

# VENDOR COMPLIANCE

OFFICE OF HEALTH CARE COMPLIANCE 2024

# FDNY'S MANDATORY TRAINING FOR VENDORS

FDNY established and maintains a Health Care Compliance Program to support and ensure that our employees and vendors comply with all applicable laws, rules, regulations, policies, and program requirements.

It demonstrates FDNY's commitment to integrity and responsibility. It encourages all affected individuals to report potential compliance issues for remediation.

This training will cover the elements of FDNY's Compliance Program, the laws, rules and regulations

## WHAT IS COMPLIANCE AGAIN...

It is a process for preventing inappropriate conduct within an organization, provides guidance and support for employees to make appropriate decisions regarding clinical and business decisions and behaviors by promoting ethical conduct and reinforcement of refraining from Fraud, Waste and Abuse.

Compliance is everyone's responsibility!

## SEVEN ELEMENTS OF A COMPLIANCE PROGRAM

Written policies
& procedures
and standards of
conduct

Compliance Officer and Committee

Training and Education

Lines of Communication

Disciplinary Standards Auditing and Monitoring

Responding to Compliance Issues

Written Policies & Procedures and Standards of Conduct

FDNY developed Polices and Procedures to address all relevant federal and state laws related to fraud, waste and abuse. The policies are available online on FDNY's Compliance webpage.

In addition to the Compliance Policies developed by the Office of Health Care Compliance, affected individuals should also be aware and guided by the

- Code of Conduct, and
- Chapter 68.

# Compliance Officer and Committee

There is a Compliance Committees for both EMS and WTC. Also, there is a Chief Health Care Compliance Officer.

## Compliance Officer

- Compliance Officer manages the day-to-day compliance and privacy operations of the Department.
- Currently, the Compliance Officer is Sofya Borchard.

Do you know who the Compliance Officer is?

## **Compliance Committee**

- Made up of senior operational, clinical and legal managers in EMS and WTC.
- Committee meets quarterly and support the compliance work done by the Department.

# Training and Education

The training is conducted when a new employee is onboarded and subsequently every year in LMS.

### Training covers

- Seven Elements of a Compliance Program,
- Fraud, Waste and Abuse examples,
- Risk areas such as billings/coding, payments, ordered services, medical necessity, quality of care, governance, mandatory reporting, credentialing and contractor oversight,
- HIPAA overview, and
- How to report ask question and report Compliance and Privacy concerns.

## Lines of Communication

FDNY has multiple lines of Communication with the Compliance Office. You can call any time to ask questions, address a concern or report a possible issue.









#### Ways to report:

- Speak to your supervisor.
- Call the Compliance & Privacy Hotline 1-(877) FDNY-NYC [877-336-9692]. The Hotline is available 24 hours a day, seven (7) days a week. Individuals may use this line anonymously.
- Call the Chief Health Care Compliance Officer directly at (718) 999-0691.
- Email the Office of Health Care Compliance at <a href="HealthCareCompliance@fdny.nyc.gov">HealthCareCompliance@fdny.nyc.gov</a>.

## **RETALIATION**

- FDNY strictly prohibits intimidation or retaliation in <u>any</u> form, against any individual who, in good faith, participates in the Compliance Program.
- Any attempt to intimidate or retaliate against a person for participating in the Compliance Program in good faith will result in disciplinary action.
- Contact the Compliance Team if you suspect any form of retaliation for good faith reporting of compliance issues.
- You WILL get support if you report!

Disciplinary Standards FDNY implements disciplinary action upon employees and contractors in response to compliance violations on a fair, equitable and prompt basis, regardless of title or position.

Affected individuals who fail to adhere to FDNY's compliance efforts shall be subject to appropriate discipline. Disciplinary investigations will be conducted consistent with the process outlined in the Civilian Code of Conduct which references Mayoral Executive Orders 16, 72, 78 and 105.

Auditing and Monitoring

FDNY has established a system for the routine identification and assessment of compliance risk areas relevant to its operations.



## Auditing and monotiling includes:

- Risk Assessments,
- Pre-claim Reviews,
- Station Reviews,
- Exclusion Checks, and
- Annual audits.

Responding to Compliance Issues

A compliance problem may be uncovered as the result of a report to the CHCO or Compliance Hotline, an internal compliance assurance review, the review of a new regulation or governmental fraud alert, or from another source.

