



**Behavioral Health
Department**
Alameda County Health

DocuSigned by:

By: Karyn L. Tribble, PsyD, LCSW, Director

POLICY TITLE

Whistleblower Program for Fraud, Waste, and Abuse

Policy No: 1703-3-1

Date of Original Approval: October 7, 2016

Date(s) of Revision(s): 8/13/2024

PURPOSE

Alameda County Behavioral Health Care Department (ACBHD), a department of Alameda County Health (ACH), is committed to complying with the requirements of Federal and State law, including Section 6032 of the Federal Deficit Reduction Act of 2005, which pertains to preventing, detecting, and correcting suspected fraud, waste, or abuse in connection with government health care programs. The purpose of this policy is to define fraud, waste and abuse, and clarify responsibilities and procedures for reporting, investigating, and resolving known or suspected instances of such behavior.

Effective 2019, Alameda County Health (ACH), formerly Alameda County Health Care Services Agency (HCSA), established the Office of Compliance Services (OCS), which is the umbrella program for ACBH Compliance and Privacy Program. Hence, the HCSA policy titled Fraud, Waste and Abuse Prevention and Detection, provided in the Appendix, is applicable to ACBHD. Whistleblower reports can be made either directly through the ACBHD department or through ACH. ACH OCS will retain ultimate oversight responsibility for all compliance investigations and resolution. This policy provides guidance on both reporting streams and the investigation/resolution process.

AUTHORITY

- ACBHD Compliance and Integrated Ethics Plan (CIEP)
- Alameda Health Care (ACH) Compliance Plan
- [Alameda County Administrative Code CH.3.52, Sec 3.52.010 -3.52.050 \(Protection of Employees Disciplined for Disclosing Information\)](#)
- HCSA Code of Conduct
- California Government Code Article 4, Sec 53087.6
- California Labor Code 1102.5
- California False Claims Act, Cal. Gov't Code §§ 12650 et seq.
- Code of Federal Regulations (CFR) Title 42 Subpart E, Sec 438.608
- Federal False Claims Act (FCA), 31 U.S.C. §§ 3729-3733; 31 U.S.C. §§ 3801-3812.2
- Federal Deficit Reduction Act (DRA) of 2005, § 6031, 6032
- Federal Program Fraud Civil Remedies Act, 31 U.S.C §§ 3801-3812
- Mental Health Plan (MHP) Agreement No. 22-20092 with California Department of Health Care Services (DHCS), Exhibit A- Attachment 13
- Intergovernmental Agreement (IA) Agreement No. 23-30105 with DHCS

SCOPE

All ACBHD and ACBHD-Contracted staff, programs, services, and entities participating in government funded health care programs (e.g., Medi-Cal, Medicare, HRSA, research grant, County funds, etc.), under a contract or subcontract with ACBHD, are required to adhere to this policy.

POLICY

It is the policy of ACBHD to comply with applicable federal, state, and local laws and regulations pertaining to Fraud, Waste or Abuse (FWA) in government funded health care benefit programs. HCSA and ACBH are committed to the diligent prevention and detection of FWA and maintain a Whistleblower Program Hotline that is designed to encourage reports of suspected misconduct, confidentially and anonymously. Under general direction from ACH OCS, ACBHD (through its Compliance, Quality Management and Contracts Unit) will monitor to ensure all contractors have appropriate safeguards, including policies and procedures in place to prevent, detect, and deter FWA within the contractor's programs.

PROCEDURE

Reporting Fraud, Waste, and Abuse

It is the responsibility of all employees, vendors, and contract providers to comply with applicable laws, regulations, ACH/ACBHD policies and procedures, and to ensure that others do as well.

I. County Employees

- A. ACBHD employees who are aware of, or suspect, non-compliance are encouraged to report it to their supervisor(s), ACBHD Compliance Officer, or the ACH Office of Compliance Services per the reporting process described below.
- B. Pursuant to California Labor Code Section 1102.5, employees are a protected class of individuals. "Employee" means any person employed by an employer, private or public, including, but not limited to, individuals employed by the state or any subdivision thereof, any county, city, city and county, including any charter city or county, and any school district, community college district, municipal or public corporation, political subdivision, or the University of California. [California Labor Code Section 1106].
- C. ACBH shall ensure that all county programs have the ACBH "[Whistleblower Hotline](#)" poster posted in a place visible to employees, beneficiaries, and all visitors.

