



DEPARTMENT OF BEHAVIORAL HEALTH SERVICES

Wellness ❖ Recovery ❖ Resilience

COMPLIANCE PROGRAM HANDBOOK

DOING THE RIGHT THING!

January 2022

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Abbreviations

MCBHS – Madera County Behavioral Health Services

CCEC – Code of Organizational Conduct, Ethics, and Compliance

MHP – Mental Health Plan

DMC – Drug Medi-Cal

DHCS – California Department of Health Care Services

CO – Compliance Office

The Program – Compliance Program

OIG – Office of the Inspector General

CAP – Corrective Action Plan

FCA – Federal False Claims Act

CFCA – California False Claims Act



MESSAGE FROM THE DIRECTOR

Dear Behavioral Health Services Staff,

As a member of our BHS Team, you are highly valued and appreciated. The services you provide are critical to the health, well-being, and recovery of our clients and their families. Your efforts count and make a big difference in people's lives. Each of you play an important role in our continuum of care and how our services are delivered every day.

Mental health and substance use disorder services are governed by laws, rules, regulations, and policies. To continue abiding by all these requirements, a Compliance Program has been established to assist all of us in our efforts to promote access, high quality care, accountability, and ethical practices. Please take the necessary time to carefully read the Compliance Program Handbook, which explains what is required of you as a member of the BHS Team and your role in making the Compliance Program a success.

A critical component of the Compliance Program is our Code of Organizational Conduct, Ethics and Compliance, which sets the expectations for all BHS staff and professional activities. Adhering to the Code is essential because the quality of the services you provide and the way you conduct yourselves are at the core of our high standards and integrity, which are emphasized below:

- Creating a culture for compliance encourages ethical conduct and a commitment to comply with all laws and governances can improve employee morale, enrich organizational commitment, and foster an involved and retained workforce.
- Ensure open communication and transparency at each level of the organization.
- The culture of our agency can set expectations for how we behave, work together, and how well we function as a team, by breaking down boundaries, guide decision-making, and improve workflow overall.

I ask each of you to commit and to model ethics and compliance as an integrated part of our roles in this Department to ensure quality care is provided to all our clients and families. We are proud to be ethical and compliant with all laws, rules, regulations, and policies. I encourage you to consult with any member of BHS Leadership-Management Team and/or our Compliance office. Feel free to call our Compliance Line as well at **(559) 661-1049**.

Thank you for the valuable work you do every day!

Sincerely,

Connie Moreno-Peraza, LCSW, Director
Madera County Department of Behavioral Health Services

SECTION I

A. Introduction

Madera County Behavioral Health Services (MCBHS) is committed to providing high quality care to clients and being of maximum service to the community. The services provided by MCBHS are reimbursed in large part by federal and state funding sources. It is the policy of MCBHS 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 MCBHS, 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. All Madera County staff, volunteer's, interns, and contracted partners are personally responsible to understand and comply with the Code of Organizational Conduct, Ethics and Compliance (CCEC) and all policies, procedures, practices, and standards applicable to their job.

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 distinct duty to model the principles set forth in the Program and to be exemplary 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 in a method that promotes dignity, kindness, and respect to community members. An integral component of this mission 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/Medicaid 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, waste and abuse is essential to the Program's core.

The benefits of the Compliance Program include, but are not limited to:

- Fulfill MCBHS legal duty to prevent submission of false or inaccurate claims to governmental and private payers.
- Demonstrate application of state and federal guidelines for compliance programs.
- Assist in the fundamental care-giving mission to clients and the community.
- Concretely demonstrate to employees and the community 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.
- Speed and optimizes timely payment of claims.
- Improve 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.
- Provide a user-friendly guide for employees to report known or potential compliance problems so a prompt and thorough investigation can be conducted.
- Initiate immediate and appropriate corrective action in response to identified non-compliance.
- Minimize loss to the agency from false claims and reduces MCBHS exposure to civil damages and penalties, criminal sanctions, and administrative remedies such as program exclusion.

An effective compliance program is constantly evolving and is part of our organization's commitment to conducting business in an ethical way. The Federal Medicaid Managed Care regulations require that MCBHS have administrative and management guidelines and procedures, including a mandatory compliance plan designed to guard against fraud, waste, and abuse. This Compliance Plan is aligned with statutes including CFR 42, chapter 4 section 438.608: Program Integrity Requirements; the U.S. Federal Sentencing Guidelines; the County MHP and DMC contract with the California Department of Health Care Services (DHCS), and anti-fraud provisions in the Affordable Care Act. The fundamental elements of an effective Compliance Plan must include the following:

- **Policy, Procedures & Standards of Conduct:** Written policies, procedures, and standards of conduct that articulate BHS's commitment to comply will all applicable Federal and State standards.
- **Oversight:** The designation of a Compliance Office and a Compliance Committee that are accountable to executive management.
- **Training and Education:** Comprehensive ongoing staff trainings along with continuous training for the Compliance Office.
- **Communication:** Effective lines of communication between the Compliance Office and staff.
- **Monitoring and Auditing:** Ensure processes in place for internal monitoring and auditing to detect fraud, waste, and abuse.
- **Enforcement:** Enforcement of standards through well-publicized disciplinary

guidelines.

- **Prompt Response:** Reporting of any suspected violation of misconduct promptly, including taking steps to resolve issues as quickly as possible.

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 what's right.
- Make explicit the high ethical expectations and specific obligations of everyone affiliated with MCBHS 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 public regarding MCBHS commitment to integrity and legal compliance.

This handbook is updated when regulatory obligations shift and suggestions for improvement from stakeholders are strongly encouraged and sincerely welcomed.

D. MCBHS Mission Statement and Core Values

Our 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. Furthermore, the implementation of a Compliance Program is evidence of the agency's commitment to improve quality of care in an environment that prevents fraud, waste, and abuse, promotes integrity, transparency, ethical conduct and adherence to applicable laws and professional standards.

Core Values

We, the employees of Madera County Behavioral Health Services, value:
The promotion of community members voice and choice in receiving efficient and effective behavioral health services

The integrity & accountability of individual and organizational actions, and corrective actions in a way that demonstrates transparency to public.

