

STANDARDS AND RELATED PROCEDURES

Preamble

These standards, compliance policies, and practices were developed under the direction of the Compliance Officer and Compliance Committee and other legal and programmatic experts, and were approved by ILA's Board of Directors as required by the Office of the Medicaid Inspector General. Documents related to these standards and practices are publically available @www.ilaonline.org to all individuals who are affected by the particular policy at issue, including the provider's agents and independent contractors.

STANDARDS OF CONDUCT

The members of the Board of Directors of ILA believe that not-for-profit agencies serving individuals with developmental disabilities have specific responsibilities to their Individuals and to the public who provide financial support for these programs. These responsibilities center upon the incorporation of high ethical standards regarding the quality and appropriateness of services being provided and compliance with all legal standards.

ILA strives to ensure that all aspects of Individual care and business conduct of employees are performed in compliance with our mission/vision statement, policies, and procedures, professional standards and applicable governmental laws, rules and regulations, and other payer standards. ILA expects that every person who provides services to consumers must adhere to the highest ethical standards and to promote ethical behavior. Any person whose behavior is found to violate ethical standards will be disciplined appropriately. Similarly, any contractor that violates the standards of conduct places at risk their business relationship with ILA.

Applicability

The Code of Conduct is applicable to all board members, employees and contractors performing services for the Agency. Each employee or contractor is required to review the Code of Conduct and comply with the Corporate Compliance Program. ILA will take disciplinary action for those who participate in non-compliant behavior, fail to report a suspected violation of the Corporate Compliance plan, encourage, direct, facilitate or permit non-compliant behavior and/or engage in retaliatory behaviors directed at those who report non-compliant behavior. Contractors who engage in similar practices will face the loss of services with the Agency and any legal actions appropriate to the violation.

Legal Consequences

The Federal False Claims Act (see explanation below) authorizes the use of civil penalties of between \$5,000 and \$10,000, plus three times the amount of damages the government sustains, where a person knowingly presents, or causes to be presented, a false or fraudulent claim; knowingly makes, uses or causes to be made or used, a false record or statement to get a false or fraudulent claim paid; or conspires to defraud the government in connection with the payment of a false or fraudulent claim. In addition, under New York State law it is a crime to knowingly and willfully provide false information or omit material information when billing for services. Submitting or causing a false claim to be submitted is an unacceptable practice under the New York State Medicaid Program, which can lead to fines and exclusion from the Medicaid program. In addition, there are both Federal and State laws related to kickbacks and inappropriate referrals that impose criminal and civil penalties for violations. Further, Agency resources must be used for approved business purposes.

POLICIES AND PROCEDURES RELATED TO STANDARDS AND CONDUCT

Conflict of Interest

Policy: ILA Board Members and employees may not engage in any conduct that conflicts or is perceived to conflict with the best interest of ILA. Board Members and employees must disclose to the CO or the CC any circumstances where the employee or his or her immediate family member, or similar relationship, is an employee, consultant, owner, contractor or investor in any entity that (i) engages in any business or maintains any relationship with ILA; (ii) provides to, or receives from, ILA any consumer referrals; or (iii) competes with ILA. Board members and employees may not without the notification to the CO accept, solicit or offer anything of value from anyone doing business with ILA as outlined further in this policy under **BUSINESS COURTESIES**.

Procedure: All current and newly elected members of the Board, and all current and newly hired employees who have influence over the Agency's business, will sign an attestation of no Conflicts of Interest, or sign a statement that discloses any actual or possible Conflict, and do so annually thereafter. Actual or perceived Conflicts will be analyzed and reviewed by the CO and the findings submitted to the Board for vote of support or other action appropriate for the circumstance. Conflict of Interest disclosure forms are contained in the Forms section of this manual.

The Board of Directors may adopt a separate Conflict of Interest policy governing the conduct of officers, directors and key persons of the Agency (as such terms are defined in the Not-for-Profit Corporation Law) and separate attestations and disclosure documents for such officers, directors and key persons. If the Board adopts such a Conflict of Interest Policy, such policy shall supersede the Conflict of Interest Policy set forth in this Corporate Compliance Plan.

