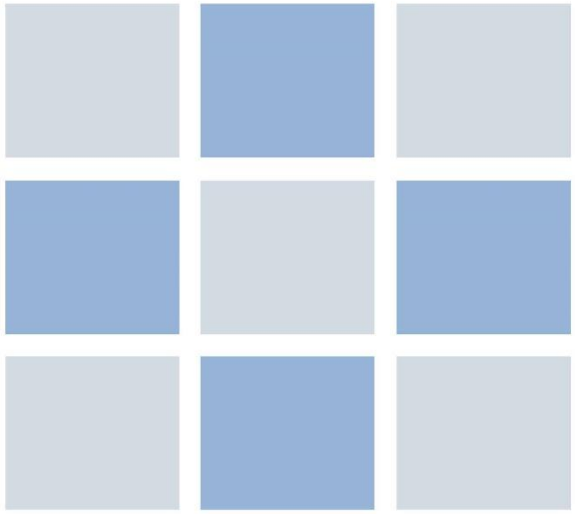
Hometown Health Centers



Elements of an Effective Compliance Program

CORPORATE ETHICS AND COMPLIANCE MANUAL

2024-2025

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November 2023

Dear Hometown Health Team:

Major changes have been made to the New York State Social Services Law and 18 NYCRR Part 521. Hometown is committed to embracing these changes in its ongoing efforts to fight fraud, waste, and abuse while providing exemplary care to its patients.

One major change to Hometown's Compliance Manual is to separate the Code of Conduct from it. The Code is a foundational document and is now distinct from the Manual. The Code and Manual play a key role in the overall Compliance Program, but merit being distinguished. Hometown's Mission and Values are now in the Code of Conduct and can still be found on the Staff Intranet.

As it always does the Board's Compliance Committee reviews compliance policies and procedures annually. It reflects a commitment to incorporate the latest changes to the law and identify and apply best practices. In the area of compliance, but as in all areas, Hometown's Board of Directors always looks for ways to improve and be good stewards of limited resources.

The Code and Manual reflects a sincere effort to go above and beyond what the law requires by being ethical, forthright, and transparent at all times.

As a valued member of this organization, you have an important role in effective, ongoing compliance. It is also a very important part of your job duties to be engaged with the Compliance Program.

This document is always a work in progress because identifying and applying best practices does not stop. Laws and regulations change. This Manual and the separate Code of Conduct are your guides to make the Program a success. Together we make a difference.

Compliance cannot be successful without your active engagement. Please remember if you see or hear something, you must report it. Together we fight fraud, waste, and abuse while furthering access to quality of care to thousands of New Yorkers. Your feedback or suggestions are always welcomed.

Sincerely,

Caroline Welch-Webster, Board Committee Chair;

Joseph Gambino, CEO; and

Paul Jesep, Compliance Officer

Executive Summary

HHC's Compliance Program is necessary because it:

- Protects patient privacy;
- Nurtures an ethical culture;
- Promotes Quality Assurance;
- Prevents conflicts of interest;
- Ensures proper credentialing;
- Furthers accurate billing and coding;
- Educates staff and the Board of Directors;
- Assists in obeying State and Federal laws;
- Maintains and promotes high quality care;
- Defines, identifies and prevents fraud, waste, and abuse;
- Provides patients ready access to their health information;
- Strives to promote best practices in management and board governance; and
- Sets standards for vendors/consultants doing/seeking business with Hometown.

HHC's Compliance Program applies to:

- Vendors;
- Volunteers;
- Contractors;
- Consultants;
- Supervisors;
- Interns/Students;
- Department heads;
- Board of Directors; and
- *All staff* no matter the title or position.

What you *must* do:

- Act fairly;
- Act ethically;
- Act honestly;
- Act as a team;
- Be engaged with ethics and compliance;
- Promote Hometown's Mission and Values;
- Report a conflict of interest that you may have;
- Treat patients and one another with respect at all times;
- Identify ways to do things better in your department and take action;
- Suggest ideas to your supervisor or the Corporate Ethics and Compliance Officer to better use resources and stop waste and fraud;
- Report problems immediately to your supervisor or directly to the Corporate Ethics and Compliance Officer; and
- Remind your team at meetings it must do regular Risk Assessments.

Compliance policies, manual, newsletters, and Code of Conduct are located on the Staff Intranet.

Introduction

In 2006, Hometown Health Centers (HHC) implemented a Corporate Compliance Program (Ethics, Compliance, and Code of Conduct). Everyone affiliated with HHC, including staff, contractors, consultants, volunteers, Business Associates, and Board Members[1] are bound by the Program.

Compliance requires everyone to be involved. It is a team effort.
It is a job requirement for everyone to report concerns and be engaged.
See Something? You MUST say something. The law protects you if you report.

This includes not only Staff, but also Board Members, Vendors, Contractors, and anyone affiliated with Hometown.

I. Ethics and Compliance Introduction

Quality care, patient access, and fighting fraud, waste, and abuse are a hallmark of any effective compliance program. *Patient wellbeing is always the focus*. Quality is furthered, in part, by monitoring and documenting quality of care and customer service (See Appendix G).

Compliance must complement efforts to serve the patient with access and excellent care while never *permitting fraud, waste, or abuse*.

All staff, vendors, consultants, and Board Members are bound by Hometown Health Center's (HHC) Compliance Program and Code of Conduct.

Hometown is a designated Federally Qualified Health Center (FQHC). With this designation comes much responsibility fulfilled, in part, by having an effective Ethics and Compliance Program. The Program is reviewed and adopted by the Board of Directors on an annual basis.

New York State recommends several key elements to an effective compliance program. These elements parallel those outlined by the Federal government. Recent changes bring New York's compliance elements more in line with the federal government. In doing so, however, there is no diminishment at the State or Federal level in the importance of protecting staff, vendors, and Board Members who raise compliance concerns. Whistle blower protections remain a foundation to Hometown's compliance program.

Absent of an effective compliance strategy causes unnecessary abuses jeopardizing patient care and privacy while wasting resources and potentially defrauding the government. Very stiff fines are assessed against organizations and healthcare providers found in violation of State and Federal law. Penalties include criminal proceedings, significant fines in the tens of thousands of dollars, and potentially the loss by providers of their ability to bill for services under Medicare and Medicaid.

[1] Board Members by virtue of voting on the document are considered having received the Manual. If a Member is absent during a vote, he or she is duty-bound to read Board Minutes and be aware of a revised Manual in place.

Hometown maintains its compliance program, in part, by having a Board designated Compliance Committee in addition to an Internal Staff Committee.

Several important State and Federal laws staff and Board Members should have a familiarity with include:

- Federal False Claims Act (31 USC §§ 3729-3733)
- Federal Anti-Kickback Statute (42 USC § 1320a-7b(b))
- Federal Physician Self-Referral Law (42 USC §1395nn)
- Federal Exclusion Statute (42 USC §1320a-7)
- Federal Deficit Reduction Act (42 USC §1396a(a)(68))
- Federal Patient Protection and Affordable Care Act (42 USC §18001)

- New York False Claims Act (State Finance Law §§ 187-194)
- New York Social Services Law (§ 363-d – Effective Compliance Program)
- New York Social Services Law (§ 145-b – False Statements)
- New York Social Services Law (§ 145-c, 366-b – Penalties, Sanctions)
- New York Penal Law Article 175 (False Written Statements)
- New York Penal Law Article 176 (Insurance Fraud)
- New York Penal law Article 177 (Healthcare Fraud)
- Part 521, Title 18, of the New York State Codes, Rules, and Regulations

Providers are required to read before starting employment *A Road Map for New Physicians Avoiding Medicare and Medicaid Fraud and Abuse* issued by US Department of Health and Human Services – Office of Inspector General. See https://oig.hhs.gov/compliance/physician-education/index.asp.

State and Federal laws also come with non-intimidation and non-retaliation (whistle blower) protections. *This means you cannot be harassed for wanting to report a problem. Nor can you be fired after you report one in good faith.*

There are 800 numbers you may call at the State and Federal offices of the Medicaid Inspector Generals to report issues of harassment or intimidation for reporting a problem. You are protected.

Your suggestions in how to make HHC's Ethics and Compliance Program better are encouraged and would be valued and valuable. There are locked compliance boxes on Hometown sites. Only the Corporate Ethics and Compliance Officer or his/her designee has access to these boxes.

The Federal Government and New York State Office of Medicaid Inspector General outlined several key elements for an effective compliance program.

Independent of legal requirements, HHC fosters an ethical culture. A law or policy does not need to be in place to be ethical at all times. Hence, act with fairness and integrity. Go above and beyond the law when given the opportunity.

II. Elements to an Effective Compliance Program

1. Use of Written Policies & Procedures

HHC regularly reviews its policies and expects department managers and supervisors to be proactive by identifying areas for compliance best practices.

As part of its overall Compliance Program, HHC has adopted a Code of Conduct, Conflict of Interest Disclosure Statement, and uses the National Association of Community Health Centers (NACHC) Corporate Compliance Toolkit where appropriate. HHC also has specific, individual policies for an array of matters ranging from proper documentation of services to whistle blower protections.

