

**THE CHATTANOOGA-HAMILTON COUNTY HOSPITAL
AUTHORITY
d/b/a
ERLANGER HEALTH SYSTEM**

2004 CORPORATE COMPLIANCE PROGRAM

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DESCRIPTION OF THE 2004 COMPLIANCE PROGRAM

Purpose - The Chattanooga-Hamilton County Hospital Authority d/b/a Erlanger Health System (“Erlanger”) has adopted the 2004 Corporate Compliance Program (“Compliance Program”) to reaffirm Erlanger’s commitment to conducting its business in full compliance with applicable statutes, regulations, and other Federal health care program requirements. The enhanced program provides a solid framework for structuring a comprehensive range of compliance activities that are designed to avoid legal and compliance problems in the first instance, to effectively address compliance allegations as they arise, and to remedy the effects of noncompliance.

Legal Basis – Erlanger’s Compliance Program has been developed in accordance with applicable law, with guidance from Federal and state authorities, including the *United States Federal Sentencing Guidelines*, adapted to providers of health care services by the Department of Health and Human Services’ Office of Inspector General in its various *Compliance Program Guidance* documents¹. The scope of the Compliance Program may be expanded in the future to cover additional areas of regulatory compliance to which Erlanger is subject.

Core Elements - The Compliance Program reflects Erlanger’s good faith commitment to identify and reduce risk, improve internal controls, and establish standards to which the entire organization shall adhere. As such, Erlanger adopts the following principles of compliance:

1. Developing and distributing a written Code of Conduct and Ethics (“Code of Ethics”), as well as written policies and procedures that promote Erlanger’s commitment to compliance, provide general and specific operational guidance, and identify specific areas of risk.
2. Designating a Chief Compliance Officer (“CCO”) and Executive Compliance Committee charged with the responsibility of operating and monitoring the Compliance Program.
3. Developing and implementing regular, effective education and training programs for all Erlanger employees, corporate officers, members of the Board of Trustees of the Chattanooga-Hamilton County Hospital Authority (“Board”) and medical staff members.
4. Maintaining an effective and well-publicized disclosure program to provide guidance and receive complaints about potential Compliance Program violations without fear of retaliation.
5. Developing disciplinary standards and appropriate hiring criteria to respond to allegations of improper or illegal activities, and carrying out the equitable enforcement of these standards on employees who have violated laws,

¹ See 63 FR 8987 (Feb. 23, 1998) for the compliance program guidance for hospitals; 69 FR 32012 for the draft supplemental compliance program guidance for hospitals (June 8, 2004). These documents, along with the other OIG compliance program guidance documents, are available at <http://www.hhs.gov/oig/>.

regulations, other Federal health care program requirements or the Compliance Program standards.

6. Maintaining effective auditing and monitoring systems and protocols to evaluate Erlanger's compliance with laws, regulations, other Federal health care program requirements and the Compliance Program standards; to assist in the prevention of Compliance Program violations; and to maintain the efficacy of the Compliance Program.
7. Investigating, responding to and preventing identified compliance problems, including establishing appropriate and coordinated corrective action measures.

Scope - These Compliance Program standards shall apply to all employees, trustees, medical staff and agents affiliated with Erlanger throughout Erlanger's diverse operations, including the following locations: The Erlanger Baroness Campus, Erlanger East, Erlanger North, Erlanger Soddy Daisy, Erlanger Bledsoe Hospital, T.C. Thompson Children's Hospital, the Southside and Dodson Avenue Community Health Centers, ContinuCare Health Services, Inc. ("ContinuCare"), Erlanger Pharmacies, Inc. and E-Kids Learning Centers (the "Affiliates"). It is the responsibility of all employees, trustees, medical staff members and agents to be familiar and comply with all requirements of the Compliance Program that pertain to their respective areas of responsibility, recognize and avoid actions and relationships that might violate those requirements, and seek guidance from the Office of Compliance in situations raising legal or ethical concerns.

Limitations - The Compliance Program is not intended to summarize all laws and regulations applicable to Erlanger. This Compliance Program is a living document that will be updated periodically to assure that Erlanger's trustees, officers, administrators, managers, supervisors, employees, medical staff, residents, other health care professionals, medical students, and agents are kept informed of the most current legal and compliance developments in the health care industry.

GLOSSARY OF IMPORTANT TERMS

These terms will have the following meanings throughout the Erlanger Corporate Compliance Program:

"Affiliates" or **"affiliates"** with respect to Erlanger shall mean the Erlanger Baroness Campus, Erlanger East, Erlanger North, Erlanger Soddy Daisy, Erlanger Bledsoe Hospital, T.C. Thompson Children's Hospital, the Southside and Dodson Avenue Community Health Centers, ContinuCare, Erlanger Pharmacies, Inc. and E-Kids Learning Centers.

