2023

Compliance Plan

Scripps Health Plan Services, Inc.

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Scripps Health Plan Services, Inc.
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I. Organization History & Structure

Scripps Health Plan Services, Inc. (herein referred to as "SHPS" or "the Plan"), is a wholly owned subsidiary of Scripps Health ("Scripps"). In April 1999, SHPS applied for and was granted a restricted Knox-Keene license with waivers (a "limited Knox-Keene license") by the California Department of Managed Health Care (the "DMHC"). Pursuant to California Health and Safety Code, Section 1352(b), SHPS filed a notice of material modification on May 1, 2015, requesting approval of the Licensee's proposal to expand its limited license to a full health care service plan license, offering large group commercial products within San Diego County. On August 26, 2015, SHPS was approved for a full health care service plan license to sell large group commercial products.

SHPS is a not-for-profit California corporation whose sole shareholder is Scripps Health. SHPS is part of an integrated delivery system that includes Scripps' hospital system (Scripps Green Hospital, Scripps Memorial Hospital La Jolla, Scripps Memorial Hospital Encinitas, Scripps Mercy Hospital Chula Vista, and Scripps Mercy Hospital Hillcrest), Scripps Medical Foundation (Scripps Clinical Medical Group and Scripps Coastal Medical Center), other contracted Independent Practice Associations (IPAs), and numerous outpatient health centers and ancillary providers throughout San Diego County. SHPS maintains plan-to-plan agreements with other Full-Service Health Plans (FSHPs) who provide commercial health maintenance organization (HMO) products, Medicare Advantage (MA) products, and other coverage types. The SHPS Compliance Department supports ongoing external audits, including those performed by the FSHPs and the DMHC, and supports audits of FSHPs performed by state and federal regulators of SHPS managed care operations. SHPS' provider service agreements and other contracts for health services obligate those individuals and entities to adhere to specific compliance standards and policies and to immediately report suspected violations or misconduct to SHPS' Chief Compliance Officer, or his/her designees(s).

The SHPS Compliance Department was implemented by the Management Advisory Committee (MAC) to promote ethical conduct and lawful business practices within the Plan, ensure continued compliance with DMHC regulations and licensing requirements, Centers for Medicare and Medicaid Services (CMS) regulations, and all other matters of law that affect SHPS' daily operations. The SHPS Compliance Department, under the direction of the Plan Chief Compliance Officer, is responsible for monitoring legislative and regulatory developments and communications, regulatory reporting, internal monitoring and auditing, delegation oversight, supporting audits conducted by the FSHPs and the DMHC, and letter template and policy and procedure maintenance. The SHPS Compliance Department plays a key role in keeping Plan leadership apprised of changes to the regulatory landscape and guidance provided by the DMHC, CMS, and state and federal regulations and guiding Plan leadership to develop compliant processes related to those regulations.

The SHPS Compliance Department is committed to maintaining a culture of ethics and integrity. The job of compliance is not assigned to one department or individual. It is the responsibility of every member within the organization. In all that we do, we seek to comply with the expectations placed upon us by regulators and be in alignment with our mission, vision, and values. We ensure management functions are designed to maintain awareness and to monitor and promote compliance with laws and regulations. In our effort to assist and validate active compliance throughout the organization, the Plan Chief Compliance Officer maintains regular communication with the Scripps Health Corporate Compliance Department. Compliance concerns that may impact other divisions or business activities of Scripps Health are escalated

by the Plan Chief Compliance Officer to the Corporate Compliance Officer and other Scripps Health business leaders as appropriate.

II. Scripps Health Plan Services Mission, Vision, and Values

Mission

Scripps strives to provide superior health services in a caring environment and to make a positive, measurable difference in the health of individuals in the communities we serve.

We devote our resources to delivering quality, safe, cost effective, socially responsible health care services. We advance clinical research, community health education, education of physicians and health care professionals and sponsor graduate medical education.

We collaborate with others to deliver the continuum of care that improves the health of our community.

Vision

Scripps Health will continue to be the leading health care delivery system in the greater San Diego community, as evidenced by the highest clinical quality, patient safety, and patient, physician and employee satisfaction. This will be achieved through unending focus on patient-centered and compassionate care, cost-effective operations, research, advanced technology and innovation.

Values

We provide the highest quality of service

Scripps is committed to putting the patient first and quality is our passion. In the new world of health care, we want to anticipate the causes of illness and encourage healthy behavior for all who rely on us for service. We teach and encourage patients to participate in their care and to make well-informed decisions. We will be their advocate when they are most vulnerable. We measure our success by our patients' satisfaction, their return to health and well-being, and our compassionate care for dying patients, their families and friends.

We demonstrate complete respect for the rights of every individual

Scripps honors the dignity of all persons, and we show this by our actions toward one another and those we serve. We embrace the diversity that allows us to draw on the talents of one another. We respect and honor the cultural, ethnic and religious beliefs and practices of our patients in a manner consistent with the highest standards of care. All this is done in a compassionate setting. Our goal is to create a healing environment in partnership with all caregivers who are committed to serving our patients.

We care for our patients every day in a responsible and efficient manner

Scripps serves as a major community health care resource for San Diego County and, as such, we are accountable for the human, financial and ecological resources entrusted to our care as we promote healing and wholeness. We begin from a base of excellence and collaborate with co-workers, physicians, patients, and other providers to find new and creative ways to improve the delivery of health care services. All members of our community will have access to timely, affordable and appropriate care.

III. Definition of Terms

Abuse
Actions that may, directly or indirectly, result in unnecessary costs to SHPS or the Medicare program, improper payment, payment for services that fail to meet professionally recognized standards of care, or services that are medically unnecessary. Abuse involves payment for items or services when there is no legal entitlement to that payment and the provider has not knowingly and/or intentionally misrepresented facts to obtain payment. Abuse cannot be differentiated categorically from fraud because the distinction between "fraud" and "abuse" depends on specific facts and circumstances, intent and prior knowledge, and available evidence, among other factors. (Medicare Managed Care Manual (MMCM) Ch. 21, Section 20)

Delegated Activity
A specific plan function pertaining to the performance of healthcare and/or administrative services that is performed by an entity under the terms of a plan contract.

Delegation
A legal assignment to another party of the authority for particular functions, tasks, and decisions on behalf of the original party. The original party remains liable for compliance and fulfillment of all rules, requirements, and obligations pertaining to the delegated functions.

Downstream Entity
Any party that enters into a written arrangement, acceptable to CMS, with persons or entities involved with the MA benefit, below the level of the arrangement between an MAO or applicant or a Part D plan sponsor or applicant and a first tier entity. These written arrangements continue down to the level of the ultimate provider of both health and administrative services. (MMCM Ch. 21, Section 20 and 42 C.F.R. § 423.501)

False Claims Act ("FCA")
The False Claims Act, pursuant to 31 United States Code (U.S.C.) Sections 3729-3733, protects the government from being overcharged or sold shoddy goods or services. The FCA imposes civil liability on any person who knowingly submits, or causes to be submitted, a false or fraudulent claim to the federal government. T he "knowing" standard includes acting in deliberate ignorance or reckless disregard of the truth or falsity of the information. There are civil monetary penalties and criminal penalties for submitting false claims, which may include criminal fines, imprisonment, or both. (31 U.S.C. Sections 3729-3733)

First Tier Entity
Any party that enters into a written agreement, acceptable to CMS, with an MAO or Part D plan sponsor or applicant to provide administrative services or health care services to a Medicare eligible individual under the MA program or Part D program. SHPS is a first tier entity. (MMCM Ch. 21, Section 20 and 42 C.F.R. § 423.501)

