



## **Corporate Compliance Plan**

## Table of Contents

<b>Executive Summary.....</b>	<b>4</b>
<b>I. Introduction.....</b>	<b>5</b>
A. Mission Statement	
B. Core Values	
C. Corporate Compliance Policy Statement	
<b>II. Compliance Structure.....</b>	<b>6</b>
<b>III. Written Policies and Procedures.....</b>	<b>8</b>
A. Conflict of Interest Policy and Disclosure Statement	
B. Other Written Policies and Procedures	
C. Ad Hoc Policy and Procedure Development	
<b>IV. Designation of a Compliance Officer and/or Compliance Committee.....</b>	<b>9</b>
<b>V. Role of the Compliance Officer and Compliance Committee.....</b>	<b>9</b>
A. Compliance Office	
B. Compliance Committee	
C. Compliance Department Organizational Structure	
<b>VI. Code of Conduct.....</b>	<b>11</b>
A. Proper Billing for Residential Habilitation, Day Habilitation and Other Services	
B. Avoiding Kickbacks and Referral Fees	
C. Avoiding Conflicts of Interest	
D. Maintaining the Confidentiality of Client Records	
<b>VII. Auditing and Monitoring Policy.....</b>	<b>12</b>
A. Internal Investigations	
B. Internal Audits	
C. Audit Committee	
<b>VIII. Training.....</b>	<b>13</b>
A. Monitoring and Tracking of Compliance Training	
B. Affected Individuals and Required Compliance Training Topics	
C. Evaluating the Effectiveness of the Training Program	
<b>IX. Reporting Compliance Problems.....</b>	<b>15</b>
A. Reporting Options	
B. Compliance Hotline	
C. Non-Retaliation	

**X. Whistleblower Provisions and Protections.....16**  
A. Provisions  
B. Protections

**XI. EMPLOYEE Discipline.....17**  
A. Background Investigations  
B. Disciplinary Action  
C. Performance Evaluation – Supervisory  
D. Disciplinary Action

**XII. Open Lines of Communication.....18**

## Executive Summary

### Why Have a Compliance Program

Ferncliff Manor's Compliance Program is necessary because it:

- Stops fraud;
- Protects patient/individual privacy;
- Nurtures an ethical culture;
- Prevents conflicts of interest;
- Ensures proper credentialing;
- Identifies and prevents waste;
- Furthers accurate billing and coding;
- Assists in obeying state and federal laws;
- Maintains and promotes high quality care; and
- Strives to promote the use of best practices in management and board governance.

Ferncliff Manor, Inc.'s Compliance Program applies to:

- All staff no matter the title or position
- Board of Directors
- Vendors
- Contractors
- Consultants

What you must do:

- Act fairly;
- Act ethically;
- Act honestly;
- Act as a team;
- Report a conflict of interest that you may have;
- Treat patients and one another with respect at all times;
- Identify ways to do things better in your department and take action; and
- Report problems immediately to your supervisor, directly to the Compliance Director or the Chief Compliance Officer, or take advantage of our anonymous compliance hotline options

## I. INTRODUCTION

The purpose of this Corporate Compliance policy is to develop internal controls that promote adherence to applicable laws, regulations, standards and ethical practices. Ferncliff Manor Inc.'s (The Organization's) compliance policy is a proactive approach in assisting in prevention and detection of violations.

### A. Mission Statement

Ferncliff Manor provides innovative and integrated support to individuals with developmental, intellectual and physical disabilities, and their families, by striving to meet their unique needs as we guide them to self-rewarding and independent lives within the community.

### B. Core Values

Our values are based upon the understanding that all persons can continue to grow, develop and benefit greatly from active involvement in the fundamental mainstreams of daily life. We believe that progress and achievement must be viewed from the perspective of each person's unique endowments and potentialities and that people who have disabilities can and must participate in the life of their community.

