



ONEIDA HEALTHCARE

ACUTE CARE FACILITY

&

EXTENDED CARE FACILITY

CORPORATE COMPLIANCE MANUAL

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Dear Fellow Employees and Associates:

Oneida Healthcare is subject to a wide variety of legal, regulatory and professional requirements with which we all must comply. These requirements can be complicated, so this manual was designed to help you understand them. This compliance manual will assist each of us in making appropriate decisions when we are faced with compliance issues. Key elements of this manual include a Code of Conduct and information on how the Corporate Compliance Program is structured, including defined channels of communication (e.g., a confidential hotline) for addressing your questions or concerns.

The Code of Conduct and Corporate Compliance Program has been developed to meet the unique needs of Oneida Healthcare and its affiliated Nursing Facility (ECF) and group physician practices, Oneida Medical Practice, P.C. ("OMP") and Oneida Medical Services, P.L.L.C. d/b/a Women's Health Associates ("WHA") (collectively "Oneida Healthcare" or "OHC"). This program is grounded in OHC's mission statement that governs how we conduct business. Our Board of Trustees and Senior Management Team are committed to following and communicating this Corporate Compliance Program to all levels of our organization.

In this changing and challenging era for health care, the public's trust, confidence and respect for our organization requires the commitment of each of us to uphold standards of excellence and ethical behavior. The anti-fraud, waste and abuse efforts of the Department of Health and Human Services (DHHS), Office of Inspector General (OIG), Department of Justice (DOJ) and Office of the Medicaid Inspector General (OMIG) have heightened over the recent years, partially due to the threat of future Medicare insolvency. The OIG, DOJ and other governmental agencies have been investigating health care providers nationwide for non-compliance with laws and regulations at an ever-increasing rate.

Now more than ever, we believe it is important to reaffirm Oneida Healthcare's longstanding commitment to conduct all work and business affairs lawfully and with integrity. We want to ensure that there continues to be no basis for charges of non-compliance with laws and regulations against our organization, our employees, medical staff members or those that we conduct business with.

This manual should be considered a "living document" that will be updated routinely. It will change and expand as policies are revised and as new resources become available. This manual is for you and only with input and feedback from you can we make it useful and responsive to your needs. The most current manual will be available on the policy and procedure section of the Intranet and through the Office of the Corporate Compliance Director.

Please read through the manual and contact either myself or the Compliance Director with any questions or concerns you may have. Thank you for all you do, each and every day, for our patients/residents and for each other.

Sincerely,

Gene F. Morreale, Chief Executive Officer

ONEIDA HEALTHCARE

CORPORATE COMPLIANCE MANUAL

PURPOSE

The purpose of the OHC Corporate Compliance Program is to provide guidelines designed to reflect Oneida Healthcare's commitment to promoting prevention, detection of health care fraud and resolution of instances of potential misconduct within day-to-day operations.

The goals of the Corporate Compliance Program initiative are to:

- Build upon our mission and our values;
- Provide a common understanding of OHC's expectations for proper conduct through the organization's policies and the code of conduct;
- Integrate the Corporate Compliance Program at OMP and WHA into the OHC Corporate Compliance Program to create a centralized and effective process for employees and providers to ask about compliance related concerns and management to address those concerns;
- Provide a framework for dealing with difficult, complex or confusing issues such as interpretation of regulations or ethical concerns; and
- To ensure that Federal and State regulations are enforced and third party guidelines are followed including those from health insurance companies.

COMPLIANCE PROGRAM COMMITMENT STATEMENT

The specific required elements of a Corporate Compliance Program have been issued by the health care branches of the Federal government, the Office of Inspector General (OIG) and the State government, and the Office of Medicaid Inspector General (OMIG), who are charged with detecting, monitoring and preventing health care fraud and abuse.

The required elements include:

- Implementing written standards, policies and procedures;
- Designating a Compliance Officer or contact;
- Conducting appropriate training and education;
- Developing open lines of communication;
- Responding appropriately to detected offenses and developing corrective action;
- Conducting internal monitoring and auditing;
- Enforcing disciplinary standards through well publicized guidelines; and
- Creation and enforcement of a policy of non-intimidation and non-retaliation for good faith participation in the compliance program.

Oneida Healthcare has demonstrated a commitment to compliance by adopting these elements of a Corporate Compliance Program through the following actions:

- Development of this Corporate Compliance Program and related Corporate Compliance Program for OMP and WHA, including designation of Corporate Compliance Liaisons responsible for the day-to-day operation of the Compliance Program for those entities. The Corporate Compliance Liaisons for OMP and WHA will report to OHC's Corporate Compliance Director and will serve on OHC's Corporate Compliance Committee to implement and enforce the policies described in this document at these associated campuses.
- Development and distribution of a written code of conduct as well as specific Compliance Program-related policies and procedures that promote OHC's commitment to compliance and provide guidance and expectations for all employees and affiliated individuals. All policies are posted on Oneida Healthcare's intranet for easy accessibility.
- Designation of a Corporate Compliance Officer, a Corporate Compliance Director, Corporate Compliance Liaisons and a Corporate Compliance Committee who are charged with the responsibility of operating and monitoring the Corporate Compliance Program. The Compliance Director is primarily responsible for the day-to-day operations of the OHC Compliance Program and works collaboratively with the OMP and WHA Compliance Liaisons. In addition, the Board of Trustees at OHC ("the Board") is the governing body over the Compliance Programs. The Board receives the monthly Corporate Compliance Committee minutes and a semi-annual report presented by the Corporate Compliance Director. This designation is critical to ensuring that the Compliance Programs remain visible, active, effective and accountable.
- Development and implementation of general compliance-related training and education programs for all employees, Board Members, Medical Staff and others as set forth in more detail in this Manual. OHC employs a customized electronic training system, Inservice Solutions, which tracks completion of employees required compliance training annually. All new employees attend an orientation session covering compliance and privacy related topics. Additional specialized compliance training is conducted for specific departments that are deemed as having higher risk operations such as the coding and billing functions. Training and education provides staff with an understanding of our compliance programs, legal requirements applicable to OHC and knowledge of our compliance related policies and procedures. Orientation and annual training creates an opportunity to convey our organization's commitment to ethical and legal conduct and remind staff of their role in compliance.
- Implementation of a 'reporting and response mechanism' to receive reports of potential non-compliance or concerns and a procedure for the Compliance Director to address them. These include a report form, an anonymous hotline and open lines of communication via email, phone or face to face meetings with the Compliance Director. To facilitate detection of potential non-compliant conduct, it is necessary for all individuals affiliated with OHC to feel comfortable in reporting compliance issues. It is critical that we maintain open lines of communication and an environment is created whereby staff does not have reason to fear intimidation or retaliation for reporting.
- Implementation of a process to respond to any allegations of potential non-compliance, whether intentional or not. For OHC's compliance program to be effective, we must ensure that Oneida Healthcare has taken steps to correct any potential or actual occurrences of non-compliance. An in-depth investigation occurs for each credible allegation or concern reported or identified to determine the extent, causes and seriousness of the situation. If possible, the non-compliant conduct is halted immediately and the effects of the non-compliance conduct are mitigated.

