



NEW VANDERBILT REHAB & CARE CENTER COMPLIANCE AND ETHICS PLAN

INTRODUCTION TO OUR COMPLIANCE AND ETHICS PROGRAM

CompanyName has always strived to maintain a good faith effort to comply with all applicable laws, rules, and regulations. In accordance with existing guidance from the U.S. Department of Health and Human Services, Office of Inspector General, as well as the statutory requirements of the Patient Protection and Affordable Care Act, CompanyName has adopted a Compliance and Ethics Program.

The goal of our Compliance and Ethics Program (our Program) is to ensure that CompanyName adheres to all applicable Medicare and Medicaid laws, rules, and regulations related to the submission of claims. This includes, among other things, to ensure proper documentation of services, billing, coding, and claims submission, and the prevention, prompt detection, and appropriate corrective action to detect, address, and prevent fraud, waste, and abuse.

All persons and entities who are affected by CompanyName's risk areas including CompanyName's employees, volunteers, interns, appointees, associates, consultants, independent contractors, vendors/contractors and subcontractors, agents, Chief Executive and other senior administrators, managers, executives, Governing Body Members, corporate officers, 1099 employees, and service contractors, hereinafter referred to collectively as "affected individuals", are subject to Our Compliance and Ethics Plan. Any reference in our Compliance and Ethics Plan or policies to affected individuals is intended to cover "all affected individuals" as noted above for the purpose of compliance with the elements of our Compliance and Ethics Program.

The purpose of our Program is to:

1. Outline and emphasize our commitment to accurate and lawful documentation and submission of all claims for services to Medicare, Medicaid, and other third-party payers.
2. Help our affected individuals understand and meet legal and ethical standards that govern our business.
3. Promote the prevention, detection, and resolution of any acts that do not conform to applicable federal and/or state laws, rules, and regulations,
4. Minimize, through early detection and reporting, any potential loss to the government from erroneous claims as well as reduce CompanyName's potential exposure to damages and civil and criminal penalties that may result from noncompliance.

Compliance is a key component to our day-to-day operations. Thus, all affected individuals are expected to comply with all applicable laws, rules, and regulations as well as CompanyName's policies and procedures. Those who fail to comply with the elements of this Plan may face disciplinary action, up to and including termination.

COMPLIANCE AND ETHICS PROGRAM COMPONENTS

Compliance and Ethics Officer

CompanyName has appointed a Compliance and Ethics Officer, who is responsible for day-to-day operations of our Program. The designated Compliance and Ethics Officer should be someone within the high-level personnel of the operating organization with the overall responsibility to oversee compliance with the operating organization's compliance and ethics program's standards, policies, and procedures, such as, but not limited, to the chief executive officer (CEO), members of the Governing Body, and/or directors of major divisions in the operating organization.

Our Compliance and Ethics Officer is well integrated into and knowledgeable about the operations of the organization and is explicitly responsible for overseeing the implementation of our Program, investigating and independently acting on matters related to the compliance program, including, but not limited to: a) designing, coordinating, and documenting internal investigations and pursuing any resulting corrective actions; b) providing a confidential means of reporting compliance concerns; c) making recommendations to CompanyName regarding changes that must be made to enhance compliance, and updating our Program, as necessary, including drafting, reviewing, revising and adopting policies and procedures to reflect updates in expectations enumerated in applicable laws, rules, and regulations. Pursuant to 42 CFR § 483.85(c)(2), our Compliance and Ethics Officer is someone who has substantial control over the operating organization or who has a substantial role in the making of policy within our organization.

Our Compliance and Ethics Officer has the following specific responsibilities:

1. Coordinates resources, in coordination with the Compliance Committee, to ensure the ongoing effectiveness of our Program.
2. Participates in the development of compliance policies and standards.
3. Reports to governing body (i.e. a board of directors), CEO, and compliance committee on the progress of adopting, implementing, and maintaining the compliance program on a quarterly basis, at a minimum..
4. Monitors developments and changes in relevant state and federal law, regulations, government agency guidance, and court rulings, which may affect our Program. Revises our Program when appropriate to reflect any changes in expectations and/or requirements.
5. Assists CompanyName in establishing methods to improve efficiency, quality of services and reducing vulnerability to fraud, waste, and abuse.
6. Ensures that all affected individuals have read the Code of Conduct and signed a statement acknowledging their understanding of its requirements.
7. Oversees the development, presentation, and the documentation of educational programs through the annual education workplan for all affected individuals with focus on the elements of our Program and risk areas specific to CompanyName.

8. Oversees the development, presentation, and the documentation of the annual compliance workplan for all affected individuals with focus on the elements of our Program and risk areas specific to CompanyName.
9. Responsible for the implementation and management of policies that support and encourage confidential and anonymous reporting, by all affected individuals and residents/family members including, but not limited to, Medicaid recipients and their family members, of suspected fraud, waste, abuse, and other improprieties without fear of retaliation or intimidation.
10. In collaboration with Human Resource, the Compliance Officer will take due care to ensure that CompanyName does not delegate substantial discretionary authority to individuals whom CompanyName knows, or has reason to know, have or had the propensity to engage in criminal, civil, and/or administrative violations.
11. Conducts or oversees appropriate internal compliance reviews and audits.
12. Receives and maintains confidentiality of reports of potential compliance issues.
13. Conducts and oversees investigations of matters that merit investigation under our Program.
14. Brings to the Compliance and Ethics Committee and senior management's attention all compliance issues for appropriate response and disciplinary action, if necessary.
15. Maintains documentation and tracks all issues referred to the Compliance and Ethics Officer and/or Compliance and Ethics Committee.
16. Reports regularly, on a quarterly basis, at a minimum, to the Governing Board on the operation of our Program and any significant developments.

Annual Reporting

On at least an annual basis, the Compliance and Ethics Officer will issue a report to the Senior Administration, the Governing Board, and the Board of Directors, that discusses the effectiveness of the compliance and ethics program using an annual assessment and audit and monitoring tool results of the prior year that identifies any changes to the Compliance and Ethics Program that need to be made to improve compliance. The report shall include the following:

1. Copy of Audit Plan
2. Copy of Education Workplan and list of who has and who has not completed all mandatory compliance education
3. Copy of Annual Compliance Workplan
4. Compliance Meeting Attendance
5. All Audit, Monitoring and Risk Assessment results including annual Self-Assessment of Compliance Program Effectiveness including:

- a. A report on the annual self-assessment review of the effectiveness of the compliance plan includes:
 - b. A report on the design, implementation, and results of the annual compliance program effectiveness review, and any corrective action implemented;
 - c. Date completed;
 - d. Who was in attendance at the review by the compliance committee;
 - e. Summary of updates or modifications to the compliance program as a result of the annual review, including implementation dates, if applicable;
 - f. Evidence that the results of the annual compliance program review were shared with the chief executive, senior management, compliance committee, and governing body;
 - g. Any documentation to evidence that 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.
6. All Reports of noncompliance (whether made by hotline call, telephone call, e-mail, face-to-face communication, etc.)
7. All Investigations into alleged noncompliance and results of the investigations
8. All disciplinary action including response and corrective action, addressing identified and substantiated noncompliance

As necessary, and as specific compliance issues arise that require immediate attention, the Compliance and Ethics Officer will make a report on a more frequent basis.

Compliance and Ethics Committee

CompanyName has appointed a Compliance and Ethics Committee (the Committee), which will have overall responsibility for oversight of compliance activities.

The Committee will meet no less than quarterly to review reports on CompanyName's compliance activities.

Our Compliance and Ethics Committee has the following specific responsibilities:

1. Ensure sufficient resources and authority are delegated to the Compliance and Ethics Officer to reasonably ensure compliance with our Program..
2. Exercise due care and due diligence not to delegate substantial discretionary authority to individuals who the operating organization knew, or should have known, through exercise of due diligence, had a propensity to engage in criminal, civil, and administrative violations under the Social Security Act..
3. To stay up to date on current issues and standards specific to our business.
4. Ensure that we maintain and improve our Program to reflect the latest state, national, and industry standards.
5. Make recommendations to management regarding recommended revisions to existing policies and new policies that may be necessary.

6. Review reports on CompanyName's compliance activities.
7. Assist Compliance and Ethics Officer and senior management in putting into place appropriate responses to compliance issues as well as appropriate disciplinary actions.
8. Oversee the development and implementation of systems for communicating compliance questions and concerns and reports of wrongdoing.
9. Advise and assist the Compliance and Ethics Officer in his/her responsibilities.
10. Report regularly and at least quarterly to the Governing Board on the operation of our Program and any significant developments.
11. Ensure the company is meeting the highest standards of compliance.
12. Establish and maintain a Compliance Committee Charter that is reviewed annually and updated as needed.
13. The Compliance Committee reports directly to the Chief Executive and Governing Body.
14. All Compliance and Ethics Committee members shall sign a Confidentiality Statement.