Compliance policies, manual, newsletters, and Code of Conduct are located on the Staff Intranet.

Code of Conduct

HHC established a Code of Conduct, which is a foundation of its Corporate Compliance Program. The Code addresses specific behaviors that may arise. Because it is impossible to foresee every issue, anyone affiliated with HHC must act with a sense of ethics, doing what is fair and right, at all times. HHC attempts to foster an ethical culture by encouraging you to be proactive, even if there is no clear rule about an unforeseen issue; put patient care and safety first along with proper use of resources.

The Code of Conduct is a separate designated document found on the Staff Intranet.

All Managers and Board Members must demonstrate exemplary conduct and be examples for Staff, Vendors, Contractors, and anyone affiliated with Hometown.

Organization's Compliance Responsibility

In accordance with the Patient Protection and Affordable Care Act (PPACA), it is required of all enrolled healthcare providers to have a compliance program in place. In adopting a compliance program, it allows HHC to: implement written compliance policies, procedures, and standards of conduct; designate a compliance officer who is responsible for monitoring compliance efforts and enforcing practice standards; conduct effective training and education on the compliance policies and procedures; develop effective lines of communication and allow anonymous reporting mechanisms; enforce standards for employees through well-publicized disciplinary guidelines; and respond promptly to detect offenses and develop corrective action plans.

Good Faith Reporting

Staff, vendors, volunteers, interns/students, contractors/consultants, and Board Members are obligated to report to the Corporate Ethics and Compliance Officer any activity he or she believes to be inconsistent with HHC policies or state and federal law. This can be done anonymously using HHC's 24/7 hotline (*67) 518-688-3460. Staff may use a locked compliance box to report anonymously any concerns. Policies are in place to protect those who come forward to report possible legal and ethical breaches.

You cannot be fired or harassed as a Staff Member, or lose a contract, or removed from the Board for reporting a problem. Your rights are protected by law.

Other Written Policies and Procedures

HHC maintains many specific policies and procedures ranging from declining gifts, to billing and coding, and documenting medical treatment, among other things. These policies are reviewed annually. ***They are available on the J Drive and Staff Intranet.***

Annual Work Plan

Every year, the Corporate Ethics and Compliance Officer will prepare a Work Plan after reviewing, in part, State and Federal priorities and receiving input and approval from the Board Compliance Committee. It is at the Committee's discretion whether full Board approval is required.

Exit Interview

Staff may be asked to participate in an Exit Interview by Human Resources and the Compliance Officer. Staff may also initiate contact with the Compliance Officer if he or she wishes to share something in confidence at the end of his or her employment.

1a. Non-Intimidation/Non-Retaliation (Whistleblower Protection)

It is illegal to discourage a vendor, employee, or Board Member from reporting a problem. It is illegal to retaliate against someone for reporting a concern. If someone is being intimidated or harassed, he or she can contact the Office of Medicaid Inspector General (OMIG) at the State and Federal level. Or the vendor, employee, or Board Member may contact any State agency for assistance.

Employees who choose to move on with their career may request an Exit Interview with the Compliance Officer. This Exit Interview is separate from the routine Exit Interview done by Human Resources.

2. Designated Compliance & HIPAA Privacy Officer and Cybersecurity Manager

Paul Jesep is HHC's Chief Corporate Ethics and Compliance Officer. He is responsible for overseeing day-to-day operations of the Corporate Compliance Program and making recommendations to senior management and the Board of Directors. He is the "point person" for all vendors, employees, consultants, physicians, administrators, and members of the Board of Directors to share concerns.

In the event the Compliance Officer is ill, on vacation, or extended leave, the CEO shall appoint an interim Compliance Officer.

The Compliance Officer or his or her designee shall serve as the HIPAA Privacy Officer for patient or staff concerns.

Internal Extension: 4168

External Line: *67-518-688-3460 (*67 blocks caller ID)
Compliance Email: PJesep@hhchc.org
HIPAA Email: PrivacyOfficer@hhchc.org

Accountability to CEO and Board of Directors

The Ethics and Compliance Officer reports to the CEO and the Board of Directors. The Corporate Ethics and Compliance Officer is empowered to go directly to the Board at any time, without consulting with or receiving the approval of the CEO, if he or she believes the situation merits. This shall be noted in Hometown's organizational chart.

As a routine matter, the Board will meet with the Ethics and Compliance Officer no less than twice a year in Executive Session without other staff present.

The Ethics and Compliance Officer shall meet with the CEO monthly to discuss compliance matters. He or she shall also attend weekly Senior Management meetings to monitor organizational decisions and comment where appropriate.

Board Compliance Committee/Internal HHC compliance Committee

Two committees exist to promote an effective compliance culture. Several members of HHC staff compose the Internal Committee while Board members and the Corporate Ethics and Compliance Officer makeup the Board Compliance Committee. There is cross-pollination between the two Committees with the Corporate Ethics and Compliance Officer serving as a facilitator in each case.

Specific Duties and Functions

Duties and functions of the Corporate Ethics and Compliance Officer shall include, but not be limited to:

- Maintain an Incident Log.
- Prepare Compliance Reports.
- Maintain an anonymous outside Hotline.
- Conduct periodic organization-wide Compliance survey.
- Train all new staff and interns with Compliance fundamentals.
- Require key staff to fill out an Annual Conflict of Interest Survey.
- Periodically meet with Board and Internal Compliance Committees.
- Facilitate Board training with webinars and in-person presentations.
- Work with departments to require and facilitate the regular conducting of Audits/Risk Assessments.
- Maintain locked compliance boxes for anonymous reporting.
- Conduct Exit Interviews with those requesting such interviews.
- Annually review, and revise if needed, Forms, Compliance Policies, Compliance Manual, and Code of Conduct.
- Maintain a presence throughout the organization using posters and walking through the facilities as time permits to build personal relationships.

- As part of ongoing training, use online tools, conduct departmental training, issue monthly newsletter, and occasional organization wide events such as educational games for National Ethics and Compliance Week.
- Work with the COO and CFO to determine if HHC has passed the Medicaid threshold for it to certify under the Federal Deficit Reduction Act (DRA) as noted on the NYS OMIG site.
- Monitor websites that include, but are not limited to HRSA, OMIG, NACHC, and CHCANYS.

Designated Cyber Security Officer

Lauren Nodonly is HHC's Director of IT. Hometown places the highest priority on protecting itself and its patients against cyberattacks. Hence, employees, Board Members, and vendors and consultants must report any cybersecurity concerns immediately. Staff and Board Members must be especially mindful of phishing and ransomware scams.

Internal Extension: 4160
Cell Phone: 518-530-7946
Email: lnodonly@hhchc.org

3. Education Program

Training for new employees and ongoing training will include, but will not be limited to webinars, workshops, conferences, e- and print newsletters, Board and staff presentations, and access to the latest compliance news. Staff will be required to do annual online compliance training, which is overseen by Human Resources. Supervisors must monitor and hold staff members accountable who are not meeting online training requirements. One method for pre-tests and testing after training will be through Relias. Monthly Relias training is mandatory and failure to comply may result in corrective action which may include termination.

Board Members and Staff (including the Compliance Officer) shall receive ongoing training or education.

Components to Education Program

Five key components shall make up Hometown's Education Program: 1) Orientation, 2) Culture, 3) Annual Training, 4) Records, 5) Test for Effectiveness. These are further explained in the Education Program Policy under Compliance.

Compliance and Quality Assurance Committees

Education of staff will be coordinated, in part, through two separate committees, the Ethics and Compliance and the Quality Assurance Committees. Part of an effective program includes cross-pollination of activities to reach as many individuals as possible on an ongoing basis. An integral component of an effective compliance program includes excellence in patient care through ongoing Quality Assurance. It should be underscored, however, that although compliance and quality are complementary, they are treated by Hometown Health Centers as distinct functions.

New Employee Training/Exit Interviews

All new employees will meet for training with the Corporate Ethics and Compliance Officer. This training will outline the Code of Conduct, Mission and Values, some key State and Federal laws that drive the Compliance Program, the ethical culture HHC tries to foster, and the role and responsibilities everyone has in actively promoting compliance whether reporting concerns or helping their respective departments engage in Risk Assessments, developing action plans and monitoring progress.

Employees who move on in their careers have the option to meet and arrange with the Corporate Ethics and Compliance Officer for an exit interview. This exit interview is an opportunity to share any concerns that arose during employment. This is distinct from an exit interview with Human Resources. See Appendix C.

Although the Corporate Ethics and Compliance Officer plays an important role in training and education, he or she should not be the sole source of doing it. In addition, it is the responsibility of department heads to engage in ongoing training with staff in the areas of laws, regulations, or new policies adopted by the Board of Directors. Any clarification needed on laws or regulations should, of course, be referred to the Corporate Ethics and Compliance Officer.

