



Corporate Compliance

Risk Management

Program

CORPORATE COMPLIANCE / RISK MANAGEMENT

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CORPORATE COMPLIANCE / RISK MANAGEMENT

I. INTRODUCTION

Mission Statement and Guiding Principles

The mission is a quality that permeates the entire organization.

The mission of St. Joseph's Addiction Treatment & Recovery Centers is to promote healing and recovery for individuals, as well as their families, suffering from the illness of alcoholism and chemical dependency. We offer these services with a commitment to providing effective professional and quality treatment. Our services are enhanced by our belief in the spiritual nature and inherent dignity and worth of each individual.

Core Foundational Values

*While each of these core foundational values stand on their own,
it is the tapestry of the values woven together that defines the Mission of St. Joseph's.*

- ◆ St. Joseph's was founded as a ministry of the Franciscan Friars of the Atonement in 1971. St. Joseph's program is influenced by the Franciscan vision which invites all people into relationships based on equality, inherent human dignity, and respect for individuals, for one another with a particular emphasis on serving the poor and under-served populations.
- ◆ St. Joseph's was founded on the concept that chemical dependency is a medical condition with biological, sociological, and psychological roots that respond to a spiritual treatment program.
- ◆ Legal and ethical foundations protect the rights and ensure quality service delivery to clients.

Vision Statement

St Joseph's Addiction Treatment & Recovery Centers will be the recognized leader in the provision of alcohol and drug addiction treatment services, particularly for the poor.

II. POLICY STATEMENT (Element I)

Preventing and detecting health care fraud and abuse activities is an important fiduciary responsibility of the Board of Directors, management and all staff.

St. Joseph's Addiction Treatment & Recovery Centers, is committed to maintaining a high level of honesty and ethical behavior in all aspects of its delivery of services and relations with clients, third party payers, employees, agents, and independent contractors by seeking to have systems and procedures to guide and assist staff in proper decision making. To demonstrate this commitment, a Corporate Compliance Program was adopted and approved by our Board of Directors in May, 2000. Many of the practices contained in our policies, procedures and operational implementations contribute to corporate compliance and risk management. They are regularly reviewed in light of Corporate Compliance rules and revised or updated as necessary.

Corporate Compliance is the sum of all actions, policies, procedures, reviews, audits, prevention strategies, corrective actions, modifications, staff training efforts, reporting systems, etc. that are developed and implemented by an organization and its employees to prevent and detect illegal or unethical activity and/or fraud, waste and abuse.

It is the policy of St. Joseph's to detect and prevent illegal or unethical activity and/or fraud, waste and abuse. This Policy explains the Federal False Claims Act (31 U.S.C. §§ 3729 - 3733), the Administrative Remedies For False Claims (31 USC Chapter 38 §§3801-3812), the New York State False Claims Act (State Finance Law §§187-194) and other New York State laws concerning false statements or claims and employee protections against retaliation. This policy also sets forth the procedures St. Joseph's has put into place to prevent any violations of Federal or New York State laws regarding fraud or abuse in its health care programs. We take seriously compliance in all areas of business. Employees are encouraged to openly communicate. Whenever you are unsure about the appropriate course of action, or believe that a violation of the law has occurred whether intended or unknowingly, speak with your immediate supervisor, St. Joseph's Corporate Compliance Officer, or any member of management with whom you feel comfortable.

This policy applies to all employees, including management, contractors, agents, officers, directors and volunteers. For purpose of this policy, a contractor or agent is defined as: Any contractor, subcontractor, agent, or other person which or who, on behalf of St. Joseph's Addiction Treatment & Recovery Centers, furnishes, or otherwise authorizes the furnishing of health care items or services, performs billing or coding functions; or is involved in the monitoring of services provided by St. Joseph's.

III. CODE OF CONDUCT

All employees and board members shall comply with the Code of Conduct herein. In addition, all employees must also comply with the Code of Ethics adopted by St. Joseph's and by their respective professional organization's if they are licensed, credentialed, or certified.

