



**GLEN ISLAND CENTER
FOR NURSING & REHABILITATION
SERVICE BORN OF COMPASSION**

**GLEN ISLAND CENTER FOR NURSING
AND REHABILITATION CENTER
CORPORATE COMPLIANCE MANUAL**

Introduction

GICNR has established this compliance plan and policies and procedures go ensure that it complies with various legal requirements applicable to health care providers, including, but not limited to, the Federal Medicare and Medicaid anti-kickback statute (the "Anti-Kickback Statute"), the Federal and New York State false claims laws (the "False Claims Acts") and certain regulations of the Medicaid program. This Plan is adopted by GICNR and it shall comply with all aspects of this Plan. Compliance with these complex legal requirements is extremely important because the failure to abide by these laws and regulations can lead to civil and/or criminal violations, serious financial consequences such as significant fines and penalties, and/or criminal sanctions for individuals and organizations.

The compliance efforts of GICNR are designed to establish a culture within the organization that promotes prevention, detection and resolution of instances of conduct that do not conform to Federal and State laws, Federal, State and private payor health care program requirements, and our organization's ethical and business policies.

As colleagues in health care and representatives of GICNR, it is the obligation of us all that we follow basic, fundamental principles of ethical and business conduct. In today's dynamic world of health care, we must help each other to comply with applicable laws and regulations, our own internal policies and procedures, as good business practices.

We are committed to conducting all of our business in compliance with ethical standards and applicable laws, rules and regulations. The Standards of Conduct and the Compliance Plan is a statement to guide all employees, contractors and other representatives of our organization.

The Compliance Plan is not intended to be a comprehensive explanation of all applicable and ethical principles applying to our organization, nor will it provide answers to every possible issue that may arise under these legal and ethical principles. It is intended to sensitize our organization and its representatives to potential problems that may arise under these legal and ethical principles so that advice can be sought should an issue arise. We expect full compliance with the guidelines set forth in this Plan, and encourage our employees, contractors and other representatives to seek any further information or clarification necessary prior to engaging in any potentially risky or inappropriate actions or activities.

This Compliance Plan is intended to apply to all of the organization's activities. It is applicable to any affiliated providers, employees, management, contractors and governing body members. If any individual has any question about the application of this Compliance Plan, he or she should contact the Compliance Officer or any member of the Compliance Committee.

This Compliance Policy and Plan is divided into three main sections:

1. The Compliance Plan/8 Elements of Effective Compliance;
2. Overview of certain applicable statutes, laws and regulations;
3. Code of Conduct.

All persons associated with GICNR must read all three sections of the document and make every effort to understand what standards of behavior are expected by the organization.

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SUMMARY OF FEDERAL / STATE HEALTH CARE FRAUD AND ABUSE LAWS

False Claims Act

- Statute: 31 U.S.C §§ 3729-3733

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

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 repayment 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 (7) 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.

The Federal Criminal False Claims Act makes it illegal to submit or present a false, fictitious or fraudulent claim to the Federal Government. Violations can result in imprisonment, exclusion for the Medicare program and/ or fine. The Federal Civil False Claims Act authorizes the use of civil penalties plus three times the amount of damages the government sustains, where a person knowingly presents, or causes to be presented, a false or fraudulent claim; knowingly makes, uses or causes to be made or used, a false record or statement to get a false or fraudulent claim paid; or conspires to defraud the government in connection with the payment of a false or fraudulent claim. Penalties can be reduced where a person reports and cooperates with any government review that follows. Ignoring a potential violation of law can lead to liability. Under the False Claims Act, there are opportunities for the government and private persons to bring actions against health care providers for violation of these rules.

Effective August 1, 2016, the FCA civil penalty increases to a range of \$10,781 to \$21,563 per claim. Also on August 1, 2016, the Administrative Remedies civil penalty will change to \$10,781 per claim.

The New York State False Claims Act mirrors many of the provisions of the Federal False Claims Act. The State law authorizes the use of civil penalties plus three times the amount of damages the State or local government sustained related to false claims violations. Similar to the Federal False Claims Act, penalties can be reduced where a person reports and cooperates with any government review that follows the reporting and there are opportunities for the government and private persons to bring actions against health care providers for violation of these rules.

Anti-Kickback Statute

- **Statute: 42 U.S.C. §1320a-7b(b)**
- **Safe Harbor Regulations: 42 C.F.R § 1001.952**

The Anti-Kickback is a criminal law that prohibits the knowing and willful payment of "remuneration" to induce or reward patient referrals or the generation of business involving any item or service payable by the Federal Health Care Programs. Remuneration includes anything of value and can take many forms besides cash, such as free rent, expensive hotel stays and meals, and excessive compensation for medical directorships or consultancies.

The Federal "Anti-Kickback " Statute makes it a crime, punishable by monetary fines and/or imprisonment, to knowingly and willfully offer, pay solicit or receive a payment for any kind (i.e. cash, services, gifts, entertainment, favors, etc.) to anyone to induce patient referrals or in return for patient referrals of Medicare or Medicaid patients. These laws have been construed very broadly, and cover many "ordinary" business activities that are common practice in the non-health care arena. Examples of practices that could be covered by the "Anti-Kickback" Statute include : (i) routinely waiving patient deductibles or co-payments; (ii) offering or furnishing physicians or other providers with free equipment or services; and (iii) offering goods or services at below market value for the purpose of inducing patient referrals. Arrangements that satisfy all of the requirements of the regulatory safe harbors are not necessarily illegal but may be subject to heavy scrutiny. There are also New York State laws which correspond to these Federal laws.

Physician Self-Referral Law

- **Statute: 42 U.S.C § 1395nn**
- **Regulations: 42 C.F.R pts. 1001 (OIG) and 102 (State Agencies)**

The Physician Self-Referral Law, commonly referred to as the Stark Law, prohibits physicians from referring patients to receive "designated health services" payable by Medicare or Medicaid from entities with which the physician or an immediate family member has a financial relationship, unless an exception applies. Financial relationships include both ownership/investment interests and compensation arrangements.

"Designated Health Services" are:

- Clinical laboratory services;
- Physical therapy, occupational therapy, and outpatient speech-language pathology services;
- Radiology and certain other imaging services;
- DME and supplies;
- Parenteral and enteral nutrients, equipment and supplies;

- Home health services;
- Outpatient prescription drugs;
- Inpatient and outpatient hospital services.

The Stark Law is a strict liability statute, which means proof of specific intent to violate the law is not required. The Stark Law prohibits the submission, or causing the submission, of claims in violation of the law's restrictions on referrals. Penalties for physicians who violate the Stark Law include fines as well as exclusion from participation in the Federal health care programs.

Exclusion Statute

- **Statutes: 42 U.S.C §§ 1320a-7a, 1320c-5**
- **Regulations: 42 C.F.R pt. 1001 (OIG) and 1002 (State Agencies)**

The OIG is legally required to exclude from participation in all Federal health care programs individuals and entities convicted of the following types of criminal offenses: (1) Medicare or Medicaid fraud, as well as any other offenses related to the delivery of items or services under Medicare or Medicaid; (2) patient abuse or neglect; (3) felony convictions for other health-care-related fraud, theft, or other financial misconduct; and (4) felony convictions for unlawful manufacture, distribution, prescription, or dispensing of controlled substances, suspension, revocation, or surrender of a license to provide health care for reasons bearing on professional competence, professional performance, or financial integrity; provision of unnecessary or substandard services; submission of false, fraudulent claims to a Federal health care program, engaging in unlawful kickback arrangements; and defaulting on health education loan or scholarship obligations.

Civil Monetary Penalties Law

- **Statute: 42 U.S.C§ 1320a-7a**
- **Regulations: 42 C.F.R. pt. 1003**

The Civil Monetary Penalties law authorizes the imposition of substantial civil money penalties against an entity that engages in activities including, but not limited to: (1) knowingly presenting or causing to be presented a claim for services not provided as claimed or which is otherwise false or fraudulent in any way; (2) knowingly giving or causing to be given false or misleading information reasonably expected to influence the decision to discharge a patient; (3) offering or giving remuneration to any beneficiary of a federal health care program likely to influence the receipt of reimbursable items or services; (4) arranging for reimbursable services with an entity which is excluded from participation from a federal health care program; (5) knowingly or willfully soliciting or receiving remuneration for a referral of a federal health care

program beneficiary; or (6) using a payment intended for a federal health care program beneficiary for another use.

I. INTRODUCTION

This Code of Conduct has been developed as part of Glen Island Center for Nursing and Rehabilitation's (*hereafter referred to as GICNR*) Corporate Compliance Program. It is a Comprehensive, facility-wide effort to promote a positive ethical work environment that fosters compliance with ethical principles, legal and regulatory requirements and internal Policies and Procedures. This Code of Conduct sets forth general (*and some specific standards of*) Conduct that GICNR expects and requires of its staff, representatives and vendors whenever they represent GICNR.

Consistent compliance with this Code of Conduct by each and every staff member, Representative and Vendor, will help to assure those whom GICNR serves: the community, government regulators and one another. GICNR is deserving of the trust that they have placed upon it over the years.

Representatives who fail to act in accordance with the Code of Conduct will be deemed to be acting outside of the authority given to them by GICNR, and will be held personally responsible for the consequences of their conduct. This could result in disciplinary action ranging from a reprimand to dismissal or disassociation and when warranted, referral to law enforcement agencies or regulatory agencies for criminal prosecution, civil action or other disciplinary action.

II. RESPONSIBILITIES FOR IMPLEMENTATION and ENFORCEMENT OF THE CODE

Representatives Responsibilities - Representatives are responsible for complying with this Code which requires them to comply with GICNR's Policies and Procedures and the laws and regulations that apply to their work. Representatives can gain the knowledge that they need to comply with this Code in many ways, *including the following:*

- On-the-Job Training
- Reviewing applicable GICNR Policies and Procedures
- Attending GICNR In-Service Training
- Asking questions of their Supervisors as well as the Administrator and Compliance Officer

Every representative has an obligation to alert GICNR about any situation that they become aware of that involves an active or suspected violation of law, regulation or internal policy or procedure. GICNR is committed to ensuring that Representatives are not subject to any discipline or retaliation as a result of a faithful effort to report an actual or suspected Violation of this Code of Conduct. Any suggestion or action to the contrary itself is a violation of this Code.

Each Representative at the rank of Supervisor or higher will be given a copy of this Code of Conduct. All other Representatives will participate in an In-Service Training on the Code of Conduct with a written competency to assess their understanding of the subject matter. Further, every Representative will have access to the full Code of Conduct upon request to their Director or the Compliance Officer. Every current or prospective Representative will be required to participate in said training and competency as a condition of continued

RESPONSIBILITIES FOR IMPLEMENTATION and ENFORCEMENT OF THE CODE *(continued)*

Association or as a pre-condition of association with GICNR. GICNR will maintain a record of such acknowledgement as a part of its Compliance, e or Human Resources files for all Representatives. Vendors will be required to sign written contracts that include language that requires them to acknowledge that they have reviewed the Code of Conduct.

- a, **MANAGEMENT RESPONSIBILITIES** - Management is responsible for the enforcement of this Code of Conduct. For Representatives under their direction and control, managers have the responsibility to:
- Ensure that current and new Representatives participate in education and Training regarding this code and GICNR Policies and Procedures.
 - Continually stress to all Representatives the need for a commitment to the principles of the Code of Conduct.
 - Ensure that their departments operate in accordance with the highest principles of business ethics, GICNR Policies and Procedures and in compliance with legal and regulatory requirements.
 - Reinforce the lines of communication available to Representatives to resolve concerns relating to the Code of Conduct.
 - Make the Corporate Compliance Manual, including the Code of Conduct, available for review upon request by any Representative or Vendor under their direction or control who may request it.

