

**POLICY # 97**

**AREA:** Agency

**AFFECTED DIVISION:** All

**EFFECTIVE DATE OF BOARD APPROVAL:**

Bernie Burns  
Executive Director

Denece Gossie  
Board President



**Corporate Compliance Program**

Corporate Compliance Program

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## ***THE ARC OF STEUBEN CORPORATE COMPLIANCE PROGRAM***

### **SECTION 1: COMMITMENT TO BUSINESS ETHICS AND COMPLIANCE**

The Arc of Steuben is committed to conducting all business in accordance with the highest ethical standards. The organization complies with all applicable federal, state and local laws and regulations.

The Arc of Steuben has a proud history of over 50 years providing services to people who have disabilities and their families based on principles of ethical and responsible conduct. Everyone associated with the Arc of Steuben is expected to adhere to exemplary standards of conduct in any dealings on behalf of the organization.

The Executive Director, with oversight from the Board of Directors, has the ultimate authority and responsibility for the implementation of the Corporate Compliance Program. Specifically, the Executive Director and the Corporate Compliance Officer, with oversight from the Board of Directors, have the authority and responsibility for ensuring the Arc of Steuben's compliance with governmental laws and regulations, including the implementation of all necessary and required actions to prevent fraud and abuse in the claims process, quality of care issues related to the services and supports provided for people who have disabilities, and financial arrangements with parties that may affect these same services and supports. The Executive Director and Corporate Compliance Officer also have the responsibility to make any required report to enforcement authorities.

The Corporate Compliance Program defines the standards of conduct that are expected of all Arc of Steuben representatives (see definition below), provides guidance to resolve questions regarding legal and ethical issues, and establishes a process for reporting possible violations of the law or ethical principles within the organization. The guidelines contained within the Corporate Compliance Program are designed to assist Arc of Steuben representatives in making ethical choices when confronted with difficult situations and decisions. The willingness of each Arc of Steuben representative to raise ethical and legal concerns is essential to meeting the Arc of Steuben's commitment to ethical business standards. Ultimately, the responsibility for ethical behavior rests with each person as they conduct their duties on behalf of the Arc of Steuben.

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Definition – Arc of Steuben representatives – Associates, board members, volunteers and agents of the Arc of Steuben. Also included are employees and others working for or on behalf of organizations and businesses doing business with or having contracts with the Arc of Steuben.

All Arc of Steuben representatives must abide by the letter and spirit of all applicable laws and regulations, and must act in accordance with the principle of full disclosure of all facts related to any activity, even those which may reflect unfavorably upon the organization. The Arc of Steuben representatives must adhere to the highest ethical standards of conduct in all business and service functions, and must act in a manner that enhances the organization's standing in the community. The Arc of Steuben promotes relationships based on mutual trust and respect, and provides an environment in which anyone may question practices without fear of consequences.

The hiring/contracting/utilization and retention of any Arc of Steuben representative is contingent upon acceptance and compliance with the standards of conduct as outlined in this Corporate Compliance Program, Section 1. It is expected that others who do business with the Arc of Steuben (i.e. vendors, consultants, etc.) will adhere to similar standards in their dealings with the Arc of Steuben.

The Corporate Compliance Program is intended to establish a framework for legal compliance by the Arc of Steuben, particularly with federal and state laws on fraud. The Corporate Compliance Program is intended to reflect good judgment and common sense. It is not intended to replace other compliance practices, rules or regulations as defined in the Arc of Steuben's policies and procedures. When an Arc of Steuben representative observes a situation that appears to violate the standards of conduct, it is expected that this situation will be brought to the attention of a Supervisor, Corporate Compliance Officer or the Executive Director. Any Arc of Steuben representative having a question regarding the application or interpretation of the Corporate Compliance Program should use the procedure outlined in Section 3 of this document.

## **SECTION 2: STANDARDS OF CONDUCT**

### **INTRODUCTION**

The Arc of Steuben representatives are expected to act with the highest ethical and responsible conduct. If an Arc of Steuben representative detects or suspects improper activities by an associate or agent of the organization, or by a person with whom the Arc of Steuben conducts business, he/she must report this to a Supervisor, Corporate Compliance Officer and/or the Executive Director immediately so that the issue can be reviewed. Withholding this type of knowledge is a violation of the Standards of Conduct. Any and all evidence will be reviewed by the Corporate Compliance Officer, Executive Director and appropriate legal counsel. Violations related to the Standards of Conduct may subject an Arc of Steuben representative(s) to disciplinary action up to and including discharge or termination of any association with the Arc of Steuben, consistent with the Personnel Policies and/or any relevant contract.

### **PURPOSE**

The purpose of the Arc of Steuben's Standards of Conduct is to provide information and guidance to all representatives of the agency to assist in carrying out daily job responsibilities within legal and ethical standards. These guidelines apply to the people we support and those who do business with us.

The Standards of Conduct ensure that we meet our ethical standards and comply with applicable regulations and law. We have made every effort to make the Standards of Conduct easy to understand and comprehensive in nature. These qualities are critical components of the Arc of Steuben's overall Corporate Compliance Program.

Although we promote the concept of empowering associates at local program sites and facilities in order to meet local needs, the policies set forth in the Corporate Compliance Program including the Standards of Conduct are mandatory and must be followed.

### **PROCEDURE**

#### ***Agency Associates***

Agency associates will be provided with information on how to access the Corporate Compliance Program including the Standards of Conduct at the time of initial hire and minimally annually thereafter. In addition, an electronic copy of the Corporate Compliance Program will always be available to Agency associates.

New associates will be trained on our Corporate Compliance Program including the Standards of Conduct within three (3) months of hire and will sign an acknowledgement of education at that time, indicating his or her understanding and commitment to follow the Corporate Compliance Program including the Standards of Conduct. The Acknowledgement of Education Form is attached as APPENDIX A.

Each Supervisor will ensure there is an opportunity for associates to review the Corporate Compliance Program including the Standards of Conduct annually or sooner if circumstances require earlier re-training. At that time, the associate will be required to re-sign the acknowledgement form and submit a copy to Human Resources.

### ***Supervisors***

While all associates are obligated to follow our Corporate Compliance Program including the Standards of Conduct, the Arc of Steuben management team is expected to set an example. We expect all the Arc of Steuben Supervisors to: (1) exercise their responsibilities in a manner that is kind, sensitive, thoughtful and respectful. We expect each Supervisor to create an environment where all associates feel free to raise concerns and propose ideas; and (2) ensure their associates have sufficient information to comply with laws, regulations and the Arc of Steuben's policies and procedures, including but not limited to those related to the Arc of Steuben Corporate Compliance Program and to resolve ethical dilemmas. Supervisors must create a culture within the Arc of Steuben which promotes the highest standards of ethics and compliance.

### ***Independent Contractors***

Independent contractors will be provided with a copy of the Standards of Conduct at the time of entering into a written or other agreement with the Arc of Steuben.

Each independent contractor will sign an acknowledgement of the Standards of Conduct at the time of initial contracting and at renewal, indicating his or her understanding and commitment to follow the Corporate Compliance Program and Standards of Conduct. The Independent Contractor/Agents/Vendors Acknowledgement Form is attached as [APPENDIX D.](#)

### ***Board Members***

Each Board member shall be provided with a copy of the Corporate Compliance Program including the Standards of Conduct at the time of Board orientation and minimally annually thereafter.

Each new Board member will be oriented Corporate Compliance Program within three (3) months of joining the Board of the Arc of Steuben and will sign an acknowledgement of the Corporate Compliance Program including the Standards of Conduct at that time, indicating his or her understanding and commitment to follow Corporate Compliance Program. The Members of the Arc of Steuben Board of Directors Acknowledgement Form is attached as [APPENDIX E.](#)

## STANDARDS OF CONDUCT

### ***Conflict of Interest***

A potential conflict of interest may occur if a representative's outside activities or personal interests influence or appear to influence his/her ability to make objective decisions in the course of his/her job responsibilities. A potential conflict of interest may also exist if the demands of any outside activities may or do hinder or distract a representative from the performance of his/her job, or may cause(s) any representative to use the Arc of Steuben's resources for other than Arc of Steuben related purposes.

Examples of potential conflicts that should be promptly and fully disclosed include but are not limited to:

- Ownership by a representative or representative's immediate family of a significant financial interest in a business enterprise that does business with, seeks to do business with, or is a competitor of the Arc of Steuben. Business interests that adversely affect the quality of a representative's work or involve the use of agency equipment, supplies, facilities or name are not permitted.
- Serving as a director, officer, consultant, or in any other key role in any outside enterprise that does or seeks to do business with, or is a competitor of the Arc of Steuben.
- For representatives maintaining outside employment, unless such employment does not (a) interfere with scheduled work for the Arc of Steuben, (b) impair the representative's effectiveness, (c) result in adverse publicity, or (d) conflict or appear to conflict in any way with the interests of the organization.
- Any arrangement or circumstance, including family or other personal relationships, which might prevent the representative from acting in the best interest of the agency.

Any financial transaction (which includes bartering/trading, buying/selling personal items or catalog merchandise) taking place between Arc of Steuben Representatives and individuals served by the agency should be reviewed and approved prior to the completion of the transaction. The following positions should be involved in the approval process: Supervisor (of the associate involved in the transaction), the planning team (which includes the individual, involved family member and Medicaid Service Coordinator) and the Corporate Compliance Officer or designee.

The Medicaid Service Coordinator should document all discussion and follow-up regarding the transaction in the case note format. All transactions of this nature should be tracked and include the date of transaction, parties involved, amount of transaction, etc. Tracking will be maintained in the Quality Enhancement Division and reported quarterly or sooner if necessary to the Corporate Compliance Committee.

Loaning or borrowing money to/from individuals is strictly prohibited.

It is the obligation of all representatives to remain free of conflicts of interest in the performance of his/her Arc of Steuben responsibilities. If any individual has questions about whether an outside activity might constitute a conflict of interest, it is expected that individual would consult with a Supervisor, Corporate Compliance Officer or the Executive Director of the Arc of Steuben **before** pursuing the activity.

The Arc of Steuben's representatives and Board of Directors are required to sign a written acknowledgment that he/she understands and will follow the Arc of Steuben's Conflict of Interest Standards of Conduct. Additionally, all representatives and Board members are required to complete CONFLICT OF INTEREST DISCLOSURE STATEMENT (**APPENDIX C AND H**).

### ***Business Courtesies***

This part of the Standards of Conduct should not be considered in any way as an encouragement to make, solicit, or receive any type of entertainment or gift. For clarity purposes, please note that these limitations govern activities with those outside the Arc of Steuben. This section does not pertain to actions between the Arc of Steuben and its representatives or actions among the Arc of Steuben's representatives themselves.

The Arc of Steuben prohibits representatives from soliciting or accepting gifts or favors of any kind from individuals or organizations who do business with or may wish to do business with the Arc of Steuben. Accepting gifts or favors of this nature may create a possible conflict of interest and may result in unethical business practices. If a representative is offered a gift amounting to more than the value of a small promotional gift (\$25), his/her Supervisor, Corporate Compliance Officer or the Executive Director must be notified.

Representatives may accept a gift or favor from an individual served or a member of his or her family in normal gift giving situations, provided the value of the gift or favor does not exceed \$25.00. Perishable or consumable items given to a program site or group are not subject to these limitations. Departure from this \$25 guideline requires the review and approval of the Corporate Compliance Officer or the Executive Director provided there is full disclosure to the Corporate Compliance Committee. Disclosure as reported to the Committee will be documented and maintained in the meeting minutes for review and/or audit purposes.

