



## CORPORATE COMPLIANCE PROGRAM

### POLICY

In order to prevent fraud and abuse in Federal and State health care and private insurance programs, as well as further the Cobble Hill Health Center's (the "Facility") Mission of providing quality care to our Residents, the Facility has adopted the following Corporate Compliance Program which is patterned on the "Seven Essential Elements" as addressed in the Office of the Inspector General's Guidance for Nursing Facilities in the Federal Register/Volume 65, No. 52/Thursday, March 16, 2000; including an "Eighth element" prohibiting retaliation, discrimination or harassment for reporting fraud, waste or abuse, or Whistleblower activity.

This plan also complies with the 2005 Deficit Reduction Act, the 2008 requirement of the OIG, requirements of the Medicaid Inspector General and Section 6102 of the Patient Protection and Affordable Care Act ("ACA") of 3/23/2010.

Additionally, the Facility's Program and Policies include compliance with Section 6102 of the ACA which added Subsection 1128I(b) to the Social Security Act. The ACA called for Skilled Nursing Facilities' (SNFs) compliance and ethics programs to be reasonably designed, implemented and enforced so that they are likely to be effective in preventing and detecting criminal, civil and administrative violations under the ACA. In 2016, The Centers for Medicare & Medicaid Services ("CMS") issued final regulations to Part 483 of Title 42 of the Code of Federal Regulations ("CFR"), the Requirements for States and Long-Term Care Facilities ("RoPs") that included compliance and ethics program regulations.

42 CFR Section 483.85(c) sets forth the required compliance and ethics program components for all SNFs. These required components include:

- Written compliance and ethics standards, policies and procedures.
- Assignment of individuals within the high-level personnel to oversee the compliance and ethics program of the facility.



- High-level personnel are given sufficient resources and authority to ensure compliance with the written standards, policies and procedures.
- Due care must be exercised to not give discretionary authority to individuals the operating organization knew or had reason to know engage in criminal, civil and administrative violations under the Social Security Act.
- The program must be communicated to staff and volunteers in accordance with their roles and contracted individuals.
- Implementation of monitoring and auditing systems that are reasonably designed to detect criminal, civil and administrative violations.
- Consistent enforcement of facility standards, policies and procedures.
- Once a violation is identified, the operating organization must take all reasonable steps to appropriately respond to the violation and to prevent similar violations.

We recognize, however, that many daily decisions concerning the care of our Residents are more than mere statutory compliance; they are of a moral and ethical nature. Doing the right thing guides the choices we make every day. It steers decisions grounded in confidence and trust. It guides principled outcomes that impact our residents, residents' families and ourselves. We champion the highest legal, ethical and compliance standards and take pride in our positive contributions to our community's most vulnerable.

This Document sets forth guidelines for responsible behavior and common criteria for resolving the principal statutory, moral and ethical concerns encountered in the effective operation of the Facility as a health care provider.

We shall abide by the letter and the spirit of all applicable laws and regulations and shall adhere to the highest ethical standards of conduct and shall act in a manner that will reflect favorably upon the Facility and expect that all those associated with us shall do likewise.



## Element I - “Written Policies and Procedures and Code of Conduct”

### A. CODE OF CONDUCT – GENERAL STATEMENT

The Facility has built a reputation for the reception and care of ill and aging persons without regard to race, creed, age, national origin, marital status, disability, or sexual preference, or any other protected category. We are committed to providing the care and services necessary to attain or maintain the Residents’ “highest practical, physical, mental and psychosocial well-being, with integrity as the fundamental guiding principle for our employees, agents, and vendors while respecting the dignity, worth, and uniqueness of each individual who comes to the Facility.”

### B. CODE OF ETHICS

Although we recognize that the staff includes persons of many different cultures and values, there are certain standards by which we should all abide.

This Code of Ethics exemplifies the behavior that is expected of all employees in the performance of their duties, all staff will:

1. be dedicated to the welfare and interest of the Residents and conduct themselves in such a manner as to bring credit to the Facility, to their profession and to themselves.
2. complete assigned duties effectively and efficiently and contribute wholehearted support toward improving the quality of care offered to the Residents.
3. keep all information relating to the Residents, fellow employees and work confidential.
4. remove themselves from situations where there may be a conflict of interest, or inappropriate influences over other staff, residents, family members, or vendors.



