

# **Essent Healthcare, Inc.**

## **Employee Guide to Compliance**

**A compliance resource for all workforce members**



**essent**

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To All Essent Workforce Members:

As outlined in our Code of Conduct, Essent has dedicated itself to building a reputation of conducting its business with honesty and integrity. Essent is committed to operating well within the boundaries of all laws, rules and regulations to which we are subject.

The purpose of this document is to outline our policies and procedures with respect to preventing and detecting fraud, waste and/or abuse within our organization; and to provide you with information regarding relevant laws, rules and regulations. In addition, this document outlines the basic elements of our corporate compliance program, and your responsibility to help ensure compliance.

Your adherence to the laws, rules, regulations, and policies outlined in this document is critical to our success. Should you have any questions or concerns about the information contained in this document you should contact your immediate supervisor for clarification. Alternatively, Essent maintains a toll-free compliance hotline for the reporting of known or suspected misconduct, compliance concerns or questionable practices. The reporting hotline can be accessed at:

**1-800-472-8868**

All Essent employees are required to report known or suspected misconduct. Failure to report known or suspected misbehavior is seen as condoning such behavior and will not be tolerated. Any employee who makes a good-faith effort to make a report or use the hotline will be protected from any and all forms of retaliation. Retaliation against any individual who raises a compliance concern, uses the compliance hotline, or otherwise makes a report of misconduct or cooperates with an investigation will not be tolerated.

Please review this material carefully as participation in our compliance program is a requirement for continued employment. If I can be of any assistance or answer any questions that you may have, please feel free to contact me at any time. I can be reached at (615) 312-5131 or [Charles.fletcher@essenthealthcare.com](mailto:Charles.fletcher@essenthealthcare.com). I welcome your calls, questions, and/or comments at any time.

Sincerely,

*Charles*

Charles J. Fletcher  
Vice President / Corporate Compliance Officer

# **PART I**

## **OVERVIEW OF KEY LAWS AND REGULATIONS AFFECTING HEALTHCARE PROVIDERS**

1. Federal False Claims Act (FCA)
2. Federal anti-kickback Statute (AKS)
3. Federal Physician Self Referral Law (STARK II)
4. Federal All-Payor Fraud Statute
5. Health Insurance Portability and Accountability Act (HIPAA)
6. Civil Monetary Penalties Act (CMP)
7. Emergency Medical Treatment and Labor Act (EMTALA)

## THE FEDERAL FALSE CLAIMS ACT

The Federal False Claims Act (FCA) was established to punish persons or entities that file false or fraudulent claims for payment with federal government agencies. These laws apply to all kinds of claims for payment from the federal government, not just health care claims.

Generally, the FCA is violated when a service provider, *either knowingly<sup>1</sup> or recklessly*, allows the filing of false or fraudulent claims for payment to government programs such as Medicare and/or Medicaid. Violations of the False Claims Act may result in treble damages<sup>2</sup> plus mandatory financial penalties ranging from \$5,000 up to \$11,000 *per claim*.

It is important to point out that billing errors are not “false claims” if the errors are promptly corrected when found, and refunds are processed appropriately. However, a pattern of unaddressed or uncorrected billing errors may demonstrate “reckless disregard” and therefore may constitute a violation of the FCA. It is important to point out that under the FCA, the Government does not have to prove that there was any specific intent to defraud (or submit false claims). They only have to prove that the false claims were in fact submitted and that there was reckless disregard for the truth or deliberate ignorance of the truth.

Examples of FCA violations can include:

- Filing or *contributing* to the filing of a false claim for payment.
- Intentionally making or using a false records or statements to support a claim.
- Seeking reimbursement at a higher code or level than is appropriate for the service provided or “unbundling” claims for services that are required to be billed on a bundled basis.
- Claiming payment from federal programs for services that are not medically necessary or not authorized by the physician or practitioner who is treating the patient.
- Failing to have in place reasonable business practices to process and file accurate claims for payment, resulting in the filing of inaccurate or misleading claims.
- Billing Medicare or Medicaid substantially in excess of usual and customary charges.
- Filing false or erroneous cost reports.
- Violations by a health care provider of other laws, such as the Anti-Kickback Statute and the Stark Law, may form the basis for an FCA action.

Another important feature of the FCA is the *qui tam* provision, or whistleblower statute. Under this provision, individuals are allowed to file suit on behalf of the Federal

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<sup>1</sup> For purposes of this discussion, the term “knowingly” means that the individual: has actual knowledge of the falsity of the claim; acts in deliberate ignorance of the truth; or acts in reckless disregard of the truth or falsity of the claim.

<sup>2</sup> The “treble damages” provision allows the court to award the plaintiff *three times* the amount of the actual damages; usually as a penalty for willful behavior.

Government if they have independent knowledge of illegal activity including fraud and/or abuse.

Whistleblower actions are filed under seal (“*in camera*”) and remain secret for at least 60 days while the government decides if it wishes to intervene. If the government decides to intervene, it will take over the case and prosecute the wrongdoing or settle the charges. If the government refuses to intervene, the *qui tam* relator (whistleblower) may go forward with the prosecution at his/her own expense as long as the government does not object.

In cases where the government intervenes, the *qui tam* relator is entitled to between 15% and 25% of the recoveries as a reward for coming forward. In cases where the government refuses to intervene and the relator moves forward on his/her own, the relator is entitled to between 25% and 30% of the recoveries. Of course, if an action is brought by an individual who participated in the illegal activity, than the court may reduce the award to the extent that it feels is appropriate. If the individual is convicted of an offense resulting from his/her involvement in the activity then the individual shall not receive any share of the recoveries.

Whistleblowers are protected from retaliation under the FCA which states “...*any employee who is discharged, demoted, suspended, threatened, harassed, or in any other manner discriminated against by his/her employer because of lawful whistleblower actions shall be entitled to all relief necessary to make the employee whole...*” Remedies may include two times back pay plus interest, reinstatement at the same level with the same seniority, plus legal fees and any other costs incurred by the employee as a result of the discrimination.

