

# Catholic Charities Diocese of Rochester

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## compliance guiding the path of your workday

Roman Catholic Diocese of Rochester

Pastoral Center

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## **Corporate Compliance Plan**

**September 26, 2022**

**March 28, 2023**

Approved:

Catholic Charities of the Diocese of Rochester Board of Directors on September 26, 2022.

Catholic Charities of the Diocese of Rochester Board of Directors on March 28, 2023 to conform to changes to the law found at 18 NYCRR Part 521-1 and effective March 28, 2023.

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## Corporate Compliance Policy

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### **I. Policy**

It is the policy of Catholic Charities of the Diocese of Rochester (“Catholic Charities”, “CCDR” or “the Corporation”) to comply with all applicable federal, state and local laws and regulations, and payer requirements. It is also Catholic Charities’ policy to adhere to the Code of Ethics/Conduct that is adopted by the CCDR Board of Directors, the Diocesan Director and the Audit & Compliance Committee. To support this commitment, Catholic Charities will maintain this Corporate Compliance Plan to provide an organizational framework for the corporation’s compliance and ethics activities.

### **II. Commitment**

We are dedicated to our responsibility to conduct our business affairs with integrity, based on sound ethical and moral standards. Our compliance efforts are designed to support a culture within CCDR that promotes prevention, detection and resolution of instances of conduct that do not conform to federal and state laws and regulations and payer requirements, as well as CCDR ethical and business policies.

We remain committed to our responsibility to conduct our business affairs with integrity based on sound ethical and moral standards. We will hold all affected individuals to these same standards.

CCDR 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 all affected individuals. We shall require the performance of regular, periodic compliance audits by internal and/or external auditors who have expertise in federal and state health care statutes, regulations and health care program requirements.

The Chief Compliance Officer shall monitor the compliance plan’s enforcement and report regularly to the Audit & Compliance Committee. Audits will be designed to ensure compliance with CCDR’s Plan, related policies and procedures, and all relevant federal and state laws and will be conducted by the Compliance & Ethics Office.

### **III. Responsibility**

The success of the compliance program depends on the efforts of each of CCDR’s affected individuals. All affected individuals shall acknowledge that it is their responsibility to report any suspected instances of suspected or known noncompliance. The corporation fully expects that all affected individuals will promptly report their concerns to any or all of the following: their immediate supervisor, Regional Compliance Officer, Executive Director, the Chief Compliance Officer or the Diocesan Director. Reports may be made confidentially and/or anonymously without fear of intimidation, retaliation or retribution to the Compliance & Ethics Office through the Complytrack portal or by using the Integrity Hotline (844-440-0093). Failure to report noncompliance or making bad faith reports will be grounds for disciplinary action, up to and including termination. Reports related to harassment or other workplace-oriented issues may be referred to Human Resources for investigation as appropriate.

### **IV. Policies & Procedures**

CCDR will communicate its compliance standards and policies through required training initiatives to all affected individuals where they serve in a capacity where training would be required by federal and state law and regulation. We are committed to these efforts through distribution of this compliance plan and our Code of Ethics/Conduct and the provision of training.

The Plan will be reviewed annually, prior to certifying compliance in accordance with 18 NYCRR §521-1.3(f)(1), the Federal Deficit Reduction Act of 2005 (“DRA”), to ensure its effectiveness, accuracy and relevance. The Chief Compliance Officer will ensure that these written policies and procedures are updated when the law, regulations or standards change, or when events warrant a revision to this plan and related policies and procedures.

All affected individuals are able to readily access this plan, the Code of Ethics/Conduct via CCDR’s website and the websites of our regional agencies, the CCDR Compliance SharePoint site and the Catholic Charities Family and Community Services shared drive.

## **V. Enforcement**

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

## **VI. Catholic Charities' Response**

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

## **VII. Due Diligence**

Catholic Charities will, at all times, exercise due diligence with regard to background checks and professional license/credential verifications as appropriate for all prospective affected individuals.

Catholic Charities is committed to maintaining high quality care and service as well as integrity in its financial and business operations. Therefore, CCDR will conduct appropriate screening of all affected individuals to ensure that they have not been sanctioned or excluded by federal or state governmental agencies.

## **VIII. Whistleblower Provisions & Protections**

CCDR will not tolerate any retaliation, intimidation and/or retribution against an affected individual if the affected individual discloses certain information about our policies, practices or activities to a regulatory, law enforcement or other similar agency or public official. Protected disclosures are those that assert that the corporation is in violation of a law that creates a substantial and specific danger to the public health and safety or which constitutes health care fraud under the law or asserts that, in good faith, the employee believes constitute improper quality of client care.

## Code of Ethics & Mission

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### **I. Mission**

Motivated by the Gospel message of Jesus Christ and Catholic social teaching, our mission is to build a just and compassionate society rooted in the dignity of all people through education, advocacy and the provision of human services.

### **II. Expectations**

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

All affected individuals may not engage in any conduct that conflicts – or is perceived to conflict – with the best interest of Catholic Charities. Employees, Agents, Other Representatives and Board Members must disclose any circumstances where the employee or his or her immediate family member is an employee, consultant, owner, contractor, or investor in any entity that (i) engages in any business or maintains any relationship with the corporation; (ii) provides to, or receives from, CCDR any referrals; or (iii) competes with Catholic Charities. Employees, Agents, Other Representatives and Board members may not without permission of the Compliance Office accept, solicit or offer anything of value from anyone doing business with CCDR. Business dealings with outside entities should not result in unusual gain for affected individuals and/or their families.

All affected individuals are expected to maintain complete, accurate, and contemporaneous records as required by Catholic Charities. The term “records” includes all documents, both written and electronic, that relate to the provision of CCDR services or provide support for the billing of Catholic Charities services. Records must reflect the actual service provided.

