

# **2024**

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## **CORPORATE COMPLIANCE PLAN**



***Southeast Bronx Neighborhood Centers, Inc.***

*Empowering Children, Families, and Communities*

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## MISSION AND IMPACT STATEMENTS

**Our Mission:** To plan, develop, and provide services that enhance the quality of life and facilitate empowerment of the constituents of the Southeast Bronx.

**Our Impact:** We provide vital assistance. We have successfully operated our centers for more than 60 years, providing social, recreational and educationally centered activities to children, along with support services and resources to families.

1,034+

Community members  
enrolled in our services

2,000+

Boxes of food distributed during  
the Coronavirus pandemic

1,500+

Masks distributed during the  
Coronavirus pandemic

## EXPECTATIONS

Southeast Bronx Neighborhood Centers, Inc. here forth referred to in this document as SEBNC, will ensure that all aspects of individual care and business conduct are performed in compliance with our mission and vision statements, policies, and procedures, professional standards and applicable governmental laws, rules and regulations and other payer standards. SEBNC expects every person who provides services to our individuals adhere to the highest ethical standards and promote ethical behavior. Any person whose behavior is found to violate ethical standards will be subject to procedures in place for progressive disciplinary actions.

Employees may not engage in any conduct that conflicts, or is perceived to conflict with the best interest of SEBNC. Employees must disclose any circumstances where the employee or her/his/their immediate family member is an employee, consultant, owner, contractor or investor in any entity that *(i) engages in any business or maintains any relationship with SEBNC; (ii) provides to, or receives from, SEBNC any individual referrals; or (iii) competes with SEBNC.* Employees may not without permission of the Executive Director accept, solicit, or offer anything of value from anyone doing business with SEBNC.

Employees are expected to maintain complete, accurate and contemporaneous records as required by SEBNC. The term "records" includes all documents, both written and electronic, that relates to the provision of SEBNC services or provides support for the billing of SEBNC services. Records must reflect the actual service provided. Any records to be appropriately altered must reflect the date of the alteration, the name, signature and title of the person altering the document and the reason for the alteration, if not apparent. No person shall ever sign the name of another person to any document. Backdating and predating documents is unacceptable and will lead to disciplinary action, up to and including termination.

***When any person knows or reasonably suspects that the expectations above have not been met, this must be reported to immediate supervisors, the Compliance Officer (CO), or to the Executive Director, Doreen Myles.***

## THE CORPORATE COMPLIANCE OFFICER

The Compliance Officer (CO) is responsible for ensuring that the Corporate Compliance Program, Policies, and Procedures are implemented. A CO has direct lines of communication to the Executive Director and the Board of Directors. SEBNC's Corporate Compliance Officer Consultant is, Noelia Mango. SEBNC's Corporate Compliance Manager Consultant is, Sophia Lulgjuray.

The CO is obligated to serve the best interests of SEBNC, its individuals and employees. Responsibilities of the CO include, but are not limited to:

- Overseeing and monitoring the implementation of the compliance program.
- Developing and implementing compliance policies and procedures.
- Directing SEBNC's internal audits established to monitor effectiveness of compliance standards.
- Provides feedback on the results of auditing and monitoring activities and results of follow up audits to appropriate department personnel and Senior Management.
- Initiates corrective action plans to ensure resolution of problem areas identified during an internal investigation or auditing/monitoring activity.
- Develops an annual Corporate Compliance Work Plan.
- Provides guidance to management and individual departments regarding the Compliance Plan and governmental laws, rules and regulations.
- Updates, periodically, the Compliance Plan as changes occur within SEBNC, and/or in the law and regulations of governmental and third-party payers.
- Coordinates efforts with the Human Resources Department to communicate awareness of the existence and contents of the Corporate Compliance Plan.
- Coordinates, develops and participates in the educational and training program.
- Ensures independent contractors are aware of requirements of SEBNC's Corporate Compliance Plan.
- Maintains a reporting system (hotline) and responding to concerns, complaints and questions related to the Compliance Plan.
- Investigates and acts on issues related to compliance.
- Enforces SEBNC's Corporate Compliance Plan as per OMIG regulations and when applicable, reports compliance issues to the New York State Office of the Medicaid Inspector General.
- Supervises and conducts internal investigations of allegations of corporate compliance violations within the agency.

The Compliance Officer and designee(s) is responsible for auditing and monitoring SEBNC's adherence with the principles of Corporate Compliance and forwarding the results to the Executive Director. Audit results will serve as the basis for corrective measures. The CO in collaboration with the Human Resources Department is also responsible for ensuring that all current staff are trained in SEBNC's Corporate Compliance Plan as well as all new staff upon hire. Ongoing training will be provided periodically thereafter. The CO will report refund and explain overpayments received from the Medicaid program to the NYS Office of Medicaid Inspector General as required by Section 6402 of the Protection and Affordable Care ACT (PPACA).

## CORPORATE COMPLIANCE COMMITTEE OF THE BOARD OF DIRECTORS

The Corporate Compliance Committee of the Board of Directors is appointed by the Board to oversee SEBNC's compliance with applicable legal and regulatory requirements, and the agencies code of conduct. The Committee consists of a minimum of two directors appointed by the Board of Directors. The Board of Directors shall appoint a member of the Committee to serve as its chairperson, and the chairperson shall generally direct the business of the Committee. The Board shall have the authority at any time to change the membership of the Committee and to fill vacancies on the Committee.

The Committee shall meet quarterly and more frequently as necessary to carry out its responsibilities. Meetings may be called by the Chairperson of the committee or the Executive Director. The Committee may ask the Executive Director, Corporate Compliance Officer, and any other member of management or other outside party to attend meetings and provide relevant information. All meetings of the Committee shall be held pursuant to the Bylaws of SEBNC.

