

# Compliance Orientation



## Self-Study Module

Each member of the Duke Medicine workforce is required to complete Compliance Orientation within the first 90 days of employment. The workforce is made up of employees, physicians, volunteers, contractors, and students. It is important to attend the Compliance Orientation because it provides instruction on the Duke Medicine Code of Conduct and the compliance program.

We understand that attending the orientation is not always possible. For this reason, we have developed a self-study module for Compliance Orientation.

To receive credit for Compliance orientation utilizing the self-study module, you are to: 1) review the material covered in this presentation, 2) review the [Duke Medicine Code of Conduct](#) and 3) take the Compliance Training Quiz. Upon successful completion of these three steps, you will be asked to acknowledge that you have completed the Compliance Orientation training and that you agree to abide by the Code of Conduct. When the above items are completed, you will receive credit for Compliance Orientation.

## Learning Objectives

This self-study module covers:

- What is Compliance?
- The Duke Medicine Code of Conduct
- Reporting Suspected Non-Compliance

Case studies are included to demonstrate how compliance concerns can arise in the workplace.

## What is Compliance?

Compliance simply means following the rules to do the right thing. Compliance consists of all the processes within our organization that prevent, detect and correct any unwanted acts in the workplace.

In our workplace, the rules refer to all the laws, regulations, policies, procedures and other standards used to serve our patients and conduct research and education. Following the rules also refers to knowing what to do when you think a rule may not have been followed.

The compliance program helps create an “open environment” for the workforce, by encouraging everyone to report compliance concerns in a setting free from retaliation.

Our compliance program helps us address compliance concerns immediately.

As a result, we are able to:

- Improve the quality of care we provide,
- Demonstrate to our community that we operate in an ethical environment, and
- Reduce the costs associated with health care.



## Our Code of Conduct – Integrity In Action

The Duke Medicine Code of Conduct titled “Integrity in Action” is available on the Duke Medicine Intranet site at [staff.dukehealth.org/compliance](http://staff.dukehealth.org/compliance). You may request a hardcopy of the Code of Conduct by e-mailing the compliance office at [compliance@mc.duke.edu](mailto:compliance@mc.duke.edu).

What is a code of conduct? This document, developed by a team of employees and approved by our governing boards, is designed to give our workforce a clear understanding of what is expected of everyone in the work environment.

We chose to call it “Integrity in Action” because integrity means adhering to ethical principles – “doing the right thing”. It reaffirms our long-term commitment

to compliance and to providing quality services to our patients and the community we serve. The code outlines our responsibilities as we interact with our patients, coworkers, and others in performing our daily activities.

This code applies to all our workforce, including employees, governing board members, medical staff, faculty, students and volunteers, as well as vendors and others with whom we do business.

## **Compliance is Everyone's Responsibility**

As a permanent or temporary member of our workforce, you are expected to comply with the Code of Conduct. And, because no code of conduct can cover all the guidelines we should follow, you are expected to comply with all the regulations, standards, policies and procedures that apply to your particular role in our organization. You are to receive training on the specific policies and procedures applicable to your work in your department orientation.

As part of your obligation under Integrity in Action, you are required to report any concerns about how to comply with regulatory requirements or if you think someone has violated or not followed a rule or company policy.

Here are some questions to ask yourself when you think you've witnessed something not right:

- ◆ Do you have all the facts?
- ◆ If you need more information, how do you find it?
- ◆ Who is affected?
- ◆ What are the possible consequences?
- ◆ Who can help you?
- ◆ How would it look in the local newspapers?
- ◆ Does your action support **Integrity in Action**?
- ◆ Is doing nothing the best decision?

## **Reporting**

When reporting a compliance, privacy, or security concern, you may want to go to your manager or supervisor. They are most familiar with the operations in your area and can assist in determining the right thing to do. If you are not comfortable going to your manager or supervisor, you may go up the chain of command in the department or contact the Duke Medicine Compliance Office at 919-668-2573 or call the Duke Medicine IntegrityLine.

**Duke Medicine IntegrityLine      1-800-826-8109**

A separate company, specially trained in managing compliance hotlines, operates the IntegrityLine. All hotline calls are reported to the Duke Medicine Compliance Office for investigation and all calls to the hotline are kept confidential and are **not** recorded or traced. You do not have to identify yourself but you may do so in order to help provide further information about the situation. If you choose to identify yourself, your confidentiality will be protected to the extent permitted by the law.