Policies and Procedures

CompanyName has written policies and procedures, with a record of implementation and revision dates, that describe compliance expectations, identify how to communicate compliance issues with affected individuals, and describe how potential compliance problems should be investigated and resolved.

Our policies and procedures establish CompanyName's expectations for the conduct of all affected individuals in order to reduce the possibility of fraud, waste, and abuse. Our policies include the adoption of a Code of Conduct (Attachment A), which assists our affected individuals in avoiding both the appearance and commission of improper activities. The Code of Conduct is distributed to all affected individuals. The Compliance and Ethics Officer is responsible for ensuring that all affected individuals have certified that they have received, read, and fully understand the Code of Conduct. Such policies must be accessible and applicable to all affected individuals. CompanyName's policies on Reporting/Lines of Communication, Confidentiality, and Non-Retaliation and Non-Intimidation must be accessible and applicable to all residents/representatives, including Medicaid beneficiaries.

CompanyName's policies establish compliance with governing laws and regulations applicable to their risk areas, including any relevant Medicaid program policies and procedures.

CompanyName's written policies set forth CompanyName's fundamental principles/values and commitment to conduct its business in an ethical manner, in addition to its compliance expectations.

Training and Education



All affected individuals are responsible for compliance.

CompanyName mandates all affected individuals, as defined again below, to be trained at orientation and annually thereafter on our Compliance and Ethics program, specific regulatory compliance issues, and the responsibilities of the affected individual.

1. Employees and 1099 employees
2. Chief Executive, Executives, and other senior administrators
3. Corporate Officers
4. Managers
5. Volunteers and Interns
6. Appointees
7. Associates
8. Consultants
9. Vendors and Service Contractors, Contractors, Subcontractors, and Independent contractors
10. Agents
11. Governing Body Members
12. All other persons affected by CompanyName's risk areas.

CompanyName maintains an ongoing compliance training program, which includes the following:

1. Our Compliance and Ethics Plan, including, but not limited to, the Code of Conduct and the Deficit Reduction Act policy and all related material from NYS OMIG, OIG, CMS, and Med-Net Compliance monthly bundle documents.

CompanyName's compliance training and education program is designed to communicate our Program's standards and procedures to affected individuals in a meaningful and effective manner, and to ensure consistent application of our Program's policies. In order to best accomplish this, our training program is geared to the level of responsibility and job function.

Training sessions will utilize classroom, lecture, recorded instruction, and/or other means of communication, as appropriate to accommodate the skills, experience, and knowledge of the trainees. Other forms of education will be employed, such as the use of posters, bulletin boards, paycheck stuffers, etc., to inform employees of new compliance issues or to reinforce various aspects of past training. No matter how the information is presented, that training occurred must be thoroughly documented, including the date, attendees, and agenda.



During new hire orientation, all affected individuals, regardless of position and seniority, will be trained on the Compliance and Ethics Program and specific requirements and expectations under the program.

It is the Compliance and Ethics Officer's responsibility to coordinate training activities and maintain a library of compliance-related information and training materials.

All compliance training is mandatory.

Reporting System

Our Program rests upon the ability of our personnel to openly and freely communicate issues of concern to their supervisors, the Compliance and Ethics Officer, and the Compliance and Ethics Committee. We are committed to developing and supporting any and all lines of communication to support our efforts to detect, address, and prevent compliance issues, including a method of anonymous reporting.

CompanyName has established reporting procedures that are readily accessible to all affected individuals, including Medicaid recipients and their families, as well as members of the general public.

CompanyName's Compliance and Ethics Officer should be contacted with questions about compliance or to report potential violations or any concerns regarding compliance. The Compliance and Ethics Officer will maintain open lines of communication and may be reached by telephone, by inter-office mail, or by face-to-face communication. Even if an individual merely has a general question about the propriety of conduct, he/she should still reach out to the Compliance and Ethics Officer. All reports of compliance issues and violations to the Compliance and Ethics Officer will be kept confidential 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 a policy for non-intimidation and non-retaliation.. All reports of compliance issues and violations to the Compliance and Ethics Officer are taken seriously and investigated accordingly.

Should any individual feel uncomfortable making a report to the Compliance and Ethics Officer or wish to remain anonymous and make a good faith report of potential compliance issues, he/she has the option of making a report to our Compliance Hotline (800-557-1066), which allows for anonymous and confidential good faith reporting of potential compliance issues as they are identified without fear of retribution. Signs with information for contacting the Compliance Hotline are visible throughout our facility.

All reports must be made in good faith. There will be no adverse action or retaliation against any affected individual/person who makes a good faith report of a compliance concern. Likewise, there will be no retaliation for other actions of good faith participation in the Compliance and Ethics Program including, but not limited to, reporting potential issues; cooperating or participating in the investigation of issues; participating in self-evaluations, audits, and remedial action; and/or making reports of inappropriate conduct to appropriate officials."

Auditing and Monitoring

CompanyName has established a system for routine identification of compliance risk areas set forth below and self-evaluation of risk areas including auditing and monitoring, designed to detect criminal, civil, and administrative violations in compliance with CompanyName's Deficit Reduction Act policy, attached hereto as

“Attachment B” and in compliance with the below referenced risk areas, laws, regulations, and NYS Medicaid program policies and procedures:

- RISK AREAS
 - Billings
 - Payments
 - Ordered services
 - Medical necessity
 - Quality of care
 - Governance
 - Mandatory reporting
 - Credentialing
 - Contractor, subcontractor, agent, or Independent Contract oversight
 - Other risk areas that are or should reasonably be identified through organizational experience
- 10 NYCRR Parts 400 and 415
- NY Public Health Law Article 28
- NYS Social Services Law § 363-d
- NYS Social Services Law § 366-b
- NYS Penal Law Article 155
- NYS Penal Law Article 175
- NYS Penal Law Article 176
- 18 NYCRR SubPart 521-1 et seq.
- 18 NYCRR Part 504, Medical Care – Enrollment of Providers
- 18 NYCRR Part 515, Provider Sanctions
- 18 NYCRR Part 516, Monetary Penalties
- 18 NYCRR Part 519, Provider Hearings
- https://www.health.ny.gov/health_care/medicaid/program/update/main.htm
- <https://www.emedny.org/>

Internal auditing standards are integral to the Compliance and Ethics Program. Data will be collected and analyzed on a regular basis to assess CompanyName’s compliance with established standards of practice, in particular: quality, documentation, billing, and reimbursement guidelines.

CompanyName will employ a variety of techniques including, but not limited to, the following:

1. Periodic interviews with management personnel regarding their perceived levels of compliance within their departments or areas of responsibility.
2. Questionnaires developed to poll personnel regarding compliance matters as well as the effectiveness of individual training techniques.
3. Periodic written reports of department managers, utilizing assessment tools developed to track specific areas of compliance.

4. Audits designed and performed by internal and/or external auditors using auditing guidelines.
5. Exit interviews of departing employees.

The Compliance and Ethics Officer will ultimately be responsible for coordinating formal audits; however, the audits may be performed by internal or external auditors or another designee. The auditors should: possess the qualifications and experience necessary to adequately identify potential compliance issues; be objective and independent of management; and have access to relevant personnel, records, and areas of operation; present a written evaluation concerning compliance activities to the Compliance and Ethics Officer; and specifically identify areas where corrective actions are needed.

Auditing and monitoring should be conducted regularly, and written reports must be presented to the Compliance and Ethics Officer and Compliance and Ethics Committee at least quarterly. Any areas of potential noncompliance shall be kept confidential.

The Compliance and Ethics Officer shall analyze the results of the auditing and monitoring to determine the root cause. On the basis of these reports, the Compliance and Ethics Officer and Compliance and Ethics Committee shall determine an appropriate response.

Response

When potential compliance issues arise, CompanyName will take reasonable steps to respond appropriately to the offense and prevent future similar offenses. As such, CompanyName has established a system for responding to compliance issues as they arise including investigating, retaining legal consultation, updating policies and procedures, implementing corrective action plans, and, when appropriate, remitting payment and/or reporting misconduct to appropriate authorities. It is the responsibility of all associated with CompanyName to assist in resolving compliance issues by participating in good faith in CompanyName's response to potential compliance violations, including cooperating when CompanyName is conducting investigations and abiding by corrective action put into place.

Reports received through either a reporting mechanism or through some other mechanism (e.g., auditing), shall be documented and assessed initially by the Compliance and Ethics Officer. If the initial assessment indicates that there is a basis for believing that the conduct reported constitutes noncompliance, the matter shall be reported to the Compliance and Ethics Committee for review.