### C. Corporate Compliance Policy Statement

The Corporate Compliance Plan at Ferncliff Manor Inc. is designed to establish a framework of effective internal controls that promote best practices and adherence to applicable State and Federal laws, and requirements. The implementation of the Corporate Compliance Program furthers our goal of preventing, detecting and correcting abuse, fraud and waste in the process of delivering services in accordance with furthering the mission and core values of Ferncliff Manor Inc.

Ferncliff Manor Inc. (herein also referred to as the Organization) is dedicated to maintaining excellence and integrity in all aspects of its operations and its professional and business conduct. Accordingly, the Organization is committed to conformance with high ethical standards and compliance with all governing laws and regulations, not only in the delivery of services for individuals with developmental disabilities but in its business practices and its dealings with employees. The Ferncliff Manor Inc. Handbook also contains a summary of the relevant fraud and abuse laws, including whistleblower protection laws. As described in greater detail in the Handbook, Ferncliff Manor has adopted a strict non-retaliation policy to protect its employees for their good faith reporting of compliance-related concerns or issues.

## II. COMPLIANCE STRUCTURE

The Organization's compliance program starts with its board of directors, who must assure the Organization operates in compliance with applicable Federal, state, and local laws and regulations. The board of directors provide direction to our CEO, who sets the tone for the Organization's compliance activities.

The Chief Compliance Officer works to ensure that Ferncliff Manor has the appropriate policies, procedures and processes in place to minimize its risk and to further Ferncliff Manor's mission and compliance with regulatory requirements. In addition to the Chief Compliance Officer, the Compliance Committee consists of the Chief Executive Officer, Director of Human Resources, Director of Residential Services, Program Administrator, Quality Assurance Coordinator, Compliance Specialist and Purchasing Manager. On a quarterly basis, the Chief Compliance Officer shall meet with the compliance committee.

This compliance plan is modeled after the seven elements identified by the NYS Office of the Medicaid Inspector General (OMIG) for an effective compliance program, in addition to the required Whistleblower/non-retaliation policy. It also addresses concerns as outlined in the Deficit Reduction Act ("DRA"), which requires the Organization to establish written policies and procedures to inform employees and others about certain federal and state false claims and whistleblower laws.

The goal of the Organization's compliance program is to prevent fraud, waste, and abuse while at the same time advancing the mission of providing affordable and extraordinary primary and specialty care. Our compliance efforts are aimed at prevention, detection, and resolution of variances.

The seven elements of the Organization's Compliance Plan are:

1. Written policies and procedures
2. Designation of a Compliance Officer/Committee
3. Training and education programs
4. Open lines of communication to the responsible compliance position,
5. Disciplinary policies to encourage good faith participation
6. A system for routine identification of compliance risk areas
7. A system for responding to compliance issues

Additionally as stated above a policy of non-intimidation and non-retaliation for good faith participation in the compliance program (Whistleblower Policy) also exists.

