



# CORPORATE COMPLIANCE MANUAL

1228 Wantagh Ave  
Wantagh, NY 11793

## **ACKNOWLEDGMENT OF RECEIPT**

I acknowledge and agree that I have received a copy of the Compliance Manual for Plus Group Homes (“the Agency”).

I agree to read the Manual, to conduct myself in conformity with all of its requirements, to adhere to the letter and the spirit of the Code of Conduct and to cooperate and adhere with the Agency in carrying out the objectives of its Compliance Program. I understand that if I have any questions regarding concerning this Manual, I will bring to them to the Corporate Compliance Officer:

**Corporate Compliance Officer:** Christine Hutton

**Phone:** (516)409-9450 ext 112

**Email:** [chutton@plusgrouphomes.org](mailto:chutton@plusgrouphomes.org)

**Hotline:** (516) 509-1389

**Email:** [complianceofficer@plusgrouphomes.org](mailto:complianceofficer@plusgrouphomes.org)

I understand that the information contained in the manual is intended to serve as a guide to the rule, policies and procedures for the Agency and is not all inclusive. I further understand that the Agency may revise and/or modify the provisions set forth in this manual with or without notice.

I understand that my failure to comply with the Compliance Plan, the Code of Conduct, laws, regulations, and policies and procedures or to report possible violations may result in disciplinary action, up to and including termination.

**Print Name:** \_\_\_\_\_

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

**Work Site:** \_\_\_\_\_

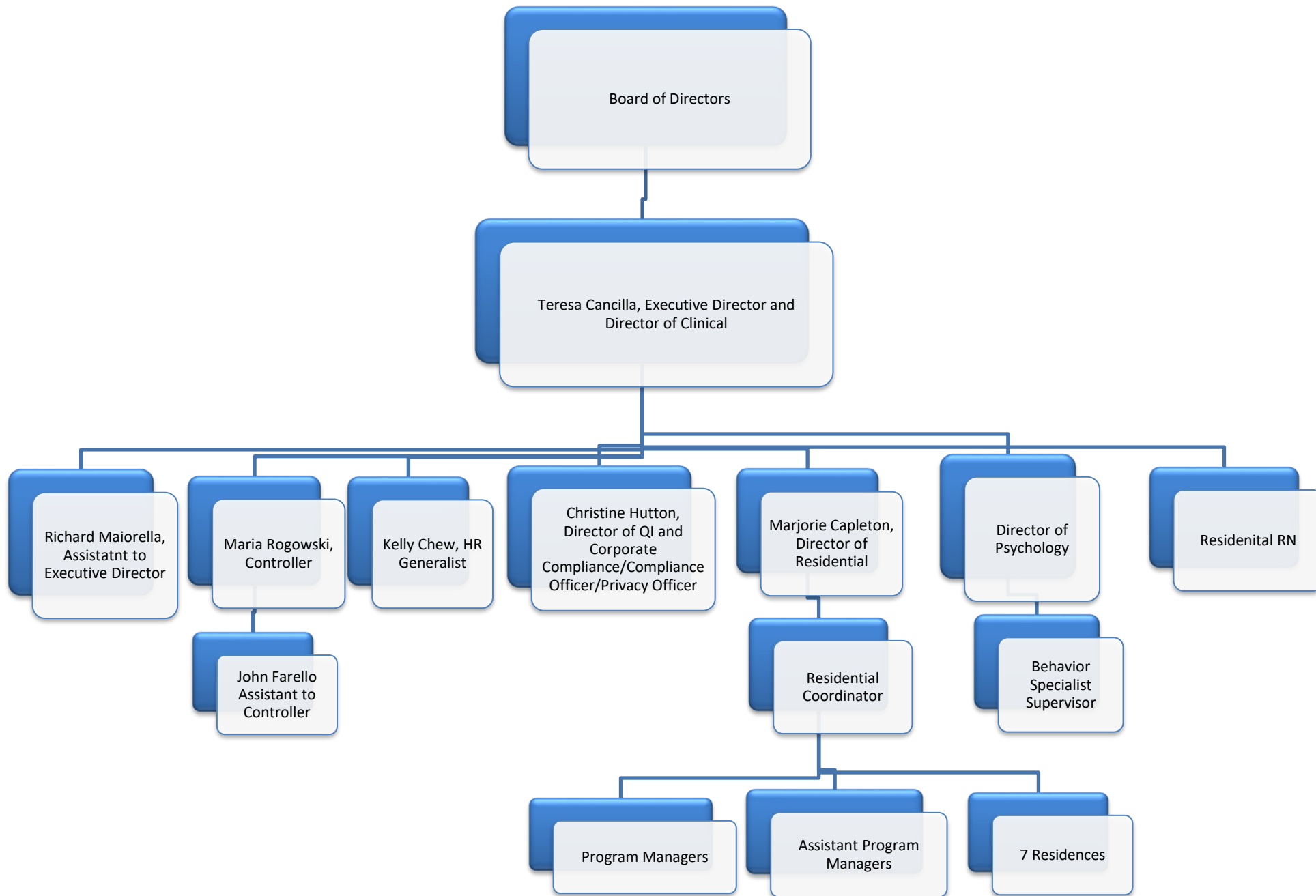
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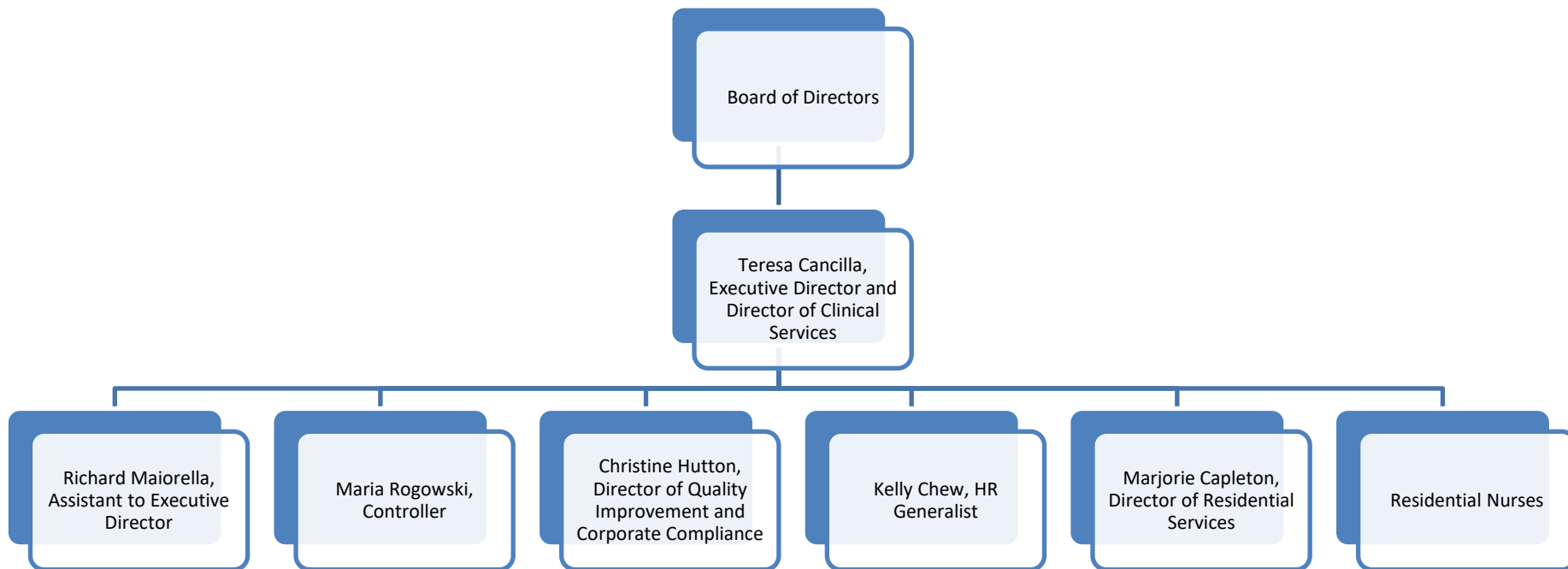
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# PLUS GROUP HOMES COMPLIANCE MANUAL

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## **PLUS GROUP HOMES Corporate Compliance Program Key Points for Training**

- A. The primary goals of the PLUS GROUP HOMES Corporate Compliance Program are to: (1.1)
  - a. Prevent fraud, abuse and other improper activity by creating a culture of compliance
  - b. Detect misconduct at an early stage to avoid substantial risk of civil or criminal liability
  - c. Respond swiftly to compliance problems through disciplinary and corrective action(s)
  
- B. The key elements of the PLUS GROUP HOMES Corporate Compliance Program are:
  - a. PLUS GROUP HOMES Code of Code that guides PLUS GROUP HOMES activities
  - b. A Corporate Compliance Officer, Medicaid Compliance Committee and Board Risk Assessment Committee to oversee the Compliance Program
  - c. Training about the Corporate Compliance Program for all Employees and Board Members
  - d. Mechanisms for reporting Compliance problems, including:
    - i. Open lines of communication for reporting of suspected improper activity
    - ii. A hotline with an anonymous reporting option
    - iii. A prohibition on retaliation against employee who report compliance problems
  - e. Procedures for investigating reports of suspected compliance problems and cooperating in government investigations
  - f. Internal Medicaid and financial compliance audits and reviews to detect potential fraud, abuse or other improper activity
  - g. Procedures that guide corrective action in response to identified compliance problems.
  - h. Disciplinary measures against employee who engage in misconduct or fail to adhere to the Compliance Program
  
- C. Key risk areas of compliance are:
  - a. Improper billing
  - b. Misuse of Agency resources
  - c. Breaching confidentiality
  - d. Denial of medical necessary services
  - e. Submission of inaccurate cost reports
  - f. Kickbacks for client's referrals
  - g. Conflicts of interest
  
- D. The Federal False Claims Act prohibits a person from knowingly making, using or causing to be made or used, a false record or statement to get false or fraudulent claim paid or approved by the federal government (31 U.S.C § 3729)
  - a. The potential penalties for violating the False Claim Act include:
    - i. Treble damages equal to three times the amount of the false claims, civil penalties of up to \$11,000 per claim and exclusion from federal health care programs
    - ii. Administrative sanctions of up to \$5,500 plus twice the amount of the false claim under the Federal Program Civil Remedies Act of 1986. (31 U.S.C § 3801)
    - iii. As of August 1, 2016, False Claims Act increased between \$11,000 and \$22,000 per claim, plus three times the amount of damages that the Federal Government sustains because of the False Claims Act.

## Introduction

- A. The Corporate Compliance Manual (“Manual”) set forth standards of conduct and procedures that **ALL** Employee employed by or associated with PLUS GROUP HOMES (the “Agency”) are expected to follow, and it is one of the roles of senior management.
- B. In creating this manual, the Agency’s goal is to ensure compliance by its Employee with the myriad laws, rules and regulations that govern our daily operations, including, among other things, those relating to: (i) our coding, billing and provision of health care services; (ii) our general practice; and (iii) our referral relationships. The Agency also wants to ensure that we are operating pursuant to the highest ethical and moral standards.

A summary of these points has been made for all Senior Management. All senior management is expected to read and understand this Manual and to review it as necessary, to be alert to situation that could be contrary to the established policies and procedures of the Agency. All Senior Management will upon receiving a copy of this Manual, sign and date an Acknowledgement of Receipt and return that Acknowledgment to the Agency’s Compliance Officer (identified below). To assist the Agency’s senior management in implementing the directives of this Manual, all staff employed by the Agency (“Employee”) will be given the Agency’s Corporate Compliance Policy and receive training on this policy. After such training, Employee will sign and date an Acknowledgment to the Agency’s Compliance Officer (identified herein).

- C. **Questions and Concerns:** Neither this Manual nor our overall Compliance Program can cover every situation that you might face. As a result, if you are unsure of what the proper course of conduct might be in a specific situation, or if you believe that any of the standards of conduct or procedures set forth in this Manual may have been violated, then you are urged to contact the Agency’s Compliance Officer.

**CHRISTINE HUTTON HAS BEEN SELECTED TO SERVE AS THE AGENCY’S COMPLIANCE OFFICER. (2.1)**

**CHRISTINE HUTTON MAY BE REACHED AT (516) 409-9450 ext 112**

**EMAIL: [CHUTTON@PLUSGROUPHOMES.ORG](mailto:CHUTTON@PLUSGROUPHOMES.ORG)**

**YOU MAY CONTACT CHRISTINE HUTTON AT ANY TIME, EITHER IN PERSON, BY TELEPHONE, OR IN WRITING WITH ANY COMPLIANCE RELATED QUESTIONS OR CONCERNS YOU MAY HAVE. THE AGENCY HAS ALSO ESTABLISHED A DEDICATED VOICEMAIL MAILBOX THAT YOU MAY CALL TO LEAVE A MESSAGE OR EXPRESS ANY COMPLIANCE RELATED CONCERNS OR ISSUE YOU MAY HAVE.**

**THE NUMBER IS: (516) 509-1389**

**OR EMAIL: [COMPLIANCEOFFICER@PLUSGROUPHOMES.ORG](mailto:COMPLIANCEOFFICER@PLUSGROUPHOMES.ORG)**

**ALL QUESTIONS OR CONCERNS MAY BE RAISED ANONYMOUSLY, IF YOU WISH. ALL REPORTS TO THE COMPLIANCE OFFICER WILL BE HELD IN THE STRICTEST CONFIDENCE POSSIBLE, CONSISTENT WITH THE NEED TO INVESTIGATE THE MATTER.**

**THE POLICIES AND PROCEDURES THAT WILL BE FOLLOWED IN RECEIVING, INVESTIGATING AND RESPONDING TO COMPLIANCE REPORTS ARE SET FORTH IN THIS MANUAL.**

## OVERVIEW OF THE AGENCY'S CORPORATE COMPLIANCE PROGRAM

### *The Benefits of a Compliance Program*

Until recently, the adoption of the compliance program by providers was voluntary. However, despite the absence of any express legal mandate to establish a Compliance Program, most sizeable organizations with Medicaid billing have done so for several reasons:

- An effective compliance program is a powerful risk management tool that can prevent or remediate improper conduct before it results in the imposition of substantial government sanctions or civil liability on an organization
- In the event that a government audit or investigation uncovers wrongdoing, the presence of a bona fide Compliance Program is likely to be taken into account by the government when determining the type of sanction to be imposed on the organization
- The U.S Sentencing Guidelines expressly provide for mitigation of criminal penalties against organizations that have established compliance programs meeting certain criteria.

PLUS GROUP HOMES has structured its voluntary Compliance Program in accordance with guidance provided by the U.S. Department of Health and Human Services Office of Inspector General. The Office of Inspector General (OIG) has developed compliance guidance documents for different segments of the health care industry such as hospitals, physician groups and pharmaceutical manufacturers. The principles outlined in the Agency's Compliance Program follows the guidance provided to these other types of organizations.

### *The Purpose of the Agency's Corporate Compliance Program (1.2)*

The Agency Compliance Program is designed to promote the Agency's compliance with all applicable Federal, State and Local laws and regulations as well as government contracts and conditions of participation in public programs. The primary goals of the programs are to:

- a. Prevent fraud, abuse, and other improper activity by creating a culture of compliance with the Agency
- b. Detect any misconduct that may occur at an early stage before it creates a substantial risk of civil or criminal liability for the Agency
- c. Respond swiftly to compliance problems through appropriate disciplinary and corrective action

The Compliance Program reflects the commitment of the Agency to operating in accordance not only with the strict requirements of the law, but also in a manner that is consistent with high ethical and professional standards. The Compliance Program applies to the full range of the Agency's activities.

All Agency's Employee and contractors have a personal obligation to assist in making the Compliance Program successful. Employees are expected to: (1.3)

- a. Familiarize themselves with the Agency Code of Conduct and compliance procedures
- b. Review and understand the key policies governing their job functions



- c. Report any fraud, abuse or other improper activity through the mechanisms established under the Compliance Program
- d. Cooperate with the Agency's audits and investigations
- e. Carry out their jobs in a manner that demonstrates a commitment to honesty, integrity, and compliance with the law

The Compliance Program is regularly reassessed and is constantly evolving to address new compliance challenges and maximize the use of the Agency's resources. Employees are encouraged to provide input on how the Compliance Program might be expanded or improved.

## **COMMUNICATIONS**

PLUS GROUP HOMES is committed to an active compliance effort which is repeatedly communicated to employees and vendors through a variety of channels to encourage communication and the reporting of incidents of potential fraud and misconduct.

### **A. Communication to Employees: (4.1, 4.2)**

In addition to formal compliance training, employees, clinicians and outside contractors and vendors receive frequent reminders of the Agency's commitment to compliance, the various avenues for reporting concerns, and the Agency's strict policy of non-retaliation for reporting potential compliance issues. Such communications may take the following forms:

- a. E-mails
- b. Inserts in Paychecks
- c. Agency Website
- d. Compliance and HIPAA Handbook

### **B. Communication from Employees: (4.2)**

Processes are in place to ensure that employees, clinicians and outside contractors and vendors know about the various communication channels they must use to express compliance concerns. Anyone who suspects improper or illegal activity is expected to report it. In some circumstances, a failure to report such activity may be grounds for discipline.

### ***Seeking Clarification of Policy***

PLUS GROUP HOMES' employees, clinicians, and outside contractors and vendors may seek clarification from a Supervisor, the Compliance Officer, member of the Corporate Compliance Committee regarding any confusion or questions about a compliance policy or procedure. Questions directed to the Compliance Committee and responses are documented and dated, and if appropriate, shared with other staff so that standards, policies and procedures can be updated and improved to reflect necessary changes or clarification.

## **THE AGENCY CODE OF CONDUCT**

The Agency's Code of Conduct, which appears in this Agency's Compliance Manual, also appears in the Plus Group Homes booklet that is located on the website. The code sets forth the standard that all Employees are expected to follow. Not only is everyone expected to adhere to the letter of this Code, but they are also expected to adhere to the spirit, to maintain a high level of integrity in all their dealings, and to avoid any conduct that could reasonably be expected to reflect adversely upon the integrity or reputation of the Agency.

Strict compliance with this Code of Conduct is a condition of employment and/or association with the Agency, and violation of these standards will result in discipline being imposed, up to and including possible termination of employment or any/all contractual relationship (s) (whether written or oral) that exist. (1.1)

### **Code of Conduct No. 1**

PLUS GROUP HOMES employees, Agents, Board of Directors and Contractor's shall comply with all applicable laws and regulations that govern its business.

### **Code of Conduct No. 2**

PLUS GROUP HOMES employees, Agents and Contractor's shall function ethically and honestly with the people we serve as well as those with whom the Agency conducts business.

### **Code of Conduct No. 3**

PLUS GROUP HOMES employees and Contractors are expected to document all services and transactions accurately and be honest and forthcoming with the Agency, regulatory agencies, internal and external auditors.

### **Code of Conduct No. 4**

PLUS GROUP HOMES employees, Agents, Board of Directors and Contractors shall avoid conflicts of interest and/or the appearance of impropriety.

### **Code of Conduct No. 5**

PLUS GROUP HOMES employees, Agents, Board of Directors and Contractors shall respect each other as people as well as professionals

## **Mission and Values**

PLUS Group Homes is committed not only to providing high quality health care services to its individuals but to doing so pursuant to the highest ethical standards and in compliance with all applicable federal and state laws, rules and regulations. This commitment extends to all our interactions, including those with our individuals, with other health care providers, with business organizations with whom we do business, with government entities that regulate us, and with the public and private payers from whom reimbursement for services is sought and received.

As a representative of the Agency, you are expected not only to act in compliance with all applicable legal standards, but to avoid any conduct that raises even the appearance of impropriety. While the legal rules are vitally important, we strive to hold ourselves up to even higher ethical standards.

In short, we do not and will not tolerate any form of unlawful or unethical behavior by anyone associated with the Agency. We expect and require all Employees to be law-abiding, honest, trustworthy, and fair in

all their business dealings. To ensure that these expectations are met, this Compliance Program has become an integral part of our mission and our health care and business operations.

