



COMPLIANCE AWARENESS TRAINING

Self-Study Guide

Published by the DHS Compliance Program

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Instructions for Completing this Self-Study Guide

1. Thoroughly review all sections of this self-study guide.
2. Complete the assessment at the end of the self-study guide.
3. Complete the Code of Conduct Acknowledgement.
4. Submit your completed Assessment Answer Sheet and signed Code of Conduct Acknowledgement to your supervisor/manager. The Code of Conduct Acknowledgment must also be sent to:

Human Resources
Regulatory Compliance/Organizational Development
7601 E. Imperial Hwy., 900 Annex B
Downey, CA 90242
Fax (562) 401-8839
5. Keep a copy of the Code of Conduct Acknowledgement for your training records.

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1 Introduction



A Message from Sharon Ryzak Chief Compliance Officer

The Compliance Awareness Training you are about to take will give you a better understanding of our Code of Conduct and your role in the Compliance Program. You should have already received the Code of Conduct which covers the basic standards and principles that we must follow to perform our job in a legal and ethical manner.

I want to emphasize the importance of this training. The Department takes very seriously its obligation to comply with the laws, regulations and standards of conduct that govern the Department's business. This commitment to compliance starts with the Board of Supervisors and is needed at every level of the Department, from the Director to you.

It is not only our duty to follow the standards of conduct; we are also expected to take action if we see that these standards are not being met. This training and our Code of Conduct include information on how to report concerns, and on the protections against retaliation when you act in good faith. Don't hesitate to ask questions if something doesn't seem right.

We must all be committed to honest and responsible conduct. We owe this to our patients, to the community, and to ourselves to maintain our integrity.

Thank you for your attention to this important information and for doing your part to ensure that we act responsibly and in full compliance with the law.

2 Training Purpose

At the end of this lesson, you will:

- Be familiar with the Department of Health Services (DHS) Compliance Program;
- Have a better understanding of DHS' expectations, standards, and policies related to workplace ethics and compliance;
- Recognize ethical and legal issues that may affect you and your work;
- Know what resources are available when you need guidance or need to report a violation; and
- Be aware of DHS' commitment to integrity in all of its business activities.

3 Who needs to attend this training?

All current workforce members including employees, volunteers, active members of the medical staff, students and on-site contract personnel are required to complete the Compliance Awareness Training. New workforce members will receive this training at the start of their service.

Compliance Awareness Training is important because you are held responsible to the Department's standards and must meet those expectations.

You will need to participate in Compliance Awareness Training updates every two years.

4 DHS Compliance Program

The DHS Compliance Program is a comprehensive strategy developed to prevent, detect, and correct inappropriate conduct. It is consistent with the Department's values and objectives, which include compliance with laws and other requirements as one of its standards of conduct. The program ensures that we follow the many, and often complex, requirements imposed upon us and addresses the increased scrutiny the healthcare industry is under. You do not have to look far to find news about a healthcare organization in trouble for some kind of

misconduct, such as billing for unnecessary services or billing for services not provided.

Federal and State agencies have been given increased funding and authority to investigate and prosecute healthcare fraud and abuse. These government investigations have resulted in negative publicity, multi-million dollar fines, and, in the most serious cases, prison sentences and exclusion from participation in federal healthcare programs.

4.1 Goals

The goals of the Compliance Program are to:

- Protect the organization, its patients, and the community by providing clear guidelines to ensure honest and responsible behavior;
- Prevent, identify and correct violations of the law, regulations, and/or DHS policy
- Fulfill our legal duty to our payers by submitting accurate claims for reimbursement consistent with program requirements;
- Limit the risk of violating the law;

No matter what your function is, you are a critical part of the success of the Compliance Program because the overall goal of the Compliance Program is integrity in all operations.

4.2 Scope

The overarching goal of the Compliance Program is compliance with all laws, regulations, policies, and other applicable standards of conduct.

Despite this broad goal, the primary focus of the Compliance Program is on the laws related to healthcare business practices and the requirements of our primary payers (especially Medicare and Medi-Cal).

Some of the areas the Compliance Program focuses on include:

- **Coding and billing** – to ensure that all claims for reimbursement are accurate and consistent with the applicable laws, regulations, and program requirements.
- **Medical record documentation** – to ensure that medical records are accurate, timely, and complete.
- **Cost reporting** - to ensure the accuracy of these reports because they are basis for much of DHS' revenue.
- **Patient referrals for services** – to ensure patient referrals do not violate the anti-referral laws, which limit the situations in which a physician can order services.
- **Financial arrangements** – to ensure that financial arrangements are proper and do not violate laws, such as the anti-kickback laws, which make it illegal to accept or offer anything of economic value that is intended to encourage the referral of patients or other business.
- **Other conflicts of interest** which are inconsistent with a workforce member's official duties.
- **Excluded persons or entities** – to ensure that we do not employ or contract with individuals or entities that have been excluded from participation in federal healthcare programs (such as Medicare and Medi-Cal) because of fraud, abuse, or some other kind of misconduct.
- **Confidentiality of health information** – to protect the privacy of patients' health information.

