

## ***Institutional Compliance Program***

Texas Tech University Health Sciences Center School of Medicine

### **Compliance Office and Legal Counsel: Protocol and Procedures**

**5.5**

Date: March 14, 2001

Revised: September 2002

#### **Purpose:**

1. One of the primary purposes of the compliance program is to identify any misconduct that might constitute a violation of criminal, civil, or administrative law. Therefore, it is necessary to establish protocols and procedures to guide the activities of the Institutional Compliance Office and the TTUHSC Office of General Counsel.
2. Although the Institutional Compliance Office or the Office of Human Resources most often may address the majority of allegations of personnel misconduct, issues occasionally arise that should be addressed under direction of the Office of General Counsel. This policy provides guidance for the Institutional Compliance Office to determine when and how issues should be turned over to the TTUHSC Office of General Counsel for proper legal action. Furthermore, it provides guidance for both offices to conduct compliance inquiries and investigations. For purposes of this policy, "legal counsel" shall refer to the TTUHSC Office of General Counsel.

#### **Policy:**

1. Upon reasonable evidence of suspected non-compliance with any criminal, civil, or administrative law, legal counsel should conduct an investigation into the legal sufficiency of the allegations.
2. Credible allegations of misconduct related to billing and reimbursement may be turned over to legal counsel at the discretion of the Institutional Compliance Officer.
3. Legal Counsel should be readily available to assist the Institutional Compliance Officer with the interpretation of applicable statutes.
4. During any investigation, legal counsel and the Institutional Compliance Officer must ascertain that all relevant evidence is preserved.

#### **Procedures:**

1. Upon report or notice of suspected non-compliance with any criminal, civil, or administrative law provisions of the Federal Healthcare Programs, the Institutional Compliance Officer will direct an "initial inquiry" into the alleged misconduct. The purpose of the initial inquiry is to determine whether there is sufficient evidence of possible non-compliance with the Federal Healthcare Programs to warrant further investigation by the Office of Legal Counsel.

2. If, during the initial inquiry, the Institutional Compliance Officer determines that there is sufficient legal evidence of possible noncompliance to warrant further investigation, then the issue should be turned over to legal counsel and a memorandum to this effect should be executed. The memorandum should state whether counsel will be leading the investigation as well as whether the investigation is being conducted in anticipation of litigation. If TTUHSC wants documents produced during the investigation by legal counsel to be possibly protected from disclosure, all such documents should include the statement: "Privileged and Confidential Document; Subject to Attorney-Client Privileges; Attorney Directed Work Product." At this point legal counsel will conduct an investigation to evaluate the facts to determine whether credible evidence exists to indicate that a violation of criminal, civil, or administrative law has occurred. It will also be the responsibility of legal counsel to:
  - Notify the senior management of TTUHSC of the results of its legal investigation; and
  - Provide the Institutional Compliance Officer with sufficient continual factual details from its legal investigation to allow him/her to properly address any compliance issue.
3. Both the initial inquiry and legal investigation will be conducted as expeditiously as possible.