

		<b>TITLE</b>	
		<b>Corporate Compliance</b> <b>18NYCRR Part 521</b>	
		<b>Approved by: Best Practice Committee</b>	
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<b>REVIEW CYCLE</b>	<b>AUGUST</b>	<b>JCAHO STANDARD</b>	
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## Corporate Compliance Plan

### Corporate Compliance Officer

Tracey Maw

Telephone: 716-826-2010

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Buffalo, New York 14225

*Adopted January 1, 2023*

- \* *Governing Body ~ Owner, CEO, COO, CHRO, CIO, CFO, C Integration Officer*
- \* *Executives ~ Member of the Governing Body and Regional Vice Presidents*

# CORPORATE COMPLIANCE PLAN

## **I. The Purpose of the Compliance Plan and Program.**

The Organization<sup>1</sup> has adopted a Corporate Compliance Program (the “Compliance Program”) to promote compliance with all applicable laws, regulations, and ethical standards. Our Compliance Program is described in this Corporate Compliance Plan (the “Compliance Plan”).<sup>2</sup> This Plan provides guidance to all persons who are affected by our Compliance Risk Areas (as defined herein), including our employees,<sup>3</sup> contractors,<sup>4</sup> Managers<sup>5</sup> on how to conduct themselves when working for. The goals of the Compliance Program are to:

1. Prevent fraud, waste, abuse, and other improper or unethical conduct;<sup>6</sup>
2. Detect any improper or unethical conduct at an early stage before it creates a substantial risk of liability for the Organization; and
3. Respond swiftly to compliance problems through investigation, disciplinary, and corrective action.

All employees, contractors, and executives have a personal obligation to assist in making the Compliance Program successful. All employees, contractors, and executives are expected to:

1. Familiarize themselves with this Compliance Plan;
2. Review and understand the key compliance policies governing their particular functions and responsibilities;

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<sup>1</sup> “The Organization” includes Autumn View Health Care Facility, LLC, Brookhaven Health Care Facility, LLC., Garden Gate Health Care Facility, LLC, Harris Hill Nursing Facility, LLC, North Gate Health Care Facility, LLC, Seneca Health Care Center, LLC, Chautauqua Nursing and Rehabilitation Center, Roscoe Rehabilitation and Nursing Center, Inc., Sunset Nursing and Rehabilitation Center, Inc., Susquehanna Nursing & Rehabilitation Center, LLC, Taconic Rehabilitation and Nursing at Beacon, Taconic Rehabilitation and Nursing at Hopewell, and Taconic Rehabilitation and Nursing at Ulster.

<sup>2</sup> The “Corporate Compliance Plan” is this document that provides an overview of the Organization’s Corporate Compliance Program. The Corporate Compliance Program is the Organization’s implementation of the Compliance Plan and includes all of the Organization’s compliance activities.

<sup>3</sup> In this Compliance Plan, “employees” includes the CEO, President, Regional Vice Presidents, Administrators, Managers, interns, and volunteers who are affected by the Compliance Risk Areas, as defined herein.

<sup>4</sup> In this Compliance Plan, “contractors” includes the contractors, agents, subcontractors, and independent contractors who are affected by the Compliance Risk Areas, as defined herein.

<sup>5</sup> In this Compliance Plan, includes Owners and Corporate Officers who are affected by the Compliance Risk Areas, as defined herein.

<sup>6</sup> Note that personnel issues are not compliance issues unless an employee believes that they have been intimidated or retaliated against for reporting a compliance issue, in which case they should contact the Corporate Compliance Officer. Other personnel issues should be reported to the CHRO.

3. Report any fraud, waste, abuse, or other improper or unethical conduct by using the methods described in this Compliance Plan;
4. Cooperate in any audits and investigations of the Organization; and
5. Carry out their responsibilities in a manner that demonstrates a commitment to honesty, integrity, and compliance with the law.

The Compliance Plan and Compliance Program are reviewed at least annually to address new compliance challenges and maximize the use of the Organization resources, and to determine whether:

1. The Compliance Plan, Compliance Program, and Standards of Conduct have been implemented;
2. Employees, contractors, and executives are following the policies, procedures, and Standards of Conduct;
3. The policies, procedures, and Standards of Conduct are effective; and
4. Any updates are required.

Employees, contractors, and executives are encouraged to provide input on how the Compliance Program might be improved.

## **II. The Elements of the Compliance Program.**

The Compliance Program is based on the compliance laws, regulations, and guidance from Federal and State governmental entities that the Organization is required to comply with.<sup>7</sup> The key elements of the Compliance Program, which are discussed in greater detail in the sections referenced below, are as follows:

1. General Responsibilities (Section III);
2. Standards of Conduct and Key Policies and Procedures (Section IV);
3. Corporate Compliance Officer and Committee (Section V);
4. Compliance Training (Section VI);
5. Reporting Compliance Issues (Section VII);
6. Internal Investigations (Section VIII);

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<sup>7</sup> This includes Section 363-d of the New York Social Services Law, Part 521 of Title 18 of the New York State Codes, Rules and Regulations, and guidance issued by the New York State Office of Medicaid Inspector General (“OMIG”) and the U.S. Department of Health and Human Services Office of Inspector General (“HHS-OIG”).

7. Corrective Action (Section IX);
8. Disciplinary Measures (Section X);
9. Non-Retaliation and Non-Intimidation (Section XI);
10. Government Audits and Investigations (Section XII);
11. Risk Identification and Audits (Section XIII);
12. Conflict of Interest Policy (Section XIV); and
13. Laws Regarding the Prevention of Fraud, Waste, and Abuse (Section XV).

