

THE LONG ISLAND CENTER  
FOR INDEPENDENT LIVING, INC.

CORPORATE COMPLIANCE PLAN

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## MISSION, HISTORY AND PHILOSOPHY

The Long Island Center for Independent Living, Inc. (LICIL), was born out of the Independent Living Movement, which took root in the 1960's and 1970's. A social philosophy that emphasizes personal responsibility in life, the independent living concept also affirms that environmental hurdles and outdated public opinions are the barriers that have long inhibited much needed service provisions for individuals with disabilities.

It is LICIL's philosophy that Independent Living is attained by exerting control over one's life, based on acceptable options that minimize reliance on others in the decision making process and in performing daily activities. Managing individual affairs, participating in community life, fulfilling a range of social roles, making choices that lead to self-determination and minimizing psychological and physical dependence on others, are all elements that contribute to reaching the goal of Independent Living.

In furtherance of the Independent Living philosophy and in conjunction with the Nassau County Department of Social Services, LICIL developed its Consumer Directed Personal Assistance Program (CDPAP) which is a consumer-driven personal assistance program offered to eligible individuals with disabilities in Nassau County. LICIL's CDPAP program is designed to foster independence and Consumer empowerment to eligible individuals with disabilities by affording more control over identifying their needs and acquiring necessary personal care to meet those needs. This control makes consumers less reliant on a medical service model to obtain the daily assistance they need to fully participate in their own communities.

### I. ORGANIZATION DESCRIPTION

LICIL is incorporated under the non-profit corporation laws of the State of New York and is operated exclusively for the charitable, scientific and educational purposes within the meaning of Section 501 (c) (3) of the Internal Revenue Code of 1986, as amended. A Board of Directors comprised of at least 51% persons with disabilities governs the organization. LICIL's Executive Director is selected by the Board of Directors of the organization. LICIL's corporate income is derived from grants, contracts, and fund raising activities related to the mission of the organization.

THE PRACTICES AND POLICIES CONTAINED HEREIN ARE NOT INTENDED TO ALTER EMPLOYMENT AT-WILL STATUS AND ARE NOT TO BE CONSTRUED AS A BINDING CONTRACT OR A CONTRACT OF EMPLOYMENT FOR A DEFINITE PERIOD OF TIME AND THE LONG ISLAND CENTER FOR INDEPENDENT LIVING, INC., RESERVES THE RIGHT TO CHANGE OR MODIFY ANY REGULATION, PROCEDURE OR POLICY CONTAINED HEREIN WITHOUT ADVANCE NOTICE.

## II. CORPORATE COMPLIANCE PLAN INTRODUCTION

In carrying out the Independent Living philosophy, the Board of Directors and the Executive Director of LICIL are committed to meeting the highest ethical standards and compliance with all applicable laws in all programs and services provided. As such, LICIL is dedicated to managing and operating its programs in keeping with the highest of business, ethical and moral principles. In furtherance of this ideal, LICIL has devised and maintains this Corporate Compliance Plan that includes activities for the detection, prevention and investigation of fraud, waste and abuse in order to assure compliance with all relevant fraud and abuse laws.

Each member of LICIL's Board of Directors, Executive Director, supervisor, manager, employee, consumer, personal attendant, consultant, agent, volunteer and each individual and/or entity representing or acting on behalf of LICIL contributes to achieving these principles by conducting business activities with integrity and high ethical standards. Thus it is LICIL's policy that each individual and/or entity representing or acting on behalf of LICIL comply with all applicable laws and regulations, both civil and criminal, including but not limited to, the Deficit Reduction Act, the Federal False Claims act, all applicable regulations governing participation in the Medicaid program, federal and state anti-kickback laws, all federal and state laws that relate to the detection, prevention and reporting of fraud and abuse in healthcare programs and all federal and state laws relating to whistleblower protection.

## III. CORPORATE COMPLIANCE PLAN MISSION

LICIL shall endeavor to accomplish the goals outlined in this Corporate Compliance Plan by assisting and advising our supervisors, managers, employees, consumers, personal attendants, consultants, agents, volunteers and each individual and/or entity representing or acting on behalf of LICIL regarding applicable laws, regulations, policies and procedures as they pertain to compliance. This Corporate Compliance Plan has been implemented towards this end.

## IV. CORPORATE COMPLIANCE PLAN OVERVIEW

### A. Corporate Compliance Department.

In furtherance of its compliance objective, LICIL has created a Corporate Compliance Department that shall, in consultation with LICIL's Executive Director and legal counsel, as needed, be responsible for developing clear guidelines to train and educate LICIL's supervisors, managers, employees, consumers, personal attendants, consultants, agents, volunteers and each individual and/or entity representing or acting on behalf of LICIL regarding applicable laws,

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regulations, policies and procedures as they pertain to compliance.

The Corporate Compliance Department shall also be responsible for maintaining a program to detect and investigate fraudulent and abusive actions committed by providers, contractors, employees, agents, consumers and personal attendants. Instances where questions arise concerning fraudulent and abusive actions and/or the interpretation or application of laws and regulations should be referred to the Corporate Compliance Department and/or the Corporate Compliance Officer ("CCO").

The Corporate Compliance Department shall endeavor to:

- a. Promote a corporate culture that encourages LICIL's directors, supervisors, managers, employees, consumers, personal attendants, consultants, agents, volunteers, and each individual and/or entity representing or acting on behalf of LICIL, to conduct activities with integrity and in compliance with all applicable laws, regulations and LICIL's policies and procedures and to report instances of non-compliance to the CCO;
- b. Educate members of LICIL's Board of Directors, executives, directors, supervisors and managerial staff concerning the legal risks of certain business practices;
- c. Encourage members of LICIL's Board of Directors, executives, directors, supervisors and managerial staff to seek appropriate counsel regarding business practices and to conduct those activities within the requirements of the law and ethical standards of conduct.

LICIL reserves the right to take all appropriate steps it deems necessary to achieve compliance with its standards of conduct policies by utilizing monitoring and auditing systems reasonably designed to detect possible violations, by its supervisors, managers, employees, agents, independent contractors, business associates, consumers, personal attendants, or any individual and/or entity representing or acting on behalf of LICIL, by having in place and publicizing a reporting system whereby supervisors, managers, employees, agents, independent contractors, business associates, consumers, personal attendants, or any individual and/or entity representing or acting on behalf of LICIL, can report possible violations by others within the organization without fear of retribution.

B. Responsible Persons

- 1). Chief Compliance Officer ("CCO"): LICIL's Corporate Compliance Plan is directed and coordinated by Susan McCormack as the CCO. The CCO is responsible for overseeing the day-to-day operation of the Corporate Compliance Plan and shall report directly to the Executive Director regarding issues relating to compliance and shall be accountable to the Board of Directors for the implementation and on-going operations of the Corporate Compliance Plan. The CCO will update and report progress to LICIL's Executive Director regularly and shall update the Board of Directors at its regular meetings.
- 2). Corporate Compliance Team: LICIL's CCO may institute a Corporate Compliance or Quality Assurance Team that shall consist of both managerial and administrative staff members. The Corporate Compliance Team will have the responsibility of assisting the CCO with the implementation and administration of the Corporate Compliance Plan. The Corporate Compliance Team shall provide support and feedback for the development of priorities for the Corporate Compliance Plan and the implementation of the Corporate Compliance Plan. In addition, the Team shall assist in the establishment of priorities for educational information and instruction to be provided as part of the Corporate Compliance Plan and to help identify necessary human and financial resources required for the effective implementation of the Corporate Compliance Plan.

C. Principle Components of the Corporate Compliance Plan

The Corporate Compliance Plan shall include the following principle components:

- 1). Education and training of supervisors, managers, employees, agents, independent contractors, business associates, consumers, personal attendants, or any individual and/or entity representing or acting on behalf of LICIL, to ensure compliance with the Corporate Compliance Plan, as is further described in Part V.
- 2). A Code of Conduct which shall govern the proper conduct of LICIL's directors, officers, supervisors, managers, employees, agents, independent contractors, business associates, consumers, personal attendants, or any individual and/or entity representing or acting on behalf of LICIL, and shall require all such individuals to comply with the ethical and legal standards outlined in this Corporate Compliance Plan. The current Code of Conduct is set forth in Appendix "A" to this Corporate Compliance Plan.