II. Contractors

- A. Contractors shall have policies and procedures to guard against Fraud, Waste and Abuse and protect employees against retaliation for such reporting.
- B. ACBHD shall ensure contractors have policies in place to guard against Fraud, Waste and Abuse during the Medi-Cal Site Certification process and/or as part of contract monitoring; contractor shall present its policies and procedures upon ACBHD request.
- C. Contractors' policies must indicate that employees who are aware of, or suspect non-compliance, have a duty to report such misconduct. Policy should clearly provide mechanism for reporting such misconduct, including contacting ACBH, HCSA or the California Department of Health Care Services.
- D. ACBHD shall ensure that all contracted programs have the ACBHD "Whistleblower Hotline" poster posted in a place visible to employees, beneficiaries, and all visitors.

III. Consumers and Citizens

- A. Consumers and citizens may report suspected Fraud, Waste, or Abuse using the methods below and may choose to report anonymously.

IV. How to make a report:

- A. Reports of Fraud, Waste or Abuse may be made confidentially and anonymously to ACBHD by:

1. Submitting the [Whistleblower Reporting Form](#), or
2. Submitting the following information via email, phone, fax, or mail, using the information below.
 - a. Description of allegation
 - b. Name of individual or organization being reported
 - c. Date(s) of incident
 - d. Name and contact information of the person making the report (*optional*)
 - e. Evidence to support complaint

E-mail: ProgIntegrity@acgov.org
Phone: (844) 729-7055
Fax: (510) 639-1346
US Mail: ACBHD
QA Office
2000 Embarcadero, Suite 400
Oakland, CA 94606

- B. Reports may alternatively be made to:

1. ACH Compliance via email at HCSA.Compliance@acgov.org or
2. By phone by calling the ACH Confidential Compliance Line at (510) 618-3333.

For more information, visit the [ACBHD Whistleblower page](#).

Investigating Reports of Fraud, Waste, and Abuse

- I. All Whistleblower reports directly made to ACBHD are forwarded to ACH OCS for triage and investigation. Depending on the nature of the complaint or allegation, ACH OCS may delegate the investigation responsibilities to the appropriate department (e.g., ACBHD), but will retain ultimate responsibility for all compliance investigations and resolution. If ACBHD is designated to investigate a whistleblower report, ACBHD may consult with or refer the case to County Counsel for further investigation.
- II. All County employees, contracted organizations, fee-for-service providers, and those who conduct business with, or on behalf of ACBHD, are expected to cooperate fully with investigations and respond to requests for information within a reasonable time frame.
- III. Investigations are completed in a timely manner, consistent with best practices and are fully documented. Investigations satisfy regulatory timelines and requirements, meet applicable federal and state laws, and adhere to applicable internal procedures. Reasonable and appropriate methods are used to determine relevant facts and circumstances, and external auditors, legal counsel, human resources, information technology, and other experts are engaged as necessary through the investigative process.

- IV. If ACH OCS investigation responsibilities are delegated to ACBHD, upon completion of the investigation, the person conducting the investigation submits a written report to ACH OCS. At minimum, the report must include the methodology of the investigation, investigation findings, and any corrective or preventative action(s) taken in response to the complaint. The ACH Chief Compliance and Privacy Officer or designee shall summarize the findings and recommendations to the ACBH Director.
- V. The ACH Chief Compliance and Privacy Officer or designee may develop and, in consultation with the ACBHD Director and Human Resources, impose a Corrective Action Plan (CAP) upon non-compliant staff or contractor as a means for facilitating the overall Compliance Program goal of full compliance. CAP should be designed to first assist the non-compliant individual(s) to understand specific issues and reduce the likelihood of future non-compliance. Corrective action, however, shall be developed to effectively address the particular instance or issue of non-compliance and should reflect the severity of the non-compliance.

