



MEMORIAL HOSPITAL
SEMINOLE HOSPITAL DISTRICT

SEMINOLE HOSPITAL DISTRICT COMPLIANCE PLAN

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SEMINOLE HOSPITAL DISTRICT COMPLIANCE PLAN

INTRODUCTION

At Seminole Hospital District (SHD), we are proud of the values that drive our success. These values shape an environment and culture that nurtures the highest standards in business and personal integrity. These same ethics and values are displayed in our commitment to excellence in the services we provide. It is imperative that as individuals we understand and adhere to these principles and values to protect SHD's integrity and welfare. To that end, SHD has established a Compliance Plan that outlines our ethical commitment via our Code of Conduct as well as our legal and regulatory requirements for select issues covered under the Plan. Healthcare is one of the most highly regulated industries in the country and there are numerous laws and regulations not addressed herein. That does not mean they are not important to SHD, but they are addressed elsewhere.

All covered persons, employees, medical staff, volunteers, and contractors who provide significant service to SHD, are expected to act ethically and in accordance with applicable laws, regulations, and policies. The Compliance Office is a resource for education, monitoring processes, and supporting efforts aimed at regulatory compliance. The Compliance Office does not make operational decisions but is available to advise and assist with applicable policies, rules, and regulations. Everyone at SHD is accountable for compliance results.

WHY WE NEED A COMPLIANCE PLAN

In 1998, the Office of the Inspector General (OIG) published compliance guidelines (including the "Seven Elements of an Effective Compliance Program") to assist healthcare organizations and providers in becoming fully compliant with complex rules and regulations governing the healthcare industry.

However, the most important reason for implementing a Compliance Plan is simply because it is the right thing to do. As noted above, we operate in one of the most highly regulated industries in the world. These regulations change frequently and come from numerous sources. Ensuring that we remain in compliance requires a team effort and a mechanism for questions and reports, investigating, and resolving potential issues. It is the intent of the Compliance Plan to facilitate that process. We also consider compliance with regulations to be a subset of our objective of maintaining the highest standards of moral and ethical conduct. Everyone in the organization has a role in that objective and a duty to report suspected non-compliance with our standards.

In addition, failure to comply with governmental regulations can result in significant civil and/or criminal penalties for SHD and potentially its employees, officers, directors, and agents. The severity of the penalties assessed is not necessarily dependent on the dollar value of the disputed issue, or the position of the person within the organization where the noncompliance occurred. For example, civil penalties under the False Claims Act can include fines of \$11,000 to \$22,000 per each "false claim" submitted, treble the damages, and exclusion from participating in Federal Healthcare Programs. The presence of an effective compliance plan helps to identify potential issues, aids in mitigating risk, and provides a defense if we were to be challenged regarding any

of our areas of operation. It may also serve to significantly reduce potential civil and/or criminal penalties.

PURPOSE OF THE COMPLIANCE PLAN

The purpose of the Compliance Plan is to guide SHD in its management and operation of compliance-related activities. SHD intends to demonstrate that it is both committed to, and exercises, due diligence in seeking to prevent and detect systemic problems and violations of law by developing and sustaining a rigorous Compliance Plan. The Compliance Plan has at its foundation, seven elements that Federal guidelines have deemed necessary for an effective, high-quality compliance program. This document provides the framework to meet the seven elements:

- **Written Standards of Conduct and Policies:**

The Code of Conduct and policies have been developed. The Code of Conduct establishes the expectation of ethical behavior and compliant conduct. The Code of Conduct and policies provide for disciplinary action for failure to adhere.

- **Designating a Compliance Officer and Compliance Committee:**

The Compliance/Privacy Officer is charged with the responsibility of operating and monitoring the Compliance Program.

The Compliance Committee will assist the Compliance/Privacy Officer in the oversight of the Compliance Program. This includes ensuring that the Compliance Program effectively prevents and/or detects violations of applicable laws, regulations, and ethical guidelines.

- **Conducting Effective Training and Education:**

Initial Compliance Training: All new employees will receive compliance training at new employee orientation. A statement acknowledging employee's commitment to and receipt of the Code of Conduct will be signed, dated, and maintained in the employee's HR file.

Annual Compliance Training: All employees will participate in compliance training on an annual basis including appropriate training in state and federal statutes, regulations, and guidelines.

- **Developing Effective Lines of Communication:**

SHD maintains a HOTLINE, to receive complaints and to respond to questions, and has adopted procedures that emphasize non-retribution, non-retaliation, and include a mechanism for anonymous communications and confidentiality.

In addition, the Compliance and Privacy Officer is available by appointment, telephone call, email, or contacting the compliance hotline.