All instances of potential noncompliance shall be investigated carefully to determine whether the allegation appears to be well-founded. The Compliance and Ethics Officer shall promptly begin an investigation in accordance with the following procedure:

1. Compliance and Ethics Officer shall commence an investigation as soon as reasonably possible, but in no event more than thirty (30) days following reasonable suspicion of a compliance violation.
2. The investigation may include:
 - A. Interviews of the person(s) involved in or having knowledge of the potential noncompliance.
 - B. Interviewees with relevant information may be required to submit a signed, dated, written statement.

- C. If the Compliance and Ethics Officer does not request a written statement from Interviewee, the Compliance and Ethics Officer shall document the interview and he/she should sign and date the record.
- D. The creation of a timeline of events.
- E. Review of related documents, if appropriate.
- F. Review of applicable federal and state laws, rules, and regulations as well as CompanyName's policies and procedures.
- G. Collaboration with the Compliance and Ethics Committee.
- H. Consultation with Compliance and Ethics Attorney, auditors, healthcare consultants, etc.

Every effort to investigate potential noncompliance shall be documented and kept with the original report.

If the allegation is substantiated, Compliance and Ethics Officer shall determine:

1. Whether the alleged activity violates state, federal, or CompanyName's policies and procedures.
2. What corrective action, if any, should be taken.
3. Whether the allegation warrants reporting.

CompanyName shall respond to compliance problems promptly and thoroughly by putting into place corrective action. Corrective action shall be imposed as a means of facilitating the overall goal of full compliance. Corrective action plans should assist affected individuals including, but not limited to, CompanyName employees, vendors, or business associates, to understand specific issues and reduce the likelihood of future noncompliance. Corrective action shall be sufficient to effectively address the particular instance of noncompliance and should reflect the severity of the noncompliance and the past adherence to compliance standards. All associated with CompanyName are responsible for actively participating in the corrective action.

The corrective action plan should identify the nature of the noncompliance and immediate correction of any harm resulting from the violation as well as the resolution of specific problems identified. The plan may include:

1. A recommendation to revise applicable policies and procedures to clarify proper protocols and/or development of new systems to safeguard against future noncompliance of a similar nature.
2. Additional mandatory training for employees, contractors, vendors, and/or business associates.
3. Increased auditing and/or monitoring.
4. Focused review of records made by employees, contractors, vendors, or business associates for a defined period of time following discovery of noncompliance.
5. A recommendation to not bill inappropriate claims.

6. A recommendation to report identified noncompliance to the appropriate government authorities after consultation with Legal Counsel.

A. Report shall be filed as soon as possible but no later than sixty (60) days of the discovery of the credible evidence of fraud:

- i. The Office of Inspector General (OIG) Provider Self-Disclosure Protocol is available at <https://oig.hhs.gov/compliance/self-disclosure-info/protocol.asp>
- ii. Report to the State Medicaid Office
 - a. In New York, call the Office of the New York State Attorney General's Medicaid Fraud Control Unit at (800) 771-7755 or file a complaint on-line at <https://ag.ny.gov/nursinghomes>.
- iii. Reporting should also be made to the State Department of Health
 - a. In New York, call the New York State Department of Health at (888) 201-4563 or file a complaint on-line at <https://ag.ny.gov/nursinghomes>,

7. A recommendation to report to appropriate authorities within sixty (60) days of discovery and repay any overpayments uncovered during the investigation, with interest, if appropriate, after the Compliance and Ethics Officer has conducted an investigation and considered the following:

- A. Identification of the exact issue
- B. The amount involved
- C. Any patterns or trends that the problem may demonstrate within the provider's billing system
- D. The extent of the period affected
- E. The circumstances that led to the overpayment
- F. Whether or not the organization has a corporate integrity agreement in place which requires self-disclosure

Report shall be filed and repayment shall be made to payor, with interest if appropriate, as soon as possible, but no later than sixty (60) days of discovery.

- i. The Office of Inspector General (OIG) Provider Self-Disclosure Protocol is available at <https://oig.hhs.gov/compliance/self-disclosure-info/protocol.asp>
- ii. Report to State Medicaid Office
 - a. In New York, CompanyName shall report, return, and explain overpayments to the New York State Medicaid Office in accordance with the 18 NYCRR SubPart 521-3

8. Enforcement of disciplinary standards.

9. Other reasonable corrective measures calculated to ensure adherence to applicable federal and state laws, rules, regulations, and our Program.

For a defined period of time following the implementation of a corrective action plan, the Compliance and Ethics Officer shall follow up and audit the corrective action to determine whether it is being followed as well as its effectiveness in preventing the recurrence of similar violations.

If an allegation is not substantiated, the Compliance and Ethics Officer shall keep a clear record of the investigation's conclusion as well as what factors were considered in making that determination.

Enforcing Disciplinary Standards

Active participation in the Compliance and Ethics Program is mandatory. Adherence to applicable laws, rules, and regulations as well as CompanyName's Compliance and Ethics Program will be an element in evaluating performance. Failing to report suspected noncompliance; participating in noncompliant behavior; or encouraging, directing, facilitating, or permitting, either actively or passively, noncompliant behavior may result in disciplinary action, up to and including termination. Also, if CompanyName learns that an individual knowingly fabricated, distorted, exaggerated, or minimized a report of misconduct, either to injure someone else or to protect himself or herself, the individual will be subject to disciplinary action, up to and including termination.

Sometimes an individual who makes a report may also admit to noncompliance on his or her part. Making a report, in itself, does not guarantee protection from disciplinary action related to the underlying noncompliance. However, volunteering information about one's own errors, misconduct, or noncompliance will be taken into account, as long as the admission is complete and truthful, and was not already known to, or about to be discovered by, CompanyName. The weight to be given to the report will depend on all the facts known to CompanyName at the time disciplinary decisions are made.

All disciplinary actions are applied consistently and in accordance with well-publicized guidelines. All compliance-related disciplinary policies are fairly and firmly enforced; as a general rule, similarly situated employees committing similar offenses under similar circumstances shall be subject to the same discipline. However, the form of correction or discipline provided will be case specific and may be based on a variety of factors including whether the employee promptly reported his/her own violation, severity of the offense, previous incidents involving the individual, whether the employee cooperates fully in investigating/correcting the violation, and the individual's commitment to a positive change in behavior.

The range of disciplinary action to which persons may be subject include the following:

1. Verbal Warnings
2. Written Warnings
3. (Paid or Unpaid) Suspension from Employment, or Revocation of Contract
4. Termination

Some acts or omissions of employees and others associated with CompanyName shall result in immediate termination. Also, individuals who commit negligent or reckless violations of laws, rules, regulations, or Company policy shall be terminated immediately.

Non-Intimidation and Non-Retaliation

CompanyName has a policy of non-intimidation and non-retaliation for all affected individuals, including Medicaid recipients and their family members, for good faith participation in the Compliance and Ethics Program including, but not limited to, reporting potential issues; cooperating or participating in the investigating of issues; participating in self-evaluations, audits, and remedial action; and/or making reports to appropriate officials of inappropriate conduct.

Reassessment

CompanyName believes that a thorough and ongoing evaluation of the various aspects of the Compliance and Ethics Program is crucial to its success. Therefore, CompanyName performs a periodic reassessment of the Compliance and Ethics Program to evaluate its effectiveness and to make any necessary adjustments.

In order to evaluate the effectiveness of the Compliance and Ethics Program, CompanyName will employ a variety of techniques including, but not limited to, the following:

1. Periodic interviews with management personnel regarding their perceived levels of compliance within their departments or areas of responsibility.
2. Questionnaires developed to poll personnel regarding compliance matters including the effectiveness of individual training/educational techniques.
3. Periodic written reports of department managers utilizing assessment tools developed to track specific areas of compliance.
4. Exit interviews for departing employees.

CompanyName shall make any necessary adjustments to the Compliance and Ethics Program found to be warranted through the reassessment process.

EXTERNAL COMMUNICATIONS

Contact with Government Agents/Investigators

All contacts with anyone claiming to represent any local, state, or federal agency requesting information or an interview concerning CompanyName should be immediately directed to the Compliance and Ethics Officer. It is CompanyName's policy to cooperate with the authorities. Keep the following in mind:

1. No one is **required** to submit to questioning by government investigators or employees.
2. If someone claiming to represent the government contacts you at work or at your home regarding CompanyName or your employment, follow these steps:
 - A. Ask for identification and a business card.

- B. Determine precisely why he or she wishes to speak with you.
- C. Tell the investigator that you wish to make an appointment for a date and time in the future.
- D. Immediately notify the Compliance and Ethics Officer.

Contact with the Media

All contacts concerning CompanyName with anyone from the media shall be referred to the Compliance and Ethics Officer.

Contact with Attorneys

All contacts concerning CompanyName with anyone claiming to be an attorney shall be referred immediately to the Compliance and Ethics Officer.