A GICNR management official receiving report of actual or alleged violation of this Code of Conduct must promptly forward the report to the Compliance Officer. If a Supervisor believes it is necessary to review the conduct of one or more Representative(s) in response to an actual or suspected violation of this Code, he/she shall request the approval of the Compliance Officer, or in the absence of the Compliance Officer, the Administrator.

Except for the Compliance Officer or the Administrator, NO ONE shall independently undertake an internal investigation relating to this Code.

- b, **RESPONSIBILITIES OF THE COMPLIANCE COMMITTEE** –
A committee consisting of the
- Administrator
 - Compliance Officer
 - Director of Nursing
 - MDS Coordinator
 - Director of Rehab
 - Director of Finance
 - Admissions Director
 - and others as deemed necessary by these standing committee members

**RESPONSIBILITIES FOR IMPLEMENTATION and ENFORCEMENT OF THE
CODE (continued)**

has been established, It is the purpose of this Compliance Committee to advise the Compliance Officer and assist in Implementing, monitoring, and overseeing the Corporate Compliance Program. The Corporate Compliance Officer is the chairperson of the Committee, which reports to the Operator(s) and Administrator at least twice per year and at such times as may be warranted. The Committee's responsibilities include:

- Analyzing the organization's regulatory environment, the legal requirements with which it must comply and specific risk areas,
- Assessing existing Policies and Procedures that address these areas for possible incorporation into the Compliance Program,
- Working with appropriate individuals within GICNR to develop standards of Conduct and Policies and Procedures that promote allegiance to GICNR's Compliance Program.
- Recommending and monitoring, in conjunction with the relevant departments within GICNR, the development of internal systems and controls to carry out the facility's standards and Policies and Procedures as part of its daily operation,
- Determining the appropriate strategy/ approach to promote compliance with the program and to detect any potential violations, such as through the Compliance Hotline (914) 740 -1447.
- Developing a system to solicit, evaluate, and respond to complaints and problems.
- Monitoring internal and external audits and investigations for the purpose of identifying troublesome issues and deficient areas,
- Review and determine the need for modification to the Compliance Program including the Code of Conduct, as it becomes part of the overall operating structure and daily routine,

c. RESPONSIBILITIES OF THE COMPLIANCE OFFICER - The Compliance Officer's primary responsibilities include:

- Overseeing and monitoring the Implementation of the Compliance Program.
- Reporting on a regular basis to the:
 - 1) Compliance Committee
 - 2) Administrator
- Periodically revising the Corporate Compliance Program in light of changes to the facility's needs and in the law and policies of government and private payer's health plans.
- Ensuring that each Representative has received required training and understood the standards of conduct.

**RESPONSIBILITIES FOR IMPLEMENTATION and ENFORCEMENT OF THE
CODE (continued)**

- Developing, coordinating, and participating in a multi-faceted educational and training program that focuses on the elements of the Compliance Program and seeking to ensure that all appropriate employees and management staff are knowledgeable of and comply with, pertinent Federal and State standards.
- Coordinating personnel issues to ensure that Representatives do not appear in the **Cumulative Sanction Report** prepared by the Office of Inspector General, Office of Medicaid Inspector General or the Department of Health and Human Services.
- Performing compliance and internal audit reviews to ensure effectiveness of the Compliance Program.
- Independently Investigating and acting on matters related to compliance, including the flexibility to design and coordinate internal investigations and make any corrective action.
- Developing policies and programs that encourage Representatives to report suspected fraud and other improprieties without fear of Intimidation or Retaliation.
- Informing the Administrator concerning any investigation undertaken pursuant to a violation of the Code of Conduct.
- Will seek the advice of outside legal counsel as necessary.
- Will maintain a record of all inquiries pursuant to the Code of Conduct, and the disposition of all such inquiries.
- Must report at least twice per year to the Administrator on the status of Compliance.

III. REPORTING VIOLATIONS

Any Representative or Vendor with knowledge regarding an actual or suspected violation of this Code of Conduct should report what he/she knows as follows:

- a. **REPORTING VIOLATIONS TO SUPERVISORS AND ADMINISTRATOR** - Representatives are Encouraged to initially report known or suspected violations of this Code to their Supervisor or Administrator so long as the Representative making the report does not feel Uncomfortable in doing so. Representatives and Vendors, however, may report such Information to- any of the following instead of a Supervisor or Administrator:
- Corporate Compliance Officer
 - The Corporate Compliance Hotline (914) 740-1447. Call the hotline 24 hours/ 7 days a week when you want to report a serious violation that *may* Involve fraud, abuse, or other illegal activity.
 - The Confidential Compliance Mailbox located in the Lobby

REPORTING VIOLATIONS *(continued)*

- b. **REPORTING VIOLATIONS TO THE COMPLIANCE OFFICER** - Any Supervisor or Director who receives a report of a known or suspected violation of this Code must forward promptly to the Compliance Officer any and all such reports. This is crucial for the following reasons:
- It facilitates a prompt investigation.
 - It facilitates centralized tracking and monitoring of all reported violations.
 - It facilitates the process for systematically addressing and correcting internal control deficiencies that might have been the cause of the reported violation.
- c. **Reporting Violations via the Corporate Compliance Hotline:** (914) 740-1447 - Reports should be made to the Compliance Hotline whenever a Representative wishes to report an act anonymously, i.e. without having to reveal one or more of the following information:
- Any particular information about the person making the reports such as his/her name and position.
 - How the information concerning the actual or suspected violation was obtained.
 - The reason for reporting the violation.

Reports to the Hotline need not be made anonymously. The person making the report should feel free to leave as much information about the reported violation as they know, in addition to as much information about themselves that is sufficient for the Compliance Officer to fully investigate the report. The Compliance Hotline and other reporting mediums utilized will only be monitored by the Compliance Officer, or the Administrator, in the absence of the Compliance Officer. All reported information will be kept confidential particularly until it has been fully investigated and the facts have been determined. Maintaining confidentiality of such reports may be a key factor in preventing the spread of misinformation or rumor that do not have any basis in fact and that might be detrimental to the reputation of the accused. Additionally, failure to maintain the confidentiality of reports or violations of this Code may impede the investigation into the facts surrounding the reported violation.

GICNR will not protect any Representative who knowingly submits a false or malicious report of a violation of this Code. Such a Representative may be subject to disciplinary action. GICNR strictly forbids reprisals against any Representative or other person who reports in good faith any actual suspected violations of this code. Any Representative who reports a violation of this Code and is later found to be a willful participant in the same violation is subject to disciplinary action up to and including termination of Employment.

IV. INVESTIGATING CODE VIOLATIONS

Internal investigations of actual or suspected violations will be handled as follows:

- Solely by or under the direction of the Compliance Officer, or Administrator

INVESTIGATING CODE VIOLATIONS continued

- Along with the reported information will be reported to Operations
- The Compliance Officer will promptly investigate and treat confidentially all reported violations of this Code.
- The Compliance Officer will maintain a written log of all violations investigated.

V, DISCIPLINE FOR VIOLATIONS

GICNR may hold Representatives who knowingly violate this Code of Conduct personally responsible for the consequences of their conduct. Disciplinary actions may be taken for:

- Authorization of, or participation in, actions that violate this Code of Conduct.
- Failure to report a violation of this Code or to cooperate in an investigation.
- Failure by a violator's supervisor(s) to detect and report a violation of this Code if such a failure reflects inadequate supervision or lack of oversight.
- Intimidation or retaliation against an individual for reporting a violation or possible violation of this Code.

Disciplinary action may include termination of employment, when appropriate. In response to a violation of this Code, GICNR may choose to do one or more of the following:

- Take disciplinary action ranging from reprimand to dismissal or disassociation.
- Refer the situation to law enforcement for criminal prosecution when a law appears to have been violated.
- Notify regulatory agencies, professional licensing, or credentialing boards for sanctions.

With respect to disciplinary action, principles of fairness will apply, including, when appropriate, review of disciplinary decision. All disciplinary actions will be made consistent with Internal Policies and Procedures and when applicable, all collective bargaining agreements.

Disciplinary actions will be appropriately documented with representatives file, such documentation will be considered during regular and promotional evaluations.

VI, STANDARDS OF CONDUCT

This Code of Conduct does not specify specific standards of conduct for every situation. The Code sets forth general standards of conduct. When situations *and* decisions, for which specific guidelines are not provided by this Code, confront Representatives, they must be guided by the general standards of conduct. Additionally, Representatives should seek advice from appropriate Representatives of GICNR such as:

- Supervisors
- Administrator
- Compliance Officer

STANDARDS OF CONDUCT *(continued)*

- a. Ethical Standards of Conduct - Ethical behavior is more than complying with the law, regulatory requirements, and GICNR Policies and Procedures. It also means acting with honesty, integrity and respect whenever and wherever you are representing GICNR. GICNR expects and requires that every Representative will act ethically when dealing with other Representatives, the public, the business community, customers, suppliers and government and regulatory authorities. Additionally, GICNR expects and requires all of its Representatives to deal with others fairly and honestly, and in the best interests of GICNR.
- b. Legal Standards of Conduct - GICNR is required to operate in accordance with federal and State laws, as well as local laws and regulations. Accordingly, GICNR expects and requires all of its Representatives to operate in accordance with federal, state, as well as local laws and regulations whenever they act on behalf of GICNR.
- c. Internal Standards of Conduct - GICNR has established internal standards of conduct that it requires of its Representatives that are not necessarily required as a matter of law or ethics. For example, there are Internal standards of conduct that deal with the use of alcohol and controlled substances in the work place, dress code, time to report to or leave work, procedures to follow in the event of an emergency, procuring goods and services and paying for them. These Internal standards of conduct are set forth in written Policies and Procedures, in memos and verbal instructions from management. All representatives are required to comply with these internal standards unless authorized personnel approve exceptions or unless they conflict with any applicable federal, state or local law/regulation.
- d. Respect for the Rights of All Individuals - We must respect the rights of all individuals whom we serve and with whom we work and govern, including the rights of privacy, confidentiality and the right to be treated with care, respect and dignity.
- e. Discrimination and Harassment - All Representatives are forbidden by federal laws and GICNR Policies and Procedures from discriminating against any person in matters of employment, as well as discriminating or harassing based on sex, religion, color, age, national origin, marital status, sexual orientation, or disability. Similarly, all Representatives are forbidden by federal law and GICNR Policies and Procedures from engaging in any conduct that could reasonably be interpreted as sexual harassment. While it is not easy to define this precisely, sexual harassment not often includes one or more of the following:
 - Unwelcome sexual advance.
 - Requests or demands for sexual acts or favors.
 - Verbal, physical or visual conduct of a sexual nature which might create an uncomfortable or hostile work environment, including 'teasing', 'kidding', or 'joking', making derogatory remarks based on gender, repeated unwelcome flirtations and touching, and the display of objects or pictures of a sexual nature.
 - Unwelcome sexual advances or requests for sexual favors, or other conduct of a sexual nature, when the terms of a Representative's continued employment are conditioned upon submission.

If a Representative has a complaint about discrimination or harassment • be it sexual harassment or otherwise • involving a Representative of GICNR (such as co-workers,

supervisors or visitors) that occurred on the premises or while representing GICNR, he/she should report the complaint to his or her:

- Supervisor
- Administrator
- Compliance Officer

It is Important to report any suspected incidents of sexual harassment at the earliest possible date so that a thorough investigation can be discreetly conducted, All complaints and investigations will be treated seriously and confidentially.

BLATANTLY FALSE ACCUSATIONS OF DISCRIMINATION OR HARASSMENT WILL RESULT IN ACTION, UP TO AND INCLUDING TERMINATION OF EMPLOYMENT.

