

# Corporate Compliance Handbook

Last Revision Date: January 2016

CATHOLIC CHARITIES OF CHEMUNG | SCHUYLER

# Corporate Compliance Handbook

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## 1 CORPORATE COMPLIANCE POLICY

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### **Policy**

It has been and continues to be the policy of Catholic Charities Chemung-Schuylers to comply with all applicable federal, state and local laws and regulations, and payer requirements. It is also Catholic Charities Chemung-Schuylers policy to adhere to the Code of Conduct that is adopted by the Board of Directors and the Executive Director.

### **Commitment**

We have always been and remain committed to our responsibility to conduct our business affairs with integrity based on sound ethical and moral standards. We will hold our employees and volunteers, contracted practitioners, and vendors to these same standards. Catholic Charities Chemung-Schuylers is committed to maintaining and measuring the effectiveness of our Compliance policies and standards through monitoring and auditing systems reasonably designed to detect noncompliance by its employees and volunteers and agents. We shall require the performance of regular, periodic compliance audits by internal and/or external auditors who have expertise in federal and state health care statutes, regulations, and health care program requirements.

### **Responsibility**

All employees and volunteers, volunteers, contracted practitioners, and vendors shall acknowledge that it is their responsibility to report any suspected instances of suspected or known noncompliance to their immediate supervisor, the Executive Director or the Compliance Officer. Reports may be made anonymously without fear of retaliation or retribution. Failure to report known noncompliance or making reports which are not in good faith will be grounds for disciplinary action, up to and including termination. Reports related to harassment or other workplace-oriented issues will be referred to Human Resources.

### **Policies and Procedures**

Catholic Charities Chemung-Schuylers will communicate its compliance standards and policies through required training initiatives to all employees and volunteers, volunteers, contracted practitioners, and vendors. We are committed to these efforts through distribution of this Compliance Plan and Policies and our Code of Conduct and Philosophy.

## **Enforcement**

The Compliance Plan will be consistently enforced through appropriate disciplinary mechanisms including, if appropriate, discipline of individuals responsible for failure to detect and/or report noncompliance.

## **Catholic Charities Chemung-Schuyler Response**

Detected noncompliance, through any mechanism, i.e. compliance auditing procedures, confidential reporting, will be responded to in an expedient manner. We are dedicated to the resolution of such matters and will take all reasonable steps to prevent further similar violations, including any necessary modifications to the Compliance Plan.

## **Due Diligence**

Catholic Charities Chemung-Schuyler will, at all times, exercise due diligence with regard to background and professional license investigations for all prospective employees and volunteers, contractors, vendors, and members of the Board of Directors at the time of hire and as outlined in the Corporate Compliance Plan

## **Code of Conduct Summary**

*\*Please reference Section 9; Appendix I for complete Code of Conduct- Expanded*

### **Mission**

Catholic Charities is deeply committed to enhancing and strengthening the independence, inclusion, and individuality of, individuals and families at risk suffering from mental illness, substance abuse, HIV/AIDS and homelessness.

We integrate service delivery, advocacy, and education to foster individual and community empowerment. In conjunction with those we serve, we promote the self worth of all individuals to live with dignity as people of God.

### **Expectations**

We ensure that all aspects of consumer care and business conduct are performed in compliance with our mission statement, policies, and procedures, professional standards and applicable governmental laws, rules and regulations and other payer standards. Catholic Charities Chemung-Schuyler expects every person who provides services to our consumers to adhere to the highest ethical standards and to promote ethical behavior. Any person whose behavior is found to violate ethical standards will be disciplined appropriately.

Employees and volunteers may not engage in any conduct that conflicts – or is perceived to conflict – with the best interest of Catholic Charities Chemung-Schuylers. Employees and volunteers must disclose any circumstances where the employee/volunteer or his or her immediate family member is an employee/volunteer, consultant, owner, contractor or investor in any entity that (i) engages in any business or maintains any relationship with Catholic Charities Chemung-Schuylers; (ii) provides to, or receives from, Catholic Charities Chemung-Schuylers any consumer referrals; or (iii) competes with Catholic Charities Chemung-Schuylers. Employees and volunteers may not without permission of the Compliance Officer accept, solicit or offer anything of value from anyone doing business with Catholic Charities Chemung-Schuylers.

Employees and volunteers are expected to maintain complete, accurate and contemporaneous records as required by Catholic Charities Chemung-Schuylers. The term “records” includes all documents, both written and electronic, that relates to the provision of Catholic Charities Chemung-Schuylers services or provides support for the billing of Catholic Charities Chemung-Schuylers services. Records must reflect the actual service provided. Any records to be appropriately altered must reflect the date of the alteration, the name, signature and title of the person altering the document and the reason for the alteration if not apparent. No person shall ever sign the name of another person to any document. Signature stamps shall not be used. Backdating and pre-dating documents is unacceptable and will lead to discipline up to and including termination.

When any person knows or reasonably suspects that the expectations above have not been met, this must be reported to immediate supervisors, the Compliance Officer (CO) or the Executive Director, so each situation may be appropriately dealt with. The CO may be reached at (607) 734-9784 ext. 2110.

## 2 COMPLIANCE PLAN OVERSIGHT

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### **The Role of the Compliance Officer**

The Board of Directors of Catholic Charities Chemung-Schuyler designates the Quality Assurance Manager as the Compliance Officer (CO). The CO has direct lines of communication to the Executive Director, the Board of Directors and Catholic Charities Chemung-Schuyler counsel.

### **Job Duties**

The CO is directly obligated to serve the best interests of our Catholic Charities Community Services, consumers and employees and volunteers. Responsibilities of the CO include, but are not limited to:

- 1) Developing and implementing compliance policies and procedures (P&P).
- 2) Overseeing and monitoring the implementation of the Compliance Plan.
- 3) Directing Catholic Charities Chemung-Schuyler internal audits established to monitor effectiveness of compliance standards.
- 4) Providing guidance to management, medical/clinical program personnel and individual departments regarding P&P and governmental laws, rules and regulations.
- 5) Updating, periodically, the Compliance Plan as changes occur within Catholic Charities Chemung-Schuyler, and/or in the law and regulations or governmental and third party payers.
- 6) Overseeing efforts to communicate awareness of the existence and contents of the Compliance Plan.
- 7) Coordinating, developing and participating in the educational and training program.
- 8) Guaranteeing independent contractors (consumer care, vendors, billing services, etc.) are aware of the requirements of Catholic Charities Chemung-Schuyler's Compliance Plan.
- 9) Actively seeking up-to-date material and releases regarding regulatory compliance.
- 10) Maintaining a reporting system (hotline) and responding to concerns, complaints and questions related to the Compliance Plan.



- 11) Acting as a resourceful leader regarding regulatory compliance issues.
- 12) Investigating and acting on issues related to compliance.
- 13) Coordinating internal investigations and implementing corrective action.

## **The Structure, Duties and Role of the HR Sub-Committee of the Board of Directors**

### Reporting Structure and Purpose

The Human Resources Sub-Committee of the Board of Directors will serve as the Compliance Committee. Human Resources Sub-Committee of the Board of Directors members are approved by the Executive Director and by the full Board of Directors. Compliance issues are reported by the Compliance Officer to the Human Resources Sub-Committee of the Board of Directors and to the Executive Director and Board, where appropriate. The Committee's purpose is to review, advise and assist the Compliance Officer with implementation of the Compliance Plan and ongoing enforcement.

### Function

The roles of the Human Resources Sub-Committee of the Board of Directors include:

- 1) Analyzing the environment where Catholic Charities Chemung-Schuyler does business, including legal requirements with which it must comply.
- 2) Reviewing and assessing policies and procedures that pertain to compliance issues and incorporating them into the Compliance Plan as needed.
- 3) Providing oversight to all departments to develop standards and P & P that address specific risk areas and encourage compliance according to legal and ethical requirements.
- 4) Advising and monitoring appropriate departments relative to compliance matters.
- 5) Providing guidance in the development of internal systems and controls to carry out compliance standards and policies procedures.
- 6) Monitoring internal and external audits to identify potential non-compliant issues.
- 7) Developing and implementing corrective and preventative action plans and follow-up to determine effectiveness.
- 8) Developing a process to solicit, evaluate and respond to complaints and problems.

## Delegation of Substantial Discretionary Authority

### Requirement

Any employee or prospective employee who holds, or intends to hold, a position with substantial discretionary authority for Catholic Charities Chemung-Schuyler is required to disclose any name changes, and any involvement in non-compliant activities including health care related crimes. In addition, Catholic Charities Chemung-Schuyler performs reasonable inquiries into the background of such applicants, contractors, vendors and Members of the Board of Directors.

The following organizations may be queried when deemed reasonable:

- NYS Medicaid Fraud Database. The URL address is:  
<https://www.omig.ny.gov/search-exclusions>
- HHS/OIG cumulative sanction report. The URL address is:  
<https://exclusions.oig.hhs.gov/>
- New York State Department of Education (other licensed professionals) (the URL address is:  
<http://www.op.nysed.gov/opsearches.htm>
- EPStaffCheck by Yost Engineering, Inc. to verify exclusion status for new staff and vendors, as well as regular, automatic, re-screening of current staff, vendors, physicians, and other parties. Databases searched include:
  1. OIG - Office of Inspector General - List of Excluded Individuals/Entities
  2. SDN - Office Of Foreign Assets Control - Specially Designated Nationals
  3. OIG –Most Wanted- Office Of Inspector General - Most Wanted Fugitives
  4. NY - Medicaid New York Office Of Medicaid Inspector General
  5. SAM - System for Awards Manager: Excluded Parties

<https://epsc.yeiservices.com/release/index.html?UserName=RCCNy&SessionID=SIDRCCNy1452010308.650>

### 3 EDUCATION AND TRAINING

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#### **Expectations**

Education and training are critical elements of the Compliance Plan. Every employee and agent is expected to be familiar and knowledgeable about Catholic Charities Chemung-Schuyler's Compliance Plan and have a solid working knowledge of his or her responsibilities under the Plan. Compliance policies and standards will be communicated to all employees and volunteers through required participation in training programs.

#### **Training Topics - General**

All personnel and members of the Board of Directors shall participate in training on the topics identified below:

- Legal principles regarding compliance and responsibilities related thereto;
- Prohibitions against submitting a claim for services when documentation of the service does not exist to the extent required;
- Prohibitions against signing for the work of another employee;
- Prohibitions against alterations to medical records and appropriate methods of alteration;
- Prohibitions against rendering services without a signed physician's order or other prescription, if applicable;
- Proper documentation of services rendered; and
- Duty to report misconduct.

#### **Training Topics - Targeted**

In addition to the above, targeted training will be provided to all managers and any other employees and volunteers whose job responsibilities include activities related to compliance topics. Supervisory Staff shall assist the Compliance Officer in identifying areas that require specific training and are responsible for communication of the terms of this plan to all independent contractors doing business with Catholic Charities Chemung-Schuyler.

