

**JONES MEMORIAL HOSPITAL**

**COMPLIANCE PLAN**

As Approved by the Board of Directors 5/25/11

**COMPLIANCE PLAN  
JONES MEMORIAL HOSPITAL  
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**COMPLIANCE PLAN  
FOR  
JONES MEMORIAL HOSPITAL**

**I. INTRODUCTION**

It is the fundamental policy of THE MEMORIAL HOSPITAL OF WILLIAM F. AND GERTRUDE F. JONES, D/B/A JONES MEMORIAL HOSPITAL (hereinafter "Jones Memorial Hospital" or "the Hospital"), that quality patient care is provided by the Hospital, its medical staff and employees and affiliates, in a manner that fully complies with all applicable state and federal laws, and that all of the Hospital's business and other practices be conducted at all times in compliance with all applicable laws and regulations of the United States, the State of New York, all other applicable state and local laws and ordinances and the ethical standards/practices of the medical profession, the healthcare industry and this institution.

This Compliance Plan (the "Plan") is intended as a guide to help implement this policy of compliance with all applicable standards. The federal, state and local laws, regulations, and ethical rules that govern health care are too numerous to list in the Plan. Fundamentally, all individuals associated with the Hospital by employment, contract or otherwise, are expected to conduct all business activities honestly and fairly. Each employee or contractor is responsible for his or her own conduct in complying with the Plan.

The Plan provides for the appointment of a Compliance Officer who has ultimate responsibility and accountability for directing, monitoring and reporting on compliance matters. The Compliance Officer shall implement and administer this Plan, together with all training and education necessary to affect the full participation of Hospital officers, directors, employees, medical staff, affiliates and other agents.

This Plan provides a framework for individual or departmental compliance efforts, and applies to all Hospital personnel and activities. However, each individual employee or agent of the Hospital remains responsible and accountable for his or her own compliance with applicable laws, regulations, standards, policies and procedures.

The Plan identifies those organizational imperatives necessary to prevent accidental and intentional noncompliance with applicable laws. It is further designed to detect non-compliance should it occur. Finally, it is designed to promote such steps as are necessary to prevent future noncompliance, including education and discipline.

Jones Memorial Hospital is committed to maintaining in the community a positive reputation for conduct in accordance with the highest levels of business ethics. This plan supports that objective.

## **II. CERTAIN DEFINITIONS**

As used herein, the following terms have the following meanings:

- A. "Affiliate" means any person or entity controlled by, or under common control with, Jones Memorial Hospital.
- B. "Employee" means an employee of Jones Memorial Hospital or its Affiliates.
- C. "Audit Committee" means the Finance/Audit Committee of the Board.
- D. "Board" means the Board of Directors of the Hospital
- E. "Compliance Committees" mean the committees charged with promoting effective communication, implementation and maintenance of this Plan, as described more fully in §IVB, below.
- F. "Contractor" means an individual (1) who has an independent contractor agreement with Jones Memorial Hospital to provide goods or services to the Hospital or its patients, or (2) who owns, is employed by, or otherwise works for an organization with such a contract, and who has direct contact with any employee in performing the contract.
- G. "CO" means the Compliance Officer who is assigned responsibility for overseeing the development, implementation and operation of this Plan, as described more fully in §IVA, below.
- H. "Corporate Counsel" means the Jones Memorial Hospital corporate counsel and/or the law firm designated by the Hospital to provide legal advice and assistance in the development, implementation and maintenance of this Plan.
- I. "Participant" means an individual subject to this Plan. Participants shall include all employees, all directors and officers of Jones Memorial Hospital, and all contractors and professional staff members as defined herein whom the Board determines should be subject to this Plan.
- J. "Professional Staff Member" means a physician or allied health practitioner who is a member of Jones Memorial Hospital's professional staff but who is not an employee or contractor.
- K. "Standards of Conduct" refers to this Plan's Code of Conduct and the Jones Memorial Hospital Code of Ethical Behavior, as set forth in the Hospital's Administrative Policy and Procedures Manual.

### **III. THE HOSPITAL CODE OF CONDUCT**

#### **A. MISSION AND VALUES STATEMENT**

Jones Memorial Hospital believes that dedication to high ethical standards and compliance with all applicable laws and regulations is essential to its mission. This Code of Conduct is a critical component of the overall Hospital Compliance Program. It guides and assists the Hospital in carrying out daily activities in accordance with appropriate ethical and legal standards. These obligations apply to the Hospital's relationships with patients, affiliated physicians, third-party payors, regulatory agencies, subcontractors, contractors, vendors, consultants, and one another. They require that all Plan Participants comply with all applicable federal, state and local laws and regulations. Participants must also comply with all Jones Memorial Hospital Standards of Conduct.

Any Hospital director, employee or agent who violates these laws, regulations or Hospital Standards of Conduct risks criminal prosecution and penalties, as well as civil actions for damages and penalties. Moreover, that individual also subjects Jones Memorial Hospital to the same risks and penalties. Any Hospital director, employee or agent who violates any of these requirements may be subject to discipline, up to and including immediate termination.

#### **B. QUALITY OF PATIENT CARE AND PATIENT BILL OF RIGHTS**

The Hospital has standards of patient care that reflect federal, state and local laws and regulations, respective medical, professional and clinical practice guidelines, and professional and accrediting body standards. These standards are approved by the Hospital's Board of Directors.