4.3 Related Activities

There are other significant compliance-related activities that are managed outside of the Compliance Program. These include, but are not limited to, activities related to:

- Quality of care,
- Licensing and accreditation,
- Occupational Safety and Health Administration (OSHA),
- Human resources, and
- Clinical research.

Keep in mind, no matter what your function is, you are a critical part of the success of the Compliance Program because the overall goal of the Compliance Program is integrity in all operations.

4.4 *Essential Elements*

The Federal Department of Health and Human Services Office of the Inspector General (OIG) considers seven elements to be essential to an effective Compliance Program. These elements are:

1. Chief Compliance Officer and Compliance Committee
2. A Code of Conduct and policies and procedures to help ensure that we follow the various laws and regulations;
3. A process for reporting and investigating compliance concerns;
4. Education of workforce members, which relates both to the nature of the compliance program, and to job-specific education on the various rules which effect job performance;
5. Monitoring and auditing, to test whether we are doing things right, and make sure that any problems are caught and corrected early;
6. Response to reported concerns and prevention of future problems; and
7. Enforcement and discipline. The OIG feels very strongly that compliance is considered a priority only when there are consequences for non-compliant behavior.

The DHS Compliance Program includes these essential elements which are discussed in more detail below.

5 Compliance Program Participants

DHS COMPLIANCE PROGRAM



As shown above, the Compliance Program is comprised of the:

- Chief Compliance Officer
- Local Compliance Officers from each facility,
- Compliance Committee (which includes Local Compliance Officers and other key managers)
- Audit and Compliance Division, and
- You, the most important participant. This includes all DHS workforce members (employees, volunteers, students, contractors and active members of the medical staff.) You are the critical ingredient for the success of our Compliance Program. **It cannot work without you.**

The following sections discuss the roles of each of these participants.

5.1 DHS Chief Compliance Officer

The DHS Chief Compliance Officer is Sharon Ryzak. The Chief Compliance Officer is accountable for overseeing the implementation of the Compliance Program, and for taking steps to improve its effectiveness. She also acts as the Compliance Program's liaison with the Board of Supervisors.

5.2 Local Compliance Officers

Each facility/program has designated a Local Compliance Officer to assist in the implementation of the Compliance Program by coordinating compliance activities at their respective facility or program. They act as a compliance resource for their facility and are someone you can go to when you have questions or concerns. They also participate on the DHS Compliance Committee.

The Local Compliance Officers for DHS are:

| | | |
|---|--------------------------|----------------|
| LAC+USC Healthcare Network | <i>Barbara Oliver</i> | (323) 409-3501 |
| Coastal Cluster | <i>Cynthia M. Oliver</i> | (310) 222-4027 |
| MLK-MACC | <i>Vanessa Brown</i> | (310) 668-4966 |
| ValleyCare | <i>Azar Kattan</i> | (818) 364-3001 |
| Rancho Los Amigos National Rehabilitation Center | <i>Jody Knox</i> | (562) 401-7025 |
| High Desert Health System | <i>Beryl Brooks</i> | (661) 945-8311 |
| Office of Managed Care/CHP | <i>Nancy Pe Quilino</i> | (626) 299-3348 |
| Health Services Administration | <i>Kathy Markarian</i> | (213) 240-8312 |

5.3 Compliance Committee

The Compliance Committee is comprised of Local Compliance Officers and managers from other key areas such as Finance, Nursing, and Health Information Management. It prepares and approves policies to ensure compliance with the law, identifies areas of concern, and initiates and sets priorities for compliance activities. The Compliance Committee also advises the Chief Compliance Officer about compliance matters, such as potential violations, changes in requirements, and ways to improve the Compliance Program.

5.4 Audit and Compliance Division

The Audit and Compliance Division conducts compliance audits and investigations. It investigates all matters brought to its attention and recommends corrective actions as appropriate. The Audit and Compliance Division receives reports of alleged misconduct from the Board of Supervisors' offices, the County Fraud Hotline, the DHS Compliance Hotline, and other sources. It also does monitoring and compliance reviews at the request of the Compliance Committee.

5.5 You

Each workforce member is a critical player in the Compliance Program. Your responsibilities as a workforce member are to act with integrity and honesty, and to follow the DHS Code of Conduct, laws, regulations, and other standards that apply to your job.

Additionally, every workforce member has the additional duty to report suspected misconduct. You are in the best position to know whether we are doing things correctly, and it is essential that you share that information.

6 Compliance Violations and Misconduct

DHS strives to comply with all federal, State, and local laws that apply to it, and its own policies.

Examples of compliance violations and other types of misconduct are:

- False claims or other inappropriate billing practices - such as billing for unnecessary services, billing for services not performed or not documented in the medical record, deliberately billing twice for the same item or service, etc.,
- Accepting or paying kickbacks (which includes anything of value) in exchange for patient referrals or other business,
- Falsifying cost reports,
- Miscoding services,
- Acting under a conflict of interest, for example, by not disclosing that you own a company that does business with DHS,
- Falsifying timecards,
- Misleading an investigator or auditor,
- Destroying documents related to an investigation,
- Falsifying any record including medical records and employment applications,
- Disclosing protected health information to an unauthorized person, and
- Accepting gifts from, or giving gifts to, individuals or organizations that have a business relationship with DHS.

