



## **Corporate Compliance Plan**

**2026**

Approved: 2/19/2026  
The Arc New York- Adirondack Chapter Board of Directors

Adirondack Arc

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**Adirondack Arc**  
**CORPORATE COMPLIANCE POLICY**

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**I. Policy**

It is the policy of The Arc New York- Adirondack Chapter to comply with all applicable federal, state, and local laws and regulations. It is also our policy to adhere to our Rules of Conduct/Standards of Conduct and Mission Statement principles adopted by the Board of Directors and the Chief Executive Officer.

**II. Commitment**

We are committed to our responsibility to conduct our business affairs with integrity based on sound ethical and moral standards. We will hold all our employees and contracted practitioners to these same standards.

The Chapter is committed to maintaining and measuring the effectiveness of our Compliance policies and standards through monitoring and auditing systems reasonably designed to detect noncompliance by its employees. We shall require the performance of regular, periodic compliance audits by internal and/or external auditors who have expertise in federal and state health care statutes, regulations, and health care program requirements.

**III. Responsibility**

All employees shall acknowledge that it is their responsibility to report any suspected instances of suspected or known noncompliance to their immediate supervisor, the Chief Executive Officer or the Compliance Officer. Reports may be made anonymously without fear of retaliation, retribution, or breach of confidentiality. Failure to report known noncompliance or making false reports will be grounds for disciplinary action, up to and including termination. Reports related to harassment or other workplace-oriented issues shall be referred to Human Resources.

**IV. Policies and Procedures**

The Chapter will communicate its compliance standards and policies through required training initiatives to all employees. We are committed to these efforts through the distribution of this Compliance Policy and plan, with annual sign-off through timekeeping systems for each staff.

**V. Enforcement**

This Compliance Policy will be consistently enforced through appropriate disciplinary mechanisms, including, if appropriate, discipline of individuals responsible for failure to detect noncompliance.

**VI. Agency Response**

Detected noncompliance, through any mechanism, e.g. compliance auditing procedures, confidential reporting, will be responded to in an expedient manner. We are dedicated to the resolution of such matters and will take all reasonable steps to prevent further similar violations, including any necessary modifications to the Compliance Plan.

## VII. **Due Diligence**

The Chapter will, at all times, exercise due diligence with regard to background and professional license investigations for all employees, prospective employees, and members of the Board of Directors.

## VIII **Whistleblower Non-retaliation Policy**

The Chapter will, at all times, have a policy of non-intimidation and non-retaliation for good faith participation in the compliance program, including but not limited to reporting potential issues, investigating issues, self-evaluations, audits, and remedial actions, and reporting to appropriate officials as provided in sections 740 and 741 of the Labor Law.

## **Mission**

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### **I. Mission, Vision, and Values**

The Chapter's stated mission is to provide opportunities to people with developmental disabilities to live a full and meaningful life through improved supports in all areas of life. This requires a well-coordinated effort from parents, members, and staff in seeking and implementing the best means possible in achieving this goal.

**Vision:** The Vision of The Arc New York- Adirondack Chapter is that all people are treated with equality, dignity, and respect.

**Values:**

Dedication – to the people we support and family

- Advocacy
- Support
- Viewed – treated as valued, esteemed members of society
- Family setting
- Community acceptance
- Entitled
- Self-advocacy

Innovation and Creativity

- Self-advocacy
- Family setting

High Performance Expectations

- Within agency
- Entitled
- Respect and value differences

Leadership

- In the field

- In the community
- Within the agency
- Community acceptance
- Viewed and treated as valued, esteemed members of society

#### Teamwork

- Within the agency
- Within the community
- Educate the community about what we do
  - Advocacy
  - Information
  - Community acceptance
  - Committed to building a non-discriminatory environment
  - Respect and value differences
  - Viewed and treated as valued, esteemed members of society

The Arc -Adirondack Chapter is a member chapter of The Arc, New York. embraces the mission of the State Association, which is:

"To improve the quality of life for persons with intellectual and other developmental disabilities, by:

- Being the preferred place for support, information, direction, and services for persons with intellectual and other developmental disabilities;
- Having the best in service delivery;
- Speaking with one clear voice in all matters;
- Becoming a learning organization by building training and educational opportunities into all aspects of The Arc New York operations."

The Agency is dedicated to providing services to people with developmental disabilities and to giving them the kindness, understanding, and training necessary to function as valued members of society. In order to accomplish these aims, each employee is expected to develop his/her individual skills in his/her particular job category to a high point; to have knowledge of the function of his/her program; and to know how this program relates to other programs within the agency.

It is only through a well-coordinated daily effort by all employees, under proper direction, that we can bring to all our clients a general and particular environment that will assist them in achieving their individual goals.

## **II. Expectations**

We ensure that all aspects of care provisions and business conduct are performed in compliance with our mission/vision statement, policies, procedures, professional standards, and applicable governmental laws, rules, and regulations. The Arc New York- Adirondack Chapter expects every person to adhere to the highest ethical standards and to promote ethical behavior when providing services to the people we support. Any employee whose behavior is found to violate ethical standards will be disciplined appropriately.

Any shortcomings are to be reported to immediate supervisors, the Associate Executive Director in Compliance and Privacy or the Chief Executive Officer, so each situation may be appropriately dealt with. The Compliance Officer may be reached at (518) 359-3351 x 120 or (518) 354-1137 (cell)

Corporate Compliance HOTLINE: (518) 359-7518 x 411

## **Standards/Rules OF CONDUCT**

### **I. Policy**

All employees, independent contractors, and Board members must know, understand, and follow The Arc New York's Adirondack Chapter Rules of Conduct because it is an integral component of our Corporate Compliance Plan and provides guidance to all employees and assists us in carrying out our daily activities within appropriate ethical and legal standards. The Arc New York- Adirondack Chapter Rules of Conduct can be found in The Arc New York- Adirondack Chapter Employee Handbook, section 705.0

### **II. Scope**

This policy applies to each employee, independent contractor, and Board member.

### **III. Procedure**

#### **A. Employees**

Each staff member will be provided with a copy of the Rules of Conduct/Standards/Rules of Conduct via the Employee Handbook upon hire and annually thereafter.

Staff will be trained on our Rules of Conduct/Standards/Rules of Conduct and will sign an acknowledgement of the Rules of Conduct/Standards/Rules of Conduct, indicating their understanding and commitment to follow the Rules of Conduct. The Acknowledgement Form is attached as **Exhibit B**.

#### **B. Supervisors**

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

#### **C. Independent Contractors**

Independent contractors will be provided with a copy of the Rules of Conduct at the time of entering into a written agreement with The Arc New York- Adirondack Chapter.

Each independent contractor will sign an acknowledgement of the Rules of Conduct at the time of initial contracting and at renewal, indicating his or her understanding and commitment to follow the Rules of Conduct. The Acknowledgement Form is attached as **Exhibit C**.

D. Board Members

Each Board member shall be provided with a copy of the Rules of Conduct at the time of Board orientation and upon renewal of his or her Board seat.

Each new Board member will sign an acknowledgment of the Rules of Conduct, indicating his or her understanding and commitment to follow the Rules of Conduct. The Acknowledgement Form is attached as **Exhibit D**.

Exhibits

Exhibit A –The Arc New York- Adirondack Chapter Standards/Rules of Conduct

Exhibit B – Employee Acknowledgement Form

Exhibit C – Independent Contractor Acknowledgement Form

Exhibit D – Board Member Acknowledgement Form

**Exhibit A**

**The Arc New York- Adirondack Chapter Standards/ Rules of Conduct**

In any organization, it is important that all employees work together for the good of the whole so that the rights and interests of both the organization and the employees are assured. This is particularly so in an agency such as ours where any failure to adhere to high standards of behavior may affect the well-being of the individuals entrusted to our care. The importance of this matter necessitates that the Agency take disciplinary action (which may include oral or written warnings, suspension or discharge) against any employee for failing, in the Agency's judgment, to adhere to appropriate standards of behavior.

Employee cooperation during investigations of any type, whether internal or external, is a condition of continued employment. Employees do not have the right to legal counsel or any other informal representation at investigatory meetings.

Employees are required to report to their supervisor or another management employee immediately any situation involving potential misconduct.

Common sense is your best guide for proper conduct. It is impossible for us to spell out everything that is expected of you by the Agency in terms of conduct on the job. A list of rules cannot possibly cover all the situations which might arise. Some actions, however, which cannot be accepted and may lead to disciplinary action are the following: abuse or neglect of persons receiving services; insubordination; harassment; infraction of safety rules; excessive tardiness or absenteeism; possession or use of alcohol or drugs on the Agency's premises; reporting to work under the influence of alcohol or drugs; destruction or theft of the Agency's property; falsifying the Agency's records or documents; and poor work performance.

Specific permission is required for employees, while accompanying a person receiving services in the community, to bring that person to their home or to anyone else's home, or to meet with the employee's family members, friends, or other acquaintances in the community. Exceptions are chance meetings involving a minute or two of conversation before continuing.

Employees are prohibited from conducting personal business or personal errands on work time.

This list of offenses is given by way of example and is not intended to be exhaustive. The Agency reserves the right to issue warnings, suspend, or otherwise discipline and discharge an employee for other offenses as the situation may warrant.

A supervisor may, at his/her discretion, initiate performance counseling as follows:

1. The supervisor will write an internal memo (special evaluation) to the COO/CEO, which describes the behavior(s) to be corrected, the time frame for compliance, and support to be provided by the supervisor.
2. Upon approval by the Associate Executive Director and Chief Executive Officer, the special evaluation will be returned to the supervisor, reviewed with the employee, and will become effective when the supervisor and the employee have signed it. In certain situations, management reserves the right to put the terms of a special evaluation into effect immediately, i.e., without employee signature/approval.
3. A copy of the special evaluation is given to the employee, and the original is sent to the Human Resources Director for review and is placed in the employee's file.

A supervisor or Associate Executive Director may, at his/her discretion, suspend an employee pending review by the Chief Executive Officer. The Chief Executive Officer may, at his/her discretion, suspend or discharge an employee.

Suspensions other than those specified as disciplinary action by a supervisor are with pay for the duration of the suspension. This includes suspensions pending investigation of allegations of abuse. The Agency will make every attempt within its power to make suspensions as short as possible. Suspensions, like any personnel action, are appealable via the agency's grievance procedure. Employees on a paid suspension are required to be available for any meetings or discussions necessary to resolve the situation that initiated the suspension.

At the sole discretion of the Chief Executive Officer, an employee may be suspended without pay following their arrest, for an undetermined period of time pending a sufficient explanation of the circumstances surrounding the incident. The Chief Executive Officer's decision is based on the relevance of the charges to the employee's obligations to the agency. Further disciplinary action may be taken as a result, up to and including discharge.

