

Privacy Compliance Plan

Mission Statement

The mission of The University of Texas MD Anderson Cancer Center (MD Anderson) is to eliminate cancer in Texas, the nation, and the world through outstanding programs that integrate patient care, research, and prevention, and through education for undergraduate and graduate students, trainees, professionals, employees, and the public.

To fulfill this mission:

- We are committed to meeting the highest standards of medical and business ethics.
- We recognize that, regardless of payor source, appropriate, medically necessary services must be delivered in the most efficient manner and meet all applicable local, state, and federal guidelines and regulations.
- We are intolerant of fraud, waste, abuse, and violations of such guidelines and regulations.
- We are committed to providing education, monitoring, and oversight to ensure that faculty, employees, volunteers, trainees, contractors, and other persons whose conduct, in the performance of work for MD Anderson, is under the direct control of MD Anderson, whether or not they are paid by MD Anderson (collectively referred to as Workforce Members), are fully informed and committed to these standards.
- We promote an open work environment so that all individuals associated with MD Anderson feel free to communicate openly on such issues.

The mission of MD Anderson's Institutional Compliance Program is to support MD Anderson's mission, vision and core values and to help the institution fulfill its responsibilities to the people of Texas in an environment based upon ethical behavior and compliance with applicable laws, rules, and guidelines.

To that end, the Institutional Compliance Program will:

- Provide all workforce members with the most accurate, concise, and up-to-date information and advice to assure awareness of their responsibilities with respect to sustaining such an environment;
- Foster an environment of open communication by educating workforce members about their obligations to report compliance concerns;
- Protect workforce members from retaliation if they, in good faith, report suspected wrongdoing, participate in or with an institutional investigation pertaining to alleged wrongdoing, or assist appropriate authorities in investigating possible wrongdoing; and
- Continually assess the effectiveness and quality of its program to ensure all MD Anderson business is conducted with integrity and in compliance with the law.

Code of Conduct

MD Anderson requires all administration staff, medical staff, employees, and other workforce members to follow the [Standards of Conduct](#) adopted by the Board of Regents.

MD Anderson is committed to full compliance with all applicable laws, rules, and guidelines. To such end and in order to uphold MD Anderson's core value of Integrity, our workforce members are required to conduct themselves in accordance with the ten principles comprising [MD Anderson's Code of Conduct](#):

Know and follow the rules

Know and follow the letter and the spirit of applicable laws, rules, and guidelines, as well as UT System and MD Anderson rules, policies, procedures, and compliance plans.

Think and act ethically

Follow our ethical standards and those of your professional organizations. Before you say or do something, ask yourself: How would this look to our patients and our community? Would this harm our reputation?

Keep it confidential

Handle all MD Anderson information, especially patient information, in ways that meet applicable laws, rules, guidelines, and document retention schedules. Treat our information the same way you treat yours.

Commit to research integrity

Perform all research efforts in ways consistent with applicable legal, ethical and professional requirements, as well as MD Anderson rules, policies and procedures.

Avoid gifts

In general, you can't accept or give gifts, favors, benefits, services, or items of value — especially in return for preferential treatment or patient referrals.

Bill accurately

When you document and bill for the care you've provided, be accurate, be thorough, be honest — and be timely.

Focus on Making Cancer History

Don't use any MD Anderson resources, including your time and your colleagues' time, in a wasteful manner, for personal benefit, to harm someone, for political activity, or for illegal activity.

Be true to our mission: Avoid outside influences

Don't engage in activities or enter into contracts that could or could seem to interfere with your MD Anderson work, make you disclose confidential MD Anderson information, or affect your independent judgment.

Be a good colleague

Act with honesty and good faith in all matters. Don't engage in discriminatory, harassing, retaliatory, inappropriate, intimidating, or disruptive behaviors

When in doubt, point it out

If you think or discover that someone isn't following our Code of Conduct, promptly notify the Chief Compliance and Ethics Officer or Institutional Compliance. And always cooperate fully with all inquiries and investigations related to reported issues.

