

# **AUTISM SERVICES, INC.**

## **CORPORATE COMPLIANCE PLAN**

**MARCH 31, 2022**

AUTISM SERVICES, INC.



**40 HAZELWOOD DRIVE  
AMHERST, NY 14228  
PHONE: 716-631-5777**

# **AUTISM SERVICES, INC.**

## **CORPORATE COMPLIANCE PLAN**

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

Autism Services, Inc. (“ASI” or “Agency”) has adopted a Corporate Compliance Program (the “Compliance Program”) to promote the Agency’s compliance with all applicable laws, regulations, and ethical standards. Our Compliance Program is described in this Corporate Compliance Plan (the “Plan”)<sup>1</sup>. This Plan provides guidance to our employees, contractors, and Board of Directors (the “Board”) on how to conduct themselves when working for our Agency. The goals of our Compliance Program are to:

- Prevent fraud, waste, abuse, and other improper or unethical conduct;
- Detect any improper or unethical conduct at an early stage before it creates a substantial risk of liability for the Agency; and
- Respond swiftly to compliance problems through investigation and disciplinary and corrective action.

All Agency employees, contractors,<sup>2</sup> and Board members, have a personal obligation to assist in making the Program successful. Employees, contractors, and Board members are expected to: (1) familiarize themselves with this Plan; (2) review and understand the key compliance policies governing their particular functions and responsibilities; (3) report any fraud, waste, abuse or other improper or unethical conduct by using the methods described in this Plan; (4) cooperate in any Agency audits and investigations; and (5) carry out their responsibilities in a manner that demonstrates a commitment to honesty, integrity and compliance with the law.

The Plan and Program apply to all facilities, programs, departments, activities and residences ASI operates. The Plan and Program are periodically reviewed to address new compliance challenges and maximize the use of the Agency’s resources. Employees, contractors, and Board members are encouraged to provide input on how the Program might be improved.

### II. The Elements of the Program

The Compliance Program is based on compliance laws, regulations and guidance of federal and state governmental entities.<sup>3</sup> The key elements of the Program, which are discussed in greater detail in the sections referenced below, are as follows:

- A. General Responsibilities (Section III)
- B. Code of Conduct and Key Policies and Procedures (Section IV)
- C. Corporate Compliance Officer and Committee (Section V)
- D. Compliance Training (Section VI)
- E. Reporting Compliance Issues (Section VII)

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<sup>1</sup> “Compliance Plan” is this document that provides an overview of the Agency’s Corporate Compliance Program. The Corporate Compliance Program is the Agency’s implementation of the Compliance Plan and includes all of the Agency’s compliance activities.

<sup>2</sup> In this Compliance Plan “contractors” includes volunteers, interns, subcontractors, appointees and other persons associated with the Agency such that the person or affiliate contributes to the Agency’s entitlement to payment under Medicaid.

<sup>3</sup> This includes Section 363-d of the New York Social Services Law and Part 521 of Title 18 of the New York State Codes, Rules and Regulations, and guidance issued by the New York State Office of Medicaid Inspector General (“OMIG”) and U.S. Department of Health and Human Services’ Office of Inspector General (“OIG”).

- F. Internal Investigations (Section VIII)
- G. Corrective Action (Section IX)
- H. Compliance Program Disciplinary Measures (Section X)
- I. Non-Retaliation and Non-Intimidation (Section XI)
- J. Government Audits and Investigations (Section XII)
- K. Risk Identification and Audits (Section XIII)
- L. Conflict of Interest (Section XIV)
- M. Laws Regarding the Prevention of Fraud, Waste, and Abuse (Section XV)

### III. General Responsibilities

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

#### A. Responsibilities of Employees

##### 1. Duty to Know And Comply With Applicable Requirements

a. Employees are obligated to know the following information, to the extent it is applicable to the employee's daily responsibilities: (i) Medicaid and other payer and service delivery requirements; (ii) the prohibitions against fraud, waste, abuse and improper conduct; (iii) compliance risk areas; and (iv) our Compliance Program.

b. Employees, including the Corporate Compliance Officer and senior management, are obligated to attend periodic training related to their job responsibilities.

