Medical Staff Service Excellence, Corporate Compliance, and Regulatory Standards

Includes:

Standards of Conduct

University Hospital Policies

Medical Staff Governance Documents

Corporate Compliance

Regulatory Standards (Includes: Stark Law, Anti-Kickback Statute, False Claims Act, EMTALA, HIPAA)

University HOSPITAL
Newark, NJ

Standards of Conduct & Corporate Compliance

Your ethics and values define your personal standard of conduct.

- University Hospital maintains a high standard of legal and ethical behavior. Our values form the foundation of the service provided by employees, physicians, volunteers and contractors.
- Compliance means that we abide by federal and state laws and standards with an emphasis on preventing fraud and abuse. We also have a responsibility to report any behavior that may be considered illegal or unethical.
- If you believe someone has committed fraud or taken a wrong action, you are required to report it immediately.
- All University Hospital employees, volunteers, vendors, and contractors have a duty to report suspected violations of the University Hospital Code of Conduct.
- If you become aware of a matter that may violate the UH Code of Conduct, please contact your supervisor immediately or the UH Office of Ethics and Compliance at (973) 972-3450.

Office of Ethics and Compliance
Phone: 973-972-3450
Email: uhethics@uhnj.org
Location: Horizon Building

3 Penn Plaza East, 13th Floor
Newark, New Jersey 07105

Code of Conduct (pdf)

Notice of Privacy Practice English Spanish

UH Compliance Helpline Number **1 (855) 431-9966**

File a complaint (**https://uhcompliancehelpline.alertline.com**)

Contact Information:
3 Penn Plaza East, 13th Floor
Newark, New Jersey 07105

Phone: (973) 972-3450
Fax: (973) 972-0005

Anonymous

Compliance Help Line:

855.431.9966

University HOSPITAL
Newark, NJ

SECTION 1

Service Excellence

Standards of Conduct

University HOSPITAL
Newark, NJ

Service Excellence Standards

Dress Code - Following the dress code contributes to a positive impression in your daily contact with patients, visitors and fellow employees. *Dress Code Policy Issue No: 831.200-251*

Phone Etiquette - Answer every call with: *Good morning/afternoon/evening*, (*your unit/department*), (*your name*) *speaking*, *How can I help you?*

Noise Level – Take an active part in maintaining a quiet and healing environment. Be aware of your own volume in hallways and other public areas.

Attitude – A positive attitude, eye contact, a smile, a friendly tone of voice – all contribute to creating a space where patients and visitors feel welcome.

Cell Phones – Cell phones should always be on vibrate or with simple sound alerts only. Personal cell phones should never be used vita text or voice while you are working.

Elevator Etiquette – Smile and say "hello" when you get on the elevator. The *patient elevators* are for patients – if a patient in a wheelchair or stretcher gets on the elevator, get off.

University HOSPITAL
Newark, NJ

Professional Behavior and Conduct

- It is the policy of UH that all individuals within it be treated with courtesy, respect and dignity. All members of the medical staff are expected to conduct themselves with dignity and professionalism at all times. Disruptive behavior of any type is considered unacceptable and will not be tolerated.

- It is recognized that stressful situations may arise that present a challenge to the medical staff member. The response to these situations should be expressed with dignity, insight, professionalism and discussed in an appropriate setting.

- ***UH Policy: 831.200.274***

University HOSPITAL
Newark, NJ

Appropriate Behavior

- Encouraging clear communication
- Use of cooperative approach to problem resolution
- Criticism communicated in a reasonable manner and offered in good faith with the aim of improving patient care and safety
- Expressions of dissatisfaction with policies through appropriate channels
- Constructive criticism conveyed in a respectful and professional manner, without blame or shame for adverse outcomes

Disruptive Behaviors

- Degrading comments or insults
- Discriminatory behavior
- Inappropriate joking
- Incompetence
- Physical assault
- Profanity
- Refusal to cooperate with other providers
- Physical contact that is threatening or intimidating
- Refusal to follow established protocols
- Sexual harassment
- Spreading malicious rumors
- Substance abuse
- Throwing objects
- Retaliation
- Yelling
- Blatant, deliberate failure to respond to patient care needs or staff request without medical justification
- Physically threatening language directed at anyone within the hospital (staff, patients, visitors, etc.)