The dignity, worth and diversity of all people.

The importance of delivering value and quality of care.
The contribution and value of each employee.

SECTION II: COMPLIANCE PROGRAM OVERVIEW

A. Program Overview

The provisions of the Compliance Program apply Department-wide to all clinical, business, and legal activities performed by MCBHS workforce members, contracted partners, interns and paid or unpaid volunteers with no exceptions. 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 MCBHS are covered under MCBHS Compliance Program.

To ensure all the conditions of participation in government funded health care programs are met, particular emphasis is placed on billing and 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, reimbursement, billing related clinical documentation, claims development, overpayments, staff licensure, anti-kickback, and ineligible persons screening.

A second and equally important area of focus is privacy protections to those receiving MCBHS services. Privacy protections safeguard protected health information from unauthorized use or disclosure in service to members of the public and the Department. The audit process includes proactive, random, complaint-driven, and focused audits.

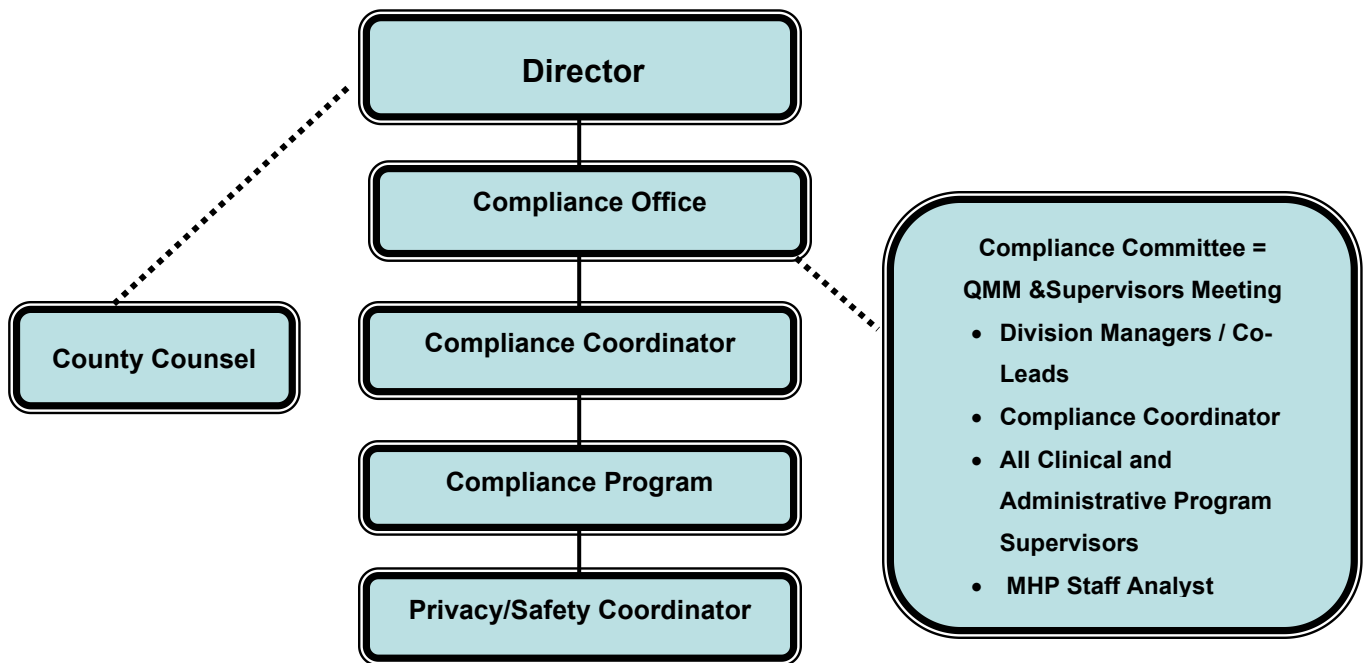
The Compliance Program does not attempt to set forth all the substantive standards and practices of MCBHS designed to achieve compliance. Rather, the purpose of this handbook is to serve as a guide that demonstrates application of the compliance program. All MCBHS functional areas can have issues involving compliance with applicable laws and regulations. Therefore, all staff and those associated with the Department's activities are responsible for the content of this handbook. The Compliance Program has plans and policies to address legal issues pertinent to each area and which augment and support the whole Department and network of providers.

B. Program Personnel and Structure

- Compliance Steering Committee:

The Supervisors Meeting, co-lead by the senior leadership team, functions as the Compliance Steering Committee. All clinical and administrative program supervisors participate in this monthly meeting where the Compliance Program is a standing agenda item. The Committee provides ongoing, broad-based input for planning and day to day operation of the Compliance Program and its compliance with the requirements of the mental health plan's contract with the Department of Health Care Services (DHCS).

COMPLIANCE PROGRAM STRUCTURE



- **Compliance Office:**

The Compliance Office has the overall responsibility to oversee all aspects of the Compliance Program. The Compliance Office is the delegated authority for the development, management, operation, and continual improvement of the Compliance Program. This involves developing standards, coordinating compliance training and education, conducting, or arranging internal audits, identifying compliance issues and trends, investigating, and resolving compliance incident reports. A critical role is played by the CO in promoting an awareness and understanding of positive ethical and legal practices consistent with the mission and values of MCBHS and those required by state and federal law.

C. Proactive, Positive, and Preventive Approach

The Program approaches compliance with a proactive, preventative, and positive strategy. MCBHS promotes a culture of honesty and 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 as well as 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, MCBHS strictly enforces the Compliance Program and applies swift and appropriate sanctions for egregious, repeated and/or intentional violations.

D. Deficit Reduction Act and Prevention, Detection and Correction of Fraud, Waste and Abuse

From the Program's inception, the prevention, detection, and correction of fraud, waste, and abuse has been our mission. 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 (OIG) considerably more power to investigate Medicaid fraud. The Deficit Reduction Act was in response to dramatically escalating Medicaid fraud and abuse investigations. For example, it was found that 1/3 of outpatient mental health services provided were medically unnecessary, billed incorrectly, rendered by unqualified providers, and either not or poorly documented in the medical record. Having a strong Compliance Program can dramatically reduce the risk of jeopardizing public funding and enhance the public trust in the Medicaid program.