OHC's corrective actions often take aim at reducing the likelihood of similar instances or reoccurrence in the future.

- Use of periodic monitoring activities and conduct internal audits and self-evaluations to determine the rate of compliance with specific regulations and to decrease the risk of non-compliance. These risk areas tend to change over time as the Federal and State governments change focus and as internal computer applications and processes change. Additionally, OHC does cooperate and glean insight from external audits conducted by a variety of agencies. Oneida Healthcare institutes a yearly compliance Work Plan outlining potential focus areas of risk and opportunity. This Work Plan serves as the guide for our yearly activity. OMP and WHA will also develop an annual Work Plan outlining particular areas of risk and opportunity.
- Implementation of a process that verifies that Oneida Healthcare has not employed or contracted with physicians, providers (nurse practitioners, physician assistants), staff, vendors or independent contractors that are listed on the OIG or OMIG exclusion website as excluded providers from the Federal and State health care programs. This means OHC cannot receive reimbursement from Medicare or Medicaid for any physicians, providers or vendors services if they are listed as OIG or OMIG excluded and generally cannot do business with them. This is not only a monthly submission process for us but also one that is used daily when new ordering physicians enter our health system.
- Following *Human Resources Progressive Disciplinary Policy 2-11* and *16-30* for employees and agents of OHC and medical staff when it has been determined that internal compliance policies, regulations, Federal or State Health Care Program requirements have been violated. Examples of violations include failing to report suspected problems, participating in or facilitating non-compliant behavior, and encouraging or directing active or passive non-compliant behavior. Enforcing disciplinary standards is important not only to give the Compliance Program credibility, but also to demonstrate OHC's integrity and commitment to compliance and desire to prevent recurrence and ensure effectiveness.
- Creation of a policy of non-intimidation and non-retaliation for good faith participation in OHC's Compliance Program. It is important to create a culture where fear is not a deterrent to reporting concerns.
- Creation of a process to refund any overpayments that Oneida Healthcare discovers it may have received inadvertently from Medicare, Medicaid or third party payer.

These commitment statements follow the recommended structure for the seven elements of a Corporate Compliance Program as promulgated by the OIG Compliance Program Guidance and the eight elements of a Provider Compliance Program from Title 18 of the Codes, Rules and Regulations of the State of NY, Part 521 'Provider Compliance Programs', effective July 2009.

CODE OF CONDUCT

This Code of Conduct serves as the foundation for the organization's compliance, privacy, customer service, and patient safety programs. It reflects the behaviors consistent with laws and regulations and with our commitment to caring. *Please refer to Administrative Policy 1-101 "Code of Conduct and Disruptive Behavior" (revision 7/2011).*

The Code of Conduct applies to all Hospital Board members, officers, managers, employees, physicians, consultants, students and volunteers. The following is a guide to ethical behavior:

1. Oneida Healthcare promotes **respect** for patients as well as employees, agents, physicians, volunteers and visitors.
2. Oneida Healthcare actively fosters **team work, communication and collaborative work environment** among members of the patient care team, customer service support team and among groups that meet for the purpose of improving health status including but not limited to trustee, physician and manager groups.
3. Oneida Healthcare encourages **honesty and integrity** in communication and fair evaluation of programs and persons. This behavior is reflected in our marketing, admissions, purchasing, transfer, discharge and billing procedures. It also guides the organization, employees and agents in their relationships and interactions with other health providers, educational institutions, vendors and payors.
4. Oneida Healthcare **does not discriminate** in its business and corporate practices. The organization follows all Federal and state anti-discrimination laws that apply to the admission/discharge process and to the purchase of services and supplies.
5. Oneida Healthcare's **vision, mission, and values** guide the planning and business practices and patient care experience.
6. Items and services are provided to customers in a manner that respects and fosters their sense of **dignity, autonomy, and positive self-regard, civil rights and involvement in their own care**.
7. All staff, physicians and volunteers will exhibit a **Commitment to Patient Centered Care and to Co-workers** to establish a culture of **patient safety and teamwork**.

WHERE TO GO FOR ASSISTANCE – REPORTING A CONCERN

In an attempt to keep the communication lines to the Compliance Director accessible to all individuals affiliated with OHC, including employees and non-employees, Oneida Healthcare provides a variety of methods that staff and others may use to report potential compliance issues as they are identified. This includes a method for anonymous and confidential good faith reporting for all individuals affiliated with OHC. The following methods are available:

- Discuss the question or concern with the direct supervisor (who in turn can seek assistance from the Compliance Director, if necessary).
- Call the Corporate Compliance Director directly at extension 2117 or phone 361-2117.
- Call the OHC Corporate Compliance Hotline at extension 2116 or phone 361-2116 where details can be left on voice mail anonymously and confidentially. Only the Compliance Director has access to retrieve these calls.
- Complete the report form and submit the completed form directly to the Compliance Director (by inter-office mail, regular mail or in person).*

- Email the Corporate Compliance Director at rolmsted@oneidahealthcare.org

**The report form can be located outside of the ACF Human Resources office, the ECF hallway near the nursing offices, and on the OHC Intranet using the path: Corporate, Compliance, and click on the Corporate Compliance Report Form. In addition, the report form is located on Oneida Healthcare's external website to provide non-employees with greater accessibility to report potential compliance issues to the Corporate Compliance Director.

When making a report to the Hotline or completing a report form, staff has the option of remaining anonymous.

Please refer to the Policy on Reporting and Response System (16-1)

Note: For employee relation matters, such as performance evaluations, pay rate increases, time off, benefits, etc. please contact the Human Resource Department as you normally would.

WHAT TO EXPECT WHEN YOU MAKE A COMPLIANCE REPORT – RESPONSE SYSTEM

When making a report to the Hotline or completing a report form, you have the option of remaining anonymous. However, it will help the Corporate Compliance Director in responding if you identify yourself. The Corporate Compliance Director will do his/her best to keep all questions and reports confidential to protect the individual making the report.

The Corporate Compliance Director will initiate a response to all reports made within two business days when possible. Reports will not be responded to on a first-come, first-serve basis, rather by the nature and extent of potential non-compliance. If necessary, the Corporate Compliance Director will seek advice from external legal counsel based on the severity of allegations and will report to the NYS Department of Health or OMIG as necessary.

In cases where the reporter is known, he or she will be notified of the outcome of their report, to the extent deemed appropriate, by the Corporate Compliance Director.

If it is determined that **criminal** misconduct has occurred, the matter will immediately be referred to external legal counsel to initiate contact with the appropriate law enforcement agency. Oneida Healthcare is committed to returning any overpayment obtained in error from a Federal and State Health Care Program or other third party payer.

The Corporate Compliance Director, along with relevant department managers and Members of the Corporate Compliance Committee, are responsible for evaluating OHC's training and education needs and ongoing monitoring and auditing activities to prevent the reoccurrence of any incidents of non-compliance.

