

# Daleview Care Center

## CORPORATE COMPLIANCE PROGRAM

## **I. Compliance Policy Statement – Commitment and Obligation to Comply**

Daleview Care Center (DCC) is dedicated to maintaining excellence and integrity in all aspects of their operations and their professional and business conduct. Accordingly, DCC is committed to conformance with high ethical standards and compliance with all governing laws and regulations not only in the delivery of health care but in its business affairs and its dealings with employees, administrative staff, physicians, agents, payers and residents of the facility. Laws and regulations that are applicable to Daleview include, but may not be limited to all CMS regulations, NYSDOH regulations, MA program policies and procedures. It is the personal responsibility of all who are associated with DCC to honor this commitment in accordance with the terms of the DCC Code of Conduct, and related policies, procedures and standards developed by DCC in connection with the Corporate Compliance Program and the QAPI Program.

## **II. Purpose of Compliance Program**

The DCC Corporate Compliance Program (the "Program") is intended to provide reasonable assurance that DCC:

1. complies in all material respects with all federal, state and local laws and regulations that are applicable to its operations;
2. satisfies the conditions of participation in health care programs funded by the state and federal government and the terms of its other contractual arrangements;
  - a. surveys and the effective implementation and monitoring of plans of correction
  - b. assures there is a comprehensive, accurate assessment and comprehensive care plan for each resident
  - c. report incidents of mistreatment, neglect or abuse as required by law
  - d. refrain from inappropriate use of physical or chemical restraints
3. detects and deters criminal conduct or other forms of misconduct by officers, employees, medical staff, agents and contractors that might expose DCC to significant civil liability;
4. promotes self-auditing and self-policing, and provides for, in appropriate circumstances, voluntary disclosure of violations of laws and regulations;
5. establishes, monitors, and enforces high professional and ethical standards;
6. meets the requirements of the False Claims Act including the rights of employees to be protected as whistleblowers

## **III. Scope of Compliance Program**

The provisions of the Program apply to all medical, business, and legal activities performed by DCC employees, medical staff, residents, agents, Medicaid managed care plans, managed long term care plans and contractors. The expectations for DCC employees regarding compliance with the Program are as follows:

1. comply with the DCC mission statement and the DCC Code of Conduct contained in Section V of this document;
2. familiarize themselves with the purpose of the Program;
3. perform their jobs in a manner which demonstrates commitment to compliance with all applicable laws and regulations;

4. report known or suspected compliance issues to the Corporate Compliance Officer or a Corporate Compliance Committee Member and investigate or participate in investigations to the point of resolution of an alleged violation; strive to prevent errors and provide suggestions to reduce the likelihood of errors.

#### **IV. DCC Compliance Committee**

The DCC compliance program which includes the following elements recommended in the Office of Inspector General's Compliance Program Guidance for Hospitals (Section references are to relevant sections within this document):

Code of Conduct - development and distribution of Code, as well as the development of new or revised written policies and procedures that further promote DCC's commitment to compliance. Such policies should be considered an integral part of this Program.

Corporate Compliance Officer and Compliance Committee designations – to assign a Corporate Compliance Officer, Committee Members and establish responsibilities of each.

Education and Training Program Development and Implementation - to provide general compliance information to the broad-based employee population as well as focused technical training of those functional areas that have the ability to put DCC and its member organizations at a greater degree of compliance exposure;

Confidential Reporting Process and Maintenance - to receive complaints confidentially and to provide retaliation protection to all individuals who report concerns to DCC.

Sanction or Disciplinary Action Enforcement - the enforcement of appropriate disciplinary actions against employees, physicians, or onsite agents or contractors who violate compliance policies, applicable laws or regulations or federal health program requirements;

Monitoring - the performance of audits and risk assessments to identify problems and conduct ongoing compliance monitoring of identified problem areas; and

Investigation and Remediation - the investigation and remediation of identified systemic problems and the development of appropriate corrective action plans to remedy such problems.

This Program establishes a framework for legal and ethical compliance by DCC and the members of the DCC community. The Program is a living document and all members of the DCC community are encouraged to suggest changes or additions to the Program. It is not intended to set forth all of the substantive programs and practices of DCC that are designed to achieve compliance.

#### **v. DCC Code of Conduct**

##### **A. INTRODUCTION**

The Governing Body of Daleview Care Center has developed and implemented the following Code of Conduct. The Code of Conduct is applicable to Facility and its Employees and Agents and Affected

Individuals. This Code of Conduct contains standards articulating the general policies of Facility, as adopted by its Governing Body. This document shall be distributed at least annually, and periodically as necessary, to a representative of the Governing Body, Employees, Agents and Affected Individuals. All newly hired employees must attend a Compliance Program inservice before starting employment at DCC. All affected individuals must attend annual Compliance Program inservice as part of their employment at the Facility. The Governing Body, Employees, Physicians, and Agents are responsible for ensuring that their behavior and activity is consistent with the standards embodied in this Code of Conduct.

