

Section 6	Compliance Policies	01/25/06 - Originated
Subject 6.3	Coding and Billing	07/12/12 - Reviewed w/ changes - Reviewed w/o changes
Policy 6.3.1	Billing Compliance Plan	08/06/12 - Effective
		Compliance Office - Author

Billing Compliance Plan

Policy

The University of Texas Medical Branch is committed to conducting its business in an ethical and law-abiding fashion. We are intolerant of fraud, abuse, waste, or other violations of any applicable federal, state, or local laws, and regulations. We will maintain a business culture that builds and promotes compliance consciousness and encourages employees and faculty to conduct all University business with honesty and integrity. Our commitment to compliance includes: communicating to all employees, faculty, consultants, and independent contractors clear business ethical guidelines to follow; providing general and specific training and education regarding applicable laws, regulations, and policies; and providing monitoring and oversight to help ensure that we meet our compliance commitment. We promote open and free communication regarding our ethical and compliance standards and provide a work environment free of retaliation.

Responsibility and accountability for actual compliance with laws, regulations, and policies rests with each individual employee. The department chairman/head or leader of each operating unit is accountable for ensuring that their subordinates are adequately trained and for detecting noncompliance with applicable policies and legal requirements when reasonable management efforts would have led to the discovery of problems or violations.

To promote compliance and implement an institutional compliance program we have developed an Office of Institutional Compliance (OIC). The OIC is responsible for developing an institutional compliance program that will promote compliance with all applicable legal requirements, foster and help ensure ethical conduct, and provide education, training, and guidance to all employees and faculty. Our institutional compliance plan and program is designed to prevent accidental or intentional noncompliance with applicable laws and regulations; to detect such noncompliance, if it occurs; to discipline those involved in noncompliant behavior, and to prevent future noncompliance.

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Our compliance program has been developed to include the seven requirements of an effective compliance program included in the Federal Sentencing Guidelines.¹ These requirements are:

1. Establish compliance standards and procedures to be followed by employees and faculty that are reasonably capable of reducing the prospect of criminal conduct;
2. Assign high-level personnel of the organization to have overall responsibility to oversee compliance with such standards and procedures;
3. Use “due care not to delegate substantial discretionary authority to individuals who the organization knew, or should have known through the exercise of due diligence, had a propensity to engage in illegal activity;”
4. Communicate effectively compliance standards and procedures to all employees by requiring participation in training programs or by disseminating publications that explain in a practical manner what is required;
5. Take reasonable steps to achieve compliance with standards by utilizing monitoring and auditing systems reasonably designed to detect criminal conduct and by having in place and publicizing a reporting system whereby employees and other agents can report criminal conduct by others within the organization without fear of retribution;
6. Consistently enforce standards through appropriate disciplinary mechanisms, including discipline of individuals responsible for the failure to detect an offense; and
7. Take all reasonable steps to respond appropriately to detected offenses and to prevent further similar offenses.

The policies and procedures contained in this program are intended to establish a framework to help ensure compliance but are not to be considered all-inclusive.

Standards of Conduct Guide

The University of Texas Medical Branch is committed to conducting UTMB business with integrity and in compliance with applicable laws. UTMB has developed a *Standards of Conduct Guide*. The purpose of the *Standards of Conduct Guide* is to communicate to all UTMB employees and students an expectation and requirement of ethical conduct and compliance with applicable laws, policies, rules, and regulations. The [*UTMB Standards of Conduct Guide*](#) is a framework within which all employees are expected to operate. The *UTMB Standards of Conduct*

¹ Commentary. U. S. Sentencing Guidelines § 8A1.2.

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Standards of Conduct Guide, continued

Guide represents policies of UTMB, the University of Texas System and the *Rules and Regulations of the Board of Regents of the University of Texas System*, known as *Regents' Rules and Regulations*. This booklet does not include all general compliance issues, nor does it contain the special compliance issues that are job specific. Instead, the *UTMB Standards of Conduct Guide* should be regarded as a set of guiding principles that apply to every UTMB employee.

The *UTMB Standards of Conduct Guide* applies to all UTMB employees, including administration, faculty, fellows, residents, and students. Moreover, the *Standards of Conduct Guide* is applicable to physicians not employed by UTMB but serving on UTMB Hospitals medical staff as well as university and hospital subcontractors, independent contractors, and consultants.

