



2020

# Compliance Manual

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We Play by the Rules

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## Mission of the Compliance Program

Rush University Medical Center is committed to maintaining an environment that promotes the highest level of ethical and legal conduct in its business operations, care for patients, education and research missions. Rush regards corporate and employee integrity as critical to its operations. It makes us more economically efficient; makes working with one another more enjoyable; and enhances our reputation with patients and the public.

# Structure of the Compliance Program

## Scope and Jurisdiction of the Rush Corporate Compliance Program

The focus of the Rush Corporate Compliance Program is to ensure understanding of and compliance with laws and regulations that affect operations for Rush University Medical Center (RUMC) and Rush Oak Park Hospital (ROPH). Obligations imposed by the Rush Corporate Compliance Program extend to all members of the Rush community and in every Rush subsidiary in which Rush holds a controlling ownership or management interest. The Rush Corporate Compliance Program obligations will also be imposed on any outside dealings as a condition of doing business with Rush. The phrase “Rush community” is used in the Rush Compliance Manual to refer to every individual or group of individuals that has compliance program responsibilities at Rush. These individuals and groups are defined specifically on page 7 of the Rush Compliance Manual and in the compliance policy titled “Participation in Compliance Program Activities.”

## University Compliance Program

The University Compliance Program provides central coordination, independent oversight and monitoring at Rush University. It is responsible for coordination of higher education compliance related to Affirmative Action, Equal Employment Opportunity, Civil Rights, Americans with Disabilities Act Amendments Act (ADAAA) and specifically: Title IV, Title VI, Title VII and the Clery Act at the University.

## Compliance Program Leadership

The Rush Corporate Compliance Program was created at the direction of the Rush Board of Trustees. The Finance and Audit Committee of the Board provides continuing oversight of the Rush Corporate Compliance Program activities. At the direction of the Finance and Audit Committee, Rush has appointed a chief compliance officer. The chief compliance officer reports directly to both the CEO and to the Rush Board of Trustees for matters related to the Rush Corporate Compliance Program. For Rush University compliance matters, the university compliance officer reports to the chief compliance officer and the Board of Governors. The chief compliance officer oversees implementation and operation of the Rush Corporate Compliance Program and has primary responsibility for investigating allegations of misconduct at Rush related to issues covered under the Rush Corporate Compliance Program. A committee, consisting of senior management from various departments at Rush, provides direction and assistance to the chief compliance officer in developing and administering the Rush Corporate Compliance Program. The Compliance Committee reviews Compliance Office findings and recommends corrective action plans to address these findings. The Corporate Compliance Office takes primary responsibility for implementation and operation of the Rush Corporate Compliance Program and is a part of the Executive Office. **Individuals who have questions about the Rush Corporate Compliance Program may contact the Rush Compliance Office at (312) 942-5303.**

# Compliance Program Activities

The components of the Rush Corporate Compliance Program have been designed to prevent and detect activities that violate the law or a Rush policy. Significant elements of the Rush Corporate Compliance Program include:

- 1** Written policies designed to explain and prevent violation of legal requirements. Where necessary, the Compliance Office will work within RUMC, ROPH and Rush University departments to ensure that understandable policies are adopted. All Rush employees, faculty, and staff must review and understand the Compliance Manual. Rush community members must also review and understand Rush policies that affect their areas of responsibility. Rush policies are available on the Rush Intranet.
- 2** A training program designed to educate Rush community members on laws, rules and Rush policies relevant to their job functions. Every Rush community member (except vendors) is required to participate in initial and ongoing annual training on Rush's Corporate Compliance Program. Members of the Rush community whose job functions require understanding of specific Rush compliance policies will also receive training and education to ensure that they understand and comply with those specific compliance policies. Compliance training is provided through various events throughout each year to provide updates on new emerging and high risk issues and to provide more general training for the workforce. In-person events are scheduled periodically for large and small groups and can be requested by individual departments. Online training is available and required for specific jobs. In addition, mandatory annual training is provided through LEAP Online.
- 3** Monitoring and auditing activities are designed to ensure that regulatory requirements and Rush policies are properly understood and followed. Monitoring and auditing activities are conducted both as a matter of course (according to an annual monitoring and auditing plan) and as follow-up if noncompliant activity is discovered and to verify its correction. Follow-up audits are designed to ensure that corrective action plans have the effect of eliminating noncompliant activity.
- 4** Monitoring changes in laws, regulations and rules, and communicating relevant changes to the Rush community.
- 5** Investigation of alleged illegal or unethical conduct at Rush and recommendations for corrective action when detected illegal or unethical conduct is found. Every Rush community member is obligated to notify a manager or the Compliance Office of known or suspected illegal conduct or activities that violate Rush policies. When the Compliance Office receives a report of suspected illegal conduct related to an area that is covered by the Rush Corporate Compliance Program, it will respond to the inquiry and assess whether the conduct reported or suspected is substantiated. When such conduct is detected, the Compliance Office will recommend and assist in implementing corrective action. It will refer to the appropriate operational area for disciplinary actions as appropriate. Where necessary, a gap assessment will be performed, and if applicable, policies will be strengthened and new policies created to prevent similar misconduct from occurring in the future.

