Summit Healthcare Association Online Compliance and Regulatory Training With Code and HIPAA Attestations

Trusted to deliver exceptional compassionate care close to home.

Revised by the Compliance Department October 2024

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Introduction: Summit Healthcare Association Compliance and Privacy Program

Greetings Valued Workforce Member,

Summit Healthcare Association has implemented a Compliance and Privacy Program to support the Governing Board and all SHA workforce members. This module describes our program.

You may already be familiar with much of the content based on previous training at other organizations, so this training may be a refresher. You may also identify areas of content that could be improved – and we welcome your thoughts.

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Introduction: A.K.A, Why do I need to be trained?

Per Summit Healthcare Association policy, along with federal and state regulations, all workforce members (i.e., employees, contractors, volunteers and agents working with Summit Healthcare) must receive at-hire and annual training on compliance, regulatory, and Health Information Portability and Accountability Act (HIPAA) laws. Workforce members and vendors must agree to review and comply with Summit policies and procedures, the *Code of Conduct and Ethics,* and the W*orkforce Member HIPAA and Confidentiality Agreement*.

(Source: OIG, CMS, Deficit Reduction Act, HIPAA)

To reach the Compliance Team, you can call:

Compliance at 928-537-6510

HIPAA Privacy at 928-537-6939

Administration at 928-537-6556

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What Does the Compliance and Privacy Division Do?

Compliance

- Prevent, detect and correct conduct or behavior which is not compliant with laws and regulations, and promote an ethical culture.
- Implement the Summit Healthcare Code of Conduct and Ethics, and the 7 Elements of a Compliance Program.
- Be a resource to Summit Healthcare Association

Privacy/Security

- Safeguard patient privacy, protected health information and confidentiality in compliance with federal and state law.
- Ensure the integrity, accuracy and availability of medical records and maintain them in accordance with federal and state privacy and security laws.

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Regulatory Landscape

Healthcare is one of the most regulated industries in the country and subject to surveys/reviews across a host of different agencies. The majority of Summit's reimbursement comes from federal and state funded insurance programs, namely Medicare and our State Medicaid program AHCCCS. To participate in these programs, we must be compliant with their laws and regulations.

Examples of Regulatory Non-Compliance

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The Deficit Reduction Act of 2005

The Deficit Reduction Act (DRA) Public Law 109-171 works to eliminate fraud, waste and abuse in **Medicaid**.

Since Summit receives payments under an Arizona state plan such as AHCCCS, the following elements are required:

- Written policies regarding the False Claims Act,
- All workforce members are trained on the False Claims Act,
- Written policies regarding how Summit detects and prevents fraud, waste and abuse, and
- A Summit hotline for individuals to report false claims anonymously.

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The False Claims Act ("FCA")

The False Claims Act was enacted in 1863 during the Civil War to combat fraud by companies that sold supplies to the Union Army, such as selling crates filled with sawdust instead of weapons.

This law adopted a qui tam provision, which allowed private citizens, called "relators" to file suit on the government's behalf against those defrauding the government. Relators were entitled to 50% of the amount recovered from their cases. Relators are more commonly know as "whistleblowers."

The 1943 FCA amendment reduced Relators' recovery and prohibited qui tam lawsuits if the government already had the evidence or information in hand. Today, the FCA continues to be amended periodically.

The FCA contains strong whistleblower protections and prohibits retaliation against whistleblowers, including being "discharged, demoted, suspended, threatened, harassed, or in any other manner discriminated against in the terms and conditions of employment." 31 U.S.C. § 3730(h)(1).

In addition to the federal FCA, the State of Arizona has its own anti-fraud laws.

FCA laws include civil and criminal penalties for knowingly submitting false claims. They have a large role in preventing fraud, waste and abuse in state and federal health care programs.

Examples of False Claims and Duty to Report

One of the primary purposes of false claims laws is to combat fraud and abuse in government health care programs, such as Medicare, Medicaid, TriCare and VA programs. Examples of false claims include:

- Billing for a procedure not performed or services not provided
- Falsifying information in the medical record or submitting false records of any kind
- Billing for services not medically necessary (or documentation does not support services provided)
- Billing for the incorrect level of services (miscoded)
- Billing for services covered under another claim (duplicate billing, etc.)
- Retaining payment when it is not rightfully yours to keep; this is a “reverse” false claim
- Violations of other laws which cause claims to be “invalid”, such as individuals providing services outside their scope of practice; or “tainted”, such as illegal relationships between providers involving kick-backs

If you have questions, or observe behavior or actions which could lead to a false claim, you have a duty to report your concern to the Compliance division, or a Summit manager, director or administrator. Retaliation for reporting in good faith is strictly prohibited.