The Facility takes health care fraud very seriously and is committed to its role in preventing health care fraud and abuse and to complying with all applicable state and federal laws related to healthcare fraud and abuse. The Deficit Reduction Act of 2005 (DRA) requires information about the federal False Claims Act and other laws, including state laws, dealing with fraud, waste, and abuse and whistleblower protection for the legitimate reporting of these issues. As a component of the Facility Compliance Program, the Facility has developed and instituted policies and procedures to detect and prevent fraud, waste, and abuse, and supports the efforts of both the federal and state authorities in identifying incidents of fraud and abuse. The policies set forth in the Facility's Compliance Program include avenues for reporting concerns internally, and an overview of the Federal Civil False Claims and Program Fraud Civil Remedies Act and other applicable state laws.

In connection with the establishment of the Facility's Compliance Program, the Governing Body has designated the Administrator to act as the Facility's Corporate Compliance Officer (CCO). The Compliance Officer is generally responsible for the day-to-day oversight, operation and organization of the Facility's Compliance Program in conjunction with the Assistant Corporate Compliance Officers (ACCO's) - all Department Heads. The responsibilities of the CCO are more fully explained in the Facility's compliance manual.

## B. LEGAL AND REGULATORY COMPLIANCE

Daleview Care Center, it's Employees, Agents and Affected Individuals are expected to constantly strive to ensure that all activity by or on behalf of the Facility is in compliance with applicable federal, state, local laws, rules, regulations, ordinances, administrative directives and any other binding governmental directives (hereinafter "Laws and Regulations"). The general policies articulated in this Code of Conduct are intended to provide guidance to individuals in their obligation to comply with applicable Laws and Regulations. However, the general policies contained herein are neither exclusive nor complete. Employees and Agents are expected to refer to the facility's compliance standards, policies and procedures, as well as other relevant Laws and Regulations for further guidance. It is important for all Employees and Agents to recognize that they are required to comply with all applicable Laws and Regulations, as well as the Facility's compliance standards, policies and procedures whether or not specifically addressed in this Code of Conduct. If questions arise regarding the existence, interpretation or application of any law, regulation, rule, standard, policy and/or procedure, they should be directed to the Compliance Officer.

## C. FRAUD AND ABUSE

The Facility expects its Employees and Agents to refrain from any conduct that may violate applicable federal and state Laws and Regulations, with special emphasis on those related to fraud and/or abuse.

These laws generally prohibit: (1) the transfer of anything of value in order to induce the referral of residents or any government program business (i.e. Medicare, Medicaid and other federal or state health care programs); (2) the making of false representations or the submission of false, fraudulent or misleading claims to any government entity or third party payor, including claims for services not rendered, claims which characterize the service differently than the service actually rendered, or claims that do not otherwise comply with applicable program or contractual requirements; and (3) referring Facility business to an entity in which the Employee or Agent has a financial interest.

#### D. ROLE OF FEDERAL AND STATE LAWS IN PREVENTING FRAUD, WASTE, AND ABUSE

The Centers for Medicare & Medicaid Services (CMS) defines “fraud” as the intentional deception or misrepresentation that an individual knows to be false (or does not believe to be true), knowing that the deception could result in an unauthorized benefit to himself or another person. CMS defines “abuse” as incidents or practices of providers that are inconsistent with sound medical practice and may result in unnecessary costs, improper payment, or the payment for services that either fail to meet professionally recognized standards of care or are medically unnecessary.

The Federal Government and the State of New York have enacted criminal and civil laws pertaining to the submission of false or fraudulent claims for payment or approval to the federal and state governments and to private payors. These false claims laws, which provide for criminal, civil, and administrative penalties, provide governmental authorities with broad authority to investigate and prosecute potentially fraudulent activities, and provide anti-retaliation provisions for individuals who make good faith reports of waste, fraud, and abuse. These laws play a significant role in all government efforts to reduce waste, fraud and abuse.

The Federal Civil False Claims and Program Fraud Civil Remedies Acts, applicable State laws, and anti-retaliation provisions are summarized in the following sections.

##### 1. Federal Civil False Claims Act

The Civil False Claims Act (31 U.S.C. § 3729 et seq.) (“FCA”) is a statute that imposes civil liability on any person who:

- Knowingly presents, or causes to be presented, a false or fraudulent claim, record or statement for payment or approval,
- Conspires to defraud the government by getting a false or fraudulent claim allowed or paid,
- Uses a false record or statement to avoid or decrease an obligation to pay the Government, and
- Other fraudulent acts enumerated in the statute.

The term “knowingly” as defined in the FCA includes a person who has actual knowledge of the information, and acts in deliberate ignorance of the truth or falsity of the information. No proof of specific intent to defraud is required.

The term “claim” includes any request or demand for money or property if the United States Government provides any portion of the money requested or demanded.

