

## **COMPLIANCE SUPPORT PLAN MANUAL**

The University of Toledo has a Health Care Operations Compliance Plan and has adopted a Compliance Support Program to help our staff understand and comply with state and federal law and the policies of the organization. The Compliance Support Program covers the following: **the University of Toledo Medical Center and its outpatient and provider based clinics, the University of Toledo Physician, LLC (“UTP”), UTP clinics and sites including the Main Campus Medical Center** (*collectively referred to as “UTMC”*). Violations of law and policy can occur even with good intentions. Our Program aims to educate our employees on the laws and policies that apply to them, and to monitor our operations to maintain compliance. The education part of our Compliance Support Program involves familiarizing employees with the Compliance Plan and related policies.

### **Why Implement A Compliance Support Program?**

First and foremost, we want to be sure that each of us is aware of and acts according to our duties--to patients, to UTMC, and to the public. By doing this, we are also reducing the risk of investigation and legal liability.

### **What Duties Are We Talking About?**

We have to comply with many different federal, state and local laws, which change from time to time. Understanding these laws and their impact is an ongoing process. In addition, UTMC has policies of conduct that may in some cases prohibit activity that is otherwise legal. Violations of policy may also result in legal liabilities.

### **What Does Compliance Mean To Me?**

Health care is a team effort. All of us make decisions--or document actions--that could significantly affect patients, payors, employees, or other providers. For this reason, each of us needs to be pro-actively involved in knowing and complying with applicable laws and UTMC policies. UTMC policies may be located at: <http://www.utoledo.edu/policies/>

We are also required to be alert for and to report known or suspected problems. Of course, managers and supervisors have an especially important role in ensuring compliance. But each of us has a duty to be vigilant in calling possible compliance problems to the attention of someone in the organization who can address the issue, even if your supervisor is the person who is engaging in questionable activities. It is your responsibility to raise questions, with persons other than the supervisor if necessary. Any attempts to discourage an employee from raising compliance issues will be viewed as basis for discharge.

### **What Is Our Compliance Support Program?**

To be effective, a compliance support program must include ongoing identification of potential problem areas, training to avoid these problems, monitoring to

make sure the training is effective, and corrective action where needed. Our Compliance Plan and University policy sets forth the rules, regulations and requirements that apply to all employees. They cover such areas as business arrangements, billing practices, patient care issues, documentation, confidentiality, conflicts of interest, records, property, antitrust issues, politics and lobbying, gifts, fraud, government contracts, workplace issues, advertising, handling investigations, and document retention, among other areas. This manual strives to be a summary of the Plan, applicable laws and those policies with respect to health care compliance.

### **Where May I Find The Compliance Plan?**

The University of Toledo Compliance Plan, which is a separate document from this Manual, may be found on the Compliance Website, specifically at this location: <http://www.utoledo.edu/offices/compliance/index.html>.

The Compliance Plan contains these additional items of importance:

1. **Program Oversight** - identifies the responsibility of the Board of Trustees, the President, the Compliance Officer, the Compliance Committee and other University officials and describes their roles in overseeing the Compliance Support Program. It also defines the responsibilities of supervisors in ensuring compliance.
2. **Education/Training** - sets forth the education and training requirements for employees regarding compliance.
3. **Monitoring/Auditing** - sets forth our policies for monitoring compliance and makes clear each employee's duty to ask questions until they are satisfactorily answered and to report suspected violations. It also creates various channels for reporting suspected problems, including a confidential reporting system.
4. **Corrective Action** - describes the manner in which reported problems will be investigated and addressed. Certain procedures need to be followed in order to protect UTMC and its employees.

### **Where Do We Start?**

Each of us should become familiar with the Manual generally, and with any Standards and Procedures that are relevant to his or her duties. Each of us will receive training in areas relevant to our specific functions. After this training, each of us will be asked to sign a verification that we have read and understand this information.

### **Are We All Better Off If We Don't Know Exactly What All These Rules Say?**

This is a reasonable question. However, the clear answer is "No." You can violate some of these rules without understanding that the conduct is illegal.

### **Can I Really Get In Serious Trouble If I Don't Know All These Complex Rules?**

Yes. You can even go to jail in some cases. Contrary to popular belief, some criminal laws do not require that you know the conduct is illegal. In fact, most violations occur because the person did not understand the legal significance of his or her actions. Some important examples:

**Clinical/Billing Rules.** Any statement or omission of important information can give rise to a fraud claim. Violations can easily occur simply because clinical or clerical personnel who record information do not understand the degree of care that is needed in documenting the record. Medicare authorities (including the FBI) focus on identifying such practices as "upcoding," improper transfers or discharges, improper bundling of services, billing for services without a signed physician order, and billing for services not actually rendered. They look for inaccurate or incomplete documentation of patient information, inaccurate characterization of diagnosis and procedures or treatments, and other information that is recorded by clinical and clerical personnel outside the billing office. They even look for documentation of the basis for concluding that the services were medically necessary and provided in an appropriate manner. Even inadvertent errors can result in claims under the Civil Money Penalty Law, which is violated whenever a bill is submitted that UTMC's employees "*should know*" does not meet Medicare's complex requirements.

