

Burke Center Ethics, Code of Conduct And Compliance Plan

Preamble

Burke Center is a comprehensive behavioral health care system dedicated to serving the citizens of our twelve county catchment area. As such, the Board of Trustees and staff of Burke Center recognize the worth, dignity, potential, and uniqueness of each individual served. While pursuing these endeavors, we will make every reasonable effort to protect the health, safety, rights and welfare of those who seek our services, as well as the community at large. The specification of ethical standards enables the Board to clarify to current and future Board members and staff, as well as those served by the programs operated by the Center, the nature of ethical responsibilities held in common by Board, staff and clients.

1. Purpose

This code of conduct provides guidance to all Burke Center trustees, employees and independent contractors and assists us in carrying out our work within ethical and legal standards. These obligations apply to our relationships with clients, affiliated physicians, third-party payors, subcontractors, independent contractors, vendors, consultants and one another.

This code is a critical component of Burke Center's ethics and compliance program, and was developed to ensure that we meet ethical standards and comply with applicable laws and regulations, including Stark Laws, Anti-Kickback Statute, HIPAA and the False Claims Act.

All staff members, trustees and contractors are educated on federal and state False Claim laws and *qui tam* actions. The False Claims Act applies when a company or person knowingly presents (or causes to be presented) to the Federal Government a false or fraudulent claim for payment, knowingly uses (or causes to be used) a false record or statement to get a claim paid by the Federal Government, conspires with others to get a false or fraudulent claim paid by the Federal Government, or knowingly uses (or causes to be used) a false record or statement to conceal, avoid, or decrease an obligation to pay or transmit money or property to the Federal Government. The False Claims Act contains *qui tam*, or whistleblower, provisions. *Qui tam* is a unique mechanism in the law that allows citizens with evidence of fraud against government contracts and programs to sue, on behalf of the government, in order to recover the stolen funds. A person who begins a False Claims Act (or *qui tam*) case is entitled to a proportional share of the funds that are recovered for the government. As part of the process of filing the *qui tam* action, the individual must provide the government with all his or her information relevant to the case. At that time, the Federal government investigates the information and decides

whether to intervene in the action to join the individual in his or her suit against those that committed fraud.

2. Leadership Responsibilities

All staff members, trustees and independent contractors are obligated to follow this code of conduct. Those entrusted with leadership of Burke Center, including senior management, medical staff, and other managers and supervisors, are expected to serve as an example of these standards, to ensure that those on their team have sufficient information to comply with laws, regulations, and internal policies, and to make available any resources needed to resolve ethical dilemmas. Leadership is entrusted with the duty to create a culture within Burke Center that promotes the highest standards of ethics and compliance, and this culture must encourage everyone in the organization to raise concerns when ethical issues arise. Ethical and compliance behavior will not be sacrificed in pursuit of business objectives.

3. Client Rights/Confidentiality

The rights and responsibilities of clients are defined in the appropriate General Administrative Manual (GAM) procedures. These procedures cover the client's rights to access care, to considerate and respectful treatment during care, to know about and participate in decisions about their care, to participate in ethical decision-making arising in the course of care, to security, personal privacy and confidentiality of information, to designate a decision when appropriate, to access protective services, and to know when their care is affected by relationships with another health care organization.

Burke Center will comply with all state and federal laws regarding confidentiality. Should a conflict between the two arise, federal law will apply. We will comply with rules, standards and regulations promulgated by the State of Texas or the Federal Government, the Texas of Health and Human Services Commission, and the Center regarding maintenance, storage and disposal of client records. Disclosure of confidential information may only be made in accordance with a specific consent signed by the client, a properly executed court order, or in an emergency in which failure to disclose information may present a risk to the client or others, or under exceptions allowed by state and federal law. When a client's condition or situation indicates that there is a clear and imminent danger to the client or others, we must take reasonable steps to inform responsible authorities to safeguard the client or others.

Any information derived from program activities that is used in staff training will be disguised so that the client's identify is fully protected. Burke Center does not allow any material from a client's medical record to be used for classroom purposes. Any information that cannot be disguised may be used only as expressly authorized by the client in writing. Burke Center participates in research endeavors only in accordance with Board policy and prior approval of the Senior Management Team.

4. Workplace/ Client Relationships

Our primary obligation is to respect the integrity and to promote the welfare of the client, whether the client is served individually or in a group setting. In a group setting, we are also responsible for taking reasonable precautions to protect individuals from physical or emotional trauma which may result from interaction within the group.

