



MISSION STATEMENT

To support individuals with autism in leading full and productive lives in the community.

COMPLIANCE PLAN

Revised and Approved June 12, 2023

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Element 1: STANDARDS OF CONDUCT AND WRITTEN POLICIES AND PROCEDURE

1. NICHOLAS CENTER EMPLOYEE CODE OF CONDUCT

Nicholas Center adopts this Employee Code of Conduct to ensure orderly operations and provide the best possible work environment. Nicholas Center expects all workforce members to follow these rules of conduct while on company premises, attending company functions or otherwise performing work-related activities.

Maintaining and enforcing this policy is to protect the interests and safety of all employees, individuals served and the organization. Nicholas Center complies with all applicable federal, state and local laws and regulations concerning employer/employee rights and obligations.

Nicholas Center expects its employees to:

- Be honest.
- Abide by Nicholas Center's policies and procedures.
- Abide by Nicholas Center's Employee Code of Conduct and Core Values.
- Respect the authority of those responsible for supervision.
- Refrain from using language that is profane, boisterous, sexually offensive or explicit, or of a derogatory racial or ethnic nature.
- Conduct themselves in a manner that promotes safety and is appropriate to the workplace at all times.
- Treat others with dignity and respect, and abide by our shared values of integrity, fairness, stewardship, and engagement.
- It is prohibited to report to work under the influence of alcoholic beverages and/or illegal drugs, narcotics or any substances which may inhibit your performance.
- It is prohibited to use, sell, dispense or be in the possession of alcoholic beverages, illegal drugs and narcotics while at work.
- Provide services as written in service plans.
- Documentation of services, including location of service delivery, services provided, and start and end time of services must have occurred as written.
- Document services contemporaneously with providing service.
- Employees will not accept gifts or gratuities above \$50.00 from, or on behalf of, individuals being served.
- Time Sheets are to accurately reflect actual time of employee's active performance of duties.
- Properly safeguarding the privacy and security of individual personal information.
- No employee will perform duties from other employment while signed in for payroll purposes.
- No employees will submit false receipts/misuse of agency funds.

Disciplinary Process, up to and including immediate termination, may be taken for failure to comply with the above.

2. ETHICAL AND LEGAL STANDARDS

Ethical and Legal standards provide a framework for decision making and guides us in all that we do. It does not replace any of the more specific policies of the agency. Rather, it is intended to support our mission to provide the highest quality services to all those we serve and to continuously seek improvement.

STATEMENT OF COMMITMENT: In all aspects of facility operations, all **employees, volunteers, board members, and consultants** will perform their responsibilities/functions with uncompromising commitment to ethical and legal standards, specifically as they relate to:

- Honesty
- Fairness
- Integrity
- Good faith
- Respect, and
- The law

All decisions will be made in the best interest of the organization and those served by Nicholas Center, Ltd. These decisions should be made considering whether the action is right, fair, and legal, and whether that action could withstand the scrutiny of outsiders, including, but not limited to:

- Individuals and their families
- Employees
- Vendors
- Payers
- Regulatory agencies, and
- The community as a whole

Maintaining integrity and high ethical/legal standards requires hard work, courage, and difficult choices. Each individual must accept responsibility for compliance with this code. Commitment to these standards should never be compromised for financial, professional, or other business purposes.

3. POLICIES AND PROCEDURES MANAGEMENT

The Compliance Plan Policies and Procedures are a set of active tools to ensure adherence with all Federal and State regulations to prevent fraud, waste, and abuse of Medicaid Funds. The Compliance Plan is monitored the Compliance Officer to ensure The Nicholas Center is managing business aligned

with the seven elements of a Compliance Plan identified in Part 521. The Compliance Plan Standards of Conduct, Policies and Procedures are made available to all affected individuals on the agency web site.

a. Annual Review and Recommendation for Revision

Annually, the Compliance Plan will be reviewed in full by the Compliance Officer, the Compliance Committee, and the Board of Directors to ensure for continued effectiveness based on the outcomes of the year prior and to ensure all policies and procedures remain current with Federal and State regulations.

The Annual review will consider to following in determining that the plan is effective:

- The Plan is being implemented as written
- Affected individuals are following the Plan
- The audit and monitoring outcomes show effectiveness of the Plan structure
- Updates required have been identified and completed.

b. Mid-Year Revisions

Creation of new policies and modifications to existing policies will be made during the year based on any new or revised regulations, or critical events that warrant immediate change in agency policy.

