



Corporate Compliance: Reporting & Investigation of Compliance Concerns

Purpose:

Advocates (sometimes referred to as “Organization” or “the Organization”) recognizes that a critical aspect of its Compliance Program is the establishment of a culture that promotes prevention, detection, and resolution of instances of conduct that do not conform to Federal and State requirements, the Organization’s ethical and business policies, and fraud, waste, and abuse prevention.

To promote this culture, Advocates has established processes to encourage effective communication and the reporting of compliance questions, issues, concerns, or events that will result in a thorough investigation and appropriate remedial actions.

Regulatory/Additional Authority:

Social Service Law 363-D

18 NYCRR Part 521

Scope:

All Affected Individuals

Responsible Employee (Title) and/or Department:

The Compliance Officer (Director of Compliance, Quality & Incident Management) or their designee.

Definitions:

Affected Individuals – All Advocates’ employees including the Executive Director and senior leadership, contractors, subcontractors, independent contractors, agents, corporate officers, and the Board of Directors.

Policy

It is the Policy of Advocates to maintain a process for compliance reporting including a formal anonymous and confidential compliance reporting process to encourage the reporting of any known or suspected fraud, waste, and abuse; illegal or unethical acts; actual or suspected violations of Federal or State laws and regulations; actual or suspected violations of the Standards of Conduct, the Compliance Program, and Advocates’ policies and procedures; improper acts in the delivery or billing of services; and other wrongdoing (collectively referred to as “compliance concerns” for purposes of this Policy).

It is the Policy of Advocates to fully and promptly investigate all reports of any compliance concerns and take appropriate remedial and/or disciplinary action upon completion of the investigation.

Procedures

Reporting Process:

1. All Affected Individuals must promptly report any compliance concerns including those involving the Organization's contractors or vendors.
2. An "open-door policy" will be maintained at all levels of the Organization to encourage the reporting of problems and compliance concerns through normal business channels for timely and effective resolution. The Organization recognizes there may be situations where such reporting is impractical or inappropriate. In those instances, direct access to various levels of Leadership may be more appropriate.
3. Advocates encourages all Affected Individuals, service recipients, vendors, and any party conducting business with it to promptly communicate questions, issues, or compliance concerns through any one of the following means:
 - Direct written or oral communication by fax, mail, email, automated form, telephone, or personal contact to an immediate supervisor, a member of the Compliance Team, a member of Management, the Executive Director, a member of the Compliance Committee, or the Compliance Officer.
 - Anonymously and/or confidentially to the Compliance Officer or Compliance Officer's designee through the Compliance Hotline or Anonymous/Confidential Compliance Reporting Automated Form. If the reporter elects to make the report anonymously, no attempt will be made to trace the source of the report or identify the person making the report.
4. If the compliance concern is about the Compliance Officer, the Executive Director is to be notified.
5. If the Compliance Officer receives a concern related to the Executive Director, the Compliance Officer shall report such information to the President of the Board of Directors.
6. If a Board member has knowledge of a compliance concern, the Compliance Officer and the Executive Director are to be notified. If there is a concern about the Executive Director, the Compliance Officer and the President of the Board of Directors are to be notified.
7. Affected Individuals cannot exempt themselves from the consequences of their own misconduct by reporting the issue, although self-reporting may be considered in determining the appropriate course of action.

