



# **CORPORATE COMPLIANCE PLAN**

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## **CORPORATE COMPLIANCE OVERVIEW**

### ***I Background & Introduction:***

The mission of Living Resources is “*to promote and provide life enhancing services to individuals with disabilities in a safe and secure environment.*” Living Resources’ ability to fulfill its mission is to a great degree dependent on securing reimbursement for its services from our external funding sources.

Living Resources is committed to complying with federal and state law, and with Medicaid & Medicare program requirements. Living Resources’ commitment stems not only from its duty to comply with the law, but from its recognition of the ethical imperative to protect the financial integrity of the payer programs that serve its Individuals. Finally, Living Resource’s interest in compliance reflects its awareness that fraud, abuse or errors in billing can jeopardize the agency’s mission.

Accordingly, Living Resources acknowledges the obligation of its employees, board members and other affected associates to strictly comply with Medicaid/Medicare statutes and requirements; and to diligently strive to prevent, detect and appropriately respond to instances of fraud, abuse, incorrect billing, or other forms of noncompliance.

Living Resources provides a wide array of services to individuals with developmental disabilities and/or acquired brain injury. Those service areas include, but are not limited to: residential care, supported employment, day habilitation, service coordination, residential habilitation, clinical supports, after-school, college experience, acquired brain injury services, arts center, etc. In order to coordinate a compliance program among different service departments, we have found the need to establish one single compliance program among these different units. Strong communication among these varying departments is viewed as being highly critical. Living Resources has made the commitment of time and resources throughout the organization in order to implement an “effective” compliance program.

### ***II Authority and Oversight:***

Ultimate accountability and oversight for Corporate Compliance lies with the Board of Directors and the Chief Executive Officer (CEO). Responsibility for the implementation of all initiatives lies with the CEO. The Board of Directors is committed to providing both the human and financial resources necessary to develop, implement, support, maintain and monitor an ethical environment, which complies with all Federal, State and local Law.

The day-to-day operational oversight and implementation of agency compliance activities rests with the designated Compliance Officer, whom is titled by Job Position as the *Assistant Executive Director of Corporate Planning*. As the Compliance Officer's position does entail other administrative job duties there is also a full time staff member (*Assistant Director for Corporate Compliance*) who supports and assists with day-to-day compliance operations.

The Compliance Officer also has the authority to directly report any untoward situations to the Board President as deemed necessary. The Compliance Officer presents and submits reports of compliance activity to the Living Resources Board of Directors via the Board's *Development & Compliance Committee* which meets on a quarterly basis.

### ***III Benefits of the Compliance Plan:***

Living Resources believes that a comprehensive compliance program provides a mechanism that brings the public & private sectors together to reach mutual goals of reducing fraud and abuse, enhancing operational functions and improving the quality of service delivery.

Attaining these goals imparts positive results for the agency, governmental entities, other stakeholders and most importantly for the individuals and families served. In addition to fulfilling its legal duty to ensure that we are not submitting false or inaccurate claims to government and private payers, Living Resources may gain numerous other benefits by voluntarily implementing a compliance program. The benefits may include:

1. The formulation of effective internal controls to ensure compliance with statutes, regulations and rules.
2. A concrete demonstration to employees and the community at large of Living Resources' commitment to responsible corporate conduct.
3. The ability to obtain an accurate assessment of employee and contract behavior.
4. An increased likelihood of identifying and preventing unlawful and unethical behavior.
5. The ability to quickly react to employees' operational compliance concerns and effectively target resources to address those concerns.
6. An improvement in the quality, efficiency and consistency of providing services.
7. A mechanism to improve internal communications.
8. Procedures that allow prompt and thorough investigation of alleged misconduct.
9. Through early detection and reporting, minimizing loss to the government from false claims, and thereby reducing the agency's exposure to civil damages and penalties, criminal sanctions and administrative remedies.

#### ***IV Areas of Risk:***

It is beneficial for Living Resources to evaluate our current compliance policies & procedures by conducting a baseline assessment of risk areas.

Such areas of risk include: employee screening, vendor relationships, billing & cost reporting, record keeping & documentation. This list of risk areas is not exhaustive, nor all encompassing. Rather, it is viewed as a starting point for an internal review of potential vulnerabilities within the agency.

The objective of this assessment is to ensure that the employees, managers and directors are aware of these risk areas and that steps are taken to minimize, to the extent possible, the types of problems identified.

The Compliance Officer will coordinate subsequent re-evaluations (internal compliance reviews) on a periodic basis.

Any changes that would add value to our compliance plan will be added to policy. Living Resources will focus on items which may be highlighted by current & past surveys conducted by OPWDD Certification Bureau and other governmental agencies. In addition, regulation updates, provider associations, peer groups, Individual & family satisfaction surveys, and employee feedback will all be taken into account when assessing risk.

#### ***V Compliance Officer:***

The CEO has designated a Compliance Officer who is a full-time employee of the Living Resources Corporation and reports directly to the CEO with authority to report to the agency's Board President as desired & needed. The Compliance Officer is designated as the agency's Assistant Executive Director for Corporate Planning. For a summary of the Compliance Officer's job duties, please review the "Corporate Compliance Officer, Position Description.

In any case of extended absence of the designated Compliance Officer, the CEO has designated the Assistant Director for Corporate Compliance to act in the capacity of Compliance Officer and will include all aspects of the Compliance Officer job description.

The CEO has designated authority to the Compliance Officer to allow total access and review of all documentation relevant to compliance activities within the agency.

The Compliance Officer has adopted an open-door policy in order to foster good communication and easy accessibility. In addition, since the agency does not wish to be reactive only – the Compliance Officer may reach out to employees using such methods as field visits to work locations and polling employees about compliance and work issues. It is believed that if the employee knows the Compliance Officer, they may be more likely to talk freely with this person.

