



## Legislation Text

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**File #:** 2023-0200, **Version:** 1

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**To:** County of Sonoma Board of Supervisors

**Department or Agency Name(s):** Department of Health Services

**Staff Name and Phone Number:** Tina Rivera, 707-565-4774; Jennifer Pimentel, 707-565-5311; Sharmalee Rajakumaran, 707-565-3738

**Vote Requirement:** Majority

**Supervisorial District(s):** Countywide

**Title:**

Department of Health Services Compliance Program CY 2022/2023 Mid-Plan Progress Report for CY 2022

**Recommended Action:**

Receive the Sonoma County Department of Health Services Compliance Program CY 2022/2023 Mid-Plan Progress Report for CY 2022.

**Executive Summary:**

The Department of Health Services (hereinafter, "DHS" or "the Department") Compliance Unit is responsible for directing and administering a comprehensive healthcare compliance program, ensuring compliance with federal, state, and local healthcare regulations and requirements. The Board of Supervisors is responsible for providing oversight to ensure DHS has an adequate and effective compliance program. Additionally, through delegated authority, the Board of Supervisors ensures the Director of Health Services provides administrative oversight and leadership of the program through direction of the Compliance Officer.

This item requests the Board receive the Sonoma County Department of Health Services Compliance Program CY 2022/2023 Mid-Plan Progress Report for CY 2022.

**Discussion:**

Per the U.S. Department of Health and Human Services Office of Inspector General's (OIG) *Practical Guidance for Health Care Governing Boards on Compliance Oversight*, it is imperative that the Board understands its role and the function of the compliance program focusing on the following: (1) roles of, and relationship between, the organization's audit, compliance, and legal departments; (2) mechanisms and process for issue-reporting within an organization; (3) approach to identify regulatory risk; and (4) methods of encouraging enterprise-wide accountability to achieve compliance goals.

<https://oig.hhs.gov/documents/root/162/Practical-Guidance-for-Health-Care-Boards-on-Compliance-Oversight.pdf>

Since 2017 DHS has been working with a national compliance expert to continuously improve the effectiveness of the Compliance Program by incorporating requirements and best practices as outlined in two publications:

1. On January 17, 2017 the Office of Inspector General (OIG) and Health Care Compliance Association (HCCA) released *Measuring Compliance Program Effectiveness: A Resource Guide*.  
<https://oig.hhs.gov/documents/toolkits/928/HCCA-OIG-Resource-Guide.pdf>

2. On June 1, 2020, the Criminal Division of the U.S. Department of Justice (DOJ) released updated guidance to its prosecutors on how to evaluate the design, implementation, and effective operation of corporate compliance programs in determining whether, and to what extent, the DOJ considers a corporation's compliance program to have been effective at the time of the offense and to be effective at the time of a charging decision or resolution.

<https://www.justice.gov/criminal-fraud/page/file/937501/download>

DHS maintains an effective Compliance Program by working collaboratively with Department staff and colleagues in identifying and mitigating potential regulatory risks and adhering to the United States Sentencing Commission's Federal Sentencing Guidelines (FSG) seven elements of an effective compliance program. The Compliance Unit staff have a clear understanding of, and adherence to the intent of the FSG in promoting regulatory compliance.

In accordance with the FSG seven elements of an effective compliance program, the following actions were implemented in CY2022 to maintain and enhance the DHS Compliance Program:

**Element #1 Compliance Policies and Procedures and Standards of Conduct:**

The Standards of Conduct and compliance-related policies and procedures were reviewed to maintain currency with applicable regulations. For example: Policies 3.1.6 Overpayment Identification and Reporting, 3.1.1 Communication, Inappropriate Activity Reporting, Non-Retaliation and Report Management, and 3.1.3 Compliance Education and Training Requirements. The DHS Policy Committee finalized Policy 0.0.0 Policy and Procedure Organization, Structure, and Maintenance that outlines a centralized approach to the approval, review, revision, and dissemination of policies. Policies 0.0.0 Policy and Procedure Organization, Structure, and Maintenance and 3.1.6 Overpayment Identification and Reporting were disseminated to applicable DHS Staff and posted on the DHS Policy and Procedures Library located on the Intranet.

