

ERIE COUNTY MEDICAL CENTER CORPORATION

COMPLIANCE PLAN

Approved by Board of Directors 3/23/2021

ERIE COUNTY MEDICAL CENTER CORPORATION CORPORATE COMPLIANCE PLAN

I. INTRODUCTION

Erie County Medical Center Corporation (and its affiliates, collectively referred to as “ECMCC”) is dedicated to ensuring a culture of compliance, honesty and integrity. ECMCC is subject to a myriad of federal, state and local laws and regulations as it carries out its mission as a leader in the areas of patient care, teaching, and research. ECMCC is committed to compliance by both clinical and non-clinical personnel (including employees, officers, professional staff members, members of its Board of Directors, and agents and contractors). In order to enhance its collective efforts to comply, ECMCC, by action of the Board of Directors, has adopted this Corporate Compliance Plan (the “Plan”).

This Plan supersedes the previously adopted Corporate Compliance Plan, and, along with the attached Code of Conduct, is intended to be the overall framework for internal policies, procedures, and mechanisms that will give guidance to and assist personnel in complying with the laws and regulations that apply to our activities on behalf of ECMCC. The Plan is not designed to provide detailed guidance but rather a roadmap to the ECMCC’s compliance efforts coupled with the additional detailed policies and procedures that promote compliance and ethical conduct. It is also intended to serve as a resource for Board of Directors and ECMCC officers regarding their corporate responsibilities. The Plan also describes the procedures that will be followed in enforcing these standards and ensuring that ECMCC stays in compliance with all applicable laws, including those listed below.

This Plan is designed to incorporate recommendations enumerated in the Department of Health and Human Services Office of Inspector General’s (“OIG”) 1998 Compliance Program Guidance for Hospitals and Supplemental guidance issued in January 2005 and 2008 in Compliance Program Guidance for Nursing Facilities. It also reflects the elements of an effective compliance plan as described in the Federal Sentencing Guidelines, Social Security Law Section 363-d, title 18 New York Codes of Rules and Regulations Part 521, the OMIG Compliance Program Review Guidance dated October 26, 2016, the Deficit Reduction Act of 2005 (DRA), and the New York State False Claims Act.

The Importance of the Compliance Plan

ECMCC is committed not only to providing patients with high quality care and caring medical services, but also to providing those services pursuant to the highest ethical, business and legal standards. Our compliance efforts are designed to perpetuate a culture within ECMCC that promotes prevention, detection and resolution of instances of conduct that do not conform to federal, state and local laws and federal, state and private payor health care program requirements. This is

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not only the right thing to do, but it is also important for our continuing reputation for honesty and integrity in our business and medical dealings with others.

The Plan is especially critical as an internal control in the reimbursement and payment areas. Throughout the health care industry, claims and billing operations often raise potential fraud and abuse concerns and, therefore, have been the focus of governmental reviews and sanctions.

Moreover, compliance with federal and state laws, rules and regulations is essential because of the potential for civil and even criminal liability if we were found to have violated the applicable legal standards. A governmental inquiry can lead to significant financial exposure and damage to our reputation for honesty and integrity. Prevention is certainly a prudent business plan, and that is what our Plan is designed to accomplish.

Purpose and Execution of the Compliance Plan

The purpose of the Plan is to guide ECMCC in its management and operation of compliance-related activities by both preventing and detecting fraudulent, abusive and/or wasteful practices. This Compliance Plan reflects ECMCC's commitment to honest and responsible conduct, encourages personnel to report potential problems, and allows for appropriate internal investigation and corrective action. The Plan intends to demonstrate that it is both committed to due diligence in seeking to prevent and detect systemic problems and violations of law by developing and sustaining a rigorous Compliance Plan. The Plan has at its foundation, eight elements that New York State and federal guidelines have deemed necessary for an effective, high-quality compliance program:

1. The development and distribution of written standards of conduct, as well as **written policies and procedures** that promote and support the hospital's commitment to compliance;
2. The **designation of a compliance officer** and other appropriate bodies, e.g. a corporate compliance committee, vested with the responsibility of operating and monitoring the compliance program, and who report directly to a Senior Leader and the Audit & Compliance Committee of the Board of Directors;
3. The development and implementation of regular, effective **education and training** programs for all affected personnel and persons associated with the provider;
4. Open **lines of communication** with a hotline to receive complaints and/or concerns, an incident reporting system and open door to the Compliance Officer;

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5. A **system to respond to allegations of improper/illegal activities** and the **enforcement of appropriate disciplinary action** against personnel who have violated internal compliance policies, applicable statutes, regulations or Federal health care program requirements;
6. A **system of audits and/or other evaluation techniques** utilized to monitor compliance and to assist in the reduction of potential issues, especially high risk areas;
7. A **system to promptly investigate, remediate and respond to compliance issues**. Identified systemic problems are investigated and remediated and policies developed to address the non-compliance. If an overpayment has been received, it will be promptly refunded according to policy; and
8. A **policy of non-intimidation and non-retaliation** for good faith participation in compliance programs, including but not limited to reporting potential issues, investigating issues, self- evaluations, audits and remedial actions, and reporting to Compliance, according to sections 740 and 741 of the NYS Labor Law.

ECMCC is committed to upholding the highest standards of ethical conduct. The standards of conduct, however, cannot cover every situation that ECMCC personnel might face. Accordingly, ECMCC's Compliance Department (716-898-4595) and the Compliance Hotline (716-898-5555) are always available if there is ever any doubt as to what the proper course of conduct might be in a specific situation or if a violation of the standards of conduct set out in our Code of Conduct and this "Plan" are suspected.

II. STANDARDS OF CONDUCT AND GENERAL POLICIES AND PROCEDURES

It is the policy of ECMCC to comply with all laws and regulations that govern or apply to its activities, in particular, those laws and regulations that address health care fraud, waste, and abuse such as the Federal False Claims Act and applicable State law and enforcement policies. To assist in this effort, this Plan has been developed, with a particular emphasis in the areas of financial billing, accreditation, conflicts of interest, physician relationships, quality of care, research, gifts, confidentiality, non-discrimination, and professional and/or organizational ethics.