### **III. General Responsibilities.**

The Organization recognizes that operating in an ethical and legal manner is not only an obligation of the Organization, but is an obligation of each individual providing services on its behalf. The following responsibilities apply to employees, contractors, and Board members respectively.

#### **A. Responsibilities of Employees.**

##### **1. Duty to Know and Comply with Applicable Requirements.**

Employees are obligated to know the following information, to the extent it is applicable to the employee's daily responsibilities:

- a. Medicaid, Medicare, and other payer and service delivery requirements;
- b. The prohibitions against fraud, waste, abuse, and improper conduct;
- c. The Organization's Compliance Risk Areas, as defined herein; and
- d. The Organization's Compliance Program.

Employees are also required to comply with the ***Exclusion Screening Policy***. Employees, including the Corporate Compliance Officer and executives, are obligated to attend periodic training related to their job responsibilities.

##### **2. Duty to Report.**

Employees are obligated to report instances of actual or possible fraud, waste, abuse, and other improper and unethical conduct to one of the following below. Employees can find more information in the Organization's ***Duty to Report Policy*** and ***Fraud Prevention Policy***.

- a. The Organization's Compliance Hotline 844-235-6210 or Compliance website [livinglegendshealth.ethicspoint.com](http://livinglegendshealth.ethicspoint.com). (anonymous);

- b. The Organization's Corporate Compliance officer by telephone 716-826-2010, email Tracey Maw: [tmaw@mcguiregroup.com](mailto:tmaw@mcguiregroup.com) or in writing to Attn: Compliance Officer, 455 Cayuga Road, suite 200, Buffalo, New York 14225;
- c. The employee's supervisor or any supervisor; or
- d. Any member of the Compliance Committee.

Employees are encouraged to first report their concerns directly to the Organization to allow the Organization the opportunity to quickly address potential problems. Employees shall cooperate in internal and external audits or investigations regarding possible fraud, waste, abuse, or other improper or unethical conduct.

### **3. Duty to Respond.**

Employees are obligated to respond appropriately to reports of actual or possible fraud, waste, abuse, or other improper or unethical conduct that are reported to them by other employees, contractors, and Board members. Such response should include following the procedure set forth in Sections VIII and IX of this Compliance Plan, below, relating to investigating and responding to actual or suspected noncompliance.

### **4. Duty to Promote Organizational Compliance.**

Employees shall promote their commitment to compliance with Medicaid, Medicare, and other payer and service delivery requirements, and the prohibitions against fraud, waste, and abuse and other improper or unethical conduct. Employees shall cooperate with and assist the Corporate Compliance Officer in the performance of their responsibilities.

## **B. Responsibilities of Contractors.**

### **1. Duty to Know and Comply with Applicable Requirements.**

Contractors are obligated to know the following information, to the extent it is applicable to the service they provide to the Organization:

- a. Medicaid, Medicare, and other payer and service delivery requirements;
- b. The prohibitions against fraud, waste, abuse, and other improper and unethical conduct;
- c. The Organization's Compliance Risk Areas, as defined herein; and
- d. The Organization's Compliance Program.

Contractors are also required to comply with the Organization's *Vendor Relations Policy*, *Exclusion Screening Policy*, and *Fraud Prevention Policy*.

## 2. Duty to Report.

Contractors shall report instances of actual or possible fraud, waste, abuse, and other improper or unethical conduct to the following below. Contractors can find more information in the Organization's *Duty to Report Policy*.

- a. The Organization's Compliance Hotline 844-235-6210 or Compliance website [livinglegendshealth.ethicspoint.com](http://livinglegendshealth.ethicspoint.com). (anonymous);
- b. The Organization's Corporate Compliance officer by telephone 716-826-2010, email Tracey Maw: [tmaw@mcguiregroup.com](mailto:tmaw@mcguiregroup.com) or in writing to Attn: Compliance Officer, 455 Cayuga Road, suite 200, Buffalo, New York 14225;
- c. Any member of the Compliance Committee or
- d. The organization's CEO

## C. Responsibilities of Executives.

### 1. Duty to Know and Comply with Applicable Requirements.

The executives are obligated to attend annual compliance training, to review and certify adherence to the Compliance Plan, and to know the following information:

- a. The prohibitions against fraud, waste, abuse, and other improper or unethical conduct;
- b. The Organization's Compliance Risk Areas, as defined herein; and
- c. The Organization's Compliance Program.

### 2. Duty to Report.

Executives shall report instances of actual or possible fraud, waste, abuse, and other improper or unethical conduct in the following ways below. They can find more information in the Organization's *Duty to Report Policy* and *Fraud Prevention Policy*.

- i. The Organization's Compliance Hotline 844-235-6210 or Compliance website [livinglegendshealth.ethicspoint.com](http://livinglegendshealth.ethicspoint.com). (anonymous);
- ii. The Organization's Corporate Compliance officer by telephone 716-826-2010, email Tracey Maw: [tmaw@mcguiregroup.com](mailto:tmaw@mcguiregroup.com) or in writing to Attn: Compliance

Officer, 455 Cayuga Road, suite 200, Buffalo, New York  
14225;

- iii. . Any member of the Compliance Committee or
- iv. The organization's CEO

### **3. Duty to Promote Organizational Compliance.**

Executives shall promote and demonstrate their commitment to the Organization's Compliance Program. They are responsible for overseeing the development, implementation, operation, and evaluation of the Compliance Program. They shall periodically receive updates and reports from the Corporate Compliance Officer on compliance-related initiatives and activities.

