

COMPLIANCE PROGRAM POLICY AND PROCEDURE
Boston Children's Health Physicians, LLP

Introduction

Boston Children’s Health Physicians, LLP (“BCHP”) is dedicated to ensuring a culture of compliance, honesty and integrity. The Compliance Program applies to all “Affected Individuals” defined in 18 NYCRR § 521-1.2 as “all persons who are affected by [BCHP’s] risk areas, including [BCHP’s] employees, the chief executive and other senior administrators, managers, contractors, agents, subcontractors, independent contractors, governing body, and corporate officers.” Certain companies and individuals that BCHP contracts with, such as independent contractors, interns, students, volunteers, and vendors, constitute a subset of Affected Individuals (“Designated Contractors”).

Pursuant to 18 NYCRR 521-1.4 compliance programs are required to have the following elements:

1. Written Policies and Procedures
2. Designation of a Compliance Officer
3. Compliance Committee
4. Training and Education
5. Open Lines of Communication
6. Disciplinary Policies and Procedures
7. Routine Identification of Compliance Risk Areas
8. Responding to Compliance Issues and Developing Corrective Actions

The BCHP Compliance Program satisfies these requirements.

Mandatory Compliance Certification

BCHP shall certify that its compliance program meets the requirements of NYS Social Services Law Section 363-d and 18 NYCRR Part 521. BCHP is subject to the federal Deficit Reduction Act of 2005 (“DRA”), the requirements of which have been incorporated into NYS Social Services Law Section 363-d. By submitting the annual “Certification Statement for Provider Billing Medicaid,” on the anniversary of the provider’s enrollment in Medicaid, providers are attesting to satisfactorily meeting the requirements of SSL §363-d, which includes the DRA.

BCHP shall provide a copy of the certification to each managed care provider, managed long term care plan, or Medicaid managed care organization (hereafter referred to as “MMCO”) for which it is a participating provider upon signing the provider agreement with the MMCO, and annually thereafter.

Written Policies and Procedures

Dissemination/Availability of Corporate Compliance Program Materials

POLICY: BCHP officers, employees, clinical practitioners, and Designated Contractors shall have appropriate access to, and copies (as appropriate) of, relevant BCHP Corporate Compliance Program documents and other materials (available at <https://bchphysicians.sharepoint.com/>)

PROCEDURE:

1. BCHP Corporate Compliance Program documents and other materials shall include: the Compliance Program Manual; Code of Conduct; BCHP's written policies and procedures governing the duties of each employee and Designated Contractor; and materials distributed at training/educational sessions. BCHP officers, employees, clinical practitioners, and Designated Contractors will, at all times, act in a way to meet the requirements of the mandatory compliance program. Failure to satisfy the requirements of BCHP's compliance program will be considered a violation of the compliance program and related policies and procedures.
 - (A) The Compliance Officer, in conjunction with the Compliance Committee and appropriate BCHP supervisors and managers, shall determine which written BCHP policies and procedures are applicable to various employees and Designated Contractors.
 - (B) Employees shall receive copies of the Code of Conduct and information that is determined to be applicable to their specific duties.
 - (C) Designated Contractors shall receive copies of the Code of Conduct and information that is determined to be applicable to their specific activities.
2. The Compliance Officer, in conjunction with the Compliance Committee and BCHP managers and supervisors, may, from time to time as necessary and/or appropriate, disseminate information describing new Policies and Procedures or changes to Compliance Program documents.

Amendment of Compliance Program Documents

POLICY: BCHP will review Compliance Program documents no less frequently than annually, and will ensure that modifications have appropriate management authorization, are distributed in a timely manner and are indicated on the amended documents. BCHP will implement new compliance policies and procedures that attempt to prevent the recurrence of compliance problems, when necessary.

PROCEDURE:

1. Changes to the Compliance Program and its underlying documents will be made at the direction of the Compliance Officer in consultation with others as requested. Proposed significant changes in the Compliance Program Manual and Code of Conduct are subject to approval by the Governing Body¹ before being adopted and implemented by BCHP.
2. The Compliance Officer, in conjunction with the Compliance Committee and legal counsel (as appropriate), will periodically and no less frequently than annually review the Compliance Program documents for conformity with current statutes, regulations, and other requirements, as well as then-current practices in the healthcare industry relevant to BCHP's operations.
3. The date of each review of a Compliance Program document shall be recorded on copies of such documents distributed to BCHP employees and Designated Contractors. Amended documents should be promptly distributed to covered BCHP employees and Designated Contractors.
4. No changes may be made to Compliance Program documents except in accordance with this policy and the appropriate BCHP management authorization.

Designation of a Compliance Officer and Compliance Committee

Appointment of Compliance Officer and Compliance Committee

POLICY: BCHP shall at all times have a Compliance Officer and a Compliance Committee appointed by the CEO or Governing Body of BCHP.

PROCEDURE:

1. The Governing Body and CEO shall appoint a corporate Compliance Officer. The Compliance Officer shall report directly to BCHP's CEO and shall have direct access to senior management and legal counsel. The Compliance Officer will report on a regular basis, no less frequently than quarterly, to the CEO and Governing Body regarding significant compliance issues that arise, including without limitation: (i) compliance monitoring and results; (ii) proposed changes to the Compliance Program documents, (iii) disciplinary actions resulting from compliance problems, (iv) overall implementation of the Compliance Program, and (v) the status of any investigations by government agencies of which the Compliance Officer is aware.
2. The Compliance Officer also shall have direct access to the Governing Body (or any committee of the Governing Body to which they delegate responsibility for compliance matters). The Compliance Officer (with the assistance of legal counsel, as appropriate) will

¹ BCHP's Governing Body consists of its Partners and an advisory council entitled the "Governing Council".

report on a regular basis (at least once a year) to the Governing Body regarding BCHP's compliance activities and any significant compliance issues that arise. The Compliance Officer shall present the annual compliance work plan, including routine identification of compliance risk areas through self-evaluation or auditing and trends to the Governing Body.

3. The Compliance Officer is responsible for ensuring that compliance issues are properly addressed as they arise and that appropriate compliance assurance reviews, audits, and inquiries are conducted. The Compliance Officer will also be responsible for determining whether each component of the Compliance Program is fully operational, and to take remedial action, as necessary. Such responsibilities shall include (with the assistance of legal counsel and/or other compliance personnel, as appropriate):
 - Assessing and revising, on at least an annual basis, the Compliance Plan, and/or any policies and procedures promulgated thereunder, when necessary, in response to changes in the needs of BCHP, the identification of risk areas specific to BCHP, and in the applicable Laws and regulations;
 - Developing, coordinating and participating in compliance training programs and education that focus on the elements of BCHP's Compliance Program;
 - Maintaining a log that records calls and/or reports to the Compliance Officer, including the nature of any investigation and its results. Such information shall be redacted of individual identifiers to the extent possible and be included in reports to the CEO, the Compliance Committee, and the BCHP Governing Body.
 - Coordinating internal compliance review and monitoring activities, including annual or periodic reviews and oversee any resulting corrective action;
 - Conducting or overseeing unannounced audits to comply with the requirements of the auditing and monitoring of the Compliance Program;
 - Overseeing the maintenance of documentation of the following: audit results; logs of Compliance Hotline calls and their resolution; internal and external investigations; due diligence efforts regarding business transactions; records of training, including the number of training hours; disciplinary or corrective action, including self-disclosures; and modification and distribution of policies and procedures; and
 - Attending Compliance Committee meetings.
4. The Compliance Officer shall have sufficient resources and authority to facilitate effective implementation of the Compliance Program. The Compliance Officer shall be responsible for coordinating aspects of the Compliance Program and shall make regular reports to the CEO and Governing Body.
5. The Compliance Committee shall consist of those BCHP employees, officers or agents whom the BCHP CEO or Governing Body shall appoint from time to time. The Compliance Committee is an advisory body chaired by the Compliance Officer. Its purpose is to assist the Compliance Officer and other appropriate corporate officers in implementing the

Compliance Program. The duties, responsibilities, membership, designation of a chair, and frequency of meetings are outlined in the Compliance Committee Charter. The Compliance Committee will review and update the Compliance Committee Charter on an annual basis, or when necessary.

