



DEPARTMENT OF BEHAVIORAL HEALTH SERVICES
Wellness ❖ Recovery ❖ Resilience

COMPLIANCE PROGRAM HANDBOOK

DOING THE RIGHT THING!

March 2016

TABLE OF CONTENTS

MESSAGE FROM THE DIRECTOR.....	3
SECTION I: INTRODUCTION.....	4
A. Madera County Behavioral Health Services Mission and Core Values.....	4
B. Background.....	4
C. About the Handbook.....	4
SECTION II: COMPLIANCE PROGRAM OVERVIEW	5
A. Policy Statement.....	5
B. Purpose and Benefits.....	5
C. Scope	6
D. Program Personnel and Structure	7
E. Proactive, Positive, and Preventive Approach	8
F. Deficit Reduction Act and Prevention, Detection and Correction of Fraud, Abuse and Waste.....	8
SECTION III: PROGRAM ELEMENTS	10
A. Policies, Procedures and Standards.....	10
B. Compliance Communication	11
C. Education and Training Programs	11
D. Documentation.....	12
E. Reporting and Investigative Processes.....	12
F. Anonymous Compliance Reporting.....	14
G. Auditing and Monitoring.....	14
H. Corrective Action Plan and Prevention.....	15
I. Enforcement and Sanctions.....	16
SECTION IV: COMPLIANCE STANDARDS	16
A. Management Responsibilities	16
B. Employee Responsibilities.....	17
SECTION V: CODE OF ORGANIZATION CONDUCT, ETHICS & COMPLIANCE.....	18

SECTION VI: FALSE CLAIMS

ACTS.....199

- A. Mandated Training on False Claims
Laws.....199
- B. Overview.....19
- C. Federal False Claims Requirements.....22
- D. California False Claims Act.....23

SECTION VII: HELP AND INFORMATION..... 25

- APPENDIX A: Links To Compliance Policies and Procedures.....27
- APPENDIX B: Code of Organizational Conduct, Ethics and Compliance.....28
- APPENDIX C: Code of Ethical Conduct for Contractors41
- APPENDIX D: Madera County Disciplinary Code.....44

❖ MESSAGE FROM THE DIRECTOR

Dear Behavioral Health Services Team Members:

As a member of our Team you are our most valued resource. Your efforts make the difference in many people's lives. Each of you makes the difference – every day!

While personal ethics drive the manner in which we provide services, we are also governed by laws, rules, regulations and policies. A Compliance Program has been established to assist all of us in our efforts to promote high quality care, be accountable and ethical.

Please take the time needed to carefully read the Compliance Program Handbook which explains what is required of you as a member of the BHS workforce 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 manner in which you conduct yourselves are at the core of our high standards and integrity.

I ask that all staff embrace the Department's commitment to an ethical and compliant organizational environment. I strongly encourage you to take your questions and concerns to your Supervisor, Manager or the Compliance Officer.

Thank you for everything you do to make the lives of our clients and our community better.

Sincerely,

Dennis P. Koch, Director
Madera County Department of Behavioral Health Services

SECTION I: INTRODUCTION

A. Madera County Behavioral Health Services Mission and Core Values

– Mission –

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

– Core Values –

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

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

B. Background

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

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

C. About the Handbook

The Compliance Program Handbook aims to:

- Explain the purpose, scope, policies and activities of the Compliance Program.
- Convey to staff the organizational standards for integrity and *doing the right thing*.
- Make explicit the high ethical expectations and specific obligations of everyone affiliated with BHS related to compliance.

- Educate staff about the duty to and protections for reporting compliance issues.
- Define the Department’s response to wrongdoing and acts subject to criminal scrutiny.
- Provide mandated information on the False Claims Acts.
- Serve as a training tool for new staff and as a guide and resource for existing staff.
- Be transparent to funders and the general public regarding BHS commitment to integrity and legal compliance.

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

This handbook is considered a living document and suggestions for improvement are strongly encouraged and sincerely welcomed.

