

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.

Detecting and Preventing Fraud, Waste and Abuse:

In accordance with the requirements of relevant false claims laws, and to further ensure the accuracy and appropriateness of claims submitted, the facility has adopted the following rules that its Associates must strictly follow:

- *Detect and prevent the filing of claims for services not rendered.* All documentation must be reviewed and checked for accuracy by clinical staff prior to submission. Furthermore, billing staff must review the completeness and check for inconsistencies in the documentation supporting the bill prior to submitting a claim;
- *Detect and prevent the filing of claims for services rendered that were not medically necessary.* Documentation submitted by the clinical departments must be consistent with medical necessity requirements ("reasonable and necessary" in the context of Medicare). All clinical and billing staff shall communicate effectively to ensure that documentation is consistent;
- *Detect and prevent the submission of any claim that contains false information.* All claim forms must be reviewed for accuracy prior to presentation for payment;
- *Detect and prevent any claim for inadequate or substandard services.* Clinicians must review services rendered and supporting documentation to determine that the level of services provided is adequate to support a claim for payment.

The clinical and billing staff, in coordination with the Compliance Officer or other designated party, will conduct periodic reviews to ensure that documentation is accurate and supports the claims for reimbursement.

The facility has adopted policies and procedures for preventing and detecting fraud, waste and abuse of the federal health care programs, including Medicare and Medicaid. All employees, agents and contractors must comply with these policies. These policies and procedures are available for review upon request. To review these policies and procedures, contact the Compliance Officer. The following represents a summary of the relevant policies.

Policy: Designation and Responsibilities of the Compliance Officer

It is the policy of facility to ensure that it conducts itself in compliance with all applicable laws, rules, regulations and other directives of the federal, state and local governments, departments and agencies. In furtherance of this policy, the facility shall have at all times an individual designated as a Compliance Officer to oversee and monitor its Compliance Program.

Coordination and communication are the key functions of the Compliance Officer with regard to planning, implementing, and monitoring the facility's Compliance Program. The Compliance Officer shall develop and assist the facility putting appropriate compliance processes in place to implement the Compliance Program. Examples of these activities and processes include, but are not limited to, the following:

- serve as a trusted source of guidance for Associates with regard to compliance related matters;
- test the billing and claims reimbursement staff on their knowledge of applicable program requirements and claims and billing criteria;
- conduct or oversee unannounced audits of claims and billing information;
- assess contractual relationships with contractors, consultants and potential referral sources;
- determine whether individuals who previously have been reprimanded for compliance issues are now conforming to policies;
- develop, coordinate and participate in compliance educational and training programs; and
- coordinate internal compliance review and monitoring activities, including annual or periodic

reviews and oversee any resulting corrective action.

Policy: Retention of Records

It is the policy of the facility that all employees, agents, contracted health professionals and vendors maintain and preserve all documents, including compliance, business and medical records, and secure them against loss, destruction, unauthorized access, unauthorized reproduction, corruption or damage. Compliance with regulations concerning document retention periods is required.

The primary components of the facility's record maintenance, access and retention policies and procedures include, but are not limited to, the following:

- Records will only be accessible by authorized personnel on a need-to-know basis or legally authorized individuals, and in strict conformance with applicable federal, state, and local laws and regulations, including those relating to privacy and confidentiality.
- Medical records may only be accessed by authorized individuals and personnel. Questions as to whether medical records should be released and/or distributed should be directed to the facility's Privacy Officer and/or the Administrator where appropriate.
- Records will be stored in a systemized manner that preserves confidentiality and takes into consideration environmental elements.
- Security of electronic records shall comply with HIPAA regulations.

Policy: Individuals Excluded from Federal and State Health Care Benefit Programs

It is the policy of the facility not to enter into employment, contractual or business arrangements, in any capacity, with individuals or entities that are barred or excluded from participating in federal or state health care benefit programs. This shall be accomplished through screening programs, including review of the U.S. Office of Inspector General's (OIG) List of Excluded Individuals/Entities (LEIE), the New York Office of Medicaid Inspector General (OMIG) Exclusion List, and other applicable data sources prior to hiring, engaging or otherwise transacting business with any person or entity, and periodically thereafter.

Policy: Conflicts of Interest

It is the policy of the facility that all personnel avoid any and all activities that conflict with their responsibilities and obligations to the facility. The policies and procedures relating to conflicts of interest include, but are not limited to, the following:

- Employees or agents must not have an interest in or serve as director, officer, manager or member of any entity in competition with the facility without permission.
- Any employee and agent who perform work or render services for any competitor of the facility or for any organization that does business with or seeks to do business with the facility outside of the normal course of his or her employment shall notify the Administrator.
- Business with any vendor, supplier, contractor, or agency, or any of their officers or employees that is not conducted on behalf of the facility is prohibited, unless previously authorized by the Administrator.
- Employees and agents shall not permit their names to be used in any fashion that would tend to indicate a business connection with any organization that does business with or seeks to do business with the facility without the prior approval of the Administrator.
- The facility shall not be represented by an employee or agent in any transaction in which he or she or an immediate family member has a personal financial interest.
- Confidential information should not be discussed with anyone outside of the facility. This confidential information includes, but is not limited to, personnel data, patient lists, clinical information, financial data, research data, strategic plans, potential mergers and acquisitions, marketing strategies, processes, techniques, computer software, any information with a copyright, financial results, or other business dealings.
- Employees and agents shall not accept any gifts, favors, or things of value, including discounts, from prospective or current suppliers and/or contractors.

