

ORLEANS COUNTY DEPARTMENT OF MENTAL HEALTH

CORPORATE COMPLIANCE PLAN

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Approved:

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By: Community Services Board – 10/25/11

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ORLEANS COUNTY DEPARTMENT OF MENTAL HEALTH CORPORATE COMPLIANCE POLICY

I. Policy

It has been and continues to be the policy of the Department to comply with all applicable federal, state and local laws and regulations, and payor requirements. It is also the Department's policy to adhere to the Code of Ethics that is adopted by the Community Services Board and Orleans County.

II. Commitment

The Department always has been and remains committed to its responsibility to conduct its business affairs with integrity, based on sound ethical and moral standards. The Department holds its employees, contracted practitioners, student interns, volunteers and vendors to these same standards.

The Department is committed to maintaining and measuring the effectiveness of its Compliance policies and procedures, and standards through monitoring and auditing systems reasonably designed to detect noncompliance by its employees, contracted practitioners, student interns and volunteers. It shall require the performance of regular, periodic compliance audits by internal and/or external auditors who have expertise in federal and state mental health care statutes, regulations and mental health care program, and payor requirements.

III. Responsibility

All employees, contracted practitioners, student interns, volunteers and vendors will acknowledge that it is their responsibility to report any suspected instances of suspected or known noncompliance to their immediate supervisor, the Director of Mental Health and Community Services or the Compliance Officer. Reports may be made anonymously without fear of retaliation or retribution. Failure to report known noncompliance or making reports which are not in good faith will be grounds for disciplinary action, up to and including termination or other association with the Department. Reports related to harassment or other workplace-oriented issues will be referred to the appropriate management personnel. Disciplinary actions are subject to County rules, policies and procedures; the County Employee Handbook and Management Compensation Plan; the union contract; contracts with contractors; or Board by-laws, as applicable.

IV. Policies and Procedures

The Department will communicate its compliance standards and policies and procedures through required training initiatives to all employees, contracted practitioners, student interns, volunteers, vendors and Community Services Board members. The Department is

committed to these efforts through distribution of this Compliance Policy and its Code of Conduct and Philosophy.

V. Enforcement

This Compliance Policy will be consistently enforced through appropriate disciplinary mechanisms including, if appropriate, discipline of individuals responsible for failure to detect and/or report noncompliance. These mechanisms will be in compliance with County rules, policies and procedures; the County Employee Handbook and Management Compensation Plan; the union contract; contracts with contractors; or Board by-laws, as applicable.

VI. Department Response

Detected noncompliance, through any mechanism, i.e. compliance auditing procedures, confidential reporting, will be responded to in an expedient manner. The Department is dedicated to the resolution of such matters and will take all reasonable steps to prevent further similar violations, including any necessary modifications to the Compliance Plan.

VII. Due Diligence

The Department will, at all times, exercise due diligence with regard to background, exclusion and professional license investigations for all prospective employees, contracted practitioners, student interns, volunteers, vendors and members of the Community Services Board.

Code of Ethics and Philosophy

I. Philosophy and Principles

- Community service and support systems must be responsive to individual needs.
- Individuals with severe and persistent mental illness, and their families should have options, within a flexible system, as to service and provider type.
- Members of minority and ethnic groups, the elderly and those with multiple disabilities must have access to community service and support systems responsive to their individual needs.
- The public mental health system should have the capacity to treat the vast majority of persons who are severely and acutely mentally ill, and can be effectively treated in their home communities if the range and mix of services are consistent with their needs.
- Local government and local providers must be supported and assisted in their development of responsive and needs-based community systems for severely and persistently mentally ill persons.
- For individuals who are severely and persistently mentally ill, mental health services must be effectively integrated with health, social services and other common community services at the local level.
- The vast majority of persons with long-term mental illness can live meaningful and productive lives in community settings when given flexible support.
- Clients must have access to services and opportunities for education within a system that promotes their participation.
- Research, staff development, training and new technologies which promote improvements in services and treatment of those who experience long-term severe mental illness must be supported

II. Mission

The Orleans County Department of Mental Health promotes mental wellness and resiliency, recovery, self-sufficiency and an enhanced quality of life for residents of Orleans County with mental health disorders by providing effective, accessible behavioral health services.

III. Core Values

- We are responsible for providing the most effective services, achieving outcomes and maintaining fidelity to the expectations and requirements of our stakeholders.
- We are committed to diversity as a way of enriching our ability to fulfill our Mission.

