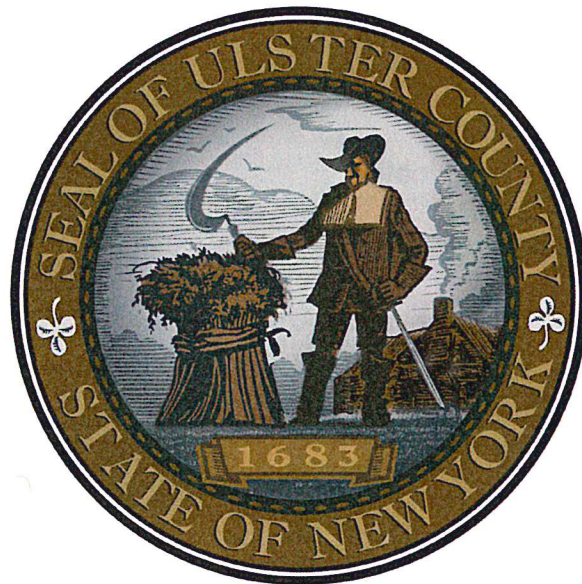


# Ulster County Compliance Plan



**Patrick K. Ryan**  
**County Executive**

May 2012  
(Revised April 2015)  
(Revised February 2016)  
(Revised September 2017)  
(Revised December 2018)  
(Revised July 2019)

## Table of Contents

	<u>Page</u>
Background and Purpose	3
Compliance Program	5
Standards of Conduct	7
Compliance Program Oversight	9
Education and Training	12
Effective Confidential Communication	14
Enforcement of Compliance Standards	16
Auditing and Monitoring of Compliance Activities	17
Detection and Response	18
Whistleblower Provisions and Protections	20

County Compliance Officer: Tom Gibney  
[tgbn@co.ulster.ny.us](mailto:tgbn@co.ulster.ny.us)  
(845) 340-8771

County Privacy Officer: Clint Johnson  
[cjoh@co.ulster.ny.us](mailto:cjoh@co.ulster.ny.us)  
(845) 340-3685

County Security Officer: Alan Macaluso  
[amac@co.ulster.ny.us](mailto:amac@co.ulster.ny.us)  
(845) 340-5564

County Compliance Hotline: The Bonadio Group  
(877)569-8777

## BACKGROUND AND PURPOSE

Numerous Federal and New York State laws have been enacted to address the unethical behavior of parties who do business with government. The terms “fraud, waste and abuse” are popularly associated with the Medicaid and Medicare programs because there have been glaring examples of unethical behavior on the part of service providers, which have cost taxpayers billions of dollars. Compliance with these Federal and State laws includes, but is not limited to billing in conformance with Medicaid and Medicare regulations. Compliance includes acting ethically and reporting all potentially unethical behavior.

Ulster County is adopting a Compliance Plan so that everyone involved understands what is expected of them and behaves accordingly. The principles outlined in this Compliance Plan apply to all County Participants in every department of Ulster County government.

**For the purposes of this Compliance Plan, “Participants” includes employees, volunteers, interns, appointees, Legislators, County officials, business partners, vendors, agents, contractors and contracted Participants.**

By adopting and implementing this Plan, the Ulster County government expects to operate more cost-effectively and with integrity.

The Ulster County Executive has directed the Corporate Compliance Officer and the Compliance Committee to develop and implement a Compliance Program to guide and coordinate all efforts to conform to the laws, rules and regulations that apply to Ulster County’s services. In doing so, Ulster County strives to ensure that fraud, waste and abuse do not occur in County Government or in the services for which the County bills others. Ulster County’s Compliance Officer and Compliance Committee are tasked with:

- Establishing written procedures concerning the County’s operations to provide clarity for all Participants;
- Ensuring that all Participants are familiar with the County’s ethical standards and know how to report actual or suspected non-compliance;
- Organizing training for all Participants on compliance issues;
- Promoting open lines of communication regarding compliance matters, including anonymous and confidential reporting;

- Ensuring that appropriate consequences for non-compliant behavior are applied throughout Ulster County Government;
- Identifying compliance risk areas through routine internal reviews and targeted external audits, and apply continuous quality improvement practices to ensure appropriate solutions are implemented;
- Operating a system for responding to compliance issues as they are raised, including disclosure and repayments, as appropriate;
- Ensuring that Participants are provided protection from intimidation and retaliation for proper, good faith reporting of compliance program violations.