We must be aware of the intimacy of the therapeutic relationship, maintain respect for the client, and avoid engaging in activities that seek to meet our personal needs at the expense of the client. Burke Center staff will not engage in nor condone sexual harassment of clients. We must not bring personal issues into the professional relationship, especially when the potential for harm is present. We will continually strive to safeguard the individual rights and personal dignity of clients. We will be aware of the harm that may occur due to relationships with clients outside the scope of professional practice. We will avoid relationships or commitments that conflict with the interest of the client, and will 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. Sexual contact, not limited to sexual intercourse, between clients and Burke Center staff is expressly prohibited. Should information be available that such contact has occurred, it will be reported in accordance with GAM procedure.

We must terminate services to clients when such services are no longer required or are no longer in the client's best interests. However we will not terminate services without appropriate referral or termination procedures. Services can only be terminated if the client no longer needs the services, is not benefiting from the services, is being harmed or there is a potential for harm if services continue, fails to comply with an agreed upon plan of treatment, or when a client with a known ability to pay refuses to do so or fails to apply for a payer source, and maintain that source, when eligibility is almost certain. Admission, transfer and discharge practices are conducted in an ethical manner consistent with applicable laws and regulations. The client's clinical needs are the primary determinant in admission, transfer or discharge. No client will be denied services based solely on inability to pay.

5. Harassment and Workplace Violence

Each Burke Center employee has the right to work in an environment free of harassment. Harassment by anyone based on diverse characteristics or cultural backgrounds will not be tolerated. Degrading or humiliating jokes, slurs, intimidation or other harassing conduct are not acceptable in the workplace. Any form of sexual harassment is strictly prohibited. This prohibition includes unwelcome sexual advances or requests for sexual favors in conjunction with employment decisions. Moreover, verbal or physical conduct of a sexual nature that interferes with an individual's work performance or creates or has the potential to create an intimidating, hostile or offensive work environment is forbidden.

Burke Center staff will not condone practices which result, or may result, in illegal or otherwise unjustifiable discrimination on the basis of race, color, sex, religion, sexual orientation, age, disability, political affiliation or national origin in hiring, promotion or training.

Harassment also includes incidents of workplace violence. Workplace violence includes robbery, stalking, violence directed at the employer or a fellow employee, terrorism and hate crimes committed by a current or former colleague. As part of the commitment to a safe workplace, all employees are prohibited from possessing firearms, other weapons, explosive devices or any other dangerous materials on Burke Center premises, as described in the Human Resources Administrative Guide Section 6.4.

If you observe or experience any form of harassment, report the incident to your supervisor or the Human Resources Director. It is your responsibility as complainant to ensure your concerns are acknowledged, thus if your initial report is not met with satisfactory response, you will then report the incident to one of the other staff members identified above.

All Burke Center facilities must comply with all government regulations and rules and with Burke Center policies that promote the protection of workplace health and safety. These procedures are described in GAM Procedure 2.8. We will comply with all environmental laws and operate all facilities with the necessary permits, approvals and controls.

6. Professional Conduct

Staff members who occupy positions that require licensure or certification must possess minimum qualifications required by law. Burke Center staff can neither claim nor imply professional qualifications that exceed those possessed, and are responsible for correcting any misrepresentation or misunderstanding of these qualifications by others. You must deliver only those services for which you are qualified, and for which you have either been privileged by the Board of Trustees or are performed under appropriate supervision. Staff must recognize personal limitations and only provide services or use techniques for which you are qualified by your training and/or experience. Burke Center staff will seek appropriate supervision in accordance with all licensure, certification or registration that may apply, as well as internal Center requirements. Any consultation or service provided by Burke Center staff through classroom instruction, public presentation, demonstrations, written articles, radio or television programs, or other types of media, must meet the criteria cited in this Code. You cannot accept a private fee or any other consideration for consultation or treatment of persons who are otherwise entitled to this treatment through Center programs. Should such persons desire to seek services outside the Center, they must be provided appropriate options available to them. You may not provide a referral to your own private practice or service, or to those of a family member. "Family members" are defined in the nepotism policy found in the Human Resource Administrative Guide, Section 2.2. Referrals by other staff to practices of Burke Center staff or relatives of Burke Center staff, or to programs which contract with

the Center, will be made only when other alternatives are also offered, when this person or program offers specialized care which is not offered in another accessible facility, or when, at the discretion of the Compliance Officer, the issue is addressed by the Senior Management Team

Burke Center staff influence the development of the service delivery system through continuous efforts to improve professional practices and services. Professional growth is continuous and must be nurtured by an active training and recruitment program jointly shared by the program and the professional, and demonstrates dedication to the advancement of the services we provide. Ethical behavior by Burke Center staff is expected at all times. We will comply with professional and ethical codes of conduct as dictated by the appropriate licensing agency. When information becomes available which raises doubt regarding the ethical behavior of a professional colleague, a report must be made in accordance with the Burke Center Compliance Plan.

