The Arc of Dutchess
Corporate Compliance Plan

July 2002

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POLICY STATEMENT

Corporate Compliance

Section: Number:

Effective: 6-20-02

Mandate: Governance

It is the policy of The Arc of Dutchess to comply with all applicable federal, state and local laws and regulations. We adhere to the standards of conduct that are adopted by the Board of Directors, the Executive Director and the Compliance Committee. We are committed to our responsibility to conduct our business affairs with integrity based on sound ethical and moral standards. We will hold our employees, contracted practitioners, vendors and others associated with the Agency to these same standards.

All employees, contracted practitioners and vendors and others associated with the agency shall acknowledge that it is their responsibility to report any instances of suspected or known non-compliance to their Program Director, the Executive Director, or the Compliance Director. Reports may be made anonymously without fear of retaliation, intimidation or unnecessary breach of confidentiality. Failure to report any suspected or non-compliance, or making false reports, will be grounds for disciplinary action, including termination.

The Agency will communicate its compliance standards and policies through mandated training initiatives to all employees, all Board Members, and contracted practitioners within 30 days of affiliation with The Arc of Dutchess. Vendors receive notification of the Corporate Compliance Plan and the expectation of compliance with all local, state and federal laws, rules and regulations, bi annually. This notification includes the expectation to review the Corporate Compliance plan located on The Arc of Dutchess website.

The Agency 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, contractors and agents. We 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 federal health care program requirements. This Compliance Policy will be consistently enforced through appropriate disciplinary mechanisms including, if appropriate, discipline of individuals responsible for failure to detect or report noncompliance. Detected noncompliance, through any mechanism (i.e. compliance monitoring systems, confidential reporting) will be responded to in an expedient and appropriate 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 Program.

The Agency retains the right to investigate the background and professional license investigations for all prospective employees, contractors, vendors, volunteers, interns and members of the Board of Directors.

Approval Date: 6/20/02
June Board Meeting
Revised Date: 12/22/2017
Revised Date:

The Role of the Compliance Director

The Executive Director with the approval of the Board of Directors has appointed a Compliance Director. The Compliance Director reports directly to the Executive Director and has direct access to the Board of Directors. Board of Director approval must be obtained prior to termination or elimination of the Compliance Director position. The Compliance Director will report quarterly, or more frequently if warranted, to the Board of Directors on compliance activities.

The Compliance Director is obligated to serve the best interest of the agency, the people it supports and employees. Responsibilities of the Compliance Director include, but are not limited to:

1. Developing and implementing policies and procedures, with support from the Compliance Committee.
2. Overseeing and monitoring the implementation of the compliance plan.

3. Directing agency internal audits established to monitor effectiveness of compliance standards.

4. Providing guidance to management, medical/clinical personnel and individual departments regarding policies and procedures and governmental laws, rules and regulations.

5. Updating, periodically, the compliance plan as changes occur within the Agency , and in the laws and regulations of governmental and third party payers.

6. Overseeing efforts to communicate the compliance plan.

7. Coordinating, developing and participating in the educational training of all existing and incoming employees, contracted practitioners, vendors and others associated with the Agency.
8. Providing independent contractors (consumer care, vendors, billing services, etc.) with an annual copy of the agency's compliance plan.

9. Actively seeking up-to-date material and releases regarding regulatory compliance.

10. Maintaining the anonymous reporting system (hotline) and responding to concerns, complaints reports and questions related to the compliance plan.

11. Maintaining a log of all complaints and reports pertaining to compliance.

12. Acting as a resource leader regarding regulatory compliance issues.

13. Investigating and acting on issues related to compliance.

14. Coordinating internal and external audits and investigations and implementing corrective action.

The Structure, Duties and Role of the Compliance Committee

The Compliance Committee is appointed by the Executive Director and approved by the Board of Directors to advise and assist the Compliance Director with the implementation of the compliance plan. The Compliance Committee shall consist of the following positions: the Executive Director, representation from the Board of Directors, the Associate Executive Director, the Chief Financial Officer, Controller, the Director of Human Resources, the Director of Quality Outcomes, and the Compliance Director.

The roles of the Compliance Committee include:

1. Analyzing the environment where the Agency does business, including legal requirements in which it must comply.

2. Review and assessment of existing policies and procedures that address risk areas for possible incorporation into the compliance plan.

3. Working with departments to develop standards, policies and procedures that address specific risk areas and encouraging compliance according to legal and ethical requirements.

