



ALAMEDA COUNTY BEHAVIORAL HEALTH

COMPLIANCE AND INTEGRATED ETHICS PLAN

(CIEP)

COMPLIANCE AND INTEGRATED ETHICS PLAN

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ALAMEDA COUNTY BEHAVIORAL HEALTH CODE OF CONDUCT

All employees, vendors, contractors and their employees are responsible for reviewing and understanding the ACBH Compliance and Integrated Ethics Plan.

All employees, vendors, contractors and their employees SHALL agree to abide by and not violate any of the Department's Policies and Procedures or Code of Ethics.

All employees, vendors, contractors and their employees SHALL conduct themselves and treat others with integrity, honesty, courtesy, fairness, and in a respectful manner.

No employee, vendor, contractor or their employees SHALL engage in activities that violate any federal, state or local laws, regulations, rules, policy or procedures.

All employees, vendors, contractors and their employees SHALL promptly report any activities that they believe violate any policy or procedure, this Code of Conduct or any federal, state, or local law, regulation, rule, policy or procedure. Such reporting will be in accordance with the Rules and Regulations for reporting set forth in policy

Any employee, vendor, contractor or their employee with questions regarding any policy or procedure SHALL seek clarification and consultation immediately with their supervisor, Executive Staff, or designee.

ALAMEDA COUNTY BEHAVIORAL HEALTH COMPLIANCE AND INTEGRATED ETHICS PLAN

PURPOSE

Alameda County Behavioral Health Care Services (ACBH) has adopted this Compliance and Integrated Ethics Plan (CIEP) to ensure clarity of responsibility for actions and to provide standards by which employees and contractors of the Department shall conduct themselves. The Plan provides guidance designed to ensure proper and professional behavior in order to protect and promote organization-wide integrity. The CIEP is also a means of expressing departmental standards and expectations to its employees, and its vendors, contractors, their employees, and other individuals or entities providing services on behalf of Alameda County Behavioral Health.

The CIEP is the Department's design to comply with applicable Federal, State and local standards through the establishment of an effective compliance program that is targeted to reduce the risk of unlawful or improper conduct and to support the highest quality of data submission, as evidenced by accuracy, reliability, timeliness, and validity. This is done with the knowledge that these efforts shall eliminate fraud, abuse, and waste from the service delivery system.

INTRODUCTION

The ACBH, its employees, vendors, contractors, and their employees are dedicated to providing quality care to clients served. ACBH demands ethical standards and uses its best efforts to comply with both the letter and spirit of all federal, state, and local laws, regulations, rules, guidelines, ordinances and funding sources. To ensure that best efforts are taken to comply with all laws, the ACBH has developed a Compliance and Integrated Ethics Plan and Program (CIEP).

The CIEP is intended to ensure that ACBH, including all its employees, and its contractors and their employees, do not violate laws that apply to the business of delivering health care services, and that they have sufficient familiarity with those laws which are relevant to their specific job performance. The CIEP also sets forth the objectives and requirements regarding compliance and expectations for the Department's employees, and its contractors and their employees.

To ensure the effectiveness of the CIEP:

ACBH will dedicate the necessary resources to develop an effective Compliance and Integrated Ethics Program (CIEP) designed to prevent and detect violations of Federal or State law in the conduct of ACBH's operations;

- The CIEP shall meet or exceed the elements of an effective program by:

- ✓ Establishing compliance standards and procedures reasonably capable of eliminating the prospect of wrongful conduct;
- ✓ Maintaining a Compliance Officer on staff with responsibility to monitor the compliance hotline and address complaints as appropriate.
- ✓ Taking steps to communicate effectively the compliance standards and procedures to all employees, vendors, contractors and their employees by providing mandatory training sessions and/or the distribution and dissemination of relevant publications;
- ✓ Taking steps to achieve compliance by utilizing monitoring and auditing systems, and by publicizing a reporting system whereby employees and agents can report perceived wrongful conduct by others within the organization without fear of retribution;
- ✓ Taking steps to respond appropriately to confirmed non-compliance issues and to prevent recurrence.

ACBH shall distribute the CIEP, including a Code of Ethics, to all employees, and contract providers.

All ACBH employees shall be required to certify, in writing, that they have received, read, understand and will abide by the requirements set out in the CIEP and the supporting policies and procedures. ACBH shall obtain, as part of the employee annual evaluation, a written certification from each employee that he/she has received, read, understands and shall abide by the ACBH Code of Ethics Policy. Any action taken in violation of the CIEP or outside the scope of employment could subject the individual to serious sanctions, including termination of employment and criminal prosecution. (Code of Ethics – Attachment A)

Employees shall receive, initially and annually thereafter, on-site education regarding the CIEP, and all relevant Laws addressed therein. Any employee who has questions or concerns about anything discussed in the plan should contact their supervisor.

All ACBH contractors shall be required to certify, in writing, that they have received, read, understand and will abide by the requirements set out in the CIEP and the supporting policies and procedures. ACBH shall obtain annual verification from contractors certifying that each contractor employee working on behalf of an ACBH contract has received, read, understands and shall abide by the ACBH Code of Ethics Policy. Any action taken in violation of the CIEP or outside the scope of the contract could subject the individual to serious sanctions, including termination of contract and criminal prosecution. (Code of Ethics – Attachment A)

Contractor shall deliver, initially and annually thereafter, on-site education regarding the CIEP, and all relevant Laws addressed therein. Any employee who has questions or concerns about anything discussed in the plan should contact their supervisor.

