

ALLEGANY REHABILITATION ASSOCIATES, INC.

d/b/a Clarity Wellness Community

Corporate Compliance Plan

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Note

This Corporate Compliance Plan was created by Bonadio & Co., LLP and issued in conjunction with a Compliance Gap Analysis. The Compliance Plan document contains assertions indicating that Clarity has implemented all of the eight (8) elements of a Compliance Plan. These assertions will not be accurate until all components of the Compliance Gap Analysis are addressed and implemented.

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Clarity Wellness Community
CORPORATE COMPLIANCE POLICY

I. Policy

It has been and continues to be the policy of Clarity to comply with all applicable federal, state, and local laws and regulations, and payer requirements. It is also Clarity's policy to adhere to the Code of Ethics that is adopted by the Board of Directors, the Executive Director, and the Compliance Committee.

II. Commitment

We have always been and remain committed to our responsibility to conduct our business affairs with integrity based on sound ethical and moral standards. We will hold our employees, contracted practitioners, and vendors to these same standards.

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

III. Responsibility

All employees, contracted practitioners, and vendors shall acknowledge that it is their responsibility to report any suspected instances of suspected or known noncompliance to their immediate supervisor, the Executive Director or the Compliance Officer. Reports may be made anonymously without fear of retaliation or retribution. Failure to report known noncompliance or making reports which are not in good faith will be grounds for disciplinary action, up to and including termination. Reports related to harassment or other workplace-oriented issues will be referred to Human Resources.

IV. Policies and Procedures

Clarity will communicate its compliance standards and policies through required training initiatives to all employees, contracted practitioners, and vendors. We are committed to these efforts through distribution of this Compliance Policy and our Code of Conduct and Philosophy.

V. Enforcement

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

VI. Agency Response

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

VII. Due Diligence

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

VIII. Whistleblower Provisions and Protections

Clarity will not take any retaliatory action against an employee if the employee discloses certain information about Clarity's policies, practices, or activities to a regulatory, law enforcement, or other similar agency or public official. Protected disclosures are those that assert that Clarity is in violation of a law that creates a substantial and specific danger to the public health and safety or which constitutes health care fraud under the law or that assert that, in good faith, the employee believes constitute improper quality of patient care.

Code of Ethics and Philosophy

I. Philosophy

The employees of Clarity perform their duties in an environment of human service activities. The programs' clientele are dependent on the sound judgment, accurate assessment, ethical interactions, confidential communications and honest transactions of the Clarity workforce.

II. Mission

Clarity is organized to provide psychiatric treatment, education, client management and housing, and the social, vocational rehabilitation of the mentally and physically handicapped, and the disadvantaged and the elderly and for the study and research thereof. The corporation is authorized to own and operate outpatient treatment programs certified by OMH.

III. Expectations

We ensure that all aspects of consumer care and business conduct are performed in compliance with our mission/vision statement, policies and procedures, professional standards, applicable governmental laws, rules, and regulations, and other payer standards. Clarity expects every person who provides services to our consumers to adhere to the highest ethical standards and to promote ethical behavior. Any person whose behavior is found to violate ethical standards will be disciplined appropriately.

Employees may not engage in any conduct that conflicts – or is perceived to conflict – with the best interest of Clarity. Employees must disclose any circumstances where the employee or his or her immediate family member is an employee, consultant, owner, contractor, or investor in any entity that (i) engages in any business or maintains any relationship with Clarity; (ii) provides to, or receives from Clarity, any consumer referrals; or (iii) competes with Clarity. Employees may not without permission of the Compliance Officer accept, solicit, or offer anything of value from anyone doing business with Clarity.

Employees are expected to maintain complete, accurate, and contemporaneous records as required by Clarity. The term “records” includes all documents, both written and electronic, that relate to the provision of Clarity services or provide support for the billing of Clarity services. Records must reflect the actual service provided. Any records to be appropriately altered must reflect the date of the alteration, the name, signature, and title of the person altering the document, and the reason for the alteration, if not apparent. No person shall ever sign the name of another person to any document. Signature stamps shall not be used. Backdating and predating documents is unacceptable and will lead to discipline up to and including termination.

