

### **CORPORATE COMPLIANCE PLAN**

#### **INTRODUCTION**

Makor/ Women's League Community Residences, Inc., d.b.a: Makor (aka: Makor/ WLCR), is a professional organization committed to the philosophy that every person, regardless of their personal handicaps or developmental level, must be treated with the utmost dignity and respect for privacy accorded to all human beings. It is our belief that every person with developmental disabilities should be afforded the opportunity to maximize their functional, social and intellectual potential through appropriate individualized programming, by living in as normal a home environment as possible, and by living in an atmosphere of acceptance, warmth, understanding, and security which upholds the rights of each individual and provides developmental opportunities on both individual and group bases.

MAKOR/ WLCR provides the following services to the members of our community:

- Individualized Residential Alternative (IRA) Residential Habilitation
- Intermediate Care Facilities
- Day Habilitation
- Day Habilitation Without Walls
- Makor YU College Experience Program
- Community Habilitation
- Respite Services
- Self- Direction and Fiscal Intermediary
- Supportive Employment Program
- Jumpstart Early Intervention Program

Makor/ WLCR is committed to adhering to all federal, state and city laws, regulations and directives which address detecting and preventing fraud, waste and abuse in federal, New York State and New York City healthcare programs. Every effort must be extended to assure that all billings for services are prompt, complete and accurate. The purpose of this policy is to detect and correct billing errors both from accidental mistakes and from fraud. Systems will be put into place to ensure that all billings are made timely and accurately.

The policies enumerated in this plan apply to billings, payments, determinations of medical necessity and quality of care, governance, mandatory reporting, credential and license verification, and any other risk areas that are identified by MAKOR/ WLCR. The Makor/ WLCR Quality Assurance Department, (aka: QA), will notify, disseminate and train administration and management staff on these laws, regulations and requirements, as well as to write, update and disseminate Plans and Policies on these laws, regulations and requirements.

All employees are expected to live up to Makor/ WLCR's code of conduct as enumerated in this Plan. This plan applies to all employees of Makor/ WLCR including management and supervisory staff, as well as the Board of Directors, officers, volunteers, independent contractors and agents. It applies to all programs operated by Makor/ WLCR.

The policies enumerated in this Plan will be enforced by the Agency's Corporate Compliance Officer. He/she will also be responsible for reviewing these policies periodically and revising them as necessary.

This plan also enumerates policies which protect an employee's right to disclose improper practices of the Agency without fear of retaliation.

#### **APPLICABILITY**

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These policies are applicable to all employees of Women's League Community Residences, Inc., the Board of Directors, officers, volunteers and independent contractors.

### **STATUTORY BASIS**

There are various federal laws, ranging from laws originally passed during the Civil War and updated by various laws including the [Deficit Reduction Act](#) which took effect in 2007. These laws are designed to prevent and detect fraud, waste and abuse in federal healthcare programs. Anyone who knowingly submits false claims to the Government is liable for damages and penalties. In addition, and as set forth in greater detail below, both New York Not-for-Profit Corporation Law Section 715-b and New York Labor Law Section 740 provide whistleblower protections to all directors, officers, current and former employees, independent contractors, employees of independent contractors, and volunteers to report any suspected or actual conduct in violation of applicable federal, state or local statutes, ordinances, executive orders, rules, regulations, judicial or administrative decisions, rulings or orders, and/or Makor/WLCR's policies and procedures without the fear of intimidation, harassment, discrimination, or retaliation.

There are also several New York State Civil, Administrative and Criminal laws which parallel the federal laws and, in some instances, expand upon them.

Fraud is an intentional act to deceive, meaning that someone intended to misrepresent, omit or hide information which results in an incorrect payment of funds. It is a crime to knowingly cause a false claim to be submitted.

Even though both State and Federal False Claims Acts enumerated on the following pages, apply to Federal Medicaid payments, laws such as [NY Penal Law, Articles 176-177](#), New York Not-for-Profit Corporation Law Section 715-b and NYS Labor Law Sections 740 and 741 may apply in specific settings.

A summary of the various laws follows:

### **FEDERAL & NEW YORK STATUTES RELATING TO FILING FALSE CLAIMS**

#### **Federal False Claims Act**

The False Claims Act (FCA) imposes liability on any person who submits a claim to the federal government that he or she knows (or should know) is false. An example may be a physician who submits a bill to Medicare for medical services she knows she has not provided. The False Claims Act also imposes liability on an individual who may knowingly submit a false record in order to obtain payment from the government. An example of this may include a government contractor who submits records that he knows (or should know) are false and that indicate compliance with certain contractual or regulatory requirements. The third area of liability includes those instances in which someone may obtain money from the federal government to which he may not be entitled, and then uses false statements or records in order to retain the money. An example of this so-called "reverse false claim" may include a hospital that obtains interim payments from Medicare or Medicaid throughout the year, and then knowingly files a false cost report at the end of the year in order to avoid making a refund to the Medicare program or Medicaid program.

While the False Claims Act imposes liability only when the claimant acts "knowingly," it does not require that the person submitting the claim have actual knowledge that the claim is false. A person who acts in reckless disregard or in deliberate ignorance of the truth or falsity of the information also can be found liable. In addition to its substantive provisions, the FCA provides that private parties may bring an action on behalf of the United States. These private parties, known as "qui tam relators," may share in a percentage of the proceeds from an FCA action or settlement.

Section 3730(d)(1) of the FCA provides, with some exceptions, that a qui tam relator, when the Government has intervened in the lawsuit, shall receive at least 15 percent but not more than 25 percent of the proceeds of the FCA

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action depending upon the extent to which the relator substantially contributed to the prosecution of the action. When the Government does not intervene, section 3730(d) (2) provides that the relator shall receive an amount that the court decides is reasonable and shall be not less than 25 percent and not more than 30 percent.

The current FCA can be found in the [United States Code, Title 31, Sections 3729 through 3733](#):

### [US Code Title 31 Chapter 37](#)

#### **Background**

The FCA dates back to the Civil War. During the Civil War, some defense contractors defrauded the Union government, and Congress enacted the FCA in response to these scandals.

#### **Who is Liable?**

The FCA makes anyone who submits (or causes someone else to submit) a false or misleading claim liable for penalties and fines.

#### **What is a claim?**

A claim is simply a demand for money or property, where the federal government provides any portion of the money or property requested. Because the federal government funds part of New York's Medicaid program, the FCA covers claims or bills to Medicaid in New York, including claims or bills for Medicaid-funded services or goods provided by OPWDD or provided by OPWDD-funded agencies or persons.

