

MENTAL HEALTH MENTAL RETARDATION OF TARRANT COUNTY

Board Policy

Board Policy
Number A.3

Adopted:
July 31, 2001

COMPLIANCE PLAN

OVERVIEW

As adopted by the Board of Trustees on July 31, 2001

The Board of Trustees formally adopted the following Compliance Plan and related documents on July 31, 2001. These documents represent the commitment of Mental Health Mental Retardation of Tarrant County (MHMRTC) to compliance with applicable federal and state laws and the program requirements of federal, state, and private health care plans. MHMRTC Board of Trustees, Executive Management Team (EMT), managers and staff, affiliated physicians, contractors, and other agents, where appropriate, are expected to read, understand, and agree to abide by this Compliance Plan and any related policies and procedures.

The Compliance Plan of MHMRTC is designed to prevent, detect and correct any instances of noncompliance with applicable federal and state law and program requirements of federal, state, and private health care plans. Every employee at MHMRTC has important responsibilities identified in this Compliance Plan, including a duty to report any compliance concerns as explained in this Plan.

This Compliance Plan is also designed to be consistent with the Department of Health and Human Services Office of Inspector General Compliance Program Guidelines. MHMRTC intends this Compliance Plan to be an “effective program to present and detect violations of law” as this term is defined in comment 3. (k) to section 8.A1 of the Federal Sentencing Guidelines applicable to organizations. As regulatory guidance and applicable laws change in the future, this Compliance Plan will be modified as necessary to incorporate these changes. The Compliance Plan is to be reviewed on an annual basis by the Compliance Committee. The outcome of said review will be forwarded to the Chief Executive Officer (CEO). Amendments will be submitted to the MHMRTC Board of Trustees for approval.

This Compliance Plan includes seven major elements:

1) Written Compliance Standards, Policies and Procedures

This element documents general expectations of compliance as defined by three broad compliance principles. The element also outlines the general standards of

conduct for employees and establishes that compliance procedures will be developed.

2) *Compliance Team, Compliance Committee and Legal Counsel*

This element authorizes the designation of a Compliance Team and the Compliance Committee. This element also defines the roles and responsibilities of the Compliance Team and the Compliance Committee, as well as that of Legal Counsel.

3) *Education and Training*

This element identifies the procedure by which MHMRTC will provide the necessary training to employees and contractors in order to meet the requirements of this Compliance Plan.

4) *Communication*

This element describes the methods employees may use to communicate their compliance concerns. Reporting is encouraged. There will be no retaliatory action.

5) *Auditing and Monitoring*

This element describes the action to be taken to monitor the effectiveness of the Compliance Plan. Implementation and effectiveness of the Plan will be reported to appropriate management staff.

6) *Investigations and Corrective Action*

This element describes the investigative and corrective procedures for all noncompliance with the Plan. The element also describes the methods of reporting noncompliance and modification of the organization's practices subsequent to evidence of noncompliance.

7) *Disciplinary Actions*

This element documents the disciplinary actions that may be taken for non-compliance. These actions are consistent with MHMRTC's personnel policies.

I. COMPLIANCE STANDARDS, POLICIES AND PROCEDURES

A. Principles of Compliance

MHMRTC adopts these principles of compliance as the foundation of the compliance policy of the organization:

- 1) MHMRTC and its Trustees, employees and contractors will comply with all applicable federal, state, and local laws and regulations.
- 2) At all times, MHMRTC, its Trustees, employees and contractors will conduct themselves in a manner that is consistent with the provisions of the organization's enabling legislation, bylaws, Board resolutions, and policies, including this Compliance Plan. Specific reference is made to Board Policy A.1 entitled, "Code of Ethics Policy" and Board Policy A.2 entitled "Fraud Policy", which describes MHMRTC's emphasis on ethical behavior and proper business dealings for a governmental entity and the zero-tolerance for fraud in any form.
- 3) MHMRTC, its employees and contractors will endeavor to properly bill all clients, third party payors, and government health care programs for services provided by the organization.

