

Gulf Bend Center

IMPROVING LIFE THROUGH RECOVERY.



Corporate Compliance Standards of Conduct

October 2019

APPROVAL SIGNATURES:



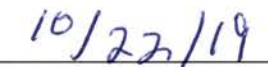
Gulf Bend Center Board of Trustees Chair



Date



Executive Director



Date

GULF BEND CENTER STANDARDS OF CONDUCT

INTRODUCTION

As members of Gulf Bend Center's (GBC) workforce (Board of Trustees, employees, contractors, volunteers, students), we must be dedicated to supporting the highest ethical standards as we strive towards our Mission Statement, Culture, Vision, and Core Values as indicated below. This dedication is important because we all have a responsibility to each other, to the individuals we serve (customers) and their families, and to GBC to operate ethically and honestly. Not doing so could have a detrimental effect on our Mission and on our ability to serve the members of our community.

MISSION STATEMENT

To improve the quality of life in our community for individuals and their families by providing excellent and trusted care for wellness

OUR CULTURE

A welcoming environment of positive attitudes driven by honesty, integrity, and ethics

OUR VISION

To be recognized as the best resource of quality services in our community

Gulf Bend Center

CORE VALUES



TEAM
WORK



CARING



COMPASSION



QUALITY

3Q's

QUALITY STAFF / SERVICES / OUTCOMES

The purpose of these Standards of Conduct is to provide guidelines relating to the Center's belief in how we should ethically, legally and professionally conduct our behavior in all of our dealings inside and outside the organization. The Standards of Conduct are not intended to fully describe all of the laws that apply to the workforce or to detail the Center's policies and procedures. These standards were established so that all Gulf Bend Center workforce members will know and understand expectations of behavior.

Gulf Bend Center's Policies and Procedures provide additional guidance to help us perform our jobs. The Center's Policies and Procedures are located on the Center's network. If you need assistance finding a specific policy and procedure contact your supervisor/manager or the Compliance/QM Department.

THE COMPLIANCE PROGRAM

Gulf Bend Center is committed to compliance with all applicable laws, rules and regulations at all levels of the organization. Gulf Bend Center's Board of Trustees has adopted a formal Compliance Program to ensure that we conduct our business with integrity and in accordance with applicable laws and our policies and procedures, as well as to provide a safe environment for raising concerns and questions. The Center's Compliance Program outlines what we do as an organization to comply with legal and ethical requirements and is based on the elements of an effective compliance program identified by the U.S. Sentencing Commission and the U.S. Department of Health and Human Services Commission. As such, Gulf Bend's compliance program includes:

- Setting integrity standards by developing and publishing written policies, procedures and our Standards of Conduct;
- Communicating these standards and procedures through awareness, education and training programs;
- Providing a process for reporting potential violations of laws, policies, procedures or our Standards of Conduct;
- Conducting ongoing auditing and monitoring activities;
- Identifying, investigating and responding to potential compliance problems;
- Performing routine sanctions (background) checking to ensure we are not conducting our business/services with individuals and entities ineligible to participate in federal healthcare programs;
- Taking corrective action to address identified compliance problems;
- Enforcing integrity standards and disciplining non-compliant actions in accordance with the Center's Corrective Action Procedures;
- Maintaining an organizational structure that supports the furtherance of the Compliance Program, including the appointment of a Compliance Officer and the establishment of a Compliance Committee (Integrity, Quality and Compliance Committee – IQC) to advise and assist the Corporate Compliance Officer.

APPLICABILITY OF THE STANDARDS OF CONDUCT

All members of GBC's workforce are responsible for adhering to these Standards of Conduct. We must not allow ourselves to compromise our compliance to these Standards of Conduct in any way regardless of our position. Board members, employees, students, volunteers, and contractors of GBC are all accountable for complying with these Standards of Conduct. Customary practice, expediency or fear of insubordination should never justify unethical or illegal behavior (see box).

EXAMPLES:

- *Customary Practice:* "It's been done this way for years."
- *Expediency:* "I didn't have time." or "My department is short-staffed."
- *Fear of Insubordination:* "My boss told me to not say anything but to just do it."

The standards outlined in this document govern our professional and business relationships with those that we serve. They include, but are not limited to, customers, their families, friends and loved ones, members of our communities, physicians and other providers, third-party payers, government regulators, vendors, contractors, consultants, co-workers and colleagues.

As a member of GBC's workforce, you will be required to participate in education and training related to GBC's compliance program and these Standards of Conduct. Failure to participate in and complete the requisite compliance training will result in disciplinary action.

REPORTING & NON-RETALIATION

We all have a responsibility to report violations or suspected violations to any laws, acts, statutes, policies, procedure or to these Standards of Conduct. Reports may be made to a manager, supervisor or to a member of the Quality Management (Compliance) Department or Human Resources Department. Managers and supervisors are further required to report allegations reported to them and to report any known or suspected violations to any laws, acts, statutes or regulations that they discover in the performance of their supervisory duties. Reports can be made to the Corporate Compliance Officer or to another member of the Quality Management (Compliance) Department or Human Resources Department. Reports can be made in writing, by telephone (Hotline or other posted numbers) or can be made via the Compliance email address.

