2022 CORPORATE COMPLIANCE PROGRAM WORK PLAN

For

BETHANY VILLAGE

Bethany Village Board of Directors Approval, 1-27-2022

This plan has been updated in conformity with Title 18 New York Codes of Rules and Regulations, Part 521, New York State Social Services Law 363-9, NYS OMIG Guidance issues on October 26, 2019, the U.S. Department of Justice Criminal Division Evaluation of Corporate Compliance Programs Guidance Document April 2019 and formal risk analyses conducted by the Corporate Compliance Department during 2H 2019, and following NYS changes presented in the NYS FY2020-2021 budget enacted April 2, 2020 which affects SSL §363d and the NYS PHL mandates.
# Bethany Village Corporate Compliance Work Plan 2022

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Introduction

Bethany Nursing Home & Health Related Facility, Inc., Bethany Retirement Home, Inc., and all business units of Bethany Village (referred to hereafter collectively as Bethany Village) strive to operate in accordance with the highest level of moral, ethical and professional behavior. To maintain compliance with all applicable federal and state governing laws, Bethany Village also continuously upholds and updates its own policies, procedures and code of conduct, as adopted annually by the Board of Directors, and holds all board members, employees, contractors, vendors and volunteers accountable for compliance with them.

The Corporate Compliance Program for Bethany Village (Compliance Program) was developed in accordance with Chapter 442 of the Laws of 2006 and regulations promulgated by the New York State Office of the Medicaid Inspector General (OMIG), found in Part 521 of Title 18 of the New York Codes, Rules and Regulations (NYCRR).

In addition, the Compliance Program reflects compliance recommendations issued by OMIG and the United States Department of Health and Human Services (HHS), Office of the Inspector General (OIG) as well as the Office of Civil Rights (OCR) Federal Sentencing Guidelines. With this program, including any exhibits or amendments added as may be required by law, Bethany Village will promote full compliance with all legal duties applicable to it, foster and assure ethical conduct, demonstrate compliance with all state and federal laws and regulations and provide guidance to each employee and contractor of Bethany Village defining required conduct. This will include compliance with all elements of the 2005 Deficit Reduction Act (DRA)¹ as required by the FY2021 New York State Budget. In its written policies and procedures specifically, Bethany Village will . . .

1. Include detailed information about the Federal False Claims Act, remedies for false claims and statements, and state laws pertaining to civil or criminal penalties for false claims and statements;
2. Address Whistleblower protections under the Federal False Claims Act and state laws;
3. Include detailed provisions for detecting and preventing fraud, waste and abuse;
4. Include in its Employee Handbook a specific discussion of
   a. state and federal laws referenced above;
   b. rights of employees to be protected as whistleblowers; and
   c. Bethany Village’s policies and procedures for detecting fraud, waste and abuse.

This program is designed to prevent accidental and intentional noncompliance with applicable laws, to detect such noncompliance if it occurs, to discipline those involved in non-compliant behavior, and to prevent future noncompliance.

The Bethany Village Corporate Compliance Program will assure that the following elements of an effective compliance program as elucidated by both the NYSOMIG and OIG are upheld:² . . .

² 18 NYCRR 521.3 (c) and NYS Office of the Medicaid Inspector General, Compliance Program Review Guidance, October 26, 2016, p.9-33.
1. Maintain a written code of conduct and compliance and HIPAA policies. Review and update these at least annually for board review and compliance training sessions. Protect all who report in good faith and participate in the program from retaliation or intimidation.

2. Maintain and support the necessary structures and personnel to assure active and effective management of the Compliance Program, including a designated Corporate Compliance Officer vested with responsibility for day-to-day operation of the program, an Executive Compliance Committee that meets at least monthly and a Board Professional Standards Committee that meets at least quarterly, all supporting robust communications and interchange.

3. Conduct regular, effective compliance training and education sessions and promote multiple open lines of communication to assure comprehensive familiarity with, participation in, and commitment to the Corporate Compliance Program and its purpose.

4. Continuously monitor and implement a formal audit schedule annually or more to measure program effectiveness and adherence to all applicable laws and regulations, to protect privacy and security for all residents, and to detect misconduct or criminal activity on the campus, for which there will be organized and timely intervention, investigation, appropriate sanctions and resolution.

5. Encourage all board members, employees, business associates, providers, contractors and volunteers to report concerns utilizing the communication channels that are promoted through the program.

6. Provide incentives for compliance and implement formal and equitable disciplinary actions and sanctions for any misconduct or compliance violations.

7. Respond to all reported or observed infractions promptly and design prevention initiatives to deter or prevent recurrence.

The 7 areas to which the 8 elements are applicable are these:

1. Billing
2. Payments
3. Medical necessity & quality of care
4. Governance
5. Mandatory reporting
6. Credentialing
7. Other risk areas identified during due diligence process

The Bethany Village Code of Conduct

The Code of Conduct sets out the principles that Bethany Village employees and all affected individuals are expected to follow as they perform their duties at Bethany Village. The Code of Conduct is reviewed, modified as needed, and formally accepted at least annually by the Executive Compliance Committee, the Board Professional Standards Committee and the full Board of Directors.

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4 NYS Office of the Medicaid Inspector General (NYS OMIG), Compliance Program Review Guidance, October 26, 2016, p. 3.

“‘Affected Individuals’ includes [sic]

- All Affected Employees
- Affected Appointees
- Executives and Governing Body Members
- Any person or affiliated in any way with the required provider (i.e., covered entity) . . . and who is not an employee, executive or governing body members of the required provider (e.g., independent contractors, interns, students, volunteers and vendors).”
Bethany Village is committed to providing the highest quality care to its residents and patients and to promote maximum functioning and independence in all aspects of their lives. Bethany Village, its board, and its employees are bound to the following commitments:

To the community, Bethany Village is committed to the promotion of the health and well-being of its residents. Its best effort will be taken to meet these needs while operating the facility in a fiscally responsible manner.

To its employees, Bethany Village will implement and maintain employment standards that comply with all applicable federal and state laws.

To the residents of Bethany Village, the facility is committed to providing an appropriate quality of care that is responsible to resident needs and complies with all applicable laws.

To third party payers, both private and public, the facility is committed to submitting bills for services in a timely and accurate fashion and reporting all reimbursable costs to the Medicare and Medicaid program and to any other third party in a legally appropriate manner.

To the Bethany Village suppliers, the facility stresses a sense of responsibility to be a good customer. When the facility feels that its best interest would be to utilize competitive bidding, then this process will be completed.

To all who do business with Bethany Village, it is our policy to conduct ourselves in an appropriate manner consistent with tax exempt status and all other applicable laws and regulations. We expect those who do business with Bethany Village to be committed to compliance in relations to all work they perform for us.

Element 1 - Written policies and procedures

18 NYCRR 521.3 (c): … (1) written policies and procedures that describe compliance expectations as embodied in a code of conduct or code of ethics, implement the operation of the compliance program, provide guidance to employees and others on dealing with potential compliance issues, identify how to communicate compliance issues to appropriate compliance personnel and describe how potential compliance problems are investigated and resolved; ....

Bethany Village maintains and at least annually updates written policies and procedures that (1) describe compliance expectations expressed in the Bethany Village Code of Conduct, (2) form the foundation for the operation and implementation of the Bethany Village Corporate Compliance Program, (3) provide guidance to Bethany Village employees and all affected individuals on handling compliance issues, (4) clearly identify mechanisms available for reporting compliance issues to appropriate personnel, and (5) set forth the process and procedures for investigation and resolution of compliance problems.5

Evidence of the existence and efficacy of written policies and procedures will consist of the following as identified by the New York State Office of the Medicaid Inspector General:

5 18 NYCRR 521.3 (c) restated.
• The required provider and all affected individuals act in a way that is in compliance with all pertinent compliance laws and regulations.
• Bethany Village Compliance policies and procedures are distributed in hard copy to all affected individuals campus wide, and digitally as is possible.
• Bethany Village Compliance will produce work product that proves that policies and procedures are in force and working, e.g., that work plans and a dedicated budget exist and investigations have taken place and been completed, and follow-up action has been documented as appropriate.  

Written policies and procedures will be applicable to all affected individuals, as detailed in fn. 4 on page 3. Corporate compliance reporting channels, i.e., the telephone hotline; interoffice, postal and email pathways; confidential lock boxes; and the option to directly report will be accessible and communicated to all affected individuals and will connect directly with the Corporate Compliance Officer. All channels are monitored in a timely way to expedite response, investigation, intervention and remediation.

Written policies and procedures will clearly specify the primary and other investigators, the process for investigation, the requirement for documentation of results, and a process for resolution and remediation of confirmed issues.  

Formerly NYS Element 8, rolls into Element 1

18 NYCRR 521.3 (c): ... (8) a policy of non-intimidation and non-retaliation for good faith participation in the compliance program, including but not limited to reporting potential issues, investigating issues, self-evaluations, audits and remedial actions, and reporting to appropriate officials.