- 3). Audit and monitoring systems designed to detect fraud, abuse, ethical and/or legal violations, including appropriate internal audits and surveys to verify adherence to and awareness of LICIL's ethics and compliance policies, as is further described in Part VI.
- 4). A reporting system whereby employees may report suspected violations of standards for fraud, abuse, ethical and/or legal violations, as is further described in Part VII.
- 5). Procedures for investigating and, if appropriate, correcting and reporting violations of the Corporate Compliance Plan, as is further described in Parts VII, VIII and IX.

## V. EDUCATION AND TRAINING PROGRAMS TO ALERT EMPLOYEES AND OTHERS OF THEIR RESPONSIBILITIES

### A. Implementation and Development of Education and Training Programs

LICIL's Corporate Compliance Department shall take steps to communicate its standards of conduct policies to all individuals associated and/or affiliated with LICIL by either requiring participation in training programs or by disseminating written information that explains in a practical manner what is required. The CCO shall have general responsibility to oversee the development and implementation of education, training and communication programs to ensure compliance with this Corporate Compliance Plan by each individuals associated and/or affiliated with LICIL.

### B. Initial Training

All directors, supervisors, managers, employees, consumers, personal attendants, consultants, agents, volunteers and each individual and/or entity representing or acting on behalf of LICIL, are provided mandatory training regarding compliance, fraud, abuse, whistleblower protections, ethical standards, HIPAA confidentiality and conflicts of interest. This training is provided during the initial orientation where each director, supervisor, manager, employee, consumer, personal attendant, consultant, agent, volunteer and each individual and/or entity representing or acting on behalf of LICIL receives an accessible copy of LICIL's Corporate Compliance Plan, as well as training on this topic appropriate for their respective position or expected activity. This mandatory training will include an overview of the nature and scope of the Corporate Compliance Plan, methods to report violations, compliance issues and disciplinary measures for violating the Corporate Compliance Plan.

### C. Periodic Training

Each of LICIL's directors, supervisors, managers, employees, consumers, personal attendants, consultants, agents, volunteers and each individual and/or entity representing or acting on behalf of LICIL shall receive periodic training and/or educational literature related to compliance issues, compliance expectations and the relevant portions of this Corporate Compliance Plan as required to perform the essential functions of the activities undertaken by each such individual.

Subsequent training may take place on either a voluntary or mandatory basis as may be deemed necessary by either the CCO or LICIL's Executive Director. All persons receiving training and/or supplemental training shall be required to sign an Acknowledgment Form which is to be maintained in their personnel file. The training may include, but shall not be limited to, the following areas:

- 1). Fraud, abuse, ethical and/or legal compliance issues.
- 2). Department-specific training and educational programs in identified high-risk areas.
- 3). Annual review of ethics and legal compliance issues in departments at substantial risk for non-compliance.
- 4). Distribution of literature related to fraud and abuse prevention, updates of relevant federal and state laws and modifications of LICIL's Code of Conduct and/or the provisions of this Corporate Compliance Plan.

## VI. AUDIT AND MONITORING

In consultation and collaboration with the Executive Director, CCO and key managerial staff, LICIL shall coordinate appropriate internal audits and monitoring to verify adherence to and awareness of the requirements of this Corporate Compliance Plan and LICIL's ethics and compliance policies.

Internal auditing and monitoring programs will be conducted on a regular basis. The purpose of these programs is to assure compliance and resolve potential non-compliant issues. This shall include periodic and regularly scheduled reviews of documentation, billing, claims processing and reimbursement procedures as well as practices that are mandated to ensure adherence to both federal and state regulations.

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Ongoing evaluation is critical in detecting non-compliance in LICIL's various programs. The CCO and Corporate Compliance Team shall be responsible for monitoring and auditing the programs and services offered by LICIL and reporting any compliance related issues to LICIL's Executive Director and/or the Board of Directors. This reduces the risk of non-compliance and ensures that LICIL complies with all regulatory, state and federal requirements and guidelines as well as LICIL's mission, values, and philosophy.

If an audit discovers a discrepancy of a legal, ethical, or regulatory compliance issue, the CCO's audit report shall recommend a course of corrective action to be approved by LICIL's Executive Director and/or Board of Directors.

## VII. CORPORATE COMPLIANCE REPORTING

### A. Mandatory Reporting of Non-Compliance

Any suspected non-compliance with this Corporate Compliance Plan must be immediately reported to the CCO or LICIL's Executive Director. Each individual associated or affiliated with LICIL has a responsibility to comply with all applicable laws, regulations, this Corporate Compliance Plan and the annexed Code of Conduct and to report any acts of non-compliance. Any individual associated or affiliated with LICIL found to have known of such acts, but who failed to report them, will be subject to disciplinary action.

LICIL expects persons lodging complaints concerning any violation or suspected violation of any applicable law, regulation, this Corporate Compliance Plan or the annexed Code of Conduct will be acting in good-faith with reasonable grounds for believing the information reported and/or disclosed indicates a violation.

### B. Method of Reporting Non-Compliance

An initial report of non-compliance may be made orally, but the reporter may be asked to provide a written statement to the CCO or LICIL's Executive Director. Reports of non-compliance can also be made anonymously to the CCO, via telephone/voicemail at 516-796-0144, via e-mail at [susan@licil.net](mailto:susan@licil.net) or addressed in writing to:

The Long Island Center for Independent Living, Inc.,  
Attention: Susan McCormack,  
3601 Hempstead Turnpike, Levittown, New York 11756  
and marked "CONFIDENTIAL".

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It should be noted that providing an identity generally makes investigating reports easier and more effective. Every effort will be made to preserve the confidentiality of reports of non-compliance. All individuals reporting suspected non-compliance must understand, however, that circumstances may arise in which it is necessary or appropriate to disclose reported information. In such cases, disclosure will be on a limited "need to know" basis as determined by and in the sole discretion of the CCO and/or LICIL's Executive Director.

Additionally, suspected Medicaid Fraud or any other questionable Medicaid related activity can be confidentially reported anonymously to the New York State Office of the Medicaid Inspector General's (OMIG) toll free hotline at 1-877-87-FRAUD (1-877-873-7283) or on-line at [www.omig.state.ny.us](http://www.omig.state.ny.us).

#### C. Investigation of Reported Non-Compliance

The Corporate Compliance Officer (CCO) or designee will take the necessary steps to respond appropriately to issues of potential not compliance. All issues brought to the CCO's attention will be investigated. Investigations will be conducted through the Corporate Compliance Department by the Corporate Compliance Team. The CCO, in cooperation with LICIL's Executive Director, will be responsible for ensuring that externally reportable incidents are reported to the appropriate external agency as may be outlined by individual program requirements. The CCO will confer with LICIL's Executive Director and, as needed, with legal counsel, relating to any determination of non-compliance. If the CCO determines after investigation that the non-compliant conduct occurred, corrective action will be taken along with disciplinary action where it is deemed appropriate by LICIL's Executive Director and/or Board of Directors. After investigation, the CCO will assure a written report of findings is completed, including the corrective action plan and disciplinary plan, which will be shared with LICIL's Executive Director and the Board of Directors. If a violation of law or contract requirement is discovered, LICIL shall promptly report the non-compliance to the requisite government authority(s) as required or deemed appropriate.

In the event that the CCO is suspected of participating in or condoning any type of non-compliance including fraud or abuse, the allegations are to be reported directly to LICIL's Executive Director who will then work with LICIL's Board of Directors to investigate the allegations.

In the event that the Executive Director is suspected of participating in or condoning any type of non-compliance including fraud or abuse, the allegations will be reported directly to the Board of Directors who will then work with the CCO to investigate the allegations.

A written record of every report received will be kept for a minimum period of six years,

or longer as required by law.