5. treat all people with whom they have contact at the Facility with respect and preserve their dignity as human beings.
6. ensure that no person because of race, creed, age, color, sex, national origin, sexual preference, marital status, disability, or any other protected category is subject to any discrimination in his/her civil rights or to any harassment in the exercise thereof.
7. in all ways conduct themselves, in all respects, in accordance with the highest standards of ethical behavior.

#### **C. CORPORATE COMPLINACE POLICIES AND PROCEDURES**

This document has been approved by Corporate Compliance Committee, as the Facility's Policies and Procedures for Corporate Compliance, at its 7/14/2021 meeting. This document is updated regularly and approved by the Corporate Compliance Committee to ensure the Facility has in operation a compliance and ethics program that is effective in preventing and detecting criminal, civil, and administrative violations. The Facility will use due care to avoid delegating substantial discretionary authority to individuals known to have a propensity to engage in violations.

The Facility provides guidance to others, vendors, family, visitors by annual mail, or postings displayed throughout the building.

#### **D. WRITTEN OPERATING POLICIES AND PROCEDURES**

The Facility maintains specific Written Operating Policies and Procedures for the different clinical services, financial, and administrative functions of the Facility. The Corporate



Compliance Committee has inventoried all relevant Policies and Procedures and has established July 14, 2021 as the date by which all Operating Policies and Procedures will be updated.

Operating Policies and Procedures will be reviewed and updated no less than bi-annually or more frequently as needed.

Copies of the Operating Policies and Procedures will be available and accessible to staff for their guidance and to answer questions regarding Operating Procedures.

The Facility ensures adherence to its Operating and Corporate Compliance Policies/Procedures, by incorporating such compliance as a factor in the evaluation of an employee's job performance.

1. Facility Wide Training Programs will be conducted by the Compliance Office or designee, at the time of orientation and once annually for all others to ensure employees understand their responsibility to promote and comply with all elements of the Facility's Corporate Compliance Program. Facility Wide Training Programs will be conducted in advance of implementing changes in Operating and Corporate Compliance Policies/Procedures.
2. Supervisors/Department Heads will supplement the above training by conducting Unit or Departmental level training for employees, physicians, consultants and vendors in Operating and Compliance Policies/Procedures that impact only their respective Unit of Department. As well as present Corporate Compliance and Departmental orientation at the time of employment.
3. Once trained, all employees, physicians, consultants and vendors will be responsible for appropriately implementing Operating and Corporate Compliance Policies/Procedures, as a condition of their continued employment/association with the Facility.



4. Supervisors, Department Heads and the Administrator shall ensure Compliance by:
  - a. Training staff, physicians, consultants and vendors at the time of orientation and at regular intervals thereafter in compliance with Operating and Corporate Compliance Policies/Procedures, providing reasonable remedial training as necessary.
  - b. Annually, or more frequently, if necessary, evaluating each employee's job performance to ensure their knowledge and compliance with Operating and Corporate Compliance Policies/Procedures. These evaluations will be completed in writing on the performance evaluation forms and filed in the employee's personnel folder. At the time of employee's evaluation, employee will be asked to acknowledge if the know of fraud, waste or abuse in the Federal, State of private insurance programs.
  - c. Monitoring staff compliance with Operating and Corporate Compliance Policies/Procedures on a regular basis.  
Performing periodic and random audits to evaluate compliance.
  - d. Randomly testing or otherwise requesting "return demonstration" of employee's skills and knowledge.
  - e. Interviewing and soliciting impressions from Residents and Residents' families to ascertain employees' skills and knowledge.
  - f. Through the Quality Improvement Team, identifying areas of non-compliance.
5. If an employee, physician, consultant or vendor violates or does not demonstrate knowledge about, or compliance with, the Facility's Operating and Corporate Compliance Policies/Procedures or the Facility's Standards of Conduct, disciplinary action must be taken. Such discipline shall include but, not limited to:
  - Verbal Warnings



- Written Warnings
- Withholding pay increases or payment (when legally responsible)
- Suspension without pay
- Termination of employment or services

## **ELEMENT II – “Designation of a Compliance Officer and Corporate Compliance Committee”**

### **A. CORPORATE COMPLIANCE OFFICER**

The Facility’s Corporate Compliance Officer is the Chief People Officer or other Senior Officer within the facility.

