of six years.
- C. Upon the conclusion of an investigation, the Compliance Director will, recommend appropriate corrective action to the Chief Medical Officer.

Corrective Action. The goal of the Program is to detect and promptly correct activity which does not comply with the standards set forth herein. Attempts should always be made to discuss and resolve issues in cooperation with the persons involved. Nonetheless, unethical or illegal conduct shall be dealt with promptly. Appropriate corrective action should be consistent with the nature of the conduct and the surrounding circumstances including, but not limited to the requirement that future billing be handled in a designated way, that additional training and education take place, that restrictions be placed on billing by certain medical staff members, that repayment be made or that the matter be disclosed to external authorities.

- A. If there is clear and convincing evidence of the commission of a felony, the Compliance Director shall recommend referral to the appropriate enforcement agency.
- B. If personnel action is the appropriate corrective action, the relevant University human resources official shall be advised to proceed in accordance with applicable University policies.
- C. The Compliance Director shall recommend to the Chief Medical Officer appropriate mechanisms to prevent future violations.

Education.

- A. The Chief Medical Officer shall ensure that each medical staff member receives a copy of this Manual and receives at least two hours continuing education training regarding the Program annually.
- B. In-service training regarding the Program shall be provided to each current medical staff member and to all University Medical Center coding, billing and reimbursement personnel.
- C. Each new medical staff member shall receive a copy of this Manual upon his or her initial appointment and will receive at least one hour of continuing education training in the Program within the first year of his or her initial appointment.

- D. The Executive Director of OSUH, the Director of CHRI, and the various administrative heads of the University Medical Center shall ensure that each University Representative involved in coding and billing of patient services attends a presentation regarding the Program at least annually.

Monitoring and Auditing.

- A. The Compliance Director shall continually monitor the effectiveness of the Program, including specifically whether:
- (1) Compliance standards and procedures that are reasonably capable of reducing the prospect of unethical or illegal conduct have been maintained;
 - (2) Specific individuals with a sufficient level of authority to oversee compliance with the standards and procedures adopted have been designated;
 - (3) The delegation of discretionary authority to individuals who have previously shown a propensity to engage in unethical or illegal activities has been avoided;
 - (4) The standards and procedures to be followed by employees and agents have been effectively communicated; and whether a mechanism to report suspected unethical or illegal activities without retribution has been maintained;
 - (5) Appropriate monitoring and auditing systems reasonably designed to detect unethical or illegal activities are in place, and whether compliance with the standards and procedures is being achieved;
 - (6) Appropriate disciplinary mechanisms for responsible individuals who commit unethical or illegal acts, or who fail to detect such conduct, have been consistently enforced; and
 - (7) Effective compliance practices to prevent reoccurrence of unethical and illegal conduct have been implemented; whether the University has responded appropriately to any reported unethical or illegal conduct; and whether any necessary modifications to the compliance standards and procedures have been made.
- B. The Compliance Director shall periodically audit the effectiveness of the Program. As part of this audit process, the Compliance Director may engage an independent external organization with appropriate expertise to conduct an audit of specific areas or activities at the University Medical Center. Any such audit is to be conducted under the protection of an attorney-client privilege. The Compliance Director shall report the results of such audits to the Chief Medical Officer and the appropriate governing or advisory boards. Where appropriate corrective action will be determined in consultation with the appropriate University human resources officials.
- C. It is the expectation of the University that each physician by and through the physician's recognized private departmental practice group as governed by The Ohio State University Medical Practice Plan, shall be directly responsible for all billing physician services provided to University Medical Center patients. Accordingly, each private departmental practice group must conduct its own periodic independent external audit of its billing activities, and submit its audit plan to the Compliance Director for approval. Any audit plan of a private departmental practice group's physician billing activities shall include the following:

- (1) interviews with key physicians;
- (2) interviews with records staff;
- (3) interviews with billing personnel;
- (4) selection of a random sample of the group's annual billings, including a sample of each physician's records; and
- (5) the review and evaluation of documentation for compliance purposes in the sample related to the physical presence and appropriateness of the evaluation and management codes, if applicable.

D. The appropriate Compliance Officer shall monitor the compliance efforts of any private departmental practice groups for which the Compliance Officer has responsibility to discharge the University's obligation to implement the provisions of the Program. It is intended that the confidentiality of the group's business operations be maintained. The appropriate Compliance Officer shall verify in writing to the Compliance Director that each group has:

- (1) Established compliance standards and procedures that are reasonably capable of reducing the prospect of unethical or illegal conduct;
- (2) Designated specific individuals with a sufficient level of authority to oversee compliance with the compliance standards and procedures adopted by the practice groups;
- (3) Not delegated discretionary authority to individuals who have previously shown a propensity to engage in unethical or illegal activities;
- (4) Communicated effectively the standards and procedures to be followed to its employees and agents; and established a mechanism to report suspected unethical or illegal activities without retribution;
- (5) Used monitoring and auditing systems reasonably designed to detect unethical or illegal activities; and achieved compliance with the applicable standards and procedures;
- (6) Consistently enforced appropriate disciplinary mechanisms for responsible individuals who commit unethical or illegal acts, or who fail to detect such conduct; and
- (7) Implemented effective compliance practices to prevent reoccurrence of unethical and illegal conduct; responded appropriately to any reported unethical or illegal conduct; and modified standards and procedures as necessary to achieve compliance.
- (8) Substantially complied with its approved audit plan as submitted to the Compliance Director.

