

Northpointe BHS Compliance Plan

PURPOSE

The purpose of Northpointe's Compliance Plan is to provide a framework that guides the management and provision of the Medicaid Specialty Mental Health Supports and Services. The plan outlines the expectations and practices that will establish that services are managed/provided in an ethical manner and within the structure of all laws, statutes, rules, and guidance applicable to the work that we do. All providers billing or paying out \$5 million or more annually are now required to have a formal compliance program, (Provision of the Deficit Reduction Act of 2005, signed into law Feb. 8, 2006). This plan will also inform employees, affiliates, agents, volunteers, and independent contractors (herein referred to as "covered parties") of their responsibilities and obligations under the law and to help maintain the highest level of ethical behavior.

As compliance affects every department and program of Northpointe, compliance is deemed to be a high-level management function. Northpointe's Compliance Officer is responsible for addressing compliance-related issues and working with the agency to ensure that the policy and procedures are developed and maintained, in accordance with this plan.

POLICY Northpointe's Corporate Compliance Policy provides direction in terms of the compliance program and can be found on Northpointe's intranet and Website in the tab for Policies and Procedures, under the Administrative/QI folders.

ELEMENTS OF COMPLIANCE PROGRAM:

Northpointe personnel and contracted providers are expected to follow the compliance plan. Northpointe's compliance plan is comprised of the following seven (7) principal elements:

1. The development and distribution of written standards of conduct, as well as written policies and procedures, that promote Northpointe's commitment to compliance; and, that address specific areas of potential fraud, waste and abuse;
2. The designation of a Compliance Officer and other appropriate bodies charged with the responsibility and authority of operating and monitoring the compliance program;
3. The development and implementation of regular, effective education and training programs for all personnel;
4. The development of effective lines of communication between the Compliance Officer and all personnel, including a reporting system to receive complaints and the adoption of procedures to protect the anonymity of complainants and to protect callers from retaliation;
5. The use of audits and ongoing monitoring to assist in the reduction of identified problem areas, including fraud, waste and abuse, within delivered services, claims processing and delegated managed care functions in striving for continual improvement on compliance activities;
6. The development of disciplinary mechanisms to consistently enforce standards and the development of policies addressing dealings with sanctioned and other specific individuals;

7. The development of policies to respond to detected offenses, including potential fraud, waste and abuse, to initiate corrective action to prevent similar offenses, and to report to Government authorities when appropriate.

CODE OF ETHICAL CONDUCT

Northpointe has a Code of Ethical Practices policy which serves as the base upon which compliance and ethics program is built and therefore is an integral part of the Compliance Program.

BREACH NOTIFICATION

Breach: means the acquisition, access, use, or disclosure of protected health information in a manner not permitted under Northpointe's Privacy Practices which compromises the security or privacy of the protected health information.

Any workforce member who believes there has been a breach of protected health information shall notify their supervisor and Northpointe's Security Officer immediately. Investigation of potential breach will be investigated and procedures from Northpointe's Breach Notification policy will be followed.

