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COMPLIANCE POLICIES AND PROCEDURES

GLOSSARY



COMPLIANCE PLAN

I. Policy

It has been and continues to be the policy of Tompkins County Mental Health Services (TCMHS) to comply with all applicable federal, state, and local laws and regulations, and payor requirements. It is also the TCMHS's policy to adhere to the Code of Ethics that is adopted by Tompkins County, the Commissioner and the Compliance Committee.

II. Commitment

We have always been and remain committed to our responsibility to conduct our business affairs with integrity based on sound ethical and moral standards. We will hold our employees and agents to these same standards.

TCMHS is committed to maintaining and measuring the effectiveness of our Compliance policies and standards through monitoring and auditing systems reasonably designed to detect noncompliance by its employees and agents. We shall require the performance of regular, periodic compliance audits by internal and/or external auditors who have expertise in federal and state health care statutes, regulations, and health care program requirements.

III. Responsibility

All employees and agents will acknowledge that it is their responsibility to report any suspected instances of suspected or known noncompliance to their immediate supervisor, the Commissioner, the Compliance Officer or a member of the Compliance Committee. 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. Reports related to harassment or other workplace-oriented issues will be referred to the Compliance Committee or to Tompkins County Personnel.

IV. Policies and Procedures

TCMHS will communicate its compliance standards and policies through required training initiatives to all employees and agents. We are committed to these efforts through distribution of this Compliance Policy and our 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.

VI. Agency Response

Detected noncompliance, through any mechanism, i.e., compliance auditing procedures and/or confidential reporting, will be responded to in an expedient time period. We are dedicated to the resolution of such matters and will take all reasonable steps to prevent further similar violations, including any necessary modifications to the Plan.

VII. Due Diligence

TCMHS will, at all times, exercise due diligence with regard to background and professional license investigations for all prospective employees, agents and members of the CMHSB.

VIII. Whistleblower Provisions and Protections

TCMHS will not take any retaliatory action against an employee if the employee discloses certain information about TCMHS's policies, practices, or activities to a regulatory, law enforcement, or other similar agency or public official. Protected disclosures are those that assert that TCMHS is in violation of a law that creates a substantial and specific danger to the public health and safety or which constitutes health care fraud under the law or that assert that, in good faith, the employee believes constitute improper quality of patient care.



I. Philosophy

Code of Ethics and Philosophy

Tompkins County Mental Health Services acts, per Mental Hygiene Law, under the auspice of the Local Governmental Unit (LGU) for mental hygiene services for Tompkins County. The LGU includes the Tompkins County Community Mental Health Services Board (CMHSB) and the County Commissioner (Director of Community Services). The CMHSB is appointed by the County Legislature. The Philosophy, Mission and Vision of the County Mental Health Department ascribes to both the Mission of the CMHSB, as well as the overall mission, vision and Code of Ethics adopted by Tompkins County

II. Mission

Mission Statement

The mission of the Tompkins County Mental Health Services Department is to meet the needs of the residents of Tompkins County in the areas of mental health, developmental disabilities, and chemical dependency by providing prevention and early detection, comprehensively planned care, treatment, and rehabilitation services. The department will provide these services through contracts with private sector agencies except where individuals, not-for-profit agencies, or other levels of government can not or will not provide such services as well.

To this end we will:

Plan, develop, and fund programs and services which:

Operate a well-run organization by:

- using a well trained workforce of employees
- providing adequate support to direct service programs
- acting as a resource and partner for other agencies
- providing services in a cost effective and efficient manner

Respond flexibly and responsibly to emerging needs and changing mandates by:

- participating in the policy making functions of all levels of government
- developing services to meet the mandates of county, state and federal government
- encouraging board, staff, and constituent dialog regarding emerging and changing needs and issues



TOMPKINS COUNTY MISSION STATEMENT

The mission of the Tompkins County Legislature is to collectively meet the needs of our residents and communities and to realize the Boards' articulated vision. County government will perform those functions not provided as well by individuals, the private sector, other levels of government, or the not-for-profit sector. County activities will be designed to protect and enhance the lives of the County's diverse residents and communities in ways that are compassionate, ethical, and creative within the limits of what residents financially support.

To this end we will:

- Allocate fiscal resources consistent with our vision, goals, policies, and community needs
- Foster open and honest communication among governments and County residents and employees, County government will initiate dialogue on the community needs, the appropriate role of County government, and satisfaction with the County's direction, initiatives, and services
- Create and implement policies that:
 - enhance the economic opportunity and well-being of all County residents
 - safeguard the health, safety, and rights of our residents and employees
 - protect the natural environment for future generations and maintain the built environment
 - prevent the need for more costly future services
- Encourage and support programs that:
 - achieve the County's goals
 - deliver needed services
 - serve vulnerable populations
 - strengthen families and communities
 - enhance our quality of life
- Operate a well-run organization by:
 - using a well trained, diverse workforce of employees, qualified agents and volunteers
 - providing adequate personnel, financial, facility, and informational support to approved programs
 - producing a balanced budget that supports the County's vision, mission, and goals and has appropriate reserves for future uncertainties
 - carrying out the mandates of state and federal governments
 - acting as a resource and partner for other local governments
 - responding flexibly and responsibly to emerging needs and changing mandates



THE ROLE OF THE COMPLIANCE OFFICER

I. Compliance Officer

The Commissioner, with the approval of the CMHSB designates a Compliance Officer (CO). The CO has direct lines of communication to the Commissioner, the CMHSB and the TCMHS County Attorney.

II. Job Duties

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

- Developing and implementing compliance policies and procedures (P&P).
- Overseeing and monitoring the implementation of the compliance program.
- Directing TCMHS internal audits established to monitor effectiveness of compliance standards.
- Providing guidance to management, medical/clinical program personnel, and individual departments regarding P&P and governmental laws, rules, and regulations.
- Updating, periodically, the Plan as changes occur within TCMHS, within the law and regulations, or governmental and third party payers.
- Overseeing efforts to communicate awareness of the existence and contents of the Plan.
- Coordinating, developing, and participating in the educational and training program.
- Ensuring Employees and Agents are aware of the requirements of TCMHS's Plan.
- Actively seeking up-to-date material and releases regarding regulatory compliance.
- Maintaining a reporting system (hotline: express message to ext 6308) and responding to concerns, complaints, and questions related to the Plan.
- Acting as a resourceful leader regarding regulatory compliance issues.



- Investigating and acting on issues related to compliance.
- Coordinating internal investigations and implementing corrective action.

THE STRUCTURE, DUTIES, AND ROLE OF THE COMPLIANCE COMMITTEE

I. Reporting Structure and Purpose

Compliance Committee (CC) members are appointed by the Commissioner and approved by the Community Mental Health Services Board (CMHSB). Compliance issues are reported by the CC to the Commissioner and CMHSB where appropriate. The CC's purpose is to advise and assist the CO with implementation of the Plan.