There are times when a current or potential business associate extends an invitation to a social event in order to further a business relationship. There are also times when the Arc of Steuben's associates extend similar invitations to current or potential business associates. In either case, such invitations must be reasonable and appropriate.

U. S. Federal and state governments have adopted strict rules and laws regarding gifts, meals, and other business courtesies for their employees. The Arc of Steuben's policy is to not provide any gifts, entertainment, meals, or anything else of value to any employee or representative of the Federal or State government, except for minor refreshments in connection with business discussions or promotional items with the Arc

of Steuben logo valued at no more than \$10.00. With regard to gifts, meals, and other business courtesies involving any other category of government official or employee, Agency representatives must determine the particular rules applying to any such person and carefully follow them.

The Arc of Steuben prohibits its representatives from offering or transferring remuneration to any individual eligible for benefits under federal or state health care programs, including Medicare and Medicaid. Agency representatives shall not offer or provide any gift, hospitality or entertainment of more than nominal value to any Medicaid beneficiary. Permissible items include pens, t-shirts, water bottles, etc, valued at less than \$10.00 per item and no more than \$50.00 per annum as long as such items are not offered or provided to influence health care decisions by the person, family member or responsible party. Offers of waivers of coinsurance or deductible amounts as part of any advertisement or solicitation are prohibited. Waiver of coinsurance or deductible amounts can be waived only after determining in good faith and documenting that the beneficiary is in financial need and the Arc of Steuben is unable to collect the cost-sharing amounts from the beneficiary.

### ***Controlled Substances***

Some Agency associates routinely have access to prescription drugs, controlled substances, and other medical supplies. Many of these substances are governed and monitored by specific regulatory organizations and must be administered by physician order only. It is essential that these items be handled properly and only by authorized associates to minimize risks to other associates and individuals. If any Agency associate becomes aware of diversion of drugs from the organization, that associate must report the incident immediately. Any associate possessing their own personal medications at the work site has an obligation to secure this medication at all times.

### ***Control of Medications***

It is the Arc of Steuben's policy that all representatives shall be diligent in discharging their obligations regarding prescription drugs and controlled substances in accordance with all applicable laws and regulations.

The Arc of Steuben and its representatives are legally responsible for the proper administration, handling of and prevention of unauthorized access to pharmaceutical products. The diversion of any prescription drug or controlled substance in any amount for any reason to an individual or entity is forbidden.

The Arc of Steuben's representatives may not use drugs kept in Agency programs. Any violation of law or Agency policy involving prescription drugs or controlled substances may be grounds for termination of associates, cancellation of contracts, and suspension of volunteer privileges.

If an Arc of Steuben representative has a question or knowledge of any violation of law or policy regarding prescription drugs or controlled substances, they must immediately contact their Supervisor, Corporate Compliance Officer or the Executive Director.

### ***Copyrights***

The Arc of Steuben representatives may use copyrighted materials pursuant to the pertinent laws and regulations governing such matters. Inquiries regarding those laws and regulations should be presented to the Corporate Compliance Officer or Executive Director who will resolve any issues after obtaining any appropriate legal advice.

### ***Equal Employment Opportunities and Diversity***

Our representatives provide us with a wide complement of talents that contribute greatly to our success. We are committed to providing an equal opportunity environment where everyone is treated with fairness, dignity, and respect. The Organization abides by all applicable federal and state laws, rules, regulations, executive orders and decisions concerning hiring, compensation, promotion, benefits and all other privileges and conditions of employment.

The Arc of Steuben shall not discriminate against any individual with a disability with respect to any offer, term or condition of employment. We will make reasonable accommodations to the known physical or mental limitations of otherwise qualified individuals with disabilities.

### ***Workplace Violence and Harassment***

Each associate has the right to work in an environment free of harassment and disruptive behavior. We will not tolerate harassment by anyone based on the diverse characteristics or cultural backgrounds of those who work at the Arc of Steuben. Degrading or humiliating jokes, slurs, intimidation or other harassing conduct is not acceptable in our workplace. The Associate Handbook provides the full policy on Workplace Violence and Harassment.

Any form of harassment including sexual harassment is strictly prohibited. This prohibition includes bullying, unwelcome sexual advances or requests for sexual favors in conjunction with employment decisions. Moreover, verbal or physical conduct including conduct of a sexual nature that interferes with an individual's work performance or creates an intimidating, hostile or offensive work environment has no place at the Arc of Steuben.

Harassment also includes incidents of workplace violence. Workplace violence acts are defined as, but not limited to, robbery and other commercial crimes, stalking, violence directed at the employer, terrorism, and hate crimes committed by current or former employees. We prohibit associates from possessing firearms, weapons, explosive devices, or other dangerous materials on any Arc of Steuben owned or leased property at any time. Associates who observe or experience any form of harassment or violence should report the incident to his/her Supervisor, the Director of Human Resources, Corporate Compliance Officer or the Executive Director so timely corrective action may be taken to resolve the issue.

### ***Safety***

All facilities must comply with all government regulations and rules, agency policies and required facility practices that promote the protection of workplace health and safety. Our policies have been developed to protect individuals from potential workplace hazards. All Agency associates should become familiar with and understand how these policies apply to his/her specific job responsibilities and seek advice from his/her Supervisor or the Director of Facilities regarding any question or concern. It is important for all Agency associates to advise their Supervisor of any serious workplace injury or any situation presenting a danger or injury so timely corrective action can be taken to resolve the issue.

### ***Certificate and License Renewal***

Associates and individuals retained as employees or independent contractors in positions which require professional licenses, certification, or other credentials are responsible for maintaining the current status of their credentials and shall comply at all times with Federal and State requirements applicable to their respective disciplines. To assure compliance, the Arc of Steuben requires evidence of the individual having a current license or credential status. The Agency will verify such licenses on-line and check the Office of Professional Medical Conduct or New York State Department of Education Office of Professional Discipline websites monthly along with the exclusions websites. If an employee allows his or her license or registration to be revoked or lapse, such conduct or inaction will constitute grounds for disciplinary action up to and including termination. Further, the provision of service and billing for the service by an unlicensed individual may be inappropriate, could constitute Medicaid Fraud, in certain circumstances. Human Resources shall report any concerns regarding the credentialing of employees and others involved with the Arc of Steuben to the Corporate Compliance Officer.

### ***Personal Use of the Arc of Steuben's Resources***

It is the responsibility of each representative to preserve our organization's assets including time, materials, supplies, equipment, and information. Organizational assets are to be maintained for business related purposes. As a general rule, the personal use of any asset without appropriate prior approval is prohibited. Any community or charitable use of organization resources must be approved in advance by an associate's Supervisor, Corporate Compliance Officer or the Executive Director. Any use of organization resources for personal financial gain or personal convenience is prohibited.

### ***Ensuring Proper Use of the Arc of Steuben's Assets***

The Arc of Steuben Supervisors must utilize appropriate internal accounting controls in conducting their duties to ensure and safeguard the organization's assets, financial reports and records. Established accounting practices and procedures assure the complete and accurate recording of all transactions. The Arc of Steuben has adopted controls in accordance with applicable industry standards and government requirements.

The established controls ensure:

- The creation of accurate and complete records consistent with proper business practices;
- Records which require alteration will clearly reflect the date the alteration was made, the signature and title of the person altering the record and an explanation if not readily apparent of why the alteration was made;
- That no payment will be approved or made without proper supporting documentation which fully details the intent and understanding of the use of the transaction;
- That no payment will be approved or made and used in any other manner than described in the supporting documentation;
- That all new accounts will receive proper authorization before being opened;
- That all accounts will be disclosed and recorded;
- That all payments to accounts will be recorded to the Arc of Steuben's fiscal books promptly, accurately and through acceptable and established financial reporting processes;
- Vendors will be selected solely on their merit which includes quality of product or service and price.

### ***Work Relationships***

In normal day to day operations there are issues that arise which relate to how people in the organization deal with each other. It is impossible to foresee all potential issues, and many do not require explicit treatment in a document like this. However, a few situations routinely arise. One involves gift giving among associates for certain occasions. While we wish to avoid any strict rules, no one should feel compelled to give a gift to anyone, and any gift offered and received should be appropriate to the circumstances. A lavish gift (value greater than \$25) to anyone in a supervisory role would clearly violate organizational policy. Another situation that routinely arises is a fund-raiser or similar effort, in which no one should be made to feel compelled to participate.

### ***Subcontractor and Supplier Relationships***

Subcontractor and supplier relationships must be managed in a fair and reasonable manner, consistent with all applicable laws and good business practices. We believe in competitive procurement. Our purchasing decisions are made on the supplier's ability to meet our needs, and not on personal relationships and friendships. We will always employ the highest ethical standards in business practices in source selection, negotiation, determination of contract awards, and administration of all purchasing activities. We do not disclose contract pricing and information to any outside party.

Financial relationships with physicians or physician groups who also act as a referral source are categorized as employment agreements, personal services agreements and equipment and space rental agreements. The Corporate Compliance Officer must review and approve all physician and agency initiated proposals for financial arrangements with the Arc of Steuben. All arrangements must be in writing, provide

for compensation consistent with fair market value, not base compensation upon the value or volume of referrals or any referral relationship, include specific services to be provided by the physician, and the schedule of when the service is provided. The agreement must have a term of at least one year, must provide for aggregate compensation and compensation must be set in advance and be consistent with fair market value. Specific requirements for agreements can be found in [APPENDIX F](#).

### ***Sanctioned Individuals***

The organization has policies and procedures in place to ensure we do not contract with, employ or bill for services rendered by an individual or entity that is excluded, suspended, disbarred, or ineligible to participate in Federal or State reimbursement programs; or has been convicted of a criminal offense related to the provision of items or services and has not been reinstated in a Federal or State reimbursement program after a period of exclusion, suspension, debarment, or ineligibility. The Arc of Steuben conducts monthly searches of the New York State Office of Medicaid Inspector General, the Office of Inspector General and General Services Administration's list of such excluded ineligible persons and inquiries regarding criminal offenses.

### ***Substance Abuse and Mental Acuity***

To protect the interests of our associates and all individuals, we are committed to an alcohol and drug-free work environment. The Associate Handbook provides a thorough description of the agency Drug and Alcohol Policy. All associates must report for work free of the influence of alcohol and illegal drugs. Reporting to work under the influence of any illegal drug or alcohol, having an illegal drug in your system, or using, possessing, or selling illegal drugs while on agency work time or property may result in immediate termination. We may use drug testing as a means of enforcing this policy. It is also recognized that individuals may be taking prescription or over-the-counter drugs, which could impair judgment or other skills required in job performance. If any Agency associate has any questions about the effect of such medication on his/her performance or any Agency representative observes an individual who appears to be impaired in the performance of his/her job, consult your Supervisor, any Division Director, or the Executive Director.

### ***Representation of Information***

Clear communication based on honesty is the cornerstone of ethical corporate behavior. The Arc of Steuben and its representatives must be honest and make no false representations or dishonest statements in conducting business affairs. The Arc of Steuben representatives must report and record all information accurately and contemporaneously including all marketing materials, individual's records, and requests for payment, time sheets, financial reports, mileage reports and other similar documents which relate to business activities. Signature stamps shall not be used without authorization. Documents must never be backdated or predated. Associates must not create documents based upon what they expect to do, but only based upon what they have done or observed. Observation alone is never acceptable documentation when an associate is required to perform the service him or herself.