Contact with Competitors

All contacts with anyone representing a competitor of CompanyName or employed by a competitor shall be reported to your immediate supervisor.

INVESTIGATIONS AND LITIGATION

Subpoenas, Summonses, and Legal Complaints

Other than routine subpoenas for medical or personnel records, subpoenas, summonses, or other legal complaints involving CompanyName shall be given to the Compliance and Ethics Officer immediately. It is important that the Compliance and Ethics Officer and other appropriate individuals respond to subpoenas, summonses, and other legal documents; therefore, it is our policy that staff not turn over documents or discuss the case with any individuals unless directed to do so.

Compliance and Ethics Attorney will be contacted, if appropriate.

Search Warrants

If someone representing a government agency attempts to execute a search warrant at any CompanyName location:

1. CompanyName employees and contractors shall not interfere with the agents.
2. CompanyName employees and/or contractors shall demand a copy of the search warrant and the business card (or name) of the agent in charge.
3. The Administrator or highest-ranking CompanyName employee on the premises shall be informed of the situation immediately.

4. The Compliance and Ethics Officer shall be contacted, also. Any instructions given by the Compliance and Ethics Officer shall be carefully followed.
5. Compliance and Ethics Attorney shall be contacted, if appropriate.
6. CompanyName employees and/or contractors shall assure that:
 - A. Only those items referred to in the search warrant are taken,
 - i. CompanyName acknowledges that the items taken will be our original documents.
 - ii. If the government agents attempt to take actual computers, CompanyName employees and/or contractors shall attempt to detach the computers for the government agents in order to minimize damage to the wiring, etc.
 - B. CompanyName documents shall not be photocopied by the government agents on the premises,
 - C. A correct and complete inventory of all items taken shall be requested from the government agents before they leave the premises.

While the agents may have the right to be on the premises to execute a warrant, that does not mean CompanyName employees and/or contractors must submit to interviews. Employees and contractors need not explain CompanyName operations, bookkeeping, records, or what any document means; however, employees and contractors will cooperate in locating items called for in the search warrant.

If a government agent makes requests or demands of you inconsistent with these instructions, seek the advice of the Compliance and Ethics Officer.

ATTACHMENT A CODE OF CONDUCT

CompanyName and its employees, volunteers, interns, appointees, associates, consultants, vendors, agents, executives, and governing board members, hereinafter referred to collectively as “affected individuals”, constantly strive to ensure that all activity by, on behalf of, or with the organization is in compliance with all applicable federal, state, and local laws, regulations, ordinances, administrative directives, and any other binding governmental directives (“Laws and Regulations”).

The general principles articulated in this Code of Conduct are intended to provide guidance to individuals in their obligation to comply with applicable laws and regulations. However, the general principles contained herein are neither exclusive nor complete. All affected individuals are expected to refer to CompanyName’s Compliance and Ethics Program, manuals, policies, and procedures as well as other relevant laws and regulations for further guidance. It is important for all affected individuals to recognize that they are required to comply with all applicable laws and regulations, as well as CompanyName’s Compliance and Ethics Program, manuals, policies, and procedures, whether or not specifically addressed in this Code of Conduct. If questions regarding the existence of, interpretation, or application of any law, regulation, rule, standard, policy, and/or procedure arise, they should be directed to CompanyName’s Compliance and Ethics Officer.

CompanyName expects each individual to whom this Code of Conduct applies to abide by the principles in this Code of Conduct and to conduct the business and affairs of the organization in a manner consistent with the general policies set forth herein.

Nothing in this Code of Conduct is intended to, nor shall be construed as, providing any additional employment or contractual rights to employees and contractors or other persons.

ETHICAL BUSINESS PRACTICES

1. Achieving business results by illegal acts or unethical conduct is not acceptable. It is expected that all affected individuals shall act in compliance with the requirements of applicable law and this Code, and in a sound ethical manner when rendering services to our residents and when conducting business and operational functions.
2. Affected individuals shall perform their duties in good faith and to the best of their ability, and shall not obtain any improper personal benefit by virtue of their relationship with CompanyName.
3. Other than compensation from CompanyName, and as consistent with the conflict of interest policies, personnel shall not have a financial or other personal interest in a transaction between CompanyName and a vendor, supplier, provider, or customer.
4. Each supervisor and manager is responsible for ensuring that the personnel within their supervision are acting ethically and in compliance with applicable law and the Code. All personnel are responsible for acquiring sufficient knowledge to recognize potential compliance issues applicable to their duties, and for appropriately seeking advice regarding such issues.
5. Honest Communication. CompanyName requires honesty from individuals in the performance of their responsibilities and in communication with CompanyName’s attorneys and auditors. No employee or

contractor shall make false or misleading statements to any state or federal official, investigator, or person/entity doing business with CompanyName. Employees and contractors shall not destroy or alter CompanyName information or documents in anticipation of, or in response to, a request for documents by any applicable government agency or from any court.

6. Duty to Report. It is the ongoing and continuous obligation of all affected individuals including, but not limited to, employees of CompanyName, to alert the Human Resources Department of any conviction, exclusion from participating in a state or federal healthcare program, or a finding that would disqualify them from providing services.
7. Financial Reporting. All of CompanyName's business transactions shall be carried out in accordance with management's general or specific directives. All of the books and records shall be kept in accordance with generally accepted accounting standards or other applicable standards. All transactions, payments, receipts, accounts, and assets shall be completely and accurately recorded on CompanyName's books and records on a consistent basis. All information including financial reports, cost reports, accounting records, expense accounts, time sheets, and other documents recorded and submitted to other persons, must accurately and clearly represent the relevant facts or the true nature of the transaction, and must not be used to mislead those who receive the information or to conceal anything that is improper.
8. Proprietary Information. CompanyName's employees and contractors shall not steal information belonging to another person or entity, including from CompanyName, or use any publication, document, computer program, information, or product in violation of a third party's interest in such product. All employees and contractors are responsible for ensuring that they do not improperly copy documents or computer programs in violation of applicable copyright laws or licensing agreements for their own use. Employees and contractors shall not use confidential business information obtained from competitors or pre-employment agreements in violation of a covenant not to compete, or in any other manner likely to provide an unfair competitive advantage to CompanyName.
9. Business Relationships. Affected individuals including, but not limited to, employees and contractors, shall not engage in any business practice intended to unlawfully obtain favorable treatment or business from any government entity or any other party in a position to provide such treatment or business. Employees and contractors shall not use confidential or proprietary information about CompanyName for their own personal benefit or for the benefit of any other person or entity, except CompanyName.
 - A. *Disclosure of Financial Interest*. Affected individuals including, but not limited to, employees and contractors, shall disclose to the Compliance and Ethics Officer any financial interest, ownership interest, or any other relationship they (or a member of their immediate family) have with CompanyName's vendors or competitors.
 - B. *No Use of Insider Information*. Affected individuals including, but not limited to, employees and contractors, may not use "insider" information for any business activity conducted by or on behalf of CompanyName. All business relations with contractors providing any services to CompanyName must be conducted at arm's length both in fact and in appearance, and in compliance with CompanyName's policies and procedures. Employees and contractors must disclose personal relationships and business activities with such contractor personnel that may be construed by an impartial observer as influencing the employees' and contractors' performance or duties. Employees and contractors have a responsibility to obtain clarification from management on questionable issues that may arise.

10. Affected individuals shall not engage in any financial, business, or other activity that competes with CompanyName's business, that may interfere or appear to interfere with the performance of their duties, or that involves the use of CompanyName property, facilities, or resources, except to the extent consistent with the conflict of interest policies.
11. Affected individuals shall comply with applicable antitrust laws. There shall be no discussions or agreements with competitors regarding price or other terms for product sales, prices paid to suppliers or providers, dividing up customers or geographic markets, or joint action to boycott or coerce certain customers, suppliers, or providers.
12. Affected individuals including, but not limited to, employees and contractors, shall not engage in unfair competition or deceptive trade practices including misrepresentation of CompanyName's products or operations. Personnel shall not make false or disparaging statements about competitors or their products or attempt to coerce suppliers or providers into purchasing products or services.
13. Confidentiality. All personnel shall maintain the confidentiality of CompanyName's business information and of information relating to CompanyName's personnel, vendors, suppliers, providers, and residents. Personnel shall not use any such confidential or proprietary information except as is appropriate for business. Personnel shall not seek to improperly obtain or misuse confidential information of CompanyName's competitors.
14. Personal Use of Corporate Assets. All employees and contractors are expected to refrain from converting assets of CompanyName to personal use. All business of CompanyName shall be conducted, and CompanyName's property utilized, in a manner designed to further CompanyName's interest rather than the personal interest of an individual employee or contractor. Employees and contractors are prohibited from the unauthorized use or taking of CompanyName's equipment, supplies, materials, or services.