**Element #2 Compliance Officer and Compliance Committee:**

The DHS Compliance Officer transitioned to a new role within the Department and a new Compliance Officer was hired. Additionally, there were two Healthcare Compliance Analysts assisting with the implementation and evaluation of the effectiveness of the Compliance Program and to manage increased regulatory requirements. All DHS Compliance Unit staff are Certified in Healthcare Compliance (CHC) by the Compliance Certification Board (CCB).

The Compliance Unit maintains the Department's compliance governance structure that includes the Executive Compliance Committee (ECC) and the Operational Compliance Committee (OCC). The objective of the OCC is to provide operational support to the Compliance Officer in the development, implementation, and evaluation of DHS compliance risk mitigation activities. The ECC is responsible for executive management oversight of Compliance Program activities within the Department. Compliance risk areas of high priority and proposed risk mitigation activities are discussed at the OCC and ECC meetings. The ECC and OCC met monthly during CY 2022 as scheduled.

**Element #3 Training and Education:**

General Compliance Program and HIPAA Privacy and Security education was provided to DHS staff and included but not limited to: Introduction/Overview to the DHS Compliance Program, Compliance Risk Identification and Reporting Methods, and the Seven Elements of an Effective Compliance Program. Training

and orientation were provided in different mediums including Zoom, in-person, and e-mail.

The Compliance Unit released its first *online* mandated Annual Compliance and Ethics Awareness training through the County Learning Management System (LMS) to all DHS staff. Upon completion of the training, users were required to review and attest to the DHS Standards of Conduct. The Compliance Unit continues to track and monitor training completion by active DHS staff to ensure 100% completion rate.

DHS staff participated in the healthcare industry-wide, annual Corporate Compliance and Ethics Week from November 7 - 10, 2022. With the motto "**See It, Say It, Fix It**", the Compliance Unit developed training and education materials for DHS staff to reinforce their understanding of, and specific responsibilities to an effective compliance program. During that week, e-mails were sent out daily to all DHS staff to reinforce and strengthen their awareness on a variety of compliance-related topics including, but not limited to, inappropriate activity or misconduct and internal reporting mechanisms.

#### **Element #4 Auditing and Monitoring:**

In collaboration with DHS management and following the CY 2022-2023 DHS Compliance Biennial Work Plan, audit and monitoring activities occurred as planned. For example, the Compliance Unit conducted audits on Behavioral Health (BH) contracted service providers who are subject to the Behavioral Health Mental Health Plan (BH MHP) Contractor compliance programs federal "Program Integrity" requirements (42 CFR 438.608). Technical assistance was provided, as needed, to the contractors to assure adherence to the requirements.

Monitoring of compliance risks within the specific DHS Divisions/Units continues and includes but is not limited to ongoing review of staff credentials, contract and grant tracking, privacy and security risk assessment and detailed audits, as indicated. "DHS Licenses Set to Expire" reports are monitored monthly for all licensed and other credentialed staff to ensure credentials are renewed prior to expiration and the workforce remains appropriately credentialed. In accordance with 42 CFR 438.602(d), 42 CFR 455.436(b)(c), WIC 14043.61(a), DHS conducted "excluded provider screenings" prior to hire and monthly thereafter to ensure DHS does not employ in any capacity, or retain as a subcontractor in any capacity, any individual or entity whose service is directly or indirectly, in whole or in part, payable by a Federal Healthcare Program (including Medicare and Medicaid) that is on any published federal or state lists regarding the sanctioning, suspension, or exclusion of individuals or entities. As a result of this monitoring, there were no incidents of DHS staff or subcontractors on any published Federal and State Exclusions lists during CY 2022.

The results of such Unit-specific monitoring and resultant performance/process improvements were reported through the OCC and to the ECC.

#### **Element #5 Reporting and Investigation:**

All regulatory compliance-related concerns communicated formally or informally to the Compliance Unit were triaged, logged, investigated, and monitored until disposition, with the intent to track mitigation of the issue and related outcomes for each regulatory concern.

