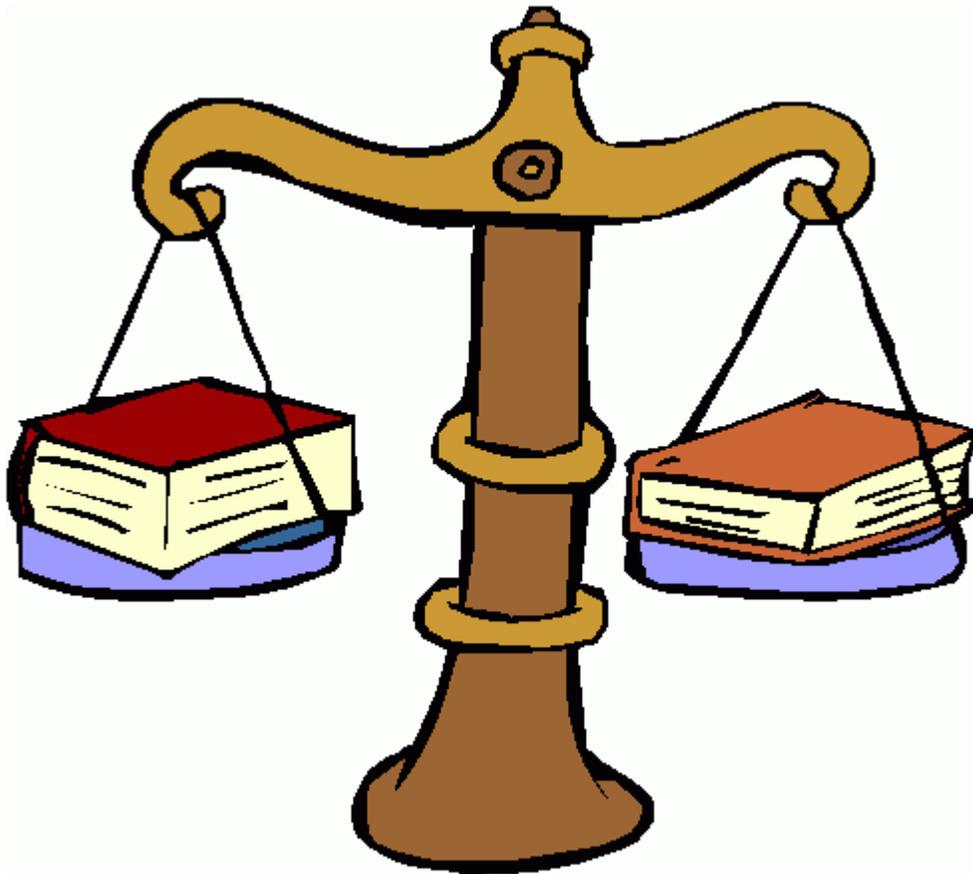


In-service Education Packet

Corporate Compliance



What is a Corporate Compliance program?

A Corporate Compliance program is a system which is designed to detect and prevent violations of law by the agents, employees, officers and directors of a business.

Although we use the general term "corporate compliance", the need for an effective compliance program is not limited to corporations. Any form of business entity is well served by having an effective compliance program.

Why does my organization need one?

In 1991, the federal government enacted the Organizational Sentencing Guidelines (Chapter 8 of the Federal Sentencing Guidelines), in an effort to make the penalties for corporate crime both uniform and predictable, so as to encourage "good corporate citizenship".

Penalties under the guidelines include fines and imprisonment, as well as "corporate probation", which is mandatory in the case of a business which does not have an effective compliance program in place. Probation involves intrusive federal monitoring of the organization and adoption of a government authored compliance program, which can be far more expensive and invasive than a voluntary compliance program could have been.

The Guidelines take a carrot and stick approach in order to encourage businesses to police themselves. Each crime or violation is assigned a base fine, which is either increased or decreased based upon the presence of certain aggravating and mitigating factors. One such mitigating factor is the existence of an effective corporate compliance program.