## **General Standards**

1. ***Compliance with Standards:* All Employees are expected to be familiar and to comply with all federal and state laws, rules, and regulations that govern their responsibilities in connection with the Agency.**

All Employees must avoid any unethical, illegal or improper conduct. You may not take any action that you believe may be in violation of any law, rule, or regulation. And, if you are unsure whether an action is lawful or otherwise appropriate, then you should not take such action until you check with the Agency's Compliance Officer.

2. ***Cooperation with the Compliance Program:* All Employees are required to cooperate with the Agency's Compliance Program, so that the Agency can ensure that the Program is both efficient and effective. Our Compliance Program will work effectively only if everyone works together to ensure its success, understands what is required under the law and our own Code of Conduct, and strives to ensure that those standards and policies are being followed. Employees must cooperate with all compliance-related inquiries and actively work to correct any unethical, illegal or improper practices that may be identified.**

## **Standards Relating to Coding, Billing, and the Provision of Services**

1. ***Appropriate Services and Tests:* The primary purpose of the Agency is to provide outpatient behavioral health services. The Agency will submit claims for payment only for services and tests that are medically necessary or that otherwise constitute a covered service under the applicable payer's rules, and that meet all other applicable payer requirements. Whether or not a service or treatment is appropriate will be determined individually for each service or test provided or ordered by the responsible provider.**
2. ***Billing – Generally:* In conformity with the Agency's mission and values, bills will only be submitted based upon the patient's clinical condition, services received, and sufficient and adequate documentation of such services. The Agency bills only for those services or tests rendered, and only based on sufficient and adequate documentation contained in the consumer's record. The billing for such services/tests must comply with all applicable rules, including those relating to correct documentation, coding and billing.**

Neither the Agency nor any Employee will knowingly engage in any improper billing practices, including (but not limited to) practices such as:

- i. duplicate billing for the same service;
- ii. billing for services not actually performed;
- iii. improperly using/failing to use coding modifiers, site of service designations, or other descriptions of the service rendered, to inappropriately enhance reimbursement;
- iv. billing for non-covered services as if they were covered;

- v. The knowing misuse of provider identification numbers; or up-coding.

- a. **Accurate and Truthful Billing: *All billing must be accurate and truthful; and no Employee may ever misrepresent charges to, or on behalf of, a client or third-party payer. False statements or intentional omissions of material information by any Employee – whether to a government payer (such as Medicaid or Medicare) or to any other payer – will not be tolerated. Deliberate misstatements to any of our payers will expose the Employee involved to discharge and/or termination of any/all contractual relationship(s), and possible criminal prosecution.***

Employee, moreover, must avoid not only intentional misstatements, but reckless ones as well. It is, of course, illegal to intentionally falsify billing documents submitted to the government or private insurance companies. It is also illegal, however, to supply false information with either a deliberate ignorance or a reckless disregard of its falsity or truth. Thus, if you have any question as to the truth or accuracy of documentation for billing purposes, or if there is material information that is missing, the bill for the services in question **must be held** until all uncertainties are resolved. Anything less can result in over-billing and is **strictly prohibited**.

To this end, all Employees shall comply with all applicable Federal and State laws and regulations governing the submission of billing claims and related statements. A detailed description of (i) the Federal False Claims Act; (ii) the Federal Program Fraud Civil Remedies Act; (iii) State civil and criminal laws pertaining to false claims; and (iv) the whistleblower protections afforded under such laws is provided in this Manual.

- b. **Adequate and Sufficient Documentation: *The Agency's claims for payment must always be based on adequate and sufficient documentation of the justification for the service provided and for the claim submitted, and this documentation must comport with all applicable rules. A bill may not be submitted to any payer if the documentation of the nature or scope of the service is unclear or if it is otherwise unclear what the appropriate billing code(s) should be. While billing based on unclear documentation can sometimes result in under-billing, it can also result in over-billing. It is thus strictly prohibited.***

In order to ensure accurate medical record documentation in connection with the Agency's health care services, complete, legible records for each consumer will be maintained. Addendums may not be added to a consumer's chart unless the provider who performed the service/procedure for that consumer has a clear and specific memory of the consumer encounter. Addendums must be written after the then-existing last entry in the consumer's chart and must contain the actual date on which the addendum was written (i.e., addendums may never be inserted in a manner that makes it appear that the note was written on an earlier date than it actually was).

- c. **Correct Coding: *Billing codes – including CPT, ICD-10-CM and modifiers – may never be selected simply based on whether a given code guarantees or enhances payment; rather, only those codes that appropriately correspond to the service actually rendered and documented in the consumer's chart may be selected. The selected codes must be accurate and as specific as possible. Services will only be billed when the responsible provider completes the relevant charge document. It is the responsibility of the provider to ensure that, prior to submitting the charge document for billing, the documentation for any service rendered is clear and in conformity with all applicable laws, rules and regulations. Specifically, all charge documents must be signed and dated (see also Part I.C.1. (e) below) and providers must ensure that only applicable codes***

**are indicated on such documents. Further, only one charge document shall be submitted per service provided.**

If the documentation or the charge document is unclear, then billing Employee must request clarification or additional information directly from the appropriate service provider. If billing, employees are uncertain for any reason as to what the proper code(s) should be, no bill will be processed until adequate information or clarification is received.

### **NO DEFAULTS TO A PARTICULAR CODE MAY EVER BE USED**

While the use of defaults or billing based on unclear documentation can sometimes result in under-billing, these practices can also result in over-billing. **They are thus strictly prohibited.** Additionally, it is strict policy that Employee shall not knowingly engage in any form of up-coding of any services in violation of any law, rule, or regulation.

Moreover, the Agency does not provide financial incentives to Employee, employees, or others to code claims in a manner that would improperly enhance reimbursement.

If a claim is denied or if a payer requests additional information about a claim, any changes/corrections made to the codes that have been previously submitted must be supported by clear documentation. The Agency will never change a code simply in order to bypass a payer's edit and to receive payment to which it would otherwise not be entitled.

- d. Correct Use of Provider Identification Numbers: Every insurer to whom claims for payment are submitted requires the use of identifying numbers on claims forms. The rules for obtaining and using identifying numbers vary from insurer to insurer. Inclusion of the appropriate identifying numbers on any claims form, however, is essential to allow for timely processing of the claims. Appropriate identifying numbers will therefore be used for all claims submitted to all payers.***

In addition, the provider who actually provided the service must be accurately and correctly reflected on the claims form, as required. In this regard, use of another provider's name or identification number in lieu of one's own when the other provider was not involved in the delivery of the service may be considered to be fraudulent billing, and is thus strictly prohibited.

- e. Provider Signatures on Encounter Forms: As set forth above in Part I.C.1 (b), (c) and (d), following the delivery of a billable service to a consumer, the encounter form prepared for billing purposes must accurately document the service(s) provided, the provider of service, and must assign the appropriate billing code(s). Before the encounter form is submitted to billing Employee for processing, the responsible provider who rendered the service must complete the encounter form and sign and date it to ensure its accuracy.***
- 3. Additional, Specific Medicaid Billing Standards: A large percentage of our consumers are Medicaid beneficiaries. As a result, all Employees must take special care to ensure our compliance not only with Medicaid and other third-party payer rules, but also with all applicable rules and regulations set forth by the New York State Medicaid Program, the Department of Health, the Office of People with Developmental Disabilities.***
- 4. Other Billing-Related Practices: In addition to the above documentation, coding and billing policies, the Agency has also adopted policies concerning: (a) collecting appropriate information concerning primary and secondary insurance; (b) submitting claims to Medicare for purposes of receiving a denial; and (c) documenting advice received from third-party payers. These policies are outlined below.***

1. Collecting Insurance Information: Medicaid requires that all providers, including the Agency, must bill other primary payers before billing Medicaid, and that they must maintain a system that is reasonably designed to identify payers other than Medicaid so that incorrect billing and Medicaid overpayments can be prevented. As a result, the Agency has instituted procedures that will allow it to determine the primary and secondary payers are for all consumers, so that it may bill appropriately. (7.6)
2. Submitting Claims for the Purpose of Receiving a Medicare Denial: Medicare denials may sometimes be required in order for the Agency to seek reimbursement from a secondary insurer. In instances where a claim is being submitted to Medicare for this purpose, billing Employee must indicate on the claim (e.g., with an appropriate modifier) that it is being submitted for the purpose of receiving a denial in order to bill a secondary insurer. If the Agency is paid for such a claim even though the service is non-covered, and the Agency did not intend for payment to be made, the amount paid must be immediately refunded with an explanation that the service is not covered.
3. Documenting Advice from Third-Party Payers: It is the Agency's policy that all communications with any third-party payer for the purposes of receiving clarification of, or advice on, billing issues are to be appropriately documented:
  - a. Routine communications may be summarized in a brief note
  - b. Communications regarding more complicated or important billing issues are to be summarized in a more extensive memorandum, as appropriate.
  - c. In especially difficult or problematic cases, Employee should also consider sending a letter, via certified mail, return receipt requested, to the person with whom they spoke, detailing the instructions or advice received.
  - d. A copy of all such communications should be placed in the Agency's Compliance Binders
- f. Retention of Records: All billing records that demonstrate the Agency's right to receive payment from third-party payers, and all medical and other records that disclose the nature and extent of services furnished and the medical necessity for those services, will be retained by the Agency for a period of six years from the date of payment, or for such longer period of time as may be required by applicable law or contractual agreement. Refer to the Retention of Records for further details.
- g. Compliance with State Licensure, Registration, and Certification Requirements, and Payer Requirements: All providers employed by or associated with the Agency will at all times meet all applicable New York State licensure, registration and certification requirements. The Agency will not submit any claim for payment to any payer for services provided by a provider who it knows or has reason to know is not in compliance with such rules. All providers will also participate in, and meet all requirements of, the Agency's payers (including, but not limited to, Medicaid and Medicare).

## **Standards Relating to Business Practices:**

- a. ***Business Practices – Generally:*** The Agency will forego any business transaction or opportunity that can only be obtained by unethical, illegal or improper means, and will not make any unethical, illegal or improper payments to anyone to induce the use of our services.
- b. ***Business Transactions:*** Business transactions with other health care providers will be based on the *bona fide* financial value of the transaction and its positive impact on the Agency's ability to deliver services. Such transactions will *not* be based on intent to induce or reward referrals to or from another health care provider.

In the course of the Agency's day-to-day operations, employees must deal with a variety of individuals, companies, organizations, and government agencies. In those dealings, employees must never make any misrepresentations, dishonest statements, or statements intended to mislead or to misinform. If it appears that anything you have said has been misunderstood, you are to correct it promptly.

- c. ***Business Records:*** All of the Agency's business records must be accurate and truthful, with no material omissions; the assets and liabilities of the Agency must be accounted for properly in compliance with all tax and financial reporting requirements; and no false records are ever to be made. Similarly, all records that are submitted to government agencies, insurance carriers, or other entities will be accurately and honestly made.
- d. ***Purchasing Policy:*** All purchasing decisions must be made with the purpose of obtaining the highest quality service or item for the Agency or its individuals at the most reasonable price. Purchasing decisions will not take into account the possible referral of consumers or other business to, from, or for the benefit of, the Agency.
- e. ***Payments, Gifts, and Entertainment:*** No Employee will engage, either directly or indirectly, in any corrupt business practice, including bribery, kickbacks or payoffs, intended to influence or reward favorable decisions of any consumer, provider, government representative, contractor, vendor, or any other person in a position to benefit the Agency or Employee in any way. No Employee will make, offer to make, accept, or agree to accept any payment or any other item of value (whether tangible or intangible) with the understanding or intention that it is to be used for an unlawful or improper purpose.

### **Gifts of cash or cash equivalents of any amount to or from any referral source are strictly prohibited.**

In addition, Employee **may not** accept any gift, gratuities or other favors under circumstances from which it could be inferred that such acceptance was for their own benefit, and not solely for the benefit of the Agency. This policy does not prohibit the receipt of gifts of "nominal value." "Nominal value" means an individual gift (excluding cash or cash equivalents) of \$25 or less, or aggregate gifts of \$100 or less on an annual basis. Gifts of more than "nominal value" are strictly prohibited.

Any questions regarding whether or not an item or situation falls within the scope of this section must be raised immediately with the Compliance Officer, who, in conjunction with legal counsel (as necessary and appropriate), will assess the propriety of the particular situation.

## **Standards Relating to Referrals**

***Compliance with Federal and State Anti-Referral Laws:* The Agency does not pay other providers, or anyone else, either directly or indirectly, for referrals. The decision to refer to the Agency is a separate and independent clinical decision made by the referring health care provider.**

In general, federal and New York State law make it unlawful to pay any individual or entity based on the volume or value of the referral of individuals, items, services or other business which is paid for in any way (in whole or in part) by a federally funded health care program, including, but not limited to, Medicare and Medicaid. This includes the giving of any form of remuneration, including virtually anything of value, in return for or to induce such referrals.

There are many “fraud and abuse” laws with which we must be concerned. Two of the most well-known of these laws are the “anti-kickback” laws and the physician self-referral laws (commonly known as the “Stark” laws). A general overview of these laws appears below. All Employees are required to familiarize themselves with these rules. These laws are often quite complex – both with regard to when they apply and how they are interpreted. The purpose of the following overviews is not to make you a “lawyer,” but rather, to raise your awareness of potential issues.

**SHOULD YOU HAVE ANY QUESTION ABOUT WHETHER ANY CONDUCT AT THE AGENCY IS PROPER, YOU SHOULD IMMEDIATELY CONTACT THE AGENCY’S COMPLIANCE OFFICER (ANONYMOUSLY IF YOU WISH)**

The Compliance Officer will then contact legal counsel, as appropriate, and counsel will assist the Agency in determining whether the conduct is appropriate, whether it fits within an applicable exception or “safe harbor” to the relevant laws, and the nature of any corrective action that may need to be undertaken.



## **FALSE CLAIMS ACT**

**Purpose:** The purpose of this policy is to ensure that PLUS GROUP HOMES (“the Agency”) does not engage in conduct that violates the federal False Claims Act as well as state laws punishing the making of false claims and statements.

### **Applicable Law:**

The False Claim Act is a federal statute that deals with any federally funded contract or program, including Medicaid or Medicare, regarding fraudulent activities. Liability for any person or company who knowingly submits or causes to be submitted a false or fraudulent claim (any request or demand for money) to the U.S. government is documented in the False Claim Act. The potential penalties for violating the Federal Claims Act include treble damages (damages equal to three times the amount of the false claims), civil penalties up to \$22,000 per claim and exclusion from federal health care programs. In addition, the federal government may impose administrative sanctions of up to \$11,000 plus twice the amount of a false claim under the Federal Program Civil Remedies Act of 1986 (31 U.S. Code § 3801).

Several New York State laws also prohibit the making of false claims and statements. Criminal penalties may be imposed for knowingly making a false entry in a business record or filing a false instrument with a government Agency (Article 175 Penal Law), committing a fraudulent insurance act (Article 176 of the Penal Law) or engaging in health care fraud (Article 177 of the Penal Law).

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

### **Definitions:**

**Claim:** Any request or demand for payment submitted to another party if the federal government directly or indirectly covers the cost of any portion of the claim.

**Fraud:** Any type of intentional deception or misrepresentation made by a person with the knowledge that the deception or misrepresentation could result in some unauthorized benefit to himself/herself or another person.

**Knowing and knowingly:** A person, with respect to information (i) has actual knowledge of the information, (ii) acts in deliberate ignorance of truth or falsity of the information or (iii) acts in reckless disregard of the truth or falsity of information. No proof of a specific intent to defraud is required for a person to act knowingly.

### **Statement of Policy:**

#### **Types of Conduct Implicating the False Claim Act**

South Shore Child Guidance may be subject to liability under the False Claim Act for knowingly engaging in the following types of conduct:

1. Submitting claims to the Medicaid Program for services not actually rendered or for which the Agency is not otherwise entitled to reimbursement
2. Submitting cost reports to Medicaid that are inaccurate or incomplete
3. Assisting another health care provider in improperly billing Medicaid for health care services for which the Agency is obligated to pay
4. Failing to bill Medicare or private insurer as the primary payer prior to submitting a claim to Medicaid program

The above list is intended to be illustrative and not exhaustive. False Claim Act liability exists for any knowing submission of false claims or statements that result in payment by a federal health care program to which the Agency is not entitled.

All Employees and contractors are strictly prohibited from engaging in any conduct that violates the False Claims Act. Employees and contractors must take all steps specified in this policy to protect the Agency from False Claims Act liability.

#### Reporting of False Claims Act Violations by Employees:

Employee will be expected to report the preparation or submission to Medicaid or any other federal health care program of any claim or report that appears to be false or fraudulent, or any other conduct that appears to violate the False Claim Act. Employees may make such reports through any of the mechanisms described by the Agency Fraud and Abuse Reporting Policy. All reports received from employees will be evaluated and investigated as necessary pursuant to such policy. Employees are encouraged to contact their supervisor or the Compliance Officer if they have questions as to whether certain practices violate the Federal False Claims Act.

Employee have the legal right to file qui tam lawsuits if they become aware that the Agency has submitted claims for reimbursement to Medicaid or other government programs in violation of the False Claim Act. In a qui tam (whistleblower) lawsuit, the employee, referred to as a "relator," files the case under seal and requests that the federal government intervenes and takes over prosecution of the matter. If the case results in a recovery for the government, the relator may be awarded a portion of the funds recovered. The Agency will not seek to impede any employee from filing a qui tam lawsuit, through threats of retaliation or otherwise. However, all employees are encouraged to report and attempt to resolve suspected False Claims Act violations through the internal procedures established by the Agency prior to filing such a case. If any retaliation does occur, the employee has a right to obtain legal counsel to defend the actions taken.

#### Employee and Contractor Education:

The Agency provides compliance training to all employees consistent with the Agency's Employee Training Policy. This training includes a component addressing the False Claim Act as well as State laws punishing the making of false claims or statements. The Chief Human Resources Officer and Corporate Compliance Officer will ensure that the Agency's Employee Policies Handbook contains information about the False Claims Act and relevant state laws.

#### Internal Auditing:

The Compliance Officer will ensure that the periodic compliance audits conducted by or on behalf of the Agency under its Internal Auditing Policy cover the submission of accurate claims and cost reports to the Medicaid programs, as well as any other activities deemed by the Compliance Officer to raise potential risks under the False Claims Act. The Compliance Officer will oversee the development and implementation of a corrective action plan to address any compliance issues identified through such audits.

#### Disclosure of False Claims:

Under the False Claims Act, the Agency may avoid treble damages and civil penalties if it discloses to the relevant federal health care program any false or fraudulent claims, and makes appropriate restitution of any overpayments, within 60 days of discovery of the false claim. Accordingly, the Compliance Officer will promptly investigate all reports of potential False Claims Act violations to provide the Agency with an opportunity to make disclosure and restitution within this 60-day period.

#### **Enforcement**

Employees who do not comply with this policy will be subject to disciplinary action by PLUS GROUP HOMES. Depending on the facts and circumstances of each case [and in compliance with any applicable collective bargaining agreements], PLUS GROUP HOMES may reprimand, suspend or dismiss any employee who fails to comply with this policy.

## WHISTLEBLOWER POLICY

**Purpose:** Plus Group Homes is committed to high standards of ethical, moral and legal business conduct.

**General Whistleblower Protections:** The "general whistleblower protection - danger to public health or safety" above. A health care employee may not be discharged (or discriminated against) in retaliation for:

- a. Disclosing, or threatening to disclose, an employer's policy or practice that the employee believes constitutes improper quality of patient care. The disclosure made is made to either a supervisor or to a public body. Unlike the general whistleblower protection statute, a health care employee's belief that the policy or practice constitutes improper quality of patient care does not need to be accurate-it needs to only be (1) **reasonable** and (2) **in good faith**.
- b. Objecting to, or refusing to participate in, an activity, policy, or practice that the employee believes constitutes improper quality of patient care. Again, this belief need not be factually correct, but it must be (1) **reasonable** and (2) **in good faith**.