University HOSPITAL
Newark, NJ

Disruptive Physician Behavior

Defined as: Physicians acting in a way that is disrespectful, unprofessional and toxic to the workplace.

- TJC considers disruptive physician behavior a serious issue and one that contributes to patient safety issues.
- All formal complaints about disruptive physician behavior will be investigated by the Compliance officer or designee.
- Findings will be reviewed with Executive Leadership and, if substantiated, a counseling session will ensue with the CMO.
- Repeated complaints will result in formal disciplinary action up to and including a hearing with MEC, potential loss of privileges, and report to the NJ Board of Medical Examiners, as well as other regulatory agencies.
- A full review of the disciplinary process can be found in the University Hospital Medical Staff Bylaws, Rules and Regulations.

University HOSPITAL
Newark, NJ

Consequences of Disruptive Behavior

- Reporting of disruptive behavior
- Limiting privileges
- External reporting
- TJC requirements for reporting, etc.

University HOSPITAL
Newark, NJ

SECTION 2

University Hospital Policies

Medical Staff Governance

Documents Corporate

Compliance

Regulatory Standards

(Includes: Stark Law, Anti-Kickback Statute, False Claims Act, EMTALA, HIPAA)

University HOSPITAL
Newark, NJ

After completing this section, you should be able to:

- Identify the major healthcare laws and regulations
- Recognize potential consequences and penalties associated with violations
- Identify methods of preventing compliance violations
- Identify how to report compliance violations
- Recognize how compliance violations are corrected
- Identify where University Policies and Medical Staff Governing Documents can be found.

Ethics and Compliance Resources

Ethics and Compliance Ethics Forms Uniform Ethics Code and Plain Language Guide

Welcome to Office of Ethics and Compliance

The Office of Ethics and Compliance (OEC) promotes a culture of compliance and respect for privacy working in collaboration with other University Hospital (UH) leadership. Our team consists of healthcare compliance and privacy experts, so as we may serve as a resource for all providers, employees, consultants, volunteers and students throughout UH. We provide compliance and privacy focused education, guidance, and assistance to clinical operations, and we prioritize collaborations that proactively build efficient and effective workflows supporting the delivery of safe and quality patient care.

Compliance is everyone's responsibility!

The OEC team also upholds the UH's Corporate Ethics and Compliance Program and has been designed to:

- Detect, discourage, reduce incidents of unlawfulness, unprofessional and unethical conduct, and fraud, waste and abuse.
- Enhance University Hospital's operations and the quality of healthcare delivery.

If you have questions about the Ethics and Compliance Program or any of the materials provided on this site, please do not hesitate to contact us.

UH Ethics and Compliance Helpline: 855-431-9966
Online Reporting: https://uhcompliancehelpline.alertline.com/
(anonymous reporting available 24 hours a day/ 7 days a week)

Quick Links

[New Jersey SEC Attendance at Events Form]
[New Jersey SEC Joint Venture Form]
[New Jersey SEC Outside Activity Questionnaire Form]
[UH Code of Conduct Booklet]
[2024 Uniform Ethics Code]
[2024 Plain Language Guide]
[UH Employee Receipt Form Ethics Code]

New Jersey SEC Attendance At Events Form

New Jersey SEC Outside Activity Questionnaire Form

Code of Conduct-Booklet

New Jersey SEC Joint Venture Form

2024 Uniform Ethics Code

2024 Plain Language Guide

UH Employee Receipt Form Ethics Code

University HOSPITAL
Newark, NJ

Medical Staff Governing Documents & University Hospital Policies & Procedures

- University Hospital Medical Staff Bylaws
- University Hospital Medical Staff Rules and Regulations
- MCN Policy Search
- University Hospital Code of Conduct

Key Federal Healthcare Laws

- Stark Law
- Anti-Kickback Statute
- False Claims Act
- EMTALA
- HIPAA

Click on links to access resources.