- The Compliance Officer will be responsible to identify any new or revised Federal/State regulations, inform the Compliance Committee and the Board and draft updates to the Compliance Plan Policies and Procedures as needed.
- The Compliance Committee and the Board of Directors, based on quarterly compliance audit reports, may recommend changes to policies and procedures to ensure for continued effectiveness of agency systems.

c. Approval and Adoption of Changes

- The Compliance Officer is responsible to review the recommendation for revision, ensure the revisions comply with Part 521, and draft revisions for review by the Compliance Committee and the Board of Directors.
- The Board will make the final decision of adoption of any revisions. The effective date of the revised plan shall be noted on the plan.
- The Compliance Committee will be responsible to determine what training on new procedures is required and will ensure implementation.

Element 2: COMPLIANCE OFFICER AND COMPLIANCE COMMITTEE

1. CORPORATE COMPLIANCE OFFICER– Duties & Responsibilities:

- Coordinate and monitor the Corporate Compliance Program;
- Update the Compliance Plan as changes occur within the Nicholas Center, and/or in the law and regulations or governmental and third party payers.

- Develop, maintain and ensure meaningful implementation of compliance related policies and procedures.
- Establish employee reporting channels, including, but not limited to, a compliance helpline, which employees may use to report problems and concerns without fear of retaliation;
- Implement agency-wide educational training and communication programs to ensure that all employees and independent contractors are educated on the Code of Ethical and Legal Behavior, the Corporate Compliance Program, and other specific issues deemed necessary;
- Monitor the agency-wide training and communication programs for periodic updates;
- Delegate responsibility to conduct appropriate compliance investigations (i.e. legal, human resources, and internal audit) to ensure proper follow-up, resolution and corrective actions;
- Coordinate and conduct inquiries and/or investigations when deemed necessary;
- Establish audit controls and measurements to ensure correct processes are established;
- Maintain a working knowledge of relevant issues, laws, and regulations through periodicals, seminars, training programs, and peer contact;
- Report quarterly to the Compliance Committee, CEO and the Board on the status of the compliance program;
- Respond appropriately if a violation is uncovered, including a direct report to the Board of Directors and authorized enforcement Agencies as appropriate;

2. COMPLIANCE COMMITTEE:

- The Compliance Officer will ensure the Committee meets on a quarterly basis and is meeting its commitments for oversight of the Compliance Plan.
- The Compliance Committee will maintain a Charter to outline the membership and responsibilities of the committee. The Charter will be reviewed and revised as needed and at least annually.
- The Committee will coordinate with the Compliance Officer to ensure all requisite training is completed timely and communication and cooperation of all affected individuals on compliance related issues.
- The Committee will be knowledgeable of all policies and procedure in the Compliance Plan, Federal, State and OPWDD regulations. The Committee will review internal audit findings, investigations and proposed pay backs/self-disclosures.
- The Committee will make recommendations for corrections and improvements to any noted occurrences and patterns of non-compliance, whether identified during routine auditing, or by report by any affected individuals. Recommendations shall include how such corrections and improvements will be implemented.

- Meeting minutes and documentation of corrective actions will be maintained by the Chairperson.
- At least annually the committee will assess the sufficiency of staff and resources allocated to the Compliance Officer to carry out all facets of the Compliance Plan.
- Annually the Committee will review the Compliance Plan and the effectiveness of systems to identify compliance risks, overpayments, and other issues and effective policies and procedures for correcting and reporting such issues.

Element 3: COMPLIANCE PROGRAM TRAINING AND EDUCATION

- The Board of Directors will participate in annual compliance training.
- All employees and volunteers will be provided orientation and annual training on compliance and HIPAA. The initial compliance training will be completed during the first month of employment. As part of orientation, all staff will be provided a copy of the Compliance Plan, know how to access the plan, how to report a compliance concern, and attest to their understanding.
- As applicable, employees will be provided training specific to their job responsibilities and maintaining compliance with Medicaid standards and ethical conduct which includes documentation of services and entering electronic data.
- Additional training will be completed departmentally, as necessary, based on changes in regulation, agency policy and procedures, and based on occurrences noted or reported.

Element 4: LINES OF COMMUNICATION

1. WHISTLEBLOWERS RIGHTS AND PROTECTIONS:

The Whistleblower Policy provides that any employee who in good faith reports a suspected violation of the False Claims Act or a violation of the Employee Code of Conduct, or who cooperates with an investigation of such a report, is protected from being discharged, demoted, suspended, threatened, harassed, or in any other manner discriminated against in the terms and conditions of their employment, as a consequence to their report or participation in the investigation.

It is every employee's responsibility to report good faith concerns about behavior by or within the Nicholas Center that is, or appears to be, illegal, fraudulent, dishonest, unethical or in violation of agency policies and procedures. It is the responsibility of all employees to comply with this Policy and report suspected violations.

In addition, actions which have not been taken and which a person believes are required to be taken to comply with federal, state and local laws and regulations, or any agency policy, are also suspected violations.

