

## **Aspire of WNY, Inc.**

# **CORPORATE COMPLIANCE PLAN**

Dated as of the last Board approval noted below

Aspire of WNY, Inc. and its affiliates (collectively, “the Agency”) have adopted this Corporate Compliance Program (“Compliance Program”) to further its mission, values and legal duty to promote adherence to all applicable state and federal statutes and regulations, and to conduct business in a manner that supports integrity in operations. This Corporate Compliance Plan (“Compliance Plan” or “Plan”) describes the Agency’s Compliance Program. This Plan is not intended to set forth all of the substantive programs and practices of the Agency which are designed to achieve compliance in the many areas in which the Agency operates. Rather, it is intended to establish internal controls in order to ensure that business is conducted professionally and lawfully, and to prevent, detect, correct and report fraud, waste, abuse and other improper compliance related conduct.

The Agency’s Compliance Program, Compliance Plan, policies and procedures, and Standards of Conduct demonstrate the Agency’s commitment to honest and responsible corporate and provider conduct as it conducts its care-giving mission. This message is communicated through the Agency’s Compliance Program to individuals receiving services at the Agency, the Agency’s employees and independent contractors, and the community at large.

This Corporate Compliance Plan contains the agency Corporate Compliance Plan which includes, among other things, the following policies, protocols or descriptions which shall have the same force and effect as standalone guidance:

- Compliance Standards of Conduct; see section 1.A.
- Non-intimidation and retaliation and whistleblower policies: see section 1.B.
- Compliance Officer’s Roles and Responsibilities: see section 2.A.
- Compliance Committee’s Roles and Responsibilities: see section 2.B.
- Compliance Education and Training program: see section 3.
- Lines of Communication: see section 4.
- Enforcement and Discipline; see section 5.
- Compliance Audits, Monitoring and Risk identification: see section 6.
- Detection, Resolution and Response (overbilling): see section 7.
- Laws regarding the prevention of fraud, waste and abuse including False Claims and Whistleblower provisions. see section 9.

The Agency’s Compliance Program includes a number of additional stand-alone Compliance policies maintained through the Compliance Officer or assign.

## **SCOPE**

see 18 NYCRR 521-1.3(d)

The Compliance Plan applies to all facilities under the Agency's operating certificates and to all affected individuals, including employees, Board of Director ("Board") members and officers, the Agency's CEO, senior administrators, managers, volunteers, interns, students, independent contractors, agents, subcontractors, contractors, appointees, vendors, and other persons or affiliates associated with the Agency who are affected by the Agency's compliance risk areas (collectively herein "Affected Individuals" as defined in 18 NYCRR 521-1.2(b)(1)).

The Compliance Program applies to:

- (1) billings and coding;
- (2) payments;
- (3) ordered services (approved);
- (4) medical necessity;
- (5) quality of care (including, without limitation, the inappropriate disclosure of confidential health information in violation of any applicable law) ;
- (6) governance;
- (7) mandatory reporting;
- (8) credentialing;
- (9) contractor, subcontractor, agent, vendor or independent contractor (collectively, "vendors" or "contractors") oversight; and
- (10) other risk areas that are or should be identified by the Agency through its organizational experience.

"Organizational experience" means the Agency's: (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 (as defined in 18 NYCRR 521-1.2(b)(9)).

Only those contractors that are affected by the Agency's compliance risk areas and only within the scope of the contracted authority and affected risk areas are covered by, and required to comply with, this Plan. Examples include persons/entities providing health care services and supplies (durable medical equipment, medications, nursing supplies, etc.) and/or otherwise come in contact with personal identifying and confidential information of those served. Such contracts should include termination provisions for failure to adhere to the Agency's compliance program requirements or applicable laws or entry onto the exclusion list or fails to provide such cooperation in a compliance related investigation and/or discloses an individual's health information in violation of applicable laws.

## **REQUIRED AGENCY DUTIES**

18 NYCRR 521-1.3

Agency shall, to the extent required by applicable laws, rules, directives and regulations:

- a. COMPLIANCE PROGRAM, maintain an effective compliance program which satisfies the requirements of applicable laws and regulations as described herein,
- b. RECORD RETENTION, retain all records demonstrating that it has adopted, implemented and operated an effective compliance program for no less than 6 years or longer as otherwise provided by law, contract or Agency policy (see 18 NYCRR 521-1.3(b)) and make available to regulators, OMIG, or MFCU upon request, copies of such records. The agency generally maintains billing records for 10 years.
- c. CONTRACTORS, ensure that contracts with contractors, specify that the contractors, are subject to the Agency's compliance program, to the extent applicable, and that contracts can be terminated for failure to comply with the compliance program or applicable laws or entry onto the exclusion list.
- d. ONGOING COMPLIANCE, comply with all directives of regulators or OMIG with respect to the adoption, implementation and maintenance of compliance programs required by applicable laws and regulations and
- f. CERTIFICATIONS, provide certifications as provided by law.

## **COMPLIANCE PROGRAM RESPONSIBILITY**

Proper implementation of the Agency's Compliance Program is the responsibility of all Affected Individuals. All Affected Individuals are responsible for acquiring sufficient knowledge, based on their level of responsibility, to recognize potential compliance issues related to their duties and to seek appropriate advice in dealing with those issues. All Affected Individuals are expected to be familiar and comply with the agency's "Rules of Conduct/ Corporate Compliance Standards of Conduct" (referred to herein as "Standards of Conduct"), this Compliance Plan, and applicable policies, practices and procedures that describe the Agency's expectations such as without limitation, the "Standards of Conduct /Business Ethics" policy. Affected Individuals are also expected to comply with all federal and state laws, rules, regulations, policies, and standards that govern their role within the Agency and conduct business, at all times, in a manner that supports integrity in its operations. Conduct, contrary to this expectation is a violation of the Standards of Conduct, this Compliance Plan, and/or applicable policies and procedures.

Each supervisor and manager is responsible for ensuring that the Affected Individuals within their supervision understand the importance of, and act in accordance with, the Agency's Compliance Standards. The Agency's "Compliance Standards" include its Compliance Plan, Compliance Program, policies and procedures, and Standards of Conduct, and all applicable federal and state laws, rules, regulations, policies, and standards. The failure of supervisors and managers to instruct their subordinates or to take reasonable measures to detect non-compliance or improper conduct of their subordinates may result in corrective action, up to and including termination.

Illegal acts or improper conduct may subject the Agency and Affected Individuals to severe criminal and civil penalties. All Affected Individuals must report any conduct that they believe violates the Agency's Compliance Standards in writing or orally to their supervisor(s), the Compliance Officer, or using the Agency's anonymous Compliance Hotline. Individuals who report such conduct based on a reasonable belief and otherwise in good faith shall not be retaliated against or intimidated for making such a report.

