

THE CENTER FOR DISCOVERY

SUBJECT: Compliance Officer, Legal Counsel Coordination	MANUAL: Corporate Compliance
	SECTION: Section 2

Purpose:

The purpose of this policy is to clarify the relationship of the Corporate Compliance Officer (CCO) with legal counsel when there is an overlapping of responsibilities. For purposes of this policy, the term “legal counsel” refers to either inside or outside counsel. Assertions of fraud and abuse by employees who may have participated in illegal conduct or committed other malfeasance raise numerous complex legal and management issues that should be examined on a case-by-case basis. The CCO needs to work closely with legal counsel, who can provide guidance regarding such issues. Although most allegations of misconduct are most appropriately addressed by the CCO or the Office of People Operations, occasionally issues arise that should be addressed under direction of legal counsel.

Policy:

1. The Corporate Compliance Officer’s (CCO) primary responsibilities include independently investigating and acting on matters related to compliance, with the flexibility to design and coordinate internal investigations and any resulting corrective action with all departments, providers, agents and, if appropriate, independent contractors.
2. The CCO may review contracts and obligations that may contain matters of compliance concern. During such reviews, the CCO would seek the advice of legal counsel, where appropriate.
3. In situations where employees may have participated in serious misconduct or committed other malfeasance, the CCO will work closely with legal counsel.
4. Upon reasonable indication of suspected violations of any criminal, civil, or administrative law, legal counsel will conduct an investigation into the legal sufficiency of the allegations.
5. In light of timely reporting requirements, credible issues related to billing and reimbursement will be turned over to legal counsel as expeditiously as possible.
6. All investigations and inquiries relating to possible violations of law will be conducted immediately, and if it is determined that a potential violation exists, the CCO will refer information to legal counsel for disclosure to the appropriate government authority pursuant to the disclosure policy.
7. Matters reported through the hotline or other communication sources managed by the CCO that suggest substantial violations of compliance policies, regulations, or statutes will be documented on the Hotline Tracking Log and investigated promptly to determine

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their veracity.

8. The CCO will maintain a log that records such calls, including the nature of any investigation and its results. Such information will be included in reports to the the CEO, and the Board of Directors Governance and Corporate Compliance Committee.
9. The Center for Discovery has developed policies and procedures to allow the prompt and thorough investigation of suspected non-compliance with any criminal, civil, or administrative law by corporate officers, administrators, employees, independent contractors, physicians, other healthcare professionals, and consultants.

Procedure:

1. Compliance investigations will be done under the direction of the CCO. In responding to complaints received by the QI/Corporate Compliance office, Hotline, or as a result of ongoing auditing and monitoring, the CCO has the independent authority to interview employees and administrators, as well as review all relevant documents and information, including, but not limited to, the program and medical records of people served, billing records, and records concerning the marketing efforts of the agency, and arrangements with other parties.
2. Upon receipt of a report or notice of suspected non-compliance with any law or regulation, the office of the CCO will conduct an initial inquiry into the alleged misconduct. The purpose of the initial inquiry is to determine either that the allegation is baseless or that there is sufficient information to warrant further investigation.
3. If, during the initial inquiry, the CCO determines that there is sufficient evidence to support an allegation of violation of law or regulation, legal counsel will be consulted on what further investigative steps would be appropriate; and whether the investigation should be conducted by or at the direction of legal counsel.
4. Legal counsel may also be used by the CCO to determine the extent of liability resulting from inappropriate claims submission, as well as to assist in planning the appropriate course of action to correct deficiencies and resolve any liability issues.
5. If the investigation produces evidence of a potential violation of law, either the CCO or legal counsel (depending on who conducted the investigation) must immediately notify the appropriate federal and state officials, including a description of the impact of the alleged violation on the operation of the applicable programs.
6. The CCO, under advice of legal counsel, and with guidance from the governmental authorities, could be requested to continue to investigate the reported violation.

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7. If legal counsel assumes responsibility for the continued investigation, a memorandum should be written and signed by both the CCO and legal counsel stating:
 - Whether inside or outside counsel will be leading the investigation
 - That the investigation is being conducted in anticipation of litigation
 - Whatever role the CCO will have in the investigation
8. All documents produced during the investigation must include the statement: ***“Privileged and Confidential Document; Subject to Attorney-Client Privileges; Attorney-Directed Work Product.”***
9. When legal counsel takes over a Compliance Investigation, it will be to evaluate the facts to determine if credible evidence exists that a violation of criminal, civil, or administrative law has occurred. It will also be the responsibility of legal counsel to notify the CEO of the results of its investigation, and provide the CCO with sufficient details of its investigation to show that counsel is properly addressing the issue.
10. During any investigation, legal counsel and the CCO must ensure that employee rights are protected and all evidence is preserved.
11. Both the initial inquiry and the compliance investigation will be conducted as expeditiously as possible, no longer than the period required by applicable law.
12. The CCO will ensure a corrective action plan is developed and implemented in cases where material violations of law, regulations, policies, or the Code of Conduct have been documented to guard against recurrence.

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