#### **Orientation**

As part of their orientation, each employee and contractor shall receive a written copy of the Employee Handbook which includes a summary of Corporate Compliance as well as a Conflict of Interest Disclosure Statement and CCCS Code of Conduct. They will also be informed as to where to find the complete Compliance Plan as well as other related Policies/Procedures.

**Attendance**

All education and training relating to the Compliance Plan will be verified by attendance and a signed acknowledgement of receipt of the Compliance Plan and standards. Attendance at compliance training sessions is mandatory and is a condition of continued employment.

## 4 EFFECTIVE CONFIDENTIAL COMMUNICATION

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### Expectations

Open lines of communication between the Compliance Officer and every employee and agent subject to this plan are essential to the success of our Compliance Program. Every employee has an obligation to refuse to participate in any wrongful course of action and to report the actions according to the procedure listed below.

### Reporting Procedure

If an employee, contractor or agent witnesses, learns of, or is asked to participate in potential non-compliant activities, in violation of this Compliance Plan, he or she should contact the Compliance Officer, his or her immediate supervisor, or the Executive Director. Reports may be made in person or by calling a telephone line dedicated for the purpose of receiving such notification information. Information may also be mailed attention to the CO.

Upon receipt of a question or concern, any supervisor, officer or director shall document the issue at hand and report to the Compliance Officer. Any questions or concerns relating to potential non-compliance by the CO should be reported immediately to the Executive Director.

The Compliance Officer or designee shall record the information necessary to conduct an appropriate investigation of all complaints. If the employee was seeking information concerning the Code of Conduct or its application, the CO or designee shall record the facts of the call, the nature of the information sought and responds as appropriate. Catholic Charities Chemung-Schuyler shall, as much as is possible, protect the anonymity of the employee or contractor who reports any complaint or question, by referring to the employee's identification number, case investigation number and year of occurrence.

### Protections

The identity of reporters will be safeguarded to the fullest extent possible and will be protected against retribution. Report of any suspected violation of this Plan by following the above shall not result in any retribution. Any threat of reprisal against a person who acts in good faith pursuant to his or her responsibilities under the Plan is acting against the Catholic Charities Chemung-Schuyler' compliance policy. Discipline, up to and including termination of employment will result if such reprisal is proven.

### Guidance

Any employee and agent may seek guidance with respect to the Compliance Plan or Code of Conduct at any time by following the reporting mechanisms outlined above.

## 5 ENFORCEMENT OF COMPLIANCE STANDARDS

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### Background Investigations

For all employees and volunteers, Catholic Charities Chemung-Schuylers will conduct a reasonable and prudent background investigation, including a reference check and fingerprinting, as part of every applicant being considered for employment.

### Disciplinary Action - General

Employees and volunteers who fail to comply with Catholic Charities Chemung-Schuylers' s compliance policy and standards, or who have engaged in conduct that has the potential of impairing the Catholic Charities Chemung-Schuylers' status as a reliable, honest and trustworthy service provider will be subject to disciplinary action, up to and including termination. Any discipline will be appropriately documented in the employee's personnel file, along with a written statement of reason(s) for imposing such discipline. The CO shall maintain a record of all disciplinary actions involving the Compliance Plan and report at least quarterly to the Human Resources Sub-Committee of the Board of Directors regarding such actions.

### Performance Evaluation - Supervisory

Catholic Charities Chemung-Schuylers' Compliance Program requires that the promotion of, and adherence to, the elements of the Compliance Plan be a factor in evaluating the performance of Catholic Charities Chemung-Schuylers employees and volunteers and contractors. They will be periodically trained in new compliance policies and procedures. In addition, all managers and supervisors will:

- 1) Discuss with all employees and volunteers the compliance policies and legal requirements applicable to their function.
- 2) Inform all personnel that strict compliance with these policies and requirements is a condition of employment.
- 3) Disclose to all personnel that Catholic Charities Chemung-Schuylers will take disciplinary action up to and including termination or revocation of privileges for violation of these policies and requirements.

### Disciplinary Action - Supervisory

Managers and supervisors will be sanctioned, based on the level of the violation, for failure to adequately instruct their staff, or for failing to detect noncompliance with applicable policies and legal requirements, where reasonable diligence on the part of the manager or supervisor would have led to the earlier discovery of any problems or violations and would have provided Catholic Charities Chemung-Schuylers with the opportunity to correct them.

## 6 Auditing and Monitoring of Compliance Activities

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### Internal Audits

Ongoing evaluation is critical in detecting non-compliance and will help ensure the success of Catholic Charities Chemung-Schuylers Compliance Program. An ongoing auditing and monitoring system is essential. This ongoing evaluation shall include the following:

- Review of relationships with third-party contractors, specifically those with substantive exposure to government enforcement actions;
- Compliance audits of compliance policies and standards; and
- Review of documentation and billing relating to claims made to federal, state and private payers for reimbursement, performed internally or by an external consultant as determined by the Compliance Officer.

The audits and reviews will examine the Catholic Charities Chemung-Schuylers compliance with specific rules and policies through on-site visits, personnel interviews, and consumer record documentation reviews.

### Plan Integrity

Additional steps to ensure the integrity of the Compliance Plan will include:

- Review with legal counsel records of communications and reports by all employees and volunteers or contractors kept in accordance with this Plan.
- The Compliance Officer will be notified immediately in the event of any visits, audits, investigations or surveys by any federal or state agency or authority, and shall immediately receive a photocopy of any correspondence from any regulatory agency charged with licensing Catholic Charities Chemung-Schuylers and/or administering a federally or state-funded program or County-funded program with which Catholic Charities Chemung-Schuylers participates.
- Ongoing notification by the Compliance Officer to all appropriate personnel of any changes in laws, regulations or policies, as well as appropriate training to assure continuous compliance.

## 7 DETECTION AND RESPONSE

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### Violation Detection

The Compliance Officer, Executive Director, and the Human Resources Sub-Committee of the Board of Directors shall determine whether there is any basis to suspect that a violation of the Compliance Plan has occurred.

If it is determined that a violation may have occurred, the matter may be referred to legal counsel, who, with the assistance of the Compliance Officer, shall conduct a more detailed investigation. This investigation may include, but is not limited to, the following:

- Prompt interviews with individuals having knowledge of the facts alleged;
- A review of documents; and
- Legal research and contact with governmental agencies for the purpose of clarification.

If it is determined that a more detailed investigation is necessary, the staff involved will be suspended or placed on administrative leave with or without pay, depending on the situation.

If advice is sought from a governmental agency, the request and any written or oral response shall be fully documented, including the time, date, name and position of the entity contacted.

### Reporting

At the conclusion of an investigation involving legal counsel, he/she shall issue a report to the Compliance Officer and Executive Director summarizing his or her findings, conclusions and recommendations and will render an opinion as to whether a violation of the law has occurred. The Compliance Officer shall report the findings of each investigation conducted to the Human Resources Sub-Committee of the Board of Directors.

### Rectification

If Catholic Charities Chemung-Schuyler identifies that an overpayment was received from any third party payer, the appropriate regulatory (funder) and/or prosecutorial (attorney general/police) authority will be appropriately notified with the advice and assistance of counsel. It is our policy to not retain any funds which are received as a result of overpayments. In instances where it appears an affirmative fraud may have occurred, appropriate amounts will be returned after consultation and approval by involved regulatory and/or prosecutorial authorities. Systems shall also be put in place to prevent such overpayments in the future.



## Record Keeping

Regardless of whether a report is made to a governmental agency, the Compliance Officer shall maintain a record of the investigation, including copies of all pertinent documentation. This record will be considered confidential and privileged and will not be released without the approval of the Executive Director or legal counsel. The records will be stored in a separate locked file cabinet located in the Human Resources Department.

## **8 CORPORATE COMPLIANCE POLICIES & PROCEDURES**

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1. Enforcement Of Compliance Standards
2. Employee / Volunteer Compliance Training
3. Code Of Conduct
4. Conflict Of Interest
5. Reporting Of Compliance Concerns And Non-Retaliation
6. False Claims Act And Whistleblower Provisions
7. Investigation Of Compliance Issues
8. Employee / Volunteer Contractor Exclusion Screening
9. Internal Auditing And Monitoring
10. Reimbursement Practices And Billing Errors
11. Role And Responsibility Of The Compliance Committee
12. Business Courtesies For Referrals

## 8.1 ENFORCEMENT OF COMPLIANCE STANDARDS

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### **Purpose:**

Catholic Charities of Chemung-Schuylar (also referred to as CCCS) is committed to conducting its business ethically and in conformance with all federal and state laws, regulations, interpretations thereof, and the Catholic Charities of Chemung-Schuylar Code of Conduct. To support this commitment, CCCS has developed procedures for disciplinary actions to be taken for violations of the Corporate Compliance Plan and/or Code of Conduct by employee/volunteer and/or independent contractors.

### **Policy:**

Employee/volunteer and independent contractors who, upon investigation, are found to have committed violations of applicable laws and regulations, the Corporate Compliance Plan, the Code of Conduct, or the Catholic Charities of Chemung-Schuylar policies and procedures, will be subject to appropriate disciplinary action, up to and including termination.

The following actions may result in disciplinary action:

- Authorization of or participation in actions that violate the law, regulations and Corporate Compliance Plan, including the Code of Conduct, and all related policies and procedures;
- Failure to report a violation by a peer or subordinate;
- Failure to cooperate in an investigation;
- Retaliation against an individual for reporting a possible violation or participating in an investigation; and
- Failure to act as an honest, reliable and trustworthy service provider.

Discipline will be appropriately documented in the disciplined employee/volunteer's personnel file (or in the independent contractor's file), along with a written statement of reason(s) for imposing such discipline. Such documentation will be considered during regular and promotional evaluations.

The Compliance Officer and Director of Human Resources will be responsible for assuring that disciplinary actions related to non-compliance with the law, regulations and Corporate Compliance Plan, including the Code of Conduct, are consistent with actions taken in similar instances of non-compliance.

**Procedures:**

Catholic Charities of Chemung-Schuylar shall apply progressive discipline consistent with the violation. Examples of the disciplinary action that may be taken in accordance with the nature and scope of the infraction include but are not limited to: (a) verbal counseling or warning; (b) counseling with written warning; (c) retraining; (d) reassignment or demotion; (e) suspension without pay; and (f) termination of employment (or arrangement with an independent contractor).

To the extent possible, disciplinary action will be taken in accordance with the Catholic Charities of Chemung-Schuylar Employee/Volunteer Handbook.