II. Function

The roles of the Compliance Committee include:

- Analyzing the environment where TCMHS does business, including legal requirements with which it must comply.
- Reviewing and assessing existing P&P that address these risk areas for possible incorporation into the CP.
- Working with departments to develop standards and P&P that address specific risk areas and encourage compliance according to legal and ethical requirements.
- Advising and monitoring appropriate departments relative to compliance matters.
- Developing internal systems and controls to carry out compliance standards and policies.
- 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 Screening: Background Checks and Disclosure

Any employee or prospective employee who holds, or intends to hold, a position with substantial discretionary authority for Tompkins County Mental Health Services (TCMHS) is required to disclose any name changes and any involvement in non-compliant activities including health care related crimes. In addition, TCMHS performs reasonable inquiries into the background of such applicants, agents and members of the Community Mental Health Services Board (CMHSB).

Note: The Department of Health and Human Services/Office of Inspector General (HHS/OIG) has been given the authority to exclude from participation in Medicare, Medicaid and other Federal health care programs individuals and entities who have engaged in fraud or abuse.

EDUCATION AND TRAINING

I. Expectations

Education and training are critical elements of the CP. Every employee and agent is expected to be familiar and knowledgeable about TCMHS's CP and have a solid working knowledge of his or her responsibilities under the plan. Compliance policies and standards will be communicated to all employees and designated agents through required participation in training programs.

II. Training Topics - General

All personnel and members of the CMHSB shall participate in training on the topics identified below:

- Government and private payer reimbursement principles;
- Government initiatives;
- History and background of Compliance;
- Legal principles regarding compliance and Board responsibilities related thereto;
- 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 employee;
- 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; and
- Duty to report misconduct.

III. Orientation

As part of their orientation, each employee and agent shall receive a written copy of the Plan, policies, and specific standards of conduct that affect their position.

IV. Attendance

All education and training relating to the Plan will be verified by attendance and a signed acknowledgement of receipt of the Plan and standards.

Attendance at compliance training sessions is mandatory and is a condition of continued employment.

EFFECTIVE CONFIDENTIAL COMMUNICATION

I. Expectations

Open lines of communication between the CO and every employee and agent subject to this Plan are essential to the success of our Compliance Program.

Every employee has an obligation to refuse to participate in any wrongful course of action and to report the actions according to the procedure listed below.

II. Reporting Procedure

If an employee or agent witnesses, learns of, or is asked to participate in any activities that are potentially in violation of this Plan, he or she should contact the CO, his or her immediate supervisor or the Commissioner. Reports may be made in person, by calling a telephone line dedicated for the purpose of receiving such notification to express messaging ((607) 274-6356, ext 6308), or mailing information to Commissioner of Tompkins County Mental Health Services, 201 East Green St, Ithaca New York, 14850.



Upon receipt of a question or concern, any supervisor, committee member or the Commissioner shall document the issue at hand and report to the CO. Any questions or concerns relating to potential non-compliance by the CO should be reported immediately to the Commissioner.

The CO or Committee Member shall record the information necessary to conduct an appropriate investigation of all complaints. If the employee was seeking information concerning the Code of Ethics or its application, the CO or Committee Member designee shall record the facts of the report and the nature of the information sought and respond as appropriate. TCMHS will, as much as is possible, protect the anonymity of the employee or agent who reports any complaint or question.

III. Protections

The identity of reporters will be safeguarded to the fullest extent possible and will be protected against retribution. Report 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 is acting against the TCMHS's compliance policy. Discipline, up to and including termination of employment, will result if such reprisal is proven.

IV. Guidance

Any employee and agent may seek guidance with respect to the Plan or Code of Conduct at any time by following the reporting mechanisms outlined above.

ENFORCEMENT OF COMPLIANCE STANDARDS

I. Background Investigations

For all employees who have authority to make decisions that may involve compliance issues, TCMHS will conduct a reasonable and prudent background

investigation, including a reference check, as part of every employment application.

II. Disciplinary Action - General

Employees who fail to comply with TCMHS's compliance policy and standards, or who have engaged in conduct that has the potential of impairing TCMHS's status as a reliable, honest, and trustworthy service provider, will be subject to disciplinary action, up to and including termination. Any discipline will be appropriately documented in the employee's personnel file, along with a written statement of reason(s) for imposing such discipline. The CO shall maintain a record of all disciplinary actions involving the Plan and report at least quarterly to the CMHSB regarding such actions.



III. Disciplinary Action - Supervisory

Supervisors will be sanctioned for failure to adequately instruct their subordinates or failure to detect noncompliance with applicable policies 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 TCMHS with the opportunity to correct them.

AUDITING AND MONITORING OF COMPLIANCE ACTIVITIES

I. Internal Audits

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

- Review of relationships with third-party, specifically those with substantive exposure to government enforcement actions;
- Compliance audits of compliance policies and standards; and
- Review of documentation and billing relating to claims made to federal, state, and private payers for reimbursement, performed internally or by an external consultant as determined by CO and CC.

The audits and reviews will examine the TCMHS's compliance with specific rules and policies through on-site visits, personnel interviews, general questionnaires (submitted to employees and agents), and consumer record documentation reviews.

II. Program Integrity

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

- The Compliance Officer and Commissioner of Mental Health Services will be notified immediately by telephone in the event of any non-routine visits, audits, investigations, or surveys by any federal, state or local agency or authority.
- The Compliance Officer shall immediately receive a photocopy of any non-routine correspondence (including notifications of monitoring visits by State agencies) from any regulatory agency charged with administering a federally or state-funded program received by any of TCMHS programs.



- The Compliance Officer is responsible for notifying the Compliance Committee of any applicable changes in laws, regulations or policies as the information becomes available. The Compliance Officer and Compliance Committee are responsible for facilitating the review and modification or creation of applicable policies and procedures as indicated by changes in laws, regulations, or policies, and for providing actual training and/or training curricula on new regulations and laws so as to ensure continuous compliance.

DETECTION AND RESPONSE

I. Violation Detection

The Compliance Officer, in consultation with the Commissioner, and/or Compliance Committee will review whether there is any basis to suspect that a violation of the Compliance Plan has occurred.

In the event that the violation or potential violation appears to have merit, the Compliance Officer, with input from the Commissioner and Compliance Committee, shall conduct a more detailed investigation. This investigation may include, but is not limited to, the following:

- Interviews with individuals having knowledge of the facts alleged;
- A review of documents;
- Legal research; and, or
- Contact with governmental agencies for the purpose of clarification. If the violation appears to be substantial in nature or potential criminal activity, the matter shall be referred to the County Attorney who, with the assistance of appropriate personnel, shall conduct a further investigation.

If advice is sought from a governmental agency, the request and any written or oral response shall be fully documented and communicated to the Commissioner and Compliance Committee for discussion and potential further action.

II. Reporting

At the conclusion of an investigation involving the County Attorney, the County Attorney may be asked to issue a written report summarizing the findings, conclusions, and recommendations and rendering an opinion as to whether a violation of the law has occurred. Any written report will be sent to the Compliance Officer and the Commissioner. If appropriate, such written report will be immediately shared with the Compliance Committee. In all cases, the outcome of the investigation and any written report will be presented to the Compliance Committee and Commissioner.

III. Rectification



If TCMHS identifies that an overpayment was received from any third party payer, the appropriate regulatory (funder) and/or prosecutorial (attorney general/police) authority will be appropriately notified with the advice and assistance of counsel. It is our 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, 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 Commissioner or the County Attorney.