SECTION II: COMPLIANCE PROGRAM OVERVIEW

A. Policy Statement

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

When individuals become part of BHS, their conduct is expected to reflect the Department’s and County’s values. Staff have the individual duty to know and adhere to both the spirit and specific terms of the Compliance Program (the Program). All staff are personally responsible to understand and comply with the Code of Ethical Conduct, 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 special duty to model the principles set forth in the Program and to be stellar examples of personal and professional integrity.

B. Purpose and Benefits

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

and conditions of participation in these programs. Preventing, detecting and correcting fraud, abuse and waste is at the Program's core.

The benefits of the Compliance Program are many:

- Fulfills BHS legal duty to prevent submission of false or inaccurate claims to government and private payors;
- Meets state and federal guidelines for compliance programs;
- Assists in the fundamental care-giving mission to clients and the community;
- Concretely demonstrates to employees and the community at large the Department's commitment to honest and responsible conduct;
- Provides a clear expectation of staff behavior related to fraud, waste and abuse;
- Prevents, detects, and deters unethical and criminal conduct;
- Speeds and optimizes proper payment of claims;
- Improves the quality of patient care;
- Is the central source for distributing information on health care statutes, regulations and other directives related to fraud, waste and abuse;
- Provides a user friendly way for employees to report known or potential compliance problems so a prompt and thorough investigation can be conducted;
- Initiates immediate and appropriate corrective action in response to identified non-compliance;
- Minimizes loss to the government from false claims and reduces BHS exposure to civil damages and penalties, criminal sanctions, and administrative remedies such as program exclusion.

An effective compliance program is constantly evolving and is part of organizations committed to conducting business in an ethical way. In other words, it's a system for–

Doing the right thing!

C. Scope

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

Toward the goal of satisfying the conditions of participation in government funded health care programs and other third party payors, particular emphasis is placed on 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, billing related clinical documentation, claims development, overpayments and paybacks, staff licensure, anti-kickback, and ineligible persons screening.

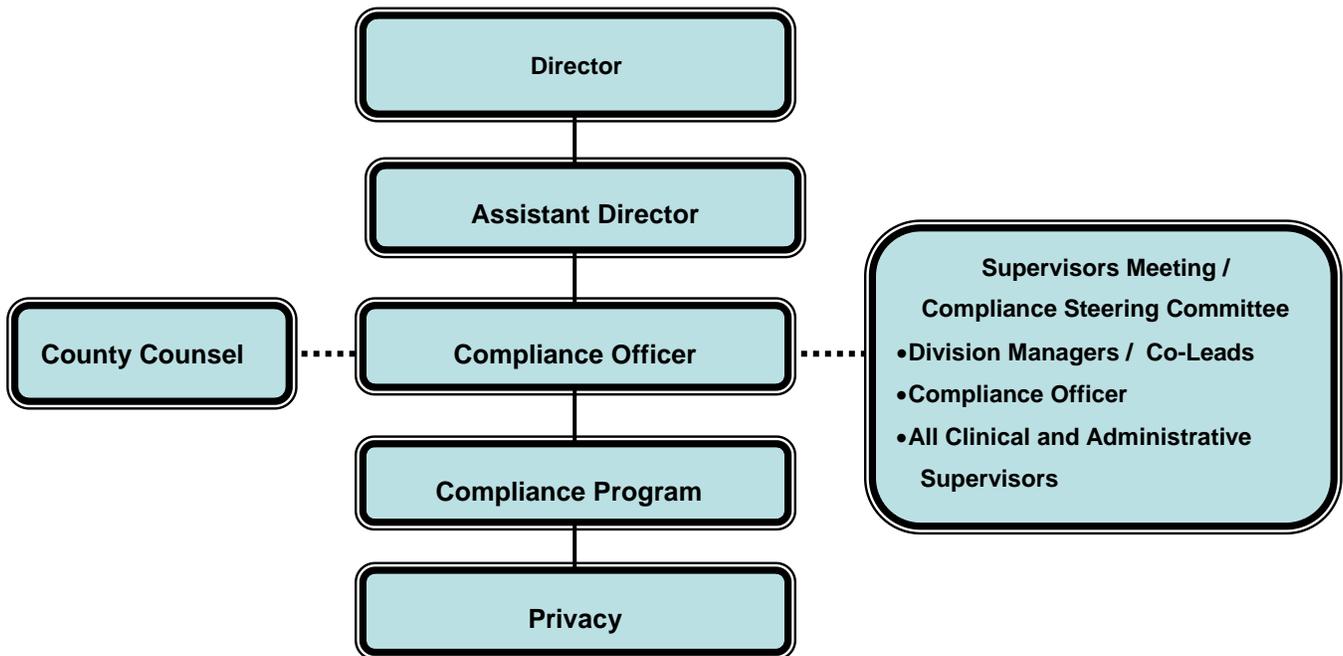
A second and equally important area of focus is privacy protections because of the high risk both to the client and the Department if privacy breaches occur. The audit process includes proactive, random, complaint-driven and focused audits.

