

COMPLIANCE PROGRAM PLAN

Introduction

We are committed to providing quality healthcare care services in a lawful and ethical manner. To reinforce the commitment and ensure compliance with federal, state laws and regulations, we have implemented a Compliance Program (“Program”). The Program sets forth the expectations regarding ethical conduct and ensures compliance with applicable laws and regulations pertaining to the delivery of, and billing for, services on account of our participation in Medicare, Medicaid and other federal, state or local government funded programs. The Program, along with the Code of Conduct, serve to establish an awareness and culture of compliance that promotes the prevention, detection and resolution of instances of conduct that do not conform to federal and state law, and federal, state and private payor health program requirements. The Program establishes effective systems and processes to identify risks, overpayments and other issues, and ensures that there are effective policies and procedures for correcting and reporting such issues. Employees, vendors, and independent contractors of the facility (collectively “Workforce member(s)”) are expected to meet the highest standards of ethical and legal conduct. In New York, “Affected Individuals” are to be considered part of the Workforce members.¹

Compliance Program Elements

The following elements create the basis for an effective Program and are consistent with federal and/or state laws and regulations:

- I. Oversight of the Compliance Program:** The Corporate Compliance Officer (“CCO”) Officer shall oversee the compliance program. The Facility Administrator shall be designated as the (local) Compliance Officer (“CO”) at each facility. The CO will oversee the day-to-day functioning of the Compliance Program at the respective facility.
- II. Written Standards:** “The Code of Conduct” along with policies and procedures serve to guide Workforce members on how to legally and ethically perform job responsibilities.
- III. Open Communication without Intimidation or Retaliation:** Workforce members have an obligation to report actual or suspected compliance concerns without fear of retaliation, retribution or harassment. Any concerns are to be reported to the employee’s Supervisor or Administrator/CO or CCO; confidentially by calling the Compliance Hotline (888.345.0079); sending an e-mail (compliance@nathealthcare.com); or making an anonymous report on the facility website.
- IV. Training and Education:** The training and education of Workforce members is integral to

¹ “Affected Individuals” are defined by 18 NYCRR Subpart 521-1.2 as “all persons who are affected by the required provider’s risk areas including the required provider’s employees, the chief executive and other senior administrators, managers, contractors, governing body and corporate officers.”

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the Program. Compliance training is necessary to maintain and emphasize our commitment to a culture of compliance, as well as to deter Workforce members from wrongdoing.

- V. Auditing and Monitoring:** Auditing and monitoring is the way that we review, monitor and identify any issues, problems or practices which may identify actual or potential compliance risks.
- VI. Prompt Response and Correction:** Workforce members shall promptly respond to and investigate any activities or practices which raise compliance concerns. The CCO and/or CO or designees shall institute a correction plan for any actual violation and timely report the results of the investigation to the appropriate body, including the governing body and government agencies, as necessary. Workforce members shall fully cooperate with federal and state authorities in any investigation.
- VII. Enforcement and Discipline:** Compliance with the Program, including the obligation to report suspected or actual violations of the Program, is a condition of employment and/or relationship with the facility. Violation of the Program will result in disciplinary action and/or sanctions. Sanctions may include oral or written warnings, suspension, and/or termination and must conform with collective bargaining agreements as applicable. Any intentional or reckless behavior shall be subject to more significant sanctions. Violators may also be subject to criminal and/or civil monetary penalties. Everyone including all levels of personnel shall be subject to the same options for disciplinary action. Disciplinary action shall be enforced fairly and equally..
- VIII. Government Cooperation:** Workforce members shall fully cooperate with federal and state authorities in any investigation.
- IX. HIPAA Privacy and Security:** Workforce members shall abide by the federal, state and local laws governing the protection of resident protected health information (PHI), including the Health Insurance Portability and Accountability Act of 1996 and its implementing regulations (45 Code of Federal Regulations [“CFR”] Parts 160 – 164), any applicable state privacy or security laws, any applicable implementing regulations issued by the Insurance Commissioner or other regulatory authority, and the requirements of the Health Information Technology for Economic and Clinical Health Act (the “HITECH Act”).

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I. Oversight of the Compliance Program

- a) The Governing Body of National Health Care Associates, Inc. (“NHCA”) has appointed the CCO as the chief officer overseeing and supporting compliance activities across the facilities that NHCA services. The Facility Administrator of each facility shall serve as the facility or local compliance officer (“CO”) responsible for the local day-to-day operation and implementation of the compliance program. The CCO and CO will periodically, but at least annually, report on the activities of the compliance program that demonstrates the program’s effectiveness. Together, the CCO and CO ensure that compliance responsibilities are satisfactorily carried out.
- b) Certain designated NHCA directors and officers will assist the CCO in developing strategies and policies that promote compliance, including those directed toward the prevention and detection of non-compliance. They will provide guidance for the compliance program to ensure its overall effectiveness.