To achieve compliance, ECMCC expects that all personnel and members of its professional staff will act in accordance with this Plan, its Code of Conduct and all compliance-related policies and procedures. These include, but are not limited to, the following policies:

- Corporate Compliance: Billing and Coding
 - ECMCC, through this plan, its policies, procedures and Code of Conduct, have taken into consideration the regulator requirements

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we face in areas of concern that have been identified by the government. Accordingly, all billing must be accurate and truthful and no personnel should ever make misrepresentations.

- The following represent areas of concern (“risk areas”) for both government and private payors, and the appropriate standards to deal with them outlined are:
 - Medical necessity for services
 - Billing for items or services not actually rendered
 - Billing without adequate documentation
 - Correct Coding
 - Up-coding
 - Duplicate billing
 - Cost Reporting
- Exchanges between ECMCC and Industry policy
 - Many aspects of these interactions with industry are positive and important for promoting the educational, clinical and research missions of ECMCC. However, these interactions must be ethical and cannot create conflicts of interest or improper relationships that could endanger patient safety, data integrity, the integrity of our training programs, or the reputation of either staff members or the institution.
 - It is unacceptable for patient care decisions to be influenced by the possibility of personal financial gain. Industry representatives are expected to be aware of this policy and adhere to its principles. When conflicts arise, they must be addressed appropriately and expeditiously.
- Fraud, Waste and Abuse Compliance
 - Detecting fraud, waste and abuse (FWA) is the responsibility of everyone. ECMCC has written policies and standards of practice on Corporate Compliance and the Code of Conduct and Business Ethics. These policies outline expected behaviors of all ECMCC employees and those doing business with ECMCC. This policy provides additional guidance in federal and state laws, recognizing fraud, waste, and abuse as well as preventive and detective measures in place.
- 340B Compliance:
 - The Public Health Services Act (PHSA) 340B Drug Discount program entitles ECMCC to purchase drugs for outpatient use at a reduced price. The Office of Pharmacy Affairs (OPA), part of the Health Resources and Services Administration (HRSA) of the US Department of Health and Human Services oversees the 340B drug discount program. ECMCC has specific policies listed below governing program monitoring, testing and maintenance:
 - 340B Contract Pharmacy Oversight
 - 340B Covered Patient Definition, Monitoring, Maintenance and Billing

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- 340B Drug Storage and Procurement
- 340B Program Education and Competency
- 340B Program Enrollment, Recertification, and Change Request
- Reporting 340B Non-Compliance
- Non-Retaliation and Non-Intimidation
 - Employees who, in good faith, report a potential violation of law, regulation, policy, procedure, Public Authority's Code of Ethics, the Code of Conduct, or other instances of potential wrongdoing within ECMC will not be subjected to retaliation, retribution or harassment. No supervisor, manager or employee is permitted to engage in retaliation, retribution or any form of harassment against an employee for reporting a compliance related concern. Any supervisor, manager or employee who conducts or condones retribution, retaliation, or harassment in any way will be subject to discipline, up to and including discharge.
- Conflict of Interest
 - In all dealings with and on behalf of ECMCC or any affiliated entity, each such person shall be held to a strict standard of honest and fair dealing with the ECMCC and its affiliated entities, and no such person shall use his or her position, or knowledge gained there from, in such a manner as to create a conflict, or the appearance of a conflict, between the interest of the ECMCC or any affiliated entity and the interest of such person.
- Physician Compensation Policy
 - In all dealings with and on behalf of ECMCC must comply with federal and state laws that prohibit illegal remuneration, such as kickbacks, bribes, improper or excessive payments, free or below market rents or fees for administrative services, or interest-free loans. To that end, each ECMCC financial relationship with a physician or a physician's immediate family member shall meet a Stark exception, and if possible, meet an Anti-Kickback Statute safe harbor where applicable.
 - ECMCC does not pay physicians, or anyone else, either directly or indirectly, for patient referrals. The decision to refer patients is a separate and independent clinical decision made by the referring physician.
- Vendor Sanctions and Reinstatement Verification
 - Prior to establishing employment or a business relationship with any individuals, medical professionals or entities, ECMCC and/or the Sanction and Exclusion Screening Systems will have screened all against the databases available to our organization including but not limited to: the current List of Excluded Individuals and Entities (LEIE) of the OIG.

All ECMCC Policies and Procedures can be accessed on the ECMCC Intranet.

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In addition, ECMCC expects that all personnel will take part attentively in compliance education and training programs conducted by ECMCC and that they will conduct their daily activities in conformance with the principles conveyed through such programs. ECMCC personnel also are expected to report actual or suspected violations of law or regulations of which they become aware and to cooperate in the investigation of any reported violations. Supervisors have an obligation to report known or suspected compliance issues further up the chain of command and/or to the Director of Corporate Compliance.

All ECMCC personnel must comply with the standards of conduct set forth in the Plan, Code of Conduct and in applicable departmental compliance policies and procedures. All personnel are expected to report potential issues and raise questions as set forth in the Plan. Strict compliance with these legal and compliance standards is a condition of employment, and violation of any of these standards of conduct will result in discipline being imposed including, but not limited to, the following:

- Informing, educating and discussing with the relevant personnel both the violation and how it should be avoided in the future;
- Providing remedial education (formal or informal) to ensure that the relevant personnel understand the applicable rules and regulations;
- Conducting a follow-up review to ensure the problem is not recurring;
- Refunding any payments that resulted from improper documentation, coding or billing;
- Imposing fair and firm discipline, ranging from oral reprimand to termination;
- Suspending all billing of the services provided, as set forth below; and
- When appropriate, voluntarily disclosing to an appropriate governmental agency.

III. COMPLIANCE STRUCTURE AND OVERSIGHT

ECMCC has designated oversight of its Compliance Plan to the Audit & Compliance Committee of its Board of Directors, with day-to-day oversight to be managed by its Director of Corporate Compliance (the “Director”). More specifically, the reporting relationships for ECMCC compliance are as follows:

1. **Audit & Compliance Committee**

The Audit & Compliance Committee maintains oversight of ECMCC’s internal and external audit process and collaborates with the Director on the establishment, maintenance and operation of a comprehensive compliance program. Specifically, the Committee is tasked with:

- Analyzing the legal requirements and specific risk areas of the health care industry;
- Assessing existing policies that address legal requirements and risk areas for possible incorporation into the ECMCC Compliance Plan;

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- Working with ECMCC departments to develop standards of conduct and policies and procedures to promote compliance with the ECMCC Compliance Plan;
- Recommending and monitoring the development of internal systems and controls to carry out ECMCC's standards, policies and procedures as part of its daily operations;
- Determining appropriate strategy to promote compliance with the ECMCC Compliance Plan and detection of possible violations, including fraud reporting mechanisms; and
- Developing a system to solicit, evaluate and respond to complaints and problems.