B. Standards of Conduct

- 1) Every employee and contractor shall adhere to and support MHMRTC's Principles of Compliance (see I. A.).
- 2) A MHMRTC Compliance Policy Manual shall be developed to include the organization's enabling legislation, bylaws, selected Board resolutions and policies and the Compliance Plan and all related information. The manual will be kept current by the Compliance Team and shall be made available for all employees and contractors to review.
- 3) Compliance procedures shall be developed and kept current with all applicable state and federal laws and regulations. Compliance procedures shall be designed to assist employees and contractors in the performance of their jobs and contractual responsibilities in full compliance with MHMRTC's Principles of Compliance (see I. A.) and Compliance Plan. The Chief in each division is responsible for the oversight and performance of MHMRTC's Principles of Compliance, Compliance Plan and related policies and procedures.

C. Employment of/or Contracting with Sanctioned/Excluded Individuals/Businesses

MHMRTC will neither knowingly employ nor contract with individuals or businesses that have been convicted of a criminal offense related to health care or that are listed by a federal or state agency as debarred, excluded, or ineligible for participation in federally or state funded health care programs. If any MHMRTC employee or contractor is charged with criminal offenses related to health care or is being evaluated for debarment or exclusion, such individuals or businesses will be removed from direct responsibility for any federally or state funded health care program. Upon conviction, debarment or exclusion action, MHMRTC will terminate the employment or contractual relationship with such individuals or businesses. MHMRTC Human Resources and Contracts personnel will coordinate with the Compliance Team to develop appropriate screening procedures for job applicants, employees and contractors.

D. As required by Section 6032 of the Deficit Reduction Act (“DRA”) of 2005 (now codified as Section 1902(a)(68) of the Social Security Act) all employees of MHMRTC and its contractors must acknowledge in writing that they have been provided detailed information about the following statutes and rules:

1. The False Claims Act, 31 U.S.C. §§3729-3733 (“FCA”) provides for penalties against any person who knowingly submits or causes to be submitted a false claim, record or statement seeking a payment for Medicaid, Medicare or other federal payments from the United States Government.

The act defines “knows” to mean that the person:

- Has actual knowledge of the information
- Acts in deliberate ignorance of the truth or falsity of the information; or
- Acts in reckless disregard of the truth or falsity of the information and no proof or specific intent to defraud is required

Some examples of false claims may be:

- A provider who submits a bill for services she knows she has not provided
- A provider submitting records that he knows (or should know) are falsely indicating compliance with billing or service requirements

- A provider obtained money from the federal government to which he may not be entitled – he then makes false statements to retain the money rather than refunding it as is required.

The FCA also specifically protects employees who report violations of its provision from retaliation by their employer.

2. The Civil Monetary Penalties Law, 42 U.S.C. 1320a-7a, (“CMPL”) provides for penalties against any person or entity, including MHMRTC, that presents or causes to be presented to the United States or its agents an improper claim for payment when that person or entity knows among other things that:
 - a) an improper payment code has been used;
 - b) the medical item or service is false;
 - c) the physician presenting the service was not properly licensed or certified;
 - d) the patient was excluded from the program under which the payment was sought;
 - e) the payment was for a medical item or service that was not medically necessary or;
 - f) the payment was otherwise prohibited under state or federal law governing the payment program.

The purpose of the CMPL is to fully reimburse the government for monies paid for fraudulent submissions and to cover the costs of investigating such fraudulent submissions.