All Gulf Bend Center workforce have the obligation to report to their supervisors and/or the QM/Corporate Compliance Department any violations of federal/state laws, the Standards of Conduct, Policies and Procedures or any unethical practices of other Gulf Bend Center workforce. If a Gulf Bend Center workforce member has concerns about the improper actions of other Center workforce, they should contact either his or her supervisor, the QM/Compliance Department or Human Resources. Reports will be treated confidentially.

Don't take the chance. Ignoring a problem will not make it go away.

If you see it, hear it or suspect it, **REPORT IT!!** Knowledge without reporting means you are involved.

You may contact the QM/Compliance Department as follows:

TELEPHONE:

- Compliance Hotline: 361-582-2303 or extension 303
- Julia Galvan, QM/Corporate Compliance - 361-582-2317
- Martha Jones, QM/Corporate Compliance - 361-582-2349

WRITE:

Gulf Bend Center
Attention: QM/Compliance Department
6502 Nursery Drive, Suite 100
Victoria, Texas 77904

E-MAIL:

compliance@gulfbend.org
Reporting may also be made to the Health and Human Services Office or Inspector General at 1-800-447-8477.

You may contact the Human Resources Department as follows:

TELEPHONE:

- Shelly Frank, Director of Human Resources – 361-582-2338

All reports are investigated and are confidential in accordance with the Center's Corporate Compliance Plan.

Anonymous reports are accepted. Anonymity cannot be guaranteed.

If you know of a violation but fail to report it, you could be considered a party to the violation. This means that if you have knowledge of a violation to a law, act, statute, policy or procedure or to these Standards of Conduct and you fail to report it and the violation is discovered (either through internal means or through an external audit or investigation by federal or state authorities), you could be held responsible even if you were not the one committing the violation.

You should never fear retaliation or retribution for making a report. Anyone who ever feels retaliated against for making a report should contact the Corporate Compliance Officer or Director of Human Resources immediately. Retaliatory behavior will not be tolerated at any level of the organization.

Contact numbers for the Compliance Department are in the box above and are found on-line on the Center's intranet site, and are also available in various publications, announcements and e-mail notices developed by the compliance department.

**IT IS ALWAYS THE
RIGHT TIME TO DO
THE RIGHT THING**

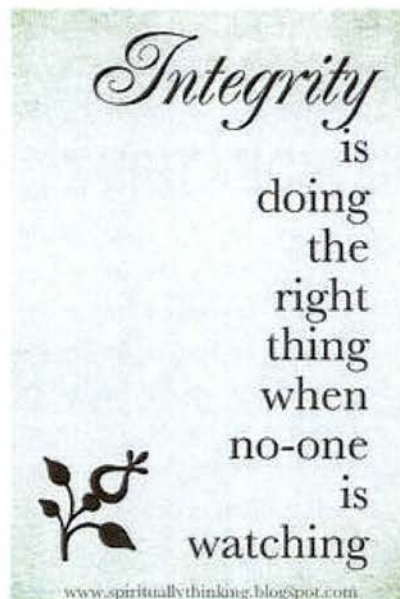
MARTIN LUTHER KING JR
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ETHICAL DECISION MAKING *“DOING THE RIGHT THING”*

Integrity, common sense, and sound judgement are your best guides in determining if your personal actions meet the expected standards for ethical and lawful behavior. If you find yourself in a situation where you are unsure, ask yourself these questions:

- Is my action consistent with Gulf Bend Center practices, policies and procedures and legal or regulatory requirements?
- Could my action give the appearance (to others) of impropriety or wrongdoing?
- Will the action bring discredit to any staff, or to Gulf Bend Center, if disclosed fully to the public?
- Can I defend my action to my supervisor, other staff and to the general public?
- Does my action meet my personal code of behavior?



RESPONSIBILITY & ACCOUNTABILITY

As members of GBC's workforce, we are expected to exercise an appropriate level of responsibility. We are all responsible to each other, to the organization, and to those that we serve. We are responsible for what we do as well as for what we fail to do. All decisions we make, whether they be to act a certain way or *not* to act a certain way, will impact the end result. We all must recognize our responsibility and understand that we, as individuals, are all accountable for the choices, decisions, actions or inactions that we make.

We are all expected to conduct business in accordance with GBC's Values and with these Standards of Conduct. We must all exercise sound judgment and make decisions based on the best interests of GBC and of those that we serve.

Management and supervisory staff are responsible for communicating the requirements of the Corporate Compliance Program and these Standards of Conduct to those who report to them by emphasizing its importance, taking appropriate measures to detect and correct any violations and prevent recurrence, and imposing consistent and appropriate corrective action, if warranted. They shall inform their staff of any issues relevant to their respective department and of the various options for reporting a compliance concern. Leadership personnel are expected to create and maintain an open environment where staff are encouraged and comfortable raising compliance concerns or asking questions without fear of retaliation or intimidation. Adherence to these Standards of Conduct and support of Gulf Bend Center's Compliance Program are components of the staff evaluation process for all employees and management staff.

