

## PURPOSE

The WellSpan Health Compliance Program (Program) has been designed, adopted (1999), and implemented as a voluntary program to address the importance of WellSpan's reputation for professionalism, integrity and high ethical standards. This Program provides the framework for organizational improvement and develops a central coordinating effort to demonstrate the organization's commitment to sound and ethical business practices, the compliance process, and to advancing the prevention, detection, and resolution of potential exposure from organizational misconduct.

The WellSpan Compliance Program applies to all WellSpan entities and affiliates including WellSpan's Medicare Shared Savings Program (MSSP). The WellSpan Compliance Program is supported and endorsed by the Board of Directors, as well as the Management of WellSpan. The planning and structure of the Program has incorporated a top-down methodology expressing the organization's unique culture, mission, vision and values. The Program recognizes the "United States Sentencing Guidelines", as well as the Compliance Program Guidances for various types of healthcare entities issued by HHS Office of Inspector General.

## POLICY AND PROCEDURE

### I. Mission

- A. The mission of the WellSpan Compliance Program is to proactively support the process of providing high quality health care services to the communities served by developing effective internal controls for efficient management, adherence to, and monitoring of, rules, regulations, and laws and to create an environment in which compliance is an accepted standard.
- B. The Program will continue to support the organization's long standing commitment to conducting all activities with integrity and in accordance with the highest ethical and legal standards, which is an integral part of WellSpan's commitment to being a responsible corporate and community citizen.

### II. Goals

- A. Establish compliance standards and system-wide policies and procedures;
- B. Create a culture that promotes self-monitoring, detection, and resolution of problems by designing and implementing an effective control environment and compliance program into the organization's day-to-day operations;
- C. Provide a central area of responsibility and documentation to assist outside regulatory agencies in understanding the System's compliance efforts and provide resources to assist in compliance reviews;
- D. Create an environment in which doing the 'right thing' is the accepted standard;
- E. Develop a culture that encourages employees to report potential compliance incidents and concerns through established internal mechanisms;
- F. Provide adequate compliance training and education programs to all staff members;
- G. Create a centralized source for distributing information on statutes, regulations, standards and other legal requirements related to compliance;
- H. Establish processes and review activities to identify potential areas of non-compliance;

- I. Develop procedures that allow for prompt and thorough investigation of alleged misconduct by staff including use of the Just Culture model;
  - J. Review operational processes for opportunities of improvement.
- III. Elements of the WellSpan Compliance Program  
*Per "The Office of Inspector General's Compliance Program Guidance for Hospitals" and the "United States Sentencing Guidelines":*
- A. Written Code of Conduct, compliance policies and procedures that promote the compliance initiatives;
  - B. Overall compliance program oversight - a compliance officer(s) and a Compliance Steering committee;
  - C. Training and education programs for all affected employees;
  - D. Effective lines of communication for reporting complaints and violations; clarify policies; and procedures to protect anonymity of complainants and protect whistle blowers from retaliation;
  - E. A system to respond to allegations of improper/illegal activities and enforcement of appropriate disciplinary action against employees who have violated internal compliance policies, applicable statutes, regulations or federal health care program requirements;
  - F. Audits and/or other evaluation techniques to monitor compliance and assist in the reduction of identified problem areas;
  - G. Mechanisms for responding to reported problems and detected offenses preventing further offenses through systematic changes and corrective action initiatives and development of policies addressing the non-employment or retention of sanctioned individuals.
  - H. Initiate and implement immediate and appropriate corrective and disciplinary action as warranted following Human Resources policy ER-50 and the Just Culture model.
- IV. Program oversight
- A. Board of Directors
    - 1. The WellSpan Board of Directors has overall responsibility for the authorization and implementation of the WellSpan Compliance Program. The Audit and Compliance Committee of the Board of Directors will receive regular updates (at least annually) related to the Compliance Program. The WellSpan Population Health Services Board of Directors will receive regular updates (at least annually) for the Medicare Shared Savings Program. These updates will summarize the compliance activities of the organization and include: updates that have been made to the Program, monitoring, audits, investigation activities, and compliance education activities.
    - 2. The Audit & Compliance Committee and/or the Board of Directors have the authority to request a special report on any compliance activity it deems appropriate.
    - 3. The WellSpan Audit & Compliance Committee and Senior Management Team will oversee the overall compliance processes and will be responsible for ensuring that the appropriate level of compliance activity exists within the organization. The Audit & Compliance Committee reports to the WellSpan Board of Directors.
- V. Compliance Steering Committee
- A. The Compliance Steering Committee members will be appointed to the committee by Senior Management and have clinical, operational, compliance, and/or financial