RESOURCES FOR GUIDANCE AND REPORTING VIOLATIONS

To obtain guidance on an ethics or compliance issue or to report a suspected violation, individuals may select from several options. ACBH encourages the resolution of issues at the lowest level whenever possible. It is an expected good practice, when individuals are comfortable with it and think it appropriate under the circumstances, to raise concerns first with the person in question. If this is uncomfortable or inappropriate, another option is to discuss the situation with the immediate supervisor or another member of management. The individual is always free to use the whistleblower hotline at 1-844-729-7055 and may report issues anonymously.

ACBH shall make every effort to maintain, within the limits of the law, the confidentiality of any individual who reports possible misconduct. There shall be no retribution or discipline for anyone who reports a possible violation in good faith. Any employee who deliberately makes a false accusation with the purpose of harming or retaliating against another employee shall be subject to discipline.

PERSONAL OBLIGATION TO REPORT

ACBH is committed to ethical and legal conduct that is compliant with all relevant laws and regulations and to correct wrongdoing wherever it may occur in the department. Each employee has an individual responsibility for reporting any activity by employees, vendors, contractors, or their employees that appears to violate applicable laws, rules, regulations, policies and procedures.

INTERNAL INVESTIGATION OF REPORTS

ACBH is committed to investigate all reported concerns promptly and confidentially to the extent possible. ACBH shall coordinate any findings from the investigations and immediately recommend corrective action or changes. ACBH expects all employees to cooperate fully with investigation efforts

CORRECTIVE ACTION

Where an internal investigation substantiates a reported violation, it is the policy of ACBH to initiate corrective action including, as appropriate:

- Making prompt restitution of any overpayment amounts,
- Notifying the appropriate governmental agency,
- Instituting whatever disciplinary action is necessary and appropriate,
- Implementing systematic changes to prevent a similar violation from reoccurring

DISCIPLINE

All violators shall be subject to disciplinary action.

ACKNOWLEDGEMENT PROCESS

ACBH shall distribute the CIEP including the Code of Ethics Policy, to all employees and contracted provider organizations.

All ACBH employees shall be required to certify, in writing upon hiring and yearly thereafter, that they have received, read, understand and shall abide by the requirements set out in the CIEP and the overall programs. Any action taken in violation of the CIEP or outside the scope of employment could subject the individual to serious sanctions, including termination of employment and criminal prosecution.

All ACBH contractors shall be required to certify, in writing upon hiring and yearly thereafter, that they have received, read, understand and shall abide by the requirements set out in the CIEP and the overall programs. Any action taken in violation of the CIEP or outside the scope of the contract could subject the contracted provider organization to serious sanctions, including termination of contract and criminal prosecution.

DEFINITIONS OF FRAUD AND ABUSE

The Center for Medicare and Medicaid Services (CMMS) has issued the following definitions as they relate to fraud and abuse:

- **FRAUD:** knowingly and willfully executing, or attempting to execute, a scheme or artifice to defraud any health care benefit program or to obtain, by means of false or fraudulent pretenses, representations, or promises, any of the money or property owned by, or under the custody or control of, any health care benefit program.
- **ABUSE:** actions which directly or indirectly, result in unnecessary costs to the health care benefit program, improper payment or payment for services which fail to meet professionally recognized standards of care, or that are medically unnecessary. Abuse involves payment for items or services when there is no legal entitlement to that payment and the provider has not knowingly and/or intentionally misrepresented facts to obtain payment

EMPLOYEES AND CONTRACTORS

All employees, vendors, contractors and employees of vendors and contractors must adhere to these policies and procedures:

- All contracts with vendors, contractors and providers shall include language that requires the contractor to adhere to CIEP policies and procedures. It is the policy of the ACBH to annually monitor all contracts and written agreements for compliance and contractual requirements including adherence to its compliance policies and procedures.

- ACBH or its vendors or contractors shall not employ a person who has had a previous criminal conviction related to healthcare or has been excluded from participation in federal healthcare programs.
- ACBH shall not enter into any contractual agreement with any entity or company that has been convicted of criminal offenses related to healthcare that has been excluded or made otherwise ineligible to participate in federal healthcare programs.
- It is the policy of ACBH to terminate the employment of any employee, or agreement with any vendor or contractor, or any agreement with any person or organization that is convicted of any criminal offense related to healthcare or that is excluded or otherwise made ineligible to participate in any federal healthcare program.
- ACBH shall provide training to all employees related to accepted policies and procedures as well as any training necessary to provide staff with the knowledge and skills to comply with accepted policies and procedures. Such training will include, but will not be limited to: orientation to relevant policies and procedures, provider eligibility, coding, documentation standards, and maintenance of records.
- In addition to the above listed training, all supervisors shall be responsible for periodic employee orientation, including initial orientation of new employees and additional orientation on relevant policies and procedures as well as ongoing monitoring of compliance.
- Managers and supervisors shall be subject to discipline for failure to instruct subordinates and/or failure to detect noncompliance where reasonable diligence on the part of the manager or supervisor would have led to knowledge and awareness of the particular violation and provided the ACBH with the opportunity to take corrective action

GENERAL COMPLIANCE TRAINING

ACBH shall train all employees by requiring attendance at mandatory training sessions. The Department shall maintain a record of the curriculum and a log of attendees. Training shall be scheduled for new employees upon hire and completed within their first 30 work days and on an annual basis for all employees following their orientation.

ACBH contractors shall ensure their staff receive annual training, and shall retain records and attestations of such training.

Additionally ACBH shall provide area specific compliance training to vendors and contract providers. A certificate shall be awarded upon completion of training.