STANDARDS OF CONDUCT

INFORMATION PRIVACY AND CONFIDENTIALITY

Gulf Bend Center is committed to maintaining the confidentiality of all protected health and proprietary information according to existing laws and standards and internal Policies and Procedures.

Protected Health Information

We are required to understand and comply with the Health Insurance Portability and Accountability Act (HIPAA) and all other Federal and State laws applicable to the privacy and confidentiality of protected health information (PHI). PHI refers to any information, whether oral or recorded in any form, that is created or received by Gulf Bend Center and relates to the past, present, or future health condition or payment for services of an individual we serve.

- **We will** disclose confidential information only in accordance with a specific authorization form signed by the customer/LAR or under exceptions allowed by Federal and State law.
- **We will** access protected health information only to complete assigned responsibilities within the Center - only the minimum necessary information for routine uses and disclosures of protected health information.
- **We will** keep passwords a secret and not share with others.
- **We will** never access protected health information of co-workers, friends or family members, when it is not part of your assigned responsibility.
- **We will** immediately report any intentional or unintentional disclosures of protected health information and violations of privacy/confidentiality procedures.
- **We will** ensure that protected health information is not discussed in any public area (lobby/waiting area, home, public facility).
- **We will** store, transport, and dispose of protected health information in ways that protect the confidentiality of the information.

Proprietary Information

In addition to protected health information on the individuals we serve, other information created by Gulf Bend Center is also confidential. We are required to safeguard and maintain the confidentiality of Gulf Bend Center business and financial records, to include but not limited to Center policies/procedures/processes, customer lists, personnel data, financial data.

- **We will** protect confidential business/financial information and not use or disclose such information except in the proper performance of duties.
- **We will not** knowingly communicate or transfer any information or documents to any unauthorized persons.
- **We will not** make inappropriate modifications to information or destroy or disclose information except as authorized.

BILLING AND CODING

Gulf Bend Center is committed to the fair and accurate billing that is in accordance with all Federal and State laws and regulations and policies and procedures. This commitment applies to the governmental programs of Medicare and Medicaid, as well as those of other third-party payers and the customer.

- **We will** bill only for services that are medically necessary, provided and documented in the customer's medical record.
- **We will** prohibit staff from knowingly presenting or causing to be presented claims for payments that are false, fictitious or fraudulent.
- **We will** assign diagnostic, procedural and billing/service codes that accurately reflect the services that were provided.
- **We will** return any Medicare or Medicaid overpayments to governmental health care programs in a timely manner.

CONFLICTS OF INTEREST

Gulf Bend Center is committed to acting in good faith in all aspects of work. All workforce members are expected to exhibit professional loyalty to Gulf Bend Center and to avoid situations in which personal interests, activities or relationships create or appear to create a conflict of interest. A conflict of interest may exist whenever an employee or a related party (such as a family member, friend, or business associate) receives a personal benefit from any decision or action taken by the employee on behalf of Gulf Bend Center. The Center's workforce is expected to use good judgement, adhere to high ethical standards and avoid situations that create an actual or perceived conflict between their personal interests and those of the organization.

- **We will** exercise the duties of loyalty, good faith, honesty and fair dealing in all activities and transactions related to Gulf Bend Center.
- **We will not** misuse our position with Gulf Bend Center for personal gain.
- **We will not** offer or accept or provide gifts or services from those doing business or seeking to do business with Gulf Bend Center that violates Gulf Bend Center's Policies and Procedures. Acceptable items may include unsolicited advertising/promotional materials such as a pen, cup/mug, calendar, etc. If you have questions about accepting gifts, check with your supervisor and the Corporate Compliance Officer/Department.
- **We will not** accept outside employment or contracting arrangements that conflict with the interest of Gulf Bend Center.
- **We will** report actual or perceived conflicts of interest to a supervisor.
- **We will not** provide, solicit or receive kickbacks, bribes, rebates, gifts, entertainment or anything else of value to influence the referral of customers or services.
- **We will not** provide a referral to a staff's private practice or service, or to those of a family member.

HUMAN RESOURCES

Gulf Bend Center is committed to creating a workplace where employees are treated with respect and fairness while being empowered to get the job done at or above expectations.