LEGAL COMPLIANCE

1. Gifts from Customers or Others. Affected individuals including, but not limited to, employees and contractors, are prohibited from soliciting or accepting tips, personal gratuities, gifts, or other things of value from CompanyName's customers or others who seek to do business with CompanyName. If a customer or another individual wishes to present a monetary gift, he/she should be referred to the Compliance and Ethics Officer.
2. Gifts Influencing Decision-Making. Affected individuals including, but not limited to, employees and contractors, shall not accept gifts, favors, services, entertainment, or other things of value to the extent that decision-making or actions affecting CompanyName might be influenced. Similarly, the offer or giving of money, services, or other things of value with the expectation of influencing the judgment or decision-making process of any purchaser, supplier, government official, or other person by CompanyName is absolutely prohibited.
3. Gifts from Existing Vendors or Customers. Employees and contractors may retain gifts from vendors or customers that have a nominal value generally less than \$50 in aggregate over each year. To the extent possible, these gifts should be shared with the employees' and contractors' coworkers. Gifts of cash and cash equivalents (e.g., gift certificates) are never acceptable.

4. Vendor or Customer Sponsored Entertainment. Occasionally, at a vendor's or customer's invitation, an employee or contractor may accept meals or refreshments, attend a local theater or sporting event, or similar entertainment, at the vendor's or customer's expense, so long as the cost is of nominal value under the circumstances, generally less than \$50 in aggregate over each year. In most circumstances, a regular business representative of the vendor or customer should be in attendance with the employee or contractor. Employees and contractors should advise the Compliance and Ethics Officer of vendors or customers who offer such invitations on a frequent basis, even if the employee or contractor does not accept such invitations.
5. Conflicts of Interest. Neither employees nor contractors may use their positions at CompanyName to profit personally or to assist others in profiting in any way at the expense of CompanyName.
6. Anti-Discrimination/Anti-Harassment. All affected individuals are responsible for ensuring that the work environment is free of discrimination or harassment due to sex, age, race, gender, color, religion, national origin, disability, or any other status protected under state or federal law.
7. Fraud and Abuse. CompanyName expects all affected individuals including, but not limited to, its employees and contractors, to refrain from conduct which may violate any federal and state laws relating to health care fraud and abuse. Every affected individual is expected to: a) maintain honest and accurate records of services provided; b) follow current and applicable laws, regulations, and guidelines to facilitate proper documentation of services; and c) take necessary steps to prevent the submission of claims for payment and reimbursement of any kind that are fraudulent, abusive, inaccurate, or medically unnecessary.
8. Kickbacks, Inducement, and Self-Referrals. All affected individuals including, but not limited to, CompanyName employees and contractors, shall comply with all laws relating to kickbacks, inducements, and self-referrals.

All affected individuals including, but not limited to, CompanyName employees and contractors, shall not knowingly offer, pay, solicit, or receive bribes, kickbacks, or other improper remuneration in order to induce business reimbursable by any federal or state governmental program including, but not limited to, Medicare and/or Medicaid.

All affected individuals including, but not limited to, CompanyName employees and contractors, are required to report any gifts or other gratuities, other than those of nominal value, received from any outside source that is in the position to benefit from the referral of business to CompanyName.

9. Lobbying/Political Activity. Affected individuals shall not directly or indirectly authorize, pay, promise, deliver, or solicit any payment, gratuity, or favor for the purpose of influencing any political official or government employee in the discharge of that person's responsibilities. Personnel shall not entertain government personnel in connection with CompanyName business.

EDUCATION

1. CompanyName will develop and implement a regular education and training program for all employees and external agents.
2. All employees are expected to participate in educational programs and abide by policy requirements.

3. Adherence to CompanyName's Compliance and Ethics Program will be a factor in evaluating the performance of an employee.
4. CompanyName will maintain records of all educational programs presented to employees and relevant external agents.

REPORTING OF VIOLATIONS

1. Illegal acts or improper conduct may subject CompanyName to severe civil and criminal penalties including large fines and being excluded from certain types of federally funded insurance programs. It is, therefore, very important that any illegal activity or violations of the Code be promptly brought to CompanyName's attention.
2. All affected individuals including, but not limited to, any director, officer, or employee, who is uncertain of, or believes, or becomes aware of any violation of this Code or any illegal activity by a director, officer, or employee or another person acting on CompanyName's behalf shall promptly report the violation or illegal activity in person, by phone, or in writing, to:
 - A. the appropriate supervisor;
 - B. the Administrator;
 - C. the Compliance and Ethics Officer; or
 - D. the Compliance Hotline at (800) 557-1066.
 - i. Provides option to report anonymously
3. It is the duty of the Administrator or any supervisor who receives a report of a possible compliance issue to report such issue to the Compliance and Ethics Officer or appropriate compliance personnel immediately.
4. The confidentiality of persons reporting compliance issues 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 a policy for non-intimidation and non-retaliation.
5. It is a violation for personnel not to report a violation of the Code or any illegal activity. If you have a question about whether particular acts or conduct may be illegal or violate the Code, you should contact one of the persons listed above. It is a violation of this Code for personnel to whom a potential illegal act or violation of the Code is reported, to not ensure that the illegal act or violation of the Code comes to the attention of those responsible for investigating such reports. If the illegal acts or conduct in violation of the Code involve a person to whom such illegal acts or violations might otherwise be reported, the illegal acts or violation should be reported to another person to whom reporting is appropriate.
6. It is CompanyName's policy to promptly and thoroughly investigate reports of illegal activity or violations of this Code. Personnel must cooperate with these investigations. You must not take any actions to prevent, hinder, or delay discovery and full investigation of illegal acts or violations of this Code. It is a violation of this Code for personnel to prevent, hinder, or delay discovery and full investigation of illegal acts or violations of this Code.

7. Affected individuals may report illegal acts or a violation of this Code anonymously. To the extent permitted by law, CompanyName will take reasonable precautions to maintain the confidentiality of those individuals who report illegal activity or violations of this Code and of those individuals involved in the alleged improper activity, whether or not it turns out that improper acts occurred. Failure to abide by this confidentiality obligation is a violation of this Code.
8. No reprisals or disciplinary action will be taken or permitted against personnel for good faith reporting of, or cooperating in the investigation of, illegal acts or violations of this Code. It is a violation of this Code for personnel to punish or conduct reprisals in regard to personnel who have made a good faith report of, or cooperated in the investigation of, illegal acts or violations of this Code.

DISCIPLINARY ACTION

Affected individuals who violate the Code or commit illegal acts are subject to discipline up to and including dismissal. Affected individuals who report their own illegal acts or improper conduct, however, will have such self-reporting taken into account when determining the appropriate disciplinary action.

ATTACHMENT B
DEFICIT REDUCTION ACT OF 2005
NEW YORK

Policy Statement/Purpose: To ensure CompanyName is consistent with applicable legal requirements and standards of practice.

Policy Interpretation and Implementation: CompanyName is committed to adhering to all fraud and abuse compliance regulations. Title 18 of the New York Codes, Rules and Regulations (18 NYCRR) § 521-1.4(a)(2)(ix) states all Required Providers shall comply with the provisions of 42 USC 1396a(a)(68) also known as the Deficit Reduction Act of 2005, the Deficit Reduction Act or DRA. The Deficit Reduction Act of 2005 requires CompanyName to educate and train all affected individuals on federal and state false claims laws, whistleblower protections and CompanyName's policies and procedures for detecting and preventing fraud, waste, and abuse.

DEFINITIONS

1. **Affected Individual(s):** Employees, volunteers, interns, appointees, associates, consultants, independent contractors, vendors, contractors, subcontractors, agents, Chief Executive and other senior administrators, managers, executives, Governing Body Members, corporate officers, 1099 employees, and service contractors.
2. **Contractor:** Vendors, contractors, associates, consultants, independent contractors, subcontractors, agents, 1099 employees, and service contractors.

Procedure:

This policy applies to all Affected Individuals.

CompanyName's Compliance and Ethics Officer shall implement this policy and procedure.

CompanyName shall require its Contractors to adopt this policy and disseminate and provide training on this policy to their affected individuals.

EXCLUSION CHECKS

CompanyName shall verify that any current or prospective affected individual who directly or indirectly will be furnishing, ordering, directing, managing, or prescribing items or services in whole or in part is not excluded from participating in a state or federal healthcare program by searching the following databases on a monthly basis:

1. **Federal Exclusions Database (mandatory)**
<https://exclusions.oig.hhs.gov/> or <http://oig.hhs.gov/fraud/exclusions.asp>
2. **The General Services Administration's System for Award Management (mandatory)**
<http://www.sam.gov>

3. Office of the NYS Medicaid Inspector General List of Restricted and Excluded Providers Search
<https://www.omig.ny.gov/search-exclusions>

Because the Affordable Care Act has proclaimed an individual excluded in one state as excluded in all states, CompanyName shall also verify that no current or prospective affected individual who directly or indirectly will be furnishing, ordering, directing, managing, or prescribing items or services in whole or in part is not excluded from participating in a state or federal healthcare program by searching currently maintained state databases.

