



Corporate Compliance Plan

March 2021

Approved by the EHS, Inc. Board of Directors – May 5, 2021

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INTRODUCTION

EHS, Inc. d/b/a Evergreen Health Services has developed this Corporate Compliance Plan (“the Plan”) to further its mission, values, and legal duty to promote adherence to all applicable laws and regulations, including but not limited to the Federal and New York State False Claims Acts, the Deficit Reduction Act of 2005, and NYCRR Title 18, Part 521, and all subsequent amendments thereto. Due to the variety of programs and services that EHS, Inc. provides, the Plan is not intended to set forth all of the substantive compliance policies, procedures, and/or practices of the organization. Rather, it is intended to establish and/or facilitate the establishment of internal controls to exercise appropriate due diligence to assure activities are conducted professionally, ethically, and lawfully and to prevent, detect, correct, and report fraud, waste, abuse and other improper activities. This Plan supersedes all previous Corporate Compliance Plans.

Through implementation of the Plan, the organization demonstrates its commitment to legal, honest, ethical, and responsible conduct as it carries out its mission. This message is communicated daily to trustees, directors, officers, employees, volunteers, contractors, vendors, patients, clients, and the community at large.

The Plan is available on the organization’s website www.evergreenhs.org and through its intranet. The Plan is also available by contacting the Corporate Compliance Officer (“Compliance Officer”), Bill Dimmig, as noted below.

CONTACTING CORPORATE COMPLIANCE

Anyone can contact the Corporate Compliance Officer, Bill Dimmig, to report an issue, ask a question, or get more information as follows:

1. Email: wdimmig@evergreenhs.org
2. Telephone: 716.847.2441 x1851
3. Compliance HelpDesk (ticketing system): Use one of the Corporate Compliance dropdown options
4. Compliance HelpLine: 716.541.0663 – This is a way to communicate *anonymously*

SCOPE

The Plan applies to EHS, Inc., Pride Center of Western New York, Community Access Services of WNY, and The Evergreen Foundation of WNY, Inc. (collectively, “Evergreen Health”). The Plan will also apply immediately to all future affiliates and related entities of Evergreen Health until such time that the Plan can be amended to include such affiliates and entities explicitly. The Plan

applies to all Evergreen Health locations, programs, and/or departments and to all Evergreen Health trustees, directors, officers, employees, volunteers, agents, contractors, and vendors (collectively, “Personnel”).

COMPLIANCE PROGRAM RESPONSIBILITY

Proper implementation of Evergreen Health’s compliance program is the responsibility of all Personnel. Personnel are responsible for acquiring sufficient knowledge, based on their level of responsibility, to recognize potential compliance issues related to their duties and to seek appropriate advice in dealing with those issues. Personnel are expected to familiarize themselves with the Plan, including but not limited to the Evergreen Health Corporate Compliance Code of Conduct (Attachment A).

All Personnel with supervisory duties are responsible for ensuring that the individuals within their supervision are acting in accordance with the legal and ethical duties detailed in the Plan as well as all related compliance policies. Illegal or improper conduct may subject Evergreen Health and Personnel to criminal and civil penalties. It is important that illegal activities or violations of the Plan be brought to Evergreen Health’s attention immediately in one of the ways stated below. Evergreen Health will take all reasonable measures to maintain confidentiality of those who report illegal acts or violations.

COMPLIANCE PROGRAM ELEMENTS

As required by NYCRR Title 18, Part 521, Evergreen Health has established and maintains the following essential elements in its compliance program to assure its goal of lawful and responsible conduct in delivering quality services:

1. Written standards of compliance expectations as embodied in the Corporate Compliance Code of Conduct (Section I);
2. A Compliance Officer with high-level responsibility to operate and monitor the compliance program and a Compliance Committee to assist in these functions (Section II);
3. Effective, on-going education and training programs for all Personnel, including members of the Board of Trustees (Section III);
4. Open lines of communication for reporting compliance issues, including a method for anonymous and confidential good faith reporting (Section IV);

5. Policies and procedures regarding the investigation of potential violations and the implementation of compliance corrective action and remediation (Section V);
6. Policies and procedures to identify and investigate risk areas specific to provider type, including internal audits and evaluation of potential or actual non-compliance (Section VI);
7. Policies and procedures to investigate compliance problems, implement corrective measures, and communicate the results of the investigation (Section VII);
8. A policy of non-intimidation and non-retaliation for good faith reporting of potential or actual misconduct (Section VIII).