- **We will** verify that the workforce members who are providers of professional health care services are properly licensed and trained prior to delivering customer care.
- **We will** verify the credentials and qualifications of all individuals applying for employment and contract work and hire only qualified individuals with appropriate expertise, licensure and experience.
- **We will not** hire or contract with any individual or entity who is excluded, suspended, debarred or otherwise ineligible to participate in the federal health care programs (Medicare, Medicaid) or has been convicted of a criminal offense related to the provision of health care items or services and has not been reinstated in the federal healthcare program after a period of exclusion, suspension debarment or ineligibility.
- **We will** treat everyone with dignity and respect regardless of position or status.
- **We will** review and evaluate each employee's performance periodically in an objective and consistent manner.
- **We will** maintain open lines of communication so that the views of everyone may be considered and opinions given proper respect.
- **We will** apply our standards of conduct and personnel policies equally to all employees regardless of position/status in the workplace.
- **We will** provide reasonable training opportunities to assist employees to build and maintain professional skills.
- **We will** ensure that our workforce is hired, trained, promoted and compensated based on individual competence and potential for advancement without regard for race, ethnicity, religion, sex, national origin, age or disability, as well as any other classifications as required by law.
- **We will** provide a work environment for all workforce free from harassment, discrimination and intimidation. We do not tolerate verbal or physical harassment (including sexual harassment).
- **We will** make reasonable accommodations for qualified individuals with known disabilities unless doing so would result in an undue hardship, safety, and/or health risk in accordance with the Americans with Disabilities Act and other applicable laws.
- **We will not** retaliate against individuals for raising claims of discrimination or harassment.
- **We will** support and observe a workplace free of alcohol, drugs and tobacco use.

MARKETING

Gulf Bend Center is committed to conducting marketing activities with truth, accuracy, and fairness, recognizing our responsibilities to our customers and the community. Gulf Bend Center markets only healthcare services which are available and within the scope of its licensure and accreditation as appropriate.

- **We will** compete in the market solely on the merit of our services. Marketing information, both oral and written, provided to customers and others will be clear, correct, and non-deceptive.

POLITICAL ACTIVITIES/CONTRIBUTIONS

Gulf Bend Center is committed to limiting political participation as required by law.

- ***We will not*** use Gulf Bend Center funds to contribute to political campaigns or for gifts or payments to any political party or any of their affiliated organizations. Organization resources include financial and non-financial donations such as using work time and telephones to solicit for a political cause or candidate, or loaning Gulf Bend Center property for use in a political campaign.
- ***We will not*** participate in political activities on behalf of Gulf Bend Center.
- ***We will not*** use our position at Gulf Bend Center to further the political activity of any person or group.

DOCUMENTATION AND RECORD KEEPING

Gulf Bend Center produces a large number of records and documents each and every day. All documentation should be accurate and factual. Examples include medical records, financial records, and electronic mails. The following rules apply to all types of documentation:

- ***We will not*** falsify facts or make false records.
- ***We will not*** sign someone else's name to any document.
- ***We will not*** document as someone else.
- ***We will*** only create records that are necessary and required.
- ***We will*** provide records and information to people who have a LEGAL "need to know".
- ***We will*** always preserve customer security, confidentiality and respect the customer's privacy.
- ***We will*** retain medical records and other proprietary records for retention periods that are in compliance with applicable laws and regulations.

QUALITY OF CARE/SERVICES

Gulf Bend Center is committed to providing quality care and services to the individuals served and their families. Gulf Bend Center recognizes its ethical and moral obligation to the customers and communities we serve.

- ***We will*** maintain integrity and quality at every level of the organization in our job performance.
- ***We will*** have a responsibility to address any deficiency or error by reporting it to a supervisor who can assess the problem, take appropriate action and follow the problem to resolution. Knowledge of safety or quality of care concerns are expected to be immediately reported to a Manager or Director of appropriate programs in which the issue has occurred. If the employee still has concerns, they may contact the Corporate Compliance Director.
- ***We will*** encourage each employee to continually evaluate existing methods of delivering services and report any suggestion to their immediate supervisor or quality management department.
- ***We will*** respect the human dignity and rights of each individual we serve by responding to all customer questions, concerns and needs in a timely and sensitive manner.

- **We will** respect the rights of customers to be involved in all aspects of their care and obtain informed consent for treatment.
- **We will** ensure all admitted customers are provided with a verbal and written explanation of their “Rights” as customers of Gulf Bend Center.
- **We will** continually monitor, evaluate and provide training for the delivery of care and related services to assure that appropriate evidenced based standards are met.
- **We will** not discriminate against any customer for any reason including race, ethnicity, religion, sex, sexual orientation, national origin, gender identity, age, marital status, disability, citizenship, ability to pay, residency or any other classifications protected by law.
- **We will** provide the level of care to our customers that is medically necessary.
- **We will** ensure direct care staff only provide services or use techniques for which they have been credentialed or trained to provide.

USE OF CENTER ASSETS AND RESOURCES

Gulf Bend Center is committed to protecting property and information against loss, theft, destruction and misuse.

- **We will not** use Gulf Bend Center resources and property (including supplies, equipment, vehicles, gas cards, debit cards, facilities or personnel) in conducting any non-business activities.
- **We will** correctly use and care for all property and equipment entrusted to us.
- **We will not** use computers, e-mail, facsimile machines, social media or other technology to communicate privileged and confidential information to unauthorized recipients. Further, the use of technology to send offensive, discriminatory or harassing messages is prohibited.
- **We will** dispose of all supplies or obsolete property and equipment according to established procedures.
- **We will not** permit the creation of unauthorized copies of computer software licensed to Gulf Bend Center or use personal software on Gulf Bend Center computer equipment.