Management Obligation:

1. Provide access to information, training and resources staff needs to comply with all applicable Federal and State laws, regulations and St. Joseph's policies and procedures.
2. Compliance oversight and adherence to proper compliance will become part of the PRP evaluation for those persons and their supervisors whose responsibilities include the delivery of services, completing forms and submitting information that will be used in billing. Managers and supervisors may be sanctioned for failure to instruct their subordinates or for failure to discover noncompliance where reasonable effort on their part would have led to discovery earlier.
3. Ensure that independent contractors and agents that furnish services to the organization are aware of the requirements of St. Joseph's Compliance Program.
4. Refuse to participate in non-compliant behavior; or encourage, direct, facilitate or permit illegal or unethical behavior.

Employee Obligations

1. Become familiar with and adhere to Federal and State laws and regulations that apply to the delivery and reimbursement of services provided by St. Joseph's.
2. Seek guidance from either your immediate supervisor, St. Joseph's Corporate Compliance Officer, or any member of management with whom you feel comfortable when you have questions.
3. Neither create nor approve any documentation of a service or present any claim for payment that is inaccurate, false, fictitious or fraudulent.
4. Each employee is responsible for ensuring compliance. Report to St. Joseph's Compliance Officer activity of any St. Joe's employee, manager, Board member, subcontractor or vendor,

who you believe, may violate Federal or State laws, rules, regulations or the Code of Conduct. You may be assured that no action will be taken against you for the reporting of possible violations made in good faith.

5. Make no false or misleading reports.
6. Cooperate with training and investigation efforts.

Conduct Related to:

1. **Assets** - All assets of the organization shall be used solely for the benefit and purpose of the organization.
2. **Billing** - Claims shall only be submitted for services that were actually rendered and the organization has reason to believe are reasonable and necessary with authorization by an individual with authority to do so. Documentation to support submitted claims shall be maintained for seven years.
3. **Gifts and Gratuities** - Loans to or from any individual or business (other than recognized financial institutions) that furnish or receive supplies or services to St. Joseph's are prohibited. (See also Staff/Client Relationship Policy Statement)
4. **Cash and Bank Accounts** - All internal control procedures shall be adhered to at all times.
5. **Confidential Information** - All persons associated with the organization shall respect the confidential nature of client and organization information and shall refrain from disclosing or discussing issues of a confidential nature, except as permitted by the Health Insurance Portability and Accountability Act of 1996 (HIPAA), 42 U.S.C. '1320d et seq., 45 C.F.R. Parts 160 & 164, and the Confidentiality Law, 42 U.S.C. '290dd-2, 42 C.F.R. Part 2.
6. **Conflict of Interest** - All persons associated with the organization shall disclose any potential conflict of interest and refrain from any activity that represents an unfair business advantage by virtue of their business interest or employment with St. Joseph's. Employees may hold a second job in addition to employment with St. Joseph's pursuant to procedures outlined in the Employee Manual.
7. **Financial Reports** - Expense reports, reimbursement requests, financial statements and cost reports shall be completed thoroughly and accurately.
8. **Financing/Loan Agreements** - The organization shall maintain a familiarity with the terms,

conditions and covenants contained in any financing/loan agreements and shall refrain from engaging in any activity in direct conflict or breach of these terms, conditions or covenants.