3. Texas Human Resource Code, Chapter 32, Section 32039 and 32.0391 establishes civil and criminal penalties for a person who presents or causes to be presented to the Texas Department of Human Services a claim that contains a statement or representation the person knows or should know to be false. Chapter 32 prohibits a person from:
 - a) soliciting or receiving either directly or indirectly any cash, remuneration or payment of any kind for the purpose of referring an individual for any item or service under the state medical assistance programs, including Medicare or Medicaid;
 - b) soliciting or receiving either directly or indirectly any cash, remuneration or payment of any kind for the purpose of

purchasing, leasing or ordering, or arranging for or recommending any good, facility, service or items for which payment may be made under Medicaid or Medicare;

- c) offers or pays either directly or indirectly to induce a person to commit the acts described in either a) or b) above.
4. Texas Human Resources Code Chapter 36 allows an individual employee of MHMRTC to bring an action of their own behalf and on behalf of the State of Texas for violations of the state's Medicaid program. Chapter 36 makes it unlawful for a person to:
- a) knowingly makes or causes to be made a false statement or misrepresentation of a material fact to permit a person to receive a benefit or payment under the Medicaid program that is not authorized or that is greater than the benefit or payment that is authorized;
 - b) knowingly conceals or fails to disclose information that permits a person to receive a benefit or payment under the Medicaid program that is not authorized or that is greater than the benefit or payment that it authorized;
 - c) knowingly applies for and receives a benefit or payment on behalf of another person under the Medicaid program and converts any part of the benefit or payment to a use other than for the benefit of the person on whose behalf it was received;
 - d) knowingly makes, causes to be made, induces, or seeks to induce the making of a false statement or misrepresentation of material fact concerning:
 - (i) the conditions or operation of a facility in order that the facility may qualify for certification or re-certification required by the Medicaid program, including certification or recertification as:
 - (1) an intermediate care facility for the mentally retarded;
 - (2) an assisted living facility; or
 - (3) a home health agency; or
 - (ii) information required to be provided by a federal or state law, rule, regulation, or provider agreement pertaining to the Medicaid program;

- e) except as authorized under the Medicaid program, knowingly pays, charges, solicits, accepts, or receives, in addition to an amount paid under the Medicaid program, a gift, money, a donation, or other consideration as a condition to the provision of a service or product or the continued provision of a service or product if the cost of the service or product is paid for, in whole or in part, under the Medicaid program;
- f) knowingly presents or causes to be presented a claim for payment under the Medicaid program for a product provided or a service rendered by a person who:
 - (i) is not licensed to provide the product or render the service, if a license is required; or
 - (ii) is not licensed in the manner claimed;
- g) knowingly makes a claim under the Medicaid program for:
 - (i) a service or product that has not been approved or acquiesced in by a treating physician or health care practitioner;
 - (ii) a service or product that is substantially inadequate or inappropriate when compared to generally recognized standards within the particular discipline or within the health care industry; or
 - (iii) a product that has been adulterated, debased, mislabeled, or that is otherwise inappropriate;
- h) makes a claim under the Medicaid program and knowingly fails to indicate the type of license and the identification number of the licensed health care provider who actually provided the service;
- i) knowingly enters into an agreement, combination, or conspiracy to defraud the state by obtaining or aiding another person in obtaining an unauthorized payment or benefit from the Medicaid program or a fiscal agent;
- j) is a managed care organization that contracts with the Health and Human Services Commission or other state agency to provide or arrange to provide health care benefits or services to individuals eligible under the Medicaid program and knowingly;