Annual training required in the following areas¹:

- Compliance and Integrated Ethics Plan (CIEP)
- Behavioral Health Care Services Department Code of Ethics
- Security Policies and Procedures
- Privacy Policies and Procedures
- Health Insurance Portability and Accountability Act of 1996 (HIPAA)
- 42 CFR, Part 2
- Annual Employee Acknowledgment Pursuant to the Deficit Reduction Act of 2005 and subsequent amendments
- Fraud, Waste, and Abuse

¹ Delivery may be via document, email, supervisor, website, or other means.

ALAMEDA COUNTY BEHAVIORAL HEALTH COMPLIANCE AND INTEGRATED ETHICS PROGRAM

OVERSIGHT

ACBH and the Compliance Officer shall monitor overall compliance with federal, state and local laws, regulations, rules, policies and procedures.

A compliance officer with senior management designation shall be assigned to oversee the overall compliance plan and activities including the department-wide implementation of accepted policies, procedures and training. A Compliance Committee shall be established with representation from major areas of the department to assist the Compliance Officer.

The Compliance Committee shall include the following members.

- Compliance Officer
- Behavioral Health Director
- Behavioral Health Deputy Director
- Quality Improvement and/or Quality Assurance Personnel
- ACBH Employee Training Department
- ACBH Fiscal Manager
- ACBH Information Systems Manager
- Consumer and Family Member Representation as designated by ACBH

Compliance Committee Duties

- Address new and/or changing regulations and laws
- Provide information and potential risk areas to the Compliance Committee.
- Discuss training and ways in which annual training may be conducted/tracked.
- Annually review and update the CIEP as needed
- Act as liaison to Divisions with the Department
- Operate cohesively and respectfully to fulfill the CIEP

MONITORING THE COMPLIANCE PLAN

The Compliance Officer shall be responsible for monitoring all aspects of the CIEP. To successfully monitor this plan, the Compliance Officer, along with assistance from the Compliance Committee, shall monitor the following:

- Periodic review of medical charts through the Utilization Review (UR) Team, which shall conduct an annual review of at least five percent of all charts.
- Monthly review of at least five percent of insurance claims by the Fiscal Department prior to submission to the payer;
- Annual review of a predetermined percentage of medical records with their corresponding billing;
- Review and maintenance of attendance logs related to mandated compliance trainings;
- Review of minutes from Medical Records, Managed Care, Utilization Review, Quality Improvement, Fiscal and other related staff meetings and committee to ensure ongoing compliance;
- Maintenance of a log of compliance activities, such as training, and policy and procedure changes, undertaken by ACBH;
- Oversight of all compliance investigations

Compliance Officer Duties

- Maintain complete records and logs of all compliance issues, reports, investigations, and outcomes
- Implement and operate the ACBH compliance program and provide direct oversight and supervision to the Privacy and Security Officers.
- Advise and consult with ACBH Executive Team on the compliance program goals, objectives, and results annually.
- Refer program or site specific issues to the System of Care Directors/Program Managers to initiate change as necessary;
- Ensure that any/all applicable State and Federal law and regulation are published to staff and CBO's.
- Provide an annual report of all compliance issues/concerns to the Behavioral Health Care Services Director

DOCUMENTATION

Documentation of services rendered to patients/clients is essential to the continuity and quality of care provided. The documentation itself is to be of such a level of quality as to ensure continuity of care with other providers, provide an accurate history of care provided and adequately support the rationale for the type of services rendered and billed.

ACBH has documentation standards to which all service delivery staff are expected to adhere.

- The record shall include the following:
 - ✓ Medical Necessity as mandated by funding source rules and regulations

- ✓ Relevant history
- ✓ Findings of any diagnostic tests
- ✓ An assessment of the patient and the diagnosis
- ✓ Plan of Care
- ✓ Identified client strengths
- ✓ Progress Notes
- All services provided must be documented in the patient/client medical record at the time the service was rendered. Documentation shall include, according to the programs policies and procedures, any of the following:
 - ✓ Location that service was provided
 - ✓ Reason for contact or service
 - ✓ Identity and credentials of the person providing care
 - ✓ Date service was rendered
 - ✓ Progress and/or response to treatment
 - ✓ Plan developed
- Documentation must be accurate, complete and legible
- Current diagnosis that includes documentation supporting the diagnosis
- Past and present diagnoses are clearly documented along with the rationale for the diagnosis when appropriate
- Rationale/documentation supporting any test or ancillary services ordered

ACBH shall ensure that all records are maintained for the period of time required by federal, state and local laws and regulations or contractual requirements.

CLAIM DEVELOPMENT AND SUBMISSION

Service providers, such as ACBH and its contracted entities, who furnish items and services, and submit claims for items or services provided to patients covered by an insurance plan, including Medicare, Medi-Cal, and private insurance, are subject to statutory and regulatory obligations. These obligations include providing items and services only when medically necessary and which are of a quality that meets professionally recognized standards of care.

The Federal Civil Monetary Penalty Law prohibits any person or organization from presenting or causing to be presented to the Federal Government any claim for medical item or service that the claimant knows, or should know, was not provided as claimed. This shall include any person who engages in any pattern or practice of presenting a claim for an item or service that is based on a code that the person knows or should know will result in a greater payment than would the correct code that the person knows or should know is applicable to the item or service actually provided, i.e., “up coding.”

Additionally, the Federal False Claims Act prohibits the submission of false and fraudulent claims to the Federal Government if the person or agency submitting the claim knows or should know the claim is false or fraudulent.