8. Strict confidentiality regarding the reporting of compliance concerns will be maintained unless the matter is subject to a disciplinary proceeding, referred to or under investigation by Federal, State, or local law enforcement, or should the disclosure be required during a legal proceeding.
9. Staff assigned to complete any investigation of a compliance concern shall treat the investigation as entirely confidential and shall not discuss the investigation with anyone who does not have a “need to know” for the purpose of the investigation or as may be directed by the Compliance Officer or legal counsel. Failure of staff to respect the confidentiality of any investigation of a compliance concern may be grounds for disciplinary action up to and including termination of employment.
10. Affected Individuals who have a compliance concern or any member of Management who receives a report of a compliance concern will immediately notify a Compliance Team member, the Compliance Officer or contact the Compliance Hotline and complete a Compliance Concern Report Form or file a report using either the Anonymous/Confidential Compliance Reporting automated form or the Reporting Form: Single Point of Access-Incidents, Facility Admissions, Compliance Concern, QA automated form. The completed Form will be promptly forwarded to the Compliance Officer.
11. Reports of compliance concerns will be recorded on the Compliance-QA Concern Log and/or the automated Reporting Form: Single Point of Access-Incidents, Facility Admission, Compliance Concern, QA spreadsheet.
12. Knowledge of a violation or potential violation of this Policy must be reported to the Compliance Officer or a Compliance Team member. Compliance Team members will notify the Compliance Officer of all reports received.
13. Affected Individuals who report issues or concerns that are unrelated to the Compliance Program shall be redirected to the appropriate department or party. In instances where the Affected Individual seeks confidentiality or reports anonymously, the report shall be redirected to the appropriate department or party while maintaining the request for confidentiality/anonymity.
14. Advocates strictly prohibits any Affected Individual from engaging in any act, conduct, or behavior that results in, or is intended to result in, retribution, retaliation, or intimidation (hereafter, collectively referred to as “retaliation”) against any party for reporting compliance concerns.
15. If an Affected Individual believes in good faith that they have been retaliated against for reporting a compliance concern or for participating in any investigation of such a report, the retaliation should be immediately reported to the Compliance Officer or the Compliance Hotline. The report should include a thorough account of the incident(s) and should include

the names, dates, specific events, the names of any witnesses, and the location or name of any document that supports the alleged retaliation.

16. The Compliance Officer will ensure that the means for reporting actual or suspected compliance concerns are communicated to all Affected Individuals and service recipients. The Compliance Officer's contact information, Compliance Hotline number and Anonymous/Confidential Compliance Reporting Automated Form link will be published on the Organization's website and visibly posted in a manner consistent with employee notification in locations frequented by Organization employees.
17. The Compliance Officer's contact information, Compliance Hotline number and Anonymous/Confidential Compliance Reporting automated form link shall be provided to all Medicaid recipients of service.

Compliance Hotline and Anonymous/Confidential Compliance Reporting Automated Form:

1. Calls to the Compliance Hotline shall only be answered by the Compliance Officer or their designee.
 - Those who answer calls will not try to discern the identity of the caller.
 - Those who answer calls will ask the caller to provide as much detail as possible regarding the concern being reported for the purpose of furthering a thorough investigation. If the caller declines to provide detailed information due to a concern that doing so could identify them, this choice will be respected.
2. Messages left on the Compliance Hotline and/or reports submitted via the Anonymous/Confidential Compliance Reporting automated form shall only be retrieved by the Compliance Officer or their designee. Those retrieving messages/reports will not try to discern the identity of the caller/reporter.
3. If the caller/reporter does identify themselves, their identity will be kept confidential regardless of whether or not the person specifically requests anonymity unless the matter is subject to a disciplinary proceeding, referred to or under investigation by Federal, State, or local law enforcement, or should the disclosure be required during a legal proceeding.

Investigation and Resolution:

1. It is the responsibility of the Compliance Officer to conduct or oversee the conduction of all internal investigations involving compliance concerns and shall have the authority to engage legal counsel or other consultants, as needed. The Compliance Officer, in conjunction with the Executive Director and legal counsel, will consider whether the investigation should be conducted under attorney privilege.
2. Before conducting an investigation of any compliance concern, the Compliance Officer shall ensure a full understanding of the relevant laws, regulations, and government issuances.

