



**SB Clinical Network IPA, LLC d/b/a Suffolk Care Collaborative  
Compliance Program Policies and Procedures**

Definitions.....1

1 Designation and Responsibilities of the Suffolk PPS Compliance Officer.....4

2 Creation and Responsibilities of the Compliance Committee ..... 7

3 Retention of Records ..... 10

4 Conflicts of Interest ..... 12

5 Compliance Training and Education ..... 15

6 Restricted Party Screening..... 18

7 Risk Assessment ..... 21

8 Effective Lines of Communication and Internal Reporting of Compliance-Related Matters ..... 25

9 Responding to Compliance Reports, Investigations, and Corrective Action..... 28

10 Responding to a Search Warrant or Governmental Subpoena..... 32

11 Identification and Return of Medicaid Overpayments..... 33

12 Disciplinary and Corrective Action ..... 35

13 Non-Intimidation and Non-Retaliation ..... 37

14	Detecting and Preventing Fraud, Waste, Abuse and Misconduct.....	38
15	Compliance Program and Its Implementation .....	46

## **Compliance Program Policies & Procedures Definitions**

Affiliate: any entity controlled by, in control of, or under common control with Suffolk PPS.

Board of Directors: board of directors of Suffolk PPS. Also referred to as the “Governing Body.”

Business Interest: a financial interest including ownership, investment, income or similar right or beneficial interest; or a position in an organization or entity including director, officer, employee, member, partner or trustee.

Conflict of Interest: a situation in which a person is in a position to derive personal benefit from certain actions or decisions he or she makes in a professional, employment, organizational, or official capacity. A conflict of interest may arise if someone who is PPS Personnel is in a position to influence the business or other decisions of Suffolk PPS in a manner that could lead, or appear to lead, to the personal gain or advantage of the PPS Personnel, his or her Family or Relative, or his or her Related Business Interest.

Contracting Entity: Coalition Partner or other organization that may represent more than one Coalition Partner, which executes a Participation Agreement with the Suffolk PPS.

Coalition Partner: health care provider or health care organization, community-based organization, and other organization who serve Medicaid beneficiaries and uninsured individuals as a participant in the Suffolk PPS via attestation or contract.

Coalition Partner Compliance Officers: shall mean the compliance officers appointed by the Coalition Partners that have compliance programs.

Coalition Partner Personnel: employees, executives, Governing Body members, vendors, independent contractors, consultants, and agents of Coalition Partners.

Code of Conduct: shall mean the written standards of conduct that every PPS Associates is expected to comply with as a condition of employment or engagement with Suffolk PPS.

Compliance Committee: shall mean the individuals selected to provide oversight of the Compliance Program.

Compliance Program: shall mean the program that is designed to ensure compliance with applicable law by Suffolk PPS and PPS Associates.

Conflict of Interest: a possible conflict may exist if an employee or other person associated with Suffolk PPS is in a position to influence the business or other decisions of Suffolk PPS in a manner that could lead, or appear to lead, to the personal gain or advantage of the individual, his or her Relatives, or a Related Business Interest.

Data Mining: shall mean the analysis of Suffolk PPS data to determine trends and potential aberrant billing practices from many information sources.

DOH: shall mean New York State Department of Health

DSRIP: shall mean Delivery System Reform Incentive Payment program

Family or Relative: an individual's spouse or domestic partner; parent (natural or adoptive); child or sibling (natural or adopted, and by one or both parents); stepparent; stepchild; stepsibling; father-in-law, mother-in-law, daughter-in-law, son-in-law, brother-in-law, or sister-in-law; grandparent; grandchild or great-grandchild; spouse or domestic partner of a sibling, child, parent, grandparent, grandchild, or great-grandchild; any other person residing in the same household as the individual.

Federal False Claims Act: federal law that imposes liability on persons and companies who defraud governmental programs.

Federal Health Care Programs: means any plan or program that provides health benefits, whether directly through insurance or otherwise, which is funded directly, in whole or in part, by the United States Government. Federal health care programs include, but are not limited to, Medicare, Medicaid, managed Medicare/Medicaid, federal Employees Health Benefit Plan and TRICARE/CHAMPUS.

Independent Director: a director who (1) is not, and has not been within the last three years, an employee of Suffolk PPS or affiliated with Suffolk PPS, and does not have a Relative who is, or has been within the last three years, a Key Employee of Suffolk PPS or affiliated with Suffolk PPS; (2) has not received, and does not have a Relative who has received, in any of the last three fiscal years, more than ten thousand dollar (\$10,000) in direct compensation from Suffolk PPS or an individual or entity affiliated with Suffolk PPS (other than reimbursement for expenses reasonably incurred as a director or reasonable compensation for service as a director); and (3) is not a current employee or does not have a substantial financial interest in, and does not have a Relative who is a current officer of or has a substantial financial interest in, any entity that has made payments to, or received payments from, Suffolk PPS or an individual or entity affiliated with Suffolk PPS for property or services in an amount which, in any of the last three fiscal years, exceeds the lesser of twenty five thousand dollars (\$25,000) or two (2) percent of such entity's consolidated gross revenues. For purposes of this definition, "payment" does not include charitable contributions.

HIPAA: shall mean the Health Insurance Portability and Accountability Act of 1996 and the regulations promulgated by the United States Department of Health and Human Services thereunder, the Health Insurance Technology for Economic and Clinical Health Act, Title XIII of the American Recovery and Reinvestment Act of 2009 and the Omnibus Rule enacted in 2013 as may be amended from time to time.

Ineligible Person: means an individual or entity: (a) currently excluded, suspended, or debarred, or otherwise ineligible to participate in the Federal Health Care Programs or in federal procurement or non-procurement programs; (b) that has been convicted of a criminal offense that falls within the ambit of 42 U.S.C. § 1320a-7(a), but has not yet been excluded, debarred, suspended, or otherwise declared ineligible; or (c) has been restricted, terminated or excluded under the provisions of 18 NYCRR § 504.7(b)-(h), 18 NYCRR §515.3, or 18 NYCRR §515.

Key Employee: Any person who is in a position to exercise substantial influence over the affairs of Suffolk PPS in accordance with the "disqualified person" provisions of the excess benefit transactions applicable to public charities and social welfare organizations under Internal Revenue Code section 4958.

OIG: shall mean U.S. Department of Health and Human Services Office of Inspector General.

OMIG: shall mean New York State Office of the Medicaid Inspector General.

Personnel: Employees, executives, Governing Body members, vendors, independent contractors, consultants, and agents of the Suffolk PPS.

PPS Associates: shall mean all individuals and entities that participate in or do business with Suffolk PPS, including but not limited to (i) Suffolk PPS and its employees, independent contractors, vendors, agents, suppliers, executives and governing body members; and (ii) all Coalition Partners and their employees, independent contractors, vendors, agents, suppliers, executives and governing body members.

Related Business Interest: a Business Interest held by an organization, entity or by PPS Personnel, or his/her Family or Relative.

Related Party: A PPS Personnel, or his/her Family or Relative, holding a Related Business Interest that is an ownership or beneficial interest of 35% or more; or that is a direct or indirect ownership interest in a partnership or professional corporation exceeding 5%.

Related Party Transaction: Any transaction, agreement, or other arrangement in which a Related Party and Suffolk PPS are parties.

Risk Assessment: an objective assessment of risks that may be present for Suffolk PPS.

State Health Care Programs: means any plan or program that provides health benefits, whether directly, through insurance or otherwise, which is funded directly, in whole or in part, by the State of New York. New York State health care programs include, but are not limited to, New York Medicaid.

Suffolk PPS: shall mean SB Clinical Network IPA, LLC d/b/a Suffolk Care Collaborative as a performing provider system under DSRIP.

Suffolk PPS Compliance Officer: shall mean the individual appointed by the Governing Body to serve as the Suffolk PPS Compliance Officer.

Work Plan: listing of the planned audit initiatives throughout Suffolk PPS in a given year.

# **Suffolk Care Collaborative**

## **Policy #1**

### **Designation and Responsibilities of the Suffolk PPS Compliance Officer**

#### **GENERAL STATEMENT OF PURPOSE**

It is the policy of Suffolk PPS under the DSRIP program to ensure it conducts its business in compliance with all applicable laws, rules, regulations and other directives of the federal, state, and local governments, departments and agencies. This policy sets forth the designation and responsibilities of the Suffolk PPS Compliance Officer.

#### Policy:

Suffolk PPS shall at all times have an individual designated by the Governing Body as the Suffolk PPS Compliance Officer to run the day-to-day operations of the Compliance Program, to serve as the focal point for compliance activities, be responsible for coordinating and overseeing all aspects of the Compliance Program, and make regular reports to the Governing Body and the Compliance Committee. The Suffolk PPS Compliance Officer shall be an individual who does not serve as legal counsel to Suffolk PPS, is not subordinate to the general counsel or Chief Financial Officer, and does not act in any financial function for Suffolk PPS. The Governing Body shall re-appoint an individual to act as the Suffolk PPS Compliance Officer as necessary. In addition, the Suffolk PPS Compliance Officer shall be an employee of Suffolk PPS and will closely coordinate compliance functions with the Coalition Partner Compliance Officers.

The Suffolk PPS Compliance Officer shall be assisted, as needed, by legal counsel, the Compliance Committee, the Governing Body, and designees selected by the Suffolk PPS Compliance Officer. The Suffolk PPS Compliance Officer shall receive and respond to all complaints, reports and questions regarding compliance issues and have the authority to review all documents and other information relevant to compliance activities. The Suffolk PPS Compliance Officer shall have the duty to be actively involved in conducting and responding to appropriate compliance assurance reviews and audits, as well as ensuring that each component of the Compliance Program is fully operational and that all necessary remedial action is taken when necessary.

#### Procedure:

1. The Governing Body shall designate an individual to serve as the Suffolk PPS Compliance Officer for the term of such individual's employment or until the Governing Body, in its sole discretion, appoints another Suffolk PPS Compliance Officer. Notification of any change in designation of the Suffolk PPS Compliance Officer shall be made to all PPS Associates.
2. The Suffolk PPS Compliance Officer shall:
  - Be an individual who acts in an administrative role for Suffolk PPS, and is responsible for the development of the Compliance Program;
  - Have direct access to the Governing Body and legal counsel and shall have the authority to review all documents and other information relevant to compliance activities, including but not

limited to, patient records, billing records, marketing records and records concerning relationships with third parties, suppliers, vendors, and independent contractors;

- Review contracts and obligations that may contain payment provisions that could violate statutory or regulatory requirements related to compliance and the DSRIP program, and seek the advice of legal counsel when necessary;
  - Receive copies of the results of all internal audit reports and work closely with key administration to identify aberrant trends;
  - Coordinate internal and external compliance review and monitoring activities, including annual or periodic audits, and oversee any resulting corrective action;
  - Monitor PPS Associates who were previously reprimanded for compliance issues related to Suffolk PPS' compliance standards, policies and procedures;
  - Assess, review and revise as necessary, the Compliance Program and/or any policies and procedures promulgated thereunder, in response to corrective action plans, identified risk areas specific to Suffolk PPS, and changes in applicable federal, state, and local laws, rules, and regulations;
  - Develop, coordinate and participate in compliance education and training programs that focus on the elements of Suffolk PPS' Compliance Program;
  - Maintain logs of all HotLine calls, complaints and/or reports, including the nature of all investigations and results of such investigations.
  - Report to the Governing Body and the Compliance Committee regarding all aspects of the Compliance Program;
  - Oversee the maintenance of documentation of the following: audit results; logs of Compliance HotLine calls and their resolution; due diligence efforts regarding business transactions; records of education and training, including the number of training hours; disciplinary or corrective action; and modification and distribution of policies and procedures;
  - Be an active and integral member and serve as chair of the Compliance Committee and attend all Compliance Committee meetings; and
  - Implement Suffolk PPS' exclusion screening program, which shall include reviewing the OIG List of Excluded Individuals/Entities ("LEIE"), the OMIG Medicaid Terminations and Exclusions List, and other applicable sources of such information prior to hiring, engaging or otherwise transacting business with any person or entity and conducting such review no less than monthly or in accordance with applicable federal, state, and local laws, rules, and regulations, thereafter, to ensure their adequacy and effectiveness.
3. The Suffolk PPS Compliance Officer shall have the following authority in connection with his or her responsibilities as enumerated above:
- Review all documents and information relevant to Suffolk PPS' compliance.