6. Annual Work Plan: Each year, the Compliance Officer will prepare a Work Plan after reviewing the latest New York State Office of the Medicaid Inspector General and the CMS Office of Inspector General priorities, recent enforcement activities, recent internal and external audit findings and hot topics that generate additional scrutiny. Additionally, the Compliance Officer will obtain input from the BCHP CEO, Governing Body, Compliance Committee and various departments. The Work Plan will include the top risk areas of concern. Additionally, the Work Plan includes a list of areas that the Compliance Department will audit and monitor. The Compliance Officer and Compliance Committee may add additional monitoring audits to its duties in response to new and emerging risks.
7. **BCHP's Annual Compliance Program Effectiveness Review (as required by 18 NYCRR § 5211.4(g))** With the support of the Compliance Committee, the Compliance Officer will perform an annual assessment of the Compliance Program, including reviewing issues reported, their investigation, and remedial action taken. Based on such reviews, the Compliance Officer will then recommend to the Compliance Committee and the Governing Body appropriate modifications of, or revisions to, the compliance procedures and this Compliance Program. The Compliance Officer will annually compile a report summarizing all of the compliance activities, training, investigations, hotline issues and audits completed during the prior year. This report will be provided to the Compliance Committee and Governing Body annually. The annual compliance report will serve as a communications tool informing the members of the Compliance Committee and Governing Body of the various compliance activities undertaken during that year. The Compliance Officer and Compliance Committee will develop remediation plans and associated timelines to address findings as necessary.
8. As part of the Annual Compliance Program Effectiveness Review, the Compliance Officer shall undergo an annual performance assessment conducted by BCHP's CEO to assess efficacy of performance in carrying out compliance responsibilities and duties and determine whether other duties designated to the Compliance Officer have hindered the Compliance Officer in carrying out their primary responsibilities. The CEO shall also assess whether the Compliance Officer was allocated sufficient staff and resources to satisfactorily perform responsibilities for the day-to-day operation of the compliance program and will institute prompt corrective action as necessary.

Training and Education

POLICY: BCHP will provide or arrange for Corporate Compliance Program training/education for employees, governing body members, Officers and Designated Contractors.

PROCEDURE:

1. All employees, governing body members, Officers and Designated Contractors shall complete annual compliance training, which is comprised of the Code of Conduct training module and general compliance, privacy, and information security content. These topics cover items such as how to detect, prevent, and correct noncompliance, how to report compliance concerns, and an overview of HIPAA/privacy and security. New employees will complete this training as part of their orientation. HIPAA training shall be completed prior to exposure to protected health information and annually thereafter. All other training shall be completed within thirty (30) days of hire and annually thereafter.
2. The subject matter of training and education programs shall be determined by the Compliance Officer. Training sessions may, for example, focus on risk areas identified by New York, Connecticut, or federal authorities, by BCHP's internal or external auditors, or by the Compliance Officer.
3. The Compliance Officer, and/or designee, should take appropriate steps to ensure that education and training efforts are well documented, including the attendance at training and educational sessions. The agenda and attendance records should be retained by the Compliance Officer or by appropriate BCHP personnel.
4. Those employees unable to attend general training sessions shall be provided follow-up training opportunities in the same subjects. The Compliance Officer and other appropriate BCHP officers, managers and supervisors will be available on a continuing basis to answer questions from employees who seek clarification regarding compliance issues.

Open Lines of Communication

Reporting Suspected Compliance Concerns

POLICY: BCHP shall establish and implement effective lines of communication, ensuring confidentiality except in limited circumstances and a prohibition against intimidation and retaliation for good-faith participation. Such lines of communication shall be accessible to all Affected Individuals and patients and allow compliance issues to be reported including a method

for anonymous and confidential good faith reporting of potential compliance issues as they are identified. Employees, governing body members, Officers and Designated Contractors are required to report any significant compliance problem of which they become aware and shall assist in the investigation of and resolution of compliance issues, where appropriate.

PROCEDURE:

1. All Affected Individuals and patients should raise any compliance questions regarding potentially improper, unethical, or illegal conduct to manager, supervisor, or the Compliance Officer. All Affected Individuals are required to communicate and report any suspected fraud or abuse or other violation of the Compliance Program. The Compliance Officer will maintain open lines of communication, and may be reached by telephone at 914-614-4204, by mail at 400 Columbus Avenue, Suite 200 East, Valhalla, NY 10595, by email at compliance@bchphysicians.org, or by calling BCHP's dedicated Compliance Hotline at 914-614-4100. This information shall also be posted on BCHP's website at www.bchphysicians.org.
2. Employees, governing body members, Officers and Designated Contractors are prohibited from participating in, encouraging, directing, facilitating or permitting non-compliant behavior.
3. The failure to report a problem of which an individual is aware may itself represent a violation of the Compliance Program. Appropriate disciplinary action will be imposed for violations of the Compliance Program, including discharge or termination of employment.
4. BCHP shall maintain the confidentiality of the identity of individuals who report possible violations of the Compliance Program to the extent possible. In some instances, however, BCHP may need to reveal the person's identity, if known, in order to comply with legal requirements and/or to facilitate an investigation. Reporting does not relieve the individual of the individual's obligation to timely utilize any applicable grievance and/or arbitration procedures.
5. Generally, reports should be made to the employee's manager, supervisor and/or to the Compliance Officer. Managers or supervisors who receive such reports should promptly report the information to the Compliance Officer.
6. Reports concerning the conduct of officers, managers and supervisors should be made to appropriate individuals who have supervisory authority over such individuals. For example, suspected misconduct involving the Compliance Officer would be reported to the President, and suspected misconduct involving the President would be reported to the Governing Body.
7. No employee, governing body member, Officer or Designated Contractor will be punished solely for reporting what the employee or contractor reasonably believed to be a

compliance issue or potential violation of this Compliance Program. Nevertheless, BCHP may take appropriate disciplinary or legal action in the event that a report of wrongdoing was fabricated or distorted to injure someone else or benefit the reporting individual, or was otherwise knowingly or recklessly inaccurate. Moreover, although BCHP may consider “self-reporting” favorably when determining appropriate disciplinary action, the individual remains subject to disciplinary actions for the individual’s improper acts.

8. Compliance issues may also be reported to NYS Office of Medicaid Inspector General Compliance main line at 518-473-3782 or the Fraud Hotline at 1-877-87-FRAUD.

Compliance Hotline

POLICY:

BCHP will maintain and publicize a hotline to receive calls pertaining to the Compliance Program. The Hotline is available for reporting compliance problems as well as posing questions regarding the Compliance Program.