### **Non-Retaliation/Non-Retribution Policy**

Our non-retaliation/non-retribution policy is critical to the success of our compliance program. Retaliation or retribution taken against any workforce member who reports a problem or concern in good faith will not be tolerated. “Good faith” means that the person reporting truly believes that a problem exists even if an investigation proves that the problem does not exist.

However, if someone purposely makes up a report of wrongdoing – whether to protect themselves or hurt someone else – that person will not be protected under the policy and may be disciplined up to and including termination.

Retaliation is a violation of the compliance program. It will not be allowed and must be reported. All reports of retaliation will be investigated and appropriate disciplinary action taken.

### **Compliance in Action – Case Studies**

Now please review the following case studies that demonstrate how compliance issues can arise in the workplace.

#### **Case Study #1: Good Samaritans**

You are a case manager and have been treating a Medicare patient who is being released from the hospital today and transferred to Pine Woods, a local nursing home. You have heard negative comments about this nursing home and you don’t want your patient to be transferred to what you have been told is an inferior facility. Shady Pine, a nursing home in which you know provides quality care, has a bed that will be available in two days. You would like your patient to be transferred to this facility. What would you do?



- A) Order additional tests so the patient will need to stay extra days.
- B) Call Shady Pine to see if you can “pull some strings” to get your patient in today. **You have been rewarded in the past for referring patients to the nursing home.**
- C) Not order additional tests but discuss situation with the providers of care to determine if another skilled nursing facility has an available bed.

The correct answer is C. Although it seems that the case manager was thinking of the patient’s best interest by trying to transfer her to what he believed to be a better facility, he cannot bill Medicare for tests that are not medically necessary.

### **Federal Regulation Compliance**

As employees of Duke Medicine we must comply with all laws governing federal and state-funded health care programs and the requirements of insurance companies. Some of these regulations include the Medicare/Medicaid Anti-Kickback Statute as well as the False Claims Act.

### **Medicare/Medicaid Anti-Kickback Statute**

In the above scenario, the case manager mentions that he has been rewarded in the past for referring patients to the nursing home; such actions are prohibited. Under the anti-kickback statute, it is illegal to pay, offer to pay, solicit or receive any payment, directly or indirectly, in cash or in kind, in exchange for the referral of a patient covered by any government financed health care program.

In addition if Dr. Smith were to order tests that were not medically necessary and bill for these lab tests, he would be violating the False Claims Act.

### **The False Claims Act**

*Anyone who knowingly and willfully, makes or causes to be made, any false statement in any action claim for healthcare services can be subject to:*

- Up to 5 years in prison and/or \$25,000 in fines
- Civil penalties of \$5,500 or \$11,000 per claim and up to triple the damages incurred by the payor.

*Qui tam* is a provision of the Federal Civil False Claims Act that allows private citizens who have actual knowledge of facts to file a lawsuit in the name of the U.S. Government charging fraud by government contractors and others who receive or use government funds.

The False Claims Act provides protection to employees who are retaliated against due to an employee’s participation in a *qui tam* action. The protection is available to any employee who is fired, demoted, threatened, harassed or otherwise

discriminated against by his or her employer because the employee investigates, files, or participates in a *qui tam* action.

This “whistleblower” protection includes reinstatement and damages of double the amount of lost wages if the employee is fired, and any other damages sustained if the employee is otherwise discriminated against.

### **Recordkeeping**

Often as part of our work, we need information, whether we create that information or obtain it from others. For instance, therapists, nurses and other caregivers need to document the times they provided services and the types of procedures they provided to patients. This is how our organization demonstrates the care provided. This information is used for billing so that our organization can receive payment for the services provided.

Others in our organization use this medical information to create documents such as financial reports, credentialing files, and research findings to make decisions. If the information used to create these reports isn’t accurate or complete, it can negatively impact our operations.

Therefore, we must always truthfully and accurately maintain paper and electronic data. We do not alter, falsify or manipulate any record, contract or other document.