When the determination is made that a compliance violation has occurred, the Compliance Officer will notify the Executive Director and the individual's supervisor or representative for independent contractors. If appropriate, the Compliance Officer may notify the Board or the Human Resources Sub-Committee of the Board of Directors before the next regularly scheduled meeting when a full report of compliance-related disciplinary actions would normally be presented.

The Compliance Officer and Director of Human Resources shall work in collaboration with the appropriate supervisor/manager in determining disciplinary action related to an instance of non-compliance. The Compliance Officer shall have the discretion to recommend a disciplinary process other than the normal procedure.

The Compliance Officer and/or Director of Human Resources shall consult with the Human Resources Sub-Committee of the Board of Directors, the Executive Director, and legal Counsel, as necessary to determine the appropriate disciplinary action to be taken.

The Director of Human Resources is responsible for reporting disciplinary actions taken as a result of violations of Catholic Charities of Chemung-Schuylar Code of Conduct and/or Corporate Compliance Program to the Compliance Officer.

The Compliance Officer will maintain a written record of disciplinary actions, including verbal warnings, and will reference these records when necessary to ensure consistency in application of disciplinary measures, which will be kept in a separate locked file cabinet in the Human Resource Department.

The Compliance Officer shall maintain a record of all disciplinary actions, including verbal warnings, related to compliance violations and report regularly to the Human Resources Sub-Committee of the Board of Directors, who report the Board of Directors, regarding such actions. The Compliance Officer will reference the record of disciplinary actions as necessary to ensure consistency in the application of disciplinary measures related to compliance violations.

BOD Adoption 2/25/2009

## 8.2 EMPLOYEE | VOLUNTEER COMPLIANCE TRAINING

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### **Purpose:**

The development and implementation of regular, effective education and training seminars for employee/volunteers is an integral part of the Compliance Plan. Compliance education is divided into two general components. First, all employee/volunteers must receive an introduction to the Compliance Plan. Second, employee/volunteers whose work is linked to identify risk areas should receive specialized compliance education pertaining to their function and responsibilities.

### **Policy:**

All employee/volunteers, including new hires, will receive training related to the organization's overall Compliance Plan.

Employee/volunteers in identified risk areas and members of the Board of Directors will receive more detailed education related to their function and responsibilities.

Attendance at training sessions is mandatory and is a condition of continued employment or contracting.

### **Procedures:**

The Compliance Officer is responsible for the development of the compliance education curriculum and monitoring and ensuring that compliance training and orientation meet the policy standards on this subject.

Compliance education seminars must include an explanation of the structure and operation of the Compliance Plan. They will introduce the Compliance Officer to the organization.

Compliance education seminars, at a minimum, will include information on the following aspects of the Compliance Plan:

- Code of Conduct and other related written guidance;
- False Claims Act;
- Communication channels (Employee/volunteer Hotline);
- Organizational expectations for reporting problems and concerns; and
- Non-retaliation policy.

Educational materials will be developed to facilitate the compliance sessions and ensure that a consistent message is delivered to all employee/volunteers. Education protocols and materials must be standardized, so as to evidence that everyone attending a seminar receives the same instruction.

As part of his or her initial orientation, each employee/volunteer and contractor shall receive a training session within the first ninety (90) days of employment or contracting. Each employee/volunteer and contractor will receive an introduction to Catholic Charities Chemung-Schuyler Compliance Plan and objectives, and a written copy of the Code of Conduct, compliance plan and compliance policies. Each new employee/volunteer or contractor will sign an acknowledgement that they are aware of and will abide by the Corporate Compliance Plan and Code of Conduct.

All existing employee/volunteers will receive training that includes a review of the existing Corporate Compliance Plan, the Code of Conduct, and any applicable policies and procedures. All employee/volunteers will be notified of any changes in federal or state laws and regulations and will receive any necessary pertinent training.

All education and training relating to the Corporate Compliance Plan will be verified by attendance and a signed acknowledgement of receipt of training. The individual conducting the training will take attendance at all training sessions through the use of a sign-in sheet that records the date, start and end time of the session and the content of the material presented. The Compliance Officer will maintain a file of attendance forms for all training sessions. Copies will be submitted to the HR Office for personnel training records.

Employee/volunteers will be provided with the opportunity to seek clarification or more information on any aspect of the Compliance Plan. Trainers who are not able to answer specific questions will arrange for follow-up to be conducted by the Compliance Officer or member of senior management.

Only properly trained individuals will be used to provide compliance education and training seminars. Compliance Plan trainers must be knowledgeable of the (a) Compliance Plan; (b) applicable federal laws and regulations; (c) awareness of the Federal Sentencing Guidelines; (d) relevant organization policies/procedures; (e) operations of the Compliance Plan; and (f) content of the Code of Conduct.

The Compliance Officer is responsible for coordinating with management to ensure that specialized compliance education occurs in identified risk areas.

Supervisory staff shall assist the Compliance Officer in identifying areas that require specific training and are responsible for communication of terms of the compliance plan to all independent contractors doing business with the agency.

The Compliance Officer is also responsible for submitting periodic reports to the Human Resource Sub-Committee of the Board of Directors and on all education seminars related to the Compliance Plan, and provide for the inclusion of quarterly report to the Human Resources Sub-Committee of the Board of Directors.

BOD Adoption 2/25/2009

## 8.3 CODE OF CONDUCT POLICY

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### **Policy:**

During work hours all employees are expected at all times to conduct themselves in a positive manner in order to promote the best interest of Catholic Charities. Reasonable rules of conduct are necessary for the orderly, efficient, and safe operation of business. The list below is meant to serve as a guideline for identifying appropriate employee conduct. It should be noted, many of these standards of conduct are clarified in greater detail in the appropriate section of the employee handbook.

### **I. Standards**

This list is not intended to be all-inclusive and does not alter the employment-at-will relationship between employee and the Agency. Management reserves the right to modify conduct standards or to establish different or additional conduct standards, as it deems appropriate and necessary at any time. Depending on the circumstance, any violation of these standards could result in immediate termination.

The following standards of conduct are to be observed by all employees:

- 8.3.1 Any activity that constitutes abuse and/or neglect of participants/consumers is prohibited.
- 8.3.2 Any sexual intimacies with participants/consumers are prohibited.
- 8.3.3 Sexual intimacies with family members or friends of participants/consumers when there is a risk of exploitation or potential harm to the participant/consumer are prohibited.
- 8.3.4 Assuming the full burden for setting and maintaining clear, appropriate, and culturally sensitive boundaries in all participant/consumer relationships.
- 8.3.5 Disclosing all relevant factors which could potentially create a conflict of interest and bring your integrity and professional conduct into question.
- 8.3.6 Complying with the Agency confidentiality policy.
- 8.3.7 Treating everyone associated with the Agency with respect, loyalty, patience, integrity, courtesy, dignity, consideration and cooperation.
- 8.3.8 Maintaining honesty in all documentation processes including, but not limited to, service provision, expenditures, and time records for yourself and others.
- 8.3.9 The prohibition of damaging, defacing, or stealing Agency or participant's/consumer's property.
- 8.3.10 Following supervisor's instructions and performing assigned work.
- 8.3.11 Maintaining an environment free from physical, psychological, verbal or written intimidation or harassment.
- 8.3.12 Using respectful language in verbal, written, texting, emails and Facebook communications about participants/consumers, co-workers, or supervisors. Employees must not disparage Catholic Charities.
- 8.3.13 Working without influence of alcohol and/or illegal drugs. The prohibition of using, selling, dispensing, or possessing alcohol and/or illegal drugs on Agency property.
- 8.3.14 Staying awake during all work hours unless otherwise specified by supervisor.

- 8.3.15 The prohibition of possessing firearms or weapons while on Agency premises or while performing work-related duties.
- 8.3.16 Reporting to work on time.
- 8.3.17 Giving proper advance notice when unable to work or report to work on time.
- 8.3.18 Avoiding excessive incidents of unplanned absences.
- 8.3.19 Following all work rules or procedures.
- 8.3.20 Completing assigned work in a timely manner.
- 8.3.21 Using work time productively and efficiently in accordance with established standards.
- 8.3.22 Obtaining supervisor's permission if the employee needs to leave the work area during work hours.
- 8.3.23 Complying with Agency safety and security procedures.
- 8.3.24 Cooperating with Agency investigations.
- 8.3.25 Immediately reporting any suspicious, unethical, or illegal conduct by co-workers, participants/residents, or vendors/service providers.
- 8.3.26 Accepting assigned overtime.
- 8.3.27 Obtaining authorization for visits by family members/friends while the employee is working.
- 8.3.28. The prohibition of unauthorized use of telephones, mail system, or other Agency-owned equipment.
- 8.3.29. Making efforts to take care of one's mental, physical, or spiritual health for the benefit of all aspects of life.
- 8.3.30. Wearing appropriate clothing for the work being performed.
- 8.3.31. Smoking only in designated areas.
- 8.3.32. Maintaining a clean work environment and reporting any hazardous conditions.
- 8.3.33. Attending all mandatory training.
- 8.3.34. Declining any gifts, loans, or other benefits from participants/consumers or their families unless your supervisor has given prior authorization.
- 8.3.35. Refraining from all actions which may result in complaints from participants/residents, customers, or suppliers which affect the Agency's reputation or business.
- 8.3.36. No text messaging to participants or staff for work-related business, unless prior approval is obtained.
- 8.3.37. The prohibition of falsifying internal and external records.
- 8.3.38. Pets are prohibited without prior permission.

## **II. Disciplinary Actions**

Depending on the nature of an offense, discussions will often be held between the supervisor/director and the staff member in order to give the staff member an opportunity to correct the situation before it becomes necessary for management to take corrective action. These discussions will be documented and become part of the staff member's record. Violations of this policy and all others will be addressed using the following three steps. –

Please note, these steps will not be implemented if it is determined that the offense is illegal or serious enough to warrant immediate termination.

1. A verbal warning (written for clarification).



2. A written warning.
3. Followed by suspension, probation, or discharge.

In certain instances, a violation of a “code of conduct” policy will result in immediate termination. The progressive disciplinary procedures are not followed when the offense is deemed gross misconduct.

A written warning notice becomes part of a staff member’s record and will be taken into consideration when evaluating job performance for purposes of promotion, transfer, future disciplinary action, and continued employment.

A written warning should define what the outcome of further behavior patterns will be. Failure to correct documented problems will normally result in removal from the job within a reasonable amount of time.

Employees are required to sign all documentation surrounding progressive disciplinary procedures. The employee’s signature only acknowledges the employee is aware of the contents of the written materials, not necessarily in agreement with the contents. The employee may add his/her own comments to any written plan of correction prior to its being in his/her personnel file.

