



Legislation Text

File #: 2020-0626, **Version:** 1

To: County of Sonoma Board of Supervisors

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

Staff Name and Phone Number: Tina Rivera 565-4774, Wendy Sanders, 565-4936, Phyllis Gallagher, 565-2375

Vote Requirement: Majority

Supervisorial District(s): Countywide

Title:

Department of Health Services Compliance Program Annual Report

Recommended Action:

Receive the Sonoma County Department of Health Services Compliance Program annual report for CY2018 - CY2021.

Executive Summary:

The Department of Health Services (DHS) 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 and through delegated authority ensures the Director of Health Services provides the administrative oversight and leadership of the program through the direction of the Compliance Officer. The Board of Supervisors also ensures the Compliance Officer has unfettered access through an effective reporting system that assures the appropriate information relating to compliance with applicable laws will come to its attention timely and accurately.

This item requests the Board receive the Sonoma County Department of Health Services Compliance Program annual report for CY2018 - CY2021.

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 Department'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, Lynda Hilliard, to continuously improve the effectiveness of the Compliance Program. The requirements and best practices for an effective compliance program have evolved over time and are outlined in two recent 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>

From CY2018 - CY2021, DHS made significant progress in improving its Compliance Program by working collaboratively with Department 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.

The DHS Compliance Officer's annual Compliance Program Board reports have been delayed due to unforeseen circumstances including the Compliance Officer's personal leave of absences and additional duties brought on by the COVID-19 pandemic from 2020 to present, the Kincade Fire of 2019, the Glass, Walbridge, Meyers fires of 2020, and long term, temporary assignment of Compliance Unit staff to manage and/or assist the Behavioral Health (BH) Services Division in various roles during the absence of BH leadership.

Despite these challenges, multiple actions were implemented from CY2018 - CY2021 to identify, improve and enhance the required seven elements of an effective Compliance Program within DHS. Significant actions include:

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

Compliance policies and procedures help to set the expectations for all staff. All mandated Health Insurance Portability and Accountability Act (HIPAA) privacy and security policies were updated and an overpayment reporting policy was created and implemented. A Department-wide committee worked on establishing a policy entitled "Policy and Procedure Organization, Structure, and Maintenance" in order to standardize all Departmental policies.

Element #2 Compliance Officer and Compliance Committee:

The Compliance Unit staffing was significantly increased from one Compliance Officer and one Health Care Compliance Analyst to one Compliance Officer and three Health Care Compliance Analysts in order to assist in the implementation and evaluation of the effectiveness of the Compliance Program and to manage increased regulatory requirements.

The Compliance Unit staff implemented an improved Compliance Governance Structure that included reconfiguring the Executive Compliance Committee (ECC) to enhance the executive oversight role and added an Operational Compliance Committee (OCC) with the primary goal of providing operational support to the Compliance Officer in the development and implementation of DHS compliance risk mitigation activities.

Element #3 Training and Education:

General compliance program and privacy and security education was provided to DHS staff and contractors. Trainings were provided in different mediums including Zoom, e-mail and through the County Learning

Management System. Since 2019, DHS has participated in the annual Corporate Compliance and Ethics Week. Compliance Unit staff sent out daily educational e-mails to all staff to strengthen their awareness on a variety of compliance-related topics including fraud, waste and abuse, False Claims Act, reporting responsibilities and the DHS non-retaliation policy.

Element #4 Auditing and Monitoring:

Regulatory compliance, privacy and security potential risk areas were identified, prioritized and audited or monitored until a disposition occurred. Examples include:

- All Behavioral Health Mental Health Plan (BH MHP) Contractor compliance programs that are subject to federal “Program Integrity” requirements (42 CFR 438.608) were audited for potential gap areas and assistance was provided to bring all programs into compliance with regulatory requirements.
- Compliance Program staff participated in a “mock review” of the BH MHP five months before the California Department of Health Care Services (DHCS) conducted their January 2021 triennial review. Potential gaps were identified and resolved prior to the DHCS review. This “mock review” contributed to Sonoma County’s BH MHP being ranked in the 95-100% top tier by DHCS in their state-wide reviews.
- Several compliance risk monitoring initiatives were implemented within the specific DHS Divisions/Units, such as Fiscal cost reporting, privacy and security risk assessment, and mandatory privacy training which significantly improved overall compliance. The results of these initiatives were reported through the Operational Compliance Committee to the Executive Compliance Committee.

Element #5 Reporting and Investigation:

All reported compliance concerns were logged, investigated, and monitored until disposition. The Compliance Reporting Log was updated to better-defined outcomes for each regulatory concern and increased the ability to track and trend applicable mitigations. A real-time compliance dashboard was built and implemented to pull aggregated and trended data regarding reported compliance concerns from the Compliance Reporting Log. Compliance reporting methodology data indicates that DHS staff are comfortable directly reporting compliance concerns to the Compliance Unit, rather than reporting through the confidential anonymous compliance hotline. This indicates a positive employee culture, one where there is minimal to no fear of retaliation in reporting potential compliance concerns.

Element #6 Enforcement and Discipline:

Potential high-risk compliance issues are regularly monitored and appropriate enforcement and discipline measures are administered in a fair, equitable, and consistent manner. Examples of the monitoring of the potentially high-risk areas include:

- Expiring credential reports are managed bi-monthly for all staff to ensure that credentials are renewed prior to expiration and the workforce remains appropriately credentialed.
- Excluded provider screenings are conducted 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.
- COVID-19 vaccination status for all staff is tracked to ensure compliance with current County

Vaccination and Testing Policy requirements.

Element #7 Response and Prevention:

Systems and processes continue to be effective in addressing government inquiries and regulatory changes. Examples include:

- All federal/state/local audits of the DHS programs/services are tracked to ensure that areas of non-compliance are corrected to prevent further non-compliance.
- All new DHCS BH Information Notices regarding changes in policy or procedures at the federal or state levels are managed and tracked for adherence.

State Oversight Review of the DHS Compliance Program:

The Medicaid Managed Care MHP program mandates the existence of the DHS Compliance Program as outlined in the federal “Program Integrity” requirements per 42 CFR 438.608. Triennially, DHCS audits the DHS Compliance Program to ensure compliance with the federal program integrity standards. In January 2021, DHCS found the DHS Compliance Program to be fully compliant with the federal requirements, without any deficiencies noted or corrective action plans needed. The DHCS auditors stated the DHS Compliance Program was one of two “superior strengths” of the BH MHP and were impressed with the:

- DHS Compliance Program and adherence with the “Program Integrity” requirements.
- DHS Compliance Unit’s evaluation of the Community Based Organization’s compliance programs.
- DHS Compliance Governance Committee structure.

Strategic Plan:

N/A

Prior Board Actions:

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

Expenditures	FY 21-22 Adopted	FY 22-23 Projected	FY 23-24 Projected
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Budgeted Expenses			
Additional Appropriation Requested			
Total Expenditures	0	0	0
Funding Sources			
General Fund/WA GF			
State/Federal			
Fees/Other			
Use of Fund Balance			
Contingencies			
Total Sources	0	0	0

Narrative Explanation of Fiscal Impacts:

There are no fiscal impacts associated with this item.

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

Narrative Explanation of Staffing Impacts (If Required):

N/A

Attachments:

None

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

None