

**COMPLIANCE PLAN
OF THE
MONTCLAIR STATE UNIVERSITY HEALTHCARE COMPONENTS**

Effective: April 5, 2012

Revised: May 21, 2015

Introduction

Montclair State University is a hybrid entity because certain University employees provide medical treatment in University created clinics or faculty practices and submit requests for payment of same to federal or state reimbursement programs or private health insurance carriers. The University's Board of Trustees has designated the Health Care Components of the University that must comply with this Policy. A list of the Healthcare Components subject to this Policy may be found in Exhibit A to the University's HIPAA Privacy Policy.

I. STATEMENT OF POLICY OF ETHICAL PRACTICES

Montclair State University's Health Care Components Healthcare Components (the "HCC") are committed to maintaining the highest level of professional and ethical standards in the provision of health and behavioral services, nurturing an environment in which compliance with rules, regulations, and sound business practices are followed, and ensuring that credentialing, compliance, and quality improvement processes are in place.

The Compliance Plan (the "Compliance Plan" or "Plan") is intended to demonstrate the HCC's commitment to the highest standards of ethics and legal and regulatory compliance. The elements of the Plan generally include establishing compliance and practice standards to prevent erroneous or fraudulent conduct, communicating the standards to employees, responding to detected violations, enforcing disciplinary standards, developing open lines of communication, monitoring and auditing, and maintaining an environment that supports the Plan.

HCC and its employees are required to comply with the standards and procedures of the Center designed to prevent erroneous or fraudulent conduct in the performance of their employment. Violators of such standards and procedures will be subject to appropriate disciplinary action. In particular, and without limitation, neither the HCC nor its employees may directly or indirectly engage or participate in any of the following actions:

1.1 No Improper Claims

HCC and its staff are prohibited from presenting or causing to be presented to the United States government and/or any federally funded program, or any other health care payor, an improper claim. Improper claims include but are not limited to:

- Billing for items or services not rendered or not provided as claimed (e.g., false claims).
- Billing for services rendered by a professional without a valid or required license.

- Billing for services rendered by an excluded provider.
- Billing for services that are not medically necessary.
- Billing for non-covered services as if covered.

1.2 No False Statement in Determining Rights to Benefits

HCC and its staff are prohibited from making, using, or causing to be made or used, any false record, statement or representation of a material fact for use in determining rights to any benefit or payment under any health care program.

1.3 Conspiracy to Defraud

HCC and its staff shall not conspire to defraud the United States government or any other health care payor to get a false claim allowed or paid.

1.4 Health Care Fraud/False Statements Relating to Health Care Matters

HCC and its staff shall not execute, or attempt to execute, a scheme or artifice to defraud any health care benefits program, or to obtain, by means of false, fictitious, or fraudulent pretenses, representations or promises, any of the money or property owned by, or under the custody or control of, any health care benefit program.

1.5 Provider Self-Referral

No claim for reimbursement shall be presented or caused to be presented to any individual, third party payor, or other entity for a designated health service furnished pursuant to a referral by a physician or immediate family member who has a financial relationship with HCC, as such is defined in the Stark law and its implementing regulations (42 U.S.C. § 1395nn), and to which no exception thereunder applies.

1.6 Anti-Kickback

HCC and its staff shall not knowingly and willfully offer, solicit, pay, or receive any remuneration in return for, or to induce, the referral of a patient for any item or service that may be paid under a federal health care program, in violation of the anti-kickback statute (42 USC § 1320a-7b(b)). A “kickback” may include failure to bill or collect for a performed service, absent a good reason for not charging (e.g., the client was legitimately concerned about the quality or the service or the client is out of business and not collectible or the client is a member of the MSU student body, employee staff or faculty as detailed in the Code of Conduct).

1.7 Antitrust

HCC shall not engage in any activity, including, without limitation, being a member of a multi-provider network or other joint venture or affiliation, which is in restraint of trade or which monopolizes, or attempts to monopolize, any part of interstate trade or commerce.

1.8 Privacy Violations

"Confidential information" includes confidential, sensitive, and proprietary information of HCC, as well as patient information and third party information. Improper use or disclosure of confidential information is prohibited. HCC and its staff may use confidential information only to perform their job responsibilities and shall not share such information with others unless the individuals and/or entities have a legitimate need to know the information in order to perform their specific job duties or carry out a contractual business relationship, provided disclosure is not prohibited by law or regulation, including, but not limited to, the Health Insurance Portability and Accountability Act of 1996 ("HIPAA") and regulations promulgated thereunder.