"Agents" or **"agents"** with respect to Erlanger shall mean all persons and entities that have contracted with or volunteer at Erlanger to provide services, equipment or other items that impact Erlanger's provision of services to patients, and Erlanger's relationship with Federal Health Care Programs. Agents shall include, but not be limited to, residents, medical students, independent contractors, consultants, volunteers and vendors.

“**Audit**” or “**audit**” shall mean a formal review of compliance with internal (e.g., policies and procedures) and external (e.g., laws and regulations) standards.

“**Board**” shall mean the Board of Trustees of Chattanooga-Hamilton County Hospital Authority.

“**CCO**” shall mean Erlanger’s Chief Compliance Officer.

“**CEO**” shall mean Erlanger’s Chief Executive Officer.

“**CLO**” shall mean Erlanger’s Chief Legal Officer.

“**Complainant**” or “**complainant**” shall mean a person who reports suspect conduct that is alleged to be inconsistent with the requirements of the Compliance Program.

“**Erlanger**” shall mean the Chattanooga-Hamilton County Hospital Authority d/b/a Erlanger Health System, its subsidiaries and other affiliates.

“**Employees**” or “**employees**” shall mean those persons employed by Erlanger, including, but not limited to, officers, administrators, managers, supervisors, employed medical staff, and other health care professionals.

“**Excluded Individuals and Entities**” refers to an individual or entity who: (a) is currently excluded, debarred, suspended, or otherwise ineligible to participate in the Federal Health Care Programs or in Federal procurement or non-procurement programs; or (b) has been convicted of a criminal offense that falls within the ambit of 42 U.S.C. § 1320a-7(a), but has not yet been excluded, debarred, suspended, or otherwise declared ineligible.

“**Exclusion Lists**” refers to the electronic lists of excluded individuals or entities maintained by the OIG and General Services Administration (“GSA”).

“**Executive Compliance Committee**” shall mean those employees responsible for providing direct support to the CCO in the creation, implementation and operation of the Compliance Program.

“**Federal Health Care Programs**” as defined in 42 U.S.C. Section 1320a-7b(f), include any plan or program that provides health care benefits to any individual, whether directly, through insurance, or otherwise, which is funded directly, in whole or in part, by a United States Government or state health care program, including, but not limited to, Medicare, TennCare, Civil Health and Medical Program for the Uniformed Services (“CHAMPUS”), Department of Veterans Affairs (“VA”), Federal Bureau of Prisons, and Indian Health Services, but excluding the Federal Employees Health Benefit Program (“FEHBP”).

“**Medical Staff**”, “**medical staff**”, or “**medical staff member**” shall mean those physicians and other health professionals who have been granted membership or clinical privileges to admit, treat or practice medicine within the facilities owned or operated by Erlanger, and according to the terms of the Bylaws of the Medical Staff.

“**Monitoring**” or “**monitoring**” refers to reviews that are repeated on a regular basis during the normal course of Erlanger’s operations.

“**Officers**” or “**officers**” shall mean Erlanger employees who hold an office of trust, authority, or command.

“**OIG**” is the Office of Inspector General of the United States Department of Health and Human Services.

“**Trustees**” or “**trustees**” shall mean the members of the Board of Trustees of the Chattanooga-Hamilton County Hospital Authority.

I. Written Standards

A core principle of this Compliance Program is the development, distribution and implementation of written standards that address principal risk areas and reflect Erlanger’s commitment to promote compliance with all applicable legal duties and to foster and assure ethical conduct. These written standards shall consist of the Code of Ethics and policies and procedures that reflect Erlanger’s values and expectations regarding the behavior of employees, trustees, medical staff and agents, explain the operation of the Compliance Program, clarify and establish internal standards for compliance with laws and regulations, and help employees, trustees, medical staff and agents understand the consequences of noncompliance to both Erlanger and the individual.

A. Code of Conduct and Ethics

Erlanger has adopted a Code of Ethics. The Code of Ethics is intended to serve as a guide to provide standards by which Erlanger employees, trustees, medical staff and agents will conduct themselves to protect and promote organization-wide integrity and to enhance Erlanger’s ability to achieve its organizational mission. The Code of Ethics is designed to assist all Erlanger employees, trustees, medical staff and agents in carrying out daily activities within the appropriate ethical and legal standards. The Code of Ethics, however, is not a substitute for each employee, trustee, medical staff member or agent’s own internal sense of fairness, honesty, and integrity. Instead, each employee, trustee, medical staff member and agent must utilize their own good judgment, along with the principles announced in the Code of Ethics, to maintain Erlanger’s value of integrity.

