



DEPARTMENT OF BEHAVIORAL HEALTH SERVICES

COMPLIANCE PROGRAM HANDBOOK

DOING THE RIGHT THING!

June 2008
Division of Compliance and Data Management

TABLE OF CONTENTS

Page

SECTION I: INTRODUCTION

A. Behavioral Health Services Mission and Core Values	3
B. Background.	3
C. About the Handbook.....	3

SECTION II: COMPLIANCE PROGRAM OVERVIEW

A. Policy Statement.	5
B. Purpose and Benefits.....	5
C. Scope	6
D. Program Structure.	6
E. Proactive, Positive & Preventative Approach..	8
F. Deficit Reduction Act and Preventing, Detecting and Correcting Fraud, Abuse and Waste.....	8

SECTION III: PROGRAM ELEMENTS

A. Policies, Procedures and Standards.....	10
B. Compliance Communication.....	11
C. Education and Training Programs.....	11
D. Documentation.....	12
E. Reporting and Investigative Processes.....	12
F. Auditing and Monitoring.....	13
G. Corrective Action Plans and Prevention.....	14
H. Enforcement and Sanctions.....	15

SECTION IV: COMPLIANCE STANDARDS

A. Management Responsibilities16

B. Employee Responsibilities17

SECTION V: CODES OF ETHICAL CONDUCT18

SECTION VI: FEDERAL AND CALIFORNIA FALSE CLAIMS ACTS19

SECTION VII: HELP & INFORMATION25

APPENDICES

A. Compliance Policies and Procedures..... 26

B. Codes of Ethical Conduct

 For Employees 28

 For Contractors38

 For Volunteers40

ACKNOWLEDGEMENT & AGREEMENT FORM44

SECTION I: INTRODUCTION

A. Madera County Behavioral Health Services Mission and Core Values

– Mission –

To promote the prevention of and recovery from mental illness and substance abuse for the individuals, families and communities we serve by providing accessible, caring and culturally competent services.

– Core Values –

We, the employees of Madera County Behavioral Health Services, value:

- The promotion of wellness and recovery.
- The integrity of individual and organizational actions.
- The dignity, worth and diversity of all people.
- The importance of human relationships.
- The contribution of each employee.

B. Background

The Compliance Program was initiated December 2003 in response to a new State Department of Mental Health contract requirement that county Mental Health Plans establish compliance programs. The impetus of this mandate was recent federal Medicaid Managed Care regulations, in particular, 42 CFR 438.608 Program Integrity Requirements, strongly recommending entities receiving federal health care funds establish voluntary compliance programs.

This new initiative was eagerly embraced by BHS management as a logical extension and formalization of its core values of integrity and compliance with the law in all its affairs. This commitment was clearly demonstrated by hiring a full time Compliance Officer—unusual for a small county. All senior managers were appointed as the first Compliance Committee ensuring the new program became embedded throughout the Department. Over the last five years, significant time, resources and energy have been allocated to the development of the Compliance Program. It has become part of the fabric of BHS supporting the mission by promoting an organizational culture that expects quality, honesty, integrity and adherence to the law.

C. About The Handbook

The Compliance Program Handbook aims to:

- Explain the purpose, scope, policies and activities of the Compliance Program.
- Convey to staff the organizational standards for integrity and *doing the right thing*.

- Make explicit the high ethical expectations and specific obligations of everyone affiliated with BHS related to compliance.
- Educate staff about the duty to and protections for reporting compliance issues.
- Define the Department's response to wrongdoing and acts subject to criminal scrutiny.
- Provide mandated information on the False Claims Acts.
- Serve as a training tool for new staff and as a guide and resource for existing staff.
- Be transparent to funders and the general public regarding BHS commitment to integrity and legal compliance.

The term "staff" used throughout this handbook refers to full and part time employees, volunteers, board members, interns, contractors and other agents acting on behalf of BHS. Although contractors are not technically "staff", the provisions of this handbook apply to them.

This handbook was developed by Sonja Bentley, Compliance Officer, with the support and approval of the Director, Management Team, and Compliance Committee. It is considered a living document and suggestions for improvement are strongly encouraged and sincerely welcomed.

SECTION II: COMPLIANCE PROGRAM OVERVIEW

A. POLICY STATEMENT

Behavioral Health Services (BHS) is committed to providing high quality care to clients and being of maximum service to the community. The services provided by BHS are reimbursed in large part by federal and state funding sources. It is the policy of BHS to comply with all applicable laws, regulations, statutes and conditions of participation, and guidelines that govern reimbursement from all third party payors. The Compliance Program is designed, implemented and enforced to promote adherence to this policy.

When individuals become part of BHS, their conduct is expected to reflect the Department's and County's values. Staff have the individual duty to know and adhere to both the spirit and specific terms of the Compliance Program (the Program). All staff are personally responsible to comply with the Code of Ethical Conduct, and the policies, procedures and standards developed by BHS in connection with the Compliance Program.

Management is dedicated to maintaining a work environment that promotes honesty and integrity in staff as they perform their daily tasks. All levels of management have a special duty to model the principles set forth in the Program and to be stellar examples of personal and professional integrity.

B. PURPOSE AND BENEFITS

The purpose of the Compliance Program is to establish a culture and framework that promotes the understanding of and adherence to the letter and spirit of applicable laws and regulations. The primary focus is ensuring the integrity of claiming reimbursement from all third party payors. Because BHS services are reimbursed in large part by both federal and state funding sources (Medi-Cal and Medicare), particular emphasis is placed on ensuring strict compliance with all the requirements and conditions of participation in these programs. Preventing, detecting and correcting fraud, abuse and waste is at the Program's core.

The benefits of the Compliance Program are many:

- Fulfills BHS legal duty to prevent submission of false or inaccurate claims to government and private payors;
- Meets state and federal guidelines for compliance programs;
- Assists in the fundamental care-giving mission to clients and the community;
- Concretely demonstrates to employees and the community at large the Department's commitment to honest and responsible conduct;
- Provides a clear expectation of staff behavior related to fraud, waste and abuse;
- Prevents, detects, and deters unethical and criminal conduct;
- Speeds and optimizes proper payment of claims;
- Improves the quality of patient care;
- Is the central source for distributing information on health care statutes, regulations and other directives related to fraud, waste and abuse;

- Provides a user friendly way for employees to report known or potential compliance problems so a prompt and thorough investigation can be conducted;
- Initiates immediate and appropriate corrective action in response to identified non-compliance;
- Minimizes loss to the government from false claims and reduces BHS exposure to civil damages and penalties, criminal sanctions, and administrative remedies such as program exclusion.

C. SCOPE

The provisions of the Program apply Department-wide to all clinical, business and legal activities performed by BHS staff including employees, volunteers, interns, Board members and others working on behalf of Behavioral Health Services. In addition, the law specifies contractors that furnish, or authorize the furnishing of, Medi-Cal and Medicare health care items or services, perform billing or coding functions, or are involved in the monitoring of health care provided by BHS, are covered under BHS Compliance Program. This includes contracted psychiatrists, network and organizational providers.

Toward the goal of satisfying the conditions of participation in government funded health care programs and other third party payors, particular emphasis is placed on claiming accuracy and timeliness. This includes but is not limited to ensuring the integrity of policies and practices related to medical necessity, coding, billing, cost reports, billing related clinical documentation, claims development, overpayments and paybacks, staff licensure, anti-kickback, and ineligible persons screening.

