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INTRODUCTION

The Sitrin Health Care Center, Inc., Gan Kavod, and Cedarbrook Village, Inc., (hereinafter “Sitrin”) is dedicated and committed to meeting high ethical standards and compliance with all applicable laws in all activities regarding the operation of the Facility. This commitment and dedication is essential to Sitrin meeting its mission and is critically important because a significant portion of the facility's services are reimbursed through governmental programs which require that the facility's business be conducted with complete integrity.

To assure that the facility's operations are being conducted in compliance with applicable law and the highest ethical standards, Sitrin has established a Compliance Program ("Program") under the direction of a Compliance Officer. A Compliance Committee has been established to oversee the implementation and operation of the Program.

COMPLIANCE COMMITTEE AND COMPLIANCE OFFICER

The Compliance Officer is:

Name	Position	Phone Number
Brenda Cobane	VP of Assisted Living	315-737-2710

The Members of the Compliance Committee are:

Name	Position	Phone Number
Christa Serafin	CEO	315-737-2247
Melanie Marraffa	Administrator	315-737-2226
Lynn Young	Director of Finance	315-737-2235
Patti Hays	Administrator	315-737-2240
Cindy Testa	Medical Records Director	315-737-2252
Tammy Burdick	DON	315-737-2265
Rich Diodati	Director of Human Resources	315-737-2230
Denise Shamis	QA Coordinator	315-737-2262
Patricia Hoffman	MDS Coordinator	315-737-2275
Jamie Wallace	Director of Therapy	315-737-2430

CODE OF CONDUCT

It is the policy of Sitrin to provide services in compliance with all state and federal laws governing its operation and consistent with the highest standards of business and professional ethics. This policy is a solemn commitment to our residents, our community, to those governmental agencies that regulate the facility and to ourselves.

All employees, as well as those professionals who enjoy professional staff privileges, must carry out their duties for the facility in accordance with this policy. To assist employees and professional staff with their obligation to comply with this policy, this Manual includes standards of conduct in a number of specific areas. Conduct that does not comply with these standards is not authorized by Sitrin and is outside the scope of employment or professional staff membership at the facility.

Any violation of applicable law, the standards contained in this Manual, or deviation from appropriate ethical standards, will subject an employee or independent professional to disciplinary action, which may include oral or written warning, disciplinary probation, suspension, demotion, dismissal from employment or revocation of privileges. These disciplinary actions also may apply to an employee's supervisor who directs or approves the employee's improper actions, or is aware of those actions but does not act appropriately to correct them or who otherwise fails to exercise appropriate supervision.

If, at any time, an employee or professional staff member becomes aware of any apparent violation of the facility's policies, he or she must report it in accordance with the reporting requirements of this Manual. All persons making such reports are assured that such reports will be treated as confidential to the extent permissible and that such reports will be shared only on a bonafide need to know basis. The facility will take no adverse action against persons making such reports in good faith and without malicious intent whether or not the report ultimately proves to be well founded. If an employee or professional staff member does not report conduct violating the facility's policies, the employee or professional staff member may be subject to disciplinary action up to and including termination of employment or revocation of privileges.

The laws affecting the operation of Sitrin’s activities are complex and many. In addition, this Manual addresses, in general terms, only several of the more important legal and ethical principles affecting the facility's activities. Their mention in this Manual is not intended to minimize the importance of other applicable laws, professional standards, or ethical principles. It is not expected that each employee will be fully versed in all laws of permissible activities involved in their work. Therefore, if an employee has a question regarding the legality or propriety of a course of action, the employee should seek guidance from his or her supervisor or from the Compliance Officer before taking any action.

STANDARDS OF CONDUCT

A. Resident Care and Resident Rights

It is Sitrin's policy to provide the highest quality of care to its residents. The facility believes that state and federal regulations governing the facility's operation provide a minimum baseline of care standards which Sitrin strives to exceed in the provision of care and services to the facility's residents.

Each resident will receive services in accordance with a comprehensive plan of care developed by an interdisciplinary care team based on periodic comprehensive assessments of the resident's condition. Each plan of care is designed to ensure that the facility provides the necessary care and services to attain or maintain a resident's highest practicable physical, mental and psychosocial well-being.

Each resident is entitled to a dignified existence, self determination and the provision of care and services in a manner and in an environment that promotes the maintenance or enhancement of a resident's quality of life. It is Sitrin's policy to protect, promote and foster for each resident his/her rights as a resident of the facility.

The facility has developed policies and procedures to ensure quality of care and the protection and promotion of resident rights which are to be adhered to by Sitrin's staff. It is not the intent of this Manual to set forth all such policies and procedures but to identify several of the more significant ones which are:

1. Comprehensive assessments for each resident will be conducted in accordance with applicable federal and state laws and regulations;

2. All resident plans of care will be developed by an interdisciplinary care team based upon the periodic comprehensive assessment of the resident's condition which shall include measurable objectives and timetables to meet the resident's medical, nursing, mental and psychosocial needs;

3. All services and care required by a resident's plan of care will be provided to the resident by qualified staff;

4. Residents are free from verbal, mental, sexual or physical abuse, corporal punishment or involuntary seclusion.

The facility's policies and procedures with regard to resident rights and resident care are available from the Compliance Officer, the Administrator's office, the Director of Social Services or the Director of Nursing.

B. Referrals

Federal and state law prohibit the facility and its employees from (1) soliciting or accepting or (2) offering or paying remuneration in exchange for referrals of patients eligible for Medicare, Medicaid or another federal health care program. Federal and state law also prohibit (1) the offering or payment or (2) the soliciting or receipt of remuneration in return for directly purchasing, leasing, ordering, or recommending the purchase, lease or ordering of any goods, facilities, services or items covered under the benefits of Medicare, Medicaid or other federal health programs. The term "remuneration" broadly covers the transferring of anything of value in any form or manner whatsoever. Remuneration is not limited to bribes, kickbacks and rebates. These federal and state laws are broadly written to prohibit Sitrin and its employees from knowingly and willfully offering, paying, asking or receiving any money or other benefit, directly or indirectly, overtly or covertly, in cash or in kind. These laws are violated even if only one purpose of a payment arrangement is to influence referrals or the procuring of goods or services.

There are many transactions that may violate these laws. It is impossible to list each and every potential violation of these laws. For your benefit, the following examples are illustrative of prohibitive activity under these laws:

1. Receiving free goods or services from a vendor in exchange for the purchase of other goods and services;

2. The routine waiver of co-insurance payments and deductibles;

3. The offering or making of gifts, loans, rebates, services or payments of any kind to an individual or entity that is an actual or prospective referral source;

4. Entering into a professional service, management service or consulting service agreement where payment is based on other than fair market value or is based on the volume of referrals, i.e., percentage of revenue generated.

Federal regulations known as the "Safe Harbor" regulations provide that certain payment practices will not violate these laws if the regulatory requirements for such payment practices are adhered to. The "Safe Harbor" regulations are intended to help providers protect against abusive payment practices while permitting legitimate ones. If an arrangement fits within a "Safe Harbor" it will not create a risk of criminal penalties and exclusion from the Medicare, Medicaid or other federal health care programs. "Safe Harbor" protection is available for certain payment practices, including the following:

1. Investment interest;

2. Space rental;

3. Equipment rental;

4. Personal service and management contracts;

5. Sale of practice;

6. Referral services;

7. Warranties;

8. Discounts;

9. Payments to employees;

10. Group purchasing organizations;

11. Certain waivers of beneficiary co-insurance and deductible amounts by hospital;

12. Increased coverage, reduced cost sharing amounts or reduced premium amounts offered by health plans;

13. Price reductions offered to health plans.

Analysis of payment practices under these laws and the "Safe Harbor" regulations is complex and depends on the specific facts and circumstances of each transaction. Employees should not make unilateral judgments on the availability of a "Safe Harbor" for a payment practice, investment, discount or other arrangement. These situations should be brought to the attention of the Compliance Officer for review with legal counsel.

As a result of the foregoing, **all contracts and arrangements with actual or potential referral sources and all contracts and arrangements with vendors must comply with applicable state and federal laws and regulations. All personal service, management service and consulting service agreements must comply with applicable state and federal laws and regulations. Moreover, any other financial or other business arrangement between the facility and other health care professionals or providers must be structured to comply with all applicable state and federal laws and regulations.**

If questions arise regarding whether a proposed business arrangement, financial arrangement, or contract is in compliance with federal or state law, an employee is required to seek guidance from the Compliance Officer who in turn may seek appropriate guidance from legal counsel.

