

OSWEGO HEALTH COMPLIANCE PLAN

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INTRODUCTION

Purpose

Oswego Health, Inc. and each of its affiliated companies, Oswego Hospital, Seneca Hill Manor, Inc., Springside at Seneca Hill, Inc., OH Properties, Inc., Physician Care, PC., OH Services, Inc., Oswego Health Home Care, and Oswego Health Foundation, Inc. have a policy of maintaining the highest level of professional and ethical standards in the conduct of their business. Oswego Health places the highest importance upon its reputation for honesty, integrity and high ethical standards as reaffirmed by this compliance plan.

This Compliance Plan (Plan) and the Compliance Program (Program) support Oswego Health's commitment to provide quality patient care. Oswego Health's business and other practices shall be conducted at all times in compliance with all applicable federal, state and local laws and regulations and the ethical standards/practices of the medical profession, the healthcare industry and Oswego Health.

This Plan provides a framework for individual and departmental compliance efforts, and applies to all Oswego Health personnel and activities. It is recognized that each individual employee or other Agent of Oswego Health remains responsible and accountable for his or her own compliance with applicable laws, regulations, standards, policies and procedures. Any Oswego Health director, corporate team member, employee or Agent who violates any of the requirements of this Plan may be subject to discipline, up to and including immediate termination as well as risking civil and/or criminal prosecution and penalties.

This Plan identifies those organizational imperatives necessary to prevent accidental and intentional noncompliance with applicable laws. The Compliance Program is designed to detect non-compliance should it occur and to promote such steps as are necessary to prevent future noncompliance, including education and discipline.

Definitions

Agents – corporate team members, employees, board members, professional staff members, contractors, vendors, volunteers or others acting on behalf of any of the affiliates of Oswego Health who are subject to this Plan.

Compliance Plan – public, written document that details the policies Oswego Health adheres to regarding its implementation of the elements of compliance.

Compliance Program – set of organizational systems intended to prevent, detect, and respond to potential problems identified by employees and other Agents. It is a mindset, an operational model for how Oswego Health has internalized the concepts and intent of a compliance culture. A Compliance Plan is a required element of an effective Compliance Program.

Contractor - an individual (1) who has an independent contractor agreement with Oswego Health to provide goods or services to Oswego Health or its patients, or (2) who owns, is employed by, or otherwise works for an organization with such a contract, and who has direct contact with any employee in performing the contract.

Corporate Counsel - the Oswego Health external counsel and/or the law firm designated by Oswego Health to provide legal advice and assistance in the development, implementation and maintenance of this Plan.

Patients – patients, residents and registrants of Oswego Hospital, Seneca Hill Manor, Physician Care, PC, OH Services, Inc., Oswego Health Home Care, Oswego Health Foundation, Inc. or Springside at Seneca Hill.

Professional Staff Members - physicians or allied health practitioners who are members of Oswego Health's professional staff but who are not employees.

COMPLIANCE PROGRAM ELEMENTS

Oswego Health's Compliance Program includes the 8 elements required by the New York State Office of the Medicaid Inspector General (OMIG)

Oswego Health demonstrates its commitment to compliance by adhering to the following components of an effective Compliance Program:

1. Written policies and procedures that describe compliance expectations as embodied in a code of conduct, implement the operation of the Compliance Program, provide guidance to employees and others on dealing with potential compliance issues, identify how to communicate compliance issues to appropriate compliance personnel and describe how potential compliance problems are investigated and resolved.
2. An employee (Compliance Officer) vested with responsibility for the day-to-day operation of the compliance program; such employee's duties may solely relate to compliance or may be combined with other duties so long as compliance responsibilities are satisfactorily carried out; such employee shall report directly to the entity's chief executive or other senior administrator and shall periodically report directly to the Board of Directors on the activities of the compliance program.
3. Training and education of all affected employees and persons associated with the provider including corporate team members and members of the Board of Directors, on compliance issues, expectations and the Compliance Program operation; such training shall occur periodically and shall be made a part of the orientation for new employees, appointees, corporate team members and members of the Boards of Directors.
4. Communication lines to the responsible compliance positions that are accessible to all employees, Agents, corporate team members and members of the Boards of Directors to allow compliance issues to be reported; such communication lines shall include a method for anonymous and confidential good faith reporting of potential compliance issues as they are identified.
5. Disciplinary policies to encourage good faith participation in the compliance program by all affected individuals, including policies that articulate expectations for reporting compliance issues and assist in their resolution and outline sanctions for: (a) failing to report suspected problems; (b) participating

in non-compliant behavior; or (c) encouraging, directing, facilitating or permitting non-compliant behavior; such disciplinary policies shall be fairly and firmly enforced.

6. A system for routine identification of compliance risk areas specific to the provider type, for self-evaluation of such risk areas, including internal audits and as appropriate external audits, and for evaluation of potential or actual non-compliance as a result of such self-evaluations and audits.
7. A system for responding to compliance issues as they are raised; for investigating potential compliance problems; responding to compliance problems as identified in the course of self-evaluations and audits; correcting such problems promptly and thoroughly and implementing procedures, policies and systems as necessary to reduce the potential for recurrence; identifying and reporting compliance issues to the appropriate regulatory authority; and refunding overpayments.
8. A policy of non-intimidation and non-retaliation for good faith participation in the compliance program, including but not limited to reporting potential issues, investigating issues, self-evaluations, audits and remedial actions, and reporting to appropriate officials.

Written Policies and Procedures

Code of Conduct and written policies and procedures exist to guide Agents in identifying and dealing with potential compliance issues

Code of Conduct

The following standards apply to all Oswego Health directors, corporate team members, managers, employees, professional staff members, contractors and Agents as appropriate. In addition, Oswego Health employees are required to adhere to the Standards of Conduct administered by Human Resources.