Demonstrating Compliance in the Workplace

In order to demonstrate compliance in the workplace, it is imperative all employees: maintain confidentiality of patient information, conduct routine Risk Assessments, evaluate security measures, examine privacy measures, and collaborate effectively with colleagues to ensure a limited-risk work environment.

Print/Electronic Newsletters/Webinars

As one component of its educational initiatives, the Compliance Program will include a monthly newsletter and additional educational emails. All staff are required to read their emails and the Compliance Newsletter. Both are an important means of education and failure to do so can subject the individual to corrective action.

Training by Your Supervisor/Corporate Ethics and Compliance Officer

Supervisors and Department heads are expected to train their staffs on an ongoing basis regarding ethics and compliance issues specific to their respective areas of care and service. They may use resources found online and the monthly Newsletter.

Conflict of Interest Disclosure Survey

The Survey attempts to identify any potential or actual conflicts before an individual begins his or her formal affiliation with HHC. Individuals also are required to disclose any actual, potential, or perceived conflicts as they arise during their affiliation or employment with HHC. It is the responsibility of everyone to have a working knowledge of these policies and procedures and refer to them. If you find gaps in them bring them to the attention of the Ethics and Compliance Officer.

All new staff and Board Members must complete a Disclosure Survey at the time of starting their service. All Board Members and key staff, identified by the Corporate Ethics and Compliance Officer, must fill out a Conflict of Interest Statement annually. Any staff person, regardless of position, must be proactive and immediately report a potential conflict.

See Appendix A

HIPAA Access/Privacy/Security

HIPAA = privacy, security, and providing the patient easy access to his or her PHI.

Too often the Health Insurance Portability and Accountability Act (HIPAA) is thought of as only "patient privacy." Although this is certainly true and very important, HIPAA is also about giving patients prompt access to their Protected Health Information (PHI) while making every effort to protect information from falling into the wrong hands or being misused by someone. Hometown's providers and the organization itself shall comply with the CURES Act making PHI readily available to patients as soon as it arrives at Hometown.

Failing to secure and ensure privacy for PHI while making it readily available to patients are potentially HIPAA breaches.

According to the Federal government, HIPAA "establishes national standards to protect individuals' medical records and other personal health information and applies to health plans, health care clearinghouses, and those health care providers that conduct certain health care transactions electronically. The Rule requires appropriate safeguards to protect the privacy of personal health information and sets limits and conditions on the uses and disclosures that may be made of such information without patient authorization."

It is the responsibility of anyone and everyone who works in healthcare or at a healthcare facility to be familiar with HIPAA, especially patient privacy and Protected Health Information (PHI). PHI includes, but is not limited to: birth date, personal email, medical condition, employer's name, cell phone number, Social Security Number, healthcare proxy contact, and health insurance information.

PHI must only be used or accessed for legitimate business purposes on Hometown approved devices by employees authorized to interact with the patient at the time PHI is accessed.

Misuse, mishandling, or unauthorized access to PHI will result in corrective action which may include termination. Theft of PHI can result in criminal prosecution.

Privacy is also discussed in Hometown's Code of Conduct in Appendix A. *As a healthcare professional handling PHI it is your responsibility to understand the importance of HIPAA and patient privacy*. More information can be found here: **https://www.hhs.gov/hipaa/for-professionals/index.html**.

As noted earlier, because you know someone outside Hometown who is a patient, you must always abide by HIPAA and privacy requirements.

Do not look in the patient record of a friend, neighbor, relative, or co-worker. You must have a work-related reason to access the record at the time it is done. Furthermore, you only access on a need to know basis stemming from your job duties. If someone you know gives you verbal authorization to access their record, it is not enough. There must be written authorization on file and all established procedures must be followed.

In addition, if ***YOU*** are a patient at Hometown, you may not look at your own chart or record without following all established procedures. It merits repeating, you cannot look at the record of a relative or significant-other without written authorization in the patient record. All access procedures must still be followed. Always discuss with a supervisor.

HIPAA works in tandem with the Health Information Technology for Economic and Clinical Health Act (HITECH). The Act is a government initiative to get providers to use Electronic Health Record (EHR) systems. HITECH requires Hometown to report any data breaches. This includes unsecure or unencrypted PHI being disclosed.

The goal of HITECH is to promote safety, quality, and efficiency through the use of technology. One of the most important changes brought about by HITECH is to empower patients with the option to receive health information electronically.

Because of HITECH, breach notifications must be sent to patients and the state and federal governments if there is a high risk that harm can occur which can include identity theft. Disclosure of private health information, even if no actual harm occurs, may still be a breach. HIV disclosure, for example, would in most, if not all cases, be considered a reportable breach.

4. Open Line of Communications to Corporate Ethics and Compliance Officer

Access to the Corporate Ethics and Compliance Officer

Employees have the choice, if he or she chooses not to go to a supervisor, to contact the Ethics and Compliance Officer directly about any issue or concern.

24 Hour Hotline/Confidential and Anonymous

Information will be kept confidential. Confidentiality may require some disclosure on the part of the individual who is reporting a concern, but his or her name will not be shared with anyone else. This may not apply in all cases such as witnessing criminality, sexual harassment, and quality of patient care. In other cases, the individual may report a concern anonymously by using the compliance box to leave a note with specific details about an incident without any self-identifying information.

Employees are required to report directly or anonymously to a supervisor or the Ethics and Compliance Officer any concerns about waste, fraud, or wrongdoing. It is part of everyone's job responsibilities. If the employee elects to make a good faith anonymous report, he or she can call:

Internal Extension: 4195, or,

24-hour anonymous hotline: (*67) 518-688-3460.

Hometown maintains a strict non-intimidation and non-retaliation policy to protect anyone who in good faith makes a report – anonymously or otherwise.

You cannot lose your job for acting in good conscience to report a concern. Confidentiality will be maintained in most cases. Your job is protected in <u>all</u> cases when reporting a concern in good faith.

Members of the Board of Directors also have a duty to report concerns to the Corporate Ethics and Compliance Officer and to the Board's Compliance Standing Committee. This includes, but is not limited to, concerns a Board Member has not disclosed a conflict of interest or failed to recuse him- or herself from discussions about the matter where a conflict arises.

During the course of their employment, employees are expected to be proactive in seeking ongoing training and to be responsive to training provided by the Corporate Ethics and Compliance Officer throughout the year which may include, but not be limited to, reading the monthly newsletter and any electronic e-newsletters.

<u>Locked Compliance Boxes</u>

There are locked compliance boxes where anonymous notes may be left. Staff should keep in *mind this is different from the Employee Suggestion Box.* Only the Corporate Ethics and Compliance Officer or his/her designee has access to the compliance boxes.

<u>Board of Directors Access</u>

As a matter of routine the Board of Directors shall meet with the Compliance Officer in Executive Session no less than twice a year. No other member of staff shall be in attendance.

5. Evaluations/Corrective Policies/Mandatory Participation

HHC has an array of policies and their effectiveness is based in part on enforcement by supervisors and Human Resources. Corrective action may include: warnings, reprimands, probation, demotion, temporary suspension, termination, restitution of damages, and referral for criminal prosecution. These sanctions apply to employees, Board Members, and persons associated with Hometown Health Centers including vendors and consultants. Retraining or greater education also is an option. All compliance incidences must be reported, logged and investigated.

A Board Member may be removed, suspended or censured for failing to disclose any personal or family conflict of interest during a Board or Committee discussion and before a vote. He or she can be removed, suspended or censured for misusing resources of the organization. The Board shall consider the seriousness of the conflict and how it was discovered in determining whether to impose a penalty of removal, suspension, or censure of the Board Member. Actions and discussion shall be reflected in Board minutes.

Staff Evaluations Include Compliance Engagement

All members of staff, regardless of position, are mandated to adhere to the Compliance Program. Annual Employment Evaluations overseen by Human Resources may reflect, in part, how an individual was engaged and participated in compliance. Depending on an employee's position, this may include, but not be limited to, Risk Assessments, fulfilling online training requirements, participation in compliance competitions, and immediately reporting ethical or compliance concerns that may have been observed.

6. Ongoing Identification of Risk Areas – This Applies to Everyone

Compliance through systematic, self-initiated Risk Assessments is the responsibility of every HHC Department. *They are mandated by HHC's Board of Directors* and the New York State Office of Medicaid Inspector General (OMIG). *Managers and department leaders who fail to work with their staff to conduct Risk Assessments on an ongoing basis are subject to corrective action up to and including termination.*

Risk assessments identify problems before they occur or determine weaknesses in providing care, governance, or charging for services.

Department managers, supervisors, and sometimes the Board of Directors are all called to initiate Risk Assessments, develop and implement action plans, and measure progress. Risk Assessments protect patients and stop fraud, waste, and abuse. Risk Assessments are expected by the Federal government to qualify for Federal Tort Claims Act (FTCA) coverage and the New York State Office of Medicaid Inspector General (OMIG). Departments must do them.

Although risk areas include billing, credentialing, medical necessity and quality of care, they also involve "other risk areas that are or should with due diligence be identified."