Direct support personnel are expected to meet standards of conduct as described by the National Alliance for Direct Support Professionals in its code of ethics and will be trained on the code annually:

***"Person-Centered Supports:** As a Direct Support Professional, my first allegiance is to the person I support; all other activities and functions I perform flow from this allegiance.*

***Promoting Physical and Emotional Well-Being:** As a Direct Support Professional, I am responsible for supporting the emotional, physical, and personal well-being of the individuals receiving support. I will encourage growth and recognize the autonomy of the individuals receiving support while being attentive and energetic in reducing their risk of harm.*

***Integrity and Responsibility:** As a Direct Support Professional, I will support the mission and vitality of my profession to assist people in leading self-directed lives and to foster a spirit of partnership with the people I support, other professionals, and the community.*

***Confidentiality:** As a Direct Support Professional, I will safeguard and respect the confidentiality and privacy of the people I support.*

**Justice, Fairness, and Equity:** *As a Direct Support Professional, I will promote and practice justice, fairness, and equity for the people I support and the community as a whole. I will affirm the human rights, civil rights and responsibilities of the people I support.*

**Respect:** *As a Direct Support Professional, I will respect the human dignity and uniqueness of the people I support. I will recognize each person I support as valuable and help others understand their value.*

**Relationships:** *As a Direct Support Professional, I will assist the people I support to develop and maintain relationships.*

**Self-Determination:** *As a Direct Support Professional, I will assist the people I support to direct the course of their own lives.*

**Advocacy:** *As a Direct Support Professional, I will advocate with the people I support for justice, inclusion, and full community participation."*

Management personnel are expected to meet the Agency's standards of conduct as follows:

*"As a member of the management staff of The Arc New York- Adirondack Chapter, I understand and accept the following as my responsibilities:*

*Place the interests of the people we serve and their family members first and foremost in all decisions that may affect their lives.*

*Act as an emissary for The Arc New York- Adirondack Chapter by projecting its work throughout the community-at-large.*

*Work cooperatively with fellow management staff members toward the achievement of The Arc New York- Adirondack Chapter's singular vision and mission.*

*Conduct all activities in a financially responsible manner and ensure that checks and balances are in place to avoid misuse of agency funds.*

*Protect the organization against lawsuits by conducting work activities in accordance with applicable laws, regulations, and policies.*

*Devote full work time and attention to duties; participate in The Arc New York- Adirondack Chapter's activities.*

*Set an example of dedicated service and professional conduct to those supervised.*

*Address issues/problems promptly and forthrightly with co-workers.*

*Seek training and/or assistance in areas that would strengthen or enhance abilities to fulfill job duties.*

*Fairly and equitably administer The Arc New York- Adirondack Chapter's policies and procedures.*

*Avoid perceived or potential professional/personal conflicts of interest in the performance of job duties.*

*It is understood that all agency property and resources are to be used solely for the business purposes of the organization. Care and proper maintenance of agency property should be instilled in **all staff**, with zero tolerance for safety hazards or*

*poor maintenance of agency property at The Arc New York- Adirondack Chapter sites. This includes physical property, supplies, agency technology resources, and telecommunications.*

*Maintain confidentiality in all matters and do not disclose them to anyone outside The Arc New York- Adirondack Chapter, either during or after separation from employment.*

*Upon separation from employment at The Arc New York- Adirondack Chapter, deliver promptly all memoranda, notes, records, reports, and other documents with respect to agency matters and other proprietary information related to job duties performed for The Arc New York- Adirondack Chapter.*

*Accept no gifts or gratuities other than those of minimal value from individuals or family members who receive services or supports from The Arc New York- Adirondack Chapter; accept no gifts or gratuities from vendors who may provide services to The Arc New York- Adirondack Chapter absent permission from the Chief Executive Officer.*

*Respect the role of officers and directors of The Arc New York- Adirondack Chapter, and promptly implement decisions the Board of Directors make.*

*When in doubt about interpreting your conduct under this code, consult your immediate supervisor or personnel office."*



**Acknowledgment Form  
Adirondack Arc Employees**

- ✓ I acknowledge that I have reviewed and understand the Adirondack Arc Corporate Compliance Plan, Standard/Rules of Conduct.
- ✓ I understand and agree that I must comply with the agency's Corporate Compliance Plan and the Code/Rules of Conduct and all laws, regulations, policies, procedures, and other guidance applicable to the responsibilities of my position.
- ✓ I agree to fully cooperate with implementing the Corporate Compliance Plan, to participate in any auditing or monitoring processes, and to report any possible violations of law, regulations, or policies that apply to the Adirondack Arc of which I become aware.
- ✓ I acknowledge that the agency maintains a hotline for the purpose of receiving notifications of possible violations of law, regulation, and the Corporate Compliance Plan.
- ✓ I understand that my failure to report any concerns regarding possible violations of law, regulations, agency policy, or the Corporate Compliance Plan may result in disciplinary action, including termination.

\_\_\_\_\_  
Signature

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

\_\_\_\_\_  
Title

\_\_\_\_\_  
Date

**Exhibit C**

**Acknowledgement Form  
Independent Contractor / Agents / Vendors**

The Arc New York- Adirondack Chapter has developed a Corporate Compliance Plan that states that the organization and its employees, contractors and Board of Directors will adhere to applicable federal, state and local laws and regulations and internal policies and procedures.

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

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

As our agent, we also expect you to report any suspected or potential violations of law or our policies and procedures of which you become aware by contacting our Chief Executive Officer at 518.359.3351, our Corporate Compliance Officer at 518.359.3351 x 120 or our Corporate Compliance Hotline at 518.359.7518 x 411.

As our agent, we expect you to understand your role in the Corporate Compliance Plan of The Arc New York- Adirondack Chapter and we expect you to request any policies and procedures that are applicable to you and your organization. You may contact the Chief Executive Officer or the Corporate Compliance Officer for any questions or clarifications of your responsibilities.

\* \* \* \* \*

- ✓ I acknowledge that on behalf of myself and my organization that I have read and that I understand The Arc New York- Adirondack Chapter Rules of Conduct and the policies and procedures of The Arc New York- Adirondack Chapter Corporate Compliance Plan that are applicable to the services that are provided to The Arc Adirondack Chapter, New York.

- ✓ I understand and agree that I and all those in my organization who provide services to The Arc New York- Adirondack Chapter must comply with its Corporate Compliance Plan and its Rules of Conduct and all laws, regulations, policies, procedures, and other guidance applicable to the services that are provided to The Arc Adirondack Chapter, New York.
- ✓ I agree on behalf of myself and my organization to fully cooperate with the implementation of The Arc New York- Adirondack Chapter maintains a hotline for the purpose of receiving notifications of possible violations of law, regulation, and The Arc New York- Adirondack Chapter’s Corporate Compliance Plan.
- ✓ I understand that my failure to report any concerns regarding possible violations of law, regulations or the Corporate Compliance Plan may result in corrective action, up to and including termination of my agreement with The Arc New York- Adirondack Chapter.

By: \_\_\_\_\_  
Signature

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

\_\_\_\_\_  
Title

\_\_\_\_\_  
Date

## Corporate Compliance Officer

### I. **Compliance Officer**

The Chapter designates Barbara J. Tebo as the Compliance Officer. The Compliance Officer has direct lines of communication to the Chief Executive Officer and the Board of Directors.

### II. **Job Duties**

The Compliance Officer is directly obligated to serving the best interests of our agency, the people we support, and employees; and is entitled to review all legal contracts and compliance pertinent documents. Responsibilities of the Compliance Officer include, but are not limited to:

- Developing and implementing compliance policies and procedures (P&P).
- Overseeing and monitoring the implementation of the compliance program.
- Directing the Chapter's internal audits established to monitor the effectiveness of compliance standards.
- Providing guidance to management, medical/clinical program personnel, and individual departments regarding P&P and governmental laws, rules, and regulations regarding compliance-related matters.
- Updating, periodically, the Compliance Plan to reflect changes that may occur within the Chapter, pertinent law and regulations, and governmental and third-party payers regarding compliance-related matters.
- Overseeing efforts to communicate the Compliance Plan.
- Coordinating, developing, and implementing the educational and training program regarding compliance-related matters.
- Ensuring employees are aware of the requirements of the Chapter's Compliance Plan.
- Actively seeking and researching current material relative to regulatory compliance.
- Maintain a confidential reporting system and respond to concerns, complaints, and questions related to the Compliance Plan.
- Acting as a resourceful leader regarding regulatory compliance issues.
- Investigating and acting on issues related to compliance.
- Coordinating internal investigations and implementing corrective action.

- Participating in and reporting to the Corporate Compliance Committee through quarterly meetings.
- In addition to Compliance responsibilities, the AED in Compliance and Privacy has the following responsibilities:
- Supervision and Coordination of the Compliance Analyst staff, Qualified Intellectual Development Professional Staff (QIDP), and the Plan Writer Unit.
- Duties include reviewing the Staff Action Plan, managing meetings with external agencies such as Care Design and Life Plan.
- Attending meeting to improve and develop quality habilitation delivery and satisfaction.
- Training development and delivery for staff documentation.
- Administrator for agency Electronic Health Record Precisioncare.

Privacy Security set up and monitoring  
Reports  
Changes and corrections  
Staff and management training and development  
Work with the Business Office for billing issues and corrections.

## **The Structure, Duties, and Role of the Compliance Committee**

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### **I. Reporting Structure and Purpose**

The Corporate Compliance Committee will be appointed in accordance with the chapter's bylaws. The Compliance Committee's purpose is to advise and assist the Compliance Officer with the implementation and oversight of the Compliance Plan.

### **II. Members**

The members of the Compliance Committee include the following staff positions:

- 1) Compliance Officer Chairman: Barbara J. Tebo (appointed 10/12/2010)
- 2) Member of the Board: Cass Becker (appointed 6/25/2024)
- 3) QIDP: Michael Tuggey (appointed 01/16/2023)
- 4) Quality: Jennifer Stavenhagen (appointed 1/1/2023)
- 5) Business Office Represented by: Dan Gadway (appointed 1/6/15)  
Accounting Supervisor: Michelle Kentile (Appointed 1/1/2023)
- 6) Residential: Ann Charette (appointed 1/1/2023)
- 7) Human Resource Director: Kayleigh Centeno (appointed 2/19/2025)

### **III. Function**

The roles of the Compliance Committee include:

- Analyzing the environment within which the Chapter does business, including legal requirements with which it must comply.
- Review and assessment of existing P&P that address these risk areas for possible incorporation into the Compliance Plan.
- Working with departments to develop standards and P&P that address specific risk areas and encourage compliance according to legal and ethical requirements.
- Advising and monitoring appropriate departments relative to compliance matters.
- Development of internal systems and controls to carry out compliance standards and policies.
- Monitoring internal and external audits to identify potential non-compliant issues.
- Providing oversight of corrective and preventive action plans.
- Developing a process to solicit, evaluate and respond to complaints and problems.

## **Delegation of Substantial Discretionary Authority**

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### **I. Requirement**

Any employee or prospective employee who holds, or intends to hold, a position with control over the Chapter, such as Executives and Assistant Executives, CFO's, Department Heads, and positions with authority to set policy and negotiate contracts, is required to disclose any name changes, potential conflicts of interest, and any involvement in non-compliant activities including health care related crimes. In addition, the Chapter performs reasonable inquiries into the background of such applicants.