expertise. Ad hoc members will be appointed as unique issues or situations requiring additional expertise arise. The Committee will have the authority to review and evaluate any functional area of the organization identified as a vulnerability within the organization.

B. The Committee’s functions include, but are not limited to:

1. monitoring the compliance program activities to ensure process, policy and procedures exist to mitigate non-compliance with federal, state, and local laws and regulations;
2. recommending to the Audit & Compliance Committee for approval: changes and updates to the Program;
3. advise the compliance officer(s) and senior management;
4. reviewing and recommending procedures for ensuring compliance;
5. reviewing Compliance Program training and education of employees;
6. reviewing the results of monitoring and auditing activities regarding the Program’s effectiveness;
7. reviewing and recommending appropriate corrective action steps should an error or violation of compliance policies and procedures occur.

C. WellSpan Health Compliance Steering Committee Membership

Administration	Senior Vice President-Finance	*
Administration	Vice President and General Counsel	*
Administration	Vice President-WellSpan Health Ambulatory Services	*
Corporate Compliance	Director(s) Corporate Compliance	*
Patient Admin. Services.	Director-Patient Administrative Services	*
Human Resources	Director Level Representation	*
Revenue Management	Manager Revenue Integrity	*
HIM	Director Health Information Protection	*
HIM	Senior Director Health Information Management	*
Case Management	Director Case Management	*
WellSpan Medical Group	Chief Operating Officer	*
Laboratory Services	Operations Manager	*
Home Care Services	Vice President - Home Care	*
Outpatient Pharmacies	Director, Ambulatory Pharmacy Operations	*
Apple Hill Surgical Center	Business Office Manager	*
WellSpan MSSP ACO	VP & COO-WellSpan Population Health	*
Information Services	Vice President - Chief Information Officer	*

\* or an appropriate designee.

VI. Compliance Officer(s)

- A. The WellSpan Director - Corporate Compliance are WellSpan’s Compliance Officers. The Compliance Officer will establish accountability, credibility, and structure to the compliance program. The Officer should possess a strong work ethic; and the knowledge and skills to set up user-friendly systems of documentation, communication, verification, auditing, and reporting.
- B. The Compliance Officer(s) will have a dual reporting responsibility, to the WellSpan Senior Vice President-Finance and the Audit & Compliance Committee of the Board. The Compliance Officer(s) will have direct access to senior management. In addition, the Compliance Officer shall report to the WellSpan Chief Executive Officer (CEO), Chairman of the WellSpan Board of Directors, or the Chairman of the Audit & Compliance Committee of the Board in the event of sensitive circumstances.

- C. The Compliance Officer(s) will be responsible for:
  - 1. reviewing, coordinating, and providing guidance to formulate policies and procedures regarding compliance related activities within operational processes;
  - 2. overseeing the monitoring of Program activities. The Compliance Officer shall oversee and implement a plan to monitor operations of the Program including the preparation of periodic reports detailing compliance initiatives;
  - 3. ensuring mechanisms are in place to disseminate changes in the Program and regulations in a timely manner to appropriate employees;
  - 4. providing guidance and monitor the development of education and training of the employees regarding compliance related activities;
  - 5. coordinating any compliance investigations with legal counsel; and
  - 6. monitoring and responding to questions, concerns, and reports of possible misconduct via the hotline, or other approved means of reporting;
  - 7. Auditing and monitoring; and
  - 8. Coordinate with HR to ensure all employees have been properly screened against governmental sanction lists.