**How key Compliance activities map to OMIG’s seven steps of compliance plus non-intimidation/non-retaliation policy**

<b>Seven Steps of Compliance</b>							
<b>Written Policies and Procedures</b>	<b>Designation of a Compliance Officer/ Committee</b>	<b>Training and Education Programs</b>	<b>Open Lines of Communication</b>	<b>Disciplinary policies to encourage good faith participation</b>	<b>A system for routine identification of compliance risk areas</b>	<b>A system for responding to compliance issues</b>	<b>A policy of non-intimidation and non-retaliation</b>
<ul style="list-style-type: none"> <li>• Fraud, Waste &amp; Abuse, Anti-Kickback Statute, False Claims Act and Stark Law policies</li> <li>• Whistle Blower/ Non-retaliation policy</li> <li>• Conflict of Interest</li> <li>• Exclusion screening</li> </ul>	<ul style="list-style-type: none"> <li>• Compliance Officer job description</li> <li>• Compliance Committee Chair</li> <li>• Prepare an Annual Compliance Report</li> </ul>	<ul style="list-style-type: none"> <li>• Annual compliance training</li> <li>• Compliance on-boarding training</li> <li>• On-going training for Compliance Officer &amp; Compliance Committee</li> </ul>	<ul style="list-style-type: none"> <li>• Open door policy</li> <li>• Compliance Hotline: allows individuals to report perceived compliance issues anonymously either through telephone, email, or postal mail</li> </ul>	<ul style="list-style-type: none"> <li>• All employees of Ferncliff Manor are required to comply with applicable standards, laws, and procedures.</li> <li>• Directors, Program Administrator, or Residence Managers are accountable for the foreseeable compliance failures of their subordinates</li> </ul>	<ul style="list-style-type: none"> <li>• Annual identification of top 5 risks</li> <li>• Ongoing audit and monitoring activities</li> <li>• Internal &amp; External audits</li> <li>• Monthly exclusion screening</li> <li>• Maintain anonymous Compliance Hotline.</li> </ul>	<ul style="list-style-type: none"> <li>• Internal investigations and reporting</li> <li>• Review of an Annual Conflict of Interest Disclosure Forms</li> <li>• Process for reporting and resolving incidents</li> </ul>	<ul style="list-style-type: none"> <li>• Whistleblower/ non-retaliation policy</li> </ul>

### **III. WRITTEN POLICIES AND PROCEDURES**

The written compliance policies and procedures provide a clear explanation of the Ferncliff Manor's compliance and quality goals and provide clear and understandable mechanisms and procedures designed to achieve those goals in compliance with Federal, state and other program requirements and standards. The Organization has specific, individual policies for an array of matters ranging from proper documentation of services to whistle blower protections. In addition, the Organization's policies and procedures are available online at the Organization's **Website(?)**.

#### **A. Conflict of Interest Policy and Disclosure Statement**

The Organization is required to ensure that it adheres to the highest standards of ethical conduct by identifying instances which an independent observer might reasonably conclude that the potential for individual or institutional conflict could influence decision making or carrying out responsibilities. The Organization has a Conflict of Interest Policy that is based upon full disclosure and appropriate management of any possible conflict of interest. The policy requires staff members, including full-time, part-time, contract, consultants and those who provide goods and services to the organizations programs, volunteers, Board of Directors and volunteers of a Board Committee to conduct their business according to the highest ethical standards of conduct and to comply with all applicable laws.

The Organization requires individuals to complete the Annual Conflict of Interest Disclosure Form to assist in identifying and evaluating potential conflicts of interests. Individuals also are required to disclose any actual, potential, or perceived conflicts as they arise during their affiliation or employment with the Organization. The forms are reviewed on an annual basis or when the need to complete the statement arises (new hires or changed circumstances). It is the responsibility of everyone to have a working knowledge of these policies and procedures and refer to them.

#### **B. Other Written Policies and Procedures**

##### **Annual Work Plan**

Every year, the Chief Compliance Officer will prepare a Work Plan, after reviewing the latest New York State Office of the Medicaid Inspector General and the United States Office of Inspector General priorities, recent enforcement activities, recent internal and external audit findings and hot topics that generate additional scrutiny. Additionally, the Chief Compliance Officer will obtain input from the Chief Executive Officer, the staff Compliance Committee and various departments, as well as members of the Risk Assessment sub-committee, which develops an annual Risk Assessment. The Work Plan will include the top five risk areas of concern.

For 2023-2024, the top five risk areas are:



- Residential Habilitation Billing,
- Day Habilitation Billing,
- Personal Allowance,
- Petty Cash, and
- Quality of Care.

Additionally, the Work Plan includes a list of areas that the Compliance Department will audit and monitor. The Compliance Department may add additional monitoring audits to its duties in response to new and emerging risks. The Compliance Department and audited departments will review the audit findings and develop audit responses to address findings. The parties will develop remediation plans and associated timelines. The Compliance Department will conduct follow-up on remediation activities and report progress to the Chief Executive Officer and the Chief Compliance Officer. Additionally, the Compliance Department will provide assistance with external audits from federal, state and other oversight organizations.