- Independently investigate and review any matter brought to the attention of the Suffolk PPS Compliance Officer, Governing Body or Compliance Committee which directly relates to Suffolk PPS' compliance activities, the DSRIP program, and/or compliance with laws and regulations.
- Recommend disciplinary action to the Governing Body and/or Chief Executive Officer with respect to any personnel in connection with a violation of any aspect of Suffolk PPS' Code of Conduct, Compliance Program, policies and procedures and applicable laws and regulations.



## **Suffolk Care Collaborative**

### **Policy #2 Creation and Responsibilities of the Compliance Committee**

#### **GENERAL STATEMENT OF PURPOSE**

It is the policy of Suffolk PPS to establish a Compliance Committee that shall be responsible for monitoring the overall implementation and operation of Suffolk PPS' Compliance Program in concert with the Suffolk PPS Compliance Officer and the Governing Body.

#### Policy:

The Compliance Committee shall be an integral component in enabling Suffolk PPS to ensure that it conducts its business in compliance with all applicable laws, rules, regulations and other directives of the federal, state and local governments, departments and agencies.

#### Procedure:

1. The members of the Compliance Committee may be comprised of the individuals holding the following positions:
  - Suffolk PPS Compliance Officer
  - Chief Executive Officer
  - Chief Medical Officer
  - Chief Financial Officer
  - HIPAA Security Officer
  - HIPAA Privacy Officer
  
2. The Compliance Committee has been entrusted with the following responsibilities:
  - Overseeing and monitoring the implementation of the Suffolk PPS Compliance Program, including the development of written standards, policies, and procedures;
  - Establishing methods, such as periodic audits, to improve the Coalition Partners' performance and operations, and to reduce the vulnerability of Fraud and Abuse;
  - Revising the Suffolk PPS Compliance Program as needed, in light of changes in the law and in the standards and requirements of the DSRIP program promulgated by the DOH, and in response to any identified risk areas specific to the provider;
  - Developing, coordinating and participating in training and educational programs that focus on the components of the Compliance Program;
  - Review reports of compliance activities, including findings and recommendations of the Suffolk PPS Compliance Officer; and

- Developing communication methods to keep PPS Associates regularly updated regarding compliance activities.
3. The Suffolk PPS Compliance Officer shall serve as chairperson of the Compliance Committee and shall be responsible for and oversee the activities of the Compliance Committee.
  4. The Compliance Committee shall assist the Suffolk PPS Compliance Officer in ensuring that no prospective or current PPS Associates are excluded from participation in Medicare, Medicaid or other government programs or have otherwise been sanctioned by the federal or state government. This shall be accomplished by monitoring Suffolk PPS' screening programs, which shall include overseeing the review of the OIG List of Excluded Individuals/Entities ("LEIE"), the OMIG Medicaid Terminations and Exclusions List, and other applicable sources of such information prior to hiring, engaging or otherwise transacting business with any person or entity and conducting such review at least monthly thereafter, to ensure their adequacy and effectiveness.
  6. The Compliance Committee shall be responsible for reporting compliance issues promptly and accurately to the Governing Body and to ensure that compliance issues are adequately addressed.
  7. The Compliance Committee provides Suffolk PPS with increased oversight and shall have the authority to carry out its responsibilities which include:
    - a. Analyzing the legal requirements for compliance and specific risk areas for Suffolk PPS;
    - b. Assessing existing policies and procedures for these risk areas for incorporation into the Suffolk PPS Compliance Program;
    - c. Developing and/or revising policies and procedures to promote compliance with legal and ethical requirements based on evolving guidance from OMIG, OIG and other federal and state agencies;
    - d. Meeting on at least a quarterly basis to review Suffolk PPS' Compliance Programs and activities;
    - e. Overseeing the development and coordination of educational and training programs to ensure that all PPS Associates understand and comply with the applicable laws;
    - f. Conducting periodic reviews to determine that the Compliance Program's elements have been satisfied, e.g., appropriate dissemination of the Compliance Program's standards, ongoing educational programs, and internal investigations of alleged non-compliance.
    - g. Recommending additional controls to Suffolk PPS' internal systems designed to carry out Suffolk PPS' compliance standards, policies and procedures on a day-to-day basis.
    - h. Overseeing the operation of a system to solicit, evaluate and respond to compliance-related complaints and problems.
    - i. Reviewing and responding to reports of compliance-related matters and associated independent auditors.
    - j. Initiating and monitoring internal and external audits and investigations to ensure and promote compliance with the regulations, to identify any deficiencies and to implement corrective action if necessary.

- k. Promoting compliance with program requirements and detection of any potential violations by designing appropriate strategies and approaches.
- l. Providing assistance to the Suffolk PPS Compliance Officer regarding the investigation and review of any matter brought to its attention by the Suffolk PPS Compliance Officer relating directly to Suffolk PPS' compliance activities and/or compliance with applicable laws.
- m. Maintaining documentation of the following: audit results; compliance complaints and their resolution; corrective action plans; due diligence efforts regarding business transactions; records of employee training, including the number of training hours; disciplinary action; and modification and distribution of policies and procedures.
- n. Recommending disciplinary action to be taken, with respect to any PPS Associates, in connection with a violation of any aspect of the Code of Conduct, Compliance Program, policies and procedures and applicable laws, subject only to the override authority of the Governing Body.

## **Suffolk Care Collaborative**

### **Policy #3 Retention of Records**

#### **GENERAL STATEMENT OF PURPOSE**

It is the goal of Suffolk PPS to ensure that all documents related to compliance, the DSRIP program, business and medical records (the “Documents”) are maintained in a manner consistent with Suffolk PPS’ Compliance Program and all applicable federal, state and local regulations and guidelines as related to document retention.

#### Policy:

It is the Policy of Suffolk PPS to maintain, preserve, and protect against inadvertent and/or purposeful destruction, loss, unauthorized access, corruption, damage or unauthorized reproduction of all Documents. Suffolk PPS expects all PPS Associates to comply with this document retention policy.

#### Procedure:

1. Suffolk PPS will have a system of controls to ensure proper maintenance, retention and destruction of records.
2. PPS Associates shall not destroy or discard any records known to be the focus of a pending investigation or subject to a pending request.
3. PPS Associates shall contact their compliance officer or the Suffolk PPS Compliance Officer in the event of a potential violation or a question as to whether a record may be destroyed.
4. All PPS Associates shall keep accurate, timely, and complete records, reports, communications and other medical and business information and documentation relating to any activity, claims submission, arrangements or transactions relating to the operations of Suffolk PPS or the DSRIP program.
5. If documentation is incomplete, contradictory, or inaccurate, that documentation will not be used to report data and metrics under the DSRIP program.
6. In providing reports on data and metrics, PPS Associates will correctly enter data and ensure that reported data is accurate and truthful. Suffolk PPS will not tolerate any PPS Associates engaging in any improper reporting practice. No false or artificial entries shall be made for any purpose.
7. All reports submitted to governmental agencies, insurance carriers, or other entities will be accurately and honestly made. Deliberate or reckless misstatements to government agencies are prohibited. PPS Associates are encouraged to direct questions regarding records to their compliance officer.
8. Records will only be distributed to either (1) authorized personnel on a need-to-know basis; or (2) legally authorized individuals and in strict conformance with applicable federal, state, and local laws and regulations.

9. Whenever authorized government agency personnel (with appropriate identification) request access to any Suffolk PPS or DSRIP program information, legal counsel and/or the Suffolk PPS Compliance Officer shall be notified immediately, prior to granting access to the requested information
10. Medical record amendments and addendums shall be consistent with and compliant with federal, state and/or local laws, rules and regulations.
11. Records created in conjunction with the Compliance Program, including billing and other records created in the ordinary course of business will be preserved and maintained for ten (10) years from the fiscal year in which the record is created or ten (10) years from the date that a final determination is made by the payor (payment or appeal exhaustion) if applicable, WHICHEVER IS LATER to comply with the Federal False Claims Act or any other applicable law, rule or regulation. These records include any letter to or from the government, and documented compliance efforts and implementation processes to confirm the effectiveness of the program.
12. Records will be stored:
  - a. in an appropriate location taking into consideration confidentiality laws and regulations; and
  - b. in a manner that to the extent possible takes into consideration environmental elements known to compromise or deteriorate documents, such as water and fire.
14. Retrieval and access to medical records will be in accordance with Suffolk PPS' HIPAA program and policies and procedures, and applicable laws and regulations. Only persons with appropriate authorization to access such records shall be permitted to view, copy or remove such records.
15. Records will be destroyed in accordance with applicable laws and regulations. Records shall not be thrown into a trashcan or into any receptacle that is part of the public waste removal system.
16. Record destruction will be suspended immediately upon any indication of an administrative, civil or criminal investigation or court proceeding involving a particular record or document. Upon learning of such investigation or proceeding, the Suffolk PPS Compliance Officer or legal counsel shall notify all PPS Associates to preserve, and cease and avoid any destruction of, all documents and records, both hard copy and electronic, pertaining to that matter or subject. Destruction will be reinstated upon conclusion of the investigation or proceeding.

## **Suffolk Care Collaborative**

### **Policy #4 Conflicts of Interest and Related Party Transactions**

#### **GENERAL STATEMENT OF PURPOSE**

Suffolk PPS is committed to ethical business dealing conducted free from the influence of Conflicts of Interest. This policy sets forth the process by which Suffolk PPS avoids, identifies and manages possible and actual conflicts of interests including Related Party Transactions.

#### Policy:

PPS Associates have an affirmative duty to avoid conduct that could create a Conflict of Interest. In accordance with the Suffolk PPS Code of Conduct, PPS Associates are expected to perform their duties and responsibilities free from the influence of Conflicts of Interest and to devote their professional loyalty, time and energy to service on behalf of Suffolk PPS consistent with their role in the Suffolk PPS.

This affirmative duty also extends to conduct involving Suffolk PPS assets and information. PPS Associates have a duty to preserve Suffolk PPS assets, including time, material, supplies, equipment and information. All Suffolk PPS communication systems including but not limited to telephones, computers, e-mail, Internet access and voicemail are to be used primarily for Suffolk PPS business purposes and in accordance with Suffolk PPS HIPAA Policies & Procedures.

In addition, when acting on behalf of Suffolk PPS, a PPS Associate may not:

- (a) Use one's position or confidential information obtained in the course of working on behalf of Suffolk PPS for personal gain;
- (b) Release any information about transactions pending with Suffolk PPS to any person unless such information has been published or otherwise made generally available to the public;
- (c) Disclose information about any consideration or decisions, or any other information that might be prejudicial to the interests of Suffolk PPS;
- (d) Be involved with the selection of any vendor or contractor which is a Related Business Interest;
- (e) Be involved in Suffolk PPS decisions which might benefit him or her, his or her Family or Relative, or a Related Business Interest; or
- (f) Participate in Related Party Transactions, except pursuant to the process outlined below.

PPS Associates, including Coalition Partner Personnel who are not PPS Personnel, have a duty to disclose an actual or potential Conflict of Interest affecting Suffolk PPS. To ensure that Suffolk PPS avoids Conflicts of Interest and appropriately manages those that do arise, all PPS Associates must

cooperate with the processes outlined below.

If a PPS Associate is aware of any Conflict of Interest affecting Suffolk PPS that has not been reported according to this policy and the procedures outlined below, the individual has a duty to report it to a supervisor, the Suffolk PPS Compliance Officer, or via the confidential Compliance Hotline at (844) 599-8785, which is available 24 hours a day, 7 days a week, or <http://www.suffolkcare.ethicspoint.com>.