Under the Guidelines, an organization which has such a program may receive a substantially reduced fine, and maybe able to avoid corporate probation and criminal prosecution altogether.

What Are the Potential Penalties Companies Face?

Among the penalties which apply to organizations are:

- prison
- fines
- restitution
- sanctions
- forfeiture
- Corporate probation

An effective corporate compliance program is designed to prevent and detect violations of law and that the organization exercised due diligence in seeking to prevent and detect criminal conduct by its employees and other agents.

Due diligence requires at a minimum that the organization has a policy that is implemented and monitored for compliance.

Employees can report fraud, waste and abuse to the OIG in HHS programs and be protected under the Whistleblower Protection Act.

The agency must post information for the employee in the office.



OIG Office of Inspector General
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HELP FIGHT FRAUD. WASTE. ABUSE.

If you suspect wrongdoing, contact:

1-800-409-9926

[OIG.state.gov/HOTLINE](https://oig.state.gov/HOTLINE)

If you fear reprisal:

Federal employees and employees of contractors, subcontractors, and grantees are protected by law from reprisal for reporting wrongdoing to a recipient authorized by law to receive such reports.



Contact the OIG Whistleblower Ombudsman
to learn more about your rights:

OIGWPEAOmbuds@state.gov

Corporate Compliance Policy

Purpose:

The Agency is committed to conducting its business in full compliance with all applicable laws and regulations, be they state or Federal. Interpretation unlike many laws that effect our daily lives, the laws and regulations by which the Agency must abide, cannot always be clearly interpreted by using the concept of right versus wrong. Misinterpretation, even it is unintentional, can subject the Agency to fines and other penalties and also impact its reputation in the marketplace. In such, the purpose of the Corporate Compliance Plan is to provide a corporate culture under which the Agency and its employees, from the President/CEO to the Home Health Aide, will not conduct themselves in a manner, be it wittingly or unwittingly, that would violate applicable laws and regulations.

At a minimum the Corporate Compliance Program will address the following areas:

1. Implementation of written policies, procedures and standards of conduct
2. Designation of a Compliance Officer and Compliance Committee
3. Conducting effective training and education programs
4. Develop open lines of communication between the Compliance Officer or Committee and Agency personnel for receiving complaints and protecting callers from retaliation
5. Performing internal audits to monitor compliance
6. Establishing and publicizing disciplinary guidelines for failing to comply with Agency standards and policies and applicable statutes and regulations
7. Prompt response to detected offenses through corrective action.

Policy:

Clearly, the policy of this Agency is to obey all laws, regulations and guidelines and the Agency's existing Policies and Procedures manuals do set forth and address the issues include in a corporate compliance plan.

However, while these subjects are in virtually all cases already addressed in the sections of Policies listed below, the need for a distinct Corporate Compliance Plan is an obvious one and that is to assure that Corporate Compliance has its own individual focus so it can be made to work effectively.

Further, it is the Agency's goal to have its Corporate Compliance Program adhere to the "best practices" of its industry

The sections of the Policies and Manuals that address corporate compliance issues include but are not limited to:

1. ADMINISTRATIVE POLICIES
2. PATIENT CARE POLICIES
3. FINANCIAL MANAGEMENT POLICIES
4. PERSONNEL POLICIES
8. QUALITY ASSESSMENT AND PERFORMANCE IMPROVEMENT POLICY (QAPI)
– all sections are pertinent.