II. Written Standards

We have adopted Policies and Procedures, including, the Code of Conduct, to ensure compliance with applicable laws and regulations. Both the Code and Policies are available through the NHCA’s Central Policies and Procedures Repository, as well as contained within each facility. Workforce members are required to maintain familiarity and understanding with these Policies and Procedures and review them regularly. Anyone with questions concerning such written standards are advised to contact a supervisor, Administrator/CO or the CCO.

Code of Conduct (“the Code”): the set of principles that Workforce members are expected to follow to perform their responsibilities ethically and legally. These principles are:

a) Compliance with Code and Laws

As a condition of employment or affiliation, Workforce members are required to comply with the Code, applicable laws and report any possible or actual non-compliance. Workforce members are expected to do the right thing and perform their jobs ethically and honestly.

b) Providing Quality Care

Employees are expected to be dedicated to the principals of kindness, compassion, service and excellence and are to provide residents and their families with superior care. The Quality Assurance and Performance Improvement (QAPI) Program reviews the services delivered to residents with the focus on improving the quality of clinical services

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being rendered, identifies specific problem areas, initiates improvement plans, assigns accountability and engages in follow-up monitoring.

c) Protection of Resident Rights

Workforce members shall protect and safeguard the rights of every resident. The Policies detail residents' rights, the manner in which Workforce members enforce them and requirements for the mandatory reporting of abuse. All Workforce members are responsible for reporting any known or suspected incident of mistreatment, neglect or abuse to their supervisor or the Administrator/CO in accordance with applicable policy and as required by law.

Workforce members are further directed to advise families and residents that they may also call the toll free **Resident Hotline number (800.672.1170)** to relay any concerns. These calls are promptly investigated and appropriate corrective action initiated.

d) Regular Compliance Training

Compliance training is required for all Workforce members. Compliance with the Code and applicable laws and regulations is a fundamental term of continued employment or other relationship with the facility.

Upon hire, new employees are provided with compliance training as part of the orientation process or within 30 days and training is also provided at least annually. The extensive training educates new employees on topics such as the Code of Conduct, compliance standards, and appropriate federal and state regulations. An acknowledgement that the training was completed will be signed, which will also indicate that the person signing agrees to abide by the Code of Conduct. A quiz and/or survey may be completed as well in some circumstances.

e) Proper Submission of Claims

We are committed to the proper and accurate submission of claims that are reasonable, necessary and consistent with federal and state laws. We do not tolerate the provision of medically unnecessary or worthless medical services; improper billing practices; submission of false claims, certifications or statements; and/or upcoding.. Workforce members shall assure that all services for which bills are issued reflect the provision of medically necessary care. Workforce members who suspect non-compliance relating to false claims must report their concerns to their supervisor, an Administrator/CO, the CCO, or to the Compliance Hotline.

Workforce members shall be made aware of the False Claims Act and the consequences of its violation (including civil fines, exclusion and/or criminal penalties). Thus, anyone who knowingly submits a false claim, or provides information that may

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contribute to the submission of a false claim, such as falsified, inaccurate or untimely documentation, is subject to disciplinary action, up to and including dismissal. Workforce members not directly involved in billing must maintain accurate and timely documentation of the services they provide to ensure accuracy of claims submitted.

f) Professional Standards

Workforce members are expected to observe high ethical standards and comply with applicable laws and regulations. To ensure the honesty and reliability of staff, only qualified individuals with the appropriate credentials, certifications, licenses and training to meet the needs of our residents may provide resident care.

g) Credentialing

Prospective employees undergo a pre-employment screening history to determine if they are suited for working in a facility. Prior to employment, employees' qualifications must be verified to ensure all required licenses, training and certifications are valid, current and active without suspension or other limitations. Workforce members must maintain such qualifications throughout their employment/engagement with the facility. Additionally, prior to hire/engagement and regularly thereafter, Workforce members are screened to determine if they are excluded or disqualified from participating in Federal or State funded healthcare programs.

h) Business Practices: Interactions with Vendors and Contractors

Vendors, agents or contractors that provide resident care services or other services on behalf of the facility are subject to our Program requirements including:

- **Complying with our Code of Conduct;**
- **Maintaining applicable licenses and certifications;**
- **Following our credentialing requirements; and**
- **Being free from exclusion from participating in Federal or State funded programs.**

i) Business Practices: Improper Inducements and Kickbacks:

Referrals to the facility are based upon clinical needs and the facility's ability to provide the services required for the resident seeking care. Moreover, we will only pay for services contracted for and provided, and supplies or goods contracted for and received.

