

 <p style="text-align: center;">County of Sacramento Department of Health Services Division of Behavioral Health Services Policy and Procedure</p>	Policy Issuer (Unit/Program)	QM
	Policy Number	QM-41-01
	Effective Date	10-01-2005
	Revision Date	12-24-2020
Title: Division of Behavioral Health Services Compliance Program	Functional Area: Policies, Procedures, and Standards of Conduct	
<p>Approved By: (Signature on File) Signed version available upon request Christine Janes, LMFT Compliance Officer, Division of Behavioral Health Services MHDivisionComplianceOfficer@SacCounty.net</p> <p>Alexandra Rechs, LMFT Program Manager, Quality Management</p> <p>Ryan Quist, PHD Deputy Director, Division of Behavioral Health Services</p>		

BACKGROUND/CONTEXT:

Federal and state laws, regulations, rules, and guidelines require the Division of Behavioral Health Services (BHS) and County Mental Health Plan (MHP) to abide by federal Medicaid Managed Care regulations. This framework requires the BHS and MHP to have administrative and management arrangements and procedures, including a compliance plan, that are designed to guard against fraud and abuse. Although those requirements currently only apply to the Medicaid funded services, BHS is firmly committed to achieving the mutual goals of preventing fraud and abuse, improving operational quality, and ensuring the provision of high quality cost-effective mental health and substance use treatment. Therefore, as a matter of policy, BHS, including its contractors, will apply the requirements applicable to the MHP to all functions and activities of the Division. This policy establishes the BHS Compliance Program, standards, and policies and procedures, which promote adherence to state and federal laws and regulations.

PURPOSE:

The BHS Compliance Program was designed, and has been implemented to promote and enforce BHS understanding of and adherence to state and federal statutes and regulations that are applicable to BHS business, as well as to detect, respond to, and prevent violations of those requirements. The program’s design incorporates the seven mandatory elements of a compliance plan pursuant to Title 42, Code of Federal Regulations (CFR), Section 438.608, and adopted by the State Department of Health Care Services through California Administrative Code Title 9, Section 1840.112, in order to comply with federal requirements.

1. Written policies, procedures, and standards of conduct that articulate the organization’s commitment to comply with all applicable requirements and standards under the contract, and all applicable Federal and State requirements.
2. The designation of a compliance officer who is responsible for developing and implanting policies, procedures, and practices designed to ensure compliance with the requirements of the contract and who reports directly to the Director of Behavioral Health regarding issues of compliance.

3. The establishment of a BHS Compliance Committee that includes senior management charged with overseeing the organization's compliance program and its adherence with the requirements under the contract.
4. A system for training and education for the compliance officer, BHS management, and the BHS's employees in county operated programs for the Federal and State standards and the requirements under the contract. The compliance officer reviews and approves the compliance plans for contracted providers.
5. Effective lines of communication between the compliance officer and BHS Providers.
6. Enforcement of standards through well-publicized disciplinary guidelines.
7. Establishment and implementation of procedures and a system with dedicated staff for routine internal monitoring and auditing of compliance risks, prompt response to compliance issues as they are raised, investigation of potential compliance problems as identified in the course of self-evaluation and audits, correction of such problems promptly and thoroughly (or coordination of suspected criminal acts with law enforcement agencies) to reduce the potential for recurrence, and ongoing compliance with the requirements under the contract.

The BHS Compliance Program will address the following goals and objectives:

1. Maintenance of a working environment that promotes ethical values, exemplary behavior, and compliance with all applicable laws.
2. Oversight of the Compliance Program that encourages employees and contractors to demonstrate the highest ethical standards in performing their daily tasks.
3. Oversight of the Code of Conduct.
4. Oversight of the confidential disclosure system, including a the Compliance Hotline and email reporting channels, that requires BHS, or higher management levels as appropriate, to respond to reports by employees or others of actual, potential, or suspected violations of law or the Program requirements. The County of Sacramento Privacy and Compliance Officer administers the County Compliance Hotline and the Behavioral Health Services Deputy Compliance Officer administers the BHS Compliance Hotline.
5. Enforcement of a Non-Retaliation Policy that assures employees and contractors who report in good faith actual, potential, or suspected violations or concerns are protected from any form of discrimination, harassment, or retaliation resulting from such reports.
6. Identification of actual, potential, or suspected violations of either state and/or federal program requirements or other applicable laws, and correction of any such violations.
7. Enforcement of procedures to assure future compliance with all applicable laws and regulations of the federally funded programs.
8. Training and communication that ensures employees and contractors understand and comply with all state, federal, and County program requirements and other applicable laws.
9. Screening of potential employees and contractors of the BHS to reduce the likelihood that violations will occur.
10. Assurance that documents are retained and kept secure, as required by state and federal regulation and County requirements, for the appropriate length of time.

11. Communication with employees to ensure that they are aware that violations of state or federal or County program requirements or other applicable laws may result in disciplinary action consistent with the County's disciplinary policies and procedures and Civil Service Rules.
12. Communication with contractors to ensure that they are aware that violations of state or federal or County program requirements or other applicable laws may result in a requirement for corrective action and/or termination of contract.
13. Assurance that government reviews proceed in a smooth and professional manner, and that all requests and concerns are addressed promptly and appropriately.

DETAILS:

1. Compliance Program Authority

A. County Oversight

The County Compliance Oversight Committee consists of the Administrator of the Countywide Services Agency and the Administrator of the Internal Services Agency. County Counsel shall provide legal counsel to the Committee. The Committee is responsible for ensuring the integrity of the County's Compliance Program and for general oversight responsibility for the Department of Health Services (DHS) Division of Behavioral Health Services Compliance Program.

B. County of Sacramento Privacy and Compliance Officer

The County of Sacramento Privacy and Compliance Officer reports to the County Compliance Oversight Committee regarding the status of compliance efforts including, but not limited to, the BHS Compliance Program. The BHS Compliance Officer shall consult and coordinate with the County of Sacramento Privacy and Compliance Officer in connection with the implementation and enforcement of BHS compliance efforts to ensure that such efforts are consistent with County compliance efforts. The BHS Compliance Officer shall report, as needed, to the County Compliance Oversight Committee/County Privacy and Compliance Officer on the status of compliance efforts, including but not limited to the types of complaints filed, results of investigations, remedial action taken and risk assessments. More frequent reports may be requested as needed, including during any period of change in the federal regulatory process.

C. BHS Deputy Director Oversight

The BHS Director, with general oversight responsibility for the BHS Compliance Program, will provide strategic direction to the BHS Compliance Officer and will be responsible for approving the BHS Compliance Program.

D. BHS Compliance Officer

The BHS Compliance Officer is delegated authority for development and day-to-day operation of the BHS Compliance Program. The BHS Compliance Officer, with respect to the responsibilities and duties of the Compliance Program, shall report directly to the BHS Deputy Director. The BHS Compliance Officer is also authorized to report directly to DHS Director, on any matter that in the opinion of the BHS Compliance Officer requires department-level oversight and involvement. The BHS Compliance Officer shall have a working relationship with County Counsel. Although the BHS Compliance Officer is an employee of DHS, the BHS Compliance Officer is authorized to report directly to the County Compliance Oversight Committee on any matter where 1) normal procedures for resolution of compliance-related issues are either inappropriate or have failed; 2) inadequate resources have been allocated to the BHS Compliance Officer such that compliance activities are, in the opinion of the BHS Compliance Officer, compromised; or 3) the BHS Compliance Officer is also authorized to

report directly to the County Compliance Oversight Committee, on any matter that in the opinion of the BHS Compliance Officer requires countywide-level oversight and involvement.