### **4. Duty to Respond.**

Executives are obligated to respond appropriately to reports or other indications of actual or possible fraud, waste, abuse, or other improper or unethical conduct. Such response should include ensuring that the Organization follows the procedures set forth in Sections VIII and IX of this Compliance Plan, below, relating to investigating and appropriately responding to reports of fraud, waste, abuse, or other improper or unethical conduct.

Executives are obligated to cooperate in any internal or external audits or investigations by duly authorized internal or external auditors or investigators regarding possible fraud, waste, abuse, or other improper or unethical conduct.

## **IV. Standards of Conduct and Key Policies and Procedures.**

### **A. Standards of Conduct.**

These Standards of Conduct set forth the basic principles that guide the Organization's decisions and actions. The Standards of Conduct are not intended to address every potential compliance issue that may arise in the course of the Organization's business. All employees, contractors, and executives are expected to familiarize themselves with the Code of Conduct and comply with it in carrying out their duties.

#### **1. Comply With Applicable Laws.**

All employees, contractors, and executives must be aware of and comply with all laws and regulations applicable to their functions.

**2. Conduct Affairs in Accordance With High Ethical Standards.**

All employees, contractors, and executives shall conduct themselves in accordance with high ethical standards of the community and their respective professions.

**3. Conflicts of Interest.**

All employees, contractors, and executives must faithfully conduct their duties solely for the purpose, benefit, and interest of the Organization and those individuals it serves. All employees, contractors, and executives have a duty to avoid conflicts with the interests of the Organization and may not use their positions and affiliations with the Organization for personal benefit. Employees, contractors, and executives must avoid not only actual conflicts of interest but also the appearance of conflicts of interest.

**4. Provide High Quality of Care.**

All employees and contractors are expected to provide high quality services and executives shall support this standard of care. The care provided must be reasonable and necessary to the care of each individual and be provided by properly qualified individuals.

**5. Provide Equal Opportunity For All Recipients.**

The Organization is committed to providing services for persons, without regard to age, creed, disability, religion, gender identity or expression, familial status, marital status, military status, national origin, race, color, sex, sexual orientation, human research subject, or source of payment. All employees, contractors, and executives shall treat all individuals receiving services with respect and dignity. Discrimination in any form will not be tolerated.

**6. Confidentiality.**

Employees, contractors, and executives have access to a variety of sensitive and proprietary information of the Organization, the confidentiality of which must be protected. All employees, contractors, and executives must ensure that confidential and proprietary information is properly maintained in accordance with laws, regulations, policies, and procedures, and that sensitive and proprietary information is not disclosed without proper authorization or a legal basis.

**7. Integrity with Payer Sources.**

Employees and contractors shall ensure that all requests for payment for services are reasonable, necessary, and appropriate, are issued by properly qualified persons, and are billed in the correct amount with appropriate supporting documentation.

**8. Honesty and Integrity.**

Employees, contractors, and executives must be honest and truthful in all of their dealings. They must avoid doing anything that is, or might be, against the law.

## **9. Dignity and Respect.**

Employees, contractors, and executives shall respect and value each other, the diversity of the Organization's work force, and the individuals they serve.

### **B. Key Policies and Procedures.**

The development and distribution of policies and procedures are essential components of an effective compliance program. All employees, contractors, and executives are required to review and carry out their duties in accordance with the policies applicable to their functions and responsibilities. The Organization's Compliance Program policies and procedures include the following:

1. Duty to Report Policy;
2. Non-Retaliation and Non-Intimidation Policy;
3. Compliance Training Policy;
4. Disciplinary Policy;
5. Compliance Investigations Policy;
6. Auditing and Monitoring Policy;
7. Vendor Relations Policy;
8. Exclusion Screening Policy;
9. Fraud Prevention Policy;
10. Conflict of Interest Policy;
11. Whistleblower Policy; and
12. Compliance Committee Charter.

### **V. Corporate Compliance Officer and Compliance Committee.**

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

The Corporate Compliance Officer is responsible for overseeing the implementation of the Compliance Program, and for carrying out the Compliance Program's day-to-day activities. The Corporate Compliance Officer's duties include, but are not limited to, the following:

1. Overseeing and monitoring the adoption, implementation, and maintenance of the Compliance Plan and Compliance Program, including drafting, revising, and approving the written policies and procedures required;
2. Evaluating the effectiveness of the Compliance Plan and Compliance Program;
3. Reviewing and updating the Compliance Plan and compliance policies, and developing new compliance policies as needed;
4. Receiving information from the Compliance Hotline;
5. Evaluating, investigating, and independently acting on compliance-related questions, concerns, and complaints, including designing and coordinating internal investigations, and documenting, reporting, coordinating, and pursuing any resulting corrective action, including self-disclosure if appropriate;
6. Ensuring proper reporting of violations to duly authorized regulatory agencies as appropriate or required;
7. Working with the Chief Human Resource Officer and others as appropriate to develop the compliance training program described in Section VI of this Compliance Plan, below;
8. Establishing and maintaining open lines of communication with members of the Compliance Committee, The Organization's employees, managers, executives, downstream and related entities, programs, and departments to ensure effective and efficient compliance policies and procedures;
9. Distributing information on the Compliance Program to contractors;
10. Conducting and facilitating internal audits to evaluate compliance and assess internal controls;
11. Responding to government audits and investigations and other inquiries;
12. Distributing compliance responsibilities throughout the Organization;
13. Developing an annual work plan that outlines the Organization's proposed strategies for meeting the applicable statutory and regulatory requirements for the coming year, including internal audits, with the assistance of Managers and the Compliance Committee;
14. Assisting the Organization in establishing methods to improve its efficiency, quality of services, and reducing its vulnerability to fraud, waste, and abuse;
15. Ensuring the Human Resources Department is screening prospective current employees, contractors, and executives; and
16. Maintaining appropriate Compliance Program documentation.