COMPLIANCE OFFICER AND RESPONSIBILITIES

- A. Northpointe's CEO shall appoint a Compliance Officer who will report directly to the CEO and will be allowed direct access to the Board of Directors and legal counsel as he/she believes is necessary.
- B. Duties and responsibilities of the Compliance Officer shall include, but are not limited to the following:
 1. The Compliance Officer shall chair a Compliance Monitoring Team and establish other committees as needed/appropriate;
 2. Provide oversight and monitors the implementation of the compliance program;
 3. Make periodic revisions to the program in response to changes in the organization's needs and in the law and policies and procedures of Northpointe and state and federal government;
 4. Work with the CEO, Chief finance officer, legal counsel, and the Regional Compliance Committee(s) in the research, interpretation, preparation, development, and implementation of written guidelines on specific federal and state legal and regulatory issues, and matters involving ethical and legal business practices;
 5. Work with the Human Resource staff to ensure that individuals that have been sanctioned by the OIG or barred from Federal procurement programs are not employed. All staff shall have excluded parties checks (<http://exclusions.oig.hhs.gov> and www.sam.gov) completed biannually.
 6. Assisting financial management in coordinating internal compliance review and monitoring activities, including annual or periodic reviews of departments;
 7. Handle inquiries by covered parties regarding any aspect of compliance;
 8. Investigate any report or allegation concerning possible unethical or improper business practices, and monitor subsequent corrective action and/or compliance. These investigations may be in conjunction with a CMHSP/SA Provider/Contract Provider's investigation or it may arise separately based on reports submitted directly to Northpointe;
 9. Provide a written response stating the outcome of the investigation (whether the allegation was substantiated or unsubstantiated) and may recommend corrective action as necessary. Appropriate documentation will be retained by the CO;
 10. Provide guidance and interpretation to the Board of Directors, CEO, CFO, and covered parties in conjunction with legal counsel, on matters related to the compliance program;
 11. Develop policies and programs that encourage managers and employees of Northpointe and its covered parties to report suspected fraud and other improprieties without fear of retaliation;
 12. Report as needed to the governing body, CEO and compliance committee(s);
 13. Maintain an "open door" policy with respect to receiving reports and answering questions related to violations, or suspected violations, of the Code of Ethical Practices;
 14. Develop a records management system for the compliance program and ensure that the documents are secure, accurate and complete;
 15. Work in conjunction with Northpointe Customer Services and Recipient Rights to develop a system to evaluate and respond to complaints and problems.

NORTHPOINTE COMPLIANCE MONITORING TEAMS AND RESPONSIBILITIES

Northpointe has established the following ongoing Compliance Teams. Additional or ad hoc committees will be established as needed.

1. Northpointe Compliance Monitoring Team
 - a) Responsibilities include:
 - Ensuring that sub-contract providers and staff are trained on their agency and Northpointe Compliance Program, including the DRA, Federal and Michigan False Claims Acts, etc.;
 - Analyze applicable regulatory requirements and risk areas;
 - Assess existing policies and procedures;
 - Develop compliance tools;
 - Work with appropriate providers to resolve issues;
 - Recommend and perform monitoring;
 - Determine appropriate strategies and approaches to promote compliance and detection of potential risk areas through various reporting mechanisms;
 - Assist with the development of preventive and corrective action plans;
 - Review the findings of internal and external reviewing bodies and identify risk areas or deficiencies requiring preventive and corrective action;
 - Uphold confidentiality of information secured during reviews.
 - b) Team Members include: Chief Executive Officer, Finance Specialist, Quality Improvement Manager/Compliance Officer, Emergency Services Manager, Medical Records Manager, Chief Financial Officer and other staff as needed.
2. Northpointe's Documentation Review Team
 - a) Responsibilities include:
 - Retrospective documentation reviews to ensure documentation is meeting all local, state and federal standards;
 - Educate providers regarding Medicaid Provider Manual requirements;
 - Uphold confidentiality of information secured during reviews.
 - b) Team members include: QI Manager/Compliance Officer, Clinical Site Supervisors, Director Community Inclusion, Director of Nursing, Billing Specialist will be included as needed.

EMPLOYEE SCREENING

Northpointe is required to screen prospective and current employees according to the organizational credentialing and hiring policies and procedures and applicable law. Relevant Northpointe policies are:

- A. Background Check Policy
- B. Credentialing Policy
- C. Staff Competencies Policy

EDUCATION REGARDING THE COMPLIANCE PROGRAM

Training and education regarding Northpointe's Compliance Program is required for all employees at time of hire and annually thereafter. Training must include:

- Overview of Compliance Program(s);
- Expectations as an employee or sub-contract employee;
- Compliance Reporting procedures;
- Deficit Reduction Act;
- Federal and State False Claims Acts;
- Any other administrative remedies for false claims under federal law;
- Whistleblowers' Protection Act provisions.

Upon employment/appointment, all Northpointe Personnel will be provided an orientation to the Compliance Program and will have access to an electronic copy and/or receive a written copy of the Compliance Plan, Code of Ethical Practices policy and Northpointe Compliance policies upon request.