BOD Adoption 2/25/2009; Revised 4/15/2015

## 8.4 CONFLICT OF INTEREST

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### POLICY

8.4.1 All persons employed by or volunteering at division of Catholic Charities of the Diocese of Rochester owe a duty of fidelity to the Agency. A conflict of interest may occur if outside activities or personal interest influence or appear to influence your ability to make objective decisions in the course of your job responsibilities. The Agency must ensure that its employees conduct their personal and professional business in a manner which does not harm or undermine the Agency's mission or image, credibility or standing in the community.

### PROCEDURE

8.4.2 At orientation, all employee/volunteers must disclose any existing or new relationship (not limited to employment) that may give the appearance of a conflict. All employees/volunteers will review and complete a conflict of interest acknowledgement form and are expected to comply with the following guidelines:

- **Duty of Fidelity**

Employee/volunteers owe a duty of loyalty and fidelity to the Agency. Employee/volunteers are expected to perform their duties on behalf of CCCS faithfully, diligently and to the best of their abilities.

- **Conflict of Interest**

Employee/volunteers must never allow themselves to be placed in a position where their personal interests are in conflict (or could be in conflict) with the interests or business of the Agency.

Employee/volunteers must avoid any situation or activity that compromises, or may compromise, their judgment or ability to act in the best interest of the Agency.

- **Disclosure of Potential Conflicts**

Employee/volunteers must promptly disclose to the Agency material information regarding any relationship, ownership or business interest, whether direct or indirect, that the employee/volunteer or a member of his/her immediate family has with any person, or in any business or enterprise, that:

1. Competes with the Agency; or
2. Purchases or sells, or seeks to purchase or sell, goods or services to or from the Agency.

- **Harm to Business or Reputation**

Employee/volunteers must refrain from engaging in conduct that could adversely affect the Agency's business or reputation. Such conduct includes, but is not limited to:

1. Publicly criticizing the Agency, its management or its employee/volunteers; or
2. Engaging in criminal conduct or other behavior that could harm the Agency's business reputation.

- Loans and Gifts

Employee/volunteers must never accept any loans or gifts of other than nominal value (less than \$10), or personal payments of any kind, from any person or business enterprise that:

1. Competes with the Agency; or
2. Purchases or sells, or seeks to purchase or sell, goods or services to, or from, the Agency; or
3. Receives services from or has a family member who receives services from the Agency.

- Company Funds and Property

Employee/volunteers must be conscientious and scrupulous in their handling of funds and property belonging to the Agency, and must always avoid any form of financial impropriety.

Employee/volunteers must not use, or permit the use of, Agency property or resources for anything other than approved Agency business or activities. Examples of unauthorized use would include using Agency vehicles, computers or copiers for personal purposes.

- Confidential Information

Confidential information (printed, electronic or otherwise) relating to the Agency's past, present, future and contemplated assets, operations, services, marketing strategies and objectives, personnel, facilities, equipment, finances, interest rates, individuals served, routines, policies, and business procedures must never be disclosed to anyone outside the Agency's organization, without the Agency's express written authorization.

- Outside Employment or Business Activity

During working hours, employee/volunteers are expected to devote their full time and attention to the business and the affairs of the Agency.

If an employee/volunteer wishes to engage in employment or business activity outside his/her employment/involvement with the Agency, the employee/volunteer must first disclose to the Agency the nature and extent of the proposed employment or business activity, and obtain the Agency's written approval. Approval will only be withheld if the Agency reasonably determines that the employee/volunteer's proposed outside employment or business activity could conflict or compete with the interests of the Agency, or could negatively affect the employee/volunteer's job performance or attendance.

- Disclosure of Potential Conflicts- Personal Relationships

It is a well-accepted organizational principle that employment of relatives in the same area of the Agency can cause serious conflicts and problems including perceptions of favoritism and reduced employee morale. In these circumstances, all parties, including supervisors, leave themselves open to charges of inequitable consideration in decisions concerning work assignments, transfer opportunities, time-off privileges, training and development opportunities, performance evaluations, promotions, demotions, disciplinary actions, and discharge. In addition to claims of partiality in treatment at work, personal conflicts from outside the work environment can be carried into day-to-day working relationships.

Employee/volunteers must promptly disclose to the Agency any personal relationship which exists between them and other employee/volunteers, board members, clients or client family members involved with the Agency. Relationships may include but are not limited to parents,

step-parents, siblings, step-siblings, children, step-children, aunts, uncles, cousins, grandparents, anyone living in the employee/volunteer's immediate household.

- Disclosure of Potential Conflicts- Personal Relationships between Employee/Supervisor  
Catholic Charities strongly believes that a work environment where employees maintain clear boundaries between employee personal and business interactions is most effective for conducting business and enhancing productivity.

Individuals in supervisory or managerial roles, and those with authority over others' terms and conditions of employment, are subject to more stringent requirements under this policy due to their status as role models, their access to sensitive information, and their ability to affect the terms and conditions of employment of individuals in subordinate positions. This does not preclude or interfere with the rights of employees protected by any applicable statute concerning the employment relationship.

Employee off-duty conduct is generally regarded as private, as long as such conduct does not create problems within the workplace. An exception to this principle, however, is romantic or sexual relationships between supervisors and subordinates.

Any supervisor, manager, executive or other company official in a sensitive or influential position with Catholic Charities must disclose the existence of a romantic or sexual relationship with another co-worker. Disclosure may be made to the immediate supervisor or the director of human resources (HR). This disclosure will enable the Agency to determine whether any conflict of interest exists because of the relative positions of the individuals involved.

When a conflict-of-interest problem or potential risk is identified, Catholic Charities will work with the parties involved to consider options for resolving the problem. The initial solution may be to make sure the parties no longer work together on matters where one is able to influence the other or take action for the other. Matters such as hiring, firing, promotions, performance management, compensation decisions and financial transactions are examples of situations that may require reallocation of duties to avoid any actual or perceived reward or disadvantage. In some cases, other measures may be necessary, such as transfer to other positions or departments.

If one or both parties refuse to accept a reasonable solution or to offer of alternative position if available, such refusal will be deemed a voluntary resignation.

Failure to cooperate with the Agency to resolve a conflict or problem caused by a romantic or sexual relationship between co-workers or among managers, supervisors or others in positions of authority over another employee in a mutually agreeable fashion may be deemed insubordination and cause for immediate termination. The disciplinary policy will be followed to ensure fairness and consistency before any such extreme measures are undertaken.

These provisions apply regardless of the sexual orientation of the parties involved.

**Protective Steps**

8.4.3. Upon disclosure of the information described above, CCCS will take appropriate steps to protect against any actual or potential conflict of interest. Such steps may include:

1. Requiring the employee/volunteer to refrain from working directly with such person or people (self - directed positions excluded);
2. Requiring the employee/volunteer to refrain from being involved in any decisions made by the Agency regarding its dealings with such person, business or enterprise; or
3. Requiring the employee/volunteer to refrain from being involved in any dealings on behalf of the Agency with such person, business or enterprise; or
4. Requiring the employee/volunteer to dispose of his/her interest in such business or enterprise if he/she wishes to remain in the Agency's employ.

Should something change which causes an actual or potential conflict to unfold the employee/volunteer must immediately report it to his/her supervisor and if necessary complete a new conflict of interest policy statement. If it is determined by the Executive Director/CEO and the Director of Human Resources that an employee's conflict of interest disclosure presents a moral or ethical problem, an employee may be asked to accept a transfer, promotion or demotion (if internal conflict), separate from his/her association with the other employer/business associate (if outside conflict) or resign.

If, in management's opinion, conflict or the potential for conflict arises, the parties may be separated\by reassignment or terminated from employment. Where doubts exist as to the specific meaning of the terms used above, employees should make judgments on the basis of the overall spirit and intent of this policy. Any concerns about the administration of this policy should be addressed to the Director of HR.

NOTE: Self Directed Service Staff may be related to a participant served but may not be the participant's parent or residing in the participant's household. The relationship must still be identified on the Conflict of Interest statement.

BOD Adoption 2/25/2009; Revised 3/2015

## 8.5 REPORTING OF CORPORATE COMPLIANCE CONCERNS AND NON-RETALIATION

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### **POLICY**

Catholic Charities employees have an affirmative duty and responsibility for promptly reporting any known or suspected misconduct, including actual or potential violations of the laws, regulations, policies and procedures, applicable Corporate Compliance Plan, Code of Conduct and/or Code of Ethics. An “open-door policy” will be maintained at all levels of management to encourage the reporting of problems and concerns.

Examples of Corporate Compliance Concerns include but are not limited to:

- Inappropriate alteration or forging of consumer records or billing charges.
- Violation of the Code of Conduct
- Failing to report a violation of the Code of Conduct or to cooperate in an investigation
- Retaliation against an individual for reporting a violation or possible violation.
- Deliberately making a false report of a violation of the Code of Conduct
- Submission of claims for services that were not actually provided
- Incorrect coding of services provided
- Failure to comply with confidentiality requirements
- Destroying records that are mandated to be kept
- Misuse of the Agency tax identification number
- Violations of all other applicable policies, laws, rules and regulations

Employees cannot exempt themselves from the consequences of their own misconduct by reporting the issue, although self-reporting may be taken into account in determining the appropriate course of action.

Any form of retaliation or retribution against an individual who reports a perceived problem or concern in good faith is strictly prohibited. Any Officers, employees, Agents, Board members, and/or Other Representatives who commits or condones any form of retaliation or intimidation will be subject to disciplinary action up to and including termination of their relationship with Catholic Charities or its affiliates.

### **Procedures:**

1. Employees shall promptly report the suspected or actual concern to their supervisor. Note: The reporting and investigation of potential or actual employee concerns unrelated to Corporate Compliance are detailed in Section VII of the Employee Handbook, the Conflict Resolution policy.
2. If the employee is uncomfortable or otherwise reluctant to report to his/her supervisor, then he/she is encouraged to report the concern to any member of the management team. If available, an Agency’s designated Compliance Officer and/or the designated Compliance Hotline may also be contacted. CCDR agencies will maintain and/or be provided with a Compliance Hotline. Employees may report their compliance concerns confidentially to the designated Compliance Officer through use of the designated Compliance Hotlines.

Employees of the following entities should call contact the Catholic Family Center's Compliance Hotline number at 585-234-0408:

Catholic Charities Diocese of Rochester,  
Catholic Charities of Wayne County,  
Catholic Charities of the Finger Lakes and  
Catholic Charities of Tompkins/Tioga

Employees of the following entities should contact the Catholic Charities Community Services Compliance Hotline number 585-339-9800 Ext. 291:

Catholic Charities Community Services,  
Catholic Charities of Steuben,  
Food Bank of the Southern Tier and  
Catholic Charities of Livingston County

Employees of Catholic Charities of Chemung/Schuyler should contact the Catholic Charities of Chemung/Schuyler Compliance Hotline number 607- 734-9784 ext. 2234.

