

## POLICY and PROCEDURE

<b>TITLE: CP 5023 Code of Conduct</b>			
<b>Version:</b> 16	<b>Responsible Position:</b> Director of Compliance	<b>Responsible Department:</b> Compliance	
<b>Origination Date:</b> 07/01/2006	<b>Last Review Date:</b> 05/06/2020	<b>Approval Date:</b> 06/19/2020	<b>Next Review Date:</b> 06/15/2021
<b>Organization:</b> Banner University Health Plan, BUHP Compliance (CP)			
<b>Population (Define):</b> This policy applies to all lines of business			
<b>Policy Replaces:</b> AD 218, CP 218, CP 1218 A, CP 1218 S, CP 6023			

### I. Purpose/Expected Outcome:

- A. To emphasize the necessity and responsibility of every employee, temporary employee, intern, volunteer of the Health Plan, the Board of Directors as well as the Health Plan’s Subcontractors and First Tier, Downstream and Related Entities (FDRs), to perform their duties in compliance with laws, regulations, contractual requirements and Health Plan policies.

### II. Definitions:

- A. Please refer to the link below for full definitions for the following terms:  
<http://sharepoint/sites/hppandp/new/Lists/Definitions/PP%20Definitions.aspx>

### III. Policy:

- A. The Health Plan has written policies & procedures and a code of conduct that articulate the Health Plan’s commitment to comply with all applicable Federal and State standards. It is the policy of the Health Plan to follow the established code of conduct and for all employees, temporary employees, interns, volunteers, Board of Directors, (employees) Subcontractors, and FDRs to perform their duties in compliance with applicable laws, regulations, contractual requirements, Health Plan policies and the code of conduct.

### IV. Procedure/Interventions:

- A. The Health Plan is a subsidiary of Banner Health (BH), and their standard of conduct extends to the Health Plan, including all Health Plan employees and Subcontractors/FDRs. It is essential for Health Plan employees and Subcontractors/FDRs to understand the BH standards of conduct and the process designed to correct behaviors which are not in compliance with those standards.
1. Health Plan employees must review the BH standards of conduct at least annually and must attest that they have read, understood and will comply with the BH standards of conduct as a part of the Banner Learning Center Code of Conduct training.

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- B. In addition to BH's standard of conduct, the Health Plan has a code of conduct specific to managed care which is articulated in and a component of the Insurance Division Joint Compliance Program and Fraud Waste and Abuse Program (Compliance Program).
- C. The Health Plan and all Health Plan employees and Subcontractors/FDRs are required to abide by the Health Plan code of conduct.
1. All employees must review the Health Plan code of conduct at least annually and must attest that they have read, understood and will comply with the Health Plan's code of conduct. This attestation is completed through the Banner Learning Center.
  2. Subcontractors/FDRs complete a Code of Conduct Attestation to indicate that they attest that their organization has a code of conduct or a code of ethics that includes a provision for reporting any potential violations of the code and has a conflict of interest provision to ensure their governing bodies and senior leadership responsible for the administration or delivery of Medicare and/or Medicaid benefits are free from any conflict of interest in administering or delivering said benefits.
  3. All Subcontractors/FDRs must either adopt the Health Plan code of conduct or adopt another code of conduct that is materially similar, to the Health Plan code of conduct and follow set standards.
- D. Key concepts which must be included in the Health Plan code of conduct are as follows:
1. Employees and Subcontractors must conduct themselves in an ethical manner, act in good faith, with due care, competence and diligence by conducting all business activities with the highest level of integrity.
    - a. Employees and Subcontractors/FDRs must observe professional standards with regard to professional licenses and the scope of services permitted under that license.
    - b. Employees and Subcontractors/FDRs must evaluate existing procedures to help identify process improvements. If the Health Plan identifies FDR non-compliance, corrective action plans (CAPs) are required to respond to detected offenses. The Health Plan ensures that corrective actions are taken.
    - c. Employees must address deficiencies by reporting anything they suspect as "not quite right" through any of these communication options (1. Discuss with supervisor; 2. Discuss with manager/director/leader; 3. Discuss with Compliance Officers/Human Resources Department/CEO/senior executive; 4. Discuss with Corporate Compliance Department/Legal Department) or communicate through the toll free, anonymous and confidential compliance ComplyLine hotline.;