The Corporate Compliance Officer reports directly to, and is accountable to, the CEO. The Organization will ensure that the Compliance Officer is allocated sufficient staff and resources to satisfactorily perform their responsibilities for the day-to-day operation of the Compliance Program based on the Organization's Compliance Risk areas and organizational experience,<sup>8</sup> and that the Compliance Officer and appropriate personnel have access to all records, documents, information, facilities, and employees, contractors, and executives that are relevant to carrying out their Compliance Program responsibilities.

The Compliance Officer will report directly to the CEO, and Compliance Committee on the progress of adopting, implementing, and maintaining the Compliance Program on a regular basis, and no less frequently than quarterly. In addition, the Compliance Officer shall prepare a written report to the CEO annually describing the compliance efforts undertaken during the preceding year and identifying any changes necessary to improve the Compliance Program. In the event of suspected or actual improper conduct on the part of the CEO, the Corporate Compliance Officer is required to report such conduct directly to the Owner.

**B. Compliance Committee.**

The Organization has a Compliance Committee which is responsible for coordinating with the Compliance Officer to ensure that the Organization is conducting its business in an ethical and responsible manner, consistent with its Compliance Program.

The Corporate Compliance Officer shall be a member of the Compliance Committee and serve as the Chair of the Committee. The CEO shall appoint additional members to the Compliance Committee, and these additional members shall, at a minimum, be comprised of senior managers. The Compliance Committee meets at least quarterly, and the duties, responsibilities, and members of the Compliance Committee are reviewed at least annually.

The Compliance Committee reports directly, and is accountable to, the CEO. The Compliance Committee's functions include, but are not limited to, the following:

1. Receiving regular reports from the Corporate Compliance Officer on the implementation of the Compliance Program;
2. Identifying Compliance Risk Areas, as defined herein;
3. Assisting with the development of and approving the annual work plan carried out under the Compliance Program;

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<sup>8</sup> As used in this Compliance plan, "organizational experience" means the Organization: (1) knowledge, skill, practice, and understanding in operating its Compliance Program; (2) identification of any issues or risk areas in the course of its internal monitoring and auditing activities; (3) experience, knowledge, skill, practice, and understanding of its participation in the Medicaid Program and the results of any audits, investigations, or reviews it has been the subject of; or (4) awareness of any issues it should have reasonably become aware of for its categories of service.

4. Coordinating with the Compliance Officer to draft, revise, and approve the written policies and procedures required, and to ensure that written policies, procedures, and the Standards of Conduct are current, accurate, and complete;
5. Approving the compliance training program provided to all employees, contractors, and executives and re-evaluating as appropriate;
6. Coordinating with the Compliance Officer to ensure that all compliance training program requirements are timely completed;
7. Receiving reports from the Corporate Compliance Officer of investigations of actual or suspected fraud, waste, abuse, or other improper or unethical conduct and any corrective action taken as a result of such investigations;
8. Coordinating with the Compliance Officer to ensure communication and cooperation by employees, contractors, and executives on compliance-related issues, internal or external audits, or any other Compliance Program-related functions or activities;
9. Recommending and approving any changes to the Compliance Plan, Compliance Program, and compliance policies; and
10. Developing and evaluating strategies to promote compliance and detection of fraud, waste, abuse, and other improper or unethical conduct.

**C. Governing Body.**

The Governing Body has ultimate authority for governance of the Organization, including oversight of the Organization's Compliance Program. The Governing Body will receive reports on the operation of the Compliance Program directly from the Corporate Compliance Officer at least quarterly. The Corporate Compliance Officer has the right to bring matters directly to the Governing Body at any time.

**VI. Compliance Training.**

The Compliance Officer and all employees, contractors, and executives are required to receive compliance program training upon hiring and no less frequently than annually thereafter. Training and education will be provided in a form and format that is accessible and understandable to all employees, contractors, and Board members, consistent with Federal and State language and other access laws, rules, or policies.

Every employee, including the Corporate Compliance Officer and senior administrators, must attend the basic compliance training session offered by the Organization within thirty (30) days of the commencement of employment and a refresher training session annually thereafter. Training will be scheduled by the Chief Human Resource Officer and/or their designee as part of

their responsibility to oversee general orientation for new employees and annual refresher training. The basic compliance training session shall cover the key elements of the Compliance Program.

Employees may also be required to participate in targeted compliance training sessions recommended by the Corporate Compliance Officer or Supervisors. Targeted training is designed to focus on the specific compliance issues associated with an employee's functions. After all compliance trainings, employees must acknowledge in writing that they have received training and agree to fulfill their obligations under the Compliance Plan and policies.

Executives must attend a compliance training session within sixty (60) days of their appointment and an annual training session thereafter. After all compliance trainings, Executives must acknowledge in writing that they have received training and agree to fulfill their obligations under the Compliance Plan and policies.

Contractors must participate in compliance training either prior to contracting with The Organization or within thirty (30) days of contracting with the Organization. Such training may consist of the Organization providing the contractor with the Organization's Fraud Prevention Policy and a copy of the Compliance Plan or a link to access the Compliance Plan.

All individuals and entities required to receive training must be afforded an opportunity to ask questions and receive responses to such questions. Additional information on compliance training can be found in the Organization's *Compliance Training Policy*.

