



COMPLIANCE PROGRAM

POLICY AND PROCEDURE MANUAL

Ruth Donk, Compliance Officer

Telephone: (315) 462-9466

Compliance Hotline: 1-855-935-2272

Email: ruth.donk@flacra.org

Finger Lakes Area Counseling & Recovery Agency

28 East Main Street

Clifton Springs, New York 14432

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COMPLIANCE PROGRAM POLICY AND PROCEDURE MANUAL

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Standards of Conduct

PURPOSE

Finger Lakes Area Counseling and Recovery, Inc. (“FLACRA”) intends to comply with all Federal and State laws, regulations, and standards that apply to its operations, including the requirement to maintain written policies, procedures, and Standards of Conduct applicable to its Compliance Program.¹

FLACRA’s Standards of Conduct set forth the basic principles that guide FLACRA’s decisions and actions. The Standards of Conduct are not intended to address every potential compliance issue that may arise in the course of FLACRA’s business. All employees, contractors, and Board of Directors (“Board”) members are expected to familiarize themselves with the Standards of Conduct and comply with the Standards in carrying out their duties.

APPLICABILITY

This Policy applies to all employees, Board members, and contractors of FLACRA.²

POLICY

FLACRA shall have written Standards of Conduct which shall be available, accessible, and applicable to all employees, Board members, and contractors. All employees, contractors, and

¹ FLACRA’s Compliance Program is FLACRA’s implementation of its Compliance Plan and includes all of FLACRA’s compliance activities. FLACRA’s Compliance Plan is the document that provides an overview of FLACRA’s Compliance Program.

² “Employees, Board members, and contractors” includes FLACRA’s employees, President & Chief Executive Officer (“CEO”), senior administrators, managers, volunteers, interns, contractors, agents, subcontractors, independent contractors, corporate officers, and Board members who are affected by FLACRA’s Compliance Risk Areas. “Compliance Risk Areas” are those areas of operation affected by FLACRA’s Compliance Program, as set forth in Section XIII of FLACRA’s Compliance Plan. For purposes of FLACRA’s Compliance Program, “contractors” includes contractors, agents, subcontractors, and independent contractors who are affected by FLACRA’s Compliance Risk Areas. Contractors are required to comply with FLACRA’s Compliance Program to the extent that the contractor is affected by FLACRA’s Compliance Risk Areas, and only within the scope of the contractor’s contracted authority and affected Compliance Risk Areas.

Board members are expected to familiarize themselves with the Standards of Conduct and comply with the Standards in carrying out their duties.

STANDARDS OF CONDUCT

FLACRA recognizes that operating in an ethical and legal manner is not only an obligation of FLACRA but is an obligation of each individual providing services on FLACRA's behalf. The following responsibilities apply to employees, Board members, and contractors respectively.

1. Know and Comply with Applicable Laws.

All employees, Board members, and contractors must be aware of and comply with all laws and regulations applicable to their functions. Employees, Board members, and contractors are obligated to know the following information, to the extent it is applicable to their daily responsibilities and/or the services provided to FLACRA:

- a. Medicaid, Medicare, and other payor and service delivery requirements;
- b. The prohibitions against fraud, waste, abuse, and improper or unethical conduct;
- c. FLACRA's Compliance Risk Areas, as defined in Section XIII of FLACRA's Compliance Plan; and
- d. FLACRA's Compliance Plan and Compliance Program, including applicable policies and procedures, and these Standards of Conduct.

Employees, Board members, and contractors are also required to comply with FLACRA's ***Exclusion Screening Policy***, ***Vendor Relations Policy***, and ***Fraud Prevention Policy***. Employees, Board members, and contractors are obligated to attend initial, annual, and other periodic compliance training and education, and to review and certify adherence to the Compliance Plan and Standards of Conduct. See ***Compliance Training Policy***.

2. Duty to Report.

Employees, Board members, and contractors are obligated to report instances of actual or possible fraud, waste, abuse, other improper or unethical conduct, violations of Federal or State laws, rules, regulations, policies, and standards, and FLACRA's Compliance Plan, Compliance Program policies and procedures, and Standards of Conduct (the "Compliance Standards").

Employees, Board members, and contractors must report actual or suspected violations of the Compliance Standards to one (1) of the following.

- a. FLACRA's Compliance Hotline at 1-855-935-2272 (anonymously or otherwise);
- b. FLACRA's Quality Assurance Complaint Form, [FLACRA Concern Form 2023](#) (anonymously or otherwise);
- c. FLACRA's Compliance Officer, Ruth Donk, by telephone (315-462-9466) or email (ruth.donk@flacra.org);
- d. FLACRA's Compliance Officer, Ruth Donk, in writing by mail to Attn: Compliance Officer, Finger Lakes Counseling and Recovery Agency, Inc., 28 East Main Street, Clifton Springs, New York 14432 (anonymously or otherwise);
- e. A member of FLACRA's Compliance Committee;
- f. A FLACRA supervisor; or
- g. FLACRA's President & CEO.

Employees, Board members, and contractors are encouraged to first report their concerns directly to FLACRA to allow FLACRA the opportunity to quickly address potential problems. Employees, Board members, and contractors can find more information on their duty to report in FLACRA's ***Duty to Report Policy*** and ***Fraud Prevention Policy***.

3. Duty to Respond and Cooperate.

Employees, Board members, and contractors are obligated to respond appropriately to reports of actual or possible violations of FLACRA's Compliance Standards that are reported to them by other employees, Board members, and contractors. Responding to these reports should include following the procedure set forth in FLACRA's ***Compliance Investigations Policy***. Board members are also responsible for ensuring that FLACRA follows the procedures set forth in the ***Compliance Investigations Policy***. Employees, Board members, and contractors are also required to cooperate in internal and external audits and investigations by duly authorized internal or external auditors or investigators regarding actual or potential violations of FLACRA's Compliance Standards.

4. Promote Organizational Compliance.

Employees, Board members, and contractors shall promote and demonstrate their commitment to compliance with Medicaid, Medicare, and other payor and service delivery requirements, and the prohibitions against fraud, waste, and abuse and other improper or unethical conduct. Employees shall also cooperate with and assist the Compliance Officer in the

performance of their responsibilities, and Board members shall receive quarterly updates and reports from the Compliance Officer on compliance-related initiatives and activities.

5. Conduct Affairs in Accordance With High Ethical Standards.

All employees, Board members, and contractors shall conduct themselves in accordance with the high ethical standards of the community and their respective professions.

6. Conflicts of Interest.

All employees, Board members, and contractors must faithfully conduct their duties solely for the purpose, benefit, and interest of FLACRA and those individuals it serves. All employees, Board members, and contractors have a duty to avoid conflicts with the interests of FLACRA and may not use their positions and affiliations with FLACRA for personal benefit. Employees, Board members, and contractors must avoid actual conflicts of interest, as well as the appearance of conflicts of interest.

7. Provide High Quality of Care.

All employees and contractors are expected to provide high quality services and Board members shall support this standard of care. The care provided must be reasonable and necessary to the care of each individual and must be provided by properly qualified individuals.

8. Have Proper Regard for Safety.

FLACRA shall provide a workplace that conforms to applicable laws and regulations regarding occupational health and safety. FLACRA is committed to proper maintenance of the earth's environment; therefore, all medical waste, hazardous waste and other products shall be used and disposed of in accordance with all applicable environmental laws and regulations.

9. Provide Equal Opportunity For All Recipients.

FLACRA is committed to providing services for persons, without regard to age, creed, disability, religion, gender identity or expression, familial status, marital status, military status, national origin, race, color, sex, sexual orientation, human research subject, or source of payment. All employees, Board members, and contractors must treat all individuals receiving services with respect and dignity. Discrimination in any form will not be tolerated.

10. Confidentiality.

Employees, Board members, and contractors have access to a variety of sensitive and proprietary information of FLACRA, the confidentiality of which must be protected. All

employees, Board members, and contractors must ensure that confidential and proprietary information is properly maintained in accordance with laws, regulations, policies, and procedures, and that sensitive and proprietary information is not disclosed without proper authorization or a legal basis.

11. Integrity with Payor Sources.

Employees and contractors shall ensure that all requests for payment for services are reasonable, necessary, and appropriate, are issued by properly qualified persons, and are billed in the correct amount with appropriate supporting documentation.

12. Honesty and Integrity.

Employees, Board members, and contractors must be honest and truthful in all of their dealings. They must avoid doing anything that is, or might be, against the law.

All of FLACRA's business practices must be conducted with honesty and integrity, and in a manner that promotes a positive and professional reputation with clients, payors, vendors, regulatory agencies, and other providers. All employees, Board members, and contractors, as applicable, must:

- a. Adhere to proper business practices and federal and state fraud, waste, abuse, and referral prohibitions in dealing with vendors and referral sources;
- b. Conduct business transactions free from offers or solicitation of gifts, favors, or other improper inducements;
- c. Conform to all applicable antitrust laws and regulations, and ensure that FLACRA does not violate laws and regulations with respect to pricing or other sale terms or conditions, improper sharing of competitive information, the allocation of territories, or the impermissible exclusion of other from economic activities;
- d. Maintain and protect FLACRA's property and assets, including intellectual property and proprietary information, controlled substances and pharmaceuticals, equipment and supplies, and funds, and refrain from converting FLACRA assets to personal use;
- e. Maintain the confidentiality of proprietary information belonging to other persons or entities doing business with FLACRA; and

- f. Prepare accurate financial reports, accounting records, research reports, expense accounts, time sheets, and other documents so that they completely and accurately represent the relevant facts and true nature of all FLACRA business transactions.

Additional information on these business practices can be found in FLACRA's [Finance Policy and Procedure Manual](#).

13. Dignity and Respect.

Employees, Board members, and contractors must respect and value each other, the diversity of FLACRA's work force, and the individuals FLACRA serves.



Compliance Officer and Compliance Committee Responsibilities

PURPOSE

Finger Lakes Area Counseling and Recovery Agency, Inc. (“FLACRA”) has a designated a Compliance Officer, who is responsible for overseeing the implementation of FLACRA’s Compliance Plan and for the day-to-day operation of FLACRA’s Compliance Program.³ FLACRA has also established a Compliance Committee which is responsible for coordinating with the Compliance Officer to ensure that FLACRA is conducting its business in an ethical and responsible manner, consistent with its Compliance Program. The purpose of this Policy is to outline the duties and responsibilities of FLACRA’s Compliance Officer and Compliance Committee.

APPLICABILITY

This Policy applies to all employees, Board of Directors (“Board”) members, and contractors of FLACRA.⁴

POLICY

FLACRA shall have a Compliance Officer who is responsible for overseeing the implementation of FLACRA’s Compliance Plan and for the day-to-day operation of its Compliance Program. FLACRA shall also have a Compliance Committee which is responsible for coordinating with the

³ FLACRA’s Compliance Program is FLACRA’s implementation of its Compliance Plan and includes all of FLACRA’s compliance activities. FLACRA’s Compliance Plan is the document that provides an overview of FLACRA’s Compliance Program.

⁴ “Employees, Board members, and contractors” includes FLACRA’s employees, President & Chief Executive Officer (“CEO”), senior administrators, managers, volunteers, interns, contractors, agents, subcontractors, independent contractors, corporate officers, and Board members who are affected by FLACRA’s Compliance Risk Areas. “Compliance Risk Areas” are those areas of operation affected by FLACRA’s Compliance Program, as set forth in Section XIII of FLACRA’s Compliance Plan. For purposes of FLACRA’s Compliance Program, “contractors” includes contractors, agents, subcontractors, and independent contractors who are affected by FLACRA’s Compliance Risk Areas. Contractors are required to comply with FLACRA’s Compliance Program to the extent that the contractor is affected by FLACRA’s Compliance Risk Areas, and only within the scope of the contractor’s contracted authority and affected Compliance Risk Areas.

Compliance Officer to ensure that FLACRA is conducting its business in an ethical and responsible manner, consistent with its Compliance Program.

The Compliance Officer shall report directly to, and be accountable to, FLACRA's President & CEO, or another senior manager designated by the President & CEO for reporting purposes. The Compliance Officer will also report directly to the Board, President & CEO, and Compliance Committee on the progress of adopting, implementing, and maintaining the Compliance Program on a regular basis, and no less frequently than quarterly. The Compliance Committee shall report directly to, and be accountable to, FLACRA's President & CEO and Board.

PROCEDURE

1. Compliance Officer Duties and Responsibilities.

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

- a. Overseeing and monitoring the adoption, implementation, and maintenance of the Compliance Plan and Compliance Program, including drafting, revising, and approving the written policies and procedures required;
- b. Evaluating the effectiveness of the Compliance Plan and Compliance Program;
- c. Reviewing and updating the Compliance Plan and associated policies, and developing new compliance policies as needed;
- d. Overseeing operation of the Compliance Hotline;
- e. Evaluating, investigating, and independently acting on compliance-related questions, concerns, and complaints, including designing and coordinating internal investigations, and documenting, reporting, coordinating, and pursuing any resulting corrective action, including self-disclosure if appropriate;
- f. Ensuring proper reporting of violations to duly authorized regulatory agencies as appropriate or required;
- g. Working with the Director of Human Resources and others, as appropriate, to develop the compliance training program and training plan described in FLACRA's ***Compliance Training Policy***;

- h. Establishing and maintaining open lines of communication with members of the Compliance Committee, FLACRA's employees, managers, Board members, downstream and related entities, programs, and departments to ensure effective and efficient compliance policies and procedures;
- i. Distributing information on the Compliance Program to contractors;
- j. Conducting and facilitating internal audits to evaluate compliance and assess internal controls;
- k. Responding to government audits and investigations and other inquiries;
- l. Distributing compliance responsibilities throughout FLACRA;
- m. Developing an annual work plan that outlines FLACRA's proposed strategies for meeting the applicable statutory and regulatory requirements for the coming year, including internal audits, with the assistance of appropriate program supervisors and the Compliance Committees;
- n. Assisting FLACRA in establishing methods to improve its efficiency, quality of services, and reducing its vulnerability to fraud, waste, and abuse;
- o. Ensuring the Human Resources Department is screening prospective current employees, Board members, and contractors; and
- p. Maintaining appropriate Compliance Program documentation.

Additional information on the Compliance Officer's duties and responsibilities can be found in FLACRA's ***Duty to Report Policy, Compliance Training Policy, Compliance Investigations Policy, and Auditing and Monitoring Policy***, among others.

2. Compliance Officer Reporting Responsibilities.

The Compliance Officer reports directly to, and is accountable to FLACRA's President & CEO, or another senior manager designated by the President & CEO for reporting purposes. In addition to the President & CEO, the Compliance Officer shall also report to FLACRA's Board and Compliance Committee. The Compliance Officer shall report to the President & CEO, Board, and Compliance Committee on the progress of adopting, implementing, and maintaining the Compliance Program on a regular basis, and no less frequently than quarterly. The Compliance Officer will also annually prepare a written report to the Board describing the compliance efforts

undertaken during the preceding year and identifying any changes necessary to improve the Compliance Program.

FLACRA will ensure that the Compliance Officer is allocated sufficient staff and resources to satisfactorily perform their responsibilities for the day-to-day operation of the Compliance Program based on FLACRA's Compliance Risk Areas (as defined in Section XIII of FLACRA's Compliance Plan) and Organizational Experience,⁵ and that the Compliance Officer and appropriate personnel have access to all records, documents, information, facilities, and employees, Board members, and contractors that are relevant to carrying out their Compliance Program responsibilities.

3. Compliance Committee Duties and Responsibilities.

FLACRA's Compliance Committee is responsible for coordinating with the Compliance Officer to ensure that FLACRA is conducting its business in an ethical and responsible manner, consistent with its Compliance Program. The Compliance Officer shall be a member of the Compliance Committee and shall serve as the Chair of the Committee. In addition to the Compliance Officer, the Compliance Committee shall be comprised of the Executive Team, which includes the President & CEO, Chief Financial Officer, Chief Operating Officer, Executive Vice Presidents, and the Senior Director of Quality Assurance. Additional members of FLACRA's Compliance Committees shall be appointed by the President & CEO, and shall be, at a minimum, senior managers. The Compliance Committee meets at least quarterly, and the duties, responsibilities, and members of the Compliance Committee, as set out in the Compliance Committee Charter, are reviewed at least annually. See **Appendix A, Compliance Committee Charter**. The Compliance Committee report directly, and are accountable to, FLACRA's President & CEO and Board.

The Compliance Committee's duties, responsibilities, and functions include, but are not limited to, the following:

- a. Receiving regular reports from the Compliance Officer on the implementation of the Compliance Program;

⁵ "Organizational Experience" means FLACRA's: (1) knowledge, skill, practice, and understanding in operating its Compliance Program; (2) identification of any issues or risk areas in the course of its internal monitoring and auditing activities; (3) experience, knowledge, skill, practice, and understanding of its participation in the Medicaid Program and the results of any audits, investigations, or reviews it has been the subject of; or (4) awareness of any issues it should have reasonably become aware of for its categories of service.

- b. Identifying Compliance Risk Areas, as defined in Section XIII of FLACRA's Compliance Plan;
- c. Assisting with the development of and approving the annual work plan carried out under the Compliance Program;
- d. Coordinating with FLACRA's Compliance Officer to ensure that FLACRA is conducting its business in an ethical and responsible manner, consistent with FLACRA's Compliance Program;
- e. Coordinating with the Compliance Officer to ensure that written policies, procedures, and the Standards of Conduct are current, accurate, and complete;
- f. Approving the compliance training program provided to all employees, Board members, and contractors and re-evaluating as appropriate;
- g. Coordinating with the Compliance Officer to ensure that all compliance training program requirements are timely completed, and that FLACRA's compliance training program includes all required training topics;
- h. Receiving reports from the Compliance Officer of investigations of actual or suspected fraud, waste, abuse, or other improper or unethical conduct and any corrective action taken as a result of such investigations;
- i. Advocating for allocation of sufficient funding, resources, and staff for the Compliance Officer to fully perform their responsibilities;
- j. Ensuring that FLACRA has effective systems, processes, policies, and procedures in place for identifying, correcting, and reporting Compliance Program risks, overpayments, and other issues;
- k. Coordinating with the Compliance Officer to ensure communication and cooperation by employees, Board members, and contractors on compliance-related issues, internal or external audits, or any other Compliance Program-related functions or activities;
- l. Recommending and approving any changes to the Compliance Plan, Compliance Program, and compliance policies;
- m. Developing and evaluating strategies to promote compliance and detection of fraud, waste, abuse, and other improper or unethical conduct; and

- n. Advocating for adoption and implementation of required modifications to FLACRA's Compliance Program.

Additional information on the duties, responsibilities, and functions of FLACRA's Compliance Committee can be found in FLACRA's ***Compliance Training Policy*** and ***Compliance Committee Charter (Appendix A)***, among others.



