Search

Standards Program

Policies and Procedures

Updated 1/2024

Approved by Quality Standards Director, Sue Budney, LMSW;

Racker's Compliance Officer

Search

Table of Contents

Definitions; References for Policies & Procedures; Policy & Procedure dates explained

Throughout the Standards manual, unless otherwise specified in the individual policies and procedures, the following applies:

1. **Definitions:**
    a. Regulations use the phrase 'Affected Individuals' to represent all employees, the Executive Director and other senior administrators, managers, contractors, agents, subcontractors, independent contractors and governing body and corporate officers.
    b. Unless otherwise specified in the policies and procedures, Racker uses the following words/ phrases:
        - 'Staff' or 'Staff Member' for all Racker employees, interns, volunteers;
        - 'Contractors' for contractors, subcontractors, independent contractors;
        - 'Board' or 'Board Members' for governing body and corporate officers.
    c. 'Standards' – Racker used the word Standards and corporate compliance interchangeably.

2. **The following policies, procedures, and guidelines are based on:**
    a. Racker's Mission and Vision
    b. 18 NYCRR Chapter 521

3. **'Issue' dates reflect Board Approval of the Policy Statement and initial implementation of the procedure or guideline;** subsequent dates reflect procedural updates unless otherwise noted.

History of Corporate Compliance

[Information compiled in 2018]

The following is a brief chronological account of the history of compliance and how it evolved into current day corporate compliance practices and regulations.

1863

False Claims Act – purpose is to recover taxpayer's money that was fraudulently paid to individuals who deceived the government. (This act dates back to the Civil War when defense contractors defrauded the Union gvt.)

1960's

Sociologist Amitai Etzioni began to study and recognize management structures and power sources of compliance controls

- Etzioni identified normative or identitive power, organizations create compliance using symbolic images and intrinsic rewards to build loyalty
- Prisons and military units utilizing coercive power as form of compliance

1977

Foreign Corrupt Practices Act

- Prompted from 400 American businesses admitting to paying bribes to foreign governments or making other illegal or questionable payments to foreign governments
- Along with the creation of the Environmental Protection Agency and Drug Enforcement Agency, prompted companies to develop internal laws, rules and regulations

1985-1990

5 years of unremitting scandal within American Businesses

Defense Industry – Pentagon misconduct / mismanagement

- Spare Parts Scandal – total of $37B
- $435 hammer; $600 toilet seat; $7622 coffee brewer

This resulted with the appt. of the Blue Ribbon Presidential Commission

- Expanded the FCPA
- Enforce Code of Ethics

GE CEO and other CEO's gathered to form voluntary organization:

- "Defense Industry Initiative Business Ethics & Conduct" (DII) to create 'heightened standard of ethical conduct'
  - Promote self-policing to ensure compliance
  - Create a forum to "share best practices in dealing with ethics and business conduct"

1986

32 major contractors agreed to adopt the principles including;

- Adherence to a written code of conduct
- Employee training
- Employee accountability

Savings and Loan Crisis

- Heightened American's disgust with ethics of business.
- Reckless lending practices resulted in major losses-covered up by fraud.
- Resulted in a General Accounting Office-at the cost of $370B, $341B being taxpayer money

- Approx. 1,000 people charged with criminal acts, 580 convicted, 451 sentenced to prison

1991
Establishment of Federal Sentencing Guidelines for Organizations (FSGO) – prevent, detect, and self-report

- 30 Ethics Officers Asso. (EOA)
- Referred to as the beginning of "a new profession in American History"
- Guidelines of core elements known as the "Seven Steps" including, revising and drafting new codes of conduct, policies and procedures, training programs, risk assessments and hot lines.

1992
FSGO had grown to 22 sponsoring partners
It became evident the first generation of Ethics and integrity wasn't working because of:
Enron; World Com; Adelphia; Health South (2000-2002)

2002
Congress passed **Sarbanes-Oxley Act**

- Imposed rigorous internal control requirements on corporations

2004
Society of Corporate Compliance and Ethics (SCCE) a nonprofit association was formed

- 4,000 members worldwide
- Created a certification program through the Compliance Certification Board (CCB)
- Growing army of certified professionals; Ethics Officer, Compliance Officer, leader is called the "Chief"

2004 Uniform Sentencing Commission

- Enforced FSGO to adhere to new guidelines to create an ethical culture effective programs must exist that embody ethics, not just compliance

2005
FSGO added the word "Compliance" to their name and became the Ethics and Compliance Certification Board (CCB)

2007-2008
Despite the efforts of the Uniform Sentencing Commission massive bankruptcies and bailouts occurred.

- Scandals in Lehman Brothers, Bear Stearns, Merrill Lynch, AIG and government sponsored entities included Fannie Mae.
- Americans lost more than a quarter of their net worth

2007
Deficit Reduction Act (DRA) of 2005 – any employer who receives more than $5M per year in Medicaid payments is required to provide information to its employees about the Federal False Claims Act (from 1863), any applicable laws, the rights of employees to be protected as whistleblowers, and the employer's policy and procedures for detecting and preventing fraud, waste, and abuse. The DRA became effective on **January 1, 2007**.

Provisions of Whistleblowers' Act was included which is protection to employees who report fraudulent acts, from retaliation.
The DRA was amended to lower the threshold from $5M to $500,000.

In **March of 2007** Racker's Board of Directors approved a resolution for the establishment of Policies & Procedures for the agency's Standards Program.

In 2023 the Office of Medicaid Inspector General made adjustments/ additions in the requirements of compliance plans.

Standards Program Policy

[Issued 3/2007; Procedures reviewed 5/2009, 1/2013, 12/2019, 2020, 6/2023]

"Racker is committed to establishing and maintaining an environment of integrity in providing effective services. The function of the Standards Program is to ensure this environment."

The following information and procedures fall under this policy statement:

- Intent of the Standards Program
- List of the Required Elements of the Standards Program
- Oversight of the Standards Program - Designation of a Compliance Officer and the Standards Committee
- Workplan Development & Implementation
- Documentation Retention

Intent of Standards Program:

The Standards Program was created to provide structure and guidance for all staff, contractors and the Board for:

- gaining knowledge and understanding of compliance practices and the practices' significance;
- implementing ethical practices in all that Racker does.

It is through collaborative efforts of ***all*** staff, contractors and the Board of Directors that the standard of ethical and effective practices are possible.

Required Elements for a Standards Program

a. Written Policies and Procedures & Standards of Conduct
b. Oversight of Standards Program (A Designated Compliance Officer & Compliance Committee)
c. Training & Education
d. Lines of Communication
e. Discipline & Enforcement
f. Auditing & Monitoring
g. Responding to Compliance Issues

Oversight of the Standards Program

a. **The Director of Quality Standards is the appointed Compliance Officer** and is charged with:
   - Knowing and understanding the regulatory requirements of a compliance plan/ program.
   - Reviewing, revising, and overseeing the Standards policies & procedures/ practices no less frequently than annually and as necessary to address agency standards and regulatory requirements;

- Ensuring the written policies & procedures/ practices of the Standards Program are current and accessible to all Staff, Contractors, and Board.
- Drafting and presenting to the Standards Committee and the Board an annual workplan that satisfies all regulatory required elements of a compliance plan.
- Assisting each program / department in establishing an auditing process of services and documentation.
- Ensuring a self-assessment of the compliance plan and its effectiveness is conducted annually, minimally.
- Providing no less frequently than quarterly to the Executive Director and Board of Directors, regarding the Standards Dept. and Committee work, and updates regarding the Standards Program.
- Investigating and acting on matters related to the compliance program and its practices.