Authenticity of Records

Policy: Employees are expected to maintain complete, accurate and contemporaneous records as required by ILA. The term “records” includes all documents, both written and electronic, that relates to the provision of Agency services or information that provides support for the billing of Agency services.

Procedure: Records must reflect the actual service provided. Any records to be appropriately corrected must reflect the date of the correction, the name, signature and title of the person correcting the document and the reason for the correction if not apparent. No person shall ever sign the name of another person to any document. Signature stamps shall not be used unless approved by CC. Backdating and predating documents is unacceptable and will lead to disciplinary action up to and including termination.

Reporting

Policy: When any person knows or reasonably suspects that the expectations above have not been met, this must be reported to immediate supervisors, the Corporate Compliance Specialist (CCS), Compliance Officer (CO) or the Chief Executive Officer (CEO) so that each situation may be addressed appropriately.

Procedure: All staff will be trained in the components of their job, the principles of corporate compliance and Medicaid rules and regulations. Once trained, staff will be prepared to recognize any breach of corporate compliance. If observed, or allegedly so, staff will report any impropriety utilizing the reporting procedures outlined below in the “**REPORTING OF COMPLIANCE CONCERNS AND NON-RETALIATION.**”

Reporting of Criminal Background and Sanctions

Policy: As part of ILA's compliance program, every employee who is convicted of a felony or misdemeanor must immediately make a confidential report of such conviction to the Human Resources Director. Note: ILA personnel who have direct unsupervised consumer contact who were hired after April 2005 are subject to New York State criminal background checks and laws. For those staff, all past criminal activity will be known upon hire, as will all arrests subsequent to hire.

Practice: Employees and contractors not subject to the criminal background checks must notify the HR Department of any felony or misdemeanor conviction subsequent to hire or engagement. Any employee or contractor who is excluded from or sanctioned by either the Medicare or Medicaid program must immediately report that fact to the Compliance Officer. In all cases, failure to comply will result in disciplinary action up to and including discharge.

Business Courtesies

Policy: ILA recognizes that there are legitimate and lawful reasons to accept or provide reasonable business courtesies. However, in healthcare, business courtesies pose a risk for conflict of interest or fraud and/or abuse related to anti-kickback laws and regulations. The Anti-Kickback law prohibits the offer of payment, solicitation or receipt of any form of remuneration for business contracts or for the referral or solicitation of Medicare or Medicaid recipients.

The purpose of this policy is to assure that ILA complies with federal Anti-Kickback laws. The policy provides guidance for providing and receiving business courtesies.

For the purpose of this policy, the following definitions apply:

1. **Business Courtesies:** Business courtesies include items of value given to another free of cost. Examples include gifts, entertainment, and /or hosted social events
2. **Immediate Family Member:** An immediate family member of a person includes: The person's spouse, or similar co-habitation; Natural or adoptive parent, child or sibling; Stepparent, stepchild, stepbrother or stepsister; Father-in-law, mother-in-law; son-in-law; daughter-in-law; brother-in-law; or sister-in-law; Grandparent or grandchild; and Spouse of a grandparent or grandchild
3. **Potential Referral Source:** A potential referral source includes a physician, dentist, chiropractor or contractor who could reasonably be a source of referral of patients to ILA for services or treatment or benefit from providing a service to ILA
4. A contractor is defined as any third party provider of service be it clinical, construction or good and services

It is the policy of ILA that gifts, entertainment, and other benefits will not be provided to, solicited or accepted from potential referral sources, contractors and/or to his or her immediate family, except as permitted by this policy. These guidelines only pertain to relationships with individuals and entities outside ILA; it does not pertain to actions between ILA and its employees or actions among ILA employees. Any business courtesy involving physicians or other individuals or entities in a position to refer patients or services to ILA must strictly follow ILA policies and be in conformance with all federal and state laws, regulations, and rules regarding these practices.

