

**Wayne ARC**

**Corporate Compliance Plan**

**June 2008**

**Approved on:** 6/16/08

**By:** Board of Directors

**Revised:**

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**Wayne ARC**  
CORPORATE COMPLIANCE POLICY

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1. It is the policy of Wayne ARC (the Agency) to comply with all applicable federal, state and local laws and regulations. It is also our policy to adhere to the standards of conduct that are adopted by the Corporate Compliance Committee, Executive Director, and/or the Board of Directors.
2. We are committed to our responsibility to conduct our business affairs with integrity based on sound ethical and moral standards. We will hold our employees, contracted practitioners, and vendors to these same standards.
3. All employees, contracted personnel, and vendors shall acknowledge that it is their responsibility to report any instances of suspected or known noncompliance to their immediate supervisor, the Executive Director or the Compliance Officer. Reports may be made anonymously, without fear of retaliation, retribution, or breach of confidentiality. Failure to report known noncompliance or making false reports will be grounds for disciplinary action, up to and including termination. Reports related to harassment or other workplace-oriented issues, will be referred to the Director of Human Resources or designee.
4. Wayne ARC will communicate its compliance standards and policies through required training initiatives to all employees and contracted practitioners, and through written communication with vendors and business associates. We are committed to these efforts through distribution of this Compliance Policy and our Code of Conduct.
5. Wayne ARC is committed to maintaining and measuring the effectiveness of our Compliance Policies and Standards through monitoring and auditing systems reasonably designed to detect noncompliance by its employees and agents. We shall require the performance of regular, periodic compliance audits by internal and/or external auditors who have expertise in federal and state health care statutes, regulations, and federal health care program requirements.
6. This Compliance Policy will be consistently enforced through appropriate disciplinary mechanisms, including, if appropriate, discipline for failure to detect and/or report noncompliance.
7. Detected noncompliance, through any mechanism, (including, but not limited to compliance auditing procedures, confidential reporting) will be responded to in an expedient manner. We are dedicated to the resolution of such matters and will take all reasonable steps to prevent further similar violations, including any necessary modifications to the Compliance Program.
8. The Agency will, at all times, exercise due diligence with regard to background and professional license verifications for all prospective employees, contractors, vendors, and members of the board of directors.
9. **The Agency will not take any retaliatory action against an employee if the employee discloses certain information about the Agency's policies, practices or activities to a regulatory, law enforcement or other similar agency or public official. Protected disclosures are those that assert that the Agency is in violation of a law that creates a substantial and specific danger to the public health and safety. In addition, protected disclosures are those which constitute health care fraud under the law or assert that, in good faith, the employee believes constitute improper quality of care.**

## **Code of Ethics**

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It is the policy of Wayne ARC to conduct all business in accordance with uncompromising ethical standards. We are committed to complying with all applicable laws and regulations. We believe integrity and trust are essential to the mission of serving our consumers. Adherence to such standards will not be traded or compromised for financial, professional or other business objectives.

We ensure that all aspects of consumer care and business conduct are performed in compliance with our mission/vision and values statement, policies and procedures, professional standards and applicable governmental laws, rules and regulations.

Wayne ARC expects every person who provides services to our consumers to adhere to the highest ethical standards and to promote ethical behavior. The Agency develops policies and procedures to address violations of ethical conduct and regulatory non-compliance.

Any shortcomings are to be reported to supervisors, the Director of Human Resources/Designee, the Compliance Officer, or the Executive Director so each situation may be appropriately dealt with. The Executive Director may be reached at (315) 331-7741. **The Compliance Officer may be reached at (315) 331-7741. The Compliance Help Line can be accessed at (585) 249-2843.**

## **The Role of the Compliance Officer**

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**The Executive Director of Wayne ARC designates The Director of Quality Assurance/Compliance as Compliance Officer for the Chapter.** The Compliance Officer has direct lines of communication to the Executive Director and, when appropriate, to the Board of Directors.