Oswego Health promotes respect for patients as well as employees, professional staff members, volunteers, and visitors.

Oswego Health actively fosters cooperation and communication among members of the patient care team, customer service support team, and among groups that meet for the purpose of improving health status including Board / professional staff members /employee groups.

Oswego Health encourages honesty and integrity in communication and frank and fair evaluation of services, programs and persons.

Honesty and integrity are reflected in the Oswego Health's marketing and billing procedures and admissions, transfer, and discharge procedures.

Honesty and integrity guide Oswego Health and its staff members in their relationships and interactions with other health providers, vendors and payers.

Oswego Health does not discriminate in its business and corporate practices. Oswego Health follows all state and federal anti-discrimination laws which apply to the purchase of services and supplies and admission/discharge process.

Oswego Health's vision, mission, and values guide its planning and business practices.

Oswego Health has a Conflict of Interest Policy for Board members and key employees.

Oswego Health prohibits falsification of contracts, reports and records

Oswego Health is a prudent purchaser. Contract agreements with providers of services or supplies are reviewed and evaluated on a competitive purchase basis.

Marketing materials accurately describe services that are available and the level of licensure and accreditation of these services.

It is Oswego Health's practice that charges are fair in that initial patient billing is itemized and includes dates of service.

Oswego Health recognizes the right of all patients and payers to question a charge without fear of real or perceived harassment.

Oswego Health recognizes its responsibility to resolve conflicts regarding billing practices and specific billing issues.

Services are provided to patients in a manner that respects and fosters their sense of dignity, autonomy, and positive self regard, civil rights and involvement in their own care.

Oswego Health provides care, treatment and/or accommodations without regard to a patient's race, color, religion, sex, sexual orientation, national origin, disability, or source of payment.

Fraud, Waste and Abuse, Anti-kickback and Self-Referral Laws

Oswego Health will strive to ensure all activity by or on behalf of Oswego Health is in compliance with federal and state laws

Oswego Health is subject to numerous federal and state laws regulating practices and relationships within the health care industry. Included among these are laws designed to prevent fraud, waste and abuse in the submission of claims, the making of patient referrals, and the acceptance of remuneration for services provided. Oswego Health is committed to compliance with all applicable laws and the prevention of illegal or improper acts in the delivery of services. To that end, specific compliance standards have been adopted and included in the Code of Conduct. Specific federal and New York State statutes related to filing false claims are included in Appendix A of this Plan.

The Federal Anti-Kickback Statute 42 U.S.C. §1320a-7b(b)

This statute makes it a criminal offense to knowingly and willfully offer, pay, solicit or receive any remuneration, directly or indirectly, in return for referrals or to induce referrals, or to arrange for or recommend goods, facilities, services or items for which payment may be made under a federal health

care program. Improper payments and practices of kickbacks or rebates are unethical and in many cases, illegal. Professional Staff Members and their families are prohibited from receiving personal gains or remuneration from any person or entity that might receive a patient referral from Oswego Health. Kickbacks and/or rebates can take many forms and are not limited to direct cash payment or credit. Thus, offering a kickback to an entity or person to coerce a customer or potential customer to purchase services or refer a patient to Oswego Health is prohibited. Soliciting or receiving anything of value to induce someone to refer a patient to Oswego Health is prohibited. Group purchasing agreements and price reductions related to health plans, among several other exceptions (“safe harbors”), are excluded from these prohibitions.

The federal Anti-Kickback statute has been expanded from Medicare, Medicaid and certain state programs to include all federal health care programs. “Federal health care program” is broadly defined to include any plan or program that provides health benefits funded in whole or in part by the federal government, with the exception of federal employee health benefit programs. This statute has been interpreted to cover arrangements where one purpose of the remuneration is to induce referrals, even though other business purposes may potentially exist.

The Ethics in Patient Referrals Act (“Stark Statute”) 42 U.S.C. § 1395nn

The Stark Statute provides that if a physician (or a family member of that physician) has a “financial relationship” with an entity, then the physician is prohibited from referring patients to that entity for “designated health services” that are paid for by Medicare or Medicaid, unless an exception applies. The Stark Statute also prohibits entities that receive a prohibited referral from billing for such services. A “financial relationship” includes direct or indirect ownership or investment interests and direct or indirect compensation arrangements between a physician (or the physician’s family member) and an entity that provides designated health services.

“Designated health services” (“DHS”) include:

1. clinical laboratory services;
2. physical therapy services;
3. occupational therapy services;
4. radiology or other diagnostic services;
5. radiation therapy services;
6. durable medical equipment and supplies;
7. parenteral and enteral nutrients, equipment, and supplies;
8. prosthetics, orthotics and prosthetic devices and supplies;
9. home health services;
10. outpatient prescription drugs; and
11. inpatient and outpatient hospital services.

The Stark Statute includes a number of statutory and regulatory exceptions. Any questions regarding the applicability of an exception or the ownership by an Agent in a business or service for which a referral may be made should be directed to the Compliance Officer.

Antitrust and Trade Regulation

It is the policy of Oswego Health to avoid any activities that unfairly or illegally reduce or eliminate competition, control prices, allocate markets, or exclude competitors. Oswego Health Agents shall comply with the letter and spirit of all antitrust laws of the United States and of the State of New York. No Agent shall have any authority to engage in conduct that does not comply with this policy or to authorize, direct, approve or condone such conduct by any other person.