I. POLICIES AND PROCEDURES

Evergreen Health hereby adopts the Compliance Code of Conduct included herein as Attachment A. In addition, departments within the organization have adopted and implemented compliance policies and procedures that are specific to those departments. The Compliance Officer shall ensure that the Compliance Code of Conduct and all departments' compliance policies are reviewed annually by the Compliance Department and/or the appropriate department. Failure to comply with the Corporate Compliance Code of Conduct or any department compliance-related policy may result in corrective action in accordance with the organization's progressive disciplinary policies, up to and including termination of employment.

II. COMPLIANCE STRUCTURE AND OVERSIGHT

A. **Compliance Officer.** The Board of Trustees shall ensure that an employee will be designated to oversee the compliance program (hereinafter, "Compliance Officer"). The Compliance Officer will report to the Chief Executive Officer ("CEO") or such other individual who shall meet federal and state guidelines for supervision of a compliance officer. All Personnel should view the position as a resource to answer questions and address compliance concerns. The Compliance Officer shall ensure compliance with all of the essential elements of an effective compliance program as set forth above as well as all other applicable laws. The Compliance Officer shall:

1. Report at least quarterly to the Corporate Compliance Committee ("Compliance Committee");

2. Report at least semi-annually to the Board in Executive Session and such other times as the Board requests;
3. Conduct an annual review of the Plan, the Code of Conduct, and other compliance policies, and make recommendations to the Compliance Committee regarding revisions to same;
4. Ensure that all Personnel who directly or indirectly provide, authorize, order, or refer an individual for a service for which Evergreen Health receives payment from Medicare and/or Medicaid are screened monthly to ensure that they have not been excluded from participating in a federal and/or state funded health care program.

In the event that the Compliance Officer determines that the General Counsel has a conflict of interest with respect to a matter, the Compliance Officer is required to report to state or federal regulators, or if the General Counsel is recused concerning events at issue that involved the conduct or advice of the General Counsel, the Compliance Officer may retain outside counsel directly.

B. Compliance Committee. To further Evergreen Health's commitment to compliance with all applicable laws, a Compliance Committee shall be formed to oversee and monitor the operation of the compliance program. The Compliance Committee shall:

1. Be comprised of the Compliance Officer, the Chair of the EHS, Inc. Board, the President & CEO, the Chief Information Officer, the Chief Financial Officer, the Chief Medical Officer, the Assistant Vice President of Grants, the Director of Corporate Records and Policy, the Compliance Specialist, board members to be selected by the Chair, and such other individuals selected by the Chair who have experience and knowledge to assist the Committee in fulfilling its duties. The Compliance Officer shall chair the committee. Members of the committee are expected to attend regularly and participate in meetings and to keep all information discussed at such meetings confidential. A majority of the committee will constitute a quorum, and a majority of those in attendance at a meeting is necessary to approve or adopt an action by the committee. The General Counsel may attend meetings in a non-voting, ex officio capacity;
2. Oversee the implementation of the Plan in a way that enables Evergreen Health to maintain the highest standards of ethical practice and compliance with applicable laws;
3. Meet at least quarterly, but may meet more frequently, to discuss the compliance program, compliance investigations and compliance-related employee corrective actions, reports and analysis of internal and external monitoring procedures, recently identified risk areas, and proposals to amend the Plan;
4. Have specific authority to review the billings and billing practices of all Personnel;

5. Upon recommendation by the Compliance Officer, the committee may take action regarding billing adjustments and compliance corrective action. The committee may accept, reject, or modify the recommendations and/or request further investigation. The committee may, as it deems necessary, consult with the General Counsel or with outside legal counsel, as it deems necessary, in making its decisions;
 6. Make recommendations to the Board, in accordance with Evergreen Health policies and procedures, to ensure that adequate resources are available to the Compliance Officer to effectuate their duties;
 7. Form subcommittees to address specified issues; and
 8. Periodically propose amendments of the Plan to the EHS, Inc. Board to reflect changes in applicable law, governmental enforcement, or oversight agencies' identified risk areas.
- C. **Board of Trustees.** In addition to receiving reports from the Compliance Officer at least semi-annually, the Board of Trustees may direct the Compliance Officer to report to a Committee of the Board on the operations of the Compliance program at such frequency as the Board may determine.

III. EDUCATION AND TRAINING

To implement the compliance program successfully, the Compliance Officer, in cooperation with appropriate departments of the organization, will design educational and training programs for all Personnel. All members of the Board of Trustees shall receive compliance training within the first 60 days of becoming a member of the Board and annually thereafter. Likewise, all employees shall receive compliance training within the first 60 days of employment and annually thereafter. The educational program will include, but will not be limited to, a description of the respective duties under the Code of Conduct, the federal and state False Claims Acts, whistleblower protections, and reporting obligations. The above trainings are a minimum, and the Compliance Officer, may conduct additional trainings as needed or requested. Attendance sheets and all training materials used shall be retained for at least seven (7) years.