The Hospital's patients deserve care with concern for personal dignity and independence, and the Hospital views these as important factors in the healing process. It is the responsibility of the staff at the Hospital to respect and preserve these rights for those who come to the Hospital for medical care.

#### **C. FRAUD, WASTE, ABUSE, ANTI-KICKBACK, AND SELF-REFERRAL LAWS**

Jones Memorial Hospital is subject to numerous federal and state laws regulating practices and relationships within the health care industry. Included among these are laws designed to prevent fraud, waste and abuse in the submission of claims, the making of patient referrals, and the acceptance of remuneration for services provided. The Hospital is committed to compliance with all applicable laws and the prevention of illegal or improper acts in the delivery of services. To that end, specific corporate compliance standards have been adopted and included in the Standards of Conduct.

## **1. Deficit Reduction Act of 2005 (DRA)**

In compliance with the Social Security Act (as amended in the Deficit Reduction Act of 2005), Jones Memorial Hospital strives to provide detailed information to all of its Employees and Agents on the False Claims Act, federal administrative remedies for false claims, New York laws pertaining to civil and criminal penalties for false claims, and whistleblower protections contained in such statutes.

Jones Memorial Hospital requires all Employees and Agents to report suspicions of fraud, waste, or abuse and in connection therewith educates all of its Employees and Agents to enable them to detect, prevent, and report suspected incidents of fraud, waste, and abuse.

Jones Memorial Hospital prohibits any employee from intentionally or recklessly submitting a claim which includes fraudulent information or is based on fraudulent documentation to any federally-funded or state-funded program for payment approval.

## **2. Federal and State False Claims Laws**

**The Role of Federal and State Laws in Preventing Fraud, Waste, and Abuse:** The Centers for Medicare and Medicaid Services (CMS) define “fraud” as an intentional deception or misrepresentation that an individual knows or should know to be false, or does not believe to be true, and which the individual makes knowing that the deception or misrepresentation could result in an unauthorized benefit to himself or others. Fraud occurs when an individual or entity purposely bills for a service that was never provided or for a service that has higher reimbursement than the actual service produced. CMS defines “abuse” as a range of improper behaviors or billing practices, including: (i) billing for a non-covered service; (ii) misusing codes on the claim; or (iii) inappropriately allocating costs on a cost report.<sup>1</sup>

There are both Federal and New York State criminal and civil laws pertaining to fraud and abuse in the submission of claims for payment or approval to the federal and state governments and to private payors. These laws provide: (i) governmental authorities with broad authority to investigate and prosecute potentially fraudulent activities, (ii) criminal, civil and administrative penalties for fraudulent or abusive activities, and (iii) anti-retaliation provisions for individuals who make good faith reports of waste, fraud and abuse. A summary of these laws is set forth below.

### **a. The False Claims Act<sup>2</sup>**

The False Claims Act (the “Act”) imposes civil liability on any person who commits fraudulent acts including, without limitation, one who: (i) knowingly presents, or causes to be presented, a false or fraudulent claim, record or statement for payment or approval; (ii) conspires to defraud the government by getting a false or fraudulent claim allowed or paid; or (iii) uses a false record or statement to avoid or decrease an obligation to pay the government. The term

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<sup>1</sup> U.S. Department of Health, Centers for Medicare and Medicaid Services, <http://www.cms.hhs.gov/apps/glossary>.

<sup>2</sup> 31 U.S.C. §§3729-3733.

“knowingly” is broadly defined within the False Claims Act to mean: (a) having actual knowledge that the information on the claim is false; (b) acting in deliberate ignorance of whether the claim is true or false; or (c) acting in reckless disregard of whether the claim is true or false.

For each violation of the False Claims Act, a person or entity may be subject to civil monetary fines equal to the sum of: (i) between \$5,500 and \$11,000, plus (ii) three times the amount paid for each false claim, plus (iii) the costs of any civil action brought to recover such penalties or damages. In addition, such violations can subject a person to exclusion from participation in federally funded health care programs, such as Medicare and Medicaid.

The Act is enforced by the Attorney General of the United States, who is required to investigate violations of the Act. The Act also permits private persons to bring suit on behalf of the United States and entitles the private persons bringing suit to receive a percentage of monies obtained through settlements, penalties and/or fines collected in such action. Actions brought by private persons, or “relators” for violations of the Act are known as “qui tam” actions. If a qui tam action brought by a relator is frivolous or commenced in order to harass the defendant, the relator may be liable to pay the defendant’s fees and costs associated with such action.

**b. Federal Whistleblower Protection**

The Act protects from retaliatory actions by Jones Memorial Hospital a relator bringing a qui tam action and any other whistleblower who questions a perceived violation of the Act. The Act specifically provides that any employee who is discharged, demoted, suspended, threatened, harassed or in any manner discriminated against by his or her employer because of reporting violations of the Act will be entitled to reinstatement with seniority, double back pay, interest, special damages sustained as a result of discriminatory treatment, and attorney’s fees and costs.