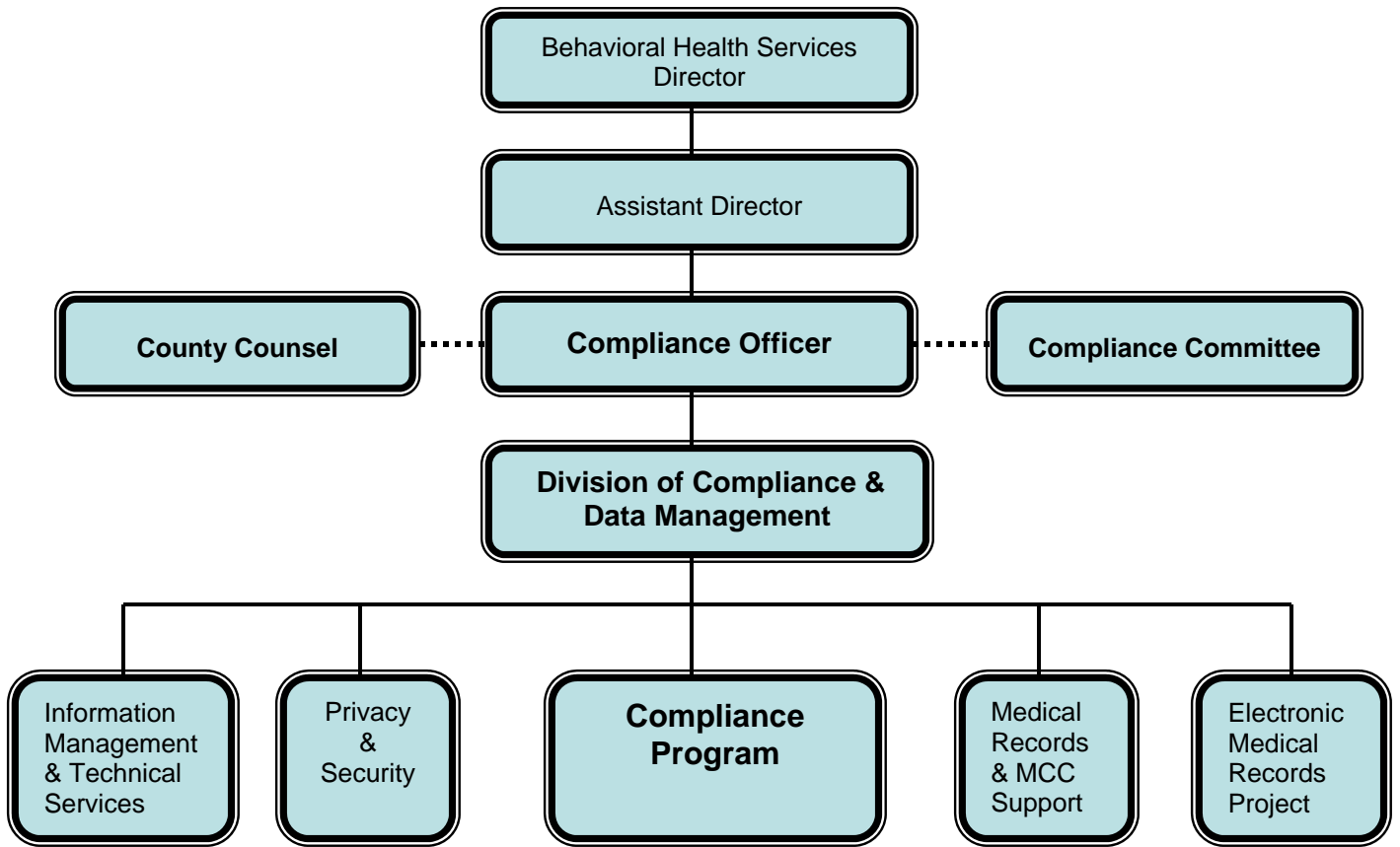
The Compliance Program does not attempt to set forth all the substantive standards and practices of BHS designed to achieve compliance. Certain functional areas are more likely to have issues involving compliance with applicable laws and regulations such as the Mental Health Plan and the Fiscal Division. These divisions have plans and policies to address legal issues pertinent to their specific area and which augment and further support the Compliance Program.

D. PROGRAM STRUCTURE

The Compliance Program is placed in the Division of Compliance and Data Management. The Division Manager, also the designated Compliance Officer and Privacy/Security Officer, reports to the Assistant Director and is a member of the Management Team. As needed, the Compliance Officer has direct access to the Chief County Counsel. As Manager of the Data Management function, the Compliance Officer has the authority to ensure compliance requirements are built into the design and implementation of all billing and reporting systems.

The Compliance Committee, staffed and facilitated by the Compliance Officer, provides oversight of the Compliance Program. Committee members include senior managers, a representative from the County Auditor's Office and the Chief County Counsel. The Compliance Committee advises the Compliance Officer and assists in the development, implementation and evaluation of the Compliance Program.

COMPLIANCE PROGRAM STRUCTURE



E. PROACTIVE, POSITIVE, AND PREVENTATIVE APPROACH

The Program approaches compliance with a proactive, preventative and positive strategy. BHS assumes the majority of staff are honest and align with the agency's culture of integrity. Building on this premise, the Program's activities concentrate on motivating and preparing staff to *do the right thing* through timely, effective and continuous training and by providing the business tools and technical assistance they need. It is not the intention to discipline or penalize staff for honest mistakes or reasonable human errors. The Program is committed to establishing an environment free from intimidation and retaliation where complaints, problems and errors can be openly discussed and resolved without fear. At the same time, BHS strictly enforces the Compliance Program and applies swift and appropriate disciplinary action for egregious, repeated and/or intentional violations.

F. DEFICIT REDUCTION ACT AND PREVENTION, DETECTION AND CORRECTION OF FRAUD, ABUSE AND WASTE

From the Program's inception, the prevention, detection and correction of fraud, abuse and waste has been a top priority. This is because every agency is at risk for improper conduct—either intentional or unintentional—resulting in erroneous or fraudulent claims. In 2005, the Deficit Reduction Act, an integral part of the Medicaid Integrity Program, was passed. It represented the most significant single dedicated investment the federal government has made in ensuring the integrity of the Medicaid Program. It grants the Office of Inspector General considerably more power to investigate Medicaid fraud. The Act was in response to dramatically escalating Medicaid fraud and abuse. For example, it was found that 1/3 of outpatient mental health services provided were medically unnecessary, billed incorrectly, rendered by unqualified providers, and not or poorly documented. Having a strong Compliance Program can dramatically reduce the fiscal impact of an audit if problems are discovered.

Although abusive activities can turn into fraud depending on how egregious the circumstances, the following are commonly accepted definitions.

Abuse includes incidents or practices which are inconsistent with sound fiscal, business, or medical practice. These practices may, directly or indirectly, result in: 1) unnecessary costs to the client, Department and/or government; or 2) reimbursement for services that are not medically necessary or that fail to meet professionally recognized standards for healthcare. These are unknowing and/or unintentional errors, mistakes or even negligence compared to fraud that is intentional deception for personal gain.

The type of abuse to which Medicare and Medi-Cal is most vulnerable is over utilization of services. Other reasons for disallowance include:

- Claims for services not medically necessary, or not medically necessary to the extent furnished (e.g. a battery of diagnostic tests is given where, based on diagnosis, only a few are needed).
- Missing, incomplete or non-compliant documentation including:

- Clinical documentation does not substantiate service code, time spent or clinical appropriateness of the billed service.
- No client plan in place.
- No evidence the service involved direct patient care (e.g. client transportation where rehabilitative staff-client interaction isn't noted).
- Time billed is rounded instead of by the minute.
- Service delivered is outside the scope of practice of the provider.

Billing errors related to abuse typically result in an audit disallowance and repayment to government or other payors. But if the non-compliance persists, it then qualifies as fraud and must be disclosed to the Office of the Inspector General.

Fraud is intentional deception or misrepresentation that an individual knows or should know, to be false that could result in some unauthorized benefit to the individual or another person. Intentional and knowing acts that could be considered health care fraud include but are not limited to:

- False representation of service and diagnostic codes
- Billing for services not actually rendered
- Billing for services not medically necessary
- Failing to report overpayments or credit balances
- Knowing misuse of provider identification numbers
- Billing separately for services that should be a single service
- Falsifying treatment plans or medical records to maximize payments
- Duplicate billing in an attempt to gain duplicate payment
- Billing non-covered services as if covered
- Billing services provided by unqualified or unlicensed clinical personnel or at uncertified sites
- Up coding the level of service provided.

IMPORTANT CHANGE: Under the Federal False Claims Act, fraud has a wide and inclusive meaning—it lowers the level of intent. The government does not have to prove intent to defraud—intent is not necessary for false claims liability. According to the False Claims Laws, if an individual knows the truth and still files a false claim or ignores information that would provide the falsity or accuracy of a claim or act in reckless disregard for a claims truth, this constitutes a *false claim*. For example, if a supervisor or manager does not review a claim to check for mistakes and allows a duplicate claim to be submitted, the case can be made that not reviewing is reckless disregard. See Section VI: The False Claims Acts.

Waste is the extravagant, careless or needless expenditure of funds or consumption of resources that result from deficient practices, poor systems controls or bad decisions. Waste may or may not provide any personal gain.

III. PROGRAM ELEMENTS

The Compliance Program is based on the State of California's Department of Mental Health approach, *Building the Blocks of a Compliance Program: Development Assistance for County Mental Health Plans*. This model, in turn, follows the integrity program elements required of Medicaid Managed Care organizations by the Office of the Inspector General (Title 42, CFR 438.608–Program Integrity Requirements). The Compliance Program also incorporates the mandates of the Deficit Reduction Act of 2005. The Compliance Program covers the following elements:

A. Policies, Procedures and Standards

1. Policies and Procedures

Numerous policies, procedures, and business rules are provided to guide and inform staff about many decisions and actions. They are regularly updated as applicable statutes, regulations and federal health care program requirements are modified. All policies and procedures are distributed Department-wide and are available in hard copy at each program site and electronically to everyone in the Department's electronic folders in Public Share.

Clearly, it is impractical to cover every situation in the daily conduct of the Department's many varied activities. Nor can policies and procedures be written that encompass the full body of all applicable laws and regulations. BHS does, however, expect staff to follow laws and regulations not covered in BHS policies and procedures. In any instance where there is doubt about how to proceed, staff are responsible to seek direction through the chain of command, the Compliance Officer, or another BHS-designated expert. Staff must exercise common sense, individual judgment or personal integrity in determining their responsibility.