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

1. Developing and implementing policies and procedures (P&P) related to regulatory compliance.
2. Overseeing and monitoring the implementation of the compliance plan on a regular basis.
3. Directing agency internal audits established to monitor effectiveness of compliance standards.
4. Providing guidance to management, medical/clinical personnel and individual departments regarding P&P and governmental laws, rules and regulations
5. Updating, periodically, the compliance plan as changes occur within the chapter, and in the law and regulations or governmental and third party payers.
6. Overseeing efforts to communicate the compliance plan.
7. Coordinating, developing and participating in the educational and training program.
8. Assuring independent contractors (consumer care, vendors, billing services, etc.) are aware of the requirements of the agency's compliance plan.
9. Actively seeking up-to-date material and releases regarding regulatory compliance.
10. Maintaining reporting system and responding to concerns, complaints and questions related to the compliance plan.
11. Acting as a resourceful leader regarding regulatory compliance issues.
12. Investigating and acting on issues related to corporate compliance.
13. Coordinating internal investigations related to corporate compliance and recommending corrective action.

## **The Structure, Duties and Role of the Compliance Committee**

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The Agency Compliance Committee is appointed by Compliance Officer and Executive Director to advise and assist the Compliance Officer with the implementation of the Compliance Plan. The committee will include appropriate agency personnel relative to administrative, financial and clinical departments.

The roles of the Compliance Committee include:

1. Analyzing the regulatory environment where the chapter does business, including legal requirements in which it must comply,
2. Review and assessment of existing Policies & Procedures that address these risk areas for possible incorporation into the Compliance Plan,
3. Working with departments to develop standards and Policies & Procedures that address specific risk areas and encourage compliance according to legal and ethical requirements,
4. Advising and monitoring appropriate departments relative to compliance matters,
5. Development of internal systems and controls to carry out Compliance Standards and Policies & Procedures,
6. Monitoring internal and external audits to identify potential non-compliant issues,
7. Implementing corrective and preventive action plans, and
8. Developing a process to solicit, evaluate and respond to complaints and problems.

## **Delegation of Substantial Discretionary Authority**

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

Wayne ARC will remove from direct responsibility or involvement in any federally or state-funded health care programs any employee, independent contractor, or member of the Board of Directors with demonstrated non-compliant activities related to health care; actual or proposed exclusion from participation in federally or state-funded health care programs.

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

- a) **General services administration: list of parties excluded from federal programs.**
- b) **HHS/OIG cumulative sanction report.**
- c) **NYS Medicaid Fraud Database.**
- d) **Licensure and disciplinary record with NYS Office of Professional Medical Conduct and/or New York State Department of Education**

## **Education and Training**

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

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

- Government and private payer reimbursement principles,
- Government Initiatives,
- History and background of Corporate Compliance
- Legal Authority
- General prohibitions on paying or receiving remuneration to induce referrals,
- Prohibitions against submitting a claim for services when documentation of the service does not exist,
- Prohibitions against signing for the work of another employee,
- Prohibitions against alterations to medical records,
- Prohibitions against performing medical or nursing therapies without a signed physician's order,
- Proper documentation of services rendered, and
- Duty to report misconduct.

In addition to the above, targeted training will be provided to all managers and any other employees who could create exposure to enforcement actions, such as coding and billing personnel. Managers shall assist the Compliance Officer in identifying areas that require specific training and are responsible for communication of the terms of this Compliance Plan to all contractors, vendors, business associates and landlords doing business with the agency. Managers are responsible for assuring that all contractors abide by the terms of the Compliance Plan.

Each employee and independent contractor, shall receive a written copy of the compliance policies and specific standards of conduct that affect their position/relationship with the Agency.

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

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

## **Effective Confidential Communication**

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

To report a violation of this Compliance Plan:

- If you witness, learn of, or are asked to participate in potential non-compliant activities, that are a violation of this Compliance Plan, you may contact your supervisor, the Compliance Officer or Executive Director.
- Your identity will be safeguarded to the fullest extent possible and you will be protected against retribution. Report of any suspected violation of this plan by following the above shall not result in any retribution. Any threat of reprisal against a person who acts pursuant to his or her responsibilities under the Plan is acting against the Agency's Compliance Policy. Discipline, up to and including termination of employment, will result if such threat of reprisal is proven.