Colleagues and individuals retained as independent contractors in positions which require professional licensures, certifications or other credentials are responsible for maintaining the current status of their credentials and will comply at all times with Federal and state requirements applicable to their respective disciplines. To assure compliance, Burke Center will require current licensure. Burke Center will not allow any staff or independent contractor to work without valid, current licenses or credentials.

The moral, ethical and legal standards of Burke Center staff are personal matters to the same degree as they are for any other citizen, except as to those which may compromise the fulfillment of our Burke Center responsibilities, reduce the trust in the Center held by the public, or compromise the employment guidelines set forth in the Human Resource Administrative Guide. We hold a position of public trust and are responsible to the communities we serve. We must be willing not only to conduct Burke Center business conscientiously and openly, but also subject our own activities to public scrutiny. As visible representatives whose conduct directly affects the public's perception of the Center, we must adhere to high moral, ethical and legal standards. To protect public confidence in the Burke Center, we will avoid public behavior that is clearly in violation of accepted moral and legal standards. We will conform to the rules and regulations of service provision as outlined in the statutes of the State of Texas or the Federal Government, Rules of the Texas Health and Human Services Commission, and Burke Center policies and procedures. In providing services, we will avoid any action that may violate or diminish the legal and civil rights of clients or of others that may be affected by the action.

It is the responsibility of each Burke Center employee to preserve the organization's assets including time, materials, supplies, equipment and information. Organizational assets are to be maintained and operated for business related purposes. Organizational assets include staff time. Staff must not use their work at Burke Center in any personal capacity, to further any personal cause, or to provide a service to an individual not affiliated with Burke Center as a client, under a contracted service, or by other professional agreement that could create or has the potential to create the perception

that the service was provided on behalf of Burke Center. As a general rule, the personal use of any Burke Center asset without the prior approval of your supervisor is prohibited. The occasional use of items such as copying facilities or telephone, where the cost to Burke Center is insignificant, is permissible with the approval of your supervisor. Any community or charitable use of organization resources must be approved in advance by your supervisor. Any use of organization resources for personal financial gain unrelated to Burke Center business is prohibited. E-mail and Internet usage of Burke Center equipment must comply with the Center's acceptable use policies (HRAG Procedure 7.9).

Procedures for accepting of donation, gifts and memorials to Burke Center Programs are described in GAM Procedure 4.3.

7. Marketing and Billing Practices

Marketing and public relations activities are conducted with truth, accuracy and fairness, recognizing our responsibility to its clients and the public. The Center adheres to the Public Relations Society of America Statement of Professional Values in its marketing practices. Burke Center markets only health care services which are available and within the scope of its licensure and accreditation.

Burke Center has in place policies and procedures that assure that clients are billed only for those services and care which are provided. Both internal and external auditing of accounts verify the accuracy of client accounting procedures. Itemized bills are available to clients upon request, with an offer of further explanation if needed. As part of our documentation effort, current and accurate medical records will be maintained. Clinical decisions are based on the health care needs of the client, and services are provided as described in program manuals. Burke Center prohibits any staff from knowingly presenting or causing to be presented claims for payment or approval that are false, fictitious or fraudulent.

Burke Center business involves contracts with government programs that require the submission of certain reports of operational costs. We will comply with Federal and state laws relating to all cost reports. These laws and regulations define what costs are allowable and outline the appropriate methodologies to claim reimbursement for the cost of services provided to program beneficiaries.

Burke Center will be forthright in dealing with billing inquiries. Requests for information will be answered with complete, factual and accurate information. We will cooperate with and be courteous to all government inspectors and provide them with the information to which they are entitled when requested and/or during an inspection.

We will not interfere with reviews, inspections, investigations, hearings or related activities. This includes taking action to discourage or prevent someone else from cooperating with the activity. During a government inspection, you must never omit significant information, conceal, destroy or alter any documents, lie or make misleading

statements to the government representative. We will not attempt to cause another colleague to fail to provide accurate information or obstruct, mislead or delay the communication of information or records relating to possible violation of the law. Burke Center will provide all staff with the information and education they need to comply fully with all applicable laws and regulations.

8. Relationships with Suppliers

Burke Center will manage subcontractor and 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. Selection of subcontractors, suppliers and vendors will be made on the basis of objective criteria, including quality, technical excellence, price delivery, adherence to schedules, service and maintenance of adequate source of supply. Purchasing decisions will be made on the supplier's ability to meet needs, and not on personal relationships and friendships. Burke Center will always employ the highest ethical standard in business practices in source selection, negotiation, determination of contract awards and the administration of all purchasing activities. Confidential information given by suppliers will not be communicated to a third party unless directed in writing to do so by a supplier. Disclosure of information received from suppliers will be disclosed pursuant to the Texas Public Information Act (Chapter 552 of the Texas Government Code).