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Federal Government Enforcement

The consequences of non-compliance can be devastating to organizations & individuals.

Loss of license and/or certification: Such as Arizona Department of Health Services and CMS

Civil Monetary Penalties: Fines imposed when laws or regulations are violated

Sanctions: Not allowed to participate in federal and/or state programs (exclusion)

Criminal: Prosecution / Jail time

Integrity Agreements: 5 year improvement & audit plan

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The State of Arizona Enforcement

Arizona has an active enforcement group called the Medicaid Fraud Control Unit which focuses on the AHCCCS (Medicaid) Program.

For more information on the MFCU, visit their website at:
https://www.azag.gov/seniors/senior-abuse/mfcu

While reports should be made directly to the Complian
Department, they can also be made directly to AZAG:

2005 N Central Ave
Phoenix, Arizona 85004
602.542.3881
602.364.0411 (fax)

See also: https://www.azahcccs.gov/Fraud/AboutOIG/

For AHCCCS OIG General Questions and Fraud Reporting, you may contact the OIG Administrative Assistant at (602) 417-4193.

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Summit Healthcare Association Compliance Program

- **What is our Goal?** *To facilitate and assist Summit to be compliant with (follow) federal and state law.*
- **What Does the Compliance Program Do?** *Checks (validates) to see the 'right thing' is done; provides methods for staff to report concerns; and provides regulatory guidance to the organization.*
- **Why is it Important?** *The Compliance Program supp and helps to safeguard against misconduct and wrong-do*
- **Is There a Committee?** *Yes! The Executive Complian Committee meets regularly.*
- **Who is Responsible?** *Everyone is responsible and contributes to a culture of compliance.*
- **What is our Mantra? "The Right Way Every Da**

The purpose of a Compliance Program:
Prevent, Detect and Correct conduct or behavior which is not compliant with laws and regulations, and promote an ethical culture.

Source: U.S. Federal Sentencing Guidelines
Applicable to all industries that accept federal money.

"We are here to serve."

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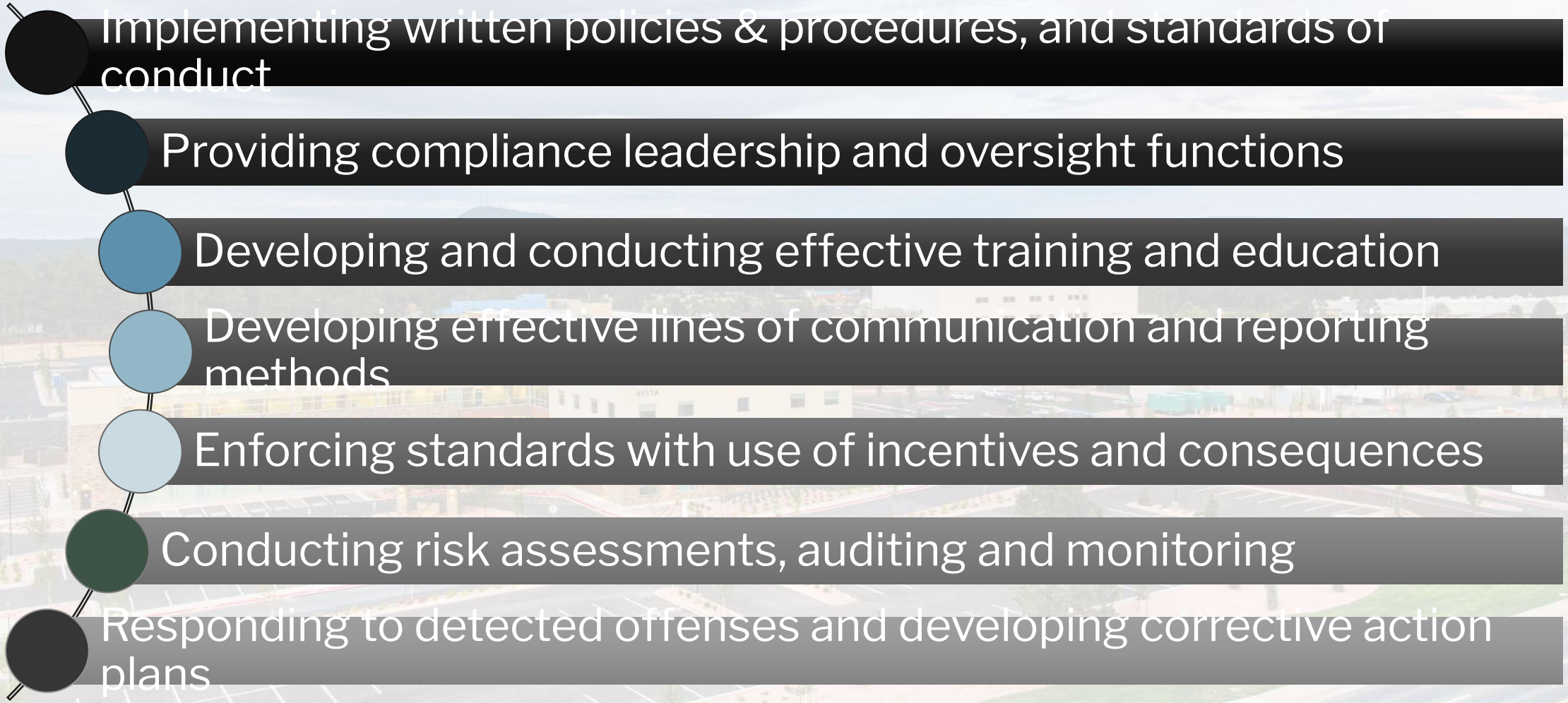
7 Elements of Compliance Programs