REPORTING

When violations of Northpointe's policies or of federal, state or local laws and regulations occur, it is understood that these violations may be inadvertent and unintended, or may be covert and intended.

- A. An employee is responsible for seeking supervisory assistance and/or assistance from their Compliance Officer or Northcare's Compliance Officer if he or she has doubts or is unclear about what the right action is to reach and/or maintain compliance;
- B. Whether the violation is an unwitting mistake or deliberate act, it is important that all employees take responsibility for bringing the violation to the attention of someone who can act to correct the situation;
- C. Anyone who believes in good faith that a violation has taken place or will take place should take all available steps to avoid the violation and must immediately report the matter;
- D. Suspected violations can be reported in any manner described below that is comfortable for the reporter, including telling a supervisor or the Compliance Officer about the violation. Suspected violations can also be reported anonymously;
- E. It is the policy of Northpointe that no retaliation or retribution of any kind will be tolerated against an employee who makes a good faith report of suspected wrongdoing, and any such retaliation or retribution will be grounds for discipline.

REPORTING PROCEDURES

Northpointe will make every effort to protect the confidentiality of the reporter. If this confidentiality cannot be accommodated because of the circumstances, the reporting employee will not suffer from any retaliation for their good faith actions.

- A. Proper channels for reporting would include:
 1. Face-to-Face with the employee's supervisor, Northpointe's Compliance Officer, Northpointe's CEO, or NorthCare's Compliance Officer;
 2. Telephone, Mail or E-mail to the employee's supervisor, Northpointe's Compliance Officer, Northpointe's CEO, or NorthCare's Compliance Officer;
 3. Anonymously to the employee's supervisor, Northpointe's Compliance Officer, Northpointe's CEO, or NorthCare's Compliance Officer;
 4. Copies of any report made directly to a supervisor must be forwarded to Northpointe's Compliance Officer or NorthCare's Compliance Officer;
 5. Northpointe's Compliance Officer is to receive a copy of the results of all internal audit reports and will work closely with key managers to identify aberrant trends in the coding and billing areas;
 6. Northpointe's Compliance Officer will provide summary reports to:
 - a) Northcare's Regional Compliance Officer
 - b) Northpointe's Board of Directors and Quality Improvement Committee.
- B. Information to be gathered:
 1. Date of the report;
 2. Reporter's name and phone number;
 3. Name and location of the program or employee the report involves;
 4. Identifying information:
 - ✓ Date of the incidents being reported;
 - ✓ Description of the issue;
 - ✓ Individuals involved; employees, recipients, etc.;
 - ✓ Location of violation if different from the program;
 - ✓ Is this your first time report of the incident or problem? If no, when was the problem reported previously;
 - ✓ Why do these actions violate the laws, regulations, procedures or Northpointe's code of ethical conduct;
 - ✓ Any other information the reporter feels is important.

Personnel who make good faith reports of violations of federal or state law are protected by state and federal whistleblower statutes, as more fully described below.

Under the *Federal False Claims Act* and the *Michigan Medicaid False Claims Act*, personnel who report violations in good faith are entitled to protection from disciplinary actions taken by their employer. The *Federal False Claims Act*, 31 USC §§3729 through 3731, provides for administrative remedies, encourages enactment of parallel State laws pertaining to civil and criminal penalties for false claims and statements, and provides “whistle-blower” protection for those making good faith reports of statutory violations.

Under the *False Claims Acts*, an employer shall not discharge, demote, suspend, threaten, harass, or otherwise discriminate against an employee in the terms and conditions of employment because the employee initiates, assists in, or participates in a proceeding or court action under this act or because the employee cooperates with or assists in an investigation under this act. This prohibition does not apply to an employment action against an employee who the court finds: (i) brought a frivolous claim, as defined in section 2591 of the revised judicature act of 1961, 1961 PA 236, MCL §600.2591; or, (ii) planned, initiated, or participated in the conduct upon which the action is brought; or, (iii) is convicted of criminal conduct arising from a violation of that act.