The Code of Ethics is intended to be easily understood. In some instances, the Code of Ethics deals fully with the subject-matter covered. In many cases, however, the subject discussed is sufficiently complex that additional guidance is necessary to provide adequate direction. Consequently, the Code of Ethics is designed to be supplemented by this Compliance Program and a comprehensive set of compliance policies and procedures that may be accessed through Erlanger’s Intranet and through review of copies placed in each Erlanger department, as warranted. Those policies shall expand upon and supplement many of the principles articulated in the Code of Ethics.

The Code of Ethics defines how Erlanger operates internally and conducts business with respect to the following:

- (i) Commitment to patients and customers;
- (ii) Commitment to legal and regulatory compliance endeavors;
- (iii) Expectation that employees, trustees, medical staff and agents remain free of conflicts of interest in the performance of their responsibilities and services to Erlanger;
- (iv) Commitment to satisfy the payment conditions required by the payers with which Erlanger transacts business, including Federal Health Care Programs;
- (v) Commitment to monitor and structure its relationships with physicians and other providers in ways that satisfy the community;
- (vi) Commitment to a diverse workforce; and
- (vii) Commitment to ensure that health information is used and safeguarded effectively and appropriately.

B. Policies and Procedures

This Compliance Program demands the establishment, distribution and maintenance of sound policies and procedures that not only govern the operation of the Compliance Program, but that also address Erlanger's principal legal risk areas.

Policies directly relating to the operation of the Compliance Program shall address critical issues, such as the following:

- The duties of the CCO, the duties and the constitution of the Executive Compliance Committee, and the duties of any subcommittees or task forces created by the Executive Compliance Committee;
- Compliance education and training program requirements;
- The specific operation of the Disclosure Program;
- Disciplinary standards and action to be pursued against those found to have violated the Compliance Program standards;
- Screening mechanisms for new employees, including protocol for querying the lists of Excluded Persons and Entities to identify persons and entities who have been sanctioned by Federal Health Care Programs;
- Effective auditing and monitoring procedures;
- Investigating and responding to complaints and potential compliance problems; and

- Implementing corrective action plans in instances of noncompliance.

There are certain areas of heightened risk that have been identified throughout the health care industry, including the investigative and audit functions of the OIG. To ensure that the Compliance Program remains effective, it is important for Erlanger's policies and procedures to adequately address the following risk areas:

- The integrity and accuracy of claims submitted to the Federal Health Care Programs and commercial payers for reimbursement, including policies that address:
 - (i) Billing separately for outpatient services within 72 hours prior to an inpatient admission;
 - (ii) Billing for a patient discharge that accurately should be billed as a patient transfer;
 - (iii) Claiming reimbursement for services that have not been rendered;
 - (iv) Filing duplicate claims for the same service;
 - (v) "Upcoding" to more complex procedures than were actually performed to obtain greater payment than that which is applicable to the items or service actually provided;
 - (vi) "Unbundling" or splitting a code for combined services into individual component codes to maximize reimbursement;
 - (vii) Including inappropriate or inaccurate costs on hospital cost reports;
 - (viii) Falsely indicating that a particular health care professional attended a procedure, or that services were otherwise rendered in a manner they were not;
 - (ix) Billing for a length of stay beyond what is medically necessary;
 - (x) Billing for services or items that are not reasonable and necessary for the diagnosis or treatment of illness or injury or to improve certain functions; and
 - (xi) Billing excessive charges.
- Guidance regarding gifts, gratuities and discounts to Federal Health Care Program beneficiaries.

- Patient referrals to and by Erlanger to promote the best interests of every patient and to comply with applicable anti-kickback and patient self-referral laws.
- Appropriate methods for recruiting physicians to Erlanger.
- The manner in which Erlanger is authorized to acquire physician practices.
- The manner in which Erlanger contracts with physicians for professional and administrative services.
- Erlanger's obligations and rights when dealing with patients in emergency situations.
- The protection of confidential and other sensitive health information.
- The law surrounding conflicts of interest and best strategies for avoiding and identifying potential conflicts.
- Compliance standards to govern Erlanger's relationship with independent contractors, vendors, and other agents.

Policies and procedures should be easily available to all employees, medical staff and agents, and revised on a regular basis.

II. Chief Compliance Officer and Committee

Erlanger's CCO, provides management and oversight for the ongoing development and implementation of the Compliance Program. Erlanger shall also establish a compliance committee (referred to as the Executive Compliance Committee) to advise and provide support to the CCO in the implementation and maintenance of the Compliance Program.

A. Chief Compliance Officer

While compliance is everyone's responsibility, the CCO is the focal point of the Compliance Program and shall be accountable for all compliance responsibilities at Erlanger. The CCO may delegate authority and responsibility for compliance activities to an appropriate delegate in the Office of Compliance, or as the CCO otherwise determines, in a manner consistent with the structure and provisions of the Compliance Program.