Responsible Personnel

1. While it is the responsibility of all staff to implement the Agency's Corporate Compliance Plan, monitoring its compliance is the responsibility of senior staff, in particular the Administrator and the Board of Directors.
2. Further, as it has been noted above, the interpretation of laws and regulations is often complicated. While lower ranking staff will be able to make clear cut determinations, they cannot be expected to make those interpretations which are complicated or "lie in a gray area."
3. It therefore becomes important to instruct staff not only on which matters they are allowed to resolve on their own but also to report to their supervisors any instances which they come across that involve matters of law or regulation that are not entirely clear cut.
4. Such "interpretive cases" must be reported up the chain of command until they are resolved and when appropriate brought to the attention of the Board of Directors.
5. The Corporate Compliance Plan will be implanted under the direction of the Administrator, but the Board of Directors, itself has ultimate responsibility. The Administrator will be the Corporate Compliance Officer (CCO), or the position may be designated
6. The Board of Directors/Governing Body will appoint a committee (The Corporate Compliance Committee) to oversee corporate compliance. Its members will include:
 - a. The Board of Directors/Governing Body or a representative
 - b. The Administrator
 - c. The Chief Executive Officer or a designee
 - d. Regional Managers (if any) or designees
 - e. The Chief Financial Officer or a consultant
 - f. The Director of Human Resources, if such position has been established
 - g. Ad Hoc Members as necessary.
7. The Corporate Compliance Committee will meet at least annually. Ad Hoc meetings may take place with a two week notice given to the members. Emergency Ad Hoc meetings may be called if necessary. Telephone conferencing for absent Board members is permissible.

8. The Corporate Compliance Committee agenda for its scheduled meetings:
 - a. A review of the report of the Corporate Compliance Officer (CCO)
 - b. Review of fraud alerts issued by the Officer of the Inspector General
 - c. Review of topical issues with respect to corporate compliance in the health care industry in general and in the Home Health Care industry in particular.
 - d. Review of “Hot-line referrals” made to the CCO.
 - e. It will make recommendations with respect to the improvement of compliance efforts, which will be subject to final approval by the Board of Directors.
 - f. It will review the effectiveness of recommendations that were implemented as the result of previous meetings.
9. The CCO will be the Administrator or a designee. His/her duties will be discussed below under the sections devoted to principle and the section devoted to procedures in greater detail but broadly will consist of efforts to assure that individual policies established by the Agency with respect to corporate compliance topics are considered to “best practice” that they are being obeyed consistently.

Principles

The basic principle of the Agency's Corporate Compliance Plan is that it should always act as a good corporate citizen. It will do this by:

1. Maintaining honesty and integrity in all of its operations by adhering to a high standard of conduct.
2. Maintaining confidentiality of Agency and patient records.
3. Avoiding unauthorized use of Agency assets.
4. Maintaining job accountability at every level.
5. Avoiding conflicts of interest.
6. Refraining from patient abuse and reporting to appropriate authorities any abuse that does occur, regardless of who perpetrates it.
7. Maintaining appropriate communication with patients by assuring the integrity of patient satisfaction surveys and assuring that patients are aware of their rights and know who to call inside and outside the Agency if they feel their rights have been violated or if their care has been inadequate.
8. Adhering to the Patient's Plan of Care and following all regulations and guidelines concerning the administration of that care.
9. Adhering strictly to policies concerning the control of medication.
10. Refraining from misrepresentation in any manner be it with a patient, a contractor or any government agency or third party.
11. Refraining from the engagement in illegal or unfair trade practices such as the solicitation of patients.
12. Complying with all standards regarding billing.
13. Preparing all financial reports in a manner consistent with accepted accounting practices.
14. Complying with all labor and employment laws, including those involving job discrimination and providing for Workman's Compensation and Unemployment Insurance, when required by law.
15. Complying with all payroll practices including those involved with withholding tax and avoiding improper withholding as detailed in the Fair Labor Standards Act (FLSA) and other statutes.
16. Maintaining employee privacy.