The BHS Compliance Officer shall report, as needed, to the County Compliance Oversight Committee on the status of compliance efforts, including but not limited to the types of complaints filed, results of investigations, remedial action taken, and risk assessments. More frequent reports may be requested as needed, including during any period of change in the federal regulatory process. The BHS Compliance Officer will make the Compliance Program's "Compliance Log" (see attached) available to the County of Sacramento Privacy and Compliance Officer.

E. BHS Compliance Committee

The BHS Compliance Committee shall assist the BHS Compliance Officer in the enforcement and ongoing refinement of the BHS Compliance Program.

F. County Counsel

The BHS Compliance Officer shall consult with County Counsel in the development and implementation of the BHS Compliance Program. County Counsel shall be responsible for:

- i) Providing legal counsel and support to the BHS Compliance Officer, the BHS Compliance Committee, the Department Director, the County of Sacramento Privacy and Compliance Officer, and the County Compliance Oversight Committee, and all components of the BHS Compliance Program;
- ii) Review all training/educational materials regarding legal requirements of the BHS Compliance Program; and,
- iii) As requested, provide counsel regarding specific action the BHS Compliance Officer should take in the review of complaints and issues that are raised during the monitoring of compliance activities.

2. Elements of the BHS Compliance Program

A. BHS Compliance Officer and BHS Compliance Committee

The BHS Compliance Officer, with the assistance and support of the BHS Compliance Committee, will be responsible for the operation and general management of the BHS Compliance Program.

B. Code of Conduct

The BHS has established a Code of Conduct that governs the proper conduct of BHS employees and contractors and requires all BHS employees and contractors to comply with the requirements outlined in the BHS Compliance Program.

C. Compliance Standards

The BHS Compliance Program has established standards, including policies and procedures, to facilitate adherence to applicable laws and regulations.

- i) The BHS Compliance Officer, in collaboration with the BHS Compliance Committee, will be responsible for identifying those areas where there is a substantial risk for non-compliant conduct.
- ii) The BHS Compliance Officer will ensure the continued development and oversight of compliance standards by responsible functional areas.

D. Effective Reporting and Investigative Processes

A responsibility of the BHS Compliance Officer will be development and implementation of processes that ensure that employees and contractors report non-compliant practices and conduct without fear of retaliation and that ensure investigation and resolution of such reports.

- i) Each employee and contractor will be responsible for notifying either his or her supervisor, or the BHS Compliance Officer, or the County of Sacramento Privacy and Compliance Officer (through the Compliance Hotline) immediately, of actual, potential, or suspected violations of state or federal or County program requirements or other applicable laws that come to the attention of the employee or contractor. Employees and contractors will be informed that in some instances, the failure to report a known violation may itself be basis for disciplinary action against an employee consistent with the County's disciplinary policies/procedures and Civil Service Rules or the basis for corrective action and/or termination of contract for a contractor.

Supervisors, managers, or other individuals notified of any actual, potential, or suspected violations are required to take immediate appropriate action including reporting to the BHS Compliance Officer and/or Human Resources.

- ii) The BHS Compliance Program "Issue Reporting" Policy and Procedure provides information regarding the anonymous reporting of compliance issues and concerns, including through the Compliance Hotline, for anyone who wishes to report actual, potential, or suspected violations of law or applicable BHS policies and procedures.
- iii) It is the policy of the BHS that no person shall retaliate, in any form, against a person who reports in good faith an act or suspected act of non-compliance (although employees may be disciplined for making intentionally false reports on non-compliance). Any person who is found to have retaliated for such a report in violation of this policy shall be subject to discipline or other corrective action.

E. Effective Communications and Training Programs to Alert Employees and Contractors of Their Responsibilities

The BHS Compliance Officer has the general responsibility to oversee the development and implementation of employee and contractor communications and training programs to achieve compliance with the BHS Compliance Program. The communication and training programs shall include the following areas:

- i) Identification of resources to provide effective compliance training and educational programs;
- ii) New employee orientation (to include coverage of BHS Compliance Program requirements);
- iii) Specific training and educational programs in identified high-risk areas; and,
- iv) Annual review of BHS Compliance Program requirements and issues in functional areas with identified inherent risk;
- v) All existing County Division of Behavioral Health Services employees shall receive an initial BHS Compliance Program orientation, and shall be provided annual refresher trainings thereafter, as applicable to their job duties. Contracted providers are required to use the BHS Compliance Training materials or submit their agency compliance training for review and approval by the BHS Compliance Officer.