1.9 Failure to Report Violations to Compliance Officer

HCC staff shall not fail to promptly report to the Compliance Officer (as defined below) any instance described in the preceding paragraphs above with respect to the HCC, any of its subsidiaries, or any of its employees, which is known to the reporter.

II. APPOINTMENT OF COMPLIANCE OFFICER

To oversee and implement the Compliance Plan, MSU has created the position of Compliance Administrator within the Office of the Provost to serve as HCC's Compliance Officer.

2.1 Duties and Responsibilities of the Compliance Officer

The following specific duties and responsibilities of the Compliance Officer shall include, but not be limited to:

- 2.1-1 Working with the staff of the HCC and University Counsel in the preparation and development of, and overseeing the implementation of, written guidelines on specific federal and state legal and regulatory issues and matters involving ethical and legal business practices, including, without limitation, documentation, coding, and billing practices with respect to requests for payments and/or reimbursements from Medicare, or any other federally funded health care program, the giving and receiving of remuneration to induce referrals, and engagement in certain business affiliations or pricing arrangements that may affect competition;
- 2.1-2 Developing and implementing an educational training program for the HCC employees to ensure an understanding of federal and state laws and

regulations involving ethical and legal business practices including, without limitation, documentation, coding and billing practices with respect to requests for payments and/or reimbursements from Medicare, or any other federally funded health care program, the giving and receiving of remuneration to induce referrals, and engagement in certain business affiliations or pricing arrangements that may affect competition;

- 2.1-3 Handling inquiries by employees regarding any aspect of compliance;
- 2.1-4 Investigating any information or allegation concerning possible unethical or improper business practices and recommending corrective action and disciplinary procedures, when necessary;
- 2.1-5 Providing guidance and interpretation, in conjunction with University Counsel, to the Chair of the Department within the HCC , and HCC employees, on matters related to the Compliance Plan;
- 2.1-6 Keeping up to date with regard to periodic amendments to, standards for, and evolving interpretations of, all applicable laws, including those regarding documentation, coding, billing, and competitive practices;
- 2.1-7 Planning and overseeing regular, periodic audits of the HCC's operations, including its hiring and credentialing practices, in order to identify and rectify any possible barriers to the efficacy of the Compliance Plan;
- 2.1-8 Planning and overseeing regular, periodic audits of the HCC and its employees' billing activities, in order to identify and rectify any improper or fraudulent claims;
- 2.1-9 Preparing, at least annually, a report to the Chair of the Department of the HCC, the Dean of College where the HCC is located and the Provost concerning the compliance activities and actions undertaken during the preceding year, the proposed compliance program for the coming year, and any recommendations for changes in the Compliance Plan;
- 2.1-10 Coordinating personnel issues with individuals responsible for the HCC's human resources, to ensure that the Office of Inspector General's ("OIG") Internet List of Excluded Individuals/Entities ("OIG Exclusion List") has been checked with respect to all employees, physicians, and independent contractors, that the National Practitioner Data Bank is checked for licensed professionals, and further, that all background checks and other credentialing requirements of the HCC have been performed;
- 2.1-11 Ensuring that independent contractors and agents who furnish medical supplies and services to the HCC are aware of the Compliance Plan, including, without limitation, its policies with respect to the specific areas of documentation, coding, billing, and competitive practices;

2.1-12 Performing such other duties and responsibilities as the Chair of the Department of the HCC, Dean of where the HCC is located and Provost may request, from time to time.

2.2 Reporting by Compliance Officer

In general, recommendations from the Compliance Officer regarding compliance matters will be directed to the Chair of the Department of the HCC, the Dean of the College where the HCC is located and the Provost. In no case will the HCC endeavor to conceal any individual wrongdoing.

2.3 Establishment of Communications

The Compliance Officer shall have an "open door" policy with respect to receiving reports of violations, or suspected violations, of the law or of this Plan, and with respect to answering employee questions concerning adherence to the law and to the Plan. In addition, the HCC shall establish a designated phone line to the Compliance Officer for such reporting or questions. The telephone number where the Compliance Officer may be reached shall be included in the **HCC's Code of Conduct** and provided to each employee upon initiating their employment. However, telephone calls to the Compliance Officer may come from employees, licensed professionals and staff members, patients of the HCC, or others, whether or not affiliated with the HCC. All information reported to the Compliance Officer by any employee shall be kept confidential by the HCC to the extent that confidentiality is possible throughout any resulting investigation. However, there may be a point where an employee's identity may become known or may have to be revealed when governmental authorities become involved. Under no circumstances shall the reporting of any such information or possible impropriety serve as a basis for any retaliatory actions to be taken against any employee, client, patient, or other person making the report.