Employees who engage in fraud, waste, abuse, other improper or unethical conduct, violations of this plan, applicable policies or the Standards of Conduct will be subject to disciplinary action in accordance with the Agency's corrective action policies, including, but not limited to, termination of employment. Other Affected Individuals, including independent contractors, vendors, and Board members and officers will also face disciplinary and/or legal action for noncompliance and improper conduct. The Compliance Officer, in consultation with Human Resources and, if necessary, outside counsel, will ensure that disciplinary mechanisms in place for verified instances of noncompliance or improper or unethical conduct are applied consistently and in a manner that is appropriate considering the nature and extent of the non-compliance or improper conduct and in compliance with any applicable bargaining agreements if applicable.

Any additions, changes or modifications to applicable laws, rules or regulations regarding compliance requirements, to extent required by law, are hereby incorporated into this agreement as if set forth fully herein and inclusion of those provisions is not necessary to effectuate compliance with them. All items set forth herein directly required by any applicable laws, rules or regulations are mandatory other items herein not so specified shall constitute best practices. Separate policies will not be needed to effectuate the terms hereof if sufficient elements of the requirements are set forth in this plan, which may be interpreted as a policy as needed.

## **COMPLIANCE PROGRAM ELEMENTS**

18 NYCRR 521-1.4

The Agency has established and maintained the following elements in its Compliance Program to assure its goal of lawful and responsible conduct in delivering quality services:

1. **WRITTEN POLICIES & PROCEDURES:** (See 18 NYCRR 521-1.4(a)). Written standards of compliance expectations as described in the Standards of Conduct and the Agency's policies and procedures including without limitation:

**1(B) NON-INTIMIDATION AND NON-RETALIATION AND WHISTLEBLOWER POLICIES:**  
(See 18 NYCRR 521-1.4(a)(2)(vii)) A policy of non-intimidation and non-retaliation for good faith participation in the Compliance Program and for reporting of potential or actual misconduct based on reasonable belief or otherwise in good faith.

2. **COMPLIANCE STRUCTURE AND OVERSIGHT:**  
2(A) **Compliance Officer** (See 18 NYCRR 521-1.4(b)) Role of Compliance Officer  
2(B) **Compliance Committee** (See 18 NYCRR 521-1.4(c)) Role of Compliance Committee

3. **EDUCATION AND TRAINING:** (See 18 NYCRR 521-1.4(d)) Effective, on-going education and training for Affected Individuals;
4. **REPORTING & CONFIDENTIAL COMMUNICATIONS, LINES OF COMMUNICATION:** (See 18 NYCRR 521-1.4(e) and (a)(2)(v)&(vii)). Open lines of communication for reporting compliance issues, including a method for anonymous and confidential good faith reporting;
5. **ENFORCEMENT & DISCIPLINE:** (See 18 NYCRR 521-1.4(f)). Disciplinary policies and procedures to encourage good faith participation in the Compliance Program by Affected Individuals, the investigation of potential violations, and the implementation of compliance corrective action and remediation;
6. **COMPLIANCE AUDITS, MONITORING AND RISK IDENTIFICATION:** (See 18 NYCRR 521-1.4(g)). Policies and procedures to identify and investigate risk areas specific to provider type, including internal audits, and to evaluate potential or actual non-compliance;
7. **DETECTION, RESOLUTION, AND RESPONSE:** (See 18 NYCRR 521-1.4(h)). Policies and procedures to investigate compliance problems, implement corrective measures, and communicate the results of the investigation; and

#### APPENDIX

8. **COMPLIANCE CONTACTS AND NUMBERS:** List of methods to contact Compliance Department and outline of accessible methods including anonymously.
9. **LAWS REGARDING THE PREVENTION OF FRAUD, WASTE AND ABUSE:** see 18 NYCRR 521-1.4(a)(2)(i) \_brief summaries of compliance related laws.

### **1. WRITTEN POLICIES & PROCEDURES**

See 18 NYCRR 521-1.4(a)

**A. Compliance Standards of Conduct.** It is Aspire’s commitment and obligation to comply with all applicable federal and state standards including without limitation 42 U.S.C. [1396](#) a(a)(68), to the extent applicable, and those laws set forth herein below. Failure to comply with the following may result in corrective action under the Agency’s progressive disciplinary policies, including but not limited to, termination of employment in the case of an employee, termination of a relationship in the case of volunteers, students and interns, termination of a contractual relationship in the case of an independent contractor or vendor, or removal from the Board in the case of a director or officer.

#### 1. General Standards.

- a. The Agency and all Affected Individuals must adhere to all applicable state and federal laws, rules, regulations, policies, and standards, the Agency’s Compliance Plan, policies and procedures, and the Standards of Conduct. If an Affected Individual is unsure of whether an action is lawful or in violation of the Compliance Standards, the Affected

Individual should not act until the individual has checked with their supervisor or the Compliance Officer.

- b. Affected Individuals must also comply with the policies specific to their department.
- c. Affected Individuals must be completely honest and truthful in all dealings, including dealings with government agencies and representatives.
- d. Affected Individuals must cooperate fully with all inquiries concerning possible compliance issues and must actively work to correct any improper practices that are identified.
- e. Affected Individuals must follow safe work practices and must comply with all applicable safety standards and health regulations.
- f. Affected Individuals, as applicable, must use the Agency's assets solely for the benefit and purpose of the Agency. Personal use of Agency assets is not permitted unless disclosed to, and approved by, the appropriate supervisor or manager.
- g. The Agency and Affected Individuals shall not discriminate based on the recipient's or employee's race, color, religion, creed, gender, gender identity, gender expression, sexual orientation, age, national origin, citizenship status, ethnicity, pregnancy, childbirth or related medical conditions, marital status, military or veteran status, disability (including use of a guide dog, hearing dog or service dog), genetic information (including predisposing genetic characteristics), source of payment, or any other protected class under federal or state law.

2. Billing and Payment Standards.

- a. All Affected Individuals involved in documenting and billing the government and other payors for health care or other services must ensure that they comply with all applicable laws, regulations, rules, conditions of participation, and interpretive guidance relating to billing.
- b. Claims submitted for payment must be accurate and truthful, reflect only those services and supplies which were ordered and provided, and be based on supporting documentation that is in accordance with applicable laws, regulations, and third-party payor requirements. Cost reports must be prepared accurately and truthfully, be based only on allowable costs, and be supported by adequate documentation in accordance with applicable laws, regulations, and third-party payor requirements. Deliberate or reckless misstatements to the government or other payors, misrepresentations, false bills, and false requests for payment are strictly prohibited.
- c. Affected Individuals shall not knowingly submit claims for items or services furnished by a provider that has been excluded from participation in a federal or state health care program, such as Medicaid or Medicare.

3. Medical Necessity and Quality of Care and Services.
  - a. Medical care and services must be approved and based on medical necessity and professionally recognized standards of care. Non-medical services must be based on the programmatic requirements for those services.
  - b. The Agency shall have processes to measure and improve the quality of its care and services and the safety of the individuals served. To the extent possible, the Agency's quality assessment and improvement processes shall be coordinated with the Agency's Compliance Program.
  