C. Billing and Claims; Cost Reports

Sitrin has an obligation to its residents, third party payors and the state and federal government to exercise diligence, care and integrity when submitting claims for payment. The right to bill the Medicare and Medicaid programs carries a responsibility that may not be abused. The facility is committed to maintaining the accuracy of every claim it processes and submits. Many employees have responsibility for entering charges and procedure codes. Each of these individuals is expected to monitor compliance with applicable billing rules. Any false, inaccurate, or questionable claims should be reported immediately to the employee's supervisor or the Compliance Officer.

False billing is a serious offense. Medicare and Medicaid rules prohibit knowingly and willfully making or causing to be made any false statement or representation of the material fact in an application for benefits or payment. It is also unlawful to conceal or fail to disclose the occurrence of an event affecting the right to payment with the intent to secure payment that is not due. Examples of false claims include:

1. Claiming reimbursement for services that have not been rendered;

2. Filing duplicate claims;

3. "Upcoding" a resident's condition to a higher RUGs category;

4. Including inappropriate or inaccurate costs on cost reports to be submitted under the Medicare or Medicaid programs;

5. Billing for services or items that are not medically necessary;

6. Failing to provide medically necessary services or items;

7. Billing excessive charges.

With respect to the submission of claims to the Medicare or Medicaid program, it is Sitrin's policy that claims must: (1) be accurate and timely submitted; and (2) be only for items or services that (a) are medically necessary, (b) fall within the coverage guidelines contained in applicable laws, rules and regulations, and (c) are documented in the resident's medical record. In this regard:

1. Prior to submitting a claim for payment, it is necessary to verify that all documentation for services reflected on the claim, such as physician orders and certificates of medical necessity, are available in a proper and timely manner;

2. Claims may only be submitted when appropriate documentation supports the claim and only when such documentation is maintained and available for audit and review;

3. Documentation which serves as the basis for a claim must be appropriately organized in legible form so that such documentation may be audited and reviewed;

4. Diagnosis and procedures reported on reimbursement claims must be based on the medical record and other documentation;

5. Documentation necessary for accurate code assignment must be made available to all employees with coding responsibility; and

6. Compensation for billing department coders and billing consultants shall not provide for any financial incentive to improperly upcode claims.

With regard to the filing of cost reports, it is the facility's policy that all Medicare and Medicaid cost reports must be prepared utilizing generally accepted accounting principles based upon documents and reports that

are maintained in the facility's day to day business. Cost reports must document only those costs which Sitrin's employees and/or agents believe in good faith are allowable. Employees and agents must provide accurate and complete documentation and reports to the business office in connection with the preparation of cost reports.

With regard to claim submissions and cost reporting, the following conduct is specifically prohibited:

1. Claims for payment or reimbursement of any kind that are false, fraudulent, inaccurate or fictitious;

2. Falsified medical records, time cards or other records used as the basis for submitting claims;

3. For services that must be coded, use of a code that does not accurately describe the documented service when there is a more accurate code that could have been used. This includes post-dating orders or signatures. Late entries should include an explanation of reason for delay in entry;

4. Bills submitted to Medicare, Medicaid or applicable insurance plan for items or services which are known are not covered by Medicaid, Medicare or applicable insurance plan;

5. Filing claims for the same item or service to more than one payor source whereby the facility will receive duplicate or double payments;

6. Submission of claims without the availability of adequate documentation;

7. Falsification of any report or document used to document the cost of utilization of services by payor source;

8. Failure to report a known error or inaccuracy in any cost report or underlying document used to prepare a cost report; and

9. Recording inappropriate, inaccurate, or non-allowable costs on a cost report.

Any employee or professional staff member who discovers an error or inaccuracy in any claim for payment for health care services that has been submitted or will be submitted should alert his or her supervisor, the Chief Financial Officer or the Compliance Officer. Any employee who discovers an error or inaccuracy in any cost report that has been submitted or will be submitted should alert his or her supervisor, the Chief Financial Officer or the Compliance Officer.

D. Non-Discrimination in Resident Services and Charges

It is Sitrin's policy, as required by state and federal law, not to discriminate in the admission, retention and care of residents because of race, color, blindness, national origin, sex, sexual preference, religion, sponsorship or source of payment. Each resident will receive medically necessary items and services that, in the opinion of the interdisciplinary care team and as set forth in the resident's plan of care, are required to assure the resident attains or maintains the highest practicable physical, psychosocial and mental well-being.

Such medically necessary items and services shall be offered to the resident regardless of the resident's source of payment. Charges for all items and services provided shall be based upon the facility's usual and customary charges. Nothing of value, including but not limited to the offer of free of services, shall be offered to residents or prospective residents to induce them to utilize the facility's services.

Under appropriate circumstances, Sitrin may provide financial accommodation (such as allowing monthly payments over time) or may waive resident co-insurance payments or deductible amounts based on an assessment of the individual resident's financial condition and a determination that the payment of such co-insurance payment or deductible amount would cause a financial hardship for the resident. Any such financial accommodation must be based on financial hardship, documented in writing and approved by Sitrin's Chief Financial Officer and the Compliance Officer. Any approved waiver of resident co-insurance payment or deductible amounts must be appropriately disclosed to all third party payors responsible for the resident's bill.

In addition, it is the facility's policy, as required by state and federal law, not to charge, for any service provided to a resident under Medicaid, money or other consideration at a rate in excess of the facility's established Medicaid reimbursement rate. Moreover, it is the facility's policy not to charge, solicit, accept or receive in addition to any amount otherwise required to be paid under Medicaid any gift, money, donation or other consideration (other than a charitable, religious, or philanthropic contribution from an organization or from a person unrelated to the patient) - (a) as a precondition of admitting a resident or (b) as a requirement for the resident's continued stay at Sitrin.

The following activities are specifically prohibited under this Standard of Conduct:

1. Failure to provide services that are either (a) ordered by the resident's physician; (b) indicated as necessary by the resident's most recent MDS assessment; and/or (c) contained in the resident's plan of care.

2. Rendering care based upon the resident's payor source without regard for the resident's needs and/or state of preferences;

3. Waiver of resident deductibles and/or co-insurance payments without advanced written approval of the Compliance Officer;

4. The offering or payment of anything of value, including but not limited to free services, to any resident or prospective resident to induce such individual to utilize the facility's services;

5. Discounts, credits, charity care or other arrangements that have not been approved in writing by the Compliance Officer;

6. Discriminating in the admission, retention and care of residents on the basis of race, color, blindness, national origin, sex, sexual preference, religion, sponsorship or source of payment;

7. Charge a Medicaid resident for Medicaid covered services provided by the facility any money or consideration at a rate in excess of the facility's established Medicaid rate; and

8. Charge, solicit, accept or receive any gift, money, donation or other consideration as:
(a) a precondition of admitting a resident to the facility or (b) as a requirement for a resident's stay at the facility, except for charitable, religious or philanthropic contributions from an organization or a person unrelated to the resident.

E. Confidentiality

Employees and professional staff members possess sensitive, privileged information about residents and their care. Residents properly expect that this information will be kept confidential. The facility takes very seriously any violation of a resident's confidentiality. Discussing a resident's medical condition or providing any information about a resident to anyone other than facility personnel who need the information or other authorized persons will result in disciplinary action. Employees and professional staff should not discuss residents outside the facility or with their families.

The facility is required to maintain the confidentiality of each resident's medical record. In this regard, medical records may not be released except with the authorization of the resident, unless otherwise required or permitted by law. Special confidentiality requirements apply with regard to medical records relating to HIV infection and AIDS. Medical records should not be physically removed from the facility, altered or destroyed. Employees who have access to medical records must exercise their best efforts to preserve their confidentiality and integrity and no employee is permitted access to the medical record of any resident without a legitimate reason for doing so. If a question arises as to the permissibility of the release of a resident's medical record or any information contained therein, the employee should seek guidance from the employee's supervisor or the Compliance Officer.

Additionally, employees are to treat as confidential the facility's proprietary business assets including: valuable ideas, business plans, and other information about the facility's business. Sitrin employees should respect the facility's assets as they would their own. No employee shall divulge to unauthorized persons, either during or after their employment, any information of a confidential nature connected with the business of the facility. Examples of confidential business information include: personnel information, such as job title, level, duties, skill or salary; or any information disclosure of which could adversely affect the business interests of Sitrin.

F. Business Entertainment or Gifts

The facility recognizes that business dealings may include shared meals or other similar social occasions which may be proper business expenses and activities. More extensive entertainment, however, only rarely will be consistent with Sitrin's policy and should be reviewed and approved in advance by the Compliance Officer before the employee may partake of or offer such entertainment.

Employees may not receive any gift under circumstances that could be construed as an improper attempt to influence the facility's decisions or actions. Moreover, employees may not receive any gift from any vendor who provides services to the facility or is seeking to provide services to the facility or from any actual or potential patient referral sources. When an employee receives a gift that violates this policy, the gift should be returned to the donor and reported to the Compliance Officer. Gifts may be received by employees when they are of such nominal value that they would not reasonably be perceived by anyone as an attempt to affect

the judgment of the recipient, for example, token promotional gratuities from suppliers, such as advertising novelties marked with the donor's name, are not prohibited under this policy.