In conducting a Risk Assessment, ask several key questions. They include, but are not limited to:

- Does the Department have a system to routinely identify compliance risk areas specific to its work?
- Does the Department have a system for self-evaluation of the risk areas identified in the previous question, including internal audits and as appropriate external audits?
- Does the Department have a system in place for evaluation of potential or actual non-compliance as a result of self-evaluations and audits?
- Does the Department keep the Corporate Ethics and Compliance Officer informed of the Risk Assessments planned, being conducted, and once they are concluded?

See Appendix D for more information on how to conduct Risk Assessments.

Billing

Compliance issues that may result in fines or criminal investigation include, but are not limited to:

- Billing for services not done;
- Billing for unnecessary services;
- Improper oversight of revenue cycle;
- Duplicate billing (billing two or more times for the same service);
- Up coding – billing for a higher level of service than actually provided ;
- Unbundling two or more services that must be billed together under applicable reimbursement rules;
- Billing for more than a single visit on the same day, to the extent prohibited by applicable reimbursement rules;
- Failure to refund credit balances that are due to clients;
- Failure to maintain sufficient documentation to demonstrate that services were performed and to support third party reimbursement;
- Billing for services provided by personnel not properly supervised, not recognized as qualified by the government, or lacking the level of licensure required by appropriate law;
- Absent, forged, or untimely physician certifications;
- Inadequate management and oversight of subcontracted services, which results in improper billing;
- Duplication of services provided by physicians and other mental health providers; and
- Failure to return overpayments once HHC becomes aware of them.

Knowingly submitting false or fraudulent claims for payment to a government agency violates the Civil False Claims Act, 31 USC Sec. 3729 (a).

A person acts "knowingly" under the law not only if they have actual knowledge of a false or fraudulent claim, but also if they act with deliberate ignorance or reckless disregard for the law. Civil damages are substantial with the potential for criminal liability.

Exclusion Lists

HHC will monitor government exclusion lists for those affiliated with the organization to verify they have not violated the public trust and become ineligible to participate in the Medicaid program or any other State or Federally funded program. This will include staff, Board Members, prospective employees, and outside vendors and consultants.

Current Exclusion Lists include:

- NYS Office of Medicaid Inspector General (OMIG) – all staff, board members, and vendors are checked ***every month***.
- Federal Office of Inspector General List of Excluded Individual/Entities (OIG-LEIE) – all staff, board members, and vendors are checked ***every month***.
- Federal System for Award Management (SAM) – all staff and board members are checked ***every month***.
- Specially Designated National and Blocked Persons List/Office of Foreign Assets Control (SDN/OIFAC) – all staff and board members are checked on a ***rotating basis*** (once a year).
- National Plan and Provider Enumeration System (NPPES) – all staff and board members are checked on a ***rotating basis*** (15+ a month).
- Social Security Death Master Index (SSDM) – All staff and board members checked on a ***rotating basis*** (15+ per month).

- Google Ratings – vendors only on a ***rotating basis*** (once a year).

If an employee is found on an Exclusion List, HR will handle the resolution. If a vendor is found on an Exclusion List, Finance will handle the resolution. If a Board Member is found on an Exclusion List, it will be referred to the full Board for Resolution. Resolution shall mean termination of all affiliation with Hometown.

Compliance also does criminal background checks for arrests/child abuse through a company for staff going into homes. All school-based staff go to the Sheriff's Office for finger printing and a background check. It also does staff background checks on all staff specific to the sex offender registry.

Medical Necessity and Quality of Care

Assessments must be done on an ongoing basis. These departmental self-initiatives will have a direct impact on the excellence HHC strives to bring to patient-consumers care while being good stewards of all resources.

Compliance Log

HHC shall document incidences and the progress and follow-up to address problems or system weaknesses. Issues arise, and it is important to track and monitor them to further quality improvement, best practices, and be good stewards of resources.

7. Timely Corrective Actions when Risks Identified or Problems Occur

Departments must show the initiative and leadership in responding to compliance issues in a timely, committed manner including working with the Corporate Ethics and Compliance Officer.

Independent of Risk Assessments and quality improvement initiatives, issues brought to the Corporate Ethics and Compliance Officer's attention require they be logged, investigated, depending on seriousness reported to the Board immediately, perhaps suggest corrective action, and the situation monitored for improvement and resolution. This process will include whether violations must be promptly reported to State and Federal authorities.

III. Federal Tort Claims Act (FTCA) – Liability Coverage for Providers

Anyone holding a medical or healthcare related license in New York State must take an active role in seeing their respective departments conduct ongoing Risk Assessments (RAs). RAs are directly linked to liability coverage through the Federal government.

FTCA Coverage

Health center staff "may be deemed to be Federal Employees qualified for protection under FTCA."

If annual program requirements are met, health centers save millions of dollars that can be invested into health services and to care and fund quality improvement initiatives.

According to the US Department of Health and Human Services, "As Federal employees, the employees of qualified health centers are immune from lawsuits. The Federal government acts as their primary insurer." In addition, legal representation is provided without charge to the health center.

In order for health centers to benefit from this coverage, the government expects every effort to maintain the highest standard of care. Failure to do so, risks losing FTCA coverage. Measuring the standard of care can be achieved, in part, through RAs. RAs are mandatory. *Departments, especially Clinical, Dental, and Behavioral Health, must do them on an ongoing basis.*

Risk Assessments (RAs)

RAs serve two functions: Assist in identifying risk in departments not clinical in nature. And identify clinical risks/standard of care which directly impacts FTCA coverage. Clinically driven RAs limit the potential of malpractice. See Appendix D.

IV. Doing Business with Hometown Health Centers

Hometown Health Centers sometimes requires the services of carefully screened vendors and consultants. They are selected through a competitive bidding process to provide needed quality products and services at a fair price. In working with Hometown, vendors and consultants cannot be listed on any government Exclusion List.

Exclusion List

As noted earlier, anyone doing or wishing to do business with Hometown will be checked against government Exclusion Lists before being retained and during the period in which a service or product is used. It is illegal for any vendor or consultant listed on a State or Federal Exclusion List to do business with an entity participating in the Medicare, Medicaid, or other State or Federal healthcare programs.

Abiding by Ethics and Compliance

In addition, each vendor and consultant must be committed to the highest ethical standards. This includes abiding by Hometown's Compliance Program. All vendors or consultants are required to report any compliance concerns regarding waste, fraud, or abuse at Hometown Health Centers to the Compliance Officer by emailing pjesep@hhchc.org or calling the Compliance Hotline (*67) 518-688-3460.

Business Associate Agreement (BAA)

No vendor handling or having access to Hometown's Protected Health Information (PHI) or Electronic Health Information (EHI) on behalf of Hometown may do so without a Business Associate Agreement (BAA) in place. See Appendix F.

Appendix A

Conflict of Interest Disclosure Statement

Conflict of Interest Disclosure Statement

This is a sample and is likely to change each year

I _____(NAME), _____ (TITLE) at Hometown Health Centers (HHC), understand my duty and responsibility to annually fill out a Conflict of Interest Disclosure Statement (COIS)as determined by the Ethics and Compliance Officer. I also must bring any potential conflicts to the immediate attention of the Ethics and Compliance Officer when they may arise during the year.

Conflicts *may occur* when a person affiliated with HHC benefits directly or indirectly from an outside source due to employment. A benefit need not be detrimental to HHC to be a conflict of interest.

Specific examples of conflicts include, but are not limited to:

- Serving on a board of another organization that does or could compete with HHC.
- An immediate family member or person of close relation who serves on the board of an organization or works for one whose mission is contrary to HHC.
- A financial interest by an employee, his or her family, or any business entity currently affiliated with him or her doing or wanting to do business with HHC. This could include, but not be limited to, rental agreement, financial services, investment interest, real estate transactions, contracted services with HHC, or referring business acquaintances to Hometown that could be perceived as a quid pro quo.
- Using HHC resources or affiliation with it to help with a business or financial opportunity that directly or indirectly benefits the employee or close family members.
- Receipt of gifts like meals, gift cards, or tickets to a concert or sports event, regardless of value, that could be perceived as an attempt to influence an employee in his or her HHC capacity. Accepting gifts worth more than a nominal value such as a marketing pen or key chain, are generally prohibited.

Please Answer the Following:

1. Identify all business or organizations, including non-profits, where you or a family member work or serve in a fiduciary role (e.g. officer, director, committee member, elected or appointed official), *if the organization's interests* may compete or otherwise be in conflict with the mission or interests of HHC. *If none exist type or write N/A (Not Applicable).*

2. Identify (please specify how) the individual(s) with whom you may be related, done business with, been contracted by, hold an investment interest with, that have been referred to HHC where a possible conflict could have arisen due to a perceived quid pro quo relationship (*If not related to anyone type or write N/A*).

3. Please list any personal or business interests, activities, or relationships involving you, another employee, or family member that could compromise, or appear to compromise, your duty, loyalty, or objectivity during your employment with HHC. Do you plan to work part-time somewhere else? Provide details. (*If none exist type or write N/A*).