To receive this statutory protection, however, an employee must **first** inform a supervisor of the improper quality of patient care. The employer must then be given a reasonable opportunity to correct the activity, policy, or practice. An employee is not protected if the employee goes directly to a public body. However, an exception to this rule is made where the improper quality of patient care presents an imminent threat either to the public health/safety or to the patient, and the employee reasonably believes that reporting the violation to a supervisor would not correct the problem (N.Y. Lab. Law 741).

### **Statement of Policy:**

In line with the Agency's commitment to open communication, this policy aims to provide an avenue for employees to raise concerns and reassurance that the employees (all Directors, Officers, Employees and Volunteers) are protected from reprisals or victimization for whistleblowing. (1.3)

Employees or volunteers wishing to report a good faith allegation of misconduct by a Director, Officer, Employee or Volunteer should contact the Compliance Officer, Christine Hutton at (516) 409-9450 ext 112 or via email [chutton@plusgrouphomes.org](mailto:chutton@plusgrouphomes.org). All individuals who wish to remain anonymous should contact the Compliance Hotline at (516) 509-1389 or via email [complianceofficer@plusgrouphomes.org](mailto:complianceofficer@plusgrouphomes.org). Individual(s) filing a complaint of misconduct should be prepared to include as much detail as possible (either on phone or email):

- a. Description of the questionable activity and location
- b. The name(s) of the individual(s) involved
- c. Name(s) of possible witnesses, date, time
- d. Other available details

All complaints will be kept confidential to the extent possible, but confidentiality cannot be guaranteed.

The Agency will investigate all good faith allegation of Misconduct made by the Director, Officer, Employee or Volunteer against the Agency or against the Agency's Director, Officer, Employee or Volunteer. The Agency will not tolerate any act of intimidation, harassment, discrimination or other retaliation. Anyone who is found to have intimidated, harassed, discriminated or otherwise retaliated against someone who has reported an allegation of Misconduct in good faith shall be subject to disciplinary action by the Agency, up to including termination of employment and/or relationship with the Agency. The Agency generally will notify the complainant of the result of any investigation and what action, if any, was taken.

## **ANTI-KICKBACK POLICY**

**Purpose:** Is to ensure the Agency is in compliance with the Federal and State anti-kickback status

### **Applicable Law:**

The Federal anti-kickback statute prohibits any person from knowingly and willfully soliciting, receiving, offering or paying anything of value to another person in return for the referral of a patient, or in return for purchasing, leasing, ordering, or arranging for any item or service, reimbursed by federal health care program such as Medicare or Medicaid (42 U.S.C. 1320a-7b). Penalties for violating the statute include imprisonment, criminal fines, exclusion from government health care programs and civil monetary penalties. A similar New York law prohibits the exchange of remuneration for referrals for items or services covered by the state's Medicaid Program. (N.Y. Social Services Law 366-d)

### **Statement of Policy:**

#### *Prohibition on Exchange of Remuneration for Client Referrals*

Employees are prohibited from offering or paying anything of value, whether in cash or in kind, to another party in return for the referral of a client to the Agency. Likewise, employees are prohibited from soliciting or receiving anything of value, whether in cash or in kind, from another party in return for the referral of a person served by the Agency to another health care provider.

To ensure that no payment, in cash or in kind, to or from another party is construed as an illegal kickback, except as permitted by this policy, employees are prohibited from:

- i. Offering or paying anything of value to a party that is a referral source for the Agency or
- ii. Soliciting or receiving anything of value from a party that receives referral from the Agency

This prohibition applies even if the remuneration is not expressly conditioned on or otherwise linked to client referrals.

Examples of conduct that violates this policy includes, but not limited to, the following:

- (1) An employee accepts free meals or tickets to a cultural event from a hospital to which the Agency refers persons served for medical care.
- (2) The Agency leases space to a medical clinic that receives client referrals from the Agency at a rent greater than fair market value.
- (3) The Agency receives free equipment or services from a client laboratory from which the Agency orders laboratory tests.

Employees shall refer clients for medical care to other providers based on the medical needs of the client and in accordance with the Agency's clinical practice policies.

#### *Acceptance of Gifts from Vendors*

The acceptance of gifts from current or prospective vendors of the Agency may constitute an improper kickback under state and federal law. Accordingly, employee may not solicit or receive any such gifts except as permitted by the Agency's Contractor Selection Policy.

*Structuring Business Agreements to Comply with Safe Harbors*

Certain common business agreements between parties exchanging referrals may be structured to fit within “safe harbors” to anti-kickback statute. Complying with a safe harbor ensures that no portion of the compensation flowing under the arrangement may be characterized as an improper inducement for referrals. Although compliance with a safe harbor is not legally required, the Agency seeks to fit business arrangements with client referral resources

## **STARK PHYSICIAN SELF-REFERRAL POLICY**

**Purpose:** The purpose of this policy is to ensure that referrals to PLUS GROUP HOMES (“the Agency”) is in compliance with the Federal and State

### **Applicable Law:**

***i. Federal Law:*** Federal law contains significant prohibitions against certain physician referrals. These prohibitions are embodied in a law commonly known as the “Stark Law.” The Stark Law generally prohibits a physician from making referrals to an entity for the furnishing of certain “designated health services” reimbursable by Medicare or Medicaid, if the physician (or an immediate family member of the physician) has a financial relationship (including an ownership or investment interest, or a compensation relationship) with that entity.

If the referral is prohibited, so too is the submission of a claim for payment by the entity that receives the prohibited referral; the “designated health services” presently covered by the Stark Law include:

- (a) Clinical laboratory services
- (b) Physical therapy services
- (c) Occupational therapy services
- (d) Radiology services, including magnetic resonance imaging, computerized axial tomography scans and ultrasound services
- (e) Radiation therapy services and supplies
- (f) Durable medical equipment and supplies
- (g) Parenteral and enteral nutrients, equipment and supplies
- (h) Prosthetics, orthotics and prosthetic devices and supplies
- (i) Home health service
- (j) Outpatient prescription drugs
- (k) Inpatient and outpatient hospital services.

In addition to the conduct directly prohibited by the law, the statute also prohibits “circumvention schemes,” i.e., those arrangements that are designed to obtain referrals indirectly that cannot be made directly. The penalties for violating the Stark Law include:

- i. The denial or the required refund of any payments for services that resulted from an unlawful referral;
- ii. Civil monetary penalties; and
- iii. Exclusion from the Medicare and Medicaid programs as well as other government health care programs.

The Stark Law contains several statutory exceptions. In addition, there are also several regulatory exceptions to the Stark Law. These exceptions include, but are not limited to, exceptions for certain physicians’ services, certain in-office ancillary services, certain office space or equipment rental arrangements, certain personal services or employment arrangements, and certain fair market value compensation arrangements.

Like the Anti-Kickback exceptions/Safe Harbors, the “Stark” exceptions are often very complex. If the Stark Law is implicated, all relevant exceptions must be squarely met, or the law will have been violated (i.e., unlike with the Anti-Kickback laws, the intent of the parties is irrelevant).

***ii. New York State's "Stark" Law:*** In New York, a practitioner may not make a referral to a health care provider for clinical laboratory services, pharmacy services, radiation therapy services, x-ray or imaging services or physical therapy services if the practitioner or a member of his/her immediate family has a financial relationship (including an ownership interest, an investment interest or a compensation arrangement) with that provider, unless a statutory or regulatory exception is met (and again, there are a number of varied exceptions that exist).

Unlike its federal counterpart, the New York law covers all payers (i.e., it is not limited to Medicare and Medicaid). If the referral is prohibited, so too is any demand for payment. The New York State law also covers any cross-referral scheme designed to make referrals indirectly that could not be made directly. A provider or practitioner that collects any amount under a prohibited referral is jointly and severally liable to the payer. In addition, such practitioner would likely be subject to disciplinary action (including license revocation) by the appropriate State licensing authority. As with the federal law, if the State law is implicated, all applicable exceptions must be met, or the law will have been violated (i.e., unlike with the Anti-Kickback laws, the intent of the parties is irrelevant).

**BECAUSE OF THE IMPORTANCE OF THESE LAWS AND THEIR COMPLEXITY (INCLUDING THE VARIED EXCEPTIONS/SAFE HARBORS AND THEIR DETAILED REQUIREMENTS (NOT ALL OF WHICH ARE DISCUSSED HEREIN)), WE AGAIN ENCOURAGE EVERYONE TO BRING ANY QUESTION OR CONCERN REGARDING ANY OF THE AGENCY'S RELATIONSHIPS TO THE ATTENTION OF THE COMPLIANCE OFFICER; YOU MAY DO SO ANONYMOUSLY IF YOU WISH**

- i. ***Review of all Contracts and New Arrangements:*** All contracts, leases, and other financial relationships with providers with whom the Agency has a referral relationship will be reviewed to ensure compliance with the federal and New York State Anti-Kickback and Stark laws.

In addition, whenever the Agency hires a new provider or otherwise expands its existing practices in a manner that may implicate these laws, the relevant agreements and the terms of the proposed arrangement or transaction will be reviewed to ensure compliance therewith.

- ii. ***Relationships with Other Health Care Providers:*** All contracts, leases, and other financial relationships with other health care providers who have a referral relationship with the Agency will comply with all applicable laws, rules and regulations. To this end, all such relationships must be based on the fair market value of the services or items being provided or exchanged, and must *not* be based, directly or indirectly, on the volume or value of referrals of Medicare, Medicaid or other federal health care program business between the parties. All other applicable requirements will be followed as well.

The Agency and its providers will NOT knowingly engage in any conduct that violates the anti-referral laws or that tends to create an appearance of illegality or impropriety, including but not limited to:

- a) ***Free Services:*** Providing free services or items to, or accepting such services or items from, another provider with whom there is a referral relationship;
- b) ***Above Fair Market Value.*** Paying or charging amounts *above* fair market value to another provider with whom there is a referral relationship with regard to the provision of equipment, space or Employee/management services; and
- c) ***Below Fair Market Value.*** Paying or charging amounts *below* fair market value to another provider with whom there is a referral relationship with regard to the provision of equipment, space or Employee/management services.

- iii. **Marketing Activities:** All marketing activities and advertising by Agency Employee must be based on the merits of the services we provide and must *not* involve any promise, express or implied, of remuneration for referrals.

In addition, all marketing activities and advertising must be truthful and not misleading and must be supported by evidence to substantiate any claims made. In this regard, the Agency's best advertisements are the quality of the services we provide. Employee should not disparage the service or business of a competitor through the use of false or misleading representations. The Agency's marketing must also comply with HIPAA. Therefore, all marketing activities will be reviewed by the Agency's Privacy Officer to ensure that such activities are performed in accordance with the Agency's HIPAA Marketing Policy, as set forth in the Agency's HIPAA Manual.

## 2. Standards Relating to Confidentiality

- i. **Confidential Consumer Information:** The Agency and all Employees are bound by and must observe all applicable federal and state laws, rules and regulations governing the confidentiality of consumer records and information. Employee will keep consumer information in the strictest confidence. Such information will not be disclosed to anyone unless such disclosure is done in a manner that is permitted by applicable law. Consumer confidentiality is discussed in greater detail in the Agency's HIPAA Manual, which shall be made available to and be reviewed by each member of the Agency's Workforce (as such term is defined by HIPAA). Further, access to the Agency's HIPAA Manual will be provided to Employee by the Agency's Privacy and Security Officers, upon request.
- ii. **Confidential Business Information:** Confidential information acquired by Agency Employee about the business of the Agency must also be held in confidence and may not be used as a basis for personal gain by Employee, their families, or others. Such information includes but is not limited to: consumer lists/information, development plans, marketing strategy, financial data, proprietary research, and information about pending or contemplated business deals.

The governing principle is that if you receive any confidential information pertaining to the Agency, you must not use such for your own benefit or for your family's benefit, nor may you disclose it to others for their personal use.

## 3. Government Inquiries

- i. **Speaking with Government Agents:** Employee may speak voluntarily with government agents, and the Agency will not attempt to obstruct any government inquiry or prevent Employee from speaking with government agents, should Employee desire to do so; it is recommended, however, that before speaking with government agents, you contact the Compliance Officer.
- ii. **Responding to Subpoenas and Requests for Documents:** Employees may NOT respond to a request to disclose documents that are the property of the Agency without first speaking with the Compliance Officer; this will be communicated to the President/CEO and/or designee(s); as a general matter, anyone who receives a government request for information, a subpoena, or any other inquiry or legal document regarding the Agency's business should notify the Compliance Officer BEFORE attempting to make a reply. The



Compliance Officer will then notify legal counsel, as necessary and appropriate.

- iii. **Accurate Responses:** If a response is given to a request for information from a government Agency, the response must be accurate. It is the Agency's policy to comply with the law and to cooperate with reasonable demands made during the course of a legitimate government investigation or inquiry.
- iv. **No Destruction of Records or Evidence:** Employee may not destroy, alter or change any Agency records in any way in response to a request for such records. Such action will subject the individuals and/or entities involved to immediate discharge, termination of any/all contractual relationship(s) and possible criminal prosecution.

#### 4. Scope and Application of Standards to Employee and Others

- i. **Employee Covered:** The Agency's Compliance Program, including the standards set forth in this Code of Conduct and the Compliance Procedures set forth in the next section of this Manual, applies to all Employees, Vendors, Contractors and Board of Directors.
- ii. **Additional Compliance Policies and Procedures:** In addition to the Code of Conduct and Compliance Procedures set forth in this Manual, from time to time, the Agency may also promulgate additional compliance policies and procedures. These additional policies and procedures will be designed to complement the standards and procedures set forth in this Manual.
- iii. **Responsibility of All Employees:** All Employees are expected to be familiar and comply with all federal and state laws, rules, and regulations that govern their function(s) for the Agency. All Employees are also expected to comply with the standards set forth in this Code of Conduct and with any additional compliance policies and procedures developed by the Agency. Strict compliance with these legal and compliance standards is a condition of continued association with the Agency, and any violation thereof will result in discipline being imposed, up to and including discharge and/or the termination of any/all contractual relationship(s) (consistent with any contractual or other legal rights and obligations of the Agency).
- iv. **Raise Compliance Issues:** If you believe that this Code of Conduct or any applicable legal standards were or may have been violated – or if you simply have a question about a compliance issue – you should raise your concern with the Agency's Compliance Officer.
- v. **Review of These Compliance Policies and Procedures:** All Employee will be expected to read, and understand this Compliance Manual, and to review it periodically. Further, Employee will be expected to bring any questions concerning said policies and procedures to his/her Manager, the Corporate Compliance Officer, and/or the designee.
- vi. **Contractors and Other Providers:** All persons and entities with which the Agency contracts will be expected to cooperate with the Agency's Compliance Program. This includes individual physicians, therapists, contractors, and other health care providers. These other parties will also be encouraged to adopt their own Compliance Programs, where appropriate.

## **FRAUD, WASTE AND ABUSE REPORTING POLICY**

**Purpose:** The purpose of this policy is to promote PLUS GROUP HOMES (the “Agency”) compliance with applicable laws and government standards by requiring all Employees to report suspected fraud or abuse and ensuring that all reports are handled appropriately and Employee filing such reports in good faith is not subject to retaliation and intimidation.

### **Applicability of Policy**

This policy is applicable to all Plus Group Homes Employees.

### **Statement of Policy**

#### **Reporting Responsibilities**

It is the responsibility of all Employees to report observed or suspected fraud, abuse or other improper activity relating to the operating of the Agency. For purpose of the policy, **FRAUD** means any type of intentional deception or misinterpretation made by a person with the knowledge that the deception could result in some unauthorized benefit to himself or herself, or to the Agency or to another person. **WASTE** means to use health care benefits or spend health care dollars without real need. **ABUSE** means practices that are inconsistent with sound fiscal, business or medical practices and result in an unnecessary cost to the state or federal government or the Agency, or in reimbursement of services that are not medically necessary or fail to meet professional recognized standards for health care.

Fraud or Abuse may be committed by the Agency Employee, contractors, persons served or others.

Examples of types of activity that must be reported by employees include, but are not limited to, the following:

1. Billing Medicaid or other third-party payers for persons served to whom the Agency has not rendered services
2. Inflating or otherwise misrepresenting the Agency’s costs on cost reports filed with government agencies or private funders
3. Intentionally denying or restricting access to medical necessary health care services for which the Agency is responsible
4. Participating in an arrangement under which other health care providers bill Medicaid on a fee-for-service or other basis for health care services for which the Agency has been reimbursed through its per diem rate
5. Billing Medicaid for services rendered to a person served if Employee is aware that the persons served or his or her family has obtained Medicaid coverage fraudulently
6. Submitting of inaccurate or misleading data or reports to government agencies
7. Theft or misuse of the Agency’s funds or property by employees or contractors
8. Violations of the Agency’s compliance policies or other guidance
9. Violations of laws, regulations or government contracts

#### **Reporting Mechanisms**

Employees have several options for reporting fraudulent, abusive or other improper conduct. Employee may file reports with their Supervisor or Directors (Assistant, Director, or VP), the Compliance Officer or any other member of the Compliance Committee with whom Employee feels comfortable.

The Agency has also established a telephone hotline that Employee may call to file reports anonymously. The hotline may be accessed by calling **(516) 509-1389**. The Compliance Officer will be responsible for overseeing the operation of the hotline, responding to complaints filed through the hotline and ensuring that all Employees are aware of the hotline number and understand that reports may be filed through the

hotline on an anonymous basis. The Compliance Officer will also publicize the availability of the hotline through regular reminders, posters, and organized compliance awareness events.

As set forth in the Agency's False Claim Act Policy on page 17, Employee have the legal right to file qui tam lawsuits under seal if they become aware that the Agency has submitted claims for reimbursement to Medicaid or other government programs in violation of the False Claim Act. Employee may not be retaliated against for filing such a lawsuit. Employee will be advised to this right through the Agency's Compliance Training Program and Employee Policies Handbook (under the Whistleblower Policy) but will be encouraged to report and attempt to resolve compliance concerns through the internal procedures described in this policy.

### Investigations

All reports of fraudulent, abusive or other improper conduct, if not made to the Compliance Officer or through the hotline, will be promptly forwarded to the Compliance Officer for review. The Compliance Officer, in consultation with other Agency staff and counsel as appropriate, will determine whether the report warrants an investigation. The Compliance Officer will use best efforts to make this determination within ten (10) days of the receipt of the report.

If the Compliance Officer determines an investigation is warranted, he or she will promptly coordinate an investigation. The Compliance Officer may obtain the assistance of other Agency's staff and outside legal and financial advisors as necessary to carry out a proper investigation. All employees are required to cooperate in such investigations. The Compliance Officer will monitor the activities of any outside advisors performing investigative services for the Agency. The Agency will make reasonable efforts to protect the identity of any individuals filing non-anonymous reports except when disclosure of the individual's identity is necessary to conduct an effect investigation.

The Compliance Officer will provide the Executive Director with regular reports of all pending investigations. The Compliance Officer, in consultation with the Executive Director, Assistant to the Executive Director, Residential Director and Day Habilitation Manager will have the authority to order the temporary suspension of any Agency activity that is the subject of a pending investigation.

Upon completion of an investigation, the Compliance Officer will prepare a written report of the investigation's findings, which will indicate whether fraudulent, abusive, or other improper conduct was committed. If such conduct is found, the Compliance Officer will recommend to the Executive Director, Assistant to the Executive Director, Residential Director, Day Habilitation Manager and/or Human Resources, any corrective or disciplinary action deemed appropriate.

The Compliance Officer will maintain a log of all compliance-related reports, including reports filed through the hotline and other means. The log will specify the nature of the report, the date of the report, the reporting method (hotline, etc.), the name of the person filing the report (if the report was not filed anonymously), whether an investigation was conducted and if so the outcome of the investigation and the corrective or disciplinary action, if any, taken by the Agency. The log, investigation reports and other related documents (such as witness lists and interview notes) will be maintained by the Compliance Officer for six (6) years. These documents will be kept confidential and will be shared with Employee or advisors only as necessary to comply with this policy or to otherwise carry out the Agency's operations.

### Notification of Government Authorities

The Compliance Officer, in consultation with Counsel and the Executive Director, will determine whether and in what manner it is appropriate to report any detected fraud, abuse, improper activity to federal, state or local government agencies. Such reporting may involve, depending on the circumstances, refunding overpayments to Medicaid or other government payers, making a self-disclosure in accordance with formal or informal protocols established by the appropriate government agencies or alerting law enforcement authorities.