- d. Subcontractors/FDRs must report any potential non-compliance or anything they suspect as “not quite right” to the leadership of their organization as outlined in their code of conduct and to the Health Plan Compliance Department, the Vendor Oversight Program Manager or through communication via the ComplyLine hotline.
- e. Employees and Subcontractors/FDRs face significant consequences for not acting in accordance with the Compliance Program, up to and including termination of employment or contract.
2. Adhere to legal and regulatory requirements: The Health Plan is committed to complying with all applicable contractual requirements, Federal and State laws and regulations. Employees and Subcontractors/FDRs must be knowledgeable of all contractual requirements, laws and regulations that apply to their specific job duties and must comply with all relevant laws, regulations, and contractual obligations.
  - a. Relevant laws include but are not limited to the False Claims Act, Stark Self-Referral Law, Anti-Kickback Statute, Federal Procurement Integrity Act, HIPAA, HITECH, antitrust laws, tax laws, lobbying/ political activity, non-discrimination laws and regulatory requirements.
  - b. The Health Plan, Health Plan employees and Subcontractors/FDRs do not commit fraud, waste, or abuse and must report suspected fraudulent activities to the Compliance Officers.
  - c. When accepting reimbursement or making payments of behalf of Medicare or Medicaid, Employees and Subcontractors/FDRs are subject to several laws designed to prevent fraud. Honesty and accuracy are vital. It is a federal felony to willfully make a false statement in connect with a claim for payment. Failure to obey these laws can result in fines, jail or exclusion from Medicare and Medicaid programs.
  - d. Employees and Subcontractors/FDRs who report fraudulent activities in good faith are immune from any civil liability by reason of that action, unless that person has been charged with or is suspected of the fraud or abuse reported.
  - e. The Health Plan does not contract with or employ, or bill for services rendered by, any individual or entity that is excluded or ineligible to participate in Federal healthcare programs.
  - f. The Health Plan is required to deny payments for Medicare services or items if the provider that prescribes or furnishes the service or item is on the preclusion list.
  - g. Employees may not share information and engage in business arrangements which violate antitrust laws.
3. Employees and Subcontractors/FDRs have an obligation to seek guidance if they have questions regarding a law, regulation or contractual obligation. Ensure

accurate records and financial information: The Health Plan endeavors to ensure that all documentation accurately reflects the true nature of a fact or event. Employees and Subcontractors/FDRs ensure that documentation is accurate and complete including, but not limited to: medical records, claims, time sheets, production standards, quality control, expense reports, formal certifications, and financial statements.

- a. When submitting information to Medicaid/Medicare all documents are completed as required and in an accurate and timely manner. All documents are reviewed and pre-approved by the preparer, manager and director of the applicable department.
- b. All documentation is recorded and reported in a timely manner.
- c. Documentation discrepancies are reported to management.
4. Maintain confidentiality: The Health Plan complies with all Federal and State laws to safeguard member privacy. Employees and Subcontractors/FDRs must protect confidential health information and Health Plan business information.
  - a. Patient and Health Plan member specific information is not to be released or discussed with others unless it is necessary to treat that member or if allowed to be released by law. Employees follow all HIPAA and HITECH Act requirements.
  - b. Health Plan business information such as member lists, member ID numbers, personnel data, fee schedules, clinical information, financial data, legal advice/opinions and marketing strategies, are not released to anyone outside of Health Plan without proper authorization from the manager, director, marketing committee or CEO as applicable.
5. Avoid conflicts of interest: Employees and Subcontractors/FDRs conduct business activities to avoid conflicts of interest.
  - a. Conflicts of interest occur when an individual's personal interest interferes or appears to interfere with the interests of BH and/or the Health Plan.
  - b. Conflict of interest questions are reported to the employee's director or manager.
  - c. If a conflict of interest is identified the manager/director works with the employee to accommodate for the situation.
  - d. If a conflict of interest is identified, it must be reported to the Compliance Officers.
6. Cooperate with all investigations: The Health Plan expects truthful and honest responses when participating in internal investigations or external agency reviews, audits or investigations.
  - a. Employees and Subcontractors/FDRs respond honestly and truthfully to all internal investigations and external agency reviews.