III. EDUCATIONAL PROGRAMS

This Compliance Plan promotes the HCC's plan of adherence to the highest level of professional and ethical standards, as well as all applicable laws and regulations. The HCC will make available appropriate educational and training programs and resources to ensure that all employees are thoroughly familiar with those areas of law that apply to, and impact upon, the conduct of their respective duties, including, without limitation, the specific areas of documentation, coding, billing, privacy and confidentiality of medical records and competitive practices of the HCC.

3.1 Responsibility for Educational Programs

The Compliance Officer is responsible for implementation of the compliance educational program. The program is intended to provide each employee with an appropriate level of information and instruction regarding ethical and legal standards, including, without limitation, standards for documentation, coding, billing, privacy and confidentiality of

medical records and competitive practices, and with the appropriate procedures to carry out the Plan. Education and training of all employees shall be conducted at least annually consistent with the nature and level of responsibility for matters of compliance concern. The determination of the level of education needed by particular employees or classes of employees will be made by the Compliance Officer. Each educational program presented shall allow for a question and answer period at the end of such program.

3.2 Subject Matter of Educational Programs

The educational programs shall explain the applicability of pertinent laws and risk areas, including, without limitation, applicable provisions of:

- False Claims Act (31 U.S.C. § 3729);
- Civil and criminal provisions of the Social Security Act (42 U.S.C. § 1320a-7a and § 1320a-7b, respectively);
- Laws pertaining to the provision of medically necessary items and services that are required to be provided to members of an HMO with whom the HCC contracts (42 U.S.C. § 1320a-7(b)(6)(D));
- Laws pertaining to the Health Insurance Portability and Accountability Act of 1996 (42 U.S.C. 1301 et seq.);
- Criminal offenses concerning false statements relating to health care matters (18 U.S.C. § 1035);
- The criminal offense of health care fraud (18 U.S.C. § 1347);
- Federal and state Physician Anti-Referral Laws (e.g., 42 U.S.C. § 1395nn);
- Anti-Kickback Laws (e.g., 42 U.S.C. § 1320a-7b(b)); and
- The Sherman Antitrust Act (15 U.S.C. §§ 1, 2 and 18).

As additional legal issues and matters are identified by the Compliance Officer those areas will be included in the educational program. Each education and/or training program conducted hereunder shall reinforce the fact that strict compliance with the law, and with the Plan, is a condition of employment with the HCC.

3.3 Training Methods

Different methods may be utilized to communicate information about applicable laws and regulations to the HCC's employees, as determined by the Compliance Officer. While the HCC will make every effort to provide appropriate compliance information to all the HCC staff, and to respond to all inquiries, no educational and training program, however comprehensive, can anticipate every situation that may present compliance

issues. Responsibility for compliance with this Compliance Plan, including the duty to seek guidance when in doubt, rests with each employee of the HCC.

IV. EMPLOYEE OBLIGATIONS

4.1 Employee Obligations Generally

The Plan imposes several obligations on the HCC employees, all of which will be enforced by the standard disciplinary measures available to the HCC as an employer, up to and including immediate termination. Adherence to the Compliance Plan will be considered in personnel evaluations. These obligations are further detailed in the HCC's Code of Conduct, the MSU Employee Handbook and the New Jersey State Policy Prohibiting Discrimination in the Workplace and include, but are not limited to:

- 4.1-1 Reporting Obligation. Employees must immediately report to the Compliance Officer any suspected or actual violations (whether or not based on personal knowledge) of applicable law or regulations by the HCC or any of its employees. Any employee making a report may do so anonymously if he/she so chooses. Once an employee has made a report, the employee has a continuing obligation to update the report as new information comes into his/her possession. The HCC shall endeavor to keep all information reported to the Compliance Officer by any employee in accordance with the Compliance Plan confidential as provided in section 2.3.
- 4.1-2 Acknowledgment Statement. Each HCC may adopt a Code of Conduct to further assure compliance with this Plan. In connection with his/her receipt of the HCC's Code of Conduct, each employee acknowledges his/her receipt of the Compliance Plan. Employees will also be required to sign an acknowledgement to the effect that the employee fully understands that the HCC has a Compliance Plan, and the employee is obligated to comply with the Compliance Plan as an employee of the HCC. It shall be the responsibility of the Compliance Officer to ensure that all employees of the HCC have executed such an acknowledgment which shall be placed in the Human Resources file.

