



INTELLECTUAL GIFT, INC.
Early Intervention Agency
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Compliance Program - Code of Conduct

A. Introduction

Intellectual Gift, Inc. adopted a compliance program which is more fully described and contained in the Intellectual Gift, Inc. Compliance Program Manual ("Compliance Manual"), which is available for review in the office of the Administrator or Compliance Officer.

Intellectual Gift, Inc. adopted the Compliance Program in order to embody its commitment to conducting its business in compliance with all applicable laws, rules, regulations, and other directives of the federal, state and local governments and agencies. An expression of this commitment is the code of conduct ("Code of Conduct") described herein which is applicable to all individuals, including Intellectual Gift, Inc.'s managers, members, officers, directors, employees, volunteers, and independent contractors working for or providing services to Intellectual Gift, Inc. ("Staff Members").

The Code of Conduct is intended to provide general guidelines to assist Staff Members to understand and appreciate the manner in which Intellectual Gift, Inc. wishes to conduct business. Although the Code of Conduct can neither cover every situation in the daily conduct of our many varied activities nor substitute for common sense, individual judgment or personal integrity, it is the duty of every Staff Member to adhere, without exception, to the principles set forth herein.

The Code of Conduct shall be distributed annually, and periodically as necessary, to all Staff Members who shall be responsible for ensuring that their behavior and activity is consistent with the standards embodied in this Code of Conduct.

B. Compliance with Laws and Regulations

It is the duty of Intellectual Gift, Inc. and its Staff Members to uphold all applicable federal, state and local laws, rules, regulations, and standards ("laws and regulations"). Each individual must be aware of the legal requirements and restrictions applicable to his or her respective position and duties.

While the duty remains the responsibility of each individual, Intellectual Gift, Inc. shall implement programs necessary to foster further awareness of applicable laws and regulations and to monitor and promote compliance of such laws and regulations. Any questions about the legality or propriety of any actions undertaken by or behalf of Intellectual Gift, Inc. should be referred immediately to an individual's supervisor, the Administrator or the Compliance Officer.

C. Fraud and Abuse

Intellectual Gift, Inc. expects its Staff Members to refrain from any conduct which may violate applicable federal and state laws and regulations, with special emphasis on those related to fraud and/or abuse.

These laws generally prohibit (1) the transfer of anything of value in order to induce the referral of patients or any government program business (i.e., Medicare, Medicaid and other federal or state health care programs); and (2) the making of false representations or the submission of false, fraudulent or misleading claims to any government entity or third party payer, including claims for services not rendered, claims which characterize the service differently than the service actually rendered, or claims which do not otherwise comply with applicable program or contractual requirements.

More specific guidance with respect to laws and regulations applicable to fraud and abuse can be found in

Intellectual Gift, Inc.'s Compliance Manual. You will also receive a summary of various federal and state laws applicable to the fraud and abuse area.

D. Professional and Ethical Standards

As professionals, all Staff Members have a duty to support Intellectual Gift, Inc.'s goals to provide home care services of the highest quality that respond to the needs of our patients. The services provided must be reasonable and necessary for the care of each patient, and such care must be provided by properly qualified individuals. All such care must be properly documented as required by law and regulation, payer requirements, professional standards and the policies and procedures of Intellectual Gift, Inc.

Intellectual Gift, Inc. and its Staff Members shall conduct all activities in accordance with the highest ethical standards of their respective professions at all times and in a manner which shall uphold Intellectual Gift, Inc.'s reputation and standing in the community it serves.

E. Confidentiality

Intellectual Gift, Inc. and its Staff Members are in possession of, or have access to, a wide variety of confidential and sensitive information.

It is the duty of Intellectual Gift, Inc. and its Staff Members to protect the privacy rights of the patients. Intellectual Gift, Inc. and its Staff Members shall maintain the confidentiality of patient medical records and information, as well as proprietary information, by actively protecting and safeguarding such information in a manner designed to prevent the unauthorized disclosure of such information.

If there are any questions or concerns concerning the disclosure of information, the question or concern should be referred to an individual's supervisor, the Administrator, the Compliance Officer, or the Privacy Officer.

