

Policy Title:	Responding to and Investigating Potential Compliance Issues (CMP)
Category:	CMP - Compliance
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Associated Forms & Policies:	100-005 Reporting Compliance Issues and Non-Retaliation
Regulation Reference (if applicable):	NYS OMIG Mandatory Provider Compliance Plan, 18 NYCRR § 521
Key Words:	Compliant, Complaints, Investigation, Issue, Non-Retaliation

I. Policy

Crouse Medical Practice “CMP” has established and implemented procedures and systems for promptly responding to compliance issues including complaints, violations of applicable laws, regulations, practice policies, procedures and standards (including CMP’s Code of Conduct and Compliance Program), investigating potential compliance problems as identified in the course of internal auditing and monitoring, correcting such problems promptly and thoroughly to reduce the potential for recurrence, and ensuring ongoing compliance with State and Federal laws, rules and regulations.

II. Purpose

Regardless of the source of the complaint or concern, CMP takes potential compliance issues seriously and investigates compliance issues promptly. The purpose of an investigation is to identify those situations in which applicable laws and regulations may not have been followed; to facilitate corrective action as necessary; and to implement procedures to ensure future compliance.

III. Scope

This policy applies to CMP’s Compliance Officer (“CO”), Compliance Committee, Board, and all Staff.

IV. Procedure

Receipt of Complaints and Investigation

- A. **Responsibility:** The Compliance Officer, or their designee, has primary responsibility for conducting and/or overseeing investigations of potential compliance concerns and/or complaints.
- B. **Reporting.** All [affected individuals](#) are required to promptly report issues of suspected or actual noncompliance, and may be subject to discipline for failing to report. CMP has a

strict non-retaliation policy for good faith reporting of suspected or actual compliance issues. (See CMP's [Reporting Compliance Issues and Non-Retaliation Policy 100-005](#))

- C. **Investigation.** The CO or their designee shall commence an investigation promptly following receipt of a complaint or the detection of a potential compliance issue. Depending on the issue being investigated, the CO shall report the investigation to CMP's President.
1. The CO may conduct the investigation under the guidance of legal counsel as deemed necessary by the CO.
 2. In the course of the investigation, the CO, or their designee, is authorized to perform the following:
 - a) Conduct interviews with any CMP employee or other person whose activities or work obligations pertain to the potential compliance matter;
 - b) Identify and review relevant documents and materials, including without limitation, bills and claims for service, patient records, business records, email and other forms of communications, and any other document or record necessary for the investigation;
 - c) Seek out individuals, internal or external to CMP, whose expertise may assist the investigation; and
 - d) Undertake other processes as deemed necessary by the CO to fully investigate the compliance issue raised.
- D. **Documentation.** The CO, or their designee, shall log all complaints in a form and manner as determined by the CO and as required by state law and regulation. The 'Potential Breach Worksheet and 'Compliance Log CMP' spreadsheets on the share drive should be utilized for documentation. Documentation will include:
1. Description of the investigation process including any alleged violations;
 2. Copies of interview notes and other documents essential for demonstrating that the hospital completed a thorough investigation;
 3. Any disciplinary action taken and the corrective action implemented.
- E. The results of such investigations will be thoroughly documented and shared with the Compliance Committee on a confidential basis.

Documentation/Reports.

- A. In addition to documenting on the 'Potential Breach Worksheet' and 'Compliance Log CMP', the CO or their designee may prepare a report which summarizes the nature of the problem, concern or complaint. At the discretion of the CO or their designee, such report may be developed under the guidance of CMP's legal counsel. To the extent relevant, the CO or designee's report shall include the following:
1. A summary of the investigation process including any alleged violations;
 2. The relevant facts and identification of involved persons;
 3. Whether a systems error was involved;

4. Whether there is evidence of intentional wrongdoing;
 5. An estimate of potential overpayments, if any;
 6. Any other information relevant to the investigation.
- B. Depending on the nature of the findings, the CO or designee may report the results of the investigation to the Administration, the Board of Directors or other departments or individuals as necessary to ensure proper mitigation and prevention of future compliance issues.
 - C. On a periodic basis, the CO shall report a summary of compliance investigations to the Corporate Compliance Committee and/or the Board of Directors.
 - D. Documents generated under this Policy shall be maintained in accordance with document retention policies and procedures.

Response to Investigations.

- A. CMP's response to an investigation will be determined by the type of noncompliant activity that is suspected and/or verified.
- B. CMP's response shall be designed to correct the problem promptly and thoroughly, and to implement procedures and systems to prevent recurrence of the problem. To the extent feasible for complaints and concerns that are not made on an anonymous basis, the CO or their designee shall respond to the individual who initially raised the compliance issue, within the limits of applicable confidentiality laws and regulations. For those concerns received on an anonymous basis, every effort shall be made to follow up with the writer/caller. This could include but is not limited to; general responses in the Informer, email to the department's DL address (if known), staff meeting/huddle discussion from leadership with notes in minutes, etc.
- C. In the spirit of Crouse Medical Practice values, CMP shall self-disclose to any necessary agencies, individuals, companies, any findings of investigations as appropriate. CMP shall report, repay and address the system/process issues in regards to the appropriate payers or parties during routine internal and external audits. All identified overpayments from Medicare or Medicaid will be reported and returned within 60 days of identification in compliance with federal and state law.
- D. CMP will investigate and respond to any action or suspected action of retaliation due to the outcome of the investigation.
- E. The following are examples of responses to specific compliance issues (this is not a complete list, but is intended to provide an idea of the variety of possible considerations).
 1. Billing Issues. Once a billing problem is identified, all billing involved in the compliance situation, if any, will be discontinued until such time as appropriate corrections are made;
 2. If an audit or investigation reveals a systemic billing issue (as opposed to routine refunding of overpayments), coding or claims submission problem, the Chairman of the Compliance Committee (and legal counsel as appropriate) will draft any required corrective action plan ("CAP").
 3. The CAP will list each billing practice or other compliance issue that does not meet the applicable requirements and specify what action should be taken to correct the

practice. The CAP will include the development of new policies and procedures to prevent recurrence of the issue as necessary. For each item in the CAP, deadlines will be established by which the corrective action must take place.

4. The scope of possible corrective actions is quite broad, ranging from refunds of any overpayments received, to disciplinary actions, to reporting incidents of fraud and abuse to federal or state authorities. (The Compliance Officer should be informed of any routine returns of overpayments, even if they are not made as part of a formal investigation or audit.) All corrective actions must be thoroughly documented.
5. Progress reports will be prepared on a periodic basis that list each corrective action item and identify what actions have been taken on each item.

F. Potential Duplicate/Incorrect Payments by Payer. If duplicate or incorrect payments have been made, or could have been made, by a payer, including Medicare, Medicaid and commercial insurers, because of a coding or systems error i) the defective practice or procedure will be corrected as quickly as possible; ii) overpayments, if any, will be calculated and promptly repaid to the appropriate payer; and iii) an education program will be undertaken with the appropriate Employees or affiliated persons to prevent future similar events.

G. Possible Criminal Behavior. If criminal behavior is suspected by an Employee or other CMP affiliate, the CO shall immediately inform the CMP's President/Board, and shall proceed under the guidance of legal counsel. CMP shall initiate appropriate disciplinary procedures, which may result in termination. If deemed necessary and appropriate to the situation, under the guidance of legal counsel CMP shall inform the appropriate law enforcement or government agency.

Definitions:

Affected Individuals: All persons who are affected by the provider's risk areas including employees, chief executive and other senior administrators, managers, contractors, agents, subcontractors, independent contractors and governing and corporate offices.