## ***VI Role of Program Operation Departments:***

1. Each Program Director will oversee compliance of services provided within his/her particular department and will serve as a liaison between the department and the Compliance Officer.
2. Each department will adopt and implement the program's specific compliance plan as it relates to billing, documentation and record keeping practices. Such a department plan will be reviewed and approved by the Compliance Officer and the Compliance Committee. Such department's specific plan shall address, at a minimum, the following:
  - a) Billing protocol;
  - b) Verification systems to monitor accurate billing, to include description of in-house random auditing guidelines;
  - c) Listing of paperwork (forms) in use;
  - d) Documentation guidelines for billing system(s);
  - e) Education & training programs as directed by the department head;
3. Department representatives will communicate any issues/concerns to the Compliance Officer as needed. Such communication would include, at a minimum, the following:
  - a) Identification of any areas of compliance concern and how they are being addressed;
  - b) Any incidents of intentional or accidental misconduct within the department (notification also provided to Compliance Officer immediately upon discovery);
  - c) Any disciplinary action in regard to the compliance plan taken against department employee(s);
  - d) Training progress, needs and/or concerns;
  - e) Any other matter dealing with compliance issues within the department.



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***Other "Persons Associated" with Living Resources  
Definition***

Other persons associated with Living Resources will include those entities noted below and are persons who are involved in the delivery of Medicaid reimbursable care, services of supplies or whose activities may result in a Medicaid payment.

Dependent upon the position/purpose of the persons to be trained, each person's training and education topics and/or methods may be different. Living Resources has established some informal criteria to help identify those differences.

1. Does the entity have access to confidential information (agency or service recipient)?
2. Will the entity work directly with and/or around our service recipients?
3. Are they delivering Medicaid reimbursable care?
4. Will the entity have access to PHI in any form?
5. What specialized training/education is needed in order to perform their duties?
6. What is the collegiate/professional level of the entity (including experience)?
7. Other, as deemed appropriate

***Interns/Volunteers***

Student Interns are periodically retained by certain departments within the agency (ex: Finance, Clinical, Administration). All Interns are required to attend the full orientation on Corporate Compliance within 30 days of taking on their position. Interns are normally scheduled on a part-time basis.

At present, Living Resources does not utilize volunteers within their workforce.

***Contractors/Consultants***

Living Resources will contract with various entities in order to provide specialty services such as clinical (e.g. OT, Speech, PT, etc.) and/or administrative services such as legal counsel and external auditing services.

Consultants are considered professional experts who may be utilized as a component of the agency's workforce either by contract or through vendor payment methods. In both situations, the consultant will receive the following training/education prior to working.

1. Signed Confidentiality Agreement
2. Signed Business Associate Agreement
3. Published Corporate Compliance information and Plan on Corporate Website.

### ***Board of Directors***

The CEO of Living Resources meets with each incoming board member and reviews the agency board orientation packet. The Compliance Officer or a designee attends all Board orientation sessions and reviews the agency's current Corporate Compliance Plan with the new Board member(s) at this time. The Board member will sign an acknowledgement form attesting to their attendance to this training session. This acknowledgement form is maintained with the CEO's Administrative Assistant.

Through the Board's Program & Compliance Committee, Board members are provided with a corporate compliance status report from the Compliance Officer. This review is documented within the Committee meeting notes which is in turn submitted to the full Board in a subsequent meetings Board packet and presented by the Committee's Board Chairperson.

A written annual report of Compliance activity contained in the agency's annual Program Development Plan is submitted to the Board of Directors.





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### ***CORPORATE COMPLIANCE COMMITTEE***

The CEO has established a committee within the organization for the purpose of guidance and updates on the agency's Corporate Compliance Plan. Upon the assignment of the committee members, it is the CEO's expectation that its membership demonstrate high integrity, good judgment, assertiveness, and an approachable demeanor, while eliciting the respect and trust of employees of the organization. This committee consists of representation from various departments, including human resources, information technology, finance, training, program & office administration. These committee members also represent a variety of skill and are those persons who are able to accept the responsibilities vested in members of such a committee. Each member has the comprehensive expertise within their respective departments to inform and subsequently support the implement any changes to policies and procedures as recommended.

The standing committee is also viewed as an extension of the Corporate Compliance office and provides the organization with increased oversight.

This standing committee will formulate "sub-committees" as needed in response to the CEO or Compliance Officer's request for a task force on any more complicated or time involved issues related to the compliance program. Members of these sub-committees will be designated and assigned as viewed appropriate to the subject of concern.



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## **CODE OF ETHICS & PROFESSIONAL CONDUCT**

### ***I Policy:***

Commitment to ethical professional conduct is expected of every employee, board member and any other associate directly affiliated with the Living Resources Corporation. Because of this, the agency has established a Code of Conduct that applies to all employees, board member and any other associate who provides direct service to our service recipients. Living Resources is committed to preventing the occurrence of unethical and/or unlawful behavior, stopping behavior as soon as possible after discovery and to appropriately discipline those persons who violate the Code, including persons who fail to report a violation.

All employees, board members and any other affected associates must comply with the agencies Code of Conduct, immediately report any alleged incidents of non-compliance and/or violations of wrongdoing and assist management and compliance personnel in the investigation of untoward incidents resulting from reports of non-compliance.

It is the policy of Living Resources to observe all laws and regulations applicable to its business and to conduct business with the highest degree of integrity. To accomplish this, all employees, board members and any other affected associates must obey the laws and regulations that govern their work and always act in the best interest of the people we serve, their families and Living Resources.