The health care industry shall operationalize the 7 Elements of a Compliance Program to protect from fraud and abuse, and facilitate an ethical and law-abiding culture. ***Source: DHHS Office of Inspector General***

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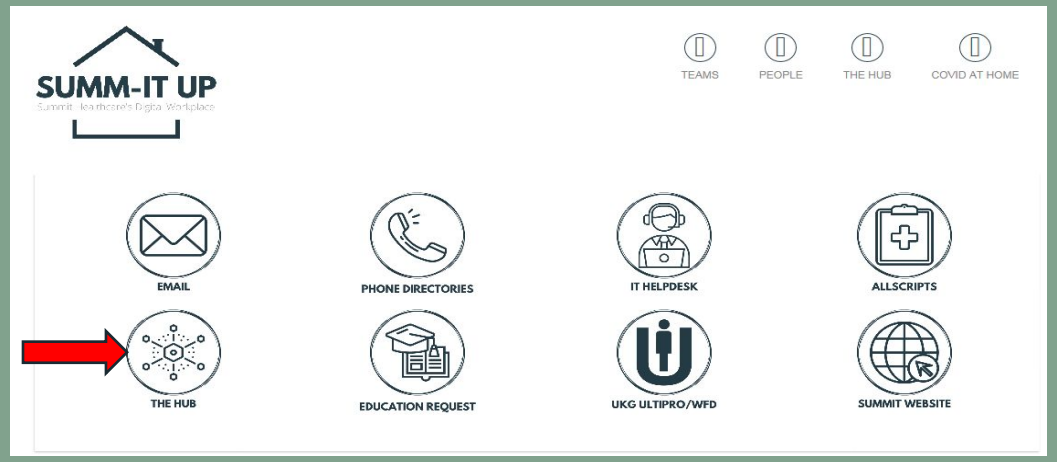
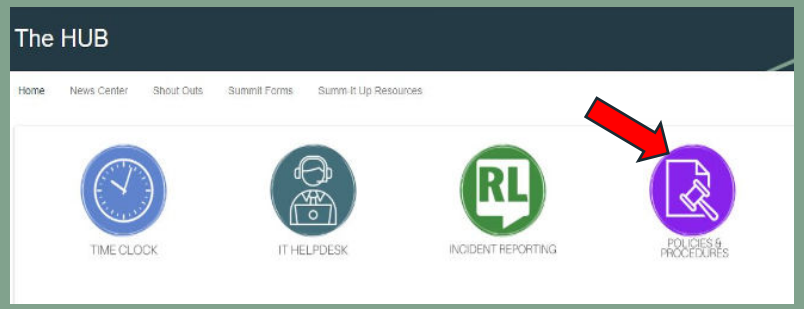
Element #1 ~ Written Policies and Procedures (P & Ps) and Standards of Conduct

Summit Healthcare P&Ps can be accessed from any desktop computer using the SUMM-IT UP intranet icon. If you do not have direct access or cannot find a policy, reach out to a co-worker or contact Compliance staff for assistance.





