

STEUBEN COUNTY, NEW YORK



CORPORATE COMPLIANCE PLAN

Approvals

By: Corporate Compliance Committee
Human Services, Health, and Education Committee
Steuben County Legislature

Date: 09/13/11
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By: County Legislature Resolution No# 138-11

A. EXECUTIVE SUMMARY

Compliance activities constitute major initiatives for health care providers at all levels of government. Many County programs across the State have been the focus of compliance investigations, specifically services such as Home Health Care, Health Care Facilities/Nursing Homes, and Early Intervention.

While staff members in these service areas take part in compliance activities on a daily basis, each and every Steuben County employee and vendor has a role in ensuring the integrity of our compliance system. As a result, it is the responsibility of all Steuben County employees and vendors to maintain a working knowledge of our Compliance Program, the general procedures prescribed by the Corporate Compliance Plan, and how to recognize and report a suspected violation.

At a minimum, employees and vendors must be aware of the following steps taken by Steuben County to institute a comprehensive Compliance Program:

- Steuben County has developed and adopted a Corporate Compliance Plan with policies and procedures based on Federal and State requirements, specifically related to Medicare, Medicaid, and the Health Insurance Portability and Accountability Act of 1996 (HIPAA);
- Christopher Brewer, Deputy County Manager, has been designated as Compliance Officer. This individual has direct access to the County Manager and Legislators. Contact him at (607) 664-2244 with any questions or to report a suspected violation of the Compliance Program. To anonymously report a suspected violation, contact the Corporate Compliance Hotline at (607) 664-2560;
- A Corporate Compliance Committee has been formed to ensure consistent communication between County departments and the Compliance Officer. The Committee meets on an as-needed basis, but a minimum of quarterly;
- The Corporate Compliance Committee has developed staff education and training, to be provided during the mandatory annual training offered each fall. All employees will receive "Executive Summary" training of Corporate Compliance, while staff in health care-related departments will receive specialized training throughout the year;
- The Corporate Compliance Committee has implemented a system to routinely identify compliance risk areas by reviewing the Office of Inspector General (OIG) and NYS Office of the Medicaid Inspector General (OMIG) work plans. Departments are responsible for auditing program specific risk areas;
- The Corporate Compliance Committee has instituted both whistleblower protections to ensure non-intimidation and non-retaliation for good faith compliance program participation, along with disciplinary policies and procedures to hold violators accountable.

B. PREAMBLE

Statement: The US Department of Health and Human Services, Office of the Inspector General (OIG) has mandated compliance with health care regulations by the health care industry to insure that claims submitted to Federal Health Care Programs are true and accurate. The New York State Medicaid Office of the Medicaid Inspector General (OMIG) has promulgated rules and regulations in compliance with Federal and State laws to ensure that claims submitted to State Health Care Programs are true and accurate. There are both civil and criminal legal penalties for failure to adhere to a Compliance Plan and for failure to follow the law.

Intent: Steuben County through its Corporate Compliance Committee, and Compliance Officer do by this Compliance Plan require all of Steuben County's Health Care Programs, Health Care Providers, Health Care Contractors, County vendors, County employees and volunteers to ensure that health care claims submitted to Federal and State Health Care reimbursement programs are true and accurate. The methods instituted for such assurances are contained in this document. The penalties for failure to adhere to this compliance plan as well as

penalties for failure to comply with relevant State and federal laws related to all aspects of fraudulent health care practices are referenced herein. The legal protections afforded employees who report health care fraud are referenced in this document as well as the County's own policy protections for employees who report health care fraud.

Purpose: The Steuben County Corporate Compliance Program (CP) is intended to provide reasonable assurance that Steuben County:

- Complies in all material respects with all Federal, State and local laws and regulations that are applicable to its operation;
- Satisfies the conditions of participation in health care programs funded by the State and Federal government and the terms of its other contractual arrangements;
- Detects and deters criminal conduct or other forms of misconduct by officers, employees, medical staff, agents and contractors that might expose Steuben County to significant civil liability;
- Promotes self-auditing and self-policing, and provides for, in appropriate circumstances, voluntary disclosure of violation of laws and regulations;
- Establishes, monitors, and enforces high professional and ethical standards;
- Provides training and education to all employees, management, officers and officials;
- Establishes effective lines of communication to the Compliance Officer.

C. DEFINITIONS

Claim

As used in the New York False Claims Act, "claim" means any request or demand, whether under a contract or otherwise, for money or property which is made to any employee, officer or agent of the state or of a local government, or to any contractor or grantee, or other recipient, if the state or a local government provides any portion of the money or property which is requested or demanded or will reimburse such contractor, grantee or other recipient for any portion of the money or property which is requested or demanded.

