

# Wayne County Compliance Plan Handbook

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## Regulatory Compliance Plan Preamble

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

Intent: Wayne County through its Board of Supervisors, Compliance Committee, and Compliance Officer seek to ensure that all of Wayne County's Health Care Programs, Health Care Providers, Health Care Contractors, County vendors, County employees and volunteers will ensure that health care claims submitted to Federal and State Health Care reimbursement programs are true and accurate. The methods instituted for such insurances are contained in this document. Be advised that the Wayne County Compliance Plan link to the Wayne County website is the current official version of the Wayne County Compliance Plan. The penalties for failure to adhere to this compliance plan as well as penalties for failure to comply with relevant State and federal laws related to all aspects of fraudulent health care practices are referenced herein. The legal protections afforded employees who report health care fraud are referenced in this document as well as the county's own policy protections for employees who report health care fraud. Changes to this plan, not substantive to the mission of the Compliance Plan and driven by new regulations or

technical advancements, may be implemented as needed by the Wayne County Compliance Committee with the occurrence of both the Wayne County Attorney and the Wayne County Administrator. Such changes will be documented by the Compliance Officer and the Compliance Plan updated on the Wayne County website.

**COMPLIANCE  
HOTLINE:  
315-946-7431**

## Regulatory Compliance Plan Definitions

### **Claim**

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

### **Gift**

Gift is defined in the County Code of Ethics

### **False Claim**

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

### **Federal False Claim Act (FFCA)**

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

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

### **New York State False Claims Act (NYSFCA)**

The NYSFCA also referred to as a Qui Tam Statute or whistleblower law allows a private individual (such as a County employee) to sue a person or company (including a fellow employee or employer in their individual capacity), if such person or company knowingly submits a false or fraudulent claim to a state or local government (such as NY State or Wayne County).

Such false or fraudulent financial claims include but are not limited to health care fraud in programs such as Medicaid.

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

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

### **Overpayment**

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

### **"Qui Tam"**

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

### **Qui Tam Relator**

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

### **Qui Tam Statutory Protections and Remedies**

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

### **Whistleblower**

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

"Qui tam relator" is one type of Whistleblower under the Federal and State False Claims Acts. Whistleblowers under other laws include the following:

Under the New York Civil Service Law a whistleblower is a public employee who discloses to a public employer or other government body information (a) regarding a violation of a law, rule or regulation which violation presents a substantial and specific danger to the public health or safety; or (b) which an employee believes constitutes an improper governmental action. "Improper governmental action" shall mean any action by a public employee or public employer which is undertaken in the performance of such person's official duties, and which is in violation of any federal, state or local law or rule or regulation.

Under New York Labor Law Section (section 740) a whistleblower is a private employee who does any of the following: (a) discloses or threatens to disclose to a supervisor or to a public body an activity, policy or practice of the employer that is in violation of a law, rule or regulation which violation creates and presents a substantial and specific danger to public health or safety, or which constitutes health care fraud; (b) provides information to, or testifies in an investigation, hearing or inquiry into a violation of a law, rule or regulation by such employer; or (c) objects to or refuses to participate in any such activity, policy or practice in violation of a law, rule or regulation.

### **Whistleblower Laws**

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

### **Whistleblower Statutory Protections and Remedies**

For protections and remedies under a False Claim Act, see "Qui Tam Statutory Protections and Remedies" above. Both the New York State Labor Law and the New York State Civil Service Law provide protections for whistleblowers described below. The New York Labor Law § 740 prohibits private employers from taking any retaliatory personnel action including discharge, suspension or demotion or other adverse action in the conditions or terms of employment against employees for disclosing or threatening to disclose information to a supervisor or to a public body which information is described in the statute and described above under "Whistleblower" provisions of the New York State

Labor Law.

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

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

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

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

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

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Wayne County  
REGULATORY COMPLIANCE POLICY

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I. Policy

It is the policy of Wayne County to comply with all applicable federal, state and local laws and regulations. It is also our policy to adhere to the Operating Principles and polices adopted by the Wayne County Board of Supervisors and the Compliance Committee.

II. Commitment

The County is committed to the responsibility to conduct our business affairs with integrity based on sound ethical and moral standards. We will hold our employees, contracted practitioners, and vendors to these same standards.