In addition to the Federal FCA, many states have similar state statutes related to false claims, allow whistleblower lawsuits, and offer protections for whistleblowers. A summary of the state statutes related to False Claims can be found in Section IV of this manual – *Facility Specific Information*.

As part of our compliance program, Essent has implemented an anonymous, toll-free, 24-hour compliance reporting hotline (1-800-472-8868). The reporting hotline allows any individual to anonymously report questionable behavior at any time. The reporting hotline provides employees with a way to resolve an issue without having to invest the time and resources associated with *qui tam* actions.

All hotline callers are provided with a call back number with which they can follow-up on the resolution of the issue to ensure the issue has been addressed to their satisfaction. Essent maintains a strict non-retaliation policy so that all callers are protected from retaliation. The compliance reporting hotline and associated non-retaliation policy are discussed in detail later in this handbook.

## **THE FEDERAL ANTI-KICKBACK STATUTE**

Kickbacks can distort medical decision-making, cause over-utilization, increase costs and result in unfair competition by freezing out competitors who are unable or unwilling to pay kickbacks. Kickbacks can also adversely affect the quality of patient care by encouraging physicians to order services or recommend supplies based on profit rather than the patients' best medical interests.

Under the Anti-kickback Statute (AKS), it is illegal for a health care provider to offer, pay, solicit, or receive anything of value in exchange for the referral of items or services paid for by Medicare, Medicaid, or any other federally funded health care program. Items of value may include kickbacks and bribes, as well as less obvious arrangements, such as overpayments for services, lavish gifts, subsidies, rebates, and free goods or services.

The Office of Inspector General has become aware of a variety of hospital incentive programs used to compensate physicians (directly or indirectly) for referring patients to the hospital. These arrangements may violate the anti-kickback statute because they can constitute remuneration offered to induce, or in return for, the referral of business paid for by Medicare or Medicaid. In addition, they are not protected under the existing "safe harbor" regulations. The incentive programs listed below can interfere with the physician's judgment of what is the most appropriate care for a patient. They can also inflate costs to the Medicare program by causing physicians to inappropriately overuse the services of a particular hospital. The incentives may result in the delivery of inappropriate care to Medicare Beneficiaries and Medicaid recipients by inducing the physician to refer patients to the hospital providing financial incentives rather than to another hospital offering the best or most appropriate care for that patient.

### ***Suspect Hospital Incentive Arrangements--What To Look For***

To help identify suspect incentive arrangements, examples of practices which are often questionable are listed below. Please note that this list is not intended to be exhaustive but, rather, to suggest some indicators of potentially unlawful activity as identified by the OIG.

- Payment of any sort of incentive by the hospital each time a physician refers a patient to the hospital.
- The use of free or significantly discounted office space or equipment (in facilities usually located close to the hospital).
- Provision of free or significantly discounted billing, nursing or other staff services.
- Free training for a physician's office staff in such areas as management techniques, CPT coding and laboratory techniques.
- Low-interest or interest-free loans, or loans which may be "forgiven" if a physician refers patients (or some number of patients) to the hospital.
- Payment of the cost of a physician's travel and expenses for conferences.

- Payment for a physician's continuing education courses.
- Coverage on hospitals' group health insurance plans at an inappropriately low cost to the physician.
- Payment for services (which may include consultations at the hospital) which require few, if any, substantive duties by the physician, or payment for services in excess of the fair market value of services rendered.

Financial incentive packages which incorporate these or similar features may be subject to prosecution under the AKS, if any one purposes of the incentive is to influence the physician's medical decision as to where to refer his or her patients for treatment.

It is the policy of Essent to fully comply with all aspects of the AKS. Violation of the AKS will result in a felony conviction punishable by up to \$25,000 in fines, up to five years imprisonment or both. The penalties are levied against both the party paying (or offering) and the party receiving (or soliciting) the prohibited kickback. Suspected violations of the AKS must be reported to the Compliance Officer immediately.

## **THE FEDERAL PHYSICIAN SELF-REFERRAL LAW (STARK LAW)**

Similar to the anti-kickback statute, the Physician Self-Referral Law (Stark II) was created out of a concern that physicians may order unnecessary tests and services if they have a financial incentive to do so. Studies showing increased ordering patterns by physicians who own clinical laboratories and diagnostic imaging centers led to this concern and to the enactment of the Stark II Legislation.

Stark II prohibits physicians from making referrals for certain *designated health services* (DHS) payable by Medicare to an entity with which the physician (or an immediate family member) has a financial relationship. DHS includes hospital inpatient and outpatient services, DME, home health, hospice, clinical laboratory services, and radiology services such as MRIs, CT scans, and ultrasounds, among others. The Stark II regulations also prohibits an entity, such as a hospital, from filing a Medicare claim for payment for any of these referred services without meeting a Stark exception. In order for referrals and claims to be proper, the financial relationship between the physician (or family member) and entity must fit into one of several regulatory exceptions.

The following practices are cited by the OIG as violations of Stark II:

- Paying a referring physician more than fair market value for contracted services.
- A lease agreement with a physician in which the physician or physician group pays less than fair market value for leased space.
- Lease arrangements with physicians that remain in holdover status for periods longer than 6 months.
- Payments pursuant to oral understandings with referring physicians, not reflected in written, signed agreements.

- Contracting with physicians for services beyond what the hospital reasonably needs to purchase.
- Paying a physician for items or services that the hospital has not actually received.

It is the policy of Essent to fully comply with all aspects of the Stark II regulations. Unintended violations of Stark II can result in the hospital having to make substantial refunds of Medicare claims. Intentional or reckless conduct in violation of Stark II can result in the addition of substantial monetary penalties of up to \$15,000 per claim. A physician/entity that engages in a *circumvention scheme* may be liable for an additional civil penalty of up to \$100,000 for each such arrangement or scheme. A failure to meet a reporting requirement under Stark II is subject to a penalty of up to \$10,000 per day for each day the reporting is late. Stark II violations may also lead to liability under the federal false claims act discussed earlier.