False Claim

False claim means any claim, which is either in whole or in part, false or fraudulent.

Federal False Claim Act (FFCA)

The FFCA also known as the Qui Tam Statute, the Informer's Act or the whistleblower law allows a private person (such as a County employee) to sue a person or company who is knowingly or negligently submitting false claims to the federal government including but not limited to health care fraud. Some examples of fraud are submitting bills for services not provided, submitting a false record that does not comply with a contractual requirement, obtaining interim payments throughout the year and then filing a false cost report at the end of the year to avoid making a refund.

Lawsuits under this statute are called qui tam suits. If the qui tam suit is successful, the whistleblower known as a "qui tam relator" will be entitled to 15 - 30 % of the government's total recovery, which includes damages for false bills, tripled, plus civil penalties of from \$5,000 - \$10,000 per claim. To recover, the relator must have complied with complex statutory requirements. Merely providing information to a hotline will not entitle the relator to a recovery under the False Claims Act.

New York State False Claims Act (NYSFCA)

The NYSFCA also referred to as a Qui Tam Statute or whistleblower law allows a private individual (such as a County employee) to sue a person or company (including a fellow employee or employer in their individual capacity), if such person or company knowingly submits a false or fraudulent claim to a state or local government (such as New York State or Steuben County). Such false or fraudulent financial claims include but are not limited to health care fraud in programs such as Medicaid.

Persons who are civilly prosecuted under this law will be liable to the state for a civil penalty, of not less than six thousand dollars and not more than twelve thousand dollars, plus three times the amount of damages which the State sustains because of the act of such person, and liable to the local government for three times the amount of the damages sustained by such local government because of the act of such person.

Lawsuits under this statute are called qui tam suits, and those reporting fraud are called “qui tam relators”. A relator in a successful lawsuit may recover between 15%-30% of the proceeds in the action or settlement of the action, depending who prosecutes the action.

Overpayment

Payment of an amount greater than required or permitted by law, regulation, or agreement.

“Qui Tam”

The term is a Latin abbreviation for an individual who brings a lawsuit on behalf of the government as well as himself.

Qui Tam Relator

A qui tam relator is an informant or whistleblower who relates insider information of wrongdoing sufficient to bring a lawsuit on behalf of the aggrieved government under one of the qui tam statutes that include the federal False Claims Act, and the New York State False Claims Act.

Qui Tam Statutory Protections and Remedies

Both the Federal False Claims Act and New York State False Claims Act protect qui tam plaintiffs who are demoted, suspended, threatened, harassed or in any other manner discriminated against in the terms and conditions of employment by his/ her employer because of lawful acts done by the employee on behalf of the employer or on behalf of the government in furtherance of an investigation for, initiation of, or testimony for, or assistance in an action to be filed in court under the qui tam statute. This provision allows reinstatement, double back pay, interest on the back pay, plus special damages including litigation costs and reasonable attorney fees.

Whistleblower

An informant within an organization who discloses insider information of wrongdoing.

1. “Qui tam relator” is one type of Whistleblower under the Federal and State False Claims Acts.
2. Under the New York Civil Service Law a whistleblower is a public employee who discloses to a public employer or other government body information (a) regarding a violation of a law, rule or regulation which violation presents a substantial and specific danger to the public health or safety; or (b) which an employee believes constitutes an improper governmental action. “Improper governmental action” shall mean any action by a public employee or public employer which is undertaken in the performance of such person’s official duties, and which is in violation of any federal, state or local law or rule or regulation.
3. Under New York Labor Law Section (section 740) a whistleblower is a private employee who does any of the following: (a) 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 a law, rule or regulation which violation creates and presents a substantial and specific danger to public health or safety, or which constitutes health care fraud; (b) provides information to, or testifies in an investigation, hearing or inquiry into a violation of a law, rule or regulation by such employer; or (c) objects to or refuses to participate in any such activity, policy or practice in violation of a law, rule or regulation.

Whistleblower Laws

In general Whistleblower laws are laws that describe (1) what types of activities constitute wrongdoing and should be reported; (2) what types of actions an informant may take to report wrongdoing, and (3) what protections are provided to the whistleblower under the relevant law. The following Whistleblower laws apply to Steuben County: the Federal False Claims Act, the New York State False Claims Act, the New York State Labor Law, and the New York State Civil Service Law.

Whistleblower Statutory Protections and Remedies

For protections and remedies under a False Claim Act, see “Qui Tam Statutory Protections and Remedies” above.

Both the *New York State Labor Law* and the *New York State Civil Service Law* provide protections for whistleblowers described below.