### ***Accurate Billing***

Billing activities are to be performed in a manner consistent with Medicaid, Medicare, and other funder's regulations and requirements. The Arc of Steuben will comply with all pertinent regulations in billing practices, including but not limited to, specific program requirements, codes, medical necessity and duplicate billing. It is the Arc of Steuben's intent that representatives involved in billing comply with all established legal and regulatory mandates. Billing practices will be reviewed as needed to ensure all regulatory requirements are met. Included in this review will be policies, procedures, education, training, communication, auditing and corrective action.

### ***Financial Reporting***

Cost reports will be prepared in compliance with all applicable regulations, and accurately reflect the cost structure of the Arc of Steuben. Billing and cost reporting will be subject to internal and external controls and audits to ensure errors are corrected properly and promptly.

The Arc of Steuben will not make or submit any false or misleading entries on any bills or claim forms and no Arc of Steuben representative will engage in any arrangement or participate in such an arrangement at the direction of another person. The False Claims Act provides that anyone who "knowingly" submits false claims to the government is liable for damages up to three times the amount of the erroneous payment plus mandatory penalties for each false claim submitted.

The False Claim Act (FCA) defines "knowing and knowingly" to a) mean that a person (1) has actual knowledge of the information; (2) acts in deliberate ignorance of the truth or falsity of the information; or (3) acts in reckless disregard of the truth or falsity of the information and b) require no proof of specific intent to defraud, provided, however that acts occurring by mistake or as a result of mere negligence are not covered by the FCA.

The following conduct is unacceptable of any Arc of Steuben representative when billing payers:

- To knowingly present or cause to present a false or fraudulent claim for payment;
- To knowingly make any false statement in any application for payment or benefit;
- To knowingly conceal or fail to disclose an event affecting a right to a benefit or payment with the intent to fraudulently secure the benefit or payment in an amount greater than is due or when no such benefit is authorized;
- To knowingly convert a benefit or payment for a use other than for the use the person in whose name the application for the benefit was made;
- To knowingly request a payment in violation of the terms of the payer;
- To knowingly claim, charge, accept or receive any payments for services rendered unless they are medically necessary as described in the Individual Service Plan and billed according to applicable regulations; or

- To knowingly make, use, or cause to be made or used a false record or statement to conceal, avoid, or decrease an obligation to pay money or transmit property.
- Arc of Steuben shall conduct appropriate compliance audits or reviews to assure all the above standards are being met.

### ***Facility Certification***

The Arc of Steuben representatives must not make false statements with respect to the conditions or operation of any program for participation in the Medicaid Program. The Arc of Steuben representatives must not make false statements with respect to information regarding ownership and control of a facility or program.

### ***Trade Practices***

The Arc of Steuben complies with all laws pertaining to restraint of trade and fair competition. Such laws generally forbid any kind of understanding or agreement between competitors to fix or control prices or fees or to engage in any other conduct that results in restraint of competition.

### ***Tax Exemption***

The Arc of Steuben is a tax exempt entity under the laws of New York State and the Internal Revenue Service. In order to comply with applicable law, the Arc of Steuben must operate for the benefit of the community. Criminal penalties may be exercised if a violation of these tax laws is found and substantiated.

- The Arc of Steuben's sales tax exemption is to be used for legitimate agency business and service transactions.
- Personal items cannot be purchased through the agency. This requirement cannot be satisfied by intending to or by reimbursing the Agency for any personal item purchased.
- All appropriate withholding taxes must be applied to wages.
- Tax exempt bonds are to be used to secure mortgages for the Arc of Steuben's properties where applicable. All restrictions on the use of property governed by the bonding authority shall be followed.

### ***Labor and Employment Laws***

The Arc of Steuben complies with all applicable labor laws and statutes regarding associate relationships and workplace environment. Questions regarding laws governing labor and associate relations should be referred to the Human Resources Department.

### ***Political Participation and Governmental Relations***

Federal and State law prohibit the Arc of Steuben from contributing to political candidates or office holders. Further, any governmental lobbying activities must comply with applicable lobbying, ethical and other related laws. The following restrictions apply to the Arc of Steuben representatives:

- No one will be reimbursed for personal political contributions.

- Personal compensation, including salary and business reimbursements, will not be altered to reflect any contributions.
- The Arc of Steuben representatives will distinguish between personal and organizational political activities. Unless specifically requested by the Arc of Steuben, associates shall not represent the agency before the legislature or other governmental bodies.
- Unless specifically requested by the Arc of Steuben, correspondence and personal communications with legislators, regulators or other individuals from government must be noted as personal in nature.
- If contacted by legislators or regulators, the Arc of Steuben representatives should refer the individual to the Executive Director.
- To assure full compliance with the law, Arc of Steuben representatives shall not engage in governmental advocacy on behalf of the Arc of Steuben without the prior authorization of the Executive Director and the Corporate Compliance Officer.
- To ensure the Arc of Steuben does not risk its tax-exempt status and is in compliance with all laws regulating lobbying activity, all associates and representatives participating in governmental advocacy activities on behalf of the Arc of Steuben must report all time and expenditures devoted by the Arc of Steuben to such activities to the Corporate Compliance Officer for tracking purposes.
- The Corporate Compliance Officer shall be responsible for maintaining lobbying registration with appropriate state and federal agencies, as required. The Corporate Compliance Officer shall be responsible for providing any periodic reports required by such agencies.
- No Arc of Steuben representative may provide or pay for meals, refreshments, travel or lodging expenses for government representatives.
- No Arc of Steuben representative should entertain a public official without the authorization of the Executive Director and the Corporate Compliance Officer.

### ***Appropriate Use of Information***

Use of Information and confidentiality guidelines are contained in Policy # 90, Health Insurance Portability and Accountability Act (HIPAA), which addresses the Mental Hygiene Law, as applicable.

### ***Safeguarding Privacy of the Individuals Supported by the Agency***

Access to an individual's information must be limited as set forth in the Arc of Steuben policy pursuant to state and federal law. Any Arc of Steuben representative who engages in unauthorized-disclosure, access to, or misuse of information in violation of the privacy rights of the individuals we support, or others may be subject to disciplinary action in addition to civil or criminal sanctions. Civil and criminal sanctions continue to apply to individuals who are no longer employed or involved with the Agency. Any Arc of Steuben representative who becomes aware of such unauthorized disclosure should immediately report this to a Supervisor, the Privacy Officer, the Corporate Compliance Officer and/or the Executive Director. Questions regarding the rules governing privacy should be referred to the Privacy Officer or to the Director of Quality Enhancement.

### ***Confidentiality of Records***

The Arc of Steuben is responsible and accountable for the integrity and protection of its business information. All records, methods, processes, techniques, computer software, equipment service marks, copyrights, research data, clinical and pharmacological data, marketing and sales information, personal data, individual lists, financial data, plans and other similar proprietary information are the sole property of the Arc of Steuben and thereby considered confidential by its nature, except as provided by law or regulation. No Arc of Steuben representative shall disclose to others any confidential information obtained during the course of employment or from receipt of reports which have not been published or disclosed to the public. Documents and electronic media containing sensitive information concerning individuals, associates, consultants, volunteers, members and other representatives of the Arc of Steuben must be carefully handled and properly secured. Particular attention must be given to the security of data stored on information systems and computers. If any Arc of Steuben representative observes or becomes aware of a breach of this policy including misuse of confidential information, or an unauthorized or unrecognized individual using a computer terminal in an area familiar to you, the representative must immediately contact a Supervisor.

### ***Information Owned By Others***

The Arc of Steuben is responsible for protecting information received from other sources. Representatives will be responsible to acquire and maintain written agreements for use and sharing of information owned by others as required. No Arc of Steuben representative shall disclose confidential information received from outside sources, such as software, data, and reports, without the approval of the Arc of Steuben and (as necessary) the related party. If the Arc of Steuben representatives are in possession of information, which can be construed as confidential to a third party or having restrictions placed on its use, they must consult with the Executive Director and/or the Corporate Compliance Officer to determine if it may be shared. The Arc of Steuben representatives must not use, copy, distribute or disclose that information unless done in accordance with the terms of the agreement. This obligation continues even after the termination of any relationship with the Arc of Steuben

Computer software is intellectual property protected by copyright laws and may also be protected by patent laws or as confidential information to a third party. All software used on the Arc of Steuben's computer equipment must have the appropriate signed licensing agreement and approval of the Information Technology Director. The terms and conditions of all software licensing agreements, including provision and restrictions in regard to copying or distribution must be strictly followed.

### ***Records Retention & Destruction***

The Arc of Steuben representatives are expected to comply fully with the records retention and destruction schedule found in agency policy. The Arc of Steuben recognizes that documents are important to the business of the organization and the duties and responsibilities performed. If a representative believes that particular

documents should be retained beyond the applicable period of time, consultation should occur with the appropriate Director.

### ***Government Investigations***

It is common for the Arc of Steuben to receive periodic audits by governmental agencies in the fulfillment of and compliance with rules, regulation, funding requirements, quality standards and general business practices to confirm ethical and responsible conduct. The Arc of Steuben representatives must adhere to proper procedures to ensure that the organization responds and fully discloses information in a proper and prompt manner to all governmental audits and investigations.

It is general policy that an investigation begins with contact with the Executive Director. However, this is not the practice in all cases. The following procedures are to be followed by all the Arc of Steuben representatives:

- Any Arc of Steuben representative who is approached by any federal or state regulatory or law enforcement agency seeking information about the Arc of Steuben's operations, job-related activities, or Arc of Steuben representatives, including the Board of Directors, must immediately call the Corporate Compliance Officer and the Executive Director.
- Specific regulatory or enforcement agencies are entitled to immediate access to information, based on certain Federal or State laws. Proper identification must be presented by officials of these agencies before access can be provided. Agencies that are entitled to immediate access include the United States Department of Health and Human Services, New York State Medicaid Fraud Control Unit, Office of the Medicaid Inspector General, New York State Department of Health and the New York State Office of People with Developmental Disabilities. There may be other regulatory or prosecutorial authorities entitled to immediate access. The Corporate Compliance Officer and/or Executive Director may involve legal counsel to discuss timing or scope of the access.
- In the case where an Arc of Steuben representative is approached by an agent of an agency that has the right to or is demanding immediate access, notification must be made to the Corporate Compliance Officer and the Executive Director. This notification must occur immediately. This notification will ensure that the Arc of Steuben is aware of the inquiry, responds properly, and can take any action necessary in regard to the audit or investigation. In no case should the access of these agencies be delayed by inability to reach one of the appropriate Arc of Steuben representatives. However, the attempt to contact these individuals must continue until the contact is successfully made. If these individuals cannot be immediately reached, the representative should next contact the highest ranking Agency official available and/or legal counsel for the Agency.
- Arc of Steuben representatives are to follow the Responding to Government Inquires protocol ([APPENDIX B](#)) to ensure a uniform response to any government inquiry.