#### **How Does This Work?**

If a Medicaid claim or bill is untrue (or "false"), it will bring liability upon the person who said it was true. The penalties and fines under the FCA will vary for each claim and can include the government's costs in pursuing a lawsuit against the person. Some of the things included in the FCA are falsifying billing records, billing for services not rendered, billing for goods not provided, billing for a more expensive service than the one actually provided (often called "upcoding") and duplicating billing to obtain double payment. No proof of specific intent to defraud the government is required to be held liable under the FCA. All that is required is that the person has actual knowledge, or has acted with deliberate ignorance or reckless disregard of the truth or falsity of his or her claim. Basically, the defense of "I didn't know it was illegal" does not work.

The FCA also has incentives for employees to come forward and report misconduct. Generally, a person who knows about the false claims (the whistleblower) may sue on behalf of the government for a violation of the FCA. After the whistleblower files a lawsuit, the government can pursue the suit on its own, or decline and allow the whistleblower to continue. The government may elect to move forward with the suit as is, change it to a criminal or administrative case, settle it, or request a dismissal. The whistleblower can participate in the lawsuit along with the government, but the judge can limit who the whistleblower calls as witnesses, how long they testify and how much the whistleblower can cross examine witnesses if the whistleblower is just harassing the defendant or is interfering with or duplicating the government's case.

Depending on the outcome of the case and the whistleblower's involvement in the prosecution of the case, the whistleblower can receive a percent of the proceeds of the action or settlement. The whistleblower only gets this money if the government recovers money from the defendant as a result of the FCA lawsuit. The whistleblower's award may be reduced if the judge decides that the whistleblower planned and initiated the violation. A whistleblower who files a frivolous lawsuit can be forced to reimburse the defendant for all the costs of defending the lawsuit, including attorneys' fees.

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### **Is there a Statute of Limitations?**

Yes. A lawsuit to enforce the FCA must be brought within six years of the violation, or, if the government brings the suit, within three years of when the government knew or should have known the facts about the violation. A suit can never be brought later than ten years after the date the violation was committed.

### **Administrative Remedies for False Claims**

This federal statute allows for administrative recoveries by federal agencies. If a person submits a claim that the person knows is false or contains false information, or omits material information, then the agency receiving the claim may impose a penalty and additional amounts for the claim.

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

For reference purposes, the full code may be accessed in the United States Code, Title 31 Chapter 38 Sections 3801-3812: Administrative Remedies for False Claims and Statements.

### **New York False Claims Act**

New York's false claims laws fall into two categories: civil and administrative (1); and criminal laws (2). Some apply to recipient false claims and some apply to provider false claims, and while most are specific to healthcare or Medicaid, some of the "common law" crimes apply to areas of interaction with the government.

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

There are penalties of at least \$6,000 per claim and damages of three times the loss the government sustains because of the false claim. In addition, the false claim filer may have to pay the government's legal fees.

The Act allows private individuals to file lawsuits in state court, just as if they were state or local government parties, subject to some limitations imposed by the State Attorney General or a local government. If the suit eventually concludes with payments back to the government, the person who started the case can recover a percentage of the proceeds, amounts of which are dependent upon whether the government did or did not participate in the suit. (25% - 30% if the government did not participate in the suit, and 15% - 25% if the government did participate in the suit). For reference purposes, the full state law may be found in Article XIII: New York False Claims Act, Sections 187-194: State Finance Law §§187-194

### **New York Social Services Law**

In addition to New York's False Claims Act, there are other state laws which address false claims. These laws fall into two categories: civil and administrative (1); and criminal laws (2). Some apply to recipient false claims and some apply to provider false claims, and while most are specific to healthcare or Medicaid, some of the "common law" crimes apply to areas of interaction with the government. Specifics relating to false claims in the NYS Social Services Laws may be found in Article 5, Title 1.

### **Civil and Administrative Laws:**

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### [Social Services Law §145-b](#) **False Statements**

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

### [Social Services Law §145-c](#) **Sanctions**

If any person applies for or receives public assistance, including Medicaid, by intentionally making a false or misleading statement, or intending to do so, the needs of the individual or that of his family shall not be taken into account for the purpose of determining his or her needs or that of his family for six months if a first offense, for twelve months if a second offense (or if benefits wrongfully received are at least one thousand dollars but not more than three thousand nine hundred dollars), for eighteen months if a third offense (or if benefits wrongfully received are in excess of three thousand nine hundred dollars), and five years for any subsequent occasion of any such offense.

### **Criminal Laws**

### [Social Services Law §145](#) **Penalties**

Any person who submits false statements or deliberately conceals material information in order to receive public assistance, including Medicaid, is guilty of a misdemeanor.

### **Social Services Law § 366-b, Penalties for Fraudulent Practices**

- a) Any person who obtains or attempts to obtain, for himself or others, Medicaid by means of a false statement, concealment of material facts, impersonation or other fraudulent means is guilty of a class A misdemeanor.
- b) Any person who, with intent to defraud, presents for payment a false or fraudulent claim for furnishing services, knowingly submits false information to obtain greater Medicaid compensation, or knowingly submits false information in order to obtain authorization to provide items or services is guilty of a class A misdemeanor.

### **New York Penal Law**

The following references are from the NYS Penal Laws: NYS PENAL LAW Articles 155, 175, 176, 177

### [Penal Law Article 155](#), **Larceny.**

The crime of larceny applies to a person who, with intent to deprive another of his property, obtains, takes or withholds the property by means of trick, embezzlement, false pretense, false promise, including a scheme to defraud, or other similar behavior. This statute has been applied to Medicaid fraud cases.

### [Penal Law Article 175](#), **False Written Statements.**

Several sections in this Article relate to filing false information or claims and have been applied in Medicaid fraud prosecutions:

- a) §175.05 - Falsifying business records - involves entering false information, omitting material information or altering an enterprise's business records with the intent to defraud.

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- b) § 175.10 - Falsifying business records in the first degree - includes the elements of §175.05 and the intent to commit another crime or conceal its commission.
- c) §175.30 - Offering a false instrument for filing in the second degree - involves presenting a written instrument, including a claim for payment, to a public office knowing that it contains false information.
- d) §175.35 - Offering a false instrument for filing in the first degree - includes the elements of §175.30 and an intent to defraud the state or a political subdivision.

### [Penal Law Article 176, Insurance Fraud](#)

Applies to claims for insurance payment, including Medicaid or other health insurance and contains six crimes involving filing false insurance claims and committing insurance fraud.

### [Penal Law Article 177, Health Care Fraud.](#)

This statute, enacted in 2006, applies to health care fraud crimes. It was designed to address the specific conduct by health care providers who defraud the system including any publicly or privately funded health insurance or managed care plan or contract, under which any health care item or service is provided. Medicaid is considered to be a single health plan under this statute. This law primarily applies to claims by providers for insurance payment, including Medicaid payment, and it includes six crimes.