Whistleblower Protection Against Retaliation

- I. ACBHD prohibits intimidation of and/or retaliation against any member who, in good faith, reports or who participates in the investigation of an alleged violation.
- II. An employer, or any person acting on behalf of the employer, shall not retaliate against an employee for disclosing information, or because the employer believes that the employee disclosed or may disclose information relevant to a violation, or for providing information to, or testifying before any public body conducting an investigation, if the employee has reasonable cause to believe that a violation has occurred, regardless of whether disclosing the information is part of the employee's job duties. [California Labor Code Section 1102.5(b)].
- III. Under California Labor Code Section 1102.5, if an employer retaliates against a whistleblower, the employer may be required to reinstate the employee's employment and work benefits, pay lost wages, and take other steps necessary to comply with the law.
- IV. Contractors and subcontractors are prohibited from discharging, demoting, or otherwise discriminating against an employee as a reprisal for disclosing information that the employee reasonably believes is evidence of gross mismanagement of a Federal contract, a gross waste of Federal funds, an abuse of authority relating to a Federal contract, a substantial and specific danger to public health or safety, or a violation of law, rule, or regulation related to a Federal contract (including the competition for or negotiation of a contract) (Federal Acquisition Regulation, Subpart 3.9)

Education of Employees, Contractors, Consumers, and Citizens

- I. All County and Contracted programs shall post ACBHD's "[Whistleblower Hotline](#)" poster in a visible area for employees and visitors to view. The poster shall be available on the Provider Website in section 15 of the [QA Manual](#) and on the ACBH Public Website.
- II. ACBHD shall maintain a Whistleblower Program for Fraud, Waste, and Abuse information page on its public website at <https://www.acbhcs.org/>.
- III. ACBHD employees shall be trained on fraud, waste, and abuse at minimum every two years and proof of completion made part of their employee record.
- IV. Contractors' policies must provide that employees be trained on fraud, waste, and abuse at a minimum every two years and proof of completion made part of their employee record.
- V. Material on ACBHD's Whistleblower Program for Fraud, Waste, and Abuse shall be included in all compliance and ethics trainings to ACBHD employees and Contractor's employees.

NON-COMPLIANCE

ACBHD maintains a transparent environment in which employees, contractors, and those who conduct business with, or on behalf of, ACBHD are expected to report concerns regarding conduct that is inconsistent with applicable laws, regulations, policies and procedures or our Code of Conduct. Every individual and contractor within our organization has a duty to report actual or suspected misconduct such as health care fraud, waste or abuse.

Non-compliance with this policy may result in disciplinary action up to and including termination of employment or contractual relationships.

CONTACT

HCSA Office	Current Date	Email/Phone
Office of Compliance Services (OCS)	8/13/2023	HCSA.Compliance@acgov.org HCSA Confidential Compliance Line: (510) 618-3333

DISTRIBUTION


This policy will be distributed to the following:

- ACBHD Staff
- ACBHD Contract Providers
- Public

ISSUANCE AND REVISION HISTORY

Original Authors: Donna Fone, MFT, LPCC, QA Administrator, and Shannon Benson, MPA, Program Specialist

Original Date of Approval: 10/07/2016 by Manuel J. Jimenez, Jr. MA, MFT, ACBH Director

Revision Author	Reason for Revision	Date of Approval by (Name, Title)
Ravi Mehta, Interim Chief Compliance & Privacy Officer, Office of Compliance Services	Policy revised to indicate ACH OCS and ACBHD organizational structure, align with the ACH Fraud, Waste and Abuse Prevention and Detection Policy, and to update outdated language.	 by Karyn L. Tribble, PsyD, LCSW, Behavioral Health Director

DEFINITIONS

See Appendix A: HCSA Fraud, Waste and Abuse Prevention and Detection Policy

APPENDICES

- A. HCSA Fraud, Waste and Abuse Prevention and Detection Policy
- B. HCSA Compliance Digest, Filing a Complaint

Appendix A



ALAMEDA COUNTY
HEALTH CARE SERVICES AGENCY
 Colleen Chawla, Director

Policy Title: Fraud, Waste and Abuse (FWA) Prevention and Detection	Policy Number: OCS.C.004
Department/Program: Office of Compliance Services (OCS)	Effective Date: 7/1/2021
Title of Department Leader: Chief Compliance and Privacy Officer	Approval Date: 7/1/2021
Policy Contact: Ravi Mehta	Revision Date:
Replaces/Retires Policy Number:	Total Pages: 10

SCOPE

This policy applies to all Alameda County Health Care Services Agency (HCSA) officers, directors, employees, business associates, contract-based organizations, contractors, consultants, students, interns, volunteers and affected vendors (collectively “workforce members”) who conduct business with or on behalf of HCSA.