- f. **Billing** - GICNR provides bills/statements to its residents or their designated representative responsible for payment (i.e. insurance company, Medicaid or Medicare), Billing statements regardless of payer sources must be accurate and completely reflect the charge for each service billed in accordance with all internal Policies and Procedures, regulatory requirements and/or contractual agreements. Additionally, charges and services included on all billing statements must be:

- Only for services actually rendered by a qualified health care professional.
- Only for medically necessary services that have been properly authorized by a licensed physician or other qualified licensed healthcare professional.
- Supported by adequate and accurate clinical and financial documentation that can establish each and every item on the billing statement related to the corresponding charge.

Accordingly, all Representatives directly or indirectly involved in providing healthcare services, including clinicians, administrative staff and billing personnel - are required to ensure GICNR's billing compliance by becoming familiar with and abiding by GICNR's rules and the billing regulations of third party payers. Representatives must use their best efforts to prevent and, where appropriate, report errors, improprieties or suspicious circumstances in billing that could violate applicable laws and regulations.

Representatives who falsify any billing information provided to a resident may be in violation of federal, state and local laws, which may lead to significant criminal and/or civil penalties. Billing errors, even if unintentional, may expose GICNR to the possibility of government investigation and monetary penalties. Under the Medicaid and Medicare programs, an erroneous bill could, in certain circumstances, may be deemed to; be a 'false claim'. Additionally, negligently prepared bills may cause significant administrative problems as well as tarnish GICNR's reputation for professionalism.

- g. **Conflict of Interest** - It is the responsibility and duty of each Representative to avoid any perceived or actual conflict of interest in dealing with suppliers, customers and all other entities on behalf of GICNR. No Representative may use his/her position with GICNR or any information confidential or proprietary to GICNR to their personal advantage or in a manner

STANDARDS OF CONDUCT *(continued)*

that creates a conflict of interest or the appearance of a conflict of interest. Each Representative is required to fully disclose all personal and outside interests that may affect or be affected by GICNR's operations or by decisions that the Representative makes on GICNR's behalf. Each actual or potential conflict of interest that is disclosed by a Representative will be carefully examined and appropriate measures will be put into place to maintain the balance between ensuring fair and honest deliberations and encouraging participation of qualified Representatives in the operations of GICNR.

The following activities would normally be considered a conflict of interest and should be avoided and when they exist, should be fully disclosed:

- Direct supervision of or responsibility for the performance evaluations, pay, or benefits of any close relative.
- Selling anything to GICNR or buying anything from GICNR (i.e. surplus equipment)
Any outside activity that is so substantial that it may interfere with the Representative's ability to devote appropriate time and attention to his/her responsibilities with GICNR,

All potential conflicts must be promptly disclosed to GICNR consistent with the conflict of interest policy on at least an annual basis. Notwithstanding the foregoing, in the absence of a substantial and continuing conflict of interest, a Representative may engage in outside activities provided that the outside activity has been disclosed to and approved by GICNR and provided further that the Representative excuses himself/herself from participating in the consideration or decision of any matter related to the outside activity. For further details concerning conflict of interest, refer to GICNR's Conflict of **Interest Policy**,

- h. **Tax Exemption** - GICNR is not a charitable organization; therefore, is not exempt from taxation by Federal, state and local governments.
- i. **Anti-Trust** – Anti-trust laws are designed to foster fair and honest competition within the free enterprise system and to preserve a free and competitive marketplace. GICNR's policy is to comply fully with both the letter and the spirit of anti-trust laws. Representatives of GICNR who violate anti-trust laws may subject themselves and GICNR to personal and corporate civil and criminal penalties.

Anti-trust laws are extremely complex. Representatives should seek guidance from the Facility's legal counsel when questions arise concerning matters that may give rise to violations of anti-trust laws before they become problems. The following areas of anti-trust concern are highlighted because the *services* that GICNR provides may pose a risk for non-compliance with anti-trust laws to GICNR and its Representatives:

1. **AGREEMENTS WITH COMPETITORS** – Competitors may agree on the prices they will charge for their products or services. For GICNR, a competitor may be another nursing home, other type of long term care facility or, depending on the circumstances, any other health care provider. Anti-trust laws make illegal any agreement or understanding, expressed or implied, written or oral, which restricts competition or interferes with the ability of the free market system to function

STANDARDS OF CONDUCT (continued)

properly. Accordingly, no Representative should ever discuss or agree with a competitor concerning any of the following:

1. Our prices or their prices,
2. Pricing policies or practices,
3. Fees;
4. The terms and conditions under which services are to be provided,

Additionally, it may be illegal for Representatives to agree with competitors on any of the following:

1. The territories in which GICNR or its competitors will sell its services,
2. The clientele to which GICNR *or* its competitors will offer services,
3. The types of services or the amounts of any service GICNR or its competitors will provide or offer,

Violations of these antitrust policies may be illegal. Representatives must avoid any conduct that violates or creates the perception of a violation of these policies.

2. **SELECTION OF CUSTOMERS AND VENDORS**-Another area of concern for violations of anti-trust laws rests in the selection of customers and vendors. GICNR is generally free to select its own customers and vendors. Anti-trust laws require GICNR to exercise this right alone and not in conjunction with other companies. Any agreement between GICNR and another one or more companies not to do business with a third party may violate the anti-trust laws. To prevent this from occurring, Representatives should generally not disclose to another company who GICNR will or will not do business. Additionally, Representatives should generally not attempt to persuade other companies to not do business with other vendors.

- J. **Personal Gifts and Charitable Contributions** - GICNR is not a charitable organization, therefore, is not eligible for charitable contributions. Personal gifts are different *from* charitable gifts, and are defined as gifts that are exchanged between Representative(s) and two or more other individuals. If a Representative or a vendor is aware, or has reason to believe, that a personal gift has been given or received by a Representative, "that Representative or vendor must notify his supervisor or the Compliance Officer immediately.

Representatives may give or accept personal gifts that are of nominal value (i.e. a market value of less than \$50) provided that they do not fall into the categories listed below:

1. Personal gifts that are intended to or appear to indicate an intent to influence the normal business relationship between GICNR and any supplier, subcontractor, customer, competitor or other business associate, regardless of the market value of the gift.
2. Personal gifts with a market value equal to or greater than \$50, whether *or* not it is intended to constitute a bribe or kickback.
3. Personal gifts involving any government official. Federal and state laws restrict the ability of organizations to give personal gifts to government officials, including politicians. These laws specifically prohibit giving personal gifts to government

STANDARDS OF CONDUCT (continued)

officials in connection with a business transaction. The giving of personal gifts are not permitted even if done without the intent to influence government action.

While Representatives are forbidden from using GICNR funds to make political contributions, this policy does not prohibit representatives from contributing their personal funds to any candidate or to any legally constituted political action committee, as permitted by law.

- k. Environmental Safety- Representatives who deal, directly or indirectly with hazardous materials and infectious wastes must comply with all applicable federal, state and local environmental laws and regulations as well as GICNR's Policies and Procedures. Representatives are required to:
- Comply with all laws and regulations governing the handling, storage and use of hazardous materials, other pollutant and infectious wastes.
 - Comply with GICNR's permits that allow it to safely transfer its pollutants to pollution control facilities, or onto or into land.
 - Hire only reputable licensed service companies to transport and dispose of hazardous and polluted materials and infectious wastes; and accurately maintain the records required by the environmental laws and regulations, including those that require precise description of the amount, concentration and make-up of hazardous materials or other regulated pollutants and infectious wastes that are used, stored, discharged or generated; and the time, place of origin, destination and transporter of hazardous materials, and discharge of pollutants. These records must be handled pursuant to GICNR policy.
 - Before proceeding to act on any instruction of questionable propriety, or to take any environmental-related action about which they are unsure, Representatives must consult GICNR's policy manuals that cover environmental safety issues, and as necessary, discuss their questions with their supervisor or the Compliance Officer. Staff handling hazardous materials, directly or indirectly, must inform their supervisor or the Compliance Officer of any known or suspected incidents involving any improper discharge or disposal of hazardous materials, pollutants or infectious waste,
- l. Health and Safety - Health and safety laws and Policies and Procedures governing the work environment are designed to protect the well-being of all persons at risk in the work environment; Representatives, visitors, and, of course, residents. Accordingly, Representatives are required to:
- Follow all federal, state and local laws governing health and safety.
 - Familiarize themselves with the laws and Policies and Procedures that apply to them in the normal course of performing their assigned duties.
 - Inform their Supervisor and/ or the Compliance Officer concerning any known or suspected violations of law or Internal Policies and Procedures involving the health and safety of Representatives, or others, within the GICNR work environment.
 - Follow instructions given by an authorized Representative during an emergency or drill involving health and safety.

STANDARDS OF CONDUCT (continued)

- m. Pharmaceuticals; Prescriptions and Controlled Substances- Representatives that have responsibility for or access to the products above must:
- Distribute, store and handle these products consistent with applicable federal, state and local laws and Internal Policies and Procedures at all times when performing their duties.
 - Ensure that adulterated, misbranded, mislabeled, expired or diverted products are **not** distributed in violation of federal, state and local laws for which severe CMI and/or criminal penalties may be imposed on individual violators as well as GICNR.
 - Limit all access to these products at all times, only to authorized and properly licensed Representatives,
 - Inform the Supervisor and/or Compliance Officer concerning any known or suspected violations of law or Internal Policies and Procedures involving these products within the work environment.
 - Familiarize themselves with the laws and Policies and Procedures that apply to these products sufficient enough to effectively perform their assigned duties.
 - Ensure that these products are utilized only for resident care and only under the direction of a licensed physician.
 - Inform the Supervisor and/or Compliance Officer of any known or suspected incidents involving any improper access, usage or distribution of these products.
- n. Medical Records Information - Disclosure of medical record information is governed by statutory and regulatory laws and by Internal Policies and Procedures. Accordingly, all Representatives are required to:
- Abide by said statutes and policies.
 - Keep confidential medical record information that becomes known to them in the course of performing their assigned duties. Abide by state and federal confidentiality requirements as related to psychiatric, substance abuse and HIV conditions.
 - Obtain proper management authorization in accordance with applicable statutory and regulatory rules and Internal Policies and Procedures, governing disclosure of proprietary information before disclosing such information to unauthorized fellow Representatives or to persons or entities outside of GICNR.
 - Sign a confidentiality statement as a condition of employment or affiliation with GICNR. Refusing to sign such a statement will constitute grounds for immediate dismissal or grounds for not hiring an individual.
 - Inform the supervisor and/or Compliance Officer concerning any known or suspected violations of law or Internal Policies and Procedures involving disclosure of medical information in violation of this Code.
- o. Confidential Proprietary Information - Confidential information is information that GICNR owns, develops, pays to develop, possesses, or to which it has an exclusive right that has not been made available by authorized Representatives of GICNR to the general public. This may include, but is not limited to:
- Medical and personal information on residents, Representatives or others.
 - Information that GICNR is required by law, agreement, regulation or policy to maintain as confidential.
 - All financial information concerning GICNR and its residents

STANDARDS OF CONDUCT (continued)

- Representative personnel and payroll records
- Information that could help others commit fraud or sabotage, or misuse GICNR's services, or damage GICNR's business.
- Information not generally known to the public upon which the good will, welfare and competitive ability of GICNR depends, information regarding product plans and design, marketing plans, computer hardware, software, computer systems and programs, processing techniques and generated outputs.
- Information concerning GICNR's business plans
- Files, manuals, reports, notes, lists and other records or data of GICNR, in **any** form.