- a) Health care fraud in the 5th degree - a person is guilty of this crime when, with intent to defraud a health plan, they knowingly and willfully provide materially false information or omits material information for the purpose of requesting payment from a health plan.
- b) Health care fraud in the 4th degree - a person is guilty of this crime upon filing such false claims on more than one occasion and annually receives more than three thousand dollars.
- c) Health care fraud in the 3rd degree - a person is guilty of this crime upon filing such false claims on more than one occasion and annually receiving over ten thousand dollars.
- d) Health care fraud in the 2nd degree - a person is guilty of this crime upon filing such false claims on more than one occasion and annually receiving over fifty thousand dollars.
- e) Health care fraud in the 1st degree - a person is guilty of this crime upon filing such false claims on more than one occasion and annually receiving over one million dollars.

### **Whistleblower Protections**

#### [Federal False Claims Act \(31 U.S.C. §3730\(h\)\)](#)

The Federal False Claims Act provides protection to qui tam relators (individuals who commence a False Claims action) who are discharged, demoted, suspended, threatened, harassed, or in any other manner discriminated against in the terms and conditions of their employment as a result of their furtherance of an action under the FCA. 31 U.S.C. 3730(h). Remedies include reinstatement with comparable seniority as the qui tam relator would have had but for the discrimination, two times the amount of any back pay, interest on any back pay, and compensation for any special damages sustained as a result of the discrimination, including litigation costs and reasonable attorneys' fees.

#### [New York State False Claim Act \(State Finance Law §191\)](#)

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

### [New York State Labor Law, Article 20-C](#)

In addition to New York's False Claims Act, there are other state laws which address false claims and provide employees with protection against retaliation. The following references are from the NYS Labor Law which can be found in the [Consolidated Laws of the State of New York, Labor](#) (LAB): Consolidated Laws of the State of New York, Labor (LAB)

### [NY Labor Law § 218-b \(8\):](#)

Makor/ WLCR will not take adverse action against any employee for: Exercising their rights under this section or under this policy; Reporting violations of this policy to any government entity; Reporting an airborne infectious disease exposure concern to, or seeking assistance or intervention with respect to airborne infectious disease exposure concerns, to Makor/ WLCR or any government entity; or refusing to work where such employee reasonably believes, in good faith, that such work exposes them or other workers or the public, to an unreasonable risk of exposure to an airborne infectious disease due to the existence of working conditions that are inconsistent with laws, rules, policies, orders of any governmental entity, including but not limited to, the minimum standards provided by the airborne infectious disease exposure prevention standard. Provided that the employee notified the Makor/ WLCR of the inconsistent working conditions and Makor/ WLCR failed to cure the conditions or had or should have had reason to know about the inconsistent working conditions and maintained the inconsistent working conditions.

### [Not-for-Profit Corporation Law \(NPCL\) § 715-b:](#)

**Whistleblower Protection:** No individual, including current and former employees and independent contractors, employees of independent contractors, directors, officers, and volunteers of a Makor/WLCR who in good faith reports any action or suspected action taken by a Makor/WLCR director, officer, employee, independent contractor or volunteer that is wasteful, abusive, illegal, fraudulent, or otherwise in violation of applicable federal, state and local statutes, including New York Not-For-Profit Corporation Law Section 715-b, New York State Labor Law Section 740 (the provisions of which are discussed separately below), ordinances, executive orders, rules, regulations, judicial or administrative decisions, rulings or orders, or any adopted policy or procedure of Makor/ WLCR ("Covered Conduct") shall not suffer intimidation, harassment, discrimination or other retaliation<sup>1</sup> or, in the case of employees, adverse employment consequence.

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<sup>1</sup> New York law includes among prohibited retaliatory actions the following, without limitation: (i) adverse employment actions or threats to take such adverse employment actions against an employee in the terms of conditions of employment including but not limited to discharge, suspension, or demotion; (ii) actions or threats to take such actions that would adversely impact a former employee's current or future employment; or (iii) threatening to contact or contacting United States immigration authorities or otherwise reporting or threatening to report an employee's suspected citizenship or immigration status or the suspected citizenship or immigration status of an employee's family or household member, as defined in subdivision two of section four hundred fifty-nine-a of the social services law, to a federal, state, or local agency.

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**Procedure for reporting a violation or suspected violation** (whether pursuant to New York Not-for-Profit Corporation Law Section 715-b or otherwise in a manner which is protected under New York State Labor Law Section 740):

- Any report of actual or suspected Covered Conduct made reasonably or otherwise in good faith can be reported to the employee's direct supervisor or the Corporate Compliance Officer, Mr. David Singer (either of the foregoing, the "Recipient").
- A report may be provided in person, in writing, or by electronic mail. Written reports by mail or electronic mail shall be made on the *Whistleblower Disclosure Statement* attached as **Appendix "A"**. For reports made in person, the Recipient shall record the information reported on a Whistleblower Disclosure Statement. With the exception of a person's report of his or her own violation, the reporter shall not be required to provide his or her name on said form. However, anonymous reports must include sufficient information, including but not limited to, the name of the person against whom the report is being made, the date of the incident, the names of any potential witnesses, and a description of the incident, in order that an investigation can be conducted, or other appropriate action can be taken.
- The report shall be reviewed by the Recipient with appropriate members of the Makor/WLCR's management and/or the Compliance Officer (the "Reviewing Authorities") and legal counsel, as appropriate. Generally, the composition of the Reviewing Authorities shall be determined in light of the nature of the reported Covered Conduct and the individuals involved. The Reviewing Authorities shall undertake or cause to be undertaken such investigation as they deem appropriate, taking into consideration all relevant facts and circumstances. The subject(s) of the report may be notified of the investigation, if the Reviewing Authorities deem it appropriate, unless prohibited by law.
- Makor/WLCR expects full cooperation by all individuals in the investigation of a report. An employee's failure to participate or otherwise cooperate in an investigation may result in disciplinary action, up to and including termination of employment.
- All information gathered during the investigation will be kept confidential to the extent possible, consistent with applicable laws and the need to conduct an adequate investigation and prevent or correct actual or suspected Covered Conduct. Information relating to a report shall be provided only to those with a need to know so that an effective investigation or other action can be taken. In appropriate cases, and without limitation, the investigation documents will be shared with law enforcement personnel. Disclosure of reports to individuals not involved in the investigation shall be viewed as a serious disciplinary offense and may result in discipline, up to and including dismissal, termination or civil lawsuits.
- The Corporate Compliance Officer, or their designated parties, will be assigned to administer the whistleblower policy and to report annually to the board or an authorized committee thereof, except that directors who are employees may not participate in any board or committee deliberations or voting relating to administration of the whistleblower policy.
- When the investigation is concluded, the Reviewing Authorities will determine if any disciplinary actions, up to and including termination of employment, and/or other corrective measures are required or otherwise warranted, which may include reporting the findings of the investigation to appropriate law enforcement or governmental authorities. Any person who is the subject of a whistleblower complaint may not be present at or participate in board or committee deliberations or vote on the matter relating to such complaint, provided that nothing shall prohibit the board or committee from requesting that the person who is subject to the complaint present information as background or answer questions at a committee or board meeting prior to the commencement of deliberations or voting relating thereto.
- If, when the investigation is concluded, it is not established that Covered Conduct has occurred, the investigation will be closed. Any reports of Covered Conduct that are made in bad faith may



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result in disciplinary action, up to and including termination of employment and/or other appropriate corrective measures.