2. **Director of Corporate Compliance**

The ECMCC Board has designated a Director to assist it in coordinating the development, implementation, communication and monitoring of ECMCC's compliance plan. The Director reports directly to senior administrator and periodically to the Chair and Board of ECMCC's Audit & Compliance Committee.

The Director is vested with the responsibility for the day-to-day operation of the Plan and with the power to investigate instances of possible non-compliance with laws or regulations or other provisions of the Plan. All ECMCC personnel are required to cooperate fully with the Director in connection with any such investigative activities. The Director will generally assist and coordinate all compliance activities including education and training and the compliance monitoring activities discussed below.

The Director shall serve as chairperson of the Corporate Compliance Steering Committee. The Committee shall consist of various area representatives of ECMCC. The Chairperson of the Committee may, at his/her discretion, request the presence of other persons before the Committee as issues arise. The Corporate Compliance Steering Committee shall meet on a quarterly basis, or upon the call of the Chairperson.

The Director will establish and maintain a record-keeping system in connection with the Plan. These records shall include, but not be limited to, instances of possible non-compliance which come to the attention of the Director, a record of disposition of these matters, and all documents submitted to the Director in connection with the administration of the Plan.

IV. **EDUCATION AND TRAINING**

ECMCC presently has various policies and education programs designed to teach personnel about the Compliance Department, explanation of the structure and operation of the Compliance Plan and their individual compliance responsibilities. One such policy establishes an initial, mandatory training program for new personnel. A part of the educational process involves the dissemination of

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applicable laws, relevant organization policy and procedures, and regulatory advisements. This is intended to update critical ECMCC personnel so that they can perform their jobs in a compliant framework. This will also include the Code of Conduct, information on communication channels such as the Hotline, organizational expectations for reporting problems and concerns and the non-retaliation/non-retribution policy. In addition, all Departments that undergo scheduled or investigative audits shall receive specialized training to implement all recommendations from the final audit report which sets forth the laws and regulations which regularly apply to the performance of their duties.

Compliance training and education may be provided in a variety of ways, including educational programs conducted by knowledgeable ECMCC personnel, Compliance staff, programs conducted by reputable professional consultants, and/or attendance at outside professional conference/seminars.

ECMCC annually shall train all personnel concerning, but not limited to: compliance, false claims, and whistleblower provisions. Participation in training may be a factor in each employee's performance appraisals. Advance notice of training programs will be given to ensure attendance. Participation in these programs shall be documented and retained by Compliance and/or Human Resources.

While ECMCC is not primarily responsible for contractor and vendor compliance, it will endeavor to provide education to appropriate contractors and vendors concerning compliance. (See Vendor Access Policy)

V. MONITORING COMPLIANCE

The most effective means to determine whether a compliance plan is successful is monitoring activities in relation to applicable laws and regulations to determine if those activities are being conducted in a compliant manner. To this end, the Director will conduct various monitoring and internal auditing activities to measure compliance. Such activities may include, for example, unannounced audits of certain patient records and periodic and systematic auditing of various areas by the Compliance Department, Revenue Integrity or outside consultants. All personnel are expected to cooperate fully with any such monitoring activities. The purpose of monitoring is constructive as it provides an opportunity to identify and correct any systemic problems or misunderstandings about regulatory requirements so that the same incident of non-compliance does not recur.

On an annual basis, the Director shall prepare a work plan in conjunction with HHS OIG Annual Work Plan and New York State Medicaid Plan designed to assess and monitor compliance of the various ECMCC entities and departments by performing a series of proactive internal audits and related compliance activities. The work plan is developed using a variety of sources and inputs such as identified risk areas, ECMCC Department interviews, voluntary inquiries and past investigations and audits. Additional information is obtained from outside sources – most notably,

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authoritative publications from the federal government such as the OIG, the Centers for Medicare and Medicaid Services and Medicare and Medicaid contractors. Additional sources for the annual ECMCC Compliance Work Plan involve Medicare and Medicaid coverage decisions, special projects, individual requests and the Compliance Hotline. Overall compliance will be measured using these Compliance Policies and Procedures and Compliance Standards of Conduct, Stark Laws, Anti-Kickback Laws, Medicaid and Medicare Laws, and third party billing regulations, HIPAA, New York State Public Officers Law, New York State Authorities Budget Office, New York State Civil Service Law, New York State Education Law and as well as others.

It is also important that there are regular evaluations of the effectiveness of the Compliance Plan itself. This would include, but is not limited to, assessments made of the plans of correction instituted as a result of Compliance Department audits and investigations. The resolution process will include all actions necessary to fully correct any deficiencies. Follow up monitoring will be accomplished to ensure that corrective actions were implemented to resolve the issue and prevent future reoccurrence.

The Director shall coordinate corrective actions and timely responses to remedy identified deficiencies. This shall include timeframes for completion of corrective actions as well as provision of the corrective action plan to those personnel charged with implementing it. All reports and corrective action plans shall be retained by the Director for six years.

Any identified over-billings, under-billings, or documented deficiencies will be adjusted or remedied in accordance with applicable laws and regulations.

VI. OPEN LINES OF COMMUNICATION

The reputation and integrity of both ECMCC and our personnel are valued. ECMCC recognizes its personnel's rights under the law, including the protections offered under the federal False Claims Act, as it relates to identifying compliance issues. We rely heavily on you, our personnel, to help us with all of the legal and regulatory requirements applicable to us by identifying potential problems, reporting them and asking questions.

All ECMCC personnel have a responsibility to promptly report instances of actual or suspected non-compliance with laws, regulations, and policies of which they become aware. Such reports are critical to the effectiveness of the Plan. Personnel, knowingly aware of non-compliance and who willfully fail to make such reports in a timely manner may be subject to disciplinary action. Instances of suspected non-compliance often are not intentional but rather result from a lack of knowledge or understanding on the part of the person involved or some systemic problem with ECMCC's policies, procedures or systems which should be corrected.