Compliance Oversight

The purpose of the Privacy Compliance Plan is to:

- Ensure that all Protected Health Information ("PHI") will be managed with the highest levels of caring and integrity; appropriate permission is obtained for any uses and/or disclosures of PHI; and that only the minimum necessary PHI will be used and/or disclosed for each purpose.
- Inform both patients and Workforce Members of privacy issues and of everyone's role in the culture of privacy.
- Provide appropriate methods for patients, patient representatives, employees, contractors, and volunteers to discuss and communicate privacy concerns or questions with MD Anderson.
- Provide ongoing education, monitoring, and oversight to ensure that all workforce members are informed of the institution's requirements regarding patient privacy.
- Promote a work environment that allows open communication and swift resolution of any instances of violations of relevant guidelines and regulations.

Responsibility for oversight of the Privacy Compliance Plan rests with a multi-disciplinary Privacy Compliance Committee (PCC), whose membership is appointed by the Vice President, Chief Compliance and Ethics Officer (CCO) and annually approved by the Executive Institutional Compliance Committee (EICC). All members of the PCC must sign a statement assuring total confidentiality in all dealings of the PCC. The PCC is a Medical Committee within the meaning of Texas Health and Safety Code § 161.031. Minutes of all PCC meetings are maintained in a confidential manner and are provided to the EICC. Minutes are maintained in the Institutional Compliance Office.

- The PCC is charged with the following tasks:
- Prepare and submit to the EICC an annual work plan that outlines the major activities and initiatives of the PCC for the upcoming fiscal year.
- Prepare and submit to the EICC an annual report that summarizes the PCC's progress regarding each work plan objective contained in the PCC's annual work plan for the preceding fiscal year.
- Validate the annual Compliance Risk Analysis related to privacy compliance matters.

The responsibility for implementing and managing the Institutional Compliance Program and Privacy Compliance Plan is assigned to the CCO, who is the institution's Chief Privacy Officer and functions within MD Anderson's organizational structure. The CCO, or designee, will, with assistance of the PCC, perform the following activities:

- Review the laws, regulations, statutes, policies and guidelines related to privacy.
- Recommend the creation of new and revisions to current privacy policies and procedures to the Privacy Compliance Committee for approval.
- Organize and lead the implementation of new and revised privacy policies and procedures.
- Develop and monitor practical methodologies and systems to optimize privacy compliance.

- Develop and implement an educational training program for the Institution to ensure the understanding of federal and state laws and regulations involving ethical and legal business practices impacting privacy.
- Develop or assist with developing monitoring plans for high risk areas identified through the Compliance Risk Analysis.
- Conduct and coordinate the investigation of alleged privacy violations.
- Conduct physical safeguard audits.
- Handle inquiries by employees and patients regarding any aspect of privacy.
- Communicate regularly with the EICC on new and emerging issues.
- Notify requisite parties (e.g., patients, Office for Civil Rights (OCR), etc.) when unsecured PHI is breached, and submit an annual report of breaches to the OCR.

Education

Compliance with all applicable laws and regulations is one of MD Anderson's priorities. Workforce Members at MD Anderson must be knowledgeable about MD Anderson's Institutional Code of Conduct and policies and plans regarding institutional compliance issues. Compliance with applicable laws, rules, guidelines, as well as institutional policies and plans is a condition of employment. Failure to comply may result in disciplinary action, including termination.

In addition, the CCO, with the assistance of the Privacy Compliance Committee, is responsible for education and training programs related to the Privacy Compliance Plan. The CCO or designated responsible parties may make attendance at these programs mandatory and may include such topics as:

- General privacy compliance and best practices;
- Uses and/or disclosures of patient health information, and the required patient and/or statutory permissions for each purpose;
- Newly adopted, revised and established MD Anderson policies and procedures regarding privacy;
- Implications of failing to adhere to the Privacy Compliance Plan and all applicable health care program requirements;
- The Health Insurance Portability and Accountability Act of 1996 ("HIPAA"), the Health
- Information Technology for Economic and Clinical Health Act ("HITECH"), Texas privacy law and other relevant legal requirements;
- Emerging regulatory compliance issues;
- Training on specific risk areas such as uses and disclosures of PHI, use of HIPAA authorizations, business associate agreements, fundraising, marketing, research, preventing and reporting breaches, and in response to specific events;
- Use of the Compliance Hotline;
- Implication of the Institutional Compliance Program and the Privacy Compliance Plan, on job requirements and as part of the employee's annual evaluation;