**c. Program Fraud Civil Remedies Act of 1986<sup>3</sup>**

The Program Fraud Civil Remedies Act (PFCRA) provides for the imposition of administrative remedies on any person who makes, presents or submits (or causes to be made, presented or submitted) to certain federal agencies a claim or statement that the maker knows or has reason to know: (i) is false, fictitious or fraudulent; or (ii) includes or is supported by any written statement which asserts a material fact which is false, fictitious or fraudulent; or (iii) includes or is supported by any written statement which omits a material fact, is false, fictitious or fraudulent because of the omission and is a statement in which the person or entity has a duty to include such material fact; or (iv) is for the provision of items or services which the person or entity has not provided as claimed.

The PFCRA authorizes the imposition of federal administrative charges. It imposes on any person, who submits, or causes to be submitted, a false claim or a false statement a civil penalty of up to \$5,000 for each wrongfully filed statement or claim, regardless of whether property, services, or money is actually delivered or paid. If any payment is made, property is transferred, or services are provided in reliance on a false claim, the person submitting it is also

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<sup>3</sup> 31 U.S.C. § 3801 – 3812.

subject to an assessment of not more than twice the amount of the false claim. This assessment is in lieu of damages sustained because of the false claim.

**d. New York State Laws**

**1. New York Social Services §145-b** – This statute declares it unlawful to knowingly make a false statement or representation (or by deliberate concealment of any material fact or other fraudulent scheme or device) to attempt to obtain, or to obtain, payment from public funds for services or supplies furnished under the New York State Medical Assistance Program. The local social services district has the right to recover civil damages equal to three times the amount by which the figure is falsely overstated or \$5,000, whichever is greater. Interest may be charged at a rate of 16% for the period from which the fraudulent money was disbursed until the date of repayment.

In addition, the New York State Department of Health may impose a civil monetary penalty, ranging from \$2,000 to \$7,500 per item depending on prior violations, as restitution to the Medical Assistance Program, if the person or entity knew, or had reason to know that: (i) the payment related to care, services or supplies that were medically improper, unnecessary or in excess of the documented medical needs of the person to whom they were furnished; (ii) the care, services or supplies were not provided as claimed; (iii) the person who ordered or prescribed care, services or supplies which were medically improper, unnecessary or in excess of the documented medical need of the person to whom they were furnished was suspended or excluded from the Medical Assistance Program at the time the care, services or supplies were furnished; or (iv) the services or supplies for which payment was received were not, in fact, provided.

**2. New York Public Health §238-a** – With certain limited exceptions, this statute prohibits the submission of Medicaid claims which are the result of a referral from a health care provider or a referring practitioner to a health care service provider (clinical laboratory services, pharmacy services, radiation therapy services, physical therapy services or x-ray or imaging services) who has a financial or familial relationship with the health care provider or referring practitioner.

**3. New York Labor Law §740** - This law prohibits any retaliatory behavior (i.e. discharge, suspension, demotion or other adverse action in terms of condition of employment) by an employer against a current or former employee who reports health care fraud, testifies or cooperates with an investigatory agency, or refuses to participate in any fraudulent act. The law allows employees so treated to bring a civil action for: (i) injunction relief to restrain continued retaliation; (ii) reinstatement to the same or equivalent position held before the retaliatory action; (iii) reinstatement of benefits and seniority; (iv) compensation for lost wages, benefits and other remuneration and the payment of reasonable costs. In addition to the foregoing remedies, section 215 of the New York Labor Law provides for a fine of between \$200 and \$2000 for each violation of section 740 and subjects the employer to civil action by the aggrieved employee. The protections of this statute are only available if the employee has notified his supervisor of the violation of the law and has afforded the employer a reasonable opportunity to correct such activity, policy or practice.

**4. New York Social Services §366-b** – This statute identifies which acts constitute fraudulent practices. Any person who, with intent to defraud, presents for allowance or payment any false or fraudulent claim for furnishing services or merchandise, knowingly over-bills for services or merchandise, or knowingly submits false information to obtain authorization to furnish services or merchandise shall be guilty of a class A misdemeanor (or a violation if so prescribed by a provision of the New York Penal Code).

**5. New York Penal Code Article 177** – This statute makes it a crime to commit “health care fraud,” an act which is defined as any time a person who, with the intent to defraud a private or public health plan, knowingly and willfully provides materially false information or omits material information for the purpose of receiving payment for health care items or services that the person or entity is not otherwise entitled to receive. The penalty for the commission of health care fraud ranges from a class A misdemeanor to a class B felony, based upon the amount of payment fraudulently obtained from a single health plan during a one-year period.

**3. The Federal Anti-Kickback Statute**  
**42 U.S.C. §1320a-7b(b)**

This statute makes it a criminal offense to knowingly and willfully offer, pay, solicit or receive any remuneration, directly or indirectly, in return for referrals or to induce referrals, or to arrange for or recommend goods, facilities, services or items for which payment may be made under a federal health care program. Improper payments and practices of kickbacks or rebates are unethical and in many cases, illegal. Professional Staff Members and their families are prohibited from receiving personal gains or remuneration from any person or entity that might receive a patient referral from Jones Memorial Hospital. Kickbacks and/or rebates can take many forms and are not limited to direct cash payment or credit. Thus:

- a. Offering a kickback to an entity or person to coerce a customer or potential customer to purchase services or refer a patient to Jones Memorial Hospital is prohibited.
- b. Soliciting or receiving anything of value to induce someone to refer a patient to Jones Memorial Hospital is prohibited.
- c. Safe Harbors: Group purchasing agreements and price reductions related to health plans, among several other exceptions (“safe harbors”), are excluded from these prohibitions.