##### 2. Duty to Report

a. Employees are obligated to report instances of actual or possible fraud, waste, abuse and other improper or unethical conduct to one of the following:

- i. The Agency Compliance Hotline (716-631-5777 ext. 644);
- ii. The Agency's Corporate Compliance Officer by: (a) phone (716-631-5777 ext. 321), (b) email (complianceofficer@autism-services-inc.org), or (c) mail to "Attn: Corporate Compliance Officer, 40 Hazelwood Drive, Amherst, NY 14228";
- iii. The employee's supervisor or any supervisor;
- iv. Any member of the Agency Compliance Committee;
- v. The Compliance Dropbox located in the front entrance foyer of 40 Hazelwood Dr. (anonymously or otherwise).

*Note: Employees have the option to use the "[Staying on Target](#)" Form, which is available on Paylocity, to make a report.*

Employees can find more information in the Agency's: **(i) Duty to Report Policy; and (ii) Fraud Prevention Policy (in the employee handbook).**

b. Employees are encouraged to first report their concerns directly to the Agency to allow the Agency the opportunity to quickly address potential problems.

Employees are also encouraged to complete the Agency's *Staying on Target Form*, which is available from the Corporate Compliance Officer or on Paylocity.

c. Employees shall cooperate in internal and external audits or investigations regarding possible fraud, waste, abuse, or other improper or unethical conduct.

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

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

#### B. Responsibilities of Contractors

1. Duty to Know and Comply With Applicable Requirements. Contractors are obligated to know the following information, to the extent it is applicable to the service they provide to the Agency: (i) Medicaid and other payer and service delivery requirements; (ii) the prohibitions against fraud, waste, abuse and other improper or unethical conduct; (iii) compliance risk areas; and (iv) our Compliance Plan. They are also required to comply with the Agency's: **(i) Contractor Relations Policy; (ii) Medicaid and Medicare Exclusion Screening Policy; and (iii) Fraud Prevention Policy.**

2. Duty to Report. Contractors shall report instances of actual or possible fraud, waste, abuse, and other improper conduct to either:

- a. The Agency's Compliance Hotline (716-631-5777 ext. 644);
- b. The Agency's Corporate Compliance Officer: (i) by phone (716-631-5777 ext. 321), (ii) email ([complianceofficer@autism-services-inc.org](mailto:complianceofficer@autism-services-inc.org)), or (iii) by mail to "Attn: Corporate Compliance Officer, 40 Hazelwood Drive, Amherst, NY 14228";
- c. Any member of the Agency Compliance Committee; or
- d. The Compliance Dropbox located in the front entrance foyer at 40 Hazelwood Dr. (anonymously or otherwise).

Contractors can find more information in the Agency's: **(i) Duty to Report Policy; and (ii) Fraud Prevention Policy.**

#### C. Responsibilities of Board Members

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

Board members are obligated to know the following information (i) the prohibitions against fraud, waste, abuse and other improper conduct; (ii) the Agency's compliance risk areas; and (iii) our Compliance Program. All Board members shall attend annual compliance training and review and certify adherence to the Compliance Plan.

2. Duty to Report. Board members shall report instances of actual or

possible fraud, waste, abuse and other improper or unethical conduct to either:

- a. The Agency's Compliance Hotline (716-631-5777 ext. 644);
- b. The Agency's Corporate Compliance Officer: (i) by phone (716-631-5777 ext. 321), (ii) email (complianceofficer@autism-services-inc.org), or (iii) by mail to "Attn: Corporate Compliance Officer, 40 Hazelwood Drive, Amherst, NY 14228";
- c. Any member of the Agency Compliance Committee;
- d. The CEO; or
- e. The Compliance Dropbox located in the front entrance foyer at 40 Hazelwood Dr. (anonymously or otherwise).

Board members can find more information in the Agency's: **(i) Duty to Report Policy; and (ii) Fraud Prevention Policy.**

### 3. Duty to Promote Organizational Compliance

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

### 4. Duty to Respond

a. Board Members are obligated to respond appropriately to reports or other indications of actual or possible fraud, waste, abuse, or other improper or unethical conduct. Such response should include ensuring that the Agency follows the procedures set forth in **Sections VIII and IX** relating to investigating and appropriately responding to reports of fraud, waste, abuse, or other improper or unethical conduct.

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

## IV. Code of Conduct and Key Policies and Procedures

### A. Code of Conduct

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

1. Comply With Applicable Laws. All employees, contractors, and Board members must be aware of and comply with all applicable laws and regulations applicable to their functions.

2. Conduct Affairs in Accordance With High Ethical Standards. All employees, contractors, and Board members shall conduct themselves in accordance with high ethical standards of the community and their respective professions.