No Oswego Health Agents shall enter into understandings or agreements (whether written or oral) that could unfairly or illegally reduce or eliminate competition, control prices, allocate markets, or exclude competitors. This includes agreements or information sharing with other practices or carriers that affect prices, charges, profits and service or supplier selection.

Oswego Health Agents who negotiate or enter into contracts with competitors, potential competitors, contractors or suppliers shall do so on a competitive basis considering such factors as price, quality and service. This policy is especially important for Agents having purchasing, planning or marketing responsibilities.

Oswego Health Agents who attend association or professional association meetings or who otherwise come into contact with competitors should avoid discussions at those meetings regarding pricing or other topics which could be interpreted as collusion or cooperation between competitors.

Any Agent who suspects that a violation of the antitrust and trade regulation laws has occurred shall disclose that information to the Compliance Officer.

Internal and External Regulatory Reporting

Oswego Health has a system of internal controls, checks and balances and management review to limit misstatements, errors and omissions and unauthorized transactions. Internal and external reviews of various reporting vehicles contribute to the accuracy of the documents, including, but not limited to: cost reports, HUD reporting, Form 990, financial statements audits, and internal financial statements.

Policies and Procedures

Policies and procedures exist to assist directors, corporate team members, employees, professional staff members, contractors and other Agents of Oswego Health to perform their duties in good faith, in a manner they reasonably believe to be in the best interest of Oswego Health and its patients, and with the same care that a reasonably prudent person in the same position would use under similar circumstances.

Policies and procedures exist which address compliance expectations with regard to but not limited to: billing/claim filing, payment, quality of care, governance, mandatory reporting and credentialing.

Specific policies exist which implement **and maintain** the operation of the compliance program. These policies describe the structure of the compliance program, the day-to-day operations of the program, the reporting mechanisms and methods and ways to communicate potential compliance issues to compliance personnel.

Policies and procedures are located on the employee portal and hard copies of policies and procedures are in each respective department where they are required to be kept.. It is the responsibility of each respective department manager/director to ensure policies and procedures are available and regularly updated.

There are many specific policies related to compliance, including but not limited to:

Quality and Medical Necessity of Patient Care, and Patient Bills of Rights

Oswego Health has standards of patient care that reflect federal, state and local laws and regulations, respective medical, professional and clinical practice guidelines, and professional and accrediting body

standards. These standards are approved by Oswego Health's or each respective affiliate's Board of Directors.

Oswego Health's patients deserve care with concern for personal dignity and independence, and Oswego Health views these as important factors in the healing and health maintenance process. It is the responsibility of the staff at Oswego Health to respect and preserve these rights for those who come to Oswego Health for medical and/or residential care.

While professional staff members are able to order any services that are appropriate for the treatment of their patients, Medicare and other government and private health care plans will only pay for those services that meet appropriate medical necessity standards. Therefore, Oswego Health strives to ensure that claims are submitted only for services it believes are medically necessary and were ordered by a professional staff member. Fundamental policy at Oswego Health requires that documentation be maintained to support the medical necessity of a service that has been provided.

Specific processes to improve quality of care include:

1. Sufficient and appropriate treatment and services to address patients' clinical treatment
2. Proper prescription, administration and monitoring of drug usage
3. Adequate staffing levels and sufficiently trained and supervised staff to provide medical, nursing and related services
4. Appropriate therapy services
5. Appropriate services to assist patients with activities of daily living
6. A system of reporting incidents internally and to external regulatory agencies as appropriate
7. Appropriate accommodation of individual patient needs

EMTALA – Emergency Medical Treatment and Active Labor Act

Oswego Health strives to comply with EMTALA requirements and affirms that treatment will be provided to all individuals, including women in labor, who present to the Oswego Hospital Emergency Department. Any individual who comes to the emergency department, and on whose behalf a request is made for treatment or exam will first be provided an appropriate medical screening examination to determine whether or not such individual has an emergency medical condition. If an individual has such a condition, Oswego Hospital will stabilize that condition or appropriately transfer such individual to another hospital in compliance with the requirements of 42 U.S.C. § 1395dd.

HIPAA - The Health Insurance Portability and Accountability Act of 1996

Oswego Health is committed to compliance with all HIPAA privacy and security requirements, having implemented policies and procedures to maintain the privacy and security of specified health information. Except in certain allowable situations, Oswego Health affiliates obtain the patient's authorization prior to using or disclosing that patient's health information. Oswego Health affiliates enter into contractual agreements with business associates (e.g., vendors and suppliers) to assure that they use and disclose health information appropriately.

Any Agent who suspects a patient's privacy has been violated shall disclose that information to the Privacy Officer.

Specific elements of Oswego Health's HIPAA initiatives can be found in the minutes of the HIPAA Steering Committee and Privacy Task Force.

Shield Act Breach Notification

Oswego Health has developed a policy and procedure to notify residents of New York State, the New York State Attorney General, the Department of State, the Division of State Police, the New York State Department of Health and consumer reporting agencies if a breach of a New York State resident's private information has occurred.

Identity Theft

Oswego Health has a medical identity theft policy and procedure. This policy identifies: (1) Relevant "red flags" that may be a sign of identity theft; (2) Identifies steps that Oswego Health will take to mitigate identity theft; and (3) Creates a process for administrative oversight of the policy and procedure.

Claim Development, Submission and Collections

Oswego Health affiliates have an obligation to their patients, third party payers, and the federal and state governments to exercise diligence, care and integrity when submitting claims for payment for services rendered. To fulfill this obligation, Oswego Health strives to maintain honest, fair, and accurate billing practices. All individuals involved in the billing functions of Oswego Health are trained to perform such functions in accordance with federal, New York State and local law.