### **THE FEDERAL “ALL-PAYOR” FRAUD STATUTE**

This law was adopted to allow the government to combat fraud relating to the delivery of health care items and services, whether paid for by commercial insurers or government programs. The All-Payer Statute prohibits intentional schemes to defraud or falsely obtain any money or property from a health care benefit program. “Health care benefit program” includes any public or private medical benefit plan.

This law has been used to prosecute fraud relating to health care billing, such as:

- Billing third party payers (insurance companies) for services not actually provided.
- “Upcoding” (billing in excess of what is documented in the medical record).
- Providing and billing for medically unnecessary items or services.
- Unbundling claims for patient billing that need to be grouped together under payment instructions.

It is the policy of Essent to fully comply with all aspects of the Federal “all payer” fraud statute. Violation of the All-Payer Fraud Statute can lead to a felony conviction punished by fines and/or imprisonment for up to ten (10) years, with up to twenty (20) years’ or life imprisonment if the violation results in serious bodily injury or death.

### **HEALTH INSURANCE PORTABILITY & ACCOUNTABILITY ACT (HIPAA)**

HIPAA regulates the way certain health plans, healthcare providers, and healthcare clearinghouses (called *covered entities* under HIPAA) handle protected health information (“PHI”). The HIPAA Privacy Rule creates Federal standards for maintaining the confidentiality of PHI and governs its use and disclosure.

HIPAA contains numerous limitations on how and when covered entities may use and disclose PHI. PHI includes any individually identifiable health information (health

information that identifies a person and relates to his/her physical or mental health or condition). Most health care providers are permitted under HIPAA to use and disclose PHI in order to:

- Treat patients,
- Obtain payment for that treatment, and
- For quality assurance or other healthcare operational purposes.

If PHI is used for a purpose other than treatment, payment or operations; the health care provider may first need to obtain a patient's written authorization.

As a covered entity, Essent works with many other covered entities (*e.g.*, physicians, health plans, and academic medical centers) to provide medical care and treatment. HIPAA laws affect many practices, including the way that patient medical records are stored, disclosed, transmitted, and otherwise used in the course of business. Most of the medical record information used or created by Essent will be for the purpose of treatment, payment, and/or healthcare operations, and, as such, we will not need to obtain patient authorization in these cases. Examples of situations that would violate HIPAA if no authorization is obtained include but are not limited to the following:

- Disclosing PHI information to persons, other than the patient, who request information unless expressly permitted by HIPAA.
- Leaving patient medical records open or in locations where they may be viewed by persons without the need to know the information.
- Providing lists of patient names or addresses to pharmaceutical companies without patient authorization.
- Disposing of medical records, billing forms, or laboratory test order forms containing PHI in non-secure trash bins open to the public or at locations off-site of hospital that leave the information available to others.
- Loudly discussing a patient's medical condition or information in a hospital waiting room, cafeteria, or other public place.
- Faxing or mailing documents containing patient PHI to the wrong location/destination.
- Giving access to patient PHI to vendors or outside contractors who are developing computer systems, accounting records, or other services without entering into a Business Associate Agreement.

It is the policy of Essent to fully comply with all aspects of HIPAA. The Department of Health and Human Services (DHHS) may impose civil penalties on a covered entity of \$100 per failure to comply with a Privacy Rule requirement. That penalty may not exceed \$25,000 per year for multiple violations of the identical requirement in a calendar year. DHHS may not impose a civil money penalty under specific circumstances, such as when a violation is due to reasonable cause and did not involve willful neglect and the covered entity corrected the violation within 30 days of when it knew or should have known of the violation.

In addition to any applicable civil penalties, a person who knowingly obtains or discloses PHI in violation of HIPAA faces a fine of \$50,000 and up to one-year imprisonment. The criminal penalties increase to \$100,000 and up to five years imprisonment if the wrongful conduct involves false pretenses, and to \$250,000 and up to ten years imprisonment if the wrongful conduct involves the intent to sell, transfer, or use individually identifiable health information for commercial advantage, personal gain, or malicious harm. Criminal sanctions will be enforced by the Department of Justice.

## **CIVIL MONETARY PENALTIES LAW**

The Civil Monetary Penalties Law (CMP) is intended to prevent health care providers from improperly influencing how Medicare and Medicaid patients select physicians, hospitals, and others who supply products or services.

Penalties are imposed when individuals or entities offer or give something of value to Medicare or Medicaid patients so that they will choose a particular provider or supplier. The improper item could be a cash payment, gift, free services, coupons, discounts, free transportation and other incentives. There are permitted exceptions in the CMP law, including exceptions for items of nominal benefit (e.g., health fairs, inexpensive items with hospital logo, etc). These exceptions protect “inducements” to seek preventative health care services and special treatment for indigent patients.

Some examples of activities that may violate the statute include the following:

- Offering free transportation for Medicare patients other than as specifically permitted under written Essent compliance policies.
- Routine waivers of Medicare Part B co-payments and deductibles.
- Providing gifts, coupons, free services or other benefits valued at greater than \$10.00 per item or \$50.00 per patient per year.

It is the policy of Essent to fully comply with all aspects of the Civil Monetary Penalties Law. Treble damages and fines of up to \$50,000 per wrongful action may be imposed against providers who violate these laws. Individual physicians who violate the law may be subject to separate penalties, fines, and administrative sanctions.

## **EMERGENCY MEDICAL TREATMENT AND LABOR ACT (EMTALA)**

EMTALA laws were created to prevent hospitals that offer emergency services from refusing to treat patients with emergency medical conditions based on their ability to pay for the services. The government was concerned that without this law hospitals would turn away patients who did not have health insurance coverage or otherwise lacked the ability to pay for treatment and that patients would suffer harm from a lack of or delayed treatment.

EMTALA places screening and treatment obligations on hospitals that offer emergency medical services. The hospital's EMTALA obligation applies regardless of whether the patient is a beneficiary under a federal or state-funded health insurance program.