Representatives with such information are required to:

- Abide by statutory and regulatory laws and by internal Policies and Procedures governing the disclosure of confidential proprietary information.
- Keep confidential all GICNR proprietary information that becomes known to them in the course of performing the assigned duties both during and after the Representative's association with GICNR, except as required by appropriate court order, following prior notice to GICNR.
- Obtain proper management authorization in accordance with applicable statutory and regulatory rules and internal Policies and Procedures governing disclosure of proprietary information before disclosing such information to unauthorized fellow Representatives or to persons or entities outside of GICNR.
- Sign a confidentiality statement as a condition of employment or affiliation with GICNR. Refusing to sign such a statement will constitute grounds for immediate dismissal or grounds for not hiring or accepting a position with GICNR.
- Inform the supervisor and/or Compliance Officer concerning any known or suspected violations of law or internal Policies and Procedures involving disclosure of proprietary information in violation of the Code.
- Not use or share confidential proprietary information learned from a previous employer with other Representatives of GICNR or for the benefit of GICNR.

- p. **Software Licensing** - Most computer software is protected by copyright laws and contractual restrictions that safeguard the software manufacturer's investment in creating the software. Accordingly, when GICNR or a Representative purchases a copy of a computer software package, the copyright owner, and not the purchaser of the software, retains the right to control the number of copies made of the software. The purchaser's limited rights to use the software are set out in a license agreement that it comes with the software. In addition, Representatives should only use software that has been installed by GICNR's authorized information technology staff, refrain from adding, upgrading or modifying software, from changing or deleting any trademark or copyright notices on any software and from copying software manuals.

STANDARDS OF CONDUCT *(continued)*

Improper copying or use of computer software can subject both GICNR and its Representative to civil and criminal penalties may cause substantial disruption and embarrassment. Unauthorized software use can also expose computer hardware and software to harmful computer viruses.

- q. Procurement and Service Contracts - Contracts to procure goods and services represent agreements that may be legally binding under statutory and common laws. Representatives who are responsible for structuring these agreements must carefully review them to ensure that all terms of the agreement are in writing. Unwritten 'understandings' and side deals may lead to Kickback problems.
- r. Books and Reports - Consistent with Federal, state - and local laws and regulations, generally accepted accounting principles, as well as good business practice; GICNR requires that its books and records, including the amounts recorded and the nature of the transactions represented, are accurately and fairly stated. In all GICNR operations, it is against internal standards, and is illegal, for any Representative to falsify internal or external documents, or in any other way to intentionally create books and records that are inaccurate or misleading. False entries must not be made intentionally in any internal or external memoranda, correspondence or other communications, including telephone or wire communications. All funds and assets must be completely recorded and classified in appropriate books and reports.
- s. Record Retention and Destruction - Representatives must fully comply with GICNR's record retention and destruction policies and with applicable federal, state and local laws. Accordingly, GICNR has established controls to assure retention for required periods and, at the end of that period, timely destruction of retrievable records.

Every document must be retained for the minimum period required under law or GICNR policy. Failure to retain, such documents for the minimum period could subject GICNR to legal liability, or put GICNR at a serious disadvantage in litigation. Representatives must comply fully with the record retention and destruction schedules for the department in which they work. Representatives must consult their supervisor if they believe that documents must be saved beyond the applicable retention period. Representatives who are instructed to retain documents after the usual retention period must do so.
- t. Equal Employment Opportunity ... Representatives are required by federal law and GICNR Policies and Procedures to refrain from discriminating against other Representatives or prospective Representatives in all employment matters such as recruitment, hiring, training, compensation and termination because of the individual's race, sex, religion, color, age, national origin, marital status, sexual orientation or disability. All Representatives are expected to act in a manner consistent with federal law and GICNR Policies and Procedures concerning equal employment opportunity and to refrain from expressing views not supportive of these laws and policies when acting as Representatives of GICNR. Representatives should refer to the Human Resources Manual for additional information on equal employment.

STANDARDS OF CONDUCT (continued)

- u. Immigration - Federal law prohibits representatives who are not legally authorized to work in the United States from doing so. Representatives found not to be compliant with the aforementioned law may subject GICNR to civil or criminal penalties. GICNR requires all prospective Representatives to present appropriate documentation to verify that they are legally authorized to work in the United States. Questions on immigration issues must be referred to Human Resources and/or the Administrator.
- v. Resident's Rights - State and federal regulations require nursing homes to have written Policies and Procedures covering the rights of residents. Consistent with these regulations and the internal Policies and Procedures of GICNR, the facility requires its Representatives to treat all residents in accordance with the 'Resident's Bill of Rights', which is reviewed, at least annually, with all representatives.
- w. Labor and Employee Relations - GICNR complies fully with all applicable wage and hour laws and other statute -s regulating the employer-employee relationship and the workplace environment. No GICNR employee may interfere or retaliate against another employee who seeks to invoke his rights under those laws.

GICNR has entered into a collective bargaining agreement with the local union that represents some of GICNR's Representatives. Accordingly, GICNR requires an Included Representative to abide by the same terms and conditions of that agreement in conducting GICNR's business.

- x. Substance Abuse, Alcohol and Smoking - Federal, state and local laws make it unlawful to use, sell, purchase, transfer, or possess any illegal drugs as well as other-controlled substances. Consistent with these laws, GICNR's Policies and Procedures forbid the same by its Representatives, Vendors and anyone else while on GICNR property or while representing GICNR in any location. In addition, GICNR's internal policies forbid the use of alcohol by Representatives while on GICNR premises. Smoking is prohibited by Representatives inside the facility, just permissible at pre-approved outside locations on the property, during scheduled meal or break periods only.
- y. Government Investigations - Representatives are required to reasonably cooperate fully and appropriately with a government investigation. GICNR has the right to be represented in such investigations by its own legal counsel. Many of the laws regulating the conduct of GICNR's business contain criminal as well as civil penalties. The criminal penalties apply not only to GICNR, but also to those individuals within GICNR who took or failed to take actions that resulted in a violation of the law. If a Representative learns that a government investigation or inquiry is underway, this information should be communicated to the Administrator and/or Operator(s), so that appropriate action may be taken. "The facility's legal Counsel should be contacted immediately- before any action is taken or promised" If a representative receives work-related subpoena or written government request for information,

During a government investigation, a Representative must **NEVER**:

- Destroy GICNR documents in anticipation of a request for those documents from a

STANDARDS OF CONDUCT (continued)

- government agency or court;
- Alter GICNR documents or records
Lie or make misleading statements to governmental Investigators during any investigation; Federal statutes make it illegal to make false statements to investigators under any circumstances
- Pressure anyone to hide information from government investigators, or to provide false or misleading information; or alter or destroy GICNR documents
- Intimidate or Retaliate in any manner against any Representative for cooperating in an investigation.

The following protocol must be followed concerning requests for information from any government agency:

- Obtain the name and GICNR affiliation of all persons requesting access to information before said access is allowed;
- Maintain a written record of every document to which access is given;
- Keep 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 response given during the conversation; and
- Do not provide information to any government agency unless reviewed by the Administrator and until its Representatives have presented proper identification.

In some governmental investigations, GICNR's legal counsel can protect the interests of both GICNR and its Representatives. In some cases, however, there may be a potential conflict of interest between GICNR and the individual Representatives, and the individual Representatives may need their own legal counsel. Representatives may consult with GICNR's Counsel or their own private counsel for legal guidance in these cases. GICNR and its Representatives have the right to be represented by legal counsel at all times, whether or not questions are asked during business hours, and even if they are asked off GICNR property, such as at a Representative's home. A Representative may also ask for time to consult with legal counsel before answering questions from federal or state investigators.

VII. COMPLIANCE TRAINING

GICNR has established an education program designed to assist Representatives to comply with the Code of Conduct and all applicable statutes and regulations. The program provides Representatives at all levels with initial training and continual retraining. The training is mandatory for all Representatives. In addition to such training, the Compliance Officer will disseminate information by routing to Representatives publications that describe current requirements and posting information in areas that affected Representatives are likely to see such information.

VIII. EVALUATION OF CONFLICTS OF INTEREST

All responses to the annual Conflict of Interest Disclosure Form which is required to be submitted by all Representatives at the managerial level, consultants and directors, and all other reports of actual or potential conflicts of interest, will be reviewed and evaluated initially by the

EVALUATION OF CONFLICTS OF INTEREST (continued)

Compliance Officer, with the advice of the Compliance Committee, or Administrator or Operator(s), or legal counsel, as appropriate.

The Compliance Office will present to the Administrator, and then the Operator(s), a proposed recommendation for action With respect to all conflicts and potential conflicts Identified in accordance with the Code of Conduct. Such recommendations may include the following:

- That no action be taken.
- That the individual Identified not be Involved in decision making situations relative to those companies and individual(s) listed by the Representative.
- That the individual be requested to resolve the conflict or the alleged conflict and for recommendation of action warranted, if any.

All Representatives shall have an obligation to answer inquiries in this regard. Such investigations will be confidential and no action will be taken against a Representative based upon his participation in such an Investigation, in the absence of willful misrepresentation.

IX. ACKNOWLEDGEMENT AND CERTIFICATION OF COMPLIANCE

- a. Managerial Employees, Physicians and Consultants -At least annually, GICNR requires that all Representatives who are employees at the managerial level, including Administrators, Directors, Department Heads, and all supervisors and all physicians affiliated with the facility, sign an acknowledgement confirming that they have received, read and understand the Compliance Manual which Includes the Code of Conduct and that they will comply with the Code of Conduct. Such Representatives must also acknowledge that the Code of Conduct has been or will be made available to all employees and consultants under their supervision. All new managerial employees will be required to sign and acknowledgement said form as a condition of employment.
- b. Non-Managerial Employees - GICNR requires that all non-managerial employees attend an in-service training on Corporate Compliance and the GICNR Code of Conduct, at least annually. A post-training competency will be given to verify that each Representative has understood the Information presented to him/ her, including that he/she has the right to review the Compliance Manual. All new employees will participate in this training and Complete the competency as a condition of their employment.

X. AUDITING AND MONITORING FOR COMPLIANCE

In order to ensure the effectiveness other Compliance Program, GICNH engages in regular monitoring of the Compliance Program. The process will encompass *review* of such matters as the effectiveness of Communication of the Compliance Program to affected individuals and programs, adherence to established training standards, consistent application of disciplinary guidelines, and promptness of follow-through on reported potential and actual violations; Monitoring and internal audit procedures will be conducted under the supervision of the Compliance Officer and the Compliance Committee.

SUPPLEMENTAL INFORMATION REGARDING
HEALTH INSURANCE PORTABILITY AND ACCOUNTABILITY ACT OF 1996

Glen Island Center for Nursing and Rehabilitation follows all of the regulations related to HIPAA Compliance Standards in accordance with federal guidelines.

Within the Corporate Compliance Manual and Program, this is covered under the topic 'Standards of Conduct/Information'.

Additional Information is contained herein. All questions can be referred to the Administrator or the Corporate Compliance Officer.

GLEN ISLAND CENTER FOR NURSING AND REHABILITATION
CONFLICT OF INTEREST Policy

OBJECTIVES:

The objective of this Policy Is to ensure that the Administration and Staff of Glen Island Center for Nursing and Rehabilitation (hereafter *referred* to as 'GICNR') are able to govern and serve the best interests of GICNR by exercising their best care, skilled and honest Judgment on it's behalf and are not prevented from doing so solely because of a possible conflict of interest on their part. Additionally, the objective of this policy is to ensure that actual and potential conflicts of Interests that may exist between GICNR, its Administration and Staff are fully disclosed, examined and resolved.

The objectives are to be promoted by:

1. *Full Disclosure* by all Representatives (operators, employees, consultants and Vendors, hereafter referred to as 'Representatives') of all personal and outside Interests that may affect or be affected by GICNR's operations or by decisions that a Representative makes on GICNR's behalf.
2. *Establishment of guidelines and procedures* for determining when a conflict of Interest exists and of principles and procedures for addressing them.