Duty to Report Policy

PURPOSE

Finger Lakes Area Counseling and Recovery Agency, Inc. (“FLACRA”) intends to comply with all Federal and State laws, rules, regulations, policies, and standards that applies to its operations. The purpose of this Policy is to support FLACRA’s goal of legal compliance by establishing effective lines of communication for reporting actual or suspected matters of non-compliance.

APPLICABILITY

This Policy applies to all employees, Board of Directors (“Board”) members, and contractors of FLACRA.⁶

POLICY

Any person who is aware of, or suspects that, fraud, waste, abuse, or other improper or unethical conduct, violations of law, regulations, administrative guidance, or FLACRA’s Compliance Plan, Compliance Program policies and procedures, and Standards of Conduct (a “Compliance Issue”) has been committed by FLACRA and/or an employee, Board member, or contractor is obligated to report the Compliance Issue to the Compliance Officer, any member of FLACRA’s Compliance Committee, FLACRA’s Compliance Hotline, any member of FLACRA’s Board, FLACRA’s President & CEO, or, in the case of an employee, the employee’s supervisor or any supervisor.

Anyone who files a complaint concerning a Compliance Issue must be acting in good faith and must have reasonable grounds for believing the information disclosed constitutes a Compliance

⁶ “Employees, Board members, and contractors” includes FLACRA’s employees, President & Chief Executive Officer (“CEO”), senior administrators, managers, volunteers, interns, contractors, agents, subcontractors, independent contractors, corporate officers, and Board members who are affected by FLACRA’s Compliance Risk Areas. “Compliance Risk Areas” are those areas of operation affected by FLACRA’s Compliance Program, as set forth in Section XIII of FLACRA’s Compliance Plan. For purposes of FLACRA’s Compliance Program, “contractors” includes contractors, agents, subcontractors, and independent contractors who are affected by FLACRA’s Compliance Risk Areas. Contractors are required to comply with FLACRA’s Compliance Program to the extent that the contractor is affected by FLACRA’s Compliance Risk Areas, and only within the scope of the contractor’s contracted authority and affected Compliance Risk Areas.

Issue (a “Protected Disclosure”). Any person who knowingly, or with reckless disregard for the truth, gives false information or knowingly makes a false report of a Compliance Issue, or a subsequent false report of retaliation, will be subject to disciplinary action up to and including termination of their relationship with FLACRA. Allegations made in good faith that are not substantiated are not subject to corrective action.

No person (including Medicaid Program beneficiaries who receive services from FLACRA) who makes a Protected Disclosure will suffer intimidation, retaliation, or adverse employment consequences. Any person who retaliates against or intimidates any individual who makes a Protected Disclosure is subject to discipline up to and including termination. FLACRA’s ***Non-Retaliation and Non-Intimidation Policy*** is intended to encourage and enable Medicaid Program beneficiaries, employees, Board members, and contractors to participate in good faith in the Compliance Program and to raise concerns within FLACRA prior to seeking resolution outside of the organization.

Protected Disclosures may be made on a confidential basis and anonymous Protected Disclosures may be submitted through FLACRA’s Compliance Hotline or by mailing an anonymous letter to the Compliance Officer. FLACRA will keep all Protected Disclosures confidential, whether requested or not, to the greatest extent possible. Protected Disclosures and investigatory records will be kept confidential unless the matter is subject to a disciplinary proceeding, referred to or under investigation by the New York State Attorney General’s Medicaid Fraud Control Unit (“MFCU”), the New York State Office of the Medicaid Inspector General (“OMIG”), or law enforcement, or the disclosure is required during a legal proceeding.

PROCEDURE

1. Duty to Report.

When an employee, Board member, or contractor during the course of their employment or role first becomes aware of a Compliance Issue impacting FLACRA, the individual must report the information directly to any of the following:

- a. FLACRA’s Compliance Hotline at 1-855-935-2272 (anonymously or otherwise);
- b. FLACRA’s Quality Assurance Complaint Form, [FLACRA Concern Form](#) (anonymously or otherwise);
- c. FLACRA’s Compliance Officer, Ruth Donk, by telephone (315-462-9466) or email (ruth.donk@flacra.org);

- d. FLACRA's Compliance Officer, Ruth Donk, in writing by mail to Attn: Compliance Officer, Finger Lakes Counseling and Recovery Agency, Inc., 28 East Main Street, Clifton Springs, New York 14432 (anonymously or otherwise);
- e. A member of FLACRA's Compliance Committee;
- f. A FLACRA supervisor; or
- g. FLACRA's President & CEO.

Any employees, Board members, or contractors who are aware of or suspect a Compliance Issue, and who do not fully disclose it in one (1) or more of the above-listed ways, may be subject to the same disciplinary action as those who are involved in the Compliance Issue. *See also **Disciplinary Policy**.*

2. Investigation of Reports.

If the reporter identifies themselves, the reporter will be contacted to acknowledge receipt of the Compliance Issue within three (3) working days for most issues and within twenty-four (24) hours for Compliance Issues that involve alleged health and/or safety-related violations. All reports will be promptly and thoroughly investigated. Appropriate corrective action will be taken if warranted by the investigation.

3. Compliance Officer Responsibility.

The Compliance Officer will be responsible for initiating any further investigation of a reported Compliance Issue. Reports will be kept confidential, whether or not confidentiality is requested, or the report is made anonymously, unless the matter is subject to a disciplinary proceeding, referred to or under investigation by MFCU, OMIG, or law enforcement, or the disclosure is required during a legal proceeding. Reporters, including Medicaid Program beneficiaries who receive services from FLACRA, will be protected under FLACRA's **Non-Retaliation and Non-Intimidation Policy**.

4. Communication.

FLACRA maintains effective lines of communication, ensuring confidentiality, for the reporting of Compliance Issues by FLACRA's employees, contractors, managers, service recipients that are Medicaid Program beneficiaries, Board members, Compliance Officer, and members of the Compliance Committee. FLACRA maintains methods for anonymously reporting Compliance Issues directly to its Compliance Officer.

5. Prohibition Against Intimidation or Retaliation.

FLACRA forbids any form of intimidation or retaliation against any individual, including service recipients who are Medicaid Program beneficiaries, for reporting a Protected Disclosure in good faith. Employees, Board members, and contractors must immediately report any perceived retaliation and/or intimidation to the Compliance Officer. *See also **Non-Retaliation and Non-Intimidation Policy.***

6. Publication of Lines of Communication.

FLACRA publicizes its lines of communication to the Compliance Officer and ensures that these lines of communication are available to all service recipients who are Medicaid Program beneficiaries, employees, Board members, and contractors. FLACRA makes information regarding its Compliance Program and Standards of Conduct, including its lines of communication for reporting Compliance Issues, available on its website.



Non-Retaliation and Non-Intimidation Policy

PURPOSE

The purpose of this Policy is to ensure that employees, Board of Directors (“Board”) members, contractors, and service recipients who are Medicaid Program beneficiaries of Finger Lakes Counseling and Recovery Agency, Inc. (“FLACRA”) are encouraged to report Compliance Issues⁷ within the organization. Employees, Board members, contractors, and Medicaid Program beneficiary service recipients are protected from intimidation and retaliation for good faith participation in FLACRA’s Compliance Program,⁸ including but not limited to reporting Compliance Issues, investigating issues, conducting self-evaluations, audits, and remedial actions, and reporting to appropriate officials.

APPLICABILITY

This Policy applies to all employees, Board members, and contractors of FLACRA.⁹

POLICY

FLACRA prohibits any act of retribution, discrimination, harassment, retaliation, or intimidation against any employee, Board member, contractor, or Medicaid Program beneficiary service

⁷ A “Compliance Issue” includes actual or suspected fraud, waste, abuse, or other improper or unethical conduct, violations of Federal and State law, regulations, rules, policies, and standards, or FLACRA’s Compliance Plan, Compliance Program policies and procedures, and Standards of Conduct.

⁸ FLACRA’s Compliance Program is FLACRA’s implementation of its Compliance Plan and includes all of FLACRA’s compliance activities. FLACRA’s Compliance Plan is the document that provides an overview of FLACRA’s Compliance Program.

⁹ “Employees, Board members, and contractors” includes FLACRA’s employees, President & Chief Executive Officer (“CEO”), senior administrators, managers, volunteers, interns, contractors, agents, subcontractors, independent contractors, corporate officers, and Board members who are affected by FLACRA’s Compliance Risk Areas. “Compliance Risk Areas” are those areas of operation affected by FLACRA’s Compliance Program, as set forth in Section XIII of FLACRA’s Compliance Plan. For purposes of FLACRA’s Compliance Program, “contractors” includes contractors, agents, subcontractors, and independent contractors who are affected by FLACRA’s Compliance Risk Areas. Contractors are required to comply with FLACRA’s Compliance Program to the extent that the contractor is affected by FLACRA’s Compliance Risk Areas, and only within the scope of the contractor’s contracted authority and affected Compliance Risk Areas.

recipient who participates in FLACRA's Compliance Program activities in good faith, including, but not limited to:

1. Reporting or threatening to report Compliance Issues, and responding to potential Compliance Issues to appropriate personnel;
2. Reporting or threatening to report a practice of FLACRA that poses a substantial and specific danger to the public health or safety;
3. Participating in investigation of, and investigating, potential Compliance Issues;
4. Conducting or responding to audits, investigations, reviews, or compliance self-evaluations;
5. Drafting, implementing, or monitoring remedial actions;
6. Reporting compliance-related concerns to any government entity;
7. Attending or performing compliance-related training;
8. Reporting instances of intimidation or retaliation; or
9. Otherwise assisting in any activity or proceeding regarding any Compliance Issue.

A good faith report means one where the individual reasonably believes the information reported to be true and where the report is not made for the purpose of harming the standing or reputation of FLACRA, or of an employee, Board member, or contractor. The protections of this Policy do **not** apply to:

1. Allegations not based on a reasonable belief or not made in good faith;
2. Allegations whose nature or frequency indicate an intent to harass or embarrass FLACRA or any employees, Board members, or contractors; or
3. Instances where individuals report their own lapses or complicity in unacceptable conduct. In such instances, the act of reporting will not be subject to sanctions, but the underlying conduct may be subject to disciplinary action.

PROCEDURE

1. **Reporting Mechanisms.**

Employees, Board members, and contractors have a duty to report actions that they believe in good faith to be an actual or suspected Compliance Issue. See ***Duty to Report Policy***. Employees, Board members, and contractors have a variety of reporting options; however, they are encouraged to take advantage of internal reporting mechanisms. These include reports to the Compliance Officer or a member of FLACRA's Compliance Committee, FLACRA's Compliance Hotline, or, in the case of an employee, reports to the employee's supervisor or any supervisor.

2. **Reporting to the Organization and Government.**

While FLACRA requires employees, Board members, and contractors to report Compliance Issues directly to FLACRA, certain laws provide that individuals may also bring their concerns directly to the government. Any perceived retaliation or intimidation should be reported to the Compliance Officer immediately.

3. **Confidentiality.**

Anyone who investigates a Compliance Issue shall maintain the confidentiality of the individual who made the report regardless of whether the individual has requested confidentiality or reported through a confidential reporting mechanism, unless the matter is subject to a disciplinary proceeding, referred to or under investigation by the New York State Attorney General's Medicaid Fraud Control Unit ("MFCU"), the New York State Office of the Medicaid Inspector General ("OMIG"), or law enforcement, or the disclosure is required during a legal proceeding.

4. **Statutory Protections.**

In addition to the protections afforded to employees, Board members, contractors, and Medicaid Program beneficiaries who receive services from FLACRA under this Policy, the following New York State laws also protect employees from retaliatory action for good-faith reporting. In addition to the information below, FLACRA will inform employees of their protections, rights, and obligations under the New York State Labor Law by posting a notice of the same. The notices will be posted conspicuously in easily accessible and well-lit places that are customarily frequented by employees and applicants for employment.

a. New York State Labor Law, Section 740.

An employer may not take any retaliatory action against an employee (including former employees) if the employee discloses, or threatens to disclose, information about the employer's policies, practices, or activities to a regulatory, law enforcement, or another similar agency or public official.

Protected disclosures include disclosures of an activity, policy, or practice of the employer that the employee reasonably believes are in violation of law, rule, or regulation (including health care fraud under Penal Law § 177¹⁰ or Social Services Law § 145-b¹¹), or that the employee reasonably believes pose a substantial and specific danger to the public health or safety. The employee's disclosure is protected only if the employee first raised the matter with a supervisor and gave the employer a reasonable opportunity to correct the alleged violation. However, employer notification is not required where:

- i. There is an imminent and serious danger to the public health or safety;
- ii. The employee reasonably believes that reporting to the supervisor would result in destruction of evidence or other concealment of the activity, policy, or practice;
- iii. The activity, policy or practice could reasonably be expected to lead to endangering the welfare of a minor;
- iv. The employee reasonably believes that reporting to the supervisor would result in physical harm to the employee or any other person; or
- v. The employee reasonably believes that the supervisor is already aware of the activity, policy, or practice and will not correct it.

Employees are also protected from retaliatory action if the employee objects to, or refuses to participate in, any activity that is in violation of law, rule, or regulation or that the employee reasonably believes poses a substantial and specific danger to the public health or safety. Additionally, employees are protected when the employee provides information to, or

¹⁰ New York State Penal Law § 177 criminalizes knowingly filing, with intent to defraud, a claim for payment that intentionally has false information or omissions.

¹¹ New York State Social Services Law § 145-b criminalizes submission of false statements or deliberate concealment of material information in order to obtain public assistance, including Medicaid.

testifies before, any public body conducting an investigation, hearing, or inquiry into an employer's activity, policy, or practice.

If an employer takes retaliatory action against the employee, the employee may sue in State court for reinstatement to the same position held before the retaliatory action, or to an equivalent position, any back wages and benefits, and attorneys' fees, among other remedies. If the employer's violation was willful, malicious, or wanton, punitive damages may be imposed.

b. New York State Labor Law, Section 741.

A health care employer may not take any retaliatory action against a health care employee¹² if the health care employee discloses, or threatens to disclose, certain information about the health care employer's policies, practices, or activities to a regulatory, law enforcement, or other similar agency or public official, to a news media outlet, or to a social media forum available to the public at large.

Protected disclosures include disclosures of an activity, policy, or practice of the health care employer that the health care employee, in good faith, reasonably believes constitute improper quality of patient care or improper quality of workplace safety. Health care employees are also protected from retaliatory action if the health care employee objects to, or refuses to participate in, any activity, policy, or practice of the health care employer that the health care employee, in good faith, reasonably believes constitutes improper quality of patient care or improper quality of workplace safety.

The health care employee's disclosure is protected only if the health care employee first raised the matter with a supervisor and gave the health care employer a reasonable opportunity to correct the activity, policy, or practice. However, employer notification is not required where the improper quality of patient care or workplace safety presents an imminent threat to public health or safety, to the health of a specific patient, or to the health of a specific health care employee and the health care employee reasonably believes, in good faith, that reporting to a supervisor would not result in corrective action.

If a health care employer takes retaliatory action against the health care employee, the health care employee may sue in State court for reinstatement to the same position held before the retaliatory action, or to an equivalent position, any back wages and benefits, and attorneys'

¹² A "health care employee" is any person who performs health care services for and under the control and direction of any public or private employer that provides health care services for wages or other remuneration. See N.Y. LAB. LAW § 741(1)(a).

fees, among other remedies. If the health care employer's violation was willful, malicious, or wanton, punitive damages may be imposed.



Compliance Training Policy

PURPOSE

The purpose of this Policy is to establish compliance training and education requirements for Finger Lakes Counseling and Recovery Agency, Inc. ("FLACRA").

APPLICABILITY

This Policy applies to all employees, Board of Directors ("Board") members, and contractors of FLACRA.¹³

POLICY

The proper education and training of personnel at all levels is a key element of an Effective Compliance Program.¹⁴ FLACRA has established and implemented an effective compliance training and education program. All employees (including the Compliance Officer, senior administrators, and managers), Board members, and contractors of FLACRA will receive training promptly at orientation or appointment, and at a minimum annually thereafter, regarding

¹³ "Employees, Board members, and contractors" includes FLACRA's employees, President & Chief Executive Officer ("CEO"), senior administrators, managers, volunteers, interns, contractors, agents, subcontractors, independent contractors, corporate officers, and Board members who are affected by FLACRA's Compliance Risk Areas. "Compliance Risk Areas" are those areas of operation affected by FLACRA's Compliance Program, as set forth in Section XIII of FLACRA's Compliance Plan. For purposes of FLACRA's Compliance Program, "contractors" includes contractors, agents, subcontractors, and independent contractors who are affected by FLACRA's Compliance Risk Areas. Contractors are required to comply with FLACRA's Compliance Program to the extent that the contractor is affected by FLACRA's Compliance Risk Areas, and only within the scope of the contractor's contracted authority and affected Compliance Risk Areas.

¹⁴ An "Effective Compliance Program" means a Compliance Program adopted and implemented by FLACRA that, at a minimum, satisfies the requirements of the compliance regulations (18 NYCRR Part 521-1) and that is designed to be compatible with FLACRA's characteristics (*i.e.*, size, complexity, resources, and culture), which means that it: (1) is well-integrated into FLACRA's operations and supported by the highest levels of the organization, including the President & CEO, senior management, and Board; (2) promotes adherence to FLACRA's legal and ethical obligations; and (3) is reasonably designed and implemented to prevent, detect, and correct non-compliance with Medicaid Program requirements, including fraud, waste, and abuse most likely to occur for FLACRA's Compliance Risk Areas and Organizational Experience (as defined herein).

FLACRA's Compliance Program,¹⁵ as well as job-specific training pertaining to compliance matters. Training and education will be provided by FLACRA in a form and format that is accessible and understandable to all employees, Board members, and contractors, consistent with Federal and New York State language and other applicable laws, rules, and policies.

PROCEDURE

1. Compliance Training for Employees.

All employees of FLACRA will receive Compliance Program training during orientation, which occurs promptly upon hiring and no later than the first thirty (30) days of employment, and at least once annually thereafter. This Compliance Training will include at least each of the training and education program areas set forth in Section 6, below. Employees will be afforded an opportunity to ask questions and receive responses in order for the training to be considered complete.

Each employee will be required to sign a form indicating receipt of the Compliance Plan, Compliance Program policies and procedures, and Standards of Conduct, and completion of the training, and this completed form will be retained for no less than six (6) years. The Compliance Officer, Director of Human Resources, or their designee(s) will be responsible for conducting this training.