The New York Labor Law § 740 prohibits private employers from taking any retaliatory personnel action including discharge, suspension or demotion or other adverse action in the conditions or terms of employment against employees for disclosing or threatening to disclose information to a supervisor or to a public body which information is described in the statute and described above under “Whistleblower” provisions of the New York State Labor Law.

A private employee who has been the subject of a retaliatory personnel action in violation of §740 may bring a civil action in court and the court may order reinstatement of the employee to the same or an equivalent position, the reinstatement of full fringe benefits and seniority rights and compensation for lost wages, benefits and other remuneration including but not limited to court costs and reasonable attorney fees.

However, if an employee institutes an action under §740, such actions shall be deemed a waiver of the rights and remedies available under any other contract, collective bargaining agreement, law, rule, or regulation or under the common law.

Under the *New York State Civil Service Law* a public employer shall not dismiss or take other disciplinary or adverse personnel action against a public employee regarding the employee’s employment because the employee discloses to a government body certain information described in the statute and described above under “Whistleblower” provisions of the NY Civil Service Law. In order for the protections to apply under this law, employees must first make a good faith effort to disclose said information to the supervisor or his/her designee unless there is imminent and serious danger to the public’s health or safety.

Where an employee is subject to dismissal or other disciplinary action under a final and binding arbitration provision or other disciplinary procedure contained in a collectively negotiated agreement, and the employee reasonably believes that such adverse action would not have been taken but for his/ her whistleblower conduct, he or she may assert such a defense. If the arbitrator finds that the adverse personnel action is based solely on a violation by the employer of the whistleblower provisions of the Civil Service Law then the arbitrator or hearing officer shall dismiss the adverse action, reinstate the employee with back pay and take other action permitted under any collectively negotiated agreement.

Where an employee who has been the subject of a retaliatory personnel action is not subject to a final and binding arbitration decision, the employee may bring a civil action in court and the court may order reinstatement of the employee to the same or an equivalent position, the reinstatement of full fringe benefits and seniority rights and compensation for lost wages, benefits and other remuneration including but not limited to court costs and reasonable attorney fees.

D. HEALTH INSURANCE PORTABILITY AND ACCOUNTABILITY ACT OF 1996 (HIPAA)

The Health Insurance Portability and Accountability Act, more commonly known as the Kennedy-Kassebaum Bill or HIPAA, included what is widely considered the most comprehensive set of anti-fraud provisions to affect the health care field since 1986 amendments to the Civil false Claims Act. The Act’s passage clearly indicates that the environment has changed, with the government taking a more proactive role with respect to health care payment matters.

As part of the overall Compliance Program, each department within Steuben County will specifically adhere to HIPAA rules and regulations when dealing with Protected Health Information (PHI).

For further information and detailed policies and procedures, refer to the Steuben County Master HIPAA Compliance Policy on Uses and Disclosures of Protected Health Information (Part XXII, Section E of the Steuben County Administrative Code).

E. CODE OF CONDUCT

The Steuben County Corporate Compliance Program encourages the highest level of ethical behavior by its employees, contractors, and agents. This is rooted in our conviction that the common good of society as well as the agency depends on the honesty, integrity, and responsibility of each employee. We therefore seek to inform all staff of our expectations and the standards of conduct that are important for all of us to follow.

Individual Responsibility: This code of conduct sets forth our standards for compliance with laws and regulations; however, the issues addressed are not exhaustive. You are responsible for conducting yourself ethically and in compliance at all times and should avoid even the appearance of impropriety.

Complete and Accurate Records: It is Steuben County's policy to maintain and submit accurate and honest records relating to all billing and/or reporting to our payers, including Medicare and Medicaid, and to comply with all laws and regulations relating to Medicare and Medicaid funding and all other State and Federal funding. All employees who document any service shall do so honestly, describing the services actually rendered.

Billing: Claims are only submitted for services that Steuben County has reason to believe are reasonable and medically necessary. Documentation to support billed claims shall be maintained for a minimum of seven years.

Financial Reports: Expense reports, reimbursement requests, financial statements and cost reports shall be completed thoroughly and accurately. No individual shall willfully or purposely misrepresent any financial reports or reimbursement requests.

Consumer Confidentiality: You are expected to maintain the confidentiality of consumer and other agency related confidential information. To that end, confidential information should be furnished only with a written, informed consent and approval of the consumer or authorized representative.

Conflict of Interest: All persons associated with Steuben County shall disclose any potential conflict of interest and refrain from any activity that represents an unfair business advantage by virtue of their business interest or employment.

Business Courtesies and Gifts: You may not accept money or gifts from any consumer (or consumer's family member), competitor, customer, or anyone doing business with, or desiring to do business with, intended to persuade business decisions, solicit an unfair advantage, or reward special attention or service.

