



February 7, 2023

**NOTICE**

The Kaweah Delta Health Care District Board of Directors will meet in an Audit and Compliance Committee meeting at 1:00 PM on Tuesday, February 14, 2023 in the Kaweah Health Support Services Building - Granite Conference Room {520 W. Mineral King Ave., Visalia}.

The Board of Directors of the Kaweah Delta Health Care District will meet in a Closed Audit and Compliance Committee meeting immediately following the 1:00 PM meeting on Tuesday, February 14, 2023 in the Kaweah Health Support Services Building – Granite Conference Room {520 W. Mineral King Ave., Visalia} pursuant to Government Code 54956.9(d)(2).

All Kaweah Delta Health Care District regular board and committee meeting notices and agendas are posted 72 hours prior to meetings (special meetings are posted 24 hours prior to meetings) in the Kaweah Health Medical Center, Mineral King Wing entry corridor between the Mineral King lobby and the Emergency Department waiting room.

The disclosable public records related to agendas are available for public inspection at Kaweah Health Medical Center – Acequia Wing, Executive Offices (Administration Department) {1st floor}, 400 West Mineral King Avenue, Visalia, CA and on the Kaweah Delta Health Care District web page <https://www.kawahhealth.org>.

KAWEAH DELTA HEALTH CARE DISTRICT  
Michael Olmos, Secretary/Treasurer

A handwritten signature in black ink that reads "Cindy Moccio". The signature is written in a cursive, flowing style.

Cindy Moccio  
Board Clerk  
Executive Assistant to CEO

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# KAWEAH DELTA HEALTH CARE DISTRICT BOARD OF DIRECTORS AUDIT AND COMPLIANCE COMMITTEE

Tuesday, February 14, 2023

Kaweah Health Support Services Building, Granite Conference Room  
520 West Mineral King Ave, Visalia, CA 93291

ATTENDING: Directors; Mike Olmos (Chair) & Garth Gipson; Gary Herbst, Chief Executive Officer; Malinda Tupper, Chief Financial Officer; Keri Noeske, Chief Nursing Officer; Rachele Berglund, Legal Counsel; Ben Cripps, Chief Compliance & Risk Officer; Amy Valero, Compliance Manager; Michelle Adams, Executive Assistant

## OPEN MEETING – 1:00PM

**Call to order** – *Mike Olmos, Audit and Compliance Committee Chair*

**Public / Medical Staff participation** – Members of the public wishing to address the Committee concerning items not on the agenda and within the subject matter jurisdiction of the Committee may step forward and are requested to identify themselves at this time. Members of the public or the medical staff may comment on agenda items after the item has been discussed by the Committee but before a Committee recommendation is decided. In either case, each speaker will be allowed five minutes.

1. **Written Reports** – Committee review and discussion of written reports.
  - 1.1 [Compliance Program Activity Report](#) – *Amy Valero*
2. **Verbal Reports**
  - 2.1 Compliance Program – Provide an update on the status of Compliance Program activity – *Ben Cripps*
3. **Approval of Closed Meeting Agenda** – Kaweah Health Specialty Clinic Conference Room – immediately following the open meeting
  - o Conference with Legal Counsel – Anticipated Litigation  
Significant exposure to litigation pursuant to Government Code 54956.9(d)(2) (6 cases)  
– *Ben Cripps and Rachele Berglund (Legal Counsel)*

**Adjourn Open Meeting** – *Mike Olmos, Audit and Compliance Committee Chair*

**CLOSED MEETING – Immediately following the 1:00PM open meeting.**

**Call to order – Mike Olmos, Audit and Compliance Committee Chair**

1. **Conference with Legal Counsel - Anticipated Litigation** – Significant exposure to litigation pursuant to Government Code 54956.9(d)(2) (6 cases) – *Ben Cripps and Rachele Berglund (Legal Counsel)*