These actions are unethical, and in many cases illegal. You must not participate in any of these practices or any other type of misconduct. DHS expects its workforce members to follow the rules and will support you in your efforts to ensure honest and responsible conduct. More examples of inappropriate behavior will be covered in the case studies later.

7 Reporting Misconduct

As noted above, it is your duty to report suspected inappropriate or illegal conduct to protect the organization and the community we serve. The purpose of such reporting is to allow DHS to correct problems before they get out of hand. This helps avoid fines and penalties, damage to the public's trust, and will help ensure that we act with honesty and integrity by **doing the right thing**.

7.1 *The 3C Decision-Making Model* ©:

The following 3C Decision-Making Model can be used when you are faced with an ethical or compliance concern.

The three C's are:

Compliance: Does the situation involve the possible violation of a law, regulation, or internal policy or procedure?

Conscience: Does the situation involve a violation of an ethical principle?

Conduct: Assess your alternatives for addressing the situation and decide on a course of action that will resolve the situation in a timely manner.

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7.2 *Reporting Avenues*

There are several reporting avenues you can use if you suspect misconduct or fraud. You can:

- **Discuss your concerns and questions with your supervisor.** Generally, we recommend that you talk to your supervisor first. However, if there are special circumstances —

for instance, if you suspect your supervisor may be involved in the potential misconduct — you would want to go through another reporting avenue.

- **Discuss your concerns and questions with another member of management.** You may need the expertise of another manager or you may feel more comfortable discussing your concerns with another manager.
- **Contact your Local Compliance Officer.**
- **Contact the Audit and Compliance Division by:**
 - Phone - DHS Compliance Hotline – (800) 711-5366
 - Letter – 313 N Figueroa St., Room 801, Los Angeles 90012
 - Fax – (213) 481-8460
- **Contact the Chief Compliance Officer** directly at any time.

7.3 DHS Compliance Hotline (800) 711-5366

As noted above, the DHS Compliance Hotline is one way to report suspected compliance violations and ask questions about the Code of Conduct or other compliance issues.

You do not need to use your name, but keep in mind that anonymous calls may be difficult to investigate.

7.4 County Fraud Hotline (800) 544-6861

The DHS Compliance Hotline has not replaced or changed the Los Angeles County Fraud Hotline. The County Fraud Hotline, which is staffed by the Auditor-Controller's office, can be used to report either misconduct or fraudulent activity.

7.5 Confidentiality

Every effort is made to maintain the confidentiality of a reporter's identity, within the limits of the law and the practical necessities of conducting an investigation. However, DHS cannot guarantee confidentiality. For instance, if legal or civil service action is required, the person who reported the issue may have to be identified.

7.6 Protection from Retaliation

County Code Section 5.02.060 (Whistle-Blower Ordinance) protects persons who report suspected misconduct or fraud to an appropriate County entity from retaliation by County officers, managers, or employees. There are also federal and State laws that protect persons who disclose or participate in federal and State investigations from retaliation in the form of harassment, demotion or firing.

DHS will not tolerate retaliation against anyone who reports a suspected violation.

Remember, you are responsible for your own conduct. This protection from retaliation does not mean that there may not be consequences for your actions if you report a problem in which you have played a part. Reporting a problem that you participated in will not excuse misconduct on your part. Also, any employee who makes a false accusation with the purpose of harming or retaliating against another workforce member will be subject to disciplinary action.

7.7 Audit and Compliance Division's Investigation Process

The Audit and Compliance Division investigates (or refers for investigation) all reported matters. DHS treats all reports of alleged misconduct seriously and appropriately.

When you report possible misconduct, the Audit and Compliance Division will take the following steps:

1. Assuming you did not make your report anonymously, **the Audit and Compliance staff will contact you as soon as possible.** Depending on existing priorities, you may not receive a call immediately, but if not, please be assured that all cases will be investigated as appropriate. You will be asked to describe the situation and to provide as much detail about it as possible. It is important to be as specific as possible and to provide any documentation you have to support your concerns.
2. **Audit and Compliance will conduct the review** to determine if a problem really exists and if any corrective action is needed.

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This review may include conducting additional interviews, examining relevant documentation, reviewing relevant laws and policies, and any other steps needed to assess the reported concern.

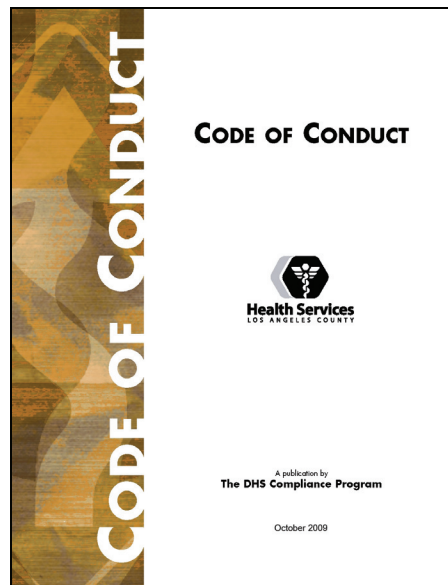
- 3. Audit and Compliance will issue a report of the findings** to facility administration with recommendations for corrective and disciplinary action, as appropriate.

