San Francisco Department of Public Health

*Policy & Procedure Detail**

Policy & Procedure Title: COM.7 Compliance Program - Mission, Elements and Responsibilities	
Category: Compliance	
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DPH Unit of Origin: Compliance	
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Distribution: DPH-wide ☒	**If not DPH-wide, other distribution:**

All sections in table required.

I. **Purpose and Scope**

A. **Purpose:** The purpose of this policy is to inform the San Francisco Department of Public Health (DPH) workforce member of the elements of the department's compliance program. DPH maintains a compliance program in accordance with federal and state regulations and guidelines to address the complexity of properly and accurately documenting, coding, and billing for health care services.

B. **Scope:** This policy applies to DPH workforce members which include DPH employees, UCSF employees providing serviced for DPH, contracted staff, medical personnel, interns, volunteers and other individuals representing or working at DPH who, on behalf of DPH, furnish or authorize the furnishing of Medicare or Medi-Cal services, perform billing or coding functions, or monitor the healthcare provided by DPH.

II. **DPH Compliance Program Mission and Goals:**

A. **Mission:** The mission of the DPH Compliance Program is to ensure integrity in DPH clinical and business activities.

B. **Goals:** This mission is carried out through the Office of Compliance and Privacy Affairs (OCPA) that is dedicated to the following goals:

1. To promote an understanding of and compliance with Medicare, Medi-Cal, and other applicable federal and state laws and regulations;

2. To use education and training to improve compliance with billing and reimbursement rules and regulations; and

3. To work with workforce members to integrate compliance into the daily operations of DPH at all levels.

III. **Elements of the DPH Compliance Program:**

A. **Program Structure:** The structure of the Compliance Program is laid out by the seven elements and DPH policies guide activities for detecting and preventing fraud, waste, and abuse.

1. **Element 1 – Leadership Commitment and Resource Allocation:**

i. **Reporting Relationship*:*** OCPA reports directly to the Chief Operating Officer and the DPH Executive Compliance Committee. OCPA makes quarterly reports to the DPH Executive Compliance Committee and obtains direction and feedback from the Committee. The Compliance Program also includes annual reporting to the San Francisco Health Commission.

ii. **Chief Integrity Officer:** The Chief Integrity Officer also serves as the Director for OCPA. Through OCPA the Chief Integrity Officer manages the compliance program for the department.

iii. **Compliance Officers:** DPH Compliance Officers are assigned to various service areas throughout the organization. The Compliance Officers' responsibilities include the following:

a. Conducting risk assessments to prioritize compliance monitoring and auditing activities;

b. Directing compliance monitoring and auditing activities and presenting findings and recommendations to senior administrators and managers;

c. Maintaining a system for staff to report compliance concerns in a confidential and/or anonymous manner, and promoting a culture of non-retaliation;

d. Conducting investigations of reported compliance incidents and developing corrective action plans;

e. Communicating with external auditors and regulatory bodies and coordinating responses to inquiries; and

f. Developing the annual training program, as well as targeted training activities.

iv. **Other Compliance Staff:** OCPA includes additional staff, such as Compliance Auditors who assist in carrying out a wide range of compliance responsibilities. These responsibilities include training, maintaining a mechanism for workforce members to report compliance concerns, and responding to compliance issues for the entire department, including public health functions. In some instances, workforce members from other departments are called upon to assist with investigating and resolving compliance matters.

2. **Element – Development and Maintenance of the Compliance Program:**

i. **DPH Code of Conduct:** The DPH Code of Conduct is the foundation of the department's compliance program. The purpose of the Code of Conduct is to provide direction to all workforce members.

ii. **Workforce Member Responsibilities:** All workforce members are expected to be familiar with the Code of Conduct, federal, state, and local laws, regulations, and

policies that apply to their duties. All workforce members must avoid policy violations and activities that may be construed as deceitful, false, or fraudulent. Workforce members are also required to avoid activities that are incompatible with their City employment, as required by the San Francisco Campaign and Government Conduct Code §3.218. It is the responsibility of each staff member to seek assistance for clarification or application of a particular rule, law, or regulation. Violations of the Code of Conduct can result in discipline up to and including termination.

