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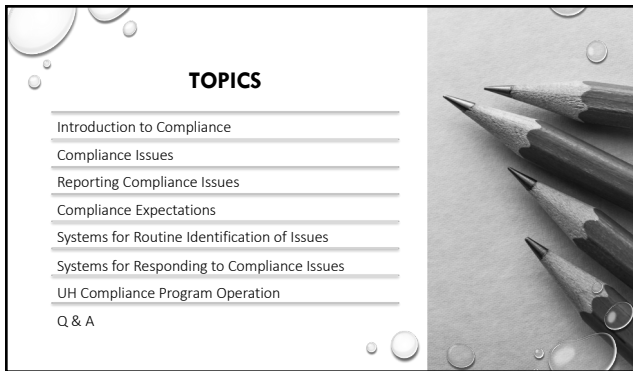
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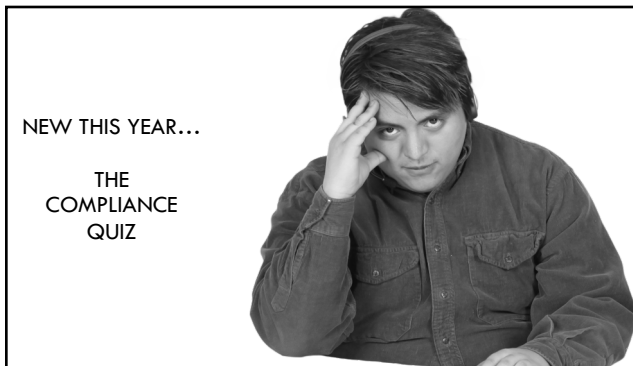
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Throughout this presentation, there will be a series of quiz questions that tie back to this training's content. Jot your answers down and then submit them to me via email after the presentation ends to be entered for a chance to win a prize!

I find that coffee is an essential component of an effective Compliance Program. So, the prizes are:

- \$25 Dunkin Donuts gift card
- \$25 Starbucks gift card



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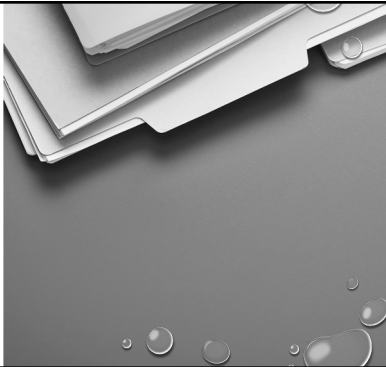
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### TRAINING OBJECTIVES

To underscore unity house's commitment to ethical business practice & to complying with the various federal & state laws, regulations, & rules that govern our work.

To reinforce understanding of compliance issues & expectations, & unity house's code of conduct, policies, procedures & compliance program operation.



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5



AN ORGANIZATIONAL COMMITMENT.



A MANAGEMENT SYSTEM FOR PREVENTION.



A RESOURCE.

WHAT IS A COMPLIANCE PROGRAM?

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6

## NYS SSL 363-D

- "...PROVIDERS MAY BE ABLE TO DETECT & CORRECT PAYMENT & BILLING MISTAKES & FRAUD IF REQUIRED TO DEVELOP & IMPLEMENT COMPLIANCE PROGRAMS. IT IS THE PURPOSE OF SUCH PROGRAMS TO ORGANIZE PROVIDER RESOURCES TO RESOLVE PAYMENT DISCREPANCIES & DETECT INACCURATE BILLINGS, AMONG OTHER THINGS, AS QUICKLY & EFFICIENTLY AS POSSIBLE, & TO IMPOSE SYSTEMIC CHECKS & BALANCES TO PREVENT FUTURE RECURRENCES."

