

# CORPORATE COMPLIANCE

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SUBJECT:	Corporate Compliance Policy
EFFECTIVE DATE:	1/28/2003
REVISION DATE:	3/2012

## I. POLICY

Davis Behavioral Health Inc. (DBH) will consistently maintain the highest level of professional, legal and ethical standards in the conduct of its business. DBH places the greatest importance upon its reputation for quality patient care, honesty, integrity and high ethical standards.

## II. PURPOSE

To achieve and sustain ethical practices through the actions and conduct of all personnel, including management employees of DBH, and to prevent fraud, waste, and abuse in health care. Employees and agents who ignore or disregard the principles of this Policy will be subject to appropriate disciplinary or contractual action. Employees, volunteers, contractors and agents of DBH must be knowledgeable of standards imposed by applicable federal and state laws and regulations that impact its documentation, coding, billing, and competitive practices, as well as day-to-day activities. In particular, and without limitation, this Policy prohibits DBH and each of its employees, agents, and Medicaid members from directly or indirectly engaging or participating in any of the following:

### A. Improper Claims

Presenting or causing to be presented to Davis County, the State of Utah, and/or the United States Government or any other healthcare payor, a claim for an item or service that was not provided as claimed.

### B. False Statement in Determining Rights to Benefits

Making, using, or causing to be made or used, any false record, statement or representation of a fact to determine rights to any benefit or payment under any healthcare program.

### C. Conspiracy to Defraud

Conspiring to get a healthcare payor to pay or allow a false claim.

### D. False Statement to Conceal Obligation to Pay

Knowingly using or causing to be used a false record or statement to conceal, avoid, or decrease an obligation to pay money or transmit property.

### E. Patient Dumping

Refusing to treat, transferring, or discharging any emergency patient without first providing for an appropriate mental health screening to determine whether or not an emergency condition exists, and if it exists, stabilizing the condition or appropriately transferring the patient in accordance with policy.

#### F. Provision of Care to Contract-to-Contract Patients

Failing to provide covered services or necessary care to residents of Davis County or other patients when a contractual duty exists due to Medicaid or Medicare contracts, private insurance contracts, or direct service contracts.

G. Health Care Fraud/False Statements Relating to Healthcare Matters Executing, or attempting to execute, a scheme to defraud any healthcare benefit program.

#### H. Anti-Referral

Presenting a claim for reimbursement to any individual, third party payor, or other entity for health services because of a referral by a physician who has a financial relationship with DBH, unless the reimbursement is for health services that were provided within the physician's employment or contractual duties with DBH for service provided to a patient of DBH.

#### I. Anti-Kickback

Knowingly and willfully soliciting or receiving any remuneration in return for:

- a) referring an individual for services;
- b) purchasing any goods, facility, service, or item; or,
- c) offering or paying any remuneration in cash or in-kind to induce someone to refer an individual for services, or to purchase any goods, facility, service, or item.

#### J. Conflict of Interest

Using their position at DBH or any influence, power, authority or confidential information they receive in their position, or DBH time, equipment, property, or supplies for private gain.

#### K. Antitrust

Engaging in any activity, which is in restraint of trade or monopolizes interstate commerce.

#### L. Failure to Report Violations to Compliance Officer

Not promptly reporting any issues of non-compliance with the provisions of this Policy to the DBH Corporate Compliance Officer as described in Section V of this Policy.

### III. PROCEDURE

#### A. The Compliance Officer

In an effort to ensure compliance with this Policy, the DBH Board of Directors is adopting a formal Compliance Program. To oversee and implement this program, DBH has appointed a Compliance Officer. The Compliance Officer will provide education and training programs for employees and volunteers, respond to inquiries from any employee regarding appropriate billing, documentation, coding and business practices, and investigate any allegations of possible impropriety.

#### B. Compliance Committees

The Compliance Officer may create one or more committees to advise and assist in the implementation of the Compliance Program. Each committee will be established with consultation from the DBH executive team and may have one or more members, each of whom may have varying responsibilities within DBH.

#### C. Reporting by Compliance Officer

In general, recommendations from the Compliance Officer regarding compliance matters will be directed to the appropriate DBH officer or manager. In no case will DBH employees or managers endeavor to conceal any noncompliance.

#### D. Reporting Procedure

The Compliance Officer shall have an "open door" policy with respect to receiving reports of violations or suspected violations of the law or the Policy and with respect to answering any questions concerning adherence. Suspected or actual violations may be reported to the Compliance Officer by:

- (i) completing the Corporate Compliance Reporting Form and submitting it to the Compliance Officer via e-mail, inter-office mail, or registered mail;
- (ii) directly phoning the Compliance Officer on the dedicated, confidential Corporate Compliance phone line; or
- (iii) submitting a complaint through the Listening Ear Link on the DBH homepage.

#### E. Whistleblower Rights

All information being reported will be kept confidential to the full extent of the law. Under no circumstances shall the reporting of any such information or possible impropriety serve as a basis for any retaliatory action that may be taken against any employee, patient or other person making the report to the Compliance Officer, as long as such reporting was done in good faith. An individual who has personal knowledge and evidence of a fraud against the federal government can file a "qui tam" lawsuit on behalf of the government and, if successful, can receive a portion of any recovery. It is not sufficient for the whistle blower (also known as the "relator") to merely report the alleged fraud to the government; he or she must actually initiate a lawsuit by filing a complaint in federal district court in order to be eligible for "recovered funds". The complaint must be filed under seal (i.e., the contents of the complaint are not available to the public). The case will remain under seal while the government investigates the case, in order to allow the government to determine the strength of the charges. This confidentiality serves both to protect the whistleblower and the company while the case is being investigated. While a case is under seal, the government may conduct interviews and even issue search warrants, but it will not disclose the name of the whistleblower or the exact nature of its investigation.