- Employees and agents shall not engage in any activities or outside interests that influence their ability to make objective decisions in the course of their job responsibilities.
- Potential conflicts of interest involving Associates or their immediate family members (spouse, parents, brothers, sisters, and children) are required to be reported to the Administrator using the facility's "Conflict of Interest Disclosure Statement" form.

Policy: Billing and Claims Reimbursement

It is the policy of the facility to comply with all relevant billing and claim reimbursement requirements. All personnel involved in coding, billing and claims submissions must maintain high ethical standards and must know and adhere to all requirements for the health care industry, including all rules and regulations pertaining to coding, billing, claims submission and reimbursement, including, among others, Medicare and Medicaid regulations. All billing personnel are expected to attend training and education sessions. Billing personnel will be regularly monitored to ensure that they are not engaging in any activity that may be fraudulent or abusive under the Medicare and Medicaid regulations.

Personnel are required to report promptly all known or suspected violations of billing policies to their immediate supervisor, Administrator, Compliance Officer or other designated party, in accordance with the facility's policy and procedures for internal reporting.

Policy: Compliance Training and Education

It is the policy of the facility as part of its continued commitment to compliance with legal requirements, to ensure that its affected employees and persons associated with the facility including governing body members and administration receive training and education on the compliance program, compliance issues and expectations.

Participation in a minimum of one (1) hour of basic compliance training and education is required as part of the facility's orientation program and annually. Individuals involved in specialty fields such as coding, claims development and billing will require additional compliance training and education addressing documentation, claims, billing, and fraud and abuse issues. Additional training attendance may be required as part of a performance improvement measure or action plan. Attendance at educational and training sessions is the responsibility of each individual and will be documented. In addition to periodic training and in-service programs, relevant new compliance information will be disseminated to affected personnel.

Policy: Employee Screening

It is the policy of the facility to ensure that its employees, agents and independent contractors are properly screened in accordance with facility procedures and in compliance with applicable laws and regulations prior to employment or engagement and periodically during their tenure with the facility. Offers of employment or engagement, as well as continued employment and engagement, shall be contingent upon satisfactory screening.

Policy: Monitoring and Auditing

It is the policy of the facility to ensure that the facility, its employees, contractors and agents conduct business and activities in compliance with all applicable laws, rules, regulations and other directives of the federal, state and local governments, departments and agencies. In this regard, and in furtherance of this policy, the facility shall conduct periodic audits designed to address relevant compliance issues. Internal or external auditors will conduct periodic audits, which will be overseen by the Compliance Officer.

Policy: Internal Reporting of Compliance Related Matters

It is the policy of Brookhaven to maintain an internal reporting mechanism for all employees, agents and contractors to report actual or perceived violations of the facility's Code of Conduct, Compliance Program, policies and procedures and applicable laws and regulations.

Anyone with current knowledge of an event, occurrence, or activity that appears to violate applicable laws and regulations, the facility's Code of Conduct or any of its policies or procedures should promptly communicate the actual or perceived violation to their immediate supervisor, the Administrator, Compliance Officer or other designated party. Personnel who act in supervisory, managerial, or other administrative roles have an obligation to promptly report any potential violation reported to them by subordinates or others to the Compliance Officer for appropriate action and follow-up. If the individual reporting prefers not to report the matter to a supervisor or the Administrator, he/she should call the facility's Compliance Hotline. Callers to the hotline will remain anonymous.

Policy: No Retaliation

There will be no intimidation or retaliation taken against employees or agents who participate in the Compliance Program in good faith. Intimidation, retaliation or any form of reprisal based upon an employee's or agent's good faith reporting of potential unethical or illegal activity is strictly prohibited and will not be permitted or tolerated by Brookhaven. Employees and agents are expected to report any possible instances of intimidation or retaliatory action immediately to the Administrator and/or Compliance Officer. Brookhaven strives to promote integrity, support objectivity and foster trust in compliance with this Code of Conduct.

Policy: Investigations of Compliance Reports and Corrective Action

It is the policy of Brookhaven to make reasonable inquiry into any report concerning activity that may be contrary to applicable laws and/or regulations. Upon receipt of a report that suggests that improper conduct has occurred, an investigation will be commenced under the direction of the Compliance Officer. The Compliance Officer may seek legal counsel to assist with any legal issues that may arise during the investigation. The investigative techniques used shall be implemented in order to facilitate the correction of any practices not in compliance with applicable laws and/or regulations and to promote, where necessary, the development and implementation of policies and procedures to ensure future compliance.