4. Does any member of your family by blood, marriage, or significant other work at Hometown or provide services as a vendor to the organization? (If none exist type or write N/A).

5. Are you aware of any HHC contractor, consultant, or organization seeking to do business with HHC who has given you or a family member a gift? *Answer Yes or No*. If Yes, please explain in detail.

6. Are you barred, excluded, under investigation, or otherwise ineligible to participate in a State or Federal government program like Medicaid? *If Yes, please explain in detail using additional sheets, if necessary*.

7. Have you ever been sanctioned for or convicted of a criminal offense regarding the provision of healthcare services? If Yes, please explain in detail using additional sheets, if necessary, including but not limited to any mandatory reporting list you may be on.

8. Have you ever been convicted of a criminal offense or investigated for endangering the welfare of a child? If Yes, please explain in detail using additional sheets, if necessary.

9. In keeping with New York State Social Services Law Section 363-d & New York Codes, Rules and Regulations (NYCRR) Part 521, your employment is conditioned on your active participation in Hometown's Compliance Program. This participation includes: 1) never engaging in non-compliant behavior; 2) never encouraging, directing, facilitating or permitting non-compliant behavior; and immediately reporting suspected problems including, but not limited to waste, fraud, and abuse to the Compliance Officer. Failure to meet these requirements may result in termination of employment. Do you understand this requirement is a condition of employment? Please answer in writing Yes or No below.

I _____ (Type/Print Name) affirm that I have fully and honestly answered this Statement, and have disclosed all or do not have any *actual, potential, or perceived* conflicts. I will be fully engaged in the Compliance Program. I understand it is my responsibility to keep the Ethics and Compliance Officer apprised of any actual, potential, or perceived conflicts that may arise at any time during my affiliation with HHC and to fully cooperate with the Ethics and Compliance Officer regarding any review or investigation.

I understand HHC is a tax-exempt organization and to maintain this Federal status it must engage primarily in charitable activities for tax-exempt purposes. I will maintain confidentiality on all sensitive, personnel, or proprietary matters relating to HHC or its affiliates.

Furthermore, by signing or typing this Statement, I certify my answers are correct, complete, and truthful. I understand by providing incorrect, incomplete, or untruthful information may result in my immediate termination from employment. I also certify I have not edited or changed the content of this document other than making allowances for spacing where needed.

Finally, I understand by typing my name below, should I choose to do so instead of signing, it will constitute my signature. I have not altered this document in any way other than to make allowances for spacing.

_____ (type or sign) _____

Signature Date

Appendix B

_____ Please Initial

COMPLIANCE TRAINING AGENDA

_____ Please Initial

Name, Title, Date

Paul Jesep, Esq., MPS, MA– Chief Ethics and Compliance Officer and HIPAA Privacy Officer, Ext. 4168

A. What is Ethics, Compliance, Code of Conduct? ***Participating in compliance is a mandatory part of any job*.**

- Ethics is values/culture/philosophy; Compliance is obeying laws and regulation;
- Code of Conduct speaks to specific behaviors, though is not a comprehensive list.
- Federal Laws (False Claims Act, Anti-Kickback Statute)/NYS Social Services Law Sec. 363-d, subdivision 1 ***Saving money, improving care, and identifying fraud, waste, and abuse***.
  Why Must Compliance Be Enforced? Compliance must be enforced to protect patient healthcare, comply with state and federal laws and regulations, and identify and stop fraud, waste and abuse. You must report matters of fraud, waste, and abuse. Whistleblower protections are in place. ***Your identity is protected!***

B. Elements to a Good Compliance Program – NYS Social Services Law Sec. 363-d, Sub 2 & NYCRR Sec. 521.3(c) &
18 NYCRR Part 521.

1. Written Policies and Procedures – Code of Conduct/Ethics **– AVAILABLE on *J Drive and Staff Intranet***

- ✓ Training
- ✓ Social Media
- ✓ Use of assets
- ✓ Sexual harassment
- ✓ Gifts, payments, honorarium
- ✓ Duties of Directors, Managers, Supervisors
- ✓ Investigations/protocols – corrective actions
- ✓ Honesty and lawful conduct in and out of the office
- ✓ Equal Employment Opportunity – no discrimination
- ✓ Contractors expected to comply with HHC's Compliance Program
- ✓ Highest quality product/service through competitive bidding
- ✓ Government inquiry – speak with your supervisor or the Compliance Officer
- ✓ All employees AND Board Members must comply with Policies and Procedures
- ✓ HHC NEVER pays directly or indirectly for a referral and no employee may accept one
- ✓ Confidential info – not leaving office, following email security, don't leave info on copiers
- ✓ Senior Management approves grants and grants must always be used for intended purposes
- ✓ Contracts, leases, with physicians based on fair market value, not on volume or value of referrals
- ✓ Conflict of interest – if you/family/friends benefit from a decision made then it's a conflict – conflicts must be disclosed
- ✓ Billing and Coding – bill only for actual services consistent with accepted standards of medical care – documentation, no default to a billing code, no bill submitted without documentation, scope of service must be clear, never a misrepresentation of charges
- ✓ **Non-Intimidation/Non-Retaliation (Whistleblower Protection)** – It is illegal to discourage you from reporting a problem or being retaliated against for doing so! You cannot lose your job for doing the right thing! If you do, ***Office of Medicaid Inspector General (OMIG) has 800 numbers at State and Federal level to call if an***

organization doesn't protect you. ***You are protected!*** ***See Staff Intranet for Whistle Protection Laws.***

2. Designation of Compliance Officer – Vested with Responsibility
3. Training and Education – internal, external
4. Communication Lines to the Compliance Officer/Function
5. Disciplinary Policies
6. Identification of Compliance Risk Areas and Non-Compliance – Federal Tort Claims Act (FTCA)
7. Responding to Compliance Issues

- ***Non-Intimidation/Non-Retaliation (Whistleblower Protections)***

C. Compliance Program oversight includes:

Billing/Payments, Credentialing, Mandatory reporting, All vendor and contractors Medical necessity and quality

of care Board and Senior Management Governance, and other risk areas identified by Hometown

- *As an employee you have **no expectation of personal privacy** when using Hometown's phone, email, internet, and other devices and resources.* ***This is due, in part, to ensure the highest standards of cybersecurity.***

D. **HIPAA** (Health Insurance Portability and Accountability Act) & Documentation – Access, Privacy and Security
HITECH (Health Information Technology for Economic and Clinical Health Act)

- *NEVER use a personal email address to gather or forward PHI (Protected Health Information).*
- *NEVER look at friend, neighbor, or family member's healthcare information without written permission on file AND authorization from a provider. NEVER discuss with anyone who receives care here. You could be fired for doing so.* ***What happens at Hometown stays at Hometown.***
- *NEVER* share your password, not even with a Supervisor.

E. HIPPA or internal policy breaches may include:

- *Cybersecurity – Text, Phishing/Ransomware – REPORT TO IT IMMEDIATELY!*
- *Looking at your own healthcare info; looking at a co-worker's health info or someone connected to them;*
- Leaving PHI on the copier or failing to lock a computer screen;
- Leaving voice messages too detailed disclosing PHI – who is authorized to see/receive PHI;
- Talking loudly in exam rooms or at the front desk; and
- Taking selfies, videos, or photos of staff, patients, or computer screens (or other things at Hometown).
- *You must have a job-related reason to be in a patient record at the time you do it*.

F. Trust is Paramount. Be ethical/law abiding at Hometown and on your time. Illegal or improper behaviors in the community, including on social media, can negatively impact your employment. You must notify HR of an arrest.

G. Your Role/What to Do if you Suspect Fraud, Waste, Violations

- Talk with **your Supervisor**; Talk with the **Compliance Officer Ext. 4168**; or Call the **Anonymous 24/7 Hotline *67 518-688-3460 (external), Ext. 4195 (internal), Locked Compliance Boxes in in Schenectady in the corridor heading toward the breakroom once you pass dental and at the base of the public stairs after you pass the elevator. There is also one in Amsterdam in the locker room.**

H. Emails, Intranet, and Monthly Compliance Newsletter

- ***Emails must be reviewed daily and the Intranet regularly since both are a critical way to communicate***. The Monthly Newsletter must be read each month since it is an important educational tool on ethics and compliance matters. Hometown policies and Compliance Manual are accessible on the J Drive and the Intranet.

I. ***LOCKED NOTES – Providers MUST LOCK notes in a timely manner! Failure to do so can result in termination.***

KEY CONTACTS: Paul Jesep, Compliance/HIPAA Privacy Officer Ext. 4168 and Lauren Nodonly, Cybersecurity, Ext. 4160

Documents mentioned, provided, or given access to: Code of Conduct/Stark Law/Anti-Kickback; Values/Mission Statement/Risk Assessment Template; Conflict of Interest Disclosure Statement; Compliance Self-Assessment Form (NYS – OMIG); Compliance Manual/Brochure; Comp. Newsletter; Phishing/Cybersecurity; Occurrence Report; Compliance Policies and Procedures, Whistle Blower information, and a post compliance test.