Potential civil liability under the FCA currently includes penalties of between five thousand five hundred and eleven thousand per claim, treble damages, and the costs of any civil action brought to recovery such penalties or damages.

The Attorney General of the United States is required to diligently investigate violations of the FCA, and may bring a civil action against a person. Before filing suit, the Attorney General may issue a demand requiring production of documents and written answers and oral testimony.

The FCA also provides for Actions by Private Persons (qui tam lawsuits) who can bring a civil action in the name of the United States Government (“Government”) for a violation of the Act. Generally, the action may not be brought more than six years after the violation, but in no event more than ten. When the action is filed in the name of the Government, it remains under seal for at least sixty days. The Government may choose to intervene in the lawsuit and assume primary responsibility for prosecuting, dismissing or settling the action. If the Government chooses not to intervene, the private party who initiated the lawsuit has the right to conduct the action.

In the event the government proceeds with the lawsuit, the qui tam plaintiff may receive fifteen to twenty-five per cent of the proceeds of the action or settlement. If the qui tam plaintiff proceeds with the action without the Government, the plaintiff may receive twenty-five to thirty per cent of the recovery. In either case, the plaintiff may also receive an amount for reasonable expenses plus reasonable attorneys’ fees and costs.

If the civil action is frivolous, clearly vexatious, or brought primarily for harassment, the plaintiff may have to pay the defendant its fees and costs. If the plaintiff planned or initiated the violation, the share of proceeds may be reduced and, if found guilty of a crime associated with the violation, no share will be awarded the plaintiff.

**Whistleblower Protection:** The FCA also provides for protection for employees from retaliation. An employee who is discharged, demoted, suspended, threatened, harassed, or discriminated against in terms and conditions of employment because of lawful acts conducted in furtherance of any action under the FCA may bring an action in Federal District Court seeking reinstatement, two times the amount of back pay plus interest, and other enumerated costs, damages, and fees.

## 2. Federal Program Fraud Civil Remedies Act of 1986

The Program Fraud Civil Remedies Act of 1986 (“Administrative Remedies for False Claims and Statements” at 38 U.S.C. § 3801 et seq.) is a statute that establishes an administrative remedy against any person who presents or causes to be presented a claim or written statement that the person knows or has reason to know is false, fictitious, or fraudulent due to an assertion or omission to certain federal agencies (including the Department of Health and Human Services).

The term “knows or has reason to know” is defined in the Act as a person who has actual knowledge of the information, acts in deliberate ignorance of the truth or falsity of the information, or acts in reckless disregard of the truth or falsity of the information. No proof of specific intent to defraud is required.

The term “claim” includes any request or demand for property or money, e.g., grants, loans, insurance or benefits, when the United States Government provides or will reimburse any portion of the money.

The authority, i.e., federal department, may investigate and with the Attorney General’s approval commence proceedings if the claim is less than one hundred and fifty thousand dollars. A hearing must begin within six years from the submission of the claim. The law allows for civil monetary sanctions to be imposed in administrative hearings, including penalties of five thousand five hundred dollars per claim and an assessment, in lieu of damages, of not more than twice the amount of the original claim.

### 3. New York Law Regarding False Claims:

Section 145-b of the New York Social Services Law makes it unlawful for any person to knowingly by means of a false representation, statement or other fraudulent scheme or device, obtain or attempt to obtain payment (including by means of false representations or material omissions in an acknowledgement, certification, claim, ratification or report of data which serves as the basis for a claim or a rate of payment, in a cost report or otherwise) from the state (or public funds) for services or supplies furnished or purportedly furnished. Liability under the law includes repayment of funds improperly paid and monetary penalties of no more than \$2000 for each item or service or, where a penalty under this section has been imposed on any person within the previous 5 years, \$7,500 for each item or service. In addition, the State has the right to recover civil damages equal to three (3) times the amount by which any figure is falsely overstated, or in the case of nonmonetary false statements or representations, three (3) times the amount of damages which the state sustained as a result of the violation or \$5,000, whichever is greater.

#### New York Health Care Fraud Laws:

Article 177 of the New York State Penal Law (the “Health Care Fraud” Laws) makes it a crime for any person to, with the intent to defraud any publicly or privately funded health insurance or managed care plan, including the Medicaid program, knowingly and willfully provide materially false information or omit material information, on one or more occasions, for the purpose of requesting payment for a health care item or service when such person, or any other person, receives payment as a result of such information or omission. Violations may be subject to fines, imprisonment, or both.

Section 366-b of the New York Social Services Law makes it a crime for any person to, with intent to defraud, present for allowance or payment any false or fraudulent claim for furnishing services or supplies, or knowingly submit false information for the purpose of obtaining greater compensation than that to which he is legally entitled, or knowingly submit false information for the purpose of obtaining authorization for furnishing services or supplies under the medical assistance program.

#### Examples of a possible false claim:

1. Making false statements regarding a claim for payment;
2. Falsifying information in the medical record;
3. Double-billing for items or services;
4. Billing for services or items not performed or never furnished.