- (i) fails to provide to an individual a health care benefit or service that the organization is required to provide under the contract;
 - (ii) fails to provide the commission or appropriate state agency information required to be provided by law, commission or agency rule, or contractual provision; or
 - (iii) engages in a fraudulent activity in connection with the enrollment of an individual eligible under the Medicaid program in the organization's managed care plan or in connection with marketing the organization's services to an individual eligible under the Medicaid program;
- (k) knowingly obstructs an investigation by the attorney general of an alleged unlawful act under this section;
 - (l) knowingly makes, uses, or causes the making or use of a false record or statement to conceal, avoid, or decrease an obligation to pay or transmit money or property to this state under the Medicaid program; or
 - (m) knowingly engages in conduct that constitutes a violation under Section 32.039(b).
5. Texas Government Code Chapter 531, Subchapter C allows the state Health and Human Services Commission to make a monetary award to an individual who reports activity that constitutes fraud or abuse of funds in the state Medicaid program or reports overcharges in the program if the commission determines such report results in the recovery of penalties under Chapter 32 of the Texas Human Resources Code.
 6. The Texas Whistleblower Act, Government Code Chapter 554 prohibits MHMRTC from suspending, terminating or taking any other adverse employment action against one of its employees who in good faith reports a violation of law by MHMRTC or one of MHMRTC's employees to an appropriate law enforcement authority. This would include protecting MHMRTC employees from employment retaliation for reporting Medicaid fraud or abuse to an appropriate law enforcement authority like the office of the Texas Attorney General.
 7. Texas Administrative Code, Title 1, Part 15, Chapter 371. The Office of Inspector General within the Health and Human Services Commission is responsible for the investigation of fraud and abuse in the provision of health and human services and Medicaid and other

HHS programs. As part of its authority, the Inspector General may impose sanctions upon a finding by the Inspector General of fraud and abuse in Medicaid. The Inspector General administers program integrity, enforces program violations to the extent of applicable law governing Medicaid. This includes pursuing Medicaid and other Health and Human services fraud, abuse, overpayment and waste. The Inspector General may grant an award to a person who reports activity that constitutes fraud or abuse of funds in the Medicaid program or reports overcharges in the program. Any MHMRTC employee may contact the office of Inspector General to report waste, abuse or fraud by contacting the OIG's office online or using their toll free number, 800-436-6184.

II. COMPLIANCE TEAM, COMPLIANCE COMMITTEE, AND LEGAL COUNSEL

A. Compliance Team

The MHMRTC Board of Trustees has authorized the Chief Executive Officer (CEO) to designate a Compliance Team who shall be responsible for the implementation, operation and continuous monitoring of the MHMRTC compliance program. MHMRTC's Compliance Team shall report to the Chief Executive Officer, but is ultimately responsible to the Board of Trustees and is authorized to communicate to the Board of Trustees, the Board Chair and/or its Legal Counsel and shall be free to conduct such investigations as they deem necessary and appropriate to ensure the continuing implementation of this Compliance Plan. MHMRTC's Compliance Team will report to senior management staff on a regular basis and to the Compliance Committee and the full Board as appropriate, regarding this Compliance Plan and its effectiveness, including status of or necessity for investigative work, corrective measures and/or Plan modifications. Complaints regarding the conduct of the Compliance Team should be directed to the CEO.

The Compliance Team's duties and responsibilities include the following:

- 1) Update the organization's Compliance Plan on a periodic basis to reflect any changes in MHMRTC's risk profile and applicable laws and regulations.
- 2) Develop and review all compliance policies and procedures, principles of compliance, standards of conduct, and employee compliance handbook.
- 3) Ensure the effectiveness of the organization's compliance effort.
- 4) Participate in employee new hire orientation and on-going training programs on compliance and ensure training is documented.

- 5) Implement employee communication mechanisms that encourage employees to report potential compliance problems without fear of retaliation.
- 6) Perform appropriate audits, provide timely verbal and written feedback of audit findings, and monitor progress toward corrective action plan requirements to eliminate identified problems and prevent recurrences.
- 7) Conduct investigations to resolve compliance issues and maintain all records and documentation of investigations. Respond appropriately if a violation is identified.
- 8) Ensure the organization's compliance program and its expectations are conveyed to all outside contractors.
- 9) Coordinate with other organizational departments regarding appropriate verification activity for employee backgrounds, credentialing, exclusion from federal or state programs and disciplinary policy related to compliance.
- 10) Develop and implement specific controls and productivity measurements for an effective compliance program.