In exercising its authority and carrying out its responsibilities, SEBNC's Corporate Compliance Committee shall:

- ❖ Review and make recommendations to the Board addressing SEBNC's compliance practices. With the Corporate Compliance Officer, review SEBNC's Corporate Compliance Program and code of conduct and make recommendations to the Board with respect to changes.
- ❖ Confer, as needed, with SEBNC's Corporate Compliance Officer regarding SEBNC's Compliance Program, and any specific material compliance issues.
- ❖ Request that the Corporate Compliance Officer investigate matters relating to SEBNC's legal compliance as the Committee may deem necessary.
- ❖ Report Committee actions to the full Board, with such recommendations as the Committee deems appropriate.

#### **ASSESSING RISK**

On an annual basis, the CO will review SEBNC's performance regarding Corporate Compliance in the prior year and set forth future compliance efforts. In considering future compliance efforts, the CO will assess areas that present a risk for non-compliance and the assessment will be guided by the prior years' experience and the results of audits performed by the CO and various internal and external department audits. Upon completion of the CO's annual review, the CO will meet with the Executive Director and the Board of Directors' Corporate Compliance Committee, discuss the results of the CO's review, and decide upon the risk areas that will be incorporated into the Corporate Compliance efforts for the following year.

#### **THE CODE OF BUSINESS CONDUCT & ETHICS**

The Code of Business Conduct & Ethics provides SEBNC employees, agents, independent contractors, members of the Board of Directors, and volunteers with information necessary to adhere to the high ethical principles that guide the agency. SEBNC is accountable for compliance not only with the Code of Business Conduct & Ethics, but also with all laws and regulations applicable to SEBNC's operations.

SEBNC ensures that all aspects of individual care and business conduct are performed in compliance with our mission statement, policies and procedures, professional standards and applicable governmental laws, rules and regulations. SEBNC expects that every person who provides services to individuals must adhere to the highest ethical standards and promote ethical behavior. Any person whose behavior is found to violate ethical standards will be disciplined appropriately. Similarly, any contractor that violates the standards of conduct, places their business relationship with SEBNC at risk.

The Code of Conduct is applicable to all employees, agents, independent contractors, members of the Board of Directors and volunteers and everyone is required to review the Code of Conduct and comply with the Corporate Compliance Program. SEBNC will take disciplinary action for those who participate in non-compliant behavior, fail to report a suspected violation of the Corporate Compliance Program, encourage, direct, facilitate or permit non-compliant behavior and/or engage in retaliatory behaviors directed at those who report non-compliant behavior.

## RULES OF CONDUCT

- ✓ Work in accordance with applicable local, state and federal laws, regulations and agency policies;
- ✓ Report to a supervisor, the compliance officer, QA/compliance hotline, or Executive Director any potential violation of applicable laws, regulations and policies, including the Corporate Compliance Plan;
- ✓ Maintain complete, accurate, and contemporaneous records, which includes all documents related to the provision of agency services that provides support for the billing of services
- ✓ Process billing through third-party payers accurately; Records must reflect the actual service provided; Billing activities are to be performed in a manner consistent with Medicaid and other payers' regulations and requirements.
- ✓ Never knowingly make or present improper, false, fictitious or fraudulent claims to any government or private health care program, department or agency.
- ✓ Refrain from accepting "kickbacks"
- ✓ Consult SEBNC's leadership when questions arise as to the conduct permitted under applicable laws, regulations and policies, including the Corporate Compliance Plan.
- ✓ Conserve resources of the agency by not engaging in wasteful behavior;
- ✓ Avoid conflicts of interest;
- ✓ Comply with all labor and employment laws.
- ✓ No employee or other agency representative shall solicit, receive, offer to pay, or pay remuneration of any kind in return for referring an individual for items or services, or purchasing, leasing, ordering, or arranging for goods, facilities, services or items which payment may be made under federal, state or local health care programs
- ✓ Refrain from unauthorized use of SEBNC's assets;
- ✓ Maintain confidentiality of SEBNC's records;
- ✓ Adhere to regulations regarding the control of medications;
- ✓ Follow HIPPA regulations;
- ✓ Work cooperatively and respectfully with all employees, agents and contractors to provide the highest quality of services;
- ✓ Place the interests of the people we support and their family members first and foremost in all aspects of what we do;
- ✓ Maintain appropriate interactions with individuals and foster a positive environment;
- ✓ Adhere to the highest of standards of Quality of Care to obtain or maintain the physical, mental and psychosocial well-being of each individual supported by SEBNC;
- ✓ Refrain from abuse of individuals;
- ✓ Follow an individual's service plan;
- ✓ Represent SEBNC positively in the community and at large;
- ✓ Conduct all activities in a fiscally responsible manner;
- ✓ Seek training and assistance in areas that would strengthen the ability to fulfill responsibilities to individuals and SEBNC;
- ✓ Complete tasks in a timely manner and meet expectations for the quality of work that SEBNC strives to achieve

Each person subject to this Code of Business Conduct and Ethics shall ensure that all aspects of individual care and business conduct are performed in compliance with SEBNC's mission statement, policies and procedures, professional standards, applicable governmental laws, rules and regulations, and other payer standards. SEBNC expects every person who provides services to adhere to the highest ethical standards and to promote ethical behavior. Any person whose behavior is found to violate ethical standards will be disciplined appropriately, up to and including termination of employment.

## PROFESSIONAL CONDUCT

Rules and regulations regarding employee behavior are necessary for the efficient operation of SEBNC, and for the benefit and safety of all its employees. These are to be interpreted within the context of SEBNC's mission statement. Conduct that interferes with operations, discredits SEBNC, or is offensive to individuals or fellow employees will not be tolerated.