An employer who takes action against an employee in violation of the *False Claims Act* is liable to the employee for all of the following:

1. Reinstatement to the employee’s position without loss of seniority;
2. Two times the amount of lost back pay;
3. Interest on the back pay;
4. Compensation for any special damages;
5. Any other relief necessary to make the employee whole.

ENFORCEMENT AND PREVENTION

The purpose of this section is to set forth the procedures that will be used by Northpointe to respond to reports concerning noncompliance activity. This could include being contrary to applicable laws or regulations for documentation and/or claims submission.

- A. **Complaints or Allegations:** Upon receipt of a credible allegation or complaint alleging improper practices, Northpointe will undertake a review of the matter, up to and including an audit. Northpointe reserves the right to enlist the help of an outside agency to assist in a review, if the situation warrants the use of additional help. Site reviews of affiliates will result in the collection of policies, procedures, financial information and PHI (Protected Health Information). All documentation that is public domain will be permitted for inclusion in Northpointe’s file. Documentation containing PHI and IIHI (Individually Identifiable Health Information) will remain on site at the affiliate in its original location. Only clinical information that has been summarized or de-identified will be permitted for inclusion in the complaint review file. The files will be maintained in a locked cabinet in Northpointe’s Compliance Officer’s office. If a potential compliance issue is uncovered, a determination must be made, if self-reporting is adequate or outside auditors should be engaged through outside counsel to retain attorney-client privilege. There must be a determination of whether there has been a violation of civil, criminal or administrative law.
- B. **Purpose of Investigation:** The purpose of the investigation shall be to identify those situations in which the laws, rules and standards may not have been followed; to identify individuals who may have knowingly or inadvertently caused noncompliance with applicable laws, rules, or standards; to facilitate the correction of any practices not in compliance with the laws, rules and standards; to implement those procedures necessary to insure future compliance; to protect Northpointe in the event of civil or criminal enforcement actions, and to preserve and protect the organization’s assets. Suspected violations will be investigated as promptly and as discreetly as possible under the circumstances. The investigation should identify witnesses to the alleged act, those responsible for the alleged act, and any documentation supporting the allegation. The investigation may also result in recommended changes to policies, procedures, and practices to prevent the compliance issue from occurring in the future.

- C. **Control of Investigation:** All reports received that are concerned with non-compliance or violations of the Code of Ethical Practices policy shall be forwarded to the Compliance Officer. The Compliance Officer will be responsible for directing the investigation of the alleged problem or incident. In undertaking this investigation, the Compliance Officer may solicit the support of internal audit staff, external counsel and auditors, and other resources knowledgeable about the applicable laws and regulations and required policies, procedures or standards that are related to the specific problem in question.
- D. **Investigative Process:** Upon receipt of a complaint or other information (including audit results), which suggests the existence of a violation of compliance policies or applicable laws or regulations, an investigation under the direction and control of the Compliance Officer and/or legal counsel shall begin. Appropriate corrective action will be taken in accordance with Northpointe's Corrective Action policy. Every effort will be made to:
1. Complete the investigation within 45 days of the Compliance Officer receiving the complaint;
 2. Conduct document reviews, interviews, auditing and other investigative procedures appropriate to the situation;
 3. Ensure the investigation is a fair, impartial, discreet review of the issue at hand;
 4. Identify the cause of the problem, the affected parties, the laws and regulations involved, the potential regulatory impact and the desired outcome;
 7. Provide recommendations that will result in a corrective action plan to be implemented by the program or agency, which will be monitored by Northpointe's Compliance Officer/Committee;
 8. Document and retain records of the entire investigation and outcome(s).
- E. Ensure, in all situations where it is appropriate, that the organization initiate voluntary disclosure or reporting of violations of civil, criminal, or administrative law to appropriate third-party law enforcement or regulatory agencies, including Northcare. Self-disclosure must follow the Office of Inspector General's Provider Self-Disclosure Protocol (42 USC 1320a-7b (f)) and the requirements of the Federal False Claims Act, (31 USC 3729-3733).
- F. **Auditing and Monitoring:** Northpointe will conduct periodic audits for the purposes of:
1. Monitoring issues which are identified as high risk/high probability of occurring that may impact the quality, efficiency and effectiveness of Northpointe's care delivery system;
 2. Monitoring compliance with local, state, and federal rules and regulations including, but not limited to:
 - Northpointe/Covered Party contract and delegation agreement (where applicable)
 - Northcare/MDHHS contract
 - Northcare's Compliance Plan
 - Medicaid Provider Manual
 - Proper coding and billing procedures
 - Verification of Medicaid services
 - HIPAA
 - Balanced Budget Act
 - Deficit Reduction Act
- G. **Records:** The Compliance Officer is responsible for all paper and electronic records acquired during the course of compliance activities by the Compliance Officer, Compliance Committee, or site review teams. The records will be kept in a secure location that protects the confidentiality of recipients, employees, and business operations. Records that are determined to be obsolete will be destroyed either by shredding or deletion from electronic media. Records will be maintained as follows:
1. Investigations - until the matter is resolved. The Compliance Officer will prepare a summary of all material activities, list of interviewees, findings, and actions taken before destruction;
 2. Site Reviews - seven years;
 3. Corrective actions - seven years;
 4. Meeting minutes, board reports, and memoranda will be retained indefinitely;
 5. Litigation's – indefinitely.

