

Annual Compliance Training

What You Need to Know

2022



What We Will Cover / Roadmap

- Understanding Compliance
 - Understand the fundamentals of Compliance
 - Know the framework for the Compliance and Ethics program
- Compliance Benefits
 - Understand the benefits of an effective compliance program
- Spotting Compliance Issues
 - Understand some of the important laws that regulate health care activities
- Disciplinary Actions
 - Know what happens if you do not follow the laws and policies
- Reporting Compliance Issues
 - Know how to report Compliance and Ethics issues



What is a Compliance Program?

- Being aware of legal and ethical responsibilities
- Abiding by all laws, regulations, RCHSD policies, and our Code of Conduct
- Promoting ethical behavior
- Recognizing areas of vulnerability
- Reporting concerns or suspicious / improper activities



Objectives of the Compliance Program?

- Detect and prevent unlawful conduct within the organization;
- Maintain and enhance quality of care;
- Develop mechanisms to assure that employees know the laws;
- Demonstrate sincere, ongoing efforts to comply with all applicable laws;
- Revise and clarify current policies and procedures in order to enhance compliance;
- Prevent and detect violations of laws, regulations & Rady Children's policies;
- Establish mechanisms for employees to raise concerns about compliance issues and ensure that those concerns are appropriately addressed;
- Reduce our risk of misconduct.



RCHHC Compliance Program

- The RCHHC Corporate Compliance Program is designed to:
 - **Prevent** any accidental and intentional violations of laws;
 - **Detect** violations if they occur;
 - **Correct** any future noncompliance.

Seven Elements of an Effective Compliance Program

Prompt Responses to Identified Concerns and Corrective Action

Well Publicized Disciplinary Guidelines and Enforcement

Monitoring and Auditing

Effective Lines of Communication

Effective Training and Education

Oversight: Compliance Officer and the Executive Compliance Committee

Written Policies and Procedures / Code of Conduct

Support From Executive Compliance Committee,
Audit & Corporate Responsibility Committee
and RCHHC Board of Directors

Our Compliance Program

- Starts With You...and all Employees
- Compliance Team
- Chief Information Security Officer and the Security Engineers
- Department Compliance Liaisons
- Oversight Function
 - The Executive Compliance Committee (ECC)
 - The Operational Compliance Committee (OCC)
 - Privacy & Security Advisory Council (PSAC)
 - The RCSSD (Medical Practice Foundation) Compliance Committee and Compliance Work Group
 - The Audit and Corporate Responsibility Committee of the Board of Trustees



Your Responsibilities

You must - regardless of position:

- ☐ Understand the Code of Conduct;
- ☐ Uphold the Code as well as the Confidentiality Agreement and other policies, procedures, and practices of the organization;
- ☐ Remain alert to situations which could result in violations of the Code, regulations or other laws;
- ☐ Report violations of the Code of Conduct or questionable behavior to responsible parties.

Important Laws and Regulations for Healthcare

- Federal and California State False Claims Act
- Deficit Reduction Act
- Affordable Care Act
- Anti-Kickback Statute
- HIPAA Privacy & Security Rules
(covered in a separate learning module)



Let's take a closer look at each.

The Federal Civil False Claims Act (FCA)

- Primary law government uses to fight health care fraud and abuse;
- Covers fraud involving any federally funded contract or program such as Medicare, Medicaid, Tricare (CHAMPUS);
- Makes it a crime for any person or organization to knowingly make a false record or file a false claim with the government for payment;
- Applies every time a provider submits a claim for reimbursement under any of these programs.



False Claims Acts - Background

- The Federal and State false claims acts were enacted to combat fraud, waste and abuse committed by contractors against the government;
- We often refer to both sets of rules, together, as “FCA.”

False Claims Acts

False claims are when someone knowingly:

- Presents false/fraudulent claims to the Federal or state government (or conspires to do so) in order to obtain payment or other benefit to which we would otherwise not be entitled;
- Bills for services that have not been provided;
- Benefits from an inadvertent submission of a false claim and failing to disclose the false claim after discovery;
- Bills for services that are not reasonable and necessary for a patient's medical condition;
- Incorrectly reports diagnoses or procedures to maximize payments (billing for higher level of service than what was performed).

Examples of Healthcare Fraud and Abuse

- Making false statements or representations in order to obtain some payment or other benefit to which we would otherwise not be entitled;
- Intentionally billing for services that have not been provided;
- Duplicate billing;
- Billing for services that are not reasonable and necessary for a patient's medical condition;
- Incorrect reporting of diagnoses or procedures to maximize payments (billing for higher level of service than what was performed).