Fraud
Knowingly and willfully executing, or attempting to execute, a scheme or artifice to defraud any health care benefit program or to obtain (by means of false or fraudulent pretenses, representations, or promises) any of the money or property owned by, or under the custody or control of, any health care benefit program. (MMCM Ch. 21, Section 20 and 18 U.S.C. § 1347)

Related Entity
Any entity that is related to an MAO or Part D sponsor by common ownership or control and (1) performs some of the MAO or Part D plan sponsor's management functions under contract or delegation; (2) furnishes services to Medicare enrollees under an oral or written agreement; or (3) leases real property or sells materials to the MAO or Part D plan sponsor at a cost of more than $2,500 during a contract period. (MMCM Ch. 21, Section 20 and 42 C.F.R. § 423.501)

Sub-Delegation
Process that occurs when the delegate gives a third entity the authority to carry out a delegated function. (NCQA)

Waste
Overutilization of services, or other practices that, directly or indirectly, result in unnecessary costs to SHPS or the Medicare program. Waste is generally not considered to be caused by criminally negligent actions but rather the misuse of resources. (MMCM Ch. 21, Section 20)

IV. Compliance Plan

This Compliance Plan is a document describing the overall framework, roles, responsibilities, plan of action, and allocation of resources based on relative risks, annual planned projects and activities, and priorities for maintaining the compliance of SHPS and its managed care activities. The Compliance Plan describes SHPS' commitment to ethical conduct and the compliance activities performed by the Plan to meet its legal obligations, the requirements of the Knox-Keene Act, and the regulations set forth by the DMHC and CMS. The intent of this Compliance Plan is to provide a foundation for regulating and monitoring compliance throughout SHPS. The Compliance Plan is organized into functional elements and includes those recommended by the U.S. Department of Health and Human Services (HHS) – Office of the Inspector General (OIG):

1) Written policies, procedures, and standards of conduct
2) Designation of a Chief Compliance Officer and a compliance oversight committee
3) Effective training and education
4) Effective lines of communication and reporting
5) Internal audit, monitoring, and risk analysis
6) Enforcement and discipline, response, and remediation
7) Responding to and investigating detected issues; oversight of corrective actions
8) Confidentiality and privacy
9) Regulatory affairs, reporting, and compliance oversight

SHPS Compliance Plan is made available to all SHPS employees, network providers, and IPAs, as well as contractors, subcontractors, vendors, agents, and first tier, downstream and related entities ("FDRs"). The Plan Chief Compliance Officer reserves the right to amend and update components of the Compliance Plan, including the material in this Compliance Plan, at any time in response to changes in regulatory guidance, necessary enhancements to improve program effectiveness, or for any other reason. Annually, the Compliance Plan is reviewed, revised as needed, and submitted to the SHPS Regulatory Oversight Committee (ROC) and the SHPS MAC for review and approval.

The scope of the Compliance Plan encompasses all business activities and functional departments within SHPS. Other compliance areas overseen by the Compliance Department include:

- Appeals and grievances, potential quality issues
- Credentialing and peer review
- Letter template and policies and procedures maintenance
- Delegation oversight
- Oversight of FDR audits conducted by FSHPs, including Medicare Part C compliance and organization determinations, appeals, and grievances (ODAG)
- Accurate coding and documentation for managed care

1) Written Policies, Procedures & Standards

This Compliance Plan, combined with written policies and procedures, has been developed and distributed to promote the Plan's commitment to compliance and ethical conduct. SHPS policies and procedures address specific areas, including fraud, waste, and abuse (FWA), member privacy, operations, and other areas of compliance or legal risk. The Plan Chief Compliance Officer, or his/her designee(s), oversees the SHPS Policies and Procedures (P&P) Committee and provides oversight and guidance to the development or review of SHPS policies and procedures.

SHPS delegates certain administrative services, including human resources, to Scripps Health. All employment-related policies of Scripps Health are applicable to SHPS employees and includes Scripps Health's *Standards of Conduct.* Other Scripps Health policies and procedures applicable to SHPS include those related to staff expectations, finance and accounting, facilities, and access and use of Scripps Health's electronic systems, including those storing protected health information (PHI).

A. *Standards of Conduct* and Compliance Guidance

SHPS utilizes Scripps Health's *Standards of Conduc*t, which are approved by the Scripps Health Corporate Compliance Committee and are annually reviewed by the Scripps Health Board of Trustees Audit & Compliance Committee. In addition, the *Standards of Conduc*t are reviewed and approved annually by the SHPS MAC. The standards outlined in the *Standards of Conduct* have been adopted by the Plan as part of this Compliance Plan. The *Standards of Conduct* demonstrate how Scripps Health's Mission, Vision, and Values influence the way we provide care to our members, conduct business, interact with one another, and make everyday decisions. All employees initially receive the *Standards of Conduct* as part of the new employee orientation or within ninety (90) days of hire, and annually thereafter; and staff will receive notification and education whenever the *Standards of Conduct* are revised. Annual mandatory compliance education also includes specific information about the *Standards of Conduct.*

The purposes of Scripps Health's *Standards of Conduct* are:

- To ensure all individuals share in the responsibility for supporting ethical conduct while complying with applicable laws, regulations, policies, and professional standards of practice; and
- To provide all individuals and plan leaders with basic legal principles and expectations of behavior.

Scripps Health's *Standards of Conduct* do not apply to non-employees; however, the Compliance Plan also includes relevant compliance guidance for:

1. Physicians and allied health practitioners as a primary education and awareness tool in order to communicate key aspects of Scripps Health's Corporate Compliance Program and to recognize the key role and responsibilities that all physicians and allied health practitioners play in the overall effectiveness of the Scripps Corporate Compliance Program.
    a. *Compliance Guidance for Medical Staff* (SW-LD-1003 B)
    b. *Scripps Medical Foundation Compliance Guidance for Physicians and Advanced Practice Clinicians* (SW-LD-1003 C)
2. Vendors and third parties doing business on behalf of or contracting with Scripps Health are informed of business conduct guidelines that outline Scripps Health's expectations for vendors to follow when interacting with or on behalf of Scripps Health. These guidelines are available to vendors at http://www.scripps.org/vendor-information.

3. SHPS has also developed materials for providers to define the various participation requirements. The *Provider Operations Manual* includes relevant compliance guidance and reference to the Scripps Health's *Standards of Conduct* for providers and vendors affiliated with SHPS:
    - Network providers, as a primary education and awareness tool to communicate key aspects of the SHPS Compliance Plan and to educate providers about areas for potential FWA.
    - FDRs, vendors, and third parties doing business on behalf of or contracting with SHPS, either as a contracted delegate for health services and related activities, or for any other SHPS business need (as applicable).

B. Written Policies for Key Risk Areas

SHPS policies and procedures are developed to support the lawful and ethical activities of the Plan, to support applicable laws and regulations and specific requirements of the Compliance Plan, and to address the guidance provided by DMHC, CMS, the National Committee for Quality Assurance (NCQA), and the Office of the Inspector General (OIG). All SHPS policies are reviewed on an annual basis (or more frequently if required) by the appropriate department business owner(s) prior to submission to the SHPS P&P Committee. The SHPS P&P Committee is overseen by the Plan Chief Compliance Officer, or his/her designee(s), and is responsible for tracking all policies and ensuring that they are updated when necessary and presented to applicable committees for review. All signed copies of policies for SHPS are maintained in a central electronic repository that is accessible to all SHPS staff. If any policy will result in a material change to a contracted provider, notice must be sent to the provider forty-five (45) days prior to the effective date of the change.