IV. REPORTING AND CONFIDENTIAL COMMUNICATIONS

All Personnel have an obligation to report a violation of this Plan and failure to report a violation may result in corrective action, up to and including termination of employment. If Personnel have

a question about particular acts or conduct, they should contact their immediate supervisor, the Compliance Officer, or report the potential violation anonymously using the Compliance Helpline. It is Evergreen Health's policy to investigate all reports of suspected illegal activity or violations. All Personnel must cooperate with these internal investigations and must not prevent, hinder, or delay discovery of illegal acts or violations. By way of example only, the following are some of the most common violations in the healthcare profession that must be reported:

- a) A lease, purchase agreement, or order for goods or services for any amount other than fair market value;
- b) A claim billed for an amount in excess of permitted rates;
- c) A claim billed for services that are not medically necessary or otherwise authorized;
- d) A claim billed for services that do not meet statutory, regulatory, or contractual requirements;
- e) A service that is provided by unqualified Personnel;
- f) A service that is provided by providers excluded or suspended from any government or third-party payer program;
- g) Misleading or altered documentation used to support billing; and
- h) An inappropriate or unauthorized release of confidential information

The above list is meant only to provide examples and is not all-inclusive. All violations, even if they are not mentioned above, must be reported.

The Compliance Officer shall create and implement a reporting system for anyone to report non-compliance or misconduct without fear of retribution including, but not limited to, maintaining a system of communication whereby anyone may report non-compliance and misconduct anonymously. The Compliance Officer shall also ensure that the reporting system is adequately publicized.

V. ENFORCEMENT AND DISCIPLINE

To encourage good faith participation in the compliance program, Evergreen Health will develop and implement an Investigations and Corrective Actions policy, by which the Compliance Officer, the Compliance Committee, and other appropriate Personnel will implement case-by-case

compliance corrective action and remediation. The Compliance Officer will provide the Compliance Committee a report for each investigation. Corrective action or remediation for any violation may include, but is not limited to, the following:

- a) Additional education;
- b) Employee discipline, up to and including termination of employment;
- c) Corrective billing action, including claim retraction, withdrawal or refund;
- d) Development of new policies and procedures;
- e) Revisions to Compliance Plan and implementing procedures;
- f) Implementation of additional monitoring and auditing; and/or
- g) Reporting to outside agencies upon consultation with the General Counsel, or with outside legal counsel as provided in Section II(A), in accordance with the Investigations and Corrective Action policy.

VI. COMPLIANCE AUDIT AND RISK IDENTIFICATION

Evergreen Health desires to identify compliance issues before they become legal problems. To that end, the Compliance Officer shall implement audits, reviews, and other measures to identify areas of risk and instances of noncompliance. The Compliance Officer shall review and track all internal compliance audits and reviews, internal compliance audit tools, and external compliance audits and shall report the findings of audits and reviews to the Compliance Committee.

In addition, the Compliance Officer and the Compliance Committee shall periodically identify potential risk areas by examining (i) relevant initiatives of any applicable state, local, or federal governmental enforcement and oversight agency; (ii) risk areas identified by Evergreen Health's own internal compliance audits; and (iii) common audit findings or initiatives of relevant governing and accrediting government agencies. From the risk assessments, the Compliance Officer will develop, subject to approval by the Compliance Committee, an annual work plan for conducting audits and implementing other preventative measures.

VII. DETECTION, RESOLUTION AND RESPONSE

Subject to review and approval by the Compliance Committee, the Compliance Officer shall develop and implement policies and procedures regarding the investigation of any actual or potential violation of this Plan, the Code of Conduct, Evergreen Health policy, and/or federal or state statute or regulation. The policies and procedures will include, but will not be limited to, the manner in which investigations are conducted, communication of findings, and implementation of follow-up reviews.

VIII. WHISTLEBLOWER POLICY

Subject to review and approval by the Compliance Committee, the Compliance Officer shall develop and implement a Whistleblower Policy that shall prohibit retaliation for good faith reporting of any actual or potential violation of this Plan, the Code of Conduct, Evergreen Health policy, and/or federal, state, or local law. The Compliance Officer shall ensure that the Whistleblower Policy is included in the Employee Handbook, readily available to all Personnel, and regularly mentioned in compliance communications.