3. Conflicts of Interest. All employees, contractors, and Board members must faithfully conduct their duties in their assigned roles solely for the purpose, benefit, and interest of the Agency and those it serves. All employees, contractors and Board members have a duty to avoid conflicts with the interests of the Agency and may not use their positions and affiliations with the Agency for personal benefit. Employees, contractors and Board members must avoid not only actual conflicts but also the appearance of conflicts of interest.

4. Provide High Quality of Care. All employees and contractors are expected to provide high quality services and Board members shall support this standard of care. The care provided must be reasonable and necessary to the care of each individual and be provided by properly qualified individuals.

5. Provide Equal Opportunity and Respect the Dignity of All Recipients. The Agency is committed to providing services for persons, without regard to age, race, color, national origin, ethnicity, religion, handicap, gender, gender identification, sexual orientation, or human research subject. All employees, contractors and Board members shall treat all individuals served and employees with respect and dignity. Discrimination in any form will not be tolerated.

6. Confidentiality. Employees, contractors and Board members have access to a variety of sensitive and proprietary information of the Agency, the confidentiality of which must be protected. All such persons must adhere to the appropriate laws, regulations, policies, and procedures to ensure that confidential and proprietary information is properly maintained and that inappropriate or unauthorized release is prevented. In addition, employees, contractors, and Board members must refrain from sharing proprietary Agency information with third parties unless sharing such information is authorized.

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

8. Honesty and Integrity. All business practices must be conducted with honesty and integrity and in a manner that promotes a positive and professional reputation with individuals served, volunteers, payers, contractors, regulatory agencies, other providers, and the public.

9. Mandatory Reporting. Employees, contractors and Board members shall immediately report all allegations of abuse, neglect, mistreatment or any other incidents that may result in, or have the reasonably foreseeable potential to result in, harm to the health, safety or welfare of an individual receiving services at the Agency to their supervisor, program manager, or through other compliance reporting channels described in this Plan. The Agency and employees, contractors and Board members will comply with mandatory reporting requirements in accordance with Agency policies and applicable laws and regulations.

10. Dignity and Respect. Employees, contractors and Board members shall respect and value each other, the diversity of the Agency's work force, the environment in which members of the Agency work, and the resources that the Agency uses.

B. Key Policies and Procedures

The development and distribution of policies and procedures are essential components of an effective compliance program. All employees, contractors, and Board members are required to review and carry out their duties in accordance with the policies applicable to their functions and responsibilities. The Compliance Plan and following key compliance policies are available upon request and through Paylocity:

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

V. Corporate Compliance Officer and Compliance Committees

A. Corporate Compliance Officer

The Corporate Compliance Officer is responsible for overseeing the implementation of the Compliance Program, among other duties they may provide. The Corporate Compliance Officer's duties include, but are not limited to, the following:

1. Supervising the implementation and effectiveness of the Compliance Plan and Compliance Program;
2. Reviewing and updating the Compliance Plan and compliance policies, and developing new compliance policies as needed;
3. Overseeing operation of the Compliance Hotline and Compliance Dropbox;
4. Evaluating, investigating, and responding to compliance-related questions, concerns, and complaints;
5. Ensuring proper reporting of violations to duly authorized regulatory agencies as appropriate or required;
6. Working with the Chief Human Resources Officer, Director of Training and others as appropriate to develop the compliance training program described in **Section VI** below;
7. Establishing and maintaining open lines of communication, ensuring confidentiality, with members of the Agency Compliance Committee and QICC Committee, the Agency's employees, managers, Board members, downstream and related entities, programs and departments to ensure effective and efficient compliance policies and procedures;
8. Assist in responding to government audits and investigations and other inquiries; and
9. Developing an annual work plan, including internal audits, with the assistance of program managers and the Agency Compliance Committee and QICC Committee.

The Corporate Compliance Officer reports directly to the CEO and quarterly to the Board of Directors on the operation of the Program. In addition, the Compliance Officer shall prepare a written report to the Board annually describing the compliance efforts undertaken during the preceding year and identifying any changes necessary to improve the Compliance Program. In the event of suspected or actual improper or unethical conduct on the part of the CEO, the Corporate Compliance Officer is required to report such conduct directly to the Board of Directors.

B. Agency Compliance Committee

The Corporate Compliance Officer shall be a member of the Agency Compliance Committee (the "Agency Compliance Committee") and serve as the Chair of the Committee. The CEO shall sit on the Agency Compliance Committee and shall appoint additional members to the Agency Compliance Committee with varying backgrounds and experience to ensure that the Committee has the expertise to handle the full range of clinical, administrative, financial, billing, information technology, human resources, and operational issues relevant to the Agency.