SHPS policies and procedures are stored in a central electronic repository so all staff may easily find and view them. *Policy Development, Approval, and Implementation* (SHPS 100) sets forth the specific expectations and requirements for creating and revising SHPS policies and procedures. Tracked change (redline) versions of policies and procedures will be maintained within the applicable SHPS SharePoint Library until final approval by the P&P Committee. Policy authors from each department create and revise policies, and consult with the Compliance Department to:

1) Reduce risk of conflict with other policies and harmonize across business lines where appropriate.
2) Ensure appropriate authority.
3) Ensure compliance with the appropriate regulation, statute, or other legal obligation.

The Compliance Department is responsible for developing and enforcing policies related to compliance, risk, privacy, and key risk areas as set forth by the OIG.

C. Conflict of Interest and Commitment Policy and Annual Attestations

SHPS follows and adheres to the Scripps Health's policy *Conflict of Interest and Conflict of Commitment* (S-FW-LD-1013). It is the intent of the MAC that health care services and related business activities are conducted free from undue influence, or the perception of such influence, arising from outside obligations. It is the MAC's expectation that established standards of ethical and legal conduct are followed by SHPS, its employees, providers, and others affiliated with SHPS. The Compliance Department offers guidelines to avoid or mitigate perceived and actual conflicts of interest, conflicts of commitment, or unethical or unlawful practices. The Plan Chief Compliance Officer has the authority to manage, control, and/or prohibit certain activities of employees involving a potential or actual conflict of interest and/or a prohibited activity. Annually, SHPS managers, supervisors, and other selected individuals are asked to complete the Conflicts of Interest/Conflict of Commitment Disclosure Form (as required by Scripps Health's policy). The responses provided therein are reviewed by Scripps Health's Conflicts and Business Practice Review Committee, who will address and resolve issues with the employee's supervisor and SHPS President.

Annually, all SHPS staff, Utilization Management physician reviewers, and members of the Medical Management Committee (MMC), the Credentialing & Peer Review Panel (CPRP), the ROC, and the Public Policy Committee (PPC) are required to sign an attestation that includes a statement of non-discrimination, non-disclosure, and mandatory reporting of conflicts of interest.

D. Retention of Records & Information Systems

SHPS has adopted Scripps Health's corporate policy for *Record Retention, Storage, Retrieval, and Destruction* (S-FW-IM-0600) and the associated *Managed Care Record Retention Schedule* that sets forth the process for creation, distribution, retention, storage, retrieval, and destruction of paper and electronic documents. The scope of this policy includes:

- All records and documentation required by either federal or state law and the program requirements of federal and state agencies and FSHPs;
- Records listing the persons responsible for implementing each part of the Compliance Plan; and
- Records necessary to protect the integrity of the Plan's compliance process and confirm the effectiveness of the program (such as evidence of employee training, reports made to the *Compliance and Patient Safety Alertline*, written notifications to providers regarding compliance activities, and the results of internal monitoring and auditing performed by the Plan).

E. Compliance as a Performance Element

All employees are evaluated, as part of their annual performance evaluations, on their promotion of and adherence to elements of the Compliance Plan. The Position Description and Performance Evaluation templates for employees contain specific standard employee behaviors that support compliance and ethical

conduct. Failure to perform adequately in this important area is reflected in the employee's performance evaluation.

Managers are responsible for orienting staff to aspects of the Compliance Plan that impact their operations or responsibilities, including:

- Orienting new employees to SHPS' compliance policies and legal requirements applicable to their area or function.
- Reinforcing with all staff that strict adherence with compliance policies and requirements are a condition of employment and that failure to follow compliance policies and procedures will result in disciplinary action up to and including termination.
- Encouraging open reporting of compliance concerns within the department and to the Compliance Department.

2) Designation of Chief Compliance Officer, Compliance Oversight Committees

The MAC is responsible for ensuring that SHPS maintains an effective compliance program which:

- Supports the Mission, Vision, and Values of Scripps Health;
- Effectively addresses legal and compliance risks to the Plan;
- Oversees effective delegation of activities and provides support to implement corrective actions where necessary; and
- Promotes ethical conduct in the daily operations of the Plan.

The MAC has delegated the authority to implement and oversee this Compliance Plan to the Plan Chief Compliance Officer and the SHPS ROC and ensures there are adequate resources allocated to the SHPS Compliance Plan.

A. Responsibilities of the Plan Chief Compliance Officer

The Plan Chief Compliance Officer reports directly to the MAC and has an administrative reporting relationship to the Vice President of Managed Care Operations. The MAC is responsible for ensuring that the Plan Chief Compliance Officer is provided adequate resources to effectively execute the Chief Compliance Officer's responsibilities described herein and all related duties and oversight activities of the SHPS Compliance Department and the SHPS ROC.

The Plan Chief Compliance Officer's responsibilities include:

- Directing SHPS compliance and privacy programs and related activities; prioritizing and tracking action items; and keeping Plan leaders and the MAC informed of key areas of risk.
- Developing, implementing, and keeping current this Compliance Plan and the Anti-Fraud Plan, including annual planned projects and activities of the Compliance Plan.

- Establishing key performance measures, metrics, and reporting protocols as part of the Plan's internal monitoring and auditing of high risk areas.
- Representing SHPS before all applicable state and federal regulatory agencies and serving as a liaison for communications between SHPS and the regulatory agencies.
- Establishing the overall framework for the Compliance Plan to promote compliance with applicable regulatory, legal, and delegation requirements.
- Developing and implementing methods and programs that encourage managers and employees to report possible non-compliance without fear of retaliation; maintaining an open-door policy.
- Conducting meetings and chairing the SHPS ROC to oversee the effectiveness of the Compliance Plan and related activities; attending relevant compliance oversight meetings to provide guidance and oversight.
- Providing regular reports to the MAC and the SHPS ROC regarding the implementation and effectiveness of the Compliance Plan.
- Overseeing a compliance and privacy education, training, and awareness program for all employees and FDRs.
- Reviewing and revising Plan legal documents and agreements as necessitated by changes in statutes, regulations, and/or requirements of FSHPs; monitoring managed care departments for compliance with contracts and governing regulations.
- Identifying high risk areas to reduce FWA.
- Monitoring ongoing legal and regulatory developments impacting health plan licensure and managed care operations and advising Plan leadership as appropriate; monitoring the DMHC and the OIG published guidelines to identify and assess emerging compliance risk areas to the Plan.
- Providing senior management and the MAC with effective ongoing monitoring and auditing of key compliance internal controls and assisting Plan leadership in implementing proper controls and procedures.
- Assisting Plan leadership in the development of written standards and policies and procedures that meet legal standards and promote the Compliance Plan.
- Overseeing conformance to regulatory requirements and adherence to filings for the DMHC and other regulatory agencies.
- Reporting any compliance violations to the MAC, SHPS President, Scripps Health's Corporate Compliance Officer, and to Plan leadership as appropriate.
- Monitoring reports of managed care compliance, privacy, or FWA concerns; leading investigations of misconduct, in cooperation with Scripps Health's Corporate Compliance and outside counsel as appropriate; and reporting findings to Plan leaders and the MAC.
- Developing and implementing managed care specific compliance education that addresses health plan specific laws, including those related to FWA and compliance for Commercial and Medicare Advantage products.

- Designing, implementing, maintaining, and managing member/patient privacy assurance functions, including investigations to evaluate potential inappropriate access to or release of PHI.