2. Compliance Training for Board Members.

All members of FLACRA's Board will receive compliance training promptly upon appointment to the Board or within thirty (30) days of their appointment, and at least once annually thereafter. The Compliance Officer, with the assistance of FLACRA's legal counsel, as appropriate, will be responsible for developing this training program, which will cover, at a minimum, each of the training and education program areas set forth in Section 6, below.

Board members must acknowledge in writing that they have received training, understand the Compliance Plan, Compliance Program policies and procedures, and Standards of Conduct, and agree to fulfill their obligations under the same. This documentation will be retained for no less than six (6) years.

¹⁵ FLACRA's Compliance Program is FLACRA's implementation of its Compliance Plan and includes all of FLACRA's compliance activities. FLACRA's Compliance Plan is the document that provides an overview of FLACRA's Compliance Program.

3. Compliance Training for Contractors.

Contractors, agents, subcontractors, and independent contractors who are affected by FLACRA's Compliance Risk Areas must participate in compliance training either prior to contracting with FLACRA or within thirty (30) days of contracting with FLACRA, and at least once annually thereafter. The compliance training given to contractors will cover, at a minimum, each of the training and education program areas set forth in Section 6, below. The training may consist of providing the contractor with FLACRA's Compliance Plan, Compliance Program policies and procedures, and Standards of Conduct for self-study, and affording the contractor the opportunity to ask questions and receive responses about the Compliance Plan, Compliance Program, and Standards of Conduct. FLACRA shall maintain a dated distribution letter and require contractors to complete an acknowledgement evidencing that compliance training and education occurred.

4. Compliance Program Refresher Training.

Annually, FLACRA provides Compliance Program refresher training for employees (including the Compliance Officer, senior administrators, and managers), contractors, and Board members. This Compliance Program refresher training will, at a minimum, cover each of the training and education program areas set forth in Section 6, below. The Compliance Officer, Director of Human Resources, or their designee(s) will be responsible for scheduling refresher training sessions for employees. Additional Compliance Program refresher trainings will be provided to employees, Board members, and contractors on an as needed basis.

FLACRA will maintain records of all Compliance Program refresher trainings for six (6) years. The records maintained will include, but not be limited to, course descriptions, frequency of training, and hours of each training session. The Compliance Officer, Director of Human Resources, or their designee(s) will be responsible for conducting Compliance Program refresher trainings.

5. Targeted Compliance Training for Employees.

The Compliance Officer, in consultation with the appropriate supervisor, will determine whether it is necessary and appropriate to develop a curriculum of targeted compliance training for employees. Targeted compliance training will consist of in-depth guidance on fraud prevention and other Compliance Issues¹⁶ arising in connection with the operation of a specific

¹⁶ A "Compliance Issue" includes actual or suspected fraud, waste, abuse, or other improper or unethical conduct, violations of Federal and State law, regulations, rules, policies, and standards, or FLACRA's Compliance Plan, Compliance Program policies and procedures, and Standards of Conduct.

program. This customized targeted compliance training will be in addition to the initial and annual compliance training and education provided to all employees, Board members, and contractors.

Employees shall have access to all policies and procedures relevant to the performance of their duties. All targeted compliance training curricula must be approved by the Compliance Officer. FLACRA will maintain records of all targeted compliance training programs for six (6) years. The records maintained will include, but not be limited to, course descriptions, frequency of training, and hours of each training session.

6. Training Program Requirements.

Training programs will include an overview of all elements of the Compliance Program as described in the Compliance Plan and compliance policies and procedures. All Compliance Program training and education will include, at a minimum, the following topics:

- a. FLACRA's Compliance Risk Areas and Organizational Experience;¹⁷
- b. FLACRA's written policies and procedures related to its Compliance Plan and Compliance Program;
- c. The individual's obligation to participate in FLACRA's Compliance Program;
- d. The types of issues that constitute Compliance Issues;
- e. The individual's obligation to report Compliance Issues in good faith and methods for reporting (including method for anonymous and confidential reporting) to the Compliance Officer and others;
- f. The individual's ability to ask questions regarding FLACRA's Compliance Program and Compliance Plan;
- g. The Compliance Officer's and Compliance Committee's role and their interactions with management and the Board;

¹⁷ "Organizational Experience" means FLACRA's: (1) knowledge, skill, practice, and understanding in operating its Compliance Program; (2) identification of any issues or risk areas in the course of its internal monitoring and auditing activities; (3) experience, knowledge, skill, practice, and understanding of its participation in the Medicaid Program and the results of any audits, investigations, or reviews it has been the subject of; or (4) awareness of any issues it should have reasonably become aware of for its category or categories of service.

- h. How internal and external audits and investigations are handled and an individual's obligation to assist in audits and investigations as requested;
- i. The various types of remedial measures and corrective action plans for non-compliance, including how FLACRA responds to Compliance Issues and implements corrective action plans;
- j. The consequences of failure to comply with FLACRA's Compliance Plan and Compliance Program (*i.e.*, discipline, termination, liability) and information about FLACRA's Non-Intimidation and Non-Retaliation Policy;
- k. The responsibilities of supervisors/managers to detect and report Compliance Issues;
- l. The requirements specific to the Medicaid Program and FLACRA's categories of service;
- m. An overview of relevant laws and requirements, including requirements related to reporting overpayments; and
- n. If applicable, coding and billing requirements and best practices, and the claim development and submission process.

7. Compliance Training Plan.

The Compliance Officer, with the assistance of the Director of Human Resources, shall be responsible for implementing this Policy and for developing and maintaining a compliance training plan. The training plan will, at a minimum, outline the following:

- a. The subjects or topics for training and education;
- b. The timing and frequency of the training;
- c. Which employees, Board members, and contractors are required to attend;
- d. How attendance is tracked; and
- e. How the effectiveness of the training will be periodically evaluated (*e.g.*, pre- and post-tests, surveys, etc.).

The training plan shall be periodically updated by the Compliance Officer, with the assistance of the Director of Human Resources, to indicate the outcome of the various trainings

provided by FLACRA throughout the year. These periodic updates will include the following information, as applicable:

- a. A list of the employees, Board members, and contractors that received, or did not receive, the Compliance Program training during the year covering the training plan including the name and role of the individual (*e.g.*, employee, President & CEO, senior administrator, manager, contractor, Board member, corporate officer, etc.);
- b. The type of compliance training(s) received (*e.g.*, annual, orientation, both);
- c. The format in which the training was provided;
- d. The date(s) of completion; and
- e. The date of hire for those who received initial Compliance Program training.



Disciplinary Policy

PURPOSE

The purpose of this Policy is to describe disciplinary standards for Finger Lakes Area Counseling and Recovery Agency, Inc. (“FLACRA”), which are implemented and enforced to address potential violations and encourage good faith participation in FLACRA’s Compliance Program.¹⁸

APPLICABILITY

This Policy applies to all employees, Board of Directors (“Board”) members, and contractors of FLACRA.¹⁹

POLICY

FLACRA is committed to ensuring that State and Federal laws, rules, regulations, policies, and standards regarding fraud, waste, abuse, or other improper or unethical conduct, and its Compliance Plan, Compliance Program policies and procedures, and Standards of Conduct (collectively, the “Compliance Standards”) are adhered to by all employees, Board members, and contractors. It is FLACRA’s policy to firmly, fairly, and consistently enforce the Compliance Standards by imposing appropriate disciplinary action against employees, Board members, and contractors for:

¹⁸ FLACRA’s Compliance Program is FLACRA’s implementation of its Compliance Plan and includes all of FLACRA’s compliance activities. FLACRA’s Compliance Plan is the document that provides an overview of FLACRA’s Compliance Program.

¹⁹ “Employees, Board members, and contractors” includes FLACRA’s employees, President & Chief Executive Officer (“CEO”), senior administrators, managers, volunteers, interns, contractors, agents, subcontractors, independent contractors, corporate officers, and Board members who are affected by FLACRA’s Compliance Risk Areas. “Compliance Risk Areas” are those areas of operation affected by FLACRA’s Compliance Program, as set forth in Section XIII of FLACRA’s Compliance Plan. For purposes of FLACRA’s Compliance Program, “contractors” includes contractors, agents, subcontractors, and independent contractors who are affected by FLACRA’s Compliance Risk Areas. Contractors are required to comply with FLACRA’s Compliance Program to the extent that the contractor is affected by FLACRA’s Compliance Risk Areas, and only within the scope of the contractor’s contracted authority and affected Compliance Risk Areas.

1. Engaging in, encouraging, directing, facilitating, or permitting fraud, waste, abuse, or improper or unethical conduct;
2. Failing to report actual or suspected fraud, waste, abuse, or improper or unethical conduct; or
3. Violating FLACRA's Compliance Plan, Compliance Program, or any of FLACRA's policies designed to detect or prevent fraud, waste, abuse, or improper or unethical conduct.

PROCEDURE

1. Discipline for Non-Compliance.

Employees, Board members, and contractors may violate FLACRA's Compliance Standards by:

- a. Engaging in, encouraging, directing, facilitating, or permitting fraud, waste, abuse, or improper or unethical conduct;
- b. Failing to report actual or suspected fraud, waste, abuse, or improper or unethical conduct; or
- c. Violating FLACRA's Compliance Plan, Compliance Program, or any of FLACRA's policies designed to detect or prevent fraud, waste, abuse, or improper or unethical conduct.

2. Discipline for Not Reporting.

Employees, Board members, or contractors who fail to detect or report actual or suspected Compliance Issues may be subject to discipline or sanctions.

3. Disciplinary Actions and Sanctions.

FLACRA seeks to discipline and/or sanction individuals or entities in a fair, consistent, and appropriate manner, and will utilize the same disciplinary standards when enforcing violations of its Compliance Standards with all levels of personnel.

The Compliance Officer will promptly notify the Director of Human Resources of any employee conduct involving a Compliance Issue that may warrant discipline. The Director of Human Resources and Compliance Officer will be responsible for determining the appropriate discipline for employees, in accordance with FLACRA's standard employment policies. Discipline-

related decisions made by the Director of Human Resources and the Compliance Officer will be made in consultation with the appropriate supervisor and the President & CEO.

The degree of disciplinary action or sanction taken by FLACRA will be dependent on the applicable facts and circumstances. However, intentional, and reckless behavior will be subject to more significant disciplinary actions and sanctions. For more information on disciplinary actions and sanctions, please see FLACRA's *Employee Handbook*. Disciplinary actions include, but are not limited to the following:

- a. Compliance with other training(s);
- b. Warnings (verbal or written);
- c. Reprimand (written), that describes the unacceptable conduct or performance and specifies necessary improvements;
- d. Probation;
- e. Demotion;
- f. Job reassignment;
- g. Immediate suspension (with or without pay), including, but not limited to, those cases where the conduct poses an immediate threat to individuals served by FLACRA, FLACRA's operations, and/or property;
- h. Termination of contractor agreement (provided such termination is consistent with the terms of the relevant agreement);
- i. Removal from the Board in accordance with the terms of FLACRA's Bylaws and policies, as well as applicable laws and regulations;
- j. Reporting and refunding overpayments to government agencies; and/or
- k. Restitution.

Board member sanctions shall range from written admonition to, in the most extreme of cases, removal as a Board member in accordance with FLACRA's Bylaws and policies, as well as applicable laws and regulations. The Compliance Officer shall make a recommendation to the Board with respect to such sanctions.

Contractor sanctions shall range from written admonition, financial penalties (if applicable), and in the most extreme of cases, termination of the contractor's relationship with FLACRA, if feasible. The Compliance Officer shall make a recommendation to the President & CEO or Board with respect to such sanctions.

FLACRA will take mitigating or aggravating factors into account, as appropriate. When deciding upon the appropriate discipline, FLACRA will consider whether the individual or entity voluntarily reported the issue and/or fully cooperated in any investigation, and any other mitigating and/or aggravating circumstances. However, FLACRA retains the discretion to select the appropriate disciplinary action and sequence of action (if any) from these options, or others.

All disciplinary actions and sanctions are documented in the personnel or contractor file, and in FLACRA's compliance files. Additionally, all disciplinary actions and sanctions will conform with any collective bargaining agreements, when applicable. Any sanctions related to employee non-compliant behavior or practices addressed under the Compliance Program will be carried out by the Director of Human Resources and the Compliance Officer, in consultation with the appropriate supervisor and the President & CEO.

5. Publication of Disciplinary Mechanisms.

The Compliance Officer is responsible for publishing and disseminating the consequences of violating FLACRA's Compliance Standards to all employees, Board members, and contractors on a regular basis. Methods of publication and dissemination may include, but are not limited to:

- a. Email notifications;
- b. Meetings with employees, Board members, and contractors;
- c. Implementing written policies and procedures; and
- d. Posting notices in FLACRA's common areas.

In publishing and disseminating FLACRA's position on the enforcement of its Compliance Standards, the Compliance Officer will emphasize that all violations, including the failure to report the misconduct of others when required, will be viewed as a serious infraction, and that discipline up to and including termination of employment or a contractual relationship, may be imposed as a result of any finding or violation.

In addition to publishing and disseminating the consequences of violating FLACRA's Compliance Standards, the provisions of this Policy will be incorporated into FLACRA's Compliance Program training and education. *See also **Compliance Training Policy**.*

6. Role of Supervisors.

Supervisors may be subject to discipline for failure to detect violations of FLACRA's Compliance Standards that occur within their areas of responsibility. If a supervisor contributes to or perpetrates a violation of FLACRA's Compliance Standards, FLACRA will take appropriate disciplinary action that is commensurate with the seriousness of the violation at issue and will consider all the relevant circumstances (including mitigating and/or aggravating factors).



Compliance Investigations Policy

PURPOSE

The purpose of this Policy is to establish and implement a system at Finger Lakes Counseling and Recovery Agency, Inc. (“FLACRA”) for promptly responding to Compliance Issues²⁰ as they are raised, investigating potential Compliance Issues identified in the course of internal auditing and monitoring (including self-evaluations and audits), correcting such problems promptly and thoroughly to reduce the potential for recurrence, and ensuring ongoing compliance with FLACRA’s Compliance Standards.²¹

APPLICABILITY

This Policy applies to all employees, Board of Directors (“Board”) members, and contractors of FLACRA.²²

POLICY

The Compliance Officer shall have the primary responsibility of conducting and/or overseeing the investigation of, and independently acting on, matters related to FLACRA’s Compliance Program,

²⁰ A “Compliance Issue” includes actual or suspected fraud, waste, abuse, or other improper or unethical conduct, violations of Federal and State law, regulations, rules, policies, and standards, or FLACRA’s Compliance Plan, Compliance Program policies and procedures, and Standards of Conduct. FLACRA’s Compliance Program is FLACRA’s implementation of its Compliance Plan and includes all of FLACRA’s compliance activities. FLACRA’s Compliance Plan is the document that provides an overview of FLACRA’s Compliance Program.

²¹ “Compliance Standards” include State and Federal laws, rules, regulations, policies, and standards (including administrative guidance) regarding fraud, waste, abuse, or other improper or unethical conduct, and FLACRA’s Compliance Plan, policies and procedures, and Standards of Conduct.

²² “Employees, Board members, and contractors” includes FLACRA’s employees, President & Chief Executive Officer (“CEO”), senior administrators, managers, volunteers, interns, contractors, agents, subcontractors, independent contractors, corporate officers, and Board members who are affected by FLACRA’s Compliance Risk Areas. “Compliance Risk Areas” are those areas of operation affected by FLACRA’s Compliance Program, as set forth in Section XIII of FLACRA’s Compliance Plan. For purposes of FLACRA’s Compliance Program, “contractors” includes contractors, agents, subcontractors, and independent contractors who are affected by FLACRA’s Compliance Risk Areas. Contractors are required to comply with FLACRA’s Compliance Program to the extent that the contractor is affected by FLACRA’s Compliance Risk Areas, and only within the scope of the contractor’s contracted authority and affected Compliance Risk Areas.

including reported Compliance Issues. This includes designing and coordinating internal investigations and documenting, reporting, coordinating, and pursuing any resulting corrective action with all departments, contractors, agents, subcontractors, and independent contractors of FLACRA, as well as New York State. The purpose of the investigation shall be to determine whether there is reasonable cause to believe an individual or entity may have knowingly or inadvertently participated in a Compliance Issue, to facilitate corrective action if appropriate, and to implement procedures necessary to ensure future compliance.

Employees, Board members, and contractors are required to fully cooperate in all audits and investigations subject to the individual's right against self-incrimination. Any employee who fails to provide such cooperation may be subject to termination of employment. Any Board member who fails to provide such cooperation will be subject to sanctions as set forth in FLACRA's Bylaws and policies, as well as applicable laws and regulations. Any contractor who fails to provide such cooperation may be subject to termination of a contract or relationship, as appropriate.

After an investigation, FLACRA shall correct Compliance Issues promptly and thoroughly to reduce the potential for recurrence. The Compliance Officer shall periodically report to the Compliance Committee and the Board on the status of compliance-related investigations.

PROCEDURE

1. General Procedures.

a. Determination of Whether Investigation is Warranted.

The Compliance Officer shall have the primary responsibility of conducting and overseeing the investigation of both reported Compliance Issues and those Compliance Issues identified in the course of internal auditing and monitoring. *See **Auditing and Monitoring Policy**.* The Compliance Officer shall determine, in consultation with appropriate personnel and legal counsel, as necessary, whether a reported Compliance Issue warrants an investigation. If warranted, the Compliance Officer will promptly coordinate the investigation and determine whether any outside advisors are needed.

b. Use of Internal and External Resources.

The Compliance Officer may utilize FLACRA's employees (consistent with maintaining appropriate confidentiality) and outside advisors such as attorneys, accountants, auditors, or other consultants for assistance or advice.

c. Attorney-Client Privileged Investigations.

If the Compliance Officer and/or senior management determines it is in the best interests of FLACRA to keep the information and documents obtained during the course of the investigation confidential under the attorney-client or attorney work product privileges, the Compliance Officer and/or senior management shall arrange for legal counsel to conduct and/or supervise the investigation. Legal counsel shall instruct FLACRA on how the investigation will be conducted to ensure that information provided, and documents generated in the course of the investigation will be covered by the attorney-client and/or attorney work product privileges.

d. Interviews and Document Review.

The Compliance Officer, or their designee(s), may conduct interviews with employees, Board members, contractors, and other individuals, may review any relevant document(s), and may undertake other processes and methods deemed necessary by the Compliance Officer.

e. Cooperation.

Employees, Board members, and contractors are required to fully cooperate in all investigations, subject to an individual's right against self-incrimination. Employees, Board members, and contractors are strictly prohibited from destroying, modifying, or otherwise making inaccessible any documents or electronic information that they know are the subject of a pending investigation. Employees, Board members, and contractors are also barred from directing or encouraging another person to take such action.

f. Documentation.