***All employees are expected to conduct themselves and behave in a manner, which is conducive to the efficient operation of SEBNC. Such conduct includes:***

- ✓ Refraining from behavior or conduct deemed offensive or undesirable, or which is explicitly forbidden by these policies;
- ✓ Performing assigned tasks efficiently and in accordance with established quality standards;
- ✓ Reporting to management suspicious, unethical, or illegal conduct by fellow employees, clients or suppliers;
- ✓ Adhering to basic work standards as described in various sections of this plan and SEBNC's personnel policy.

***The following conduct is prohibited and may constitute grounds for immediate discharge:***

- × Acts and/or threats of violence toward an individual, or staff, or any altercation on SEBNC premises;
- × Reporting to the workplace under the influence of any illegal drug, or as a result of the misuse of any prescribed and/or over-the-counter medications;
- × Reporting to the workplace under the influence of alcohol or with alcohol on the breath;
- × Using, manufacturing, selling, possessing or dispensing illegal drugs;
- × Possession of firearms or other weapons in any SEBNC workplace
- × Sexual contact with, or physical or verbal abuse of individuals or employees;
- × Violation of SEBNC's nondiscrimination policy, including engaging in acts involving sexual or any other form of harassment;
- × Fighting or assault on a fellow employee or individual in our care;
- × Theft, destruction, defacement or misuse of SEBNC property, individual's property or of another employee's property;
- × Insubordination or refusal by an employee to follow management's instructions concerning a job-related matter;
- × Borrowing money from individuals or their relatives or from persons performing paid services for SEBNC or from any other persons in a position to benefit from an action of an employee. (Employees are required to report the offer of a gift to the Executive Director);
- × Intimate involvement with active individuals and families supported by SEBNC
- × Falsifying any SEBNC record.

The examples above are illustrative of the type of behavior that will not be permitted, and are not intended to be all-inclusive. Any questions in connection with this policy should be directed to the immediate supervisor, Corporate Compliance Officer or the Director of Human Resources.

## AUDITING AND REPORTING

SEBNC is committed to routinely conducting internal audits of concern that have regulatory or compliance implications. Appropriate individuals in key management positions will be responsible for engaging in self-monitoring processes conducted within specific departments. The Corporate Compliance officer will perform internal audits of all programs with a focus on both quality and regulatory requirements. The Corporate Compliance Officer will provide feedback on the results of auditing and monitoring activities and the corrective action plans developed in response to identified problems to appropriate department personnel

and the Executive Director. We believe that a combination of various compliance reviews will permit us to maintain a consistent conformity to relevant laws and regulations, while fulfilling a commitment to identify and share best practices.

Each employee has a responsibility to report through our compliance processes any activity by any colleague, clinician, and/or independent contractor that appears to violate applicable laws, rules, regulations and standards of the Corporate Compliance Plan. SEBNC encourages a culture in which all employees feel free to report behaviors or actions, without fear of retaliation, which they believe should be reported. The effectiveness of our Corporate Compliance Plan depends on the willingness and commitment of the employees in all parts and at all levels of the agency to step forward, in good faith with questions and concerns. Likewise, we are committed to making every effort to maintain, within the limits of the law, the confidentiality of the identity of any person who reports a concern in good faith.

## **INVESTIGATIONS AND CORRECTIVE ACTION**

SEBNC is committed to fostering a culture of compliance through detecting, correcting and preventing non-compliant behaviors. Through the process of our corporate compliance reporting structure and the articulation of compliance-related roles and responsibilities at every level of the agency's operations, detection and correction of problems is expedited. It is SEBNC's policy to respond to reports or reasonable indications of suspected non-compliance with rules and regulations of Medicaid by commencing a prompt and thorough investigation of the allegations to determine whether a violation has occurred. Any suspected violations will be directly investigated by or overseen by the Corporate Compliance Officer. All investigations will be treated confidentially to the extent consistent with corporate interests and legal obligations. Investigations into suspected violations will be documented and submitted to the Executive Director for review.

If an internal investigation substantiates a reported violation, then SEBNC's Executive Director will ensure a two-fold process is completed: (1) to initiate corrective action, including, as appropriate, making prompt restitution of any overpayment amounts, notifying the appropriate governmental agency, instituting whatever disciplinary action is necessary; and (2) implementing systemic changes to prevent a similar violation from recurring in the future. Each agency representative is responsible for conducting him or herself according to legal and ethical standards. No one has the authority to make another person violate SEBNC's Corporate Compliance Plan, and any attempt to direct or otherwise influence someone else to commit a violation is a violation in itself. Representatives who violate provisions outlined in this plan could be subject to appropriate disciplinary action, up to and including termination.

## **SEBNC'S EFFECTIVE COMMUNICATION LINES AND OPEN ACCESS TO THE COMPLIANCE OFFICER**

Any SEBNC employee, contractor or agent who has any reason to believe that anyone is engaging in false billing practices or false documentation of services is expected to report the practice to the Compliance Officer (CO), Executive Director or Anonymous Reporting/QA Hotline at 646-866-9508 to facilitate reporting, any alleged Medicaid impropriety. Procedures established are so that SEBNC employees have direct and, as desired, anonymous communication with the CO and Executive Director. In all cases, the CO and Executive Director will protect the anonymity of the staff member, to the greatest extent possible and regardless to whom the alleged impropriety is reported. Staff can report alleged improprieties without the fear of retribution.

There are several methods through which the report of an alleged impropriety can occur. First and foremost is that the CO has an "open door" policy to all SEBNC personnel. Through training, staff members are advised that any staff member can contact the CO. This is designed so that staff are encouraged to report alleged improprieties as soon as the staff member becomes concerned.