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ECMCC encourages all personnel to utilize the chain of command whenever practical to obtain answers to questions or to report actual or suspected instances of non-compliance. Under this approach, the first option for asking questions or making reports is to discuss the situation with a supervisor, who shall report such instances directly to the Director. If the supervisor is suspected of non-compliance or wrongdoing, or if someone is uncomfortable talking to his or her supervisor or does not receive a satisfactory response, then the next option, depending on the issue involved, is to directly contact the Director of Corporate Compliance at 716-898-4595 or the Compliance Hotline at 716-898-5555. This Hotline is available 24 hours a day, seven days a week to all personnel. When reporting a violation in good faith, it is imperative to the investigation to provide as much detail as possible, including:

- The date and time of the questionable action;
- A description of the questionable action;
- The circumstances around the situation; and
- If known, the consequence, if any, of the action as it relates to patient care, staff or hospital operations.

You need not identify yourself when calling the hotline. Your anonymity will be maintained. If you choose to identify yourself, your identity will be preserved within the limits of the law unless doing so prevents us from fully and effectively investigating the suspected violation. ECMCC personnel may report instances of actual or suspected non-compliance in confidence and without fear of retaliation or retribution.

VII. ACTIONS IN THE EVENT OF NON-COMPLIANCE

As part of ECMCC's commitment to foster a culture of compliance and to support the integrity of our Compliance Plan, ECMCC has established procedures for responding to compliance issues as they are raised. All complaints and allegations of misconduct, fraud, waste and abuse will be reviewed and investigated.

All personnel have a duty to report suspected or known compliance issues and are encourage to assist in their resolution. ECMCC will not take any adverse personnel action against an employee for reporting a compliance issue.

The Director (or his or her designee) will investigate and legal counsel, as necessary, to investigate instances of possible non-compliance which come to the attention of the Director.

In the event that the investigation reveals there has been non-compliance with laws, regulations, or provisions of the Plan, the Director will take appropriate steps to investigate, report, and remediate the violation or non-compliance. The Director will conduct a fair and impartial inquiry that may include documentation review, interviews, audit and other investigative techniques. Interim measures may be taken during an investigation into possible misconduct to protect the integrity of the investigation and respect the due process rights of the involved individuals. These

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measures, to be taken in accordance with applicable laws, collective bargaining agreements etc., may include temporary reassignments or leaves.

Appropriate remediation steps may include, but are not limited to, recommending changes in policies or procedures to prevent recurrence, recommendations for appropriate personnel action to be taken with respect to persons involved in non-compliant activity, reporting investigation results to ECMCC's CEO, General Counsel, and/or Audit & Compliance Committee. Verified overpayments will be repaid, as required by law.

If ECMCC personnel is involved or failed to comply with the Compliance Plan, may result in disciplinary action. Human Resources will be engaged to ensure consistent and appropriate disciplinary action.

They will convene to review results of investigations of potentially fraudulent or other criminal activity involving ECMCC personnel actions in the workplace. The objective is to establish a fair, consistent and firm approach to these serious matters. SEE Human Resources' Performance Improvement policy.

There may be additional reporting to and cooperating with governmental authorities with respect to violations of law or regulation in appropriate circumstances after obtaining the advice of counsel. Further corrective actions i.e. policy changes, system changes, training and education will be undertaken as necessary. All records documenting any such issues will be maintained in the Compliance office for six years.

VIII. INDIVIDUAL RESPONSIBILITY

EMCCC is committed to maintaining the highest standard of legal, ethical and business conduct as clearly outlined in our Code of Conduct. All prospective contracted or employed applicants are screened to identify any prior history of non-compliance with laws, regulations and applicable policies, as well as exclusion or sanctions from Medicare, Medicaid or other federal healthcare programs and verified monthly thereafter. The employment application requires the applicant to notify ECMCC about prior criminal convictions. After applicants are hired, they are required by ECMCC policy, to notify the ECMCC of any exclusion from the Medicare, Medicaid or other federal healthcare programs. ECMCC will not knowingly employ or retain persons or entities with such identified history. Serious violations of the Corporate Compliance Plan and/or related subject matter plans and policies may result in termination of employment.

IX. CONCLUSION

In conclusion, it is important to stress that ECMCC has prided itself on its commitment to operating in an ethical and legal manner since its founding. The success of the ECMCC depends on the personal and professional integrity of all ECMCC personnel.

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This Plan has been developed as part of the ECMCC's commitment to compliance. The Plan is designed to provide helpful guidance to ECMCC personnel in reaching legal and ethical solutions to the problems they face daily in their work on behalf of ECMCC. The Plan also establishes a mechanism for self-reporting and resolving potential problems and concerns. All ECMCC personnel are expected to cooperate with, and abide by, the Plan. The success of ECMCC's compliance plan and the implementation and management of plan elements requires a sincere commitment on the part of all ECMCC's personnel.

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CODE OF CONDUCT

I. Introduction

The Code of Conduct for Erie County Medical Center (“ECMCC”) is the keystone of the ECMCC’s Compliance Plan; it services as ECMCC’s integrity philosophy and the means by which it communicates its ethical business standards. The Code of Conduct serves as a moral, ethical and legal compass for employees, management, Board members, vendors, contractors, volunteers and others who interact with the ECMCC. The Compliance department is held to the highest standard of ethics and principals and the core function is to oversee that the Code of Conduct is adhered to throughout the ECMCC healthcare network.

Our success in achieving ECMCC’s mission and vision is dependent upon maintaining our commitment to honesty, integrity, quality, and excellence. As a central part of the ECMCC Compliance Plan, the Code of Conduct sets forth the standards of conduct that all employees, management, Board members, vendors, contractors, volunteers and others who interact with the ECMCC are expected to follow. In addition, this Code of Conduct embodies ECMCC’s Mission, and the Code of Ethics outlined in ECMCC By-Laws.

This is your copy of ECMCC’s Code of Conduct. It has been designed to be a clear and concise guide. Please familiarize yourself with it to ensure understanding.

This Code of Conduct is a broad guideline, which is reinforced in greater detail by the various policies and procedures located on ECMCC’s Intranet. It is the responsibility of every employee, management, vendor, contractor, volunteer and other who interacts with the ECMCC to act in a manner consistent with this Code of Conduct, the ECMCC mission, vision and core values and its supporting policies.