University HOSPITAL Newark, NJ

Stark Law (also known as the Physician Self-Referral Law)

- This is a civil statute that governs “financial relationship” between physicians and hospitals.
- A physician may not refer a patient to an entity in which he/she/they (or his/her/their immediate family member) has a financial relationship.
- Financial relationship means:
  - An ownership/investment interest or
  - A compensation arrangement
- Examples
  - Physician contracts that vary with or take into account the value or volume of referrals
  - Physician compensation arrangements above Fair Market Value
  - “Sham” medical director and services arrangements
  - Physician compensation without a business justification

University HOSPITAL
Newark, NJ

Anti-Kickback Statute

- This is a criminal statute that prohibits soliciting, receiving, offering or paying (directly or indirectly, overtly or covertly) anything of value to induce the referral of a patient to receive services or products.
- Examples:
  - A laboratory offers a physician $50 per Medicare patient the physician refers to the laboratory for testing.
  - A nursing home representative gives a $100 gift card to a hospital's case manager for each patient the case manager discharges to that nursing home (as opposed to other nursing homes).

University HOSPITAL
Newark, NJ

False Claims Act

- This is a civil statute that makes it unlawful to submit a claim to the government that one knows is false or fraudulent.
- Individuals are liable to pay damages to the government for violation of the False Claims Act.
- Knowledge includes actual knowledge, deliberate ignorance or reckless disregard.
- Examples
  - Using a person's Medicare I.D. and submitting claims for medical services that were never rendered to that person.
  - Unbundling one code and splitting it into several codes to obtain more reimbursement.
  - Retaining an overpayment longer than 60 days after identification.

Prevent and Detect Fraud, Waste and Abuse

Fraud is…

Intentionally submitting false information to get money or a benefit.

- For example, knowingly altering claim forms, medical records, or receipts to receive a higher payment.

Waste is…

Using, consuming, spending or expending resources thoughtlessly or carelessly.

- For example, ordering excessive laboratory tests.

Abuse is…

Unintentionally misrepresenting facts to obtain payment.

- For example, unknowingly misusing codes on a claim, such as upcoding or unbundling codes.

University HOSPITAL
Newark, NJ

EMTALA

EMTALA is a federal law that mandates medical screening and stabilization requirements before a patient can be transferred to another facility. The purpose is to require proper screening and care of a person regardless of their ability to pay for the services. Any potential violations should be reported to the Chief of your Department immediately. EMTALA violations may be subject to hospital fines, physician fines, or termination of a hospital's Medical Provider Agreement.

In 1986, Congress enacted the Emergency Medical Treatment & Labor Act (EMTALA), aka the Anti-Dumping Act to ensure public access to emergency services regardless of ability to pay. Section 1867 of the Social Security Act imposes specific obligations on Medicare-participating hospitals that offer emergency services to provide a medical screening examination (MSE) when a request is made for examination or treatment for an emergency medical condition (EMC), including active labor, regardless of an individual's ability to pay. Hospitals are then required to provide stabilizing treatment for patients with EMCs. If a hospital is unable to stabilize a patient within its capability, or if the patient requests, an appropriate transfer should be implemented.

Two Basic Concepts:

- **Duty to Screen** – arises when someone comes to a hospital with an emergency medical condition seeking treatment for the emergency medical condition
- **Duty to Stabilize** – arises when hospital has actual knowledge that patient has an emergency medical condition

University HOSPITAL
Newark, NJ

EMTALA: At a Glance

Basic Rules

Any person presenting to the hospital ED seeking examination or treatment

- Must be medically SCREENED
- If there is an emergency medical condition, the patient must be STABILIZED within the capacity of the hospital; the screening and stabilizing treatment must be provided WITHOUT DELAY because of insurances inquiries. TRANSFER to another facility may be requested if the other facility has the capability to stabilize the condition, accepts the transfer, physician certifies that the benefits of transfer outweighs the risk of transfer and if appropriate equipment and qualified personnel is used to transfer patient.

Penalties

- Hospitals with >100 beds: Up to $50,000 per violation
- Hospitals with <100 beds: Up to $25,000 per violation
- ED Physicians and Specialists: Up to $50,000 per violation, may be excluded from federally funded health care programs and specialists may be liable if they fail to complete a timely consult ordered by the ED physician.