**Adjourn – Mike Olmos, Audit and Compliance Committee Chair**

*In compliance with the Americans with Disabilities Act, if you need special assistance to participate at this meeting, please contact the Board Clerk (559) 624-2330. Notification 48 hours prior to the meeting will enable the District to make reasonable arrangements to ensure accessibility to the Kaweah Delta Health Care District Board of Directors meeting.*

# Compliance Program Activity Report – Open Session

November 2022 through January 2023

Ben Cripps, Chief Compliance & Risk Officer



[kaweahhealth.org](https://kaweahhealth.org)



# Education

## Live Presentations

- Compliance and Patient Privacy – Management Orientation
- Compliance and Privacy Education
  - Health Information Management
  - Patient Access Registration, Emergency Department

## Written Communications – Bulletin Board / Area Compliance Experts (ACE) / All Staff

- Email Encryption
- Think Before you Act, FairWarning
- Compliance Privacy Matters

# Prevention & Detection

- **California Department of Public Health (CDPH) All Facility Letters (AFL)** – Review and distribute AFLs to areas potentially affected by regulatory changes; department responses reviewed and tracked to address the regulatory change and identify potential current/future risk.
- **Medicare and Medi-Cal Monthly Bulletins** – Review and distribute bulletins to areas potentially affected by the regulatory change; department responses reviewed and tracked to address the regulatory change and identify potential current/future risk.
- **Office of Inspector General (OIG) Monthly Audit Plan Updates** – Review and distribute OIG audit Plan issues to area potentially affected by audit issue; department responses reviewed and tracked to identify potential current/future risk.
- **California State Senate and Assembly Bill Updates** – Review and distribute legislative updates to areas potentially affected by new or changed bill; department responses reviewed and tracked to address regulatory change and identify potential current/future risk.

# Prevention & Detection (continued)

- **Patient Privacy Walkthrough** – Observation of regulatory signage and privacy practices throughout Kaweah Health; issues identified communicated to area management for follow-up and education.
- **User Access Privacy Audits** – Fairwarning daily monitoring of user access to identify potential privacy violations.
  - Kaweah Health Employees
  - Non-employee users
- **Office of Inspector General (OIG) Exclusion Attestations** – Quarterly monitoring of department OIG exclusion list review and attestations.
- **Medicare PEPPER Report Analysis** – Quarterly review of Medicare Inpatient Rehabilitation, Hospice, Mental Health, and Acute Inpatient PEPPER statistical reports to identify outlier and/or areas of risk; evaluate with Kaweah Health leadership quarterly at PEPPER Review meeting.

# Prevention & Detection (continued)

- **Centers for Medicare and Medicaid Services (CMS) Final Rule** – Review and distribution of the 2023 CMS Final Rule for Inpatient Prospective Payment System (IPPS), Outpatient Prospective Payment System (OPPS), Inpatient Psychiatric Facility (IPF), Inpatient Rehabilitation Facility (IRF), Home Health and Hospice, and Physician Fee Schedule (PFS) policy and payment updates; department responses reviewed and tracked to address the regulatory change and identify potential current/future risk.
- **COVID-19 Emergency Blanket Waivers** – Monitoring of the CMS COVID-19 temporary blanket waivers which provide health care providers with extra flexibilities required to respond to the COVID-19 pandemic. The declaration of the COVID-19 Public Health Emergency is expected to terminate on February 28, 2023 (State of California) and April 11, 2023 (Federal). Compliance will continue to monitor and engage service line leaders to ensure compliance practices following the termination of each 1135 Blanket Waivers.

# Oversight, Research & Consultation

## Ongoing

- **Fair Market Value (FMV) Oversight** – Ongoing oversight and administration of physician payment rate setting and contracting activities including Physician Recruitment, Medical Directors, Call Contracts, and Exclusive and Non-Exclusive Provider Contracts.
- **Licensing Applications** – Forms preparation and submission of licensing application to the California Department of Public Health (CDPH); ongoing communication and follow-up regarding status of pending applications.
  - *Subacute Expansion – Consultation to support the bed capacity expansion. Electrical updates to the building are required for California Department of Health Care Access and Information (HCAI) approval. Pending estimates for renovations.*

# Oversight, Research & Consultation

## New

Ultrasound OB Limited Added to US Fetal Biophysical Profile – Research to determine the appropriateness of sonographers adding an Ultrasound OB Limited Exam when a physician places a single order for an Ultrasound Fetal Biophysical Profile exams. It was determined that it is inappropriate for sonographers to add an Ultrasound OB Limited Exam; it is the role of the physician to order. Research and findings were shared with leadership.

