



**Banner Health's
Compliance Program
&
Corporate Integrity Agreement
Handout**

Banner's Compliance Program

Program Structure

Banner created the Compliance Program years ago to reinforce Banner's commitment to conducting its business with integrity. Through its Compliance Program, Banner maintains a culture that promotes the prevention, detection, and resolution of conduct that does not conform to laws, regulations, Banner policies, and/or its Code of Conduct.

Banner's Compliance Program is described below.

Compliance Personnel & Structure

The Chief Compliance Officer (David Ledbetter) provides oversight to the entire Compliance Program and reports to Banner's Chief Executive Officer and the Audit Committee of the Board of Directors. The Chief Compliance Officer manages the Ethics & Compliance Department, which provides the day-to-day implementation, oversight, and enforcement of Banner's Compliance Program. Among other duties, the Ethics & Compliance Department:

- Develops compliance policies;
- Creates and implements compliance training programs;
- Researches and investigates compliance issues (including ComplyLine cases);
- Provides advice on coding, billing, regulatory, and other compliance matters;
- Assists with monitoring activities;
- Conducts compliance audits and internal investigations; and
- Oversees Banner's response to government audits and investigations.

The Ethics & Compliance Department also has a designated Compliance Officer for each hospital, provider group, ancillary service area, and insurance division. These Compliance Officers are responsible for operating the Compliance Program at their specific entities.

Compliance committees also assist the compliance personnel by providing advice and assisting with the implementation of the Compliance Program.

Compliance Documents

With respect to our Compliance Program, Banner sets standards primarily through its Code of Conduct and compliance policies. The Code of Conduct is a guide to the overall conduct of operations, whereas compliance policies provide guidance on specific topics and business activities. Compliance policies and the Code of Conduct are available on Banner's intranet site and online at <https://www.bannerhealth.com/about/vendors>.

Compliance Training and Education

Compliance training and education is mandatory at Banner. Team Members receive training on Banner's Corporate Integrity Agreement (CIA) requirements, Banner's Compliance Program, and applicable Federal health care program requirements when they first begin working at Banner and annually thereafter. In addition, specialized training in areas of compliance risk (e.g., quality, coding, billing, cost reporting, and referral source arrangements) may be required of certain individuals based upon their role in the organization. Team Members who fail to complete compliance training may be subject to corrective action or sanctions.

Most compliance training and education is provided through the Banner Learning Center (BLC). Through the BLC, we track compliance with training requirements and report such information as necessary.

Lines of Communication

All Team Members are required to immediately report “Potential Compliance Issues,” which are defined as any suspected or actual violations of the Code of Conduct, Banner policies, and laws and regulations relating to Federal health care programs. Potential Compliance Issues include, but are not limited to, fraud, waste, and abuse. To obtain guidance on or report a Potential Compliance Issue, Team Members may choose from several avenues, including their supervisor, department manager or director, Compliance Officer, the Ethics & Compliance Department, or the ComplyLine. The ComplyLine is Banner’s confidential hotline; it is hosted by a company independent of Banner. The ComplyLine can be contacted at any time by calling **1-888-747-7989** or online at <https://bannerhealthcomplyline.alertline.com>. Team Members do not have to disclose their names and, if requested, anonymity will be maintained to the extent possible and in accordance with applicable laws.

Banner prohibits retaliation against any Team Member who seeks help or who reports a Potential Compliance Issue in good faith. Anyone who retaliates or encourages others to do so will be subject to corrective action, up to and including termination of employment or contractual relationship with Banner. Team Members who deliberately make false accusations to harm or retaliate against other Team Members are subject to discipline.

Monitoring and Auditing

An effective compliance program requires the use of audits and other evaluation techniques to monitor compliance and assist in the resolution of identified issues. At Banner, monitoring activities are primarily performed by operational personnel with the assistance of the Ethics & Compliance Department. Operational personnel can identify the risk areas within their operations, develop appropriate controls and policies, and monitor whether those controls and policies are implemented and followed.

In contrast to monitoring activities, auditing is performed by the Ethics & Compliance Department or by external auditors acting under the Department’s direction. Audit activities are planned and prioritized using a risk assessment and considering a variety of factors, including prior audit results; recent investigations, litigation, and settlements; compliance complaints; and government activities. The resulting audit plan is brought to the Audit Committee of the Board for approval. In addition to these planned audits, special audits may be conducted in response to identified issues, inquiries, or requests.