### **Case Study #2: Missing supplies**

You are a volunteer with the Hospice Service. Three afternoons per week you volunteer making copies, filing, and performing other administrative duties with the Hospice Care Service. You usually work with Sally another volunteer. Last week Sally mentioned to you that she needed to make copies of a flyer promoting her new business and she was going to do it at the Hospice. You told her that you didn’t think that was a good idea since the Hospice paid for the paper to be used for business purposes only. Today you go to use the copier, and you see a large stack of Sally’s flyer. What would you do?

- A) Talk to Sally about not using Hospice’s resources for personal use.
- B) Nothing. You are a volunteer and there is nothing you can do.
- C) Talk to your supervisor

In this case, C is the best answer. Your supervisor can talk to Sally about using the company’s supplies for personal use.

### **Safeguard Assets**

We must store medical records and other critical information in a safe and secure place for the appropriate period of time, as required by law.

We all know that embezzlement and theft are wrong. However, repeated misuse of property, such as taking office supplies home or using the copier for personal business, can be just as costly and lead to reporting of inaccurate organizational expenses.

All employees have a responsibility to protect the assets of this organization. This includes physical property like computers and office supplies, information like financial data and business strategies, and intellectual property like research findings.

### **Work Environment**

Duke Medicine is committed to maintaining a work environment that is free from harassment, that complies with all employment laws and that is safe for our employees and patients.

If you ever feel that you are being treated inappropriately or are working in an unsafe environment, please let your supervisor or manager know or contact Human Resources or your facility compliance officer. If you would like to make an anonymous report about a problem with your work area, call the IntegrityLine.

### **Case Study #3: Conflict of Interest**

You were asked by your supervisor to order a new fax machine for the office. You called the purchasing department and received a quote for how much a fax machine would cost. It seems quite expensive. Your uncle owns an office supply store so you call him, and he says he can get you the same fax machine for half the price. What would you do?

In this situation, although it seems like you are helping the organization by purchasing a fax machine for less money, it could be considered a conflict of interest because of family ties. If you are unsure or it seems like it could be a conflict of interest, talk to your manager and seek approval from him or her before purchasing the fax machine.



Here is what our Code of Conduct states about Conflicts of Interest:

- We avoid any position of financial interest in any organization, which could improperly influence or **appear to** influence our workplace decisions.
- We do not offer, solicit or accept any gifts or gratuities that may influence or appear to influence our objectivity in performing our duties within Duke Medicine.

## Procurement

It is the policy of Duke Medicine that all purchased materials and services are procured from approved vendors, using purchase requisitions that have received management approval. (<http://www.finsvc.duke.edu/Resources/Procuring.html#pay>)

We do not offer, solicit, or accept any gifts or gratuities that may influence or appear to influence our objectivity in performing our work. Any gift of more than a nominal value is presumed to be inappropriate. If we are unsure about whether a gift is nominal in value or is otherwise acceptable, we discuss the situation with our supervisor. Supervisors should consult with a Facility Compliance Officer, the DUHS, PDC, or SOM/SON Compliance Officer or the Conflict of Interest Committee for questions they may have about gifts. *See the DUHS and SOM/SON Conflict of Interest policies and the DUHS Gifts and Courtesies policy.*

### **Case Study #4: Hallway Conversation**

You are Physician's Assistant and are getting a drink at the water fountain. You overhear two employees talking about a patient. They are speaking rather loudly and mention that a patient, Carrie, has been having heart problems and was admitted to the hospital last night. This patient sounds like your neighbor Carrie, and you are concerned about her. What would you do?



- A) Explain to the two employees that you are a friend of Carrie's and ask if they know anything else about her condition as you'd like to help.
- B) Continue listening in hopes of getting more information from the employees.
- C) Ask your friend in Medical Records to look up Carrie's info to find out what happened.
- D) Instruct them that if they must talk about Carrie's condition, they should do so in private to respect her privacy and obey the HIPAA Privacy rules and regulations and North Carolina privacy regulations.

The correct answer is D. Under the Health Insurance Portability and Accountability Act (HIPAA Privacy), patient health care information and privacy must be protected. In this scenario, the employees could be counseled, suspended, fined, or even terminated for their behavior.

## HIPAA Privacy Standard

At Duke, protecting the privacy of patient information has always been our practice. Now, it's the law! HIPAA requires health care providers, like us, to protect the privacy and security of a patient's health care information.