Bethany Village will enforce and actively promote its policy of non-intimidation and non-retaliation for good faith participation in the compliance program for all constituencies and participants, including but not limited to governing body members, administration, employees, volunteers, business associates, and any other pertinent persons or entities.

ELEMENT 1 2022 FOCUS:
• Refine access to accommodate as many individuals as is possible.
• Develop benchmark parameters for future measurement of employee familiarity with location and content of written policies and procedures.

Element 2 – Designate an employee vested with responsibility

18 NYCRR 521.3 (c): ... (2) designate an employee vested with responsibility for the day-to-day operation of the compliance program; such employee's duties may solely relate to compliance or may be combined with other duties so long as compliance responsibilities are satisfactorily carried out; such employee will report directly to the entity's chief executive or other senior administrator designated by the chief executive and shall periodically report directly to the governing body on the activities of the compliance program; . . .

CORPORATE COMPLIANCE OFFICER

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6 NYS OMIG. Compliance Program Review Guidance, October 26, 2016, p. 7.
7 Ibid. p. 8.
The Bethany Village Corporate Compliance Officer (CCO) will be an employee of Bethany Village, reporting directly to the Executive Director and working in collaboration with members of the Executive Team. The Compliance Officer will assume the managerial and administrative tasks involved in implementing, monitoring, updating, and directing the program. The CCO’s responsibilities include but are not limited to the following:

1. Supervise and monitor the implementation of the corporate compliance program which will assure compliance with all federal and state fraud, abuse and neglect laws and regulations (see Addendum A) as well as the federal HIPAA Privacy and IT Security rules in collaboration with IT and the Executive Team for all affected individuals;
2. Develop, complete and manage annual risk analyses, the annual compliance work plan and the HIPAA IT Security and Privacy tactical action plans addressing all requirements and risk areas;
3. Chair and report out the Executive Compliance Committee monthly meetings;
4. Report quarterly to the Board Professional Standards Committee and prepare and present the annual full report to the Board including compliance efforts undertaken during the preceding year, and recommended changes necessary to improve the compliance program;
5. Annually review, coordinate and update existing compliance and HIPAA policies and procedures for submission to and approval by the Board of Directors, and develop new policies and procedures according to the standard set by Bethany Village;
6. Work with the Executive Director and Human Resources to oversee the training and education of all Bethany Village members of the Board, continuing and new employees, contractors and all affected individuals involved in the clinical areas about applicable compliance standards;
7. Manage, update and retain all Business Associate Agreements (BAAs) for those contractors with access to protected health information (PHI);
8. Plan, conduct, evaluate and monitor auditing procedures regularly, especially focusing on those risk areas identified annually and as they arise;
9. Audit background checks of all Bethany Village employees involved in the delivery of health care services, items, or billing, and via reliable sampling, audit health screening and PPD updates, professional license checks, and nurse aide credentials at least annually;
10. Ensure that the OIG and the NYS OMIG lists of excluded individuals and entities and the General Services Administration’s list of parties debarred from federal programs, have been checked against all employees and contractors monthly;
11. Audit resident records in the clinical areas as requested by Administrators and prepare formal reports of findings;
12. Work with the CEO to complete all required institutional certifications including but not limited to the annual Social Services Law certifications on the OMIG website accurately and on time, and with the Director of Home Care to annually certify the Bethany Village Adult Social Day Care program.
13. Manage and respond to reports to the Corporate Compliance Hotline and all other communications channels;
14. Investigate suspected intentional and accidental misconduct;
15. Establish and maintain open lines of communication with Bethany Village departments and divisions, including the billing department, medical staff, employees and contractors to ensure effective and efficient compliance policies and procedures; and
16. Maintain written and or digital records of all program activities.

All questions and concerns regarding compliance with the standards set forth in the program should be directed to or brought to the attention of the CCO. All members of the Bethany Village governing body as well as employees, contractors, and other affected individuals are required to cooperate and assist the CCO in the exercise of his or her duties. If an affected individual is uncertain about whether specific
conduct could be prohibited, individuals may contact the CCO or an administrator or supervisor for guidance and direction.

EXECUTIVE CORPORATE COMPLIANCE AND BOARD PROFESSIONAL STANDARDS COMMITTEES

The Bethany Village Board has the ultimate responsibility for oversight of the Compliance Program. The Board considers compliance-related matters on a periodic basis and whenever warranted by circumstances. This program is implemented under the guidance and supervision of the Professional Standards Committee of the Board, which coordinates compliance efforts for Bethany Village.

Membership

Members of the Professional Standards Committee of the Board are appointed in accordance with the Board’s bylaws. The Committee is assisted by a staff Executive Compliance Committee which includes executive representation from Bethany Village business units and departments, as determined by the Board. Functions of the Board Professional Standards Committee include, but are not limited to the following:

- Receipt of regular reports from the Corporate Compliance Officer and provision of guidance regarding the operation of the program;
- Approval of the internal Corporate Compliance Officer’s audit plan carried out under the program;
- Approval of the compliance training program provided to all staff, contractors, and members of the governing body;
- Review of the adequacy of all suspected non-compliance investigations and corrective action taken as a result of such investigations;
- Review and approval of policies and procedures related to compliance annually and as needed; and
- Recommendation and approval of any changes to the program.

Meetings

The Professional Standards Committee of the Board meets quarterly, or more often as necessary. The staff Executive Compliance Committee meets monthly or more often as necessary.

ELEMENT 2 2022 FOCUS:

- Design and initiate a Compliance Program Effectiveness and/or a Compliance Culture assessment.
- Complete testing, refinement of critical parameters, implementation, and establishment of an effectiveness benchmark.

Element 3 – Training and education

18 NYCRR 521.3 (c): … (3) training and education of all affected employees and persons associated with the provider, including executives and governing body members, on compliance issues, expectations and the compliance program operation; such training shall occur periodically and shall be made a part of the orientation for a new employee, appointee or associate, executive and governing body member; . . .

The Bethany Village Corporate Compliance Program includes regular training and education for all affected employees and persons associated with Bethany Village, including Board members, physicians and physician extenders, employees and affected individuals consistent with New York state regulation.

TRAINING AND EDUCATION PROGRAMS
Policy
All Bethany Village board members, employees, contractors and affected individuals will participate in corporate compliance training and education programs at least annually to ensure compliance with the standards of the program. The CCO will update training materials at least annually to align them with requirements, trends and risk areas.

To document training completion, Bethany Village affected individuals will sign and return the applicable acknowledgment form, which affirms the individual has reviewed the plan, understands, and agrees to abide by its provisions. This documentation will be completed for all new board members following completion of self-guided education and for new employees at the close of New Employee Orientation. Records are retained in the Human Resources Department for employees and by the CCO for board members.

All Bethany Village board members, employees, contractors and affected individuals will review corporate compliance standards at least annually in formal training sessions or via distributed course materials. Participation will be tracked and documented by the CCO with the goal of 100% participation.

Promotion of adherence to the corporate compliance program should be an element of each Bethany Village employee’s performance standards. Compliance with the program, laws and regulations applicable to entities participating in health care programs is a condition of employment or association with Bethany Village. Bethany Village will take fair, equitable and appropriate disciplinary action as set forth in formal compliance policy.

Continuing Education Training
In addition to participating in required professional corporate compliance education at least annually, the CCO will provide on-going, updated education and training to all Bethany Village board members, employees, contractors and affected individuals regarding compliance issues specific to the residential and clinical settings, as well as other areas involving fraud and abuse issues, pertinent to roles and responsibilities.

All training sessions will be coordinated by the CCO, who will provide training on an as-needed basis to address requirements and identified risk areas at least annually. Sessions attended by the CCO for annual compliance training will be provided by professionally recognized sources, such as the Health Care Compliance Association, the Society for Corporate Compliance and Ethics, federal and state government agencies or other recognized professional compliance organization.

All new Bethany Village employees providing health care services, items, or billing will be required to complete a comprehensive training program within three (3) months following commencement of their services for or at Bethany Village. Bethany Village contractors are required to adopt and abide by this program in relation to work performed for Bethany Village, train their employees who are involved in performing work for Bethany Village to comply with applicable laws, and make this program available to those employees.

Topics which may be included in compliance training include:

- The operation and importance of the program
- The importance of vigilance and reporting
- Adherence to the program as a condition of continued employment

Bethany Village 2022 Corporate Compliance Work Plan – Page 9
Consequences of violating compliance standards and procedures, including disciplinary measures and sanctions

The role of each member of the governing body, executive, employee, contractor, and affected individual in the operation of the program

Training may be intramural or extramural, as appropriate. Topics for training may be drawn from publications such as OMIG Compliance Alerts and guidance; HHS, DOJ and OCR guidance, DOH Medicaid Updates; the OIG’s Special Fraud Alerts and guidance; OIG Advisory Opinions; and Medicare Part B News.

**CCO Training**
The Chief Compliance Officer, i.e., Director of Corporate Compliance, will complete at least eight (8) hours of professional compliance training annually and will be responsible for retaining documentation validating successful completion of such professionally recognized programs.