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

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 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. 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.

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 professional 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 up 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 OIG.

SECTION 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 OIG ([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, federal health care program requirements, and stakeholder input are available. New and revised policies and procedures are distributed Department-wide and are available electronically to everyone in the shared (S) drive.
- In any instance where there is doubt about how to proceed, staff are responsible to seek direction through the chain of command, the CO, or another MCBHS-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 MCBHS 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](#)

- Codes of Ethical Conduct (CCEC)

The Code of Organizational Conduct, Ethics and Compliance (CCEC) and the Code of Ethical Conduct for Contractors are the heart of the Compliance Program. Individuals joining MCBHS are expected to conduct themselves in a manner which reflects the values of the Department and the County. The Codes articulate the basic values, ethical principles, and standards expected of all persons and entities affiliated with MCBHS. It is the duty of each person to follow, without exception, the Code's principles

See Section V: [Code of Organization Conduct, Ethics and Compliance](#)

B. Oversight and Delegation of Authority

1. Compliance Office

- The Compliance Office, with guidance from the Compliance Committee, is responsible for developing and implementing policies, procedures, and practices designed to ensure compliance with the requirements of the Mental Health Plan (MHP) contract between MCBHS and the State

Department of Health Care Services (DHCS), as well as compliance with pertinent statutes for other funders, and those who report to the Director.

- The CO is:
 - a. Delegated authority for the strategic development, management, day-to-day operation, and continual improvement of the Compliance Program. This involves developing standards, coordinating compliance training and education, conducting, or arranging internal audits, identifying compliance issues and trends, investigating, and resolving compliance incident reports. A critical role is played by the CO in promoting an awareness and understanding of positive ethical and legal practices consistent with the mission and values of MCBHS and those required by state and federal law.
 - b. Has direct access to the Director and County Counsel as appropriate.
 - c. A member of the Supervisors Meeting; Quality Management, and Medication Monitoring Committees and other committees as appropriate.

See P&P [CMP 02:00 Compliance Officer](#)

2. Compliance Committee

- The Supervisors Meeting, co-lead by the Division Managers, functions as the Compliance Steering Committee. All program supervisors, administrative and clinical, participate in this monthly meeting where the Compliance Program is a standing agenda item.
- The Compliance Committee provides guidance regarding the planning and daily operation of the Compliance Program including but not limited to analysis of regulations, needed training, problem solving and input on the annual Compliance Program Work Plan.
- County Counsel provides legal counsel and support to the CO as needed, actively participates in training and education sessions regarding legal elements of the Compliance Program, and provides guidance as requested for investigating compliance complaints and issues.

See P&P [CMP 03:00 Compliance Committee](#).

3. Compliance Program Structure

See Page 9 for Compliance Diagram

C. Effective Lines of Communication

All staff have direct access to the Compliance Office. MCBHS recognizes open lines of communication between the Compliance Office and personnel are critical to the success of the Program. The Compliance Office has an “open door” policy and can be contacted directly by phone, email, in person or by calling the anonymous phone line **(559) 661-1049**.

Staff are encouraged to report incidents of potential fraud directly to the Compliance Office, or by using their chain of command to freely seek clarification regarding compliance questions. Whenever possible, the name of the person reporting an incident is kept confidential. However, keeping the reporter's name confidential must be done within the limits of the law and a promise of anonymity cannot be made.

The anonymous phone line is another method of communicating with the Compliance Office. The anonymous phone line **(559) 661-1049**, is available to all workforce members and goes directly to the Compliance Office. Posters explaining the availability of the anonymous phone line are prominently displayed in staff areas at all program sites.

See P&P [CMP 02:00 Compliance Officer](#)

D. Education and Training Programs

Mandated, comprehensive, ongoing training is central to the Program's positive, proactive, and preventative approach to ensuring compliance with applicable laws and ethics. 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 the first month of employment MCBHS staff will receive orientation training. This includes an overview of the Compliance Program and how it works, the CCEC, compliance policies and procedures, current auditing and monitoring activities, the False Claims Acts and Privacy/Security. 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
3. 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.

Job specific compliance training, documentation, and billing trainings are provided by the supervisors at time of hire and ongoing as needed. Timely, accurate and complete documentation is essential to clinical care.

This documentation serves a second crucial function to verify the submitted bill is

accurate. Training materials are available to staff at any time for a refresher in the Relias Learning platform, and on the Share Drive (S).

The Compliance Office completes training and continuous education annually to remain current on the federal and state standards for Program Integrity and Compliance. The classes are designed to focus on substantive and far-reaching statutory changes occurring the most recent year. Training and education planned for the Compliance Office annually may include the following:

- Law & Ethics training (annually)
- California Quality Improvement Coordinators Conference (CALQIC)
- Health Care Compliance Association Basic Compliance Academy
- Triennial review protocol training by DHCS
- Annual California State Association of Counties Excess Insurance Authority (CSAC-EIA) Medical Malpractice Risk Management Seminar

The MCBHS senior leadership team has completed Title 9 documentation training and the triennial review training by DHCS. Senior leadership team, all staff, and contractors complete law and ethics training annually. The MCBHS Compliance Office confers with other California County Behavioral Health Departments as needed to discuss trends, challenges, and gaps in compliance programs.

See Appendix A: P&P [CMP 11:00 Compliance Training](#)

E. Auditing and Monitoring

The Program conducts proactive monitoring and auditing of compliance risks designed to test and confirm compliance with regulatory requirements described by federal, state, and local laws, as well as policies. The CO 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 OIG, 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.