Compliance Organization and Oversight

Responsibility for oversight of the Billing Compliance Plan rests with a multi-disciplinary Executive Billing Compliance Committee (EBCC), whose membership is appointed by the Executive Institutional Compliance Committee (Executive ICC). Minutes of all EBCC meetings are maintained in a confidential manner and will be provided to the Executive ICC on a quarterly basis.

The EBCC is charged with the following tasks:

1. Prepare and submit to the Executive ICC an annual work plan that outlines the major activities and initiatives of the EBCC for the upcoming fiscal year;
 2. Prepare and submit to the Executive ICC an annual report that summarizes the EBCC's progress regarding each work plan objective contained in the EBCC's annual work plan for the preceding fiscal year;
 3. Recommend the creation of new and revisions to current billing and documentation policies and procedures;
 4. Develop and implement necessary changes in practice or procedures that assures adherence to established policies;
 5. Recommend approved training sessions as directed by the Chief Compliance Officer (CCO);
 6. Develop practical monitoring tools to optimize compliance;
 7. Prepare reports to the Executive ICC on the status of current and newly adopted policies, procedures, and related materials;
 8. Communicate regularly with the Executive ICC on new and emerging issues; and
 9. Provide oversight of billing compliance auditing and assurance
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activities, make decisions regarding appropriate action, and initiate disciplinary action for non-compliance.

The CCO is designated as accountable for the day-to-day implementation of the Billing Compliance Plan. However, all claims submissions for inpatient and outpatient facility (technical) charges and Billing Professionals services (“Billing Professional” is defined in Section 1.b. of Billing Compliance Plan, Policies and Procedures below) are the responsibility of Patient Business Services (PBS) and Hospital Patient Financial Services (HPFS). In addition, there may be other departments throughout the institution that may have operational obligations under the Billing Compliance Plan as determined by the CCO.

Billing Compliance Plan, Policies and Procedures

It is the policy of UTMB that all claims for professional and facility/technical fee reimbursement are accurately prepared and correctly identify services performed by appropriate Workforce Members. At no time are billings to be prepared or submitted, or reimbursement received, for services that have not been performed or are medically unnecessary. Monies to which there is no legal entitlement may not be legally retained and must be returned within a reasonable timeframe. **Per section 6402 (d) of the Patient Protection and Affordable Care Act**, refunds to Medicare must take place within 60 days of date the overpayment was found. **UTMB further extends this overpayment refund policy to all payers, not just to governmental entities.** Appropriate DRG, ICD-9-CM, CPT and HCPCS codes, and all charges must clearly reflect the services provided and documented in the medical record. All medical record documentation must support the medical necessity of the service, the billing code, and all charges. UTMB policies concerning billing, which are included herein, are considered an integral part of UTMB’s commitment to fair and accurate billing.

Documentation and Coding

Medical Necessity

- a. All claims submitted for reimbursement are based on clearly documented medical necessity; and
- b. The medical record provides documentation supporting the medical necessity of a service the hospital or Billing Professional provided and billed.

Note: For the purposes of the Billing Compliance Plan, the term “Billing Professional” includes all individuals who are assigned a

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billing provider number (*e.g.*, physicians, physician assistants, advanced practice nurses, and certain other clinicians).

- c. Requests for Services
 - 1. UTMB provides common, uniform requisition forms in an electronic or paper format to ensure that only those services that are ordered are appropriate for each patient;
 - 2. All forms used by Billing Professionals to request services require Billing Professionals to document the need for such services; or attest that such documentation appears in the patient’s medical record; and
 - 3. Request forms are designed to require Billing Professionals to order services individually.
- d. Notices
 - 1. UTMB provides all Billing Professionals with educational opportunities that set forth: medical necessity, coding, billing, and documentation requirements.
- e. Resource Utilization Monitoring
 - 1. UTMB periodically analyzes and retains data on the utilization of services, including medical necessity data;
 - 2. UTMB periodically computes the percentage change in services provided and submitted for payment; and
 - 3. UTMB identifies significant variances and coordinates reasonable investigations, identifies causes for variances, and undertakes corrective action if necessary.

