



Compliance Program Code of Conduct

Purpose of our Code of Conduct

The Department of Public Health of the City and County of San Francisco is committed to providing health care services in compliance with all federal and state laws and regulations. All employees are expected to abide by a high standard of ethical behavior and integrity, and to exercise good judgment when conducting business on behalf of the Department.

The purpose of the Code of Conduct is to provide direction to all DPH employees. Each employee is expected to be familiar with the federal, state and local laws and regulations or policies that apply to his job. Employees must avoid any unintentional policy violations, and any activities that may be construed as deceitful, false, or fraudulent. If clarification or application of a rule, law or regulation is needed, it is the responsibility of the employee to request assistance from a supervisor or manager in his department. Supervisors are responsible to ensure that employees under their direction have received training and possess sufficient understanding of their job responsibilities. Similarly, consultants and contractors are expected to abide by the terms of their contract with the City, and by the provisions of applicable federal, state and local laws and regulations that affect those contracts.

This Code of Conduct is a critical component of our overall Compliance Program. It is intended to be comprehensive and easily understood. This Code is mandatory and must be followed. Violation of the principles embodied in this Code and all other departmental policies and procedures may result in disciplinary action, up to and including discharge. Noncompliance should be reported to a supervisor, other department management staff, the Compliance Officer or the Compliance Hotline. There will be no adverse consequences for reporting alleged noncompliance and employees may remain anonymous by using the hotline.

Leadership Commitment

The Leadership of the Department is looked upon to demonstrate its compliance with applicable laws, regulations, and policies, and its resolve to correct any ethical dilemmas. They must help to create and support a culture within the Department that promotes the highest standards of ethics and compliance.

The Directors, Officers, and Administrators of Central Administration, the Community Health Network of San Francisco, and the Division of Population Health and Prevention are committed to all of the standards set forth in the Code of Conduct. These standards also apply to employees, affiliated providers, third-party payers, subcontractors, independent contractors, and vendors.

Principles of Compliance

The following principles provide a summary of the conduct that is expected of all DPH employees. Although they cannot cover every situation that may arise, they are intended to provide guidance and direction. If you are unclear about the application of these principles to a specific activity, contact your supervisor, a representative of the Compliance Office, or the Compliance Officer.

I. Compliance with Applicable Laws

All employees, contractors, or consultants, doing business at, with, or on behalf of the Department of Public Health must abide by a basic set of rules. These rules include, but are not limited to:

- A. Confidentiality of Information:** Individuals with access to the records and information systems of the San Francisco Department of Public Health have a legal and ethical responsibility to protect the confidentiality of medical, financial and personnel information and to use that information only in the performance of their jobs. The following rules apply to information or records that are received or sent from any source including computer, paper, telephone, and facsimile:
1. Confidential information may not be accessed, discussed, or divulged in any form except as required in the performance of duties.
 2. Patient information is private and confidential. Never discuss patient information with another employee or with individuals outside of the organization, unless there is a legitimate need for such disclosure.
 3. Patient medical records and billing information must be disposed of in designated containers to protect patient confidentiality.
 4. Employees must not disclose User ID's or passwords to unauthorized personnel.
Authorized personnel are supervisors or IS staff ONLY.

Most DPH information systems maintain records of what information is viewed and/or sent and who has accessed the information. Employees may be asked to justify why specific information was viewed and/or released.

- B. Environmental Health and Safety:** Employees are responsible for keeping their work area clean and safe. Employees must attend yearly education sessions to stay current on safety issues. The Environmental Health and Safety Department periodically distributes information to everyone through the use of the Safety-gram.
- C. Employment Practices:** Managers are required to ensure that work environments are free from discrimination in recruitment, hiring, promotion, termination or other conditions of employment or career development. Employment may not be based on race, color, religion, national origin, sex, gender identification, age, marital status, sexual orientation, weight, disability, citizenship or veteran status. Unlawful discrimination includes harassment of any individual based on any of these factors.
- D. Job-Specific Laws and Regulations:** Depending on the scope of their responsibilities, employees, contractors, and consultants are expected to adhere to federal, state, and local laws and regulations, as well as departmental, divisional and other organizational rules. When there is a perceived conflict between different legal or organizational requirements, it should be brought to the attention of the employee's supervisor for clarification and, if necessary, resolution. Employees are required to abide by rules in the following areas, as well as many not listed:
- Copyright and Patent: with regard to duplication of information or sharing software beyond what the license agreement allows.
 - Billing and Collections: only those services that are clearly documented, medically necessary, and accurately coded may be billed. Written billing and collections policies and procedures must be adhered to, and must be updated as regulations change.
 - Reporting requirements for federal, state, and voluntary regulatory bodies.
 - Program, budgetary, and other fiscal requirements of federal, state, or privately funded services.