The three key components of Ulster County's Compliance Program are (1) the "Standards of Conduct for Ulster County," (2) "Ulster County's Compliance Procedures" and (3) this "Ulster County Compliance Plan."

The "Standards of Conduct for Ulster County" provides guidance regarding the Ulster County government's expectations for ethical business behavior. In conjunction with the Ulster County Ethics and Disclosure Law, Participants have a clear set of directions to ensure that their actions are conducive to compliance with laws, rules and regulations. The "Ulster County's Standard Operating Procedures" (SOP Manual) provides detailed guidance to Participants regarding the steps required to perform many of the Ulster County government's functions. Specific procedures have been included in the SOP Manual for activities that have direct implications for compliance issues. Conformance with procedures assures effective compliance. All Participants are responsible for adhering to the "Standards of Conduct" and the SOP Manual. Conduct in violation of these standards of conduct and procedures may lead to various actions, including disciplinary action and/or sanctions.

This document—the "Ulster County Compliance Plan" —describes the Ulster County government's overall strategy for achieving an effective Compliance Program. It provides a picture of how all of the components of the Compliance Program work together to ensure that Ulster County government is in full compliance with the laws, rules and regulations that apply to Ulster County's services.

## **COMPLIANCE PROGRAM**

### **I. Commitment**

Ulster County government (also referred to as “the County”) has been and continues to be committed to compliance with all applicable Federal, State, and local laws and regulations, and payer requirements. The County is committed to promoting highly ethical behavior, as detailed in the “Standards of Conduct for Ulster County.”

The County has always been and remains committed to its responsibility to conduct business with integrity based on sound ethical and moral standards. The County holds its Participants to these same standards.

Ulster County government is committed to maintaining the effectiveness of its Compliance Program through monitoring and auditing systems reasonably designed to detect noncompliance by its Participants. The County requires that regular, periodic compliance audits be conducted by internal and/or external auditors, who have expertise in Federal and State health care laws, rules, regulations and health care program requirements.

### **II. Responsibility**

It is the responsibility of all Participants to report any instances of suspected or known noncompliance to their immediate supervisor or to the Compliance Officer. Reports may be made anonymously and without fear of intimidation, retaliation or retribution. Failure to report known noncompliance or making reports which are not in good faith may be grounds for disciplinary action and/or sanctions. Reports related to workplace-oriented issues shall be referred to the Participant’s Director. Any unlawful workplace harassment or possible workplace violence situations should immediately be reported to the Personnel Officer or the Director of Employee Relations of Ulster County.

### **III. Procedures**

Ulster County government shall communicate its compliance standards and procedures to all Participants during a mandatory training program and with other means, as appropriate. The County shall provide copies of or electronic access to the Compliance Plan, the Standards of Conduct for Ulster County, and the County’s Compliance Procedures to all Participants. All Participants will be required to sign a written attestation that they have received or been given access to these documents.

#### **IV. Enforcement**

This Compliance Plan shall be consistently enforced through appropriate disciplinary mechanisms including, if appropriate, discipline of individuals responsible for failure to detect and/or report noncompliance.

#### **V. County Response**

Detected noncompliance, through any mechanism, i.e., compliance auditing procedures and/or confidential reporting, shall be responded to in an expedient manner. The County is committed to the resolution of such matters and shall take all reasonable steps to prevent further similar violations, including any necessary modifications to the Compliance Plan.

#### **VI. Due Diligence**

Ulster County shall, at all times, exercise due diligence with regard to exclusion screenings for all appropriate Participants. Background and professional license investigations shall be conducted for all prospective and existing Participants, excluding elected officials.

#### **VII. Whistleblower Provisions and Protections**

Ulster County government shall not take any retaliatory action against any party that discloses information about the County's policies, practices or activities in a genuine effort to address non-compliance with laws, rules and/or regulations. Protected disclosures are those where the person making the disclosure asserts that the County engages in behavior(s) that create(s) a substantial and specific danger to the public health and safety, which constitute health care fraud, or that constitute improper quality of care. In addition, protected disclosures also include other violations set forth in the Standards of Conduct for Ulster County.