- If the identity of the person making the report is known, the Reviewing Authorities may inform him or her of the resolution, if the Reviewing Authorities determine that it is appropriate. If the Reviewing Authorities deem it appropriate and/or the circumstances so require, the subject(s) of the report may be notified of the resolution.
- The Reviewing Authorities shall document any investigation or other action carried out under this policy, including the rationale for any recommended resolution and/or corrective action. All documentation relating to the investigation, including the *Whistleblower Disclosure Statement*, and the resolution and/or corrective action taken shall be kept in Makor/WLCR's records in the [Human Resources Department] for at least five years.
- This policy shall be posted on Makor/WLCR's website and/or at Makor/WLCR's offices in a conspicuous location accessible to directors, officers, employees, independent contractors, and volunteers. Notification regarding the rights provided under Section 740 of the New York State Labor Law (effective January 26, 2022), shall be included with such posting, and shall also be posted conspicuously in easily accessible and well-lighted places customarily frequented by employees and applicants for employment at Makor/WLCR.

### Labor Law § 740 (effective January 26, 2022):

Notification regarding the rights provided under New York State Labor Law Section 740 is required and therefore the statute has been included in its entirety:

Makor/ WLCR protects, not only current employees from retaliatory action but also former employees, as well as independent contractors for reporting employer activity that they reasonably believe violates any law, regardless of whether the law relates to public safety or whether the activity was an actual violation. Makor/ WLCR prohibits retaliation and defines that as long as an employee makes a "good faith effort" to notify the employer, and that's only if no exception applies. The employee will not have to make a good faith effort to notify the employer if the employee reasonably believes that there is: imminent danger to public safety; if the employee reasonably suspects that the employer will destroy evidence; if the employee reasonably believes physical harm would result; or if the employee reasonably believes the employer is already aware of the activity and will not correct it. Makor/ WLCR will follow all these regulatory requirements and will post Whistleblower notification in a conspicuous area.

The statute of limitations for such reporting is two years. Punitive damages and other new relief will be available if the violation was willful, malicious or wanton. Employers can also be assessed a civil penalty up to \$10,000.

- a. Labor Law § 740 prohibits any retaliatory action by an employer against an employee whether or not within the scope of the employee's job duties, because such employee does any of the following: (i) discloses, or threatens to disclose to a supervisor or to a public body an activity, policy or practice of the employer that the employee reasonably believes is in violation of law, rule or regulation or that the employee reasonably believes poses a substantial and specific danger to the public health or safety; (ii) provides information to, or testifies before, any public body conducting an investigation, hearing or inquiry into any such activity, policy or practice by such employer; or (iii) objects to, or refuses to participate in any such activity, policy or practice.
- b. For purposes of Labor Law §740, (i) "employee" means an individual who performs services for and under the control and direction of an employer for wages or other remuneration, including former employees, or natural persons employed as independent contractors to carry out work in furtherance of an employer's business enterprise who are not themselves employers. (ii) "law, rule or regulation" includes: any duly enacted federal,

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state or local statute or ordinance or executive order; any rule or regulation promulgated pursuant to such statute or ordinance or executive order; or any judicial or administrative decision, ruling or order; (iii) "Public body" includes the following: the United States Congress, any state legislature, or any elected local governmental body, or any member or employee thereof; any federal, state, or local court, or any member or employee thereof, or any grand or petit jury; any federal, state, or local regulatory, administrative, or public agency or authority, or instrumentality thereof; any federal, state, or local law enforcement agency, prosecutorial office, or police or peace officer; any federal, state or local department of an executive branch of government; or any division, board, bureau, office, committee, or commission of any of the foregoing public bodies.

- c. The protection against retaliatory action under of Labor Law §740 pertaining to disclosure to a public body does not apply to an employee who makes such disclosure to a public body unless the employee has made a good faith effort to notify his or her employer by bringing the activity, policy or practice to the attention of a supervisor of the employer and has afforded such employer a reasonable opportunity to correct such activity, policy or practice. Such employer notification is not required where: (i) there is an imminent and serious danger to the public health or safety; (ii) the employee reasonably believes that reporting to the supervisor would result in a destruction of evidence or other concealment of the activity, policy or practice; (iii) such activity, policy or practice could reasonably be expected to lead to endangering the welfare of a minor; (iv) the employee reasonably believes that reporting to the supervisor would result in physical harm to the employee or any other person; or (v) the employee reasonably believes that the supervisor is already aware of the activity, policy or practice and will not correct such activity, policy or practice.
- d. For purposes of Labor Law §740, "retaliatory action" means an adverse action taken by an employer or his or her agent to discharge, threaten, penalize, or in any other manner discriminate against any employee or former employee exercising his or her rights under Labor Law §740, including (i) adverse employment actions or threats to take such adverse employment actions against an employee in the terms of conditions of employment including but not limited to discharge, suspension, or demotion; (ii) actions or threats to take such actions that would adversely impact a former employee's current or future employment; or (iii) threatening to contact or contacting United States immigration authorities or otherwise reporting or threatening to report an employee's suspected citizenship or immigration status or the suspected citizenship or immigration status of an employee's family or household member, as defined in subdivision two of Social Services Law §459-a, to a federal, state, or local agency.
- e. For purposes of Labor Law §740, "supervisor" means any individual within an employer's organization who has the authority to direct and control the work performance of the affected employee; or who has managerial authority to take corrective action regarding the violation of the law, rule or regulation of which the employee complains.
- f. An employee who has been the subject of a retaliatory personnel action in violation of Labor Law § 740 may institute a civil court action seeking the relief set forth below within two years after the alleged retaliatory action was taken. Any action authorized by Labor Law § 740 may be brought in the county in which the alleged retaliatory action occurred, in the county in which the complainant resides, or in the county in which the employer has its principal place of business. In any such action, the parties shall be entitled to a jury trial. It shall be a defense to any action brought pursuant to this section that the retaliatory action was predicated upon grounds other than the employee's exercise of any rights protected by this section. Such relief includes:
  - i. an injunction to restrain continued violation;
  - ii. the reinstatement of the employee to the same position held before the retaliatory personnel action, or to an equivalent position;
  - iii. the reinstatement of full fringe benefits and seniority rights;
  - iv. the compensation for lost wages, benefits and other remuneration;
  - v. payment by the employer of reasonable costs, disbursements, and attorney's fees;

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- vi. a civil penalty not to exceed \$10,000; and/or
  - vii. payment by the employer of punitive damages, if the violation was willful, malicious or wanton.
- g. Labor Law § 740 does not diminish the rights, privileges, or remedies of any employee under any other law or regulation or under any collective bargaining agreement or employment contract.
- h. Pursuant to Labor Law § 740, every employer shall inform employees of their protections, rights and obligations under this section, by posting a notice thereof. Such notices shall be posted conspicuously in easily accessible and well-lighted places customarily frequented by employees and applicants for employment.