This policy does not apply to Coalition Partner Personnel who are not also PPS Personnel to the extent that their Business Interests, Conflicts of Interest, and/or interests in Related Party Transactions do not affect Suffolk PPS. Coalition Partner Personnel are expected to comply with their applicable organizational conflicts of interest policies.

Any questions about Conflicts of Interest should be directed to the Suffolk PPS Compliance Officer at [SCC-Compliance@stonybrookmedicine.edu](mailto:SCC-Compliance@stonybrookmedicine.edu). The Suffolk PPS Compliance Officer will coordinate the Conflicts of Interest procedures for Suffolk PPS as part of the Compliance Program.

Procedure:

1.a. Routine Disclosure of Conflicts of Interest: PPS Personnel

Any employee, director, officer, or other PPS Personnel who is in a position to influence the business or other decisions of Suffolk PPS is required to complete a Conflicts of Interest Disclosure form upon beginning employment or other Suffolk PPS affiliation, annually thereafter, and in a timely manner if the individual's Business Interests change with respect to Suffolk PPS (for example, by marriage, ownership, or divestiture). The forms shall be submitted to the Suffolk PPS Compliance Officer.

The Conflict of Interest disclosure form must be formatted to elicit a written statement identifying, to the best of the individual's knowledge, any actual or potential conflict of interest with Suffolk PPS or SB Clinical Network IPA, LLC; and/or a statement certifying that neither the individual nor his or her Family or Relative has an actual or potential Conflict of Interest (except as disclosed in the form). If disclosing a Conflict of Interest, the individual should describe the transaction(s) to which Suffolk PPS is a party in which the actual or potential Conflict of Interest arises, and the material facts of his or her interest in it.

1.b. Routine Disclosure of Conflicts of Interest: Coalition Partner Personnel

Coalition Partner Personnel who are also PPS Personnel must follow the procedures outlined for PPS Personnel.

Coalition Partner Personnel who are not also PPS Personnel must follow this policy and the procedures outlined here to the extent they have Business Interests, Conflicts of Interest, and/or interests in Related Party Transactions affecting Suffolk PPS. Such individuals should disclose their actual or potential Conflicts of Interest to the Suffolk PPS Compliance Officer, in accordance with this policy and procedure, in addition to following their own organization's applicable policy and procedure.

1.c. Related Party Transaction

If a Conflict of Interest in a Related Party Transaction arises in the course of Suffolk PPS work, or an individual (whether PPS Personnel or Coalition Partner Personnel) realizes a Conflict of Interest exists

in a Related Party Transaction (such as during the course of negotiations or a meeting), the conflicted individual shall immediately disclose the Conflict of Interest in the Related Party Transaction to the others involved in the transaction or meeting.

Upon disclosure and unless otherwise expressly approved by the Suffolk PPS Compliance Officer, designee, or the Governing Body, the individual shall recuse him/herself from participating in the transaction or matter, shall refrain from attempting to influence the deliberations or voting on the matter, and shall not be privy to any non-public information regarding the matter.

The individual with the interest in a Related Party Transaction shall follow up with the Suffolk PPS Compliance Officer as otherwise outlined in these procedures. The Suffolk PPS Compliance Officer shall notify the Governing Body or designated subcommittee of the material facts of the individual's interest in the Related Party Transaction and follow other applicable procedures. The recusal shall be documented in the records or minutes of the transaction or meeting in which the recusal was made. (See further about Related Party Transaction Management below.)

## 2. Reporting of Undisclosed Conflict of Interest

Any PPS Associate who becomes aware that he or she has an undisclosed actual or potential Conflict of Interest must promptly disclose this to the Suffolk PPS Compliance Officer or designee. If a PPS Associate is aware of an actual or potential Conflict of Interest affecting Suffolk PPS that has not been reported, he or she must report it to a supervisor, the Suffolk PPS Compliance Officer, the appropriate Coalition Partner Compliance Officer, or via the confidential Compliance HotLine at (844) 599-8785, or <http://www.suffolkcare.ethicspoint.com>, which is available 24 hours a day, 7 days a week.

### 3.a. Review of Disclosures: Directors and Officers [and Key Employees?]

In the case of disclosure forms submitted by directors and officers [and Key Employees?], the Suffolk PPS Compliance Officer will consult with the Governing Body secretary, and the designated subcommittee as appropriate, to review the disclosures to determine if a conflict of interest exists.

Any determination regarding conflicts of interest shall be documented, for example: in the minutes of the Governing Body or designated subcommittee where discussed, and/or noted in the individual's file, and/or by the Suffolk PPS Compliance Officer.

### 3.b. Review of Disclosures: Other PPS Personnel

The Suffolk PPS Compliance Officer will review or oversee the review of disclosures of possible conflicts, including matters disclosed in the Conflicts of Interest disclosure forms and any reported changes to those reports. The Compliance Officer or designee will take any action(s) deemed required or appropriate to determine if a Conflict of Interest exists, and if so, how to manage or resolve the matter. Such actions may include referral of the matter to the Governing Body or designated subcommittee as appropriate.

### 4.a. Management of Conflicts of Interest: Directors and Officers [and Key Employees?]

If it has been determined that a director or officer has a Conflict of Interest, the Suffolk PPS Compliance Officer and the Governing Body secretary will develop a management plan and forward it to the Governing Body chair with a recommendation for approval by the Governing Body. The proposed



plan may be revised by the Governing Board. Once the plan is approved, the Suffolk PPS Compliance Officer will notify the conflicted individuals of the Board's decision and the management plan.

Unless otherwise expressly approved by the Suffolk PPS Governing Body, management plans shall include immediate recusal from participation in the transaction or matter, refraining from attempting to influence deliberations or voting on the transaction or matter, and not being privy to any non-public information relating to the transaction or matter.

#### 4.b. Management of Conflicts of Interest: Other PPS Associates

If it has been determined that a PPS Associate has a Conflict of Interest, the Suffolk PPS Compliance Officer or designee will develop an appropriate management plan and notify the individual with the Conflict of Interest of the management plan. The Suffolk PPS Compliance Officer or designee may consult with the designated subcommittee, Governing Body, or other appropriate persons in developing the management plan.

Unless otherwise expressly approved by the Suffolk PPS Governing Body, management plans shall include immediate recusal from participation in the transaction or matter, refraining from attempting to influence deliberations or voting on the transaction or matter, and not being privy to any non-public information relating to the transaction or matter.

#### 4.c. Related Party Transaction Management

Related Party Transactions must not only be disclosed but must be approved by the Governing Body as fair, reasonable and in the best interest of the Suffolk PPS. If a Related Party of Suffolk PPS has a substantial financial interest in a Related Party Transaction, in addition to recusal of the conflicted individual as set forth above, the Governing Body must:

- (a) Before entering into the transaction, consider alternative transactions to the extent available;
- (b) Approve the transaction only in accordance with Suffolk PPS bylaws or applicable law and only if it finds that the transaction is fair, reasonable and in the best interest of the Suffolk PPS; and
- (c) Contemporaneously document in writing the basis for its approval of the transaction, including consideration of any alternative transactions.

No person with an interest (including compensation) in a Related Party Transaction may be present at or participate in deliberations or voting on the matter. The Governing Body may, however, request that the conflicted person provide information or answer questions prior to the deliberations or vote. The Governing Body will report its decision to the Suffolk PPS Compliance Officer.

#### 5. Monitoring Compliance with Conflict Management Plans

Each management plan should include a timeframe for the conditions of the plan and the designation of an individual or official responsible for monitoring compliance with the conflict of interest management plan: for example, the Suffolk PPS Compliance Officer, the Governing Board chair, or a designated subcommittee.

The designated monitor will report on compliance of the individual subject with the management

plan to the Governing Body or designated subcommittee.

Documentation of management plan compliance will be kept by the Suffolk PPS Compliance Officer.

## **Suffolk Care Collaborative**

### **Policy #5**

### **Compliance Training and Education**

#### **GENERAL STATEMENT OF PURPOSE**

A. It is the policy of Suffolk PPS, as part of its commitment to compliance with legal requirements, to ensure the training and education of all of its employees, executives, governing body members, vendors, consultants, independent contractors, and agents (“Personnel”) on compliance issues, expectations, and its compliance program operation.

B. It is further the policy of Suffolk PPS to ensure that its Coalition Partners ensure such training and education, either through the Suffolk PPS compliance program or through the Coalition Partner’s own compliance program, to its own employees, executives, governing body members, vendors, consultants, independent contractors, and agents (“Coalition Partner Personnel”). Suffolk PPS provides educational compliance material for this purpose but does not require that all Coalition Partners use it as long as they provide equivalent educational compliance content to their Coalition Partner Personnel.

#### Policy A:

Suffolk PPS shall ensure that all Personnel receive initial, annual and periodic training and that such training is made a part of the orientation for all new Personnel, in accordance with the following procedures.

#### Procedure A:

1. All Personnel will be educated and trained as to the scope and requirements of the Compliance Program.
2. All Personnel, regardless of responsibilities, shall review Suffolk PPS’ Code of Conduct, and shall be required to sign and date a statement that reflects his or her knowledge of, and commitment to, Suffolk PPS’ Code of Conduct.
3. Upon hiring or engagement, all new Personnel will be educated and trained as to the scope and requirements of the Compliance Program. All new personnel shall be required to sign and date a statement that reflects his or her knowledge of, and commitment to, the Code of Conduct.
4. All training activities will be appropriately documented and may be conducted through in-service training sessions or provided by outside resources.
5. Failure to comply with training requirements will result in disciplinary action up to and including suspension, termination, or exclusion from Suffolk PPS and the DSRIP program.

6. In addition to annual, periodic training and in-service programs, the Suffolk PPS Compliance Officer will disseminate any relevant new compliance information to all Personnel. Such information may include, but is not limited to, fraud alerts, advisory opinions, newsletters and bulletins.
7. All personnel are required as a condition of employment or continued relationship with Suffolk PPS, to attend periodic compliance training.
8. Compliance training topics may include, but are not limited to:
  - The Code of Conduct;
  - Compliance Program;
  - Suffolk PPS' policies and procedures;
  - Record maintenance and reporting;
  - Compliance reporting requirements;
  - Privacy and security of confidential information and data;
  - Suffolk PPS' commitment to compliance with all legal requirements and policies;
  - Prohibitions on paying or receiving remuneration to induce referrals;
  - Improper alterations to clinical or financial records;
  - Duty to report misconduct;
  - Non-intimidation and non-retaliation policies; and
  - Fraud and Abuse statutes and regulations.
9. The Suffolk PPS Compliance Officer will be responsible for facilitating any additional and/or remedial education and training that is required as part of the Compliance Program. Additional educational and training programs will also be developed for specific individuals or groups based upon job functions or identified compliance issues and risk areas.

Policy B:

Suffolk PPS shall ensure that all Coalition Partner personnel receive initial, annual and periodic training. Such training should be made a part of the orientation for all new personnel. Suffolk PPS shall ensure that the following procedures or their equivalents are followed with respect to Coalition Partner personnel, either through the Suffolk PPS compliance program or through the Coalition Partner's own compliance program. Suffolk PPS shall have a process in place to confirm that the compliance training and education was provided at each Coalition Partner.

Procedure B:

10. All Coalition Partner personnel will be educated and trained as to compliance program scope and requirements.
11. All Coalition Partner personnel, regardless of responsibilities, shall review the Code of Conduct, and shall be required to sign and date a statement that reflects his or her knowledge of and commitment to the Code of Conduct.
12. Upon hiring or engagement, all new Coalition Partner personnel will be educated and trained as to the scope and requirements of the Compliance Program. All new Coalition Partner personnel shall be required to sign and date a statement that reflects his or her knowledge of, and commitment to, the Code of Conduct.