### ***II Guidelines:***

#### ***1. Ethics:***

- a) You are expected to keep management staff informed of what you are doing; to document or record all services or transactions accurately; and to be honest and forthcoming with Living Resources, regulatory agencies and internal/external auditors.
- b) You are expected to comply with Living Resources policies and procedures, accounting rules and internal controls as applicable and provided to you in writing.
- c) You are expected to function with honesty in your work for Living Resources and with the people we serve, providers, suppliers and others with whom the agency does business.

## 2. Use of Agency Funds and Resources:

- a) Living Resources assets are to be only used for the benefit of the individuals we serve and the agency at large. Assets include funds, equipment, inventory and office supplies, but also concepts, business plans and strategies, information about people served, financial information, computer property rights, and other business information about the agency.
- b) You may not use agency assets for personal gain or give them to any other persons or entities, except in the ordinary course of business as part of an approved transaction.
- c) Use of Living Resource's funds or assets for any improper purpose is strictly prohibited. If you are aware of or have reason to believe that funds are being improperly used, you must report this immediately to the Compliance Officer (see #11 for contact information).

## 3. Confidentiality:

During your work with Living Resources, you may acquire confidential information about Living Resources, its staff and people we serve. This information must be handled in strict confidence and not discussed with any individual or entity that does not have explicit rights to that information. The protection of confidential business, staff and Individual information is very important.

## 4. Maintenance of Records:

You must record and report all agency, service recipient and financial information fully, accurately and honestly. Records include, but are not limited to records of the people we serve, documentation of services, accounting books or records, financial statements, timesheets or records, expense reports, vouchers, bills, payroll, claims payment records, correspondence and any other method of communication. Employees must not omit or conceal any relevant information.

- a) Falsification of Records:
  - You must not make any false entries in any of the agency's records or in any public record for any reason.
  - You may not alter any permanent entries in agency records.
  - You may not create or participate in the creation of any records that are intended to mislead or to conceal anything that is improper.
- b) Expense Records:
  - You must always charge expenses accurately and to the appropriate cost center or account, regardless of the financial status of the program, project or contract, or the budget status of a particular account or line item.
- c) Retention of Records:
  - The retention, disposal or destruction of records of or pertaining to Living Resources must always comply with legal and regulatory requirements and agency policy.
  - You may not alter Records You may not destroy records pertaining to litigation or government investigations or audit without express written approval of the Compliance Officer.

5. Business Dealings between Living Resources & Vendors and/or Contractors:

Living Resources will not be inappropriately influenced with goods or services from any business in which you or your immediate family members have a substantial interest. All staff have a duty to disclose relationships that are real or potential conflicts of interest.

6. Protection of Confidential Information:

Living Resources has developed policies and procedures to assure that the confidentiality of agency information and information about the people we serve is protected and released only with the appropriate authorization.

- a) You must treat all agency records and information in a confidential manner.
- b) You may not release confidential information without the proper authorization. Confidential information includes not only information about the people we serve and their families, but also non-public information about the agency that may be of use to competitors or harmful to the agency or its customers if released.
- c) You must protect agency information and avoid discussing or disclosing agency information purposefully or inadvertently (through casual conversation), to any unauthorized person inside or outside of Living Resources.

7. Fair Dealing:

The Code of Conduct and the following guidelines are intended to help you make appropriate, responsible and correct decisions in these and all matters.

- a) Kickbacks & Rebate:
  - Kickbacks and rebate in cash, credit or other form are prohibited. They are not only unethical, but in many cases, illegal.
- b) Gifts and Gratuities & Entertainment:
  - You may not solicit money, gifts, gratitude or other personal benefits or favors of any kind from employees, people we serve and/or their families.
  - You must not offer or accept entertainment that is not a reasonable addition to a business relationship but is primarily intended to gain favor or to influence a business decision.
  - This is not meant to include charitable contributions/gifts monetary or non-monetary to the agency as long as there is not individual personal benefit or any expectation of business preference from the individual or the agency.

8. Discontinuation of Services:

- a) Upon discontinuation of services, you must return all agency property including, but not limited to copies of documents, notes, and other records containing confidential information; computer disks, agency ID, keys, etc.

9. Information Security:

- a) You are responsible for properly using information stored and produced by all Living Resource's computer systems.
- b) Computers, Internet access, email, or other office communications systems are intended for business related purposes only.

10. Government & Agency Investigations:

- a) There may be times that Living Resources is asked to cooperate with an investigation by a federal or state or local governmental agency, or to respond to a request for information. Employees must report any requests for information or cooperation with an investigation to the Compliance Officer immediately.
- b) All Employees board members and any other affected associates must cooperate fully and honestly in any investigation into a reported violation of this Code of Conduct, any applicable law or regulation, agency policy, procedure or practice.
- c) All Employees board members and any other affected associates will be required to assist in the resolution of a reported compliance issue. Such assistance may be in the form of a documented/signed interview as requested.

11. Seeking Guidance & Reporting Violations:

- a) Employees, board members and any other affected associates must report any actual or suspected violations of this Code of Conduct, any applicable law or regulation, or any agency policy & procedure to the Compliance Officer.
- b) The Compliance Officer (Joe Morelli) can be contacted by phone at 518-218-0000 extension#4369 or by email at [jmorelli@livingresources.org](mailto:jmorelli@livingresources.org) or through mailing at 300 Washington Avenue Extension, Albany, New York 12203

*Also refer to the following information from Living Resources Human Resources department:*

- LRC Human Resources Policy – Code of Conduct #30-05
- National Alliance of Direct Support Professionals (NADSP)
- Justice Center – Code of Conduct for Persons with Special Needs



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## **REPORTING NON-COMPLIANCE CONCERNS**

The purpose of this reporting policy is to provide employees, board members and any other affected associates with a means to communicate needs, concerns and/or any other problematic issue to the Compliance Officer as deemed necessary.