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- b. Employees fully cooperate with government and other authorized external agencies when responding to questions, investigations and during government audit and review processes.
  - c. Employees cooperate with law enforcement officials when conducting investigations.
7. Retention of records: The retention and disposal or destruction of records will be in accordance with legal and regulatory requirements and Health Plan policy. Employees and Subcontractors/FDRs retain and dispose or destroy records in accordance with legal and regulatory requirements
  - a. Records pertaining to Health Plan litigation or government investigation or audit will not be destroyed.
  - b. Records that are subject to audit or current/threatened litigation may not be destroyed unless there is written notification of expiration of the litigation and record destruction is approved by senior management and the Compliance Officers.
  - c. Records are maintained in appropriate format and available within the timeframes required by Federal and State regulation.
  - d. The Compliance Officers or designee will oversee destruction of any records.
8. Accessing electronic information: Employees and Subcontractors/FDRs are responsible for properly using information stored and produced by all information systems.
  - a. Employees and Subcontractors/FDRs will comply with HIPAA and HITECH regulations and requirements that reflect the legal requirements for protecting electronically submitted Protected Health Information (PHI).
  - b. System users are responsible for preventing unauthorized access to systems. Passwords and other security codes may not be shared.
  - c. Accessing Health Plan system records or adjusting Health Plan or Subcontractor/FDR policy file or claims without proper authority is a violation of the Compliance Program and may be subject to disciplinary action up to and including termination.
9. Non-Retaliation for Reporting: Employees and Subcontractors/FDRs should be able to work without fear of retribution. Retaliation is prohibited against those (including health plan members) who, in good faith, report inappropriate activities.
  - a. The Health Plan is committed to equal employment opportunity in the workplace. The Health Plan seeks a work environment that is free of harassment and discrimination. Employees must observe the Health Plan's commitment and extend appropriate behavior in the workplace.
  - b. Employees must report violations to the Compliance Officers.
10. Seeking guidance and reporting violations: Employees and Subcontractors/FDRs must report actual or suspected violations.

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- a. All inquiries are confidential subject to the limitations imposed by law.
11. Enforcement of corrective action and/or discipline: Employees or Subcontractors/FDRs who violate any of the Compliance Program requirements or violate related Health Plan policies and procedures are subject to corrective action and/or disciplinary action up to and including termination.
  - a. Violations may result in criminal referral and reports to law enforcement and government agencies.
  - b. Any employee or Subcontractor/FDR who harasses or threatens a Health Plan employee or Subcontractor/FDR for reporting violations will be terminated.
12. Health, safety and the environment: Employees and Subcontractors/FDRs are expected the work safely and know how to apply any safety procedures that apply to their work. Employees and Subcontractors/FDRs should use best efforts to improve safety and reduce waste.
- E. Gifts and entertainment: Employees must abide by the BH code of conduct and policies as it relates to gifts and entertainment.
- F. The Health Plan must review Medicaid/Medicare regulations and requirements at least annually or whenever revisions are made by Medicaid/Medicare to ensure the Health Plan code of conduct is up-to-date and to incorporate changes in applicable laws, regulations, and other program requirements.
13. The Health Plan will revise the code of conduct in the Health Plan's compliance program to ensure it is compliant with Medicaid/Medicare requirements.
- G. The Health Plan writes the code of conduct in a format that is easy to read and comprehend.
- H. The Health Plan code of conduct is submitted annually or when revised, as a component of the Compliance Program, to the Health Plan's Compliance Committee for review and approval. The Governing Body also reviews the Compliance Program on an annual basis.
- I. The Health Plan distributes the code of conduct to all employees within 60 days and all FDRs within 90 days of initial hire or contract, when there are updates to the code of conduct, and annually thereafter.
  1. The Health Plan maintains documentation which demonstrates that the code of conduct was distributed to employees.
- J. The Health Plan makes the Health Plan's code of conduct available to Subcontractors/FDRs. Subcontractors/FDRs may use the Health Plan's code of

conduct or may submit the Subcontractor's/FDR's code of conduct to the Health Plan for review and approval to ensure the Subcontractor's/FDR's code of conduct is comparable to the Health Plans.

1. Subcontractors/FDRs are required to distribute the Health Plan's or their Health Plan-approved code of conduct to Subcontractor/FDR employees.
2. Subcontractors/FDRs are required to attest that the code of conduct is distributed to Subcontractor/FDR employees.
3. Subcontractors/FDR maintains documentation which can be submitted to the Health Plan upon annual audit which demonstrates that the code of conduct was distributed to Subcontractor/FDR employees.

## **II. Performance and Outcome Measures:**

- A. 100% of employees receive, read and attest to having understood the Health Plan's code of conduct within 60 days of hire for employees and annually thereafter.
- B. The Health Plan code of conduct is reviewed at least annually to ensure it contains all governing agency required components.
- C. The Health Plan maintains documentation demonstrating code of conduct distribution through Banner Learning Center.
- D. 100% of Subcontractors/FDRs receive the Compliance Attestations and must complete and return as evidence that they either adopt and comply with the Health Plan code of conduct or adopt another code of conduct similar to the Health Plan code of conduct and follow the set standards. The Vendor Oversight Program Manager is responsible for distributing, collecting and reviewing the Attestation responses.