13. All training activities will be appropriately documented and may be conducted through in-service training sessions or provided by outside resources.
14. Failure to comply with training requirements will result in disciplinary action up to and including suspension, termination, or exclusion from Suffolk PPS and the DSRIP program.
15. In addition to initial, annual, periodic training and in-service programs, the compliance program will disseminate any relevant new compliance information to all personnel. Such information may include, but is not limited to, fraud alerts, advisory opinions, newsletters and bulletins.
16. All personnel are required, as a condition of employment or continued relationship with the Coalition Partner, to attend periodic compliance training.
17. Compliance training topics *should* include:
  - Compliance expectations related to the DSRIP Program;
  - Coalition Partners' roles in DSRIP projects; and
  - How to report any fraud, waste or abuse of DSRIP funds.

Compliance training topics may include, but are not limited to:

- The Code of Conduct;
  - Compliance Program;
  - Suffolk PPS' and/or Coalition Partner policies and procedures;
  - Record maintenance and reporting;
  - Compliance reporting requirements;
  - Privacy and security of confidential information and data;
  - Commitment to compliance with all legal requirements and policies;
  - Prohibitions on paying or receiving remuneration to induce referrals;
  - Improper alterations to clinical or financial records;
  - Duty to report misconduct;
  - Non-intimidation and non-retaliation policies; and
  - Fraud and Abuse statutes and regulations.
18. The Suffolk PPS Compliance Officer or Coalition Partner compliance program will be responsible for facilitating any additional and/or remedial education and training that is required. Additional educational and training programs will also be developed for specific individuals or groups based upon job functions or identified compliance issues and risk areas.

## **Suffolk Care Collaborative**

### **Policy #6 Restricted Party Screening**

#### **GENERAL STATEMENT OF PURPOSE**

The OIG and OMIG were established to identify and eliminate fraud, waste, and abuse in health care programs which receive federal and/or state funding and to promote efficiency and economy in the operations of these programs. The OIG and OMIG carry out this mission through audits, inspections and investigations. In addition, the OIG has been given the authority to exclude from participation in Medicare, Medicaid and other federal health care programs individuals and entities who have engaged in fraud or abuse, and to impose civil monetary penalties for certain misconduct related to federal health care programs (sections 1128 and 1156 of the Social Security Act). The OMIG and the DOH have this authority with respect to health care programs which receive funding from the State of New York.

The effect of an OIG or OMIG exclusion from federal and/or state health care programs is that no federal and/or state health care program payment may be made for any items or services: (1) furnished by an excluded individual or entity; or (2) directed or prescribed by an excluded physician. This payment ban applies to all methods of federal and/or state program reimbursement, whether payment results from itemized claims, fee schedules or a prospective payment system. Any items and services furnished by an excluded individual or entity are not reimbursable under federal and/or state health care programs. In addition, any items and services furnished at the medical direction or prescription of an excluded physician are not reimbursable when the individual or entity furnishing the services either knows or should know of the exclusion. The prohibition applies even when the federal and/or state payment itself is made to another provider or supplier that is not excluded.

The prohibition against federal and/or state program payment for items or services furnished by excluded individuals or entities also extends to payment for administrative and management services not directly related to patient care, but that are a necessary component of providing items and services to federal and/or state program beneficiaries. This prohibition continues to apply to an individual even if he or she changes from one health profession to another while excluded. In addition, no federal and/or state program payment may be made to cover an excluded individual's salary, expenses or fringe benefits, regardless of whether the individual provided direct patient care.

#### Policy:

1. Suffolk PPS prohibits the employment, appointment or election of, execution of contracts with, provision of items or services at the direction or prescription of, and/or use of services provided by Ineligible Persons.
2. Suffolk PPS shall ensure that all PPS Associates are screened against the applicable Exclusion Lists prior to engaging their services as part of the hiring, election, credentialing or contracting process on a monthly basis.
3. Failure to provide Suffolk PPS the applicable data on a timely basis each month (e.g., employee names, dob, addresses, Social security numbers etc.), is grounds for termination from Suffolk PPS and the DSRIP program.

4. Suffolk PPS requires every PPS Associate to disclose his/her status as an Ineligible Person prior to hire, election, or appointment, or at any time thereafter during the course of its association with the Suffolk PPS. In applicable cases, Suffolk PPS may accept an affidavit or representations and warranties from an entity affirming that the entity has performed its own screening against the Exclusion Lists and neither the entity, nor any individuals, are ineligible. Such affirmation or representations and warranties must include a requirement that the entity notify Suffolk PPS of any changes in the exclusion or ineligibility status of any PPS Associate.
5. Whenever Suffolk PPS has actual notice that an employed, appointed, elected or contracted PPS Personnel has become an Ineligible Person, Suffolk PPS will ensure the removal of such Ineligible Person from responsibility for, or involvement in, the business operations related to any federal and/or state health care program or provision of items or services, directly or indirectly, to federal and/or state health care program beneficiaries and shall remove such person from any position for which the Ineligible Person's compensation, or the items or services furnished, ordered, or prescribed by the Ineligible Person, are paid in whole or part, directly or indirectly, by a federal and/or state funded health care program.

Whenever Suffolk PPS has actual notice that a Coalition Partner has employed, appointed, elected or contracted with an individual or entity that has become an Ineligible Person, Suffolk PPS will immediately inform the Suffolk PPS Compliance Officer and take immediate action according to the procedures outlined below.

Procedure:

1. Monthly screening of Suffolk PPS personnel and Coalition Partners will be performed for exclusion from any federal and/or state funded health care program. Coalition Partners shall conduct at least monthly screening of Coalition Partner personnel. Any individual found to be an Ineligible Person will be immediately removed from all activities that may, directly or indirectly, be billed to federal and/or state-funded health care programs under the DSRIP program. Documentation of the monthly screenings will be maintained by the Suffolk PPS Compliance Officer and/or his/her designee, or the Coalition Partner Compliance Officers as applicable. Documentation of such screenings shall be maintained for at least ten (10) years or in accordance with applicable laws, rules and regulations or changes to Suffolk PPS' policies and procedures.
2. Suffolk PPS shall screen all of its vendors associated with DSRIP against the Exclusion Lists. Any vendor found to be an Ineligible Person shall not be contracted with to conduct business with the Suffolk PPS. Documentation of the vendor screenings shall be kept by the Suffolk PPS Compliance Officer for at least ten (10) years or in accordance with applicable laws, rules and regulations or changes to Suffolk PPS' policies and procedures.
3. Any vendor found to be an Ineligible Person shall be immediately removed from all activities that may, directly or indirectly, be billed to federal and/or state-funded health care programs under the DSRIP program and will be terminated pursuant to its contractual provisions. Documentation of the monthly screenings shall be kept by the Suffolk PPS Compliance Officer for at least ten (10) years.
4. All PPS Associates are required to disclose immediately to the Suffolk PPS Compliance Officer any debarment, exclusion, suspension or other event that makes that person or entity an Ineligible Person.

5. Anyone who receives actual notice through a screening process or other means that a PPS Associate has become an Ineligible Person shall immediately notify the Suffolk PPS Compliance Officer. The Suffolk PPS Compliance Officer shall (1) notify the Ineligible Person; (2) remove such Ineligible Person from responsibility for, or involvement in, the provision of services or business operations related to DSRIP; and (3) remove such Ineligible Person from any position for which that person's compensation or the items or services furnished, ordered, or prescribed by the Ineligible Person are paid in whole or part, directly or indirectly, by the DSRIP program.
6. Failure of PPS Associates to comply with provisions of this policy may result in disciplinary action up to and including suspension or termination from employment, termination of a contractual relationship with Suffolk PPS, or other actions as authorized by other Suffolk PPS' Compliance Program and policies and procedures.
7. Upon identification of an Ineligible Person who has provided any services under DSRIP, the Suffolk PPS Compliance Officer, or his/her designee, shall develop a corrective action plan to determine if further action is necessary in accordance with any local laws, rules, regulations, standards, guidelines, policies and procedures relating to the DSRIP program.



## **Suffolk Care Collaborative**

### **Policy #7 Risk Assessment**

#### **GENERAL STATEMENT OF PURPOSE**

The purpose of this policy is to define the method by which compliance risks are assessed and reassessed. Compliance risk is mitigated through internal review processes. Monitoring and auditing provide early identification of program or operational weaknesses and substantially reduce exposure to regulatory risk and government-related lawsuits. This policy applies to all PPS Associates.

#### Policy:

Suffolk PPS is committed to the effective monitoring of compliance through its policies, procedures, and applicable laws. The Suffolk PPS Compliance Officer and the Compliance Committee will also be responsible for continued monitoring and auditing of compliance with this Compliance Program and with all applicable federal and state rules, laws, and regulations. Procedures for routine monitoring and auditing include initial testing for compliance, then validation of correction, and ongoing compliance performance. Education and training shall be provided to all PPS Associates as deemed appropriate by Suffolk PPS.

#### Procedure:

1. On a continuing basis, the Suffolk PPS Compliance Officer and the Compliance Committee will review and be knowledgeable concerning all new regulatory or legal requirements applicable to Suffolk PPS' operations and DSRIP program requirements.
2. In light of new developments, the Suffolk PPS Compliance Officer, in conjunction with the Compliance Committee, will review existing policies and procedures to ensure that Suffolk PPS is compliant with the requirements of federal and state laws. If necessary, the Suffolk PPS Compliance Officer and Compliance Committee will work to ensure that appropriate updates and corrective action is taken.
3. The Compliance Committee and the Suffolk PPS Compliance Officer will develop an annual auditing and monitoring Work Plan that, at minimum, addresses risk areas applicable to Suffolk PPS' operations and the DSRIP program. This Work Plan will be used to identify potential risks, to prioritize and develop monitoring plans, and to initiate and implement reviews throughout the applicable period. These reviews will help ensure that all PPS Associates are compliant with the applicable requirements of federal and state regulations, as well as Suffolk PPS' policies and procedures. The monitoring reviews will also assist in the evaluation of the effectiveness of the Compliance Program, including the review of education and training, the reporting mechanisms, investigations, record retention, and oversight activities. Audits will be conducted by internal or external auditors and will be overseen by the Suffolk PPS Compliance Officer.
4. Auditing must be conducted utilizing a variety of methods and techniques including, but not limited to:

- Reviewing reports on data and quality metrics.
  - Analyzing patterns and trend analyses.
  - Random sampling.
5. If problem areas are identified, it will be determined whether a focused review shall be conducted on a more frequent basis. If any areas are identified that require further training and education of PPS Associates or dissemination of additional information, these areas will be incorporated into the training and education program.
6. The results of the ongoing monitoring and auditing reviews shall be provided to the Compliance Committee and the Governing Body. Any deficiencies noted must require the submission, for compliance approval, of a corrective action plan which shall provide how the deficiency will be addressed timely and brought to resolution. Ongoing monitoring of the progress of any corrective action plan implementation shall be monitored by the Suffolk PPS Compliance Officer. Timely updates of progress made and/or challenges to bringing deficiencies to a resolution are provided to the Compliance Committee and the Governing Body as needed and on a periodic basis.
7. *Review of Use of DSRIP Payments.* At least annually, the Suffolk PPS Compliance Officer will request reviews to be conducted on Suffolk PPS' practices concerning the allocation and distribution of DSRIP funding among the Coalition Partners. These reviews will be conducted either by an outside consultant or other designee. These reviews will focus on a sample of distributions to Coalition Partners and emphasize:
- The accuracy and appropriateness of reported quality metrics and data to Suffolk PPS;
  - Compliance with the procedures set forth in the Compliance Program, or other Suffolk PPS policies and procedures;
  - Compliance with all applicable federal or state laws, rules and regulations; and
  - Compliance with DSRIP program requirements.

If the reviewer identifies any documentation issues, he or she will inform the Suffolk PPS Compliance Officer of the results of the review. A meeting will then be scheduled by the Suffolk PPS Compliance Officer to discuss and resolve the issue. If the reviewer identifies a pattern of deficient or problematic compliance practices, the Suffolk PPS Compliance Officer will inform the Compliance Committee and the Governing Body and further corrective action will be taken.