Response and Prevention

Banner is committed to investigating all reported issues promptly and confidentially to the extent possible. The Ethics & Compliance Department investigates reported Potential Compliance Issues. Reported patient privacy, human resources, or risk management issues are referred to the appropriate department for investigation.

The Ethics & Compliance Department coordinates any findings from investigations of Potential Compliance Issues and recommends corrective actions that need to be made, which may include, as appropriate, revising policies and procedures; providing education; making prompt restitution of any overpayments; notifying the appropriate governmental agency; instituting whatever disciplinary action is necessary; and implementing systemic changes to prevent similar violations from reoccurring in the future.

Enforcement and Discipline

Banner does not contract with, employ, or bill for services rendered by an individual or entity that is currently excluded or ineligible to participate in Federal health care programs or suspended or debarred from Federal government contracts. Team Members are required to immediately disclose to Banner if they become excluded, debarred, suspended, or otherwise declared ineligible.

Team Members who knowingly violate Banner's Code of Conduct or any other aspect of Banner's Compliance Program may be subject to appropriate corrective action, up to and including termination of employment or contractual relationship with Banner.

Banner's Corporate Integrity Agreement

Background

Banner entered into a Corporate Integrity Agreement (CIA) on April 9, 2018, which will remain in effect for five years through April 8, 2023. This CIA was the result of a settlement with the Department of Justice involving allegations that 12 of Banner's hospitals in Arizona and Colorado admitted patients for medical treatment who should have been treated on an outpatient basis. The settlement resolved a 2013 lawsuit filed in the United States District Court for the District of Arizona under the qui tam or whistleblower provisions of the False Claims Act.

Under the CIA, Banner must maintain – and in some cases expand – its Compliance Program to meet the CIA requirements. Fortunately, Banner had an established Compliance Program that met many of the requirements in the CIA. However, certain changes – including new compliance personnel, policies, procedures, and processes – have been implemented.

Key Definitions

The CIA contains a few key definitions.

First, the CIA applies to all "**Covered Persons**" at Banner. Covered Persons are defined as (1) all owners who are natural persons, officers, directors, and employees of Banner; (2) all contractors, subcontractors, agents, and other persons who furnish patient care items or services or who perform billing or coding functions on behalf of Banner, excluding vendors whose sole connection with Banner is selling or otherwise providing medical supplies or equipment to Banner; and (3) all physicians and other non-physician practitioners who are members of Banner's active medical staff at the Covered Facilities. Covered persons do not include part-time or per diem employees, contractors, subcontractors, agents, and other persons who are not reasonably expected to work more than 160 hours during a year.

Second, since the CIA is the result of a short-stay investigation at certain hospitals, some provisions of the CIA only apply to those "**Covered Facilities**." The 12 Covered Facilities are Banner Baywood Medical Center, Banner Heart Hospital, Banner Boswell Medical Center, Banner Del. E. Webb Medical Center, Banner Desert Medical Center, Banner Estrella Medical Center, Banner Gateway Medical Center, Banner University Medical Center Phoenix, Banner Ironwood Medical Center, Banner Thunderbird Medical Center, North Colorado Medical Center, and McKee Medical Center.

CIA Requirements

The CIA contains several requirements, including, but not limited to, obligations related to:

- Compliance Personnel
- Board Oversight
- Management Certifications
- Written Standards
- Training and Education
- Independent Review Organization
- Internal Controls
- Reporting

Compliance Personnel

The CIA requires Banner to have a **Chief Compliance Officer**. Among other duties, the Chief Compliance Officer (1) develops and implements compliance policies, procedures, and practices; (2) makes periodic reports regarding compliance matters to the Board; (3) notifies the OIG about certain reportable events, investigations, and legal proceedings; and (4) chairs the System Compliance Committee. The Chief Compliance Officer at Banner is David Ledbetter, Vice President of Ethics & Compliance.

Under the CIA, Banner must have **Area Compliance Program Directors**. The Area Compliance Program Directors are the Compliance Officers in the facilities, clinics, ancillary service areas, or insurance divisions. The Compliance Officers assist the Chief Compliance Officer in implementing Banner's Compliance Program and also monitor the day-to-day compliance activities in their areas.

