

Regulatory Compliance

From the SCCMHA CEO
Sandra M. Lindsey

Every employee and professional staff person within SCCMHA plays a vital role in providing effective, accessible care to the communities we serve. The SCCMHA Regulatory Compliance Program was developed to help SCCMHA reach those goals, by giving employees and network providers the tools to perform their responsibilities ethically and within the bounds of the law.

The SCCMHA Regulatory Compliance Program is a system-wide effort that includes detailed standards of conduct, an educational program, monitoring systems, sanctions for noncompliance and a confidential compliance hot-line for reporting concerns regarding possible legal and ethical violations. The Program has the support of the highest levels of SCCMHA leadership and, even more important, it demands your support as well.

Each of us has the individual responsibility to comply with the laws of and the . The Program, and specifically the Code of Business Conduct, serves to advise us of what those laws are. The policies and standards presented do not represent a new philosophy of complying with the law - but rather remind us of our commitment to act responsibly and legally.

We all must use sound judgment in following these standards. Each of us has the responsibility to report ethical and legal concerns, either to our supervisor, the Compliance Office at 797-3574, or via the confidential SCCMHA Compliance Hot-Line at 866-223-2435.

The following information gives an overview of the Program and the Code of Business Conduct. More detailed information is available from your supervisor, on the SCCMHA web site, or through the SCCMHA Compliance Office.

All existing SCCMHA employees, as well as future employees, are expected to become familiar with this manual, and comply with its requirements. Network providers are encouraged to review this manual, as well as to develop their own regulatory compliance program. The SCCMHA Office of Regulatory Compliance is available for consultation in the development of provider's Regulatory Compliance Programs.

On behalf of SCCMHA, I want to thank each of you for your commitment to the Compliance Program. Your support of the program will enable SCCMHA to continue to be a recognized leader in the health care community.

Sincerely,

Sandra M. Lindsey,

Program Overview

SCCMHA is dedicated to providing professional clinical services to the eligible citizens of Saginaw County. A spirit of mutual respect and a broad trust that all SCCMHA employees and network providers share this dedication is essential to the fulfillment of SCCMHA's commitment to our community. SCCMHA is committed to providing the highest-quality health care services in a lawful and ethical manner. This fundamental commitment finds expression in our core values of dignity, integrity, service, and compassion. SCCMHA's commitment to these values helps maintain the trust and respect of consumers and the community we serve.

Government regulation of the health care industry is becoming increasingly complex. At the same time, health care fraud and abuse have become a top law-enforcement priority for both the federal and state governments. SCCMHA takes its responsibility to comply with the law very seriously and this Manual was developed in response to the risks that are inherent in such a complex system. This Manual was designed to assist in preventing, detecting, and correcting legal violations throughout the SCCMHA network. To be successful, the Regulatory Compliance Program requires the collective participation of every individual associated with SCCMHA. SCCMHA employees and network providers are expected to be familiar with and comply with the regulations affecting their profession. Any violations that are found will be corrected, along with a thorough evaluation of additional measures needed to prevent duplicate violations.

SCCMHA's Regulatory Compliance Manual formalizes the previous written and unwritten codes of ethics that have always existed at SCCMHA, and updates them to comply with today's regulatory environment. The Manual addresses such issues as Medicare laws, environmental laws, sexual harassment, and consumer confidentiality, as well as other legal and ethical matters.

It is the intent of SCCMHA that (1) all employees are educated about the applicable laws and trained in matters of compliance; (2) there is periodic auditing, monitoring and oversight of compliance with those laws; (3) there exists an atmosphere that encourages and enables the reporting of non-compliance without fear of retribution; (4) responsibility is not delegated to persons with a propensity to act in a non-compliant manner; and (5) mechanisms exist to investigate, discipline and correct non-compliance.

The SCCMHA Regulatory Compliance Program provides for the existence of a Compliance Officer who is responsible and accountable to the CEO for compliance matters. However, each individual employee or agent of SCCMHA remains responsible and accountable for their own compliance with applicable laws. Confirmed acts of non-compliance will be sanctioned ("sanction," as used throughout this Manual shall include all disciplinary steps described in the SCCMHA Employee Handbook (and corresponding Collective Bargaining Agreements) including, termination of employment, or in the case of network providers, termination of contract).

This Manual is intended to provide a framework for individual and organizational compliance efforts and to apply generally to all SCCMHA personnel and functions.

The SCCMHA Regulatory Compliance Program has been developed from a number of SCCMHA policies with the goal of full compliance with Federal, State and local laws and regulations. Some of these policies guide the operations of our program while others provide information to SCCMHA employees regarding the many laws and regulations that govern our activities.

General Compliance Policy

It is the intent of SCCMHA, to provide behavioral health services in compliance with all state and federal laws governing its operations, and consistent with the highest standards of business and professional ethics. This Manual is a summary of various SCCMHA policies and sets forth the guidelines for ethical behavior expected from all employees and network providers. In order to ensure that the SCCMHA compliance policies are consistently applied, SCCMHA has established this Regulatory Compliance Program. A Compliance Officer, Compliance Administrator and a Compliance Committee, who are charged with reviewing SCCMHA compliance policies and specific compliance situations that may arise, direct the program.