4. Advising and monitoring all departments.

5. Development of internal systems and controls to carry out Compliance Standards and Policies and Procedures.

6. Monitoring internal and external audits to identify potential non-compliant issues.

7. Implementing corrective and preventative action plans.

8. Developing a process to solicit, evaluate and respond to complaints and problems.

Education and Training

Education and training are critical elements of the Compliance Plan. Each employee is expected to be familiar with, and knowledgeable about, The Arc of Dutchess Corporate Compliance Plan and have a solid working knowledge of his or her responsibilities under the plan. Compliance policies and standards are communicated to all employees through mandated participation in training programs.

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

- State, Federal, Local and private payer reimbursement principles.
- State, Federal and Local governing initiatives (i.e.: 3IP/ 5 Governing Principles),
- History and background of Corporate Compliance,
- Legal Authority,
- Fraud and abuse laws, general prohibitions on paying or receiving remuneration to induce referrals,
- Prohibitions against submitting a claim for services when documentation for the service does not exist,
- Prohibitions against signing for the work of another employee,
- Prohibitions against certain alterations to any record and appropriate methods of alteration,
- Prohibitions against performing medical or nursing therapies without a signed physician's order,
- Proper documentation of services rendered, and
- Duty to report misconduct.

In addition to the above, target training is provided to all managers and any other employees, contracted practitioners, volunteers, interns and others associated with the agency. Directors shall assist the Compliance Director in identifying areas that require specific training and are responsible for communication of the terms of this Compliance Plan to all independent contractors doing business with the agency. A Compliance Training Handbook and Compliance Plan will be distributed where applicable to all vendors and contracted practitioners on an annual basis. Directors are responsible for assuring that all contracted practitioners and vendors abide by the terms of the Compliance Plan.

As part of their orientation, all individuals associated with the agency receive a written copy of the compliance policies and specific standards of conduct that affect his or her position.

All initial education and training relating to the compliance plan will be verified by attendance and a signed acknowledgement of receipt of compliance plan and standards, which will be maintained by the Compliance Director and Human Resources. A self-study of the Corporate Compliance plan polices and procedures is permitted provided contact information for the Corporate Compliance Director is provided with the self-study**.**

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

POLICY STATEMENT

Code of Ethics

Section: Number:

Effective: 6-20-02

Mandate: Governance

It is the policy of The Arc of Dutchess to conduct all business in accordance with uncompromising ethical standards and all applicable laws and regulations. We believe integrity and trust are essential to the mission of The Arc of Dutchess. Adherence to such standards will not be traded or compromised for financial, professional or other business objectives.

We ensure that all aspects of individual care and business conduct are performed in compliance with our mission statement, policies, procedures, professional standards and applicable governmental laws, rules and regulations.

The Agency expects every person associated with the organization to adhere to the highest ethical standards and to promote ethical behavior and assist in the resolution of compliance issues whenever possible. The Agency further expects that the appearance or perceptions of impropriety be avoided at all costs. Any individual whose behavior is found to violate ethical standards will be disciplined appropriately.

Any breaches of ethical standards are to be reported to a Program Director, the Compliance Director or the Executive Director so each situation may be dealt with appropriately. Reports may be made anonymously through the voicemail system set up for confidential reporting.

Approval Date: 6/20/02
June Board Meeting
Revised Date: 06/03/08
Revised Date: 10/15/2013

Compliance Plan
Policy Reference: Code of Ethics

Ethical and Professional Standards

The success of The Arc of Dutchess in achieving our mission and promoting our values has a direct relationship to the ethical and professional standards of those associated with the organization. For this reason, standards of performance exemplifying integrity, character and respect have been approved and adopted by the Board of Directors.

By instituting these standards, we intend to develop and foster an environment where performance exemplifies integrity, character and respect. All **employees, contracted practitioners, vendors and others associated with the Agency** are expected to perform their duties in non-judgmental ways, and promote positive feelings, accountability, responsiveness and respect for the Mission of the Agency.