GOVERNMENT INVESTIGATIONS

It is the policy of Northpointe to cooperate with any lawful audit, inquiry and investigation including warrants and subpoenas. Employees are expected to respond appropriately and not interfere with the investigation. They should remain professional and courteous when dealing with any investigators or their agents.

A. Procedure for unannounced government representative visits or audits

1. Any employee of the agency who knows of an impending visit by a government investigator should report this information immediately to the CEO, the Compliance Officer, and/or legal counsel;
2. Northpointe's site manager/supervisor should be notified immediately;
3. Northpointe's site manager/supervisor should request identification from the individual and the reason for the visit. **Do not attempt to photocopy credentials as this is a violation of Federal law;**
4. Take the individual to an unused office or location where business is not currently being conducted and ask to wait while contact is made with senior management and legal counsel;
5. Immediately contact the CEO, CFO, legal counsel and the Compliance Officer;
6. Do not reply to questioning, submit to an interview, or provide the government representative with any documents or other information until directed to do so by legal counsel.

B. Procedure for search warrants:

1. Call legal counsel immediately. If possible and if time permits, also contact the CEO, CFO, and/or the Compliance Officer. Legal counsel or a representative will review the procedure with the employee. Legal counsel will be asked to proceed to the site immediately to provide on-site support and advice.
 - Legal Counsel – Steve Girard at Clark Hill, 616-608-1100
 - Chief Executive Officer – Jennifer McCarty at 906-779-0545
 - Chief Financial Officer – Robert Ducoli at 906-779-0525
 - Compliance Officer – Carley Luse at 906-779-0550
2. Request identification from the individual and the reason for the visit. Record the name of the lead agent and the agency they represent. **Do not attempt to photocopy credentials, as this is a violation of Federal law.**
3. The government agent is required to provide a copy of the search warrant at the time of the search. If it is not provided, request a copy of the search warrant document. Carefully examine the search warrant for:
 - ✓ Any limitations on the areas or locations specified in the document to be searched;
 - ✓ Is the warrant being executed during the hours indicated on the document;
 - ✓ Has it been signed by a judge.
4. You may politely object if you believe there is any obvious problem with the warrant or if you believe the agents are searching anything or anywhere you feel is outside the scope of the warrant, but do not interfere should agents proceed and search. Note the fact of your objection and get this information to legal counsel.
5. Always remain present while the agents are conducting the search. In cases where agents are in multiple areas, assign staff to act as monitors to document what has been searched and what documents or object(s) have been seized.
6. Request an "inventory list" of the documents and items seized by the agents. Try to make sure there is enough detail to be able to identify the documents and items taken by the agents.
7. Provide information to the agents to direct them to the information requested, but you do not need to submit to any form of questioning or interviewing.
8. The senior employee assigned to deal with search warrants, or their designee, should be responsible for responding to the agent's questions.
9. Any questions by employees as to how to proceed, other than as described above, should be answered by legal counsel. The senior manager should not advise employees of their legal rights nor direct them in any way to interfere with the process of the search.