The Standards (Compliance) Committee – membership, meetings, responsibilities, and charter

- The Standards Committee Charter addresses the committee's purpose, authority and responsibilities, designation of a chairperson, composition, frequency of meetings, and the recordkeeping of meeting minutes. The following is the charter in whole:

Chair	Susan Budney, Director of Quality Standards/Compliance Officer	**Effective Date: 7/1/23**
Sponsor	Executive Director Approval: _____ Date: 1/1/2024	
Purpose	1. To assist and coordinate with the Compliance Officer to ensure that Racker is conducting its business in a legal, ethical, and responsible manner, consistent with its Standards Program. 2. The Standards Committee shall have the authority to undertake the specific duties and responsibilities described below and the authority to undertake such other duties as directed by the Executive Director and/or President of the Board.	
Meetings and Procedures	The Standards Committee will: 1. Meet on a regular basis, not less frequently than quarterly. 2. Relay pertinent information to their respective departments to ensure knowledge of and implementation of assigned elements of the compliance plan. 3. Maintain written minutes or other records of its meetings and activities. Minutes of each meeting of the Standards Committee will be filed electronically in QS Sharing folder on Sharepoint. The Chair of the Standards Committee will: 1. Report to the Executive Director and Board following meetings of the Standards Committee, and as otherwise requested by the President of the Board.	
Membership	Chair: • Sue Budney, Director of Quality Standards/ Compliance Officer Committee members include: (names, titles)	

	• Mike Leiter, Director of Information Technology • Bethany Brown, Director of Human Resources • Gayle Pado, Director of Community Support Services • Sarah Tarrow, Director of Counseling for School Success • Katie Boardman, Director of IDD Services • Marianne Odell, Director of Residential Services • Susan Raymond, Director of Clinical Services • Bob Brazill, Director of Community Relations • Cecilia Campbell, Director of Finance • Brian Rozewski, Director of Early Childhood Services
Responsibilities	1. The Standards Committee works with the Compliance Officer to ensure that Racker has, and maintains, an effective Standards Program. The Standards Committee is responsible for the following: • Analyzing the regulatory environment where Racker does business, including legal requirements with which it must comply. • Reviewing and assessing existing policies & procedures that address risk areas. • Reviewing and monitoring Standards Program in-services and education to ensure that they are effective and completed in a timely manner. • Ensuring Racker has effective systems and processes in place to identify Standards Program risks, overpayments, and other issues and has effective policies and procedures for correcting and reporting such issues. • Working with departments to develop standards and policies and procedures that address specific risk areas and to encourage compliance according to legal and ethical requirements. • Coordinating with the Compliance Officer to ensure that the written policies and procedures and *Standards of Conduct* (Code of Conduct & Ethical Practices) are current, accurate, and complete. • Developing internal systems and controls to carry out compliance standards, *Standards of Conduct*, and policies and procedures. • Coordinating with the Compliance Officer to ensure communication and cooperation by staff on compliance-related issues, internal or external audits, or any other function or activity. • Developing a process to solicit, evaluate, and respond to complaints and problems. • Monitoring internal and external audits to identify issues related to non-compliance. • Implementing corrective and preventative action plans and follow-up to determine effectiveness. • Ensuring the development and implementation of an annual Standards Work Plan. • Advocating for sufficient funding, staff, and resources to be allocated to the Compliance Officer to carry out duties related to the Standards Program. • Ensuring Racker has appropriate systems and policies in place that effectively identify risks, overpayments, and other areas of concerns including fraud, waste, and abuse. • Monitoring and evaluating the Racker's Standards Program for effectiveness and making recommendations for necessary modifications to the Standards Program as applicable.

	The Standards Committee will: 1. Review the annual assessment of the effectiveness of the Standards Program. 2. Review and reassess its Charter at least annually and submit any recommended changes to the Executive Director for consideration. 3. Perform such other functions for efficient implementations of its responsibilities.

Workplan Development and Implementation

- The Compliance Officer organizes a yearly workplan as a guide to addressing compliance requirements.
- The workplan includes all required elements of a compliance plan, per NYCRR Part 521 regulations
- The plan assigns tasks to various QS staff and program staff as those responsible for implementing the plan.
- The workplan is a 'working document' requiring updating and modifications throughout the year, which is the responsibility of the Compliance Officer.
- For flexibility, the audit schedule in the workplan is drafted quarterly by the Compliance Officer, with input from individual programs, risk assessments, and the QS Dept..
- The Standards (Compliance) Committee will review the plan for thoroughness and to provide input.
- The workplan will be presented to the Board for review annually, with periodical updates on work completed, during the Compliance Officer's Board reports.

Document Retention

- All Compliance Documents will be maintained for a minimum of six years.
  - Note: Other oversight agencies may require longer periods of record retention for some documents.
- Compliance records for retention include:
  - Policy and Procedure manuals
  - Standards Committee Minutes
  - Compliance Reports presented to the Board
  - Internal Audits by the QS Dept.
  - External Audits by oversight bodies
  - Workplans
  - Self-Disclosures

False Claims Act and Whistleblower Provisions Policy

[Issued 3/2007; Reviewed 5/2009, 1/2013, 12/2019, 2020, 6/2023]

"It is the policy of Racker to be in compliance with the Federal False Claims Act, NYS False Claims Act, and Whistleblower Provisions."

Procedure:

The Compliance Officer ensures:

1. Trainings are developed and updated for overview of corporate compliance including False Claims Act and Whistleblower Provisions, for all staff, contractors and the Board to receive upon joining Racker and annually thereafter.
2. All staff, contractors, Board Members and the general public have on-going access to the Standards (Compliance) Program Policies and Procedures on Racker's website – which includes information on the False Claims Acts (Federal and State) and Whistleblower Provisions.
3. An internal process is in place for detecting and preventing fraud, waste and abuse which includes the following for services provision and claims for reimbursement:
   a. Service documentation, records, and reports are prepared timely, accurately, and honestly;
   b. Documentation supporting claims is complete and maintained in accordance with regulation;
   c. Claims submitted are accurate and comply with all Federal and State laws, regulations and payor requirements;
   d. Claims submitted are for medically necessary services provided by eligible providers;
   e. Claims are properly documented and accurately coded;
   f. Billing errors are promptly identified and payments received in error are promptly returned.

Racker staff, contractors:

1. Will receive training upon hire and annually thereafter, on the False Claims Acts and Whistleblower Provisions.
2. Will have continual access to the False Claims Acts and Whistleblower Provisions information.
3. Shall not make or submit any fraudulent entries on claims forms or documentation of services that result in the submission of a fraudulent claim.
4. Are expected to promptly report misconduct involving fraudulent claims to a supervisor, director, Quality Standards, or Racker's community Helpline.

Racker Board Members:

1. Will receive training upon entrance to the Board and annually thereafter, on the entirety of the Standards Program including the False Claims Acts and Whistleblower Provisions.

Racker staff, contractors and Board Members:

1. Are responsible for promptly alerting Human Resources and/ or the Quality Standards Department of any retaliation or intimidation experienced subsequent to reporting a compliance concern
2. Who report a compliance concern in good faith will be protected from retaliation.

The following are the law and provisions:

FEDERAL & NEW YORK STATUTES RELATING TO FILING FALSE CLAIMS

I. FEDERAL LAWS

The False Claims Act (31 USC Chapter 37, §§ 3729-3733)

The False Claims Act is a Federal law designed to prevent and detect fraud, waste, and abuse in Federal healthcare programs, including Medicaid and Medicare. Under the False Claims Act, anyone who "knowingly" submits false claims to the Federal Government is liable for damages up to three times the amount of the erroneous payment plus mandatory penalties of approximately $12,000 to $25,000[1] for each false claim submitted.

The law was revised in 1986 to expand the definition of "knowingly" to include a person who:

- Has actual knowledge of falsity of information in the claim;
- Acts in deliberate ignorance of the truth or falsity of the information in the claim; and
- Acts in reckless disregard of the truth or falsity of the information in a claim.

False Claims suits can be brought against individuals and entities. The False Claims Act does not require proof of a specific intent to defraud the Government. Providers can be prosecuted for a wide variety of conduct that leads to the submission of a false claim.

Examples include, but are not limited to, the following:

- Knowingly making false statements;
- Falsifying records;
- Submitting claims for services never performed or items never furnished;
- Double-billing for items or services;
- Upcoding;
- Using false records or statements to avoid paying the Government;
- Falsifying time records used to bill Medicaid; or
- Otherwise causing a false claim to be submitted.