### ***I Definition of Noncompliance:***

Noncompliance to the Corporate Compliance Plan has the potential to take many forms. The following list provides several examples of noncompliance (it is not to be considered an all-inclusive list):

- Falsifying information on verbal or written reports
- Signing for a service that was not provided
- Falsifying a signature on any documentation.
- Removal of official documents from its' home file without authorization.
- Clocking In or Out for another employee.
- Missing and/or potential loss of Individual funds.
- Providing confidential information to unauthorized persons.
- Destroying documents without permission.
- Encouraging, directing, facilitating or permitting non-compliant conduct.
- Failure to report witnessed noncompliance.

### ***II Access to the Compliance Officer:***

Living Resources has established a very successful "open-door" policy whereby any employee, at any level of the organization, may attain easy, direct access to the Compliance Officer. The process described within this policy will also pertain to any board member or other affected associates affiliated with the agency.

Notification to the Compliance Officer can be provided in a variety of ways, dependent upon the Reporter's wishes. Includes:

- Email
- Voice mail
- Posted mailing
- In person

To this end, Living Resources continues its expectation that all employees, board members and any other affected associates will report any needs or concerns related to the agency's operations directly to the Compliance Officer, Joe Morelli, who is available to receive and investigate any reports.

Joseph Morelli, Compliance Officer  
300 Washington Ave Extension, Albany, NY 12203-7303  
518-867-8811  
[jmorelli@livingresources.org](mailto:jmorelli@livingresources.org)

### ***III Non-Retaliation and/or Non-Intimidation:***

Employees and affected associates of Living Resources can be well assured that when conducted under good faith, there will be no intimidation or retaliation of any kind when presenting problematic situations to the CEO or any other member of the administrative or management team. It has been the philosophy of the agency and its leadership to encourage the presentation of problems in order that the agency may gain knowledge & insight – thus creating opportunity to make improvements that will lead to better quality care of our Individuals.

Any person who deliberately makes a false accusation with the purpose of harming or retaliating against another person, or who willfully abuses the mandated reporting system may be subject to disciplinary action, up to and including termination.

See Human Resources Policy #30:19 for further reference.

### ***IV Anonymous Reporting:***

For those employees who feel it necessary to remain anonymous when reporting problematic situations, they are welcome to contact the Compliance Officer by telephone voice mail or by mail. The Compliance Officer is the only person with access to his telephone messages. In addition, his phone line does not provide a caller identification function.

It is important to understand that unless detailed information is provided, anonymous reporting may result with the Compliance Officer's inability to follow-up in a thorough manner. The content of all reports made through an anonymous manner will still be reported to the CEO or BOD President, who will assure that it remains confidential and anonymous. However, the identity of the caller will not be disclosed to anyone without the direct consent of the caller.

### ***V Reporting of Misconduct:***

When the Compliance Officer, Compliance Committee or an administrative staff member discovers credible evidence of misconduct from any source and, after a reasonable inquiry, has reason to believe that the misconduct may violate criminal, civil or administrative law, Living Resources will promptly report the existence of misconduct to the appropriate Federal, State, or local authorities. Such a report, as validated, will be made within a reasonable time period, but not more than 60 days.

Some of the Federal & State authorities include:

- NYS Office of Medicaid Inspector General (OMIG)
- U.S. Office of Inspector General (OIG)
- U.S. Criminal & Civil Divisions of the Department of Justice
- U.S. Attorney General
- Office for People with Developmental Disabilities
- New York State Medicaid Fraud Control
- New York State Department of Health
- County District Attorney
- NYS Labor Department (sections 740/741)



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## ***EMPLOYEE CONFLICT OF INTEREST***

The purpose of the conflict of interest policy is to protect the Corporation's interest when it is contemplating entering into a transaction or arrangement that might benefit the private interest of an employee of the Corporation. This policy is intended to supplement but not replace any applicable state laws governing conflicts of interest applicable to nonprofit and charitable corporations.

A conflict of interest arises if an employee's judgment and/or discretion is influenced by personal considerations. To this end, Living Resources has established some basic guiding principles that will lead the agency to avoid situations that may have the possibility of causing a conflict of interest.

### ***I Guidelines:***

1. Immediate family/staff members will not supervise or report to each other.
2. Immediate family/staff members will not work in the same program location as the other. (Exception: crisis or emergency situation requiring presence of qualified staffing).
3. If the agency is in contract or service affiliated with an employee's immediate family member or friend, the employee must disclose this information to the Chief Executive Officer (CEO) upon discovery.
4. An employee should not utilize his/her position within the agency in order to achieve personal gain.
5. Other outside employment is prohibited to the extent that it interferes with an employee's performance while working at Living Resources.
6. Equipment, materials or proprietary information owned by Living Resources Corporation will not be used for any outside employment purpose or personal need.
7. Also refer to the agency's Human Resources Code of Conduct Policy #30-05 for further related information.



## ***II Duty to Disclose***

In connection with any actual or possible conflicts of interest, the employee must disclose the existence of his or her interest in a transaction or arrangement. The employee will be provided with the opportunity to disclose all material facts to the Chief Executive Officer (CEO) and the Corporate Compliance Officer.

It will be through the determination & judgment of the CEO to consider the following factors:

- whether the transaction or arrangement is in the Corporation's best interest, and;
- whether the transaction or arrangement is of benefit to the Corporation, and;
- whether the transaction is fair and reasonable to the Corporation.

## ***III Violation of Policy***

Any employee who shall knowingly and intentionally violate any of the provisions stated within this policy will be subjected to disciplinary and corrective action, which may include suspension or termination from employment.