## VIII. ENFORCEMENT AND PREVENTION POLICY

### A. Notice of Enforcement

The purpose of this policy is to identify certain procedures that will be used by LICIL to respond to good-faith reports by any individual and/or entity that an individual and/or business entity or individuals employed by a business entity associated and/or affiliated with LICIL are engaging in activity which may violate the standards described in this Corporate Compliance Plan or annexed Code of Conduct and which may be contrary to applicable Medicaid laws or regulations or that such individual and/or business entity may be submitting claims in a manner which does not meet the Medicaid program requirements, as applicable.

### B. Sanctions

Every confirmed act of non-compliance shall result in corrective action and/or discipline. Any individual and/or entity associated or affiliated with LICIL, that knowingly commits or is involved in any type of fraud, abuse or non-compliance shall be subject to corrective and/or disciplinary action and may also be subject to civil and/or criminal prosecution.

## IX. NON-INTIMIDATION AND NON-RETALIATION WHISTLE BLOWER PROVISIONS AND PROTECTION

LICIL encourages every individual and/or entity, representing or acting on behalf of LICIL, who has complaints or concerns to come forward with any relevant information they may possess relating to fraud, abuse and non-compliance with this Corporate Compliance Policy or the annexed Code of Conduct and LICIL strictly prohibits retaliation against anyone reporting good-faith concerns.

LICIL and its directors, supervisors, managers, employees, consumers, personal attendants, consultants, agents, volunteers, and each individual and/or entity representing or acting on behalf of LICIL, shall not retaliate or take any form of adverse action against any individual and/or entity making a good-faith report to the Corporate Compliance Department or appropriate managerial staff pursuant to this policy or who participates in any investigation regarding a violation or possible violation of the applicable laws, regulations, Corporate Compliance policies or Code of Conduct. Any retaliation or adverse action by any individual and/or entity, representing or acting on behalf of LICIL, is strictly forbidden. Any individual and/or entity, who believe they are or have been subject to retaliation as a result of making a good-faith report or as a result of participation in an investigation, should report such suspected

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retaliation to the CCO in the same manner as described above for the reporting of questionable practices and/or conduct. This whistleblower policy is intended by LICIL to encourage and enable individuals and/or entities, representing or acting on behalf of LICIL, and others, to timely raise serious concerns of non-compliance within LICIL's Corporate Compliance Plan.

## X. CONCLUSION

LICIL provides high quality community based services to individuals with disabilities. As a member of the community, LICIL is committed to full compliance with all regulations and laws that govern the services offered through the organization as well as fulfilling the values, mission and goals of the organization.

Additional policies and procedures that are specific to each program and department shall be made available for review at the request of interested parties at the discretion of and under the supervision of the CCO or designee.

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## Appendix “A”

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# THE LONG ISLAND CENTER FOR INDEPENDENT LIVING, INC.

## CORPORATE CODE OF CONDUCT

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I. BUSINESS ETHICS

This Corporate Code of Conduct is an overview of LICIL's principles of business conduct and ethics. It is intended to set standards of conduct and is not a restatement of LICIL's policies and procedures. This Corporate Code of Conduct cannot and is not intended to cover every applicable law or provide answers to all questions that might arise, for that we must ultimately rely on each individual's good sense of what is right, including a sense of when it is proper to seek guidance from others on the appropriate course of conduct.

All officers, directors, employees, volunteers, agents, representatives, consumers and personal attendants (and other parties as applicable) associated with LICIL are expected to observe the highest standards of ethics and integrity in their conduct. This means following a basic code of ethical business behavior, which includes complying with the letter and spirit of all applicable laws. LICIL's employees are expected to faithfully carry out the LICIL's policies, rules, regulations and contracts. It is the obligation of each and every officer, director, employee, volunteer, agent, representative, consumer and personal attendant (and other parties as applicable) associated with LICIL to become familiar with the goals and policies of LICIL and integrate them into every aspect of LICIL's business. LICIL regards violation of the law, LICIL's policies or this Corporate Code of Conduct as a serious matter since violations may put LICIL and its officers, directors, employees, agents, volunteers, representatives, consumers, personal attendants and the public at risk. Therefore, should this Corporate Code of Conduct be violated, the violator shall be subject to disciplinary action up to and including severance of their association with LICIL. In addition, certain violations may be referred to the appropriate legal authorities for investigation and may result in civil and/or criminal prosecution.

II. ACCOUNTING PRACTICES

It is LICIL's policy to fully and fairly disclose the financial condition of LICIL in compliance with applicable accounting principles, laws, rules and regulations. All books and records of LICIL shall be kept in such a way as to fully and fairly reflect all company transactions.

III. ADHERE TO TAX EXEMPT REQUIREMENTS

LICIL is a tax-exempt entity under the rules and laws of New York State and the Federal Internal Revenue Service. In order to comply with applicable law, the Agency must operate for the benefit of the community and avoid "private inurement" or "private benefit" as defined by these laws. Criminal penalties may be exercised if a violation of these tax laws is found and substantiated.

In this regard, representatives of LICIL should be familiar with these restrictions:

- i. The Agency sales tax exemption is used only for legitimate agency business and service transactions.
- ii. Personal items cannot be purchased through the agency even if reimbursement is offered.
- iii. All appropriate withholding taxes must be applied to staff wages.

#### IV. COMPLY WITH FUND-RAISING STANDARDS

Officers, directors, employees, volunteers, agents, representatives, consumers and personal attendants (and other parties as applicable) associated with LICIL are expected to adhere to acceptable fundraising standards. Only fundraising activities, which benefit the LICIL and the programs or services provided thereby are allowed, and must be specifically authorized by the Executive Director or designee. Fundraising events must be consistent with LICIL's mission, vision, goals, mandates and values.

Any officer, director, employee, volunteer, agent, representative, consumer or personal attendant (or other parties as applicable) associated with LICIL that obtains funds as a result of fundraising activities on behalf of LICIL must promptly deposit the funds with the Office Manager for appropriate record keeping and cash controls.

Fund-raising reports are issued regularly and comply with applicable laws and regulations associated with the agency licenses and not-for-profit.

#### V. FAIR DEALING

Each officer, director, employee, volunteer, agent, representative, consumer and personal attendant (and other parties as applicable) associated with LICIL shall endeavor to deal fairly and in good-faith with LICIL's consumers, personal attendants, employees, regulators, business partners and others. No officer, director, employee, volunteer, agent, representative, consumer and personal attendant (and other parties as applicable) associated with LICIL shall take unfair advantage of anyone through manipulation, concealment, abuse of privileged or confidential information, misrepresentation, fraudulent behavior or any other unfair dealing practice.

VI. SUBMIT ACCURATE BILLING AND FINANCIAL REPORTS

Billing activities will be performed in a manner consistent with Medicaid and other payers' regulations and requirements. Officers, directors, employees, volunteers, agents, representatives, consumers and personal attendants (and other parties as applicable) associated with LICIL shall comply with all pertinent regulations in billing practices, including, but not limited to, specific program requirements, need for service, procedure codes, bad debt reporting, credit balances, and duplicate billing.

All billing and claims generated must accurately reflect that services rendered are supported by relevant documentation and are submitted in compliance with applicable laws, rules, regulations, and program requirements. Officers, directors, employees, volunteers, agents, representatives, consumers and personal attendants (and other parties as applicable) associated with LICIL should never knowingly make or present improper, false, fictitious or fraudulent claims to any government or private health care program, employee, department or agency. Improper activity can include, but is not limited to:

- i. Misrepresentation of Services
- ii. Duplicate Billing
- iii. Multiple Coverage and Secondary-Payroll Fraud
- iv. False Claims Statements
- v. Falsifying dates on a Claim

VII. ANTI-KICKBACK POLICY

The term "kickback" is defined as the giving of remuneration of any kind, which is interpreted under the law as "anything of value". In the United States it is illegal to provide, offer or accept a kickback or bribe. A kickback or bribe may be defined as money, fee, commission, credit, gift, gratuity, thing of value or compensation of any kind that is provided directly or indirectly, and that has as one of its purposes, the improper obtaining or rewarding or favorable treatment in a business transaction.