**6** Employees who violate Rush policies or legal requirements will be subject to disciplinary action. Discipline will be dispensed consistently based on the nature, severity and frequency of the violation. Members of the Rush community who are not Rush employees may also be subject to sanctions for failing to comply with legal requirements and Rush compliance policies. Discipline or sanctions may include any of the following:

- Verbal warning
- Written warning
- Privilege revocation
- Suspension
- Discharge
- Contract termination
- Restitution

These actions will occur in consultation with Rush Legal and/or Human Resources. In most situations, discipline of employees should be progressive, beginning with a verbal warning and proceeding to written warning, suspension and finally discharge from employment. In more severe cases, a manager may forgo intermediate disciplinary stages and proceed directly to suspension or discharge as appropriate. Rush Human Resources policies control employee discipline matters and should be reviewed by managers before employees are disciplined. Human Resources is also available to assist in these matters.

**7** Pre-employment screening: All employees, members of the medical staff and contracting persons and organizations who have substantial discretionary authority at Rush are subject to criminal records check, reference check and review of various federal and state agency databases that list debarred and sanctioned persons. Adverse findings may be cause for terminating the relationship between Rush and the individual or organization in question. The Rush Corporate Compliance Program will respond to the inquiry and assess whether the conduct reported or suspected is substantiated. When such conduct is detected, the Compliance Office

will recommend and assist in implementing corrective action. It will refer to the appropriate operational area for disciplinary actions as appropriate. Where necessary, a gap assessment will be performed, and if applicable, policies will be strengthened and new policies created to prevent similar misconduct from occurring in the future.

**8** Effective lines of communication: The Compliance Office maintains the Rush Hotline to ensure effective lines of communication are maintained. This is one of multiple reporting options that Rush employees, faculty, staff and students have to report concerns. All reports are taken seriously and follow-up conducted with an assigned area. Rush community members are obligated to report any activity that appears to violate the law or any Rush policies. **Individuals who wish to remain anonymous may contact the Rush Hotline about their concerns at (877) 787-4009 or at [rush.ethicspoint.com](http://rush.ethicspoint.com).**

**9** Privacy breach response: The Privacy Office investigates all reported instances of privacy incidents and conducts a privacy risk of compromise assessment to determine whether a privacy breach has occurred. If a privacy breach is determined, reporting is made to the affected individual and federal and/or state authorities.

**10** Conflict of interest disclosure review and adjudication: Rush is dedicated to integrity in its academic, research, clinical and business activities. As part of this mission, Corporate Compliance oversees and implements Rush's institutional, research, clinical, faculty, and staff conflict of interest policies and procedures and ensures compliance with applicable regulatory requirements, provides guidance and training to support to the Rush community and administers and supports the activities of conflict of interest committees.

# Obligations of Rush Community Members

Rush is an institution of public trust. In recognition of that status, all Rush employees, faculty and staff are expected to conduct their affairs in ways that exemplify the Rush mission and ICARE values. Annual and transactional reporting on outside professional activities through the Conflict of Interest (COI) survey process helps safeguard the work and reputations of Rush employees including management, faculty and staff. Full disclosure of outside professional interests is critical to maintaining the public trust and managing situations where objectivity is in question.