AUDIT OF PATIENT CHARTS

CompanyName shall audit residents' charts and other documents relative to quality care and compliance to standards of practice regulated by state and federal agencies. The number of charts to be reviewed will vary depending upon the resident census. Semi-annual audits shall be prepared and a summary of findings shall be presented to the Compliance and Ethics Officer and the Compliance and Ethics Committee.

AUDIT OF MEDICAL AND BILLING RECORDS

CompanyName shall review medical and billing records for a designated semi-annual period, at a minimum under the overall direction of the Compliance and Ethics Officer. Review may be both prospective and retrospective.

The medical records shall be provided at random. The audit shall include at least the number of records equal to five (5) percent of the CompanyName's current census; additional records may be reviewed more frequently at the discretion of the Compliance and Ethics Officer and the Compliance and Ethics Committee.

CompanyName shall examine the records for compliance with the applicable standards of practice, specifically compliance with billing-related statutes, regulations, and guidelines as well as clinical quality of care.

CompanyName shall review a representative sample of billing records for the audit period and compare the charges found in those records with the documentation entered into the medical record. This review shall assess the following:

1. Whether the recognized documentation guidelines have been met;
2. Whether key elements of the service were provided by staff members;
3. Whether the billing codes are supported by the documentation; and
4. Other aspects of billing as outlined by the Office of the Inspector General standards.

CORRECTIVE ACTION PLANS

The Compliance and Ethics Officer and the Compliance and Ethics Committee shall develop a work plan based on the audit findings to address any negative practices. Corrections may include, but are not limited to, the following actions:

1. Review of documentation process and/or forms; changes shall be made, if necessary.

2. In-service to professional staff.
3. Disciplinary actions to individual(s) who may be repeat offenders of improper documentation.

DRA EDUCATION

Written policies, employee handbooks and training to all affected individuals shall cover:

1. The Federal False Claims Act [31 U.S.C. §§ 3729–33]
2. The Federal Program Fraud Civil Remedies Act [31 U.S.C. §§ 3801–12]
3. Any applicable state false claims laws, which in New York include:
 - A. New York False Claims Act [N.Y. FIN. LAW § 187–194]
 - i. Civil Penalties [N.Y. FIN. LAW § 190]
 - B. Social Services Law, False Statements [N.Y. SOC. SERVS. LAW §145-b]
 - i. Social Services Law, Civil Sanctions [N.Y. SOC. SERVS. LAW §145-c]
 - ii. Social Services Law, Criminal Penalties [N.Y. SOC. SERVS. LAW §145-c]
 - C. Social Services Law, Penalties for Fraudulent Practices [N.Y. SOC. SERVS. LAW §366-b]
 - D. Penal Law, Larceny [N.Y. PENAL LAW § 155]
 - E. Penal Law, False Written Statements [N.Y. PENAL LAW § 175]
 - F. Penal Law, Insurance Fraud [N.Y. PENAL LAW § 176]
 - G. Penal Law, Health Care Fraud [N.Y. PENAL LAW § 177]
4. The right of employees for whistleblower protections under the New York State Whistleblower Law [N.Y. LABOR LAW §§ 740, 741], and some of the Federal and State statutes mentioned above including a policy of non-intimidation and non-retaliation for good faith participation in the Compliance and Ethics Program, including but not limited to reporting potential issues, investigating issues, self-evaluations, audits, and remedial actions, and reporting to appropriate officials.
5. The employer's policies and procedures for detecting and preventing fraud, waste, and abuse in Medicaid, Medicare, and other federally funded health care programs, as outlined above.

All affected individuals shall be trained upon initial hire and on an annual basis thereafter.

DISCUSSION OF APPLICABLE LAW

1. Deficit Reduction Act of 2005 [42 U.S.C. § 1396a(a)(68)]

A. Federal law that requires CompanyName, because it receives Medicaid funding, to take the following actions to address fraud, waste, and abuse in health care programs that receive federal funds:

- i. Establish written policies for all affected individuals.
 - a. Provide detailed information about the Federal and State False Claims Act; administrative remedies for false claims or statements; and whistleblower protection;
 - b. Include provisions regarding the entity's policies and procedures for detecting and preventing fraud, waste, and abuse, and;
 - c. Provide affected individuals with a specific discussion of their rights to be protected as whistleblowers.
- ii. Under Section 6032, CompanyName must establish and make available to their affected individuals policies that explain:
 - a. Federal and state laws dealing with false claims for payment from federally funded programs; and
 - b. CompanyName's policies and procedures to detect and prevent fraud, waste, and abuse in these programs.
- iii. Contractors must adopt this policy and disseminate and provide training on this policy to their affected individuals.

2. Federal False Claims Act [31 U.S.C. §§ 3729–33]

A. Federal law that creates liability for any person who knowingly presents or causes to be presented a false or fraudulent claim to the U.S. government for payment from any federally funded contract or program.

- i. “Knowingly” means that a person, with respect to information:
 - a. Has actual knowledge of falsity of information in the claim;
 - b. Acts in deliberate ignorance of the truth or falsity of the information in a claim; or
 - c. Acts in reckless disregard of the truth or falsity of the information in a claim, and;
- ii. Requires no proof of specific intent to defraud.

B. Health care providers and suppliers who violate the False Claims Act can be subject to civil monetary penalties ranging from \$13,508 to \$27,018 for each false claim submitted in accordance with Federal Register Vol. 82, No. 22, Friday, February 3, 2017, pgs 9131-9136 located at <https://www.gpo.gov/fdsys/pkg/FR-2017-02-03/pdf/FR-2017-02-03.pdf>.

- i. Section 701 of the “Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015” (the Act) [28 U.S.C. 2461], amending the “Federal Civil Penalties Inflation

Adjustment Act of 1990”, requires federal agencies to make subsequent annual adjustments for inflation. Starting in January 2017, federal agencies are required to publish in the Federal Register annual inflation adjustments for civil penalties and must do so no later than January 15 of each year.

- ii. PLUS up to three times the amount of damages sustained by the U.S. Government.
- iii. PLUS, if convicted, possible exclusion from participation in federal health care programs.

C. Qui Tam “Whistleblower” Provisions

- i. Allow any person, also known as the “relator”, with actual knowledge of allegedly false claims to file a lawsuit on behalf of the U.S. government.
- ii. Relators may receive a percentage of the moneys recovered by the U.S. government.
- iii. CompanyName is prohibited from retaliating against Relators for complaining or filing lawsuits. If there is retaliation, Relators are entitled to employment reinstatement, back pay and any other compensation arising from retaliatory conduct against a whistleblower for filing an action, investigating a false claim or providing testimony for or assistance in a False Claims Act action.

D. Examples of Health Care Fraud [31 U.S.C. §§ 3801–12]

- i. Billing for services not rendered or goods not provided
- ii. Falsifying certificates of medical necessity
- iii. Billing for services not medically necessary
- iv. Billing separately for services that should be a single service
- v. Falsifying treatment plans or medical records to maximize payments
- vi. Failing to report overpayments or credit balances
- vii. Duplicate billing

3. Federal Program Fraud Civil Remedies Act [31 U.S.C. §§ 3801–12]

- A. Federal law that provides federal administrative remedies for false claims and statements to federally funded health care programs.
- B. Current civil penalties are \$13,508 (in accordance with Federal Register Vol. 82, No. 22, Friday, February 3, 2017, pgs 9131-9136 located at <https://www.gpo.gov/fdsys/pkg/FR-2017-02-03/pdf/FR-2017-02-03.pdf>) for each false claim or statement, and an assessment in lieu of damages sustained by the federal government of up to double damages for each false claim for which the Government makes a payment.
- C. Section 701 of the “Federal Civil Penalties Inflation Adjustment Act Improvements Act of 2015” (the Act) [28 U.S.C. 2461], amending the “Federal Civil Penalties Inflation Adjustment Act of 1990”, requires federal agencies to make subsequent annual adjustments for inflation. Starting in January 2017, federal agencies are required to publish in the Federal Register annual inflation adjustments for civil penalties and must do so no later than January 15 of each year.