The Agency Compliance Committee meets at least quarterly and may include members of the Board. The Agency Compliance Committee's functions include, but are not limited to, the following:

1. Receiving regular reports from the Corporate Compliance Officer on the implementation of the Compliance Program;
2. Identification of compliance risk areas;
3. Assisting with the development of and approving the annual work plan carried out under the Program;
4. Approving the compliance training program provided to all employees, contractors, and Board members;
5. Receiving reports from the Corporate Compliance Officer of investigations of actual or suspected fraud, waste, abuse or other improper conduct and any corrective action taken as a result of such investigations; and
6. Recommending and approving any changes to the Compliance Plan, Compliance Program, and compliance policies.

C. Board of Directors and Quality Improvement/Corporate Compliance (QICC) Committee

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

In addition, the Board of Directors has a board level committee called the Board Quality Improvement/Corporate Compliance Committee (the "QICC Committee"), which shall meet regularly with the CEO and Agency Compliance Committee to receive reports on the implementation of the Compliance Program and quality improvement program at the Agency and to recommend changes to the Compliance Program and quality improvement program.

## VI. Compliance Training

Every employee, including the Corporate Compliance Officer and senior administrators, must attend the basic compliance training session offered by the Agency within 30 days of the commencement of employment and a refresher training session annually thereafter. Training will be scheduled by the Chief Human Resources Officer and/or Director of Training as part of their responsibility to oversee general orientation for new employees. The basic compliance training session shall cover the key elements of the Compliance Program.

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

Board members must attend a compliance training session within 30 days of the commencement of their term and an annual training session thereafter. Board members must acknowledge in writing that they have received training and agree to fulfill their obligations under the Compliance Plan and policies.

Contractors must receive compliance training materials either prior to contracting with the Agency or within 30 days of contracting with the Agency. This may consist of the Agency providing the contractor with the Agency's **Fraud Prevention Policy** and a copy of the Compliance Plan or a link to access the Compliance Plan.

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

## VII. Reporting Compliance Problems

### A. Reporting Options

In accordance with its **Duty to Report Policy**, the Agency maintains open, effective lines of communication, ensuring confidentiality, for the reporting of actual or suspected improper or unethical conduct. Employees, contractors, and Board members shall promptly report any such conduct of which they become aware in any of the methods listed above in **Section III** of this Plan.

### B. Compliance Hotline and Compliance Dropbox

The Compliance Hotline may be accessed by dialing 716-631-5777 ext. 644 to report a complaint. In addition, the Compliance Dropbox located at 40 Hazelwood Dr. Amherst, NY can receive written complaints. Employees, contractors, and Board members have the option of reporting a complaint on the Compliance Dropbox anonymously. The Corporate Compliance Officer is responsible for reviewing all Compliance Hotline reports and assessing whether they warrant further investigation. There is a possibility that the Compliance Officer will recognize your voice when listening to Compliance Hotline messages. Therefore, the Agency requires employees, contractors, and Board members to use a typewritten message or report and either place it in a secure Compliance Dropbox or mail it without a return address to the Compliance Officer if such individual wants to make an

anonymous report. The Compliance Hotline and Compliance Dropbox are confidential methods of reporting.

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

#### VIII. Internal Investigations

All reports of fraud, waste, abuse, or other improper or unethical conduct shall be promptly reviewed and evaluated by the Corporate Compliance Officer. The Corporate Compliance Officer determines, in consultation with other Agency personnel and legal counsel as necessary, whether the report warrants an internal investigation. If warranted, the Corporate Compliance Officer and their designee(s) will promptly coordinate the investigation and determine whether any outside advisors are needed. If the Corporate Compliance Officer determines it is in the best interests of the Agency to keep the contents and/or findings of the investigation confidential under the attorney/client privilege, the Corporate Compliance Officer shall arrange for legal counsel to conduct and/or supervise the investigation.

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

Investigations shall consist of interviews and document reviews as necessary. All investigations will conclude with written report of findings and recommendations for corrective action to correct the problem and prevent future occurrence. The written report may be subject to the attorney/client privilege if it is prepared by the Agency's outside legal counsel. The Corporate Compliance Officer and/or legal counsel shall present the written report or a summary thereof to the Agency Compliance Committee and CEO. The Corporate Compliance Officer shall work with the CEO and outside advisors to determine whether the conduct that is the subject of the investigation should be disclosed to governmental agencies or payors. The Corporate Compliance Officer shall oversee the corrective action to ensure it is completed. The Corporate Compliance Officer shall update the Agency Compliance Committee on the status of internal investigations and corrective action.