Summit's P & Ps provide guidance and procedure for how we operationalize regulatory requirements.

Summit's overarching commitment to how we operate as a business is outlined in the *Summit Healthcare Association Code of Conduct and Ethics* - a cornerstone document to guide day to day operations and conduct (behaviors and habits). It is a summary of principles to which we are committed.

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Element #2 ~ Compliance Leaders and Oversight

Summit is committed to regulatory compliance and allocates resources to implement an effective Compliance Program. Oversight is provided by the Summit Healthcare Association Governing Board. The Chief Compliance Officer reports to the CEO and the Board. The Executive Compliance Committee meets regularly.

Summit leaders provide structure and implement the Compliance Program.

Carrie Kusserow – Chief Compliance and Privacy Officer; 928-537-6556
Carrie.Kusserow@summithealthcare.net

Laura Nicks – Compliance Director; 928-537-6510
LNICKS@summithealthcare.net

Natalie Roehlk – Privacy Officer; 928-537-6939
Natalie.Roehlk@summithealthcare.net

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Element #3 ~ Education and Training

- Simplified, Compliance is the practice of following rules, regulations, standards of care, and requirements regarding our specific disciplines. These are typically outlined in our policies and procedures. These change frequently. Our goal is to ensure workforce members understand and practice compliance principles as they go about their day to day work. Get to know the laws, regulations and Summit policies that pertain to your department. Always feel free to ask questions.
- Compliance and regulatory training is required upon hire or on-boarding, and annually thereafter.
- We develop educational material and use various training methods including in-person new hire orientation, web-based learning modules (Healthstream), department training, and job-specific training provided by your department leaders.

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Element #4 ~ Lines of Communication and Reporting

It's a condition of employment or contract to report compliance concerns, as described in Summit's Code of Conduct And Ethics. The reporter may choose any of the following methods:

- Report to a supervisor, manager or director
- Contact the Compliance staff or an administrator
- Call the 24-7 Compliance hotline at (844) 965-3490 – you can report anonymously or provide your name (provide as much detail as possible)
- Report directly to a regulatory agency

Summit supports and protects individuals (relators or whistleblowers) who report compliance concerns in good faith. Retaliation is strictly prohibited. If you feel you are being treated unfairly as a result of reporting, inform the Compliance division. (*See* the Non-Retaliation Policy AW1175)

- - - If you have any questions, the Compliance team is here for you.

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Element #5 ~ Enforcing Standards with Incentives and Consequences

Summit recognizes the staff and leaders who demonstrate a 'culture of compliance' every day as they perform their duties. We thank you for your commitment to regulatory excellence.

All staff are required to follow policies and procedures, make behavioral choices that support organizational values, achieve positive, and avoid harming patients, coworkers and the organization.

Summit's goal is to be fair and consistent in the methods used to coach, counsel and/or discipline staff when there is wrongdoing. We have adopted 'Just Culture' behavior-based algorithms to guide our investigations and actions. There are three main behavior pathways:

Human Error – example: Doing something unintentionally and not on purpose that causes an adverse event. This will likely result in retraining, counseling, coaching, policy/procedure review/revision, and/or systems analysis.

At-Risk Behavior – example: Choosing a risky behavior while not recognizing the risks involved or mistakenly believing the risk to be justified, or repetition of the prior errors. Usually results in corrective action.

Careless or Reckless Behavior – example: A choice to behave in a way that consciously disregards risks that are indefensible and considerable, or a serious breach of duty. Usually results in corrective action or disciplinary action.

Refer to HR policies for more information.

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Element #6 ~ Conduct Risk Assessments, Auditing and Monitoring

- Compliance risk assessments are performed periodically to assess the effectiveness of the Compliance Program, address regulatory changes, evaluate new enforcement actions and revise Summit policies. Strategic work plans are developed and implemented to mitigate the risks. New risks are continually identified and prioritized throughout the year.
- As a normal course of business, validation of regulatory compliance is accomplished through monitoring and auditing.
- Key workflows and processes (internal controls) are to be monitored, audited and reported to prevent errors and mistakes.
- Trust *and* Verify is the guiding principle.
- Know what is audited or monitored within in your department and well as organizational measures. If you work with contractors and vendors, know the scope of services to be delivered.