F. Business Practices

Intellectual Gift, Inc.'s business practices must be conducted with honesty and integrity and in a manner that upholds Intellectual Gift, Inc.'s reputation with patients, payers, vendors, competitors, and the community. Intellectual Gift, Inc. expects its Staff Members to be loyal to Intellectual Gift, Inc.'s interests. Staff Members should not use their positions to profit personally or to assist others in profiting in any way at the expense of Intellectual Gift, Inc. Staff Members must refrain from activities which create conflicts of interest with Intellectual Gift, Inc. or give the appearance of impropriety.

Staff Members involved in business transactions on behalf of Intellectual Gift, Inc. shall not offer or pay, or solicit or receive any gifts, favors or other improper inducements in exchange for influence or assistance in a transaction or the referral of business. If there is any doubt or concern about whether specific conduct or activities are ethical or otherwise appropriate, the doubt or concern should be referred immediately to an individual's supervisor, the Administrator, or the Compliance Officer.

When Intellectual Gift, Inc. decides to enter into an agreement or arrangement with another healthcare entity or practitioner to provide services, that decision must be free of any improper influence. Thus, if you or any immediate family member is already an employee, consultant, owner, contractor or even a passive investor of an entity that (i) engages in any business or maintains any relationship with Intellectual Gift, Inc., (ii) provides to, or receives from Intellectual Gift, Inc. any patient referrals, or (iii) competes with Intellectual Gift, Inc., you must complete a "Conflict of Interest Disclosure Statement Form" and submit it to the Compliance Officer. If you or your family member intends to become such an employee, consultant, owner, contractor or an investor, you must first obtain certain permission from the Administrator or Compliance Officer by completing a "Conflict of Interest Disclosure Statement Form." In this way, Intellectual Gift, Inc. can be assured that our business relationships are free from improper influences.

G. Employment Practices

Intellectual Gift, Inc. is committed to providing equal employment opportunities for all persons, without regard to race, color, creed, religion, sexual orientation, national origin, age, sex, marital status, handicap, or disability. Intellectual Gift, Inc. is committed to providing patient care and a workplace environment which emphasizes the dignity and respect of every individual. In that regard, harassment and/or other types of prohibited discrimination in any form or context will not be tolerated.

Violence in the workplace will not be tolerated and such behavior will result in immediate disciplinary action, which may include termination.

Intellectual Gift, Inc. is committed to providing a healthy and safe workplace. Intellectual Gift, Inc. and its Staff Members will comply with federal, state, and local laws and regulations that promote the protection of health and safety. Staff Members are expected to report workplace injuries or any situation presenting a danger of injury.

H. Reimbursement

Intellectual Gift, Inc. and its Staff Members have a duty to create and keep records and documentation which conform to legal, professional and ethical standards. Such individuals shall ensure that billings for reimbursement for care are reasonable, necessary, and appropriate, that services are provided by properly qualified persons, and that services are billed correctly and supported by adequate documentation.

All claims for reimbursement to government and to private insurance payers must be true and accurate and conform to all applicable laws and regulations. Intellectual Gift, Inc. and its Staff Members are prohibited from knowingly presenting or causing to be presented claims for payment or approval which are false, fictitious, fraudulent, or otherwise not in compliance with applicable laws and regulations.

I. Administration and Application of this Code of Conduct

Intellectual Gift, Inc. expects that the Code of Conduct will be a part of the daily activities of its Staff Members. The Code of Conduct is in addition to, and does not limit, specific policies and procedures of Intellectual Gift, Inc. Staff Members must perform their duties in accordance with all such policies and procedures.

It is the duty of every manager, member, officer, director, employee, independent contractor, volunteer and agent to uphold the standards set forth in the Code of Conduct and to report violations by following the reporting procedures outlined in the Compliance Manual. Alleged violations of the Code of Conduct or other policies and procedures of Intellectual Gift, Inc. will be investigated by persons designated by, and pursuant to procedures established by Intellectual Gift, Inc. Intellectual Gift, Inc. will make efforts to maintain the confidentiality of the identity of any individual who reports perceived or actual violations. However, confidentiality of identity cannot be guaranteed.

It shall be a violation of the Code of Conduct to take any action in reprisal against anyone who reports suspected violations of the Code of Conduct or other Intellectual Gift, Inc. policies and procedures, assists in the investigation of a compliance issue or assists with remedial actions in good faith.