8. Suffolk PPS will:
- Review Suffolk PPS' standards and procedures to ensure that they are current, complete and accurate. If the standards and procedures are found to be ineffective or outdated, they shall be updated to reflect changes in governmental regulations or compendiums related to the DSRIP program.

- Conduct audits of Suffolk PPS' risk areas to identify areas of potential risk and to measure progress against the baseline audit results.
  - Review relationships and contractual arrangements with third party vendors, suppliers and contractors.
  - Periodically evaluate the nature, extent and frequency of its auditing activities in order to determine if modification of such practices is warranted based on factors including, but not limited to, identified risk areas, trends in internal reporting, and available resources.
9. The Suffolk PPS Compliance Officer, the Compliance Committee, or a designee, is required to conduct risk assessments at least annually and prioritize the results according to identified risk. The Suffolk PPS Compliance Officer determines which risk areas will most likely affect regulatory compliance, PPS performance, as well as the compliance of Suffolk PPS with its internal policies and procedures. The risk assessment takes into account:
- Program areas identified by the OIG and OMIG annual work plans to the extent applicable to the DSRIP program;
  - Other published reports or white papers identifying potential risks;
  - Results of prior internal monitoring reviews or ongoing audits of first tier, downstream, and related entities;
  - Results of reviews and advisory opinions by regulatory agencies; and
  - Ongoing analyses of quality metric and grievance data.
10. Interviews of key personnel will be conducted to gather information about areas of Suffolk PPS that may be potential risk areas and these areas will be placed on a "potential audit" list.
11. The Suffolk PPS Compliance Officer and the Compliance Committee are responsible for ensuring that risk assessments occur at least annually, to identify potential risks in the privacy and security compliance mandates of the DSRIP program, HIPAA, the HITECH Act, and other federal and state privacy and security laws, rules, and regulations.
12. The Suffolk PPS Compliance Officer, or a designee, will use professional judgment to list risks related to regulatory changes, internal investigations, complaints, and areas of high exposure to protected health information in order to document such risks. The Suffolk PPS Compliance Officer will use his/her expertise to prioritize the risk and develop an appropriate action plan.
13. The Suffolk PPS Compliance Officer, or a designee, will compile the individually identified risks into a master document to serve as the risk analysis and to develop actionable steps and timelines for creation of a Work Plan to effectuate the risk analysis. Work plans will be prioritized, implemented, and evaluated on an ongoing basis. Risk assessment reports will be provided to the Compliance Committee, and escalated to the Governing Body, as appropriate, on an ongoing basis.
14. The reviewers shall:

Revisions Board Approved 11/30/16

- a. Be qualified and experienced to adequately identify potential issues with the subject matter to be reviewed;
  - b. Be objective;
  - c. Have access to existing audit and health care resources, relevant personnel and all relevant areas of operation;
  - d. Present written evaluation reports to the Suffolk PPS Compliance Officer, the Compliance Committee and the Governing Body on a regular basis; and
  - e. Specifically identify areas where corrective actions are needed.
15. The Suffolk PPS Compliance Officer will periodically evaluate the nature, extent and frequency of its auditing activities in order to determine if modification of such practices is warranted based on factors including, but not limited to, identified risk areas, past history of deficiencies and enforcement actions, trends in internal reporting, and available resources.

## **Suffolk Care Collaborative**

### **Policy # 8**

## **Effective Lines of Communication and Internal Reporting of Compliance-Related Matters**

### **GENERAL STATEMENT OF PURPOSE**

Suffolk PPS is committed to the timely identification and resolution of all issues that may adversely affect its participation in the DSRIP program. Therefore, Suffolk PPS has established communication channels to report problems and concerns, including a Compliance HotLine number and website. The HotLine is available 24 hours, seven days a week. Individuals are encouraged to report any problem or concern, either anonymously or in confidence via the HotLine at (844) 599-8785, as they deem appropriate. Individuals also have the option of contacting the Suffolk PPS Compliance Officer directly via telephone at (631) 638-1393 or by email at [SCC-Compliance@stonybrookmedicine.edu](mailto:SCC-Compliance@stonybrookmedicine.edu).

The Compliance HotLine is an avenue by which PPS Associates or other interested parties may report any issue or question associated with any of Suffolk PPS' policies, conduct, practices or procedures believed by the individual to be a potential violation of criminal, civil or administrative law, or to constitute unethical conduct.

All individuals are protected from non-intimidation and non-retaliation for good faith participation in Suffolk PPS' Compliance Program. Failure to report a compliance issue may be grounds for disciplinary action.

Examples of potential compliance issues include, but are not limited to:

- Inappropriate coding
- Inappropriate charging/billing
- Inappropriate claims submission
- Overpayments
- Medical necessity issues
- False or fraudulent documentation issues
- HIPAA or patient privacy issues
- Failure to follow policies and procedures
- Failure to follow Code of Conduct
- Drug diversion (illegal sale or redistribution of drugs)

Revisions Board Approved 11/30/16

- Coalition Partner relationship issues such as potential violations of the Stark law or Anti-Kickback statute
- Potential violations of the Anti-Kickback statute related to vendors (e.g., inappropriate gifts)
- Maintaining relationships with PPS Associates excluded from the federal or state health care programs
- Inappropriate Conflict of Interest
- Retaliation or Intimidation

Policy:

1. Suffolk PPS will maintain a confidential Compliance HotLine that individuals may use to report problems and concerns, which may be done anonymously.
2. Individuals who report problems and concerns via the Compliance HotLine or to the Suffolk PPS Compliance Officer in good faith are protected from any form of retaliation, intimidation and/or retribution.
3. Information concerning the Compliance HotLine will be posted in prominent common areas of Suffolk PPS facilities as applicable.
4. All individuals who receive compliance inquiries are expected to act with the utmost discretion and integrity in assuring that information received is acted upon in a reasonable and proper manner. Everyone who receives or is assigned responsibilities for assisting with compliance inquiries shall keep the inquiries confidential to the extent possible.

Procedure:

1. The Suffolk PPS Compliance Officer will ensure that all compliance inquiries are addressed in an appropriate and timely manner, as well as in accordance with this and all related policies and procedures. No attempt will be made to identify a caller to the Compliance HotLine who requests anonymity. Whenever callers disclose their identity, it will be held in confidence to the fullest extent practical.
2. Upon receipt of the disclosure, the Suffolk PPS Compliance Officer, or his/her designee, shall gather all relevant information from the disclosing individual where practicable. The Suffolk PPS Compliance Officer or his/her designee shall make a preliminary, good faith inquiry into the allegations to ensure all the necessary information has been obtained and to determine whether a further review should be conducted.
3. Suffolk PPS shall conduct an internal review of the allegations and ensure that proper follow-up is conducted for any disclosure that is sufficiently specific, so that it reasonably permits a determination of the appropriateness of the alleged improper practice and provides an opportunity for taking corrective action.

Revisions Board Approved 11/30/16

4. Calls will be logged upon receipt and placed in the care and custody of the Suffolk PPS Compliance Officer.
5. The investigation and response process may involve other departments, as appropriate, for advice and/or further investigation.
6. The Suffolk PPS Compliance Officer will communicate matters deemed potentially unlawful to legal counsel for determination.
7. The Suffolk PPS Compliance Officer will periodically report on Compliance HotLine activity to the Governing Body.

## **Suffolk Care Collaborative**

### **Policy #9 Responding to Compliance Reports, Investigations, and Corrective Action**

#### **GENERAL STATEMENT OF PURPOSE**

Suffolk PPS is committed to ensuring that it implements a system for responding to compliance issues as they are raised; for investigating potential compliance problems; responding to compliance problems as identified in the course of self-evaluations and audits and correcting such problems promptly and thoroughly. Suffolk PPS will implement policies and procedures and systems as necessary to reduce the potential for recurrence.

#### Policy:

It is the policy of Suffolk PPS to investigate all reported concerns promptly and confidentially to the extent possible, or any report it receives of a suspected violation or non-compliance to determine if a material violation of any law, rule or the DSRIP program, or the requirements of the Compliance Program has occurred and to initiate corrective action, if necessary.

#### Procedure:

1. Upon receiving a report of possible non-compliance, the Suffolk PPS Compliance Officer shall bring such report to the attention of the Compliance Committee, the Governing Body and legal counsel, as necessary.
2. The Suffolk PPS Compliance Officer and legal counsel may solicit the support of internal or external auditors, and internal and external resources with knowledge of the applicable laws and/or regulations and required policies, procedures or standards that relate to the specific issue in question.
3. All persons and entities involved in an investigation shall function under the direction of the Suffolk PPS Compliance Officer and shall be required to submit relevant evidence, notes, findings and conclusions to the Suffolk PPS Compliance Officer. When appropriate, Suffolk PPS Compliance Officer will involve legal counsel to conduct an inquiry.
4. Cooperation from all PPS Associates is expected in such inquiries. The cooperation of the reporting individual may be sought during any investigation.
5. The objective of any inquiry shall be to determine whether, first, a compliance issue exists or if there has been a violation of the Compliance Program or applicable legal rules. The Suffolk PPS Compliance Officer shall identify individuals who may have knowledge of the facts surrounding the reported conduct and/or who were involved in the conduct which led to the report. The investigative techniques used shall be implemented in order to facilitate the correction of any practices not in compliance with applicable laws and/or regulations and to promote, where



necessary, the development and implementation of policies and procedures to ensure future compliance.

6. If an issue or violation does exist, the investigation will attempt to determine its cause, so that appropriate and effective corrective action can be instituted. Steps to be followed in undertaking the investigation may include:
  - Notification of the Governing Body by the Suffolk PPS Compliance Officer of the nature of the complaint.
  - All complaints shall be investigated as soon as reasonably possible.
  - The scope and process used during the investigation shall be determined by the Suffolk PPS Compliance Officer, the Governing Body and/or by legal counsel as applicable.
  - Any investigation may include as applicable:
    - If known, an interview of the reporting individual and other persons who may have knowledge of the alleged problem or process and a review of the applicable laws and/or regulations which might be relevant to, or provide guidance with respect to, the appropriateness or inappropriateness of the activity in question, to determine whether or not a problem actually exists.
    - Interviews of the person or persons who appeared to play a role in the process in which the problem exists. The purpose of the interview will be to determine the facts related to the reported activity.

Any concerns about the Suffolk PPS Compliance Officer, the Compliance Committee members or the Committee's actions or determinations may be brought directly to the Governing Body.