Oswego Health has developed billing policies and procedures to provide guidance to billing and coding staff. Oswego Health strives to achieve the following goals:

1. Ensure that third-party payers are billed for those services provided, as supported by medical record documentation
2. Avoid any duplicate billing;
3. Provide for proper and timely documentation of the services of health care providers;
4. Avoid inappropriate unbundling;
5. Emphasize that claims should be submitted only when appropriate documentation supports the claims and only when such documentation is maintained and available for review;
6. Employ proper use of coding modifiers;
7. Ensure that prices are reasonable, related to costs and shared with the public
8. Ensure that the compensation for any employee or contractors including the billers, coders, and billing consultants, do not provide any financial incentive for the improper submission of claims;
9. Avoid billing for non-covered services as if covered; and
Ensure that the written policies and procedures concerning proper billing and coding reflect the current reimbursement principles set forth in the applicable regulations, guidances, and other publications issued by state and federal governmental agencies.

Conflicts of Interest

Oswego Health recognizes that conflicts of interest may arise in the course of normal business activities. All those associated with Oswego Health shall conduct personal and professional relationships in the best interests of Oswego Health and the individuals served by it. Further, they shall disclose to the appropriate authority, any direct personal or financial interest or outside activities that might pose potential conflicts of interest in the execution of their responsibilities. Gifts or benefits shall not be accepted with the expectation of influencing a management decision. Solicitation of such gifts, favors, or other benefits, regardless of value, is likewise prohibited.

All members of the Boards of Directors and key employees shall file an annual conflict of interest disclosure with the CEO or his/her designee. It is the responsibility of all employees to report and disclose any potential conflicts of interest.

Financial Accounting Records: Integrity and Accuracy

Oswego Health strives to ensure that all financial reports, accounting records, research reports, expense accounts, time sheets, and other financial documents shall accurately represent the relevant facts or true nature of a transaction. Oswego Health's employees are trained as necessary to maintain all information required for compliance with Oswego Health's policies and procedures, accreditation standards, and any other such laws, statutes or regulations.

Oswego Health has established and will maintain procedures to ensure a system of internal controls which provides reasonable assurance that financial records are prepared in a timely manner and properly supported.

Documentation and Record Retention

In addition to facilitating high quality patient care, a properly documented medical record verifies and records precisely any medical services provided. The medical record may also be used to validate: (a) the site of the service; (b) the appropriateness of the services provided; (c) the accuracy of the billing; and (d) the identity of the service provider. All records of Oswego Health shall be maintained for the period of time in accordance with Medicare, Medicaid, and all federal, New York State and local regulatory guidelines, and Oswego Health's specific record retention policies. Medical records shall be secured against loss, destruction, unauthorized access, unauthorized reproduction, corruption, or damage.

Administration of Compliance Program

The Compliance Officer

The responsibility for the direction and operation of the Compliance Program shall be vested in the Compliance Officer (CO). The CO shall be appointed by and report directly to the Audit Committee of the Oswego Health, Inc Board of Directors. Day to day supervision of the CO has been delegated to the Chief Financial Officer. Any change in the personnel responsible for administering the Compliance Program shall be approved by the Board.

**The Compliance Officer is
Ralph Hanselman, Director of Compliance and Internal Audit. He can be reached at
315-349-5939 or via e-mail at rhanselman@oswegohealth.org**

The CO is responsible for planning, designing, implementing, and maintaining Oswego Health's compliance program, policies and procedures. The CO coordinates internal audit programs and promotes awareness and understanding of positive ethical and moral principles consistent with the mission, vision, and values of Oswego Health and those required by federal and state law.

Oswego Health acknowledges that the CO shall have complete and unrestricted access to information and individuals required to complete the designated compliance activities.

The CO is a facilitator and provides guidance to departments. The duties of the CO shall include, but not be limited to, the following:

1. Implement system-wide programs, policies and procedures to ensure system compliance with applicable federal and state laws and regulations.

2. Develop policies and procedures that reflect standards for compliance, giving specific guidance to management, professional staff members and individual departments as appropriate.
3. Organize and manage administrative tasks involved in monitoring and updating the Compliance Program and this Plan;
4. Maintain awareness of laws and regulations, keeping abreast of current changes that may affect health care providers through personal initiative, seminars, training programs, and peer contact.
5. Periodically review the Compliance Program and recommend revisions as necessary to meet changes in the business and regulatory environment;
6. Ensure this Plan reflects the Compliance Program activities
7. Review, as appropriate, Oswego Health's process for checking the National Practitioner Data Bank, state licensure records, the HHS-OIG's List of Excluded Individuals/Entities ("LEIE"), the General Services Administration's (GSA's) List of Parties Debarred from Federal Programs and the New York State list of Excluded Providers with respect to all employees, board members, professional staff members, and contractors;
8. Establish and administer a communication system, including a hotline, that is available to all Agents to report any suspected illegal conduct or other conduct that violates the Code of Conduct or applicable law;
9. Receive and investigate all reports of possible illegal conduct or other conduct that violates the Code of Conduct;
10. Establish open lines of communication among departments to ensure effective and efficient compliance policies and procedures throughout Oswego Health;
11. Review and update the education, training, and Code of Conduct to reflect the current federal, state and local laws;
12. Review complaints, concerns or questions relative to compliance issues and provide consultative leadership and support to all affiliated entities as appropriate
13. In conjunction with the compliance committee, develop an annual internal audit and compliance workplan based on prioritized items identified during an annual risk assessment;
14. Collaborate with internal and external auditors on compliance related matters
15. Work closely with appropriate departments concerning documentation issues and billing policies;
16. Chair the Compliance Committee;
17. Provide staff support to the Oswego Health Board's Audit Committee;
18. Prepare and present periodic reports to the Oswego Health Board's Audit Committee, with at least one prescheduled executive session annually ; and

19. Prepare and present an Annual Report to the Oswego Health Board's Audit Committee describing general compliance efforts which have been undertaken in the preceding year, the proposed work plan for the upcoming year and recommendations for changes to the Compliance Program.