- **Conducting Internal Monitoring and Auditing:**

Auditing represents evaluation of activities completed by individuals independent of the process on a periodic basis.

Monitoring represents evaluation activities completed by individuals who may not be independent of the process on a routine or continuous basis.

The Compliance Office will develop an annual audit work plan, based on a risk assessment, to guide its monitoring and auditing activities. Other investigations or reviews of known or suspected noncompliance are conducted as needed.

- **Enforcing Standards Through Well-Publicized Disciplinary Guidelines:**

Non-Retaliation Policy

No employee shall be disciplined or suffer any adverse employment action or other retaliation by SHD solely for making a compliance report in good faith where there has been a known or suspected violation. However, discipline may be imposed if SHD reasonably determines that any complaint or report was knowingly fabricated or knowingly exaggerated, distorted or minimized to injure another or protect the reporting party or others who might be subject to discipline for a compliance violation.

Progressive Discipline

Corrective, remedial, and disciplinary action will be applied to all employees within SHD who fail to comply with their obligations. When there is information of potential violations or misconduct, the Compliance/Privacy Officer has the responsibility of investigating. An internal investigation may include interviews and a review of medical records, billing, and other relevant documents.

- **Responding Promptly to Detected Offenses and Undertaking Corrective Action:**

Prevention and Detection

Opportunities for preventing and detecting fraud, waste, and abuse may be identified through the following means:

- Employee training
- Management team referrals
- Patient complaints
- Reports to the Compliance Hotline
- Other sources (external referral Office of the Inspector General (OIG), Centers for Medicare and Medicaid Services (CMS), Department of Justice (DOJ), Texas Medicaid Fraud Unit, etc.)

Investigations and Reporting

An investigation of a practice or suspected violation shall involve a review of the relevant document and records, interviews with staff, and analysis for applicable laws and regulations. The results of any investigations shall be thoroughly documented and maintained in the Compliance Department incidents database. Investigation records shall include a description of the investigative process, copies of interview notes and key documents, a log of individuals interviewed, and documents reviewed; the results of the investigation, and any disciplinary or corrective actions taken. Documents will be retained in accordance with statutory and policy guidelines regarding retention.

Negligence and/or Inadvertent Conduct

If it is determined, after investigation that non-compliant conduct occurred because of negligence or inadvertence, the matter shall be handled by the appropriate supervisor, who shall inform the Compliance/Privacy Officer. The Compliance/Privacy Officer, the

department director, and Human Resources, shall determine the response and appropriate corrective action considering all available information.

Corrective Actions

Corrective and/or disciplinary actions will be taken against individuals who have failed to comply with Compliance Policies, SHD Policies, and/or Federal and State Law. Corrective and/or disciplinary action will be taken against individuals who have engaged in wrongdoing, have allowed the wrongdoing to continue, or should have known about the wrongdoing, that has the potential of damaging SHD's status as a reliable, honest, trustworthy provider.

Corrective/disciplinary action will serve 3 purposes:

1. It will remind employees of their personal responsibility to work to achieve compliance;
2. It will establish accountability for failure to exercise that responsibility; and
3. It will punish wrong doers, deter others, and establish the programs credibility.

All levels of employees are subject to the same disciplinary action for the commission of similar offenses.

Overpayments

A prompt refund will be made to payors (i.e., Medicare, Medicaid, BCBS, etc.) if any overpayment has occurred. Additionally, any required disclosures will be made by the Compliance/Privacy Officer, in collaboration with others as needed.

COMPLIANCE STRUCTURE AND OVERSIGHT

Board of Directors

The SHD Board of Directors provide oversight and authority for the Compliance Program. The activities of the Compliance Program are regularly reported to executive leadership and the Board.

Executive Leadership

SHD Leadership establishes and reinforces a culture that supports compliance through efforts such as:

1. Making operational and business decisions in compliance with applicable rules and regulations;
2. Allocating reasonable and appropriate resources to compliance requirements; and
3. Providing and supporting employee education and policy development that comply with applicable laws and regulations.

Compliance Committee

The Compliance Committee consist of key organizational leaders that provide guidance to the Compliance/Privacy Officer and support activities that foster a culture of compliance. The Compliance Committee may also review and provide guidance on compliance issues or make recommendations to address compliance concerns.

Compliance/Privacy Officer

The Compliance/Privacy Officer is responsible for leading the Compliance Program efforts at SHD and communicating the activities and results of the Compliance Program to executive leadership, legal counsel (when appropriate), and the Board.