Failure to abide by the Code of Conduct or the guidelines for behavior which the Code of Conduct represents may lead to disciplinary action. Disciplinary action will be determined on a case-by-case basis and may, in Intellectual Gift, Inc.'s discretion, range from a warning to termination. If Intellectual Gift, Inc. determines that a violation may have included criminal violations of law or regulation, Intellectual Gift, Inc. will seek the advice of counsel and cooperate with law enforcement authorities in connection with the investigation and prosecution of the offender.

J. Employee Compliance Verification

Intellectual Gift, Inc. verifies employee compliance as follows:

Providers must have:

Valid license and registration

Child abuse clearance

Medicaid clearance (provider does not appear on the exclusion lists),

Annual medical evaluation

Malpractice insurance

In service training attendance (including training on compliance issues)

Approval from NYS DOH EIP (for independent subcontractors)

Pre-employment orientation

Are not on any exclusion lists (as mentioned in the Policy and Procedures below: **Individuals Excluded from Federal and State Health Care Benefits Programs**)

How to Report a Violation of the Code

Staff members should report any violation of the Code of Conduct to your immediate supervisor, the Administrator, Intellectual Gift, Inc.'s Compliance Officer and/or via the Compliance Hotline. The Hotline is particularly helpful if you prefer not to report such matter to your supervisor, or the Administrator, because you believe they may be involved in the actual or perceived violation, if you otherwise have a legitimate reason to be concerned about a reprisal, or if your previous reports have not been acted upon, but you may use it for any reason. The number of **Intellectual Gift, Inc.'s Compliance Hotline is 718-524-7995. Yelena Berezenko is Intellectual Gift, Inc.'s Compliance Officer.** Hotline calls may be made anonymously. However, supplying your name may assist in the investigation of your report but you are under no obligation to do so. In addition, the Compliance Officer regularly checks a compliance mailbox placed outside his office, and in which compliance matters may be reported to the Compliance Officer anonymously. Please note that it is an explicit violation of Intellectual Gift, Inc.'s policy to retaliate in any way against its Staff Members who, in good faith, reports an actual or potential violation of applicable laws, rules, regulations, or the Code of Conduct.

Please note that nothing in this Code of Conduct is intended to nor shall be construed as providing any additional employment or contract right to Staff Members or other persons.

Intellectual Gift, Inc. will generally attempt to communicate changes to the Code of Conduct prior to the implementation of such changes. However, Intellectual Gift, Inc. reserves the right to modify, amend or alter the Code of Conduct and its policies and procedures without prior notice to any person.

Intellectual Gift, Inc.

Federal and New York False Claims Acts and New York Health Care Fraud Laws

FRAUD AND ABUSE INFORMATIONAL HANDOUT

INSTRUCTIONS

The enclosed informational handout contains a discussion of the Federal False Claims Act, New York False Claims Act and State Laws pertaining to civil and criminal penalties for false claims and statements, the rights of employees to be protected as whistleblowers, and the agency's policies and procedures for detecting and preventing fraud, waste, and abuse.

Please provide this handout to all current employees and new hires upon initial orientation as well as agency staff. Ensure that each such individual acknowledges his or her receipt and agreement to abide by the agency's policies by his or her signature at the end of the handout. A copy of the signed handout should be maintained in the employee's personal file in accordance with the agency's procedures for maintaining such records.

Further, the agency must provide a copy of this handout to any contractor (including independent contractors), subcontractor or agent, (current and future), which or who: (i) on behalf of the agency, furnishes or otherwise authorizes the furnishing of Medicaid health care items or services; (ii) performs billing or coding functions; or (iii) is involved in monitoring of health care provided by the agency. This handout should also be provided to existing and new members, managers, officers, and directors.

The agency should also affix this handout as an appendix to its existing Employee Handbook and/or incorporate its language directly into any future Employee Handbook.

Intellectual Gift, Inc.