## **STANDARDS OF CONDUCT**

### **I. Philosophy/Intent**

The County has adopted a set of standards for the comportment of certain Participants and is committed to (1) preventing the occurrence of unethical or unlawful behavior, (2) stopping such behavior as soon as possible after discovery, and (3) taking corrective action against such Participants who violate the Standards of Conduct for Ulster County, including Participants who fail to report a violation.

Note that a "Participant" is any individual who meets any of the following conditions:

- The work product and how the work is performed is controlled by the County;
- The County provides work space and equipment/supplies to perform the work;
- The County reimburses the individual for expenses incurred on behalf of the County;
- The County provides "fringe" benefits to the individual;
- There is an expectation that the work relationship shall continue.

All Participants must (1) comply with the Standards of Conduct for Ulster County, (2) immediately report any alleged violations or wrongdoing, and (3) assist management and compliance Participants in investigating allegations of violations or wrongdoing.

The expectations addressed in this Plan and in the Standards of Conduct of Ulster County are intended to guide Participants in the course of their day-to-day responsibilities. Other Countywide and/or department specific policies, procedures and applicable Federal or State laws or regulations may exist. This document co-exists with them. If a conflict seems to occur, please contact your supervisor or the Compliance Officer for advice.

### **II. Expectations**

The County shall ensure that all aspects of service provision and business conduct are performed in compliance with its philosophy/intent, policies and procedures, professional standards, applicable governmental laws, rules, and regulations, and, where applicable, payer standards. Ulster County expects all

Participants who provide services on its behalf to adhere to the highest ethical standards and to promote ethical behavior. Any Participant whose behavior is found to violate these standards shall be appropriately disciplined.

In accordance with the Standards of Conduct for Ulster County, Participants may not engage in any conduct that conflicts – or is perceived to conflict – with the best interests of Ulster County. All Participants must disclose any circumstances where his or her or immediate family member is a Participant, consultant, owner, contractor, or investor in any entity that (i) engages in any business or maintains any relationship with the County; (ii) provides to, or receives from the County any patient referrals; or (iii) competes with the County. Participants may not violate the County’s solicitation policy.

Participants are expected to maintain complete, accurate, and contemporaneous records as required by the County. The term “records” includes all documents, both written and electronic, that relate to the provision of County services or provide support for the billing of County services. Records must reflect the actual service provided. Any alteration of records 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. Signature stamps shall not be used. Backdating and predating documents is unacceptable and shall lead to disciplinary action, which may result in termination.

When any Participant knows or reasonably suspects that these expectations and the Standards of Conduct for Ulster County have not been adhered to, s/he is obligated to report this information to his/her immediate supervisor or to the Compliance Officer, so that each situation may be appropriately addressed. The Compliance Officer may be reached directly by calling **(845) 340-8771** or utilizing the County Compliance Hotline **(877)569-8777**.



## COMPLIANCE PROGRAM OVERSIGHT

### I. The Role of the Corporate Compliance Officer

The County Executive shall appoint an Employee to serve as Compliance Officer. The Compliance Officer has direct lines of communication to the County Executive and Ulster County Attorney. The County Executive may replace the Compliance Officer as necessary, in order to maintain the effectiveness of the Corporate Compliance Program. The Compliance Officer is directly obligated to serve the best interests of the County, its residents and Participants. Responsibilities of the Compliance Officer include, but are not limited to:

- Developing and implementing compliance policies and procedures (P&P);
- Overseeing and monitoring the implementation of the Compliance Program;
- Ensuring that the County conducts internal audits to monitor effectiveness of compliance standards;
- Providing guidance to management, medical/clinical program Participants, and County departments regarding P&P and governmental laws, rules, and regulations;
- Updating the Compliance Plan as changes occur within the County, within the law and regulations, or governmental and third party payers;
- Overseeing efforts to communicate awareness of the existence and contents of the Compliance Plan;
- Coordinating, developing, and participating in the educational and training program;
- Communicating with independent contractors (program services, vendors, billing services, etc.) to promote awareness of the requirements of Ulster County's Compliance Plan;
- Actively seeking up-to-date material and releases regarding regulatory compliance;
- Maintaining a reporting system (**Compliance Hotline 877-569-8777**) and responding to concerns, complaints, and questions related to the Compliance Plan;

- Acting as a resourceful leader regarding regulatory compliance issues;
- Investigating and acting on issues related to compliance; and
- Coordinating internal investigations and ensuring implementation of corrective action.