**Physician and Provider Training**
A physician and provider-specific training program will be implemented by the Compliance Officer. The program will include training on the requirements of Public Health Law section 238, as well as the federal fraud and abuse provisions and the federal physician referral prohibitions.8

Medicare, Medicaid and other federal health care program physician issues training will be multi-disciplinary in nature and one or more physicians will be involved in providing instruction.

**Billing and Coding Training**
The Chief Financial Officer or his or her designee will provide specific billing/coding training to Bethany Village employees with billing and coding responsibilities. Examples of topics that may be pertinent include:

- Coding requirements and methodology, including proper use of Bethany Village’s medical record documentation forms.
- General understanding of the claim development and submission processes.
- Proper billing standards and procedures and submission of accurate bills to payors and residents.
- Legal sanctions for submitting deliberately or recklessly false billings.

This training should be on-going and focus on the complexities of the billing and coding process.

**Training Compliance and Effectiveness Review and Quality Improvement**
The CCO is responsible for ensuring that members of the governing body, executives, employees and other affected individuals as is necessary have attended the training sessions applicable to the individual’s duties at Bethany Village.

The CCO will develop a plan to benchmark and assess program effectiveness among each constituency, and at least annually measure program performance. This plan will include measures to continuously improve performance, plan effectiveness and comprehensiveness.

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Updates
The CCO will review training regularly to assure that content is updated at regular intervals to include new developments in law, enforcement and risks, especially in the areas of IT Security and breach trends.

ELEMENT 3 2022 FOCUS:
- Conduct the annual audit and analysis of Bethany Village new employees for timely completion of New Employee Orientation Compliance and HIPAA training and attestation of participation [Goal = completion within three months of hire date]. Compare against 2021 benchmark and design improvement goals.
- Complete Employee, Physician and Board Compliance Refresher Inservice trainings for 2022.

Element 4 – Lines of communication to the responsible compliance position

18 NYCRR 521.3 (c): … (4) communication lines to the responsible compliance position, as described in paragraph (2) of this subdivision, that are accessible to all employees, persons associated with the provider, executives and governing body members, to allow compliance issues to be reported; such communication lines shall include a method for anonymous and confidential good faith reporting of potential compliance issues as they are identified; . . .

The Bethany Village Corporate Compliance Program will include well-maintained, updated written policies and procedures that identify how to communicate compliance issues to the Director of Corporate Compliance/CCO, confidentially and effectively. Lines of communication will be designed to strengthen confidential reporting while also providing two-way channels for announcement and discussion of compliance issues and information.

TELEPHONE HOTLINE

The Bethany Village hotline telephone number is (607) 378-6569, which is also the direct phone number for the CCO office. This hotline provides a means of communicating information about suspected compliance issues or misconduct and is one of multiple reporting options for all affected individuals. Questions about compliance standards and legal duties will be answered by the CCO or via referral to one or more employed persons with experience in the matter at hand. The CCO will investigate all reports of suspected misconduct received through either the hotline or any of the multiple channels listed below. The CCO will refer all legal issues to the Bethany Village General Counsel as indicated.

Because the telephone hotline is not confidential for anyone reporting with an individually-issued personal or Bethany Village department phone number, alternative compliance communications that are completely confidential are listed below.

Any Bethany Village employee, board member, contractor, or other affected individual with concerns about unethical practices, improper employee conduct, the integrity of Bethany Village billing/coding practices or other improper practices described throughout this Work Plan, must report such concern through the hotline or directly to the Compliance Office via any alternative communications channel listed below.
Anyone who makes an intentionally false statement or otherwise misuses the hotline or any communication channel will be subject to discipline.

OTHER CORPORATE COMPLIANCE COMMUNICATION CHANNELS
In addition to the hotline, any affected individual may report suspected misconduct or fraud though alternative channels, two of which are totally confidential and anonymous. Persons utilizing the totally secure methods below will remain anonymous to all investigators and parties, including the CCO. For this reason, it is imperative that reporting individuals provide as much detail and information as is possible when using these channels to assure that an adequate follow-up and investigation can occur.

Channels include all of the five that follow:
- Direct reporting to the immediate supervisor in writing which will then be forwarded to the Compliance Officer for review and follow-up, or,
- Directly via email to the CCO (liz-corveleyn@bethany-village.org)

For absolute anonymity and confidentiality, three reporting channels are recommended.
- Directly in writing which can be anonymously and confidentially dropped in one of two lock boxes, one located in the Manor break room and one in the Courtyards’ cafeteria overflow room
- Via postal mail to the CCO
- Via interoffice mail to the CCO, in which case care should be taken to redact or otherwise obscure prior addressees

ELEMENT 4 2022 FOCUS:
The COVID-19 quarantine may have been one reason, but there was no utilization of the hotline or other reporting channels of any suspected misconduct in 2020. The following steps should be taken in 2021 when the COVID-19 quarantine concludes:

- Follow-up on assessment of the value of reporting channels in 2021, including utilization, accessibility, and other factors affecting use of all options.
- Address lack of lock-box and telephone hot line utilization by removing, replacing or promoting these channels.
- Design and conduct a robust communication and education program for all employees, medical staff and board members to encourage utilization of all channels, emphasizing access and 2-way communications with the Compliance office.

Element 5 – Disciplinary policies to encourage good faith participation

18 NYCRR 521.3 (c): … (5) discipline policies to encourage good faith participation in the compliance program by all affected individuals, including policies that articulate expectations for reporting compliance issues and assist in their resolution and outline sanctions for: (i) failing to report suspected problems; (ii) participating in non-compliant behavior; or (iii) encouraging, directing, facilitating or permitting either actively or passively non-compliance behavior; such disciplinary policies shall be fairly and firmly enforced; ....

Records of suspected misconduct and any subsequent investigation will be retained and confidentially maintained by the CCO.

ELEMENT 5 2021 FOCUS:

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9 Updated to reflect all communication channels, 6-25-2019. E. Corveleyn, Director, Corporate Compliance.
As part of an overall corporate compliance employee communication plan and execution in CY 2021, include regular reminders of the importance of items (i) – (iii) above.

- Consider pre- and post-test for measurement purposes
- Emphasize these points in all employee, board and BA trainings.

Element 6 – A system for routine identification of compliance risk areas

18 NYCRR 521.3 (c):

... (6) a system for routine identification of compliance risk areas specific to the provider type, for self-evaluation of such risk areas, including but not limited to internal audits and as appropriate external audits, and for evaluation of potential or actual non-compliance as a result of such self-evaluations and audits, credentialing of providers and persons associated with providers, mandatory reporting, governance, and quality of care of medical assistance program beneficiaries; ....

COMPLIANCE STANDARDS AND PROCEDURES

Numerous federal and state laws and regulations define and establish obligations for the health care industry with which Bethany Village, board members, employees, business associates, contractors and all affected individuals must comply. Any affected individual who violates these laws and/or regulations not only risks individual indictment, criminal prosecution and penalties, as well as civil actions for damages and penalties and administrative exclusion, but also subjects Bethany Village to the same risks and penalties. Any employee or contractor who violates these laws will be subjected to the disciplinary procedures including and up to discharge or contract termination. Our summary of the pertinent laws is listed as Appendix A.

RISK ASSESSMENT

As part of the annual update of the Bethany Village Corporate Compliance Work Plan, the Executive Corporate Compliance Committee and the CCO will conduct research, evaluation and prioritization of the organization’s primary compliance risk areas. These will include completion of the OMIG’s Self-Risk Assessment form and other ancillary evaluations with emphasis on resident privacy; physical and cyber security; fraud waste and abuse; and other key areas.

Criminal History Check. (42 USC §1320A-7)
Bethany Village excludes individuals from employment who have a history of any of the following:

- Conviction of a health care-related crime,
- Conviction relating to patient abuse,
- Felony conviction relating to health care fraud, and/or
- Felony conviction relating to a controlled substance.

All employees are subjected to a rigorous criminal history check on hire. Thereafter, the CCO conducts monthly audits, comparing the full current employee and volunteer lists against at least the OMIG and OIG LEIE databases of excluded individuals and entities. In addition, the Bethany Village Departments of Human Resources and Corporate Compliance collaborate and sample at least 25% of the full workforce, modeling by business unit, to assure that all employee files include all required documentation.

Health Reviews. (NYS Public Health Law §206(m)). (10 NYCRR §415.26(c)(1)(iv)(a)).

(1) Annual Examinations. (NYS Public Health Law §206(m)).
Bethany Village will require pre-employment physical examinations and thereafter require an annual examination or health review (depending on which building the employee works in) of all employees
which will include screening for tuberculosis and other communicable diseases as is deemed necessary for the safety and well-being of Bethany Village residents.

(2) **Health Review Policies. (10 NYCRR §415.26(c)(1)(iv)(a)).**
Bethany Village maintains and implements policies and procedures that require a health screening or physical examination and recorded medical history for all employees and members of the medical, dental and other clinical professional staff. Assisted living employees and staff are required to undergo a physical examination at least annually, which employees of the skilled nursing and shared service business units are required to undergo health screenings at least annually. Documentation is maintained in the Human Resources Department.

