



## **GBUACO COMPLIANCE PROGRAM**

1. Policy Statement – Greater Buffalo United Accountable Care Organization (“GBUACO”) voluntarily implements a compliance program aimed at fraud, waste, and abuse prevention in compliance with Federal Laws and Regulations while at the same time advancing the mission of providing and improving the quality of patient care. Compliance efforts are aimed at prevention, detection, and correction of non-compliant behavior and fraud, waste and abuse, as well as ensuring mechanisms for identifying and reporting such issues and potential non-compliant practices. GBUACO is fully committed to compliance with all Federal Laws and Regulations surrounding the formation and maintenance of an Accountable Care Organization (“ACO”) as described by the Centers for Medicare and Medicaid Services (“CMS”).
  - a. Standards of Conduct -- GBUACO promotes adherence to the Compliance Program as a major element in the performance evaluation of all ACO participants and employees. GBUACO providers and employees are bound to comply, in all official acts and duties, with all applicable laws, rules, regulations, standards of conduct, including, but not limited to laws, rules, regulations, and directives of the federal government, applicable statutory, regulatory and Medicare program requirements and rules policies and procedures of GBUACO. These current and future standards of conduct are incorporated by reference in this Compliance Plan. All candidates for employment shall undergo a reasonable and prudent background investigation, including a reference check. Due care will be used in the recruitment and hiring process to prevent the appointment to positions with substantial discretionary authority, persons whose record (professional licensure, credentials, prior employment, any criminal record) gives reasonable cause to believe the individual has a propensity to fail to adhere to applicable standards of conduct. All new employees will receive orientation and training in compliance policies and procedures. Participation in required training is a condition of employment. Failure to participate in required training may result in disciplinary actions, up to and including, termination of employment. Every employee is asked to sign a statement certifying and attesting they have received, read, and understood the contents of the Compliance Plan. Every employee will receive periodic training updates in compliance protocols as they relate to the employee’s individual duties. Non-compliance with the plan or violations will result in sanctioning of the involved employee(s) up to, and including, termination of employment.
  - b. Written Compliance Policies and Procedures
    - i. Duties and Responsibilities of Compliance Officer and Compliance Committee
      1. The Compliance Officer is responsible for:
        - a. overseeing and monitoring the implementation of the compliance program
        - b. reporting on a regular basis to the GBUACO Board of Directors and leadership, CEO and compliance committee on the progress of

- implementation, and assisting these components in establishing methods to improve efficiency and quality of services, and to reduce the vulnerability to fraud, abuse, and waste
- c. developing and distributing all written compliance policies and procedures to all affected employees
  - d. periodically revising the program in light of changes in the needs of the organization, and in the law and policies and procedures of government and private payer health plans
  - e. developing, coordinating, and participating in a multifaceted educational and training program that focuses on the elements of the compliance program, and seeks to ensure that all appropriate employees and management are knowledgeable of, and comply with, pertinent federal and state standards
  - f. ensuring through purchasing that independent contractors and agents who furnish medical services to the health system are aware of the requirements of the compliance program with respect to coding, coverage, billing, and marketing, among other things
  - g. ensuring through the human resources office, the dean's office, the purchasing department and the credentialing office that the Cumulative Sanction Report and GSA Excluded Parties System have been checked with respect to all employees, medical staff, and independent contractors
  - h. coordinating internal compliance review and monitoring activities, including periodic reviews of departments
  - i. responding to government investigations and queries as the principal point of contact
  - j. independently investigating and acting on matters related to compliance, including the flexibility to design and coordinate internal investigations (e.g., responding to reports of problems, 'hot-line' calls, or suspected violations) and any resulting corrective actions with all health system departments, providers and sub-providers, agents and, if appropriate, independent contractors; and
  - k. developing policies and programs that encourage managers and employees to report suspected fraud and other improprieties without fear of retaliation
  - l. The Compliance Officer, has responsibility for:
    - i. implementing written policies, procedures, and standards of conduct
    - ii. establishing a compliance committee
    - iii. developing effective lines of communication
    - iv. enforcing standards through well publicized disciplinary guidelines and developing policies addressing dealings with sanctioned individuals
    - v. conducting periodic risk assessments and response plans