## Reporting Possible False Claims:

1. If an employee discovers an event that is like one of the examples of a false claim above, an employee is encouraged to immediately report it to the Facility Administrator/Compliance Officer or a Compliance Committee member for further investigation.
2. An employee is not required to report a possible FCA violation to the Facility first. A report may be made directly to the Department of Justice or applicable state authorities. However, in many instances the Facility believes that the use of its internal reporting process is a better option because it allows the Facility to quickly address potential issues. The Facility encourages employees to consider first reporting suspected false claims to the Facility Administrator but the choice is up to the employee.
3. The Facility will not retaliate against or intimidate any employee or agent for informing the Facility or the federal or state government of a possible FCA violation or violation of other Laws and Regulations. including but not limited to reporting potential compliance issues to appropriate personnel; participating in investigation of potential compliance issues; self-evaluations; audits; remedial actions; reporting instances of intimidation or retaliation; and reporting potential fraud, waste or abuse to the appropriate State or Federal entities.

An employee with questions regarding this policy should contact the Administrator/CCO at 516-694-9800, ext. 213.

## E. QUALITY OF CARE AND RESIDENT RIGHTS

The Facility expects its Employees and Agents to ensure the Facility's provision of quality care to its residents in accordance with the expectations and requirements of applicable Laws and Regulations. In that regard, all Employees and Agents are required to participate and cooperate in the Facility's efforts to provide necessary care and services to residents in order to attain or maintain the highest practicable physical, mental and psychosocial well-being of each of the Facility's residents in accordance with a resident's comprehensive assessment and plan of care, subject to the resident's right of self-determination.

Additionally, the Facility expects its Employees and Agents to ensure that all residents are afforded their right to a dignified existence, self-determination, respect, full recognition of their individually, consideration and privacy in treatment and care for personal needs and communication with and access to persons and services inside and outside the Facility. The Facility expects its Employees and Agents to ensure the protection and promotion of the rights of each resident, and to encourage and assist each Resident in the fullest possible exercise of their rights as set forth in applicable Laws and Regulations.

## F. BUSINESS ETHICS

The Facility has an established commitment to the highest standards of business ethics and integrity, and as such Employees and Agents are expected to accurately and honestly represent the Facility and not engage in any activity or scheme intended to defraud any person or entity, of money, property or services. All conduct by Employees and Agents must be consistent with all Facility compliance standards, policies, procedures, applicable Law and Regulation, professional standards, as well as exhibit the highest possible standard of ethics and honesty.



#### G. HONEST COMMUNICATION

The Facility requires candor and honesty from all Employees and Agents in performing their responsibilities and in communication with Facility attorneys and auditors, as well as federal and state officials.

#### H. NON-INTIMIDATION/NON-RETALIATION

DCC has a non-intimidation/non-retaliation policy in effect for good faith participation in the compliance program, including but not limited to reporting potential compliance issues to appropriate personnel; participating in investigation of potential compliance issues; self-evaluations; audits; remedial actions; reporting instances of intimidation or retaliation; and reporting potential fraud, waste or abuse to the appropriate State or Federal entities.

#### I. FAILURE TO PARTICIPATE

The Facility will utilize disciplinary action against employees that fail to comply with written policies and procedures, standards of conduct, State and federal laws, rules and regulations, to report suspected problems, that encourage, direct, facilitate, or permit non-complaint behavior and/or that fail to actively participate in assisting with the resolution of compliance issues. Other affected individuals that fail to report suspected problems, that encourage, direct, facilitate, or permit non-compliant behavior and/or fail to actively participate in assisting with the resolution of compliance issues will have appropriate sanctions utilized by the Corporate Compliance Committee and guidance from counsel and in conformation with SEIU 1199 bargaining agreement.

#### J. CONFIDENTIALITY

Facility Employees and Agents shall maintain the confidentiality of Resident medical records and information, as well as other confidential information in accordance with applicable Laws and Regulations, accreditation standards where applicable, and ethical and professional standards. The Facility and its Employees and Agents are in possession of, and have access to, a broad variety of confidential, sensitive and proprietary information, the inappropriate release of which could be injurious to individuals, the Facility's business partners and the Facility itself. Employees and agents are expected to actively protect and safeguard confidential, sensitive and proprietary information in a manner designed to prevent the unauthorized disclosure of such information.

#### K. CONFLICTS OF INTEREST

The Facility expects its Employees and Agents to commit their undivided and unqualified loyalty to the facilities' interests. Employees and Agents may not use their positions to profit personally or to assist others in profiting in any way at the expense of the Facility.

All Employees and Agents are expected to regulate their activities so as to avoid actual impropriety and/or the appearance of impropriety which might arise from the influence of those activities on business decisions of the Facility, or from disclosure or private use of business affairs or plans of the Facility.

