

Conducting a Risk Assessment: Additional Questions¹

Corporate Activities

- Does the health center have policies and procedures regarding compliance with all state and federal tax and other corporate filings?
- Does the health center have policies and procedures which protect its status as a tax-exempt organization? In particular, does the health center have appropriate policies and procedures with respect to:
 - The determination of “reasonable compensation,” including consideration of all compensation (e.g., fringe benefits, life insurance, incentive compensation)?
 - Limitations on lobbying activities, as well as appropriate registration and disclosure of lobbying activities?
 - Prohibition on participation in political campaign activities?
 - Fundraising and the rules regarding deduction of contributions to the health center?
 - Classification of staff as either employees or independent contractors?
- Does the health center have appropriate policies and procedures regarding authorization to sign checks and contracts, use of letterhead and the health center’s name and related administrative concerns? In particular:
 - Does the health center keep the corporate check book in a locked area and limit signature authority on checks and other precautionary methods to ensure the safety of checks (e.g., clearly marking checks as “VOID” or “FOR DEPOSIT ONLY,” as applicable)?
 - Has the health center installed a system of “checks and balances,” wherein each financial responsibility is divided among more than one person, so that one person authorizes action, another performs the action and a third reviews the action?
 - Does the health center maintain an accounting calendar that includes, at a minimum, deadlines to prepare and, as necessary, submit important employment-related and financial documents (e.g., time sheets; payroll tax payments; checks to vendors).
- Has the health center bonded all employees handling money (and any other relevant employees)?

¹ The Authors of these materials include attorneys at the law firm of Feldesman Tucker Leifer Fidell LLP. The sample documents offer general guidance based on federal law and regulations and do not necessarily apply to all health centers under all facts and circumstances. Further, these materials do not replace, and are not a substitute for, legal advice from qualified legal counsel.

Patient and Employee Safety

- Has the health center established a health and safety committee or designated staff members to maintain an organized health and safety program, including the scheduling of regular safety meetings and periodic training sessions?
- Does the health center provide the staff, volunteers, students, interns, and others, as appropriate, orientation and ongoing training regarding current health and safety techniques, based on job duties, applicable law and regulation, the identified needs of the patients, and the services provided?
- Does the health center have a policy regarding off-site safety of employees, including required check-in with the health center and the employee's option not to proceed if he or she believes that his or her safety is threatened or compromised?
- Has the health center developed procedures by which incidents (serious illness, death, injury, alleged cases of abuse, and alleged cases of neglect) are reported immediately to the health center, its insurer, and its attorney, documented in a file or log, and reviewed periodically for trends?
- Has the health center developed procedures by which incidents can be analyzed and tracked, and, in the event of recurring incidents, corrective action can be taken?
- Has the health center developed written emergency plans for a wide range of possible events, including procedures to test emergency plans on a regular or rotating basis and to develop and document necessary corrective action?
- Does the health center have fire suppression equipment and adequate first aid supplies placed in accessible locations and does it inspect such equipment and supplies at least annually?
- Does the health center verify at least annually the safety of the grounds, building, and parking areas and, if necessary, has the health center installed adequate security equipment and developed controlled access policies?
- Has the health center developed appropriate procedures for transportation-related risks, including procedures to ensure that:
 - Drivers and vehicles satisfy all applicable legal requirements?
 - Vehicles have adequate first aid supplies and other emergency supplies and equipment?
 - Drivers have been sufficiently trained in emergency procedures, accident reporting requirements, and proper techniques to assist persons with disabilities?

Insurance and Indemnification

- Has the health center secured and maintained appropriate insurance for:
 - General liability?
 - Property, including fire and theft?
 - Workers' Compensation?
 - Professional (malpractice) liability?¹
 - Employment Practices Liability Insurance ("EPLI") to cover specifically a wide-range of employment practices and employment-related claims?
 - Directors and Officers ("D & O") Insurance to cover Directors and officers for personal loss and to reimburse the health center for loss for which the health center indemnified its Directors and officers?
 - Does the health center's D & O insurance cover the costs of legal defense in terms of:
 - Indemnification for loss (i.e., reimbursing the insured person for defense costs incurred by the insured during the course of his or her defense of claims)?
 - Duty to defend (i.e., imposing on the insurer the right and duty to defend the insured person and to pay directly the costs of such defense at the time they are incurred)?
 - Does the health center provide discretionary indemnification of directors and officers under conditions not mandated (but permitted) under state law?
 - **NOTE: The health center's FTCA coverage does not cover the costs of indemnification of third parties; accordingly, if the health center intends to indemnify third parties, it should obtain appropriate insurance to cover indemnification exposure.**

¹ Note that Section 224 of the Public Health Service Act provides Federal Tort Claims Act ("FTCA") coverage to health centers, and their officers, directors, employees, and certain full-time and part-time contracted clinicians when the health center is deemed FTCA-covered by the Health Resources and Services Administration. In situations that FTCA does not cover (e.g., volunteer services, moonlighting, and other out of scope activities), health centers should obtain "gap" policies to cover such exposures.