MCBHS conducts reasonably designed auditing and monitoring strategies to

detect areas of risk and non-compliance with standards including but not limited to:

1. Audits

Audit priorities to detect areas of non-compliance with standards include review of the following internal operations:

- Excluded Individuals and Entities
- Anonymous Compliance Concern Reporting
- Code of Organizational Conduct, Ethics and Compliance
- Compliance Education and Training
- Client Service Verification
- Compliance Program Requirements
- Privacy/Security of all Records
- Other as required

2. Monitoring Activities

Monitoring techniques and review processes may include:

- Site visits which pertain to Compliance
- Regular “walk arounds” which pertain to Compliance
- Sampling protocols that permit the Compliance Office to identify and review variations from an established baseline
- Examination of the provider’s complaint logs using a sampling that permits the identification and review of variations from an established baseline
- Checking personnel records to determine whether any individuals who have been reprimanded for compliance issues in the past are among those currently engaged in improper conduct
- Trend analyses, or longitudinal studies, that seek deviations, positive or negative, in specific areas over a given period.

3. Compliance Program Work plan monitoring activities:

- Training Schedule and Attendance
- Availability of Anonymous Reporting
- Ineligible Persons Screening / CMS Exclusion Lists
- Corrective Action Plans

Progress reports of monitoring and auditing activities, results and corrective actions are maintained by the Compliance Office. Findings and

recommendations are distributed to management upon completion and in aggregate during senior leadership meetings.

See Appendix A: P&P [CMP 09:00 Auditing and Monitoring](#)

F. Enforcement of Standards Through Well-Publicized Disciplinary Guidelines

1. Corrective Action Plans & Prevention

- a. During new employee training and compliance refresher training, staff are clearly informed of the consequences if they engage in non-compliant activities.
- b. Disciplinary actions are always in accordance with county personnel codes, policies, and MOUs with bargaining units.
- c. Auditing and Monitoring Findings & Corrective Action Plans
 - The CO analyzes and reports the findings of auditing and monitoring activities to the Compliance Committee and senior leadership team routinely and as needed.
 - In the event findings reveal potential or actual violations or areas for improvement, the CO recommends the tailored Corrective Action Plan including, without limitation:
 - Conduct an investigation
 - Imposition of disciplinary action if warranted
 - Development of a corrective action plan (CAP) to correct current and prevent future non-compliance
 - Modification of MCBHS compliance standards and policies
 - Reporting to applicable government oversight agencies
 - Prompt submission of overpayments made to MCBHS if applicable
- d. The CO oversees the development and implementation of a corrective action plan to remedy problems caused by violations and ensures it does not reoccur. If appropriate, the CO works with the Compliance Committee to develop and guide the implementation of a corrective action plan.
- e. The MCBHS Director makes the final determination of the necessary sanctions for all workforce members fairly and consistently. Usually, graded sanctions are imposed on individuals committing substantiated non-compliant act(s) or who fail to report such acts. However, in situations where a non-compliant act is so egregious it poses an immediate risk to MCBHS or one of its stakeholders, the Director has the discretion to replace graded sanctions with sanctions deemed more appropriate to the situation.

- f. Workforce members who knowingly and willfully violate any laws are also reported to the appropriate authorities and are subject to criminal investigation, prosecution, and/or civil monetary penalties
- g. Graded Sanctions: Please refer to P&P [CMP 01.A3](#) for the following information:
 - Considerations in Determining Appropriate Sanctions
 - Substantiated Violations/Misconduct for:
 - County Employees
 - Volunteers, student interns and other non-employees
 - Contractors
- h. A CAP 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, including but not limited to the California Department of Health Care Services or Department of Consumer Affairs
 - Recommendation for sanctions or discipline
 - Prompt restitution of overpayments
- i. The CO approves the plan prior to implementation and monitors the execution ensuring successful and sustained resolution is achieved.

See P&P [CMP 06:00 Reporting, Investigating and Resolving Compliance Concerns](#)

2. Enforcement and Sanctions

- a. All workforce members are responsible for complying with the Compliance Program, the Code of Organizational Conduct, Ethics and Compliance and related policies, procedures, and standards. 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, community members, or stakeholders. 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 in consultation with County Human Resources and County Counsel following the Madera County Disciplinary Code, Chapter 2.57, Civil Service Rule 2.57, 8/91, pages 97-98.

See Appendix D: Madera County Disciplinary Code or P&P [CMP 01.A3](#)

- b. All new employees are trained on the County's disciplinary rules as part of the County orientation program; BHS sanction policy is addressed in the New Employee Compliance Program orientation. Violations by individual direct service contractors are handled according to the terms of their contract with the County. However, all enforcements and sanctions shall at a minimum follow all federal, state, and local regulatory and policy guidance.

See P&P [CMP 01.A3](#)

G. Reporting, Investigating, Resolving Compliance Concerns & Anonymous Reporting

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 CO directly and discretely at any time or use the Anonymous phone line at **(559) 661-1049**. 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

Violations of any law, statute, regulation, guideline, CCEC, contractual obligation, policy, procedure, or other requirement must be reported. Violations related to claiming requirements are a key priority in our efforts to prevent and detect fraud, waste, and abuse. This includes, but is not limited to, noncompliance related to coding, billing, medical necessity, cost reports, clinical documentation, failure to report overpayment, credit balances, eligibility determination, or scope of practice. 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 because of their reports. Retribution or condoning retribution related to reporting of compliance issues is emphatically prohibited and anyone who engages in such activity will be subject to disciplinary action. Concerns about possible retaliation or harassment should be reported to the Compliance Office.

4. Confidentiality of Person Reporting

All such communications will be kept confidential to the extent allowed by law. Anonymity cannot be guaranteed—there may be times when the reporting individual's identity must be known or revealed depending on the specifics of each situation. Individuals who knowingly and intentionally report false or misleading information to harm or retaliate against another will be subject to discipline.

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 CO conducts an initial inquiry which may lead to a full investigation. Subject matter experts may also be consulted to assist in determining the need for an investigation or initial inquiry.
- Workforce members are expected to and must cooperate fully, honestly, and confidentially with all investigations.
- Ensure investigations are conducted promptly, objectively, thoroughly, and confidentially within the limits of the law.
- Prepare a final report of each investigation comprehensively documenting the issues, methods, findings including the exact policies, codes, or other requirement violations (if any), conclusions and recommendations for corrective actions.

6. Resolution

- For substantiated violations, the CO oversees the development and successful implementation of a corrective action plan to remedy problems caused by the infraction and to prevent future occurrences. Repayment or other fiscal adjustments required are referred to the Fiscal Manager who documents and informs the CO of actions taken.