ECMCC’s Code of Conduct is a “living document” that will be updated periodically. If you have suggestions, recommendations or ideas for improving the Code, please contact the Director of Corporate Compliance (the “Compliance Officer”) at 716-898-4595.

II. ECMCC Code of Conduct Principles

The Compliance office is here to assist you to understand what it means to “Do the Right Thing” – such as reporting instances of compliance concerns, ethical and legal violations, questionable billing and reimbursement activity, patient safety concerns and conflict of interest violations.

The Basic Principles are as follows:

- **BE HONEST AND ETHICAL.** Every employee is expected to adhere to high ethical standards when acting on behalf of ECMCC. All members of the ECMCC workforce will interact with patients, visitors, colleagues and staff members in a professional, respectful and collaborative manner to encourage and facilitate a

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productive work environment. Every employee, management, Board member, vendor, contractor, volunteer and others who interact with the ECMCC are expected to act in a professional manner at all times.

- **OBEY THE LAW.** The ECMCC Compliance Plan has been designed to meet the mandatory compliance obligations set forth in New York State Social Services Law 363-d, Title 18 NYCRR Part 521 and to the myriad federal, state and local laws and regulations as we compliantly carry out our mission of patient care, teaching, and research. Guidance can be obtained from your department, the Office of Compliance, this Code of Conduct, the Compliance Plan or by calling the Compliance Hotline: 716-898-5555. The Compliance Hotline enables individuals and organizations to report problems and concerns or obtain clarification about compliance issues anonymously and confidentially.
- **BE TRUTHFUL.** Particular care should be taken to ensure that all communications within ECMCC and to outside agencies (including government representatives) are truthful, accurate and complete.
- **HONOR CONFIDENCES.** Our patients, personnel, and co-workers rightfully expect that their private medical information be handled appropriately. Confidential information relating to ECMCC also should be protected.
- **REPORT CONDUCT THAT CONCERNS YOU.** Staff must report to their supervisor, manager and/or the Director, actual or suspected violations of applicable law, rules, regulations or this Code. Staff has the same reporting obligations for actual or suspected violations committed by a subcontractor or vendor of ECMCC. ECMCC provides multiple reporting lines to ensure that staff is comfortable with whom they communicate compliance issues.
- **DUTY TO COMPLY.** It is the duty of staff to comply with applicable laws, rules, ECMCC policies, regulations and the Code. Failing to report suspected problems, participating in non-compliant behavior, or encouraging, directing, facilitating or permitting non-compliant behavior may subject staff to disciplinary action, up to and including termination.
- **ADVOCACY.** Advocates support and promote the rights of the patient in the health care arena, help build capacity to improve community health and enhance health policy initiatives focused on available, safe and quality care.
- **DIGNITY/CHOICE.** Respect the dignity and individuality of any person who receives services and support from ECMCC, honoring such choices and preferences whenever possible and appropriate.

III. Reporting Compliance Violations

An important factor in the success of the Compliance Plan is maintaining open channels of communication. Employees, management, Board members, vendors, contractors, volunteers, and others who interact with the ECMCC, must participate in good faith and bring forward any potential compliance concerns, problems and/or issues. In addition, managers are expected to maintain an open door policy and be receptive to all concerns brought to them by any personnel. Every manager also has the responsibility for ensuring that employees are aware of and understand the expectations of the Code of Conduct and the Compliance Plan.

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The Compliance office also holds a hotline for reporting compliance issues. Further details are available on this hotline in the ECMCC Compliance Plan. The Compliance Officer will investigate all allegations and concerns raised through the hotline.

Director of Corporate Compliance: 716-898-4595

Compliance Hotline: 716-898-5555

Internal Extension: x4595

IV. Expectations

Quality of Care, Safety and Patient Rights

Providing quality care, while respecting the rights of patients, is the central focus of ECMCC. We are committed to providing services that meet and exceed patient expectations, while focusing on continuous improvement of quality. Specifically:

- We shall treat all patients, employees, management, Board members, vendors, contractors, volunteers and others who interact with the ECMCC with respect, dignity and courtesy.
- We shall respect the rights and autonomy of all those we serve throughout the organization.
- We shall provide high-quality care and service in a responsive and responsible manner.
- We shall not discriminate based on a patient's race, age, religion, national origin, gender, gender identity, sexual orientation, and disability, and diagnosis, source of payment or ability to pay.
- We shall provide compassionate care and appropriate treatment and services to patients that are considerate and respectful of their personal dignity and privacy and their cultural, psychological, and spiritual values and beliefs.
- We believe the patient comes first and it is our duty to protect the patient's health, safety, security, well-being and comfort.
- We shall make all our care decisions strictly upon medical necessity. Only a qualified healthcare practitioner will make the determination as to treatment plans.
- We believe that all patients have the right to be involved in all aspects of their care, participate in the development and implementation of their plan of care, and have sufficient information to provide informed consent for surgery and other significant or invasive treatments or procedures.
- We believe that all patients have the right to be free from restraints and seclusion of any kind that is not medically necessary or is used as a means of coercion, discipline, convenience, or retaliation by staff.

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- We believe that patients have the right to file complaints and expect prompt referral to appropriate hospital administrative personnel for resolution.
- We believe that patients have the right to formulate advance directives and to have hospital staff and practitioners comply with those directives.
- We believe that patients have the right to an interpreter or other reasonable accommodation, if the patient cannot speak, write, or understand spoken or written English, or there are other barriers to communication due to disability.
- We believe that patients have the right to expect unrestricted access to communication (visitors, mail, telephone, etc.) with any person or persons of their choice, including, but not limited to, physicians, attorneys and clergymen, at any reasonable hour.
- We shall assure quality and a culture of safety, by addressing problem of behaviors that threaten the performance of the health care team. (See Code of Conduct-Medical/Dental Staff policy.)

Employee Behaviors

ECMCC recognizes that all employees, regardless of job classification, belong to a knowledgeable and skilled health team that contributes to patient care. We are committed to creating and maintaining a caring and positive environment where all employees are treated fairly and have ample opportunities for professional development.