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7

Written policies,  
procedures &  
standards of  
conduct

Designation of a  
Compliance Officer  
& Compliance  
Committee

Training &  
education

Effective lines of  
communication

Disciplinary  
standards

Monitoring &  
Auditing

Corrective Action

## NYS OMIG MANDATORY COMPLIANCE PROGRAM: SEVEN ELEMENTS

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## ELEMENT 1: WRITTEN POLICIES, PROCEDURES, & STANDARDS OF CONDUCT

- Articulate the organization's commitment to complying with all federal & state standards
- Describe compliance expectations as embodied in the code of conduct
- Implement the operation of the compliance program
- Provide guidance to employees & others on dealing with potential compliance issues
- Identify how to communicate compliance issues to the compliance officer
- Describe how potential compliance issues are investigated & resolved by the organization
- Include a policy of non-intimidation & non-retaliation for good faith participation in the compliance program
- Complies with USC 42, section 1396a(a)(68) – state plans for medical assistance

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ELEMENT 2:  
DESIGNATION  
OF A  
COMPLIANCE  
OFFICER &  
COMPLIANCE  
COMMITTEE

- Compliance Officer is responsible for the day-to-day operation of the compliance program.
- Compliance Officer reports directly to the CEO & the board of directors & reports out to senior management as appropriate.
- Compliance committee members report directly to CEO or other senior managers.

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ELEMENT 3: COMPLIANCE  
TRAINING & EDUCATION

- Establish & implement effective training & education for the compliance officer, employees, CEO, other senior administrators, managers, & board members.
- Training must occur at a minimum annually & must be made a part of orientation for new employees & the new appointment of a chief executive, manager, or board member.

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ELEMENT 4: EFFECTIVE & CONFIDENTIAL  
LINES OF COMMUNICATION

Lines of communication between the Compliance Officer, members of the Compliance Committee, employees, managers, the board of directors, & first-tier downstream providers

Confidential & anonymous options for good faith reporting of potential issues as they are identified

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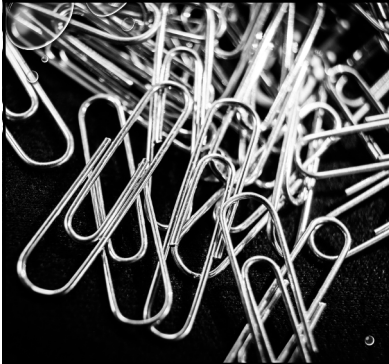
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**ELEMENT 5:  
DISCIPLINARY  
STANDARDS**

Discipline procedures must be well publicized & implemented to encourage good faith participation in the compliance program by all affected individuals.

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**ELEMENT 6:  
MONITORING  
& AUDITING**

- Establishing & implementing an effective system for routine monitoring & identification of compliance risks.
- Including internal monitoring & auditing &, as appropriate, external audits, to evaluate compliance with Medicaid program requirements & the overall effectiveness of the compliance program.

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**ELEMENT 7: RESPONSE &  
INVESTIGATION**

- Implementing procedures & a system for promptly responding to compliance issues as they arise.
- Investigating potential compliance issues identified in the course of self-evaluations & audits.
- Correcting such problems promptly & thoroughly to reduce the potential for recurrence.
- Ensuring ongoing compliance with Medicaid program requirements.

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## NYS OMIG MANDATORY COMPLIANCE PROGRAMS

### 18 NYCRR SECTION 521.3(A)

Each of the seven elements of the compliance program must be applicable to:

1. Billings
2. Payments
3. Medical necessity & quality of care
4. Governance
5. Mandatory reporting
6. Credentialing
7. Other risk areas that are - or should with due diligence- be identified

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### Compliance Issues

Conduct that does not conform to the laws, regulations, & rules that govern our work &/or that violates our policies, procedures, or code of conduct.

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## DEFINING FRAUD, WASTE & ABUSE

- **Fraud:** an intentional deception or misrepresentation made by a person with the knowledge that the deception could result in some unauthorized benefit to himself or some other person/entity. Can constitute crime.
- **Waste:** the overutilization or inappropriate utilization of services that result in unnecessary costs to a governmental program, but without intent to deceive or misrepresent.
- **Abuse:** practices that:
  - Are inconsistent with sound fiscal, business, or professional practices, & result in an unnecessary cost to the healthcare or other governmental program, or
  - Result in reimbursement for services that are not necessary or allowed or that fail to meet professionally recognized standards of care.