EMTALA requires all hospitals with emergency departments to:

- 1) Provide a medical screening examination to determine if the patient has an emergency medical condition; and
- 2) Stabilize the patient before release or transfer to another hospital.

In limited situations the EMTALA law and hospital policy permit transfer of "unstable" patients when the hospital lacks the resources, equipment or personnel needed to provide appropriate treatment. Even so, there are EMTALA rules that detail how transfers in these situations must be carried out.

This law may be violated if a hospital that offers emergency services:

- Refuses to screen or treat a patient suffering from an emergency medical condition, and, instead, transfers the patient while unstable.
- Delays screening or stabilization in order to ask questions about the patient's insurance coverage.
- Diverts a patient en route via ambulance even when the hospital has the resources to screen and stabilize the patient.
- Transfers patients without the required EMTALA transfer agreement.
- Sends patients in active labor home or to another health care provider.
- Transfers patients or refuses to treat patients coming into the emergency department based on their medical condition or disease even though the hospital could provide proper medical treatment for the condition.

It is the policy of Essent to fully comply with EMTALA. In this respect, Essent has prepared an "***Employee Guide to EMTALA***" that provides detailed information about our obligations under EMTALA. The Guide is required reading for all emergency department employees and is available to all other employees on our web site.

EMTALA violations may result in civil monetary penalties (CMPs) of \$25,000 to \$50,000 for a hospital with more than 100 beds and/or termination from Medicare. Physicians who cause EMTALA violations can face up to \$50,000 in fines for each violation.

## **PART II**

### **ESSENTIAL ELEMENTS OF AN EFFECTIVE COMPLIANCE PROGRAM**

1. Oversight
2. Written Standards and Procedures
3. Reporting Hotline
4. Auditing and Monitoring
5. Training and Education
6. Response and Prevention
7. Enforcement and Discipline

## ESSENTIAL ELEMENTS OF COMPLIANCE

In order to be effective, a compliance program must include certain elements. These essential elements are outlined in the Federal Sentencing Commission’s “*Guidelines for Organizations*<sup>3</sup>” and the Office of Inspector General (OIG) compliance program guidance for physician practices. The sentencing guidelines provide for a significant reduction in the penalties assessed against an organization that is convicted of wrongdoing if that organization can show that it has an effective compliance program in place. Our compliance program is comprised of the following seven essential elements:

1. **Oversight** – In order to be effective, a compliance program must have some form of oversight. Essent’s compliance program is overseen by the Corporate Compliance Officer. The corporate compliance officer is assisted by a designated “*local compliance coordinator*” at each Essent facility. Collectively, the local compliance coordinators plus the corporate compliance officer comprise the compliance committee which meets on a quarterly basis to ensure that the compliance program is working effectively.

Your local compliance coordinator is responsible for the day-to-day operation of the compliance program and is available at any time to address issues or answer any questions that you may have regarding compliance. In addition, Essent’s Corporate Compliance Officer, Charles Fletcher, can be reached at any time at (615) 312-5131 or [Charles.fletcher@essenthealthcare.com](mailto:Charles.fletcher@essenthealthcare.com). Please see part 4 of this handbook for detailed contact information for your facility.

2. **Written Standards and Procedures** – Written standards and procedures are a central component of any compliance program. Written standards and procedures help to reduce the prospect of erroneous claims and fraudulent activities by identifying risk areas and establishing internal controls to counter those risks. Many physician practices already have something similar to this called “practice standards” that include policy statements regarding patient care, personnel matters, and procedures on complying with Federal law.

At a minimum, written standards and procedures should include a Code of Conduct, coding and billing guidance, guidelines for assessing medical necessity, documentation requirements, privacy and security policies, and guidance on improper inducements. You can find all of Essent’s compliance related policies and procedures on the Essent web site at [www.essenthealthcare.com](http://www.essenthealthcare.com) under the “compliance” tab.

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<sup>3</sup> The four factors that increase the ultimate punishment of an organization are: the involvement in or tolerance of the criminal activity; the prior history of the organization; the violation of an order; and the obstruction of justice. The two factors that can mitigate (or reduce) the punishment are: the existence of an effective compliance program; and self-reporting, cooperation, and/or acceptance of responsibility.

3. **Reporting Mechanism** – Fostering open lines of communication is another important function of an effective compliance program. Experience has shown that when employees have open lines of communication with management, problems are identified and resolved much more effectively than in organizations that are dominated by fear or indifference.

In a perfect world, all employees would feel confident in going to their immediate supervisor to report known or suspected wrongdoing, or to ask questions about a particular situation. Unfortunately, we don't live in a perfect world and in some cases; the manager/employee relationship is such that open lines of communication do not exist. In other instances, it may be that it is the managers themselves that are suspected of wrongdoing.

To ensure that open lines of communication exist regardless of the relationship between employees and their superiors, Essent maintains a 24-hour, toll-free compliance reporting hotline. The hotline allows employees to make anonymous reports of known or suspected wrongdoing. All callers are given a reference number and call-back date so they can follow-up on the resolution of the issue that they reported even if they choose to remain anonymous. Our compliance hotline number is:

**1-800-472-8868**

Each and every Essent employee has an obligation to perform their job responsibilities in an honest and ethical manner. In this respect, all employees have an obligation to report known or suspected wrongdoing. Failure to report known or suspected wrongdoing is a violation of our Code of Conduct and may result in sanctions up to and including termination.

4. **Auditing and Monitoring** – One of the best ways to verify that a compliance program is working is to conduct periodic auditing and monitoring activities. In other words, how would you know weather your compliance program is effective and weather your bills are accurate unless you periodically take time to review a sample of claims? Most people would agree that it would be irresponsible to never review ones bank statement for accuracy. Likewise, it would be irresponsible for a health care provider not to periodically review their claims submission process.