- Government or prosecutorial agencies which have the right to immediate access may request and receive documents and records only with the consent of the Arc of Steuben or by proper legal process.
- Governmental or prosecutorial agencies which have the proper authority for access to agency documents, records and facilities are to be provided the requested information in a timely manner. The information which is requested should not include private information unrelated to the investigation and/or deemed improper to disclose. Counsel for the Agency may negotiate the scope of the request.
- The Arc of Steuben representatives shall be certain to (a) obtain the names of the agent and organization from whom a request for access to information is received or to whom access is permitted before access is allowed; (b) maintain a written record of each document accessed during the audit or investigation; (c) maintain a detailed record of all telephone contacts made, including specifically the name and affiliation of the parties to each conversation, the information requested and the content of the conversation.
- Specific Federal and State confidentiality laws may limit the general authority of governmental investigators in regard to information pertaining to AIDS, substance abuse treatment (controlled drug and alcohol) and psychiatric records. The Arc of Steuben representatives should refer questions regarding these restrictions to the Corporate Compliance Officer, Privacy Officer or Executive Director.

## **SECTION 3: COMPLIANCE WITH THE STANDARDS OF CONDUCT**

### ***QUESTIONS REGARDING THE STANDARDS OF CONDUCT***

The Executive Director and the Corporate Compliance Officer are responsible for implementation of the Corporate Compliance Program including the Standards of Conduct. The Executive Director and Corporate Compliance Officer will work with other Arc of Steuben representatives as necessary in respect to implementation, training and enforcement of the Corporate Compliance Program. Any Arc of Steuben representative who has questions regarding the applicability or implementation of the Corporate Compliance Program and the Standards of Conduct should direct the question to their respective Supervisor, Executive Director or Corporate Compliance Officer. Written correspondence related to the Corporate Compliance Program and the Standards of Conduct should be addressed to the Executive Director or Corporate Compliance Officer and marked “CONFIDENTIAL”.

### ***EDUCATION AND TRAINING***

The Arc of Steuben is responsible for the training of and education of all Arc of Steuben representatives regarding the Corporate Compliance Program and the Standards of Conduct. A training policy and schedule will be available throughout the Agency. All training is documented, including the competency of the trained individuals.

All representatives shall participate in training, which includes the following topics:

- Government and private payer reimbursement principles
- Government initiatives
- History and background of Corporate Compliance
- Legal authority
- General prohibition on paying or receiving remuneration to induce referrals
- Prohibitions against submitting a claim for services when documentation of the service does not exist
- Prohibitions against alterations of medical records
- Prohibitions against performing medical or nursing therapies without a signed physician’s order
- Proper documentation of services rendered
- Medical Necessity and Quality of Care
- Specific responsibilities for job positions
- Duty to report misconduct and mandatory reporting
- False Claims Act
- Whistleblower or “Qui Tam” Provisions

As part of the orientation, each representative shall have access to an electronic copy of the Corporate Compliance program and have the ability to request and receive a written copy of the Corporate Compliance program and specific standards of conduct that affect their position. The Board of Directors shall receive Corporate Compliance training at

least once per year and new board members shall receive training as part of new board member orientation.

All representatives are required to receive Corporate Compliance training within the first three months of their association with the Agency, although the Agency will endeavor to have such training occur within the first thirty days of their association where practicable. A training acknowledgement form is required to be signed by the representative in attendance and filed in the person's personnel or other appropriate file. Annual refresher training is provided electronically and acknowledgement is maintained through the electronic training program. Attendance at Corporate Compliance training sessions is mandatory and is a condition of continued employment or continued association with the Agency. Failure to participate in annual trainings will result in disciplinary action, up to and including termination.

Ongoing training and education is provided as identified needs dictate. Specific training is provided to program sites on regulations and billing procedures.

Corporate Compliance updates and general information are continuously communicated to associates through established agency communication channels (i.e. Agency weekly newsletter – *News You Can Use*, Supervisor Forums, Team Meetings, annual training updates, e-mail, etc.). In addition, contractors, agents and board members shall receive these updates, where appropriate.

### **MONITORING AND AUDITING**

Ongoing evaluation is critical in detecting non-compliance and will help ensure the success of our Corporate Compliance program. An ongoing auditing and monitoring system, developed by the Corporate Compliance Officer in consultation with the Corporate Compliance Committee, is an integral component of compliance. This ongoing evaluation includes: review of relationships with third party contractors, specifically those with substantive exposure to government enforcement actions; compliance audits; review of documentation and billing relating to Medicaid and Medicare claims; and development and submission performed internally or by an external consultant as determined by the Corporate Compliance Committee.

The audits shall examine compliance with specific rules and policies through on site visits, personnel interviews, general questionnaires, medical and clinical record reviews to support claims for Medicaid/Medicare reimbursement and documentation review.

Steps to ensure the integrity of compliance include:

#### **Internal Audits**

1. The Arc of Steuben will conduct regular internal auditing and monitoring of identified risk areas related to compliance with laws, regulations, policies and procedures governing Medicaid.
2. The Corporate Compliance Officer will work with the Human Resources Division to ensure that the Arc of Steuben does not hire or contract with an

- individual or entity that has been excluded or barred from participation in Federal and state health programs, including Medicaid, in accordance with the policies and procedures established by the Human Resources Department. The audit will include routine searches of the New York State Office of Medicaid Inspector General, the Office of Inspector General and General Services Administration's list of such excluded ineligible persons and inquiries regarding criminal offenses.
3. Associates possessing and requiring credentialing or licensure to complete their job duties will have said credentials audited on a routine basis by the Supervisor in cooperation with the Human Resources Division.
  4. The Corporate Compliance Committee will provide guidance and oversight of the auditing and monitoring process.
  5. Supervisors will conduct and/or oversee compliance reviews under the direction of the Corporate Compliance Officer.
  6. The Corporate Compliance Officer and the Division Director will ensure the completion of corrective actions for risk areas identified.
  7. The Corporate Compliance Officer will be responsible for verification of implementation of corrections to the process.
  8. The Corporate Compliance Officer will be responsible for reporting the results of audits, corrective actions and risk areas identified to the Corporate Compliance Committee.

See section Reporting Suspected Violations, if during the course of an internal audit something is discovered that may be a violation of the Corporate Compliance Program..

### ***External Audits***

External audits conducted by the Office for People with Developmental Disabilities (OPWDD) or other regulatory agencies will be reviewed and corrective actions developed and implemented by the Supervisor, Division Director, and the Corporate Compliance Officer. In addition, the Executive Director and Corporate Compliance Officer will decide when an external audit by an outside consultant is warranted.

### ***Review of Corporate Compliance Program***

The Corporate Compliance Committee will review the effectiveness of the Corporate Compliance Program on an annual basis. The Corporate Compliance Program may be reviewed and amended more frequently as risk areas and corrective actions are identified.

### ***Communication***

1. It is the responsibility of all representatives to report suspected violations of law or compliance risks.
2. Reporting can be made to an associate's Supervisor, Corporate Compliance Officer, Division Director, Executive Director or the Arc of Steuben's Corporate Compliance Helpline (607-622-1950).

3. The agency will maintain a confidential Corporate Compliance Help Line phone line that can be accessed (607-622-1950) for those wishing to make an anonymous report
4. All reported violations of the Corporate Compliance Program will be treated confidentially to the extent consistent with the Arc of Steuben's interests and legal obligations. Reports and paperwork will be secured to maintain confidentiality.
5. The agency will not retaliate or intimidate anyone based on making a good faith report.
6. The agency will distribute written materials that will enhance the understanding of the Corporate Compliance Program including the Standards of Conduct.
7. Any compliance related correspondence from any regulatory agency charged with or administrating a federally or state funded program received by any department shall be immediately copied and forwarded to the Corporate Compliance Officer for review and discussion with the Corporate Compliance Committee.

### ***REPORTING SUSPECTED VIOLATIONS***

The Arc of Steuben representatives must report suspected violations promptly. The organization's integrity, ethics and proper conduct are based on honesty and fairness. The Arc of Steuben representative who reports suspected violations of the Corporate Compliance Program and the Standards of Conduct in good faith, or assists in an investigation, audit or remedial action undertaken by the Agency, will not be disciplined or subjected to any retaliatory action. Any Arc of Steuben representative, who knowingly fails to report, purposely delays a report, or knowingly submits a false report(s) may be subject to disciplinary action. All efforts will be made to protect the confidentiality of the person(s) reporting potential issues or involved in the investigative process.

Reports of possible violations of law or ethical standards can be made to a Supervisor, who in turn, reports it to the Corporate Compliance Officer or the Executive Director. The Arc of Steuben representative may also choose to report directly to the Corporate Compliance Officer or Executive Director.

The Arc of Steuben representatives do not need to be absolutely certain that a violation has occurred before submitting a report; reasonable belief that a violation may have occurred is sufficient. A report must be made regardless of the position of the suspected offender.

Accurate and prompt reporting of a suspected violation enables the Arc of Steuben to investigate potential problems quickly and to take prompt action to resolve them. All reports of suspected violations will be acted on promptly and the complainant will be notified of the result. All investigative activity will be reported to the Board of Directors.

Reports can be made on a confidential basis by using the Corporate Compliance Help Line (607-622-1950) or by writing to:

Executive Director – Corporate Compliance

The Arc of Steuben  
One Arc Way  
Bath, New York 14810

### ***False Claims Act and Whistleblower Provisions***

The Arc of Steuben is committed to prompt, complete and accurate billing of all services provided to individuals. The Arc of Steuben and its associates, contractors and agents shall not make or submit any false or misleading entries on any claim forms. No associate, contractor or agent shall engage in any arrangement or participate in such arrangement at the direction of another person, including any Supervisor, that results in the submission of a false or misleading entry on claims forms or documentation of services that result in the submission of a false claim.

Attached as [APPENDIX G](#), is a summary of fraud and abuse laws prepared by the New York State Office of the Medicaid Inspector General. If you have questions regarding these laws, contact the Corporate Compliance Officer.

The False Claims Act (**See [APPENDIX G](#)**) establishes liability for any person, who “knowingly” submits a false claim either (1) directly to the Government or (2) to a contractor or grantee of the Government, if the money or property is to be spent or used on the Government’s behalf or to advance a Government program or interest. A violation of the False Claims Act can result in a civil penalty between \$5,000 and \$11,000 for each false claim submitted, plus up to three times the amount of the damages sustained by the Government due to the violation(s).

The False Claim Act defines “knowing and knowingly” to a) mean that a person (1) has actual knowledge of the false claim information; (2) acts in deliberate ignorance of the truth or falsity of the information; or (3) acts in reckless disregard of the truth or falsity of the information and b) require no proof of specific intent to defraud, provided, however that acts occurring by mistake or as a result of mere negligence are not covered by this article.

False Claims suits can be brought against individuals and entities. The False Claims Act does not require proof of a specific intent to defraud the Government. Providers can be prosecuted for a wide variety of conduct that leads to the submission of a false claim. Some examples include knowingly making false statements, falsifying records, submitting claims for services never performed or items never furnished, double-billing for items or services, using false records or statements to avoid paying the Government, or otherwise causing a false claim to be submitted.

It is the policy of the Arc of Steuben to detect and prevent fraud, waste and abuse in Federal and State healthcare programs in accordance with the False Claims Act. This policy applies to all associates, supervisors, volunteers, board members and all contractors and agents.

### ***Whistleblower or “Qui Tam” Provisions***

In order to encourage individuals to come forward and report misconduct involving false claims, the Federal and State False Claims Acts contains “Qui Tam” or whistleblower provisions (See [APPENDIX G](#)).