PROCEDURE:

1. The Compliance Hotline number is 914-614-4100. It contains a voice mail system which receives messages 24 hours a day, 7 days a week. A person accessing the Hotline may be asked to leave a message for the Compliance Officer, who will ensure that each call is returned promptly.
2. The Compliance Officer, or designee, will inform employees, governing body members, Officers, Designated Contractors of the availability of the Hotline.
3. The Compliance Officer will maintain a record of all hotline calls, including the nature of any investigation and the result of the investigation.
4. Reports of significant Hotline calls will be made to the Compliance Committee. Summaries of significant actions resulting from Hotline calls (written to protect the identity of the reporting individual to the extent possible and/or appropriate) shall be included in reports to the Governing Body by the Compliance Officer.
5. Hotline reports may be made anonymously, and investigations will be handled in such a manner as to maintain confidentiality to the extent possible. Hotline files shall be located in a secure area to maintain appropriate confidentiality of reported information.
6. No employee, Officer, member of the Governing Body or Designated Contractor will be punished solely for reporting what they reasonably believed to be a compliance issue or potential violation of the Compliance Program.

- (A) BCHP may take appropriate disciplinary or legal action in the event that a report of wrongdoing was fabricated or distorted to injure someone else or benefit the reporting individual, or was otherwise knowingly or recklessly inaccurate.
 - (B) Although BCHP may take into account favorably the fact that an individual “self-reported” when determining appropriate disciplinary action, a self-reporting individual remains subject to disciplinary actions for the individual’s improper acts.
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Disciplinary Policy and Procedure

POLICY: BCHP shall implement disciplinary action in response to compliance violations on a fair and equitable basis.

PROCEDURE:

1. Violations of requirements set forth in the various Compliance Program documents are potentially subject to sanctions. Sanctions may include oral or written warnings, suspension, and/or termination.
2. Intentional or reckless actions will subject individuals to more significant sanctions than problems resulting from negligence. In determining appropriate sanctions, the Compliance Officer in conjunction with the CEO, or designee, should consider:
 - (A) The impact of the problem or incident on the quality of care provided to BCHP patients; and
 - (B) The extent to which the person acted knowingly, intentionally or with reckless disregard or deliberate indifference;
 - (C) The nature and extent of potential criminal, civil or administrative liability of individuals or BCHP;
 - (D) The nature and extent of a resulting government overpayment, if any;
 - (E) The individual’s prior employment or other affiliation history with BCHP;
 - (F) Whether the matter at issue had been the subject of prior compliance training at BCHP;
 - (G) The extent to which the problem or incident reflects a systemic or departmental failure to adhere to the Compliance Program.
3. The decision as to appropriate sanctions under the Compliance Program rests with the Compliance Officer, in consultation with legal counsel, Human Resources, and the CEO, as

may be necessary. The determination may take into account existing contractual or other legal obligations affecting the individual. Neither this Discipline Policy, nor any element of the Compliance Program, nor any document pertaining to the Compliance Program, shall create or effect any contract rights that may exist between a person or entity employed or retained by BCHP.

4. The Compliance Officer and Director of Human Resources shall ensure that a record of any sanction imposed under the Compliance Program is maintained in the Compliance Program Files and/or in the individual's personnel record.

Routine Identification of Compliance Risk Areas

Monitoring and Reviewing

POLICY: BCHP will monitor, review and/or audit its compliance with applicable laws, regulations and reimbursement policies, as well as adherence to its compliance program. Through self-evaluations and audits of compliance risk areas, BCHP will prioritize risk areas by determining: the frequency of each risk, the likelihood that a negative outcome will result, the impact on the delivery of services, the impact on contracts and operations, and the financial impact.

PROCEDURE:

1. The Compliance Officer, in conjunction with the Compliance Committee and relevant Department Heads, managers and supervisors, shall arrange for the periodic review of various compliance matters, including (where relevant), but not limited to, the following:
 - (A) ordered services;
 - (B) medical necessity and quality of care;
 - (C) credentialing of providers;
 - (D) mandatory reporting;
 - (E) governance;
 - (F) any deficiencies cited by DOH, Medicaid, Office of Civil Rights (for HIPAA) or OPMC;
 - (G) a sample of medical records and corresponding bills and payments to assess compliance with BCHP's medical record and billing policies and with applicable legal requirements;
 - (H) whether contractual arrangements involving BCHP were executed in compliance with the Compliance Program;

- (I) contractor, subcontractor, agent or independent contract oversight;and
 - (J) any other risk areas as reasonably identified.
2. Reviews may include probe “audits” of medical record documentation and bills, among other things. Significant variations from established benchmarks will trigger appropriate corrective action, including education and training and follow-up reviews.
 3. As part of BCHP’s compliance monitoring activities, the Compliance Officer should periodically assess:
 - (A) whether the anonymous reporting system is implemented and properly functioning;
 - (B) whether reports and complaints have been tracked and adequately addressed;
 - (C) whether identified actual or suspected violations of the law have been rectified and the wrongdoer (if any) disciplined;
 - (D) whether compliance issues identified in previous reviews have been appropriately addressed in training programs and alerts; and
 - (E) whether overpayments identified in previous reviews or audits have been appropriately reported, returned, and explained in accordance with the law, and corrective action taken to prevent recurrence, as appropriate
 4. If the Compliance Officer determines that there is reasonable cause to believe that a compliance issue may exist, an inquiry into the matter will be undertaken, with assistance from counsel as appropriate. The Compliance Officer, in consultation with the Compliance Committee and legal counsel as appropriate, shall recommend appropriate remedial action for violations.

Sanction Screening

PURPOSE:

BCHP shall take reasonable steps to not employ, retain, grant staff privileges to, or otherwise affiliate with, Ineligible Persons (as defined herein). Therefore, BCHP will conduct appropriate Screening (as defined herein) of employees to confirm that they have not been sanctioned by a Federal or state law enforcement, regulatory or licensing agency.

POLICY:

1. BCHP will conduct appropriate Screening of employees, and will require non-employed physicians and Designated Contractors to certify that they are not Ineligible Persons.

2. BCHP's employment application will require employees to attest that they have not been sanctioned in any way that would cause them to be an Ineligible Person.
3. Employees have a continuing obligation to inform BCHP as soon as possible if they become the subject of any action, charge, or investigation which could lead to their exclusion from participation in federal health care programs.
4. If BCHP becomes aware that a current BCHP employee, Designated Contractor, or clinical practitioner with staff privileges has become an Ineligible Person, BCHP will terminate the employment or other contract (subject to any contract rights and any other applicable legal requirements).

Definitions

An "Ineligible Person" is any individual or Designated Contractor (including any person with substantial management authority within a Designated Contractor, or any person who is directly involved in furnishing services to BCHP on behalf of the Designated Contractor) who: (1) has been convicted of, or pled "no contest" to, any criminal offense related to health care; or (2) is presently listed as debarred, excluded from, or otherwise ineligible to participate in federal health care programs, including but not limited to, Medicare and Medicaid.

Appropriate "Screening" shall mean searching the following databases, as applicable for the relevant name and birth date, social security number or tax identification number (when available):

- Office of the Medicaid Inspector General (<https://www.omig.ny.gov/fraud/medicaid-exclusions>);
- OIG List of Excluded Individuals/Entities (LEIE) (https://oig.hhs.gov/exclusions/exclusions_list.asp);
- General Services Administration (GSA-SAM) (<https://www.sam.gov/SAM/>)
- New York State Department of Health Office of Professional Medical Conduct (<https://apps.health.ny.gov/pubdoh/professionals/doctors/conduct/factions/HomeAction.action>);
- Connecticut Medicaid Administrative Actions List (<https://portal.ct.gov/DSS/Quality-Assurance/Quality-Assurance-Administrative-Actions-List>);
- New Jersey Consolidated Debarment List;
- OCSL-US Treasury OFAC Consolidated Sanctions;
- SDN-US Treasury OFAC Specially Designated Nationals;
- Other databases as appropriate to conduct effective background checks.