The federal Anti-Kickback statute has been expanded from Medicare, Medicaid and certain state programs to include all federal health care programs. “Federal health care program” is broadly defined to include any plan or program that provides health benefits funded in whole or in part by the federal government, with the exception of federal employee health benefit programs. This statute has been interpreted to cover arrangements where one purpose of the remuneration is to induce referrals, even though other business purposes may potentially exist.

**4. The Ethics in Patient Referrals Act (“Stark Statute”)  
42 U.S.C. § 1395nn**

The Stark Statute provides that if a physician (or a family member of that physician) has a “financial relationship” with an entity, then the physician is prohibited from referring patients to that entity for “designated health services” that are paid for by Medicare or Medicaid, unless an exception applies. The Stark Statute also prohibits entities that receive a prohibited referral from billing for such services. A “financial relationship” includes direct or indirect ownership or investment interests and direct or indirect compensation arrangements between a physician (or the physician’s family member) and an entity that provides designated health services.

“Designated health services” (“DHS”) include:

- a. clinical laboratory services;
- b. physical therapy services;
- c. occupational therapy services;
- d. radiology or other diagnostic services;
- e. radiation therapy services;
- f. durable medical equipment and supplies;
- g. parenteral and enteral nutrients, equipment, and supplies;
- h. prosthetics, orthotics and prosthetic devices and supplies;
- i. home health services;
- j. outpatient prescription drugs; and
- k. inpatient and outpatient hospital services.

The Stark Statute includes a number of statutory and regulatory exceptions. Any questions regarding the applicability of any exception or the ownership by an employee or physician in a business or service for which a referral may be made should be directed to the CO or Corporate Counsel.

**D. HOSPITAL LABORATORY ISSUES**

The Hospital Lab includes a combination of clinical analytical processes performed on site and/or through associated approved reference laboratory services. Plan Participants shall strive to assure that the clinical laboratory is operated in accordance with the standards set forth in New York law, the federal Clinical Laboratory Improvement Act and other applicable laws and regulations.

**E. EMTALA – The Emergency Medical Treatment and Active Labor Act, 42 USC §1395dd (2004).**

Jones Memorial Hospital strives to comply with EMTALA requirements, and affirms that treatment will be provided to all individuals, including women in labor, who present to the Hospital Emergency Department. Under EMTALA:

1. Emergency treatment must not be delayed to discuss payment method or insurance coverage.
2. Transfers will only be provided if the Hospital or its Affiliate at which the patient presents for treatment cannot provide the necessary services or if the patient requests a transfer. The patient must be stabilized pre-transfer.
3. All policies regarding medical screenings must be followed. Compliance with EMTALA requires, among other things, comprehensive documentation.

**F. HIPAA - The Health Insurance Portability and Accountability Act of 1996, P.L. 104-191, 110 Stat. 1936 (1996).**

Jones Memorial Hospital is committed to compliance with all HIPAA requirements, having implemented policies and procedures to maintain the security of specified health information. Except in certain enumerated situations, the Hospital obtains the patient's authorization prior to using or disclosing that patient's health information. The Hospital enters into contractual agreements with business associates (e.g., vendors and suppliers) to assure that they use and disclose health information appropriately.

**G. CONTRACTING FOR SERVICES**

All business relations with vendors, contractors and other third-parties, including physicians and other clinicians, are to be conducted at arm's length and for fair market value.

**H. FINANCIAL ACCOUNTING RECORDS: INTEGRITY AND ACCURACY**

Jones Memorial Hospital strives to ensure that all financial reports, accounting records, research reports, expense accounts, time sheets, and other financial documents shall accurately represent the performance of operations. The Hospital's employees are trained as necessary to maintain all information required for compliance with Hospital policies and procedures, accreditation standards, and any other such laws, statutes or regulations.

Jones Memorial Hospital has established and will maintain procedures to ensure a system of internal controls which provides reasonable assurance that financial records are executed and retained consistent with federal, state and local regulatory requirements and accounting industry guidelines and the Hospital strives to ensure that all records are prepared in a timely manner and are properly supported.

**I. CLAIMS DEVELOPMENT AND SUBMISSION:  
BILLING AND COLLECTIONS**

Jones Memorial Hospital has an obligation to its patients, third party payors, and the federal and state governments to exercise diligence, care and integrity when submitting claims for payment for services rendered. To fulfill this obligation, the Hospital strives to maintain honest, fair, and accurate billing practices. All individuals involved in the billing functions of

the Hospital are trained to perform such functions in accordance with federal, New York State and local law.