## **III. References:**

- A. A.R.S. § 36-2918.01
- B. 42 CFR § 455.17
- C. 42 CFR § 455.1(a)(1)
- D. A.R.S § 13-2310
- E. 42 CFR § 438.608
- F. AHCCCS Contract; Paragraph 62, Corporate Compliance
- G. 422.503(b)(4)(vi)(A)
- H. 42 C.F.R. § 423.504(b)(4)(vi)(A)
- I. Medicare Managed Care Manual, Chapter 11, section 20.1
- J. Prescription Drug Benefit Manual, Chapter 9, section 50.1 and section 30
- K. Medicare Managed Care Manual, Chapter 21, Section 50.1 and section 30
- L. AHCCCS Contractor Operations Manual, Policy 103 Fraud and Abuse
- M. Title XVIII of the Social Security Act
- N. Patient Protection and Affordable Care Act (Pub. L. No 111-148, 124 Stat. 119)
- O. Health Insurance Portability and Accountability Act (public law 104-191)

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- P. False Claims Acts (31 USC § § 3729-3733)
- Q. Federal Criminal False Claims Statutes (18 USC § § 287.1001)
- R. Anti-Kickback Statute (42 USC § 1320a-7b(b))
- S. The Beneficiary Inducement Statute (42 USC § 1320a-7a(a)(5))
- T. Civil Monetary Penalties of the Social Security Act (42 USC § 1395w-27(g))
- U. Physician Self-Referral (Stark) Statute (42 USC § 1395nn)
- V. Fraud and Abuse, Privacy and Security Provisions of the Health Insurance Portability and Accountability Act, as modified by the HITECH Act
- W. Prohibitions against employing or contracting with persons or entities that have been excluded from doing business with the Federal Government (42 USC § 1395w-27(g)(1) (G))
- X. Fraud Enforcement and Recovery Act of 2009
- Y. All sub-regulatory guidance produced by Medicaid/Medicare such as manuals, training materials, memos and guides

**IV. Related Policies/Procedures:**

- A. BH Policy - 262 Compliance Program Obligations
- B. BH Policy - 418 Corrective Action Policy
- C. BH Policy - 264 Compliance: Reporting and Investigating Potential Compliance Issues
- D. BH Policy - 732 Conflict of Interest
- E. BH Policy - 739 Records Retention and Destruction
- F. BH Policy - 402 HIPAA: Responding to Privacy Incidents Violations
- G. BH Policy - 410 Workforce Confidentiality
- H. BH Policy - 408 HIPAA: Using, Disclosing and Requesting the Minimum Necessary Amount of PHI
- I. BH Policy - 437 Prohibition Against Retaliation for Protected Activities
- J. BH Policy -792 Safety Manual: Hazardous Materials Management - Hazard Communication Program
- K. BH Policy - 202 Compliance: Prohibition on Kickbacks and Bribes
- L. BH Policy - 190 Compliance: Business Courtesies to Physicians and Immediate Family Members
- M. BH Policy - 256 Compliance: Acceptance of Items from Outside Business Associates
- N. BH Policy - 182 Compliance: ComplyLine
- O. BH Policy - 194 Compliance: Federal and State Exclusion Review
- P. BH Policy - 286 Compliance: Mandatory Compliance Training and Education
- Q. BH Policy - 401 HIPAA Privacy and Security Mandatory Training
- R. BH Policy - 425 Equal Employment Opportunity & Affirmative Action Policy
- S. BH Policy - 411 ADA/Non-Discrimination Against Disabled Employees and Applicants



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- T. BH Policy – 427 Harassment and Sexual Harassment Policy
- U. Health Plan Policy – CP 5004 Reporting Compliance Issues
- V. Health Plan Policy – CP 5015 Compliance Investigation Process
- W. Health Plan Policy – CP 5003 New Employee Orientation and Training
- X. Health Plan Policy – CP 5018 Fraud, Waste and Abuse
- Y. Health Plan Policy – CP 5108 Compliance Actions
- Z. Health Plan Policy – CP 5022 Maintenance and Retention of the University of Arizona  
Health Plan’s Documents, Member Records and All Related Business Documents
- AA. Health Plan Policy – CP 5001 Compliance Program
- BB. Health Plan Policy – CP 5221 Compliance Officer Responsibilities
- CC. Health Plan Policy – GP 5017 Training Material Preparation, Documentation and Tracking
- DD. Health Plan Policy – CP 5024 Conflict of Interest

**V. Keywords and Keyword Phrases:**

- A. Code of Conduct
- B. Conflict of Interest
- C. Compliance Program