Selection of ICD-9-CM, CPT or HCPCS Codes

- a. All codes selected must accurately describe the ordered and performed service or test;
- b. UTMB bills for reimbursement using only appropriate codes;
- c. A review of codes selected is performed by individuals with technical expertise and education prior to claims being submitted for reimbursement;
- d. Whenever necessary, questions regarding coding issues are directed to the third-party payer for clarification and confirmation of codes, and responses are documented, as appropriate;
- e. The use of codes that are intentionally used to maximize reimbursement when medical necessity or utilization is not clearly documented is strictly prohibited;

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- f. The use of any technological instrument in the coding process must be industry accepted;
- g. All coding guidelines and reference materials reflect current standards and are maintained in a timely and accurate manner; and,
- h. UTMB does not:
 - 1. Inappropriately use diagnostic information from earlier dates of services;
 - 2. Use "cheat sheets" that provide diagnoses that triggered reimbursement in the past; or,
 - 3. Use computer programs that automatically insert diagnostic codes without receipt of diagnostic information from the treating Billing Professional.

Claims for Reimbursement

- a. UTMB submits claims only for services that are both ordered and performed;
- b. Appropriate UTMB Workforce Members confirm and document the results of communication with the ordering Billing Professional for any service or test without an order or with an ambiguous order; and,
- c. Services or tests that cannot be performed, for any reason, are not submitted for reimbursement.

Standing Orders and Order sets

- a. Standing Orders are permitted only when policies and procedures have been developed and approved by department chairmen that clearly describe the situations in which the standing orders are permitted with approval by the Medical Staff Executive Committee, and include steps to assure appropriate monitoring to avoid abuse.
- b. Order sets are written by faculty and reviewed, with possible recommendations, by other departments involved.

Specific Policies Regarding Laboratory Services

Billing of Calculations

- a. The laboratory does not bill for both calculations (*e.g.*, calculated LDLs, T7s) and the tests that are performed to derive such calculations.

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Reflex and Confirmatory Testing

- a. The laboratory does engage in reflex testing according to specific policies and procedures established by the Medical Director and agreed by the medical staff, and where local, state, or federal regulation mandates additional testing.

Add-On Testing

- The laboratory does not automatically add on tests without a requisition, unless the correct level of detail is absent. Any tests added-on must be in accordance with UTMB’s policy for Add-On Testing.

Waived Test

- UTMB does not allow waived tests to be performed in an area outside the clinical laboratory, unless the waived tests are performed in accordance with applicable Clinical Laboratory Improvement Amendments (CLIA) regulations, The Joint Commission standards, and UTMB Waived Testing Procedure.

**Information,
Education and
Training**

UTMB is committed to communicating our standards for ethical conduct and UTMB policies to all employees. The OIC provides education and training to develop compliance awareness and commitment. All administration, faculty, medical staff, and employees must complete general compliance training.

Information- Occasional letters, articles in Impact, the institutional semimonthly newsletter, and other publications, regarding the institutional compliance program and the OIC are sent to all employees. E-mail notifications and communications are also sent to employees. The content of these publications may be related to specific, and or general compliance issues and other elements of the program. Every employee is given a copy of the UTMB Standards of Conduct Guide. Employees must sign the acknowledgment form printed at the end of the Standards of Conduct Guide. The form is returned to the OIC, recorded and sent to Employee Records to be filed in the employee’s personnel file.

General Education – Billing and documentation compliance is one of UTMB’s most important priorities. All administration, medical staff, clinicians, and billing and coding staff associated with billing and documentation must be knowledgeable about UTMB’s Institutional

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Compliance Program. In addition, the CCO is responsible for education related to UTMB’s Billing Compliance Plan and shall:

- Coordinate orientation and periodic billing training programs; and
- Document attendance at billing education sessions.

Education for Billing Professionals Regarding Billing Compliance-

Each new Billing Professional receives orientation by OIC Billing Compliance education staff. This session focuses on clinical documentation as it relates to billing compliance practices.

1. In addition to UTMB’s documentation standards in the Rules and Regulations of the Medical Staff, the following billing compliance education and training is provided:
 - a. Evaluation and Management (E&M) Documentation Guidelines;
 - b. Pertinent information derived from the Centers for Medicare and Medicaid Services (CMS), Office of Inspector General (OIG), and local Medicare Administrative Contractor guidance; UTMB’s documentation, coding, and billing policies and procedures; and,
 - c. Other related topics.
2. Training includes a variety of educational materials and tools.
3. Thereafter, ongoing education is provided at least annually, to discuss new and emerging documentation issues and information discovered through the internal monitoring process.
4. Attendance is taken and recorded.

