

# *LIBERTY Dental Plan Inc.*

## Policies & Procedures: **COMPLIANCE PROGRAM**

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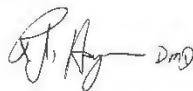
**Responsible Department:**  
Regulatory Affairs & Compliance

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### **POLICY:**

It is the policy of LIBERTY Dental to establish, implement and maintain a Corporate-wide Compliance Program that will effectively articulate and demonstrate to employees, providers, agents and the community LIBERTY Dental's strong commitment to honest, ethical and responsible provider and corporate conduct at all levels and to assure that adequate systems are in place to detect fraud and abuse and to facilitate ethical and legal conduct. This Compliance Program is consistent with and shall be considered an integral part of the corporation's program. The responsibility for designing, implementing, maintaining and monitoring this Corporate Compliance Policy shall rest with the Compliance Committee.

### **I. COMPLIANCE RULES AND PROCEDURES:**

#### **A. STANDARDS OF CONDUCT**

LIBERTY Dental, its officers, employees and contracted agents or providers, shall not engage in any illegal or unethical conduct and will not permit any persons associated with LIBERTY Dental to engage in, or to willfully remain ignorant of, such conduct. This Compliance Program sets forth guidelines and standards established by the corporation and local, state and federal laws and regulations and contractual obligations, which will guide the corporation and its employees and agents in the conduct of their daily activities. It is the goal of LIBERTY Dental to strive for compliance with all applicable rules, regulations and policies and to detect instances of fraud and/or abuse, as defined in Vol. 42, Code of Federal Regulations, Section 455.2, as follows:

“*Abuse* means provider practices that are inconsistent with sound fiscal, business, or medical practices, and result in an unnecessary cost to the Medicaid and Medicare program, or in

reimbursement for services that are not medically necessary or that fail to meet professionally recognized standards for health care. It also includes recipient practices that result in unnecessary cost to the Medicaid and Medicare program.”

“*Fraud* means an intentional deception or misrepresentation made by a person with the knowledge that the deception could result in some unauthorized benefit to himself or some other person. It includes any act that constitutes fraud under applicable Federal or State law.”

1. These Standards of Conduct are applicable to all employees, officers, directors, contract providers and agents, whether independent contractors or otherwise, of LIBERTY Dental, who may have, or should have, knowledge of illegal or unethical activities.
2. Upon implementation of the Compliance Program, each employee shall be given a copy of these Standards of Conduct by their supervisor. Thereafter, all new employees will be given a copy of the Standards of Conduct during their new employee orientation. The Standards of Conduct shall be made a permanent part of the Employee Handbook.
3. Upon implementation of the Compliance Program, each contracted primary care dentist, agent or high-volume specialist of LIBERTY Dental shall be given a copy of these Standards of Conduct by their LIBERTY Dental contract representative. Thereafter, all new contracted providers, agents and independent contractors shall be given a copy of the Standards of Conduct by their contract representative upon execution of an Agreement.

## **B. General Obligations**

1. Compliance with laws, rules, regulations and policies applicable to LIBERTY Dental requires a high degree of attention to consistent compliance with ethical and legal standards. LIBERTY Dental considers assurance of regulatory compliance to be a responsibility of all employees and representatives of LIBERTY Dental.
2. Employees and representatives are expected to know LIBERTY Dental’s products and to understand corporate policies and the ethical and regulatory standards followed by LIBERTY Dental.
3. No persons shall be employed, and no persons shall be engaged as independent contractors, contract providers, agents or representatives of LIBERTY Dental until they have completed applications requiring appropriate disclosures, their references and credentials have been checked, and they have acknowledged in writing that they are in compliance with these Standards of Conduct.

## **C. Procedures**

1. Every department of LIBERTY Dental shall compile and maintain a current list of all applicable policies, laws, rules and regulations with which employees in the department must comply. Such list shall be placed in the Employee Handbook and Provider Manual

and shall contain the appropriate numerical description and the content of such policy, law, rule or regulation.