Compliance investigations will be recorded into a confidential database by the Compliance Officer for reporting and tracking purposes. The record of the compliance investigation will include any alleged violations, a description of the investigative process, and copies of any interview notes and other documents essential for demonstrating that a thorough investigation on the issue was conducted. All investigations will conclude with a written report of findings and recommendations for corrective action to correct the problem and prevent future recurrence.

f. Corrective Action.

The Compliance Officer is responsible for drafting, reviewing, and approving corrective action plans. Although the Compliance Officer will independently act on corrective actions, the Compliance Officer may seek input from the President & CEO and/or the appropriate supervisor, as appropriate. However, if the subject of the corrective action plan is the President & CEO and

the President & CEO is not promptly acting upon such a recommendation or acting in the best interests of FLACRA, the Compliance Officer shall recommend and seek approval of the corrective action plan from the Board. Corrective action may include, but is not limited to, any of the following steps:

- i. Modifying FLACRA's existing policies, procedures, or business practices;
- ii. Providing additional training or other guidance to employees, contractors, or Board members;
- iii. Seeking interpretive guidance of applicable laws and regulations from government agencies and/or legal counsel;
- iv. Disciplining employees, terminating contractors, and sanctioning Board members as described more fully in FLACRA's ***Disciplinary Policy***;
- v. Promptly notifying government agencies of improper conduct by employees, Board members, contractors, or others; and/or
- vi. Reporting and returning overpayments or other funds to which FLACRA is not entitled to the appropriate government entity or payor, including through the New York State Office of the Medicaid Inspector General's ("OMIG's") voluntary self-disclosure program, if applicable.

2. Possible Criminal Activity.

In the event the investigation indicates possible criminal activity on the part of an employee, Board member, or contractor, the following action will be taken:

- a. The Compliance Officer shall contact outside legal counsel promptly to assist with the investigation.
- b. An investigation should be conducted promptly by outside legal counsel so as to ensure that any determination and quantification of overpayments can be made such that FLACRA can repay government payors within sixty (60) days of any such determination and quantification of an overpayment.
- c. Billing of potentially improper claims should be suspended until an investigation has been completed and, if necessary, remedial action has been taken.

- d. If appropriate, individuals may be suspended from or removed from any position with oversight of, or impact upon, the relevant operational area or responsibility that is the subject of the investigation.
- e. FLACRA, in consultation with legal counsel, will determine whether the findings of the investigation results in credible evidence or a credible belief that a State or Federal law, rule, or regulation has been violated. If FLACRA identifies credible evidence or credibly believes that a violation of a State or Federal law, rule, or regulation has occurred, FLACRA will promptly report the violation to the appropriate government entity.

3. Non-Compliant Billing Issues.

In the event that the investigation reveals a non-compliant billing issue, such as the use of an improper code, the following action will be taken:

- a. If an overpayment has been made by Medicaid, Medicare, and/or any other State or Federal health care program because of FLACRA's error, mistake, or otherwise inappropriate claims submission:
 - i. The defective practice or procedure will be corrected as quickly as possible;
 - ii. Overpayments will be identified, quantified, reported, and repaid no later than sixty (60) days of from the date that the overpayments were quantified; and
 - iii. A program of education and/or a corrective action plan will be undertaken with appropriate individuals and entities to prevent similar problems in the future.

4. Documentation by Compliance Officer.

The Compliance Officer shall record compliance investigations into a confidential database for reporting and tracking purposes. The record of the compliance investigation will include any alleged violations, a description of the investigative process, and copies of any interview notes and other documents essential for demonstrating that a thorough investigation on the issue was conducted. Any disciplinary action taken and/or corrective action implemented will also be documented. The Compliance Officer will also receive and retain copies of any reports submitted to governmental entities.

All investigations will conclude with a written report of findings and recommendations for corrective action to correct the problem and prevent future recurrence. The written report may be prepared by the Compliance Officer and/or legal counsel and may be subject to the attorney-client and attorney work product privileges.

The Compliance Officer and/or legal counsel shall present the written report or a summary thereof to the Compliance Committee and the President & CEO, except when the President & CEO is the subject of the investigation. The written report and final resolution to the investigation shall be entered into the confidential database. Electronic and hard copy documentation of the complaint, investigation, and final resolution shall be retained for ten (10) years.



Auditing and Monitoring Policy

PURPOSE

The purpose of this Policy is to establish and implement an effective system for routine auditing and monitoring and identification of compliance risks at Finger Lakes Counseling and Recovery Agency, Inc. (“FLACRA”).

APPLICABILITY

This Policy applies to all employees, Board of Directors (“Board”) members, and contractors of FLACRA.²³

POLICY

The Compliance Officer will, in conjunction with the Compliance Committee, ensure that FLACRA conducts internal compliance auditing and monitoring and, as appropriate, external audits, to evaluate FLACRA’s compliance with Medicaid Program requirements and the overall effectiveness of its Compliance Program.²⁴ The Compliance Officer, in conjunction with the Compliance Committee, will also ensure that FLACRA conducts internal compliance auditing and monitoring, and, as appropriate, external audits, to identify compliance risks at an early stage before they develop into significant legal problems. FLACRA’s Compliance Program will be reviewed on at least an annual basis to ensure that the Medicaid Program requirements, as well

²³ “Employees, Board members, and contractors” includes FLACRA’s employees, President & Chief Executive Officer (“CEO”), senior administrators, managers, volunteers, interns, contractors, agents, subcontractors, independent contractors, corporate officers, and Board members who are affected by FLACRA’s Compliance Risk Areas. “Compliance Risk Areas” are those areas of operation affected by FLACRA’s Compliance Program, as set forth in Section XIII of FLACRA’s Compliance Plan. For purposes of FLACRA’s Compliance Program, “contractors” includes contractors, agents, subcontractors, and independent contractors who are affected by FLACRA’s Compliance Risk Areas. Contractors are required to comply with FLACRA’s Compliance Program to the extent that the contractor is affected by FLACRA’s Compliance Risk Areas, and only within the scope of the contractor’s contracted authority and affected Compliance Risk Areas.

²⁴ FLACRA’s Compliance Program is FLACRA’s implementation of its Compliance Plan and includes all of FLACRA’s compliance activities. FLACRA’s Compliance Plan is the document that provides an overview of FLACRA’s Compliance Program.

as any other applicable requirements set out in State and Federal laws, rules, and regulations, have been met.

PROCEDURE

1. Oversight of Auditing Process.

The Compliance Officer will be responsible for overseeing FLACRA's auditing and monitoring system. The Compliance Officer is authorized to delegate auditing duties to other personnel of FLACRA, as well as outside attorneys, accountants, and vendors as necessary and appropriate.

2. Identification of Risk Areas.

Internal and external compliance audits will focus on FLACRA's Compliance Risk Areas. FLACRA's Compliance Risk Areas will be identified by the Compliance Officer and Compliance Committee by reviewing the:

- a. Results of all internal or external audits, including audits or surveys performed by Federal and State government agencies, payors, and credentialing bodies;
- b. Annual work plans and other resources from the New York State Office of the Medicaid Inspector General ("OMIG"), the U.S. Department of Health and Human Services Office of the Inspector General ("HHS-OIG"), and other regulatory agencies; and
- c. Reviewing risk areas raised by compliance complaints filed or identified by FLACRA's employees, Board members, and/or contractors.

The Compliance Officer and their designee(s) will select audit subjects based on the level of risk associated with the subject, any prior history of violations, the length of time that has passed since the most recent audit of the same subject, and the cost and time to perform the audit. The Compliance Officer will ensure that any internal audits mandated by law or contract are carried out on a schedule consistent with such requirements.

3. Audit Plan.

The Compliance Officer and their designee(s) will develop a schedule for audits for the upcoming year. The schedule will be subject to the approval of the Compliance Committee. The subject of each audit, the audit methodology, the time period during which the audit will be carried out, and the employees or contractors to be used to perform the audit will be specified

in the audit schedule. The Compliance Officer is responsible for coordinating the implementation of the audit plan and will use best efforts to minimize any disruption of FLACRA's business activities caused by audits.

4. Audit Procedures.

The Compliance Officer, in conjunction with their designee(s) and any appropriate supervisors, will determine the audit tools and procedures for carrying out the audits. Audits will be performed by internal or external auditors who have expertise in State and Federal Medicaid Program requirements and applicable laws, rules, and regulations, or who have expertise in the subject area of the audit. The Compliance Officer may contract with outside companies to perform certain auditing functions. The Compliance Officer will oversee the services provided by any outside vendors.

If the Compliance Officer determines it is in the best interests of FLACRA to keep the contents and/or findings of an audit confidential, the Compliance Officer will arrange for legal counsel to conduct and/or supervise the audit under the attorney-client and/or attorney work product privileges.

All employees, Board members, and contractors are required to participate in, and cooperate with, internal and external audits, as requested by the Compliance Officer. This includes assisting in the production of documents, explaining program operations or rules to auditors, and implementing any corrective action plans.

5. Written Report and Corrective Action.

Upon completion of an audit, the Compliance Officer will arrange for the preparation of a written audit report. The report will set forth the subject of the audit, audit methodology, audit findings, and any recommended corrective action. The report or a summary thereof will be provided to the Compliance Committee, the President & CEO, the Board, and any appropriate supervisors.

The Compliance Officer will work with the relevant program supervisors to ensure that all recommended corrective actions are taken and will require the program supervisor to report to the Compliance Officer when implementation is complete.

Any overpayments and/or fraud and abuse discovered through an audit, including the potential for self-disclosure to the appropriate State and/or Federal health care program and/or agency, will be handled in accordance with FLACRA's **Compliance Investigations Policy** and other relevant policies. All audit reports will be maintained by FLACRA for ten (10) years.

6. Annual Compliance Program Review.

FLACRA's Compliance Program will be reviewed at least annually to ensure that the Medicaid Program requirements, as well as the requirements set out in State and Federal laws, rules, and regulations, have been met. The purpose of this review will be to determine the effectiveness of FLACRA's Compliance Program, as well as whether any revision or corrective action is required. Additionally, the annual Compliance Program review will determine whether:

- a. The Compliance Plan, Compliance Program, and Standards of Conduct have been implemented;
- b. Employees, Board members, and contractors are following the Compliance Plan, Compliance Program policies and procedures, and Standards of Conduct;
- c. The Compliance Plan, Compliance Program policies and procedures, and Standards of Conduct are effective;
- d. Any updates are required;
- e. The Compliance Officer is allocated sufficient staff and resources to satisfactorily perform their responsibilities for the day-to-day operation of the Compliance Program; and
- f. The Compliance Officer was able to satisfactorily perform their responsibilities for the day-to-day operation of the Compliance Program, including whether the Compliance Officer's other duties hindered the Compliance Officer in carrying out their primary responsibilities, if applicable.

The annual Compliance Program review may be carried out by FLACRA's Compliance Officer, Compliance Committee, external auditors, or other individuals who have the necessary knowledge and expertise to evaluate the effectiveness of the Compliance Program components that they are reviewing and are independent from the functions being reviewed. The annual review will include:

- a. On-site visits;
- b. Interviews with employees, Board members, and contractors;
- c. Review of records;
- d. Surveys; and/or

- e. Any other comparable method FLACRA deems appropriate, so long as the method does not compromise the independence or integrity of the review.

The design, implementation, and results of the annual review, as well as any corrective action implemented, will be documented. The results of the review will be shared with FLACRA's President & CEO, senior management, Compliance Committee, and Board.



Government Audits and Investigations

PURPOSE

Finger Lakes Area Counseling and Recovery Agency, Inc. (“FLACRA”) intends to cooperate fully in all government audits and investigations. The purpose of this Policy is to set out the procedures applicable to cooperation in government audits and investigations by FLACRA’s employees, Board of Directors (“Board”) members, and contractors.

APPLICABILITY

This Policy applies to all employees, Board members, and contractors of FLACRA.²⁵

POLICY

Employees, Board members, and contractors are required to cooperate fully in all government audits and investigations. FLACRA will respond to, and cooperate with, all appropriate written requests for documents received from government agencies. Employees, Board members, and contractors are strictly prohibited from altering, removing, destroying, or otherwise making inaccessible any paper or electronic documents, records, or information relating to the subject matter of any government subpoena, information request, or search warrant during the course of an audit or investigation.

²⁵ “Employees, Board members, and contractors” includes FLACRA’s employees, President & Chief Executive Officer (“CEO”), senior administrators, managers, volunteers, interns, contractors, agents, subcontractors, independent contractors, corporate officers, and Board members who are affected by FLACRA’s Compliance Risk Areas. “Compliance Risk Areas” are those areas of operation affected by FLACRA’s Compliance Program, as set forth in Section XIII of FLACRA’s Compliance Plan. For purposes of FLACRA’s Compliance Program, “contractors” includes contractors, agents, subcontractors, and independent contractors who are affected by FLACRA’s Compliance Risk Areas. Contractors are required to comply with FLACRA’s Compliance Program to the extent that the contractor is affected by FLACRA’s Compliance Risk Areas, and only within the scope of the contractor’s contracted authority and affected Compliance Risk Areas.

PROCEDURE

1. Contact By Government Officials.

Employees, Board members, and contractors are required to cooperate fully in all government audits and investigations. If contacted by governmental investigators or auditors, all employees are expected to request the following information:

- a. The name, agency, business telephone number, and address of all investigators or auditors;
- b. The reason for the contact; and
- c. If the contact is in person, the investigators' or auditors' business cards.

Employees, Board members, and contractors shall direct the investigators or auditors to the Compliance Officer, or in their absence, the President & CEO.

2. Subpoenas and Document Requests.

Employees, Board members, and contractors may receive subpoenas and other written or verbal requests for documents from government agencies. Subpoenas that are outside the normal course of FLACRA's business and written or verbal requests for documents from government agencies must immediately be forwarded to the Compliance Officer, or in their absence, the President & CEO

The Compliance Officer or the President & CEO, in conjunction with FLACRA's legal counsel, will evaluate the subpoena or written request, and if appropriate, coordinate the production of documents to the government agency. It is FLACRA's policy to respond only to written requests for documents and to cooperate with all appropriate written requests for documents from government agencies.

3. Prohibition on Altering or Destroying Records.

Employees, Board members, and contractors are strictly prohibited from altering, removing, destroying, or otherwise making inaccessible any paper or electronic documents, records, or information relating to the subject matter of any government subpoena, information request, or search warrant during the course of an audit or investigation. This prohibition shall override any record destruction that would otherwise be carried out under FLACRA's ordinary record retention and destruction policies. Employees, Board members, and contractors are also

barred from directing or encouraging another person to alter, remove, destroy, or otherwise make inaccessible any such paper or electronic documents, records, or information.

4. Request For Interviews.

If an employee, contractor, or Board member receives a request from a government official to provide an interview in the course of a government audit or investigation, the individual should immediately contact the Compliance Officer, or in their absence, the President & CEO. The Compliance Officer or the President & CEO will, as appropriate, seek advice from legal counsel. If the request is deemed to be appropriate, the Compliance Officer, President & CEO, or legal counsel will coordinate and schedule all interview requests with the relevant government agency.

Employees, Board members, and contractors are required to reasonably cooperate with government officials, including providing them with timely access to facilities and records upon reasonable notice, and being truthful and complete in their communications. Although individuals have the right not to incriminate themselves, any failure by an employee to provide cooperation or follow the requirements set forth in this Policy will be subject to disciplinary action including termination of employment. Any Board member who fails to provide such cooperation will be subject to sanctions as set forth in FLACRA's Bylaws and policies, as well as applicable laws and regulations. Any contractor who fails to provide such cooperation will be subject to termination of its contract or relationship.



Vendor Relations Policy

PURPOSE

The purpose of this Policy is to ensure that Finger Lakes Counseling and Recovery Agency, Inc. (“FLACRA”) complies with all applicable Federal and State laws, rules, regulations, policies, and standards governing its relationships with vendors, contractors, agents, subcontractors, and independent contractors, and that all such relationships are carried out with honesty and integrity.

APPLICABILITY

This Policy applies to employees, Board of Directors (“Board”) members, and contractors of FLACRA.²⁶

POLICY

FLACRA and its employees, Board members, and contractors shall comply with all requirements applicable to Medicaid, Medicare, and other payors, as well as all fraud and abuse laws, rules, regulations, policies, and standards. FLACRA is ultimately responsible for the adoption, implementation, maintenance, enforcement, and effectiveness of its Compliance Program.²⁷

²⁶ “Employees, Board members, and contractors” includes FLACRA’s employees, President & Chief Executive Officer (“CEO”), senior administrators, managers, volunteers, interns, contractors, agents, subcontractors, independent contractors, corporate officers, and Board members who are affected by FLACRA’s Compliance Risk Areas. “Compliance Risk Areas” are those areas of operation affected by FLACRA’s Compliance Program, as set forth in Section XIII of FLACRA’s Compliance Plan. For purposes of FLACRA’s Compliance Program, “contractors” includes contractors, agents, subcontractors, and independent contractors who are affected by FLACRA’s Compliance Risk Areas. Contractors are required to comply with FLACRA’s Compliance Program to the extent that the contractor is affected by FLACRA’s Compliance Risk Areas, and only within the scope of the contractor’s contracted authority and affected Compliance Risk Areas.

²⁷ FLACRA’s Compliance Program is FLACRA’s implementation of its Compliance Plan and includes all of FLACRA’s compliance activities. FLACRA’s Compliance Plan is the document that provides an overview of FLACRA’s Compliance Program.

PROCEDURE

1. **Conflicts of Interest.**

FLACRA is prohibited from entering into a contract with any entity that violates FLACRA's Conflict of Interest Policy. If an employee, Board member, or contractor becomes aware that FLACRA has entered into or is contemplating a contract with an entity in violation of such Policy, the individual must immediately notify the Compliance Officer. See ***Conflict of Interest Policy***.

2. **Gifts and Gratuities.**

Generally, employees may not receive or accept any gifts or gratuities of any kind from any vendor (including persons or entities) that has, or seeks to have, a business relationship with FLACRA. Gifts include, but are not limited to, the provision of any item or service to an employee at less than fair market value.

Employees may accept unsolicited gifts (*e.g.*, candy during the holiday season), and may allow vendors to pay for business-related meals, entertainment, or travel, so long as the gifts, meals, entertainment, or travel are of nominal value (*i.e.*, less than one hundred dollars (\$100.00) per year), are consistent with law and good business ethics and practices, and do not obligate the recipient to take, or refrain from taking, any action or decision on behalf of FLACRA. Gifts include, but are not limited to, the provision of any item or service to an employee at less than fair market value. Meals, entertainment, and travel are considered business-related only if they are used predominantly to facilitate business-related discussions.