Administrative Remedies for False Claims (31 USC Chapter 38, §§3801-3812)

The Federal False Claims Act allows for administrative recoveries by Federal agencies including the Department of Health and Human Services, which operates the Medicare and Medicaid Programs. The law prohibits the submission of a claim or written statement that the person knows or has reason to know is false, contains false information, or omits material information. The Federal agency receiving the claim may impose a monetary penalty of up to $5,500 per claim and damages of twice the amount of the original claim.

Unlike the False Claims Act, a violation of this law occurs when a false claim is submitted, not when it is paid.

More information can be found at 31 USC Chapter 38 - Administrative Remedies for False Claims and Statements.

II. NEW YORK STATE LAWS

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

A. CIVIL AND ADMINISTRATIVE LAWS

New York State False Claims Act (State Finance Law §§187-194)

The New York State False Claims Act closely tracks the Federal False Claims Act. It imposes fines on individuals and entities that file false or fraudulent claims for payment from any State or local government, including healthcare programs such as Medicaid. The penalty for filing a false claim is $6,000 - $12,000[2] per claim and the recoverable damages are between two and three times the value of the amount falsely received. In addition, the false claim filer may be responsible for the government's legal fees.

The New York State Government, or an individual citizen acting on behalf of the Government (a "Relator"), can bring actions under the New York State False Claims Act. If the suit eventually concludes with payments back to the government, the party who initiated the case can recover 15% - 30% of the proceeds, depending upon whether the government participated in the suit.

The New York State False Claims Act prohibits discrimination against an employee for taking lawful actions in furtherance of an action under the False Claims Act. Any employee who is discharged, demoted, harassed, or otherwise discriminated against because of lawful acts by the employee in furtherance of an action under the False Claims Act is entitled to all relief necessary to make the employee whole.

More information can be found at http://public.leginfo.state.ny.us/lawssrch.cgi?NVLWO: under FIS/Financial Services Law.

Social Service Law §145-b False Statements

It is a violation to knowingly obtain or attempt to obtain payment for items or services furnished under any Social Services program, including Medicaid, by use of a false statement, deliberate concealment, or other fraudulent scheme or device. The State or the local Social Services district may recover up to three times the amount of the incorrectly paid claim. In the case of non-monetary false statements, the local Social Service district or State may recover three times the amount incorrectly paid. In addition, the Department of Health may impose a civil penalty of up to $2,000 per violation. If repeat violations occur within five years, a penalty up to $7,500 may be imposed if they involve more serious violations of the Medicaid rules, billing for services not rendered, or providing excessive services.

More information can be found at http://public.leginfo.state.ny.us/lawssrch.cgi?NVLWO: under SOS/Social Services.

Social Service Law §145-c Sanctions

If any person applies for or receives public assistance, including Medicaid, by intentionally making a false or misleading statement, or intending to do so, the person's and the person's family needs are not taken into account for a period of six months to five years, depending upon the number of offenses.

More information can be found at http://public.leginfo.state.ny.us/lawssrch.cgi?NVLWO: under SOS/Social Services.

B. CRIMINAL LAWS

Social Services Law §145 Penalties

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

More information can be found at http://public.leginfo.state.ny.us/lawssrch.cgi?NVLWO: under SOS/Social Services.

Social Service Law § 366-b, Penalties for Fraudulent Practices

Any person who, with intent to defraud, presents for payment any false or fraudulent claim for furnishing services or merchandise, knowingly submits false information for the purpose of obtaining Medicaid compensation greater than that to which they are legally entitled to, or knowingly submits false information in order to obtain authorization to provide items or services shall be guilty of a Class A misdemeanor.

Any person who obtains or attempts to obtain, for himself or others, medical assistance by means of a false statement, concealment of material facts, impersonation, or other fraudulent means is guilty of a Class A misdemeanor.

More information can be found at http://public.leginfo.state.ny.us/lawssrch.cgi?NVLWO: under SOS/Social Services.

Penal Law Article 155, Larceny

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

More information can be found at http://public.leginfo.state.ny.us/lawssrch.cgi?NVLWO: under PEN/Penal.

Penal Law Article 175, Written False Statements

There are four crimes in this Article that relate to filing false information or claims. Actions include falsifying business records, entering false information, omitting material information, altering an organization's business records, or providing a written instrument (including a claim for payment) knowing that it contains false information. Depending upon the action and the intent, a person may be guilty of a Class E felony.

More information can be found at http://public.leginfo.state.ny.us/lawssrch.cgi?NVLWO: under PEN/Penal.

Penal Law Article 177, Health Care Fraud

This Article establishes the crime of Health Care Fraud. A person commits such a crime when, with the intent to defraud Medicaid (or other health plans, including non-governmental plans), they knowingly provide false information or omits material information for the purpose of requesting payment for a healthcare item or service and, as a result of the false information or omission, receives such a payment in an amount to which they are not entitled. Prosecution under Health Care Fraud is determined by the amount of payment inappropriately received.

More information can be found at http://public.leginfo.state.ny.us/lawssrch.cgi?NVLWO: under PEN/Penal.

III. WHISTLEBLOWER PROTECTION

Federal False Claims Act (31 U.S.C. §3730(h))

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

More information can be found at 31 USC 3730: Civil actions for false claims (house.gov)

Employee Protections

The False Claims Act prohibits discrimination by Racker against any employee for taking lawful actions under the False Claims Act. Any employee who is discharged, demoted, harassed, or otherwise discriminated against because of lawful acts by the employee in False Claims actions is entitled to all relief necessary to make the employee whole. Such relief may include reinstatement, double back pay, and compensation for any special damages, including litigation costs and reasonable attorney fees.

More information can be found at 31 USC 3729: False claims (house.gov)

NY False Claim Act (State Finance Law §191)

The False Claim Act also provides protection to *qui tam* relators who are discharged, demoted, suspended, threatened, harassed, or in any other manner discriminated against in the terms and conditions of their

employment, or otherwise harmed or penalized by an employer, or a prospective employer as a result of their furtherance of an Action under the Act. Remedies include an injunction to restrain continued discrimination; hiring, contracting, or reinstatement with comparable seniority as the *qui tam* relator would have had but for the discrimination, two times the amount of any back pay, interest on any back pay, and compensation for any special damages sustained as a result of the discrimination, including litigation costs and reasonable attorneys' fees.
For further details of NY False Claim Act, reference:
https://ag.ny.gov/sites/default/files/nyfca.pdf

New York Labor Law §740

An employer may not take any retaliatory personnel action against an employee if the employee discloses information about the employer's policies, practices, or activities to a regulatory, law enforcement, or other similar agency or public official.

This law offers protection to an employee who:

- Discloses, or threatens to disclose, to a supervisor or to a public body an activity, policy, or practice of the employer that is in violation of law, rule, or regulation that presents a substantial and specific danger to the public health or safety;
- Provides information to, or testifies before, any public body conducting an investigation, hearing, or inquiry into any such violation of a law, rule, or regulation by the employer; or
- Objects to, or refuses to participate in, any such activity, policy, or practice in violation of a law, rule, or regulation.

The employee's disclosure is protected under this law only if the employee first brought up the matter with a supervisor and gave the employer a reasonable opportunity to correct the alleged violation, with certain exceptions. The law allows employees who are the subject of a retaliatory action to bring a suit in State court for reinstatement to the same, or an equivalent position, any lost back wages and benefits and attorneys' fees.

More information can be found at http://public.leginfo.state.ny.us/lawssrch.cgi?NVLWO%20: under LAB-Labor.

New York Labor Law §741

Under this law, a healthcare employer may not take any retaliatory action against an employee if the employee discloses certain information about the employer's policies, practices, or activities to a regulatory, law enforcement, or other similar agency or public official. Protected disclosures are those that assert that, in good faith, the employee believes constitute improper quality of patient care or improper quality of workplace safety.

This law offers protection to an employee who:

- Discloses or threatens to disclose to a supervisor, to a public body, to a news media outlet, or to a social media forum available to the public at large, an activity, policy, or practice of the employer or agent that the employee, in good faith, reasonably believes constitutes improper quality of patient care or improper quality of workplace safety; or
- Objects to or refuses to participate in any activity, policy, or practice of the employer or agent that the employee, in good faith, reasonably believes constitutes improper quality of patient care or improper quality of workplace safety.