Compliance Committees

The Compliance Committees of Oswego Health are comprised of the Audit Committee of the Board of Directors and the Compliance Committee. The Compliance Committee reports to the Audit Committee.

Audit Committee

The Audit Committee of the Oswego Health Board of Directors oversees the Compliance Program.

The Audit Committee will oversee the design of and monitor findings, conclusions, and corrective actions resulting from the compliance program of Oswego Health. The Audit Committee shall be directly responsible for the appointment, compensation determination and oversight of the work of any public accountant or public accounting firm retained by Oswego Health for the purpose of preparing and issuing an audit report or related work.

The Audit Committee's compliance functions may include, but are not limited to:

- Appointing the independent auditor(s) of Oswego Health
- Reviewing the plan for and results of internal audit activities
- Approving the annual compliance workplan as presented by the CO
- Monitoring the business, industry, environmental and legal requirements with which Oswego Health must comply, including specific risk areas;
- Reviewing the Code of Conduct, policies, and procedures that promote compliance; and
- Reporting matters to the Oswego Health Board of Directors, as appropriate.

Compliance Committee

The Compliance Committee develops and implements the annual compliance workplan

The Compliance Committee's purpose and charge is to promote effective communication, implementation and maintenance of the Program and this Plan. Acting through the CO, the Compliance

Committee is empowered to investigate, evaluate, and orchestrate corrective actions and report facts to the Chief Executive Officer (or designee). The purpose of providing for such a committee is to allow Oswego Health and the CO to benefit from the combined perspectives of individuals with varying responsibilities in Oswego Health.

The Compliance Committee's functions may include, but are not limited to:

- Assist the CO in establishing annual priorities for the Plan. These will include, but may not be limited to, the initiation of audits, education and training; and ongoing improvements to procedures that promote effective communication concerning the Plan;
- Identify areas of risk in specific departments, assign accountability for compliance and monitor process improvement in identified areas;
- Establish an annual Compliance Workplan coordinated by the CO;
- Assess existing policies and procedures that address these risk areas for possible incorporation into the Plan;
- Monitor the effectiveness of the process for soliciting compliance related complaints and inquiries from staff throughout Oswego Health

The Compliance Committee may include representatives from the following areas:

Compliance Officer, Chair	Behavioral Health
Patient Financial Services	Skilled Nursing, Rehab and Long term Care
Health Information Management	Human Resources
Laboratory	Patient Access Services
Medical Imaging	Fiscal Services
Emergency Services	Utilization Review/Case Management
Risk Management	Physician Recruiting
Quality Improvement	Surgical Services
Physician Practices	
Home Health Care	
Privacy Officer	

The Compliance Committee may, from time to time, create one or more sub-committees which shall have the authority specifically designated thereto. Each sub-committee shall report directly to the respective Compliance Committee.

Training and Education

**Compliance training occurs at orientation and at least annually.
Every new employee is made aware of how they can access the Code of Conduct.
Specific training occurs on complex, high risk areas.**

It is imperative that business conducted by Oswego Health be truthful and accurate and within appropriate guidelines. Not only are severe penalties available to the government but honesty and

integrity in healthcare systems are right and proper. However, sometimes conduct undertaken without wrongful intent but with inadequate knowledge may violate applicable laws and regulations. Proper and continuing training and education of employees at all levels is, therefore, a significant element of an effective compliance program.

This Plan is intended to provide each employee of Oswego Health with an appropriate level of information and instruction regarding ethical and legal standards, including, without limitation, standards for documentation, coding, billing and competitive practices, and with the appropriate procedures to carry out the Compliance Program.

The orientation for new employees, board members, and appointees will include discussions of the Plan and Program and an employee's obligation to maintain the highest level of ethical and legal conduct and standards. The Plan is available to employees via the intranet and in hard copy upon request.

A review of the Plan's elements is one of the mandatory annual in-service requirements for all Agents. Periodically, as necessary, appropriate employees will be retrained on specific elements of the Compliance Program. All employees need not have the identical amount of training and education nor will the focus of training and education efforts be the same for all employees.

Specialized training may focus on complex areas or in departments which the CO and/or Compliance Committee determine pose a high risk. Each department manager or director shall periodically identify and advise the CO of specific department needs requiring additional training. Individuals directly involved with billing, coding or other aspects of federal health care programs shall receive education specific to each individual's responsibilities.

The CO shall be responsible for ensuring that training is updated at regular intervals to include new developments in the law.

Each education and/or training program conducted shall reinforce the fact that strict compliance with the law and with Oswego Health's Compliance Program is a condition of employment with Oswego Health.

Training shall be facilitated by the CO, members of the Compliance Committee or internal or external subject matter experts.

Department Heads are responsible for being familiar with the Program and for disseminating pertinent information to their staffs as indicated.

Oswego Health shall maintain updated coding and billing resource manuals and make them available to all Agents involved in the billing process. Oswego Health shall also make available updates on current billing standards and procedures.

The Board shall receive training and education no less than annually on the Compliance Program.

While Oswego Health will make every effort to provide appropriate compliance information to all Agents, and to respond to all inquiries, no educational and training program, however comprehensive, can anticipate every situation that may present compliance issues.