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

D. Program Personnel and Structure

- **Compliance Steering 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 Committee provides ongoing, broad-based input for planning and day to day operation of the Compliance Program.

COMPLIANCE PROGRAM STRUCTURE



- **Compliance Officer:**
The Compliance Officer has the overall responsibility to oversee all aspects of the Compliance Program. The Compliance Officer is delegated authority for the development, management, operation and continual improvement of the Compliance Program. The Compliance Officer contributes to the fulfillment of BHS's commitment to program integrity by planning, designing, implementing and refining 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. The Compliance Officer plays a critical role in promoting an awareness and understanding of positive ethical and legal practices consistent with the mission and values of BHS and those required by state and federal law.

E. Proactive, Positive, and Preventive Approach

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

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

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

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

Abuse includes incidents or practices which are inconsistent with sound fiscal,

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

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

- Claims for services not medically necessary, or not medically necessary to the extent furnished (e.g. a battery of diagnostic tests is given where, based on diagnosis, only a few are needed).
- Missing, incomplete or non-compliant documentation including:
 - Clinical documentation does not substantiate service code, time spent or clinical appropriateness of the billed service.
 - No client plan in place.
 - No evidence the service involved direct patient care (e.g. client transportation where rehabilitative staff-client interaction isn't noted).
- Time billed is rounded 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 Office of the Inspector General.

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

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

IMPORTANT CHANGE: Under the Federal False Claims Act, fraud has a wide and inclusive meaning—it lowers the level of intent. The government does not have to prove intent to defraud—intent is not necessary for false claims liability.

According to the False Claims Laws, if an individual knows the truth and still files a false claim or ignores information that would prevent the falsity or accuracy of a claim or act in reckless disregard for a claims truth, this constitutes a *false claim*. For example, if a supervisor or manager does not review a claim to check for mistakes and allows a duplicate claim to be submitted, the case can be made that not reviewing is reckless disregard. See Section VI: The False Claims Acts.

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

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 Office of the Inspector General (Title 42, CFR 438.608–Program Integrity Requirements). The Compliance Program also incorporates the mandates of the Deficit Reduction Act of 2005. The Compliance Program covers the following elements:

A. Policies, Procedures and Standards

1. Policies and Procedures

- Numerous policies, procedures, and business rules are provided to guide and inform staff about many decisions and actions. They are regularly updated as applicable statutes, regulations and federal health care program requirements are modified. All policies and procedures are distributed Department-wide and are available in hard copy at each program site and electronically to everyone in the Department's electronic folders in Public Share.
- Clearly, it is impractical to cover every situation in the daily conduct of the Department's many varied activities. Nor can policies and procedures be written that encompass the full body of all applicable laws and regulations. BHS does, however, expect staff to follow laws and regulations not covered in BHS policies and procedures. In any instance where there is doubt about how to proceed, staff are responsible to seek direction through the chain of command, the Compliance Officer, or another BHS-designated expert. Staff must exercise common sense, individual judgment or personal integrity in determining their responsibility.

See Appendix A: Compliance Policies and Procedures

2. Standards

- Compliance Standards
Written Compliance Standards are provided for management and employees

governing compliance related activities. The standards articulate BHS commitment to comply with all federal and state legal requirements, with an emphasis on the prevention, detection and correction of fraud, waste, and abuse.