Standards of Performance:

- Strive for objectivity when assessing situations and acting upon them.
- Report all situations involving non-compliance of laws, regulations, and agency and regulatory policies.
- Honestly present information in a factual and comprehensive manner.
- Encourage and actively support direct communication among all employees, contracted practitioners, vendors and others associated with the Agency
- Honor all verbal and written commitments.
- Present in a professional manner at all times when representing the organization.
- Impartially give credit where credit is due.
- Be unbiased in providing opportunities for personal growth and professional skills.
- Adhere to *and* enforce the intent of all laws, rules, regulations and policies that govern the Agency.
- Disclose any personal situation or relationship, within or outside the Agency, which may result in a conflict of interest.
- Maintain the confidentiality of the organization, the individuals we serve, their families and staff at all times.
- Only submit billing for those services which have been provided in accordance to a valid treatment plan, and for which appropriate documentation exists.
- Not provide any benefit, cash or otherwise, to a person or entity in a position to make referrals to the Agency, unless such relationship is approved in advance by the Executive Director.
- Only participate in marketing and advertising practices developed in a manner consistent with relevant laws and regulations, the agency's Mission, Vision, and Values and where such marketing and advertising are an accurate representation of the Agency's services, and with the approval of the Executive Director.
- The Arc of Dutchess employees and their immediate family member (husband, wife, domestic partner, children and/or any other household member) are not permitted to purchase raffle tickets sponsored by The Arc of Dutchess. Additionally members of the Event Planning Committee relating to a raffle ticket promotion are not permitted to purchase raffle tickets sponsored by The Arc of Dutchess. Board Members are only permitted to purchase raffle tickets if they are a registered participant of the event sponsored by The Arc of Dutchess related to the raffle ticket sales
- Maintain accurate personnel and consumer records
- No personal gifts, no matter the value may be accepted by employees, contracted practitioners, vendors and others associated with the Agency at any time on or off work premises.

POLICY STATEMENT

Conflict of Interest

Section: Number:

Effective: 6-20-02

Mandate: Governance

It is the policy of The Arc of Dutchess that the Board of Directors, staff and others acting on its behalf have the obligation to avoid ethical, legal, financial or other conflicts of interest and to ensure that their activities and interests do not conflict with their obligation to the Agency or to its welfare.

At no time will a staff person be allowed to directly supervise family members or domestic partners. Should this become a possibility due to a promotion, demotion, transfer or new hire, other supervisory arrangements will have to be made, if possible, before making a final offer. The Executive Director or their designee must approve any other supervisory arrangements. If no other acceptable arrangements can be worked out, the promotion, demotion, transfer or new hire will not take place. Should this become a possibility due to a marriage, other supervisory arrangements will have to be made.

Immediate family members will not be allowed to work with each other, at the same location or area, on a permanent basis. Employees will not be allowed to work directly with related family member (participants), at the same location or area, on a permanent basis. Situations where other conflicts may occur (i.e. auditing books, contracts, etc.) will be reviewed on a case-by-case basis.

If an individual believes there may be a conflict of interest, he or she must promptly disclose the conflict to the appropriate Director, and shall refrain from participating in any way in the matter to which the conflict relates until the conflict question is resolved.

All board members, employees, contractors and volunteers will be required to complete a Conflict of Interest Disclosure Form upon hire/engagement/appointment. Thereafter, employees with the exception of Clinicians and Administrative staff, contracted practitioners, and volunteers with the Agency will complete a conflict of interest form upon request. Board members, Clinicians and administrative staff will complete an annual Conflict of Interest Form.

Approval Date: 06/20/02
June Board Meeting
Revised Date: 10/1/07
Revised Date: 12/22/2017

Conflict of Interest: Definition and Explanations

Definition: ***A situation in which a person, such as a public official, an employee, or a professional has a private or personal interest sufficient to appear to influence the objective exercise of his or her official duties.***

- Key Elements:
  - **Private or Personal Interest**: This may pertain to a financial interest, but could be another type of interest, to provide a special advantage to an individual and/or her family member(s).
  - **Official Duty**: This pertains to any responsibilities one has as an employee or associate of the Agency . These responsibilities are to supersede private or personal interests.
  - **Objective Exercise**: This pertains to allowing a personal or private interest to compromise professional responsibilities and judgment.

Typical Conflicts of Interests

[1] Self-dealing: For example, a Director uses his or her position to secure employment within the organization for a family member.

[2] Accepting benefits: Bribery; substantial [non token] gifts. For example, you are the purchasing agent for your organization and you accept a gift of a case of liquor from a major supplier.

[3] Influence peddling: A professional solicits benefits in exchange for using her influence to unfairly advance the interests of a particular party.

[4] Using your employer's property for private advantage: This could be as blatant as stealing office supplies for home use. Or, it might be a bit more subtle such as using software, which is licensed to your employer, for private consulting work of your own.

[5] Using confidential information: While working for a private client, you learn that the client is planning to buy land in your region. You quickly rush out and buy the land in your wife's name.