This Manual includes statements of SCCMHA policy in a number of specific areas. All SCCMHA employees, including those individuals who deliver care to SCCMHA consumers, must carry out their duties in accordance with this Manual. Any violation of applicable law, or deviation from appropriate ethical standards, will subject an employee or independent professional to sanctions. These sanctions also may apply to a supervisor who directs or approves the person's improper actions; or is aware of those actions but does not act appropriately to correct them; or who otherwise fails to exercise appropriate supervision to detect non-compliance with this Regulatory Compliance Program.

The regulations discussed in this Manual are complex and many of the concepts are developed on case-by-case determinations. In addition, this Manual deals only generally with some important legal principles. Their mention is not intended to minimize the importance of other applicable laws, professional standards, or ethical principles, which may be covered in other SCCMHA policies. Where appropriate, reference is made to specific SCCMHA policies which are an integral part of the SCCMHA Regulatory Compliance Program. If an employee is unsure whether any specific action complies with the SCCMHA policies or applicable law, they should present their question to the appropriate supervisor, or directly to the Compliance Office. All employees should review this Manual from time to time to make sure that these policies guide their actions.

If any employee becomes aware of an apparent violation of these policies, they should report it to their supervisor or to the Compliance Office. All persons making a good faith report of a violation are assured that such reports will be treated as confidential where possible; such reports will be shared only on a bona fide need-to-know basis. No adverse action will be taken against persons making such reports in good faith, whether or not the

report ultimately proves to be well founded. If an employee or professional staff member does not report conduct violating SCCMHA policies, of which they are or should have been aware, that employee may be subject to sanctions, up to and including termination of employment or revocation of contract.

Finally, all employees should recognize that this Manual may be amended from time-to-time, to reflect changes in applicable laws and policies. All are expected to familiarize themselves with such changes and to abide by them.

General Principles of SCCMHA Business Ethics

It is common practice for employers to develop a series of detailed and specific work rules which proscribe certain behaviors. Such work rules play an important role in an organization, enabling employees to clearly understand what behavior is prohibited. However, it is also important to understand what behavior an organization values and encourages. The following statements are presented as positive affirmations of ethical behavior which SCCMHA values as we provide services to our consumers.

1. SCCMHA employees and network providers have an obligation to exercise honesty, objectivity and diligence in the performance of their duties and responsibilities.
2. SCCMHA employees and network providers exhibit loyalty in all matters pertaining to the affairs of SCCMHA, and they shall not knowingly be a party to any illegal or improper activity.
3. SCCMHA employees and network providers refrain from entering into any activity that would prejudice their ability to objectively carry out their duties and responsibilities.
4. SCCMHA employees and network providers exercise prudent stewardship in carrying out their responsibilities.
5. SCCMHA employees and network providers are prudent in the use of information acquired in the course of their duties. SCCMHA employees and network providers shall not use confidential information for any personal gain nor in a manner, which would be detrimental to the welfare of SCCMHA consumers.
6. SCCMHA employees and network providers continually strive for improvement in the proficiency and effectiveness of their service.
7. SCCMHA employees and network providers abide by the work rules and uphold the mission and objectives of SCCMHA. In the performance of their duties, SCCMHA employees and network of providers are mindful of the obligation to maintain the high standard of competence, morality and dignity, which SCCMHA has established.
8. SCCMHA employees and network providers shall comply fully with all state and federal laws and conduct themselves in accord with the highest ethical standards.

Regulations

SCCMHA operates in a highly structured service sector, and must monitor compliance with a variety of complex regulations. The cooperation of all employees and network providers is needed to comply with these regulations and bring lapses or violations to light. Some individual regulations may carry civil and/or criminal penalties; others control the licenses and certifications that allow SCCMHA to deliver care to its consumers. SCCMHA's continued ability to operate and serve the community depends upon each employee's help in regulatory compliance.

Some of the regulations which individuals may deal with in the course of their duties include the following:

- **Medicare certification and conditions of participation** (These regulations relate to rules governing participation in Medicare and Medicaid programs. The regulations are issued by Health Care Financing Administration ("HCFA") and are referred to as "Conditions of Participation" ("COP")).
- **Certificate of Need** (These regulations control a variety of areas such as organizations wishing to increase the bed capacity of a health facility – more information can be found at **M.C.L. 333.22201 et seq.; 1978 PA 368, Part 222: R325.9101 et seq.** of Michigan Administrative Code)
- **Controlled substance registration** (These regulations govern a Physician's ability to prescribe controlled medications.)
- **Pharmacy licensure and registration** (These regulations govern the of licensure and certification of Pharmacists within the State of Michigan)
- **Clinical laboratory licensure and regulation** (These regulations govern the licensure and certification of Clinical laboratories within the State of Michigan)
- **Union rules and collective bargaining agreements** (These relate to the collective bargaining agreements representing SCCMHA employees)
- **Occupational Safety and Health** (These regulations are controlled by the Michigan Department of Consumer & Industry Services - refer to the SCCMHA Environment of Care Program for additional information on this topic)
- **Nursing Practices** – (These regulations are contained within the Occupational Regulation Sections of the MI Public Health Code and the **Michigan Board of Nursing Administrative Rules**.)

Individual Responsibility

Each employee is personally responsible to act in accordance with the policies of SCCMHA as set forth in this document and elsewhere. Violating these policies or failing to report violations could subject an individual, or organization, to sanctions.