## ***IV Records of Proceedings***

It is the responsibility of the Corporate Compliance Officer to maintain all records of any proceedings regarding a conflict of interest. Such records will contain:

- The names of the person(s) who disclosed or otherwise were found to have an interest in connection with an actual or possible conflict of interest.
- The nature of the employee's interest.
- Any action taken to determine whether a conflict of interest was present.
- The CEO's decision as to whether a conflict of interest in fact existed.
- The names of any persons who were present for discussion related to the transaction or arrangement.



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## ***FALSE CLAIMS ACT & WHISTLEBLOWER PROTECTION***

### ***I Overview:***

The purpose of this policy is to continue to assure Living Resources commitment to prompt, complete and accurate billing of all services provided to individuals and to assist in the encouragement of individuals to come forward and report misconduct involving false claims

Living Resources employees and/or other affected associates shall not make or submit any false or misleading entries on any claim forms. No employee and/or other affected associates shall engage in any arrangement or participate in such arrangement at the direction of another person, including any supervisor or manager that results in the submission of a false or misleading entry on claims forms or documentation of services that result in the submission of a false claim.

It is the policy of Living Resources to detect and prevent fraud, waste and abuse in federal healthcare programs.

This policy applies to all employees, including management, board members and any other affected associate.

For purpose of this policy, an affected associate is defined as:

- Any contractor, intern, consultant or board member which or who, on behalf of the Agency, furnishes, or otherwise authorizes the furnishing of Medicaid health care items or services, performs billing or coding functions; or
- Is involved in the monitoring of health care provided by the Agency.

### ***II Whistleblower Protection:***

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, who has actual knowledge of alleged false claims may file a lawsuit on behalf of the US government. If the lawsuit is successful, and provided certain legal requirements are met, the whistleblower may receive an award ranging from 15% to 30% of the amount recovered.

The False Claims Act prohibits discrimination by Living Resources against any employee for taking lawful actions under a 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 relief. Such relief may include reinstatement, double back-pay and/or compensation for any special damages.

No supervisor, manager, director, board member or any other employee with authority to make or materially influence significant personnel decisions shall take or recommend an adverse personnel action against an employee or affected associate in knowing intimidation and/or retaliation for disclosing alleged wrongful conduct to an agency officer or any public body. Any individual found to have so violated this policy, shall be disciplined, up to and including termination, in accordance with existing agency policy.

Any employee, service recipient, or other affected associate who feels he/she has been retaliated against for reporting improper activity, whether perceived or real, can report his/her allegation to the Associate Executive Director for Corporate Planning (Compliance Officer) or the Assistant Director for Corporate Compliance.

The agency will make every effort to maintain the anonymity of the individual making the allegation. Similarly, the identity of the subjects of an investigation will be maintained in confidence with the same regard.

Once an allegation has been presented, the agency's Compliance Officer will investigate or assign the appropriate individual, department, group or outside agency to conduct a thorough investigation using standard investigative practices. The individual providing the initial information should refrain from obtaining evidence for which they do not have a right to access. Such improper access may itself be considered an improper activity (such as improper access to information which would otherwise be prohibited under HIPAA Privacy rules). The intentional filing of a false report, whether orally or in writing is itself considered an improper activity. The individual making the allegation should expect to be interviewed and should be willing to provide detailed information in writing. Those individuals making an anonymous allegation should provide as much detail as possible.

The whistleblowers right to protection from intimidation and/or retaliation does not extend to immunity for any involvement in the matters that are the subject of the allegation(s) or an ensuing investigation.

In order to better implement the False Claims Act within Living Resources, the agency will be responsible for the following provisions:

1. Provide training on this policy to all of its employees and other affected associates. This training will be provided to all new employees as part of the employee orientation program.
2. Perform billing activities in a manner consistent with the regulations and requirements of third party payers, including Medicaid and Medicare.
3. Conduct regular auditing and monitoring procedures as part of its efforts to assure compliance with applicable regulations.

4. Any employee and/or other affected associate who has any reason to believe that anyone is engaging in false billing practices or false documentation of services is expected to report the practice according to the Living Resources Reporting of Non-Compliance policy and procedure.
5. Any form of intimidation and/or retaliation against any employee who reports a perceived problem or concern in good faith is strictly prohibited.
6. Any employee who commits or condones any form of intimidation and/or retaliation will be subject to discipline up to and including termination.
7. The agency's Compliance Officer will assure that a copy of this policy is provided to any applicable affected associates.



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## ***INVESTIGATION & CORRECTION OF REPORTS OF NON-COMPLIANCE***

### ***I Overview:***

The purpose of this policy is to provide prompt follow-up and resolution to all reports of non-compliance in a consistent and thorough manner. To ascertain factual information related to reports of non-compliance and provide valid recommendations for improvement, revision, discipline, and/or other directives as pertinent to each case report.

### ***II Investigation Procedures:***

The Compliance Officer or designee will begin an investigation into any alleged report of noncompliance. Investigations are conducted in an entirely confidential manner (If the reporter requests confidentiality, the reporter's name will not be identified in any shared media).

All employees are required to assist the Compliance Officer in resolving compliance issues. Failure to cooperate and assist in such a resolution will include disciplinary action up to and including termination. Such assistance may include, participating in the investigation of noncompliance, participation with follow-up communications, implementation of recommendations, etc.

Once an investigation has been completed and there is cause for any legal or disciplinary action, the Compliance Officer will present the case report to the CEO. The CEO will provide a full review of the case and forward final resolution and directives back to the Compliance Officer for follow-up and closure. In order to alleviate/eliminate repetitive occurrences of non-compliance, a corrective action plan, often provided in the form of recommendations, is included in the final resolution. Reports of noncompliance are presented to the Corporate Compliance Committee for review and further recommendation as applicable.