### Non-Retaliation and Non-Intimidation (8.1)

No individuals who file a report under this policy in good faith may be subject to intimidation and retaliation in any form. Retaliation is also prohibited against Employee for refusing to carry out any activity that is the subject of a report made under the policy in good faith. No Employee may threaten to retaliate against other Employee for filing a report.

Prohibited retaliation includes, but is not limited to, terminating, suspending, demoting, failing to consider to promotion, harassing, or reducing the compensation of Employee due to the his/her intended or actual filing of a report under this policy. Retaliation is prohibited even if it is determined that the allegedly improper conduct was proper or did not occur, provided that the report was made in good faith. The Agency reserves the right to take disciplinary action against any employee who maliciously files a report he or she knows to be untrue.

Any actual or threatened retaliation should be reported by the affected employee or any other employee to the Compliance Officer. The Compliance Officer will investigate such allegations in the same manner as other investigations carried out under this policy.

### **Enforcement of Policy**

Employees who do not comply with this policy will be subject to disciplinary action by the Agency. Depending on the facts and circumstances of each case [and in compliance with any applicable collective bargaining agreements], the Agency may reprimand, suspend or dismiss any Employee who fails to comply with this policy.

## **PERSONNEL DISCIPLINE POLICY**

**Purpose:** The purpose of this policy is to promote compliance with applicable legal requirements by ensuring that personnel are appropriately disciplined if they engage in fraudulent behavior, fail to comply with applicable law or do not adhere to Plus Group Homes' policies governing the prevention, detection and reporting of Fraud and Abuse. (5.4)

### **Applicability of Policy**

This policy is applicable to all Plus Group Homes' personnel.

### **Statement of Policy**

#### *Conduct Subject to this Policy*

Personnel will be subject to disciplinary under this policy in the event of any violation of (i) applicable law, (ii) government standards relating to Plus Group Homes' operations, (iii) Plus Group Homes' Code of Conduct and (iv) Plus Group Homes' policies governing the prevention, detection or reporting of fraud and abuse. Plus Group Homes' fraud and abuse policies include, but not limited to, the following:

1. Candidate Screening Policy
2. Personnel Training Policy
3. Contraction Selection Policy
4. Anti-Kick Policy
5. False Claim Act Policy
6. Return of Overpayment Policy
7. Employee Conflict of Interest Policy
8. Internal Audit Policy
9. Fraud Reporting Policy
10. Government Investigation Policy

Nothing in this policy will restrict Plus Group Homes from disciplining personnel for offenses not referenced above under other Plus Group Homes policies.

#### *Administration of Disciplinary Measures*

The Compliance Officer will promptly notify the Human Resources of any improper conduct by an employee that may warrant discipline under this policy. The Human Resources will be responsible for determining the appropriate sanction, if any, in accordance with Plus Group Homes' standard employment policies, taking into account the special considerations set forth in this policy. The Human Resource will consult with the Compliance Officer and outside counsel as necessary throughout the disciplinary process.

#### *Types of Discipline*

Any conduct punishable under this policy will be subject to the following disciplinary actions, which are based on the nature of the violation:

1. Unintentional Violations: Unintentional violations of Plus Group Homes policies or legal requirements may occur if an employee is unaware of the relevant standards of conduct or inadvertently fails to adhere to such standards. Although unintentional violations do not generally constitute fraud or abuse, depending on the circumstances, they may be grounds for discipline. The key factors to be considered in determining the appropriate type of discipline, if any, for such violations include:
  - i. the degree of the employee's carelessness;
  - ii. the extent to which the conduct involved an isolated incident or an ongoing pattern of activity;
  - iii. a history of any prior violations by the employee;
  - iv. the effect of the conduct on Plus Group Homes clients;

- v. whether the conduct results in improper billing by Plus Group Homes to government agencies; and
- vi. The extent to which the conduct exposed Plus Group Homes to regulatory sanctions, other liabilities or adverse publicity.

Disciplinary action will typically involve counseling, an oral warning, a written warning or modification of duties, but in certain circumstances (especially in the case of repeat offenses) may also include suspension or termination.

2. Intentional Misconduct that Does Not Constitute a Crime: An employee engages in intentional misconduct if the employee knows his or her conduct violates Plus Group Homes' policies or legal requirements or acts with reckless disregard of applicable standard of conduct. "Reckless disregard" may occur, for example, if an employee knows there is a relevant standard of conduct and fails to seek appropriate guidance as to nature of that standard. If the employee's intentional misconduct is a first offense and does not constitute a crime, depending on the circumstances, disciplinary action may involve counseling, an oral or written warning, modification of duties, suspension or termination. Second offense will be punishable by termination.
3. Criminal Activity: Any employee who engages in criminal activity during his or her employment with Plus Group Homes will be subject to termination. A finding of criminal activity may be based on a conviction, a plea bargain or determination by the Counsel that a crime has been committed. Being charged with a crime is not automatic grounds for termination absent a conviction or plea bargain. The Human Resource in consultation with the Executive Director will determine, on a case-by-case basis, whether an employee should be suspended or terminated while criminal proceedings are pending. The Compliance Officer will determine, in consultation with Counsel, whether it is appropriate to refer the matter to law enforcement authorities for prosecution.

Disciplinary measures will be imposed within [30 days] of the receipt of all relevant information. Except in cases of termination, employees subject to discipline will also be required to undergo specialized retraining relevant to the violation.

#### *Employee Evaluations*

The Human Resource will include in all standard employee evaluation forms one or more questions relating to ethics and compliance with applicable Plus Group Homes policies and legal requirements. Plus Group Homes Supervisors and Managerial Staff will provide accurate and complete information in response to such question(s) when preparing employee evaluations.

#### *Record Retention*

All records regarding the imposing of disciplinary measures under this policy will be retained by the Human Resources for a period of six years.

#### *Note on Legal Framework:*

*The OIG model compliance guidance states that policies and procedures for disciplining employees who engage in misconduct is a core element of a bona fide compliance program. N.Y. Social Services Law 363-d requires organizations subject to this statute to incorporate employee disciplinary policies into their compliance programs. The precise conduct that must trigger employee discipline and the nature of the disciplinary measures are not specified in the OIG Guidance or the Social Service Law.*

# **PLUS GROUP HOMES**

# **COMPLIANCE MANUAL POLICIES**

## **CANDIDATE SCREENING POLICY**

**Purpose:** The purpose of this policy is to establish safeguards to prevent the employment of individuals who have engaged in fraud or other dishonest conduct

**Applicability of Policy:** This policy is applicable to ALL Plus Group Homes (“the Agency”) Employee including candidates for employment or volunteer work.

### **Statement of Policy**

#### *Responsibility for Screening*

All candidates for employment with the Agency will be subject to pre-employment screening, including all applicable New York State mandated screenings. The screening process will commence when an applicant has been identified by the appropriate Department Director or designee as a final candidate whose employment is conditioned only upon the successful completion of pre-employment screening. At such time, the Department Director or designee will:

- a. Carry out the screening activities for which he or she is directly responsible under this policy

The Human Resources is not restricted from imposing additional screening requirements (not consistent with this policy) on candidates for employment within their department.

#### *Basic Screening*

All qualified candidates for employment will be subject to basic screening to determine whether they are reliable and trustworthy, and qualified for employment. Basic screening will be carried out by Human Resource. Basic screening will consist of at least the following:

- a. Verification of previous employment
- b. Reference Checks
- c. Verification of Education and/or Licensure if certain educational and/or licensing qualifications are stated criteria of employment; and
- d. Verification of identity through social security number

#### *LEIE and EPLS Screening*

All employment application forms will require applicants for employment to indicate whether they have been excluded from participation in the Medicare or Medicaid program or otherwise debarred by a federal health care program. Applicants will certify on such forms that the information they have provided regarding such exclusions is accurate and complete.

The Human Resources Department will screen all final candidates for employment against the U.S. Department of Health and Human Services Office of Inspector General List of Excluded Individuals/Entities (“LEIE”) and the U.S. General Services Administration Excluded Parties List System (“EPLS”). The Agency can deny employment offer to any individual who is included in the LEIE or EPLS at the time of the conditional offer.

The Human Resources will screen all pre-existing Employee against the LEIE and EPLS on an annual basis. Any Employee who is included on the LEIE or EPLS will be subject to immediate termination.



Upon receipt of notification from the U.S. Department of Health and Human Services Office of Inspector General (the “OIG”) that Employee has been excluded from a federal health care program, the Agency will promptly terminate their employment. If any Employee obtain information indicating that other Employee are subject to such exclusion, the person who obtained such information will promptly notify the Compliance Officer, who will be responsible for investigating the matter.

### **Enforcement of Policy**

Employees who do not comply with this policy will be subject to disciplinary action by the Agency. Depending on the facts and circumstances of each case [and in compliance with any applicable collective bargaining agreements], the Agency may reprimand, suspend or dismiss any Employee who fails to comply with this policy

Note on Legal Framework:

*Federal Status and regulations impose civil monetary penalties on health care providers for submitting claims for reimbursement to a Federal Health Care Program for services the provider knows, or should have known, were furnished by or at the direction of an excluded person. (Reference: Social Security Act 1128A(a)(6); 42 C.F.R 1003.102.)The OIG has stated that providers have an affirmative duty to check the list of excluded persons to avoid liability.*

*OIG Special Advisory Bulletin, “The Effect of Exclusion from Participation in Federal Health Care Programs,” September 1999. The list can be accessed at [www.hhs.gov/oig](http://www.hhs.gov/oig)*

*The OIG has not mandated a specific schedule for checking the exclusion list. The law prohibits the retention of excluded persons not only to directly provide health care services but also to render administrative or management services related to the provision of care reimbursed by a federal health care program. Theoretically, an organization could contract with an excluded person to provide services not falling into either of the above categories. However, in practice, it is often difficult to determine with certainty that a contractor does not provide any health, administrative or management services that could conceivably be linked to federal health care program claims. To avoid potential errors in making such determinations and to preclude the retention of individuals who have engaged in improper conduct, the model policy prohibits an excluded person from holding any contract with FOUNDATION. FOUNDATION does have legal flexibility, though, to contact with excluded persons to perform functions that do not fall within any of the above categories.*

## **EMPLOYEE TRAINING POLICY**

**Purpose:** Is to promote compliance with Plus Group Homes regarding applicable laws and regulations by ensuring **ALL** Employee receive appropriate training regarding the prevention, detection and reporting of fraud and abuse.

This policy is applicable to **ALL** Plus Group Homes Employee

### **Statement of Policy**

#### Compliance Training: (3.2)

All new Employees must receive compliance training within 30 days of the Initial Date of Employment. Training will be scheduled by the Human Resource as part of his or her responsibility to oversee general orientation for new Employee. Compliance training will be offered with the Agency's orientation.

The curriculum for compliance training will be developed and updated as necessary by the Compliance Officer in consultation with outside counsel, if necessary, and others deemed appropriate by the Compliance Officer. The curriculum will be designed to provide Employee with an overview of key compliance issues faced by the Agency. The topics covered by basic compliance training will include, but not limited to, (a) improper or fraudulent billing for health care services, (b) the preparation of inaccurate or incomplete cost reports, (c) the payment or receipt of kickbacks in return for client referrals and (d) misuse of the Agency's funds. Compliance Training will provide guidance on the federal False Claims Act ("the FCA"), including the type of conduct prohibited by the FCA, the penalties for FCA violations, the FCA's *qui tam* provisions and prohibition on retaliation against employees.

As part of basic compliance training, all Employees will receive a copy of the Agency's Code of Conduct and Compliance Program in the Employee Handbook. The Compliance Officer and/or designee will provide an in-person training during orientation time and annually. Compliance Officer and Department of Human Resources will keep records for no less than six (6) years of all compliance training programs, including course descriptions, frequency of training and hours of each training sessions.

All Employees will be required to sign a written form acknowledging the receipt of compliance training and the Code of Conduct (please see Appendix). Such forms will be retained in Employee files for no less than six (6) years.

#### Compliance Officer and Risk Assessment Coordinator: (3.1)

The Agency will ensure that the Compliance Officer has sufficient opportunities to receive training on compliance issues through attendance at outside conferences, subscription to trade periodicals and other means.

#### Annual Refresher Training: (3.2)

The Compliance Officer will prepare an annual refresher Compliance Training Program which will reinforce key principles covered by compliance training and summarizes any changes in the Agency's Code of Conduct or Compliance Program during the prior year. All Employees will be required to participate in annual refresher training by participating in the Compliance Games during Compliance and Ethics Week which is held in the first week of November.

All Employees will be required to submit back the Compliance Games to the Compliance Officer or designee as an acknowledgment of receipt of the annual refresher compliance training. These games will be revised annually. Such games will be retained by the Compliance Department for no less than six (6) years.

Updates:

The Compliance Officer will be responsible on a regular basis for distributing to relevant employees' updates addressing new fraud and abuse or other compliance issues of which the Compliance Officer become aware. These updates will cover, among other things, changes in government contracts, new interpretations of existing laws or rules, revisions to the Agency's polices or procedures, and industry trends or developments. Department Directors will communicate with the Compliance Officer of any significant matters they deem appropriate for inclusion in such updates.

**Enforcement of Policy**

Employees who do not comply with this policy will be subject to disciplinary action by the Agency. Depending on the facts and circumstances of each case [and in compliance with any applicable collective bargaining agreements], the Agency may reprimand, suspend or dismiss any Employee who fails to comply with this policy

Note on Legal Framework:

*The OIG model compliance guidance states that employee training is a core element of a bona fide compliance program. N.Y. Social Services Law 363-d requires organizations subject to this statute to incorporate employee training into their compliance programs. Section 6033 of the Deficit Retention Act of 2005 (the "DRA") requires organizations billing Medicaid more than \$5 million per year to provide training to their employees on the False Claim Act (FCA), including the statutes' qui tam and non-retaliation provisions as well as the organization policies for detecting and preventing fraud, waste and abuse. The DRA also requires training on state laws punishing the making of false claims or statements. New York does not currently have a false claims statute comparable to the FCA but if it adopts on in the future the organization's training policy and materials should be revised accordingly. The timing of the training is not mandated by any of the above laws. It is common industry practice, however, to provide training within a reasonable time period following the commencement of an individual's employment and thereafter on at least an annual basis.*

## **CONTRACTOR SELECTION POLICY**

**Purpose:** Is to facilitate the compliance of Plus Group Homes (“the Agency”) with applicable law and protect the Agency from liability by ensuring that the Agency does business only with reputable, law-abiding contractors and subcontractors.

### **Statement of Policy**

This policy is applicable to all the Agency employee and contractors.

### **Contractor Reference Checks:**

Plus Group Homes is prohibited from entering into a contract unless the contractor has been subject to screening in accordance with this policy.

Upon completion of all contract negotiations and prior to execution of the contract, the Senior Management responsible for negotiating the contract will use best efforts to conduct a reference check to determine whether the contractor is reputable and trustworthy. The reference check will consist of contracting at least three (3) other companies with which the contractor has done business. In addition to inquiring about the general performance of the contractor, the employee will seek to confirm that the contractor has not engaged in any fraudulent, abusive or improper conduct in connection with other contracts. Any evidence of such conduct will preclude the Agency from entering into a contract with the contractor absent the express approval of the Compliance Officer. A reference check may be waived for a start-up company without sufficient prior experience or in other unusual circumstances.

### **LEIE and EPLS Screening**

Upon completion of the reference check, the employee responsible for negotiating the contract will forward the contractor’s name, address, social security or tax identification number and other appropriate information to the Human Resources Department. If the contractor is an entity rather than an individual, the employee will provide the same information for any individuals or entities that own an interest of 10% or more in the contractor. The Human Resources Department and Compliance Officer will promptly screen all potential contractors (and any individuals who own 10% or more of a corporate contractor) against the U.S. Department of Health and Human Services Office of Inspector General List of Excluded Individuals/Entities (“LEIE”) and the U.S. General Services Administration Excluded Parties List System (“EPLS”). The Agency is prohibited from contracting with any individual or entity that is included on the LEIE or EPLS at the time the contract is being proposed.

The Chief Human Resource Officer or designee will screen all pre-existing contractor against the LEIE and EPLS on a monthly basis. If the screening reveals that a contractor is included on the LEIE or EPLS, the Agency will immediately terminate the contractor’s contract. This is reported to the Compliance Officer on monthly bases.

Upon receipt of notification from the U.S. Department of Health and Human Services Office of Inspector General (the “OIG”) that a contractor has been excluded from a federal health care program, the Agency will promptly terminate the contractor’s contract. If any employee obtains information indicating that contractor is subject to such exclusion, the employee will promptly notify the Compliance Officer, who will be responsible for investigating the matter.

### Conflict of Interest

The Agency is prohibited from entering into a contract with any entity in violation of the Agency's Board of Directors Conflict of Interest Policy or Employee Conflict of Interest Policy. If any personnel become aware that the Agency has entered into or is contemplating a contract with an entity in violation of such policies, s/he will immediately notify the Compliance Officer.

### Gifts and Gratuities

Employees are prohibited from accepting gifts or gratuities of any kind from vendors or prospective vendors of the Agency. Gifts include the provision of any item or services at less than fair market value. The only exception to this prohibition is that employees are permitted to accept unsolicited gifts of \$25 or less (ie, candy during the holiday season) from existing vendors of the Agency. Employees must contact the Compliance Officer if they have any questions about whether a gift from a vendor violates this policy. Employees may not permit vendors or potential vendors to pay for business-related meals, entertainment or travel having a value of more than \$100 per year without the prior approval of the Executive Director.

### Prohibition on Kickbacks

Employee are prohibited from soliciting or receiving anything of value from a vendor in violation of the Agency's Anti-Kickback Policy, even if such item is for the benefit of the Agency. This prohibition does not cover discounts offered by vendors on their products or services.

### Required Contract Provisions

Every contract entered by the Agency must contain certain standard provisions designed to ensure that the Agency does not do business with contractors that have engaged in fraud, abuse or other improper activity. These standard provisions include the following:

1. The contractor is not included on the LEIE or EPLS, and has not been convicted of a crime relating to the provision of or billing for health care services
2. The contractor will promptly notify the Agency if any of the above representative cease to be true during the term of the contract
3. The contractor will adhere to the applicable provisions of the Agency's compliance program, which will be made available to the contractor
4. The contractor will promptly report to the Agency any fraud, abuse or other improper activity of which it becomes aware that relates to the operation of the Agency or the services provided to the Agency by the contractor
5. The contractor will promptly notify the Agency of any government audit, inquiry or investigation of which it becomes aware that relates to the Agency or the services provided by the Agency by the contractor
6. The contractor will make their employees available for interviews or other proceedings at the request of the government investigative agencies upon request
7. The Agency may terminate the contract in the event the contractor become an excluded person or engages in fraud or other illegal activity

The above list may be expanded by the Compliance Officer or outside Counsel. None of the above provisions may be excluded from a contract or modified without the prior approval of the outside Counsel.

### Legal Review

All contracts will be subject to review by the outside Counsel or his or her designee, who will be responsible for ensuring that all the provisions required by this policy have been included and that the contract otherwise complies with applicable law.

The Agency will maintain a database of all the Agency's contracts for tracking and monitoring purposes.

### Termination of Contractors

Employees will promptly notify the Compliance Officer if they become aware of any suspected fraudulent, abusive or other illegal conduct by a contractor. The Compliance Officer, in collaboration with other appropriate employees, will investigate the matter and determine whether the contractor has engaged in improper conduct. The Agency will promptly terminate the contract of any contractor that has been found to have engaged in fraudulent, abusive or other illegal activity.

### Record Retention

The Compliance Officer will ensure that all records related to the implementation of this policy, including but not limited to, documents evidencing the screening, supervision and termination of contractors, are maintained for a minimum of six (6) years.