7. All PPS Associates will be required to cooperate in such investigations.
8. Whenever a compliance problem is uncovered, regardless of the source, the Suffolk PPS Compliance Officer will ensure that appropriate and effective corrective action is implemented. The Suffolk PPS Compliance Officer will work in consultation with the Compliance Committee, the Governing Body, and legal counsel (if necessary).
9. Any corrective action and response implemented must be designed to ensure that the violation or problem does not re-occur (or reduce the likelihood of reoccurrence) and be based on an analysis of the root cause of the problem. The corrective action plan shall include, whenever applicable, a follow-up review of the effectiveness of the corrective action following its implementation, and an update to any compliance policies and procedures as necessary. If such a follow-up review establishes that the corrective action plan has not been effective, then additional or new corrective actions must be implemented. Corrective actions may include, but are not limited to, the following:
  - Creating new compliance or business procedures, or modifying and improving existing procedures, to ensure that similar errors will not reoccur;

- Informing and discussing with the offending individuals both the violation and how it shall be avoided in the future;
  - Working with PPS Associates to modify or correct procedures and practices;
  - Facilitating remedial training and education (formal or informal) to ensure PPS Associates comprehend the applicable rules and regulations, existing procedures or policies, and any new or modified procedures that may have been instituted;
  - Refunding any and/or recouping any and all overpayments of DSRIP funds;
  - Disciplining or terminating the offending PPS Associates, if necessary and as appropriate; and
  - Voluntary disclosure to an appropriate governmental agency.
10. All PPS Associates are expected to comply with Suffolk PPS' Code of Conduct and be aware of Suffolk PPS' Compliance Program. If the responses to violations instituted by the Suffolk PPS Compliance Officer, as outlined above, are inadequate to correct a pattern of non-compliance, and if the Suffolk PPS Compliance Officer concludes that a violation of the Compliance Program has occurred, appropriate discipline and/or corrective action, including suspension, termination or exclusion from Suffolk PPS and/or the DSRIP program may be imposed. The Suffolk PPS Compliance Officer will report all such matters to the Governing Body and the Compliance Committee, which will be responsible for recommending appropriate action.
11. The imposition of disciplinary or corrective action shall be based on the misconduct, condoning of unlawful actions by others, retaliation against those who report suspected wrongdoing, or other violations of the Compliance Program. Disciplinary or corrective action may result for instances where individuals:
- Fail to report suspected problems or violations, including instances where PPS Associates shall have known about a policy violation;
  - Participate in non-compliant behavior;
  - Encourage, direct, facilitate, or permit, either actively or passively, non-compliant, unlawful, and/or unethical behavior in connection with Suffolk PPS' operations and/or the DSRIP program;
  - Fail to perform any obligation or duty relating to compliance with the Compliance Program or applicable laws or regulations;
  - Fail as supervisors, managers, executives, and/or governing body members to correct foreseeable compliance violations of subordinates;
  - Refuse to cooperate with an investigation conducted by Suffolk PPS;
  - Intimidate or retaliate against an individual that reported a compliance violation or participated in a compliance investigation;

- Intentionally make false compliance reports or report in bad faith;
  - Violate the Compliance Program; or
  - Violate Suffolk PPS' HIPAA program and policies and procedures.
12. Every violation will be considered on a case-by-case basis to determine the appropriate sanction. Disciplinary or corrective actions for violations shall be fairly and firmly enforced and will be administered in an appropriate and consistent manner. Disciplinary and/or corrective action may include, without limitation, one or more of the following:
- Verbal counseling;
  - Issuing an oral or written warning;
  - Entering into and monitoring a corrective action plan. The corrective action plan may include requirements for individual or group remedial education and training, consultation, proctoring and/or concurrent review;
  - Probation for a specified period;
  - Suspension for a specified period;
  - Modification of assigned duties; or
  - Immediate exclusion from Suffolk PPS, the DSRIP program and/or immediate termination.
13. If the results of the follow-up audit reflect that a PPS Associate is still not in compliance with the Compliance Program or applicable rules, regulations, or laws, then, in accordance with the procedures above, Suffolk PPS may require participation in additional remedial training and education sessions and/or additional audits, as necessary. Further, non-compliance after an audit will result in additional discipline or corrective action being imposed.

## **Suffolk Care Collaborative**

### **Policy #10 Responding to a Search Warrant or Governmental Subpoena**

#### **GENERAL STATEMENT OF PURPOSE**

It is the policy of Suffolk PPS to cooperate with government officials who may conduct investigations of Suffolk PPS, except to the extent prohibited by law.

#### Policy:

Suffolk PPS wishes to cooperate with these officials, in an orderly manner and in a way that does not violate any privileged or confidential relationship.

#### Procedure:

1. If a PPS Associate receives a subpoena, civil investigative demand, summons or letter request for information or documents related to the DSRIP program and/or the New York State Medicaid program, the Suffolk PPS Compliance Officer must be contacted immediately.
2. If any representative or law enforcement agency contacts a PPS Associate regarding anything related to Suffolk PPS and/or the DSRIP program, the Suffolk PPS Compliance Officer must be contacted immediately.
3. In no event may PPS Associates respond to a request to disclose documents that are the property of Suffolk PPS without first speaking with the Suffolk PPS Compliance Officer.
4. If a response is given to a request for information from government regulatory agencies, the response must be accurate and complete. It is Suffolk PPS' policy to comply with the law and to cooperate with reasonable demands made during the course of a legitimate governmental investigation or inquiry.
5. PPS Associates must preserve documents and not destroy or alter documents that are the subject of a government investigation. Such action will result in immediate termination and/or exclusion as well as possible criminal prosecution. PPS Associates will take affirmative steps, if necessary, to ensure the preservation of documents that are the subject of any government inquiry.
6. Suffolk PPS shall not prohibit individuals from speaking with government agents, but such individuals are under no legal obligation to answer questions asked by the government agents, and may choose to refrain from communicating with the agents unless required by law to do so. PPS Associates are entitled to representation by their own counsel if they desire. If a PPS Associate chooses to speak with the agents, he or she shall be careful that statements made to the agents are objective and accurate, not conjecture.

## **Suffolk Care Collaborative**

### **Policy #11 Identification and Return of Medicaid Overpayments**

#### **GENERAL STATEMENT OF PURPOSE**

It is the policy of Suffolk PPS to ensure timely and accurate reporting of overpayments it receives from Medicare, Medicaid, and other governmental or private payers in accordance with applicable law.

#### Policy:

The proper allocation of funds plays a critical role in maintaining Suffolk PPS' integrity in the DSRIP program. As such, Suffolk PPS is committed to ensuring that all DSRIP payments are received, distributed and retained in accordance with applicable laws, rules and regulations.

Failing to report or return overpaid funds within the required timeframe may result in liability under the False Claims Act and civil monetary penalties up to and including exclusion from participation in federal health care programs. The False Claims Act ("FCA") makes it a violation when one "knowingly and improperly avoids or decreases an obligation" to pay money to the United States. An "obligation" is defined as "an established duty, whether or not fixed...arising from the retention of any overpayment." 31 U.S.C. §3729(b)(3).

As of March 23, 2010, the Patient Protection and Affordable Care Act ("PPACA"), establishes an obligation under the FCA to report and return identified Medicare or Medicaid overpayments within sixty (60) days after the date on which the overpayment was identified or the date any corresponding cost report is due, whichever is later. Overpayments under PPACA are defined as any funds that a person receives or retains under Medicare or Medicaid to which the person, after applicable reconciliation, is not entitled. Treble damages and monetary penalties can be imposed under the FCA for the knowledge of and improper failure to return any overpayment.

#### Procedures:

1. Overpayments found during routine monitoring shall be considered identified overpayments for purposes of this policy on the date verified as an overpayment.
2. Overpayments found during internal audits and investigations shall be considered identified overpayments for purposes of this policy on the date of the final report.
3. Unless otherwise stated in writing by the payer, overpayments identified by the payer shall be refunded within sixty (60) days from the receipt of written notice of such overpayment. However, if the payer's findings of overpayment are appealed, Suffolk PPS shall comply with the payer's appeal process, which may or may not require a refund during the appeal period.
4. Before any disclosure is made, the Suffolk PPS Compliance Officer or his/her designee will investigate all relevant facts and circumstances surrounding an overpayment, including:

- The reason for the overpayment;
  - The extent and scope of the billing error(s);
  - Compliance with applicable federal and state laws and regulations;
  - The appropriateness of the corrective actions taken;
  - Disciplinary action, if applicable;
  - Other corrective measures, if any; and
  - Future monitoring processes to prevent recurrence of the overpayment.
5. The manner in which an overpayment is returned to the Medicare or Medicaid programs will vary from case to case, as will the level of voluntary disclosure regarding the causes of the overpayments. Depending on the situation, overpayments may be returned:
- Electronically to the appropriate fiscal intermediary;
  - Directly to the appropriate fiscal intermediary; and
  - Through the self-disclosure protocol established by OMIG for Medicaid overpayments.

## **Suffolk Care Collaborative**

### **Policy # 12 Discipline and Corrective Action**

#### **GENERAL STATEMENT OF PURPOSE**

Suffolk PPS is committed to achieving the highest standards of ethics and compliance with applicable laws, rules and regulations as related to the DSRIP program. Suffolk PPS expects all PPS Associates to adhere to its Code of Conduct.

#### Policy:

If violations occur related to the Compliance Program, Code of Conduct and the accompanying policies and procedures, disciplinary action shall result as described herein.

#### Procedure:

1. If the Suffolk PPS Compliance Officer concludes that a violation of the Code of Conduct and/or the Compliance Program has occurred, appropriate discipline and/or corrective action, including suspension, termination or exclusion from Suffolk PPS and/or the DSRIP program may be imposed. The Suffolk PPS Compliance Officer will report all such matters to the Governing Body and the Compliance Committee, which will be responsible for recommending appropriate action.
2. The imposition of disciplinary or corrective action shall be based on the individual or entity's misconduct, condoning of unlawful actions by others, retaliation against those who report suspected wrongdoing, or other violations of the Code of Conduct and the Compliance Program. Disciplinary or corrective action may result from instances where a PPS Associate:
  - Fails to report suspected problems or violations, and should have known of a policy violation;
  - Participates in non-compliant behavior;
  - Encourages, directs, facilitates, or permits, either actively or passively, non-compliant, unlawful, and/or unethical behavior in connection with Suffolk PPS' operations and/or the DSRIP program;
  - Fails to perform any obligation or duty relating to compliance with the Code of Conduct and the Compliance Program or applicable laws or regulations;
  - Fails as supervisors, managers, executives, and/or governing body members to correct foreseeable compliance violations of subordinates;
  - Refuses to cooperate with an investigation conducted by Suffolk PPS;

Revisions Board Approved 11/30/16

- Refuses to assist in the resolution of compliance issues;
  - Intimidates or retaliates against an individual that reported a compliance violation or participated in a compliance investigation;
  - Intentionally makes false compliance reports in bad faith; or
  - Violates the Compliance Program and/or the Suffolk PPS' HIPAA program and policies and procedures.
3. Every violation will be considered on a case-by-case basis to determine the appropriate sanction. Disciplinary or corrective actions for violations shall be fairly and firmly enforced and will be administered in an appropriate and consistent manner. Disciplinary and/or corrective action may include, without limitation, one or more of the following:
- Verbal counseling;
  - Issuing an oral or written warning;
  - Entering into and monitoring a corrective action plan. The corrective action plan may include requirements for individual or group remedial education and training, consultation, proctoring and/or concurrent review;
  - Probation for a specified period;
  - Suspension for a specified period;
  - Modification of assigned duties; or
  - Immediate exclusion from Suffolk PPS, the DSRIP program and/or immediate termination of employment or contractual relationship with Suffolk PPS.



## **Suffolk Care Collaborative**

### **Policy #13 Non-Intimidation and Non-Retaliation**

#### **GENERAL STATEMENT OF PURPOSE**

To establish a policy for Suffolk PPS that prohibits intimidation of and/or retaliation against anyone who participates in good faith in Suffolk PPS' Compliance Program.

#### Policy:

It is the policy of Suffolk PPS to prohibit intimidation of and/or retaliation against any individual who participates in good faith in Suffolk PPS' Compliance Program. Good faith participation in the Compliance Program includes, but is not limited to, reporting potential issues, investigating issues, self-evaluations, audits and remedial actions, and reporting to appropriate officials as provided in sections seven hundred forty (740) and seven hundred forty-one (741) of the New York State Labor Law.

#### Procedure:

1. Any individual who believes that he or she has been subject to intimidation and/or retaliation for good faith participation in Suffolk PPS' Compliance Program must immediately report such intimidation and/or retaliation to the Suffolk PPS Compliance Officer, either in person, via the HotLine at (844) 599-8785, online at <http://www.suffolkcare.ethicspoint.com/>, or by email to SCC-Compliance@stonybrookmedicine.edu.
2. All reports of intimidation and/or retaliation relating to good faith participation in Suffolk PPS' Compliance Program will be investigated by the Suffolk PPS Compliance Officer or his/her designee. Upon conclusion of the investigation, the Suffolk PPS Compliance Officer will make a report and recommendation for discipline, where appropriate, to the Governing Body or designated Board Committee. The Suffolk PPS Compliance Officer and the Governing Body/designated Board Committee may confer and agree upon the discipline to be imposed.
3. The possible sanctions that may be imposed on any individual who is found to have intimidated and/or retaliated against another individual include, but are not limited to, termination of employment, termination of contractual relationship, and exclusion from Suffolk PPS and/or the DSRIP program.