Responsibility for complying with the Compliance Program, including the duty to seek guidance when in doubt, rests individually with each employee and Agent of Oswego Health.

Communication Process

Potential compliance issues can be reported to the department manager/supervisor, the Compliance Officer or anonymously through the Ethics Point hotline at www.ethicspoint.com or (888) 373-5826

An open line of communication between the CO and all Agents subject to this Plan is critical to the successful implementation and operation of the Compliance Program and to the reduction of any potential for fraud, waste and abuse. Agents have a duty to report good faith beliefs of violations of the Compliance Program, including violations of applicable laws and Oswego Health Code of Conduct. All questions and concerns regarding compliance with this Plan shall be brought to the attention of the CO. Employees may initially consult with their department managers/supervisors and/or the Human Resources Department who shall refer compliance issues to the CO. The CO shall maintain a log of alleged compliance issues, investigations, referrals, action and resolutions, and report this information to the Audit Committee.

Any employee or Agent may contact the CO directly by calling (315) 349-5939 to report any potential compliance concern or incident or to schedule an appointment with the CO. There will be appropriate follow up by the CCO and/or a designee appointed by the CO in relation to any reported concern, violation or potential violation. Any employee or Agent may also report perceived incidents of non-compliance on a strictly confidential basis by calling Ethics Point, Oswego Health's anonymous hotline at (866) 384-4277 Or (888) 373-5826. A hotline log shall be maintained listing each call and its disposition.

Agents may also mail or email their concern to:

Compliance Officer
Oswego Health
110 West 6th St.
Oswego, New York 13126
Or
rhanselman@oswegohealth.org

In accordance with its policies, Oswego Health will promptly evaluate and investigate all allegations an individual brings forward and make every attempt to correct all violations that are

confirmed to have occurred and to prevent further occurrences thereof. The CO shall refer legal issues to Corporate Counsel and human resource issues to the Human Resources Department. All records and any subsequent investigation of reported matters shall be confidentially retained by the CO in so far as possible. The records shall be subject to disclosure only as required by Oswego Health policy, through advice of counsel, or as otherwise required by law.

An individual also has the right to report his or her suspicion to the appropriate government agency. Oswego Health will not retaliate against or intimidate employees or Agents who bring forth or report claims of fraud, waste and/or abuse. Any threat of reprisal against a person who acts pursuant to his or her responsibilities under the Plan is not only contrary to Oswego Health policy, it may in some instances be a violation of the law. Any substantiated adverse action, including but not limited to attempts to harm or slander through harassment, false accusations or malicious rumors, and/or retaliation or intimidation will result in disciplinary action up to and including termination of employment.

Oswego Health, at the request of a reporting Agent, shall provide anonymity to the Agent to the extent possible consistent with Oswego Health's obligation to investigate concerns and take necessary corrective action.

Disciplinary Action

Disciplinary policies exist to encourage good faith participation in the Compliance Program by all affected individuals. Failure to comply with this Plan and/or any laws, rules, or regulations may result in disciplinary action up to and including termination of employment or association with Oswego Health. Disciplinary action relating to compliance violations will be addressed through Oswego Health's Human Resource Corrective Action Policy or Information Systems Sanctions Policy and applied fairly and consistently to all individuals associated with Oswego Health.

Employees and other Agents of Oswego Health are held to the consistent standard of complying with Oswego Health's Compliance Program.

Discipline may occur in instances of non-compliant conduct, failure to report non-compliant conduct or encouraging, directing, facilitating or permitting non-compliant behavior. Supervisory and management personnel may also be disciplined for failure to detect non-compliance with applicable policies, legal requirements and the Compliance Program where reasonable diligence on the part of the manager or supervisor would have led to the discovery of any violations or problems. Each infraction will be investigated and disciplinary measures will be taken on a case by case basis.

Based upon the degree of severity of a violation, some alternate methods of addressing specific situations may be addressed through re-training employees, reviewing and revising policies and procedures and/or establishing prospective performance improvement error reduction actions.

Non-Employment or Retention of Sanctioned Individuals

It is the policy of Oswego Health to make reasonable inquiry into the background of prospective employees, contractors and vendors that are engaged in business or activity that by its nature may place Oswego Health at risk for violation of the law or this Plan. All applicants for employment, including but not limited to professional and billing personnel who have discretionary authority to make decisions that may involve compliance with the law or compliance oversight, shall undergo a reference check. In conjunction with policies and procedures developed and administered by Oswego Health, applicants shall be screened to determine whether they have been (a) convicted of a criminal offense related to health care; or (b) listed by a federal or state agency as debarred, excluded, or otherwise ineligible for participation in federal health care programs as defined under federal law.

Oswego Health shall not knowingly employ any individual, or contract with any person or entity, who has been convicted of a criminal offense related to health care or who is listed by a Federal or New York State agency as debarred, excluded or otherwise ineligible for participation in federally funded health care programs. In addition, until resolution of such criminal charges or proposed debarment or exclusion, any individual who is charged with criminal offenses related to health care or proposed for exclusion or debarment shall be removed from direct responsibility for, or involvement in, documentation, coding, billing or competitive practices. If resolution results in conviction, debarment or exclusion of the individual, Oswego Health shall terminate its employment of or contract with such individual.

Identification of Compliance Risk Areas and Non-Compliance

An ongoing evaluation process is critical in detecting noncompliance and improving the quality of work, and will help to ensure the success of the Compliance Program.

High risk areas are identified, monitored, and if appropriate, corrected.