COMPLIANCE RISK AREAS

False Claims

The False Claims Act (FCA) includes both civil and criminal provisions used in enforcement of the law, which makes it an offense for any person/entity to present a false claim to the United States government. A false claim is defined as **knowingly** submitting a false claim to the government or causing another to submit a false claim to the government or **knowingly** making a false record or statement to get a claim paid by the government.

Knowingly is defined as:

- **Actual knowledge:** you know the claim is false and submit it anyway.
- **Deliberate ignorance** of the truth or falsity of the information: you should know, but you have chosen not to educate yourself.
- **Reckless disregard** of the truth or falsity of the information: you don't care if the claim is right or not, you just want to be paid.

Fraud

Fraud is defined as an intentional false representation or concealment of a material fact intended to induce another to act in a particular way, resulting in his/her injury. This could take the form of a pattern of submitting false claims or financial fraud such as embezzlement.

Anti-Kickback Statute (AKS)

The AKS makes it a crime for a person to knowingly and willfully solicit or accept payment (or other remuneration) for referring a patient to another person/entity for the furnishing of any item or service for which payment may be made (in whole or in part) by any Federal Healthcare Program. The AKS also makes it a crime to knowingly and willfully offer or pay remuneration to "induce" such a referral.

SHD will not offer or accept payment for:

- Referrals to SHD;
- Referrals to Providers; or
- Referrals to any other healthcare organizations.

If this occurs, it is a kickback (bribe) and is illegal.

Stark I, II, & III

The Stark Law prohibits physicians from referring patients for certain designated health services paid for by Medicare to any entity in which the physician has a "financial relationship". The Federal Government defines "financial relationship" broadly to include any direct or indirect ownership or investment interest by the referring physician, as well as any financial interest held by the any of the physician's immediate family members. Unlike the AKS, the Stark Law is not a criminal statute. However, the Office of the Inspector General (OIG) for the Department of Health and Human Services (HHS) can pursue a civil action against Stark Law violators under the civil

monetary penalties. Stark Law violations can result in penalties of up to \$15,000 for each billed service that is based on a prohibited referral, plus three times the amount of the government overpayment.

Also, the Stark Law is a strict liability statute, meaning that proof of a physician's specific intent to violate the law is not required. Physicians who make prohibited referrals either knowingly or accidentally will be subject to civil penalties. Physicians who knowingly violate the Stark Law may be fined as well as be debarred or excluded from participation from any Federal or State Healthcare Program, i.e., Medicare, Medicaid, Tricare.

The Fair and Accurate Credit Transaction Act of 2003 (FACTA)

The purpose of this law as it applies to healthcare is to detect, prevent, and mitigate identity theft in connection with the opening of a covered account or an existing covered account. SHD strives to prevent the intentional or inadvertent misuse of patient names, identities, and medical records; to report criminal activity relating to identity theft and theft of services to appropriate authorities; and to take steps to correct and/or prevent further harm to any person whose name or other identifying information is used unlawfully or inappropriately.

Health Insurance Portability & Accountability Act (HIPAA)

Health Information Technology for Economic and Clinical Health Act (HITECH)

HIPAA details and provides for the enforcement of patient's privacy rights and standards for the electronic transmission of healthcare data. The legislation is sub-divided into 4 parts:

- General Provisions: statutory basis, definitions, applicability, organizational requirements, and relationship to other parts.
- Security Standards for the Protection of Electronic Protected Health Information
- Notification in the Case of Breach of Unsecured Protected Health Information
- Privacy of Individually Identifiable Health Information

HITECH expanded the scope of privacy and security protections available under HIPAA by increasing the potential legal liability for non-compliance and it provides for more stringent enforcement. HITECH increased the fines and penalties under HIPAA, imposed data breach notification requirements for unauthorized uses and disclosures of unsecured protected health information (PHI), provides individuals with a right to obtain their PHI in an electronic format if the provider has an electronic medical record, and applies certain HIPAA provisions to business associates.

Billing Compliance

Medical Necessity

SHD will submit claims to any Federal Healthcare Program or private insurers only for services that were medically necessary or that otherwise constituted a covered service. A medically necessary service or test is defined as one that is reasonable and necessary for the diagnosis or treatment of an illness, injury, or to improve the functioning of a malformed body member.

Billing for Items or Services not Actually Rendered

Submitting a claim that represents that SHD performed a service, all or part of which was not performed.

Providing Medically Unnecessary Services

Intentionally seeking reimbursement for a service that is not warranted by a patient's current and documented medical condition.

Billing without Adequate Documentation

A bill should not be submitted to a payor if the documentation of the nature or scope of the service provided is unclear or if the appropriate diagnosis cannot be determined by the documentation.