To help SCCMHA achieve compliance with the myriad of regulations while faithfully serving its consumers, this Manual provides information concerning certain laws

affecting our operations. SCCMHA offers this Manual to help its personnel understand specific concepts which they are bound to obey. The Compliance web site contains the entire compliance manual, as well as related plans and policies. It is available at www.SCCMHA.net.

It is SCCMHA's intent to provide services to consumers professionally, ethically and legally. Any person, who learns of or suspects that someone has violated a state or federal law, or has acted unethically or improperly, should report that information to their supervisor or to the Compliance Office. Supervisors also are charged with the responsibility of ensuring compliance by their staff.

If you are uncomfortable discussing your concerns with a supervisor or feel those concerns are being ignored, call the compliance hot-line to report information about unethical or illegal conduct. You do not have to leave your name, although you may if you wish. The hot-line is an external toll-free number (866-223-2435); your telephone number will not be identified in any message.

SCCMHA **will not** tolerate retaliation against employees and professional staff who report suspected violations in good faith. Any person who attempts to retaliate against an individual who, in good faith, reports a suspected violation of a legal responsibility by SCCMHA or a Network Provider will be subject to sanctions, up to and including termination of employment or contract.

Response to Investigation

Federal and state agencies have broad legal authority to investigate health care providers and review their records. SCCMHA will comply with subpoenas and cooperate with governmental investigations to the full extent required by law. The Compliance Office is responsible for coordinating the response to investigations and the release of any information.

If a department, an employee, or a professional staff member receives an investigative demand, subpoena, or search warrant involving SCCMHA, it should be brought immediately to the Compliance Office. Do not release or copy any documents without authorization from the Compliance Office. If an investigator, agent, or government auditor comes to SCCMHA, contact the Compliance Office immediately. Ask the investigator to wait until the Compliance Officer or Compliance Administrator arrives before presenting any documents or participating in any interviews. The Compliance Office is responsible for assisting with any interviews, and SCCMHA will provide counsel to employees, where appropriate. If personnel are approached by government investigators and agents, they have the right to insist on being interviewed only at the facility during business hours or with counsel present.

If a professional staff member receives an investigative demand at his or her private office and the investigation may involve SCCMHA, the individual is asked to notify the Compliance Office immediately.

Employees of SCCMHA are not permitted to alter, remove, or destroy documents or records of SCCMHA without appropriate authorization. This includes paper, tape, and computer records.

Subject to coordination by the Compliance Office, SCCMHA employees will disclose information required by government officials, supply payment information, provide information on subcontractors, and grant authorized federal and state authorities with immediate access to the facility and its personnel. Failure to comply with these requirements could mean that SCCMHA will be excluded from participating in the Medicare and Medicaid programs.

Network providers who provide items or services in connection with the Medicare and/or Medicaid programs are required to comply with the language of the SCCMHA contract and the Provider Manual when responding to investigations. Subcontractors must immediately furnish the SCCMHA Compliance Office, legal counsel, or authorized government officials with information required in an investigation.

Discrimination

SCCMHA is committed to a policy of nondiscrimination and equal opportunity for all qualified applicants and employees, without regard to race, color, religion, sex, national origin or ancestry, marital status, height, weight, familial status, handicap or disability, status as a disabled or Vietnam era veteran, or status as a qualified individual with a disability.^{1[1]} Our policy of non-discrimination extends to the care of consumers (who also may not be discriminated against based on source of payment). Discrimination may also violate state and/or federal anti-discrimination laws and trigger substantial civil penalties.

If an employee feels he or she or any consumer has been discriminated against or harassed on the basis of any protected category, he or she should contact Human Resources and/or the Compliance Office so that an investigation may be initiated.

Confidentiality

SCCMHA employees and health care professionals possess sensitive, privileged information about consumers and their care. Consumers properly expect that this information will be kept confidential. SCCMHA takes very seriously any violation of a consumer's confidentiality.

SCCMHA is the owner of the medical record which documents a consumer's condition and the services received by the consumer. Medical records are strictly confidential, which means that they may not be released to outside parties except with the written

^{1[1]} SCCMHA Equal Employment Policy

authorization of the consumer or in other limited circumstances. Special protections apply to mental health records, records of drug and alcohol abuse treatment, and HIV related information. Personnel who have access to medical records must take care to preserve the confidentiality and integrity of those records. No one is permitted access to the medical record of any consumer without a legitimate, work-related reason for so doing. Any unauthorized release of or access to medical records should be reported to the appropriate supervisor or the Compliance Office.^{2[2]}

SCCMHA prohibits unauthorized access to its computer system, either directly, by network or telephone. An individual who does not have a legitimate password is unauthorized to gain access. SCCMHA also prohibits the unauthorized destruction or corruption of electronically stored or processed data. Persons who violate these rules will be prosecuted to the full extent of the law and/or disciplined up to and including discharge.

Conflicts of Interest

SCCMHA personnel should avoid all potential conflicts of interest. Adherence to this concept ensures that personnel act with total objectivity in carrying out their duties for the consumer.

To this end, SCCMHA personnel may not be employed by, act as a consultant to, or have an independent business relationship with any of SCCMHA's service providers, competitors, or third party payers without SCCMHA CEO approval. Nor may personnel invest in any payer, provider, supplier, or competitor (other than through mutual funds or through holdings of less than 0.5 percent of the outstanding shares of publicly traded securities) unless they first obtain written permission from the SCCMHA CEO.