4. Governance and Conflicts Standards.
  - a. The Agency's Board shall exercise reasonable oversight over the implementation of the Compliance Program and shall receive timely and appropriate information regarding compliance with applicable laws, as well as the progress of adopting, implementing, and maintaining the Agency's Compliance Program, from the Agency's Corporate Compliance Officer directly on a regular basis, and no less frequently than quarterly.
  - b. All Affected Individuals must be free from any undue influence that conflicts with, or appears to conflict with, their legal duties and responsibilities. Aside from the exception noted below, Affected Individuals may not receive or accept any payment, gift, or anything of value from any person or entity that has, or seeks to have, a business relationship with the Agency. However, Affected Individuals may accept gifts of nominal value (less than \$100 during a calendar year), meals, and social invitations, so long as they are consistent with law and good business ethics and practices, and do not obligate the recipient to take, or refrain from taking, any action or decision on behalf of the Agency.

If possible, Affected Individuals are encouraged to make such nominal gifts available to individuals receiving services, the Agency Foundation, and/or specific Agency departments.

Affected Individuals may not accept monetary gifts. If a monetary gift is offered, Affected Individuals are to decline the offer and encourage the giver to donate directly to the Agency Foundation. If an Affected Individual has a question about whether a gift, payment, or any other thing of value may be accepted, the Affected Individual must contact the Compliance Officer for guidance before accepting it.

Any gifts to the Agency or Affected Individuals must not violate any applicable kickback laws.
  - c. Employees must not have any financial or other personal interest in a transaction between the Agency and a vendor, supplier, provider, or customer. Employees must not engage in financial, business, or any other activity which competes with the Agency's business, or which, actually or in appearance, interferes with the performance of their job duties. Affected Individuals may not give anything of value, including bribes, kickbacks, or payoffs, to any government representative, fiscal intermediary, carrier,

contractor, vendor, or any person in a position to benefit the Agency in any way. If an Affected Individual has a question about whether a relationship violates this subsection, the Affected Individual must contact the Compliance Officer for guidance.

- d. Affected Individuals must not engage in unfair competition or deceptive trade practices that misrepresent the Agency's services or operations.
- e. Affected Individuals must comply with all antitrust laws and may not engage in discussions or agreements with competitors regarding pricing, prices paid to suppliers or providers, or joint actions or boycotts, unless such activity is protected by law.
- f. The Agency is a charitable organization that has been granted exemption from federal and state tax. In order for the Agency to maintain its tax-exempt status, Affected Individuals, in the name of or on behalf of the Agency, are barred from carrying on propaganda or otherwise attempting to influence legislation (except as permitted by the Internal Revenue Code), and from participating or intervening in any political campaign on behalf of or in opposition to any candidate for public office. Affected Individuals must not entertain government representatives in connection with Agency business. This, however, does not prevent Affected Individuals from engaging in political activity when acting in their individual capacity.
- g. Pursuant to the Agency's Contracts Policy, certain Affected Individuals must notify and obtain the approval of the Compliance Officer prior to entering into any proposed contracts or agreements (or amendments thereto) with physicians, health care businesses, patients, providers, third party payors, vendors, or suppliers to the Agency.

#### 5. Mandatory Reporting.

- a. Individuals served by the Agency shall be free from abuse, neglect, and mistreatment. Affected Individuals shall immediately report all allegations of abuse, neglect, or mistreatment to the Affected Individual's supervisor or designee, and said supervisor or designee shall report such allegations to government officials as required by law.
- b. The Agency and Affected Individuals shall comply with other mandatory reporting requirements in accordance with both the Agency's policies and applicable laws and regulations.
- c. Affected Individuals shall immediately report all allegations regarding compliance related issues by any method outlined below. Investigations of compliance issues will be conducted as set forth below by the Compliance department and others assisting as needed.

#### 6. Credentialing.

- a. Prior to engaging their services, prospective Affected Individuals shall be screened by the Human Resource Department against websites which provide information on excluded individuals and entities, criminal backgrounds, and professional licensure and certification in accordance with both the Agency's policies and procedures, and applicable laws and regulations.

- b. Thereafter, such screening shall be done by HR or program divisions on a regular basis (every 30 days or as required by regulation) to ensure such individuals and entities have not been excluded, convicted of a disqualifying offense, or had their licensure or certification suspended, revoked, or terminated since the prior screening.
7. Confidentiality.
- a. Affected Individuals must hold information concerning the individuals they serve and the Agency's employees in the strictest of confidence. Such information shall not be disclosed to anyone unless authorized by the individual or their representative, or unless permitted or required by law.
  - b. Affected Individuals must maintain the confidentiality of the Agency's business information, including financial information, incidents, lawsuits and legal proceedings, pending or contemplated business transactions, trade secrets, and information relating to the Agency's vendors, suppliers, providers, and customers.
  - c. All Affected Individuals who use the Agency's information systems, including computers, laptops, servers, printers, software, and cell phones, assume the responsibility for using these resources in an appropriate manner and in accordance with the Agency's policies and procedures.
8. Government Audits and Investigations.
- a. **If contacted by a government official, Affected Individuals are required to obtain the person's name, title, agency, and contact information. Affected Individuals must immediately inform both their supervisor (as applicable) and the Compliance Officer or designee.** While Affected Individuals may voluntarily speak with such officials, Affected Individuals must first contact their supervisor or the Compliance Officer before doing so. The Compliance Officer will attempt to obtain additional information from the government official to be used in deciding how to respond to the official's request. **In no event may any Affected Individual release the Agency's documents before speaking to the Compliance Officer and receiving approval to release such documents.**
  - b. Affected Individuals may not alter, destroy, mutilate, conceal, cover-up, falsify, or make false entries in any record with the intent to impede, obstruct, or influence an audit or investigation of any governmental agency or third-party payor. Affected Individuals certifying to the correctness of records submitted to government agencies must believe that the information is true, accurate, and complete to the best of their knowledge.

**B. Non-intimidation and retaliation and whistleblower policies** See 18 NYCRR 521-1.4(a)(2)(vii).

The Agency has a Non-intimidation and Non-retaliation policy and a Whistleblower policy for good faith participation in the Compliance Program and for disclosing or threatening to disclose any actual or potential violation of the Agency's Compliance Standards, including this Compliance Plan, the Standards of Conduct, the Agency's policies and procedures, and/or any federal or state statute or regulation based on reasonable belief and otherwise in good faith. Any individual who reports or threatens to report a compliance concern based on a reasonable belief and otherwise in good faith will be protected against

retaliation and intimidation in accordance with sections 740 and 741 of the New York State Labor Law. In such an instance, retaliation is itself a violation of the Standards of Conduct and is unlawful. However, if the individual who reports a compliance issue has participated in a violation of law, the Standards of Conduct, or an Agency policy, the Agency retains the right to take appropriate disciplinary or other action, including termination of employment or relationship with the Agency service on the Board of Directors, or in the case of a contractor, termination of the applicable contract.

The Compliance Officer or HR Department shall ensure that the Non-intimidation and Non-retaliation policy and Whistleblower policy are adequately publicized and provided to Affected Individuals. The Compliance Officer or HR department shall also ensure that notices informing employees of their protections, rights, and obligations under Labor Law Sections 740 and 741 are conspicuously posted in easily accessible and well-lighted places customarily frequented by employees and applicants for employment.