[6] Outside employment or moonlighting: A professional sets up a business on the side that is in direct competition with his employer or which interferes with his ability to perform his job duties for this employer.

[7] Post-employment: A professional resigns from public or private employment and goes into business in the same area. For example: You work full time for the clinic, resign and attempt to bring your agency caseload into your private practice.

POLICY STATEMENT

Disclosure of Non- Compliant Activities

Section: Number:

Effective: 6-20-02

Mandate: Governance

Any employee, contractor, agent, volunteer, prospective employee or member of the Board of Directors who holds, or intends to hold, a position with NYSARC Inc. Dutchess County Agency , is required to disclose any name changes and any involvement in non-compliant activities to the Agency . In addition, the Agency maintains the right to perform reasonable inquires into the background of such applicants.

The Agency will remove from direct responsibility or involvement in any federally or state funded health care programs any employee, independent contractor or member of the Board of Directors with demonstrated non-compliant activities related to health care.
The following organizations will be queried with respect to potential employees, contractors and volunteers:

- ***General Services administration: list of parties excluded from federal programs, the URL address is http://www.epls.gov/epls/jsp/.***
- ***HHS/OIG cumulative sanction report. The URL address is http://exclusions.oig.hhs.gov/search.html.***
- ***NYS Medicaid Fraud Database. The URL address is http://www.health.state.ny.us/nysdoh/medicaid/dqprvpg.htm***
- ***Licensure and disciplinary record with NYS Office of Professional Medical Conduct (Physicians, Physician Assistants) The URL address is http://health.state.ny.us/nysdoh/opmc/main.htm and/or New York State Department of Education (other licensed professionals). The URL address is http://www.op.nysed.gov/research.htm#name.***

Approved Date: 6/20/02
June Board Meeting
Revised Date:

Revised Date:

Effective Confidential Communication

Open lines of communication between the Compliance Director and each individual associated with the agency, subject to this plan, is essential to the success of our Compliance Program. Every associated individual has an obligation to refuse to participate in any wrongful course of action and to report the actions according to the procedure listed below.

To report a violation of this Compliance Plan:

If you witness, learn of or are asked to participate in potential non-compliant activities, or any violation of the Compliance Plan, you may contact your supervisor, Program Director, Compliance Director or the Executive Director. Reports may be made anonymously through the voice mail system set up for confidential reporting.

Report of any good faith suspected violation of this Plan by following the procedures stated above, participating in any investigation or remedial actions, or otherwise participating in the Compliance Plan shall not result in any retaliation or retribution and your identity will be safeguarded to the fullest extent possible. Any threat, reprisal or intimidation against a person who acts pursuant to his or her responsibilities under the Plan is an action contrary to the Agency's Compliance Policy. Discipline, including termination of employment, or other association with the Agency, may result if such intimidation, reprisal or threat is proven.

Any employee, contractor, volunteer, vendor or other person associated with the Agency, may seek guidance with respect to the Compliance Plan or Code of Ethics at any time by following the reporting mechanisms outlined above.

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

The Compliance Director, or designee, shall record the information necessary to conduct an appropriate investigation of all complaints. If the associated individual was seeking information concerning the Code of Ethics, or its application, the Compliance Director or its designee shall record the facts of the call, the nature of the information sought and respond as appropriate, including any investigation. The Agency shall, whenever possible, protect the anonymity of the individual who reports any complaint or question.

POLICY STATEMENT

Enforcement of Compliance Standards

Section: Number:

Effective: 6-20-02

Mandate: Governance

Employees, contractors, board members, volunteers and others associated with the Agency who fail to comply with the Agency 's Compliance Policy, or who have intentionally engaged in conduct that violates the standards and guidelines provided by the Agency , will be subject to disciplinary action, up to, and including, termination of employment or other association with the Agency. Any discipline will be appropriately documented in the employee's personnel file, or other appropriate file, along with a written statement of reason for imposing such discipline. The Human Resource department shall maintain a detailed record of all disciplinary actions imposed. The Compliance Director shall maintain generic database of all disciplinary actions involving the Compliance Plan and report annually to the Board of Directors regarding such actions.