Radiology Lidocaine Bill Only Use – Research to determine if a Lidocaine Charge workflow was being executed appropriately. It was identified that documentation was included in Cerner and in the Medication Administration Record (MAR) when documentation should have occurred only in the MAR. Charges were reversed out of Cerner to only be reflected in the MAR. No financial impact as these drugs are bundled with the primary procedure. The workflow was monitored to ensure success moving forward. Research and findings were shared with leadership.

Assembly Bill (AB) 1278 Open Payments Database – Research based on documentation to determine if outpatient hospital-based clinics are required to notify patients, upon their initial visit, of the CMS Open Payment Database by posting the notice in a conspicuous location in the office and by providing each patient with a written or electronic notice at the initial visit. It was determined Rural Health Clinics, Family Medicine Clinic, Sequoia Cardiology, and Sequoia Regional Cancer Center are required to comply with the new regulation effective January 1, 2023. The Compliance office created the notices for posting as well as the patient acknowledgement form provided to appropriate leadership.

# Oversight, Research & Consultation

## New

Privacy Training for Contractors and Students – Research to determine if the privacy training testing used for non-employee physician offices can also be used for contractors and students. Compliance determined the current process used for students prior to arriving on campus does not allow time for them to complete the training course in NetLearning prior to starting clinical hours. Additionally, Employee IDs are not created for contractors until all documents are submitted creating the inability of contractors to complete the training course in NetLearning prior to arriving on campus. Due to the inability to facilitate this process of privacy violations caused by students and contractors, education will continue to be administered via a paper packet with an attestation page. Findings were shared with leadership.

Electronic Visit Verification (EVV) – Research and consultation on the EVV system required by the 21<sup>st</sup> Century Cures Act. The EVV system is required for Medi-Cal patients utilizing Home Health services. After review, Home Health leadership decided to use our current Home Health vendor, Crescendo, (opposed to the free system provided by the state) to transmit information would be the most appropriate.

Home Health Orders – Research to determine if the process change of obtaining a physician's signature on electronic orders within 30 days for Home Health orders is appropriate. Compliance confirmed the process change and modified policy verbiage is in alignment with regulatory guidance. Findings were shared with leadership.

# Oversight, Research & Consultation

## New

Dialysis Orders Protocols – Research to determine whether a telephone verbal order is appropriate for dialysis patients when a physician is not present. It was determined a protocol should be created by a physician and approved through the orders protocol committee to eliminate the need for a written paper copy order in urgent situations. Research was shared with leadership.

Home Health Nurse Practitioner (NP) / Physician Assistant (PA) Plans of Care (POC) Orders – Research to determine if a facility is required to release provider agreements for NP/PAs who sign POC orders. It was determined that the burden lies with the facility to ensure NP/PAs are working within the scope of their duties and an agreement is in place. Regulation does not require a facility to provide agreements for NP/PAs who sign POC orders. Research was shared with leadership.

Shockwave Medical/Shockwave Transcarotid Artery Repair (TCAR) Cases – Research to determine if it is appropriate for a physician to perform a TCAR with shockwave/intravenous lithotripsy (IVL). It was determined there are no prohibitions against the use of Shockwave for TCAR cases and is subject to the discretion of the physician to use the device for treatment of the patient. If coverage is denied for the procedure, supplemental documentation may need to be provided to support the medical necessity use of Shockwave for TCAR cases. Research was shared with leadership.