Please refer to the Policy on Reporting and Response System (16-1)

NON-INTIMIDATION AND NON-RETALIATION OF EMPLOYEES WHO REPORT

It is every employee's and medical staff member's responsibility to promptly raise questions or report concerns. We rely on this to ensure that our Corporate Compliance Program is an effective one. **Oneida Healthcare will not tolerate retribution, intimidation or retaliation against any employee or medical staff who acts in good faith** in raising a question or concern, including but not limited to, reporting potential issues, investigating issues, self-evaluations, audits and remedial action, and reporting to appropriate officials as provided in New York State Labor Law section 740 and 741. OHC requires each person's assistance to identify and report any suspicious behavior or business practices to ensure the opportunity to investigate and correct them when necessary.

COMPLIANCE TRAINING & EDUCATION POLICY

Oneida Healthcare's initial compliance training program at the time of new hire orientation shall:

- Highlight the importance of a Corporate Compliance Program;
- Highlight our customized Corporate Compliance Program and Manual and Report Form;
- Include identified risk areas for applicable departments and OHC; and
- Summarize Federal and State fraud and abuse laws.

This initial compliance training is incorporated into the General Orientation process for all newly hired employees, medical providers, executives and members of the Board. New employees must complete a written quiz and score 80% or above to receive credit for this training. In addition, each new employee is required to sign an acknowledgement of receipt of the Compliance Manual and to have knowledge of where and how to access Corporate Compliance policies and procedures.

Mandatory annual training for all affected employees is provided online through 'Inservice Solutions'. Specialized training is provided to certain departments and individuals, including Board Members, executives and medical providers.

Specialized training is also provided to certain groups of non-employees. Vendors and contractors receive privacy and compliance training as necessary, including screening by Vendor Credentialing Services (VCS). Guards, sitters, and students are also provided privacy and compliance training. Additional privacy and compliance information for these groups is provided in the non-employee handbook.

Periodic compliance training and education sessions will be developed and scheduled by the Corporate Compliance Director to provide all affected persons associated with OHC, including executives, Board members, physicians, non-medical staff, and providers and non-medical staff at OMP and WHA, with information on compliance issues, expectations and the operation of the Corporate Compliance Program. Attendance and participation in these education programs is a condition of continued employment. Attendance will be tracked and enforced. Failure to meet minimum prescribed requirements will result in disciplinary action, including possible termination.

Please refer to Compliance Training Policy (16-7) for additional instructions.

OHC'S COMPLIANCE OVERSIGHT STRUCTURE

The Compliance Oversight Structure at Oneida Healthcare consists of the following compliance-related roles added to existing positions at OHC:

- Corporate Compliance Director,
- Corporate Compliance Officer,
- Corporate Compliance Liaisons,
- Corporate Compliance Committee, and
- Governance of the OHC and OMP/WHA Corporate Compliance Programs by the governing boards of OMP and WHA and the Board of Trustees.

These compliance related positions oversee not only functions at the hospital, but also the nursing home (ECF), outpatient Article 28 clinics, off-site location and services, and our physician affiliates, OMP and WHA. These compliance-related roles have been added to the following existing positions at OHC:

- The Compliance Director is also the Director of Risk Management and the HIPAA Privacy Officer;
- The Compliance Officer is also the Vice President of Human Resources;
- Some Department Directors hold positions on the Compliance Committee; and
- The Board of Trustees and President/Chief Executive Officer (CEO) are ultimately in charge of the governance of the Compliance Program.

These roles have been developed to ensure appropriate oversight of planning, designing, implementing, and maintaining organization-wide Compliance Programs and associated policies and procedures.

These individuals have complete and unrestricted access to information, employees and medical staff required to complete the designated corporate compliance responsibilities.

The Compliance Director

The Compliance Director serves as the coordinator for **all** corporate compliance activities and functions in this role on a daily basis. The Corporate Compliance Director is principally responsible for the design, development and implementation of OHC's Corporate Compliance Program.

The Compliance Officer

The Compliance Officer serves in an advisory capacity to the Compliance Director, primarily about financial matters that arise due to claim billings, reimbursements/payments and overpayments. The Compliance Officer is in charge of coordinating all government or other payer investigations and may seek the assistance of outside legal counsel.

The Compliance Liaisons

The Compliance Liaisons for OMP and WHA oversee the day-to-day activities of the Compliance Programs for these affiliated entities. Individuals associated with those entities may refer problems or issues to the Compliance Liaisons or directly to the Compliance Director.

The Corporate Compliance Committee

The OHC Corporate Compliance Committee members consist of management (typically Department Directors), the Corporate Compliance Liaisons for OMP and WHA, and senior management personnel who, in this Committee's capacity, will serve as an oversight body for OHC's Corporate Compliance Program. The Compliance Director is the Chairperson for the Corporate Compliance Committee meetings.

In addition, OMP and WHA will have their own Corporate Compliance Committee, whose membership will include individuals who serve on the OHC Compliance Committee.

These committee members have dual roles; to compliance and to their other area of operational responsibility. Committee Members are responsible for bringing compliance-related concerns to the meetings so a multiple department approach can be developed and/or participate on sub-committees to decrease the risk of compliance issues.

Governance

The Board of Trustees is the governing body over the entire Corporate Compliance Program. Each board member legally has a general 'duty of care' which is defined as the obligation to exercise the proper amount of care in their decision making process. The three-part duty of care test includes board members acting (1) in good faith, (2) with the level of care that an ordinarily prudent person would exercise, and (3) in a manner that they reasonably believe is in the best interest of OHC. The governing boards of OMP and WHA will oversee the OMP/WHA Compliance Program.

NYS OFFICE OF MEDICAID INSPECTOR GENERAL (OMIG)

The NYS Office of the Medicaid Inspector General ("OMIG") requires providers to have an effective compliance program that addresses, at a minimum, the following items:

- Billings;
- Payments;
- Medical Necessity and Quality of Care;
- Governance;
- Mandatory Reporting;
- Credentialing (of physicians and providers); and
- Other risk areas that should, with due diligence, be identified by the provider.

These areas are incorporated into applicable compliance policies and procedures that can be found on the hospital intranet. In addition, how OHC monitors the effective operations of these particular topics are written in detail in OHC's Compliance Plan. Additional information can be found at www.omig.state.ny.us.

MEDICAID COMPLIANCE PROGRAM CERTIFICATION

OMIG requires all providers to certify to the OMIG office that an effective compliance program is in place that meets the requirements specified as outlined above and the eight required elements. The certification is a form that the Chief Executive Officer files during the month of December of every year attesting to the effectiveness of OHC's Compliance Program. We will file both the DRA and SSL certification according to regulation.

Our affiliated groups at OMP and WHA will file separate certifications as applicable.

OFFICE OF INSPECTOR GENERAL (OIG) COMPLIANCE GUIDANCE

The Office of Inspector General (OIG) is in charge of administering the integrity of the Medicare program. The OIG has numerous Compliance Program Guidance Documents covering a variety of healthcare industry segments. Each Guidance Document outlines the seven elements of a Compliance Program (as referenced in our Commitment Statement in Section II, above). The OIG also issues a yearly Work Plan revealing those designated high-risk areas that have potential for healthcare fraud and abuse. To that end, Oneida Healthcare will use the guidance and Work Plan to assist us in our quest to decrease the instances of healthcare fraud and abuse. We perform a yearly review of the OIG Work Plan and determine which items may pose a medium to high risk to OHC and include those focus areas in our yearly Work Plan.