## **DOCUMENTATION OF COMPLIANCE ACTIVITIES**

### **I. Policy**

Documentation of actions taken under The Arc New York- Adirondack Chapter's Corporate Compliance Plan is a key factor in the effectiveness of the Plan. The Arc Adirondack Chapter, New York must be able to demonstrate that actions that are taken throughout the development and implementation of the Corporate Compliance Plan are reasonable in the event that The Arc Adirondack Chapter, New York is investigated by outside regulatory bodies, such as the state of New York Medicaid program, the Office for People with Developmental Disability ("OPWDD"), the Attorney General's Office, the federal Centers for Medicare and Medicaid Services ("CMS") or the Office of the Inspector General ("OIG").

#### **Scope**

This policy shall apply to all documentation referenced under each policy and procedure of the Corporate Compliance Plan and other The Arc New York- Adirondack Chapter policies, as described in detail in this policy.

#### **Procedure**

##### **Maintenance and Handling Procedures for Documents**

The Corporate Compliance Officer will create and maintain, or oversee the maintenance of, all documentation of the Corporate Compliance Plan, including the Corporate Compliance Plan Policies and Procedures, the date on which these policies were adopted and updated, if applicable.

The Corporate Compliance Officer will maintain a log of all compliance-related complaints of which he or she is aware. Each version of the Compliance Log should be dated and will be updated as the complaint resolution process progresses. The Compliance Log will be presented to the Board of Directors at scheduled board meetings and will be made available upon request of the Chief Executive Officer, any member of the Board of Directors or any member of the Corporate Compliance Committee. A sample Corporate Compliance Officer Log is attached to this Policy as Exhibit A.

Activities related to the Corporate Compliance Plan may result in the creation or receipt of documents that are of a confidential nature. These may include business documents, investigation materials, or patient records that must be protected from general disclosure or distribution. The Corporate Compliance Officer, in consultation with Inside Counsel or Outside Counsel, where necessary, will determine which documents should be designated and maintained as confidential documents.

Many of the records that will be generated by the Corporate Compliance Officer or obtained in the course of The Arc New York- Adirondack Chapter's business will be of a confidential nature as a result of a communication with legal counsel.

All efforts will be made to refrain from duplicating documents that are Confidential and/or Attorney-Client Privileged.

All documents that are Confidential and/or Attorney-Client Privileged will be maintained separately in secure file cabinets. The Corporate Compliance Officer will create and maintain a list of which Chapter employees may access the Confidential and Attorney-Client Privileged documents.

Documents to be Maintained / Indexed

The Corporate Compliance Officer and other The Arc New York- Adirondack Chapter staff with compliance-related responsibilities will maintain the following types of compliance documents. The following list of compliance documents is illustrative only and is not an exhaustive list:

### **Program Development**

Board Resolution(s) and/or minutes establishing the Corporate Compliance Plan, the selection of the Corporate Compliance Officer and the Corporate Compliance Committee, and the ongoing operation of the Corporate Compliance Plan

Corporate Compliance Plan implementation schedules/work plans

Results of compliance risk assessment, if any

### **Written Policies and Procedures/ Rules of Conduct**

Past and current versions, including dates reviewed, revision dates, and responsible parties of all Corporate Compliance Plan Policies and Procedures

The Arc New York- Adirondack Chapter Rules of Conduct.

### **Corporate Compliance Officer and Corporate Compliance Committee**

Names, titles, and backgrounds for all members of the Corporate Compliance Committee, including the Corporate Compliance Officer

Job descriptions for the Corporate Compliance Officer and any compliance staff

Agendas and records/minutes of Corporate Compliance Committee meetings

Copies of reports made to the Board and/or Chief Executive Officer by the Corporate Compliance Officer and the Corporate Compliance Committee

### **Human Resources**

Human Resource and Corporate Compliance Policies and Procedures regarding the hiring of new personnel

Documentation evidencing each individual's background check, including documentation reflecting individuals refused employment based upon background check findings

The signed acknowledgement forms of the Rules of Conduct for each employee and any signed acknowledgement of specific policies and procedures, when applicable

Information collected during exit interviews regarding compliance issues

### **Compliance Training**

Information regarding the development and roll-out of the training program on the Corporate Compliance Plan

Information regarding the development and implementation of specialized training for certain groups of personnel

Information regarding attendance at training sessions (e.g., sign-in sheets)

Agendas and contents of training, including the length of the session and the instructor

Copies of all training handout materials and instructor guides

### **Dissemination of Compliance-Related Materials**

Copies of all notices sent to the Board, employees, independent contractors, agents, and vendors regarding The Arc New York- Adirondack Chapter's Corporate Compliance Plan and other compliance-related topics

### **Monitoring and Auditing**

Information regarding the number and frequency of audits of claims and documentation requirements

Information regarding any risk assessments or benchmarks, and progress made on these assessments

### **Disciplinary Actions**

Copies of all disciplinary and/or corrective action policies and procedures

Records of all compliance-related disciplinary actions taken, including any individuals terminated for violations of company policy

### **Response to and Prevention of Detected Offenses**

Reports on the investigations conducted into areas of potential non-compliance

Information regarding voluntary self-disclosures and overpayment returns.

### **Contacts with the Government and Payors**

Log of all contacts made between The Arc New York- Adirondack Chapter and any government authority, including, but not limited to, NY Medicaid, OPWDD, CMS, and the OIG. The log will include the name, title, and agency of the person spoken to, the date of the call, the matter referenced, and the response received from the individual, along with information regarding the source of the response.

All compliance correspondence to/from a government authority.

Documentation of any response to a request from a government authority for documents, including a summary of any investigation conducted by The Arc New York- Adirondack Chapter prior to responding to the government authority.

### **Contracts with Independent Contractors, Agents, and Vendors**

Copies of all written agreements

The signed acknowledgement forms of the Standards/Rules of Conduct for each agent or vendor and of specific policies and procedures, when applicable

## **EXCLUSION CHECKS**

### **PROFESSIONAL LICENSURE, CERTIFICATION, AND EXCLUSION VERIFICATION AND MONITORING**

#### **STANDARD:**

Required professional licensure and/or certification will be obtained and maintained as current by the professional in order for them to provide or oversee services within a specific clinical discipline. The Arc may employ individuals within a specific discipline prior to formal licensure, provided that they can demonstrate having successfully graduated from an accredited program for the clinical position they are seeking and are actively pursuing appropriate and required clinical licensure and/or certification. During the period prior to their full licensure or certification, they shall provide clinical services only under the direct supervision and oversight of a clinician licensed and/or certified in their specific discipline. Regularly scheduled audits will be conducted by the Corporate Compliance office and/or HR office to monitor this.

#### **PROCEDURE:**

The licensed and/or certified professional is required, as a condition of employment, to obtain and maintain necessary licensure and/or certification.

The application process and enrollment fees are the responsibility of the licensed and/or certified employee or contractor.

The human resource department and/or the compliance office will ensure, prior to formal hire, that the individuals have necessary licensure and/or certification, or other required credentials commensurate with their position.

Management is responsible for ensuring that applicable staff obtain and maintain necessary licensure and/or certification as part of and through ongoing supervision

The Human Resource office will conduct a full audit upon hire and monthly thereafter all licensed and/or certified employees and contractors among but not limited to the State Education Department Office of Professions (online licensure verification), the Health and Human Services Office of Inspector General Exclusions Database, the Excluded Parties List System, the NYS Department of Health Exclusions Database, and the NYS Education Office of Professions Professional Disciplinary Actions.

Verifying documentation will be printed and Archived for a period of six years.

For individuals who are found to be unlicensed and/or whose certification has lapsed, the clinician shall apply for required licensure or reinstatement.

The individual may, if appropriate and at the discretion of management, be suspended and not allowed to provide any services that require their licensure and/or certification until such time as it has been restored or reinstated.

An assessment will be made as to what financial and compliance liability the lack of licensure and/or certification might have, both retrospectively and currently, on the agency.

If the clinician refuses to apply for required licensure or reinstatement and The Arc is required to void claims due to failure to keep licensure current, the clinician shall be held personally liable for the amount of such claims subject to void. In addition, their employment or contract with The Arc shall be terminated.

The supervisor of the person whose licensure and/or certification is not current will forward a summary of disciplinary actions taken against the professional to the Compliance Director for review and tracking. The Human Resource department shall also receive a copy.

The Corporate Compliance Officer shall, if appropriate, recommend, suggest, or mandate additional disciplinary action, consistent with existing Human Resource and progressive disciplinary policies and procedures, and/or through consultation with the Human Resource department and/or agency administration.

Any NYS Education Department Office of Professions professional disciplinary findings regarding a licensed or certified clinician will be communicated immediately to the person's supervisor, the HR Supervisor, and the COO.

The professional staff person in question may or may not be suspended based on the nature of the actions and the discipline.

Additional agency disciplinary actions will occur as appropriate in conjunction with review by HR and agency administration.

## **Policy**

It is the policy of The Arc New York- Adirondack Chapter not to employ, contract with, or otherwise do business with any individual or entity excluded from participation in federally sponsored health care programs, such as Medicare and Medicaid. To avoid affiliation with any such person or entity, The Arc New York- Adirondack Chapter has established the procedures described below.

### **II. Scope**

This Policy and Procedure applies to all current and proposed The Arc New York- Adirondack Chapter employees, contractors, and vendors. This Policy also covers any other individual or entity affiliated with The Arc New York- Adirondack Chapter as deemed prudent by the Corporate Compliance Officer. For purposes of this Policy, all references to "employees" include relief, temporary, part-time, and full-time employees.

### III. Procedure

#### **Definitions.**

**Exclusion Check.** An Exclusion Check is a search of (1) the U.S. Department of Health and Human Services, Office of Inspector General (“OIG”)’s List of Excluded Individuals/Entities (available on the OIG website at <http://oig.hhs.gov/fraud/exclusions.html>); and (2) the General Service Administration (“GSA”)’s Excluded Parties List System (available on the GSA website at <http://www.epls.gov/>) to determine if an individual or entity’s name appears on either list.

**Ineligible Person.** For purposes of this Policy, an Ineligible Person is an individual or entity that is listed on the OIG’s List of Excluded Individuals/Entities and/or the GSA’s Excluded Parties, and/or the New York State Exclusion List.

#### **List System.**

#### **Employee Exclusion Check Procedures.**

An Exclusion Check will be performed for all applicants for employment at The Arc Adirondack Chapter, New York as part of the pre-employment background check as set forth in The Arc Adirondack Chapter, New York ’s Background Checks for Employees and Others. If the Exclusion Check indicates that any individual is an Ineligible Person, the individual cannot be employed by The Arc New York- Adirondack Chapter.

To protect The Arc New York- Adirondack Chapter against individuals excluded subsequent to beginning their employment, an Exclusion Check will be performed on all employees at least annually. If it is determined that a current employee is an Ineligible Person, The Arc New York- Adirondack Chapter shall immediately terminate the employment of the individual. Search results for Exclusion Checks must be documented and maintained by the Corporate Compliance Officer or Human Resources Department.