4.2 The HCC's Assessment of Employee Performance Under the Compliance Plan

Employee participation in, and adherence to, the Compliance Plan and related activities will be an element of each employee's annual personnel evaluations. As such, it will affect decisions concerning compensation, promotion, and retention. Considerations of employee compliance will include:

4.2-1 Violation of Applicable Law or Regulation. If an employee violates any law or regulation in the course of his/her employment, the employee will be subject to sanctions by the HCC.

4.2-2 Other Violation of the Compliance Plan. In addition to direct participation in an illegal act, employees will be subject to disciplinary actions by the HCC for failure to adhere to the principles and policies set forth in this Compliance Plan. Examples of actions or omissions that will subject an employee to discipline on this basis include, but are not limited to, the following:

- (a) a breach of the Compliance Plan;
- (b) failure to report a suspected or actual violation of law or a breach of the Compliance Plan;
- (c) failure to make, or falsification of, any certification required under the Compliance Plan;
- (d) being debarred, excluded, or otherwise ineligible for participation in federally funded health care programs;
- (e) lack of attention or diligence on the part of supervisory personnel that directly or indirectly leads to a violation of law or the Plan; and/or
- (f) direct or indirect retaliation against an employee who reports a violation of the law or a breach of the Compliance Plan.

4.2-3 Possible Sanctions. The possible sanctions include, but are not limited to, termination, suspension, demotion, reduction in pay, reprimand, and/or re-training. Employees who engage in intentional or reckless violation of law, regulation, or this Compliance Plan will be subject to more severe sanctions than accidental transgressors.

4.3 Employee Evaluation

Upon the hiring of a new employee, the HCC hiring personnel shall ensure that the OIG Exclusion List have been checked, and that, if a licensed professional is involved, a lawful check has been made of the National Practitioner Data Bank, and further, that all background checks and other credentialing requirements have been performed. The HCC hiring personnel shall confirm, and retain copies in the employee's file of:

- valid state licenses or certificates, as applicable;
- current BLS CPR certificate, if required;
- results of any HCC required drug tests;

- written reports verifying that there are no negative findings from a background evaluation that, at a minimum, includes: (a) criminal background history, (b) verification of education, and (c) verification of licensure in all states where licensure is claimed. A criminal background history shall include any felony conviction within the last ten (10) years as researched through, at a minimum, the following databases: DPS criminal database, sex offender registry, General Monitoring Services Administration sanctions and terrorist list;
- certification signed by the HCC hiring personnel that the employee is not excluded from receiving reimbursement from any federal funded reimbursement program.

Annually thereafter, for every employee of the HCC, the Compliance Officer shall perform checks of the OIG Exclusion List. The HCC will keep up to date on all applicable laws, rules, and regulations applicable to the issues of credentialing and employment, and will periodically review the Compliance Plan and amend as necessary to ensure compliance therewith.

4.4 Non-Employment or Retention of Sanctioned Individuals

The HCC shall not knowingly employ any individual, or contract with any person or entity, who has been convicted of a criminal offense related to health care or who is listed by a Federal agency as debarred, excluded, or otherwise ineligible for participation in federally funded health care programs. In addition, until resolution of such criminal charges or proposed debarment or exclusion, any individual who is charged with criminal offenses related to health care or proposed for exclusion or debarment shall be removed from direct responsibility for, or involvement in, documentation, coding, billing, or competitive practices. If resolution results in conviction, debarment, or exclusion of the individual, the HCC shall immediately terminate its employment of such individual. All use of outside vendors shall also comply with MSU's Procurement Policies and Procedures.

V. RESPONSE TO REPORTS OF VIOLATIONS

The Compliance Officer, along with University Counsel, where necessary, shall promptly respond to and investigate all allegations of wrongdoing of the HCC employees.

5.1 Investigation Process

Upon the discovery that a material violation of the law or of the Plan has occurred, the Compliance Officer shall take immediate action to rectify the violation, if possible; to report the violation to the appropriate regulatory body, if necessary; and to report the violation to the Chair of the Department of the HCC, the Dean of College where the HCC is located, the Provost and Vice President of Human Resources to assure an

appropriate sanction of the culpable employee(s). Promptly after any discovered material violation is addressed, the Compliance Officer shall, with the assistance of legal counsel, and approval of the Audit, Finance and Investment Committee of the Board of Trustees of MSU ("Audit Committee"), amend this Plan in any manner that the Compliance Officer, in consultation with University Counsel, believes will prevent any similar violation(s) in the future.