The Government, or an individual citizen acting on behalf of the Government, can bring actions under the False Claims Act (Federal or New York State). An individual citizen, referred to as a whistleblower or “Relator,” who has actual knowledge of allegedly false claims may file a lawsuit on behalf of the U.S. Government. If the lawsuit is successful, and provided certain legal requirements are met, the whistleblower may receive an award ranging from 15% - 30% of the amount recovered.

The False Claims Act prohibits discrimination by the Arc of Steuben against any representative for taking lawful actions under the False Claims Act. Any representative who is discharged, demoted, harassed, or otherwise discriminated against because of lawful acts by the representative in False Claims actions is entitled to relief. Such relief may include reinstatement, double back pay, and compensation for any special damages.

### ***INVESTIGATION OF SUSPECTED VIOLATIONS***

The Corporate Compliance Officer, Executive Director and the Corporate Compliance Committee shall determine when there is any basis to suspect that a violation of the Corporate Compliance Program has occurred. However, if the Corporate Compliance Officer or Executive Director is implicated they shall not participate in the determination.

If it is determined that a violation may have occurred, the matter may be referred to legal counsel, who, with the assistance of the Corporate Compliance Officer (unless the Corporate Compliance Officer is implicated), may conduct a more detailed investigation. This investigation may include, but is not limited to, the following:

- Interviews with individuals with knowledge about the facts alleged.
- A review of documents.
- Legal research and contact with governmental organizations for the purpose of clarification, negotiation, and presentation of the Agency’s position.

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

All reported violations of the Corporate Compliance Program will be promptly investigated by the Arc of Steuben and will be treated confidentially to the extent consistent with the Arc of Steuben’s interests and legal obligations. If the Corporate Compliance Officer believes the integrity of the investigation may be at stake because of the presence of the representative under investigation, the person allegedly involved in the misconduct will be removed from his/her current work activity until the investigation is completed. In addition, steps will be taken to prevent the destruction of documents or other evidence relevant to the investigation. It is the Arc of Steuben’s

policy to cooperate in any governmental investigation, while protecting its rights upon the advice of counsel.

All Arc of Steuben representatives are to cooperate fully with any investigation that is undertaken by, or on behalf of, the Corporate Compliance Officer. The Arc of Steuben representatives are not authorized to engage external consultants, auditors or legal counsel in connection with compliance matters without the advance approval of the Executive Director or Corporate Compliance Officer.

At the conclusion of an investigation involving legal counsel, he/she shall issue a report to the Corporate Compliance Officer, Executive Director, and Corporate Compliance Committee summarizing the findings, conclusions, and recommendations and to render advice regarding whether a violation of the law may have occurred. The report may be reviewed with legal counsel in attendance. Any additional action, including self-disclosure, if required, will be on the advice of counsel.

If the Arc of Steuben identifies an overpayment was received from any third party payer; the overpayment shall be repaid to the affected payer. Systems shall also be put in place to prevent such overpayments in the future.

The Corporate Compliance Committee, based on their review of the investigation, may recommend additional actions, which may include revision to the investigation report, recommendation for training and/or disciplinary actions, revisions to policies or procedures or increasing auditing and monitoring procedures.

The Corporate Compliance Officer will maintain a separate file for each investigation. This file will contain the following documents:

1. The “Corporate Compliance Investigation Report” form reporting the suspected violation.
2. Notes from interviews with the individuals with knowledge about the facts of the alleged violation.
3. Copies of relevant documents reviewed as part of the investigation.
4. Copies of correspondence between the Arc of Steuben and legal counsel, which should be kept in a separate envelope labeled “Attorney Work Product – Privileged & Confidential”.
5. Copies of correspondence between the Arc of Steuben and any regulatory organization.

The investigation files are considered confidential and privileged and will not be released without the approval of the Executive Director and/or legal counsel. These files will be kept in a secure location where access is limited to appropriate parties only.

If a violation of the Corporate Compliance Program has occurred, the investigation file will also contain documentation of the corrective action plans developed to prevent future instances of the same or similar violations.

The Corporate Compliance Officer in consultation with the Executive Director and the Corporate Compliance Committee will evaluate the violation to determine if a voluntary disclosure of the violation is appropriate. The Corporate Compliance Officer may consult with legal counsel on the notification of appropriate government officials, private payers or other entities in the event of a violation where voluntary disclosure of the violation may be appropriate. Disclosure of violations and payments received in error will be made to the appropriate state or federal agency according to required timeframes including any requirement related to disclosure within a 60 day period.

### ***Discipline for Violations***

All disciplinary actions taken with the Arc of Steuben representatives shall be done in accordance with the Personnel Policies or as appropriate to the representative's role in the organization. The Director of Human Resources, in conjunction with the Executive Director, has absolute discretion to determine the appropriate disciplinary action to be imposed. When the conduct relates to a serious violation of corporate compliance standards, appropriate leadership positions and the appropriate Supervisor will meet to discuss disciplinary actions to address the violation. Refer to the Arc of Steuben's Personnel Policies which provides detailed information regarding disciplinary action.

Disciplinary actions may be applied when:

- Any Arc of Steuben representative authorized or participated in actions which violate the Corporate Compliance Program or the Standards of Conduct;
- Any Arc of Steuben representative who knowingly fails to report, purposely delays a report, or knowingly submits a false report(s) or refuses to cooperate in an investigation of a suspected violation;
- Any Arc of Steuben representative who encourages, directs, facilitates, or permits (either actively or passively) non-compliant behavior;
- An Arc of Steuben Supervisor fails to detect violations by an associate under their supervision or fails to report a violation of the Corporate Compliance Program and the Standards of Conduct;
- Any Arc of Steuben representative who retaliates against an individual for reporting a violation or possible violation of the Corporate Compliance Program or the Standards of Conduct.

Disciplinary action will be appropriate given the status and role of the Arc of Steuben representative which could include dismissal from employment, removal as a volunteer or board member, or terminating a contract for services. All Disciplinary actions will be reported to the Board of Directors.

### **RECOGNITION OF COMPLIANT BEHAVIOR**

The Arc of Steuben is committed to recognizing exemplary compliance with the agency's Corporate Compliance Program. Examples of ways recognition is given include:

- Goal Sharing Awards
- Shining Star Awards
- Celebration of successes

- Annual Professional Development Plan reviews
- Positive feedback
- Opportunities for career advancement

## **SECTION 4: CORPORATE COMPLIANCE PROGRAM STRUCTURE AND OVERSIGHT**

### ***CORPORATE COMPLIANCE COMMITTEE***

The Corporate Compliance Committee is an Arc of Steuben Board committee. The purpose of the committee is to advise and assist the Corporate Compliance Officer and to provide guidance and supervision of our Corporate Compliance Program.

The role of the Corporate Compliance Committee includes:

1. Analyzing the environment where the organization does business, including legal requirements with which it must comply.
2. Reviewing and assessing existing policies and procedures.
3. Working with departments to prioritize and develop standards that address specific risk areas and encourage compliance according to legal and ethical requirements.
4. Advising and monitoring appropriate departments.
5. Developing internal systems and controls to carry out compliance standards.
6. Monitoring internal and external audits to identify potential non-compliant issues.
7. Implementing corrective and preventive action plans.
8. Developing a process to solicit, evaluate, and respond to complaints and problems.
9. Forwarding recommendations regarding suggested new policies or revisions of existing policies to the Board of Directors.

Members of the Corporate Compliance Committee include the following positions:

1. Executive Director
2. Chief Financial Officer
3. Chief Operations Officer
4. Corporate Compliance Officer/Director of Quality Enhancement – Facilitator
5. Director of Community Supports
6. Director of Service Coordination
7. Director of Human Resources
8. Director of Residential Services
9. Director of Business Operations
10. Accounting Controller
11. HIPAA Privacy Officer/Quality Enhancement Coordinator
12. Board Member – Chair Person
13. Board Member(s)
14. Recording Secretary – Non-voting member

Meeting dates, times and locations will be set by the Chair of the Corporate Compliance Committee; however, the Committee will meet no less than four times per calendar year and may meet more often as deemed necessary by the Chair or by a majority of the Committee. The Corporate Compliance Committee may invite non-members to meet

with the Committee. The Chairperson of the Corporate Compliance Committee shall communicate with the members of the Committee between meetings to inform the members of significant developments or to solicit input.

The Corporate Compliance Committee will regularly, minimally four times annually, communicate with the Arc of Steuben's Board of Directors. This communication will include:

- Corporate Compliance program development and implementation
- Corporate Compliance related policies and procedures
- Compliance concerns, violations and remediation
- Results of any compliance audits

The committee Chair Person/Board Member will make a report to the full Board of Directors. This report will include topics, discussions and issues addressed at the Corporate Compliance Committee's meetings.

### ***THE CORPORATE COMPLIANCE OFFICER***

The Board of Directors of the Arc of Steuben has designated the Corporate Compliance Officer to oversee the development and implementation of our Corporate Compliance Program. The Corporate Compliance Officer is a full time associate of the agency.

The Corporate Compliance Officer's responsibilities include, but are not limited to:

1. Organization wide oversight and monitoring of the implementation of our Corporate Compliance Program.
2. Acquire and update knowledge of corporate compliance requirements and oversee the development of policies, procedures and compliance standards for each applicable program.
3. Ensure completion of Office of Medicaid Inspector General annual certification for Social Service Law (SSL) and Federal Deficit Reduction Act of 2005 (DRA).
4. Develop and implement compliance education for all representatives.
5. Audit and monitor programs to insure compliance.
6. Update the Corporate Compliance Program as changes in the organization, law and regulations dictate.
7. Insure consistency in the application of the Corporate Compliance Program, policies and procedures and implement appropriate corrective action.
8. Oversee Corporate Compliance investigations of ethics and/or legal compliance violations.
9. Maintain a reporting system to respond to concerns, complaints and questions related to the Corporate Compliance Program.
10. Facilitate cooperation with the NYSARC Director of Compliance at the Compliance Resource Center in periodic reviews of the Agency's Corporate Compliance Program, and working cooperatively with the Director to implement any corrective actions required by the NYSARC Board of Governors to improve the effectiveness of the Arc of Steuben's Corporate Compliance Program.

11. Ensure the review of reports of the Quality Enhancement team and incidents to determine any impact on this Corporate Compliance Program and coordination of the remediation activities related thereto.

Oversight Authorization of the Corporate Compliance Officer - The Corporate Compliance Officer has the authority to review all documents and other information relevant to compliance activities, including but not limited to work product and records concerning the Arc of Steuben's arrangements with independent contractors, governmental agencies, third party payers, suppliers and agents.

The Corporate Compliance Officer in consultation with the Executive Director, where appropriate, is vested with full authority to stop work on a project that is believed to be problematic until such time as the issue in question has been resolved.

The Corporate Compliance Officer, in consultation with Human Resources, is authorized to engage in disciplinary actions of Agency representatives and independent contractors in accordance with the Corporate Compliance Program.

In order to fulfill these responsibilities without undue influence or interference, the Corporate Compliance Officer reports directly to the Executive Director and has the authority to communicate directly with the Board of Directors in circumstances that warrant such action and will report to the Board of Directors at least twice per year on the activities of the Corporate Compliance Program.

