



## **Otsego County Chapter NYSARC, Inc.**

### **Corporate Compliance Program**

#### **Introduction**

In support of the vision, mission, and core values of the Otsego County Chapter NYSARC, Inc., the Board of Directors has adopted this corporate Compliance Program to ensure that the Chapter provides services to our community with integrity and without waste or fraud. This program has been developed in accordance with applicable federal, state, and local laws and regulations with guidance from the Federal Sentencing Guidelines and the New York State Officer of the Medicaid Inspector General.

This program is intended to prevent accidental and intentional non-compliance with applicable laws, to detect such non-compliance if it occurs, to discipline those involved in non-compliant behavior, to remedy the effects of non-compliance, to prevent future non-compliance, and to prevent retaliation against those who report compliance issues.

#### **I. Compliance Policies and Procedures**

The Otsego County Chapter NYSARC, Inc. has written policies and procedures that describe compliance expectations as embodied in the Chapter statement of commitment to corporate compliance, the Chapter Code of Ethics, and the Chapter Standards of Conduct. These written policies and procedures describe the Compliance Program, provide guidance to employees and others on dealing with potential compliance issues, identify how to communicate compliance issues to appropriate compliance personnel and describe how potential compliance problems are investigated and resolved. Policies and procedures are developed and revised as needed in response to changes in regulations and practice.

The Chapter strives to conduct all business in accordance with uncompromising ethical standards in adherence to all applicable laws, regulations, and Chapter policies and procedures. The Chapter does not tolerate any form of unlawful or unethical behavior by anyone associated with the Chapter. The Chapter requires that documentation to substantiate billing is done accurately and completely for the services provided for consumers; and, that billing is done promptly, completely, and accurately without fraud, waste, or abuse. Overpayments are returned regardless of the source of the payment.

The Chapter does not offer or transfer remuneration to any individual eligible for benefits under federal or state health care programs that the Chapter and its employees know or should know is likely to influence the individual to order or receive from a particular provider, practitioner, or supplier any item or service for which payment may be made by a federal or state health care program. Contractual and/or financial arrangements with physicians are structured in light of relevant federal and state laws, fulfill the mission of the Chapter, and are in the best interests of the Chapter and its consumers. Gifts, entertainment, and other benefits are not provided to potential referral sources for services and/or to immediate family members of the potential referral source except as permitted by policy. The Chapter does not engage in any political campaign activities and only a very limited amount of lobbying as permitted by law. The Chapter strives to have all contracts and agreements meet basic requirements to minimize risk to the Chapter, offer the best value for the service needed, and to conduct quality assurance activities. The Chapter makes accessible to the public all documents required by law.

The Chapter strives to detect the warning signs or “red flags” of identity theft in its day-to-day operations, to take steps to prevent identity theft, and to mitigate the damage if it is detected. The Chapter also strives to prevent the intentional or inadvertent misuse of consumer names, identities, identifying information, and medical records; to report criminal activity to appropriate authorities relating to identity theft and theft of services; and to take steps to correct and/or prevent further harm to any person whose name or other identifying information is used unlawfully or inappropriately.

Employees and Board members are required to conduct business in a manner that avoids either actual improper or undisclosed conflicts of interest or the appearance of conflicts of interest. The Chapter requires that employees and other representatives of the Chapter practice honesty and integrity in fulfilling their responsibilities and comply with all applicable laws and regulations. Employees and other representatives are encouraged and enabled to raise concerns without fear of retaliation.

## **II. Compliance Officer and Committee**

The Otsego County Chapter NYSARC, Inc. has designated an employee with responsibility for the day-to-day operation of the Compliance Program. The employee reports directly to the Chapter’s Executive Director and reports periodically to the Board of Directors on the activities of the Compliance Program. The Compliance Officer is obligated to serve the best interests of the Chapter, consumers, and employees.