J. Administration and Application of this Code of Conduct

Brookhaven expects that the Code of Conduct will be a part of the daily activities of all who provide services on behalf of the facility. The Code of Conduct is in addition to and does not limit specific policies and procedures of Brookhaven. Associates must perform their duties in accordance with all such policies and procedures as well as laws and regulations.

Associates are responsible for promoting the standards set forth in this Code of Conduct and for reporting potential violations in accordance the reporting procedures outlined in the Compliance Manual. All reports of unethical or illegal conduct will be investigated by persons designated by, and pursuant to procedures established by, Brookhaven. All reports will be held in the strictest confidence possible, unless the matter is turned over to law enforcement or disclosure is required during a legal proceeding.

It is an explicit violation of Brookhaven's policy to intimidate or retaliate against an individual who participates in good faith in the compliance program, including but not limited to reporting potential illegal issues, investigating issues, audits, self-evaluation and remedial actions and reporting to appropriate officials.

Failure to abide by the Code of Conduct and compliance standards of Brookhaven, including failing to report suspected problems, participating in non-compliant behavior, or encouraging, directing, facilitating or permitting either actively or passively non-compliant behavior, will result in disciplinary action. In addition, facility personnel are expected to cooperate with compliance investigations and audits and assist in the resolution of compliance issues. Disciplinary action will be fairly and firmly enforced on a case-by-case basis and, at Brookhaven's discretion, may range from a warning to termination. If Brookhaven determines that a violation has included criminal violations of law or regulation, Brookhaven will cooperate with law enforcement authorities in connection with the investigation and prosecution of the offender.

If you have any questions or concerns regarding the compliance program or the Code of Conduct, you can seek clarification from the Compliance Officer at any time.

How to Report a Violation of the Code

It is an explicit violation of Brookhaven's policy to intimidate or retaliate against an individual who reports in good faith an actual or potential violation of applicable laws, regulations, rules, or the Code of Conduct or who participates in the compliance program, including but not limited to investigating compliance issues, audits, self-evaluation and remedial actions and reporting to appropriate officials.

Associates should report any violation of the Code of Conduct to your immediate supervisor, the Administrator and/or the Compliance Officer. If you prefer not to report such matter to a supervisor or the Administrator because you believe they may be involved in the actual or perceived violation, if you otherwise have a legitimate reason to be concerned about intimidation or retaliation, if your previous reports have not been acted upon, or for any other reason, you should contact Pinnacle's Compliance Officer by telephone or in writing, or call the Compliance Hotline. The Compliance Officer's contact information and the Hotline number are listed below. While hotline calls may be made anonymously, supplying your name and contact information may assist in the investigation. Brookhaven will maintain the confidentiality of the identity of an individual who reports possible violations unless the matter is turned over to law enforcement or a federal or state regulatory agency or disclosure is required during a legal proceeding.

**Compliance Officer: Nitika Singh
Brookhaven Rehabilitation & Health Care Center
801 Co-Op City Blvd., Bronx, New York 10475
Telephone: (718) 239-6660
Fax: (718) 239-6400
Email: nsingh@bayparkcenter.com
Compliance Hotline: (516) 300-1177**

This Code of Conduct is not intended to and shall not be construed as providing any additional employment or contract right to Associates or other persons.

Brookhaven will attempt to communicate changes to the Code of Conduct prior to the implementation of such changes. However, Brookhaven reserves the right to modify, amend, or alter the Code of Conduct and its policies and procedures without prior notice to any person.

¹ These policies are deemed to be incorporated into the facility's Employee Handbook, if applicable.

Brookhaven Rehabilitation & Health Care Center

Compliance Program

Certification of Receipt of Code of Conduct and DRA Summary of Fraud and Abuse Laws and Policies

I, the undersigned, hereby certify that I have received and read the Code of Conduct of Brookhaven Rehabilitation & Health Care Center ("Brookhaven") and the DRA Summary of Fraud and Abuse Laws and Policies. I understand that the Code of Conduct and the DRA Summary of Fraud and Abuse Laws and Policies ("DRA Summary") reflect Brookhaven's earnest commitment to integrity and compliance with all applicable federal, state, and local laws, regulations and rules.

I fully understand the requirements set forth in the Code of Conduct and the DRA Summary. I hereby agree to abide by the principles and standards set forth in the Code of Conduct and DRA Summary and to conduct myself during my association or employment with Brookhaven in full accordance with the Code of Conduct, federal and state fraud and abuse laws and regulations, the policies of Brookhaven and the highest ethical standards.

Acknowledged and Agreed:

Signature: _____

Print Name: _____

Title / Department: _____

Company (if applicable): _____

Date: _____