There are several types of reviews that will be performed as part of our auditing and monitoring program: routine monitoring activities, policy and procedure reviews, and billing audits. At Essent, it is our policy to monitor key statistics against certain benchmarks to identify potential problem areas. For example, we monitor statistics related to our emergency department billing on a quarterly basis to ensure that our bills accurately reflect our patient population.

In addition, we periodically review our policies and procedures to determine whether they reflect current practices and whether they are being complied with. Your compliance coordinator is responsible for reviewing your facilities' policies and procedures at least annually to ensure that current practices are in compliance with the policies and procedures, and that the policies and procedures accurately reflect any applicable regulatory changes. For example, it is our policy to complete a Medicare Secondary Payer (MSP) Questionnaire for each and every Medicare patient to determine who the primary payer is. To audit this policy, the compliance coordinator should randomly select a small sample of accounts and verify that there is a completed MSP questionnaire on file for each patient in the sample.

In addition to the monitoring activities and the policy review discussed above, each facility must submit a small sample of inpatient claims for review each month to our outside claim reviewers. These reviews help us to identify educational needs and resolve coding disputes (or differences of opinion) in an efficient manner. The final results of all audits should be sent to and discussed with the Corporate Compliance Officer to ensure appropriate resolution of any issues identified by the audit.

The purpose of the billing audit is to determine whether:

- a. Bills are accurately coded and accurately reflect the services provided as documented in the medical record;
  - b. Medical record documentation is being completed timely and accurately;
  - c. Items and/or services being provided are ordered by the physician, are reasonable and necessary; and
  - d. Whether any incentives for unnecessary services exist.
5. ***Training and Education*** – Ongoing training and education is a vital part of an effective compliance program. After all, how can we expect our employees to “play by the rules” if we never take time to tell them what the rules are?

All Essent employees are required to attend compliance training at least annually. In addition, all new employees receive an introduction to compliance as part of their orientation. Other training programs will be provided on an as needed basis. Participation in the compliance program (including attendance at compliance training) is mandatory for all employees.

The purpose of the annual compliance training is to provide regulatory updates, and to remind all employees of the importance of our compliance program, the consequences of violating the Code of Conduct, and the obligation to report known or suspected wrongdoing.

6. ***Response and Prevention*** – In order to be effective, compliance programs must have a process in place for responding to reports of known or suspected misbehavior. In addition, the compliance program must actively seek to prevent misconduct. There are numerous response and prevention activities that have been incorporated into our compliance program. For example, it is our policy to respond to all hotline calls within a specific time period based on the severity of the reported incident. In addition, we seek to prevent wrongdoing by carefully screening all prospective employees. The screening process may include a comprehensive background check, drug testing, credit checks, and a review of the OIG exclusion list<sup>4</sup>.
7. ***Enforcement and Discipline*** – The final element of our compliance program is enforcement and discipline. In order to be effective, a compliance program must include a mechanism for enforcing our standards of conduct and appropriately disciplining employees who have engaged in wrongdoing. The need for enforcement and discipline is obvious; when policies and procedures are not enforced, they can quickly become ineffective.

Our compliance program uses a progressive system for disciplining employees who engage in wrongdoing. We recognize that discipline is most effective when it is consistently dispensed and proportionate to the offense. Disciplinary action is determined on a case-by-case basis depending on the nature of the offense and after reviewing all relevant information.

## **YOUR RESPONSIBILITY FOR COMPLIANCE**

You are responsible for upholding laws and regulations, as well as internal policies when conducting business. In addition, you are responsible for knowing and understanding the legal requirements applicable to your job and how they apply to your job responsibilities. If you are unsure about any action, please ask questions or seek the guidance you need from your local compliance coordinator, or the corporate compliance officer.

When considering your actions, especially when you have doubts or concerns, ask yourself the following questions: “Would I feel comfortable explaining this action to my family or close friends? Would I feel comfortable seeing my action reported on the front page of the local newspaper?” You and the Company are best served when your answer (and the answer of every Essent employee and contractor) to both these questions is an unqualified, “Yes.”

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<sup>4</sup> Typically, individuals and/or entities that are convicted of a health care related offense are excluded from participation in Federally funded programs such as Medicare and Medicaid. These exclusions can range anywhere from a few years to a permanent exclusion depending on the severity of the offense. The OIG maintains a database of all individuals and entities that have been excluded from participation in federally funded health care programs. It is our policy not to hire (or do business with) any individual (or entity) that is on the OIG’s List of Excluded Individuals and Entities since these individuals have already demonstrated a propensity to engage in unacceptable conduct.

# **PART III**

## **CODE OF CONDUCT**

# **ESSENT HEALTHCARE, INC.**

## **Code of Ethical Conduct**



## To All Essent Workforce Members:

The foundation on which Essent Healthcare, Inc. is built is its commitment to provide high quality care to our patients and to fully meet the health needs of the communities that we serve. In this respect, it is vital that we each act with absolute integrity when conducting the company's business. Our good name and reputation is being continually examined and tested.

The healthcare industry is one of the most regulated industries in the nation. Almost every healthcare activity, from dispensing drugs to billing for services rendered, is covered by rules and regulations. To further complicate matters, these rules and regulations often vary from state to state. In addition, we must adhere to standards set forth by accrediting bodies such as the Joint Commission for the Accreditation of Healthcare Organizations (JCAHO).

This Code of Ethical Conduct provides guidance to ensure that our work is done ethically and in accordance with all applicable laws, rules and regulations. It emphasizes the shared values like honesty and integrity, which guide our actions. Please review this Code carefully; your adherence to its spirit, as well as its specific provisions, is critical to our success.

If you have questions about any part of this Code, or if you encounter any situation that you believe violates the provisions of this Code, you should immediately contact your supervisor or another member of management. You may also contact your Local Compliance Director, the Corporate Compliance Officer, or call the ***Compliance Reporting Hotline at 1-800-472-8868***. You have our personal assurances that there will be no retribution for asking questions or raising concerns about this Code or for reporting known or suspected misconduct.