#### **Vendor/Contractor Certification Procedures.**

Any vendor/contractor wishing to enter into a contract with The Arc New York- Adirondack Chapter is required to certify in its contract that neither it nor any of its employees is an Ineligible Person. Such vendor/contractor certification shall be made on at least an annual basis. In addition, each vendor/contractor contract shall contain a provision requiring the vendor/contractor to maintain supporting documentation for its exclusion checks and to produce copies of such documentation to The Arc New York- Adirondack Chapter upon its request.

#### **Duty to Report.**

All The Arc New York- Adirondack Chapter employees, contractors, and vendors have a duty to report any action that would render that individual or entity an Ineligible Person.

#### **Pending Actions.**

If any of The Arc New York- Adirondack Chapter's employees, contractor or vendors is charged with a criminal offense related to healthcare or is proposed to be subject to debarment or exclusion from federal programs, the individual or entity must be removed from direct responsibility or involvement in any federally funded health care program while the matter is pending.

If resolution of the matter results in conviction, debarment, or exclusion, The Arc New York- Adirondack Chapter shall immediately terminate its employment or other contractual arrangement with the individual or entity.

## **Education and Training**

### **I. Expectations**

Education and training are critical elements of the Compliance Plan. Every employee is expected to be familiar with and knowledgeable about the Chapter's Compliance Plan and have a solid working knowledge of his or her responsibilities under the plan. Compliance policies and standards will be communicated to all employees through required participation in training programs.

### **II. Training**

All personnel shall participate in at least **one** hour of training on an annual basis. General topics could include:

- Government Initiatives,
- History and background of Corporate Compliance
- Legal Authority
- General prohibitions on paying or receiving remuneration to induce referrals,
- Prohibitions against submitting a claim for services when documentation of the service does not exist,
- Prohibitions against alterations to medical records,
- Prohibitions against rendering services without a signed physician's order, if applicable,
- Proper documentation of services rendered, and
- Duty to report misconduct.

Mandatory training topics will include:

- 1) The standards and procedures for 1) the submissions of accurate claims/bills for services and items to the Medicaid program and (2) the accurate preparation and submission of Service Plans.
- 2) The personal obligation of each manager and employee to ensure that the preparation and submission of claims to the Medicaid program and /or all other funding sources are accurate; and
- 3) The legal sanctions for improper submissions to the Medicaid program.

### III. **Orientation**

As part of their orientation, each employee and agent shall receive a written copy of the Compliance Plan, policies, and specific standards of conduct that affect their position.

### IV. **Attendance**

All education and training relating to the Compliance Plan will be verified by attendance and a signed acknowledgement of receipt of the Compliance Plan and standards. Attendance at compliance training sessions is mandatory and is a condition of continued employment. Human Resources will schedule employees for Corporate Compliance Training as part of staff orientation and prior to their one-year anniversary thereafter.

## **Effective Confidential Communication**

### I. **Expectations**

Open lines of communication between the Compliance Officer and every employee subject to this plan are essential to the success of our Compliance Program. Every employee has an obligation to refuse to participate in any wrongful course of action and to report the actions according to the procedure listed below.

## **REPORTING COMPLIANCE CONCERNS / ANTI-RETALIATION**

### **Policy**

Strict adherence to The Arc New York- Adirondack Chapter's Corporate Compliance Plan and Rules of Conduct is vital. The Arc Adirondack Chapter, New York requires all employees to promptly report any known or suspected violations of the Corporate Compliance Plan, Rules of Conduct, policies and procedures, or any of the laws, rules, or regulations by which The Arc Adirondack Chapter, New York is governed. This Policy governs the procedure to be used by employees to report compliance concerns and seeks to ensure that The Arc New York- Adirondack Chapter provides an environment that encourages individuals to report any suspected violations without fear of retaliation or retribution.

### I. **Scope**

This Policy applies to all employees of The Arc New York- Adirondack Chapter.

### II. **Procedure**

#### **Duty to Report.**

Employees are required to report any known or suspected violations of the Corporate Compliance Plan, Standards/Rules of Conduct, policies and procedures, or any of the laws, rules, or regulations by which The Arc New York- Adirondack Chapter is governed to their supervisor,

manager, the Corporate Compliance Officer or through The Arc Adirondack Chapter, New York's Compliance Hotline.

Employees may report their compliance concerns confidentially to The Arc New York-Adirondack Chapter Compliance Hotline. The Compliance Hotline telephone number is (518)-359-7518 ext. 411. Callers to the Compliance Hotline may make reports anonymously. No caller will be required to disclose his or her identity, and no attempt will be made to trace the source of the call or the identity of the caller when the caller requests anonymity.

If a caller has revealed his or her identity, confidentiality will be maintained to the extent practicable and allowed by law. Callers should be aware, however, that it may not be possible to preserve anonymity if they identify themselves, provide other information that identifies them, the investigation reveals their identity, or they inform people that they have called the Compliance Hotline. Callers should also be aware that The Arc New York- Adirondack Chapter is legally required to report certain types of crimes or potential crimes and infractions to external governmental agencies.

The Compliance Hotline telephone number and usage instructions shall be visibly posted in all residential sites, administrative offices, and pre-schools in a manner consistent with employee notification locations.

Confidentiality of Reports.

The Arc New York- Adirondack Chapter will attempt to treat all reports of potential non-compliance confidentially and to protect the identity of the employee who has made a report to the maximum extent possible consistent with fair and rigorous enforcement of the Corporate Compliance Program and Rules of Conduct.

Tracking/Investigations of Reports.

Any manager or supervisor who receives a report of a suspected violation may complete a The Arc New York- Adirondack Chapter Compliance Form (*See Exhibit A*). The compliance form is available but not required for reporting. A copy of the completed The Arc New York-Adirondack Chapter Compliance Intake Form shall be immediately directed to the Corporate Compliance Officer. In addition, the Corporate Compliance Officer or his or her designee shall complete The Arc New York- Adirondack Chapter Compliance Intake Form for all reports received through the Compliance Office or The Arc New York- Adirondack Chapter's Compliance Hotline or otherwise.

Upon receipt of a The Arc New York- Adirondack Chapter Compliance Intake Form, the Corporate Compliance Officer shall investigate in accordance with The Arc New York-Adirondack Chapter's compliance investigation procedure.

The Corporate Compliance Officer shall prepare a report to the Corporate Compliance Committee at least annually summarizing incidents reported, investigatory findings, and any corrective actions taken.

Non-Retaliation/Non-Retribution.

General Principles.

The Arc New York- Adirondack Chapter will not impose any disciplinary or other action in retaliation against individuals who make a report or complaint in good faith regarding a practice that the individual believes may violate The Arc New York- Adirondack Chapter's Corporate Compliance Plan, Rules of Conduct, its Compliance Policies, or any of the laws, rules or regulations by which The Arc Adirondack Chapter, New York is governed.

"Good faith" means the individual believes the potential violation actually occurred as he or she is reporting it.

All employees of The Arc Adirondack Chapter, New York are strictly prohibited from engaging in any act, conduct or behavior which results in, or is intended to result in, retaliation or retribution against any employee for reporting his or her concerns relating to a possible violation of The Arc Adirondack Chapter, New York's Corporate Compliance Plan, Rules of Conduct, its Compliance Policies or any of the laws, rules or regulations by which The Arc Adirondack Chapter, New York is governed.

The non-retribution/non-retaliation provisions of this Policy do not permit employees to avoid the consequences of their own wrongdoing by reporting such wrongdoing. Disciplinary actions taken against an employee who reports his or her own wrongdoing will be a result of the wrongdoing itself, not the reporting of such wrongdoing, and, therefore, are not to be considered retaliation or retribution. Self-reporting could, however, be taken into account in determining the appropriate disciplinary action to be taken.

### **Reporting Complaints.**

If an employee of The Arc New York- Adirondack Chapter believes in good faith that he or she has been retaliated against for initiating a report or complaint or for participating in any investigation related to such report or complaint, then The Arc New York- Adirondack Chapter employee should report the retaliation to his or her supervisor, manager, the Chapter's Corporate Compliance Office or the Compliance Hotline as soon as possible.

The report should provide a thorough account of the incident(s) and should include names, dates of specific events (if available), the names of any witnesses, and the location or name of any document in support of the alleged retaliation.

The Arc New York- Adirondack Chapter will conduct a thorough and objective investigation of the incident(s).

Adverse actions in retaliation for an employee's report or complaint may result in discipline, up to and including termination.

### **Discipline.**

Any disciplinary action for violation of the Corporate Compliance Plan, Rules of Conduct, policies and procedures, or any of the laws, rules or regulations by which The Arc Adirondack Chapter, New York is governed shall be imposed in accordance with The Arc Adirondack Chapter, New York's Discipline Procedures.

In the event an employee makes a frivolous, malicious, or knowingly false report or complaint under this Policy, the employee will be subject to appropriate discipline, up to and including termination.

#### List of Exhibits

Exhibit A – The Arc New York- Adirondack Chapter Compliance Intake Form

**Exhibit A**

The Arc New York- Adirondack Chapter Compliance Intake Form

Compliance/Legal Incident

File #: \_\_\_\_\_

Type (circle one): Compliance HIPAA Human Resource Other Legal

*To be completed by the Manager, Supervisor or Compliance Office Official receiving the complaint:*

Name and Position of Employee Providing Information, if Provided:

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

Facility/Function Reporting: \_\_\_\_\_

**Brief Description of Issue**

To be completed by the Compliance Office only:

**Brief Description of Resolution, Including Any Corrective Action, Discipline**

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

Investigated/Managed by: \_\_\_\_\_

Referred to Outside Counsel? Yes/No Date Referred \_\_\_\_\_

**Other Issues**

*\* Please attach copies of all pertinent documents obtained or created through your investigation of this complaint.*

Date conclusion made know to complainant/informant if known: \_\_\_\_\_

III. **Guidance**

Any employee may seek guidance with respect to the Compliance Plan at any time by following the reporting mechanisms outlined above.



## **Enforcement of Compliance Standards**

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### **BACKGROUND CHECKS FOR EMPLOYEES AND OTHERS**

#### Policy

It is the policy of The Arc New York- Adirondack Chapter to comply with all laws, rules, and regulations governing the employment of personnel and use of volunteers in the operation of programs for persons with developmental disabilities. This Policy has been adopted to comply with the New York Mental Hygiene laws and the New York State Office of People with Developmental Disabilities (“OPWDD”) regulations addressing (i) background information that must be obtained from applicants for all employment and volunteer positions; and (ii) criminal background checks that must be conducted on every prospective employee and volunteer who will have regular and substantial unsupervised or unrestricted physical contact with people we support.

#### Scope

Section I of this Policy applies to all prospective employees and volunteers. Sections II and III of this Policy apply to all prospective employees and volunteers who will have regular and substantial unsupervised or unrestricted physical contact with the people we support, as established in this Policy. Current employees and volunteers who will move from a position not involving regular and substantial unsupervised or unrestricted physical contact to a position involving such contact are subject to Sections II and III of this Policy. For purposes of this Policy, “employee” means any individual directly employed by The Arc New York- Adirondack Chapter, as well as any individual providing services substantially similar to those that are or could be provided by someone directly employed by The Arc Adirondack Chapter, New York.