iii. **Supervisor and Manager Responsibilities:** Supervisors and Managers are responsible for overseeing the quality of their subordinates' work.

iv. **Written Policies and Procedures:** DPH has written policies and procedures that address the overall operation of the compliance program, including the Compliance and Privacy Hotline, Non-Retaliation, False Claims Act education as required by the Deficit Reduction Act (DRA) of 2005, and guides to government interviews and investigations.

iv. **Annual Compliance Work Plan*:*** Each year each Compliance Officer develops a Compliance Work Plan for their area of responsibility, detailing the priority work tasks for the upcoming year. The Work Plan is developed based on risk assessments conducted throughout the year.

3. **Element 3 – Training and Education:**

i. **Annual Training:** DPH requires annual compliance training for workforce members. OCPA updates the training materials as needed to reflect changes in regulations and to address specific areas of risk. In addition to changes in regulations and risk, the annual training covers the DPH Code of Conduct.

a. Annual compliance training is verified through coordination between Human Resources, OCPA, and the use of the city's Electronic Learning Management software.

ii. **DPH Training and Education Tools*:*** DPH incorporates various training methods to assist workforce members in meeting the annual compliance training requirement. These methods include computer-based training modules and live trainings.

4. **Element 4 – Lines of Communication to Report Compliance Concerns:**

i. **Reporting:** DPH provides various methods for workforce members to communicate compliance concerns or to report suspected healthcare fraud, waste and abuse, with the option of remaining anonymous. The methods are briefly described below.

a. **Compliance Hotline:** OCPA maintains a toll-free Hotline so that workforce members may report concerns regarding non-compliance with federal, state or local laws in a confidential manner. These calls may also be made anonymously. DPH policy protects workforce members who report compliance concerns from any form of discrimination, harassment or retaliation within DPH. Posters advertising the Hotline number are displayed throughout DPH facilities. Additionally, the Office coordinates with the Office of the Controller, Whistleblower Program when complaints are submitted through the Citywide Whistleblower reporting system.

b. **Formal Communication:** Every year OCPA prepares a calendar to ensure that face-to-face communication occurs with each of the divisions within DPH that bill Medicare, Medi-Cal and other third-party payers. This is generally done through regular meetings with the executive staff at ZSFG, Ambulatory Care, LHH, and Behavioral Health Services, and other DPH service areas. These meetings are referred to as Compliance Steering Committees and will take place at least quarterly. At these meetings, OCPA may review specific investigations or areas of concern, recent developments or new regulations, status of the Work Plan, and answer questions.

c. **Compliance Website:** OCPA also maintains a website which can be accessed through the DPH public website, ZSFG and LHH intranet sites. The website includes the DPH Code of Conduct, and relevant DPH Compliance and Privacy Policies. It can be found on sf.gov/OCPA.

d. **E-mail:** OCPA maintains a general compliance e-mail address, compliance.privacy@sfdph.org, as well as division-specific compliance e-mail addresses to facilitate communication with staff.

5. **Element 5 – Prompt Response to Detected Offenses including Development of Corrective Action Plans:**

i. **Discovery and Response:** Compliance concerns are generally discovered by OCPA during the auditing and monitoring process; self-reported by workforce members; or reported through the Hotline. It is the responsibility of OCPA to take the lead in assessing actual or possible offenses, coordinating with appropriate staff, determining the extent of the problem, and developing a corrective action plan. If appropriate, the plan may include referrals to DPH Human Resources for disciplinary action, refunding of monies, or self-disclosure. It is also the responsibility of OCPA to ensure that information is communicated to the Chief Operating Officer and the appropriate members of the DPH Executive Compliance Committee in a timely manner.