PURPOSE

To prevent and detect fraud, waste and abuse (FWA) by providing workforce members detailed information regarding: (1) the federal and state False Claims Act; (2) federal laws and penalties pertaining to reporting and returning overpayments; (3) state laws and penalties pertaining to false claims; and (4) whistleblower protections under certain laws.

DEFINITIONS

Claim:	As defined in the federal False Claims Act, a “Claim” includes any request or demand, whether under a contract or otherwise, for money or property which is made by a contractor, grantee, or other recipient, if the government provides any portion of the money or property, or will reimburse the requesting entity for any portion of the money or property, that is requested or demanded.
False Claims Act (FCA):	The federal False Claims Act (31 USC 3729-33) and the California False Claims Act (Cal. Gov’t Code §§ 12650 et seq.) make it a crime for any person or organization to knowingly make a false record or file a false claim with the government for payment. “Knowingly” means that the person or organization:

	<ul style="list-style-type: none"> a) Knows the record or claim is false, or b) Seeks payment while ignoring whether or not the record or claim is false, or c) Seeks payment recklessly without caring whether or not the record or claim is false.
Healthcare Fraud:	An intentional deception or misrepresentation made by a person with the knowledge that the deception could result in some unauthorized benefit to an organization or an individual. It includes any act that constitutes fraud under applicable federal, state, or local law.
Healthcare Waste:	Overutilization of services, careless or needless spending of funds, or other practices that, directly or indirectly, result in unnecessary costs to the health care system.
Healthcare Abuse:	Practices that are inconsistent with sound fiscal, business, or medical practices, and result in an unnecessary cost to a health care benefit program, or in reimbursement for services that are not medical necessary or that fail to meet professionally recognized standards of health care.
Overpayment:	Funds that a person or organization receives or retains under Medicare, Medi-Cal, research grants or other public funds, to which the person or organization, after applicable reconciliation, is not entitled under those programs.
Qui tam "Whistleblower" Provision:	Allows a private person to bring a lawsuit on behalf of the government where the private person has information that the named defendant has knowingly submitted or caused the submission of false or fraudulent claims to the government.

POLICY & PROCEDURES

It is the policy of HCSA to comply with applicable federal, state, and local laws and regulations pertaining to FWA in federal and state health care benefit programs and to disseminate information to its workforce members regarding such laws and regulations. HCSA is committed to the diligent prevention and detection of FWA through its HCSA Office of Compliance Services (OCS).

OCS will train and educate its workforce members as necessary to comply with the legal and regulatory requirements related to FWA and will work cooperatively with workforce members when problems are identified to resolve those problems as quickly as possible.

HCSA will follow federal and state False Claims Acts and will educate existing workforce members to the policies and procedures intended to meet those requirements, and to educate new workforce members upon hire or engagement. OCS will monitor education and training given to workforce members to verify this policy has been effectively implemented. HCSA expects workforce members who are involved with creating and filing claims for payment for HCSA services will only use true, complete, and accurate information to make the claim.

OCS will monitor and audit compliance with billing and coding requirements (through the Finance or Revenue Cycle department, ACBH Quality Assurance and other such appropriate departments) in order to detect errors and inaccuracies and will take appropriate actions to correct any issues causing billing inaccuracies. OCS will exercise reasonable diligence to investigate any instances in which an Overpayment may have been received. In all situations where Overpayments are identified, OCS will report and return Overpayments identified timely and in accordance with applicable federal and/or state requirements.