Records should never be altered in a significant or material way without permission of the Compliance & Ethics Office. In the case of a necessary alteration, the alteration should be signed and dated by the staff member altering the document. Any records to be appropriately altered must reflect the date of the alteration, the name, signature, and title of the person altering the document, and the reason for the alteration, if not apparent.

Signatures, including those captured in the electronic health records, should always be accompanied by the date that the signature was made. Dates in all cases should include the month, date and year. Documents must never be backdated or predated. Under no circumstances shall any person ever sign the name of another person to any document. Signature stamps and correction fluid (i.e., White Out) shall not be used on any records. Backdating and predating documents is unacceptable and will lead to discipline up to and including termination.

When any person knows or reasonably suspects that these expectations above have not been met, this must be reported to the Compliance & Ethics Office (through any of the methods described in Section I–III above) so each situation may be appropriately dealt with.

## Governance & Oversight

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### I. The Role of the Chief Compliance Officer

#### *Appointment*

The Corporate Board of Directors of Catholic Charities has designated a Chief Compliance Officer with expertise in healthcare regulatory compliance who is directly obligated to serve the best interests of our clients, employees and Board of Directors and has granted the authority to carry out the function of the position.

The Chief Compliance Officer serves as the authority on compliance matters and is part of the executive management team. The Chief Compliance Officer is not subordinate to legal counsel, Risk Management, Human Resources, Information Technology, Finance and/or any other function.

#### *Reporting Structure & Authority*

The Chief Compliance Officer reports directly to the Catholic Charities Diocesan Director. The Chief Compliance Officer has direct lines of communication to regional Executive Directors, regional Board Chairpersons, the Diocesan Director, Catholic Charities Audit & Compliance Committee, the Catholic Charities Board of Directors, the Bishop and/or counsel, as appropriate and necessary.

#### *Regional Compliance Officer*

Each Catholic Charities regional agency has a designated Regional Compliance Officer, based upon regulatory requirements and/or necessity, who works closely with the Regional Executive Director and Regional Boards of Directors to administer the Compliance Plan within the region.

#### *Duties & Responsibilities*

The Chief Compliance Officer is directly obligated to serve the best interests of the corporation, its Board of Directors, subsidiaries, clients and employees. Responsibilities of the Chief Compliance Officer include, but are not limited to:

1. Oversight and monitoring the implementation of a compliance program that effectively prevents and/or detects violation of law, regulations and/or corporate policies and sets forth the highest ethical principles;
2. Development and implementation of compliance policies and procedures;
3. Directing internal audits established to monitor effectiveness of compliance standards;
4. Providing input into the hiring and performance reviews of Regional Compliance Officers;
5. Providing guidance to management, medical/clinical program personnel, and individual departments regarding policies and procedures, and governmental laws, rules and regulations;
6. Updating, annually the Compliance Plan as changes occur within Catholic Charities, within the law and regulations, or governmental and third party payers;
7. Overseeing efforts to communicate awareness of the existence and contents of the compliance plan;
8. Coordinating, developing and participating in the educational and training program;
9. Ensuring all affected individuals are aware of the requirements of the Catholic Charities Compliance Plan;
10. Actively seeking up-to-date material and releases regarding regulatory compliance;
11. Maintaining a retaliation-free reporting system (hotline) and responding to concerns, complaints and questions related to the compliance plan;
12. Acting as a resource for Regional Compliance Officers, regional Boards of Directors, the Corporate Board of Directors and staff;
13. Investigating and acting on issues related to compliance, including coordination with outside legal counsel, conducting or authorizing and overseeing investigations of matters that merit investigation under the compliance program;
14. Overseeing internal investigations and implementing corrective action;
15. Facilitate ongoing Governance Compliance Committee meetings; and
16. Create a summary report of Diocesan wide compliance activities, investigations and reviews, and report annually, or as needed, to the Board of Directors.
17. Assist in the event of a government audit.

It is not expected that the Chief Compliance Officer will have the knowledge or expertise necessary to ensure compliance with all laws and regulations that affect the various departments of CCDR. He/she is responsible, however, for the overall program and must ensure that qualified, knowledgeable personnel within individual programs or functions of the corporation assist in monitoring and educational functions. It is also his/her responsibility to ensure programs are in place to guarantee that significant discretionary authority is not delegated to persons with a demonstrated or suspected propensity for improper or unlawful conduct.

The Chief Compliance Officer reports on the fulfillment of compliance goals to the Corporate Compliance Committee at least quarterly and to the Board of Directors at least annually. The report includes but is not limited to:

1. The level of compliance or non-compliance found as a result of monitoring and auditing;
2. The success of efforts to improve compliance, including training and education;
3. The non-delegation of discretionary authority to those with the propensity to act improperly; and
4. Corrective or disciplinary action taken with respect to those found to be non-compliant.

## **II. The Structure, Duties & and Role of the Compliance Committee**

Catholic Charities is committed to the operation of an effective compliance program. Therefore, we have established a two-prong approach to monitor results of the compliance function and determine the corporation's strategy for promoting compliance and ethics at the enterprise level. Additionally, in an effort to enhance effectiveness, individual agencies may have their own regional compliance committee, which reports results to the regional Board of Directors and Corporate Compliance Committee.

### *Oversight*

The Audit & Compliance Committee of the Board of Directors provides executive oversight of the Chief Compliance Officer and the operation of the centralized compliance program and ensures direct lines of communication to the CCDR Board of Directors. The purpose of the Corporate Compliance Committee is to advise and assist the Chief Compliance Officer with oversight and execution of the Compliance Plan.

### *Reporting Structure & Purpose*

#### *A. Audit & Compliance Committee*

Audit & Compliance Committee members are appointed by the Diocesan Director and the CCDR Board Chairperson and approved by the Board of Directors. The Chief Compliance Officer reports on issue and progress in demonstrating compliance program effectiveness at each Audit & Compliance Committee meeting. Compliance issues are reported by the Audit & Compliance Committee to the CCDR Board of Directors, where appropriate.