## **II. The Role of the Compliance Committee**

Compliance Committee members are appointed by the County Executive. Compliance issues are reported by the Corporate Compliance Committee, under the leadership of the Compliance Officer, to the County Executive. The Compliance Committee's purpose is to advise and assist the Compliance Officer with implementation of the Compliance Plan.

The roles of the Compliance Committee include, but are not limited to:

- Reviewing and assessing existing policies and procedures that address risk areas for possible incorporation into the Compliance Plan;
- Working with departments to develop standards and policies & procedures that address specific risk areas and encourage compliance according to legal and ethical requirements as deemed necessary;
- Advising and monitoring appropriate departments relative to compliance matters;
- Developing internal systems and controls to carry out compliance standards and policies;
- Monitoring internal and external audits to identify potential non-compliance issues;
- Implementing corrective and preventive action plans; and
- Developing a process to solicit, evaluate, and respond to complaints and problems.

### III. Delegation of Substantial Discretionary Authority

Any Participant who holds, or intends to hold, a position with substantial discretionary authority for Ulster County is required to disclose any name changes and any involvement in non-compliant activities including health care-related crimes. In addition, Ulster County performs reasonable inquiries into the background of appropriate Participants.

The following organizations may be queried with respect to potential and existing Participants:

- Health and Human Services/Office of Inspector General cumulative sanction report. The URL address is <http://exclusions.oig.hhs.gov/>
- NYS Medicaid Fraud Database. The URL address is <http://www.health.state.ny.us/nysdoh/medicaid/dqprvpg.htm>.
- Licensure and disciplinary record with NYS Office of Professional Medical Conduct (Physicians, Physician Assistants) (the URL address is <http://www.health.state.ny.us/nysdoh/opmc/main.htm>) and/or New York State Department of Education (other licensed professionals) (the URL address is <http://www.op.nysed.gov/opsearches.htm>).

## **EDUCATION AND TRAINING**

### **I. Expectations**

Education and training are critical elements of the Compliance Plan. All Participants are expected to be familiar with and knowledgeable about Ulster County's Compliance Plan and have a solid working knowledge of his or her responsibilities under the Plan. Compliance policies and standards shall be communicated to all Participants through required participation in training programs.

### **II. Training Topics - General**

All Participants shall participate in training on the topics included but not limited to:

- Government and private payer reimbursement principles;
- Government initiatives;
- History and background of Corporate Compliance;
- Legal principles regarding compliance and responsibilities related thereto;
- Federal False Claims Act provisions,
- New York State False Claims Act provisions
- Whistleblower provisions and protections
- Prohibitions against submitting a claim for services when documentation of the service does not exist to the extent required;
- Prohibitions against signing for the work of another Participant;
- Prohibitions against alterations to business and medical records: appropriate methods of alteration;
- Prohibitions against rendering services without a signed physician's order or other authorization, if applicable;
- Proper documentation of services rendered; and
- Duty to report misconduct and suspected non-compliance; including how to report.

### **III. Training Topics - Targeted**

In addition to the above, targeted training shall be provided to all supervisory Participants and any other Participants whose job responsibilities include activities related to compliance topics.

Participants involved in the delivery and monitoring of health care services, including those at the Department of Mental Health, Department of Social Services, and Department of Health, shall be provided with additional training in service planning, delivery and documentation practices, other program-specific risk areas and enforcement actions.

Department Heads shall assist the Compliance Officer in identifying areas that require specific training and are responsible for communication of the terms of this Compliance Plan to all independent contractors doing business with the County.

### **IV. Orientation**

As part of orientation, all Participants shall receive a written copy of the Compliance Plan, Compliance Procedures, and Standards of Conduct for Ulster County.

### **V. Attendance**

All education and training relating to the Compliance Plan shall be verified by attendance and a signed acknowledgement of receipt of the Compliance Plan and Standards of Conduct of Ulster County.

Attendance at compliance training sessions is mandatory; failure to participate in training may be cause for Participant discipline.