The presence of the CCO does not diminish or alter an employee, trustee, medical staff member or agent's independent duty to abide by the Compliance Program. For example, managers and supervisors should be responsible for monitoring and promoting compliant behavior among those he or she supervises.

In addition to the general accountability for Erlanger's Compliance Program, the CCO's responsibilities include:

- Periodically assessing Erlanger's compliance risk exposure and the development of action plans to assure that the Compliance Program responds to identified risk areas.
- Formulating and ensuring the distribution of the Code of Ethics.
- Overseeing the establishment, distribution and maintenance of the policies and procedures necessary to support the Compliance Program.
- Ensuring that effective systems are established to prevent employment of individuals or contracting with Agents or vendors who are Excluded Individuals or Entities or who are otherwise determined to have engaged in illegal activities.
- Ensuring that compliance education and training programs are effective to familiarize all Erlanger employees, trustees, medical staff and agents with the components of the Compliance Program, the Code of Ethics, and other compliance policies.
- Updating and refreshing education and training information through mandatory periodic training that addresses compliance issues related to specific departments, groups of employees or medical staff.
- Coordinating internal audit endeavors to assess the effectiveness of Erlanger's internal controls and to detect significant violations of legal and ethical standards.
- Maintaining a well-publicized disclosure program for reporting of potential Compliance Program violations without fear of retaliation and promoting effective lines of communication for employees, trustees, medical staff and agents to pose informal compliance questions.
- Maintaining a record of compliance-related complaints and allegations and the disposition of each case, including any associated disciplinary actions and remedial action pursued by Erlanger.
- Conducting investigations, or authorizing outside investigations, in consultation with the CLO, of potential violations of laws, regulations, other Federal Health Care Program requirements, or instances of unethical behavior, which jeopardize Erlanger.
- Evaluating, determining and implementing the most appropriate remedy to correct an incident of noncompliance, once detected, and develop and implement strategies for identifying and preventing future incidents.

- Reporting, in consultation with the CLO, any compliance matter requiring external reporting or disclosure.
- Making quarterly reports on compliance developments to the CEO and to the Board, after consulting with the CLO. Additional reports may be made to the CEO and the Board as determined by the CCO and the CLO, with input from the CEO and the Board.
- Serving as Chairperson of the Executive Compliance Committee.
- Maintaining a good working relationship with key operational areas relevant to the effective implementation of the Compliance Program, including Audit Services and Patient Financial Services.
- Providing guidance and interpretation to the Board, CEO and other officers, in consultation with the CLO, on matters related to the Compliance Program.
- Preparing, at least annually a report describing the compliance activities and actions undertaken during the preceding year, the compliance priorities for the next year, and any recommendations for changes to the Compliance Program. This report should include input from the CLO and the Audit Services Department.
- Reviewing and updating this Compliance Program at least annually, and as required by events, such as changes in the law, or discovered flaws in the Program.

To carry out the responsibilities of his or her role, the CCO has complete authority to review all documents or other information related to compliance activities, including, but not limited to:

- Patient records
- Billing records
- Records concerning marketing activities
- Records concerning Erlanger's arrangements with employees, trustees, medical staff and agents
- Contracts and obligations that may implicate applicable laws, such as anti-kickback, physician self-referral or other statutory or regulatory requirements.

B. Executive Compliance Committee

The Executive Compliance Committee shall be responsible for providing support to the CCO in the creation, implementation and operation of the Compliance Program. The Executive Compliance Committee is critically important to establishing accountability,

credibility, and the structure of the Compliance Program. The purpose of the Executive Compliance Committee is to allow Erlanger and the CCO to benefit from the combined perspectives of individuals with diverse responsibilities and experiences. Accordingly, in addition to the CCO, who will chair the Committee, and the CLO, who will regularly attend meetings, the Compliance Committee shall include representatives of the following departments, facilities and committees:

- Human Resources;
- Patient Care Services;
- Accounting;
- Health Information Management and Privacy;
- Patient Financial Services and Registration;
- Managed Care Relations;
- Reimbursement;
- Education and Staff Training; and
- Audit Services.

The Executive Compliance Committee is authorized to invite other Erlanger employees to meetings to draw from other relevant expertise related to the matter under discussion.

The Executive Compliance Committee shall support the CCO in furthering the objectives of the Compliance Program by:

- Developing a corporate structure to promote compliance of organizational functions.
- Analyzing the legal requirements with which Erlanger must comply, and the specific risk areas.
- Updating and providing revisions to the Code of Ethics
- Developing effective training programs.
- Recommending and supervising, in consultation with the relevant departments and facilities, the development of internal systems and controls to achieve the standards set forth in the Code of Ethics and Erlanger's policies and procedures.
- Determining the appropriate strategy to promote adherence to the Compliance Program standards.