Minutes will be recorded and provided to the CCDR Board of Directors. The Chief Compliance Officer will maintain the minutes of all meetings.

#### *B. Corporate Compliance Committee*

The Corporate Compliance Committee is appointed by the Chief Compliance Officer and Diocesan Director to advise and assist the Chief Compliance Officer with the implementation of the Compliance Plan. The Corporate Compliance Committee is chaired by the Chief Compliance Officer and reports to the Audit & Compliance Committee of the CCDR Board of Directors. Membership is comprised of the Chief Compliance Officer, Privacy Officer, Information Security Officer, all Regional Compliance Officers, the CEO of Catholic Charities Family and Community Services, the President and Diocesan Director (or designee) and a member of the Board of Directors. Other members may be invited on an ad hoc basis.

The Corporate Compliance Committee will meet on a routine quarterly basis. Additional meetings may be called any time pertinent issues arise.

### *Responsibilities*

The purpose of the Corporate Compliance Committee is to advise and assist the Chief Compliance Officer with the execution of an effective compliance program. The Committee assists with, and makes recommendations for, the

development of policies which are approved by the Diocesan Director (or designee). The Corporate Compliance Committee is responsible for the following:

1. Ongoing analysis of the environment in which Catholic Charities conducts its operations, including legal requirements with which it must comply.
2. Ongoing review, modification, and creation, where necessary, of policies and procedures which address areas of risk, and which respond to new or changes in legislation and other mandates.
3. Monitoring internal systems and controls to enforce compliance standards, policies, and procedures.
4. Monitoring internal and external audits to identify and address potential non-compliance issues.
5. Review corrective and preventive action plans.
6. Participating in processes designed to solicit, evaluate, and respond to compliance complaints and issues.
7. Assess the effectiveness of the Corporate Compliance Program, corporate policies and other special areas.
8. Assess the effectiveness of the internal control systems over operations. Financial matters will be under the authority of the CCDR Finance Committee and the CCDR Audit Committee.
9. Make recommendations to the Board on matters related to the systems of internal controls, including management's compliance with applicable corporate policies and procedures and business risk management.
10. Oversee the adoption, implementation of, and compliance with any conflict of interest policy or whistleblower policy adopted by the corporation.
11. Ensure that there is an appropriate confidential channel for Board Members, non-board members serving on committees of the Corporation, employees, donors and clients to express concerns about misconduct or questionable practices in the organization.
12. Oversee the governance of the Corporate Compliance program, including annual review of and approval of all necessary Corporate Compliance policies on behalf of the Audit & Compliance Committee and the full Board.
13. Report on the Corporate Compliance Committee activities to the Board and provide a full report to the Board annually.
14. Ensure that CCDR has sufficient internal controls over its operations, including oversight of matters related to data security and privacy.
15. Keep accurate minutes of its meetings including a record of the activities, business transactions and attendees..

### **III. Delegation of Substantial Discretionary Authority**

#### **Requirement**

Any affected individual who holds, or intends to hold, a position with substantial discretionary authority for the corporation is required to disclose any name changes and any involvement in non-compliant activities, including health care related crimes. In addition, CCDR may perform reasonable inquiries into the background of applicants and all affected individuals. The following organizations may be queried:

- a) General Services Administration (GSA): System for Award Management: Excluded Parties;
- b) U.S. Department of Health & Human Services, Office of Inspector General (OIG) List of Excluded Individuals/Entities (LEIE);
- c) Office of Inspector General, Most Wanted Fugitives;
- d) Office of Foreign Assets Control, Specifically Designated Nationals;
- e) NYS Office of General Services ("OGS") Prohibited Entities List;
- f) New York Office of Medicaid Inspector General (OMIG) Medicaid Exclusion List;
- g) New York Department of Health Office of Professional Medical Conduct Physician & Physician Assistant's Disciplinary & Other Actions (NY OPMC);
- h) New York State Education Department's Office of Professions Professional Misconduct Enforcement Actions;
- i) New York State Office of Professions;
- j) New York State Office of Alcohol & Substance Abuse CASAC verification;



## Education and Training

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### I. Expectations

Education and training are critical elements of the compliance & ethics program. Every affected individual is expected to be familiar with and knowledgeable about the corporation's compliance plan and have a solid working knowledge of his or her responsibilities under the plan. Compliance policies and standards will be communicated to all affected individuals through required participation in annual training programs and promptly upon hiring, which are geared toward their involvement with the corporation.

Training may be conducted by subject matter experts, who may include legal counsel, the Chief Compliance Officer or designee and/or outside consultants as needed.

Those who fail to attend required compliance training will be subject to disciplinary action, up to and including termination. This is expected to be managed at the individual agency level to determine, on a case-by-case basis, the future of the relationships with all affected individuals who do not attend required compliance trainings. Regional Compliance Officers are responsible to audit for appropriate and consistent disciplinary action.

Training materials will also be made available upon request to the Compliance Department and will include information identifying the Chief Compliance Officer, his/her contact information and confidential and anonymous methods to report.