Medicare/Medicaid Anti-Kickback: No individual associated with the organization shall engage in any unlawful acts of accepting payments or benefits in return for generating Medicare/Medicaid business activity.

Payment for Referrals: You may not give money, gifts, or free services to any person or entity providing referrals of consumers to Steuben County

Grants: All individuals associated with Grant funding shall conduct their activity in accordance with the Grant guidelines. All Grant funds shall be used only in accordance with the grant approval with documentation to support all grant activity.

Competition (Antitrust): Steuben County shall not participate in any venture with other organization(s) that provides or leverages information/or services intended to eliminate fair competition or to engage in price fixing in direct violation of antitrust laws.

Contributions: No person associated with the organization shall use force or coercion over another person to solicit contributions.

Assets: All assets of Steuben County shall be used solely for the benefit and purpose of the organization.

Tax Exemption: Steuben County shall not engage in any prohibited activity that violates or could result in a challenge of its tax exempt status.

F. CORPORATE COMPLIANCE POLICY

Policy

It is the policy of Steuben County to comply with all applicable federal, state and local laws and regulations. It is also our policy to adhere to the Operating Principles adopted by the Steuben County Legislature, the County Manager, and the Corporate Compliance Committee.

Commitment

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.

No employee, vendor, or contractor of Steuben County has any authority to act contrary to the provisions of these laws or standards of conduct or to authorize, direct or condone violations by any other employee, vendor, or contractor.

Steuben County is committed to maintaining and measuring the effectiveness of our Compliance policies and standards through monitoring and auditing systems reasonably designed to detect noncompliance by its employees and agents. We shall require the performance of regular, periodic compliance audits by internal and/or external auditors who have expertise in federal and state health care statutes, regulations, and health care program requirements.

Responsibility

All employees, contracted practitioners, and vendors shall acknowledge that it is their responsibility to report any suspected instances of suspected or known noncompliance to their immediate supervisor, the County Manager, or the Compliance Officer. Reports may be made without fear of retaliation, retribution, or breach of confidentiality. Failure to report known noncompliance or making false reports will be grounds for disciplinary action, including termination.

Policies and Procedures

Steuben County will communicate its compliance standards and policies through required training initiatives to all employees, contracted practitioners, and vendors. We are committed to these efforts through distribution and or reference to the location of this Compliance Policy.

Enforcement

This Compliance Policy will be consistently enforced through appropriate disciplinary mechanisms, including, if appropriate, discipline of individuals responsible for failure to detect noncompliance.

Steuben County Response to Non-Compliance

Noncompliance shall be reported to the Corporate Compliance Committee. Detected noncompliance, through any mechanism, such as compliance auditing procedures or confidential reporting, will be responded to in an expedient manner. We are dedicated to the resolution of such matters and will take all reasonable steps to prevent further similar violations, including any necessary modifications to the Compliance Plan.

Due Diligence

Steuben County will, at all times, exercise due diligence with regard to background and professional license investigations for all prospective employees, contractors, vendors, and members of the Legislature.

Whistleblower Provisions and Protections

Steuben County will extend to its employees all protections afforded to them under the applicable state and federal Whistleblower laws including the Federal False Claims Act, the New York State False Claims Act and the New York Civil Service Law. Private contractors may find protections under the New York State Labor Law as well as the False Claims Act. For detailed information on Whistleblower Provisions and Protections, refer to pages 19 and 20 of this Plan.

G. SERVICE EXCELLENCE AND OPERATING PRINCIPLES

Service Excellence

Steuben County Government exists to serve the present and future inhabitants of the County. We place our integrity and the excellence of our service above all else. Integrity means that we regard public office and public employment as public trusts, and that we place honesty as a priority. Excellence means consistently providing more than the level of performance that our citizens and customers have a right to expect.

County Operating Principles

To achieve service excellence and further these principles, we will:

- Care about the people, citizens, and customers we serve, about each other, about what we do, and how well we do it;
- Cooperate with the public, with each other, and with all levels of government in order to deliver the best possible service in the most effective and efficient manner;
- Communicate honestly, supportively, and openly throughout the organization to enable a full and complete flow of information necessary to deliver excellent service;
- Create and innovate constantly, bringing all our abilities to bear on the problems facing this county and its citizens;
- Foster a culture supportive of corporate compliance through effective recruitment, selection, and retention of quality staff.

Expectations

We ensure that all aspects of client care and business conduct are performed in compliance with our Service Excellence and Operating Principles including all policies, procedures, professional standards, and applicable governmental laws, rules and regulations. Steuben County expects every person who provides services to our consumers to adhere to the highest ethical standards and to promote ethical behavior. Any whose behavior is found to violate ethical standards will be disciplined appropriately.