University HOSPITAL
Newark, NJ

Requirements

- Appropriate medical screening exam to determine if emergency medical condition exists
- Stabilizing treatment – treatment necessary to ensure, with reasonable medical probability, that no material deterioration of the condition is likely to result from or occur during the transfer, delivery of a child and the placenta, psychiatric patients are protected and prevented from injuring or harming self or others.
- Appropriate transfer

NO DELAYS!

Who/What is Covered:

- Covers ALL persons
- Covers ALL hospitals that participate in Medicare

Penalties Can Be Significant

Anti-Kickback Statute	Stark Law	False Claims Act
Criminal: • Fines up to $100,000 • Up to 10-year prison term **Civil**: • False Claims Act liability • Civil monetary penalties and program exclusion • Potential $22,363 CMP per violation • Civil assessment of up to three times amount of kickback	**Civil:** • False Claims Act liability • Civil monetary penalties and program exclusion for knowing violations • Potential $24,253 CMP for each service • Civil assessment of up to three times the amount claimed	**Civil** • Treble damages • Penalties of $11,463 to $22,927 per claim

University HOSPITAL
Newark, NJ

Exclusion from Federal Healthcare Programs

- Payments may NOT be made for any item or service provided by, ordered, or prescribed by an excluded employee or company.
- Exclusion Lists Include:
  - The OIG's List of Excluded Individuals and Entities (LEIE).
  - The U.S. General Services Administration (GSA) Excluded Parties List System (EPLS), which is available on the System for Award Management (SAM) website.
  - Many states maintain exclusion lists for Medicaid programs in addition to the OIG/GSA exclusion lists.

University HOSPITAL
Newark, NJ

Civil Monetary Penalties Law ("CMP")

- The CMP Law authorizes the OIG to impose civil money penalties for violations of key fraud, waste, and abuse law violations.
- Examples:
  - Arranging for services or items from an excluded individual or entity.
  - Providing services or items while excluded.
  - Failing to grant OIG timely access to records.
  - Knowing of and failing to report and return an overpayment within 60 days.
  - Submitting inaccurate bills for payment.
  - Paying to influence referrals.
- The CMP Law includes a Beneficiary Inducement Prohibition:
  - Facilities cannot give anything of value to a beneficiary (patient) that the facility knows or should know is likely to influence the patient's selection of a particular provider, practitioner, or supplier.
  - For example, offering gift cards to patients.

This Section Covers the Following Topics:

- ✓ HIPAA Basics
- ✓ Privacy Rule
- ✓ Covered Entities
- ✓ Business Associate
- ✓ Protected Health Information
- ✓ De-Identified Health Information
- ✓ Security Rule
- ✓ Required Disclosures
- ✓ Breach Notification Rule
- ✓ Complying with HIPAA Rules & Penalties for HIPAA Violations

University HOSPITAL
Newark, NJ

HIPAA Basics

HIPAA is made up of three crucial parts:

1. Privacy Rule
2. Security Rule
3. Breach Notification Rule

Health Insurance Portability and Accountability Act of 1996 (HIPAA)

- Public Law 104-191
- Enacted on August 21, 1996
- Since Congress did not enact privacy legislation within three years on the passage of HIPAA, the Department of Health and Human Services (HHS) published the final Privacy Rule on December 28, 2000.
- Modifications to the Privacy Rule were published on August 14, 2002

Main purposes of HIPAA

- Creates greater access to health care insurance
- Made health insurance portable under ERISA (Employee Retirement Income Security Act of 1974)
- Strengthens the protection of privacy of health care data
- Promotes standardization and efficiency in the health care industry.
- Required safeguards deter unauthorized access to protected health care information
- Provides individuals with certain rights to their health information

University HOSPITAL
Newark, NJ

Privacy Rule

The Privacy Rule provides federal protections for protected health information ("PHI") held by covered entities, and gives individuals (patients) important rights with respect to their PHI (i.e., rights to examine and obtain a copy of their health records and rights for them to ask for corrections to their health records).

- Sets national standards for when PHI may be used and disclosed.

- Entities regulated by the Rule are obligated to comply with all applicable requirements.
- The Privacy Rule is balanced so that it permits the disclosure of protected health information needed for patient care and other important purposes.