PROCEDURES:

A. Screening Prior to Affiliation with BCHP

1. Employees

- Before entering into an employment agreement with a person, the Human Resources Department (or other appropriate BCHP department) will conduct appropriate

Screening to determine whether the potential employee is an Ineligible Person.

2. Clinical Practitioners

- Prior to furnishing clinical services at BCHP Health Services, each non-employed physician must certify that the non-employed physician is not an Ineligible Person.

B. Ongoing Screening Procedures

1. Compliance personnel will conduct monthly exclusions checks of current employees and periodic checks for all other Screenings.

2. If a Screening reveals that an employee is an Ineligible Person, the name of the individual and the reason for designation as an Ineligible Person will be reported promptly to the Compliance Officer.

3. When an employee is identified as someone who may be an Ineligible Person, the Compliance Officer will investigate the matter appropriately. BCHP will terminate the employment (subject to any contract rights and any other applicable legal requirements) of individuals who are determined by the Compliance Officer to be Ineligible Persons.

4. If BCHP becomes aware that a non-employed clinical practitioner or Designated Contractor may be an Ineligible Person, the Compliance Officer will be promptly notified and will investigate the matter. BCHP will terminate the affiliation or contract of individuals or entities that are determined by the Compliance Officer to be Ineligible Persons.

5. The Compliance Officer, or designee, shall make a periodic audit of a sample of employment applications to verify that this policy is being properly enforced.

Reviews of Employees

POLICY: Reviews for each employee shall include an assessment of adherence to the Compliance Program, including compliance with applicable laws, rules and regulations.

PROCEDURE:

1. Individuals conducting annual reviews of BCHP employees shall address employee adherence to the Compliance Program during such reviews.
2. Employee reviews may include discussion of whether any compliance issues have arisen during the review period, and if so, whether such issues should result in a reprimand/warning, suspension, discharge, termination or other sanction and/or corrective action. An employee's adherence to the Compliance Program may be noted in the employee's written performance appraisal. A record of any sanction imposed under the Compliance Program shall be maintained in the Compliance Officer's file and/or in the employee's personnel file.

3. The supervisor or manager conducting the employee review will promptly report to the Compliance Officer any matters raised during the review that present potential compliance concerns.

Responding to Compliance Issues and Developing Corrective Actions

Internal Investigation of Compliance Issues

POLICY: BCHP shall promptly conduct an internal investigation of credible allegations of Compliance Program violations.

PROCEDURE:

1. The Compliance Officer, with the assistance of legal counsel as necessary and appropriate, shall promptly conduct an internal investigation of credible allegations of Compliance Program violations. Preliminary information may justify informing the Compliance Committee, CEO, or Governing Body of a potential compliance problem prior to (or during) investigation by the Compliance Officer.
2. An internal investigation may include interviews and a review of relevant documents. Sufficient documentation should be maintained by the Compliance Officer to describe the nature, scope and outcome of any internal investigation that is undertaken.
3. If the Compliance Officer believes that the presence of employees under investigation may jeopardize the integrity of an investigation, or that the allegations are of such a serious nature that, if true, the employees pose an immediate threat to the health and/or safety of BCHP patients or personnel, the Compliance Officer may recommend to the Compliance Committee, CEO, Governing Body, or Human Resources that the employees under investigation be temporarily suspended or temporarily reassigned to another work area (subject to any rights the investigated employee may have under any applicable contracts and other legal requirements).

Corrective Action & Overpayments

POLICY: BCHP shall implement corrective action in response to a compliance violation in a manner that satisfies legal requirements and reinforces BCHP's commitment to the prevention, detection and resolution of similar problems in the future. BCHP's supplemental policy regarding its "Auditing and Provider Education Process" can be found with the other BCHP Corporate Compliance Program documents at <https://bchphysicians.sharepoint.com/>.

PROCEDURE:

1. BCHP shall address instances of noncompliance in a manner that satisfies legal requirements and helps prevent similar problems in the future, particularly concerning any overpayments.
2. Corrective action may include (without limitation) one or more of the following actions:
 - (A) Conducting further investigation of the alleged problem;
 - (B) Preparing recommendations for corrective action in the form of a corrective action plan;
 - (C) Correcting the practices within the department or unit which led to the problem;
 - (D) Disclosure of the matter to government entities;
 - (E) Notice to the BCHP Governing Body of the matter and the planned response;
 - (F) Institution of appropriate disciplinary action against the employee, independent contractor or other who is involved in the problem;
 - (G) Undertaking a program of education within the appropriate department or unit to prevent similar problems in the future; and
 - (H) Calculating the amount of any overpayment and determining the method for making appropriate repayment.
3. **IF BCHP RECEIVES AN OVERPAYMENT FROM A GOVERNMENTAL PAYER, OR FROM A COMMERCIAL PAYER UNDER A MANAGED CARE CONTRACT FUNDED BY FEDERAL FUNDS (SUCH AS MEDICARE OR MEDICAID) ^[1], THEN, NO LATER THAN 60 DAYS AFTER THE OVERPAYMENT WAS IDENTIFIED, IT SHALL REPORT AND RETURN THE AMOUNT TO THE GOVERNMENTAL OR COMMERCIAL PAYER, AS APPLICABLE, AND NOTIFY THE PAYER IN WRITING OF THE REASON FOR THE OVERPAYMENT.**

^[1] BCHP does not waive any of its rights to challenge the applicability of the FCA to possible overpayments by commercial payers even when funded by governmental programs.

New York Medicaid

IF BCHP RECEIVES AN OVERPAYMENT FROM THE NEW YORK MEDICAID PROGRAM, THEN, NO LATER THAN 60 DAYS AFTER THE OVERPAYMENT WAS IDENTIFIED OR THE DATE ANY CORRESPONDING COST REPORT IS DUE, IF APPLICABLE, A “SELF-DISCLOSURE STATEMENT” MUST BE SUBMITTED TO THE OMIG SELF DISCLOSURE PROGRAM (“SDP”) PURSUANT TO 18 NYCRR 521-3.4. THE 60 DAY DEADLINE FOR REPORTING, RETURNING, AND EXPLAINING AN OVERPAYMENT SHALL BE TOLLED WHEN OMIG ACKNOWLEDGES RECEIPT OF A SUBMISSION OF A SELF-DISCLOSURE STATEMENT TO ITS SDP, AND SHALL REMAIN TOLLED UNTIL SUCH TIME: (I) THAT AN SELF-DISCLOSURE AND COMPLIANCE AGREEMENT (“SDCA”) IS EXECUTED; (II) THE PERSON WITHDRAWS FROM THE SELF-DISCLOSURE PROGRAM, (III) THE FULL AMOUNT OF THE

OVERPAYMENT IS REPAID, OR (IV) OMIG TERMINATES THAT PERSON'S PARTICIPATION IN THE SELF-DISCLOSURE PROGRAM.