5.2 Removal During Investigation and Disciplinary Action. If an investigation of an alleged violation is undertaken and the Compliance Officer believes the integrity of the investigation may be at stake because of the presence of employees under investigation, the Compliance Officer shall notify the Provost, University Counsel and Vice President of Human Resources about the employee(s) allegedly involved in the misconduct; and the Provost, University Counsel, Vice President of Human Resources, or their designee, shall jointly make a recommendation to the President as to whether the employee(s) should be removed from his/her/their current work activity until the investigation is completed. In addition, the HCC and the Compliance Officer shall take any steps necessary to prevent the destruction of documents or other evidence relevant to the investigation. Once an investigation is completed, if disciplinary action is warranted, it shall be immediate and imposed in accordance with the HCC's policies for disciplinary action.

VI. AUDITING AND MONITORING

It is critical to compliance with the Compliance Plan for the Compliance Officer to conduct regular auditing and monitoring of the activities of the HCC and its employees in order to identify and to promptly rectify any potential barriers to such compliance.

6.1 Regular Audits

The Compliance Officer shall conduct regular and periodic audits in coordination with the Vice President of Finance and Treasurer and the Provost. Such audits shall evaluate the HCC's compliance with applicable law and its Compliance Plan and determine what, if any, compliance issues exist. Such audits shall be designed and implemented to ensure compliance with the Plan and all applicable federal and state laws. Compliance audits shall be conducted in accordance with the comprehensive audit procedures established by the Compliance Officer and shall include, at a minimum:

- 6.1-1 interviews conducted by the Compliance Officer, and Provost or his designee with personnel involved in management, operations, and other related activities;
- 6.1-2 reviews, at least annually, of whether the Compliance Plan's elements have been satisfied (e.g. whether there has been appropriate dissemination of the Compliance Plan's standards, training, disciplinary actions, etc.);

- 6.1-3 random reviews of the HCC's records, with special attention given to procedures relating to documentation, coding, billing, the giving and receiving of remuneration to induce referrals, and engagement in certain business affiliations or pricing arrangements that may affect competition; and
- 6.1-4 reviews of the written materials and documentation used by the HCC.
- 6.1-5 all investigations, and the results thereof, shall be confidential.

6.2 Formal Audit Reports

The formal audit report shall include all reports of violations of the Compliance Plan, the details and results of the investigation process and the results of the regular, periodic audits conducted by the Compliance Officer. Formal audit reports shall be prepared by the Compliance Officer, with the assistance of the Provost and Vice President of Finance and Treasurer or his designee, and submitted as a written report to the Audit Committee to ensure that management is aware of the results and can take whatever steps are necessary to correct past problems and prevent them from recurring. The audit or other analytical reports shall specifically identify areas where corrective actions are needed and should identify in which cases, if any, subsequent audits or studies would be advisable to ensure that the recommended corrective actions have been implemented and are successful.

6.3 Monitoring of Employee Billing Practices

After the first sixty (60) days of the employment of an employee with billing and coding responsibilities, the Compliance Officer or designee shall conduct an initial audit of the employee's compliance with the HCC's billing practices. A random sample of claims will be audited for accuracy and adherence to the Compliance Plan. The audit will also include a clinical review of the documentation and the procedural codes used to establish and bill for each procedure. Feedback will then be given to the employee on his/her adherence to billing guidelines.

Thereafter, on a semi-annual basis, each employee responsible for billing and coding will be subject to additional random audits of fifteen (15) claims per audit. Feedback will be given back to the employee at the conclusion of the audit.

6.4 Compliance with Applicable Fraud Alerts

The Compliance Officer shall regularly and periodically monitor the issuance of fraud alerts by the Office of the Inspector General of the Department of Health and Human Services related to HCC services. All fraud alerts so issued shall be carefully considered by the Compliance Officer and by University Counsel. The Compliance Plan shall be revised and amended, as necessary, in accordance with such fraud alerts. In

addition, the HCC shall immediately modify any conduct which appears to be criticized by any such a fraud alert.

6.5 Retention of Records and Reports

The HCC shall document its efforts to comply with applicable statutes, regulations, and federal health care program requirements. All records and reports created in conjunction with the HCC's adherence to the Compliance Plan are confidential and shall be maintained by the HCC, through the Compliance Officer, in a secure location until such time as the Compliance Officer, through consultation with the legal counsel, determines that the destruction of such documentation is appropriate and in compliance with the New Jersey state record retention policy.

The Plan has been adopted by the Montclair State University Board of Trustees as of the 5th day of April, 2012.