No employee may make a cash gift or non-cash gift of more than nominal value to any officer, director or employee of a firm or entity or any individual that is an actual or prospective vendor of the facility or an actual or potential source of referrals.

Under no circumstances may an employee of the facility pay for the meals, refreshments, travel, lodging expenses or give anything of value to a government employee (state, federal or local) who in the course of his or her official conduct may investigate, survey or otherwise deal with the facility.

Moreover, no employee may charge, solicit, accept or receive in addition to any amount otherwise required to be paid by third party payors, any gift, money, or other consideration from a resident or organization or person related to a resident as a pre-condition of admission or as a requirement for continued stay at the facility.

Further, no employee may request and/or accept any remuneration, tip or gratuity in any form from a resident, resident's family or sponsor for any services provided or arranged for or for denial of services by the facility other than specified fees ordinarily paid for care excluding donations, gifts and legacies given in behalf of the facility.

If an employee has any question as to whether (1) the receipt of a gift or offering of a gift or (2) the participation in an entertainment event or the offering to another the opportunity to participate in an entertainment event violates this policy, the employee is required to seek guidance from the Compliance Officer.

G. Conflicts of Interest

No employee should place himself or herself or allow himself or herself to be placed in a situation where the employee's personal interests might conflict with the interests of Sitrin. The facility recognizes and respects an individual employee's right to invest or participate in activities outside of his/her employment provided that these in no way conflict with the facility's interests or welfare and do not interfere with the employee's responsibilities to the facility or the effectiveness of the employee's job performance.

Although it is difficult to set forth all possible situations which might be considered as conflicting with the facility's interests, the following are examples of situations which employees, including members of their immediate families, must avoid:

1. No employee should perform any outside employment or engage in any outside activities which interfere with the effective performance of the employee's duties as a facility employee;

2. No employee shall have a financial interest in a firm or entity which is doing, or seeking to do, business with the facility or which is a competitor of the facility. However, ownership of less than 1% of the securities of a publicly traded company shall not be considered significant or contrary to this policy;

3. No employee should render services in any capacity, such as a director, officer, employee or consultant to any person or firm that is competitive with the facility, provides services to the facility or is a third-party payor with regard to services provided at the facility;

4. No employee should use their position at the facility for personal gain such as by soliciting or accepting for personal benefit business opportunities that might otherwise accrue to the benefit of the Facility;

5. No employee should use for his or her personal benefit, or disclose to unauthorized persons, any confidential or proprietary information about the facility or its operation;

6. No employee should borrow money from individuals or firms (other than banks and/or lending institutions) doing, or seeking to do, business with the facility;

7. No employee should compete with the facility by selling or leasing or offering to sell or lease services or products similar to those services or products offered by the facility;

8. No employee should purchase services or products for the facility from their family members or from business organizations with which they or their family members are associated, without first obtaining written permission from the Compliance Officer;

9. No employee or member of their immediate family should accept significant gifts, discounts or other preferred personal treatment from any person associated with a present or prospective customer, competitor or supplier of the facility;

10. No employee should have outside employment or business interests that place the employee in a position of appearing to represent the facility; and

11. No employee may use the facility's assets for personal benefit or personal business purposes.

Any personal or business activities by an employee that may raise concerns along these lines must be reviewed with and approved in advance and in writing by the Compliance Officer.

In addition to the above policy, the Facility also has a separate Conflict of Interest Policy that is reviewed with all Officers, Directors, or key employee of Sitrin and it's affiliates at the initial affiliation or employment with Sitrin and annually thereafter. These individuals will also be required to complete an Initial/Annual Conflict of Interest Report Form.

H. Prohibition on Political Contributions/Activities:

As tax-exempt 501(c)(3) organizations, the Center and its affiliates are prohibited from directly or indirectly making political contributions or otherwise intervening in any political campaign on behalf of or in opposition to any candidate for public office. Prohibited political contributions include contributions to a political candidate, political party or political action committee whether the contribution is monetary or in-kind. Engaging in any such prohibited political activity jeopardizes the tax-exempt status of the Center and its affiliates.

Prohibited Political Activity

1. Neither the Center nor its affiliates may contribute any funds, property, employees or services, directly or indirectly, to any political candidate, political party or political action committee or otherwise intervene in any political campaign. Examples of prohibited political activity include:

   (a) making cash contributions

   (b) purchasing tickets to fundraising events or dinners

   (c) purchasing advertisements in journals or yearbooks

   (d) providing employees to work on campaigns

   (e) contributing non-cash items for political events

   (f) permitting cars, premises or equipment to be used for political purposes

   (g) endorsing any candidate for public office

   (h) publishing or distributing statements for or against any candidate

2. Neither the Center nor its affiliates will reimburse any employee, officer, director or other individual for any political contribution or payment made in connection with any other prohibited political activity.

3. No officer, employee or other individual on behalf of or in the name of the Center or its affiliates may pledge, make, authorize, direct the payment of or seek reimbursement for a political contribution or other prohibited political activity. Payments to the following types of entities and organizations are examples of what is considered an impermissible political contribution and/or activity:

   (a) political action committees or PACs;

   (b) Friends of John Doe politician;

   (c) committee to elect or reelect John Doe;

   (d) political parties or committees of political parties either national, state or local;

   (e) any payee with a political party designation in the name.

Membership Organizations and Membership Dues and Fees

1. Membership organizations may request that a portion of their membership dues or fees paid by the Center or an affiliate be allocated or attributed to its political action committee (PAC). Such

request may be in the form of a postcard which requires the Center or an affiliate to affirmatively notify the organization, by the return of the postcard, that it does not want any portion of the fees or dues paid allocated to the organization's PAC, with the failure to return the postcard being a tacit authorization for the allocation of a portion of the membership fees or dues to the PAC.

(a) Any officer or employee or other individual on behalf of the Center or its affiliates who receives or processes membership organization invoices for fees or dues must review the invoice and all accompanying documentation to make sure that appropriate actions are taken to avoid having any portion of the membership fee or dues allocated to the organization's PAC. If you are uncertain as to whether the invoice or accompanying documentation contains such a request or as to what you must do, you may contact either the Chief Financial Officer or the Compliance Officer for guidance.

2. Events at membership organization conferences may be sponsored by the organization's PAC and to attend the event you may be requested to make payment to or issue a check to the PAC. You may attend the event in your individual capacity but you may not seek reimbursement from the Center or an affiliate for any payment made or check written to attend the event.

Personal Contributions

Nothing contained herein shall preclude any individual from making political contributions or from engaging in political activity in his/her individual capacity. When participating in an individual capacity you should (i) clearly and unambiguously indicate that your actions and statements are your own and not that of the Center or its affiliates, (ii) identify affiliation or employment with the Center or an affiliate only where such disclosure is needed for identification purposes and you clearly indicate that you are acting in your individual capacity and not on behalf of the Center or an affiliate, and (iii) not use or utilize any Center or affiliate property or resources.

I. Governance

Facility is committed to being compliant with applicable laws pertaining to its governance, including, but not limited to, the New York Not-for-Profit Corporation Law, the New York Public Health Law, the rules and regulations of the New York State Department of Health, the Internal Revenue Code and the pertinent regulations of the Internal Revenue Service. Facility's directors and officers will adhere to conduct which is compliant with such laws and regulations. Moreover, Facility's directors and officers will adhere to and comply with all applicable Facility policies pertaining to governance, including the Facility's conflict of interest policy pertaining to its directors and officers.

J. Credentialing

Professional staff subject to Facility's credentialing requirements will comply with Facility's credentialing policies and procedures, including, but not limited to, the timely submission of all documentation, information, waivers and releases required for the credentialing/recredentialing of professional staff

members. Professional staff members shall comply with all applicable laws pertaining to the practice of their profession, including, but not limited to, the New York Education Law and the Department of Education's regulations, and will avoid any actions or omissions that would constitute an unacceptable practice under either the New York Education Law or the Department of Education's regulations. Professional staff members will immediately notify Facility's medical director of any events or circumstances that would adversely impact upon the member's professional privileges or professional practice, including, but not limited to, the initiation of any professional disciplinary action by, as the case may be, the Office of Professional Medical Conduct or the New York Education Department.

