

MERCY HEALTH SELECT, LLC

COMPLIANCE PLAN

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Compliance Plan

Introduction

Mercy Health Select, LLC is committed to carrying out its healthcare ministry in a manner consistent with its mission and the mission, vision and values of Bon Secours Mercy Health, Inc. (BSMH). Mercy Health Select, LLC (hereinafter, "ACO") and its Board of Directors is dedicated to following a high ethical standard of individual conduct as well as acting responsibly as corporate citizens. The Compliance Program (CP) reflects the ACO Board of Directors' and executive leadership's confidence that the ACO can succeed and prosper in a competitive healthcare environment by practices that are consistent with the high ethical standards that have guided BSMH.

The purpose of the CP is to comply with federal and state laws as applicable to operations of the ACO, including without limitation, contracts for the Medicare Shared Saving Program Accountable Care Organization (ACO), Medicare Advantage contracts, The Centers for Medicare and Medicaid (CMS) special program initiatives, and other governmental and/or commercial contracts to manage population health (collectively referred to as Population Health Contracts).

The ACO's CP, including this Compliance Plan, applies to all ACO employees (to include all ACO employees and all employees of BSMH who provide services to the ACO); all ACO Participants, all ACO Providers/Suppliers and their staff, and vendors; all ACO officers and directors; and all ACO independent contractors (such as vendors) in their relationship with the ACO (collectively, "ACO Workforce").

While this CP cannot address every possible issue that may arise in the conduct of the ACO's services it does provide the overall policies and standards to guide all to whom the CP Plan applies. By adhering to these principles, the ACO will achieve the legal compliance required under the law and to which the Board of Directors expects.

This Compliance Plan summarizes the ACO's compliance structure, key elements and compliance policies.

Compliance Program Elements

The ACO's CP follows BSMH Compliance Program as stated within the ACO's Subsidiary Compliance Policy. In addition to BSMH's CP, the below provides supplemental information related to the ACO's CP.

1. Oversight of the Compliance Program

- **Compliance Officer (CO).** ACO has appointed a CO who is responsible for developing, implementing and overseeing the operations of the ACO CR Program. The CO is neither legal counsel to the ACO nor to BSMH. The ACO's CO reports directly to the ACO's Board of Directors regarding compliance issues.
- **ACO Board of Directors.** As the governing body of the ACO, the Board of Directors has ultimate responsibility for the Compliance Program. As such, the Board will approve any substantive changes to the ACO's Compliance Program Manual. In addition, it will annually receive reports from the CO as to the operation of the ACO's CP, including investigation and

resolution of any material compliance issues that may arise. The Board will meet to discuss and approve any changes, if necessary, to this Compliance Program.

2. Written Policies and Procedures

- ***Code of Conduct and Compliance Program Manual.*** The [BSMH Code of Conduct](#) and this Compliance Program Manual are the foundational documents of the ACO. These documents are accessible on the ACO web site.
- ***ACO Compliance Policies and Procedures.*** In addition to the BSMH Code of Conduct and the Compliance Program Manual, the ACO has adopted the BSMH Compliance policies and procedures which are incorporated into the ACO's CP. The CO may develop and implement additional written CP Policies and Procedures to reflect ACO compliance processes and procedures.
- ***BSMH Compliance and HIPAA Privacy Policies and Procedures.*** The ACO has adopted BSMH Privacy Program Policies and Procedures, which are incorporated into the ACO's CP.

3. Effective Training and Awareness

- ***Compliance Program Awareness.*** The ACO's CO is responsible for ensuring that the Compliance Plan is made accessible to the entire ACO Workforce. All newly hired, engaged, or contracted ACO Workforce members will be provided access to the ACO's Compliance Plan via the ACO's website and through the ACO's onboarding processes.
- ***ACO Compliance Training.*** ACO Workforce members will receive annual compliance training associated with ACO compliance requirements. The CO will develop the annual compliance training which may include written communications, in-person educational sessions, and telephonic or web-based education. The ACO and/or ACO Workforce members will maintain a record of all ACO Workforce members who receive training. For additional information, please see ACO Compliance Training Process, Appendix A

4. Effective Lines of Communication

The ACO has adopted the BSMH Reporting Compliance Concern's/Non-retaliation policy. The below provides supplemental information related to Effective Lines of Communications.