See Appendix A: Compliance Policies and Procedures

2. Standards

- Compliance Standards

Written Compliance Standards are provided for management and employees governing compliance related activities. The standards articulate BHS commitment to comply with all federal and state legal requirements, with an emphasis on the prevention, detection and correction of fraud, waste, and abuse.

See Section IV: Compliance Standards

- Code of Ethical Conduct

The Code of Ethical Conduct (the Code) is the heart of the Compliance Program. Individuals joining BHS are expected to conduct themselves in a manner which reflects the values of the Department and the County. The Code articulates the basic values, ethical principles and standards expected of persons affiliated with BHS. It is the duty of each person to follow, without

exception, the Code's principles. Separate codes of conduct have been developed for employees, contractors and volunteers.

See Section V: Codes of Ethical Conduct

B. Compliance Communication

All staff have direct access to the Compliance Officer (CO). BHS recognizes open lines of communication between the CO and personnel are critical to the success of the Program. The CO has an "open door" policy and can be contacted directly by phone, email or in person. In addition, the CO attends bi-monthly supervisor meetings and monthly meetings of BHS largest clinic where compliance is a standing agenda item.

Staff are encouraged to report incidents of potential fraud directly to the CO as well as to freely seek clarification regarding legal concerns. Maintaining the confidentiality of reporters is critical and this is done, within the limits of the law. Rarely is it required to reveal the identity of the reporter to investigate a concern.

See Appendix A: P&P CMP 02:00 Compliance Officer

C. Education and Training Programs

Mandated, comprehensive, ongoing training is central to the Program's positive, proactive and preventative approach to ensuring legal and ethical compliance. Compliance training is provided at the start of service, annually and *as needed* to all employees, personal service contractors, volunteers, student interns, network providers, and advisory board members.

Within two weeks of joining BHS, staff receive orientation training. This includes an overview of the Compliance Program and how it works, the Code of Ethical Conduct, compliance policies and procedures, current auditing and monitoring activities and the False Claims Acts. Staff are provided this handbook and instructed to keep it at their desk. Annual update training has a threefold purpose: 1) to maintain a high level of awareness of each person's ethical duty to be honest and to report erroneous or fraudulent conduct; 2) as a refresher on the Compliance Program requirements and activities; and 2) to educate about specific, Department-wide compliance issues. Training is also provided *as needed* to:

- Correct identified erroneous practices and operations.
- Respond to training requests from staff or management.
- Comply with new government mandated training requirements.
- Instruct on critical changes including organizational modifications; new or revised policies and procedures; and regulatory changes.

Timely, accurate and complete documentation is essential to clinical client care. This same documentation serves a second crucial function as verification the submitted bill is accurate. Medical record documentation, coding and billing training is provided quarterly under the direction of the Compliance Officer. The course

material is tailored separately for caseworkers and clinical treatment staff.

See Appendix A: P&P CMP 11:00 Compliance Training

D. Documentation

Compliance related records and documentation are maintained by the Compliance Office to establish the performance of the Compliance Program. Examples of records include:

- Compliance Work Plan
- Risk Assessments
- Compliance Committee meeting notes
- Compliance Hotline Log
- Ineligible Persons Screening Report
- Code of Ethical Conduct Violations Log
- Compliance Reports Log
- Client Service/Appointment Sign-In Log
- Reports of Investigations and Corrective Actions
- Training and educational presentation overviews, handouts, attendance sheets, and participant evaluations
- Auditing and monitoring activities, results, recommendations and corrective action follow up.

See Appendix A: P&P CMP 04:00 Maintenance of Compliance Records

E. Reporting and Investigative Processes

1. Duty to Report

Staff have an obligation to report instances of actual or suspected violations of law, regulation or policy in a timely manner. Staff are encouraged to first raise their concerns following their chain of command—Supervisor, Division Manager, Assistant Director and Director. If that is not comfortable or appropriate, staff may contact the Compliance Officer directly and discretely at any time or call the Compliance Hotline. There is “no wrong door” for reporting compliance related wrongdoing. Failure to report even suspected misconduct may itself be the basis for disciplinary action against staff.

2. What to Report

Violation of any law, statute, regulation, guideline, Code of Ethical Conduct, contractual obligation, policy or procedure must be reported. In particular, violations related to claiming requirements are a top priority in our efforts to prevent and detect fraud, abuse and waste. This includes *but is not limited to* noncompliance related to coding, billing, medical necessity, cost reports, clinical documentation, failure to report overpayment or credit balances, eligibility determination, scope of practice—to name a few. Also see page 20.

3. Non Retaliation Policy

Staff who, in good faith, report possible compliance violations will not be subjected to retaliation or harassment of any kind at any level as a result of their reports. Retribution or condoning retribution related to reporting of compliance concerns is

emphatically prohibited and anyone who engages in such prohibited activity will be subject to disciplinary action. Concerns about possible retaliation or harassment should be reported to the Compliance Officer. All such communications will be kept confidential to the extent allowable by law. There may be times when the reporting individual's identity must become known or be revealed if government authorities become involved. Individuals who knowingly and intentionally report false or misleading information in order to harm or retaliate against another will be subject to discipline.

4. Compliance Hotline and Anonymous Reporting

The Compliance Hotline is another method for reporting suspected inappropriate or non-standard practices. The Compliance Hotline is a toll free number available 24 hours a day, and callers have the option of remaining anonymous. An impartial and independent company records information reported by callers and communicates this information to the Compliance Officer so appropriate verification, investigation and resolution can take place. A unique code is assigned to each call for follow-up communication by anonymous callers. Posters explaining the hotline are prominently displayed in staff areas at all BHS program sites.

COMPLIANCE HOTLINE: 1-800-342-3061

5. Investigations

The Compliance Office has the authority to investigate any potential compliance issue and will:

- Initiate an investigation of any reasonable report made in "good faith" to make a case-by-case determination as to whether a violation has occurred. The Compliance Officer either conducts the investigation and/or refers the complaint to a more appropriate area within or outside BHS such as the Quality Improvement Coordinator, legal counsel, auditors, or health care consultants with the needed expertise.
- Ensure investigations are conducted promptly, objectively, thoroughly and confidentially within the limits of the law.
- Coordinate the development of a corrective action plan including return of discovered overpayments to relevant government programs.
- Prepare reports of each investigation comprehensively documenting the issues, methods, findings, and corrective measures including any disciplinary action. Employees are also expected to cooperate with all investigations.

See Appendix A: P&P CMP 06:00 Reporting Compliance Concerns and Protocol for Internal Follow-Up and Investigation

P&P CMP 07:00 Compliance Hotline

P&P CMP 08:00 Corrective Action

F. Auditing and Monitoring

The Program conducts proactive monitoring and auditing functions designed to test and confirm compliance with legal requirements and policies. The Compliance Officer

and the Compliance Committee jointly develop a Work Plan to track the development of the Program. The Work Plan's objectives are to verify adherence to, and awareness of, compliance policies and procedures. This plan also identifies and prioritizes areas to audit and monitor with proposed timetables and personnel assignments.

The areas selected for monitoring and auditing are determined from a variety of sources including formal risk assessment studies, reports of fraudulent activities or irregularities from staff, compliance investigation findings, potential risk areas noted by the Office of the Inspector General, and benchmarking analyses.

Identified risks are prioritized for monitoring or auditing based on the greatest risk and/or organizational benefits. Monitoring plans may call for permanent, more focused, ongoing periodic, or ad hoc monitoring.

Currently, ongoing monitoring is performed to determine compliance with:

1. Compliance Program Work plan:
 - Training Schedule and Attendance
 - Availability of Compliance Hotline
 - Ineligible Persons Screening / CMS Exclusion Lists
 - Corrective Action Plans
2. Code of Ethical Conduct
3. Billing and Coding: Service Activity Log (billing document)
4. Medicare /Medi-Cal Denial Reports
5. Medical Record Reviews
6. Staff Licensure and Site Certifications

Progress reports of monitoring and auditing activities, results and corrective actions are maintained by the Compliance Officer. Findings and recommendations are distributed throughout the Department as appropriate.

See Appendix A: P&P CMP 09:00 Auditing and Monitoring

G. Corrective Action Plans & Prevention

When a compliance violation has been identified, the Compliance Officer oversees the development and implementation of a corrective action plan. The division or administrative personnel responsible for the activity develops a draft corrective action plan specifying the tasks, completion dates, and responsible parties. The Compliance Officer and/or the Compliance Committee may be consulted for guidance in developing the corrective action plan.

A corrective action plan must address the specific issue to prevent the occurrence of similar problems in other areas. The plan may include:

- Policy, procedure and/or system changes
- Designated way to handle compliance issues
- Additional training

- Restricted work responsibilities of particular employees with a propensity to engage in noncompliance practices or who have competence concerns
- Disclosure of the matter to external parties
- Recommendation for sanctions or discipline
- Prompt restitution of overpayments
- Disclosure to OIG

The Compliance Officer must approve the plan prior to implementation and monitors the implementation of the plan to ensure successful and sustained resolution.