While no Code of Ethical Conduct can substitute for one's own sense of fairness, honesty, and integrity; the philosophy outlined in this Code is fundamental to serving the needs of our patients, our medical staff, and our employees. With your cooperation, these standards will not only be met, they will be surpassed. Please join us in supporting this Code of Ethical Conduct, not because we must, but because it is the right thing to do!

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Mike Browder  
Chief Executive Officer

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Charles Fletcher, CCH  
Corporate Compliance Officer

## Compliance Practices:

***Compliance with Laws, Rules and Regulations*** - One of our strongest assets is our reputation of honesty and integrity. A fundamental principal on which we operate is full compliance with all laws, rules and regulations to which we are subject. In this respect, all Essent workforce members shall conduct their business ethically. Achieving business results by illegal acts or unethical conduct is simply not acceptable.

This Code of Ethical Conduct sets forth important standards that must be followed by all of our workforce members. Further guidance on our standards of conduct is provided through our *Employee Guide to Privacy and Security*, our *Employee Guide to Compliance*, and our written policies and procedures. All of these documents are available from your manager or supervisor, or online at [www.essenthealthcare.com](http://www.essenthealthcare.com).

While all of our workforce members are obligated to follow this Code, we expect our leaders to set good examples; to be in every respect, role models. Our leaders are responsible for creating an internal culture that promotes the highest ethical standards while ensuring that their team members have enough information to comply with all applicable laws, regulations, and/or policies. Ethical and compliant behavior must never be sacrificed in the pursuit of business objectives. Ethical and compliant practices are our business objectives.

***Patient Privacy*** – In the course of serving our patients, we collect sensitive information about our patients’ medical conditions, treatments, family history, and/or medications. Much of this information is personal in nature and therefore it must be considered highly sensitive. As members of the healthcare community, we must maintain the confidentiality of this information at all times. Patient information must never be used or disclosed without proper authorization unless it is for a legitimate business purpose, or as required by law.

All of our workforce members shall comply with the Health Insurance Portability and Accountability Act (HIPAA) in accessing, using, processing, or disclosing protected health information. Each workforce member should become familiar with our *Notice of Privacy Practices* and our *Employee Guide to Privacy and Security* because, as a member of our workforce, you are required to comply with the terms of these documents.

All patients must be notified of our privacy practices, in writing, upon admission to the hospital, or during their first service encounter. With the exception of certain emergency situations, we will not share protected health information without proper authorization except when authorized under HIPAA for treatment, payment, or healthcare operations; or as required by law. When using or disclosing protected health information, we shall limit our use or disclosure to the minimum amount necessary to fulfill our business purpose.

All of our workforce members must guard against improper disclosure of protected health information. Situations that could result in an improper disclosure include: discussing patient information in public areas of the hospital or while away from work, talking about patient information on mobile telephones, working with patient information on a laptop computer in public places, and transmitting patient information via email or fax. Special care should be taken in these situations to avoid improper disclosures.

***Emergency Medical Treatment*** – Any patient who comes to one of our Emergency Departments requesting examination or treatment for an emergency medical condition is entitled to, and shall be provided with, an appropriate medical screening examination performed by a qualified medical practitioner regardless of the patient’s ability to pay for services. If it is determined that an emergency medical condition exists, the facility shall provide treatment to stabilize the emergency medical condition (within the capabilities of the facility), or provide an appropriate transfer to another medical facility in accordance with Emergency Department policies and procedures. Emergency medical treatment should not be delayed in order to inquire about the patient’s method of payment, or to seek authorization from the patient’s insurance carrier for screening or stabilization services.

***Company Information*** – Many of our workforce members prepare some type of official Company information during the course of their work such as time cards, financial reports, accounting records, patient billing records, business plans, injury and accident reports, expense reports, patient records, and so on. Many people, both inside and outside the Company, depend on this information to be accurate and truthful for a variety of reasons. Therefore, it is vital that all workforce members record all information in a truthful and accurate manner. No transaction should ever be intentionally falsified or recorded inaccurately. Regardless of whether the reporting is required by law, dishonest reporting of information will not be tolerated.

All records, whether medical records or otherwise, must be maintained in accordance with our document retention policy. In addition, all non-public information must be treated as confidential and should never be shared with others unless for official Company business. All Company records are property of Essent and must be returned to the appropriate Essent facility upon termination of employment. No workforce member may disclose confidential Company information to others at any time without proper authorization. The obligation to maintain confidentiality remains with our workforce members even after they leave an Essent facility.

***Conflicts of Interest*** – A “conflict of interest” exists when a person’s private interests interfere (or appear to interfere), in any way, with the interests of the Company as a whole. We expect and require that our workforce members act honestly and ethically at all times, and to not have conflicts of interest with any Essent facility. Since conflicts of interest can arise in many common situations despite our best efforts to avoid them, we may periodically require certain individuals to complete a conflict of interest disclosure and attestation form. Any workforce member who becomes aware of a conflict of interest (or potential conflict of interest) must report the conflict immediately to his or her

manager or supervisor, to the Compliance Officer, or via the confidential compliance reporting hotline (1-800-472-8868).

***Gifts and Entertainment*** – Business gifts and entertainment are designed to build goodwill and foster sound working relationships among business partners. While we do not encourage the giving or accepting of gifts, workforce members are free to do so only in accordance with Company policy governing business courtesies. Gifts should never be offered or accepted in exchange for or as a reward for business or referrals to our facilities. Cash and cash equivalents must never be given or accepted. Generally, gifts should be reasonable, appropriate, consistent with normal business courtesy, and of nominal value; gifts should *never* be solicited.

Offering or accepting gifts to/from patients is discouraged because this type of activity may give patients not offering or receiving gifts the impression that the care they are receiving is less than the care given to the patient who participate in gift-giving. However, so long as the gift is not solicited, patient gifts given to employees in gratitude may be accepted if they are of nominal value. Handmade items with little or no marketable value or perishable items such as flowers or homemade cookies may be accepted. Gifts given to patient must comply with Company policy governing gifts to beneficiaries of federally funded programs.