#### F. Personnel Actions

Upon receiving a report of a suspected or actual violation, the Compliance Officer will take steps to ensure the appropriate investigation and resolution of the report. The Compliance Officer may also request immediate suspension of an employee with or without pay pending the completion of an investigation. Any personnel actions taken will be in compliance with DBH policies and procedures. Any lost wages will be restored if the employee is exonerated. If the alleged violation was committed by the Chief Executive Officer, the Corporate Compliance Officer shall immediately consult with legal counsel and the Board of Directors to determine the appropriate action. If the alleged violation was committed by the Chief Financial Officer, Chief Operating Officer, Clinical Director or member of the Board of Directors, the Compliance Officer shall immediately consult with the Chief Executive Officer, legal counsel, and Board of Directors. If the alleged violation was committed by the Local Mental Health Authority, the Corporate Compliance Officer shall immediately consult with the Davis County Attorney, legal counsel, Chief Executive Officer, and the Board of Directors.

#### IV. Educational Program

The Educational Program is intended to provide each DBH employee and volunteer with an appropriate level of information and instruction regarding ethical and legal standards including, without limitation, standards for documentation, pertinent laws, coding, billing and competitive practices, and with the appropriate procedures to carry out the Policy. DBH will make available appropriate educational and training programs and resources to ensure that all employees and volunteers are thoroughly familiar with those areas of law that apply to and impact upon the conduct of their respective duties. Compliance education and training will be provided to all employees at New Employee Orientation and at least annually thereafter. Each newly hired manager shall also attend a personal orientation session with the Compliance Officer while DBH will make every effort to provide appropriate compliance information to all employees and volunteers, it is not possible to anticipate every situation. Responsibility for compliance with this Program, including the duty to seek guidance when in doubt, rests with each DBH employee and volunteer.

#### V. Employee/Agent Obligations

A. Reporting Obligation: Employees and agents must immediately report to the Compliance Officer any suspected or actual violation (whether or not it is based on personal knowledge) of applicable law or regulations by DBH, any of its employees, or agents.

B. Acknowledgment Statement: Each employee as part of their new employee orientation or annual performance evaluation, or agent upon entering a contract, contract renewal or contract review must complete and sign an Acknowledgment Statement to the effect that they fully understand the DBH Compliance Program and acknowledge their commitment to comply with the Program as an employee or agent of DBH.

C. Employee Violation of Applicable Policy or Regulation: Violation of the Compliance Policy will be considered a violation of the DBH code of conduct. Violators will be subject to corrective action, up to and including termination of employment.

D. Agent Violation of Applicable Policy and Regulation: Violation of the Compliance Policy will be considered a breach of contract and the contract will be terminated for cause.

#### VI. Non-Employment or Retention of Sanctioned Individuals

DBH shall not knowingly employ any individual; accept as a volunteer or contract with any person or entity, who has been convicted of a criminal offense related to healthcare, or who is listed by a federal agency as debarred, excluded or otherwise ineligible for participation in federally funded healthcare programs. In addition, until resolution of such criminal charges or proposed debarment or exclusion, any individual who is charged with criminal offenses related to healthcare or proposed for exclusion or debarment shall be removed from direct responsibility for, or involvement in documentation, coding, billing or competitive practices.

#### VII. Response to Reports of Violations

DBH shall promptly respond to and investigate all allegations of wrongdoing by employees, volunteers, contractors, individuals in the community, or agents, whether such allegations are received via telephone or in any other manner. Upon the discovery that a material violation of the law or of the Policy has occurred, DBH shall take immediate action to rectify the violation, to

report the violation to the appropriate regulatory body if necessary, and to sanction the culpable employee(s) or agent. DBH will notify law enforcement if the case warrants this protocol.

### VIII. Auditing and Monitoring:

#### A. Importance of Auditing and Monitoring

It is critical, for compliance with this Policy, to conduct regular auditing and monitoring of the activities of DBH, its employees and contractors in order to identify and promptly rectify any potential barriers to such compliance. Formal audit reports shall be prepared and submitted to the DBH Board of Directors. This ongoing auditing and monitoring is integrated into the system-wide Performance Improvement program in accordance with accreditation standards.

#### B. Regular Audits

Regular audits shall be conducted at the Board of Directors or Compliance Officer's direction. Such audits shall evaluate DBH compliance with this Policy and determine what, if any, issues exist. Such audits shall be designed and implemented to ensure compliance with this Policy and all applicable federal and state laws.

#### C. Duty to Report Potential Medicaid Fraud

If DBH becomes aware of potential fraud, waste, or abuse we will report the incident within 15 calendar days to the Office of Inspector General of Medicaid Services or The Medicaid Fraud and Control Unit (MFCU) and to the Department. If DBH becomes aware of potential enrollee fraud related to the enrollee's eligibility for Medicaid, we will report the incident to DWS. All other types of potential enrollee fraud or abuse will be made to the OIG.

#### D. Compliance with Applicable Fraud Alerts

The Compliance Officer shall regularly and periodically monitor the issuance of fraud alerts by the Office of the Inspector General of the Department of Health and Human Services.

#### E. Retention of Records and Reports

All records and reports created in conjunction with DBH adherence to the Regulatory Compliance Policy are confidential and shall be maintained by DBH.

This Regulatory Compliance Program has been adopted by the DBH Board of Trustees on the 28th day of January, 2003. First Revision effective on the 26th day of October, 2005, second revision effective on the 1st day of January, 2007, third revision on the 22<sup>nd</sup> day of June, 2010, fourth revision on the 26<sup>th</sup> day of October, 2011.