SEBNC recognizes that a critical aspect of its compliance program is the establishment of a culture that promotes prevention, detection and resolution of instances of conduct that do not conform to federal and state requirements, as well as the organization's ethical and business policies. To promote this culture, SEBNC has established a compliance reporting process and a strict non-retaliation policy to protect employees and others who report problems and concerns in good faith. All employees have an affirmative duty and responsibility for promptly reporting any known or suspected misconduct, including actual or potential violations of laws, regulations, policies and procedures, SEBNC's Corporate Compliance Plan or the SEBNC Code of Conduct.

**SEBNC also has an Anonymous Reporting/QA Hotline.** Employees may report their compliance concerns confidentially to the Compliance Officer or through use of the Anonymous Reporting Hotline. Any form of retaliation against any employee who reports a perceived problem or concern in good faith is strictly prohibited. Any employee who commits or condones any form of retaliation will be subject to discipline up to, and including termination. However, employees cannot exempt themselves from the consequences of their own misconduct by reporting the issue, although self-reporting may be taken into account in determining the appropriate course of action.

Staff can report a suspected breach of conduct or false claim as follows, but in no preferential order, to the:

- SEBNC Anonymous Reporting Hotline: 646-866-9508 or at [QI@SEBNC.NET](mailto:QI@SEBNC.NET)
- Corporate Compliance Officer Consultant, Ms. Noelia Mango at 646-531-2931
- President of the Board, Mrs. Yvonne Smith at 718-796-2927 or at [ysmith@sebnc.org](mailto:ysmith@sebnc.org)
- Executive Director, Doreen Myles at (718) 542-2727 or at [dmyles@sebnc.org](mailto:dmyles@sebnc.org)

**Contact information for SEBNC Executive Director:**

Doreen Myles, MBA  
Address: 955 Tinton Avenue, Bronx, NY 10456  
Telephone: 718-542-2727  
Email: [dmyles@sebnc.org](mailto:dmyles@sebnc.org) or [dmyles@sebnc.net](mailto:dmyles@sebnc.net)

## PROCEDURES TO REPORT COMPLIANCE ISSUES

1. Knowledge of misconduct, including actual or potential violations of laws, regulations, policies, procedures or the organization's Code of Conduct, must be immediately reported to management, the CO, Executive Director, or Anonymous Reporting Hotline.
2. Confidentiality will be maintained to the extent that is practical and allowable by law. Employees should be aware that SEBNC is legally required to report certain types of crimes or potential crimes and infractions to external governmental agencies.
3. If the caller wishes to make the report anonymously to the Hotline, no attempt will be made to trace the source of the call or identity of the person making the call.
4. SEBNC will not impose any disciplinary or other action in retaliation against individuals who make a report or complaint in good faith regarding a practice that the individual believes may violate SEBNC's Corporate Compliance Plan, Code of Conduct, SEBNC Policies and Procedures, or any of the laws, rules or regulations by which SEBNC is governed. "Good faith" means that the individual believes that the potential violation actually occurred as he or she is actually reporting.
5. SEBNC strictly prohibits its employees from engaging in any act, conduct or behavior which results in, or is intended to result in, retaliation against any employee for reporting his or her concerns relating to a possible violation of SEBNC's Corporate Compliance Plan, Code of Conduct, Policies and Procedures or any of the laws, rules or regulations by which SEBNC is governed.
6. If an employee believes in good faith that s/he has been retaliated against for reporting a compliance complaint or concern or for participating in any investigation of such a report or complaint, the employee should immediately report the retaliation to the Compliance Officer, Executive Director or

the Hotline. The report should include a thorough account of the incidents(s) and should include the names, dates and specific events, the names of any witnesses and the location or name of any document that supports the alleged retaliation.

## TRAINING & EDUCATION

1. All new employees will be introduced to the Corporate Compliance Plan during new employee orientation, or as soon as practical if hired prior to the promulgation of this plan. This introduction will include the nature and scope of the Corporate Compliance Plan. On-going training will be provided periodically and at least annually.
2. All new members appointed to the Board of Directors will receive training as soon as practical upon appointment to the Board, which will focus on federal and state regulations and the policies referenced in SEBNC's Corporate Compliance Plan.
3. All current and new employees hired after the promulgation of this plan, vendors, independent contractors and members of the Board of Directors shall sign a statement which affirms such person or entity: (a) has read and understands the Corporate Compliance Plan, (b) has agreed to comply with the policy.

## EMPLOYEE AND CONTRACTOR EXCLUSION AND CREDENTIAL CHECKS

SEBNC is committed to maintaining high quality care and service as well as integrity in its financial and business operations. Therefore, SEBNC will conduct appropriate screening of Board Members, employees, independent contractors and business vendors to ensure that there is no sanction by federal or state law enforcement, regulatory or licensing agency.

It is the policy of SEBNC not to employ, contract with, or conduct business with an individual or entity excluded from participation in federally sponsored health care programs, such as Medicaid. SEBNC's Corporate Compliance department will conduct exclusion (sanction) screening of all employees and Board Members, as well as conduct exclusion screenings for all independent clinical/program contractors and vendors. If the exclusion check indicates that any individual or entity has been excluded from federal healthcare programs, the individual or entity cannot be employed by or conduct business with SEBNC.

In addition to exclusion checks, the credentials of medical/healthcare professionals employed by SEBNC, or with whom SEBNC establishes a contractual business relationship will be verified with the appropriate licensing and disciplining authorities. The process will include, but not be limited to, health care practitioners for which the license is required for the performance of their duties (i.e. Nurses, Medical Doctors, etc.). The screening and verification will be conducted as part of the hiring process or prior to entering into a contractual agreement, and periodically thereafter.