## **Suffolk Care Collaborative**

### **Policy #14**

#### **Detecting and Preventing Fraud, Waste, Abuse and Misconduct**

##### **GENERAL STATEMENT OF PURPOSE**

It is the obligation of Suffolk PPS to prevent and detect any actions within the organization that are illegal, violative of federal and state health care programs, fraudulent or in violation of any applicable Suffolk PPS policy.

To this end, Suffolk PPS maintains a vigorous Compliance Program and strives to educate PPS Associates regarding Suffolk PPS policies, the requirements, rights and remedies of federal and state laws governing the submission of false claims, including the rights of PPS Associates to be protected as whistleblowers under such laws and the importance of submitting accurate claims and reports to federal and state governments.

##### Policy:

Suffolk PPS prohibits the violation of federal and state law, applicable Suffolk PPS policy and the knowing submission of a false claim for payment in relation to a federal or state-funded health care program. Such a submission violates the federal False Claims Act, as well as various state laws, and may result in significant civil and/or criminal penalties. Any individual who in good faith reports any action or suspected action taken by or within the organization in violation of these laws or that is otherwise illegal, fraudulent or in violation of any applicable policy of Suffolk PPS shall not suffer intimidation, harassment, discrimination or other retaliation or, adverse consequences related to employment or contractual relationship with Suffolk PPS.

##### Procedures:

###### **A. Suffolk PPS Fraud, Abuse and Misconduct Detection, Prevention and Protection**

To assist Suffolk PPS in meeting its legal and ethical obligations, Suffolk PPS expects and encourages any PPS Associate who is aware of or reasonably suspects conduct that is illegal, against Suffolk PPS policy or in furtherance of the preparation or submission of a false claim or report or any other potential fraud, waste, or abuse related to a federal or state-funded health care program, to report such information to his/her supervisor, compliance officer, or to call the confidential Compliance Hot-Line at (844) 599-8785 which is available 24 hours a day, 7 days a week, or report online at <http://www.suffolkcare.ethicspoint.com/>. Where appropriate, the Suffolk PPS Compliance Officer will report the issue to the Governing Body or designated committee.

Any individual who reports such information in good faith will have the right and opportunity to do so anonymously and will be protected against intimidation, harassment, discrimination or other retaliation or, in the case of employees, adverse employment consequences. Suffolk PPS also prohibits anyone from intimidating an individual from disclosing compliance concerns. Suffolk PPS will

immediately investigate and take appropriate action with respect to all suspected acts of retaliation or intimidation. Reports will be kept confidential to the extent permitted by law.

Suffolk PPS obligates itself to swiftly and thoroughly investigate any reasonable, credible report of fraud, waste, abuse or misconduct or any reasonable suspicion thereof through Suffolk PPS' Compliance Program.

Suffolk PPS has the right to take appropriate action against a PPS Associate who has participated in a violation of law or Suffolk PPS policy. The failure to comply with the laws and/or to report suspected violations of state or federal law can have very serious consequences for Suffolk PPS and for any affiliated individual who fails to comply or report. As a PPS Associate, you have an obligation to report concerns using the internal methods listed above and to understand the options available should your concerns not be resolved.

Suffolk PPS ensures that PPS Associates are educated on the importance of this policy on a periodic basis through written or oral communications and by distributing a copy of this policy via Suffolk PPS' public website.

The following list of relevant state and federal laws is illustrative but non-exhaustive.

## **B. State and Federal Fraud and Abuse Detection, Prevention and Employee Protection**

### **I. FEDERAL LAWS**

#### **False Claims Act (31 U.S.C. §§ 3729-3733)**

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

Any person who (1) knowingly presents, or causes to be presented, to an officer or employee of the United States Government or a member of the Armed Forces of the United States a false or fraudulent claim for payment or approval; (2) knowingly makes, uses or causes to be made or used, a false record or statement to get a false or fraudulent claim paid or approved by the Government; (3) conspires to defraud the Government by getting a false or fraudulent claim paid or approved by the Government; ...or (7) knowingly makes, uses or causes to be made or used, a false record or statement to conceal, avoid, or decrease an obligation to pay or transmit money or property to the Government, is liable to the United States Government for a civil penalty of not less than \$10,781 and not more than \$21,563, plus 3 times the amount of damages which the Government sustains because of the act of that person...

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

While the FCA imposes liability only when the claimant acts "knowingly," it does not require that the person submitting the claim have actual knowledge that the claim is false.

A person who acts in reckless disregard or in deliberate ignorance of the truth or falsity of the information also can be found liable under the Act.

In sum, the FCA imposes liability on any person who submits a claim to the federal government that he or she knows is false. An example may be a physician who submits a bill to Medicare for medical services she knows she has not provided. The FCA also imposes liability on an individual who may knowingly submit a false record in order to obtain payment from the government. An example of this may include a government contractor who submits records that he knows are false and that indicate compliance with certain contractual or regulatory requirements.

The third area of liability includes those instances in which someone may obtain money from the federal government to which he may not be entitled and then uses the false statements or records in order to retain the money. An example of this so-called “reverse false claim” may include a hospital that obtains interim payments from Medicare throughout the year and then knowingly files a false cost report at the end of the year in order to avoid making a refund to the Medicare program.

In addition to its substantive provisions, the FCA provides that private parties may bring an action on behalf of the United States, 31 U.S.C. § 3730 (b). These private parties, known as “qui tam relators,” may share in a percentage of the proceeds from an FCA action or settlement.

Section 3730(d)(1) of the FCA provides, with some exceptions, that a qui tam relator, when the Government has intervened in the lawsuit, shall receive at least 15 percent but not more than 25 percent of the proceeds of the FCA action depending upon the extent to which the relator substantially contributed to the prosecution of the action. When the Government does not intervene, section 3730(d)(2) provides that the relator shall receive an amount that the court decides is reasonable and shall not be less than 25 percent and not more than 30 percent.

### **Federal Administrative Remedies for False Claims and Statements Act (31 U.S.C. §§ 3801-3812)**

Under the federal Administrative Remedies for False Claims and Statements Act, any person who makes, presents, or submits (or causes to be made, presented, or submitted) a claim that the person knows, or has reason to know, (i) is false, fictitious, or fraudulent; (ii) includes or is supported by any written statement which asserts a material fact which is false, fictitious, or fraudulent, or that omits a material fact (which the person has a duty to include and the statement is false, fictitious, or fraudulent as a result of such omission); or (iii) is for payment for the provision of property or services which the person has not provided as claimed may be subject to, in addition to any other remedy, a civil penalty of not more than \$10,781 for each claim or statement. The violator may also be subject to an assessment of two (2) times the amount of such claim.

An additional penalty of up to \$10,781 may be imposed on any person who makes, presents, or submits (or causes to be made, presented, or submitted) a written statement that (i) the person knows, or has reason to know (a) asserts a material fact which is false, fictitious, or fraudulent, or (b) omits a material fact (which the person has a duty to include) and the statement is false, fictitious, or fraudulent as a result of such omission; and (ii) contains or is accompanied by an express certification or affirmation of the truthfulness and accuracy of the contents of the statement.

### **Civil Monetary Penalties law (42 U.S.C. § 1320-7a)**

The Civil Monetary Penalties Law authorizes the imposition of substantial civil money penalties against any person, including an organization, agency, or other entity, that engages in activities including, but not limited to: (i) knowingly presenting or causing to be presented, a claim for services not provided as claimed or which is otherwise false or fraudulent in any way; (ii) knowingly giving or causing to be given false or misleading information reasonably expected to influence the decision to

discharge a patient; (iii) offering or giving remuneration to any beneficiary of a federal health care program likely to influence the receipt of reimbursable items or services; (iv) arranging for reimbursable services with an entity which is excluded from participation from a federal health care program; (v) knowingly or willfully soliciting or receiving remuneration for a referral of a federal health care program beneficiary; or (vi) using a payment intended for a federal health care program beneficiary for another use. Penalties depend on specific conduct involved, and the Office of the Inspector General may seek different amounts and assessments based on the type of violation at issue.

## **II. NEW YORK STATE LAWS**

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

The New York False Claims Act closely tracks the federal FCA. It imposes penalties and fines on individuals and entities that file false or fraudulent claims for payment from any state or local government, including health care programs such as Medicaid. The penalty for filing a false claim is \$6,000-\$12,000 per claim and the recoverable damages are between two and three times the value of the amount falsely received. In addition, the false claim filer may have to pay the government's legal fees.

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

### **Social Services Law § 145-b False Statements**

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

### **Social Services Law § 145-c Sanctions**

If any person applies for or receives public assistance, including Medicaid, and is found to have intentionally made a false or misleading statement for the purpose of establishing or maintaining the eligibility of the individual or of the individual's family for aid or of increasing (or preventing a reduction in) the amount of such aid, then the needs of such individual shall not be taken into account in determining his or her need or that of his or her family (i) for a period of six months upon the first occasion of any such offense, (ii) for a period of twelve months upon the second occasion of any such offense or upon an offense which resulted in the wrongful receipt of benefits in an amount of between at least one thousand dollars and no more than three thousand nine hundred dollars, (iii) for a period of eighteen months upon the third occasion of any such offense or upon an offense which results in the wrongful receipt of benefits in an amount in excess of three thousand nine hundred dollars, and (iv) five years for any subsequent occasion of any such offense.

## **CRIMINAL LAWS**

### **False Statements Relating to Health Care Matters (18 U.S.C. § 1035)**

Any person, in any matter involving a health care benefit program, who knowingly and willfully (i) falsifies, conceals, or covers up by any trick, scheme, or device a material fact; or (2) makes any materially false, fictitious, or fraudulent statements or representations, or makes or uses any materially false writing or document knowing the same to contain any materially false, fictitious, or fraudulent statement or entry, in connection with the delivery of or payment for health care benefits, items, or services, shall be fined or imprisoned not more than 5 years, or both.

### **Health Care Fraud (18 U.S.C. § 1347)**

Any person who knowingly and willfully executes, or attempts to execute, a scheme or artifice (i) to defraud any health care benefit program; or (ii) to obtain, by means of false or fraudulent pretenses, representations, or promises, any of the money or property owned by, or under the custody or control of, any health care benefit program, in connection with the delivery of or payment for health care benefits, items, or services, shall be fined or imprisoned not more than 10 years, or both. If the violation results in serious bodily injury, such person shall be fined or imprisoned not more than 20 years, or both; and if the violation results in death, such person shall be fined, or imprisoned for any term of years or for life, or both.

### **Social Services Law § 145 Penalties**

Any person, who submits false statements or deliberately conceals material information in order to receive public assistance, including Medicaid, is guilty of a misdemeanor.

### **Social Services Law § 366-b Penalties for Fraudulent Practices**

- a. Any person who obtains or attempts to obtain, for himself or others, medical assistance by means of a false statement, concealment of material facts, impersonation or other fraudulent means is guilty of a Class A misdemeanor.
- b. Any person who, with intent to defraud, presents for payment a false or fraudulent claim for furnishing services, knowingly submits false information to obtain greater Medicaid compensation or knowingly submits false information in order to obtain authorization to provide items or services is guilty of a Class A misdemeanor.

### **Penal Law Article 155 Larceny**

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

- a. Fourth degree grand larceny involves property valued over \$1,000. It is a Class E felony.
- b. Third degree grand larceny involves property valued over \$3,000. It is a Class D felony.

Revisions Board Approved 11/30/16

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

#### **Penal Law Article 175 False Written Statements**

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

- a. § 175.05, Falsifying business records, involves entering false information, omitting material information or altering an enterprise's business records with the intent to defraud. It is a Class A misdemeanor.
- b. § 175.10, Falsifying business records in the first degree, includes the elements of the § 175.05 offense and includes the intent to commit another crime or conceal its commission. It is a Class E felony.
- c. § 175.30, Offering a false instrument for filing in the second degree, involves presenting a written instrument (including a claim for payment) to a public office knowing that it contains false information. It is a Class A misdemeanor.
- d. § 175.35, Offering a false instrument for filing in the first degree includes the elements of the second degree offense and must include an intent to defraud the state or a political subdivision. It is a Class E felony.