WHISTLEBLOWER PROVISIONS AND PROTECTIONS

I. Provisions

The False Claims Act provides protection to qui tam relators who are discharged, demoted, suspended, threatened, harassed, or in any other manner discriminated against in the terms and conditions of their employment as a result of their furtherance of an action under the False Claims Act.

TCMHS will not take any retaliatory action against an employee if the employee discloses information about TCMHS's policies, practices or activities to a regulatory, law enforcement or other similar agency or public official. Protected disclosures are those that assert that TCMHS is in violation of a law that creates a substantial and specific danger to the public health and safety or which constitutes health care fraud under the law or that assert that, in good faith, the employee believes constitute improper quality of patient care.

II. Protections

The employee's disclosure is protected only if the employee first brought up the matter with a supervisor and gave the employer a reasonable opportunity to correct the alleged violation, unless the danger is imminent to the public or patient and the employee believes in good faith that reporting to a supervisor would not result in corrective action.

TCMHS will protect qui tam relators with remedies that include reinstatement with comparable seniority as the qui tam relator would have had but for the discrimination, two times the amount of any back pay, interest on any back pay, and compensation for any special damages sustained as a result of the discrimination, including litigation costs and reasonable attorneys' fees.



If TCMHS takes a retaliatory action against the qui tam relator (employee), the employee may sue in state court for reinstatement to the same, or an equivalent position, any lost back wages and benefits and attorneys' fees.



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Topic: Code of Conduct

Purpose:

Tompkins County Mental Health Services (TCMHS) is committed to conducting its business ethically and in conformance with all federal and state laws, regulations, and interpretations thereof, and the Code of Conduct (defined as the County Standards of Conduct). To support this commitment, TCMHS will maintain and update as appropriate a written Code of Conduct to provide guidance on employee and organizational responsibilities related to compliance. The Code of Conduct addresses specific issues related to reimbursement, financial relationships, quality of care, and other critical areas.

Policy:

1. TCMHS will develop, maintain, and update as appropriate a written departmental Code of Conduct to provide employees, Community Mental Health Services Board (CMHSB) members, and agents with guidance on requirements for conduct related to employment or engagement by TCMHS.
2. The Code of Conduct will describe important parts of the Compliance Program including, but not limited to, the problem resolution process, Compliance Hotline, and non-retaliation policy.
3. All employees, CMHSB members and agents will be provided a copy of the Code of Conduct and participate in training sessions on an annual basis that include a thorough review of the document.

Procedures:

1. The Compliance Officer is responsible for the development and periodic update of TCMHS's Code of Conduct.
2. The Compliance Committee, Compliance Officer, Commissioner of Mental Health and the CMHSB will be responsible for oversight and final approval of the TCMHS Code of Conduct.
3. The Code of Conduct should address critical areas such as compliance with laws and regulations, human resource practices, quality of care/service, conflicts of interest, proprietary rights, confidentiality, safety, and reimbursement practices.
4. The Code of Conduct will address specific areas of potential fraud or similar wrongdoing (e.g., claims development, submission processes, diagnostic/procedural code selections).



5. The Code of Conduct will address major issues identified by the Federal Sentencing Guidelines and the Office of Inspector General (OIG).
6. The Code of Conduct will address human resources related compliance issues such as sexual harassment and discrimination, as well as TCMHS's commitment to quality of care and service.
7. TCMHS's Compliance Plan, applicable policies, and the Code of Conduct will be provided to all CMHSB members, employees and agents. Copies will be provided to all new employees as part of the new employee orientation. All recipients of the document will sign and date a receipt that acknowledges: (a) receiving a copy of the Compliance Plan and Code of Conduct, (b) reading and understanding the contents, and (c) agreeing to abide by the provisions of the documents.
8. The Compliance Officer will ensure that all employees and agents receive training annually related to the contents of the Code of Conduct to help them understand how it applies to everyday work situations. The Compliance Officer will ensure that records are maintained to document the receipt of training.
9. The Compliance Officer will ensure that each CMHSB member is provided with a copy of the Compliance Plan and the Code of Conduct at the time of CMHSB orientation and upon appointment.
10. The Compliance Officer will ensure that all agents are provided access to a copy of the Compliance Plan and Code of Conduct upon entering into a contractual agreement with TCMHS.
11. The Compliance Officer will include in his or her report to the TCMHS Compliance Committee and the CMHSB the status of training, along with any recommendations for updating or improving the contents of the Code of Conduct.
12. Supervisors are responsible for investigations of possible violations of the Code of Conduct and assuring disciplinary action has been taken when necessary per Tompkins County Personnel Guidelines.
13. Written confidentiality and non-retaliation policies will be referenced and included as part of the Code of Conduct for the purpose of encouraging communication and the reporting of incidents of suspected fraud or other wrongdoing.



Topic: *Employee, Board, and Agents Compliance Training***Purpose:**

The development and implementation of regular, effective education and training is an integral part of the compliance program. All Tompkins County Mental Health Services (TCMHS) employees, Community Mental Health Services Board (CMHSB) members and agents must receive an introduction to the compliance program.

Policy:

1. All employees, CMHSB members, and agents will receive training related to the organization's overall compliance program.
2. Employees in identified risk areas, agents, and members of the CMHSB will receive more detailed education related to their function and responsibilities.
3. Receiving training is mandatory and is a condition of continued employment or contracting.

Procedures:

1. The Compliance Officer, Compliance Committee and the Commissioner of Mental Health are responsible for developing the compliance education curriculum and monitoring and ensuring that compliance training and orientation meet the policy standards on this subject.
2. Compliance education must include an explanation of the structure and operation of the compliance program and the introduction of the Compliance Officer.
3. Compliance education, at a minimum, will include information on the following aspects of the Compliance Program:
 - Code of Conduct and other related written guidance;
 - False Claims Act;
 - Whistleblower Provisions;
 - New York False Claims Act;
 - Communication channels, reporting mechanisms, Compliance Hotline;



- Organizational expectations for reporting problems and concerns; and
- Non-retaliation policy.

Specialized areas for education will include, but not be limited to, the following:

- Improper or fraudulent billing for services;
 - Preparation of inaccurate or incorrect cost reports;
 - Misuse of TCMHS funds;
 - Payment or receipt of remuneration or gifts, in accordance with the Code of Conduct, in return for client referrals;
 - Government and private payor reimbursement principles; and
 - Government initiatives related to the services provided by TCMHS.
4. Comprehensive education materials will be developed to facilitate the training and ensure that a consistent message is delivered to all employees, CMHSB members, and agents. Education protocols and materials must be standardized, so as to ensure that everyone receives the same instruction.
 5. As part of his or her initial orientation, each employee, agent, and CMHSB member shall receive training within the first thirty (30) days of employment, contracting or final approval by the Legislature. Each employee, agent, and CMHSB member will receive an introduction to TCMHS' Compliance Program and objectives, and a written copy of the Code of Conduct, Compliance Plan, and Compliance Policies. Each new employee, agent, and CMHSB member will sign an acknowledgement form that they are aware of, and will abide by, the Compliance Program and Code of Conduct.
 6. All existing employees will receive a training session at least once per year that includes a review of the existing Compliance Program, the Code of Conduct, and any applicable policies and procedures. The session will also focus on any changes in federal or state laws and regulations.
 7. All education and training relating to the Compliance Program will be verified by attendance and a signed acknowledgement of receipt of training. The individual conducting the training will take attendance at all training sessions through the use of a sign-in sheet that records the date, start and end time of the session, and the content of the material presented. The Compliance Officer will maintain a file of attendance forms for all training sessions.