- vi. conducting internal monitoring and auditing
- vii. responding promptly to detected offenses, developing corrective action, and reporting findings to the government via established channels

2. Compliance Committee:

- a. GBUACO will designate a compliance committee to advise the compliance officer and assist in the implementation of the compliance program as needed.
- b. The functions of the compliance committee are:
  - i. Analyzing the practice's regulatory environment, the legal requirements with which it must comply, and specific risk areas.
  - ii. Assessing existing policies and procedures that address risk areas for possible incorporation into the compliance program.
  - iii. Working within the practice's standards of conduct and policies and procedures to promote compliance.
  - iv. Recommending and monitoring the development of internal systems and controls to implement standards, policies, and procedures as part of the daily operations.
  - v. Determining the appropriate strategy/approach to promote compliance with the program and detection of any potential problems or violations.
  - vi. Developing a system to solicit, evaluate, and respond to complaints and problems.

ii. How and When Employees Will Be Trained

- 1. GBUACO requires all employees and providers to attend specific training upon hire and on an annual basis thereafter. This will include training in federal and state statutes, HIPAA regulations, program requirements, Medicare policies and corporate ethics. The training will emphasize GBUACO's commitment to compliance with these legal requirements and policies. The training programs will include sessions highlighting GBUACO's compliance program, standards of conduct, summaries of fraud and abuse laws, reporting requirements, HIPAA and confidentiality requirements, and marketing practices that reflect current legal and program standards. The compliance officer or designee will document the attendees, the subjects covered, and any materials distributed at the training sessions.
- 2. Basic training will include:
  - a. Standards of Conduct policies
  - b. Marketing policies and regulations
  - c. HIPAA and confidentiality policies
  - d. Identification of potential fraud and abuse

- e. Duty to report misconduct
- iii. Procedures for Reporting Noncompliance
  1. The Compliance Officer and Compliance Committee will protect whistleblowers from retaliation.
  2. The Compliance Officer and the Compliance Committee will establish a policy that ensures all employees or providers may anonymously consult with the Compliance Officer and the Compliance Committee with questions or report violations without fear of retaliation or termination of employment. A procedure will be established to communicate responses to anonymous inquiries or reports, as well as to communicate other information regarding compliance and compliance activities. Any potential problem or questionable practice which is, or is reasonably likely to be, in violation of, or inconsistent with, federal or state laws, rules, regulations, or directives or GBUACO policies relative to the delivery of healthcare services, or the billing and collection of revenue derived from such services, and any associated requirements regarding documentation, breaches in confidentiality, and other professional or business practices must be reported to the Compliance Officer/Committee.
  3. Any person who has reason to believe that a potential problem or questionable practice is or may be in existence should report the circumstance to the Compliance Officer/Committee. Such reports may be made verbally or in writing, and may be made on an anonymous basis. The Compliance Officer/Committee will promptly document and investigate reported matters that suggest violations of policies, rules, regulations, statutes, or program requirements to determine their veracity. The Compliance Officer will maintain a log of such reports, including the nature of the investigation and its results.
  4. The Compliance Officer/Committee will work closely with legal counsel who can provide guidance regarding complex legal and management issues.
  5. Communication of policy changes or when new regulations are enacted, formal communications via letter or e-mail will be sent to all ACO providers.
  6. Any and all communication to beneficiaries will be held to the CMS required standards. The Compliance Officer/Committee will ensure the correct verbiage and format will be used at all times.
- iv. Duties and Responsibilities of Management in Promoting Compliance Among Employees and Responding to Reports of Non-Compliance
  1. Management shall fully support all efforts to ensure full adherence to the GBUACO Compliance Program and appropriate training of employees. All employees of GBUACO will be held accountable for failing to comply with applicable standards, laws, and procedures. Supervisors and/or managers will be held accountable for the foreseeable compliance failures of their subordinates. The supervisor or manager will be responsible for