ILA employees may not offer or accept from a potential referral source or contractor and his or her immediate family members business courtesies unless the following criteria are met:

1. The business courtesy is not based, directly or indirectly, on the volume or value of referrals or other business generated by the potential referral source or contractor;
2. The business courtesy does not consist of cash or the equivalent of cash;
3. The business courtesy is not solicited by the potential referral source or contractor or the referral source's practice, or the referral source's or contractor's employees;
4. The business courtesy must not exceed \$322 in value or cause the total value of business courtesies extended to or from the potential referral source, contractor or immediate family to exceed \$322 for the calendar year;

5. The business courtesy does not violate the federal Anti-Kickback statute or any state or federal law governing claims submission and;
6. The business courtesy is not extended to a physician group

Procedure: All employees must receive prior approval from the Compliance Committee before accepting or extending business courtesies to potential referral sources and contractors and/or their immediate family members. The Compliance Officer will record any business courtesy extended to or accepted from a potential or actual referral source, potential and actual contracted business and his/her immediate family members. The Compliance Officer will ensure that the total value of business courtesies to or from one entity does not exceed \$322 in a calendar year.

Employee and Contractor Exclusion and Credential Checks

Policy: ILA is committed to maintaining high quality care and service as well as integrity in its financial and business operations. Therefore, ILA will conduct appropriate screening of key providers, employees, independent contractors, and business vendors to ensure that they have not been sanctioned by a federal or state law enforcement, regulatory, or licensing agency.

It is the policy of ILA not to employ, contract with, or conduct business with an individual or entity excluded from participation in federally sponsored health care programs, such as Medicare and Medicaid.

Procedure: ILA's Human Resources Department will conduct initial exclusion (sanction) screening of all proposed employees and independent clinical/program contractors. ILA's fiscal department will conduct initial exclusion (sanction) screening of vendors. If the exclusion check indicates that any individual or entity has been excluded from federal healthcare programs, the individual or entity cannot be employed by or conduct business with ILA.

In addition to exclusion checks, the credentials of medical/healthcare professionals employed by ILA, or with whom ILA establishes a contractual business relationship, will be verified with the appropriate licensing and disciplining authorities, including any adverse actions taken against the individuals that might impair his or her performance of duties, or fiduciary responsibilities on behalf of the Agency. The process will include, but not be limited to, physicians and other health care practitioners for which the license is required for the performance of their duties. The screening and verification will be conducted as part of the hiring process or prior to entering into a contractual agreement, and annually thereafter.

ILA will conduct initial exclusion checks to verify that all employees and independent contractors have not been excluded from participation federal healthcare programs. An exclusion check is a search of the following to determine if the individual or entity's name appears on either list:

1. U. S. Department of Health and Human Services, Office of Inspector General (OIG)'s List of Excluded Individuals and Entities (LEIE) available on the website at <http://oig.hhs.gov/fraud/exclusions> and
 2. The General Services Administration (GSA)'s Excluded Parties List System available on the GSA website at <http://www.epls.gov/>
- An exclusion check will be performed on all applicants for employment as part of the pre-employment screening process. The Human Resources Department designee shall be responsible for conducting exclusion checks prior to hiring an applicant
 - The Human Resources Department designee shall be responsible for conducting exclusion checks before the Agency enters into an agreement with an independent contractor.
 - The Human Resources Department designee shall be responsible for conducting credential checks of all employees who require a license to practice before the Agency hires the applicant
 - For all contracted clinical services, the vendor will provide proof of licensure of any clinician who will provide a service to ILA. Likewise, the vendor will provide evidence that any

clinician/consultant performing a service for ILA is not excluded from Medicaid participation

- ILA's accounting/business office will assure that contracts with business vendors will contain a certification from the vendor and its employees that they are not excluded from participation in Medicaid and Medicare programs.