#### **Penal Law Article 176 Insurance Fraud**

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

- a. Insurance fraud in the fifth degree involves intentionally filing a health insurance claim knowing that it is false. It is a Class A misdemeanor.
- b. Insurance fraud in the fourth degree is filing a false insurance claim for over \$1,000. It is a Class E felony.
- c. Insurance fraud in the third degree is filing a false insurance claim for over \$3,000. It is a Class D felony.
- d. Insurance fraud in the second degree is filing a false insurance claim for over \$50,000. It is a Class C felony.
- e. Insurance fraud in the first degree is filing a false insurance claim for over \$1 million. It is a Class B felony.
- f. Aggravated insurance fraud is committing insurance fraud more than once. It is a Class D felony.

### **Penal Law Article 177 Health Care Fraud**

This statute applies to claims for health insurance payment, including Medicaid, and contains five crimes.

- a. Health care fraud in the fifth degree is knowingly filing, with intent to defraud, a claim for payment that intentionally has false information or omissions. It is a Class A misdemeanor.
- b. Health care fraud in the fourth degree is filing false claims and annually receiving over \$3,000 in aggregate. It is a Class E felony.
- c. Health care fraud in the third degree is filing false claims and annually receiving over \$10,000 in aggregate. It is a Class D felony.
- d. Health care fraud in the second degree is filing false claims and annually receiving over \$50,000 in aggregate. It is a Class C felony,
- e. Health care fraud in the first degree is filing false claims and annually receiving over \$1 million in the aggregate. It is a Class B felony.

### **III. WHISTLEBLOWER PROTECTION**

#### **Federal False Claims Act (31 U.S.C. § 3730(h))**

The FCA provides protection to qui tam relators who are discharged, demoted, suspended, threatened, harassed, or in any other manner discriminated against in the terms and conditions of their employment as a result of their furtherance of an action under the FCA. Remedies include reinstatement with comparable seniority as the qui tam relator would have had but for the discrimination, two times the amount of any back pay, interest on any back pay, and compensation for any special damages sustained as a result of the discrimination, including litigation costs and reasonable attorneys' fees.

#### **New York False Claims Act (State Finance Law § 191)**

The New York False Claims Act also provides protection to qui tam relators who are discharged, demoted, suspended, threatened, harassed, or in any other manner discriminated against in the terms and conditions of their employment as a result of their furtherance of an action under the Act. Remedies include reinstatement with comparable seniority as the qui tam relator would have had but for the discrimination, two times the amount of any back pay, interest on any back pay, and compensation for any special damages sustained as a result of the discrimination, including litigation costs and reasonable attorneys' fees.

#### **New York Labor Law § 740**

An employer may not take any retaliatory action against an employee if the employee discloses information about the employer's policies, practices or activities to a regulatory, law enforcement or similar agency or public official. Protected disclosures are those that assert that the employer's policy, practice or activity violates the law and creates a substantial and specific danger to the public health and safety or which constitutes health care fraud under Penal Law § 177 (knowingly filing, with intent to defraud, a claim for payment that intentionally has false information or omissions).



The employee's disclosure is protected only if (a) the employee first brought up the matter with a supervisor and gave the employer a reasonable opportunity to correct the alleged violation, and (b) the policy, practice or activity actually violates the law. If an employer takes a retaliatory action against the employee, the employee may sue for reinstatement to the same, or an equivalent position, any lost back wages and benefits and attorneys' fees. If the employer is a health provider and the court finds that the employer's retaliatory action was in bad faith, it may impose a civil penalty of \$10,000 on the employer.

**New York Labor Law § 741**

A health care employer may not take any retaliatory action against an employee if the employee discloses certain information about the employer's policies, practices or activities to a regulatory, law enforcement or other similar agency or public official. Protected disclosures are those that are asserted by employees in good faith and with the reasonable belief that the policy, practice or activity constitutes improper quality of patient care.

The employee's disclosure is protected only if the employee first brought up the matter with a supervisor and gave the employer a reasonable opportunity to correct the alleged violation, unless the danger is imminent to the public or patient and the employee believes in good faith that reporting to a supervisor would not result in corrective action. If an employer takes a retaliatory action against the employee, the employee may sue for reinstatement to the same or an equivalent position, any lost back wages and benefits and attorneys' fees. If the employer is a health provider and the court finds that the employer's retaliatory action was in bad faith, it may impose a civil penalty of \$10,000 on the employer.

## **Suffolk Care Collaborative**

### **Policy #15 Compliance Program and Its Implementation**

#### **GENERAL STATEMENT OF PURPOSE**

To establish the elements of the Suffolk PPS Compliance Program and describe the procedures for its implementation and operation by the Suffolk PPS and/or through Coalition Partners' own compliance programs.

#### Policy:

It is the policy of Suffolk PPS to have an effective Compliance Program, including but not limited to, the eight elements described at Title 18, Part 521 of NYCRR. The Suffolk PPS Compliance Program applies to all PPS Associates; however, it is further the policy of Suffolk PPS to avoid unnecessary and duplicative efforts and to recognize that Coalition Partners (such as the Hubs or their separate member organizations) may operate their own compliance programs which effectively implement the requirements of the Suffolk PPS Compliance Program, including DSRIP-related compliance expectations, to their employees, executives, Governing Body members, vendors, consultants, independent contractors, and agents.

Suffolk PPS is responsible for implementing a Compliance Program that will assist in preventing and identifying Medicaid payment discrepancies related to DSRIP payments. Suffolk PPS is not responsible for Coalition Partners' own compliance programs that may be required in connection with their status as a servicing provider. Likewise Suffolk PPS is not responsible for how Coalition Partners use their respective DSRIP distributions.

#### Procedure:

1. The Compliance Program demonstrates Suffolk PPS' commitment to honest and responsible corporate conduct; increases the likelihood of preventing, identifying, and correcting unlawful and unethical behavior at an early stage; encourages all PPS Associates to report potential problems to allow for appropriate internal inquiry and corrective action; and through early detection and reporting, minimizes any financial loss to government and taxpayers, as well as any corresponding financial loss to Suffolk PPS.
2. The Compliance Program is applicable to all aspects of Suffolk PPS, including but not limited to, billing, payments, funds flow, data integrity, , governance, performance reporting, mandatory reporting, and other risk areas that are or should with due diligence be identified by Suffolk PPS. The Compliance Program should include processes to identify when network providers obtain DSRIP distribution in a way that is inconsistent with approved DSRIP project plans.

3. Suffolk PPS Code of Conduct (“Code”) is the foundation of the Compliance Program. It provides principles and other guidance by which all PPS Associates should conduct their work. The Code is reviewed periodically to ensure its accuracy and is to be republished, as necessary. A copy of the Code is provided to all PPS Personnel and a representative of each Contracting Entity upon the commencement of his/her employment and/or contractual relationship with Suffolk PPS, or affiliation with Suffolk PPS. Coalition Partners without a compliance program or an equivalent code of conduct are responsible for providing a copy of the Code to all of its employees, executives, Governing Body members, vendors, consultants, independent contractors, and agents. It also is available on the Suffolk PPS’ public webpage. Hard copies of the Code are available from the Suffolk PPS Compliance Officer.
4. The Compliance Program is led by the Suffolk PPS Compliance Officer, who reports to the Chief Executive Officer for Suffolk PPS, the Compliance Committee, the Governing Body, and legal counsel (as necessary) on a regular basis. This helps ensure management and the Governing Body are fully informed on compliance issues and to ensure transparency in the Compliance Program exists at all times.
5. The Governing Body, or designated Board committee, provides direction, oversight and guidance to the Compliance Program and is responsible for monitoring the Compliance Program and for ensuring that corrective actions are taken whenever deficiencies are identified in the Compliance Program.
6. The Suffolk PPS Compliance Officer carries out the day-to-day implementation of the Compliance Program.
7. The Suffolk PPS Compliance Officer is responsible for resolving compliance-related issues. The Governing Body or designated Board committee, reviews, assigns and resolves compliance-related investigative matters received via the Compliance HotLine and other sources.
8. The Compliance Officer conducts risk assessments, on at least an annual basis, by reviewing the operations of Suffolk PPS, internal and external audits of Suffolk PPS, other self-evaluations, industry developments, the work plans of OIG and OMIG, guidance issued by government agencies, and other relevant resources. The risk assessments are used as the basis for the development of the Compliance Program’s audit Work Plan.
9. All compliance-related problems identified as a result of reports of such problems from any source or identified in the course of self-evaluations or audits shall be corrected promptly and thoroughly. Such corrective actions shall include, but not be limited to, implementation of policies and/or systems as necessary to reduce the potential for recurrence, training and education, additional audits or other monitoring, reporting the problem to the appropriate government agency, and, refunding overpayments.
10. The Suffolk PPS Compliance Officer and the Compliance Committee are responsible for the creation, review and revision of written policies and procedures that describe compliance expectations as embodied in the Code of Conduct, implement the operation of the Compliance Program, provide guidance to PPS Associates on dealing with potential compliance issues, identify how to communicate compliance issues to appropriate compliance personnel and describe how potential compliance problems are investigated and resolved.

11. The Suffolk PPS Compliance Officer provides the annual compliance training program and other compliance-related training and education programs as required to all PPS Associates. The training provides information about compliance issues, expectations and the operation of the Compliance Program. This training also is a part of the orientation provided by Suffolk PPS for all PPS Associates.
12. The Compliance Program also maintains the Compliance HotLine, which is one means by which all PPS Associates may make reports of potential compliance issues. Reports to the HotLine may be made anonymously either by phone or email to protect the anonymity of complainants and to protect whistleblowers from retaliation. The HotLine is available 24 hours a day, seven days a week at (844) 599-8785 and <http://www.suffolkcare.ethicspoint.com>. Reports of compliance issues related to the operations of Suffolk PPS and/or the DSRIP program also may be made directly to the Suffolk PPS Compliance Officer or his/her designee in person, in writing or by telephone. All reports received by the Suffolk PPS Compliance Officer are investigated and resolved to the fullest extent possible.
13. All PPS Associates are encouraged to participate in good faith in the Compliance Program. All such individuals are expected to report compliance issues and assist in their resolution. Suffolk PPS' disciplinary policy outlines the possible sanctions for: failing to report suspected problems; participating in non-compliant behavior; and, encouraging, directing, facilitating or permitting either actively or passively non-compliant behavior. The discipline policy is fairly and firmly enforced across Suffolk PPS.
14. Suffolk PPS has a process and policy to ensure all applicable individuals and entities are screened periodically against the applicable exclusion lists.
15. No one may be intimidated and/or retaliated against for good faith participation in the Compliance Program. "Good faith participation" includes, but is not limited to, reporting potential issues, investigating issues, self-evaluations, audits and remedial actions, and reporting to appropriate officials as provided in section seven hundred forty (740) and seven hundred forty-one (741) of the New York State Labor Law. Procedures for Coalition

All Coalition Partners will act in good faith to comply with all federal, state and local laws, rules, and regulations and all rules, standards, guidelines, policies, and procedures of DOH relating to the DSRIP program, as applicable to them, including but not limited to their implementation of an effective compliance program as may be required by law.

All Coalition Partners shall furnish Suffolk PPS with information concerning any compliance issues that it identifies affecting DSRIP funds or arising under any laws, rules, regulations, standards, guidelines, policies and procedures relating to the DSRIP program. Such information shall be reported to the Suffolk PPS Compliance Officer. All Coalition Partners shall work cooperatively with Suffolk PPS and its representatives to address and remediate any compliance issues so identified and, upon request, will afford Suffolk PPS, and its representatives, reasonable access to their operations for this purpose.