## VII. Code of Conduct

- A. The purpose of the WellSpan Code of Conduct is to define the professional and individual conduct required of all employees of WellSpan Health including supporting the organization's commitment to compliance. The Code of Conduct is applicable to all employees, vendors, WellSpan's MSSP participants, and volunteers of WellSpan.
- B. The expectations of these standards will be addressed in General Compliance Training sessions. For all new employees, the Code of Conduct will be reviewed and addressed during New Employee Orientation.
- C. Standards
  - 1. Employees will comply with the Code of Conduct as a condition of continued employment.
  - 2. Employees have an obligation to report perceived noncompliance with the Code of Conduct.
  - 3. Employees will conduct all activities with integrity.
  - 4. Employees will comply with any federal, state, and local laws, statutes, and regulations with which the organization or their profession must comply.
  - 5. Employees will certify that they understand and will comply with the Code of Conduct as a requirement of employment.
  - 6. Failure to comply with the Code of Conduct will result in disciplinary action, up to and including termination of employment.

## VIII. Reporting and Internal Investigation

### A. Reporting

- 1. Employees have an obligation to report incidents of suspected misconduct, perceived noncompliance, or suspected violations of the Code of Conduct. Employees have the right to submit questions regarding compliance.
- 2. Several confidential options are available to the employee to report suspected misconduct and /or to ask questions regarding compliance:
  - a) WellSpan's Financial Integrity and Compliance Reporting Line (717-851-5444) is a 24-hour dedicated phone line located in the Corporate Compliance Office where the caller can choose to remain anonymous;
  - b) meeting with a Compliance Officer;

- c) e-mail or phone call to a Compliance Officer;
      - d) communication in writing to a Compliance Officer
    - 3. Employees shall not be subject to retaliation based on reports submitted in good faith. Employees have a right to request anonymity in making a report, and the Compliance Officers will make every effort to honor the request. However, it may be necessary to disclose the identity of the reporting person in the course of the investigation or to government investigators.
  - B. Financial Integrity & Compliance Reporting Line
    - 1. A 24-hour dedicated, “Financial Integrity and Compliance Reporting Line,” voice mail activated phone line has been established and made available to all employees, vendors and suppliers. The voice mail can be accessed **only** by the Compliance Officer or designees. All calls to the “Financial Integrity and Compliance Reporting Line” will be logged and investigated. The “Financial Integrity and Compliance Reporting Line” number is published in facility phone directories (717-851-5444).
- IX. Vendors/Outside Consultants
- A. Vendor contracts and purchase orders will include language by which the vendor will warrant, as a material condition of their agreement, that neither they nor any of their principals are excluded from participation in any federal or state health care program. New vendor contracts will be checked for Medicare sanctions.
  - B. Outside consultants and agents are required to adhere to WellSpan Code of Conduct and WellSpan’s Compliance Program policy.
- X. Investigation
- A. It is the policy of WellSpan to thoroughly investigate in a timely manner all reported potential compliance issues. All reports of suspected noncompliance will be sent to the Compliance Officer.
  - B. Upon receipt of a report of suspected misconduct or noncompliance, or receipt of information from management, the issue will be investigated in a fair and consistent manner. Each incident will be documented, investigated, and addressed either through corrective action or an explanation to the complainant.
  - C. If any non-compliance is verified, it will promptly be corrected. Corrective actions may include ceasing the non-compliant activity, taking steps to redesign processes and educate staff to prevent recurrences of the non-compliant activity, voluntarily disclosing the non-compliance to payers and to regulators as appropriate and refunding payments that were improperly received by WellSpan Health.
- XI. Training and Education
- A. General Compliance Training is provided to all WellSpan employees, and includes:
    - 1. Overview of the Compliance Program
      - a) Employees are responsible to perform duties with integrity
      - b) Employees are responsible to comply with applicable laws and regulations
      - c) Employees are encouraged to ask questions if they are unsure about interpretation of laws
      - d) Employees are responsible to report any concerns they have regarding compliance issues