Ongoing Employee/Contractor/Vendor Exclusion Reviews

Policy: ILA will verify that entities and businesses that provide and/or perform services for the Agency have not been the subject of adverse governmental actions and/or excluded from the federal healthcare programs. By federal law (see 42 CFR 1001.1901), no federal health care program payment may be made for any service or item that is furnished (directly or indirectly) by an excluded entity, or directed or prescribed by an excluded physician. This payment ban applies to all methods of federal reimbursement, including: itemized claims, cost reports, fee schedules, prospective payment systems, grants, and contracts.

Procedure: ILA maintains an ongoing contract with ZEBU Compliance Solutions/ EPStaffCheck to conduct monthly exclusion checks. ILA submits to EPStaffCheck on a monthly basis a secure document containing the names of all employees and consultants. Additionally all business associates and vendors are screened monthly. The Compliance Specialist (CCS) reviews the automatically generated exclusionary report sent from EPStaffCheck on a bi-monthly basis. This list will populate the names of sanctioned employees, or business entities affiliated with ILA, all of who are excluded from government-funded programs.

These sanctioned individuals or business entities are flagged through an extensive search across 200 government agencies. If the search returns a "match" the CCS will verify that the employee/contractor is really a match. For vendors further address or license verification is used. For employees the social security number verification tool is used. Once the batch-list is received it is then double verified to thoroughly ensure its accuracy, before further administrative action is taken. Once an employee is flagged, an additional method of verification is utilized to cross reference the said information. A more detailed report is generated, which will be compared to all pertinent and identifiable information in ILA's file. If a match is found, further administrative action is taken.

If the employee or vendor is found to be an excluded party, the CCS will immediately involve the Compliance Officer and Legal Department in taking the necessary steps.

If a business entity that ILA intends to or currently employs has been verified as sanctioned, through the EPStaffCheck, the Deputy Director (CFO) is immediately notified. The result is an immediate termination of all facilitated contracts between the said business entity and ILA.

Retention of Records

Policy: Consistent with New York State and Federal regulations, all ILA records that contain HIPPA protected information regarding services to a consumer are to be thorough, accurate, and completed according to stated time requirements. These records are retained safely by the agency and will be destroyed only after legal time limits or according to ILA policy. These records are kept confidential and released only to persons and entities that are legally entitled, or described by court order.

In addition to maintaining appropriate and thorough consumer medical records, all records, documentation, and audit data that support and explain cost reports and other financial activity, including any internal or external compliance monitoring activities, and all records necessary to demonstrate the integrity of the Agency's compliance process and to confirm the effectiveness of the program, are also maintained as per ILA policy. As there are many types of records that reflect consumer services and related expenses, the time frames for completion of each are too numerous to note within these policies. For specific information, please refer to the ILA "Document Retention Policy". All privacy policies and procedures are contained in Health Insurance Portability and Accountability Act (HIPAA) manual. To assure the timeliness, accuracy, and protection of records, ILA staff is provided with training within each of those domains that are relevant to the execution of their job responsibilities.

For any Corporate Compliance activities, the CCS will document audit efforts that are conducted to assure compliance with regulations. Those records are retained as well for the mandatory time period.

Procedure: All Medicaid and associated original records will be kept on file for seven (7) years beyond the date of occurrence. All documentation relative to a request for CC information from a third-party agency and the Agency's written response will be maintained for seven (7) years. This is important because ILA intends to rely on responses as a guide for future decisions, actions, or claim reimbursement requests or appeals. In addition, a log of oral inquiries between the Agency and third parties regarding CC information will be maintained by the CO so that ILA can document its attempts toward achieving compliance.

Other compliance program documentation include: (a) documentation that employees were adequately trained will be maintained by the HR department; (b) reports from investigations resulting from calls made to the ILA CC Hotline including the nature and results of any investigation that was conducted, which will be maintained by the CO; (c) documentation of corrective action, including disciplinary action taken and policy improvements introduced, in response to any internal investigation or audit, which will be maintained by the CO and disciplinary action will also be maintained by the HR Department; (d) modifications to the compliance program, which will be reflected in on-going revisions to the compliance manual which will be maintained by the CCO; and (e) results of the Agency's auditing and monitoring efforts, which will also be maintained by the CCC. These records are subject to the seven (7) year retention rule.