### ***THE BOARD OF DIRECTORS***

The Board of Directors shall receive and respond to reports from the Corporate Compliance Officer and the Corporate Compliance Committee and shall be responsible for the effective implementation of the Arc of Steuben's Corporate Compliance Program. The Board will approve all revisions and updates of the Corporate Compliance Program and provide guidance in self-assessment, planning and budgeting. The Board shall be responsible for taking any disciplinary actions of its own members relating to violations of law, regulations or the Arc of Steuben's policies and procedures, including the Corporate Compliance Program. The Board of Directors shall receive Corporate Compliance training as noted in Section 3 – Education and Training. .

The Corporate Compliance Officer, the Corporate Compliance Committee, and the Board of Directors are responsible to foster a culture of compliance supported by the effective implementation of the Corporate Compliance Program.

## **SECTION 5: DELEGATION OF AUTHORITY**

Any representative who holds, or intends to hold, a position with authority to act for or in the name of the Arc of Steuben, is required to disclose whether he/she has changed their name and whether he/she has ever been convicted of a misdemeanor or felony, including health care related crimes. In addition, the Arc of Steuben performs reasonable inquiries into the background of such applicants.

The Arc of Steuben will remove from direct responsibility or involvement in any federally or state-funded health care programs any associate, independent contractor, or member of the Board of Directors with pending criminal charges or demonstrated non-compliant activities related to health care; or actual or proposed exclusion from participation in federally or state-funded health care programs.

Those with authority to act include, but are not necessarily limited to, positions with 'control' over the actions or policies of Arc of Steuben and positions in charge of business units of the organization that set policy and can negotiate prices, contracts, etc. Without limiting the application of this Section 5 to the individuals enumerated below the following Arc of Steuben positions have been identified as having authority to act:

- 1) The Arc of Steuben Board of Directors
- 2) Executive Director
- 3) Chief Officers
- 4) Division Directors
- 5) Associate Division Directors
- 6) Independent Contractors with Discretionary Authority

## **SECTION 6: ACKNOWLEDGEMENT AND CERTIFICATION OF COMPLIANCE**

The Arc of Steuben requires that all representatives sign an acknowledgement confirming that they have received and read the Corporate Compliance Program and the Standards of Conduct, and understand the principles and expectations. All Supervisors are expected to ensure that the Corporate Compliance Program and the Standards of Conduct have been communicated clearly to all Arc of Steuben associates under their supervision and that annual refresher of the Corporate Compliance Program and the Standards of Conduct is completed. This annual refresher includes acknowledgment of education maintained through the electronic training system.

### **APPENDIX**



**APPENDIX A**

**ACKNOWLEDGEMENT OF EDUCATION**

I, the undersigned associate of the Arc of Steuben, hereby acknowledge that I have received a copy of the Arc of Steuben’s Corporate Compliance Program. I have participated in training, had an opportunity to ask questions, and understand the Arc of Steuben’s Corporate Compliance Program including the Standards of Conduct.

I understand and agree that as a condition of my employment or relationship with the Arc of Steuben,

- ❖ I must comply with the Corporate Compliance Program and all laws, regulations, policies, procedures, and guidelines applicable to my responsibilities to the Arc of Steuben.
- ❖ I agree to cooperate fully in the implementation of the Corporate Compliance Program, participate candidly during any auditing or monitoring process, and report any instance of possible violations of which I may become aware.
- ❖ I will seek the advice of my Supervisor, the Corporate Compliance Officer, or the Executive Director regarding any actions required to comply with the plan should any of the expectations become unclear.
- ❖ I understand that my failure or refusal to comply with the Corporate Compliance Program may result in disciplinary actions.

**Representative’s Name:** \_\_\_\_\_  
(Signature)

**Printed Name:** \_\_\_\_\_

**Title:** \_\_\_\_\_

**Date:** \_\_\_\_\_

***The signed acknowledgement form is to be placed in the associate’s personnel file or other relevant file.***



## APPENDIX B

### PROTOCOL FOR RESPONDING TO GOVERNMENT INQUIRES

To ensure a uniform response to any government inquiry the following protocol is to be followed by all Arc of Steuben representatives:

1. When an Arc of Steuben representative is approached by an agent of any governmental or prosecutorial authority, the representative is to immediately notify the Corporate Compliance Officer and the Executive Director.
2. The Corporate Compliance Officer will coordinate the Arc of Steuben's response to the request.
3. No Arc of Steuben representative is to release or copy documents in connection with or in response to an investigative demand letter, subpoena, or search warrant without the authorization of the Corporate Compliance Officer.
4. No representative is to remove, alter, create or destroy documents or records including, but not limited to, paper, tape, and computer records, in anticipation of or during an investigation.
5. If an investigator or other government representative appears in person, representatives are to ask to see and make a copy of his or her identification and business card. If these materials are unavailable, ask for the person's name and office, address and telephone number, and identification number. Call the government representative's office to confirm his or her identity and authority. If more than one representative appears, determine which representative is in charge and ask for his or her identifying information.

### **SEARCH WARRANTS**

1. A search of the Arc of Steuben's premises by government representatives may not be conducted without a legally valid search warrant. A search warrant is a document that permits government agents to search and seize tangible property that is described in the search warrant or located in an area specifically identified as covered by the search warrant.
2. If a government representative presents a search warrant, the representative is to make a copy of the document and immediately request that the government representative allow you to contact the Corporate Compliance Officer or to determine the validity of the warrant. If the government representative has a legally valid search warrant, representatives may not stop the search. Once the validity of the warrant has been determined, the Corporate Compliance Officer will instruct the representative on how to proceed.
3. After the Corporate Compliance Officer or Executive Director has determined that the search warrant is valid, the following procedures are to be followed:
  - a. Appoint someone on site to be in charge. That person will be responsible for communicating with the government representative.

- b. Remember that it is a crime to obstruct an agent in the lawful execution of a valid search warrant. Remain calm, polite, and observant. You may ask questions. Do not, under any circumstances, alter or destroy documents sought in an investigation; falsely deny knowledge of information; corruptly influence another person to exercise the privilege against self-incrimination; or intimidate a witness with or without the intent of influencing behavior. If you see another associate engaging in this behavior, notify the Corporate Compliance Officer immediately.
- c. It is very important to keep a thorough list of all documents that the government representative is seizing or copying. An associate should be assigned to accompany each government representative during his or her search. That associate should take notes of everything the government representatives inspect but do not seize or copy. The associate should also take notes of any conversations between or among the government representatives and all conversations between the government representatives and other associates or representatives.
- d. Obtain a detailed receipt from the government representative of all documents/items, of which the government has obtained a copy, including the number of pages copied for reimbursement purposes. If the government representative wishes to take original documents, ask if those documents may first be copied. If the government representative will not allow copies to be made, call the Corporate Compliance Officer or Executive Director. If you cannot reach the Corporate Compliance Officer or Executive Director, ask if you can first make a list of all documents the government is taking.
- e. The government representatives may seek to seize documents or items whose loss will impede the day-to-day operations of the Arc of Steuben. If the representative wants to seize any computers, you should ask if you may make a copy of all files. You should contact the Corporate Compliance Officer or Executive Director to inform him/her that the government is seizing computers. If the government representative wishes to seize individual records, ask if those records may be copied so that individual care or confidentiality will not be compromised. Inform the Corporate Compliance Officer or Executive Director that the government is seizing individual records.
- f. Associates are required to answer questions concerning the location of documents if they know the location of the documents in question.
- g. Associates are not required to answer other questions. You may tell the government representative that you prefer to wait until the Corporate Compliance Officer, Executive Director or legal counsel is present.
- h. If you are asked to sign an affidavit of any kind on behalf of the Agency, do not comment as to the validity of its contents and explain that you are not authorized to sign any document on behalf of the Agency prior to review by the Arc of Steuben's legal counsel.
- i. It is important that all associates (1) cooperate with the government representatives and (2) provide accurate information to the government representatives.

- j. Providing inaccurate statements to government representatives may result in obstruction of justice charges.

### **REQUESTS FOR INTERVIEWS**

1. During a government representative's first encounter with the Arc of Steuben, the government representative may suggest that agency representatives must speak with him/her or consent to an interview.
2. Government representatives may not threaten representatives in any way or require a representative to speak with him/her immediately. Representatives have the right to schedule an appointment at a later time to speak with the government representative. Representatives also have the right to decline to be interviewed altogether.
3. Representatives are entitled to have someone with them during an interview with a government representative.
4. Representatives are, of course, free to speak with the government representatives. If a representative speaks with the government representatives before notifying the Corporate Compliance Officer, the agency requests that the representative make the notification as soon as possible after the interview. Representatives are strongly encouraged to take notes during the interview.
5. During the interview, representatives should follow these guidelines:
  - a. Always tell the truth. If you do not recall something, are uncertain or have no knowledge about the topic being discussed, say so.
  - b. Be careful to answer questions completely, accurately, and concisely so that there will be no misunderstandings as to what you are saying. Indicate whether the information you are providing is first-hand knowledge, something you have heard, or speculation. It is good practice to avoid speculation, but if you must speculate, it is important to make sure you let the government representative know that you are speculating.
  - c. Contact the Corporate Compliance Officer or Executive Director as soon as possible after the interview.

### **COMMUNICATIONS REGARDING A GOVERNMENT INQUIRY OR INVESTIGATION**

1. Do not discuss this matter with anyone without first receiving permission from the Corporate Compliance Officer. Innocent parties may be hurt by rumors regarding the government contact, and the Arc of Steuben will not condone the spreading of such rumors.
2. If you receive any inquiries from the media or any person or organization, you should refer the inquiries to the Corporate Compliance Officer. Do not attempt to provide any explanation other than to state that the questions regarding the investigation will be answered by the Corporate Compliance Officer.



**APPENDIX C**

**CONFLICT OF INTEREST DISCLOSURE STATEMENT**

The undersigned hereby acknowledges receipt of the policy adopted by the Board of Directors, which pertains to avoiding conflicts of interest.

I have read the policy and pledge to conduct my employment and business affairs with integrity, based on sound ethical and moral standards.

I agree that I will promptly report to my Supervisor, Corporate Compliance Officer or the Executive Director any future situation that might result in a conflict of interest.

**Please check all statements that pertain to your disclosure:**

I wish to report that to the best of my knowledge, information, and belief, no situation in which I am involved personally or professionally could be construed as a violation of the Conflict of Interest Policy, or as placing me in a position of having a conflict of interest with the Arc of Steuben.

I wish to disclose the following circumstance that may possibly violate the Conflict of Interest Policy:

\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

(Disclosure does not automatically result in a violation, but will be subject to review by the agency).

I am a person with a disability, a parent, family member, or blood relative of a person with a disability who receives services from the Arc of Steuben.

Associates Signature: \_\_\_\_\_

Title: \_\_\_\_\_

Date: \_\_\_\_\_



APPENDIX D

INDEPENDENT CONTRACTOR / AGENTS / VENDORS  
ACKNOWLEDGEMENT FORM

The Arc of Steuben has developed a Corporate Compliance Program that states the organization and its associates, contractors and Board of Directors will adhere to applicable federal, state and local laws and regulations and internal policies and procedures.

Our Corporate Compliance Program is a combination of policy and procedure that assists our organization to monitor, detect and correct actions that are not in compliance with applicable laws or our own policies and procedures.

As our agent, we expect that you will act in compliance with the laws that are applicable to our organization and to your organization and in compliance with our policies and procedures, particularly our Standards of Conduct that sets forth the overarching principles for conducting our business with integrity based on sound ethical and legal standards.