2. Overview of WellSpan's Compliance Program
3. Review of WellSpan's Code of Conduct
4. Review of Compliance Risk Areas
5. Review of Compliance Concern Reporting Process

B. Review the details of the following laws as required, in part, by the Deficit Reduction Act via distribution of a copy of this policy to all employees.

1. The False Claims Act – Health care providers are prohibited from making a false statement or representation to the government in any claim they submit for payment under the Medicare and Medicaid programs. They are prohibited from knowingly making or using false records to obtain payment of a Medicare or Medicaid claim. “Knowingly” means the provider had actual knowledge that the claim included false information, or acted in deliberate ignorance or reckless disregard of the facts. Examples of false claims are covered in employee training. Civil penalties – fines of \$5,500 - \$11,000 per claims, treble damages (three times the amount of the false claim), and exclusion from the Medicare program.
2. Program Fraud Civil Remedies Act – provides for administrative remedies against people who make a false claim to federal agencies. Generally applies to claims of \$150,000 or less. Providers who submit a claim that they know or have reason to know is false, fictitious, or fraudulent are subject to civil money penalties of up to \$5,000 per false claim and up to twice the amount claimed.
3. Civil Monetary Penalties Law - Providers who submit a claim to a federally-funded health care program that they know or should know is false or fraudulent may also be subject to civil monetary penalties imposed by the OIG, up to \$10,000 per violation plus three times the amount of the improper claim. Examples of violations include submitting a claim for services that were not provided as claimed, or were provided by someone who had been excluded from a federally-funded health care program. Claims that violate the Anti-Kickback Statute or the Stark Law (described below) are also subject to punishment under the Civil Monetary Penalties Law.
4. Anti-Kickback Statute - This federal law prohibits providers from knowingly or willfully offering, giving, soliciting, or receiving, either directly or indirectly, any "remuneration" to induce or reward the referral of items or services which are payable under the Medicare or

Medicaid programs - “Remuneration” includes payments, kickbacks, gifts, or bribes in the form of cash, services, or equipment. The anti-kickback statute is a criminal statute. If even “one purpose” of the remuneration is to illegally induce referrals, providers may be subject to criminal penalties, including imprisonment up to five years and fines up to \$25,000 per violation; civil penalties, including fines of not less than \$50,000 per violation; and, exclusion from the Medicare and Medicaid programs.

5. Physician Self-Referral Prohibition (“Stark”) Law - The Stark I Law is a federal law that prohibits physicians from referring a Medicare patient to an entity for the furnishing of laboratory services if the physician or an immediate family member of the physician has a direct or indirect financial interest in the entity providing the laboratory services. The Stark II Law extends this, by prohibiting physicians from referring Medicare and Medicaid patients to an entity for the provision of a broader list of services known as "designated health services" if the physician or an immediate family member of the physician has a direct or indirect financial interest in the entity providing the designated health services. Under the Stark Law, “financial interest” includes an ownership interest or a compensation arrangement.

The Stark Law is a civil, not criminal, statute. The entity that received the prohibited referral will be denied payment by Medicare for the designated health services provided. The physician that makes the referral and the entity that receives the referral may be subject to civil money penalties, and possible exclusion from participation in the Medicare and Medicaid programs.