VIII. CONFIDENTIALITY

The information and business data obtained by LICIL, and the security of that information and data, are vital to LICIL's mission. Each officer, director, employee, volunteer, agent and representative (and other parties as applicable) associated with LICIL must safeguard confidential information against improper disclosure. All officer, director, employee, volunteer, agent, representative, personal attendant (or other party as applicable) associated with LICIL are required to maintain the confidentiality of information entrusted to them by LICIL.

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As a recipient of health care and other information about consumers and their families it is imperative that all medical records and information received by any officer, director, employee, volunteer, agent, representative, personal attendant (or other party as applicable) be treated as strictly confidential. LICIL has adopted and maintains policies and procedures regarding the confidentiality of health care information in compliance with both federal and state law. It is expected that every officer, director, employee, volunteer, agent, representative, personal attendant (or other party as applicable) has acquainted themselves with these policies and procedures and fully complies with these policies and procedures.

IX. COMPLY WITH LABOR AND EMPLOYMENT LAWS

LICIL fully complies with all applicable labor laws and statutes regarding employee-employee relationships and workplace environment.

In compliance with the Immigration Reform Act of 1987, each new employee, as a condition of employment, must complete the Employment Eligibility Verification Form I-9, and present documentation establishing identity and employment eligibility.

X. ANTI - HARASSMENT POLICY

LICIL's management recognizes that LICIL's employees are affected by interpersonal relationships and by the image that the LICIL projects. In fact, LICIL places a high degree of importance on establishing and maintaining an atmosphere of friendliness, courtesy, and concern for each co-worker, consumer and visitor so that all people have a favorable perception of the organization.

It is the policy of LICIL to maintain a working environment which encourages mutual respect, promotes respectful and congenial relationships between employees and is free from all forms of harassment of an employee or applicant for employment by anyone, including supervisors, co-workers, vendors, or consumers. Harassment in any manner or form is expressly prohibited and will not be tolerated by LICIL. Accordingly, LICIL's management is committed to vigorously enforcing this policy against harassment, including but not limited to sexual harassment, at all levels.

The term "harassment" includes but is not limited to unwelcome slurs, jokes, verbal, graphic or physical conduct relating to an individual's race, religion, sex, sexual orientation, age, national origin, or disability.

Sexual harassment consists of unwelcome sexual advances, requests for sexual favors, or other verbal or physical conduct of a sexual nature where:

- a. Submission to such conduct is an explicit or implicit term or condition of employment;
- b. Employment decisions are based on an employee's submission to or rejection of such conduct; or,
- c. Such conduct interferes with an individual's work performance or creates an intimidating, hostile or offensive working environment.

The term "harassment" may also include conduct of employees, supervisors, vendors and/or consumers who engage in verbally or physically harassing behavior which has the potential for humiliating or embarrassing an employee of the organization.

All of LICIL's employees, both management and non-management, are responsible for assuring that a workplace free of harassment is maintained. Any employee may file a harassment complaint regarding incidents experienced personally or incidents observed in the workplace. LICIL strives to maintain a lawful and pleasant work environment where all of its employees are able to effectively perform their work without interference of any type and requests the assistance of all employees in this effort.

The organization provides its employees with a convenient and reliable method for reporting incidents of harassment, including sexual harassment. Any employee of LICIL who feels that they have been or are being harassed or discriminated against, is encouraged to immediately inform the alleged harasser that the behavior is unwelcome. In most instances, the person is unaware that their conduct is offensive and when so advised can easily and willingly correct the conduct so that it does not reoccur. If the informal discussion with the alleged harasser is unsuccessful in remedying the problem or if such an approach is not possible, the employee should immediately report the complained-of-conduct to their immediate supervisor or the Executive Director. If the complained-of-conduct concerns LICIL's Executive Director a report may be made directly to the Board of Directors. The report should include all facts available to the employee regarding the harassment.

All reports of harassment shall be treated seriously and will be promptly and thoroughly investigated by LICIL's Executive Director or other appropriate individual appointed to undertake such investigation. However, absolute confidentiality is not promised nor can it be assured. A thorough investigation of any complaint requires limited disclosure of pertinent information to certain parties, including the alleged harasser. Once the investigation is

completed, a determination will be made regarding the validity of the harassment allegations. Where it is determined that harassment has occurred; prompt remedial action will be taken, including written warnings, suspension, transfer and/or termination.

LICIL does not permit or condone any acts of retaliation against any employee who files harassment complaints or cooperates in the investigation of same and strictly prohibits such conduct. However, if the investigation reveals that a complaint was not bona fide, was not made in good faith, or that an employee knowingly provided false information regarding the complaint, disciplinary action may be taken against such employee including written warnings, suspension and/or termination.

#### XI. SAFE WORKPLACE POLICY

It is LICIL's intent to provide a safe workplace for employees and to provide a comfortable and secure atmosphere for its employees, consumers and other visitors to LICIL's offices. As such, LICIL maintains zero tolerance for violent acts or threats of violence.

All of the officers, directors, employees, volunteers, agents, representatives, consumers and personal attendants (and other parties as applicable) associated with LICIL are expected to conduct themselves in a non-threatening, non-abusive manner at all times. No direct, conditional or veiled threat of harm to any employee or property will be considered acceptable behavior. Acts of violence or intimidation of others will not be tolerated. Any employee who commits or threatens to commit a violent act against any person while on LICIL's premises will be subject to immediate discharge. If an employee, while engaged in LICIL's business off the premises commits or threatens to commit a violent act, that employee will be subject to immediate discharge if the threat or violent act could, in the discretion of LICIL's Executive Director, adversely affect LICIL or its reputation in the community.

All of LICIL's employees share the responsibility of identification and alleviation of threatening or violent behaviors. Any employee who is subjected to or threatened with violence, or who is aware of another individual who has been subjected to or threatened with violence, should immediately report this information to their supervisor or a member of management. Employees must assume that any threat is serious. LICIL's management will carefully investigate all reports and the employee's confidentiality shall be maintained to the fullest extent possible.

#### XII. DRUG FREE WORKPLACE POLICY

Officers, directors, employees, volunteers, agents, representatives, consumers and personal attendants (and other parties as applicable) associated with LICIL with drug and alcohol

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problems not only jeopardize their own physical and emotional well being, they also risk the health and safety of their co-workers, colleagues, consumers and other visitors to the Organization. Therefore, it is LICIL's policy to maintain a drug free workplace. The term "drug" includes alcoholic beverages, unauthorized prescription drugs, illegal inhalants and illegal drugs. The term "workplace" is defined as LICIL's property and/or a consumer's property, any LICIL-sponsored and/or consumer-sponsored activity, or any other site for the performance of work for LICIL and/or a consumer. Engaging in activities prohibited by this policy shall be grounds for discipline, including but not limited to suspension or immediate termination of employment, if the activities occur in the workplace as defined above.

All employees of LICIL are hereby notified that the LICIL shall fully comply with the Federal Drug-Free Workplace Act of 1988 as amended. Prohibited activities under this policy include the unauthorized use of drugs in the workplace, including distribution, possession, or use of a drug or controlled substance as defined in schedules I through V of the Controlled Substances Act, 21 U.S.C. Sec. 812, 21 C.F.R. Sec 1308, and state and local law, including but not limited to marijuana, opiates (e.g., heroin, morphine), cocaine, phencyclidine (PCP), and amphetamines. The use of prescription drugs, when taken as directed by a duly licensed physician, shall not be a violation of this policy. However, any unauthorized used of prescription drugs, not prescribed to the employee by a duly licensed physician, shall be grounds for discipline, including but not limited to suspension or immediate termination of employment.

As a condition of employment, all employees of LICIL must comply with this policy. LICIL's employees may be required to undergo drug testing if a supervisor suspects that the employee is unable to perform their job duties due to the use of drugs or alcohol. In addition, the addiction to or misuse of prescribed drugs may also subject an employee of LICIL to medical testing. Refusal by any LICIL employee to consent to such testing shall result in disciplinary action up to and including termination. Any employee testing positive for illegal drugs or the misuse of prescribed drugs may be required to participate in a drug abuse assistance or rehabilitation program as a condition of further employment.