Employees may not accept gifts, meals, or social invitations with a value of more than one hundred dollars (\$100.00) per year without the prior approval of the Compliance Officer. If possible, employees are encouraged to make nominal gifts available to individuals receiving services and/or specific departments or programs of FLACRA. Employees must contact the Compliance Officer if they have any questions about whether a gift from a vendor violates this Policy.

3. **Kickbacks.**

The Federal Anti-Kickback Statute (42 U.S.C. § 1320a-7b) prohibits any person or entity from knowingly and willfully soliciting, receiving, offering, or paying anything of value to another person or entity in return for the referral of a patient, or in return for the purchasing, leasing, ordering, or arranging for any item or service, reimbursed by a State or Federal health care program, such as the Medicare or Medicaid Programs. Penalties for violating the Federal Anti-Kickback Statute can include imprisonment, criminal fines, exclusion from government health

care programs, and civil monetary penalties. A similar New York State law (N.Y. Social Services Law § 366-d) prohibits the exchange of remuneration for referrals for items or services covered by the State’s Medicaid Program. Payments by vendors to induce FLACRA to contract with the vendor may violate these State and Federal Anti-Kickback Statutes.

Anything of value conveyed by the vendor to FLACRA must generally be reflected as a price discount or rebate. Discounts and rebates usually fit within a “safe harbor” to the Federal and New York State Anti-Kickback Statutes. Any other payments, in cash or in kind, proposed by vendors that are not structured as discounts or rebates—such as “contract implementation allowances,” free equipment, grants, or charitable contributions—must be approved by the Compliance Officer in consultation with legal counsel, as appropriate. A violation of this Policy’s restrictions on gifts and gratuities may also be illegal under the State and Federal Anti-Kickback Statutes.

4. Required Contract Provisions.

Every contract entered into by FLACRA must contain certain standard provisions designed to ensure that FLACRA does not do business with contractors that have engaged in fraud, waste, abuse, or other improper or unethical conduct. The list of standard provisions may be expanded by FLACRA’s Compliance Officer and/or legal counsel. See **Appendix D** (Medicaid Compliance Contract Addendum). These standard provisions (or ones substantially similar) for contractors, including agents, subcontractors, and independent contractors, include the following:

- a. The contractor is not included on the U.S. Department of Health and Human Services Office of Inspector General (“HHS-OIG”) List of Excluded Individuals/Entities (“LEIE”), the Excluded Parties List System (“EPLS”), the New York State Office of the Medicaid Inspector General (“OMIG”) Excluded Provider List, or another similar list or database, and has not been convicted of a crime relating to the provision of, or billing for, health care services;
- b. The contractor will adhere to the applicable provisions of FLACRA’s Compliance Program, which will be made available to the contractor, to the extent that the contractor is affected by FLACRA’s Compliance Risk Areas and only within the scope of the contractor’s contracted authority and affected Compliance Risk Areas;
- c. The contractor will subcontract only with FLACRA’s prior approval, will not subcontract with any persons or entities included on the LEIE, EPLS, OMIG Excluded Provider List, or another similar list or database, or that have been convicted of a crime relating to the provision of, or billing for, health care services,

and will terminate any subcontractors that engage in fraudulent or other illegal conduct;

- d. The contractor will immediately report any fraud, waste, abuse, or other improper or unethical activity of which it becomes aware that relates to FLACRA's operations or the services provided to FLACRA by the contractor or any subcontractors to the Compliance Officer;
- e. The contractor will promptly notify FLACRA of any government audit, inquiry, or investigation of which it becomes aware that relates to FLACRA or the services provided to FLACRA by the contractor or any subcontractors;
- f. The contractor and its subcontractors will make their employees available for interviews or other proceedings at the request of government investigative agencies subject to the individual's right against self-incrimination;
- g. FLACRA may immediately terminate the contract in the event that the contractor becomes an "excluded provider" or "excluded person" on a government database or engages in any fraud or other illegal activity;
- h. FLACRA may immediately terminate the contract in the event that the contractor fails to adhere to FLACRA's Compliance Program requirements; and
- i. The contractor will immediately notify FLACRA if any of the above representations cease to be true during the term of the contract.

5. Termination of Contractors.

Employees will promptly notify the Compliance Officer if they become aware of any suspected fraud, waste, abuse, or other improper or unethical conduct by a contractor, agent, subcontractor, or independent contractor. The Compliance Officer, in coordination with other appropriate personnel, will investigate the matter and determine whether the contractor, agent, subcontractor, or independent contractor has engaged in improper conduct. FLACRA will promptly terminate the contract of any contractor, agent, subcontractor, or independent contractor that has been found to have engaged in fraud, waste, abuse, or other improper or unethical conduct, or whose subcontractor has been found to have engaged in fraud, waste, abuse, or other improper or unethical conduct.

6. Informing Program of Contracted Work.

Prior to work starting at a program site where clients will be or may be present, i.e. Residential or Outpatient, the Facilities Director will meet with the Program Director and Program Staff to review the dates of service, overview of work being performed, and rules for contractors – will they need to turn off electricity or water, use power outlets, use restrooms, and any other relevant information that the Program Director should be aware of.

If work is being done in a Residential facility, the Program Director will hold a house meeting prior to the start of the work, to inform the clients that contractors will be onsite, what work is being performed, dates and times contractors will be on-site and emergency contact numbers in case an issue arises, and clients need support.



Exclusion Screening Policy

(Employees, Board Members, and Contractors)

PURPOSE

The purpose of this Policy is to establish safeguards to prevent Finger Lakes Counseling and Recovery Agency, Inc. (“FLACRA”) from employing or contracting with individuals or entities that have been excluded from participation in any State or Federal government health care program, or who have otherwise engaged in wrongful or unethical conduct. FLACRA is committed to identifying prospective and current employees, Board of Directors (“Board”) members, and contractors (including agents, subcontractors, and independent contractors) who are listed on government exclusion lists so as to protect the individuals served by FLACRA and prevent the refunding of overpayments for services provided by excluded individuals and entities.

APPLICABILITY

This Policy applies to all employees, Board members, and contractors of FLACRA.²⁸

POLICY

Federal and State laws and regulations bar health care and human services providers—like FLACRA—that receive reimbursement, directly or indirectly, from a Federally financed health care program, such as the Medicaid or Medicare Programs, from employing excluded individuals or contracting with an excluded contractor.

²⁸ “Employees, Board members, and contractors” includes FLACRA’s employees, President & Chief Executive Officer (“CEO”), senior administrators, managers, volunteers, interns, contractors, agents, subcontractors, independent contractors, corporate officers, and Board members who are affected by FLACRA’s Compliance Risk Areas. “Compliance Risk Areas” are those areas of operation affected by FLACRA’s Compliance Program, as set forth in Section XIII of FLACRA’s Compliance Plan. For purposes of FLACRA’s Compliance Program, “contractors” includes contractors, agents, subcontractors, and independent contractors who are affected by FLACRA’s Compliance Risk Areas. Contractors are required to comply with FLACRA’s Compliance Program to the extent that the contractor is affected by FLACRA’s Compliance Risk Areas, and only within the scope of the contractor’s contracted authority and affected Compliance Risk Areas.

PROCEDURE

1. Employee Screening Process.

All application forms for employment with FLACRA shall require applicants to indicate whether they have been, or are, excluded from participation in Medicare, Medicaid, or any other State or Federal government health care program. These forms will also require applicants to certify that the information provided regarding any exclusion is true, accurate, and complete.

In addition, all candidates for employment by FLACRA will be subject to pre-employment screening for exclusion from participation in Medicaid, Medicare, and other State or Federal government health care programs. The screening process will commence when an applicant has been identified by the appropriate hiring manager as a final candidate whose employment is conditioned upon an exclusions check, among other pre-employment screenings. At such time, the hiring manager will notify the Director of Human Resources or their designee of the applicant's name and other information required to check the applicant's name against the U.S. Department of Health and Human Services ("HHS-OIG") List of Excluded Individuals and Entities ("LEIE"), the Excluded Parties List System ("EPLS"), the New York State Office of the Medicaid Inspector General ("OMIG") Excluded Provider List, and other similar lists and databases. The Director of Human Resources may delegate certain screening functions to outside vendors as appropriate.

No individual may be offered employment until the exclusion screening process described in this Policy has been completed. FLACRA is prohibited from offering employment to any individual who is included on the LEIE, EPLS, OMIG Excluded Provider List, or another similar list or database at the time of such offer.

2. Contractor and Board Member Pre-Screening Process.

All prospective contractors and Board members will be subject to screening for exclusion from participation in Medicaid, Medicare, and other government health care programs prior to FLACRA's execution of an agreement with the contractor or appointment of the individual to a Board member position. The Compliance Officer will develop and implement a screening process for prospective contractors and Board members, which will include reviews of the LEIE, EPLS, OMIG Excluded Provider List, and other similar lists and databases. FLACRA shall not enter into a contractual relationship with a prospective contractor or appoint an individual to FLACRA's Board until the contractor or individual has cleared the exclusion screening process.

3. Mandatory Exclusion Lists for Employees, Board members, and contractors.

FLACRA shall comply with Federal and State exclusion regulations by conducting verifications of prospective and current employees, Board members, and contractors to ensure they are not included on any of the following Medicare and Medicaid Program exclusion lists and databases, or similar lists and databases:

- a. Excluded Parties List System: The EPLS is maintained by the General Service Administration (“GSA”). The GSA website contains debarment actions taken by various Federal agencies, including exclusion actions taken by HHS-OIG. The EPLS is available at <https://sam.gov/content/exclusions>.
- b. List of Excluded Individuals/Entities: The LEIE provides information to the health care and human services industries regarding individuals and entities currently excluded from participation in Medicare, Medicaid, and all Federal health care programs. Individuals and entities who have been reinstated are removed from the LEIE. The LEIE contains only the exclusion actions taken by HHS-OIG. The LEIE is available at https://oig.hhs.gov/exclusions/exclusions_list.asp.
- c. OMIG Excluded Provider List: The OMIG Excluded Provider List identifies providers determined by OMIG to no longer be eligible to participate in the New York State Medicaid Program due to unethical behavior or other improper conduct. The Excluded Provider List is available at <https://omig.ny.gov/medicaid-fraud/medicaid-exclusions>.

4. Monthly Verification Process.

The Director of Human Resources or their designee (in the case of employees) and the Compliance Officer or their designee (in the case of contractors and Board members) will ensure that verifications of the EPLS, LEIE, OMIG Excluded Provider List, and other similar lists or databases occur every thirty (30) days after the first screening to ensure that there have been no changes to the statuses of current employees, Board members, and contractors. In the event that an employee, Board member, or contractor is listed on the EPLS, LEIE, OMIG Excluded Provider List, or another similar list or database, FLACRA, in FLACRA’s sole discretion, may follow-up with such individuals or entities to question them about the listing. The results of all monthly exclusion checks shall be shared with the Compliance Officer and other appropriate compliance personnel.

5. Consequences of Being Listed on an Exclusion List or Database.

Any employee who is included on the EPLS, LEIE, OMIG Excluded Provider List, or another similar list or database will be subject to immediate termination. If any employee obtains information indicating that another employee is subject to such an exclusion, the employee who obtained the information will promptly notify the Compliance Officer, who will be responsible for investigating the matter. The contract of any contractor who is included on the EPLS, LEIE, OMIG Excluded Provider List, or another similar list or database will be subject to immediate termination by FLACRA. The appointment of a Board member on FLACRA's Board who is included on the EPLS, LEIE, OMIG Excluded Provider List, or another similar list or database will be subject to immediate removal from the Board consistent with FLACRA's Bylaws and policies, as well as applicable laws and regulations.

Any corrective action will be conducted by the Compliance Officer in consultation with the Director of Human Resources (in the case of an employee), the Chair of the Board (in the case of a Board member), and the Compliance Officer, in consultation with the President & CEO (in the case of a contractor). Corrective action will also include an investigation to determine whether the excluded individual and/or entity resulted in any overpayments to FLACRA, as well as whether a self-disclosure and/or repayment is required.



Fraud Prevention Policy

(For Contractors and Agents)

Finger Lakes Counseling and Recovery Agency, Inc. (“FLACRA”) is committed to preventing, detecting, and correcting any fraud, waste, abuse, or improper or unethical conduct in Medicare, Medicaid, and other State and Federal health care programs. FLACRA has adopted a Compliance Program²⁹ designed to ensure compliance with all applicable laws and regulations by its employees, Board of Directors (“Board”) members, and contractors, including subcontractors, independent contractors, and agents.

As part of FLACRA’s Compliance Program, FLACRA is providing contractors with detailed information regarding: (1) how to report Compliance Issues³⁰ to FLACRA; and (2) the Federal and State fraud and abuse laws. Any questions regarding FLACRA’s Compliance Program or this Policy may be addressed to FLACRA’s Compliance Officer.

POLICY

If you are aware of a potential Compliance Issue involving FLACRA, you should report the Compliance Issue to:

1. FLACRA’s Compliance Hotline at 1-855-935-2272 (anonymously or otherwise);
2. FLACRA’s Quality Assurance Complaint Form, [FLACRA Concern Form](#) (anonymously or otherwise);
3. FLACRA’s Compliance Officer, Ruth Donk, by telephone (315-462-9xxx) or email (ruth.donk@flacra.org);

²⁹ FLACRA’s Compliance Program is FLACRA’s implementation of its Compliance Plan and includes all of FLACRA’s compliance activities. FLACRA’s Compliance Plan is the document that provides an overview of FLACRA’s Compliance Program.

³⁰ A “Compliance Issue” includes actual or suspected fraud, waste, abuse, or other improper or unethical conduct, violations of Federal and State law, regulations, rules, policies, and standards, or FLACRA’s Compliance Plan, Compliance Program policies and procedures, and Standards of Conduct.

4. FLACRA's Compliance Officer, Ruth Donk, in writing by mail to Attn: Compliance Officer, Finger Lakes Counseling and Recovery Agency, Inc., 28 East Main Street, Clifton Springs, New York 14432 (anonymously or otherwise);
5. A member of FLACRA's Compliance Committee;
6. A FLACRA supervisor; or
7. FLACRA's President & CEO.

You are encouraged to first report your potential Compliance Issue directly to FLACRA to allow FLACRA the opportunity to promptly address the issue. Any contractor or their staff who reports a potential Compliance Issue in good faith has the right to do so confidentially and anonymously and will be protected against retaliation and intimidation. However, if you or your company have participated in a potential Compliance Issue, you and your company are not protected against retaliation and intimidation and FLACRA has the right to take appropriate action against you and/or your company, including termination of contract or relationship.

FLACRA is committed to investigating potential Compliance Issues. While FLACRA encourages its contractors to first report Compliance Issues directly to FLACRA, certain laws allow individuals to also bring their concerns to the government.

LAWS REGARDING THE PREVENTION OF FRAUD, WASTE, AND ABUSE

A. Federal Laws.

1. False Claims Act (31 USC §§ 3729 – 3733; 18 USC § 287).

Under the Federal Civil False Claims Act, any person who knowingly and/or willfully submits a false or fraudulent claim for payment to the Federal government may be subject to civil penalties, including monetary penalties, treble damages, exclusion from participation in the Medicare and Medicaid Programs, and fines of up to three times the government's loss plus up to \$11,000 per claim filed (*i.e.*, each instance of an item or service billed to a government health care program). Examples of prohibited conduct include billing for services not rendered, upcoding claims, double billing, misrepresenting services that were rendered, falsely certifying that services were medically necessary, making false statements to the government, failing to comply with conditions of payment, and failing to refund overpayments made by a Federal health care program. Notably, no specific intent to defraud the government is required, as "knowing" is defined to include not only actual knowledge but also instances in which the person acted in deliberate ignorance or reckless disregard of the truth or falsity of the information. The civil False Claims Act also contains a whistleblower provision that permits private citizens ("relators") to file

suits on behalf of the government ("qui tam suits") against those who have defrauded the government and the relator, if successful, may receive a portion of the government's recovery.

Federal law also establishes criminal liability against individuals or entities that knowingly submit, or cause to be submitted, a false or fraudulent claim for payment to the Federal government. Criminal False Claims Act liability can result in imprisonment of up to five years and/or substantial fines.

2. Administrative Remedies for False Claims (31 USC §§ 3801 – 3812).

Federal law allows for administrative recoveries by Federal agencies related to false claims. The laws penalize any person who makes, presents, or submits (or causes to be made, presented, or submitted) a claim that the person knows or has reason to know:

- a. Is false, fictitious, or fraudulent;
- b. Includes or is supported by any written statement which asserts a material fact which is false, fictitious, or fraudulent;
- c. Includes or is supported by any written statement that omits a material fact, is false, fictitious, or fraudulent as a result of such omission, and is a statement in which the person making, presenting, or submitting such statement has a duty to include such material fact; or
- d. Is for payment for the provision of property or services which the person has not provided as claimed.

The Federal agency receiving the false claim may impose a penalty of up to \$5,000 for each claim, as well as an assessment of up to twice the amount of the claim in violation of the False Claims Act. In these instances, the determination of whether a claim is false and the imposition of fines and penalties is made by the Federal administrative agency, rather than by a court. Moreover, in contrast to the False Claims Act, a violation of these laws occurs when a false claim is submitted, rather than when it is paid.

3. Anti-Kickback Statute (42 USC § 1320a-7b(b)).

The Federal Anti-Kickback Statute is a criminal law that prohibits the knowing and willful payment of "remuneration" to induce or reward patient referrals or the generation of business involving any item or service that is payable by a Federal health care program. Remuneration includes kickbacks, bribes, and rebates paid directly or indirectly, overtly or covertly, in cash or in kind (*i.e.*, anything of value), and items or services includes drugs, supplies, or health care

services provided to Medicare or Medicaid patients. The Statute covers both the payers and recipients of kickbacks. No intent to violate the Statute is required, and the Statute has been interpreted to cover any arrangement where one purpose of the remuneration was to obtain money for the referral of services or to induce further referrals.

An individual or entity that is found to have violated the Anti-Kickback Statute may be subject to criminal penalties and administrative sanctions including fines, imprisonment, and exclusion from participation in Federal health care programs, including the Medicaid and Medicare Programs. Safe harbors protect certain payment and business practices from criminal and civil prosecution that could otherwise implicate the Anti-Kickback Statute. To be protected by a safe harbor, the arrangement must fit squarely within the safe harbor and must satisfy all of its requirements.

4. Physician Self-Referral Law (42 USC § 1395nn).

The Federal Physician Self-Referral Law, commonly referred to as the “Stark Law,” prohibits physicians—including medical doctors, doctors of osteopathy, psychologists, oral surgeons, dentists, podiatrists, optometrists, and chiropractors—from referring patients to receive “designated health services” payable by Medicare or Medicaid from entities with which the physician or an immediate family member has a financial relationship, unless the ownership or compensation arrangement is structured to fit within a regulatory exception.