### **General Services Administration:**

- List of parties excluded from federal programs.
- HHS/OIG cumulative sanction report.
- NYS Medicaid Fraud Database.
- Licensure and disciplinary record with NYS Office of Professional Medical Conduct (Physicians, Physician's Assistants).
- New York State Department of Education (Other licensed professionals).

## RECORDS RETENTION

Consistent with various New York State and Federal regulations, all SEBNC records that contain information regarding services to an individual are complete, accurate and handled according to various time requirements, as well as retained safely and destroyed only after legal time limits. These records are kept confidential and released only to persons and entities that are on a “need to know” basis, or released by court order. In addition to maintaining appropriate and thorough individual medical records, audit data that supports and explains cost reports and other financial activity, including any internal or external compliance monitoring activities, and all records necessary to demonstrate the integrity of SEBNC’s compliance process to confirm the effectiveness of the program, are also maintained as per regulations and good practice. All privacy policies and procedures are contained in the Health Insurance Portability and Accountability Act (HIPPA) manual.

## FALSE CLAIMS ACT

The Federal False Claim Act is a Federal law that imposes liability on any person who submits a claim to the Federal Government that he or she knows (or should know) is false. The False Claims Act (31 USC Chapter 37, §§ 3729-3733) is 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 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.*

1. **New York State False Claims Act:** 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. Most false claims are specific to healthcare and Medicaid.
2. **Civil and Administrative:** Closely tracks the federal False Claims Act. It imposes penalties and fines on individuals and entities that file false or fraudulent claims or payment from any state or local government, including healthcare programs such as Medicaid.
3. **Criminal:** Various laws, including Social Services Law and Penal Laws detail the penalties, sanctions, and fines associated with submitting or causing to submit a false claim or statement.
4. **Criminal Conspiracy:** Participation in any scheme or combination to defraud any governmental healthcare benefit program.
5. **Criminal False Statement Related to Healthcare:** Making any false or fraudulent statement or representation regarding a material fact in connection with the delivery or payment for healthcare benefit or services.
6. **Criminal Wire and Mail Fraud:** Employing the U.S. Postal Service, a private postal service, or telephone lines to perpetrate a fraud on the federal government. Such actions are also often charged with the Criminal False Claims Act.
7. **Healthcare Fraud:** Knowingly and willfully executing or attempting to execute a scheme to:
  - Defraud any healthcare benefit program, public or private; or
  - Obtain by means of false pretense any money or property owned by or under the control of any healthcare program.
8. **Obstruction of Criminal Investigations of Healthcare Offenses:** Willfully preventing, obstructing, misleading, or delaying the communication of information or records related to a violation of a federal healthcare law to a criminal investigator.

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
- Otherwise causing a false claim to be submitted

## WHISTLEBLOWER POLICY

SEBNC is committed to observing the highest standards of business and personal ethics. As employees and representatives of SEBNC, we must practice honesty and integrity in fulfilling our responsibilities and complying with all applicable laws and regulations.

It is the responsibility of employees, agents, independent contractors, members of the Board of Directors, and volunteers to report violations or suspected violations of fraud, theft, embezzlement, bribery, kickbacks misuse of SEBNC assets or suspected regulatory, compliance or ethics related concerns or violations. Theft includes taking money or property of the agency including food, theft from individuals or staff. Fraud could include filing false disability, worker's compensation, or insurance claims. No employee who in good faith reports a violation shall suffer in any way. An employee who retaliates against someone who has reported a violation in good faith is subject to discipline up to, and including termination of employment. ***This Whistleblower Policy is intended to encourage and enable employees and others to raise serious concerns within SEBNC.***

Questions, concerns, suggestions or complaints regarding the ethical and legal standards noted above should be addressed directly to SEBNC's Executive Director, Doreen Myles.

**Contact information for SEBNC Executive Director:**

Doreen Myles, MBA

Address: 955 Tinton Avenue, Bronx, NY 10456

Telephone: 718-542-2727

Email: [dmyles@sebnc.org](mailto:dmyles@sebnc.org) or [dmyles@sebnc.net](mailto:dmyles@sebnc.net)

If the complaint involves the Executive Director, the report should be addressed to the President of the Board of Directors, Yvonne Smith. Reports or complaints can also be submitted to the Corporate Compliance Officer Consultant, Noelia Mango at (646) 531-2931 but in such event, no compensation can be granted. Anyone filing a complaint concerning a violation or suspected violation of the ethical and legal standards noted above must act in good faith and have reasonable grounds for believing the information disclosed may indicate a violation of such standards. Any allegations that prove to have been made maliciously or knowingly to be false will be viewed as a serious disciplinary offense.

## **WHISTLEBLOWER OR "QUI TAM" PROTECTIONS**

In order to encourage individuals to come forward and report misconduct involving false claims, the False Claims Act contains a "Qui Tam" or whistleblower protection. The United States Government, or an individual citizen acting on behalf of the United States Government, can bring actions under the False Claims Act. An individual citizen, referred to as a whistleblower or "Relator," who has actual knowledge of allegedly false claims may file

a lawsuit on behalf of the United States Government. If the lawsuit is successful, and provided certain legal requirements are met, the whistleblower may receive an award (a percentage of the amount recovered).

**Employee Protections:** The False Claims Act prohibits discrimination by SEBNC 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.

#### **FALSE CLAIMS ACT AND WHISTLEBLOWER PROVISIONS**

SEBNC is committed to prompt, complete and accurate billing of all services provided to individuals. SEBNC and its employees, contractors and agents shall not make or submit any false or misleading entries on any claim forms. No employee, contractor or agent shall engage in any arrangement or participate in such arrangement at the direction of another person, including any supervisor or manager that result in the submission of a false or misleading entry on claims forms or documentation of services that result in the submission of a false claim.