As our agent, we also expect you to report any suspected or potential violations of law or our policies and procedures of which you become aware by contacting our Executive Director at 607-776-4146 ext. 2112, our Corporate Compliance Officer at 607-776-4146 ext. 2149 or our Corporate Compliance Hotline at 607-622-1950.

As our agent, we expect you to understand your role in the Corporate Compliance Program of the Arc of Steuben and we expect you to review any policies and procedures that are applicable to you and your organization. You may contact the Executive Director or the Corporate Compliance Officer for any questions or clarifications of your responsibilities.

\* \* \* \* \*

- ✓ I acknowledge that on behalf of myself and my organization that I have read, have had an opportunity to ask questions about and that I understand the Arc of Steuben Standards of Conduct and the policies and procedures of the Arc of Steuben's Corporate Compliance Program that are applicable to the services that are provided to the Arc of Steuben.
- ✓ I understand and agree that I and all those in my organization who provide services to the Arc of Steuben must comply with the Arc of Steuben's Corporate Compliance Program including the Standards of Conduct and all laws, regulations, policies, procedures and other guidance applicable to the services that are provided to the Arc of Steuben.

- ✓ I agree on behalf of myself and my organization to fully cooperate with the implementation of the Arc of Steuben’s Corporate Compliance Program, to participate in any auditing or monitoring processes and to report any instances of possible violations of law, regulations or policies that are applicable to the Arc of Steuben of which I become aware.
- ✓ I acknowledge that the Arc of Steuben maintains a helpline for the purpose of receiving notifications of possible violations of law, regulation and the Arc of Steuben’s Corporate Compliance Program.
- ✓ I understand that my failure to report any concerns regarding possible violations of law, regulations or the Corporate Compliance Program may result in corrective action, up to and including termination of my agreement with the Arc of Steuben.
- ✓ I attest on behalf of myself and/or my organization that I am not currently excluded from participation in federal or state health care programs, am not the subject of any pending exclusion proceeding, and have not been adjudicated or deemed to have committed any action that could subject me or my organization to exclusion from government programs such as Medicare or Medicaid.
- ✓ I shall notify the Arc of Steuben within three (3) business days of receipt of notice of (a) exclusion or proposed exclusion from a state or federal health care program, or (b) adjudication or other determination that I or my organization has committed any action which could lead to exclusion from a government program.
- ✓ I acknowledge that the Arc of Steuben may terminate my contract immediately upon notice that I or my organization has been excluded from participation in a state or federal health care program or that I or my organization has been adjudicated or determined to have committed an action which could subject it to mandatory exclusion.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Print Name

\_\_\_\_\_  
Title

\_\_\_\_\_  
Date



**APPENDIX E**

**MEMBERS OF THE ARC OF STEUBEN BOARD OF DIRECTORS ACKNOWLEDGEMENT FORM**

- ✓ I acknowledge that I have read, have had the opportunity to ask questions about and that I understand the Arc of Steuben’s Corporate Compliance Program and the Arc of Steuben’s Standards of Conduct.
- ✓ I agree to comply with the Arc of Steuben’s Corporate Compliance Program and the Arc of Steuben’s Standards of Conduct and all laws, regulations, policies, procedures and other guidance applicable to the responsibilities of my membership on the Arc of Steuben Board of Directors.
- ✓ I understand that, as a member of the Board of Directors, I have a responsibility to oversee and support the implementation of the Arc of Steuben’s Corporate Compliance Program, including participating in monitoring, auditing, investigations and other activities related to compliance.
- ✓ I understand that my failure to report any concerns regarding possible violations of law, regulations or the Corporate Compliance Program may result in corrective action or termination of my Board position.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Print Name

\_\_\_\_\_  
Title

\_\_\_\_\_  
Date



## APPENDIX F

### Contractual/Financial Arrangement with Physicians who also act as a referral source

#### **EMPLOYMENT AGREEMENTS**

1. The Arc of Steuben may wish to employ physicians to furnish services to people served. Prior to the Arc of Steuben employing any physician, compliance with this Policy is required. Since these arrangements can be complex counsel may be contacted if questions arise.
2. All arrangements with physicians to serve as employees must be for bona fide employment, must be approved by the Corporate Compliance Officer, and must:
  - a. Be in writing;
  - b. Provide for compensation consistent with fair market value determined by an analysis completed.
  - c. Not base compensation upon the value or volume of referrals or any referral relationship between the parties; and
  - d. Be commercially reasonable even if no referrals were made to The Arc of Steuben.
3. The Director of Human Resources shall be responsible for conducting a determination of whether the compensation included in an employment agreement is consistent with the fair market value of the services being provided under the agreement. A written assessment of the determination that the compensation is consistent with fair market value, and any supporting documentation, should be kept on file by Human Resources. Amounts may vary depending upon the particularities of the physician's education, expertise, experience and geographic location.
4. After review by the Corporate Compliance Officer, the employment agreement may be approved and executed by the Director of Human Resources /Division Director.

Human Resources shall be responsible for maintaining the fully executed copies of the employment agreements.

#### **PERSONAL SERVICES AGREEMENTS**

1. The Arc of Steuben may wish to enter into contractual arrangements with physicians. Such arrangements could include contracts for services as a medical director or consultant. Such arrangements are referred to as "personal services agreements" or "independent contractor agreements," and they require compliance with this Policy. Since these arrangements can be complex counsel may be contacted if questions arise.

2. All personal services agreements with physicians must be approved by the Corporate Compliance Officer and must meet the following requirements:
  - a. The agreement must be in writing and signed by the parties;
  - b. The agreement must specify with particularity the services to be provided and cover all the services provided by the physician to The Arc of Steuben;
  - c. If the agreement provides for services on a periodic, sporadic or part-time basis, rather than on a full-time basis for the term of the agreement, the agreement must specify exactly the schedule of such intervals, their precise length, and the exact charge for such intervals. The only exception to this requirement is for agreements for Medical Director services providing for compensation on an hourly basis; for these Medical Director agreements, time records must be kept and the physician must submit invoices in order to receive payment for services rendered;
  - d. The agreement must have a term of at least one year. The agreement must provide for the aggregate compensation paid to the physician over the term of the agreement, except in the case of per-hour compensation arrangements for Medical Director services. Compensation must be set in advance and be consistent with fair market value in an arms-length transaction as determined by the analysis completed
  - e. Compensation must not be determined or modified in a manner that takes into account the volume or value of any referrals or other business generated between The Arc of Steuben and the physician;
  - f. The services performed under the agreement must not involve the counseling or promotion of a business arrangement or other activity that violates any state or federal law; and
  - g. The aggregate services contracted for must not exceed those which are reasonably necessary to accomplish the commercially reasonable business purpose of the services.
  
3. The Director of Human Resources shall be responsible for conducting a determination of whether the compensation included in a personal services agreement is consistent with the fair market value of the services being provided under the agreement. Amounts may vary depending upon the particularities of the physician's education, expertise, experience and geographic location. A written assessment of the determination that the compensation is consistent with fair market value, and any relevant supporting documentation, should be kept on file by Human Resources. Fair market value shall be supported by an independent determination of fair market value or by reference to an industry-recognized benchmark.
  
4. After review by the Corporate Compliance Officer, the personal services agreement may be approved and executed by the Director of Human Resources /Division Director.

Human Resources shall be responsible for maintaining the fully executed copies of the personal services agreements.

### ***EQUIPMENT AND SPACE RENTAL ARRANGEMENTS***

1. The Arc of Steuben has determined that it may wish to enter into lease agreements with certain physicians whereby these physicians lease either office space or equipment from The Arc of Steuben. Such arrangements are referred to as “lease agreements” or “rental agreements,” and they require compliance with this Policy. Since these arrangements can be complex, counsel may be contacted if questions arise.
  
2. All lease agreements with referring physicians must be approved by the Corporate Compliance Officer and must meet the following requirements:
  - a. The agreement must be in writing and signed by the parties;
  - b. The agreement must specify with particularity the equipment/space covered; if the lease is intended to provide the lessee with access to the equipment/space for periodic intervals of time, rather than on a full-time basis for the term of the lease, the lease must specify exactly the schedule of such intervals, their precise length, and the exact rent for such intervals;
  - c. The equipment/space must be used exclusively by the and not shared with or used by the Arc of Steuben or any person or entity related to the Arc of Steuben;
  - d. The agreement must provide for aggregate compensation paid over the term of the agreement, set in advance, and consistent with fair market value in an arms-length transaction as determined by the analysis completed;
  - e. Compensation must not be determined or modified in a manner that takes into account the volume or value of any referrals or other business generated between the Arc of Steuben and the physician;
  - f. The lease must be commercially reasonable even if no referrals were made between the Arc of Steuben and the physician;
  - g. The lease may not provide for services to be performed under the agreement that involve the counseling or promotion of a business arrangement or other activity that violates any state or federal law; and
  - h. The aggregate equipment/space leased may not exceed that which is reasonable and necessary for the legitimate business purposes of the lease and the lease must set out all of the equipment/space leased between the physician and the Arc of Steuben.
  
3. The Facilities Director shall determine whether the payments made under the lease agreement are consistent with the fair market value for the office space or equipment being provided under the agreement. For purposes of determining the fair market value of space rentals, fair market value means the value of rental property for general commercial purposes, but shall not be adjusted to reflect the additional value that one party (The Arc of Steuben or the physician) would attribute to the property as a result of its proximity or convenience to sources of

referrals. For purposes of determining the fair market value of equipment, fair market value means the value of the equipment when obtained from a manufacturer or professional distributor, but shall not be adjusted to reflect the additional value one party (The Arc of Steuben or the physician) would attribute to the equipment as of result of its proximity or convenience to sources of referrals. A written assessment of the determination that the compensation is consistent with fair market value should be kept on file with the lease agreement.

4. After review by the Corporate Compliance Officer, the lease agreements may be approved and executed by the Director of Facilities/Division Director.
5. If the term is for less than one year or if the agreement is terminated with or without cause prior to the end of the first year of the agreement, then the parties may not enter into a similar agreement until the one year term has passed.
6. The Executive Assistant shall be responsible for maintaining the fully executed copies of the lease agreements.



## APPENDIX G

Summary of fraud and abuse laws prepared by the New York State Office of the Medicaid Inspector General

### FEDERAL & NEW YORK STATUTES RELATING TO FILING FALSE CLAIMS

#### I. FEDERAL LAWS

##### **False Claims Act (31 U.S.C. §§3729-3733)**

The False Claims Act ("FCA") provides, in pertinent part, that:

(a) Any person who

- (1) knowingly presents, or causes to be presented, to an officer or employee of the United States Government or a member of the Armed Forces of the United States a false or fraudulent claim for payment or approval;
- (2) knowingly makes, uses, or causes to be made or used, a false record or statement to get a false or fraudulent claim paid or approved by the Government;
- (3) conspires to defraud the Government by getting a false or fraudulent claim paid or approved by the Government; or
- (4) knowingly makes, uses, or causes to be made or used, a false record or statement to conceal, avoid, or decrease an obligation to pay or transmit money or property to the Government, is liable to the United States Government for a civil penalty of not less than \$5,000 and not more than \$10,000, plus 3 times the amount of damages which the Government sustains because of the act of that person:

(a) Definitions.--For purposes of this section:

(1) the terms "knowing" and "knowingly" --

(A) mean that a person, with respect to information--

- (i) has actual knowledge of the information;
- (ii) acts in deliberate ignorance of the truth or falsity of the information; or
- (iii) acts in reckless disregard of the truth or falsity of the information; and

(B) require no proof of specific intent to defraud;

##### **31 U.S.C. § 3729**

While the False Claims Act imposes liability only when the claimant acts "knowingly," it does not require that the person submitting the claim have actual knowledge that the claim is false. A person, who acts in reckless disregard or in deliberate ignorance of the truth or falsity of the information, also can be found liable under the Act. 31 U.S.C. 3729(b).