### [New York State Labor Law, Section 741](#)

A health care employer may not take any retaliatory action against an employee if the employee discloses certain information about the employer's policies, practices or activities to a regulatory, law enforcement or other similar agency or public official. Protected disclosures are those that assert in good faith, about a believed unlawful or dangerous business practices. Where: the employee believes constitute improper quality of patient care; improper quality of workplace safety; practices that affect the health of the employee or patient; and protect disclosures made to a news media outlet or social media forum available to a public at large." The employee's disclosure is protected only if the employee first brought up the matter with a supervisor and gave the employer a reasonable opportunity to correct the alleged violation, unless the danger is imminent to the public or patient and the employee believes in good faith that reporting to a supervisor would not result in corrective action. If an employer takes a retaliatory action against the employee, the employee may sue in state court for reinstatement to the same, or an equivalent position, any lost back wages and benefits and attorneys' fees. If the employer is a health provider and the court finds that the employer's retaliatory action was in bad faith, it may impose a civil penalty of \$10,000 on the employer.

### **CODE OF ETHICS**

Everyone employed by the Agency shall maintain the highest level of honesty and integrity in all their actions performed on behalf of the Agency. The following list (which is not all inclusive) lists the expected behavior of the Agency's staff or representatives:

1. Maintaining the confidentiality of all Agency records. These include records of the individuals, Makor/ WLCR reports, financial records and personnel records.
2. Avoid unauthorized use of Makor/ WLCR assets including property, supplies and equipment.
3. Maintain the public image of Makor/ WLCR. All staff members should conduct themselves in a manner which reflects positively on the Agency's image both internally and externally. Everyone should deal fairly and appropriately with MAKOR/ WLCR's individuals, other employees, consultants and vendors.
4. Each staff member is expected to perform his/her job responsibly. He/she is expected to know what is required of his/her position and that these requirements are performed at the highest level possible.
5. Each employee has a primary responsibility to Makor/ WLCR and is expected to avoid any activity that may interfere or have the appearance of interfering with the performance of his/her job responsibilities.
6. Makor/ WLCR staff shall not engage in any activities that constitute abuse of persons receiving services as defined in the regulations of the Commissioner of OPWDD. Failure to exercise one's duty to intercede or report any activity which may be considered abuse will constitute abuse.
7. All staff must maintain a professional relationship with the individuals he/she serves. There should be no financial transactions between staff and individuals. All staff are expected to maintain a professional demeanor with the individuals. All staff are expected to model appropriate and acceptable behavior while in the presence of the

## 11.1 Corporate Compliance Plan

individuals.

8. As a tax-exempt, non-profit agency, there are several guidelines which must be adhered to.

Two examples are:

A. Makor/ WLCR's sales tax exemption may be used only for legitimate Agency business and service transactions

B. Makor/ WLCR will withhold all required taxes from employee compensation.

9. All time and attendance records must be accurately entered and recorded. Staff should not be conducting personal business while on the clock. All activities done to justify billing must be accomplished accurately, on a timely basis. Staff should never certify performing services that have not been performed. In addition, he/she should not misrepresent the services which were performed.

10. Each employee has a primary business responsibility to MAKOR/ WLCR and is expected to avoid any activity that may interfere or have the appearance of interfering with his/her performance. A conflict of interest exists if an employee's outside business or other interests may affect adversely, or have the potential to affect adversely, his or her motivation, objectivity, loyalty or performance. In addition, a potential conflict of interest occurs when an individual's personal or private interests might lead an independent observer to reasonably question whether the individual's professional actions or decisions are influenced by significant personal interest, financial or otherwise.

11. If a relative of a member of the Board of Directors or a key employee such as the CEO wants to be hired by Makor/ WLCR, this could be a conflict of interest. Precautions have to be taken to ensure that this is the most qualified person for the position and his/her salary is commensurate with what others in the same position are receiving. In addition, the member of the Board of Directors or the key employee must recuse himself/herself from any decision to hire or any decision in the future to promote the relative.

### **CORPORATE COMPLIANCE PROGRAM OVERVIEW**

All programs are required to adhere to Medicaid and Makor/ WLCR rules prior to billing for services provided. The Accounting and Bookkeeping Department has an Accounting Manual which prescribes how to bill for the various programs. Bookkeeping must make sure to keep this manual current so that it covers all programs. In addition, there are Administrative Memoranda and the New York State Regulations issued by OPWDD for all of the various programs which prescribe the documentation needed to bill for each program.

Women's League's internal compliance controls ensure that there are no erroneous or inappropriate billings, include routine reviews of documentation in support of billing by Waiver program managers and the Agency's Quality Assurance Department. OPWDD memoranda and regulations delineate which documentation supports billing.

Waiver program managers / supervisors review, on a monthly basis, Waiver Habilitation documentation to ensure that staff have recorded service provision accurately.

The Bookkeeping Department reviews all billing rosters received from managers to check for irregularities and other potential issues.

For ICFs, the managers will notify the Bookkeeping Department, in writing, of any hospitalization of any of their individuals.

A person designated by the Bookkeeping Department reviews, on a monthly basis, IRA Res Hab service checklists to ensure that staff have recorded service provision accurately.

QA conducts centralized, in-office reviews of waiver billing documentation, as it is produced. In addition, QA will

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conduct on-site, programmatic reviews of each Waiver program annually.

QA conducts testing and checks on Medicaid records to ensure accuracy.

In the course of any of the reviews described in this plan, the scope of the review could be expanded to make sure that all potential issues are identified and that corrective procedures are put in place to prevent any recurrence.

In the Early Intervention (EI) Program, all service coordinator notes are reviewed by management prior to billing. All evaluations are reviewed by an evaluation coordinator prior to billing. All therapists' documentation of their service provision is reviewed for content quality and accuracy by two staff members. Women's League EI billing system is programmed to reject all duplicate billings. Prior to any billing being transmitted to the City, i.e., service coordinator notes, evaluations or therapists' billings, a cross check is done by someone other than the person doing the data input.