Any shortcomings are to be reported to immediate supervisors, the Compliance Officer (CO), the County Manager, or the confidential Compliance Hot Line 607-664-2560 so each situation may be appropriately dealt with. The CO may be reached at (607) 664-2244.

H. COMPLIANCE OFFICER

Compliance Officer

The County Legislature of Steuben County designates the Deputy County Manager as the Compliance Officer (CO). In the absence of the Deputy County Manager, the Deputy Commissioner of Finance will act as the CO. The Compliance Officer position reports directly to the County Manager of Steuben County, and has a direct line of communication to the County Legislature.

Job Duties

The CO is directly obligated to serving the best interests of Steuben County, its clients, and employees. Responsibilities of the CO include:

- Facilitating activities of the Corporate Compliance Committee with respect to Compliance Program issues;
- Ensuring the Compliance Program effectively prevents and/or detects violation of law, regulations, organizational policies or the Code of Conduct;
- Responding to questions, issues, and reports of potential compliance issues;
- Investigating any issue of noncompliance and implementing appropriate corrective action; Reporting details of Compliance Program to the Steuben County Legislature, as required.
- Indirect oversight of the HIPAA privacy elements of Steuben County's Compliance Plan.
- Conference with the HIPAA Privacy Officer on any reported potential or suspected HIPAA breaches.
- Facilitation and ongoing monitoring of the Compliance Program.

In addition to the above duties, the Compliance Officer is responsible for oversight, direction and/or approval of the:

- Development and maintenance of a Compliance Work Plan and annual Report Card of compliance activities;
- Periodic review and update of the Compliance Plan as changes occur within Steuben County and in the law and regulations of governmental and third party payors;
- Development, implementation and revision of compliance policies and procedures (P&P). Ensure the dissemination of P&P to appropriate employees;
- Internal audits for monitoring effectiveness of compliance standards;
- Provision of guidance to management, all County personnel and individual departments regarding all aspects of compliance;
- Ongoing implementation of county-wide training and communication programs to ensure that all employees and affiliated parties are educated in the Compliance Plan, Policies and Procedures, laws, regulations and other issues as are deemed necessary;
- Effective communication of Steuben County's Compliance Plan requirements to independent contractors. Maintenance of an effective, confidential reporting system that encourages internal reporting of suspected non-compliance;
- Timely completion of compliance investigations involving appropriate parties through follow up and resolution.

I. CORPORATE COMPLIANCE COMMITTEE

Reporting Structure and Purpose

The Corporate Compliance Committee shall be comprised of the following individuals or their designee: County Manager, Corporate Compliance Officer, County Legislator, Personnel Officer, County Attorney, Commissioner of Finance, Director of Information Technology, Director of Public Health, Director of Community Services, and Director of Special Children's Services.

The Corporate Compliance Committee reports compliance issues to the CO, ensures the maintenance of the Steuben County Corporate Compliance Plan, and provides for the training for all County employees and Legislature. The Committee also conducts annual audits of Compliance Program activities, and identifies individual Department risk standards including the design and implementation of the Department-specific internal monitoring and auditing of the Compliance Plan. The Department Director of any County health-related department or a designee is a resource of the Corporate Compliance Committee, and advises and assists the CO with implementation of the Compliance Plan.

Function

Additional roles of the Corporate Compliance Committee include:

- Analyzing the environment where Steuben County does business, including legal requirements with which it must comply;
- Reviewing and assessing existing policies and practices that address risk areas for possible incorporation into the Compliance Program;
- Reviewing, revising and creating compliance policies and procedures;

- Developing internal systems and controls to carry out compliance standards and policies;
- Monitoring internal and external audits to identify potential non-compliant issues;
- Reporting, investigating, and documenting compliance issues;
- Assuring the implementation of corrective and preventive action plans;
- Developing a process to solicit, evaluate, and respond to complaints and problems;
- Assisting the CO to create, revise, and implement the annual Compliance Work Plan;
- Providing a detailed summary of compliance activities and findings to the Human Services, Health, and Education Committee in a timely manner thus enabling the Committee to make an executive summary report to the Legislature on an as needed basis.

J. DELEGATION OF SUBSTANTIAL DISCRETIONARY AUTHORITY

Requirement

Any employee or prospective employee who holds, or intends to hold, a position with substantial discretionary authority for Steuben County, is required to disclose any name changes, and any involvement in non-compliant activities including health care related crimes. In addition, Steuben County performs background investigations for new employees as required by law or regulation.

Conflict of Interest

Steuben County elected and appointed officials, employees, and volunteers are governed by New York State law and the Steuben County Ethics and Disclosure Law and certain persons are required to file annual financial disclosure conflict of interest statements.