8. Employees, agents, and board members will be provided with the opportunity to seek clarification or more information on any aspect of the Compliance Program. Trainers who are not able to answer specific questions will arrange for follow-up to be conducted by the Compliance Officer or a member of the Compliance Committee.
9. Only properly trained individuals will be used to provide compliance education and training seminars. Compliance Program trainers must be knowledgeable of the (a) Compliance Program; (b) applicable federal laws and regulations; (c) requirements of the Federal Sentencing Guidelines; (d) relevant organization policies/procedures; (e) operations of the Compliance Program; and (f) content of the Code of Conduct.
10. The Compliance Officer is responsible for coordinating with management to ensure that specialized compliance education occurs in identified risk areas.
11. Supervisors and Administration shall assist the Compliance Officer in identifying areas that require specific training and are responsible for communication of terms of the compliance plan to all agents doing business with the TCMHS.
12. TCMHS will ensure that the Compliance Officer and the Compliance Committee have sufficient opportunities to receive training on compliance issues.
13. The Compliance Officer is also responsible for submitting periodic reports to the Compliance Committee and CMHSB on all education seminars related to the Compliance Program.



Topic: ***Delegation of Substantial Discretionary Authority***
Screening: ***Background Checks and Disclosure***

Policy:

Any employee or prospective employee who holds, or intends to hold, a position with substantial discretionary authority for Tompkins County Mental Health Services (TCMHS) is required to disclose any name changes and any involvement in non-compliant activities including health care related crimes. In addition, TCMHS performs reasonable inquiries into the background of such applicants, agents and members of the Community Mental Health Services Board (CMHSB).

Note: The Department of Health and Human Services/Office of Inspector General (HHS/OIG) has been given the authority to exclude from participation in Medicare, Medicaid and other Federal health care programs individuals and entities who have engaged in fraud or abuse.

Procedures:

HHS/OIG maintains a List of Excluded Individuals/Entities (LEIE), a database accessible to the general public that provides information about parties excluded from participation in Medicare, Medicaid, and all other Federal health care programs. In order to comply with background checks and disclosure mandates, TCMHS has entered into a contract with Kinney Management Services (KMS). KMS provides a software program (K-checks) that enters into three exclusion websites on a monthly basis including HHS/OIG website to capture exclusions and reinstatements that have occurred since the last search. The information is reported back to TCMHS who then makes the determination that the identified individual is an employee of TCMHS.

The identified individual and his/her supervisor will be notified immediately upon determination of exclusion in order to have the opportunity to rectify the situation. Depending upon the scope and severity of the reasons for exclusion, the Compliance Officer may consult with the County Attorney, the Commissioner of Mental Health, and/or the Compliance Committee to determine: (a) the results of the screening and the adequacy of recommendations for corrective actions; (b) the completeness, objectivity, and adequacy of recommendations for corrective actions; and/or (c) further actions to be taken as necessary and appropriate. Any disciplinary action for employees must follow the removal and other disciplinary action policies established and approved by Tompkins County and the Tompkins County Collective Bargaining Unit, Local 855, CSEA/AFSCME and the New York Civil Service Law, Section 75. The essence of Section 75 is that no covered employee (also defined under Section 75) shall be discharged, dismissed or disciplined except for just cause.



The Compliance Officer will maintain an historical log of determinations via the software program, K-checks, (or other appropriate programs) presented by the excluded parties list system.

Office of Mental Health (OMH) requires a one-time criminal history information check via fingerprinting for all TCMHS employees through the Criminal History Information Tracking System (CHITS).

Date Revised: November 23, 2010

Date Approved: November 29, 2010



Topic: *Enforcement of Compliance Standards*

Purpose:

Tompkins County Mental Health Services (TCMHS) is committed to conducting its business ethically and in conformance with all federal and state laws, regulations, and interpretations thereof, and TCMHS's Code of Conduct. To support this commitment, TCMHS has developed procedures for disciplinary actions to be taken for violations of the Compliance Program and/or Code of Conduct by employees and/or agents.

Policy:

1. Employees and agents, who, upon investigation, are found to have committed violations of applicable laws and regulations, the Compliance Program, the Code of Conduct, or TCMHS's policies and procedures will be subject to appropriate disciplinary action, up to and including termination. Any disciplinary action for employees must follow the removal and other disciplinary action policies established and approved by Tompkins County and the Tompkins County Collective Bargaining Unit, Local 855, CSEA/AFSCME and the New York Civil Service Law, Section 75. The essence of Section 75 is that no covered employee (also defined under Section 75) shall be discharged, dismissed or disciplined except for just cause.
2. Civil Service law states that the only valid charges that may warrant disciplinary actions that can be applied to covered employees are incompetence or misconduct (which includes insubordination); including but are not limited to:
 - Authorization of or participation in actions that violate the law, regulations, and Compliance Program, including the Code of Conduct, and all related policies and procedures;
 - Failure to comply with the TCMHS's policies governing the prevention, detection, or reporting of fraud and abuse;
 - Failure to report a violation by a peer or subordinate;
 - Failure to cooperate in an investigation;
 - Retaliation against an individual for reporting a possible violation or participating in an investigation; and
 - Failure to act as an honest, reliable and trustworthy service provider.



3. The Compliance Officer and the Compliance Committee will be responsible for assuring that disciplinary actions related to non-compliance with the law, regulations, and Compliance Program, including the Code of Conduct, are consistent with actions taken in similar instances of non-compliance.

Procedures:

1. TCMHS shall apply progressive discipline consistent with the violation. Examples of the disciplinary action that may be taken in accordance with the nature and scope of the infraction include but are not limited to: (a) verbal counseling or warning; (b) counseling with written warning; (c) retraining; (d) a written reprimand for the personnel file; (e) a fine not to exceed \$100 to be deducted from the salary or wages of the employee; (f) demotion in grade or title; (g) suspension without pay for a period not exceeding two months; and (h) termination of employment.
2. When the determination is made that a compliance violation has occurred, the Compliance Officer will notify the Commissioner of Mental Health Services, the individual's supervisor or representative for agents and the Commissioner of Personnel. If appropriate, the Compliance Officer may notify the Community Mental Health Services Board or the Compliance Committee before the next regularly scheduled meeting when a full report of compliance-related disciplinary actions would normally be presented.
3. As indicated in the Tompkins County Administrative Policy 02-13: No department head shall institute any disciplinary action or discharge procedure against an employee before submitting the matter to the Commissioner of Personnel, stating the reasons for the requested disciplinary action or discharge. The Commissioner of Personnel will review the matter with the County Attorney and the County Administrator. Discipline will be appropriately documented in the disciplined employee's personnel file (or in the agent's file), along with a written statement of reason(s) for imposing such discipline.
4. The Compliance Officer may recommend a disciplinary procedure and will work in collaboration with the Commissioner of Personnel in determining disciplinary action related to an instance of non-compliance.
5. The Commissioner of Personnel shall consult with the Commissioner of Mental Health Services, and County Attorney, as necessary to determine the appropriate disciplinary action to be taken.
6. The Commissioner of Personnel is responsible for reporting disciplinary actions taken as a result of violations of TCMHS's Code of Conduct and/or Compliance Program to the Compliance Officer.
7. The Compliance Officer will maintain a written record of disciplinary actions, including verbal warnings, and will reference these records when necessary to ensure consistency in application of disciplinary measures.