### II. Training Topics - General

All affected individuals shall participate in annual training, including but not limited to the topics identified below:

- Compliance issues
  - Guidance on dealing with compliance issues;
  - How to communicate compliance issues to appropriate compliance personnel;
  - Guidance on how potential compliance problems are investigated and resolved;
- Compliance expectations
  - Acting in ways that support integrity in operations;
  - Duty to report misconduct and how to report suspected non-compliance.
  - An overview of the False Claims Acts and payer requirements;
  - Disciplinary policies.
- Compliance program operation
  - Legal principles regarding compliance and Board responsibilities related thereto;
  - An overview of the Plan, including one's obligation to adhere to the Plan;

Training and education shall include, at a minimum, the following topics:

- the required provider's risk areas and organizational experience; (CCDR captured in III Training Topics)
- the required provider's written policies and procedures identified in subdivision (a) of this section;
- the role of the compliance officer and the compliance committee;
- how affected individuals can ask questions and report potential compliance-related issues to the compliance officer and senior management, including the obligation of affected individuals to report suspected illegal or improper conduct and the procedures for submitting such reports; and the protection from intimidation and retaliation for good faith participation in the compliance program;
- disciplinary standards, with an emphasis on those standards related to the required provider's compliance program and prevention of fraud, waste and abuse;
- how the required provider responds to compliance issues and implements corrective action plans;

- requirements specific to the MA program and the required provider's category or categories of service;
- coding and billing requirements and best practices, if applicable;
- claim development and the submission process, if applicable;

### **III. Training Topics - Targeted**

In addition to the above, targeted training will be provided to all affected individuals whose job responsibilities include activities related to compliance topics. The Compliance & Ethics Office will identify areas requiring training with particular focus on billing, payments, medical necessity and quality of care, governance, mandatory reporting and credentialing, ordered services; contractor, subcontractor, agent, or independent contract oversight. Managers shall assist the Compliance & Ethics Office in identifying areas that require specific training and are responsible for communication of the terms of the compliance plan to all independent contractors doing business with the corporation. If a problem has been identified as a result of ongoing monitoring, the Compliance & Ethics Office will notify and train the associated representatives in the identified risk areas.

Department in-service training on compliance-related matters will be documented and maintained. As a routine matter, the Compliance & Ethics Office will ensure that periodic internal audits of adherence to this standard are completed and reported to the Corporate Compliance Committee.

### **IV. Orientation**

As part of their orientation, each affected individual shall receive information on how to access the Compliance Plan, policies and specific standards of conduct that affect their role and that it is their responsibility to read and be familiar with said Plan.

### **V. Attendance**

All education and training relating to the Compliance Plan will be verified by attendance for live trainings and a signed acknowledgement of receipt of the Compliance Plan and standards. On-line and/or virtual trainings will be recorded in the Designated Electronic Training Platform via electronic signature of the attendee. Department Directors are responsible to record in-service training, provided.

Completion of compliance training is mandatory and is a condition of continued employment or, where required, other association with CCDR.

### **VI. Board Member and Executive Onboarding**

Board members and executives will receive compliance training to learn about the organization. Board member and executive compliance onboarding is to be completed promptly and with a goal of within 30 days of appointment and include the conflict-of-interest form.

### **I. Expectations**

Open lines of communication between the Compliance & Ethics Office and all affected individuals are essential to the success of our Compliance & Ethics program. Every affected individual has an obligation and the corporation expects that they refuse to participate in any wrongful course of action and to report the actions according to the procedure listed below.

### **II. Reporting Procedure**

If an affected individual witnesses, learns of, or is asked to participate in any activities that are potentially in violation of this Compliance Plan, he/she should contact any or all of the following: the Compliance & Ethics Office, his/her immediate supervisor the Executive Director or the Diocesan Director.

Reports may be made in person or by calling the Integrity Hotline, a telephone line dedicated for the purpose of receiving such notification at (844) 440-0093 or reporting it through the Compliance Inquiry & Reporting form in Complytrack. Both the Integrity Hotline and the Complytrack portal are both anonymous and confidential reporting methods.

Upon receipt of a question or concern, any supervisor, officer, or director shall document the issue at hand and report to the Compliance & Ethics Office. Any questions or concerns relating to potential non-compliance by the Chief Compliance Officer should be reported immediately to any or all of the following: the Diocesan Director, the Audit & Compliance Committee Chairperson and or the CCDR Board of Directors Chairperson. Questions or concerns relating to potential non-compliance by the CEO or Executive Director of any member agency must immediately be reported to any or all of the following: the Chief Compliance Officer, any member of the Audit & Compliance Committee or Board of Directors.

The Compliance & Ethics Office or designee shall record the information necessary to conduct an appropriate investigation of all complaints. If the complainant was seeking information concerning the Code of Ethics/Conduct or its application, the Compliance & Ethics Office staff member shall record the facts of the call and the nature of the information sought and respond as appropriate. The Compliance & Ethics Office shall protect the anonymity of the affected individual who reports any complaint or question. The Compliance & Ethics Office may, at any time, contact legal counsel for advice, counsel, assistance and/or support.

### **III. Protections**

In the event an anonymous report is received, no attempt will be made to identify the reporter(s). The identity of reporters will be safeguarded to the fullest extent possible and will be protected against intimidation, retaliation and/or retribution, or any other form of reprisal. Any threat of reprisal against a person who acts in good faith pursuant to his or her responsibilities under the Plan is acting against the corporation's compliance policy. Discipline, up to and including termination of employment, will result if such reprisal is proven.

### **IV. Guidance**

Any affected individual may seek guidance with respect to the Compliance Plan or Code of Ethics/Conduct at any time by following the reporting mechanisms outlined above.

## **Enforcement of Compliance Standards**

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### **I. Background Investigations**

For all affected individuals who have authority to make decisions or perform job-related responsibilities that have the potential to create compliance issues, the corporation will conduct a reasonable and prudent background investigation, including exclusion checks and professional licensure verification. It is CCDR's policy not to employ, or do business with, individuals or entities that have been sanctioned from participation in federal, or state, sponsored healthcare programs by a federal or state law enforcement, regulatory or licensing agency or who may not have the credentials required for their position.

### **II. Disciplinary Action - General**

Affected individuals who fail to comply with the corporation's compliance plan and standards, or who have engaged in conduct that has the potential of impairing CCDR's status as a reliable, honest, and trustworthy service provider, will be subject to disciplinary action, up to and including termination of their relationship with Catholic Charities. Any affected individual found to have known of such acts but who failed to report them will be subject to discipline, up to and including termination of their relationship with CCDR.