Each actual or potential conflict of interest that is disclosed must be carefully examined and appropriate measures must be put into place to maintain the balance between ensuring fair and honest deliberations and encouraging participation of qualified Representatives in the operations of GICNR.

POLICY:

1. **Avoiding Conflicts of Interest.** It is the responsibility and duty of each Representative to avoid any perceived or actual conflict of Interest in dealing with suppliers, customers and all other entities on behalf of GICNR. No Representative may use his/her position with GICNR, or any information, confidentially or proprietary to GICNR, to their personal advantage or in a manner that creates a conflict of Interest or the appearance of a conflict of Interest.
2. **Conflict of Interest Disclosures.**
 - *Duty to Disclose.* Each Representative must disclose the existence and nature of any personal and outside interest that may affect or be affected by GICNR its operations or by a decision that a Representative makes on GICNR's behalf, *KEY Representatives* as defined below that have one or more of the following responsibilities to GICNR must complete and return the Conflict of interest Disclosure Form to the Compliance Officer:
 1. All Representatives with Supervisory and/or decision making authority.
 2. Representatives with oversight responsibilities (such as Operators, Administrator, Finance Director)
 3. Representatives with procurement and purchasing responsibilities.
 4. Representatives with responsibility for establishing agreements that can contractually bind GICNR, including resident admissions,

GLEN ISLAND CENTER FOR NURSING AND REHABILITATION

CONFLICT OF INTEREST POLICY *(continued)*

5. Representatives who are clinicians that make decisions about patient care.
 6. Representatives with responsibility for setting and enforcing Policies and Procedures.
- *Initial Disclosure.* Within 30 days after adopting this policy, each Representative as defined above (1-6) must complete and return to the Compliance Officer for review, the Conflict of Interest Disclosure Form, indicating:
 1. Any possible conflict of interest involving a financial interest, a position as an officer, board membership, other organizational membership, employment with an outside organization, ownership interest in an outside organization or joint venture arrangement with which GICNR compete or does business or could reasonably be expected to compete or do business with.
 2. Any other possible conflict of interest which may have material impact on GICNR's plans and operations or result in personal benefit to a Representative.
 - *Disclosure Before Appointment or Employment.* Prior to the appointment or employment of a new Representative, the new Representative must disclose any conflicts of interest as noted above.
 - *Annual Disclosure.* Within three months following the close of each fiscal year, every Representative, as noted above, must disclose any conflict of interest.
 - *Continuing Duty.* When any personal or outside interest on the part of any Representative that is suspected to be a conflict of interest develops after completion of the Annual Conflict of Interest Disclosure Form, but prior to the next, Representatives must contact the Compliance Officer or the Administrator and complete and Interim Conflict of Interest Disclosure Form indicating the suspected conflict.

3. Conflict of Interest Determination

- a. *Definitions of Conflict of Interest.* A Conflict of Interest is any personal or outside interest of a Representative that conflicts with, or that may in the foreseeable future conflict with, in-fact or appearance, the operations of GICNR, in that the promotion of such interest may be inconsistent with the promotion of the best interest of GICNR. The following list includes examples of activities that are likely to constitute a conflict of interest for the Representative. This list is by no means all inclusive.
 - A Representative who has a direct or indirect interest in any competitor or supplier, or a Representative who accepts directly or indirectly from any competitor or supplier any (a) salary, fee, commission or any other compensation, (b) loans or other credit facilities, or (c) gifts or favors.

**GLEN ISLAND CENTER FOR NURSING AND REHABILITATION
CONFLICT OF INTEREST POLICY *(continued)***

- A Representative who uses GICNR's monies, materials, information or other tangible or intangible assets, including its reputation, to advance his/her personal outside business, or other outside interests.
 - b. *Family or Household Members* - Any Business relationship between GICNR and a family or household member of any Representative, or any financial Interest held by such family or household member must be deemed a business relationship or financial Interest belonging to that Representative for purposes of this policy. For the purposes of this policy, the following persons are considered family or household members:
 - Spouse, domestic partner or significant other
 - Natural or adoptive child
 - Children and siblings
 - Step-parents, step-children and step-siblings
 - Father-in-law, mother-In-law, brother-In-law, sister-in-law
 - Grandparents and grandchildren
 - c. *Process for Determining Conflict of Interests* - The Compliance Officer, under the general direction of the Administrator, is responsible for the Implementation of the Conflict of Interest Policy. The Compliance Officer must ensure that all Key Representatives receive a copy of this Policy and complete the disclosure requirements. Additionally, the Compliance Officer must ensure that all conflicts of interests or possible conflicts of interests disclosed through this process are brought to the attention of the Administrator promptly. As part of the process of determining the existence of a conflict of interest, the Compliance Officer may review any actual or potential conflict of Interests involving a Representative with the Administrator as necessary.
- If a conflict of interest still appears to exist following a review by the Compliance Officer and the Administrator, then the matter will be forwarded to the facility's General Counsel for guidance in making a final decision.
- d. *When There is a Conflict of Interest* The Compliance Officer and the Administrator must review all available evidence brought to their attention sufficient to determine if Representative or prospective Representative has a conflict of Interest sufficient in number or importance to have or create an appearance of having a material effect on the operation or reputation of GICNR. If, after hearing the response of the Representative and making such further investigation, as may be warranted in the circumstances, the Compliance Officer and the Administrator determine that the Representative has in fact failed to disclose personal or outside interest that could constitute a conflict of Interest, they must take appropriate disciplinary and corrective action.
 - e. *When a Conflict of Interest Is Determined NOT to Exist* - Representatives who do not receive or who are not contacted by the Compliance Officer covering a conflict of interest do not have a conflict of interest. Accordingly, an affirmative response will not be sent to

Representatives by the Compliance Officer to confirm that a conflict of interest does not exist for Key Representatives who completed a Conflict of Interest Disclosure Form.

**GLEN ISLAND CENTER FOR NURSING AND REHABILITATION
CONFLICT OF INTEREST POLICY *(continued)***

- f. *Failure to Disclose* - If the Compliance Committee has reasonable cause to believe that a Representative has failed to disclose a personal or outside Interest that could constitute a conflict of interest, It must Inform the Representative of the basis for that belief and given the Representative an opportunity to explain the alleged failure to disclose.
- g. *Conflicting Duties* - In certain circumstances, a Representative disclosing an actual or potential conflict of Interest may be faced with conflicting duties such that the Representative's disclosure of the actual or potential conflict of Interest would breach the Representative's duty of confidentiality to another organization. In such cases, the Representative must state that an actual or potential conflict of interest exists and that his /her duty to another organization precludes full disclosure of the nature or extent of the Interest. The Representative must leave the meeting, or at least abstain from the discussion and vote. The Disclosure must be recorded in the minutes of the meeting.

Compliance Program

A. The Compliance Officer and Compliance Committee

The Compliance Officer and Compliance Committee will oversee the Compliance Program. The Compliance Officer will be responsible for:

1. Developing compliance policies and procedures;
2. Overseeing and monitoring the organization's compliance activities;
3. Overseeing internal and external audits of the organization's records;
4. Ensuring that policies and procedures are kept current and followed by all employees and other persons affiliated with the organization;
5. Distributing policies and procedures that are understandable to all those affected thereby;
6. Appointing employees and others associated with the organization to serve in various roles and to complete tasks as needed to promote the Compliance Program;
7. Ensuring that training is provided to employees, contractors, Members and others affiliated with the organization;
8. Reviewing agreements to ensure compliance with laws and regulations with consultation of counsel as needed;
9. Working with senior management of the organization to ensure that appropriate discipline is taken in the event a person violates the Compliance Plan;
10. Investigating complaints related to the Compliance Plan and recommending a plan of action, which may include, but is not limited to, corrective action, new or revised policies and procedures, training or re-training, sanctioning/termination of individuals associated with the organization, repayment of payments for services, self-disclosure (after discussion with compliance counsel) and/or other appropriate actions;
11. Ensuring appropriate certifications are provided to the Office of the Medicaid Inspector General related to this Compliance Program (such certification(s) to be signed by the president of GICNR); and
12. Providing reports to president of GICNR at least quarterly regarding the activities of the Compliance Program.

The Compliance Committee's functions shall include:

1. Analyzing the organization's industry environment, the legal requirements with which it must comply, and specific risk areas;
2. Assessing existing policies and procedures that address these areas for possible incorporation into the Compliance Program;

3. Working with appropriate staff to develop standards of conduct and policies and procedures to promote compliance with the organization's program;
4. Recommending and monitoring, in conjunction with relevant personnel, the development of internal systems and controls to carry out the organization's standards, policies and procedures as part of its daily operations;
5. Determining the appropriate strategy/approach to promote compliance with the Plan and detection of any potential violations, such as through hotlines and other fraud reporting mechanisms; and
6. Developing a system to solicit, evaluate and respond to complaints and problems.

The Compliance Officer shall be appointed by the President and the Compliance Committee which will include the Administrator, Compliance Officer, Director of Financial Services, Director of Nursing, MDS Coordinator, Director of Rehabilitative Services, Purchasing Coordinator, Admissions Coordinator and Director of Quality Assurance and any other individuals, such as Medicare/Medicaid Specialist, Personnel Clerk, General Counsel, deemed appropriate by the committee. report at least quarterly to the President. The Compliance Officer shall have direct access to any member in the organization and compliance counsel.

B. Written Policies and Procedures

The Compliance Officer will ensure the distribution of these written policies and procedures regarding the Compliance Program and addressing mechanisms to address specific areas of potential violations, such as violations of billing regulations and standards, as set forth more fully below. The Compliance Officer will ensure that these written policies and procedures are updated when the law, regulations, or standards change or when events in our organization warrant a revision to the Compliance Plan and related policies and procedures.

C. Education and Training Programs

There will be periodic Compliance Program training provided to all employees, contractors, Members and agents designed to:

1. Teach individuals associated with the organization the policies and procedures in place to ensure compliance with legal and ethical principles;
2. Emphasize the organization's commitment to compliance with all laws, regulations and guidelines of Federal and State health care programs; and
3. Reinforce the fact that strict compliance with the law and the organization's policies and procedures is a condition of employment or other association with the organization.

Individuals associated with the organization will be informed that failure to comply may result in

disciplinary action, up to and including termination.

Each employee, contractor, agent and Member will be required to participate in an initial training session. Insofar as possible, persons associating with the organization after this period will participate in training sessions within 30 to 60 days following their association dates. Every associated person will also receive ongoing training, as needed from time-to-time, but at least once a year, to review the organization's Compliance Plan, new laws and regulations and any revised organization practices. Strict adherence to the policies of the Compliance Plan is an important basis on which an individual's performance is evaluated. Further, supervisors and managers are instructed to include adherence to the Compliance Plan as a basis on which to evaluate an individual's performance.

The organization's Compliance Officer is responsible for organizing the training sessions, and recording attendance. The organization will generally provide individuals two weeks advance notice of scheduled training sessions. Individuals will be asked to sign an acknowledgement form at the end of a training session stating that they understand the Compliance Plan, and any updates provided.

Training programs for existing and new employees, contractors, agents, executives and Members include the following elements:

- a) Training will be conducted by the Compliance Officer with the assistance of the organization's legal counsel and/or outside consultants as needed.
- b) Periodic in-service training for existing associated individuals will occur at least annually.
- c) If and/or when a problem has been identified within the organization, the Compliance Officer will inform and train associated individuals as soon as possible to avoid additional issues from arising.
- d) The Compliance Plan is contained in a new employee orientation packet and is also provided to contractors, agents and Members.

Training programs include:

- a) Overview of the False Claims Acts, Anti-Kickback law, and payor requirements.
- b) Overview of Compliance Program and an individual's obligation to participate in the Program.
- c) Education on specific elements of each individual's job. Particular attention is paid to training personnel in the billing area and personnel in any area affecting claims processing and submission.
- d) Education regarding proper documentation requirements.