Federal and New York False Claims Act and New York Health Care Fraud Laws

Summary of Laws and Applicable Policies **

Intellectual Gift, Inc. expects its members, managers, officers, directors, employees, contractors and agents to refrain from conduct which may violate federal and state laws, rules, and regulations relating to the provision of and payment for health care items and services. It is our ethical and legal obligation to continuously strive to ensure that all billings and claims reimbursement activities are based on materially complete information and that we only receive payment and reimbursement for that which we are entitled to. Our conduct must at all times be consistent with accepted and sound fiscal, business and medical practices. Clinical and medical personnel must provide services that meet professionally recognized standards of care. All personnel involved in coding, billing and claims submission must maintain high ethical standards and must become familiar with all rules and laws applicable to such activities.

The following is a summary of certain applicable federal and state laws prepared by the New York State Office and the Medicaid Inspector General.

FEDERAL & NEW YORK STATUTES RELATING TO FILING FALSE CLAIMS

1. FEDERAL LAWS

False Claims Act (31 USC §§3729-3733)

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

(a) 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 \$5,000 and not more than \$10,000, plus 3 times the amount of damages which the Government sustains because of the act of that person....

(b) 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.

31 U.S.C. § 3729. While the False Claims Act 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. 31 U.S.C. 3729(b).

In sum, the False Claims Act imposes liability on any person who submits a claim to the federal government that he or she knows (or should know) is false. An example may be a physician who submits a bill to Medicare for medical services she knows she has not provided. The False Claims Act 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 (or should know) is 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 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.

Administrative Remedies for False Claims (31 USC Chapter 38. §§ 3801-3812)

This statute allows for administrative recoveries by federal agencies. If a person submits a claim that the person knows is false or contains false information, or omits material information, then the agency receiving the claim may impose a penalty of up to \$5,000 for each claim. The agency may also recover twice the amount of the claim. Unlike the False Claims Act, a violation of this law occurs when a false claim is submitted, not when it is paid. Also unlike the False Claims Act, the determination of whether a claim is false, and the imposition of fines and penalties is made by the administrative agency, not by prosecution in the federal court system.

II. NEW YORK STATE LAWS

New York’s false claims laws fall into two categories: civil and administrative; and criminal laws. Some apply to recipient false claims and some apply to provider false claims, and while most are specific to healthcare or Medicaid, some of the “common law” crimes apply to areas of interaction with the government.

A. CIVIL AND ADMINISTRATIVE LAWS

NY False Claims Act (State Finance Law, §§187-194)

The NY False Claims Act closely tracks the federal False Claims Act. 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.

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 up to \$7,500 per violation may be imposed if they involve more serious violations or 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, by intentionally making a false or misleading statement, or intending to do so, the person’s and/or the person’s family’s needs are not taken into account for 6 months if a first offense, 12 months if a second (or once if benefits received are over \$3,900) offense and five years if for 4 or more offenses.

B. CRIMINAL LAWS

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. It 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.

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 include 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.

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

- a. Insurance fraud in the 5th degree involves intentionally filing a health insurance claim knowing that it is false. It is a Class A misdemeanor.
- b. Insurance fraud in the 4th degree is filing a false insurance claim for over \$1,000. It is a Class E felony.
- c. Insurance fraud in the 3rd degree is filing a false insurance claim for over \$3,000. It is a Class D felony.
- d. Insurance fraud in the 2nd degree is filing a false insurance claim for over \$50,000. It is a Class C felony.
- e. Insurance fraud in the 1st 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.

Applies to claims for health insurance payment, including Medicaid, and contains five crimes:

- a. Health care fraud in the 5th 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 4th degree is filing false claims and annually receiving over \$3,000 in the aggregate. It is a Class E felony.
- c. Health care fraud in the 3rd degree is filing false claims and annually receiving over \$10,000 in the aggregate. It is a Class D felony.
- d. Health care fraud in the 2nd degree is filing false claims and annually receiving over \$50,000 in the aggregate. It is a Class C felony.
- e. Health care fraud in the 1st 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 realtors 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. 31 U.S.C. 3730 (h). remedies include reinstatement with comparable seniority as the qui tam realtor 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.