Nursing Home Operators Face Over \$115M for Medicare Fraud

- A Florida jury sided with a nursing home whistleblower regarding allegations over whether her former employer submitted false claims to the Medicare and Medicaid programs.
- Jury agreed that providers listed in the case presented “false or fraudulent” claims for reimbursement. Those false claims incurred more than \$115 million in total damages to the Medicaid and Medicare program.
- Because the False Claims Act calls for treble damages plus an additional penalty of between \$10,000 and \$22,000 for each false claim, the defendants will likely have to pay in excess of \$345 million.

Florida Judge Triples Jury Verdict to \$347 Million in False Claims Act Nursing Home Fraud Trial

California

The State of California has a False Claims Act which imposes significant liability.

- Similar to the Federal False Claims Act.
- Imposes liability up to \$11,000 for each false claim + triple damages.
- Requires that all employees are:
 - Educated on the Federal and State false claims statutes and the role these laws play in preventing and detecting fraud, waste and abuse;
 - Aware of the penalties under FCA for “knowingly” submitting a false claim;
- Similar provisions for whistleblower rewards and protections;
- Non-retaliation provisions included.

Deficit Reduction Act

- Intended to reduce the amount of fraud, waste and abuse in federal and state healthcare programs (e.g., Medicaid, Medi-Cal) through employee education about the False Claims Act, state false claims acts, civil and criminal penalties.
- Encourages states to create their own false claims laws by giving them financial incentives.
- Requires that all entities that receive government payments of \$5 million or more:
 - Establish written policies for all employees;
 - Provide detailed information regarding the False Claims Act and Qui Tam whistleblower protection;
 - Include policies/procedures provisions regarding detecting and preventing fraud;
 - Include the above in the employee handbook or related document.

Government Response and Enforcement

Along with increased investigations comes the ability of the government to impose:

- Significant fines and penalties on healthcare organizations and individuals;
- Disqualification from healthcare programs (OIG Exclusions List);
- Prison sentences.

In its annual report, the Department of Justice (DOJ) reported that more than \$2.2 billion was recovered from False Claims Act settlements and judgements in 2020. 80% of all recoveries (almost \$1.9 billion) came from health care and life sciences industries.

FCA & Workforce Member Obligations

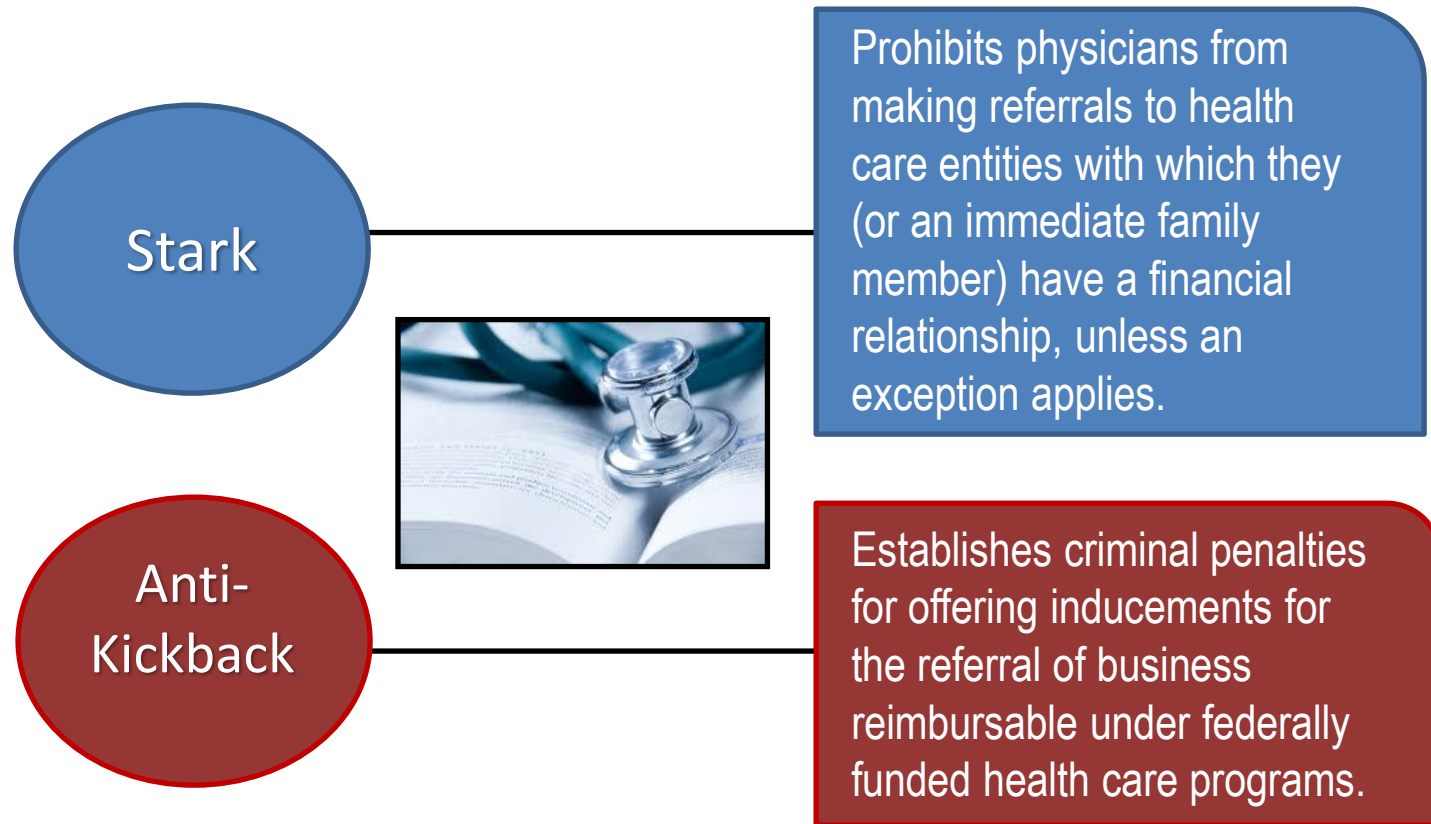
- Workforce members have a duty to:
 - Prevent fraud, waste and abuse of taxpayer dollars;
 - Report suspected instances of fraud, waste and abuse;
 - Come forward when they believe false claims are being submitted to government payors.