All Agency records that are no longer germane to the then current year's operation, but have not reached the seven (7) year threshold, will be securely stored as the ILA's Document Retention and Destruction Policy. Once records have surpassed the age of seven (7) years, they will be destroyed in a manner consistent with HIPPA privacy laws.

Compliance as an Element of a Performance Appraisal

Policy: The compliance program requires the promotion of, and adherence to, the elements of the compliance plan, as well as disciplinary action for failure to do so. As such, all Direct Support Professional staff member's performance within this realm is incorporated into the annual evaluation of the employee. Similarly, for all other agency employees, the adherence to the elements of the Compliance plan are a condition for continued employment. Any employee found to be in substantial violation of the ILA Compliance plan will be subject to disciplinary action. The continued business relationship between the Agency and all vendors will be based upon that vendor's abidance with the principles of Corporate Compliance and the success of corrective measures if compliance issues had been noted.

Procedure: Employee performance evaluations contain a section that references Corporate Compliance. Evaluations for DSP staff will be conducted in the manner that is described in the ILA Employee Handbook.

As part of the evaluation process, supervisors will:

1. Discuss with all supervised employees the compliance policies and legal requirements applicable to the employee's function.
2. Remind all supervised personnel that strict compliance with these policies and procedures is a condition of employment and, as such, for violation of these policies or requirements subjects the employee to disciplinary action, up to and including termination.
3. Disclose to all supervised personnel any violations of policy and corrective measures, as well as note and reward successes.

In addition to making performance of these duties an element in evaluations, a manager's/supervisor's failure to adequately instruct and evaluate their subordinates regarding the subordinate's responsibilities regarding Corporate Compliance or a failure to observe obvious noncompliance with applicable Compliance regulations will subject the manager/supervisor to disciplinary action.

For vendors, the ILA staff member with whom the vendor has management responsibilities will conduct annual discussions if necessary, regarding the principles of compliance and evaluate the vendor's prior year's adherence. These discussions and evaluations are to be documented if the vendor is not currently in "good standing". Continued engagement by ILA is contingent upon the vendor's satisfactory performance.

TRAINING AND EDUCATION

General The education and training of agency staff is a significant element of an effective compliance program. As part of a compliance program, ILA requires personnel to attend specific training on a periodic basis, including appropriate training in federal and state regulations, guidelines, corporate ethics, and any other topic that has been deemed at risk for noncompliance with the Principles of Corporate Compliance. Corporate Compliance training sessions are designed to emphasize the organization's commitment to compliance with these legal requirements and internal policies and procedures. Compliance training specific to identified risk areas may be also incorporated into in-service training.

Policy: All employees are required as a condition of employment to attend Corporate Compliance training upon hire, or as soon as practicable if hired prior to the promulgation of these regulations, and annually thereafter via the online training portal Relias.com

Corporate Compliance training includes:

1. Introduction of the Agency Compliance Program;
2. Documentation issues relative to government payer regulations, including the requirement that documentation must include the identity and title or professional certification of the individual providing or ordering the service;
3. Risk areas specific to the Agency;
4. Standards of conduct; and
5. Identification of Compliance Officer
6. Duty to report misconduct and the non-retaliation policy.

Procedures: As designed by the CFO and CCO, and as monitored by the HR Department, all employees will receive training in the above listed areas. Certification of training will be contained in the staff member's personnel folder. The HR Department will schedule all training.

Training Regarding Reimbursement Practices and Billing

Policy: ILA is committed to accuracy and integrity in all its billing, coding, and other reimbursement operations. Further, ILA prohibits the intentional submission for reimbursement any claim that is false, fraudulent, or fictitious. Through staff training, and other methods, the Agency is committed to ensuring against Agency personnel submitting any claim that is accidentally false, fraudulent or inaccurate. The Chief Financial Officer is responsible for general oversight of billing, coding, and other reimbursement operations in accordance with this policy.