#### C. Ad Hoc Policy and Procedure Development

From time to time, the Compliance Department will work with other departments to develop and revise policies and procedures to reflect new legal requirements and new concerns that may arise.

### **IV. DESIGNATION OF A COMPLIANCE OFFICER AND/OR A COMPLIANCE COMMITTEE**

The OMIG requires the organization to designate a compliance officer to carry out and enforce compliance activities. The compliance officer should function as an independent and objective person that reviews and evaluates organizational compliance and privacy/confidentiality issues and concerns. The compliance officer's main duties include coordination and communication of the compliance plan; this involves planning, implementing, and monitoring the program.

The Organization's Chief Executive Officer designates the Chief Compliance Officer as the coordinator of all compliance activities.

### **V. Role of the Compliance Officer and Compliance Committee**

#### A. Compliance Officer

The Compliance Officer is responsible for overseeing the implementation and monitoring of the Compliance Program. The Compliance Officer's chief duties include, but are not limited to, the following:

- Developing policies and procedures governing the operation of the Program;
- Overseeing and monitoring the implementation of the Compliance issue;
- Periodically reviewing and updating the Code of Conduct and related policies;
- Maintaining a reporting system as described in Section VI below;
- Receiving, evaluating and investigating compliance-related complaints, concerns and problems;

- Ensuring proper reporting of violations to duly authorized enforcement agencies as appropriate or required;
- Updating, periodically, the Compliance Plan as changes occur within Ferncliff Manor Inc., within the law and regulations, or governmental or third party payers.
- Working with the Human Resources Department and others as appropriate to develop the compliance training program described in Section VIII below; and
- Regularly evaluating the effectiveness of and strengthening the Program.

The Compliance Officer reports directly to the Chief Executive Officer (“CEO”). The Compliance Officer also makes periodic reports to the governing body on the activities of the Compliance Program.

Employees and contractors should view the Compliance Officer as a resource to answer questions and address concerns related to the Program or compliance issues. As discussed in Section XII below, the Compliance Officer maintains an “open door” policy and may be contacted directly by any employee or contractor regarding a compliance-related matter.

The Compliance Officer may be assisted by the staff of the Quality Assurance/Training department, and/or other personnel. The Compliance Officer may delegate certain day-to-day Program responsibilities to these individuals.

#### B. Compliance Committee

The Compliance Committee is comprised of the Chief Compliance Officer, Chief Executive Officer, Chief Financial Officer, Director of Residential Services, Director of Human Resources, Program Administrator, Coordinator of Quality Assurance, Compliance Specialist, Purchasing Manager and any other employees designated by the CCO, as may be necessary. The CCO seeks to appoint members to the Compliance Committee with varying backgrounds and experience to ensure that the Compliance Committee has the expertise to handle the full range of administrative, operational and legal issues relevant to the Compliance Program.

Duties include:

- Coordinating with the Compliance Officer to ensure that the written policies and procedures and required standards of conduct are current, accurate, and complete, and that the required training topics are completed timely;
- Coordinating with the Compliance Officer to ensure communication and cooperation by affected individuals on compliance-related issues, internal or external audits, or any other function or activity required in the regulations;
- Ensuring that the Compliance Officer is allocated sufficient funding, resources, and staff to fully perform their responsibilities;
- Ensuring that effective systems and processes are in place to identify Compliance Program risks, overpayments, and other issues, and effective policies and procedures for correcting and reporting such issues; and
- Enacting required modifications to the Compliance Program

The Chief Compliance Officer has the authority to review all documents and other information relative to compliance activities, including, but not limited to HR/Personnel records, requisition forms, billing information, claims information, and records concerning marketing efforts and arrangements with clients.

C. Compliance Department Organizational Structure

The Chief Compliance Officer supervises the Coordinator of Quality Assurance and the Compliance Specialist and Quality Assurance Investigator.