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- ✓ Billing or accepting payment for:
  - ✓ Goods not delivered or services or teleservices not provided &/or not documented.
  - ✓ Services that are medically unnecessary, non-covered, unallowable, or provided to an individual who is ineligible.
  - ✓ Incorrect level of service.
  - ✓ Services rendered by someone who is not credentialed.
- ✓ Falsification of information in the medical/student record.  
This includes, but is not limited to, falsification of progress notes or case notes.
- ✓ Falsification of health care provider credentials.
- ✓ Improper conduct.
- ✓ Inadequate resolution of overpayment.

### EXAMPLES OF COMPLIANCE ISSUES

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### EXAMPLES OF COMPLIANCE ISSUES

- ✓ Knowing misuse of provider identification numbers that result in improper billing.
- ✓ Misrepresenting or falsifying:
  - ✓ Diagnosis to justify payment.
  - ✓ Treatment plans, progress notes, dates of services, or service rendered to justify payment.
  - ✓ The type of goods or services rendered.
- ✓ Soliciting, offering, or receiving a kickback, bribe, or other rebate.
- ✓ Violation of another law
  - ✓ Example: A claim was submitted appropriately, but the service was the result of an illegal relationship between a physician & the provider (kickbacks for referrals).

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## QUIZ QUESTION

1. NAME ONE OF THE SEVEN ELEMENTS OF THE MANDATORY COMPLIANCE PROGRAM?

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### FEDERAL FALSE CLAIMS ACT (FCA)

- ✓ Imposes liability on persons & entities who "knowingly" defraud federal programs (i.e., Medicaid, Medicare, grant programs).
  - Federal government's **primary litigation tool** in combatting fraud.
  - **Civil penalties** between \$10,781 & \$21,563 per false claim, plus three times the amount of damages suffered by the government.
  - **Possible criminal liability &/or program exclusion.**
- ✓ Qui tam provisions - allows persons/entities with evidence of fraud against federal programs/contracts to sue the wrongdoer on behalf of the US government (even when whistleblower is not personally injured).
- ✓ Whistleblower protections.

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### A PERSON ACTS KNOWINGLY IF HE OR SHE:

- 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.

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### WHISTLEBLOWER DEFINED

An individual who discloses mismanagement, corruption, illegality or some other wrongdoing made by a person to the public or to those in authority.

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## FCA ANTI-RETALIATION PROVISION

- Whistleblowers who expose companies, individuals, & contractors who have defrauded the government are protected from:
  - ✓ Being discharged, demoted, suspended, threatened, harassed or in any other manner discriminated against in the terms & conditions of employment.

Employees discriminated or retaliated against because of lawful acts in furtherance of an action under the federal FCA are **entitled to all relief necessary to become whole**, which may include:

- Reinstatement with comparable seniority but for the discrimination,
- Double pay back,
- Interest on back pay, &
- Compensation for any special damages, including litigation costs & reasonable attorneys' fees.

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## FEDERAL PROGRAM FRAUD CIVIL REMEDIES ACT

If a person/entity submits a claim that they know is false or contains false information or omits material information, then the federal agency receiving the claim may impose a penalty of up to \$10,781 for each claim & recover twice the amount of the claim.

Unlike the FCA:

- Is an administrative action.
- A violation occurs when a false claim is submitted, not when it is paid.