The employee's disclosure is protected under this law only if the employee first brought up the matter with a supervisor and gave the employer a reasonable opportunity to correct the alleged violation, unless the danger is imminent to the public or patient and the employee believes in good faith that reporting to a supervisor would not result in corrective action. Certain exceptions apply. If the 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 healthcare 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.

More information can be found at: http://public.leginfo.state.ny.us/lawssrch.cgi?NVLWO%20: under LAB-Labor.

Standards of Conduct

A.- Code of Conduct;
& B.- Ethical Practices
Policies

[Issued: 1/07 Procedures Reviewed: 12/08; 7/09; 1/13and Updated: 12/18/2019; 8/27/20; 6/2023]

A. Every staff member, volunteer and intern is expected to observe standards of ethics and good conduct and uphold Racker's Mission and Vision.

B. Consistent with Racker's Code of Conduct, Racker is committed to ensuring ethical practices. All persons affiliated with Racker are expected to uphold this commitment through integrity, honesty and utilizing good moral judgment.

The following procedures and other information fall under this policy statement:

- Code of Conduct
- Ethical Practices

Code of Conduct

Guidelines:

Each Staff Member is expected to:

- ❖ Contribute to a culture that fosters a sense of respect, care and support for everyone, and encourages initiative and creativity;
- ❖ Contribute to a culture that emphasizes excitement, fun, purpose and success;
- ❖ Behave in accordance with the Mission and Vision of Racker;
- ❖ Welcome change and challenges;
- ❖ Communicate effectively with colleagues;
- ❖ Commit to ensuring integrity and ethical practices;
- ❖ Provide accurate and thorough information in all forms of communication.

Procedure:

Each Staff Member will:

1. Treat everyone respectfully;
2. Arrive at her/his/their shift ready and able to perform her/his/their duties;
3. Conduct her/him/their-self in a professional manner to include abiding by all Racker policies and procedures, as well as all applicable state and federal regulations;
4. Be familiar with information contained within the Employee Handbook as well as information contained within the specific department/program's policy and procedures that a staff member is working in;
5. Adhere to Racker's standards for sanitation and safety.
6. Document services provided accurately, legibly and *only* what s/he/they has/have personally done or observed;

7. Contact her/his/their supervisor for direction if s/he/they becomes aware of an error in her/his/their work.
8. Help her/his/their co-workers identify and correct any errors.
9. Report any concerns regarding violations of Racker's policies and procedures and/or state and federal regulations utilizing her/his/their department/program reporting structure and/or Racker's Community Helpline.
10. Use all vehicles, supplies, materials, machines or tools that are the property of Racker in an appropriate manner
11. Use personal cellular phones according to her/his/their program's policy, if it exists. If such a policy does not exist in the staff member's program, s/he/they should use personal cellular phones in a way that does not impair her/his/their ability to carry out job functions.
12. Give written notice in a timely manner before leaving employment at Racker.

Ethical Practices

Guidelines

All staff members will be made aware of specific policies and regulations through the employee handbook, new employee orientation, Racker's website, on Sharepoint, and/or from her/his/ their supervisor.

All Staff are *expected* to:

- Promote and support ethical practices;
- Attend to the integrity and honesty of their daily work activities;
- Expect the same integrity and honesty of the practices of their co-workers.
- Periodically review this information and direct any questions to her/ his/ their supervisor.

Ethical practices include, but are not limited to:

- Honesty and accuracy in all documentation and other forms of communication;
- Honesty and accuracy in all billing and financial handlings;
    - All programs/departments will have a process to review documentation to ensure quality and accuracy as well as to help identify areas for system improvements.
- Reporting suspected unethical behaviors;
    - When staff are acting in *good faith* in the reporting of suspected unethical behaviors staff will be free from reprisal and prejudice.
- Notifying her/his/their supervisor when errors are made;
- Adherence to all Racker policies, federal, state and local regulations and any licensing regulations.

The Standards Program supports the agency in monitoring ethical practices as outlined in the Standards Program Policy including;

- Educating staff and contractors of regulation and policy changes.
- Partnering with programs and departments to review services and billing documentation.

- ❖ Responding to allegations of fraudulent documentation and/or service provision.

Procedure

All Staff are *required* to:

1. Follow their program/department standards for documentation and services provided.
2. Seek out her/his/their supervisor if uncertain how to handle any situation, as well as notify the supervisor if an error has occurred.
3. Direct questions or concerns about another staff member's practices, to the program supervisor, department director, or through use of the Racker Community Helpline.

The Supervisor, Department Director will:

1. ***Not ignore any question or concern brought to their attention***;
2. Review questions or concerns;
3. Provide follow-up by:
   a. Providing clarification to the staff member
   And/or >
   b. Relaying information to the Compliance Officer for assistance and follow up.

The Compliance Officer will respond to questions and concerns by:

1. Directing general errors or concerns to the Program/Department Director to address with the individual(s).
2. Completing an investigation, if warranted;
3. Relaying information to Human Resources, with regards to any staff member's participation in an unethical event or suspected unethical event;
4. Reviewing and discussing with the involved Program/Department Director, possible changes to systems in place to assist with enhancing services and minimizing further risk;
5. Determining if a payback and self-disclosure to Medicaid is necessary, and/ or notifying the business office to otherwise resolve any billing issue.
6. Reviewing the 'non-general' errors and concerns with the Standards Team.

Requirements of Compliance Policy
{Reporting & Investigating}

[Issued 3/2007; Procedure initiated 3/2007]

"Racker is committed to being a good corporate citizen and expects all staff and contractors of Racker to conduct their business ethically and in compliance with all state and federal laws and regulations as well as Racker's Code of Conduct and Ethical Practices Policy."

The following procedures and other information fall under this policy statement:

- Reporting Suspected Fraud
- Investigating Concerns of Fraud
- Reporting Structure
- Reference to Non-Retaliation Standard
- Compliance Accountability (Discipline)

Procedure

Reporting Suspected Fraudulent Activity

All staff and contractors are responsible for:

1. Promptly reporting any known or suspected fraudulent activity including:
   a. Violation of Federal and/or New York State Laws and Regulations
   b. Failure to comply with the Code of Conduct, Ethical Practices Policy or related policies and procedures.
   c. Fraudulent billing activity
   d. Falsely documenting service delivery
2. Reporting such suspected activity to/ via, at least one of the following:
   - A supervisor or the Program/Department Director
   - Director of Quality Standards
   - The Executive Director
   - Racker's Community Helpline
   - A Board Member

A supervisor, director or recipient of Helpline notifications, must

- Promptly document the report
- Promptly notify the Compliance Officer
  a. Concerns identified through any audit/review process will be brought to the Compliance Officer.

Investigating Concerns

Upon receipt of any report, the Compliance Officer (with assistance as warranted from the affected program and/ or others in the QS Dept.) will:

1. Investigate all reports of suspected fraudulent activity by:
   - Gathering all supporting documentation;

- Interviewing staff, contractors, service recipients and/or their family/advocate
- If the report of a concern is made anonymously but too little information is provided to move forward with a formal investigation:
  - The information is reported to the Program/Department Director (if identifiable) for discussion and follow up, as warranted.
  - This may proceed to a formal investigation, if enough information is able to obtained.

2. Complete a report on the findings and discuss these findings with the Executive Director and appropriate Program/Department Director, as well as the Director of Human Resources when necessary.

Reporting Structure

The Compliance Officer will:

1. Review all reports with the Standards Team – regardless if they are investigated or not – for discussion and recommendations.
2. Report all instances of identified intentional fraudulent practice(s) to the President of the Board.
3. Report all findings of founded fraud to the Board.
4. Report all instances of intentional fraudulent practice(s) that involve billing for state and/or federal monies, to the Department of Health and/or the Medicaid Inspector General Office will be contacted per 18NYCRR Chapter 521 – NYS's mandatory compliance regulation.