# EFFECTIVE CONFIDENTIAL COMMUNICATION

## I. Expectations

Open lines of communication between the Compliance Officer and Participants subject to this Plan are essential to the success of the County's Compliance Program. All Participants have an obligation to refuse to participate in any wrongful course of action and to report the actions according to the procedure listed below.

## II. Reporting Procedure

The County shall operate a telephone line, called a Hotline, in order to receive notification of Compliance violations.

If any Participant has knowledge of, or is asked to participate in any activities that are potentially in violation of this Compliance Plan, he or she has an affirmative obligation to inform his or her immediate supervisor or the Compliance Officer. If such an individual instead chooses to report this information anonymously via the Hotline, **(877-569-8777)** s/he shall keep records to verify having done so (e.g., the date and time the call was made).

Upon receipt of a question or concern, any supervisor, officer, or director shall document the Compliance-related question or issue and report it to the Compliance Officer. The Compliance Officer shall immediately start an inquiry to determine the merit of the issue and report any concerns relating to potential non-compliance to the County Executive.

The Compliance Officer or designee shall record the information necessary to conduct an appropriate investigation of all complaints. If any Participant is seeking information concerning the Standards of Conduct or its application, the Compliance Officer or designee shall record the nature of the information sought and respond as appropriate. The County, in an effort to protect the anonymity of all Participants who report any complaint or pose questions, shall keep a person's identity confidential unless the matter is turned over to law enforcement.

## III. Protections

The identity of reporters shall be safeguarded to the fullest extent practicable and protected against retribution. The County shall keep a person's identity confidential unless the matter is turned over to law enforcement. Any threat of reprisal against Participants who act in good faith pursuant to his or her responsibilities under this Plan is a violation of the County's Compliance Plan, punishable by discipline, up to and including termination of employment, contract or appointment.

#### **IV. Guidance**

Participants may seek guidance with respect to the Compliance Plan or Standards of Conduct at any time by following the reporting mechanisms outlined herein.

## **ENFORCEMENT OF COMPLIANCE STANDARDS**

### **I. Background Investigations**

The County shall conduct a reasonable and prudent background investigation, including a reference check, as part of the employment application for those Participants whose costs are reimbursed with health care revenues.

### **II. Disciplinary Action - General**

Participants who fail to comply with the County's Compliance Plan and Standards of Conduct for Ulster County, or who have engaged in conduct that has the potential of impairing the County's status as a reliable, honest, and trustworthy service provider, may be subject to disciplinary action, up to and including termination. Any discipline shall be appropriately documented in the Participant's file, along with a written statement of reason(s) for imposing such discipline. The Compliance Officer shall maintain a record of all disciplinary actions involving the Compliance Plan.

### **III. Performance Evaluation - Supervisory**

Ulster County's Compliance Program requires that the promotion of and adherence to, the elements of the Compliance Program be a factor in evaluating the performance of appropriate County Participants. They shall be periodically trained in new compliance policies and procedures. In addition, all Department Heads and supervisors shall:

- Discuss with all supervised Participants the compliance policies and legal requirements applicable to their function.
- Inform all Participants that strict compliance with these policies and requirements is a condition of employment.
- Disclose to all Participants that the County may take disciplinary action up to and including termination for violation of these policies and requirements.

### **IV. Disciplinary Action - Supervisory**

Department Heads and supervisors may be sanctioned for failure to adequately instruct subordinates in regard to Corporate Compliance policies and procedures, and for failure to detect noncompliance with such policies and procedures. Department Heads and supervisors must exercise reasonable diligence to promote the earliest possible discovery of violations of the County's Compliance Plan.



# AUDITING AND MONITORING OF COMPLIANCE ACTIVITIES

## I. Internal Audits

Because ongoing evaluation is critical to detecting non-compliance and will help ensure the success of Ulster County's Compliance Program, an ongoing auditing and monitoring system, implemented by the Compliance Officer and Compliance Committee, is an integral component of this Plan. This system shall include, but not be limited to the following:

- Review of relationships with third-party contractors, specifically those with substantive exposure to government enforcement actions;
- Review of Compliance policies and standards; and
- Review of documentation and billing relating to claims made to Federal, New York State, and private payers for reimbursement, performed internally or by an external consultant, at the discretion of the Compliance Officer and Compliance Committee.

