

Title: Corporate Compliance Program

Responsible Department: Administration, Surgery Center	Date Created: 07/24/2001
Approver(s): Board of Trustees Designee, Corporate Compliance Designee, Keith Page (President & CEO), MEC Designee (Manager)	Date Approved: 07/17/2020

POLICY STATEMENT: In keeping with our mission to exceed expectations in providing personal, convenient, quality healthcare, Anderson Healthcare is committed to ensuring all Covered Individuals conduct themselves with integrity and in conformance with all applicable laws, regulations, and Anderson Healthcare policies and procedures. Accordingly, Anderson Healthcare has adopted a Compliance Program.

DEFINITIONS: The following definitions apply to the Code of Excellence/Code of Conduct, this Policy, and all other policies comprising Anderson Healthcare’s Compliance Program:

“Anderson Healthcare” means Anderson Healthcare and each of its Controlled Affiliates.

“Board” means The Board of Trustees of Anderson Healthcare.

“Chief of Compliance and Risk” or “CCR” means the individual designated by the President/CEO as the chief compliance officer and charged with the responsibility of coordinating the implementation of the Compliance Program.

“Code of Excellence/Code of Conduct” means the code setting forth the commitment of Anderson Healthcare to comply with all federal and state laws and the standards by which all Covered Individuals are required to conduct themselves in order to protect and promote organization-wide integrity.

“Committee” means the Anderson Healthcare Compliance Committee, which is charged with the responsibility of overseeing the implementation of the Compliance Program.

“Committee Chair” means the chair of the Anderson Healthcare Compliance Committee.

“Compliance Program” means Anderson Healthcare’s system-wide program addressing the compliance activities of Anderson Healthcare. The Compliance Program includes:

1. Written policies, procedures, and standards of conduct that promote Anderson Healthcare’s commitment to compliance, including this Policy and the Code of Excellence/Code of Conduct,
2. A designated chief compliance officer and Committee,
3. Effective compliance training and education,
4. Effective and open lines of communication for discussing compliance concerns,

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5. Internal monitoring and auditing,
6. Enforcement of standards through well-publicized disciplinary guidelines, and
7. Responding promptly to detected deficiencies and undertaking corrective action.

“Controlled Affiliate” means any entity which Anderson Healthcare directly or indirectly controls through a controlling membership interest, a controlling shareholder interest, or voting rights to approve the appointment of at least a majority of the governing body.

“Covered Individual” means any individual subject to Anderson Healthcare’s Compliance Program. Covered Individuals include Employees, Professionals, volunteers, students, contractors, consultants, suppliers, and vendors.

“Employee” means an individual in the service of Anderson Healthcare who is working for salary or wages and the details of whose work Anderson Healthcare has the authority to control and direct.

“Federal Healthcare Program” means any plan or program that provides health benefits, whether directly through insurance or otherwise, which is funded directly, in whole or part, by the United States Government or any State health care program.

“High-Level Personnel” means individuals who have substantial control over Anderson Healthcare or who have a substantial role in making policies of Anderson Healthcare, including a trustee, a member of senior management, or an individual in charge of a major business or functional unit of Anderson Healthcare.

“Legal Counsel” means one or more attorneys engaged by Anderson Healthcare to assume certain responsibilities with respect to the Compliance Program.

“OIG Models” means the voluntary compliance program guidance documents published by the Office of Inspector General and found at <https://oig.hhs.gov/compliance/compliance-guidance/index.asp>.

“President/CEO” means the President and Chief Executive Officer of Anderson Healthcare.

“Professional” means an individual other than an Employee who is credentialed by Anderson Healthcare, including physicians, dentists, podiatrists, and allied health personnel, to the extent that the individual provides goods or services at or for Anderson Healthcare.

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PURPOSE: The Compliance Program is designed to facilitate the creation of a work environment conducive to compliance with all applicable laws, regulations, and Anderson Healthcare policies and procedures, to ensure and promote integrity, and to prevent and detect violations by heightening the awareness of Covered Individuals with respect to their duties under such laws, regulations, policies, and procedures. Covered Individuals are not expected or encouraged to violate any law, regulation, policy, or procedure.