### ***III Procedures to Correct Noncompliance:***

Upon receipt of reports or reasonable indications of suspected noncompliance, the Compliance Officer or designee will immediately investigate the allegations to determine whether a material violation of applicable law or the requirements of the Compliance Plan has occurred and, if so, take decisive steps to correct the problem. As appropriate, such steps may include a corrective action plan, the return of any overpayments, a report to the government and/or a referral to criminal or civil law enforcement authorities.

Instances of noncompliance will be determined on a case-by-case basis. The existence or amount of a monetary loss to the agency is not solely determinative of whether the conduct should be investigated and reported to governmental agencies. In fact, there may be instances where there is no monetary loss, but corrective actions are still necessary to protect the integrity of the applicable program and its beneficiaries.

A system is in effect for implementing procedures, policies and systems as necessary to reduce the potential for recurrence. All reported incidents of non-compliance are investigated and the full case review is documented on an agency internal report titled “*Non-Compliance Report, Investigation & Correction*” (NRIC). All NRIC’s are filed within the corporate compliance office.

As needed and directed by the CEO, Living Resources may seek advice from its legal counsel to determine the extent of the agency’s liability and to assist in planning an appropriate course of action. Where potential fraud is not involved, the agency will utilize required re-payment channels to return overpayments as they are discovered. However, even when the billing department is effectively using the overpayment detection and return process, the Director of Finance is obligated to alert the Compliance Officer to those overpayments as they may reveal trends or patterns indicative of a systemic problem.

When there are indications of potential fraud or criminal activity, the CEO may determine (upon the advice of the Compliance Officer) whether further investigation may be warranted. Such an investigation will include interviews and a review of relevant documents. Under some circumstances, the agency may need to consider engaging its counsel, auditors or health care experts to assist in the investigation.

#### ***IV Process for Medicaid Overpayment Refunds:***

Living Resources utilizes software titled Fund E-Z. If original billing was completed on other software, go through billing process as if this were a brand new billing. If original billing was completed on Fund E-Z Medicaid software, the original invoice should be marked as “Pended.” Periodically, it may be necessary to void a billing that will not be rebilled. To void a billing, the status of the original invoice must be changed from “Pend” to VOID (see below):

- a) On FEZ Medicaid billing, go to “Remittances,” “Reconcile Invoices to Remittance.”
- b) Leave Disk Number, Program and Provider ID blank. Enter only client code for client you are working on. Press enter and you will be presented with a list of any invoices which have been processed for that client which have been Pended. Press Alt-F6 to mark all as VOID. “VOID All?” Press Y for Yes.
- c) Run “Remittance Report” to verify totals to be voided. Leave Disk, Program and Provider ID blank. Enter client code and status of “VOID” to get a list of items for just that client. D – Detailed. Send to Printer.
- d) Go to “Process Remittance.” Leave Disk, Program and Provider ID blank. Fill in client code of client that you are working on. For new A/R receipt # use last date of what you want to rebill. For Receipt Date use most recent Thursday date. Fund = 1, Cash Account = 1000. “OK” to process remittance?” is point of no return. Once you say “yes” to this, all accounting will be done. Original invoice will be voided and credit memos will be created. When computer is finished processing, totals should appear on the screen. “Total Cash Receipts” should be \$0.00. “Total Credit Memos” should be equal to amount you wish to void. “Total General Journal” should be \$0.00.



*Meeting Life's Challenges*

## ***TRAINING AND EDUCATION***

Compliance training and education is provided to all employees and affected persons associated with Living Resources. All employees are expected to attend the Corporate Compliance orientation within 30 days of hire. Compliance orientation instruction is mainly conducted by the Compliance Officer or the Assistant Director for Corporate Compliance.

All training and education provided to employees and others associated with Living Resources is presented at a level which will maximize comprehension of the various individuals and/or groups to be trained. Documents, such as a particular Policy, may be customized in order to achieve this objective.

### ***Annual/Ongoing Training:***

Living Resources has dedicated each month of June to conduct an annual review on some of the topics related to the Corporate Compliance Plan. Each Employee will be presented with and review a specific Compliance topic (via hand-out) which is determined each year by the Compliance Officer and/or the CEO. This review by the employee is acknowledged by signature, electronically recorded and filed within the training department records.

### ***Record of Attendance:***

Living Resources maintains an individualized electronic training record for each employee. Compliance Training attendance sheets are held in hard-copy form by the training department in separate folders. The training attendance sheets note the name of the training session, the Instructor, the Student's printed name and signature, the date and any comments as deemed applicable.

### ***Attendance Requirements:***

Employees are expected to attend training as required by the agency's Personnel Policies and Practices (#30.15).

In addition, there are consequences when an employee is found to be out-of-compliance with required training expectations. Includes (30.15, #3):

- Employees out of compliance with training will be placed on unpaid suspension until their training requirements have been met.
- Suspended employees will have four (4) weeks from the date of suspension to complete required training or be subject to termination.

The agency's Personnel Policies and Practices (#30.15, #6) also describe a detailed system for disciplinary action as needed.

## *Orientation Training Agenda*

### ***I Compliance Plan***

Beginning to end description of the operation of Living Resource's compliance program is reviewed. Question and answer sessions are noted to be welcome throughout the presentation. The Corporate Compliance Agenda includes the following:

1. 1. Background and Introduction
  - Definitions (fraud, waste, abuse)
  - Authority and oversight
  - Benefits of the plan
  - Compliance Officer
  - Role of program operation departments
2. Corporate Compliance Committee
3. Code of Ethics & Professional Conduct
4. Reporting Noncompliance
5. Whistleblower Protections
6. Protections toward Non-Retaliation and Non-Intimidation
7. Employee Conflict of Interest
8. Investigation & Correction of Noncompliance
9. Disciplinary Measures for Noncompliance
10. Training and Education
11. Auditing and Monitoring
  - Internal & External Audits
  - Self-Assessment
  - Risk Analysis
12. Question and Answer Session

### ***II Methods***

1. Power Point Presentation
2. Acknowledgement Statement (initial/annual)

### ***III Hand-Outs***

1. Reporting Noncompliance
2. Employee Conflict of Interest
3. Whistleblower Protections





*Meeting Life's Challenges*

**NONCOMPLIANCE & DISCIPLINARY MEASURES  
VIOLATION OF STANDARDS OF CONDUCT, POLICIES AND PROCEDURES  
(EMPLOYEE)**

The purpose of this policy is to deter employees from improper conduct relating to the breach of HIPPA and/or the Corporate Compliance Plan.