2. Such list shall be incorporated into policies and procedures applicable to the administrative department and shall be placed in a convenient location within the department so that they are accessible by all employees. All employees shall be made aware of the list and policies and procedures and their locations and that all employees must have a working knowledge of their contents.

## **II. OVERSIGHT**

### **A. Corporate Compliance Officer**

1. The Executive Vice President of LIBERTY Dental has been designated by the Board of Directors as the Corporate Compliance Officer, shall report directly to the Board of Directors and shall have the following duties and responsibilities:
  - a. Design, implement, operate and monitor the Compliance Program.
  - b. Establish and maintain an effective communications program to ensure that all employees, agents, contract providers and independent contractors are aware of the contents and requirements of the Compliance Program.
  - c. Monitor the Compliance Program and ensure that it is being communicated and followed at all times, pursuant to this Policy and Procedure.
  - d. Investigate all reports of wrongdoing, with the assistance of in-house or outside counsel as necessary and appropriate.
  - e. With the advice and consent of the Compliance Committee, administer appropriate disciplinary action for violations of law and/or corporate policies.
  - f. Recommend modifications of any aspects of the Compliance Program as necessary.
  - g. Report to the Board of Directors at its quarterly meetings on all aspects of activities of the Compliance Program.
    - 1) Such report shall consist of statistics regarding the number of reports of wrongdoing, the number that were unfounded, the number that resulted in disciplinary actions, the nature of the actions, and the number of cases outstanding.

### **B. Corporate Compliance Committee**

1. The Corporate Compliance Committee shall consist of the following positions:
  - a. Compliance Officer -- Chairman
  - b. Chief Operating Officer

- c. Chief Financial Officer
  - d. Dental Director
  - e. Director Administrative Services
  - f. Director of Claims
  - g. Director of Member Services
  - h. Director of Provider Services
  - i. Manager of Legal Affairs (advisory only/non-voting)
2. The Corporate Compliance Committee shall review and advise and consent to recommendations of the Compliance Officer with regard to the duties and responsibilities of the Compliance Officer as described in Sections IIA(a) through (I) of this Policy and Procedure.
  3. At its first meeting, the Compliance Committee shall appoint members of the Committee to the following Sub-Committees to design and draft components of a comprehensive Corporate Compliance Program for the Committee's approval:
    - Audit
    - Hot Line
    - Education
    - Communications
    - Investigations

### **III. REVIEW OF DISCRETIONARY AUTHORITY**

- A. The Compliance Officer or designee and the Director of Human Resources shall, upon implementation of the Compliance Program, conduct a due diligent review of the records of all employees, officers and directors of LIBERTY Dental who have or will be given discretionary authority for decisions relating to ethical or illegal conduct.
  1. Such review shall focus on any activities that indicate a propensity for fraud and abuse or any other unethical or illegal conduct and shall include activities while employed at LIBERTY Dental or activities not connected with LIBERTY Dental.
    - A. The review may, at the discretion of the Compliance Officer or designee, include credentialing files, personnel files and/or background checks by private investigation firms.
  2. Personnel whose records are being reviewed may be interviewed and given an opportunity to disclose and explain any activities that may indicate a propensity for fraud and abuse or other unethical or illegal conduct.
  3. Such persons shall sign statements that they have disclosed all activities that may indicate a propensity for unethical or illegal conduct.

- B.** In the event that any employee is found to have either engaged in unethical or illegal conduct or demonstrated a propensity to engage in such conduct in the past, the Compliance Officer or designee shall, after completing an investigation, recommend to the Compliance Committee that the individual be either counseled, placed on probation, suspended, terminated, or have the discretionary authority removed.