K. Delivery System Reform Incentive (DSRIP) Program

Sitrin is currently a member of the Bassett Medical Center Performing Provider System (PPS) and Partner Organization which strives to build a high-performing integrated delivery system and to transform health care delivery in the region to achieve a Delivery System Reform Incentive (DSRIP) Program. DSRIP requires each PPS to implement an effective compliance program related to compliance issues arising from PPS operations and performance, as well as to enforce a Code of Conduct amongst its members. (Please refer to the "Bassett Medical Center Performing Provider System and Partner Organization Code of Conduct" and "Bassett Medical Center PPS Compliance Plan" for further details.)

It is the responsibility of the Sitrin Compliance Officer to educate and train all Sitrin employees annually on the PPS Code of Conduct and Compliance Plan, more specifically on staff's responsibility to report any fraud and abuse or conduct issues and the proper procedure for doing so.

EDUCATION AND TRAINING

To ensure that all employees, professional staff members, executives and directors are familiar with their responsibilities under Facility's Compliance Program, Facility will implement an ongoing educational and training program. All employees, professional staff members, executives and directors will be required to participate in initial and annual training sessions. Additionally, periodic training sessions will be required, as determined by the Compliance Committee, for employees of certain departments with responsibilities for purchasing, billing and coding or any other responsibilities that the Compliance Committee determines appropriate for periodic training.

A. Initial and Annual Training

Initial and annual training sessions will focus on the requirements of Facility's Compliance Program as set forth in this Manual and the legal and ethical standards generally required of all employees, professional staff members, executives and directors. Each employee, professional staff member, executive and director will be required to sign a certification acknowledging attendance at the initial and each annual Compliance Training Session which certification will be maintained by the Human Resource Department, with a copy maintained in the employee's personnel file.

B. Periodic Training

Periodic Training Sessions will highlight federal and state laws that affect the employees' area of responsibility. For example, periodic training will be held in areas involving: federal and state anti-kickback statutes; current billing requirements; and current coding requirements. Employees required to attend periodic training sessions will be required to sign a certification of attendance which will be maintained by the Education and Training Department.

C. Failure to Attend Required Training

Any employee or professional staff member or executive who fails to attend a training session for which the employee or professional staff member or executive is required to attend, may result in disciplinary action. Repeated failures to attend required training sessions may result in termination of employment and/or loss of professional privileges. Directors who fail to attend required training sessions may be subject to removal from the Board of Directors.

D. Ongoing Communication and Changes in Compliance Manual

The Compliance Officer will distribute in writing and/or post in conspicuous places, any modifications of or amendments to the Compliance Manual. The Compliance Officer will also provide employees, professional staff members, executives and directors with written explanations of any substantial changes in the Compliance Manual or, if the Compliance Officer determines that written materials are insufficient, interim training sessions will be conducted.

Employees, professional staff, executives and directors will be provided periodic information about Facility's Compliance Program, changes in applicable laws or ethical standards that may affect their respective responsibilities through written memoranda, newsletters, periodic training sessions or other appropriate forms of communication.

REPORTING REQUIREMENTS

A. Reporting

It is the responsibility of every employee, professional staff members, executives and directors to report any known instances of or reasonable suspicions of any improper conduct of applicable state or federal law, ethical standards or Facility's policies, including the code of conduct and standards of conduct contained in this Manual. Reports should only be made in good faith when there is legitimate concern about a potential compliance issue. To report a suspected violation, an individual is required to notify, either verbally or in writing, the Compliance Officer or the individual's immediate supervisor, if an employee or professional staff member. Any supervisory staff personnel receiving a report of a suspected violation is required to immediately notify the Compliance Officer. If the suspected violation involves the employee's immediate supervisor, the employee should make the report directly to the Compliance Officer. If the suspected violation involves the Compliance Officer, the report should be made directly to Facility's administrator or a member of the Compliance Committee. An individual may make a report of a suspected violation anonymously. Failure to report a suspected violation may result in disciplinary action.

Reports involving (a) resident abuse, neglect or mistreatment or misappropriation of resident funds is part of the Elder Justice Act and needs to be reported to the proper authorities as outlined in separate facility policies and procedures or (b) child abuse, neglect or mistreatment are to be made in accordance with abuse reporting policies and procedures of the particular facility involved.

Access to the Compliance Officer

Questions about compliance standards, legal duties, and the facility's policies will be directed to the Compliance Officer, who will maintain confidentiality and respond appropriately to the person. All questions and responses will be documented and dated by the Corporate Compliance Officer. If appropriate, these questions and responses will be shared with staff members so that standards can be updated and improved to reflect any necessary changes or clarifications.

Hotlines and Other Forms of Communication

If an employee, resident, family member, or independent contractor suspects that a fraudulent situation is occurring, there are several ways this can be reported. The facility has established a Corporate Compliance hotline. The individual can contact the facility by dialing (315) 737-2500, and leave a detailed message explaining their concern(s). This hotline number can be used anonymously by the individual reporting the incident. This hotline number will be posted in a readily accessible location(s) within the facility. It is the Corporate Compliance Officer's duty to review the hotline no less than one time per week for any calls and will maintain a log that records such calls, the nature of any investigation and its results.

An individual can also report a compliance issue by completing the Compliance Reporting Form (last page of this plan) and mailing it to the Corporate Compliance Officer, c/o of the Sitrin Health Care Center, Inc., 2050 Tilden Avenue, New Hartford, NY 13413. This form is also available for completion on the Sitrin Health Care Center's intranet system which will be sent directly to the Compliance Officer

via the computer. This reporting form can also be found on the Sitrin website (www.sitrin.com). Once the report form is completed, it should be forwarded directly to the Corporate Compliance Officer via the link on the website or via the Compliance Officer's direct email address which is bcobane@sitrin.com.

The individual can also request a meeting with the Corporate Compliance Officer. The Officer can be reached directly at (315) 737-2710 to schedule a meeting.

If the individual making the report identifies him/herself, the Compliance Officer will respond to the individual within seven (7) business days acknowledging receipt of the report and then again with the outcome of the investigation, to the extent deemed appropriate, by the Compliance Officer.

If the employee, resident, family member or independent contractor suspects that a fraudulent situation has occurred and it deals primarily with the Delivery System Reform Incentive (DSRIP) Program, the individual should still contact Sitrin's Corporate Compliance Officer through any of the methods listed above. In addition, they may also contact the Performing Provider System's (PPS) Compliance Hotline at (607) 547-3017.

B. Examples of Activities to be Reported

The following list of activities that should be reported is not an all-inclusive list but is designed to illustrate the types of conduct that should be reported:

(1) the acquisition of any information that gives an individual reason to believe that an employee, professional staff member or contractor is engaged in or plans to engage in any conduct prohibited by applicable law, ethical standards or the policies of Facility, including the Standards of Conduct contained herein (hereinafter collectively "Standards");

(2) the acquisition of any information indicating that any other person or entity associated with Facility plans to violate any of the foregoing Standards; and

(3) an employee is instructed, directed or requested to engage in conduct which violates any of the foregoing Standards; and

(4) an error by an employee, even if the error constitutes inappropriate or inadequate performance.

C. Confidentiality

To the extent permissible, Facility shall treat all reports of suspected violations of improper conduct as confidential. However, it must be recognized that under certain circumstances the name of the individual making the report will be communicated to the Compliance Officer, if the report is made originally to the employee's supervisor, to an individual responsible for conducting an investigation of the suspected violation or to a governmental agency investigating any such suspected violation. Any such disclosure will only be made on a bona fide need to know basis.

D. Investigations

It is important to the integrity of Facility's operation that all suspected violations of Standards be thoroughly reviewed and investigated so that appropriate action can be taken as necessary. Facility will promptly and thoroughly investigate any suspected violation and take appropriate disciplinary action if warranted. Investigations may be conducted internally by the Compliance Officer or externally by either accountants or lawyers engaged by Facility. Employees, professional staff members, executives and directors are required to cooperate with the individual or individuals conducting an investigation of a suspected violation. Such cooperation may involve being interviewed by the individual or individuals conducting the investigation or supplying such individual or individuals with requested documentation. Failure to cooperate in an investigation of a suspected violation may result in disciplinary action being taken. Once the investigation is concluded, corrective action, if needed, is promptly and thoroughly implemented via policies, procedures, and systematic processes to reduce the potential for recurrence.

E. Non-Retaliation

To ensure employee cooperation, neither Facility nor its respective employees, professional staff members, executives and directors shall take any retaliatory action or retribution against any individual who has submitted a report of a suspected violation or who has participated in an investigation of a suspected violation. Any employee, professional staff members, executives and directors who takes retaliatory action or retribution against another employee who has either reported a suspected violation or participated in an investigation of a suspected violation will be subject to disciplinary action or, as to a director, removal from the Board of Directors. In addition, any employee who feels that they have been retaliated against for reporting any reasonable suspicion of a crime committed against a resident or an individual receiving care from a long-term care facility has the right to file a complaint against the facility with State Survey Agency. Notices have been posted in conspicuous locations throughout the campus informing employees of this right.