- We shall expect all individuals within our hospital and subsidiaries to be treated courteously, respectfully, and with dignity.
- We shall expect all ECMCC workforce members and other users of ECMCC corporate information assets to use corporate information assets in a manner consistent with our Code of Conduct. Usage will not disrupt business, offend others, create security exposures, or violate local, state, or federal laws. Access to ECMCC corporate information assets may be revoked if abused or misused.
- We shall only access and utilize information systems and accounts assigned to us as part of our job duties.
- We shall respect the rights of all patients and personnel throughout the corporation.
 - We expect all our patients to receive medically appropriate and necessary care in a respectful and dignified manner without regard to race, color, gender, gender identity, ethnicity, age, religion, genetic predisposition, carrier status, sexual orientation, disability, and marital status, and veteran status, source of payment or ability to pay.
 - We expect all providers/caregivers/personnel to listen and to follow the choices made by our patients with respect to their clinical care. Upon admission to ECMCC, patients are provided with a written statement of their rights. Patients, and as appropriate, their families or representatives, will be given the information necessary to enable them to give informed consent prior to the start of any non-emergency procedure or treatment.

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- We shall expect that all ECMCC staff members adhere to the New York State Patient's Bill of Rights.
- We shall conduct ourselves in a professional and cooperative manner.
- We shall be honest in the performance of our duties.
- We shall operate in an environment that is free of alcohol and substance abuse. (See HR-030 Policy.)
- We shall maintain a working environment that is free of harassment, fighting, or violence of any type. (See Harassment policy.)
- We shall support equal employment opportunity with hiring, advancement and compensation based on merit and without regard to race, color, religion, gender, gender identity, sexual orientation, national origin, age, marital status or disability. We will comply with all laws related to non-discrimination in all of our personnel actions, including hiring, staff reductions, transfers, terminations, training, evaluations, recruiting, compensation, benefits, corrective action, discipline, and promotions. (See Harassment policy.)
- We will not take any adverse action against an employee for filing a complaint of discrimination or harassment. (See Non-Retaliation and Non-Intimidation policy and Harassment policy.)
- We shall comply with the smoke-free campus policy. (See Patients, Employees and Visitors Smoke-Free policy.)
- We shall continually develop our skills and knowledge in order to better serve our patient community.
- We shall perform duties in accordance with applicable professional standards and legal requirements.
- We shall exercise good judgment and objectivity in the performance of our duties. Any differences in opinion in professional judgment should be referred to appropriate management levels for resolution in accordance with standard procedures.
- We shall provide a comprehensive review of employee performance at least annually including an agreed upon plan for development and establishment of annual goals.
- We shall compensate our employees fairly in the context of the value of the position, the external market and the employees' overall performance.
- We require candor and honesty from all employees in the performance of their responsibilities and in communication with our attorneys, auditors, administrators, supervisors, and fellow employees.
- We shall not use for business or personal purposes ECMCC's communication systems, electronic mail, internet access, and voice mail, as they are the property of ECMCC.

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- We shall properly handle prescription drugs, controlled substances, and other medical supplies and only by authorized individuals, and any diversion of drugs from the organization must be reported to a supervisor and/or the Compliance Officer.
- We shall require all employees, management, Board members, vendors, contractors, volunteers and others who interact with the ECMCC to conduct themselves in a compliant, professional and cooperative manner within ECMCC's facilities, and that all physicians and non-physicians licensed independent practitioners credentialed through the medical staff office agree to honor the Code of Conduct. (See Code of Conduct-Medical/Dental Staff.)
- We shall not tolerate disruptive behavior. We shall take prompt and appropriate action to address complaints of disruptive conduct by any employee, Medical/Dental staff, management, Board members, vendors, contractors, volunteers and others who interact with the ECMCC. (See Code of Conduct-Medical/Dental Staff.)
- We shall provide reasonable training to personnel to assure they carry out duties in a professional manner.

Laws, Regulations and Accreditations Standards

ECMCC strives to comply fully with all of the laws, rules, regulations and applicable accreditation standards governing the healthcare industry.

- We are committed to compliance with all federal, state and local laws and regulations, including all licensure and Certificate of Need laws and regulations, as well as the Medicare hospital conditions of participation. We shall be guided by standards of legal and ethical conduct. We shall not knowingly take any action that is in violation of any statute, rule or regulation.
- We shall maintain corporate standards that reflect honesty, integrity and accountability in our business practices.
- We shall ensure that any filed cost reports accurately reflect appropriate costs incurred for furnishing healthcare services to the best of our knowledge.
- Contractual/financial arrangements with physicians, vendors, third party payers, managed care organizations or other referral sources will be structured to ensure compliance with applicable federal and state laws and regulations, fulfill the mission statement of ECMCC and be in the best interests of the ECMCC and the patients we serve.
- We shall ensure that all drugs or other controlled substances used in the treatment of patients shall be maintained, dispensed and transported in conformance with all applicable laws and regulations.
- We shall not make or offer to make payment or provide anything of value to another person if the intent is with the understanding or intention that such payment is to be used to influence referrals or for any unlawful or improper purpose.

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- We shall abide by antitrust laws designed to create a level playing field in the marketplace and to promote fair competition. (See Physician Compensation policy.)
- We shall avoid compensation arrangements in excess of fair market value, will accurately report payments to appropriate taxing authorities, and will file all tax information returns in a manner consistent with applicable laws.
- We shall refrain from engaging in activity that may jeopardize the tax exempt status of the organization. ECMCC funds or resources may not be used to contribute to political campaigns or for gifts or payments to any political party or any political organization.
- We shall deal with accrediting and regulatory bodies in a direct, open and honest manner. No action should ever be taken in relationships with an accrediting or regulatory body that would purposely mislead a survey team.

V. Justice Center

ECMCC is committed to upholding and enforcing the New York State legislation known as “Protection of People with Special Needs Act” by acting as advocates for a vulnerable person. It is the duty of all ECMCC staff to report any instance or any suspected instances of abuse and/or neglect. A core principle within the Code of Conduct is dignity and choice for our patients; they deserve to be treated with dignity at all times.

The Justice Center was established by New York State to infuse the strongest standards and practices in the nation for protecting people with special needs. It serves both as a law enforcement agency and as an advocate for people with special needs.

The Justice Center is responsible for investigations of allegations of serious abuse and neglect of vulnerable persons in State-operated and licensed facilities; overseeing implementation of the procedures of State oversight agencies for tracking, investigating and monitoring corrective actions of allegations of abuse, neglect and significant incidents; maintaining a register of individuals who have committed serious acts of abuse (Exclusion/Sanction List); and establishing codes of conduct of ethical standards to which all individuals who have regular contact with people with special needs would be held accountable. (See Sanction Screen policy and Occurrence Reporting policy.)