The inclusion of this drug free workplace policy does not affect the employment status of the employee being "at-will," meaning that the employment relationship may be terminated at any time for any reason without prior notice.

### XIII. COMPLY WITH PAYROLL DEDUCTIONS

LICIL fully complies with the salary basis requirements of the Fair Labor Standards Act (FLSA). Therefore, LICIL prohibits all improper deductions from the salaries of officers, directors, employees, volunteers, agents, representatives or personal attendants (or other parties as applicable) associated with LICIL.

If an officer, director, employee, volunteer, agent, representative, consumer or personal attendant (or other parties as applicable) associated with LICIL believes that an improper deduction has been made to their salary, that individual should immediately report this information to their direct supervisor, or the CCO. Reports of improper deductions will be promptly investigated and if it is determined that LICIL made an improper deduction from an individual's wages, the individual will be promptly reimbursed for any improper deductions.

#### XIV. RECEIPT OF GIFTS

All officers, directors, employees, volunteers, agents, representatives, consumers and personal attendants (and other parties as applicable) associated with LICIL are required to decline any gifts, gratuities, or payments offered by anyone with whom LICIL does business. This includes offers of free service, travel, or merchandise. Borrowing from such sources is absolutely prohibited. Gifts of cash, checks or credit are strictly prohibited and may not be accepted under any circumstances. Violation of this policy shall be grounds for discipline, including but not limited to suspension or immediate termination of employment and/or severance of the relationship with LICIL.

#### XV. CONFLICTS OF INTEREST

Officers, directors, employees, volunteers, agents, representatives, consumers and personal attendants (and other parties as applicable) have an obligation to conduct business within guidelines that prohibit actual or potential or perceived conflicts of interest. This policy establishes only the framework within which LICIL wishes the business to operate. The purpose of these guidelines is to provide general direction so that officers, directors, employees, volunteers, agents, representatives, consumers and personal attendants (and other parties as applicable) associated with LICIL can seek further clarification on issues related to the subject of acceptable standards of operation. Contact the CCO for more information or questions about conflicts of interest.

Transactions with outside firms must be conducted within a framework established and controlled by the executive level of LICIL. The Executive Director or designee is the only corporate employee that can obligate expenditures, hire employees, or enter into contracts on behalf of LICIL. Business dealings with outside firms should not result in unusual gains for those firms or private gains for any officer, director, employee, volunteer, agent, representative, consumer or personal attendant (or other parties as applicable) associated with LICIL.

An actual or potential conflict of interest occurs when an officer, director, employee, volunteer, agent, representative, consumer or personal attendant (or other parties as applicable) associated with LICIL is in a position to influence a decision that may result in a personal gain

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for that officer, director, employee, volunteer, agent, representative, consumer or personal attendant (or other parties as applicable) associated with LICIL or for a friend or relative as a result of LICIL's business dealings. For the purposes of this policy, a relative is any person who is related by blood or marriage, or whose relationship with the officer, director, employee, volunteer, agent, representative, consumer or personal attendant (or other parties as applicable) is similar to that of persons who are related by blood or marriage, or resides in the household of that officer, director, employee, volunteer, agent, representative, consumer or personal attendant (or other parties as applicable).

No "presumption of guilt" is created by the mere existence of a relationship with outside firms. However, if officers, directors, employees, volunteers, agents, representatives, consumers and personal attendants (and other parties as applicable) associated with LICIL have any influence on transactions involving purchases, contracts, or leases, it is imperative that they disclose that information to the CCO. The CCO will refer the issue to the Board of Directors for approval as soon as possible after the existence of any actual or potential conflict of interest is identified so that safeguards can be established to protect all parties. Any issues of potential conflict of interest for any member of the staff, including the Executive Director and CCO, should be brought to the attention of the Board of Directors for review and action.

Personal gain may result not only in cases where an officer, director, employee, volunteer, agent, representative, consumer or personal attendant (or other parties as applicable) or relative thereof has a significant ownership in a firm with which LICIL does business, but also when an officer, director, employee, volunteer, agent, representative, consumer or personal attendant (or other parties as applicable) or relative thereof receives any substantial gift or special consideration as a result of any transaction or business dealings involving LICIL.

Furthermore, no officer, director, employee, volunteer, agent, representative, consumer or personal attendant (or other parties as applicable) associated with LICIL may enter into a private contract with private individuals or organizations for consultation work that is in any way related to the work or mission of LICIL or related to the work of that individual or other officer, director, employee, volunteer, agent, representative, consumer or personal attendant (or other parties as applicable) associated with LICIL. All such opportunities for consultation or other types of contract work must be structured through the administration of LICIL.

#### XVI. FRAUDULENT CLAIMS

As a provider to the Nassau County Department of Social Services and fiscal intermediary responsible for processing payroll and billing Medicaid/Medicare, LICIL is committed to complying with all applicable laws and regulations. The submission of false information and claims to the federal or state government may constitute fraud that is actionable

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by enforcement agencies. The Office of the Inspector General of the U.S. Department of Health and Human Services and the State of New York Office of the Medicaid Inspector General conduct a large number of Medicaid/Medicare audits and investigations to evaluate improper or fraudulent payments which result in a substantial drain on both state and federal funds. As such, LICIL supports the efforts of both federal and state authorities in identifying incidents of fraud and abuse and is continuously developing the necessary procedures to prevent, detect, report and correct incidents of fraud and abuse in accordance with contractual, regulatory and statutory requirements.

The policies and procedures set forth herein supersede all existing policies, procedures and practices and may not be amended or added to without the express written approval of LICIL's Executive Director. The policies and procedures set forth herein are subject to change at the sole discretion of the Executive Director without advance notice.

The policies and procedures set forth in this notice are for informational purposes only and are not intended to create a contract. The policies and procedures set forth herein shall not constitute contractual obligations of any kind to any individual or entity receiving the notice nor shall they be construed to constitute a contract of employment between LICIL and any individual or entity receiving the notice.

## XVII. FALSE CLAIMS REGULATIONS AND POLICY

This False Claims Policy sets forth the guidelines to be followed by all officers, directors, employees, volunteers, agents, representatives, consumers and personal attendants (and other parties as applicable) associated with LICIL regarding the Deficit Reduction Act (DRA) of 2005 (42 U.S.C. § 1320(a) *et seq.*), the federal False Claims Act (31 U.S.C. § 3729, *et seq.*), the Federal Program Fraud Civil Remedies Act of 1986, The New York State False Claims Act (State Finance Law § 187 *et seq.*) and the New York Social Services Law (§145 *et seq.*) in detecting and preventing fraud, waste and abuse.

"Fraud" is defined as an intentional (willful or purposeful) deception or misrepresentation made by a person with the knowledge that the deception could result in some unauthorized benefit to him/herself or some other person. It includes any act that constitutes fraud under applicable federal or state law.

"Abuse" is defined as practices that are inconsistent with sound fiscal, business or medical practices, and that result in an unnecessary cost to government programs, or in seeking reimbursement for goods or services that are not medically necessary or that fail to meet professionally recognized standards for health care. It also includes practices that result in unnecessary cost to government programs.

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The federal False Claims Act (the "FCA") and the New York State False Claims Act (the NYSFCA) are statutes that impose liability on any person who:

- Knowingly presents or causes to be presented a false or fraudulent claim to the government.
- Knowingly uses a false record or statement to obtain payment on a false claim paid by the government.
- Engages in a conspiracy to defraud the government by the improper submission of a false claim for payment.

The term "**knowingly**" is defined to mean that with respect to information a person has actual knowledge of the information, acts in deliberate ignorance of the truth or falsity of the information, or acts in reckless disregard of the truth or falsity of the information. No proof of specific intent to defraud is required.

The term "**claim**" includes any request or demand for money or property if the United States Government provides any portion of the money requested or demanded.