II. Quality Health Care

The Department of Public Health is committed to the provision of the highest quality health care in the most appropriate, effective and efficient manner. The mission of the Department of Public Health is to:

- Assess and research the health of the community.
- Prevent disease and injury
- Educate the public and train health care providers
- Provide quality, comprehensive, culturally-proficient health services
- Ensure access to all.

All employees, contractors, and consultants must work together to achieve excellence in patient care and to accomplish the Department's mission.

III. Conflict of Interest

When an employee has a personal or financial interest that may improperly influence the performance of DPH duties, a conflict of interest may exist or appear to exist. As a general rule, employees must not make any decisions when they have a financial or personal interest in the outcome of the decision. They must conduct all business with patients, payers, vendors, contractors, customers and other business associates without accepting offers, gifts, favors or other improper invitations in exchange for their influence or assistance. Employees must consider and avoid actual conflicts, as well as the appearance of conflicts of interest.

Associated with our concerns about actual or perceived conflicts of interest is the issue of giving or receiving gifts or gratuities. Within the scope of performing their duties, DPH employees are strictly prohibited from receiving, directly or indirectly, any compensation, reward or gift from any source except compensation from the City and County of San Francisco, except for fees for speeches or published writing. (See San Francisco 1996 charter, Appendix C §8.105)

IV. Billing and Claiming Practices

A variety of federal, state and local statutes and regulations determines acceptable billing practices. Failure to abide by these procedures is not only ethically wrong, but can lead to criminal and civil liability for the City. As a recipient of Medicare and Medi-Cal funds, and federal and state grants and subventions, the Department of Public Health has an obligation to comply with all federal and state laws, rules, and regulations.

The principal statutes impacting our billing and cost claiming practices are the federal *False Claims Act*, *Civil Money Penalties Act*, *the Health Insurance Portability and Accountability Act of 1996*, *the Balanced Budget Act of 1997*, and *the Medicare/Medicaid Fraud and Abuse and Anti-Kickback statutes*. These include the *Stark Amendments* related to physician referrals.

- A. *The False Claims Act*. Under this Act, it is a felony to make or present a claim for payment, to any United States agency, that is knowingly false, fictitious or fraudulent. The penalties under this Act include significant fines and imprisonment up to 5 years. Civil damage suits may also be brought under the False Claims Act. The provisions of the False Claims Act fully apply to Medicare and Medi-Cal billing, and to grant cost claiming.
- B. *Civil Money Penalties Act*: This part of the Social Security Act imposes penalties for filing a false claim, when it is done so with actual knowledge, reckless disregard or deliberate ignorance. It imposes penalties of up to \$10,000 per violation plus three times the amount of the false claim.

- C. Health Insurance Portability and Accountability Act of 1996 (HIPAA): Passed in 1996, and pending implementation, HIPAA contains extensive anti-fraud provisions and creates new civil monetary penalties. HIPAA expands the Office of Inspector General's sanction authorities and increases the maximum penalty amount. The Privacy Act provision of HIPAA imposes penalties for impermissible disclosures of patients' protected health information, and imposes data standards to ensure the integrity of electronically stored health information. Criminal penalties for disclosing protected health information can be as high as \$250,000 and carry a one to ten-year prison term.
- D. The Balanced Budget Act (BBA) of 1997: Under this act, providers will receive a 10-year exclusion for a second health care fraud conviction and permanent exclusion for a third conviction. It includes civil monetary penalties for arranging or contracting with individuals or entities that have been excluded from Medicare participation; and encourages Medicare beneficiaries to report billing issues, complaints or concerns.
- E. Medicare and Medicaid-Fraud and Abuse Statute : Activities that constitute fraud and abuse include:
- Billing for services that were not rendered or were not medically necessary
 - Double billing for the same service or equipment
 - Up-coding (incorrectly assigning codes to generate higher reimbursement)
 - Unbundling services (charging separately for things that should be combine-billed)
 - Admitting/treating patients unnecessarily
 - Providing billable patient care longer than is necessary for the purpose of billing insurance
 - Billing non-reimbursable items and billing Medicare patients a higher rate than non-Medicare patients
 - Waiving co-payment or deductible amounts for reasons not based on established departmental policies or patient financial need.
- F. Medicare and Medicaid Anti-Kickback Statute The Medicare and Medicaid Anti-Kickback Statute prohibits solicitation or receipt of any compensation (including any kickback, hospital incentive or bribe) directly or indirectly, in return for referring a patient for any item or service for which payment may be made under Medicare, Medi-Cal or a State health care program. The statute also prohibits purchasing, leasing, or ordering, or arranging for or recommending purchasing, leasing, or ordering any good, facility, service, or item for which remuneration is received. Such an act constitutes a felony and may result in fines of not more than \$25,000 or imprisonment for not more than five years, or both. (42 U.S.C. 1320a-7b(b), of the Act.)