See Appendix A: P&P [CMP 06:00 Reporting, Investigation and Resolving Compliance Concerns](#)

[CMP 13:00 Voluntary Reporting of Overpayments and Disclosures of Material Deficiencies](#)

7. Anonymous Compliance Reporting

- The only way reporters can be guaranteed anonymity is to submit the report anonymously through the inter-office mail system or by using the anonymous phone line by calling **(559) 661-1049**.

H. Maintenance and Retention of Compliance Records

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
- Anonymous Compliance Hotline Log
- Ineligible/Excluded Persons Screening Report
- Compliance Reports Log
- Client Service Verification
- 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](#)

SECTION IV: COMPLIANCE STANDARDS

A. Management Responsibilities

1. Manage a comprehensive, system-wide, evidence-based Compliance Program. This includes a CO 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 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 List of Excluded Individuals and Entities (LEIE), 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 Care Services Medi-Cal Suspended and Ineligible List (S&I List), Social Security Administration's Death Master File, National Plan and Provider Enumeration System (NPPES), System of Award Management (SAM) 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 MCBHS; 2) ensure staff has sufficient information to comply with laws, regulations, and policies; and 3) enforce staff attendance at all appropriate and necessary compliance trainings.
7. Provide ongoing compliance training and education programs for employees and other designated individuals.
8. Ensure the CCEC is explained to all employees, contractors, and anyone acting on behalf of MCBHS, and an "Acknowledgement and Agreement of Understanding" is signed at the time of hire/start 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. Workforce Member Responsibilities

All workforce members must actively participate in the Compliance Program including:

1. Perform all duties in good faith and to the best of one's ability.
2. Upon hire and annually thereafter, carefully read the Compliance Program Handbook which includes the CCEC and acknowledge your understanding and agreement to abide by it by signing the Compliance Handbook Acknowledgement and Agreement form.

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 CCEC, MCBHS policies and procedures, practices, 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 CO regarding any questions about the CCEC, policy, procedure and/or practice. There will be no retribution of any kind at any level for asking questions or raising concerns about the CCEC.
5. Promptly report in good faith any suspected violation of the CCEC, MCBHS or county 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. Workforce members are not exempted from the consequences of their own misconduct by self-reporting, although self-reporting may be considered in determining the appropriate course of action.
6. Help create a work culture that promotes the highest standard 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 MCBHS as an organization and client confidentiality, but also assure investigators receive the full cooperation necessary to complete their work.
9. Notify anyone in the chain of command or the CO immediately, in writing, if you become suspended, excluded, or debarred from providing services under any federally funded health care program.
10. In all matters relevant to the treatment of beneficiaries receiving services at MCBHS, workforce members will:
 - a. Not use drugs and/or alcohol while providing services.
 - b. Conduct relationships with beneficiaries professionally, having no social/business relationships with beneficiaries or family members for personal gain.
 - c. NOT engage in sexual contact with beneficiaries.
 - d. Refrain from any conflict of interest.

- e. Provide services only within the scope of their licensure or job description.
- f. Provide ethical and culturally appropriate services, not discriminating against any beneficiary or staff.
- g. Not verbally, physically, or sexually harass any beneficiary, family member, or staff.
- h. Maintain beneficiary confidentiality.
- i. Follow the Code of Conduct for the certifying organization that you are certified under.
- j. Cooperate with all complaint investigations.

SECTION V: 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 fraud and abuse. California's Medicaid State Plan is administered by the California Department of Health Care Services and referred to as "Medi-Cal." 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. The MCBHS 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 like 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 \$1 trillion+ spent each year on various programs and procurement is too big if government officials are working alone. Therefore, to reduce 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 MCBHS?

As public servants, MCBHS 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, MCBHS policy (e.g., [P&P CMP 06:00](#)) and the MCBHS CCEC 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?

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 know the information they 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 as adjusted for inflation in the Code of Federal Regulations (CFR), Chapter 28, Section 85.5.
- 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 \$11,000 as adjusted by the Federal Civil Penalties Inflation Adjustment Act of 1990, 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.

MCBHS policy (e.g., [CMP 06:00](#)) 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
- MCBHS Compliance Office: (559) 673-3508
- MCBHS Anonymous Hotline (559) 661-1049
- Your Chain of command or any senior leadership team member.

C. 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, as adjusted by the Federal Civil Penalties Inflation Adjustment Act of 1990 ([28 U.S.C. 2461](#) note: Public Law 104–410 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 acted 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.

D. 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 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 eleven thousand dollars (\$11,000) as adjusted by the Federal Civil Penalties Inflation Adjustment Act of 1990, 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 VI: CODE OF ORGANIZATIONAL CONDUCT, ETHICS & COMPLIANCE

Written standards of conduct are a cornerstone of a strong Compliance Program. As such, the Code of Organizational Conduct, Ethics and Compliance (CCEC) is included as an integral part of the Compliance Handbook. MCBHS has separate codes for workforce members and contractors. These Codes assure everyone affiliated with MCBHS shares its values of quality, honesty and integrity and communicate MCBHS commitment to legal and ethical compliance. MCBHS leaders are expected to set the example and to be in every respect a model of integrity—never sacrificing ethical and compliant behavior in pursuit of business objectives. All codes are reviewed and modified routinely to keep pace with changes with broad staff input.

The CCEC provides workforce members with explicit expectations and guidance in carrying out daily work activities within appropriate ethical and legal standards. The absence of a reference to a specific behavior or situation in the CCEC does not mean the behavior is ethical or unethical. The standards are not meant to be exhaustive nor are they a substitute for common sense, individual judgment, or personal integrity. Rather, the Code provides 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 MCBHS or County policy on a particular subject matter, the general principles of the Code are to be used as a guideline.

The Compliance Program Handbook which includes the CCEC is provided to new workforce members usually the first week but no later than 30 days after starting work. Workforce members are given two (2) weeks to read the Compliance Program Handbook and then required to electronically sign an Acknowledgement and Agreement form certifying they've read, understand, and agree to abide by the Compliance Program and the CCEC. Annually, all staff must review the CCEC as part of the required Compliance Program Refresher Training and re-sign the agreement/acknowledgement form. Adherence to the CCEC is such a high priority, it is included as a standard performance criterion on the Department's employee

performance evaluation.