When any person knows or reasonably suspects that the expectations above have not been met, this must be reported to immediate supervisors, the Compliance Officer or the Executive Director, so each situation may be appropriately dealt with. The Compliance Officer may be reached at (585) 593-5700 ext. 553 or by calling the confidential and anonymous Corporate Compliance Hotline at (585) 808-7660.

The Role of the Compliance Officer

I. Compliance Officer

The Board of Directors of Clarity designates Kelly Dickerson as the Compliance Officer. The Compliance Officer has direct lines of communication to the Executive Director, the Board of Directors, and Clarity counsel.

II. Job Duties

The Compliance Officer is directly obligated to serve the best interests of our agency, consumers and employees. Responsibilities of the Compliance Officer include but are not limited to:

- Developing and implementing compliance policies and procedures (P&P).
- Overseeing and monitoring the implementation of the compliance program.
- Directing Clarity internal audits established to monitor effectiveness of compliance standards.
- Providing guidance to management, medical/clinical program personnel, and individual departments regarding P&P and governmental laws, rules, and regulations.
- Updating, periodically, the Compliance Plan as changes occur within Clarity, within the law and regulations, or governmental and third party payers.
- Overseeing efforts to communicate awareness of the existence and contents of the Compliance Plan.
- Coordinating, developing, and participating in the educational and training program.
- Guaranteeing independent contractors (consumer care, vendors, billing services, etc.) are aware of the requirements of Clarity's Compliance Plan.
- Actively seeking up-to-date material and releases regarding regulatory compliance.
- Maintaining a reporting system (hotline) and responding to concerns, complaints, and questions related to the Compliance Plan.
- Acting as a resourceful leader regarding regulatory compliance issues.
- Investigating and acting on issues related to compliance.
- Coordinating internal investigations and implementing corrective action.

The Structure, Duties, and Role of the Compliance Committee

I. Reporting Structure and Purpose

Compliance Committee members are appointed by the Executive Director and approved by the Board of Directors. Compliance issues are reported by the Compliance Committee to the Executive Director and Board, where appropriate. The Compliance Committee purpose is to advise and assist the Compliance Officer with implementation of the Compliance Plan.

II. Function

The roles of the Compliance Committee include:

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

Delegation of Substantial Discretionary Authority

I. Requirement

Any employee or prospective employee who holds, or intends to hold, a position with substantial discretionary authority for Clarity is required to disclose any name changes and any involvement in non-compliant activities including health care related crimes. In addition, Clarity performs reasonable inquiries into the background of such applicants, contractors, vendors, and Members of the Board of Directors.

The following organizations may be queried with respect to potential employees, contractors, vendors and Members of the Board of Directors:

- a) General services administration: list of parties excluded from federal programs. The URL address is <http://epls.gov/epls/servlet/EPLSSearchMain/2>.
- b) HHS/OIG cumulative sanction report. The URL address is <http://exclusions.oig.hhs.gov/search.html>.
- c) NYS Medicaid Fraud Database. The URL address is <http://www.health.state.ny.us/nysdoh/medicaid/dqprvpg.htm>.
- d) Licensure and disciplinary record with NYS Office of Professional Medical Conduct (Physicians, Physician Assistants) (the URL address is <http://www.health.state.ny.us/nysdoh/opmc/main.htm>) and/or New York State Department of Education (other licensed professionals) (the URL address is <http://www.op.nysed.gov/rasearch.htm#name>).