Any discipline will be appropriately documented in the affected individual's file and the Enforcement of Standards log in Complytrack, along with a written statement of reason(s) for imposing such discipline. The Compliance & Ethics Office shall maintain a record of all disciplinary actions involving the Compliance Plan. As stated earlier in this Plan, any action or behavior that is not in conformity with the Compliance Plan, stated or intended standards, guidelines or procedures or that is a violation of any federal or state law or regulation will be deemed a violation of the Plan and will result in disciplinary action.

### **III. Performance Evaluation - Supervisory**

CCDR's Compliance Program requires that the promotion of, and adherence to, the elements of the Compliance Program be a factor in evaluating the performance of all affected individuals. They will be periodically trained in new compliance policies and procedures. In addition, all managers and supervisors will:

- a. Be responsible for promoting awareness and promptly communicating to their staff all changes to CCDR's compliance policies and procedures, as well as any regulatory requirements which are applicable to their role.
- b. Discuss with all supervised employees the compliance policies and legal requirements applicable to their function.
- c. Inform all supervised personnel that strict compliance with these policies and requirements is a condition of employment.
- d. Disclose to staff the consequences of violating the Plan and that the corporation will take disciplinary action up to and including termination or revocation of privileges for violation of these policies and requirements.

### **IV. Disciplinary Action - Supervisory**

Managers and supervisors will be sanctioned for failure to adequately instruct their subordinates or failure to detect noncompliance with applicable policies and legal requirements where reasonable diligence on the part of the manager or supervisor would have led to the earlier discovery of any problems or violations and would have provided the corporation with the opportunity to correct them. In the event that a report is made to a director, manager, supervisor or acting supervisor and that responsible party fails to act upon the report, the responsible party is subject to corrective or disciplinary action.

## **Auditing and Monitoring of Compliance Activities**

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### **I. Internal Audits**

Ongoing evaluation is critical in detecting non-compliance and will help ensure the success of CCDR's Compliance Program. An ongoing auditing and monitoring system, implemented by the Compliance & Ethics Office and in consultation with the Corporate 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 government enforcement actions (e.g., excluded or sanctioned individuals);
- Compliance audits of compliance policies and standards; and
- Review of documentation and billing relating to claims made to federal, state, and private payers for reimbursement, performed internally or by an external consultant as determined by CO and CC.
- Assessment of risk levels within departments.
- Audit of internal controls and review of external audits.
- Effectiveness of required Corrective Actions Plans in meeting standards.

The audits and reviews will examine the corporation's compliance with specific rules and policies through on-site visits, personnel interviews, general questionnaires, and consumer record documentation reviews.

Audit findings will be reported to the Compliance Committee on a quarterly basis, unless there is reason to report findings upon the completion of an audit. The Compliance Committee will include audit findings in its report to the Board of Directors. Audit reports shall be made available to the Chief Compliance Officer, the Diocesan Director, the Corporate, Audit & Compliance Committee and the CCDR Board of Directors, as such information is requested.

If the Compliance & Ethics Office discovers that a department's or individual's level of compliance is unacceptable, the Compliance & Ethics Office may impose a plan of corrective action, which may include future monitoring of an individual or department on a more frequent basis. Any corrective actions necessary will be made and follow-up will be conducted to ensure the corrective measures were implemented and the situation was remedied. Corrective, focused training may also be implemented at that time.

### **II. Plan Integrity**

Additional expectations are as follows:

- The Compliance & Ethics Office will be notified immediately in the event of any non-routine visits, audits, investigations, or surveys by any federal or state agency or authority, and shall immediately receive a photocopy of any correspondence from any regulatory agency charged with licensing and/or administering a federally or state-funded program or County-funded program with which the corporation participates.
- Establishment of a process detailing ongoing notification by the Compliance & Ethics Office to all affected individuals of any changes in laws, regulations, or policies, as well as appropriate training to assure continuous compliance.
- Annual compliance program review to determine the effectiveness of the compliance program, and whether any revision or corrective action is required.

## Detection & Response

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### I. Violation Detection

The Chief Compliance Officer or designee and the Corporate Compliance Committee shall determine whether there is any basis to suspect that a violation of the compliance program has occurred and to promptly respond to compliance issues as they are raised.

If, as a result of any audit, report, observation, or by any other means, it is determined that a violation *may have* occurred, the matter may be referred to legal counsel who, with the assistance of the Compliance & Ethics Office, shall conduct a more detailed investigation. This investigation may include, but is not limited to, the following:

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

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

All affected individuals must cooperate with those investigating such matters and non-cooperation may result in disciplinary action. The Chief Compliance Officer or their designee has full authority to interview and/or review any information (subject to state and federal laws on patient confidentiality) he/she deems necessary to complete the investigation.

If the integrity of the investigation may be negatively impacted because of the presence of the affected individual under investigation, the affected individual or other individuals allegedly involved in the misconduct can be removed from his/her current work activity or position at CCDR until the investigation is complete. In addition, the Compliance & Ethics Office will take precautionary steps to prevent the destruction of documents or other evidence relevant to the investigation, as well as to preserve the integrity of that evidence. The Compliance & Ethics Office may recommend a course of discipline and/or other corrective action. Once an investigation is completed, if disciplinary action is warranted, it will be immediate, where appropriate. The Chief Compliance Officer will report the results of each investigation to the Corporate Compliance Committee.

If it is determined that a violation has occurred, the Chief Compliance Officer, will determine what steps must be taken to rectify the problem, such steps which may include repayment of claims to the appropriate payer, notification of regulatory and/or prosecutorial authorities, self-disclosure (with best efforts to do so within 60 days of identification), discipline, training or retraining, the revision of the Plan or creation of additional policies and procedures.