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Revised Date:

Revised Date:

Auditing and Monitoring Of Compliance Activities

Ongoing evaluation is critical in detecting non-compliance and will help ensure the success of the Agency 's compliance program. An ongoing auditing and monitoring system, developed by the Compliance Director in consultation with the Compliance Committee, is an integral component of our auditing and monitoring systems. This ongoing evaluation shall include the following:

- Review of relationships with third-party contractors, specifically those with substantive exposure to state, federal and local governing enforcement actions.
- Compliance audits of Policies and Procedures and Code of Ethics, as stated in the Compliance Plan, conducted by the Compliance Director or designee.
- Review of documentation and billing relating to the development and submission of Medicaid and Medicare claims development and submission performed internally, or by an external consultant, as determined by the Compliance Director and Compliance Committee.
- Reviews of specific risk areas, as identified by the Compliance Committee.

The audits and reviews will examine the Agency 's compliance with specific rules and policies through site visits, personnel interviews, general questionnaires (submitted to associated individuals), medical and clinical record reviews to support claims for Medicaid/Medicare reimbursement as well as HIPAA compliance and documentation reviews.

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

- Any correspondence from any regulatory agency charged with administering a federally or state-funded program received by any department of the Agency shall be immediately copied and forwarded to the Compliance Director for review and discussion by the Compliance Committee, with contact of counsel as required;
- Immediate notification of the Compliance Director and Executive Director of any visits, audits, investigations or surveys by any federal or state agency or authority with contact of counsel as required;
- In the event of a visit, audit investigation or survey, Agency personnel shall be certain to (a) obtain the names of the agent and organization from whom a request for access to information is received or to whom access is permitted before access is allowed; (b) maintain a written record of each document accessed during the audit or investigation; (c) maintain a detailed record of all telephone contacts made, including specifically the name and affiliation of the parties to each conversation, the information requested and the content of the conversation and report such information immediately to the Compliance Director and the Executive Director.
- Establishment of a process detailing ongoing notification by the Compliance Director to all appropriate personnel of any changes in laws, regulations or policies, as well as appropriate training to assure continuous compliance.

Detection and Response

The Compliance Director, Executive Director and the Compliance Committee 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 Compliance Director or designee shall conduct a detailed investigation. This investigation may include, but is not limited to, the following:

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

If advice is sought from a governmental agency or fiscal intermediary or carrier, the request, and any written or oral response, shall be fully documented.

At the conclusion of the investigation the Compliance Director, Executive Director and Compliance Committee will review the findings, conclusions and recommendations and if the Committee deems necessary contact legal counsel to render advice as to whether authorities should be notified.

If the Agency identifies that an overpayment was received from any third party payer, the overpayment shall be repaid to the affected payer.

Regardless of whether a report is made to a governmental agency, the Compliance Director 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 Compliance Director shall report to the Compliance Committee regarding each investigation conducted.

Policy Statement

False Claims Act

Section: Number:

Effective Date: 10/1/07

Mandate: Governance

The Arc of Dutchess is committed to prompt, complete and accurate billing of all services provided to the individuals we serve. The Arc of Dutchess and its employees, contractors, consultants, agents, volunteers or members of the Board of Directors shall not knowingly make or submit any false or misleading entries on any billing or claim forms or other documentation related to such claims. Additionally, no employee, consultant, vendor, volunteer, or member of the Board of Directors shall engage in any arrangement or participate in such an arrangement at the direction of another person, including any supervisors or manager, that results in such prohibited acts.

In keeping with the New York State and Federal False Claims Acts, it is the policy of The Arc of Dutchess to detect and prevent fraud, waste, and abuse in State and Federal healthcare programs. It is further the policy of The Arc of Dutchess to protect individuals reporting fraud, waste and abuse, participating in an investigation or otherwise participating in good faith in the Agency's Compliance Program from retaliation or retribution.

Approval date: 9/20/07
September Board Mtg.
Revised Date:

Policy Reference: False Claims Act

False Claims Act

Overview: The False Claims Act is a law that the State and Federal Government uses to prevent and detect fraud, waste and abuse in federal health care programs. The False Claims Act establishes liability for any person who "knowingly" submits a false claims to the State or Federal Government is liable for significant financial penalties. The False Claims Act defines "knowingly" to mean that a person has actual knowledge of a false claim, acts in deliberate ignorance of the truth or falsity of information, or acts in reckless disregard of the truth or falsity of information.

Procedure: It is the expectation of The Arc of Dutchess that all employees and others associated with the Agency that performs billing or submits claims for payment, do so in a manner that is consistent with Agency procedures. The Agency procedures have been developed in accordance with Medicare, Medicaid, and other payer regulations and requirements.