### **Enforcement of Policy**

Employees who do not comply with this policy will be subject to disciplinary action by the Agency. Depending on the facts and circumstances of each case [and in compliance with any applicable collective bargaining agreements], the Agency may reprimand, suspend or dismiss any Employee who fails to comply with this policy

#### Note on Legal Framework:

*Federal Status and regulations impose civil monetary penalties on health care providers for submitting claims for reimbursement to a Federal Health Care Program for services the provider knows, or should have known, were furnished by or at the direction of an excluded person. (Reference: Social Security Act 1128A(a)(6); 42 C.F.R 1003.102.) The OIG has stated that providers have an affirmative duty to check the list of excluded persons to avoid liability.*

*OIG Special Advisory Bulletin, "The Effect of Exclusion From Participation in Federal Health Care Programs," September 1999. The list can be accessed at [www.hhs.gov/oig](http://www.hhs.gov/oig)*  
*The OIG has not mandated a specific schedule for checking the exclusion list. The law prohibits the retention of excluded persons not only to directly provide health care services but also to render administrative or management services related to the provision of care reimbursed by a federal health care program. Theoretically, an organization could contract with an excluded person to provide services not falling into either of the above categories. However, in practice, it is often difficult to determine with certainty that a contractor does not provide any health, administrative or management services that could conceivably be linked to federal health care program claims. To avoid potential errors in making such determinations and to preclude the retention of individuals who have engaged in improper conduct, the model policy prohibits an excluded person from holding any contract with FOUNDATION. FOUNDATION does have legal flexibility, though, to contact with excluded persons to perform functions that do not fall within any of the above categories.*

## **INTERNAL AUDITING POLICY**

**Purpose:** The purpose of this policy is to prevent fraud, abuse and other illegal activity by establishing a framework for regular internal audits of PLUS GROUP HOMES (the “Agency”) operations

### **Applicability of Policy**

This policy is applicable to all Agency employees

### **Statement of Policy**

#### Oversight of Internal Auditing Process (6.1, 6.2)

The Compliance Officer will be responsible for overseeing the Agency’s internal audit system. The Compliance Officer is authorized to delegate auditing duties to other Agency Employee as well as outside attorneys, accountants, and vendors as necessary and appropriate.

#### Subjects for Auditing

Internal Audits will cover at least the following subjects:

- a) The accuracy and completeness of the cost reports submitted by the Agency to New York State or local regulatory agencies
- b) The access of clients to health care services that are required to be provided or paid for by the Agency
- c) The quality and appropriate utilization of health care services provided or paid for by the Agency
- d) Billing by other health care providers for medical services that are covered by the per diem rate received by the Agency
- e) Coordination of benefits between Medicaid and other third-party payers.
- f) Services and leasing agreements between the Agency and other organizations with which the Agency exchanges client referrals.

#### Audit Reporting (5.2)

Upon completion of an audit, the Compliance Officer will arrange for the preparation of a written audit report. The report will set forth the subject of the audit, the audit methodology, the audit findings and any recommended corrective actions. The report will be provided to the Compliance Committee, Executive Director, and any appropriate Director. The Compliance Committee will work with the relevant department Director to ensure that all recommendation corrective action is taken and will provide the Compliance Officer when implementation is completed. Any criminal activity or overpayments discovered through an audit will be handled in accordance with the Agency’s Fraud Reporting Policy. All audit reports will be maintained by the Agency for a minimum of six (6) years.

## **CONFLICT OF INTEREST POLICY**

**Policy Statement:** Personal interest will be disclosed when they present actual or potential conflicts with the interests of the Agency or appear to conflict with the objectivity and integrity of professional roles and responsibilities.

**Purpose:** The purpose of this policy is to ensure the integrity of decisions made on behalf of PLUS GROUP HOMES (the “Agency”) including when it is contemplating entering into a transaction or arrangement that might benefit the private interest of the Director, Officer, or Key Employee of the Agency. The Agency will not enter into such transaction or arrangement unless it is determined by the Executive Director and/or Board Members in the manner described below is to be fair, reasonable and in the best interest of the Agency at the time of such determination. Business decisions should be free of personal bias, interest or gain. The intent of this policy will be met when decisions are made fairly and objectively, with the interest of the Agency in mind.

This policy is intended to supplement, but not replace, any applicable State and Federal laws governing conflicts of interest applicable to non-profit and charitable organizations.

**Duty of Loyalty and Duty of Care:** Under New York State Law and by resolution of the Board, all Officer, Directors and Employees have affirmative duties of loyalty and care to the Agency.

The *duty of loyalty* is the duty to give primacy to the interests of the Agency rather than personal concerns – to avoid self-dealing at the Agency’s expense.

The *duty to care* is the duty to act in good faith, in manner which is reasonably believed to be in the best interest of the Agency, with the care a reasonably prudent person would use in similar circumstances.

Together, the duties of *loyalty and care* frame the requirements for proper conduct of our business affairs and avoidance of Conflicts of Interest.

**Definition:** For all purpose of this Policy:

1. **Affiliate:** A person or entity that is directly or indirectly through one or more intermediaries, controlled by, in control of, or under common control of the Agency.
2. **Board of Directors:** The body responsible for overseeing the Agency
3. **Conflict of Interest:** Competing personal and professional interests, whereby personal interests may be in conflict with professional roles and responsibilities.
4. **Director:** Any voting or non-voting members of the governing board of corporation, whether designated as a Director, Trustee, Manager, Governor, or by any other title.
5. **Employee:** An employee of the Agency
6. **Financial Interest:** An interest driven by the potential for personal financial gain. Financial interest may include: stocks, bonds, securities, and other investments in which an individual, or someone with whom they have a personal relationship has a financial stake, A person has a Financial Interest if such person would receive an economic benefit, directly or indirectly, from any transaction, agreement, compensation agreement, including directly or indirectly, from any transaction, agreement, compensation agreement, including direct or indirect remuneration as well as gifts or favors that are no insubstantial or other arrangement involving the Agency.
7. **Key Employee:** A person who is or has within the last five (5) years, been able to exercise substantial influence over the Agency. This includes, but is not limited to:



- i. Voting members of the Agency's Board of Directors;
  - ii. Executive Director or employee of any other title with similar responsibilities;
  - iii. Treasurers and Controller or employees of any other title with similar responsibilities; or
  - iv. A "highly compensated" employee, within the meaning of section 4958 of the Internal Revenue Code and guidance issues by the Internal Revenue Service, who is in a position to exercise substantial influence over the affairs of the Agency.
- 8. Officer: A person who has officer authority, including the authority to act on behalf of the Agency, as designate by the bylaws of the Agency
- 9. Outside Activities: activities outside of work that appear to be in conflict with professional roles. Examples include: serving on the board of a competitor, working for a competitor or having a financial interest (ownership or investment) in a competitor.
- 10. Personal Interest: An interest motivated by personal gain, which may involve Financial Interests, personal relationships or activities outside or work.
- 11. Personal Relationship: Any relationship other than a professional one. Personal relationships have the potentiation to impact professional objectivity. Examples are the relationship you have with a spouse, relative, friend, romantic partner, someone who lived in your household or with whom you have a financial connection.
- 12. Related Party: person who may be considered a Related Party to the Agency or an Affiliate of the Agency under this Policy include:
  - a. Directors, Officers, or Key Employee of the Agency or an Affiliate of the Agency;
  - b. Relatives of Directors, Officers, or Key Employees
  - c. Any entity in which a person in (a) or (b) has a 35% or greater ownership or beneficial interest or, in the case of a partnership or professional corporation, a direct or indirect ownership interest more than 5%;
  - d. Founders of the Agency;
  - e. Substantial contributors of the Agency (within the current fiscal year or the past five (5) fiscal years);
  - f. Persons owning a controlling interest (through votes or values) in the Agency; or
  - g. Any non-stock entity controlled by one or more Key Employees
- 13. Related Party Transaction: Any transaction, agreement or any other arrangement of the Agency or an Affiliate of the Agency in which a Related Party has a Financial Interest. Any Related Party Transaction will be considered a Conflict of Interest for purpose of this Policy.
- 14. Relative: A spouse, ancestor, child (whether natural or adopted), grandchild, great grandchild, sibling (whether whole or half), or spouse of a child (whether natural or adopted), grandchild, great grandchild or sibling (whether whole or half), or a domestic partner as defined in section 2994-A of the New York Public Health Law.
- 15. In addition to the categories in Section L, items a-g, a person is a Disqualified person if, after consideration of all the facts and circumstances, the Board determines that, as a matter of policy judgment, a person is subject to this policy. Facts and circumstance indicating that a person is a Disqualified Person include, but are not limited to the following:

- a. The person is a founder or creator of the Agency;
  - b. The person is a substantial contributor to the Agency;
  - c. The person's compensation is based primarily on revenues from the Agency's activities that the person controls;
  - d. The person has or shares authority to control or determine a substantial part of the Agency's capital expenditures, operating budget, or compensation for employees;
  - e. The person manages a discrete segment or activity of the Agency that is a substantial part of the Corporation's activities, assets, income or expenses;
  - f. The person owns a controlling interest in a corporation, partnership, or trust that is considered a Disqualified Person; and
  - g. The person is a non-stock organization controlled directly or indirectly by one or more Disqualified person.
16. Facts and circumstances indicating that a person is not a Disqualified Person include, but are not limited to the following:
- a) The person has taken a bona fide vow of poverty as an employee, agent, or on behalf of a religious organization;
  - b) The person is an independent contractor whose sole relationship to the Agency is providing professional advice and who has no decision-making authority and will derive no direct or indirect benefit from the transaction except for the customary fees for professional advice;
  - c) The person is the direct supervisor of an individual who is not a Disqualified Person;
  - d) The person does not participate in any management decisions affecting the Agency as a whole or affecting a discrete segment of the organization that represents a substantial portion of its activities, assets, income, or expenses of the Agency, as compared to the Agency as a whole;
  - e) Any preferential treatment a person receives based on the size of the person's donation is also offered to all other donors making comparable contributions and offered as a part of a solicitation intended to attract a substantial number of contributions.

**Components of this Policy:**

- A. **Identification:** There will be education, awareness and identification of Conflicts of Interest
- B. **Disclosure:** When a potential Conflict of Interest is identified, the individual involved shall complete a Conflict of Interest Form and provide this completed document to the Corporate Compliance Department (which the form is completed annually).
- C. **Assessment:** Each situation will be assessed on a case-by-case basis to determine if Personal Interests or Financial Interests are compromising, or have the potential to compromise, professional integrity. Not every situation involving competing personal and professional interest will warrant action.
- D. **Action:** For Conflict of Interest that warrant action, appropriate action will be taken by the appropriate parties with respect of the Agency to protect the interest of the Agency.

**Who is NOT subject to this Policy?**

Organizations that is tax-exempt under Code Section 501 (c) (3)

Any employee who is not highly compensated (*highly compensated employee is defined under Code Section 414(q)(1)(B)(i) and is adjusted annually for inflation. The amount for 2014 is \$115,000. Organizations can choose to set this amount at a hard dollar threshold if they prefer as long as it equal to or lower than the statutory amount*); and

- a) Is not specifically listed in section G above,
- b) Is not considered a substantial contributor taking into account the current fiscal year and the four (4) preceding fiscal years *(For this element, substantial contributors is any individual who contributes or bequeathed to the Corporate more than \$5,000 or 2% of the total contributions/bequests received by the Corporation for the current fiscal year plus the four (4) preceding fiscal year. Contributions by an individual's spouse are included in the amount), OR*
- c) Is not otherwise considered a Disqualified Person under this Policy.

### **What steps need to be taken?**

The Board shall approve the transaction only where the Board determines that the transaction is fair, reasonable and in the Agency's best interests. The governing Board (or authorized committee) shall, where it deems appropriate, avail itself of Treas. Reg. § 53.4958-6 with respect to the rebuttable presumption that a transaction is not an Excess Benefit Transaction. If the Board decides to avail itself of this procedure, it must take the following steps:

1. The Board must approve in advance the compensation arrangement or other transaction. Any member of the Board who has a conflict of interest (within the meaning of Treas. Reg. § 53.4958-6) may not participate in the vote, nor may he or she be present during voting or deliberations.
2. The Board must make its decision in reliance on appropriate data as to comparable arrangements. While not required under Code Section 4958, it is a best practice to consider alternative arrangements.
3. The Board must adequately document its decision and deliberations in the corporate records.

### **Annual Disclosure Statements**

Prior to initial election and annually thereafter, all Directors shall complete, sign, and submit to the Secretary a written statement identifying, to the best of the Director's knowledge, any entity of which such director is an officer, director, trustee, member, owner (either as a sole proprietor or a partner), or employee, and with which the Corporation has a relationship, and whether there is a Related Party Transaction. The disclosure of a relationship shall not, by itself, constitute a Related Party Transaction. The governing Board may require the same submission to be made by officers and/or employees. The Secretary shall provide a copy of all completed disclosure statements to the Chair of the Board of Directors.

### **Implementation, Accountability and Communication:**

The Agency's Corporate Compliance Department is responsible for implementation, enforcement, monitoring and oversight of this Policy, as well as for communication this Policy to the Agency at large. To that end, department supervisors shall also assist the Corporate Compliance Department with implementing, enforcement, monitoring and oversight of this Policy, and communication of this Policy, with respect to their staff members.

### **General Application to Employees:**

Employees should avoid any Conflict of Interest. This Policy ensures that all employees will act objectively when carrying out their duties. In furtherance of the foregoing, the following provisions and/or conditions shall apply to Employees:

1. Employees may not work for, consult to, or have an independent business relationship with any of the Agency's service providers, vendors, competitors, or third-party payers. Employees may not invest in any payer, providers, suppliers or competitor, except through mutual funds or minority holding of publicly traded securities.
2. Employees should not have other employment or business interest if:
  - a. The Employee appears to represent the Agency
  - b. The Employee provides goods or services similar to those the Agency provides or is considering; or
  - c. The other job interferes with their everyday duties as an Employee
3. Employees may not use the Agency's assets for personal benefits or personal business purposes. Employees may not have business dealings in products or real estate if the value may be affected by the Agency's business. Employees may not disclose or use any confidential information such as financial data, payer information, computer programs, and patient information – for their own personal or business purposes.
4. Employees considering a second job, a consulting engagement, or healthcare related investment should review their plans with their immediate supervisor or the Agency's Corporate Compliance Department. Approval in advance is required before beginning such a task.
5. If an Employee is in a position where access to the Agency's proprietary information may materially influence his or her decisions in another party engaged in business or competition of the Agency, he or she shall decline that information. Proprietary information includes, financial, marketing, customer, pricing, medical management, or operations information and strategic plans and initiatives which are important to the Agency. If an Employee is in a position where access to the Agency's proprietary information may materially influence his or her personal financial or investment decisions, he or she shall decline that information.
6. Staff decisions should be based on academic credentials, skills, experience, professional qualifications and other factors necessary to excel in that role. Individuals who have the ability to make or influence staffing decision should be free of personal bias or gain. Staffing decisions involving immediate family members, relatives and other individuals where a personal relationship exists should be disclosed. When a conflict of interest warrants action, there may be exclusion from screening, selection or hiring process, career development, advancement and other staff decisions. Gift and Gratuities non-cash gifts and gratuities received from any one individuals or company should not exceed \$25 in a year. Cash should not be accepted. Gifts and gratuities should be disclosed and include, but are not limited to, discounts, loans, meals, entertainment, tuition, seminars and conferences. When a conflict of interest warrants action, there may be exclusion from the process and decision the individual that is subject to influence by the acceptance of such gifts and gratuities.
7. The management and communication of information should be free of personal bias or gain. Financial, personal and other incentives that may compromise the integrity of information documentation and reporting should be disclosed. When a conflict of interest warrants action, there may be exclusion from access, analysis and presentation of information.
8. Outside Activities that may conflict with professional roles and responsibilities should be disclosed and include, but not limited to, serving on competitor boards, working for competitors, ownership in a competing business, investments in competitors, political activities and/or activities that go against the core values of the Agency.

## Related Party Transactions

A Related Party Transaction is not necessarily a prohibited transaction. Under this Policy, if the Agency contemplates entering into a Related Party Transaction, the Board Committee must determine if the transaction is fair, reasonable, and in the best interest of the Agency at the time of such determination. In furtherance of the foregoing, the following provisions and/or conditions shall apply to all Related Party Transactions:

1. Disclosure: If at any time during his or her term of service a Related Party acquires any Financial Interest or when any matter for decision or approval comes before the Board in which a Related Party has a Financial Interest, that Financial Interest or potential Related Party Transaction must be promptly disclosed in writing to each member of the Board, together with all material facts.
2. Non-Participation and Review: All transactions, agreements or any other arrangements between the Agency and a Related Party and any other transactions which may involve a potential Conflict of Interest, shall be reviewed by the Board Committee. All Related Parties with a Financial Interest shall leave the room in which such deliberations are conducted. It will then be determined whether the contemplated Related Party Transaction is fair, reasonable, and in the best interest of the Agency at the time of such determination. The Agency will not enter into any Related Party Transaction unless it is determined to be fair, reasonable and in the best interest of the Agency at the time of such determination.
3. Consideration of Alternate Transaction and Comparability Data: If the contemplated Related Party Transaction pertains to compensations for services or the transfer of property or other economic benefit to the Related Party, the Board Committee must determine that the value of the economic benefit provided by the Agency to the Related Party does not exceed the value of the consideration received in exchange by obtaining and reviewing appropriate comparable data prior to entering the transaction.

In those instances, where the contemplated Related Party Transaction does not involve compensation, transfer of property or benefits to a Related Party, the Board Committee must consider alternative transactions to the extent possible, prior to entering into such transaction.

4. Comparability Data: When considering the comparability of compensation, for example, the types of relevant comparability data that can be considered which will include, but not limited to:
  - a) Compensation levels paid by similarly situated organizations, both exempt and non-exempt;
  - b) The availability of similar services within the same geographic area;
  - c) Current compensation surveys compiled by independent firms; and
  - d) Written offers from similar institutions competing for the same person's services.

When the transaction involves the transfer of real property as consideration, the relevant factors include, but not limited to:

- a) Current independent appraisals of property, and
- b) Offers received in a competitive bidding process

All Related Parties with a Financial Interest must not be present for deliberations and voting on the transaction or arrangement in which he or she has a Financial Interest. However, Related Parties are not prohibited from providing information regarding the

transaction to the Board Committee prior to its deliberations. No Director shall vote, act, or attempt to influence improperly the deliberations on any matter in which he or she has been determined by the Board Committee to have a Financial Interest. Any attempt to vote, act, or improperly influence deliberations by a Related Party on any matter with which such person has a Financial Interest may be grounds for removal from the Board or termination from the Agency.

5. Compensation: A Director who receives compensation directly or indirectly from the Agency or a Director serving as a voting member of any committee whose jurisdiction includes compensation matters is precluded from voting or acting on matters pertaining to that Director's or Officer's compensation.

No voting member of the Board or any committee whose jurisdiction includes compensation matters and who receives compensation, directly or indirectly, from the Agency, either individually or collectively, is prohibited information to any committee regarding compensation.

## **DIRECTORS CONFLICT OF INTEREST POLICY**

**Purpose:** The purpose of this policy is to protect the interest of Plus Group Homes (“the Agency”) when it is contemplating entering into a transaction or other business relationship that might, directly or indirectly, benefit the private or outside interests of one of Plus Group Homes Directors.

Conflicts of Interest potentially places place personal or outside interests at odds with the fundamental duty of loyalty owed by Plus Group Homes Directors as fiduciaries of the Agency. The appearance of a conflict of interest can also damage Plus Group Homes institutional credibility and the Agency’s ability to fulfill its mission and programmatic goals. The Board of Directors expects that Directors will respect their obligations to act in the best interests of Plus Group Homes in fulfilling its charitable mission/business objectives.

### **Definitions**

**Conflict of Interest:** “Conflict of Interest” means any Transaction involving Plus Group Homes and an Interested Person.

**Interested Person:** “Interested Person” means, with respect to any Transaction to which Plus Group Homes is a party, any of the Agency’s Directors or Officers if such person:

- a. Is a party of the Transaction;
- b. Is a Director of any other corporation, firm, association or other entity that is a party to the Transaction (or holds a position in such corporation, firm, association or other entity with responsibilities or powers similar to those of a Director)
- c. Has a direct or indirect Substantial Financial Interest in such Transaction.