Jones Memorial Hospital has developed billing policies and procedures to provide guidance to billing and coding staff. The Hospital strives to achieve the following goals:

1. Third-party payors should be billed for those services provided, as supported by medical record documentation;
2. Avoid any duplicate billing;
3. Provide for proper and timely documentation of the services of health care providers;
4. Avoid inappropriate unbundling;
5. Emphasize that claims should be submitted only when appropriate documentation supports the claims and only when such documentation is maintained and available for review;
6. Employ proper use of coding modifiers;
7. Ensure that the compensation for any employee or contractors including the billers, coders, and billing consultants, do not provide any financial incentive for the improper submission of claims;
8. Avoid billing for non-covered services as if covered; and
9. Ensure that the written policies and procedures concerning proper billing and coding reflect the current reimbursement principles set forth in the applicable regulations, guidances, and other publications issued by state and federal governmental agencies.

#### **J. MEDICAL NECESSITY: REASONABLE AND NECESSARY SERVICES**

While physicians and other licensed health care professionals are able to order any services that are appropriate for the treatment of their patients, Medicare and other government and private health care plans will only pay for those services that meet appropriate medical necessity standards (as in the case of Medicare, “reasonable and necessary services”). Providers may not bill for services that do not meet the applicable standards.

Therefore, Jones Memorial Hospital strives to ensure that claims are submitted only for services that it believes are medically necessary and that were ordered by a physician or other appropriately licensed individual. Fundamental policy at the Hospital requires that documentation be maintained to support the medical necessity of a service that has been provided.

## **K. CONFLICTS OF INTEREST**

Jones Memorial Hospital recognizes that conflicts of interest may arise in the course of normal business activities, but Participants should make every effort to avoid all potential conflicts of interest. Potential conflicts of interest should be disclosed promptly upon reasonable suspicion. Procedures related to conflicts must be adhered to in the event a conflict exists. To achieve our goals and to maintain the integrity of Jones Memorial Hospital, any individual associated with Jones Memorial Hospital who can potentially benefit from a contract or transaction shall not participate in Jones Memorial Hospital's decision-making process regarding that business entity. In addition, acceptance of gifts, gratuities, favors or other benefits from persons or entities that do business with Jones Memorial Hospital or to whom Jones Memorial Hospital or its physicians make referrals shall not be permitted. Solicitation of such gifts, favors, or other benefits, regardless of value, is likewise prohibited. (Notwithstanding the foregoing, the acceptance of common business hospitality such as occasional meals, or gifts of nominal value shall not be considered a violation of this section).

## **L. ANTITRUST AND TRADE REGULATION**

It is the policy of the Hospital to avoid any activities that unfairly or illegally reduce or eliminate competition, control prices, allocate markets, or exclude competitors.

1. Employees or contractors shall comply with the letter and spirit of all antitrust laws of the United States and of the State of New York. No Participant shall have any authority to engage in conduct that does not comply with this policy or to authorize, direct, approve or condone such conduct by any other person.
2. No employees or contractors shall enter into understandings or agreements (whether written or oral) that could unfairly or illegally reduce or eliminate competition, control prices, allocate markets, or exclude competitors. This includes agreements or information sharing with other practices or carriers that affect prices, charges, profits and service or supplier selection.
3. Employees or contractors who negotiate or enter into contracts with competitors, potential competitors, contractors or suppliers shall do so on a competitive basis considering such factors as price, quality and service. This policy is especially important for employees or contractors having purchasing, planning or marketing responsibilities.
4. Employees or contractors who attend association or professional association meetings or who otherwise come into contact with competitors should avoid discussions at those meetings regarding pricing or other topics which could be interpreted as collusion or cooperation between competitors.
5. Any employee or contractor who suspects that a violation of the antitrust and trade regulation laws has occurred shall disclose that information to the CO.

## **M. DOCUMENTATION AND RECORD RETENTION**

In addition to facilitating high quality patient care, a properly documented medical record verifies and records precisely what services were actually provided. The medical record may also be used to validate: (a) the site of the service; (b) the appropriateness of the services provided; (c) the accuracy of the billing; and (d) the identity of the care giver (service provider).

### **1. Internal Documentation**

Jones Memorial Hospital strives to meet the following goals:

- a. The medical record should be complete and legible;
- b. The documentation of each patient encounter should include the reason for the encounter; any relevant history; physical examination findings; prior diagnostic test results; assessment, clinical impression, or diagnosis; plan of care; and date and legible identity of the observer;
- c. The rationale for ordering diagnostic and other ancillary services should be readily identifiable by an independent reviewer or third party who has appropriate medical training;
- d. CPT and ICD-9-CM codes used for claims submission should be supported by documentation in the medical record; and
- e. Appropriate health risk factors should be identified. The patient's progress, any changes in treatment, and any revision in diagnosis should also be documented.

These issues can be the basis of investigations of inappropriate or erroneous conduct, and have been identified by CMS, the New York State Office of the Medicaid Inspector General (OMIG) and the OIG as leading causes of improper payments.

### **2. Record Retention**

All records of Jones Memorial Hospital shall be maintained for a period not less than seven (7) years and in accordance with Medicare, Medicaid, and all federal, New York State and local regulatory guidelines, and any other record retention policy of the Hospital. Medical records shall be secured against loss, destruction, unauthorized access, unauthorized reproduction, corruption, or damage.

#### **IV. ADMINISTRATION OF THE PLAN**

##### **A. THE COMPLIANCE OFFICER**

The responsibility for the direction and operation of this Plan shall be vested in the CO. The CO shall be appointed by and report directly to the Chief Executive Officer ("CEO"). The CO shall also have direct access to the Board. Any change in the personnel responsible for administering the Plan shall be approved by the Board.