Complaints about any Compliance Officer will be addressed by calling the HR Director, 585-328-3210, ext. 1485 who will confer with the CCDR President to investigate the concern.

Complaints against an Agency's Executive Director can be made by calling 585-328-3210 x1302. These complaints will be handled by the CCDR President and/or the regional Compliance Committee Chairperson, where applicable.

Complaints about the CCDR President or his/her staff can be made by calling the CCDR Audit Committee Chairperson, who will confer with the CCDR Executive Committee and with legal counsel to investigate the concern.

3. The employee may provide his/her identity and report the event confidentially. The identity of the individual, if known, shall remain confidential to (the extent possible) those persons directly involved in applying this policy, unless the issue requires investigation by law enforcement, in which case members of the organization are subject to subpoena. The complainant may also report anonymously and no attempt will be made to trace the source of the call or identity of the person making the call. Callers should be aware, however, that it may not be possible to preserve anonymity if they identify themselves, provide other information that identifies them, the investigation reveals their identity, or if they inform others that they have called the Compliance Hotline.

4. No employee who acts in good faith shall be subject to retaliation or adverse employment consequences. Anyone who intimidates or retaliates against someone who reported an event in good faith will be subject to discipline, including termination of employment.

5. If a complaint by an employee has been made with malice intended to damage another or the organization, that individual is subject to discipline, including termination of employment.

6. The act of submitting claims by any party that prove to have been made maliciously, recklessly, or with the foreknowledge that the information was false may also give rise to other

legal means, including civil law suit to protect the reputation of the organization and members of its staff.

7. Upon receipt of a complaint, there will be a prompt investigation.

8. If the investigation concludes that the complaint has no merit and/or is easily resolved, the complainant will be notified about what actions will be taken, to the extent reasonably possible and consistent with any privacy or confidentiality limitations. If no further action or investigation is to follow, an explanation for the decision will be given to the complainant.

9. If the explanation for the decision is not to the individual's satisfaction, then he/she has the right to report the event to someone in a higher authority within the Agency or report the event to the appropriate legal or investigative agency.

10. If the investigation indicates that the complaint has merit, the Agency has the authority to retain outside legal counsel, accountants, private investigators or any other resource deemed necessary to conduct a full and complete investigation. The final result of the investigation will be reported to the Regional Agency Compliance Committee and Board and to the CCDR Audit Committee and Board.

11. All complaints will be recorded within the Regional Agency's compliance system, will be reported to the Regional Agency Audit Committee and Board, and will be reported to the CCDR Audit Committee through the Associate Diocesan Director and to the CCDR Board.

BOD Adoption 2/25/2009; Revised 5/2015



## 8.6 WHISTLEBLOWER AND FALSE CLAIMS ACT

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### **Policy:**

It is the policy of Catholic Charities (the Agency) to detect and prevent fraud, waste, and abuse in federal healthcare programs and violations (real or suspected) of laws or corporate policies, as well as to protect from retaliation those who report suspected improper conduct. Catholic Charities is also committed to operating in compliance with all applicable laws, rules and regulations, including those concerning accounting and auditing, and prohibits fraudulent practices by any of its employees.

### **Purpose:**

This policy is intended to encourage employees to report suspected or actual occurrence(s) of illegal, unethical or inappropriate events (behaviors or practices) without retribution. The Agency is also committed to prompt, complete and accurate billing of all services. Catholic Charities and its employees shall not make or submit any false or misleading entries on any claim forms. No employee shall engage in any arrangement or participate in such arrangement at the direction of another person, including any supervisor or manager, which results in the submission of a false or misleading entry on claims forms or documentation of services that result in the submission of a false claim. This policy applies to all employees.

### **DEFINITION**

A whistleblower is a director, officer, non-board member serving on a Board committee, a volunteer, or an employee who makes a protected disclosure of unethical or illegal misconduct within the organization. A whistleblower may choose to report allegations of suspected misconduct anonymously. The whistleblower's role is as a reporting party. He/she is not an investigator or fact finder nor does the whistleblower determine the appropriate corrective action that will be warranted.

### **PROCEDURE**

Catholic Charities designated Compliance Officers are responsible to administer this policy.

Catholic Charities Commitment

1. Catholic Charities will provide training/education in this policy and procedure to all its employees on an annual basis. This training will also be provided to all new employees as part of the new employee orientation.
2. Catholic Charities will perform billing activities in a manner consistent with the regulations and requirements of third party payers, including Medicaid and Medicare.
3. Catholic Charities will conduct regular auditing and monitoring procedures as part of its efforts to assure compliance with applicable regulations as per the regional agency Work Plans.
4. Any employee who has any reason to believe that anyone is engaging in false billing practices, false documentation of services or a violation (real or suspected) of laws or corporate policies is expected to report the practice according to Reporting of Corporate Compliance Concerns Policy.

5. Confidentiality will be maintained to the extent that is practical and allowable by law. Employees should be aware that Catholic Charities is legally required to report certain types of crimes or potential crimes and infractions to external governmental agencies.
6. Employees may report their compliance concerns confidentially or may provide his or her identity. Callers should be aware, however, that it may not be possible to preserve anonymity if they identify themselves, provide other information that identifies them, the investigation reveals their identity, or if they inform others that they have called to report a compliance issue.
7. If the caller wishes to make the report anonymously, no attempt will be made to trace the source of the call or identify of the person making the call, unless the issue requires investigation by law enforcement, in which case members of the organization are subject to subpoena.
8. In cases where the complainant self-identifies, receipt of the reported violation or suspected violation will be acknowledged within five (5) business days. All reports will be promptly investigated and appropriate corrective actions will be taken if warranted by the investigation.
9. No employee who in good faith, reports any action or suspected action taken by or within the Agency that is illegal, fraudulent or in violation of any adopted policy of the corporation shall suffer intimidation, harassment, discrimination or other retaliation or adverse employment consequence.
10. Any employee who commits or condones any form of retaliation will be subject to discipline up to, and including, termination. Other parties who commit or condone any form of retaliation may be subject to sanctions, up to and including severance of their relationship with Catholic Charities.

#### Training

1. The President of Catholic Charities will designate Compliance Officers within the Catholic Charities Corporate structure to provide training/education related to the contents of this policy and the False Claims Act to all employees. The Compliance Officers will ensure that records are maintained accordingly which document the receipt of training.

BOD Adoption 2/25/2009; Revised 5/2015

## 8.7 INVESTIGATION OF COMPLIANCE ISSUES

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### **Purpose:**

Catholic Charities of Chemung-Schuylar (also referred to as CCCS) implemented a Corporate Compliance Plan in an effort to establish a culture within the organization that promotes prevention, detection and resolution of misconduct. This is accomplished, in part, by establishing communication channels for employees to report problems and concerns. Employees are encouraged to report issues via the traditional chain of command, Human Resources, Compliance Hotline, or directly to the Compliance Officer. Therefore, the Compliance Officer is responsible for responding to compliance issues that are raised through the various communication channels. This policy is designed to establish a framework for managing and responding to compliance issues that are raised to the Compliance Officer.

### **Policy:**

Catholic Charities of Chemung-Schuylar will respond to reports or reasonable indications of suspected non-compliance by commencing a prompt and thorough investigation of the allegations to determine whether a violation has occurred.

The Compliance Officer is only responsible for resolving compliance-related issues; however, employees should not be discouraged from using any specific communication channel. Employees who report non-compliance related issues or concerns to the Compliance Officer or the Compliance Hotline will be politely redirected to the appropriate department or individual. In instances where the employee seeks confidentiality or reports anonymously, the Compliance Officer shall redirect the report to the appropriate department or individual. Reports related to harassment or other workplace-oriented issues will be referred to Human Resources.

### **Procedures:**

The Compliance Officer will conduct or oversee the conduction of all internal investigations involving compliance-related issues and shall have the authority to engage legal council or other consultants, as needed. The Compliance Officer will consider whether the investigation should be conducted under attorney/client privilege.

Before conducting an investigation of any compliance-related issue, the Compliance Officer shall have a full understanding of the relevant laws, regulations, and government issuances.

Upon report or notice of alleged non-compliance, the Compliance Officer will conduct an initial inquiry into the alleged situation. The purpose of the initial inquiry is to determine whether there is sufficient evidence of possible non-compliance to warrant further investigation. The initial inquiry may include documentation review, interviews, audit, or other investigative technique. The Compliance Officer should: (a) conduct a fair impartial review of all relevant

facts; (b) restrict the inquiry to those necessary to resolve the issues; and (c) conduct the inquiry with as little visibility as possible while gathering pertinent facts relating to the issue.

If, during the initial inquiry, the Compliance Officer determines that there is sufficient evidence of possible noncompliance of any criminal, civil, or administrative law to warrant further investigation, the issue should be turned over to legal counsel. The Compliance Officer will notify the Executive Director that this is the action that needs to be taken. All documents produced during the investigation by legal counsel to be possibly protected from disclosure should include the notation: "Privileged and Confidential Document; Subject to Attorney-Client Privileges; Attorney Directed Work Product."

For investigations that do not involve legal counsel, the Compliance Officer will determine what personnel possess the requisite skills to examine the particular issue(s) and will assemble a team of investigators, as needed. The Compliance Officer will also decide whether Catholic Charities of Chemung-Schuylers has sufficient internal resources to conduct the investigation or whether external resources are necessary.

The Compliance Officer shall work with the investigation team to develop a strategy for reviewing and examining the facts surrounding the possible violation. The Compliance Officer will consider the need for an audit of billing practices and determine the scope of interviews.

The Compliance Officer will audio-record and maintain all notes of the interviews and review of documents as part of the investigation file.

The Compliance Officer should ensure that the following objectives are accomplished:

- Obtain information from the complainant;
- Notify appropriate internal parties;
- Identify cause of problem, desired outcome, affected parties, applicable guidelines, possible regulatory or financial impact;
- Provide a complete list of findings and recommendations;
- Determine the necessary corrective action measures, (e.g., policy changes, operational changes, system changes, personnel changes, training/education);
- Document the investigation.

Upon receipt of the results of the investigation, depending upon the scope and severity of the identified violations, the Compliance Officer may consult with legal counsel, the Executive Director, and/or the Human Resources Sub-Committee of the Board of Directors to determine: (a) the results of the investigation and the adequacy of recommendations for corrective actions, (b) the completeness, objectivity and adequacy of recommendations for corrective actions; and/or (c) further actions to be taken as necessary and appropriate.

Upon conclusion of the investigation, the Compliance Officer will organize the information in a manner that enables Catholic Charities of Chemung-Schuylers to determine if an infraction did, in fact, occur. The Corporate Compliance Officer will track the investigation, responsible parties

and due dates in a compliance log. The log will include the resolution of the investigation as closed or fully resolved.