- We will incorporate those whose behavioral health is affected into decisions related to their care and treatment.
- Honest, fairness, transparency and integrity will define our actions
- We are committed to providing the highest quality services to our consumers.
- Working as a team with our families, consumers and collaborating stakeholders will yield the greatest returns.
- We will always treat others with courtesy, dignity and unconditional regard.
- The behavioral health and recovery of the individual is the prime focus of our efforts.

IV. Expectations

The Department ensures that all aspects of consumer care and business conduct are performed in compliance with its mission statement, policies and procedures, and professional standards; applicable governmental laws, rules and regulations; and other payor standards. The Department also wishes to facilitate and encourage a healthy corporate environment in which sound therapeutic practices can thrive. The Department expects every person who provides services to its clients to adhere to the highest ethical standards and to promote ethical behavior. Any person whose behavior is found to violate ethical standards will be disciplined appropriately, in accordance with County rules, policies and procedures; the County Employee Handbook and Management Compensation Plan; the union contract; contracts with contractors; or Board by-laws, as applicable.

Employees, contracted practitioners and student interns may not engage in any conduct that conflicts, or is perceived to conflict, with the best interest of the Department. Employees, contracted practitioners and student interns must disclose any circumstances where they or any immediate family member of theirs is an employee, Board member, consultant, owner, contractor or investor in any entity that (i) engages in any business or maintains any relationship with the Department; (ii) provides to, or receives from, the Department any referrals; or (iii) competes with the Department. Employees may not without permission of the Director of Mental Health and Community Services and the Compliance Officer accept, solicit or offer anything of value from anyone doing business with the Department.

Employees, contracted practitioners and student interns are expected to maintain complete, accurate and contemporaneous records as required by the Department. The term "records" includes all documents, both written and electronic, that are related to the provision of Departmental services or provide support for the billing of Departmental services. Records must reflect the actual service provided. Any records to be appropriately altered must reflect the date of the alteration; the name, signature and title of the person altering the document; and the reason for the alteration if not apparent. No person shall ever sign the name of another person to any document. Signature stamps shall not be used. Backdating and predating documents is unacceptable and will lead to discipline up to and including

termination. Discipline will be in compliance with County rules, policies and procedures; the County Employee Handbook and Management Compensation Plan; the union contract; contracts with contractors; or Board by-laws, as applicable.

When any person knows or reasonably suspects that the expectations above have not been met, this must be reported to immediate supervisors, the Compliance Officer (CO) or the Director of Mental Health and Community Services, in order to deal with each situation in an appropriate manner. The CO may be reached at (585) 589-3289.

The Role of the Compliance Officer

I. Compliance Officer

The Director of Mental Health and Community Services and the Community Services Board designate Lynn R. Fearby as the Compliance Officer (CO). If the Compliance Officer is incapacitated or unable to perform his or her duties for any reason, the position shall be promptly filled either with a temporary or permanent replacement depending upon the nature of the Compliance Officer's incapacity. The Compliance Officer reports to and has direct lines of communication to the Director of Mental Health and Community Services and the Compliance Committee. The Director of Mental Health and Community Services, in the normal course of conducting business, has direct access to the Community Services Board, Mental Health Legislative Committee, Chief Administrative Officer and County Attorney. In the event that circumstances require the exclusion of the Director of Mental Health and Community Services, the Compliance Officer will consult with the Compliance Committee and may have direct access to the Community Services Board after seeking input of the County Attorney. If the County Attorney concurs that the Community Services Board should be contacted without the Director of Mental Health and Community Services, the Compliance Officer may proceed with direct contact with the Community Services Board, Mental Health Legislative Committee, and Chief Administrative Officer, as needed.

II. Responsibilities

The CO is directly obligated to serve the best interests of the Department, consumers and employees. Responsibilities of the CO include, but are not limited to:

- Developing and implementing compliance policies and procedures. The Director of Mental Health and Community Services and Community Services Board must approve all Department policies and procedures.
- Overseeing and monitoring the implementation of the Compliance Program.
- Directing internal audits of the Department that are established to monitor the effectiveness of compliance standards.
- Providing guidance to management, medical/clinical program personnel and individual programs regarding policies and procedures, and governmental laws, rules and regulations.
- Updating, periodically, the Compliance Plan as changes occur within the Department, and/or in the law and regulations or the requirements of governmental, and/or third party payors.
- Overseeing efforts to communicate awareness of the existence and contents of the Compliance Plan.
- Coordinating, developing and participating in the educational and training program.