B. Compliance Committee

The CEO shall appoint appropriate staff members to a Compliance Committee to assist the Compliance Team in the operation and monitoring of the Compliance Plan. In addition, the Board Chair shall appoint one board member and one alternate to be non-voting members of the Compliance Committee. The Chairperson of the Compliance Committee shall be elected by the members on an annual basis. Members of the Compliance Committee shall include representatives from key functional areas instrumental to the success of an effective Compliance Plan. Ad hoc members shall be appointed to the Compliance Committee as needed from various functional areas or departments to deal with specific compliance issues. Legal Counsel shall be made available to the Compliance Committee at the discretion of the Committee Chair.

Members of the Board of Trustees who are not appointed members of the Compliance Committee shall be entitled to attend meetings of the Compliance Committee as long as the meeting is held in accordance with the requirements of the Open Meetings Act. Members of the Board of Trustees shall at all times be entitled to inquire of committee members, management, or physicians as to compliance issues.

The Compliance Committee's responsibilities and duties include the following:

- 1) Provide input regarding development of compliance standards and policies and procedures to promote compliance.

- 2) Analyze the organization's industry environment and the legal requirements with which MHMRTC must comply in specific areas.
- 3) Determine the appropriate strategy or approach that the organization should use to promote compliance and detect any potential violations of regulation and law.
- 4) Recommend and monitor, in conjunction with MHMRTC Operational Divisions, the development of internal systems and controls to carry out this Compliance Plan.
- 5) Develop and maintain a system to solicit, evaluate and respond to complaints and potential problems.
- 6) Review compliance reports and make continuous improvement recommendations.
- 7) Act to resolve all internal disputes between clinical/operations staff and Compliance Team and auditors regarding specific compliance with rules and regulations. Solicit input from the Medical Director, Nursing Director, and/or Legal Counsel, as appropriate, in resolving disputes.
- 8) Ensure final MHMRTC decisions in compliance matters are documented in writing.
- 9) Facilitate communication regarding the Compliance Plan to MHMRTC departments, personnel and contractors.
- 10) Identify resources necessary to implement compliance activities.
- 11) Hold its members responsible for attendance at regularly scheduled Compliance Committee meetings, as well as specially called meetings.
- 12) Regularly report the Compliance Committee's findings and activities to the MHMRTC Board of Trustees.
- 13) Holding itself accountable to the MHMRTC's CEO and Board of Trustees in carrying out its responsibilities and duties.

C. Legal Counsel

The Board of Trustees will utilize current Legal Counsel to advise MHMRTC regarding compliance legal issues. Legal Counsel will work regularly with the Compliance Team and Compliance Committee. Legal Counsel may be authorized by the Board of Trustees from time to time; to investigate with the Compliance Team on behalf of MHMRTC reported instances of noncompliance and to obtain pertinent information for the purpose of developing and providing legal advice to MHMRTC. Also, Legal Counsel may be authorized by the Board of Trustees to arrange for such investigation by others, if appropriate.

Nothing in this Compliance Plan shall constitute a waiver of applicable legal privileges, including without limitation, medical review committee privilege, the attorney-client privilege and the attorney work product protection. Any such privileges and protections as are available for MHMRTC's benefit may only be waived by affirmative vote of the Board of Trustees.

EDUCATION AND TRAINING

A. Policy

Formal compliance education and training programs shall be provided to employees and contractors associated with MHMRTC, as appropriate to ensure material compliance with the Compliance Plan and applicable laws.

B. Scope of Education and Training

Education and training shall consist of the following:

1) Employees:

- (a) All new MHMRTC employees shall receive appropriate compliance training as a part of new employee orientation training.
- (b) Compliance Plan training shall be conducted to inform MHMRTC employees of the Plan, its purpose and its requirements. Employees shall be specifically trained and counseled regarding their responsibility to report misconduct and the consequences of failing to comply with the Plan.
- (c) All employees must acknowledge in writing that they have read, understood, and agreed to abide by the MHMRTC Compliance Plan. This documentation will be maintained in the employee's Personnel file.
- (d) Employee compliance training shall be conducted as appropriate, but at least on an annual basis. Various levels of personnel and teaching methods should be utilized for this specific training.
- (e) Written educational materials regarding the Compliance Plan and related compliance subjects shall be distributed periodically to employees as deemed appropriate.
- (f) Employees shall attend periodic educational courses as required to maintain proficiency in the employees' areas of responsibility.