The purpose of the Compliance Program includes, but is not limited to:

1. Establishing compliance standards and procedures that are reasonably capable of reducing the prospect of criminal and civil violations by Covered Individuals.
2. Assigning overall responsibility to oversee compliance with those standards and procedures to specific High-Level Personnel.
3. Exercising due care to ensure that substantial discretionary authority is not delegated to individuals whom Anderson Healthcare knew, or should have known through the exercise of due diligence, had a propensity to engage in illegal activities.
4. Effectively communicating the compliance standards and procedures to all Covered Individuals.
5. Identifying areas of risk and establishing monitoring and reporting procedures to achieve compliance with the standards.
6. Establishing consistent disciplinary and corrective action mechanisms to handle violations and failures to detect or report an offense.
7. Establishing reasonable steps to respond appropriately to offenses that have been detected and to prevent further similar offenses.
8. Maximizing compliance with applicable laws, including, without limitation, all requirements under Medicare and/or Medicaid regarding the submission of claims and cost reports, and kickbacks and self-referrals.
9. Establishing a system for employees to report compliance concerns without fear of retaliation.

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10. Requiring the promotion of, and adherence to, the elements of the Compliance Program as a factor in evaluating the performance of managers and supervisors.

GUIDELINES/PROCEDURE:

1. Applicability.

The Compliance Program is structured to encourage collaborative participation at all levels and to foster a culture of ethical and legal behavior in which Covered Individuals may report concerns about business practices without fear of retribution. The Compliance Program operates under the authority and oversight of the Board.

Although the Compliance Program applies to Professionals, it is important to note that the Compliance Program applies to Professionals only with respect to actions taken by them that impact Anderson Healthcare’s compliance. The provision of medical services by a Professional to a patient does not, in and of itself, subject the Professional to the Compliance Program. However, a Professional's act of certifying a diagnosis or attesting to the medical necessity or appropriateness of care, which directly impacts the manner in which Anderson Healthcare will be reimbursed or otherwise receive payment from a third-party does subject the Professional to the Compliance Program. In addition, a Professional's provision of services under a medical director contract or as a member of a Medical Staff Committee are governed by the Compliance Program. The inclusion of Professionals as Covered Individuals is not intended to imply that Professionals are agents of Anderson Healthcare or that Anderson Healthcare controls Professionals or their conduct in any way.

To the extent the Compliance Program contains guidelines, which pertain or relate to patient care, such guidelines do not substitute for professional medical judgment in the provision of medical care consistent with applicable standards of care.

2. Code of Conduct/Code of Excellence.

The Code of Conduct/Code of Excellence summarizes certain laws and standards applicable to Anderson Healthcare and should be amended from time to time to incorporate changes in the law. All Covered Individuals are expected to abide by the standards set forth in the Code of Conduct/Code of Excellence. Because the Code of Conduct/Code of Excellence cannot possibly encompass all legal duties of Anderson Healthcare and Covered Individuals, the summaries should be viewed as minimum standards, with the applicable Anderson Healthcare policies and procedures providing additional guidance and legal background. Individuals who need

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additional guidance concerning their legal duties are encouraged to contact their supervisor or the CCR, who shall consult with Legal Counsel when appropriate.

3. Assignment of Responsibilities.

The assignment of responsibilities for the Committee, the CCR and Legal Counsel described below are designed to ensure that High-Level Personnel oversee the implementation of the Compliance Program.

a. Compliance Committee

The Committee members shall be appointed and removed by the Board in accordance with the Anderson Healthcare Bylaws and the Committee shall be comprised of the following members: at least two members of the Anderson Hospital Board; the Chairperson of the Anderson Healthcare Board; the Anderson Healthcare President/CEO; the President of Community Hospital of Staunton; a Board member of Community Hospital of Staunton; and the individuals serving in the following positions for Anderson Hospital: Vice President and Chief Financial Officer, Chief Medical Officer, Chief Nursing Officer, Chief Human Resources, Administrative Director of Operations for Anderson Medical Group, President of the Medical Staff, Director of Revenue Systems, Privacy Officer, IT Director/Security Officer, Director of Care Coordination, Compliance Auditor, Chief of Compliance and Risk; and any other individuals appointed by the Board.

b. Chief of Compliance and Risk

The CCR shall be a member of High-Level Personnel selected by the President/CEO to coordinate implementation of the Compliance Program. The CCR should be in a position to exercise independent judgment with respect to compliance activities of Anderson Healthcare. The CCR should have full access to a wide range of information necessary to permit the CCR to ensure that the Compliance Program operates effectively.

c. Legal Counsel

The President/CEO, in consultation with the Board, shall select Legal Counsel whose responsibilities, as requested, shall be to:

- i. Advise Anderson Healthcare with regard to the effective and prompt implementation of the Compliance Program.