No director, officer, employee or volunteer who in good faith reports a suspected violation or who cooperates with an investigation of such a report, shall not suffer intimidation, harassment, discrimination, or other retaliation, or discharge from their position in the agency, because of such a report.

Reports and the identity of reporters of suspected violations will be kept confidential, consistent with the need to conduct a fair and thorough investigation and take necessary action.

Reports of suspected violation can be made verbally or in writing. The report should include reasonable grounds for the concern and any evidence of the violation. Reports may be made anonymously.

You can make reports to your direct supervisor or program director. If you are not comfortable reporting to your supervisor or director, you may report directly to the Corporate Compliance Officer in person or by telephone. You may also make a report anonymously in writing.

Anyone who feels they have been subject to intimidation, harassment or has been the subject of an adverse action relating to the position they hold based on his or her disclosure of alleged or actual conduct may file a written complaint to the Corporate Compliance Officer.

A report that proves to be unsubstantiated and to have been made maliciously or with knowledge that such allegations were false, will result in disciplinary actions for the reporter.

This policy is not a contract of employment, nor does it change the fact that employees of the agency are employees at will.

2. **WHERE TO REPORT/HELPLINE:**

Anyone who suspects a non-compliance issue or unethical behavior is required to report these concerns. Reports may be made to the following:

- Your supervisor
- Human Resource Director
- The Corporate Compliance Officer Brooke Masone, 516 767 7177 ext. 410
- By Mail – **Nicholas Center Compliance Officer: 382 Main Street Port Washington NY 11050**

- On the Helpline voicemail box: **516-767-7177 ext. 444**. This helpline is monitored by the Corporate Compliance Office and is available 24 hours a day, seven days a week.

A message on the helpline or a letter submitted may be made anonymously. The Nicholas Center encourages and prefers that reporters identify themselves for clarification and investigation purposes. If a caller identifies themselves every effort will be made to keep their identity confidential.

All reports are logged and reviewed confidentially by the Corporate Compliance Officer and an investigation and remediation are initiated, if appropriate.

Element 5: DISCIPLINARY STANDARDS

All staff will be held responsible for the code of conduct/ethics and following prescribed procedures for documenting billable services. Furthermore, staff are encouraged to ask questions if there is uncertainty and are provided regular supervision and coaching. Any employee who purposely performs in a manner that is unethical, whether with malicious intent or negligence of attention to these responsibilities

Disciplinary action will be determined fairly and consistently. Prior to implementation of disciplinary action, the following will be determined,

- whether the employee had been provided the level of training and education necessary for the employee to have performed properly
- it will be determined whether the employee was acting with the intention to do right, or was their behavior reckless and intentional,
- is the disciplinary action taken similar in scope to previous action taken for infractions of similar nature.

Disciplinary actions, including termination, may be taken for the following:

- Violating the Nicholas Center, Ltd. Employee Policies and Code of Conduct.
- Failing to report a violation of the Employee Code of Conduct or to cooperate in an investigation.
- Retaliation against an individual for reporting a violation or possible violation.
- Deliberately making a false report of a violation of the Employee Code of Conduct.

Documentation of disciplinary action will be maintained in the employees personnel file and reviewed as part of the investigative report.

Element 6: AUDITING AND MONITORING

1. FALSE CLAIMS ACT:

Nicholas Center is committed to prompt, complete and accurate billing of all services provided to Individuals. Nicholas Center and its' employees, contractors and agents shall not make or submit any false or misleading statements or entries on any claim forms.

The False Claims Act prohibits fraudulent billing of services for payment through the State or Federal Medicaid system. Examples of false claims, or fraudulent billing practices include:

- knowingly presenting (or causing to be presented) a false or fraudulent claim for payment.
- knowingly making, using, or causing to be made or used, a false record or statement material to a false or fraudulent claim.
- failures to report and return identified overpayments.
- knowingly making, using, or causing to be made or used, a false record or statement to conceal, avoid, or decrease an obligation to pay money or transmit property to the Federal Government.
- conspiring with others to commit a violation of the False Claims Act.

All employees, interns, volunteers, and Board Members who have reason to believe that someone is engaging in false billing practices or false documentation of services or has engaged in other misconduct (fraudulent, illegal, dishonest, or otherwise inappropriate action or omission of action) are expected and encouraged to report the practice to our Corporate Compliance Officer.

2. AUDITING PROCEDURES

Weekly

- Weekly, and prior to weekly claims submission, the billing specialist reviews all billing data in the electronic service notes submitted by programs. The billing specialist compares the data entered to the daily schedule to verify the attendance, units and services that will be submitted for reimbursement.
- If the electronic service note is inconsistent with the daily schedule, it will be forwarded back to the respective Supervisor through the electronic application notification system to make adjustments.