6. Pennsylvania Law - Many states have enacted laws to supplement the federal False Claims Act. Although Pennsylvania does not yet have a false claims act, the Pennsylvania Public Welfare Code (at 62 Pennsylvania Statutes 1407 and 1408) makes it unlawful for anyone to knowingly or intentionally submit a false or fraudulent claim for the purpose of obtaining authorization or payment of services under the Medicaid program. The Pennsylvania Public Welfare Code also prohibits the knowing submission of claims to the Medicaid program for medically unnecessary services, or the knowing submission of false information for the purpose of obtaining greater compensation than that to which the provider is legally entitled. False claims under the Pennsylvania Medicaid program may be subject to criminal penalties, including imprisonment up to seven years and fines up to \$15,000 for the first offense; plus repayment of three times the amount of the improper claim, and exclusion from the Medicaid program for five years.

The Pennsylvania Insurance Company Law also prohibits providers from knowingly submitting false information to a private insurer or self-insured entity with the intent to defraud the insurer. Insurers may sue to recover their damages, which may be tripled if the court finds that the provider engaged in a pattern of submitting fraudulent claims.

Pennsylvania law prohibits physicians from making direct or indirect referral arrangements with other physicians or providers of medical services or supplies payable under the Medicaid program. Although a physician can recommend the services of another provider, automatic referrals are prohibited. In particular, Pennsylvania law bans the referral of Medicaid patients in return for financial consideration; the offering or

paying of remuneration in return for referrals of patients for service or supplies; the execution of a rent or lease arrangement unless the space is leased for adequate and fair consideration; the solicitation or receipt of a kickback, payment, gift, bribe, or rebate with regards to a goods, facility, service or item for which payment is made under the state Medicaid program; and the referral of Medicaid patients to independent laboratories, pharmacies, or radiology or other ancillary medical service facilities in which the physician (or their professional corporation) has an ownership interest.

Pennsylvania law also requires providers to disclose to patients any financial or ownership interest the physician may have in the facility to which the patient is referred. The provider may render recommendations felt to be medically appropriate, but the patient must be advised of his or her freedom of choice in selecting the facility.

Violators of the anti-kickback provisions of the Pennsylvania Medicaid program may be subject to criminal penalties, including imprisonment up to seven years and fines up to \$15,000 for the first offense; plus mandatory exclusion from the Medicaid program for five years.

7. Whistleblower Protections - Employees and other private citizens who in good faith believe that any provider, including WellSpan Health, has violated any of these federal or state laws have the right to “blow the whistle” on such wrongdoing by directly contacting a regulatory agency. This right is protected by federal law, and WellSpan Health will not punish or retaliate against anyone who exercises this right. Pennsylvania has also adopted a Whistleblower Law (at 43 Pennsylvania Statutes 1421-1428). Although the Law specifically provides protections to employees of a “public body,” some Pennsylvania court decisions have held that the Whistleblower Law can also apply to a private employer (such as WellSpan) that receives reimbursement from the Medicaid program for services provided to Medicaid beneficiaries.

Although WellSpan Health will not retaliate against anyone who exercises their right to “blow the whistle” by directly contacting a regulatory agency, it is WellSpan Health’s preference that anyone who believes there has been a compliance violation should first notify a WellSpan Health Director of Corporate Compliance, in order to provide us with the opportunity to “do the right thing” and promptly investigate, verify, and correct the non-compliance. WellSpan Health’s preference is not motivated by a desire to “cover up” any non-compliance; rather, we believe that it is best to internally correct non-compliance without the expense, delay, adverse publicity, and disruption that can be caused by external investigations or lawsuits.

In addition to “blowing the whistle,” employees and other private citizens who in good faith believe that a provider has submitted a false claim to a federally-funded health care program have the right to file a lawsuit in



federal court. After investigation, the U.S. Department of Justice (“DOJ”) may decide to join the lawsuit and take over the prosecution. If the prosecution is successful, the private person may be entitled to a percentage of the federal damages and penalties recovered, depending upon the usefulness of their involvement. Even if the DOJ does not join the lawsuit, the private person may pursue the lawsuit on his/her own. If their lawsuit is successful, the private person may be entitled to a percent of the recovery, plus reimbursement of their legal costs.