Billing Compliance Staff Education –

It is imperative that the OIC’s Compliance educators, auditors, and other pertinent Workforce Members (collectively referred to as “Billing Compliance Staff”) are kept informed of policy changes that occur regarding third-party payers.

Therefore, pertinent members of the Billing Compliance Staff are required at a minimum to:

1. Attend internal educational sessions at least quarterly regarding CMS documentation guidelines, current coding guidelines, and UTMB’s documentation, coding and billing policies and procedures;

Information,

Attend outside educational seminars annually. At least one

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Education and Training, continued

- individual attends an outside session on the CMS guidelines related to billing and documentation. Billing Compliance Staff attending outside seminars coordinate with the CCO in distributing the newly acquired information to other Billing Compliance Staff;
2. Read and circulate, on a routine basis, Medicare Administrative Contractor bulletins, Medicaid bulletins, coding guidelines and other related current reference material; and, Monitor governmental web sites to stay abreast of emerging issues in billing compliance.

Other Staff Education -

Maintaining compliance with billing regulations requires more than the efforts of the OIC. Therefore, it is imperative that PBS, Clinical Revenue & Reimbursement, Clinical Research Finance, and Health Information Management billers, coders, auditors, or other pertinent staff members throughout the institution are kept informed of policy changes that occur regarding third-party payers, including Medicare. Therefore certain members of the above stated departments are required at a minimum to:

1. Attend internal educational sessions, at least quarterly, regarding CMS documentation guidelines, current coding guidelines and UTMB's documentation, coding and billing policies and procedures;
2. Attend outside educational seminars annually. At least one individual attends an outside session on the CMS guidelines related to billing and documentation. Individuals attending outside seminar coordinate with their respective manager in distributing the newly acquired information to appropriate departmental staff.
3. Read and circulate to the appropriate party, on a routine basis, Medicare Administrative Contractor bulletins, Medicaid bulletins, third-party reimbursement and coverage information, coding guidelines or other related current reference material; and,
4. Monitor governmental web sites to stay abreast of emerging issues in billing compliance.

Maintenance of Training Documentation and Disciplinary Action-

Compliance training is required of all employees and is considered a condition of employment. Failure to meet education and training requirements will result in disciplinary action, up to and including termination. All persons in supervisory positions are responsible for

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**Information,
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ensuring that each UTMB employee reporting to them has completed the compliance training applicable to that person. Completion of required compliance training will be closely monitored and documented. The UTMB Human Resources Department maintains training records and reports detailed training activities for employees. Summary reports of compliance with education and training requirements are provided to the Executive ICC.

**Adherence to the
Compliance
Program as a
Requirement for
Promotion for
Faculty and as an
Element for
Evaluating all
Employees**

Faculty-

Adherence to the UTMB institutional compliance program is a part of each faculty member’s annual evaluation and is also used as a criterion for promotion in academic rank. It is understood that the Appointment Promotion and Tenure Committee of each UTMB school should consider participation in compliance training and any involvement in compliance infractions as a part of the promotion evaluation process.

Managers and Supervisors

Managers and supervisors include all individuals who have as part of their job descriptions the supervision of any UTMB employee. The promotion of and adherence to the institutional compliance program by all management and supervisors is considered an integral part of their job performance. At UTMB, employees’ awareness of and adherence to the institutional compliance program should be used as an element or measurement tool in the evaluation process for continuing employment and promotions.

1. Education and Training

Managers and supervisors are required to ensure and verify that employees complete all mandatory and elective training assigned to the employee including compliance training at UTMB. Managers and supervisors should inform employees that UTMB will take disciplinary action for violation of policies, procedures, and regulatory requirements, or for failure to complete mandatory training requirements. Moreover, employees are informed that strict adherence to the laws, regulations, and policies are a condition of employment.

2. Inform Employees

Managers and supervisors are responsible for informing employees of compliance policies and procedures specifically related to their job function and appropriately monitoring employees to help ensure adherence to policies and procedures.