### **B. The Corporate Compliance Officer is responsible for:**

1. Overseeing implementation of the Compliance program.
2. Reporting on a regular basis to the Compliance Committee on the progress of implementation and establishing methods to improve the Facility’s efficiency and quality of services, and to reduce the Facility’s vulnerability to fraud, abuse, and waste.
3. Developing, coordinating, and participating in a multifaceted educational and training program that focuses on the elements of the Compliance Program and seeks to ensure that all relevant employees, physicians, consultants and vendors understand and comply with pertinent Federal, State and local standards.
4. Ensuring that independent contractors and agents who furnish physician, nursing or other health care services to the Residents of the Facility are aware of the Residents’ Rights as well as requirements of the Facility’s Compliance Program applicable to the services they provide.
5. Coordinating personnel issues with the Facility’s Human Resources Director to ensure that the National Practitioner Data Bank has been checked with respect to all medical staff and independent contractors (as appropriate) and the Office



of the Inspector General's List of Excluded Individuals/Entities has been checked with respect to all employees, medical staff and independent contractors.

6. Assisting the Facility's financial management in coordinating internal compliance review and monitoring activities, including annual or periodic reviews of departments.
7. Appropriate reporting of self-discovered violations of program requirements.
8. Continuing the momentum of the Compliance Program after the initial year of implementation.

**C. THE CORPORATE COMPLIANCE OFFICER IS ALSO RESPONSIBLE FOR:**

1. Independently investigating and acting on matters related to compliance, including the flexibility of design and coordinate internal investigations which respond to reports of problems or suspected violations and any resulting corrective action, (making necessary improvements to the Facility's Policies and Practices, taking appropriate disciplinary action) with all of the Facility's departments, vendors, subcontracted providers and health care professionals under the Facility's control.
2. Participating in the annual staff in-service on Corporate Compliance.
3. Monitoring the Facility's Corporate Compliance Hotline and reporting as outlined on pages 9 and 10 of this document.
4. Assist Administration in obtaining the signed, Annual Conflict of Interest Questionnaires from Key Personnel and Board of Directors.

**D. CORPORATE COMPLIANCE COMMITTEE**





In addition to the Corporate Compliance Officer, the Corporate Compliance Committee shall include certain department and other key personnel and shall seek the advice of the HIPPA/Corporate Compliance consultant.

The Corporate Compliance Committee will meet on a quarterly basis, more frequently if necessary. The Committee shall:

1. Analyze legal requirements with regard to specific risk areas.
2. Assess Policies and Procedures that address risk for possible incorporation into the compliance program.
3. Work with appropriate department heads to develop Standards of Conduct and Policies and Procedures to promote Compliance with legal and ethical requirements.
4. Recommend and monitor, in conjunction with the relevant departments, the development of internal systems and controls to carry out the Facility's policies.
5. Determine appropriate strategies and approaches to promote compliance with program requirements and detection of any potential violations.
6. Develop a system to solicit, evaluate and respond to compliant and problems.
7. Monitor internal and external audits and investigations for the purpose of identifying deficiencies, and implementing corrective action.
8. The Corporate Compliance Committee will maintain minutes of each of its meetings. Each member of the Corporate Compliance Committee will maintain copies of these minutes.

**ELEMENT III – “Development and presentation of Regular and Effective Education/Training Programs”**



The Facility will present a site- wide training program to introduce/reaffirm Corporate Compliance requirements to all employees. This overall program will be presented at least annually and at the time of orientation for new employees. These programs are mandatory for all employees and attendance will be taken and recorded.

Each department will conduct job specific training programs as needed. Training needs will be identified through the Quality Improvement process, survey results, and employee's performance evaluations, complaints from Residents and Residents' family and error ratios. Lesson outlines and attendance must be kept on file for each training program. Attendance at training programs is a condition of continued employment and failure to comply with training requirements will result in disciplinary action.

The Committee may also undertake other functions, as the compliance concept becomes part of the overall operating structure and daily routine of the Facility. The Corporate Compliance Committee is an extension of the Compliance Officer and provides the organization with increased oversight.

New employees will receive and sign for a handbook at the time of their orientation. The employee handbook will include all pertinent information (in a simplified version) that employees are responsible for as relates to Corporate Compliance.

The Facility will post, throughout the building and in an accessible manner, a listing of pertinent address and telephone numbers for various State, Federal and Advocacy Agencies.