Adhering to the Code of Ethical Conduct for Contractors is a requirement to enter or renew a contract with BHS. This is stipulated in the language of all contracts. Contracts are not approved until the signed Code of Ethical Conduct for Contractors – Acknowledgement and Agreement form is received.

See Appendix B: Code of Organizational Conduct, Ethics and Compliance Code of Ethical Conduct for Contractors

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. Staff are trained to ask questions of reliable sources when in doubt about procedures. Several resources are available to assist in understanding the values, expected standards and procedures of BHS. These supports are offered as a critical underpinning of an effective Compliance Program.

BHS Policies and Procedures: BHS has extensive published policies and procedures with which workforce members are expected to be familiar. They are easily accessible to all electronically.

Chain of Command and Management Staff: Questions about the Compliance Program, CCEC, 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. And all management stands ready, willing, and available to help in any way.

Compliance Office: The CO has an open door or may be contacted confidentially at any time by calling the anonymous phone line at (559) 661-1049.

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 Organizational Conduct, Ethics and Compliance, Compliance Standards, and Program policies and procedures. The Handbook is provided to all new workforce members within the first two weeks of hire/assignment. 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 Program Policies and Procedures

[CMP 01:00 Compliance Program and Handbook](#)

[CMP 02:00 Compliance Officer](#)

[CMP 03:00 Compliance Committee](#)

[CMP 04:00 Maintenance of Compliance Records](#)

[CMP 05:00 Codes of Ethical Conduct](#)

[CMP 06:00 Reporting, Investigating and Resolving Compliance Concerns](#)

[CMP 09:00 Compliance Auditing and Monitoring](#)

[CMP 10:00 Excluded Individuals and Entities Screening](#)

[CMP 11:00 Compliance Training](#)

[CMP 12:00 Client Service Verification](#)

[CMP 13:00 Voluntary Reporting of Overpayments](#)

[CMP 14:00 Disclosures of Interest and Ownership](#)

[CMP 15:00 Whistle Blowers: Fraud, Waste and Abuse](#)

APPENDIX B



DEPARTMENT OF BEHAVIORAL HEALTH SERVICES

CODE OF ORGANIZATIONAL CONDUCT, ETHICS & COMPLIANCE

DOING THE RIGHT THING!

January 2022

INTRODUCTION

A. REQUIREMENT

ALL BHS workforce members are expected to fully abide by the principles, ethics and standards described in the Code of Organizational Conduct, Ethics and Compliance (CCEC). Supervisors are responsible to ensure his/her supervisees adhere to the CCEC. All business transactions and related personal conduct are to be in a manner consistent with the CCEC. Failure to comply, including the duty to immediately report known or suspected violations of the CCEC, may result in disciplinary action and/or sanctions in accordance with applicable laws, regulations, county codes and BHS policy.

B. PURPOSE OF CCEC

The CCEC is integral to BHS commitment to provide high quality care with honesty, integrity, ethics, and best practices. When individuals become part of BHS, their conduct is expected to reflect the Department's and County's values. The CCEC applies to all workforce members and is used as one component of assessing job performance.

The purpose of the CCEC is to:

- Communicate BHS high expectations and guidelines for professional and personal 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.
- Serves to maintain and foster a relationship of trust between BHS and its clients, families, and community.
- Demonstrate BHS dedication to high 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 CCEC does not replace—but complements—County and Department policies and procedures and 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 CCEC provides guidance for decision-making and conduct when ethical issues arise. More specific guidance is provided in BHS Policies and Procedures. Therefore, in addition to the standards

discussed in the CCEC, workforce members should review and be familiar with BHS policies and procedures and, as appropriate, parameters for clinical practice.

If there is not an existing BHS or County policy on a particular subject matter, the general principles of this CCEC are to be used as a guideline. Workforce members who are uncertain about the ethics of a particular course of action are to immediately seek counsel from their supervisor or other management staff starting with their chain of command. Employees may also contact the BHS Director or CO who have open door policies.

A code of 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 worker and contractor must take personal responsibility to perform their duties in good faith, exercising good judgment and in a manner, they reasonably believe to be in the best interest of BHS and the clients and public it serves.

The CCEC is a “living document” which is updated as needed to ensure it is current and relevant. The term “we,” as used in this document, refers to BHS workforce members– employees, volunteers, interns, trainees, on-site contracted service providers and other individuals authorized to act as representatives of BHS, both inside and outside the Department’s facilities.

The time is always right to do what is right, Martin Luther King

STANDARDS OF CONDUCT, ETHICS COMPLIANCE

A. Quality of Care & Service

We are committed to providing high quality services and care to our clients and their families, our constituents, and the community by operating a comprehensive program of continuous quality improvement.

We:

- Participate in activities that promote quality improvement and bring deficiencies to the attention of those who can assess and resolve the problems.
- Apply sound behavioral health principles in our daily work and activities with an emphasis on evidence-based treatment.
- Provide appropriate and effective clinical services that are medically necessary, client focused and delivered in the least restrictive manner possible.
- Seek appropriate consultation for problematic issues related to client care and related administrative matters.
- Provide culturally competent services and programs treating clients and constituents in a culturally sensitive manner appropriate to their background, culture, language, religion, and heritage and are mindful of individual differences.
- Do not deny care on the basis of race, gender, ancestry, religion, creed, color, economic status, sexual orientation, disability, marital status, national origin, marital status, medical condition, age, or any other legally recognized protected class.
- Ensure that the source or amount of payment for client services does 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.
- Document all client service encounters in the BHS record accurately, completely, and timely following established documentation guidelines and legal requirements.

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

- Provide competent services by qualified staff within the boundaries of our education, training, license, certification, consultation received, experience or other relevant professional experience.
- Never misrepresent our own professional qualifications, affiliations, and purposes or those of the colleagues, institutions, or associations with which we are affiliated.