- Developing a system to solicit, evaluate and respond to complaints and problems.
- Creating and implementing effective methods for the proactive identification of potential compliance programs throughout Erlanger.
- Assessing the effectiveness of the Compliance Program.
- Furnishing recommendations to the CCO regarding reports to be furnished to the CEO, the Board, or external third parties.
- Reviewing and providing comments on the annual audit plan.

The Executive Compliance Committee may also address other compliance functions as the Compliance Program develops.

The Executive Compliance Committee shall create *ad hoc* committees and task forces as necessary to perform specialized functions, such as conducting an investigation into reported noncompliance, in an efficient and effective manner.

Any report generated by the CCO or Executive Compliance Committee shall be delivered to the CLO for review.

C. Outside Consultants

The CCO is authorized to rely on outside consultants to provide legal, financial, billing, clinical and other assistance as needed. The CCO shall consult with either the CLO or the CEO before engaging outside consultants. Outside legal counsel will be engaged by the CLO in accordance with Authority policy on engagement of legal counsel.

III. Education and Training

To promote compliance with applicable legal requirements and to assure that the standards set forth in this Compliance Program are maintained, Erlanger is committed to conducting education and training programs for employees (including officers), trustees, medical staff and, as applicable, agents at least annually, but more often if there is a change in law, regulation or policy that affects the Compliance Program, or if specific issues arise and the CCO feels there is a need for additional training.

The CCO, working with the Erlanger Education and Development Staff and Erlanger management, shall be responsible for the proper coordination and supervision of the education and training process. The CCO shall develop and maintain a general compliance training program that is designed to provide an overview of Compliance Program activities and requirements and emphasizes the areas that generate the greatest compliance risks for Erlanger.

In addition to a general compliance training program, Erlanger will also sponsor more detailed, job-specific compliance training programs designed for certain employees, including officers, managers, medical staff and, as applicable, certain agents, to help them effectively perform their job duties, and comply with the various specific legal and ethical issues that general training may not cover.

The combined general and specific compliance training programs are intended to provide each Erlanger employee with an appropriate level of information and instruction regarding the Compliance Program, applicable legal requirements, ethical standards, and appropriate procedures to fulfill the objectives of the Compliance Program. Both general and specific compliance training programs shall include distribution of the Code of Ethics and policies and procedures relevant to the various departments, facilities and committees.

Each new employee orientation will, at a minimum, include general compliance training. New employees may also receive specific training based on their job-function.

Compliance education and training sessions shall be conducted by qualified personnel, which may include the CCO, the CLO, or other trained Erlanger personnel. Seminars may also be conducted by consultants or vendors competent to provide educational programs. The CCO is authorized to require that certain employees, medical staff, and as applicable agents, attend, at Erlanger's expense, publicly available seminars covering relevant areas of law.

Education and training programs should be updated to consider results from audits and investigations, feedback from previous training and education programs, trends in hotline reports, and changes in Federal Health Care Program requirements. As new developments or concerns arise, the CCO may require additional training for some or all employees.

Attendance at and completion of the education and training programs should be mandatory for all employees (including officers), trustees and medical staff with regard to general training, and selected employees and agents with regard to specific training. Attendance shall also be a factor in each employee's performance evaluation. Failure to attend and complete compliance training will be grounds for disciplinary action, which may include termination of employment.

The CCO shall be responsible for seeking feedback from employees, medical staff and agents attending training and education sessions, and developing and implementing a system for retaining records of employee training, including attendance logs, certifications, and material distributed at training sessions.

IV. Disclosure Program

The successful implementation of the Compliance Program requires an open line of communication between Erlanger employees, trustees, medical staff and agents and the compliance office. All employees, trustees, medical staff and agents are encouraged to

communicate their compliance concerns to, as applicable, their direct supervisors, the CCO or the CLO to enable Erlanger to identify possible Compliance Program violations early, and more immediately initiate investigations, determine the materiality of violations, and, if necessary, implement the appropriate corrective action. Once an employee, trustee, medical staff member or agent has made a report, the complainant has a continuing obligation to update the report as new information becomes known to the complainant.

To ensure a viable disclosure program, the following steps shall be incorporated:

- Creation of an environment within which employees, trustees, medical staff and agents feel comfortable reporting concerns, questions and instances of improper conduct without fear of retaliation.
- Provision of a mechanism for confidential or anonymous reporting for employees, trustees, medical staff and agents who are uncomfortable reporting concerns to a supervisor, manager, or the CCO. This reporting may be accomplished through the use of the Erlanger Integrity Line which can be accessed 24 hours a day, 7 days a week, by dialing 1-877-849-8338.
- Publicizing the Erlanger Integrity Line in a manner in which all employees, trustees, medical staff and agents may know of its existence.
- Tracking, documentation and oversight mechanisms to ensure that reports of suspected noncompliance are fully and promptly investigated and addressed. In the case of the Erlanger Integrity Line, a log of the calls received should be maintained by the CCO.
- Mechanisms to ensure that the CEO, the Board, and relevant senior management are properly and regularly apprised of, and can take appropriate action on, compliance issues identified in investigations that result from reports of noncompliance. Such action may include the development or updating of related policies and procedures and training content.