1. The decision of the Compliance Committee with regard to such disciplinary action shall be final.

#### **IV. COMMUNICATION AND EDUCATION**

##### **A. Communication**

1. Upon final approval of the Compliance Program by the Board of Directors, the Compliance Officer or designee shall begin a program to communicate the existence, purpose, contents and expectations of the program to all LIBERTY Dental employees, agents and contracted providers through the following methods:

A. Presentations at the following:

- (1) Executive Committee
- (2) QM/UM Committee
- (3) Clinical Staff Meetings
- (4) Department Meetings
- (5) Provider Newsletter

- B. Design and placement of posters reminding employees of the importance of adhering to LIBERTY Dental's ethical and legal obligations and the contents of the Compliance Program

##### **B. Education**

1. Upon approval of the Compliance Program by the Board of Directors, the Compliance Officer or designee shall implement a corporate-wide program of education, covering the following subjects:

A. Definition of a Compliance Program.

B. Purpose of a Compliance Program.

C. Contents of the Compliance Program.

D. LIBERTY Dental's expectations of employees with regard to the Compliance Program.

E. Conduct of an investigation.

- (1) Need for cooperation with investigators.

- (2) Confidentiality requirements during investigations.
  - (3) Rumor containment.
- F. Reporting to appropriate regulatory agencies
- G. Enforcement
- H. Supervisors who train employees shall certify attendance by employees.
- I. Such certificate shall be placed in the employee's personnel file.

## **V. COMPLIANCE WITH STANDARDS**

- A. The following processes shall be used to assure compliance with the LIBERTY Dental Standards of Conduct:

### **1. Employee Hot Line**

- A. The Compliance Officer or designee, with the advice and consent of the Compliance Committee, shall establish and conduct an "Employee Hot Line," to give employees a method to report suspected instances of wrongdoing by other employees, supervisors, managers, executives, officers, directors or contracted providers or agents.
- B. In selecting an operator Hot Line, the Compliance Committee shall consider the following:
  - (1) The ability of the operator to remain independent, objective and ethical with regard to the information it receives as a result of the Hot Line. Such objectivity and independence shall be genuine and readily apparent to all.
  - (2) The training and qualifications of person/s who actually handle the telephone calls, to ensure that information received is as complete as possible and that the identity of the caller is protected at all times.
  - (3) Operators are properly trained to avoid, whenever possible, the intentional disclosure by callers of their identity.
  - (4) Operators are properly trained against making promises to the caller that might not be possible to honor.
  - (5) Operators are trained to exhibit and communicate a caring interest in the caller's concerns.
  - (6) Operators are trained to be alert to "false calls" by persons who are not employees or otherwise associated with LIBERTY Dental.

- (7) Operators are trained to ensure that callers do not become disenchanted with how they are treated on the phone.
  - (8) Records are maintained properly and kept confidential.
  - (9) Information that would identify either a caller or someone named, as the subject of a call must be kept in a safe and secure location, away from casual traffic.
- C. Hot Line calls and resolution of calls shall be tracked and reviewed by the Compliance Officer or designee and reported annually to the Board of Directors, or quarterly, should the Compliance Officer or designee determines it is necessary.
  - (1) Information regarding individual calls shall not be included in the monitoring unless there are specific questions regarding how the matter was handled.
- D. Identities of callers and accused parties shall not be disclosed to the Board of Directors or Compliance Committee until an investigation has been completed and disciplinary action is recommended.
- E. The outside entity and the Corporation shall do whatever is necessary to ensure that the rights of callers and those accused of wrongdoing are protected.
- F. The anonymity of callers whose identity becomes known shall be protected to the limits of the law.
- G. The Compliance Officer or designee shall compile a monthly statistical report, which shall include the following:
  - (1) Total number of allegations received during the period.
  - (2) Types of calls being received listed by category.
  - (3) Results of Hot Line allegations.
  - (4) Any trends/issues noted.
  - (5) Significance and impact arising from complaints.