Qui Tam / Whistleblower Provisions

- Whistleblower provision allows any person with actual knowledge of alleged false claims, who has first made a good faith effort to exhaust internal reporting procedures, to file a lawsuit on behalf of the government and share in a percentage of the settlement award received.
- Individuals filing qui tam lawsuits (known as “relators”) may share in the government’s monetary recovery.
- Generally, a relator is entitled to between 15% and 35% of the funds recovered by the government.
- Both the Federal and State statutes provide whistleblower protection to those who report acts of fraud to the government.



Stark and Anti-Kickback Laws



These laws create serious and complex compliance issues and risks. If you are concerned about any type of referral or inducement issue you must report this to Compliance or the Legal Department or other appropriate leaders.

Anti-Kickback Statute

- The Anti-Kickback Statute says you may not knowingly offer, pay, seek, or receive anything of value in return for, or to induce the referral of, items or services.
- This means we may not give or receive anything of value in exchange for referrals to our business (e.g. patient services) or someone else's business (e.g. a supply vendor).
- Unlike the Stark Law, this law applies to **everyone**, not just physicians.



North Texas hospitals engaged in bidding war to lure surgeons with kickbacks, witness says

Court documents in an illegal healthcare kickback case describe a corrupt system in which North Texas hospitals competed with each other for patients by handing out money, and surgeons brought their patients to the highest bidder.

The allegations were described in a plea agreement for one of the alleged ringleaders in the [Forest Park Medical Center kickback case](#).

Dr. Richard Toussaint agreed to plead guilty to one count of conspiracy to pay and receive health care bribes and kickbacks and one count of commercial bribery. He faced a maximum of 10 years in prison for the two counts. A judge will have to approve the deal before it becomes official. He had been facing 20 counts.



Gifts, Meals and Entertainment

- Relationships with vendors and other third parties must be based on sound business decisions and fair dealings.
- Business gifts and entertainment can enhance goodwill, but they can also make it more difficult to be objective about our business relationships.
- Gifts of cash or cash equivalents such as gift cards are never allowed from external parties (patients, families, vendors, etc.).
- Non-monetary gifts (not cash or gift cards) from patients or families to their care givers are permissible as long they are of nominal value and do not influence the care given.
- Departments may accept non-cash gifts from vendors, patients or family members if they are nominal in value (\$100 or less), accepted infrequently and could not be perceived as an attempt to influence judgment of the recipient.
- Vendor gifts to an individual may not be accepted.
- Any gift card, cash or gift of value that cannot be politely refused must be donated to the RCHSD Foundation.
- Solicitation of a gift is never allowed.
- Gift cards of a nominal value are allowed between colleagues.
- Participation in charitable or community events is permitted.



Conflicts of Interest

- All employees are required to complete a conflict-of-interest form at the time of hire and annually.
- Employees are expected to avoid situations that create an actual or potential conflict between personal interests and those of RCHHC.
- In addition to the annual disclosure, employees are required to complete a conflict-of-interest form at any time a potential conflict arises. This form can be located on the compliance intranet site.
- Examples of potential conflicts include but are not limited to:
 - Engaging in self-employment in competition with RCHHC;
 - Working for, or having a financial interest with a competitor, supplier, or customer of RCHHC;
 - Using proprietary RCHHC information for personal gain;
 - Using RCHHC assets for non-RCHHC related business;
 - Performing personal work during RCHHC work hours.