The FCA and NYSFCA apply to Medicaid/Medicare reimbursement and prohibit, among other things:

- Billing for services not rendered;
- Billing for undocumented services;
- Making improper entries on cost reports;
- Billing for medically unnecessary services;
- Assigning incorrect codes to secure higher reimbursement;
- Characterizing non-covered services or costs in a way that secures reimbursement;
- Failing to seek payment from beneficiaries who may have other primary payment sources;
- Participating in kickbacks;
- Loaning Medicaid Identification card to another person;
- Loaning Consumer Directed Personal Assistance Program call-in identification number to another person;
- Forging or altering a prescription or fiscal order;
- Using multiple Medicaid ID cards; and
- Intentionally receiving duplicative, excessive, contraindicated, or conflicting health care services or supplies;

Damages and penalties of violating the FCA include:

- Civil penalties of not less than \$5,500 and not more than \$11,000 per violation, plus;
- Three times the amount of damages which the government sustains because of the violation, and the costs of any civil action brought to recover such penalties or damages.

Damages and penalties of violating the NYSFCA include:

- Civil penalties of not less than \$6,000 and not more than \$12,000 per violation, plus;
- Two to Three times the amount of damages which the government sustains because of the violation, and the attorneys fees incurred to recover such penalties or damages.

The FCA and NYSFCA also provide for actions by private persons (*qui tam* lawsuits), and private persons may bring a civil action in the name of the government for a violation of the FCA and/or the NYSFCA. The government may choose to intervene in the lawsuit and assume primary responsibility for prosecuting, dismissing or settling the action. If the government chooses not to intervene, the person who initiated the lawsuit (the "Whistleblower") has the right to conduct the action. In the event that the action is successful, the Whistleblower may be awarded a portion of the funds recovered. The Whistleblower may also receive an amount for reasonable expenses plus reasonable attorneys' fees and costs.

However, if the civil action is frivolous, clearly vexatious, or brought primarily for harassment, the Whistleblower may have to pay the defendant its attorneys' fees and costs. The amount received by the Whistleblower will be decreased if he/she planned or initiated the violation, and no share will be awarded if the Whistleblower is found guilty of a crime associated with the violation.

The FCA, NYSFCA, New York Social Services Law (§145 *et seq.*), New York Labor Law (§ 740 *et seq.*) and other statutes provide protection for officers, directors, employees, volunteers, agents, representatives, consumers and personal assistants (and other parties as applicable) from retaliation. If an officer, director, employee, volunteer, agent, representative, or personal assistant (or other party as applicable) is discharged, demoted, suspended, threatened, harassed or discriminated against because of lawful acts conducted in furtherance of an action under the FCA or NYSFCA, that officer, director, employee, volunteer, agent, representative, or

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personal assistants (or other party as applicable) may bring an action in court seeking reinstatement, two times the amount of back pay plus interest, and other enumerated costs, damages, and reasonable attorneys' fees.

The Federal Program Fraud Civil Remedies Act of 1986 (the "Act") also establishes an administrative remedy against any person who presents or causes to be presented a claim or written statement that the person knows or has reason to know is false, fictitious or fraudulent due to an assertion or omission to certain federal agencies (including the Department of Health and Human Services).

The term "**knows or has reason to know**" is defined in the Act as a person who has actual knowledge of the information, acts in deliberate ignorance of the truth or falsity of the information, or acts in reckless disregard of the truth or falsity of the information. No proof of specific intent to defraud is required.

With regard to this Act, the term "**claim**" includes any request or demand for property or money, e.g., grants, loans, insurance or benefits, when the United States Government provides or will reimburse any portion of the money.

The Act allows for civil monetary sanctions to be imposed in administrative hearings, including penalties of \$5,000 per claim and an assessment, in lieu of damages, of not more than twice the amount of the original claim.

#### XVIII. POLICIES FOR DETECTING FRAUD, WASTE AND ABUSE

LICIL has adopted the following policies and procedures for detecting fraud, waste and abuse. In addition, LICIL shall not knowingly employ, contract or associate with any person or entity, or knowingly receive certifications and/or orders from any provider or recipient who has been excluded from the Medicaid/Medicare programs as a result of fraud.

All officers, directors, employees, volunteers, agents, representatives, consumers and personal attendants (and other parties as applicable) associated with LICIL must conduct themselves in an ethical and legal manner, including the maintenance of accurate records related to their business and insurance activities. It is strictly forbidden to provide or accept gifts, services or any other form of remuneration from Medicaid/Medicare recipients or Medicaid/Medicare referral sources. Similarly, all officers, directors, employees, volunteers, agents, representatives, consumers and personal attendants (and other parties as applicable) associated with LICIL are required to comply with LICIL's policies and procedures regarding Medicaid/Medicare and state reporting regulations.

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All officers, directors, employees, volunteers, agents, representatives, consumers and personal attendants (and other parties as applicable) associated with LICIL are responsible for reporting potential or suspected incidents of fraud, abuse or other wrongdoing directly to a supervisor, director, the CCO or by using one of the reporting methods described herein.

The CCO, who in consultation with LICIL's Executive Director and legal counsel, as needed, shall be responsible for receiving and acting upon all information suggesting the existence of possible fraud, abuse or wrongdoing, and for directing all investigations arising from this information.

Any officers, directors, employees, volunteers, agents, representatives, consumers or personal attendants (or other parties as applicable) associated with LICIL receiving a report of fraud are required to immediately inform the CCO before any action is taken. No supervisor, director or manager should directly confront any individual with an allegation of fraud or otherwise discuss the issue with anyone suspected of engaging in fraudulent or abusive practices without prior approval from the CCO.

It is the responsibility of the CCO to direct or conduct fraud and abuse investigations. In conducting an investigation of wrongdoing, facts should be gathered as promptly as possible. The CCO is responsible for detecting potential incidents of fraud and abuse and determining when incidents should be reported to an appropriate law enforcement agency. The CCO is responsible for ensuring the design and development of methods for identifying fraud and abuse and responding appropriately and immediately to all detected program violations. If incidents of fraud and abuse are identified, systematic changes and corrective action initiatives will be put into place as appropriate to prevent further offenses.

The CCO shall continuously develop and maintain methods for detecting and preventing incidents of fraud and abuse, including, but not limited to, a claims assurance program that monitors the accuracy of claims and a process that identifies employees, consumers, personal assistants, contractors, vendors and providers that are debarred or excluded from participating in federal programs.

The CCO shall take appropriate disciplinary and enforcement action (i.e., corrective action plans, employment termination or contract termination) against employees, volunteers, agents or representatives found to have committed fraud and abuse violations.

In the case where the allegation is a criminal violation of law, the CCO shall confer with LICIL's Executive Director and legal counsel, as needed, to determine as to whether there is sufficient evidence to support referral to a duly authorized law enforcement agency. In addition, LICIL shall fully cooperate with the appropriate federal and state agencies that conduct health

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care fraud and abuse investigations.

To the extent practical or allowed by law, the CCO shall maintain the confidentiality or anonymity of any individual reporting questionable activity when such confidentiality or anonymity is requested. In addition, retaliation or retribution for reporting issues "in good faith" is strictly prohibited.

As part of an annual compliance training program, all officers, directors, employees, volunteers, agents, representatives, consumers and personal attendants (and other parties as applicable) associated with LICIL shall receive additional educational information and literature relating to the provisions of the Act, the FCA, the NYSFCA and other State and administrative remedies for false claims and statements and New York State laws pertaining to civil or criminal penalties and *qui tam* provisions.

#### XIX. REPORTING OF VIOLATIONS

Every officer, director, employee, volunteer, agent, representative, consumer and personal attendant (and other parties as applicable) associated with LICIL has a duty to adhere to this Corporate Code of Conduct and all existing policies and procedures, and to report to LICIL any suspected violations in accordance with applicable law, policy or procedure. If an officer, director, employee, volunteer, agent, representative, consumer or personal attendant (or other parties as applicable) associated with LICIL knows of a violation or possible violation of any law, policy, procedure or this Corporate Code of Conduct, it must be reported immediately to a supervisor, director or the CCO. Any officer, director, employee, volunteer, agent, representative, consumer or personal attendant (or other parties as applicable) associated with LICIL receiving such a report must immediately advise the CCO at 516-796-0144.