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Element #7~ Respond to Detected Offenses and Develop Corrective Action Plans (CAP)

- Don’t ignore mistakes; act on them; investigate.
- Most incidents reported are due to lack of education and training. Seek clarification and training opportunities from your leaders and/or Compliance staff.
- Summit uses the Root Cause Analysis (RCA) methodology in addressing non-compliance until the source of the problem is identif
- Develop a robust CAP to address the problem and ensure doesn’t happen again. This usually includes a monitoring plan to validate ongoing compliance with the CAP.
- With some violations, Summit may be required to do a self-report to a regulatory or enforcement agency.
- If you ever have a question or concern about an issue, reach out to the Compliance Team.

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Summit Healthcare Association Code of Conduct and Ethics

Summit Healthcare's policy AW1084, "Code of Conduct and Ethics," provides guidance on the standards of ethical business and care practices which direct our organization. It is a key document and ***all*** workforce members must abide by it as well as our Policies and Procedures. The elements are:

- Element 1: Quality of Care
- Element 2: Compliance with Laws and Regulations
- Element 3: Work Place Integrity
- Element 4: Billing, Coding, and Records Integrity
- Element 5: Protection and Use of Information, Property, and Assets
- Element 6: Conflicts of Interest
- Element 7: Non-Retaliation and Duty to Report
- Element 8: Compliance Responsibilities

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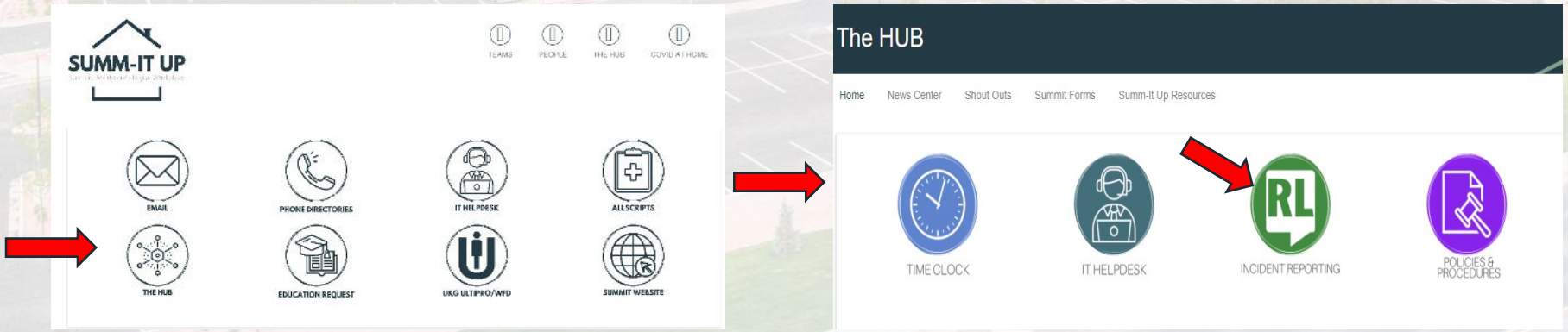
Compliance, Your Role, Summit Goals

- Support a ‘Culture of Compliance’ whereby Summit conducts business with integrity and honesty while providing high quality and safe care. Compliance does not happen by accident. It is purposeful and intertwined in our day to day operations.
- Ask questions and seek clarification. We are your resource and here to help with understanding the ‘why’ behind the ‘what’.
- Research and know the laws and regulations that govern what you do. And if you don’t know and can’t find it, call the Compliance Team.
- Share your best practices. We are stronger, together.
- Report potential problems and concerns right away to minimize risk. See something, say something. You can report via your supervisor, to a manager, director or administrator, any member of the Compliance Team, through our **Compliance Hotline at (844) 965-3490**, and through the RL system (available on Summ-It Up intranet):



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Patient Privacy (HIPAA and State Law)

Summit Healthcare's Privacy Program is a component of the Compliance division.