Additionally, the EI Program QA staff randomly reviews files during the year for billing and quality accuracy.

Finally, an external CPA firm conducts an audit of all agency records, encompassing an annual test check to provide an opinion on the accuracy of annual financial statements.

Top of Form

Upon notification of a potential Medicaid billing documentation error or concern, the Corporate Compliance Officer will submit a [Full Self-Disclosure Statement](#) and [certification](#) or an [Abbreviated Self-Disclosure Statement](#), depending on the nature of the potential error to OMIG using the [portal](#) on their website. This must occur within 60 days of identification of the potential error or concern or by the date the corresponding cost report was due, whichever is later. Abbreviated Self-Disclosure will be used for Medicaid Fee for Service overpaid due to one time, routine or transactional errors & voided or adjusted overpaid claims. Full Self-Disclosure will be used for significant issues such as fraud, excluded provider employment, systemic errors, and any other serious financial or programmatic discrepancies.

Upon notification of records which are used for Medicaid billing getting damaged or destroyed, within 30 calendar days of discovery the Corporate Compliance Officer will complete and send to OMIG a [Statement of Damaged, Lost or Destroyed Records](#) and [Certificate](#).

Bottom of Form

All candidates for employment who have regular and substantial contact with the individuals are required to undergo a Criminal Background Check (CBC) prior to working unsupervised, one on one with the individuals. Each month, a list of new hires is sent to QA along with the CBC approval notice. These are reviewed for completeness. If there are any questions, they are clarified with the Human Resources Department prior to approval of the monthly list.

If a position requires a certain educational background or license, the Human Resources Department will verify with the school and/or state the validity of the diploma and/or license.

The Human Resources Department will make the required checks with the State Central Registry as well as the Justice Center (SEL, OPWDD MHL Section 16.34 and Section 1834) prior to allowing the potential employee to work unsupervised with the individuals.

The Human Resources Department will also verify that any candidate for employment is not on the state or federal 'excluded provider' lists. In addition, all employees and contractors of the Agency will be screened against both 'excluded provider' lists once a month.

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Supervising BCBA's will review all components of planning and service provided by the BCBA's and staff/technicians. Q.A. will review all billings submitted by BCBA's and staff/technicians prior to submission for payment to ensure compliance with all Makor/ WLCR requirements.

### **Use of Agency Funds and Resources:**

Controls must be established to ensure that Agency funds are not spent for items or services unrelated to Agency business. All agency vehicles have mileage logs which are regularly reviewed to ensure that they are not used for personal business. The personal allowance funds are audited quarterly by the QA department to make sure they are used for the benefit of the individuals and are used for permissible purposes. Staff in bookkeeping review all requests for reimbursement of travel expenses to make sure they were used for Agency business.

### **Purchasing/Competitive Bidding:**

All purchases must be prudent, reasonable and related to the care of the individuals and/or to the operations of the Agency. Purchase orders are required for all major purchases. The Agency has procedures in place for managerial approval of all vouchers which are used to make purchases from Agency-approved vendors. For all purchases over \$5,000.00, competitive bids must be obtained from, at least, three vendors. No bid may be opened until after the deadline for submitting bids has passed. Written records of the competitive bidding process must be maintained. Note: for purchases between \$5,000.00 and \$15,000.00, bids may be obtained orally but a written record of each oral solicitation must be kept.

It is the stated policy of Makor/ WLCR to comply with the provisions of [N.Y.S. Executive Law Article 15-A](#) and [5NYCRR § 140 - 143](#), which pertains to the Minority/Women Business Enterprises - Disabilities Equal Employment Opportunity (MWBE-EEO) Program, as further clarified by the guidelines and goals expressed by OPWDD in its Guidance Bulletins.

### **Medical Necessity/Quality of Care**

All individuals receiving services must have a medical necessity for them. This will usually be established through completion/annual certification of the ICF/MR - LEVEL OF CARE ELIGIBILITY DETERMINATION FORM. The QA Department, as part of the Agency's self-survey process, assures that all requirements for entitlement to services have been met and continue to be met.

All staff are required to adhere to the standards of care required by OPWDD regulations, all other governmental regulations and Agency requirements. This will also be assessed during the agency's self-survey process (as well as during any ad hoc visits) to ensure that a high quality of service is maintained.

All individuals hired by the Agency will be given the necessary training in order to properly perform his/her duties. He/she will be given follow up training periodically both as refresher training and to train them on new policies and procedures.

### **GOVERNANCE**

1. The Board of Directors will receive training and orientation and understand its role thereby.
2. The Board of Directors must review and approve Makor/ WLCR finances. This includes revenue and expenditures, assets and liabilities and annual budgets. A Finance and Audit Committee was established.
3. The Board of Directors is responsible, through the senior staff of Makor/ WLCR, for seeing that all programmatic and administrative policies and procedures are developed, reviewed, approved, implemented

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and updated, as needed. An Executive Committee was established.

### **DUTIES OF THE BOARD OF DIRECTORS**

1. The Board of Directors receives regular reports from the CEO, COO, Compliance Officer and Senior Management, and then ensure that compliance programs are in place and are effective.
2. The Board of Directors must follow up on systemic failures. This should be accomplished through proper interaction with the senior staff member responsible for the particular area in question.

### **EXECUTIVE COMPENSATION: BOARD OF DIRECTOR'S RESPONSIBILITY**

1. The Board of Directors must ensure the reasonableness of the compensation packages of the Executives of Makor/ WLCR as determined by a market value survey from comparable organizations or its equivalence.
2. The above data should be reviewed and recommended by the Board of Director's Audit Committee and discussed at a Board meeting and documented in the Board minutes.
3. The full compensation package should be included in the evaluation and in discussions with the Executive (e.g., deferred compensation, expense allowances, etc.). This should be, preferably, reduced to writing.
4. The Board of Directors must vote on the above compensation package. At least 2/3's of the Board must be present for the vote.

### **MANDATORY REPORTING**

Makor/ WLCR is responsible for certain mandatory reports.

These reports must be accurate and submitted on time.

Mandatory reports include: CFRs, financial statements, Form 990, other tax forms, e.g., payroll, unemployment, etc... Responsibility for ensuring that these reports are accurate and filed timely rests primarily with the CFO, and in turn, with the CEO to whom he/she reports.

