

NYU LANGONE MEDICAL CENTER COMPLIANCE CONNECTION

SPRING 2008

Foundation Statement: A Personal Commitment to Ethics and Integrity

Everything I do and every decision I make will be guided by the principles of honesty, integrity, and high ethical standards.

I will . . .

. . . maintain honesty. I act with honesty and in good faith in all aspects of my job responsibilities. In doing so, I will not make false or misleading statements. I will never take unfair advantage of anyone by manipulating or concealing information that is essential for conducting activities within the Medical Center. I will not misrepresent, falsify, or alter data.

. . . consider the consequences before acting. When someone asks me to do something that appears to violate the Code, I will have the courage to ask for advice before acting, even if the request comes from the [person who supervises my work](#). For advice, I may speak in confidence with a staff member from the Office of Compliance or call the NYU Langone Medical Center's Confidential [Compliance Helpline](#).

. . . admit mistakes and correct them. Everyone makes mistakes. But a mistake that is covered up is a serious matter. If I discover that I have made a mistake, I will report it to the person who supervises my work as soon as possible and take steps to rectify it.

MEDICAL CENTER LAUNCHES NEW CODE OF CONDUCT

World-class medicine in New York City now has a new name and a new Code of Conduct.

"As Dean and CEO of NYU Langone Medical Center, I am focused on seeing this great institution take its rightful place among the top academic medical centers in the world," said Robert I. Grossman, M.D. "Greatness is measured, in part, by our commitment to upholding our Integrity Value, through a strong foundation of ethical conduct and compliance with the law. This expanded Code of Conduct explains our long-standing commitment to ethical and legal conduct in greater detail."



The new Code clarifies and elaborates on many of the more general statements in our previous Code, and presents both guidance and examples in less technical language.

This Code, which replaces the 2004 version, applies to every "member" of the Medical Center—all trustees, faculty members, officers, full-and part-time employees, students, and volunteers.

Foundation Statement and 14 Principles. It begins with a foundation statement that calls for a personal commitment to ethics and integrity. (See box to the left). This statement is followed by 14 basic principles that are intended to serve as a guide to making ethical decisions. Each principle includes several "I will . . ." statements that help to clarify its meaning.

The first two principles, "Quality of Care" and "Conduct with our Patients and Colleagues," highlight the importance of our commitment to high-quality care in a safe and healing environment. Other topics include documentation, coding, billing, and financial reporting; anti-kickback and physician self-referral; scientific and clinical research, and more.

Sidebars provide answers to specific questions such as "What constitutes harassment?" "How can I recognize a conflict of interest situation?" and "What is professional misconduct?"

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SUPPORT YOUR CANDIDATE—BUT NOT WITH MEDICAL CENTER FUNDS, TIME, OR EQUIPMENT



Are you supporting Barack Obama? Hillary Clinton? John McCain? As the new Code explains, the Medical Center encourages you to participate in or contribute to any political organization or campaign you

choose—but not with Medical Center funds, time, or equipment.

Campaigning for (or against) any political candidate with Medical Center funds, time, or equipment could jeopardize the Medical Center's tax-exempt status. The Internal Revenue Code places strict limitations on tax exempt 501 (c)(3)

organizations. Here are a few things to be careful about:

- Be sure to label communication with legislators as your own and not as correspondence coming from the Medical Center.
- Don't use Medical Center funds for campaign contributions or ask to be reimbursed by the Medical Center for contributions you make.
- Don't use our copiers, faxes, or computers to work for (or against) a candidate.

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**“Physician Work”
Evaluation and
Management (E&M)
Basics**

**UPDATED ADVANCED BENEFICIARY
NOTICE (ABN) REPLACES THREE FORMS**

“Note: If Medicare doesn’t pay for _____ below, you may have to pay.”

What part of the E&M service must be performed and documented by a physician? What part may be documented by an ancillary staff member? How do teaching physician rules apply? Are you sure?

According to the Centers for Medicare and Medicaid Services, evaluation and management guidelines were written for the physician and not physician ancillary employees.

The only three areas of the E&M that ancillary employees may perform are:

- Past, family, and social history
- Review of systems
- Vital signs

All other parts of the E&M service constitute “physician work” and must be performed by the physician or qualified non-physician practitioner (NPP).

NYU Langone Medical Center is an academic medical center and is required to comply with teaching physician rules when physicians (other than residents) involve residents in the care of their patients.

We expect teaching physicians to personally furnish evaluation and management services and/or be physically present during the key and critical portion of the encounters they are billing.

This is the first line of the new, easy-to-understand [Medicare Advanced Beneficiary Notice \(ABN\)](#) form that replaced three previous forms on March 3.

Beginning September 1, 2008, physicians and hospitals that provide outpatient services must begin using a new, multipurpose ABN (CMS R-131) which replaces the General ABN, the Laboratory ABN, and the Notice of Exclusion from Medicare Benefits.