The Agency policy of non-intimidation and non-retaliation for good faith participation in the compliance program, shall include, but not limited to:

- (a) reporting potential compliance issues to appropriate personnel;
- (b) participating in investigation of potential compliance issues;
- (c) self-evaluations;
- (d) audits
- (e) remedial actions
- (f) reporting instances of intimidation or retaliation; and
- (g) reporting potential fraud, waste or abuse to the appropriate State or Federal entities.

**C. Other Compliance Related Policies and Procedures.** It is Agency practice to limit other than agency wide policies regarding compliance however If departments and programs within the Agency adopt and implemented policies that impact compliance that are specific to those departments and programs, they shall notify the Compliance Officer and the Compliance Officer shall ensure that all such policies and procedures are reviewed annually by the appropriate department or program, in accordance with the Agency's Compliance Policies and Procedures Policy, and shall monitor any amendments thereto to ensure compliance with applicable federal and state statutes and regulations.

**D. Review of written policies and procedures and standards of conduct.** Aspire through its Compliance Officer and Compliance Committee shall draft new policies as needed and review the written policies and procedures, and standards of conduct required by this subdivision at least annually to determine:

- (i) if such written policies, procedures, and standards of conduct have been implemented;
- (ii) whether affected individuals are following the policies, procedures, and standards of conduct;
- (iii) whether such policies, procedures, and standards of conduct are effective; and
- (iv) whether any updates are required

**E. Guidance to affected individuals.** The CO and supervisors will assist affected individuals in identifying potential compliance issues, questions and concerns, set forth expectations for reporting compliance issues, and explain how to report such issues, questions, and concerns.

## **2. COMPLIANCE STRUCTURE AND OVERSIGHT**

See 18 NYCRR 521-1.4(b)&(c)

**A. Compliance Officer.** The Compliance Officer is vested with responsibility for the day-to-day operation of the compliance program. The Board shall ensure the designation of a Compliance Officer who will report directly to the Chief Executive Officer or a Senior Management member of the Agency designated by the Chief Executive Officer. The Compliance Officer will oversee and monitor implementation of the Program and shall have sufficient authority to complete all assigned responsibilities. Directives, policies and processes of the Compliance Department or items otherwise affecting compliance issues shall not be changed without approval of the Compliance Officer and/or CEO. All Affected Individuals should view the Compliance Officer as a resource to answer questions and address compliance concerns. The Compliance Officer's responsibilities shall, with the assistance of staff as appropriate include:

1. Overseeing and monitoring the adoption, implementation and maintenance of the compliance program and evaluating its effectiveness;
2. Drafting, implementing, and updating no less frequently than annually or, as otherwise necessary, to conform to changes to Federal and State laws, rule, regulations, policies and standards, a compliance work plan which shall outline the Agency's strategy for meeting the requirements of 18 NYCRR 521 et al. and this plan.
3. Reviewing and revising the compliance program, and the written policies and procedures and standards of conduct, to incorporate changes based on the Agency's provider's organizational experience and promptly incorporate changes to Federal and State laws, rules, regulations, policies and standards;
4. The Compliance Officer shall have direct access to and may, at their discretion, directly contact the Chairperson of the Board or the Chief Executive Officer, as necessary, and will report directly, on a regular basis, but no less frequently than quarterly, to the Board, Chief Executive Officer, and Compliance Committee on the progress of adopting, implementing, and maintaining the Compliance Program;
5. Assisting in establishing methods to improve the Agency's efficiency, quality of services, and reducing the Agency's vulnerability to fraud, waste and abuse;
6. Investigating and independently acting on matters related to the compliance program, including designing and coordinating internal investigations and documenting, reporting, coordinating, and pursuing any resulting corrective action with all internal departments, contractors and the State;
7. Review, revise, implement and together with HR Department distribute the Standards of Conduct, Compliance Plan and compliance policies that are designed to ensure compliance with applicable laws and regulations;

8. In coordination with the Workforce Development (Training) and HR Departments develop and coordinate appropriate and effective compliance training and education programs for all Affected Individuals at orientation and annually thereafter, maintain records of training and education programs, and assess the effectiveness of such programs;
9. Establish and implement effective lines of communication, ensuring confidentiality, between the Compliance Officer and members of the Compliance Committee, the Agency's employees, managers and Board of Directors, and the Agency's first tier, downstream, and related entities. Allow compliance issues to be reported including a method for anonymous and confidential reporting of potential compliance issues based on reasonable belief and otherwise in good faith as they are identified without fear of retaliation or intimidation;
10. Establish and implement a system to promptly responding to compliance issues as they are raised.,
11. In consultation with Human Resources and, if necessary, outside counsel, establish and implement publicized disciplinary standards through the implementation of procedures which encourage Affected Individuals' good faith participation in the Compliance Program, including policies that articulate expectations for reporting compliance issues.
12. Together with the Human Resources Department and Fiscal Department, oversee the Agency's screening of prospective Affected Individuals against websites which provide information on excluded individuals and entities, criminal backgrounds, and professional licensure and certification, and thereafter, oversee a system of such screenings on a regular basis (including monthly checks of federal and state exclusion lists) to ensure that such Affected Individuals have not been excluded, convicted of a disqualifying criminal offense, or had their licensure or certification suspended, revoked, or terminated since the prior screening;
13. Together with the Fiscal Department ensure that all contracts entered into by the Agency impacting identified risk areas contain language that is compliant with both the Compliance Plan and applicable laws and regulations, or arrange for review of such contracts by outside counsel, said language should include the right to terminate the contract for violation of the Compliance plan or applicable laws and /or appearance on any exclusion list;
14. Review and track all compliance-related internal and external compliance audits, and report the results of all audits with significant positive or negative findings to the Board;
15. Provide oversight and supervision of compliance-related audits and investigations conducted by governmental agencies and third parties;

16. Maintain documentation of compliance-related internal and external audit and investigation results, logs of hotline calls and their resolution, corrective action plans, records of compliance trainings, modification and distribution of policies, procedures, and this Compliance Plan, and other logs, spreadsheets, and records of compliance activities;
17. Work with other departments in the certifying official identified on the annual New York State Social Services Law (SSL) and Deficit Reduction Act (DRA) certifications to ensure accurate completion of the SSL Certification on the Office of the Medicaid Inspector General's (OMIG) website;
18. The Compliance Officer may call on other departments or expertise such as the IT, Legal, HR, Fiscal office and/or data officer to assist in risk assessment and development of procedures;
19. Investigate and independently act on matters related to the compliance program, including designing and coordinating internal investigations and documenting, reporting, coordinating, and pursuing any resulting corrective action with all internal departments, contractors and the State.

The Compliance Officer shall be accountable to the Agency's Chief Executive Officer and reports to the Agency Executive Vice President of Risk Management as a delegate of the CEO. The Agency shall 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 Agency's risk areas and organizational experience, and shall ensure that the Compliance Officer and other appropriate compliance personnel have access to all records, documents, information, facilities and Affected Individuals that are relevant to carrying out their Compliance Program responsibilities.