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Risk Assessment and Work Plan

Risk Assessment Profile

The UTMB OIC assesses institutional risk on an ongoing basis as a matter of conducting daily activities for purposes of:

- Identifying high-risk compliance issues;
- Establishing a priority for these issues;
- Establishing monitoring activities designed to review processes and strengthen compliance; and
- Preparing the OIC annual work plan.

Work Plan

In conjunction with the Executive ICC the OIC will create an annual work plan to review high risk items identified through the risk assessment process. The work plan will also include other items and/or issues in which the OIC expects to be involved in during that fiscal year.

Compliance Monitoring

In order to ensure compliance with the Billing Compliance Plan, ongoing monitoring of the billing and documentation processes is undertaken by pertinent Billing Compliance Staff. The Billing Compliance Staff work with faculty liaisons and billing personnel to accomplish the following:

1. Review the progress notes on patients in conjunction with Medicare guidelines within a reasonable time period and on a regular basis;
2. Review documentation and billing information and notify the appropriate party to correct any discrepancies;
3. Request, when appropriate, additional documentation from the Billing Professional as needed to support the level of service billed;
4. Assure that the level of service billed is supported by the level of service documented in the medical record by the attending Billing Professional;
5. Assure that existing documentation exists to support, when necessary, a lower level of service documented by the Billing Professional and reduce the level of billing to reflect the level of service documented;
6. Review additional documentation to support a higher level of service documented by the Billing Professional and, if appropriate, notify the Billing Professional that a change in coding is warranted;
7. Maintain an error tracking system for all records reviewed;

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Compliance Monitoring, continued

8. Regularly report coding and documentation errors to the CCO and key department leaders, as necessary, who will enforce disciplinary actions as appropriate; and,
9. Initiate and participate in educational sessions conjunctive with or under the direction of the CCO.

The CCO also oversees periodic audits of operations relating to documentation and billing of services and procedures. These audits are aimed at ensuring adherence to general compliance policies as well as federal and state specific billing and documentation policies and procedures. The CCO is accountable for the following:

1. Ensuring that audits are performed accurately, consistently, and routinely;
2. Developing, with the assistance of appropriate parties in the institution, a sampling methodology for the selection of items or services to be reviewed;
3. Ensuring that results of each audit are handled professionally and confidentially;
4. Discussing the results of the audit with the Billing Compliance Staff and the CCO or designee on an informal and formal basis;
5. Meeting with appropriate parties, as determined by the CCO or designee, to review and discuss the audit and utilization monitoring findings;
6. Reporting the audit results on a quarterly basis or as needed;
7. Coordinating and implementing education with appropriate parties based on the results of the audit findings;
8. Informing Billing Professionals that they are responsible for providing additional information to support the level of service billed; and,
9. Enforcing, where appropriate, that documentation additions are made via electronic changes or a handwritten progress note as an addendum or late entry.

The CCO utilizes the Billing Compliance Staff or a designated external auditor to conduct these audits. The Billing Compliance Staff is responsible for the following:

1. Performing billing and documentation audits in accordance with federal and state laws and regulations and UTMB policies, procedures, and other related materials;
2. Developing with the CCO, the sampling methodology to be used to select items or services reviewed;

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Compliance Monitoring, continued

3. Ensuring that audits are performed accurately, consistently, completely, and confidentially;
4. Developing a documentation system to collect, analyze, and distribute the audit findings to the CCO on a quarterly basis or as needed; and,
5. Coordinating, under the direction of the CCO and EBCC, a formalized method to review and discuss the audit findings.

As needed, the CCO will report to the President and Executive ICC, audit findings and corrective action plans. Plans also are presented for subsequent audits or studies to ensure corrective actions.

Reporting Violations or Questionable Conduct

Employee’s Responsibility

It is every employee’s responsibility to report suspected violations of laws, regulations, policies or questionable conduct. Remaining silent and failing to report any violation or potential violation that a person knows or should have known of, may subject a person to disciplinary action up to and including termination. UTMB has established methods for employees to report, confidentially and anonymously, any questionable conduct or possible violation(s). Individual employees may discuss concerns with their supervisor or directly with the CCO by contacting the OIC directly at: 409-747-8700. Additional methods for reporting are described below.

All employees with questions regarding the Billing Compliance Plan or other compliance requirements in general are encouraged to seek answers and/or clarification from the OIC.