See Appendix A: P&P CMP 08:00 Compliance: Corrective Action

H. Enforcement and Sanctions

All staff are responsible for complying with the Compliance Program, the Code of Ethical Conduct and related policies and procedures. Failure to do so will be responded to fairly, firmly, consistently and in proportion to the real or potential risk of harm to the Department. Any required disciplinary action is initiated by the appropriate management personnel, not by the Compliance Program. Most small, unintentional and short term infractions are met with education and training whenever possible. When employees must be disciplined, each situation is evaluated on a case-by-case basis following the Madera County Code, Chapter 2.57, Civil Service Rule 2.57, 8/91, pages 97-98.

All new employees are trained on the County's disciplinary rules as part of the County orientation program; disciplinary rules are reiterated in the Compliance Program orientation. The Compliance Program new employee orientation carefully addresses enforcement and discipline related to noncompliance including violations that may result in civil and criminal penalties. Violations by individual service contractors are handled according to the terms of their contract with the County.

See Appendix A: P&P CMP 08:00 Compliance: Corrective Action

SECTION IV: COMPLIANCE STANDARDS

A. Management Responsibilities

1. Manage a comprehensive, system-wide, evidence-based Compliance Program. This includes a Compliance Officer to oversee compliance activities and a Compliance Committee comprised of senior management staff to provide compliance leadership.
2. Develop and implement a compliance plan with relevant policies and procedures.
3. Encourage reports of known or suspected non-compliance and provide a confidential method of disclosure.
4. Prohibit retaliation or retribution of any kind at any level towards persons reporting suspected instances of non-compliance. Any employee who commits or condones any form of retaliation may be subject to discipline up to and including termination.
5. Ensure no employee, contractor or other person hired, engaged or retained is deemed an *ineligible person* by the following: Office of the Inspector General, Board of Behavioral Sciences, California Medical Board, General Services Administration List of Parties Excluded from Federal Procurement and Non-Procurement Programs, Calif. Department of Health Medi-Cal Suspended and Ineligible List, and other similar lists.
6. Require supervisors and managers to: 1) respond in an appropriate and timely manner to issues or concerns brought to their attention by employees or anyone affiliated with BHS; 2) ensure staff has sufficient information to comply with laws, regulations and policies; and 3) enforce staff attendance at all appropriate and necessary compliance training.
7. Provide ongoing compliance training and education programs for employees and other designated individuals.
8. Ensure the *Code of Ethical Conduct* is explained to all employees, contractors, and anyone acting on behalf of BHS, and an "Acknowledgement of Understanding" is signed at the time of hire/start of service and annually thereafter.
9. Promptly investigate every credible allegation, inquiry, complaint or other evidence of non-compliant conduct according to BHS established policy and procedures and federal requirements for self-reporting.
10. Take corrective action quickly to confirm situations of non-compliance including, but not limited to, disciplinary action, contract termination, suspension of billing,

return of overpayments, modification of the coding and billing system, adjustment of policies and/or procedures, steps to reduce the error rate, additional training, and increased auditing and monitoring.

B. Employee Responsibilities

All BHS staff must actively participate in the Compliance Program including:

1. Perform all duties *in good faith* and to the best of one's ability.
2. Read the *Code of Ethical Conduct* and acknowledge understanding by signing and retaining a copy. Lack of awareness or misunderstanding of standards cannot be used as a defense for a charge of non-compliance with policy and/or law, or for unethical conduct.
3. Comply with the letter and spirit of the *Code of Ethical Conduct*, BHS policies and procedures, contractual obligations, as well as laws and regulations applicable to federal, state and local healthcare programs. Failure to comply with this may potentially subject an employee to civil and criminal liability, sanctions, penalties or disciplinary action.
4. Consult with a supervisor, manager or Compliance Officer regarding any questions about the *Code of Ethical Conduct*, policy, procedure and/or practice. There will be no retribution of any kind at any level for asking questions or raising concerns about the *Code of Ethical Conduct*.
5. Promptly report *in good faith* any suspected violation of the *Code of Ethical Conduct*, agency policies and procedures, laws and regulations using one of the Compliance Program's available reporting methods. *In good faith* means honestly or truthfully believing the information reported to be true. Employees are not exempted from the consequences of their own misconduct by self-reporting, although self-reporting may be taken into account in determining the appropriate course of action.
6. Help create a work culture that promotes the highest standards of ethics and compliance.
7. Cooperate and supply information requested for internal compliance investigations. Failure to do so could result in disciplinary action.
8. Immediately contact and/or follow the Compliance Program instructions for responses to external investigations, subpoenas, search warrants, unannounced site visits, requests for interviews and any other requests to access BHS property and information. The Compliance Program directions and procedures not only protect the rights of BHS as an organization and client confidentiality, but also assure investigators receive the full cooperation necessary to complete their work.

SECTION V: CODES OF ETHICAL CONDUCT

Written standards of conduct are one of the cornerstones of a strong compliance program. BHS has developed separate codes for: 1) employees and on site independent service contractors, 2) volunteers, and 3) contractors.

The Codes provide explicit workplace expectations and guidance to staff in carrying out their daily activities within appropriate ethical and legal standards. It assures everyone affiliated with BHS shares its values of quality, honesty and integrity and communicates BHS commitment to legal and ethical compliance. BHS leaders are expected to set the example, to be in every respect a model—never sacrificing ethical and compliant behavior in pursuit of business objectives.

The absence of an explicit reference to a specific behavior or situation does not mean the behavior is ethical or unethical. The standards are not meant to be exhaustive—they are not a substitute for common sense, individual judgment or personal integrity. Rather, the Codes provide a framework for decision-making and conduct when ethical issues arise. More specific direction is provided in policies and procedures. If there is not an existing BHS or County policy on a particular subject matter, the general principles of the Codes are to be used as a guideline.

The Code of Ethical Conduct for Employees was developed and revised by a committee representing staff from all program areas and organizational levels. Codes for volunteers and contractors were developed by the Compliance Committee. All Codes are reviewed and modified annually to ensure they keep pace with changes.

The Code is provided to all new staff the first week of employment or service and staff are required to acknowledge the Code in writing. The Code is reviewed annually and modified as needed. It is redistributed whenever changes are made. Adherence to the Code of Ethical Conduct is such a high priority, it is a standard performance criterion on the Department's employee performance evaluation.

Code of Ethical Conduct infractions by employees are monitored by the Compliance Program. Each supervisor is responsible to submit a monthly report—*Code of Ethical Conduct Infractions Log*—to the Compliance Office. This log indicates the number and types of infractions occurring among their staff (no names) and the corrective actions taken. This log provides documentation staff are being held accountable for abiding by the Code and shows patterns and trends for needed training.

Adhering to the Code of Ethical Conduct for Contractors is a requirement and recited in language in all new and renewed contracts. Contracts are not approved until written, signed acknowledgment of the Code of Ethical Conduct is received.

See Appendix C: Code of Ethical Conduct for Employees
Code of Ethical Conduct for Contractors
Code of Ethical Conduct for Volunteers

SECTION VI: THE FALSE CLAIMS ACTS

A. Mandated Training on False Claims Laws

The Medicaid Integrity Program was created by the Deficit Reduction Act of 2005 to combat Medicaid (called Medi-Cal in California) fraud and abuse. This law mandates communication to staff regarding provisions of the Federal False Claims Act and whistleblower activities and is included here to meet that obligation. BHS also trains staff on the provisions of the California False Claims Act. All staff must review the following information at hire and annually thereafter and acknowledge this in writing.

B. Overview

1. What is the Federal False Claims Act?

The Federal False Claims Act (FCA) is a federal statute that covers fraud involving any federally funded contract or program, including Medicare and Medical programs.

The FCA permits a person with knowledge of fraud against the United States Government, referred to as the “qui tam plaintiff,” to file a lawsuit on behalf of the Government against the person or business that committed the fraud (the defendant). Therefore, the FCA establishes liability for any person who knowingly submits, or causes another person or entity to submit, false claims for payment of government funds. If the action is successful the qui tam plaintiff is rewarded with a percentage of the recovery.

2. What is the California False Claims Act?

The California False Claims Act (CFCA) is similar to the FCA involving false claims for state, city, county or other local government funds.

3. Why did Congress enact the False Claims Act?

The government needs help to adequately protect the Treasury against growing and increasingly sophisticated fraud. The job of ensuring the integrity of the nearly \$1 trillion spent each year on various programs and procurement is too big if government officials are working alone. Therefore, to cut down fraud, this act establishes a partnership between federal law enforcement officials and private citizens who learn of fraud against the Government.

4. Who should report suspected or known fraud at BHS?

As public servants, BHS staff are guardians of tax dollars entrusted to us to provide behavioral health services. As such we have an obligation to ensure the integrity and honesty of all BHS business practices. Reporting misuse of government funds is “*the right thing*” to do. In addition, BHS policy (CMP 03:01) and the BHS Code of Ethical Conduct require all staff to report suspected or known fraud, waste and abuse.