CONTRACTORS/VENDORS/SUPPLIERS

Gulf Bend Center is committed to managing contractor/vendor/supplier relationships in a fair and reasonable manner, consistent with all applicable laws and good business practices, and promote competitive procurement to the maximum extent practicable.

- **We will** select contractors, vendors, suppliers based on objective criteria, including, but not limited to quality, technical excellence, price, delivery, adherence to schedules, services and maintenance of adequate source of supply.
- **We will** make purchasing decisions based on supplier’s ability to meet the needs, and not on personal relationships and friendships.
- **We will** monitor all contracts for potential conflicts of interests.

WORKPLACE SAFETY

Gulf Bend Center is committed to maintaining a workplace that protects the health and safety of our customers and employees.

- **We will** comply with all safety and health requirements whether established by management, federal, state or local laws, or accrediting organizations.
- **We will** provide training in safe work practices to reduce hazards to the health and safety of our customers, employees and visitors.
- **We will** promptly report to a supervisor and complete an Incident Report for any accidents/incidents involving injury to an employee, customer, or visitor or damage to Gulf Bend Center property.
- **We will** provide an environment that is free from violence, verbal or physical.
- **We will not** permit the manufacture, sale, possession, distribution or use of illegal drugs or alcohol at work. Reporting to work while under the influence of illegal drugs or alcohol will not be tolerated.
- **We will** safely store, secure and count all drugs and pharmaceuticals. Missing drugs will be promptly reported to supervisors.
- **We will** have supervisors responsible for inspecting the work area under their control for health and safety risks, eliminating or reporting risks, being familiar with health and safety procedures, and ensuring their employees receive appropriate training in health and safety precautions.

CUSTOMER RELATIONSHIPS

Gulf Bend Center is committed to respecting the integrity and promoting the welfare of the customer, whether served individually or in a group setting.

- **We will** be aware of the intimacy of the therapeutic relationship, maintain respect for the customer and avoid engaging in activities that seek to meet our personal needs at the expense of the customer.
- **We will not** engage in nor condone sexual harassment of customers.
- **We will** continually strive to safeguard the individual rights and personal dignity of the customers.
- **We will not** enter into relationships with customers outside the scope of professional practice and services provided by Gulf Bend Center.
- **We will** avoid relationships or commitments that conflict with the interest of the customer and consult with a supervisor and comply with program requirements on any activity with individuals being served that is not part of their care or treatment.
- **We will** immediately report any allegation of sexual contact between a customer and staff in accordance with Center procedures and State laws.

COMPLIANCE WITH LAWS AND REGULATIONS

Gulf Bend Center is committed to ethical standards of business and professional ethics and integrity. Gulf Bend Center will provide customer care and conduct business while following all applicable laws and regulations, including Stark Laws, Anti-Kickback Statute, HIPAA and the False Claims Act (See below for list of Laws/statutes and explanation of each).

- **We will** promptly report to Center management any possible violation of these standards of conduct or any regulation, law or Center policy and procedure. All reported compliance issues or concerns will be acted upon in a fair and truthful manner. Any retaliation or other negative action against any person who in good faith reports a suspected violation will not be tolerated.
- **We will** comply with all requirements of Federal and State False Claims laws (including the False Claims Act and the Texas Medicaid Fraud Prevention Act) and the role of such laws in preventing, detecting, reporting and correcting incidents of fraud, waste and abuse in government health care programs.
- **We will** bill payers and customers in compliance with all applicable laws, regulations, and policies.
- **We will** process all claims in a timely manner in accordance with provider contracts and Centers for Medicare and Medicaid Services (CMS) guidelines.
- **We will** maintain current and accurate medical records in accordance with Federal and State laws, Medicaid/Medicare guidelines, and any other third-party requirements.
- **We will** document provision of all services in a timely manner.
- **We will** exercise the duties of loyalty, good faith, honesty and fair dealing in all activities and transactions related to Gulf Bend Center.
- **We will** address any deficiency or error by reporting it immediately to a supervisor who can assess the problem, take appropriate action and follow the problem to resolution. Knowledge of safety or quality of care concerns is expected to be immediately reported internally to an immediate supervisor/manager/director. There will be no retaliation or disciplinary action taken against anyone who reports a concern in good faith.
- **We will** cooperate with and properly respond to all governmental inquiries and investigations. Any employee approached by any federal or state law enforcement or regulatory agency (e.g. Medicare, Medicaid) official seeking information about any aspect of the Center shall immediately notify their supervisor who in turn must notify the Executive Director's office.