Burke Center staff will not accept a gift, commission or any benefit from a business or individual if the intent of the gift or benefit is to influence you to deviate from the proper and usual course of duty. We may accept token gifts or benefits provided there is no possibility that we may be compromised in the process. We may accept gifts of nominal value generally used for promotional purposes by the donor, or moderate acts of hospitality. As a general rule, gifts or benefits valued at \$100 or less would be considered nominal. Although this value has been set at \$100, we must not compromise this policy by undermining its intent. Acceptance of numerous gifts or benefits from the same source over a period of time could be considered a violation.

Burke Center recognizes the potential for conflict of interest in contractual relationships involving other health care providers, educational institutions and payors. All contracts are monitored for potential conflict of interests. When identified, conflicts of interest are resolved during contract negotiations. Current employees of Burke Center who participate in contract management of a particular contract shall not have a conflict of interest (as defined in GAM 4.10) in that contract. It is the responsibility of Burke Center employees who participate in contract management to review their relationship with respondents and contractors to ensure that those relationships are within law and regulation and determine if conflicts of interest exist. Burke Center employees who participate in contract management will disclose any existing or potential conflicts of interest to the Chief Financial Officer to address as they arise.

9. Political Activities and Contributions

Burke Center's political participation is limited by law. Burke Center funds or resources are not to be used 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 Burke Center property for use in a political campaign. It is important to separate personal and corporate political activities in order to comply with the appropriate rules and regulations relating to lobbying or attempting to influence government officials.

10. The Corporate Compliance Program

Program structure

The Compliance Program is intended to demonstrate in the clearest possible terms the commitment of the Center to the highest standards of ethics and compliance. There is oversight by the CEO and Board of Trustees, a Compliance Officer and a Compliance Committee. All of these individuals and groups are prepared to support the standards set forth in this program.

The Code of Conduct and Compliance Program will be reviewed annually and revised as needed.

Reporting violations

Several options are available to report violations to the standards set forth in this Code. It is considered appropriate, but is not required, to report violations to your immediate supervisor first. The supervisor is obligated to forward concerns to the Compliance Officer. It is your responsibility as complainant to ensure your concerns are acknowledge and addressed. Another option is to discuss the matter with another member of management, or to contact the Burke Center Compliance Officer at 936-639-1141.

Burke Center will make every effort to maintain, within the limits of the law, the confidentiality of the identity of any individual who reports possible misconduct. There will be no retribution or discipline for anyone who reports a possible violation in good faith. Any staff who deliberately makes a false accusation with the purpose of harming or retaliating against another colleague will be subject to the employment discipline process.

Personal obligation to report

Burke Center is committed to ethical and legal conduct that is compliant with all relevant laws and regulations and to correcting wrongdoing wherever it may occur within the Center. Every staff member has an individual responsibility for reporting any activity by any colleague, physician, subcontractor or vendor that appears to violate applicable laws, rules, regulations or this Code.

Internal investigations of reports

All reports will be investigated promptly and confidentially to the extent possible. The Compliance Officer will coordinate any findings from the investigation and immediately recommend corrective action or changes to be made. All staff members are expected to cooperate with investigation efforts.

Corrective action

When an internal investigation substantiates a reported violation, it is the policy of Burke Center to initiate corrective action, including, as appropriate, making prompt restitution of any overpayment amounts, notifying the appropriate governmental agency, instituting disciplinary action and implementing systemic changes to prevent a similar violation from recurring in the future at any Burke Center facility.

Discipline

All violators of this Code will be subject to disciplinary action. The precise discipline used will depend on the nature, severity and frequency of the violation and may result in any of the following actions: verbal warning, written warning, termination and/or restitution.

Internal auditing and other monitoring

Burke Center is committed to the responsible monitoring of compliance with its policies. Internal auditing is done to assure compliance with issues that have regulatory or compliance implications. Burke Center also routinely seeks other means of ensuring and demonstrating compliance with laws, regulations and internal policies.

Acknowledgement process

Burke Center requires all staff to sign an acknowledgement confirming receipt of the Code and understanding of mandatory Burke Center policies. Independent

contractors are also required to adhere to this code as a condition of the contractual agreement. New staff will be required to sign this acknowledgement as a condition of employment. Adherence to and support of this Code and participation in related activities and training will be considered in decisions regarding hiring, promotion and compensation for all staff.