I, _____ (print name), have read and understand this agenda. I acknowledge attendance at this compliance training and received the above referenced documents or been given access to them either from Human Resources or directly from the Compliance Officer. I will keep a copy of this agenda. I understand it is my responsibility to carefully read or re-read the agenda, Compliance Manual, and Compliance Polices, and other documents available on the Staff Intranet to better understand and maintain an understanding how ethics and compliance impacts me and Hometown. I will abide by the Code of Conduct at all times and although I have filled out a Conflict of Interest Survey Statement, I will immediately notify my supervisor and the Compliance Officer of any changes or potential conflicts. ***As part of my employment I must participate in the Compliance Program which includes being compliant, never assisting or encouraging non-compliant behavior, and immediately reporting concerns to the Compliance Officer.***

_____ (Sign) _____ Date

Appendix C

Exit Interview Form

I _____ (print name), former _____ (print title) met with the Corporate Ethics and Compliance Officer as part of Hometown Health's exit interview process and was given an opportunity to share and discuss any ethical, legal, regulatory, or overall compliance related issues. This included, but was not limited to, any cases of intimidation or retaliation I may have personally experienced or what I may have witnessed.

_____ _____

Signature Date

Appendix D

HHC Standardized Assessment – This is a guide – Modify to maximize its use for your department.

What is a Risk Assessment (RA)?

- Risks are potential problems identified before they harm the organization in some way. An unidentified risk that becomes a problem could undermine: financial stability, compromise the quality of healthcare, or undermine the board or senior management's leadership.
- There are five basic parts to an RA: 1) Risk Identification (where are there potential problems – survey staff, patient consumers, review best practices); 2) Risk Ranking (on a scale of 1-5 with 1 being minor risk to 5 being very high risk, rank what you've found); 3) Risk Prioritization (based on your ranking some risks need to get priority over others); 4) Control Evaluation (what is the model or best practice that you should be measuring yourself against); and 5) Action Plan to Correct Identified Risks (what are you going to do to fix things).

Why Must They Be Done?

- *In May 2014, HHC's Board of Directors Compliance Committee mandated that Departments conduct self-initiated RAs on a regular basis to identify potential problems.*
- State and federal oversight has increased and will continue to do so to ensure prudent stewardship of taxpayer resources and consistent high quality of care.
- RAs enable HHC Departments and the organization as a whole to be proactive instead of reactive.
- Helps HHC be vigilant in better use of resources – stopping waste.
- *Ongoing, Department-self-initiated RAs* reduce compliance violations, meet Federal Sentencing Guidelines, and decrease HHC's potential for fines and potential lawsuits.
- Encourages the Office of Inspector General (OIG) to reduce the amount of any settlement because it shows a good-faith effort that ongoing efforts are made to do the right thing.

What Is the Difference Between an Audit, Survey, and Risk Assessment?

Audits and RAs are different sides of the same coin. In general, an audit identifies problems after the fact while an RA attempts to prevent them by identifying weaknesses in process or procedure before they become a problem. Sometimes one can overlap with the other.

A survey is an information gathering tool for staff or patients. This information can help in developing questions for an audit or RA.

5 Parts to an RA

1. **Risk Identification**

Identifying risks can and should be done by:

- ✓ Ongoing audits
- ✓ Staff/Patient/Departmental Surveys/Brain Storm during Departmental Meetings;
- ✓ Review the Work Plans of both the NYS and Federal Office of Medicaid Inspector General (OMIG) for ideas, concerns and especially priorities
- ✓ Review OMIG sites for fraud alerts to determine if they could apply to HHC
- ✓ Review past audits and reviews

2. **Risk Ranking**

What is the likelihood and consequences of something happening if it is not prioritized? The consequences could be significant, though the likelihood low, but a determination might be made to address it now, due to eventual fallout.

Use a Risk scale of Low, Moderate, and High Risk. Use a scale such as Limited Risk, Moderately-Severe, and Highly-Severe. You could use a score ranking based on 1-5 (1-low risk, 2-moderate risk, 3-moderately severe risk, 4-high risk, and 5-Highly Severe Risk).

3. **Risk Prioritization**

What you work on first will be determined, in part, by your risk ranking. But it shouldn't be the only factor. Suppose you ranked something involving patient care a "2" versus a non-patient matter a "4". Clearly, both need to be addressed immediately. If they can't be handled simultaneously then patient care/safety always comes first.

4. **Control Evaluation**

What is the standard or benchmark you should use? For example, there are rules about examining tables not being ripped, cabinets being locked, etc. What check list should you use or what questions should be asked? HRSA often has a list of surveys, best practices, and questionnaires. If your department is licensed by the state, i.e., dental, what would a state auditor look for in a walkthrough?

5. **Work & Correction Plan**

Once you identified and then conducted an assessment what is the plan to correct problems or potential problems? What is the timetable? What is the follow-up? *You must correct any identified deficiencies ASAP.*

Hometown Health Centers

Audit/Survey/Or Risk Assessment Cover Sheet

(Use this coversheet to ***summarize***. Be sure you have documentation – i.e., the questions or checklist you developed, the accompanying answers or findings, a work plan to correct deficiencies. This coversheet is just that – a coversheet to provide an overview or executive summary of a project you completed.)

Date:

Department:

Project Name:

Project Description:

Findings:

Work Plan or Course of Action Going Forward (Are there any opportunities to implement best practices?):

Updates:

Filed with the Compliance Officer On:

_____ _____

Signature of Individual Responsible for the Audit, Survey, or Risk Assessment **Date**

(Keep a copy of this cover sheet with all documentation for your files.)

Appendix E

OUR MISSION

Hometown Health Centers helps people live healthier lives by improving health outcomes and health equity through quality primary care and preventative services. Anyone seeking care, regardless of income, will be helped and treated with respect by people who are mindful of cultural uniqueness and dedicated to continuous improvement."

OUR VALUES

TRUST
- placed in you by patient-consumers and co-workers.

RESPECT
- shown to patient-consumers and co-workers.

HELPFUL
- in resolving all issues before a patient-consumer leaves.

INTEGRITY
- goes beyond what the law requires.

COMPASSION
- is kindness to patient-consumers and co-workers.

COMMUNITY DRIVEN
- serves all local residents.

Appendix F – Business Associate Agreement

BUSINESS ASSOCIATE AGREEMENT

Schenectady Family Health Services Inc., d/b/a Hometown Health Centers ("Hometown"), a Federally Qualified Health Center ("FQHC") with facilities in Schenectady and Amsterdam, NY enters into this nine (9) page Business Associate Agreement ("BAA" or "Agreement") with _____ ("Business Associate"), located at _____. Collectively Hometown and Service Provider shall be called the "Parties."

It is a priority and the intent of Hometown and Service Provider to protect patient privacy by compliance with the Health Insurance Portability and Accountability Act (HIPAA) and the regulations promulgated thereunder (45 CFR Parts 160, 162 and 164). Service Provider warrants its agents, employees, subcontractors, sub-subcontractors, and corporate and business affiliates (domestic and foreign) are trained in HIPAA, have been screened with professional background checks, and meet all New York and Federal government requirements to handle Protected Health Information (PHI). Service Provider is providing Hometown with _____ services aligned with the Hometown's goals as the Parties have discussed and agreed to which may or will require Service Provider to access PHI.

1. Definitions

Breach: The use, access, acquisition, or disclosure of PHI in a manner not permitted under the Privacy Rule which compromises the privacy or security of PHI, subject to the exceptions provided in 45 CFR 164.402 (i) – (iii). Any use, access, disclosure, or acquisition of PHI in a manner not permitted under the Privacy Rule shall presume to be a Breach unless it is demonstrated, through a Risk Assessment, that there is a low probability that the PHI has been compromised.

Business Associate: Shall have the same meaning as "Business Associate" as defined in 45 CFR 160.103. "The Party" or "Business Associate" in this Agreement shall mean Service Provider and its agents, employees, representatives, subcontractors, sub-subcontractors, corporate and business affiliates (foreign and domestic).

HIPAA Rules: Shall mean the Privacy, Security, Breach Notification, and Enforcement Rules at 45 CFR Part 160 and Part 164.

Protected Health Information (PHI): Means individually identifiable health information as defined in 45 CFR 160.103, limited to the information created or received by Business Associate from Covered Entity or created or received by Business Associate on behalf of Covered Entity, including but not limited to electronic PHI.

Security Incident: Means without limitation, any activity including, but not limited to, employee misuse of PHI, successful or unsuccessful attacks on Business Associate's firewall, port scans, or other IT devices, systems, or software.

Subcontractor: Means "subcontractor" and also agents, representatives, sub-subcontractor, and corporate or business affiliates (foreign and domestic).