B. Responsibilities of the Compliance Department

The Compliance Department provides support to the Plan Chief Compliance Officer in promoting ethical conduct, instilling a commitment to compliance, and exercising diligence in ensuring the overall Compliance Plan requirements are met. Specifically, the Compliance Department's responsibilities include:

- Ensuring consistent and timely reporting of relevant compliance, privacy, or other concerns to the Plan Chief Compliance Officer. Working with the applicable business units to implement appropriate and timely corrective actions that will result in measurable compliance.
- Assisting the Plan Chief Compliance Officer in reporting compliance matters to the SHPS ROC and escalating issues to senior management and the MAC when necessary.
- Assisting, advising, and overseeing the individual business units in the design, administration, and implementation of their individual work plans and policies.
- Conducting assessments of risk areas based on information gathered from a variety of sources, including new regulatory guidance, internal assessments, member complaints, DMHC inquiries, or other avenues, and recommending new or revised metrics, policies and procedures, enhanced training courses, or other activities that may be tracked and measured to improve compliance.
- Conducting independent monitoring and auditing of identified risk areas to ensure compliance with health plan regulations and working with business units to ensure effective corrective actions are implemented in a timely manner.
- Monitoring and reporting on key compliance and performance metrics for the purpose of resolving identified patterns and trends and working with business units on internal corrective actions.
- Developing relevant and effective compliance training programs that support the Compliance Plan and providing education and awareness for managed care staff.
- Designing, implementing, maintaining, and managing member privacy assurance functions, including investigations to evaluate potential inappropriate access to or release of PHI and performing privacy risk assessments in accordance with federal law and guidelines and SHPS established protocols.
- Maintaining up-to-date knowledge of all state and federal regulations affecting regulatory compliance for the operations of the Plan required under the law and this Compliance Plan, attending conference calls, DMHC roundtables, and outside compliance trainings or conferences by regulatory agencies or professional associations.

C. SHPS Regulatory Oversight Committee (ROC)

The SHPS ROC provides oversight, prioritization, resources, guidance, and advocacy for the SHPS Compliance Plan and related work activities. This committee provides advice and assistance to the Plan Chief Compliance Officer in their responsibilities for the design, implementation, and operation of an effective compliance program. The SHPS ROC meets on at least a quarterly basis to review compliance concerns, implementation, and performance of the Compliance Plan; FWA activities; oversight of delegated

entities; privacy concerns and trends; and regulatory updates with applicable guidance and interpretations. Other specific areas of focus reviewed by the committee include:

- Review of the procedures in place for the receipt, retention, and treatment of reports received by the SHPS Compliance Department regarding a compliance or privacy concern that may be submitted by any party internal or external to the organization.
- Review of the procedures for the confidential and anonymous submission to the organization of concerns regarding questionable accounting, auditing, or compliance matters. Review any submissions that have been received, their current status, and the resolution if one has been reached.
- Review of the results of internal monitoring and auditing efforts.
- Providing leadership and supporting delegation oversight activities performed by the Plan and assuming responsibility for monitoring and oversight of delegated entities/activities, including reviewing monthly and quarterly reports, policies and procedures, and Utilization Management (UM) and Quality Management (QM) Program Descriptions reported to the Plan by the delegates. Each delegated activity has written performance standards, which are assessed in accordance with the delegation reporting schedule. The Delegation Oversight Department is responsible for reviewing documents and materials submitted by the delegate to assess compliance and performance and reporting findings to the ROC for review and approval.
    - If it is found that the delegate has failed to achieve minimally acceptable performance, the ROC may issue a corrective action plan (CAP). The Manager, Delegation Oversight is responsible for implementing the CAP with the delegate and following up to ensure continued adherence to the CAP. The ROC may make recommendations for implementation of sanctions, penalties, or de-delegation of Plan activities. Final determination to de-delegate an activity from a delegate, impose a monetary penalty, or take any other adverse action shall rest with the Plan Chief Compliance Officer, or his/her designees(s).
- Provide oversight and guidance to each operational area to ensure compliance with all regulatory requirements.

Quorum: 51% of permanent committee membership

Each year the ROC reviews the SHPS Compliance Plan, the SHPS Annual Planned Projects and Activities, the SHPS Anti-Fraud Plan, the SHPS Anti-Fraud Report, and any other materials developed in support of the compliance program or to measure the performance of the program. These materials are referred to the MAC for final approval annually. The MAC also receives quarterly summary reports of the activities of the compliance program.

D. SHPS Policy & Procedure (P&P) Committee

Overseen by the Plan Chief Compliance Officer, or his/her delegate(s), the SHPS P&P Committee is established under the guidance of the MAC and the MMC. A summary of changes made to existing policies is presented to the appropriate oversight committees for review and adoption. The SHPS P&P Committee creates clear, coherent, and a well communicated process for creating new policies, making changes to existing policies, conducting annual policy review, and adhering to regulatory agency guidance. The Committee has created an electronic policy repository to serve as an authoritative source for policies and

assists in communication of policies to staff. All clinical policies will have direction from clinicians on the committee and summaries provided to the MMC.

Quorum: 51% of permanent committee membership

E. SHPS Public Policy Committee (PPC)

The SHPS PPC oversees, with the support of SHPS management, the identification, evaluation, and monitoring of social, legislative, member advocacy, regulatory, and policy issues that affect or could affect SHPS members' rights and access to care; SHPS' business reputation and business activities; and the performance and review of SHPS' public policy positions in relation thereto. Committee recommendations and summary reports outlining activities are submitted quarterly to the MAC.

Quorum: 51% of permanent committee membership

3) Effective Training & Education

The Compliance Department provides for the educational needs of all SHPS staff and meets standards set forth in 42 C.F.R. §§ 422.503(b)(4)(vi) and 423.504(b)(4)(vi) and in Section 50.3 of the Compliance Program Guidelines (Chapter 9 of the Medicare Prescription Drug Benefit Manual and Chapter 21 of the Medicare Managed Care Manual)**.** Areas of focus include:

- SHPS compliance program, activities, and functions
- FWA prevention and detection
- Privacy
- Regulatory compliance and guidance
- Scripps Health's *Standards of Conduct*
- Cultural competency and the Plan's Language Assistance Program

Educational needs are assessed annually in consideration of changes to the law, guidelines issued by the OIG or DMHC, identified risk areas, or employee or FDR educational needs. Compliance education provided to staff is documented with proof of completion maintained by the Center for Learning and Innovation. To promote the functional integrity of the Compliance Plan, SHPS provides ongoing education to staff at all levels. The training is conducted:

a). Immediately upon hire, at the time of New Employee Orientation or within ninety (90) days of employment.

b). At the time of policy or regulatory changes.

c). Annually.

During the annual mandatory online education, each SHPS employee re-signs the Confidentiality and Non-Disclosure Form. The signed form is maintained as part of an employee's human resources file.

Educational information on the areas of focus is also included in the *Provider Operations Manual* to guide providers and vendors affiliated with SHPS.

4) Internal Monitoring, Auditing, and Risk Analysis

An ongoing evaluation process is a critical component of the SHPS Compliance Plan and is essential for an effective and successful compliance program.

The SHPS Compliance Department efforts are supported by Scripps Health's Audit, Compliance, and Risk Services (ACRS) who aid SHPS in consultation, design, and implementation of monitoring processes, implementing automated techniques, assisting in identifying risk areas that require additional monitoring, and advocating policies that establish and require specific monitoring activities.

A. Anti-Fraud Plan & Report

In accordance with California Health and Safety Code, Section 1348, SHPS prepares an annual Anti-Fraud Plan that is integrated into the routine managed care compliance activities through investigation of potential or actual FWA. The purpose of the Anti-Fraud Plan is to organize and implement an effective strategy to identify and reduce costs to health plans, providers, members, and others impacted by fraudulent activities and to protect consumers in the delivery of healthcare services through timely detection, investigation, and reporting or prosecution of suspected FWA.