VI. Emergency Medical Treatment and Labor Act (EMTALA)

ECMCC complies with the Emergency Medical Treatment and Labor Act (EMTALA). We screen and provide stabilizing treatment to everyone who comes to our hospital requesting examination or treatment for an emergency condition. We do not delay medical screening exams or stabilizing care in order to request patient financial information. We transfer emergency patients only when they request a transfer or when we lack the capability or the capacity to provide appropriate treatment and only after administering the appropriate stabilizing care. (See EMTALA and Medical Screening policy.)

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VII. Joint Commission on Public Ethics (JCOPE)

Each member of the Board and all ECMCC personnel are subject to New York State Ethics Laws, N.Y. Public officers Law regarding, but not limited to: Outside employment and professional activities, restriction on political activities, nepotism, gifts, honorarium, travel, negotiations on future employment, and post-employment restrictions. All shall perform their duties with transparency, without favor and refrain from engaging in outside matters of financial or personal interest, including other employment, that could impair independence of judgement, or prevent the proper exercise of one's official duties. If you have any questions regarding State ethics and lobbying rules or regulations, please do not hesitate to call or email ECMCC Corporate Compliance Office at 716-898-4595 or the Commission at (518) 408-3976 or jcope@jcope.ny.gov.

Outside Activities

Pursuant to the Joint Commission on Public Ethics ("JCOPE"), any ECMCC employee, and particularly those in a policy making position, who participate or engage in other private employment, profession or business, or other outside remunerated activity must obtain prior approval from the Compliance office as well as JCOPE (if applicable). Requests will be evaluated in accordance with the provisions of Sections 73 and 74 of the NYS Public Officers Law.

Political Activities

ECMCC expects each of its personnel to refrain from engaging in activity that may violate JCOPE guidelines applicable to public benefit corporation workforces, involving a variety of lobbying and political activities.

No individual may make an agreement to contribute ECMCC money, property, or services to any political candidate, party, organization, committee or individual in violation of any applicable law. ECMCC personnel may personally participate in and contribute to political organizations or campaigns, but they must do so as individuals, not as representatives of ECMCC, and they must use their own funds.

Gifts and Entertainment

ECMCC personnel and their immediate families may not accept gifts, favors, services, entertainment, or other things having more than a nominal value from patients, vendors, contractors, and other third parties to the extent that decision making or actions are influenced, or have the appearance of being influenced.

A Gift includes, but is not limited to, money, service, loan, travel, lodging, meals, refreshments, entertainment, forbearance or a promise having a monetary value. "Nominal Value" is not specifically defined, but JCOPE will generally consider something that has *a fair market value of \$15 or less* to be of nominal value.

The Compliance Office should be consulted if there is any doubt about accepting of any gifts or services. (See Interactions Between ECMCC and Industry.)

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Two Year Bar

Each member of the Board and all employees are prohibited from appearing or practicing before the Corporation for two (2) years following employment with the Corporation consistent with the provisions of Public Officers Law §73(8)(a)(i).

VIII. Conflicts of Interest

The Conflicts of Interest Policy is intended to protect the interests of ECMCC when it is contemplating entering into a transaction or arrangement with an outside entity which has a direct or indirect financial relationship that might benefit their private interest of a director, officer or other personnel of ECMCC. It is intended to supplement but not replace any applicable state laws governing conflicts of interest applicable to public benefit corporations.

Each person who is a director, non-director committee member, officer or personnel of ECMCC shall not directly or indirectly, make, advise, or assist any person to make any financial investments based upon information available through the director's or employee's official position that could create any conflict between their public duties and interests and their private interests. In all dealings with and on behalf of ECMCC or any affiliated entity, each such person shall be held to a strict standard of honest and fair dealing with ECMCC and its affiliated entities.

Each person who is a director, non-director committee member, officer or personnel of ECMCC shall not use or attempt to use their official position with ECMCC to secure unwarranted privileges for themselves, members of their family or others, including employment with ECMCC or contracts for materials or services with ECMCC.

Each person who is a director, non-director committee member, officer or personnel of ECMCC must conduct themselves at all times in a manner that avoids any appearance that they can be improperly or unduly influenced, that they could be affected by the position of or relationship with any other party, or that they are acting in violation of their public trust.

Each director, principal officer, member of a committee with board delegated powers and selected personnel shall annually complete the Conflict of Interest Questionnaire and Statement which affirms that such person:

- (a) Has received a copy of the conflicts of interest policy;
- (b) Has read and understands the policy; and
- (c) Has agreed to comply with the policy.

(See Conflict of Interest policy.)

IX. Confidentiality - Safeguarding the Privacy of Our Patients and Personnel

During the course of our personnel's work, staff may become aware of Protected Health Information ("PHI") about patients and their employers and their medical conditions. All

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patient information is confidential, which includes patient photos/images. Accordingly, it is inappropriate to discuss patients or their cases in a public area where other people may overhear the conversation, and it is inappropriate to permit access to a patient's record to individuals who are not involved in legitimate activities relating to the patient. This applies to personnel's medical records when they are patients as well. Information about a patient may be disclosed only as authorized by the patient or as otherwise permitted by law. Special confidentiality rules apply to patients in drug and alcohol treatment programs, behavioral health diagnosis, as well as disclosure of information regarding a patient's HIV status.

Patients are entitled to expect the protection of confidentiality. In addition, all patients are to be treated with respect and protect the patient's confidentiality which includes gender identity and expression. Patient information shall be released in accordance with ECMCC policies and procedures with respect to the Release of Information and in accordance with New York State laws.

Any person who becomes aware of an unauthorized disclosure should report it immediately to their supervisor and ECMCC's Privacy Officer at 716-898-5880. There will be no reprisals against staff for good faith reporting of privacy concerns.

(See Confidentiality of Protected Health Information and other Confidential Information policy, HIPAA-Use and Disclosure of Protected Health Information policy, HIPAA-Privacy & Information Security Breach of Information policy and Photography and Recording at ECMCC policy.)