## **2. INITIAL AUDITS**

- A. Upon approval of the Compliance Program by the Board of Directors, the Compliance Officer or designee shall conduct an initial audit of each department and clinic of LIBERTY Dental. The initial audit shall be conducted in the following manner:

(1) Each department head, shall be given a questionnaire to complete relating to his or her department.

(2) Such questionnaire shall contain, at a minimum:

- (a) Department Name.
- (b) Name of person completing the form.
- (c) Date the form was given to the department.
- (d) Deadline for completion and return of form to Compliance Officer.
- (e) Date form completed and returned.
- (f) Citation by number of laws, rules, regulations and policies and procedures applicable to the department/clinic.
- (g) Brief description of requirements of the laws, rules, regulations, contractual obligations and policies.
- (h) Whether the department/clinic is in compliance with such laws rules regulations and policies and procedures.
- (i) If non-compliant, the date the department/clinic will be in compliance.
- (j) Attestation of truth and completeness by department head or facility manager.

(3) The questionnaire shall be returned to the Compliance Officer or designee with the following documentation:

- (a) Proof that the department is in compliance with applicable laws rules regulations or policies and procedures. Such proof shall be in the form of:
  - (i) A copy of the relevant Department Policy and Procedure.
  - (ii) A copy of all forms, if any, used to comply.
  - (iii) A copy of all form letters or memoranda, if any, used to comply.
  - (iv) A description of the process used to monitor and assure compliance.



(b) A Corrective Action Plan, with estimated timelines for completion. Such plan shall include:

- (i) Actions being taken to bring the department into compliance.
- (ii) Person(s) responsible for completing the plan.
- (iii) Anticipated documentation that will show compliance.
- (iv) The process to be used to monitor and assure compliance.

B. Copies of completed audit questionnaires and Corrective Action Plans shall be kept on file by the Compliance Officer and in each department/clinic and shall be readily accessible to all employees of the department/clinic.

### 3. **ANNUAL AUDITS**

A. The Department of Compliance shall compile a list of all new local, state and federal laws applicable to LIBERTY Dental and shall distribute copies of such to each applicable department/clinic as they are enacted into law and no later than December 1 of each year.

B. Each department/location shall report to the Compliance Officer in writing by January 1 of each year its Action Plan to comply with new laws, rules and regulations.

C. The Compliance Officer shall approve annual Action Plans no later than January 15 of each year.

D. Each department/clinic shall provide documentation to the Compliance Officer or designee by February 1 of each year that it is in compliance with the Action Plan.

## **VI. RESPONSE TO IMPROPER CONDUCT**

A. Upon receipt of an allegation of misconduct, the Compliance Officer or a designee shall determine as soon as possible whether to conduct an investigation according to the following guidelines:

- 1. A determination must be made as to whether the investigation should be conducted by the Compliance Officer or designee, in-house counsel or outside counsel.
- 2. Determine as soon as possible whether litigation or civil or criminal action by a government agency is contemplated so that necessary privileges can be preserved.

- A. When such a determination has been made all communications and evidence must be directed to in-house or outside counsel and must be labeled to indicate they are gathered “in anticipation of litigation.”
- 3. Identify the initial scope of the investigation.
- 4. Identify the person or persons, department or entity to be investigated.
- 5. Identify all potential witnesses.
  - A. Before interviewing witnesses, determine whether the witness is already represented by counsel. If so, do not proceed with the interview without consent of counsel.
  - B. Terminate witness interview when it appears a witness may in fact become a target individual.
    - (1) If the misconduct potential includes commission of a crime, advise the witness of his or her right to seek counsel before answering any more questions. Seek guidance from in-house or outside counsel before proceeding further.
  - C. Stress to witnesses the need for confidentiality of the proceedings.
- 6. Identify and describe the specific activities which will be investigated
  - A. Make an initial determination as to whether the misconduct is or may be of a criminal nature.
  - B. Identify with as much precision as possible the specific laws, rules, regulations or policies and procedures which are alleged to have been violated.
  - C. Identify and obtain internal documents, including contracts, policies and procedures, forms, computerized data and communications which will be necessary to conduct the investigation.
- 7. Determine the existence of any prior or concurrent investigation or litigation relating to the scope of the investigation.
- 8. Prepare a checklist to ensure that all areas and issues of concern are reviewed.
  - A. When necessary, the assistance of in-house or outside counsel should be sought in preparing the checklist.
- 9. Prepare a list of all documents that will be required to conduct the investigation. Modify the list as necessary.
  - A. Establish the priority and timeframe for completion of the investigation.