This includes:

**The Facility's Internal, Anonymous Hotline**

(718) 855-6789 ext 262

**New York State Department of Health**

(888) 201-4563

**State Certification and Licensing Agency**

(518) 474-3843



### **Ombudsman Programs**

(212) 962-2720

(800) 342-9871

### **Protection and Advocacy Network**

(888) 545-2600

### **State Medicaid Fraud Control Unit**

(212) 417-5397

### **Health and Human Service – Office of the Inspector General Hotline**

(800) 488-8244

## **ELEMENT IV – “Developing Effective Lines of Communication”**

### **A. ACCESS TO COMPLIANCE OFFICER**

Employees must be able to ask questions and report problems. Therefore, supervisors play a key role in establishing effective lines of communications, by answering questions, responding to employee concerns and relaying allegations of fraud and abuse. In addition to referring employees to the Compliance Officer, supervisors should keep the Compliance Officer informed of all related issues brought to them.

The Corporate Compliance Officer is the heart of an effective reporting program. Resident, Residents’ families, visitors, employees, consultants and vendors must be made to feel comfortable in reporting concerns to the Corporate Compliance Officer or any member of the Corporate Compliance Committee.

A trusting relationship must be developed so that all wishing to express their concerns can do so in an atmosphere of mutual confidence and open communications which is free from recrimination and the fear of retaliation.

The False Claims Act, 31 U.S.C. 3730(h), protects employees from retaliation or harassment arising out of a report of alleged fraud or abuse.



The Compliance Officer should be viewed as someone to whom staff and others can go to get clarification on the Facility's policies. Questions and responses should be documented, dated, and if appropriate, shared with others so that standards can be updated and improved to reflect any necessary changes or clarifications.

## **B. HOTLINE AND OTHER FORMS OF COMMUNICATIONS**

### 1) Telephone Hotline

The Facility's Corporate Compliance and Immigration Hotline number is (718) 855-6789 Extension 262.

- a) Through the use of security codes, the Corporate Compliance Officer and one other representative on the Corporate Compliance Committee are the only ones who can audit the Hotline.
- b) All phone messages retrieved will be electronically transcribed as part of the investigation process.
- c) The Corporate Compliance Officer will maintain a log of complaints; more detailed investigation notes will be maintained.
- d) The Compliance Officer will inform the Corporate Compliance Committee of all allegations made and of any investigatory actions that may have been taken.

Employees are permitted to report matters on an anonymous basis. If the complainant identifies themselves, the Compliance Officer will inform them of the outcome of the investigation.

The Facility should always strive to maintain the confidentiality of a complainant's identity. It must be made clear that there may be a point where the individual's identity may become known or may have to be revealed in certain instances.



In all cases, the complainant will be informed of the Facility's no retaliation policy.

Once annually the Corporate Compliance Officer will include in the employee's paychecks a statement of the Facility's No Retaliation Policy as well as the fact that employees could receive "between 15% to 30% of monies recovered from their efforts."

## **ELEMENT V – "Audits and Monitoring"**

An effective compliance program must, on an on-going basis, audit and monitor operations of the Facility to ensure the organization remains in compliance, as well as ensure that all elements of the compliance program itself are functioning as planned.

### **A. QUALITY IMPROVEMENT TEAM**

**The heart of the Facility's Audit and Monitoring system is the Quality Improvement Team.**

The Quality Improvement Team monitors quality indicators or quality measures which provide performance information on issues related to the quality of care the Facility provides to Residents.

The Quality Improvement Team will perform various on-going, in-depth audits on any issues not addressed in the quality indicators or quality measures.

The Chair of the Quality Improvement Team will make a presentation, at each Corporate Compliance Committee meeting, of those issues studied by the Quality Improvement Team as well as the quality indicators or quality measures.

### **B. LEGAL AUDITS**

As determined by the Administrator contracts and other legal issues will be referred to legal counsel.

In addition, the Facility's Certified Public Accountants will, as they feel necessary, interview Admissions Workers, Social Workers and billing and claims reimbursement employees to



determine their knowledge of applicable program requirements, claims and billing criteria. The results of these interviews will be reported to the Corporate Compliance Committee.

#### **C. FINANCIAL AUDITS**

Annually, the Facility's Certified Public Accountants will audit and certify the Facility's financial position and the cost report submitted for Federal, State and Private Health Insurance. As appropriate, the Facility's Certified Public Accountants will issue a "management letter" on any financial practice they feel need to be corrected or improved.