The HIPAA Privacy Rule gives patients several specific rights to protect their health information. Patients can:

- See, in writing, a statement about how we use patient’s medical information, called the Notice of Privacy Practices
- Request to see and, in most situations, get copies of their medical record,
- Obtain a listing of certain disclosures we made of their health information
- Ask to have any mistakes in their records corrected, and
- File a complaint if they believe that we have not adequately protected their health information.

### **What is Protected Health Information?**

When we speak of patient information, we’re talking about what HIPAA calls “Protected Health Information.” Protected health information is any health information that could identify a particular person. The person could be living or deceased. The information could be about the past, present or future health of a person. The information could be written on paper, displayed or stored in computer, or it could be spoken. Examples include patient charts, reports, x-rays, billing systems, nursing notes and conversations about patients. Protected health information on paper should be shredded when it is no longer needed.

### **What Makes Information Identifiable?**

- Name
- Address
- Phone or fax number
- E-mail address
- Social security or medical record numbers
- Photos
- Voice, finger, retinal prints
- Date of Birth
- Employer
- Insurance account numbers

Information that could be used with other information to learn someone’s identity includes birth date, employer, and insurance or other account numbers. This is the kind of information we must all [protect](#).

### **HIPAA Privacy: Uses and Disclosures**

HIPAA places limits on how protected health information can be used or disclosed. We “use” health information within our organization. We “disclose” health information when we give it to an outside entity to use.

## **Minimum Necessary**

HIPAA requires us to limit internal use of protected health information to the minimum necessary. You should only access patient information you need to do your work. However, when sharing or accessing patient information for treatment purposes, you do not have to follow the minimum necessary requirements.

If it's not part of your job, it's not part of your business! Unless you need the information for your work or training, you are **NOT** allowed to look up information on strangers, peers, friends, or even your family members!

When protected health information is given to other institutions, it also should be limited to the minimum necessary. Only the information needed by the outside user should be given, unless the information is needed for treatment. And, when we ask other health care providers for information, we ask only for what we need and no more.

Note that NC law may limit the release of the medical record to other health care providers. Please check with Health Information Management if you have questions about when to release a medical record to an outside entity.

Patients typically must give approval for use or disclosure of their information by signing an authorization form. However, some disclosures are required by law, such as reporting gun shot wounds, and do not require patient permission. We must maintain an accounting of these disclosures.

## **Case Study #5: Helpful Worker**

You are a nurse at Healthy Hospital and stop by the nursing station to pick up some patients' charts. While you are there, someone comes running up to you and says that she just heard that her sister was in a car accident and is in this hospital. She wants to know what happened and where her sister is. What would you do?



- A) Tell the woman what you know about the patient and take her to the patient's room.
- B) Ignore the woman.
- C) Direct the woman to the information station to see if the patient has released her information to be available to visitors.

The correct answer is C. The patient's privacy must be protected. It is important to direct visitors to the information station to find out what information the patient wants released to visitors.

## **How Patient Information is Exchanged -**

To understand ways you can help protect the privacy of patient information, let's look at the 3 ways information is exchanged:

- Spoken Information
- Information on Paper
- Information in Computers

### **Protecting Spoken Information**

You are in the back of a crowded elevator. Two of your coworkers enter. They don't notice you as they are deep in conversation. They are talking in normal tones so you and the others in the elevator can easily hear that they are talking about a patient. What do you do?

When you overhear staff talking about patients in a public place, remind them that confidentiality is important. Public areas can be handy places to talk about work. But when it comes to patient health information, public places are not a good choice. Even if no names are used, information such as age or marital status can reveal the patient's identity. Other people may be within earshot – people who just might know the patient. Find a private space if your job requires that you talk about patients.

If asked for directions, try to give the directions without asking for personal health information. If it's not clear where the patient is going, or if someone asks you about a patient, direct him or her to the information desk.

### **Key Points to Remember about Protecting Spoken Information**

Around patient rooms ...