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We will not pay (or offer to pay) for referrals of patients, and will not solicit or accept any such payment from others, including our vendors and/or contractors.

Contracts and arrangements must comply with ethical business practices and applicable laws such as the Anti-Kickback Statute. The Anti-Kickback Statute is a federal criminal statute that prohibits the giving, accepting, soliciting or arranging items of value in return for the purpose of inducing or rewarding another party for referrals of services paid for by the government. Examples of improper kickbacks include excessive discounts, the provision of free or discounted supplies and equipment, cash, goods, gifts, waivers, or the granting of professional courtesy discounts. Violation of these laws can result in incarceration and large fines to individuals, facilities and NHCA.

j) Business Practices: Conflicts of Interest

Workforce members shall not engage in any activity that conflicts with the interest of the facility. A conflict of interest exists any time someone's loyalty to the facility is, or appears to be, compromised by personal interest, including the ability to provide quality care impartially to residents without favoritism. Some examples include:

- Accepting personal gifts or money from residents or a resident family; and/or
- Financial involvement with competitors, vendors, family members or others that would cause someone to put their financial interests ahead of the facility.

k) Non-Discrimination

We do not discriminate on the basis of race, color, national origin, disability, past/present history of mental disorder, creed, marital status, sex or age in admission or access to treatment or employment in programs and activities.

III. Open Lines of Communication and Reporting without Intimidation or Retaliation:

Workforce members have an obligation to report actual or suspected compliance concerns without fear of intimidation, retaliation, retribution or harassment.

a) Open lines of communication

- i) We encourage open communication for reporting and/or discussing compliance concerns, either confidentially or anonymously and mandate that any actual or suspected compliance concern is immediately reported.

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- ii) Managers are to maintain a positive work environment that encourages good faith free expression of employees' questions or concerns related to compliance issues, policies, the Code or other relative requirements.

b) Reporting compliance concerns

Workforce members who have information regarding a suspected or actual compliance concern is obligated to report the concern to a supervisor, the Administrator/CO or CCO. Information regarding the different methods for communicating compliance concerns is disseminated at orientation, ongoing training and other methods such as posters.

Workforce members can call the Compliance Hotline (888.345.0079) at any time and if they choose, can do so confidentially. Workforce members may also report a compliance concern by sending an email (compliance@nathealthcare.com); or anonymously, by navigating the facility website.

c) No Intimidation or Retaliation

Any form of intimidation, retaliation, retribution, or harassment against anyone who in good faith reports a compliance incident or concern will not be tolerated. Any Workforce member who reports, in good faith, suspected or actual non-compliance internally or to appropriate external officials will not be subject to discipline or otherwise disadvantaged with respect to the employment or contractual relationship.

Intimidation refers to any form of bullying, coercion or threatening behavior.

Retaliation refers to the discharge, threat, suspension, demotion, denial of promotion, discrimination, or other adverse employment action following good faith participation in the Program.

Good faith refers to an honest desire or intent to comply with the Program.

IV. Training and Education:

The training of Workforce members is integral to the Program. Ongoing compliance training is necessary to maintain a culture of compliance as well as deter Workforce members from wrongdoing while emphasizing our commitment to compliance with applicable laws.

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a) Training

All new hires will receive compliance training upon hire integrated into the orientation process for their work area or within 30 days. Training is also provided at least annually.

All vendors, independent contractors, and those who conduct business for, or on behalf of the facility shall have access to a copy of the Code and shall comply with the Code and policies and procedures.

Affected individuals will also be trained to the extent required by New York law and/or regulation.

An acknowledgement that the training was completed will be signed, which will also indicate that the person signing agrees to abide by the Code of Conduct. A quiz and/or survey may be completed as well in some circumstances.

b) Management

The CCO, COs /Administrators, and Supervisors are responsible for providing guidance relating to compliance, the Code, applicable laws and regulations, as well as:

- **Ensuring employees receive compliance training;**
- **Maintaining a positive work environment;**
- **Providing targeted training as required;**
- **Preventing, detecting and reporting non-compliance; and**
- **Enforcing disciplinary standards.**

V. Auditing and Monitoring:

Auditing and monitoring make it possible to identify system issues or problems that need corrective actions and also assess ongoing and past performance related to the overall effectiveness of the Program.

a) Self-assessment and identification of risk

The CCO, (local) CO and designated directors and officers identify internal areas of risk through analysis of areas such as clinical outcomes, benchmarks, quality indicators, satisfaction surveys, complaints, CMS or state survey reports, reports of possible non-compliance and other ongoing monitoring and self-auditing. Additionally, areas audited