# Oversight, Research & Consultation

## New

Assembly Bill (AB) 1020 – Oversight to ensure compliance with AB 1020, Health Care Debt and Fair Billing. The Compliance Department worked with Patient Accounting, Patient Access and Information System Services (ISS) to ensure compliance with the six (6) primary elements outlined within the bill. The implementation of the requirements involved updates to financial assistance policies, prohibition of reporting to credit agencies within a designated timeframe, following a designated number of attempts to collect payment from the patient. Compliance with required elements is pending; full implementation is expected by February 2023.

# Auditing & Monitoring

## New

### CPT Psychotherapy Rural Health Clinics

**Situation:** CMS is required by the Social Security Act to ensure payment is made only for those medical services that are reasonable and necessary. A post-payment review was conducted by Compliance based on Comprehensive Error Rate Testing (CERT) contractor identified errors focusing on Psychotherapy CPT Codes 90837 (60 minutes) and 90832 (30 minutes) with patients.

**Assessment:** An internal review of twenty-five (25) randomly selected accounts containing Medicare Psychotherapy CPT codes from January 2022 – September 2022 was conducted. The review noted a 68% compliance rate. Eight (8) accounts contained documentation on the proper CPT code, however, the billing statement was inappropriately reflected a telehealth CPT Code (G2025). Procedure code G2025 is not to be used for psychotherapy telehealth visits. The eight (8) accounts coded with CPT G2025 inappropriately resulted in an underpayment and will be rebilled.

**Recommendation:** Results pending further analysis of impacted accounts.

# Auditing & Monitoring

## New

### Malnutrition DRG Audit

**Situation:** Malnutrition has been recently added to the Office of Inspector General (OIG) Workplan. Hospitals are allowed to bill for treatment of malnutrition based on the severity of the condition (mild, moderate, or severe) and whether it affects patient care. Severe malnutrition is classified as a major complication or comorbidity (MCC). Adding an MCC to a claim can result in an increased payment by causing the claim to be coded in a higher diagnosis-related group.

**Assessment:** An external audit of fifty (50) randomly selected inpatient accounts with dates of service in December 2022 was completed to evaluate malnutrition criteria. The audit noted a 100% compliance rate. The results of the review have been shared with leadership.

**Recommendation:** Based on the findings, no further assessment is required at this time.

# Auditing & Monitoring

## New

### COVID-19 Lab Tests with Add On Codes

**Situation:** In calendar year 2023, the Office of Inspector General (OIG) will begin audits focusing on COVID-19 Laboratory Tests with High Throughput Add On Codes. Starting in 2021, the amended Administrative Ruling (CMS2020-1-R2) lowered the base payment amount for COVID-19 clinical diagnostic laboratory tests (CDLTs) that use high-throughput technology to \$75 in accordance with CMS's assessment of the resources needed for those tests. The amended ruling also established an additional \$25 add-on payment for a COVID-19 CDLT that uses high-throughput technology if the laboratory: (1) completed the test in two calendar days or less and (2) completed a majority of the CDLTs that use high-throughput technology in two calendar days or less for their patients in the previous month. If 51% or more of the tests are completed within two calendar days, then all COVID-19 tests completed the following month are eligible for the add-on payment.

**Assessment:** An internal audit of all COVID-19 throughput tests for all insurance claims from January 2022 – November 2022 was conducted to determine the proper application of the COVID-19 testing add on code. The audit noted a 99% compliance rate. The results of the audit were shared with leadership.

**Recommendation:** Based on the findings, no further assessment is required at this time.

# Auditing & Monitoring

## New

### Health Information Management (HIM) Self Report

Situation: On November 21, 2022, an HIM coder notified Compliance of an ongoing coding concern of incomplete and inaccurate physician orders. The reporter stated that coders were instructed to code the accounts regardless of concerns of order completeness.

Assessment: Twenty-eight (28) accounts identified by the reporter were reviewed. The review noted an 86% compliance rate. A secondary audit of thirty (30) accounts was performed and no errors were noted.