9. **Non-Discrimination** - All persons associated with the organization shall adhere to the non-discrimination policies outlined in the Employee Manual.
10. **Grants** - All individuals associated with an organizational sponsored Grant shall conduct their activity in accordance with the grant guidelines. All grant funds shall be used only in accordance with the grant approval with documentation to support all grant activity.
11. **Staff/Client Relations** - It is the policy of St. Joseph's that the human dignity of each person (client) receiving services be respected and such persons be treated professionally. St. Joseph's Staff-Client Relations Policy shall be observed by all staff.
12. **Accuracy of Records** - All information recorded on St. Joseph's behalf including but not limited to documentation of client services, financial records and human resource records must be must be kept in a timely fashion and recorded accurately and honestly.
13. **Credit Balances** - If a credit balance remains in a client account, the Finance Department will research, verify and refund the balance if found to be appropriate.
14. **Tax Exemption** - The organization shall not engage in any prohibited activity that violates or could result in a challenge of its tax exemption status.
15. **Marketing** - Marketing activities will never knowingly mislead or misinform the public or misrepresent St. Joseph's and will always respect the dignity and privacy rights of those receiving service. St. Joseph's will abide by the Omnibus Rule which imposes stricter limitations on marketing communications made in exchange for financial remuneration.
16. **Human Resources** - St. Joseph's shall keep in confidence information acquired about colleagues in the course of employment, unless disclosure serves professional purposes or it required by law.
17. **Human Resources** - St. Joseph's shall only offer or assign a position or responsibility on the basis of professional preparation and qualifications.
18. **Human Resources** - St. Joseph's staff responsible for evaluating staff performance will do so in a manner that is responsible, fair, considerate and equitable. Human Resources will sign off/approve only on those evaluations meeting this standard.

19. Business - All business decisions must be made in St. Joseph's best interest. A conflict of interest arises when the judgment of an employee or BOD Member is or may be influenced by considerations of improper personal gain or benefit to the individual or to another person. Situations that even create the appearance of a conflict may cause public relations or other problems damaging to St. Joseph's, and also should be avoided. Full disclosure of any situation in doubt should be made.
20. Forms and documents produced and utilized by St. Joseph's for routine treatment practices may be witnessed by a staff person. Witnessing is limited to attesting only to having actually observed the client sign the form.
21. Fundraising: Regardless of whether an authorization for fundraising was required or obtained, St. Joseph's will grant an individual with a clear and conspicuous opportunity to opt-out of receiving future fundraising communications.
22. Sale of PHI: St. Joseph's will not sell PHI unless the individual has authorized it. The requisite authorization will acknowledge that St. Joseph's will receive remuneration in exchange for PHI.

IV. OVERSIGHT RESPONSIBILITY (Element 2)

The Board of Directors is ultimately accountable for governance of St. Joseph's Corporate Compliance Program. It assumes this accountability by delegating to the Corporate Compliance Officer the authority and responsibility for overseeing the facility-wide compliance program. The program is designed in such a manner that it keeps the Board informed and assured that solid Risk Management and Corporate Compliance practices are being followed. The Board of Directors, through the Chief Executive Officer and subsequently Program Management provides whatever assistance is reasonably necessary to support and facilitate the implementation of the program.

I. Corporate Compliance Officer

The Corporate Compliance Officer oversees St. Joseph's Corporate Compliance and Risk Management Programs. The position ensures the Board of Directors, management, employees and volunteers are knowledgeable about compliance with the rules and regulations of regulatory agencies, that St. Joseph's policies and procedures are being followed, and that the organization adheres to the company's Standards of Conduct.

The Corporate Compliance Officer receives and directs compliance issues to appropriate resources for investigation and resolution, and as a final internal resource with which concerned parties may communicate. The Corporate Compliance Officer reports to the Board of Director's Audit Committee as needed.

2. Compliance Committee

The Compliance Committee is charged with advising and assisting the Compliance Officer to ensure the implementation and effectiveness of all components of St. Joseph’s compliance program . The Committee will also serve as St. Joseph’s Risk Management.

- A. Composition: The Committee shall be comprised of: Board of Director’s Compliance Liaison; Compliance Officer, Information Technology Director, Community Services Director; Medical Services Representative, UR/Funding Supervisor; Safety Director; Billing Supervisor; Inpatient Director; Director Veterans’ Program; Director of NCFH; Data Director, HR Director

- B. Meetings: Once per quarter. Special meeting can be called at the discretion of the Committee Chair.