The elements of the Anti-Fraud Plan include:

a). Designation of an individual with specific investigative expertise in leading fraud investigations;

b). Training of Plan and FDR employees concerning detection of healthcare fraud in managed care;

c). The Plan's procedure for managing incidents of suspected fraud; and

d). The internal procedure for referring suspected fraud to the appropriate government agency.

The anti-fraud activities, investigations, reports, and corrective actions are summarized and submitted to the DMHC in an annual report. This annual report includes specific actions taken by the Plan to prevent or detect misconduct, the number of reports made to a government agency regarding suspected fraudulent activity, the number of cases prosecuted by the Plan, and any other recommendations the Plan may have to combat healthcare fraud in the industry. The Plan Chief Compliance Officer, or his/her designee(s), is responsible for overseeing the performance of the following activities:

a). Developing and implementing an effective program to detect, investigate, report, and resolve potential and actual instances of FWA.

b). Maintaining member continuity of care and quality of care during FWA investigations.

c). Improving provider understanding of fraudulent practices and reporting methods through effective and ongoing provider education.

d). Improving member understanding of fraudulent practices and reporting methods.

e). Responding to member needs, such as escalated complaints and FWA concerns.

f). Creating a mechanism for the detection of FWA. Ongoing monitoring responsibilities include reviewing coding trends for all provider types to identify outliers that may require additional

assistance, education, or corrective action, if necessary. Analysis includes medical record documentation reviews with additional related information.

g). Coordinating investigations with internal Scripps Health departments (i.e., Corporate Compliance, Legal) and, as applicable, with law enforcement or government agencies. SHPS is responsible for conducting special investigations to determine provider compliance and assisting legal counsel with responding to requests from enforcement agencies.

h). Improving overall FWA awareness and education.

B. SHPS Annual Planned Projects and Activities

Each year the SHPS ROC reviews and adopts a set of planned projects and activities for the Compliance Department to work toward during that year. These projects and activities are a part of the overall process for assessing and evaluating relative risk to the Plan. The Compliance Department completes ongoing risk assessments as part of its annual plan of projects and activities. Potential risks identified from external resources are reviewed and evaluated for relevance to SHPS managed care lines of business, and if applicable, the effectiveness of current internal controls already in place are evaluated. The planned projects and activities are reviewed annually with the SHPS ROC and the MAC for approval.

The Compliance Department monitors activities on a regular basis to ensure regulatory and compliance activities are completed timely.

a). The Compliance Plan is reviewed and approved annually by the ROC and the MAC.

b). Activity reports reflecting trends are presented regularly to the ROC and the MAC.

c). Regulatory and compliance activities are completed timely, accurately documented, and maintained in a secure drive or database.

The planned projects and activities assist in building an effective work plan that the organization uses to maintain and enhance SHPS' compliance risk posture. In addition, the compliance risk assessment process considers the reasonableness of the levels of effort and effectiveness of various functions performed within SHPS.

C. Consideration of Plan Risks

1. On-going Mechanisms for Identifying and Assessing SHPS Compliance Risks:

- Compliance monitoring and auditing, investigations, and risk assessments conducted by the Plan's Compliance Department, FSHPs, and government surveyors to monitor compliance and assist in the reduction of identified problem areas.
- Compliance staff participation on key committees within SHPS and external industry-wide work groups and open lines of communication with Scripps Health's Corporate Compliance.
- Ongoing review of the OIG Work Plan and DMHC identified objectives.
- Ongoing review of guidance and other materials published by the DMHC, OIG, CMS, and the Office of Civil Rights (OCR) websites.
- The investigation and remediation of identified systemic problems.

The Plan Chief Compliance Officer, or his/her designee(s), will work with the SHPS management team to ensure ongoing compliance with state and federal regulations and to correct any deficiencies that have been identified. The Plan Chief Compliance Officer, or his/her designee(s), will issue CAPs as necessary to ensure that all deficiencies are resolved appropriately.

Ongoing efforts to monitor compliance will include an annual mock audit of medical management and claims and finance activities using the same audit methodology as the DMHC. The Compliance Department also performs routine internal monitoring and auditing of other managed care activities including, but not limited to, appeals and grievances, denied referrals, and certain denied claims. Claims payment practices are audited on an ongoing basis by the finance claims auditors.

2. Compliance Program Risk Assessment Process:

The Compliance Department gathers and analyzes input from the ongoing monitoring mechanisms and develops risk assessments and priorities. These assessments include review of current regulatory trends, trade organizations, and professional journals and may include discussions with Plan leaders, external vendor partners, and benchmarking with select peer institutions. The Compliance Department compiles a composite of high risk areas to guide planned projects and activities along with a review of compliance program efficacy.

D. Monitoring by External Agencies

The Plan Chief Compliance Officer and the Compliance Department monitor the results of audits conducted by external agencies and FSHPs and the completion of the Plan's CAPs. The Plan Chief Compliance Officer, or his/her designee(s), works closely with Plan leaders to ensure all CAPs are implemented efficiently and communicated to external agencies or FSHPs. Plan leaders overseeing reimbursement, medical management, financial operations, and other audited areas are responsible for ensuring implementation of CAPs with their teams and areas of responsibility. All CAPs are sent to the Compliance Department for review and approval before releasing to the external agency or FSHP.

The Plan Chief Compliance Officer, or his/her designee(s), will be the key contact person(s) for any DMHC audits, working with the appropriate management team within SHPS to provide the DMHC with the necessary documents, filings, and materials. The Plan Chief Compliance Officer, or his/her designee(s), will monitor the DMHC website for updated Technical Assistance Guides (audit tools).

1. Oversight of Plan, Provider, and Administrative Contracts

The Plan Chief Compliance Officer, or his/her designee(s), works closely with the Provider Relations Department in order to track and maintain copies of all SHPS contracts and subsequent amendments. Many Plan agreements require acceptance by the DMHC and shall not be considered effective until the DMHC has accepted the agreement or notified the Plan that no objections are forthcoming. The Compliance Department reviews contracts and agreements prior to execution to ensure legally mandated contract elements are included in the document. Any changes to the SHPS contract templates will be filed with the DMHC within thirty (30) days of the effective date of the change.

2. Payment Integrity & Proper Billing

Claims payment practices are audited by SHPS monthly, the FSHPs annually, and the DMHC every three (3) years. Though each audit focuses on different areas, ongoing monitoring efforts serve as an internal control to the reimbursement and payment areas, where claims and billing operations are often

the source of FWA in the industry and, therefore, historically have been the focus of government regulation, scrutiny, and sanctions. The FSHP's and DMHC's main focuses are claims payment accuracy, timeliness, and provider dispute resolution.

3. **Provider Credentialing & Peer Review**
   The Credentialing Department is responsible for responding to audits by the FSHPs. The audits focus on NCQA standards, timeliness, primary source verification, ongoing monitoring, sanctions and exclusions monitoring, and file review.

4. **Finance**
   The Finance Department is audited annually by Scripps Health's external auditor and every three (3) years by the DMHC. The Plan's annual financial statements are audited by an external auditor to support the accuracy of financial statements. The primary focus of the annual financial audit will include a review of controls that support the accuracy of the financial statements. As an additional internal control, the external auditor is changed every couple of years to ensure integrity of external audit findings.

5. **Medical Management**
   The UM and QM Departments are audited by the FSHPs quarterly and annually and by the DMHC every three (3) years. The audits focus on UM file review, UM timeliness, UM documentation, case management, access, and continuity of care.