- taking appropriate disciplinary actions in the event an employee fails to comply with applicable regulations or policies. The disciplinary process for violations of compliance programs will be administered according to practice protocols (generally oral warning, written warning, suspension without leave, leading to termination) depending upon the seriousness of the violation.
2. Violations of GBUACO's Compliance Program, failure to comply with applicable state or federal law, and other requirements of government health plans, and other types of misconduct may threaten the ACO's status as a reliable, honest, and trustworthy provider, capable of participating in federal healthcare programs. Detected, but uncorrected, misconduct may seriously endanger the mission, reputation, and legal status of the ACO. Consequently, upon reports or reasonable indications of suspected noncompliance, the Compliance Officer/Committee must initiate an investigation to determine whether a material violation of applicable laws or requirements has occurred.
- v. Ensuring that Prospective employees receive appropriate background screening and agree to abide by the Contractor's code of conduct.
    1. All candidates for employment shall undergo a reasonable and prudent background investigation, including a reference check. Due care will be used in the recruitment and hiring process to prevent the appointment to positions with substantial discretionary authority, persons whose record (professional licensure, credentials, prior employment, any criminal record) gives reasonable cause to believe the individual has a propensity to fail to adhere to applicable standards of conduct. All new employees will receive orientation and training in compliance policies and procedures. Participation in required training is a condition of employment. Failure to participate in required training may result in disciplinary actions, up to and including, termination of employment. Every employee is asked to sign a statement certifying they have received, read, and understood the contents of the compliance plan. Every employee will receive periodic training updates in compliance protocols as they relate to the employee's individual duties. Non-compliance with the plan or violations will result in sanctioning of the involved employee(s) up to, and including, termination of employment.
  - vi. The Compliance Officer and Compliance Committee will conduct annual reviews of Code of Conduct and all policies and procedures to amend and update as necessary.
  - vii. Compliance with Applicable CMS Marketing Regulations
    1. The Compliance Officer and compliance committee will promote only honest, straightforward, fully informative, and non-deceptive marketing in full compliance with the CMS-ACO specific marketing guidelines.
  - viii. Compliance with Applicable CMS Anti-Kickback/Inducements
    1. The Compliance Officer and compliance committee will ensure compliance with CMS anti-kickback regulations. GBUACO will not



participate in, nor condone the provision of inducements or receipt of kickbacks to gain business or influence referrals. GBUACO participating providers will consider the patient's interests in offering referral for treatment, diagnostic, or service options. Any employee involved in promoting or accepting kickbacks or offering inducements may be terminated immediately.

xii. Compliance with Applicable CMS Fraud and Abuse Regulations

1. The Compliance Officer and/or compliance committee will review the Medicare Fraud Alerts and will terminate any conduct criticized by the Fraud Alert immediately, implement corrective actions, and take reasonable actions to ensure that future violations do not occur.
2. The Compliance Officer and/or Compliance Committee will ensure full investigation of any and all reports of suspected fraud and abuse. The Compliance Officer and Compliance Committee will ensure appropriate actions will be taken as necessary.

xiii. Compliance with Applicable CMS HIPAA Regulations

1. The Compliance Officer will ensure adherence to all HIPAA regulations related to information technology and protected health information. Programs will be administered annually to ensure each employee and provider is appropriately educated.
2. Information security is the responsibility of all persons who access GBUACO information systems. All persons who are granted access to the GBUACO systems are responsible for being familiar with, understanding, and acting in accordance with the policies associated with HIPAA and confidentiality of PHI. In addition anyone accessing GBUACO data must act in accordance with applicable policies. No person shall, through intentional action or inaction, place GBUACO information resources in jeopardy. All persons are required to immediately report any known or suspected illegal, improper, or hazardous situation or violation of the information security program to the appropriate personnel.

c. Retention of Records and Information Systems

i. Record Retention

1. The following documents will remain intact for a period as required by state and federal law.
  - a. Articles of Incorporation
  - b. Bylaws
  - c. Shareholder Agreements
  - d. Copyright and Trademark Information
  - e. Legal Correspondence
  - f. Minutes
  - g. Auditors Reports
  - h. Annual Financial Statements
  - i. General Ledgers
  - j. Depreciation Schedules