The Bethany Village Departments of Human Resources and Corporate Compliance collaborate and sample at least 25% of the full workforce annually, modeling by business unit, to assure that all employee files include written reports documenting the health screening or physical examination history.

Required examinations must be of sufficient scope to ensure that, consistent with federal and state statutes and prohibiting discrimination on the basis of disability or handicap, no person will assume their duties unless he/she is free from a health impairment that would present a risk to the resident which cannot be reasonably accommodated, or which might interfere with the performance of their duties, including the habituation or addiction to depressants, stimulants, narcotics, alcohol or other drugs or substances which may alter the individual’s behavior. Bethany Village will provide such examination without cost for all employees.

(a) Bethany Village requires and monitors the following documentation for all personnel as a condition of employment or affiliation:

(i.) A PPD (Mantoux) skin test for tuberculosis prior to employment or affiliation and no less than every year thereafter for negative findings. Positive findings will require appropriate clinical follow-up but no repeat skin tests;
(ii.) a certificate of immunization against rubella;
(iii.) a certificate of immunization against measles for all persons born after January 1, 1957; and,
(iv.) If any licensed physician, physician’s assistant or nurse practitioner certifies that immunizations with measles and/or rubella vaccine could be detrimental to the employee’s health, the above requirements will be waived and documented until the immunization in question is found no longer to be detrimental to such employee’s health.

(b) Bethany Village and Bethany Village contractors reassess the health status of all personnel as frequently as necessary, but no less than annually, to ensure that personnel are free from health impairments which pose a risk to residents or personnel which cannot be reasonably accommodated or which may interfere with the performance of duties.

(c) Bethany Village employees, residents and contractors will report any signs or symptoms of personal illness immediately to an appropriate authority, e.g., immediately to their employee health nurse, nursing supervisor or supervisor. Everyone who makes a report of illness will be referred to an appropriate health care professional for assessment of the risk to residents to others. Based on this assessment, Bethany Village will authorize appropriate measures to be taken, including, but not limited to, removal, reassignment or return to duty.
**Licensing, Certification and Exclusion Checks.**

(1) **Professional License Verification and Exclusion Auditing.** (10 NYCRR §415.26(c)(3) and (18 NYCRR §§ 515.3, 515.5 and 18 NYCRR § 515.7)).

For all Bethany Village employees and Bethany Village contractors providing services at Bethany Village for whom licensure, registration or certification is required, Bethany Village employees and contractors are required to obtain and retain verification of the license number or certification with expiration date of same. Bethany Village and Bethany Village contractors will verify that there are no professional findings and that the licenses are in good standing for all personnel for whom licensure is required. Status of all clinical provider and administrator licenses as required by NYCRR will be audited at least annually.

Bethany Village will also conduct monthly audits of all employees, contractors and business associates to assure that none have been excluded from participation in Government-funded programs. This is done by comparing the monthly employee list with the federal Office of the Inspector General’s List of Excluded Individuals and Entities and the NYS Office of the Medicaid Inspector General’s Exclusion List to assure that there are no matches. Any findings from the monthly audit are reviewed with Human Resources and as indicated, reported to the employee’s supervisor and the Executive Compliance and Professional Standards Committee.

The Bethany Village Human Resources Department will review the list of license suspensions and revocations published by New York State and the federal government on initial hiring to verify the candidate does not appear on either list.

(2) **Nurse Aides.**

(2.1) **Training.** (10 NYCRR §415.26(d)(3) and 42 USC §1396-(b)(5)).

Bethany Village and Bethany Village Contractor’s nurse aides’ training program will be supervised and instructed by qualified individuals and will include at least 100 hours of classroom and clinical training, at least 30 of which will be supervised practical experience.

(2.2) **NYS Nurse Aide Registry.** (10 NYCRR §415.31).

Bethany Village and Bethany Village Contractors will register its nurse aides with the New York State Nurse Aide Registry, and perform an annual audit with follow-up.

(3) **Home care, personal care and personal assistants.**

(3.1) **Training.** (10 NYCRR § 505.14, 10 NYCRR § 700.2 and 42 USC §484)\(^\text{10}\)

The Bethany Village Home Health Care and Personal Care Aide training programs, which are contracted with the BOCES, are supervised and instructed by qualified individuals and include no less than 75 hours of both classroom and clinical training, including at least 8 hours of supervised practical training in the patient care setting. Bethany Village also requires that all Home Health Aide (HHA) and Personal Care Aide Level II (PCAII) personnel successfully complete twelve (12) hours of continuing inservice education on an annual basis.

(3.2) **NYS Personal and Home Care Registry.** (10 NYCRR §403).

On announcement of required registration of these aides and assistants from the NYS OMIG, Bethany Village will comply with all guidance ordering registration of all home health aides, personal care aides and personal care assistants employed at Bethany Village. At present, formal audits are done annually to validate required certification of all PCAII and HHA providers working on the Bethany Village campus in compliance with state regulation. Staff members at

\(^{10}\) New York State Department of Health, Division of Home and Community Based Services, *Guide to Operation of a Home Health Aides Training Program*, July 1, 2013. P. 4, and 10 NYCRR § 700.2.
the Manor and Courtyards maintain compliance with required registration/certification on an ongoing basis.

**Employee Confidentiality and Privacy Policy.**

Bethany Village employees and contractors will not disclose any protected health information (PHI) belonging to residents or employees to individuals outside the facility including family and friends of the resident. This prohibition includes verbal communications as well as releasing copies of, or allowing access to, any protected reports or documents prepared by Bethany Village. Clinical staff will not disclose or discuss any individual PHI with anyone other than a direct caregiver.

Bethany Village employees and contractors will not disclose any resident PHI in any publicly accessible areas of the Bethany Village such as elevators, corridors, common rooms, cafeteria, time clocks, or other publicly accessible space. This prohibition includes many privacy violations in the nursing units where discussions are not appropriate due to the presence of other residents, non-direct care staff, and visitors.

**Medical Staff Credentialing. (Public Health Law §2805-j).**

Prior to hiring, granting, or renewing privileges or an association with a physician, dentist, or provider, Bethany Village and Bethany Village Contractors will obtain information regarding the name of any hospital or facility at which the professional was employed; the reasons for any discontinuance of privileges; any professional misconduct proceeding; the findings or outcome of any such proceeding; and documentation that the professional completed infection control training. In addition, Bethany Village and Bethany Village Contractors will request from any hospital with which the professional was associated or employed information regarding pending medical conduct or medical malpractice proceedings, and judgments or settlements of malpractice proceedings.

**Medical Staff By-Laws. (10 NYCRR §405.4(c)).**

The medical staff of Bethany Village will adopt and enforce by-laws to carry out its responsibilities in conformity with all applicable laws and regulatory requirements.

**Discrimination In Staff Appointments and Privileges. (NYS Public Health Law §206-A).**

The governing body of Bethany Village will not deny, withhold from, exclude or expel a physician, dentist or podiatrist staff membership or professional privileges because of his or her participation in any medical group practice, non-profit health insurance plan, or comprehensive health services plan offered by a health maintenance organization authorized by New York law.

**Infection Control. (10 NYCRR §415.19).**

Bethany Village and Bethany Village contractors will establish and maintain an infection control program designed to provide a safe sanitary and comfortable environment in which residents reside and to help prevent the development and transmission of disease and infection.

Pursuant to Education Law §6505-b, every dentist, registered nurse, licensed practical nurse, podiatrist, optometrist, and dental hygienist employed or under contract with Bethany Village will complete course work or training regarding infection control and barrier precautions.

No physician, dentist or podiatrist will be granted professional privileges or association who has not completed such course work or training. (Public Health Law §28505-j).

Physicians, physician’s assistants, nurse practitioners and specialist’s assistants employed by or under contract with Bethany Village will conduct course work or training in infection control and barrier
precaution and the basic concepts of disease transmission, scientifically accepted principles and practices for infection control and engineering and workplace controls. Such course work will be completed by Bethany Village physicians, physician’s assistants every four years. (10 NYCRR §92-1.1).

Conflicts of Interest. 
Bethany Village Officers, Bethany Village Employees, Bethany Village Contractors and officers, employees or contractors of Bethany Village Affiliated Organizations will not . . .
   (1) accept other employment or engage in any business transaction directly or indirectly which might tend to affect his or her judgment in any official act or create a conflict with his official duties, or,
   (2) knowingly invest or hold any investment or interest, legal or beneficial, directly or indirectly, in any property, real or personal, in conflict with their official duties,

and WILL annually submit a signed, dated attestation form as part of their annual compliance training.

Gifts and Gratuities.
No Bethany Village Employee or Bethany Village Contractor whether paid or unpaid, will directly or indirectly solicit any gift or accept or receive any gift whether in the form of money, service, loan, travel, entertainment, hospitality, thing or promise, or in any other form, under circumstances in which it could reasonably be inferred that the gift was intended to influence him/her or reasonably be expected to influence him/her in the performance of their official duties or was intended as a reward for any official action or was intended as a reward for any official action on his or her part.