FOR AN OVERPAYMENT MADE BY AN MMCO, A PERSON WHO REPORTS, RETURNS AND EXPLAINS AN OVERPAYMENT TO AN MMCO PURSUANT TO THE MMCO'S POLICIES AND PROCEDURES FOR ITS PARTICIPATING PROVIDERS TO REPORT, RETURN, AND EXPLAIN OVERPAYMENTS WITHIN 60 DAYS OF IDENTIFICATION OF THE OVERPAYMENT WILL BE DEEMED TO HAVE SATISFIED THE REQUIREMENTS OF SUBDIVISION 6 OF SECTION 363-D OF THE SOCIAL SERVICES LAW.

4. If the Compliance Officer discovers credible evidence that criminal conduct may have occurred, BCHP shall promptly investigate the matter to determine if specific corrective action and/or notification of appropriate government authorities is warranted under the circumstances. Credible evidence of a potential violation of any law (whether criminal, civil or administrative) will be promptly referred to legal counsel to evaluate the allegations.
5. If the investigation reveals that there is widespread or systemic noncompliance with Compliance Program requirements, the Compliance Officer shall consult with legal counsel and the Compliance Committee to evaluate: (a) the adequacy of corrective action by BCHP and (b) whether BCHP should modify the Compliance Program to address the identified compliance problem.
6. The Compliance Officer, in conjunction with the Compliance Committee, Department Heads, supervisors and managers, shall maintain appropriate records of significant corrective actions taken under the Compliance Program.

Tracking Compliance Reports and Communications

POLICY: BCHP will maintain a system to ensure that reports of possible violations of the Compliance Program are appropriately documented and tracked.

PROCEDURE:

1. The Compliance Officer will record reports of possible violations of the Compliance Program, as well as inquiries or complaints relating to the Compliance Program, on a compliance intake record.
 - (A) The date, time and substance of each inquiry, complaint or other communication relating to the Compliance Program shall be recorded on the compliance intake record.
 - (B) Each compliance intake record shall be assigned a sequentially numbered tracking number.
 - (C) A file shall be established for each report according to the assigned tracking

number. All subsequent reports or other correspondence relating to the initial compliance intake record will be maintained in this file. The date, time and substance of all subsequent related communications will be recorded in the file.

2. The identity of the reporting individual shall be kept confidential if requested by the reporting individual to the extent permitted by law and/or to the extent reasonable in light of the needs of the investigation.
3. The Compliance Officer shall monitor compliance files on a regular basis to confirm that prompt follow-up action has been taken on all outstanding complaints and concerns.
4. If appropriate, the Compliance Officer may consult with legal counsel and/or request that legal counsel conduct the investigation of the matter being reported.
5. Each compliance intake record shall include the appropriate disposition on the report. Disposition information may include the results of any investigation, any recommended corrective actions or disciplinary measures, and any overpayments that were identified and returned.
6. The Compliance Officer will incorporate compliance problems into training and education programs and in Compliance Program documents as appropriate.

Policy of Non-Intimidation and Non-Retaliation

BCHP will not permit intimidation or retaliation against individuals who participate in the Compliance Program in good faith. This shall apply to all employees, governing body members, Officers and Designated Contractors, regardless of title or position, and includes those involved in assisting in investigations as well as those that are conducting investigations, self-evaluations, audits and remedial actions.

Deficit Reduction Act/False Claims Act Policy

POLICY: To comply with the Deficit Reduction Act (“DRA”), BCHP will disseminate a summary of laws designed to prevent and detect fraud, waste and abuse in health care programs resulting from false claims and statements.

PURPOSE:

This policy complies with the requirements of the DRA by providing detailed information: (1) the federal False Claims Act (“FCA”); (2) federal penalties under the FCA and administrative remedies for false claims and statements under the Program Fraud Civil Remedies Act (“CRA”); (3) whistleblower protections; and (4) New York State laws pertaining to civil or criminal penalties for false claims and statements.

PROCEDURES:

1. Employees and Designated Contractors shall notify their manager or the Compliance Officer if they suspect BHP is in violation of fraud and abuse laws.
2. BHP will investigate allegations brought to its attention and take appropriate action to correct and prevent those that are found to be accurate.
3. BHP will not retaliate against or intimidate employees who, in good faith, participate in the compliance program, including but not limited to: reporting claims of fraud, waste or abuse; investigating issues; performing self-evaluations and audits and remedial actions. Although BHP may consider “self-reporting” favorably when determining appropriate disciplinary action, the individual remains subject to disciplinary actions for the individual’s improper acts.
4. This policy and the Summary of Law (below) shall be disseminated to all new employees and will be incorporated in employee handbooks or policies where appropriate.

SUMMARY OF LAW

I. Federal Anti-Kickback Statute (42 U.S.C. § 1320a-7b(b))

The Federal Anti-Kickback Statute prohibits individuals or entities from knowingly or willfully offering, paying, soliciting, or receiving remuneration to induce referrals of items or services covered by Medicare, Medicaid, or other Federal health care programs.

Violation is a felony offense, with criminal fines of up to \$100,000 per violation, imprisonment for up to ten years, and exclusion from government health care programs.

Even if only one purpose of the remuneration is to induce or compensate for Medicare or Medicaid referrals, a violation of the statute may occur.

The OIG has issued “safe harbor” rules. See, 42 C.F.R. § 1001. Failure to satisfy the relevant safe harbors does not mean a party is automatically in violation of the law. It must have bad intent.

II. FEDERAL FALSE CLAIMS ACT

1. The Federal False Claims Act (FCA) 31 U.S.C. §§ 3729-3733.

The FCA prohibits seven specific predicate acts, including the following common violations:

- Knowingly presenting or causing to be presented a false or fraudulent claim to an officer or employee of the United States Government;
- Knowingly making or using or causing the making or use of a false record or statement material to a false or fraudulent claim paid;
- Conspiring to violate the statute; and

- Knowingly making or using or causing to be made or used a false record or statement to conceal, avoid or decrease an obligation to the Government.

The FCA defines “knowingly” to mean not only actual knowledge of the truth or falsity of relevant information but also either deliberate ignorance or reckless disregard for the information’s truth or falsity. Failure to report and return an overpayment within 60 days may constitute a violation.

III. Civil Penalties Under the FCA.

Violations of the FCA can be subject to civil monetary penalties ranging from \$14,308 to \$28,619 for each false claim submitted. Persons also can be liable to the Government for three times the amount of damages that the Government sustains.

IV. Administrative Remedies for False Claims and Statements

Federal departments and agencies may pursue administrative actions under the Civil Remedies Act (“CRA”) against individuals or organizations who knowingly submit false, fictitious or fraudulent claims or statements for benefits or payments under a federal agency program. Deliberate ignorance or reckless disregard for the truth or falsity of the claim or statement is sufficient to show a violation.

V. FCA Whistleblower Protections

The FCA permits both the United States and private citizens to bring civil actions for violations. When a private citizen or “whistleblower” brings an action, it is brought in the name of the United States and the lawsuit is filed “under seal,” or in secret. The seal remains in place while the Government investigates the allegations and decides whether to intervene to take over prosecution of the case. A whistleblower may not bring an action that is based upon the public disclosure of allegations unless the whistleblower has direct and independent knowledge of the allegations and has voluntarily provided the information to the Government before filing an action. The FCA entitles a whistleblower to additional relief if the whistleblower has been retaliated against for filing an action under the FCA.