Board Oversight & Management Certifications

The **Audit Committee of the Board of Directors** is responsible for overseeing Banner's Compliance Program. Under the CIA, the Audit Committee must meet at least quarterly to review Banner's Compliance Program, including the performance of the Chief Compliance Officer and the System Compliance Committee. The Audit Committee must annually adopt a resolution summarizing its oversight of Banner's Compliance Program and concluding that, to the best of its knowledge, Banner has implemented an effective Compliance Program.

The CIA also requires certain **senior members of management** to monitor and oversee activities within their areas of authority and to annually certify that their areas are in compliance with the CIA obligations and all applicable Federal health care program requirements.

Compliance Program Obligations

Under the CIA, Banner must have **written policies and procedures** regarding the operation of its Compliance Program and Banner's compliance with Federal health care program requirements. Applicable Banner policies are embedded in the compliance training modules.

Banner is also required to provide compliance **training and education** to all Covered Persons regarding Banner's Compliance Program, Banner's CIA requirements, and applicable Federal health care program requirements, including the Anti-Kickback Statute and the Stark Law. Banner must provide its training materials and records to the OIG upon request.

To comply with the CIA, Banner engaged an **Independent Review Organization** to perform two audits each year: (1) a claims review and (2) an inpatient medical necessity and appropriateness (or short stay) review. Each audit is conducted at two Covered Facilities selected by the OIG.

Internal Controls – Disclosure Program

Banner has a **Disclosure Program** that allows individuals to disclose – outside their chain of command – any identified issues or questions associated with Banner’s policies, conduct, practices, or procedures with respect to a Federal health care program that they believe to be potential violations of criminal, civil, or administrative law. All Covered Persons must report potential compliance issues to any of the following:

- Supervisor
- Department manager or director
- Compliance Officer
- Ethics & Compliance Department
- ComplyLine

The ComplyLine is Banner’s confidential hotline and can be used for anonymous reporting. The ComplyLine can be contacted by calling 888-747-7989 or online at <https://bannerhealthcomplyline.alertline.com>. Banner will not retaliate against anyone who reports a potential compliance issue in good faith.

Banner’s relevant policy is *Compliance: Reporting and Investigating Potential Compliance Issues*.

Internal Controls – Exclusion Screening Process & Overpayments

Banner has an **exclusion screening process**, which consists of screening Covered Persons to ensure that they are not Ineligible Persons prior to engaging their services and on a monthly basis thereafter. Ineligible Persons are individuals and entities that are currently excluded from participation in any Federal health care program or have been convicted of a criminal offense that requires mandatory exclusion but have not yet been excluded. In addition, Covered Persons must immediately disclose if they become Ineligible Persons.

Banner’s relevant policy is *Compliance: Federal and State Exclusion Review*.

Banner has a policy and procedure regarding the identification, quantification, and repayment of **overpayments** received from any Federal health care program. Overpayments are any funds that Banner receives or retains under any Federal health care program to which Banner, after applicable reconciliation, is not entitled under such Federal health care program.

Banner’s relevant policy is *Compliance: 60 Day Report/Repay Overpayment*.

Reporting

As required by the CIA, Banner notifies the OIG about certain **Reportable Events** within 30 days after making the determination that the Reportable Events exist. Reportable Events include (1) a substantial overpayment; (2) a matter that a reasonable person would consider a probable violation of criminal, civil, or administrative laws applicable to any Federal health care program for which penalties or exclusion may be authorized; (3) the employment of or contracting with a Covered Person who is an Ineligible Person; and (4) the filing of a bankruptcy petition by Banner.

In addition, Banner is required to submit certain scheduled reports to the OIG. Banner must submit an **Annual Report** for each of the five years of the CIA that discusses the status of Banner’s compliance with CIA requirements and summarizes Banner’s compliance activities for the reporting period.

Penalties for Non-Compliance

Failure to meet certain CIA obligations may result in monetary penalties called **stipulated penalties**. For most violations, Banner would be obligated to pay a stipulated penalty of \$2,500 per day.

In addition, the OIG may exclude Banner from participating in any Federal health care program for materially breaching its CIA obligations. A **material breach** is defined as (1) repeated violations or a flagrant violation of any of the obligations under the CIA; (2) failure to report a Reportable Event, take corrective action, or refund overpayments; (3) failure to respond to a demand for stipulated penalties; and (4) failure to engage or use an IRO.