    - The Privacy Rule does not require Covered Entities (CE) to obtain a signed consent form before sharing information for treatment, payment, or healthcare operation purposes.
    - The Privacy Rule does not require you to eliminate all incidental disclosures.
    - The Privacy Rule does not cut off all communications between you and the families and friends of patients.
    - The Privacy Rule does not stop calls or visits to hospitals by family, friends, clergy or anyone else.
    - The Privacy Rule does not prevent child abuse reporting.
    - The Privacy Rule is not anti-electronic.

Covered Entities

HIPAA Rules apply to covered entities. A Covered Entity is one of the following:

A Health Care Provider	A Health Plan	A Health Care Clearinghouse
This includes providers such as: ▪ Hospitals ▪ Doctors ▪ Clinics ▪ Psychologists ▪ Dentist ▪ Chiropractors ▪ Nursing Homes ▪ Pharmacies	This includes: ▪ Health insurance companies ▪ HMOs ▪ Company Health Plans ▪ Government programs that pay for health care, such as Medicare, Medicaid, and the military and veterans health care programs	This includes entities that process nonstandard health information they receive from another entity into a standard (i.e., standard electronic format or data content), or vice versa.

University HOSPITAL
Newark, NJ

Business Associates

HIPAA Rules apply to Business Associates

- **Business Associate Defined:**
  - Person or Organization, other than a workforce member of a covered entity, that performs certain functions that involve PHI on behalf of, or provides certain services to, a covered entity.
    - Examples: claims processing, data analysis, utilization review, and billing services.
  - Can be a subcontractor responsible for creating, receiving, maintaining, or transmitting PHI on behalf of another business associate.
  - Persons or organizations are not considered business associates if their functions or services do not involve the use or disclosure of PHI and where any access to PHI by such persons would be incidental, if at all.
  - NOTE: A covered entity can be a business associate of another covered entity

- **Business Associate Agreement (BAA):**
  - When a covered entity uses a contractor or other non-workforce member to perform "business associate" services or activities, the Rule requires that the covered entity include certain protections for the information in a business associate agreement (BAA).
  - In the BAA contract, the covered entity must impose specified written safeguards on the individually identified health information used or disclosed by its business associates.

University HOSPITAL
Newark, NJ

Protected Health Information (PHI)

PHI is any information that is considered individually identified health information.

Examples:

- Demographic Information (e.g., name, address, birth date, Social Security Number),
- Information related to an individual's past, present or future physical or mental health or condition,
- An individual's provision of health care, or
- Any information related to the past, present, or future payment for the provision of health care to the individual

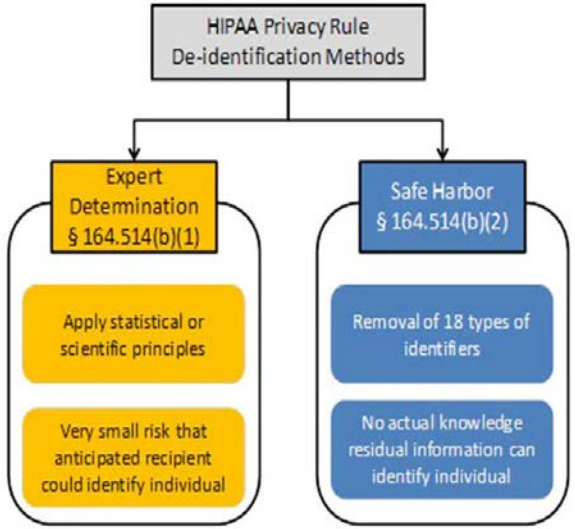
The Privacy Rule protects all PHI

University HOSPITAL
Newark, NJ

De-Identified Health Information

This type of health information neither identifies nor provides a reasonable basis to believe that the information can be used to identify an individual.

- Example: Health information from a medical record that has been stripped of all individually identified health information.



University HOSPITAL
Newark, NJ

Security Rule

- The Security Rule is seen as a complement to the Privacy Rule. The Privacy Rule pertains to all PHI, whether written or electronic. In contrast, the Security Rule pertains exclusively to PHI distributed over electronic channels.
    - Electronic Channels: Communicating via email, texting, electronic health records (EHR), computerized physician order entry systems (CPOE), etc.