There are six OIG Compliance Program Guidance Documents that are applicable to OHC's scope of business that provide detailed examples of the compliance risks with the operations for each service line:

- Hospitals;
- Supplemental Guidance for Hospitals;
- Clinical Laboratories;
- Individual and Small Group Physician Practices;
- Nursing Facilities; and
- Supplemental Guidance to Skilled Nursing Facilities.

All employees and agents should be aware of the risk areas identified, as well as Oneida Healthcare's Work Plan, and the OMP/WHA Work Plan as applicable, and should bring any potential instance of non-compliance or concern to the attention of his or her direct supervisor or the Corporate Compliance Director using one of the many methods of reporting.

The specific Guidance Documents and additional information can be found at: <http://oig.hhs.gov>.

WHAT DOES COMPLIANCE MEAN TO ME?

WHAT DOES THE COMPLIANCE PROGRAM MEAN TO ALL EMPLOYEES?:

The following lists below provide examples of specific compliance guidelines for many specific departments at OHC and certain specialized functions. These examples describe the broad nature of OHC's Compliance Programs and how they impact day-to-day activities with not only services provided but also business functions.

There are complex and frequently changing rules and regulations that guide each particular type of service line that OHC follows to help ensure compliant behavior. Therefore, it is not possible to list every potential compliance related scenario. If you are facing a situation where you think there might be a compliance related issue, please use one of the provided methods of reporting. Each individual OHC employee or agent remains responsible and accountable for his/her compliance with applicable laws that govern his/her job responsibilities.

NURSING EMPLOYEES - WHAT DOES COMPLIANCE MEAN TO ME?

- Reporting of any potential Corporate Compliance or Privacy concern.
- Maintaining patient confidentiality in all written and verbal communications.
- Assuring that patient consent has been obtained when necessary.
- Monitoring that quality of care is provided to all patients regardless of where the services are provided (outpatient setting, emergency room, inpatient status).
- Ensuring accurate and safe administration of medications by observing the 5 "rights" of medication administration (the *right dose* of the *right drug* at the *right time* to *right patient* by the *right route*).
- Ensuring nursing services are well documented in an accurate and timely manner in the patient chart.
- Notifying patients of their rights.
- Ensuring security of all patient medical records.
- Accurate charge and credit processing.
- Ensuring proper disposal of syringes, needles and bio-hazardous waste.
- Following universal precautions to protect against blood-borne pathogens.
- Following proper patient inter-hospital transfer and discharge procedures.
- Ensuring the patient is supplied with a discharge plan prior to discharge.
- Timely reporting of unusual patient occurrences.
- Exhibiting behavior that is consistent with the code of conduct.
- Maintaining the privacy of protected health information.
- Ensuring OHC's privacy practice policy is followed if disclosure of protected health information is necessary.
- Following all departmental policies and procedures.

MEDICAL AND NON-MEDICAL STAFF AT ECF - WHAT DOES COMPLIANCE MEAN TO ME?

- Reporting of any potential Corporate Compliance or Privacy concern to the Compliance Director.
- Ensuring accuracy of registration information by verifying **all** patient information including insurance at each encounter, ensuring patients show proof of identity.
- Ensuring patient completes and signs back of face sheet that includes authorization to bill insurance and authorization to release information. (Assignment of Benefits)

- Making an effort to collect all co-payments and deductibles due from patients.
- Accurate completion of the Medicare Secondary Payer Questionnaire when applicable.
- Utilizing advance beneficiary notices ("ABNs"), when applicable.
- Ensuring the selection and accuracy of any codes applied.
- Ensuring complete medical record documentation is obtained.
- Accurate charge and credit processing.
- Ensuring the super bill is revised every year.
- Exhibiting behavior that is consistent with the code of conduct.
- Maintaining the privacy of protected health information and ensuring the notice of privacy practices is provided to patients.
- Ensuring OHC's privacy practice policy is followed if disclosure of protected health information is necessary.
- Maintaining familiarity with the areas identified in the OHC Work Plan for ECF.

PATIENT ACCOUNTING AND FINANCE DEPARTMENT EMPLOYEES - WHAT DOES COMPLIANCE MEAN TO ME?

- Reporting of any potential Corporate Compliance or Privacy concern.
- Billing only for items or services that are actually provided.
- Ensuring claims submitted are for medically necessary services or items.
- Reviewing patient account credit balances regularly and making refunds as soon as possible, as appropriate.
- Bring any potential billing errors to your supervisor or managers attention as soon as possible.
- Ensuring claims submitted are supported by a physician or other authorized practitioner's written order.
- Furnishing itemized billing statement to patients, upon request.
- Ensuring payments received are for the correct amount. If not, refunding the accidental overpayment to the appropriate party in a timely manner.
- Accurate charge and credit processing.
- Exhibiting behavior that is consistent with the code of conduct.
- Maintaining the privacy of protected health information.
- Ensuring OHC's privacy practice policy is followed if disclosure of protected health information is necessary.
- Following all departmental policies and procedures.

PATIENT ACCESS / PRE-ENCOUNTER DEPARTMENT EMPLOYEES - WHAT DOES COMPLIANCE MEAN TO ME?

- Reporting of any potential Corporate Compliance or Privacy concern.
- Ensuring accuracy of registration information by verifying **all** patient information including insurance at each encounter.
- Ensuring patient completes and signs back of face sheet that includes authorization to bill insurance and authorization to release information. (Assignment of Benefits)
- Making an effort to collect all co-payments and deductibles due from patients.
- Accurate completion of the Medicare Secondary Payer Questionnaire when applicable.
- Ensure the notice of privacy practices is provided to patients.
- Ensuring patients show proof of their identity.
- Utilizing advance beneficiary notices ("ABNs"), when applicable.
- Exhibiting behavior that is consistent with the code of conduct.
- Maintaining the privacy of protected health information.

- Ensuring OHC's privacy practice policy is followed if disclosure of protected health information is necessary.
- Following all department policies and procedures.

EMERGENCY DEPARTMENT EMPLOYEES - WHAT DOES COMPLIANCE MEAN TO ME?

- Reporting of any potential Corporate Compliance or Privacy concern.
- Ensuring patients receive a medical screening exam prior to obtaining financial or insurance information. (EMTALA)
- Assessing and stabilizing patients before transferring them to another facility.
- Timely and accurate documentation of the ED visit in the patient medical record.
- Providing emergency care services to any patient entering the ED regardless of insurance coverage or ability to pay.
- Accurate charge and credit processing.
- Assuring that patient consent is obtained where necessary and where possible.
- Ensuring proper disposal of syringes, needles and bio-hazardous waste.
- Providing, to the best of our ability, privacy to all ED patients (i.e. utilizing curtains and dividers).
- Ensuring patient confidentiality and not inappropriately releasing patient information to the media or unauthorized individuals.
- Exhibiting behavior that is consistent with the code of conduct.
- Maintaining the privacy of protected health information.
- Ensuring OHC's privacy practice policy is followed if disclosure of protected health information is necessary.
- Following all department policies and procedures.