NY False Claims Act (State Finance Law §191)

The False Claims Act also provides protection to qui tam realtors 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 realtor 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 other similar agency or public official. Protected disclosures are those that assert that the employer is in violation of a law that creates a substantial and specific danger to the public health and safety or which constitutes health care fraud under 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 the employee first brought up the matter with a supervisor and gave the employer a reasonable opportunity to correct the alleged violation. If an employer takes a retaliatory action against the employee, the employee may sue in state court for reinstatement to the same, or an equivalent position, any lost back wages and benefits and attorneys' fees. If the employer is a health care 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 assert that, in good faith, the employee believes actions of the employer constitute 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 in state court for reinstatement to the same, or an equivalent position, any lost back wages and benefits and attorneys' fees. If the employer is a health care 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.

In addition, as an agency that contracts with Medicaid providers, it is understood that the agency will comply with certain federal and state laws, and regulations. Specifically, the agency has the following duties and responsibilities:

- (a) to prepare and to maintain contemporaneous records demonstrating the agency's right to receive payment and to maintain for the appropriate period of time all records necessary to disclose the nature and extent of services furnished and all information regarding claims for payment submitted by, or on behalf of, the agency;
- (b) not to illegally discriminate on the basis of handicap, race, color, religion, national origin, sex, or age;
- (c) to submit claims for payment only for services actually furnished and which were medically necessary; and
- (d) provide information in relation to any claim for payment that is true, accurate and complete.

The agency will not engage in conduct that includes:

- (1) False claims.
 - (i) Submitting, or causing to be submitted, a claim or claims for:
 - (a) unfurnished medical care, services or supplies;
 - (b) an amount in excess of established rates or fees; or
 - (c) medical care, services or supplies provided at a frequency or in an amount not medically necessary.
 - (ii) Including, or seeking to induce, any person to submit a false claim.
- (2) False statements.
 - (i) Making, or causing to be made any false, fictitious, or fraudulent statement or misrepresentation of material fact on claiming payment, or for use in determining the right to payment.
 - (ii) Including or seeking to induce the making of any false, fictitious or fraudulent statement or a

misrepresentation of material fact.

(3) Failure to disclose. Having knowledge of any event affecting the right to payment of any person and concealing or failing to disclose the event with the intention that a payment be made when not authorized or in a greater amount than due.

(4) Conversion. Converting a medical assistance payment, or any part of such payment, to a use or benefit other than for the use and benefit intended by the medical assistance program.

(5) Bribes and kickbacks. Unless the discount or reduction in price is disclosed to the client and the department and reflected in a claim, or the payment is made pursuant to a valid employer-employee relationship, the following activities are unacceptable practices:

(i) soliciting or receiving either directly or indirectly any payment (including any kickback, bribe, referral fee, rebate or discount), whether in cash or in kind, in return for referring a client to a person for any medical care, services or supplies for which payment is claimed under the program;

(ii) soliciting or receiving either directly or indirectly any payment (including any kickback, bribe, referral fee, rebate or discount), whether in cash or in kind, in return for purchasing, leasing, ordering or recommending any medical care, services or supplies for which payment is claimed under the Medicaid program;

(iii) offering or paying either directly or indirectly any payment (including any kickback, bribe, referral fee, rebate or discount), whether in cash or in kind, in return for referring a client to a person for any medical care, services or supplies for which payment is claimed under the Medicaid program; or

(iv) offering or paying either directly or indirectly any payment (including any kickback, bribe, referral fee, rebate or discount), whether in cash or in kind, in return for purchasing, leasing, ordering or recommending any medical care, services or supplies for which payment is claimed under the Medicaid program.

(6) Unacceptable recordkeeping. Failing to maintain records necessary to fully disclose the medical necessity for and the nature and extent of the medical care, services or supplies furnished.

(7) Employment of sanctioned persons. Submitting claims or accepting payment for medical care, services or supplies furnished by a person suspended, disqualified or otherwise terminated from participation in the Medicaid program or furnished in violation of any condition of participation in the Medicaid program.

(8) Client deception. Deceiving, misleading or threatening a client, or charging or agreeing to charge or collect any fee in excess of the maximum fee, rate or schedule amount from a client.

(9) Conspiracy. Making any agreement, combination or conspiracy to defraud the program by obtaining, or aiding anyone to obtain, payment of any false, fictitious or fraudulent claim.

(10) Excessive services. Furnishing or ordering medical care, services or supplies that are substantially in excess of the client's needs.