- C. Compliance Duties: These functions should serve as a guide with the understanding that the Committee may carry out additional functions and adopt additional policies and procedures as may be appropriate in light of changing business, legislative, regulatory, legal or other conditions, or as requested by the Chief Executive Officer or the Board.
 - ◆ Ensure that the Corporate Compliance Program is risk-based and considers all aspects of St. Joseph’s operations.

 - ◆ Ensure a risk management plan that includes:
 - Identification of loss exposures.
 - Evaluation and analysis of loss exposures.
 - Identification of how to rectify identified exposures.
 - Implementation of actions to reduce risk.
 - Monitoring of actions to reduce risk.
 - Reporting results of actions taken to reduce risks.
 - Inclusion of risk reduction in performance improvement activities.

 - ◆ Keep abreast of developments with regard to regulatory compliance, with respect to matters relevant to the St. Joe’s activities and operations, to enable the Committee to make recommendations in light of such developments as may be appropriate.

- ◆ Work with Senior Leadership to develop St. Joseph's annual Corporate Compliance/Risk Management Work Plan.
- ◆ Ensure continuous and effective monitoring of St. Joseph's identified compliance activities.
- ◆ Obtain specific assurances that employees of St. Joe's have received, and have acknowledged the receipt of, materials setting forth or describing St. Joseph's Code of Conduct and Compliance Program. A copy of each signed acknowledgment will be maintained in the employees' personnel file.
- ◆ Ensure through the Agency Human resources Department that all relevant education and training for the Board and all affected staff and the agents of St. Joseph's is being conducted.
- ◆ If assigned, actively participate on the team to investigate any detected or suspected corporate compliance issues.
- ◆ Perform any other activities consistent with this compliance program or deemed necessary or appropriate by St. Joseph's Senior Leadership, Chief Executive Officer or Board or Directors.

V. COMMUNICATION AND TRAINING (Element 3)

St. Joseph's commitment to compliance requires training of:

1. All Board members, management staff and staff who will receive training to ensure that they understand and appreciate all aspects of the Compliance Program, including the risks of noncompliance.
2. All staff shall receive a written explanation of the Compliance Program, including notification of how and where they can receive more extensive information and details on the program.
3. A description of the Compliance Program shall be included in all new employees' orientation..
4. Periodic training in the Compliance Program for all staff as needed
5. Personnel may seek clarification directly from the Compliance Officer. Questions and responses shall be documented, if appropriate, and policies and procedures shall be updated and improved to reflect any changes or clarifications
6. Compliance Program information shall be electronically posted to assist facility-wide

communication of policy, procedures, and activities.

7. St. Joseph's training opportunities may include but will not be limited to: in-services, electronic documents, email, e-learning, video, teleconferences and web-casts.
8. A copy of this policy will also be distributed to all officers, directors and volunteers who provide substantial services.

VI. MONITORING AND AUDITING (Element 6)

1. All staff shall be aware of Code of Conduct expectations of the organization and report any suspected violations to reasonably ensure that all activities are in compliance with the organization's Code of Conduct standards and procedures.
2. St. Joseph's shall have an annual financial audit conducted by certified public accountants to examine, on a test basis, evidence supporting the proper handling and reporting of amounts and disclosures relating to financial activity of the organization.
3. St. Joseph's CCO and CTO, or their designee, shall conduct and document annual reviews of business and contractual agreement relationships to reasonably ensure that activities are in compliance with the organization's Code of Conduct standards and procedures.
4. A. St. Joseph's Finance Department will not knowingly process any payment to an independent contractors, business vendor or key provider that has not been screened to verify that they have not been excluded from participation in any of the Federal Health Care programs. Before entering into a contractual relationships and monthly thereafter, St. Joseph's Finance Department will conduct verification screenings. The term "contract relationship" does not required a formal contract. When St. Joseph's purchases items or services, screening is required. St. Joseph's has contracted with Zebu Compliance Solutions to perform these verifications with data bases that include but are not limited to: GSA EPLS (U.S. General Services Administration's Excluded Parties Listing System) a combined effort of over 50 federal agencies; OIG LEIE (Office of Inspector General's List of Excluded Individuals/Entities); Division of Criminal Justice Services (DCJS) Sex Offender Registry; and the Office of Medicaid Inspector General (OMIG). If an individual or entity is confirmed as an excluded party St. Joseph's will suspend business with that entity and legal counsel will be contacted for opinions, advice and direction.
- B. All individuals applying for employment with St. Joseph's after June 30, 2013 are required to disclose on St. Joseph's formal Application for Employment form all criminal convictions or exclusion