RADIOLOGY /CARDIOLOGY DEPARTMENT EMPLOYEES - WHAT DOES COMPLIANCE MEAN TO ME?

- Reporting of any potential Corporate Compliance or Privacy concern.
- Obtaining requisition and signed practitioner orders prior to performing any requested testing/procedure.
- Clarifying any illegible practitioner orders prior to performing the test/procedure.
- Obtaining medical history from the patient or medical record to ensure safe and accurate testing and results (i.e. allergies to contrast media, contradictions, panic disorders, etc.).
- Ensuring proper billing by using the appropriate code for the test/procedure.
- Accurate charge and credit processing
- Utilizing advance beneficiary notices ("ABNs"), when applicable.
- Exhibiting behavior that is consistent with the code of conduct.
- Maintaining the privacy of protected health information.
- Ensuring OHC's privacy practice policy is followed if disclosure of protected health information is necessary.
- Following all department policies and procedures.

LABORATORY DEPARTMENT EMPLOYEES - WHAT DOES COMPLIANCE MEAN TO ME?

- Reporting of any potential Corporate Compliance or Privacy concern.
- Lab tests will be completed when ordered by a physician or authorized practitioner with diagnosis information.

- Ensuring standing orders are reasonable and necessary through the routine monitoring to ensure orders are renewed every six months, if appropriate.
- Accurate charge and credit processing.
- Ensuring any lab IT errors are not systematic in nature and if so audit claims.
- Ensuring compliance OSHA regulations and other laboratory specific accrediting bodies.
- Utilizing advance beneficiary notices ("ABNs"), when applicable.
- Exhibiting behavior that is consistent with the code of conduct.
- Maintaining the privacy of protected health information.
- Ensuring OHC's privacy practice policy is followed if disclosure of protected health information is necessary.
- Following all department policies and procedures.

CARE TRANSITION SERVICES EMPLOYEES - WHAT DOES COMPLIANCE MEAN TO ME?

- Reporting of any potential Corporate Compliance or Privacy concern.
- Following the specific mandatory reporting requirements for Federal and State Health Care Programs.
- Monitoring the hospital inpatient admissions for medical necessity, reasonableness of services and quality of care.
- Ensure that patient care is rendered at the appropriate level and site of service.
- Ensure that insurance companies have authorized patient services.
- Monitoring and trending readmission rates.
- Ensure discharge planning services are intact.
- Exhibiting behavior that is consistent with the code of conduct.
- Maintaining the privacy of protected health information.
- Ensuring OHC's privacy practice policy is followed if disclosure of protected health information is necessary.
- Following all department policies and procedures.

PATIENT SAFETY AND QUALITY EMPLOYEES – WHAT DOES COMPLIANCE MEAN TO ME?

- Reporting of any potential Corporate Compliance or Privacy concern.
- Monitor quality of care for patients in the medical assistance program, as mandated by OMIG.
- Understand the convergence of quality and compliance by ensuring patients are receiving quality patient care and patient safety is paramount.
- Ensure all mandatory reporting requirements are met for Federal and State Health Care programs.
- Accurate and timely NYPORTS reporting to the NYSDOH.
- Ensure all Core Measure data elements are reporting according to regulation.
- Exhibiting behavior that is consistent with the code of conduct.
- Maintaining the privacy of protected health information.
- Ensuring OHC's privacy practice policy is followed if disclosure of protected health information is necessary.
- Following all department policies and procedures.

HEALTH INFORMATION MANAGEMENT (HIM) DEPARTMENT EMPLOYEES - WHAT DOES COMPLIANCE MEAN TO ME?

- Reporting of any potential Corporate Compliance or Privacy concern.
- Following the National Correct Coding Initiative (NCCI) and ensuring claims are free of coding edits.

- Accounts are coded and billed based on documentation in each patient's medical record.
- Ensuring admission and discharge information is accurately compiled on each patient so records can be coded.
- Consulting with the individual treating physician when medical record information is vague enough that it cannot be accurately coded.
- Submitting all required data elements to SPARCS at NYSDOH.
- Maintaining knowledge of all of CMS's requirements.
- Accurate charge and credit processing.
- Exhibiting behavior that is consistent with the code of conduct.
- Maintaining the privacy of protected health information.
- Ensuring OHC's privacy practice policy is followed if disclosure of protected health information is necessary.
- Following all departmental policies and procedures.

OUTPATIENT PHYSICAL THERAPY DEPARTMENT EMPLOYEES – WHAT DOES COMPLIANCE MEAN TO ME?

- Reporting of any potential Corporate Compliance or Privacy concern.
- Ensuring prescriptions are obtained prior to rendering services and updated prescriptions are obtained in a timely manner.
- Ensuring that the selection of diagnosis information, CPT/HCPCS codes area accurate.
- Ensuring the appropriate use of modifiers when coding and documenting.
- Accurate charge and credit processing.
- Ensure all Medicare regulations are met.
- Exhibiting behavior that is consistent with the code of conduct.
- Maintaining the privacy of protected health information.
- Ensuring OHC's privacy practice policy is followed if disclosure of protected health information is necessary.
- Following all departmental policies and procedures.

ARTICLE 28 OFF-SITE SATELLITE CLINIC EMPLOYEES - WHAT DOES COMPLIANCE MEAN TO ME?

- Reporting of any potential Corporate Compliance or Privacy concern.
- Ensuring accuracy of registration information by verifying **all** patient information including insurance at each encounter.
- Ensuring patient completes and signs back of face sheet that includes authorization to bill insurance and authorization to release information. (Assignment of Benefits)
- Making an effort to collect all co-payments and deductibles due from patients.
- Accurate completion of the Medicare Secondary Payer Questionnaire when applicable.
- Ensure the notice of privacy practices is provided to patients.
- Ensuring patients show proof of their identity.
- Utilizing advance beneficiary notices ("ABNs"), when applicable.
- Ensuring the selection and accuracy of any codes applied.
- Ensuring complete medical record documentation is obtained.
- Accurate charge and credit processing.
- Ensuring the super bill is revised every year.
- Exhibiting behavior that is consistent with the code of conduct.
- Maintaining the privacy of protected health information.

- Ensuring OHC's privacy practice policy is followed if disclosure of protected health information is necessary.

MEDICAL AND NON-MEDICAL STAFF AT OMP AND WHA - WHAT DOES COMPLIANCE MEAN TO ME?