Examples of prohibited transactions are:

- Payment or offering of a kickback to a provider by a clinical lab for referring lab tests
- A demand or request for a kickback, by a provider, for referring tests to a lab
- When a provider refers patients to a lab, and that lab pays the provider rent for non-existent space, where the kickback is being disguised as rent.
- Payments at a rate greater than fair market value for a provider's analysis of test results, where the difference between the prevailing rate and the amount paid is actually a referral fee.

G. Stark Amendments and Self-Referrals Under the Stark Amendments, physicians are prohibited from referring Medicare and Medicaid patients to any facility/entity, for designated health services, in which the physician or his immediate family has a financial interest. These services include:

- Clinical laboratory services
- Physical, Occupational or Speech Therapy
- Radiology services, including MRI, CT and ultrasound
- Radiation therapy and/or supplies
- Durable medical equipment and supplies, sales and rental
- Parenteral and enteral nutrients, equipment and supplies
- Home Health services
- Outpatient prescription drugs
- Inpatient and Outpatient Hospital services

V. **Billing and Coding Guidelines**

In accordance with government programs, state and federal regulations and payer contracts, the Department of Public Health submits bills only for services actually rendered and medically necessary.

All medical records and other related documentation must substantiate the billing of any services, and must be available for review and audit. Documentation must be clear, accurate, and legible and must meet the guidelines developed by the Health Care Financing Administration (HCFA) or other applicable government programs.

Billing for Medicare, Medi-Cal and other government programs must utilize the most up-to-date coding, as stipulated by the individual programs.

Clinical, administrative, information systems, or clerical staff involved in the preparation of charge information must be trained in coding and documentation practices.

Billing policies and procedures must be written, approved by management, and appropriately updated. These policies and procedures must be available to all employees involved in the creation of billing data.

When a payer agreement requires the collection of co-payments and/or deductible amounts, these amounts must be collected. Any waiver of these amounts must be disclosed and must be done in accordance with applicable federal and state laws and regulations, and organizational, and/or other governmental agencies' policies such as HCFA.

VI. **Business Ethics**

All employees, contractors, and consultants must demonstrate integrity in their business practices in order to instill and preserve trust on the part of our patients and business partners. Practices to be followed include:

- Honesty in communications with others;
- Confidentiality of all patient related information
- Compliance with the provisions of the City's Administrative Code with regard to contracting, purchasing, or payment transactions.

Actions which may be construed as violations of our business ethics, include:

- The refusal to return/refund money to which the Department or City is not entitled;
- The release of patient or clinically sensitive information;
- The submission of a claim, invoice, or cost report, for reimbursement for goods or services that were not delivered to the Department, were previously reimbursed under a separate program, or that were expended in violation of applicable federal, state, or private foundation grants, or state subventions awarded to the City;
- The personal possession and/or use of goods or services that were purchased solely for the Department or its divisions.

VII. Reporting Compliance Issues

Within the Department of Public Health, standard-reporting channels should continue to be used for routine matters such as Human Resources, Security, Health and Safety, etc. Staff is encouraged to report any violation of the Code of Conduct, or any concerns regarding regulatory or organizational policy, to the appropriate departments as well.

It is the policy of the Department to document all reports of alleged noncompliance. Any employee who reports concerns in good faith is protected, through the policies of the Department of Public Health, and under California Health and Safety Code Section 1278.5, (Senate Bill 97) from any form of discrimination, harassment, or retaliation. It is the intent of DPH that no employee be penalized as the result of making such a report, whether the alleged activity is verified or not.

Compliance Hotline:

Every Compliance Program needs to have a method, *outside of the line of command*, for those times when an employee prefers not to, or is unable to approach a supervisor, with a question concerning a policy or activity. For this reason, the Department has established a compliance hotline. This hotline is intended to be used to report activity and/or conduct that may be in violation of the Code of Conduct, including but not limited to:

- Billing or reimbursement regulations; fraudulent transactions
- Antitrust laws and regulations; bribes or kick-backs
- Research laws and regulations
- Patient Confidentiality
- Conflict of interest
- Falsification of documents

The number for the DPH Compliance Hotline is **(415) 642-5790**. Use of the Hotline is outlined in the Employee Compliance Hotline - Policies and Procedures.