The Compliance Officer will be responsible for reporting the results of all investigations to the Executive Director, Human Resources Sub-Committee of the Board of Directors and the Board. To ensure confidentiality, employees will be identified by their employee identification number and each investigation will be identified by a case investigation number and year.

BOD Adoption 2/25/2009

## 8.8 EMPLOYEE | VOLUNTEER AND CONTRACTOR EXCLUSION SCREENING

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### **Purpose:**

Catholic Charities Chemung-Schuyler (also referred to as CCCS) is committed to maintaining high quality care and service as well as integrity in its financial and business operations. Therefore, CCCS will conduct appropriate screening of key providers, employee/volunteers, independent contractors, and business vendors to ensure that they have not been sanctioned by federal or state law enforcement, regulatory, or licensing Catholic Charities Chemung-Schuyler.

### **Policy:**

It is the policy of CCCS not to employ, contract with, or conduct business with an individual or entity excluded from participation in federally sponsored health care programs, such as Medicare and Medicaid.

CCCS will conduct exclusion (sanction) screening of all current and proposed employee/volunteers and independent contractors.

Catholic Charities Chemung-Schuyler will verify that entities and businesses that provide and/or perform services for CCCS have not been the subject of adverse governmental actions and/or excluded from the federal healthcare programs.

### **Procedures:**

The Compliance Officer will conduct exclusion checks to verify that all employee/volunteers and independent contractors have not been excluded from federal healthcare programs. An exclusion check is a search of the following to determine if the individual or entity's name appears on either list:

- NYS Medicaid Fraud Database. The URL address is:  
<https://www.omig.ny.gov/search-exclusions>
- HHS/OIG cumulative sanction report. The URL address is:  
<https://exclusions.oig.hhs.gov/>
- New York State Department of Education (other licensed professionals) (the URL address is:  
<http://www.op.nysed.gov/opsearches.htm>
- EPStaffCheck by Yost Engineering, Inc. to verify exclusion status for new staff and vendors, as well as regular, automatic, re-screening of current staff, vendors, physicians, and other parties. Databases searched include:
  1. OIG - Office of Inspector General - List of Excluded Individuals/Entities
  2. SDN - Office Of Foreign Assets Control - Specially Designated Nationals
  3. OIG –Most Wanted- Office Of Inspector General - Most Wanted Fugitives

4. NY - Medicaid New York Office Of Medicaid Inspector General
5. SAM - System for Awards Manager: Excluded Parties

<https://epsc.yeiseservices.com/release/index.html?UserName=RCCCNy&SessionID=SIDRCCNy1452010308.650>

An exclusion check will be performed on all applicants being considered for employment as part of the pre-employment screening process, by the Human Resources Department.

The CCCS representative responsible for the arrangements with independent contractors shall be responsible for ensuring that exclusion checks are done by the Human Resources Department prior to entering an agreement with an independent contractor.

Contracts with business vendors will contain a certification that the vendor and its employee/volunteers are not excluded by the federal government. The Department Supervisor shall assure that an exclusion check of the business entity is conducted by the Human Resources Department prior to entering a business contract with the vendor and at least annually.

The Compliance Officer will assure that exclusion checks of all employee/volunteers and independent contractors are conducted at least annually.

If the exclusion check indicates that any individual or entity has been excluded from federal healthcare programs, the individual or entity cannot be employed by or conduct business with CCCS.

In addition to exclusion screening, the credentials of medical/healthcare professionals employed by CCCS or with whom they establish a contractual business relationship will be verified with appropriate licensing and disciplining authorities, including any adverse actions taken against the individuals that might impair his or her performance of duties, or fiduciary responsibilities on behalf of the Catholic Charities Chemung-Schuyler. The process will include, but not be limited to, physicians and other health care practitioners for which the license is required for the performance of their duties. The screening and verification will be conducted as part of the hiring process or prior to entering a contractual agreement and at least annually thereafter.

The Compliance Officer shall maintain the results of all exclusion checks.

An annual audit of employment applications and business entities with which CCCS enters into a business relationship will be conducted by the Compliance Officer to verify that this policy is enforced. A report of this audit will be made to the Human Resources Sub-Committee of the Board of Directors and Board of Directors, along with any recommendations for remedial actions or improvement to the process as part of the annual compliance report.

BOD Adoption 2/25/2009

## 8.9 INTERNAL AUDITING AND MONITORING

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### **Purpose:**

Catholic Charities of Chemung-Schuylar (also referred to as CCCS) developed and implemented a Compliance Plan in an effort to establish, in part, effective internal controls that promote adherence to applicable federal and state laws and requirements. An important component of the Compliance Plan is the use of audits and/or other evaluation techniques to monitor compliance and assist in the reduction of identified problem areas.

Catholic Charities of Chemung-Schuylar recognizes the need for internal controls, but also realizes that resources are limited. Therefore, this policy focuses on the CCCS resources to effectively and efficiently audit and monitor risk areas.

### **Policy:**

CCCS will conduct ongoing auditing and monitoring of identified risk areas related to compliance including but not limited to billing, fiscal management, clinical operations, and service provision.

The senior management team (Executives, Directors, Supervisors, and Managers) will ensure that ongoing auditing and monitoring is properly conducted, documented and reported.

### **Procedures:**

The Compliance Officer will recommend and facilitate auditing and monitoring of the identified risk areas related to compliance with laws and regulations, as well as Catholic Charities of Chemung-Schuylar policies, procedures, and standards of conduct. (Risk areas may be identified through the regular course of business, external alerts, or internal reporting channels).

The audits and reviews conducted by management will examine the Catholic Charities of Chemung-Schuylar compliance with specific rules and policies through on-site visits, personnel interviews, clinical record reviews, and other means as determined, to support claims for reimbursement, and documentation reviews. Management will conduct and/or oversee compliance reviews with guidance and assistance from the Compliance Officer. Each CCCS program will conduct a review of its compliance with applicable regulations and quality standards annually.

The Compliance Officer will determine the sample size and sample criteria prior to each audit. All review tools used must be approved by the Compliance Officer.

The Compliance Officer will verify completion of compliance reviews and any corrective measures arising from them. Management and the Compliance Officer will address any



weaknesses identified by the process. The Compliance Officer will validate any corrective measures through review and signature.

Any correspondence from any regulatory agency charged with administering a federally or state-funded program received by any department of CCCS will be copied and promptly forwarded to the Compliance Officer for review and subsequent discussion by the Human Resources Sub-Committee of the Board of Directors.

Program staff will immediately notify the Compliance Officer of any visits, audits, investigations, or surveys by any regulatory agency or authority. Results (oral or written) of any visits, audits, investigations, or surveys will be forwarded to the Compliance Officer promptly upon receipt by CCCS personnel.

The Compliance Officer will be responsible to periodically, but not less than quarterly, report to the Human Resources Sub-Committee of the Board of Directors on the general status of compliance reviews, the outcome of compliance auditing and monitoring, and the corrective actions taken.

BOD Adoption 2/25/2009

## 8.10 REIMBURSEMENT PRACTICES AND BILLING ERRORS

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### **Purpose:**

Catholic Charities of Chemung-Schuylar (also referred to as CCCS) is committed to accuracy and integrity in all its billing, coding, and other reimbursement operations. To reinforce this commitment, the Compliance Officer and Finance Director are responsible for general oversight of billing, coding, and other reimbursement operations in accordance with this policy.

### **Policy:**

Catholic Charities of Chemung-Schuylar is committed to ensuring that its reimbursement practices comply with all federal and state laws, regulations, guidelines, and policies. CCCS prohibits the intentional submission for reimbursement of any claim that is false, fraudulent, or fictitious. Furthermore, CCCS is committed to ensuring against the accidental submission of any claim that is false or inaccurate.

This commitment includes a policy of ensuring accurate billing of claims for services that are actually rendered and deemed medically necessary. This policy and the following procedures were adopted to ensure that general guidance is available for all employee/volunteers.

### **Procedures:**

The Compliance Officer is responsible for ensuring that all reimbursement and billing procedures contained in this policy are integrated into the operations of the organization.

All employee/volunteers will receive compliance training that will reinforce the following policies:

- Anyone that has knowledge of a problem related to reimbursement (e.g., submission of a claim that is false or contains false information) must report that problem to management/compliance officer (employee/volunteers can report directly to management/compliance officer or use the hotline).
- Failure to report a known problem related to reimbursement will subject an employee/volunteer to disciplinary action.
- Anyone reporting a problem or concern in good faith will be protected by the non-retaliation policy.

The Compliance Officer is responsible for ensuring that employee / volunteers receive adequate general guidance and training concerning appropriate reimbursement information and practices.

The Compliance Officer will ensure that appropriate training is provided to all billing personnel.

All services rendered to individuals shall be documented in a proper and timely manner so that only accurate and properly documented services are billed.

Claims will be submitted only when appropriate documentation supports the claim and only when such documentation is maintained for audit and review. The documentation, which may include service recipients' records, shall include the identity and title or professional certification of the individual providing or ordering the service.

Each Catholic Charities of Chemung-Schuylar program will develop and maintain written procedures for the documentation of services. Procedures will include, at a minimum, the following:

- Attendance records;
- Receipt and maintenance of service plans (including but not limited to ISP, IEP, Treatment Plans, and Habilitation Plans);
- Service documentation requirements specific to the respective program;
- Definition of contemporaneous documentation;
- Attestation and review prior to submission to billing personnel; and
- The forms used for documentation and billing purposes
- Internal calendaring system.

The Compliance Officer must approve the billing and documentation procedures and/or any revisions to procedures or forms before implementation.

Each Catholic Charities of Chemung-Schuylar program will review documentation practices annually to verify that the practices conform to the written procedures. Any problems or concerns must be reported to the Compliance Officer.

Program and Finance staff shall use their best efforts to communicate effectively and accurately with each other to assure compliance and avoid the potential for billing irregularities and/or errors.

The Compliance Officer is responsible for responding, in a timely manner, to all problems, concerns, or questions related to reimbursement practices. The Compliance Officer is also responsible for ensuring that appropriate remedial actions are taken for any irregularities uncovered.

If a billing error is discovered, the billing error should be immediately reported to the Finance Director and the Compliance Officer.

The Compliance Officer is responsible for the investigation of any billing errors or irregularities. Appropriate steps will be taken to prevent recurrence.

Any overpayment received as a result of such billing error will be promptly repaid to the appropriate payer, with interest, if appropriate.

A report of irregularities, the results of investigations and the remedial actions will be recorded on the compliance log and reported to the Human Resources Sub-Committee of the Board of Directors and Board of Directors on a quarterly basis.

The Compliance Officer will work with the responsible management staff overseeing the reimbursement functions to verify that all reimbursement and billing manuals and materials are current and accurate.

The Finance Department will conduct periodic reviews of internal billing, claims processing, and reimbursement to verify that all billing activities conform to current policies and procedures of the organization. The Human Resource Director will be responsible for training the Finance Department.