MAJOR HEALTHCARE LAWS AND REGULATIONS

FEDERAL FALSE CLAIMS ACT (FCA)

The Federal False Claims Act is a federal law designed to prevent and detect fraud, waste and abuse in federal healthcare programs, including Medicaid and Medicare. The False Claim Act makes it a crime for any person or organization to knowingly make a false record or file a false claim regarding any federal health care program, which includes any plan or program that provides health benefits, whether directly, through insurance or otherwise, which is funded directly, in whole or in part, by the United States Government or any state healthcare system. Knowingly includes having actual knowledge that a claim is false or acting with “reckless disregard” as to whether a claim is false. Under the False Claims Act, anyone who “knowingly” submits false claims to the Government is liable for damages up to three times the amount of the erroneous payment plus mandatory penalties of \$5,000 to \$11,000 for each false claim submitted. The term ‘knowingly’ is defined as a person, with respect to information, who has actual knowledge, deliberately ignores the truth or falsity of the information, or recklessly disregards the truth or falsity of the information. The Texas state laws similarly define ‘knowingly’.

In addition to the federal law, Texas has adopted similar laws under the Texas False Claims Act.

Examples of false claims include:

- Submitting claims for services never performed or items never furnished.
- Billing for unnecessary services.
- Upcoding.
- Double billing for services or items.
- Submitting a claim for provider services which fall below the quality of care standards.
- Making false statements to obtain payment for services.
- Falsifying records.
- Using false records or statement to avoid paying the Government.
- Falsifying time records used to bill Medicaid.
- Otherwise causing a false claim to be submitted.

Whistleblower Protection Under the False Claims Act

In order to encourage individuals to come forward and report misconduct involving false claims, the False Claims Act contains a “Qui Tam” or whistleblower provision.

The Government, or an individual citizen acting on behalf of the Government, can bring actions under the False Claims Act. An individual citizen, referred to as a whistleblower or “Realtor”, who has actual knowledge of allegedly false claims may file a lawsuit on behalf of the U. S. Government. If the lawsuit is successful, and provided certain legal requirements are met, the whistleblower may receive an award ranging from 15% to 30% of the amount received.

The Federal False Claims Act protects employees who report a violation under the False Claims Act from discrimination, harassment, suspension or termination of employment as a result of reporting possible fraud. Employees who report fraud and consequently suffer discrimination may be awarded (1) two times their

back pay plus interest, (2) reinstatement of their position without loss of seniority and (3) compensation for any costs or damages they incurred.

DEFICIT REDUCTION ACT (DRA)

The Deficit Reduction Act of 2005 modified the Social Security Act to create a financial incentive for States to enact false claims acts that create State liability for the submission of false or fraudulent claims to the State's Medicaid program. 42 U.S.C. § 1396h(b). If a State false claims act meets specified requirements, the State is entitled to an increase in ten percentage points in the State medical assistance percentage, as determined by Section 1095(b) of the Social Security Act. More specifically, a State must have in effect a law that: (1) establishes liability for the false or fraudulent claims described in the FCA regarding any State Medicaid plan expenditures; (2) contains provisions that are "at least as effective" in rewarding and facilitating *qui tam* actions as those in the FCA; (3) contains a requirement for filing an action under seal for sixty days pending review by the State Attorney General; and (4) contains a civil penalty that is not less than the penalty authorized under the FCA. *Id.*

The Deficit Reduction Act gives states additional flexibility to update their Medicaid programs and combat fraud, waste and abuse.

The Deficit Reduction Act (DRA) of 2005 requires entities who receive \$5,000,000 in Medicaid revenue to establish written policies that include detailed information regarding the federal False Claims Act, administrative remedies for false claims and statements, any State laws pertaining to civil or criminal penalties for false claims and statements, and whistleblower protections under such laws, with respect to the role of such laws in preventing and detecting fraud, waste and abuse for the entities employees, (including management) and any contractor or agent of the contractor.

TEXAS MEDICAID FRAUD PREVENTION ACT (FPL)

The Texas Medicaid Fraud Prevention Act is substantially similar to the Federal False Claims Act. The actions that trigger civil and criminal penalties under the Texas FPL generally mirror those of the federal FCA, and include making a false statement or concealing information that affects the right to a Medicaid benefit or payment and conspiring to defraud the state by obtaining an unauthorized payment from the Medicaid program or its fiscal agent. In addition, under the FPL, a person may also be liable if he presents a claim for payment under the Medicaid program for a product or service that was rendered by an unlicensed provider or that has not been approved by the patient's treating healthcare practitioner. Like the federal FCA, the FPL has a provision that permits private individuals ("whistleblowers") to bring an action on behalf of the state and receive a portion of the recovery if the case is successful. Like the FCA, the FPL includes provisions to prevent employers from retaliating against employees for their involvement in FPL actions.