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

Each report by an employee or contractor shall be recorded on a form prepared for this purpose. Upon receipt of a question or concern, any supervisor, officer or director shall immediately deliver a report of the question or concern to the Compliance Officer. Any questions or concerns relating to potential non-compliance by the Compliance Officer should be reported immediately to the Executive Director/Assistant Executive Director.

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

## **Enforcement of Compliance Standards**

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Employees who fail to comply with Wayne ARC's Compliance Policy and Standards, or who have engaged in conduct that has the potential of impairing the Agency's status as a reliable, honest, and trustworthy service provider will be subject to disciplinary action, up to and including termination. Any discipline will be appropriately documented in the employee's personnel file, along with a written statement of reason(s) for imposing such discipline. The Compliance Officer shall maintain a record of all disciplinary actions involving the Compliance Plan and report monthly to the Compliance Committee of the Board of Directors, and not less than annually to the Board of Directors, regarding such actions.

Wayne ARC's Compliance Program requires that the promotion of, and adherence to the elements of the Compliance Program be a factor in evaluating the performance of Agency employees and contractors. The Agency will provide annual training in compliance policies and procedures which includes informing staff that strict compliance with these policies and requirements is a condition of employment and violation of these policies and requirements could lead to the Agency taking disciplinary action up to and including termination or revocation of privileges. In addition, all managers and supervisors will:

- a) Ensure all supervised employees are in compliance with compliance training requirements.
- b) Ensure program area has and follows an oversight process intended to monitor for compliance issues that might occur.
- c) Address compliance issues with employees upon discovery and implement corrective action as appropriate.

Managers and supervisors could be subject to disciplinary action for failure to provide adequate over cite to their subordinates, or for failing to detect noncompliance with applicable policies and legal requirements, where reasonable diligence on the part of the manager or supervisor would have led to the earlier discovery of any problems or violations and would have provided Agency with the opportunity to correct them.

## **Auditing and Monitoring**

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Ongoing evaluation is critical in detecting non-compliance and will help ensure the success of the Agency's compliance program. The Compliance Officer in consultation with the Compliance Committee shall develop an ongoing auditing and monitoring system. This ongoing evaluation shall include the following:

- Relationships with third-party contractors, specifically those with substantive exposure to government enforcement actions,
- Compliance audits of policies and procedures and Code of Ethics as stated in the Compliance Plan, conducted by the Compliance Officer, and
- Review of documentation and billing relating to Medicaid and Medicare claims development and submission performed internally or by an external consultant as determined by Compliance Officer and Compliance Committee.

The audits and reviews will examine the Agency's compliance with specific rules and policies through on site visits, personnel interviews, general questionnaires (submitted to employees and contractors) medical and clinical record reviews to support claims for Medicaid/Medicare reimbursement, and documentation reviews.

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

- Annual review with legal counsel of all records of communications and reports by all employees or contractors kept in accordance with this Compliance Plan,
- Any correspondence from any regulatory agency charged with administering a federally or state-funded program received by any department of the Agency shall be immediately copied and forwarded to the Compliance Officer for review and discussion by the Compliance Committee, and,
- Immediate notification of the Compliance Officer of any visits, audits, investigations or surveys by any federal or state agency or authority.
- Establishment of a process detailing ongoing notification by the Compliance Officer to all appropriate personnel of any changes in laws, regulations or policies as well as appropriate training to assure continuous compliance.

## **Detection and Response**

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

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

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

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

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

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

If the Agency identifies that an overpayment was received from any third party payer, the overpayment shall be adjusted or repaid to the affected payer. Systems shall also be put in place to prevent such overpayments in the future.

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

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

## **Whistleblower Provisions and Protections**

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### Provisions

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

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

### Protections

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

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

If Wayne ARC takes a retaliatory action against the qui tam relator (employee), the employee may sue in state court for reinstatement to the same, or an equivalent position, any lost back wages and benefits and attorneys' fees.