- k. Important Correspondence
- l. Licenses
- m. Loan Documents
- n. Property Documents
- o. Tax Records
- 2. For a period of ten (10) years or as required by state or federal law, the following records will remain intact.
  - a. Human Resources Records
  - b. Accounts Payable Records
  - c. Bank Statements
  - d. Canceled Checks
  - e. Contracts and Leases (after expiration)
  - f. Electronic Fund Transfers
  - g. Accounts Payable original invoices
  - h. Reimbursement records for employee expenses
  - i. Patient Medical Records
- ii. Information Systems
  - 1. Compliance with Applicable CMS HIPAA Regulations
    - a. The Compliance Officer will ensure adherence to all HIPAA regulations related to information technology and protected health information. Programs will be administered annually to ensure each employee and provider is appropriately educated. Information security is the responsibility of all persons who access GBUACO information systems. All persons who are granted access to the GBUACO systems are responsible for being familiar with, understanding, and acting in accordance with the policies associated with HIPAA and confidentiality of PHI. In addition anyone accessing GBUACO data must act in accordance with applicable policies. No person shall, through intentional action or inaction, place GBUACO information resources in jeopardy. All persons are required to immediately report any known or suspected illegal, improper, or hazardous situation or violation of the information security program to the appropriate personnel.
  - d. Compliance as an Element of Performance Plan. Compliance is a key component in an employee's evaluation. Each employee will be evaluated on adherence to the code of conduct, timely reporting and proper handling of compliance violations and attendance at compliance training. There will be positive incentives for compliance enforcement and disciplinary actions or penalties for failure to conform to the compliance program.
    - i. Training
    - ii. Protective Health Information (PHI) and HIPAA
    - iii. Positive incentives for compliance and penalties for non-compliance



## 2. Designation of a Compliance Officer and a Compliance Committee

### i. Duties and Responsibilities of Compliance Officer and Compliance Committee

#### 1. The Compliance Officer is responsible for:

- a. overseeing and monitoring the implementation and maintenance of the compliance program
- b. reporting on a regular basis to the GBUACO Board of Directors and leadership, CEO and the compliance committee on the progress of implementation, and assisting these groups in establishing methods to improve efficiency and quality of services, and to reduce the vulnerability to fraud, abuse, and waste
- c. periodically revising the program in light of changes in the needs of the organization, and in the law and policies and procedures of government and private payer health plans
- d. developing, coordinating, and participating in a multifaceted educational and training program that focuses on the elements of the compliance program, and seeks to ensure that all appropriate employees and management are knowledgeable of, and comply with, pertinent federal and state standards
- e. ensuring through purchasing that independent contractors and agents who furnish medical services to the health system are aware of the requirements of the compliance program with respect to coding, coverage, billing, and marketing, among other things
- f. ensuring through the human resources office, the dean's office, the purchasing department and the credentialing office that the Cumulative Sanction Report and GSA Excluded Parties System have been checked with respect to all employees, medical staff, and independent contractors
- g. coordinating internal compliance review and monitoring activities, including periodic reviews of departments
- h. responding to government investigations and queries as the principal point of contact
- i. independently investigating and acting on matters related to compliance, including the flexibility to design and coordinate internal investigations (e.g., responding to reports of problems, 'hot-line' calls, or suspected violations) and any resulting corrective actions with all health system departments, providers and sub-providers, agents and, if appropriate, independent contractors; and
- j. developing policies and programs that encourage managers and employees to report suspected fraud and other improprieties without fear of retaliation
- k. The Compliance Officer, has responsibility for:
  - i. implementing written policies, procedures, and standards of conduct
  - ii. establishing a compliance committee

- iii. developing effective lines of communication
- iv. enforcing standards through well publicized disciplinary guidelines and developing policies addressing dealings with sanctioned individuals
- v. conducting periodic risk assessments and response plans
- vi. conducting internal monitoring and auditing
- vii. responding promptly to detected offenses, developing corrective action, and reporting findings to the government via established channels
- viii. reviewing all documents and other information relative to compliance activities

## 2. Compliance Committee:

- a. GBUACO will designate a compliance committee to advise the compliance officer and assist in the implementation of the compliance program as needed.
- b. The functions of the compliance committee are:
  - i. Analyzing the practice's regulatory environment, the legal requirements with which it must comply, and specific risk areas.
  - ii. Assessing existing policies and procedures that address risk areas for possible incorporation into the compliance program.
  - iii. Working within the practice's standards of conduct and policies and procedures to promote compliance.
  - iv. Recommending and monitoring the development of internal systems and controls to implement standards, policies, and procedures as part of the daily operations.
  - v. Determining the appropriate strategy/approach to promote compliance with the program and detection of any potential problems or violations.
  - vi. Developing a system to solicit, evaluate, and respond to complaints and problems.