Reference to Non-Retaliation

- "Good Faith" means that the individual believes that the potential violation actually occurred as he or she is actually reporting.
- Any form of retaliation against any staff or contractor who reports a perceived problem or concern in good faith ***is strictly prohibited***.
- Any staff or contractor who commits or condones any form of retaliation will be subject to discipline up to, and including, employment termination or contract termination, respectively.

Compliance Accountability

Staff and contractors who, upon investigation, are found to have committed violations of applicable laws and regulations, the Code of Conduct, Ethical Practices Policy or other relevant policies and procedures will be subject to appropriate disciplinary action, up to and including termination of employment (or arrangement with a contractor).

Recommendations of such disciplinary actions will involve the Director of Human Resources, the Director of Quality Standards and the Program/Department Director, as appropriate.

If termination is considered the recommendation will be given to the Executive Director or designee for a final decision.

- The following actions may result in disciplinary action:
  - Authorization of or participation in actions that violate the law, regulations, the Code of Conduct, Ethical Practices Policy or related policies and procedures;

  - Failure to report a violation by another staff or contractor;
  - Retaliation against an individual for reporting a possible violation or participation in an investigation; and
- Disciplinary actions shall be applied consistent with the violation. Examples of the disciplinary action include, but are not limited to:
  - Performance improvement plan
  - Verbal counseling or warning
  - Counseling with written warning
  - Reassignment or demotion
  - Termination of employment (or arrangement with a contractor)

Guidelines:

1. All reports of compliance violations are to be reported to the Compliance Officer
2. Confidentiality will be maintained to the extent that is practical and allowable by law. Staff and contractors should be aware that Racker is legally required to report certain types of crimes or potential crimes and infractions to external governmental agencies.
3. Disciplinary action for employees will be taken in accordance with Racker's Human Resource practices.
4. When the determination is made that a compliance violation has occurred, the Compliance Officer will notify the Executive Director, the appropriate department/program administrator, the Director of Human Resources, and the employee's supervisor.
5. When the determination is made that a compliance violation by the Executive Director has occurred, the Compliance Officer will notify the Director of Human Resources and the President of the Board in order to determine and execute appropriate disciplinary action. Legal counsel may be consulted, as appropriate.
6. The Compliance Officer and Director of Human Resources, as appropriate, will work in collaboration with the appropriate supervisor/manager in determining and executing the disciplinary action related to a compliance violation by an employee.
7. Discipline will be appropriately documented in the disciplined employee's personnel file.
8. When the determination is made that a compliance violation occurred involving a contractor or vendor, the Compliance Officer will notify the Director of Human Resources and the Executive Director and work collaboratively to determine and execute the appropriate corrective action.
9. If appropriate, the Compliance Officer may notify the Board or the Compliance Committee prior to the next regularly scheduled meeting when a full report of compliance-related disciplinary actions would normally be presented.
10. The Compliance Officer will report compliance violations and violations with subsequent disciplinary actions to the Compliance Committee and not less than annually to the Board of Directors.
11. The Compliance Officer will ensure that disciplinary procedures are shared with all staff during regular compliance trainings.
12. Human Resources and the appropriate Program Director will ensure that all contractors are aware of compliance procedures and violation of any laws, regulations, and Racker policies and procedures may lead to termination of any contract.

13. When the determination is made that a compliance violation was committed by:
    a. a Board member or a corporate officer - the Compliance Officer will notify the Executive Director and the President of the Board, who will decide next steps.
    b. the President of the Board, the Compliance Officer and Executive Director will work with the appropriate Board Committee to determine and execute appropriate disciplinary action.

Racker's Community Helpline Policy

[Issued 2005; Reviewed: 3/2007, 8/2009 and Updated: 1/2013, 4/13/21, 4/17/23]

"Racker's Community Helpline provides an opportunity to report a concern outside of the ordinary supervisory structure, for reasons such as fear of reprisal or lack of response or resolution to a concern. The use of this process is not intended to replace established reporting procedures"

Guidelines

- Racker's Community Helpline may be used by staff, individuals receiving services, and/ or family members of individuals receiving services, when there is a concern about:
    - Physical plant safety
    - Fraud
    - Unethical practices
    - Discrimination
    - Violation of someone's rights
    - Violation of agency policies
    - Violation of state, federal or local regulation
    - Any treatment of an individual receiving services that is inconsistent with Racker's Mission and Vision

[Please note: Racker's Community Helpline is <u>not</u> intended for reports of abuse or when a person is otherwise in imminent danger. Those types of situations MUST be reported immediately <u>and directly</u> to a supervisor or Director.]

- The disclosure of the reporter's identity will be encouraged for the purpose of gaining further information in order to follow up on the concern or providing feedback; however, the reporter will have the option to remain anonymous or confidential.
- The Executive Director and/or Program Director will be made aware of the reported concern. This will *not* include the caller's identity if s/he/they wishes for it to remain confidential.
- A staff member, individual receiving services, or family member may report a concern to the Racker's Community Helpline by:
    - Accessing Racker's Community Helpline on Racker's Website and completing a form
    - Using the QR code from physical postings of Racker's Community Helpline, throughout the agency, and completing a form.
    - Calling Racker's Community Helpline directly and leaving a detailed voicemail message.
- All submissions of concerns (written or by voicemail) are received in a private mailbox. The Compliance Office and Asst. Director of Quality Standards read/ listen to all messages in the mailbox and complete an assessment of the call to initiate appropriate follow-up.
- Follow up will be completed for each and every submission, and documented in a secure electronic folder, by the Compliance Officer and Asst. Dir. of QS.

- If warranting investigation, the procedure on Reporting and Investigating will be followed.
- Feedback to the caller will be provided when appropriate and possible.
- Training will be provided during orientation and annually, to all staff regarding the intent and process of Racker's Community Helpline.
- Information on intent, utilization, and process is distributed and reviewed with people receiving services/families & advocates, by the individual programs.

Racker's Community Helpline can be reached by:

Telephone: (607) 272-5891 x343

or

Scanning the QR code on the Community Helpline Posters

or

Going to Racker's website, scroll to the bottom of the landing page, and click on 'Racker's Community Helpline'

Standards Program Education Policy

[Issued 3/2007; Updated 6/2023]

"Racker recognizes the importance of ensuring all staff, Board Members, and contractors understand their responsibilities and have access to information regarding compliance issues."

Procedure:

- All new staff, contractors and Board Members, within the first 60 days of association with Racker, will receive information regarding Racker's Standards Program Policies and Procedures; and updated information will be made accessible on an on-going basis.
  - New employees will receive the information within the first 30 days of employment.
  - New Board Members will meet with the Compliance Officer to receive the information within their first month;
    - The Board will receive a refresher, annually.
  - New contractors will receive information from the Quality Standards Department.
- Information shared will include:
  - Introduction & structure of the Standards Program
  - The roles and responsibilities of the Compliance Officer and the Standards Team
  - Requirements and process to report concerns regarding business practices
  - Policies in compliance with the Federal Deficit Reduction Act, Federal False Claims Act & Whistle Blower Provisions and NYS False Claims Act.
  - Federal False Claims Act and Whistleblower protections
  - Standards of Conduct: Compliance Code of Conduct & Ethical Business Practices
  - Accessibility of P&P manual on Sharepoint and Racker's Website.
  - Communication channels and Racker's Community Helpline
  - Response to reports of concern, investigations, and corrective actions (including accountability/ discipline).
  - Prevention of fraud, waste, and abuse.
  - Risk areas as identified in annual risk assessments.
- Annual reviews and updates will be provided to all staff by the Quality Standards Department and will minimally include the following:
  - Overview of the Standards Program
  - Code of Conduct and Ethical Practices Policies
  - Policies related to false claims and whistleblower protections
  - Process of reporting compliance concerns
  - Use of the Helpline
  - Any changes in compliance requirements
  - Where to access the Standards (Compliance) Program Policies and Procedures
- Staff will also receive updated information from the Quality Standards Department on an as-needed and as requested basis. Examples of some content may include:
  - Review of risk areas;
  - Improper or fraudulent billing for services;
  - Misuse of Racker funds;

- Payment or receipt of remuneration or gifts in return for referrals of service recipients or business contracts;

- Each program is responsible for reviewing service documentation produced by new staff and contractors to provide feedback and help develop service delivery and documentation skills.
- All regularly scheduled standardized compliance trainings will be developed and conducted by members of the Quality Standards Dept.
- Training attendance will be maintained by:
    - Human Resources in Racker's learning management system for all employees
    - The learning management system for annual trainings for all contracted staff
        - Signed contracts will reference expectation for contracted staff to attend Racker trainings.
    - Board minutes for all Board Members
        - An attendance sheet will be provided to the Administrative Assistant by the Compliance Officer, if a new Board Member receives the initial in-service outside of the annual Board meeting when the review occurs with all Board Members.