**Substantial Financial Interest:** A person has a “Substantial Financial Interest” in any corporation, firm, association or other entity if such person receives compensation (ie, wages, fees, other direct or indirect remuneration, gifts or favors that are substantial in nature, etc) from or has, directly or indirectly, through business, investment or Family, an aggregate beneficial equity interest of 10 percent or more in such corporation, firm association or other entity.

**Family:** The “Family” of an individual shall include:

- (i) Individual’s Parents, Spouse, Children, Brothers and Sisters;
- (ii) Parents, Brothers and Sisters of the Individual’s Spouse; and
- (iii) The Spouses of the Individual’s Parents, Children, Brother and Sisters

**Transaction:** The term “Transaction” means any contract, investment, loan, lease, joint venture, or other business or financial arrangement, whether direct or indirect.

### **Statement of Policy**

#### ***Per Se Conflict of Interest***

PLUS GROUP HOMES shall not make a loan to (i) any of Plus Group Homes Directors; (ii) any corporation, firm, association or other entity in which any current Director or Employee (or holds a position in such corporation, firm, association or other entity with the responsibilities or powers similar to those of a Director); or (iii) any corporation, firm, association or other entity in which any Director has a direct or indirect Substantial Financial Interest.

The ordinary deposit of funds in a bank or the purchase by Plus Group Homes of bonds, debentures, or similar obligations of a type customarily sold in public offerings shall not be considered loans for purposes of this policy. In addition, notwithstanding the above prohibition, the Agency may make a loan to another not-for-profit corporation that is a "Type B" corporation under applicable New York State law, subject to the disclosure and approval requirements of this policy if such loan represents a Conflict of Interest.

#### Compensation Decisions

No Director who receives compensation from PLUS GROUP HOMES for services shall vote on matters pertaining to such Director's Compensation.

Compensation to Officers shall require the affirmative vote of the majority of the Board of Directors, unless a higher proportion is set in the Certificate of Incorporation or By-laws.

#### Procedures in Other Conflict of Interest Cases

If any Director is an Interested Person in connection with any Transaction to which PLUS GROUP HOMES is a party, the Director must disclose in good faith to the Board or Board Committee that is considering the Transaction any material facts relevant to why such Transaction may present a Conflict of Interest.

If the Board or Committee that is considering a Transaction has been informed or is otherwise aware of potential Conflict of Interest:

1. Any Interested Person may make a presentation to the Board or Committee regarding the Transaction, but after making such presentation he or she shall leave the Board or Committee meeting while the remaining Board or Committee members discuss the Transaction and the possible existence of a Conflict of Interest
2. The remaining Board or Committee members shall decide if the Transaction presents a Conflict of Interest.

If the Interested Person is a Director, such person may not be counted in determining the presence of a quorum for any vote concerning the existence of Conflict of Interest. No Interested Person shall participate in, or use personal influence with regard to, the deliberations concerning the existence of a Conflict of Interest.

Following due deliberation pursuant to this policy, the Board or Committee may determine that a Transaction does not present a Conflict of Interest. In such cases the Board or Committee need take no further action prior to approving the Transaction, other than its usual procedures for approving Transactions.

If the Board or Committee determines that a Conflict of Interest exists, the Transaction may be authorized (a) by the Board of Directors, but only by a vote sufficient to approve the Transaction without including the vote of any Director that is an Interested Person; or (b) by the member of PLUS GROUP HOMES that are entitled to vote thereon, if any, by a vote sufficient to approve the Transaction.

#### Additional Guidelines for Officers, Directors and Committee Members

Officers and Directors shall not use their position with PLUS GROUP HOMES to benefit the interests of a particular organization, constituency, or special interest group by any means, including but not limited to, providing information not available to potential transaction partners or grantees, lobbying on behalf of or serving as spokesperson to PLUS GROUP HOMES for an organization or interest group with which he or she is affiliated, or attempting to effect a positive decision for such organization or interest group through his or her position within the Agency.

##### *Preferential Treatment:*

Preferential Treatment of Board members, employees or consultation in application for and receipt of Agency services is prohibited. The Agency strictly adheres to our *human resources policy* to ensure appropriate access to job opportunities. Relatives of members of the Board of



Directors may neither receive preferential treatment should they seek employment nor be given preferential supervision or preferential promotion, if employed by the Agency.

□ *Fees:*

Members of the Board of Directors may not receive a fee for services or any other monetary reimbursement for serving the Agency.

□ *Fundraising:*

**Ethical Fundraising Practices Policy**

PLUS GROUP HOMES conducts all fundraising activities in an ethical and fiscally responsible manner. To support the comprehensive range of programs and activities, the Agency's Board, and in particular the Finance and Development Committees, encourage, monitor and support the Agency in its efforts to acquire a diverse mix of Federal, State, and County Government monies, as well as a comprehensive mix of Agency, corporate and individual donors. This diversification and balance in funding sources is sought both through the sources of its current programs and in new contracts or grants that are applied for through formal bid and proposal processes.

The Agency's Board and its management establish and exercise controls over fundraising activities carried out by its personnel. Should the Agency utilize an occasional outside contractor and/or consultant for fundraising activities to assist for example, in a capital or endowment campaign, the Agency requires prior written agreements. The Agency's fundraising practice will be consistent with the IRS and Better Business Bureau guidance.

The Agency management and Board of Directors maintain control over fundraising activities carried out on behalf of the Agency through its Development Department. Development Director, who is also a member of the Agency's Executive Council, supervises all fundraising activities for the Agency and reports to President and CEO.

The Development Department centrally coordinates all types of the Agency's fundraising and development activities. These activities may include but are not limited to grant and proposal writing, fund drives, special events, etc. Before engaging in any activity of this type for the Agency or any other cause, Directors must discuss, and have it reviewed by the Executive Director.

*PLUS GROUP HOMES conduct solicitations in an ethical manner with an accurate description of the Agency, its identity and purpose, its programs and financial needs for which the solicitation is being made. The Agency spends funds for the purposes for which they are solicited, and allows reasonable costs for administration of fundraising program, and maintains accounting segregation for restricted funds.*

When volunteer groups raise funds specifically for PLUS GROUP HOMES, the Agency exercises financial control and the right to review and approve all printed materials and uses of the Agency's Name. We do not exercise such control when the funds are part of another organization's own philanthropic program and the Agency is merely one among many beneficiaries.

The policy of the Development Department is to acknowledge all donors. The Development Department adheres strictly to IRS regulations in providing these acknowledgments, include to provide written disclosures to a donor who receives goods or services in exchange for a single payment in excess of \$75 and written acknowledgement for a single contribution of \$250 or more with a statement of goods or services if any, that were provided in return for the gift.

PLUS GROUP HOMES plans and analyzes the costs and benefits of each of its fundraising activities, taking into account factors that affect the reasonableness of fundraising costs in comparison to dollars raised. Development Plan is produced annually or when needed and the

analysis is presented quarterly to the Board Development Committee and to the full Board of Directors.

Each year the Executive Director prepares an annual fundraising plan, events and activities budget, staffing and Administrative budget and reserve, if applicable. The plan is reviewed and is presented to the Board of Directors by the Executive Director. Once this plan receives approval, the Executive Director and/or designee is responsible for implementation.

The organization establishes controls on the handling and acknowledgement of contributions and respects donor requests for confidentiality. Upon request, donor names are not published or listed in Agency newsletters or annual reports.

PLUS GROUP HOMES Executive Director and/or designee and the Board of Directors reconcile fundraising practices with prevailing ethical practices of the National Association of Fundraising Professionals. The Agency fundraises in accordance with Local, State and Federal requirements and the Better Business Bureau and registers all fundraising activities with the appropriate State and Other Administrative Authorities.

In the event that a donor places a restriction on a gift, these restrictions are submitted to the Finance Department along with the original gift correspondence.

Upon donor or funder request, the Agency discloses descriptive and financial information for revenue generating activities including fee-for-service programs, for profit subsidiaries and related and unrelated business ventures.

Officers and Directors will maintain the confidentiality of all non-public information about PLUS GROUP HOMES of which they become aware. Officers and Directors shall not use confidential information for any purpose other than as required to carry out their duties on behalf of the Agency.

#### Records of Proceedings

The minutes of the Board and all Committee meetings shall contain:

- The names and position of Directors who disclosed that they were Interested Persons or otherwise were found to be Interested Persons, a description of the nature of the relationship and/or Substantial Financial Interest which gave rise to such disclosure or identification, and a description of the Transaction at issue.
- The names of the Director who were present during the taking of the action to determine whether Conflict of Interest was present, and the basis for there being a quorum for the taking of such action.
- The steps taken by the Board or Committee's decision as to whether a Conflict of Interest was present.
- The Board's or Committee's decision as to whether a Conflict of Interest was present and the basis for such decision.
- The Board's or Committee's decision as to whether to proceed with the Transaction and the names of the persons who voted to approve the Transaction.

### *Annual Statements*

Each Director shall annually sign a Disclosure and Affirmation Statement describing their relationships with outside parties [See Form Section]

### *Referral to Counsel*

Questions regarding interpretation or application of this policy should be referred to Plus Group Homes' Counsel for clarification.

### **Enforcement of Policy**

If the Board or a Committee has reasonable cause to believe that a Director or Officer has failed to make disclosure when there was a Conflict of Interest and such Director or Officer knew or should have known that there was a Conflict of Interest, the Board or Committee shall inform such Director of the basis for such belief and afford such Director an opportunity to explain the alleged failure to disclose. If, after receiving the response of such Director and making such further investigation as may be warranted in the circumstances, the Board or Committee determines that such Director has in fact failed to disclose a Conflict of Interest, it shall take appropriate disciplinary and corrective action. Failure to disclose a Conflict of Interest may constitute grounds for the Director's removal from his or her position for cause.

#### *Note on Legal Framework:*

*Neither New York law nor IRS regulations expressly require organizations to adopt a conflicts of interest policy covering employees. However, such a policy may be useful for tax-exempt organizations in avoiding claims of private inurement or private benefit. In addition, such a policy may assist all organizations in preventing the misuse of their resources, reducing the risk of cost reporting fraud and avoiding violations of the anti-kickback statutes. Given the absences of explicit legal requirements in this area, organizations have substantial discretion in shaping the terms of this policy.*

## **EMPLOYEE CONFLICT OF INTEREST POLICY**

**Purpose:** The purpose of this policy is to protect the interest of PLUS GROUP HOMES (“the Agency”) when it is contemplating entering into a transaction (as defined below) that might, directly or indirectly, benefit the private or outside interest of one of the PLUS GROUP HOMES’s employees. This policy is also designed to ensure that any outside activities of employees do not conflict with their duty of loyalty to PLUS GROUP HOMES.

PLUS GROUP HOMES makes business decisions impartially, fairly and without favoritism, for the purpose of advancing PLUS GROUP HOMES’ mission and interests. All employees must conduct themselves in a way that avoids conflict of interest and protects the Agency’s resources as well as its reputation for fair and ethical business conduct. No Transaction between the Agency and any vendors or other outside party shall be influenced, or appear to be influenced, by an employee’s personal interest or relationships. Any personal or outside investments, relationships, transactions or interest, whether direct or indirect, that would or could have an adverse effect on PLUS GROUP HOMES or an employee’s prudent, objective and independent business judgment constitute an unacceptable conflict of interest and are prohibited.

### **Definitions**

**Substantial Financial Interest:** A person has a “Substantial Financial Interest” in any corporation, firm, association or other entity if such person receives compensation (ie, wages, fees, other direct or indirect remuneration, gifts or favors that are substantial in nature, etc) from or has, directly or indirectly, through business, investment or Family, an aggregate beneficial equity interest of 10 percent or more in such corporation, firm association or other entity.

**Family:** The “Family” of an individual shall include:

- (iv) Individual’s Parents, Spouse, Children, Brothers and Sisters;
- (v) Parents, Brothers and Sisters of the Individual’s Spouse; and
- (vi) The Spouses of the Individual’s Parents, Children, Brother and Sisters

**Transaction:** The term “Transaction” means any contract, investment, loan, lease, joint venture, or other business or financial arrangement, whether direct or indirect.

### **Statement of Policy**

#### *Prohibited Activities Representing a Conflict of Interest*

Personnel are prohibited from engaging in any of the following activities:

- Using their position with the Agency to profit, directly or indirectly, in any Transaction to which the Agency is a party. This prohibition includes any involvement by an employee in negotiating, recommending, approving or otherwise influencing the terms of a Transaction between the Agency and an entity in which the employee has a Substantial Financial Interest.
- Engaging in outside employment or an additional position at PLUS GROUP HOMES, self-employment or volunteer work that interferes with the performance of their duties for PLUS GROUP HOMES impairs their prudent and independent business judgment as the Agency’s employee or otherwise conflicts with their obligations to PLUS GROUP HOMES.
- Using or disclosing to a third party any non-public information obtained as a result of their employment for purposes unrelated to the performance of their duties as PLUS GROUP HOMES’ employee.

- Using any property, including but not limited to, intellectual property belonging to PLUS GROUP HOMES for any purpose unrelated to the performance of their duties as the Agency's employee.
- Taking advantage of or otherwise acting upon, for their own personal benefit or the benefit or another party, any business, financial, or other opportunity discovered in the course of their employment with PLUS GROUP HOMES that is within the scope of the Agency's existing or contemplated operations unless (i) the opportunity is disclosed fully in writing to PLUS GROUP HOMES's Board of Directors, (ii) the Board of Directors declines to pursue such opportunities within a reasonable time period and (iii) such opportunity does not otherwise result in a conflict of interest or otherwise violate PLUS GROUP HOMES's policies.

*Potential Conflicts of Interest Request Prior Approval*

Employees are prohibited from engaging in any of the following activities without full disclosure to and the prior written consent of the Executive Director.

- Obtaining a Substantial Financial Interest in or serving as a Director of, any entity with which PLUS GROUP HOMES has conducted, or is contemplating the implementation of, a Transaction.
- Obtaining a Substantial Financial Interest in, or serving as a Director or Officer of, any competitor of PLUS GROUP HOMES. The Compliance Officer shall provide guidance to personnel regarding the types of entities that are deemed competitors of PLUS GROUP HOMES.
- Conducting business on behalf of PLUS GROUP HOMES with a former Board member, officer, or personnel of PLUS GROUP HOMES, or an entity in which a former Board Member, officer or employee has a Substantial Financial Interest.
- Working as an employee or contractor of any entity other than PLUS GROUP HOMES, including their own business, for more than [16] hours per week.
- Receiving gifts, gratuities, or entertainment value more than \$25 by an employee or their family which they have accepted and obtained in the course or as a result of service to the Agency that may influence their judgment or actions concerning the business of PLUS GROUP HOMES.

*Reporting and Disclosure Requirements*

In order for PLUS GROUP HOMES to monitor potential conflicts of interest, all personnel shall promptly report to the Compliance Officer any existing, proposed or potential Transaction of which they are aware that could represent a conflict of interest under this policy.

[PLUS GROUP HOMES will request that certain personnel, including personnel responsible for purchasing goods or services on behalf of Plus, complete a Disclosure Statement on an annual basis in order to identify actual or potential conflict of interest. The Compliance Officer will develop and maintain a list of job positions requiring completion of the Disclosure Statement and coordinate the dissemination and review thereof. Personnel required to complete the Disclosure Statement must do so in a truthful, complete and timely manner.] [See Form Section]

*Referral to Counsel*

Questions regarding interpretation or application of this policy should be referred to PLUS GROUP HOMES' for clarification.

**Enforcement of Policy**

Personnel who do not comply with this policy will be subject to disciplinary action by PLUS GROUP HOMES. Depending on the facts and circumstances of each case [and in compliance with any applicable collective bargaining agreements], PLUS GROUP HOMES may reprimand, suspend or dismiss any employee who fails to comply with this policy.

## **SAFEGUARDING INFORMATION ASSETS**

**Purpose:** To create and ensure safeguards to prevent inappropriate disclosure and unwarranted invasion of the rights to privacy of our clients and contracted entities.

PLUS GROUP HOMES (“the Agency”) follows HIPAA privacy and security rules, as should the Agency’s employees, health care providers, vendors and related entities. The Agency employees, health care providers, vendors, and related entities must retain all information belonging to the Agency in strictest confidence and will neither use it nor disclose it to a third party, other than its employees having a need to know, without the explicit written permission of the Agency.

Unauthorized disclosure of, or access to, confidential or proprietary information may result in civil and criminal penalties and termination of employment/contract. This information must be reported immediately to the Compliance Officer and the Security Officer. Health care providers, vendor, and related entities may be required a signed Business Associate Agreement, depending on the services performed on the Agency’s behalf and type of the Agency’s information for the health care provider, vendor or related entity accesses.

The Agency’s confidential information includes, among other things, internal business processes and records; network, electronic and media software and hardware, inventions and patent applications; information concerning clients, providers, products, pricing, and health information; and financial information about the Agency’s contract.

### **Standards Related to Confidentiality**

1. ***Confidential Consumer Information:*** The Agency and all Employees are bound by and must observe all applicable federal and state laws, rules and regulations governing confidentiality of client records and information. Employee will keep client’s information in the strictest confidence. Such information will not be disclosed to anyone unless such disclosure is done in a manner that is permitted by applicable law. Client confidentiality is discussed in a greater detail in the Agency’s HIPAA Manual, which shall be made available to and be reviewed by each member of the Agency’s workforce (as such term is defined by HIPAA). Further, access to the Agency’s HIPAA Manual will be provided to Employee by the Agency’s Privacy and Security Officers, upon request.
2. ***Confidential Business Agreement:*** Confidential information acquired by the Agency Employee about the business of the Agency must also be held in confidence and may not be used as a basis for personal gain by Employee, their families, or others. Such information includes but is not limited to: client lists/information, development plans, marketing strategies, financial data, proprietary research, and information about pending or contemplated business deals.

### **Government Inquires**

1. ***Speaking with Government Agents:*** Employee may speak voluntarily with government agents, and the Agency will not attempt to obstruct any government inquiry or prevent Employee from speaking with government agents, should Employee desire to do so. It is recommended, however, that before speaking with government agencies, you contact the Compliance Officer.
2. ***Responding to Subpoenas and Requests for Documentation:*** Employee may not respond to request to disclose documents that are the property of the Agency without first speaking to the

Director of Quality Improvement/Corporate Compliance/Compliance Officer. As a general matter, anyone who receives a government request for information, a subpoena, or any other inquiry or legal document regarding the Agency's business should notify the Compliance Officer and the Director of Quality Improvement before attempting to make a reply. The Director of Quality Improvement/Corporate Compliance/Compliance Officer will then notify legal counsel, as necessary and appropriate.

3. **Accurate Response:** If a response is given to a request for information from government Agency, the response must be accurate. The Agency will not tolerate false or misleading statements by employees or contractors to a government Agency or any third-party payer. It is the Agency's policy to comply with the law and to cooperate with reasonable demands made during the course of legitimate government investigation or inquires. Deliberate misstatements to government agencies or other third-party payers expose the employee or contractor involved to severe sanctions, up to and including termination from employment or Service Agreement as applicable, and civil or criminal penalties.
4. **No Destruction of Records or Evidence:** Employee may not destroy, alter or change any Agency records in any way to response to a request for such records. Such action will subject the individuals and/or entities involved to immediate discharge, termination of any/all contractual relationship(s) and possible criminal prosecution.

#### **Scope and Application of Standards to Employee and Others**

1. **Employee Covered:** The Agency's Compliance Program, including the standards set forth in this Code of Conduct and the Compliance Procedures set forth in this Manual, applies to all Employee.
2. **Additional Compliance Policies and Procedures:** In addition to the Code of Conduct and Compliance Procedures set forth in this Manual, from time to time, the Agency may also promulgate additional compliance policies and procedures. These additional Compliance policies and procedures will be designed to complement the standards and procedures set forth in this Manual.
3. **Responsibility of All Employees:** All Employees are expected to be familiar and comply with all federal and state laws, rules and regulations that govern their function(s) for the Agency. All Employees are also expected to comply with the standards set forth in this Code of Conduct and with any additional compliance policies and procedures developed by the Agency. Strict compliance with these legal and compliance standards is a condition of continued associated with the Agency, and any violation thereof will result in discipline being imposed, up to and including discharge and/or the termination of any/all contractual relationship(s) (consistent with any contractual or other legal rights and obligations of the Agency).
4. **Raise Compliance Issues:** If you believe that this Code of Conduct or any applicable legal standards were or may have been violated – or if you simply have a question about a Compliance Issue – you should raise your concern with the Agency's Compliance Officer, as set forth in this manual (page 4)
5. **Review of these Compliance Policies and Procedures:** All Employee will be expected to read, and understand this Compliance Manual, and to review it periodically. Further, Employee will be

expected to bring any questions concerning said policies and procedures to his/her Manager, the Compliance Officer, and/or the designee.