Topic: *Compliance Officer Responsibilities***Purpose:**

Designating a Compliance Officer with the appropriate authority is critical to the success of the program. The Compliance Officer will have direct access to the Commissioner of Mental Health, all Supervisors, and the County Attorney. The Compliance Officer will have sufficient funding and staff to perform his or her responsibilities fully. Coordination and communication are the key functions of the Compliance Officer with regard to planning, implementing and monitoring the compliance program.

Policy:

The Compliance Officer is appointed by the Commissioner of Mental Health and approved by the Community Mental Health Services Board (CMHSB). The Compliance Officer has primary responsibility for the development, implementation and monitoring of the Compliance Program. The Compliance Officer is under the direct supervision of the Commissioner of Mental Health. The Compliance Officer has direct lines of communication to the Commissioner of Mental Health, the CMHSB, Compliance Committee, and the County Attorney.

Procedures:

The Compliance Officer's primary responsibilities will include:

- Overseeing and monitoring the implementation of the compliance program;
- Developing and implementing compliance policies and procedures;
- Updating, periodically, the Compliance Plan as changes occur within TCMHS, and/or in the law and regulations or governmental and third party payers;
- Reporting on a regular basis to the CMHSB, Commissioner of Mental Health, and Compliance Committee on the progress of implementation, and assisting these components in establishing methods to improve the organization's quality of service and to reduce vulnerability to fraud, abuse, and waste;
- Reviewing the employees' acknowledgement that they have received, read, and understood the Code of Conduct;
- Developing, coordinating, and participating in a multifaceted educational and training program that focuses on the elements of the compliance program and seeks to ensure that all appropriate employees, agents and



- CMHSB members are knowledgeable of, and comply with, pertinent federal and state standards;
- Ensuring that excluded individuals and entities are not employed or retained by the organization;
 - Directing TCMHS internal audits established to monitor effectiveness of compliance standards;
 - Independently investigating and acting on matters related to compliance, including the flexibility to design and coordinate internal investigations (e.g., responding to reports of problems or suspected violations) and any resulting corrective action with all departments and agents;
 - Coordinating internal investigations and implementing corrective action;
 - Developing policies and programs that encourage managers and employees to report suspected fraud and other improprieties without fear of retaliation;
 - Providing guidance to management, medical/clinical program personnel, and individual departments regarding Policies and Procedures and governmental laws, rules, and regulations.
 - Maintaining a Hotline and responding to concerns, complaints, and questions related to the Compliance Plan;
 - Overseeing efforts to communicate awareness of the existence and contents of the Compliance Plan;
 - Ensuring that independent contractors (service providers, vendors, billing services, etc.) are aware of the requirements of TCMHS's Compliance Plan;
 - Acting as a resourceful leader regarding regulatory compliance issues. Actively seeking up-to-date material and releases regarding regulatory compliance; and
 - Continuing the momentum of the Compliance Program and the accomplishment of its objectives.

The Compliance Officer must have the authority to review all documents and other information that are relevant to compliance activity, including, but not limited to, patient records, billing records, and records concerning TCMHS employees and agents. This policy enables the Compliance Officer to review contracts and obligations (seeking the advice of County Attorney, where



appropriate) that may contain referral and payment provisions that could violate statutory or regulatory requirements.

In addition, the Compliance Officer should be copied on the results of all internal audit reports and work closely with supervisors to identify aberrant trends in the coding and billing areas. The Compliance Officer should ascertain patterns that require a change in policy and forward these issues to the Compliance Committee to remedy the problem. The Compliance Officer will have full authority to stop the processing of claims that he/she believes are problematic until such time as the issue in question has been resolved.



Topic: Role and Responsibilities of the Compliance Committee**Purpose:**

Tompkins County Mental Health Services (TCMHS) is committed to the operation of an effective compliance program. Therefore, TCMHS established the Compliance Committee to monitor results of the compliance functions and determine the agency's strategy for promoting compliance.

Policy:

1. The Compliance Committee has been established and its members are: The Commissioner of Mental Health, the TCMHS program supervisors of the Clinic, Continuing Day Treatment, Case Management and Substance Abuse/Dual Recovery Services, the Administrative Coordinator, the Fiscal Coordinator, the Administrative Assistant for support services and the Compliance Officer. This group works and continues to work as a collective to institute, evaluate and provide ongoing reassessment of our Compliance Plan.
2. The Compliance Committee will provide oversight of the Compliance Officer's activities.
3. The Compliance Committee will meet on a regular and routine basis. Minutes will be recorded. The Compliance Officer or designee will maintain the minutes of all meetings.

Procedures:

The Compliance Committee shall be responsible for the following:

- Analyze the regulatory environment where the agency does business, including legal requirements in which it must comply;
- Review and assess existing policies and procedures that address risk areas for possible incorporation into the Compliance Plan;
- Work with programs to develop standards and policies and procedures that address specific risk areas and to encourage compliance according to legal and ethical requirements;
- Develop internal systems and controls to carry out compliance standards and policies and procedures;
- Monitor internal and external audits to identify potential non-compliant issues;



- Implement corrective and preventative action plans and follow-up to determine effectiveness and compliance; and
- Develop a process to solicit, evaluate, and respond to complaints and problems.



Topic: Reimbursement Practices and Billing Errors

Purpose:

Tompkins County Mental Health Services (TCMHS) is committed to accuracy and integrity in all its billing, coding, and other reimbursement operations. To reinforce this commitment, the Compliance Officer is responsible for general oversight of billing, coding, and other reimbursement operations in accordance with this policy.

Policy:

TCMHS is committed to ensuring that its reimbursement practices comply with all federal and state laws, regulations, guidelines, and policies. TCMHS prohibits the intentional submission for reimbursement any claim that is false, fraudulent, or fictitious. Furthermore, TCMHS is committed to ensuring against the accidental submission of any claim that is false or inaccurate.

This commitment includes a policy of ensuring accurate billing of claims for services that are actually rendered and deemed medically necessary. This policy and the following procedures were adopted to ensure that general guidance is available for all employees.

Procedures:

1. The Compliance Officer is responsible for ensuring that all reimbursement and billing procedures contained in this policy are integrated into the operations of the organization.
2. All employees will receive compliance training that will reinforce the following policies:
 - Anyone who has knowledge of a problem related to reimbursement (e.g., submission of a claim that is false or contains false information) must report that problem to a Supervisor and/or to the Compliance Officer (employees can report directly or use the designated hotline: 274-6356, dial mailbox 6308 #);
 - Failure to report a known problem related to reimbursement will subject an employee to disciplinary action;
 - Inaccurate claims submission may subject TCMHS, involved employees, and other representatives to civil or criminal penalties; and
 - Anyone reporting a problem or concern in good faith will be protected by the non-retaliation policy.