***Discrimination and Harassment*** – We believe that all workforce members have the right to work in an environment free from discrimination or harassment. We will not tolerate any form of harassment, sexual or otherwise, from any workforce member. Sexual harassment may include unwelcome advances, requests for sexual favors, or verbal or physical contact that creates an intimidating or offensive work environment.

Any workforce member who is actively contributing to workplace hostility will be subject to disciplinary action up to and including termination of employment. Examples of unacceptable behavior include: bullying, slandering, or embarrassing other workforce members, telling degrading or humiliating jokes, or threatening retaliation. We will not tolerate a hostile work environment under any circumstances regardless of whether the behavior takes place before, during, or after normal working hours; inside or outside of the workplace. When appropriate, such behavior will be reported to the appropriate authorities for criminal prosecution.

***Arrangements with Physicians and Other Referral Sources*** – All Essent facilities have established policies regarding financial relationships between Essent facilities and physicians or other referral sources. All financial arrangements with physicians or other referral sources must be necessary for legitimate business purposes, set forth in writing at fair market value, and signed by all parties involved. Essent facilities will not pay for referrals, nor will they accept payment for referrals made to other entities. Essent facilities will not consider the volume or value of referrals in establishing compensation under their agreements with physicians or other referral sources. All financial arrangements involving physicians or other referral sources must comply with Company policy and be approved in writing by the Corporate Compliance Officer.

***Billing for Services Rendered*** – Essent facilities bill patients and third-party payers for services rendered; nothing more, nothing less. The Company is committed to accurate and truthful billing and will not misrepresent charges to, or on behalf of, a patient or third-party payer. We are committed to complying with all federal and state laws and regulations. All workforce members must exercise care in any written or oral statements made to any government agency or other payer. False statements by workforce members to any government agency, insurance company, or other payer will not be tolerated.

In support of accurate billing, medical records must provide reliable documentation of all services provided. It is important that all individuals who contribute to medical record documentation provide accurate information at all times. Accurate and timely documentation also depends on the diligence and attention of the physicians who treat patients in our facilities. We expect those physicians to provide us with complete and accurate information in a timely manner.

***Political Activities*** – Contributions to political campaigns are governed by a complex set of rules and regulations. Therefore, all political activities that are conducted on Company time must be approved in advance by the Corporate Compliance Officer.

Essent encourages participation in the political process by its workforce members. As a corporation, Essent does not make political contributions to candidates for political office because corporations are generally prohibited from making such contributions. Essent operates a Political Action Committee (PAC). All campaign contributions and PAC activities shall be conducted in accordance with federal and state laws and regulations.

Political contributions by individuals are strictly voluntary and at the discretion of the individual making the contribution. Individuals are prohibited from making donations on behalf of Essent or any of its facilities; or implying, in any way, that Essent is responsible for the donation. Individuals may make personal contributions of time or money as they see fit to the candidates or parties of their choice, as long as they do not suggest or imply Essent support. Overt, visible and partisan political activity that could cause someone to believe that a workforce member's actions reflect the views or positions of Essent or any Essent facility is prohibited. Individuals engaging in political campaign activities are expected to do so as private citizens and not as representatives of any Essent facility.

No member of our workforce shall apply any pressure, direct or implied, on any other workforce member that infringes upon that individual's right to decide whether, to whom and in what amount a personal political contribution is to be made. Political contributions are not a valid business expense and should never be submitted for reimbursement as such. Political contributions are not tax deductible.

***Compliance Reporting Hotline*** – All of our workforce members are obligated to report known or suspected misbehavior. Reports can be made to one’s immediate supervisor, hospital administration, Local Compliance Director, Corporate Compliance Officer, or the confidential compliance reporting hotline (1-800-472-8868). The compliance reporting hotline is available 24 hours per day, seven days per week. The compliance reporting hotline is administered by an entity that is not affiliated with Essent or any of its hospitals and allows for anonymous reporting. Examples of reportable offenses include:

- Providing services that are not medically necessary for diagnosis or treatment of a documented medical condition
- Transferring patients in violation of EMTALA rules
- Offering or receiving anything of value in exchange for referrals
- Billing for services not provided
- Inaccurate recording of information in Company records
- Disclosing confidential information
- Harassing or discriminating against others
- Use of Company resources for personal gain
- Processing fraudulent transactions
- Violating patients rights
- Being asked to lie to cover another workforce member’s mistakes

## **Summary of Compliance Practices:**

- Essent does not pay or offer to pay anyone for referrals of patients or other business.
- Essent does not solicit or accept anything of value in exchange for directing patients or business to others.
- Essent protects and upholds the confidentiality of all protected health information.
- Essent does not pay physicians or other referral sources excessive salaries, provide lavish gifts, or offer free items or services in exchange for the referral of patients.
- Essent does not knowingly or recklessly file claims that are false, misleading, or inaccurate; nor does it bill for services that were not ordered, rendered, and properly authorized.
- Essent does not turn away, for lack of health insurance coverage or other inappropriate criteria, patients who come to the emergency department requesting an examination.
- Essent does not discriminate against patients based on age, race, gender, ability to pay, sexual orientation, religion, creed, color, or medical condition.
- Essent maintains a “zero tolerance” policy toward any illegal, fraudulent or abusive conduct and will promptly and carefully address all information reported to the Compliance Officer or Compliance Reporting Hotline.
- All Essent employees and agents have an obligation to report known or suspected misconduct, inappropriate behavior and other questionable practices that are in violation of this Code and its related policies and procedures.
- Essent maintains a strict non-retaliation policy with regards to its Compliance Reporting Hotline. Retaliation against any individual who makes a report to the hotline will not be tolerated.

## Key Terms That You Should Know

**Honesty**, the quality of being honest, is a value which can be defined in multiple ways. In the context of human communication, people are generally said to be honest when they tell the truth to the best of their knowledge and do not hide what they know or think. Apart from being truthful, honesty is also generally thought to involve abstaining from unfair behavior, such as stealing or cheating on a test. To be honest means to be truthful in everything one says and does.