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## NYS FALSE CLAIMS LAWS & WHISTLEBLOWER PROTECTIONS

### Civil & Administrative Laws

- NY False Claims Act (state finance law, §§187-194)
- Social Services Law §145-b false statements
- Social Services Law §145-c sanctions

### Whistleblower Laws

- NY False Claim Act (State Finance Law §191)
- New York Labor Law §740
- New York Labor Law §741

### Criminal Laws

- Social Services Law §145, Penalties
- Social Services Law § 366-b, Penalties for Fraudulent Practices
- Penal Law Article 155, Larceny
- Penal Law Article 175, False Written Statements
- Penal Law Article 176, Insurance Fraud
- Penal Law Article 177, Health Care Fraud

*See the False Claims & Reporting Policy Appendix for summaries of federal & state fraud & whistleblower laws*

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Anti-Kickback		Stark Law
<b>Prohibition</b>	Prohibits offering, paying, soliciting or receiving anything of value to induce or reward referrals or generate Federal health care program business	Prohibits: <ul style="list-style-type: none"><li>• a physician from referring Medicare patients for designated health services to an entity with which the physician (or immediate family member) has a financial relationship, unless an exception applies</li><li>• the designated health service entity from submitting claims to Medicare for those services resulting from a prohibited referral</li></ul>
<b>Referrals</b>	Referrals from anyone	Physician self-referral, referral from a physician to his/her immediate family members
<b>Items/Services</b>	Any items or services	Designated health services
<b>Intent</b>	Intent must be proven (knowing & willful)	<ul style="list-style-type: none"><li>• No intent standard for overpayment (strict liability)</li><li>• Intent required for civil monetary penalties for knowing violations</li></ul>

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Anti-Kickback		Stark Law
<b>Penalties</b>	<b>Criminal</b> <ul style="list-style-type: none"><li>• Fines up to \$25,000 per violation</li><li>• Up to a 5 year prison term per violation</li></ul> <b>Civil/Administrative</b> <ul style="list-style-type: none"><li>• False Claims Act liability</li><li>• Potential \$50,000 civil monetary penalty per violation &amp; program exclusion</li><li>• Civil assessment of up to 3 times amount of kickback</li></ul>	<b>Civil</b> <ul style="list-style-type: none"><li>• Overpayment/refund obligation</li><li>• False Claims Act liability</li><li>• Potential \$15,000 civil monetary penalty for each service &amp; program exclusion "for knowing violations"</li><li>• Civil assessment of up to 3 times the amount claimed</li></ul>
<b>Exceptions</b>	Voluntary safe harbors	Mandatory exceptions
<b>Federal Health Care Programs</b>	All	Medicare/Medicaid

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QUIZ QUESTION

2. THIS LAW IS THE FEDERAL GOVERNMENT'S PRIMARY LITIGATION TOOL AGAINST FRAUD.

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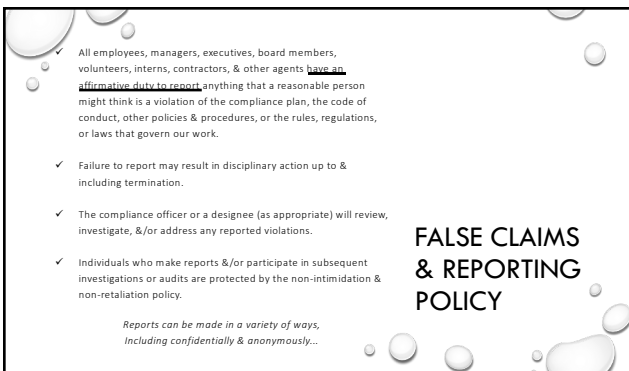
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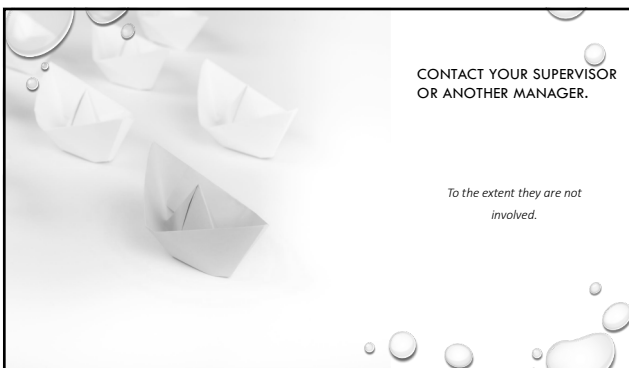
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**CONTACT THE COMPLIANCE PROGRAM DIRECTLY.**

