

# Compliance Guidelines, Reinforcement & Terminations

Effective Date: 7/28/2014

Draft/Review Date: 8/18/2014

## Policy

- A. It is the policy of the ACO to have well documented and publicized guidelines for compliance to all applicable state and federal rules and regulations as well as the policies and procedures of the ACO.
- B. The ACO agrees, and requires all ACO Participants, Providers/Suppliers, and other individuals or entities performing functions or services related to the ACO's activities to agree, to comply with all applicable federal laws, including compliance with all provisions in the Medicare Shared Savings Program regulations and the participation agreement between ACO and CMS.

## Applicability

This policy applies to all Participants, Providers/Suppliers, and other individuals or entities performing functions or services related to the ACO's activities.

## Procedure

- A. The Governing Body fully supports all compliance efforts and expects that each of the Participants, Provider/Suppliers and other individuals or entities performing functions or services related to the ACO's activities will be active participants in the Compliance Program.
- B. The Compliance & Ethics Subcommittee will make recommendations to the Governing Body related to issues, conduct or situations that may arise where discipline is necessary. When appropriate, Corrective Action Plans (CAPs) will be established per CMS requirements to address noncompliance by Participants and Providers/Suppliers.
- C. The Governing Body will have primary responsibility for making determinations regarding the denial of new applicants that do not meet the criteria or standards set by the ACO and any termination of existing Participants or Providers/Suppliers. Failure of ACO Participants or Providers/Suppliers to meet any such criteria or standards may result in termination of the agreement between the ACO and the Participant or Provider/Supplier.
- D. **Denial to Participate**
  1. The ACO has the right to review requests for participation in the ACO and accept or deny participation. This applies to Participants and Providers/Suppliers.
  2. If the ACO determines that the request to participate will be denied, a letter will be sent to the Participant or Provider/Supplier to inform them of the decision. A copy of the letter is maintained by the ACO.

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### E. Compliance Guidance

1. Compliance training and the Code of Conduct is provided upon hire and annually thereafter to all Participants, Providers/Suppliers, and other individuals or entities performing functions or services related to the ACO's activities.
2. Compliance training and the Code of Conduct provides clear expectations of conduct of all Participants, Providers/Suppliers and other individuals or entities performing functions or services related to the ACO's activities. Similarly, there is clear and specific information on disciplinary actions for violations of compliance and ethical standards in the Code of Conduct.
3. The ACO has implemented procedures that allow the prompt, thorough investigation of possible misconduct by ACO officers, Participants, Providers/Suppliers, and other individuals or entities performing functions or services related to the ACO's activities, as appropriate.
4. The ACO is committed to complying with applicable federal and state statutory and regulatory requirements including, but not limited to:
  - a. Anti-Kickback Statute;
  - b. Stark Law and Physician Self-referral Regulations;
  - c. Beneficiary Inducement Law;
  - d. Gain sharing;
  - e. Health Insurance Portability and Accountability Act (HIPAA);
  - f. Federal and State False Claims Acts;
  - g. Plain Writing Act of 2010; and,
  - h. Other State laws and regulations, as applicable.
5. Contracts with Providers/Suppliers include a provision that violations of compliance and/or ethical standards may result in termination of the contractual relationship.

### F. Corrective Action Plans

1. Disciplinary guidelines are applied consistently for violations. CAPs may be required by CMS or as part of remediation efforts as a result of Compliance monitoring.
2. The ACO will follow all CMS requirements if corrective action is required by CMS.

### G. Immediate Removal or Suspension from the ACO

1. An immediate removal or suspension from participation in ACO activities may be imposed by the Governing Body under certain circumstances. Examples of conduct warranting a removal or suspension might include documentation of the following:
  - a. Repeated use of vile, loud, intemperate, offensive or abusive language to Beneficiaries or individuals performing functions or services related to the ACO's activities;

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- b. Repeatedly acting in a rude, insolent, demeaning or disrespectful manner;
  - c. Verbal or physical threats, intimidation or coercion;
  - d. Actual physical abuse, or unwanted touch;
  - e. Illegal discrimination against persons, or refusal to provide Beneficiary care;
  - f. Services based upon unlawful criteria;
  - g. Lack of cooperation or unavailability to other practitioners for exchange of pertinent Beneficiary care information or resolution of Beneficiary care issues;
  - h. Sexual or other forms of harassment, including unwelcome physical conduct of a sexual nature which has the purpose or effect of substantially interfering with the individual's work performance or creating an intimidating, hostile or offensive work environment;
  - i. Overt breach of confidentiality; or,
  - j. Inappropriate entries in Beneficiary medical records which have the primary purpose or effect of attacking or belittling other providers, imputing stupidity or incompetence of other providers, or impugning the quality of care of other providers.
2. During the investigation, the Participant or Provider/Supplier will not have contact with Beneficiaries.
- a. If, upon investigation, the allegations are unfounded, the Compliance & Ethics Subcommittee will make recommendations to the Governing Body for reinstatement of practice.
  - b. If, upon investigation, the allegations are not deemed to be as serious as initially claimed, then a CAP or other actions may be recommended as appropriate.
  - c. If the allegations are deemed to be true, the termination processes will be initiated.

### Reporting

- A. All requests and recommendations for participation or termination are reported to Governing Body, as required.

### Related Documentation

- A. 42 CFR §425.208(b), §425.210(b), §425.214, §425.216, §425.218
- B. ACO Terms & Definitions Policy
- C. Compliance Plan
- D. Code of Conduct

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- E. Code of Conduct Policy
- F. Draft Denial or Termination Letter
- G. Training & Knowledge Updates Policy