The Compliance Unit developed a DHS Compliance hotline poster and distributed copies throughout the Department, including Administration, Behavioral Health, and Public Health locations to promote compliance program awareness and the ability to report a concern confidentially without fear of retaliation or retribution. Compliance reporting methodology data indicates DHS staff are comfortable directly reporting compliance

concerns to the Compliance Unit, as evidenced by 100% of all reports in CY 2022 were deemed “open reporting” (e.g., email, phone, or in-person).

The substantiated regulatory compliance issues resulted in mitigation actions including, but may not be limited to, personnel action(s), development and/or revision of relevant policies and procedures, additional education, training, and auditing.

The Compliance Unit also received and responded to 38 inquires related to regulations and county policies. These informational calls are defined as requests for information or clarification of an existing law, regulation, department procedure, or industry best practice and are not identified as a report of alleged non-compliance and therefore not counted in the regulatory compliance issue reporting.

**Element #6 Enforcement and Discipline:**

Potential high risk compliance issues are regularly monitored, and appropriate enforcement and discipline measures are administered by management in collaboration with Human Resources (as appropriate), in a fair, equitable, and consistent manner in accordance with the Rules of the Civil Service Commission and applicable Memorandum of Understands (MOUs).

**Element #7 Response and Prevention:**

Systems and processes continue to address government inquiries and regulatory changes. Examples include:

- All federal/state/local audits of the DHS programs/services are tracked and reported to ECC and OCC to ensure areas of non-compliance are corrected to prevent further non-compliance.
- All new DHCS Behavioral Health Information Notices (BHIN), Public Health California Children’s Services (CCS) Information Notices and Numbered Letters regarding changes in policy or procedures at the federal or state levels are reviewed, disseminated to appropriate Units and monitored for adherence.

**Strategic Plan:**

N/A

**Prior Board Actions:**

On March 1, 2022 the Board received the Sonoma County Department of Health Services Compliance Program annual report for CY2018 - CY2021.

On December 4, 2018 the Board received an orientation on health care compliance and the Board’s oversight role from national compliance expert Lynda Hilliard. The Board directed the Compliance Officer to prepare an annual healthcare compliance report to the Board beginning in Spring 2019.

On March 2, 2010 the Board received the 2009 Healthcare Compliance Program Annual Report.

On February 24, 2009 the Board received the 2008 Healthcare Compliance Program Annual Report.

On May 13, 2008 the Board received the 2007 Healthcare Compliance Program Annual Report.

On March 6, 2007 the Board received the 2006 Healthcare Compliance Program Annual Report.

On May 17, 2005 the Board received a report of the 2003 - 2004 Compliance Program Evaluation from the Department of Health Services.

On April 6, 2004 the Board adopted a resolution approving the Department of Health Services Compliance

Program and directing the Director of Health Services to implement it and to amend it from time to time as necessary (Resolution No. 04-0296).

**FISCAL SUMMARY**

<b>Expenditures</b>	<b>FY 22-23 Adopted</b>	<b>FY 23-24 Projected</b>	<b>FY 24-25 Projected</b>
Budgeted Expenses			
Additional Appropriation Requested			
<b>Total Expenditures</b>	<b>0</b>	<b>0</b>	<b>0</b>
<b>Funding Sources</b>			
General Fund/WA GF			
State/Federal			
Fees/Other			
Use of Fund Balance			
Contingencies			
<b>Total Sources</b>	<b>0</b>	<b>0</b>	<b>0</b>

**Narrative Explanation of Fiscal Impacts:**

There are no fiscal impacts associated with this item.

<b>Staffing Impacts:</b>			
<b>Position Title (Payroll Classification)</b>	<b>Monthly Salary Range (A-I Step)</b>	<b>Additions (Number)</b>	<b>Deletions (Number)</b>

**Narrative Explanation of Staffing Impacts (If Required):**

N/A

**Attachments:**

None

**Related Items "On File" with the Clerk of the Board:**

None