The policy sets forth the procedures SEBNC has put into place to prevent any violations of federal or New York State laws regarding fraud or abuse in its programs. This policy applies to all Board members, all employees including Chief Executive and senior leadership, contractors and vendors. For purpose of this Policy, a contractor is defined as:

- Any independent contractor, contractor, subcontractor, or other person who, on behalf of the Organization, furnishes or otherwise authorizes the furnishing of Medicare and/or Medicaid healthcare items or services, or performs billing or coding functions;
- Any independent contractor, contractor, subcontractor, or other person who provides administrative or consultative services, goods, or services that are significant and material, are directly related to healthcare provision, and/or are included in or are a necessary component of providing items or services reimbursed by Medicare, Medicaid, or another federally-funded healthcare program; or
- Any independent, contractor, subcontractor, or other person who is involved in the monitoring of healthcare provided by the Organization.

**POLICY:** It is the policy of SEBNC to detect and prevent fraud, waste, and abuse in Federal and State healthcare programs. This Policy explains the Federal False Claims Act (31 U.S.C. §§ 3729 – 3733), the Administrative Remedies for False Claims (31 USC Chapter 38 §§3801-3812), the New York State False Claims Act (State Finance Law §§187-194), and other New York State laws concerning false statements or claims and employee protections against retaliation for reporting. This policy also sets forth the procedures that SEBNC has put into place to prevent any violations of Federal or New York State laws regarding fraud, waste, or abuse in its healthcare programs.

#### **PROCEDURES TO ENSURE POLICY ADHERENCE:**

1. SEBNC will provide training regarding the False Claims Act and Whistle Blowers Provisions to Board Members, all current employees, including the Executive Director and senior leadership, volunteers, contractors, and new employees hired after the promulgation of this plan. The training will be provided to all new employees as part of the new employee orientation. The Compliance Officer will ensure that records are maintained to document the receipt of training.
2. Contractors and agents will receive a copy of SEBNC's Corporate Compliance Plan, and shall sign a statement, which affirms such person or entity: (a) has received a copy of the Corporate Compliance Plan, (b) has read and understands the plan and (c) has agreed to comply with the plan.

3. SEBNC will perform billing activities in a manner consistent with the regulations and requirements of third-party payers, including Medicaid.
4. SEBNC will conduct regular auditing and monitoring procedures as part of its efforts to assure compliance with applicable laws and regulations.
5. Any employee, contractor or agent who has any reason to believe that anyone is engaging in false billing practices or false documentation of services is expected to report the practice according to SEBNC's Reporting of Compliance Concerns and Non-Retaliation Policy.
6. Any form of retaliation against any employee who reports a perceived problem or concern in good faith is strictly prohibited.
7. Any employee who commits or condones any form of retaliation will be subject to discipline up to, and including, termination.
8. The prevention of fraud, waste and abuse, SEBNC requires compliance with the following requirements related to the provision of service(s) and claims for reimbursement:
  - a. All service documentation, records, and reports are prepared timely, accurately, and honestly;
  - b. All documentation supporting claims for service is complete and maintained in accordance with regulatory requirements and the Organization's policies;
  - c. All claims submitted to any government or private healthcare program are accurate and comply with all Federal and State laws and regulations and payer requirements;
  - d. Claims are only submitted for medically necessary services provided by eligible providers;
  - e. All claims are properly documented and accurately coded; and
  - f. Billing errors are promptly identified, and any payments received in error are promptly returned to the payer.
9. Any employee or contractor who has any reason to believe that anyone is engaging in false billing practices, false documentation of services, and other non-compliance related to service provision and billing is expected to report the practice to the Compliance Officer in accordance with the Reporting and Investigation of Compliance Concerns Policy.
10. Any form of retribution, intimidation, and/or retaliation against any party who reports, in good faith, a perceived problem or concern regarding the provision or billing of services is strictly prohibited.
11. Any employee or contractor who commits or condones any form of retribution, intimidation, or retaliation will be subject to discipline up to, and including, termination of employment or contract.
12. SEBNC will perform billing activities in a manner consistent with the regulations and requirements of third-party payers, including Medicaid, Medicare, and other Federal healthcare programs.
13. SEBNC will conduct regular auditing and monitoring procedures as part of its efforts to ensure compliance with applicable regulations.
14. SEBNC will report and refund all overpayments to Medicaid and Medicare within 60 days of identification of the overpayment in accordance with the Billing Errors, Overpayments, and Self-Disclosure Policy.

#### **ENFORCEMENT OF COMPLIANCE STANDARDS**

SEBNC is committed to conducting its business ethically and in conformance with all federal and state laws, regulations, and interpretations. To support this commitment, SEBNC has developed procedures for disciplinary actions to be taken for illegal or unethical acts; violations of Federal or State laws and regulations; violations of the Standards of Conduct, the Compliance Program, and SEBNC's policies and procedures; improper acts in the delivery or billing of services; and other wrongdoing (collectively referred to as "compliance violations" for purposes of this Policy) by Affected Individuals. For purposes of this Policy, the term "Affected Individuals" includes all employees including the Executive Director, volunteers, interns, contractors and vendors.

**POLICY:** SEBNC shall ensure that affected Individuals who, upon investigation, are found to have committed compliance violations will be subject to appropriate disciplinary action, up to and including termination of employment, contract, assignment, or appointment with SEBNC. The following actions shall result in disciplinary action:

- Authorization of or participation in actions that violate Federal or State laws, regulations, the Compliance Program, Standards of Conduct, or any related policies and procedures;
- Failure to comply with the Organization's policies governing the prevention, detection, or reporting of fraud and abuse;
- Falsification of records;
- Submitting or causing to submit a false claim;
- Failure to report a violation by a peer or subordinate;
- Failure to cooperate in an investigation; and
- Retribution, retaliation, or intimidation against a person for reporting a possible compliance violation or participating in an investigation.