## **VII. Reporting Compliance Problems.**

### **A. Reporting Options.**

In accordance with its *Duty to Report Policy*, the Organization maintains open lines of communication for the reporting of actual or suspected improper or unethical conduct. Employees, contractors, and executives shall promptly report any such conduct of which they become aware in any one of the following ways:

- a. Filing a report through the Compliance Hotline at The Organization's Compliance Hotline 844-235-6210 or Compliance website [livinglegendshealth.ethicspoint.com](http://livinglegendshealth.ethicspoint.com). (anonymous);
- b. The Organization's Corporate Compliance officer by telephone 716-826-2010, email Tracey Maw: [tmaw@mcguiregroup.com](mailto:tmaw@mcguiregroup.com) or in writing to Attn: Compliance Officer, 455 Cayuga Road, suite 200, Buffalo, New York 14225;
- c. Notifying a supervisor or director; or
- d. Notifying any member of the Compliance Committee

These lines of communication will be publicized by the Organization, and will be made available to all employees, contractors, executives, and service recipients who are Medicaid Program beneficiaries. Employees, contractors, and executives may also use these reporting methods to ask compliance-related questions and communicate directly with the Organization's Compliance Officer.

**B. Compliance Hotline.**

The Compliance Hotline may be accessed by dialing 844-235-6210 or Compliance website [livinglegendshealth.ethicspoint.com](http://livinglegendshealth.ethicspoint.com) to report a complaint. Employees, contractors, and executives have the option of reporting a complaint on the Compliance Hotline anonymously. The Corporate Compliance Officer is responsible for reviewing all Compliance Hotline reports and assessing whether they warrant further investigation.

Employees should understand that the Compliance Hotline is designed solely for the good faith reporting of fraud, waste, abuse, and other compliance problems; it is not intended for complaints relating to the terms and conditions of an employee's employment. Any such complaints should be directed to the employee's supervisor or the Chief Human Resources Officer/Designee. However, if an employee believes that they were retaliated against or intimidated for reporting a compliance concern, the employee's complaint may be reported on the Compliance Hotline or to the employee's supervisor or Chief Human Resources Officer/Designee. However, if the employee reports retaliation or intimidation on the Compliance Hotline, the employee will have to disclose their identity in order for the Compliance Officer to be able to investigate the matter.

**C. Confidentiality.**

If an employee, contractor, or executives requests confidentiality of their report, the information provided by the individual will be treated as confidential to the extent feasible and permitted by applicable laws. However, individuals are encouraged to identify themselves when making such reports so that an investigation can be conducted with a full factual background.

The Organization will ensure that the confidentiality of persons reporting compliance issues is maintained unless the matter is subject to a disciplinary proceeding, referred to, or under investigation by the New York State Attorney General's Medicaid Fraud Control Unit ("MFCU"), OMIG, or law enforcement, or disclosure is required during a legal proceeding. All persons reporting compliance issues will be protected from non-intimidation and non-retaliation pursuant to the Organization's *Non-Retaliation and Non-Intimidation Policy*.

## **VIII. Internal Investigations.**

All reports of fraud, waste, abuse, or other improper or unethical conduct, as well as any potential compliance problems identified in the course of internal auditing and monitoring, shall be promptly reviewed and evaluated by the Corporate Compliance Officer. The Corporate Compliance Officer determines, in consultation with other personnel and legal counsel of the Organization, as necessary, whether the report warrants an internal investigation. If warranted, the Corporate Compliance Officer will coordinate the investigation and determine whether any outside advisors such as attorneys, accountants, or other advisors are needed. If the Corporate Compliance Officer and/or senior management determine it is in the best interests of the Organization to keep the contents and/or findings of the investigation confidential and not subject to disclosure to third parties, the Corporate Compliance Officer shall arrange for legal counsel to conduct and/or supervise the investigation under the attorney-client and attorney work product privileges.

In accordance with the Organization's *Compliance Investigations Policy*, employees, contractors, and executives are required to cooperate fully in all audits and investigations. Although individuals have a right not to incriminate themselves, any employee who fails to provide such cooperation will be subject to termination of employment. Any executive who fails to provide such cooperation will be subject to sanctions as set forth in the Organization's Bylaws and Operating Agreements. Any contractor who fails to provide such cooperation will be subject to termination of contract or the relationship.

Investigations shall consist of interviews and document reviews as necessary. The investigation of the compliance issue will be documented, including any alleged violations, a description of the investigation process, and copies of interview notes and any other documents essential for demonstrating that a thorough investigation of the issue was completed. Any disciplinary action taken and the corrective action implemented will also be documented.

All investigations will conclude with a written report of findings and recommendations for corrective action to correct the problem and prevent future occurrence. The written report may be subject to the attorney-client privilege if it is prepared by the Organization's outside legal counsel. The Corporate Compliance Officer and/or legal counsel shall present the written report or a summary thereof to the Compliance Committee and CEO. The Corporate Compliance Officer shall oversee the corrective action to ensure it is completed. The Corporate Compliance Officer shall update the Compliance Committee on the status of internal investigations and corrective action.

The Corporate Compliance Officer shall work with the CEO and outside advisors to determine whether the conduct that is the subject of the investigation should be disclosed to governmental agencies and/or payers. If the Compliance Officer credibly believes or credible evidence is identified that a State or Federal law, rule, or regulation has been violated, the

Organization will promptly report the violation to the appropriate governmental entity. The Compliance Officer shall receive copies of any reports submitted to governmental entities.