4. New York False Claims Act [N.Y. FIN. LAW § 187–194]

- A. State law creates liability for any person who knowingly presents or causes to be presented a false or fraudulent claim to the State of New York for payment from any state funded contract or program.
- B. Health care providers and suppliers who violate the New York False Claims Act can be subject to civil monetary penalties ranging from \$6,000 to \$12,000 for each false claim submitted, recoverable damages are between two (2) and three (3) times the amount that is falsely received. In addition, the false claim filer may have to pay for the government's legal fees.
- C. No employer shall make, adopt, or enforce any rule, regulation, or policy preventing an employee from disclosing information to a State or law enforcement agency or from acting to further a false claims action, including investigating, initiating, testifying, or assisting in an action filed or to be filed under this act.
 - i. In addition, the defendant shall be required to pay litigation costs and reasonable attorney's fees associated with an action brought under this section.
- D. Allows private individuals to file lawsuits in state court, just as if they were state or local government parties, subject to various possible limitations imposed by the NYS Attorney General or a local government. If the suit eventually concludes with payments back to the government, the person who started the case can recover twenty-five to thirty percent of the proceeds if the government did not participate in the suit, or fifteen to twenty-five percent if the government did participate in the suit.
- E. Prohibits retaliation by CompanyName against any employee for the disclosure of information regarding this law; thus, CompanyName shall not discharge, demote, suspend, threaten, harass, deny promotion to, or in any other manner discriminate against an employee in the terms and conditions of employment because of the employee's good faith report to the State or law enforcement agency.
 - i. If there is retaliation, the employer must make the employee "whole" by reinstating him/her, paying him/her two (2) times the amount of back pay, interest on the back pay, compensation for any special damage sustained as a result of the discrimination and, where appropriate, punitive damages.

5. Social Services Law, False Statements [N.Y. SOC. SERVS. LAW §§ 145, 145-b, 145-c]

- A. It is a violation to knowingly submit false statements in order to obtain or attempt to obtain payment for items or services from any Social Services program, including Medicaid.
 - i. The Department of Health may impose civil penalties up to \$10,000 per violation. If repeat violations occur within five (5) years, penalties may increase to up to \$30,000 per violation.
 - ii. Any person who submits false statements or deliberately conceals information in order to receive public assistance, including Medicaid, is guilty of a misdemeanor.
 - iii. Any person who obtains or attempts to obtain, for themselves or others, medical assistance by means of a false claim is guilty of a Class A misdemeanor.
 - iv. Any person who applies for or receives public assistance, including Medicaid, by intentionally making a false or misleading statement, or intending to do so, the needs of the individual or that of his family shall not be taken into account for the purpose of determining his or her needs or that of his family for six months to five years depending on the offense.

6. Social Services Law, Penalties for Fraudulent Practices [N.Y. SOC. SERVS. LAW §366-b]
 - A. Any person who knowingly makes a false statement or conceals any material fact in order to obtain or attempt to obtain medical assistance to which he is not entitled shall be guilty of a Class A misdemeanor.
 - B. Any person who, with intent to defraud, presents false or fraudulent claims for the purpose of obtaining compensation to which he or she is not entitled to for furnishing services or merchandise shall be guilty of a Class A misdemeanor.
7. New York Penal Law, Larceny [N.Y. PENAL LAW § 155]
 - A. Larceny applies to a person who intentionally deprives another of his or her property, obtains, takes or withholds the property by means of trick, embezzlement, false pretense, false promise, or extortion.
 - B. Larceny has been applied to Medicaid fraud cases.
 - C. Larceny definitions and penalties:
 - i. Petit larceny, Class A Misdemeanor: person steals property
 - ii. Fourth degree, Class E Felony: person steals property valued over \$1,000
 - iii. Third degree, Class D Felony: person steals property valued over \$3,000
 - iv. Second degree, Class C Felony: person steals property valued over \$50,000
 - v. First degree, Class B Felony: person steals property valued over \$1 million
8. New York Penal Law, False Written Statements [N.Y. PENAL LAW § 175]
 - A. False written statements apply to a person who intentionally files false information or a claim.
 - B. False written statements have been applied to Medicaid fraud cases.
 - C. False written statements definitions and penalties:
 - i. Falsifying Business Records:
 - a. Second degree, Class A misdemeanor: a person falsifies business records with intent to defraud.
 - b. First degree, Class E felony: a person falsifies business records in the second degree with the intent to commit another crime or to conceal the commission thereof.
 - ii. Tampering with Public Records:
 - a. Second degree, Class A misdemeanor: a person tampers with public records when they knowingly and without authority remove, conceal, or make a false entry in a written instrument filed with a public office or public servant.

- b. First degree, Class D felony: a person tampers with public records when they knowingly, with intent to defraud, without authority, remove, conceal, or make false entry in a written instrument filed with a public office or public servant.

iii. Offering False Statements:

- a. Second degree, Class A misdemeanor: a person offers a false instrument for filing knowing that the written instrument contains false information, presents it to a public office or public servant with the belief that it will become a part of the records of such public office or public servant.
- b. First degree, Class E felony: a person offers a false instrument for filing when they knowingly, with the intent to defraud the state or any subdivision of the state, offer a written instrument containing false information and present it to a public office or public servant with the belief that it will become a part of the records of such public office or public servant.

iv. Issuing False Certificates

- a. Class E felony: issuing a false certificate, a person authorized by law to make or issue official certificates, with intent to defraud, issues such an instrument, knowing that it contains a false statement or false information.
- b. Class A misdemeanor: issuing a false financial statement, a person issues a false financial statement when, with intent to defraud, knowingly makes a written instrument which describes the financial condition of a person inaccurate.

9. New York Penal Law, Insurance Fraud [N.Y. PENAL LAW Art. 176]

A. Insurance Fraud applies to any person who knowingly, with intent to defraud, presents or prepares, with belief that it will be presented to an insurer or self-insurer for payment,

- i. any written statement as part of, or in support of, an application for the issuance of, or the rating of a commercial insurance policy
- ii. a certificate or evidence of self-insurance for commercial insurance
- iii. a claim for payment or other benefit from an insurance policy or self-insurance program for commercial or personal insurance that he or she knows to;
 - a. Contain materially false information
 - b. Conceal information, for the purpose of misleading
- iv. any written statement as part of, or in support of, an application for the issuance of a health insurance policy, or a policy that provides coverage for other services of a public or private health plan, or a claim for payment that he or she knows to:
 - a. Contain materially false information.
 - b. Conceal information for the purpose of misleading.

B. Insurance fraud has been applied to Medicaid fraud cases.

C. Insurance fraud definitions and penalties;

- i. First degree, Class A misdemeanor: intentionally filing a health insurance claim knowing that it is false.
- ii. Fourth degree, Class E felony: a person wrongfully takes, or attempts to obtain or withhold property with a value in excess of \$1,000.
- iii. Third degree, Class D felony: a person wrongfully takes, or attempts to obtain or withhold property with a value in excess of \$3,000.
- iv. Second degree, Class C felony: a person wrongfully takes, or attempts to obtain or withhold property with a value in excess of \$50,000.
- v. First degree, Class B felony: a person wrongfully takes, or attempts to obtain or withhold property with a value in excess of 1 million dollars.
- vi. Aggravated Insurance Fraud: committing a fraudulent insurance act, where one has been previously convicted, within the preceding five (5) years of any offense, an essential element of which is the commission of a fraudulent insurance act.

10. Penal Law, Health Care Fraud [N.Y. PENAL LAW Art. 177]

A. Knowingly filing a claim for health insurance payment (including Medicaid), with the intent to defraud.

B. Health care fraud definitions and penalties:

- i. Fifth degree, Class A misdemeanor: a person with intent to defraud, knowingly provides false information or omits information and as a result of such information or omission, he or she or another person receives payment that they are not entitled to.
- ii. Fourth degree, Class E felony: a person, on one or more occasions, commits the crime of health care fraud and the payment wrongfully received, in a period of no more than one year, exceeds \$3,000 in total.
- iii. Third degree, Class D felony: a person, on one or more occasions, commits the crime of health care fraud in the fifth degree and the payment wrongfully received, in a period of no more than one year, exceeds \$10,000 dollars in total.
- iv. Second degree, Class C felony: a person, on one or more occasions, commits the crime of health care fraud in the fifth degree and the payment wrongfully received, in a period of no more than one year, exceeds \$50,000 dollars in total.
- v. First degree, Class B felony: a person, on one or more occasions, commits the crime of health care fraud in the fifth degree and the payment wrongfully received, in a period of no more than one year, exceeds one million dollars in total.