Workforce members are expected to report any concerns about billing issues, a potential Overpayment, or any other issue they feel is illegal or otherwise inappropriate, in accordance with the HCSA Code of Conduct, Compliance Plan or Billing and Coding Compliance Policy. Questions or concerns may be reported to the HCSA Confidential Compliance Line at (510) 618-3333 or via email at HCSA.Compliance@acgov.org. Potential Overpayment issues should be brought immediately to the attention of the HCSA Office of Compliance Services and/or appropriate Department Finance Services Officer. Workforce members have the right to be protected against retaliation for good faith reporting of suspected wrongdoing or assisting in an investigation of possible wrongdoing. This commitment is expressed in our Code of Conduct and Non-Retaliation Policy. HCSA expects workforce members to be familiar with the Code of Conduct and other policies and to follow them.

Management is responsible for ensuring that workforce members are educated to the requirements of this policy and that the education is documented. The form and extent of that training will be determined by the workforce member's function. Other workforce members will receive informational materials or awareness training.

HCSA workforce members who do not follow this policy may be subject to disciplinary action up to and including termination of employment or contractual relationships. Penalties are severe for violating the federal and state False Claims Act and may include repayment of up to **three times** the value of the false Claim, fines ranging from \$11,655 to \$23,331 per claim and/or imprisonment for 5+ years. In addition, individuals and entities can face administrative penalties such as exclusion from participation in federal and state-funded health care programs.

RELATED POLICIES

- HCSA Code of Conduct
- OCS.C.000 Compliance Plan
- OCS.C.001 HCSA Exclusion Screening Policy
- OCS.C.003 Billing and Coding Compliance
- OCS.C.005 Identifying, Reporting and Returning Overpayments

REFERENCES

- California False Claims Act, Cal. Gov't Code §§ 12650 et seq.
- Federal False Claims Act (FCA), 31 USC §§ 3729 – 3733; 31 U.S.C. §§ 3801-3812 2.

- Federal Deficit Reduction Act (DRA), § 6031, 6032 (2005).
- Federal Program Fraud Civil Remedies Act, 31 USC §§ 3801-3812.
- Sections 1128J(d) (reporting and returning overpayments) and Section 1909 of the Social Security Act (establishes liability to state for false or fraudulent claims)
- Centers for Medicare and Medicaid Services, Reporting and Returning Overpayment, 42 C.F.R. Part 401, Subpart D
- Centers for Medicare and Medicaid Services, State Medicaid Director Letter (SMDL #09-001; issued January 16, 2009)

ATTACHMENT

None

Appendix B



Alameda County
Health Care Services Agency

Compliance Digest™ Filing a Complaint






Filing A Whistleblower Complaint

A well-documented and thorough report filed with the HCSA Office of Compliance Services Confidential Compliance Line helps ensure an efficient investigation, timely follow-up, and implementation of mitigating controls to address potential wrongdoing.

The Importance of a Complete Report

A descriptive and complete report allows HCSA Office of Compliance Services to identify, investigate, and assess root causes, which then help impacted HCSA Departments timely implement corrective actions and preventive measures, when necessary.

Reporters should consider the following best practices to ensure that allegations can be efficiently investigated and effectively addressed.

	Provide your contact information (e.g., phone number or email). This gives investigators opportunities to ask follow-up questions and get additional information.
	Provide names of witnesses and specific incident details, such as the date, time, and location. Just saying "ask anyone" is not helpful, so please be as specific as possible.
	Provide copies of physical evidence, including invoices, photos, video footage, and e-mail correspondence that support your allegations.
	Clearly and concisely state what aspect of the alleged acts or behavior is improper and why you believe it is improper. The Office of Compliance Services responds to specific allegations and does not investigate general reports, suggestions, or speculation.
	Clearly identify the name of the person you are alleging to have acted improperly and the Department or HCSA contractor where that person works. If you do not know the name, provide other identifying information.

File a Report

When employees speak up – anonymously or not – it protects both the reputation of the hard-working County staff and contractors as well as the public we serve. So please remember to follow the important tips above and know that all HCSA officers, employees, and contractors who file a report with or provide information to the Office of Compliance Services are protected from retaliation.

REMEMBER – Compliance is Everyone's Responsibility!



Alameda County
Health Care Services Agency
Office of Compliance Services

Call: 510-618-3333
Email: HCSA.Compliance@acgov.org
Visit: www.acgov.org/health/