Personnel should not have other outside employment or business interests that place them in the position of (i) appearing to represent SCCMHA while performing the outside employment, (ii) providing goods or services substantially similar to those SCCMHA provides or is considering making available, or (iii) lessening their efficiency, productivity, or dedication to SCCMHA in performing their everyday duties.

Personnel may not use assets owned or leased by SCCMHA for personal benefit or personal business purposes. Employees may not have an interest in or speculate in products or real estate the value of which may be affected by the business of SCCMHA. Employees may not divulge or use confidential information such as financial data, payer information, computer programs, and consumer information for their own personal or business purposes.

^{2[2]} SCCMHA HIPAA Policies

Any personal or business activities by an employee that may raise concerns along the lines of a conflict of interest with their association with SCCMHA must be reviewed with, and approved in advance, by the SCCMHA CEO.

Discussions with Competitors

When competing firms get together to fix prices, to limit output, to divide business between them, or to make other anti-competitive arrangements that provide no benefits to consumers, questions of legality are raised. Agreements among competitors with respect to prices for products or services are illegal.^{3[3]} More specifically, it is illegal and against SCCMHA policy for network providers to discuss services, rates, or proposals with competitors. Any questions about whether it is legal to share business information (such as prices, contract terms, and salaries) with competitors should be raised with the Compliance Office. Penalties for antitrust violations are substantial, and can involve fines and prison.

Payments, Discounts and Gifts

SCCMHA participates in the Medicare program, a federal program which provides health insurance to the aged and disabled, and the Medicaid program, a federal/state program which provides health care coverage to low income persons. Federal law makes it illegal for any person or entity to provide or accept "remuneration" (i.e. cash or anything else of value) in exchange for referrals of consumers covered by Medicare, Medicaid or other Federal Health Care Programs (such as CHAMPUS, the Federal Employees Health Benefit Plan and the Railroad Retirement Board).^{4[4]} The law also bars the payment or receipt of such remuneration in return for directly purchasing, leasing, ordering, or recommending the purchase, lease, or ordering of any goods, facilities, services, or items covered under the benefits of Medicare or Medicaid.

It is recognized that business dealings may include a shared meal or other similar social occasion, which may be proper business expenses and activities. SCCMHA employees may not receive any gift under circumstances that could be construed as an improper attempt to influence the provider's decisions or actions. When an employee receives a gift that has more than minimal value, the gift should be returned to the donor and reported to the Compliance Office. Gifts may be received when they are of such limited value that they could not reasonably be perceived by anyone as an attempt to affect the judgment of the recipient. For example, token promotional gratuities from suppliers, such as advertising novelties marked with the donor's name (e.g. coffee mug) are not prohibited.

These so-called "fraud and abuse" or "anti-kickback" laws are designed to prevent fraud in health care programs and abuse of the public funds supporting the programs.

^{3[3]} See generally the Sherman Antitrust Act, the Clayton Act and the Federal Trade Commission Act.

^{4[4]} See generally "Anti-kickback" statutes

SCCMHA is committed to carefully observing the anti-kickback rules and avoiding any practice that may be interpreted as abusive. Employees in the finance departments, procurement services or purchasing, and facilities departments, pharmacy, home health, medical staff administration, and any department entering into personal service contracts are expected to be vigilant in identifying potential anti-kickback violations and to bring them to the attention of their supervisor or the Compliance Office.

Record Retention

SCCMHA is obligated to maintain and retain numerous different types of records concerning nearly every aspect of their operation. Particularly important is the proper maintenance of records concerning consumer treatment. Proper record keeping is necessary not only to comply with state and federal law but also to ensure proper medical treatment for consumers in the future. Consumer records may also be important in the event of litigation. It is SCCMHA intention to maintain records for as long as legally required. The legal requirements are many and varied so before you discard any documentation; it is wise to check with your supervisor, Medical Records, or the Compliance Office regarding any requirements that might exist. All SCCMHA personnel should learn and follow the record retention policies of SCCMHA.

Waste Disposal

Health care facilities produce waste of various types. SCCMHA is committed to the safe and responsible disposal of biomedical waste and other waste products. Compliance with applicable federal and state environmental regulations requires ongoing monitoring and care. SCCMHA uses a medical waste tracking system, biohazard labels, and biohazard containers for the disposal of infectious or physically dangerous medical or biological waste. Failure to follow the system could result in significant penalties to SCCMHA. Employees who come into contact with hazardous biological or non-biological waste should be familiar with SCCMHA's hazardous waste policy^{5[5]} and procedures, and should report any deviations from the policy to the supervisor or the Compliance Office.

Controlled Substances

SCCMHA Physicians who maintain DEA registration must comply with all federal and state laws regulating controlled substances. Access to controlled substances is limited to persons who are properly licensed and who have express authority to handle them. No health care practitioner may dispense controlled substances except in conformity with state and federal laws and the terms of the practitioner's license.

^{5[5]} See Environment of Care Program

The Federal Controlled Substances Act requires certain personnel to prepare biennial (every two years) inventories of all stocks of drugs and narcotics and maintain continuing current records of the amounts of drugs received and dispensed.^{6[6]} Federal regulations also require certain personnel to maintain records and inventories of each substance it dispenses. The retention period for these records is a minimum of two years.^{7[7]}

Unauthorized manufacture, distribution, use, or possession of controlled substances by employees is strictly prohibited,^{8[8]} and will be prosecuted to the full extent of the law. Any person who knows of unauthorized handling of controlled substances is to provide the information immediately to their supervisor or the Compliance Office.