- ***Seeking Guidance.*** ACO Workforce members shall be encouraged to seek guidance if the employee or contractor is uncertain as to whether certain conduct or actions violate CP or relevant laws or regulations.
- ***Obligation to Report.*** ACO Workforce members must report known or suspected violations of the CP or relevant laws or regulations. The failure to report known or suspected violations is itself a violation of the CP.
- ***Confidentiality.*** All reports shall be kept confidential, within the limits of the law.
- ***Reporting Mechanisms.*** When reporting known or suspected violations, ACO Workforce members may choose one or more of the following reporting mechanisms:

1. Report the violation to the Workforce member's manager or supervisor;
 2. Report the violation to ACO Compliance Officer on the [ACO website](#); or
 3. Call the ACO Ethics Help Line (1- 888-302-9224) or utilize the web-based Portal (<http://bsmhethicshelpline.org/>). Workforce members may choose to remain anonymous when using either method.
- **Leadership Obligations.** The supervisor or individual in authority to whom a Workforce member has made a report shall provide the information to the ACO CO directly or via the ACO Ethics Hotline in a timely manner.
 - **Documentation.** The CO will maintain a record of reports of violations of the CP and its Code of Conduct or of relevant law or regulations. The CO will periodically furnish a summary of such reports to the ACO Board, if applicable.

Anonymous reporting is advertised to ACO participants, ACO providers/suppliers, employees, and contractors via the compliance plan and the ACO's website.

5. Responding to Compliance Concerns

MHS has adopted the BSMH Compliance Internal Investigation Policy. Below you will find supplemental information related to the ACO responding to Compliance Concerns.

- **Obligation to Investigate.** When ACO becomes aware of a potential violation, it has an obligation to investigate the matter in question. The nature and scope of the investigation may vary depending upon the facts and circumstances of the situation. The ACO's CO, or designee, will investigate any alleged or detected violation.
- **Cooperation.** All ACO Workforce members shall cooperate with and assist the ACO CO (or designee) in the investigative activities.
- **Violations of Law.** ACO will take appropriate corrective action and ACO's CO, or designee, shall report any probable violations of law to an appropriate enforcement agency taking into account the nature of the violation and the enforcement agency's protocol for reporting violations of law.

6. Compliance Risk Areas and Corrective Action

- **Tracking New Developments.** The ACO CO will ensure that relevant publications issued by government or third-party payers regarding compliance rules and protocols are reviewed and appropriately implemented, focusing on rules, regulations, and guidance as to the operation of the ACO and the Medicare Shared Savings Program.
- **Regulatory Compliance Reviews.** The ACO's CO, or designee, will conduct periodic compliance reviews of ACO operations to identify risk areas and ensure continued compliance with regulatory and statutory requirements including the reporting mechanisms.
- **Annual Compliance Work Plan and Risk Assessment.** On an annual basis, the ACO's CO will participate in the BSMH Compliance Risk Assessment process to include interviews with key

staff within the ACO, review of regulatory requirements, governmental guidance or pronouncements, issues related to the ACO, and ACO operations to identify compliance risks or areas of compliance focus for the upcoming year.

The ACO CO will work with the BSMH Chief Compliance Officer to develop an Annual Compliance Work Plan that will set forth the annual reviews, initiatives and compliance goals for the upcoming year. The ACO work plan will be incorporated into the BSMH Work plan and approved by the BSMH Audit and Compliance Committee.

7. **Disciplinary Action**

- ***Discipline of Employees.*** All ACO Workforce may be subject to disciplinary action. Such discipline will be applied in a uniform and consistent manner. The following are examples of conduct that will result in disciplinary action:
 1. Workforce members who authorize or participate in a violation of law, regulation, policy, ethical standard, or the ACO Code of Conduct.
 2. Workforce members who withhold information or fail to report such violations.
 3. Supervisors or managers who provide inadequate supervision or display a lack of diligence in assuring conformance to law, regulation, policy, ethical standards or the ACO Code of Conduct.
 4. Workforce members who retaliate, attempt to retaliate or threaten to retaliate against individuals who report suspected violation in good faith.
 5. Workforce members who make frivolous or deliberately false reports of violations.
 6. Workforce members who discriminate or harass others.

If the ACO CO concludes, after an appropriate investigation and in consultation with ACO Legal Counsel when applicable, that the Compliance Plan, or applicable laws or regulations have been violated, then the ACO CO will inform ACO senior management, the ACO Board, and the ACO Participant's Compliance Officer, as necessary.