As with the old forms, the ABN is given to Medicare beneficiaries in advance to notify them that Medicare is not likely to provide coverage in a specific case that does not meet the guidelines for medical necessity. While the basic purpose of the ABN has not changed, Medicare now requires providers to include cost estimates so that patients can make more informed decisions about whether to receive services that they may have to pay out of pocket for.

The ABN must be verbally reviewed with the beneficiary or his/her representative and any questions raised during that review must be answered before it is signed. The ABN must be delivered far enough in advance that the beneficiary or representative has time to consider the options and make an informed choice to:

- Receive the product/service and have a bill sent to Medicare
- Receive the product/service and request that a bill not be sent to Medicare.
- Not receive product/service.

ABNs are never required in emergency or urgent care situations.

Once all blanks are completed and the form is signed, a copy is given to the beneficiary or representative and the original is retained by the provider.



**PROFESSIONAL ASSOCIATIONS ISSUE NEW GUIDELINES ON
MANAGING CONFLICTS OF INTEREST IN RESEARCH**

“Effective management of financial conflicts of interest is essential to protect patients and preserve research integrity,” said Association of American Medical Colleges (AAMC) President and CEO Darrell G. Kirch, M.D. AAMC and the Association of American Universities (AAU) have issued a new report that calls for all medical schools and major research universities to develop and implement financial conflict of interest policies within the next two years and refine standards for



addressing financial conflicts of interest. At NYU we are actively engaged in revising our longstanding Investigator Financial Disclosure and Conflict of Interest Policy to incorporate these new guidelines.

The AAMC report is the product of two years’ of work by a 21-member committee made up of senior officials from the nation’s medical schools and major research universities. “Financial or personal gain must not be allowed to compromise patient safety or the validity of human research . . .,” said AAU president Robert M. Berdahl, Ph.D.

The report, titled [Protecting Patients, Preserving Integrity, Advancing Health: Accelerating the Implementation of COI](#)

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Are You Ready for a CERT Review?

You open your morning mail and in it you find a letter from CMS:

“The reason you are receiving this letter today is because the CERT Program has randomly selected one or more of your claims for review. You have a responsibility to provide documentation supporting the claims as soon as possible.”

Are you ready to produce documentation that will support your claims?

The CERT (Comprehensive Error Rate Testing) program was established in August of 2000, and each month requests a random sample of 200 claims from each carrier. If you fail to produce the requested documents, it will result in the computation of an overpayment. And if you fail to respond to the request within the allotted timeframe National Government Services will set up a full overpayment collection for each claim.

CMS has published a booklet of [CERT Helpful Documentation Hints](#) that provides guidance on specific documentation requirements for surgery, evaluation and management services, laboratory services, rehabilitation, psychiatry, cardiography/echocardiography, and ophthalmology.

When you submit your medical record documentation, be sure:

- To include CERT bar-coded cover sheet
- To photocopy each record front and back
- The patient’s name appears on every page of the records,
- Records are legible. If not, you may transcribe and include with the original.
- To include the physician signature and date

If you have questions, please contact the Office of Compliance.

(Conflict of Interest Guidance—Continued from page 2)

Policies in Human Subjects Research broadens the definition of “investigator.” It includes the principal investigator and any other person who is responsible for the design, conduct, or reporting of funded research, and it includes the investigator’s spouse and dependent children.

Financial Interests Defined. Financial interests in research include the following interests of the covered individual (and his or her spouse and dependent children), or of any foundation or entity controlled or directed by the individual or his or her spouse:

1. Consulting fees, honoraria (including honoraria from a third party, if the original source is a financially interested company), gifts, or other advantages from a financially interested company, whether for consulting, lecturing, travel, service on an advisory board, or for any other purpose not directly related to the reasonable costs of conducting the research (as specified in the research agreement).
2. Equity interests, including stock options, in a non-publicly-traded financially interested company (or entitlement to the same).
3. Equity interests (or entitlement to the same) in a publicly-traded financially interested company (see exceptions below).
4. Royalty income or the right to receive future royalties under a patent license or copyright, where the research is directly related to the licensed technology or work.
5. Any non-royalty payments or entitlements to payments in connection with the research that are not directly related to the reasonable costs of the research (as specified in the research agreement between the sponsor and the institution). This includes any bonus or milestone payments to the investigators in excess of reasonable costs incurred, whether such payments are received from a financially interested company or from the institution.
6. Service as an officer, director, or in any other fiduciary role for a financially interested company, whether or not remuneration is received for such service.

Exceptions. Significant financial interests in research *do not include* the following:

1. Interests of any amount in publicly traded, diversified mutual funds.
2. Payments to the institution, or via the institution to the individual, that are directly related to reasonable costs incurred in the conduct of research as specified in the research agreement(s) between the sponsor and the institution.
3. Salary and other payments for services from the institution.