If an organization or its employee is convicted under federal or state law of unlawfully manufacturing, distributing, prescribing, or dispensing a controlled substance, the organization or employee can be excluded from the Medicare or Medicaid programs.

For More Information

Additional information regarding the SCCMHA Regulatory Compliance Program, including this manual, is available from your department, the Compliance Office or from the SCCMHA web site (www.sccmha.net).

SCCMHA Office of Regulatory Compliance – Structure

The SCCMHA Office of Regulatory Compliance Committee is composed of the following individuals:

- Compliance Officer: Linda Tilot
- Compliance Administrator: Rich Garpiel.
- Committee Member: Sandra Lindsey, Chief Executive Officer
- Committee Member: John Phipps, Chief Operating Officer
- Committee Member: Delores Ford-Heinrich, Director of Finance
- Committee Member: Tim Ninemire, Supervisor of Customer Service & Recipient Rights
- Committee Member: Linda Schneider, Director of Clinical Services
- Committee Member: Kevin Sackett, Director of Information Services
- Committee Member: Ginny Reed, Director of Network Services & Public Policy
- Committee Member: Fred Stahl, Human Resources Director

The Regulatory Compliance Committee of SCCMHA has responsibility to:

- Ensure that the Regulatory Compliance Program is risk-based.
- Review and approve the Regulatory Compliance Program.
- Review and approve policies and manuals to guide the Program.

^{6[6]} 21U.S.C.§827(a)(1),(a)(3)

^{7[7]} 21 CFR 1304.03, 1304.04.

^{8[8]} Drug-Free Workplace Policy

- Review resources assigned to the Program to assess their adequacy to the program's on-going effectiveness.
- Review and approve compliance training material and activities.
- Ensure that communication of the Regulatory Compliance Program and general compliance training is provided to all employees.
- Ensure continuous and effective monitoring of the high-risk activities.
- Review final reports resulting from compliance reviews which require submission to external agencies or authorities.
- Provide oversight and guidance to investigations being conducted by the Regulatory Compliance Office.
- Follow-up on all instances of non-compliance reported to the Committee to ensure management has taken appropriate corrective action.

The Compliance Office monitors the education of personnel regarding proper compliance, the auditing and monitoring of the status of compliance, and the reporting, investigation, discipline and correction of non-compliance. The Compliance Office also monitors that significant discretionary authority is not delegated to persons with a demonstrated or suspected propensity for improper or unlawful conduct.

The Compliance Officer reports on SCCMHA's fulfillment of its compliance goals to the Compliance Committee (at least quarterly) and to the SCCMHA Board, through the CEO, (at least annually). The report includes but is not limited to: (1) the level of compliance or non-compliance found as a result of monitoring and auditing, (2) the success of efforts to improve compliance, including training and education (3) the non-delegation of discretionary authority to those with the propensity to act improperly, and (4) sanctions, up to and including termination of employment or contract which have been taken with respect to those found to be non-compliant. The Compliance Officer has full access to all personnel and relevant documentation (subject to state or federal confidentiality laws) deemed necessary to perform oversight and reporting duties.

The Compliance Officer may appoint such staff as deemed necessary to assist in the performance of the responsibilities outlined above. Any member of the Compliance Officer's staff will be treated as the Compliance Officer for purposes of cooperation with efforts to perform the Officer's duties.

Office of Regulatory Compliance – Education

The Office of Regulatory Compliance provides training and education to SCCMHA employees and network providers, as necessary, on the various aspects of Regulatory Compliance.

Newly hired employees will receive a Regulatory Compliance Program Orientation within their first 30 days of employment with SCCMHA.

Individual or group education sessions can be arranged by contacting the Compliance Office at 797-3574.

The Compliance Office will monitor the education of employees concerning their awareness of the Regulatory Compliance Program, the contents of the Program, and the need to abide by the specific laws and regulations affecting individual departments and employees of SCCMHA. The Compliance Office will ensure that SCCMHA employees receive a copy of the Regulatory Compliance Manual. The Compliance Office will inform employees of changes in applicable laws or regulations periodically and systematically through written communications and in-service training.

The Compliance Office is responsible to ensure that every employee involved with the billing process is educated about the applicable laws and regulations governing provider billing and documentation. It is the responsibility of each department to identify those employees who should be educated and trained. Such training and education may include presentations, video tapes, and/or newsletters. Every employee involved with the billing process must attend a compliance training session no less than annually. The Compliance Officer oversees a system that tracks attendance at training sessions, and has the authority to discipline for non-attendance. Discipline may include required supervision, review of charts for some period of time or sanctions. The Compliance Office will ensure that individual departments acquire regulatory information specific to their scope of practice that will make the training more concrete, specific, and therefore, more effective.

Office of Regulatory Compliance – Monitoring and Auditing

SCCMHA management is responsible for monitoring employee compliance with applicable laws and regulations. The level of compliance in each department is audited periodically. External auditing will be conducted as deemed necessary.