Summits' Privacy Officer serves the system as follows:

- Privacy Issue: Any identification or concern regarding patient privacy must be referred to Summit's Privacy Officer.
- Privacy Education: The Privacy Officer is available to respond to any questions, as well as to provide individual and department education on given topics related to privacy.
- Office of Civil Rights (OCR) or state privacy law investigations: Anyone who receives a notice of report of privacy breach/issue from the OCR, the Arizona Attorney General's Office or similar must immediately send it to the Privacy Officer, who will develop a response to the inquiry or complaint.

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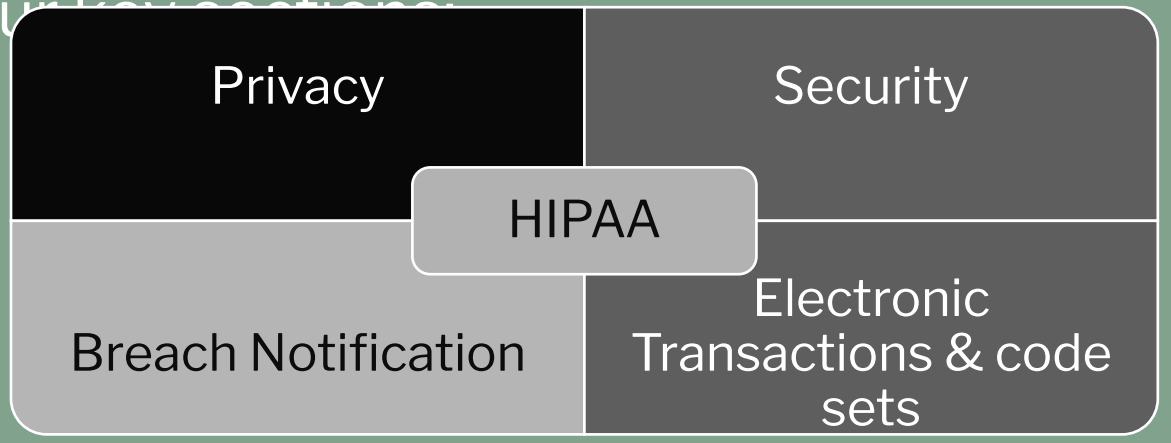
Health Information Portability and Accountability Act (HIPAA)

- HIPAA is an acronym for the Health Insurance Portability and Accountability Act of 1996.
- HIPAA is *a set* of regulations (Privacy Rule, Security Rule, Enforcement Rule, HITECH Act, Omnibus Rule, and HIPAA Reproductive Privacy Rule) intended to protect the privacy and security of a patient's protected health information ("PHI").
- HIPAA has four key sections:



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The Goal of the HIPAA Privacy Program

- To protect confidential information from improper acquisition, access, use, or disclosure and ensure its security, integrity and availability.
- To safeguard patient privacy, protected health information and confidentiality in accordance with the law.
- To ensure the security of electronic health information and Summit's hardware, software and systems.
- To provide a resource to staff to assist in navigating federal and state privacy, confidentiality and information security laws.
- To maintain complete and accurate medical records in accordance with federal and state privacy and security laws, regulations and policies.

Reproductive Health Care and Prohibitions

- Reproductive Health Care (RHC) means “health care… that affects the health of an individual in all matters relating to the reproductive system and to its functions and processes. This definition shall not be construed to set forth a standard of care for or regulate what constitutes clinically appropriate reproductive health care.”

Very broad definition – not only women and not just abortion. Applies to entirety of our patient population including men, children and LGBTQ+ community.

- Prohibits use or disclosure of PHI containing RHC “to conduct a criminal, civil, or administrative investigation into or to impose criminal, civil, or administrative liability on any person for the mere act of seeking, obtaining, providing, or facilitating lawful reproductive health care, or to identify any person to initiate such activities.”
- We must have requestor sign an attestation (Form 811 in FOD) that use/disclosure is not for a prohibited purpose. Required when the request is for:
  - Health oversight activities,
  - Judicial and administrative proceedings,
  - Law enforcement purposes, and
  - Disclosures to coroners and medical examiners

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RHC Applicability

Prohibition on use/disclosure applies where:

- ✔ RHC is lawful under the law of the state in which it was provided under the circumstances under which it was provided, or
- ✔ RHC is protected, required or authorized under federal law, including the US Constitution, under the circumstances under which it was provided, regardless of the state in which it is provided, or Presumption applies.