The audits and reviews shall examine the County's compliance with specific rules and policies through on-site visits, Participant interviews, general questionnaires submitted to appropriate Participants, and patient record documentation reviews.

## II. Plan Integrity

Additional steps to ensure the integrity of the Compliance Plan shall include:

- Annual review of records of communications and reports by Participants kept in accordance with this Plan.
- The Compliance Officer shall be notified immediately in the event of any visits, audits, investigations, or surveys by any Federal or State agency or authority that relate in any way to the County's compliance program. The Compliance Officer shall, without unreasonable delay, receive a photocopy of any correspondence from any regulatory agency charged with licensing the County and/or administering a Federal or State-funded program or County-funded program with which the County Participates, if it relates to the County's compliance program.
- Establishment of a process wherein the Compliance Officer gives notice to all appropriate Participants of any changes in laws, regulations, or policies, as well as appropriate training to assure continuous compliance.

## **DETECTION AND RESPONSE**

### **I. Violation Detection**

The Compliance Officer and the Compliance Committee shall determine whether there is any basis to suspect that a violation of the Compliance Plan has occurred.

If it is determined that a violation may have occurred, the matter may be referred to the County Attorney who, with the assistance of the Compliance Officer, shall conduct a more detailed investigation. This investigation may include, but is not limited to the following:

- Interviews with individuals having knowledge of the facts alleged;
- A review of documents; and
- Legal research and contact with governmental agencies for the purpose of clarification.

If advice is sought from a governmental agency, the request and any written or oral response shall be fully documented.

### **II. Reporting**

At the conclusion of an investigation involving the County Attorney, s/he shall issue a report to the Compliance Officer summarizing his or her findings, conclusions, and recommendations and shall render an opinion as to whether any violation has occurred. Any additional action shall be on the advice of counsel.

The Compliance Officer shall report to the Compliance Committee regarding each investigation conducted.

### **III. Rectification**

If Ulster County government identifies that an overpayment was received from any third party payer, the appropriate regulatory (funder) and/or prosecutorial (Attorney General/police) authority shall be appropriately notified with the advice and assistance of the County Attorney. It is County policy not to retain any funds which are received as a result of overpayments. In instances where it appears an affirmative fraud may have occurred, appropriate amounts shall be returned after consultation and approval by involved regulatory and/or prosecutorial authorities. Systems shall also be put in place to prevent such overpayments in the future.

#### **IV. Record Keeping**

Regardless of whether a report is made to a governmental agency, the Compliance Officer shall maintain a record of the investigation, including copies of all pertinent documentation. This record shall be considered confidential and privileged and shall not be released without the approval of the County Executive or County Attorney. Records shall be retained in accordance with applicable standards.

## **WHISTLEBLOWER PROVISIONS AND PROTECTIONS**

**Hotline (877)569-8777**

The County prohibits acts of retaliation or intimidation for good faith participation in the compliance program, including but not limited to reporting potential issues, investigating issues, self-evaluations, audits and remedial actions and reporting to appropriate official as provided in sections 740 and 741 of the NYS Labor Law.

### **I. Provisions**

The False Claims Act provides protection to qui tam (“Whistleblower”) reporters who are discharged, demoted, suspended, threatened, harassed, or in any other manner discriminated against in the terms and conditions of their employment as a result of their furtherance of an action under the False Claims Act.

Ulster County shall not take any retaliatory action against Participants if the person discloses information about the County’s policies, practices, or activities to a regulatory, law enforcement or other similar agency or public official. Protected disclosures are those that assert that the County is in violation of a law that creates a substantial and specific danger to the public health and safety or which constitutes health care fraud under the law or where the reporter asserts, in good faith, that the County is providing improper quality of care.

### **II. Protections**

The Participant’s disclosure is protected only if s/he first brought up the matter with a supervisor and gave the employer a reasonable opportunity to correct the alleged violation, unless the danger is imminent to the public or a patient and the Participant believes in good faith that reporting to a supervisor would not result in corrective action.

Ulster County shall protect qui tam reporters in accordance with Federal and State statutes relative to Whistleblower protections. If the County takes a retaliatory action against the qui tam reporter, the individual may sue in New York State court for reinstatement to the same or an equivalent position, including any lost wages, benefits, attorneys’ fees and special damages sustained as a result of discrimination, intimidation or retaliation.