- Guaranteeing independent contractors (consumer care, vendors, billing services, etc.) are aware of the requirements of the Department's Compliance Plan.
- Actively seeking up-to-date material and releases regarding regulatory compliance.
- Maintaining a reporting system (Hotline) and responding to concerns, complaints and questions related to the Compliance Plan.
- Acting as a resourceful leader regarding regulatory compliance issues.
- Investigating and acting on issues related to compliance. If there is a perceived or actual conflict of interest with the Corporate Compliance Officer's conducting a particular investigation, the Director of Mental Health and Community Services, in consultation with the Corporate Compliance Committee, will select another individual to conduct the investigation.
- Coordinating internal investigations and implementing corrective action. If there is a perceived or actual conflict of interest with the Corporate Compliance Officer's conducting a particular investigation, the Director of Mental Health and Community Services, in consultation with the Corporate Compliance Committee, will select another individual to conduct the investigation.
- Serving as a member of the Corporate Compliance Committee and appearing as needed but, at least quarterly, before the Community Services Board and the Mental Health Legislative Committee to report on activities of the Compliance Plan.

The Structure, Duties and Role of the Compliance Committee

I. Reporting Structure and Purpose

Compliance Committee (CC) members are appointed by the Director of Mental Health and Community Services and approved by the Community Services Board. Compliance issues are reported by the CC to the Director of Mental Health and Community Services who, with the Compliance Officer, provides at least quarterly reports to the Community Services Board and the Metal Health Legislative Committee. The purpose of the CC is to advise and assist the CO with implementation of the Compliance Plan.

II. Function

The roles of the Compliance Committee include:

- Analyzing the environment where the Department does business, including legal requirements with which it must comply.
- Reviewing and assessing existing policies and procedures that address these risk areas for possible incorporation into the Compliance Plan.
- Working with the Department programs to develop standards and policies and procedures that address specific risk areas, and require compliance according to legal and ethical requirements.
- Advising and monitoring appropriate Department programs relative to compliance matters.
- Developing internal systems and controls to carry out compliance standards and policies and procedures.
- Monitoring internal and external audits to identify potential non-compliant issues.
- Implementing corrective and preventive action plans.
- Developing a process to solicit, evaluate and respond to complaints and problems.

Delegation of Substantial Discretionary Authority

I. Requirement

Any employee or prospective employee of the Department is required to disclose any name changes and any involvement in non-compliant activities, including health care related crimes. In addition, the Department is required to perform reasonable inquiries into the background of applicants for employment, contractors, student interns, volunteers, vendors and members of the Community Services Board.

The County maintains an agreement for a web application that allows the Department to verify that an employee, vendor, contractor, student intern, volunteer, and Community Services Board member are not excluded from Medicaid, Medicare or other federal program participation. This web application will be queried upon the hire of all Department employees and the appointment of all Community Services Board members and monthly thereafter. Likewise all Department vendors, contractors, student interns and volunteers will be queried upon engagement and monthly thereafter. The County's Director of Personnel and Self Insurance will conduct the query of Department staffs upon hire. All other queries will be done by the Department's Compliance Officer.

Education and Training

I. Expectations

Education and training are critical elements of the Compliance Plan. All employees, contractors that provide professional services, members of the Community Services Board, student interns and volunteers are expected to be familiar and knowledgeable about the Department's Compliance Plan and have a solid working knowledge of his or her responsibilities under the Plan. Compliance policies and procedures, and standards will be communicated to all these individuals through required participation in training programs.

II. Training Topics - General

All employees, contractors that provide professional services, student interns, volunteers and members of the Community Services Board shall participate in training on the topics identified below:

- Government and private payor reimbursement principles
- Government initiatives
- History and background of Corporate Compliance
- Legal principles regarding compliance and Community Services Board responsibilities related thereto
- The False Claims Act
- General prohibitions on paying or receiving remuneration to induce referrals and the importance of fair market value
- Prohibitions against submitting a claim for services when documentation of the service does not exist to the extent required
- Prohibitions against signing for the work of another individual providing services
- Prohibitions against alterations to medical records and appropriate methods of alteration
- Prohibitions against rendering services without a signed physician's order or other prescription, if applicable
- Proper documentation of services rendered
- Duty to report misconduct.

III. Training Topics - Targeted

In addition to the above, targeted training will be provided to all managers and other individuals whose job responsibilities include activities related to compliance topics, such as coding, billing and documentation. Managers shall assist the CO in identifying areas that require specific training and are responsible for communication of the terms of this Compliance Plan to all independent contractors doing business with the Department.

IV. Orientation

As part of their orientation, each employee, contractor, student intern and volunteer shall receive a copy (written or electronic) of the Compliance Plan, related policies and procedures, and specific standards of conduct that affect their position. All members of the Community Services Board shall receive a copy (written or electronic) of the Compliance Plan and related policies and procedures as part of their Board Member orientation.