**VI. Code of Conduct**

The Code of Conduct sets forth the basic principles that guide the Organization's decisions and actions. All employees and contractors are expected to familiarize themselves with the Code of Conduct and should rely on the standards contained in the Code in carrying out their duties.

The Code of Conduct is not intended to address every potential compliance issue that may arise in the course of the Organization's. The Organization has adopted more detailed written policies governing key aspects of its operations. Some of these policies are referenced in the Program; others may be provided to employees by their supervisors. Employees are required to review and carry out their duties in accordance with the policies applicable to their job functions.

The Code of Conduct's standards are set forth below:

A. Proper Billing for Residential Habilitation, Day Habilitation and Other Services

Ferncliff Manor Inc. obtains reimbursement from government programs such as Medicaid for services provided to its clients. Ferncliff Manor also receives payment from state and local government agencies for the provision of other items and services. The submission of accurate bills to government payors is one of Ferncliff Manor's key legal obligations.

All employees involved in documenting and billing the government for services must ensure that they follow all applicable laws, rules, conditions of participation and interpretive guidance relating to the billing process.

Among other things, employees must ensure that Ferncliff Manor does not:

Bill for clients not actually served by Ferncliff Manor;

Bill twice for the same service;

Bill at a rate in excess of the rate permitted under the applicable program;

B. Avoiding Kickbacks and Referral Fees

Under the federal Anti-Kickback Statute, it is illegal for any employee or contractor to knowingly and willfully solicit, receive, offer or pay anything of value to another person in return for the referral of a client, or in return for the purchasing, leasing, ordering or arranging for any item or service reimbursed by a federal health care program such as Medicaid or Medicare. Penalties for

violating the Anti-Kickback Statute include imprisonment, criminal fines, civil monetary penalties and exclusion from government health care programs. A similar New York law prohibits the exchange of remuneration for referrals for items or services covered by the state's Medicaid program.

### C. Avoiding Conflicts of Interest

Employees are required to act solely in the best interests of Ferncliff Manor Inc. when carrying out their job responsibilities and must avoid all activities that constitute or create the appearance of a conflict of interest. Employees are prohibited from using their position with the organization for personal benefit. For example, employees are prohibited from accepting gifts of more than nominal value from vendors of Ferncliff Manor Inc. or facilitating contracts between Ferncliff Manor Inc. and companies in which they have a financial interest.

Ferncliff Manor Inc. has adopted an Employee Conflict of Interest and Related Party Transaction Policy that contains standards and procedures for avoiding conflicts of interest. The policy requires employees, Board of Directors, Officers involved in procurement or other sensitive job duties are required to submit annual conflict of interest disclosure forms.

### D. Maintaining the Confidentiality of Client Records

All persons receiving services records must be kept confidential in accordance with applicable privacy laws and regulations. Ferncliff Manor Inc. is subject to the Health Insurance Portability and Accountability Act of 1996 ("HIPAA"), which limits the use and disclosure of protected health information.

## VII. Auditing and Monitoring Policy

The Board of Directors has ultimate authority for the governance of Ferncliff Manor Inc., including oversight of Ferncliff Manor's compliance with applicable law. The Board of Directors has delegated authority for overseeing the activities of auditing and monitoring to the Compliance Officer and the Compliance Committee Investigations.

### A. Internal Investigations

All reports of fraudulent, abusive or other improper conduct are promptly reviewed and evaluated by the Compliance Officer, regardless how they are communicated to the Compliance officer (i.e. Compliance Hotline, email, or face to face interview). The Compliance Officer determines, in consultation with the compliance committee and other Ferncliff Manor Inc. personnel as necessary, whether the report warrants an internal investigation. If so, the Compliance Officer coordinates the investigation, issues a written report of its findings and proposes any corrective action that may be appropriate.