The Compliance Officer will conduct a quarterly review of the reimbursement activities to evidence that all billing staff have been trained in proper billing and coding procedures and validate that management properly verified reimbursement procedures and practices. A report on the results of this review will be made annually to the Human Resources Sub-Committee of the Board of Directors.

BOD Adoption 2/25/2009

## **8.11 ROLE & RESPONSIBILITIES OF THE HR SUB-COMMITTEE OF THE BOARD OF DIRECTORS**

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### **Purpose:**

Catholic Charities of Chemung-Schuylar (Also referred to as CCCS) is committed to the operation of an effective Compliance Program. Therefore, CCCS appointed the Human Resources Sub-Committee of the Board of Directors to monitor results of the compliance functions and determine CCCS strategy for promoting compliance.

### **Policy:**

The Human Resources Sub-Committee of the Board of Directors is appointed by the President of the Board of Directors, Executive Director and Compliance Officer to advise and assist the Compliance Officer with the implementation of the Compliance Plan.

The Human Resources Sub-Committee of the Board of Directors will provide oversight of the Compliance Officer's activities and report to the Board of Directors.

### **Procedures:**

The Human Resources Sub-Committee of the Board of Directors shall be responsible for the following:

Analyze the regulatory environment where Catholic Charities of Chemung-Schuylar does business, including legal requirements in which it must comply;

Review and assess existing policies and procedures that address risk areas for possible incorporation into the Compliance Plan;

Provide oversight to all departments to ensure compliance according to legal and ethical requirements;

Provide guidance in the development of internal systems and controls to carry out compliance standards and policies and procedures;

Monitor internal and external audits to identify potential non-compliant issues;

Recommend corrective and preventative action plans and follow-up to determine Effectiveness; and

Develop a process to solicit, evaluate and respond to complaints and problems.

BOD Adoption 2/25/2009

## 8.12 BUSINESS COURTESIES FOR REFERRALS

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### **Purpose:**

Catholic Charities of Chemung-Schuylar (also referred to as CCCS) recognizes that there are legitimate and lawful reasons to accept or provide reasonable business courtesies. However, in healthcare, business courtesies pose a risk for conflict of interest or fraud and/or abuse related to anti-kickback laws and regulations. The Anti-Kickback law prohibits the offer of payment, solicitation or receipt of any form of remunerations for the referral of Medicare or Medicaid recipients.

The purpose of this policy is to assure that CCCS complies with federal Anti-Kickback laws. The policy provides guidance for providing business courtesies.

For the purpose of this policy, the following definitions apply:

- **Business Courtesies:** Business courtesies include items of value given to another free of cost. Examples include gifts, entertainment, and /or CCCS sponsored or hosted social events.
- **Immediate Family Member:** An immediate family member of a person includes:
  - Husband, wife
  - Father, mother, father-in-law, mother-in-law
  - Brother, sister
  - Son, daughter
  - Stepparent, stepchild, stepbrother or stepsister
  - First aunt, uncle or cousin
  - Other relationships established by living arrangement such as significant others.
- **Potential Referral Source:** A potential referral source includes a physician, dentist or chiropractor who could reasonably be a source of referral of patients to the Catholic Charities of Chemung-Schuylar for services or treatment.

### **Policy:**

It is the policy of Catholic Charities of Chemung-Schuylar that gifts, entertainment, and other benefits will not be provided to potential referral sources and/or to his or her immediate family, except as permitted by this policy.

These guidelines only pertain to relationships with individuals and entities outside CCCS; it does not pertain to actions between Catholic Charities of Chemung-Schuylar and its employees/volunteers or actions among CCCS employees/volunteers.

Any business courtesies involving physicians or other individuals or entities in a position to refer patients or services to CCCS must strictly follow CCCS policies and be in conformance with all federal and state laws, regulations, and rules regarding these practices.

**Procedures:**

Catholic Charities of Chemung-Schuylers employees/volunteers may not offer a potential referral source and his or her immediate family members business courtesies unless the following criteria are met:

- The business courtesy is not based, directly or indirectly, on the volume or value of referrals or other business generated by the potential referral source;
- The business courtesy does not consist of cash or the equivalent of cash;
- The business courtesy is not solicited by the potential referral source or the referral source's practice or employees;
- The business courtesy must not exceed \$322 in value or cause the total value of business courtesies extended to the potential referral source or immediate family to exceed \$322 for the calendar year;
- The business courtesy does not violate the federal Anti-Kickback statute or any state or federal law governing claims submission; and
- The business courtesy is not extended to a physician group.

All employees/volunteers must receive prior approval from the Compliance Officer before extending business courtesies to potential referral sources and/or their immediate family members. The Compliance Officer will record any business courtesy extended to a potential referral source or his/her immediate family members. The Compliance Officer will ensure that the aggregate value of business courtesies does not exceed \$322 in a calendar year.

BOD Adoption 2/25/2009

## 9 APPENDIX I: CODE OF CONDUCT - Expanded

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### POLICY

This policy is intended as a supplement to and clarification of Section VII - Code of Conduct. It is not intended to be all-inclusive nor does it alter the at-will relationship between the employee and agency.

While Catholic Charities respects the religious beliefs, values and identities others the identity of the agency is clearly Roman Catholic. As such, in certain specific instances the agency retains the right to adhere to the social and moral teachings of the Roman Catholic Church. The agency retains the right to conscientious objection when a requested service when it is contrary to the social or moral teaching of the Roman Catholic Church. Consistent with the principle of responsible conscientious objection, the intention to refuse to provide particular services or interventions shall made readily available to all staff and clients, preferably at the time of hiring or at the initiation of a service relationship.

Employees are expected to act in the best interest of the people we serve and their families, act with integrity to preserve a positive a personal professional reputation as well as the image and reputation of Catholic Charities. It is the policy of Catholic Charities that its employees adhere to the social teachings of the Catholic Church and to observe all laws and regulations applicable to its business and to conduct business with the highest degree of integrity. To accomplish this, all staff must obey those laws and regulations that govern their work in the agency's General Operating Policies, Financial Operating Policies, Program Operating Policies (aka Program Manuals), contract requirements and Numbered Directives. This includes all directives from superiors within the bounds of agency policy.

All employees have the affirmative duty to self-report or file a report of any known misconduct.

Catholic Charities will not tolerate any form of retaliation against a person who makes a good-faith report in accordance with the Code of Conduct.

Examples of proper conduct; Staff

- Staff shall agree to support and uphold the mission, values and social teaching of the organization and agree to incorporate them into their work on behalf of clients.
- Staff will assure all clients have the right to confidentiality and to privacy.
- All staff must refrain from any interpersonal relationships or sexual intimacies with past or current clients and also with the family members or friends of current clients.
- Staff has the duty to warn and protect from abuse and/or neglect all individuals served. Staff has the duty to follow agency policies governing procedures for reporting any alleged abuse and or neglect.



- Staff has the duty to warn/protect third parties from harm that may be perpetrated by a client in their care.
- Staff shall not engage in discriminatory behaviors against individuals served or refuse services to individuals on the basis of race, color, creed, religion, gender, sex, sexual orientation, gender identity and/or expression thereof, national origin, citizenship status, age, disability, political beliefs, marital status, domestic violence victim status, genetic predisposition or carrier status, arrest record, military status or any other legally protected status or category, in accordance with applicable federal, state and local laws governing nondiscrimination in employment.
- Staff shall not engage in harassing behaviors against individuals served on any of the bases listed above.
- Staff must maintain an environment free from physical, psychological, verbal or written intimidation or harassment.
- Staff shall not discuss with clients anything regarding conflicts between themselves and colleagues.
- Staff must respect and appreciate the differences in the cultures of the persons served
- Staff will not use the Agency's funds or assets for any improper purpose
- The duty to conduct themselves as a team member working collaboratively and cooperatively.
- Staff shall agree to participate in staff training and continual professional development opportunities provided by the
- Staff has the duty not to participate in or association with any dishonesty or fraud within the agency.
- Staff shall make clear distinctions between their own personal statements, beliefs or actions and those of the agency when there is a discrepancy.
- Staff shall refrain from damaging, defacing, or stealing agency or client's property.
- Staff shall refrain from possessing or accessing pornographic materials during work hours.
- Staff shall work without influence of alcohol and/or illegal drugs; refrain from using, selling, dispensing or possessing alcohol and/or illegal drugs on agency property.
- Staff shall stay awake during all work hours unless otherwise specified by a supervisor.
- Staff shall refrain from possessing firearms or weapons while on the agency premises or while performing work related duties.
- Staff shall obtain the supervisor's permission if there is a need to leave the work area during work hours.
- Staff shall obtain authorization for visits by family members/friends while at work.

## **PROCEDURE**

Any known act of miss-conduct must be reported immediately to his/her supervisor, Executive Director or the Employee Specialist.

All staff must cooperate fully and honestly in any investigation into a reported violation of this Code of Conduct

BOD Adoption/Revised 5/13/2015

## 10 APPENDIX A: OVERVIEW OF RELEVANT LAWS: Whistleblower and False Claims Act

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### The False Claims Act (31 U.S.C. §§ 3729-3733)

The False Claims Act is a federal law designed to prevent and detect fraud, waste, and abuse in federal healthcare programs, including Medicaid and Medicare. Under the False Claims Act, anyone who “knowingly” submits false claims to the Government is liable for damages up to three times the amount of the erroneous payment plus mandatory penalties of \$5,000 to \$10,000 for each false claim submitted.

The law was revised in 1986 to expand the definition of “knowingly” to include a person who:

- Has actual knowledge of falsity of information in the claim;
- Acts in deliberate ignorance of the truth or falsity of the information in the claim; and
- Acts in reckless disregard of the truth or falsity of the information in a claim.

False Claims suits can be brought against individuals and entities. The False Claims Act does not require proof of a specific intent to defraud the Government. Providers can be prosecuted for a wide variety of conduct that leads to the submission of a false claim.

Some examples include:

- Knowingly making false statements;
- Falsifying records;
- Submitting claims for services never performed or items never furnished;
- Double-billing for items or services;
- Using false records or statements to avoid paying the Government;
- Falsifying time records used to bill Medicaid; or
- Otherwise causing a false claim to be submitted.

### Whistleblower or “Qui Tam” Provisions

In order to encourage individuals to come forward and report misconduct involving false claims, the False Claims Act contains a “Qui Tam” or whistleblower provision. The Government, or an individual citizen acting on behalf of the Government, can bring actions under the False Claims Act. An individual citizen, referred to as a whistleblower or “Relator,” who has actual knowledge of allegedly false claims may file a lawsuit on behalf of the U.S. Government. If the lawsuit is successful, and provided certain legal requirements are met, the whistleblower may receive an award ranging from 15% - 30% of the amount recovered.