**Referral Laws.** Most of us know that federal and state laws prohibit payments or other consideration to induce referrals or purchases of health care items and services. But it can be easy to overlook the fact

that a business arrangement with a physician or other source of business could be viewed as, in part, for the purpose of inducing referrals. In addition, certain other laws (the so-called "Stark Laws") prohibit referrals by physicians who have economic relationships with a provider, regardless of whether the intention is to induce referrals. (Specific exceptions apply in some cases for example for employed physicians). While you do not need to know all these laws, you do need to know when it is necessary to ask questions.

**Tax-Exemption Rules for UTP.** UTP, is a 501(c)(3) tax-exempt organization. In order to for UTP to maintain its tax-exempt status, UTP must avoid transactions that do not serve its charitable mission or improperly benefit parties that have influence over UTP, such as Board members, officers and key employees. Failure to appropriately document the fairness of transactions may result in personal tax liability to the parties benefiting from the transaction and the parties who approved the transaction.

**Antitrust Laws.** Federal and state laws prohibit explicit or implicit agreements between competitors that restrict competition, in some cases even when that is not the intention. Casual discussions that appear legitimate--such as discussions about how to avoid duplication of services--may constitute evidence of serious legal violations. Similarly, any exchange of price information can be evidence of a crime.

**How Does The Manual Change My Rights And Duties As An Employee?** The Manual is for the sole and exclusive benefit of the organizations listed, and does not create any contract or other legal rights for its employees. Violation of the provisions of this Manual may result in disciplinary action, such as suspension, monetary penalties and termination.

## CHAPTER 1: COMPLIANCE STANDARDS AND PROCEDURES

Set forth below are UTMC's compliance standards and procedures. The standards and procedures are based on the laws and regulations specific to UTMC's business. In certain areas UTMC's standards and procedures exceed requirements of applicable laws or regulations.

**1.1 Claim Development and Submission.** One of the most common misperceptions among hospitals and their employees is that compliance is simply a billing problem to be handled in the billing office. However, compliance is a much broader concept, pervading all areas of hospital operations. Even in the context of claim submission, compliance involves more than just accurate billing, for the underlying data must be accurate in order for the claim to be accurate.

Effective compliance in the claims development and submission process requires participation of all those directly involved in the patient care process as well as many of those whose jobs are related to that process. For example, a claim for hospital services may be deemed improper because:

- the admitting or registration personnel failed to give the Medicare beneficiary the notices and information required by the program;
- the patient care staff failed to document the time spent, services provided and materials used in the patient's care;
- an ancillary department misidentified a service;
- data entry personnel applied a charge to the wrong patient account; or
- a medical record department incorrectly applied the HCPC, CPT or other code.

**In each of these instances, the person billing the claim may have performed flawlessly, yet the claim would nevertheless be improper.**

There are hundreds of specific rules applicable to the Medicare and Medicaid programs that govern how bills are to be submitted. Some of the laws governing violations of these rules include:

The Federal Criminal False Claims Law prohibits anyone from knowingly causing any bill or other information to be submitted to Medicare or Medicaid that is false or misleading. Violators can be imprisoned for up

to five years. A similar law prohibits knowing and willful attempts to defraud in connection with any health care benefits (not merely governmental benefits). Violators can be imprisoned for up to 10 years (20 years if serious bodily injury results). Violators of either law can be fined up to \$250,000 per violation (\$500,000 for corporations) or double the amount of any resulting loss, whichever is greater, or excluded from federal programs.

The Federal Civil False Claims Act ("FCA") provides that any person who "knowingly" presents, or causes to be presented" a "false or fraudulent claim for payment or approval" to the United States, its agents or contractors is liable for a civil penalty ranging from \$5,500 to \$11,000 per claim, plus three times the amount of damages sustained by the government. A person is deemed to have acted knowingly if he or she acted in "deliberate ignorance" or "reckless disregard" of the falsity of the claim. If an individual or entity becomes aware that it was paid any amount under the Medicare or Medicaid programs to which it was not entitled under program rules, it must disclose and repay the amount within 60 days; failure to do so violates the FCA. The FCA also empowers and provides incentives to private citizens (commonly referred to as a "qui tam relator" or "whistleblower") to file suit on the government's behalf. Anyone who files a lawsuit under the FCA is protected from being fired, demoted, threatened or harassed by his or her employer for filing the suit. If a court finds that the employer retaliated, the court can order the employer to re-hire the employee and to pay the employee twice the amount of back pay that is owed, plus interest and attorney's fees.

The Program Fraud Civil Remedies Act ("PFCRA") allows the Department of Health and Human Services to impose administrative penalties for false claims relating to federal healthcare programs. Under the PFCRA, "knowingly" filing a false claim triggers fines of up to \$5,000 for each claim and an assessment by the United States for up to twice the amount of the False Claim if the Government has made payment. As under the FCA, "knowingly" includes actual knowledge, deliberate ignorance, or reckless disregard of the falsity of the claim.