3. The Compliance Officer is responsible for ensuring that the Code of Conduct provides adequate general guidance concerning appropriate reimbursement practices.
4. The Compliance Officer is responsible for making sure that the employee compliance training program includes interactive training on reimbursement practices.
5. The Compliance Officer will ensure that specialized training is provided to all employees as part of their new employee orientation.
6. All services rendered to individuals shall be documented in a proper and timely manner so that only accurate and properly documented services are billed.
7. Claims will be submitted only when appropriate documentation supports the claim and only when such documentation is maintained for audit and review. The documentation, which may include service recipients' records, shall include the identity and title or professional certification of the individual providing or ordering the service.
8. Each TCMHS program will develop and maintain written procedures for the documentation of services. Procedures will include, at a minimum, the following:
 - Attendance records;
 - Receipt and maintenance of service plans (including, but not limited to, Individual Service Plans and Treatment Plans);
 - Service documentation requirements specific to the respective program;
 - Definition of contemporaneous documentation;
 - Attestation and review prior to submission to Billing Staff; and
 - The forms used for documentation and billing purposes.
9. The Compliance Committee as well as the Administrative Coordinator must approve the billing and documentation procedures and/or any revisions to procedures or forms before implementation.
10. Each TCMHS program will conduct an annual review of its documentation practices to verify that practices conform to the written procedures. Results of the review will be presented to the Compliance Committee by the end of the fourth quarter of the calendar year.



11. Program and Billing staff will use their best efforts to communicate effectively and accurately with each other to assure compliance and avoid the potential for billing irregularities and/or errors.
12. The Compliance Officer and/or the Administrative Coordinator are responsible for responding, in a timely manner, to all problems, concerns, or questions related to reimbursement practices. The Compliance Officer is also responsible for ensuring that appropriate remedial actions are taken for any irregularities uncovered.
13. If a billing error is discovered, the billing error should be immediately reported to the Administrative Coordinator or the Compliance Officer.
14. The billing error will be recorded by the identifying staff member and signed by his/her supervisor through the completion of a Void/Adjustment Claim Form. The following information will be recorded on the form:
 - Client's Name and Client ID #;
 - Payor of service (if known) (i.e. Medicaid, Medicare, Third Party Insurance);
 - Date(s) of services;
 - Type of service (include activity code);
 - Change requested (void, adjust); and
 - Reason for the change.

Completed forms will be forwarded to the Billing Office for review and signature and then forwarded to the Administrative Coordinator.

The Administrative Coordinator will ensure that the adjustment is made and recorded on the Void/Adjustment Claim Form. The completed form will be maintained in the Billing Office and a copy forwarded to the Compliance Officer for follow-up and tracking.

15. The Compliance Officer is responsible for the investigation of any billing errors or irregularities. Appropriate steps will be taken to prevent recurrence.
16. Any overpayment received as a result of such billing error will be promptly repaid to the appropriate payer.
17. A report of irregularities, the results of investigations and the remedial actions will be recorded on the Compliance Log and reported to the Compliance Committee on a quarterly basis, and at least annually to the Commissioner of Mental Health and the Community Mental Health Services Board.
18. The Compliance Officer will work with the responsible supervisory staff overseeing the reimbursement functions to verify on an annual basis that all reimbursement and billing manuals and materials are current and accurate.



19. The Billing Office will conduct an annual review of internal billing, claims processing, and reimbursement to verify that all billing activities conform to current policies and procedures of the organization.
20. The Compliance Officer will conduct an annual audit and review of the reimbursement activities to evidence that all billing staff have been trained in proper billing and coding procedures and validate that management properly verified reimbursement procedures and practices. A report on the results of this review will be made annually to the Compliance Committee.



Topic: *Internal Auditing and Monitoring*

Purpose:

Tompkins County Mental Health Services (TCMHS) has developed and implemented a compliance program in an effort to establish, in part, effective internal controls that promote adherence to applicable federal and state laws and requirements. An important component of the compliance program is the use of audits and/or other evaluation techniques to monitor compliance and assist in the reduction of identified problem areas.

TCMHS recognizes the need for internal controls, but also realizes that resources are limited. Therefore, this policy focuses on TCMHS's resources to effectively and efficiently audit and monitor risk areas.

Policy:

1. TCMHS will conduct ongoing auditing and monitoring of identified risk areas related to compliance including, but not limited to, billing, fiscal management, clinical operations, and service provision.
2. The Compliance Committee will ensure that ongoing auditing and monitoring is properly conducted, documented, and reported.
3. The Compliance Officer, in conjunction with the Compliance Committee, will be responsible for oversight of TCMHS's internal auditing system and is authorized to delegate auditing duties to other TCMHS personnel, accountants, consultants, and attorneys, as necessary and appropriate.

Procedures:

1. On an annual basis, the Compliance Officer, in conjunction with the Commissioner of Mental Health and the Compliance Committee, will determine the scope and format of routine audits of TCMHS's operations. The Compliance Officer will include all scheduled audits on a work plan that is shared with the Compliance Committee and the Tompkins County Community Mental Health Services Board.
2. The Compliance Officer, in conjunction with the Compliance Committee, will recommend and facilitate auditing and monitoring of the identified risk areas related to compliance with laws and regulations, as well as TCMHS policies, procedures, and standards of conduct. (Risk areas may be identified through the regular course of business, external alerts, or internal reporting channels.)



Topic: *Reporting of Compliance Concerns and Non-Retaliation*

Purpose:

Tompkins County Mental Health Services (TCMHS) recognizes that a critical aspect of its compliance program is the establishment of a culture that promotes prevention, detection, and resolution of instances of conduct that do not conform to federal, state, and private payor healthcare program requirements, as well as the organization's ethical and business policies. To promote this culture, TCMHS established a problem resolution process and a strict non-retaliation policy to protect employees and others who report problems and concerns in good faith from retaliation. Any form of retaliation or retribution can undermine the problem resolution process and result in a failure of communication channels in the organization.

Policy:

1. All employees have an affirmative duty and responsibility for reporting perceived misconduct, including actual or potential violations of laws, regulations, policies, procedures, or this organization's standards/code of conduct.
2. An "open-door policy" will be maintained at all levels of management to encourage employees to report problems and concerns.
3. Employees are encouraged to utilize the employee Hotline. In furtherance of their protection against retaliation, callers may remain anonymous or may seek confidentiality.
4. Any form of retaliation against any employee who reports a perceived problem or concern in good faith is strictly prohibited.
5. Any employee who commits or condones any form of retaliation will be subject to discipline up to, and including, termination in concordance with Civil Service Law.
6. Employees cannot exempt themselves from the consequences of their own misconduct if they report an issue, although self-reporting may be taken into account in determining the appropriate course of action.