- Reporting of any potential Corporate Compliance or Privacy concern.
- Ensuring accuracy of registration information by verifying **all** patient information including insurance at each encounter.
- Ensuring patient completes and signs back of face sheet that includes authorization to bill insurance and authorization to release information. (Assignment of Benefits)
- Making an effort to collect all co-payments and deductibles due from patients.
- Accurate completion of the Medicare Secondary Payer Questionnaire when applicable.
- Ensure the notice of privacy practices is provided to patients.
- Ensuring patients show proof of their identity.
- Utilizing advance beneficiary notices ("ABNs"), when applicable.
- Ensuring the selection and accuracy of any codes applied.
- Ensuring complete medical record documentation is obtained.
- Accurate charge and credit processing.
- Ensuring the super bill is revised every year.
- Exhibiting behavior that is consistent with the code of conduct.
- Maintaining the privacy of protected health information.
- Ensuring OHC's privacy practice policy is followed if disclosure of protected health information is necessary.
- Maintaining familiarity with the work plan for the applicable group.

HOUSEKEEPING AND MAINTENANCE DEPARTMENT EMPLOYEES - WHAT DOES COMPLIANCE MEAN TO ME?

- Reporting of any potential Corporate Compliance or Privacy concern.
- Following Occupational Safety and Health Administration ("OSHA"). NYSDOH and Joint Commission regulations to ensure compliance.
- Maintaining a clean and safe environment for patients, providers, visitors and employees.
- Complying with Material Safety Data Sheet Instructions ("MSDS").
- Resolving patient and visitor complaints related to the department's operations.
- Exhibiting behavior that is consistent with the code of conduct.
- Maintaining the privacy of protected health information.
- Ensuring OHC's privacy practice policy is followed if disclosure of protected health information is necessary.
- Following all departmental policies and procedures.

MEDICAL STAFF OFFICE (PROVIDER CREDENTIALING) - WHAT DOES COMPLIANCE MEAN TO ME?

- Reporting of any potential Corporate Compliance or Privacy concern.
- Ensure all physicians, nurse practitioners and physician assistants are credentialed appropriately prior to conducting business and providing patient care at OHC.
- Ensure the credentialing and re-credentialing process meets all applicable state laws and Joint Commission regulations that include verification of education and state licensure, verification of DEA

license, copies of malpractice insurance, checking of the national practitioner data bank and NYS professional misconduct reporting site along with the OIG and OMIG exclusion site.

- Monitor the compliance of annual health assessments, tuberculosis tests and infection control training required by NYS.
- Exhibiting behavior that is consistent with the code of conduct.
- Maintaining the privacy of protected health information.
- Ensuring OHC's privacy practice policy is followed if disclosure of protected health information is necessary.
- Following all departmental policies and procedures.

**FOR THE EXTENDED CARE FACILITIES EMPLOYEES:
WHAT DOES COMPLIANCE MEAN TO ME?**

- Reporting of any potential Corporate Compliance or Privacy concern.
- Notifying residents of their rights.
- Ensuring quality of care through quality assurance activities and processes.
- Documenting all pertinent information in the resident medical record in a timely manner.
- Developing and revising resident care plans as necessary.
- Discussing advance directive orders with patients and their families upon admission.
- Ensuring accurate, safe administration of drugs.
- Ensuring proper disposal of syringes, needles and bio-hazardous waste.
- Accurate charge and credit processing.
- Ensuring security of all patient medical records.
- Maintaining and promoting a safe, sanitary environment.
- Reporting incidents of mistreatment, neglect, or abuse to the administrator of the facility and other officials, as required by law.
- Promoting safe and proper use of physical or chemical restraints.
- Exhibiting behavior that is consistent with the code of conduct.
- Maintaining the privacy of protected health information.
- Ensuring OHC's privacy practice policy is followed if disclosure of protected health information is necessary.
- Following all departmental policies and procedures.

DISCIPLINARY ACTIONS & SANCTIONS

It is expected that employees and affiliated individuals will report compliance issues. If it is found that an employee or a group of employees did not report compliance issues that they were aware of, they will be subject to discipline. The OHC's *Progressive Disciplinary Policy* describes sanctions for (1) failing to report suspected problems, (2) participating in or facilitating non-compliant behavior, and (3) encouraging, directing or permitting active or passive non-compliant behavior.

After an investigation, if the concern reported requires disciplinary action, the disciplinary process will proceed per policy as outlined in the *Human Resources Progressive Disciplinary Policy 2-11 and 16-30 (previously 2-11B)*.

It is important to note that depending on the severity of the non-compliant behavior, progressive discipline may not be required and immediate discharge is possible.

Sanctions, which are penalties imposed, can result in not only disciplinary action, but also the removal of certain employment privileges, contract penalties, and discharge from employment and in some cases civil and/or criminal prosecution from a government agency against an employee or medical staff member. Senior management may need to be involved in recommending any OHC sanctions imposed for non-employees.

Employees and medical staff may also be subject to disciplinary action for:

- Failure to perform any of the required compliance training and failure to complete any assigned compliance assignments.
- Failure of management personnel to detect non-compliance with their department's applicable policies, where reasonable due diligence on the part of the Director or Senior Manager would have led to the discovery of such non-compliance.

WHAT TO DO IN CASE OF AN ON-SITE GOVERNMENT INVESTIGATION OR SEARCH WARRANT

While it is very unlikely, an on-site Federal Government fraud and abuse investigation could occur at OHC or one of its affiliated entities. Oneida Healthcare is committed to preparing employees and medical staff in the unlikely event it should happen.

An investigation could be commenced during any time of the day, evening or night. Government officials could be from the OIG, Department of Justice (DOJ), Federal Bureau of Investigations (FBI), United States Attorney's Office, the Fiscal Intermediary (FI), the State Attorney General's Office, the State Department of Health (DOH) and OMIG.

All employees and agents should follow the appropriate steps should a Government Agent present himself or herself at OHC. The same procedure is in place with or without a search warrant being presented. It is important to note that in the past, government agents have attempted to use intimidation to obtain confidential information about providers that includes questioning an employee or medical staff at his or her home residence. Therefore, the following steps apply to government agents who may contact an employee or agent on or off the property.

Employees and agents should:

1. Immediately notify their direct supervisor.
2. The direct supervisor should immediately notify the Corporate Compliance Officer or Corporate Compliance Director after receiving a contact from governmental agencies who may be conducting an investigation of OHC. (Contact is defined to include presenting a search warrant, any requests from governmental agencies to schedule future interviews or meetings with employees and medical staff or for written information under circumstances where the request seems out of the ordinary.)
3. Upon initial contact, the employee or agent should only provide the name and location of the Corporate Compliance Officer and Corporate Compliance Director. Do not inadvertently waive personal or OHC rights such as the attorney-client privilege, the right to counsel and the right against self-incrimination. Employees and agents do not have to answer any questions prior to the appropriate parties' arrival.

The Corporate Compliance Officer or Corporate Compliance Director will notify external legal counsel. External legal counsel will direct the investigation, in consultation with the Corporate Compliance Officer and Corporate Compliance Director.

Please refer to Search Warrant and On-Site Investigation from a Government Agency (16-3) for additional instructions.

ANNUAL COMPLIANCE WORK PLAN

The Compliance Director and the Compliance Liaisons at OMP and WHA are responsible for developing annual compliance Work Plans, which are submitted to the Compliance Committees for feedback. The Work Plans highlight the medium and high risk areas that have been identified by both the OIG and OMIG Work Plans, as well as any focus area that we feel is warranted in terms of compliance activity. Types of risks might include regulatory, legal, financial or operational functions. Areas of concern can arise as a result of planned organization activities, such as areas of growth, process, people or system change. The Work Plans will indicate the items to be reviewed, whether they will be reviewed by internal or external resources, and describe how the review will be conducted.