(11) Failure to meet recognized standards. Furnishing medical care, services or supplies that fail to meet professionally recognized standards for health care or which are beyond the scope of the person's professional qualifications or licensure.

(12) Unlawful discrimination. Illegally discriminating in the furnishing of medical care, services or supplies based upon the client's race, color, national origin, religion, sex, age or handicapping condition.

(13) Solicitation of clients. Offering or providing any premium or inducement to a client in return for the client's patronage of the provider or other person to receive care, services or supplies under the Medicaid program.

Billing and Claims Activities That May Violate the Law:

The following are examples of improper billing and claims activities, but are not meant to be exhaustive:

- Billing for services or supplies that were not provided;
- Submitting a claim containing known false information or omitting material information;
- Filing a claim for services not medically necessary, or, if medically necessary, not to the extent rendered;
- Altering claim forms to increase payments;
- Arranging to get paid twice for the same service by billing two payers (i.e. duplicated billing);
- Revising a claim for a service that is not covered so it will be covered;
- Misrepresenting the services performed, the fee for the services, the date of the services, or the identity

- of the patient;
- Falsifying records to appear to meet conditions of participation or conditions of coverage;
- Omitting material information when making a claim or when submitting a written statement in support of such claim;
- Scheming with another person to manipulate claims and increase payments (e.g. upcoding);
- Using the adjustment payment process to generate fraudulent payments;
- Billing services over a period of days when all treatment occurred over one visit;
- Improperly completing or obtaining certificates of medical necessity (CMN);
- Providing incomplete, false, or misleading information about ownership of an agency;
- Repeatedly charging patients more than the permitted amounts or repeatedly violating a participation agreement or assignment agreement;
- Excessive charges for services or supplies;
- Improper billing practices, including submission of bills to Medicare instead of third-party payers which are primary insurers for Medicare beneficiaries;
- Increasing charges to Medicare beneficiaries but not to other patients;
- False or misleading documentation regarding services provided; and
- Billing for home health services without meeting the program requirements.

Reporting:

All members, managers, officers, directors, employees, contractors and agents are required to promptly report all known or suspected violations of Intellectual Gift, Inc.'s billing and claims submission policies to the Administrator, Compliance Officer, immediate supervisor or other designated party, in writing or through the anonymous telephone hotline at 718-524-7995. **There will be no retaliatory action taken against any person who reports in good faith to the agency or any government official or agency. Retaliation or any form of reprisal based upon a person's good faith reporting of potential fraudulent claims activity is strictly prohibited, and will not be permitted or tolerated by Intellectual Gift, Inc..** Further, the Federal False Claims Act, New York False Claims Act, and New York State Labor Law §740 specifically prohibit and provide remedies for such retaliatory action. Improper retaliation includes actual or threatened discharge demotion, suspension, harassment, discrimination or other adverse employment action. Activities protected against retaliation by federal and New York State law and regulation include: disclosing or reporting(or threatening to disclose or report) to a supervisor, the agency or to a governmental official or agency an activity, policy, or practice that is in violation of the law; testifying or providing information for a hearing, investigation or inquiry; initiating or assisting in any action or investigation; and/or objecting to or refusing to participate in any such illegal activity. Members, managers, officers, directors, employees, contractors and agents are expected to report any possible instances of retaliatory action immediately to the Administrator and/or Compliance Officer or other designated party.

Detecting and Preventing Fraud, Waste and Abuse:

In accordance with the requirements of relevant false claims laws, and to further ensure the accuracy and appropriateness of claims submitted, Intellectual Gift, Inc. has adopted the following rules that its members, managers, officers, directors, employees, contractors and agents must strictly follow:

- Detect and prevent the filing of claims for services not rendered. All documentation must be reviewed and checked for accuracy by appropriate staff prior to submission. Furthermore, billing staff must review the completeness and check for inconsistencies in the documentation supporting the bill prior to submitting a claim. Diagnosis and procedure codes reported on claims must be based on the medical record and other documentation, and must comply with appropriate coding guidelines. Coding must accurately describe the services that was ordered by the physician and performed by the agency;
- Detect and prevent the filing of claims and services rendered that were not medically necessary. Documentation submitted by the staff must record the activity leading to the record entry, the identity of the individual providing the service, and any information needed to support medical necessity and other reimbursement coverage criteria. All clinical and billing staff shall communicate effectively to ensure that documentation is consistent;

- Detect and prevent the submission of any claim which contains false information. All claim forms must be reviewed for accuracy prior to presentation for payment;
- Detect and prevent any claim for inadequate or substandard services. Clinicians must review services rendered and supporting documentation to determine that the level of services provided is adequate to support a claim for payment.

