Responding to Detected Offenses:

Sample Policy and Procedure[[1]](#footnote-1)

# Policy.

*[Health Center Name]* is committed to ensuring that its Standards of Conduct, Corporate Compliance Plan, and policies and procedures are adhered to by all Individuals Affiliated with *[Health Center Name]* (i.e., Board members, employees, contractors, vendors, agents, and volunteers) through the consistent enforcement of the aforementioned standards. Enforcement is accomplished by imposing appropriate disciplinary action and by taking necessary corrective measures. *[Health Center Name]* takes appropriate steps to respond to every report of suspected unethical or non-compliant conduct. These steps may include conducting investigations, reviewing documents, implementing or revising policies and procedures, offering training, conducting audits, and imposing disciplinary action.

# Procedure.[[2]](#footnote-2)

1. **Reports to the Compliance Officer.** *[Health Center Name]*’s Standards of Conduct, Corporate Compliance Plan and related policies and procedures instruct All Individuals Affiliated with *[Health Center Name]* to report instances of known or suspected non-compliance through the regular chain of command. Managers and supervisors are responsible for reporting such instances to the Compliance Officer, participating in the investigation as necessary, and assisting with any corrective action plan implementation involving their department.

Individuals not comfortable reporting through the regular chain of command may report directly to the Compliance Officer.

1. **Determining the need for the investigation.** The Compliance Officer will determine whether a formal investigation is needed or whether the issue may be resolved through other means.
2. **Investigation.**

##### A. Purpose of investigation

The purpose of an investigation is: (1) to identify situations in which applicable federal or state laws or the requirements of [Health Center Name]’s Standards of Conduct, Corporate Compliance Plan or policies and procedures may not have been followed; (2) to identify individuals who may have knowingly or inadvertently violated the law or the requirements of [Health Center Name]’s Standards of Conduct, Corporate Compliance Plan or policies and procedures; (3) to facilitate the correction of any violations or misconduct; (4) to implement procedures necessary to ensure future compliance; (5) to protect [Health Center Name] in the event of civil or criminal enforcement actions; and (6) to preserve and protect [Health Center Name]’s assets.

##### B. Control of investigations

Serious or otherwise sensitive matters for investigations should be conducted under the direction of or by [Health Center Name]’s qualified legal counsel. If the Compliance Officer determines that the involvement of qualified legal counsel is warranted, the Compliance Officer will be responsible for requesting that qualified legal counsel (1) initiate an investigation of the conduct in question; (2) prepare a report of findings to the CEO and/or Compliance Officer; and (3) recommend the appropriate actions to be taken by the Compliance Officer. At all times relevant to the investigation, the Compliance Officer and anyone assisting qualified legal counsel in their investigation will function under the direction and control of [Health Center Name]’s qualified legal counsel.

##### C. Investigative process

Upon receipt of information concerning alleged misconduct, the Compliance Officer will, at a minimum, take the following actions:

1. Complete a report form that includes, if known, the name of the individual who made the report, the date of the report, and a detailed narrative of the individual’s concern. Anonymity of the individual who made the report (if requested) and confidentiality should be maintained to the extent possible.
2. Notify the CEO [and, if warranted, the Compliance Committee of the Board of Directors] of the nature of the alleged improper conduct and, if the involvement of qualified legal counsel is appropriate, obtain written approval from the CEO, as necessary, authorizing qualified legal counsel to initiate an investigation.
3. Ensure that the investigation is initiated as soon as reasonably possible but in any event not more than [ten (10)] business days following receipt of the information. The investigation may include, as appropriate, but need not be limited to:
   1. Interviews of all persons who may have knowledge of the alleged conduct and a review of the applicable laws, regulations, and standards to determine whether or not a violation has occurred.
   2. Identification and review of relevant documentation to determine the specific nature and scope of the violation and its frequency, duration, and potential financial magnitude.
   3. Interviews of persons who appeared to play a role in the suspected activity or conduct. The purpose of the interviews is to determine the facts surrounding the conduct, and may include, but shall not be limited to:
4. The person’s understanding of the applicable laws, rules, and standards;
5. Identification of relevant supervisors or managers;
6. Training that the person received; and
7. The extent to which the person may have acted knowingly or with reckless disregard or with intentional indifference of applicable laws.
   1. Suspension of an Individual Affiliated with [Health Center Name] from his or her job function or role to protect the integrity of an investigation.
   2. Assessment of [Health Center Name]’s potential liability by, for example, reviewing all of the claims affected or by reviewing a statistically valid sample of the affected claims.
   3. Preparation of a summary report that: (1) defines the nature of the alleged misconduct and (2) summarizes the investigation process.
8. For all investigations in which [Health Center Name]’s qualified legal counsel is not involved, ensure that significant developments are promptly reported by the Compliance Officer to the CEO [and, if warranted, the Compliance Committee of the Board of Directors] so that a determination can be made at any time during the investigation as to whether [Health Center Name]’s qualified legal counsel should be contacted.
9. Establish a due date for the summary report or otherwise ensure that the investigation is completed in a reasonable and timely fashion and that the appropriate disciplinary or corrective action is taken, if warranted.
10. **Organizational response to non-compliant conduct.** In the event the investigation determines that there has been non-compliant activity, [Health Center Name] will undertake the following steps, as appropriate.
11. [Health Center Name] will, as quickly as possible, cease the offending practice. If the conduct involves the improper submission of claims for payment, [Health Center Name] will immediately cease all billing potentially affected by the offending practice.
12. [Health Center Name] will consult with qualified legal counsel to determine whether voluntary reporting of the identified misconduct to the appropriate governmental authority is warranted.
13. If applicable, [Health Center Name] will calculate and repay any duplicate or improper payments made by federal or state government programs as a result of the misconduct.
14. If applicable, [Health Center Name] will initiate appropriate disciplinary action, which may include, but is not limited to, reprimand, demotion, suspension, and/or termination. If the investigation uncovers what appears to be criminal conduct on the part of one or more Individuals Affiliated with [Health Center Name], appropriate disciplinary action against the Individuals Affiliated with Health Center who authorized, engaged in or otherwise participated in the offending practice will include, at a minimum, the removal of the person from any position of oversight and may include, in addition, suspension, demotion, and/or termination.
15. [Health Center Name] will promptly undertake appropriate training and education to prevent a recurrence of the misconduct.
16. [Health Center Name] will conduct a review of applicable [Health Center Name] policies and procedures to determine whether revisions or the development of new policies and/or procedures are needed to minimize future risk of noncompliance.
17. [Health Center Name] will conduct a review of the Corporate Compliance Program to determine whether the misconduct or potential misconduct was not detected earlier or prevented due to a flaw in the Corporate Compliance Program and, if so, make appropriate revisions to the Standards of Conduct, Corporate Compliance Plan and policies and procedures.
18. [Health Center Name] will conduct, as appropriate, follow-up monitoring and auditing to ensure effective resolution of the offending practice.

**This policy and procedure shall be periodically reviewed and updated consistent with the requirements and standards established by the Board of Directors and health center management, federal and state laws and regulations, and applicable accrediting and review organizations.**

**Responsible parties:**

### Signature Date

### Executive Director

Signature Date

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. [↑](#footnote-ref-1)
2. Authors’ note: Using the following sample as a guide, health centers should tailor the procedure to reflect their own structures and operations. [↑](#footnote-ref-2)