The Organization will apply progressive discipline consistent with the violation. Examples of the disciplinary action that may be taken in accordance with the nature and scope of the infraction include but are not limited to: (a) verbal counseling or warning; (b) counseling with written warning; (c) retraining; (d) reassignment or demotion; (e) suspension without pay; and (f) termination of employment, contract, assignment, or appointment. The Organization will consider intentional or reckless behavior as being subject to more significant disciplinary action. The Compliance Officer will be responsible for assuring that disciplinary actions related to compliance violations are consistent with actions taken in similar instances of non-compliance and that the same disciplinary action applies to all levels of Affected Individuals.

## **PROCEDURES**

1. All reports of compliance violations are to be reported to the Compliance Officer in accordance with the Reporting and Investigation of Compliance Concerns Policy and Procedure.
2. To the extent possible, disciplinary action for employees will be taken in accordance with the Organization's Human Resources Manual Employee Handbook and the 1199 SEIU Bargaining Agreement.
3. When the determination is made that a compliance violation by an Affected Individual has occurred, the Compliance Officer will notify the Executive Director, the appropriate department/program administrator, and the employee's supervisor. When the determination is made that a compliance violation by a Board member or a corporate officer has occurred, the Compliance Officer will notify the Executive Director and the President of the Board. If the Chairperson of the Board is implicated in the violation, the Compliance Officer and Executive Director will work with the Vice-Chair of the Board to determine and execute appropriate disciplinary
4. When the determination is made that a compliance violation by the Executive Director has occurred, the Compliance Officer will notify the Chairperson of the Board in order to determine and execute appropriate disciplinary action. Legal counsel may be consulted, as appropriate.
5. When the determination is made that a compliance violation occurred involving a contractor or vendor, the Compliance Officer will notify the Executive Director and work collaboratively to determine and execute the appropriate corrective action.
6. 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.
7. The Compliance Officer and Director of Human Resources will work in collaboration with the appropriate supervisor/manager in determining and executing the disciplinary action related to a compliance violation by an employee. The Compliance Officer shall have the discretion to recommend a disciplinary process other than the normal procedure.

8. The Compliance Officer and/or Director of Human Resources shall consult with the Compliance Committee, the Executive Director, and legal counsel, as necessary to determine the appropriate disciplinary action to be taken.
9. Discipline will be appropriately documented in the disciplined employee's personnel file, along with a written statement of reason(s) for imposing such discipline. Such documentation will be considered during the employee's regular and promotional evaluations.
10. The Compliance Officer will maintain a written record of all disciplinary actions taken against Affected Individuals, including verbal warnings, and will reference these records when necessary to ensure consistency in the application of disciplinary measures.
11. The Compliance Officer shall maintain a record of all disciplinary actions, including verbal warnings, taken against Affected Individuals related to compliance violations and report regularly to the Compliance Committee and not less than annually to the Board of Directors, regarding such actions.
12. The Compliance Officer will reference the record of disciplinary actions as necessary to ensure consistency in the application of disciplinary measures related to compliance violations.
13. The Compliance Officer will ensure that the disciplinary procedures are disseminated to all Affected Individuals and that these individuals have received relevant training in accordance with the Organization's training plan.

## BOARD OF DIRECTORS CONFLICT OF INTEREST POLICY

**PURPOSE:** All Employees, Board Members and others who work for SEBNC, including Auditors, Accountants, and Consultants retained by SEBNC, have an obligation to conduct business within guidelines that prohibit actual or potential conflicts of interest. The policy is established to ensure that individual care and business activities are conducted in an objective manner and are not motivated by the desire for personal or financial gain.

### **POLICY:**

**Conflict of Interest:** A person with a conflict of interest is referred to as a "Related Party/Person." For purposes of this policy, the following circumstances shall be deemed to create a Conflict of Interest:

A Director, Board Member, Employee or Volunteer, or a Family Member of the foregoing, is a party to a contract, or involved in a transaction with SEBNC for goods or services.

A Director, Board Member, Employee or Volunteer has a material financial interest in a transaction between SEBNC and an entity in which the Director, Board Member, Employee or Volunteer or a Family Member of the foregoing, is a director, officer, agent, partner, associate, employee, trustee, personal representative, receiver, guardian, custodian, or other legal representative.

A Director, Board Member, Employee or Volunteer or a Family Member of the foregoing, is engaged in some capacity or has a material financial interest in a business or enterprise that competes with SEBNC.

Other situations may create the appearance of a conflict, or present a duality of interests in connection with a person who has influence over the activities or finances of SEBNC. All such circumstances should be disclosed to the board as appropriate, and a decision made as to what course of action SEBNC should take so that the best interests of SEBNC are not compromised by the personal interests of stakeholders in SEBNC.

### **DEFINITIONS:**

1. "***Conflict of Interest***" is any circumstance described in Part 1 of this Policy.



2. A **"Related Party"** is any person serving as an officer, employee or member of the Board of Directors of SEBNC or anyone else who is in a position of control over SEBNC who has a personal interest that may be in conflict with the interests of SEBNC.
3. **"Related party transaction"** any transaction, agreement or any other arrangement in which a related party has a financial interest and in which the trust or any affiliate of the trust is a participant.
4. A **"Family Member"** is a spouse, parent, child or spouse of a child, brother, sister, or spouse of a brother or sister, of an interested person.
5. A **"Material Financial Interest"** is a financial interest of any kind, which, in view of all the circumstances, is substantial enough that it would, or reasonably could, affect a Related Person's or Family Member's judgment with respect to transactions to which the entity is a party.
6. A **"Contract or Transaction"** is any agreement or relationship involving the sale or purchase of goods or services, the providing or receipt of a loan or grant, the establishment of any other type of financial relationship, or the exercise of control over another organization.