The Federal Civil Money Penalty Law imposes substantial monetary penalties for certain actions, including submitting (or causing someone to submit) bills or other information that the person knows or "should know" may result in payments in violation of the many rules of Medicare and Medicaid programs. A person "should know" something if he or she acted with reckless

disregard of, or in deliberate ignorance of, its truth or falsity. Such penalties can also be imposed for other conduct, such as financial inducement to patients. Examples of prohibited conduct include:

- Billing for services not rendered.
- Misrepresenting the services actually rendered (such as “upcoding” the level of a service, misrepresenting the qualifications of the person rendering the service or representing that supervision requirements were met when they were not).
- Falsely certifying that certain services were medically necessary. Both the CMS Form 1500 and the UB-04 billing forms contain statements by which the provider of services affirms that the services provided to the patient were medically necessary.
- Submitting (or causing someone to submit) a claim for payment which is inconsistent with or contrary to Medicare or Medicaid payment requirements.
- Failing to repay an amount received under Medicare or Medicaid programs to which the person is not entitled within sixty (60) days of learning of the overpayment.

UTMC has implemented processes to ensure compliance with these rules. UTMC provides all newly hired physicians a copy of “A Roadmap For New Physicians” which may be obtained or reviewed online at: [https://oig.hhs.gov/compliance/physician-education/roadmap\\_web\\_version.pdf](https://oig.hhs.gov/compliance/physician-education/roadmap_web_version.pdf).

We expect all personnel to accurately bill for services, supplies and equipment provided and to comply with the rules of the applicable payment program. We have developed several audit tools that list the requirements for a valid Medicare bill. Any bill should meet these requirements. Any false, misleading or inaccurate statement or omission in any document that may be material to a determination of coverage or the amount of benefits is prohibited. If improprieties are discovered in bills (or claims) that have already been submitted to the payer, the employee who becomes aware of such facts should immediately contact his or her supervisor or the Compliance Officer.

The Ohio False Claims Law prohibits any person from knowingly making a false statement to secure payment or other benefit administered by a government agency. Ohio’s Medicaid law includes civil penalties for

engaging in “deception” with respect to Medicaid claims, and defines “deception” to include acting in deliberate ignorance or reckless disregard of the truth or falsity of facts that make a claim false. Ohio law also imposes criminal penalties for knowingly making (or causing to be made) a false or misleading statement or representation for use in obtaining Medicaid payments or fraudulently obtaining money from third parties for items or services rendered to Medicaid recipients in violation of program rules or to obtain eligibility for Medicaid benefits. Like the FCA, Ohio provides protections from retaliation by an employer for civil service employees who report Medicaid fraud to the authorities.

**1.2 Patient Resident Intake.** Only the admitting physician may provide the preliminary diagnosis on admission. Diagnoses are clinically determined and are never made to suit available insurance benefits. Facility guidelines must be followed in connection with patient intake, including with respect to physician supervision.

**1.3 Emergency Patients.** The Emergency Medical Treatment and Active Labor Act (“EMTALA”) requires hospitals that accept Medicare to screen and treat emergency patients and women in active labor. Such patients are to be provided a medical screening examination to determine if they have emergency medical conditions, and are to be treated appropriately within UTMC’s capabilities, regardless of their ability to pay for such services. If an emergency patient is to be transferred or discharged, UTMC staff must ensure that the patient’s condition is not likely to materially deteriorate as a result of transfer or discharge. There are limited exceptions, such as cases in which the physician documents that the benefits of transfer outweigh the risks. In such cases, appropriate steps must be taken to minimize the risks of transfer. UTMC has adopted separate procedures concerning its obligations under EMTALA, including the mechanism for documenting the appropriateness of transfers and discharges. UTMC staff who become aware of conduct that may violate EMTALA must report the incident to the Compliance Officer.

**1.4 Length of Patient Resident Stay.** Patients are to be discharged/transferred only when clinically appropriate. Facility staff should not attempt to influence each other or attending physicians regarding the length of a patient’s stay solely for the purpose of improving the facility’s census or reimbursement or any other reason unrelated to clinical considerations. Any exception, for example for failure of the patient to comply with UTMC policies, must be approved in writing in advance by the Executive Director of UTMC or the Vice President of

Medical Affairs.

**1.5 Medical Documentation.** Medical records documentation must meet the requirements of the Medical Staff Bylaws and policies, UTMC policies, applicable laws, regulations and accreditation standards (the Joint Commission standards, the Medicare/Medicaid, Conditions of Participation, etc.). Where appropriate, medical records documentation should reflect the standards or requirements of third-party payors or their outside review agents. It is not appropriate to avoid enforcing documentation requirements for fear of the impact such action might have on census. Late documentation must be clearly labeled as such in the medical records. Any alteration (without appropriate notation) or falsification of medical records is prohibited. If falsifications or inappropriate alterations are discovered, any person who becomes aware of such facts should immediately contact the Compliance Officer.

**1.6 Confidentiality Policy.** Employees have access to confidential information involving the patients we serve and to some extent, the personnel who provide services to those patients. UTMC is committed to maintaining patients' rights of privacy consistent with applicable legal requirements. All employees are expected to follow UTMC's policies and procedures in performing their jobs regarding confidentiality and required public disclosures. You should contact the Privacy/Compliance Officer when any questions arise with respect to releases of such information.