DISCIPLINARY PROCEDURES

All employees, professional staff members, executives and directors are required to comply with applicable state and federal law, ethical standards and Facility's policies, including the standards of conduct contained in this Manual (hereinafter collectively "Standards"). Any employee or professional staff member or executive who violates any of the foregoing Standards will be subject to disciplinary action, up to and including termination of employment or termination of professional staff privileges. Any director who violates any of the foregoing Standards may be subject to removal from the Board of Directors.

Disciplinary action will be taken against an employee or professional staff member who:

A. Authorizes or participates directly in a violation of a Standard;

B. Deliberately fails to report a violation of a Standard;

C. Deliberately withholds relevant and material information concerning a violation of a Standard;

D. Deliberately fails to cooperate in an investigation of a suspected violation of a Standard;

E. Retaliates or seeks or causes retribution against any individual who has either reported a suspected violation of a Standard or participated in an investigation of a suspected violation of a Standard;

F. Encourages, directs, facilitates or permits either actively or passively non-compliant behavior; and

G. Fails to participate in required training programs.

Disciplinary action may also be taken against any supervisory personnel who directs or approves an employee's actions which result in a violation of a Standard, is aware that an employee's actions which violate a Standard but fails to take appropriate corrective action or who otherwise fails to exercise appropriate supervision.

Disciplinary action may include oral or written warning, probation, suspension, demotion, termination from employment or suspension or termination of staff privileges. Disciplinary action will be taken in accordance with Facility's personnel policies and procedures which includes Human Resources review. Disciplinary action will be taken on a fair, equitable and consistent basis. Disciplinary action will be appropriate to the level of the employee's culpable conduct, that is, the more serious the level of culpable conduct (intentional conduct or reckless non-compliance) will result in more significant disciplinary action. Notwithstanding the foregoing, this statement is not a guaranty of progressive discipline and Facility reserves the right to terminate an employee at any time for any lawful reason.

MONITORING AND AUDITING

Facility will have in place a system for routinely identifying compliance risk areas and for self evaluation including internal and external audits as needed. It is intended that this process will result in continuous improvement in professional, business and operational practices of Facility.

The Centers for Medicare and Medicaid Services, the Office of the Inspector of General, the New York State Department of Health and the New York State Office of the Medicaid Inspector General, have made information on the Medicare and Medicaid programs available on their respective websites and Facility will utilize such resources in operating its compliance program and continuing to monitor the progress of its compliance program.

Employees, professional staff members executives, directors, and, to the extent applicable, vendors and agents will be required to cooperate with the compliance responsibilities and activities of Facility.

Monitoring and Auditing Systems

Audits may vary from quarter to quarter and will be determined by the Corporate Compliance Committee based on several factors including whether or not relevant issues effect the facility's reimbursement from Medicaid and Medicare or the quality of life for our residents/registrants.

The following are examples of audits that **may** be performed and evaluated by the Committee and is not meant to be all inclusive. It is also under the discretion of the Corporate Compliance Committee when an audit can be discontinued based on "no findings" for several consecutive quarters.

Audits:**

1. **MDS:** A 10% random sample of Medicare/Medicaid MDS's will be selected for audits. The Quality Assurance Coordinator and Medicare Coordinator or designee will perform the Medicare/Medicaid MDS audits using the following guidelines:

    a. Has each MDS been reviewed against Optimus documentation to assure that the information checked on the MDS reflects the medical record documentation?
    b. Has incorrect information been corrected as needed and the involved discipline informed of any errors or inadequacies?

2. **SNF Medicare Billing:** A 100% sample of Medicare billings will be selected for audit. The Medical Records Director or designee will perform the audit using the following guidelines:

    a. Is the individual eligible for Medicare?
    b. Is the period of stay Medicare coverable?
    c. Is billing for the appropriate period?
    d. Is the correct Medicare grouping code being billed?
    e. Has payment been received from another payor for the same period? If yes, have Medicare dollars been refunded?
    f. Is the MDS score reflected in the MDS?

g. Have the therapy minutes been reviewed to see if there is a need for a change of therapy

3. **Adult Daycare Medicaid Billing:** A 10% random sample of Adult Daycare Medicaid billings will be selected for audit. The Medical Records Director or designee will perform the audit using the following guidelines:

   a. Is the period of stay Medicaid coverable?
   b. Is billing for the appropriate period?
   c. Is the correct Medicaid rate being billed?
   d. Has the resident's attendance for the period billed been verified by the census sheet, transportation log, and meal consumption sheet?
   e. Has payment been received from another payor for the same period? If yes, have Medicaid dollars been refunded?

4. **Physician Services:** A 10% random sample of physician services will be selected for audit. The Medical Records Director or designee will perform the audit using the following guidelines:

   a. Was the data transcribed from the physician input correctly?

5. **Gan Kavod ICF Medicaid Billing:** A 10% random sample of Medicaid billings will be selected for audit. The Medical Records Director or designee will perform the audit using the following guidelines:

   a. Is the individual eligible for Medicaid?
   b. Is the correct Medicaid grouping code being billed?
   c. Is the billing for the appropriate period?
   d. If any of the billing days include hospital leave, is approved leave form on file?
   e. If any of the billing days include therapeutic leave, is there documentation that the leave was approved in the chart?
   f. Is there documentation in the chart to support whether the resident was present in the building or not?

6. **Gan Kavod IRA Billing:** A 10% random sample of IRA billings will be selected for audit. The Medical Records Director or designee will perform the audit using the following guidelines:

   a. Has the IRA Res Hab Daily Checklist been completed by each shift?
   b. Has an IRA Res Hab Monthly Summary Note been written for the month?
   c. If ½ month is billed, is it correctly coded?

7. **X-Ray Billing:** A 10% random sample of the X-Ray billings will be selected for audit. The Medicare Coordinator or designee will perform the audit using the following guidelines:

   a. Is the individual Medicare Part A coverable for the date of service?
   b. Is there a physician order for the test?
   c. Is there a documented reason for the test? Was the test medically necessary?
   d. Have results from the x-ray been received?

8. **Laboratory Billing:** A 10% random sample of the Laboratory billings will be selected for audit. The Medicare Coordinator or designee will perform the audit using the following guidelines:

   a. Is the individual Medicare Part A coverable for the date of service?
   b. Is there a physician order for the test?
   c. Is there a documented reason for the test? Was the test medically necessary?
   d. Have results of the lab test been received from the laboratory?

9. **Outpatient Billing:** A 10% random sample each of the outpatient billings will be selected for audit. These will include occupational therapy, speech therapy, physical therapy services. An assigned designee will perform the audits using the following guidelines:

   a. Is there a prescription in the chart?
   b. Is the prescription signed by the physician?
   c. Does the prescription indicate diagnosis?
   d. Was the evaluation completed within 30 days of the prescription date?
   e. Were the total treatment minutes present in the progress note?
   f. Do the treatment minutes on the progress note match the treatment plan?
   g. Does the modality on the note match the modality billed?
   h. Are patient's name and DOB on each page of the medical record?
   i. Was the evaluation signed by an MD?
   j. Was the weekly note signed by a therapist?
   k. Was a recertification note done every four weeks after the evaluation?
   l. Was the recertification signed by the MD?
   m. Is there a referring medical in the chart?

10. **Employee Background Checks.** It will be the Director of Human Resources or designee's responsibility to investigate the background of employees, especially those who will have access to residents or their possessions, by checking with all applicable licensing and certification authorities to verify that requisite licenses and certifications are in order. The following agencies will be checked prior to hiring or contracting with individuals or entities:

    a. The National Practitioner Data Bank with respect to all medical staff and independent contracts; (completed by Medical Records Director)
    b. The New York State Education Department in Albany, NY for all licensed clinical applicants;
    c. The Nurse Aide Registry with respect to all employees, medical staff, and independent contractors;

    The designee will audit a 10% random sample of newly hired employees for the quarter to assure that they above agencies have been checked prior to employment.

11. **Therapy Treatment Sheet Audit:** A 10% random sample of the therapy treatment sheets will be selected for audit. The Administrative Secretary or designee will perform the audit using the following guidelines:

a. Does the actual number of treatment minutes recorded on the therapy treatment sheet by the therapist match the number of minutes recorded on the charge ticket by the therapist?

12. **Medicare Bills:** A 10% random sample of the Medicare bills will be selected for audit. The Medical Records Director or designee will perform the audit using the following guidelines:

    a. Is the original RUGs score consistent with the number of therapies and minutes that are being provided, including missed minutes which drops the RUGs score, as well as providing too many therapy minutes based on the RUGs score?

13. **Outpatient Dental Services:** A 10% random sample from each dental office will be selected for audit. An assigned designee will perform the audits to assure that all the services performed match the services billed.

