

Policies and Procedures: Compliance Reports & Investigatory Processes

Section: Compliance

Policy: Compliance Reports & Investigatory Processes

I. PURPOSE

One of the primary purposes of the WVUPC Compliance Program is to identify any misconduct that might constitute a violation of criminal, civil or administrative law. Therefore, it is necessary to establish protocols and procedures to guide the activities of the Compliance Department, General Counsel, and the Corporate Compliance Committee whenever issues/incidents of suspected non-compliance with any criminal, civil or administrative law(s).

Although most allegations of misconduct are most appropriately addressed by the Compliance Office or Human Resources, occasionally issues arise that should be addressed under direction of legal counsel. This policy provides guidance for the Compliance Department to determine when and how issues should be turned over to legal counsel. Furthermore, it provides guidance for both the Compliance Department and legal counsel to conduct inquiries and investigations.

II. POLICY

1. Upon reasonable indication of suspected non-compliance with any criminal, civil or administrative law, legal counsel should conduct an investigation into the legal sufficiency of the allegations.
2. In light of timely reporting requirements, credible issues related to billing and reimbursement should be turned over to legal counsel as expeditiously as possible.
3. During any investigation, legal counsel and the Compliance Department must ensure that employee rights are protected and that all evidence is preserved.

II. PROCEDURES

1. Upon receipt or notice of suspected non-compliance with any criminal, civil or administrative law, the Director of Corporate Compliance & Regulatory Affairs ("Compliance Officer") will conduct an "Initial Inquiry" into the alleged misconduct. The purpose of the Initial Inquiry is to determine either that the allegation is baseless or that there is sufficient information to warrant further investigation.
2. If, during the Initial Inquiry, the Compliance Officer determines that there is sufficient basis to warrant further investigation, the issue should be turned over to legal counsel and a memorandum to this effect should be executed (see form

- appended to this policy). The memorandum should state that counsel will be leading the investigation, what parties will be involved, and what the communication protocol will be for updates. Furthermore, the memorandum should state that this investigation is being conducted in anticipation of litigation. All documents produced during the investigation must include the statement: "Privileged and Confidential Document; Subject to Attorney-Client Privileges; Attorney Directed Work Product."
3. At this point, legal counsel will conduct a "Compliance Investigation" to evaluate the facts of the matter in order to determine whether credible evidence exists to indicate that a violation of criminal, civil or administrative law has occurred. It will also be the responsibility of legal counsel to: a) Notify senior management of the organization and the WVUPC Board of Directors of the results of its Compliance Investigation; and b) Provide the Compliance Officer with sufficient details of its Compliance Investigation to show that it is properly addressing the issue.
 4. Both the Initial Inquiry and Compliance Investigation will be conducted as expeditiously as possible.

III. Amendment or Termination of this Policy

This policy may be amended or terminated at any time.

IV. References

- "An Integrated Approach to Corporate Compliance: A Resource for Health Care Organization Boards of Directors," Published by the U.S. Dept. of Health and Human Services Office of Inspector General and the American Health Lawyers Association, July 1, 2004
- "Building a Partnership for Effective Compliance: A Report on the Government-Industry Roundtable," April 2, 1999,
<http://oig.hhs.gov/fraud/docs/complianceguidance/roundtable.htm>

(Text of Legal Counsel Memorandum)

TO:

FROM:

DATE:

RE:

On _____, the WVUPC Compliance Office was informed of alleged misconduct that might constitute a violation of criminal, civil or administrative law. The Compliance Office began an Initial Inquiry into the alleged misconduct on _____ to determine if the allegation was baseless or if there was sufficient information to warrant further investigation. The Compliance Office determined that sufficient information exists to warrant a Compliance Investigation by legal counsel.

With this memorandum, the WVUPC Compliance Office requests that you conduct a Compliance Investigation into the matter to determine if, in your professional opinion, credible evidence exists to indicate that a violation of criminal, civil or administrative law has occurred. Upon your request, all documents, memorandum and notes from the Initial Inquiry will be forwarded to you. At the conclusion of the investigation, please inform senior management of your findings and provide advice for an action plan. Furthermore, upon request, please provide the Compliance Office with sufficient details of your Compliance Investigation to evidence that this issue is being fully addressed.

Please be advised that you represent the interests of WVUPC in this matter and that this investigation is intended to be conducted in anticipation of litigation. We understand that you may require the assistance of others. It should be made clear that any such assistance is being specifically provided at your request and under your direction and not at the direction of the Compliance Office. You should consider your work on this matter to be confidential and, accordingly, any person with whom you work, as well as those that you may interview, should be cautioned that the conversations and the investigation should not be discussed or otherwise disclosed except to you. Lastly, all interviewees should be notified that you represent the organization and are not acting as their personal counsel.

Thank you for your assistance in this matter.