



# **Corporate Compliance Plan**

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# ASCEND MENTAL WELLNESS

## CORPORATE COMPLIANCE PROGRAM

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### **I. Policy**

It has been and continues to be the policy of Ascend Mental Wellness (referred to as “the Agency”) to comply with all applicable federal, state, and local laws and regulations, and payer requirements. It is also the Agency’s policy to adhere to the Code of Ethics that is adopted by the Board of Directors, the Chief Executive Officer, and the Compliance Committee.

### **II. Commitment**

ASCEND MENTAL WELLNESS has 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, interns, volunteers, contracted practitioners, and vendors to these same standards.

ASCEND MENTAL WELLNESS 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 agency employees, Board Directors, volunteers, interns, contracted practitioners, and vendors shall acknowledge that it is their responsibility to report any suspected instances of suspected or known non-compliance to their immediate supervisor, the Chief Executive Officer or the Director of Corporate Compliance and Quality Assurance. 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 the Agency’s administration.

### **IV. Policies and Procedures**

We will communicate compliance standards and policies through required training initiatives to all employees, interns, Board members, contracted practitioners, vendors, etc. We are committed to these efforts through distribution of this Compliance Policy and our Standards 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 non-compliance, 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 Program.

## **VII. Due Diligence**

ASCEND MENTAL WELLNESS will, at all times, exercise due diligence with regard to background and professional license investigations for all prospective employees, interns, contractors, vendors, and Board Members.

## **VIII. Whistleblower Provisions and Protections**

ASCEND MENTAL WELLNESS will not take any retaliatory action against an employee if the employee discloses certain information about the Agency's policies, practices, or activities to a regulatory, law enforcement, or other similar agency or public official. Protected disclosures are those that assert that the Agency 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.

## **Philosophy**

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### **I. Mission**

The Mission of Ascend Mental Wellness is to encourage and assist individuals in discovering pathways to their optimal mental health and wellness, while supporting hope and awareness of wellbeing in our community.

To succeed:

- We will operate in an inclusive, person-centered manner with respect for the individual's rights to self-determination and self-expression.
- We will work in active partnership with individuals, families, and other agencies and organizations.
- We will provide services and develop environments that help mediate stress by improving the quality of life for people in the community through meaningful treatment and community support programs.
- We will work to remove barriers while expanding the resources and opportunities available to individuals for personal development and growth.
- We will promote and advocate for the importance of mental health and wellness in the community including government leaders.

## **II. Expectations**

We ensure that all aspects of client 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. The Agency 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 the Agency. 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 the Agency; (ii) provides to, or receives from, the Agency any consumer referrals; or (iii) competes with the Agency. Employees may not without permission of the Director of Corporate Compliance and Quality Assurance accept, solicit, or offer anything of value from anyone doing business with the Agency.

Employees are expected to maintain complete, accurate, and contemporaneous records as required by the Agency. The term “records” includes all documents, both written and electronic, that relate to the provision of the Agency services or provide support for the billing of the Agency 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, or initials if the program supports the usage of a “Signature Key”, 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 Director of Corporate Compliance and Quality Assurance (DCCQA) or the Chief Executive Officer (CEO), so each situation may be appropriately dealt with. The DCCQA or CEO may be reached at (518) 747-2284.

## **COMPLIANCE PROGRAM OVERSIGHT**

### **The Role of the Director of Corporate Compliance and Quality Assurance**

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#### **I. Director of Corporate Compliance and Quality Assurance**

The Board of Directors of ASCEND MENTAL WELLNESS appoints the Director of Corporate Compliance and Quality Assurance (DCCQA). The DCCQA has direct lines of communication to the Chief Executive Officer, the Board Directors, and the Agency counsel. Reporting to the CEO should be regular and ongoing.

## II. Job Duties

The Director of Corporate Compliance & Quality Assurance will be vested with responsibility for the day-to-day activities of the compliance program. The DCCQA is directly obligated to serve the best interests of our agency, consumers and employees. Responsibilities of the DCCQA include, but are not limited to:

- Developing and implementing compliance policies and procedures (P&P).
- Overseeing and monitoring the implementation of the compliance program.
- Developing and coordinating annual compliance work plan.
- Directing the Agency's 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 Program as changes occur within the Agency, within the law and regulations, or governmental and third-party payers.
- Overseeing efforts to communicate awareness of the existence and contents of the Compliance Program.
- Coordinating, developing, and participating in the educational and training program.
- Guaranteeing independent contractors (vendors, billing services, etc.) are aware of the requirements of Agency's Compliance Program.
- Actively seeking up-to-date material regarding regulatory compliance.
- Maintaining a reporting system (hotline) and responding to concerns, complaints, and questions related to the Compliance Program.
- 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**

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

Compliance Committee (CC) members are appointed by the Chief Executive Officer (CEO) and approved by the Board Directors. Compliance issues are reported by the CC to the CEO and Board, where appropriate. The Compliance Committee's purpose is to advise and assist the DCCQA with implementation of the Compliance

Program. The Compliance Committee must have a Charter outlining its duties and responsibilities, membership, designation of a chair, and meeting frequency. The Compliance Committee is required to meet at least quarterly and to review its Charter on an annual basis, at a minimum.