Persons reporting suspected or known fraud do not need direct or first-hand knowledge of the fraud. Thus, an employee that learns from a colleague of fraud by his or her employer or by another employee must report the fraud.

5. What should be reported? **VERY IMPORTANT!!**

Under the Act, fraud has a wide and inclusive meaning—it lowers the level of intent. The person committing the fraud does not have to actually know the information he/she provided the Government was false. It is sufficient that the defendant supplied the information to the Government either: 1) in “*deliberate ignorance*” of the truth or falsity of the information; or 2) in “*reckless disregard*” of the truth or falsity of the information. In other words, the Act is not limited solely to those who intentionally misrepresent facts—it also covers reckless conduct. This means the accused should have known that its representations to the Government were not true or accurate, but did not bother to check, and such recklessness may constitute a violation of the Act. Likewise, if the defendant deliberately ignores information, which may reveal the falsity of the information submitted to the Government, such “*deliberate ignorance*” may constitute a violation. In summary, *the government does not have to prove intent to defraud for financial gain, only that the claims submitted were not valid!*

The Act also permits recovery from those who “cause” misrepresentations to be made. In other words, a person may violate the law even if he or she does not actually submit the false information to the Government, but instead creates or provides false information that is then submitted to the Government by another.

Examples:

Civil action is taken against individuals/groups/organizations that submit, or cause to be submitted, a false or fraudulent claim through “*deliberate ignorance*” or “*reckless disregard*”. Examples include, but are not limited to:

- Billing for services not rendered or goods not provided;
- Falsifying certificates of medical necessity or billing for services not medically necessary;
- Billing separately for services that should be a single service;
- Lack of documentation or documentation that does not support what was billed;
- Falsifying treatment plans or medical records to maximize payments;
- Failing to report overpayments or credit balances;
- Duplicate billing;
- Unlawfully giving health care providers, such as physicians, inducements in exchange for referral services.

Criminal actions are brought against fraud that involves willful misrepresentation, in either documentation or verbal statement, for financial

gain. Willful misrepresentation can take many forms including:

- Deliberately falsifying documentation for payment;
- Deliberately covering up or hiding information about a false claim;
- Lying to an investigator or obstructing an ongoing investigation related to false claims action.

6. What are the penalties for a fraud conviction?

FCA: A person or organization may be liable for:

- A civil penalty between \$5,000 - \$10,000 for each false claim;
- Three times the amount of damages sustained by the Government due to the violations;
- The costs of a civil suit for recovery of penalties or damages.

CFCA: A person or organization may be liable for:

- A civil penalty of up to \$10,000 for each false claim;
- Three times the amount of damages sustained by the state or local government due to the violation;
- The costs of a civil suit for recovery of damages.

7. What protections are given *qui tam* plaintiff/whistleblower?

The False Claims Act protects employees who are retaliated against by an employer because of their participation in a *qui tam* action. The protection is available to any employee who is fired, demoted, threatened, harassed, or otherwise discriminated against by his or her employer because the employee investigates, files or participates in a *qui tam* action.

BHS policy (CMP 03:01) also prohibits any acts of retaliation against any employee, who, *in good faith*, reports any activity they reasonably believe is in violation of local, state or federal laws, regulations or guidelines.

This “whistleblower” protection includes reinstatement and damages double the amount of lost wages if the employee is fired, and any other damages sustained if the employee is otherwise discriminated against.

8. How to report suspected or known fraud?

Report suspected or known fraud to any of the following:

- Health and Human Services Office of Inspector General Hotline (800) 447-8477
- California State Attorney General’s Whistleblower Hotline: (800) 952-5225
- BHS Compliance Officer: (559) 675-7851 ext. 11
- BHS Anonymous Compliance Hotline: (800) 342-3061
- Your Supervisor or Manager

FEDERAL FALSE CLAIMS REQUIREMENTS

1. Civil False Claims

- a. 31 U.S.C. Section 3729 (a) prohibits any individual/entity from knowingly submitting or causing the submission of a false or fraudulent claim for payment to the US government. The civil penalty for a false claim is not less than \$5,000 and not more than \$10,000, plus three times the amount of damages.
- b. 31 U.S.C. Section 3729 (b) defines “knowingly” as having actual knowledge of the information, acting in deliberate ignorance of the truth or falsity of the information, acting in reckless disregard of the truth or falsity of the information. The government does not have to prove that the person intended to defraud the government.
- c. 31 U.S.C. Section 3730 includes “Qui Tam” provisions that allow private citizens (relater) to sue violators on behalf of the government. The government can take over the prosecution or allow the relater to handle the case.
 - i. If the government takes over the case and wins, the qui tam relater is eligible for 5-25% share of the recovery.
 - ii. If the relater handles the case and wins, the relater is eligible for 25-35% share of the amount recovered.
 - iii. If the action is initiated by a relater who planned and initiated the violation, then the court may reduce the share of the proceeds. If the relater bringing the action is convicted of criminal conduct arising from the violation of the False Claims Act, then they shall not receive any proceeds from the action.
 - iv. If defendant prevails and the court finds that the qui tam relater was clearly frivolous, clearly vexatious, or took action for the purposes of harassment, then the court may award to the defendant reasonable attorney’s fees and expenses.

2. Criminal False Claims

- a. False Statements relating to Health Care Matters – 18 U.S.C. Section 1035 Criminalizes any false or fictitious statements “in any manner involving a health care benefit program”. The penalty is up to 5 years in prison and a \$25,000 fine.
- b. Federal Criminal False Statements – 18 U.S.C. Section 1001 specifies that whoever knowingly and willfully – (1) falsifies, conceals, or covers up by any trick, scheme, or device a material fact; (2) makes any materially false, fictitious, or fraudulent statement or representation; or (3) makes or uses any false writing or document to contain any materially false, fictitious, or fraudulent statement or entry; shall be fined or imprisoned not more than 5 years, or both.
- c. Federal Criminal False Claims Act – 18 U.S.C. Section 287 states, “Whoever makes or presents... any claim upon or against the United States, or any department or agency thereof, knowing such claim to be false, fictitious, or fraudulent, shall be imprisoned not more than five years and shall be subject to a fine..”
- d. Health Care Fraud – 18 U.S.C. Section 1347
 - i. Anyone who knowingly and willfully demands any health care benefit program or obtains, by means of false presentations, any money or property of a health

- care benefit program.
 - ii. A health care benefit program is defined as any public or private plan or contract, affecting commerce, under which any medical benefit, item, or service is provided to any individual, and includes any individual or entity who is providing a medical benefit, item, or service for which payment may be made under the plan or contract.
 - iii. The penalties for health care fraud include prison and fines.
 - e. Obstruction of Criminal Investigations of Health Care – 18 U.S.C. Section 1518
Anyone who willfully prevents, obstructs, misleads, delays or attempts to do these things in communication of information or records relating to a violation of a Federal health care offense can face up to 5 years in prison and fines.
3. Whistleblower Protections 31 USC Section 3730 (h) protects employees against discharge, demotion, suspension, threats, harassment, or discrimination by the employer because of lawful acts done by the employee in cooperating with the False Claims Act, including investigation for, initiation of, testimony for, or assistance in an action filed or to be filed under this section.

CALIFORNIA FALSE CLAIMS ACT

1. California Government Code Section 12650 definitions include:
 - a. "Claim" includes any request or demand for money, property, or services made to any employee, officer, or agent of the state or of any political subdivision...whether under contract or not, if any portion of the money...was provided by, the state (hereinafter "state funds") or by any political subdivision thereof (hereinafter "political subdivision funds").
 - b. "Knowing" and "knowingly" mean that a person, with respect to information, does any of the following:
 - i. Has actual knowledge of the information.
 - ii. Acts in deliberate ignorance of the truth or falsity of the information.
 - iii. Acts in reckless disregard of the truth or falsity of the information. Proof of specific intent to defraud is not required.
 - c. "Political subdivision" includes any city, city and county, county, tax or assessment district, or other legally authorized local governmental entity with jurisdictional boundaries.
 - d. "Person" includes any natural person, corporation, firm, association, organization, partnership, limited liability company, business, or trust.
2. California Government Code Section 12651 states a person can be liable for three times the amount of damages and also be liable to the state or to the political subdivision for the costs of a civil action brought to recover any of those penalties or damages, and may be liable for a civil penalty of up to ten thousand dollars (\$10,000) for each false claim if the person:
 - a. Knowingly presents or causes to be presented to... the state or any political subdivision thereof, a false claim for payment or approval.
 - b. Knowingly makes, uses, or causes to be made or used a false record or statement