See Section IV: Compliance Standards

- Codes of Ethical Conduct
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 BHS 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 BHS. 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. Compliance Communication

All staff have direct access to the Compliance Officer. BHS recognizes open lines of communication between the Compliance Officer and personnel are critical to the success of the Program. The Compliance Officer has an "open door" policy and can be contacted directly by phone, email or in person. In addition, he/she attends monthly supervisor meetings.

Staff are encouraged to report incidents of potential fraud directly to the Compliance Officer as well as to freely seek clarification regarding legal concerns. 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 Email system is another way of communicating with the Compliance Officer. Anonymous Email is available to all workforce members via Public Share. The email goes directly and only to the Compliance Officer and there is no "From" box identifying the sender. This system set up guarantees absolute anonymity. The email can never be traced to the sender because it goes directly from the server—not the sender's PC—to the Compliance Officer. This means the system is not recording what computer the sender is using. Posters explaining the availability of Anonymous Email are prominently displayed in staff areas at all program sites.

See P&P CMP 02:00 Compliance Officer and P&P CMP 07:00 Anonymous Reporting

C. Education and Training Programs

Mandated, comprehensive, ongoing training is central to the Program's positive, proactive and preventative approach to ensuring legal and ethical compliance. Compliance training is provided at the start of service, annually and *as needed* to all

employees, personal service contractors, volunteers, student interns, network providers, and advisory board members.

Within two weeks of joining BHS, staff receive orientation training. This includes an overview of the Compliance Program and how it works, the Code of Ethical Conduct, compliance policies and procedures, current auditing and monitoring activities, 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 2) to educate about specific, Department-wide compliance issues. Training is also provided *as needed* to:

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

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

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

D. Documentation

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

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

See Appendix A: P&P [CMP 04:00 Maintenance of Compliance Records](#)

E. Reporting and Investigative Processes

1. Duty to Report

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

2. What to Report

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

3. Non Retaliation Policy

Staff who, in good faith, report possible compliance violations will not be subjected to retaliation or harassment of any kind at any level as a result of their reports. Retribution or condoning retribution related to reporting of compliance concerns is emphatically prohibited and anyone who engages in such prohibited activity will be subject to disciplinary action. Concerns about possible retaliation or harassment should be reported to the Compliance Officer.

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 in order 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 Compliance Officer either conducts the investigation and/or refers the complaint to a more appropriate area within or outside BHS such as the Quality Improvement Coordinator, legal counsel, auditors, or health care consultants with the needed expertise.
- Ensure investigations are conducted promptly, objectively, thoroughly and confidentially within the limits of the law.
- Coordinate the development of a corrective action plan including return of discovered overpayments to relevant government programs.
- Prepare reports of each investigation comprehensively documenting the

issues, methods, findings, and corrective measures including any disciplinary action.

- Employees are also expected to cooperate with all investigations.

See Appendix A: P&P CMP 06:00 Reporting Compliance Concerns and Protocol for Internal Follow-Up and Investigation
P&P CMP 07:00 Anonymous Compliance Reporting
P&P CMP 08:00 Corrective Action

F. Anonymous Compliance Reporting

The Anonymous Email system is another method for reporting suspected or known illegal or non-standard practices. Anonymous Email is available to all workforce members via Public Share. The email goes directly and only to the Compliance Officer and there is no “From” box identifying the sender. This system guarantees absolute anonymity. The email can never be traced to the sender because it goes directly from the server-not the sender’s PC– to the Compliance Officer. This means system is not recording what computer the sender is using. Posters explaining the availability of Anonymous Email are prominently displayed in staff areas at all program sites.

ANONYMOUS EMAIL

From the Internet: <http://help/Madera> or

From Public Share: Anonymous Compliance Reporting

Look for the yellow padlock... 

G. Auditing and Monitoring

The Program conducts proactive monitoring and auditing functions designed to test and confirm compliance with legal requirements and policies. The Compliance Officer and the Compliance Committee jointly develop a Work Plan to track the development of the Program. The Work Plan’s objectives are to verify adherence to, and awareness of, compliance policies and procedures. This plan also identifies and prioritizes areas to audit and monitor with proposed timetables and personnel assignments.