17. Maintaining a working environment that is both safe and free of abuse and harassment.
18. Investigating promptly any abuse or violation of policy or complaint and taking corrective action.
19. Preventing individuals who have been involved in illegal activities from exercising any discretionary authority by screening them at the time they submit an employment application. With respect to The Medical Director and other applicable professional staff, the Agency will check the National Practitioner Data Bank and Cumulative Sanction Report. Members who have been sanctioned or excluded by the any federal health program or who have been debarred from contracting with any other federal agency will not be hired or contracted.
20. Committing the Agency and its contractors to abide by all state and Federal laws and regulations including, but not limited to the following:
 - a. The Federal False Claims Act
 - b. The Stark Bill
 - c. State licensure requirements
 - d. Federal, state and local Civil Rights Laws

Procedure

It is the duty of the CCO to assure adherence to all of the principles laid out in the previous paragraph. He/she will do this by:

1. Assuring that each staff member has been advised by his/her supervisor of the existence and importance of the Agency's Corporate Compliance Plan as well as their responsibilities to assure adherence to the policy.
2. Assuring that each supervisor and each and every person that the supervisors report to (together, "Senior Staff") fully understand the Corporate Compliance Plan and sign a statement (copy provided below) attesting to their understanding and agreement to obey it.
3. Reviewing all existing Agency policies which relate to corporate compliance to include those noted in the Policy section, above, paragraphs 1-4. The CCO will:
 - a. Assure that the policies are adequate, up to date and are of "best standards quality".
 - b. Coordinate additions or corrections to policies as needed, report such changes to the Corporate Compliance Committee and arrange for their presentation to Board of Directors for approval.
 - c. The CCO will also assure that the policies are being adhered to, by noting exceptions and asking randomly questioning staff members, their supervisors and Senior Staff.
 - d. The CCO will act as a focal point for all matters concerning corporate compliance:
 - i. Any violation of law, regulation or Agency policies will reported to the CCO by the supervisor of Senior Staff person promptly, once that person becomes aware of the violation.
 1. The CCO will make his view known as to the appropriate action that should be taken once a violation has been discovered. If the CCO feels that the corrections are inadequate, he/she will notify the Corporate Compliance Committee and/or the Board of Directors.
 - ii. All inquiries with respect to the interpretation of specific policies made by staff to their supervisors will also be reported to the CCO. The CCO will track and record these inquires (as well as the violations) to ascertain if there is a trend among employees as it relates to the understanding of laws, rules and policies:

1. To the extent that trends do exist the CCO will hold discussions with appropriate Senior Staff and if necessary coordinate the preparation of policies additions, as in 3.b above.
 - iii. The Agency will encourage its Senior Staff to provide any and all input with respect to compliance to the CCO. The CCO will track all such information and any suggestions made by staff.
4. In addition to advising the CCO of violations and staff inquires with respect to corporate compliance, each department and subsidiary shall submit a well-documented status report to the Compliance Committee as part of the annual evaluation. The status report should also contain a self-assessment addressing the department or subsidiary's corporate compliance posture and experience as well as any other matters concerning corporate compliance that are relevant.
5. The CCO will prepare reports for the Corporate Compliance Committee at the time of each meeting. The report will make note of the violations that have occurred and the staff inquires and suggestions that have been made. It will include any other observations that the CCO has made with respect to Agency procedures as they affect compliance. The CCO will also make note of experiences of other Agencies as well as industry developments.
6. CCO reports will be more frequent when necessary. Such reports can be made to be coincident with AD Hoc meetings of the Corporate Compliance Committee or they can be completely separate if dictated by urgency.
7. The CCO reports will include recommended changes to policy subjects in the Agency's manuals. It will also include any other recommendations for changes in the Agency's procedure or in the Corporate Compliance Program itself.

