

Appendix

Background

In 2000, the University of California implemented a Compliance Program for the University's health sciences clinical enterprise, as part of a \$22,500,000 settlement agreement with the US Department of Justice for incorrect billing of faculty physician services (the PATH audit). The purpose of the Program is to demonstrate the University's commitment to ethical and legal behavior and to communicate clearly the specific standards of conduct that address those potential areas of risk in health care identified by the Federal government. The Program applies to all members of the University Community at the health sciences schools and University-owned, leased, or operated health care facilities.

The compliance program consists of seven elements:

- The development and distribution of written standards of conduct, as well as written policies and procedures that promote commitment to compliance.
- The designation of a chief compliance officer and other appropriate bodies, e.g., a corporate compliance committee, charged with the responsibility of operating and monitoring the compliance program, and who report directly to the CEO and the governing body.
- The development and implementation of regular, effective education and training programs for all affected employees.
- The maintenance of a process, such as a hotline, to receive complaints, and the adoption of procedures to protect the anonymity of complainants and to protect whistleblowers from retaliation.
- The development of a system to respond to allegations of improper/ illegal activities and the enforcement of appropriate disciplinary action against employees who have violated internal compliance policies, applicable statutes, regulations or Federal health care program requirements.
- The use of audits and/or other evaluation techniques to monitor compliance and assist in the reduction of identified problem areas.
- The investigation and remediation of identified systemic problems and the development of policies addressing the non-employment or retention of sanctioned individuals.

The code of conduct is an integral part of the first element. We are proposing an update to the code of conduct.

The proposed changes to the code of conduct:

- Shorten and simplify the code.
- Remove items that were only relevant to a few individuals.
- Update the code to conform to the UC Statement of Ethical Values and Standards of Ethical Conduct.

- Add a research standard conforming to the UC Standards of Ethical Conduct, as four of the five campuses had already independently amended the 2000 code to add a research standard. This update will make the existing research standards conform.
- Update the code to conform with requirements in the 2005 Deficit Reduction Act to “Include in any employee handbook for the entity, a specific discussion of the [Federal and California False Claims Acts], the rights of employees to be protected as whistleblowers, and the entity’s policies and procedures for detecting and preventing fraud, waste, and abuse.”

History of health sciences code of conduct in UC

Regents’ items

June 18, 1998 <http://www.universityofcalifornia.edu/regents/minutes/1998/hs698.pdf>
page 18 item 6.

The President recommended that, in consultation with the General Counsel and the Vice President for Clinical Services Development, he be authorized to develop a systemwide health sciences clinical enterprise compliance program (Program) to include the following principles: * * * Adoption of a written code of conduct by the Board of Regents * * * Upon motion duly made and seconded, the Committee approved the President’s recommendation and voted to present to the Board.

September 17, 1998

<http://www.universityofcalifornia.edu/regents/minutes/1998/hs998.pdf> starting on page 6 item 2.

The Health Sciences Clinical Enterprise Code of Conduct is being finalized by the systemwide Clinical Enterprise Corporate Compliance Committee in coordination with General Counsel. This systemwide Code of Conduct will provide the framework for each of the University’s academic health centers to develop campus-specific Plans and will address a number of issues, including, but not limited to, the following:

- Quality of care;
- Unlawful or improper referrals and kickbacks;
- Cost reports and billing/coding practices;
- Antitrust;
- Conflicts of interest; and
- Medical necessity.

* * *

Upon motion duly made and seconded, the Committee approved the President’s recommendation and voted to present it to the Board.

May 20, 1999 <http://www.universityofcalifornia.edu/regents/minutes/1999/hs599.pdf>
Page 15 item 3.

In June 1998, The Regents authorized the President, in consultation with the General Counsel and the Vice President of Clinical Services Development, to develop a Health Sciences Clinical Enterprise Corporate Compliance Program and report periodically on its status. In September 1998, The Regents, at the request of the President and the Universitywide Corporate Compliance Committee, approved a resolution supporting the principles that would provide the framework for the development of the Program's Code of Conduct. As of May 1, 1999, the Universitywide Committee, in close consultation with the General Counsel, University Auditor, and the Offices of Clinical Services Development and Business and Finance, has completed a proposed "Health Sciences Clinical Enterprise Corporate Compliance Program and Code of Conduct." This document has provided the guidelines for the development of campus-specific Corporate Compliance Plans. To finalize the systemwide program and implement the campus plans, the Committee has proposed the following time line:

- May 1 to July 1, 1999: review of proposed program guidelines;
- July 1999 meeting of the Board of Regents: action item approving the program;
- Guidelines and update on the status of campus plans;
- Mid to Late Summer 1999: Distribution of program to all University employees in coordination with Universitywide Corporate Compliance Education workshops.

July 16, 1999 <http://www.universityofcalifornia.edu/regents/minutes/1999/board799.pdf>
[Page 13 item 6.](#)

Authorization for the President to Approve Corporate Compliance Program

The Committee recommended that:

A. The Regents authorize the President to approve the University of California Health Sciences Corporate Compliance Program (University's Program), subject to review by affected academic and staff employees and employee organizations as appropriate under the Higher Education Employer-Employee Relations Act and by Academic Senate members as appropriate under the Standing Orders of The Regents.

B. The President be charged with implementing the University's Program in consultation with the Office of the General Counsel and the Office of Clinical Services Development.

C. The President be charged with providing a report to The Regents no later than November 1999, in coordination with the Office of Clinical Services Development, on the status of the University's Program.

Upon motion of Regent Lansing, duly seconded, the recommendation of the Committee on Health Services was approved.

Academic senate review

There academic senate reviewed the health sciences corporate compliance plan, which included the code of conduct.

<http://www.universityofcalifornia.edu/senate/news/ssr/ssrfeb00.pdf>

Health Sciences Clinical Enterprise Corporate Compliance

In its relations with defense contractors, the federal government has long employed corporate "compliance" programs that are meant to ensure that the government is not paying for more than it is getting. In these programs, contractors put into place internal cost-accounting and billing regulations that are based on guidelines issued by the federal government. Now this model is being applied to hospitals that receive federal dollars in such forms as Medicare payments. Once again the aim is to reduce fraud and abuse committed against the federal government, only now the potential abusers are not defense contractors and their employees but hospitals and their doctors. In line with this, the University has been constructing its own Corporate Compliance Program, a preliminary form of which was adopted by the UC Regents this past summer. Much remains to be decided about the final shape of UC's program, however, and to that end Senate divisions this fall provided the Academic Council with their initial analyses of the program's provisions. Important issues for the Senate are the degree of responsibility being assigned to clinical faculty in guarding against fraud and abuse, and the disciplinary procedures that are proposed to be employed in connection with faculty who violate UC's rules. The Senate and administration were far enough apart on the original compliance document that, at Senate suggestion, a joint Senate-administration work group has been set up to exchange views and try to resolve differences. Headed by UCSF Divisional Chair Larry Pitts, this group includes clinical faculty, health science administrators, lawyers, and human resources personnel. Group members got together for an all-day session in San Francisco on Saturday, February 5.

There is no record of final approval by the academic senate or by the university president.

Adoption by the health sciences campuses

The compliance program was adopted by the five health sciences campuses in 2000. The code of conduct has been distributed since then to all faculty and employees. Each of the campuses has made modifications to the original code, and four of the five have added a "research" section to their version of the code of conduct.