Disciplinary action will be taken in accordance with the Department's Employee Evaluation and Discipline Guidelines and Civil Service Rules. The Compliance Program does not establish additional disciplinary guidelines.

Corrective action for the misconduct of contractor personnel, will be taken in accordance with the contract provisions.

DHS recognizes that, without appropriate enforcement, the standards are meaningless.

8 Code of Conduct



The DHS Code of Conduct states the basic standards and principles that we must follow to carry out our job in a legal and ethical manner. It provides you with guidelines for workplace conduct. Since the Code of Conduct provides only general guidance, you should refer to the

applicable policies, regulations, or other directives when additional guidance is needed.

The Code of Conduct and policies can be found on the DHS and facilities' Intranets.

8.1 *How does it affect you?*

The Code of Conduct provides you with help regarding appropriate workplace conduct. It is important for you to be familiar with the Code of Conduct because all workforce members are expected to follow the Code of Conduct. Non-compliance with the Code of Conduct, if discovered, will result in appropriate disciplinary actions. Failure of supervisors/managers to assure compliance by those they manage may also result in disciplinary actions.

At the end of this training, you will be expected to sign an acknowledgement stating that you have received the Code of Conduct and will comply with its terms. You are expected to be familiar and comply with the laws, regulations, and policies that govern your job function. You are not expected to know everything, but are expected to ASK if you are unsure of your responsibilities.

9 Federal and State Fraud and Abuse Laws

There are a variety of federal and state laws designed to prevent or remedy fraud and abuse in federal healthcare programs. We discuss several of the most important of these below.

9.1 *Federal False Claims Act*

The Federal False Claims Act creates financial penalties for submitting certain types of inaccurate materials to the federal government. Congress is very serious about this law and very recently amended it to expand the scope of activities to which it applies. The State of California also has a false claims act.

Prohibited actions under the Federal False Claims Act include:

- Submitting a false or fraudulent claim,
- Creating or using a false document which is material to a false claim,
- Conspiring to violate the false claims act,
- Creating a false record to avoid returning some or all of what is owed to the federal government, and
- Inappropriately avoiding, or decreasing an obligation to pay money or property to the federal government.

The last item, which was added by the recent amendment, means that failure to return overpayments to the government, once you know they exist, can be a violation of the law even when the overpayment itself was not the product of fraud or other error by the Department.

In addition to taking one of these prohibited actions, to violate the False Claims Act, a person must have submitted the claim or document knowing that the information or claim is false or fraudulent, acted in deliberate ignorance of the truth or inaccuracy of the information or claim, or acted with reckless disregard of the truth or inaccuracy of the information or claim.

Violating this law knowingly can also lead to criminal prosecution.

For your reference, federal and state laws dealing with false claims are covered in more detail in DHS Policy 1003 - False Claims Act.

9.2 Whistleblower Provisions

Generally, the False Claims Act is enforced by the Attorney General's office. However, a private person who has non-public information about wrongdoing may file a false claims lawsuit on behalf of the government. This person is called a '**whistleblower**' or '**Qui Tam Relator**.' The whistleblower gets a share of any recovery.

The whistleblower, and anyone assisting the whistleblower, is protected from retaliation by law. As described previously, County rules as well as other State law provisions give additional protection to persons who report suspected wrongdoing.

10 Accurate Claims

DHS tries to ensure that all claims for reimbursement are accurate and conform to the applicable rules. This means that the claims contain all the required information and that the information is correct.

DHS prohibits any workforce member from knowingly presenting, or causing to be presented, false, fictitious, or fraudulent claims.

Activities that can impact the accuracy of a claim are:

- Medical record documentation,
- Coding items and services,
- Billing activities, and
- Completing your timecard.

If you are involved in any of these activities (even if you do not prepare a bill or claim yourself) you need to exercise care to ensure the accuracy of the claims DHS submits.

10.1 Accurate Claims – Scenario

Consider the following discussion between Chen, a medical records coder, and Gloria, his co-worker, during lunch.

Chen: *I'm so frustrated! I can't get Dr. Jones to respond to my questions about one of his charts, and the timeframe to complete the bill is almost up. I've tried to contact him a couple of times and he hasn't called me back.*

Gloria: Why do you need to speak to him?

Chen: *I can't tell the diagnosis from the chart. I've narrowed it down to one of two diagnoses, but I need some additional information from him to be sure which one it is.*

Gloria: Maybe you need to call his Department Chair.

Chen: *He IS the Department Chair!*

Gloria: Oh boy, that's a tough one.

Chen: *I guess I'll have to flip a coin. Head is diagnosis A, tail is diagnosis B. Here goes.*

Chen: *Okay, heads, it's diagnosis A.*

Gloria: You're not serious?

Chen: *You bet I am. What else can I do?*

Gloria Well, you know that's against our policy, but I won't say anything because I can tell you're stuck.

Stop for a minute and analyze the situation.

How do you think Chen should have handled the situation?

What about Gloria, what do you think she should do?