Examples of billing activities include but are not limited to:

- Contemporaneous, accurate and complete documentation of all services provided in accordance with the appropriate waiver plan and the ISP;
- Billing only once for each service provided;
- Accurate time records, where needed, for services provided;
- Accurate record keeping including time sheets;
- Following established systems to ensure accurate billing before it is submitted to the Business Office;
- Ensuring that documentation authorizing services provided is current and maintained appropriately in the file;
- Ensuring required licenses and certifications are current and appropriately filed before services are provided;
- Ensuring required chain of supervision and oversite is in effect for specific licensed and/or certified employees or others providing services;
- Ensuring agency vehicles and/or equipment are only utilized for agency business and;
- Ensuring only authorized and appropriate use of agency and/or consumer funds.

It is also the expectation of The Arc of Dutchess that any employee, contractor, consultant, agents, volunteer or member of the Board of Directors, who suspects or has knowledge of false claims or inaccurate billing activities will report those activities to The Arc of Dutchess administration. Reports can be made anonymously on the Corporate Compliance Hotline (845-635-8084 ext 166) 24 hours a day. Failure to report such information will result in disciplinary action up to and including termination.

The Arc of Dutchess does not tolerate retaliation or intimidation against any employee, contractor, consultant, agents, volunteer or member of the Board of Directors for reporting potential non-compliance concerns or otherwise participating in good faith in the Agency's Compliance Plan. Any threat, retaliation or intimidation against a person who acts pursuant to his or her responsibilities under this policy will be taken seriously and thoroughly investigated. Discipline, including termination of employment, may result if such threat or retaliation is proven.

The Federal False Claims Act and the New York State False Claims Act includes whistleblower protection from retaliation. Both False Claims Acts define retaliation as any "whistleblower" that is discharged, demoted, suspended, threatened, harassed, or in any other manner discriminated against in the terms and conditions of their employment as a result of their reporting false claims and/or statements under the False Claims Act. Additionally, the State

and Federal laws mandate that The Arc of Dutchess would be required to remedy retaliation by "reinstatement with comparable seniority" as the reporter would have had but for the discrimination, two times the amount of any back pay, interest on any back pay, and compensation for any special damages sustained as a result of the discrimination, including litigation costs and reasonable attorney's fees.

Given these laws, the Agency requires all of its employees, contractors and agents to report in good faith to the Compliance Director, any potential violation of law, regulation and/or the policies and procedures of the Agency. Please also note that the above summary is not meant to be exhaustive. Attached please find additional information prepared by the New York State Office of the Medicaid Inspector General for your review and information.

Overview of Relevant Laws

A. Federal False Claims Act (31 U.S.C. §§ 3729 – 3733).

1. Overview. The False Claims Act is one of the laws the Government uses to prevent and detect fraud, waste and abuse in federal health care programs. The False Claims Act establishes liability for any person who "knowingly" submits a false claim either (1) directly to the Government or (2) to a contractor or grantee of the Government, if the money or property is to be spent or used on the Government's behalf or to advance a Government program or interest. A violation of the False Claims Act can result in a civil penalty between $10,781 and $21,563 for each false claim submitted, plus up to three times the amount of the damages sustained by the Government due to the violation(s). The False Claims Act defines "knowingly" to mean that a person (1) has actual knowledge of the false claim; (2) acts in deliberate ignorance of the truth or falsity of the information; or (3) acts in reckless disregard of the truth or falsity of the information. Specifically, the False Claims Act may be violated by the following acts:
   a. Knowingly presenting, or causing to be presented, a false or fraudulent claim for payment or approval;
   b. Knowingly making or using, or causing to be made or used, a false record or statement material to a false claim;
   c. Conspiring to commit a violation of the false claims act; or
   d. Knowingly making, using, or causing to be made or used, a false record or statement material to an obligation to pay money or transmit property to the Government**,** or knowingly concealing or avoiding or decreasing an obligation to pay money or transmit property to the Government.
2. Applicability. Among other things, the False Claims Act applies to claims submitted for payment by federal health care programs, including Medicare and Medicaid.
3. Examples. A few examples of actions that violate the False Claims Act include knowingly:
   a. Billing for services that were not actually rendered;
   b Charging more than once for the same service;
   c. Billing for medically unnecessary services; and
   d. Falsifying time records used to bill Medicaid.
4. Methods of Enforcement. The Government, or an individual citizen acting on behalf of the Government (a "Relator"), can bring actions under the False Claims Act. If a Relator brings an action under the False Claims Act, the Government has a period of time to investigate the allegations and decide whether to join the lawsuit. If the Government elects to join the lawsuit, the Relator is entitled to 15-25% of any recovery. If the Government elects not to join the lawsuit, the Relator may still proceed with the action and is entitled to 25-30% of any recovery.
5. Employee Protection. The False Claims Act prohibits discrimination by [Agency] against an employee, contractor or agent for taking lawful actions in furtherance of an action under the False Claims Act. Under the False Claims Act, any employee, contractor or agent who is discharged, demoted, harassed, or otherwise discriminated against because of lawful acts in furtherance of an action under the False Claims Act is entitled to all relief necessary to make the employee, contractor or agent whole. Such relief may include reinstatement,

double back pay, and compensation for any special damages, including litigation costs and reasonable attorneys' fees.