Fraud, Abuse and Privacy Hotline (1-800-898-7679)

UTMB has established a dedicated Fraud, Abuse and Privacy Hotline as an internal reporting mechanism for reporting suspected waste, abuse, fraud, or other illegal conduct of UTMB employees, students, vendors, or independent contractors. The UTMB Fraud, Abuse and Privacy hotline is available 24 hours a day, 365 days a year by calling 1 (800) 898-7679.

Individuals may also report suspected fraud, waste, and abuse involving state resources to the State Auditor’s Office’s Hotline at 1-800-TX-AUDIT (1-800-892-8348). The State Auditor’s Office provides additional information at its [website](#).

Confidential and Anonymous

UTMB will ensure the anonymity, to the extent allowed by law, of individuals who report violations or questionable conduct. All reported

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**Reporting
Violations or
Questionable
Conduct**

allegations or concerns will be investigated confidentially.

Intentional False Accusations

UTMB will consider it a serious violation of UTMB policy for employees to intentionally make false accusations. Such false accusations may result in disciplinary action, up to and including termination, against the accuser. All reports to the UTMB OIC should be made in good faith and with the best of intentions.

Non-retaliation Policy

Employees are encouraged to freely discuss and raise questions to managers or to any appropriate personnel about situations they may feel are in violation of applicable laws, regulations, rules, policies, and procedures. Moreover all UTMB employees have a personal obligation to report any activity that appears to violate applicable laws, regulations, rules, policies, and procedures. Employees wishing to remain anonymous may file a report via the UTMB Fraud, Abuse and Privacy Hotline (800-898-7679). UTMB shall not intimidate, threaten, coerce, discriminate against, or take any retaliatory action against any individuals who in good faith report suspected wrongdoing to their supervisor or through the UTMB Fraud, Abuse and Privacy Hotline.

**Response to
Allegations,
Identified
Problems, and
Audit Outcomes**

Investigation

All reports of potential violations of laws, regulations, policies or questionable conduct, from any source, shall be logged and presented to the CCO. The CCO will authorize, direct and/or conduct the investigation. A report of the investigation, including findings and recommendations, will be created. A summary report of all investigations will be provided to the Executive ICC periodically. Investigations resulting in extensive corrective action and/or disciplinary action shall be reviewed and approved by the CCO prior to implementation. The Executive ICC will be informed of these actions and following discussion may direct further action.

Recommendations – Corrective Action

When an instance of non-compliance has been determined and confirmed by the CCO, a corrective action plan will be submitted to the CCO. The corrective action plan will focus on implementing changes in internal processes to improve, prevent, or detect compliance inadequacies. The CCO may notify and meet with the department Chair and/or the department management, the affected faculty member(s) or employee(s) and explain the corrective action to be implemented. The corrective action plan may include one or all of the following elements:

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Response to Allegations, Identified Problems, and Audit Outcomes, continued

1. Specific areas requiring compliance attention;
2. Requirement of additional training;
3. Ceasing problematic process;
4. Change in policies and procedures;
5. Repaying overpayments;
6. Reporting to the appropriate governmental authorities;
7. Further audit and/or investigation;
8. Determining whether the problem is systematic; and
9. Disciplinary action.

Disciplinary Action

Disciplinary action may be imposed as a part of a corrective action plan for all UTMB administration, faculty, house staff, and employees.

Obligation to Report

Reports or allegations that may constitute intentional violation or reckless disregard of criminal, civil, or administrative law shall be referred to UTMB legal authorities for investigation and disposition. If the investigation produces credible evidence that provides a reasonable basis to conclude that a violation of law may have occurred, UTMB shall promptly provide all information to the appropriate legal authorities for a determination of prosecution. UTMB will refund appropriate overpayments to payers identified through compliance monitoring activities, investigations, or other reviews.

Disciplinary Action and Appeal

UTMB will impose disciplinary action on employees who fail to comply with applicable laws, regulations, and policies. The seriousness of the violation will determine the level of the disciplinary action.