Required Disclosures

There are only two situations where it is mandatory that a overed entity discloses protected health information.

1. To individuals (or their personal representatives) specifically when they request access to, or an accounting of disclosures of, their protected health information.
2. To HHS when it is undertaking a compliance investigation or review or enforcement action.

Permitted Uses and Disclosures

A covered entity is permitted, but not required, to use and disclose PHI, without an individual's authorization, for the following purposes or situations:

1. Treatment, Payment and Health Care Operations
2. Opportunity to Agree or Object
3. Incident to an otherwise permitted use and disclosure
4. Public Interest and Benefit Activities
5. Limited Data Set for the purposes of research, public health or health care operations

University HOSPITAL
Newark, NJ

Breach Notification

A Breach is defined as the impermissible use or disclosure under the Privacy Rule that compromises the security or privacy of PHI.

- When such an incident occurs, it is presumed to be a breach unless the covered entity or business associate, as applicable, demonstrates that there is a low probability that the PHI has been compromised based on a risk assessment of at least the following factors:
    - The nature and extent of the PHI involved, including the types of identifiers and the likelihood of re-identification
    - The unauthorized person who used the PHI or to whom the disclosure was made
    - Whether the PHI was actually acquired or viewed
    - The extent to which the risk to the PHI has been mitigated

- Most notifications must be provided without unreasonable delay and no later than 60 days following the breach discovery. Notifications of smaller breaches affecting fewer than 500 individuals may be submitted to HHS annually. The covered entity must notify the affected patients; HHS; and, in some cases, the media, of a breach of unsecured PHI.

- The Breach Notification Rule also requires business associates of covered entities to notify the covered entity of breaches at or by the business associate.

Top Causes of Data Breach:

1. Employee Action
2. Lost or Stolen Devices
3. Third-Party Error

Examples of Common Breaches

- Snooping in relatives, celebrity, co-worker accounts without a business need to know
- Misdirected faxes from one covered entity to another
- Providing incorrect discharge instructions
- Not asking permission from patient to speak about their medical care in front of others who may be in the room

University HOSPITAL
Newark, NJ

Complying with HIPAA Rules & Penalties for HIPAA Violations

Covered entities and business associates, as applicable, must follow HIPAA rules. If an entity does not meet the definition of a covered entity or business associate, it does not have to comply with the HIPAA rules. Violations of HIPAA can result in both civil penalties for the hospital and criminal penalties for the responsible employee.

Penalties for civil violations

- HIPAA violation: Unknowing
  Penalty range: $100 - $50,000 per violation, with an annual maximum of $25,000 for repeat violations
- HIPAA violation: Reasonable Cause
  Penalty range: $1,000 - $50,000 per violation, with an annual maximum of $100,000 for repeat violations
- HIPAA violation: Willful neglect but violation is corrected within the required time period
  Penalty range: $10,000 - $50,000 per violation, with an annual maximum of $250,000 for repeat violations
- HIPAA violation: Willful neglect and is not corrected within required time period
  Penalty range: $50,000 per violation, with an annual maximum of $1.5 million

Criminal penalties

- Criminal violations of HIPAA are handled by the DOJ. As with the HIPAA civil penalties, there are different levels of severity for criminal violations.
- Covered entities and specified individuals, as explained below, who "knowingly" obtain or disclose individually identifiable health information, in violation of the Administrative Simplification Regulations, face a fine of up to $50,000, as well as imprisonment up to 1 year.
- Offenses committed under false pretenses allow penalties to be increased to a $100,000 fine, with up to 5 years in prison.
- Finally, offenses committed with the intent to sell, transfer or use individually identifiable health information for commercial advantage, personal gain or malicious harm permit fines of $250,000 and imprisonment up to 10 years.

University HOSPITAL
Newark, NJ

Source: AMA (2024) https://www.ama-assn.org/practice-management/hipaa/hipaa-violations-enforcement

Thank you for your time and dedication to excellence.

University HOSPITAL
Newark, NJ