- Duty to report, and consequences of the failure to report, potential violations by another employee, supervisor or outside contractor; and
- Implementation of [The University of Texas System Policies & Standards - UTS165: Information Resources Use and Security Policy \(UTS165\)](#).

Ongoing Monitoring and Auditing

1.0 Monitoring Activities

- 1.1 The CCO, or designee, shall meet periodically with designated departmental representatives to stay abreast of current and/or new matters related to privacy compliance.
- 1.2 The CCO, or designee, shall monitor the progress of risk management plans.

2.0 Auditing Activities

The CCO, or designee, shall perform periodic audits or similar assurance activities regarding privacy compliance. Audits commonly performed by the CCO, or designee, include physical safeguard audits and audits of medical record access.

Investigation and Remediation

Institutional Compliance investigations are conducted under, and therefore protected by, one or more of the following: Texas Rule of Evidence 503 (the lawyer-client privilege), Texas Education Code §51.971 (institutions of higher education conducting compliance program investigations), and/or Texas Health and Safety Code §161.032(b)(1), (c), and (e) (Medical Committees and compliance officer privileges).

The CCO, with support from legal counsel and the EICC, addresses any violation of the laws, regulations, and institutional policies and standards applicable to governmental compliance. Whenever a compliance issue has been raised through MD Anderson's Compliance Hotline, direct contact, a third-party, or any other source, and a preliminary assessment suggests that an investigation is warranted, the CCO will initiate a confidential investigation to determine the facts and circumstances of the potential violation. Compliance investigations will involve only those individuals necessary to resolve a fact or issue. Barring exceptional circumstances, the CCO does not apprise complainants or reporters of the status of investigations.

The CCO may accept a previously conducted investigation if such investigation was conducted with knowledge and approval of the CCO. Compliance investigations will be performed with the assistance of legal counsel and MD Anderson subject matter experts, as needed, and will be reported immediately and confidentially to the EICC, as appropriate. If the CCO believes the integrity of the investigation is at stake, the appropriate workforce member(s) may be removed from duty until the investigation is completed. The CCO ensures that steps are taken to prevent destruction of documents or other evidence.

The CCO promptly and fully investigates all reports professionally and without prejudice. Consultations follow with the appropriate division head(s), department chair(s), manager(s), and/or workforce member(s), as appropriate.

If an investigation indicates that corrective action is warranted, such action will be imposed in accordance with MD Anderson's written standards of corrective action, and outlined in a corrective action plan. The corrective action plan to be implemented is developed after the outcome of an investigation. In determining the corrective action plan, MD Anderson should not take into consideration a workforce member's economic or reputation benefit to the institution. All corrective actions provided in the plan are disseminated to those responsible for completing such actions, and must be undertaken and completed within their specified time frames.

Any misconduct that violates civil or criminal law, rules or regulations may be reported to the appropriate governing body after receipt of credible evidence of such misconduct, along with a description of the appropriate corrective action taken. If applicable, plans for repayment of federal funds will be included in the report.

Corrective action plans also should include determining whether the problem is systemic and implementing any necessary preventive measures.

Corrective and/or Disciplinary Action

MD Anderson upholds a "zero tolerance" policy toward any illegal activity or knowing, willing, or intentional noncompliance with federal and state laws and regulations, and MD Anderson's policies. All actions taken will be in accordance with MD Anderson's [Hospital Compliance Plan](#).

Sanctioned Individuals

MD Anderson prohibits the employment of individuals who:

- have a criminal history related to federal health care program or state health care program; or
- have been disbarred, excluded, or otherwise determined ineligible for participation in federal health care programs as evidenced by appearance in one of the following agencies (Adverse Action Databases") Sanction Checks are handled in accordance with the MD Anderson [Hospital Compliance Plan](#).