## 3. Conducting Effective Training and Education

- a. GBUACO requires all employees and providers to attend specific training upon hire and on an annual basis thereafter. This will include training in federal and state statutes, HIPAA regulations, program requirements, Medicare policies and corporate ethics. The training will emphasize the ACO's commitment to compliance with these legal requirements and policies. The training programs will include sessions highlighting the ACO's compliance program, standards of conduct, summaries of fraud and abuse laws, reporting requirements, HIPAA and confidentiality requirements, and marketing practices that reflect current legal and program standards. The compliance officer or designee will document the attendees, the subjects covered, and any materials distributed at the training sessions.



- b. Basic training will include:
    - i. Standards of Conduct policies
    - ii. Marketing policies and regulations
    - iii. HIPAA and confidentiality policies
    - iv. Identification of potential fraud and abuse
    - v. Duty to report misconduct
4. Developing Effective Lines of Communication
- a. The Compliance Officer and the Compliance Committee will establish a policy that ensures all employees or providers may anonymously consult with the Compliance Officer and the Compliance Committee with questions or report violations without fear of retaliation or termination of employment. A procedure will be established to communicate responses to anonymous inquiries or reports, as well as to communicate other information regarding compliance and compliance activities. Any potential problem or questionable practice which is, or is reasonably likely to be, in violation of, or inconsistent with, federal or state laws, rules, regulations, directives, or GBUACO policies relative to the delivery of healthcare services, or the billing and collection of revenue derived from such services, and any associated requirements regarding documentation, breeches in confidentiality, and other professional or business practices must be reported to the Compliance Officer/Committee.
  - b. Any person who has reason to believe that a potential problem or questionable practice is or may be in existence should report the circumstance to the Compliance Officer/Committee. Such reports may be made verbally or in writing, and may be made on an anonymous basis. The Compliance Officer/Committee will promptly document and investigate reported matters that suggest violations of policies, regulations, statutes, or program requirements to determine their veracity. The Compliance Officer will maintain a log of such reports, including the nature of the investigation and its results.
  - c. The Compliance Officer/Committee will work closely with legal counsel who can provide guidance regarding complex legal and management issues.
  - d. Communication of policy changes or when new regulations are enacted, formal communications via letter or e-mail will be sent to all ACO providers.
  - e. GBUACO will, on occasion, communicate with its participants as well as beneficiaries. Communication may be by, but it not limited to, written notice, electronic, telephonic, or verbal communication. GBUACO, as required by regulation, will employ the use of a Web Page as an effective means of communication to the general public as well as a secure area for access to documents and data for those duly authorized.
  - f. Any and all communication to beneficiaries will be held to the CMS required standards. The Compliance Officer/Committee will ensure the correct verbiage and format will be used at all times.



## 5. Audit and Monitoring

- a. The Compliance Officer/Committee will conduct ongoing evaluations of compliance processes involving thorough monitoring and regular reporting to the officers of GBUACO Board of Directors.
- b. The Compliance Officer/Committee will develop audit tools designed to address the ACO's compliance with laws governing kickback arrangements, marketing, reporting, training and record-keeping. Internal audits will be conducted on an annual basis.
- c. The audits will inquire into compliance with ACO specific rules and policies that have been the focus of Medicare. Audits should also reflect areas of concern that are specific to GBUACO.
- d. The Compliance Officer or designee may conduct exit interviews of personnel in order to solicit information concerning potential problems and questionable practices.
- e. The Compliance Officer/Committee should be aware of patterns and trends in deviations identified by the audit that may indicate a systemic problem.