actions. Before entering into employment or contractual relationships and monthly thereafter, St. Joseph's Human Resources Department will conduct verification screenings. St. Joseph's has contracted with Zebu Compliance Solutions to perform these verifications with data bases that include but are not limited to: GSA EPLS (U.S. General Services Administration's Excluded Parties Listing System) a combined effort of over 50 federal agencies; OIG LEIE (Office of Inspector General's List of Excluded Individuals/Entities); Division of Criminal Justice Services (DCJS) Sex Offender Registry; and the Office of Medicaid Inspector General (OMIG). Screenings will include all employees, interns and volunteers. Legal counsel will be contacted for opinions, advice and direction regarding any individual who is indicted, convicted or excluded while an employee, intern, volunteer or under contract.

Any hiring (including employees, volunteers and contractors), credentialing, licensing or other activity which would otherwise be subject to the Justice Center Act occurring on or after June 30, 2013 will include a criminal background check. Persons are subject to background checks if they have the potential to or may be permitted to have regular and substantial unsupervised or unrestricted physical contact with service recipients. (See OASAS Criminal Background Process A Provider's Guide 07/19/2013 for process details)

5. St. Joseph's Human Resources Department has established procedures to ascertain that its employees are qualified to render services to clients. Prior to entering into employment relationships the HR Department will verify all credentials and professional licenses. Expiration dates of credentials and professional licenses are monitored quarterly with primary source verification annually. Where credentials and/or professional licensing are required for the performance of job responsibilities, continued employment may be contingent upon positive verification. An employee will not be allowed to perform responsibilities without appropriate license and/or credentials in good standing, where required. Human Resources and Department Head will make the determination for continued employment and/or development of a corrective action plan.

Prior to entering employment relationships and annually thereafter, verification of driver's licenses occurs on all personnel, including volunteers, who provide transportation for persons served.

6. Across each of its services, St. Joseph's has adopted quality assurance and improvement activities to promote appropriate utilization and provision of services. Such activities vary in terms of specific structure, data gathering and outcome measures from one clinical modality to another. Applicable data is obtained from many sources, including but not limited to:

- | | |
|-----------------------------------|--|
| A. Client Records | B. Meeting Minutes |
| C. Clinical Reports | D. Peer Evaluation Audits |
| E. Service / Departmental Reports | F. Surveys & Questionnaires |
| G. Interviews and observations | H. External Generated Audits and Surveys |

VII. REPORTING (Element 4)

All employees, officers, directors, and volunteers of the organization have a duty to report actual or suspected misconduct, anonymously if they choose, and without any fear of retaliation or breach of confidentiality.

1. Individuals may approach the Compliance Officer directly to report suspected misconduct or may contact her either by phone, voice mail or email. (Anna Lincoln, Compliance Officer; alincoln@stjoestreatment.org; 518-897-6096)
2. Individuals (employees and others) may submit, in writing, reports of suspected misconduct anonymously to the Compliance Officer. Copies of St. Joseph’s Corporate Compliance Report form can be printed from the Forms directory or individuals may use any other written format they are comfortable with.
3. Employees may report suspected misconduct directly to the New York State Office of Alcoholism & Substance Abuse Services and/or New York State Department of Health And New York State Attorney General directly.