The Compliance Officer is responsible for developing and implementing policies and procedures; overseeing and monitoring implementation of the Compliance Program; directing internal audits established to monitor effectiveness of compliance standards; providing guidance to management, medical/clinical personnel, and individual departments regarding policies, procedures, governmental laws, rules, and regulations; updating periodically the Compliance Program as changes occur within the Chapter, the law, regulations, governmental, or third party payers; overseeing efforts to communicate the Compliance Program; coordinating, developing, and participating in the compliance educational and training program; ensuring that independent contractors are aware of the requirements of the Chapter’s

Compliance Program; actively seeking up-to-date information regarding regulatory compliance; maintaining a reporting system (hotline) and responding to concerns, complaints, and questions related to the Compliance Program; acting as a resource and leader regarding regulatory compliance issues; acting on issues related to compliance; coordinating internal investigations of compliance issues; and, recommending and assuring implementation of corrective action.

The Chapter has a Corporate Compliance and Governance Committee that is appointed by the Board of Directors and the Executive Director to advise and assist the Compliance Officer with the implementation of the Compliance Program and to assist the with compliance to governance policies.

The Corporate Compliance and Governance Committee is responsible for analyzing the business environment, including legal requirements to which the Chapter must comply. The committee also monitors legislative and regulatory developments to address any gaps that may exist between legislative or regulatory proposals and/or adoptions and current governance procedures. The committee is responsible for review and assessment of existing policies and procedures that address compliance risk areas for possible incorporation into the Compliance Program. The committee is responsible for working with departments to develop standards, policies, and procedures that address specific risk areas and encourage compliance according to legal and ethical requirements as well as advising and monitoring appropriate departments. The committee is responsible for the development of internal systems and controls to carry out compliance standards, policies, and procedures; for monitoring internal and external audits to identify potential non-compliance issues; for recommending and assuring implementation of corrective and preventive action plans; for developing a process to solicit, evaluate, and respond to complaints and problems concerning compliance with the Compliance Program and applicable laws and regulations; and, for overseeing the Chapter's compliance with and completion of governance policies.

### **III. Compliance Training and Education**

The Otsego County Chapter NYSARC, Inc. provides training and education of all affected employees and persons associated with the Chapter, including executives and governing body members on compliance issues, expectations and the Compliance Program operation. The training occurs periodically and is part of the orientation for the new employee, executive, and Board member. It is expected that all employees and agents will have a solid working knowledge of his or her responsibilities under the plan.

Compliance policies and standards are communicated to all members of the workforce, volunteers, and members of the Board of Directors through required participation in training programs. Each new employee or agent receives a Corporate Compliance Handbook, a summary of the Chapter Compliance Program along with the Chapter Standards of Conduct. Each new employee or agent signs a Corporate Compliance Handbook Acknowledgment of Receipt that says they understand that the content of the handbook applies to them, that they are fully aware that they must comply with the Standards of Conduct contained in it or face disciplinary measures up to and including termination and/or referral for civil action or criminal prosecution.

The Chapter considers continuing training and education on corporate compliance critical. General training includes review of the Chapter mission, the Chapter's commitment to corporate compliance, confidentiality, proper documentation of services rendered, and the duty to report misconduct. Targeted training is provided to managers, Board members, administrators, and others as determined necessary. Continuing training and education is provided in various formats and at times and places convenient to staff. Managers assist the Compliance Officer in identifying areas that require specific training. The Chapter considers continuing training and education on corporate compliance mandatory and requires that it be documented.

#### **IV. Compliance Communication**

The Otsego County Chapter NYSARC Inc. has open communication lines to the Compliance Officer that are accessible to all employees and others associated with the Chapter and that allow compliance issues to be reported. The communication lines include a method for anonymous and confidential good faith reporting of potential compliance issues as they are identified. Employees and agents may use whatever form of communication he or she prefers.

Every employee has an obligation to refuse to participate in any wrongful course of action and to report the actions to either his or her supervisor, the Compliance Officer, or the Executive Director. Any employee or agent may seek guidance with respect to regulations, the Compliance Program, Code of Ethics, or Standards of Conduct at any time by contacting his or her supervisor, the Compliance Officer, or the Executive Director. The person who is notified about a compliance concern must notify the Compliance Officer. If the concern relates to potential non-compliance by the Compliance Officer, this must be reported to the Executive Director. Concerns brought directly to the attention of the Compliance Officer are confidential even if the Compliance Officer knows who expressed the concern; the identity of the person is not revealed unless required by law.