Federal laws similarly prohibit fraudulent billing, including statutes governing false statements and representations, wire and mail fraud, and criminal conspiracy. These statutes apply to private insurance carriers as well as federally funded health care programs such as Medicare and Medi-Cal. In addition, California has laws prohibiting false or fraudulent submission of claims to the Medi-Cal program and to private insurance companies

ACBH GENERAL POLICIES

ACBH requires that all staff, contract providers and vendors shall only bill for the correct patient, within the usual and legally accepted standards. In addition to more specific policies and procedures established by ACBH, it has developed the following general policies which reflect and reinforce current Federal and State statutes and regulations regarding the proper development and submission of claims to third party payers:

- No claim shall be submitted to any payer or patient by ACBH, or others acting on its behalf, for items or services not provided or rendered.
- No claim shall be submitted to any payer or patient for services that are not medically necessary, that is, services that are not warranted by the patient's current documented medical condition.
- All items and services shall be reviewed by the service provider prior to billing to ensure only those accurately coded and documented items or services will be billed to payers and patients.
Claims shall only be submitted when appropriate documentation supports the claims, and only when such documentation is maintained and available for audit and review.
- Records and notes relied upon as the basis for claim submissions shall be appropriately organized in legible form for audit and review.
- The items or services reported on claims shall be based on the medical record and other documentation, and the documentation necessary for accurate code assignment will be available to appropriate staff.
- Any form of "up-coding", i.e., using a billing code that provides for a higher payment rate than the billing code that accurately reflects the product or service furnished to the patient/client, is strictly prohibited.
- Duplicate billing, i.e. submitting more than one claim for the same service or submitting the same claim more than once, is prohibited.
- Any form of "unbundling", submitting bills in a piecemeal or fragmented fashion for products or services which are required to be billed together, for the purpose of increasing reimbursement, is strictly prohibited. *Federal payment plans require*

certain services that are typically considered to be integral parts of one procedure to be billed in one lump, or “bundled” sum.

- No claim shall be submitted to any payer for more than the actual cost of a service, item or drug.
- Under no circumstances shall compensation for ACBH employees responsible for performing, supervising, or monitoring coding or billing, provide any financial incentive of any nature, to improperly code claims.
- No claim shall be submitted to any payer or patient using an incorrect or inappropriate provider number.

CODING AND BILLING

Coding and billing are areas of particularly sensitive regulatory compliance. In most situations, staff of ACBH, and its contract providers, who provide direct service, determine and document/report the proper code for the procedure/service provided. Thus, it is imperative that staff providing direct service have an accurate understanding of the definitions and descriptions of procedure/service codes used and their relation to services being provided. ACBH has adopted the following policies to further promote accurate coding and billing:

- ACBH shall follow recognized rules and regulations for accurate coding approved by the Center for Medicare and Medicaid Services (CMMS) or other regulatory body.
- ACBH shall use current billing codes, including, as appropriate, those established or approved by Health Care Financing Administration (HCFA), California Behavioral Health Care Services Department of Behavioral Health Care Services, California Department of Alcohol and Drug Programs, CMMS and all other applicable government entities and payers.
- ACBH shall provide staff with current and up to date code manuals that have descriptive information for each procedure code that will enable staff and providers to make a determination of the appropriate codes to use when documenting/entering/ reporting a service/procedure that has been provided.
- All codes reported for claiming and billing purposes shall have supporting documentation in the patient record.
- In preparing the appropriate form(s), ACBH employees and/or its contracted providers shall:
 - ✓ Link a single, most appropriate diagnosis with the corresponding service code;
 - ✓ Use procedure codes and modifiers (i.e. intense/rehab/half day) appropriately where necessary; and
 - ✓ Provide insurance plans, including Medicare, with all appropriate information about a patient’s other insurance coverage.

- Billing personnel shall regularly examine denied claims to identify billing accuracy issues and changes in reimbursement policies and procedures.
- Performance and compliance with billing policies of ACBH by billing personnel shall be regularly monitored. The appropriate supervisor (s) shall provide regular feedback regarding performance to each individual billing employee.
- ACBH staff shall be advised of the mechanisms for ACBH employees to express their concerns, regarding the accurate coding and billing practices. Staff will be advised that any concerns about billing and coding may be discussed with their supervisor. ACBH policy assures no retribution for expressing such concerns. Billing and coding staff shall also be asked to sign an acknowledgement of their understanding of the reporting process for concerns/complaints regarding billing accuracy.
- Meetings of all billing staff will be conducted on a regular basis to discuss regulatory updates and directives, denied claims, periodic review, and audit results. Records of those in attendance at such meetings shall be maintained by ACBH.
- In the event that billing inaccuracies are discovered through any means, the inaccuracies shall be reported to the appropriate supervisor and an action plan shall be developed and implemented to correct the inaccuracies and prevent further discrepancies.

ANONYMOUS REPORTING AND NONRETALIATION POLICY

It is the responsibility of all ACBH employees, vendors, contract providers and their employees to comply with all laws and regulations, and to ensure that others do as well.

Employees who are aware of or suspect noncompliance shall report it to their supervisor(s), the Compliance Officer, any member of the Compliance Committee, or may call the whistleblower hotline at **1-844-729-7055**.

An employee, who is aware of instances of noncompliance and who does not report such action may be subject to disciplinary action. Employees uncertain about whether conduct constitutes noncompliance should contact their supervisor, the Compliance Officer or any member of the Compliance Committee.