The good-faith reporting of any such information shall not serve as a basis for any disciplinary or retaliatory actions to be taken against any persons making the report, provided the reporter is not a participant in the reported activity. Retaliation will be dealt with forcefully with disciplinary action up to and including termination. Employees who knowingly make false statements or reports are subject to disciplinary action.

VIII. RESPONDING (Element 7)

- I. Reports of Suspected Violations

St. Joseph’s will promptly respond to reports or reasonable indications of suspected violations of the compliance program. The first step will be a reasonable investigation to determine whether a violation occurred and its severity. All communications will be kept confidential to the degree possible while conducting the investigation.

- A. The Compliance Officer shall initially and promptly review all received reports and/or

suspected violations with the CEO. Investigations of reported/suspected violations will

- ◆ include the Compliance Officer and when appropriate a member of the Corporate Compliance Committee, and
- ◆ report all findings to the Chief Executive Officer

B. The CEO may direct any concerns to legal counsel for opinions, advice and direction on any further investigation, enforcement or discipline.

2. Monitoring and Auditing Results

A. Peer Audits are to be completed quarterly on client services as well as any other monitoring Activity selected by each Department Director.

B. Upon completion, each Department head will report the results of all routine and special monitoring and audit activities to the CEO, Compliance Officer and the Compliance Committee and other appropriate Committees and/or Individuals.

C. The Corporate Compliance Officer, in conjunction with the Committee, will review the reports of Directors quarterly to establish if any patterns or trends are identified within a specific area.

3. St. Joseph's will then take immediate and appropriate steps to correct any identified problem(s) which may include training or retraining of staff, a corrective action plan, a report to the government, referral to law enforcement authorities, self-disclosure and/or the submission of any overpayment. If an offense has been detected the Compliance Officer, the Corporate Compliance Committee and other staff persons with necessary experience will recommend changes in policies, procedures or operational implementations to prevent future occurrences.

4. Upon receipt of a Corrective Action Plan the Compliance Officer will set a time to verify that the plan was completed as reported. Ongoing monitors will determine the effectiveness of the plan and additional corrective actions may be required to eliminate compliance problems.

5. The Compliance Officer shall coordinate policy and procedure modifications with respect to correcting and preventing further misconduct of a similar type as a result of a misconduct investigation.

6. Reports of misconduct that do not warrant further investigation or review will be clearly documented as to why no further investigation was undertaken.

7. Reports of violations/misconduct, including the nature of any investigation and its results, shall be included in reports to the Compliance Committee, Chief Executive Officer, Audit Committee, and Board of Directors, as appropriate.

8. Results of compliance activities will be reported as needed on an on-going basis to the Executive Team during regular weekly meetings and annually to the Board.

IX. ENFORCEMENT AND DISCIPLINE (Element 5)

Violation of the Compliance Program, whether from carelessness or intentional action, places employees and St. Joseph's at risk. To emphasize the seriousness and assure consistent treatment of violators, the following principals will be followed.

1. Disciplinary action will depend on the specific facts and seriousness of the incident or pattern, and if the actions or decisions were made in good faith and in accordance with St. Joseph's policy and procedures.
2. For failure to report suspected misconduct and/or for violation of St. Joseph's Compliance Program and Code of Conduct including failure to participate in required compliance training, disciplinary procedures will follow the guidelines under existing personnel policies of St. Joseph's and may result in immediate discharge.
3. Grievance procedures for opportunities to respond to allegations or evidence of misconduct will follow the guidelines under existing personnel policies of St. Joseph's.
4. The Chief Executive Officer will consult legal counsel if necessary, to determine whether it is necessary and/or appropriate to report possible misconduct to third parties, including but not limited to the New York State Office of Alcoholism and Substance Abuse Services, New York State Health Department, law enforcement agencies, and the New York State Attorney General.
5. Disciplinary measures and procedures may include involvement and direction from outside third parties (i.e. governmental agency, law enforcement agency)