***I Guidelines:***

An effective compliance program needs to include disciplinary procedures that set out the consequences of violating the agency's standards of HIPPA & corporate compliance conduct, policy and procedures. Intentional noncompliance will be viewed as requiring significant sanctions to the transgressor; yet the following procedures will be made on a fair and equitable basis. It is important that all employees be familiar with the Corporate Compliance Plan so that we are all able to recognize noncompliance as it may occur.

***II Good Faith Participation:***

It is expected that all employees will display "good faith" and be an avid participant of the agency's compliance plan. When we state the term "good faith," we are basically expecting all associates to possess an honesty of purpose, freedom from intent to defraud and being faithful to one's duty or obligation.

***III Definition of Noncompliance:***

Noncompliance to HIPPA or the Corporate Compliance Plan has the potential to take many forms. In general terms, "noncompliance" can be defined as *Fraud, Waste* and/or *Abuse*. The following list provided here are just a few examples of noncompliance.

- Falsifying information on verbal or written reports
- Signing for a service that was not provided
- Falsifying a signature on any documentation.
- Removal of official documents from its' home file without authorization.
- Clocking In or Out for another employee.
- Submitting false time keeping record.
- Missing and/or potential loss of Individual funds.
- Providing confidential information to unauthorized persons.
- Destroying documents without permission.
- Encouraging, directing, facilitating or permitting non-compliant conduct.
- Failure to report witnessed noncompliance.

***IV Disciplinary Procedures:***

Dependent upon the preliminary results of an investigation and/or the severity of the situation, targeted employee(s) may be suspended from duty or transferred to a different temporary position until final deliberation has been completed by the Chief Executive Officer.

Only a member of the agency's administrative staff (Director level) maintain the authority to initiate work suspension under this policy.

Upon any suspension of work duty, the Director for Human Resources and the appropriate Department Director will be contacted in order to ensure any further actions needed toward the continuity of service delivery.

Any employee who participates in, violates or knowingly obstructs the reporting of any noncompliance, HIPAA policy and/or any applicable law or regulation, agency policy, procedure or practice is subject to appropriate disciplinary action, up to and including termination. *Obstruction* in this case will include the following:

- Failure to report a suspected or witnessed incident of non-compliance;
- Leading, directing, encouraging and/or participating in the act of non-compliance with others;
- Destruction or removal of vital documents which may assist in the investigation of non-compliance reports.

Disciplinary action may range from a warning notice to suspension or termination of employment, depending on the nature of the incident and the relevant surrounding circumstances.

Since the agency's commitment to compliance applies to all personnel, all levels of employees will be potentially subject to the same types of disciplinary action for the commission of similar offenses. This means that administrators, management and supervisors will be held accountable for failing to comply with, or for the foreseeable failure of their subordinates to adhere to, the applicable standards of the Corporate Compliance Plan.

***V Further Related Information:***

See Living Resources' Personnel Policy & Procedures for the following:

- Code of Conduct (policy #40-08)
- Disciplinary Process (policy #40-09)
- Employment Agreement Handout upon Hire



*Meeting Life's Challenges*

**NONCOMPLIANCE & CORRECTIVE MEASURES  
VIOLATION OF STANDARDS OF CONDUCT, POLICIES AND PROCEDURES  
(AFFECTED ASSOCIATE)**

The purpose of this policy is to deter improper conduct relating to the breach of HIPPA and/or the Living Resources Corporate Compliance Plan.

***I Guidelines:***

An effective compliance program needs to include disciplinary procedures that set out the consequences of violating the agency's standards of HIPPA & corporate compliance conduct, policy and procedures.

Intentional noncompliance will be viewed as requiring significant sanctions to the transgressor; yet the following procedures will be made on a fair and equitable basis. It is important that all affected associates be familiar with the Corporate Compliance Plan so that we are all able to recognize noncompliance as it may occur.

***II Good Faith Participation:***

It is expected that all affected associates will display "good faith" and be an avid participant of the agency's compliance plan. When we state the term "good faith," we are basically expecting all associates to possess an honesty of purpose, freedom from intent to defraud and being faithful to one's duty or obligation.

***1. Reporting Noncompliance Issues:***

All affected associates are required to report any witnessed or suspected noncompliance issues to the Living Resources Compliance Officer. Failure to make such a report may result in discharge of services. Notification to the Compliance Officer can be provided in a variety of ways, dependent upon the Reporter's wishes. Includes:

- Email
- Voice mail
- Posted mailing
- In person

***Joseph Morelli, Compliance Officer***  
300 Washington Ave Extension, Albany, NY 12203-7303  
518-867-8811  
[jmorelli@livingresources.org](mailto:jmorelli@livingresources.org)

## 2. Non-Retaliation and Non-Intimidation:

Associates of Living Resources can be well assured that when conducted under good faith, there will be no intimidation or retaliation of any kind when presenting problematic situations to the Compliance Officer or any other member of the administrative or management team. It has been the philosophy of the agency and its leadership to encourage the presentation of problems in order that the agency may gain knowledge & insight – thus creating opportunity to make improvements that will lead to better quality care. Any person who deliberately makes a false accusation with the purpose of harming or retaliating against another person, or who willfully abuses the mandated reporting system may be subject to corrective action, up to and including discharge of services.