The Chapter maintains a telephone hotline to facilitate communication between every employee or agent and the Compliance Officer. This is a dedicated phone line that does not go through the main number for the agency. This dedicated phone line also refers people to a cell phone number that can be answered 24 hours a day, 7 days a week. Only the Compliance Officer has access to the voice mail associated with the dedicated phone line and the voice mail associated with the cell phone. In addition, the Chapter maintains an anonymous Compliance Notification Form on the Chapter Intranet site. An e-mail is sent to the Compliance Officer without revealing the sender. The hotline and the Compliance Notification Form are regularly promoted at compliance trainings and in the compliance newsletter. Posters promoting the hotline and the Compliance Notification Form are posted at each site with required Department of Labor posters. Other forms of communication with the Compliance Officer include in writing through interoffice mail, U.S. mail, internet e-mail, or intranet e-mail; or in person with or without making an appointment in advance.

#### **V. Compliance Disciplinary Policies**

The Otsego County Chapter NYSARC, Inc. has disciplinary policies to encourage good faith participation in the Compliance Program by all affected individuals. The policies articulate expectations for reporting compliance issues and assisting in their resolution. Sanctions are outlined for failing to report suspected problems; participating in non-compliant behavior; or encouraging, directing, facilitating, or permitting either actively or passively non-compliant behavior. The disciplinary policies are fairly and firmly enforced and apply to everyone associated with the Chapter regardless of position.

Intentional, negligent, or reckless noncompliance will subject those responsible to significant sanctions or disciplinary action. These include, but are not limited to violation of any of the Chapter Standards of Conduct; failure to report a violation of any of the Standards of Conduct; retaliation against an individual for reporting a violation or possible violation of the Standards of Conduct; or deliberately making a false report of a violation of the Standards of Conduct.

Sanctions or disciplinary action for employees vary with the severity of the infraction and include counseling, verbal warning, written warning, suspension from work, termination from work, referral for civil action, and referral for criminal prosecution. Sanctions for contractors, vendors, members of the Board of Directors, and others associated with the Chapter include termination from association with the Chapter; referral for civil action; and referral for criminal prosecution. The procedure outlined in the Chapter by-laws is to be followed for any member of the Board of Directors who violate the Compliance Program.

Each case is considered on an individual basis; however, sanctions and disciplinary action are applied consistently across all Chapter divisions and departments for similar offenses. The disciplinary action is conducted by the person's immediate supervisor with guidance from the Human Resources Director. Termination from employment or contract requires the prior approval of the Executive Director or Assistant Executive Director and requires the presence of the Human Resources Director or designee when conducted with the employee. Any discipline is documented in the employee's personnel file, volunteer's file, or contractor's file along with a written statement of reason for imposing such discipline.

## **VI. Compliance Auditing and Monitoring**

The Otsego County Chapter NYSARC, Inc. has a system for routine identification of compliance risk areas specific to the types of services provided, for self-evaluation of such risk areas, including but not limited to internal audits and external audit as appropriate, and for evaluation of potential or actual non-compliance as a result of the self-evaluations and audits, credentialing of providers and persons associated with providers, mandatory reporting, governance, and quality of care of medical assistance program beneficiaries.

An ongoing auditing and monitoring system, developed by the Compliance Officer in consultation with the Compliance Committee, is an integral component of the Compliance Program. Ongoing evaluation

occurs of relationships with third-party contractors, specifically those with substantive exposure to government enforcement actions; compliance audits of policies and procedures, Code of Ethics, and Standards of Conduct; and review of documentation and billing related to Medicaid claims development and submission performed internally or by an external consultant. The audits and reviews examine the Chapter's compliance through a variety of methods that may include on-site visits, interviews, general questionnaires, and record reviews. Internal compliance audits are ongoing with each program area having at least an annual audit; however, the actual frequency and extent depends on risk factors and any prior history of deficiencies or noncompliance.

In addition, all divisions and departments have implemented systematic processes to assess compliance issues, take corrective measures, and continually monitor compliance; the Compliance Officer is notified of any visits, audits, investigations, or surveys by federal or state agencies or authorities. As another step to ensure the integrity of the Compliance Program, the Compliance Officer notifies appropriate personnel of changes in laws, regulations, and policies, as well as provides appropriate training to ensure continuous compliance.