ANTI-KICKBACK STATUTE

The Anti-Kickback Statute is a Federal law that provides criminal penalties for individuals or entities that knowingly and willfully offer, pay, solicit, or receive remuneration in order to induce or reward the referral of business reimbursable under any federal health care program. The types of remuneration prohibited, without limitation, include kickbacks, bribes, and rebates, whether made directly or indirectly, overtly or covertly, in cash or in kind. Prohibited conduct includes not only the payment of remuneration intended to

induce or reward the purchasing, leasing, or ordering of, any good, facility, service, or item reimbursable by any federal health care program. The Anti-Kickback Statute is violated even if inducing or rewarding the referral of business is only one of several reasons for remuneration. That is, the referral of business does not need to be the sole reason for the remuneration to violate the Anti-Kickback Statute.

The Anti-Kickback Statute and its implementing regulation provide for certain "safe harbors" which give guidelines about arrangements that avoid a violation. While an arrangement need not meet all of the parameters of a safe harbor, the further an arrangement strays from the parameters, the more likely the arrangement is to violate the Statute.

Anti-Kickback violations are classified as felonies and are punishable by fines of up to \$25,000 and/or imprisonment for up to five years. Additional penalties include exclusion from federally funded programs, other financial liabilities under the False Claims Act or civil monetary penalties.

STARK LAW

The Stark Law is a set of United States federal laws that prohibit physician self-referral, specifically a referral by a physician of a Medicare or Medicaid patient to an entity providing designated health services ("DHS") if the physician (or an immediate family member) has a financial relationship with that entity.

The term "referral" means "the request by a physician for the item or service" for Medicare Part B services and "the request or establishment of a plan of care by a physician which includes the provision of the designated health service" for all other services. DHS includes "clinical laboratory services"; "physical therapy services"; "occupational therapy services"; "radiology services, including magnetic resonance imaging, computerized axial tomography scans, and ultrasound services"; "radiation therapy services and supplies"; "durable medical equipment and supplies"; "parenteral and enteral nutrients, equipment, and supplies"; "prosthetics, orthotics, and prosthetic devices and supplies"; "home health services"; "outpatient prescription drugs"; "inpatient and outpatient hospital services"; and "outpatient speech-language pathology services." A "financial relationship" includes ownership, investment interest, and compensation arrangements.

Penalties for violations of Stark Law include: denial of payment for the DHS provided; refund of monies received by physicians and facilities for amounts collected; payment of civil penalties of up to \$15,000 for each service that a person "knows or should know" was provided in violation of the law, and three times the amount of improper payment the entity received from the Medicare program; exclusion from the Medicare program and/or state healthcare programs including Medicaid; and payment of civil penalties for attempting to circumvent the law of up to \$100,000 for each circumvention scheme.

Physician self-referral is the practice of a physician referring a patient to a medical facility in which the physician has a financial interest, be it ownership, investment, or a structured compensation arrangement. Critics argue that this practice is an inherent conflict of interest, because the physician benefits from the physician's own referral. They suggest that such arrangements may encourage overutilization of services, in turn driving up health care costs. In addition, they believe that it would create a captive referral system, which limits competition by other providers.

Those who defend the practice contend that these problems are not widespread. They argue that physicians who own, invest in, or operate medical facilities are responding to a need for medical services which would otherwise not be met, particularly in medically under-served areas. In addition, it is often the case that physician owned entities present a lower-cost alternative to the facilities that are located at hospitals. This is due mostly to higher overhead costs that hospitals must pass down to their services.

PROGRAM FRAUD CIVIL REMEDIES ACT (PFCRA)

This Federal law authorizes certain federal agencies, including the Department of Health and Human Services, to investigate and assess civil penalties against persons who make or cause to be made false claims or false written statements to the agencies. The PCFRA was enacted as a means to address fraud in a lower dollar amount than the False Claims Act and it generally applies to claims of \$150,000 or less.

The PFCRA provides for administrative remedies against any person or entity who:

- (1) Makes, presents, or submits or causes to be made, presented or submitted to a federal agency, a claim or a written statement supporting a claim which the person or entity actually knows is false, fictitious or fraudulent; or
- (2) Acts in deliberate ignorance of the truth or falsity of the claim or statement, or who acts in reckless disregard of the truth or falsity of the claim or statement. (Statement means any document, record, or accounting or bookkeeping entry made with respect to a claim or payment of a claim for healthcare services.

Individuals or entities, such as hospitals, are subject to monetary penalties of up to \$5,000 for each claim or statement and instead of damages, a penalty up to twice the amount of each claim. The penalties may not exceed \$150,000 for each group of claims.

- Suspected violations of this statute are investigated by the office of the Inspector General of Health and Human Services.

FRAUD AND ENFORCEMENT RECOVERY ACT (FERA)

FERA amends criminal and civil fraud statutes to strengthen law enforcements ability to investigate and prosecute all forms of financial fraud, including fraud involving the Troubled Asset Relief Program (TARP). In his signing statement, President Obama stated that FERA provides Federal investigators with significant new criminal and civil tools to assist in holding accountable those who have committed financial fraud and to crack down on the twin scourges of mortgage fraud and predatory lending.