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

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

Currently, ongoing monitoring is performed to determine compliance with:

1. Compliance Program Work plan:
 - Training Schedule and Attendance
 - Availability of Anonymous Reporting
 - Ineligible Persons Screening / CMS Exclusion Lists
 - Corrective Action Plans
2. Billing and Claiming
 - Staff Billing and Coding compliance
 - Medicare /Medi-Cal Denial Reports
 - Medical Record Reviews
 - Claiming Activities
 - Staff Licensure and Site Certifications
 - Service Verification

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

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

H. Corrective Action Plans & Prevention

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

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

- Policy, procedure and/or system changes
- Designated way to handle compliance issues
- Additional training
- Restricted work responsibilities of particular employees with a propensity to engage in noncompliance practices or who have competence concerns
- Disclosure of the matter to external parties
- Recommendation for sanctions or discipline
- Prompt restitution of overpayments
- Disclosure to OIG

The Compliance Officer approves the plan prior to implementation and monitors the implementation to ensure successful and sustained resolution.

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

Enforcement and Sanctions

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. 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 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

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

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

SECTION IV: COMPLIANCE STANDARDS

A. Management Responsibilities

1. Manage a comprehensive, system-wide, evidence-based Compliance Program. This includes a Compliance Officer to oversee compliance activities and a Compliance Committee comprised of senior management staff to provide compliance leadership.
2. Develop and implement a compliance plan with relevant policies and procedures.
3. Encourage reports of known or suspected non-compliance and provide a confidential method of disclosure.
4. Prohibit retaliation or retribution of any kind at any level towards persons reporting suspected instances of non-compliance. Any employee who commits or condones any form of retaliation may be subject to discipline up to and including termination.
5. Ensure no employee, contractor or other person hired, engaged or retained is deemed an *ineligible person* by the following: Office of the Inspector General, Board of Behavioral Sciences, California Medical Board, General Services

Administration List of Parties Excluded from Federal Procurement and Non-Procurement Programs, Calif. Department of Health Medi-Cal Suspended and Ineligible List, and other similar lists.

6. Require supervisors and managers to: 1) respond in an appropriate and timely manner to issues or concerns brought to their attention by employees or anyone affiliated with BHS; 2) ensure staff has sufficient information to comply with laws, regulations and policies; and 3) enforce staff attendance at all appropriate and necessary compliance training.
7. Provide ongoing compliance training and education programs for employees and other designated individuals.
8. Ensure the CCEC is explained to all employees, contractors, and anyone acting on behalf of BHS, 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. Employee Responsibilities

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

1. Perform all duties *in good faith* and to the best of one's ability.
2. Upon hire and annually thereafter, carefully read the *Compliance Program Handbook* which includes the *Code of Ethical Conduct* and acknowledge understanding 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 *Code of Ethical Conduct*, BHS 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 Compliance Officer regarding any questions about the *Code of Ethical Conduct*, policy, procedure and/or practice. There will be no retribution of any kind at any level for asking questions or raising concerns about the *Code of Ethical Conduct*.
5. Promptly report *in good faith* any suspected violation of the *Code of Ethical Conduct*, agency policies and procedures, laws and regulations using one of the Compliance Program's available reporting methods. *In good faith* means honestly or truthfully believing the information reported to be true. Employees are not exempted from the consequences of their own misconduct by self-reporting although self-reporting may be taken into account in determining the appropriate course of action.
6. Help create a work culture that promotes the highest standards of ethics and compliance.
7. Cooperate and supply information requested for internal compliance investigations. Failure to do so could result in disciplinary action.
8. Immediately contact and/or follow the Compliance Program instructions for responses to external investigations, subpoenas, search warrants, unannounced site visits, requests for interviews and any other requests to access BHS property and information. The Compliance Program directions and procedures not only protect the rights of BHS as an organization and client confidentiality, but also assure investigators receive the full cooperation necessary to complete their work.