10.2 Accurate Claims – Analysis

This case raises the question of an employee's obligation to ensure that claims-related information is accurate. Even though Chen may feel like he has no choice, he must not accept the Department Chair's non-response and guess at the correct coding. Chen is responsible for accurately coding the medical records, and must continue to pursue the information needed. Just because someone is in a management position does not mean that they are exempt from following the rules. In fact, managers are expected to set the example of appropriate behavior. If Chen does not feel comfortable going above a Department Chair, he should talk with his supervisor and get assistance. The supervisor may want to take the issue to the Medical Director. In any case, the claim cannot be submitted unless it is accurate and supported with appropriate documentation.

Is it okay for Gloria to ignore the situation? No. Hopefully Gloria can convince Chen that he cannot take a chance on miscoding a record and offer him advice on how he can proceed. However, if Chen insists on guessing at the correct diagnosis, Gloria must report it to her supervisor or use any of the other reporting options discussed.

11 Records Integrity

All business data, records, and reports must be accurate. This includes medical, financial and non-financial records. Examples of non-medical/non-financial records where accuracy is important are attendance records, licensing information, certifications, and workload statistics.

Our records must be available to support our business practices and actions. Business records include paper documents, computer-based information, and any other information about DHS or its activities.

In addition, the form and content must comply with applicable rules, regulations, and DHS policies.

11.1 Patient's Chart – Scenario

Consider the following exchange between Kim, a nurse, and Rudy, a resident physician, who is rushing out of the hospital at 4:00 pm.

Rudy: *Hey Kim, I forgot to write an order for a chest x-ray for the patient in 201B. Would you please make a note in the chart and sign my name? Also, time it for 3:00 p.m. – I don't want my attending to know that I forgot to do it earlier. Go ahead and make the arrangements for the x-ray. Thanks!*

Kim: But...

Stop for a minute and analyze the situation, then read about what Kim should do.

11.2 Patient's Chart – Analysis

All documentation in the medical records must be accurate, timely, and complete, as mandated by regulatory, accreditation, and professional standards. **Kim cannot sign another individual's name or indicate an earlier time.** This information would not be accurate and is not allowed.

Dr. Rudy has asked Kim to accept a verbal order. Policies regarding verbal orders vary between DHS facilities, and in some cases are not allowed except in emergencies. If necessary, refer to your facility's policies. However, the important point in this example is that **information in the medical record must ALWAYS be accurate, timely, and complete.**

Kim should discuss this with her supervisor or use any of the other reporting resources discussed in this training.

12 Cost Reports

DHS submits cost data for payment under government programs. It is our responsibility to make cost reports as accurate and complete as possible. In addition to financial information, other information impacts the accuracy of our cost reports, including, but not limited to:

- Attendance records,
- Patient and payer statistics,
- Workload statistics in ancillary departments,
- Workload statistics in support services like housekeeping and dietary, and
- Equipment location records.

Every individual needs to ensure that his or her input into these records/statistics is complete and correct.

13 Workplace Conduct

13.1 Health and Safety



DHS has policies to protect our workforce, patients, and visitors from potential hazards. Managers and supervisors must ensure that all workforce members receive proper training in healthy and safe work practices.

Tell your supervisor or local Safety Officer of any workplace injury or potentially dangerous situation so that corrective action may be taken.

The Department's goal is to provide a safe and appropriate environment for everyone.

13.2 Harassment

DHS has a **NO TOLERANCE POLICY** on harassment. All workforce members have the right to work in an environment free of harassment. Be sure to watch your own conduct and be sensitive to how it will be seen or experienced by others.

Harassment is not limited to sexual harassment or bigotry. It also includes degrading or humiliating remarks, jokes, or slurs; sexual comments, actions, or touching; and workplace violence.

13.3 Reporting Workplace Misconduct

Report if you observe or experience:

- Harassment or violence
- Use of alcohol or illegal drugs or misuse of prescription drugs
- Improper use or distribution of drugs from DHS
- Any other improper conduct

You can report any of these incidents to your supervisor, Human Resources, a member of the management, your Local Compliance Officer, or the Compliance Hotline. Be sure to report it — DHS can only fix problems that we are aware of.

14 Licenses, Certifications, and Other Credentials

Those in positions that require professional licenses, certifications, or credentials are responsible for maintaining these in an active and current status. You are not permitted to work without valid, current licenses or credentials if your position requires them. Moreover, you must comply at all times with applicable federal and State requirements associated with those licenses, certificates or credentials.

15 Excluded or Suspended Individuals or Entities

DHS will not knowingly employ, contract with, or purchase from individuals or entities that are suspended or excluded from participation in federal healthcare programs. An individual or entity may become “excluded” for various reasons, ranging from the conviction of a healthcare related fraud to failure to pay a health education loan. Regardless of the reason, DHS cannot receive reimbursement from Medi-Cal, Medicare, or other federal healthcare programs for services provided by or ordered by an individual/entity that is suspended or excluded.

DHS checks the exclusion or suspended status of workforce members, contractors and vendors prior to entering into employment or contractual relationships, and annually thereafter. In addition, all workforce members must report to their supervisor or Local Compliance Officer if they become subject to suspension or exclusion, or if they become aware that another employee or contractor has become subject to suspension or exclusion.