(2) Contractors:

- (a) All contractors shall be offered appropriate compliance training as a part of new contractor orientation. Contractors shall complete initial compliance training no later than ninety (90) days after commencement of the contract term.

- (b) Training regarding the Compliance Plan shall be conducted for the benefit of all contractors to inform all contractors of the Plan, its purpose and its requirements. The training shall advise each contractor of its responsibility to report misconduct and the consequences of failing to comply with the Plan.
- (c) All contractors must acknowledge in writing that they have read, understood, and agreed to abide by the MHMRTC Compliance Plan and the applicable principles of compliance and standards of conduct. This documentation will be maintained in the central contract files.
- (d) All contractors shall undergo compliance training as appropriate, at least on an annual basis, upon renewal of any contract term. Levels of personnel and teaching methods, appropriate to the contractor, shall be utilized for contractor training.
- (e) Written educational materials regarding the Compliance Plan and related compliance subjects shall be distributed periodically to contractors, as deemed appropriate to the contractor.
- (f) All contractors, or representatives thereof, shall attend periodic educational courses as may be required in order to remain as a contractor of MHMRTC.

C. Attendance and Documentation

Employee attendance and participation in mandatory educational opportunities shall be a condition of continued employment. The MHMRTC Training Department will be responsible for maintaining the documentation of Compliance Plan training and providing documentation of non-compliance to the Compliance Team. The Compliance Team will periodically review Training Department documentation of Compliance Plan Training which shall include the name and position of the employee, the date and duration of the educational activity and a brief description of the subject matter of the education.

IV. COMMUNICATION

A. Policy

The elements of the MHMRTC's Compliance Plan shall be communicated to employees and contractors, as appropriate. Also, the organization shall have an internal reporting system in place for employees and others to report issues and concerns regarding violations and noncompliance within MHMRTC

anonymously, and without fear of retaliation or retribution. This internal reporting system shall establish a method of communication between the reporting person and the Compliance Team to encourage reporting of incidents, potential violations, and compliance issues.

B. Scope of Communication

Communication of the Compliance Plan shall consist of the following:

- 1) The Compliance Plan shall be distributed to all employees and other affected parties as deemed appropriate.
- 2) All personnel shall acknowledge in writing that they have read, understood, and agreed to abide by the Compliance Plan and all appropriate compliance standards, policies and procedures.
- 3) Information regarding the Compliance Plan shall be distributed and made available to employees and contractors through various media to communicate the existence of the plan and each individual's responsibility to follow the guidelines of the plan. This communication shall include publishing compliance related information and articles periodically in MHMRTC publications and/or via the Intranet, which are distributed to employees and other affected parties.
- 4) Inclusion of standard compliance provisions in contracts with contractors.
- 5) A communication schedule shall be developed by the Compliance Team, and shall include, but not be limited to: formal presentations, newsletters and other publications, electronic communications, notices in common work areas, and other communication media as deemed appropriate.

C. Employee and Contractor Responsibility and Internal Reporting System

All employees and contractors are required to promptly report to the Compliance Team any instances of noncompliance with the requirements of this Compliance Plan. An employee or contractor who fails to report instances of noncompliance or who knowingly falsifies a report of noncompliance shall be subject to disciplinary action as described in the Disciplinary Actions section.