Avoiding Conflicts of Interest – Tips for Compliance

- Disclose any business or financial relationships with vendors, competitors of RCHHC;
- Do not use RCHHC's name to promote or sell non-RCHHC products or services;
- Do not accept gifts or special treatment from those doing business with RCHHC (or wishing to do business with RCHHC);
- Seek advice if you have any questions as to what constitutes a conflict;
- Follow applicable policies and procedures related to conflicts.

Social Media

You are responsible for what you post:

- Never comment on Rady Children's internal communications, legal matters, media issues, peer review or quality matters;
- Do not share proprietary information, intellectual property or confidential patient information;
- Patient confidentiality and privacy must always be protected;
- Excessive or inappropriate use of the Internet using RCHSD electronic systems violates our Internet Acceptable Use Policy (CPM 11-70).



Appropriate Use off RCHSD Email & Communication Systems Policy (CPM 11-65)

- CPM 11-65 provides guidance and expectations re: appropriate use of Rady Children's communication tools (e.g., email, Microsoft Teams Chat, Epic Chat, webpages, text messaging);
- Remember to be kind, courteous and professional while using communication tools;
- RCHSD reserves the right to monitor, scan, investigate, audit, delete and read electronic communications contained in any of its communication systems and to take appropriate actions to make sure all communications are compliant with this and other RCHSD policies. This includes communications sent to or from an outside entity which contains PHI or other sensitive information that is not properly encrypted or that is otherwise out of compliance with this policy.

Compliance is Everyone's Responsibility

- Responsibility of Employees
 - Understand how the Compliance Program applies to your job and ask questions when necessary;
 - Report any suspected violations or concerns;
 - Actively participate in compliance activities (e.g., training);
- Responsibility of Supervisors, Managers and Leaders
 - Build and maintain a culture of compliance;
 - Prevent, detect and respond to compliance problems;
 - Prevent retaliation or reprisals against employees who report violations or concerns.

Resources Available to You to Report Concerns

If you have questions at any time, or if you are aware of a possible violation of the Code of Conduct, the Compliance Program or related policies, let us know.

The identity of staff reporting compliance concerns is kept confidential, and all concerns will be treated with seriousness and respect. If you have a compliance concern, you can:

- Speak to a supervisor;
- Call our Chief Compliance Officer at 858-966-8541;
- Report anonymously to the Compliance Hotline at **1-877-862-4228;**
- Submit an anonymous online report from any computer or smart device at **app.mycompliancereport.com** (Access ID: RADY);
- Click the QR code to the right;
- Enter a safety report in the RLS System;
- Contact The Joint Commission with a quality of care concern.



When to Report a Concern

- Time card abuse or other misuse of RCHHC assets;
- Coding/billing issues or concerns about reporting or not reporting to government agencies;
- Non-compliance with RCHHC policies/procedures;
- Conflicts of Interest;
- You suspect fraud/abuse;
- Accepting gifts in violation of our policies;
- Abuse of authority;
- Unethical conduct;
- Contract/procurement irregularities;
- When no action has been taken on concerns reported elsewhere.

1-877-862-4228



Do the Right Thing – Make the Right Call

Compliance Hotline 1-877-862-4228

- There may be times when your concerns cannot be properly addressed through the normal chain of command.
- You may leave a message 24 hours a day, seven days a week including all holidays. Calls will be retrieved during regular business hours.
- Your confidentiality and anonymity are guaranteed to the extent permitted by law.
- Your call will not be recorded or traced.
- All allegations will be thoroughly investigated and verified before any action is taken.

This hotline should be used to report concerns about potential compliance violations and to receive follow-up information in confidence.



Reporting Concerns to the Joint Commission

“Rady Children's Hospital encourages anyone who believes that he or she has pertinent and valid information about quality, patient safety or compliance issues, but does not feel that there has been appropriate resolution through the usual chain of command, to report these concerns to The Joint Commission by either calling 1-800-994-6610 or emailing complaint@jointcommission.org”

Non-Retaliation Policy

RCHHC is committed to protecting employees and others who report problems and concerns in good faith from retaliation and retribution.

Retaliation against any employee, who in good faith, reports potential or suspected compliance program violations is unlawful and will not be tolerated.

If an employee feels they are being retaliated against they should contact the Chief Compliance & Privacy Officer immediately.

An employee who commits or condones retaliation will be subject to discipline up to and including termination.

Employees who intentionally and maliciously use the compliance reporting process to make false allegations will be subject to disciplinary action.

Always Do The Right Thing!

At Rady Children's, we are proud of our strong commitment to the highest ethical standards.

We are focused on complying with the law and acting with integrity at all times.

The RCHHC Compliance Program reinforces the responsibility each of us has to speak up if we see something that doesn't seem right.