To help assure accuracy in billing, the Agency's business office personnel will receive training specific to all of the elements of billing and the importance of accuracy along with the consequences of inaccurate billing.

Procedures: Each Agency division has and maintains written procedures for the documentation of services upon which billing to Medicaid is based. (For complete billing procedures, see the Manual of Accounting Procedures). Procedures include the following:

1. Maintenance of attendance records
4. Receipt and maintenance of service plans, including but not limited to ISP and Habilitation Plans, as appropriate.
5. Service documentation requirements specific to the respective program
6. Definition of contemporaneous documentation
7. Review prior to submission to billing personnel
8. Forms used for documentation and billing purposes.

So that business office staffs are aware of these principles, the CFO, will ensure that training regarding services and billing practices that offers guidance towards accurate billing is conducted. In this manner, billing procedures contained in this policy are integrated into the operations of the organization.

At a minimum, training for billing staff, which is contained in attachment #5 includes:

1. IRA billing procedures that includes consumer attendance and participation requirements.
2. Case Management billing requirements that includes the minimum number of consumer/case manager contacts, including face-to face-visits, and the requirements for contemporaneous case notes.
3. Appropriate use of Agency resources.
4. Code of Conduct

In addition, training that focuses upon the Corporate Compliance will be provided to each business office staff member. These training modules are to be provided to business office employees upon hire, and for all annually thereafter. A record of attendance at each training program will be maintained by the HR Department in the employee's personnel file. The HR department will also notify staff of and assure their attendance in all needed training modules.

The Compliance Officer is responsible for responding, in a timely manner, to all problems, concerns, or questions related to training regarding reimbursement practices. The Compliance Officer is also responsible for ensuring that appropriate remedial actions are taken that will assure accurate training. (See reporting procedures)

REPORTING OF COMPLIANCE CONCERNS AND NON-RETALIATION

Policy: ILA recognizes that a critical aspect of its compliance program is the establishment of a culture that promotes prevention, detection, and resolution of instances of conduct that do not conform to federal and state requirements, as well as the organization's ethical and business policies. To promote this culture, ILA has established a compliance reporting process and a strict non-retaliation policy to protect employees and others who report problems and concerns in good faith.

All employees have an affirmative duty and responsibility for promptly reporting any known or suspected misconduct, including actual or potential violations of laws, regulations, policies, and procedures, Agency's Corporate Compliance Plan or the Agency's Code of Conduct. The CO maintains an "open-door policy" so as to encourage employees to report problems and concerns.

ILA maintains an Anonymous Reporting Hotline. Employees may report their compliance concerns confidentially to the Compliance Officer through use of the Anonymous Reporting Hotline. Any form of retaliation against any employee who reports a perceived problem or concern in good faith is strictly prohibited. Any employee who commits or condones any form of retaliation will be subject to discipline up to, and including, termination. However, employees cannot exempt themselves from the consequences of their own misconduct by reporting the issue, although self-reporting may be taken into account in determining the appropriate course of action. Staff can also report their concerns directly to appropriate governmental agencies.

Staff can report a suspected breach of conduct or false claim as follows, but in no preferential order, but which must be posted in all of ILA's programs:

1. To the CO in person at 479 E 29th Street, Brooklyn, NY 11226 or
2. To the CO at 718.852.2000, ext 1122 which can be anonymous, or
3. To the ILA Anonymous Reporting Hotline at 718.858.1204, or
4. To the New York State Office of the Medicaid Inspector General at 1-877-87FRAUD or by completing an online complaint form at: www.omig.state.ny.us

The New York Not-for-Profit Corporation Law extends the obligation to report suspected misconduct to the Agency's officers, directors and volunteers. The Agency's non-retaliation policy similarly extends to such officers, directors and volunteers. Volunteers may report misconduct through the channels described above. Officers and directors of the Agency may report misconduct through the channels described above, or by reporting the suspected misconduct to the Chair of the Compliance Committee or the Chair the Board of the Board of Directors.