3. If a reported violation is related to improper billing, the Compliance Officer will include a review of billing practices as part of the investigation and consult with third party auditors if necessary.
4. If deemed appropriate, the Compliance Officer will recommend the cessation of internal activities that may be the cause of, or contribute to, the alleged non-compliance.
5. Upon report or discovery of an alleged compliance concern, the Compliance Officer or designee will conduct an initial inquiry into the alleged situation. The purpose of the initial inquiry is to determine whether there is sufficient evidence of possible non-compliance to warrant further investigation. The initial inquiry may include documentation review, interviews, audit, or other investigative techniques. The Compliance Officer or designee should: (a) conduct a fair impartial review of all relevant facts; (b) restrict the inquiry to those necessary to resolve the issues; and (c) conduct the inquiry as discretely as possible while gathering pertinent facts relating to the issue. Results of an initial inquiry conducted by a designee will be reported to the Compliance Officer.
6. If results of an initial inquiry justify further investigation, the Compliance Officer will determine the scope of the reported compliance concern and determination the investigation process and notifications to be made.
7. If, during the initial inquiry, there is sufficient evidence of possible noncompliance with any criminal, civil, or administrative law to warrant involvement of legal counsel, the Compliance Officer will collaborate with the Executive Director and Leadership Team regarding retaining legal counsel prior to continuing the investigation. If legal counsel is retained, it will be determined whether legal counsel or the Compliance Officer will be leading the investigation. If legal counsel is retained, no further internal discussion or investigative activity shall take place regarding the report without consulting legal counsel.
8. All documents produced during the investigation by or under the direction of legal counsel to be possibly protected from disclosure should include the notation: "Privileged and Confidential Document; Subject to Attorney-Client Privileges; Attorney Directed Work Product."
9. For investigations that do not involve legal counsel, the Compliance Officer will determine which personnel possess the requisite skills to examine the particular issue(s) and will assemble a team of investigators, as needed. The Compliance Officer shall work with the investigation team to develop a strategy for reviewing and examining the facts surrounding the possible violation. The Compliance Officer will also consider whether the Organization has sufficient internal resources to conduct the investigation or whether external resources are necessary. If additional resources are needed, the Compliance Officer will work with the Executive Director to secure such resources.

10. The investigation will accomplish the following objectives:
 - The complainant or reporter, if known, is fully debriefed;
 - Witnesses are interviewed;
 - Appropriate internal parties are notified;
 - The cause of problem, desired outcome, affected parties, applicable guidelines, and possible regulatory or financial impact are identified;
 - A complete list of findings and recommendations are provided;
 - The necessary corrective action measures (e.g., policy, operational, system, and/or personnel changes, discipline, training/education) are identified; and
 - The investigation is documented.

11. If at any time, during an investigation, it is determined that the situation warrants the retention of legal counsel, the Compliance Officer will immediately suspend the investigation and follow the process in Procedure #6 (Investigations and Resolution) above.

12. The Compliance Officer or designee, in consultation with the Leadership Team, the Compliance Committee and/or, where appropriate, the Board, may undertake measures during an investigation of a compliance concern to protect the integrity of the investigation, prevent the destruction of documents or other evidence relevant to the investigation, and respect the due process rights of involved parties. Measures may include, but are not limited to, reassignment or placement on administrative leave (suspension) until the investigation is complete.

13. The Compliance Officer will receive regular reports on the progress of all internal investigations of compliance concerns from the investigator(s). The details of the investigation including the results and recommendations for corrective actions will be documented on the Compliance Investigation Report form. The Compliance Investigation Report form for all completed investigations will be submitted to the Compliance Officer.

14. Upon receipt of the results of the investigation the Compliance Officer may consult with, the Executive Director, Leadership Team, the Compliance Committee and/or legal counsel regarding the results of the investigation, recommendations for corrective actions and/or need for any further action.

15. The Compliance Officer or designee will be responsible for the investigation of and follow-up on any reported retaliation against a party for reporting a compliance concern or participating in the investigation of a compliance concern. The Compliance Officer will report the results of an investigation into suspected retaliation to the Executive Director, Leadership Team, the Compliance Committee, and the Board of Directors.

16. The Compliance Officer will securely maintain a record of each investigation including interview notes, evidence, and pertinent documents.

17. If the Compliance Officer, in consultation with legal counsel, identifies credible evidence or credibly believes that a State or Federal law, rule, or regulation has been violated, the Compliance Officer will promptly report such violation to the appropriate governmental entity, where such reporting is otherwise required by law, rule or regulation. The Compliance Officer will receive and maintain copies of any reports submitted to governmental entities.
18. The Compliance Officer, in consultation with legal counsel, the Executive Director, the Leadership Team and/or the Compliance Committee, will evaluate any confirmed violation to determine if a voluntary self-disclosure of the violation is appropriate. In the event that voluntary disclosure is appropriate or required, the Compliance Officer will consult with legal counsel on the notification of appropriate government officials, private payors, or other entities. Notification shall be made within a reasonable time period from date of discovery and may include restitution of monies paid by the applicable Federal or State agency, payer, or other entity. The Compliance Officer will ensure that all overpayments are reported and refunded to the appropriate payer within 60 days of the identification of the overpayment and in accordance with the Billing Errors, Overpayments, and Self-Disclosure Policy and Procedure.
19. The Compliance Officer will be responsible for reporting the results of all investigations to the Executive Director, Leadership Team, Compliance Committee, and the Board.
20. The Compliance Officer, designee or appropriate member of Management will inform the reporter, if known, of the conclusion of the investigation and the outcome, if appropriate.