**IX. Corrective Action.**

The Organization is committed to taking prompt and thorough corrective action to address any fraud, waste, abuse, or other improper or unethical conduct identified through internal audits, investigations, reports by employees, or other means. The Corporate Compliance Officer is independently responsible for reviewing and approving all corrective action plans. The Corporate Compliance Officer may consult with the CEO and executives regarding corrective action plans, as appropriate. However, the Corporate Compliance Officer is authorized to recommend corrective action directly to the governing body if the Corporate Compliance Officer believes, in good faith, that the CEO is not promptly acting upon such a recommendation or acting in the best interests of the Organization. In cases involving clear fraud or illegality, the Corporate Compliance Officer also has the authority to order interim measures, such as a suspension of billing, while a recommendation of corrective action is pending. Corrective action may include, but not be limited to, any of the following steps:

1. Modifying the Organization's existing policies, procedures, and/or business practices;
2. Providing additional training or other guidance to employees, contractors, or executives;
3. Seeking interpretive guidance of laws and regulations from government agencies and/or legal counsel;
4. Disciplining employees, terminating contractors, and sanctioning executives as described more fully in Section X of this Compliance Plan, below;
5. Notifying government agencies of improper conduct by employees, contractors, executives, or others; and/or
6. Facilitating the reporting and returning overpayments or other funds to which the Organization is not entitled to the appropriate government agency or payer, including through OMIG's voluntary self-disclosure program, if applicable.

**X. Disciplinary Measures.**

The Organization shall have disciplinary policies in effect to address violations of its compliance standards and to encourage good faith participation in the Program, including the Organization's *Disciplinary Policy*. The Organization's disciplinary standards are enforced fairly and consistently, and the same disciplinary actions apply to all levels of personnel.

Employees, contractors, and executives are subject to disciplinary action in accordance with the Organization's disciplinary policies when the employee, contractor, or executive:

2. Engages in, encourages, directs, facilitates, or permits improper or unethical conduct;
3. Fails to report actual or suspected improper or unethical conduct; or
4. Violates the Organization's Compliance Plan or the Organization's policy designed to detect or prevent improper or unethical conduct.

The Corporate Compliance Officer will promptly notify the CHRO of any improper or unethical conduct of an employee that may warrant discipline. The CHRO, in consultation with the Corporate Compliance Officer, will be responsible for determining the appropriate discipline for employees, in accordance with the Organization's standard employment policies.

Contractor sanctions shall range from written admonition, financial penalties (if applicable), and in the most extreme cases, termination of the contractor's relationship with the Organization. The Corporate Compliance Officer shall make a recommendation to the CEO with respect to such sanctions.

Executive sanctions can range from written admonition to, in accordance with the Organization's, policies, as well as applicable laws and regulations. The Corporate Compliance Officer shall make a recommendation to the CEO with respect to such sanctions.

The Compliance Officer will ensure that the written policies and procedures for taking disciplinary actions are published and disseminated to all employees, contractors, and executives, and are incorporated into the Organization's training plan, as set forth in the ***Compliance Training Policy***.

## **XI. Non-Retaliation and Non-Intimidation.**

In accordance with the Organization's ***Non-Retaliation and Non-Intimidation Policy***, The Organization prohibits intimidation and retaliation for good faith participation in the Compliance Program, including for reporting or threatening to report potential issues, investigating issues, and reporting to appropriate officials. No employee, contractor, or executive who files a report of, or threatens to report, actual or suspected fraud, waste, abuse, or other improper or unethical conduct based on a reasonable belief will be subject to retaliation or intimidation by the Organization in any form.

With respect to employees, prohibited retaliation and intimidation includes, but is not limited to, terminating, suspending, demoting, failing to consider for promotion, harassing, reducing the compensation of any employee, or adversely changing working conditions due to the employee's intended or actual filing of a report. Employees, contractors, and executives should

immediately report any perceived retaliation or intimidation to the Corporate Compliance Officer. However, if an employee has participated in a violation of law and/or a policy of the Organization, the Organization has the right to take appropriate action against them. While the Organization requires its employees to report such concerns directly to the Organization, certain laws provide that individuals may also bring their concerns to the government.

## **XII. Government Audits and Investigations.**

### **A. Contact By Government Officials.**

Employees, contractors, and executives are required to cooperate fully in all government audits and investigations. If contacted by governmental investigators or auditors, all employees are expected to request the following information:

1. The name, agency, business telephone number, and address of all investigators or auditors;
2. The reason for the contact; and
3. If the contact is in person, the investigators' or auditors' business cards.

Employees shall direct the investigators or auditors to the Corporate Compliance Officer, or in their absence, CEO. If neither are available, the employee shall contact the CHRO.

### **B. Subpoenas and Document Requests.**

Employees may receive subpoenas and other written or verbal requests for documents from government agencies. Subpoenas that are outside the normal course of the Organizations business and written or verbal requests for documents from government agencies must immediately be forwarded to the Corporate Compliance Officer, or in their absence, the CEO. The Corporate Compliance Officer or CEO, in conjunction with the Organization's legal counsel, will evaluate the subpoena or written request, and if appropriate, coordinate the production of documents to the government agency. It is the Organization's policy to respond only to written requests for documents, and to cooperate with all appropriate written requests for documents from government agencies.

### **C. Prohibition on Altering or Destroying Records.**

Employees, contractors, and executives are strictly prohibited from altering, removing, destroying, or otherwise making inaccessible any paper or electronic documents, records, or information relating to the subject matter of any government subpoena, information request, or search warrant during the course of an audit or investigation. This prohibition shall override any record destruction that would otherwise be carried out under the Organization's ordinary record retention and destruction policies. Employees, contractors, and executives are also barred from

directing or encouraging another person to alter, remove, destroy, or otherwise making inaccessible any such paper or electronic documents, records, or information.