- ◆ *Knock first and ask to enter*
- ◆ *Close doors or curtains when talking about treatments or doing procedures*
- ◆ *Speak softly in semi-private rooms*
- ◆ *Don't reveal information about the patient's health in front of visitors unless given permission by the patient.*

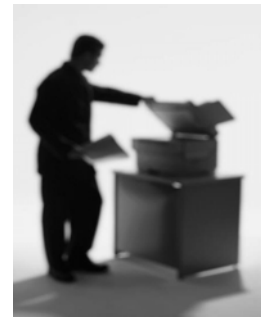
In public areas ...

- ◆ *Don't talk about patients*
- ◆ *Direct visitors to the information desk*
- ◆ *Don't discuss patient's condition with family in the waiting room*
- ◆ *Don't leave messages on answering machines about patient conditions*

### **Case Study #6: Papers on the move**

You are making copies of a patient's lab orders when you notice another patient's medical records on the printer nearby. No one appears to be around to pick up the records on the printer. What would you do?

- A) Leave the medical records on the printer.
- B) Take the papers to your supervisor to shred them.
- C) Take them to the medical records department.
- D) Try and find the owner



In this case all but A are correct. You may take the papers to your supervisor to be shredded if you cannot immediately find the owner of the papers or you may take them to medical records where they will be returned or shredded.

### **Protecting Papers**

Another way patient information is exchanged is on paper. Examples include patient charts, order forms, faxes, email print outs, O.R. schedules, clinic appointment schedules, etc.

Papers that have patient information should be returned to the person who left them. If you can't find the owner of the papers, give them to your supervisor for shredding.

Papers with health information should not be left unattended or in public view. Take responsibility for your own papers and take action if you find papers lost or unattended.

### **Tips for Protecting Information on Paper**

- ◆ *Find the owner of "lost" papers*
- ◆ *Shred information no longer needed*
- ◆ *Don't leave papers unattended*
- ◆ *Keep information away from public view*

### **Information on Computers**

A third way patient information can be exchanged is on a computer. Even if you don't work directly with patients, you may work with patient information on a computer.

- Keep computer screens pointed away from the public.
- Never walk away from a computer screen with patient information on it.
- Report computer errors and/or computer viruses.
- Protect laptops and handheld devices.
- Be sure to log off when you leave your computer.
- Follow rules to protect your password

### **Case Study #7: Computer hacker**

You are working at a computer station at Healthy Hospital when you look at your watch and realize you are running late. You have been working on inputting patient information and have several files open. You want to finish but you need to leave. What should you do?

- A) Ask John your friend who is going to be staying late to work. He can use your log-in username and computer to finish.
- B) Leave the files open for someone to finish.
- C) Tell your supervisor you need to leave, close the files, and log out of the computer.
- D) Download the information to your PDA to finish at home.

In this scenario, C is the best choice. You cannot let someone else use your log-in or password and you should always be cautious about downloading patient information to your PDA.

Remember, your username is used to track what you view in the computer system. Only you should use your user name and password. Anyone who needs to get to computer records should use his or her own username and password. **Never share your password** or let someone else use your password to log into the computer system. Don't write down your password or say it out loud or email it to anyone.

### **Your password is yours alone!**

Your password should be unique and secret. While it may seem easier to remember a password that has personal information in it, others can often guess these passwords. Always create a strong password.

### **Privacy and Security Officers**

Each facility within our organization has a privacy and security officer who can assist you with any questions or concerns regarding HIPAA. Their phone numbers are listed in your code of conduct.

### **Violations of the Code of Conduct**

Violations of the Code of Conduct will be subject to appropriate disciplinary action, including termination. Our work rules specify the levels of disciplinary action that can be taken.

For example, consider the disciplinary action that could be taken for a breach of patient confidentiality. If the event was a careless act, such as talking about patients in a public area, it could lead to counseling. However, accessing the medical records of a co-worker to determine the room number so you can visit him

could lead to a final written warning plus a two-week unpaid suspension. Sharing a patient's health information at a social gathering without the patient's authorization could lead to termination.

## **Repeat Offenses Would Result in More Severe Discipline!**

Under HIPAA, there are also legal penalties for breaking the law. Penalties can be made against both an individual and the organization.