Correct Coding

If the documentation in the medical record is unclear, then billing personnel must request clarification or additional information from the provider of the services. Billing personnel cannot create coding or diagnostic information based upon their own interaction with the patient, from information provided from an earlier date of service, or based on what they might conclude is the most likely diagnosis.

Upcoding

Using a billing code that provides a higher payment rate than the billing code that actually reflects the service furnished to the patient.

Duplicate Billing

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

Unbundling

Submitting bills piecemeal or in fragmented fashion to maximize the reimbursement for various tests or procedures that are required to be billed together and therefore at a reduced cost.

Credit Balances

Failing to refund credit balances.

Admission and Discharge Issues

Failing to follow the "same-day" rule; same-day discharge and readmission issues such as premature discharges, medically unnecessary readmissions or incorrect discharge coding.

Supplemental Payment Considerations

Improperly reporting the costs of "pass-through" items.

Use of Information Technology

Failing to fully understand the impact of computer systems and software that affect coding, billing, or the generation or transmission of information related to the Federal Healthcare Programs or their beneficiaries.

Cost Reports

Submitting unallowable costs due to the failure to provide proper controls over costs included in SHD's Medicare cost report; shifting certain costs to areas that are below their reimbursement cap; shifting non-Medicare related costs to Medicare cost centers.

Substandard Care

The Office of the Inspector General (OIG) may exclude an entity from participating in Federal Healthcare Programs if the entity provides items or services that fail to meet professionally recognized standards of care. To achieve quality related goals SHD continually measures its performance against comprehensive standards.

RELATIONSHIPS WITH FEDERAL HEALTHCARE BENEFICIARIES

Healthcare organizations are prohibited from offering remuneration to Federal Healthcare Beneficiaries that the organization knows or should know is likely to influence the beneficiary to order or receive items or services from a provider. The definition of "remuneration" expressly includes the offer or transfer of terms or services for free or other than fair market value, including the waiver of all or part of a Federal Healthcare Program cost-sharing amount. Specific items of concern include the following:

Gifts

SHD prohibits offers of gifts or gratuities to beneficiaries if the remuneration is something that is likely to influence a beneficiary's selection of a provider. The restriction does not apply to items or services valued at less than \$15 per item and \$75 per patient in the aggregate on an annual basis. SHD has educated its employees to ensure their understanding of these restrictions.

Cost-Sharing Waivers

In general, SHD is obligated to collect cost-sharing amounts (co-pays, deductibles) owed by Federal Healthcare Program beneficiaries. Waving owed amounts may constitute prohibited remuneration to beneficiaries. Certain waivers of Part A inpatient cost-sharing amounts may be protected by structuring them to fit in the safe harbor for waivers of beneficiary inpatient coinsurance and deductible amounts, e.g., waived amounts may not be claimed as bad debt, the waivers must be offered uniformly across the board and waivers may not be made as part of any agreement with a third party payer (other than a Medicare SELECT plan). The rules for this safe harbor are understood by employees with billing responsibility. In addition, SHD may waive cost-sharing amounts based on a beneficiary's financial need under certain circumstances. SHD uses a reasonable set of financial need guidelines that are based on objective criteria and follow SHD policies.

Free Transportation

While SHD may be prohibited from offering free transportation to Federal Healthcare Beneficiaries to influence their selection of a provider, SHD can offer free local transportation under certain circumstances. Prior to undertaking such transportation efforts, SHD will have processes in place to ensure that all statutory and regulatory requirements relating to free transportation are met.

REPORTING

The reputation and integrity of both SHD and our employees are valued. SHD recognizes its employees' rights under the law, including the protections offered under the State and Federal False Claims Acts, as it relates to identifying compliance issues. We rely heavily on you, our employees, to help us comply with all the legal and regulatory requirements applicable to us by identifying potential problems, reporting them, and asking questions.

All SHD employees have a responsibility, and are expected, to promptly report instances of actual or suspected non-compliance with laws, regulations, and policies of which they become aware. Such reports are critical to the effectiveness of the Compliance Program. Employees who fail to make such reports in a timely manner may be subject to disciplinary action. Instances of suspected non-compliance often are not intentional but rather from a lack of knowledge or understanding on the part of the person involved or some systemic problem with SHD's policies, procedures, or systems which should be corrected.

SHD encourages all employees to utilize the chain of command whenever practical to obtain answers to questions or to report actual or suspected instances of non-compliance. However, if an employee is uncomfortable talking to his/her supervisor or does not receive a satisfactory response, the employee should contact the Compliance Office, 432-758-4868, or the Compliance Hotline, for English: 833-950-0009, for Spanish 800-216-1288.