The Rush Corporate Compliance Program has been designed to ensure and to demonstrate that the highest ethical standards are upheld at every level. Ensuring and demonstrating organization-wide ethics will require active participation from everyone. Rush's compliance policies set out specific responsibilities for members of the Rush community who fall into any of the following categories:

- **Corporate Officers, Chairpersons, Directors, Administrators, Managers and Other Supervisory Personnel:** Individuals with managerial or supervisory responsibility for a department or area of Rush operations and/or for personnel.
- **Employees:** Every individual who has an employment relationship with Rush, whether full-time or part-time, is subject to Rush's requirements. An individual is an employee if he or she receives a W-2 from Rush for work performed at Rush.
- **Agents:** Persons who have a formal relationship with the Rush corporation, generally evidenced by a written contract, by which the corporation has conferred specific authority upon the person to bind the corporation.
- **Outside Contracted Temporary Staff:** Individuals working at and on behalf of Rush who are employed by a temporary staffing company. These individuals perform duties on a temporary basis at or on behalf of Rush. The duties assigned to these individuals will generally be duties that would normally be performed by Rush employees.
- **Health Care Providers:** This category includes every licensed or certified health care worker (including, but not limited to, physicians, residents, nurses and allied health and mental health workers) who is either employed by Rush or provides direct or indirect patient services as an independent contractor of Rush or has a faculty appointment. Physicians who are part-time employees or contractors of Rush are health care providers for that portion of their duties and activities that relates to their employment or contracting relationship and are private practice physicians on Rush medical staff for those activities and duties that they perform as private practitioners at Rush.
- **Billing Personnel:** This category includes every employee or outside contracted temporary staff person who is involved in medical billing (including charge capture, charge entry, coding and the claims submission process) at Rush.
- **Third-Party Billers:** Non-employed individuals and entities that provide billing services to Rush or to a Rush medical service plan or an employed physician.
- **Private Practice Physicians on Rush Medical Staff:** This category includes all private practice physicians (those not employed by Rush) who are members of the medical staff at Rush.
- **Faculty:** Individual who has a faculty appointment at Rush University.
- **Vendors:** Individuals and entities who sell goods or services to Rush and its related organizations.

## **Review the Rush Compliance Manual**

All new hires will receive a copy of the Rush Compliance Manual and are required to read the manual and be certain that they understand and comply with all policies outlined in the manual that relate to their individual work responsibilities at Rush.

## **Duty to Comply With All Legal Requirements and Rush Policies**

Compliance is everyone's job. Every Rush community member has a duty to comply with applicable laws, regulations, rules and Rush policies when conducting Rush business.

The duty to comply with legal requirements and Rush compliance policies includes a duty to identify activities that are or may be noncompliant and to fix identified noncompliant activities within a reasonable period of time. The Compliance Office exists to provide information and direction that will assist individuals and managers in meeting their compliance obligations. However, managers and departmental personnel must work with Compliance Office personnel when necessary to identify whether compliance issues exist, and are responsible for implementing changes necessary to ensure compliance in their area of responsibility. Failure to identify noncompliance or to fix identified noncompliance within a reasonable time will be treated as negligent failure to comply with Rush compliance policies and may result in discipline or sanction of responsible Rush community members.

## **Medical Center Policy Against Retaliation**

Rush strictly prohibits retaliation against employees for reports made in good faith about suspicious activities. Retaliation against an employee who reports a concern in good faith is prohibited even if, after investigating the reported concern, it is determined that it is unfounded. The prohibition against retaliation applies whether the employee reports noncompliant activity to a supervisor or the Compliance Office. Anyone who violates this prohibition will be subject to discipline or sanctions, up to and including termination of their employment, agency, contract or medical staff relationship with Rush.



# Overview of Relevant Laws

The Rush Corporate Compliance Program has been established to help make certain that Rush personnel understand and comply with the laws that affect their work at or on behalf of Rush. The following paragraphs provide a brief overview of the laws that have the greatest relevance to Rush's Compliance Program.