Employees and contractors shall be informed that strict compliance with both the BHS Code of Conduct and the requirements of the BHS Compliance Program is a condition of employment or a contract agreement, and that:

- vi) The promotion of and adherence to compliance with the Code of Conduct and the requirements of the BHS Compliance Program are elements of performance evaluations; and,

- vii) The BHS has a policy concerning the non-employment/contracting or retention of employees or contractors who are sanctioned for a violation according to the Federal “List of Excluded Individuals/Entities.”

F. Monitoring Compliance with BHS Compliance Program Standards and Policies

- i) The BHS Compliance Program includes monitoring and auditing systems designed to detect actual, potential, or suspected violations of the BHS Compliance Program and a reporting system whereby employees or contractors shall report actual, potential, or suspected violations.
- ii) The BHS Compliance Officer and BHS Compliance Committee shall:
 - (a) Identify reviews required to verify adherence to, and awareness of, BHS Compliance Program requirements throughout BHS as reviews are carried out;
 - (b) Review the results of periodic reviews to test awareness of Compliance Program requirements;
 - (c) Conduct special reviews as necessary to verify adherence to BHS Compliance Program requirements. These reviews may include 1) on-site visits, 2) interviews with personnel, 3) reviews of written materials and documentation, including any electronic billing system/records, and 4) trend analysis studies.

G. Evaluation of the Program

The BHS Compliance Committee shall monitor the BHS Compliance Program on an on-going basis. Through monitoring, the BHS Compliance Officer and BHS Compliance Committee will assure that the BHS Compliance Program is evolving to meet the needs of BHS. Monitoring shall include:

- i) Obtaining employee and contractor feedback on how the BHS Compliance Program can be more effective;
- ii) Identify any areas where compliance efforts break down or pursuit of the seven elements is insufficient or inadequate; and,
- iii) Based on outcomes of i) and ii), modify the BHS Compliance Program to incorporate changes in laws or regulations or BHS functions;

On at least an annual basis, the BHS Compliance Committee shall conduct a formal evaluation that demonstrates to the County Compliance Oversight Committee that:

- iv) The Code of Conduct, policy statements, and other written compliance communications were distributed to all BHS employees and contractors;
- v) All employees and contractors have received compliance communications pertinent to them;
- vi) All scheduled training has occurred;
- vii) Auditing and monitoring has taken place for all targeted risk areas;
- viii) Actual, potential, or suspected violations or other problems identified in the audit process have been addressed appropriately;
- ix) Employees and contractors are being encouraged to report actual, potential, or suspected violations without fear of retaliation;
- x) The disciplinary process has been functioning as intended; and,

- xi) The BHS Compliance Program has been reviewed for areas that could be improved due to changing government standards or industry practices.

REFERENCE(S)/ATTACHMENTS:

- Title 42, Code of Federal Regulations, Section 438.608
- California Administrative Code Title 9, Section 1840.112
- Compliance Log

RELATED POLICIES:

- No. 42-01 Compliance Officer
- No. 42-02 Compliance Committee
- No. 41-03 Code of Conduct
- No. 44-01 Issue Reporting

DISTRIBUTION:

Enter X	DL Name	Enter X	DL Name
X	Mental Health Staff	X	County Counsel
X	Mental Health Treatment Center	X	DHS Deputy Director
X	Adult Contract Providers	X	DHS Human Resources
X	Children’s Contract Providers		
X	Substance Use, Prevention, and Treatment Services		
X	Management Team		
X	County of Sacramento Privacy and Compliance Officer		

CONTACT INFORMATION:

- Quality Management Information
QMInformation@SacCounty.net