6. **Contractors and Other Provider:** All persons and entities with which the Agency contracts will be expected to cooperate with the Agency's Compliance Program. This includes individual physician, therapist, contractors, and other health care providers. These other parties will also be encouraged to adopt their own Compliance Programs, where appropriate.
7. **Discovery and Reporting an Error or Inaccuracy in a Claim for Payment:** Any employee or contractor of the Agency who discovers an error or inaccuracy in any claim for payment for health care services that has been submitted or will be submitted to a resident/patient/client/child/youth, government program, or other payer should alert his or her Supervisor or the Business Operation Director immediately. The Business Operation Director will review the matter and, if appropriate, notify the Compliance Officer.

The Directors will inform that employee or contractor who made the report as soon as practical stating whether the matter has been resolved by the Finance Department, and, if so, how the matter was resolved, or whether the matter was referred to the Compliance Officer for further review.



# **PLUS GROUP HOMES**

# **COMPLIANCE OVERSIGHT**

## **COMPLIANCE EMPLOYEES**

### **A. Compliance Officer/Director of Corporate Compliance (2.1)**

The Compliance Officer and his or her designee are responsible for overseeing the implementation and modification of the Compliance Program. The Compliance Officer's chief duties include, but are not limited to, the following:

- a. Developing policies and procedures governing the operations of the Compliance Program
- b. Managing day to day operations of the Compliance Program
- c. Periodically reviewing and updating the Agency's Code of Conduct and Ethics (with the Human Resources) and related policies (with the Assistant to the Executive Director and Residential Director).
- d. Overseeing the operations of the Compliance Hotline, described in the Compliance Program (please see page 7)
- e. Receiving, evaluating, and investigating compliance – related complaints, concerns and problems.
- f. Ensuring proper reporting of violations of duly authorized enforcement agencies as appropriate or required
- g. Working with the Human Resources and others as appropriate to develop Compliance Training, described in the Compliance Program
- h. Regularly evaluating the effectiveness of strengthening the Compliance Program

The Compliance Officer reports directly to the Executive Director but has a direct access to the Board of Directors (2.4). On a quarterly basis, the Compliance Officer will prepare a report for the Boards of Directors on the Agency's compliance activities for the prior year. The Compliance Officer will also report all material compliance issues to the designated Board members as necessary and appropriate. The Compliance Officer is responsible for ensuring that the Board of Directors is fully and appropriately informed of all Compliance Program activity. (2.5)

Employee and contractors should view the Compliance Officer as a resource to answer questions and address concerns related to the Compliance Program or compliance issues. As discussed in this manual as well as the Employee Handbook, the Compliance Officer maintains an "open door" policy and may be contacted directly by any employee or contractor regarding a compliance – related matter.

The Compliance Officer will have the assistance of the Employee, if resources are available. The Compliance Officer may delegate certain day-to-day Compliance Program responsibilities to these individuals.

### **B. Medicaid Compliance Committee**

The Medicaid Compliance Committee is comprised of the Directors of Quality Improvement and Corporate Compliance (also the Compliance Officer), the Executive Director, and any other Employee designated by the Executive Director. The Executive Director, in collaboration with the Compliance Officer, seeks to appoint members to the Medicaid Compliance Committee with varying backgrounds and experience to ensure that the Medicaid Compliance Committee has the expertise to handle the full range of clinical, administrative, operations and legal issues relevant to the Compliance Program.

The Medicaid Compliance Committee's functions include, but are not limited to, the following:

- Receiving regular reports from the Compliance Officer and providing him or her with guidance regarding the Operation of the Compliance Program
- Approving the internal auditing plan carried out under the Compliance Program
- Approving the compliance training program provided to all Employee
- Recommending and changes to the Compliance Program

The Compliance Officer and the committee meets quarterly and has ongoing communication with the committee. The Medicaid Compliance Committee has legal counsel available with whom to consult.

### **C. Board of Directors**

The Board of Directors has ultimate authority for the governance of the Agency, including oversight of the Agency's compliance with applicable law. The Board of Directors has delegated authority to the Executive Director which has responsibility for overseeing the activities of the Compliance Officer, Medicaid Compliance Committee as well as the general operations of the Compliance Program.

The Executive Director and Board of Directors receive reports on the operation of the Compliance Program directly from the Compliance Officer quarterly and annually. The Compliance Officer has the right to bring matters directly to the Executive Director and collaboratively bring it to the Board of Director's attention, at any time. The Compliance Officer is responsible for ensuring that the Boards of Directors is fully and appropriately informed of all Compliance Program Activities.

### **D. Compliance Training (3.1, 3.2)**

All Employees must attend Agency-wide orientation for new Employee for Compliance Program Training. This training is offered monthly and it is the expectation of PLUS GROUP HOMES that new employees attend within 30 days of hire. This training covers the content of the Agency's Code of Code and the key elements to the Compliance Program. Employee must acknowledge in writing that they have received this training and understand the Agency's Code of Ethics. Employee must also participate in annual refresher training.

Employee are required to participate in any advanced Compliance Program training organized by the Agency, their Department or Program that is designed to focus on the specific compliance issues associated with functions that help to prevent fraud, waste and abuse. All training activities are conducted in accordance with the Agency's Training Policy.

## **REPORTING COMPLIANCE CONCERNS**

### **A. Reporting Options (4.1)**

In accordance with its Fraud, Waste and Abuse Reporting Policy, PLUS GROUP HOMES maintain open lines of communication for the reporting of suspected improper activity. All Employees are encouraged to raise any questions promptly, that they might have about potentially unethical, illegal or improper conduct with the Compliance Officer. If Employee is uncomfortable with reporting to the Compliance Officer, they may notify the following:

- a. Notifying their Supervisor
- b. Notifying any other member of the Medicaid Compliance Committee with whom they feel comfortable
- c. Filing a report through the Compliance Hotline

**Anonymity and Confidentiality:** Any compliance – related report may be raised anonymously, through Compliance Hotline or by submitting an anonymous written question, concerns or complaint, and this will be held in the strictest confidence possible, consistent with the need to investigate any allegation of unethical, illegal or improper conduct. If you choose to remain anonymous, you are encouraged to provide as much detail as possible (i.e., program/location and concern), this will allow an appropriate response. To the extent possible, the identity of anyone who reports a compliance issue, or who participates in a compliance inquiry, will not be disclosed. Employee should be aware, however, that compliance Employee are obligated to act in the best interests of the Agency and do not act as any individual's (or entity's) representative or lawyer. (4.3)

### **B. Compliance Hotline (4.2)**

The Compliance Hotline may be accessed by telephoning **(516) 509-1389**. To encourage full and frank reporting of suspected fraud and abuse, the Agency gives Employee the option of filing complaints through the Compliance Hotline anonymously. The Compliance Officer is responsible for reviewing all Compliance Hotline reports, assessing whether they warrant further investigation and ensuring that any compliance programs are identified and corrected.

Employee should understand that the Compliance Hotline is designed solely for the reporting of fraud, abuse and other compliance problems. It is not intended for complaints relating to the terms and conditions of employment of Employee. Any such complaints should be directed to the Human Resources Department. (6.3)

### **C. Non-Retaliation and Non-Intimidation (8.1)**

Any employee who believes that he or she has been subject to intimidation and/or retaliation for good faith participation in the Agency's Compliance Program must immediately report such intimidation and/or retaliation to the Corporate Compliance Officer, either in person at the Corporate Compliance Office, 1228 Wantagh Ave, Wantagh, NY 11793, via telephone to the Corporate Compliance Officer at (516) 409-9450 ext 112 or by making a report to the Compliance Hotline at (516) 509-1389 or email [chutton@plusgrouphomes.org](mailto:chutton@plusgrouphomes.org) or [complianceofficer@plusgrouphomes.org](mailto:complianceofficer@plusgrouphomes.org)

Retaliation and/or intimidation in any form against an individual or entity who in good faith reports possible unethical, illegal or improper conduct is strictly prohibited and is itself a serious violation of the Agency's Code of Conduct. Prohibited retaliation and/or intimidation includes, but is not limited to, terminating, suspending, demoting, failing to consider for promotion, harassing or reducing the compensation of any Employee due to the intended or actual filing of a report.

If Employee is uncomfortable with reporting to the Compliance Officer, they may notify the following:

- a. Notify their Residential Coordinator or Program Director
- b. Notify any other member of the Medicaid Compliance Committee with whom they feel comfortable
- c. Filing a report through the Compliance Hotline

All reports of intimidation and/or retaliation will be investigated by the Corporate Compliance Officer or designee. Upon conclusion of the investigation, the Corporate Compliance Officer will make a report and recommendation for discipline, where appropriate, to the Human Resources. The Corporate Compliance Officer, Human Resources, and Executive Director shall confer and agree upon the discipline to be imposed.

#### **D. Corrective Action and Responses to Suspected Violations**

Whenever a compliance issue is uncovered, regardless of the source, the Compliance Officer and/or designee will ensure that appropriate and effective corrective actions are implemented.

Any corrective action and response implemented must be designed to ensure that the violation or problem does not recur and must be based on an analysis of the root cause of the violation or problem. In addition and as appropriate, the Compliance Officer will schedule a follow-up review of the effectiveness of the corrective action taken, to occur within a reasonable time after such action is implemented. If such a review establishes that the corrective action plan has *not* been effective, then additional or new corrective actions must be promptly be implemented.

At a minimum, any employees determined to have engaged in inappropriate documentation, coding, or billing practices will be required to attend remedial documentation training and will be subject to a follow-up focused audit within a reasonable time after such training, to ensure that the issue is not continuing. Further non-compliance will result in appropriate disciplinary action, as described in the Disciplinary Action Policy.

#### **E. Investigation**

##### **a) Internal Investigation (7.1)**

All reports of fraudulent, abusive or other improper conduct, whether made through the Compliance Hotline or otherwise, are promptly reviewed and evaluated by the Compliance Officer. The Compliance Officer determines, in consultation with the outside legal counsel and other Agency's Employee as necessary, whether the report warrants an internal investigation, issues a written report of its findings and proposes any corrective action that may be appropriate.

Any corrective action and response implemented must be designed to ensure that violation or problem does not recur and must be based on the analysis of the root cause of the violation or problem. In addition and as appropriate, the Compliance Officer will schedule a follow –up review of the effectiveness of the corrective action taken, to occur within a reasonable time after such action is implemented. If such a review establishes that the corrective action plan has *not* been effective, then additional or new corrective actions must promptly be implemented.

Corrective actions may include, but are not limited to, the following:

- (1) Informing and discussing with the offending individual/entity both the violation and how it should be avoided in the future;
- (2) Providing remedial training/education (in a formal or informal setting) to ensure that all applicable laws, rules and regulations are understood and followed. In appropriate circumstances, the offending Employee may be asked to bear the cost of such training/education;

- (3) Creating new or revising compliance policies or procedures designed to eliminate or address the issues;
- (4) Having an individual/entity go through a cycle or cycles of focused audits;
- (5) Rectifying (Voiding/Adjusting) any past payments that resulted from improper billing;
- (6) Taking disciplinary action (as described in the section below);
- (7) Suspending all billing of the services provided by the Employee/entity (as described in the section below.)
- (8) Voluntarily disclosing erroneously received payments to the payor, or to an appropriate government Agency; and/or
- (9) Conducting a follow-up review to ensure that the problem is not recurring.

#### **b) Compliant Audits and Reviews**

The Agency seeks to identify compliance issues at an early stage before they develop into significant legal problems. One of the key methods of achieving this goal is the performance of regular internal audits and compliance reviews.

At the beginning of each year, the Compliance Officer oversees the development of a work plan and setting a schedule of internal audits. The Compliance Committee approves the work plan. The audits cover aspects of Agency operations that pose a heightened risk of non-compliance, including, but not limited to, Medicaid billing, cost reporting and access to health care. A written report is prepared summarizing the findings of each audit, recommending any appropriate corrective action.

All employees are required to participate in and cooperate with internal audit as requested by the Compliance Officer. This includes assisting in the production of documents, explaining program operations or rules to auditors and implementing corrective action plans.

#### **F. Employee Discipline (5.1, 5.4)**

Employees who engage in fraud, abuse or other misconduct are subject to disciplinary action in accordance with the disciplinary policy outline in the Handbook. The Human Resource in consultation with the Compliance Officer will carry out any such sanction in collaboration with the Agency's Director and Executive Director. Depending on the nature of the offense, discipline may include counseling, oral or written warning, modification of duties, suspension or termination.

A record of all corrective action will be maintained in an appropriate file kept by the Compliance Officer, or his/her designee, and shall be considered during the individual's or entity's performance appraisal or as part of the decision to renew or continue contractual or other relationships the Agency may have.

## **GOVERNMENT INVESTIGATION POLICY**

**Purpose:** The purpose of this policy is to establish a mechanism for the orderly response to government investigations of PLUS GROUP HOMES (“the Agency”) or its employees, and to ensure that all PLUS GROUP HOMES personnel and contractors cooperate appropriately with such investigations. (6.2)

### **Applicability of Policy:**

This policy is applicable to all PLUS GROUP HOMES employees and contractors.

### **Statement of Policy**

#### *Types of Government Agencies that May Investigate PLUS GROUP HOMES: (7.5)*

A variety of federal, state, and local government agencies may be involved in investigating PLUS GROUP HOMES; these agencies include, but are not limited to:

- a. U.S. Department of Health and Human Services’ Office of Inspector General;
- b. Centers for Medicare and Medicaid Services;
- c. Federal Bureau of Investigations;
- d. United States Attorney’s Office;
- e. New York State Attorney General’s Medicaid Fraud Control Unit;
- f. New York State Department of Health;
- g. New York State Office of People with Developmental Disabilities;
- h. County Social Services Departments; and
- i. District Attorney’s Offices

#### *General Guidelines for Responding to Government Investigators:*

If contacted by Government Investigators, employees will be expected to be polite and to request the following information:

1. Name;
2. Agency Affiliation;
3. Business Telephone Number and Address of all the Investigators;
4. Reason for Contact; and
5. If the investigator visits in person, the investigator’s identification and business card.

Except as specified otherwise in this policy, employees will notify their Supervisor and Coordinator/Director, who in turn, will notify the Assistant to the Executive Director, Executive Director and Compliance Officer. The Agency’s employees will then respond to any requests for information or documents. If an employee is not contacted by an investigator but learns of a government investigation through other means, the employee will immediately notify their Supervisor and Coordinator/Director, who in turn will notify the Assistant to the Executive Director, Executive Director and Compliance Officer

#### *Subpoenas and Other Requests for Documents:*

If any personnel receive a subpoena or any other written request for documents from a government Agency, personnel will immediately forward the request to the Executive Director or the Compliance Officer who will forward it to outside Counsel, as needed. The request will be reviewed, verifying its authenticity and confirming that the production of documents or witnesses is not restricted by any applicable laws, including the Health Insurance Portability and Accountability Act of 1996 (“HIPAA”) or other confidentiality statutes. If there is no such restriction, the documents will be produced with the investigating Agency. It is the Agency’s policy to fully cooperate with all appropriate requests for documents issued by government agencies. The Agency will provide all documents without charge.

Government Investigators may seek documents by contacting employees by telephone or in person at PLUS GROUP HOMES office. It is the Agency’s policy to cooperate with these requests in an orderly

manner. Any personnel who are contact by a government investigator to provide documents will immediately notify their Supervisor and Coordinator/Director. Supervisor and Coordinator/Director will in turn notify the Assistant to the Executive Director, Executive Director and Compliance Officer. They may notify outside Counsel, as needed, who may work with the Agency to coordinate the provision of any requested information. It is PLUS GROUP HOMES' general policy to provide documents to government investigators only in response to a written request. After verifying the authority of the requesting official, this requirement may be waived on a case-by-case basis as appropriate and permitted by law.

Requests for Interviews and Other Testimony:

PLUS GROUP HOMES will cooperate fully with the government investigators in making its personnel available in person for private interviews, consultations, grand jury proceedings, pre-trial conferences, hearings and trials. PLUS GROUP HOMES' contractors will be required to cooperate in the same manner by making their personnel available.

All personnel are required to make themselves available for interview requested by the government investigators. Although individuals have a constitutional right not to incriminate themselves, any failure by an employee to provide an interview, testify or otherwise cooperate in a government investigation of the Agency will constitute a violation of the employee's employment obligations and be ground for termination.

All requests by government agencies to interview employees, whether by a subpoena or in any other written or oral form, will be directed to the Supervisor, Coordinator/Director who notify the Assistant to the Executive Director, Executive Director and Compliance Officer. They will, in turn notify outside Counsel. Counsel will work with the Agency for scheduling all such interviews at appropriate times and locations.

In some cases, investigators may contact personnel at their home or other locations off the Agency's premises, in person or by telephone, to request an interview. Personnel are encouraged in such circumstances to advise the investigator of their willingness to cooperate in an interview scheduled by the Agency during normal business hours at PLUS GROUP HOMES's office or another appropriate location. Personnel should request the investigator's business card and promptly report the contact to their Supervisor, Coordinator/Director who notify the Assistant to the Executive Director, Executive Director and Compliance Officer. The Agency, in consultation with Counsel, as needed, will be responsible for coordinating the scheduling of interviews with investigators.

PLUS GROUP HOMES may seek to have outside counsel attend an employee's interview to the extent permitted by the investigating Agency. PLUS GROUP HOMES's counsel will represent the interest of the Agency and not the individual employee. Any privilege attaching to information provided to the Agency counsel will belong to the Agency and not the employee. Employee may consult with an attorney of his or her own choosing to represent his or her individual interests. Employee may request reimbursement of attorney's fees by the Agency. The Agency will evaluate such requests for reimbursement on case-by-case basis in accordance with the indemnification provisions of PLUS GROUP HOMES's Bylaws.

During the interview, employees will be expected to adhere to the following guidelines:

1. Always tell the truth: it is a crime to lie under oath or obstruct a government criminal investigation.
2. Be Clear: In talking with the government investigator, employees should be very careful to answer questions completely, accurately, and concisely so that there will be no misunderstanding as to what is said.
3. Explain the source of information: It is important for employees to make clear to the government representative whether the information he or she is providing is first-hand knowledge, or information that the employee has heard or otherwise obtained from another individual.
4. Do not speculate: If employees do not recall something or have no knowledge or insufficient knowledge about the topic, they should say so.



If, during the course of the interview, the investigator requests copies of any PLUS GROUP HOMES' documents, the employee will forward the request to the Assistant to the Executive Director and Compliance Officer, who will work with Counsel, as needed, and handle all requests for documentation. It is essential that all documents are reviewed prior to submission to government investigators to ensure that they are fully responsive to the investigator's request and that they are not protected by the attorney-client or any other legal privilege.

The employee should contact the Assistant to the Executive Director promptly after interview to conduct a debriefing. The Compliance Officer and Executive Director should be included and may contact outside Counsel, as needed. Employees are encouraged to make detailed notes during the interview.

Searches of PLUS GROUP HOMES's Premise:

If representatives of an investigating Agency appear at PLUS GROUP HOMES's office and request to search the premise, employees receiving the request will immediately contact the Assistant to the Executive Director, Executive Director and Compliance Officer. They may contact and may request that the investigator wait in the reception area or direct other staff on the premise as to how to handle the request. The search may not be conducted unless a duly authorized search warrant is presented. A request will be made to see a copy of the warrant and any supporting affidavit, and confirm that the search and any documents seized are within the scope of the warrant. If no search warrant is presented, it must be determined whether to permit the search.