Education and Training

I. Expectations

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

II. Training Topics - General

All personnel and members of the Board of Directors shall participate in training on the topics identified below:

- Government and private payer reimbursement principles;
- Government initiatives;
- History and background of Corporate Compliance;
- Legal principles regarding compliance and Board responsibilities related thereto;
- General prohibitions on paying or receiving remuneration to induce referrals and the importance of fair market value;
- Prohibitions against submitting a claim for services when documentation of the service does not exist to the extent required;
- Prohibitions against signing for the work of another employee;
- Prohibitions against alterations to medical records and appropriate methods of alteration;
- Prohibitions against rendering services without a signed physician's order or other prescription, if applicable;
- Proper documentation of services rendered; and
- Duty to report misconduct.

III. Training Topics - Targeted

In addition to the above, targeted training will be provided to all managers and any other employees whose job responsibilities include activities related to compliance topics. Managers shall assist the Compliance Officer in identifying areas that require specific training and are responsible for communication of the terms of this Compliance Plan to all independent contractors doing business with Clarity.

IV. Orientation

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

V. Attendance

All education and training relating to the Compliance Plan will be verified by attendance and a signed acknowledgement of receipt of the Compliance Plan and standards.

Attendance at compliance training sessions is mandatory and is a condition of continued employment.

Effective Confidential Communication

I. Expectations

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

II. Reporting Procedure

If an employee, contractor, or agent witnesses, learns of, or is asked to participate in any activities that are potentially in violation of this Compliance Plan, he or she should contact the Compliance Officer, his or her immediate supervisor, or the Executive Director. Reports may be made in person or by calling a telephone line dedicated for the purpose of receiving such notification, or mailing information to 4222 Bolivar Road, Wellsville, NY 14895.

Upon receipt of a question or concern, any supervisor, officer, or director shall document the issue at hand and report to the Compliance Officer. Any questions or concerns relating to potential non-compliance by the Compliance Officer should be reported immediately to the Executive Director.

The Compliance Officer or designee shall record the information necessary to conduct an appropriate investigation of all complaints. If the employee was seeking information concerning the Code of Ethics or its application, the Compliance Officer or designee shall record the facts of the call and the nature of the information sought and respond as appropriate. Clarity shall, as much as is possible, protect the anonymity of the employee or contractor who reports any complaint or question.

III. Protections

The identity of reporters will be safeguarded to the fullest extent possible and will be protected against retribution. Report of any suspected violation of this Plan by following the above shall not result in any retribution. Any threat of reprisal against a person who acts in good faith pursuant to his or her responsibilities under the Plan is acting against Clarity's compliance policy. Discipline, up to and including termination of employment will result if such reprisal is proven.

IV. Guidance

Any employee and agent may seek guidance with respect to the Compliance Plan or Code of Conduct at any time by following the reporting mechanisms outlined above.

Enforcement of Compliance Standards

I. Background Investigations

For all employees who have authority to make decisions that may involve compliance issues, Clarity will conduct a reasonable and prudent background investigation, including a reference check, as part of every employment application.

II. Disciplinary Action - General

Employees who fail to comply with Clarity's compliance policy and standards, or who have engaged in conduct that has the potential of impairing Clarity's status as a reliable, honest, and trustworthy service provider, will be subject to disciplinary action, up to and including termination. Any discipline will be appropriately documented in the employee's personnel file, along with a written statement of reason(s) for imposing such discipline. The Compliance Officer shall maintain a record of all disciplinary actions involving the Compliance Plan and report at least quarterly to the Board of Directors regarding such actions.

III. Performance Evaluation - Supervisory

Clarity's Compliance Program requires that the promotion of, and adherence to, the elements of the Compliance Program be a factor in evaluating the performance of Clarity employees and contractors. They will be periodically trained in new compliance policies and procedures. In addition, all managers and supervisors will:

- a. Discuss with all supervised employees the compliance policies and legal requirements applicable to their function.
- b. Inform all supervised personnel that strict compliance with these policies and requirements is a condition of employment.
- c. Disclose to all supervised personnel that Clarity will take disciplinary action up to and including termination or revocation of privileges for violation of these policies and requirements.