## 1 Anti-Kickback Statute

42 U.S.C. § 1320a-7b(b)

The Anti-Kickback Statute prohibits individuals or entities from asking for or receiving any remuneration in exchange for referrals of federal health care program business (e.g., Medicare, Medicaid and Tricare). The government may impose penalties against individuals or entities who knowingly and willfully: (1) offer or pay remuneration, directly or indirectly, to induce referrals of federal health care program business; or (2) solicit or receive remuneration, directly or indirectly, in return for referrals of federal health care program business.

Criminal penalties for violation of the Anti-Kickback Law include a fine up to \$100,000, imprisonment for up to ten years or both, for each violation. The civil penalty for violation is a fine of up to \$50,000 per incident plus three times the amount of the remuneration. Violators are also subject to exclusion from federal health care programs. Exclusion means that an individual or entity can no longer participate in or receive payment from the federal health care programs.

## 2 The Stark Law (Physician Self-Referral Prohibition)

42 U.S.C. § 1395nn

The Stark Law generally prohibits a physician from referring a federal health care program patient for certain services that are provided by an entity with which that physician or a member of the physician's immediate family has a financial relationship (i.e., a compensation arrangement or investment interest).

An individual or entity that violates the Stark Law may face penalties including denial of payment for the services, refunds of amounts collected in violation of the law and a civil money penalty of up to \$15,000 per claim. Additional civil penalties of up to \$100,000 may be imposed for schemes designed to circumvent the statute. Violators are also subject to exclusion from federal health care programs.

## 3 Eliminating Kickbacks in Recovery Act of 2018

18 U.S.C. § 220

The Eliminating Kickbacks in Recovery Act (EKRA) prohibits soliciting, receiving, paying or offering any remuneration in return for or to induce referrals to a recovery home, clinical treatment facility, or laboratory. EKRA applies to services covered by all payors. A violation of EKRA can result in a fine of up to \$200,000 or imprisonment for 10 years, or both, for each occurrence.

## 4 Federal False Claims Act

31 U.S.C. § 3729

The Federal False Claims Act prohibits a person or entity from knowingly presenting or causing to be presented a false or fraudulent claim for payment (including making a false record or statement in support of a claim) to the United States government. No proof of specific intent is required — reckless disregard or deliberate ignorance of the truth or falsity of the information is enough to support a finding that

this statute has been violated. The False Claims Act is the primary law used by the federal government to prosecute fraudulent health care billing. The maximum penalty for violating the False Claims Act is treble damages (three times what the government incorrectly paid) plus a civil fine of between \$11,665 and \$23,331 for each false claim submitted.

## **5 Civil Monetary Penalties Law (Patient Inducement)**

42 U.S. Code § 1320a-7a

A person who offers or transfers to a Medicare or Medicaid beneficiary any remuneration that the person knows or should know is likely to influence the beneficiary's selection of a particular provider, practitioner or supplier of Medicare or Medicaid payable items or services may be liable for civil money penalties of up to \$20,000 for each wrongful act under the Civil Monetary Penalties Law and exclusion from federal health care programs.

## **6 Illinois Health Care Worker Self-Referral Act**

225 ILCS §47/1 et. seq.

The Illinois Health Care Worker Self-Referral Act prohibits licensed health care workers from referring a patient for health services to an entity outside of the health care worker's office or group practice in which the health care worker is an investor, unless the health care worker directly provides health services within the entity and will be personally involved in the provision of care to the referred patient. A health care worker who is in violation of this prohibition is subject to penalties including professional disciplinary action by the applicable state board or committee and a civil penalty of up to \$20,000 for each claim.

## **7 Health Insurance Portability and Accountability Act of 1996 (HIPAA)**

Public Law 104-191

Includes administrative simplification provisions including requirements for privacy and security of protected health information. Requires that all elements of established rules be implemented and enforced including: Privacy Rule (use and disclosure of information); Security Rule (safeguarding of information); and Omnibus Rule (implemented breach notification and other elements of the HITECH Act).

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