#### IX. Corrective Action

The Agency is committed to taking prompt and thorough corrective action to address any fraud, waste, abuse, or other improper or unethical conduct identified through internal audits, investigations, reports by employees or other means. The Compliance Officer, in

consultation with the CEO, is generally responsible for reviewing and approving all corrective action plans. However, the Corporate Compliance Officer is authorized to recommend corrective action directly to the Board of Directors if the Corporate Compliance Officer believes, in good faith, that the CEO is not promptly acting upon such a recommendation or acting in the best interests of the Agency. In cases involving clear fraud or illegality, the Corporate Compliance Officer also has the authority to order interim measures, such as a suspension of billing, while a recommendation of corrective action is pending.

Corrective action may include, but not be limited to, any of the following steps:

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

#### X. Compliance Program Disciplinary Measures

The Agency shall have well-publicized disciplinary policies in effect to encourage good faith participation in the Program, including the **Compliance Program Disciplinary Policy**. Employees, contractors, and Board members who: (1) engage in, encourage, direct, facilitate or permit improper or unethical conduct; (2) fail to report actual or suspected improper or unethical conduct; or (3) violate the Agency's Compliance Plan or Agency policy designed to detect or prevent improper or unethical conduct are subject to disciplinary action in accordance with the Agency's **Compliance Program Disciplinary Policy**. The Corporate Compliance Officer will promptly notify the Chief Human Resources Officer of any improper or unethical conduct of an employee that may warrant discipline. The Chief Human Resources Officer, in consultation with the Corporate Compliance Officer, will be responsible for determining the appropriate discipline for employees, in accordance with the Agency's standard employment policies.

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

Board Member sanctions can range from written admonition to, in the most extreme cases, removal from the Board of Directors, in accordance with the Bylaws, policies, laws and/or regulations. The Corporate Compliance Officer shall make a recommendation to the Board of Directors with respect to such sanctions.

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

In accordance with the Agency's Non-Retaliation and Non-Intimidation Policy, the Agency prohibits intimidation and retaliation for good faith participation in the Compliance

Program, including for reporting potential issues, investigating issues, and reporting to appropriate officials. No employee, contractor, or Board member who files a report of actual or suspected fraud, waste, abuse, or other improper or unethical conduct in good faith will be subject to retaliation or intimidation by the Agency in any form.

With respect to employees, prohibited retaliation and intimidation includes, but is not limited to, terminating, suspending, demoting, failing to consider for promotion, harassing, reducing the compensation of any employee, or adversely changing working conditions due to the employee's intended or actual filing of a report. Employees, contractors, and Board members should immediately report any perceived retaliation or intimidation to the Corporate Compliance Officer. However, if an employee has participated in a violation of law or Agency policy, the Agency has the right to take appropriate action against them. While the Agency requires its employees to report such concerns directly to the Agency, certain laws provide that individuals may also bring their concerns to the government.

## XII. Government Audits and Investigations

### a. Contact By Government Officials

Employees, contractors, and Board members are required to cooperate fully in all government audits and investigations. If contacted by governmental investigators or auditors, all employees are expected to request the following information: (1) the name, agency, business telephone number and address of all investigators or auditors; (2) the reason for the contact; and (3) if the contact is in person, the investigators' or auditors' business cards. Employees shall direct the investigators or auditors to the Corporate Compliance Officer, or in their absence, the CEO. If neither are available, the employee shall contact the Corporate Compliance Officer's or CEO's administrative staff person who shall contact the Agency's legal counsel.

### b. Subpoenas and Document Requests

Employees may receive subpoenas and other written or verbal requests for documents. Subpoenas must immediately be forwarded to the Corporate Compliance Officer or in their absence, the CEO. If the Compliance Office or CEO is not available, the CEO's assistant or staff person shall contact the Agency's legal counsel. The Corporate Compliance Officer, in conjunction with the program director and/or Agency's legal counsel will coordinate the production of documents. It is the Agency's policy to respond only to valid, written requests for documents, and to cooperate with all appropriate written requests for documents.

### c. Prohibition on Altering or Destroying Records

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

### d. Request For Interviews

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

Employees, contractors, and Board members are required to reasonably cooperate with government officials, including providing them with timely access to facilities and records upon reasonable notice, and being truthful and complete in their communications. Although individuals have the right not to incriminate themselves, any failure by an employee to provide cooperation or follow the requirements set forth in this Compliance Plan may be subject to disciplinary action up to and including termination of employment. Any Board member who fails to provide such cooperation may be subject to sanctions. Any contractor who fails to provide such cooperation may be subject to termination of its contract.