Through the Compliance Committee and based on internal audits, reviews of laws, regulations and standards and interviews with Agents, Oswego Health will assess risk areas that shall become a focus for organizational compliance efforts. Identified areas of focus shall be integrated into Oswego Health's annual compliance workplan with emphasis on specific rules and policies that have been the focus of particular attention on the part of the Medicare Administrative Contractor, Medicaid, IRS, RAC, appropriate state entities, third party payers, and law enforcement e.g., as evidenced by OIG Special Fraud Alerts, OIG and OMIG audits and evaluations, and law enforcement initiatives.

Periodic audits will be undertaken in order to identify deficiencies in Oswego Health's processes, including the claim development and submission process. Some of these audits may be conducted by external consultants.

Areas of focus not incorporated into the annual compliance workplan shall be documented, along with the reasons for which it was determined that the focus area not be included in the compliance workplan.

Accountability for maintaining workplan threshold results will be assigned by the Compliance Committee to the appropriate Department Head for corrective action and resolution as appropriate. The corrective action and resolution will be reported to the Compliance Committee regularly until the Compliance Committee is satisfied that compliance has been met consistently. Any overpayments discovered as a result of audit or investigations will be returned promptly to the affected payer and/or patient, with appropriate documentation and explanation. If an audit reveals potential noncompliant conduct, the procedures set forth in the Policy for the Response to Potential Incidents of Non-Compliance and, as appropriate, discipline and corrective action shall be followed

The CO will periodically conduct departmental interviews with department heads to assist in determining the effectiveness of the Compliance Program. An annual review of Compliance issues will be completed and presented to the Compliance Committee and Oswego Health Audit Committee by the CO. This review will specifically identify areas where corrective actions are needed.

Oswego Health will conduct annual education and training programs in areas that the CO and Compliance Committee have determined present compliance issues or challenges. This education and training will also reinforce every individual's and department's responsibility for adherence to this Plan and the Compliance Program.

Employees and contractors shall notify the CO of any visits, audits, investigations or surveys by any federal or state agency or authority.

As part of the monitoring process, the CO shall establish procedures for ensuring that appropriate personnel are notified of changes in laws, regulations or policies, and that additional training is provided as necessary to assure continued compliance.

Responding to Detected Offenses and Developing Corrective Action Initiatives

Reports of suspected non-compliance are investigated and if validated, reported to the appropriate regulatory agency, as applicable.

Violations and Investigations

An internal investigation may include interviews with relevant personnel and a review of pertinent documents. Oswego Health may consider engaging outside counsel and/or auditors to assist in an

investigation. Such engagement may be under the authority and oversight of Corporate Counsel, who shall act as liaison for any investigation.

The Corporate Counsel and CO will take appropriate steps to secure or prevent the destruction of documents or other evidence relevant to the investigation. Any disciplinary action warranted will be imposed promptly and in accordance with the Corrective Action Policy.

Reporting

All employees have the responsibility of complying with applicable laws, regulations, standards, policies and procedures, and to report any acts of non-compliance. Any Oswego Health Agent who perceives or learns of non-compliance should either report the non-compliance to his or her department manager/supervisor or the CO, or contact Oswego Health's confidential Compliance Hotline. Department managers/supervisors receiving reports should forward these issues to the Compliance Officer.

The CO, in collaboration with Corporate Counsel, and the other members of the Compliance Committee as needed, will decide when to report the existence of misconduct to the appropriate governmental authority. If the Compliance Committee has sufficient evidence to believe that misconduct may have violated criminal, civil or administrative law, and a decision has been made to report, every effort will be made to assure that the reporting will take place no more than sixty (60) days after determining that credible evidence of a violation exists.

Non-Retaliation and Non-Intimidation

Employees and other Agents will not be retaliated against or intimidated for reporting potential compliance issues, either internally or to an external regulatory agency.

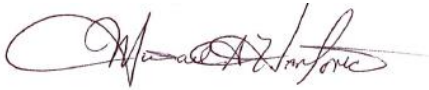
No disciplinary action or retaliation will be taken against Agents who report a perceived issue, problem, concern, or violation to management, Human Resources, Compliance, the Compliance Hotline, or the appropriate government agency.

Oswego Health will not retaliate against or intimidate employees or Agents who bring forth or report claims of fraud, waste and/or abuse. Any threat of reprisal against a person who acts pursuant to his or her responsibilities under the Plan is not only contrary to Oswego Health's Whistleblower Protection policy; it may in some instances be a violation of the law.

Any substantiated adverse action, including but not limited to attempts to harm or slander through harassment, false accusations or malicious rumors, and/or retaliation or intimidation will result in disciplinary action up to and including termination

PLAN EFFECTIVENESS

This Plan shall be reviewed annually by the Audit Committee to evaluate its effectiveness and to determine if changes/revisions are necessary. The Annual evaluation shall be promptly submitted to the Board of Directors for consideration.



Michael A. Harlovic, President & CEO

11.28.22

Date



Mark Slayton, Chair, Audit Committee

11.28.22

Date



Ed Alberts, Chair, Oswego Health Board of Directors

11.28.22

Date

Orig 12/7/09

Revised 8/2012, Revised 11/2013, 11/2014, 11/2015, 11/2016, 11/2017, 1/2019, 10/2019, 10/2020, 10/2021, 11/2022

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APPENDIX A

FEDERAL & NEW YORK STATUTES RELATING TO FILING FALSE CLAIMS

I. FEDERAL LAWS

False Claims Act (31 USC §§3729-3733)

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

- a) Any person who (1) presents, or causes to be presented, to an officer or employee of the United States Government or a member of the Armed Forces of the United States a false or fraudulent claim for payment or approval; (2) knowingly makes, uses, or causes to be made or used, a false record or statement to get a false or fraudulent claim paid or approved by the Government; (3) conspires to defraud the Government by getting a false or fraudulent claim paid or approved by the government;. . . or (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 of not less than \$5,000 and not more than \$10,000, plus 3 times the amount of damages which the Government sustains because of the act of that person.
- b) For purposes of this section, the terms "knowing" and "knowingly" mean that a person, with respect to information (1) has actual knowledge of the information; (2) acts in deliberate ignorance of the truth or falsity of the information; or (3) acts in reckless disregard of the truth or falsity of the information, and no proof of specific intent to defraud is required.