In sum, the False Claims Act imposes liability on any person who submits a claim to the federal government that he/she knows (or should know) is false. An example may be a physician who submits a bill to Medicare for medical services she knows she has not provided. 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. An example of this may include a government contractor who submits records that he knows (or should know) are false and that indicate compliance with certain contractual or regulatory requirements. The third area of liability includes those instances in which someone may obtain money from the federal government to which he may not be entitled, and then uses false statements or records in order to retain the money. An example of this so-called “reverse false claim” may include a hospital who obtains interim payments from Medicare throughout the year, and then knowingly files a false cost report at the end of the year in order to avoid making a refund to the Medicare program.

In addition to its substantive provisions, the FCA provides that private parties may bring an action on behalf of the United States. 31 U.S.C. 3730 (b). These private parties, known as *qui tam* relators,” may share in a percentage of the proceeds from an FCA action or settlement.

Section 3730(d)(1) of the FCA provides, with some exceptions, that a *qui tam* relator, when the Government has intervened in the lawsuit, shall receive at least 15 percent but not more than 25 percent of the proceeds of the FCA action depending upon the extent to which the relator substantially contributed to the prosecution of the action. When the Government does not intervene, section 3730(d)(2) provides that the relator shall receive an amount that the court decides is reasonable and shall be not less than 25 percent and not more than 30 percent.

### ***Administrative Remedies for False Claims (31 U.S.C. Chapter 38. §§ 3801 – 3812)***

This statute allows for administrative recoveries by federal agencies. If a person submits a claim that the person knows is false or contains false information, or omits material information, then the agency receiving the claim may impose a penalty of up to \$5,000 for each claim. The agency may also recover twice the amount of the claim. Unlike the False Claims Act, a violation of this law occurs when a false claim is submitted, not when it is paid. Also unlike the False Claims Act, the determination of whether a claim is false, and the imposition of fines and penalties is made by the administrative agency, not by prosecution in the federal court system.

## **II. NEW YORK STATE LAWS**

New York’s false claims laws fall into two categories: civil and administrative; 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.

## **A. CIVIL AND ADMINISTRATIVE LAWS**

### **NY False Claims Act (State Finance Law, §§187-194)**

The New York False Claims Act is similar to 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 health care programs such as Medicaid. The penalty for filing a false claim is \$6,000 - \$12,000 per claim and the recoverable damages are three times the value of the amount falsely received. In addition, the false claim filer may have to pay the government's legal fees.

The Act allows private individuals to file lawsuits in state court, just as if they were state or local government parties. If the suit eventually concludes with payments back to the government, the person who started the case can recover 25-30% of the proceeds if the government did not participate in the suit and 15-25% if the government did participate in the suit.

### **Social Services Law §145-b False Statements**

It is a violation to knowingly obtain or attempt to obtain payment for items or services furnished under any Social Services program, including Medicaid, by use of a false statement, deliberate concealment or other fraudulent scheme or device. The State or the local Social Services district may recover three times the amount incorrectly paid. In addition, the Department of Health may impose a civil penalty of up to \$10,000 per violation. If repeat violations occur within 5 years, a penalty up to \$30,000 per violation may be imposed if they involve more serious violations of Medicaid rules, billing for services not rendered or providing excessive services.

### **Social Services Law §145-c Sanctions**

If any person applies for or receives public assistance, including Medicaid, by intentionally making a false or misleading statement, or intending to do so, the needs of the individual or that of his family shall not be taken into account for the purpose of determining his or her needs or that of his family for six months if a first offense, for twelve months if a second offense (or if benefits wrongfully received are at least one thousand dollars but not more than three thousand nine hundred dollars), for eighteen months if a third offense (or if benefits wrongfully received are in excess of three thousand nine hundred dollars), and five years for any subsequent occasion of any such offense.

## **B. CRIMINAL LAWS**

### **Social Services Law §145 Penalties**

Any person, who submits false statements or deliberately conceals material information in order to receive public assistance, including Medicaid, is guilty of a misdemeanor.

### **Social Services Law § 366-b, Penalties for Fraudulent Practices**

a. Any person who obtains or attempts to obtain, for himself or others, medical assistance by means of a false statement, concealment of material facts, impersonation or other fraudulent means is guilty of a Class A misdemeanor.

b. Any person who, with intent to defraud, presents for payment and false or fraudulent claim for furnishing services, knowingly submits false information to obtain greater Medicaid compensation or knowingly submits false information in order to obtain authorization to provide items or services is guilty of a Class A misdemeanor.

### **Penal Law Article 155, Larceny**

The crime of larceny applies to a person who, with intent to deprive another of his property, obtains, takes or withholds the property by means of trick, embezzlement, false pretense, false promise, including a scheme to defraud, or other similar behavior. It has been applied to Medicaid fraud cases.

- a. Fourth degree grand larceny involves property valued over \$1,000. It is a Class E felony.
- b. Third degree grand larceny involves property valued over \$3,000. It is a Class D felony.
- c. Second degree grand larceny involves property valued over \$50,000. It is a Class C felony.
- d. First degree grand larceny involves property valued over \$1 million. It is a Class B felony.

### **Penal Law Article 175, False Written Statements**

Four crimes in this Article relate to filing false information or claims and have been applied in Medicaid fraud prosecutions:

- a. §175.05, Falsifying business records involves entering false information, omitting material information or altering an enterprise's business records with the intent to defraud. It is a Class A misdemeanor.
- b. § 175.10, Falsifying business records in the first degree includes the elements of the §175.05 offense and includes the intent to commit another crime or conceal its commission. It is a Class E felony.
- c. §175.30, Offering a false instrument for filing in the second degree involves presenting a written instrument (including a claim for payment) to a public office knowing that it contains false information. It is a Class A misdemeanor.
- d. §175.35, Offering a false instrument for filing in the first degree includes the elements of the second degree offense and must include an intent to defraud the state or a political subdivision. It is a Class E felony.

### **Penal Law Article 176, Insurance Fraud**

Applies to claims for insurance payment, including Medicaid or other health insurance and contains six crimes.

- a. Insurance Fraud in the 5th degree involves intentionally filing a health insurance claim knowing that it is false. It is a Class A misdemeanor.
- b. Insurance fraud in the 4th degree is filing a false insurance claim for over \$1,000. It is a Class E felony.

- c. Insurance fraud in the 3rd degree is filing a false insurance claim for over \$3,000. It is a Class D felony.
- d. Insurance fraud in the 2nd degree is filing a false insurance claim for over \$50,000. It is a Class C felony.
- e. Insurance fraud in the 1st degree is filing a false insurance claim for over \$1 million. It is a Class B felony.
- f. Aggravated insurance fraud is committing insurance fraud more than once. It is a Class D felony.

### **Penal Law Article 177, Health Care Fraud**

Applies to claims for health insurance payment, including Medicaid, and contains five crimes:

- a. Health care fraud in the 5th degree is knowingly filing, with intent to defraud, a claim for payment that intentionally has false information or omissions. It is a Class A misdemeanor.
- b. Health care fraud in the 4th degree is filing false claims and annually receiving over \$3,000 in aggregate. It is a Class E felony.
- c. Health care fraud in the 3rd degree is filing false claims and annually receiving over \$10,000 in the aggregate. It is a Class D felony.
- d. Health care fraud in the 2nd degree is filing false claims and annually receiving over \$50,000 in the aggregate. It is a Class C felony.
- e. Health care fraud in the 1st degree is filing false claims and annually receiving over \$1 million in the aggregate. It is a Class B felony.

## **III. WHISTLEBLOWER PROTECTION**

### **Federal False Claims Act (31 U.S.C. §3730(h))**

The FCA 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 FCA. 31 U.S.C. 3730(h). Remedies 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.

### **NY False Claim Act (State Finance Law §191)**

The False Claim Act also 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 Act. Remedies 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.

### **New York Labor Law §740**

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

- discloses or threatens to disclose to a supervisor or to a public body an activity, policy or practice of the employer that is in violation of law, rule or regulation that presents a substantial and specific danger to the public health or safety, or which constitutes health care fraud;
- provides information to or testifies before any public body conducting an investigation, hearing or inquiry into any such violation of a law, rule or regulation by such employer; or
- objects to or refuses to participate in any such activity, policy or practice in violation of a law, rule or regulation.

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

### **New York Labor Law §741**

Under this section, an employer may not take any retaliatory personnel action against an employee if the employee discloses certain information about the employer's policies, practices, or activities to a regulatory, law enforcement or other similar agency or public official. Protected disclosures are those that assert that, in good faith, the employee believes constitute improper quality of patient care. The employee's disclosure is protected only if the employee first brought up the matter with a supervisor and gives the employer a reasonable opportunity to correct the alleged violation, unless the danger is imminent to the public or patient and the employee believes in good faith that reporting to a supervisor would not result in corrective action. The law allows employees who are the subject of a retaliatory action to bring a civil action in court and seek relief such as injunctive relief to restrain continued retaliation: reinstatement, back-pay and compensation of reasonable costs.



**APPENDIX H**

**Annual Conflict of Interest Disclosure  
for Board Members**

Name: \_\_\_\_\_

Office or Board Position Held: \_\_\_\_\_ Year Term Expires: \_\_\_\_\_

In responding to these questions, understand that a “yes” response does not imply that the relationship or transaction was inappropriate.

- 1. Are you an officer or director of any corporation with which this organization has had a business relationship?     Yes     No

If your response is “yes”, please list the names of such corporations, the office held, and the approximate dollar amount of business involved with the Arc of Steuben.

<b>Name of Corporation</b>	<b>Office Held</b>	<b>Approximate Dollar Amount of Business</b>
_____	_____	_____
_____	_____	_____
_____	_____	_____

- 2. Do you, or does any member of your family, have a financial interest in, or receive any remuneration or income from, any business organization with which the Arc of Steuben has business dealings?     Yes     No

If your answer is “yes”, please supply the following information:

- A. Names of the businesses in which such interest is held and the person(s) by whom such interest is held:

- 1. \_\_\_\_\_
- 2. \_\_\_\_\_
- 3. \_\_\_\_\_

- B. The nature and amount of each financial interest, remuneration, or income:

- 1. \_\_\_\_\_
- 2. \_\_\_\_\_
- 3. \_\_\_\_\_

3. Did you, or any member of your family, receive during the past 12 months any gifts or loans from any source from which The Arc of Steuben purchases goods or services, or with which The Arc of Steuben has significant business dealings?  Yes  No

If your response is “yes”, list the gifts or loans.

<b>Name of Income Source</b>	<b>Item</b>	<b>Approximate Value</b>
_____	_____	_____
_____	_____	_____
_____	_____	_____

4. Were you involved in any other activity during the past year that might be interpreted as a possible conflict of interest?  Yes  No

If yes, please describe: \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

5. Did you, during the past year, use your position on this nonprofit’s board to gain advantage for yourself, your family, friends, or business associates in any way?  Yes  No

I certify that the foregoing information is true and complete to the best of my knowledge.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date