V. Attendance

All education and training relating to the Compliance Plan will be verified by attendance records and a signed acknowledgement of receipt of the Compliance Plan and standards. Attendance at compliance training sessions is mandatory and is a condition of continued employment and/or other association with the Department. Training updates occur at least annually and periodically, as needed. All appropriate staffs (given the compliance topic) are required to attend as directed by the Director of Mental Health and Community Services.

Effective Confidential Communication

I. Expectations

Open lines of communication between the CO and every employee, contracted practitioner, student intern, volunteer and member of the Community Services Board subject to this Plan are essential to the success of the Department's Compliance Program. Every individual associated with the Department has an obligation to refuse to participate in non-compliant behavior; to refrain from encouraging, directing, facilitating or permitting non-compliant behavior; and to report the actions according to the procedure listed below.

II. Reporting Procedure

If an employee, contractor, student intern, volunteer or member of the Community Services Board witnesses, learns of or is asked to participate in potential non-compliant activities, in violation of this Compliance Plan, he or she should contact the CO, his or her immediate supervisor or the Director of Mental Health and Community Services. Reports may be made in person or by calling the telephone line (Hotline) dedicated for the purpose of receiving such notification or mailing information to any of these parties.

Upon receipt of a question or concern, any supervisor, coordinator or the Director of Mental Health and Community Services shall document the issue at hand and report it to the CO. Any questions or concerns relating to potential non-compliance by the CO should be reported immediately to the Director of Mental Health and Community Services.

The CO or designee shall record the information necessary to conduct an appropriate investigation of all complaints. If the individual was seeking information concerning the Code of Ethics, Compliance Plan or its application, the CO or designee shall record the facts of the call, the nature of the information sought and respond, as appropriate. The Department shall, as much as is possible, protect the anonymity of the individual who reports any complaint or question. If there is a perceived or actual conflict of interest with the Corporate Compliance Officer's conducting a particular investigation, the Director of Mental Health and Community Services, in consultation with the Corporate Compliance Committee, will select another individual to conduct the investigation.

III. Protections

The identity of reporters will be safeguarded to the fullest extent possible and will be protected against retribution. Good faith reporting of any suspected violation of this Plan by following the above shall not result in any retribution. Any threat of reprisal against a person who acts in good faith pursuant to his or her responsibilities under the Plan (including reporting; participating in an investigation; and assisting in a self-evaluation, audit or remedial action) is acting against the Department's compliance policy. Discipline, up to and including termination of employment or other association with the Department, will result if such reprisal is proven. Disciplinary actions are governed by County rules, policies and procedures; the County Employee Handbook and Management Compensation Plan; the union contract; contracts with contractors; or Board by-laws, as applicable.

IV. Guidance

Any individual associated with the Department may seek guidance with respect to the Compliance Plan or Code of Conduct at any time by following the reporting mechanisms outlined above.

Enforcement of Compliance Standards

I. Disciplinary Action - General

Individuals associated with the Department who fail to comply with the Department's compliance policy and procedures, and standards or who have engaged in conduct that has the potential of impairing the Department's status as a reliable, honest and trustworthy service provider will be subject to disciplinary action, up to and including termination of employment or other association with the Department. Those associated with the Department may be subject to discipline for the following infractions:

- Failure to report suspected compliance issues
- Participating in non-compliant behavior
- Encouraging, directing, facilitating or permitting either activity or passively non-compliant behavior

Any discipline will be appropriately documented. All facets of discipline and documenting same will be subject to County rules, policies and procedures; the County Employee Handbook and Management Compensation Plan; the union contract; contracts with contractors; or Board by-laws, as applicable. The CO shall maintain a record of all disciplinary actions involving the Compliance Plan and submit a written report at least quarterly to the Community Services Board and the Mental Health Legislative Committee regarding such actions.

II. Performance Evaluation - Supervisory

The Department's Compliance Program requires that the promotion of, and adherence to, the elements of the Compliance Program be a factor in evaluating the performance of the Department's employees, contractors, student interns and volunteers. They periodically will be trained in new compliance policies and procedures. In addition, all managers and supervisors will:

- a. Discuss with all supervised employees, student interns and volunteers the compliance policies and procedures, and legal requirements applicable to their function
- b. Inform all supervised personnel that strict compliance with these policies and procedures, and requirements is a condition of employment or other association with the Department
- c. Disclose to all supervised personnel that the Department will take disciplinary action up to and including termination of employment or other association with the Department for violation of these policies and requirements. All facets of discipline and documenting same will be subject to County rules, policies and procedures; the County Employee Handbook; the union contract; contracts with contractors; or Board by-laws, as applicable
- d. Immediately inform the CO of any issues brought to his or her attention.