- to get a false claim paid or approved by the state or by any political subdivision.
 - c. Conspires to defraud the state or any political subdivision by getting a false claim allowed or paid by the state or by any political subdivision.
 - d. Knowingly makes, uses, or causes to be made or used a false record or statement to conceal, avoid, or decrease an obligation to pay...the state or any political subdivision.
 - e. Is a beneficiary of an inadvertent submission of a false claim to the state or a political subdivision, subsequently discovers the falsity of the claim, and fails to disclose the false claim to the state or the political subdivision within a reasonable time after discovery of the false claim.
3. The California False Claims Act also includes provisions that allow a private citizen to bring a civil action for a violation of this article as a “qui tam plaintiff”.
- a. If the Attorney General or local prosecuting authority take over the case and prevail, the qui tam plaintiff may receive between 15% and 33% of the proceeds as determined by the court.
 - b. If the Attorney General or local prosecuting authority does not proceed and the qui tam plaintiff prevails, the qui tam plaintiff may receive between 25% and 50% of the proceeds as determined by the court.
 - c. There is no guaranteed minimum recovery for actions initiated by:
 - i. Present or former employees of the State or political subdivision (this includes County employees).
 - ii. Present or former employees who actively participated in the fraudulent activity.
 - d. If defendant prevails and the court finds that the qui tam plaintiff was clearly frivolous, clearly vexatious, or took action for the purposes of harassment, then the court may award to the defendant reasonable attorney’s fees and expenses.
4. Whistleblower Protections
- a. California Government Code Section 12653 provides protection for employees by preventing employers from making, adopting, or enforcing any rule, regulation or policy that would prevent an employee from disclosing information to a government or law enforcement agency or from acting in furtherance of a false claims action.
 - b. California Government Code 12653 also requires that no employer shall discharge, demote, suspend, threaten, harass, deny promotion to, or in any other manner discriminate against, an employee...because of lawful acts done by the employee on behalf of the employee or others in disclosing information to a government or law enforcement agency or in furthering a false claims action, including investigation for, initiation of, testimony for, or assistance in, an action filed or to be filed under the California False Claims Act.

SECTION VII: HELP AND INFORMATION

Ignorance is not a defense for wrongdoing.

It is each person's individual responsibility to ensure they understand and abide by the laws, statutes, regulations, guidelines and policies and procedures that govern our Department—whether they are in writing or not. A number of resources are available to assist in understanding the values, expected standards and procedures of BHS. Please use these supports as your understanding is critical to an effective Compliance Program.

Policies and Procedures: BHS extensive written policies and procedures are a valuable, authoritative resource. They are accessible to all staff electronically in Public Share. Additionally, every BHS site has a current set available in hard copy. For non-staff, copies of policies and procedures can be obtained from the Compliance Office.

Chain of Command and Management Staff: Questions about the Compliance Program, *Code of Ethical Conduct*, policies and procedures, suspected or actual misconduct or any other compliance matter are usually best raised with one's immediate supervisor or chain of command. Contractors may take matters to their designated BHS contact. And all management stand ready, willing and available to help in any way.

Compliance Officer: The Compliance Officer may be contacted confidentially at any time:

Sonja Bentley, Compliance Officer
14277 Road 28 – MCC Annex
Madera, CA
(559) 675-7851 X 11
sbentley@madera-county.com

Training: A system-wide, ongoing educational program has been established concerning the Compliance Program and the *Code of Ethical Conduct*. Participation is mandatory. Anyone wanting additional training should contact his or her supervisor.

Compliance Handbook: The Compliance Handbook is a comprehensive source of information about the Compliance Program and related staff responsibilities and obligations. It includes information on many important topics—particularly, the Code of Ethical Conduct, Compliance Standards, and Program policies and procedures. The Handbook is provided to all new staff, volunteers and contractors. It can also be accessed online in Public Share.

*☞ Successful Compliance Program ☞
All of us working together in the spirit of good faith
to become a trusted and compliant organization.*

APPENDIX A

Compliance Policies and Procedures

Compliance policies and procedures are available at any BHS office or can be viewed online at the addresses listed below:

CMP 01:00 Compliance Program

<\\Madera2k\public share\Policies & Procedures\CMP\CMP 01.00 Compliance Program.doc>

CMP 02:00 Compliance Officer

<\\Madera2k\public share\Policies & Procedures\CMP\CMP 02.00 Compliance Officer>

CMP 03:00 Compliance Committee

<\\Madera2k\public share\Policies & Procedures\CMP\CMP 03.00 Compliance Committee>

CMP 04:00 Maintenance of Compliance Records

<\\Madera2k\public share\Policies & Procedures\CMP\CMP 04.00 Maintenance of Compliance Records.doc>

CMP 05:00 Code of Ethical Conduct

<\\Madera2k\public share\Policies & Procedures\CMP\CMP 05.00 Code of Ethical Conduct.doc>

CMP 06:00 Reporting Compliance Concerns & Protocol for Internal Follow-Up & Investigation

<\\Madera2k\public share\Policies & Procedures\CMP\CMP 06.00 Reporting Compliance Concerns.doc>

CMP 07:00 Compliance Hotline

<\\Madera2k\public share\Policies & Procedures\CMP\CMP 07.00 Compliance Hotline.doc>

CMP 08:00 Compliance-Corrective Action

<\\Madera2k\public share\Policies & Procedures\CMP\CMP 08.00 Compliance Corrective Action.doc>

CMP 09:00 Compliance-Auditing and Monitoring

<\\Madera2k\public share\Policies & Procedures\CMP\CMP 09.00 Compliance Auditing and Monitoring.doc>

CMP 10:00 Ineligible Persons Screening

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CMP 11:00 Compliance Training

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APPENDIX B

Codes of Ethical Conduct

- **Code of Ethical Conduct for Employees**
- **Code of Ethical Conduct for Contractors**
- **Code of Ethical Conduct for Volunteers**



DEPARTMENT OF BEHAVIORAL HEALTH SERVICES

CODE OF ETHICAL CONDUCT FOR EMPLOYEES

DOING THE RIGHT THING!

❖ INTRODUCTION

Message From The Director

Dear Behavioral Health Services Team Members:

The Madera County Department of Behavioral Health Services strives to maintain high ethical standards in all its endeavors. Clients, their families, the public and funders have a right to expect all services are provided in a professional manner consistent with ethical standards and business practices. We are committed to providing the best quality behavioral health services with integrity and in full accord with all applicable laws and regulations. A Compliance Program has been established to assist all of us in this effort.

A critical component of the Compliance Program is our *Code of Ethical Conduct*. It is rooted in our values and reaffirms the professional standards that are important to all of us associated with Behavioral Health Services. We are governed not only by ethics but also by law where we face the constant changing of rules, regulations and requirements. The Compliance Program and this guide will support us to meet the needs of our clients in this complex business environment.

You are a valued member of the Behavioral Health Services Team. You and the way you conduct yourselves are at the core of our dedication to quality and integrity. In this regard, I ask you to take the time to read this important document carefully. Your understanding and adherence to the *Code of Ethical Conduct* are essential.

Please join me in pledging your full commitment and sharing the responsibility for upholding our *Code of Ethical Conduct* and our Compliance Program as we fulfill our mission of behavioral health care excellence. Thank you for your service to the residents of Madera County.

Sincerely,

Janice Melton, LCSW, Director
Madera County Department of Behavioral Health Services

Mission and Core Values

Mission

To promote the prevention of and recovery from mental illness and substance abuse for the individuals, families and communities we serve by providing accessible, caring and culturally competent services.

Core Values

We, the employees of Madera County Behavioral Health Services, value:

- The promotion of wellness and recovery.
- The integrity of individual and organizational actions.
- The dignity, worth and diversity of all people.
- The importance of human relationships.
- The contribution of each employee.

Purpose of Code of Ethical Conduct

This Code of Ethical Conduct is integral to BHS commitment to provide high quality care with honesty and integrity. The Code of Ethical Conduct articulates the basic values, ethical principles and standards of BHS. When individuals become part of BHS, their conduct is expected to reflect the Department's and County's values. All employees (full time, part-time and extra help), interns, volunteers, contractors, network providers and other designated individuals acting on BHS behalf are required to comply with the letter and spirit of the Code of Ethical Conduct.

The Code of Ethical Conduct is intended to:

- Communicate BHS expectations and guidelines for professional and ethical behavior and business practices.
- Familiarize all staff and others acting on behalf of BHS with the basic legal principles, compliance and ethical standards of behavior expected throughout BHS.
- Assist staff to identify relevant considerations when ethical and compliance situations arise.
- Demonstrate BHS dedication to quality care and commitment to comply with laws, regulations, contractual obligations, policies and procedures and ethical standards.
- Assure everyone associated with BHS shares the commitment to maintaining the high standards of business and ethical conduct set forth by BHS.

The Code of Ethical Conduct is intended to complement, not replace, County and Department policies and procedures or other professional codes required as part of licensure or certification. The absence of an explicit reference to a specific behavior or situation does not mean the behavior is ethical or unethical. The standards are not meant to be exhaustive. Rather, the Code of Ethical Conduct provides guidance for decision-making and conduct when ethical issues arise. More specific guidance is provided in BHS Policies and Procedures. If there is not an existing BHS or County policy on a particular subject matter, the general principles of this Code of Ethical Conduct are to be used as a guideline.