It is the policy of the ACBH that all employees be treated with respect, dignity and fairness. Discrimination, harassment or abuse of any kind is prohibited and subject to disciplinary action and/or immediate dismissal. Employees are encouraged to utilize the existing grievance process or problem resolution process established within the department whenever possible.

ACBH employees, vendors, contract providers, and their employees concerned about retaliation may make anonymous reports to the Compliance Officer, any member of the Compliance Committee, or through the Whistleblower Hotline. Written reports may be sent and every attempt shall be made to preserve the confidentiality of the reports of

noncompliance. However, when it is necessary to disclose information, only the facts/information vital to the investigation shall be disclosed.

It is the policy of ACBH that no person shall retaliate, in any form, against a person who reports in good faith, an act or suspected act of noncompliance, regardless of the outcome of the report. Any person who is found to have retaliated for such a report in violation of this policy shall be subject to disciplinary action

INVESTIGATING NON-COMPLIANCE

Every report of non-compliance shall be investigated under the direction of the Compliance Officer and/or his/her designee. All investigations of noncompliance shall be concluded within sixty (60) working days of the date of notification.

The investigation may include interviewing employees and/or reviewing documentation. All ACBH employees must cooperate with such investigations.

Once the investigation is complete, the Compliance Officer shall submit a written report and make a verbal report to the ACBH Compliance Committee. The written report shall contain a summary of the initial report, the findings of the investigation and a recommendation for minimizing future risk. Any determination of a need for corrective or disciplinary action shall be the decision of the Behavioral Health Care Services Director or designee.

SELF REPORTING AND CREDIT BALANCES

If an investigation determines that an overpayment was made to ACBH, the department shall refund any excess reimbursement to the appropriate payer. Examples of overpayments, or “credit balances” occur when ACBH is:

- Paid twice for the same service, either by the same payer or a combination of payers;
- Paid for services that were planned, but not provided;
- Paid for services that were not a covered benefit;
- Overpaid due to an error in calculation, either by ACBH or the payer; or
- Paid for services that were considered “inclusive” of the per diem rate.

In instances where ACBH exercised reasonable care in billing for an appropriate service, the department may not be liable for refunding the payment. Reasonable care is considered to have been exercised when ACBH has:

- Complied with all pertinent regulations and instructional materials/manuals;
- Made full disclosure of all medical facts, and
- Had a reasonable basis for assuming that the payment was correct, or if the payment was questionable, it was immediately brought to the payer’s attention.

However, it is department policy to make full disclosure of suspected overpayments, to fully document all efforts to remedy the situation, to refund the overpaid amount, and to develop and/or revise procedures to assure that the error is avoided in the future

ANTI-KICKBACK LAWS, INDUCEMENTS, AND SELF-REFERRALS

The federal government has enacted laws designed to prohibit staff, vendors, contract providers and their employees from accepting or providing monetary incentives related to the provision of service, billing, and referrals. Violation of these laws is a felony and may result in fines, imprisonment, and/or exclusion from participation in federal and state healthcare programs.

Pursuant to the laws listed below, ACBH has established the following Rules and Regulations and policies:

- ACBH employees, vendors, contract providers and their employees are prohibited from knowingly and willfully paying, offering, asking for or receiving any money or other benefit, directly or indirectly, from third parties in connection with items or services billed to government funded programs.
- ACBH employees, vendors, contract providers and their employees are prohibited from knowingly and willfully offering anything of monetary value to a physician or outside referral source to induce referrals of governmental or private health care beneficiaries.
- ACBH employees, vendors, contract providers and their employees are prohibited from providing remuneration for referrals which may affect the quality of patient/client care by encouraging physicians to order services or items based on profit rather than the patient/client's best medical interests.
- ACBH employees, contract providers, and vendors shall not sign blank records or certification forms, or provide patient identification numbers which shall be used by another entity to obtain payment.
- ACBH employees, contract providers, and vendors shall not refer or accept referrals from entities in which they, or immediate family members, have a financial relationship, such as a partnership or affiliation (Stark Law).
- All contract arrangements for professional services must be in writing, have a predetermined term, and specify the compensation. Compensation shall be based on a "fair market value" basis.
- ACBH employees, vendors, contract providers and their employees shall not offer inducements to patients such as waiving insurance co-payments and deductibles without a determination of the patient's financial ability to pay. Routine waiver of deductibles and co-payments is considered fraudulent and is prohibited. Deductibles and co-payments may be waived on an individual basis only for financial hardship that would prevent the client from receiving necessary behavioral health services and only according to established procedures.

- ACBH shall not offer physicians or any staff member a percentage share of any reduction in the “cost for patient care” attributable in part to the staff person’s efforts (known as “gainsharing”).
- ACBH employees, contract providers, and vendors shall make every effort to collect patient insurance, co- payments, deductibles and liabilities. No account shall be “written-off” without appropriate prior approval from the Behavioral Health Care Services Director or his designee

Applicable Laws, Regulations, and Statutes

Anti-Kickback Statute

<http://www.antikickbackstatute.com/>

Anti-trust Laws

<https://www.justice.gov/atr/health-care>

Civil Monetary Penalty Law

<https://oig.hhs.gov/fraud/enforcement/cmp/index.asp>

Emergency Medical Treatment and Active Labor Act (EMTALA)

<https://www.cms.gov/Regulations-and-Guidance/Legislation/EMTALA/index.html>

Federal False Claims Act

<https://www.oig.hhs.gov/compliance/physician-education/01laws.asp>

Health and Human Services Freedom of Information Act (FOIA)

<https://www.hhs.gov/foia/index.html>

Health and Insurance Portability and Accountability Act (HIPAA)

<https://www.hhs.gov/hipaa/for-professionals/privacy/laws-regulations/index.html>

Stark Laws I and II

<http://www.starklaw.org/>

Title XIX – Medicaid

https://www.ssa.gov/OP_Home/ssact/title19/1900.htm

MEDICAL NECESSITY

No payment may be made for a service or product that is not reasonable and necessary for the diagnosis and treatment of a behavioral health disorder. Billing for services that are unnecessary and excessive is considered fraudulent.