SECTION V: CODE OF 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. BHS has separate codes for workforce members and contractors. These Codes assure everyone affiliated with BHS shares its values of quality, honesty and integrity and communicate BHS commitment to legal and ethical compliance. BHS 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 BHS 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 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 into 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 VI: FALSE CLAIMS ACTS

A. Mandated Training on False Claims Laws

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

B. Overview

1. What is the Federal False Claims Act?

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

The FCA permits a person with knowledge of fraud against the United States Government, referred to as the "qui tam plaintiff," to file a lawsuit on behalf of the Government against the person or business that committed the fraud (the defendant). Therefore, the FCA establishes liability for any person who knowingly submits, or causes another person or entity to submit, false claims for

payment of government funds. If the action is successful the qui tam plaintiff is rewarded with a percentage of the recovery.

2. What is the California False Claims Act?

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

3. Why did Congress enact the False Claims Act?

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

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

As public servants, BHS staff are guardians of tax dollars entrusted to us to provide behavioral health services. As such we have an obligation to ensure the integrity and honesty of all BHS business practices. Reporting misuse of government funds is "*the right thing*" to do. In addition, BHS policy (PP CMP 06:00) and the BHS CCEC require all staff to report suspected or known fraud, waste and abuse. Persons reporting suspected or known fraud do not need director first-hand knowledge of the fraud. Thus, an employee that learns from a colleague of fraud by his or her employer or by another employee must report the fraud.

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

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

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

Examples:

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

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

Criminal actions are brought against fraud that involves willful misrepresentation, in either documentation or verbal statement, for financial gain. Willful misrepresentation can take many forms including:

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

6. What are the penalties for a fraud conviction?

FCA: A person or organization may be liable for:

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

CFCA: A person or organization may be liable for:

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

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

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

BHS policy (CMP 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
- BHS Compliance Officer: (559) 673-3508
- BHS Anonymous Email: <http://help/Madera> or Pubic Share *Anonymous Compliance Reporting* (folder w/yellow padlock symbol)
- Your Supervisor or Manager
- Any Management 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, plus three times the amount of damages.
- b. 31 U.S.C. Section 3729 (b) defines “knowingly” as having actual knowledge of the information, acting in deliberate ignorance of the truth or falsity of the information, acting in reckless disregard of the truth or falsity of the information. The government does not have to prove that the person intended to defraud the government.
- c. 31 U.S.C. Section 3730 includes “Qui Tam” provisions that allow private citizens (relater) to sue violators on behalf of the government. The government can take over the prosecution or allow the relater to handle the case.
 - i. If the government takes over the case and wins, the qui tam relater is eligible for 5-25% share of the recovery.
 - ii. If the relater handles the case and wins, the relater is eligible for 25-35% share of the amount recovered.
 - iii. If the action is initiated by a relater who planned and initiated the violation, then the court may reduce the share of the proceeds. If the relater bringing the action is convicted of criminal conduct arising from the violation of the False Claims Act, then they shall not receive any proceeds from the action.
 - iv. If defendant prevails and the court finds that the qui tam relater was clearly frivolous, clearly vexatious, or took action for the purposes of harassment, then the court may award to the defendant reasonable attorney’s fees and expenses.

2. Criminal False Claims

- a. False Statements relating to Health Care Matters – 18 U.S.C. Section 1035 Criminalizes any false or fictitious statements “in any manner involving a health care benefit program”. The penalty is up to 5 years in prison and a \$25,000 fine.
- b. Federal Criminal False Statements – 18 U.S.C. Section 1001 specifies that whoever knowingly and willfully – (1) falsifies, conceals, or covers up by any trick, scheme, or device a material fact; (2) makes any materially false, fictitious, or fraudulent statement or representation; or (3) makes or uses any false writing or document to contain any materially false, fictitious, or fraudulent statement or entry; shall be fined or imprisoned not more than 5 years, or both.
- c. Federal Criminal False Claims Act – 18 U.S.C. Section 287 states, “Whoever makes or presents... any claim upon or against the United States, or any department or agency thereof, knowing such claim to be false, fictitious, or fraudulent, shall be imprisoned not more than five years and shall be subject to a fine..”
- d. Health Care Fraud – 18 U.S.C. Section 1347
 - i. Anyone who knowingly and willfully demands any health care benefit program or obtains, by means of false presentations, any money or property of a health care benefit program.
 - ii. A health care benefit program is defined as any public or private plan or contract, affecting commerce, under which any medical benefit, item, or service is provided to any individual, and includes any individual or entity, who is providing a medical benefit, item, or service for which payment may be made under the plan or contract.
 - iii. The penalties for health care fraud include prison and fines.
- e. Obstruction of Criminal Investigations of Health Care – 18 U.S.C. Section 1518 Anyone who willfully prevents, obstructs, misleads, delays or attempts to do these things in communication of information or records relating to a violation of a Federal health care offense can face up to 5 years in prison and fines.