\_\_\_\_\_  
 Andrea Ryan  
 Compliance Officer  
 2431 6th Avenue, 4<sup>th</sup> floor  
 Troy, NY 12180  
 (p) 518.274.2607 ext.4141  
 (c) 518.210.7203  
 (e) [ARyan@unityhouseny.org](mailto:ARyan@unityhouseny.org)  
 \* Confidential method\*

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**ACCESS UNITY HOUSE'S  
CONFIDENTIAL COMPLIANCE HOTLINE.**

- 24 hours/day 365 days/year.
- Operated by Lighthouse Services, an impartial third-party vendor.
- **Confidential.**
  - When a report is made to the compliance hotline, lighthouse notifies the compliance officer.
  - All reports to the compliance hotline will be kept strictly confidential, unless the matter must be turned over to law enforcement or other governmental entity. *confidential means the compliance officer is the only person who will know the identity of the reporter.*
  - If a report made to the compliance hotline requires an investigation, the compliance officer will not specifically identify the reporter & will take steps to proactively protect the reporter's identity.
- Option to make an **anonymous** report.
  - No identifying information about the reporter is collected, & lighthouse notifies the compliance officer of the content of the report only.
  - Reporter may elect to continue to communicate anonymously with the compliance officer through the hotline's messaging system.
  - Anonymous reports will be investigated as warranted – just like any other type of report.

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**Toll-free hotline:**  
 (800) 401-8004 (english speaking)  
 (800) 216-1288 (spanish speaking)

**Hotline on the web:**  
<https://www.lighthouse-services.com/unityhouseny>

**Hotline via e-mail:**  
[reports@lighthouse-services.com](mailto:reports@lighthouse-services.com) (must include "unity house" in the report)

**Hotline via fax:**  
 (215) 689-3885 (must include "unity house" in the report)

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NON-RETALIATION & NON-INTIMIDATION POLICY

Sets forth a strict prohibition of intimidation &/or retaliation against anyone who, in good faith, participates in the compliance program, including not limited to:

- Reporting potential compliance issues
- Conducting/participating/cooperating in investigations
- Conducting self-evaluations, audits, & remedial actions
- Reporting to any government entities.

*Intimidating &/or retaliatory acts are themselves a violation of the compliance program & code of conduct & are, therefore, subject to disciplinary action up to & including termination.*

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### NON-RETALIATION & NON-INTIMIDATION POLICY

- Intimidation is an act to manipulate another person &/or is an intentional behavior that causes a person of ordinary sensibilities to have feelings of fear or inadequacy.
- Retaliation is an adverse action taken against an individual because the individual's good faith report of a compliance concern or participation in the compliance program.
- Adverse actions do not include:
  - ✓ Any employment action(s), disciplinary action(s), & termination(s) taken as a result of the individual's own violation(s) of laws, rules, policies, or procedures, or
  - ✓ Negative comments in an otherwise positive or neutral evaluation that are justified by the individual's poor work performance or history.

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NON-RETALIATION & NON-INTIMIDATION POLICY

Good faith participation in the compliance program means an employee makes a sincere effort to comply with the standards & provisions set forth in the compliance plan, code of conduct, policies, procedures, rules, regulations, & laws.

A good faith report of a compliance issue is one that's made with honest intent & motive – the employee has a sincere & reasonable belief that a violation may have occurred. Reporting can be made in good faith but be wrong about the facts.

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## QUIZ QUESTION

3. WHAT IS THE COMPLIANCE OFFICER'S NAME  
AND WHERE IS HIS/HER OFFICE LOCATED?

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## INVESTIGATION POLICY

- ▲ Potential compliance violation is reported or detected through other routine monitoring or auditing.
- CO completes initial screen.
- ▲ CO identifies appropriate investigator or team of investigators.
- ▲ Arrangements may be made during active investigations.
- Prompt – goal of completing investigation within 5 to 10 business days.