The CO's duties shall include, among others:

1. Chair the Compliance Committees;
2. Organize and manage administrative tasks involved in monitoring and updating this Plan;
3. Periodically review the Plan and recommend revisions as necessary to meet changes in the business and regulatory environment;
4. Supervise administration of the Plan;
5. Ensure, as appropriate, that the National Practitioner Data Bank, state licensure records, the HHS-OIG's List of Excluded Individuals/Entities ("LEIE"), and the General Services Administration's (GSA's) List of Parties Debarred from Federal Programs have been checked with respect to all employees, medical staff, and contractors;
6. Establish and administer a communication system, including a hotline, that is available to all Plan Participants to report any suspected illegal conduct or other conduct that violates the Standards of Conduct or applicable law;
7. Receive and investigate all reports of possible illegal conduct or other conduct that violates the Standards of Conduct;
8. Establish open lines of communication among departments to ensure effective and efficient compliance policies and procedures throughout the Hospital;
9. Maintain master repository of existing compliance policies and procedures, develop new policies and procedures, revise as necessary and ensure awareness among department heads;
10. Review and update the education, training, and standards of conduct to reflect the current federal, state and local laws;
11. Collaborate with internal and external auditors;
12. Work closely with appropriate departments concerning physician documentation issues and billing policies;

13. Provide staff support to the Board's Finance/Audit Committee;
14. Prepare and present periodic reports to the Board's Finance/Audit Committee; and
15. Prepare and present an Annual Report to the Board's Finance/Audit Committee describing general compliance efforts which have been undertaken in the preceding year.

## **B. COMPLIANCE COMMITTEE**

To help ensure the success of the Plan, Jones Memorial Hospital has established the Compliance Oversight Committee and Corporate Compliance Committee to identify and build upon its existing policies and procedures, and to develop and implement strategies for the continued implementation of the Plan.

### **1. Compliance Oversight Committee**

The Compliance Oversight Committee provides oversight and direction to the Compliance Committee. The Compliance Oversight Committee shall meet periodically to discuss, review and resolve compliance issues, and it shall report to the Board's Finance/Audit Committee and/or the Board of Directors.

**a. Functions.** The Compliance Oversight Committee's functions may include, but are not limited to:

- Analyzing the business, industry, environmental and legal requirements with which the Hospital must comply, including specific risk areas;
- Developing standards of conduct, policies, and procedures to promote compliance with Hospital policies;
- Reporting appropriate matters to the Board of Directors or the Board's Finance/Audit Committee; and
- Ensuring relevant conflicts of interest are identified, documented and communicated in such a way that they do not compromise the Hospital's Standards of Conduct;

**b. Membership.** The Compliance Oversight Committee's members shall include:

- Members of the Administrative Council
- Board Representative
- Medical Staff Representative
- Compliance Officer

## 2. Corporate Compliance Committee

The Corporate Compliance Committee's purpose and charge is to promote effective communication, implementation and maintenance of this Plan. Acting through the CO, the Corporate Compliance Committee is empowered to investigate, evaluate and report facts, and make recommendations to the Compliance Oversight Committee and the Chief Executive Officer for possible responses or initiatives, including disciplinary or other adverse action for misconduct by Participants.

**a. Functions.** The Corporate Compliance Committee's functions may include, but are not limited to:

- Establishing annual priorities for the Plan. These will include, but may not be limited to, the initiation of audits, education and training; and ongoing improvements to procedures that promote effect communication concerning the Plan;
- Reviewing and monitoring implementation and maintenance of the Plan;
- Assigning and reinforcing accountability for compliance to appropriate person(s);
- Ensuring an effective hotline, as well as other means to solicit, evaluate and respond to complaints;
- Identifying areas of risk in specific departments and monitor process improvement in identified areas;
- Establishing an annual Compliance Workplan coordinated by the CO; and
- Assessing existing policies and procedures that address these areas for possible incorporation into the Plan;

**b. Membership.** The Corporate Compliance Committee's members shall include:

- Corporate Compliance Officer, Chair
- Director of Patient Financial Services
- Director of Health Information Management
- Director of Laboratory
- Director of Medical Imaging
- Director of Rehabilitation Services

- Director of Emergency Services
- Director of Risk Management
- Director of Quality Improvement
- Physician Practice Representative(s)

The Compliance Committees may, from time to time, create one or more sub-committees which shall have that authority specifically designated thereto. Each sub-committee shall answer directly to the respective Compliance Committee.

## V. TRAINING AND EDUCATION

This Plan is incorporated into the Jones Memorial Hospital Administrative Policy and Procedure Manual. Department Heads are responsible for being familiar with the Plan and will disseminate pertinent information to their staffs annually. A review of the Plan's elements is one of the mandatory annual in-service requirements for all Plan Participants.

All new employees receive an introduction to this Plan at orientation. The Plan is **available** to employees via the intranet and in hard copy upon request.

As necessary, separate training sessions will be conducted to address specific department needs. Specialized training may focus on complex areas or in departments which the CO and/or Compliance Committee determine pose a high risk. The CO shall be responsible for ensuring that training is updated at regular intervals to include new developments in the law.