### B. Internal Audits

Ferncliff Manor Inc. conducts periodic auditing and monitoring of identified risk areas related to compliance including, but not limited to billing and service provision. The CCO is responsible -

for oversight of the organization's internal auditing system and is authorized to delegate auditing duties to other organization personnel, accountants, consultants, and attorneys, as necessary and appropriate. Some of these efforts include:

- Determining the scope and format of routine audits of the organization's operations, facilitating auditing and monitoring of the identified risk areas related to compliance with laws and regulations, as well as organization policies, procedures, and standards of conduct;
- Facilitating audits of financial processes and systems to ensure that internal controls are in place so that:
  - Generally Accepted Accounting Principles (GAAP) are followed; and
  - Federal, state, and local laws, regulations and requirements are met;
- Ensuring compliance with laws, regulations, and related policies and procedures governing the organization's programs and operations;
  - Fraud and abuse issues
  - Third party billing practices;
  - Service delivery and documentation practices;
  - Employment practices;
  - Conflict of interest;
  - Contract review;
  - Employee, independent contractor, and Board compliance training and education; and Corporate Compliance Plan and related policies;
  - Examining the organization's compliance with specific rules and policies through on-site visits, personnel interviews, questionnaires, and case record reviews to support claims for reimbursement, and documentation reviews;

Billing reviews will be conducted on a periodic basis by the Quality Assurance Department on all Medicaid funded programs, the review will include all billing standards required by OPWDD and OMIG;

- Ensuring that corrective measures are implemented and monitored for effectiveness after audit findings;
- Conducting a review of compliance with applicable regulations and quality measures on a periodic basis.

#### C. Audit Committee

The Audit Committee is responsible for overseeing fiscal audits. This Committee is chaired by a Member of the Board of Directors and is made up of other Board Members as well. The Audit Committee meets three times a year, minutes are recorded and filed.

### **VIII. Training**

Ferncliff Manor Inc. conducts compliance training and education to help ensure that each employee, contractor or any individual who performs a function on behalf of Ferncliff Manor Inc. is fully capable of executing his or her duties in conformity with applicable laws, rules, regulations, and other standards. It is an expectation of performance that employees meet their compliance

education and training requirements. Failure to undergo compliance education and training may result in discipline, up to and including termination. In general, Ferncliff Manor Inc. employees shall undergo appropriate levels of compliance training during New Employee Orientation. Certain employees may also receive additional targeted compliance training depending upon the employee's job-related obligations and responsibilities. Vendors and other contractors shall be provided access to Ferncliff Manor policies and procedures to detect, prevent and avoid fraud and abuse and to information on Ferncliff Manor's Compliance Program efforts as well.

#### A. Monitoring and Tracking of Compliance Training

The training department shall keep records of all Compliance training which will be monitored by the Quality Assurance department.

- The Training Coordinator will maintain an Excel file of all affected individuals which will list initial training and annual refresher training. Each employee will also have an individual folder which will contain PDFs and/or JPEGS of training certificates and sign-in sheets documenting the training.
- The Quality Assurance department shall track training and conduct a review of the Organization's training records to ensure compliance.

#### B. Affected Individuals and Required Compliance Training Topics

All employees, Board members and other affected individuals must attend the basic compliance training session offered by the Organization. This session covers the contents of the Code of Conduct and the key elements of the Program. Employees must acknowledge in writing that they have received this training and understand the Code of Conduct. Employees must also attend annual refresher training sessions. Employees are required to participate in any advanced compliance training sessions organized by their department, which are designed to focus on the specific compliance issues associated with the department's functions.

The training topics are 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.

### C. Evaluating the Effectiveness of the Training Program

The effectiveness of the training will be evaluated through post training tests via scenarios and through audits of billing records, personal allowance and any other risk areas identified by the Compliance Committee.

## IX. Reporting Compliance Problems

Ferncliff Manor requires all employees to observe high standards of business and personal ethics in the conduct of their duties and responsibilities. As employees and representatives of Ferncliff Manor, we must practice honesty and integrity in fulfilling our responsibilities and comply with all applicable laws and regulations.