6. **Element 6 – Standards Enforcement through Well Publicized Disciplinary Guidelines:**

i. **Enforcement Procedure:** DPH employees are subject to disciplinary guidelines through the Civil Service and/or City and County of San Francisco Personnel System. DPH strives to incorporate compliance elements (such as annual training, maintaining a current license or certification, and enrolling in Medicare) into its employee recruiting, hiring, orienting and performance appraisal process. At ZSFG and LHH, physicians, dentists, podiatrists, clinical psychologists and affiliated professionals are also subject to ethical and professional standards set forth in the Medical Staff Bylaws for each hospital. These Bylaws clearly delineate the consequences for failing to meet these standards.

7. **Element 7 – Internal Monitoring and Auditing:**

i. **Monitoring:** Each year OCPA develops an internal review schedule and monitoring tools. These reviews are used to identify issues and to provide feedback to providers, coding and billing departments. Reviews are also conducted when there are concerns regarding potential compliance violations.

ii. **Credentialling and Screening**: Credentialing verification is performed on a prescribed schedule for physicians, dentists, podiatrists, psychologists, and affiliated professionals

at ZSFG and LHH. Providers who submit bills for payment are screened monthly against the Office of Inspector General List of Excluded Individuals/Entities.

IV. **Prevention of Fraud, Waste, and Abuse**

A. **Federal False Claims Act (FCA) (FCA 31 U.S.C. Section 3729(a)):**

1. **FCA:** The FCA authorizes federal prosecutors to file a civil action against any person or entity that knowingly files a false claim with a federal healthcare program, including the Medicare or Medicaid programs. The FCA applies to providers, beneficiaries, and health plans doing business with the Federal Government as well as billing companies, contractors, and other persons or entities connected with the submission of claims to the government. The government can use the FCA against both organizations and individuals who commit billing fraud. The FCA applies to any person who does any of the following:

   i. Knowingly presents, or causes to be presented, a false or fraudulent claim for payment or approval to an officer or employee of the United States government.

   ii. Knowingly makes, uses or causes to be made or used, a false record or statement to get a false or fraudulent claim paid or approved by the government.

   iii. Conspires to defraud the government by getting a false or fraudulent claim allowed or paid.

   iv. Knowingly makes, uses or causes to be made or used, a false record or statement or to conceal, avoid, or decrease an obligation to pay or transmit property to the government.

2. **FCA Liability:** A party that commits any prohibited act under the FCA is liable to the government for a civil monetary penalty, plus **<u>three times</u>** the amount of the damages the government sustains. Parties that submit false claims may also be subject to criminal prosecution, other monetary penalties and exclusion from federal and state healthcare programs (Medicare and Medi-Cal).

3. **Qui Tam Actions:** The FCA authorizes what is known as qui tam actions (commonly referred to as "whistleblower" actions). The FCA's qui tam provision permits private persons to: (1) sue, on behalf of the government, persons or entities who knowingly have presented the government with false or fraudulent claims; and (2) share in any proceeds ultimately recovered as a result of the suit. The FCA includes provisions to discourage employers from retaliating against employees for initiating qui tam lawsuits. Any employee who is terminated, demoted, suspended or in any way discriminated against because of acts in support of an action under the FCA has a right to sue the employer for reinstatement, back pay and other damages.

B. **California False Claims Act (California Government Code Sections 12650-656):** In addition to the federal FCA, California has its own False Claims Act that focuses on claims for payment submitted to the state and its agencies. The California False Claims Act is very similar to the FCA in terms of the types of acts that give rise to liability. Like the FCA, the California False Claims Act allows private parties to sue on behalf of the state as qui tam plaintiffs.

V. **Compliance with Laws and Reporting:**

A. **Compliance:** Workforce members are expected to carry out their duties in accordance with all federal and state regulations. It is the responsibility of workforce to be familiar with the federal and state False Claims Acts, including qui tam provisions and other applicable laws and regulations.

B. **Reporting:** Workforce members are expected to report concerns related to the compliance

program to their supervisors, and/or other appropriate parties. Workforce members should use the toll-free Compliance/Privacy Hotline **(855-729-6040)** if they prefer to report concerns in a confidential and anonymous manner.