Employees Working For Vendors or Subcontractors.
No Bethany Village contractor or employee is permitted to accept other employment or engage in any business transaction directly or indirectly which might tend to affect their judgment in any official act or create a conflict with his official duties.

Lobbying/Political Activity. (45 CFR §93.100).
Bethany Village, Bethany Village contractors and employees of Bethany Village Affiliated Organizations may not expend funds received through a federal contract, grant, loan, or cooperative agreement for the purposes of paying any person for influencing or attempting to influence an officer or employee of a Federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with any of the following actions: the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement.

ELEMENT 6 2022 FOCUS:
   - Develop and refine, with the Executive Compliance Committee and the Professional Standards Committee of the Board, a policy that describes the Bethany Village compliance monitoring infrastructure, including implicit synergies of all its subparts, supporting this Work Plan.
   - Develop and complete a full enterprise-wise IT asset inventory.

Element 7 – A system for responding to compliance issues

18 NYCRR 521.3 (c): ... (7) a system for responding to compliance issues as they are raised; for investigating potential compliance problems; responding to compliance problems as identified in the
course of self-evaluations and audits; correcting such problems promptly and thoroughly and implementing procedures, policies and systems as necessary to reduce the potential for recurrence; identifying and reporting compliance issues to the department or the office of Medicaid inspector general; and refunding overpayments; ..

Identification of Risk Areas
As necessary, Bethany Village will develop written policies and procedures that address identified risk areas. These written policies and procedures will be communicated to all Bethany Village employees, board members and contractors as necessary and pertinent. Risk areas that are identified in the course of compliance, quality improvement and credentialing processes, and as follow-up to annual or other formal risk assessments will be addressed appropriately and in timely fashion and will guide the annual compliance work plan.

Risk areas identified from time to time by OIG, OMIG or other authorities will be addressed in Bethany Village’s compliance activities as appropriate.

Investigation of Suspected Non-Compliance
Bethany Village requires that all suspected non-compliant conduct of any nature be promptly reported to the CCO using reporting mechanisms set forth in Element 4. The CCO will initiate and coordinate investigation of any conduct that appears inconsistent with the corporate compliance program or any departmental compliance policies. After review and investigation, the CCO will prepare a written report of findings that will be shared with pertinent administrators and the Board Professional Standards Committee for action, as appropriate. Bethany Village employees, board members, contractors, business associates and affected individuals will cooperate fully with any investigations undertaken.

Procedures Following the Detection of Misconduct
Violation of Bethany Village’s compliance policies include, but are not limited to, the following infractions:

- Failing to report known and potential non-compliant conduct,
- Participating in non-compliant conduct, and
- Actively or passively, encouraging, directing, facilitating or permitting non-compliant conduct.

After investigation, if the CCO and administrator/supervisor determine that a compliance violation occurred, the matter will be referred to the Professional Standards Committee of the Board. Bethany Village requires the Professional Standards Committee to recommend imposition of appropriate disciplinary action to the administrator, in light of all available information. Such response and disciplinary action may include, but not be limited to, oral warning, written reprimand, suspension, or discharge of the individual(s) involved, or a progression in severity in the case of repeated offenses.

Any recommendation by the Professional Standards Committee must be approved by majority vote of the entire Board membership. Bethany Village will assure that all disciplinary actions are equitable and consistent with the severity of the infraction regardless of the rank or relationship of the non-compliant individual with/within the organization.

In the event that accidental or willful non-compliant conduct caused Bethany Village or any Bethany Village contractor or business associate to benefit as a result of improper or incorrect reimbursement or payments all such amounts received improperly or incorrectly will be promptly returned to the originating source. As is possible, any and all claims, vouchers or other instruments submitted in error will be corrected and resubmitted promptly.
In addition, as appropriate for the given situation, the following responses and measures may be undertaken by the Professional Standards Committee of the Board:

- Re-training,
- Modification of the charges, coding and billing system as necessary,
- Adjustment to policies and procedures, including revisions to the corporate compliance program,
- Remediation of the problem including taking necessary steps to reduce the error rate and risk of future error, and
- Handling information obtained appropriately including reporting the problem to authorities, dealing with restitution by the employee or contractor, evaluation of effort needed by Bethany Village to determine the magnitude of improper claims and appropriate follow-up, and consideration of the clarity and veracity of the evidence.

**Government Investigations**

Bethany Village is committed to full compliance with all state and federal laws and will cooperate with all reasonable demands made in any government investigation of Bethany Village, or its employees or contractors. Bethany Village deems it essential that the legal rights of Bethany Village and its employees and contractors are protected.

If any Bethany Village employee or board member receives a subpoena, inquiry or other legal document concerning Bethany Village business, whether at home or in the workplace, from any governmental agency, the Bethany Village employee or board member must notify the Bethany Village CCO as soon as possible. A decision will then be made by senior leadership as to whether to alert the Bethany Village General Counsel.

**ELEMENT 7 2022 FOCUS:**
- *Complete all standard annual and monthly audits.*

**2020 Bethany Village Compliance Work Plan Addenda**

**RESIDENT CARE AND RESIDENT RIGHTS**

a. **Admissions.** (10 NYCRR §415.26); also see 42 USC §1396r(c)(5)).

Bethany Nursing Home will admit a resident only on an authorized practitioner’s order and in accordance with the resident assessment criteria and standards as promulgated and published by the Department of Health, and will accept and retain only those nursing home residents for whom it can provide adequate care. Bethany Nursing Home will provide each resident with services and supports as required by law.

Bethany Nursing Home will advise each potential resident or designated representative prior to or at the time of admission that all medical and dental services which are provided by the facility will be provided by practitioners who have an affiliation with the facility. Potential residents whose personal attending physician or dentist is not approved to provide services to the resident after admission will be duly notified prior to or at the time of admission. Bethany Village will promptly receive an evaluation request by such personal attending physician or dentist, to be approved to attend to such prospective resident consistent with resident care policies and procedures of the facility.
Bethany Village will advise each potential resident or designated representative that he or she may seek a second opinion if he or she disagrees with the diagnosis or treatment being provided and may call in a specialist selected by the resident or designated representative for the medical consultation.

Bethany Village will advise each potential resident or designated representative that Bethany Village does not require third-party guarantee of payment as a condition of admission; will not solicit or accept any gift or donation as a condition of admission; will not require the relinquishment of rights to Medicare or Medicaid benefits. Bethany Village may require an individual who has legal access to a resident’s income or resources available to pay for facility care, to sign a contract, without incurring personal financial liability, to provide the facility payment from the resident’s income or resources.

b. Residents’ Rights.
In accordance with 42 USC § 1396r(c), 42 CFR 483.1010 NYCRR § 415.3, Bethany Village, Bethany Village employees and contractors will ensure that all residents are afforded their right to a dignified existence, self-determination, respect, full recognition of their individuality, consideration and privacy in treatment and care for personal needs and communication with and access to persons and services inside and outside the facility.

Bethany Village will publicize a statement of the rights and responsibilities of the residents who are receiving care at Bethany Village.

c. Reporting Abuses. NYS Public Health Law §2803(d.) Any Bethany Village Employee or Bethany Village Contractor providing resident care is required to report any suspected physical abuse, mistreatment or neglect, immediately by telephone, and in writing within forty-eight hours to the NYS Department of Health. In the interest of promoting and protecting patient health, safety and welfare, Bethany Village encourages all individuals to immediately report to the Administrator and/or CEO any and all instances of suspected resident abuse or neglect.

d. Non-discrimination in Admission.
Bethany Village, Bethany Village Employees and Bethany Village Contractors will not discriminate because of race, color, blindness, sexual preference or sponsorship in admission, retention and care of residents. (10 NYCRR §415.26(i)(1)(ix)).

Bethany Village, Bethany Village Employees and Bethany Village Contractors will obey all pertinent state and local laws which prohibit discrimination against individuals entitled to Medicaid benefits. (10 NYCRR §415.3(5)).

e. Compliance with Advance Directives.
Bethany Village will comply with the health care decisions made by a health care agent in good faith under a health care proxy to the same extent as if such decisions had been made by the resident.

Bethany Village will establish procedures;
(a) to provide information to adult residents about their right to create a health care proxy under New York State law;
(b) to educate adult residents about the authority delegated under the health care proxy, what a proxy may include or omit, and how a proxy is created and revoked;
(c) to ensure that each resident who creates a proxy while residing at Bethany Village does so voluntarily.

(2) Orders Not to Resuscitate. (10 NYCRR §405.43).

Each resident who consents to an order not to resuscitate is informed of the range of available resuscitation measures, consistent with the facility’s equipment and facilities. All staff involved in the care of any person for whom an order not to resuscitate has been issued are promptly informed of the order, including any limitations or instructions.