B. Workplace Conduct

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

We:

- Respect the basic rights, dignity and values of all persons encountered in the line of work treating each other equally and with compassion.
- Strive for positive and cooperative relationships within BHS by treating our colleagues with respect, fairness, and courtesy.
- Promote a positive image for BHS, its employees, and services.
- Use work hours to accomplish County authorized duties and assignments in a productive and professional manner.
- Exercise sound judgment and take personal responsibility for performing duties in good faith, act honestly and with the highest integrity.
- 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.
- Never engage in personal political activity whatsoever during work hours or on County premises.
- 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, policies, practices and standards of the County, BHS, and our respective professions.
- 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.

- 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.

C. Staff-Client Relationships

We are committed to maintaining high professional standards and treating clients in a courteous, respectful, caring, culturally competent, fiscally responsible, and ethical manner.

We:

- Place the welfare of clients and their families above all other concerns except when our or another's person's safety is threatened.
- Respect the basic rights, dignity and value of clients and their families demonstrating courtesy and sensitivity to clients of all cultural and linguistic backgrounds.
- Are honest and forthright in providing information to clients as appropriate and within our job scope.
- Intervene and stop any conduct we observe by colleagues that may harm a client and immediately report such incidents to the appropriate supervisor.
- Do not involve clients or their families in criticism or controversy related to internal policies, practices, staff actions, or personality conflicts.

We Treatment Providers:

- Comply fully with the ethical codes and standards of our respective professions in all client interactions.
- Base client relationships on accepted therapeutic principles and standards as determined by BHS and the clinician's profession as established in pertinent professional codes of ethics.
- Maintain professional and objective personal conduct between the service provider, the client's family, and/or close associates.
- Have a professional concern for clients within the bounds of professional responsibilities, to safeguard the welfare of the client, both during and after treatment. Set clear, appropriate, and culturally sensitive boundaries.
- Do not foster or engage in giving or receiving personal favors and/or developing obligations in the therapeutic relationship, such as sexual favors or financial collaborations.

There is no pillow so soft as a clear conscience. French Proverb

- Never engage in behavior a reasonable person could find as abusive or damaging to the client, demeaning and/or not in the client's best interest. Any sexual behavior is interpreted as abusive or damaging.
- Do not take unfair advantage of the professional relationship with current or former clients or exploit them to further our personal, financial, 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.
- Do not manage, handle, or get involved in any way with clients' money or other financial matters unless formally approved by a supervisor; approved activities related to client finances must be documented in detail.
- 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 are immediately disclosed to the supervisor for guidance regarding the conflict.
- Do not involve clients, families or other service providers in criticism or controversy related to internal policies, practices, staff actions, or personality conflicts. In no case is this information ever part of the medical record.
- Respect and protect client confidentiality according to policy, law, and professional ethics.
- Take every measure to ensure the continuity of client treatment.
- Follow BHS policy and procedures in providing clients access to his/her record. When there is concern a client's access to his/her record could cause misunderstanding or harm, we assist the client in reviewing and interpreting the records.
- Never deter in any way, directly or indirectly, clients' right to file a grievance.

D. Confidentiality

We have a primary obligation to protect confidential information obtained or stored in any medium of both clients and employees in accordance with all applicable laws, professional ethics, and policy.

We:

- Safeguard all forms (verbal, written and electronic) of confidential information and take all appropriate steps to prevent any unauthorized disclosure.

***Every job is a self-portrait of the person who does it.
Autograph your work with excellence, Ted Key***

- Respect clients' right to privacy and protect their confidentiality by knowing and adhering to all laws, rules, regulations, policies, standards and professional practices of privacy and confidentiality.
- Always carefully explain to clients the relevant limits of confidentiality.
- Never disclose confidential employee information such as information contained in personnel files, payroll information, medical leave information, disciplinary actions, and similar information except as allowed by BHS and County policy and rules.
- Immediately report any suspected or known breaches of client or employee privacy according to policy and guidelines.
- Never use confidential information for personal purposes or benefit or the benefit of any other person.

E. 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 Office.
- 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, timecards/reports, travel claims, 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.

***It takes less time to do a thing right than it does to explain why you did it wrong,
Henry Wadsworth Longfellow***

- Bill only for eligible services actually rendered, reported by the unit of service, 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.

F. Conflicts of Interest

We avoid conflicts of interest or the appearance of conflicts between our own personal interests and the best interests of clients, 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 Office including family or other acquaintances receiving BHS services.
- 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.

You do not wake up one morning a bad person. It happens by a thousand tiny surrenders of self-respect to self-interest, Robert Brault

- Voluntarily disclose to our immediate supervisor or the Compliance Office if we or an immediate member of our family 1) have any financial ownership interest in a mortgage, deed of trust, note or other obligation secured by BHS or 2) are in official position or other influential position with BHS vendors, contractors, referral sources or other business associations.

G. 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 and do not knowingly make misrepresentations or false statements or encourage others to knowingly make false statements to community members or others doing business with or monitoring services by BHS.
- Interact in a helpful and cooperative manner in relationships with external agencies and community groups within the boundaries of our job duties.
- Ensure all legally required reports or other information provided to any external entity including federal, state, and local government agencies are complete, accurate and timely. Only authorized staff or their official designee sign reports requiring certifying signatures.
- Do business only with entities that comply with the BHS Contractors Code of Ethical Conduct and all applicable laws, regulations, codes, and BHS policies.

H. Protecting Assets

We protect the County's property and assets including revenues, property, and other Department and/or county resources.

We:

- Use Department assets, property and resources in a prudent and effective manner and report any misuse of BHS property or funds to an appropriate authority.
- Do not use County-owned equipment, materials, documents, data, or property for personal use and/or for profit.

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

- Use computer systems, networks, and software consistent with BHS licenses and/or rights, and store equipment, data files and software in a secure manner in accordance with BHS policies and procedures.
- Safely store, secure, document and inventory supplies and report missing supplies promptly to appropriate supervisors.
- Are responsible and accountable for the proper expenditure of County funds and for the proper use of County assets and property. We perform cash handling and receipting duties in accordance with County policies and procedures.