The Chapter Compliance Program and compliance policies and procedures are reviewed periodically to ensure that they accurately state the Chapter's commitment to corporate compliance and that any changes to the compliance elements are made. Changes are presented to the Board of Directors for feedback and approval.

The Chapter conducts background, exclusion, and professional license checks for every employee, contractor, vendor, or member of the Board of Directors. In addition, employees, contractors, vendors, and members of the Board of Directors are required to report any name changes and involvement in non-compliant activities. This includes third party providers of transportation services.

## **VII. Compliance Investigation and Corrective Action**

The Otsego County Chapter of NYSARC, Inc. has a system for responding to compliance issues as they are raised; for investigating potential compliance problems; responding to compliance problems as identified in the course of self-evaluations and audits; correcting such problems promptly and thoroughly and implementing procedures, policies, and systems as necessary to reduce the potential for recurrence; and identifying and reporting compliance issues to the Office of the Medicaid Inspector General; and refunding overpayments.

Known compliance issues are reported by the Compliance Officer to either the Executive Director or Assistant Executive Director. The Compliance Officer conducts a preliminary investigation, and determines along with Executive Director and/or Assistant Executive Director whether or not there is any basis to suspect that a violation of the Compliance Program has occurred. Investigations include, but are not limited to interviews with individuals with knowledge about the facts alleged; review of documents; review of computer files including e-mail; and legal research and contact with governmental agencies for the purpose of clarification. If it is determined that a violation may have occurred, a more

detailed investigation is conducted. Legal counsel may be contacted for advice before or after the detailed investigation. Regardless of the results, the Compliance Officer maintains a record of the investigation, and reports to the Compliance Committee on each investigation. The Compliance Committee determines whether or not similar problems have been uncovered and whether or not modifications of the Compliance Program are necessary to prevent and detect other inappropriate conduct or violations.

The Compliance Officer or Executive Director notifies the appropriate federal or state governmental authority if after a reasonable investigation it is determined that fraud or abuse has occurred. This occurs within 60 days of first identifying possible fraud or abuse. For those violations that are so serious that they warrant immediate notification of governmental authorities, notification occurs prior to commencing an internal investigation or simultaneous with the internal investigation.

Corrective action is taken for all incidents of non-compliance in order to protect the Chapter's status as a reliable, honest, and trustworthy provider of services to people with developmental disabilities. The corrective action plans include, but are not limited to, repayment to the affected payer of overpayments received from any third party payer; systems to prevent such overpayments in the future; systems to prevent other misconduct or violations of the Compliance Program; disciplinary action for involved employees; and appropriate sanctions for members of the Board of Directors and others associated with the Chapter. Corrective action plans will vary depending upon the situation and will be consistent across Chapter divisions and departments for similar offenses.

The Chapter fully cooperates with reasonable requests of governmental officials. The Compliance Officer is notified any time an investigative demand letter, subpoena, or search warrant is received by a Chapter employee and coordinates the Chapter's response. No Chapter employee removes, alters, creates, or destroys documents or records in anticipation of an investigation or during an investigation.

#### **VIII. Non-Intimidation and Non-Retaliation for Good Faith Participation in Compliance Program**

The Otsego County Chapter NYSARC, Inc. has a policy of non-intimidation and non-retaliation for good faith participation in the Compliance Program. This includes, but is not limited to reporting potential issues; investigating issues; self-evaluations, audits, and remedial actions; and reporting to appropriate officials.

The identity of anyone who reports any suspected violation of the Compliance Program is safeguarded to the extent possible. Names are not required for communication with the Compliance Officer. Even if known, names are not documented and are not divulged when the issue is brought to the attention of the Executive Director, Assistant Executive Director, Compliance Committee, or others who may need to be told about the issue. Although it is the policy of the Chapter to keep confidential the identity of anyone who reports conduct that a reasonable person acting in good faith believes to be erroneous or fraudulent, the individual's identity may become known or may have to be revealed in certain circumstances, especially if required by law. Any threat of reprisal or retaliation against a person who

adheres to his or her responsibilities under the Compliance Program is acting against the Chapter's compliance policies. If threat of reprisal or retaliation is proven, discipline, including termination of employment results.