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

III. Responsibility

All employees, contracted practitioners, and vendors shall acknowledge that it is their responsibility to report any instances of suspected or known noncompliance to their immediate supervisor, and/or their department head or the Compliance Officer. Reports may be made without fear of retaliation, retribution, or breach of confidentiality. **Failure to report known noncompliance or making false reports within 14 days of becoming aware will be grounds for disciplinary action, including termination.**

IV. Policies and Procedures

Wayne County will communicate its compliance standards and policies to all employees, contracted practitioners, and vendors. We are committed to these efforts through distribution of this Compliance Policy.



v. Enforcement

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

vi. Wayne County Response to Non-Compliance

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

vii. Exclusions

Wayne County, as an entity that receives Federal health care funding, will not employ or do business with any person or entity who is excluded by the Office of Inspector General from any Federal health care program and/or the Office of Medicaid Inspector General.

viii. Due Diligence

Wayne County will, at all times, exercise due diligence with regard to background and professional license investigations for all prospective employees, contractors and vendors.

viii. Whistleblower Provisions and Protections

Wayne County will extend to its employees all protections afforded to them under the applicable state and federal Whistleblower laws including the Federal False Claims Acts, the New York State False Claims Act and the New York Civil Service Law. Private contractors may find protections under the New York State Labor Law as well as the False Claims Act. For detailed information on Whistleblower Provisions and Protections, refer to page 18 of this Plan.

x. NON-INTIMIDATION AND NON-RETALIATION

Wayne County strictly prohibits intimidation, retaliation, discrimination, harassment, or any other adverse action by management or any other person or group, either directly or indirectly, against any individual or group for good-faith participation in The Wayne County Compliance Program,

including but not limited to:

- reporting potential issues;
- investigating issues;
- self-evaluations;
- audits and remedial actions; and
- reporting to appropriate officials;

for reporting a potential violation of the Compliance Program; or for other misconduct in good faith as provided in Sections 740 and 741 of the New York State Labor Law. No individual may intimidate or threaten to retaliate against another individual for filing such a report or for participating in good faith in an investigation of any compliance matter, including matters related to resident safety and treatment or resident confidentiality.

## **Service Excellence and Operating Principles**

### I. Service Excellence

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

### II. County Operating Principles

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

- Care about the people, citizens, and customers we service, about each other, about what we do, and how well we do it.
- Cooperate with the public, with each other, and with all levels of government in order to deliver the best possible service in the most effective and efficient manner.
- Communicate honestly, supportively, and openly throughout the organization to enable a full and complete flow of information necessary to deliver excellent service.
- Create and innovate constantly, bringing all our abilities to bear on the problems facing this county and its citizens.
- Credit merit for public employment by means of selection, retention, and reward.

### III. Expectations

We ensure that all aspects of client care and business conduct are performed in

compliance with our Service Excellence and Operating Principles including all policies, procedures, professional standards and applicable governmental laws, rules and regulations. Wayne County expects every person who provides services to our consumers to adhere to the highest ethical standards and to promote ethical behavior. Any whose behavior is found to violate ethical standards will be disciplined appropriately.

Any shortcomings are to be reported to immediate supervisors, and/or department heads, and/or the Compliance Officer, so each situation may be appropriately dealt with. The Compliance Officer may be reached at (315) 946-7431.

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

### **I. Compliance Officer**

The County Board of Supervisors of Wayne County will designate a Compliance Officer. In the absence of the Compliance Officer, the Human Resources Director, will act as the Compliance Officer. The Compliance Officer has direct lines of communication to the Board of Supervisors.

### **II Job Duties**

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

- Chairperson of the Compliance Committee
- Reporting, on a regular basis to the Wayne County Board of Supervisors, on the progress of the compliance work plan
- Indirect oversight of the HIPAA privacy elements of Wayne County's Compliance Plan.
- Conference with the HIPAA Privacy Officers on any reported potential or suspected HIPAA breaches.
- Advocacy monitoring of the implementation of the compliance program.

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

- Development and maintenance of a Compliance Work Plan and annual report of compliance activities.
- Periodic review and update of the Compliance Plan as changes occur within Wayne County and in the law and regulations of governmental and third party payers.
- Development, implementation and revision of compliance policies and procedures

- Ensure the dissemination of policies and procedures to appropriate employees.
- Provision of guidance to management, all County personnel and individual departments regarding all aspects of compliance.
- Ongoing implementation of county-wide training and communication programs to ensure that all employees and affiliated parties are educated in the Compliance Plan, Policies and Procedures, laws, regulations and other issues as are deemed necessary.
- Effective communication of Wayne County's Compliance Plan requirements to independent contractors.
- Maintenance of an effective, confidential reporting system that encourages internal reporting of suspected non-compliance.
- Timely completion of compliance investigations involving appropriate parties through follow up and resolution.
- The responsibility of the Compliance Officer is to request the County Auditor to conduct internal audits for monitoring purposes.
- Facilitate and monitor routine exclusionary checks of all employees, interns, board members and business associates.