Although Erlanger shall always strive to maintain the confidentiality of a complainant's identity, regardless of whether the complaint is reported through the Hotline of the complainant's supervisor, the complainant should be made aware that his or her identity may have to be revealed in certain circumstances, such as scenarios involving governmental enforcement authorities, or when it is necessary to further the internal investigation. Nevertheless, no complainant shall be retaliated against unless the complainant is responsible for the noncompliance.

V. Disciplinary Standards and Hiring Criteria

Compliance with Compliance Program standards and all applicable laws and regulations is a condition of employment or association with Erlanger and Erlanger will pursue appropriate disciplinary action to enforce compliance.

A. Disciplinary Standards

Erlanger shall develop, implement and maintain a mechanism of accountability and discipline for individuals who violate any law or regulation, or any of the Compliance Program standards, in the course of their employment or association with Erlanger. Examples of actions or omissions that will subject an employee, medical staff member and certain agents to disciplinary action include, but are not limited to:

- A violation of law or any of the Compliance Program standards;
- Failure to report a suspected or actual violation of law or the Compliance Program, or failure to cooperate fully in an internal investigation of alleged noncompliance;
- Lack of attention or diligence on the part of supervisory personnel that directly or indirectly leads to a violation of law or the Compliance Program;
- Direct or indirect retaliation against an employee who reports through any means a violation or possible violation of law or the Compliance Program; or
- Deliberately making a false report of a violation of law or any of the Compliance Program standards.

Possible disciplinary action may include, but shall not be limited to, counseling, warning, suspension, demotion, reduction in pay, revocation of privileges, termination of employment, and failure to renew agreements, depending on the degree of severity of noncompliance. Disciplinary action will be pursued on a fair and equitable basis, and employees at all levels of Erlanger shall be subject to the same disciplinary action for the commission of similar offenses, including officers. The Human Resources Department will serve as the appropriate body to ensure that the imposed discipline is proportionate and administered fairly and consistently in compliance with Erlanger policies and procedures.

Disciplinary standards shall be well-publicized and shall be disseminated and available to all levels of Erlanger employees, medical staff and agents, where applicable. Enforcement of disciplinary standards will require an effective working relationship between the Office of Compliance, Human Resources Department and other areas of Erlanger maintaining primary responsibility for administering discipline.

B. Hiring Criteria

No individual who has engaged in illegal or unethical behavior and/or has been convicted of health care-related crimes shall occupy positions within Erlanger that involve the exercise of discretionary authority.

Accordingly, any applicant for an employment position with Erlanger, and any agent seeking to provide services to or for Erlanger, will be required to disclose whether the individual, or entity, has ever been convicted of a crime, including crimes related to

health care or has ever been sanctioned by a Federal Health Care Program. In addition, Erlanger will reasonably inquire into the status of each prospective employee and agent by, at a minimum, pursuing the following steps:

- Conducting background checks of employees and agents with discretionary authority in the delivery of health care services or items, or billing functions to ensure that no history of engaging in illegal or unethical behavior exists;
- Conducting periodic reviews of the GSA's List of Parties Excluded from Federal Programs available at www.arnet.gov and the OIG's List of Excluded Individuals and Entities at <http://www.oig.hhs.gov/fraud/exclusions.html>; and
- Conducting periodic reviews of the National Practitioner Data Bank for physicians and other health care practitioners.

Erlanger shall not knowingly employ or contract with Excluded Individuals and Entities. Accordingly, Erlanger has implemented procedures to terminate employees, or its relationship with Agents, who have been convicted or excluded from participation in Federal Health Programs. In no instance will Erlanger allow a clinician, physician or billing representative to perform in those capacities if such person or entity has been excluded from participation in any Federal Health Care Program.

In carrying out these functions, Erlanger supports the principles of the Equal Employment Opportunity Commission and will not discriminate with respect to race, color, religion, sex, national origin, age, sexual orientation, disability, or any other basis prohibited by Federal, state, or local laws in any aspect of its employment or hiring practices. In addition, Erlanger is committed to providing employees with assistance when a violation of these non-discrimination practices is suspected. Erlanger will not tolerate harassment of its employees or agents by other employees or agents. Examples of harassment that are explicitly prohibited include words or actions that are sexual in nature, as well as words or actions based on, race, color, religion, national origin, age, sexual orientation, presence of a disability or other basis protected by Federal, state, and local laws.