**Integrity** results from consistent decisions to act ethically in difficult situations. To have integrity is to uphold ethical principles and do what you say you will do consistently, predictably, and reliably. Integrity involves steadfast adherence to a strict moral or ethical code.

**Ethics** can be defined as the study and evaluation of human conduct in light of moral principles. Moral principles may be viewed either as the standard of conduct that individuals have constructed for themselves or as the body of obligations and duties that a particular society requires of its members. In short, ethical behavior involves consistently doing the right thing.

**Respect** is the regard for the inherent worth of every individual. A respectful workplace is safe, free from discrimination and harassment, affords employees equal opportunity to pursue their goals and protects the privacy of personal information the Company may obtain or possess.

**Fairness** is the state of being just and unbiased and is often manifested as a concern for how others are treated. Fairness is a commitment to treat people ethically and to apply ethical standards and reasoning to our decisions when those decisions affect other people. Fairness also governs how we treat other businesses, including our competitors and how we manage working relationships.

**Responsibility** calls on us to accept the obligation to act in certain ways. Responsibility is the obligation to carry forward an assigned task to a successful conclusion. With responsibility goes authority to direct and to take necessary action to ensure success.

**Compliance** is the state of acting in accordance with accepted standards.

**Privacy** is the right of an individual to control the flow of information about oneself.

**Security** can be defined as the condition of being protected against danger, loss, or harm; a condition that results from the establishment and maintenance of measures to ensure protection from hostile acts and/or unfavorable outcomes.

## **Acknowledgement**

I \_\_\_\_\_ have received and read Essent's Code of Ethical Conduct. I agree to comply fully with the standards contained in the Code of Ethical Conduct including all related policies and procedures adopted by my facility. I understand that compliance with all Company standards, policies, procedures, and principles is a condition of my continued employment or association with Essent and/or any of its affiliates. I acknowledge that this Code is only a statement of principles and does not, in any way, constitute an employment contract, an assurance of continued employment, or employment other than at-will. As a member of Essent's workforce, I will make the safety, comfort, and well-being of patients and co-workers my top priority. In addition, I shall:

- Conduct the Company's business with honesty and integrity, and in a professional manner that protects Essent's good public image and reputation.
- Build relationships with patients, vendors and fellow employees based on trust, and treat every individual with respect and dignity.
- Understand and comply with legal requirements and Company policy and procedures.
- Avoid any activities that could lead to involvement in any unlawful or unethical activities.
- Avoid actual or potential conflicts of interests.
- Record information in Company records with honesty, accuracy and completeness.
- Safeguard the Company's confidential information and respect the confidential and private information of others.
- Retain Company records in accordance with the records maintenance policy and return all Company property upon termination of my employment.
- Promptly report any known or suspected violations of law, ethical principles or Company policies.
- Maintain prudent billing processes to monitor for errors or mistakes and seeks to ensure that filed claims are accurate, complete and compliant with third party billing rules.
- Cooperate fully with any compliance audit, inquiry, review or investigation.

I acknowledge that I am aware of the Company's confidential compliance reporting hotline which can be called anonymously, and without fear of retaliation, at any time (1-800-472-8868).

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Date

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Signature

# **PART IV**

## **FACILITY SPECIFIC INFORMATION**

1. Local compliance coordinator
2. Privacy officer
3. Security officer
4. State laws and regulations

**Below is contact information specific to your facility:**

- Facility Name: SOUTHWEST REGIONAL MEDICAL CENTER
- Local Compliance Coordinator: Jason Gizzi (724) 627- 2749
- Privacy Officer: Nelson Liston (724) 627-2445
- Security Officer: Chris Zaglama (724) 627-2590
- Compliance Reporting Hotline: 1-800-472-8868
- Corporate Compliance Officer: Charles Fletcher (615) 312-5131  
[Charles.fletcher@essenthealthcare.com](mailto:Charles.fletcher@essenthealthcare.com)

## **Pennsylvania Whistleblower Law**

Similar to the provisions of the Federal False Claims Act, Pennsylvania has a whistleblower law declaring it unlawful for any employer to discharge, threaten or otherwise discriminate or retaliate against an employee in compensation or terms or conditions of employment because the employee has, or is about to make, a good-faith report to the employer or to an “appropriate authority” about an instance of wrongdoing or waste.

The Act (43 PS 1421) also renders it unlawful for an employer to discriminate or retaliate against an employee because he or she has been requested by an appropriate authority to participate in an investigation, hearing or inquiry regarding the employer’s alleged wrongdoing or waste.

In order to be entitled to whistleblower protection on grounds of “waste” it is not enough that the employee has complained of an employer’s or supervisor’s inefficient business practices. This particular whistleblower law is concerned only with the abuse of government funds. Accordingly, the employee is not entitled to whistleblower protection unless the reported waste involves abuse, misuse, destruction or loss of funds or property derived from state or municipal sources.

The Whistleblower Law’s definition of “wrongdoing” is likewise narrowly drawn. The act does not concern itself with wrongdoing in the everyday sense of the word. Instead, in order for a report of wrongdoing to afford an employee with whistleblower protection, the alleged wrongdoing must be a violation of federal or state statute or regulation, or of a municipal ordinance or code of conduct or ethics designed to protect the interests of the public or the employer, and which is not of merely technical or minimal nature.

Thus, when an employee of a hospital that received State Medicaid funds reports substantial violations of numerous health and safety requirements; that employee will be entitled to protection under the Whistleblower Law. However, where an employee simply reports violations of a company’s internal policies not embodied with any particular statute or regulation, such a report does not entitle the employee to whistleblower protection.

*Due to the ambiguity and limitations of the State Whistleblower Law, we recommend that all known or suspected wrongdoing be reported to the confidential compliance reporting hotline at 1-800-472-8868. **Reports to the hotline can be made anonymously should you wish to keep your identity secret.***