Recommendation: Based on the findings, no further assessment is required at this time.

# Auditing & Monitoring

## New

### Noridian Cardiovascular Nuclear Medicine Probe

Situation: On November 10, 2022, Noridian notified Kaweah Health of its intent to complete a prepayment review of cardiovascular nuclear medicine with procedure code 78452 due to an increased utilization of 27% compared to previous utilization data.

Assessment: Nineteen (19) records have been requested and submitted for review. Preliminary results indicate that all records have been approved.

Recommendation: Pending official notification letter.

# Auditing & Monitoring

## New

Noridian Targeted Probe and Educate (TPE) Upper Gastrointestinal Endoscopy

Situation: On December 20, 2022, Noridian notified Kaweah Health of its intent to complete a prepayment review of upper gastrointestinal endoscopy with procedure code 43239 due to an increased utilization of 15% compared to previous utilization data.

Assessment: Twelve (12) records have been requested from November 18, 2022 – December 29, 2022. Records are being reviewed for accuracy and will be submitted to Noridian by the due date.

Recommendation: Results are pending review.

# Auditing & Monitoring Update

## Noridian Targeted Probe and Educate (TPE) Colonoscopy

**Situation:** On August 3, 2022, Noridian notified Kaweah Health of the intent to complete a pre-payment audit of colonoscopy services billed with procedure code 45380 due to an increased utilization of 53% compared to previous utilization data.

**Assessment:** An external audit of twenty-nine (29) claims for review for the period of July 5, 2022 – September 14, 2022 was conducted. The review noted a 100% and a claim compliance rate.

**Recommendation:** Noridian has closed this audit. Based on the findings, no further assessment is required at this time.

# Auditing & Monitoring

## Update

### Noridian Targeted Probe and Educate (TPE) Audit of PET Scans

**Situation:** On July 20, 2022, Noridian notified Kaweah Health of the intent to complete a prepayment audit of PET scans billed with procedure code 78815 due to an increased utilization of 47% compared to previous utilization data.

**Assessment:** A review of thirty (30) randomly selected accounts for the period of March 25, 2021 – August 11, 2022 noted two denials resulting in a compliance rate of 93.4%.

**Recommendation:** Noridian has closed this audit. Based on the findings, no further assessment is required at this time.

# Projects

## Business Associate Agreement Validation

**Situation:** Review, validation and collection of Business Associate Agreements (BAA) within the Compliance 360 Contract Database System. A BAA is defined as a legal document between a healthcare provider and a third party that will create, receive, maintain, or transmit Protected Health Information (PHI) of our patients and/or employees. Ensuring BAAs are in place are crucial in protecting the privacy of our patients and protecting the organization against liability in the event of a breach of PHI committed by a Business Associate.

**Assessment:** In collaboration with the Materials Management Department (who oversees all non-provider contracts) Compliance has initiated a validation process to ensure accurate storage of BAAs within the system and removal of expired or invalid agreements.

**Outcome:** Leadership has been re-educated to ensure BAAs are acquired, when appropriate, when executing new agreements. The result of the extensive review is intended to identify and execute (when necessary) agreements for all required vendors and ensure an organized process through the contracts management system for ease of access. This project is anticipated to be completed by the end of February 2023.

# Projects

## Compliance Program Effectiveness Tool

**Situation:** In 2017, compliance professionals from the Department of Health and Human Services (HHS) and Office of Inspector General (OIG) published the results of a roundtable discussion surrounding effective methods for measuring the effectiveness of the seven (7) elements of compliance programs. A resource document was made public and is now widely used as an annual assessment conducted by healthcare organizations to measure the effectiveness of the organization's compliance program.

**Assessment:** The effectiveness tool is used to identify potential gaps and risks within a compliance program. Work is currently underway to complete the Compliance Program Effectiveness Assessment.

**Outcome:** The results of the Effectiveness Assessment will be used to identify risks and opportunities to enhance the organization's Compliance program and direct action plans identified in the annual Compliance Program goals.