#### **D. OTHER AUDITS**

1. Records will be maintained to ensure the timely validation of applicable State license renewals and credentialing.
2. As deemed necessary, reviews will be conducted to determine whether the Corporate Compliance Program itself is performing up to expectations and whether each of the Compliance Elements has been satisfied. This process will assess actual conformance by all departments and must identify areas for improvements in the Compliance Program, as well as the Facility's general operations. The Facility will periodically assess the compliance program to ensure it reflects changes within the organization.
3. The Corporate Compliance Committee had developed an Audit Sub-Committee which meets quarterly and reports their activities to the Corporate Compliance Committee at each regular meeting.

#### **ELEMENT VI – "Enforcement Standards and Penalties for Violations"**

The Standards, Procedures and Policies of this Corporate Compliance plan will be enforced through appropriate and consistent corrective and disciplinary action, as outlined in Element I



(E) (5) of this document as well as the Facility’s Human Resource Policy and Procedure Manual and employee’s handbook.

These discipline Policies will be uniformly implemented against those that violate the Standards of Conduct or other provisions of this document, or those that encourages, directs, facilitates or permits non-compliance behavior as well as those who unreasonably fail to detect and report violations.

Similar disciplinary action will be taken against “non –employees’ consultants, Medical/Dental staff, Fee for service providers and vendors.

#### **ELEMENT VII – “Responding to Detected Offenses and Developing Corrective Action”**

Upon receipt of reports or reasonable indication to suspect non-compliance, it is important that the Corporate Compliance Committee immediately investigate all allegations to determine whether a material violation of law of the Corporate Compliance Program has occurred. If a violation has occurred, decisive steps to correct the problem will be taken.

All levels of employees, Medical/Dental staff, consultants, fee for service provider and vendors are potentially subject to the same types of disciplinary action for the commission of similar offenses. Each situation will be considered on a case-by-case basis, with emphasis on consistency.

The Corporate Compliance Committee will initiate the investigation process, utilizing staff, the Compliance Committee, HIPPA/Corporate Compliance consultant, auditors and others experts to assist in the investigation.



The Standards, Procedures and Policies of this Corporate Compliance plan will be enforced through appropriate and consistent corrective and disciplinary actions, as outlined in Element I (E)(5) of this document as well as the Facility's Personnel Policy and Procedures Manual.

These discipline Policies will be uniformly implemented against those that violate the Standards of Conduct or other provisions of this document, as well as those who unreasonably fail to detect and report violations.

**A. THE INVESTIGATION FILES SHOULD CONTAIN**

1. Documentation of the alleged violation.
2. A description of the investigation process.
3. Copies of interview notes and key documents.
4. A log of witnesses interviewed and documents reviewed.
5. The results of the investigation.
6. Corrective action implemented.
7. Disciplinary action taken, if any.
8. Written analysis to determine whether modifications of operating or compliance policy should be undertaken.

**B. SECURITY**

The Compliance Officer is responsible for security during the investigation process, i.e.

1. Take appropriate steps to secure or prevent the destruction of documents.
2. Remove or reassign those individuals under investigation from their usual duties until the investigation is completed.
3. Where fraud is not involved, the Facility will, within 60 days use normal repayment channels to return overpayments as they are discovered.

**C. FINDINGS**

The Corporate Compliance committee is responsible to determine if there is reason to believe that fraud or violation of the policy has occurred.





1. Where there are indications of fraud, the Facility must report same to appropriate State and Federal Authorities within sixty (60) days.
2. Offices of the Inspector General: (800) 488-8244
3. New York State Attorney General Medicare Fraud: (212) 417-5397
4. Kings County District Attorney's Office: (718) 250-2000
5. New York State Department of Health: (888) 207-4563
6. When reporting to these agencies, the Facility will provide all evidence relevant to the matter.
7. Where applicable, repayment should be taken through normal repayment channels.
8. Where applicable, the Corporate Compliance Officer, in consultation with the Corporate Compliance Committee should administer uniform discipline.

#### **ELEMENT VIII - Retaliation, Discrimination or Harassment**

Although it is not one of the Essential Elements in the OIG Guidance for Nursing Facilities in the Federal Register/Volume 65, No 52/Thursday, March 16, 2000, there is an eighth element, that is; No employee will suffer retaliation, discrimination or harassment for reporting fraud, waste or abuse or other Whistleblower activity.

**Approved By: Donny Tuchman**                      **Title: Administrator**

**Effective Date: May 11, 2000**   **Revision Date: 7/14/2021 (adopted)**                      **Reviewed Date: 7/14/2021**