- ***Disciplinary Procedure.*** ACO Board of Directors will take appropriate discipline, remedial processes and penalties, up to and including termination of participation in the ACO, consistent with the ACO Participation Agreement. Possible disciplinary action of ACO Workforce who are BSMH employees or contracted employees will follow BSMH's existing disciplinary policies and procedures.
 - ***Remedial Action as to Others.*** ACO Workforce members who are not BSMH employees are expected to adhere to the ACO Code of Conduct, applicable MSSP requirements and ACO Participation Agreement requirements. ACO Board of Directors will take appropriate discipline, remedial processes and penalties, up to and including termination of participation in the ACO, consistent with the ACO Participation Agreements.
8. **Non-Retaliation.** ACO adopted the BSMH Reporting Compliance Concern's/Non-retaliation policy which has "zero tolerance" for any form of retaliation against those who report compliance concerns in good faith. The ACO's CO shall also be free to raise concerns to the governing body without fear of retaliation ACO values and encourages honest discussion about these concerns and will protect from retaliation those who raise such concerns in good faith to the appropriate management personnel.

Code of Conduct

Mercy Health Select, LLC (ACO) is a network of healthcare organizations (the Participants) dedicated to providing high quality, coordinated care at a reduced cost to the Medicare fee-for-service beneficiaries and other patients served by the ACO. ACO is committed to achieving the three-part aim of improving care delivery, improving health, and reducing growth in costs. It intends to achieve this three-part aim not only through better coordination of care, but also by leading in high quality population health management. Whenever there is a question of priorities, ACO always puts the good of the patient first.

A network of this kind is called an Accountable Care Organization or ACO. Because this is a new model of patient care, new rules apply to the ACO and its Participants. This Code of Conduct addresses these rules and guides us in acting in a manner that is ethical, legal and in the best interests of our patients.

This Code of Conduct is intended as a guide for those to whom it applies. It does not take the place of the common sense and good judgment, which are an expectation of those who are part of the ACO.

While this Code of Conduct applies across the ACO, it does **not** take the place of the codes of conduct, policies, and procedures already in place of ACO Workforce Members. This Code of Conduct supplements and supports the ethical practices of all ACO Workforce Members.

The ACO adopts and applies [Bon Secours Mercy Health's Code of Conduct](#). In addition to BSMH's CP, the below provides supplemental information related to the ACO's Code of Conduct.

1. Privacy and Security

To facilitate coordination of patient care, the Centers for Medicare and Medicaid Services (CMS) shares information about Medicare beneficiaries with Accountable Care Organizations such as the ACO. This information is intended to assist the organization in coordinating patient care. Patients have the right to opt out of such information sharing and it is the obligation of the ACO Workforce to respect patient wishes in this regard.

ACO employees, officers and board members should share protected health information only as needed for patient care and ACO business operations consistent with the CMS agreements. Even when it is appropriate to share protected health information, the information shared should always be limited to the minimum information needed for patient care or business operations.

2. Gifts to Patients

ACO Workforce Members should follow their own organization's rules governing gifts, meals, travel and entertainment. This section only concerns gifts to ACO patients.

The ACO does not allow the giving of gifts or any other items of value (gift cards, tickets, vouchers) to patients for the purpose of attracting or retaining a patient within the ACO. The only time it is permissible to give an item of value to a patient is to assist the patient in adhering to their treatment regime or pursuing preventative healthcare practices consistent with state and federal law.

3. Accuracy of Information

All Participants in the ACO will cooperate in the gathering, recording, and submitting of data that the ACO provides to CMS. Information provided to ACO by its Participants must be truthful, accurate and as complete as possible. Information that ACO provides to CMS, specifically including information used to determine shared savings and losses, must be truthful, accurate and as complete as possible.

4. Avoiding At-Risk Beneficiaries & Cherry Picking

ACO Workforce Members performing functions or services related to ACO activities will not take steps to avoid or underutilize care for at risk patients in order to reduce ACO costs. This includes denying or stinting on medically necessary services to at-risk patients.

ACO Workforce members performing functions or services related to ACO activities will not take steps to engage in activities that would attract primarily healthy beneficiaries.

5. Beneficiary Choice and Referrals

ACO workforce members shall ensure that beneficiaries are free to choose any provider.