VI. Health Care Fraud Statute (18 U.S.C. § 1347)

The Health Care Fraud Statute makes it a criminal offense to knowingly and willfully execute a scheme to defraud a health care benefit program. Health care fraud is punishable by imprisonment for up to 10 years. It is also subject to criminal fines of up to \$250,000. Specific intent to violate this law or knowledge of the law is not required for conviction.

IV. NEW YORK LAWS REGARDING FALSE CLAIMS AND STATEMENTS

1. New York False Claims Act (N.Y. Fin. Law. § 189.1)

The New York False Claims Act is substantially similar to the Federal False Claims Act. A person must act with intentional or reckless falsity in obtaining payment from, or avoiding payment to, the New York State government. Actions as a result of mere negligence or mistake do not constitute a violation of the statute.

The State, local government or a private citizen may institute an enforcement action. Each claim is subject to a civil penalty of \$6,000 to \$12,000. In addition, New York State and local governments may recover treble damages. Private plaintiffs are entitled to receive a percentage of the proceeds from the defendant in the range of 15% to 30%.

2. Civil Penalties (NY Social Services Law § 145-b)

It is unlawful knowingly to make a false statement or representation or, by deliberate concealment of a material fact or other fraudulent scheme to obtain, or attempt to obtain, Medicaid payments. A violation of this law can subject a person or entity, to civil damages equal to three times the amount falsely overstated. In addition, if the person acted with requisite knowledge under the statute, he may be required to pay a civil monetary penalty of up to \$10,000 for each violation as restitution to the Medical Assistance Program.

The NY Social Services Law § 145-b also provides for monetary penalties of up to \$10,000 for each item or service determined to involve a case where the provider knew or should have known that an overpayment has been identified, but does not report, return and explain it as required by SSL § 363-d. The potential penalty increases up to \$30,000 for each item or service where a penalty has been imposed within the previous 5 years.

3. Criminal Penalties

It is a crime under Section 366-b of the New York Social Services Law for a person who, with intent to defraud, presents for payment any false or fraudulent claim for furnishing services or items, knowingly submits false information for the purpose of obtaining greater compensation than otherwise permitted, or knowingly submits false information for the purpose of obtaining authorization for furnishing services or items under Medicaid. Individuals who violate this law shall be guilty of a class A misdemeanor.

The NY Social Services Law § 145 also provides that “Any person, who submits false statements or deliberately conceals material information in order to receive public assistance, including Medicaid, is guilty of a misdemeanor.”

Larceny (Penal Law 155)

This crime applies to individuals who, with the intent to deprive another of that individual’s property, obtain, take or withhold the property by means of trick, embezzlement, false pretense, false promise, including a scheme to defraud. Larceny has been applied to Medicaid fraud cases.

- a. Grand larceny in the fourth degree involves property valued over \$1,000. (Class E felony). NY CLS §155.30
- b. Grand larceny in the third degree involves property valued over \$3,000. (Class D felony). NY CLS §155.35
- c. Grand larceny in the second degree involves property valued over \$50,000. (Class C felony). NY CLS §155.40
- d. Grand larceny in the first degree involves property valued over \$1 million. (Class B felony). NY CLS §155.42

False Written Statements (Penal Law Article 175)

There are several sections under Penal Law Article 175 that relate to filing false information or claims and have been applied in prosecutions involving Medicaid fraud.

- a. Falsifying business records (e.g., making false entries, omitting material information or altering an enterprise's business records with the intent to defraud). (Class A misdemeanor). NY CLS §175.05
- b. Falsifying business records in the first degree includes the elements of the §175.05 offense in addition to the intent to commit another crime or conceal its commission. (Class E felony). NY CLS §175.10
- c. Offering a false instrument for filing in the second degree refers to presenting a written instrument (including a claim for payment) to a public office with knowledge that it contains false information. (Class A misdemeanor). NY CLS §175.30
- d. Offering a false instrument for filing in the first degree refers to the elements of the second degree offense in addition to the intent to defraud the state or one of its political subdivision. (Class E felony). NY CLS §175.35

Insurance Fraud (Penal Law Article 176)

There are several sections under Penal Law Article 176 that relate to intentionally filing a health insurance claim knowing that it is false.

- a. Insurance fraud in the fifth degree refers to committing a fraudulent insurance act. (Class A misdemeanor). NY CLS § 176.10
- b. Insurance fraud in the fourth degree refers to committing a fraudulent insurance act for over \$1,000. (Class E felony). NY CLS § 176.15
- c. Insurance fraud in the third degree refers to committing a fraudulent insurance act for over \$3,000. (Class D felony). NY CLS § 176.20
- d. Insurance fraud in the second degree refers to committing a fraudulent insurance act for over \$50,000. (Class C felony). NY CLS § 176.25

- e. Insurance fraud in the first degree refers to committing a fraudulent insurance act for over \$1,000,000. (Class B felony). NY CLS § 176.30
- f. Aggravated insurance fraud is committing insurance fraud more than once. It is a Class D felony.

Health Care Fraud (Law §177)

Provisions for “health care fraud” impose a range of criminal fines and jail terms depending on the amount of money involved in the fraudulent action. A person or entity may be prosecuted under the law if they acted with intent to defraud a private or public health plan, they knowingly and willfully provide materially false information or omit material information for the purpose of receiving payment for health care items or services that they are not otherwise entitled to receive.

- a. Health care fraud in the fifth degree refers to knowingly filing, with intent to defraud, a claim for payment that intentionally has false information or omission. (Class A misdemeanor). NY CLS Penal §177.05
- b. Health care fraud in the fourth degree refers to filing false claims and annually receiving over \$3,000 in aggregate. (Class E felony). NY CLS Penal §177.10
- c. Health care fraud in the third degree refers to filing false claims and annually receiving over \$10,000 in the aggregate. (Class D felony). NY CLS §177.15
- d. Health care fraud in the second degree refers to filing false claims and annually receiving over \$50,000 in the aggregate. (Class C felony). NY CLS §177.20
- e. Health care fraud in the first degree refers to filing false claims and annually receiving over \$1 million in the aggregate. (Class B felony). NY CLS §177.25

4. Whistleblower Protections

Labor Law § 740

An employer may not retaliate against an employee who in good faith discloses (or threatens to disclose) that the employer is violating the law and the violation presents a substantial and specific danger to the public health and safety or constitutes the crime of health care fraud. To bring an action, the employee must first disclose the alleged violation to the employer and give the employer a reasonable opportunity to correct the practice. Employees subject to retaliatory action may bring civil action in court and seek relief, such as injunctive relief, to restrain continued retaliation, reinstatement, back-pay and compensation of reasonable costs. Employees who bring an action without basis in law or fact may be held liable attorney’s fees and costs.

Labor Law § 741

This section applies to employers that provide health care services. Such employers are not permitted to retaliate against an employee who in good faith discloses (or threatens to disclose) that a policy or practice of the employer constitutes improper quality of patient care. Improper quality of patient care refers to care which may present a substantial and specific danger to the public health or safety or a significant threat to a patient's health. The employee's disclosure is protected only if the employee first brought up the matter with a supervisor and gave the employer a reasonable opportunity to correct the alleged violation, unless the danger is imminent to the public or patient and the employee believes in good faith that reporting to a supervisor would not result in corrective action. If an employer takes a retaliatory action against the employee, the employee may institute a civil action in state court for reinstatement to the same, or an equivalent position, any lost back wages and benefits and attorneys' fees. If the employer is a health provider and the court finds that the employer's retaliatory action was in bad faith, it may impose a civil penalty of \$10,000 on the employer.