#### Procedure

**Background Information Required for All Applicants for Employment/Volunteer Positions.**

The application process for all employees and volunteers shall include, but not be limited to, the following requirements:

A statement or summary of the applicant’s history of employment or related experience. Every effort shall be made to obtain the following information either on a written application or during the interview process:

Any prior or current experience as an employee, volunteer or certified provider with OPWDD, any other state agency or any other provider of human services; and

Any prior or current experience in direct care work relevant to the position for which an application is being made.

Names, addresses and, where available, telephone numbers of references who can verify the applicant’s history of employment or related experience, work record and qualifications.

Names, addresses and telephone numbers of at least two personal references, other than relatives, who can attest to the applicant's character, reputation and personal qualifications.

A statement or summary of the applicant's education showing, at a minimum, the highest grade level or degree attained, any additional credits earned and any relevant education or training regarding care of or services to individuals with developmental disabilities. At a minimum the names and addresses of schools and other educational institutions that can verify that the applicant meets the minimum qualifications for the job for which application is being made shall be provided.

Information indicating special skills or completed training/courses which might aid in the performance of duties of the position for which application is being made. Such information shall include any relevant professional licensure held by the applicant.

A statement by the applicant, indicating whether or not he or she has ever been convicted of a misdemeanor or a felony in any jurisdiction, and whether there is any pending criminal charges against the applicant. The statement shall include a description of all convictions and pending criminal charges.

A statement by the applicant for a position for which driving is required, indicating whether he or she has ever been convicted of a motor vehicle moving violation, including, but not limited to, alcohol and drug-related offenses. The statement must also indicate any suspension, revocation or occurrence involving harm to human beings or property while driving.

For applicants who will have regular and substantial unsupervised or unrestricted physical contact with people receiving services as described in Section II, the applicant shall provide information, statements and fingerprints as required by Section II of this Policy.

A statement that all information provided on the application is true. Moreover, application forms must inform the applicant that a false answer to any question in the application process is grounds for immediate dismissal.

### **Personnel Records.**

Personnel records shall be maintained at The Arc New York- Adirondack Chapter's record storage location to ensure the confidentiality of such records.

Personnel records must include application information as required by Section I. a. of this Policy and any other The Arc New York- Adirondack Chapter policies.

Personnel records shall include a copy or documented verification of an employee or volunteer's academic credential and/or current certification or licensure, if such an academic credential, certification or licensure is a condition of employment or participation.

Personnel records must include documented confirmation of an applicant's last place of employment or related experience.

### **Criminal Background Checks.**

Applicability.

New York law requires that The Arc New York- Adirondack Chapter request a criminal background check on all applicants for employment or volunteer positions who will have substantial unsupervised or unrestricted physical contact with the people we support. The criminal background check request is made to OPWDD and is referred to as a “criminal history record check” by OPWDD.

#### Requirements Before Submitting a Request for a Criminal History Record Check.

The Arc New York- Adirondack Chapter shall inform the prospective employee/volunteer in writing that:

The Arc New York- Adirondack Chapter is required to request a check of his or her criminal history information and review the results of such check; and

The prospective employee/volunteer has a right to obtain, review and seek correction of his or her criminal history record information pursuant to regulations and procedures established by the New York State Division of Criminal Justice Services.

The Arc New York- Adirondack Chapter shall obtain a signed OPWDD “Criminal History Record Check Consent Form.” [Note that OPWDD may periodically revise its form; the form is available online at <http://www.omr.state.ny.us/cbc/index.jsp>].

**Withdrawal of Application.** A prospective employee/volunteer may withdraw his or her application any time before an employment/volunteer position is offered or declined, regardless of whether the individual or The Arc Adirondack Chapter, New York has reviewed the summary of the individual’s criminal history record information.

**Requesting a Criminal History Record Check.** The Chief Executive Officer will designate an individual or individuals who will be the authorized party(ies) (“Authorized Party”) to make criminal history record check requests and to receive and review the criminal history summary information. The Authorized Party shall complete an OPWDD “Request for Criminal History Record Checks” form for submission to OPWDD, along with fingerprint information and any other materials required by OPWDD. Designees will also be appointed who are allowed to have access to the results of the criminal history record check.

#### **Results of a Criminal Background Check.**

After making its determination, OPWDD will inform The Arc New York- Adirondack Chapter what actions shall or may be taken and will forward The Arc New York- Adirondack Chapter a summary of the criminal history record information. OPWDD will issue one of two determinations to The Arc New York- Adirondack Chapter:

A determination that OPWDD is not issuing a denial and is not directing The Arc New York- Adirondack Chapter to issue a denial; or

A determination that OPWDD is issuing a denial or directing The Arc New York- Adirondack Chapter to do so.

**No Denial or Direction to The Arc Adirondack Chapter New York to Issue Denial.** Where the OPWDD determination is that no denial is being issued and The Arc New York- Adirondack Chapter

is not directed to issue a denial, The Arc New York- Adirondack Chapter must review the summary of the criminal history record information as follows:

No Criminal History.

Where the applicant has no criminal history, The Arc New York- Adirondack Chapter may proceed with approval of employment or volunteer activities involving regular and substantial unsupervised or unrestricted physical contact with the people we support.

Some Criminal History.

Where the applicant has some criminal history, but a denial is not issued or directed by OPWDD, The Arc New York- Adirondack Chapter must review the summary of the criminal history record information and make a determination to approve or deny the employment/volunteer application. The following factors are to be considered:

Notification by OPWDD that an applicant has some criminal history will not necessarily be a bar to employment.

In evaluating applicants with criminal convictions, The Arc New York- Adirondack Chapter will consider the relationship between the previous criminal offense and the specific position sought, as well as the risk the applicant poses to property or to the safety and welfare of others, as required by New York law.

Specifically, The Arc New York- Adirondack Chapter will consider the following factors:  
The public policy of the state to encourage employment of persons previously convicted of one or more criminal offenses;

The specific duties and responsibilities of the position sought;

The bearing the criminal offense(s) will have on the applicant's fitness or ability to perform one or more duties or responsibilities;

The time which elapsed since the conviction;

The age of the person at the time of the conviction;

The seriousness of the criminal offense;

any information produced by the person or produced on his/her behalf in regard to his/her rehabilitation and good conduct; and

The legitimate interest of the employer in protecting property and the safety and welfare of specific individuals or the general public.

The Arc New York- Adirondack Chapter will comply with New York law and provide, at the request of any applicant who has been previously convicted of one or more criminal offenses, a written

statement setting forth the reasons for any denial of employment within thirty (30) days of the request.

OPWDD Issues Denial or Instructs The Arc New York- Adirondack Chapter to Issue Denial. If OPWDD issues a denial or directs The Arc New York- Adirondack Chapter to issue a denial, then The Arc New York- Adirondack Chapter must notify the applicant he/she has been denied the employment/volunteer position based on their criminal history information. The applicant is entitled to receive, upon written request, a copy of the summary of criminal history information provided to The Arc New York- Adirondack Chapter by OPWDD. Provisional status, if any, must be immediately terminated.

#### Pending Charges.

If the criminal history record information includes a pending charge for a felony or for endangering the welfare of an incompetent or physically disabled person, OPWDD will, and for other crimes may, notify The Arc New York- Adirondack Chapter that it is holding the application until the charge is finally resolved. Upon receiving the notification of any such action, The Arc New York- Adirondack Chapter shall revoke any temporary approval granted.

#### Pending Potential Denial.

Prior to making a determination to issue a denial or to direct The Arc Adirondack Chapter, New York to issue a denial, OPWDD will send certain notifications to the applicant and offer the applicant an opportunity to explain why the application should not be denied. OPWDD will also send notice of the potential denial to The Arc New York- Adirondack Chapter. Upon receipt of notice, The Arc New York- Adirondack Chapter shall immediately revoke any temporary approval granted pursuant to Section III of this Policy.

#### Criminal Charges or Convictions Subsequent to the Initial Criminal History Record Check.

OPWDD will notify The Arc New York- Adirondack Chapter of any notification received from the New York State Division of Criminal Justice Services subsequent to the initial check indicating that there is a conviction or pending criminal charge against a current employee or volunteer. Upon receiving such notification The Arc New York- Adirondack Chapter shall:

Conduct a safety assessment of the service environment and take all appropriate steps to protect the health and safety of the people we support. The safety assessment shall be documented.

Monitor the outcome of any pending charge, if the individual continues to have regular and substantial unsupervised or unrestricted physical contact with people we support.

- a) Required Notifications to OPWDD. No later than fourteen (14) days after the event, The Arc New York- Adirondack Chapter must notify OPWDD when an individual no longer has the requisite contacts with the people we support to require a criminal history record check. OPWDD has determined that this occurs when:

*(1) An employee or volunteer for whom a criminal history record check was requested is separated from The Arc New York- Adirondack Chapter or is permanently assigned to a position which does not*

*involve regular and substantial unsupervised or unrestricted physical contact with consumers. This requirement does not apply to employees or volunteers who work seasonally or have a scheduled break in service of up to one year.*

*(2) An employee or volunteer for whom a criminal history record check was requested withdraws his or her application or is no longer being considered for the position applied for.*

b) Annual Criminal History Record Check Statement. The Arc New York-Adirondack Chapter must provide an annual criminal history record check statement as required by OPWDD.

c) Documentation and Confidentiality Requirements.

*(1) Only the Authorized Party, his or her designee and the applicant shall have access to criminal history record information or the summary of criminal history record information received by The Arc New York- Adirondack Chapter, except that criminal history record information may be disclosed to other persons directly participating in any decision regarding the applicant.*

*(2) The Arc New York- Adirondack Chapter must maintain and keep current the following records:*

(a) A current roster of employees and volunteers subject to criminal history record checks. The roster shall indicate the staffing assignment (for employees only), the date the criminal history record check was requested and the date that the individual was hired or assumed duties which involved regular and substantial unsupervised or unrestricted physical contact with the people we support.

(b) A list of individuals who have had a change in status. The list shall indicate the date the criminal history record check was requested and the date OPWDD was notified that the party was no longer subject to criminal history record checks.

(c) For each applicant for whom a request for a criminal history record check was submitted, a copy of their signed consent form, a copy of the request for the criminal history record check, notification of any change of status and the results of the criminal history record check and determination of OPWDD.

Temporarily Approved Provisional Employees and Volunteers.

Applicability.

The Arc New York- Adirondack Chapter may temporarily approve an applicant subject to a criminal history record check described in Paragraph (2)(a) above, for an employment or volunteer opportunity on a provisional basis while the results of the criminal history record check are pending, so long as such party does not have unsupervised physical contact with the people we support and the requirements of this Policy are met.

Information Requiring Denial of Temporary Approval. Temporary approval will be denied if The Arc Adirondack Chapter, New York possesses written documentation, such as a statement provided by the applicant as part of the application process, that the applicant:

Has a pending felony charge, or a conviction or pending charge for crimes specified in Section 633.98 of the OPWDD regulations; and/or

Has a pending misdemeanor charge or a conviction for any crime other than those specified in Section 633.98 of the OPWDD regulations, unless The Arc New York- Adirondack Chapter documents that temporary approval will not pose a risk of harm to the people we support.

Monitoring.