## **II. Function**

The roles of the Compliance Committee include:

- Supporting the Director of Corporate Compliance & Quality Assurance and ensuring that the Compliance Program is effective and successful.
- Analyzing the environment where the Agency 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 Program.
- 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, and respond to complaints and problems.
- Responsible for coordinating with Director of Corporate Compliance & Quality Assurance to ensure that the Compliance Program is evaluated consistently for effectiveness.

## **Delegation of Substantial Discretionary Authority**

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### **I. Requirement**

Any employee or prospective employee who holds, or intends to hold, a position with substantial discretionary authority for the Agency is required to disclose any name changes and any involvement in non-compliant activities including health care related crimes. In addition, the Agency 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**

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### **I. Expectations**

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

### **II. Training Topics - General**

All Agency personnel and members of the Board of Directors shall participate in annual 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 DCCQA in identifying areas that require specific training and are responsible for communication of the terms of this Compliance Program to all independent contractors doing business with the Agency.

### **IV. Orientation**

As part of their orientation, each employee, intern, board member and contractor shall receive a written copy of the Compliance Program, policies (including Standards of Conduct), and specific standards of conduct that affect their position. A Conflict of Interest Disclosure Statement will also be required to be signed at that time.

### **V. Attendance**

All education and training relating to the Compliance Program will be verified by tracking via the online training system.

Annual Compliance Training is mandatory and is a condition of continued employment.

## **EFFECTIVE CONFIDENTIAL COMMUNICATION**

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### **I. Expectations**

Open lines of communication between the Director of Corporate Compliance & Quality Assurance and every employee and agent subject to this Program 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, intern, Board member, contractor, or agent witnesses, learns of, or is asked to participate in any activities that are potentially in violation of this Compliance Program, he or she should contact the Director of

Corporate Compliance & Quality Assurance, his or her immediate supervisor, or the Chief Executive Officer. Reports may be made in person or by email, or by calling a telephone line dedicated for the purpose of receiving such notification: ***TBG (The Bonadio Group) Fraud and Abuse Compliance Hotline: 1-866-219-1122 (toll-free)***, or mailing the information to the attention of the Director of Corporate Compliance and Quality Assurance at 3043 State Route 4, Hudson Falls, NY 12839, or placing it in the Director of Corporate Compliance and Quality Assurance's mailbox located at the same address.

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

The Director of Corporate Compliance & Quality Assurance 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 DCCQA or designee shall record the facts of the call and the nature of the information sought and respond as appropriate. The Agency 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 Program 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 Program is acting against the Agency'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 Program or Standards of Conduct at any time by following the reporting mechanisms outlined above.

## **ENFORCEMENT OF COMPLIANCE STANDARDS**

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### **I. Background Investigations**

For all employees who have authority to make decisions that may involve compliance issues, the Agency 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 the Agency's compliance policy and standards, or who have engaged in conduct that has the potential of impairing the Agency'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 DCCQA shall maintain a record of all disciplinary actions involving the Compliance Program and report at least semi-annually to the Board of Directors regarding such actions.

### **III. Performance Evaluation - Supervisory**

The Agency'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 Agency employees and contractors. They will be periodically trained in new compliance policies and procedures. In addition, all managers and supervisors will:

- Discuss with all supervised employees the compliance policies and legal requirements applicable to their function.
- Inform all supervised personnel that strict compliance with these policies and requirements is a condition of employment.
- Disclose to all supervised personnel that the Agency 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 the Agency with the opportunity to correct them.

## **AUDITING AND MONITORING OF COMPLIANCE ACTIVITIES**

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### **I. Internal Audits**

Ongoing evaluation is critical in detecting non-compliance and will help ensure the success of the Agency's Compliance Program. An ongoing auditing and monitoring system, implemented by the Director of Corporate Compliance & Quality Assurance 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 Director of Corporate Compliance & Quality Assurance and Compliance Committee.

The audits and reviews will examine the Agency'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 Program will include:

- Annual review with legal counsel of all records of communications and reports by all employees or contractors kept in accordance with this Program.
- The Director of Corporate Compliance & Quality Assurance 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 the Agency and/or administering a federally or state-funded program or County-funded program with which the Agency participates.
- Establishment of a process detailing ongoing notification by the Director of Corporate Compliance & Quality Assurance to all appropriate personnel of any changes in laws, regulations, or policies, as well as appropriate training to assure continuous compliance.