Internal reporting guidelines shall consist of the following:

- 1) A toll free "Action Line" telephone number shall be maintained and made available to be used by employees and others to anonymously report concerns regarding violations of compliance.
- 2) The Action Line number shall be posted in common work areas.
- 3) Specific information regarding the confidentiality and non-retaliatory aspects of the Plan shall be communicated to employees to encourage reporting noncompliance.

- 4) Email communication shall be completed by Action Line operators for each call received.
- 5) A log shall be maintained by the Compliance Team documenting incoming calls and all other forms of communication regarding compliance issues, the nature of the concern, investigations and the results of the investigation.
- 6) There shall be no retaliation for any report. Any threat of retaliation or retribution against the reporting employee or contractor shall result in disciplinary action, as provided in section VII.
- 7) Employees and others using the Action Line shall be informed that MHMRTC shall strive to maintain employee confidentiality (when requested). **However, there may be a point where the employee's identity may become known or may have to be revealed due to legal or regulatory requirements.**
- 8) Steps shall be followed to assure confidentiality of all call logs, reports and other documentation maintained by the Compliance Team.
- 9) All employees and others shall have access to report directly to the Compliance Team rather than through supervisors or other intermediaries.
- 10) Employees and others shall be encouraged to ask for clarification if they have a question regarding the compliance standards, policies or procedures.
- 11) Supervisors/Managers and/or Administrators may be disciplined for failing to detect compliance violations in their departments, facilities or areas of responsibility if reasonable diligence on their part would have led to the discovery of the problem and given MHMRTC the opportunity to address the issues at the earliest possible time.

V. AUDITING AND MONITORING

Audits will be performed to ensure adherence to the Compliance Plan. Client Accounting's internal audit staff will work closely with the Compliance Team to keep audit tools current and focused on areas where the greatest risk of noncompliance may exist. Contract providers' billings also will be included in the audit procedure. Audit procedures are designed to determine the accuracy and validity of coding and billing submitted to all payors and to detect instances of noncompliance. During an audit process, if it is discovered that there appear to be weaknesses in the compliance system, the Compliance Team will perform follow-up procedures, such as focused audits, re-training, procedural changes, work-flow studies, etc. to remedy any weaknesses identified. Such reporting units will be monitored on a monthly basis by the Compliance Team to ensure subsequent compliance.

Upon completion of each audit, the audit results and written comments regarding deficiencies noted during the audit will be delivered to the management personnel of the reporting unit as well as the Chief Officer responsible for the unit. Management personnel will be required to submit a written Management Response and plan of

correction to the audit supervisor in a timely manner. Upon receipt of these documents, copies will be sent to the Chief responsible for that reporting unit, the Compliance Team and the Chief Executive Officer.

VI. INVESTIGATIONS AND CORRECTIVE ACTION

A. Investigation Obligation and Approach

The Compliance Team shall promptly investigate or cause the investigation of any allegations or reports of noncompliance with MHMRTC's Principles of Compliance or other aspects of the Compliance Plan. The Compliance Team shall consult with Legal Counsel to determine what investigations are warranted depending upon the nature of the alleged violation. Also, some investigations may be conducted under the direction of Legal Counsel if preservation of the attorney/client privilege is warranted.

Investigations shall be undertaken promptly and in a manner to determine whether a material violation has in fact occurred so MHMRTC can take immediate corrective action and fulfill any applicable reporting requirements. The investigation shall use techniques consistent with applicable laws and which support a rapid resolution of the situation. Due respect shall be shown for the rights of individuals who may be involved, either as sources of information or as possible violators. Management shall cooperate in all investigations related to compliance. If the Compliance Team, with the advice of Legal Counsel, determines the integrity of an investigation may be compromised because of the presence of employees or contractors under investigation, management shall remove such employees or contractors from their responsibilities pending completion of the investigation.

B. Documentation

Documentation of the alleged violation, interview and other notes, a description of the investigation process, and any documents reviewed shall be maintained for seven years. A report of the investigation results and of management's corrective action plan shall be maintained for seven years.