2. Duties, Activities and Obligations of Business Associate

a. Processing PHI. If Business Associate processes (sending, mailing, providing) Protected Health Information (PHI) on behalf of Hometown for a patient, patient's designee, or a healthcare specialist, it must do so expeditiously in keeping with the CURES Act. Business Associate may not delay or obstruct providing PHI and understands HIPAA is not only about security and privacy, but also access. Established local and national timeframes to process Requests for Information must be followed.

b. Limited Use. Business Associate shall not use or disclose PHI other than as permitted or required by this Agreement, permitted under law, or allowed by its Contract with Hometown.

c. Mitigating Harm. Business Associate must mitigate any harmful effect known to Business Associate or should be known through ongoing Risk Assessments caused from a use or disclosure of PHI by Business Associate (or by any of its agents, representatives, subcontractors, sub-subcontractors, or corporate or business affiliates (domestic and foreign) or other entities to whom Business Associate has disclosed PHI) in violation of this Agreement.

d. Security and Safeguards. Business Associate must comply with the Security Rule, including requirements of 45 CFR 164.308 (administrative safeguards), 45 CFR 164.310 (physical safeguards), 45 CFR 164.312 (technical safeguards), and 45 CFR 164.316 (policies and procedures and documentation requirements). Business Associate shall implement administrative, physical and technical safeguards that reasonably and appropriately protect integrity, confidentiality, and availability of any PHI that it creates, receives, maintains or transmits on behalf of Hometown. This shall include, but not be limited to, determining and restricting what employees may have access to while assuring those permitted access are properly trained in HIPAA requirements.

e. Reporting Requirement.

i. If requested by Hometown, Business Associate will report on its efforts to protect and secure PHI which shall include, but not be limited to ongoing Risk Assessments.

ii. If requested by Hometown, Business Associate will at Business Associate's expense notify one or all of the following, if unauthorized access to PHI has occurred on Business Associate's network: local media, patients impacted, New York State (NYS) Attorney General, NYS Division of State Police, NYS Department of State's Division of Consumer Protection, NYS Department of Health, NYS Department of Health Regional, and Health and Human Services (HHS)-Office of Civil Rights (OCR).

iii. Business Associate must report to Hometown within twenty-four (24) hours, or as soon as practical, but no later than five (5) days after a breach or attempted breach of PHI and any other use or disclosure not allowed by this Agreement or HIPAA Rules of which it becomes aware.

iv. Business Associate must report to Hometown within twenty-four (24) hours, or as soon as practical, but no later than five (5) days after a breach or attempted breach, any security incident when it becomes aware of it.

v. Business Associate must provide to Hometown a written report, unless despite reasonable efforts by Business Associate to obtain the information required, circumstances beyond its controls necessitate additional time. Under such circumstances Business Associate shall provide to Hometown the information contained as soon as possible and without unreasonable delay, but in no event later than thirty (30) calendar days from the date of discovery of the attempted or actual breach. The report shall:

(a) Identify the scope and nature of the breach or attempted breach;
(b) Identify the date and the date of discovery of such event, if known;
(c) Identify the PHI used or disclosed and the identification of each individual whose unsecure PHI has been, or is reasonably believed by the Business Associate to have been, accessed, acquired, used, or disclosed during the incident;
(d) Identify who made the non-permitted use or received the non-permitted disclosure;
(e) Identify what correction action Business Associate took or will take to prevent future similar events;
(f) Identify what Business Associate did or will do to mitigate any harmful effect of the non –permitted use or disclosure which may include, but not be limited to credit reporting services for the patient whose information has been compromised; and
(g) Provide such other information, including a written report, as Hometown may reasonably request.

vi. Business Associate must notify Hometown as soon as practical but no later than five (5) calendar days after learning of any inquiries made by or received from any state or federal regulatory agencies regarding an audit or Reportable Event related to PHI.

Third Parties. Business Associate may disclose PHI to third parties including authorized agents, representatives, subcontractors, sub-subcontractors, or corporate or business affiliates (domestic or foreign) only as necessary to perform functions, activities, or services of or on behalf of Hometown and with Hometown's written authorization. No PHI shall be handled by a Third Party overseas without the express written authorization of Hometown. Business Associate must provide Hometown with specific written reasons for such a disclosure or access to such PHI by a foreign affiliate. If requested, Business Associate must provide Hometown written assurances comprehensive HIPAA training and compliance has been satisfied under all laws and regulations by Business Associate's agents, representatives, subcontractors, sub-subcontractors, or corporate or business affiliates (domestic and foreign). Business Associate may disclose PHI to third parties, so long as:

i. Disclosure is required or permitted by law; or

ii. Business Associate enters into agreement with each third party or subcontractor that will have access to PHI that is received from, or is created or received by, Business Associate on behalf of Hometown that: the PHI will remain confidential and only will be used or further disclosed as required or permitted by law or for the purpose for which it was disclosed to the third party; the third party will notify Business Associate of any attempts or successful breaches; and the third party agrees in writing to be bound by the same terms, restrictions, and conditions that apply to Business Associate under this Agreement.

If Business Associate maintains one or more record sets on behalf of Hometown and Hometown informs Business Associate that such record set is a Designated Record Set, Business Associate agrees to provide it with access to the Designated Record Set in the time and manner necessary to enable Hometown to meet its obligations under the terms of HIPAA Rules. Business Associate will promptly forward any direct requests for access to PHI. Hometown will be solely responsible for approving or disapproving any such request for access to PHI and Business Associate will comply with Hometown's directions regarding such requests. Notwithstanding the above, if Business Associate or its agents or subcontractors uses or maintains PHI in an electronic health record with ten (10) days of receipt of a request from Hometown, Business Associate shall make a copy of such PHI available to Hometown in an electronic format in order to enable Hometown to fulfill any obligations under 45 CFR 164.524(c)(2)(ii).

f. Amendments to PHI. Business Associate agrees to make any amendment(s) to PHI in a Designated Record Set when Hometown directs it to do so, in the time and manner necessary to permit Hometown to meet its obligations under 45 CFR 164.526.

g. Availability of Books and Records. Business Associate shall make internal practices, books, and records, including policies and procedures and PHI, relating to the use and disclosure of PHI received from, or created or received by Business Associate on behalf of Hometown available to it, or to the Secretary of the Department of Health and Human Services (Secretary) or his/her designee, in a time and manner designated by Hometown or by the Secretary for purposes of determining compliance with privacy and security requirements.

h. Accounting of Disclosures. Business Associate shall document such disclosures of PHI and information related to such disclosures as would be required for Hometown to respond to a request by an individual for an accounting of disclosures of PHI in accordance with 45 CFR 164.528. Business Associate agrees to provide to Hometown, or to an individual if so directed by Hometown, the information collected in accordance with this Section, in the time and manner necessary to permit Hometown to respond to a request by an individual for an accounting of disclosures of PHI in accordance with 45 CFR 164.528. In the event the request for an accounting is delivered directly to Business Associate, Business Associate shall within five (5) business days of such request forward it to Hometown in writing. Business Associate shall not disclose any PHI except as allowed by this Agreement. Business Associate shall continue to maintain the information required under this paragraph for seven (7) years after the applicable disclosure.

i. Prohibition of Sale. Business Associate shall never sell PHI as provided for in 45 CFR 164.502(a)(5)(ii) and 45 CFR 164.508(a)(4).

j. Marketing. Business Associate shall not use or disclose PHI in connection with any Marketing (as defined by 45 CFR 164.514(f).

k. Fundraising. Business Associate shall not use or disclose PHI in connection with any written Fundraising communication that is prohibited by 45 CFR 164.514(f).

l. Confidential Communications. Business Associate shall, if directed by Hometown, use alternative means or alternative locations when communicating PHI to an individual based on the individual's request for confidential communications in accordance with 45 CFR 164.522 including but not limited to complying with all requests for restrictions as required under 45 CFR 164.522(a)(l)(iii) and (vi).

m. HIPAA and Training. Business Associate warrants it vets and screens all employees and subcontractors handling PHI to determine if they are suitable for handling such information. It further warrants it and its subcontractors have HIPAA policies in place required by law and they are reviewed and updated on an ongoing basis. Business Associate also warrants employees and subcontractors receive periodic training in the proper handling and disposal of PHI. Business Associate shall make available to Hometown upon request documentation in a timely manner of its HIPAA training and policies.

n. Cybersecurity. Business Associate warrants it and its subcontractors aggressively take all necessary precautions to protect PHI from cyber threats including, but not limited to, phishing, ransomware, and breaches in general. It warrants it and its subcontractors trains its staff in cyber awareness on an ongoing basis. Business Associate shall make available to Hometown upon request documentation in a timely manner of its cybersecurity training and policies.

3. Permitted Uses and Disclosures by Business Associate

a. Except as otherwise limited by this Agreement, Business Associate may use or disclose PHI to perform functions, activities, or services for, or on behalf of, Hometown as specified in writing, provided such use or disclosure would not violate privacy and security rules if done by Hometown. Business Associate shall only request, use or disclose the minimum amount of PHI necessary to accomplish the purpose of the request, use or disclosure. Business Associate shall limit access, requests, uses and disclosure of PHI, to the extent practicable to a Limited Data Set 164.502(b), to the minimum amount of PHI necessary to accomplish the purpose of the request, use or disclosure. All other uses or disclosures not authorized by this Agreement are prohibited, unless agreed to in writing by Hometown.

b. Except as otherwise limited in this Agreement, Business Associate may use PHI for the proper management and administration of Business Associate or to carry out the legal responsibilities of Business Associate, provided such uses are permitted under the Privacy Rule.

c. Except as otherwise limited in this Agreement, Business Associate may use PHI to provide Data Aggregation services to Hometown as permitted by 45 CFR 164.504(2)(i)(B).