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## INVESTIGATION POLICY

- Document review.
  - Must cooperate with document requests. Failure to do so may result in termination
- Interviews.
  - Employees, managers, executives, board members, contractors & other agents required to participate in good faith. Failure to do so may result in termination.
- Individuals/entities checked against exclusion lists &/or state central registry.
- Violations - subject to discipline in accordance with policy.
- Violation findings - reported by CO to MT, CEO, BoD & government oversight agencies, as appropriate.
- Corrective & remedial action.

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Corrective action may include:

- ✓ Referral to criminal &/or civil law enforcement authorities with jurisdiction over such matter,
- ✓ Self disclosure of overpayments
- ✓ Revised policies, procedures, &/or systems/internal controls,
- ✓ Additional education/training,
- ✓ Enhanced QA, &/or
- ✓ Appropriate disciplinary action.

INVESTIGATION

POLICY

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INVESTIGATION POLICY

Investigation records will include, but may not be limited to:

- Documentation of the alleged violation
- A description of the investigative process
  - A log of witnesses interviewed
  - Copies of interview notes
  - A log of documents reviewed
  - Copies of key documents
- The results of the investigation
  - Disciplinary action taken
  - Corrective action plan

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DISCIPLINE POLICY

What triggers discipline:

- Non-compliant behavior or encouraging, directing, facilitating or permitting non-compliant behavior.
- Failure to report, disclose, &/or to assist in an investigation or audit of suspected fraud, waste, abuse, or other potential wrongdoing.
- Individuals who, by virtue of their position in the organization, should have known but failed to detect or act on such conduct.

The discipline policy will be enforced firmly & fairly & will apply equally to all affected persons (i.e., Staff, managers, executives, & board members).

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### DISCIPLINE POLICY

Level of discipline will vary in relation to severity of violation & may consist of:

- ✓ Extending an orientation period,
- ✓ Verbal warning,
- ✓ Written warning,
- ✓ Suspension from employment with or without pay for a period of up to ten (10) regularly scheduled workdays,
- ✓ Demotion, &/or
- ✓ Termination.

*\* There is no pre-determined sequence of type or number of disciplinary actions prior to termination of employment. Nor is unity house required to follow progressive discipline in disciplining &/or discharging an employee.*

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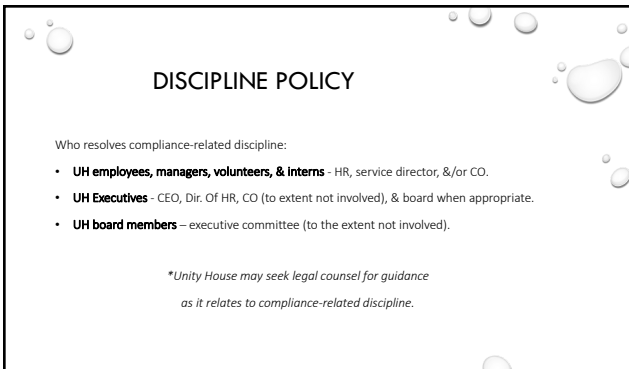
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### DISCIPLINE POLICY

Who resolves compliance-related discipline:

- **UH employees, managers, volunteers, & interns** - HR, service director, &/or CO.
- **UH Executives** - CEO, Dir. Of HR, CO (to extent not involved), & board when appropriate.
- **UH board members** – executive committee (to the extent not involved).

*\*Unity House may seek legal counsel for guidance as it relates to compliance-related discipline.*

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### QUIZ QUESTION

**4. TRUE OR FALSE:**

IT IS A DISCIPLINARY MEASURE WHEN AN EMPLOYEE IS PLACED ON PAID LEAVE DURING AN INVESTIGATION.