If the Compliance Officer discovers that a department's or individual's level of compliance is unacceptable, corrective action may be recommended, which may include future monitoring of an individual or department on a more frequent basis.

Under this Program, there will be both internal and external (i.e. by an independent consultant or other professional) auditing of proper coding and chart documentation. Each clinical provider who bills for services in SCCMHA will be subject to periodic chart reviews for proper documentation and coding of clinical services. All employees must cooperate fully with this effort, by making themselves and/or any pertinent documents available, and may be disciplined for not doing so.

Ongoing Assessments

The Compliance Officer will review twice-yearly the performance of the Event Verification Plan. This review will be based on the examination of results of internal audits and investigations, reports of any outside audits that may have been conducted and on his/her own personal experience with the functioning of the Plan over the previous year. The report will be submitted to the Compliance Committee. The Committee may propose and implement changes to the Manual in light of the conclusions of the report.

Office of Regulatory Compliance – Compliance Hot-Line

The SCCMHA Regulatory Compliance Program has established standards of stewardship and ethical behavior that affect all areas of SCCMHA. Consistent with this position and its focus on the promotion of an ethical, law-abiding culture, the Office of Regulatory Compliance has established a Compliance Hot Line; **1-866-223-2435**. Additional Information regarding the SCCMHA Compliance Hot-Line is available at the back of this Manual.

Office of Regulatory Compliance – Investigation

Every employee of SCCMHA has the responsibility not only to comply with the laws and regulations but to ensure that others do as well.

Employees uncertain about whether some conduct constitutes non-compliance should contact the **Compliance Hot Line**.

Employees must report non-compliance to their supervisors, the Compliance Office or the Compliance Hot Line. Supervisors are required to report these issues through established channels with the Compliance Office. Calls may be made anonymously, although SCCMHA encourages employees to provide their name and telephone number so that reports may be more effectively investigated.

The Compliance Officer, or designee(s), will investigate every report of non-compliance (and/or retaliation), whether reported through the hot line or otherwise. Investigations will be done promptly and will consist of interviewing personnel, examining documents, and consulting with legal counsel, if necessary. All employees must cooperate with those investigating such matters and non-cooperation may result in discipline.

The Compliance Officer, or their designee(s), has full authority to interview any employee and review any document (subject to state and federal laws on consumer confidentiality) deemed necessary to complete the investigation.

A written record of each investigation will be created and maintained by the Compliance Office. Every effort to preserve the confidentiality of such records and will be made and any disclosures will be on a "need to know" basis only.

The Compliance Office will report the results of each investigation considered significant to the Compliance Committee. A course of discipline and/or other corrective action will be recommended as necessary.

Office of Regulatory Compliance – Sanctions

Confirmed acts of non-compliance may result in sanctions. The Compliance Office may make recommendations for sanctions of specific acts of non-compliance. Members of the Compliance Committee may advise on sanctions for severe or repeated instances of non-compliance. Sanctions may include a requirement to follow a certain process or procedure in the future, restitution, and/or discipline. This is not intended as an exhaustive list, and other sanctions may be recommended by the Compliance Committee.

All sanctions and/or disciplinary action for non-compliance related matters will be reported to and monitored by the Compliance Office. Summaries of corrective actions will be provided to the Compliance Committee.

Billing and Claims

It is against the law ^{9[9]} to knowingly submit false claims for payment. Examples of a false claim include using the wrong billing codes, falsifying the medical record, or billing for services that are not provided or are not medically necessary. Violations of these laws can be punished by fines, prison, or both. Providers can also be excluded from the Medicare or Medicaid program for submitting false claims. SCCMHA policy is to bill accurately and only for medically necessary services that are provided and documented. Any subcontractors that perform billing services for SCCMHA providers must ensure compliance with billing requirements as well.

When claiming payment for services, all providers in the SCCMHA Network have an obligation to their consumers, third party payers, and the state and federal governments to exercise diligence, care, and integrity. The right to bill the Medicare and Medicaid programs, conferred through the award of a provider or supplier contract, carries a responsibility that may not be abused. SCCMHA is committed to maintaining the accuracy of every claim. Many people, throughout SCCMHA have responsibility for

^{9[9]} "False Claims Act"

entering charges, diagnoses and/or procedure codes. Each of these individuals is expected to monitor compliance with applicable billing rules and established coding guidelines. Any false, inaccurate, or questionable claims should be reported immediately to a supervisor or to the Compliance Office.

False billing is a serious offense. Medicare and Medicaid rules prohibit knowingly and willfully making or causing to be made any false statement or representation of a material fact in an application for benefits or payment.

Federal law states that it is also unlawful to conceal or fail to disclose the occurrence of an event affecting a health care provider's right to payment with the intent to secure payment that is not due.

Examples of false claims include, but are not limited to:

- Claiming reimbursement for services that have not been rendered
- Filing duplicate claims
- "Upcoding" to more complex procedures including inappropriate or inaccurate costs on cost reports
- Falsely indicating that a particular health care professional provided a procedure
- Billing for a length of stay beyond what is medically necessary
- Billing for services for items that are not medically necessary
- Failing to provide medically necessary services or items
- Billing excessive charges.

Those who prepare or submit claims should be alerted for these and other errors.

In compliance with federal law, SCCMHA does not permit charging for any Medicaid service at a rate higher than that approved by the state or accepting any payment as a precondition of admitting a Medicaid consumer.