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- ii. Oversee and monitor appropriate investigations of reported compliance concerns that are referred to Legal Counsel by the Committee, President/CEO, or CCR.

- iii. Provide periodic reports to the Board regarding the status of Program activities, investigations, and disciplinary or corrective actions that have been referred to Legal Counsel.

- iv. Assist in the monitoring and auditing process conducted in accordance with the Compliance Program as requested by the Board, Committee, President/CEO, or CCR.

- v. Monitor and advise on substantive developments and changes in relevant laws and regulations that may affect the terms of the Compliance Program.

- vi. Carry out other duties set forth elsewhere in the Compliance Program or as requested by the Board, Committee, President/CEO, or CCR.

4. Screening for Excluded Individuals and Entities.

To ensure that Anderson Healthcare does not employ, contract with, or grant medical staff membership or privileges to, any individuals or entities who have been excluded, suspended or terminated from participation in any Federal Healthcare Program, including Medicare or Medicaid, Anderson Healthcare shall screen prospective and current Covered Individuals prior to their beginning a relationship with Anderson Healthcare and on a monthly basis to ensure that no such individuals or entities are excluded from participation in any Federal Healthcare Program. All appropriate steps will be taken if an excluded provider or entity is identified. For additional information, see Exclusions and Licensure Review policy.

5. Reports of Wrongdoing.

a. Internal Reporting Procedure

Any Covered Individual who in good faith believes that an activity may not comply with the laws or policies described in the Compliance Program shall report according to the Reporting Compliance Concerns and False Claims Non-Retaliation policies.

The CCR shall maintain a log that records all reported compliance concerns and describes the manner in which each report was handled, including investigations and disciplinary or corrective actions resulting from the report. Any reports received by any individual other

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than the CCR shall be reported to the CCR as soon as practical so that information concerning the report can be recorded in the log.

b. Investigation

All reported compliance concerns are to be investigated by taking the following actions when appropriate:

- i. The CCR shall maintain complete written records of the investigation, including documentation of the report of the alleged violation, a description of the investigation process, copies of interview notes and key documents, a log of witnesses interviewed and documents reviewed, and a summary of the results of the investigation including any disciplinary or corrective action taken as a result of the violation.
- ii. No promises shall be made to the reporting party regarding his or her liability or what steps will be taken in response to the report, other than the assurance that Anderson Healthcare will not retaliate, or tolerate any retaliation, against the individual for having filed the report.
- iii. The CCR, in coordination with Legal Counsel as appropriate, shall conduct an investigation to determine, at a minimum, whether the reported compliance concern, if true, (a) amounts to a violation of state or federal law, (b) is a violation of the Compliance Program, (c) poses a risk to the general public, or (d) otherwise puts Anderson Healthcare at risk of economic injury or injury to its reputation.
- iv. If it is determined that the allegation, if true, would or possibly could constitute a violation of state or federal law, the CCR shall report this fact immediately to the President/CEO. Thereafter, the President/CEO, the CCR and Legal Counsel (if requested) shall determine whether the allegation has a basis in fact, whether remedial action is to be imposed, and whether disclosure to outside authorities is mandated by law. The President/CEO and the CCR shall report to the Committee on all of the foregoing.
- v. The President/CEO, the Committee Chair or Legal Counsel (if requested) shall promptly report to the Board on all credible reported compliance concerns, including the results of investigations and any subsequent disciplinary or corrective actions taken.

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c. Corrective Action

If the investigation ultimately reveals there has been a failure to comply with the Compliance Program, the CCR shall ensure that appropriate corrective action is taken by Anderson Healthcare, including any requisite reporting of violations promptly to government authorities upon the advice of Legal Counsel, identification of financial adjustments and the imposition of appropriate disciplinary action in accordance with Section 6 below. Appropriate corrective action includes:

- i. For billing or claim submission violations, all billing and/or claim submission related to the problem in the departments or units where the problem exists shall be immediately suspended until such time as the incorrect practices are corrected.
- ii. All actions necessary to correct the matter shall be implemented promptly and steps shall be taken to prevent recurrence of the problem.
- iii. Appropriate employee education and training shall be conducted to prevent recurrence.
- iv. In the event the problem results in receipt of an overpayment from a third-party payer, the repayment shall be made consistent with applicable law and upon advice of Legal Counsel.
- v. In the event it is necessary to report the matter to governmental authorities, such report shall be made in consultation with Legal Counsel.
- vi. Appropriate disciplinary action, in accordance with the human resources department policies and Section 6 below, shall be taken against any person whose conduct caused the violation.

d. Privileges and Confidentiality

All records related to reported compliance concerns shall be preserved in accordance with the law and in a way that ensures maximum protection under the insurer-insured and attorney-client privileges and attorney work product doctrine. Individuals making such reports do so in their capacity as Covered Individuals. Since the reports are intended to enable Anderson Healthcare to obtain legal advice, the reports should be protected by the insurer-insured and attorney-client privileges and attorney work product doctrine to the extent possible.