X. FWA/Coding and Billing Integrity

ECMCC complies and strives to maintain the highest principles of professional conduct in its billing and coding practices and to ensure billing and coding compliance with all applicable federal and state laws and regulations. Detecting fraud, waste and abuse (FWA) is the responsibility of everyone. (See Fraud, Waste and Abuse Compliance policy and Corporate Compliance: Billing and Coding policy.)

ECMCC personnel have the obligation to report any suspected issues or concerns regarding ECMCC fraud, waste, abuse, billing and or coding under the Federal and State False Claims Act. All ECMCC personnel must participate and/or cooperate in good faith with any investigation into a reported violation be truthful with investigators and preserve documentation or records relevant to ongoing investigations.

We expect that personnel and those professionals working at our facilities will adhere to rules and regulations regarding documentation. All transactions must be accurately and completely supported in ECMCC's records. Specifically:

- We shall maintain honest and accurate records of all our activities.
- We shall not knowingly submit a claim or bill for services that were not rendered, unbundled, or were not rendered as described on the claim form or

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statement, nor shall we misrepresent services which were rendered, or alter a medical record.

- We will not submit a claim requesting payment or bill a third party for medically unnecessary services, or seek reimbursement for a service that is not warranted by the patient's current medical condition as documented in the medical record and physician's orders.
- We shall not knowingly submit claims for payment that have not been properly coded, documented or billed according to all applicable laws and regulations.
- **Stark Law** - We expect our personnel to refrain from conduct that violates the federal "Stark" physician self-referral law and regulations and its state equivalent. (See Physician Compensation policy.)
 - By law, a physician is prohibited from referring patients to an entity such as ECMCC for a designated health service if the physician or a member of his or her immediate family has a financial relationship with the entity, unless an exception applies. The law also prohibits an entity from presenting a claim to Medicare or to any person or other entity for designated health services provided under a prohibited referral. No Medicare payment may be made for designated health services rendered as a result of this prohibited referral, and an entity must timely refund any amounts collected for designated health services performed under a prohibited referral. Legal counsel should be consulted regarding any applicable exceptions.
- **Anti-Kickback Statutes** - New York and federal anti-kickback statutes prohibit a health care provider from knowingly and willingly offering, paying, soliciting or receiving anything of value to induce or reward the referral or generation of health care services or for purchasing, leasing, ordering, or arranging for or recommending the purchase, lease, or ordering of any item or service reimbursable in whole or in part by Medicare, Medicaid or Social Security Disability, unless an applicable "safe harbor" applies. Legal counsel should be consulted regarding any applicable safe harbors. (See Physician Compensation policy.)
 - Any business arrangement with a physician must be structured to ensure compliance with legal requirements. Such arrangements must be in writing and, reviewed and approved by ECMCC's Office of General Counsel.
 - ECMCC will not pay for referrals. We make and accept patient referrals and admissions based solely on the patient's clinical needs and our ability to render the needed services.
 - ECMCC not accept payments for referrals that we make. No ECMCC personnel or any other person acting on behalf of the organization is permitted to solicit or receive anything of value, directly or indirectly, in exchange for the referral of patients.
- **Basis for Coding and Billing**
 - ECMCC personnel will make every attempt to code medical records completely on a patient's bill. If a diagnosis is unclear or has not been

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provided, ECMCC coders must review the medical documentation or contact the appropriate clinical practitioner or local intermediary to obtain the necessary information. In all cases, the documentation must support codes that are submitted on a patient's bill. Billing personnel cannot create coding or diagnostic information based in their own interaction with the patient, from information provided from an earlier date of service, or based on what they might conclude is the probably or most likely diagnosis.

- Staff with responsibility to maintain records for goods or services for which a bill will be sent to a patient or third party payor, have a responsibility to ensure an accurate bill that includes charges only for those goods and services actually provided. Submitting a false claim representing that a provider performed a service, all or part of which was not performed, is illegal. Providers will bill accurately for services rendered in accordance with the law and with its agreements with third-party payors.
- **Medical Necessity for Services**
 - ECMCC will submit claims to Medicare or Medicaid (or any federally-funded healthcare program or private insurers) only for services that were medically necessary or that otherwise constituted a covered service. Medical necessity will be determined individually for each service or test provided or ordered by the responsible physician. Medically necessary services, level of service or tests are defined as one that is reasonable and necessary for the diagnosis or treatment of an illness, injury or to improve the functioning of a malformed body member. An example would be requiring the patient to return for additional visits when another appointment is not necessary, or ordering unnecessary radiological tests, lab work, etc.
- **Up-coding**
 - All federal and state regulations governing billing procedures must be meticulously followed. ECMCC does not provide financial incentives to physicians, providers, personnel or outsiders to up-code claims. An example of "up-coding" would be providing a simple office visit (patient c/o earache and physician only exams the ear) and bill for a comprehensive visit (a complete physical exam).
- **Training and Coding**
 - All coders must be fully trained in how to read, review and appropriately code medical records. All coders will attend training sessions, workshops and seminars on proper coding practices, on governing rules and regulations, and on recent developments in the coding guidelines.
- **Cost Report**
 - Entities within ECMCC receive reimbursement under government programs requiring the submission of complete and accurate reports of its cost of operation and other information. These laws and regulations define what costs are allowable and outline the appropriate

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methodologies to claim reimbursement for the cost of services provided to the program beneficiaries. ECMCC cost reports will be prepared in compliance with all applicable state and federal regulations.

XI. Non-Retaliation

At ECMCC, we afford certain protections to individuals who in good faith report violations. It also provides guidance by which employees can express problems, concerns, and opinions without fear of retaliation, intimidation or reprisal, as well as providing supervisors with appropriate guidelines for addressing problems and concerns raised by employees.

It is our belief that positive employee relations and morale can be best achieved and maintained in a working environment that promotes ongoing open communication between supervisors and employees. This includes open and candid discussions of employee problems and concerns. We recognize that one of the requirements of the US Sentencing Commission "Guidelines for Organizations" is that an organization evidences a policy of non-retaliation/non-intimidation for employees who report violations of law, regulations, policies, ethics and the Code of Conduct. Additionally, the NYS Office of Medicaid Inspector General (OMIG) stipulates that every organization have a policy of non-retaliation and non-intimidation for the reporting of code of conduct, ethical violations or compliance matters.

(See Fraud, Waste and Abuse Compliance policy, Corporate Compliance: Billing and Coding policy and Harassment policy.)