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

### **I. Reporting Structure and Purpose**

At the County level, the Compliance Officer recommends membership appointments to the Compliance Committee including representation from two members of the County Board of Supervisors to be designated by the Chairman of the Board of Supervisors. The Compliance Committee will include the Department Head and/or Designee of the following departments: Wayne Behavioral Health Network, Wayne County Nursing Home, Wayne County Public Health Department, Department of Aging & Youth, Wayne County Human Resources, Wayne County Administrator, Wayne County Public Works Department, Wayne County Department of Social Services, Wayne County Information Technology Department, Veterans Services Agency and Coroner's Office.

The Compliance Committee's purpose is to maintain the Wayne County Compliance Plan.

The Compliance Committee shall:

- Report compliance issues to the Compliance Officer
- Ensure that training is conducted for all County employees and the Board of Supervisors
- Direct annual audit activities of the Compliance Program

- Identify individual Department risk standards, including the design and implementation of the Department-specific internal monitoring and auditing of the Compliance Plan.
- Advise and assist the Compliance Officer with implementation of the Compliance Plan.

II. Additional roles of the Compliance Committee include:

- Analyzing the environment where Wayne County does business, including legal requirements with which it must comply.
- Review and assessment of existing policies and procedures that address these risk areas for possible incorporation into the Compliance Plan.
- Review, revise and create compliance policies and procedures.
- Development of internal systems and controls to carry out compliance standards and policies.
- Monitoring internal and external audits to identify potential non-compliant issues. Report, investigate and document compliance issues.
- Assuring the implementation of corrective and preventive action plans.
- Developing a process to solicit, evaluate and respond to complaints and problems.
- The Compliance Officer will provide a detailed summary of compliance activities and findings to the Board of Supervisors on an annual basis.

### **Delegation of Substantial Discretionary Authority**

I. Requirement

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

II. Conflict of Interest

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

## **Compliance Training**

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### I. Expectations

Annual compliance training is a critical element of the Compliance Program. Every employee and agent is expected to be familiar and knowledgeable about Wayne County's Compliance Plan ("Plan") and have a solid working knowledge of his or her responsibilities under the Plan. Compliance policies and standards will be communicated to all employees through required participation in training programs. Employees who fail to complete required compliance training will be subject to disciplinary action.

### II. Training Topics - General

All personnel outside of the healthcare related departments (identified below) and members of the Board of Supervisors shall participate in training on the topics identified below:

- Government and private payer reimbursement principles,
- Government Initiatives,
- History and background of Compliance
- Legal requirements and authority for compliance program
- General prohibitions on paying or receiving remuneration to induce referrals,
- Prohibitions against submitting a claim for services when documentation of the service does not exist,
- Prohibitions against signing for the work of another employee,
- Prohibitions against alterations to business records,
- Duty to report misconduct and how to report suspected non-compliance,
- Federal False Claims Act provisions,
- New York State False Claims Act provisions, and
- False Claims Act whistleblower provisions and protections

### III. Training Topics — Health Care Related Departments

Healthcare related departments, including Wayne County Nursing Home, Wayne County Public Health, Wayne County Behavioral Health and Wayne County Department of Aging & Youth, shall receive detailed training on all aspects of compliance including the elements identified above as well as detailed information regarding department-specific risk areas and information on current enforcement activities.

Department in-service training on compliance-related matters will be documented and maintained by the department head who will report the status of compliance-related training to the Compliance Committee on a semi-annual

basis. As a routine matter, the County Compliance Officer will ensure that periodic internal audits of adherence to this standard are completed and reported to the Compliance Committee.

#### IV. Orientation

As part of their orientation, each employee shall receive a copy of the Compliance Plan, policies and specific standards of conduct that affect their position or information about where and how to find this information on-line. Contractors and vendors will be made aware of the Wayne County Compliance Policy and must acknowledge in writing that they have read said Policy.

#### V. Attendance

All training related to the Compliance Plan will be verified by attendance and a signed acknowledgement of the training. This includes onsite training as well as taking and passing the course through a Learning Management System which records the date and grade. Acknowledgement will be retained by the County Administrator's Office. Attendance at compliance training is mandatory. Employees who fail to complete the required compliance training may be subject to disciplinary action.

### **Effective Confidential Communication**

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#### I. Expectations

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

#### II. Reporting Procedure

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

danger to the public health or safety, then the employee, contractor or vendor shall contact the Compliance Officer.

Upon receipt of a question or concern, any departmental supervisor, or Department Head receiving the report shall inform the Compliance Officer of the issue, investigate the issue and complete the complaint tracking form. Any questions or concerns relating to potential non-compliance by the Compliance Officer must be reported immediately to the Chairperson of the Wayne County Board of Supervisors. The Compliance Officer may, at any time, contact the County Attorney's office for advice, counsel, assistance, and/or support.

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

The Wayne County Compliance Officer will accept all reports of suspected or known non-compliance.

### iii. Protections

As per New York Social Services Law Section 363-D - Provider compliance program, communication lines shall include a method for anonymous and confidential good faith reporting of potential compliance issues as they are identified.