Faculty –

Disciplinary Action

- Recommendation of disciplinary action related to compliance issues. The UTMB Executive ICC may make recommendations related to disciplinary action of faculty regarding compliance violations up to and including termination. Disciplinary action and termination will be conducted according to *Rules and Regulations of the Board of Regents* of the University of Texas System

- **Recommendation of summary dismissal**

Reports or allegations that may constitute an intentional violation or reckless disregard of criminal, civil, or administrative law shall be given to UTMB legal authorities for investigation and

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**Disciplinary
Action and
Appeal,
continued**

disposition. Notwithstanding the foregoing, following the determination that a reckless disregard or intentional violation of law has occurred, the Dean of the appropriate school of the faculty member may recommend to the President to proceed with charges for termination, depending upon the nature of the conduct. Procedures for termination shall be according to the *Rules and Regulations of the Board of Regents of the University of Texas System*.

Appeal

Appeal of a UTMB disciplinary action shall be according to the appeals procedure in Section 6 of the *Rules and Regulations of the Board of Regents of the University of Texas System*. No other internal appeal process is available to a disciplined faculty other than as provided by the

Non-employee Medical Staff

Disciplinary Action

- Disciplinary action administered to non-employee medical staff will follow the guidelines as outlined in the UTMB Medical Staff By-laws.

Appeal

- Non-employee Medical Staff are subject to the appeals procedures outlined in the UTMB Hospitals Medical Staff By-laws.

House Staff

Disciplinary Action

- Disciplinary action administered to house staff is in accordance with the UTMB House Staff Work Agreement and the Office of the Associate Dean for Graduate Medical Education.

Appeal

- Appeals for disciplinary actions administered to house staff are in accordance with the UTMB House Staff Work Agreement.
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**Disciplinary
Action and
Appeal,
continued**

Administrative and Professional Staff

Disciplinary Action

- Administrative and professional employees are subject to the same disciplinary process as faculty.

Appeal

- Administrative and professional employees are subject to the same appeals procedures and corrective actions (where applicable) as those governing faculty.

Classified Employees

Disciplinary Action

- Disciplinary action related to classified employees will be administered in accordance with the disciplinary action provided for in the *UTMB Institutional Handbook of Operating Procedures (IHOP) Policy 3.10.1 Discipline, Dismissal and Appeal for Classified Employees*. Any recommendations of disciplinary action shall be managed pursuant to IHOP and the
- *Rules and Regulations of the University of Texas Board of Regents*.

Appeal

Appeal for disciplinary action administered to classified employees is in accordance with the appeals procedure provided for in *IHOP Policy 3.10.1 Discipline, Dismissal and Appeal for Classified Employees*.

**Non-employment
or Retention of
Sanctioned
Employees**

UTMB prohibits the employment of the following individuals:

1. Persons known to be under investigation related to health care violations;
2. Persons convicted of a criminal offense related to health care or research; or
3. Persons, listed by a federal or state agency as debarred, excluded, or otherwise ineligible for participation in federally funded programs.
4. UTMB prohibits the retention of the following individuals:
5. Persons convicted of a criminal offense related to health care or research; or
6. Persons listed by a federal or state agency as debarred, excluded, or otherwise ineligible for participation in federally funded programs.

UTMB Human Resources (HR) screens the list of all employees monthly against the federal and state lists of persons who are debarred, excluded, or otherwise ineligible for participation in federally funded programs. UTMB

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**Non-employment
or Retention of
Sanctioned
Employees,
continued**

HR checks references and verifies education and certification credentials of all new employees prior to employment. UTMB Purchasing department is responsible for ensuring that vendors used by UTMB are not ineligible.

**Responding to
Inquiries**

If any member of the UTMB workforce receives an oral or written inquiry regarding UTMB’s compliance with any law or regulation, from any source whether governmental or private, the employee shall immediately notify the OIC prior to responding in any way to the inquiry.

OIC staff will:

- Identify the person or entity making the inquiry;
- Verify the authority for the inquiry;
- Determine the nature of the inquiry.