Staff, contractors and others representing BHS who are uncertain about the ethics of a particular course of action are strongly encouraged to seek counsel from their supervisor or other management staff within their chain of command. Employees may also contact the BHS Director or Compliance Officer.

A Code of Ethical Conduct cannot guarantee ethical behavior. Nor can it resolve all the ethical issues and capture the complexity of the many moral decisions that arise. Each employee and contractor must take personal responsibility to perform their duties in good faith and in a manner they reasonably believe to be in the best interest of BHS and the public it serves.

This Code of Ethical Conduct was written with staff participation from all organizational levels and divisions of the Department. It is a “living document” which will be updated as needed to ensure it is current and relevant.

The term “we,” as used in this document, refers to BHS employees, volunteers, contractors, network providers, board members, interns and other individuals authorized to act as representatives of BHS, both inside and outside the Department’s facilities.

Questions regarding the Code of Ethical Conduct should be directed to the Compliance Officer, Sonja Bentley, at 675-7851 X11.

The time is always right to do what is right.

Martin Luther King

❖ STANDARDS OF CONDUCT

Quality of Care & Service

We are committed to providing high quality, caring, ethical and professionally competent behavioral health services to our clients and their families, our constituents and the community.

We:

- Apply sound behavioral health principles in our daily work and activities with an emphasis on evidence-based treatment.
- Participate in activities that promote quality improvement and bring deficiencies to the attention of those who can assess and resolve the problems.
- Treat clients and constituents in a manner appropriate to their background, culture, religion and heritage and are mindful of individual differences.
- Do not deny care on the basis of race, gender, religion, creed, color, economic status, sexual orientation, disability, marital status, age, or any other discriminatory characteristic.
- Conform to the *Code of Ethical Conduct* and standards of our respective professions.
- Ensure that the source or amount of payment for client services shall not affect the quality of care or service.
- Provide clients with the information needed to make fully informed decisions. Clients have the right to receive information about BHS services, policies, procedures, fees, network provider list, and confidentiality requirements. Clients are made aware of their treatment options, goals, and expected length of care.
- Strive to enhance clients' capacity and opportunity to change and address their own needs by including them in developing treatment goals and plans to every extent possible.
- Provide competent services within the boundaries of our education, training, license, certification, consultation received, experience or other relevant professional experience.
- Document all client service encounters in the BHS record accurately, completely and timely following established documentation guidelines.

Character is doing what's right when nobody's looking. J.C. Watts

Workplace Conduct

We ensure our work environment supports high standards of professional behavior and promotes dignity, integrity, fairness, respect, teamwork and safety.

We:

- Respect the basic rights, dignity and values of clients and staff including, but not limited to, race, color, religion, gender, sexual orientation, age, national origin, economic condition and disability.
- Use work hours to accomplish County duties and assignments in a productive and professional manner.
- Promote a positive image for BHS, its employees and services.
- Take personal responsibility for performing duties in good faith and exercise sound judgment.
- Strive for positive and cooperative relationships within BHS by treating our colleagues with respect, dignity, fairness and courtesy.
- Maintain a working environment free from all forms of harassment or intimidation – verbal, sexual, or otherwise. Discriminatory treatment, abuse, violence or intimidation is not tolerated.
- Comply with work and safety policies in accordance with County and BHS policies including, but not limited to, the mandated non-smoking ordinance in and near County buildings and vehicles as well as the drug and alcohol policy prohibiting the use of alcohol or illicit drugs in the workplace. Over-the-counter medications and prescriptions ordered by a physician are used in dosage and frequency described on the medication or package insert unless specified otherwise by the prescribing physician.
- Cooperate in achieving BHS commitment to maintain a work environment that promotes the prevention, detection, and resolution of conduct that does not conform to codes of ethics and standards of BHS and our respective professions.
- Require staff who oversee or supervise the work of others to 1) provide clear direction about what is expected of them regarding both job responsibilities and workplace conduct and 2) ensure no employee is required to compromise their professional integrity, standards, judgment or objectivity in the performance of their duties.

Staff-Client Relationships

We are committed to providing services by qualified staff that are compassionate, courteous, culturally competent, fiscally responsible and ethical.

We:

- Conduct ourselves in a manner that shows concern and respect for the dignity of clients treating them in a manner appropriate to their background, culture, religion and heritage. The welfare of clients and their families is placed above all other concerns unless one's safety is threatened.
- Do not take unfair advantage of the professional relationship with current or former clients or exploit them to further our personal, religious, political, social or business interests. Dual or multiple relationships where there is at risk of exploitation or potential harm to the client are prohibited for 2 years after a client is discharged from services or the date of the last professional contact.
- Understand that in the course of events there is the possibility a dual relationship may be discovered and/or is unavoidable. In such instances, the details of the relationship and any potential conflicts will be immediately disclosed to the supervisor for guidance regarding the conflict. We are responsible to set clear, appropriate, and culturally sensitive boundaries.
- Respect clients' right to privacy and protect clients' confidentiality by adhering to all rules, regulations, and professional practices and standards of privacy and confidentiality. We avoid discussing confidential information in public or semipublic areas such as hallways, front/reception desk, waiting rooms, rest rooms, elevators and restaurants. Confidential information is never used for personal benefit or the benefit of any other person.
- Do not knowingly disclose confidential client information without express written consent of the client or pursuant to court order and in accordance with the applicable law. Confidential information may be shared under certain circumstances in accordance with Federal and State regulations.
- Provide clients with reasonable access to their medical records following policy based on regulations. Where there is concern a client's access to his/her record could cause misunderstanding or harm, clinical staff assist the client in interpreting the records.
- Do not involve clients, families or other service providers in criticism or controversy related to internal policies, practices, staff actions or personalities. In no case is this information ever part of the medical record.

Excellence is doing ordinary things extraordinarily. John W. Gardner

Adhering to Laws and Regulations

We follow the letter and the spirit of applicable laws and regulations and conduct business ethically and honestly.

We:

- Comply with all applicable laws, rules, regulations, standards and other requirements of the federal, state and local governments. We comply with all federal mental health care and alcohol and drug program statutes, regulations, and guidelines.
- Do not engage in any practice that involves unethical or illegal activity. If unsure of the meaning or application of a statute, regulation, policy or legality, we seek guidance from our supervisor or the Compliance Officer.
- Strive to ensure no false, fraudulent, inaccurate or fictitious claims for payment or reimbursement of any kind are submitted. These claims include, but are not limited to time cards/reports, travel claims, service activity logs, billings, claims and cost reports.
- Take reasonable precaution to ensure billing and coding of claims are prepared and submitted accurately, timely and are consistent with federal, state and local laws and regulations as well as BHS policies and procedures and/or agreements with third party payors. This includes federal health care program regulations and procedures or instructions otherwise communicated by regulatory agencies such as the Centers for Medicare and Medicaid Services or their agents.
- Bill only for eligible services actually rendered, reported to the minute and fully documented. When services must be coded, we use only billing codes that accurately describe the services provided.
- Act promptly to investigate and correct problems if errors in claims or billings are discovered.
- Voluntarily disclose to third party law enforcement or regulatory agencies violations of law, regulations or standards during investigations, audits and other situations where appropriate and legally required.
- Do not intimidate, threaten, coerce, discriminate against, nor take other retaliatory action against any client, constituent, contractor or employee who exercises the right to file a complaint or who participates in an investigation or proceeding relative to a complaint.

Conflicts of Interest

We avoid conflicts of interest or the appearance of conflicts between our own personal interests and the best interests of the Department and the County.

We:

- Avoid commitments that interfere with our ability to properly perform our duties for BHS or any activity that conflicts with the known interests of BHS, its clients or constituents. Examples include, but are not limited to: 1) the use of County time, facilities or equipment for private gain or advantage for oneself or another; and 2) the solicitation of future employment with a company doing business with BHS over which the employee has some control or influence in his/her official capacity.
- Report any potential conflicts of interest for ourselves or others to the appropriate supervisor, manager or Compliance Officer.
- Prohibit individual staff in private practice from referring clients to themselves or actively engaging in any relationship with other staff to promote referrals to their private practices.
- Do not accept or provide any gift of more than nominal value or any hospitality or entertainment, which, because of its source or value, might influence independent judgment in transactions involving BHS.
- Voluntarily disclose to our immediate supervisor or the Compliance Officer any financial interest, official position, ownership interest or any other relationship an employee or member of his/her immediate family has with BHS vendors, contractors or referral sources.

As a general rule, the most successful man in life is the man who has the best information. Benjamin Disraeli

External Relationships

We continually strive to honor, uphold and promote the public trust in all our activities.

We:

- Carry out our duties in a way that encourages participation and access to BHS programs and resources and that enhances the Department's standing in the community.
- Are honest and forthright in providing information to clients, vendors, payors, other agencies and the community within the constraints of privacy and confidentiality requirements and as allowed by law.
- Seek helpful and cooperative relationships with external agencies and community groups to enhance services and resources available to the public.
- Ensure all legally required reports or other information provided to any external entity including federal, state and local government agencies are accurate and submitted timely. Only authorized staff or their official designee sign reports requiring certifying signatures.