For each resident for whom an order not to resuscitate has been issued, the attending physician at Bethany Nursing Home will review the resident’s chart to determine if the order is still appropriate in light of the resident’s condition and will indicate on the resident’s chart that the order has been reviewed. The resident is required to be seen by a physician at least every 60 days and the order not to resuscitate must be reviewed at that time.

A resident’s consent to the issuance of an order not to resuscitate will not constitute consent to withhold or withdraw medical treatment other than cardiopulmonary resuscitation.

Any physician treating a resident of Bethany Nursing Home who is informed or provided with a revocation of consent to an order not to resuscitate will immediately include the revocation in the resident’s chart, cancel the order, and notify the Bethany Nursing Home Employees and Bethany Nursing Home Contractors responsible for the resident’s care of the revocation and cancellation.

Any Bethany Nursing Home Employee or Contractor who is informed of or provided with the revocation of consent will immediately notify a physician of such revocation.

An attending physician employed by Bethany Nursing Home who is provided with a decision of a surrogate consenting to an order not to resuscitate will include the decision in the resident’s medical chart and will:

- Promptly issue an order not to resuscitate the resident and inform the hospital staff responsible for the resident’s care of the order; or
- Promptly make the attending physician’s objection to the issuance of such an order known to the surrogate and either make all reasonable efforts to arrange for the transfer of the resident to another physician, if necessary, or promptly refer the matter to a dispute mediation system.

f. Pastoral Care. (10 NYCRR §793.4).

Bethany Village will employ the services of a pastoral care coordinator. A pastoral care coordinator will mean a person who has had a minimum of five years of training and experience in pastoral/spiritual counseling and has a master’s degree from a regionally accredited college or university or one recognized by the New York State Education Department. The pastoral care provider will provide for the spiritual, religious and emotional support of the resident and family.

HOSPICE

In recognition of the value of hospice and consistent with state policy to encourage the expansion of health care service options available to New York State residents, Bethany Nursing
Home will establish and maintain a hospice care service available to all residents who seek such care.

Bethany Nursing Home will provide and coordinate a program of in-patient care which treats the terminally ill resident and family as a unit, as part of an interdisciplinary team operating under the direction of the hospice administrator. A Bethany Nursing Home hospice program will provide palliative and supportive care to meet the special needs arising out of physical, psychological, spiritual, social and economic stresses which are experienced during the final stages of illness and during dying and bereavement.

b. State Law Compliance.
   Bethany Nursing Home will contract with hospice providers in a manner that complies with the provisions of NYS Public Health Law Article 40 and 10 NYCRR Part 790.

c. In-Patient Hospice Services. (10 NYCRR §794.4(b)).
   Hospice providers will render short-term in-patient services for pain control and management of symptoms related to the terminal illness in a free-standing hospice facility, a skilled nursing facility or a general hospital in a manner that complies with the provisions of NYS Public Health Law Article 40 and 10 NYCRR Part 790.

d. Resident/Family Plan of Care. (10 NYCRR §794.2).
   In providing hospice care, Bethany Nursing Home Employees and Bethany Nursing Home Contractors will ensure that a comprehensive plan of care, which includes assessment of the physical, psychological, spiritual, social and economic needs of the resident family, will be developed by an interdisciplinary team and, if applicable the resident’s attending physicians, prior to the provision of hospice services.

   The resident/family will be permitted and encouraged to actively participate in the care planning process and the provisions of care. Such participation will be documented in the resident/family record.

   A written plan of care will indicate that for each resident/family member, how palliative and supportive care is to be achieved, the services to be provided and by whom, and the person responsible for coordinated care.

   The comprehensive plan of care will reflect the changing care needs of the resident/family, and be reviewed and revised if necessary by the interdisciplinary team. These reviews must be documented in the resident record.

f. Reporting Requirements. (10 NYCRR §86-6.4).
   The cost and statistics related to the operation of hospice services provided by Bethany Nursing Home will be separately maintained from Bethany Nursing Home other activities.

ENVIRONMENTAL

a. Medical Waste. (10 NYCRR §415.29) (10 NYCRR §70).
   Bethany Village and Bethany Village Contractors will regulate medical waste in a manner and location which affords protection from the environment and limits exposure to the public, and complies with applicable law and regulations.
ADMINISTRATION

a. **Staff Qualifications and Personnel Management.** (10 NYCRR §415.26(c)).

Bethany Village will employ on a full-time, part-time or consultant basis a sufficient number of professional staff members who are educated, oriented and qualified to assure the health, safety, proper care and treatment of residents.

Bethany Nursing Home will not operate unless it is under the supervision of an administrator who holds a currently valid nursing home administrator’s license and registration issued under Article 28-D of the NYS Public Health Law.

Bethany Nursing Home will develop and implement medical services to meet the needs of its residents. Bethany Nursing Home will designate a full-time or part-time physician to serve as medical director. The medical director will be responsible for:

(a) Implementation of resident medical care policies;
(b) Coordination of physician services and medical care in the facility;
(c) Coordinating the review of any physician, dentist or podiatrist prior to granting or renewing professional privileges;
(d) Assuring that each resident’s responsible physician attends to the resident’s medical needs.

Bethany Nursing Home will employ a full-time Director of Nursing and will have sufficient nursing staff to provide nursing and related services to attain or maintain the highest practicable physical, mental and psychosocial wellbeing of each resident.

Bethany Nursing Home will provide nursing care on a 24-hour basis to all residents, by employing the services of sufficient registered professional nurses, licensed practical nurses, certified nurses’ aides, and other nursing personnel.

b. **Governing Body Oversight.** (10 NYCRR §415.26(b)).

Bethany Village will have a governing body, or designated persons functioning as a governing body, that is legally responsible for establishing and implementing policies regarding the management and operations of the facility. Among other duties, the governing body will:

(1) Appoint an eligible administrator;
(2) Establish the policies of the facility;
(3) Be responsible for the operation of the facility;
(4) Be responsible for providing legally required services for residents;
(5) Employ personnel as legally required;
(6) Develop a method of promptly addressing resident complaints;
(7) Assure the complaint process is made known to the residents and staff;
(8) Establish a resident council;

(9) Comply with the laws of NYS in operating Bethany Village, Bethany Village Employees and Bethany Village Contractors.
**REVIEWS**
The Compliance Officer and/or Chief Financial Officer will periodically review Bethany’s practices and procedures. Reviews will be conducted to determine the accuracy and validity of coding and billing submitted to Medicare/Medicaid, other federal health programs and other payors, and otherwise to detect other instances in which State or federal standards may not have been met. Attention will be given to reviewing the reasons given for claim denials, to reviewing frequent billings of certain procedure codes, and to analyze other facts, which may suggest inappropriate conduct.

The review procedure should include: (1) Sampling; (2) Review of backup records on a random basis to assess reliability of billings to programs; (3) Periodic review of the entire claims development and submission process beginning with a resident’s registration and ending with the submission of the claim to the government payer or third party payor.

Bethany Village and Bethany Village contractors will retain all billing records for ten (10) years.

**CONTRACTS**
All contracts and other arrangements with physicians, laboratories, providers, referral sources and other persons will be reviewed to be sure that compliance standards are met.

**Appendix A. Federal & New York State Statutes Governing False Claims**

**I. Federal Laws**

1) Federal False Claims Act (31 USC §§3729-3733)

**II. New York State Laws**

A. CIVIL AND ADMINISTRATIVE LAWS

1) New York False Claims Act (State Finance Law §§187-194)
2) Social Services Law, Section 145-b - False Statements
3) Social Services Law, Section 145-c - Sanctions

B. CRIMINAL LAWS

1) Social Services Law, Section 145 - Penalties
2) Social Services Law, Section 366-b - Penalties for Fraudulent Practices.
3) Social Services Law, Section 145-c - Sanctions
4) Penal Law Article 175 - False Written Statements
5) Penal Law Article 176 - Insurance Fraud
6) Penal Law Article 177 - Health Care Fraud

**III. Whistleblower Protection – New York State and Federal Laws**

1) Federal False Claims Act (31 U.S.C. §3730(h))
2) New York State False Claim Act (State Finance Law §191)
3) New York State Labor Law, Section 740
4) New York State Labor Law, Section 741