For further information on requirements and standards, please refer to the Steuben County Ethics and Disclosure Law (Local Law #2 of 2020), located in Part XVI of the Administrative Code.

K. COMPLIANCE TRAINING

Expectations

Annual compliance training is a critical element of the Compliance Program. Every employee and agent is expected to be familiar and knowledgeable about Steuben County's Corporate Compliance Plan ("Plan") and have a solid working knowledge of his/her responsibilities under the Plan. Compliance policies and standards will be communicated to all employees through required participation in training programs, which will be provided in conjunction with the series of mandatory training for all staff members. Employees who fail to attend required compliance training may be subject to disciplinary action.

Training Topics - General

All personnel outside of the health care-related departments (identified below) and members of the Legislature shall participate in training on the topics identified below:

- Federal and State False Claim Act;
- Review of County Corporate Compliance Plan and any changes or updates;
- Legal requirements and authority for compliance program;
- 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 business records;
- Duty to report misconduct and how to report suspected non-compliance;
- Whistleblower provisions and protections.

Training Topics – Health Care Related Departments

Health care-related departments, including Public Health and Community Services, shall receive detailed training on all aspects of compliance including the elements identified above as well as detailed information department-specific risk areas and information on current enforcement activities. The health care-related department Compliance Training (targeted training) will be in addition to the general training offered to all county employees.

Department in-service training on compliance-related matters will be documented and maintained by the department head who will report the status of compliance-related training to the Corporate Compliance Committee on a semi-annual basis. As a routine matter, the County CO will ensure that periodic internal audits of adherence to this standard are completed and reported to the Corporate Compliance Committee.

Orientation

As part of their orientation, each employee and contractor shall receive a written copy of the Compliance Plan, policies and specific standards of conduct that affect their position or information about where and how to find this information on-line.

Attendance

All training relating to the Compliance Plan will be verified by attendance and a signed acknowledgement of the training. Signed acknowledgement will be retained by the department and by the County Personnel Department. Attendance at compliance training sessions is mandatory and failure to attend required compliance training may result in disciplinary action.

All departments must document in-service training at the department level and maintain records of attendance and training material provided. Departments should share summary details with the Corporate Compliance Committee on a semi-annual basis and supply detailed records when asked by the Committee or the Compliance Officer.

L. EFFECTIVE CONFIDENTIAL COMMUNICATION

Expectations

Open lines of communication between the CO and every employee and agent are essential to the success of our Compliance Program. Every employee, agent, and contractor has an obligation to refuse to participate in any wrongful course of action and to report the actions according to the procedure listed below.

Reporting Procedure

If an employee, contractor, or agent witnesses, learns of, or is asked to participate in an activity that could potentially violate or is suspected or known to violate this Compliance Plan or any Steuben County policy, or any law or regulation, he or she must report the request and the activity. Employees, agents, and contractors should endeavor to contact their acting supervisor or department head first. If those persons are not available, or the reporter has reason to believe that the supervisor or department head is a party to the activity, or if the suspected violation presents an immediate or serious danger to the public health or safety, then the employee, agent, or contractor shall contact the CO.

Upon receipt of a question or concern, any supervisor receiving the report shall inform the CO of the issue, investigate the issue and complete the Complaint Tracking Form (attached). Any questions or concerns relating to potential non-compliance by the CO must be reported immediately to the County Manager. The CO may, at any time, contact the County Attorney's office for advice, counsel, assistance, and/or support.

The CO or designee shall record the information necessary to conduct an appropriate investigation of all complaints. The CO or designee shall record the facts of the contact, the nature of the information sought and respond as appropriate. Steuben County shall, as much as is possible, protect the anonymity of the employee or contractor who reports any complaint or question.

The Steuben County CO will accept anonymous reports of suspected or known non-compliance.

Protections

In the event an anonymous report is received, no attempt will be made to identify the reporter. The identity of reporters will be safeguarded to the fullest extent possible and reporters will be protected against retaliation or retribution, or any other form of reprisal. Report of any suspected violation of this plan shall not result in any reprisal as long as the reporter is not a party to any fraudulent or illegal activity. Any individual who threatens reprisal against a person who acts pursuant to his/her responsibilities under the plan is acting against the Steuben County's compliance policy. Any employee who engages in any such act of reprisal or who threatens such act shall be subject to disciplinary action, up to and including termination of employment.

Guidance

Any employee, agent or contractor may seek guidance with respect to the Compliance Plan or the County's Operating Principles at any time by following the reporting mechanisms outlined above. Any employee, agent or contractor who has concerns about activities, information or compliance policies may seek guidance from the CO.