E. If any private departmental practice group fails to substantially comply with the provisions of the above paragraph, the Compliance Director may require the engagement of an independent external organization with appropriate expertise to conduct an audit of specific activities of the private departmental practice group. Any such required audit is

to be conducted under the protection of an attorney-client privilege and will be paid for by The University Medical Center. The group shall report to the appropriate Compliance Officer the results of any such required audit and, if so indicated, appropriate corrective action will be promptly taken by the group.

- F. At least once every two years each medical staff member shall certify that he or she:
- (1) has reviewed and understands the provisions of this Manual;
 - (2) has not violated the policies set forth in this Manual;
 - (3) has not previously been found to have engaged in unethical or illegal activities with respect to the rendering of or billing for medical services;
 - (4) will not violate the policies set forth in this Manual; and
 - (5) is not aware of any unethical or illegal activities at the University Medical Center.

It shall be the responsibility of the Compliance Director to ensure that biennial certifications are obtained and maintained.

AUTHORITY

Discretionary Authority. The University Medical Center will not appoint any person who has a history of engaging in or who is known to have a propensity to engage in unethical or illegal activities to a position in which the person will have Discretionary Authority.

- A. The Compliance Director or the appropriate University human resources official shall verify that all applicants for positions requiring the exercise of Discretionary Authority have no history of unethical or illegal activity.
- B. If any person is discovered to have engaged in unethical or illegal activities or to have a history of engaging in unethical or illegal activities, the appropriate University authority shall take appropriate corrective action in accordance with applicable University policies and procedures, to ensure that such person no longer exercises Discretionary Authority.

DEFINITIONS

For purposes of this Manual, the following definitions apply:

Audit means a random review and inspection of billing records and the underlying documentation utilized to support the billing codes, and includes interviews with physicians who rendered the services for which the bills were submitted and interviews with records and billing personnel. An Audit does not require the rendering of an opinion or an attestation by the independent auditor.

Chief Medical Officer means the Chief Medical Officer of OSUH who has responsibility of administering the graduate medical residency and fellowship programs for the University Medical Center. The Chief Medical Officer has responsibility for overall implementation of the Program and, in consultation with the Executive Director of OSUH and the Director of CHRI, shall appoint the Compliance Director.

Discretionary Authority means the power to make decisions regarding the creation, submission, coding or billing of any claim, including the creation, generation or preparation of underlying documentation to support a claim, for services rendered at the University Medical Center.

Immediate Family Member means husband or wife; natural or adoptive parent, child or sibling; stepparent, stepchild, stepbrother, or stepsister; father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, or sister-in-law; grandparent or grandchild; and spouse of a grandparent or grandchild.

Moonlighting Services means physician services provided by a licensed Resident and performed outside the scope of an approved GME program.²³

²³ The services of Residents to inpatients of hospitals in which the Residents have their approved GME program are not covered as physician services and are payable by Medicare as direct GME payments. Medicare will not pay for services furnished to inpatients in the Teaching Hospital in which the Resident has his or her GME program. However, when a Resident provides services in another hospital, payment for physician services may be made only if the Resident is not included in the residency count of either hospital for the period of time in question. However, Moonlighting Services may be performed in the outpatient department or emergency department of the Resident's Teaching Hospital under a contract between the Resident and the Teaching Hospital when the Resident is considered to be acting in his or her capacity as a physician rather than as a Resident. The contract must indicate that: (1) the services are identifiable physician services; (2) the Resident is fully licensed to practice medicine, osteopathy, dentistry, or podiatry in the state in which the services are performed; and (3) the services can be separately identified from those services that are required as part of the approved GME program.

Resident means every individual who participates in an approved graduate medical education (GME) program or a physician who is not in an approved GME program but who is authorized to practice only in a hospital setting regardless of the source of funding. Resident includes interns and fellows in GME programs recognized as approved for purposes of direct GME payments made by the fiscal intermediary.

- A. The fact that an individual hospital does not choose to include an eligible individual in its full-time equivalency count of residents does not change that individual's status as a Resident in an approved GME program.
- B. A medical student is not a Resident and may never perform billable services.

Teaching Hospital means a hospital engaged in an approved GME residency program in medicine, osteopathy, dentistry, clinical psychology or podiatry.

Teaching Physician means a physician (other than another Resident) who involves Residents in the care of his or her patients.

Teaching Setting means any provider, hospital-based provider, or nonprovider setting in which Medicare payment for the services of Residents is made by the fiscal intermediary under the direct GME payment methodology or freestanding skilled nursing facility or home health agency in which such payments are made on a reasonable cost basis.

University Medical Center means The Ohio State University Hospitals and the Ohio State University Hospitals East (collectively "OSUH"), the Arthur G. James Cancer Center and Research Center ("CHRI"), all clinics and health care facilities affiliated with the University, MedOhio Family Care Centers ("MedOhio") and the College of Medicine and all employees, agents and medical staff members thereof.

University Representative means any person employed by or held out as an agent of the University Medical Center, any person holding a faculty appointment in the College of Medicine, and any medical staff member of any University Medical Center facility.

CONCLUSION

The University Medical Center deals honestly and fairly with patients, suppliers, payors and employees, as well as with academic and professional staff. Wholehearted compliance with the Program by everyone associated with the University Medical Center is essential. Only through a commitment to honesty, integrity and openness can we achieve the purposes and objectives of the Program. Compliance with all applicable federal and state laws, regulations and rules is mandatory.