XII RELEVANT LAWS:

1. The False Claims Act (31 U.S.C. §§ 3729-3733)

The False Claims Act is a Federal law designed to prevent and detect fraud, waste and abuse in Federal healthcare programs, including Medicaid and Medicare. Under the False Claims Act, anyone who "knowingly" submits false claims to the Government is liable for damages up to three times the amount of the erroneous payment plus mandatory penalties of \$5,000 to \$10,000 for each false claim submitted.

The law was revised in 1986 to expand the definition of "knowingly" to include a person who:
Has actual knowledge of falsity of information in the claim;

Acts in deliberate ignorance of the truth or falsity of the information in the claim; and
Acts in reckless disregard of the truth or falsity of the information in a claim.

False Claims suits can be brought against individuals and entities. The False Claims Act does not require proof of a specific intent to defraud the Government. Providers can be prosecuted for a wide variety of conduct that leads to the submission of a false claim.

Some examples include:

- Knowingly making false statements;
- Falsifying records;
- Submitting claims for services never performed or items never furnished;
- Double-billing for items or services;
- Using false records or statements to avoid paying the Government;
- Falsifying time records used to bill Medicaid; or
- Otherwise causing a false claim to be submitted.

Whistleblower or "Qui Tam" Provisions: In order to encourage individuals to come forward and report misconduct involving false claims, the False Claims Act contains a "Qui Tam" or whistleblower provision.

The Government, or an individual citizen acting on behalf of the Government, can bring actions under the False Claims Act. An individual citizen, referred to as a whistleblower or "Relator," who has actual knowledge of allegedly false claims may file a lawsuit on behalf of the U.S. Government. If the lawsuit is successful, and provided certain legal requirements are met, the whistleblower may receive an award ranging from 15% - 30% of the amount recovered.

Employee Protections: The False Claims Act prohibits discrimination by AGENCY against any employee for taking lawful actions under the False Claims Act. Any employee who is discharged, demoted, harassed, or otherwise discriminated against because of lawful acts by the employee in False Claims actions 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 attorney fees.

2. Administrative Remedies for False Claims (31 USC Chapter 38. §§3801-3812)

This Federal statute allows for administrative recoveries by Federal agencies including the Department of Health and Human Services, which operates the Medicare and Medicaid Programs. The law prohibits the submission of a claim or written statement that the person knows or has reason to know is false, contains false information or omits material information. The agency receiving the claim may impose a monetary penalty of up to \$5,500 per claim and damages of twice the amount of the original claim.

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

3. New York State Laws

A. Civil and Administrative Laws

New York State False Claims Act (State Finance Law §§187-194)

The New York State False Claims Act closely tracks the Federal False Claims Act. It imposes fines on individuals and entities that file false or fraudulent claims for payment from any state or local government, including health care programs such as Medicaid. The penalty for filing a false claim is \$6,000 - \$12,000 per claim and the recoverable damages are between two and three times the value of the amount falsely received. In addition, the false claim filer may be responsible for the government's legal fees.

The Government, or an individual citizen acting on behalf of the Government (a "Relator"), can bring actions under the New York State False Claims Act. If the suit eventually concludes with payments back to the government, the party who initiated the case can recover 15% - 30% of the proceeds, depending upon whether the government participated in the suit. The New York State False Claims Act prohibits discrimination against an employee for taking lawful actions in furtherance of an action under the 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.

Social Service Law §145-b False Statements

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

Social Service Law §145-c Sanctions

If any person applies for or receives public assistance, including Medicaid, by intentionally making a false or misleading statement, or intending to do so, the person's and the person's family needs are not taken into account for a period of six months to five years, depending upon the number of offenses.