III. Disciplinary Action - Supervisory

Managers and supervisors will be sanctioned for failure to adequately instruct their subordinates, failing to notify the CO of any compliance issues, or for failing to detect noncompliance with applicable policies and procedures, and legal requirements, where reasonable diligence on the part of the manager or supervisor would have led to the earlier discovery of any problems or violations and would have provided the Department with the opportunity to correct them. Disciplinary actions will be subject to County rules, policies and procedures; the County Employee Handbook; and the County Management Compensation Plan, as applicable.

Auditing and Monitoring of Compliance Activities

I. Internal Audits

Ongoing evaluation is critical in detecting non-compliance and will help ensure the success of the Department's Compliance Program. An ongoing auditing and monitoring system, implemented by the CO, in consultation with the CC, is an integral component of the Department's auditing and monitoring systems. This ongoing evaluation shall include the following:

- Review of relationships with third-party contractors, specifically those with substantive exposure to government enforcement actions
- Compliance audits of compliance policies and procedures, and standards
- Review of documentation and billing relating to claims made to federal, state and private payors for reimbursement performed internally or by an external consultant, as determined by the CO and CC
- Review of quality assurance and incident reports to determine whether they impact the Compliance Plan, particularly regarding the reimbursement of services.

The audits and reviews will examine the Department's compliance with specific rules and policies and procedures through on-site visits, personnel interviews, general questionnaires (submitted to employees and contractors) and consumer record documentation reviews. All of these reviews will be tracked by the CO and CC. The CO and CC will review the audits and reviews; changes in law, regulation and payor requirements; and the Department's risk areas to prioritize, on a minimum of a quarterly basis, compliance oversight activities that are the most serious and should be addressed first.

II. Plan Integrity

Additional steps to ensure the integrity of the Compliance Plan will include:

- Annual review with the County Attorney of all records of communications and reports by all individuals kept in accordance with this Plan
- The CO immediately will be notified in the event of any visits, audits, investigations or surveys by any federal or state agency or authority or other third party payor. He or she immediately shall receive a photocopy of any correspondence from any regulatory agency, authority or payor, particularly those charged with licensing or approving participation in any federal or state-funded program which the Department operates and/or administers, or a County-funded program in which the Department participates.
- Establishment of a process detailing ongoing notification by the CO to all appropriate personnel of any changes in laws, regulations or policies and procedures, as well as appropriate training to assure continuous compliance.

Detection and Response

I. Violation Detection

The CO, Director of Mental Health and Community Services, and the CC shall determine whether there is any basis to suspect that a violation of the Compliance Plan has occurred. The Director of Mental Health and Community Services will consult with the County Attorney and Chief Administrative Officer, as necessary.

If it is determined that a violation of any criminal, civil or administrative law may have occurred, the matter shall be referred to the County Attorney who, with the assistance of the CO, shall conduct a more detailed investigation. This investigation may include, but is not limited to, the following:

- Interviews with individuals having knowledge of the alleged violation
- A review of documents
- Legal research and contact with governmental agencies for the purpose of clarification

If advice is sought from a governmental agency or fiscal intermediary or carrier, the request and any written or oral response shall be fully documented.

Please refer to the policy on Investigation of Compliance Issues for more details.

II. Reporting

At the conclusion of an investigation involving the County Attorney, he/she shall issue a report to the CO, Director of Mental Health and Community Services and CC summarizing his or her findings, conclusions and recommendations, and will render advice as to whether a violation of the law has occurred and if further action needs to occur. The report will be reviewed with legal counsel, if in attendance. Any additional action will be on the advice of counsel, either the County Attorney or outside legal counsel.

The CO shall report to the CC regarding each investigation conducted. Please refer to the policy on Investigation of Compliance Issues for more details.

III. Rectification

If the Department identifies that an overpayment was received from any third party payor, the appropriate regulatory (funder) and/or prosecutorial (attorney general/police) authority will be appropriately notified with the advice and assistance of the County Attorney and/or outside counsel. It is the Department's policy to not retain any funds which are received as a result of overpayments. In instances where it appears an affirmative fraud may have occurred, appropriate amounts shall be returned after consultation and approval by involved regulatory and/or prosecutorial authorities. Systems shall also be put in place to prevent such overpayments in the future.

IV. Record Keeping

Regardless of whether a report is made to a governmental agency or prosecutorial authority, the CO shall maintain a record of the investigation, including copies of all pertinent documentation. This record will be considered confidential and privileged, and will not be released without the approval of the County Attorney and the Director of Mental Health and Community Services.