**B. Compliance Committee.** A Compliance Committee shall be formed to oversee and monitor the operation of the Compliance Program, and to coordinate with the Compliance Officer to ensure that the Agency is conducting its business in a manner, consistent with its Compliance Program. By reviewing the Compliance Plan the scope of the Compliance Committee's authority shall be determined by the Board, be modified from time to time as the Compliance Program is evaluated, and shall be set out herein, in a separate policy or in a Compliance Committee Charter which outlines the Committee's duties and responsibilities, membership, designation of a chair, and frequency of meetings. In the absence of a separate charter this subparagraph B. shall constitute a Compliance Committee Charter. The Compliance Committee shall:

1. The Compliance Committee's responsibilities shall include:
  - (i) coordinating with the Compliance Officer to ensure that the written policies and procedures, and standards of conduct required by regulation are current, accurate and complete, and that the training topics required by regulation are timely completed;

(ii) coordinating with the Compliance Officer to ensure communication and cooperation by affected individuals on compliance related issues, internal or external audits, or any other function or activity required by this Plan or regulations;

(iii) advocating for the allocation of sufficient funding, resources and staff for the compliance officer to fully perform their responsibilities;

(iv) ensuring that the Agency has effective systems and processes in place to identify compliance program risks, overpayments and other issues, and effective policies and procedures for correcting and reporting such issues; and

(v) advocating for adoption and implementation of required modifications to the compliance program.

2. Be comprised of the Compliance Officer, members of Senior Management, and other employees or members as determined by the Chief Executive Officer. Members of the Compliance Committee are expected to regularly attend and participate in Compliance Committee meetings, and to keep all information discussed at such meetings confidential. A simple majority will constitute a quorum for voting purposes. The committee will keep minutes or other documentary record of its meetings and actions;
3. Oversee the implementation of the Compliance Program;
4. Meet at least quarterly (with the ability to meet more frequently) to discuss and review the Compliance Program, compliance complaints, investigations and corrective actions against Affected Individuals, reports and analysis of internal and external audits and investigations, and recently identified risk areas;
5. Identify and update specific risk areas of the Agency and recommend new or revised auditing systems, policies, procedures, and practices to address such identified risk areas.
6. Advocating, develop and implement required modifications of policies and procedures designed to ensure compliance with the Compliance Program and applicable laws and regulations;
7. Conduct an annual review of such policies and procedures, as well as the Compliance Plan and the Compliance Program;
8. Upon consultation with outside counsel as needed, suggest revisions of such policies and procedures, the Compliance Plan, and Compliance Program to the Board to reflect changes in applicable law, governmental enforcement, oversight agencies' identified risk areas, or the Agency's identified risk areas, and advocate for adoption and implementation of required modifications to the Compliance Program;

9. Coordinate with the Compliance Officer to ensure that the Agency's written policies, procedures, and Standards of Conduct are current, accurate, and complete;
11. Have specific authority to review the billings and billing practices of Affected Individuals;
12. Serve as an advisory body to the Compliance Officer, Human Resources Director and/or President/CEO for evaluating contested compliance reports;
13. Ensure adequate resources are available to the Compliance Officer to effectuate their duties, including advocating for the allocation of sufficient funding, resources, and staff for the Compliance Officer to fully perform their responsibilities;
15. At its discretion, form subcommittees to address specified issues; and
16. Periodically monitor, evaluate and assess the effectiveness of the Agency's education and training programs, revise such programs as necessary or desired, and coordinate with the Compliance Officer to ensure that the required training topics are timely completed.

The Compliance Committee shall report directly to, and be accountable to, the Agency's Chief Executive Officer and Board of Directors.

### **3. EDUCATION AND TRAINING**

See 18 NYCRR 521-1.4(d)

The Compliance Officer, in conjunction with the Human Resources and Workforce Development (Training) Departments and the appropriate supervisors and managers, will design and implement effective educational and training programs on the Compliance Program for all Affected Individuals, including the Compliance Officer, and Agency employees, the Chief Executive Officer and other senior administrators, managers and Board members, among others. These educational and training programs will include, at a minimum, discussion of the specific training and education topics outlined in the Agency's Compliance Training Policy or practices, including compliance issues, expectations, and the Compliance Program operations, among others. Such training is mandatory. Participation in the following educational and training programs is a condition of employment, contracting with the Agency, volunteering, or serving on the Board. Such education and training shall:

1. The training and education shall include, at a minimum, the following topics where applicable:
  - i. the Agency's risk areas and organizational experience;
  - ii. the Agency's written policies and procedures identified in subdivision (a) of this section;
  - iii. the role of the compliance officer and the compliance committee;
  - iv. how affected individuals can ask questions and report potential compliance-related issues to the compliance officer and senior management, including the obligation of affected individuals to report suspected illegal or improper conduct and the procedures for submitting such reports; and the protection from intimidation and retaliation for good faith participation in the compliance program;
  - v. disciplinary standards, with an emphasis on those standards related to the Agency's compliance program and prevention of fraud, waste and abuse;

- vi. how the Agency responds to compliance issues and implements corrective action plans;
  - vii. requirements specific to the program and the Agency's category or categories of service;
  - viii. coding and billing requirements and best practices, if applicable;
  - ix. claim development and the submission process, if applicable;
  - x. the mandatory nature of reporting compliance related issues;
  - xi. information about the non-intimidation and non-retaliation requirements.
2. The Compliance Officer and all affected individuals shall complete the compliance training program required by this subdivision no less frequently than annually. The training and education shall be made a part of the orientation of new compliance officers and affected individuals and shall occur promptly upon hiring.
3. Training and education shall be provided in a form and format accessible and understandable to all affected individuals, consistent with Federal and State language and other access laws, rules or policies.
4. The Agency shall develop and maintain a training plan. The training plan shall, at a minimum, outline the subjects or topics for training and education, the timing and frequency of the training, which affected individuals are required to attend, how attendance will be tracked, and how the effectiveness of the training will be periodically evaluated.
5. Training shall be given to all Affected Individuals and shall be part of orientation for a new employee and appointment of a new chief executive, manager or Board member and for all other Affected Individuals shall occur promptly upon hiring of the Affected Individual's affiliation with the Agency.
6. Training shall, at program level, include additional detailed training on billing and coding risk areas for Affected Individuals, including employees and independent contractors, who participate in the submission of claims for reimbursement.
7. Training shall include development and distribution of a regularly Compliance related updates that reflects current applicable laws, regulations, state and federal health care program requirements, and areas of risk.
8. Training should emphasize that it is a violation of the Compliance Plan for Affected Individuals not to report an instance of non-compliance or improper or unethical conduct, or violations of any of the Agency's Compliance Standards.
9. Board members will be required to examine the Compliance Plan at orientation, and each Board member shall repeat the procedure of examining the Plan annually thereafter.
10. Inform those contractors that are affected by the Agency's risk areas that failure to comply with the Compliance Plan and the Compliance Standards may result in sanctions, including written admonition, financial penalties, and/or termination of the contractor's or vendor's relationship with the Agency.