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It is important that all Covered Individuals understand:

- i. These privileges belong to Anderson Healthcare;
- ii. All reports will be kept confidential to the extent possible, though absolute confidentiality cannot be guaranteed; and
- iii. It is possible that disclosure of the reports to governmental authorities will be required.

6. Disciplinary Action.

If a Covered Individual fails to comply with the Compliance Program, including failure to comply with applicable laws, regulations, or Anderson Healthcare policies and procedures, management shall take disciplinary or other corrective actions on a fair and equitable basis appropriate to the violation.

- a. With respect to Employees, such actions shall be consistent with applicable Anderson Healthcare personnel policies and procedures.
- b. With respect to Professionals who are a member of the Medical Staff or otherwise subject to the Medical Staff Bylaws, such actions shall be consistent with the applicable Medical Staff Bylaws, Rules and Regulations.
- c. With respect to Professionals who are not a member of the Medical Staff or not otherwise subject to the Medical Staff Bylaws and all other Covered Individuals, such actions shall be consistent with the applicable Anderson Healthcare policies and procedures or otherwise within its authority.

Disciplinary or corrective action may include warnings, suspensions, termination of employment or other relationships with Anderson Healthcare, or other actions as appropriate.

Circumstances in which disciplinary or corrective action may be taken include:

- a. Noncompliance with laws, regulations, policies, or procedures;
- b. Encouraging or assisting another to engage in noncompliance;
- c. Failure to report noncompliance;

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- d. Failure to detect noncompliance by an individual who should have detected such noncompliance;
- e. Failure to satisfy the education and training requirements of the Compliance Program;
- f. Failure of a supervisor or manager to ensure their subordinates understand the requirements of the Compliance Program; and
- g. Retaliation against a Covered Individual who reports a concern relating to possible noncompliance.

No Covered Individual shall be punished for reporting what was reasonably believed to be an act of wrongdoing or a violation of the Compliance Program; however, a Covered Individual is subject to disciplinary action if it is reasonably concluded that the reported compliance concern was knowingly fabricated or distorted.

A Covered Individual who admits wrongdoing will not be guaranteed protection from disciplinary or corrective action. The weight to be given to the admission shall depend on all facts known to Anderson Healthcare at the time it makes its disciplinary or corrective decision. In determining what, if any, disciplinary or corrective action may be taken against the individual, Anderson Healthcare shall take into account the fact of the admission, whether the individual's conduct was known to Anderson Healthcare prior to the admission or its discovery was imminent, and whether the admission was complete and truthful. For additional information, see Disciplinary Action- Compliance Committee policy.

7. Monitoring and Auditing.

Anderson Healthcare shall conduct regular monitoring and auditing of compliance activities. To implement the monitoring and auditing process, the Committee shall develop an annual Compliance Work Plan focusing on areas posing a high risk of legal exposure for Anderson Healthcare as identified by its ongoing Risk Assessment. The annual Compliance Work Plan shall be approved by the Committee and the Board.

All areas of potential risk are identified and assessed using the multidisciplinary Risk Assessment process. The Administrative Council shall solicit input from designated groups and departments to identify appropriate risk areas for consideration. The Risk Assessment is fluid and shall be routinely updated as necessary in response to changes in the law, regulations,

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policies, practices, and identification of risk. In addition to internally identified risks, the Risk Assessment should consider:

- a. Issues generally identified by the federal government or the Medicare Administrative Contractors as enforcement initiatives, as reflected in published guidance such as the OIG Work Plan¹, OIG Models, OIG Special Fraud Alerts and Medicare Advisory Bulletins².
- b. Audit issues identified by Medicare and Medicaid Recovery Audit Contractors (RAC).
- c. Audit issues identified by CMS.
- d. Issues related to new National Coverage Determinations, Local Coverage Determinations, and Medicare or Medicaid billing and process changes.
- e. Corporate Integrity Agreements.
- f. Significant changes to state or federal laws and regulations.
- g. Issues identified by reports of Compliance Program violations.
- h. Issues identified in past audits as potential problem areas for Anderson Healthcare.