Disciplinary action may be taken for a failure to report a violation of the law or this Corporate Code of Conduct, for refusal to cooperate in an investigation of a possible violation or for retaliatory conduct against an individual reporting a violation or possible violation. The nature of any disciplinary action taken shall depend on the nature of the violation and the circumstances involved. When appropriate, the disciplinary action may include, but is not limited to, the severance of the violator's association and/or employment relationship with LICIL.

Any officers, directors, employees, volunteers, agents, representatives, consumers or personal attendants (or other parties as applicable) associated with LICIL who have questions regarding the applicability or interpretation of this Corporate Code of Conduct or any of the laws and regulations set forth above should contact the CCO, Susan McCormack, at 516-796-0144. Written questions should be addressed to Susan McCormack, c/o The Long Island Center for

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XX. WHISTLEBLOWER PROTECTION POLICY

No officer, director, employee, volunteer, agent, representative, consumer or personal attendant (or other parties as applicable) associated with LICIL who in good-faith reports a violation of this Corporate Code of Conduct or possible instance of fraud or abuse shall suffer harassment, retaliation or adverse employment consequence. Any officer, director, employee, volunteer, agent, representative, consumer or personal attendant (or other parties as applicable) associated with LICIL who retaliate against someone who has reported a violation in good-faith is subject to discipline up to and including severance of the individual's association and/or employment relationship with LICIL.

This Whistleblower Policy is intended to encourage and enable officers, directors, employees, volunteers, agents, representatives, consumers and personal attendants (and other parties as applicable) associated with LICIL to raise and resolve serious concerns within the organization prior to seeking resolution outside the organization. Therefore, notice is hereby given that retaliation in any form is strictly forbidden and there shall be no reprisals for the good-faith reporting of actual or possible violations of the law, the policies or the procedures set forth in this Corporate Code of Conduct.

The policies, procedures and Corporate Code of Conduct set forth in this policy are not intended to create any contractual obligation upon LICIL, nor shall they be construed to constitute a contract of employment between LICIL and any individual or entity.

XXI. WAIVER OF THE CORPORATE CODE OF CONDUCT

Any waiver of this Corporate Code of Conduct with respect to an employee, volunteer, agent or representative (or other parties as applicable) associated with LICIL, who is not an executive officer or director of LICIL, may be granted only by the Executive Director.

Only a committee of independent members of the Board of Directors may grant a waiver of this Corporate Code of Conduct with respect to an executive officer or director of LICIL.

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## Appendix “B”

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## APPLICABLE LAWS

### The New York State Law:

Chapter 442 of the Laws of 2006, which established the New York State Office of the Medicaid Inspector General (OMIG) institute, also created a new Social Services Law § 363-d which requires that Medicaid providers develop and implement compliance programs aimed at detecting fraud, waste, and abuse in the Medicaid program.

### State Plan Under Title XIX of the Social Security Act (“The Act”):

Citation: 1902(a)(68) of the Act, P.L. 109-171 (section 6032)

### Education About False Claims Recoveries

- a. The Medicaid agency meets the requirements regarding establishment of policies and procedures for the education of employees of entities covered by section 1902(a)(68) of the Social Security Act (“The Act”) regarding false claims recoveries and methodologies for oversight of entities’ compliance with these requirements.
- b. Definitions:
  - i. An “entity” includes a governmental agency, organization, unit, corporation, partnership, or other business arrangement (including any Medicaid managed care organization, irrespective of the form of business structure or arrangement by which it exists), whether for-profit or not-for profit, which receives or makes payments, under a State Plan approved under title XIX or under any waiver of such plan, totaling at least \$5,000,000.00 annually.

If an entity furnishes items or services at more than a single location or under more than one contractual or other payment arrangement, the provisions of section 1902(a)(68) apply if the aggregate payments to that entity meet the \$5,000,000.00 annual threshold. This applies whether the entity submits claims for payments using one or more provider identification or tax identification numbers.

A governmental component providing Medicaid health care items or services for which Medicaid payments are made would qualify as an “entity” (e.g. a state mental health facility or school district providing

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school-based health services). A government agency which merely administers the Medicaid program, in whole or part (e.g. managing the claims processing system or determining beneficiary eligibility), is not, for these purposes, considered to be an entity.

An entity will have met the \$5,000,000.00 annual threshold as of January 1, 2007, if it received or made payments in that amount in Federal fiscal year 2006. Future determinations regarding an entity's responsibility stemming from the requirements of section 1902(a)(68) will be made by January 1 of each subsequent year, based upon the amount of payments an entity either received or made under the State Plan during the preceding Federal fiscal year.

- ii. An "employee" includes any officer or employee of the entity.
- iii. A "contractor" or "agent" includes any contractor, subcontractor, agent, or other person which or who, on behalf of the entity, furnishes, or otherwise authorizes the furnishing of, Medicaid health care items or services, performs billing or coding functions, or is involved in the monitoring of health care provided by the entity.
  - a. The entity must establish and disseminate written policies which must also be adopted by its contractors or agents. Written policies may be on paper or in electronic form, but must be readily available to all employees, contractors, or agents. The entity need not create an employee handbook if none already exists.
  - b. An entity shall establish written policies for all employees (including management), and of any contractor or agent of the entity, that include detailed information about the False Claims Act and the other provisions named in section 1902(a)(68)(A). The entity shall include in those written policies detailed information about the entity's policies and procedures for detecting and preventing waste, fraud, and abuse. The entity shall also include in any employee handbook a specific discussion of the laws described in the written policies, the rights of employees to be protected as whistleblowers and a specific discussion of the entity's policies and procedures for detecting and preventing fraud, waste, and abuse.

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- c. The requirements of this law should be incorporated into each State's provider enrollment agreements.

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

### I. FEDERAL LAWS

#### False Claims Act (31 USC §§3729-3733):

The False Claims Act ("FCA") provides, in pertinent part, that:

(a) Any person who (1) knowingly presents, or causes to be presented, to an officer or employee of the United States Government or a member of the Armed Forces of the United States a false or fraudulent claim for payment or approval; (2) knowingly makes, uses, or causes to be made or used, a false record or statement to get a false or fraudulent claim paid or approved by the Government; (3) conspires to defraud the Government by getting a false or fraudulent claim paid or approved by the Government;. . . or (7) knowingly makes, uses, or causes to be made or used, a false record or statement to conceal, avoid, or decrease an obligation to pay or transmit money or property to the Government, is liable to the United States Government for a civil penalty of not less than \$5,000 and not more than \$10,000, plus 3 times the amount of damages which the Government sustains because of the act of that person . . . .

(b) For purposes of this section, the terms "knowing" and "knowingly" mean that a person, with respect to information (1) has actual knowledge of the information; (2) acts in deliberate ignorance of the truth or falsity of the information; or (3) acts in reckless disregard of the truth or falsity of the information, and no proof of specific intent to defraud is required.

#### 31 U.S.C. § 3729:

While the False Claims Act imposes liability only when the claimant acts "knowingly" it does not require that the person submitting the claim have actual knowledge that the claim is false. A person who acts in reckless disregard or in deliberate ignorance of the truth or falsity of the information, also can be found liable under the Act.

#### 31 U.S.C. 3729(b):

In sum, the False Claims Act imposes liability on any person who submits a claim to the federal government that he or she knows (or should know) is false. An example may be a physician who submits a bill to Medicare for medical services she knows she has not provided. The False Claims Act also imposes liability on an individual who may knowingly submit a false

record in order to obtain payment from the government. An example of this may include a government contractor who submits records that he knows (or should know) are false and that indicate compliance with certain contractual or regulatory requirements. The third area of liability includes those instances in which someone may obtain money from the federal government to which he may not be entitled, and then uses false statements or records in order to retain the money. An example of this so-called “reverse false claim” may include a hospital that obtains interim payments from Medicare throughout the year, and then knowingly files a false cost report at the end of the year in order to avoid making a refund to the Medicare program.