Financial relationships include both ownership/investment interests and compensation arrangements, and “designated health services” are any of the following services, other than those provided as emergency physician services furnished outside of the United States, that are payable in whole or in part by the Medicare Program:

- a. Clinical laboratory services;
- b. Physical therapy, occupational therapy, and outpatient speech-language pathology services;
- c. Radiology and certain other imaging services;
- d. Radiation therapy services and supplies;
- e. Durable medical equipment and supplies;
- f. Parenteral and enteral nutrients, equipment, and supplies;
- g. Prosthetics, orthotics, and prosthetic devices and supplies;

- h. Home health services;
- i. Outpatient prescription drugs; and
- j. Inpatient and outpatient hospital services.

The Stark Law is a strict liability statute, and therefore, proof of specific intent to violate the law is not required. The Law also prohibits the submission, or causing the submission, of claims in violation of the law's restrictions on referrals. Penalties for physicians who violate the Stark Law include fines, civil penalties, repayment of Medicare and/or Medicaid reimbursement, and exclusion from participation in the Federal health care programs.

5. Exclusion Statute (42 USC § 1320a-7).

The Federal Exclusion Statute requires the U.S. Department of Health and Human Services Office of Inspector General ("HHS-OIG") to exclude individuals and entities convicted of certain types of criminal offenses from participation in all Federal health care programs (including the Medicare and Medicaid Programs), and gives HHS-OIG the discretion to exclude individuals and entities on several other grounds. The following types of criminal offenses require exclusion:

- a. Medicare or Medicaid fraud, as well as any other offenses related to the delivery of items or services under Medicare or Medicaid;
- b. Patient abuse or neglect;
- c. Felony convictions for other health-care-related fraud, theft, or other financial misconduct; and
- d. Felony convictions for unlawful manufacture, distribution, prescription, or dispensing of controlled substances.

Physicians who are excluded from participation in Federal health care programs are barred from receiving payment from programs such as Medicaid and Medicare for items or services furnished, ordered, or prescribed. Additionally, individuals and entities providing health care services may not employ or contract with excluded individuals or entities in any capacity or setting in which Federal health care programs may reimburse for the items or services furnished by those employees or contractors. Employing or contracting with an excluded individual or entity may result in civil monetary penalties and an obligation to repay any amounts paid by a Federal health care program attributable to the excluded individual or entity's services.

6. Civil Monetary Penalties Law (42 USC § 1320a-7a).

The Federal Civil Monetary Penalties Law authorizes HHS-OIG to seek civil monetary and other penalties against individuals and entities for a wide variety of conduct, including presenting a claim that a person knows or should know is for an item or service that was not provided as claimed or is false or fraudulent, presenting a claim that the person knows or should know is for an item or service that is not payable, or making false statements or misrepresentations on applications or contracts to participate in Federal health care programs, among others. Violations of the False Claims Act, Anti-Kickback Statute, and Stark Law implicate the Civil Monetary Penalties Law and can lead to civil monetary and other penalties.

The amount of the penalties and assessments that HHS-OIG is authorized to seek under the Civil Monetary Penalties Law differs depending on the type of violation at issue. Specifically, the Civil Monetary Penalties Law authorizes penalties in the amount of \$100,000 for each act in violation of the Anti-Kickback Statute, in addition to any other penalty that may be prescribed by law. Regulations also permit HHS-OIG to impose a penalty up to \$50,000 for each offer, payment, solicitation or receipt of remuneration, and violations of the Anti-Kickback Statute can result in assessments of up to three times the total amount of the remuneration offered, paid, solicited, or received. Remuneration under the Civil Monetary Penalties Law includes waivers of coinsurance and deductible amounts (including partial waivers), and transfers of items or services for free or for amounts other than fair market value. In addition to civil monetary penalties, persons or entities may also be excluded from participation in Federal health care programs, fines, treble damages, denial of payment, and repayment of amounts improperly paid.

B. New York State Laws.

1. New York State False Claims Act (N.Y. State Finance Law §§ 187 – 194).

The New York State False Claims Act closely tracks the Federal False Claims Act, and imposes penalties and fines on individuals and entities that file false or fraudulent claims for payment from any State or local government, including health care programs such as the Medicaid Program. Specifically, the Act penalizes any person or entity who, among other conduct:

- a. Knowingly presents, or causes to be presented, to any employee, officer, or agent of the State or a local government a false or fraudulent claim for payment or approval, or conspires to do the same;
- b. Knowingly makes, uses, or causes to be made or used, a false record or statement material to a false or fraudulent claim, or conspires to do the same;

- c. Conspires to defraud the State or a local government by getting a false or fraudulent claim allowed or paid; or
- d. Knowingly makes, uses, or causes to be made or used a false record or statement to conceal, avoid, or decrease an obligation to pay or transmit money or property to the State or a local government.

The penalty for filing a false claim is \$6,000 to \$12,000 per claim and the recoverable damages are between two and three times the value of the amount falsely received. In addition, the person or entity that filed the false claim may have to pay the government's legal fees, including the costs of a civil action brought to recover any penalties or damages and attorneys' fees. The New York State False Claims Act also allows private individuals ("relators") to bring an action on behalf of the State or local government ("qui tam suits"). If the lawsuit results in a recovery or settlement, the relator may share in a percentage of the proceeds.

2. New York Social Services Law § 145.

Under Section 145 of the New York Social Services Law, any person who makes false statements or representations, deliberately conceals any material fact, impersonates another, or through another fraudulent device obtains, or attempts to obtain, or aids or abets any person to obtain, public assistance or care to which the person is not entitled, including Medicaid Program benefits, is guilty of a misdemeanor. However, if the act constitutes a violation of a provision of the New York Penal Law, the person will be punished in accordance with the penalties fixed by the applicable law.

3. New York Social Service Law § 145-b.

Section 145-b of the New York Social Services Law makes it unlawful to knowingly make a false statement or representation, to deliberately conceal any material fact, or to engage in any other fraudulent scheme or device to obtain or attempt to obtain public funds, including Medicaid Program funds. In instances where a violation of this law occurs, the local Social Services District or the State may recover civil damages equal to three times the amount by which any figure is falsely overstated. In the case of non-monetary false statements, the local Social Services District or State may recover three times the damages sustained by the government due to the violation or \$5,000, whichever is greater. The Department of Health may also impose a civil penalty of up to \$2,000 per violation, and if repeat violations occur within five years, a penalty of up to \$7,500 per violation may be imposed if the conduct involves more serious violations of Medicaid rules, billing for services not rendered, or providing excessive services.

4. New York Social Services Law § 145-c.

Under Section 145-c of the New York Social Services Law, any person who applies for or receives public assistance, including Medicaid, by intentionally making a false or misleading statement, or intending to do so, the needs of the person or their family are not taken into account for various periods of time based on the offense committed. Specifically, the person's or their family's needs will not be taken into account for six months on the first offense, 12 months on the second offense or a single offense that resulting in the wrongful receipt of benefits in an amount of between \$1,000 and \$3,900, 18 months on the third offense or upon an offense that results in the wrongful receipt of benefits in an amount in excess of \$3,900, and five years for any subsequent occasion of any such offense. These sanctions are in addition to any sanctions which may be provided for by law with respect to the offenses involved.

5. New York Social Services Law § 366-b.

Under Section 366-b of the Social Services Law, any person who obtains or attempts to obtain, for themselves or others, medical assistance by means of a false statement, concealment of material facts, impersonation, or other fraudulent means is guilty of a Class A misdemeanor. Additionally, any person who, with intent to defraud, presents for payment a false or fraudulent claim for furnishing services, knowingly submits false information to obtain greater Medicaid compensation, or knowingly submits false information in order to obtain authorization to provide items or services is guilty of a Class A misdemeanor. Finally, if an act also constitutes a violation of a provision under the New York Penal Law, the person committing the act will be punished in accordance with the penalties fixed by such law.

6. New York Penal Law Article 155.

Article 155 of the New York Penal Law establishes the crime of Larceny, which occurs when a person, with intent to deprive another of their property, obtains, takes, or withholds the property by means of trick, embezzlement, false pretense, false promise, a scheme to defraud, or other similar behavior. The four crimes of Larceny have been applied to Medicaid fraud cases. These crimes include:

- a. Penal Law § 155.30, Grand Larceny in the Fourth Degree, which involves property valued over \$1,000, and is a Class E felony;
- b. Penal Law § 155.35, Grand Larceny in the Third Degree, which involves property valued over \$3,000, and is a Class D felony;

- c. Penal Law § 155.40, Grand Larceny in the Second Degree, which involves property valued over \$50,000, and is a Class C felony; and
- d. Penal Law § 155.42, Grand Larceny in the First Degree, which involves property valued over \$1 million, and is a Class B felony.

7. New York Penal Law Article 175.

The four crimes in Article 175 of the New York Penal Law, Offenses Involving False Written Statements, relate to filing false information or claims and have been applied in Medicaid fraud prosecutions. These crimes include:

- a. Penal Law § 175.05, Falsifying Business Records, which involves entering false information, omitting material information, or altering an enterprise's business records with the intent to defraud, and is a Class A misdemeanor;
- b. Penal Law § 175.10, Falsifying Business Records in the First Degree, which includes the elements of Penal Law § 175.05 and the intent to commit another crime or conceal its commission, and is a Class E felony;
- c. Penal Law § 175.30, Offering a False Instrument for Filings in the Second Degree, involves presenting a written instrument (including a claim for payment) to a public office knowing that it contains false information, and is a Class A misdemeanor; and
- d. Penal Law § 175.35, Offering a False Instrument for Filing in the First Degree, which includes the elements of Penal Law § 175.30 and an intent to defraud the State or a political subdivision, and is a Class E Felony.

8. New York Penal Law Article 176.

Article 176 of the New York Penal Law, Insurance Fraud, applies to claims for insurance payment, including Medicaid or other health insurance, and contains six crimes. The crimes include:

- a. Penal Law § 176.10, Insurance Fraud in the Fifth Degree, which involves intentionally filing a health insurance claim knowing that it is false, and is a Class A misdemeanor;
- b. Penal Law § 176.15, Insurance fraud in the Fourth Degree, which involves filing a false insurance claim for over \$1,000, and is a Class E felony;

- c. Penal Law § 176.20, Insurance Fraud in the Third Degree, which involves filing a false insurance claim for over \$3,000, and is a Class D felony;
- d. Penal Law § 176.25, Insurance Fraud in the Second Degree, which involves filing a false insurance claim for over \$50,000, and is a Class C felony;
- e. Penal Law § 176.30, Insurance Fraud in the First Degree, which involves filing a false insurance claim for over \$1 million, and is a Class B felony; and
- f. Penal Law § 176.35, Aggravated Insurance Fraud, which involves committing insurance fraud more than once, and is a Class D felony.

9. New York Penal Law Article 177.

Article 177 of the New York Penal Law establishes the crime of Health Care Fraud, and applies to claims for health insurance payment, including claims submitted to the Medicaid Program and other health plans, including non-government plans, and contains five crimes. The crimes include:

- a. Penal Law § 177.05, Health Care Fraud in the Fifth Degree, involves knowingly filing, with intent to defraud, a claim for payment that intentionally has false information or omissions, and is a Class A misdemeanor;
- b. Penal Law § 177.10, Health Care Fraud in the Fourth Degree, involves filing false claims and annually receiving over \$3,000 in the aggregate, and is a Class E felony;
- c. Penal Law § 177.15, Health Care Fraud in the Third Degree, involves filing false claims and annually receiving over \$10,000 in the aggregate, and is a Class D felony;
- d. Penal Law § 177.20, Health Care Fraud in the Second Degree, involves filing false claims and annually receiving over \$50,000 in the aggregate, and is a Class C felony; and
- e. Penal Law § 177.25, Health Care Fraud in the First Degree, involves filing false claims and annually receiving over \$1 million in the aggregate, and is a Class B felony.

C. Whistleblower Protections.

1. Federal False Claims Act (31 USC §§ 3730(h)).

The civil False Claims Act provides protection to 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. Remedies include reinstatement with comparable seniority as the 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. However, if the *qui tam* action has no merit or is for the purpose of harassing the person or entity, the individual may have to pay the person or entity for its legal fees and costs in defending the suit.

2. New York State False Claims Act (N.Y. State Finance Law § 191).

The New York State False Claims Act provides protection to an employee of any private or public employer who is discharged, demoted, suspended, threatened, harassed, or otherwise discriminated against in the terms and conditions of employment by their employer because of lawful acts taken by the employee in furtherance of an action under the New York State False Claims Act. Remedies can include reinstatement to the same position or an equivalent position, two times back pay, reinstatement of full fringe benefits and seniority rights, and compensation for any special damages sustained, including litigation costs and reasonable attorneys' fees.

3. New York Labor Law § 740.

An employer may not take any retaliatory action against an employee (including former employees) if the employee discloses, or threatens to disclose, information about the employer's policies, practices, or activities to a regulatory, law enforcement, or another similar agency or public official. Protected disclosures include disclosures of an activity, policy, or practice of the employer that the employee reasonably believes are in violation of law, rule, or regulation, or that the employee reasonably believes pose a substantial and specific danger to the public health or safety. The employee's disclosure is protected only if the employee first raised the matter with a supervisor and gave the employer a reasonable opportunity to correct the alleged violation. However, employer notification is not required where:

- a. There is an imminent and serious danger to the public health or safety;
- b. The employee reasonably believes that reporting to the supervisor would result in destruction of evidence or other concealment of the activity, policy, or practice;

- c. The activity, policy or practice could reasonably be expected to lead to endangering the welfare of a minor;
- d. The employee reasonably believes that reporting to the supervisor would result in physical harm to the employee or any other person; or
- e. The employee reasonably believes that the supervisor is already aware of the activity, policy, or practice and will not correct it.

Employees are also protected from retaliatory action if the employee objects to, or refuses to participate in, any activity that is in violation of law, rule, or regulation or that the employee reasonably believes poses a substantial and specific danger to the public health or safety. Additionally, employees are protected when the employee provides information to, or testifies before, any public body conducting an investigation, hearing, or inquiry into an employer's activity, policy, or practice. If an employer takes retaliatory action against the employee, the employee may sue in State court for reinstatement to the same position held before the retaliatory action, or to an equivalent position, any back wages and benefits, and attorneys' fees, among other remedies. If the employer's violation was willful, malicious, or wanton, punitive damages may be imposed.

4. New York State Labor Law § 741.

A health care employer may not take any retaliatory action against a health care employee if the health care employee discloses, or threatens to disclose, certain information about the health care employer's policies, practices, or activities to a regulatory, law enforcement, or other similar agency or public official, to a news media outlet, or to a social media forum available to the public at large. Under the law, a "health care employee" is any person who performs health care services for, and under the control and director of, any public or private employer that provides health care services for wages or other remuneration.

Protected disclosures include disclosures of an activity, policy, or practice of the health care employer that the health care employee, in good faith, reasonably believes constitute improper quality of patient care or improper quality of workplace safety. Health care employees are also protected from retaliatory action if the health care employee objects to, or refuses to participate in, any activity, policy, or practice of the health care employer that the health care employee, in good faith, reasonably believes constitutes improper quality of patient care or improper quality of workplace safety.

The health care employee's disclosure is protected only if the health care employee first raised the matter with a supervisor and gave the health care employer a reasonable opportunity

to correct the activity, policy, or practice. However, employer notification is not required where the improper quality of patient care or workplace safety presents an imminent threat to public health or safety, to the health of a specific patient, or to the health of a specific health care employee and the health care employee reasonably believes, in good faith, that reporting to a supervisor would not result in corrective action.

If a health care employer takes retaliatory action against the health care employee, the health care employee may sue in State court for reinstatement to the same position held before the retaliatory action, or to an equivalent position, any back wages and benefits, and attorneys' fees, among other remedies. If the health care employer's violation was willful, malicious, or wanton, punitive damages may be imposed.



Written Policies and Procedures

PURPOSE

Finger Lakes Counseling and Recovery Agency, Inc. (“FLACRA”) intends to comply with all Federal and State laws, rules, regulations, policies, and standards that apply to its operations, including the requirement to maintain written policies, procedures, and Standards of Conduct applicable to its Compliance Program³¹ (the “Compliance Policies”). The purpose of this Policy is to establish procedures for drafting, reviewing, and revising the Compliance Policies.

APPLICABILITY

This Policy applies to all employees, Board of Directors (“Board”) members, and contractors of FLACRA.³²

POLICY

FLACRA shall have written Compliance Policies which shall be available, accessible, and applicable to all employees, Board members, and contractors. The Compliance Officer, in coordination with the Compliance Committee, is responsible for drafting, reviewing, and revising FLACRA’s Compliance Policies on at least an annual basis, and more frequently when changes are required. The Compliance Committee, President & CEO, and Board are responsible for approving FLACRA’s Compliance Policies.

³¹ FLACRA’s Compliance Program is FLACRA’s implementation of its Compliance Plan and includes all of FLACRA’s compliance activities. FLACRA’s Compliance Plan is the document that provides an overview of FLACRA’s Compliance Program.

³² “Employees, Board members, and contractors” includes FLACRA’s employees, President & Chief Executive Officer (“CEO”), senior administrators, managers, volunteers, interns, contractors, agents, subcontractors, independent contractors, corporate officers, and Board members who are affected by FLACRA’s Compliance Risk Areas. “Compliance Risk Areas” are those areas of operation affected by FLACRA’s Compliance Program, as set forth in Section XIII of FLACRA’s Compliance Plan. For purposes of FLACRA’s Compliance Program, “contractors” includes contractors, agents, subcontractors, and independent contractors who are affected by FLACRA’s Compliance Risk Areas. Contractors are required to comply with FLACRA’s Compliance Program to the extent that the contractor is affected by FLACRA’s Compliance Risk Areas, and only within the scope of the contractor’s contracted authority and affected Compliance Risk Areas.