## 6. Disciplinary Guidelines

- a. All employees of GBUACO will be held accountable for failing to comply with applicable standards, laws, and procedures. Supervisors and/or managers will be held accountable for the foreseeable compliance failures of their subordinates. The supervisor or manager will be responsible for taking appropriate disciplinary actions in the event an employee fails to comply with applicable regulations or policies.
- b. It is within the scope of the Compliance Officer and the Compliance Committee in conjunction with Legal Counsel to make recommendations to the GBUACO Board of Directors to terminate a provider's contract. Violations of compliance may result in immediate termination of a provider's contract when such a violation is deemed serious. Decisions by the Compliance Officer/Compliance Committee are binding.
- c. The disciplinary process for violations of compliance programs will be administered according to practice protocols (generally oral warning, written warning, suspension without leave, leading to termination) depending upon the seriousness of the violation. The Compliance Officer/Committee, as well as legal counsel, may be consulted in determining the seriousness of the violation. However, the Compliance Officer/Committee should never be involved in imposing discipline on a GBUACO employee.
- d. When disciplinary action is warranted, it should be prompt and imposed according to written standards of disciplinary action. The action may include, without limitation, one or more of the following:
  - i. Dismissal of the matter
  - ii. Verbal counseling
  - iii. Issuing a warning, a letter of admonition, or a letter of reprimand
  - iv. Entering into and monitoring a corrective action plan. The corrective action plan may include requirements for individual or group remedial education and training, consultation, proctoring, and/or concurrent review
  - v. Modification of assigned duties



- vi. Suspension or termination of employment
  - vii. Or when required by law, disciplinary actions will be reported to the appropriate authorities.
- e. The Compliance Officer in conjunction with the Compliance Committee and with Legal Counsel shall have the authority to, at any time, suspend summarily a provider's clinical privileges or to summarily impose consultation, concurrent review, proctoring, or other conditions or restrictions on the assigned clinical duties of the involved provider in order to reduce the substantial likelihood of violation of standards of conduct.

## 7. Corrective Actions

- a. Violations of GBUACO's compliance program, failure to comply with applicable state or federal law, and other requirements of government health plans, and other types of misconduct may threaten the ACO's status as a reliable, honest, and trustworthy provider, capable of participating in federal healthcare programs. Detected, but uncorrected, misconduct may seriously endanger the mission, reputation, and legal status of the ACO. Consequently, upon reports or reasonable indications of suspected noncompliance, the Compliance Officer/Committee must initiate an investigation to determine whether a material violation of applicable laws or requirements has occurred.
- b. The steps in the internal investigation may include interviews and a review of relevant documentation. Records of the investigation should contain documentation of the alleged violation, a description of the investigative process, copies of interview notes, key documents, a log of witnesses interviewed, the documents reviewed, results of the investigation, and the corrective action implemented.
- c. If an investigation of an alleged violation is undertaken, and the Compliance Officer/Committee believes the integrity of the investigation may be hampered by the presence of employees (providers) under investigation, those employees (providers) should be removed from their current work activities pending completion of that portion of the investigation. These employees (providers) may be temporarily suspended or reassigned pending the outcome of the investigation. Additionally, the Compliance Officer/Committee must take appropriate steps to secure or prevent the destruction of documents or other evidence relevant to the investigation. If the results of the internal investigation identify a problem, the response may be immediate referral to criminal and/or civil law enforcement authorities, development of a corrective action plan, and a report to the government. If potential fraud or violations of the False Claims Act are involved, the Compliance Officer/Committee should report the potential violation to the Office of the Inspector General or the Department of Justice.
- d. If the Compliance Officer discovers credible evidence of misconduct and has reason to believe that the misconduct may violate criminal, civil, or administrative law, the Compliance Officer will promptly report the matter to the appropriate government authority within a reasonable time frame, but not more than 60 days after determining that there is credible evidence of a violation.



Office of Inspector General Hotline: 1-800-HHS-TIPS (1-800-447-8477)

When reporting misconduct to the government, the Compliance Officer should provide all evidence relevant to the potential violation of applicable federal or state laws and the potential cost impact.

This Compliance Plan may be altered or amended in writing only with the concurrence of the Chief Officer of GBUACO. The adoption of this Compliance Plan has been approved and authorized as designated below,

effective this \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

By: \_\_\_\_\_ Date: \_\_\_\_\_