6. **Corrective Action Plans (CAPs)**
   The Plan Chief Compliance Officer, or his/her designee(s), will review audit results and ensure CAPs are submitted timely, maintain a grid showing final scores, date CAP is due, and date CAP was submitted.

E. Delegation Oversight

Prior to executing a contract or delegation agreement with a potential delegate, a pre-delegation audit is completed to determine the ability of the potential delegate to assume responsibility for delegated activities and to maintain SHPS standards, applicable state and federal regulatory requirements, and accreditation requirements. The initial evaluation includes, but is not limited to, a review of the entity's operational capacity and resources to perform the delegated functions, the entity's ability to meet contractual and regulatory requirements, and verification that the entity is not excluded in the OIG List of Excluded Individuals/Entities (LEIE), the General Services Administration (GSA) System of Award Management (SAM), or the California Department of Health Care Services Medi-Cal Suspended and Ineligible Provider List from participating in health programs. Results of the initial evaluation and ongoing delegation audits are presented to the ROC and subsequently the MAC for review and approval. Pre-delegation and ongoing delegation audits of medical management activities are also reported to the MMC.

1. **Contracting with Delegates**
   Once an entity has been approved, the delegation agreement specifies the activities that SHPS delegates to the delegate, each party's respective roles and responsibilities, reporting requirements and frequency, and the process for performance evaluations and audits. Delegation agreements also include provisions for disciplinary actions and remedies for any instances of non-compliance with the contract and applicable state and federal regulations. Prior to any sub-delegation, the delegate must obtain approval from SHPS, who will directly monitor the sub-delegate's compliance with requirements.

2. Annual Delegation Oversight Audits

The Delegation Oversight Department will conduct an annual comprehensive delegation oversight audit to determine the delegate's performance of the delegated activities. High risk delegates are those that are continually non-compliant or at risk of non-compliance based on identified gaps with contractual standards, applicable state, CMS, and accreditation requirements, or SHPS policies and procedures. Any previously identified issues, which include any CAPs, service level performance, or complaints and appeals from the previous year will be factors that are included in the delegation oversight audit. Any delegate deemed high risk or vulnerable is presented to the ROC for suggested follow-up audit. Delegates determined to be high risk may be subjected to a more frequent monitoring and auditing schedule, as well as additional reporting requirements. If SHPS has reason to believe the delegate's ability to perform a delegated function is compromised, an additional focused audit may be performed. The Plan Chief Compliance Officer, or his/her designee(s), may also recommend focused audits upon evaluation of non-compliant trends or reported incidents. The results of these audits will be reported to the ROC. The risk assessment process and reports from delegates will be managed by the Plan Chief Compliance Officer, or his/her designee(s), and presented to the ROC for review and discussion. SHPS is ultimately responsible for identifying and correcting all instances of non-compliance with all delegated entities.

A focused audit may be initiated for any of the following reasons, or any other reason at the discretion of the Plan Chief Compliance Officer, or his/her designee(s):

- Failure to comply with regulatory requirements or SHPS policies and procedures or service standards;
- Failure to comply with a CAP;
- Reported or alleged FWA;
- Significant policy variations that deviate from SHPS or state, federal, or accreditation requirements;
- Bankruptcy, impending bankruptcy, or insolvency that may impact services to members (either suspected or reported);
- Sale, merger, or acquisition involving the delegate;
- Significant changes in the management of the delegate; or
- Changes in resources that impact SHPS and/or the delegate's operations.

3. Corrective Actions and Additional Monitoring and Auditing

The Plan Chief Compliance Officer, or his/her designee(s), shall submit summary reports of all monitoring, auditing, and corrective action activities to the MAC. In instances where non-compliance is identified, a CAP shall be developed by the delegate and reviewed and approved by the Plan Chief Compliance Officer, or his/her designee(s). Every CAP is presented to the ROC for approval. Supplemental and focused audits of delegates, as well as additional reporting, may be required until compliance is achieved.

At any time, SHPS may implement sanctions or require remediation by a delegate for failure to fulfill contractual obligations, including development and implementation of a CAP. Failure to cooperate with

SHPS in any manner may result in termination of the delegation agreement, in a manner authorized under the terms of the agreement.

5) Effective Lines of Communication & Reporting

Scripps Health's *Standards of Conduct* and SHPS policies and procedures require all SHPS employees and network providers to promptly report potential and actual instances of non-compliance, including potential FWA. Members are provided with SHPS Customer Service contact information.

Employees are advised to report concerns to their supervisor, another member of management, the Plan Chief Compliance Officer, or via the ***Scripps Compliance and Patient Safety Alertline* (1-888-424-2387) *or Web Portal***. The ***Scripps Compliance and Patient Safety Alertline*** is a hotline and web portal that is managed by an independent firm. Any compliance concerns or matters reported that are related to SHPS business operations or members are referred to the Plan Chief Compliance Officer, or his/her designee(s), for investigation and remediation.

All communications are maintained in a confidential manner, to the extent permitted by applicable law, and are used solely for the purpose of investigating and correcting instances of non-compliance, unethical conduct, or privacy concerns. If an employee reports a compliance issue directly to management, that manager is required to promptly notify the Plan Chief Compliance Officer, or his/her designee(s). The Plan Chief Compliance Officer reports critical items or events impacting other Scripps Health business operations directly to the Scripps Health's Corporate Compliance Officer and works with that individual to investigate, correct, and enforce all applicable laws.

When not acting as the Primary Plan, the Plan Chief Compliance Officer, or his/her designee(s), is responsible for communicating and reporting any compliance or privacy concerns impacting a managed care patient or provider to the appropriate FSHP as stipulated by the contractual agreement or delegation agreement. The Plan Chief Compliance Officer, or his/her designee(s), will also report any concerns, including any CAPs, sanctions, fines, or other penalties incurred by SHPS, related to the performance of functions delegated to SHPS to the appropriate FSHP.

Notice of Non-Retaliation & Whistleblower Protections
It is the policy of SHPS and Scripps Health that no act of retribution or retaliation shall be taken against any individual for reporting a potential or actual compliance violation or concern. The Plan Chief Compliance Officer ensures SHPS leaders support the open and free reporting of concerns. Efforts will be made to protect the identity of reporting individuals as appropriate and as requested by the reporter, to the extent permissible by law and appropriate to each case.

Scripps Health's Corporate Compliance Website & SHPS Compliance SharePoint Resources
Scripps Health's Corporate Compliance internal website contains a specific section for audit, compliance, and risk services (ACRS). ACRS developed and maintains this website as a resource for all Scripps Health and SHPS staff and members of the medical staff. The site contains specific information about the department, the Corporate Compliance Program, Information Security, Privacy Program, Clinical Risk and Credentialing, Corporate Policy Administration, Internal Audit, Regulatory Readiness, and other key resource links.

The Plan Chief Compliance Officer, or his/her designee(s), maintains an internal resource for SHPS staff via the SHPS SharePoint site to have immediate access to:

- All SHPS policies and procedures
- SHPS Compliance Plan
- SHPS Anti-Fraud Plan
- Instructions for how to report compliance and privacy concerns
- Compliance, FWA, privacy, cultural competency, and language access program training resources

6) Enforcement & Discipline; Response & Remediation

Disciplinary guidelines and/or corrective actions are an important element of an effective compliance program and are a means of helping ensure adherence to policies and procedures. Abiding by Scripps Health's *Standards of Conduct* is a requirement of employment by Scripps Health and for continued business relationship with SHPS. All employees, providers, and contractors are held accountable for complying with the Scripps Health's *Standards of Conduct,* SHPS policies and procedures, and federal and state laws and regulations. All members of management are held accountable for the actions of their direct reports if they have not properly trained or appropriately counseled them when problems have occurred.