### **CORPORATE COMPLIANCE OFFICER and Corporate Compliance Committee**

The Corporate Compliance Officer is responsible for the oversight of the Agency's corporate compliance program, including administration of the whistleblower policy pursuant to New York Not-for-Profit Corporation Law Section 715-b and New York State Labor Law Section 740, included above. If any allegations of impropriety are made, he/she will investigate the allegation, institute any corrective actions as appropriate, and insure that any improperly received monies are refunded. The Corporate Compliance officer will be responsible for ensuring that all staff are periodically trained on corporate compliance. This includes volunteers and the Board of Directors. He/she will be responsible for reporting any issues or concerns to the CEO and the Board of Directors. Staff will be made available to him/her to assist with any reviews and/or investigations which are needed.

The Corporate Compliance Officer has established a **Corporate Compliance Committee** to assist with the review and oversight of the Agency's corporate compliance program and compliance. The Corporate Compliance Committee Membership is listed in the Agency's Policies and Procedures, under "11.1.3 Corp. Compliance Committee -List of Members".

### **The Committee's charter**

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### The **Corporate Compliance Committee** will:

1. The Corporate Compliance Committee Chair Person and members can be found under “11.1.3 Corp. Compliance Committee -List of Members”.
2. Committee Meeting and Responsibility Requirements:
  - a. Meet with a quorum of at minimum the Corporate Compliance Committee Chair Person and 2 other committee Members on a quarterly basis, at minimum, or when there is an item which needs to be addressed.
  - b. The Committees Duties and Responsibilities include;
    - i. Ensuring that the Agency’s Corporate Compliance Policies and Procedures are up-to-date, and have effective systems in place to ensure compliance and to report any non-compliance issues.
    - ii. Ensuring that the Agency’s staff training follows those Policies, as well as the required laws and regulations.
    - iii. The Compliance Officer as well as the Corporate Compliance Committee will look for systemic trends and make recommendations for proper record storage. The manager of each program shall ensure that records are stored in a safe manner. If records get destroyed, they will notify the compliance office [who will investigate and follow the process established below](#). The committee will then make recommendations to try improving storage at this location.
    - iv. Have systems to ensure and report non-compliance issues.
    - v. To look for and report possible non-compliance issues to the Agency’s Administration and Board of Directors, when they are not being addressed properly.
    - vi. Support the Compliance Officer in managing daily compliance-related tasks.
    - vii. To look for and report possible non-compliance trends to the Agency’s Administration and Board of Directors, on at least an annual basis.
    - viii. To complete risk assessments on at least an annual basis for the Agency.
  - c. The Committee will review any potential compliance issues, recommend Agency corrections and systematic changes when it determines it is necessary, meet, on at least an annual basis, to discuss and record sufficient funding, resources and staff to establish and ensure compliance. The Committee will record minutes of these meetings, and will also include, on at least an annual basis, the: Review and update the Committee’s charter and to send a report to CEO and Board of Directors, on at least an annual basis.

### **TRAINING AND EDUCATION**

All employees, both paid and volunteers, and including the Board of Directors will be trained on his/her rights and responsibilities under corporate compliance.

All new employees will receive initial training on corporate compliance as part of his/her initial orientation during the hiring process. During the following six months he/she will attend a mandatory training session on Corporate Compliance. Subsequent to that, there will be period training sessions to refresh the staff’s knowledge of the Agency’s Corporate Compliance Policies and to train them on any changes which occur as a result of federal or state policy changes or which occur because of self-monitoring audits or audits by regulatory agencies. All training will be documented.

Currently, the Agency’s online training platform, is used to train all staff when they are initially hired, as well as on an annual basis. Updates to this Policy will be posted for all staff on the Agency’s website and disseminated to all staff in this online training as a document, or as a notice with a link to the updated Policy on the Agency’s website.

Independent contractors will be given the latest copy of the Agency’s Corporate Compliance Plan as part of his/her contract.

### **OPEN LINES OF COMMUNICATION**



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All employees have the responsibility to report if something improper is happening. The success of the Corporate Compliance Plan is contingent on employees being able to report if what they see as a violation of the plan without fear of retaliation as long as he/she is reporting in good faith. It is an expected good practice, when one is comfortable with it and thinks it is appropriate under the circumstances, for concerns to be raised first with a supervisor. If this is not comfortable or not a viable option, employees are encouraged to contact the Corporate Compliance Officer directly at 347-390-1330. Although such reports may be made anonymously, callers are urged to leave detailed information so that a full investigation can be made.

The Corporate Compliance Officer can also be contacted to ask questions regarding any compliance issue. If the caller leaves his/her name and telephone number, he/she will receive a response within no more than ten business days.

If an employee has a concern about the CEO, this should be reported directly to the Corporate Compliance Officer. If the concern is about the Corporate Compliance Officer, this should be reported to the CEO.

Questions or concerns about any ethical or legal issue may be raised without concern for disciplinary or retaliatory action as long as they are made in good faith. Employees will not be subject to reprisals or retaliatory actions for reporting or supplying information about potential violations, except in cases where those employees are responsible for the violation or when deliberate false reporting has occurred. All staff are required to assist in the resolution of any and all compliance issues. Failure to do so may result in disciplinary action.

### **DISCIPLINARY POLICIES AND PROCEDURES**

Makor/ WLCR will make every effort to ensure that its billings for Medicaid services are as accurate as humanly possible. Erroneous billings can be classed into two broad categories: fraudulent billings and erroneous billings.

### **INCORRECT BILLINGS DUE TO FRAUDULENT ACTIONS**

A decision as to the appropriate discipline for fraudulent actions will be made after consultation between the Corporate Compliance Officer, the CEO, the COO and the Program Manager/Supervisor. Depending upon the egregiousness of a first offense, the discipline may be either a two-week suspension without pay or termination of employment. All second offenses will result in termination of employment. Some examples of fraudulent actions include: certifying performance of actions which were not done; certifying actions done by someone other than the certifier; falsifying dates of certification of services; falsifying dates monthly notes prepared; duplicate billings for the same services; unqualified personnel performing services; persons performing services who are on the 'excluded provider' lists; upcoding - billing for a higher payment than the service warrants; billing for a Supervised IRA Residential Habilitation day when a service "was performed" but the individual was not present in the IRA; always billing for Supportive IRA Residential Habilitation for a full month for all individuals without verification and documentation; billing for a full month of Supportive IRA Residential Habilitation when there are less than 4 billable days, billing at the transition level for longer than warranted.

Regardless of the punishment, all erroneous billings will be voided or adjusted.

### **ERRONEOUS BILLINGS**

Billing errors resulting from oversight, carelessness or lack of knowledge will be addressed depending on the circumstances of the errors. Corrective action may consist of remedial training, internal reviews, or any type of discipline ranging from counseling, verbal warnings, written warnings, removal from a position or termination of employment. All decisions will be made by management in consultation with the Corporate Compliance Officer in order to maintain consistency.

In all cases, all erroneous billings will be voided or adjusted.