**1.7 Arrangements with Physicians and Other Sources of Business.** The federal Stark Law regulates financial arrangements with physicians. The federal Anti-kickback Law regulates arrangements with both physicians and other parties who may refer patients to UTMC.

**Stark Law.** The Stark Law makes it illegal for a physician to refer a Medicare or Medicaid patient to a provider for the furnishing of "designated health services" (which include inpatient and outpatient hospital services) in which the physician has a financial interest, i.e. a direct or indirect ownership or investment interest or a compensation arrangement. An ownership or investment interest includes any interest by equity, debt or other means. Such an interest in an entity that has an ownership interest in a second entity constitutes an indirect interest in the second entity.

There are several exceptions to this prohibition. If a physician has such a financial interest in the provider, the arrangement must fall within an exception. Failure to fall within an exception makes any referral from an affected

physician improper, even if the financial arrangement was not intended to induce referrals. Violators are subject to claims for treble damages, a civil penalty of up to \$15,000 for each prohibited self-referred service and exclusion from participation in federal health care programs. In addition, a party that has participated in a "scheme" to circumvent the operation of the Stark Law is subject to a civil penalty of up to \$100,000.

**Anti-kickback Law.** The federal Anti-kickback Law prohibits knowingly and willfully offering, paying, soliciting, or receiving, directly or indirectly, anything of value if the purpose is "to induce" the recipient to (1) refer, order, recommend, or purchase an item or service for which payment may be made under a federal health care program such as Medicare or Medicaid, or (2) arrange for someone else to do so. Unlike the Stark Law, this statute is not limited to physicians. An arrangement that is intended to induce referrals violates this statute even when the payment is not directly related to the volume or value of referrals and there is no agreement to make referrals.

The law contains certain exceptions. One of the exceptions is for payments to bona fide employees for employment in the provision of Medicare and Medicaid-covered items and services.

Anyone convicted of violating the federal anti-kickback law can be imprisoned for up to five years and fined up to \$25,000, as well as lose status as a Medicare/Medicaid provider.

**Contracts and Contract Administration.** Due to the complex nature of these laws and the specific requirements that must be satisfied, all contracts (including service contracts, leases and management agreements) with physicians, health care entities and other parties who are in a position to influence use of hospital services must be approved by the Office of Legal Affairs per *Contract Review and Approval Policy*: [http://www.utoledo.edu/policies/utmc/legal\\_affairs/pdfs/3364-10-14.pdf](http://www.utoledo.edu/policies/utmc/legal_affairs/pdfs/3364-10-14.pdf). Any question as to whether a party is a potential source of business should be brought to the attention of the Office of Legal Affairs or the Compliance Officer prior to the contract's execution.

No payments may be made to a physician or other outside party who is in a position to influence use of hospital services until the following items are obtained: (i) a valid contract executed by the physician and the University; (ii) an accurate time sheet for the applicable pay period where applicable; and (iii) evidence that the contract has been reviewed and approved by the Office of Legal Affairs.

Every payment or other benefit provided to physicians and referral sources must be for the services specified and at the rates called for in the written agreement. Generally, payments must also be supported by proper documentation that the services contracted for were in fact provided. None of the documentation submitted by physicians or referral sources should make reference to referrals that may be made or may have been made to UTMC, since no compensation may or is to be given or received for referrals. Financial officers are prohibited from issuing checks if these requirements are not met.

Employees/agents have the responsibility to comply in a timely fashion with UTMC's policy regarding contract review with respect to payments to physicians. Any uncertainties about contract appropriateness or legality must immediately be brought to the attention of the Office of Legal Affairs or the Compliance Officer.

**Referrals to Other Providers.** Any recommendation, referral or order of health care items or services provided by outside parties must be based on quality of care factors and the needs and preferences of the individual patient. The fact that individual physicians or other practitioners may refer patients does not disqualify them, legally or ethically, from receiving referral of patients from a UTMC facility. Nonetheless, the volume or value of a physician's or other practitioner's referrals in and of itself may not be considered in making a decision to refer a particular patient to that physician or practitioner.

In any discussion with a physician or other practitioner regarding referrals, it should be made clear that referrals to UTMC are not a prerequisite for receiving referrals.

**1.8 Quality of Care.** To deliver high-quality care in a cost-effective manner, all personnel will ensure the following:

- all providers practice within the scope of their licensure and training;
- regulatory requirements related to license certification are met;
- necessary services are provided in a timely manner;
- any concerns about quality of care and patient or family complaints are addressed promptly and efficiently; and

- all UTMC policies and procedures related to patient care are followed.

**1.9 Inappropriate Relations Between Employees and Patients.** All employees and agents of UTMC will conduct themselves in an ethical and legal manner in relation to their patients. Inappropriate relationships between employees/agents and patients are strictly prohibited and may result in disciplinary action, including termination where appropriate.

**1.10 Reporting of Child and Elder Abuse.** All incidents of suspected child or elder abuse, both physical and financial, will be reported as required by applicable state law. If you suspect elder or child abuse you must immediately report the matter to your supervisor.