The consequences of non-compliance will be consistently enforced and applied to all individuals having an employment or business relationship with SHPS. Confirmed acts of non-compliance will result in corrective action or discipline up to and including termination of employment or of a business relationship. Sanctions imposed by SHPS may include a requirement to undergo additional education, follow a certain CAP, institute additional monitoring procedures, restitution, or other form of recompense.

The Plan Chief Compliance Officer, or his/her designee(s), ensures SHPS network providers are held to the disciplinary guidelines and enforcement measures set forth in the provider and administrative agreements. Providers are contractually obligated to abide by SHPS policies and procedures, including adherence to the Anti-Fraud Plan. The Plan Chief Compliance Officer, or his/her designee(s), may impose corrective actions, de-delegation, or termination of the agreement. Records of disciplinary actions for a compliance and/or privacy issue investigated by the Plan Chief Compliance Officer, or his/her designee(s), are maintained by the SHPS Compliance Department.

7) Responding to, Investigating Detected Issues; Oversight of Corrective Actions

Violation of SHPS policies, failure to comply with applicable federal and state laws and regulations, and other types of misconduct can adversely impact the Plan's reputation in the community. They threaten SHPS' status as a reliable, honest, and trustworthy health care provider capable of participating in federal and state health care programs. Reports or reasonable indications of suspected non-compliance will result in the Compliance Department initiating, at minimum, a preliminary assessment of compliance risks and related issues.

A. Preliminary Assessments

Preliminary assessments will be conducted when a potential non-compliance issue is reported or suspected. The assessment is conducted to determine if there is an instance of non-compliance. Not every preliminary assessment will result in the need for a full investigation. Certain matters may be resolved as non-issues as a result of the preliminary assessment by the Plan Chief Compliance Officer, or his/her designee(s). If the results of the preliminary assessment suggest a more detailed investigation is needed, the Plan Chief Compliance Officer, or his/her designee(s), will initiate a more formal investigation.

B. Investigation Planning Meetings

An investigation planning meeting may be convened prior to commencing a detailed investigation, or for a situation that is deemed more serious in nature. This meeting may include Scripps Health's Corporate Compliance and legal representatives where appropriate, as well as Plan leadership. In certain circumstances, outside legal counsel may also be included in an investigation planning meeting.

The purpose of a planning meeting is to review the findings from the preliminary assessment; assess the degree and nature of the violation of policies and applicable laws and regulations; consider and review legal and liability concerns; obtain additional background on Plan and Scripps Health current processes and business practices; agree on the proposed nature and scope of the investigation to be conducted; and determine whether SHPS, Scripps Health's Corporate Compliance, or an independent reviewer reporting directly to outside counsel will conduct the investigation. Most investigations are conducted and overseen by the Plan Chief Compliance Officer and the SHPS ROC.

C. Investigative Authority

The MAC has fully delegated to the Plan Chief Compliance Officer and his/her designee(s) the authority to interview any employee and review any Plan documents or records that are deemed necessary to effectively complete a thorough investigation. The extent of the investigation will vary depending upon the reported concern. In certain situations, minor issues solely related to human resources or administrative issues may be delegated to Plan management or Scripps Health's Human Resources to complete an investigation and report back on findings and/or corrective actions.

D. Investigation and Corrective Action Documentation

Documentation of investigations will be created and maintained by the Compliance Department. Every effort will be made to preserve the confidentiality of such records, and necessary disclosures will be made on a "need-to-know" basis only. For those investigations that result in significant findings requiring corrective actions to be completed by management, a written report or memo will be issued to include the following:

i. ***Documentation of the Problem***

ii. ***Scope of the Investigative Procedures:*** There will be a written description of the nature, scope, extent, and timing of investigative and audit procedures, including the methodology used to investigate the incident.

iii. ***CAP:*** The Plan Chief Compliance Officer, or his/her designee(s), will prepare an effective and responsive CAP to remediate the identified problem(s) and establish appropriate internal

controls to prevent recurrence. The CAP may include revising policies and procedures, educating staff, disciplinary action for employees, restrictions imposed on billing by particular providers or other health professionals, or other actions deemed necessary. The respective department leader is designated as responsible and accountable for timely implementation of the CAP, with specific due dates.

iv. ***Reimbursement Corrections:*** If, in the course of conducting an investigation, it is determined that SHPS received or made an underpayment or overpayment, the corrective action will include prompt correction of the imbalance, in accordance with the requirements of Plan agreements with other FSHPs, network providers, and third-party administrators.

v. ***Providing Feedback to Reporters of Compliance Concerns:*** The Plan Chief Compliance Officer is responsible for establishing appropriate rules and criteria for responding to reporters of initial compliance concerns.

vi. ***Reporting to Plan Leaders, the MAC, and Scripps Health Governing Bodies:*** Plan management, the SHPS ROC, and Scripps Health's Corporate Compliance are kept informed of reported problems and organizational response through summary verbal and written reports, as appropriate. A notification will be made to the SHPS President and Scripps Health's legal counsel for any allegation involving a senior leader of the organization. If an allegation is found to be of merit, the Plan Chief Compliance Officer shall immediately notify Scripps Health's Corporate Compliance Officer if he/she is not otherwise aware.

E. Investigation Closure

At the conclusion of a compliance investigation, the Plan Chief Compliance Officer, or his/her designee(s), will notify the applicable group(s) involved in or affected by the investigation to review the findings and CAPs and discuss reporting obligations.

A summary report is provided to the ROC and the MAC on reported compliance issues that have been investigated. These issues are formally tracked through completion of all corrective actions or performance improvements as a result of the review.

8) Confidentiality & Privacy

SHPS values and respects the privacy of members who have entrusted us with their care. It is the responsibility of every employee, contractor, and Plan provider to work collectively to maintain the privacy of our members. State and federal laws govern the way SHPS manages and secures its handling of PHI.

A. HIPAA

The Health Insurance Portability & Accountable Act of 1996 (HIPAA) is enforced by the OCR and requires healthcare entities to ensure certain risk safeguards are in place to prevent the inadvertent or intentional release of PHI.

The HIPAA Final Privacy Rule (as amended) sets forth the specific program elements SHPS must have in place to ensure that information is maintained in a confidential manner. Program elements of an effective privacy program include many of the same elements addressed in this overall Compliance Plan, including:

- Risk analysis and monitoring.
- Effective employee privacy education.
- Use of a Business Associates Agreement (BAA) or similar agreement for any entity who will be viewing or handling any elements of PHI.
- Policies regarding disciplinary or corrective actions following a confirmed privacy event.

B. California Confidentiality Laws

The State of California has enacted legislation that complements, and in some cases extends, the obligations of health providers under the Privacy Rule. SHPS adheres to the requirements of these statutes and promulgating regulations:

i. **Confidentiality of Medical Information Act (CMIA)** [CA. Gov. Code § 56 et seq.]
Places limits on the disclosure of patients' medical information by medical providers, health plans, and businesses organized for the purpose of maintaining medical information. It specifically prohibits many types of marketing uses and disclosures.

ii. **Use of PHI for Direct Marketing** [CA Civ. Code § 1798.91]
Prohibits a business from seeking to obtain medical information from an individual for direct marketing purposes without, (1) clearly disclosing how the information will be used and shared, and (2) getting the individual member's consent.

iii. **Patient Access to Health Records** [CA H&SC § 123110]
With minor limitations, gives patients the right to see and copy information maintained by health care providers relating to the patients' health conditions. The law also gives patients the right to submit amendments to their records, if the patients believe that the records are inaccurate or incomplete.

iv. **Insurance Information & Privacy Protection Act** [CA Ins. Code § 791]
Sets standards for the collection, use, and disclosure of personal information gathered in connection with insurance transactions by insurance companies, agents, or insurance-support organizations. It generally prohibits disclosure of personal or privileged information collected or received in connection with an insurance transaction unless the disclosure is: (1) authorized in writing by the individual, or (2) necessary for conducting business. The individual must be given an opportunity to opt-out of disclosure for marketing purposes.