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may include those potential risk areas identified by federal and state governments, including, but not limited to federal and state laws pertaining to provider compliance programs, CMS publications; OIG and state specific work plans, and other relevant guidance materials.

b) **Monitoring**

The CCO and COs, with the assistance of designated officers and directors or other individuals, is responsible for tracking internal concerns, risk areas and potential risks from external sources. The need for monitoring or auditing is based on the identification of compliance concerns or risk areas. The type of action that may be taken by the CCO, CO or designee in response to identification of concerns or risk areas such as ongoing monitoring and frequency of audits is determined by the scope of the concern, potential for non-compliance and previous outcomes, if any.

VI. **Prompt Response and Correction:**

The facility shall promptly respond to any activity which is reported or claimed to violate the Program; create and implement a plan of correction and report the results of the investigation to the appropriate body, including the governing body and government agencies, as required.

a) **Prompt Response and Correction:**

The facility shall conduct prompt investigations of any activities which are reported to violate the Program, correct any actual violation and timely report the results of the investigation to the appropriate body, including the governing body and government agencies, as necessary. Workforce members shall fully cooperate with federal and state authorities in any investigation.

b) **Identification of Risk and Non-Compliance**

Through the process of auditing and monitoring, reporting of compliance concerns, analyses of OIG Work Plans, where applicable state Work Plans, and enterprise risk assessments, the CO or designee shall identify potential risk areas to Workforce members.

c) **Reports**

The CO or designee is responsible for promptly reviewing and documenting reports of possible non-compliance. Upon conclusion of an investigation and where a compliance concern is found, suitable corrective action, disciplinary action, as necessary, and/or performance improvement activities, including the implementation of system or procedural changes, shall follow. The CO will implement additional monitoring, as

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required, to ensure resolution of the compliance issue.

d) **Mandatory and Self Reporting**

Workforce members are expected to comply with regulatory requirements regarding the mandatory reporting of abuse, neglect or mistreatment or other incidents as required by applicable law. In the event that a violation is found, the Compliance Officer may self-report the violations to the appropriate regulatory agency, as advised.

Where an overpayment from Medicare, Medicaid, or any other federal or government funded healthcare program (whether or not arising from a violation of law) is identified, it will be reported and returned to the appropriate governmental agency, carrier or contractor within sixty (60) days of the date on which the overpayment is identified. Workforce members acknowledge that retaining an overpayment for more than sixty (60) days after identification is considered a false claim, subject to civil monetary penalties.

e) **Government Cooperation**

The CO/Administrator (or if unavailable, the Director of Nursing) shall be notified of the arrival of any agent or representative of a state or federal authority, who shall be asked to present identification or credentials and any search warrant. Such persons shall be asked to await arrival of the administration representative contacted, but no interference with the agent or representative shall occur. Workforce members shall not destroy or hide any documents or records, give any false or misleading statements, or encourage anyone else to do so, but may decline to answer questions until they have consulted with the CO or regional representative. Any such investigation shall be considered confidential, and Workforce members shall not discuss the nature of any investigation except as directed by the CO. The CO shall be notified regarding all non-routine communications from federal or state regulatory authorities.

VII. **Enforcement and Discipline:**

Strict compliance with the Program, including the obligation to report suspected or actual violations of the Program, is a condition of employment or contractual relationship. Violation of this Program will result in disciplinary action up to and including termination of employment or contract.

a) **Enforcement Standards**

Workforce members are responsible for keeping in compliance with the Code, applicable laws, regulations and policies governing resident care, resident rights, billing, false claims, business practices and related operations.

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b) Disciplinary Actions

Failure to abide by this Program, including the failure to report suspected non-compliance or participating in directing, encouraging, or permitting non-compliant activity can result in disciplinary action up to and including termination of employment or contract. These standards will be consistently enforced regardless of someone's title or function.

VIII. Government Cooperation:

Workforce members shall fully cooperate with federal and state authorities in any investigation.

IX. HIPAA Privacy and Security

Protected Health Information ("PHI")

PHI is any information that can be used to identify a Resident. Workforce members must safeguard the confidentiality and privacy of resident records and avoid any unwarranted invasion of a residents' right to privacy. No Workforce member can use for personal benefit or the benefit of others any confidential resident information at any time. Workforce members are required to follow reasonable safeguards to protect PHI, which includes medical and financial records

Electronic Protected Health Information (e-PHI) in computers is confidential and must be protected from loss, damage or unauthorized access. Those employees granted access to computer systems are responsible for protecting e-PHI.