SCCMHA carefully follows the Medicare rules regarding billing responsibilities. If there is any question whether SCCMHA or a provider may bill for a particular service, either on behalf of a physician, clinician, or on its own behalf, the question should be directed to a senior billing or finance supervisor, who may consult with the Compliance Office. Special care should be taken in reviewing claims prepared by individuals outside SCCMHA, and personnel should request documentation from outside entities if necessary to verify the accuracy of the claims.

A health care provider or supplier who violates the false claims rules is guilty of a felony, and may be subject to fines of up to several thousand dollars per offense, imprisonment, or both. Legislation enacted in 1996 extends the reach of federal criminal penalties to false claims submitted not only to Medicare and Medicaid, but to any health care benefit program, including private third party payers. Other persons guilty of false claims may also face fines of several thousand dollars per offense, imprisonment, or both. In addition to the criminal penalties, the Federal False Claims Act permits substantial civil monetary penalties against any person who submits false claims. The person (as well as the employer) may be excluded from participating in the Medicare and Medicaid programs.

Numerous other federal and state laws prohibit false statements or inadequate disclosure to the government and mandate exclusion from the Medicare and Medicaid programs upon conviction. For instance, it is impermissible to make, or induce others to make, false statements in connection with a provider's Medicare certification. Persons doing so are guilty of a felony and may be fined several thousand dollars per offense or face imprisonment. A facility or individual health care provider will be excluded from the Medicare and Medicaid programs for at least five years if convicted of a Medicare or Medicaid related crime relating to consumer abuse. Medicare and Medicaid exclusion may result if a facility or a provider is convicted of fraud, theft, embezzlement, or other financial misconduct in connection with any government-financed program.

It is illegal to make any false statement to the federal government, including statements on Medicare or Medicaid claim forms. It is illegal to use the U.S. mail in a scheme to defraud the government. Any agreement between two or more people to submit false claims may be prosecuted as a conspiracy to defraud the government.

As a manager of Medicaid funds, SCCMHA will require this level of billing integrity. SCCMHA promotes full compliance with each of the relevant laws by maintaining a strict policy of ethics, integrity, and accuracy in all its financial dealings. Each employee and professional who is involved in submitting charges, preparing claims, billing, and documenting services is expected to maintain the highest standards of personal, professional, and institutional responsibility.

Consumer Referrals

Consumer referrals are important to the delivery of appropriate health care services. Consumers are admitted, or referred, to hospitals by their physicians. Consumers leaving a hospital may be referred to other facilities, such as skilled nursing or rehabilitation facilities. Consumers may also need durable medical equipment, home care, pharmaceuticals, or oxygen, and may be referred to qualified suppliers of these items and services. Consumers, or their legal representatives, are free to select their health care providers and suppliers subject to the requirements of their health insurance plans. The choice of a hospital, a physician, a diagnostic facility, a supplier or any other healthcare provider should be made by the consumer, with guidance from his or her physician as to which providers are qualified and medically appropriate.

It is generally against the law for a doctor to refer consumers to providers (such as labs) in which he or she (or a family member) has a financial interest or relationship. An example might be a physician referring consumers to a lab that he or she owns. Violations can result in fines and exclusion from Medicare or Medicaid. The law is complex; it applies only to certain services and has many exceptions.^{10[10]} If you suspect

^{10[10]} Refer to the “Stark Bill”

that a physician is referring consumers illegally, it is best to report to your supervisor or the hot line.

Physicians and other health care providers may have financial relationships with the SCCMHA providers. These relationships may include compensation for administrative or management services, income guarantees, loans of certain types, or free or subsidized administrative services. In some cases, a physician may have invested as a part owner in a piece of diagnostic equipment or a health care facility.

A federal law known as the "**Stark law**" applies to any physician who has, or whose immediate family member has, a "financial relationship" with an entity, and prohibits referrals by that physician to the entity for the provision of certain designated health services that are reimbursed by Medicare and Medicaid. If a financial relationship exists, referrals are prohibited unless one of the specific exceptions defined by the law is met. SCCMHA requires that each financial relationship with a referring physician or his or her family member fit within one of the exceptions to the Stark law. All employees are expected to monitor financial relationships and report any irregularities to the Compliance Officer.

The Stark law applies to the following types of services:

- Clinical laboratory
- Physical therapy
- Occupational therapy
- Radiology (including MRI, CT, ultrasound, and certain types of mammography)
- Durable medical equipment, parenteral and enteral nutrients
- Equipment and supplies
- Prosthetics and orthotics
- Home health services
- Outpatient prescription drugs
- Inpatient and outpatient services
- Radiation therapy services and supplies

The exceptions under the Stark law are complex, and several general rules must be followed. Penalties for violating the Stark law include (i) no Medicare or Medicaid payment for the service referred illegally; (ii) a refund to the beneficiary of any amounts collected; (iii) fines of up to \$15,000 levied on both the physicians and the entity of each service referred illegally, plus additional fines based on the amounts billed; (iv) civil monetary penalties of up to \$100,000 plus other assessments; and (v) exclusions from the Medicare or Medicaid programs.