PROCEDURE

1. Compliance Policies.

FLACRA's Compliance Policies shall be available, accessible, and applicable to all employees, Board members, and contractors. The Compliance Policies shall:

- a. Articulate FLACRA's commitment and obligation to comply with all applicable Federal and State laws, rules, regulations, guidance and other standards;
- b. Identify governing laws and regulations applicable to FLACRA's Compliance Risk Areas, including any applicable Medicaid Program policies and procedures for its categories of service;
- c. Describe FLACRA's compliance expectations as embodied in its Standards of Conduct, which shall serve as a foundational document which describes FLACRA's fundamental principles and values, and commitment to conduct its business in an ethical manner;
- d. Document the implementation of each of the requirements set out in applicable laws, rules, and regulations, and outline FLACRA's ongoing operation of its Compliance Program;
- e. Describe, at a minimum, the structure of FLACRA's Compliance Program, including the responsibilities of all employees, Board members, and contractors in carry out the Compliance Program's functions;
- f. Provide guidance to employees, Board members, and contractors on dealing with potential Compliance Issues,³³ including assisting employees, Board members, and contractors in identifying potential Compliance Issues, questions and concerns, expectations for reporting Compliance Issues, and how to report Compliance Issues, questions, and concerns to FLACRA's Compliance Officer;
- g. Establish FLACRA's expectation that all employees, Board members, and contractors will act in accordance with its Standards of Conduct, must refuse to

³³ "Compliance Issues" include actual or suspected fraud, waste, abuse, or other improper or unethical conduct, violations of Federal and State law, regulations, rules, policies, and standards, or FLACRA's Compliance Plan, Compliance Program policies and procedures, and Standards of Conduct.

participate in illegal or unethical conduct, and must report unethical or illegal conduct to the Compliance Officer;

- h. Identify the methods and procedures for communicating Compliance Issues to the Compliance Officer and other appropriate parties at FLACRA;
- i. Describe how potential Compliance Issues are investigated and resolved by FLACRA, and the procedures for documenting the investigation and the resolution or outcome;
- j. Include a policy of non-intimidation and non-retaliation for good faith participation in the Compliance Program, including, but not limited to reporting potential Compliance Issues to the Compliance Officer or other appropriate parties at FLACRA, participating in investigations of potential Compliance Issues, self-evaluations, audits, remedial actions, reporting instances of intimidation or retaliation, and reporting potential fraud, waste, or abuse to the appropriate State or Federal entities;
- k. Set out FLACRA's policy regarding employees, Board members, and contractors who fail to comply with the Compliance Policies and State and Federal laws, rules, and regulations; and
- l. Set out detailed information about the False Claims Act, Federal administrative remedies for false claims and statements, New York State laws pertaining to civil and criminal penalties for false claims and statements, and whistleblower protections under applicable laws, as well as detailed provisions related to detecting and preventing fraud, waste, and abuse.

2. Drafting the Compliance Policies.

FLACRA's Compliance Officer will be responsible for drafting the Compliance Policies. The Compliance Officer may delegate these duties to other appropriate FLACRA personnel, as well as to outside attorneys and consultants, as necessary and appropriate. In all instances, the Compliance Officer will remain responsible for overseeing the drafting of the Compliance Policies. FLACRA's Compliance Committee will also be responsible for coordinating with the Compliance Officer to ensure that the Compliance Policies are current, accurate, and complete. A record of the implementation dates of the individual Compliance Policies will be maintained by the Compliance Officer.

3. Reviewing and Revising the Compliance Policies.

FLACRA's Compliance Officer will be responsible for reviewing and revising the Compliance Policies. The Compliance Officer, in consultation with appropriate personnel and legal counsel, as necessary, will determine whether the Compliance Policies should be revised based on changes to FLACRA's Organizational Experience³⁴ and/or changes to Federal and State laws, rules regulations, policies, and standards.

The Compliance Officer may delegate these duties to other appropriate FLACRA personnel, as well as to outside attorneys and consultants, as necessary and appropriate. In all instances, the Compliance Officer will remain responsible for overseeing the reviewing and revising of the Compliance Policies. FLACRA's Compliance Committee will also be responsible for coordinating with the Compliance Officer to ensure that the Compliance Policies are current, accurate, and complete. A record of the revision dates of the individual Compliance Policies will be maintained by the Compliance Officer.

4. Approval of the Compliance Policies.

FLACRA's Compliance Policies shall be reviewed and approved by the Compliance Committee, President & CEO, and Board. A record of the approval dates of the individual Compliance Policies will be maintained by the Compliance Officer.

5. Annual Review of the Compliance Policies.

FLACRA's Compliance Policies shall be reviewed on at least an annual basis. The Compliance Officer, in coordination with the Compliance Committee, will be responsible for completing this annual review. The Compliance Officer may seek the assistance of attorneys and consultants, as necessary and appropriate, in completing the annual review of the Compliance Policies. The purpose of the annual review will be to determine whether:

- a. The Compliance Policies have been implemented;
- b. Employees, Board members, and contractors are following the Compliance Policies;

³⁴ "Organizational Experience" means FLACRA's: (1) knowledge, skill, practice, and understanding in operating its Compliance Program; (2) identification of any issues or risk areas in the course of its internal monitoring and auditing activities; (3) experience, knowledge, skill, practice, and understanding of its participation in the Medicaid Program and the results of any audits, investigations, or reviews it has been the subject of; or (4) awareness of any issues it should have reasonably become aware of for its category or categories of service.

- c. The Compliance Policies are effective; and
- d. Any updates to the Compliance Policies are required.

The Compliance Officer will maintain documentation of the annual review of the Compliance Policies, including any updates to the individual Compliance Policies identified during the annual review.

6. Availability and Accessibility of Compliance Policies.

FLACRA's Compliance Policies shall be available and accessible to all employees, Board members, and contractors. The Compliance Policies will be published and disseminated to all employees, Board members, and contractors at hiring, appointment, or time of contracting, on at least an annual basis, and whenever changes to the Compliance Policies are made, and documentation of this distribution will be maintained by the Compliance Officer. Information on the Compliance Policies will also be incorporated into FLACRA's compliance training and education program and compliance training plan. See ***Compliance Training Policy***.



CONFLICT OF INTEREST POLICY
OF
FINGER LAKES AREA COUNSELING AND RECOVERY AGENCY

1. **Purpose.** The purpose of this Conflict-of-Interest Policy is to protect the interests of FINGER LAKES AREA COUNSELING AND RECOVERY AGENCY (referred to herein as the “Agency”) when it is contemplating entering into a transaction or arrangement that might confer a benefit on an Officer, Director or Key Person of the Agency. This Policy is intended to comply with the provisions of Sections 715 and 715-A of the New York Not-for-Profit Corporation Law, as added by the Non-Profit Revitalization Act of 2013, and as thereafter amended. This Policy shall be interpreted and construed accordingly. This Policy supplements but does not replace any applicable state and federal laws governing conflicts of interest applicable to not-for-profit and charitable organizations. All capitalized terms used in the Policy are defined in Section 10, or if not defined, have the meanings ascribed to them in the By-laws of the Agency.

2. **Duty to Disclose.** An Interested Person shall disclose to the Chairperson of the Board, or the Chairperson of the committee considering a proposed transaction or arrangement, all material facts relating to such person’s Financial Interest in the proposed transaction or arrangement that could reasonably be considered a Related Party Transaction or otherwise raise a Conflict of Interest.

3. **Determining Whether the Transaction or Arrangement Constitutes a Related Party Transaction or Raises a Conflict of Interest.** The Board, or the committee of the Board considering the transaction shall determine whether a proposed transaction or arrangement constitutes a Related Party Transaction, or otherwise raises a Conflict of Interest, after consideration of all material facts disclosed by the Interested Person. The Interested Person shall not participate in any way in the determination by the Board or committee whether the proposed transaction or arrangement is a Related Party Transaction or raises a Conflict of Interest.

If the Board or the committee considering the transaction determines that the proposed transaction or arrangement constitutes a Related Party Transaction, the Board or such committee shall follow the procedures set forth in Section 4 of this Policy.

If the Board or the committee considering the transaction determines that the proposed transaction or arrangement does not constitute a Related Party Transaction, but raises a Conflict of Interest, the Board or such committee shall follow the procedures set forth in Section 5 of this Policy.

4. **Procedures for Related Party Transactions.** The provisions of this Section 4 apply to any proposed transaction or arrangement that the Board or the committee considering the proposed transaction determines is a Related Party Transaction.

- (a) The Related Party may not be present at or participate in Board or committee deliberations regarding such Related Party Transaction and shall not be entitled to vote thereon. Notwithstanding the foregoing, the Related Party may attend the Board or committee meeting at which the transaction is considered for the limited purpose of providing background information and answering questions.
- (b) The Related Party shall in no manner attempt to influence the deliberation or voting on the Related Party Transaction.
- (c) The Agency shall not enter into any Related Party Transaction absent a majority vote of the Board or the committee considering the transaction, affirmatively finding that the Related Party Transaction is fair, reasonable and in the Agency's best interest.
- (d) If the Board or the committee considering the transaction determines that the Related Party's Financial Interest in the Related Party Transaction is substantial:
 - (i) The Chairperson of the Board or the Chairman of the committee considering the proposed Related Party Transaction, shall consider alternatives to the proposed transaction to the extent available; and shall after exercising due diligence, determine whether the Agency can obtain with reasonable efforts a more advantageous transaction or arrangement from a person or entity that would not give rise to a Related Party Transaction;
 - (ii) The Board or the committee considering the proposed Related Party Transaction may approve the transaction only by majority vote of the directors or committee members present at the meeting; and
 - (iii) The Board or the committee considering the proposed Related Party Transaction shall, at the meeting at which the transaction is approved, contemporaneously document its approval by minutes which include:
 - (A) The names of all Related Parties, and a description of the proposed transaction or arrangement;
 - (B) The names of the persons who were present for discussions and votes relating to the transaction or arrangement; and
 - (C) The basis for approving the transaction, including its consideration of the alternatives considered.

In any case in which the Board approves a Related Party Transaction based on the report and recommendation of a committee of the Board, the Board

minutes shall include a summary of such committee's report containing items (A) through (C) above.

5. **Procedures Relating to Conflicts Other Than Related Party Transactions.** The provisions of this Section 5 apply to transactions and arrangements that the Board or the committee considering the transaction determines constitute a Conflict of Interest but do not involve a Related Party Transaction.

- (a) The Interested Person may not be present at or participate in Board or committee deliberations regarding the transaction and shall not be entitled to vote thereon. Notwithstanding the foregoing, the Interested Person may attend the Board or committee meeting at which the transaction is considered for the limited purpose of providing background information and answering questions.
- (b) The Interested Person shall in no manner attempt to influence the deliberation or voting on the matter giving rise to the Conflict of Interest.
- (c) After exercising due diligence, the Board or the committee considering the proposed transaction shall determine whether the proposed transaction is in the best interests of the Agency notwithstanding the Conflict of Interest.
- (d) The minutes of the Board or the committee meeting at which a transaction or arrangement is approved notwithstanding the existence of a Conflict of Interest, shall contain:
 - (i) The names of the persons who disclosed or otherwise were found to have a Financial Interest in connection with an actual or possible Conflict of Interest, the nature of the Financial Interest, any action taken to determine whether a Conflict of Interest was present, and the Board's or committee's decision as to whether a conflict of interest in fact existed; and
 - (ii) If the Board or the committee considering the proposed transaction or arrangement determine that a Conflict of Interest exists, the Board or committee shall contemporaneously document the resolution of the Conflict of Interest, including (A) the names of the persons who were present for discussions and votes relating to the transaction, (B) the substance of the discussions, including any alternatives to the proposed transaction, and (C) a record of any votes taken in connection with the proceedings.

6. **Annual Statements.**

a. Each director, officer, or Key Person, prior to assuming his or her responsibilities for the Agency, and annually thereafter, shall sign and submit to the Secretary of the Agency, or to the Agency's duly designated compliance officer, a statement or statements which identifies, to the best of such director's knowledge (i) any entity of which such director is currently an officer, director, trustee, member, employee or owner (either as a sole proprietor or a partner) and (ii) any transaction known to such director, officer, or Key Person in which the

Agency is a party or a participant and in which such director, officer or Key Person might have a conflicting interest. The duty of each director, officer and Key Person shall be ongoing and, therefore, such director, officer or Key Person shall be responsible to amend the statements provided immediately upon a change of circumstances which must be disclosed pursuant to this paragraph.

b. The Chairperson of the Board of Directors of the Agency shall receive copies of statements provided pursuant to paragraph 6a., or otherwise be advised of any disclosures from other directors, officers, and Key Persons pursuant to paragraph 6a.

c. Each director, principal officer and member of a committee with governing board delegated powers shall, prior to assuming his or her responsibilities for the Agency, and thereafter, annually sign and submit to the Secretary of the Agency, a statement or statements which (i) affirms such person has received a copy of this Policy, (ii) has read and understands the Policy, (iii) agrees to comply with the Policy, and (iv) understands that the Agency is charitable and that in order to maintain its federal tax exemption it must engage primarily in activities which accomplish one or more of its tax-exempt purposes.

7. **Compensation.**

a. A voting member of the Board who receives compensation, directly or indirectly, from the Agency for services, and a member of any committee the jurisdiction of which includes compensation matters, is precluded from voting on matters pertaining to that member's compensation. Nothing in the foregoing shall prohibit any member of the governing board from participating in any vote relating to compensation paid or made available to all directors on the same or on a substantially similar basis.

b. A non-voting member of the Board or any committee whose jurisdiction includes compensation matters and who receives compensation, directly, or indirectly, from the Agency, either individually or collectively, is prohibited from providing information to any committee regarding compensation.

8. **Periodic Reviews.** The Board shall designate a committee of the Board to conduct periodic reviews of this Policy to ensure that the Agency operates in a manner consistent with its charitable purposes, does not engage in activities that could jeopardize its tax-exempt status, and complies with the relevant provisions of the New York Not-for-Profit Corporation Law. The periodic reviews shall, at a minimum, include the following subjects:

a. Whether compensation arrangements and benefits are reasonable, based on competent survey information, and the result of arm's length bargaining.

b. Whether partnerships, joint ventures, and arrangements with management organizations conform to the Agency's written policies, are properly recorded, reflect reasonable investment or payments for goods and services, further charitable purposes and do not result in inurement, impermissible private benefit or in an excess benefit transaction.

9. **Use of Outside Experts.** When conducting the periodic reviews as provided for in Section 9, the Agency may, but need not, use outside advisors. If outside experts are used, their use shall not relieve the governing board of its responsibility for ensuring periodic reviews are conducted.

10. **Definitions.** As used herein the following terms shall have the meanings set forth in this Section 10.

- a. “Affiliate” means, with respect to the Agency, any entity controlled by, or in control of, such Agency.
- b. “Board” means the Board of Directors of the Agency.
- c. “Conflict of Interest” means any Financial Interest of an Interested Person with respect to a transaction or arrangement or a proposed transaction or arrangement in which the Agency is a party, potential party, participant or potential participant.
- d. “Interested Person” means any director, officer, Key Person or member of a committee with board delegated powers who has a Financial Interest in a proposed transaction involving the Agency.
- e. “Financial Interest” means a direct or indirect interest (including an interest through a business, investment, or a Relative) constituting (i) any legal or beneficial interest in any entity, (ii) any Compensation arrangement with any entity or (iii) any potential investment interest in any entity.
- f. “Compensation” means all direct and indirect remuneration as well as gifts or favors that are not insubstantial.
- g. “Key Person” means any person other than a Director or Officer of the Agency who (i) has responsibilities, or exercises powers or influence over the Agency as a whole similar to the powers or influence of the Directors and Officers of the Agency; (ii) manages the Agency, or a segment of the Agency that represents a substantial portion of the activities, assets, income or expenses of the corporation, or (iii) alone or with others, controls or determines a substantial portion of the Agency’s capital expenditures or operating budget.
- h. “Related Party” means:
 - (i) any Director or Officer, of the Agency or any Affiliate of the Agency,
 - (ii) any person who is a Key Person of the Agency or any Affiliate of the Agency;
 - (iii) any Relative of any person described in (i), (ii) or (iii) above, or

(iv) any entity in which any individual described in (i) through (iv) above has 35% or greater ownership or beneficial interest or, in the case of a partnership or professional corporation, a direct or indirect ownership interest greater than 5%.

- i. “Related Party Transaction” means any transaction, agreement, or arrangement with respect to which the Board committee considering the matter determines that (i) a Related Party has a Financial Interest and (ii) in which the Agency or any Affiliate is a party or participant.
- j. “Relative” of an individual means his or her (i) spouse, ancestors, brothers, and sisters (whether whole or half-blood), children (whether natural or adopted), grandchildren, great-grandchildren, and spouses and domestic partners of brothers, sisters, children, grandchildren and great-grandchildren; and (ii) domestic partners as defined in Section 2904-a of the New York State public health law.

Adopted: November 3rd, 2023.

Secretary



WHISTLEBLOWER POLICY
OF
FINGER LAKES AREA COUNSELING AND RECOVERY AGENCY

FINGER LAKES AREA COUNSELING AND RECOVERY AGENCY (the “Corporation”) requires its directors, officers, employees, key persons, volunteers, and contractors to observe the highest standards of business and personal ethics in the conduct of their duties and responsibilities. The purpose of this Policy is to encourage its employees, volunteers, contractors, officers, key persons, directors and consumers of services to report any action or suspected action of the Corporation’s directors, officers, employees, volunteers, key persons and/or contractors that may be illegal, fraudulent or contrary to any adopted policy of the Corporation by providing a procedure to report such actions and to protect from retaliation any such person who, in good faith, reports suspected improper conduct.

It is intended that this Policy comply with the provisions of Section 715-B of the New York State Not-for-Profit Corporation Law, as added by the Non-Profit Revitalization Act of 2013, as amended, and shall be interpreted and construed accordingly. This Policy applies to any matter which is related to the Corporation’s business and does not relate to private acts of an individual not connected to the business of the Corporation.

The rights and protections set forth in this Policy are in addition to, and not in abrogation of, the protections provided by Sections 740 and 741 of the New York State Labor Law, Section 191 of the New York State Finance Law or any applicable Federal law, including but not limited to the False Claims Act (31 U.S.C. § 3730(h)).

ARTICLE I
REPORTING RESPONSIBILITIES

1.1 **Reporting Responsibilities.** All directors, officers, employees, key persons and volunteers of the Corporation have a responsibility to report any action or suspected action taken by the Corporation itself, by its leadership or by others on the Corporation’s behalf, that is illegal, fraudulent, unethical, or violates any adopted policy of the Corporation (“Violations”).

1.2 **Reporting in Good Faith.** Anyone reporting a Violation must act in good faith, without malice to the Corporation or any individual, and have reasonable grounds for believing that the information shared in the report indicates that a Violation has occurred. A person who makes a report does not have to prove that a Violation has occurred. However, any report which the reporter has made maliciously or any report which the reporter has good reason to believe is false will be viewed as a serious disciplinary offense.

ARTICLE II
NO RETALIATION

2.1 No Retaliation. No person who in good faith reports a Violation or who in good faith cooperates in the investigation of a Violation shall suffer intimidation, harassment, discrimination, or other retaliation or, in the case of employees, adverse employment consequence. Any individual within the Corporation who retaliates against another individual who has reported a Violation in good faith or who, in good faith, has cooperated in the investigation of a Violation shall be subject to discipline, including, without limitation, termination of employment or volunteer status.