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

In sum, the False Claims Act imposes liability on any person who submits a claim to the federal government that he 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 that obtains interim payments from Medicare throughout the year, and then knowingly files a false cost report at the end of the year in order to avoid making a refund to the Medicare program.

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

Section 3730(d)(1) of the FCA provides, with some exceptions, that a qui tam relator, when the Government has intervened in the lawsuit, shall receive at least 15 percent but not more than 25 percent of the proceeds of the FCA action depending upon the extent to which the relator substantially contributed to the prosecution of the action. When the Government does not

intervene, section 3730(d)(2) provides that the relator shall receive an amount that the court decides is reasonable and shall be not less than 25 percent and not more than 30 percent.

Administrative Remedies for False Claims (31 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, then the agency receiving the claim may impose a penalty of up to \$5,000 for each claim. The agency may also recover twice the amount of the claim.

Unlike the False Claims Act, a violation of this law occurs when a false claim is submitted, not when it is paid. Also unlike the False Claims Act, the determination of whether a claim is false, and the imposition of fines and penalties is made by the administrative agency, not by prosecution in the federal court system.

II. NEW YORK STATE LAWS

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

A. Civil and Administrative Laws

NY False Claims Act (State Finance Law, §§187-194) The NY False Claims Act closely tracks the federal False Claims Act. It imposes penalties and fines on individuals and entities that file false or fraudulent claims for payment from any state or local government, including health care programs such as Medicaid. The penalty for filing a false claim is \$6,000 - \$12,000 per claim and the recoverable damages are between two and three times the value of the amount falsely received. In addition, the false claim filer may have to pay the government's legal fees.

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

Social Services Law §145-b False Statements

It is a violation to knowingly obtain or attempt to obtain payment for items or services furnished under any Social Services program, including Medicaid, by use of a false statement, deliberate concealment or other fraudulent scheme or device. The State or the local Social Services district may recover three times the amount incorrectly paid. In addition, the Department of Health may impose a civil penalty of up to \$2,000 per violation. If repeat violations occur within 5 years, a penalty up to \$7,500 per violation may be imposed if they involve more serious violations of Medicaid rules, billing for services not rendered or providing excessive services.

Social Services Law §145-c Sanctions

If any person applies for or receives public assistance, including Medicaid, by intentionally making a false or misleading statement, or intending to do so, the person's, the person's family's needs are not taken into account for 6 months if a first offense, 12 months if a second (or once if benefits received are over \$3,900) and live years for 4 or more offenses.

B. Criminal Laws

Social Services Law §145 Penalties

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

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

- 1) 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.
- 2) Any person who, with intent to defraud, presents for payment and false or fraudulent claim for furnishing services, knowingly submits false information to obtain greater Medicaid compensation or knowingly submits false information in order to obtain authorization to provide items or services is guilty of a Class A misdemeanor.

Penal Law Article 155, Larceny.

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

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

Penal Law Article 175, False Written Statements.

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

- 1) §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.
- 2) § 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.
- 3) §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.

- 4) §175.35, Offering a false instrument for filing in the first degree includes the elements of the second degree offense and must include an intent to defraud the state or a political subdivision. It is a Class E felony.

Penal Law Article 176, Insurance Fraud

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

- 1) Insurance Fraud in the 5th degree involves intentionally filing a health insurance claim knowing that it is false. It is a Class A misdemeanor.
- 2) Insurance fraud in the 4th degree is filing a false insurance claim for over \$1,000. It is a Class E felony.
- 3) Insurance fraud in the 3rd degree is filing a false insurance claim for over \$3,000. It is a Class D felony.
- 4) Insurance fraud in the 2nd degree is filing a false insurance claim for over \$50,000. It is a Class C felony.
- 5) Insurance fraud in the 1st degree is filing a false insurance claim for over \$1 million. It is a Class B felony.
- 6) Aggravated insurance fraud is committing insurance fraud more than once. It is a Class D felony.

Penal Law Article 177, Health Care Fraud

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

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

III. WHISTLEBLOWER PROTECTION

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

The FCA provides protection to qui tam relators who are discharged, demoted, suspended, threatened, harassed, or in any other manner discriminated against in the terms and conditions of their employment as a result of their furtherance of an action under the FCA. 31 U.S.C. 3730(h). Remedies include reinstatement with comparable seniority as the qui tam relator would have had but for the discrimination, two times the amount of any back pay, interest on any back pay, and

compensation for any special damages sustained as a result of the discrimination, including litigation costs and reasonable attorneys' fees.

NY False Claim Act (State Finance Law §191)

The False Claim Act also provides protection to qui tam relators who are discharged, demoted, suspended, threatened, harassed, or in any other manner discriminated against in the terms and conditions of their employment as a result of their furtherance of an action under the Act. Remedies include reinstatement with comparable seniority as the qui tam relator would have had but for the discrimination, two times the amount of any back pay, interest on any back pay, and compensation for any special damages sustained as a result of the discrimination, including litigation costs and reasonable attorneys' fees.

New York Labor Law §740

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 department manager/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.

New York Labor Law §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 department manager/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 department manager/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.