## 3. Assisting in Resolution:

All associates are required to assist the Compliance Officer in resolving compliance issues. Failure to assist in such a resolution may result in discharge of services. Such assistance may include, participating in the investigation of noncompliance, participation with follow-up communications, implementation of recommendations, etc.

### **III Definition of Noncompliance:**

Noncompliance to HIPPA or the Corporate Compliance Plan has the potential to take many forms. In general terms, “noncompliance” can be defined as *Fraud, Waste* and/or *Abuse*. The following list provided here are just a few examples of noncompliance.

- Falsifying information on verbal or written reports
- Signing for a service that was not provided
- Falsifying a signature on any documentation.
- Removal of official documents from its’ home file without authorization.
- Falsifying time records/invoice.
- Missing and/or potential loss of Individual funds.
- Providing confidential information to unauthorized persons.
- Destroying documents without permission.
- Participating in non-compliant conduct
- Encouraging, directing, facilitating or permitting non-compliant conduct.
- Failure to report witnessed noncompliance.

### **IV Disciplinary Procedures:**

Dependent upon the preliminary results of an investigation and/or the severity of the situation and the status of the affected individual, Corrective action may range from a formal notice to suspension or discharge, depending on the nature of the incident and the relevant surrounding circumstances. Final deliberation on corrective actions will be completed by the Chief Executive Officer or if specifically related to a Director of the Board, the BOD President.

Since the agency’s commitment to compliance applies to all personnel, affected associates will be potentially subject to the same types of disciplinary action for the commission of similar offenses. In addition, it will be the responsibility of the affected associate to ensure that any sub-contractors or employees of an affected associate follow these same guidelines put forth within this policy



*Meeting Life's Challenges*

## **AUDITING/MONITORING**

Living Resources will monitor overall service provisions throughout the agency in order to ensure an effective compliance program. The agency's audit and monitoring system will identify areas of regulatory non-compliance, quality of life concerns and/or procedural irregularities that impact the integrity of billing standards and quality of services.

### ***I Administrative Financial Audit***

Living Resources utilizes the auditing services of Cusack & Company, Latham, New York for its annual audit of the agency's *Consolidated Financial Report*. This audit is comprised of the agency's combined statements of financial position for the fiscal year and related combined statements of activities, cash flows and functional expenses.

### ***II Corporate Compliance Office Audits***

Conducted by the Assistant Director for Corporate Compliance at the direction and review of the Assistant Executive Director for Corporate Planning.

#### ***1. Billing Reviews:***

A randomized selection of ten (10) Individuals per month is audited on billing requirements, including documentation review, billing claims and programmatic requirements. An audit tool has been developed for each program which identifies the main components of billing standards. This monthly audit covers the following program services:

- Service Coordination
- Supported Employment
- Acquired Brain Injury (DOH)
- Intermediate Care Facilities
- HCBS Respite (After-School Program)
- HCBS Habilitation
  - Residential
  - Day (DCOP, SBDH, CHAC)
  - Community

#### ***2. Personal Allowance Reviews:***

A randomized selection of fifteen (15) Individuals per month is audited on the proper management of Individual funds as regulated by OPWDD. An audit tool has been developed and targets the accuracy of such areas as ledger documentation, PA transactions, internal management review, presence of receipts, capability, expenditure planning, etc.

### 3. *Billing and Verification Systems Review:*

On an annual basis, a meeting is held with the administrator (Director) for each program type and the corporate compliance office. This meeting is for the purpose of reviewing each program department's billing system and providing an update on any changes that may have taken place throughout the past year – such as laws/rules/regulations, paperwork (forms) utilized to submit billing and the procedures for inter-departmental monitoring of billing.

### 4. *Risk Assessment:*

An annual risk assessment is conducted for each program type within the agency. This assessment provides a review of past identified risks and solicits management discussion on the progress/status of these risks as well as the identification of new risks that might be present. In addition to the program department review, the risk analysis includes a review of the past years trends in non-compliance issues; to include, but is not limited to those issues identified by OPWDD, OMIG, Quality Assurance serious incidents (see item # 6 below).

Members of the corporate compliance office meet with each Program Director in order to review and discuss status of each programs' operational system. This audit reviews such areas as number of participants served, number of employees assigned to the program, staff turnover, training, new developments and/or changes, billing process, employee error risks, technology, etc.

### 5. *Self Evaluation:*

On an annual basis, Living Resources utilizes the *Program Self-Assessment* form which was developed by the Office of the Medicaid Inspector General (OMIG). This assessment provides a review of the agency's status & effectiveness in meeting the regulatory elements of New York State's mandatory compliance program. In addition to the *Program Self-Assessment*, Living Resources will also review other areas of importance such as annual trends of incidents of non-compliance and achievements/needs identified through the past Work Plan.

### 6. *Periodic Review/Miscellaneous:*

As part of day-to-day operations, the corporate compliance office is often made aware of non-compliance issues via internal and external resources. The compliance office is prepared and always ready to address concerns/issues reported through these venues:

- Serious Incident Review Committee findings and recommendations and/or other Quality Assurance identified concerns.
- OPWDD/DQI routine program survey findings
- Government audit findings (Hot Topics)
- Issues noted through identified/recognized trends
- CEO directive
- CFO directive
- Finance office referral/reports
- OMIG/OIG work plan, advisory reports and/or alerts
- Association newsletters, meetings (NYSACRA, NYSRA, HCA, etc.)
- Capital District coalition groups (QA, Compliance, MSC, Executive, etc.)
- OPWDD Administrative memorandums and/or alerts
- National and local news reports