

CBHS Policies and Procedures



City and County of San Francisco
Department of Public Health
San Francisco Health Network
BEHAVIORAL HEALTH SERVICES

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POLICY/PROCEDURE REGARDING: **Conflicts of Interest in Client Referrals - City Employees**

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Manual Number: 3.02-9

References: California
Government Code Section 1090;
San Francisco City Charter
Section 8.105

Technical Revision. Replaces Policy 3.02-9 dated August 02, 2010.

Purpose:

It is the policy of Behavioral Health Services (BHS) that employees of the City and County of San Francisco (including clinical and administrative employees and interns) who make referrals of clients to services outside the BHS System of Care do so in compliance with the standards set forth in State and local law governing conflict of interest for public employees. City and County employees may not make referral decisions which create a conflict of interest as detailed in this policy.

Scope:

In making decisions about client referrals and/or the operation of the San Francisco Mental Health Plan, employees are subject to certain state and local laws that prohibit conflicts of interest. Those laws include the California Political Reform Act, California Government Code Section 1090, and San Francisco City Charter Section 8.105.

Under the Political Reform Act, employees may not make, participate in making, or seek to influence, a government decision in which they have a financial interest, as defined in the Act. There is a financial interest in a decision if the decision will have a reasonably foreseeable material effect (distinguishable from the effect on the public generally) on the employee or the employee's immediate family (spouse and dependent children), or on the following economic interests:

- (1) Any business entity in which the employee has a direct investment or indirect investment (investment of the employee's spouse or dependent children) worth \$1,000 or more;
- (2) Any real property in which the employee has a direct or indirect interest (interest of the employee's spouse or dependent children) worth \$1,000 or more;
- (3) Any source of income, other than gifts and other than loans by a commercial lending institution in the regular course of business on terms available to the public without regard to official status, aggregating two hundred fifty dollars (\$250) or more in value provided to, received by or promised to the employee within 12 months prior to the time when the decision is made;

(4) Any business entity in which the employee is a director, officer, partner, trustee, employee, or holds any position of management; and

(5) Any donor of, or any intermediary or agent for a donor of, a gift or gifts aggregating two hundred fifty dollars (\$250) or more in value provided to, received by, or promised to the employee within 12 months prior to the time when the decision is made.

A referral of a BHS client is a government decision. The employee may not participate in making such a referral or seek to influence a referral if it is reasonably foreseeable that the referral will affect the employee in the ways identified above. Examples of referrals that would be precluded under these standards are:

- referrals directly to the employee;
- referrals to any business entity in which the employee, employee's spouse, or dependent children have an ownership interest of \$1000 or more;
- referrals to any person or business entity that has been a source of income (including gifts) to the employee of more than \$250 in the preceding 12 months;
- referrals to any business entity in which the employee is a director, officer, partner, trustee or employee; and
- influencing someone else to make the referrals noted above, including referring a client to someone with the understanding that as a result of the employee doing so they will refer clients to the employee or any person or entity to which the employee would be precluded from making a referral.

Referrals and other decisions that directly involve the employee's economic interests are subject to the standards described above. Other types of government decisions, such as policy decisions and rules, may indirectly affect the employee's economic interests. The employee may not make, participate in making, or seek to influence a government decision that indirectly involves the employee's economic interests if the decision would have a material effect on the employee's economic interests. Whether the effect of a decision that indirectly involves the employee's economic interests would be material depends upon the size of the employee's economic interest and the degree of the decision's effect. For example, if the employee has a for-profit private practice that has assets of less than \$4 million and pre-tax income for the last fiscal year of less than \$750,000, a policy decision indirectly affecting the employee's practice is material if it is reasonably foreseeable that the decision will:

- (1) result in an increase or decrease in gross revenues for a fiscal year of \$10,000 or more; or
- (2) result in the business entity incurring or avoiding additional expenses or reducing or eliminating existing expenses for a fiscal year in the amount of \$2,500 or more; or
- (3) result in an increase or decrease in the value of assets or liabilities of \$10,000 or more.

Different standards may apply if the employee's practice is larger or the decision affects some economic interest of the employee other than one's practice.

In addition to the Political Reform Act, other conflict of interest laws apply to the employee. California Government Code §1090 prohibits the employee from participating in any way in making government contracts in which the employee has a financial interest. San Francisco Charter section 8.105(a) also prohibits the employee from participating in any way in making government contracts in which the employee has a financial interest.

Circumstances may present conflicts that are not described in the examples provided above. Whenever the employee's personal interests may conflict with the undivided duty of loyalty the employee owes to one's government responsibilities, the employee has a prohibited conflict of interest. If for any reason the employee is uncertain whether a particular decision presents a conflict of interest, one should seek further advice regarding this matter by discussing it with BHS Risk Manager, under Quality Management.

A violation of conflict of interest laws may result in civil or criminal penalties and may result in disciplinary action, including termination of employment.

Contact Person:

BHS Risk Manager, 415-255-3523

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