**D. Request For Interviews.**

If an employee, contractor, or executives receives a request from a government official to provide an interview in the course of a government audit or investigation, the individual should immediately contact the Corporate Compliance Officer, or in their absence, the CEO. The Corporate Compliance Officer or CEO will, as appropriate, seek advice from legal counsel. If the request is deemed to be appropriate, the Corporate Compliance Officer, CEO, or legal counsel will coordinate and schedule all interview requests with the relevant government agency.

Employees, contractors, and executives are required to reasonably cooperate with government officials, including providing them with timely access to facilities and records upon reasonable notice, and being truthful and complete in their communications. Although individuals have the right not to incriminate themselves, any failure by an employee to provide cooperation or follow the requirements set forth in this Compliance Plan will be subject to disciplinary action including termination of employment. Any executive who fails to provide such cooperation will be subject to sanctions as set forth in the Organization's Bylaws, Operating Agreements, and policies, as well as applicable laws and regulations. Any contractor who fails to provide such cooperation will be subject to termination of its contract.

**XIII. Risk Identification and Internal Compliance Audits.**

The Organization seeks to identify compliance issues at an early stage before they develop into significant legal problems by establishing a system for routine identification and evaluation of compliance risk areas. Additional information on risk identification and internal auditing can be found in the Organization's *Auditing and Monitoring Policy*.

**A. Identification of Key Risk Areas.**

Key risk areas include, but are not limited to, the following:<sup>9</sup>

1. Billing for individuals not actually served by the Organization;
2. Billing for services rendered to individuals that are not properly documented;
3. Billing the same service twice;
4. Billing at a rate in excess of the rate permitted under the applicable program;

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<sup>9</sup> These risk areas include the ten (10) areas identified 18 § NYCRR 521-1.3(d) including: (1) billings; (2) payments; (3) ordered services; (4) medical necessity; (5) quality of care; (6) governance; (7) mandatory reporting; (8) credentialing; (9) contractor, subcontractor, agent, or independent contractor oversight; and (10) other risk areas that are or should reasonably be identified by the Organization through its organizational experience.

5. Billing for services that are knowingly also being billed to the government by another health care provider;
6. Failing to properly coordinate an individual's benefits among Medicare, Medicaid, and other third party payers;
7. Submitting cost reports that are inaccurate or incomplete;
8. Ordering unnecessary or excessive services;
9. Failing to properly document the provision of ordered services;
10. Determining if billing and payment system weaknesses are being identified and corrected as necessary;
11. Providing medically unnecessary services;
12. Failing to properly credential licensed health care professionals;
13. Employing an excluded individual or company or billing for services provided by an excluded individual or company;
14. Failing to properly oversee contractors, subcontractors, agents, and independent contractors; and
15. Ensuring compliance with applicable mandatory reporting obligations.

Additional risk areas can be identified by reviewing external audits performed by governmental agencies, payers, and credentialing bodies. Risk areas may also be identified by reviewing of the annual work plans and other resources from OMIG, HHS-OIG, and other regulatory agencies.

**B. Performance of Internal Audits and Compliance Reviews.**

The Organization's Compliance Officer, in conjunction with the Compliance Committee, will develop audit tools and procedures for carrying out internal audits and routine monitoring, and develop a schedule of internal audits for the upcoming year. The audits will cover aspects of the Organization's operations that pose a heightened risk of non-compliance, and will focus on the Organization's Compliance Risk Areas. Ongoing audits will be performed by internal or external auditors who have expertise in State and Federal Medicaid Program requirements and applicable laws, rules, and regulations, or who have expertise in the subject area of the audit. The Organization will also review the effectiveness of its Compliance Program, including a determination as to whether any revision or corrective action is required, on at least an annual basis.

The Corporate Compliance Officer may contract with outside companies to perform certain auditing functions. The Corporate Compliance Officer will oversee the services provided by outside companies. If the Corporate Compliance Officer determines it is in the best interests of

the Organization's to keep the contents and/or findings of an audit confidential, the Corporate Compliance Officer shall arrange for legal counsel to conduct and/or supervise the audit under the attorney-client privilege. A written report shall be prepared summarizing the design, implementation, and results of each audit, and recommending any corrective action. The corrective action shall be designed to reduce the potential for recurrence and ensure ongoing compliance with the requirements of Medicaid, Medicare, and other payers.

The Corporate Compliance Officer shall present the audit findings or summaries thereof, as appropriate, to the Compliance Committee, CEO, and the executives. If requested by a Program Director, the Corporate Compliance Officer will work with the appropriate Administrator to implement any corrective action and said Administrator shall report to the Corporate Compliance Officer when implementation is completed.

All employees and contractors are required to participate in and cooperate with internal and external audits as requested by the Corporate Compliance Officer. This includes assisting in the production of documents, explaining program operations or rules to auditors, and implementing any corrective action plans.

#### **XIV. Conflict of Interest Policies.**

The Organization seeks to protect its interests when it is considering a transaction with an executive, employee, or officer that might also benefit the personal interests of those individuals. The Organization's *Conflict of Interest Policy* describes such conflicts and disclosure of conflicts in detail. Executives and officers owe a fiduciary duty of loyalty to the Organization and must disclose any actual or potential conflicts of interest to the Organization promptly upon learning of such conflict and on an annual basis.