IV. CONNECTICUT LAWS REGARDING FALSE CLAIMS AND STATEMENTS

1. Connecticut False Claims Act (Conn. Gen. Stat. §§ 4-275 - 4-289)

The Connecticut False Claims Act (the "CFCA") makes it unlawful for any person to: (1) Knowingly present, or cause to be presented, a false or fraudulent claim for payment or approval; (2) Knowingly make, use or cause to be made or used, a false record or statement material to a false or fraudulent claim; (3) Conspire to commit a violation of this section; (4) Having possession, custody or control of property or money used, or to be used, by the state, knowingly deliver, or cause to be delivered, less property than the amount for which the person receives a certificate or receipt; (5) Being authorized to make or deliver a document certifying receipt of property used, or to be used, by the state and intending to defraud the state, make or deliver such document without completely knowing that the information on the document is true; (6) Knowingly buy, or receive as a pledge of an obligation or debt, public property from an officer or employee of the state who may not lawfully sell or pledge the property; (7) Knowingly make, use or cause to be made or used, a false record or statement material to an obligation to pay or transmit money or property to the state; or (8) Knowingly conceal or knowingly and improperly avoid or decrease an obligation to pay or transmit money or property to the state.

2. Civil Penalties (Conn. Gen. Stat §§ 4-275(b)-(c))

Violations of the CFCA are civil offenses and can result in a range of significant monetary penalties, plus three times the amount of damages that the State sustains because of a violation of the CFCA.

3. Criminal Statutes

Receiving and Paying Kickbacks (Conn. Gen. Stat. § 53a-161d) A person is guilty of paying a kickback when he knowingly offers or pays any benefit, in cash or kind, to any person with intent to influence such person: (1) To refer an individual, or to arrange for the referral of an individual,

for the furnishing of any goods, facilities or services for which a claim for benefits or reimbursement has been filed with a local, state or federal agency; or (2) to purchase, lease, order or arrange for or recommend the purchasing, leasing or ordering of any goods, facilities or services for which a claim of benefits or reimbursement has been filed with a local, state or federal agency. Paying a kickback is a class D felony.

Health Insurance Fraud Act (Conn. Gen. Stat. §§ 53-440 - 443) A person is guilty of health insurance fraud when he, with the intent to defraud or deceive any insurer, (1) presents or causes to be presented to any insurer or any agent thereof any written or oral statement as part of or in support of an application for any policy of insurance or claim for payment or other benefit from a plan providing health care benefits, whether for himself, a family member or a third party, knowing that such statement contains any false, incomplete, deceptive or misleading information concerning any fact or thing material to such claim or application, or omits information concerning any fact or thing material to such claim or application, or (2) assists, abets, solicits or conspires with another to prepare or present any written or oral statement to any insurer or any agent thereof, in connection with, or in support of, an application for any policy of insurance or claim for payment or other benefit from a plan providing health care benefits knowing that such statement contains any false, deceptive or misleading information concerning any fact or thing material to such application or claim. For purposes of this section, “misleading information” includes but is not limited to falsely representing that goods or services were medically necessary in accordance with professionally accepted standards.

Any person who violates any provision of sections 53-440 to 53-443, inclusive, shall be subject to the penalties for larceny under sections 53a-122 to 53a-125b, inclusive. Each act shall be considered a separate offense. In addition to any fine or term of imprisonment imposed, including any order of probation, any such person shall make restitution to an aggrieved insurer, including reasonable attorneys' fees and investigation costs.

Vendor Fraud (Conn. Gen. Stat. §§ 53a-290 - 296) It is a crime to commit vendor fraud. A person commits vendor fraud when acting with intent to defraud provides goods or services to a person receiving benefits from the Connecticut Department of Social Services or a Medicaid recipient and:

- Presented for payment a false claim for goods or services performed;
 - Accepted payment for goods or services performed which exceeds the amount due for goods or services performed or the amount authorized by law for the cost of the goods or services;
 - Solicited to perform services for or sells goods to a beneficiary, knowing that the beneficiary does not need the goods or services, or performed such services without prior authorization by the Department of Social Service when prior authorization is required;
- or

- Accepted additional compensation more than the amount authorized by law from a person or source other than the state of Connecticut.

Larceny (Conn. Gen. Stat. § 53a-119)

This crime applies to individuals who, with the intent to deprive another of that individual’s property, obtain, take or withhold the property by means of embezzlement, false pretense, and false promise, including a scheme to defraud. Larceny has been applied to Medicaid fraud cases.

4. Whistleblower Protections

Connecticut General Statute § 31-51m: This statute that protects employees against discharge, discipline, or other penalty for reporting a violation or suspected violation of any local, state, or federal law to a public body. The protection applies to both verbal reports and those made in writing, but does not apply when the employee knows that such report is false.

Gifts

POLICY: Employees and Designated Contractors may not solicit, accept, offer or give improper gifts or gratuities to or from patients, potential referrals sources, and other parties with which BCHP has an actual or potential business relationship.

PROCEDURE:

1. No employee or Designated Contractor may solicit, accept, offer or give any gift or gratuity of more than nominal value to or from potential referrals sources, and/or other individuals and entities with which BCHP has an actual or potential business relationship.
2. Individual gifts valued above \$15 per item or \$75 in the aggregate are presumed to be of greater than nominal value.
3. No person may receive a gift which individually or together another gift is of more than nominal value without prior disclosure to and approval by the Compliance Officer. Meals, drinks or entertainment may be accepted without prior approval if such courtesies are unsolicited, infrequently provided and of nominal value.
4. No BCHP employee may charge, solicit, accept or receive, in addition to any amount otherwise required to be paid by third-party payors (including Medicare and Medicaid), any gift, money, donation or other consideration as a precondition of services. No BCHP employee or Designated Contractor may offer or give any gift, monetary payment or other item of value to a patient, next of kin and/or sponsor if the offer or gift is likely to influence the patient’s use of BCHP’s services.
5. No employee or Designated Contractor of BCHP may solicit, accept, or receive any gift, gratuity or remuneration from a patient or patient family member except nominal gifts not

reasonably likely to influence the recipient's judgment, *e.g.*, token gifts, such as flowers or fresh fruit baskets, without the permission of the Compliance Officer.

6. No BCHP employee or Designated Contractor may give any gift or gratuity to a government employee or official in connection with a business transaction or issue on behalf of BCHP.
7. Any employee or Designated Contractor who has a question about this policy should contact their supervisor, the Compliance Officer, or a member of the Corporate Compliance Committee for clarification.

Miscellaneous

Determination of Designated Contractors

POLICY: The Corporate Compliance Officer, with the assistance of the Compliance Committee, shall determine which independent contractors and agents of BCHP are Designated Contractors due to their significant compliance-related responsibilities on behalf of BCHP.

PROCEDURE:

1. BCHP generally will not enter into an agreement or execute a contract with an independent contractor or agent (other than a BCHP employee) if the subject matter of the contract would involve significant compliance-related responsibilities until the Compliance Officer has determined whether the person or entity involved should be considered a Designated Contractor.
 - (A) The Compliance Officer generally should be notified of proposed contracts with independent contractors and other agents (other than employees) before such contracts are executed or otherwise entered into. Notification will give the Compliance Officer sufficient time to assess whether the contract would involve significant compliance-related responsibilities on behalf of BCHP.
 - (B) Contracts with consulting physicians, health care practitioners, accountants, billing agents, and reimbursement consultants are among those which are likely to involve significant compliance-related responsibilities on behalf of BCHP. These entities are among those likely to be identified as Designated Contractors by the Compliance Officer.
 - (C) In making the determination of whether a proposed agreement is likely to involve significant compliance-related responsibilities on behalf of BCHP, the Compliance Officer should consider several factors including, without limitation, the extent to which the services or items relate to patient care and/or to the claims development and submission processes.