The Arc New York- Adirondack Chapter will assign an employee to monitor provisional employee/volunteer activities based on the layout of the facility, the staffing patterns, employee responsibilities and the individual being served. The monitoring employee is to remain in reasonable physical proximity to the provisional employee/volunteer at all times when the employee/volunteer is in the physical proximity of a person we support. In addition, the monitoring employee:

Must have been employed by The Arc New York- Adirondack Chapter prior to April 1, 2005 or must have had a criminal history record check by OPWDD;

Must have received training in abuse and understand his/her obligations in reporting incidents and abuse allegations and that the failure to intercede on behalf of an individual receiving services constitutes abuse;

Must know who to contact regarding concerns and how the contact is to occur; and

Must be aware of the restrictions placed on provisional employees and volunteers.

Attestation.

The provisional employee/volunteer must provide an attestation that they understand the basic elements of what is considered abuse under Section 624 of OPWDD regulations and that they know the name of the individual to contact, and in what manner, if they have questions about incidents or abuse. The employee/volunteer must also affirm that he/she will not engage in abusive practices or knowingly endanger the physical or emotional well-being of any person we support.

Restrictions on Activities.

The provisional employee/volunteer shall not be assigned personal care activities which require a person we supports privacy (e.g., bathing, dressing and toileting), unless a monitoring employee is in the same room with the provisional employee/volunteer at all times while personal care activities are occurring.

The provisional employee/volunteer shall not be assigned to work at a residential facility during the typical nighttime shift (e.g., 11:00 p.m. to 7 a.m.).

#### Removal of Provisional Status.

If The Arc New York- Adirondack Chapter receives notice from OPWDD that (i) the agency is issuing a denial or directs The Arc New York- Adirondack Chapter to issue a denial; (ii) the application is being held by OPWDD as a result of pending charges as described in this Policy; or (iii) OPWDD has issued a pending potential denial as described in this Policy, then The Arc New York- Adirondack Chapter must immediately revoke the temporary approval. When temporary approval is revoked, The Arc New York- Adirondack Chapter must notify OPWDD and confirm the time notification was received and identify the time when temporary approval was revoked.

## DISCIPLINE & INCENTIVE PROGRAM

### Policy

The Arc New York- Adirondack Chapter is committed to creating and fostering a culture in which compliant behavior is encouraged and rewarded so that when noncompliant behavior occurs, The Arc New York- Adirondack Chapter can respond swiftly and seriously. Employees and independent contractors who, upon investigation, are found to have committed violations of applicable laws and regulations, the Corporate Compliance Plan, the Rules of Conduct or the policies and procedures of The Arc New York- Adirondack Chapter will be subject to appropriate disciplinary action, up to and including termination.

### Scope

This policy applies to all employees and all independent contractors of The Arc New York- Adirondack Chapter. Disciplinary actions applicable to the Board of Directors will be handled in accordance with the Board's governing documents (e.g., the Bylaws).

### Procedure

#### **Discipline**

##### Violations Resulting in Disciplinary Action

Examples of when disciplinary actions may be taken include: (a) authorization of or participation in actions that violate law, regulations and the Corporate Compliance Plan, including the Rules of Conduct and all related policies and procedures; (b) failure to report any violation (a) of a peer or a subordinate; (c) failure to cooperate in an investigation; (d) retaliation against an individual for reporting a possible violation; (e) failure to act in an honest, reliable and trustworthy service provider.

##### Determining Appropriate Disciplinary Action

Factors that The Arc New York- Adirondack Chapter may consider in determining the level of disciplinary action to be taken include: (a) whether the violation was committed knowingly; (b) whether the individual lied or was otherwise dishonest during the investigation; (c) whether there was a pattern of misconduct; (d) whether the individual attempted to cover up the violation; (e) whether the violation involved retaliation against other persons who reported violations in good faith; (f) whether the employee deliberately failed to check whether a particular course of action was prohibited; (g) whether the violation was criminal in nature; (h) whether the individual cooperated with the investigation of the violation; (i) whether the individual received personal benefit; (j) whether the individual voluntarily reported the violation; (k) the seriousness of the damage caused by the violation; and (l) whether a client was or could have been harmed as a result of the violation.

The Arc New York- Adirondack Chapter shall apply progressive discipline consistent with the violation. Examples of disciplinary action that may be taken in accordance with the nature and scope of the infraction include, but are not limited to: (a) verbal counseling/warning; (b) counseling with written warning; (c) retraining; (d) reassignment/demotion; (e) suspension without pay; and (f) termination (of employment or of an arrangement with a contractor). The Arc New York- Adirondack Chapter may wish to report the employee or independent contractor to the appropriate federal or state regulatory agency for civil and/or criminal prosecution.

The Corporate Compliance Officer and/or Human Resources representative shall consult with the Corporate Compliance Committee, the Chief Executive Officer and Inside Counsel or Outside Counsel, as appropriate to determine the appropriate response to a violation, including those by an independent contractor.

#### Similar Punishment for Similar Offenses

Throughout the process of determining the appropriate disciplinary action to be taken in each instance of non-compliance, the Corporate Compliance Officer and Human Resources Representative will be responsible for ensuring that the disciplinary action to be taken is consistent with that taken in similar instances of non-compliance.

#### Collaboration between the Corporate Compliance Officer and Human Resources

To the extent possible, disciplinary action shall be taken in compliance with The Arc New York- Adirondack Chapter's Employee Manual. In addition, when the conduct is related to serious violations of compliance-related standards, the Compliance Officer and the appropriate supervisor/manager will meet to discuss any appropriate disciplinary actions. The Corporate Compliance Officer shall have the discretion to recommend a disciplinary process other than the normal procedure.

The Corporate Compliance Officer shall serve as a liaison with the Director of Human Resources in developing policies and procedures related to disciplinary actions. The Director of Human Resources will consult with the Corporate Compliance Officer on all matters related to the implementation of an effective Corporate Compliance Program. The Director of Human Resources is responsible to report to the Corporate Compliance Officer those disciplinary actions taken as a result of violations of the Corporate Compliance Plan.

#### Independent Contractors

The Corporate Compliance Officer shall serve as a liaison with The Arc New York- Adirondack Chapter's representative who is responsible for the engagement with an independent contractor who has committed a violation as described in this policy. The Arc New York- Adirondack Chapter representative is responsible to report to the Corporate Compliance Officer when an independent contractor commits a violation.

#### Reports to the Board and/or the Corporate Compliance Committee

When determination is made that a compliance violation has occurred, the Corporate Compliance Officer will notify The Arc New York- Adirondack Chapter's Chief Executive Officer and the individual's supervisor or contracting contact. If appropriate, the Corporate Compliance Officer may wish to notify the Board or the Corporate Compliance Committee before the next regularly scheduled meeting when a full report would otherwise be presented and, as necessary, consult with the Committee prior to the determination of disciplinary action.

#### Documentation of Disciplinary Action

Documentation of disciplinary measures for violations will be retained in the disciplined employee's personnel file (or in the independent contractor's file) and will be considered during regular and promotional evaluations.

The Corporate Compliance Officer will maintain records of all disciplinary actions, including verbal warnings, taken for compliance violations along with the nature of the violation and will reference these records as necessary to ensure consistency in application.

#### **Incentive Programs for Compliant Behavior**

As part of the Chapter's commitment to recognizing those who are exemplary in compliance with The Arc New York- Adirondack Chapter's Corporate Compliance Plan, the following incentives may be used to encourage and reward employee and independent contractor behavior:

- ✓ Staff appreciation and recognition programs for meeting goals and objectives;
- ✓ Situation-specific recognitions of staff contributions or assistance, including special awards;
- ✓ Handwritten notes of appreciation from supervisors, managers and/or the Corporate Compliance Officer;
- ✓ Public recognition in the agency newsletter or community newspaper;
- ✓ Celebration of successes (e.g., a great audit);
- ✓ Performance reviews and positive feedback;
- ✓ Continuing education opportunities;
- ✓ Opportunities for career advancement;
- ✓ Serving as a verification of good services provided by a service provider; and
- ✓ Continued use of a contractor's services.

#### **Auditing and Monitoring of Compliance Activities**

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I. Policy

Auditing and monitoring activities are required elements of an effective compliance program; therefore, The Arc New York- Adirondack Chapter will conduct internal audits and review all areas of the organization to ensure compliance with federal, state, local and organizational standards by which The Arc New York- Adirondack Chapter is governed and with The Arc New York- Adirondack Chapter's policies and procedures.

II. Scope

This policy applies to the auditing and monitoring activities of The Arc New York- Adirondack Chapter for all areas of regulatory compliance.

III. Procedure

Oversight of Auditing and Monitoring

On an annual basis, the Corporate Compliance Officer will monitor the effectiveness of the Corporate Compliance Plan.

On an annual basis, the Corporate Compliance Officer, together with the Chief Executive Officer, Corporate Compliance Committee and senior management shall determine the scope and format of routine audits of The Arc New York- Adirondack Chapter's operations. Each member of the senior management team, including the Chief Executive Officer, the Director of Residential Services and the Chief Financial Officer, shall be responsible to identify needs for internal auditing of specific issues under their oversight.

The Corporate Compliance Officer will coordinate all audits of financial processes or systems with the Chief Financial Officer and all audits of operational issues through the Director of Residential Services. The Corporate Compliance Officer will oversee, organize and implement all audits conducted by outside consultants, including Outside Counsel, and will include all scheduled audits on a work plan that can be shared with the Corporate Compliance Committee and the Board of Directors.

The Corporate Compliance Officer will be informed of all auditing and monitoring activities within The Arc New York- Adirondack Chapter. Further investigations arising pursuant to an audit shall be in addition to these policies and procedures and shall be governed by the Internal Investigation Policy.

**Scope of Audits**

On an annual basis, the Corporate Compliance Officer will conduct an audit of the Corporate Compliance Plan and will update compliance policies, procedures and other materials, as necessary, for compliance with regulatory changes, industry trends and The Arc New York- Adirondack Chapter programs and services.

The Corporate Compliance Officer is responsible for ensuring that periodic review is conducted on certain business conduct of The Arc New York- Adirondack Chapter that may result in potential legal risk, consistent with The Arc New York- Adirondack Chapter's resources. Potential areas of

inclusion in these annual audits are: fraud and abuse issues; employment policies (e.g., ADA and sexual harassment policies and procedures); third-party billing practices; contractual relationships; reporting and record-keeping practices; employee and independent contractor training and education; the provision of client services; proper documentation and client record accuracy; and other areas as identified by The Arc New York- Adirondack Chapter.

The direction and facilitation may include on-site visits, interviews with the personnel involved and reviews of written materials and documentation.

On a year-to-year basis, the Corporate Compliance Officer shall benchmark audit results and shall compare the results of similar audits performed at specific intervals for determining whether improvement is occurring.

### **Engagement of Inside Counsel or Outside Counsel**

The Corporate Compliance Officer shall have the authority to seek counsel as needed for guidance on issues arising under the Corporate Compliance Plan and also may authorize and implement audits by outside consultants, including Outside Counsel, if the need arises. Audit activities shall be undertaken under the supervision of the Counsel with the expectation that audit findings will be privileged and confidential. The Counsel may from time to time facilitate the audit process by recommending specific areas to be audited.