- e) Education as to Medicaid regulations that apply to each job function.
- f) The consequences of failure to comply with the Compliance Plan, i.e. discipline, termination, personal liability.
- g) Individual's obligation to report and the ability to report directly to the Compliance Officer.
- h) Adherence to the Compliance Plan as a condition of association with the organization and a measure of performance.
- i) Responsibilities of supervisors/managers to detect and report.
- j) Forms individuals must sign, including:
 - (1) attendance sheet;
 - (2) individual promises to report if problems/issues arise in connection with the Compliance Plan;
 - (3) individual understands Compliance Plan and has had the opportunity to ask questions where uncertain; and
 - (4) receipt of applicable policies and procedures.

D. Auditing and Monitoring

The Compliance Officer shall monitor the implementation of the Compliance Plan and report regularly to the President. Audits will be designed to ensure compliance with GICNR's Compliance Plan and related policies and procedures, and all relevant Federal and New York State laws. Internal audits will occur periodically. External audits will be performed if warranted. Auditing and monitoring may include:

- 1. Interviews with personnel;
- 2. Review of materials and documentation provided and used by the organization; and/or
- 3. Billing and coding analysis.

Any corrective actions necessary will be made and follow-up will be conducted to ensure the corrective measures were implemented and the situation was remedied. Audit reports shall be made available to the Compliance Officer, Compliance Committee, and President, as requested.

E. Disciplinary Action

Strict compliance with these policies, procedures and requirements is a condition of employment or other association with the organization. The organization will take appropriate disciplinary action for misconduct, violating this Compliance Plan or violating the Federal or New York State laws and regulations that apply to the organization.

Individuals found to have participated, encouraged, directed, facilitated or permitted

violations of federal or state laws, the Compliance Plan itself or any policy will be subject to discipline. The severity of the discipline will be based on the gravity of the infraction and can range from verbal warnings to termination of the person's association with our organization.

F. Investigation

The Compliance Officer will promptly investigate any potential violations or misconduct to determine whether a material violation of this Plan has occurred. When investigating a report of possible improper conduct, we will keep the report confidential and maintain the anonymity of the reporting individual. When credible reports are received, the Compliance Officer, with assistance from legal counsel as needed, will conduct a fair and thorough investigation and will take appropriate corrective action. If a violation has occurred, the Compliance Officer in consultation with the President and outside legal counsel will determine what steps must be taken to rectify the problem, which may include repayment of claims to the appropriate payor, notification of regulatory and/or prosecutorial authorities, self-disclosure, discipline, training or retraining, or the revision of the Compliance Plan or creation of additional policies and procedures. Time requirements regarding repayments or self-disclosures will be followed.

If the integrity of the investigation may be negatively impacted because of the presence of employees or other individuals under investigation, the employees or other individuals allegedly involved in the misconduct can be removed from his or her current work activity or position in the organization until the investigation is completed. In addition, the Compliance Officer will take steps to prevent the destruction of documents or other evidence relevant to the investigation. Once an investigation is completed, if disciplinary action is warranted, it will be immediate, where appropriate.

G. Communication and Reporting of Compliance Plan Violations

Individuals associated with the organization must report all violations of the organization's Compliance Plan, the policies and procedures of the organization and Federal or New York State laws and regulations applicable to the organization. Individuals associated with the organization are encouraged to ask about any questionable or confusing issues. Individuals associated with the organization may bring forth any information or questions without fear of retribution or retaliation and with anonymity. Individuals will not face any penalties or other forms of retribution, retaliation or intimidation when they make a good faith report to the Compliance Officer. Any matters reported to the Compliance Officer that suggest a violation of the Compliance Plan, the policies and procedures of the organization or other legal requirements will be investigated promptly.

Any failure to report suspected illegal or improper conduct is a violation of the Compliance Plan and may subject the individual to discipline. Similarly, a manager or supervisor who receives a

report from an individual is required to submit a report to the Compliance Officer. If there is any question about whether an individual should report possibly improper conduct, it is our organization's policy that a report should be made, either directly to a supervisor or to the Compliance Officer. Managers and supervisors may be disciplined if they fail to detect violations of the Compliance Plan where a reasonable effort would have uncovered the improper conduct.

To report, employees and other individuals should contact their immediate supervisor or the Compliance Officer. You may contact the Compliance Officer directly or call our anonymous hotline at 914-740-1447 or our internal extension #415.

No retaliation or adverse action will be taken against an individual as a result of submitting a good faith report of suspected irregular activities. Any individual who is found to have harassed or to have taken any adverse action against an individual, who submitted a report, participated in an investigation or assisted with remedial action may be subject to discipline, including immediate discharge. However, an individual who submits a report that lacks a good faith basis for the sole purpose of hurting an associated individual may be subject to discipline.

H. Supervisors and Managers

Supervisors and Managers will be responsible for:

1. Discussing with all supervised employees and others associated with the organization the compliance policies and procedures and legal requirements applicable to their functions within the organization;
2. Informing all supervised personnel that strict compliance with these policies, procedures and requirements is a condition of employment or other association with the organization and a measure of performance;
3. Disclosing to all supervised personnel that the organization will take disciplinary action up to and including termination for violation of these policies, procedures or requirements; and
4. Disclosing information received from individuals regarding compliance issues to the Compliance Officer.

I. Non-Employment or Non-Retention of Sanctioned Individuals/Credentialing

Individuals who have been convicted of a criminal offense related to health care or who are listed by a Federal agency as debarred, excluded or otherwise ineligible for participation in any federally funded health care program will not be employed or have another relationship with the organization. In addition, individuals who are excluded from participation in the New York State Medicaid program will not be employed or have another relationship with the organization.

Current employees or others currently associated with the organization who are charged with criminal offenses related to health care or proposed for exclusion or debarment from a federally or state funded health care program should be removed from direct responsibility for or involvement in any federally or state funded health care program until resolution of such criminal charges or proposed debarment or exclusion. If the resolution results in conviction, debarment or exclusion of the individual, the organization will terminate its employment of or other association with that individual.

It is the organization's policy to inquire into the background of applicants, or any health care entity that it learns has employed that applicant, with respect to matters relating to any current or prior disciplinary action, investigation, audit or review relating to the provision of health care goods or services, or any claim for reimbursement.

Individuals who hire or engage staff will be instructed to ask questions about investigations, audits, inquiries, and actions by Federal, State or local government agencies as well as private third-party payors. In the event an applicant or current/former employer has been or is being subjected to any governmental or third party payor review, the human resources employee or other appropriate individual will seek full disclosure of such review and, more particularly, the applicant's involvement in such activity. That inquiry will call for information on the following: (i) the nature of the review; (ii) the conduct that was under scrutiny; (iii) the applicant's job title/responsibilities at the prior/current employer; and (iv) the applicant's relationship, if any, to the conduct that was scrutinized. If an applicant or a current/former employer of the applicant is or was involved in any conduct that was challenged or questioned, the human resources employee or other appropriate individual will consult with the organization's Compliance Officer and/or legal counsel prior to making any offer of association. The Compliance Officer and/or legal counsel may suggest obtaining additional information from the applicant before the organization considers him/her for the position.

The following organizations will be queried with respect to potential employees, independent contractors, agents and Members:

- a) General Services Administration: list of parties excluded from Federal programs. The URL address is <https://www.epls.gov/eplsearch.do>.
- b) HHS/OIG cumulative sanction report. The URL address is <http://exclusions.oig.hhs.gov/>.
- c) NYS Medicaid Fraud Database. The URL address is http://www.omig.state.ny.us/data/component/option.com_physiciandirectory/.

- c) Licensure and disciplinary record with NYS State Department of Education, Office of Professional Discipline (Nurses and other licensed professionals) (the URL address is <http://www.op.nysed.gov/opd/rasearch.htm#name>) and the NYS Office of Professional Medical Conduct (Physicians, Physician Assistants) (the URL address is <http://w3.health.state.ny.us/opmc/factions.nsf/physiciansearch?openform>).

All staff will have the appropriate credentials and training to perform services. Appropriate and thorough background checks and credentialing will occur. References will be checked prior to employment or other association with the organization.

J. Record Creation and Retention

One of the primary purposes of maintaining and retaining records is to demonstrate that the organization provides medically appropriate services to its patients. Further, appropriate and complete documentation provides the basis on which reimbursement is sought from third party payors. Maintaining appropriate documentation is vital to the continued success of the organization. Thus, all employees, contractors and agents of the organization have an obligation to maintain accurate and complete records.

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

All records required either by Federal or State law or by this Compliance Plan will be appropriately created and maintained. Records should never be altered without permission of the Compliance Officer. In the case of a necessary alteration, the alteration should be signed and dated by the staff member altering the document. Signatures should always be accompanied by the date that the signature was made. Dates in all cases should include the month, date and year. Documents must never be backdated or predated. Signature stamps shall not be used. Under no circumstances shall any person sign the name of another individual.

Because the organization provides services under State and Federal health care programs, State or Federal government agencies may from time to time seek access to the organization's records. If an employee, contractor or agent is requested to supply any records or documentation to individuals or entities outside of the organization, the employee, contractor or agent should immediately contact his or her supervisor and the Compliance Officer and/or President prior to

taking any action.

The organization is dedicated to protecting the privacy and confidentiality of all records relating to the organization's patients and personnel. Employees and others associated with the organization should assume that all information relating to the provision of services and to billing is considered confidential. For example, information that the organization considers confidential includes any and all records pertaining to patients, financial information, all personnel information, patient lists, and any other information that is not generally disseminated to the public. This list is not exhaustive, and, therefore, if any question arises regarding the potential confidentiality of any information, individuals are instructed to seek guidance from the Compliance Officer. In particular, employees and others associated with the organization are directed to refrain from discussing any patient names or details pertaining to services provided to any patients with any person outside of the organization, unless expressly authorized by the Compliance Officer.

K. Marketing

All marketing done on behalf of the organization should be honest, straightforward, fully informative and non-deceptive. Those associated with the organization should fully understand the services offered by the organization. No remuneration will be given in order to induce a physician or other provider to refer to the organization. All marketing and promotional practices must be pre-approved by the CEO, who will, with consultation with counsel as needed, ensure that they do not violate any Federal, State or other law or regulation. No discount shall be offered without approval of the President, who shall consult counsel as necessary. The structure of any marketing arrangement between the company and an individual or company will be reviewed by the President and counsel as necessary for appropriateness.

L. Billing

GICNR is committed to prompt, complete and accurate billing of all services provided to patients. Billing shall be made for services provided, adhering to all terms and conditions specified by the government or private payor and consistent with industry practice. No false or misleading entries shall be made or submitted on any bills or claim forms, and no individual associated with the organization shall engage in any arrangement, or participate in such an arrangement at the direction of another individual associated with the organization (including any officer or supervisor of the organization) that results in such prohibited acts. Any false statement on any bill shall subject the individual to disciplinary action by the organization, including possible termination of the individual's relationship with the organization. The organization is committed to billings which are accurate, reliable, timely and valid.

False claims and billing fraud may take a variety of forms, including, but not limited to, false statements supporting claims for payments, misrepresentations of material facts, concealment of material facts, or theft of benefits or payments from the party who is entitled to receive it. Risk areas

are described more thoroughly later in this Plan. If there is any question as to appropriate billing, the Compliance Officer should be consulted.