Attachments

- Anonymous/Confidential Compliance Reporting-Automated Form:
<https://forms.office.com/Pages/ResponsePage.aspx?id=0gmtWtUjMkquEa-FrT9eAwEBCblqixlApWMsa4ILx-BUMERSMUFFS0JPWTM5V08wVkiNNFVWVcwRS4u>
- Compliance Concern Report Form
C:\Users\carolg.FAMILYCAPPED\Advocates Incorporated\Compliance - Documents\C-Compliance-QA\C-Compliance Investigations\Compliance Concern Report Form-fillable
- Reporting Form: Single Point of Access-Incidents, Facility Admission, Compliance Concern, QA-Automated Form
<https://forms.office.com/r/zJ8LQxt0eJ>
- Compliance-QA Concern Log
C:\Users\carolg.FAMILYCAPPED\Advocates Incorporated\Compliance - Documents\C-Compliance-QA\Compliance-QA Concern Log
- Reporting Form: Single Point of Access-Incidents, Facility Admission, Compliance Concern, QA-Spreadsheet
 [Compliance - Human Resources Notifications.xlsx](#)
- Compliance Investigation Report Form

C:\Users\carolg.FAMILYCAPPED\Advocates Incorporated\Compliance - Documents\C-Compliance-QA\C-Compliance Investigations\1 Compliance Investigation Report form 4.28.23

Sanction Statement

Non-compliance with this policy may result in disciplinary action, up to and including termination.

Compliance Statement

As part of its ongoing Compliance Program review and improvement process, Advocates will review this policy at least annually and as needed to respond to changes in laws or regulations and to determine if this policy:

- Has been implemented.
- Is being followed.
- Is effective.
- Needs to be updated.

Record Retention Statement

Advocates will retain this policy and all subsequent revisions, and any related documentation will be retained for a period of, at minimum, six years.

Approval(s)

Approved by: Carol Gentry, Compliance Officer
(Director of Compliance, Quality & Incident Management)

Signature: Carol L. Gentry DATE: 09-27-2023

Approved by: Amy Dugliss, Executive Director

Signature: Amy Dugliss DATE: 09-27-2023

Approved by: Beth Henderson, Chairperson, Compliance Committee

Signature: Beth Henderson DATE: 09-28-2023

Signature Certificate

Reference number: UIMDT-BXMWC-YUNXV-RSUED

Signer

Timestamp

Signature

Carol Gentry

Email: carol@advocatesincorporated.org

Sent: 27 Sep 2023 20:01:09 UTC
Viewed: 27 Sep 2023 20:01:13 UTC
Signed: 27 Sep 2023 20:01:40 UTC

Carol L. Gentry

IP address: 71.115.192.50
Location: Syracuse, United States

Amy Dugliss

Email: amy@advocatesincorporated.org

Sent: 27 Sep 2023 20:01:09 UTC
Viewed: 27 Sep 2023 21:12:45 UTC
Signed: 27 Sep 2023 21:12:57 UTC

Amy Dugliss

Recipient Verification:

✓ Email verified 27 Sep 2023 21:12:45 UTC

IP address: 71.115.192.50
Location: Syracuse, United States

Beth Henderson

Email: beth@advocatesincorporated.org

Sent: 27 Sep 2023 20:01:09 UTC
Viewed: 28 Sep 2023 14:38:20 UTC
Signed: 28 Sep 2023 14:38:46 UTC

Beth Henderson

Recipient Verification:

✓ Email verified 28 Sep 2023 14:38:20 UTC

IP address: 71.115.192.50
Location: Syracuse, United States

Document completed by all parties on:

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