**1.11 UTP Tax-Exemption Considerations.** Internal Revenue Code Section 501(c)(3) provides exemption for an organization organized and operated exclusively for charitable purposes if no part of its net earnings inure to the benefit of any private shareholder or individual. UTP is subject to such laws and therefore must engage primarily in activities that accomplish the exempt purpose for which it was organized. UTP personnel should consult with UTP's Executive Director if there are concerns with respect to the rules applicable to 501(c)(3) organizations.

**1.12 Ethics and Conflicts of Interest.** Employees of The University of Toledo (the "University" for purposes of this Section 1.12) must, at all times, abide by Ohio's ethics laws, as found in Chapters 102 and 2921 of the Ohio Revised Code, and as interpreted by the Ohio Ethics Commission and Ohio law. Employees of the University must conduct themselves, at all times, in a manner that avoids favoritism, bias, and the appearance of impropriety.

While the terms of the statutes and interpretations of under Ohio law, generally, no employee of the University will:

- (1) Solicit or accept anything of value from anyone doing business with the University;
- (2) Solicit or accept employment from anyone doing business with the University, unless the official or employee completely withdraws from University activity regarding the party offering employment, and the University approves the withdrawal;
- (3) Use his or her public position to obtain benefits for the official or employee, a family member, or anyone with whom the official or employee has a business or employment relationship;

(4) Unless a statutory exception applies, be paid or accept any form of compensation for personal services rendered on a matter before, or sells goods or services to, the University;

(5) Be paid or accept any form of compensation for personal services rendered on a matter before, or sell (except by competitive bid) goods or services to, any state agency other than the University, unless the employee of the University first discloses the services or sales and withdraws from matters before the University that directly affect officials and employees of the other state agency, as directed in section 102.04 of the Revised Code;

(6) Hold or benefit from a contract with, authorized by, or approved by, the University, (the ethics law does except some limited stockholdings, and some contracts objectively shown as the lowest cost services, where all criteria under section 2921.42 of the Revised Code are met);

(7) Vote, authorize, recommend, or in any other way use his or her position to secure approval of a University contract (including employment or personal services) in which the official or employee, a family member, or anyone with whom the official or employee has a business or employment relationship, has an interest;

(8) Solicit or accept honoraria (see division (H) of section 102.01 and division (H) of section 102.03 of the Revised Code);

(9) During public service, and for one year after leaving public service, represent any person, in any fashion, before any public agency, with respect to a matter in which the official or employee personally participated while serving with the University;

(10) Use or disclose confidential information protected by law, unless appropriately authorized; or

(11) Use, or authorize the use of, his or her title, the name "The University of Toledo," or the board of trustees' or the University's logo in a manner that suggests impropriety, favoritism, or bias by the board of trustees or the official or employee. Go to: [http://www.utoledo.edu/policies/board\\_bylaws/pdfs/3364\\_1\\_06.pdf](http://www.utoledo.edu/policies/board_bylaws/pdfs/3364_1_06.pdf) or <http://ethics.ohio.gov> for definitions used in this Section 1.12.

### **1.13 Licenses, Permits, Certifications, Accreditations and Other Regulatory Approvals.**

UTMC will obtain and maintain all required operating and business licenses and permits, and Medicare and Medicaid certifications and agreements. UTMC also obtains and maintains certain accreditations such as from The Joint Commission. If you become aware of any violations or the failure to obtain a proper license or permit, or a Medicare or Medicaid certification, immediately contact the Compliance Officer. If you become aware that a UTMC facility does not meet Joint

Commission or other applicable standards applicable to an accredited facility or service, immediately notify the UTMC Executive Director.

### **1.14 UTMC Property.**

***Limited Proprietary Information.*** Although UTMC is generally subject to Ohio's Public Records Law, R.C. 149.43, in the course of work, you may come into contact with confidential information such as payor reimbursement rates, medical records, attorney client privileged information, information owned by current or prospective suppliers or customers or researchers including intellectual property ("Proprietary Information"). You may not disclose Proprietary Information to any person inside or outside of UTMC who is not authorized to receive such information. Your obligations with respect to Proprietary Information continue even after you leave UTMC, regardless of the reason.

***Use of UTMC Property.*** UTMC property is to be used for the conduct of UTMC's legitimate business and other activities. You may not use UTMC property for personal reasons except as permitted by UTMC policies and procedures or otherwise approved in advance by your supervisor. UTMC's assets, such as health care supplies, equipment, office and production equipment and products, must not be taken out of UTMC facilities, unless necessary to perform an employee's job responsibilities. If removed from UTMC's facilities for proper purposes, employees must return the property to the facility when it is no longer needed for such purposes. These policies encompass the unauthorized use of UTMC's communications equipment, computers, related facilities or other UTMC assets, including Proprietary Information and trade secrets.

**1.15 Antitrust and Unfair Competition** The antitrust laws prohibit agreements, understandings and other concerted activities that unreasonably restrain trade. The antitrust laws draw an important distinction between arrangements with competitors as opposed to customers or suppliers. Most restrictive arrangements with competitors are deemed unreasonable "per se" and generally prohibited, while most types of arrangements with customers or suppliers are permissible under certain circumstances.