Any changes to these Work Plans should be discussed at the Compliance Committee meetings. The Work Plans should also be shared with the governing boards during the first meeting of the said year. In addition, the Board of Trustees will receive a semi-annual update of Work Plan activities conducted.

Please contact the Corporate Compliance Director or the OMP or WHA Corporate Compliance Liaisons to review a copy of the current year's Work Plan.

COMPLIANCE MONITORING & AUDITING POLICY

Oneida Healthcare recognizes the importance of performing regular, periodic compliance audits, including self-evaluation of the compliance risk areas identified by OIG, OMIG and the applicable Work Plan.

Compliance monitoring and auditing procedures will be implemented that are designed primarily to determine the accuracy and validity of the charging, coding and billing submitted to Federal, state and private health care programs and to detect other instances of potential misconduct by employees and medical staff. It will also include the oversight of any risk area identified by OIG or OMIG that OHC feels is of a medium or high risk that is included on our internal OHC Work Plan.

Random samplings of records drawn from a cross-section of departments will be conducted on an annual basis. Specific monitoring and auditing plans will be included in the annual compliance Work Plan. It will include periodic tests of claims submitted to Medicare, Medicaid, and other health plans. Auditing will be used to review the accuracy of the work of coding and billing personnel and patient registration representatives, as well as appropriate, accurate and timely documentation. For quality of care/medical necessity reviews, claims review will also include care provided by nursing and medical staff.

Self-evaluation of the areas identified in the OHC Work Plan and the OMP/WHA Work Plan will be accomplished through internal audits as directed by the Corporate Compliance Director and/or Corporate Compliance Liaisons. Where appropriate, the Corporate Compliance Director will arrange for external audits according to the risk areas identified above. Results of a self-evaluation will be reported to the Corporate Compliance Director, who will evaluate the potential for or actual non-compliance.

This provides a system for routine identification of compliance risk areas which is required by OMIG. OMIG requires a mandatory evaluation of four areas on a regular basis: (1) credentialing of providers; (2) mandatory reporting; (3) governance; and (4) quality of care.

The Corporate Compliance Committee meeting minutes will provide documentation to demonstrate the compliance topics that are discussed and addressed.

Please refer to Monitoring and Auditing Policy (16-8) for additional instructions

COMPLIANCE PROGRAM EFFECTIVENESS

The Corporate Compliance Programs and Work Plans shall be reviewed annually by the Corporate Compliance Committee, Corporate Compliance Officer and Corporate Compliance Director to evaluate the effectiveness of the plan and to determine if changes and/or revisions are necessary. The annual evaluation shall be promptly submitted to the Board of Trustees for consideration.

Demonstrations of effectiveness will include but not be limited to:

1. Reports made to the Compliance Director or the OMP and WHA Compliance Liaisons (either directly, through the hotline or report form). This indicates that staff is aware of the Compliance Program and the reporting systems available.
2. Written reports that summarize specific compliance reviews/internal audits that were conducted. Ideally, there will be reviews conducted proactively from knowledge of a high risk area along with reviews conducted reactively by a concern reported.
3. Attendance rates for annual compliance training at 95% or above.
4. Corporate Compliance Committee meeting minutes that demonstrate the topics addressed and actions taken. These minutes will be placed in the monthly Board of Trustees packets for their review.
5. Refunds have been made to Medicare or Medicaid for overpayments received in error. Subsequently, refunding of overpayments discovered as part of an internal audit is typically a routine procedure at the conclusion of the internal audit. Alternatively, if overpayments are found on a case-by-case basis, those too will be refunded timely and appropriately.*
6. Completion of the self-assessment tool provided by the OMIG.

*When any overpayments are discovered, OHC must determine how widespread the overpayment issue is and if there was any intention to defraud the government. OIG and OMIG both have 'self-disclosure procedures' that are available to providers online that provide details on how to self-disclose any intentional and/or widespread systemic compliance issues that resulted in significant overpayments. OHC can follow the self-disclosure protocols if necessary, with the assistance of external legal counsel.

Please refer to Policies 16-23, 16-24, 16-25 and 16-26 for additional instructions related to Self-Disclosures and Overpayments.

BILLING AND CLAIMS SUBMISSION POLICY

When claiming payment for OHC or professional services, we have an obligation to our patients, third party payors, and the Federal and state governments to exercise diligence, care and integrity with respect to billing and claims submission. The right to bill the Medicare and Medicaid programs, conferred through the award of a provider number or supplier number, carries a responsibility that may not be abused.

OHC is committed to maintaining the accuracy of every claim it processes and submits. Many people throughout Oneida Healthcare have responsibility for entering charges, credits and procedure codes. Each of these individuals is expected to monitor compliance with applicable billing rules. With the implementation of a new HIS system, a main focus has been placed on both charge and credit reconciliation in all departments, units, clinics, etc. Additionally, we recognize the importance of a solid charge master as well as policies and procedures to govern accurate charging and crediting.

Any false, inaccurate or questionable claims should be reported immediately to a direct supervisor or to the Corporate Compliance Director. Examples of false claims include:

- Claiming reimbursement for services that have not been rendered,
- Filing duplicate claims,
- “Upcoding” to more complex procedures than were actually performed,
- Including inappropriate or inaccurate costs on cost reports,
- Billing for a length of stay beyond what is medically necessary,
- Billing for services or items that are not medically necessary, and
- Failing to provide medically necessary services or items.

There are steep fines, penalties and exclusions from the Federal and State Health Care Program that can be assessed for providers who are found to have submitted false claims under the Civil and Criminal False Claims Act.

The Fraud Enforcement and Recovery Act of 2009 (FERA) signed into law May 2009, implemented significant changes to the Federal False Claims Act by expanding the scope of the False Claims Act liability and makes it possible to prove fraud against the government easier based on the revised law by widening the definitions of various key words and phrases.

*Please refer to **Billing and Claims Submission Policy (16-9)** for additional instructions.*

OIG EXCLUSION CHECK POLICY FOR PROVIDERS AND EMPLOYEES

The OIG and OMIG have authority to exclude individuals and entities from the Federal and State Health Care Programs. The OIG and OMIG also have the authority to assess penalties to providers that violate the law by employing, contracting with or billing for services ordered by an excluded individual or entity. An individual or entity is most commonly excluded for civil or criminal health care fraud and abuse.

Oneida Healthcare is prohibited from employing or contracting with any employee, agent or vendor who is listed by the OIG and/or the OMIG as debarred, excluded or otherwise ineligible for participation in Federal and State Health Care Programs. This prohibition is necessary to ensure OHC receives

appropriate Federal and State Health Care Program reimbursement for items and/or services provided to patients. We are also prohibited from billing for any services ordered by a provider that has been excluded.