#### L. BUSINESS RELATIONSHIPS

Business transactions with vendors, contractors and other third parties shall be transacted free from offers or solicitation of gifts, favors or other improper inducements in exchange for influence or assistance in a transaction or the referral of business. If there is any doubt or concern about whether specific conduct or activities are ethical or otherwise appropriate, the Compliance Officer should be contacted.

#### M. REIMBURSEMENT

The Facility, its Employees and Agents shall take great care to ensure that all claims for reimbursement to government and to private insurance payors reflect truth and accuracy and conform to all pertinent Laws and Regulations. Employees and Agents are prohibited from knowingly presenting or causing to be presented claims for payment or approval which are false, fictitious, fraudulent or otherwise not in compliance with applicable Laws and Regulations.

#### N. EMPLOYEES AND ASSOCIATED PROVIDERS

The Facility, its Employees and Agents shall take great care to ensure that all Employees and Agents are provided with an equal opportunity work environment free of legally prohibited discrimination, workplace harassment, violence and substance abuse in compliance with all pertinent Laws and Regulations. Additionally, Employees and Agents are required to ensure that, where applicable, they maintain appropriate licensure and certification in their professional fields in accordance with Facility policies on providing proper care to its residents and all pertinent Laws and Regulations.

#### O. CODE OF CONDUCT VIOLATIONS, REPORTING AND CORRECTIVE ACTION

The Facility requires all Employees and Agents to follow the Compliance Program and standards, its policies and procedures and all applicable Laws and Regulations. In meeting those expectations, the Facility has a reporting and corrective action process for perceived and actual violations of the Compliance Program, Facility policies and procedures, and all applicable Laws and Regulations.

The Facility is committed to effectively monitoring its overall compliance with applicable Laws and Regulations. The Compliance Officer or his/her designee will routinely conduct internal audits of issues that have regulatory or compliance implications. The Facility also routinely seeks the advice of counsel or independent consultants and auditors as a means of ensuring and demonstrating compliance with Laws and Regulations and the Facility's standards and policies.

Employees and Agents are expected to conduct themselves in an ethical and legal manner. Each Employee and Agent has an individual responsibility for reporting any activity that appears to violate applicable Laws and Regulations, this Code of Conduct, or any of the Facility's standards, policies or procedures. All such reports shall be made directly to the Employee's or Agent's direct supervisor or to the Compliance Officer. The Facility will make efforts to maintain the confidentiality of the identity of any individual who reports perceived or actual violations. However, confidentiality of identity cannot be guaranteed.

The Facility will investigate all reported concerns promptly and confidentially to the extent possible. The Compliance Officer and Compliance Committee will coordinate findings from the investigations and immediately recommend corrective action or changes that need to be made to the QAPI Committee. Each

Employee and Agent is expected to cooperate to the fullest extent possible with compliance investigation efforts.

When an internal investigation substantiates a reported violation, including those violations that concern the FCA and other specific laws described herein, it is the policy of the Facility to initiate corrective action, including, as appropriate, making prompt restitution of overpayment amounts, notifying the appropriate governmental agency, instituting whatever disciplinary action is necessary, and implementing systemic changes to prevent a similar violation from recurring in the future.

#### P. ADMINISTRATION AND APPLICATION OF THIS CODE OF CONDUCT

The Facility expects each person to whom this Code of Conduct applies, to abide by the principles set forth herein and to conduct the business and affairs of the Facility in a manner consistent with the general policies set forth herein.

Failure to abide by this Code of Conduct and/or the Facility's compliance standards, policies and procedures may lead to significant and severe disciplinary action depending on the nature and scope of the individual failure. When investigating perceived or actual violations of the Code of Conduct and/or the Facility's compliance standards, policies and procedures, the Compliance Officer will review relevant facts and circumstances, including, but not limited to, the extent to which the behavior was contrary to the express language or general intent of the Code of Conduct, and/or the Facility's standards, policies and procedures, the egregiousness of the behavior, the Employee's or Agent's history with the organization, and other factors which the Compliance Officer deems relevant. Discipline for failure to abide by the Code of Conduct standards, policies and procedures and/or applicable Law and Regulations may, in the Facility's discretion, range from a warning to termination. In the event that an Employee is covered by the terms of a collective bargaining agreement, discipline shall be in accordance with the provisions of the collective bargaining agreement.

Nothing in this Code of Conduct is intended to, nor shall be construed as providing any additional employment or contractual rights to Employees, Agents or other persons.

While the Facility will generally attempt to communicate changes prior to the implementation of such changes, the Facility reserves the right to modify, amend or alter the Code of Conduct, Facility standards, and policies and procedures without prior notice to any person, Employee or Agent. The DCC Code of Conduct provides the guiding standards for our decisions and actions as members of the DCC community. Although the Code of Conduct can neither cover every situation in the daily conduct of DCC's many varied activities nor substitute for common sense, individual judgment or personal integrity, it is the duty of each member of the DCC community to adhere, without exception, to the principles set forth herein.