Monthly

- The Director of Program Services will review all monthly notes to ensure completion by the last day of the following month. Program Directors will be made aware of any monthly notes that do not comply with this requirement

Quarterly

- The Compliance Officer will create and implement standardized internal audit tools to be used quarterly. Such tools will monitor for specific incidents of overbilling, documentation requirements not being met, fraud, waste and abuse, as well as risk areas of non-compliance.

- Quarterly findings will be reviewed by the Compliance Committee for recommendations for improvement and be reported to the Board.
- Identified risk areas will continue to be closely monitored in future quarters to detect whether supports implemented by the Compliance Committee are effectively controlling and decreasing errors and risk.

Annually

- The Compliance Risk Assessment and Annual work plan will be completed, using data collected through the weekly, monthly and quarterly audit and monitoring data.
- The Corporate Compliance Officer will ensure that any elements that are not meeting the regulatory requirement has formal corrective action implemented in the annual work plan to bring requirements back into compliance.

3. MONITORING SYSTEMS

a. Annual Conflict of Interest and Disclosure by Management and Board Members:

On an annual basis, Nicholas Center distributes the Nicholas Center Conflict of Interest Policy and Disclosure Statement. Every Board Member and executive-level employee must complete the Annual Disclosure Statement, which is then reviewed by the Board of Directors. Any and all real or potential conflicts of interest must be disclosed and reported to the Board of Directors.

b. Clinical Licensure:

For positions requiring a specific degree, license or certification, the Director of Human Resources will verify credentials upon hire or entering into a contractual relationship for services, and annually thereafter. Documentation of verification will be maintained in the employee/consultant's file.

c. Excluded Providers:

As part of the application process all perspective applicants, contracted consultants (who have access to personal health information) and the Board of Directors will be run through the Medicaid Excluded Providers web-based databases to ensure they are eligible to provide Medicaid reimbursed services. Clearance on all databases is a condition for employment.

On a monthly basis, the Compliance Officer will ensure all employees, consultants, and Board of Directors run through these databases. Being found to be ineligible will require separation from the organization.

www.exclusions.oig.hhs.gov

www.omig.ny.gov

d. Exit Interviews:

Human Resources personnel conduct exit interviews when possible, with employees who leave Nicholas Center employment. The purpose of these interviews is to get feedback on the employee’s experience at Nicholas Center and to look for ways to improve work life in the future. As part of the exit interview process, we ask employees if they have witnessed or know about any compliance issues. Any Compliance reports shall be reported to the Compliance Officer at the time of report. On an annual basis, as part of the annual risk analysis, the Compliance Officer will review trends in exit interview responses, to determine if corrective measures are warranted.

e. Record Retention and Destruction Oversight:

The Compliance Officer will monitor the Record Retention and Destruction process annually, ensuring all records that are no longer in the active phase are properly labeled including the date in which the records are eligible to be permanently disposed and destroyed. Annually, consistent with the record retention and destruction policy, records that meet the requirements for destruction will be destroyed consistent with HIPAA, and documentation of destruction is maintained in permanent Compliance records.

Element 7: RESPONDING TO COMPLIANCE ISSUES

1. INVESTIGATIONS AND CORRECTIVE ACTION:

Nicholas Center is committed to investigate all violations reported, and detected through internal audit processes, thoroughly and confidentially. The Corporate Compliance Officer will coordinate all aspects of the investigation.

All employees are expected to cooperate to the fullest extent possible with any and all investigations. Refusal to cooperate may result in suspension and/or disciplinary action.

Following the initial review of circumstances and scope of an incident, all documents to be reviewed and perspective witnesses will be identified.

The investigator will ensure written statements are taken from witnesses and all evidence is collected and maintained in the investigative file. A full report of the investigative process, findings, and determination will be completed.

Investigative findings, determination and corrective action plans will be reported to the Nicholas Center Executive Director, and the affected department head. It is the responsibility of the department head to ensure corrective actions are carried out and report back to the Corporate Compliance Officer within outlined time frame when the corrective action plan is completed.

The Executive Director will review the completed investigative report with the Board of Directors. Any additional recommendations will be forwarded to the Corporate Compliance Officer who will ensure implementation.

2. SELF-DISCLOSURE:

The Nicholas Center will self-disclose to the New York Office of the Medicaid Inspector General (OMIG) findings of inaccurate or fraudulent billing, upcoming or fiscal improprieties in accordance with OMIG guidelines.

A self-disclosure to OMIG includes identification of the full amount of the overpayment and an investigative report. The investigation and resulting report shall identify how the scope of the sample reviewed for repayment was determined, how the improper practice developed, how it was detected, and how to avoid such error in the future and corrective actions to be implemented.