Records Maintenance

We are conscientious in maintaining accurate and appropriate records in accordance with all federal, state and local laws and regulations and BHS policies and procedures.

We:

- Maintain complete, accurate, current and thorough records stored in secure locations and made available only to those authorized to have access.
- Abide by professional, legal and ethical codes governing confidentiality to ensure all records in any medium and at all service locations are maintained in a manner to protect employee and client privacy rights and to provide factual information.
- Maintain, train and monitor adherence to documentation and record keeping guidelines following legal requirements. Records are maintained for at least the minimum period required by laws and regulations.



DEPARTMENT OF
BEHAVIORAL HEALTH SERVICES

CODE OF ETHICAL CONDUCT
FOR CONTRACTORS

DOING THE RIGHT THING!



DEPARTMENT OF BEHAVIORAL HEALTH SERVICES

CODE OF ETHICAL CONDUCT FOR CONTRACTORS

Madera County Behavioral Health Services (BHS) is firmly committed to full compliance with all federal, state, and local laws, regulations, rules and guidelines that apply to the provision and payment of behavioral health services. BHS contractors and the manner in which they conduct themselves are a vital part of this commitment.

To ensure contractors share in BHS dedication to honesty, fairness and integrity, BHS contractors and their employees are required to abide by BHS *Code of Ethical Conduct for Contractors* as a condition of contractual arrangement. This code is not intended to be an exhaustive list of all standards by which BHS contractors are to be governed. Rather, its intent is to convey BHS commitment to the high standards set for its contractors. All contractors are expected to perform their duties in good faith and in a manner they reasonably believe to be in the best interest of BHS and the public it serves.

Contractor and its employees will:

1. Comply with all applicable laws, rules, regulations, standards, and other requirements of federal, state and local government.
2. Conduct themselves with honesty, integrity, courtesy and fairness in their professional dealings related to their contract with BHS and avoid any conduct that could reasonably be expected to reflect adversely upon the integrity of BHS.
3. Treat BHS employees, consumers, and other contractors fairly and with respect.
4. Not engage in any activity in violation of the BHS Compliance Program, nor engage in any other conduct which violates any federal, state, or local law, regulation, rule or guideline.
5. Take precautions to ensure claims are prepared and submitted accurately, timely and are consistent with federal, state and local law, regulation, rule or guideline.
6. Ensure no false, fraudulent, inaccurate or fictitious claims for payment or reimbursement of any kind are submitted.
7. Bill only for eligible services actually rendered and fully documented. Use billing codes that accurately describe the services provided.
8. Act promptly to investigate when errors in claims or billing are discovered, make needed corrections and notify BHS of these incidents.
9. Promptly report to the BHS Compliance Officer any activity involving financial improprieties as it relates to the BHS contract, past or present.
10. Promptly report to the BHS Compliance Officer any suspected violation of this *Code of Ethical Conduct for Contractors* by BHS employees or other BHS contractors.
11. Consult with the BHS Compliance Officer if uncertain about any requirements of the *Code of Ethical Conduct for Contractors* or other applicable law, regulation, rule or guideline.

Doing the right thing!

Comp Office: 5/9/05



DEPARTMENT OF BEHAVIORAL HEALTH SERVICES

CODE OF ETHICAL CONDUCT FOR VOLUNTEERS

DOING THE RIGHT THING!

MESSAGE FROM THE DIRECTOR

Dear Behavioral Health Services Volunteers:

The Madera County Department of Behavioral Health Services strives to maintain high ethical standards in all its endeavors. Clients, their families, the public and funders have a right to expect all services are provided in a professional manner consistent with ethical standards and business practices. We are committed to providing the best quality behavioral health services with integrity and in full accord with all applicable laws and regulations. A Compliance Program has been established to assist all of us in this effort.

A critical component of the Compliance Program is our *Code of Ethical Conduct for Volunteers*. It is rooted in our values and reaffirms the high standards that are important to all of us associated with Behavioral Health Services.

As a volunteer, you are a valued member of the Behavioral Health Services Team and assist in many ways. You and the way you conduct yourselves are at the core of our dedication to quality and integrity. In this regard, I ask you to take the time to read this important document carefully. Your understanding and adherence to the *Code of Ethical Conduct for Volunteers* are essential.

Please join me in pledging your full commitment and sharing the responsibility for upholding our *Code of Ethical Conduct for Volunteers* and our Compliance Program as we fulfill our mission of excellence in behavioral health care. Thank you for your service to the residents of Madera County.

Sincerely,

Janice Melton, LCSW
Mental Health Director / Alcohol & Drug Administrator
Madera County Behavioral Health Services

PURPOSE OF CODE OF ETHICAL CONDUCT FOR VOLUNTEERS

This *Code of Ethical Conduct for Volunteers* is integral to Behavioral Health Services (BHS) commitment to provide high quality care with honesty and integrity. The *Code of Ethical Conduct for Volunteers* articulates the basic values, ethical principles and standards of BHS. When individuals become part of BHS through volunteer work, their conduct is expected to reflect the Department and County's values. All volunteers acting on behalf of BHS are required to comply with the letter and spirit of this code.

The *Code of Ethical Conduct for Volunteers* is intended to:

- Communicate BHS expectations and guidelines for standards of behavior and ethical conduct.
- Familiarize volunteers with the basic ethical standards of behavior expected throughout BHS.
- Assist volunteers identify relevant considerations when ethical situations arise.
- Demonstrate BHS dedication to quality care and commitment to comply with laws, regulations, contractual obligations, policies and procedures and ethical standards.
- Assure everyone associated with BHS shares the commitment to maintaining the high standards of business and ethical conduct set forth by BHS.

The absence of an explicit reference to a specific behavior or situation does not mean the behavior is ethical or unethical. The standards are not meant to be exhaustive. Rather, the *Code of Ethical Conduct for Volunteers* provides guidance for decision-making and conduct when ethical issues arise. When uncertain about the ethics of a particular course of action, you are strongly encouraged to seek counsel from the staff person overseeing your volunteer work. You may also contact the BHS Compliance Officer.

A *Code of Ethical Conduct for Volunteers* cannot guarantee ethical behavior. Nor can it resolve all ethical issues and capture the complexity of the many moral and legal decisions that arise. Each volunteer must take personal responsibility to perform their duties in good faith and in a manner they reasonably believe to be in the best interest of BHS and the public it serves.

Questions regarding the *Code of Ethical Conduct* should be directed to the Volunteer Coordinator or the Compliance Officer at (559) 675-7851 X11.

MADERA COUNTY BEHAVIORAL HEALTH SERVICES

CODE OF ETHICAL CONDUCT FOR VOLUNTEERS

Where applicable to my role, I will:

1. Respect the basic rights and values of all staff, clients and volunteers treating everyone with consideration, patience, dignity, courtesy and integrity.
2. Support BHS efforts to provide culturally competent services.
3. Promote a positive image for BHS.
4. Be honest and fair following the letter and spirit of applicable laws.
5. Appreciate that staff have a special duty to care for clients. That duty cannot be delegated or transferred to others.
6. Acknowledge the Director is the spokesperson for BHS.
7. Observe strict confidentiality with respect to all client information and any other information that is confidential by BHS gained through participation as a volunteer.
8. Accept and follow directions from the Director and volunteer supervisor seeking guidance through clarification as needed. I will familiarize myself with BHS policies and procedures as required to carry out volunteer assignments.
9. Take personal responsibility for performing duties in good faith, strive for cooperation and teamwork, and exercise sound judgment.
10. Comply with work and safety practices avoiding unnecessary risks, apply reasonable instructions given by supervisors and report any hazard or hazardous practice in the workplace.
11. Not smoke or use tobacco products (except on breaks), or be under the influence of alcohol or illegal drugs when volunteering.
12. Report any problems as they arise to the volunteer supervisor including incidents, injury, suspected or known unethical or illegal conduct.
13. Avoid waste or extravagance and make proper use of BHS resources.

Doing the right thing!



DEPARTMENT OF BEHAVIORAL HEALTH SERVICES

**COMPLIANCE PROGRAM HANDBOOK
ACKNOWLEDGEMENT & AGREEMENT**

Printed Name: _____

√ BHS Affiliation:

____ Contractor

____ Employee

____ Volunteer

____ Student / Intern

____ Other (specify) _____

Job Title / Position: _____

Program Assignment(s): _____

√ Status: ____ Initial Orientation ____ Update

I certify I have received and read the Behavioral Health Services *Compliance Program Handbook* which includes the Code of Ethical Conduct and False Claims Acts information.

I understand the contents as it applies to my job responsibilities and will keep a copy readily accessible for reference.

I agree that if I have any questions about my responsibilities or standards of conduct related to the Compliance Program, I will ask my supervisor, a manager, the Compliance Officer, contract manager or other designated expert for clarification.

Signature: _____ **Date:** _____

Doing the right thing!

RETURN TO BHS COMPLIANCE OFFICE AT THE MCC ANNEX