The clinical and billing staff, in coordination with the Compliance Officer or other designated party, will conduct periodic reviews to determine the accuracy of documentation utilized to support claims for reimbursement. The agency will maintain a process for pre and post submission review of claims to ensure that claims submitted for reimbursement accurately reflect medically necessary services actually provided, are supported by sufficient documentation, and are in conformity with any applicable coverage criteria for reimbursement.

Intellectual Gift, Inc. has adopted Policies and Procedures for preventing and detecting fraud, waste and abuse of the federal health care programs, including Medicare and Medicaid. All members, managers, officers, directors, employees, contractors and agents must strictly follow these policies. These policies and procedures are available for review upon request. To review these policies and procedures, contact the Compliance Officer.

The following represents a summary of relevant policies and procedures:

Policy and Procedures: Designation and Responsibilities of the Compliance Officer

It is the policy of Intellectual Gift, Inc. to ensure that it conducts itself in compliance with all applicable laws, rules, regulations and other directives of the federal, state and local governments, departments and agencies. In this regard, and in furtherance of this policy, Intellectual Gift, Inc. shall at all times have an individual designated as a Compliance Officer to oversee and monitor its Compliance Program.

Coordination and communication are the key functions of the Compliance Officer with regard to planning, implementing, and monitoring Intellectual Gift, Inc.'s Compliance Program. The Compliance Officer shall develop and assist the agency in putting appropriate compliance processes in place to implement the Compliance Program. Examples of these activities and processes include, but are not limited to, the following:

- Serve as a trusted source of guidance for employees, contractors and others associated with the agency with regard to compliance related matters;
- Identify and report compliance issues to the New York State OMIG, as appropriate.
- Test the billing and claims reimbursement staff on their knowledge of applicable program requirements and claims and billing criteria;
- Conduct or oversee unannounced audits of claims and billing information;
- Oversee a system to respond to compliance issues identified in self-evaluations and audits;
- Periodically prioritize compliance oversight of activities that are the most serious or likely to occur;
- Ensure that the Company reports, refunds and explains overpayments received from the Medicaid program to the New York State Office of Medicaid Inspector General as required by Section 6402 of the Patient Protection and Affordable Care Act (PPACA), as applicable;
- Assess contractual relationships with contractors, consultants, and potential referral sources;
- Determine whether individuals who previously have been reprimanded for compliance issues are now conforming to policies;
- Develop, coordinate and participate in compliance educational and training programs; and
- Coordinate internal and external compliance review and monitoring activities, including annual periodic reviews and oversee any resulting corrective action.

Policy and Procedures: Retention of Records

It is the policy of Intellectual Gift, Inc. that all employees, contracted health professionals, agents and others associated with the agency maintain and preserve all documents, including compliance, business and medical records, and secure them against loss, destruction, unauthorized access, unauthorized reproduction,

corruption or damage. Intellectual Gift, Inc. will also comply with regulations concerning document retention periods.

The primary components of Intellectual Gift, Inc.'s record maintenance, access and retention policies and procedures include, but are not limited to, the following:

- Records will only be accessible by authorized personnel on a need-to-know basis or legally authorized individuals, and in strict conformance with applicable federal, state, and local laws and regulations, including those relating to privacy and confidentiality. Patient medical records may only be accessed by authorized individuals and personnel. Questions as to whether medical records should be released and/or distributed should be directed to the agency's Privacy Officer and/or Compliance Officer when appropriate.
- Records will be stored in a systemized manner that preserves confidentiality and takes into consideration environmental elements.
- Security of electronic records shall be in compliance with HIPAA regulations.