C. SHPS Privacy Plan

As required by HIPAA and relevant matters of law, SHPS and Scripps Health have implemented various policies used by the Plan to maintain member confidentiality.

i. SHPS Privacy Officer

The SHPS MAC has designated the Plan Chief Compliance Officer to serve as the Privacy Officer of SHPS. The Privacy Officer is responsible for maintaining an effective privacy protection program that supports compliance with the Privacy Rule and all related matters of law.

ii. SHPS Notice of Privacy Practices

SHPS has develop a Notice of Privacy Practices that is publicly available on the Plan's website.

iii. Incident Response & Reporting

All SHPS employees and network providers are responsible for notifying the Compliance Department regarding any potential or confirmed breach of a member's privacy and/or a privacy complaint from a member. Upon notification, the Compliance Department conducts an investigation of all relevant facts. If necessary, a review of computer access logs to patient records will be performed. Once all pertinent details are collected through the investigation, the Compliance Department determines if the breach is federally reportable. All privacy incidents are documented in NAVEX and on the Privacy Incident Log.

A privacy breach that meets the prescribed risk threshold (as provided by the OCR) is reported to the OCR electronically through the agency's online reporting portal. Privacy incidents affecting members of a FSHP shall be reported to the Privacy Officer of the FSHP, pursuant to the stipulations in the plan-to-plan agreement. If necessary, the Plan Chief Compliance Officer notifies Scripps Health's Corporate Marketing & Communications for significant or extensive breach incidents requiring notification of the media.

9) Regulatory Affairs: Reporting and Compliance Oversight

The Plan Chief Compliance Officer works with the SHPS management team to ensure regulations and laws that affect SHPS are monitored and implemented in a timely manner. The Plan Chief Compliance Officer and his/her designee(s) are also responsible for filing necessary documents with the DMHC due to regulatory reporting requirements or an amendment or modification to the Plan's full Knox-Keene license.

A. Department of Managed Health Care (DMHC) State Licensure

SHPS is licensed by the California DMHC as a full-service health plan allowed to offer health services in San Diego County. The Compliance Department is the primary contact for the DMHC and works with Plan regulators to ensure SHPS satisfies all legal obligations.

B. Key Risk Areas Identified by HHS Office of the Inspector General (OIG)

i. Sanctioned/Excluded Individuals and Entities

Federal law prohibits government reimbursement to individuals or entities that are excluded or ineligible to participate in federally funded health care programs. Violation of this law may result in substantial fines for the organization. SHPS does not knowingly arrange,

contract with, or bill for services rendered or arranged for by an individual or entity that is excluded or ineligible to participate in a federally funded health care program. SHPS, upon hire and monthly thereafter, searches the OIG, SAM/GSA, and the California Department of Health Care Services for excluded or ineligible persons and entities including, but not limited to, SHPS employees, providers, contractors, and vendors. If a SHPS employee is found to be ineligible for employment due to government sanctions, such employees will be terminated immediately according to human resources policies. Any provider who is excluded from participation in programs offered by CMS or any other government program does not meet SHPS credentialing requirements and will be excluded from SHPS provider network. All newly excluded providers shall be reported to each contracted FSHP within twenty (20) calendar days of detection. Scripps Health policy *Verification of Eligibility to Participate in Federal and State Funded Healthcare Programs* (S-FW-HR-0918) describes the procedures that are in place for employees, and Scripps Health's Corporate Compliance Plan describes the full set of processes in place for employees, contractors, physicians, and vendors.

ii. Payments, Discounts & Gifts

As part of SHPS' continued compliance regarding FWA and anti-kickback laws, SHPS prohibits any contracted physicians or other business affiliates from receiving or providing remuneration (cash or thing of value) in exchange for referrals of patients. Furthermore, SHPS prohibits the payment or receipt of such remuneration in return for directly purchasing, leasing, ordering, or recommending the purchase, lease, or ordering of any goods, facilities, services, or items. Employees involved with finance functions, purchasing, contracting, pharmacy benefit management, provider network management, and any activity that includes entering into a personal service contract are expected to be vigilant in identifying potential anti-kickback violations and bringing them or any related questions to the attention of the Plan Chief Compliance Officer. Applicable Scripps Health policies include:

- *Conflict of Interest and Conflict of Commitment* (S-FW-LD-1013)
- *Contracting and Signing Authority* (S-FW-LD-1001)
- *Financial Arrangements with Physicians* (S-FW-LD-1006)
- *Non-Monetary Compensations (e.g., Gifts/Entertainment) for Referring Physicians and Immediate Family Members* (S-FW-LD-1015)

iii. Receiving and Extending Business Courtesies

It is critical to avoid the appearance of impropriety when giving gifts to individuals who do business or are seeking to do business with SHPS. SHPS' policy is to not provide any gifts, entertainment, meals, or anything else of value to any contracted provider, other business affiliate, or of a branch of the state or federal government, except for minor refreshments in connection with business discussions or promotional items with the SHPS logo valued at no more than permitted by federal or state law.

C. Availability and Updates to the SHPS Compliance Plan

SHPS Compliance Plan is made available to all SHPS employees, network providers, and IPAs, as well as contractors, subcontractors, vendors, agents, and FDRs. The Plan Chief Compliance Officer reserves the right to amend and update components of the Compliance Plan, including the material in this Compliance Plan, at any time in response to changes in regulatory guidance, necessary enhancements to improve program effectiveness, or for any other reason.

V. References

- California Confidentiality of Medical Information Act (CMIA) [CA. Gov. Code § 56 et seq.]
- California Insurance Information & Privacy Protection Act [CA Ins. Code § 791]
- Deficit Reduction Act of 2005 (DRA)
- False Claims Act (FCA) [31 USC § 3729 et seq.]
- Fraud Enforcement Recovery Act of 2009 [Public Law No. 111-21]
- Health Information Technology for Economic & Clinical Health (HITECH) – in part to ARRAY of 2009 [Pub. L. 111-5 § 13400-13424]
- Health Insurance Portability & Accountability Act of 1996 [42 USC § 1320(d-6)]
- HIPAA Administrative Simplification [45 CFR Parts 160, 162, 164]
- Knox-Keene Act Health Care Service Plan Act of 1975 [HSC 1340 et seq.]
- Medicare Managed Care Manual, Chapter 21
- Medicare, Medicaid & SCHIP Extension Act (MMSEA) of 2007 § 111 [42 U.S.C. § 1395y(b)(8)]
- *Office of Inspector General's Compliance Program Guidance for Medicare+ Choice (MA+) Organizations Offering Coordinated Care Plan* [FR Vol 64 No. 219 11.15.1999]
- Patient Protection and Affordable Care Act of 2010 [42 U.S.C. § 18001 et seq.]
- Title 28 of the California Code of Regulations – Managed Health Care
- Title 42 – Public Health and Title 45 – Public Welfare of the Code of Federal Regulations
- United States Sentencing Commission Chapter Eight - Sentencing of Organizations