***Price Fixing and Other "Per Se" Violations.*** Price fixing is a formal or informal agreement to "fix" or "stabilize" prices or any terms or conditions of sale affecting prices, such as discounts, credit terms, the timing or announcement of pricing changes, the use of pricing formulas, and other similar terms. It is also improper for competitors to agree to (i) divide markets,

customers or lines of business, (ii) set or limit capacity levels, (iii) standardize services, (iv) coordinate bidding or (v) boycott or refuse to do business with certain suppliers or customers.

**Unfair Competition.** Federal and state laws also prohibit unfair methods of competition and unfair or deceptive acts and practices. Some examples include: (i) commercial bribery, or payoffs to induce business or breaches of contracts by others; (ii) acquiring a competitor's trade secrets through bribery or theft; (iii) making false, deceptive or disparaging claims or comparisons regarding competitors or their products; (iv) mislabeling products; and (v) making affirmative claims concerning one's own products without a reasonable basis for doing so. UTMC employees should not create, approve or disseminate any advertising or other materials for UTMC's products or services which are false, misleading or deceptive or not in compliance with applicable laws and regulations.

**1.16 Political Contributions and Activities.** All employees/agents must comply with all applicable campaign finance and ethics laws. More information regarding political contributions may be obtained from the Office of Legal Affairs.

**1.17 Retaining Outside Consultants.** From time to time in the conduct of UTMC's business, it may be necessary or desirable to retain the services of an outside consultant, broker or other similar party (collectively "Outside Consultants"). To ensure that all such arrangements satisfy applicable requirements and UTMC policies, all arrangements must be pursuant to a written agreement setting forth all terms and conditions and including a clear statement of the services to be performed; and all arrangements must be approved in advance by the appropriate division heads and only may be signed by a University official with signing authority. See applicable University of Toledo policy at [http://www.utoledo.edu/policies/administration/finance/pdf/s/3364\\_40\\_08.pdf](http://www.utoledo.edu/policies/administration/finance/pdf/s/3364_40_08.pdf). Legal counsel for UTMC may only be obtained with approval of the Office of Legal Affairs, working with the Office of the Ohio Attorney General.

**1.18 Handling Governmental Inquiries, Investigations, Litigation and Other Legal Matters.**

**Governmental Inquiries and Investigations.** If you receive an inquiry for information or documents pertaining to UTMC or its activities from a governmental or regulatory representative, whether formal or informal, whether in writing, over the telephone or by way of a personal visit to an UTMC facility must comply with policy 3364-15-11. Policy requires that you: (i) inform the

governmental or regulatory representative that the matter must be referred to the UTMC Executive Director and (ii) immediately thereafter advise the UTMC Executive Director and Office of Legal Affairs. While governmental or regulatory representatives should be treated in a courteous and straightforward manner, no one should provide (or agree to provide) documents, testimony or other information or assistance in response to a request by a governmental or regulatory representative without the prior approval of the UTMC Executive Director. (Regularly scheduled surveys, OSHA visits, audits by third-party payors, tax audits and ordinary medically-related requests for medical records are excepted from the above policy.)

**Litigation and Other Legal or Administrative Proceedings.** The Office of Legal Affairs is also responsible for supervising the conduct of any litigation or other legal or administrative proceedings involving UTMC. You should promptly inform the Office of Legal Affairs of the threatened or actual initiation of any legal or administrative proceeding against UTMC, as well as the receipt of any legal documents, including a claim letter, summons, complaint or subpoena or other request for documents, testimony or other information in connection with such a proceeding. And you should not appear (or agree to appear) as a witness, provide testimony or other information, or otherwise take any action in connection with any legal or administrative proceeding involving UTMC--including attempting to settle or settling any matter or claim--without the prior approval of the Office of Legal Affairs.

The Office of Legal Affairs will promptly notify appropriate UTMC employees/agents of the occurrence of an event involving a subpoena, litigation or administrative matter to ensure that a proper "HOLD" is placed on record destruction and that documents are properly provided.

**1.19 Communications with the Media and Public Records Requests.** Only specifically authorized UTMC personnel may communicate with the news media or press, cable or broadcast networks, newspapers, magazines or other print media, or other advocacy groups (the "Media") on behalf of or regarding UTMC hospitals, facilities and providers. In addition, the University of Toledo is required to provide access to certain public records, but such requests must be handled through the Office of Legal Affairs. All requests for information about UTMC from any member of the Media and public for records should be promptly referred to Office of Communications or Office of Legal Affairs.



**1.20 Document Retention Policies** . UTMC's document retention policy ensures that records are retained for a uniform time period to ensure compliance with Ohio's Public Records law and not beyond. UTMC's record retention policy is located at:  
<http://www.utoledo.edu/policies/retention.html>

Excluded Providers (see  
<http://jfs.ohio.gov/OHP/providers/-TerminatedProviders.stm>)

**1.21 Employees – Fraud and Abuse Screening and Training**. UTMC will make reasonable inquiry into the background of prospective employees who exercise substantial supervisory authority within the University.