The ACO, and ACO Workforce members are prohibited from requiring that beneficiaries be referred only to ACO participants or ACO providers/suppliers within the ACO or to any other provider or supplier, except that the prohibition does not apply to referrals made by employees or contractors who are operating within the scope of their employment or contractual arrangement to the employer or contracting entity. However, the employees and contractors are free to make referrals without restriction or limitation if the beneficiary expresses a preference for a different provider, practitioner, or supplier; the beneficiary's insurer determines the provider, practitioner, or supplier; or the referral is not in the beneficiary's best medical interests in the judgment of the referring party.

Appendix A

Mercy Health Select, LLC

ACO Compliance Training Process

ACO's CO creates and maintains MSSP compliance training and education materials. For reflecting changes in law or internal procedure, ACOs compliance training and education materials are annually reviewed and periodically updated.

ACO'S compliance training provides information on ACO'S effective compliance program, including ACO'S Compliance Plan, Code of Conduct, ACO'S Policies & Procedures, ACO Participants and ACO Providers/Suppliers legal responsibilities and ACO'S compliance operations.

Specific details on the topics covered within the training include, but are not limited to, what constitutes program violations, how to recognize violations, how to report compliance issues and possible violations.

ACO'S provides ACO'S personnel (e.g. employees, contractors, board members), ACO Participants, and ACO Providers/Suppliers training through various communication channels including online learning modules, training presentations, and other means.

ACO's Workforce Members must complete MSSP compliance training within 90 days of hire or joining the ACO; and annually thereafter.

ACO or ACO Workforce Members maintain documentation of the employees and contractors training in normal course of business. The documentation must include the employee or contractors name and date of MSSP training.

ACO and ACO Workforce Members records demonstrating the completed training must remain available for review by ACO and appropriate federal agencies upon request.

ACO annually requires ACO Participant and/or ACO Provider/Supplier to annually certify that the organization's employees and contractors complete the ACO'S compliance training.

ACO, ACO Participants or ACO Provider/Suppliers shall maintain MSSP compliance training records consistent with CMS requirements. The ACO may audit ACO Participants and ACO Providers/Suppliers MSSP training records.

MSSP compliance training is available at ACO's [website](#). You may also inquire about additional Compliance training by contacting your [Compliance Officer](#).

Appendix B

Compliance Officer Job Description

I. Summary of Primary Function/General Purpose of Position

Under the direct supervision of the System Director, Compliance this position contributes to the Bon Secours Mercy Health mission and vision by developing and implementing the compliance workplan for their functional area. This position oversees and provides compliance related activities relative to Bon Secours Mercy Health operations conducted at local and remote locations and leads adhoc compliance investigations, education and auditing.

II. Essential Job Functions

Essential Functions Statements - <i>List the essential functions of the job.</i>
Implement the BSMH Compliance program within their assigned functional area, including application of leading practice approaches to identification, assessment, and mitigation of risks, auditing and monitoring, education of operational leaders on compliance regulations, establishing functional compliance committee, and implementing compliance policies.
Provide advice/consultation to functional leadership regarding compliance and regulatory initiatives impacting the Ministry and assist in mitigating risks to the organization. This will include presentations and education sessions on emerging risk areas relating to their functional areas.
Assist in the development and evaluation of operational policies and procedures within their functional area.
Lead investigations across the ministry relative to their functional area. Works collaboratively with Advice and Counsel, conducts interviews, documents investigatory steps, and makes recommendations for corrective actions. Prepares and documents investigation file within the Wolters Kluwer system.
Serves as market compliance contact with responsibility for reporting to Market Board and market senior leadership. Coordinates functional issues that arise with the appropriate functional Director, Compliance.
Develops compliance monitors and audit protocols specific to compliance functional risk areas highlighted by the OIG, Medicare, State Medicaid, State Insurance Fraud; Managed Care or Governmental Value-Based payment programs and/or other enforcement agencies as part of the overarching BSMH compliance program.
Evaluates and utilizes data analytics techniques, statistical analysis and modeling, and databases developed internally, or in conjunction with other third-party vendors to detect and trend potential compliance issues.
Prepares monthly updates relative to functional area for presentation at Compliance Leadership Forum.
Identifies the need and develops educational content and trending of non-compliant activities to enhance proficiency and competency, understanding of standards and the consequences of non-compliance. Prepares multi-faceted oral, written and electronic communications and presentations to facilitate discussion, networking, decision-making and proactive responses to meet current and emerging challenges among affected parties and entities.
This document is not an exhaustive list of all responsibilities, skills, duties, requirements, or working conditions associated with the job. Employees may be required to perform other job-related duties as required by their supervisor, subject to reasonable accommodation.