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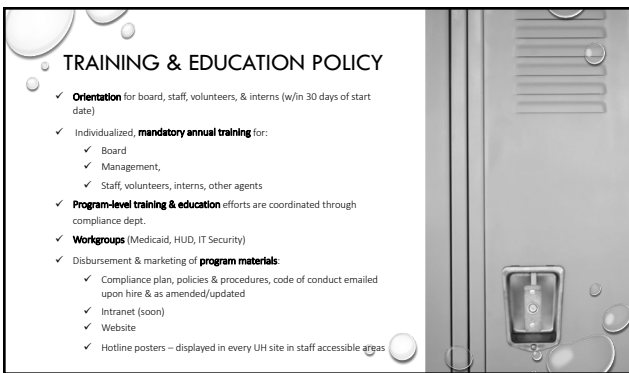
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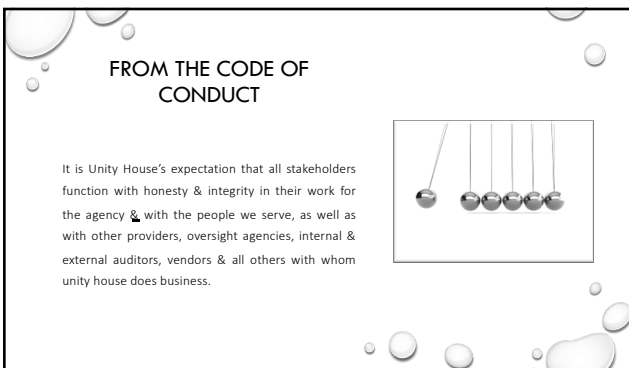
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YOU  
MUST...

- ✓ Act in the best interests of the individuals we serve & the agency.
- ✓ Comply with all applicable laws, rules, & regulations pertinent to your work.
- ✓ Understand & comply with the code of conduct & policies & procedures.
- ✓ Employ good judgment & adhere to sound business, professional, & clinical practices.
- ✓ Ask your supervisor or the compliance officer for clarification &/or assistance if you are unsure how to proceed in carrying out your duties.
- ✓ Report, in good faith, potential compliance violations.
- ✓ Assist in internal & external investigations, monitoring, & auditing.
- ✓ Implement issued corrective or remedial actions.

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Conflicts of Interest

- Procurement or other sensitive matters
- Disclosure – relationships w/ vendors, physicians, landlords etc.

Solicitation

- Prohibits borrowing or lending money, favors, or services from clients
- Prohibits favor – all clients treated equally & with dignity

Gifts\*

- Prohibits acceptance of gifts from vendors (with limited exceptions)
- Prohibits acceptance of gifts of more than minimal value from clients

\*Supervisor notification is required. Notification procedure & other guidance can be found on pgs. 8 – 10 in the code\*

Integrity of decisions

- Treatment & client care is based on holistic assessment
- Cannot take unfair advantage of professional relationships for personal gain

Anti-kickbacks

CODE OF CONDUCT

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CODE OF CONDUCT

Referrals

- Referrals for client admission based solely on individual need, UH's ability to offer or provide appropriate services; admission criteria strictly & consistently followed & adhered to
- Prohibited from:
  - Making/accepting payments for referrals to/from UH
  - Soliciting or receiving anything of value, directly or indirectly, in exchange for referrals to other providers/physicians
  - Steering or directing referrals to a private practice in which professional personnel, consultants, or their immediate families may be engaged.

Corporate honesty in all facets of business including:

- Accurate financial reporting & accounting practices
- Proper & accurate documentation
- Meeting all regulatory requirements
- Using agency resources appropriately
- Employees shall not participate in, condone, or be associated with dishonesty, fraud, or deception
- Must not accept/encourage illegal or unacceptable behavior of staff or clients

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CODE OF CONDUCT

Care & Rights of Individuals We Serve

- Client Confidentiality
- HIPAA, HITECH, FERPA, VAWA, Article 27-f, NYS Shield Act
- Health, DV status, HIV/AIDS-related info, student info, mental health, developmental disabilities, etc.