14. **Employee Physicals/Certifications/Licenses:** Employee physicals/certifications/licenses will be monitored on a monthly basis by the Director of Education and Training and Human Resource Director or designees to assure that these items are current on all employees within the organization.

15. **Cedarbrook Village, Inc. Medicaid (ALP) Billing:** A 100% sample of Medicaid billings will be selected for audit. The Medical Records Director or designee will perform the audit using the following guidelines:

    a. Is there a medical record for the resident?
    b. Is there a medical evaluation for the resident and is it within a 12-month timeframe?
    c. Is the medical evaluation signed by a physician? If it is signed by a nurse practitioner or physician assistant, is there a co-signature from the physician?
    d. Is there an interim assessment every six months?
    e. Is there a physician signature and date on the interim assessment?
    f. Is there a care plan for the resident?
    g. Is the plan of care dated and signed by an RN?
    h. Is the UAS-NY in the chart?
    i. Is the UAS-NY signed and dated by the assessor?
    j. Is the UAS-NY score supported by the information in the record?
    k. Is the Medicaid-covered service that is on the care plan supported by the information in the record?
    l. Is the service provided documented in the record?
    m. Were services billed for when the resident was an inpatient at another facility?

16. **Excluded Provider Lists:** Monthly checks will be automatically completed via an outside software system against a database to assure that any entities or individuals that Sitrin employs or contracts with has not been excluded to provide services or items for which payment is sought under any federal health care program. Manual review and verification is performed if the monthly check indicates an individual's name that Sitrin employs or contracts with to determine if is the same person.

Additional random audit topics may be selected for review on a quarterly and/or annual basis. These additional audits can be selected as a result of a recommendation by the Corporate Compliance Committee, the implementation of a new regulation or billing method, or from the focus points listed in the NYS OMIG annual workplan.

****** If, at any point, results from any one of the above-listed audits is at 10% or more non-compliance, the random sample may increased to 20% for that particular audit until two audit periods show acceptable compliance. At that point, the sample will revert back to 10%. The frequency of the above-mentioned audits will be performed beginning quarterly. If results from a particular audit show 100% compliance for two consecutive quarters, the audit may then be done semi-annually, or possibly discontinued. If, at any point, results from these semi-annual audits are less than 100%, the audit will revert back to being done on a quarterly basis.

Self-Disclosure:

In the event that it is discovered through an audit or investigation that the facility received an inappropriate payment from Medicaid or Medicare, the OMIG Self-Disclosure Guidelines will be reviewed to clarify if this overpayment meets the criteria to warrant self-disclosure. Once determined, the Facility's Self-Disclosure Policy and Procedure will be followed accordingly.

APPENDIX A

FEDERAL FALSE CLAIMS ACT

A. **False Claims and Penalties**

The Federal False Claims Act ("Act") imposes civil liability upon any person (individual or entity) for knowingly making a false claim to the United States government ("Government"). Specifically, the Act sets forth seven circumstances for which civil liability will be imposed for false claims. These seven circumstances are:

1. To knowingly present, or cause to be presented, to the Government a false or fraudulent claim for payment or approval;
2. To knowingly make, use, or cause to be made or used, a false record or statement to get a false or fraudulent claim paid or approved by the Government;
3. To conspire to defraud the Government by getting a false or fraudulent claim allowed or paid;
4. To have possession, custody or control of property or money used, or to be used, by the Government and, intending to defraud the Government or to willfully conceal the property, to deliver or cause to be delivered, less property than the amount for which the person receives a certificate or receipt;
5. To authorize the making or delivery of a document certifying receipt of property used, or to be used, by the Government and, intending to defraud the Government, to make or deliver the receipt without completely knowing that the information on the receipt is true;
6. To knowingly buy, or receive as a pledge of an obligation or debt, public property from an officer or employee of the Government who lawfully may not sell or pledge the property; or
7. To knowingly make, use, or cause to be made or used, a false record or statement to conceal, avoid, or decrease an obligation to pay or transmit money or property to the Government.

The civil monetary penalty that can be imposed for a false claim under the Act is not less than $5,000.00 and not more than $10,000.00, **PLUS** three times the amount of damages which the Government sustained because of the false claim. A Court may impose a lesser penalty of not less than two times the amount of damages sustained by the Government where the Court finds the following:

1. The person committing the violation furnished governmental officials responsible for investigating false claims with all information known to the person about the violation within thirty (30) days after the date on which the person first obtained the information;
2. The person fully cooperated with any governmental investigation of the violation; and
3. At the time the person furnished the Government with the information about the violation, no criminal prosecution, civil action, or administrative action had been commenced with respect to the violation and the person did not have actual knowledge of the existence of an investigation into the violation.

The Act defines the term "Claim" and the terms "Knowing" and "Knowingly". A Claim is defined for purposes of the Act as follows:

> Claim includes any request or demand, whether under a contract or otherwise, for money or property which is made to a contractor, grantee, or other recipient if the United States government provides any portion of the money or property which is requested or demanded or if the Government will reimburse such contractor, grantee or other recipient of any portion of the money or property which is requested or demanded.

The terms "Knowing" and "Knowingly" are defined as:

> That a person, with respect to information:
>
> 1. has actual knowledge of the information;
> 2. acts in deliberate ignorance of the truth or falsity of the information; or
> 3. acts in reckless disregard of the truth or falsity of the information, and no proof of specific intent to defraud is required.

In essence, civil monetary penalties may be imposed upon a person for making a false claim to the Government where the individual knows the information in the claim is false, or acts in deliberate ignorance of the truth or falsity of the information in the claim or acts in reckless disregard of the truth or falsity of the information in the claim. Civil monetary penalties are imposed even where there is no specific intent to defraud the Government.

The Act applies to claims submitted under Medicare, Medicaid, other federal health care programs and other state health care programs funded, in whole or in part, by the federal government. Examples of false claims include, but are not limited to:

1. Filing a claim for payment knowing that the services were not provided or were medically unnecessary;
2. Submitting a claim for payment knowing that excessive charges are being billed;
3. Submitting a claim for payment knowing that a higher billing code which does not reflect the services provided is used;
4. Filing a claim knowing that the claim is for duplicate services.

The Act has been used as a basis to impose civil monetary penalties upon nursing homes in situations involving egregious substandard quality of care, that is, the resident's condition is so bad that the services billed for could not have been provided.

B. **Civil Actions Under the Act**

Enforcement of the Act is the responsibility of the United States Attorney General. However, private individuals have the ability to bring a civil action for a violation of the Act. These private actions are known as "Qui Tam" actions.

Qui Tam actions are brought by private individuals in the name of the Government. When the complaint in an action brought by a private individual is filed with the Court, it remains under seal for a period of sixty days and cannot to be served upon the defendants named therein until ordered by the Court. Under seal means that the action remains confidential and is not subject to disclosure. The private individual must serve a copy of the complaint and written disclosures of substantially all material evidence and information the individual possesses on the Government. Within sixty days of the Government's receipt of the complaint and written disclosures, the Government shall either intervene and proceed with the action, in which case, the action shall be conducted by the Government, or notify the Court that it declines to take over the action, in which case, the private individual bringing the action shall have the right to proceed with the action.

If the Government elects to proceed with the action brought by a private individual, the private individual shall receive at least 15% but not more than 25% of the proceeds of the action or settlement of the claim, depending upon the extent to which the private individual contributed to the prosecution of the action. If the Government does not proceed with the action, and the private individual is successful in the action or settles the action, the private individual is entitled to an amount not less than 25% and not more than 30% of the proceeds of the action or settlement which shall be paid out of the proceeds of the action or settlement. In addition, the private individual is entitled to receive an amount for reasonable expenses necessarily incurred in the action plus reasonable attorneys' fees and costs. On the other hand, if the private individual is unsuccessful in prosecuting the action, the Court, upon a finding that the action was clearly frivolous, clearly vexatious or brought primarily for purposes of harassment, may award the defendant in the action its reasonable attorneys' fees and expenses. If the private individual in the action is a person who planned or initiated the violation of the Act, the Court, where appropriate, may reduce the amount of the award to the private individual. Moreover, if such private individual is convicted of a crime

arising from his or her role in the violation, the person will not receive any share of the proceeds of the action.

A civil action under the Act may not be brought:

1. More than six years after the date on which the violation of the Act is committed; or

2. More than three years after the date when facts material to the right of action are known or reasonably should have been known by an official of the Government charged with responsibility to act in the circumstances but in no event more than 10 years after the date on which the violation is committed, whichever occurs last.