**IV. Federal, New York State and Whistleblower Protection Law Detail**

**Federal Laws**

1) Federal False Claims Act (31 USC §§3729-3733)
The False Claims Act ("FCA") provides, as follows: § 3729. False claims
(a) Liability for certain acts.--
   1) In general.-- Subject to paragraph (2), any person who--
      (A) knowingly presents, or causes to be presented, a false or fraudulent claim for
          payment or approval;
      (B) knowingly makes, uses, or causes to be made or used, a false record or
          statement material to a false or fraudulent claim;
      (C) conspires to commit a violation of subparagraph (A), (B), (D), (E), (F), or (G);
      (D) has possession, custody, or control of property or money used, or to be
          used, by the Government and knowingly delivers, or causes to be delivered,
          less than all of that money or property;
      (E) is authorized to make or deliver a document certifying receipt of property
          used, or to be used, by the Government and, intending to defraud the
          Government, makes or delivers the receipt without completely knowing that
          the information on the receipt is true;
      (F) knowingly buys, or receives as a pledge of an obligation or debt, public
          property from an officer or employee of the Government, or a member of
          the Armed Forces, who lawfully may not sell or pledge property; or
      (G) knowingly makes, uses, or causes to be made or used, a false record or
          statement material to an obligation to pay or transmit money or property to
          the Government, or knowingly conceals or knowingly and improperly avoids
          or decreases an obligation to pay or transmit money or property to the
          Government, is liable to the United States Government for a civil penalty of
          not less than $5,000 and not more than $10,000, as adjusted by the Federal
          Civil Penalties Inflation Adjustment Act of 1990 (28 U.S.C. 2461) note; Public
          Law 104-410, plus 3 times the amount of damages which the Government
          sustains because of the act of that person.
   (2) Reduced damages.--If the court finds that--
      (A) the person committing the violation of this subsection furnished officials of
          the United States responsible for investigating false claims violations with all
          information known to such person about the violation within 30 days after the
          date on which the defendant first obtained the information;
      (B) such person fully cooperated with any Government investigation of such
          violation; and
      (C) at the time such person furnished the United States with the information
          about the violation, no criminal prosecution, civil action, or administrative
          action had commenced under this title with respect to such violation, and the
          person did not have actual knowledge of the existence of an investigation into
          such violation, the court may assess not less than 2 times the amount of
          damages which the Government sustains because of the act of that person.
   (3) Costs of civil actions.--A person violating this subsection will also be liable to the
       United States Government for the costs of a civil action brought to recover any such
       penalty or damages.
(b) Definitions.--For purposes of this section--
   (1) the terms "knowing" and "knowingly" --
      (A) means that a person, with respect to information--
         (i) has actual knowledge of the information;
(ii) acts in deliberate ignorance of the truth or falsity of the information; or
(iii) acts in reckless disregard of the truth or falsity of the information; and
(B) requires no proof of specific intent to defraud;

(2) the term “claim” —
(A) means any request or demand, whether under a contract or otherwise, for money or property and whether or not the United States has title to the money or property, that—
(i) is presented to an officer, employee, or agent of the United States; or
(ii) is made to a contractor, grantee, or other recipient, if the money or property is to be spent or used on the Government’s behalf or to advance a Government program or interest, and if the United States Government—
(I) provides or has provided any portion of the money or property requested or demanded; or
(II) will reimburse such contractor, grantee, or other recipient for any portion of the money or property which is requested or demanded; and
(B) does not include requests or demands for money or property that the Government has paid to an individual as compensation for Federal employment or as an income subsidy with no restrictions on that individual’s use of the money or property;

(3) the term “obligation” means an established duty, whether or not fixed, arising from an express or implied contractual, grantor-grantee, or licensor-licensee relationship, from a fee-based or similar relationship, from statute or regulation, or from the retention of any overpayment; and

(4) the term “material” means having a natural tendency to influence, or be capable of influencing, the payment or receipt of money or property.

(C) Exemption from disclosure.—Any information furnished pursuant to subsection (a)(2) will be exempt from disclosure under section 552 of title 5.

(D) Exclusion.—This section does not apply to claims, records, or statements made under the Internal Revenue Code of 1986.

While the False Claims Act imposes liability only when the claimant acts “knowingly,” it does not require that the person submitting the claim have actual knowledge that the claim is false. A person who acts in reckless disregard or in deliberate ignorance of the truth or falsity of the information, also can be found liable under the Act. 31 U.S.C. 3729(b).

In sum, the False Claims Act imposes liability on any person who submits a claim to the federal government, or submits a claim to entities administering government funds that he or she knows (or should know) is false. An example may be a physician who submits a bill to Medicare for medical services she knows she has not provided. The False Claims Act also imposes liability on an individual who may knowingly submit a false record in order to obtain payment from the government. An example of this may include a government contractor who submits records that he knows (or should know) are false and that indicate compliance with certain contractual or regulatory requirements. The third area of liability includes those instances in which someone may obtain money from the federal government to which he may not be entitled, and then uses false statements or records in order to retain the money. An example of this so-called “reverse false claim” may include a hospital which obtains interim payments from Medicare or Medicaid throughout the year, and then knowingly files a false cost report at the end of the year in order to avoid making a refund to the Medicare or Medicaid program.
In addition to its substantive provisions, the FCA provides that private parties may bring an action on behalf of the United States. 31 U.S.C. 3730 (b). These private parties, known as “qui tam relators,” may share in a percentage of the proceeds from an FCA action or settlement.

Section 3730(d)(1) of the FCA provides, with some exceptions, that a qui tam relator, when the Government has intervened in the lawsuit, will receive at least 15 percent but not more than 25 percent of the proceeds of the FCA action depending upon the extent to which the relator substantially contributed to the prosecution of the action. When the Government does not intervene, section 3730(d)(2) provides that the relator will receive an amount that the court decides is reasonable and will be not less than 25 percent and not more than 30 percent.

2) Administrative Remedies for False Claims (31 USC Chapter 38. §§ 3801—3812)

This statute allows for administrative recoveries by federal agencies. If a person submits a claim that the person knows is false or contains false information, or omits material information, the agency receiving the claim may impose a penalty of up to $5,000 for each claim. The agency may also recover twice the amount of the claim.

Unlike the False Claims Act, a violation of this law occurs when a false claim is submitted rather than when it is paid. Also unlike the False Claims Act, the determination of whether a claim is false, and the imposition of fines and penalties is made by the administrative agency, not by prosecution in the federal court system.

New York State Laws

New York State False Claims Laws fall under the jurisdiction of both New York’s civil and administrative laws as well as its criminal laws. Some apply to recipient false claims and some apply to provider false claims. The majority of these statutes are specific to healthcare or Medicaid. Yet some of the “common law” crimes apply to areas of interaction with the government and so are applicable to health care fraud and will be listed in this section.

A. Civil and Administrative Laws

1) New York False Claims Act (State Finance Law §§187-194)

The New York False Claims Act is similar to the Federal False Claims Act. It imposes penalties and fines upon individuals and entities who knowingly file false or fraudulent claims for payment from any state or local government, including health care programs such as Medicaid. It also has a provision regarding reverse false claims similar to the federal FCA such that a person or entity will be liable in those instances in which the person obtains money from a state or local government to which he may not be entitled, and then uses false statements or records in order to retain the money.

The penalty for filing a false claim is six to twelve thousand dollars per claim plus three times the amount of the damages which the state or local government sustains because of the act of that person. In addition, a person who violates this act is liable for costs, including attorneys’ fees, of a civil action brought to recover any such penalty.

The Act allows private individuals to file lawsuits in state court, just as if they were state or local government parties, subject to various possible limitations imposed by the NYS Attorney General or a local government. If the suit eventually concludes with payments back to the government, the person
who started the case can recover twenty-five to thirty percent of the proceeds if the government did not participate in the suit, or fifteen to twenty-five percent if the government did participate in the suit.

2) **Social Services Law, Section 145-b - False Statements**
It is a violation to knowingly obtain or attempt to obtain payment for items or services furnished under any Social Services program, including Medicaid, by use of a false statement, deliberate concealment or other fraudulent scheme or device. The state or the local Social Services district may recover three times the amount incorrectly paid. In addition, the Department of Health may impose a civil penalty of up to ten thousand dollars per violation. If repeat violations occur within five years, a penalty of up to thirty thousand dollars per violation may be imposed if the repeat violations involve more serious violations of Medicaid rules, billing for services not rendered, or providing excessive services.

3) **Social Services Law, Section 145-c - Sanctions**
If any person 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 individual or that of his family will not be taken into account for the purpose of determining his or her needs or that of his family for six months if a first offense, for twelve months if a second offense (or if benefits wrongfully received are at least one thousand dollars but not more than three thousand nine hundred dollars), for eighteen months if a third offense (or if benefits wrongfully received are in excess of three thousand nine hundred dollars), and five years for any subsequent occasion of any such offense.

**B. Criminal Laws**

1) **Social Services Law, Section 145 - Penalties**
Any person who submits false statements or deliberately conceals material information in order to receive public assistance, including Medicaid, is guilty of a misdemeanor.

2) **Social Services Law, Section 366-b - Penalties for Fraudulent Practices.**
   a. Any person who obtains or attempts to obtain, for himself 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.
   b. 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.

3) **Penal Law Article 155 - Larceny**
The crime of larceny applies to a person who, with intent to deprive another of his property, obtains, takes or withholds the property by means of trick, embezzlement, false pretense, false promise, including a scheme to defraud, or other similar behavior. This statute has been applied to Medicaid fraud cases.
   a. Fourth degree grand larceny involves property valued >$1,000. It is a class E felony.
   b. Third degree grand larceny involves property valued >$3,000. It is a class D felony.
   c. Second degree grand larceny involves property valued >$50,000. It is a class C felony.
   d. First degree grand larceny involves property > $1 million. It is a class B felony.