In addition to its substantive provisions, the FCA provides that private parties may bring an action on behalf of the United States. 31 U.S.C. 3730 (b). These private parties, known as “*qui tam* relators” may share in a percentage of the proceeds from an FCA action or settlement. Section 3730(d)(1) of the FCA provides, with some exceptions, that a *qui tam* relator, when the Government has intervened in the lawsuit, shall receive at least 15 percent but not more than 25 percent of the proceeds of the FCA action depending upon the extent to which the relator substantially contributed to the prosecution of the action. When the Government does not intervene, section 3730(d)(2) provides that the relator shall receive an amount that the court decides is reasonable and shall be not less than 25 percent and not more than 30 percent.

Administrative Remedies for False Claims (31 USC Chapter 38. §§ 3801 – 3812):

This statute allows for administrative recoveries by federal agencies. If a person submits a claim that the person knows is false or contains false information, or omits material information, then the agency receiving the claim may impose a penalty of up to \$5,000 for each claim. The agency may also recover twice the amount of the claim.

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

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.

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A. CIVIL AND ADMINISTRATIVE LAWS:

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

The NY False Claims Act closely tracks the federal False Claims Act. It imposes penalties and fines on individuals and entities that file false or fraudulent claims for payment from any state or local government, including health care programs such as Medicaid. The penalty for filing a false claim is \$6,000.00 - \$12,000.00 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 have to pay the government's legal fees.

The Act allows private individuals to file lawsuits in state court, just as if they were state or local government parties. If the suit eventually concludes with payments back to the government, the person who started the case can recover 25-30% of the proceeds if the government did not participate in the suit or 15-25% if the government did participate in the suit.

Social Services Law §145-b False Statements:

It is a violation to knowingly obtain or attempt to obtain payment for items or services furnished under any Social Services program, including Medicaid, by use of a false statement, deliberate concealment or other fraudulent scheme or device. The State or the local Social Services district may recover three times the amount incorrectly paid. In addition, the Department of Health may impose a civil penalty of up to \$2,000 per violation. If repeat violations occur within 5 years, a penalty up to \$7,500 per violation may be imposed if they involve more serious violations of Medicaid rules, billing for services not rendered or providing excessive services.

Social Services Law §145-c Sanctions:

If any person applies for or receives public assistance, including Medicaid, by intentionally making a false or misleading statement, or intending to do so, the person's, the person's family's needs are not taken into account for 6 months if a first offense, 12 months if a second (or once if benefits received are over \$3,900) and live years for 4 or more offenses.

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.

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

a. 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.

b. Any person who, with intent to defraud, presents for payment any false or fraudulent claim for furnishing services, knowingly submits false information to obtain greater Medicaid compensation or knowingly submits false information in order to obtain authorization to provide items or services is guilty of a Class A misdemeanor.

Penal Law Article 155, Larceny:

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

- a. Fourth degree grand larceny involves property valued over \$1,000. It is a Class E felony.
- b. Third degree grand larceny involves property valued over \$3,000. It is a Class D felony.
- c. Second degree grand larceny involves property valued over \$50,000. It is a Class C felony.
- d. First degree grand larceny involves property valued over \$1 million. It is a Class B felony.

Penal Law Article 175, False Written Statements:

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

a. §175.05 - Falsifying business records involves entering false information, omitting material information or altering an enterprise's business records with the intent to defraud and it is a Class A misdemeanor.

b. § 175.10 - Falsifying business records in the first degree includes the elements of the §175.05 offense and includes the intent to commit another crime or conceal its commission and it is a Class E felony.

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c. §175.30 - Offering a false instrument for filing in the second degree involves presenting a written instrument (including a claim for payment) to a public office knowing that it contains false information and it is a Class A misdemeanor.

d. §175.35 - Offering a false instrument for filing in the first degree includes the elements of the second degree offense and must include an intent to defraud the state or a political subdivision and it is a Class E felony.

Penal Law Article 176, Insurance Fraud:

Applies to claims for insurance payment, including Medicaid or other health insurance and contains six crimes.

- a. Insurance fraud in the 5th degree involves intentionally filing a health insurance claim knowing that it is false and is a Class A misdemeanor.
- b. Insurance fraud in the 4th degree is filing a false insurance claim for over \$1,000 and it a Class E felony.
- c. Insurance fraud in the 3rd degree is filing a false insurance claim for over \$3,000 and it is a Class D felony.
- d. Insurance fraud in the 2nd degree is filing a false insurance claim for over \$50,000 and it is a Class C felony.
- e. Insurance fraud in the 1st degree is filing a false insurance claim for over \$1 million and it is a Class B felony.
- f. Aggravated insurance fraud is committing insurance fraud more than once and it is a Class D felony.

Penal Law Article 177, Health Care Fraud:

Applies to claims for health insurance payment, including Medicaid, and contains five crimes:

- a. Health care fraud in the 5th degree is knowingly filing, with intent to defraud, a claim for payment that intentionally has false information or omissions and it is a Class A misdemeanor.
- b. Health care fraud in the 4th degree is filing false claims and annually receiving

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over \$3,000 in aggregate and it is a Class E felony.

- c. Health care fraud in the 3rd degree is filing false claims and annually receiving over \$10,000 in the aggregate and it is a Class D felony.
- d. Health care fraud in the 2nd degree is filing false claims and annually receiving over \$50,000 in the aggregate and it is a Class C felony.
- e. Health care fraud in the 1st degree is filing false claims and annually receiving over \$1 million in the aggregate and it is a Class B felony.

### 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.

#### New York 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 as a result of their furtherance of an action under the Act. Remedies include reinstatement with comparable seniority as the *qui tam* relator would have had but for the discrimination, two times the amount of any back pay, interest on any back pay, and compensation for any special damages sustained as a result of the discrimination, including litigation costs and reasonable attorneys' fees.

#### New York Labor Law §740:

An employer may not take any retaliatory 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. Protected disclosures are those that assert that the employer is in violation of a law that creates a substantial and specific danger to the public health and safety or which constitutes health care fraud under Penal Law §177 (knowingly

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filing, with intent to defraud, a claim for payment that intentionally has false information or omissions). The employee's disclosure is protected only if the employee first brought up the matter with a supervisor and gave the employer a reasonable opportunity to correct the alleged violation. If an employer takes a retaliatory action against the employee, the employee may sue in state court for reinstatement to the same, or an equivalent position, any lost back wages and benefits and attorneys' fees. If the employer is a health provider and the court finds that the employer's retaliatory action was in bad faith, it may impose a civil penalty of \$10,000 on the employer.

New York Labor Law §741:

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

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## Corporate Compliance Acknowledgment Form

### Receipt of Corporate Compliance Plan

It is hereby acknowledged that I have received and reviewed a copy of the Corporate Compliance Plan and annexed Code of Conduct for the Long Island Center for Independent Living, Inc. ("LICIL").

It is further acknowledged and understood that the procedures and policies contained in either LICIL's Corporate Compliance Plan or the annexed Code of Conduct are not intended to alter LICIL's employment at-will policies and are not to be construed as a binding employment contract or a contract of employment for a definite period of time.

It is further acknowledged and understood that LICIL's Corporate Compliance Plan and annexed Code of Conduct and procedures and policies contained therein are continually evaluated and may be amended, modified, or terminated at any time without advance notice. It is also understood that both the Corporate Compliance Plan and/or the annexed Code of Conduct may only be modified in writing and that only LICIL's Board of Directors, Executive Director and/or Corporate Compliance Officer ("CCO") have the authority to approve such written changes and/or revisions.

By signing and dating this receipt I am indicating that I have read and understand the information contained in both LICIL's Corporate Compliance Plan and the annexed Code of Conduct and affirmatively state I shall be bound and abide by the procedures and policies contained therein. It is further understood that a failure to adhere to the polices and procedures in this Corporate Compliance Plan shall result disciplinary action up to and including severance of my association with LICIL.

Please sign and date this receipt and return it to the Corporate Compliance Officer.

\_\_\_\_\_  
SIGNATURE

Date \_\_\_\_\_

\_\_\_\_\_  
NAME (TYPED OR PRINTED)