#### **VI. Corporate Compliance Officer**

The Administrator of DCC serves as the Corporate Compliance Officer (CCO) and reports to the DCC Operator. All Department Heads shall be considered Assistant Corporate Compliance Officers (ACCO).

The CCO's primary responsibilities include:

1. Overseeing and monitoring the adoption, implementation and maintenance of the DCC Compliance Program and evaluating its effectiveness.
2. Drafting, implementing, and updating no less frequently than annually or, as otherwise necessary, to conform to changes to Federal and State laws, rules, regulations, policies and standards, a compliance work plan which shall outline DCC's proposed strategy for meeting the requirements of this section for the coming year.
3. Reviewing and revising the compliance program, the written policies and procedures and standards of conduct, to incorporate changes based on DCC's organizational experience and promptly incorporate changes to Federal and State laws, rules, regulations and policy and procedures.
4. Reporting directly, on a regular basis, but no less frequently than quarterly, to DCC's governing body, chief executive and compliance committee on the progress of adopting, implementing and maintaining the compliance program.
5. Assisting DCC in establishing methods to improve efficiency, quality of services, and reducing DCC's vulnerability to fraud, waste and abuse.
6. Developing, coordinating and participating in a multifaceted educational training program that focuses on the elements of the Compliance program, and ensures that all appropriate employees and management are knowledgeable of, and comply with, pertinent federal and state standards.
7. Ensuring that independent contractor, agents and affected individuals who furnish services to FCCC member organizations are aware of the applicable requirements of the DCC Compliance Program with respect to coding, billing and marketing.
8. Coordinating personnel issues to assure employees and Medical Staff have been checked with respect to employment eligibility, credentialing and exclusion from federal healthcare programs.
9. Independently investigating and acting on matters related to compliance, including the design and coordination of internal investigations that respond to reports of problems or suspected violations and resulting corrective action with DCC's departments, providers and sub providers, agents, affected individuals, the State and, if appropriate, independent contractors. The CCO and ACCO's have the authority to review all documents and other information that are relevant to compliance activities.
10. Monitoring anonymous reporting methods to ensure that members of the DCC community can report suspected improprieties without fear of retribution and implementing processes to investigate, resolve and document all issues reported.
11. Coordinating, in conjunction with legal counsel, the implementation of the fraud, waste, and abuse prevention program with the director and lead investigator of the MMCO's special investigation unit.
12. DCC shall ensure that the CCO is allocated sufficient staff and resources to satisfactorily perform their responsibilities for the day-to-day operation of the compliance program base don the DCC's risk areas and organizational experience.
13. DCC shall ensure that the CCO and appropriate compliance personnel have access to all records, documents, information, facilities and affected individuals that are relevant to carrying out their compliance responsibilities.

## **VII. Corporate Compliance Committee**

DCC shall designate a Corporate Compliance Committee comprised of representatives from appropriate clinical and administrative areas. The Compliance Committee shall coordinate with the compliance officer to ensure that DCC is conducting business in an ethical and responsible manner, consistent with its compliance program. Responsibilities include coordinating with the COO to:

1. Ensure that the written policies and procedures, and required standards of conduct are current, accurate and complete and that training topics are completed timely.
2. Ensure communication and cooperation by affected individuals on compliance related issues, internal or external audits, or any other function or activity required.
3. Advocate for the allocation of sufficient funding, resources and staff for the compliance officer to fully perform their responsibilities.
4. Ensure that DCC has effective systems and processes in place to identify compliance program risks, overpayments and other issues, and effective policies and procedures for correcting and reporting such issues.
5. Advocate for adoption and implementation of required modifications to the compliance program.
6. Monitor changes in the health care environment, including regulatory changes with which DCC must comply, and identifying the impact of such changes on specific risk areas
7. Recommend the revision of polices and procedure, as needed, so that such policies support the Code of Conduct.
8. Monitor through summary reports shared by the CCO or the ACCO's the types of anonymous letters received, identifying trends and patterns and evaluating the adequacy of the investigation, follow-up and resolution of such letters.

The Corporate Compliance Committee shall report directly and be accountable to the Administrator and the governing body.