HEALTH INSURANCE PORTABILITY AND ACCOUNTABILITY ACT (HIPAA)

We collect information about a patient's medical condition, history, medication, and family illness to provide quality care. The Federal Health Insurance Portability and Accountability Act (HIPAA), also known as the Privacy Rule, creates protections for personal health information held by covered entities and gives patients a number of rights with respect to that information. We also comply with all Texas laws related to patient privacy and confidentiality. In following these privacy laws and regulations, we do not use, disclose, or discuss patient-specific information with others unless it is necessary to serve the patient or is required by law. Workforce members may never use or disclose confidential information that violates the privacy rights of patients. Should you have additional questions about how and when you can use personal health information, contact the Center's Compliance and Privacy Officer.

QUESTIONS AND ANSWERS TO ASSIST IN “DOING THE RIGHT THING”

Violations of the Law

Q: I am worried that my supervisor may be violating a law, but am not really sure. What should I do?

A: As an employee of Gulf Bend Center, you have a responsibility to report suspected problems. In fact, employees may be subject to corrective action if they do not report such problems. As long as you honestly have a concern, our policy prohibits your being reprimanded or disciplined in any way.

Q: What should I do if my supervisor asks me to do something that I think is illegal or violates the Standards of Conduct or Center’s Policies and Procedures?

A: Don’t do it. No matter who asks you; if you know it is wrong, you must refuse to do it. You must also immediately report the request to a level of management above your supervisor, or to the Corporate Compliance (Integrity) Officer.

Q: Sometimes the “rules and regulations” get in the way of getting the job done. Isn’t it more important to see that things get done than to worry about all the procedures?

A: Getting the job done by going around the rules is not acceptable.

Conflicts of Interest

Q: I am thinking of starting my own outside business. Is this a conflict of interest?

A: An outside business activity does not necessarily put you in a conflict of interest situation. You should inform your supervisor of your intention. He or she will help you to determine whether the activity constitutes a conflict of interest. It is your responsibility to ensure that your outside business activities are strictly separated from your responsibilities at Gulf Bend Center and that:

- You do not conduct any of your outside business during Center work time;
- Customers and colleagues from your outside activity do not contact you at the Center;
- You do not share any confidential information regarding the Center;
- You do not use Center equipment and supplies for your outside work; and
- You do not promote your outside products or services to other Center employees during work hours.

Documentation and Coding

Q: My focus is my customers. I don't always have time to document everything that I do in the medical record. Isn't it enough that I am following good treatment practice?

A: No. Good medical practice includes proper and complete documentation for many reasons, the most important of which is the provision of quality care to the customer. We can't deliver quality care if the condition of the customer isn't adequately described and documented.

Q: What should I do if my supervisor/manager asks me to falsely document a service in a customer's medical record that was not provided?

A: You should refuse and report this to the Center's Corporate Compliance Officer (Department). This behavior may be considered as falsification of a customer's medical record.

Confidentiality

Q: An employee at the Center sometimes requests medical records, whether he is taking care of the customer or not. Is he permitted to do this?

A: No. Only those involved in the customer's treatment may access PHI without a consent.

Q: Is it O.K. if I put documents containing PHI in the trash cans?

A: No. All documents containing PHI are confidential and must be placed in the Shred containers located on the first and second floors.

Q: I accidentally faxed a customer's laboratory results to the wrong person. What should I do?

A: Anytime you accidentally provide a customer's protected health information to an unintended recipient, you need to notify your manager and the Center's Compliance Officer/Department immediately. Gulf Bend Center has legal obligations that it must perform in these situations and an Incident report should be completed.

Q: I believe my girlfriend is coming to the Center for counseling services and to see the psychiatrist. Can I look up her record and see what is going on with her so I know how to provide her with support?

A: No. You cannot look up information on family and friends. You should only access information on individuals you are providing a service to.

Harassment

Q: A co-worker keeps making embarrassing personal remarks to me and asking me out to social events outside of work hours. I consistently refuse these invitations

and have made it clear that these attentions are not welcome, but it doesn't seem to make any difference. Is this harassment? What should I do?

A: It is harassment. You must report it.

Relationships with Customers

Q: A grateful customer or family member gives me a cash gift. Am I permitted to keep the money?

A: No. Cash gifts from customers are against Center policy and you should explain this to the customer as diplomatically as possible. You may suggest that the customer contact the Marketing Department and donate to the Center.

Fraud and Misconduct

Q: I noticed that my co-worker often takes supplies home for his personal use. What should I do?

A: You need to notify you manager or the Compliance Officer or Department because this is misuse of Center assets and could indicate potential fraud or misconduct.

Retaliation

Q: I think my boss is treating me differently after I reported a co-worker's suspicious conduct. Is this a retaliatory act?

A: Maybe. Examples of retaliatory acts include demotion, suspension, and any harassment or discrimination as a result of a team member's reporting.

Reporting

Q: What should I report?

A: Any issue that appears to be in violation of laws, regulations, and Center policies and procedures should be reported. Examples of suspected wrongdoing include:

- Billing fraud
- Time and expense abuses/falsifications
- Conflicts of interest
- Discrimination
- Harassment
- Privacy violations