16 Patient Confidentiality

DHS collects and maintains various personal information (medical, financial, etc.) about our patients, and must ensure that the confidentiality of this information is protected.

DHS has developed policies and procedures to ensure compliance with the federal HIPAA Privacy and Security Rules and State privacy requirements. The basic purpose of these privacy rules is to protect the privacy of every patient’s health information. The basic purpose of the HIPAA Security Rule is to protect the confidentiality, integrity, and security of electronic health information. In both cases, patient health information can only be shared under specific circumstances.

Breaches of patient privacy have serious implications for DHS and you, as an individual. Under recently enacted state legislation, DHS hospitals must notify the State and the affected individual where there is an unauthorized disclosure of confidential patient data. The State may then impose fines.

All workforce members should have received training on the patient privacy and security rules. If you have not received this training, you should notify your supervisor.

16.1 HIPAA – Scenario

Below is a conversation between Steve, a Patient Financial Services Worker, and Sandra, a nurse.

Steve: *Hi Sandra. I heard that my supervisor, Lou, was admitted last night.*

Sandra: Hi Steve, how are you?

Steve: *I'm fine, but what's going on with Lou? Our manager wouldn't tell us anything.*

Sandra: I'm sorry, but you know I can't tell you anything more than that he is stable.

Steve: *Hey, I think I've worked here long enough to get the inside scoop. Come on, he's my supervisor and friend. I just want to know if there's anything I can do.*

Let's stop for a minute and think about Steve's behavior. How do you think he should behave? Did Sandra do the right thing?

16.2 HIPAA – Analysis

Under both HIPAA and California's privacy laws, workforce members have a responsibility to protect confidential patient information. The HIPAA Privacy Standards apply to health information that is written, spoken, electronic, or communicated and maintained in any other form. As a general rule, without the patient's consent, protected health information should only be disclosed to those who need it to provide and/or pay for treatment or care, or for healthcare operations.

Since Steve's function does not require him to have Lou's health information, and assuming Lou has not authorized the release of this information, Sandra did the right thing by not disclosing it. Of course, Lou may choose to tell his co-workers about his condition or tell his

senior staff to share the information. While confidential information was not disclosed, Steve attempted to obtain information that he was not entitled to. Therefore, Sandra should remind Steve of the requirement to protect the privacy of patient health information at all times and discuss this situation with her supervisor, who may determine that further action is needed.

17 Conflict of Interest

A conflict of interest arises when a workforce member has a motivation (such as a financial or personal interest) or responsibilities that would or could interfere with his/her ability to make decisions or judgments solely in the best interest of DHS or its patients. Conflicts of interest may include, but are not limited to, relationships, associations, or business dealings with contractors, vendors, suppliers, other healthcare organizations, or individuals. The conflict can arise because of the workforce member's own relationships or finances, or because of the relationships or finances of an immediate family member, such as a wife or child.

- Workforce members are prohibited both by law and DHS policy from participating in making governmental decisions in which they have a conflict of interest.
- Workforce members are prohibited from attempting to use their official position to attempt to influence a governmental decision in which they have a conflict of interest.
- Workforce members must conduct their affairs in a manner that avoids conflicts of interest or the appearance of conflicts of interest.
- Workforce members must report any conflicts of interest to their supervisors, as required by the Department's Conflict of Interest policy. Employees must fill out a disclosure form annually and as conflicts of interest arise.

Participating in a governmental decision in which you or your immediate family member has a conflict includes participating in any aspect of the contracting process including recommending whether to contract out work, drafting specifications, evaluating proposals (even if

you are not the final decision maker), monitoring the contract or recommending termination.

Participation in a contract by a person with a conflict of interest can result in the contract being void (i.e. not binding on the County) and may have other serious consequences.

17.1 Gifts

Generally, workforce members may not accept any gifts from, or give any gifts to, individuals or organizations that have a business relationship with DHS. This is to avoid the appearance of favoritism toward a contractor, vendor, healthcare provider, or others.

An unsolicited gift of little value from a vendor, contractor or health care provider may be accepted on an occasional basis, such as during the holidays, only if the gift is perishable, for example, flowers or candy, and is intended for a division or group. You may never accept or give cash or cash equivalents, such as gift certificates.

Generally, gifts from patients or persons on behalf of patients to individual workforce members should not be accepted. If the patient insists, unsolicited gifts of little or no monetary value may be accepted so long as acceptance of the gift does not influence the timeliness and quality of care, treatment or services.

DHS workforce members must never use gifts or other incentives to improperly influence business relationships or outcomes.

18 Outside Employment

While County employees are permitted to have jobs outside of County hours, there are limits on the circumstances under which such employment can occur. County employees are not permitted to participate in outside employment activities which are inconsistent with their County position. Activities are inconsistent with County employment if:

- they impair the employee's efficiency in County service;
- they create a direct conflict, such as when someone is employed by an entity that also performs services for the County, or requires the use of County tools or property;
- the hours of the outside employment require the employee to be on duty all night before coming into his or her County position the next morning, or require the employee to perform outside services during their County work hours.

Even compatible outside employment is limited to 24 hours per week except for postgraduate physicians.

If employees wish to engage in outside employment, they must complete an outside employment form, and obtain prior approval from their supervisor and their division head (or the next highest level of supervisor.) In addition, each employee must complete a disclosure form annually.