11. Inform Board officers and directors that failure to comply with the Compliance Plan and the Compliance Standards may result in actions, including written admonition to, in the most extreme cases, removal from the Board(s) of Directors in accordance with applicable bylaws, laws, and regulations.
12. The HR department in conjunction with Workforce Development (training) department shall retain attendance sheets, all training materials, and handouts for at least 6 years from the training date.

#### **4. REPORTING & CONFIDENTIAL COMMUNICATIONS**

##### **LINES OF COMMUNICATION:**

See 18 NYCRR 521-1.4(e) and (a)(2)(v)&(vii)

All Affected Individuals must report any conduct that they believe violates the Agency's Compliance Standards or applicable laws. Affected Individuals and must report such conduct:

- **Contacting the Affected Person's Supervisor/Chain of Command including CEO in writing or orally;**
- **Contacting the Compliance Officer: (716) 716.505.5507 or [mldodson@aspirewny.org](mailto:mldodson@aspirewny.org)**
- **Agency's 24 Hour anonymous Hotline (716) 505 5671**
- **Compliance email: [AspireCorporateCompliance@aspirewny.org](mailto:AspireCorporateCompliance@aspirewny.org)**

The CO will assist any reporter in determining or identifying potential compliance issues, questions and concerns, set forth expectations for reporting compliance issues, and explain how to report such issues, questions, and concerns.

Lines of communication. The Agency shall establish and implement effective lines of communication which ensure confidentiality for the Agency's affected individuals as follows:

- (1) The lines of communication shall be accessible to all affected individuals and allow for questions regarding compliance issues and for compliance issues to be reported.
- (2) The Agency shall publicize the lines of communication to the compliance officer and such lines of communication must be made available to all affected individuals and all medical assistance for needy persons provided under Title 11 of Article 5 of the Social Services Law by the Agency.
- (3) The Agency shall have a method for anonymous reporting of potential fraud, waste and abuse, and compliance issues directly to the compliance officer.
- (4) The Agency will ensure that the confidentiality of persons reporting compliance issues in good faith, including Medicaid Program beneficiaries who receive services from the Agency, shall be maintained unless the matter is subject to a disciplinary proceeding, referred to, or

under investigation by, MFCU, OMIG or law enforcement, or disclosure is required during a legal proceeding, and such persons shall be protected under the Agency's policy for non-intimidation and non-retaliation.

(5) The Agency will make available on its website, information concerning its compliance program, including its Standards of Conduct and Compliance Plan.

(6) All Affected Individuals must cooperate with internal investigations and must not prevent, hinder, or delay discovery of improper or illegal conduct or violations.

Employees should understand that the Compliance Hotline and other ways to report issues are designed solely for the good faith reporting of fraud, waste, abuse, and other compliance problems. They are 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 Director of Human Resources. However, if an employee believes that they were subjected to retaliation or intimidation for reporting a compliance concern, the employee's complaint may be reported to the Compliance Officer, or on the Compliance Hotline or to the employee's supervisor or Director of Human Resources. 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. In the case of actual or suspected improper or unethical conduct of the President/CEO, individuals should report the matter to the Board of Directors.

## **5. ENFORCEMENT & DISCIPLINE**

See 18 NYCRR 521-1.4(f)

The Compliance Officer, HR and Compliance Committee shall develop, distribute, publish and implement disciplinary policies and practices to encourage good faith participation in the Compliance Program by Affected Individuals, including policies that articulate expectations for reporting compliance issues, assisting in their resolution, and outlining sanctions for:

1. Failing to report actual or suspected compliance problems, improper or unethical conduct;
2. Participating in non-compliant, improper or unethical behavior; or
3. Encouraging, directing, facilitating or permitting non-compliant, improper or unethical behavior.

Such disciplinary policies shall be fairly, firmly, and consistently enforced and consistent with any collective bargaining agreement if applicable. The same disciplinary standards shall be utilized when enforcing violations of the Agency's Compliance Standards with all levels of personnel. Failure to report suspected and actual compliance issues or improper or unethical conduct may result in disciplinary action.

The Human Resources Department, in consultation with the Compliance Officer and other appropriate Affected Individuals, will ensure that prompt and appropriate corrective action and remediation occurs, to address violations of the Agency's Compliance Standards (including fraud, waste, abuse or improper or unethical conduct) in accordance with the Agency's corrective action policies.

Corrective action or remediation may include, but not be limited to, the following items, which do not need to be followed in order, and are designed to reduce the potential for recurrence:

1. Provide additional education, training and guidance to Affected Individuals;
2. Impose discipline on employees, volunteers, students and interns, up to and including termination of employment or relationship with the Agency;
3. Conduct corrective billing action, including voiding and/or rebilling claims and/or repaying funds that the Agency is not entitled to retain;
4. Development of new policies and procedures and/or revision of existing policies and procedures;
5. Revise the Compliance Plan, Compliance Program, and implementing policies and procedures;
6. Implement additional monitoring and auditing;
7. Report to governmental agencies, fiscal intermediaries, and/or third-party payors, after consultation with legal counsel and the Compliance Committee and in accordance with the Agency's corrective action policies, including reporting, returning, and explaining any overpayments identified;
8. Impose sanctions on independent contractors and vendors, including, for example, written admonition, financial penalties, and/or termination of an independent contractor's or vendor's relationship with the Agency in accordance with the applicable contract or agreement, if any; and
9. Impose sanctions on Board officers and directors, including written admonition and/or termination in accordance with applicable bylaws, laws, and regulations.

## **6 COMPLIANCE AUDITS, MONITORING AND RISK IDENTIFICATION**

See 18 NYCRR 521-1.4(g)

Auditing and monitoring. The Agency shall maintain an effective system for the routine monitoring and identification of compliance risks. The system includes internal monitoring and audits and, as appropriate, external audits, to evaluate the organization's compliance with the requirements of and the overall effectiveness of the compliance program. The auditing and monitoring program shall include:

(1) Auditing. Routine audits by internal or external auditors with appropriate experience and training. Audits or investigations conducted by state or federal governmental entities are not considered external audits for purposes of this paragraph. The audits required by this paragraph shall meet the following requirements:

(i) Internal and external compliance audits shall focus on the risk areas identified herein above and in 18 NYCRR [521-1.3](#).

(ii) The results of all internal or external audits, or audits conducted by the State or Federal government, shall be reviewed for risk areas that can be included in updates to the compliance program and compliance work plan.

(iii) The design, implementation, and results of any internal or external audits shall be documented, and the results shared with the compliance committee and the governing body.

(iv) Any program overpayments identified shall be reported, returned and explained in accordance with the provisions of 18 NYCRR [521-1.3](#) and the Agency shall promptly take corrective action to prevent recurrence.