M. ENFORCEMENT OF COMPLIANCE STANDARDS

Background Investigations

Steuben County will conduct a reasonable and prudent background investigation, including a reference check, as part of every employment application as required by law, regulation, or policy. Background checks may include fingerprinting, criminal background investigations, professional license verification, driver's license verification, drug screening, and OIG exclusion verification.

Disciplinary Action - General

Employees who fail to comply with Steuben County's compliance policy and standards, or who have engaged in conduct that has the potential of impairing Steuben County'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. Steuben County Personnel Department shall maintain a record of all disciplinary actions, including those involving the Compliance Plan, and will report violations of the Plan annually to the Corporate Compliance Committee. As stated earlier in this Plan, any action or behavior that is not in conformity with the Compliance Plan's stated or intended standards, guidelines, or procedures, or that is a violation of any federal or state law or regulation, will be deemed Official Misconduct and may result in disciplinary action.

Performance Evaluation - Supervisory

Steuben County's Compliance Program requires that the adherence to the elements of the Compliance Program be a factor in evaluating the performance of all Steuben County employees and contractors. They will be periodically trained in new compliance policies and procedures. In addition, all Health and Medical Service Department Directors and managers will:

- Discuss with all supervised employees the compliance policies and legal requirements applicable to their function;
- Inform all supervised personnel that strict compliance with these policies and requirements is a condition of employment;
- Disclose to all supervised personnel that Steuben County will take disciplinary action up to and including termination for violation of these policies and requirements.

Disciplinary Action - Supervisory

In the event that a report is made to a director, manager, or acting supervisor, and that responsible party fails to act upon the report, the responsible party is subject to discipline.

In situations where reasonable diligence on the part of the director, manager, or acting supervisor would have led to the earlier discovery of any problem or violation and would have provided Steuben County the opportunity to correct them, the responsible party will be subject to discipline.

N. AUDITING AND MONITORING OF COMPLIANCE ACTIVITIES

Internal Audits

Ongoing evaluation is critical in detecting non-compliance and will help ensure the success of Steuben County's Compliance Program. An ongoing auditing and monitoring system, at the direction of the CO, in consultation with the Corporate Compliance Committee, is an integral component of our auditing and monitoring activity. This ongoing evaluation will include, but shall not be limited to the following:

- Assessment of risk levels within County departments;
- Audit of internal controls and review of external audits;
- Periodic checks of employees and contractors against State and Federal exclusions lists;
- Relationships with third-party contractors, specifically those with substantive exposure to government enforcement actions;
- Review of documentation and billing relating to claims made to State, Federal, and private payers for reimbursement, performed internally or by an external consultant as determined by the CO and Corporate Compliance Committee;
- Effectiveness of required Corrective Action Plans in meeting standards;
- Internal audit findings will be reported to the Corporate Compliance Committee quarterly or semi-annually as audits are completed. The Committee will include audit findings in its annual report to the Legislature.

The audits and reviews will examine Steuben County's compliance with specific rules and policies through on-site visits, personnel interviews, general questionnaires, review of contracts, training records, billing and other financial records, and client record documentation reviews.

Plan Integrity

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

- Health care-related Department Heads will notify the CO by telephone immediately, in the event of any non-routine visits, audits, investigations, or surveys by any State or Federal agency or authority.
- A photocopy of Intent to Audit correspondence received by any of Steuben County's health care-related departments from any regulatory agency charged with administering a State or Federal-funded program shall be sent to the CO.
- The CO is responsible for notifying the Corporate Compliance Committee of any applicable changes in laws, regulations, or policies as the information becomes available. The CO is responsible for facilitating the review and modification, or creation of applicable policies and procedures as indicated by changes in laws, regulations or policies, and for providing actual training and/or training curricula on new regulations and laws so as to ensure continuous compliance.

O. DETECTION AND RESPONSE

Violation Detection

If as a result of any audit, report, observation, or by any other means, the CO, County Manager and/or the Corporate Compliance Committee determines that there is any basis to suspect that a violation of the Compliance Plan may have occurred, the matter shall be referred by the CO to the County Attorney, who, with the assistance of the CO, shall conduct a more detailed investigation if warranted. This investigation may include, but is not limited to, the following:

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

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

Reporting

The written legal response will be reviewed with the County Attorney in attendance. Any additional action will be on the advice of counsel.

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

The CO will make periodic reports to the Human Services, Health, and Education Committee of the Legislature.

Rectification

If Steuben County identifies that an overpayment was received from any payer, Steuben County will notify the payor of the overpayment. Every provider has a legal responsibility under Section 6402 to report, refund, and explain overpayments identified within its organization, or identified through the efforts of other persons, within 60 calendar days of identification. Systems shall also be implemented and routinely monitored to prevent such overpayments in the future.