VI. Auditing and Monitoring

Erlanger will facilitate organizational compliance by conducting a variety of active auditing and monitoring functions designed to test and confirm compliance with legal requirements and with the Compliance Program standards. Auditing and monitoring functions are critical in identifying areas in which Compliance Program standards have not been fully understood or properly implemented. Erlanger will utilize the auditing and monitoring functions to measure the Compliance Program's effectiveness with regard to the functions instrumental to its operation, such as the education and training programs, employee screening, and the appropriateness of disciplinary actions.

Regular audits shall be set forth in an audit plan to be reviewed by the Executive Compliance Committee, approved by the Audit Committee of the Board and conducted by the Audit Services Department or other appropriate persons with input from the CCO as necessary. The audit plan shall be re-evaluated annually to ensure that it addresses the

proper areas of concern, which may be based on the prior years' audit findings, or risk areas identified as part of an annual risk assessment. In addition, the audit plan shall include an assessment of billings systems, in addition to claims accuracy, in an effort to identify the origin of billing errors.

Individuals who conduct the compliance audits will be independent from the area audited. Persons conducting compliance audits will have a general awareness of applicable federal and state health care laws and Federal Health Care Program requirements, and will confer with the CCO and/or CLO for specific guidance concerning legal requirements as needed. Audits will target diverse levels of Erlanger operations, including external relationships with third-party contractors, specifically those with substantive exposure to government enforcement actions, potential kickback arrangements, physician self-referrals, billing, coding, claim development and submission, cost reporting, and marketing endeavors. Further, and as warranted, audits will be repeated on a periodic basis to measure Erlanger's current level of compliance, as well as its progress in attaining increased levels of compliance as the Compliance Program matures.

Compliance audits may take one or more of the following forms:

- A *baseline audit* is an initial audit in a series of identical audits, and provides a basis against which the progress of future audits is compared. Assessment of organizational risk levels can be determined through baseline audits.
- *Prospective audits* occur before billing, and will allow Erlanger to correct discovered errors before submitting a bill.
- *Retrospective audits* occur after billing, and may require Erlanger to correct discovered errors by re-billing or self-disclosing to a Federal, state or private health care program.
- *Special audits* are performed at the direction of the CCO, with input from the CLO, in response to events such as internal or external investigations.
- *Post-compliance reviews* are audits performed following the correction of a compliance issue to determine the effectiveness of the remedial effort.
- A *risk assessment* is a broad based audit that may be used to identify the effectiveness of and opportunities for improvement in the Compliance Program. This type of audit should occur at least annually.

The CCO, with input from Erlanger's Audit Services Department as necessary, will establish procedures to supplement such audits, which may include:

- Interviews conducted with personnel involved in management, operations and other related activities, to be conducted by the CCO, a designee of the CCO, the CLO, or a designee of the CLO;

- Reviews, at least annually, to determine the efficacy of the Compliance Program (e.g. the effectiveness of education and training programs); and
- Reviews of billing documentation, including clinical documentation, in support of a claim.

Erlanger's compliance monitoring activities will be carried out by and within each department or product line. The CCO will communicate to each department and product line the level of monitoring activities necessary to detect and prevent violations of Compliance Program requirements. Monitoring activities should provide Erlanger with the opportunity to correct any noncompliance before it creates significant risk to Erlanger. Monitoring activities may also be initiated by departments and product lines when no specific problems have been identified to confirm and document ongoing compliance.

Compliance reports created by an auditing or ongoing monitoring process, including reports of noncompliance, should be reported to, and maintained by, the CCO and shared with the CLO, the Executive Compliance Committee, the CEO and the Board as dictated by Erlanger policy. The CCO will report compliance matters to the Board on a quarterly basis and as the CCO, in consultation with the CLO, determines is necessary.

VII. Investigation, Response and Prevention

Detected but uncorrected violations of law or the Compliance Program standards can seriously endanger the mission, reputation and legal status of Erlanger. Consequently, Erlanger will establish mechanisms that make possible prompt response to situations where conduct inconsistent with legal requirements or Compliance Program standards is reported, suspected or confirmed.

When an instance of potential noncompliance is reported, suspected or confirmed, the CCO should consult with the CLO and coordinate with representatives from the relevant functional areas, which may include the Audit Services Department or Patient Financial Services, to pursue the following steps:

- Promptly halt the underlying activity and halt or mitigate, where possible, any ongoing harm caused by the suspected noncompliance.
- Fairly and expediently investigate, according to Erlanger policy and procedure, to determine the existence, scope and seriousness of the noncompliance, and to identify the conduct or process that caused the noncompliance.
- Respond with appropriate action to correct the confirmed noncompliance.
- Implement preventative measures to avoid similar instances of noncompliance in the future.