Any employee, agent or vendor who is charged with criminal offenses related to health care, must be removed from direct responsibility for or involvement in any Federal and State Health Care Program until resolution occurs. If resolution results in conviction, debarment or exclusion of the employee, agent or vendor, the OHC Corporate Compliance Committee must immediately review the case and proceed with termination of the contract or employment.

OHC shall terminate conditional employment or a conditional contract upon receiving results of the individual or organization being excluded from participation in Federal and State Health Care Programs until which time that they are not on the list.

There is a process in place to verify that new employees (Commercial Investigations) and providers are not excluded from the Medicare or Medicaid program. This occurs during the employment process and credentialing phase for providers. Additionally, on an ongoing basis, we submit information to a third party vendor who performs the exclusion checks on our behalf (Kchecks and Vendor Credentialing Services VCS).

Please refer to Vendor/Contractor Exclusion Checks (16-6), Employee Exclusion Check (16-5), Physician Exclusion Checks (16-11) Policies for additional instructions.

FRAUD & ABUSE LAWS FROM DEFICIT REDUCTION ACT (DRA)

Oneida Healthcare (OHC) takes health care fraud and abuse very seriously. It is our policy to provide information to all employees, contractors and agents about:

- The Federal False Claims Act;
- The New York State False Claims Act;
- Remedies available under these Acts;
- Other applicable state, civil or criminal laws;
- How employees, contractors and agents can use these regulations;
- Federal whistleblower protections available to employees, contractors and agents; and
- Procedures that OHC has in place to detect health care waste, fraud and abuse.

You will also find this information in the employee handbook provided to you at the time of your employment.

The Federal False Claims Act allows a civil action to be brought against a health care provider who:

- Knowingly presents, or causes to be presented, a false or fraudulent claim for payment to any employee;
- Knowingly makes, uses or causes to be made or used a false record or statement to get a false or fraudulent claim paid;

- Conspires to defraud the government by getting a false or fraudulent claim allowed or paid¹.

A person can also be found liable under the false claims act who acts in reckless disregard of the truth or falsity of information.² In addition, individuals subject to this Corporate Compliance Program should keep the following in mind:

- As of May 2009, there no longer needs to be an “intent” of getting a false claim paid. The false claim cases going to court are now based on whether the false record or statement was “material” to getting the claim paid;
- Prime contractors who receive federal funds who submit false claims from a subcontractor could have a false claim liability; and
- A health care provider who receives monies to which they are not entitled, and retains those monies, known as an overpayment, can also be liable for a false claims liability.

Examples of a false claim include:

- Billing for procedures not performed;
- Violation of another related law. For example, a claim was submitted appropriately but the service was the result of an illegal relationship between a physician and the hospital (physician received kick-backs (monies) for referrals);
- Billing for a procedure performed, when the actual procedures performed was similar (but not identical) to what was billed and what was billed provided a higher reimbursement rate;
- A provider who improperly “retains” an overpayment; and
- “Reckless disregard”, for example: (1) knowingly submitting claims for deceased beneficiaries and (2) making up false medical record charts in order to submit false claims.

Remedies:

- A Federal false claims action may be brought by the U.S. Department of Justice Civil Division, the United States Attorney and/or the Office of Inspector General.
- An individual may bring what is called a qui tam action (or whistleblower lawsuit). This means the individual files an action on behalf of the government against a health care provider. If the individual wins, the individual and government shares in the settlement.
- Violation of the Federal False Claims Act (FCA) is punishable by a civil penalty of between \$5,500 and \$11,000 per false claim, plus three times the amount of damages incurred by the government (treble damages). As of May 2009, there is a mandatory liability for government costs in the recovery of penalties and damages for dependents that have violated the FCA.
- A statute of limitations says how much time may pass before an action may no longer be brought for violation of the law. Under the FCA, the statute of limitations is six years after the date of violation or three years after the date when material facts are known or should have been known by the government, but no longer than ten years after the date on which the violation was committed.

¹ 31 U.S.C. section 3729 (a)

² 31 U.S.C. section 3729(b)

WHISTLEBLOWER PROTECTIONS

- Employees who choose to become a whistleblower have rights that are protected under the whistleblower protection laws.
- Federal law prohibits an employer from discriminating against an employee in the terms or conditions of his or her employment because the employee initiated or otherwise assisted in a false claims action. The employee is entitled to all relief necessary to make the employee whole³.
- FCA liability extends to any conspiracy to violate any requirement of the FCA like retaliation against whistleblowers, which is against the law.
- The whistleblower employment discrimination protection has extended to employees, contractors and agents engaged in “any other efforts to stop a violation of the FCA”.
- With the implementation of the Federal Enforcement and Recovery Act (FERA) of 2009, there are new procedural provisions that allow the government to intervene beyond the statute of limitations, in an existing qui tam suit by amending a complaint with new allegations.
- With the new FCA revisions, the new provisions are allowed to be retroactively applied to pending qui tam cases that were reported prior to May 2009.

THE EMPLOYEE’S ROLE AND RESPONSIBILITY

Oneida Healthcare relies on staff and physicians to ensure we continue to operate in a legal and ethical manner. Without involvement and engagement, the Corporate Compliance Programs cannot succeed. As such, all staff and physicians are responsible for:

- Being honest in all interactions with patients, co-workers, supervisors, management and medical staff.
- Becoming familiar with OHC’s Code of Conduct, and specific department’s policies and the regulations that relate to one’s job responsibilities.
- Listening to questions or complaints made by patients, family members or visitors and notifying supervisor/manager of those complaints.
- Reporting any concerns about potential non-compliant behavior to managers, the OMP or WHA Compliance Liaisons, or the Compliance Director.

³ 31 U.S.C 3730 (h)
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Compliance Reporting Form

Instructions: Any Oneida Healthcare Employee, physician or agent may complete this form if you feel there was/is a situation of potential non-compliance with NY State regulations, Federal regulations, OHC's own policies or the OHC or OMP/WHA Corporate Compliance Programs.

Please complete this form and forward or mail it to Renee Olmsted, the Corporate Compliance Director for review.

Date:	
Name & department of individual writing this report (unless you wish to remain anonymous*):	
How do you wish the Compliance Director to contact you for follow-up? Please provide phone number and/or email address.	Check one: Email/phone: ___at OHC ___at Home Phone number: _____ Email address: _____
What are you reporting? Please explain your concern and why it concerns you.	
What are the date(s) or time frame for your concern?	
Department(s) involved:	
Any other individuals and/or department(s) involved (unless they wish to remain anonymous):	
Are there any supervisors or department managers you have spoken to about your concern? YES- NO	If yes, what actions did they take and what were you told?
Any additional information you would like to share?	

Note: *The Compliance Director will maintain this report in a confidential manner, which means that your identity will not be disclosed unless, absolutely necessary. It is helpful for you to allow this to be handled confidentially rather than anonymously, so that the Compliance Director can contact you with any questions and with the outcome of her investigation. If you choose to remain anonymous, the Compliance Director may not be able to further the investigation or notify you directly of the outcome of any investigation. However, you may contact the Compliance Director directly at extension 2117 or phone 361-2117 if you have any further information or questions.