### **Legal Penalties:**

Wrongful disclosures

- Up to \$50,000 per violation + up to 1 year in prison

Gaining access to information by false pretenses

- Up to \$100,000 per violation + up to 5 years in prison

Intent to sell, transfer, or use

- Up to \$250,000 per violation + up to 10 years in prison

## **Key Points to Remember**

This Compliance Orientation has been a high-level overview of our Code of Conduct and Compliance Program. Here are some key points to remember:

- **Compliance is Following the Rules to Do the Right Thing.**
- **Compliance is Everyone's Responsibility!**
- **You must Report Any Compliance Concerns.**

Compliance is following all the rules, regulations, policies and procedures that apply to your work. You should follow the Code of Conduct and talk with your supervisor about any rules, policies and procedures that apply to your specific work area. You must report any compliance concerns. You can report concerns to your supervisor or your facility's compliance officer. Or, if you prefer to make an anonymous report, you can call the Compliance IntegrityLine at 1-800-826-8109.

## COMPLIANCE ORIENTATION QUIZ

1. The following groups are not covered by our Code of Conduct:
  - a. Part-time Employees
  - b. Volunteers
  - c. Students
  - d. None of the above
  
2. Compliance concerns may be reported to:
  - a. My supervisor
  - b. My Facility Compliance Officer
  - c. The DUHS Compliance Office
  - d. The IntegrityLine
  - e. All of the above
  
3. Students who call the IntegrityLine may remain anonymous.  
True  
False
  
4. You enter a conference room for a meeting and notice that several reports with patient information are on the table. What do you do?
  - a. Throw the reports in the trash
  - b. Leave the reports where you found them
  - c. Notify housekeeping to come clean the room
  - d. If you can determine who left the reports, return the reports to them. Otherwise, give the reports to your supervisor.
  
5. You notice that someone has left a computer terminal used to enter orders while still logged on to the system. You leave it as is, thinking the person will return shortly. Later, a patient looks at what has been entered on the screen. Who is responsible for this breach of privacy?
  - a. You. You should have protected the information from being disclosed
  - b. The person who left the terminal while still logged on
  - c. The hospital is responsible
  - d. All of the above
  
6. An effective compliance program can:
  - a. Improve the quality of care we provide
  - b. Demonstrate that we operate in an ethical environment
  - c. Reduce health care costs
  - d. All of the Above

7. Discussions about patients or patient information in public areas, such as the cafeteria, may be overheard by unauthorized listeners and may violate the patient's right to privacy.

True

False

8. Under the Conflict of Interest and Gifts and Courtesies policies, any gift of more than a nominal value (pens, coffee mugs, calendars, flowers) is presumed to be inappropriate.

True

False

9. It is your duty to report any compliance concerns or violations of the Code of Conduct.

True

False

10. It is a violation of the False Claims Act for a vendor representative to complete a Certificate of Medical Necessity instead of a physician.

True

False

## COMPLIANCE ORIENTATION QUIZ ANSWERS

### Grade yourself

1. **d.** The Code of Conduct applies to all our workforce including employees, governing board members, medical staffs, faculty, students, volunteers, as well as vendors and others with whom we do business.
2. **e.** Compliance concerns may be reported to your supervisor, a facility compliance officer, the DUHS Compliance Office, or the IntegrityLine at 1-800-826-8109.
3. **True.** Callers may remain anonymous when calling the IntegrityLine.
4. **d.** You should not leave papers with patient information unattended. If you can easily determine who left the reports, return them to the owner, otherwise give the reports to your supervisor.
5. **d.** You should always log off when you leave your computer and protect patient's privacy by reporting the improper use of computers and accessing or sharing patient information.
6. **d.** An effective compliance program improves the quality of care, demonstrates that we operate in an ethical environment, and may reduce health care costs as well.
7. **True.** Protected health information includes health information in spoken form. Do not talk about patients in public areas where it may be overheard by unauthorized listeners.
8. **True.** Gifts of more than a nominal value are presumed to be inappropriate. If you have a question or are unsure about whether a gift is nominal in value or is otherwise acceptable, you should discuss the situation with your supervisor.
9. **True.** Every person at Duke Medicine is responsible for compliance including employees, governing board members, medical staffs, faculty, students, volunteers, as well as vendors and others with whom we do business.
10. **True.** The False Claims Act states that there will be penalties for anyone who knowingly and willfully makes or causes to be made any false statement in any action or claim for health care services.