Exclusion Screening Policy

[Issued 3/2007; Updated: 7/2023]

Racker is committed to maintaining high quality care and service as well as integrity in its financial and business operations. Therefore, Racker will not employ, contract with, or conduct business with an individual or entity excluded from participation in federally sponsored health care programs, such as Medicaid and Medicare.

Exclusion Guidelines

It is the practice of Racker to:

- Conduct an exclusion check on all new staff to verify they can participate in federally sponsored health care programs;
- Conduct an exclusion check on any individual or entity prior to entering into a contract to verify they can participate in federally sponsored health care programs;
- Conduct exclusion re-checks on all staff, contractors, and board members monthly *and* annually.
- Conduct exclusion checks on vendors providing supports, services or supplies to people receiving services at Racker.

Procedure

Compliance Officer, with assistance from others in the Quality Standards Dept., will:

1. Conduct exclusion checks to verify that all staff and contractors have not been excluded from [state and] federal healthcare programs. An exclusion check is a search of the following to determine if the individual or entity's name appears on any of the following lists:
    - U.S. Department of Health and Human Services, Office of Inspector General's List of Excluded Individuals and Entities available on the website at http://oig.hhs.gov/fraud/exclusions.html and
    - NYS Medicaid Inspector General – Restricted, Terminated or Excluded Individuals or Entities website at http://www.omig.state.ny.us/data/content/view/72/52/

    Per federal law, exclusion from participating in any state's public health care program prohibits participation in any other states' program. Accordingly, in addition to the above lists, staff and contractors may be screened using lists made available by other US states and territories.
2. Perform exclusion checks on all new staff, prior to entering an agreement with a contractor, and on all new board members.
3. Conduct exclusion checks on all staff, contractors, and board members on at least a monthly basis.
4. Complete exclusion checks on all vendors providing supports, services or supplies to people receiving services at Racker on a monthly basis.
5. Notify the affected department director, the Director of Human Resources, and the Executive Director if/ when any person or party is found on an exclusion list, and the person, entity or service will no longer be used.

- Records of exclusion checks are maintained by KChecks – an electronic system used by Racker to complete all exclusion checks.
- Racker's Compliance Officer, QS Administrative Coordinator, and others in the Quality Standards Department have access to KChecks to complete exclusion checks and reconcile partial matches of those whose identity is similar to one on the exclusion lists.

Credential Verification Policy
{Human Resources}

[Issued 3/2007; Updated 9/21/2020; Reviewed: 8/2022]

To maintain Racker's commitment to high quality care and services, it is required that staff and independent contractors ("Credentialed Staff", "Credentialed Independent Contractor" respectively) have the required degree, license, or certification as indicated in the job description or contract, and provide proof to Racker.

Procedure:
Racker is responsible for *reviewing and verifying* the individual has the appropriate credentials for her/ his/ their position.

- During the hiring process, the hiring supervisor will notify the candidate that s/he/they is to submit to the Human Resources Department either an official transcript or a copy of her/his/their current license or certification.
- Staff will be on a provisional hire status until the Human Resources Department has received the required information. If the information is not received in a timely fashion her/his/their employment may be suspended or ended.
- Independent Contractors must have her/his/their information to the Human Resources department prior to finalizing her/his/their contract with Racker.
- When an educational degree is required, it is the responsibility of the individual to have an official transcript from the educational institution sent to Racker's Human Resources Department for verification of that degree.
- When a license or certification is required for a position, it is the responsibility of the individual to provide the Human Resources Department with a copy of the license or certification.
    - It is the responsibility of the staff member to provide Human Resources with an updated copy of her/his/their license or certification whenever it is renewed.
    - It is the responsibility of the staff member to notify her/his/their supervisor, or in the instance of a contracted individual the director of the program s/he/they are contracted to provide services to, if her/his/their license or certification has been revoked, expired or any restrictions made to it.
    - It is the responsibility of the staff member to keep her/his/their certification or license with NYS current.
- If a staff member's certification or license expires or is revoked and s/he/they is no longer qualified to perform her/his/their assigned work duties, her/his/their employment may be suspended or ended.
- If a contractor's certification or license expires or is revoked and s/he/they is no longer qualified to perform the contracted services, her/his/their contract with Racker will be ended.
- Human Resources Department will monitor expiration dates for current licenses and certifications.

Internal Auditing and Monitoring Policy

[Issued: 3/2007; Updated: 2021; 6/2023]

Racker is committed to maintaining an environment of integrity in providing effective and quality services. Thorough internal auditing and monitoring systems are used to monitor compliance, identify practices and systems that are working well or needing improvement and provide information to and for the respective programs for sharing, addressing, and otherwise informing program practices.

Covers:

- Risk Assessments
- Audits/ monitoring
- Self-disclosures/ Paybacks

Risk assessments

Each Racker program or department will conduct a review of its compliance with applicable regulations and quality measures minimally, on an annual basis. Senior Management staff shall be responsible for identifying needs for internal auditing of specific issues under their oversight. This will occur at least annually as a part of Racker's risk assessment and for consideration into the annual work plan and audit plan.

An annual agency-wide risk assessment will be coordinated by the Compliance Officer. This will involve input from all Department (Program and Support) Directors focusing on their respective departments as well as Racker as a whole and a review of compliance related issues/audits from external oversight agencies. Findings from the risk assessments will be rated, and appropriate parties will be involved in addressing risk based on significance and probability.

The Compliance Officer will facilitate auditing and monitoring of the identified risk areas related to compliance with laws and regulations, as well as Racker's policies, procedures, and Standards of Conduct. (Risk areas may also be identified through the regular course of business, external alerts, external audits or reviews, or internal reporting channels.)

Auditing/ monitoring Procedure:

Two types of audits occur for each program:

a. an internal *program* audit
b. an audit conducted by the Racker's Quality Standards Department.

Internal Program Audit

The goal of the internal program audit is to assess for best practices; errors or notes of concern to resolve; general usage of program practices; and to use information to inform program practices.

Directors/ designees in each program department will:

1. Establish an *audit procedure* to be used within the program. The procedure will specify:
   a. Resources to reference for regulatory requirements:
      i. Office of Medicaid Inspector General (OMIG) audit protocol – found on OMIG website
      ii. Program's applicable regulations which include (as applicable):
         - Regulations found in applicable NYCRR's state oversight agency (SOA)

- Respective SOA's include: Department of Health (DOH); Office of Mental Health (OMH); Office for Persons with Developmental Disabilities (OPWDD); New York State Education Department (NYSED); Office of Children & Family Services (OCFS); New York State Early Intervention (EI)
- Include administrative memorandums (ADM's) published by SOA

- Office of Professions (OP)
- 18 NYCRR - Medicaid Regulations

b. Schedule/ Frequency of audits (e.g., monthly; bi-monthly; quarterly; etc.)
c. How the parameter of the audit is determined:
   i. Identification of risk areas or potential risk areas *
      - Reference procedure for ***Tools to Identify Potential Risk Areas Pre-Audit***
   ii. Need for full chart/ record review – e.g., New service recipient?
   iii. Time frame of record/ charts reviewed – typically not more than three months prior but ultimately depends on what the target areas are for the audit.
   iv. % of charts/ records reviewed (minimally 5% of records at a time) - Programs want to review a significant percentage of all records within a year's time.
d. Process of who will complete the audits; draft of report; submission of report and to whom; and timeframes for each.