2. The Compliance Officer will inform the person seeking to enter into or execute the contract on behalf of BCHP whether the other party is a Designated Contractor to whom portions of BCHP Corporate Compliance Program and Code of Conduct will apply.
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Retention of Designated Contractors

POLICY: Designated Contractors must agree to abide by applicable portions of the BCHP Corporate Compliance Program as part of their contract or other arrangement with BCHP.

PROCEDURE:

1. BCHP generally will not enter into an agreement with a Designated Contractor until the Compliance Officer, or designee, has given authorization to enter into the agreement or to execute the contract.
 2. BCHP will not knowingly contract or do business with a Designated Contractor that has been excluded from a government-funded healthcare program.
 3. Any Designated Contractor who has access to PHI and is not a covered entity, will be required to enter into a Business Associate Agreement to comply with applicable federal and state confidentiality and data protections rules, including HIPAA and 42 C.F.R. Part 2, federal regulations that govern the confidentiality of drug and alcohol abuse treatment and prevention records.
 4. Persons who enter into an agreement on behalf of BCHP with a Designated Contractor should, as part of the contracting process:
 - (A) Furnish to the Designated Contractor the Code of Conduct and any written BCHP policies and procedures that the Compliance Officer has determined are applicable to the Designated Contractor; and
 - (B) Generally require the Designated Contractor to execute a Compliance Program Agreement or otherwise agree to comply with applicable Policies and Procedures and the Code of Conduct.
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Compliance Program Files

POLICY: BCHP shall establish and maintain uniform filing and documentation systems for compliance-related documents and other materials.

PROCEDURE:

1. The Compliance Officer shall establish and maintain (or require appropriate departments to establish and maintain) uniform filing and documentation systems in secure locations.
2. All documents that the Compliance Officer reasonably believes to be subject to the

attorney-client privilege shall be filed separately from other documents and maintained in a locked file. Access to such privileged files shall be restricted to those officers or other agents of BCHP who have a need to know the contents of these files.

3. The Compliance Officer and/or appropriate department heads, supervisors and managers, shall appropriately document and file the following information:
 - (A) Documentation pertaining to training programs, including the date of the training program, the presenter(s), a brief description of the presentation, and sign-in sheets.
 - (B) Documentation relating to background checks of new employees and Designated Contractors.
 - (C) Compliance Committee agendas and minutes.
 - (D) Documentation of reports or complaints made to the Compliance Officer or the Hotline. Reports to management prepared as a result of complaints made to the Compliance Officer also should be maintained in the Compliance Officer's files.
 - (E) Copies of fraud alerts/notices issued by governmental or other regulatory bodies, employee alerts and training manuals disseminated to BCHP employees or applicable contractors.
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Management of Documents and Other Records

POLICY: BCHP shall establish, as necessary and/or appropriate, policies and procedures governing the creation, alteration, distribution, retention, storage, retrieval and destruction of documents and other records.

PROCEDURE:

1. The Compliance Officer, in conjunction with the Compliance Committee, Department Heads, and supervisors and managers, shall establish, as necessary and/or appropriate, policies and procedures governing the creation, alteration, distribution, retention, storage, retrieval and destruction of documents and other records. Records may include, without limitation, electronic databases, diskettes, CDs, video tape, and other forms of information storage.
2. BCHP employees and Designated Contractors shall comply with BCHP's records management policies and procedures governing their department or area of operation.
3. BCHP's records retention policies and procedures should cover the following categories of documents and records:
 - (A) medical records and other documentation required for participation in federal or New York health care programs or for professional certification or licensure;
 - (B) records and data necessary to support information on claims and patient bills;

- (C) audit results;
 - (D) logs of hotline calls and their resolution;
 - (E) corrective action plans;
 - (F) records of employee training, including the number of training hours; and
 - (G) disciplinary actions.
4. Managers and supervisors should monitor compliance with the records management policies and procedures for their departments or areas and report promptly to the Compliance Officer any violations or compliance issues of which they become aware.

Retention of Medical Records

POLICY: BCHP shall maintain its medical records for the following time periods:

1. BCHP shall maintain the medical records of patients who are minors until whichever date is the later of the following:
 - (a) the patient reaches the age of 19;
 - (b) six years after their last visit.
2. BCHP shall maintain the medical records of adult patients until six years after the last visit.
3. BCHP shall maintain the medical records of incompetent patients until ten years after the last visit.

Medical Record Documentation

POLICY: BCHP shall establish, as necessary and/or appropriate, policies and procedures governing medical record documentation. Timely, accurate and complete documentation is important to clinical patient care. This documentation not only facilitates high quality patient care, but also serves to verify that billing is accurate as submitted.

PROCEDURE:

BCHP requires that providers follow these documentation guidelines:

- The medical record is complete and organized.
- Documentation is timely.
- The documentation of each patient encounter includes the reason for the encounter, any relevant history, physical examination findings, prior diagnostic test results, assessment, clinical impression or diagnosis, plan of care, and date and legible identity of the provider.
- CPT and ICD-10 codes used for claims submission are supported by documentation in the medical record.
- Appropriate health risk factors are identified. The patient's progress, his or her response to treatment.

BCHP will maintain a process for identifying and reviewing its billing and coding to ensure compliance with applicable state and federal requirements.

Personal Health Information/HIPAA

POLICY: BCHP officers, employees, clinical practitioners, and Designated Contractors shall have access to, and copies of, BCHP's HIPAA privacy/security policies and procedures (available at <https://bchphysicians.sharepoint.com/>). BCHP is committed to safeguarding patients' privacy.

PROCEDURE:

The Compliance Officer is responsible for development and implementation of policies, procedures and educational programs that will ensure that BCHP will continue to be compliant with the HIPAA Privacy regulations and will also ensure that protected health information is secure in accordance with HIPAA Security regulations. In order to ensure that confidentiality is maintained, Affected Individuals must adhere to the following rules:

- Do not discuss PHI in public areas.
- Limit release of PHI to the minimum reasonably necessary for the purpose of the disclosure.
- Do not disclose PHI without an appropriate consent signed by the patient, parent, or legal guardian unless it is related to the person's care, payment of care, or health care operations of BCHP.
- Honor any restrictions on uses or disclosure of information placed by the patient.
- Make sure PHI is properly secured.
- Be familiar with and comply with special confidentiality rules governing the disclosure of HIV/AIDS, alcohol, substance abuse and mental health treatment.

The Compliance Officer is also responsible for the development and implementation of the policies and procedures required by the HIPAA Security Rule. The Compliance Officer is responsible for ensuring that BCHP engages in the following activities:

- Maintain appropriate security measures to ensure the confidentiality, integrity and availability of patients' electronic protected health information (E PHI).
- Adhere to applicable federal and state security laws and standards.
- Provide security training and orientation to all applicable Affected Individuals.

- Comply with Security Policies including periodic risk assessments.
- Monitor access controls to EPHI to ensure appropriate access to authorized personnel.
- Maintain hardware and software with the appropriate patches and updates.