Reporting Compliance Concerns

Remaining silent and failing to report any violation or potential violation that a workforce member knows or should have known of may subject a workforce member to corrective action up to and including termination. MD Anderson will not accept workforce member's claim that improper conduct occurred for the benefit of MD Anderson. Any such conduct is not for the benefit of MD Anderson and is expressly prohibited.

To encourage open communication in all dealings with the CCO and the EICC, workforce members contacting Institutional Compliance are assured non-retaliation in accordance with the [Non-Retaliation Policy \(MD Anderson Institutional Policy #ADM0254\)](#) and an atmosphere of confidentiality.

To report compliance concerns, workforce members and any other member of the MD Anderson community, including patients and their family members, may:

- Call the Compliance Hotline at 1-800-789-4448;
- Contact Institutional Compliance directly at 713-745-6636; or
- Contact the CCO via the Page Operator at 713-792-7090.

Suspected fraud, waste, and abuse involving state resources may be reported to the State Auditor's Office's Hotline at 1-800-TX-AUDIT (1-800-892-8348). The State Auditor's Office provides additional information at its website, <https://sao.fraud.texas.gov/>.

MD Anderson has established the Compliance Hotline, listed above, for workforce members and other members of the MD Anderson community to report all suspected violations or questionable conduct. The Compliance Hotline includes the following features:

- The hotline number is included in employment materials, employee badge cards, the Institutional Compliance Program website, MD Anderson's Standards of Conduct: Do the Right Thing, and is displayed in poster form on MD Anderson bulletin boards;
- Telephone calls to the hotline are treated anonymously, upon request, and confidentially to the extent possible;
- The caller is not recorded, traced or identified, and the caller is not required to furnish their name;
- Information provided to the hotline is treated as privileged to the extent permitted by applicable law;
- Upon receiving information from the hotline, the CCO will communicate and disseminate all compliance complaints to the triage team and assign to the appropriate party for investigation;
- Each report will be reviewed, and the CCO or designee will initiate any investigations, corrections and/or follow-up on an as-needed basis in accordance with provisions of this plan; and,
- The CCO will provide routine reports and periodic updates as deemed necessary to the EICC and President.

Note that intentionally making false accusations is a serious violation of MD Anderson policy and may lead to corrective actions against the person making the accusation, up to and including termination of employment. Workforce members may not use the Compliance Hotline to protect themselves from the outcome of their own violations or misconduct; however, self-reporting is strongly encouraged and may be considered a mitigating factor when determining the appropriate corrective actions.

In all reports of compliance concerns, the CCO strictly complies with and enforces MD Anderson's [Non-Retaliation Policy \(MD Anderson Institutional Policy #ADM0254\)](#).

References

Terms not defined in the Privacy Compliance Plan are contained in MD Anderson's HIPAA [Definition Plan](#).

[Corrective Action Policy \(MD Anderson Institutional Policy #ADM0256\)](#)

[Hospital Compliance Plan](#)

[Non-Retaliation Policy \(MD Anderson Institutional Policy #ADM0254\)](#)

[MD Anderson's Standards of Conduct](#)

[State Auditor's Office](#)

[Texas Health and Safety Code § 161.031](#)

<http://sao.fraud.state.tx.us>

[The University of Texas System Policies & Standards - UTS165: Information Resources Use and Security Policy \(UTS165\)](#).

[Policies and Procedures Related to HIPAA and Privacy](#).

APPROVALS

Date	Approver
10-27-2020	Executive Institutional Compliance Committee
10-22-2019	Executive Institutional Compliance Committee
10-17-2018	Executive Institutional Compliance Committee
11-06-2017	Executive Institutional Compliance Committee
11-20-2014	Executive Institutional Compliance Committee
01-16-2014	Executive Institutional Compliance Committee
10-09-2012	Executive Institutional Compliance Committee
09-07-2011	Executive Institutional Compliance Committee

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