2.2 Reporting of Retaliation. If you believe that an individual who has made a good faith report of a Violation or who has in good faith cooperated in the investigation of a Violation is suffering intimidation, harassment, discrimination, or other retaliation or, in the case of employees, adverse employment consequence, please contact the Corporation's Director of Quality Management.

ARTICLE III
PROCEDURES FOR REPORTING VIOLATIONS

3.1 Reporting Procedure. All directors, officers, employees, key persons and volunteers should report their concerns relating to a Violation to any person within the Corporation who can properly address those concerns. In most cases, the direct supervisor of an employee or volunteer is the person best suited to address a concern. However, if the employee or volunteer is not comfortable speaking with their supervisor or if they are not satisfied with their supervisor's response, the employee should report the Violation to the Director of Quality Management, to any member of the Board of Directors of the Corporation (the "Board"), or to anyone in management they feel comfortable approaching. Any person other than an employee or volunteer should report any Violation directly to the Director of Quality Management of the Corporation, or if appropriate, the Affiliate.

3.2 Identity; Confidentiality. The Corporation encourages anyone reporting a Violation to identify themselves when making a report in order to facilitate the investigation of the Violation. However, reports addressed to an individual within the Corporation may be submitted on a confidential basis and reports may be submitted to the Director of Quality Management anonymously by submitting them directly, without providing an identity or return address, to the Director of Quality Management using the contact information set forth below.

3.3 Report Content. The report of any Violation may be made in person, by telephone or by mail, electronic mail, or other written communication. Such report should contain sufficient information to permit adequate investigation. At a minimum, the following information should be provided: (a) a description of the nature of the improper activity, with sufficient detail to permit an initial investigation; (b) the name(s) of the individual(s) and/or department(s) engaging in the activity or with knowledge of the activity; (c) the approximate or actual date(s) the activity took

place; and (d) an explanation of any steps taken internally with the Corporation's management to report or resolve the complaint.

ARTICLE IV COMPLIANCE AND ADMINISTRATION

4.1 Notification of Violation; Acknowledgement. Every supervisor, manager, director, and other representative of the Corporation is required to notify the Director of Quality Management of every report of a Violation. The Director of Quality Management will notify the sender and acknowledge receipt of a report of Violation within seven (7) business days, but only to the extent the sender's identity is disclosed or a return address is provided.

4.2 Investigation; Correction.

(a) The Director of Quality Management is responsible for promptly investigating all reported Violations and for causing appropriate corrective action to be taken if warranted by the investigation. The Director of Quality Management shall conduct an investigation into the reported Violation within thirty (30) days of receipt of the report, or as soon as practicable thereafter. Such investigation shall be conducted as confidentially as possible under the circumstances, consistent with the need to conduct an adequate investigation, to comply with all applicable laws, and if appropriate, to cooperate with law enforcement authorities.

(b) The Director of Quality Management shall review the policies and procedures of the Corporation, and make note of the alleged Violation.

(c) The Director of Quality Management shall assess, in the most confidential manner possible, the concerns of the director, officer, employee, key person or volunteer who reported the alleged Violation, as well as those of other directors, officers, employees, or volunteers who may have an understanding of, or be complicit in, the alleged Violation, in order to form an informative opinion on the matter and determine potential recommendations for resolution.

(d) The Director of Quality Management may utilize the Corporation's general counsel, as needed, during an investigation of a reported Violation.

(e) The Director of Quality Management will prepare and submit a written report on the reported Violation to the Audit Committee or, if appropriate, the Executive Committee, together with recommendations as to resolution and a timeline for implementation of recommended actions. The Director of Quality Management will also forward a copy of the written report to the Board.

(f) The Audit Committee, or another appropriate Committee, shall act on the Director of Quality Management's written report as appropriate, including reviewing all findings and recommendations identified therein, and submitting a written assessment of the matter, including recommendations as to resolution and a timeline for implementation of recommended actions, to the Board of Directors.

(g) Upon receipt of the written report from the Audit Committee, the Board of

Directors will consider the matter and render binding determinations as to resolution, up to and including, the suspension or removal of any director, officer, employee, key person or volunteer found to have engaged in the reported Violation.

4.3 Administration.

(h) The Director of Quality Management shall administer this Policy and shall report directly to the Board of Directors of the Corporation and the Board's Audit Committee; provided, however, that directors who are employees may not participate in any Board or Audit Committee deliberations or voting relating to administration of this Policy.

(i) Any person who is the subject of a whistleblower complaint shall not be present at or participate in Board or Audit Committee deliberations or vote on the matter relating to such complaint; provided, however, that the Board or Audit Committee may request that the person who is subject to the complaint present information as background or answer questions at the Board or Audit Committee meeting prior to the commencement of deliberations or voting relating thereto.

(j) The Audit Committee is responsible for addressing all reported concerns or complaints of Violations relating to corporate accounting practices, internal controls or auditing. Accordingly, the Director of Quality Management must immediately notify the Audit Committee of any such concern or complaint. In addition, if the Director of Quality Management deems it appropriate, the Director of Quality Management may advise the Chairperson of the Board of Directors of any other reported Violations.

4.4 Annual Reporting. The Director of Quality Management is required to report to the Board of Directors at least annually on compliance activity.

4.5 Documentation. The Audit Committee, Executive Committee, or another appropriate Committee of the Board of Directors shall assure that all reported Violations and investigations are properly documented, including minutes of any meeting of any Committee or the Board where the matter was discussed.

ARTICLE V MISCELLANEOUS

5.1 Access to Policy. A copy of this Policy shall be distributed to all directors, officers, employees, key persons, and volunteers who provide substantial services to the Corporation.

5.2 Corporate Compliance Officer. The contact information of the Corporate Compliance Officer is as follows:

Ruth Donk
28 E. Main St.
Clifton Springs, NY 14432
315-462-9466
ruth.donk@flacra.org

5.3 Modification. The Board of Directors may modify this Policy unilaterally at any time without notice. Modification may be necessary, among other reasons, to maintain compliance with federal, state, or local laws and regulations and/or to accommodate organizational changes within the Corporation.

Adopted: November 3rd, 2023.

Secretary

Appendix A
Compliance Committee Charter



COMPLIANCE COMMITTEE CHARTER
OF
FINGER LAKES COUNSELING AND RECOVERY AGENCY, INC.

ARTICLE I.
PURPOSE

1.1. Purpose. **Finger Lakes Counseling and Recovery Agency, Inc. (“FLACRA”)** has adopted a Compliance Program to promote FLACRA’s compliance with all applicable ethical standards and Federal and State laws, rules, regulations, policies, and standards. FLACRA’s Compliance Program is described in its Compliance Plan. As part of its Compliance Program, FLACRA has designated a Compliance Committee. The Compliance Committee is responsible for coordinating with FLACRA’s Compliance Officer to ensure that FLACRA is conducting its business in an ethical and responsible manner, and consistent with its Compliance Program.

ARTICLE II.
DEFINITIONS

2.1. Definitions. As used in this Compliance Committee Charter, the following capitalized terms shall have the meanings ascribed to such terms in this **Article II**:

(A) “Compliance Risk Areas” means the Compliance Risk Areas set out in Section XIII of FLACRA’s Compliance Plan. These risk areas include billings, payments, ordered services, medical necessity, quality of care, governance, mandatory reporting, credentialing, contractor, subcontractor, agent, or independent contractor oversight, and other Compliance Risk Areas that are or should reasonably be identified by FLACRA through its Organizational Experience.

(B) “Compliance Officer” means the individual at FLACRA responsible for overseeing the implementation of the Compliance Program, and for carrying out the Compliance Program’s day-to-day operation.

(C) “Compliance Plan” means the document that provides an overview of FLACRA’s Compliance Program.

(D) “Compliance Program” means FLACRA’s implementation of the Compliance Plan and includes all of FLACRA’s compliance activities. The Compliance Program promotes FLACRA’s compliance with all applicable laws, regulations, and ethical standards.

(E) “Employees, Board members, and contractors” means FLACRA’s employees, President & Chief Executive Officer (“CEO”), senior administrators, managers, interns, volunteers, contractors, agents, subcontractors, independent contractors, Board of Directors (“Board”), and corporate officers who are affected by FLACRA’s Compliance Risk Areas.³⁵

(F) “Organizational Experience” means FLACRA’s:

(i) Knowledge, skill, practice, and understanding in operating its Compliance Program;

(ii) Identification of any issues or Compliance Risk Areas in the course of its internal monitoring and auditing activities;

(iii) Experience, knowledge, skill, practice, and understanding of its participation in the Medicaid Program and the results of any audits, investigations, or reviews it has been the subject of; or

(iv) Awareness of any issues FLACRA should have reasonably become aware of for its categories of service.

ARTICLE III. **MEMBERSHIP**

3.1. Membership. FLACRA’s Compliance Committee shall consist of FLACRA’s Compliance Officer and Executive Team, which includes the President & CEO, Chief Finance Officer, Chief Operating Officer, Executive Vice Presidents, Vice Presidents, and Senior Director of Quality Assurance, and such other members as shall be appointed by FLACRA’s President & CEO. Additional members appointed to the Compliance Committee by FLACRA’s President & CEO shall, at a minimum, be senior managers. At all times, FLACRA shall maintain a list of Compliance Committee members including their names, titles, and dates of service on the Committee.

³⁵ For purposes of FLACRA’s Compliance Program, “contractors” includes contractors, agents, subcontractors, and independent contractors who are affected by FLACRA’s Compliance Risk Areas. Contractors are required to comply with FLACRA’s Compliance Program to the extent that the contractor is affected by FLACRA’s Compliance Risk Areas, and only within the scope of the contractor’s contracted authority and affected Compliance Risk Areas.

3.2. Compliance Officer. FLACRA's Compliance Officer shall be a member of the Compliance Committee, and shall serve as the Chair of the Committee.

ARTICLE IV.
MEETINGS

4.1. Meetings. FLACRA's Compliance Committee will meet at least quarterly, or more frequently if determined necessary by the Compliance Committee, Compliance Officer, or the Board. At each meeting, the Compliance Committee shall receive a report from the Compliance Officer on the progress of adopting, implementing, and maintaining FLACRA's Compliance Program.

4.2. Minutes. The Compliance Committee will maintain complete and accurate minutes of minutes of all meetings of the Committee reflecting all business conducted, including findings, conclusions, and recommendations. Said minutes shall be retained for a period of six (6) years from the date of the Compliance Committee meeting.

ARTICLE V.
DUTIES AND RESPONSIBILITIES

5.1. Duties and Responsibilities. The duties and responsibilities of FLACRA's Compliance Committee shall include, but not be limited to, the following:

- (A) Receiving regular reports from the Compliance Officer on the implementation of FLACRA's Compliance Program;
- (B) Identifying Compliance Risk Areas;
- (C) Assisting with the development of and approving the annual work plan carried out under FLACRA's Compliance Program;
- (D) Coordinating with FLACRA's Compliance Officer to ensure that FLACRA is conducting its business in an ethical and responsible manner, consistent with FLACRA's Compliance Program;
- (E) Coordinating with FLACRA's Compliance Officer to ensure that the written policies and procedures are current, accurate, and complete;
- (F) Coordinating with FLACRA's Compliance Officer to ensure that the Standards of Conduct are current, accurate, and complete;

(G) Coordinating with FLACRA's Compliance Officer to ensure that FLACRA's compliance training program includes all required training topics;

(H) Approving the compliance training program provided to all Employees, Board Members, and Contractors and re-evaluating the program as appropriate;

(I) Coordinating with the Compliance Officer to ensure that all compliance training program requirements are timely completed;

(J) Coordinating with FLACRA's Compliance Officer to ensure communication and cooperation by Employees, Board Members, and Contractors on compliance related issues, internal and external audits, and any other function or activity required by applicable regulations;

(K) Receiving reports from the Compliance Officer of investigations of actual or suspected fraud, waste, abuse, or other improper or unethical conduct and any corrective action taken as a result of such investigations;

(L) Advocating for allocation of sufficient funding, resources, and staff for the Compliance Officer to fully perform their responsibilities;

(M) Ensuring that FLACRA has effective systems and processes in place to identify Compliance Program risks, overpayments, and other issues;

(N) Recommending and approving any changes to FLACRA's Compliance Plan, Compliance Program, and compliance policies;

(O) Developing and evaluating strategies to promote compliance and detection of fraud, waste, abuse, and other improper or unethical conduct;

(P) Ensuring that FLACRA has effective policies and procedures for correcting and reporting Compliance Program risks, overpayments, and other issues; and

(Q) Advocating for adoption and implementation of required modifications to FLACRA's Compliance Program.

ARTICLE VI.

REVIEW OF COMPLIANCE COMMITTEE CHARTER

6.1. Review of Compliance Committee Charter. FLACRA's Compliance Committee will review and update the Compliance Committee Charter on at least an annual basis. The Compliance Committee shall maintain records of each annual Compliance Committee Charter

review evidencing the date of the review and a description of any updates. These records shall be retained for a period of six (6) years from the date of the review.

ARTICLE VII.
REPORTING AND ACCOUNTABILITY

7.1. Reporting and Accountability. FLACRA's Compliance Committee will report directly to, and will be accountable to, FLACRA's President & CEO and Board.

Adopted: November 3rd, 2023

Appendix B

Sample Fraud Prevention Letter



_____, 20__

Re: Fraud Prevention Requirements for Contractors and Agents.

Dear _____:

The Deficit Reduction Act of 2005 (“DRA”) requires organizations such as ours to provide information to contractors and agents who, on behalf of the organization, furnish Medicaid health care items or services, perform billing and coding functions, or are involved in monitoring health care provided by the organization. The Act requires us to provide you with information on the Federal and New York State False Claims Acts, administrative remedies for false claims and statements, and whistleblower protections under the laws. Finally, we must provide you with information regarding our policies and procedures for detecting and preventing fraud, waste, and abuse.

We have enclosed our Compliance Plan, Compliance Program policies and procedures, and our Standards of Conduct which address our role in preventing healthcare fraud, waste, and abuse. This Compliance Plan associated policies and procedures, and Standards of Conduct are part of our Compliance Program. Please provide the Compliance Plan, Compliance Program policies and procedures, and Standards of Conduct to all of your employees and staff who have contact with our organization. If you and your employees have any questions about the Compliance Plan, policies and procedures, or Standards of Conduct, kindly contact me at (315) 462-9466 or ruth.donk@flacra.org.

A person authorized to sign for your entity must sign below to acknowledge your receipt of this information, that you agree to review it with your employees and staff that have contact with our organization, and that you agree to abide by it. Please note that you have a continuing obligation to provide this information to any employees and staff members who join your organization after you sign this letter. Please return a signed copy of this letter and keep a copy for your files.

Sincerely,

Ruth Donk, Compliance Officer

ACKNOWLEDGED AND AGREED this
_____ day of _____, 20_____

By (Name & Title):_____

Appendix C
Annual Conflict of Interest Statement

ANNUAL CONFLICT OF INTEREST STATEMENT

TO: The Secretary/Compliance Officer of:
FINGER LAKES AREA COUNSELING AND RECOVERY AGENCY (the "Agency")

FROM: _____ (Print Name)

DATE: _____

Pursuant to Section 6 of the Conflict of Interest Policy of the Agency, the undersigned does hereby certify:

1. Disclosure of Potential Entity Conflicts: The following is a full and complete list of all entities in which I am an employee, officer, director, trustee, member, or owner (as a sole proprietor, a partner or a shareholder):

Name of Entity	Position (employee, director, owner, etc.)

2. Disclosure of Potential Transaction Conflicts: To the best of my knowledge, the following is a full and complete list of all transactions in which the Corporation is a participant and in which I may have conflicting interest:

Description of Transaction:

3. Acknowledgement of Conflict of Interest Policy By signing this Statement, I hereby certify that (i) I have received a copy of the Conflict of Interest Policy, (ii) I have read and understand the Policy, (iii) I agree to comply with the Policy, and (iv) I understand that the Corporation is a charitable entity, and that in order to maintain its federal tax exemption, it must engage primarily in activities which accomplish one or more of its tax-exempt purposes.

Signature

Date: _____

Appendix D

Medicaid Compliance Contract Addendum

Medicaid Compliance Addendum

To the extent _____ (“Contractor”) is deemed an affected individual in accordance with applicable New York State regulations, Contractor hereby agrees to this Medicaid Compliance Addendum (the “Compliance Addendum”). In the event of any conflict or inconsistency between the terms of the Compliance Addendum and the terms of the underlying Agreement between Contractor and Finger Lakes Area Counseling and Recovery Agency (“FLACRA”), the terms of the Compliance Addendum shall apply. Pursuant to this Compliance Addendum, Contractor hereby agrees as follows.

1. **Compliance with Applicable Laws, Regulations, Rules, Policies, and Standards.** Contractor agrees to comply with all applicable Federal and New York State laws, rules, regulations, policies, and standards applicable to the services provided by Contractor to FLACRA, including, but not limited to, laws, rules, regulations, policies, and standards pertaining to fraud, waste, and abuse and Compliance Program activities.

2. **Compliance Program Standards of Conduct, Policies, and Procedures.** Contractor agrees to abide by FLACRA’s Compliance Plan, Compliance Program Standards of Conduct, and compliance policies and procedures. Contractor also agrees to make FLACRA’s Compliance Plan, Compliance Program Standards of Conduct, and compliance policies and procedures available to all employees of Contractor who provide services to FLACRA pursuant to the underlying Agreement, including at the time of hire and at least annually thereafter. FLACRA shall provide Contractor with its Compliance Plan, Compliance Program Standards of Conduct, and compliance policies and procedures at the time of contracting and at any time in which amendments to the Compliance Plan, Standards of Conduct, policies, and procedures are made.

3. **Fraud, Waste, and Abuse and Compliance Program Training.** Contractor agrees that all of its employees who provide services pursuant to the underlying Agreement will participate in fraud, waste, and abuse and Compliance Program training within thirty (30) days of contracting and at least annually thereafter. Such training will occur pursuant to the compliance training and education standards set out in FLACRA’s Compliance Training Policy.

4. **Reporting Compliance and Fraud, Waste, and Abuse and Compliance Program Concerns.** Contractor agrees to report compliance and fraud, waste, and abuse and Compliance Program-related concerns to FLACRA. Reporting should occur within five (5) days of discovery. FLACRA has a no-tolerance policy for retaliation or retribution against any employee, contractor, or Medicaid Program beneficiary service recipient.

5. **Termination for Failure to Comply with Compliance Program Standards of Conduct, Policies, and Procedures.** Contractor agrees that FLACRA may immediately terminate the underlying Agreement in the event that FLACRA, in its sole determination, finds that Contractor has failed to adhere to FLACRA’s Compliance Program requirements, including the Compliance Plan, Compliance Program Standards of Conduct, and compliance policies and procedures.