The annual Compliance Work Plan is developed to monitor and audit risks identified on the Risk Assessment when accounting for the likelihood of the risk occurring, the legal impact of the risk if it were to occur, and the source of the risk identification. The Compliance Work Plan should also include audits and monitoring of the Compliance Program’s effectiveness and periodic surveys of Covered Individuals to assess their knowledge of the Compliance Program.

Once the areas to be monitored and audited have been identified on the Compliance Work Plan, the protocols for that monitoring and auditing are developed by the designated groups and departments to whom the Committee has delegated such authority. The protocols may be sampling protocols developed by internal or external auditors to identify and review variations from established baseline levels of activity. The protocols may involve on-site visits, interviews of Covered Individuals, document review, and trend analysis studies. When appropriate, the process and protocol should be developed with the advice and assistance of Legal Counsel.

¹ OIG Work Plan can be found at <https://oig.hhs.gov/reports-and-publications/workplan/index.asp>.

² OIG Alerts can be found at <https://oig.hhs.gov/compliance/alerts/index.asp>.

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The CCR shall coordinate the implementation of the various components of the monitoring and auditing process and shall present written reports of the activities to the Committee on at least a quarterly basis.

In the event audits conducted as part of the Compliance Program reveal compliance concerns, the CCR shall ensure appropriate corrective action is taken, including any requisite reporting of violations to government authorities when advised by Legal Counsel, identification of financial adjustments, and the imposition of appropriate disciplinary or corrective action.

8. Education and Training.

The Committee shall be responsible for developing an education and training process, which involves the effective communication of applicable compliance standards and procedures to all Covered Individuals. The education and training programs shall involve basic education about the Compliance Program, as well as specialized education for certain groups of employees who have responsibilities which give rise to specialized issues. Specific attention should be given to training concerning laws and regulations identified by government agencies as targets for enforcement actions against healthcare organizations. For example, the OIG Models contain detailed lists of the billing and coding issues which should be addressed during the specialized training sessions for billing and coding personnel.

The CCR is responsible for coordinating the education and training process and shall ensure appropriate documentation of completed training programs is maintained. The Committee, upon the recommendation of the CCR, shall determine the appropriate method of educating Covered Individuals and shall confirm the appropriateness of the education and training programs for particular groups of Covered Individuals. For example, the standards of conduct related to sexual harassment should be included in education and training programs for all Employees, whereas the standards of conduct related to antitrust issues would not necessarily be included in all programs.

In developing the education and training process, the Committee shall ensure:

- a. All current Employees receive appropriate education and training concerning the Compliance Program upon its implementation and thereafter at reasonable intervals.
- b. All new Employees receive appropriate education and training concerning the Compliance Program as part of the employee orientation process.

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- c. A realistic process is followed to educate Professionals and other Covered Individuals concerning their obligations with respect to the Compliance Program.
- d. All Covered Individuals who furnish medical goods or services are made aware of the requirements of the Compliance Program.
- e. Relevant portions of the Compliance Program are distributed on a widespread basis to all Covered Individuals and such distribution is documented in an appropriate manner.
- f. Members of senior management and individuals responsible for communicating the requirements of the Compliance Program to other Covered Individuals have acknowledged in writing that they have received information on how to access relevant portions of the Compliance Program, have read and understand those portions of the Compliance Program, and agree to abide by their terms.

9. Appearance of Impropriety.

It is important that all Covered Individuals not only comply with the Compliance Program but also avoid any behavior, action, or dealings that may *appear* improper. For example, Covered Individuals should avoid being present at improper or illegal discussions and should immediately and clearly distance themselves from such discussions.

10. Government Inquiries.

Anderson Healthcare occasionally receives inquiries from government agencies and departments in the form of letters, telephone calls, or personal visits. It is the policy of Anderson Healthcare to comply with all applicable laws and to cooperate with any reasonable request for information from federal, state, and local authorities while protecting the legal rights of Anderson Healthcare and its Covered Individuals.

All non-routine requests for information from any government agency shall be forwarded to the CCR or the President/CEO who shall consult with Legal Counsel concerning the request as appropriate. Except in the normal course of business, no Covered Individual may answer questions, produce information, or hold any discussion with any government representative without the prior approval of the President/CEO in consultation with Legal Counsel as appropriate. In the event of attempted service of a subpoena, search warrant, garnishment, summons, or other legal process, the CCR or the President/CEO shall be notified immediately and shall consult with Legal Counsel when necessary. For additional information, see Government Investigations, Response To policy.