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### **CAUSING/PERMITTING IMPROPER ACTIVITIES**

Anyone who encourages, directs, facilitates or permits improper activities, whether or not they ultimately result in erroneous billings will be subject to discipline depending on the egregiousness of the activity. See section on Incorrect Billings Due to Fraudulent Actions for sequence of discipline.

#### **Contract Requirements for Outside Contractors:**

1. As per OMIG regulations, contractors that bill Medicaid services or have regular access to the residences, must adhere to the following rules mandated by the agency.
2. Contract agencies are required to disseminate to their contractors the Makor Compliance Policy.
3. Contractors must ensure that their contracted staff working within Makor are trained in Makor's Compliance Policy.
4. Contracts must include a termination clause in the event of non-compliance with these Compliance requirements.

### **SYSTEMIC AND ROUTINE IDENTIFICATION OF COMPLIANCE RISK AREAS**

The Corporate Compliance Officer will be responsible for ascertaining any risk areas which need oversight, internal reviews or periodic spot checks. They will keep abreast of potential issues through use of the following:

#### **State and Federal Audits**

1. Internal/external audits and reviews such as the annual fiscal inventories done by the QA Dept., the programmatic self-surveys done by the QA Dept., the Limited Fiscal Reviews, the triennial Social Security Onsite Review
2. Areas of risk uncovered in prior reviews and/or audits
3. Areas brought up at OPWDD meetings as well as at provider association (IAC, NYSACRA) meetings and releases from these groups
4. In addition, the Agency's Corporate Compliance Officer and Corporate Compliance Committee will conduct an annual Risk Assessment to determine if the Agency's systems are complying with the requirements to ensure compliance, to find and respond to potential issues and rectify them.

### **SYSTEM FOR RESPONDING TO COMPLIANCE ISSUES AS THEY ARE RAISED**

As any compliance issues are raised, the Corporate Compliance Officer, together with any assigned staff, will take any or all of the following steps:

1. If the health and/or safety of anyone is affected, they will take all necessary steps to protect them.
2. A thorough investigation of the issues raised will be undertaken. All evidence will be secured and all appropriate parties will be interviewed.
3. All investigations will be handled as expeditiously as possible.
4. All employees are required to cooperate with any staff assisting the Corporate Compliance Officer in an investigation.
5. A final report will be issued to the CEO and the Board of Directors summing up the process and the results. If corrective action is appropriate, the Corporate Compliance Officer will follow up to ensure that it takes place.
6. The Corporate Compliance Officer will ensure that any erroneous billings are voided or adjusted, as

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well as, to submit them through the [OMIG Self-Disclosure Portal](#), using either the full or abbreviated Self-Disclosure process, depending on which is called for, [as detailed above](#).

7. The Corporate Compliance Officer, together with the administrative, management and supervisory staff, will ensure that there is no retaliation against any employee who, within the regulatory parameters, reports fraudulent or incorrect activities on the part of any of the staff.

### **NON-INTIMIDATION AND NON-RETALIATION POLICIES FOR REPORTING**

**Any** form of retaliatory discipline or other retaliation against **any** employee who reports Covered Conduct reasonably or otherwise in good faith, is strictly prohibited. Retaliation should be reported immediately to the Corporate Compliance Officer. Depending on the nature and seriousness of the offense, Makor/WLCR will impose appropriate discipline against any director, officer, employee, independent contractor or volunteer found to have engaged in any form of retaliatory conduct against an individual reporting actual or suspected Covered Conduct in accordance with this policy, up to, and including, termination. Volunteers that engage in any such conduct will not be permitted to volunteer in Makor/WLCR activities.

### **SELF-DISCLOSURE**

The Office of the Medicaid Inspector General (OMIG) has set up a protocol for self-disclosure of improper or fraudulent billings. Self-disclosure is proper in the following situations:

- Any errors which include over billing or improper billing etc.
- Substantial routine errors
- Systematic errors
- Patterns of errors
- Destruction of records
- Potential violation of fraud and abuse laws

If such a situation occurs, the Corporate Compliance Officer will conduct a full investigation covering all areas outlined in the OMIG's Self-Disclosure Guidance. They will then submit them through the OMIG Self-Disclosure Portal using either the abbreviated or full disclosure process, [depending on what is appropriate](#). This must occur within 60 days of identification of the potential error or concern or by the date the corresponding cost report was due, whichever is later. In the case of Destruction of Records they will complete a [Statement of Lost or Destroyed Records form](#).

Any violations of criminal activity must be reported to OMIG and the MFCU (Medicaid Fraud Control Units - Office of Inspector General).

### **OTHER IMPORTANT POLICIES AND PROCEDURES**

1. The Agency's independent audit firm should not provide non-auditing services to its audit clients (e.g., bookkeeping, legal services, etc.), in order to avoid a conflict of interest.
2. Form 990, which is publicly available, will be reviewed by the CEO, the CFO and the members of the Board of Directors. The Corporate Compliance Officer of MAKOR/ WLCR, who serves as the Agency's Internal Auditor as well, will provide the necessary assistance to accomplish this practice.
3. Clear policies and procedures will be established concerning any loans made to employees of the Agency. Loans may not be made to members of the Board of Directors or to executives of the organization.
4. It is a clear policy that Corporate Compliance is a mainstay (chief support) of MAKOR/ WLCR, and as such this

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message will be disseminated from the top, i.e., the CEO and the Board of Directors.

To report a Compliance Concern, contact:

**MR. DAVID SINGER, CORPORATE COMPLIANCE OFFICER:**

**718-853-0900 ext. 330 or 347-390-1330**

***Any reporter who wishes to report a compliance concern anonymously, may do so by calling this number above, after first dialing “\*67”. This will block any caller ID, and the call will show up as a “blocked number”.***

**Appendix A**

**MAKOR/WOMEN’S LEAGUE COMMUNITY RESIDENCES, INC.  
WHISTLEBLOWER DISCLOSURE STATEMENT**

Date of Report: \_\_\_\_\_

<b>REPORTER’S CONTACT INFORMATION: <i>Not required if being submitted anonymously</i></b>	
Name	Position/Title
Dept/Location	Work #
Home Address	Home/cell #
Best time to reach you	Email
Preferable method of communication:	

<b>PERSON AGAINST WHOM THE REPORT OF ACTUAL OR SUSPECTED COVERED CONDUCT IS BEING MADE: <i>If more than one, please complete additional form(s).</i></b>	
Name	Position/Title
Dept/Location (if applicable)	Phone # (if known)

<b>WITNESS(ES) TO ACTUAL OR SUSPECTED COVERED CONDUCT: <i>Attach additional sheets if necessary.</i></b>	
Name	Position/Title
Dept/Location	Phone # (if known)
Name	Position/Title
Dept/Location	Phone # (if known)

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