4) **Penal Law Article 175 - False Written Statements**
Four crimes in this Article relate to filing false information or claims and have been applied in Medicaid
fraud prosecutions:
   a. § 175.05 - Falsifying business records involves entering false information, omitting material information or altering an enterprise’s business records with the intent to defraud. It is a class A misdemeanor.
   b. § 175.10 - Falsifying business records in the first degree includes the elements of the § 175.05 offense and includes the intent to commit another crime or conceal its commission. It is a class E felony.
   c. § 175.30 - Offering a false instrument for filing in the second degree involves presenting a written instrument, including a claim for payment, to a public office knowing that it contains false information. It is a class A misdemeanor.
   d. §175.35 - Offering a false instrument for filing in the first degree includes the elements of the second degree offense and must include an intent to defraud the state or a political subdivision. It is a class E felony.

5) Penal Law Article 176 - Insurance Fraud
   a. This law applies to claims for insurance payments, including Medicaid or other health insurance, and contains six crimes.
   b. Insurance Fraud in the 5th degree involves intentionally filing a health insurance claim knowing that it is false. It is a class A misdemeanor.
   c. Insurance fraud in the 4th degree is filing a false insurance claim for over $1,000. It is a class E felony.
   d. Insurance fraud in the 3rd degree is filing a false insurance claim for over $3,000. It is a class D felony. Insurance fraud in the 2nd degree is filing a false insurance claim for over $50,000. It is a class C felony.
   e. Insurance fraud in the 1st degree is filing a false insurance claim for over $1 million. It is a class B felony.
   f. Aggravated insurance fraud is committing insurance fraud more than once. It is a class D felony.

6) Penal Law Article 177 - Health Care Fraud
This statute, enacted in 2006, applies to health care fraud crimes. It was designed to address the specific conduct by health care providers who defraud the system including any publicly or privately funded health insurance or managed care plan or contract, under which any health care item or service is provided. Medicaid is considered to be a single health plan under this statute. This law primarily applies to claims by providers for insurance payment, including Medicaid payment, and it includes six crimes.
   a. Health care fraud in the 5th degree — a person is guilty of this crime when, with intent to defraud a health plan, he or she knowingly and willfully provides materially false information or omits material information for the purpose of requesting payment from a health plan. This is a class A misdemeanor.
   b. Health care fraud in the 4th degree — a person is guilty of this crime upon filing such false claims on more than one occasion and annually receiving more than three thousand dollars. This is a class E felony.
   c. Health care fraud in the 3rd degree — a person is guilty of this crime upon filing such false claims on more than one occasion and annually receiving over ten thousand dollars. This is a class D felony.
   d. Health care fraud in the 2nd degree — a person is guilty of this crime upon filing such false claims on more than one occasion and annually receiving over fifty thousand dollars. This is a class C felony.
e. Health care fraud in the 1st degree — a person is guilty of this crime upon filing such false claims on more than one occasion and annually receiving over one million dollars. This is a class B felony.

C. Whistleblower Protection

1) Federal False Claims Act (31 U.S.C. 3730(h))
The Federal False Claims Act provides protection to qui tam relators (individuals who commence a False Claims action) 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 FCA. 31 U.S.C. 3730(h). Remedies include reinstatement with comparable seniority as the qui tam relator would have had but for the discrimination, two times the amount of any back pay, interest on any back pay, and compensation for any special damages sustained as a result of the discrimination, including litigation costs and reasonable attorneys’ fees.

2) New York State False Claims Act (State Finance Law §191)
The New York State False Claims Act also provides protection to qui tam relators who are discharged, demoted, suspended, threatened, harassed, or in any other manner discriminated against in the terms and conditions of their employment as a result of their furtherance of an action under the Act. Remedies include reinstatement with comparable seniority as the qui tam relator would have had but for the discrimination, two times the amount of any back pay, interest on any back pay, and compensation for any special damages sustained as a result of the discrimination, including litigation costs and reasonable attorneys’ fees.

3) New York State Labor Law, Section 740
An employer may not take any retaliatory action against an employee if the employee discloses information about the employer’s policies, practices or activities to a regulatory, law enforcement or other similar agency or public official. Protected disclosures are those that assert that the employer is in violation of a law that creates a substantial and specific danger to the public health and safety or which constitutes health care fraud under Penal Law § 177 (knowingly filing, with intent to defraud, a claim for payment that intentionally has false information or omissions). The employee’s disclosure is protected only if the employee first brought up the matter with a supervisor and gave the employer a reasonable opportunity to correct the alleged violation. If an employer takes a retaliatory action against the employee, the employee may sue in state court for reinstatement to the same, or an equivalent position, any lost back wages and benefits and attorneys’ fees. If the employer is a health provider and the court finds that the employer’s retaliatory action was in bad faith, it may impose a civil penalty of $10,000 on the employer.

4) New York State Labor Law, Section 741
A health care employer may not take any retaliatory action against an employee if the employee discloses certain information about the employer’s policies, practices or activities to a regulatory, law enforcement or other similar agency or public official. Protected disclosures are those that assert that, in good faith, the employee believes constitute improper quality of patient care. The employee’s disclosure is protected only if the employee first brought up the matter with a supervisor and gave the employer a reasonable opportunity to correct the alleged violation, unless the danger is imminent to the public or patient and the employee believes in good faith that reporting to a supervisor would not result in corrective action. If an employer takes a retaliatory action against the employee, the employee may sue in state court for reinstatement to the same, or an equivalent position, any lost back wages and benefits and attorneys’ fees. If the employer is a health provider and the court finds that the employer’s
retaliatory action was in bad faith, it may impose a civil penalty of $10,000 on the employer.

Appendix B: Basic Audit Schedule, 2022

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<tr>
<th>Audit Description</th>
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<tbody>
<tr>
<td>January</td>
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<tr>
<td>December Exclusions (LEIE, OMIG, SAM Exclusions)</td>
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| HIPAA Privacy and Security Walk-Through Audits  
  Manor  
  Courtyards |
| ALP Record Audit - Discharge to Alt Facilities |
| Annual Compliance Education Refresher Sessions  
  Manor - Employees  
  Courtyards - Employees  
  Shared Service - Employees  
  Board Members |
| 2022 Board Conflict of Interest Statement Renewals |
| ALP Record Audit - Discharge to Alt Facilities |
| PCC Network Access Account Termination Review |
| February          |
| January Exclusions (LEIE, OMIG, SAM Exclusions) |
| HIPAA Privacy and Security Walk-Through Audits  
  Manor  
  Courtyards |
| PCC Network Access Account Termination Review |
| March             |
| February Exclusions (LEIE, OMIG, SAM Exclusions) |
| HIPAA Privacy and Security Walk-Through Audits  
  Manor  
  Courtyards |
| PCC Network Access Account Termination Review |
| April             |
| March Exclusions (LEIE, OMIG, SAM Exclusions) |
| HIPAA Privacy and Security Walk-Through Audits  
  Manor  
  Courtyards |
| Nurse Aide Registry Audit |
| PCC Network Access Account Termination Review |
| May               |
| April Exclusions (LEIE, OMIG, SAM Exclusions) |
| HIPAA Privacy and Security Walk-Through Audits  
  Manor  
  Courtyards |
| HHA and PCA Registry Audits |
| PCC Network Access Account Termination Review |
| June              |

**Audit Description**

- May Exclusions (LEIE, OMIG, SAM Exclusions)
- HIPAA Privacy and Security Walk-Through Audits  
  Manor  
  Courtyards
- SADC (Social Adult Day Care) Recertification
- PCC Network Access Account Termination Review

**July**

- June-July Exclusions (LEIE, OMIG, SAM Exclusions)
- HIPAA Privacy and Security Walk-Through Audits  
  Manor  
  Courtyards
- Health Reviews and CHRC Audit
- PCC Network Access Account Termination Review

**August**

- July Exclusions (LEIE, OMIG, SAM Exclusions)
- HIPAA Privacy and Security Walk-Through Audits  
  Manor  
  Courtyards
- BAA Audit & Analysis
- New Employee Orientation 30-day Window Audit
- OMIG SADC Recertification – Terri Russell
- PCC Network Access Account Termination Review

**September**

- August Exclusions (LEIE, OMIG, SAM Exclusions)
- HIPAA Privacy and Security Walk-Through Audits  
  Manor  
  Courtyards
- 2021 OMIG Risk Assessment - Step 1 Compliance Department Assessment

**October**

- September Exclusions (LEIE, OMIG, SAM Exclusions)
- HIPAA Privacy and Security Walk-Through Audits  
  Manor  
  Courtyards
- PCC Network Access Account Termination Review

**November**

- October Exclusions (LEIE, OMIG, SAM Exclusions)
- HIPAA Privacy and Security Walk-Through Audits  
  Manor  
  Courtyards
- Professional License Verification Audit
- PCC Network Access Account Termination Review

**December**

- November Exclusions (LEIE, OMIG, SAM Exclusions)
- HIPAA Privacy and Security Walk-Through Audits  
  Manor  
  Courtyards