B. Federal Program Fraud Civil Remedies Act (31 USC §§3801-3812). The Program Fraud Civil Remedies Act of 1986 is a federal law that provides 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. Violations of this law are investigated by the Department of Health and Human Services and monetary sanctions may be imposed in an administrative hearing setting. Monetary sanctions may include penalties of up to $10,781 per claim and damages of twice the amount of the original claim.

C. New York State False Claims Laws

New York State False Claims Act (State Finance Law §§187-194). The New York State False Claims Act was modeled after the Federal False Claims Act and its provisions are very similar. This Act provides that 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 between $6,000 and $12,000 for each false claim submitted. The False Claims Act defines "knowingly" to mean that a person (1) has actual knowledge of the false claim; (2) acts in deliberate ignorance of the truth or falsity of the information; or (3) acts in reckless disregard of the truth or falsity of the information.

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. In addition, 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.

2. Social Service Law §145-b. Under this section 8it is unlawful to knowingly make a false statement or representation, or to deliberately conceal any material fact, or engage in any other fraudulent scheme or device, to obtain or attempt to obtain payments under the New York State Medicaid program. In the event of a violation of this law, the local Social services district or the State has a right to recover civil damages equal 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 damages (or $5,000, whichever is greater) sustained by the government due to the violation. In addition, the Department of Health may impose a monetary penalty of up to $10,000 per violation unless a penalty under the section has been imposed within the previous five years, in which case the penalty may be up to $30,000.

3. Social Services Law § 145-c. Under this section, if any person individually or as a member of a family applies for or receives public 3,6,assistance, including Medicaid, by intentionally making a false or misleading statement, or intending to do so, then the needs of that person shall not be taken into account for determining the needs of

that person or those of his or her family: (i) for a period of 6 months if a first offense; (ii) for a period of 12 months if a second offense, or upon an offense which resulted in the wrongful receipt of benefits in an amount of between $1,000 and $3,900; and (iii) for a period of 18 months if a third offense or upon an offense which resulted in the wrongful receipt of benefits in excess of $3,900, and 5 years for any subsequent occasion of any such offense.

4. Social Services law §145. Under this section, any person who submits false statements or deliberately conceals material information in order to receive public assistance, including Medicaid, is guilty of a misdemeanor. This crime is punishable by fines and by imprisonment up to one year.
5. Social Service Law § 366-b. Under this section any person who, with intent to defraud, presents for payment any false or fraudulent claim for services or merchandise, or knowingly submits false information for the purpose of obtaining compensation greater than that to which he/she is legally entitled to shall be guilty of a class A misdemeanor.
6. Penal Law Article 155. Under this Article, the crime of larceny applies to a person who, with intent to deprive another of his property, obtains, takes or withholds the property by means of trick, embezzlement, false pretense, false promise, including a scheme to defraud, or similar behavior. This Article has been applied to Medicaid fraud cases. This crime is punishable by fines and imprisonment up to twenty-five years.

7. Penal Law Article 175. Under this Article, four crimes relating to falsifying business records or filing a false instrument have been applied in Medicaid fraud prosecutions. These crimes are punishable by fines and imprisonment up to four years.

8. Penal Law Article 176. This Article establishes the crime of insurance fraud. A person commits such a crime when he/she intentionally files a health insurance claim, including Medicaid, knowing that it is false. This crime is punishable by fines and imprisonment up to twenty-five years.

9. Penal Law Article 177. 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 and willfully 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.

10. Labor Law §740. In addition to provisions contained in the Federal and New York State False Claim Acts, this section offers protections to employees who may notice and report inappropriate activities. Under New York State Labor Law §740, an employer may not take any retaliatory personnel action against an employee because the employee:

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;
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 such employer; or
objects to, or refuses to participate in any such activity, policy or practice in violation of a law, rule or regulation.