#### **PROCEDURES:**

Prior to Board action on a Contract or Related Party Transaction, a board member having a Conflict of Interest may not be present at or participate in board deliberations on the matter. A person who has a Conflict of Interest shall not participate in or be permitted to hear the board's discussion of the matter. A Related Party is strictly prohibited from influencing board deliberations or inquiry about board discussions related to matters of conflict.

A board member who plans not to attend a meeting at which he or she has reason to believe that the board will act on a matter in which the person has a Conflict of Interest shall disclose to the Chair of the Board all facts material to the Conflict of Interest. The Chair shall report the disclosure at the meeting and the disclosure shall be reflected in the minutes of the meeting.

Any transaction in which a board member has a financial or personal interest shall be duly reviewed and approved by members of the Board of Directors prior to being elected and annually thereafter. All transactions must be fair, reasonable and commensurate with services provided to SEBNC. The Board is to consider alternative transactions, to the extent available and document in the minutes, the existence of the conflict and basis for approval, including the alternative transactions considered.

Related Parties who are not members of the Board of Directors of SEBNC or who have a Conflict of Interest with respect to a Contract or Transaction that is not the subject of Board action, shall disclose to the Executive Director any Conflict of Interest that such Related Person has with respect to a Contract or Transaction. Such disclosure shall be made as soon as the Conflict of Interest is known to the Related Person. The Related Person shall refrain from any action that may affect SEBNC's participation in such Contract or Transaction.

In the event it is not entirely clear that a Conflict of Interest exists, the individual with the potential conflict shall disclose the circumstances to the Executive Director, who shall determine whether full board discussion is warranted or whether there exists a Conflict of Interest that is subject to this policy.

#### **CONFIDENTIALITY:**

Each Board Member and Employee shall exercise care not to disclose confidential information acquired in connection with disclosures of conflicts of interest or potential conflicts, which might be averse to the interests of SEBNC. Furthermore, directors, officers, employees and volunteers shall not disclose or use information relating to the business of SEBNC for their personal profit or advantage or the personal profit or advantage of their Family Member(s).

## **REVIEW OF POLICY:**

Each Director, Senior Management Staff shall be provided with and asked to review a copy of this Policy and to acknowledge in writing that he or she has done so. Annually, each Board Member and Senior Management Staff shall complete a disclosure form identifying any relationships, positions or circumstances in which s/he is involved that he or she believes could contribute to a **Conflict of Interest**. Such relationships, positions or circumstances might include service as a director of or consultant to another nonprofit organization, or ownership of a business that might provide goods or services to SEBNC. Any such information regarding the business interests of a Director, Board Member, Employee or a Family Member thereof, shall be treated as confidential and shall generally be made available only to the Executive Director, and any committee appointed to address Conflicts of Interest, except to the extent additional disclosure is necessary in connection with the implementation of the Conflict of Interest Policy. ***This Conflict of Interest policy shall be reviewed annually by each member of the Board of Directors.*** Any changes to the policy shall be communicated to all staff and volunteers

## **EMPLOYEE CONFLICT OF INTEREST POLICY**

The principles of corporate compliance and conflict of interest includes provisions which set forth expected standards of conduct and requires all employees to disclose all interests which could result in a conflict.

***A conflict of interest is defined as:*** Any situation in which financial or other personal considerations may compromise or appear to compromise (1) an employee's business judgment; (2) delivery of services; or (3) ability for an employee to do his or her job.

An actual or potential conflict of interest also occurs when an employee is in a position to influence a decision that may result in a personal gain for that employee or for a family member as a result of SEBNC's business dealings. If employees have any influence on transactions involving purchases, contracts or leases, it is imperative that they disclose to the Executive Director (and/or to the President) as soon as possible the existence of any actual or potential conflict of interest so that safeguards can be established to protect all parties.

Personal gain may result not only in cases where an employee or family member has a significant ownership in a firm with which SEBNC does business, but also where an employee or relative receives any kickback, bribe, substantial gift or special consideration as a result of any transaction or business dealings involving SEBNC. SEBNC expects the primary interest of staff members to be the people SEBNC supports. A conflict of interest occurs when the interests of an employee actually or potentially affect SEBNC in a negative way.

**Outside Business Interests:** Employees may have outside business interests and outside employment so long as these do not interfere with job performance, including attendance or assignments. Employees may not engage in outside employment or business which directly results from affiliation with SEBNC without the written consent of the Executive Director.

**Personal Beliefs:** SEBNC recognizes that its employees may hold a wide range of personal beliefs, values and commitments. These beliefs, values and commitments are a conflict of interest if employees attempt to use SEBNC time and facilities for furthering them, or if employees continue attempting to convince others of their personal beliefs after they have been asked to stop.

**Medical Necessity:** It is SEBNC’s policy to ensure that individuals receiving services meet the admission eligibility criteria as defined by the specific program funding source. All individuals receiving services from SEBNC must have a disability that warrants the service. Services must be appropriate to meet the needs of each individual and authorization must be obtained from the funding source prior to the provision of service. Sufficient justification indicating services are warranted must be reflected in the appropriate documents for each individual (i.e., Clinical Evaluations/Assessments, Life Plan, Level of Care, Healthcare/Physician’s order or Prescription).

Department Directors will meet the provisions of this policy by ensuring that documentation reflecting the need for service is present in the individual’s file.

**CORPORATE COMPLIANCE PLAN DEVELOPED AND MAINTAINED BY:**

NOELIA MANGO, MBA – CORPORATE COMPLIANCE OFFICER CONSULTANT

UPDATED: 1/19/2024

UPDATED: 2/21/2024