2. Develop *an audit tool* to include program's best practice standards and regulatory requirements for documentation and (this may be done in concert with the Quality Standards Dept. for a template). Include:
   a. Regulations and administrative memorandums from the state oversight agency (SOA)
   b. Appropriate rates billed, if applicable to program
   c. Space to list risk areas/ potential risk areas
   d. Check on 'quality' of documentation
   e. Status of follow-up from previous audit findings
   f. Other items beyond documentation/ billing requirements:
      - Ex's: Current & applicable HR and Racker Community Helpline postings; safety check tracking; Posting of Rights; evidence of distribution of Rights; Privacy Notice; physical plant walk through; etc.
3. Conduct audits according to established procedure.
4. Forward program audits to the Department Director – to include a summary report of the audit with above info on potential risk areas identified pre-audit; parameters of audit; target of audit; findings; risk areas found during audit; steps to reconcile any concerns found.
   - **At times, attention or resolution to a concern may need <u>immediate attention</u>. There should not be delay waiting to have the audit completed, but rather prompt discussion with the program or department director on steps to resolve the concern.**
5. Provide program audit summaries to Quality Standards Department, upon request.
   - However, if there is a significant systemic finding during any audit, the program will bring it to attention of Quality Standards immediately for assessment and consult on resolution.
6. Address/ follow up on all recommendations made by Department Director and Dir. of QS within reasonable time frame (typically 2 weeks).

The Department Director will:

1. Review the results and identify and discuss risk areas.
2. Respond with recommendations for addressing problem areas and risk areas to the program's designee.
3. Seek follow up to the implementation of the recommendations. E.g.:
   a. Procedural changes;
   b. Refresher Trainings;
   c. Prompt resolution to payments received as a result of a billing error.
4. Seek assistance/ input from the Director of QS, as necessary, for interpretations and clarity for any of the above.

Quality Standards Audit:

The goal of the internal program audit is to assess for best practices and *systemic practices* that will potentially impact billing. Safety and routine requirements for all programs are also reviewed if/ when audit occurs onsite.

1. On annual basis the Compliance Officer will draft a tentative audit schedule. On a quarterly basis the schedule will be fine tuned and confirmed.
   Audits will often have specific target areas. The following are potential risk areas for auditing:
   - Billings;
   - Payments;
   - Ordered services;
   - Medical necessity;
   - Quality of care;
   - Mandatory reporting;
   - Credentialing;
   - Contractor, subcontractor or independent contract oversight;
   - Review of documentation and billing relating to claims made to Federal, State, and third party payers for reimbursement;
   - Compliance training and education;
   - Effectiveness of the Compliance Program; and
   - Other risk areas identified by program, department, or the Standards Committee.
3. Quality Standards will conduct audits in each program and are scheduled and designated to specific QS staff in the QS Workplan.
4. Leadership in each program, in consultation with QS auditors, will identify *potential* risk areas prior to audits.
5. The process for auditing mirrors the audit process for program internal audits with the goal of assessing for system best practices and concerns. The intent is not to search for incidental issues, but if/ when found will be brought to the program director's attention.
6. Upon completion of the audit a draft summary report will be provided to the Compliance Officer for review as well as the program/ department director for feedback and opportunity to discuss/ clarify/ provide further information or materials to address any findings.

7. The audit summary will be updated to reflect any feedback the program director provides and will be sent to the program director for follow up to any outstanding recommendations by the auditor. Follow-up may include:
   a. How the follow-up is being addressed. This may include:
      - Plans of correction – system changes, in-services, etc.;
      - Billing reversal or self-disclosures.

      or

   b. Rationale from the program director as to why the recommendation is not followed and what will be done in place of the recommendation.
8. A final report with the program/ department director's follow-up will be provided to the Executive Director.
9. The Compliance Officer will review the findings of audits with the Standards Committee to discuss potential agency-wide risk areas and to determine agency-wide system changes needed.
10. The Compliance Officer will present findings of the audits to Racker's Board of Directors.
11. Subsequent audits will include review of the implementation of the plans of correction.
12. If any 'non-compliance' is thought to be detected during the course of a review, the Compliance Officer will follow the review process of potential non-compliance.

Self-Disclosures

When a compliance concern is detected – whether found during an audit or as a result of an investigation due to a reported concern - the program director of the affected program and the Compliance Officer will follow the *Requirements of Compliance* section of this manual.

If a payback to Medicaid is warranted, a 'self-disclosure' will be made to the Office of Medicaid Inspector General's office.

There are two types of 'Self Disclosures' – *Full Statement* and *Abbreviated Statement*.

Full statement self disclosures:

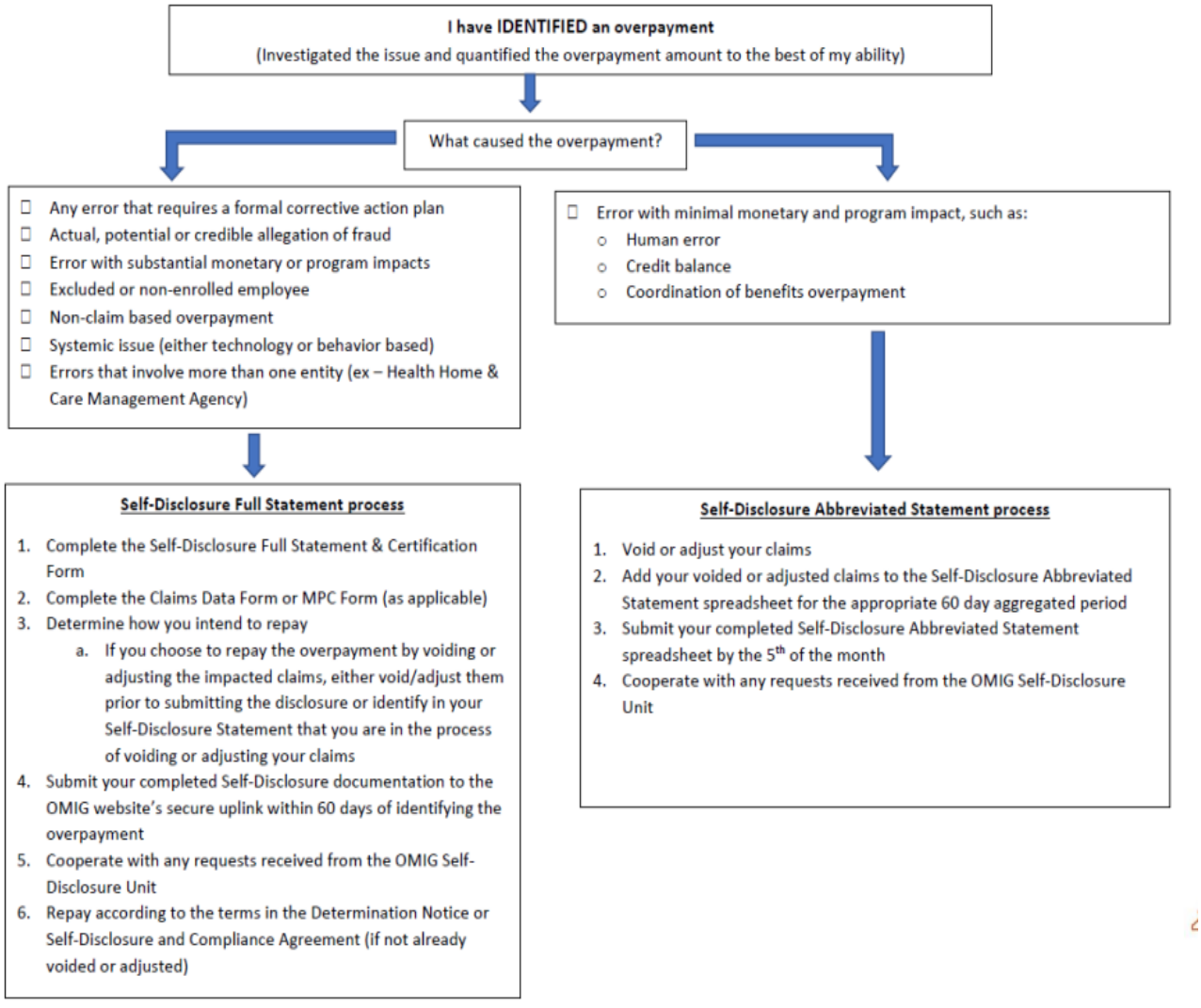
- Are compiled by the Compliance Officer and Director of the Program
- May initially be sent to a Health Care Attorney for preliminary review.
- Must be submitted to the Office of Medicaid Inspector General (OMIG) within 60 days of determination of the overpayment.
- Are submitted to the OMIG by the Compliance Officer.
- All documentation of full statement self disclosures will be maintained by the Compliance Officer.