IV. Disciplinary Action - Supervisory

Managers and supervisors will be sanctioned for failure to adequately instruct their subordinates or failure to detect noncompliance with applicable policies and legal requirements where reasonable diligence on the part of the manager or supervisor would have led to the earlier discovery of any problems or violations and would have provided Clarity with the opportunity to correct them.

Auditing and Monitoring of Compliance Activities

I. Internal Audits

Ongoing evaluation is critical in detecting non-compliance and will help ensure the success of Clarity's Compliance Program. An ongoing auditing and monitoring system, implemented by the Compliance Officer and in consultation with the Compliance Committee, is an integral component of our auditing and monitoring systems. This ongoing evaluation shall include the following:

- Review of relationships with third-party contractors, specifically those with substantive exposure to government enforcement actions;
- Compliance audits of compliance policies and standards; and
- Review of documentation and billing relating to claims made to federal, state, and private payers for reimbursement, performed internally or by an external consultant as determined by Compliance Officer and Compliance Committee.

The audits and reviews will examine Clarity's compliance with specific rules and policies through on-site visits, personnel interviews, general questionnaires (submitted to employees and contractors), and consumer record documentation reviews.

II. Plan Integrity

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

- Annual review with legal counsel of all records of communications and reports by all employees or contractors kept in accordance with this Plan.
- The Compliance Officer will be notified immediately in the event of any visits, audits, investigations, or surveys by any federal or state agency or authority, and shall immediately receive a photocopy of any correspondence from any regulatory agency charged with licensing Clarity and/or administering a federally or state-funded program or County-funded program with which Clarity participates.
- Establishment of a process detailing ongoing notification by the Compliance Officer to all appropriate personnel of any changes in laws, regulations, or policies, as well as appropriate training to assure continuous compliance.

Detection and Response

I. Violation Detection

The Compliance Officer, Executive Director, and the Compliance Committee shall determine whether there is any basis to suspect that a violation of the Compliance Plan has occurred.

If it is determined that a violation *may have* occurred, the matter shall be referred to legal counsel who, with the assistance of the Compliance Officer, shall conduct a more detailed investigation. This investigation may include, but is not limited to, the following:

- Interviews with individuals having knowledge of the facts alleged;
- A review of documents; and
- Legal research and contact with governmental agencies for the purpose of clarification.

If advice is sought from a governmental agency, the request and any written or oral response shall be fully documented.

II. Reporting

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

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

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

III. Rectification

If Clarity identifies that an overpayment was received from any third-party payer, the appropriate regulatory (funder) and/or prosecutorial (attorney general/police) authority will be appropriately notified with the advice and assistance of counsel. It is our policy to not retain any funds which are received as a result of overpayments. In instances where it appears an affirmative fraud may have occurred; appropriate amounts shall be returned after consultation and approval by involved regulatory and/or prosecutorial authorities. Systems shall also be put in place to prevent such overpayments in the future. The agency is committed to correcting identified deficiencies or risks promptly and thoroughly and implementing procedures, policies, and systems as necessary to reduce the potential for recurrence.

IV. Record Keeping

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

Whistleblower Provisions and Protections

I. Provisions

The False Claims Act provides protection to qui tam relators who are discharged, demoted, suspended, threatened, harassed, or in any other manner discriminated against in the terms and conditions of their employment as a result of their furtherance of an action under the False Claims Act.

Clarity will not take any retaliatory action against an employee if the employee discloses information about Clarity's policies, practices or activities to a regulatory, law enforcement or other similar agency or public official. Protected disclosures are those that assert that Clarity is in violation of a law that creates a substantial and specific danger to the public health and safety or which constitutes health care fraud under the law or that assert that, in good faith, the employee believes constitute improper quality of patient care.

II. Protections

The employee's disclosure is protected only if the employee first brought up the matter with a supervisor and gave the employer a reasonable opportunity to correct the alleged violation, unless the danger is imminent to the public or patient and the employee believes in good faith that reporting to a supervisor would not result in corrective action.

If Clarity takes a retaliatory action against the qui tam relator (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.