Investigation of Orthopedic Kickbacks Expanded to Physicians

Now physicians are in the spotlight in a long-running investigation of the orthopedic device industry, according to the New York Times. The investigation involves suspected kickbacks to hip and knee surgeons by major device manufacturers including Stryker Corporation, Biomet, DePuy, Smith & Nephew, and Zimmer.

The government has not argued that kickbacks led to unnecessary surgery or specifically raised the cost of Medicare. However, they allege that kickbacks might raise the overall cost of health care.

“Doctors can be convicted of violating Medicare’s antifraud statutes simply for submitting a bill for a procedure linked to a kickback, whether or not the procedure was necessary.” Five companies in the initial investigation have been required to develop and gain government approval of a “needs assessment” detailing every task for which it will engage a physician this year. All five were also required to disclose on their web sites cash payments last year to each doctor or medical group they dealt with. The disclosure included compensation in the form of plane tickets, lodging, food, and gifts.

Barnaby J. Feder, “New Focus of Inquiry Into Bribes: Doctors” [The New York Times](#), March 22, 2008.

Complying with Lobbying Laws

You're in the waiting area at LaGuardia. Your flight has been delayed (again) and you recognize the person standing next to you in the Starbucks line. It's the staff person for a member of the NYS House of Representatives. You recognize her from pictures you have seen in the newspaper.

You know that your department has been trying to get NYS funding for a major initiative. In fact you have been involved in some of the planning. This staff person works for one of the people who can make this happen. You summon your courage and introduce yourself. Then you take a moment or two to tell her about the importance of the initiative that needs funding.

According to new federal, state, and local laws, you have just participated in lobbying, and your conversation must be reported.

Any request for assistance in funding or influencing legislation to (1) any public official or his or her staff person; or administrative unit of government is considered lobbying. This includes communication by personal visit, email, letter, telephone conversation, or even chance meeting in places like LaGuardia Airport.

Every time a member of our faculty or an employee of the Medical Center participates in a lobbying activity, we are required to report this activity in a very specific manner. This does not mean that you should not lobby. However, we encourage you to clear any lobbying activity with the Office of Government Affairs before you engage in it. When that is not possible, you must contact the Office of Government Affairs immediately afterwards to report the activity in a prompt and complete manner.

(Support Your Candidate—Continued from page 1)

- Don't post campaign posters or distribute literature on the Medical Center campus.

We are not allowed to intervene in any political campaign—even in elections where the candidate is unopposed. Intervention includes distributing statements in favor of or opposed to a candidate and making direct campaign contributions as well as in-kind, or non-cash, contributions to a candidate, political party, or political action group. Included are the use of your time while at work, office space, and office supplies (envelopes, paper, etc.) telephones, computers, email, mailing lists, and photocopy machines.

Similarly, while the Medical Center is allowed to lobby on specific issues, the IRS places strict limitations on this type of advocacy. (See the box to the left.)

If you have any questions about political participation and our tax-exempt status, contact the Office of Compliance.

(Code of Conduct— Continued from page 1)

"As you read the foundation statement and the principles that follow, you will see that collectively they form a firm ethical foundation that defines us as a great academic medical center," said Dean Grossman. "I am asking each of you to join me in making a personal commitment to uphold this Code of Conduct without exception."

Reporting Concerns. The Code includes specific information about reporting concerns and violations, your protection from retaliation if you report violations or suspected violations of the Code, and information about enforcement up to and including termination.

Every member of the Medical Center has an obligation to report situations or activities that are—or even seem to be—violations of the Code. You do not have to be absolutely sure that you are right to make a report. But you must provide information that you believe to be true.

There are three ways to report concerns or violations:

- Make a report to the person who supervises your work.
- Make a report to a representative from the Office of Compliance by phone, letter, fax, or email. You can now use the new email address Compliance.Help@nyumc.org to reach representatives from the Hospital, Faculty Group Practice, and Research Compliance with a single email message.
- Make a report anonymously through the Compliance Helpline—(1-866-NYU-1212). You can call 24 hours a day, 7 days a week.

Watch for Your Copy of the Code. The Code will be available on the intranet and internet as well as in hard copy.

COMPLIANCE IS EVERYONE'S RESPONSIBILITY

If you would like to discuss a question or concern please contact us: Compliance.Help@nyumc.org .

Thomas Feuerstein—Vice President, Audit and Compliance (212-404-4078)

Sheila Furjanic—Director, Hospital Compliance (212-263-7991)

Keisha Lightbourne—Acting Director, Research Compliance (212-404-4070)

Maria L. Rivera—Director FGP Compliance (212-404-3898)

Or call the NYU Langone Medical Center [Compliance Helpline 1-866-NYU-1212](tel:1-866-NYU-1212)

Toll Free, Multilingual, 24 Hours a Day-7 Days a Week. You may remain anonymous.

www.med.nyu.edu/compliance