## **VIII. Education and Training**

DCC shall establish, implement and maintain an effective compliance training and education program for its compliance officer and all affected individuals and shall meet the following requirements:

1. All employees, physicians, agents and affected individuals will be introduced to and trained in the Program, the DCC Code of Conduct and DCC compliance policies and procedures. Such training will reinforce the need for strict compliance with the law.
2. All employees, physicians, agents and affected individuals will be trained on who the CCO is and what his/her role is, how to access the CCO (including anonymously), the role and makeup of the Corporate Compliance Committee and DCC's risk areas and organizational experience.
3. All employees, physicians, agents and affected individuals will be advised that:
  - a. it is expected that ALL affected individuals participate in investigations openly and honestly and that disciplinary action will be taken against them for failure to actively participate when necessary;
  - b. it is expected that ALL affected individuals ask questions and report potential compliance-related issues to the CCO or a member of the CCC, including the obligation of affected individuals to report suspected illegal or improper conduct and the procedures for submitting such reports;
  - c. disciplinary action will be taken against them for encouraging, directing, facilitating, or permitting non-compliant behavior with an emphasis on those standards related to DCC's compliance program and prevention of fraud, waste and abuse;
  - d. there is a policy of non-intimidation and non-retaliation in place for good faith participation in the compliance program beyond reporting potential issues, including but not limited to investigating issues, self-evaluations, audits, remedial actions, and reporting to appropriate officials as provided in sections 740 and 741 of the NYS Labor Law.

4. All employees, physicians, agents and affected individuals will be educated on the specific MA program requirements that apply to DCC (as well as coding and billing requirements and best practices and claim development and the submission process, if applicable).
5. The compliance officer and all affected individuals shall complete the compliance training program no less frequently than annually and training/education shall be made part of the orientation of new compliance officers and affected individuals and shall occur promptly upon hiring. Training shall be in a form and format accessible and understandable to all affected individuals, consistent with Federal and State language and other access laws, rules or policies.
6. DCC shall develop and maintain a training plan which shall outline the subjects/topics for training and education, the timing and frequency of the training, which affected individuals are required to attend, how attendance will be tracked and how the effectiveness of the training will be periodically evaluated.

## **IX. FCCC Compliance Communication and Records**

### **1. Direct Access to the CCO:**

DCC recognizes that an open line of communication between the CCO and DCC personnel and all Medicaid recipients is critical to the success of the Program. Members of the DCC community are strongly encouraged to be familiar with the Corporate Compliance Program and report all suspected incidents of potential fraud or to seek clarification regarding legal or ethical concerns directly from the CCO. The Corporate Compliance Program and Code of Ethics are posted on the company website at: DaleviewCareCenter.com.

The Corporate Compliance Officer (Administrator) is Cathie Doyle and can be reached by:

Telephone: 516-694-9800, Ext. 213

Email: [cdoyle@daleviewcarecenter.com](mailto:cdoyle@daleviewcarecenter.com)

Fax: 516-694-6496

### **2. Confidential/Anonymous reporting can be made by mailing a letter to:**

Daleview Care Center  
574 Fulton Street  
Farmingdale, NY 11735  
Attn: Corporate Compliance Officer  
CONFIDENTIAL

If your concern involves or is about the CCO, you may contact:

Michael Ostreicher  
516-433-0600, Ext. 177

### **3. Confidentiality of Reporter:**

DCC will ensure the confidentiality of persons reporting compliance issues unless the matter is subject to a disciplinary proceeding, referred to or under investigation by MFCU, OMIG or law enforcement,

or disclosure is required during a legal proceeding and such persons shall be protected under DCC's policy for non-intimidation and non-retaliation.

#### 4. New Employee Policy:

For all new hires, DCC shall conduct a reference check, as part of the hiring process. All DCC job applications specifically require the applicant to disclose any criminal conviction or abuse conviction, or exclusion action.

#### 5. Excluded Providers:

DCC shall confirm the identity of providers and determine the exclusion status of affected individuals by checking the following databases at least every thirty (30) days:

- New York State Office of the Medicaid Inspector General Exclusion List; and
- Health and Human Services Office of Inspector General's List of Excluded Individuals and Entities

#### 6. Communication with Government Agencies

DCC shall document and retain records of all requests for information regarding payment policy from a government agency and all written or oral responses received. Such records are critical if DCC or member organizations intend to rely on such responses to guide them in future decisions, actions or claim reimbursement request or appeals, while further underscoring DCC's commitment to compliance with the law.

#### 7. Record Retention

DCC is committed to complying with the record and documentation requirements under federal and state law and to the maintenance and retention of records and documentation necessary to conform the effectiveness of DCC's Compliance program.

### **X. Investigations**

The ACCO's have the authority to investigate any potential compliance issues, and to direct others to do so and shall report the results to the CCO. The CCO or his/her designee will:

1. promptly initiate an investigation of a potential compliance issue to make a case-by-case determination as to whether a violation has occurred. The ACCO will either personally conduct the investigation or refer the complaint to a more appropriate area either within DCC or seek the guidance of the CCO. The ACCO may request assistance in the investigation from the person or persons who filed the complaint, other personnel or external sources, as appropriate;
2. the CCO may request legal counsel to participate in the investigation and provide legal advice in any such matter, as appropriate. In any investigation involving legal counsel, the fact gathering is to be conducted under counsel's direction and control. All members of the DCC community are obligated to cooperate and communicate with counsel in confidence.

