



Compliance Program Training & Fraud, Waste, and Abuse Education

Vendors and Contractors



Compliance Program Overview

Overview

- Thompson Health maintains an effective compliance program that includes policies and procedures to detect, prevent, and correct fraud, waste, and abuse.
- Pursuant to 18 NYCRR Part 521, Thompson Health requires vendors and contractors to receive training and education on compliance program operations and fraud, waste, and abuse.
- All vendors and contractors are to comply with the Compliance Program as well as the policies and procedures that support the program. This includes cooperation with audits or investigations.
- All vendors and contractors are obligated to report actual or suspected instances of fraud, waste, or abuse or any other violation of the Compliance Program, Code of Conduct, or federal and state laws.

Compliance Officer and Compliance Committee

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- The **Compliance Officer** is the focal point for the required provider's compliance program and is responsible for the day-to-day operation of the compliance program. The compliance officer is responsible for:
 - Oversight of the compliance program and evaluating the program's effectiveness
 - Drafting and implementing a compliance work plan
 - Ongoing review and revision of the compliance program to incorporate any necessary changes
 - Establishing methods to detect, prevent and correct fraud, waste and abuse
 - Investigating matters related to the compliance program
- The **Compliance Committee** ensures the required provider is conducting business in an ethical and responsible manner consistent with its compliance program. The committee supports the program and compliance officer to ensure
 - The organization has written policies and procedure, a code of conduct, and that training and education is completed as required
 - Affected individuals cooperate with the compliance program, including internal and external audits
 - Processes are in place to identify compliance program risks, overpayments and other issues, and that applicable policies and procedures are in place to correct and report issues

Fraud, Waste, and Abuse Defined



Fraud

An intentional act of deception or misrepresentation knowing that it could result in some unauthorized benefit or payment by the Medicare or Medicaid program.



Waste

Over-utilization or misuse of health care services resulting in unnecessary costs to the Medicare or Medicaid program.



Abuse

Incidents that are improper, excessive, or inconsistent with accepted medical or business practices resulting in unnecessary costs or improper payment by the Medicare or Medicaid program

Examples of Fraud, Waste, and Abuse

- Billing for services not provided
- Coding a service that was not provided or misrepresenting the service to get paid or be paid a higher reimbursement
- Keeping overpayments that should be returned to the payor or patient
- Falsification of records

State and Federal Laws

Federal False Claims Act and New York Social Services Law (31 USC § 3729-3733)

- Prohibits submitting a claim or other documents for payment or approval to Medicare and Medicaid (including their private health plan contractors) that you know or should know is false or fraudulent.
- Imposes liability on individuals and companies who defraud governmental programs.

Anti-Kickback Statute

42 U.S.C. § 1320a-7b(b)

- Federal criminal law prohibits any individual or company from offering, soliciting, paying, or receiving any kind of reward (cash, gifts) to induce or reward patient referrals.
- There are both civil and criminal penalties for violating the statute.
- The statute covers both those who make an offer or solicitation and those who receive the payment or reward.
- There are exceptions under the statute.
- Reach out to the Thomson Health Compliance Officer for assistance with potential kick-back scenarios.



Physician Self-Referral (Stark) Law

Section 1877 of the Social Security Act (42 U.S. Code § 1395nn)

- Prohibits a physician (or their immediate family member) from making referrals for designated health services (DHS) payable by Medicare to an entity with which the physician (or their immediate family member) has a financial relationship unless an exception applies.
- Prohibits the entity from presenting or causing to be presented claims to Medicare (or billing another individual, entity, or third-party payer) for those referred services.
- There are civil penalties associated with Stark Law violations including significant fines, exclusion and penalties under the False Claims Act.
- All vendors and contractors are required to disclose whether a physician or a physician's immediate family member has a financial relationship with the vendor or contractor.
- Contact the Thompson Health Compliance Officer for assistance.

DHS includes
• Laboratory services • Physical, occupational, speech therapies • Radiology • Radiation • Medical equipment and supplies • Parenteral and enteral nutrients, equipment, and supplies • Home health services • Outpatient prescription drugs • Inpatient and outpatient hospital services

Examples of Potential Stark and Anti-Kickback Violations

- A home health care agency pays a quarterly bonus to a physician based on the volume of patients she refers.
- A physician refers his patients to a physical therapy company he partly owns.
- A pharmacy gives a gift card to the staff of a medical office for each patient referred to their pharmacy.
- A nursing home pays a doctor to serve as the Medical Director. However, the doctor doesn't do the job and is being paid for the number of patient referrals they make to the nursing home.
- A hospital allows a provider to rent office space at a significantly lower rate (below fair market value) as they want to ensure the provider refers their patients to the hospital.

Code of Conduct

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- The Code of Conduct is an important part of the Compliance Program. It is designed to ensure affected individuals understand their responsibilities with respect to the organization, the compliance program and applicable policies, procedures, and laws affecting operations.

Conflict of Interest

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- A conflict of interest may occur when personal or financial interests diverge from one's professional obligation to Thompson Health.
- A financial interest exists when an individual directly, or indirectly through a relative, has ownership interest or a compensation arrangement with any contractor or vendor that does business with Thompson Health.
- Contractors and vendors have a duty to identify and disclose personal or financial interests with any Thompson Health employee or member of a Thompson Health Board of Directors.
- Not all personal or financial interests result in a conflict. Interests are evaluated to determine whether a conflict exists. If it is determined there is a conflict, the conflict may be managed or, if necessary, eliminated.
- For questions, or to report a conflict, please contact the Thompson Health VP, Legal and Regulatory Affairs, General Counsel at (585) 396-6714.

Reporting Options and Non-Intimidation and Non-Retaliation Policy

Reporting Options

- All suspected or actual compliance violations must be reported.
- The following reporting methods are available:
 - **Thompson Health Compliance Officer**
 - Individuals may confidentially call the Compliance Officer at (585) 275-1824 to report a potential compliance concern or incident.
 - **Integrity Help Line** (585) 585-756-8888 or integrityhelpline.urmc.edu
 - Anonymous and confidential
 - Monitored by a third-party vendor
 - Reporter is not required to provide their name but will be asked to provide enough information to adequately investigate concerns.

Non-Retaliation and Non-Intimidation

- Federal and state whistleblower protection laws protect Affected Individuals from harassment, intimidation, threats, coercion, discrimination or any other retaliatory action (collectively referred hereinafter as “retaliation”) for:
 - good faith participation in the Compliance Program, or
 - good faith filing of a complaint internally or to a government body, or
 - for testifying, assisting, or participating in an investigation, review, proceeding or hearing regarding concerns about:
 - quality of patient care,
 - healthcare fraud, waste or abuse or
 - an alleged violation of a law, rule or regulation or Hospital policy
- Thompson Health policies prohibit retaliation or intimidation. If you believe you have been subject to intimidation or retaliation, please contact the Thompson Health Compliance Officer.