To bring an action under this provision, the employee must first bring the alleged violation to the attention of the employer and give the employer a reasonable opportunity to correct the allegedly unlawful practice. The law allows employees who are the subject of a retaliatory action to bring a civil action in court and seek relief such as injunctive relief to restrain continued retaliation; reinstatement, back-pay and compensation of reasonable costs. The law also provides that employees who bring an action without basis in law or fact may be held liable to the employer for its attorney's fees and costs.

11. Labor Law §741. Under this section, an employer may not take any retaliatory personnel 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 only if the employee first brought up the matter with a supervisor and gives 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. The law allows employees who are the subject of a retaliatory action to bring a civil action in court and seek relief such as injunctive relief to restrain continued retaliation; reinstatement, back-pay and compensation of reasonable costs.

Policy Statement

Self Disclosure

Section: Number:

Effective:

MANDATE

It is the policy of The Arc of Dutchess to establish the process for the identification and timely reporting and return of identified overpayments as required under Section 6402 of the federal Patient Protection and Affordable Care Act (PPACA).

Effective March 23, 2010, PPACA establishes an obligation for providers to report and return identified Medicaid or Medicare overpayments. Specifically, an overpayment must be reported and returned within 60 days after the date on which the overpayment was identified or the date any corresponding cost report is due, whichever is later. Overpayments retained beyond the applicable 60 day period can result in the imposition of triple damages and monetary penalties under the False Claims Act if there is a knowing and improper failure to return the overpayment.

"Overpayment" is defined under PPACA as "any funds that a person receives or retains under title XVIII (Medicare) or title XIX (Medicaid) to which the person, after applicable reconciliation, is not entitled under such title". Overpayments include, but are not limited to findings of incorrect coding, insufficient or lack of documentation to support billed services; lack of medical necessity, or duplicate payment.

Approval Date:12/15/11

Revised Date:

Revised Date:

Policy Reference: Self Disclosure

This procedure applies to overpayments identified during routine compliance monitoring activities including internal audit activities or compliance investigations. This procedure also applies to overpayments discovered by other internal or external sources where the overpayment has been verified and confirmed by The Arc of Dutchess.

1. Procedure

A. Process for Identifying Overpayments

1. All employees, contracted practitioners, vendors and others associated with the agency who has reason to suspect that The Arc of Dutchess may have received reimbursement it should not have received must report the reasons for this suspicion to the Director of Corporate Compliance.

2. All reasonably suspected overpayments will be carefully investigated, beginning immediately upon their being reported to the Director of Corporate Compliance.

3. Once The Arc of Dutchess is reasonably certain an overpayment has occurred and is reasonably certain of the overpayment amount, the overpayment has been identified.

4. The amount of the overpayment shall be calculated, reported, and repaid not more than 60 days after the overpayment is identified.

B. Process to Report and Return Overpayments

1. Medicaid. In the case of a Medicaid overpayment, The Arc of Dutchess must determine whether the repayment warrants a self-disclosure to the Office of the Medicaid Inspector General (OMIG) or whether the overpayment can be handled by way of a void or adjustment through an existing billing process.. When evaluating the appropriate course of action, The Arc of Dutchess will consider any self-disclosure guidance issued by the OMIG including the following factors: the exact issue, the amount of money involved, whether the error resulted from a systemic issue and whether the overpayment is attributable to intentional misconduct.

a) Self disclosure. If it is determined that a self-disclosure is necessary, the overpayment must be submitted following the process identified by the New York State Office of the Medicaid Inspector General. Depending on the scope of the problem and the amount of the overpayment, the Chapter may choose to consult with legal counsel before submitting a self-disclosure. NYSARC state office compliance staff must be notified of any self-disclosures made by The Arc of Dutchess.

b) Voids/Adjustments. If it is determined that the overpayment was the result of a clerical or other minor error, the overpayment may be returned via an existing claim void/adjustment process.

1. Medicare. Medicare overpayments shall be returned to the Medicare Contractor that paid the claim, at the address identified by the Contractor.

2. Other Payers. Overpayments from other payers shall be returned in the manner and at the address specified by the payer.

Corporate Compliance Plan
Acknowledgement

This statement signifies that I have reviewed The Arc of Dutchess Corporate Compliance Plan and within the plan was provided with contact information to ask questions and receive clarification regarding it. I understand that I will be expected to adhere to the plan and utilize the established reporting systems should the need arise.

_____ _____ _____

DATE PRINT NAME SIGNATURE

SUBMIT ONLINE