C. Procedure for subpoenas (In the course of a government investigation):

1. Any subpoena, whether delivered in person or by mail, should be delivered immediately to Northpointe's CEO, CFO, or the senior manager present on site.
2. If the subpoena is delivered in person:
 - ✓ The employee receiving it should get the name, title and telephone number of the agent who serves the subpoena, as this information must be given to Northpointe's CEO, CFO or the senior manager on duty along with the subpoena;
 - ✓ Northpointe's CEO, CFO or the senior manager should provide the agent/investigator with the information they need to deliver the subpoena to the appropriate individual;
 - ✓ Do not volunteer any information to an agent/investigator or submit to any form of questioning or interviewing.
3. Northpointe's CEO, CFO or the senior manager upon notice or receipt of the subpoena should contact, as soon as possible, the Compliance Officer and legal counsel.
4. Legal counsel will provide direction on how to proceed with the organization's response.

The body of knowledge that Northpointe and its affiliates must be cognizant of include, but are not limited to:

- ✓ Recipient Rights policies
- ✓ Access and Eligibility policy and plan
- ✓ QAPIP
- ✓ Corporate Compliance Policy and Procedure
- ✓ Breach Notification policy
- ✓ Balanced Budget Act
- ✓ Deficit Reduction Act of 2005
- ✓ Olmstead Decision
- ✓ Chapter III of the Medicaid Manual
- ✓ Federal False Claims Act
- ✓ Michigan False Claims Act
- ✓ MDHHS Contract with CMHSP
- ✓ HIPAA
- ✓ Michigan Mental Health Code and Administrative Rules
- ✓ Medicaid Waivers and Children's Waivers
- ✓ Whistleblowers Protection Act
- ✓ Northcare Network Compliance Plan FY18

Original Effective date: 4/1/07

Reviewed on: 4/9/18

Board approved: 6/28/18

Appendix A

**Northpointe Employee
Compliance Attestation**

I, _____, as an employee of Northpointe Behavioral Healthcare System, recognize and acknowledge my obligation to report any incidence of fraud, abuse or waste of public funding.

I hereby acknowledge that I have reviewed Northpointe's Compliance Policy, Compliance Plan, and Code of Ethical Conduct. I fully understand that, as an employee, I have an obligation to fully adhere to the policies and principles outlined in the Compliance Policy and Compliance Plan. The plan gives guidance on what is reportable where to direct questions, and how to report. I further attest to my understanding of the Code of Ethical Conduct and expectations of me therein.

As of this date, I am not aware of any reportable incident, or I have reported any incidence of non-compliance of which I am aware. Should I become aware that a situation is potentially a violation of the False Claims Act, or an otherwise reportable occurrence, I will report immediately, as specified in the Compliance Plan.

Print Employee Name/Title: _____

Employee Signature: _____ Date: _____

Appendix B

Compliance Officer Confidentiality Agreement

The Compliance Officer, the Compliance Committee, and site review teams will have access to the confidential and proprietary information of Northpointe's affiliates. This access may include recipient, employee, and business information that is not normally available to affiliate employees or the general public. It is Northpointe's policy that all persons involved in compliance activities must not disclose sensitive and confidential information acquired during the course of compliance activities. These persons also have a responsibility to protect the privacy and confidentiality of said information and prevent any accidental, unauthorized, or unanticipated disclosures.

Every person having access to confidential information obtained by carrying out the directives of Northpointe's compliance program is required to sign a confidentiality agreement. These persons must also agree not to personally retain any original or copies of any file, document, record, or memorandum relating in any manner whatsoever to their activities with Northpointe's compliance programs.

Compliance Reviewer Name/Title: _____

Signature: _____ Date: _____