**Record Creation
and Retention**

Policy 2.1.4 Records and Information Management and Retention.
UTMB has adopted the following standards to assist the CCO with oversight of all documents required by law and necessary to its operations:

1. Institutional Compliance Program investigation files shall include the following information:
 - a. alleged violation;
 - b. investigative process;
 - c. copies of interview notes;
 - d. key documents;
 - e. log of witnesses interviewed;
 - f. documents reviewed;
 - g. results of the investigation; and
 - h. corrective action implemented, as needed.
 2. No employee may enter false or misleading information into UTMB records;
 3. Records shall be organized in a manner that facilitates prompt retrieval;
 4. All records shall be stored in a safe and secure manner for the period required by federal and state law or by UTMB policy, whichever is longer;
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Record Creation and Retention, continued

5. Records shall be destroyed when no longer needed to be retained under federal and state law or UTMB policy, whichever is longer;
6. Adequate records shall be developed and maintained to document UTMB’s compliance with all applicable laws;
7. The confidentiality and security of records shall be appropriately assured and adhered to based on federal and state laws and UTMB policies; and,
8. No employee may destroy or alter any UTMB record if the CCO or appropriate designee has notice of any pending litigation or governmental investigation, litigation, claim, negotiation, audit, open records request, administrative review, or if any other action involving such record is initiated before the expiration of the retention period and subsequent destruction of such record.

Patient Referrals

UTMB strictly adheres to the federal anti-kickback statute and prohibits any Workforce Member from knowingly and willfully soliciting, receiving, offering or paying remuneration in cash or in kind to induce, or in return for:

1. Referring an individual to a person for the furnishing, or arranging for the furnishing, of any item or service payable under the Medicare program, Medicaid program or any other federal health care program; or,
2. Purchasing, leasing or ordering or arranging for or recommending purchasing, leasing or ordering of any good, facility service or item payable under the Medicare program, Medicaid program or any other federal health care program.

In addition, UTMB adheres to the following:

1. UTMB does not make payments or provide non-cash benefits (e.g., office space) to any physician or health professional for referrals.

Medical staff and health professionals who are not employees of UTMB are free to refer patients to any person or entity they deem appropriate. UTMB employees make referrals to the medical staff, health professionals or other healthcare facilities solely based on what is best for the individual seeking treatment and without regard to the value or volume of referrals any such physician, health professional or other healthcare facility has made to UTMB.

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**Patient Referrals,
continued**

2. Routine waiver of co-payments or deductibles is unlawful because it may result in: (1) false claims; (2) violations of the anti-kickback statute; and, (3) excessive utilization of items and services.

UTMB does not waive insurance co-payments or deductibles or otherwise provide financial benefits to patients in return for admissions. Under certain circumstances, UTMB may provide appropriate financial accommodations (e.g., allowing monthly payments over time) to patients with financial need. In such event, the CCO will ensure adherence to UTMB policies and procedures for insurance co-payment or deductibles. Any discounts or accommodations will only be provided in accordance with all applicable state and federal laws and regulations, Regents’ Rules and UTMB policies.

The Medicare/Medicaid Fraud and Abuse provisions of the Social Security Act prohibit, among other things, any person from offering or paying remuneration to a referral source of Medicare or Medicaid patients for making or recommending referrals of patients and from making false claims for Medicare or Medicaid reimbursement. In addition, many state laws contain similar limitations on such conduct regardless of source of payment. There are, however, a number of “safe harbors” or transactions that are expressly stated not to violate the fraud and abuse limitations if the intent or actual purpose of the transaction is appropriate. An UTMB employee should never solicit or receive, or pay or offer to pay any remuneration of any type (including kickbacks, bribes or rebates) in return for referring or recommending the referral of an individual to another person, hospital or medical facility for services.

**Revisions to
Billing
Compliance Plan**

This compliance plan is intended to be flexible and readily adaptable to changes in regulatory requirements. The EBCC shall review the plan at least annually to assure that it remains current and effective. Changes to the plan may be proposed by members of the Executive ICC, EBCC, departments, or individual employees. Any recommendations for changes to the plan must be approved by the EBCC. All changes to the compliance plan must be consistent with the Institutional Handbook of Operating Procedures and the *Rules and Regulations of the Board of Regents of the University of Texas System*.

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References

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- [Federal Sentencing Guidelines](#)
 - [UTS118 Statement of Operating Policy Pertaining to Dishonest or Fraudulent Activities](#)
 - [Standards of Conduct Guide](#)
 - [Medical Staff By-laws](#)
 - [IHOP 2.1.4 Records and Information Management](#)
 - [IHOP 3.10.1 Discipline, Dismissal and Appeal for Classified Employees](#)
 - [IHOP Policy 6.1.10 Self-Reporting of Overpayments](#)