(2) Annual compliance program review. The Agency shall review, at least annually, whether the requirements of this plan and applicable regulations have been met. The purpose of such reviews shall be to determine the effectiveness of its compliance program, and whether any revision or corrective action is required.

(i) The reviews may be conducted by the compliance officer, compliance committee, external auditors, or other staff designated by the Agency, provided however, that such other staff have the necessary knowledge and expertise to evaluate the effectiveness of the components of the compliance program they are reviewing and are independent from the functions being reviewed.

(ii) The reviews should include on-site visits, interviews with affected individuals, review of records, surveys, or any other comparable method the Agency deems appropriate, provided that such method does not compromise the independence or integrity of the review.

(iii) The design, implementation and results of its effectiveness review shall be documented, and any corrective action implemented.

(iv) The results of annual compliance program reviews shall be shared with the chief executive, senior management, compliance committee and the governing body.

(3) Excluded providers. In accordance with the requirements of section 18 NYCRR [515.5](#), the Agency shall confirm the identity and determine the exclusion status of affected individuals

(i) In determining the exclusion status of a person, the Agency shall review the following State and Federal databases at least every thirty (30) days:

(a) New York State Office of the Medicaid Inspector General Exclusion List;

(b) Health and Human Services Office of Inspector General's List of Excluded Individuals and Entities; and

(ii) Agency shall require contractors to comply with the provisions of this paragraph.

(4) The Agency shall promptly share the results of the activities required by this subdivision with the compliance officer and appropriate compliance personnel.

The Agency desires to identify compliance issues before they become legal problems. To that end, the Compliance Officer and Compliance Committee shall develop and implement a system for routine identification, evaluation, and monitoring of compliance risk areas and a system for self-evaluation of such risk areas. [note: Some Agency activities or functions, such as audit, may need to perform additional risk assessments to satisfy other requirements, such as fulfilling federal grant, contract, and other award obligations under 45 CFR § 75.303, for example] Billing audits in portions of each Agency program area will be conducted at least annually by the Agency's Corporate Compliance and/or Internal Quality Review Teams. The Agency will ensure that all internal or external auditors have expertise in state and federal Medicaid Program requirements and applicable laws, rules, and regulations, or have expertise in the subject matter of the audit.

The Compliance Officer shall review and track all internal and external compliance audits and reviews (including peer reviews), shall document the design, implementation, and results of any internal or external audits, and shall report the findings of audits and reviews to the Compliance Committee and the Board. The Compliance Officer shall also conduct regular, periodic reviews of the audit tools used by the Agency and revise them to reflect changes in laws, regulations, agency guidance, and/or best practices.

In addition, the Compliance Officer and Compliance Committee shall periodically identify potential risk areas by examining specific issues associated with the delivery and payment of services provided by the Agency, including:

1. Relevant work plans, enforcement initiatives, and other resources of any applicable state, local, or federal governmental enforcement and oversight agencies;
2. Risk areas identified by the Agency's own internal compliance audits and reporting mechanisms and external compliance audits; and
3. Common audit findings or initiatives of relevant governing and accrediting government agencies.

Audits and work plans will include provision to review internal processes regarding "excluded providers" under 18 NYCRR 515.5. (see 18 NYCRR 521-1.4(g)(3))

## **7. DETECTION, RESOLUTION, AND RESPONSE**

### **Responding to compliance issues**

See 18 NYCRR 521-1.4(h)

**Responding to compliance issues.** The Agency shall promptly respond to compliance issues as they are raised, investigating potential compliance problems as identified in the course of internal auditing and monitoring, correcting such problems promptly and thoroughly to reduce the potential for recurrence, and ensuring ongoing compliance with State and Federal laws, rules and regulations, and requirements of programs. The system shall include:

- (1) Upon the detection of potential compliance risks and compliance issues, the Agency shall take prompt action to investigate the conduct in question and determine what, if any, corrective action is required, and likewise promptly implement such corrective action.

(2) The Agency shall document its investigation of the compliance issue which shall include any alleged violations, a description of the investigative process, copies of interview notes and other documents essential for demonstrating that the Agency completed a thorough investigation of the issue. Where appropriate, the Agency may retain outside experts, auditors, or counsel to assist with the investigation.

(3) The Agency shall document any disciplinary action taken and the corrective action implemented.

(4) If the Agency identifies credible evidence or credibly believes that a State or Federal law, rule or regulation has been violated, it will promptly report such violation to the appropriate governmental entity, where such reporting is otherwise required by law, rule or regulation. The compliance officer shall receive copies of any reports submitted to governmental entities.

(5) The Compliance Officer must be promptly notified of all potential or actual billing errors and suspected overpayments. Examples of billing errors or reasons for overpayment may include, but are not limited to, the following:

- Coding errors;
- Errors in rate or unit;
- Keying or inputting errors;
- Provision of unauthorized services;
- Services are not necessary, or necessity is not documented in the record;
- Absence of one or more required elements of documentation;
- Service was not rendered;
- Falsification of service or billing documents;
- Duplicate payments;
- Fraudulent behavior by employees or others;
- Failure to bill primary payor;
- Discovery of an employee or contractor on exclusion lists; and
- Damaged, lost, or destroyed records.

The Compliance Officer will notify the Chief Executive Officer, the Chief Financial Officer and Compliance Committee of potential billing issues and overpayments. The preliminary circumstances will be reviewed to determine if a suspension of billing is to be initiated. After determination and approval overpayments will be made in accordance to regulations or contract.

Internal investigation will be conducted as appropriate and may include interviews, documentation reviews, and where appropriate root cause analyses. If the Compliance Officer determines it is in the best interests of the Agency to keep the contents and/or findings of the investigation confidential and not subject to disclosure to outside third parties, the Compliance Officer shall arrange for legal counsel to conduct and/or supervise the investigation under the attorney client privilege.

The Agency shall respond to and correct compliance problems promptly and thoroughly and maintain documentation of the investigation—including any alleged violations, a description of the investigative process, copies of interview notes, and copies of other documents essential for demonstrating that a thorough investigation of the issue was completed—and its results in a written

report of findings and recommendations for corrective action. The written report may be subject to the attorney client privilege if the Agency's outside legal counsel prepares it. The Compliance Officer and/or legal counsel shall present the written report or a summary thereof to the Compliance Committee and President/CEO. The Compliance Officer shall collaborate with the President/CEO and outside advisors to determine whether the conduct that is the subject of the investigation should be disclosed to government agencies and/or payors. If credible evidence is identified or if the Agency credibly believes that a state or federal law, rule, or regulation has been violated, the violation will be promptly reported to the appropriate governmental entity, when such reporting is required by law, rule, or regulation. The Compliance Officer shall oversee the corrective action to ensure it is completed, shall document any disciplinary action taken and any corrective action implemented, and shall receive copies of any reports submitted to governmental entities. The Compliance Officer shall update the Compliance Committee on the status of internal investigations and corrective action.

The Agency requires that Affected Individuals fully cooperate in any such investigations. Although individuals have a right not to incriminate themselves, any employee, volunteer, student or intern who fails to provide such cooperation will be subject to termination of the relationship. Any independent contractor or vendor who fails to provide such cooperation may be subject termination of the contract or relationship. Any Board member who fails to provide such cooperation will be subject to sanctions as permitted in the bylaws or determined by the Board.