While it is recognized that medical necessity in behavioral healthcare is often difficult to define, the following general Rules and Regulations are to be considered in determining whether a service is medically necessary:

- The service is consistent with the diagnosis or symptoms of the illness (condition) for which the patient/client is being treated.
- The service is consistent with the generally accepted professional behavioral health standards for the profession.
- The service is provided at a level that is most appropriate for the safe and effective treatment of the patient/client.
- The service is provided by a professional or other provider qualified by both training and licensure (or other appropriate certification or credentialing process) to provide the service.

For Short-Doyle Medi-Cal billed services, the following additional standards for medical necessity must be met:

- The patient/client has an “included” diagnosis for the particular service being billed;
- The patient/client has one of the following impairments as a result of a mental disorder:
 - ✓ A significant impairment in an important area of life functioning, and/or
 - ✓ A probability of significant deterioration in an important area of life functioning, or
 - ✓ A probability that a child will not progress developmentally as individually appropriate (child is defined as a person under age 21);

And must meet each of the following:

- ✓ Focus of intervention is to address the condition in 2 above;
- ✓ The intervention is expected to significantly diminish the impairment;
- ✓ To prevent significant deterioration in an important area of life functioning;
- ✓ To allow the child to progress developmentally as individually appropriate; and
- ✓ The condition is not responsive to physical health care based treatment

RECORDS

ACBH shall retain records related to compliance activities for evidence that the organization has exercised due diligence in its compliance efforts. Records shall be retained for legally required time periods or seven years, whichever comes last, before being destroyed. Such records shall include but not be limited to:

- Clinical (“Medical”) records of individual patient/client
- Training records: Attendance records, outlines, topics, handouts

- Results of internal audits including plans of correction

“INCIDENT TO” PHYSICIAN SERVICES

In respect to the Federally funded Medicare program, services provided by non-physician staff are only billable in certain instances, and only when provided under the direct supervision of specific certified licensed staff. For ACBH services and items, only a Psychiatrist or Licensed Clinical Psychologist, certified by the appropriate payer source, may employ other psychological practitioners (Licensed Clinical Social Workers) directly under their supervision to provide services. These services are referred to as “incident to.” ACBH employees holding Marriage and Family Therapist (MFT) or Registered Nurse (RN) licenses are not eligible to provide “incident to” services.

ACBH employees shall adhere to the following “incident to” requirements, which provide that: (reference: MCM B3 2150, MCM 2050.1)

- I. Staff providing “incident to” services shall be certified by Medicare and receive a UPIN number prior to provision of services.
- II. The service supplied shall be under the direct supervision of the practitioner (Psychiatrist/Psychologist) under whose license Medicare and other payer sources are billed. The practitioner is the “incident to” supervisor and is referred to as the “licentiate.”
- III. The “incident to” practitioner’s (LCSW) service will be an integral, although incidental, part of the professional services supplied by the licentiate.
- IV. The Psychiatrist/Psychologist shall be physically present in the vicinity of the rendering service providers and immediately available to provide assistance and direction throughout the time the “incident to” practitioner is supplying the service. Availability of the Psychiatrist/Psychologist by telephone or at a distant location elsewhere in the institution is insufficient to qualify as direct “incident to” supervision.
- V. The “incident to” LCSW must be a County employee or Contractor. The employer may be the licentiate, group practice of the licentiate, or employer of the licentiate; or a controlled leased employee of one of these arrangements; as defined under the common law test. Association and supervision alone do not meet requirements.
- VI. The Psychiatrist/Psychologist actively participates in the management and treatment of the patient, with appropriate frequency. This requires periodic patient visits by the Psychiatrist/Psychologist. Appropriate and timely interaction with the “incident to” LCSW is also required.
- VII. The Psychiatrist/Psychologist shall identify each date of service supervised. The Psychiatrist/Psychologist must date and sign one of the following:
 1. The chart note for each date of services supervised,

or

2. A periodic supervisory session with the “incident to” LCSW that references each date of service supplied.
- VIII. Medication management services using CPT coders are not sufficient to meet the test for supervision of an “incident to” LCSW. More specific supervision of the psychotherapy is required.
 - IX. The “incident to” LCSW related service must be within the scope of the practitioner’s license, and within the scope of the Psychiatrist/Psychologist’s license.
 - X. Verification of the “incident to” LCSW related employment and State license covering the dates of service is maintained. State licensed psychotherapy interns may work “incident to” if all State and payer requirements are met and documented. The intern may only supply service in a place of service authorized by the State. The supervisor of psychotherapy can only be a M.D., D.O., or C.P. All other supervision billings will be denied.
 - XI. The Psychiatrist/Psychologist shall initiate the course of treatment in order to meet the direct supervision requirements. If a practitioner is not qualified to bill a government payer source directly and initiates therapy, the service must be billed with the proper modifier attached to the procedure code indicating the care is not supplied as “incident to.”