10. Unless necessary to proceed, do not initially disclose the identity of the person(s) or entity under investigation.
11. Determine whether any persons or entities other than those initially identified may be involved in the misconduct.
12. Determine as soon as possible whether a government agency is involved or may soon become involved.
  - i. When reasonable suspicion arises that a person or persons, whether employee or contracted, has committed fraud or abuse or other reportable conduct, immediately report it to the State Attorney General's Medi-Cal Fraud Unit or other appropriate state or federal agency.
13. As necessary, advise the Compliance Committee that an investigation has commenced.

## **VII. ENFORCEMENT OF STANDARDS -- EMPLOYEES**

Enforcement of standards under the Compliance Program shall be consistent and predictable.

- A.** The Compliance Officer or designee, with the advice of the Director of Human Resources, legal counsel and the Compliance Committee, shall determine appropriate discipline for various violations of the Standards of Conduct.
- B.** Such discipline, when applied, shall include, where appropriate:
  1. Counseling.
  2. Verbal and/or written reprimand.
  3. Suspension without pay.
  4. Demotion.
  5. Termination.
- C.** Disciplinary action shall be documented in the employee's personnel file.
- D.** Determination of appropriate discipline shall be guided by the following:
  1. Severity of the offense.
    - A. Criminal offense.
    - B. Civil offense
    - C. Violation of corporate policies and procedures.
    - D. Harm done to corporation and other employees.

2. Repeat offenses.
  - A. Documented past warnings.
3. Maliciousness of the act.
  - A. Illegal financial gain.
  - B. Personal/professional gain.
  - C. Prior threat of unethical or illegal conduct.
    - (1) Conduct contrary to warnings of supervisor.
4. Innocent violation.
  - A. No knowledge that the act was illegal or unethical.
  - B. No reason to know the act was illegal or unethical.
5. Cooperation with investigation.
  - A. Assistance in uncovering illegal or unethical conduct by others.

#### **VIII. ENFORCEMENT OF STANDARDS -- CONTRACT PROVIDERS**

- A. The Compliance Officer or Designee, with the advice and consent of the Compliance Committee, shall determine appropriate discipline for various violations of the Standards of Conduct.
- B. Such discipline, when applied, shall include, where appropriate:
  1. Cease and Desist warning to the Provider and demand, with appropriate deadline, for a written Corrective Action Plan. Such Corrective Action Plan shall include:
    - A. A description of the disciplinary action taken against persons or entities involved in unethical or illegal conduct.
    - B. Steps that will be taken to prevent or discover such future unethical or illegal conduct.
  2. Termination of the Provider Agreement.
  3. After legal review, reporting the illegal or unethical conduct to the appropriate government agency or agencies.

#### **C. Reporting Violations to Government Agencies**

In determining whether to report violations to government agencies, the Compliance Officer or designee shall, with the advice and consent of the Compliance Committee:

1. Obtain legal review of the violation(s) and the appropriateness of reporting to governmental agencies.
2. Determine whether the conduct constitutes violation of a local, state or federal law or regulation.
3. Evaluate the seriousness of the offense.
4. Consider necessity of re-payment of income derived through illegal conduct.
5. Evaluate implications to corporation and/or employees of reporting violations.
6. Determine how reporting the violations will affect claimed privileges or confidentiality.

**REFERENCE:**

STATE	REGULATOR	CITE