The False Claims Act protects employees from being fired, demoted, threatened, or harassed by their employer for filing a lawsuit under the False Claims Act. If a court finds that the employer retaliated against the employee, the court can order the employer to rehire the employee and pay them twice the amount of back pay that is owed, plus interest and attorneys’ fees.

- C. As needed Targeted Compliance training will be provided to identified groups/departments.
- D. As mandated by the Deficit Reduction Act, WellSpan Health will also ensure that all contractors and agents of WellSpan are informed of and are required to comply with this policy.
- E. Attendance records will be maintained on all training and education programs pertaining to compliance education.

## XII. Employment Procedures

- A. The Human Resource Department is responsible for completing reference checks, including the OIG Sanction List, the GSA sanction list; and the Pennsylvania Medicaid Sanction List on all individuals applying for employment at WellSpan facilities. Such reference checks are also conducted on an on-going periodic basis of current employees. WellSpan Health will not knowingly employ or contract with a person who is excluded from any health care program. In addition, even if a person is not excluded, we reserve the right to not employ any person who we determine to not be suitable for the position, based, in whole or in part, on their criminal history. WellSpan Health will not knowingly employ individuals who have been convicted of a serious crime involving the violation of personal or public trust, or the abuse or denigration of others. Additionally WellSpan Health will not knowingly employ individuals who have been convicted of crimes that would, under normal circumstances, prevent them from holding an active license in the profession or vocation in which they are expected to perform.
- B. The Offices of the Medical Directors are responsible for obtaining credentialing information on prospective individuals applying for Medical Staff credentials at each organization. Physician applicants are checked using the National Practitioner Databank and the government website (Medicare Sanctions List).

## XIII. Disciplinary Guidelines

- A. Rules, regulations, and policies approved by WellSpan Senior Management and the Board of Directors are expected to be upheld by all staff.

- B. It has been communicated through General Training, meetings, and materials that 'Compliance is everyone's responsibility,' and that failure to comply with the Code of Conduct will result in disciplinary action, up to and including termination.
- C. In addition, to support the promotion of compliance as an accepted standard, and to give all employees a clear and consistent message, compliance has been adopted as an element in many employee Performance Standards and Evaluations.

XIV. Enforcement Performance Standard

- A. All employees of WellSpan have a role in compliance. To support the promotion of and adherence to the Elements of the Compliance Program, the Code of Conduct is signed annually by all employees. Also, managers are encouraged to include specific compliance-related standards in employee performance evaluations.

XV. Monitoring and Audits

- A. Purpose: To address compliance with policies and procedures, regulations, and laws by utilizing reasonably designed, ongoing monitoring and auditing activities.
- B. Ongoing monitoring activities occur in the course of operations. It includes regular management and supervisory activities. The scope and frequency of separate compliance monitoring and audits will depend on:
  - 1. the Current OIG Work Plan;
  - 2. new and changed regulations;
  - 3. the outcome of internal risk assessments

XVII. Risk Areas

- A. It is the policy of WellSpan that a compliance project plan will be formulated annually based on risk assessment, which may include consideration of the following:
  - 1. The risk areas identified in the OIG Compliance Guidances
  - 2. Risk areas identified for Medicare Shared Saving Program Accountable Care Organizations
  - 3. The Current OIG Work Plan
  - 4. The outcome of external reviews
  - 5. Review of current compliance literature
  - 6. Review of amended rules/regulations or new regulations
  - 7. Internal risk assessments conducted by Corporate Compliance or Compliance Steering Committee
- B. The goal of the risk assessment and compliance project plan will be to reduce risk, improve operations, and build controls within the organizational environment. Policies, procedures, processes in each of these identified risk areas will be analyzed and revised as necessary.

**SCOPE:** This policy applies to all entities governed by WellSpan Health.

**CREATED DATE:** 7/2001

**REVIEW/REVISE DATES:** 7/02; 10/03; 10/04; 5/07; 6/07; 9/07; 3/09; 2/12; 1/16

**SEARCH KEYWORDS:** MAP, Compliance, Integrity, Fraud