31 U.S.C. §3801 Et. Seq.

31 U.S.C. §3801 imposes additional civil penalties for the filing of false claims or statements with the federal government. The term "Claim" is defined as:

> Any request, demand or submission - -
>
> (A) made to [the Government] for property, services or money (including money representing grants, loans, insurance or benefits);
>
> (B) made to a recipient of property, services or money from [the Government] or to a party to a contract with [the Government] - -
>
> (i) for property or services if the United States - -
>
> (I) provided such property or services;
>
> (II) provided any portion of the funds for the purchase of such property or services; or
>
> (III) will reimburse such recipient or party for the purchase of such property or services; or
>
> (ii) for the payment of money (including money representing grants, loans, insurance or benefits), if the United States - -
>
> (I) provided any portion of the money requested or demanded; or

(II) will reimburse such recipient or party for any portion of the money paid on such request or demand; or

(C) made to [the Government] which has the effect of decreasing an obligation to pay or account for property, services or money,

except that such term does not include any claim made in any return of tax imposed by the Internal Revenue Code of 1986.

The term "Statement" is defined as:

Any representation, certification, affirmation, document, record or accounting or bookkeeping entry made - -

(A) with respect to a claim or to obtain the approval or payment of a claim (including relating to eligibility to make a claim); or

(B) with respect to (including relating to eligibility for - -

(i) A contract with, or a bid or proposal for a contract with; or

(ii) A grant, loan or benefit from,

an authority, or any State, political subdivision of a State, or other party, if the United States Government provides any portion of the money or property under such contract or for such grant, loan or benefit, or if the Government will reimburse such State, political subdivision or party for any portion of the money or property under such contract or for such grant, loan or benefit,

except that such term does not include any statement made in any return of tax imposed by the Internal Revenue Code of 1986.

Specifically, civil monetary penalties under 31 U.S.C. §3801 et. seq. will be imposed against:

1. Any person (individual or entity) who makes, presents, or submits, or causes to be made, presented or submitted, a claim that the person knows or has reason to know:

(A) is false, fictitious or fraudulent;

(B) includes or is supported by any written statement which asserts a material fact which is false, fictitious or fraudulent;

(C) includes or is supported by any written statement that:

(i) omits a material fact;

(ii) is false, fictitious or fraudulent as a result of such omission; and

(iii) is a statement in which the person making, presenting or submitting such statement has a duty to include such material facts; or

(D) Is for payment for the provision of property or services which the person has not provided as claimed; or

2. Any person who makes, presents or submits, or causes to be made, presented or submitted, a written statement that:

(A) The person knows or has reason to know:

(i) asserts a material fact which is false, fictitious or fraudulent; or

(ii) is false, fictitious or fraudulent as a result of such omission;

(B) in the case of a statement described in clause (ii) of subparagraph (A) is a statement in which the person making, presenting, or submitting such statement has a duty to include such material fact; and

(C) contains or is accompanied by an express certification or affirmation of the truthfulness or accuracy of the contents of the statement.

The term "knows or has reason to know" means that:

A person, with respect to a claim or statement - -

(A) has actual knowledge that the claim or statement is false, fictitious or fraudulent; or

(B) acts in deliberate ignorance of the truth or falsity of the claim or statement; or

(C) acts in reckless disregard of the truth or falsity of the claim or statement,

and no proof of specific intent to defraud is required.

Civil monetary penalties under 31 U.S.C. §3801 et. seq. are not more than $5,000 for each false claim or statement. Also, in lieu of damages sustained by the federal government, an assessment of not more than twice the amount of such claim(s) may be imposed. An individual or entity against whom civil monetary penalties are sought under 31 U.S.C. §3801 et. seq. is entitled to notice, an opportunity for a hearing and judicial review.

ADDITIONAL CIVIL AND CRIMINAL PENALTIES AND EXCLUSIONS FOR FALSE CLAIMS

In addition to the Act and 31 U.S.C. §3801 et. seq., the federal government may, pursuant to 42 U.S.C. §1320a-7a, impose civil monetary penalties for false claims. Such additional civil monetary penalties may be up to but not exceed $10,000 for each item or service which is the subject of a false claim.

In addition to civil monetary penalties, the federal government may, pursuant to 42 U.S.C. §1320a-7, exclude an individual or entity from participation in federal and state health care programs (including Medicare and Medicaid) for certain false claims or actions. Generally, exclusion is mandatory in cases where the individual is convicted of a felony relating to health care fraud, otherwise, exclusion is permissive, that is, subject to the discretion of the Government.

Pursuant to 42 U.S.C. §1320a-7b, criminal sanctions may be imposed against an individual or entity for making or causing to be made false statements or representations. Specifically, criminal sanctions will be imposed against an individual or entity who:

1. Knowingly and willfully makes or causes to be made any false statement or representation of a material fact in any application for any benefit or payment under a federal health care program;
2. At any time knowingly and willfully makes or causes to be made any false statement or representation of a material fact for use in determining rights to such benefits or payments;

3. Having knowledge of the occurrence of any event affecting (1) his/her initial or continued right to any such benefit, or (2) the initial or continued right to any such benefit or payment of any other individual in whose behalf he/she has applied for or is receiving such benefit or payment, conceals or fails to disclose such event with an intent fraudulently to secure such benefit or payment either in a greater amount or quantity than is due or when no such benefit or payment is authorized;

4. Having made application to receive any such benefit or payment for the use and benefit of another and having received it, knowingly and willfully converts such benefit or payment or any part thereof to a use other than for the use and benefit of such other person;

5. Presents or causes to be presented a claim for a physician's service for which payment may be made under a federal health care program and knows that the individual who furnishes the services was not licensed as a physician; or

6. For a fee knowingly and willfully counsels or assistants an individual to dispose of assets (including by any transfer in trust) in order for the individual to become eligible for medical assistance under [Medicaid] if disposing of the assets results in the imposition of a period of ineligibility for such assistance.

In addition, criminal sanctions will be imposed against any individual or entity who knowingly and willfully makes or causes to be made, or induces or seeks to induce the making of, any false statement or representation of a material fact with respect to the conditions or operations of any institution, facility or entity in order that such institution, facility or entity may qualify (either upon initial certification or upon recertification) as a hospital, critical access hospital, skilled nursing facility, nursing facility, intermediate care facility for the mentally retarded, home health agency, or other entity for which certification is required under Medicare or a state health care program or with respect to information required to be provided under 42 U.S.C. §1320a-3a (disclosure requirements for other providers under Medicare Part B).

NEW YORK STATE FALSE CLAIMS LAWS

A. **NY False Claims Act (State Finance Law §§187-194)**

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

The Act allows private individuals to file lawsuits in state court, just as if they were state or local government parties. If the suit eventually concludes with payments back to the government, the person who started the case can recover 25-30% of the proceeds if the government did not participate in the suit or 15-25% if the government did participate in the suit.

B. **Social Services Law, Section 366-b**

Section 366-b of the Social Services Law makes it a Class A misdemeanor for any person who, with intent to defraud, does any of the following:

1. presents for allowance or payment any false or fraudulent claim for furnishing services or merchandise;
2. knowingly submits false information for the purpose of obtaining greater compensation than that to which he/she is legally entitled for furnishing services or merchandise; or
3. knowingly submits false information for the purpose of obtaining authorization for furnishing services or merchandise under the Medicaid program.

C. **Article 177 of the Penal Law**

Article 177 of the Penal Law became effective November 1, 2006. Article 177 of the Penal Law establishes the crime of health care fraud. The crime of health care fraud in the fifth degree is a Class A misdemeanor and a person is guilty of this crime when:

> With intent to defraud a health plan, [includes the State Medicaid program], he or she knowingly and willfully provides materially false information or omits material information for the purpose of requesting payment from a health plan for a health care item or service and, as a result of such information or omission, he or she or another person receives payment in an amount that he, she or such other person is not entitled to under the circumstances.

Health care fraud in the fourth degree is a Class E felony. A person is guilty of health care fraud in the fourth degree when the person commits the crime of health care fraud in the fifth degree on one or more occasions and the payment or portion of payment wrongfully received from a single health plan [including Medicaid] in a period of not more than one year, exceeds $3,000 in the aggregate.

Health care fraud in the third degree is a Class D felony. Health care fraud in the third degree is committed where the wrongful payments exceed $10,000 in the aggregate in a one-year period. Health care fraud in the second degree is a Class C felony and is committed where the wrongful payments exceed $50,000 in the aggregate in a one-year period. Health care fraud in the first degree is a Class B felony and is committed where the wrongful payments exceed more than $1,000,000 in the aggregate one year period.

Article 177 of the Penal Law provides for an affirmative defense for individuals serving as a clerk, bookkeeper, or other employee of a health care provider who, without personal benefit, was merely executing the orders of his or her employer or a superior employee generally authorized to direct his or her activities. The affirmative defense is not available to any employee charged with the active management and control, in an executive capacity, of the affairs of the corporation.