Record Keeping

Regardless of whether a report is made to a governmental agency, the CO shall maintain a record of the investigation, including copies of all pertinent documentation. This record will be considered confidential and privileged and will not be released without the approval of the County Manager or County Attorney.

P. WHISTLEBLOWER PROVISIONS AND PROTECTIONS

Whistleblower Provisions and Protections

Steuben County will extend to its employees all protections afforded to them under the applicable State and Federal Whistleblower laws including the Federal False Claims Act, the New York State False Claims Act and the New York Civil Service Law. Private contractors may find protections under the New York State Labor Law as well as the False Claims Acts.

New York Civil Service Law

It is the County's intent to encourage honesty in the conduct of business. Therefore, the County relies on its employees, contractors and agents to guard against fraud, by confidently reporting all instances of fraud and suspected fraudulent activities to the employer. In the first instance, reports must be made to the reporter's Supervisor to take corrective action, or if unavailable, or involved, the report should be made to the Department Director, the Compliance Officer, or the County Manager.

The New York State Civil Service Law prohibits the County from dismissing or taking other disciplinary or other adverse personnel action against a public employee who reports fraud, wrongdoing or violations of the law, to Steuben County or to another government body. These protections apply to disciplinary proceedings, arbitration and collective bargaining agreements where the adverse action taken by the employer is based solely on retaliation for whistleblower conduct.

Where the employee who has been the subject of a retaliatory personnel action is not subject to a final and binding arbitration decision, the employee may bring a civil action in court and the court may order reinstatement of the

employee to the same or an equivalent position, the reinstatement of full fringe benefits and seniority rights and compensation for lost wages, benefits and other remuneration including court costs and attorney fees.

State and Federal False Claims Acts

Where an employee reports false, fraudulent or suspected fraudulent acts in regard to financial transactions including claims, documents or contracts for money, goods or services related to Federally or State funded financing, and where as a result of such report, said employee suffers dismissal, disciplinary, or other adverse personnel action, the Federal or State False Claims Acts may offer remedies.

Under the Federal False Claims Act any person may bring a qui tam civil action for a violation of the Federal False Claims Act on behalf of the federal government. Furthermore, an employee may bring a qui tam lawsuit in U. S. District Court if the employee has been discharged, demoted, suspended, threatened, harassed, or in any other manner discriminated against in the terms and conditions of employment by his/ employer because of lawful acts done by the employee in reporting a false claim to the employer or to a government body.

To obtain relief under the Federal False Claim Act the whistleblower must file a lawsuit called a “qui tam” suit in Federal District Court. If the qui tam suit is successful the whistleblower, known as a “qui tam relator” will be entitled to 15 - 30 % of the government’s total recovery, which includes damages for false bills, tripled, plus civil penalties of from \$5,000 - \$10,000 per claim. For employees who have been the subject of an adverse personnel action, other relief available through successful litigation includes: reinstatement with the same seniority status, two times the amount of back pay, interest on the back pay and compensation for any special damages sustained including court costs and attorney fees.

To recover, the relator must have complied with complex statutory requirements. Merely providing information to a hotline will not entitle the relator to a recovery under the False Claims Act.

New York State False Claims Act (NYSFCA)

The NYSFCA also referred to as a Qui Tam Statute or whistleblower law allows a private individual (such as a County employee) to sue a person or company (including a fellow employee or employer in their individual capacity), if such person or company knowingly submits a false or fraudulent claim to a state or local government (such as New York State or Steuben County). Such false or fraudulent financial claims include but are not limited to health care fraud in programs such as Medicaid.

Lawsuits under this statute are called qui tam suits, and those reporting fraud are called “qui tam relators”. A relator in a successful lawsuit may recover between 15%-30% of the proceeds in the action or settlement of the action, depending who prosecutes the action. Employees who have been the subject of a retaliatory personnel action may also be entitled to reinstatement to their position, reinstatement of full fringe benefits and seniority rights, payment of 2 times back pay, plus interest and compensation for any special damages sustained including litigation costs and attorney fees.

STEUBEN COUNTY CORPORATE COMPLIANCE PLAN COMPLAINT TRACKING FORM

ANONYMOUS
(Skip Section 1)

YES NO

CONFIDENTIAL

YES NO

SECTION 1: COMPLAINANT INFORMATION

NAME	
DEPARTMENT	
PHONE NUMBER	
EMAIL	

SECTION 2: SUPERVISOR INFORMATION

NAME	
PHONE NUMBER	
EMAIL	

SECTION 3: INCIDENT DETAILS

DATE(S)	
TIME(S)	
LOCATION	

DESCRIPTION/RESOLUTION

FOR OFFICIAL USE ONLY

DATE RECEIVED		TIME RECEIVED	
RECEIVED BY			