C. Corrective Action

The Compliance Team shall report the results of investigations to the Compliance Committee, the Chief Executive Officer, the Executive Management Team, and the Board of Trustees in a timely manner. In situations where an investigation confirms a violation occurred, a corrective action plan shall be developed and immediate action shall be taken to correct the problem with the advice of Legal Counsel. MHMRTC shall report any violations to payors, or government or law enforcement agencies, as required by

law. If the investigation determines the issue in question is consistent with applicable laws then corrective action is not necessary.

VII. DISCIPLINARY ACTIONS

A. Policy

Appropriate disciplinary action shall be taken against any employee or contractor who fails to comply with MHMRTC's Compliance Plan. In view of the fact that MHMRTC guarantees an anonymous and non-retaliatory reporting system through which an employee may communicate a compliance concern, **any failure, on the part of an employee, to communicate a known compliance violation or suspected violation, will be considered a failure to comply with the Compliance Plan.**

- 1) Contracts and agreements with MHMRTC contractors shall contain compliance requirements and provisions for appropriate sanctions should violations occur.
- 2) Supervisors shall be responsible for implementation of the Plan with respect to employees under their supervision.
- 3) Disciplinary sanctions for failure to comply with the Compliance Plan, standards, laws and procedures shall apply to all employees of MHMRTC.
- 4) Employees and others affiliated with MHMRTC (as appropriate) shall be informed of the disciplinary standards for noncompliance and that certain actions prohibited by these guidelines may also violate criminal laws which may result in personal criminal prosecution and fines and/or imprisonment upon conviction.
- 5) Every disciplinary action related to the Compliance Plan **must** be reported to the Compliance Team by the Chief of Human Resources.
- 6) MHMRTC will neither knowingly employ nor contract with individuals or businesses that have been convicted of a criminal offense related to health care or that are listed by a federal or state agency as debarred, excluded, or ineligible for participation in federally or state funded health care programs.

B. Disciplinary Actions and Sanctions

The following actions and sanctions may be applied:

- 1) Employees involved in a violation of this Plan shall be subject to significant sanctions, up to and including termination, if appropriate. Such disciplinary actions shall be in accordance with MHMRTC's personnel policies and procedures and shall be consistent with the degree of severity of the improper conduct and may include remedial training,

- oral warnings, written reprimands, probation, suspension, or immediate termination, depending upon the nature of the violation.
- 2) Intentional, reckless or repetitive noncompliance will subject employees to significant disciplinary action up to and including termination.
 - 3) Contractors involved in a confirmed violation shall be subject to significant sanctions in accordance with contract terms and conditions, including termination of the contract when warranted.
 - 4) If any MHMRTC employee or contractor is charged with criminal offenses related to health care or is being evaluated for debarment or exclusion, such individuals or businesses will be removed from direct responsibility for any federally or state funded health care program.

VIII. Annual Compliance Review and Reporting

On or before the end of each fiscal year, the Compliance Team will conduct a review of MHMRTC's current compliance and regulatory operations. The purpose of the review is to ascertain whether the compliance operations of MHMRTC are within the standards of the Compliance Plan. A written report describing the results of the review shall be prepared on or before December 1 describing the compliance efforts during the preceding fiscal year and a proposed work plan for the next fiscal year. The report should include the following elements:

1. A summary of the general compliance activities undertaken during the preceding fiscal year, including any changes made to the Compliance Plan;
2. A copy of the Hotline log for the preceding fiscal year;
3. A description of actions taken to ensure the effectiveness of the training and education efforts;
4. A summary of actions to ensure compliance with MHMRTC's policy on dealing with excluded persons;
5. Recommendations and results of recommendations for changes in the Plan that might improve the effectiveness of MHMRTC's compliance effort; and
6. A copy of the proposed work plan for the next fiscal year.
7. Any other information specifically requested by the CEO and Board of Trustees.

Last Reviewed: March 25, 2008

Last Amended: March 25, 2008