The following categories of prospective employees will be screened to determine whether they have been (a) convicted of a criminal offense related to health care; or (b) listed by a federal agency as debarred, excluded or otherwise ineligible for federal program participation.

- Any person occupying a management position of Director or above working in the clinical environment for the University.
- Providers who do or will possess an individual Medicare provider number.
- All billing office supervisors and managers.

**1.22 Vendors and Contractors – Fraud and Abuse Screening and Training**. UTMC will not knowingly contract with or retain on its behalf any person or entity which has been (a) convicted of a criminal offense related to health care (unless such person or entity has implemented a compliance program as part of an agreement with the federal government); or (b) listed by a federal agency as debarred, excluded or otherwise ineligible for federal program participation. The screening process applicable to vendors must be applied to vendors before contracts are entered into with such vendors and in connection with the renewal of such contracts.

All non-employed agents, vendors and contractors who provide items or services to UTMC will be given a Notice to Agents, Vendors and Contractors in the Form of Exhibit 1.22 attached hereto before providing items or services to UTMC.

UTMC will review the following sources:

- the U.S. Department of Health and Human Services List of Excluded Individuals/Entities (see <http://exclusions.oig.hhs.gov>).
- The Ohio Department of Job and Family Services List of Terminated Providers and

**EXHIBIT A**

**EMPLOYEE COMPLIANCE CERTIFICATE**

**TO: The Compliance Officer**

I hereby certify that I have received, read and understand Compliance Support Plan Manual (the "Manual"). I agree to comply fully with all of the policies and procedures referenced in the Manual, as well as all other policies and procedures that may be implemented from time to time by The University of Toledo. I understand that my compliance with the Manual and other policies and procedures is a condition to my continued employment or association with the University and that violation of the Manual or such other policies and procedures may result in disciplinary action at the discretion of the University, including possible termination.

I further certify that, except as set forth below, I have fully complied with the Manual and all other UTMC's policies and procedures, and I am not aware of any Compliance Incident (as that term is used in the Manual) by others that has not been reported as provided in the Manual (explain any exceptions on the lines below or state "none"; attach additional sheets if necessary): \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_

I acknowledge that the Manual and the University's other policies and procedures are for the sole and exclusive benefit of the University and do not in any way constitute or otherwise create any employment or other legal right, privilege, assurance or contract of any kind or nature with respect to my employment or otherwise.

Signature: \_\_\_\_\_

Print Name: \_\_\_\_\_

Date: \_\_\_\_\_

Title: \_\_\_\_\_

Facility: \_\_\_\_\_

**EXHIBIT B**

**SUPERVISOR ANNUAL COMPLIANCE CERTIFICATE**

**TO: The Compliance Officer**

I hereby certify that I have received The University of Toledo Compliance Support Plan Manual (the "Manual") and made the Manual available to each person under my supervision (including employees and agents hired from the time of the last certification). In addition, I certify that all new employees and agents required to be audited have been the subject of a new employee/agent audit. I agree to comply fully with all of the policies and procedures set forth in the Manual, as well as all other policies and procedures that may be implemented from time to time by UTMC. I understand that my compliance with the Manual and the University's other policies and procedures is a condition to my continued employment or association with the University and that violation of the Manual or such other policies and procedures may result in disciplinary action at the discretion of the University, including possible termination.

I further certify that, except as set forth below, I have fully complied with the Manual and all other the University policies and procedures, and I am not aware of any Compliance Incident (as that term is used in the Manual) by others that has not been reported as provided in the Manual (explain any exceptions on the lines below or state "none"; attach additional sheets if necessary): \_\_\_\_\_

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

I acknowledge that the Manual and the University's other policies and procedures are for the sole and exclusive benefit of the University and do not in any way constitute or otherwise create any employment or other legal right, privilege, assurance or contract of any kind or nature with respect to my employment or otherwise.

Signature: \_\_\_\_\_

Print Name: \_\_\_\_\_

Date: \_\_\_\_\_

Title: \_\_\_\_\_

Facility: \_\_\_\_\_

## EXHIBIT 1.22

### Notice to Agents, Vendors and Contractors

The University of Toledo has created a Compliance Support Program to ensure we comply with all laws and regulations. This includes laws concerning health and safety, Medicare and Medicaid fraud and abuse, among others. The University of Toledo, and its health care system and hospital and clinical enterprise (generally referred to as "UTMC") is subject to the Compliance Plan and the Compliance Support Program.

We cultivate a culture of compliance from the board room to front-line care-givers, and we include our credentialed providers, vendors and contractors in that commitment. We commit to an effective Compliance Support Program to sustain that culture. Our program includes education, communications methods to encourage reports of concerns, investigations into concerns, monitoring and auditing for compliance and accuracy, and accountability and corrective action when we detect an error.

Vendors and contractors must be aware of, and agree to abide by, the following three provisions of our Compliance Support Program as a continuing condition to doing business with us:

#### Eligibility to Do Business

As a Medicare-participating organization, we are prohibited from hiring or doing business with any entity or person who has been:

- Excluded from participating in federal or state health programs by the Office of Inspector General of the U.S. Department of Health and Human Services;
- Barred from contracting with the U.S. Government by the General Services Administration; or
- Listed as a Terrorist Organization or supporting individual by the Office of Foreign Asset Control of the U.S. Department of the Treasury.