SHD employees may report instances of actual or suspected non-compliance in confidence and without fear of retaliation or retribution. To allow for proper investigation of any reported non-compliance, as much information as possible should be provided to assist the Compliance/Privacy Officer. Procedures have been established so that reports and any accompanying information are handled and maintained in a manner to ensure confidentiality to the extent possible, consistent with SHD's obligation of investigation and remediation.

RESPONDING TO DETECTED OFFENSES

The Compliance/Privacy Officer will review all allegations of potential wrongdoing arising from hotline reports, informal communications, or audits conducted on or by SHD. An initial assessment is made to determine the need to involve legal counsel to advise or direct the process and to assess the need for legal privilege to protect the process. At the same time, an assessment is made to determine the appropriate resources required to investigate commensurate with the gravity of the allegation. The Compliance/Privacy Officer conducts or oversees the initial investigation, along with legal counsel where it is warranted. Executive management is immediately notified if a serious allegation appears valid. Additional resources may be required to fully investigate a situation and outside resources may be utilized to conduct a full investigation. Records of an investigation contain:

- Documentation of the alleged violation;
- A description of the investigative process;
- Copies of interview notes and key documents;
- A log of the witnesses interviewed, and the documents reviewed; and
- The results of the investigation.

If the investigation indicates that a violation has occurred, appropriate corrective action will be taken, including the following:

- Prompt restitution of any overpayments.
- Notification to the appropriate government agency, where appropriate.
- Review of current policies and procedures to determine if clarification is needed.
- System modification.
- Staff education.
- Referral to criminal and/or civil law enforcement authorities.
- Possible disciplinary action of involved employees, up to and including termination.

INDIVIDUAL RESPONSIBILITY

Any employee who violates the Compliance Program or healthcare laws, regulations, or program requirements is subject to disciplinary measures, up to and including termination. Such measures will be consistent with SHD's progressive discipline policies.

Physicians and Advanced Practice Providers with privileges who violate the Compliance Program or healthcare laws, regulation, or program requirements are subject to discipline, up to and including the loss or privileges. Such measures will be consistent with the medical staff by-laws.

SHD has established a process to ensure that it does not knowingly hire, employ, or contract with any individual or entity whom SHD knows or should have known, after reasonable inquiry:

1. Has been convicted of a criminal offense related to healthcare (unless the individual or entity has been reinstated to participation in a Federal Healthcare Program (Medicare, Medicaid, Tricare) after being excluded because of the conviction), or
2. Is currently listed by a Federal agency as excluded, suspended, or otherwise ineligible for participation in Federal or Federally funded programs such as Medicare, Medicaid, and Tricare.

MEMORIAL HOME HEALTH CARE

Memorial Home Health Care is part of the Seminole Hospital District; therefore, will follow the Compliance Plan for Seminole Hospital District.

Memorial Home Health Care and Hospice provide home health services to patients as ordered by their medical provider and follow Federal and State regulations relative to the delivery of home health care.

Memorial Home Health Care

Memorial Home Health Care is committed to following all Federal, State, and local laws and regulations regarding the request for and delivery of home health services. Compliance with the adherence to the above-mentioned regulations will be monitored on an ongoing basis. Results of the reviews will be shared with agency leadership. Review topics are selected based on known areas of concern, OIG work plan topics, CMS fraud alerts, Conditions of Participation Standards, previous audit findings, and newly instituted policies.

Compliance Risks include but are not limited to:

- Adherence to Medicare Conditions of Participation
- Signed Patient Bill of Rights
- Signed orders
- Documentation
- Adherence to the plan of care
- Supervision of aides
- Presence of medical necessity
- Personnel records
- Aide schedules (current and posted in the home)
- Outcome-Based Quality Improvement (OBQI) adverse events
- Outcome and Assessment Information Set (OASIS) accuracy
- High therapy utilization

Memorial Hospice is committed to following all Federal, State, and local laws and regulations regarding the request for and delivery of hospice services. Compliance with the adherence to the above-mentioned regulations will be monitored on an ongoing basis. Results will be shared with agency leadership. Review topics are selected based on known areas of concern, OIG work plan topics, CMS fraud alerts, Conditions of Participation standards, previous audit findings, and newly instituted policies.

Compliance Risks include but are not limited to:

- Adherence to Medicare Conditions of Participation
- Signed Patient Bill of Rights
- Signed orders
- General inpatient care (GIP) for hospice patients

- Documentation
- Adherence to plan of care
- Supervision of aides
- Personnel records
- Bereavement services
- Volunteer supervision and records