11. New York State Whistleblower Law [N.Y. LABOR LAW §§ 740, 741]

A. State law that prohibits CompanyName from intimidating or taking any retaliatory action against an employee because the employee:

- i. Discloses, or threatens to disclose to a supervisor or to a public body an activity, policy or practice of the employer, or another employer, with whom there is a business relationship, that the employee reasonably believes:
 - a. is in violation of a law, or a rule or regulation promulgated pursuant to law and/or
 - b. is fraudulent or criminal,
 - ii. Provides information to, or testifies before, any public body conducting an investigation, hearing or inquiry into any violation of law, or a rule or regulation promulgated pursuant to law by the employer, or another employer;
 - iii. Objects to, or refuses to participate in any activity, policy or practice which the employee reasonably believes:
 - a. is in violation of a law, or a rule or regulation promulgated pursuant to law and/or;
 - b. is fraudulent or criminal; and/or 3. is incompatible with a clear mandate of public policy concerning the public health, safety or welfare or protection of the environment; or
 - iv. In health care, the employee discloses certain information about the employer's policies, practices or activities to a regulatory, law enforcement or other similar agency or public official;
 - v. Protected disclosures are those that assert that, in good faith, the employee believes constitute improper quality of patient care.
- B. Prohibits CompanyName from intimidating or taking any retaliatory action against an employee for good faith participation in the Compliance and Ethics Program, including but not limited to reporting potential issues, investigating issues, self evaluations, audits and remedial actions, and reporting to appropriate officials.
- C. If an employer retaliates against an employee, the employee may sue in state court and may be awarded lost back wages and benefits, and attorney's fees. If the employer, is a health care provider, the court may impose a civil penalty of \$10,000 on the employer.
- D. The employee's disclosure is protected under these statutes only if the employee first brought up the matter with a supervisor and gave the employer a reasonable opportunity to correct the alleged violation before reporting the violation to regulatory, law enforcement or other similar agency or public officials.
- E. An affected individual who feels that he/she/they have been retaliated against or intimidated may make a report by contacting any of the following:
- i. Administrator
 - ii. Compliance and Ethics Officer
 - iii. Compliance Hotline: 1-800-557-1066
 - a. Provides option to report anonymously
 - iv. NY State Office of the Medicaid Inspector General: (518) 402-1378 or 1-877-873-7283
 - v. Centers for Medicare & Medicaid Services: 1-800-447-8477

ATTACHMENT C POLICY AGAINST HARASSMENT

POLICY

CompanyName intends to provide a work environment that is pleasant, healthful, comfortable, and free from intimidation, hostility, or other offenses that might interfere with work performance. Harassment of any sort - verbal, physical, and/or visual - will not be tolerated.

WHAT IS HARASSMENT?

CompanyName is committed to equal opportunity and non-discrimination in all aspects of employment, including hiring, promotions, and the work environment. CompanyName endeavors to foster a congenial work environment in which all individuals are treated with respect and dignity. Each individual has the right to work in an environment that promotes equal opportunity and prohibits discriminatory practices, including sexual and other forms of harassment.

CompanyName expressly prohibits any form of harassment or discrimination against any affected individual based on sex, race, color, religion, national origin, age, disability, sexual orientation, marital status or veteran status, or any other factor illegal under federal, state, or city law (any of which is referred to as an "Unlawful Category"). Improper interference with the ability of an affected individual to perform their expected job duties is not tolerated.

Harassment or discrimination is unacceptable on CompanyName's property, or in other work-related settings.

DEFINITIONS AND EXAMPLES OF HARASSMENT

For purposes of this policy, harassment is defined as unwelcome or unwanted conduct, whether verbal or physical, based upon race, sex, religion, or any other Unlawful Category. Harassment occurs when the unwelcome or unwanted conduct is made a condition of employment, utilized for decisions affecting employment (including, but not limited to, promotions, hiring, and firing), used to create an intimidating or hostile work environment or found to unreasonably interfere with an individual's ability to work.

Examples of the type of conduct that constitutes harassment include, but are not limited to: physical conduct, verbal conduct, display of harassing pictures or materials, name calling and jokes which are based on Unlawful Categories such as race, sex, national origin, sexual orientation, disability, etc.

COVERAGE

This policy covers all CompanyName affected individuals without exception. CompanyName will not tolerate, condone, or allow harassment, whether engaged in by fellow employees, **volunteers, interns, appointees, associates, consultants, independent contractors, vendors/contractors and subcontractors, agents, Chief Executive and other senior administrators, supervisors, managers, executives, Governing Body Members, corporate officers, 1099 employees, and service contractors**, or other non-employees who conduct business with the company. CompanyName encourages the reporting of all incidents of harassment, regardless of who the offender may be.

COMPLAINT PROCEDURES

While CompanyName encourages individuals who are being harassed, or subject to discrimination, to promptly notify the offender that his or her behavior is unwelcome, CompanyName also recognizes that power and status disparities between an alleged harasser and a target may make such confrontation extremely difficult. Whether or not such informal, direct communication between individuals is effective, CompanyName requires that the complaint be reported in the following manner:

If an individual has been subjected to harassment based on an Unlawful Category, or believes he or she has been treated in an unlawful, discriminatory manner, whether by a coworker, superior, or other non-employee who conducts business with CompanyName, the individual should promptly report the incident, either verbally or in writing, to his or her immediate supervisor. In the event the employee believes it would be inappropriate to discuss the matter with his or her immediate supervisor, the employee should report it to CompanyName's Compliance and Ethics Officer.

All reports of harassment or discrimination will be reduced to writing by the person receiving the complaint and signed by the complainant. If a person other than the Compliance and Ethics Officer receives the complaint from a CompanyName employee or agent, he or she will promptly confer with the Compliance and Ethics Officer who will coordinate and direct an investigation into the allegations.

Where necessary, CompanyName may employ a Compliance and Ethics Attorney, a lawyer or consultant to investigate the complaint and provide guidance in handling the matter.

The complaint will be investigated expeditiously. While CompanyName endeavors to keep the complaint confidential throughout the investigatory process, please be aware that CompanyName will only do so to the extent practical and appropriate under the circumstances.

RESOLVING THE COMPLAINT

Upon completing the investigation of a complaint and conferring with counsel and CompanyName's management, if necessary, the Compliance and Ethics Officer will communicate his or her findings and intended action to the complainant and alleged offender.

If CompanyName determines that an individual is guilty of harassing or discriminating against another individual, appropriate disciplinary action, up to and including termination, will be taken against the offending person. Appropriate sanctions will be determined by the management of the company in consultation with the person conducting the investigation, Compliance and Ethics Attorney, and/or any outside counsel or consultant so engaged. In addressing confirmed incidents of harassment, CompanyName's response, at a minimum, will include reprimanding the offender and preparing a written record of the offense. Additional action may include, but is not limited to: referral to counseling, withholding of a promotion, reassignment, temporary suspension without pay, financial penalties, or termination.

RETALIATION PROHIBITED

CompanyName will not in any way retaliate against an individual who makes a report of harassment or unlawful discrimination or provides information concerning such actions, nor will it permit any employee to do so.



Retaliation is a serious violation of this policy and should be reported immediately. Any person found to have retaliated against another individual for reporting harassment or discrimination will be subject to the same disciplinary action provided for offenders.

FALSE ACCUSATIONS

If, after investigating any complaint of harassment or unlawful discrimination, CompanyName determines that the complainant or purported witness falsely accused another knowingly or in a malicious manner, the complainant or witness, as the case may be, will be subject to appropriate disciplinary action.



COMPANYNAME
ACKNOWLEDGEMENT OF OUR COMPLIANCE AND ETHICS PLAN

I hereby acknowledge by my signature that I have received a copy of CompanyName's document entitled "Our Compliance and Ethics Plan." Further, I understand that:

- Our Compliance and Ethics Program has committed our organization to support each affected individual in our efforts to provide quality of care while adhering to all applicable laws and regulations.
- If I have any concerns that may involve a violation of a law or regulation, I am expected to report such concern. Even if I am unsure it is a violation of any law or regulation, I am encouraged to report the concern without delay.
- I should report concerns to either my manager, the Administrator, or the Compliance and Ethics Officer, by openly or anonymously calling the Compliance Hotline at (800) 557-1066.
- If my concern is reported in good faith, I will not be subjected to retaliation for making the report.
- CompanyName's Compliance and Ethics Program Manual is available for my review should I have any questions or require any clarification.
- If I am a vendor and/or contractor, I agree to abide by the standards contained in CompanyName's Compliance Plan as well as its Compliance and Ethics Program Manual and also agree to participate in CompanyName's mandatory compliance training. A sample of which can be accessed at under the "Monthly Agenda Bundle Tab," Med-Net Compliance, LLC. - Healthcare Compliance Providers (mednetcompliance.com) then under Monthly Bundle Tab and then the Resources Tab in the "Compliance and Ethics Training File." Vendor shall disseminate CompanyName's policies to vendor's managers and employees. (Password: **elements1**)

I hereby agree to abide by all Compliance and Ethics Program requirements and understand that adherence to this document and other policies and procedures in CompanyName's Compliance and Ethics Program Manual is a condition of employment or continued business dealings with CompanyName.

I hereby acknowledge receipt of the following:

CompanyName's Compliance Plan which includes:

1. Code of Conduct
2. Deficit Reduction Act
3. Policy Against Harassment
4. Compliance and Ethics Training Program (For Vendors/Contractors only)

Print Name

Signature



Company Name (If Contractor)

Date