Any time OHCC is made aware of a specific issue, an internal review or investigation will be conducted to make a determination if there is a reportable event requiring corrective action.



## What is Fraud, Waste and Abuse?

## FRAUD

includes obtaining a benefit through an intentional false statement, misrepresentation or concealment of material facts.

# WASTE

is spending that can be eliminated without reducing quality of care, i.e. deficient management, practices, or controls.

# ABUSE

includes excessively or improperly using government resources; providing substandard quality of care.



- The FCA imposes liability on any person or entity that submits a claim to the government that is known to be false.
- Honest mistakes are not considered fraud. However, any overpayment from the government can be considered a violation of the FCA, if it is not returned to the government within 60 days of its discovery.
- Additionally, the FCA provides protection for whistleblowers, or *qui tam* plaintiffs. *Qui Tam* lawsuits refer to actions taken by private citizens to help recover overpayments from the government or respond to fraudulent practices related to government contracts.

FALSE CLAIMS ACT

## **Criminal Penalties**

imprisonment for up to five years, as well as substantial fines and possible exclusion from the Medicare and Medicaid programs

## **Civil Penalties**

as much as \$10,000 per violation and triple the amount of damages possible exclusion from all government programs

FALSE CLAIMS ACT

- In addition to civil liability under FCA, the Criminal Health Care Fraud Act, in relevant part, makes it a federal crime to "knowingly and willfully execute, or attempt to execute, a scheme or artifice to:
- Defraud any health care benefit program; or
- Obtain by means of false or fraudulent pretenses, representations, or promises any ...money or property ... owned by, or under the custody or control of, any health care benefit program in connection with the delivery of or payment for health care benefits, items, or services."

CRIMINAL HEALTH CARE FRAUD ACT

- A criminal law that prohibits the knowing and willful payment of "remuneration" to induce or reward patient referrals or the generation of business involving any item or service payable by the Federal health care programs (e.g., drugs, supplies, or health care services for Medicare or Medicaid patients).
- Some arrangements have been excepted because they were viewed as unlikely to result in a violation of the statute. Compliance Officer or Legal Counsel should be consulted as to whether an arrangement falls within a safe harbor.
- Anti-Kickback Concerns include contracts, arrangements with providers and waive of co-insurance and deductible.

ANTI-KICKBACK STATUTE

#### **Prohibited Conduct**

offering or accepting anything of value (cash or in kind) in exchange for the referral of a patient

remuneration must be intended to induce the other party to take certain actions, such as sending patients to a specific hospital statute may be violated if just one purpose of the remuneration was to induce the referral of patients

#### **Safe Harbors**

some arrangements have been excepted because they were viewed as unlikely to result in a violation of the statute

Compliance Officer or Legal Counsel should be consulted as to whether an arrangement falls within a safe harbor



### **Criminal Penalties**

imprisonment for up to five years, as well as substantial fines and possible exclusion from the Medicare and Medicaid programs

#### **Civil Penalties**

as much as \$50,000 per violation and triple the amount of the kickback

## **Anti-Kickback Concerns**

contracts

arrangements with hospitals

waiver of co-insurance and deductibles

ANTI-KICKBACK STATUTE Physician Self-Referral Law, commonly referred to as the Stark law, prohibits physicians from referring patients to receive "designated health services" payable by Medicare or Medicaid from entities with which the physician or an immediate family member has a financial relationship, unless an exception applies.

STARK LAW

- OIG/OMIG is legally required to exclude from participation in all Federal health care programs individuals and entities convicted of the following types of criminal offenses: (1) Medicare or Medicaid fraud, as well as any other offenses related to the delivery of items or services under Medicare or Medicaid; (2) patient abuse or neglect; (3) felony convictions for other health-care-related fraud, theft, or other financial misconduct; and (4) felony convictions for unlawful manufacture, distribution, prescription, or dispensing of controlled substances
- If an individual is on one of these lists, they may not participate in any Federal or State Government programs, including Medicare and Medicaid.

EXCLUDED PROVIDER

- New York State, Social Services Law, at § 145-b
- New York State, Social Services Law, at § 145-c
- New York State, Penal Law Article, at § 176
- New York State, Penal Law, at § 177

NY STATE LAWS

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