3. Prepare a report of each investigation which will include documentation of the issue and, as appropriate, a description of the investigative process, copies of interview notes and key documents, a log of the witnesses interviewed and the documents reviewed., the results of the investigation, any disciplinary action and the corrective action implemented to prevent reoccurrence. Reports of each investigation and the status of the corrective action will be presented to the Corporate Compliance and QAPI Committees on a quarterly basis, or as necessary.
4. Work with relevant areas within DCC to ensure return of discovered overpayments to the relevant government programs.
5. Report violations of criminal, civil or administrative law to the appropriate federal and/or state authority within a reasonable time periods after determining that there is credible evidence of such violation.

Individuals are encouraged to fully and honestly participate in investigations until complete resolution is achieved.

Individuals, who, in good faith, report possible compliance violations will not be subjected to retaliation, intimidation, or harassment because of their reports. Retribution related to reporting of compliance concerns is prohibited and anyone who engages in such prohibited activity will be subject to disciplinary action, up to and including termination as indicated. Concerns about possible retaliation or harassment should be reported to the CCO or an ACCO immediately.

The CCO will assist any individual in maintaining complete confidentiality, if so desired regardless of how a suspected compliance violation is received. However, there may be a point where reporting an individual's identity may have to be revealed should governmental authorities become involved, or if necessary to conduct and conclude an investigation of the reported or alleged violations.

The CCO shall maintain a confidential log of all complaints made, including those made through the confidential/anonymous reporting mechanism, and if appropriate, shall investigate the complaints.

## **XI. Monitoring**

As outlined in Section VI, one of the major responsibilities of the CCO is to oversee and monitor the implementation of the DCC Compliance Program. Progress reports of the on-going monitoring activities, including identification of suspected noncompliance, will be maintained by the CCO and shared with the governing body and at each CC meeting.

Monitoring techniques that will be used by the CCO and the CCC include, but are not limited to the following:

1. Compliance audits focused on those areas within DCC that have potential exposure to government enforcement actions as identified in (i) Special Fraud Alerts issued by the OIG, (ii) OIG annual work plan, (iii) Medicare fiscal intermediary or carrier reviews and (iv) law enforcement initiatives.
2. Benchmarking analyses which provide operational; snapshots from a compliance perspective that identify the need for further assessment, study or investigation.
3. Periodic reviews in the areas of Program dissemination, communication of DCC's compliance standards and Code of Conduct, availability of anonymous reporting and adequacy of compliance training and



education to ensure that the Program's compliance elements have been satisfied in terms of DCC performance.

4. Subsequent reviews to ensure that corrective actions have been effectively and completely implemented.

## **XII. Corrective Action Plans**

When a compliance issue that has been identified requires remedial action, the appropriate department or administrative personnel responsible for the activity will immediately develop a corrective action plan which specifies the tasks to be completed, completion dates and responsible parties. In developing such a plan, the responsible personnel will obtain advice and guidance from the ACCO, legal counsel and other appropriate personnel as necessary. Each corrective action plan must be approved by the CCO or his/her designee prior to implementation. The CCO has the obligation to report directly to the QAPI Committee on (i) all compliance issues noted for which corrective actions have not been implemented; (ii) corrective action plans that have not met his/her approval from an adequacy or timing standpoint; (iii) corrective action plans that are not subsequently implemented in accordance with the approved plan in terms of substance or timing.

A corrective action plan should ensure that the specific issue is addressed and that similar problems will not occur in other areas or department, to the extent possible. Corrective action plans may require that compliance issues be handled in a designated way, that relevant training take place, that restrictions be imposed on particular individuals, or that the matter be disclosed externally. Sanctions or discipline, in accordance with the standard disciplinary policies and procedures of DCC and member organizations may also be recommended. If it appears that certain individuals have exhibited a propensity to engage in practices that raise compliance or competence concerns, the corrective action plan should identify actions that will be taken to prevent such individuals from exercising substantial discretion in that area.

## **XIII. Sanctions/Disciplinary Standards**

DCC believes that all members of the DCC community are responsible for complying with the DCC Corporate Compliance Program, Code of Conduct and related policies and procedures. Corrective action for noncompliance will be initiated by the appropriate management personnel, who must notify the CCO or ACCO's in accordance with the standard disciplinary policies and procedures of DCC.

Enforcement will be administered by the parties identified by the CCO in consultation with legal counsel and the CCC. Disciplinary actions will be determined on a case-by-case basis and will be taken appropriately, equitably and consistently and apply to all levels of personnel, given the underlying circumstances and the degree of negligence or reckless conduct.

Physicians who violate the Program will be disciplined in accordance with the peer review procedures established in the medical staff bylaws.

DCC will report identified compliance violations to the Medicaid Inspector General and/or NYS Department of Health as necessary/required, including an action plan to return overpayments if identified.

## XIV. Summary

The DCC commitment to excellence and integrity means more than just doing the best job possible. It is our commitment to always **Do the Right Thing**. Our success, the well-being our residents, and our future depend on it.

March 2023, CD  
Replaces 11/22 version