### Employee Protections

The False Claims Act prohibits discrimination by CFC against any employee for taking lawful actions under the False Claims Act. Any employee who is discharged, demoted, harassed, or otherwise discriminated against because of lawful acts by the employee in False Claims actions is entitled to all relief necessary to make the employee whole. Such relief may include reinstatement, double back pay, and compensation for any special damages, including

litigation costs and reasonable attorney fees.

Administrative Remedies for False Claims (31 USC Chapter 38. §§3801-3812)

This federal statute allows for administrative recoveries by federal agencies including the Department of Health and Human Services, which operates the Medicare and Medicaid Programs. The law prohibits the submission of a claim or written statement that the person knows or has reason to know is false, contains false information, or omits material information. The agency receiving the claim may impose a monetary penalty of up to \$5,500 per claim and damages of twice the amount of the original claim.

Unlike the False Claims Act, a violation of this law occurs when a false claim is submitted, not when it is paid. Also unlike the False Claims Act, the determination of whether a claim is false, and imposition of fines and penalties is made by the administrative agency, and not by prosecution in the federal court system.

## **New York State Laws**

### **A. Civil and Administrative Laws**

#### **New York State False Claims Act (State Finance Law §§187-194)**

The New York State False Claims Act closely tracks the federal False Claims Act. It imposes fines on individuals and entities that file false or fraudulent claims for payment from any state or local government, including health care programs such as Medicaid. The penalty for filing a false claim is \$6,000 - \$12,000 per claim and the recoverable damages are between two and three times the value of the amount falsely received. In addition, the false claim filer may be responsible for the government's legal fees.

The Government, or an individual citizen acting on behalf of the Government (a "Relator"), can bring actions under the New York State False Claims Act. If the suit eventually concludes with payments back to the government, the party who initiated the case can recover 15% - 30% of the proceeds, depending upon whether the government participated in the suit. The New York State False Claims Act prohibits discrimination against an employee for taking lawful actions in furtherance of an action under the Act. Any employee who is discharged, demoted, harassed, or otherwise discriminated against because of lawful acts by the employee in furtherance of an action under the False Claims Act is entitled to all relief necessary to make the employee whole.

#### **NY Nonprofit Revitalization Act Chapter 549 § 715-b. Whistleblower Policy**

The NY Nonprofit Revitalization Act requires that agencies, with more than 20 employees and annual revenue of more than \$1 million in the prior fiscal year, have a whistleblower policy to protect from retaliation persons who report suspected improper conduct. The policy must provide that no director, officer, employee or volunteer of a corporation who in good faith reports any action or suspected action taken by or within the corporation that is illegal, fraudulent or in violation of any adopted policy of the corporation shall suffer intimidation, harassment, discrimination or other retaliation or, in the case of employees, adverse

employment consequence.

### **Social Service Law §145-b False Statements**

It is a violation to knowingly obtain or attempt to obtain payment for items or services furnished under any Social Services program, including Medicaid, by use of a false statement , deliberate concealment, or other fraudulent scheme or device. The State or the local Social Services district may recover up to three times the amount of the incorrectly paid claim. In the case of non-monetary false statements, the local Social Service district or State may recover three times the amount incorrectly paid. In addition, the Department of Health may impose a civil penalty of up to \$2,000 per violation. If repeat violations occur within five years, a penalty up to \$7,500 may be imposed if they involve more serious violations of the Medicaid rules, billing for services not rendered, or providing excessive services.

### **Social Service Law §145-c Sanctions**

If any person applies for or receives public assistance, including Medicaid, by intentionally making a false or misleading statement, or intending to do so, the person's and the person's family needs are not taken into account for a period of six months to five years, depending upon the number of offenses.

## **B. Criminal Laws**

### **Social Service Law §145 Penalties**

Any person who submits false statements or deliberately conceals material information in order to receive public assistance, including Medicaid, is guilty of a misdemeanor.

### **Social Service Law § 366-b, Penalties for Fraudulent Practices**

Any person who, with intent to defraud, presents for payment any false or fraudulent claim for furnishing services or merchandise, knowingly submits false information for the purpose of obtaining Medicaid compensation greater than that to which he/she is legally entitled to, or knowingly submits false information in order to obtain authorization to provide items or services shall be guilty of a Class A misdemeanor.

Any person who obtains or attempts to obtain, for himself or others, medical assistance by means of a false statement, concealment of material facts, impersonation, or other fraudulent means is guilty of a Class A misdemeanor.

### **Penal Law Article 155, Larceny**

The crime of larceny applies to a person who, with intent to deprive another of property, obtains, takes or withholds the property by means of a trick, embezzlement, false pretense, false promise, including a scheme to defraud, or other similar behavior. This law has been applied to Medicaid fraud cases.

**Penal Law Article 175, Written False Statements**

There are four crimes in this Article that relate to filing false information or claims. Actions include falsifying business records, entering false information, omitting material information, altering an agency's business records, or providing a written instrument (including a claim for payment) knowing that it contains false information. Depending upon the action and the intent, a person may be guilty of a Class A misdemeanor or a Class E felony.

**Penal Law Article 176, Insurance Fraud**

This Article applies to claims for insurance payment, including Medicaid or other health insurance. The six crimes in this Article involve intentionally filing a false insurance claim. Under this article, a person may be guilty of a felony for false claims in excess of \$1,000.

**Penal Law Article 177, Health Care Fraud**

This Article establishes the crime of Health Care Fraud. A person commits such a crime when, with the intent to defraud Medicaid (or other health plans, including non-governmental plans), he/she knowingly provides false information or omits material information for the purpose of requesting payment for a health care item or service and, as a result of the false information or omission, receives such a payment in an amount to which he/she is not entitled. Health Care Fraud is punished with fines and jail time based on the amount of payment inappropriately received due to the commission of the crime.

**New York Labor Law §740**

An employer may not take any retaliatory personnel action against an employee if the employee discloses information about the employer's policies, practices or activities to a regulatory, law enforcement or other similar agency or public official.

This law offers protection to an employee who:

- discloses, or threatens to disclose, to a supervisor or to a public body an activity, policy, or practice of the employer that is in violation of law, rule, or regulation that presents a substantial and specific danger to the public health or safety, or which constitutes health care fraud (knowingly filing, with intent to defraud, a claim for payment that intentionally has false information or omissions);
- provides information to, or testifies before, any public body conducting an investigation, hearing, or inquiry into any such violation of a law, rule, or regulation by the employer; or objects to, or refuses to participate in any such activity, policy or practice in violation of a law, rule, or regulation.

The employee's disclosure is protected under this law only if the employee first brought up the matter with a supervisor and gave the employer a reasonable opportunity to correct the alleged violation. The law allows employees who are the subject of a retaliatory action to bring a suit in state court for reinstatement to the same, or an equivalent position, any lost back wages and benefits and attorneys' fees. If the employer is a health care provider and the court finds that the employer's retaliatory action was in bad faith, it may impose a civil penalty of \$10,000 on the employer.

**New York Labor Law §741**

Under this law, a health care employer may not take any retaliatory action against an employee if 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. Protected disclosures are those that assert that, in good faith, the employee believes constitute improper quality of patient care.

The employee's disclosure is protected under this law only if the employee first brought up the matter with a supervisor and gave the employer a reasonable opportunity to correct the alleged violation, unless the danger is imminent to the public or patient and the employee believes in good faith that reporting to a supervisor would not result in corrective action. If the employer takes a retaliatory action against the employee, the employee may sue in state court for reinstatement to the same, or an equivalent position, any lost back wages and benefits and attorneys' fees. If the employer is a health care provider and the court finds that the employer's retaliatory action was in bad faith, it may impose a civil penalty of \$10,000 on the employer.

BOD Adoption 5/2015

## 11 APPENDIX B: CCCS Procedures for Handling Serious Allegations of Abuse, Neglect, Theft or Fraud

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In the event of an allegation of abuse, neglect, theft or fraud involving any CCCS employee, the employee in question will be placed upon immediate suspension.

Upon notification of the allegation, a member or members of the Quality Management (QM) Dept. will begin a preliminary investigation and every attempt will be made to complete the preliminary investigation and conduct all necessary interviews (including the suspended employee) within 72 hours of allegation report filing.

All employees are expected to make himself / herself available during the investigation and provide full cooperation to the QM staff. Employees (including the suspended employee) will be paid for his/her participation in any part of the investigation (interview, written accounting, etc.).

Upon completion of the preliminary investigation, the initial findings of the QM team will be shared within 24 hours (48 hours during weekend) with the QM Department Director and the employee's Department Director, or in his/her absence, leadership staff including but not limited to the designated Program Supervisor and the Deputy Executive Director. If the findings involve possible disciplinary actions to follow, the Human Resources Director will also be notified.

Review of the preliminary findings will result in an intermediate decision by the above leadership personnel regarding the status of the suspended employee.

If leadership staff believes the allegation is "unsubstantiated", the suspended employee will be directed to return to work and paid in full for the lost time of any scheduled shifts.

If leadership staff believes the allegation is "unable to be deemed unsubstantiated", a decision may be made to allow the suspended employee to return to work but not necessarily to the same work site or job duties. The suspended employee will be directed to return to work and paid in full for the lost time of any scheduled shifts.

If leadership staff believes the allegation is "substantiated", the suspended employee will remain on suspension without pay until a final decision is made by the Incident Review Committee (IRC).

The members of the Incident Review Committee (IRC) will review all documentation related to the incident and their decision will be considered the Agency's final determination on the matter.

### Incident Review of an Active Employee:

If IRC concurs with the leadership team's preliminary decision, the employee will continue to work and if he/she has been placed in a different work setting than as originally hired IRC may make recommendations as to whether the employee should stay in that setting, participate in re-training or return to his/her usual work. If IRC chooses to reverse a decision made by leadership staff regarding the

return to work of a once suspended employee involved in a serious allegation, the employee will immediately be placed on suspension again and unable to resume work until an “unsubstantiated” or “unable to deem unsubstantiated” decision is determined by IRC.

Incident Review of a Suspended Employee:

If IRC concurs that the allegation involving the suspended employee to be “substantiated” the employee will be immediately separated from employment for misconduct, will not be entitled to any lost time nor paid out any unused accruals as per the Employee Handbook. If IRC deems the incident “unsubstantiated” or “unable to be unsubstantiated” the suspended employee will be allowed to resume employment but decisions as to where the employee will return to work and in what capacity will be determined on a case by case basis.

***Special Note: Employees working in the DD Services Dept. who are identified in a serious allegation of abuse, neglect, theft or fraud and then placed on suspension will also receive a letter from the QM Director which will relay the potential involvement of the Justice Center in their own investigatory process of the incident. In these instances, the Justice Center decisions will be final and supersede any Agency decision previously made.***

August 2014