3. Whistleblower Protections 31 USC Section 3730 (h) protects employees against discharge, demotion, suspension, threats, harassment, or discrimination by the employer because of lawful acts done by the employee in cooperating with the False Claims Act, including investigation for, initiation of, testimony for, or assistance in an action filed or to be filed under this section.

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 also be liable to the state or to the political subdivision for the costs of a civil action brought to recover any of those penalties or damages, and may be liable for a civil penalty of up to ten thousand dollars (\$10,000) for each false claim if the person:
- a. Knowingly presents or causes to be presented to... the state or any political subdivision thereof, a false claim for payment or approval.
 - b. Knowingly makes, uses, or causes to be made or used a false record or statement to get a false claim paid or approved by the state or by any political subdivision.
 - c. Conspires to defraud the state or any political subdivision by getting a false claim allowed or paid by the state or by any political subdivision.
 - d. Knowingly makes, uses, or causes to be made or used a false record or statement to conceal, avoid, or decrease an obligation to pay...the state or any political subdivision.
 - e. Is a beneficiary of an inadvertent submission of a false claim to the state or a political subdivision, subsequently discovers the falsity of the claim, and fails to disclose the false claim to the state or the political subdivision within a reasonable time after discovery of the false claim.
3. The California False Claims Act also includes provisions that allow a private citizen to bring a civil action for a violation of this article as a "qui tam plaintiff".
- a. If the Attorney General or local prosecuting authority take over the case and prevail, the qui tam plaintiff may receive between 15% and 33% of the proceeds as determined by the court.
 - b. If the Attorney General or local prosecuting authority does not proceed and the qui tam plaintiff prevails, the qui tam plaintiff may receive between 25% and 50% of the proceeds as determined by the court.
 - c. There is no guaranteed minimum recovery for actions initiated by:
 - i. Present or former employees of the State or political subdivision (this includes County employees).
 - ii. Present or former employees who actively participated in the fraudulent activity.
 - d. If defendant prevails and the court finds that the qui tam plaintiff was clearly frivolous, clearly vexatious, or took action for the purposes of harassment, then the court may award to the defendant reasonable attorney's fees and expenses.

4. Whistleblower Protections
 - a. California Government Code Section 12653 provides protection for employees by preventing employers from making, adopting, or enforcing any rule, regulation or policy that would prevent an employee from disclosing information to a government or law enforcement agency or from acting in furtherance of a false claims action.
 - b. California Government Code 12653 also requires that no employer shall discharge, demote, suspend, threaten, harass, deny promotion to, or in any other manner discriminate against, an employee...because of lawful acts done by the employee on behalf of the employee or others in disclosing information to a government or law enforcement agency or in furthering a false claims action, including investigation for, initiation of, testimony for, or assistance in, an action filed or to be filed under the California False Claims Act.

SECTION VII: HELP AND INFORMATION

Ignorance is not a defense for wrongdoing.

It is each person's individual responsibility to ensure they understand and abide by the laws, statutes, regulations, guidelines and policies and procedures that govern our Department—whether they are in writing or not. Staff are trained to ask questions of reliable sources when in doubt about procedures. A number of 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 written policies and procedures with which workforce members are expected to be familiar. They are easily accessible to all electronically in Public Share.

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 Officer: The Compliance Officer has an open door or may be contacted confidentially at any time by email or phone.