B. Criminal Laws

Social Service Law §145 Penalties

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

Social Service Law § 366-b, Penalties for Fraudulent Practices

Any person who, with intent to defraud, presents for payment any false or fraudulent claim for furnishing services or merchandise, knowingly submits false information for the purpose of obtaining Medicaid compensation greater than that to which he/she is legally entitled to, or knowingly submits false information in order to obtain authorization to provide items or services shall be guilty of a Class A misdemeanor.

Any person who obtains or attempts to obtain, for himself or others, medical assistance by means of a false statement, concealment of material facts, impersonation, or other fraudulent means is guilty of a Class A misdemeanor.

Penal Law Article 155, Larceny

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

Penal Law Article 175, Written False Statements

There are four crimes in this Article that relate to filing false information or claims. Actions include falsifying business records, entering false information, omitting material information, altering an agency's business records, or providing a written instrument (including a claim for payment) knowing that it contains false information. Depending upon the action and the intent, a person may be guilty of a Class A misdemeanor or a Class E felony.

Penal Law Article 176, Insurance Fraud

This Article applies to claims for insurance payment, including Medicaid or other health insurance. The six crimes in this Article involve intentionally filing a false insurance claim. Under this article, a person may be guilty of a felony for false claims in excess of \$1,000.

Penal Law Article 177, Health Care Fraud

This Article establishes the crime of Health Care Fraud. A person commits such a crime when, with the intent to defraud Medicaid (or other health plans, including non-governmental plans), he/she knowingly provides false information or omits material information for the purpose of requesting payment for a health care item or service and, as a result of the false information or omission, receives such a payment in an amount to which he/she is not entitled. Health Care Fraud is punished with fines and jail time based on the amount of payment inappropriately received due to the commission of the crime.

New York Labor Law §740

An employer may not take any retaliatory personnel 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.

This law offers protection to an employee who:

- " discloses, or threatens to disclose, to a supervisor or to a public body an activity, policy or practice of the employer that is in violation of law, rule or regulation that presents a substantial and specific danger to the public health or safety, or which constitutes health care fraud (knowingly filing, with intent to defraud, a claim for payment that intentionally has false information or omissions);
- " provides information to, or testifies before, any public body conducting an investigation, hearing or inquiry into any such violation of a law, rule or regulation by the employer; or
- " objects to, or refuses to participate in any such activity, policy or practice in violation of a law, rule or regulation.

The employee's disclosure is protected under this law only if the employee first brought up the matter with a supervisor and gave the employer a reasonable opportunity to correct the alleged violation. The law allows employees who are the subject of a retaliatory action to bring a suit 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 care provider and the court finds that the employer's retaliatory action was in bad faith, it may impose a civil penalty of \$10,000 on the employer.

New York Labor Law §741

Under this law, 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 under this law 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 the 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 care 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.

St. Joseph's Addiction Treatment & Recovery Centers
Corporate Compliance Report Form

(Do not complete top section if you wish to remain anonymous)

Name:

Home Telephone:

Work Telephone:

Position/Dept:

Supervisor:

Please complete the following and forward to Anna Lincoln, **Compliance Officer**. If more space is needed please attach additional pages, as necessary.

1. Description of possible violation:

2. When did this occur?

3. Person (s) involved:

4. How did you find out about this problem?

5. Do you have any evidence to provide the above allegations? _____No _____Yes
If yes, please describe:

7. Have you discussed the above allegations with anyone else? _____No _____Yes
If yes, Who:

When:

8. Do you have any further information to provide or any suggestions for verifying the allegations described above? _____No _____Yes (If yes, please attach)

9. Are you aware of any other individuals who may be able to provide further information regarding the above allegations? _____No _____Yes
(If yes please provide the names)

10. Are you willing to discuss the above allegations with the Compliance Officer?
_____No _____Yes (If yes, she will contact you)

We will take every measure to ensure the confidentiality of the above information. However, there may be unforeseen circumstances where disclosure of this information may become necessary.