## DETECTION AND RESPONSE

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### I. Violation Detection

The Director of Corporate Compliance & Quality Assurance, Chief Executive Officer, and the Compliance Committee shall determine whether there is any basis to suspect that a violation of the Compliance Program has occurred.

If it is determined that a violation *may have* occurred, the matter shall be referred to the Director of Corporate Compliance & Quality Assurance who 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, a report shall be issued to the Chief Executive Officer, Compliance Committee, and the Board of Directors summarizing the 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 Director of Corporate Compliance & Quality Assurance shall report to the Compliance Committee regarding each investigation conducted.

## **III. Rectification**

If the Agency 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.

## **IV. Record Keeping**

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

# **WHISTLEBLOWER PROVISIONS AND PROTECTIONS**

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## **I. Provisions**

The False Claims Act provides protection to qui tam relators (employees) 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.

## **New York Labor Law §740**

An employer shall not take any retaliatory action against an employee (including former employees and/or natural persons employed as independent contractors), whether or not within the scope of the employee's job duties, because such employee does any of the following:

- discloses, or threatens to disclose to a supervisor or to a public body an activity, policy or practice of the employer that the employee reasonably believes is in violation of law, rule or regulation or that the employee reasonably believes poses a substantial and specific danger to the public health or safety;
- provides information to, or testifies before, any public body conducting an investigation, hearing, or inquiry into any such activity, policy or practice by such employer; or
- objects to, or refuses to, participate in any such activity, policy, or practice

## **II. Protections**

The protection against retaliatory action pertaining to disclosure to a public body shall not apply to an employee who makes such disclosure to a public body unless the employee has made a good faith effort to notify his or her employer by bringing the activity, policy, or practice to the attention of a supervisor of the employer and has afforded such employer a reasonable opportunity to correct such activity, policy, or practice. Such employer notification shall not be required where: (a) there is an imminent and serious danger to the public health or safety; (b) the employee reasonably believes that reporting to the supervisor would result in a destruction of evidence or other concealment of the activity, policy or practice; (c) such activity, policy or practice could reasonably be expected to lead to endangering the welfare of a minor; (d) the employee reasonably believes that reporting to the supervisor would result in physical harm to the employee or any other person; or (e) the employee reasonably believes that the supervisor is already aware of the activity, policy or practice and will not correct such activity, policy or practice.

Under this law, employers are prohibited from taking retaliatory employment action against employees who report or threaten to report any activity that they reasonably believe is in violation of law, rule, or regulation. The definition of "law, rule or regulation" includes any state, local, and federal law, rule, and regulation, as well as any judicial and administrative decisions. Retaliatory employment action includes discharge, suspension, demotion, discrimination and "any other" adverse action. Adverse actions can include action which adversely impacts future employment or threatening to contact or contacting United States immigration authorities or otherwise reporting or threatening to report an employee's suspected citizenship or immigration status or an employee's family or household member.

An employee who has been the subject of a retaliatory action in violation of this law may institute a civil action in a court within two years after the alleged retaliatory action was taken. Employees who commence a retaliation claim under the amended statute are now entitled to a jury trial. Additionally, they can seek injunctive relief, reinstatement of the employee to the same position held before the retaliatory action, or to an equivalent position, or front pay in lieu thereof, reinstatement of full fringe benefits and seniority rights, compensation for lost wages and benefits, the payment by the employer of reasonable costs, disbursements, and attorney's fees, civil penalties not to exceed ten thousand dollars, and/or the payment by the employer of punitive damages, if the violation was willful, malicious or wanton.

### **Failure to Meet Compliance Program Requirements –**

A provider that is not effectively monitoring its compliance with state and federal Medicaid requirements is potentially exposed to increased operational, reputational, service, and audit risks, as well as sanctions and the repayment of identified Medicaid overpayments. These consequences may include:

1. Monetary penalties up to \$5,000 for each month that a provider fails to adopt, implement, and maintain an effective compliance program. For a second violation, this amount may increase to \$10,000 per month. (See 18 NYCRR Part 516 and SOS 363-d for more information)
2. Recoupment of monies paid to the provider during the period in which it did not have a compliance program.
3. Termination of the provider's enrollment in the Medicaid program.
4. Sanctions, up to and including exclusion from participation in the Medicaid program.

The Compliance Regulation amendments state that compliance program requirements set forth in SSL 363-d are a condition of Medicaid payment which was effective April 1, 2020. OMIG can now recoup Medicaid payments from an Agency during the period it determined the Compliance Program did not satisfy the SSL 363-d requirements.