Procedures:

1. Knowledge of misconduct, including actual or potential violations of laws, regulations, policies, procedures, or TCMHS's Code of Conduct of conduct must be immediately reported to the Commissioner of Mental Health, supervisors, the Compliance Officer, or a member of the Compliance Committee.



2. If an employee's concern or problem cannot be satisfactorily resolved or special circumstances exist, the employee should report such concern or problem to the Commissioner of County Personnel.



Topic: Investigation and Resolution of Compliance Issues

Purpose:

Tompkins County Mental Health Services (TCMHS) implemented a Compliance Program in an effort to establish a culture within the organization that promotes prevention, detection, and resolution of misconduct. This is accomplished, in part, by establishing communication channels for employees to report problems and concerns. Employees are encouraged to report issues via one's immediate supervisor, Compliance Hotline, a member of the Compliance Committee, or directly to the Compliance Officer. Therefore, the Compliance Officer is responsible for responding to compliance issues that are raised through various communication channels. This policy is designed to establish a framework for managing and responding to compliance issues that are raised.

Policy:

TCMHS will respond to reports or reasonable indications of suspected non-compliance by commencing a prompt and thorough investigation of the allegations to determine whether a violation has occurred.

Employees who report non-compliance related issues or concerns to the Compliance Officer or the Compliance Hotline will be redirected. Confidentiality/anonymity will be maintained upon request.

Procedures:

1. The Compliance Officer will conduct or oversee the handling of all internal investigations involving compliance-related issues and will have the authority to engage the County Attorney as needed. The Compliance Officer, in conjunction with the County Attorney, will consider whether the investigation should be conducted under attorney/client privilege.
2. Before conducting an investigation of any compliance-related issue, the Compliance Officer will ensure that all parties involved in the investigation have a full understanding of the relevant laws, regulations, and government issuances.
3. Upon report or notice of alleged non-compliance, the Compliance Officer will conduct an initial inquiry into the alleged situation. The purpose of the initial inquiry is to determine whether there is sufficient evidence of possible non-compliance to warrant further investigation. The initial inquiry may include documentation review, interviews, audit, or other investigative processes. The Compliance Officer will; (a) conduct a fair impartial review of all relevant facts; (b) restrict the inquiry to those necessary to resolve the issues; and (c) conduct the inquiry with as little visibility as possible while gathering pertinent facts relating to the issue.



4. If deemed appropriate, the Compliance Officer will recommend the cessation of internal activities that may be the cause of, or contribute to, the alleged non-compliance.
5. If, during the initial inquiry, the Compliance Officer determines that there is sufficient evidence of possible violation of any criminal, civil, or administrative law to warrant further investigation, the issue will be turned over to the County Attorney. A memorandum to this effect will be directed to the County Attorney with a copy to the Commissioner of Mental Health. The memorandum should state whether the County Attorney or the Compliance Officer will be leading the investigation. All documents produced during the investigation by the County Attorney to be possibly protected from disclosure should include the notation: "Privileged and Confidential Document; Subject to Attorney-Client Privileges; Attorney Directed Work Product."
6. The Compliance Officer, in consultation with the County Attorney, the Commissioner of Mental Health, and the Compliance Committee, will evaluate the violation to determine if a voluntary self-disclosure of the violation is appropriate. In the event voluntary disclosure is appropriate or required, the Compliance Officer will consult with the County Attorney on the notification of appropriate government officials, private payors, or other entities. Notification shall be made within a reasonable time period from date of discovery and may include restitution of monies paid by the applicable federal or state agency, payor, or other entity.
7. For investigations that do not involve the County Attorney, the Compliance Officer will assemble a team as needed to examine the particular issue(s). The Compliance Officer will also decide whether TCMHS has sufficient internal resources to conduct the investigation or whether external resources are necessary.
8. The Compliance Officer will work with the Compliance Committee to develop a strategy for reviewing and examining the facts surrounding the possible violation. The Compliance Officer will consider the need for an audit of billing practices and determine the scope of interviews.
9. The Compliance Officer will maintain all notes of the interviews and review of documents as part of the investigation file.
10. The Compliance Officer will ensure that the following objectives are accomplished:
 - Fully debrief complainant;
 - Notify appropriate internal parties;



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- Identify cause of problem, desired outcome, affected parties, applicable guidelines, and possible regulatory or financial impact;
 - Provide a complete list of findings and recommendations;
 - Take the necessary corrective action measures; and
 - Document the investigation.
11. Upon receipt of the results of the investigation, depending upon the scope and severity of the identified violations, the Compliance Officer may consult with the County Attorney, the Commissioner of Mental Health, and/or the Compliance Committee to determine: (a) the results of the investigation and the adequacy of recommendations for corrective actions; (b) the completeness, objectivity, and adequacy of recommendations for corrective actions; and/or (c) further actions to be taken as necessary and appropriate.
12. Upon conclusion of the investigation, the Compliance Officer will organize the information in a manner that enables the TCMHS to determine if an infraction did, in fact, occur. The Compliance Officer will track the investigation, responsible parties, and due dates in a compliance log. The log will include the resolution of the investigation as closed or fully resolved.
13. The Compliance Officer will be responsible for reporting the results of all investigations to the Commissioner of Mental Health, Compliance Committee, and the Community Mental Health Services Board.
14. The Compliance Officer will inform the reporter, if known, of the conclusion of the investigation and the outcome, if appropriate.



Topic: *Response to Governmental Investigations***Purpose:**

Federal and state law enforcement and regulatory agencies routinely conduct interviews to gather information during audits, inquiries, and investigations. It is important that Tompkins County Mental Health Services (TCMHS) responds to any official requests for information consistently and appropriately. Therefore, this policy is established to provide guidance on how to handle any visits by government representatives. This policy does not address visits by regulatory agencies to perform program certification or quality assurance functions.

Policy:

1. TCMHS is committed to appropriately responding to and not interfering with any lawful audit, inquiry, or investigation.
2. Employees will remain courteous and professional when dealing with investigators or agents.

Procedures:

1. Announcement of an impending visit by any government investigator or auditor should be immediately reported to the Commissioner of Mental Health, who is responsible to notify the Compliance Officer and County Attorney.
2. Procedures for handling the receipt of a search warrant or subpoena are covered by separate policies. Please refer to specific policies.

Visits to any of TCMHS's facilities:

- In the event of a scheduled or unscheduled visit at any TCMHS facility, when an individual arrives at any TCMHS facility and identifies himself or herself as a government auditor, investigator or other representative, treat him or her with respect and courtesy. Request identification (do not attempt to photocopy credentials, as this is a violation of federal law) and the reason for the visit.
- Ask the individual to wait in an unused office or a location where business is not conducted.
- Immediately contact the Commissioner of Mental Health/designee, who will contact the Compliance Officer and County Attorney identified in the Compliance Plan. The Commissioner of Mental Health will identify one employee to be responsible for responding to the agent's questions.



- Await direction from the Commissioner of Mental Health or designee and do not provide documents or other information.
- Refer to policy on Search Warrants, if applicable.
- Other than providing information to direct the agents to information requested, do not submit to any form of questioning or interviewing.