- Perform periodic reviews of the identified problem areas to ensure that the implemented preventative measures have effectively eliminated the cause of the noncompliance.

If an investigation uncovers credible evidence of noncompliance, and, after a reasonable inquiry, the CCO has reason to believe that the noncompliance may violate any criminal, statute or regulation, the matter will be immediately reported to the CLO for advice regarding Erlanger's reporting obligations. After consulting with the CLO, the CCO will report such matters to the CEO and the Board; these reports will be made within 48 hours of each other. The CCO will maintain appropriate protocol to ensure that steps are pursued to secure or prevent the destruction of documents or other evidence relevant to the investigation. The CCO shall be responsible for directing appropriate corrective action to be taken, which may include re-billing for services improperly billed and disclosure to applicable payers, including federal and state health programs.

ACKNOWLEDGEMENT and CERTIFICATION

Employee, Trustee, Medical Staff and Agent Acknowledgement Process

All Erlanger employees, trustees, medical staff and agents will receive these Compliance Program standards and other information necessary to assure compliance with these standards. All new employees, medical staff and agents will receive a copy of the Compliance Program standards within 2 weeks after beginning employment or association with Erlanger. Within 4 weeks after receiving the Compliance Program Manual, each employee, trustee, medical staff member and agent must sign and return the Acknowledgement Form reprinted at the end of this Manual, which states that the employee, trustee, medical staff member and agent has read and understands the provisions of this Manual. If any employee or agent is unable to read this document, it will be explained to such person verbally. Each employee, trustee, medical staff member and agent will be required to review these Compliance Program standards and sign and return a new "Acknowledgement Form" periodically and as updates occur. All employees, trustees, medical staff and agents are encouraged to ask questions or comment on the components of the standards. All Acknowledgement and Certification Forms must be submitted to the Office of Compliance, and the Office of Compliance will be responsible for tracking appropriate completion of all Acknowledgements and Certifications.-

EMPLOYEE ACKNOWLEDGEMENT AND CERTIFICATION

I hereby certify that I have received and read the Erlanger Health System **Compliance Program standards** and I understand that compliance with the requirements set forth in the Compliance Program is a condition of my continued employment. I understand that it is my responsibility to read, understand and seek guidance, should I require clarification, with regard to these standards. I also understand that I may be subject to disciplinary action, up to and including termination, for violating these standards or failing to report violations of these standards.

Print Name: _____

Signed: _____

Department: _____

Date: _____

Please retain a copy for your records and return your original signed acknowledgement form to:

**The Office of the Chief Compliance Officer
Erlanger Health System
960 East Third Street, Suite 511
Chattanooga, TN 37403**

TRUSTEE ACKNOWLEDGEMENT AND CERTIFICATION

I hereby certify that I have received and read the Erlanger Health System **Compliance Program standards**. I understand that it is my responsibility to read, understand and seek guidance, should I require clarification, with regard to these standards, and to act in accordance with these standards at all times in my service as trustee.

Print Name: _____

Signed: _____

Date: _____

Please retain a copy for your records and return your original signed acknowledgement form to:

**The Office of the Chief Compliance Officer
Erlanger Health System
960 E. Third Street, Suite 511
Chattanooga, Tennessee 37403**

MEDICAL STAFF ACKNOWLEDGEMENT AND CERTIFICATION

I hereby certify that I have received and read the Erlanger Health System **Compliance Program standards**. I understand that it is my responsibility to read, understand and seek guidance, should I require clarification, with regard to these standards, and to act in accordance with these standards at all times.

Print Name: _____

Signed: _____

Date: _____

Please retain a copy for your records and return your original signed acknowledgement form to:

**The Office of the Chief Compliance Officer
Erlanger Health System
960 East Third Street, Suite 511
Chattanooga, TN 37403**

AGENT ACKNOWLEDGEMENT AND CERTIFICATION

I hereby certify that I am the independent contractor referenced below (the “Contractor”), or am a duly authorized officer of the Contractor. On behalf of the Contractor and its employees, officers, trustees, and agents, I certify that I have received and read the Erlanger Health System **Compliance Program standards**, and that the employees and agents of the Contractor providing services to or for Erlanger will receive and read these standards. I understand that it is our responsibility to read, understand and seek guidance, should we require clarification, with regard to these standards, and to act in accordance with these standards at all times in performing services for Erlanger.

Print Name of Contractor: _____

Signature of Contractor:

By: _____

Title: _____

Date: _____

Please retain a copy for your records and return your original signed acknowledgement form to:

**The Office of the Chief Compliance Officer
Erlanger Health System
960 East Third Street, Suite 511
Chattanooga, TN 37403**