### XIII. Risk Identification and Internal Compliance Audits

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

#### A. Identification of Key Risk Areas

These risks include, but are not limited to, the following<sup>4</sup>:

1. Billing for services not actually rendered by the Agency;
2. Billing for services rendered to individuals that are not appropriately, accurately, thoroughly, and timely documented in the Agency's records;
3. Billing at a rate in excess of the rate permitted under the applicable program;
4. Failing to properly coordinate an individual's benefits among Medicaid and other third party payors;
5. Submitting cost reports that are inaccurate or incomplete;
6. Providing medically unnecessary services;
7. Failing to properly credential licensed health care professionals;
8. Employing an excluded individual or company or billing for services provided by an excluded individual or company; and
9. Ensuring compliance with applicable mandatory reporting obligations.

Additional risk areas can be identified by reviewing external audits performed by governmental agencies, payors, and credentialing bodies. Risk areas may also be identified by reviewing of the annual work plans of the U.S. Department of Health and Human Services' Office of the Inspector General ("OIG") and New York State Office of the Medicaid Inspector General ("OMIG") and other resources from those offices.

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<sup>4</sup> These risk areas are connected to the Seven Areas identified in 18 NYCRR 521.3(a) including: (1) billings; (2) payments; (3) medical necessity and quality of care; (4) governance; (5) mandatory reporting; (6) credentialing; and (7) other risk areas that are or should with due diligence be identified by the Agency.

## B. Performance of Internal Audits and Compliance Reviews

The Corporate Compliance Officer, in conjunction with their designees, program managers, and the Agency Compliance Committee, will develop audit tools and procedures for carrying out internal audits and develop a schedule of internal audits for the upcoming year. The audit schedule will be approved by the Agency Compliance Committee. The audits will cover aspects of the Agency's operations that pose a heightened risk of non-compliance.

The Corporate Compliance Officer, with the approval of the CEO, may contract with outside companies to perform certain auditing functions. The Corporate Compliance Officer will oversee the services provided by outside companies. If the Corporate Compliance Officer determines it is in the best interests of the Agency to keep the contents and/or findings of an audit confidential, the Corporate Compliance Officer shall arrange for legal counsel to conduct and/or supervise the audit. A written report shall be prepared summarizing the findings of each audit, and recommending any corrective action. The corrective action shall be designed to reduce the potential for recurrence and ensure the ongoing compliance with Medicaid and other payers.

The Corporate Compliance Officer or designee(s) shall present the audit reports or summaries thereof as appropriate to the Agency Compliance Committee, CEO, Board of Directors, and any appropriate program directors. The Corporate Compliance Officer or designee shall work with the appropriate program director to implement any corrective action and said program director shall report to the Corporate Compliance Officer or designee when implementation is completed.

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

## XIV. Conflict of Interest Policies

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

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

### A. Federal Laws

Civil and Criminal False Claims Act. Any person who knowingly and/or willfully submits a false claim for payment to the federal government shall be subject to civil or criminal penalties, including imprisonment, repayment, civil monetary penalties per claim, treble damages and exclusion from participating in Medicare and Medicaid. Examples of prohibited conduct include billing for services not rendered, upcoding claims, double billing, misrepresenting services that were rendered, falsely certifying that services were medically necessary, making false statements to the government, failing to comply with conditions of payment, and failing to refund overpayments made by a federal health care program. Individuals may be entitled to bring an action under this Act and share in a percentage of any

recovery. However, if the action has no merit and/or is for the purpose of harassing Agency, the individual may have to pay the Agency for its legal fees and costs.

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

Ethics in Patient Referrals Act ("Stark Law"): Physicians (including psychologists) or their family member who have an ownership or compensation relationship 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.

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 Medicare/Medicaid programs.

#### B. State Laws

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

#### C. Whistleblower Protections

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

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

#### XIV. Summary

In summary, the Agency has adopted this Compliance Plan with the goal of carrying out its activities in accordance with law and high ethical standards. The effectiveness of the Compliance Program depends on the participation of all employees, contractors and Board members in preventing, detecting, and appropriately responding to actual or suspected fraud, waste, abuse, or other improper or unethical conduct. Working together, we can make the Agency a model of excellence and integrity in our community.

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