Ferncliff has adopted a Whistleblower Policy. This policy is not a vehicle for reporting violations of Ferncliff Manor's applicable human resources policies, problems with co-workers or managers, or for reporting issues related to alleged employment discrimination or sexual or any other form of unlawful harassment, all of which should be dealt with in accordance with the respective policies in this Employee Handbook. The Whistleblower Policy is outlined in the Ferncliff Manor Employee Handbook.

The matters which should be reported under this policy include suspected fraud, theft, embezzlement, accounting or auditing irregularities, bribery, kickbacks, misuse of Ferncliff Manor assets or suspected regulatory compliance, or ethics-related issues, concerns or violations.

### A. Reporting Options

In accordance with its Fraud and Abuse Reporting Policy, the Organization maintains open lines of communication for the reporting of suspected improper activity. Employees are expected to promptly report any such activity of which they become aware in one of the following ways:

- Notifying their supervisor;
- Notifying the Compliance Officer;
- Notifying any other member of the Compliance Committee with whom they feel comfortable; or
- Filing a report through the Compliance Hotline.

### B. Compliance Hotline

The Compliance Hotline may be accessed by dialing 914 968-4854 or by email at [fmcompliance@ferncliffmanor.org](mailto:fmcompliance@ferncliffmanor.org). Reports or concerns can also be sent by mail to the Chief Compliance Officer, Leslie Huntt at 1154 Sawmill River Road, Yonkers NY 10710.

Ferncliff Manor gives employees the option of filing complaints through the Compliance Hotline anonymously. The Compliance Officer is responsible for reviewing all Compliance Hotline

reports, assessing whether they warrant further investigation and ensuring that any compliance problems are identified and corrected.

### C. Non-Retaliation

No employee who files a report of suspected fraud, abuse or other improper activity in good faith will be subject to retaliation by Ferncliff Manor in any form. Prohibited retaliation includes, but is not limited to, terminating, suspending, demoting, failing to consider for promotion, harassing or reducing the compensation of any employee due to the employee's intended or actual filing of a report. Employees should immediately report any such retaliation to the Compliance Officer.

## **X. Whistleblower Provisions and Protections**

### A. 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.

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

### B. 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 service recipient and the employee believes in good faith that reporting to a supervisor would not result in corrective action.

Ferncliff Manor will protect qui tam relators (the employee) with remedies that include reinstatement with comparable seniority as the qui tam relator would have had but for the discrimination, two times the amount of any back pay, interest on any back pay, and compensation for any special damages sustained as a result of the discrimination, including litigation costs and reasonable attorneys' fees.

If the Ferncliff Manor takes a retaliatory action against the qui tam relator, (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.



## **XI. Employee Discipline**

### **A. Background Investigations**

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

### **B. Disciplinary Action**

Employees who fail to comply with Ferncliff Manor'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 Compliance Officer shall maintain a record of all disciplinary actions involving the Compliance Plan and report at least quarterly to the Compliance Committee regarding such actions.

### **C. Performance Evaluation – Supervisory**

The Ferncliff Manor'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 Ferncliff Manor 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 the Ferncliff will take disciplinary action up to and including termination or revocation of privileges for violation of these policies and requirements.

### **D. Disciplinary Action**

Directors, administrators, 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 Ferncliff Manor with the opportunity to correct them.

## **XII. Open Lines of Communication**

The organization is committed to maintaining an "open door" policy, especially in areas concerning Corporate Compliance, and questions pertaining to the organization's Code of Conduct/Ethics. Open communication increases the organization's ability to identify cases of fraud, abuse, and waste and to respond appropriately. Employee engagement is crucial to the early detection and prevention of compliance problems.

Communication with the CCO, especially around possible violations of the Code of Conduct/Ethics, is kept in strictest confidence to the extent permitted by law. All potential violations are assessed, and if deemed necessary, investigated thoroughly and fairly. Employees are encouraged to follow the chain of command in reporting violations. However, employees may communicate with the CEO and/or the CCO in any fashion they are comfortable with, including telephone, written communications and/or email, as well as face-to-face communication.

Date Approved: May 24, 2023