Informed Consent

Access to Appropriate Services

- All behavioral health, other clinical, education, & legal services offered/delivered by appropriately licensed/qualified personnel
- Eligibility requirements
- Quality of care

Equal Opportunity for all Clients & Employees

Whistleblower Protections

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55

Transparency

Regulations

Rules

Policies

COMPLIANCE

LAW

Standards

Requirements

UH COMPLIANCE PROGRAM OVERVIEW

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56

COMPLIANCE OFFICER

Andrea Ryan

2431 6<sup>th</sup> Avenue, 4<sup>th</sup> floor

Troy, NY 12180

p: 518.274.2607 ext. 4141

c: 518.210.7203

e: [aryan@unityhousenv.org](mailto:aryan@unityhousenv.org)

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## ACCESSIBILITY TO THE COMPLIANCE OFFICER

-  CO reports directly to CEO & Board & reports out to senior management as appropriate.
-  Compliance Committee members report to CEO or other senior managers.
-  CO provides in person orientation & annual training; visits programs for audits & other events.
-  Familiar & friendly face to board – staff – volunteers – interns.
-  All program documents, materials, & marketing provide contact info for CO.

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## UH COMPLIANCE PROGRAM

- ✓ Develops, reviews, updates, & implements compliance plan & associated policies, procedures, & work plan.
- ✓ Facilitates training & education.
- ✓ Ensures compliance with Medicaid program & federal grant program requirements.
- ✓ Incident management.
- ✓ Investigates claims of fraud, waste, abuse, retaliation, & other misconduct/wrongdoing.
- ✓ Internal monitoring & auditing.
- ✓ External monitoring & auditing.
- ✓ Corrective action planning & follow-up.
- ✓ Program assessment, goal planning, program development.
- ✓ Risk assessments.

59

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## COMPLIANCE WORKGROUPS

- ✓ Medicaid, HUD, IT security workgroups
- ✓ Create close working relationships between CO, programs/departments, & finance department operations:
  - ✓ Encourages communication & quality assurance/improvement standards.
- ✓ Leverage existing, key staff to serve compliance function from within the various programs & departments with direction & support from the co:
  - ✓ Maximizes the reach & efficiency of the program
  - ✓ Boots on the ground:
    - ✓ Promotes culture of compliance at program/department level
    - ✓ Daily, visible resource for other program staff.
- ✓ Meet regularly to focus on key compliance areas:
  - ✓ Sharing information & troubleshooting issues
  - ✓ Reviewing, enhancing, streamlining policies, procedures, & processes.

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### COMPLIANCE MATERIALS

Annual compliance plan, code of conduct, & policies & procedures:

- ✓ Emailed to new employees upon hire.
- ✓ Hard copies available upon request from supervisor, HR, or Compliance Officer.
- ✓ Also available on our website: [www.unithousenv.org](http://www.unithousenv.org) (& on sharepoint soon).



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61

### SYSTEMS FOR ROUTINE IDENTIFICATION OF COMPLIANCE ISSUES

- Self-assessment
- Reports/incident management
- Internal monitoring & auditing
- External monitoring & auditing
- Results of root cause analysis
- Corrective, remedial action plan follow-up
- Issued guidance

### RISK ASSESSMENT

Completed at least annually with ongoing & regular analysis.

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Measures: frequency; likelihood of negative outcome; impact on service delivery, other contracts & operations; financial impact.

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Informs: workplan, policies, procedures, training & education efforts, & resource allocation.

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62



### SYSTEMS FOR RESPONDING TO COMPLIANCE ISSUES

- Internal audits (responsive)
- Investigations
- Corrective & remedial action plans
  - Discipline
  - Enhanced training
  - Implementation of new/revised policies, procedures, & systems to reduce potential of recurrence
  - Reporting issues to internal/external oversight
  - Reporting & returning overpayments
- Self re-assessment
- Continuous risk analysis

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QUIZ QUESTION

5. NAME TWO SYSTEMS THE COMPLIANCE PROGRAM HAS IN PLACE TO ROUTINELY IDENTIFY COMPLIANCE ISSUES.

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64

Questions?

KEEP  
CALM  
AND  
COMPLIANCE  
ON

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THANK YOU

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