Presumption applies unless:

- ✔ SHA has actual knowledge that the RHC was unlawful under the circumstances in which it was provided, or
- ✔ Factual information supplied by the person requesting the PHI that demonstrates to SHA a substantial factual basis that the RHC was not lawful under the specific circumstances in which it was provided.

Assumes RHC is lawful when provided by a person other than SHA unless SHA has determined otherwise.

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HIPAA – Some Key Terms

Individually Identifiable Health Information is a subset of health information created or received by Summit Healthcare Association, and:

- Relates to the past, present, or future physical or mental health or condition of an individual; the provision of health care to an individual; **or** the past, present, or future payment for the provision of health care to an individual; **and**
- That identifies the individual; **or**
- With respect to which there is a reasonable basis to believe the information can be used to identify the individual.

Protected Health Information ("PHI") means Individually Identifiable Health Information:

- Transmitted by electronic media;
- Maintained in electronic media; or
- Transmitted or maintained in any other form or medium.

Electronic Protected Health Information ("ePHI") means PHI transmitted by, or maintained in, electronic media.

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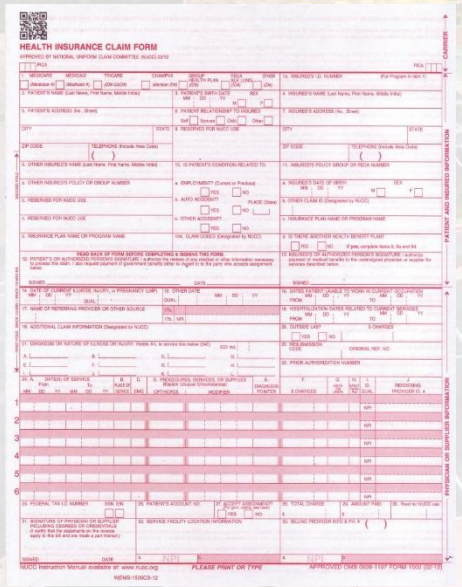
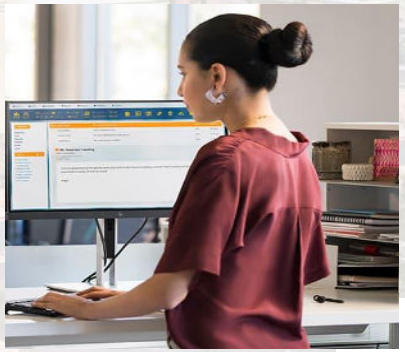
Health Information in the Organization

Where Does PHI Live?

- Within the facility (on paper, in computers, in videos and photographs)
- BOTH verbal and written information
- Medical, behavioral health and health care billing information
- Information shared with other health care providers, payers or third parties (like our contractors)





What does it mean to be *Individually Identifiable*?

- Names, street addresses, city, county, precinct, zip code and their equivalent geocodes,
- All elements of dates (except year) for dates directly related to an individual (e.g., birth date, admission and discharge dates, etc.),
- Phone numbers, fax numbers, email addresses,
- Social Security numbers, medical record numbers, health plan beneficiary numbers, account numbers, certificate/license numbers,
- Vehicle identifiers and serial numbers, including license plate numbers,
- Device identifiers and serial numbers, Web Universal Resource Locators (URLs), Internet Protocol (IP) address numbers,
- Biometric identifiers, including finger and voice prints,
- Full face photographic images and any comparable images, and
- Any other unique identifying number, characteristic, or code (note this does not mean the unique code assigned by the investigator to code the data)

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Patient Rights Under HIPAA

HIPAA guarantees Patient Rights. These are listed in our Notice of Privacy Practices (NoPP) - the right to:

- Privacy and Confidentiality
- Inspect and Get a Copy of Medical Records
- Request Amendment of Medical Records
- Request Restrictions on their PHI
- An Accounting of Disclosures
- Request Confidential Communications
- Designate a Personal Representative
- Be Informed of Summit's Duties (how we use, disclose and share their PHI)
- Know Types of Uses/Disclosures that Require an Authorization and How to Revoke the Authorization
- A Paper Copy of the NoPP
- Request Information is Not Given Out to Certain People, and Opt Out of Patient Directory
- To Complain to Summit or the HHS Office for Civil Rights for Perceived Rights Violations
- Name, Title & Phone Number of Summit Contact
- Effective Date of the NoPP

