

## **SCOPE**

### **Anti-Kickback Statute Policy (Effective Date: November 1, 2017)**

This policy applies to all Blair Wellness Group, A Professional Psychological Corporation, (herein may be referred to as BWG), including any full time, part time, temporary contract employee, Corporate Integrity Agreement (CIA) Covered Persons, and/or Vendors for professional services.

## **PURPOSE**

BWG is committed to compliance with applicable laws, rules and regulations, including the Federal Anti-Kickback Statute. This policy provides general information about the Federal Anti-Kickback Statute; and implements relevant policies as applied to relationships between Blair Wellness Group, A Professional Psychological Corporation, and referral, or direct business sources, where payment may be paid under a federal healthcare benefit program.

## **FEDERAL HEALTHCARE ANTI-KICKBACK STATUTE**

### **Relevant Purpose**

The Federal Anti-Kickback Statute generally prevents companies such as Blair Wellness Group, A Professional Psychological Corporation from encouraging clients, customers or patients, directly or indirectly, to recommend, prescribe, or purchase Blair Wellness Group, A Professional Psychological Corporation, services based on a financial incentive or “kickback” rather than sound medical and business judgment.

## **SUMMARY OF THE LAW**

As it applies to Blair Wellness Group, A Professional Psychological Corporation, the Anti-Kickback Statute generally makes it illegal to directly or indirectly offer or pay any “remuneration” to any entity (including vendors, clients, and potential clients) to induce that entity to recommend, prescribe, or purchase Blair Wellness Group, A Professional Psychological Corporation, services when those services are being paid for by the federal government.

“Remuneration” can be anything of value, such as discounts, rebates, grants, vouchers, cash, gifts, services, coupons, lottery tickets, trips, or free products. The government may view remuneration as a kickback even if one among many other appropriate reasons you provided was to encourage your client or patient to utilize Blair Wellness Group, A Professional Psychological Corporation, services.

Similarly, the Anti-Kickback Statute generally makes it illegal for Blair Wellness Group, A Professional Psychological Corporation, or its employee, agent, client to accept any improper remuneration in exchange for prescribing or influencing prescribing Blair Wellness Group, A Professional Psychological Corporation, services. Thus, there is a common interest between Blair Wellness Group, A Professional Psychological Corporation, and those individuals and entities with whom we do business to avoid an arrangement that might appear to be a “kickback” “Safe Harbors”.

Not all discounts, grants, and gifts are illegal. The government has established “safe harbors” to protect certain conduct. If a company fully complies with a safe harbor, it will not be liable under the Anti-Kickback Statute. For example, the “Personal Services Safe Harbor”, allows Blair Wellness Group, A Professional Psychological Corporation, to enter into contracts with healthcare professionals for services such as speaking engagements, consultancies, and advisory boards. It is important to note that this “safe harbor” requires that the services be “bona fide”, that any fees paid for such services represent the “fair market value” for such services, and that an agreement is set out in writing signed by both parties. Further, a “safe harbor” also exists for bona fide employees. The specifics of these safe harbors are extremely complex. For this reason, all arrangements with possible “anti kickback” risk must be approved by outside Legal Counsel with expertise in the Anti-Kickback Statute and Stark Law.

## **PENALTIES**

It is a felony to violate the Anti-Kickback Statute. Violators may be fined substantial penalties for violations, and may also face probation (for Corporations/Organizations) or prison (for individuals). Additionally, violation of the Anti-Kickback Statute may result in exclusion from the federal healthcare programs such as Medicare and Medicaid. Likewise, there are state-based anti-kickback statutes under which BWG could face penalties for activities deemed to be kickbacks.

POLICY – GIFTS, MEALS, ENTERTAINMENT AND CHARITABLE

## **CONTRIBUTIONS**

### **Gifts, Meals, and Entertainment**

It is never appropriate to provide a gift, meal, or entertainment in order to encourage any client/patient/customer or prospective client/patient/customer to use services or order BWG or to be a source of referrals for Blair Wellness Group, A Professional Psychological Corporation.

BWG employees or sales representatives may not give gifts, provide meals, or entertainment to a prospective customer, current customer, relative, or close associate of the customer unless they have been approved by the Compliance Department or Senior Director and are:

- Offered only occasionally
- Are nominal in value
- Are not price terms or in place of a price concession

Non- Blair Wellness Group funds may never be used to provide gifts, meals, or entertainment to a prospective customer, relative, or close associate or family member of the client/patient/customer.

## **Charitable Contributions**

It is BWG policy that any employee declines opportunities to make monetary charitable donations when participation is solicited by a client/customer/patient or potential client/patient/customer, as such arrangement could be viewed as a kickback. Should a client/patient/customer, such as a doctor or related staff member, patient or client ask to make a donation to his or her favorite charity, all such requests or suggestions will be declined upon such request.

BWG may support certain charitable organizations through appropriate donation of products, services, and funds. All charitable contributions must be approved in advance by outside Legal Counsel with expertise in the Anti-Kickback Statute and Stark Law, and be in Compliance with the State and Federal Laws without any exception.