M. Government Inquiries

It is our organization's policy to cooperate with and properly respond to all government inquiries and investigations. Any individual who receives a search warrant, subpoena, or other demand or request for investigation or documentation, or is approached by a federal or state regulatory or prosecutorial agency, should attempt to identify the investigator, if any, and immediately notify their supervisor, the Compliance Officer and the President. The Compliance Officer, in consultation, as necessary, with legal counsel, will coordinate any response to warrants, subpoenas, inquiries and investigations by regulatory and prosecutorial agencies. The response to any warrant, subpoena, investigation or inquiry must be complete and accurate. No individual associated with the organization shall alter, delete or revise any material from any computer, word processor, disk or tape, nor shall any person revise, destroy or alter any written documentation once such inquiry has been commenced. If a document is required to be retained, it must be preserved in its original form.

N. Risk Areas

1. Provision of free or below fair market value services to referral sources.
2. The failure to complete appropriate documentation – contemporaneous records of the Medicaid beneficiary's name and CIN, treatment notes, X-rays, laboratory prescriptions and laboratory invoices should be made part of the patient's treatment record.
3. Failure to maintain records required for Medicaid for six years following the date of payment or for the amount of time required by other payers.
4. Inducements or payments to beneficiaries in violation of relevant guidances.
5. Charging patients any fee beyond the Medicaid fee. Medicaid payment is considered payment in full. Except for beneficiaries with a "spend down," beneficiaries cannot be charged beyond the Medicaid Fee. Deposits, down-payments or advanced payments are not allowed.
6. Medical necessity of procedures.
7. Excessive services.
8. Billing for non-covered services.
9. Billing for services to be provided in the future.
10. Providing services without a proper prior authorization.
11. Failure to check Medicaid or other payer eligibility, as required.
12. Failure to submit bills within 90 days or other timeframe required.
13. Not trying to collect a fee for services that is listed from individuals who are not enrolled in the Medicaid program.

14. Providing services while not in compliance with applicable licensure requirements.
15. Billing for services not provided.
16. Employing or contracting with those excluded from the Medicare and/or Medicaid programs.
17. Failing to disclose changes in ownership and control as required by the Medicaid regulations.
18. Submitting false claims or statements.
19. Illegally discriminating in the furnishing of services based upon the patient's race, color, national origin, religion, sex, age or handicapping condition.
20. Failing to ensure compliance with standards when an outside entity is hired to perform billing functions.
21. Failing to seek payment from a primary insurance carrier, if available, prior to billing Medicaid.
22. Failing to file any required certification related to this Compliance Plan, as set forth on the Office of the Medicaid Inspector General's website.
23. Failure to refund credit balances.
24. Excluded ordering or servicing person.
25. Billing for deceased patients.
26. Servicing individual not appropriately credentialed to provide services.
27. Billing system error.
28. Billing for items or services not actually documented.
29. Unbundling and upcoding of claims.
30. Computer software programs that encourage billing personnel to enter data in fields indicating services were rendered though not actually performed or documented.
31. Knowing misuse of provider identification numbers which results in improper billing in violation of rules governing reassignment of benefits;
32. Billing company incentives that violate the anti-kickback statute.
33. Percentage billing arrangements.
34. Failing to have radiographs that are appropriate and of good diagnostic quality.
35. Not having an up-to-date, accurate, full-mouth chart which correlates with radiographs and treatment plans.
36. Billing for something unusual or more frequently than the norm, without an explanation or documentation.

O. Modification of this Compliance Plan

GICNR shall modify this Compliance Plan as necessary to comply with changes in relevant laws and

regulations or to enhance the Plan given changes in the operations or structure of the organization.

I hereby acknowledge receipt of the GICNR Compliance Plan. I have read the Plan and understand its contents. I promise to abide by the principles and directives contained within.

Signature

Date

Appendix A

GICNR CONFLICT OF INTEREST POLICY

OBJECTIVES:

The objective of this policy is to ensure that the Administration and Staff of GICNR are able to govern and serve the best interests of GICC by exercising their best care, skill and honest judgment on its behalf and are not prevented from doing so solely because of a possible conflict of interest on their part. Additionally, the objective of this policy is to ensure that actual and potential conflicts of interests that may exist between GICNR, its Administration and staff are fully disclosed, examined and resolved.

The objectives are to be promoted by:

1. *Full Disclosure* by all Representatives (operators, employees, consultants and vendors, hereafter referred to as 'Representatives') of all personal and outside interests that may affect or be affected by GICNR's operations or by decisions that a Representative makes on GICNR's behalf.
2. *Establishment of guidelines and procedures* for determining when a conflict of interest exists and of principles and procedures for addressing them.

Each actual or potential conflict of interest that is disclosed must be carefully examined and appropriate measures must be put into place to maintain the balance between ensuring fair and honest deliberations and encouraging participation of qualified Representatives in the operations of GICNR.

POLICY:

1. **Avoiding Conflicts of Interest.** It is the responsibility and duty of each representative to avoid any perceived or actual conflict of interest in dealing with suppliers, customers and all other entities on behalf of GICNR. No Representative may use his position with GICNR, or any information, confidential or proprietary to GICNR, to their personal advantage or in a manner that creates a conflict of interest or the appearance of a conflict of interest.
2. **Conflict of Interest Disclosures:**
 - *Duty to Disclose.* Each Representative must disclose the existence and nature of any personal and outside interest that may affect or be affected by GICNR's operations or

by a decision that a Representative makes on GICNR's behalf. *KEY Representatives* as defined below that have one or more of the following responsibilities to GICNR must complete and return the Conflict of Interest Disclosure Form to the Compliance Officer:

1. All Representatives with Supervisory and/or decision making authority.
 2. Representatives with oversight responsibilities such as Operators, Administrator, Finance Director)
 3. Representatives with procurement and purchasing responsibilities.
 4. Representatives with responsibility for establishing agreements that can contractually bind GICNR, including resident admissions.
 5. Representatives who are clinicians that make decisions about patient care.
 6. Representatives with responsibility for setting and enforcing policies and procedures.
- *Initial disclosure.* Within 30 days after adopting this policy, each Representative as defined above (1-6) must complete and return to the Compliance Officer for review, the Conflict of Interest Disclosure form, indicating:
 1. Any possible conflict of interest involving a financial interest, a position as an officer, board membership, other organizational membership, employment with an outside organization, ownership interest in an outside organization or joint venture arrangement with which GICNR competes or does business or could reasonably be expected to compete or do business with.
 2. Any other possible conflict of interest which may have material impact on GICNR's plans and operations or result in personal benefit to a Representative.
 - *Disclosure Before Appointment or Employment.* Prior to the appointment or employment of a new Representative, the new Representative must disclose *any* conflicts of interest as noted above,

- *Annual Disclosure* Within three months following the close of each fiscal year, every Representative, as noted above, must disclose any conflict of interest
- *Continuing Duty* When any personal or outside interest on the part of any Representative that is suspected to be a conflict of interest develops after completion of the Annual Conflict of interest Disclosure Form, but prior to the next, Representatives must contact the Compliance Officer or the Administrator and complete an Interim Conflict of Interest Disclosure Form indicating the suspected conflict.

3. **Conflict of Interest Determination.**

a. *Definition of Conflict of Interest*

A Conflict of interest is any personal or outside interest of a Representative that conflicts with, or that may in the foreseeable future conflict with, in fact or appearance, the operations of GICNR, in that the promotion of such interest may be inconsistent with the promotion of the best interests of GICNR. The following list includes examples of activities that are likely to constitute a conflict of interest for the Representative. This list is by no means all-inclusive.

- A Representative who has a direct or indirect interest in any competitor or supplier, or a Representative who accepts directly or indirectly from any competitor or supplier any (a) salary, fee, commission or other compensation, (b) loans or other credit facilities, or (c) gifts or favors.
- A Representative who uses GICNR's monies, materials, information or other tangible or intangible assets, including its reputation, to advance his or her personal outside business, or other outside interests.

b. *Family or Household Members*

Any business relationship between GICNR and a family or household member of any Representative, or any financial interest held by such family or household member, must be deemed a business relationship or financial interest belonging to that Representative for purposes of this policy. For the purposes of this policy, the following persons are considered family or household members:

Spouse, domestic partner or significant other Natural or adoptive parents
Children and siblings
Step-parents, step-children and step-siblings Father-in-law,

mother-in-law, brother-in-law, sister-in-law
Grandparents and grandchildren

c. Process for Determining Conflict of Interests

The Compliance Officer, under the general direction of the Administrator, is responsible for the implementation of the Conflict of Interest Policy. The Compliance Officer must ensure that all Key Representatives receive a copy of this Policy and complete the disclosure requirements. Additionally, the Compliance Officer must ensure that all conflicts of interests or possible conflicts of interests disclosed through this process are brought to the attention of the Administrator promptly. As part of the process of determining the existence of a conflict of interest, the Compliance Officer may review any actual or potential conflict of interests involving a Representative with the Administrator as necessary.

If a conflict of interest still appears to exist following a review by the Compliance Officer and the Administrator, then the matter will be forwarded to the facility's General Counsel for guidance in making a final determination.

d. When There is a Conflict of Interest

The Compliance Officer and the Administrator must review all available evidence brought to their attention sufficient to determine if a Representative or prospective Representative has a conflict of interest sufficient in number or importance to have or create an appearance of having a material effect on the operation or reputation of GICNR. If, after hearing the response of the Representative and making such further investigation as may be warranted in the circumstances, the Compliance Officer and the Administrator determine that the Representative has in fact failed to disclose a personal or outside interest that could constitute a conflict of interest, they must take appropriate disciplinary and corrective action.

If they, in their sole discretion, determine that any Representative or prospective Representative has conflicts of interest sufficient in number and/or importance that the effectiveness of such Representative on behalf of GICNR may be significantly impaired, they must ask such Representative to resign from (or must not appoint such Representative to) his or her position with GICNR. Similarly, if they determine that a Representative (or prospective Representative) has in fact failed to disclose a personal or outside interest that does or could constitute a conflict of interest sufficient in number and/or importance that the effectiveness of such a Representative on behalf of GICNR is significantly impaired, they must also take appropriate disciplinary and

corrective action.

e. When a Conflict of interest is Determined NOT to Exist

Representatives who do not receive or who are not contacted by the Compliance Officer concerning a conflict of Interest do not have a conflict of interest. Accordingly, an affirmative response will not be sent to Representatives by the Compliance Officer to confirm that a conflict of interest does not exist for Key Representatives who completed a Conflict of Interest Disclosure Form.

f. Failure to Disclose

If the Compliance Committee has reasonable cause to believe that a Representative has failed to disclose a personal or outside interest that could constitute a conflict of interest, it must inform the Representative of the basis for that belief and give the Representative an opportunity to explain the alleged failure to disclose,

g. Conflicting Duties

In certain circumstances, a Representative disclosing an actual or potential conflict of interest may be faced with conflicting duties such that the Representative's disclosure of the actual or potential conflict of interest would breach the Representative's duty of confidentiality to another organization. In such cases, the Representative must state that an actual or potential conflict of interest exists and that his or her duties to another organization preclude full disclosure of the nature or extent of the interest. The representative must leave the meeting, or at least abstain from the discussion and vote. The disclosure must be recorded in the minutes of the meeting.

GLEN ISLAND CENTER FOR NURSING & REHABILITATION SERVICE BORN OF COMPASSION

The Glen Island Center for Nursing and Rehabilitation (GICNR) has adopted a Conflict of Interest policy. This policy is being provided to you and is attached.

By signing below, you certify the following statements:

- I have received a copy of the Conflict of Interest Policy
- I have read and understood this policy
- I agree to fully comply with said policy
- I certify that I speak, read and understand English
- I understand that this policy applies to all staff, consultants, vendors, volunteers and any other interested party working for or doing business with GICNR
- Should there be the possibility of a conflict either now, or in the future, I will be excluded from any meetings or forums that are evaluating that issue
- I certify that I understand that this document and all related documents will become part of my permanent record and will be kept therein and active while my association with the facility is active. Should that relationship end, for any reason, the file will be retained for a period of seven (7) years and then destroyed.