DISCLOSURE TO PATIENTS

For non-emergency situations, at the time of service delivery or immediately thereafter, ACBH shall inform all patients of the following:

- Eligible and covered services pursuant to all applicable Federal and State Laws, regulations and individual insurance carrier plans;
- The amount of any co-payments or deductibles;
- That their private insurance carrier shall be billed first and that any amounts not deemed eligible by their insurance carrier shall become their responsibility;
- Any instances in which Medicare and/or third party payers will not be billed for eligible services and the patient’s liability.

Note: In emergency situations, services shall be provided prior to any determination of financial ability.

Under the Omnibus Budget Reconciliation Act (OBRA) of 1986, ACBH must provide Medicare beneficiaries, at the time of service, a written statement that explains:

- The patient’s right to benefits for both inpatient hospital services and outpatient services;
- Any liability the patient may have for the cost of services received;
- The patient’s right to appeal denials of benefits, including the steps to initiate the process,

- The patient's right to appeal for the cost of services that have been denied if the denial is upheld upon appeal.
- A statement that the patient's liability for the cost of non-covered services begins the day following the date of receipt of their continued stay notice of non-coverage (in-patient services only).

ACBH shall inform all patients of their right to report non-compliance with this policy. Such information shall be provided in writing.

All notices shall be issued in English and the recognized Medi-Cal threshold languages.

POTENTIAL AREAS OF RISK

It is essential for ACBH to be cognizant of potential areas of risk related to reimbursement and licensure. Noncompliance in these areas places the department in jeopardy of loss of revenues and sanctions. A loss or restriction related to licensure may also jeopardize ACBH's ability to provide quality services to its clients/participants and the community.

Strict adherence to this policy will minimize possible exposure to risk of noncompliance. Areas of particular concern include:

- Financial arrangements with outside entities to whom the department may refer patients who are governmental healthcare beneficiaries;
- Joint ventures with entities supplying goods or services to the department or its patients;
- Consulting contracts or medical directorship;
- Soliciting, accepting or offering any gift or gratuity to or from those who may benefit from a referral of governmental healthcare business;
- Contracting with a third party for billing services;
- "Incident to" billing;
- Up coding and "unbundling" services;
- Billing for services or goods that are not reasonable and necessary;
- Failure to provide "Advanced Beneficiary Notices" to patients when services or goods are not eligible for federal reimbursement;
- Billing for non-covered services as if they were covered;
- Submitting false cost reports; and
- Waivers of coinsurance and deductibles which were not routinely offered, advertised to the general public, made in good-faith based on financial need or hardship, or approved in advance by the Psychiatric Facility Manager, Assistant Director, or Director.

ALAMEDA COUNTY BEHAVIORAL HEALTH CODE OF ETHICS

POLICY STATEMENT

In accordance with Alameda County Behavioral Health Care Services (ACBH) standards, ethical conduct should be evidenced throughout the activities of all personnel of the organization including both management, direct service staff*, County operated providers, independent providers and the contractual providers which incorporate the Behavioral Health Plan's provider network. The ethical conduct should be seen in communications with the consumers served, payers, and the community. It is expected that ethical conduct is demonstrated in how clinicians involve the clients and their families in the treatment process and outcomes, and how all persons that are part of or representative of the ACBH' organization communicate with funding sources and other regulatory agencies.

POLICY

Alameda County Behavioral Health Care services adheres to written codes of ethical conduct related to its organizational staff, provider network, governance authority, business and financial practices, marketing activities, treatment of consumers and community members.

ACBH has defined ethical codes and conduct for its organization by addressing primary philosophical beliefs, principles and values that are considered exceptional in promoting the kind of relationships and subsequent environment whereby services can be provided in an exemplary manner. Ethical conduct is expected at all levels of the organization, not only in provision of services and the correctness in billing for those services, but in everyday activities from regular business plans, decision-making processes, meetings and policy development.

ACBH' ethical conduct policy is in accordance with the several licensing boards and professional organizations that address its standards of professional conduct.

Orientation and educational programs are provided to employees and contractual providers, in addition, to the written Ethical Conduct Policy and Ethical Conduct Standards within contracts.

ACBH resolves allegations of violations of its codes of ethical conduct by referring them to the Credentials Committee when it involves the BHP's provider network and to the appropriate administrative operations office for county-operated and contracted services.

NOTE: All references to staff refer to management, direct services and contracted staff.

CORE VALUES

The following are the core values that act as a guide for actions of staff and providers, treatment of consumers served, and business/financial practices and marketing:

- **RESPECT FOR EACH OTHER** - Thoughtful consideration of others including clients and their family members, colleagues, supervisors, staff we supervise, community members, other agency staff, regulatory agencies and governing boards.
- **PROFESSIONAL PRACTICES** - A commitment to professional practice that is competent, objective, and provided with integrity.
- **HONESTY** - The value of honesty cannot be compromised. It is expected that employees and contractors in their association with consumers, agencies and other staffs will be honest without being harmful.
- **TRUST** - A non-judgmental position on issues that do not directly pertain to you or your ability to conduct business provides a supportive environment. When indicated during a time of need, a supportive position for others is taken.
- **NON-DISCRIMINATORY MANNER** - A commitment to society offering opportunities to all its members in a just and non-discriminatory manner.
- **CLIENT PRIVACY** - A commitment and obligation to monitor the privacy of both current and former clients, whether living or deceased, and to Monitor the confidentiality of material that has been transmitted to you in your professional role.

POLICY ON COMPLIANCE OF CODE OF CONDUCT AND RELATIONSHIPS

Staff/contractor will adhere to Medi-Cal and Medicare standards and procedures as required by federal and state regulatory agencies.