D. **18 NYCRR Section 515.2**

It is an unacceptable practice under the Medicaid program for an individual or entity to submit false claims or false statements to Medicaid. False claims include:

1. Submitting, or causing to be submitted, a claim or claims for:
   (i) unfurnished medical care, services or supplies;
   (ii) an amount in excess of established rates or fees;
   (iii) medical care, services or supplies provided at a frequency or in amount not medically necessary; or
   (iv) amount substantially in excess of the customary charges or costs to the general public; or
2. Inducing, or seeking to induce, any person to submit a false claim.

False statements are:

1. Making, or causing to be made, any false, fictitious or fraudulent statement or misrepresentation of material fact in claiming a medical assistance payment, or for use in determining the right to payment; or
2. Inducing or seeking to induce the making of any false, fictitious or fraudulent statement or misrepresentation of a material fact.

Individuals who have engaged in unacceptable practices under the Medicaid program are subject to one or more of the following sanctions:

1. Exclusion from the program for a reasonable time;
2. Censure;
3. Conditional or limited participation, such as requiring pre-audit or prior authorization of claims for all medical care, services or supplies, prior authorization of specific medical care, services or supplies, or other similar conditions or limitations.

In addition, the Department of Health may require the repayment of overpayments determined to have been made as a result of the unacceptable practice.

WHISTLEBLOWER PROTECTION

A. Federal False Claims Act

No employee because of lawful acts done by the employee in furtherance of a civil action under the Act, whether brought by the Government or a private individual, including investigation for, initiation of, testimony for, or assistance in any such action maybe discharged, demoted, suspended, threatened, harassed, or in any other manner discriminated against in the terms and conditions of employment because of such actions. Any employee who has been discharged, demoted, suspended, threatened, harassed or in any other manner discriminated against in the terms and conditions of employment because of such lawful acts shall be entitled relief necessary to make the employee whole, including, reinstatement with the same seniority status such employee would have had but for the discrimination, two times the amount of back pay, interest on the back pay, and compensation for any special damages sustained as a result of the discrimination, including litigation costs and reasonable attorneys' fees.

B. State Laws

Article 20-C of the New York Labor Law prohibits retaliatory action by employers. Section 740 of Article 20-C applies to all employers. Section 741 of Article 20-C applies to health care employers, including, but not limited to, providers licensed under Article 28 (i.e., hospitals, nursing homes and diagnostic and treatment centers) and Article 36 (i.e., long term home health care programs, certified home health care agencies, and licensed home care service agencies) of the Public Health Law. In addition, the New York False Claims Act provides additional protection to employees.

I. Section 740

Under Section 740 an employer is prohibited from taking any retaliatory personnel action (discharge, suspension, demotion or other adverse employment action taken against an employee in terms and conditions of employment) against an employee because the employee does any of the following:

(i) discloses, or threatens to disclose to a supervisor or to a public body an activity, policy or practice of the employer that is in violation of law, rule or regulation which violation creates and presents a substantial and specific danger to the public health or safety or which constitutes health care fraud;

(ii) provides information to, or testifies before, any public body conducting an investigation, hearing or inquiry into any such violation of a law, rule or regulation by the employer; or

(iii) objects to, or refuses to participate in any such activity, policy or practice in violation of a law, rule or regulation.

With respect to disclosures to a public body only, protection against retaliatory personnel actions is unavailable unless the employee has first brought the activity, policy or practice in violation of law, rule or regulation, to the attention of a supervisor of the employer and afforded the employer a reasonable opportunity to correct the activity, policy or practice.

An employee who has been subject to a retaliatory personnel action may institute a civil action for the following relief within one year after the alleged retaliatory personnel action was taken:

(i) An injunction to restrain continued violation of Section 740;

(ii) Reinstatement of the employee to the same position held before the retaliatory personnel action, or to an equivalent position;

(iii) Reinstatement of full fringe benefits and seniority rights;

(iv) Compensation for lost wages, benefits and other remuneration; and

(v) Payment by the employer of reasonable costs, disbursements and attorneys' fees.

If the Court determines that a civil action under Section 740 was without basis in law or fact, the Court, in its discretion, may award reasonable attorneys' fees and court costs and disbursements to the employer.

II. Section 741

Under Section 741, an employer is prohibited from taking retaliatory action (discharge, suspension, demotion, penalization or discrimination against an employee, or other adverse employment action taken against an employee in terms and conditions of employment) against an employee because the employee does any of the following:

(i) discloses or threatens to disclose to a supervisor, or to a public body an activity, policy or practice of the employer or agent that the employee, in good faith, reasonable believes constitutes improper quality of patient care ("improper quality of patient care" means any practice, procedure, action or failure to act of an employer which violates any law, rule, regulation or declaratory ruling adopted pursuant to law, where such violation relates to matters which may present a substantial and specific danger to public health or safety or a significant threat to the health of a specific patient); or

(ii) objects to, or refuses to participate in any activity, policy or practice of the employer or agent that the employee, in good faith, reasonably believes constitutes improper quality of patient care.

The protections under Section 741 are not available to an employee unless the employee has brought the improper quality of patient care to the attention of a supervisor and has afforded the employer a reasonable opportunity to correct such activity, policy or practice. However, the inapplicability of Section 741 for failure to provide an employer an opportunity to correct does not apply to disclosures or threatened disclosures to a supervisor or public body where the improper quality of patient care presents an imminent threat to public health or safety or to the health of a specific patient and the employee reasonably believes in good faith that reporting to a supervisor would not result in corrective action.

An employee may bring a civil action under Section 740 for the relief identified in Section 740. However, instead of the one-year period in which to bring such action, a health care employee may bring such action within two years after the alleged retaliatory personnel action was taken. In addition to the specific relief identified in Section 740, if the Court determines that a health care employer acted in bad faith in a retaliatory action under Section 741, the Court may assess a civil penalty of an amount not to exceed $10,000 against the health care employer which is to be paid to the Improving Quality of Patient Care Fund established under the State Finance Law.

III. NY False Claim Act (State Finance Law §191)

The False Claim Act also 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

Act. Remedies 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.

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REPORT OF POTENTIAL IMPROPER CONDUCT

Please complete this form and forward it directly to the Compliance Officer for review.

Part I:

Date and Time of Report:_____

Name and department of individual originating report (unless you wish to remain anonymous)

_____

Is this a:

- □ Corporate Compliance issue involving potential improper conduct?
- □ HIPAA privacy or security issue?

What department or organization does this involve?

- □ Sitrin Health Care Center, Inc.;
- □ Gan Kavod, Inc.;
- □ Cedarbrook Village, Inc.;
- □ Delivery System Reform Incentive Payment Program (DSRIP)
- □ Other, please specify: _____

Parties involved:

Name of Employees_____

Any other people (resident, family, witnesses) _____

Date(s) of alleged improper conduct:_____

In your own words, please state below in as much detail as possible, the circumstances associated with this compliance issue, including timeline of events if known (use back or attach additional sheets, if necessary):

Please submit this information to: Corporate Compliance Officer
Sitrin Health Care Center, Inc.
2050 Tilden Avenue, New Hartford, NY 13413
bcobane@sitrin.com (315) 737-2710

Part II (To be completed by Compliance Officer):

Date and time report received: _____

Report received by:

_____ Compliance Officer _____ Department Manager or Supervisor

Reporting Mechanism:

_____ In Person _____ Hotline Message _____ By Regular Mail

_____ By Email _____ Via Website _____ Via Intranet

_____ Fax _____ Direct Phone Call to Compliance Officer

Note: The Corporate Compliance Officer will maintain this report in a confidential manner. While the facility will do its best to maintain this confidentiality, the facility may be obligated to disclose the name of the reporting person, if known, and copies of any investigation reports and/or records to governmental authorities. If you choose to remain anonymous, the Corporate Compliance Officer may not be able to notify you directly of the outcome of any investigations that are undertaken. However, you may contact the Corporate Compliance Officer directly at (315) 737-2710 if you have further questions.

EMPLOYEE/PROFESSIONAL STAFF MEMBER/BOARD OF DIRECTORS COMPLIANCE CERTIFICATION

I certify that I have received Sitrin's Compliance Manual and that the facility's Compliance Program has been explained to me. I agree to comply with the terms of the facility's Compliance Program and I understand that violation of these terms may lead to disciplinary action, up to and including the termination of my employment, the termination or non-renewal of staff privileges, or the termination of my position on the Board of Directors.

Signature: _____

Printed Name: _____

Date: _____

Signature of Compliance Officer:_____

Date:_____

SITRIN HEALTH CARE CENTER, INC.
GAN KAVOD, INC.
CEDARBROOK VILLAGE, INC.

Corporate Compliance Manual

Revised 03/16