Notwithstanding the above, participating in a mission trip that includes a customer or potential customer, is not allowed as it may be considered a dual relationship between a doctor, or employee and a patient/client.

Charitable donations of products, services, funds, or participation in a mission trip, may never be made:

- To encourage anyone to purchase or recommend BWG services
- In exchange for an agreement to purchase or order BWG services or
- In lieu of a discount or price concession or as part of a contract negotiation or fee agreement.

## **POLICY – FOCUS ARRANGEMENTS**

### **General Focus Arrangement Policy**

Definitions:

- Focus Arrangements (FA) – An arrangement between BWG and any actual source of healthcare business or referrals paid for by a government program that involves the payment or provision of anything of value
- Covered Person
  - o Any owner, officer, director, or employee
  - o All persons who furnish patient care items/services or billing coding functions for BWG or perform functions related to sales and marketing on behalf of BWG; excluding vendors whose sole connection with BWG is selling, marketing or providing supplies or equipment to BWG;

- Remuneration to and from all parties to the FA will be tracked
- As applicable, service and activity logs will be maintained for FA's to ensure parties to a FA are performing services required under the FA
- As applicable, leased space, relevant supplies, or patient care items will be monitored to ensure use is consistent with the terms of a FA.
- All new, existing, and renewed FA will be reviewed by Legal counsel with expertise in the Anti-Kickback Statute and Stark Law, have business rationale documented, and have Fair Market Value (FMV) review documented.

### **New and Renewed Focus Arrangement Policies**

- Will be set forth in a signed writing
- Include a requirement that each party to a FA who meets the definition of a Covered Person will complete one hour of Anti-Kickback Statute and Stark training
- Each employee and party to the FA will be provided with a copy of BWG Stark Law and Anti-Kickback Statute Policy

**Compliance Review of CTS and FA Procedures** – A Compliance Officer or an outside Legal Counsel with expertise in the Anti-Kickback Statute and Stark Law, will review the FA CTS and FA Procedures on an annual basis.

Note: In addition to these general FA policies, the following sections contain policy specific to different categories of Focus Arrangements as well as reference to detailed procedural documents that implement applicable policy

Speakers, Consultants, and Advisory Committees

BWG may pay reasonable fees for the performance of bona fide services by healthcare professionals, provided certain criteria are met.

These arrangements may include, for example, speakers, consultants, or participation on the Clinical Advisory Group. Such arrangements are permitted only if:

- BWG needs the services, and that need has been appropriately documented
- Participants are chosen based on their qualifications and expertise
- Participation is limited to the number of people needed to do the work
- Payment is based on the fair market value of the work or services, and
- BWG and the provider will sign a written contract in a form approved by the Compliance Department or an outside Legal Counsel with expertise in the Anti-Kickback Statute and Stark Law, that includes: – the legitimate business need for the services – the participant's qualifications – a description of the services, and – fair market value compensation

These arrangements may not be made:

- To encourage anyone to purchase, or recommend BWG services
- To reward high volume customers

In addition, the policies in the General Focus Arrangement Policy section above are also applicable to these arrangements.

See: Clinical Advisory Group Focus Arrangement Procedures

## **Client Agreements**

New and Renewing Agreements - "Dormant" Client Agreements - It is BWG policy to apply General Focus Arrangement Procedures to include Fair Market Value (FMV) review, Business Justification analysis and Legal review to Dormant Agreements that return as an active client at the time the client reactivates its relationship with BWG.

Reactivated Dormant Client Agreements- will follow the same contracting and FA procedures as a new account. BWG defines a Dormant Client Agreement as a contract with a client that has not utilized our services with-in the past 3 months.

Client Concessions - It also BWG's policy to ensure "client concessions" during the duration of the contractual relationship do not undercut FMV nor give client's preferential treatment that could potentially implicate the Antikickback liability. All requests for a client concession (e.g. minimum waivers, discount on unpaid invoices, etc.) must be submitted to BWG in writing. The Compliance Officer will determine if the requested concession will be given.

## **Vendor Agreements**

General Focus Arrangement Policies described above, to include Fair Market Value (FMV) review, Business Justification analysis and Legal review, must be applied for all vendor agreements where the vendor is a source of referral business for services reimbursed under a Federal government program. These apply to Services and Products Purchased From outside Physicians Or Healthcare Service Providers.

General Focus Arrangement Policies described above, to include Fair Market Value (FMV) review, Business Justification analysis and Legal review, must be applied to all BWG Creative contracts if there is also a contract with any outside physician or healthcare provider.

## **POLICY – SUSPECTED VIOLATION**

All suspected violations of the Antikickback Statute must be reported to the Compliance Officer and/ or an outside Legal Counsel with expertise in the Anti-Kickback Statute and Stark Law, who will investigate the incident and take appropriate remedial steps to address the issue. The Compliance Officer will also determine if the incident meets the definition of a reportable event per the Anti-Kickback Statute Policy as stated above.