Staff/contractor will not knowingly and willingly falsify medical records by erroneously documenting assessment findings, diagnostic formulations, or the amount of time and/or type of services rendered to consumers. Improper alterations to documentation are included, as it constitutes medical records falsification.

Staff/contractor is responsible to ensure the integrity and confidentiality of client and medical records information, to ensure compliance from employees they supervise, and to investigate and report any hazards or threats to the security or integrity of client information to appropriate staff within your organization.

Standard

- Staff/contractors do not exploit professional relationships sexually, financially or for any other professional and/or personal advantage. This standard of conduct is maintained toward all who may be professionally associated with you.

Sexual Relationships

- Sexual activity or involvement with the staff member's or contractor's current or former ACBH service system client is prohibited.
- Sexual harassment of any ACBH client is prohibited. This includes sexual solicitation, physical advances, or verbal or nonverbal conduct that is sexual in nature.

Personal Relationships

- Staff may provide to, receive from, or exchange articles of value with their clients only within the provisions of an ACBH or contract agency-sanctioned program (e.g. art show and sale, food or clothing collection project. etc.)
- When clients receive money or articles of value through an agency-sanctioned project, the client will not be informed of the individual donor's identity.

Staff/Contractor(s) are prohibited from the Following:

- Promising or entering into any personal, professional, financial or other relationship with a client that is not a part of their assigned duties within the program at which they are employed.
- Employing or using the services of their own current or former client for personal gain, except within the bounds of an agency-sanctioned project.
- Borrowing or accepting money or articles of value from clients, except within the bounds of an agency-sanctioned project, e.g. approved culturally sensitive activity.
- Loaning or giving personal funds or articles of value to clients, except within the bounds of an agency-sanctioned project, e.g. provision of funds for clients when reimbursement of these funds by the agency will occur or approved culturally sensitive activity.
- Using the relative position of power afforded by their staff position to influence clients in any way not directly relevant to the client's treatment or service goals.
- Living with their current or former ACBH clients.
- Staff should refrain from religious proselytizing to clients and/or employees.
- Providing massage to clients, except within the bounds of a formal job description and any applicable State licensure.
- Providing any form of treatment not sanctioned by the employing program's formally recognized program design or the service definitions and procedures of the ACBH.

POLICY ON SELF-PROMOTION AND REFERRAL

Standard

- Clear, appropriate professional standards are set to prevent engagement in dual or multiple relationships in which there is any risk of professional judgment being compromised, or of the client being harassed or exploited.
- Staff may not refer ACBH clients to their own private practices, businesses, or any other service in which a staff member has a personal or financial interest.
- Staff will present themselves accurately and not misrepresent their roles, scope of practice or professional status in the course of their work with clients and the community.
- Staff may not receive self-referred ACBH clients or ACBH clients referred by a third party into their private practices except as follows:
 1. Under certain exceptional circumstances, a client who initiates a request for a private professional relationship with an ACBH service system staff member may be permitted to enter into such a relationship if no other adequate public or private resource is available to meet the client's needs. Supervisory approval is required. Such approvals must be documented and the total number of such private self-referrals must be reported by the Supervisor at the end of each calendar year to the Quality Assurance Administrator.
 2. Under certain circumstances in order to meet client's needs, ACCESS may refer to a private practitioner who also is employed by ACBH. This is done with the approval of the Director of ACCESS.
- In order to protect the client from undue influence and the Agency from potential conflicts of interest, the staff member receiving the private referral must agree to the guidelines listed in the Self-Disclosure section below...
- Staff who have continuing private professional relationships with ACBH clients that were entered into either before the effective date of this policy or that were entered into before the client became an ACBH client, must comply with the provisions of the Pre-Existing Professional Relationships section below.

SELF DISCLOSURE OF PRE-EXISTING PROFESSIONAL RELATIONSHIPS

It is the policy of this agency to comply with the Alameda County Behavioral Health Care Services "Policy on Multiple Relationships and Staff Self-Promotion."

In recognition of the rights of clients to exercise choice in therapeutic relationships under appropriate circumstances, the following disclosure information will be communicated to the supervisor based on the following:

- A staff member is entering into a private professional relationship with a client because no other adequate public or private resource is available to meet the client's needs or;

- A staff member had a pre-existing private professional relationship with a client prior to client receiving services from ACBH or;
- A staff member had a pre-existing private professional relationship with a client prior to the effective date of this policy.

When a staff person agrees to enter into a private professional relationship with a client, the following has occurred:

- The clinician has encouraged this client to return, and appropriately terminate, any existing client/therapist relationships before entering into one with him/her.
- The clinician has determined that no other public sector, private or nonprofit agency resource is available to adequately meet the client's needs.
- The clinician has not solicited this client's business in any way, nor used his/her position in this agency to advertise his/her services as an independent practitioner.
- The clinician has explicitly stated to the supervisor that the decision to enter such relationship will not affect the client's County services in any manner, except that he/she will exclude him/herself from any decisions in the future that affect the client's care within the County system, since this could represent conflict of interest

**ALAMEDA COUNTY BEHAVIORAL HEALTH
COMPLIANCE AND INTEGRATED ETHICS PLAN**

EMPLOYEE ACKNOWLEDGMENT

I ACKNOWLEDGE THAT I HAVE RECEIVED AND UNDERSTAND THE
AFOREMENTIONED COMPLIANCE AND INTEGRATED ETHICS PLAN,
INCLUDING THE CODE OF ETHICS AND SHALL COMPLY WITH
ANY AND ALL PROVISIONS AND REQUIREMENTS.

Employee Name & Signature

Date