Training and Continuing Education

1. All employees, agents representing this Agency and independent contractors providing health care services on behalf of the Agency shall receive a copy of the Corporate Compliance Policy and have an opportunity to review the program along with specific policies contained in other manuals that relate to their job functions.
2. All new employees, agents and independent contractors will likewise be so oriented, within two weeks of hiring contract date.
3. Any of the individuals listed above who have questions regarding the program or his/her obligation under it should contact the CCO.
4. All employees, agents or independent contractor must sign and return an acknowledgment form. This acknowledgment form will become part of the personnel folder or agent/ independent contractor file.
5. Employee, agent and independent contractor training is as follows:
 - a. Initial Training: All employees, agents and independent contractors providing health care services will be required to complete an orientation of this program within one month following their employment or engagement.
 - b. Certain company employees, agents or independent contractors may receive specialized training if their job activity requires it. This specialized training may focus on complex areas or on areas in which the CCO or the Corporate Compliance Committee has identified as high risk with respect to misconduct or error.
 - c. As new developments or concerns arise with respect to corporate compliance issues the CCO or the Corporate Compliance Committee may require additional training for some individuals.
 - d. All persons in supervisory positions are responsible for ensuring that each employee, agent and independent contractor reporting to them has attended the orientation/training sessions applicable to that person's job duties.
 - e. Medical Directors shall be strongly encouraged to attend training sessions and review all relevant compliance policies and sign an Acknowledgment form affirming their understanding of the Program policy.

Compliance Statement

The Corporate Compliance Statement provided below is to be acknowledged and signed by every Agency employee as well as every employee working for the Agency on a contractual basis.

CORPORATE COMPLIANCE POLICY
Acknowledgment of Receipt and Understanding
As you know, our Agency and our Staff members have always been committed to providing exceptional health care and upholding ethical conduct standards and legal compliance.
Our policy formally and clearly states that there is a zero tolerance to any form of fraud or misconduct. This Agency believes that every employee or agent plays a key and active role in maintaining its image and reputation.
I hereby acknowledge that I have apprised of and agree to comply with the Agency's Corporate Compliance Policy. I understand that in no way does this create an obligation or contract of employment and that I, as well as the Agency, have the right to end the employment relationship at any time.
Employee's printed name:
Employee's signature:
Date:

Corporate Compliance Post Test

Employee name: _____

Date: _____

Score: _____

1. A Corporate Compliance program is a system which is designed to detect and prevent violations of law by the agents, employees, officers and directors of a business.
 - a. True
 - b. False

2. Each employee receives training on Corporate Compliance at the time of hire and annually.
 - a. True
 - b. False

3. What items identifies that the employee has received training and agrees to comply with the Corporate Compliance policy?

4. What are the potential penalties the agency may face for non-compliance?
 - a. prison
 - b. fines
 - c. sanctions
 - d. possibly all of the above

5. How often does the Corporate Compliance Committee meet?
 - a. Yearly and as needed
 - b. As needed
 - c. Every 6 months
 - d. When an issue arises

6. The Agency and its contractors to abide by all state and Federal laws and regulations including, but not limited to the following:
 - a. The Federal False Claims Act
 - b. The Stark Bill
 - c. State licensure requirements
 - d. Federal, state and local Civil Rights Laws
 - e. All of the above

7. If the employee reports fraud, waste or abuse to the OIG under what law are they protected?

8. What is the title of the agency employee that is the point person for any Corporate Compliance issues?

9. The sections of the Policies and Manuals that address corporate compliance issues include but are not limited to:
 - a. ADMINISTRATIVE POLICIES
 - b. PATIENT CARE POLICIES
 - c. FINANCIAL MANAGEMENT POLICIES
 - d. PERSONNEL POLICIES
 - e. QUALITY ASSESSMENT AND PERFORMANCE IMPROVEMENT POLICY
 - f. All of the above

10. The Corporate Compliance Committee agenda for its scheduled Meetings may include which of the following?

- a. Review of fraud alerts issued by the Officer of the Inspector General.**
- b. Review of topical issues with respect to corporate compliance in the health care industry in general and in the Home Health Care industry in particular.**
- c. Review of “Hot-line referrals” made to the CCO.**
- d. Any of the above.**