**In the event an anonymous report is received no attempt will be made to identify the reporter(s).** The identity of the reporter(s) will be safeguarded to the fullest extent possible and the reporter(s) will be protected against retaliation or retribution, or any other form of reprisal. To minimize the possibility of harassment, the Compliance Officer can file anonymous communications, not related to compliance, in a designated gang file without any further action. Report of any suspected violation of this plan shall not result in any reprisal as long as the reporter(s) is/are not a party to any fraudulent or illegal activity. Any individual who threatens reprisal against a person who acts pursuant to his or her responsibilities under the plan is acting against the Wayne County's compliance policy. Any employee who engages in any such act of reprisal or who threatens such act shall be subject to disciplinary action, up to and including termination of employment.



iv. Guidance

Any employee, contractor or vendor may seek guidance with respect to the Compliance Plan or County Policies at any time by following the reporting mechanisms outlined above. Any employee, contractor or vendor who has concerns about activities, information or compliance policies may seek guidance from the Compliance Officer.

## **Enforcement of Compliance Standards**

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I. Background Investigations

When applicable and appropriate, Wayne County will conduct a reasonable and prudent background investigation, including a reference check, as part of every employment application as required by law, regulation or policy. Background checks may include but are not limited to, fingerprinting, criminal background investigations, professional license verification, driver's license verification, drug screening and Office of Inspector General exclusion verification.

II. Disciplinary Action - General

Employees who fail to comply with Wayne County's compliance policy and standards, or who have engaged in conduct that has the potential of impairing Wayne County's status as a reliable, honest, and trustworthy service provider will be subject to disciplinary action, up to and including termination. Any discipline will be appropriately documented in the employee's personnel file, along with a written statement of reason(s) for imposing such discipline. Wayne County Human Resources department shall maintain a record of all disciplinary actions involving the Compliance Plan. The Compliance Officer will report annually to the Board of Supervisors regarding said actions. As stated earlier in this Plan, any action or behavior that is not in conformity with the County's Compliance Plan, stated or intended standards, guidelines, or procedures or that is a violation of any federal or state law or regulation, will be deemed Official Misconduct and will result in disciplinary action.

III. Employee and Contractor Performance

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

- a. Discuss with all subordinate employees and contractors the compliance policies and legal requirements applicable to their function.

- b. Inform all that strict compliance with these policies and requirements is a condition of employment or contracting.
- c. Disclose to all that Wayne County will take action up to and including termination for violation of these policies and requirements.

#### IV. Corrective and Disciplinary Action

In the event that a report is made to a director, manager, supervisor, or acting supervisor and that responsible party fails to act upon the report, the responsible party is subject to corrective or disciplinary action. In situations where reasonable diligence on the part of the director, manager, supervisor or acting supervisor would have led to the earlier discovery of any problem or violation and would have provided Wayne County the opportunity to correct them, the responsible party will be subject to corrective or disciplinary action.

### **Auditing and Monitoring of Compliance Activities**

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#### I. Internal Audits

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

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

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

## II. External Audits

Annually, Departments with Business Associates, using their individual criteria, will submit Business Associates to be audited by the Compliance Office. The Compliance Officer will then contact the department for any specific concerns and utilizing the appropriate resources perform the audit. The external audits will be completed by the Internal Auditor's Office or an outside agency if approved by the Board of Supervisors.

## III. Plan Integrity

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

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

## **Detection and Response**

### I. Violation Detection

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

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

of clarification.

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

## ii. Reporting

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

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

The Compliance Officer will submit reports to the appropriate standing committee and/or the Board of Supervisors as warranted.

## iii. Rectification

If Wayne County identifies that an overpayment was received from any payer, Wayne County will notify the payer of the overpayment. The overpayment shall be repaid to the affected payer according to the payer's policy. Systems shall also be implemented and routinely monitored to prevent such overpayments in the future and also notify any required over site agency.

## iv. Record Keeping

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

## **Whistleblower Provisions and Protections**

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### Whistleblower Provisions and Protections

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

#### i. New York Civil Service Law

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

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

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

## II. State and Federal False Claims Act

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

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

To obtain relief under the Federal False Claim Act the whistleblower must file a lawsuit called a "qui tam" suit in Federal District Court. If the qui tam suit is successful the whistleblower, known as a "qui tam relator" will be entitled to 15 - 30 % of the government's total recovery, which includes damages for false bills, tripled, plus civil penalties of from \$5,000 - \$10,000 per claim. For

employees who have been the subject of an adverse personnel action, other relief available through successful litigation includes: reinstatement with the same seniority status, 2 times the amount of back pay, interest on the back pay and compensation for any special damages sustained including court costs and attorney fees.

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

### III. New York State False Claims Act (NYSFCA):

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

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

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