19 Patient Referrals

DHS has two primary and strict rules for patient referrals:

- (1) We do not pay or offer to pay for referrals.
- (2) We do not accept or ask for payments for referrals that we make.

Payment includes any form of compensation, not just money. Accordingly, we may not accept items such as trips, the promise of future business, tickets to sporting events, etc.

19.1 Patient Referral Practices

Federal and State **anti-kickback laws** strictly prohibit payments that are designed to induce the referral of patients or other healthcare business such as the ordering or purchasing of goods or services that go into patient care.

Federal and State **anti-referral laws** limit the situations in which a physician who has a financial relationship with a healthcare provider can order services.

The goal of these laws is to ensure that financial considerations do not affect patient care decisions.

Violation of the anti-kickback rules is considered a felony, and may have serious consequences for the individuals involved and for the County. These consequences potentially include civil and criminal fines and penalties. These fines can be as high as **\$50,000** per payment received or offered. These actions can also lead to exclusion from participation in federally funded healthcare programs.

19.2 Patient Referral - Scenario

Below is a conversation between two social workers during their break.

Wally: *Guess where I'm going on Friday night?*

Sara: *Where?*

Wally: *To the Music Center for the final performance of the Phantom of the Opera.*

Sara: *Wow! How'd you get those tickets? I heard they were almost impossible to get, and expensive, too.*

Wally: *You know Mrs. Smith, the Nursing Home Administrator from Greenville who is always bugging us about sending them more patients? Well, she had two tickets that someone gave to her and she couldn't use them.*

Sara: *You know you can't accept those tickets.*

Wally: *Well, I figured since the tickets didn't cost her anything, it wasn't really a gift. I could see that it would be a problem if she handed over \$400 in cash to me, but this is different. Plus, I haven't recommended her facility to anyone for weeks, and I didn't promise to send her anyone.*

Do you think Wally should accept those tickets?

What should Sara do?

19.3 Patient Referral – Analysis

Workforce members may not accept any personal gifts from, or give any gifts to, individuals or entities that do business with or are seeking to do business with DHS.

Gifts can be seen as an inducement for the referral of patients or as an attempt to influence a decision to purchase County goods or services. Therefore, serious consequences could result from the acceptance of gifts. **Wally must not accept the theater tickets.**

It doesn't matter that the Nursing Home Administrator didn't pay for the tickets or that Wally didn't promise to recommend her facility. If Wally doesn't return the tickets, Sara must report the situation to her supervisor or use one of the other reporting options.

19.4 Stark II



Stark II is a federal anti-referral law that prohibits healthcare entities from billing Medicare for certain services referred by a physician to an entity with which the physician or his or her 'immediate family' has a direct or indirect 'financial relationship,' unless a specific exception applies. The referral for services is also prohibited. DHS would be subject to significant fines for violations of this law.

20 Contractor Relationships

DHS intends to manage its contractor relationships in a fair and reasonable manner, consistent with all applicable laws and good business practices.

The selection of contractors or vendors will be made based on specific criteria, such as quality, technical excellence, price and service. Purchasing decisions must never be made based on personal relationships or friendships.

20.1 Contractor Relationship – Scenario

Consider the following discussion between Diana, the Dietary Manager, and Tom, from Contracts and Grants:

Diana: *Hey, Tom! It's almost time to receive the bids for our dietary contract, right?*

Tom: That's right. They're due next month.

Diana: *You know, our current vendor, Mr. Phelps, is great to work with and his staff does a fantastic job. We don't really want to have to start all over with a new contractor. You know what a pain that can be. What can I tell him that would help him put together the winning proposal?*

Tom: Everything he needs to know is in the Request For Proposal (RFP).

Diana: *Come on, help me out here. It really would be to everyone's benefit if we stuck with the same contractor. These guys are great and we don't want to cause any disruptions in service. It's our patients who would suffer. Just a few hints?*

Tom: Like I said, everything any of the bidders needs to know is in the RFP.

Let's stop for a minute and analyze the situation.

Did Tom do the right thing?

20.2 Contractor Relationship – Analysis

To maintain the integrity of the bidding process, all potential bidders must be provided with the same information regarding the requested services. No one can be given an unfair advantage by having exclusive

information. Thus, Tom acted correctly in refusing to provide "insider" information.

While Diana feels that a change in the contractor would result in a disruption of services, County rules require that all potential bidders be given an equal opportunity. The objective of the bidding process is to obtain the best services at the best price. We must always follow the highest ethical standards in all purchasing activities. Tom should report this situation to his supervisor or use any of the other reporting options discussed.

21 Purchasing Practices



Per Federal and State law, you cannot pay or receive payment to arrange for the purchase of healthcare goods or services. This includes a reduced price or free services for County indigents, in exchange for paying or ordering goods at full price for Medi-Cal patients or beneficiaries of other federal healthcare programs. These activities can result in the same penalties as paying for referrals. There are exceptions that allow discounts and other pricing deals, but you need to be cautious.

22 Governmental/Regulatory Reviews

During governmental or regulatory reviews and inspections, such as billing inquiries or accreditation reviews, you are required to provide complete and accurate information based on the facts as they are understood at the time. We are expected to be cooperative and courteous to the auditors during the review process.