I. Records Maintenance

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

We:

- Maintain complete, factual, accurate, timely and available client and administrative records.
- Ensure timesheet and other cost records and reports are complete and reflect truthful information.
- Ensure all records in any medium are maintained in accordance with BHS guidelines and applicable government and civil codes.
- Maintain, train, and monitor adherence to documentation and record keeping guidelines following legal requirements.
- Records are retained for at least the minimum period required by laws and regulations.

***This above all — to thine own self be true, and it must follow, as the night the day,
thou canst not then be false to any man, William Shakespeare***

APPENDIX C



DEPARTMENT OF BEHAVIORAL HEALTH SERVICES

CODE OF ETHICAL CONDUCT FOR CONTRACTORS

DOING THE RIGHT THING!

January 2022

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 and activities. 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, quality and integrity, 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 make explicit BHS ethical and legal expectations for 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.

In all matters relevant to the BHS contract, Contractor will:

1. Comply with all applicable laws, rules, regulations, standards, and other requirements of federal, state, and local government.
2. Conduct themselves with honesty, transparency, integrity, courtesy, and fairness in professional dealings with BHS and avoid any conduct that could reasonably be expected to reflect adversely upon the integrity of BHS.
3. Treat BHS employees, clients, and other BHS contractors fairly and with respect.
4. Except as otherwise required by law, do not release confidential or client protected health information (PHI) without proper, legal authorization.
5. Charge, bill and submit claims for reimbursement only when the services have been provided and documented in the manner required by laws, regulations, policies, applicable standards of care and contract specifications.
6. Ensure all financial information reflects actual transactions and conforms to generally accepted accounting principles and law. Ensure no false, fraudulent, inaccurate, or fictitious claims for payment or reimbursement of any kind are submitted to BHS or a third party.
7. Act promptly to investigate when errors in claims or billing to BHS or a third party are discovered, make needed corrections, and notify BHS of these incidents.
8. Inform all persons affiliated directly or indirectly with the BHS contract, if they know or suspect a bill or claim for reimbursement is incorrect, he/she is required to promptly report the matter to a supervisor.
9. Promptly report in good faith to BHS any activity involving financial improprieties as it relates to the BHS contract, past or present.

10. Not intimidate, threaten, coerce, discriminate against nor take other retaliatory action against anyone who exercises the right to file a complaint, report illegal or unethical conduct or participate in an investigation relative to a complaint or report.
11. Promptly report to BHS in writing any serious, verified violation of this Code of Ethical Conduct for Contractors relevant to the contract.
12. Consult with the BHS Compliance Office if uncertain about any requirements of the Code of Ethical Conduct for Contractors or other applicable law, regulation, rule, or guideline.

DO THE RIGHT THING



DEPARTMENT OF BEHAVIORAL HEALTH SERVICES

CODE OF ETHICAL CONDUCT FOR CONTRACTORS

ACKNOWLEDGEMENT & AGREEMENT

I have received and read the Madera County Behavioral Health Services *Code of Ethical Conduct for Contractors*.

On behalf of _____ I certify I, and all
(organization / company / provider)

employees and subcontractors, understand the contents and agree to abide by the *BHS Code of Ethical Conduct for Contractors* as it applies to our contract with Madera County Behavioral Health Services.

Print Name: _____

Title: _____

Organization: _____

Signature: _____ **Date:** _____

Doing the right thing!

RETURN ORIGINAL TO BHS CONTRACT SERVICE DEPARTMENT

C: Signatory Copy:
BHS Contract Services; Signatory

APPENDIX D

2.57.130 Rule 10 – Disciplinary Action and Hearings

10-1 DISCIPLINARY ACTION. Disciplinary action may be taken against any employee only for good cause as specified in section 10-2. Action is normally taken by the appointing authority or the board of supervisors, although authority for action less than demotion or removal may be delegated by the appointing authority in writing. All disciplinary actions shall be reported to the director.

10-2 CAUSES FOR DISCIPLINARY ACTION. The following are declared to be causes for disciplinary action, although charges may be based on causes other than these specifically enumerated herein:

- a. Incompetency or inefficiency;
- b. Neglect of duty;
- c. Insubordination or willful disobedience of a lawful order of a superior;
- d. Dishonesty;
- e. Indulging in intoxicating beverages or in narcotics or habit-forming drugs while on duty; being under the influence of intoxicating beverages or habit-forming drugs while on duty;
- f. Disorderly or immoral conduct;
- g. Discourteous or offensive treatment of the general public, wards of the county or fellow employees;
- h. Incapacity due to mental or physical disability;
- i. Fraud in securing appointment;
- j. Soliciting or taking money or gifts in connection with duty;
- k. Neglect or refusal to pay just debts;
- l. Conviction of a felony or of a misdemeanor involving moral turpitude;
- m. Engaging in prohibited political activity;
- n. Theft, abuse, damage or willful negligence of county property, equipment, or supplies;

- o. Absence without proper leave, except in cases of sickness or great emergency;
- p. Violation of provisions of these rules or of county ordinances concerned with regulation of employees.
- q. Failure to establish residence within the county when required by ordinance;
- r. Any act during or outside of hours of duty which is incompatible with or inimical to the county service; conduct unbecoming an employee in the county service.

County Code, Chapter 2.57, Civil Service Rule 2.57.130, 8/91, pages 97-98.

APPENDIX E



DEPARTMENT OF BEHAVIORAL HEALTH SERVICES

COMPLIANCE PROGRAM

TRAINING & HANDBOOK ACKNOWLEDGEMENT & AGREEMENT

Full Name: _____

BHS Affiliation:

- Employee
- Contractor
- Volunteer
- Student/Intern
- Board Member
- Other (specify)

Job Title: _____ Program: _____

I received Compliance Program Training:

- Initial Orientation by Compliance Officer on: _____
- Refresher Training on: _____

I acknowledge I have received and read the Behavioral Health services Compliance Program Handbook which includes the Organizational Code of Conduct, Ethics and Compliance, and False Claims Act information. I understand the contents as it applies to my job responsibilities. I agree if I have any questions about my responsibilities or standards of conduct, I will reference the Compliance Program Handbook, ask my supervisor, a manager, the Compliance Office, Contract manager or other designated authority for clarification.

Signature: _____ Date _____

Do the Right thing!