### **Post-Audit**

The Corporate Compliance Officer shall document the results of the annual audit of the Corporate Compliance Plan itself. The Corporate Compliance Officer will present the results of these annual audits to the Corporate Compliance Committee, the Chief Executive Officer and the Board of Directors.

The Corporate Compliance Officer and the appropriate senior manager shall oversee the documentation of all other audits conducted by The Arc New York- Adirondack Chapter – whether by internal staff or by consultants.

The Corporate Compliance Officer shall address any weaknesses in the auditing process itself.

### **Record Retention**

The Corporate Compliance Officer will maintain a record of all auditing and monitoring activities, including records pulled for review, audit/review results and corrective action document in the Compliance Department's permanent files.

The Compliance Officer will maintain a record of all monitoring activities, including records pulled for review, results, and corrective action documents, in the Compliance Department files for a period of no less than six (6) years from billing date. Records for minors will be kept until age of legal adulthood and then held 6 years from the billing date.

## Monitoring Activities Results and Corrective Action Plans

The Arc New York- Adirondack Chapter shall follow the Detecting & Responding to Violations Policy regarding the development of corrective action plans based on the identification of areas for improvement under The Arc New York- Adirondack Chapter's ongoing auditing program.

## **Reports to the Board**

The Corporate Compliance Officer shall report the findings to the Board of Directors at the first regularly scheduled board meeting that occurs after the conclusion of the audit. The Corporate Compliance Officer shall provide an annual report to the Board of Directors, describing the conclusion of said audits and an assessment of any compliance risks.

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## **INTERNAL INVESTIGATION**

### I. Policy

The Arc New York- Adirondack Chapter will respond to reports or reasonable indications of suspected noncompliance by commencing a prompt investigation of the allegations to determine whether a violation has, in fact, occurred.

### II. Scope

This policy applies to all investigations conducted to evaluate possible violations of laws or regulations or of the Corporate Compliance Plan.

### III. Procedure

#### A. The Investigation

The Corporate Compliance Officer shall oversee the conduct of internal investigations of compliance issues and shall have the authority to engage Inside Counsel / Outside Counsel or other consultants, as needed. The Corporate Compliance Officer will consider whether the investigation should be conducted under privilege.

Depending upon the type of possible infraction, the Corporate Compliance Officer will determine what personnel possess the requisite skill sets to examine the particular issue(s) and will assemble a team of investigators, as needed. The Corporate Compliance Officer will decide whether The Arc New York- Adirondack Chapter has sufficient internal resources to conduct the investigation or whether external resources are also needed.

If appropriate, the Corporate Compliance Officer will recommend the cessation of internal activities that may be the cause of the possible non-compliance.

Before conducting an investigation of the particular facts surrounding the issue, the Corporate Compliance Officer shall full understanding of the relevant laws, regulations and government issuances.

The Corporate Compliance Officer shall work with the investigation team to develop a strategy for reviewing and examining the facts surrounding the possible violation, which may include, but not be limited to an audit of billing practices and interviews. Interviews should include the “Who, What, When, Where, and Why” of the circumstances. All interview notes and notes from the documents reviewed shall be kept as part of the investigation file.

#### B. Post-Investigation

Upon receipt of the results from the investigation, depending on the scope and severity of any identified violations, the Corporate Compliance Officer may consult with Inside Counsel/Outside Counsel, the Chief Executive Officer and/or the Corporate Compliance Committee in order to determine: (a) the results of the investigation and the adequacy of recommendations for corrective actions; (b) the completeness, objectivity and adequacy of the results and findings;

#### C. Documentation

At the conclusion of the investigation, the Corporate Compliance Officer will organize the information in a manner that enables The Arc New York- Adirondack Chapter to determine whether an infraction did, in fact, occur. The Corporate Compliance Officer will track the investigation, including responsible parties and due dates in the central log book. The log book will include a notation of “closed” (or other similar notation) when the matter has been investigated and/or fully resolved.

#### D. Reporting

The Corporate Compliance Officer will be responsible for reporting all investigations to the Chief Executive Officer, Corporate Compliance Committee and Board.

### IV. **Plan Integrity**

Additional steps to ensure the integrity of the Compliance Plan can include:

- Annual review with legal counsel of all records of communications and reports by all employees kept in accordance with this plan.
- Immediately notifying the Compliance Officer in the event of any visits, audits, investigations or surveys by any federal or state agency or authority, and forwarding any correspondence from any regulatory agency charged with administering a federally or state-funded program received by any of the Chapter’s personnel.

- Establishment of a process detailing ongoing notification by the Compliance Officer to all appropriate personnel of any changes in laws, regulations or policies; as well as appropriate training to assure continuous compliance.

## **Detection and Response**

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### **DETECTING & RESPONDING TO COMPLIANCE VIOLATIONS; VOLUNTARY DISCLOSURE**

#### **Policy**

The Arc New York- Adirondack Chapter will respond appropriately to violations of law, regulations and The Arc New York- Adirondack Chapter Corporate Compliance Plan to protect The Arc New York- Adirondack Chapter and to continue to improve upon The Arc New York- Adirondack Chapter's reputation as a reliable and trustworthy organization.

#### Scope

This policy shall apply to actions taken in response to identification of violations of applicable law, regulations and The Arc New York- Adirondack Chapter Corporate Compliance Plan.

#### Procedure

##### Identification of a Violation

If the Corporate Compliance Officer, the Compliance Committee or The Arc Adirondack Chapter, New York management confirms that a violation of the Corporate Compliance Plan or an applicable state or federal law or regulation has taken place, then that person shall discuss the violation with Inside Counsel/Outside Counsel, as appropriate to determine the proper response to the violation. Violations may be identified through various avenues, including but not limited to: voluntary disclosures by employees; calls to the Corporate Compliance Hotline; self-auditing and monitoring; outside investigations by consultants, government agencies or accrediting bodies; and any other means.

The Corporate Compliance Officer shall coordinate The Arc New York- Adirondack Chapter's response to a violation by evaluating each violation and promptly implementing action consistent with the following:

- ✓ Development and implementation of a Corrective Action Plan;
- ✓ Prompt notification to the Corporate Compliance Committee of the violation;
- ✓ Disclosure to state or federal regulatory agencies with 60 days of discovery of the problem/issue, upon consultation and recommendations of Inside Counsel/Outside Counsel;
- ✓ Making restitution of any overpayments to the appropriate payer (e.g., a commercial health plan, a government payor or an individual or their family)

##### Development of a Corrective Action Plan

The Associate Chief Executive Officer shall provide input to the development of an appropriate Corrective Action Plan; however, final approval shall be made by the Corporate Compliance Officer, Corporate Compliance Committee, Chief Executive Officer or Board of Directors, depending on the scope and severity of the violation.

Corrective Action Plans will be stated in measurable terms with progress monitored on a monthly or quarterly basis, as appropriate. The Corporate Compliance Officer is responsible for ensuring that the Corrective Action Plans are followed and that feedback is provided to the area or department manager on the plan progress.

Elements that may be included in a Corrective Action Plan include, but are not limited to: disciplinary action against employees and independent contractors responsible; revising or developing policies and procedures in response, or training specific to the violation.

The Corporate Compliance Officer will present progress reports on Corrective Action Plans to the Corporate Compliance Committee during their regularly scheduled meetings with a copy to the Board and the Chief Executive Officer. Upon request by the Board, the Corporate Compliance Committee or the Chief Executive Officer more frequent updates may be submitted.

#### Voluntary Disclosure of Violations

The Corporate Compliance Officer, in consultation with the Chief Executive Officer and the Corporate Compliance Committee, will evaluate the violation to determine if a voluntary disclosure of the violation is appropriate. The Corporate Compliance Officer will consult with Inside Counsel/Outside Counsel on the notification of appropriate government officials, private payors or other entities in the event of a violation where voluntary disclosure of the violation may be appropriate. Under Patient Protection and Affordable Care Act (PPACA), notification and payment shall be made within 60 days of discovery of the violation and may include the restitution of monies paid by the applicable state or federal agency, payor or other entity.

#### Documentation of Corrective Action

Documentation should reflect every effort by The Arc New York- Adirondack Chapter to comply with applicable statutes, regulations, and federal healthcare program requirements.

### **Reporting**

At the conclusion of an investigation involving legal counsel, he/she shall issue a report to the Compliance Officer, Chief Executive Officer, and Compliance Committee summarizing his or her findings, conclusions and recommendations and will render an opinion as to whether a violation of the law has occurred.

The report will be reviewed with legal counsel. Any additional action will be on the advice of counsel.

The Compliance Officer shall report to the Compliance Committee regarding each investigation conducted.

### **Rectification**

If the Chapter identifies that an overpayment was received from any third party payer, the overpayment shall be repaid to the affected payer. Systems shall also be put in place to prevent such overpayments in the future.

### **Record Keeping**

Regardless of whether a report is made to a governmental agency, the Compliance Officer shall maintain a record of the investigation, including copies of all pertinent documentation. This record will be considered confidential and privileged and will not be released without the approval of the Chief Executive Officer or legal counsel.

## **FALSE CLAIMS ACT**

### Policy

The Arc New York- Adirondack Chapter has implemented a Corporate Compliance Program, which includes a Standards/Rules of Conduct applicable to all employees. Each employee is required to review the Standards/Rules of Conduct and comply with the Corporate Compliance Program. The Arc New York- Adirondack Chapter will take disciplinary action for those who fail to report a suspected violation of the Corporate Compliance Program, participate in non-compliant behavior, and/or encourage, direct, facilitate, or permit non-compliant behavior. As part of our compliance program, any employee who is convicted of a felony or misdemeanor must immediately make a confidential report of such conviction to the Human Resources Director. Any employee who is excluded from or sanctioned by either the Medicare or Medicaid program must immediately report that fact to the Compliance Officer. Failure to comply will result in disciplinary action up to and including discharge.

The Federal False Claims Act authorizes the use of civil penalties of between \$10000 and \$30000, plus three times the amount of damages the government sustains, where a person knowingly presents, or causes to be presented, a false or fraudulent claim; knowingly makes, uses, or causes to be made or used, a false record or statement to get a false or fraudulent claim paid; or conspires to defraud the government in connection with the payment of a false or fraudulent claim. In addition, under New York State law, it is a crime to knowingly and willfully provide false information or omit material information when billing for services. Submitting or causing a false claim to be submitted is an unacceptable practice under the New York State Medicaid Program, which can lead to fines and exclusion from the Medicaid program. In addition, there are both Federal and State laws related to kickbacks and inappropriate referrals that impose criminal and civil penalties for violations.

Our Corporate Compliance Program was created to assist the organization in detecting fraud, waste and abuse so that appropriate measures may be taken. Employees who participate in the investigation of a possible False Claims Act violation may not be retaliated against.

V. Scope

This Policy applies to all employees, including management, and all contractors and agents.