Workforce members shall **NOT**:

- Conceal, destroy, or alter any potentially relevant documents,
- Make false or misleading statements, or
- Attempt to cause another person to fail to provide accurate and timely information.

23 Final Thoughts

We are all responsible for ensuring ethical and legal conduct. If something doesn't seem right, take action! Ask questions and report your concerns. Make sure your behavior is consistent with the principles expressed in Code of Conduct. Also, remember to review new policies and procedures and apply them to your job.

You should now be ready to complete the attached assessment.

24 Assessment

Choose the correct answer by circling the corresponding letter on your answer sheet.

- 1. The overall goal of the DHS Compliance Program is compliance with all applicable laws, regulations, and other standards that govern the conduct of healthcare organizations and governmental entities.**
 - a. True
 - b. False

- 2. The Code of Conduct provides detailed information on all DHS policies; therefore, it is not necessary to refer to other DHS/facility policies or procedures.**
 - a. True
 - b. False

- 3. You must report:**
 - a. Only conduct that you are sure is inappropriate
 - b. Only conduct that you suspect to be illegal
 - c. Conduct that you suspect is illegal or in violation of a DHS/facility policy
 - d. Only conduct that could result in a loss of County funds

- 4. You should discuss suspected misconduct with:**
 - a. Your supervisor
 - b. Your Local Compliance Officer
 - c. The DHS Compliance Hotline
 - d. The County Fraud Hotline
 - e. Any of the above

- 5. Only DHS employees are required to follow the Code of Conduct.**
 - a. True
 - b. False

6. If you report suspected misconduct:

- a. Your supervisor can transfer you out of the unit to a less desirable position
- b. You are protected by federal and State law if you file a whistleblower lawsuit
- c. You are protected from retaliation by the County
- d. Both B and C

7. The federal False Claims Act prohibits creating inaccurate documents to support a claim to the federal government for payment.

- a. True
- b. False

8. DHS' goal is to ensure that all claims for reimbursement:

- a. Are accurate
- b. Conform to the applicable Federal and State laws and regulations
- c. Contain information in all required fields, regardless of whether we know that the information is correct
- d. Both A and B

9. It is appropriate to falsify DHS documents when:

- a. You need to meet a deadline
- b. Your boss asks you to
- c. You are unsure of the correct information
- d. It is never appropriate to falsify DHS documents

10. If you are required to have a professional license, certification or credential to do your job, you are responsible for making sure it is kept active and current.

- a. True
- b. False

- 11. If your family member owns a company that DHS is considering doing business with, you may participate in the decision of whether or not to do business with this company.**
- a. True
 - b. False
- 12. Federal and State anti-kickback laws strictly prohibit payments that are intended to encourage the referral of patients.**
- a. True
 - b. False
- 13. The selection of contractors/vendors is made based on technical excellence, price, service, and personal relationships.**
- a. True
 - b. False
- 14. You may accept certain gifts from individuals or organizations that have a business relationship with DHS, such as:**
- a. Gift certificates
 - b. Ticket to a sporting event
 - c. A box of candy intended for the work unit
 - d. Trips
- 15. It's okay to look at information about a patient, even if you don't need it to do your job, as long as you don't tell or show anyone what you read.**
- a. True
 - b. False

YOU ARE DONE!

Please turn in your answer sheet and signed Code of Conduct Acknowledgement to your supervisor/manager.

COMPLIANCE AWARENESS TRAINING

ASSESSMENT ANSWER SHEET

| | | | | |
|-------|---------------------------------------|---------------|------------------|---------------|
| Date: | Please PRINT Name (Last Name, First): | Employee No.: | Department Name: | Pay Location: |
| | | Dept. No.: | Work Area: | Phone No.: |

Instructions: Please circle the best answer.

1. a b
2. a b
3. a b c d
4. a b c d e
5. a b
6. a b c d
7. a b
8. a b c d
9. a b c d
10. a b
11. a b
12. a b
13. a b
14. a b c d
15. a b

YOU ARE DONE!

Please turn in this Assessment Answer Sheet and your signed Code of Conduct Acknowledgement to your supervisor/manager.

**DEPARTMENT OF HEALTH SERVICES
COMPLIANCE AWARENESS TRAINING**

CODE OF CONDUCT ACKNOWLEDGEMENT

Instructions: After you have completed the Compliance Awareness Training, please complete this Code of Conduct Acknowledgement and submit it to your supervisor or trainer.

| | | | | |
|--------------|--|----------------------|-------------------------|----------------------|
| Date: | Please PRINT Name (Last Name, First): | Employee No.: | Department Name: | Pay Location: |
| | | Dept. No.: | Work Area: | Phone No.: |

I acknowledge that I have received the Department of Health Services' Code of Conduct and completed the Compliance Awareness Training. I agree to abide by the Code of Conduct as it relates to my job responsibilities. I understand that non-compliance with the Code of Conduct can subject me to disciplinary action up to and including discharge from service.

SIGNATURE _____

DATE _____

- c: Workforce Member
- Unit File
- Official Personnel/Contractor File