Abbreviated statement self disclosures:

- Are completed by Racker's Business office
- Must be completed and submitted via spreadsheet to the OMIG by the 5th of the month following when a claim was voided or adjusted.

- All documentation of full statement self disclosures will be maintained by the Racker's Business office.

The attached flowchart will be used to determine the appropriate manner in which to make the self disclosure.



Conflict of Interest Policy

[Issued: 3/2007; updated 2021; 6/2023]

Racker is committed to providing supports to individuals based on the person's needs - free from influence of personal gain to either the organization or individual employee. Racker requires all employees and Board Members to disclose conflicts of interest at the beginning and throughout their association with the agency.

Guidelines

- A conflict of interest is a situation where an employee, volunteer, or board member has a private or personal interest sufficient to appear to influence the objective exercise of their official responsibilities at Racker.
- All new employees and directors are made aware of the standards for conflict of interest and their responsibilities at agency orientation.
- A conflict of interest may also arise if—through business, investment or family—an employee, volunteer, or board member has any of the following:
  - An ownership or investment interest in any entity with which Racker has a transaction or arrangement;
  - A compensation arrangement with Racker or with any entity or individual with which the agency has a transaction or arrangement;
    Note that compensation includes direct and indirect remuneration as well as gifts or favors that are not insubstantial. Gifts worth a value of more than one hundred dollars ($100) are deemed substantial.
  - A potential ownership or investment interest in, or compensation arrangement with, any entity or individual with which the agency is negotiating a transaction or arrangement;
    Note that an employee, volunteer, or board member should disclose potential conflict of interest if they are taking direct referrals from an organization that refers also to Racker.
  - A familial relationship with another individual associated with Racker. It should be noted that whenever possible an employee or volunteer ***should not*** work in the same workgroup with a family member-either with that family member as a co-worker, or person receiving supports and services.
- The mere existence of a relationship with an outside organization does not imply an automatic conflict of interest, but it should be disclosed.
- Potential internal conflicts of interest may arise, as well as those situations that appear to be a conflict of interest to any individual involved, and these must also be reported to a supervisor or to Human Resources.
- All Board Members, directors, and employees are responsible to act "in the best interest of the agency."
- If a conflict of interest is disclosed by or known to a board member, that person should recuse themselves from deliberation and voting on any business related to such a conflict. Such recusals must be documented in board minutes.

- Conflict of interest disclosures are completed by board members upon appointment, annually thereafter, and at any time a Board Member's situation changes that may lead to a conflict of interest. These disclosures must include any business, familial, or personal relationships which could impact, or create the appearance of impacting, their judgment on any related matter.
  - The Board Secretary will distribute Conflict of Interest forms and collect completed each year. This is noted in Board Minutes.
  - The Director of Quality Standards will review the completed forms and discuss them with the Executive Director.
  - The Executive Director and Board Secretary will be aware of any conflicts and ensure Board actions align with the requirements of restricting those with conflicts of interest to abstain from voting, as necessary.
- No individual with less than arms length (LTAL) relationship to another business or entity with which Racker does business, will be selected to be on Racker's Board of Directors.
  - LTAL is when there are related parties and one party can exercise control or significant influence over the management or operating policies of another party, to the extent that one of the parties is or may be prevented from fully pursuing its own separate interests.
- If a *current* Board Member's personal or professional relationship(s) develops into a LTAL relationship with Racker's business, the Board Member is responsible for disclosing this information and recusing themself from discussion and voting on any such transactions.
  - Any recusals must be documented in Board minutes.
- Any proposed business transaction that has potential to personally or professionally affect a board member, must be brought to Racker's audit committee for review and discussion to ensure the 'involved board member' is not involved in the decision making process for that transaction and does not otherwise have influence over that transaction. Examples of such transactions include, but are not limited to:
  - Loans
  - Leases – new or renewals
  - Purchases
- Any LTAL relationships must be disclosed in the notes to the audited financial statements.
- All LTAL relationships and transactions must be disclosed on the CFR.

The above information is based on:
Racker Mission & Vision
New York Nonprofit Revitalization Act of 2013
NYSED Reimbursable Cost Manual - 2021
Not for Profit Corporation Law §715

Policy Development, Approval, & Maintenance Policy

[Issued: 6/2023 Guidelines drafted 6/2023]

Racker is committed to establishing and maintaining a standardized process for all Racker policy development, Board approval, and subsequent review, revision, and implementation.

Guidelines:

The following is intended to provide clear direction for the process of developing and maintaining policies and establish a process that promotes effective and timely policy development, review, and updating, as well as effective implementation.

1. Policies shall be developed and/or revised to comply with Racker's Mission, Vision, best practices, and legal & regulatory requirements.
2. Policy statements reflect agency's standards for either a specific topic or serve as an umbrella standard for a group of related procedures or guidelines.
3. Policy statements must be approved by Racker's Board of Directors.
3. All policy statements will subsequently be paired with either:
    a. A procedure describing step by step implementation of the standard as stated in the policy statement, and/ or
    b. Guidelines which provide flexibility for the implementation of a standard by individual programs.
4. Each policy and procedure/ guidelines will include:
    a. Title of the policy and procedure/ guidelines (P&P/G);
    c. Definitions of terms used within the P&P/G – when warranted;
    d. Issue date (date of Board Approval of *Policy* Statement)
    e. P/G - revised/ refreshed date; reviewed date (including previous dates)
    e. The workflow/department responsibilities for creation, distributing, implementing, monitoring, and amending the P&P/G;
    f. As a best practice when updating P&P/G: References and Regulations – Regulatory reference numbers (external) and other guidance documents.
5. Policy review dates may be dictated by the various programs' individual oversight agencies and should be followed as mandated.
7. Ensuring P&P/G's are reviewed (per program's respective regulation), monitored, and updated is the responsibility of the respective Program/ Department Director.
8. If there are necessary revisions to the policy, the updated policy, if including substantial revision to the policy statement itself, will need reapproval by the Board.
9. Prior to implementation, all newly created or revised P&P/G's will be:
    a. Approved by the appropriate Program/ Department Director.
        i. Consultation with the Compliance Officer will occur for any corporate compliance topics;
        ii. Consultation with the Compliance Officer may occur for any non-corporate compliance topics, as requested.
        iii. The Executive Director and other Senior Management will be consulted as needed throughout the process of developing or revising any policy and must review all

policies prior to approval by the Board, to ensure compliance with legal and regulatory requirements and other Racker policies.

10. After review by all other parties noted above, the Program/ Department Director will present the new or substantive revised 'policy' to the Board of Directors for approval – before implementation.
11. The Program/ Department Director will be responsible for the overall coordination, distribution, and implementation of any new or revised P&P/G in their respective program/ department.
12. Approved P&P/G's will be placed on SharePoint for access by all Racker Personnel (as applicable to their positions.)
13. Notification of any new or revised P&P/G's will be given to applicable staff (including employees, contractors, volunteers) by the respective program director or compliance officer, once they are made available in SharePoint.
14. The Program/Department Director, or designee, shall develop a plan for informing and educating employees, and independent contractors, when applicable, of the new and revised policies.
15. P&P/G's, as they are revised or replaced will be maintained by the respective department who created the document. All subsequent revisions will be retained for a minimum of six years unless otherwise directed by regulations by respective oversight agency, for longer periods of time.

The above information if based on:
Racker's Mission & Vision
Social Service Law 363-D
18 NYCRR Part 521