I have read, understood and agree to comply with the Conflict of Interest policy and have completed the Conflict of Interest Disclosure Form.

Signature

Print Name

Department/Vendor/Consultant/Volunteer

Date

Compliance Officer/designee signature

Date

Revised 092016

Attachment
1.1

**GLEN ISLAND CENTER
FOR NURSING & REHABILITATION
SERVICE BORN OF COMPASSION**

CONFLICT OF INTEREST DISCLOSURE FORM

Name: _____ Date: _____

Position: circle one: Employee Volunteer Consultant Other: _____

Please answer questions below:

1. Do you, or to your knowledge, any member of your family have a financial interest in a Vendor that has or seeks to enter into a transaction with GICNR. (You need not report any financial interest in a Vendor if your and your immediate family's combined interest is less than 5% of the outstanding publicly traded shares of the vendor)
☐ No ☐ Yes If Yes, please explain:

2. Do you, or to your knowledge, any member of your family hold any position as a member, owner, director, officer, employee of or consultant for a vendor that has or seeks to enter into a transaction with GICNR.
☐ No ☐ Yes If yes, please explain:

3. Have you, or to your knowledge, any member of your family received or enjoyed, directly or indirectly, any gift, entertainment, compensation, reward or other benefit or more than nominal value during the past year from any vendor that has or seeks to enter into a transaction with GICNR.
☐ No ☐ Yes If yes, please explain:

4. Have you or, to your knowledge, any member of your family engaged in any transaction with GICNR during the past year? (You need not report any compensation received as salary, wages or bonuses, any benefit received under GICNR's written employee benefit plan or arrangement, any reimbursement of expenses made in conformity with GICNR's

reimbursement procedures, or any health care services received from GICNR on customary terms).

☐ No ☐ Yes If yes, please explain:

5. Are you a member of the governing board or an officer, or other employee of or consultant to any health care institution other than GICNR?

☐ No ☐ Yes If yes, please explain:

I acknowledge that I have read the policies and directives set out in the attached Conflict of Interest policy and that I intend to abide by its provisions. I understand that I have an affirmative obligation to update the information stated above.

Signature

Print Name

Date

Compliance Officer

Date

Action Required? ☐ No ☐ Yes If Yes, please explain:

Appendix B

Summary of Relevant Federal and State Laws Relating to False Claims (from OMIG website)

FEDERAL & NEW YORK STATUTES RELATING TO FILING FALSE CLAIMS

I. FEDERAL LAWS

- 1) Federal False Claims Act (31 USC §§3729-3733)

II. NEW YORK STATE LAWS

A. CIVIL AND ADMINISTRATIVE LAWS

- 1) New York False Claims Act (State Finance Law §§187-194)
- 2) Social Services Law, Section 145-b - False Statements
- 3) Social Services Law, Section 145-c - Sanctions

B. CRIMINAL LAWS

- 1) Social Services Law, Section 145 - Penalties
- 2) Social Services Law, Section 366-b - Penalties for Fraudulent Practices.
- 3) Social Services Law, Section 145-c - Sanctions
- 4) Penal Law Article 175 - False Written Statements
- 5) Penal Law Article 176 - Insurance Fraud
- 6) Penal Law Article 177 - Health Care Fraud

III. WHISTLEBLOWER PROTECTION

- 1) Federal False Claims Act (31 U.S.C. §3730(h))
- 2) New York State False Claim Act (State Finance Law §191)
- 3) New York State Labor Law, Section 740
- 4) New York State Labor Law, Section 741

I. FEDERAL LAWS

- 1) Federal False Claims Act (31 USC §§3729-3733)

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

§ 3729. False claims

(a) Liability for certain acts.--

2) In general.--Subject to paragraph (2), any person who--

(A) knowingly presents, or causes to be presented, a false or fraudulent claim for payment or approval;

- (B) knowingly makes, uses, or causes to be made or used, a false record or statement material to a false or fraudulent claim;
- (C) conspires to commit a violation of subparagraph (A), (B), (D), (E), (F), or (G);
- (D) has possession, custody, or control of property or money used, or to be used, by the Government and knowingly delivers, or causes to be delivered, less than all of that money or property;
- (E) is authorized to make or deliver a document certifying receipt of property used, or to be used, by the Government and, intending to defraud the Government, makes or delivers the receipt without completely knowing that the information on the receipt is true;
- (F) knowingly buys, or receives as a pledge of an obligation or debt, public property from an officer or employee of the Government, or a member of the Armed Forces, who lawfully may not sell or pledge property; or
- (G) knowingly makes, uses, or causes to be made or used, a false record or statement material to an obligation to pay or transmit money or property to the Government, or knowingly conceals or knowingly and improperly avoids or decreases 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, as adjusted by the Federal Civil Penalties Inflation Adjustment Act of 1990 (28 U.S.C. 2461) note; Public Law 104-410, plus 3 times the amount of damages which the Government sustains because of the act of that person.

(2) Reduced damages.--If the court finds that--

- (A) the person committing the violation of this subsection furnished officials of the United States responsible for investigating false claims violations with all information known to such person about the violation within 30 days after the date on which the defendant first obtained the information;
 - (B) such person fully cooperated with any Government investigation of such violation; and
 - (C) at the time such person furnished the United States with the information about the violation, no criminal prosecution, civil action, or administrative action had commenced under this title with respect to such violation, and the person did not have actual knowledge of the existence of an investigation into such violation, the court may assess not less than 2 times the amount of damages which the Government sustains because of the act of that person.
- (3) Costs of civil actions.--A person violating this subsection shall also be liable to the United States Government for the costs of a civil action brought to recover any such penalty or damages.

(b) 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;

(2) the term "claim"--

(A) means any request or demand, whether under a contract or otherwise, for money or property and whether or not the United States has title to the money or property, that--

(i) is presented to an officer, employee, or agent of the United States; or

(ii) is made to a contractor, grantee, or other recipient, if the money or property is to be spent or used on the Government's behalf or to advance a Government program or interest, and if the United States Government-

(I) provides or has provided any portion of the money or property requested or demanded; or

(II) will reimburse such contractor, grantee, or other recipient for any portion of the money or property which is requested or demanded; and

(B) does not include requests or demands for money or property that the Government has paid to an individual as compensation for Federal employment or as an income subsidy with no restrictions on that individual's use of the money or property;

(3) the term "obligation" means an established duty, whether or not fixed, arising from an express or implied contractual, grantor-grantee, or licensor-licensee relationship, from a fee-based or similar relationship, from statute or regulation, or from the retention of any overpayment; and

(4) the term "material" means having a natural tendency to influence, or be capable of influencing, the payment or receipt of money or property.

(c) Exemption from disclosure.--Any information furnished pursuant to subsection (a)(2) shall be exempt from disclosure under section 552 of title 5.

(d) Exclusion.--This section does not apply to claims, records, or statements made under the Internal Revenue Code of 1986.

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, or submits a claim to entities administering government funds, that he or 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 which obtains interim payments from Medicare or Medicaid 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 or Medicaid 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.

3) Administrative Remedies for False Claims (31 USC 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, 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 rather than 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 State False Claim Laws fall under the jurisdiction of both New York's civil and administrative laws as well as its criminal laws. Some apply to recipient false claims and some apply to provider false claims. The majority of these statutes are specific to healthcare or Medicaid. Yet some of the "common law" crimes apply to areas of interaction with the government and so are applicable to health care fraud and will be listed in this section.

A. CIVIL AND ADMINISTRATIVE LAWS

1) New York 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 upon individuals and entities who knowingly file false or fraudulent claims for payment from any state or local government, including health care programs such as Medicaid. It also has a provision regarding reverse false claims similar to the federal FCA such that a person or entity will be liable in those instances in which the person obtains money from a state or local government to which he may not be entitled, and then uses false statements or records in order to retain the money.

The penalty for filing a false claim is six to twelve thousand dollars per claim plus three times the amount of the damages which the state or local government sustains because of the act of that person. In addition, a person who violates this act is liable for costs, including attorneys' fees, of a civil action brought to recover any such penalty.

The Act allows private individuals to file lawsuits in state court, just as if they were state or local government parties, subject to various possible limitations imposed by the NYS Attorney General or a local government. If the suit eventually concludes with payments back to the government, the person who started the case can recover twenty-five to thirty percent of the proceeds if the government did not participate in the suit, or fifteen to twenty-five percent if the government did participate in the suit.

2) Social Services Law, Section 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 ten thousand dollars per violation. If repeat violations occur within five years, a penalty of up to thirty thousand dollars per violation may be imposed if the repeat violations involve more serious violations of Medicaid rules, billing for services not rendered, or providing excessive services.

3) Social Services Law, Section 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

1) Social Services Law, Section 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.

2) Social Services Law, Section 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 a 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.

3) 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. This statute 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.

4) 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.

5) Penal Law Article 176 - Insurance Fraud

This law applies to claims for insurance payments, 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.

6) Penal Law Article 177 - Health Care Fraud

This statute, enacted in 2006, applies to health care fraud crimes. It was designed to address the specific conduct by health care providers who defraud the system including any publicly or privately funded health insurance or managed care plan or contract, under which any health care item or service is provided. Medicaid is considered to be a single health plan under this statute.

This law primarily applies to claims by providers for insurance payment, including Medicaid payment, and it includes six crimes.

- a. Health care fraud in the 5th degree – a person is guilty of this crime when, with intent to defraud a health plan, he or she knowingly and willfully provides materially false information or omits material information for the purpose of requesting payment from a health plan. This is a class A misdemeanor.
 - b. Health care fraud in the 4th degree – a person is guilty of this crime upon filing such false claims on more than one occasion and annually receives more than three thousand dollars. This is a class E felony.
 - c. Health care fraud in the 3rd degree – a person is guilty of this crime upon filing such false claims on more than one occasion and annually receiving over ten thousand dollars. This is a class D felony.
 - d. Health care fraud in the 2nd degree - a person is guilty of this crime upon filing such false claims on more than one occasion and annually receiving over fifty thousand dollars. This is a class C felony.
 - e. Health care fraud in the 1st degree - a person is guilty of this crime upon filing such false claims on more than one occasion and annually receiving over one million dollars. This is a class B felony.
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III. WHISTLEBLOWER PROTECTION

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

The Federal False Claims Act provides protection to *qui tam* relators (individuals who commence a False Claims action) 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.

2) New York State False Claim Act (State Finance Law §191)

The New York State False Claim Act also provides protection to *qui tam* relators (individuals who commence a False Claims action) 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.

3) New York State Labor Law, Section 740

An employer may not take any retaliatory action against an employee if the employee discloses 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 the employer is in violation of a law that creates a substantial and specific danger to the public health and safety or which constitutes health care fraud under Penal Law §177 (knowingly filing, with intent to defraud, a claim for payment that intentionally has false information or omissions). The employee's disclosure is protected only if the employee first brought up the matter with a supervisor and gave the employer a reasonable opportunity to correct the alleged violation. If an employer takes a retaliatory action against the employee, the employee may sue in state court for reinstatement to the same, or an equivalent position, any lost back wages and benefits and attorneys' fees. If the employer is a health provider and the court finds that the employer's retaliatory action was in bad faith, it may impose a civil penalty of \$10,000 on the employer.

4) New York State Labor Law, Section 741

A health care employer may not take any retaliatory 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 gave 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. If an employer takes a retaliatory action against the employee, the employee may sue in state court for reinstatement to the same, or an equivalent position, any lost back wages and benefits and attorneys' fees. If the employer is a health provider and the court finds that the employer's retaliatory action was in bad faith, it may impose a civil penalty of \$10,000 on the employer.