Discharge Planning and Ancillary Service Referrals

Federal regulations under the Medicare program govern the discharge planning process. SCCMHA will abide by these regulations in every respect. We all must recognize that the

discharge of a consumer to a residence or some other post-hospitalization setting is a critically important decision that must be made in the best interests of the consumer and with the consumer's fully-informed consent. Improper discharge planning or referral to ancillary services providers not only might imperil the health of our consumers, but might also place in jeopardy a facility's or physician's licensure and the continued ability to treat Medicare and Medicaid consumers.

Boycotts

It is improper for SCCMHA to enter any agreement with competitors to boycott or refuse to deal with a particular person or persons, such as a vendor, payer, or other health care provider. These agreements need not be written to be illegal; any understanding reached with a competitor (directly or indirectly) on such matters is prohibited. All negotiations must be conducted in good faith. Exclusive arrangements with payers, vendors, and providers must be approved by legal counsel based on an analysis of the relevant market.

Political Campaigns and Lobbying Activities

The Internal Revenue Code prevents a tax exempt organization, or any of its representatives acting in an official capacity, from participating or intervening in any political campaign on behalf of, or in opposition to, any candidate for public office. The organization is also prohibited from carrying on more than an insubstantial amount of lobbying, propaganda activities, or other attempts to influence legislation.

Federally Funded Grants

Certain SCCMHA professional staff from time to time receives various federal grants such as grant funding from the National Institutes of Health. Federal regulations impose duties and obligations upon the recipients of federal grants. SCCMHA expects its personnel to abide by all applicable federal regulations, including but not limited to regulations relating to accurate reporting and appropriate expenditure of grant funds. Questions relating to matters concerning federal grants should be directed to the Compliance Office to ensure that all regulations are observed.

Scientific Integrity

Anyone who receives federal funds and grants to conduct scientific research must comply with the federal regulations imposed upon the recipients of those funds. These regulations generally prohibit "misconduct in science," which includes intentional fabrication,

falsification, or plagiarism in proposing, conducting, or reporting research. Honest errors or differences in interpretations of data are not considered violations.

These so-called "misconduct regulations" are designed to prevent dishonesty and fraud in federally funded research programs. SCCMHA is committed to complying with the regulations and avoiding any practice that may be interpreted as misconduct. Employees receiving federal funds to conduct research must be vigilant in identifying violations of these regulations and reporting them to the Compliance Office.

Violations of these federal regulations could result in exclusion from eligibility for federal grants and contracts generally up to three years. Federal law also provides criminal sanctions for making false written or oral statements to the Office of Research Integrity during the course of an investigation.

Fund Raising

In furtherance of their charitable purposes, certain programs within SCCMHA conduct fund-raising activities through various means. SCCMHA does not authorize any employee or other individual to use SCCMHA's name in any fund-raising activities not approved or supervised by SCCMHA's CEO.

It is illegal for any person to make any false, deceptive, or misleading statement in connection with a solicitation of funds or a sale of goods or services to benefit SCCMHA.

Conclusion

SCCMHA takes its commitment to the stewardship of public resources very seriously. SCCMHA is determined to provide its services in a professional, ethical and legal fashion. Finding our way through the labyrinth of laws and regulations requires the commitment and dedication of every SCCMHA employee and network provider. The SCCMHA Office of Regulatory Compliance is committed to providing assistance to that goal.

This Manual will be updated as needed.

Interested parties may visit the Compliance website at www.sccmha.net. There, you will find the current version of this Manual, as well as any relevant SCCMHA policy used to develop this Manual.

Questions, comments and/or concerns may be directed to the SCCMHA Office of Regulatory Compliance at 797-3574, or to the **Compliance Hot-Line at 866-223-2435**.

Community Mental Health Authority

REGULATORY COMPLIANCE HOT-LINE

797-3574 or 1-866-223-2435

About the Regulatory Compliance Hot Line

- Confidential, proactive process
- Call anytime: To speak to a person, call between , Monday through Friday. Any other time, please leave a confidential voice-mail message.
- Resource for SCCMHA employees and Network Providers.
- Call if you are concerned about conduct that may be inappropriate or may adversely impact SCCMHA.
- You are responsible for supporting and enhancing the mission of SCCMHA, and contributing to the overall excellence of the services provided by SCCMHA to the community.

Process

1. A member of the Office of Regulatory Compliance will answer the Compliance Hot Line.
2. Your name is not required and all questions are welcome
3. No action will be taken against you if you report, in good faith, information to the Hot Line
4. A representative of the Office of Regulatory Compliance will respond to your call.

Who

You have an obligation to report any inappropriate or illegal conduct: If you have questions, concerns, or suspect unethical, illegal behavior at or affecting SCCMHA including but not limited to fraud, abuse, or wrongdoing, call the Compliance Hot Line.

Adverse Impact

The following examples of legal regulations are areas where inappropriate actions may occur or that may adversely impact SCCMHA and should be reported to the Office of Regulatory Compliance:

- environmental health/safety,
- consumer care/rights, (Also consider contacting the SCCMHA Office of Recipient Rights)
- consumer records/ confidentiality,
- bribery/kickbacks/thefts,
- entertainment/gifts/gratuities,
- sexual harassment,
- employment discrimination,
- conflicts of interest,

- fraudulent financial transactions or improper accounting
- any violation of the policies, procedures, regulations or state or federal statutes.

For more information, contact the SCCMHA Office of Regulatory Compliance at 797-3574 or 866-223-2435 Also visit SCCMHA at www.sccmha.net