### II. Reporting

The Chief Compliance Officer shall report to the Corporate Compliance Committee regarding each investigation conducted. Results may also be shared in detail, or at a high level with the Audit & Compliance Committee of the CCDR Board of Directors. At the conclusion of an investigation involving legal counsel, he/she shall issue a report to the Chief Compliance Officer and Corporate Compliance Committee summarizing his/her findings, conclusions, and recommendations and will render an opinion as to whether a violation of the law has occurred.

The report may be reviewed with legal counsel in attendance. Any additional action may be on the advice of counsel.

Reports may be shared with other members of the relevant leadership team, as it is deemed appropriate.

### III. Rectification

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

#### **IV. Record Keeping**

Regardless of whether a report is made to a governmental agency, the Compliance & Ethics Office shall maintain a record of the investigation, including copies of all pertinent documentation. Documentation shall include any alleged violations, a description of the investigative process, copies of the interview notes and other documents essential for demonstrating a thorough investigation. Any disciplinary action taken and the corrective action shall also be documented. This record will be considered confidential and privileged and will not be released without the approval of the Chief Compliance Officer or legal counsel.

#### **V. Record Retention**

One of the primary purposes of maintaining and retaining records is to demonstrate that CCDR provides medically and programmatically appropriate services to its participants. Further, appropriate and complete documentation provides the basis on which reimbursement is sought from third party payers. Maintaining appropriate documentation is vital to the corporation's continued success. Thus, all affected individuals have an obligation to maintain accurate and complete records.

It is CCDR's policy to comply with at least the minimum standard required by Federal and State laws and regulations. CCDR's affected individuals are also expected to maintain complete, accurate and contemporaneous records as required by the corporation and payers. The term "records" includes all documents, both written and electronic, that relate to the provision of services or that provide support for billing services to all payers. Records must reflect the actual service provided.

Records will be retained and disposed pursuant to the rules of the regulator, funders and the New York State federal and state codes, rules and regulations. Records will be kept, at least, ten (10) years after the last contact (minor records will be kept longer pursuant to CCDR policy and law). Referral information on those not accepted into service will be kept for at least three years.

## **Whistleblower Provisions and Protections**

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### **I. Provisions**

The False Claims Act provides protection to qui tam relators who are 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 furtherance of an action under the False Claims Act.

CCDR will not take any action deemed to be adverse, retaliatory, intimidating and/or retribution against an employee if the employee discloses information about its policies, practices or activities to a regulatory, law enforcement or other similar agency or public official. Protected disclosures are those that assert that the corporation is in violation of a law that creates a substantial and specific danger to the public health and safety or which constitutes health care fraud under the law or that assert that, in good faith, the employee believes constitute improper quality of patient care.

Any individual who is found to have harassed, intimidated or to have taken any adverse action against an individual who submitted a good faith report, participated in an investigation or assisted with remedial action may be subject to discipline, including immediate discharge. However, an individual who submits a report that lacks a good faith basis for the sole purpose of hurting an associated individual may also be subject to discipline and/or immediate termination.

### **II. Protections**

The employee's disclosure is protected only if the employee first brought up the matter internally and gave the employer a reasonable opportunity to correct the alleged violation, unless the danger is imminent to the public or client and the employee believes in good faith that reporting to a supervisor would not result in corrective action.

CCDR will protect qui tam relators with remedies that include reinstatement with comparable seniority as the qui tam relator 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 attorneys' fees.

If the corporation takes any intimidating and/or retaliatory action against the qui tam relator (employee), the employee may sue in state court for reinstatement to the same, or an equivalent position, any lost back wages and benefits and attorneys' fees.



## Appendix A: Glossary of Terminology

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- **Abuse:** Actions that do not involve intentional misrepresentations of fact, but nevertheless are inconsistent with sound financial, business, or healthcare practices and create significant risk to the integrity of the organization such as 1) unnecessary cost to the programs, 2) reimbursement for services that are not medically necessary, or 3) reimbursement for services that fail to meet professionally recognized standards of care.
- **Affected Individuals:** “Affected individuals” means 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, agents, subcontractors, independent contractors, and governing body and corporate officers.
- **Agent:** Any person or business (e.g., contractors, subcontractors, etc.) which or who, authorized on behalf of CCDR, furnishes, or otherwise authorizes the furnishing of health care items or services, performs billing or coding functions, or is involved in monitoring of health care provided by CCDR.
- **Anti-kickback statute:** the federal statute, as it relates to healthcare, which prohibits anyone from knowingly and willfully soliciting, receiving, offering, or paying any remuneration directly or indirectly, in cash or in kind, in exchange for services or purchases for which payment may be made by Medicare and/or Medicaid.
- **Bad Faith Report:** Making a report that violates the standards or honesty in dealing with others; intent to deceive.
- **Board of Directors:** The Catholic Charities governing body, comprised of Directors, which maintains a control function that is above the Executive Level of the corporation.
- **Business Courtesies:** include items of value given to another free of cost (e.g.-gifts, entertainment, and/or CCDR sponsored or hosted social events).
- **Chief Compliance Officer:** The employee vested with responsibility for the development, creation and oversight of the enterprise compliance program, annual compliance plans and the compliance related responsibilities of the Regional Compliance Officers.
- **Claim:** As used in the New York State False Claims Act, “claim” means any request or demand, whether under a contract or otherwise, for money or property which is made to any employee, officer or agent of the state or of a local government, or to any contractor or grantee, or other recipient, if the state or a local government provides any portion of the money or property which is requested or demanded or will reimburse such contractor, grantee or other recipient for any portion of the money or property which is requested or demanded.
- **Coding:** the process of utilizing a medical classification system to assign a numeric code to diagnostic and procedural data.
- **Effective Compliance Plan/Program:** a collection of policies, including this plan, this plan which establishes the standards of conduct for CCDR designed to promote honest and ethical behavior, as well as providing CCDR’s structure for educating and communicating those standards to employees, with the overall objective to prevent, detect and report significant non-compliance. It is well-integrated into the company’s operations and supported by the highest levels of the organization, including the chief executive, senior management, and the governing body; promotes adherence to the required provider’s legal and ethical obligations and is reasonably designed and implemented to prevent, detect, and correct non-compliance with MA program requirements, including fraud, waste, and abuse most likely to occur for the required provider’s risk areas and organizational experience.
- **Conflict of Interest:** Any situation in which financial or other personal considerations may compromise or appear to compromise (1) an employee or Board member’s business judgment; (2) delivery of services; or (3) ability for an employee to do his or her job. An actual or potential conflict of interest occurs when an employee or Board member is in a position to influence a decision that may result in a personal gain for that employee, Board member, or for a relative as a result of business dealings. For the purpose of this policy, a relative is any person who is related by blood or marriage, or whose relationship with the employee is similar to that of persons who are related by blood or marriage.
- **Corporate Compliance Committee:** An internal committee, chaired by the Chief Compliance Officer, selected to oversee and execute on the Compliance Plan for their designated region. Membership is designated by the Chief Compliance Officer and the Diocesan Director.
- **Executive:** any member of senior management staff, regardless of specific title.
- **False Claim:** False claim means any claim, which is either in all or in part, false or fraudulent.
- **Federal Program:** Medicare, Medicaid, and any other programs funded by the Federal government.
- **Fraud:** intentional misrepresentation designed to induce reliance by another person to obtain an unauthorized benefit.