The Program Director and/or Residential Coordinator will accompany the investigator on the service. They will keep a record of the search, including but not limited to:

1. The Date and Time Period of the Search;
2. Names and Positions of all the Investigators;
3. Areas and Files Searched;
4. Which Files were Seized;
5. Names of the Employees Questioned by the Investigators; and
6. Subjects Covered by any Questioning

This information will be communicated to the Assistant to the Executive Director, Executive Director and Compliance Officer.

If permitted by the Investigator, a copy will be made of all documents that are seized. If this is not permitted, an inventory of the seized documents will be requested from the investigator. Any requests during the search to speak with employees will be handled in accordance with the provisions of this policy governing employee interviews.

Record Retention:

Once PLUS GROUP HOMES become aware of a government investigation, all relevant PLUS GROUP HOMES employees will be notified that, until further notice is issued, they are prohibited by altering, removing or destroying any paper or electronic documents or records of the Agency relating to the subject matter of the investigation. The Agency, in conjunction with outside Counsel will define with sufficient specificity the range of documents subject to the notice. The provision of notice will supersede any record destruction that would otherwise be carried out under the PLUS GROUP HOMES's ordinary record retention policies. The Agency, in conjunction with Counsel, will notify all relevant employees upon completion of the investigation and direct how records relating to the investigation should be handled.

### **Enforcement of Policy (5.1)**

Employees who do not comply with this policy will be subject to disciplinary action by the Agency. Depending on the facts and circumstances of each case [and in compliance with any applicable collective bargaining agreements], PLUS GROUP HOMES may reprimand, suspend, or up to including termination if any employee who fails to comply with this policy.

*Note on Legal Framework:*

*A policy covering cooperation with government investigations is not expressly required by the OIG model compliance guidance or N.Y. Social Services Law 363-d. However, the organizations may find the adoption of such a policy useful in guiding their response to government investigations, mitigating regulatory sanctions and avoiding obstruction of justice or similar changes.*

# **PLUS GROUP HOMES**

# **COMPLIANCE FORM**

**PLUS GROUP HOMES  
CONFLICT OF INTEREST  
ANNUAL BOARD OF DIRECTORS DISCLOSURE STATEMENT AND AFFIRMATION**

Name: \_\_\_\_\_ Contact Address: \_\_\_\_\_

*This Disclosure Statement is delivered in connection with the Board of Directors Conflict of Interest Policy of Plus Group Homes as currently in effect. Capitalized terms used, but not defined herein, shall have the same meaning herein as such policy.*

**Instructions:** Either check [✓] "None" in each of Items 1 through 6, or complete the information as it applies in the space provided, attaching additional sheets, if needed.

1. **Outside Activities:** Please list the names of all organizations (for-profit or not-for-profit) of which you or your family are, or were within the 24 months prior to the date of this statement, a) a Director, Officer or Trustee; b) rendered directive, managerial or consultative services, c) engaged in employment, self-employment or volunteer work to outside concerns that do business with or compete with the services of Plus Group Homes.

| <u>Name of Organization</u>         | <u>Position</u> |
|-------------------------------------|-----------------|
| <input type="checkbox"/> None _____ | _____           |
| _____                               | _____           |
| _____                               | _____           |

*Attach additional sheets if necessary*

2. **Financial Interests:** Please list the names of all for profit or not for profit entities that compete directly or indirectly with Plus Group Homes, in which you or your family have substantial financial interests, pertaining to actual or potential transactions that involve securing goods and services or the purchase of sale of property and property rights including intellectual property, interests or services.

| <u>Name of Organization</u>         | <u>Position</u> |
|-------------------------------------|-----------------|
| <input type="checkbox"/> None _____ | _____           |
| _____                               | _____           |
| _____                               | _____           |

*Attach additional sheets if necessary*

3. **Family Members:** List all family members employed by Plus Group Homes or serving as a member of the Plus Group Homes Board of Directors.

| <u>Name</u>                         | <u>Relationship</u> |
|-------------------------------------|---------------------|
| <input type="checkbox"/> None _____ | _____               |
| _____                               | _____               |
| _____                               | _____               |

4. **Inside information or non-public information:** Describe inside or non-public information obtained and to whom it was disclosed as a result of your employment for purposes unrelated to the performances of your duties as an Plus Group Homes employee.

**Inside/non-public Information Disclosed**

**Entity/Individual**

None \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

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

5. **Gifts, gratuities or entertainment:** List gifts, gratuities or entertainment that you or your family have accepted and from whom they were given, that might influence your judgment or actions concerning the business of Plus Group Homes.

**Name of Business Entity or Individual**

**Nature of Gift**

None \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

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

6. **Other Activities:** Please list any other activities other than those above which may be construed as opportunity for personal benefit or the benefit of another party, in which you or your family are engaged, that may be regarded as constituting conflict of interest.

**Description of Other Activities**

None \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

AFFIRMATION: I hereby affirm that (i) I have received a copy of the Plus Group Homes Conflicts of Interest Policy, (ii) I have read and understand such policy, (iii) I have agreed to comply with such policy and (iv) the information contained herein is, to the best of knowledge, accurate, and complete.

\_\_\_\_\_  
 Signature

\_\_\_\_\_  
 Date

**CONFLICT OF INTEREST  
ANNUAL VENDORS DISCLOSURE STATEMENT AND AFFIRMATION**

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

*This Disclosure Statement is delivered in connection with the Conflict of Interest Policy of Plus Group Homes as currently in effect. Capitalized terms used, but not defined herein, shall have the same meaning herein as such policy.*

**Instructions:** Either check [✓] "None" in each of Items 1 through 6, or complete the information as it applies in the space provided, attaching additional sheets, if needed.

1. **Financial Interests:** Please list the names of all for profit or not for profit entities that compete directly or indirectly with Plus Group Homes in which you or your family have substantial financial interests, pertaining to actual or potential transactions that involve securing goods and services or the purchase of sale of property and property rights including intellectual property, interests or services.

| <u>Name of Organization</u>         | <u>Position</u> |
|-------------------------------------|-----------------|
| <input type="checkbox"/> None _____ | _____           |
| _____                               | _____           |
| _____                               | _____           |

*Attach additional sheets if necessary*

2. **Family Members:** List all family members employed by Plus Group Homes or serving as a member of the Plus Group Homes Board of Directors.

| <u>Name</u>                         | <u>Relationship</u> |
|-------------------------------------|---------------------|
| <input type="checkbox"/> None _____ | _____               |
| _____                               | _____               |
| _____                               | _____               |

3. **Inside information or non-public information:** Describe inside or non-public information obtained and to whom it was disclosed as a result of your employment for purposes unrelated to the performances of your duties as an Plus Group Homes employee.

| <u>Inside/non-public Information Disclosed</u> | <u>Entity/Individual</u> |
|--|--------------------------|
| <input type="checkbox"/> None _____            | _____                    |
| _____  | _____                    |
| _____  | _____                    |

4. **Gifts, gratuities or entertainment:** List gifts, gratuities or entertainment that you or your family have accepted and from whom they were given, that might influence your judgment or actions concerning the business of Plus Group Homes.

**Name of Business Entity or Individual**

**Nature of Gift**

None \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

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

5. **Other Activities:** Please list any other activities other than those above which may be construed as opportunity for personal benefit or the benefit of another party, in which you or your family are engaged, that may be regarded as constituting conflict of interest.

**Description of Other Activities**

None \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

AFFIRMATION: I hereby affirm that (i) I have received a copy of the Plus Group Homes Conflicts of Interest Policy, (ii) I have read and understand such policy, (iii) I have agreed to comply with such policy and (iv) the information contained herein is, to the best of knowledge, accurate, and complete.

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Date

Responses are due by June 30<sup>th</sup> of each year

**CONFLICT OF INTEREST  
ANNUAL EMPLOYEE DISCLOSURE STATEMENT AND AFFIRMATION**

Name: \_\_\_\_\_ Contact Address: \_\_\_\_\_

*This Disclosure Statement is delivered in connection with the Employee Conflict of Interest Policy of Plus Group Homes as currently in effect. Capitalized terms used, but not defined herein, shall have the same meaning herein as such policy.*

**Instructions:** Either check [✓] "None" in each of Items 1 through 6, or complete the information as it applies in the space provided, attaching additional sheets, if needed.

1. **Outside Activities:** Please list the names of all organizations (for-profit or not-for-profit) of which you or your family are, or were within the 24 months prior to the date of this statement, a) a Director, Officer or Trustee; b) rendered directive, managerial or consultative services, c) engaged in employment, self-employment or volunteer work to outside concerns that do business with or compete with the services of Plus Group Homes.

**Name of Organization**

**Position**

None \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

*Attach additional sheets if necessary*

2. **Financial Interests:** Please list the names of all for profit or not for profit entities that compete directly or indirectly with Plus Group Homes, in which you or your family have substantial financial interests, pertaining to actual or potential transactions that involve securing goods and services or the purchase of sale of property and property rights including intellectual property, interests or services.

**Name of Organization**

**Position**

None \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

*Attach additional sheets if necessary*

3. **Family Members:** List all family members employed by Plus Group Homes or serving as a member of the Plus Group Homes Board of Directors.

**Name**

**Relationship**

None \_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_



4. **Inside information or non-public information:** Describe inside or non-public information obtained and to whom it was disclosed as a result of your employment for purposes unrelated to the performances of your duties as an EPIC Long Island employee.

**Inside/non-public Information Disclosed**

**Entity/Individual**

None \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

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

5. **Gifts, gratuities or entertainment:** List gifts, gratuities or entertainment that you or your family have accepted and from whom they were given, that might influence your judgment or actions concerning the business of EPIC Long Island.

**Name of Business Entity or Individual**

**Nature of Gift**

None \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

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

6. **Other Activities:** Please list any other activities other than those above which may be construed as opportunity for personal benefit or the benefit of another party, in which you or your family are engaged, that may be regarded as constituting conflict of interest.

**Description of Other Activities**

None \_\_\_\_\_  
 \_\_\_\_\_  
 \_\_\_\_\_

AFFIRMATION: I hereby affirm that (i) I have received a copy of the EPIC Long Island Conflicts of Interest Policy, (ii) I have read and understand such policy, (iii) I have agreed to comply with such policy and (iv) the information contained herein is, to the best of knowledge, accurate, and complete.

\_\_\_\_\_  
 Signature

\_\_\_\_\_  
 Date

**EMPLOYEE**  
**COMPLIANCE TRAINING ACKNOWLEDGMENT**

Date of Training: \_\_\_\_\_

Training Site: \_\_\_\_\_

Instructor: \_\_\_\_\_

I acknowledge and agree that I completed the PLUS GROUP HOMES's Compliance Training Program on the date specified above.

I acknowledge that I have received and read a copy of the PLUS GROUP HOMES's Compliance Plan and the Code of Conduct and an explanation of the Federal False Claims Act.

I understand that I have a continuing responsibility to comply with the Code of Conduct and participate fully in the PLUS GROUP HOMES's Compliance Program.

I understand that my failure to comply with the Compliance Plan, the Code of Conduct, laws, regulations, and policies and procedures or to report possible violations may result in disciplinary action, up to and including termination.

**Print Name:** \_\_\_\_\_

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

**Work Site:** \_\_\_\_\_

**Signature:** \_\_\_\_\_

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

**EMPLOYEE**  
**COMPLIANCE TRAINING ACKNOWLEDGMENT**

**Date of Materials Receipt:** \_\_\_\_\_

**Supervising Staff Involved in Training (if applicable):**

**Name/Position:** \_\_\_\_\_

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

Due to an inability to attend the formal training program, I acknowledge and agree that I have been provided with the Training materials, have read them and have been provided with the opportunity to review them, ask questions and have discussion with either my Supervisor or other staff person knowledgeable in Medicaid Compliance regarding these materials.

I acknowledge that I have received and read a copy of the PLUS GROUP HOMES's Compliance Plan and the Code of Conduct and an explanation of the Federal False Claims Act.

I understand that I have a continuing responsibility to comply with the Code of Conduct and participate fully in PLUS GROUP HOMES's Compliance Program.

I understand that my failure to comply with the Compliance Plan, the Code of Conduct, laws, regulations, and policies and procedures or to report possible violations may result in disciplinary action, up to and including termination.

**Print Name:** \_\_\_\_\_

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

**Work Site:** \_\_\_\_\_

**Signature:** \_\_\_\_\_

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

**BOARD OF DIRECTORS**  
**COMPLIANCE TRAINING ACKNOWLEDGMENT**

**Date of Materials Receipt:** \_\_\_\_\_

**Supervising Staff Involved in Training (if applicable):**

**Name/Position:** \_\_\_\_\_

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

I acknowledge and agree that I have been provided with the Training materials, have read them and have been provided with the opportunity to review them, ask questions and have discussion with the Compliance Officer or a staff person knowledgeable in Medicaid Compliance regarding these materials.

I acknowledge that I have received and read a copy of the PLUS GROUP HOMES's Compliance Plan and the Code of Conduct and an explanation of the Federal False Claims Act.

I understand that I have a continuing responsibility to comply with the Code of Conduct and participate fully in PLUS GROUP HOMES's Compliance Program.

I understand that my failure to comply with the Compliance Plan, the Code of Conduct, laws, regulations, and policies and procedures or to report possible violations may compromise my relationship with PLUS GROUP HOMES including possible removal from the Board of Directors.

**Print Name:** \_\_\_\_\_

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

**Signature:** \_\_\_\_\_

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

**CONTRACTORS AND VENDORS**  
**COMPLIANCE TRAINING ACKNOWLEDGMENT**

**Date of Materials Receipt:** \_\_\_\_\_

**Supervising Staff Involved in Training (if applicable):**

**Name/Position:** \_\_\_\_\_

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

I acknowledge and agree that I have been provided with the Training materials, have read them and have been provided with the opportunity to review them, ask questions and have discussion with the Compliance Officer or a staff person knowledgeable in Medicaid Compliance regarding these materials.

I acknowledge that I have received and read a copy of the PLUS GROUP HOMES's Compliance Plan and the Code of Conduct and an explanation of the Federal False Claims Act.

I understand that I have a continuing responsibility to comply with the Code of Conduct and participate fully in PLUS GROUP HOMES's Compliance Program.

I understand that my failure to comply with the Compliance Plan, the Code of Conduct, laws, regulations, and policies and procedures or to report possible violations may compromise my relationship with PLUS GROUP HOMES including possible termination of contract.

**Print Name:** \_\_\_\_\_

**Name of Company:** \_\_\_\_\_

**Signature:** \_\_\_\_\_

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

## **False Claims Act Language for Personnel Handbook**

### **The Federal False Claims Act (“FCA”)**

#### *Scope of the FCA*

The False Claims Act (the “FCA”) is a federal law (31 U.S.C 3279) that is intended to prevent fraud in federally funded programs such as Medicare and Medicaid. The FCA makes it illegal to knowingly present, or cause to be presented, a false or fraudulent claim for payment to the federal government. Under the FCA, the term “knowingly” means acting not only with the actual knowledge but also with deliberate ignorance or reckless disregard of the truth.

#### *FCA Penalties*

The Federal government may impose harsh penalties under the FCA. These penalties include “treble damages” (damages equal to three times the amount of the false claims) and civil penalties of up to \$22,000 per claim. Individuals or organizations violating the FCA may also be excluded from participating in federal programs.

#### *Examples of Potential FCA Violations*

Examples of the type of conduct that may violate the FCA include the following:

- Knowingly submitting claims to the Medicaid program for services not actually rendered or for which AGENCY is otherwise not entitled to reimbursement;
- Knowingly submitting inaccurate, misleading or incomplete Medicaid cost reports; and
- Knowingly failing to seek payment from other insurers or government programs that provide coverage to a client before billing Medicaid.

#### *The FCA’s Qui Tam Provisions*

The FCA contains a *qui tam*, or whistleblower, provision that permits individual with knowledge of false claims activity to file a lawsuit on behalf of the federal government. These individuals are referred to as “relators.” The relator’s lawsuit is filed under seal, which means it is kept confidential until the U.S Justice Department reviews the case and decides whether to take over prosecution of the matter. An individual is considered a relator only if he or she is the “original source” of the report to the federal government. An individual is not the original source if the report involves activities that are already the subject of a government investigation or have previously been disclosed by the provider to the government. If a relator’s lawsuit is successful, the relator may receive an award ranging from 15 to 30 percent of the government recovery, plus reasonable expenses and attorney’s fees.

#### *The FCA’s Prohibition on Retaliation and Intimidation*

The FCA prohibits intimidation and retaliation against employees for filing a qui tam lawsuit or otherwise assisting in the prosecution of an FCA claim. Under the FCA, employees who are the subject of such retaliation may be awarded reinstatement, back pay and other compensation. PLUS GROUP HOMES’s False Claims Act Policy strictly prohibits any form of retaliation and intimidation against employees for filing or assisting in the prosecution of an FCA case.

#### *Federal Program Fraud Civil Remedies Act of 1986*

The Federal Program Fraud Civil Remedies Act of 1986 (31 U.S.C. 3801) authorizes the federal government to impose administrative penalties against any person who files a false claim with certain government agencies, including the U.S Department of Health and Human Services. The definition of false claim under this law is similar to the definition under the FCA. The maximum penalties under the law are \$11,000 per false claim and an assessment of twice the amount of the claim.

#### *State Laws Punishing False Claims and Statements*

There are a number of New York State laws punishing the submission of false claims and the making of false statements:

- Article 175 of the Penal Law makes it a misdemeanor to make or cause to make a false entry in a business record, improperly alter a business record, omit making a true entry in a business record when obligated to do so, prevent another person from making a true entry in a business record or cause another person to omit making a true entry in a business record. If the activity involves the commission of another crime it is punishable as a felony.
- Article 175 of the Penal Law also makes it a misdemeanor to knowingly file a false instrument with a government Agency. If the instrument is file with the intent to defraud the government, the activity is punishable as a felony.
- Article 176 of the Penal Law makes it a misdemeanor to commit a “fraudulent insurance act,” which is defined, among other things, as knowingly and with the intent to defraud, presenting or causing to be presented a false or misleading claim for payment to a public or private health plan. If the amount improperly received exceeds \$1,000, the crime is punishable as a felony.
- Article 177 of the Penal Law makes it a misdemeanor to engage in “health care fraud,” which is defined as knowingly and willfully providing false information to a public or private health plan for the purpose of requesting payment to which the person is not entitled. If the amount improperly received from a single health plan in any one year period exceeds \$3,000, the crime is punishable as a felony.
- Section 403 of the Insurance Law authorizes the Insurance Department to impose civil penalties for any action that constitutes a fraudulent insurance act under Article 176 of the Penal Law. Civil penalties may be up to \$5,000 plus the amount of the claim for each violation.
- Section 740 of the Labor Law prohibits an employer from taking any retaliatory action against an employee because the employee (i) discloses or threatens to disclose to a supervisor or government Agency any illegal policy or practice of the employer that threatens public health or safety, or constitutes health care fraud, (ii) provides information to or testifies before any government Agency conducting an investigation into such a policy or practice, or (iii) objects to or refuses to participate in any such policy or practices. However, retaliatory action is prohibited only if the employee, prior to providing information to a government Agency, notifies his or her supervisor of the illegal policy or practice and affords the employer a reasonable opportunity to correct the problem. An employee subject to illegal retaliation may file a civil action against the employer and is entitled to reinstatement, lost wages and attorney’s fees.

*Policies and Procedures to Detect and Prevent Fraud, Waste and Abuse*

PLUS GROUP HOMES has adopted a Compliance Program to detect and prevent fraud, waste and abuse. The Compliance Program includes a Code of Conduct as well as specific procedures for identifying, reporting, investigating, and correcting improper activity. Employees are expected to promptly report any suspected fraud, abuse or other misconduct. PLUS GROUP HOMES has established a Compliance Hotline (516) 509-1389 that enables employees to make such reports on an anonymous basis. All employees receive basic compliance training, during which they receive a copy of and review the Compliance Program. In addition, PLUS GROUP HOMES has adopted more detailed policies governing the proper performance of sensitive functions such as billing and records keeping that are made available to employees engaged in such activities.