#### **XV. Laws Regarding the Prevention of Fraud, Waste, and Abuse.**

##### **A. Federal Laws.**

##### **1. Civil and Criminal False Claims Act.**

Any person who knowingly and/or willfully submits a false claim for payment to the Federal government shall be subject to civil or criminal penalties, including imprisonment, repayment, civil monetary penalties per claim, treble damages, and exclusion from participating in Medicare and Medicaid. Examples of prohibited conduct include billing for services not rendered, upcoding claims, double billing, misrepresenting services that were rendered, falsely certifying that services were medically necessary, making false statements to the government, failing to comply with conditions of payment, and failing to refund overpayments made by a Federal health care program. Individuals may be entitled to bring an action under this Act and share in a percentage of any recovery. However, if the action has no merit and/or is for the purpose

of harassing the Organization, the individual may have to pay the Organization for its legal fees and costs.

## **2. Anti-Kickback Law.**

Individuals/entities shall not knowingly offer, pay, solicit, or receive remuneration to induce referrals for items paid for by Medicare, Medicaid, or other Federal health care program unless the transaction fits within a safe harbor. This applies to any form of remuneration to induce or reward referrals for Federal health care program business (money, free or discounted items or services, overpayments or underpayments, waivers of copays or deductibles, low interest loans or subsidies, or business opportunities that are not commercially reasonable). Criminal or civil penalties include imprisonment, fines, treble damages, and exclusion from participating in Medicare/Medicaid.

## **3. Ethics in Patient Referrals Act (“Stark Law”).**

Physicians<sup>10</sup> (including psychologists) or their family member who have an ownership or compensation relationship with an entity that provides “designated health services”<sup>11</sup> shall not refer a patient in need of designated health services for which payment may be made under Medicare or Medicaid to such entities unless that ownership or compensation arrangement is structured to fit within a regulatory exception. Penalties include repayment of Medicare or Medicaid reimbursement and civil penalties.

## **4. Civil Monetary Penalties Law.**

Individuals are prohibited from specified conduct including submitting false or fraudulent claims or misrepresenting facts, receiving or offering kickbacks, offering inducements to Medicare/Medicaid beneficiaries, offering inducements to physicians to limit services, submitting claims for services ordered by, or contracting with, an excluded entity, failing to report and repay an overpayment, and failing to grant government timely access. Penalties include fines, treble damages, denial of payment, repayment of amounts improperly paid, and exclusion from participating in the Medicare/Medicaid Programs.

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<sup>10</sup> Physicians include medical doctors, doctors of osteopathy, psychologists, oral surgeons, dentists, podiatrists, optometrists, and chiropractors.

<sup>11</sup> Designated health services are any of the following services, other than those provided as emergency physician services furnished outside of the United States, that are payable in whole or in part by the Medicare Program: (1) clinical laboratory services; (2) physical therapy, occupational therapy, and outpatient speech-language pathology services; (3) radiology and certain other imaging services; (4) radiation therapy services and supplies; (5) durable medical equipment and supplies; (6) parenteral and enteral nutrients, equipment, and supplies; (7) prosthetics, orthotics, and prosthetic devices and supplies; (8) home health services; (9) outpatient prescription drugs; and (10) inpatient and outpatient hospital services. *See* 42 CFR § 411.351.

**B. State Laws.**

New York has laws that are similar to the Federal laws listed above. These include the New York False Claims Act, False Statements Law, Anti-Kickback Law, Self-Referral Prohibition Law, Health Care and Insurance Fraud Penal Law, and anti-fee-splitting law. Individuals may be entitled to bring an action under the New York False Claims Act and share in a percentage of any recovery. However, if the action has no merit and/or is for the purpose of harassing the Organization, the individual may have to pay the Organization for its legal fees and costs.

**C. Whistleblower Protections.**

**1. Federal Whistleblower Protection.**

An employee who is discharged, demoted, suspended, threatened, harassed, or discriminated against because of the employee's lawful acts conducted in furtherance of a False Claims Act action may bring an action against the employer. However, if the employee's action has no basis in law or fact or is primarily for harassment, the employee may have to pay the Organization its fees and costs.

**2. New York State Whistleblower Protection.**

Employees who, in good faith, report a false claim are protected against discharge, demotion, suspension, threats, harassment, and other discrimination by their employer. Remedies include reinstatement, two (2) times back pay plus interest, litigation costs, and attorneys' fees.

**3. New York State Labor Laws.**

An employee is protected from retaliation or intimidation by an employer if the employee discloses or threatens to disclose an activity, policy, or practice of the employer that the employee reasonably believes is in violation of any law, rule, or regulation or reasonably believes poses a substantial and specific danger to the public health or safety, to a supervisor or public body. An employee is also protected from retaliation or intimidation by an employer if the employee provides information to, or testifies before, any public body conducting an investigation, hearing, or inquiry into any such activity, policy, or practice, or who objects to, or refuses to participate in, any such activity, policy, or practice. The employee's disclosure or threat of disclosure is only protected if the employee has made a good faith effort to notify the employer by bringing the activity, policy, or practice to the attention of a supervisor and has afforded the employer a reasonable opportunity to correct the activity, policy, or practice.

**XVI. Summary.**

In summary, the Organization has adopted this Compliance Plan with the goal of carrying out its activities in accordance with law and high ethical standards. The effectiveness of the

Compliance Program depends on the active participation of all employees, contractors, and executives in preventing, detecting, and appropriately responding to actual or suspected fraud, waste, abuse, or other improper or unethical conduct. Working together, we can make the Organization a model of excellence and integrity in our community.