- **Immediate Family Member**: is a spouse, natural or adoptive parent, child or sibling. For the purposes of this Compliance Plan, immediate family members are also considered to be step-parents, step-children and step-siblings, in-laws (i.e.-father, mother, son, daughter, brother or sister), grandparents or their respective spouses and grandchildren.
- **Independent Contractors**: individuals receiving 1099 forms. This does not necessarily include landscaping and maintenance companies, or others who have no involvement in the delivery of or billing for care, services and/or supplies.
- **Knowingly**: to act with actual knowledge, deliberate ignorance, or a reckless disregard for the truth or the falsity of information.
- **Misconduct**: Any action, behavior, or failure to act that is not in conformity with Catholic Charities’ standards, guidelines, or procedures or that is a violation of any federal, state, or local law or regulation.
- **Negligent**: exhibiting lack of care or concern.
- **Non-compliance**: Failure or refusal to act in accordance with this Compliance Plan, or other standards or procedures, or with federal, state, or local laws or regulations.
- **Potential Referral Source**: includes a physician, nurse or social worker who could reasonably be a source of referral of patients to CCDR for services or treatment.
- **Private payor programs**: Any payor of healthcare services other than Medicare or Medicaid, including but not limited to private individuals and insurance plans. “*Organizational experience*” means the required provider’s:
  - (i) knowledge, skill, practice and understanding in operating its compliance program;
  - (ii) identification of any issues or risk areas in the course of its internal monitoring and auditing activities;
  - (iii) experience, knowledge, skill, practice and understanding of its participation in the MA program and the results of any audits, investigations, or reviews it has been the subject of; or
  - (iv) awareness of any issues it should have reasonably become aware of for its category or categories of service.
- **Other Representatives**: volunteers, vendors and others affiliated with CCDR.
- **Overpayment**: Payment of an amount greater than required or permitted by law, regulation agreement. An overpayment includes any amount not authorized to be paid under the medical assistance program, whether paid as the result of inaccurate or improper cost reporting, improper claiming, unacceptable practices, fraud, abuse or mistake.
- **Qui Tam Relator**: individuals who bring an action on behalf of the United States under the federal False Claims Act or on behalf of New York State under the New York State False Claims Act. Qui Tam Relators may share in a percentage of the proceeds from an FCA action or settlement. Also known as “whistleblowers”.
- **Qui Tam Statutory Protections & Remedies**: Both the Federal False Claims Act and New York State False Claims Act protect qui tam plaintiffs who are demoted, suspended, threatened, harassed or in any other manner discriminated against in the terms and conditions of employment by his or her employer because of lawful acts done by the employee on behalf of the employer or on behalf of the government in furtherance of an investigation for, initiation of, or testimony for, or assistance in an action to be filed in court under the qui tam statute. This provision allows reinstatement, double back pay, interest on the back pay, plus special damages including litigation costs and reasonable attorney fees.
- **Regional Compliance Officer**: An individual designated within each of the regional agencies, who is assigned the responsibility of executing and maintaining an effective compliance program for their respective area.
- **Regulatory Violation**: any action that constitutes fraud, abuse, or a violation of a federal, state, or local law or regulation.
- **Relative**: any person who is related by blood or marriage, or whose relationship with the employee, Agent or Board Member is similar to that of persons who are related by blood or marriage.
- **State Program**: Medicaid or any other program funded in whole or part by New York State.
- **Supervisor**: one who supervises or manages the activities of any CCDR employee or other representative.
- **Unusual Gain**: refers to gifts, bribes, product bonuses, special fringe benefits, unusual price breaks and other windfalls designed to ultimately benefit the employer, the employee, Agent or both or that would reasonably be determined to influence the employer, employee, Agent or both.
- **Waste**: unnecessary expenditures or to use carelessly.
- **Whistleblower**: (see Qui Tam Relator) an informant within an organization who discloses insider information of wrongdoing.

- **Whistleblower Laws:** In general Whistleblower laws are laws that describe a.) what types of activities constitute wrongdoing and should be reported; b.) what types of actions an informant may take to report wrongdoing; and c.) what protections are provided to the whistleblower under the relevant law. The following Whistleblower laws apply to CCDR: the Federal False Claims Act, the New York State False Claims Act, the New York State Labor Law, and the New York State Civil Service Law.
- **Whistleblower Protections:** protection provided under the federal law and the State False Claims Act to whistleblowers who are discharged, demoted, suspended, threatened, harassed or in any other manner discriminated against in terms and conditions of their employment as a result of their furtherance of an action under the federal law or the State False Claims Act.