Visits to any location outside TCMHS (e.g., personal residence):

Note: Employees are free to speak to government investigators or auditors; however, you are not required to submit to questioning. The following is provided as general information regarding off-site visits:

- Individuals have the right to decline an interview or to postpone an interview until they have had an opportunity to seek County Attorney or other advice.
- Employees who agree to be interviewed should always be truthful. If they do not know the answer to a question, they should say so.
- Employees should report any off-site visits by government agents, investigators, or auditors to the Commissioner of Mental Health immediately. The Commissioner of Mental Health will notify the Compliance Officer and County Attorney.
- Refer to policy on Search Warrants, if applicable.



Topic: Search Warrants

Purpose:

A search warrant permits agents to immediately seize documents and other types of information as specified in the warrant. The execution of a search warrant can be seriously disruptive and frightening for many employees. Furthermore, if not handled properly, an organization subject to a search warrant may compound its problems. Therefore, Tompkins County Mental Health Services (TCMHS) has established this policy to advise all employees how to appropriately respond to an official search warrant.

Policy:

1. Employees will remain courteous and professional when dealing with agents executing a search warrant.
2. Employees will not interfere with the lawful execution of a search warrant.
3. The Program Director/Supervisor present is responsible for contacting the Commissioner and the Compliance Officer/member of the Compliance Committee.

Procedure:

1. Obtain and record the name of the lead agent and the TCMHS they represent. *Do not attempt to photo copy the credentials of an agent – it is a violation of federal law.*
2. Request to view and photocopy the search warrant document.
3. Immediately contact the Commissioner of Mental Health or designee and provide him/her with details of the search warrant. The Commissioner of Mental Health will identify who is to be responsible for responding to the agent's questions.
4. Request an "inventory list" of the documents and items seized by the agents. Ensure that it is detailed enough to properly identify the documents and items taken by the agents. Maintain a separate record of the areas searched, listing the documents/items seized from the area.
5. Other than providing information to direct the agents to information requested, do not submit to any form of questioning or interviewing.
6. Always remain present while the agents are conducting the search.
7. The search warrant will be carefully examined to:



- Determine the specific areas or locations it covers;
- Ensure that it is being executed during the hours indicated on the document (most warrants should limit the hours they can be executed, e.g. “daylight hours”);
- Ensure that it has not expired (all warrants should have an expiration date); and
- Ensure that it is signed by a Judge (all warrants should be signed by a Judge).

Politely object if there is any overt flaw in the search warrant (as described above) or if the agents are searching anything deemed to be outside the scope of the warrant. Do not interfere should agents proceed and search. Note the fact for the County Attorney to support a future protest.



Topic: Subpoenas**Purpose:**

A subpoena is an official demand for testimony or the disclosure of documents or other information. Every subpoena requires a careful legal review prior to response. In view of this and the serious legal implications of the receipt of a subpoena, Tompkins County Mental Health Services (TCMHS) has established standing policies and procedures. In the event of any questions regarding a subpoena, legal counsel should be contacted.

Policy:

This policy refers only to subpoenas related to TCMHS business matters.

TCMHS is committed to full compliance with any lawful subpoena. Employees will remain courteous and professional when dealing with investigators or agents delivering a subpoena. No one is to impede in any way efforts to deliver a subpoena.

Procedures:

1. If a subpoena related to TCMHS business is received, either in person, via fax or the mail, it must be delivered immediately to sixth floor Administration.
2. When delivered, the staff on duty must be provided with any information obtained during the service of the subpoena (as referenced in the attached Subpoena Log). These details, along with the name of the staff and supervisor, name of client and date of notice, must also be entered into the Subpoena Log. The subpoena is then immediately delivered to the individual staff named and/or to Record Unit personnel.
3. The Commissioner, or designee, shall be immediately notified of the receipt or delivery of a subpoena. The Commissioner, or designee, and Compliance Officer will make the determination as to whether notification to legal counsel is warranted.

Approved: November 29, 2010



Topic: *Business Courtesies for Referrals*

Purpose:

Tompkins County Mental Health Services (TCMHS) recognizes that there are legitimate and lawful reasons to accept or provide reasonable business courtesies. However, in healthcare, business courtesies pose a risk for conflict of interest or fraud and/or abuse related to anti-kickback laws and regulations. The Anti-Kickback Law prohibits the offer of payment, solicitation, or receipt of any form of remuneration for the referral of Medicare or Medicaid recipients.

The purpose of this policy is to assure that TCMHS complies with federal Anti-Kickback laws. The policy provides guidance for providing business courtesies.

For the purpose of this policy, the following definitions apply:

Business Courtesies: Business courtesies include items of value given to another free of cost. Examples include gifts, entertainment, and/or TCMHS sponsored or hosted social events.

Immediate Family Member: An immediate family member of a person includes:

- The person's spouse, significant other, domestic partner;
- Natural or adoptive parent, child, or sibling;
- Stepparent, stepchild, stepbrother, or stepsister;
- Father-in-law, mother-in-law; son-in-law; daughter-in-law; brother-in-law; or sister-in-law;
- Grandparent or grandchild; and
- Spouse of a grandparent or grandchild.

Potential Referral Source: A potential referral source includes a physician, dentist, or chiropractor who could reasonably be a source of referral of patients to TCMHS for services or treatment.

Policy:

1. It is the policy of TCMHS that gifts, entertainment, and other benefits will not be provided to potential referral sources and/or to his or her immediate family, except as permitted by this policy.



2. These guidelines only pertain to relationships with individuals and entities outside TCMHS; it does not pertain to actions between TCMHS and its employees or actions among TCMHS employees.
3. Any business courtesies involving physicians or other individuals or entities in a position to refer patients or services to TCMHS must strictly follow TCMHS policies and be in conformance with all federal and state laws, regulations, and rules regarding these practices.

Procedures:

1. TCMHS employees may not offer a potential referral source and/or his or her immediate family members business courtesies unless the following criteria are met:
 - The business courtesy is not based, directly or indirectly, on the volume or value of referrals or other business generated by the potential referral source;
 - The business courtesy does not consist of cash or the equivalent of cash;
 - The business courtesy is not solicited by the potential referral source or the referral source's practice or employees;
 - The business courtesy must not exceed the federal allowable rate (the allowed amount for 2009 is \$362.00; this amount changes annually based on the Consumer Price Index) in value or cause the total value of business courtesies extended to the potential referral source or immediate family to exceed the federal allowable rate for the calendar year;
 - The business courtesy does not violate the federal Anti-Kickback statute or any state or federal law governing claims submission; and
 - The business courtesy is not extended to a physician group.
2. All employees must receive prior approval from the Compliance Officer before extending business courtesies to potential referral sources and/or their immediate family members. The Compliance Officer will record any business courtesy extended to a potential referral source or his/her immediate family members. The Compliance Officer will ensure that the aggregate value of business courtesies does not exceed the federal limit in a calendar year.
3. Examples of gifts and entertainment that must be recorded and tracked include, but are not limited to:
 - Dinner with a potential referral source and/or his or her immediate family member;



- Gifts or flowers to a potential referral source or his/her immediate family member;
- Tickets for sporting or cultural events to a potential referral source and/or his or her immediate family member; and
- Paying for a potential referral source's continuing medical education costs.