Vendors must certify their eligibility to do business with UTMC by certifying that neither the organization, nor its owners or principals or any vendor employee (collectively, "staff,") who will provide services to UTMC is prohibited from doing business with UTMC. Eligibility is a continuing condition of any contract with UTMC and vendors must agree to notify UTMC immediately if the government takes adverse action against the vendor or any of its staff. Vendors must also notify UTMC if they learn of an investigation that could reasonably result in adverse action against the vendor or its staff. UTMC may terminate a contract where the government takes adverse action against the vendor or its staff.

#### Business Ethics, Gifts and Gratuities

UTMC does business in an open, fair, impartial and transparent manner and engages in arms-length negotiations with potential vendors, contractors or business partners. UTMC requires our employed associates, credentialed providers, board members and volunteers to act in the best interests of UTMC at all times. This includes avoiding conflicts of interest that might jeopardize the impartiality of their judgment and decision-making, as well as avoiding situations that create a reasonable appearance of a conflict of interest or an appearance of favoritism, partiality, personal gain or insider-dealing.

UTMC employees may not seek, request or accept any gift, gratuity or other item, regardless of value, that is intended to influence a business decision, or that is offered to them because of their position in a pending business decision. UTMC associates may not accept gifts, gratuities, discounts or other things of value from anyone doing business with, or desiring to do business with, UTMC or any UTMC entity, except in nominal amounts as permitted by law.

The Compliance Support Program includes Compliance Officer who can assist or respond to any vendor concern about possible violations of UTMC's policies or applicable laws or regulations. Employees are required, and vendors are encouraged, to report any concerns to either the Compliance Officer at (419) 383-6933 or to UTMC's Anonymous Reporting line, which is available 24/7/365 and where anonymous reports can be made, at

1-888-416-1308. University policy prohibits retaliation for a report made in good faith.

### **Required Education on the False Claims Act and Whistleblower Protections for Providers of Medicaid-covered Services**

Because UTMC and its related entities receive in excess of \$5M in annual Medicaid reimbursements, we are required to provide additional education to our employees, vendors and contractors related to the False Claims Act and whistleblower protections available under those laws. Our vendors and contractors are required to ensure that their employees who will provide services to UTMC receive the following educational information also:

UTMC associates work hard to ensure that we create accurate and truthful patient bills and submit accurate claims for payment from any payer, including Medicare and Medicaid, commercial insurance, or our patients. It's the right thing to do, and federal and state laws require accuracy in health care billing.

The Federal False Claims Act (31 USC 3729-33) prohibits for any person or organization to knowingly make a false record or file a false claim with the government for payment. "Knowing" can include deliberate or reckless ignorance of facts that make the claim false.

Examples of possible false claims include someone knowingly billing Medicare for services that were not provided, or for services that were not ordered by a physician, or for services that were provided at sub-standard quality where the government would not pay.

A person who knows a false claim was filed for payment can file a lawsuit in Federal Court on behalf of the government and, in some cases, receive a reward for bringing original information about a violation to the government's attention. Penalties for violating the Federal False Claims Act can be up to three times the value of the false claim, plus from \$5,500 to \$11,000 in fines, per claim. Additional Federal administrative remedies for false claims include fines of up to \$5,000 for each claim and an assessment by the United States for up to twice the amount of the false claim if the Government has made payment (31 USC 3802).

Under Ohio law, no person may knowingly make a false statement to secure payment or other benefit administered by a government agency (O.R.C. 2921.13). Violators are guilty of a first degree misdemeanor. Ohio Medicaid law includes civil penalties for engaging in "deception" with respect to Medicaid claims, and defines "deception" to include acting in deliberate ignorance or reckless disregard of the truth or falsity of facts that make a claim false (O.R.C. 5111.03). Ohio law also imposes criminal penalties for knowingly making (or causing to be made) a false or misleading statement or representation for use in obtaining Medicaid payments or fraudulently obtaining money from third parties for items or services rendered to Medicaid recipients in violation of program rules(O.R.C. 2913.40) or to obtain eligibility for Medicaid benefits (O.R.C. 2913.401).

The False Claims Act protects anyone who files a false claim lawsuit from being fired, demoted, threatened or harassed by their employer for filing the suit. If a court finds that the employer retaliated, the court can order the employer to re-hire the employee, and to pay the employee twice the amount of back pay that is owed, plus interest and attorney's fees. Ohio law provides equivalent protections from retaliation by an employer for civil service employees who report Medicaid fraud to the authorities (See O.R.C. §124.341).

UTMC's Compliance Support Program supports compliance with the False Claims Act by:

- Monitoring and auditing business activities to prevent or detect errors in coding or billing.
- Educating our associates, vendors and contractors that they are responsible to report any concern about a possible False Claim at an UTMC facility.
- Investigating all reported concerns and correcting any billing errors discovered.
- Protecting our associates, vendors or contractors from adverse action when they do the right thing and report any genuine concern. UTMC will investigate any allegation of retaliation against an associate for speaking up.