For example, individuals directly involved with billing, coding or other aspects of federal health care programs shall receive education specific to each individual's responsibilities. Some examples of items which shall be covered in coding and billing training include:

- Coding requirements;
- Claim development and submission processes;
- Signing a form for a physician without the physician's authorization;
- Proper billing standards and procedures, and submission of accurate bills for service or items rendered to federal health care program beneficiaries; and
- Legal sanctions for submitting deliberately false or reckless billings.

Jones Memorial Hospital shall maintain updated ICD-9, HCPCS and CPT manuals (in addition to the carrier bulletins containing those sources) and make them available to all Participants involved in the billing process. The Hospital shall also make available updates on current billing standards and procedures.

The Board shall be updated no less than annually on the compliance program.

## **VI. AUDITING AND MONITORING**

### **A. Purpose**

Ongoing improvement and evaluation processes are crucial to our Corporate Compliance Program.

The Compliance Officer will be responsible for monitoring employees' compliance with applicable laws, regulations, standards, policies and procedures. The Compliance Officer will determine the Hospital's risk areas that shall become a focus area for organizational compliance based on internal audits, reviews of laws, regulations and standards and interviews with Participants.

If significant variations occur, an investigation to determine the causes will be conducted. If it is determined that the variation was caused by improper procedures or misunderstanding of policies, Jones Memorial Hospital will take prompt steps to correct the problems(s). Accountability will be assigned by the Corporate Compliance Committee to the appropriate Department Head for corrective action and resolution. The corrective action and resolution will be reported to the Corporate Compliance Committee regularly until the Corporate Compliance Committee is satisfied that compliance has been met consistently. Any overpayments discovered as a result of audit or investigations will be returned promptly to the affected payor, with appropriate documentation and explanation.

An ongoing evaluation process is critical in detecting noncompliance and improving the quality of work, and will help to ensure the success of the Plan.

Identified areas of focus shall be integrated into the Hospital's annual compliance workplan. Areas of focus that are not incorporated into the annual compliance workplan shall be documented, along with the reasons for which it was determined that the focus area shall not be integrated into the compliance workplan.

### **B. Scope and Methods**

The CO will periodically conduct departmental interviews with department heads to assist in determining the effectiveness of the Corporate Compliance Program. An annual review of Corporate Compliance issues will be completed and presented to the Compliance Committees by the Corporate Compliance Officer. This review will specifically identify areas where corrective actions are needed.

Audits and reviews should inquire into Hospital compliance with specific rules and policies that have been the focus of particular attention on the part of the Medicare fiscal intermediaries, Medicaid, appropriate state entities, third party payors, and law enforcement e.g., as evidenced by OIG Special Fraud Alerts, OIG and OMIG audits and evaluations, and law enforcement initiatives.

Audit techniques may include, but are not limited to:

- On-site visits;
- Personnel interviews;
- General questionnaires submitted to Employees and Contractors;
- Reviews of medical records that support claims for reimbursement; and
- Review of written materials and documentation prepared by the Hospital.

Jones Memorial Hospital will conduct annual education and training programs and conduct focused issue audits in areas that the CO or Compliance Committees have determined present compliance issues or challenges. If an audit reveals potential noncompliant conduct, the procedures set forth in the Plan for investigation and, as appropriate, discipline and corrective action shall be followed

Employees and contractors shall notify the CO of any visits, audits, investigations or surveys by any federal or state agency or authority.

As part of the monitoring process, the CO shall establish procedures for ensuring that appropriate personnel are notified of changes in laws, regulations or policies, and that additional training is provided as necessary to assure continued compliance.

## **VII. COMMUNICATION PROCESSES**

An open line of communication between the CO and all Participants subject to this Plan is critical to the successful implementation and operation of the Plan. Plan Participants have a duty to report good faith beliefs of violations of the Compliance Program, including violations of applicable laws and Hospital Standards of Conduct. All questions and concerns regarding compliance with the standards in this Plan shall be brought to the attention of the CO. Employees may initially consult with their supervisors, the Human Resources Department, or any members of the Corporate Compliance Committee, who shall refer compliance issues to the CO. The CO shall maintain a log of alleged compliance issues, investigations, referrals, action and resolutions, and report this information to the Compliance Committee.

Any employee or agent may contact the CO directly by calling **585-596-4053** to report any potential compliance concern or incident, or to schedule an appointment to meet with the CO. There will be appropriate follow up by the CO and/or a designee appointed by the CO in relation to any reported concern, violation or potential violation. Any employee or agent may also report perceived incidents of non-compliance on a strictly confidential basis by calling the JMH Employee Hotline Number at **585-596-4095**. Compliance Hotline reports can only be accessed by the CO and/or a designee. A hotline log shall be maintained listing each call and its disposition.

Participants may also mail their concern to:

Compliance Officer  
Jones Memorial Hospital  
P. O. Box 72  
Wellsville, NY 14895

In accordance with its policies, the Hospital will promptly evaluate and investigate all allegations an individual brings forward and make every attempt to correct all violations that are confirmed to have occurred and to prevent further occurrences thereof. The CO shall refer all legal issues to Corporate Counsel and all human resource issues to the Human Resources Department. All records and any subsequent investigation of reported matters shall be confidentially retained by the CO in so far as possible. The records shall be subject to disclosure only as required by Jones Memorial Hospital policy, through advice of counsel, or as otherwise required by law.