The Agency shall identify and report compliance issues to New York State Department of Health (DOH), Office For People With Developmental Disabilities (OPWDD), Office of Mental Health (OMH), Office of Children and Family Services (OCFS), OMIG, and any other appropriate governmental agency, if such reporting is required by law, rule, or regulation, and shall report, return, and explain overpayments as appropriate and as directed by law.

## **8. COMPLIANCE CONTACTS AND NUMBERS**

Any Affected Individual may report compliance concerns by:

- **Contacting the Affected Person's Supervisor/Chain of Command including CEO in writing or orally;**
- **Contacting the Compliance Officer: (716) 716.505.5507 or [mldodson@aspirewny.org](mailto:mldodson@aspirewny.org)**
- **Agency's 24 Hour anonymous Hotline (716) 505 5671**
- **Compliance email: [AspireCorporateCompliance@aspirewny.org](mailto:AspireCorporateCompliance@aspirewny.org)**

The CO will assist any reporter in identifying potential compliance issues, questions and concerns, set forth expectations for reporting compliance issues, and explain how to report such issues, questions, and concerns.

## **9. LAWS REGARDING THE PREVENTION OF FRAUD, WASTE AND ABUSE**

See 18 NYCRR § 521-1.4(a)(2)(i)

The following are brief summaries of some of the major laws applicable to compliance related issues. There may be many other statutes that could be applied to compliance including without limitation, confidentiality laws and penal code provisions. These summaries are not intended to constitute legal advice or legal interpretations of the statutes discussed. The Agency's Compliance Officer (who cannot provide legal advice) or your own attorney can provide more information about these laws and their application to specific situations. Any additional applicable laws, rules or regulations dealing with compliance, prevention of fraud, waste and abuse not set forth herein are incorporated by reference as if set forth fully herein.

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

**1. The Federal False Claims Act (FCA).** The Federal False Claims Act prohibits a person from submitting a claim to the federal government that he/she knows (or should know) is false. The False Claims Act also imposes liability on an individual who knowingly submits a false record or document to the government in order to receive reimbursement or obtains money from the federal government to which he or she may not be entitled and then uses false statements or records in order to retain the money. Examples of the types of activity prohibited by the FCA include but are not limited to: (i) billing for services that were not actually rendered, (ii) billing for a more highly reimbursed service or product than the one provided, (iii) falsely certifying that services were medically necessary, (iv) double billing; and (v) failing to refund overpayments made by a federal health care program. Individuals may be entitled to bring an action under the FCA and share in a percentage of any recovery. However, if the action has no merit and/or is primarily for the purpose of harassing the Agency, the individual may have to pay the Agency for the Agency's legal fees and costs.

Proof of specific intent to defraud is not required. However, honest mistakes or mere negligence are not the basis of false claims. The FCA provides for civil penalties per false claim plus three times the amount of damages that the government sustains.

**2. Federal Anti-Kickback Law.** Individuals/entities may not knowingly offer, pay, solicit, or receive remuneration in exchange for referring, furnishing, purchasing, leasing or ordering a service or item 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 co-payments or deductibles, low interest loans or subsidies, or business opportunities that are not commercially reasonable. Criminal or civil penalties include repayment of damages, fines, imprisonment, and exclusion from participation in federal programs.

**3. Ethics in Patient Referrals At (the "Stark Law").** Physicians or their family member who have an ownership or compensation interest with an entity that provides "designated health services" 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, 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, 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.

## **B. State Laws.**

**1. False Claims Act.** The New York False Claims Act prohibits a person from submitting a claim to the state or local government that the person knows is false. Violators are subject to civil penalties of \$6,000 to \$12,000 per false claim and treble damages. Individuals may be entitled to bring an action under the False Claims Act and share in a percentage of any recovery. However, if the action has no merit and/or is primarily for the purpose of harassing the Agency, the individual may have to pay the Agency for the Agency's legal fees and costs.

**2. Criminal Health Care Laws.** New York has many criminal laws designed to prevent health care fraud. They include: 1) presenting a false or fraudulent claim for services, submitting false information to obtain greater Medicaid reimbursement, or submitting false information in order to obtain authorization; 2) falsifying or altering business records; and 3) filing false claims for insurance payments. Violators are subject to criminal prosecution, fines, and imprisonment.

**3. Anti-Kickback Law.** Medicaid providers are prohibited from offering, paying, soliciting, receiving, or giving anything in exchange for the referral of Medicaid services. Violators are subject to civil and criminal enforcement.

**4. Self-Referral Law.** Practitioners who order laboratory, pharmacy, radiation therapy, physical therapy, or imaging services are prohibited from referring patients to a health care provider when the practitioner, or the practitioner's immediate family, has a financial relationship with the health care provider. There are some exceptions to this prohibition which may make such referrals acceptable.

**5. Professional Misconduct.** Licensed professionals must not engage in misconduct as defined in the Education and Public Health Laws. Violators face fines, probation, suspension, or loss of their licenses.

## **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 is protected from retaliation by the Agency. Remedies include reinstatement, two times back pay plus interest, litigation costs, and attorney's fees. 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 Agency's legal fees and costs.

**2. New York State Whistleblower Protection.** Employees who report a false claim in good faith are protected against discharge, demotion, suspension, threats, harassment, and other discrimination by the Agency. Remedies include reinstatement, two times back pay plus interest, and litigation costs and

attorneys' fees. However, if the employee's action has no basis in law and fact or is primarily for harassment, the employee may have to pay the Agency's legal fees and costs.

**3. Labor Laws. An employee is protected from retaliation or intimidation by an employer if the** employee discloses or threatens to disclose information about the employer's activities, policies, or practices 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. Health care employees are also protected from retaliation or intimidation by a health care employer if the employee discloses or threatens to disclose certain information about the employer's policies, practices, or activities to a supervisor, public body, news media outlet, or social media forum available to the public at large, or objects to, or refuses to participate in, any activity, policy, or practice due to a good faith belief that the activity, policy, or practice constitutes improper quality of patient care or improper quality of workplace safety. In both cases, but for certain exceptions, 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, practice, or alleged violation to the attention of a supervisor and has afforded the employer a reasonable opportunity to correct the activity, policy, practice, or alleged violation.

## **10. EFFECTIVE DATES AND REVIEW HISTORY**

EFFECTIVE DATE IS LAST DATE OF BOARD APPROVAL

This Compliance Plan remains effective until subsequent review and revision by Board. For any year where no review by either the Board or Compliance committee is not noted said plan will be considered as acceptable in existing form and continue in full force and effect.

**2025** (new plan)

Reviewed and approved by Compliance Committee: March 18, 2025

Approved by Agency, Board of Directors: April 17 2025

**2026** (review and revision)

**Reviewed and approved by Compliance Committee: March 17, 2026**

**Approved by Agency, Board of Directors: May 15, 2026**