VI. Overview of Relevant Laws

A. Federal False Claims Act.

- a) The False Claims Act is one of the laws the Government uses to prevent and detect fraud, waste and abuse in federal health care programs. The False Claims Act establishes liability for any person who “knowingly” submits a false claim either (1) directly to the Government or (2) to a contractor or grantee of the Government, if the money or property is to be spent or used on the Government’s behalf or to advance a Government program or interest. A violation of the False Claims Act can result in a civil penalty between \$10,781 and \$21,563 for each false claim submitted, plus up to three times the amount of the damages sustained by the Government due to the violation(s). The False Claims Act defines “knowingly” to mean that a person (1) has actual knowledge of the false claim; (2) acts in deliberate ignorance of the truth or falsity of the information; or (3) acts in reckless disregard of the truth or falsity of the information. Specifically, the False Claims Act may be violated by the Knowingly presenting, or causing to be presented, a false or fraudulent claim for payment or approval by the federal Government;
  - b) Knowingly making or using, or causing to be made or used, a false record or statement to get a false claim paid or approved;
  - c) Conspiring to defraud the Government by getting a false or fraudulent claim allowed or paid; or
  - d) Knowingly making, using, or causing to be made or used, a false record or statement to conceal, avoid, or decrease an obligation to pay money or transmit property to the Government.
2. Applicability. Among other things, the False Claims Act applies to claims submitted for payment by federal health care programs, including Medicare and Medicaid.
  3. Examples. A few examples of actions that violate the False Claims Act include knowingly:
    - a) Billing for services that were not actually rendered;
    - b) Charging more than once for the same service;
    - c) Billing for medically unnecessary services; and
    - d) Falsifying time records used to bill Medicaid.
  4. Methods of Enforcement. The Government, or an individual citizen acting on behalf of the Government (a “Relator”), can bring actions under the False Claims Act. If a Relator brings an action under the False Claims Act, the Government has a period of time to investigate the allegations and decide

whether to join the lawsuit. If the Government elects to join the lawsuit, the Relator is entitled to 15-25% of any recovery. If the Government elects not to join the lawsuit, the Relator may still proceed with the action and is entitled to 25-30% of any recovery.

5. Employee Protection. The False Claims Act prohibits discrimination by The Arc New York- Adirondack Chapter against an employee for taking lawful actions in furtherance of an action under the False Claims Act. Under the False Claims Act, any employee who is discharged, demoted, harassed, or otherwise discriminated against because of lawful acts by the employee in furtherance of an action under the False Claims Act is entitled to all relief necessary to make the employee whole. Such relief may include reinstatement, double back pay, and compensation for any special damages, including litigation costs and reasonable attorneys' fees.

#### B. New York False Claims Act (State Finance Law Section 191)

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

#### New York Labor Law Section 740

An employer may not take any retaliatory action against an employee if the employee discloses information about the employer's policies, practices or activities to a regulatory, law enforcement or other similar agency or public official. Protected disclosures are those that assert that the employer is in violation of a law that creates a substantial and specific danger to the public health and safety or which constitutes health care fraud under Penal Law Section 17 (knowingly filing, with intent to defraud, a claim for payment that intentionally has false information or omissions). The employee's disclosure is protected only if the employee first brought up the matter with a supervisor and gave the employer a reasonable opportunity to correct the alleged violation. If an employer takes a retaliatory action against the employee, the employee may use in state court for reinstatement to the same, or an equivalent position, any lost back wages and benefits and attorneys' fees. If the employer is a health provider and the court finds that the employer's retaliatory action was in bad faith, it may impose a civil penalty of \$10,000 on the employer.

#### New York Labor Law Section 741

A health care employer may not take any retaliatory action against an employee if the employee discloses certain information about the employer's policies, practices or activities to a regulatory, law enforcement or other similar agency or

public official. Protected disclosures are those that assert that, in good faith, the employee believes constitute improper quality of patient care. The employee's disclosure is protected only if the employee first brought up the matter with a supervisor and gave the employer a reasonable opportunity to correct the alleged violation, unless the danger is imminent to the public or patient and the employee believes in good faith that reporting to a supervisor would not result in corrective action. If an employer takes a retaliatory action against the employee, the employee may sue in state court for reinstatement to the same, or an equivalent position, any lost back wages and benefits and attorneys' fees. If the employer is a health provider and the court finds that the employer's retaliatory action was in bad faith, it may impose a civil penalty of \$10,000 on the employer.

## VII. Procedure

### A. General Principles.

1. The Arc New York- Adirondack Chapter shall provide training to all its employees, contractors and agents regarding this Policy.
2. Billing activities are to be performed in a manner consistent with Medicare, Medicaid and other payor regulations and requirements and in accordance with The Arc New York- Adirondack Chapter's documentation/billing policies.
3. To assist in its efforts to detect and prevent fraud, waste and abuse, The Arc New York- Adirondack Chapter conducts regular audit and monitoring procedures as described in auditing procedure policy.

### B. Reporting Non-Compliance.

If an employee, contractor or agent of The Arc New York- Adirondack Chapter has any reason to believe that anyone is engaging in false billing practices, that employee shall immediately report the practice in accordance with The Arc New York- Adirondack Chapter reporting potential compliance concerns procedures. The Arc New York- Adirondack Chapter Compliance Hotline telephone number is (518)-359-7518 x 411.

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### C. Non-Retaliation.

The Arc New York- Adirondack Chapter will not retaliate against any employee for taking any lawful action under the False Claims Act. Moreover, The Arc New York- Adirondack Chapter will not retaliate against any employee, contractor or agent for reporting any potential compliance concern, as described in The Arc New York- Adirondack Chapter's anti-retaliation policy.

## **DOCUMENTATION OF SERVICES**

### Policy

The Arc New York- Adirondack Chapter requires that all employees accurately and completely document the services that they provide to the people it supports.

### VIII. Scope

This policy applies to all employees of The Arc New York- Adirondack Chapter, particularly those who provide client services and prepare documentation for the submission of claims and those who prepare claims to be submitted to third party payors.

### IX. Procedure

All documentation prepared by The Arc New York- Adirondack Chapter employees and independent contractors shall be accurate and complete. Employees should not falsify any document related to person's services or referrals.

Documentation should be prepared contemporaneously with the provision of person's services and should be consistent with the applicable third party payors' requirements for documentation.

Employees who create documentation related to the provision of services to the people we support shall be adequately trained to do so and will have the necessary skills to perform their jobs.

The Arc New York- Adirondack Chapter shall periodically audit documentation practices to evaluate whether employees are accurately and completely documenting the services provided to people we support. The results of an audit should be evaluated carefully and corrective action implemented, as needed.

Inaccurate documentation may subject The Arc New York- Adirondack Chapter, involved employees and other representatives to civil or criminal penalties. Any employee or other individual who presents or otherwise is involved in the documentation of a false, fraudulent or fictitious claim for payment may be subject to immediate termination.

## **INDUCEMENT OF PEOPLE SERVED AND WAIVER OF CO-PAYMENTS**

### **STANDARD:**

The Adirondack Arc and its employees shall not offer or transfer remuneration to any individual eligible for benefits under federal or state health care programs (including Medicare or Medicaid) that The Arc Adirondack Chapter, New York and employees know or should know is likely to influence the individual in order to receive from a particular provider, practitioner, or supplier any item or service for which payment may be made, in whole or in part, by a federal or state health care program. The Arc New York- Adirondack Chapter and its employees shall bill for all applicable out-of-pocket amounts. Financial waivers or reductions of cost-sharing amounts are not routinely offered by The Arc New York- Adirondack Chapter.

**PROCEDURE:**

1. The Arc New York- Adirondack Chapter and its employees shall not offer or provide any gift, hospitality or entertainment of more than nominal value to any Medicaid beneficiary. Examples of permissible items include pens, T-shirts, water bottles, hats, etc. valued at less than \$25.00 as long as such items are not offered or provided to influence health care decisions by a client, family member, or responsible party.
2. The Arc New York- Adirondack Chapter and its employees shall not offer waivers of coinsurance or deductible amounts as part of any advertisement or solicitation.
3. The Arc Adirondack Chapter, New York and its employees shall not routinely waive coinsurance or deductible amounts, and shall waive such amounts only after determining in good faith and documenting that the beneficiary is in financial need, or after making reasonable efforts to collect the cost sharing amounts from the beneficiary.

**GIFTS, GRATUITIES, KICKBACKS AND SOLICITATION:**

**POLICY:**

The Arc New York- Adirondack Chapter maintains the highest standards of integrity and objectivity in dealing with vendors and service providers. The Arc New York- Adirondack Chapter is prohibited from accepting or giving gifts or gratuities beyond common business courtesies of nominal value. Gifts or items of value should never be offered to government employees. Under no circumstances will we accept or give kickbacks in return for improperly obtaining, influencing, or rewarding favorable treatment in accepting contracts, services, referrals, goods or business.

We will not accept or offer gifts, gratuities or favors, except those associated with common business courtesies of a nominal value of \$50 or less. The value of gifts received in one year must not exceed \$50. Gifts received are subject to CEO, or Board approval.

**CONFLICT OF INTEREST:**

**POLICY:**

The Arc New York- Adirondack Chapter must avoid situations where our personal interests could conflict, or reasonably appear to conflict, with the interest of the agency. A conflict of interest occurs whenever a staff person permits the prospect of direct or indirect personal gain to improperly influence his or her judgment or actions in the conduct of agency business. If is not possible for the Code of Ethics to list every type of potential conflict of interest. When in doubt, share the facts of the situation with your Supervisor, the Human Resource Department, or the Compliance Officer.

We must award business solely on merit, getting the best value for the agency, and wherever practical, on a competitive basis. We may not use the information that comes to us in the course of employment for personal investment or gain, nor can we provide this information to members of our family

A conflict of interest may also exist if the demands of any outside activity hinder or distract us from the performance of our job (or even appear to influence our judgment or performance for the agency). Generally, any outside employment with a company that does or seeks to do business with the agency

is not permitted unless disclosed to and approved by the CEO or Board of Directors. This includes a current or potential vendor, grantee, or competing agency. Use of agency resources to facilitate outside employment or other activities is prohibited.

As staff of The Arc New York- Adirondack Chapter we must ensure that outside employment and outside activities do not interfere with job responsibilities nor jeopardize public confidence in the agency. If unsure, staff are encouraged to discuss any significant employment or outside activities with their Supervisor, Human Resources or the Compliance Officer.

### **Return for Overpayment Policy:**

#### **Policy:**

In the event The Arc New York- Adirondack Chapter receives from any funding source an amount which constitutes an overpayment, The Arc New York- Adirondack Chapter will promptly return said funds to the proper entity.

#### **Procedure:**

When funds are received by The Arc New York- Adirondack Chapter which are determined by the staff person responsible for agency billing in the Business Office to be an overpayment the billing staff person returns the funds either directly or via the next months billing cycle.

If a Social Security check for a person who no longer receives services is received then that check is returned to the Social Security Administration directly.

If payment is received through agency billing and must be voided then that void constitutes a refund via the next billing cycle.

If at any time it is determined that The Arc New York- Adirondack Chapter has received and/or deposited funds in our accounts which should be returned, then an agency Check Request form (ADM-56) is sent to the Accounts Payable department approved by the CFO, CCO, Chief Executive Officer or his designee. The Accounts Payable Clerk renders a check per the request.