4. Provisions for Hometown to inform Business Associate of Privacy Practices and Restrictions

a. Hometown shall notify Business Associate of any limitation(s) in its notice of privacy practices adopted in accordance with 45 CFR 164.520, to the extent that such limitation may affect Business Associate's use or disclosure of PHI.

b. Hometown shall notify Business Associate of any changes in, or revocation of, permission by individual to sue or disclose PHI, to the extent that such changes may affect Business Associate's use or disclosure of PHI.

c. Hometown shall notify Business Associate of any restriction to the use or disclosure of PHI to which Hometown has agreed in accordance with 45 CFR 164.522, to the extent that such restriction may affect Business Associate's use or disclosure of PHI.

5. Term and Termination

a. Term. This Agreement shall be effective at the time of signing by all parties and shall terminate when services are no longer required and/or all of the PHI provided by Hometown to Business Associate, or created or received by the Business Associate on behalf of Hometown is destroyed or returned to Hometown, or, if it is infeasible to return or destroy PHI, until protections are extended to such information, in accordance with the termination provisions in this Section.

b. Termination for Cause. Upon Hometown's knowledge of a material breach by Business Associate, Hometown shall:

i) Consider and evaluate an opportunity to its satisfaction for Business Associate to resolve all breaches and provide assistance to any party with compromised PHI, including but not limited to patients, or terminate this Agreement if the violation is not remedied within ten (10) business days or there is a clear showing of ongoing, committed good faith effort to do so; or
ii) Immediately terminate this Agreement if Business Associate has breached a material term of this Agreement and remedying it is not possible; or
iii) If neither termination nor remedy is feasible, Hometown shall report the violation to the Secretary of the Department of Health and Human Services.

c. Termination Impact. Upon termination of this Agreement Business Associate shall return or destroy all PHI received from Hometown, or created or received by Business Associate on behalf of Hometown. This provision also applies to PHI that is in the possession of subcontractors or agents of Business Associate. Business Associate and its agents or subcontractors shall retain no copies of PHI. Business Associate shall be held accountable for any actions, omissions, or negligence of its agents or subcontractors and will make Hometown financially whole in the event of damages assessed against it stemming from Business Associate or its agents or subcontractors negligence.

If Business Associate cannot return or destroy the PHI, it must provide Hometown notification of the conditions that make return or destruction difficult or impossible – which in no way will mitigate its future liability or legal obligations to Hometown should PHI ever become compromised. Business Associate accepts and acknowledges specific protections of this Agreement for PHI that could not be returned or destroyed will remain in effect.

6. Indemnification

Business Associate will indemnify and hold harmless Hometown and its officers, directors, employees, and agents from and against any claim, cause of action, liability, damage, government fine or penalty, cost or expense including attorney's fees and court or proceeding costs, arising out of or in connection with any use or disclosure of PHI not permitted by this Agreement or by the Privacy Rule, or other breach of this Agreement or the Regulations by the indemnifying party or any subcontractor, agent, or person under the indemnifying party's control. This shall include but not be limited to any penalties or fines arising from violation of HIPAA or the Regulations and the reasonable cost to comply with the notification requirements pursuant to 45 CFR 164.404, 45 CFR 164.406 and 45 CFR 164.408 and any related identity theft prevention or monitoring costs that may be required in connection with a breach. Business Associate acknowledges that in addition to the indemnification obligations hereunder, it will hold

Hometown harmless against, any civil and/or criminal penalties arising from Business Associate's violation of HIPAA or other state and federal laws. Service Provider shall make Hometown financially whole for any fines, penalties, and civil and/or criminal consequences arising from Service Provider or its employees, agents, or third parties it retains in handling or accessing Protected Health Information.

7. Miscellaneous

a. Regulatory References. A reference in this Agreement to a section in the HIPAA Rules means the section as in effect or as amended.

b. Amendment. The Parties agree to take such action as necessary to amend this Agreement as is necessary for compliance with the requirements of the HIPAA Rules and any other applicable law.

c. Interpretation. Any ambiguity in this Agreement shall be interpreted to be in full compliance with the HIPAA Privacy and Security Rules.

d. Survival. The obligations of the Parties under this Agreement shall survive termination of Business Associate's services and any agreement under which such services have been engaged.

e. Warrants. Business Associate warrants it and any agent or subcontractor are not on any State or Federal Exclusion List.

IN WITNESS WHEREOF, Schenectady Family Health Services, Inc., d/b/a Hometown Health Centers and Service Provider have executed and delivered this Business Associate Agreement by their representatives duly authorized.

SCHENECTADY FAMILY HEALTH SERVICES, INC D/B/A HOMETOWN HEALTH CENTERS	Company Name:
_____	_____
Sign	Sign
_____	_____
Print Name	Print Name
_____	_____
Title	Title
_____	_____
Date	Date
518.370.1441	_____
Phone	Phone
_____	_____
Email	Email
_____	_____
Print Name of Secondary Contact	Print Name of Secondary Contact

This Business Associate Agreement (BAA) is nine (9) pages with signatory page.

OCCURRENCE REPORTS

What is an Occurrence Report?

An Occurrence Report is a form to record an occurrence or incident regarding the delivery of care or serious activity with potential negative consequences.

It could be used, for example, to record a concern regarding a patient's inappropriate or disruptive behavior that negatively impacts the quality of service which Hometown provides or is a threat to the employee or other patients.

It is very important to *document all occurrences*. It is essential to have this documentation because it makes the delivery of care better and ensures safety. Quality is a Hometown priority in all things.

What must be documented in an Occurrence Report?

- Theft.
- Medical errors.
- Equipment failures.
- *All* Codes on your badge.
- Patient disruptive or threating behavior.
- Patient or visitor injuries such as a fall or injury.
- Patient complaint about quality of care or customer service.

Does it matter where an occurrence or incident occurred?

No. Anything that happens on Hometown property, whether owned or leased, must be reported. This includes the patient or staff parking lots and the school based program.

Who must fill out an Occurrence Report?

Everyone must do their part in maintaining a safe work environment for staff, visitors, and patients. Occurrence Reports play an important role in the culture of safety and quality at Hometown. Filling out Occurrence Reports are part of your job. If in doubt, ask a supervisor.

What should be in a Report?

Documentation should stick to factual events and issues. A Report must never include hearsay or assumptions. Never include your personal opinion. Just the facts.

What do I do with a completed Report?

You *must* return it to the Quality/Risk Manager *within 24-48 hours*.

Questions?

Contact **Lori Meca,** Quality/Risk Manager, at x 4210

Hometown Health Centers

Report of Occurrence

Date form completed: _____ **Date of Occurrence**: _____**Time**:_____

Form completed by: Staff ☐ **Name/Title**:

_____

Person(s) impacted by Occurrence:
_____

Address: _____ **Phone #**:_____

_____ **Date of Birth**: _____

Location of occurrence: Schenectady ☐ Amsterdam☐

Area: _____

Type of occurrence: Complaint/Compliment ☐ Patient Harm☐ 911 Call ☐ Code Called☐

Code Color _____

Description of occurrence:
_____
_____
_____
_____
_____

Appendix H – Compliance Manual Acknowledgement Form

Hometown Health Centers

Corporate Ethics and Compliance Manual
Acknowledgement Form

I, _____ (print name), _____ (title or position) acknowledge I have received, read, and understand Hometown Health's *Corporate Ethics and Compliance Manual*. I understand the *Code of Conduct* is a separate document which I am equally responsible for understanding and following regarding ethical behavior in the workplace and also outside the workplace that may include, but not be limited to, use of social media.

I will comply with the standards set forth in the Manual and any amendments brought to my attention. Understanding Hometown's Compliance Program is my responsibility as part of my employment or association with the organization.

I will report any potential conflict of interest or when I perceive waste or fraud to the Ethics and Compliance Officer (518-370-1441), by using the anonymous 24-hour hotline (*67-518-688-3460) or leaving an anonymous note in a locked compliance box in Amsterdam or Schenectady.

I understand Corporate Ethics and Compliance is fundamental to meeting State and Federal requirements. In addition, it is my responsibility to understand and discuss with my supervisor how these requirements may impact my job. If I'm a Board Member, I will discuss compliance with the Chair, the Board Compliance Committee, or directly with Hometown's Ethics and Compliance Officer.

I also will read any material distributed by the Corporate Ethics and Compliance Officer including, but not limited to, email, newsletters, or training materials.

I acknowledge violation of Hometown's Corporate Ethics and Compliance Manual or any policy or procedure is grounds for corrective action, up to and including discharge from employment or forced resignation as a Board Member.

_____ _____ _____
Signature Position Date