## Appendix B: Compliance Plan Healthcare Laws & Regulations

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Set forth below are some of the major federal statutes specifically applicable to healthcare providers. This outline is not intended to identify all applicable laws. All affected individuals should promptly consult the Compliance & Ethics Office with specific questions.

### ***Anti-Kickback Law***

Offering, paying, soliciting, or receiving any remuneration, in cash or kind, in return for or to induce the referral of an individual for a service or supply payable under any federal healthcare program. Remuneration may include kickback payments, bribes, rebates, etc.

### ***Federal False Claim Act***

A Federal law that imposes liability on any person who submits a claim to the Federal government that he or she knows (or should know) is false. The False Claims Act also imposes liability on an individual who may knowingly submit a false record in order to obtain payment from the government. The third area of liability includes those instances in which someone may obtain money from the Federal government to which he or she may not be entitled, and then uses false statements or records in order to retain the money. The Act provides that private parties may bring an action on behalf of the United States. These private parties are known as “qui tam relators”.

### ***HIPAA***

A federal law titled “Health Insurance Portability and Accountability Act”. Regulations issued under HIPAA protect the privacy of health information and identifying information for all Americans. HIPAA went into effect on April 14, 2003.

### ***New York State False Claims Act***

New York’s false claims laws fall into two categories: civil and administrative laws; and criminal laws. Some apply to recipient false claims and some apply to provider false claims, and while most are specific to healthcare or Medicaid, some of the “common law” crimes apply to areas of interaction with the government.

- **Civil and Administrative:** Closely tracks the federal False Claims Act. It imposes penalties and fines on individuals and entities that file false or fraudulent claims for payment from any state or local government, including healthcare programs such as Medicaid.
- **Criminal:** Various laws, including Social Services Laws and Penal Laws, detail the penalties, sanctions, and fines associated with submitting or causing to submit a false claim or statement.

### ***Patient Protection Affordable Care Act***

The Patient Protection and Affordable Care Act (PPACA) is a federal statute that was signed into law in the United States by President Barack Obama on March 23, 2010. The Act is the product of the health care reform agenda of the Democratic 111th Congress and the Obama administration. The law includes numerous health-related provisions to take effect over a four-year period, including prohibiting denial of coverage/claims based on pre-existing conditions, expanding Medicaid eligibility, subsidizing insurance premiums, providing incentives for businesses to provide health care benefits, establishing health insurance exchanges, and support for medical research.

### ***Fraud Enforcement Recovery Act***

The Fraud Enforcement and Recovery Act of 2009, or FERA, Pub.L. 111-21, 123 Stat. 1617, S. 386, is a public law in the United States enacted in 2009. The law takes a number of steps to enhance criminal enforcement of federal fraud laws, especially regarding financial institutions, mortgage fraud, and securities fraud or commodities fraud. American Recovery Reinvestment Act The American Recovery and Reinvestment Act of 2009, abbreviated ARRA (Pub.L. 111-5), and commonly referred to as the Stimulus or The Recovery Act, is an economic stimulus package enacted by the 111th United States Congress in February 2009. The stimulus was intended to create jobs and promote investment and consumer spending during the recession. The Act includes federal tax incentives, expansion of unemployment benefits and other social welfare provisions, and domestic spending in education, health care, and infrastructure, including the energy sector. The Act

also includes numerous non-economic recovery related items that were either part of longer- term plans (e.g., a study of the effectiveness of medical treatments) or desired by Congress.

***Health Information Technology for Economic Clinical Health Act***

The HITECH Act, enacted as part of the American Recovery and Reinvestment Act of 2009 (ARRA), is concerned with defining the requirements for being compatible with the security and privacy regulations of the Privacy Rule. HITECH also facilitates the expansion of HIPAA Act EMR standards that aid in electronic exchange of health information on a national basis to make medical care more organized and transparent. It is also concerned with putting forth incentives for covered entities that adopt Electronic Health Records (EHR). With HITECH setting new benchmarks for clarifying the requirements to become HIPAA compliant, those who choose to be non-compliant have become more vulnerable to civil penalties. Further, non-compliance with HIPAA Privacy Rule almost entirely excludes covered entities from receiving any kind of financial incentive for adopting EHR.

***Stop Hacks and Improve Electronic Data Security Act***

In July 2019, New York passed the Stop Hacks and Improve Electronic Data Security (SHIELD) Act, a law that amends the existing data breach notification law and imposes more data security requirements on companies who collect information on New York residents. The SHIELD Act amended a previously enacted data breach law in New York - the General Business Law §899aa. By placing additional requirements on companies, this law broadens the scope of consumer privacy. It provides better protection for New York residents from data breaches of their private information.

***Social Services Law § 363-d***

New York's Social Services Law ("SSL") § 363-d sets out the elements that are required in order to have an effective compliance program under New York law.

## **Appendix C - NYCRR Part 521-1, Requirements of a Provider Compliance Program**

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On December 28, 2022, the New York State Office of the Medicaid Inspector General (OMIG) issued new, detailed regulations that require Medicaid-enrolled providers and contractors of providers to maintain provider compliance programs and codify in regulation obligations to self-disclose Medicaid overpayments. The OMIG's new regulations entirely replaced the former 18 NYCRR Part 521, which was comparatively brief. The old regulations included a presumption that a provider's compliance program was adequate if it complied with industry-specific guidance published by the federal Department of Health and Human Services Office of Inspector General (OIG). The OMIG's new regulations (18 NYCRR Part 521-1) contain no such presumption; instead, they directly specify the elements that all provider compliance programs must contain.

<https://omig.ny.gov/media/80411/download?attachment>