An individual also has the right to report his or her suspicion to the appropriate government agency. The Hospital will not retaliate against employees or agents who, in good faith bring forth or report claims of fraud, waste and/or abuse. Any threat of reprisal against a person who acts pursuant to his or her responsibilities under the Plan is not only contrary to the Hospital policy, it may in some instances be a violation of the law. Any substantiated adverse action, including but not limited to attempts to harm or slander through harassment, false accusations or malicious rumors, and/or retaliation will result in disciplinary action up to and including termination of employment. The Hospital, at the request of a reporting Participant, shall provide anonymity to the Participant to the extent possible consistent with the Hospital's obligation to investigate concerns and take necessary corrective action.

## **VIII. RESPONDING TO DETECTED OFFENSES AND DEVELOPING CORRECTIVE ACTION INITIATIVES**

### **A. Violations and Investigations**

Upon reports of suspected noncompliance, the CO, in collaboration with appropriate Administrative Council members, will initiate an investigation to ascertain whether or not a violation of applicable law or the requirements of this Plan has occurred. If a violation has occurred, the CO will identify and initiate a corrective action plan immediately or as soon as practicable under the circumstances. As appropriate, the CO will consult with Corporate Counsel and a referral to criminal and/or civil law enforcement authorities may be made by Corporate Counsel.

An internal investigation may include interviews with relevant personnel and a review of pertinent documents. The Hospital may consider engaging outside counsel and/or auditors to assist in an investigation. Such engagement shall be under the authority and oversight of Corporate Counsel, who shall act as liaison for any investigation.

The Corporate Counsel and CO will take appropriate steps to secure or prevent the destruction of documents or other evidence relevant to the investigation. Any disciplinary action warranted will be imposed promptly and in accordance with the Hospital's written policies and procedures of disciplinary action.

## **B. Reporting**

All employees have the responsibility of complying with applicable laws, regulations, standards, policies and procedures, and to report any acts of non-compliance. Any employee, officer, director, affiliate or member of the medical staff who perceives or learns of non-compliance should either report the non-compliance to his or her supervisor or the Compliance Officer, or contact the Hospital's confidential Compliance hotline. Supervisors should report these issues to the Compliance Officer.

The CO, in collaboration with Corporate Counsel, and the other members of the Compliance Committees as needed, will decide when to report the existence of misconduct to the appropriate governmental authority. If the Compliance Committees have sufficient evidence to believe that misconduct may have violated criminal, civil or administrative law, and a decision has been made to report, every effort will be made to assure that the reporting will take place no more than sixty (60) days after determining that credible evidence of a violation exists.

## **IX. DISCIPLINARY ACTION**

Disciplinary action as to those who have failed to comply with the policies and procedures, including federal and state laws, or those who have otherwise engaged in conduct that could potentially impair the Hospital's status as a reliable, honest and trustworthy health care provider, is an important part of this Plan. Failure to comply with this Plan and/or any laws, rules, or regulations may result in disciplinary action up to and including termination of employment or association with the Jones Memorial Hospital. Disciplinary action relating to compliance violations will be addressed through the Hospital's Human Resource progressive disciplinary process.

Discipline may occur in instances of failure to report non-compliant conduct; and involvement in non-compliant conduct. Each infraction will be investigated and disciplinary measures will be taken on a case by case basis.

Based upon the degree of severity of a violation, some alternate methods of addressing specific situations may be utilized, such as:

1. Re-training employees;
2. Modification and reimbursement of erroneous charges, and adjustments to the coding and billing systems, as appropriate;
3. Reviews and revisions to policies and procedures; and
4. Prospective performance improvement error reduction action.

**X. BACKGROUND CHECKS - APPLICANTS FOR EMPLOYMENT OR PRIVILEGES**

It is the policy of Jones Memorial Hospital to make reasonable inquiry into the background of prospective employees, contractors and vendors that are engaged in business or activity that by its nature may place the Hospital at risk for violation of the law or this Plan. The Hospital will not knowingly employ or contract with any individual who has been convicted of any criminal offense related to health care, or who is listed as debarred, excluded or otherwise ineligible for participation in federal health care programs (as defined in 42 U.S.C. §1320a-7b(f)).

All applicants for employment, including but not limited to professional and billing personnel, who have discretionary authority to make decisions that may involve compliance with the law or compliance oversight, shall undergo a reasonable and prudent background investigation, including a reference check. This investigation shall be conducted by the Hospital as part of every such employment application. In conjunction with policies and procedures developed and administered by the Hospital, applicants shall be screened to determine whether they have been (a) convicted of a criminal offense related to health care; or (b) listed by a federal agency as debarred, excluded, or otherwise ineligible for participation in federal health care programs as defined under federal law.

**XI. CONCLUSION**

Jones Memorial Hospital takes this Corporate Compliance Plan seriously and expects all employees, agents, volunteers and physicians to abide by its contents.

\_\_\_\_\_  
President and Chief Executive Officer

\_\_\_\_\_  
Corporate Compliance Officer

Date: \_\_\_\_\_

Date: \_\_\_\_\_