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Legal Consequences of HIPAA Violations

Civil or Criminal penalties:

Civil Penalties 2024

Penalty Tier	Culpability Definition	Minimum Penalty per Violation	Maximum Penalty per Violation	Annual Penalty Limit
Tier 1	Lack of Knowledge	$141	$71,162	$2,134,831
Tier 2	Reasonable Cause, not Willful Neglect	$1424	$71,162	$2,134,831
Tier 3	Willful Neglect, corrected within 30 days	$14,232	$71,162	$2,134,831
Tier 4	Willful Neglect, *not* corrected within 30 days	$71,162	$2,134,831	$2,134,831

- **Criminal**: Up to $50,000 and one (1) year in pris
- **Knowingly releasing information**: Up to $100,000 and 5 years in prison
- **Malicious Intent/Gaining access to Health Information under false pretenses**: Up to $250,000 and 10 years in prison

Professional Consequences:

- Disciplinary action by State Boards (e.g., Board of Nursing, Board of Medicine, Board of Osteopathy, etc.) Certifications, Licenses, etc.
- See SHA Policies and Procedures (http://Indidge.nrmc.org/GRC/HPM)
- May result in termination of employment or contract at Summit Healthcare

Failure to comply may also hurt the reputation of the facility, erode patient trust, put accreditation at risk and result in costly lawsuits.

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Privacy FAQs – Day to Day Operations

Who Can I Talk to About the Patient's Care?

- Other health care providers and staff who are involved with the patient's care
- People whom the patient designates (HIPAA/PHI Contacts)
- Patient's Personal Representative (e.g., child's parents, legal guardian)
- Callers who ask for a hospital patient by name - can ONLY state name, location in the hospital (e.g., room number, phone extension) and general condition (e.g., stable, critical). This is only if the patient has not opted out of the facility directory.

When Can I Access a Patient's Medical Record?

- When needed to do your job (treatment, payment or healthcare operations)
- *Examples*: Reviewing relevant patient medical history when preparing a treatment plan, reviewing chart notes to code a claim, conducting quality review, case management and care coordination.

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Privacy FAQ's – Day to Day Operations

- ALWAYS validate you have the correct patient before taking action (e.g., handing over documents, charting, setting an appointment). Ask the *patient to give you* their full name with spelling and date of birth or another unique identifier. (Don't simply recite info and ask the patient if it is correct.)

- Parental Consent
  - Either parent, don't need both
  - Both have equal rights unless determined otherwise by a court of law, so if disagree, best practice to avoid proceeding until resolved (unless emergency or court order)
  - Notify Risk Management/Compliance/Bioethics in stalemates
  - Guardians – require proof of guardianship
  - Stepparents – No authority to consent unless adopted the child

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Your Role in Patient Privacy

- Only access charts of patients for whom you are directly involved with their care, and use only the minimum amount of PHI necessary to do your job.
- Never access your own chart or those of immediate family members, friends, loved ones or coworkers. All requests for access must follow Health Information Management (HIM) procedures, including submitting a Release of Information form or written request.
- Ask your co-worker to treat family members, register them as patients, etc.
- Never gossip about patients (many HIPAA violations stem from overhearing verbal discussions). Do not discuss patient information within anyone other than those directly involved with the patient's care.
- Respect confidential information - All information that identifies any individual is considered confidential.
- Be sure that patient information is ONLY given to or shared with those who have a legal right to it.
- Never post any PHI on social media. Don't respond to any patient related posts or grievances on social media.
- Follow all Summit Healthcare policies and procedures.
- ALWAYS report any suspected HIPAA incidents or privacy violations. Retaliation for filing a good faith complaint is strictly prohibited. If you *see* something, *say* something -
  - RL system via The Hub on SUMM-IT Up (https://summitcommunity.net/summit_hub)
  - Compliance Hotline, at (844) 965-3490
  - To the Privacy Officer (Natalie Roehlk, x: 6939) or Security Officer (Jay Larson, x: 6389) directly

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Questions?

Chief Compliance & Privacy Officer at 928-537-6556
Compliance Director at 928-537-6510
HIPAA Privacy Officer at 928-537-6939

To complete the training, read the Summit Healthcare Association Code of Conduct and Ethics, and the Workforce Member HIPAA and Confidentiality Agreement.

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