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 Policies and Procedures

CMP 01:00 Compliance Program and Handbook

CMP 01.A1 Compliance Program Handbook

[CMP 02:00 Compliance Officer](#)

CMP 03:00 Compliance Steering Committee

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

CMP 05:00 Code of Organizational Conduct, Ethics and Compliance

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

CMP 07:00 Anonymous Compliance Reporting

CMP 08:00 Compliance-Corrective Action

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 Disclosure of 5% Interest, Ownership and Control or Disclosures Related to Persons Convicted of a Crime Related to Federal Health Care Programs](#)

APPENDIX B



DEPARTMENT OF BEHAVIORAL HEALTH SERVICES

CODE OF ORGANIZATIONAL CONDUCT,
ETHICS & COMPLIANCE

DOING THE RIGHT THING!

❖ INTRODUCTION

REQUIREMENT

ALL BHS workforce members are expected to abide by the principles, ethics and standards described in the CCEC and ensuring adherence is an obligation of each supervisor. All business transactions and personal conduct are to be conducted 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.

Purpose of Code of Organizational Conduct, Ethics & Compliance

The Code of Organizational Conduct, Ethics, and Compliance (CCEC) is integral to Behavioral Health Services' (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 employees and is used to assess employee's 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 Compliance Officer 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 employee 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 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

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.
- Accurately and completely document all encounters in the BHS record.
- 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 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.
- Provide competent services 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.

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 and immediately report any known or suspected incidents of non-compliance with this requirement.
- 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.

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 and 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.

There is no pillow so soft as a clear conscience.

French Proverb

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, so as 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.
- 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.

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

- Respect and protect client confidentiality according to policy, law and professional ethics.
- Take every measure to ensure the continuity of client treatment.
- Never deter in any way, directly or indirectly, clients' right to file a grievance.

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.
- 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 benefit or the benefit of any other person.

It takes less time to do a thing right than it does to explain why you did it wrong.

Henry Wadsworth Longfellow

Adhering to Laws and Regulations

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

We:

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

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

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 Officer 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.
- Voluntarily disclose to our immediate supervisor or the Compliance Officer any financial interest, official position, ownership interest or any other relationship an employee or member of his/her immediate family has with BHS vendors, contractors or referral sources.

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.

Live in a way you would not be ashamed to sell your parrot to the town gossip

Will Rogers

- 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 accurate and submitted 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.

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.
- 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.

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

Benjamin Disraeli

Records Maintenance

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

We:

- Maintain complete, accurate, 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, in an accurate and confidential manner in order to protect privacy and to provide factual information.
- 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



DEPARTMENT OF BEHAVIORAL HEALTH SERVICES

**COMPLIANCE PROGRAM HANDBOOK
ACKNOWLEDGEMENT & AGREEMENT**

Printed Name: _____

√ BHS Affiliation:

____ Employee

____ Contractor

____ Volunteer

____ Student / Intern

____ Board Member

____ Other (specify) _____

Job Title / Position: _____

Program Assignment(s): _____

√ Status: ____ Initial Orientation ____ Update

I acknowledge I have received and read the Behavioral Health Services *Compliance Program Handbook* which includes the Code of Ethical Conduct and False Claims Acts information. I understand the contents as it applies to my job responsibilities and will keep a copy readily accessible.

I agree if I have any questions about my responsibilities or standards of conduct, I will reference the Compliance Handbook, ask my supervisor, a manager, the Compliance Officer, contract manager or other designated authority for clarification.

Signature: _____ Date: _____

Doing the right thing!

RETURN TO BHS PERSONNEL OFFICE



DEPARTMENT OF BEHAVIORAL HEALTH SERVICES

CODE OF ETHICAL CONDUCT
FOR CONTRACTORS

DOING THE RIGHT THING!

DEPARTMENT OF BEHAVIORAL HEALTH SERVICES

CODE OF ETHICAL CONDUCT FOR CONTRACTORS

Madera County Behavioral Health Services (BHS) is firmly committed to full compliance with all federal, state, and local laws, regulations, rules and guidelines that apply to the provision and payment of behavioral health services 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 Officer if uncertain about any requirements of the *Code of Ethical Conduct for Contractors* or other applicable law, regulation, rule or guideline.

DOING THE RIGHT THING



**MADERA COUNTY
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 DIVISION

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.