Policy and Procedures: Individuals Excluded from Federal and State Health Care Benefits Programs

It is the policy of Intellectual Gift, Inc. not to enter into employment, contractual or business arrangements, in any capacity, with individuals or entities that are barred or excluded from participating in federal or state health care benefit programs. This shall be accomplished through screening programs, which include reviewing the List of Excluded Individuals/Entities (LEIE); (<http://oig.hhs.gov/exclusions/> the List of Parties Excluded from Federal Procurement and Nonprocurement Programs (www.epls.gov) and The Restricted, Terminated or Excluded Individual or Entities (www.OMIG.state.ny.us), engaging or otherwise transacting business with any person or entity, and by conducting such review periodically after employing, contracting with or otherwise engaging any individual or entity.

Policy and Procedures: Conflicts of Interest

It is the policy of Intellectual Gift, Inc. that all Staff Members avoid any and all activities that conflict with their responsibilities and obligations to Intellectual Gift, Inc. and its Patients.

The policies and procedures relating to conflicts of interest include, but are not limited to, the following:

- Staff Members must not have an interest in or serve as director, officer, manager, or member of any entity in competition with Intellectual Gift, Inc., without permission.
- Any members, manager, officer, director, employee, contractor or agent who performs work or renders services for any competitor of Intellectual Gift, Inc. or for any organization which does business with or seeks to do business with Intellectual Gift, Inc. outside of the normal course of his or her employment or other engagement with Intellectual Gift, Inc. shall notify the Corporate Compliance Officer or Administrator.
- Business with any Intellectual Gift, Inc. vendor, supplier, contractor, or agency, or any of their officers or employees that is not conducted on behalf of Intellectual Gift, Inc. is prohibited, unless previously authorized by the Compliance Officer or Administrator.
- Staff Members shall not permit their names to be used in any fashion that would tend to indicate a business connection with any organization which does business with or seeks to do business with Intellectual Gift, Inc. without the prior approval of the Compliance Officer or Administrator.
- Intellectual Gift, Inc. shall not be represented by a member, manager, officer, director, employee, contractor or agent in any transaction in which he or she or an immediate family member has a personal financial interest.
- Staff Members should not discuss any confidential information with anyone outside of Intellectual Gift, Inc. This confidential information includes, but is not limited to, personnel data, patient lists, clinical information, financial data, research data, techniques, computer software, and information with a copyright, financial results or business dealings.
- Staff Members shall not accept any gifts, including discounts, from prospective or current suppliers

and/or contractors.

- Staff Members shall not engage in any activities or outside interests that influence their ability to make objective decisions in the course of their job responsibilities.
- Staff Members are expected to disclose potential conflicts of interest involving themselves or their immediate family members (spouse, parents, brothers, sister, and children) to the Compliance Officer or Administrator using the agency's "Conflict of Interest Disclosure Statement" form.

Policy and Procedures: Billing and Claims Reimbursement

It is the policy of Intellectual Gift, Inc. to comply with all relevant billing and claim reimbursement requirements. All personnel involved in coding, billing and claims submissions must maintain high ethical standards and must know and adhere to all requirements for the health care industry, including all rules and regulations pertaining to coding, billing, claims submission and reimbursement, including, among others, Medicare and Medicaid regulations. All billing personnel are expected to attend training and education sessions. Billing personnel will be regularly monitored to ensure that they are not engaging in any activity which may be fraudulent or abusive under the Medicare and Medicaid regulations. Compensation for billing department personnel and billing consultants will not offer any financial incentive to submit claims regardless of whether they meet applicable coverage criteria for reimbursement or accurately represent the services rendered.

All Staff Members are required to promptly report all known or suspected violations of Intellectual Gift, Inc. billing policies to their immediate supervisor, Compliance Officer or Administrator, or other designated party, in accordance with the agency's Policy and Procedures entitled "Internal Reporting of Compliance Related Matters."

Policy and Procedures: Compliance Training and Education

It is the policy of Intellectual Gift, Inc. as part of its continued commitment to compliance with legal requirements, to conduct mandatory annual compliance and policy education and training for all Intellectual Gift, Inc. members, managers, officers, directors, employees, contractors, agents, and other health care practitioners.

Each Staff Member is required to participate in a minimum of one (1) hour annually of basic compliance training and education. Individuals involved in specialty fields such as coding, claims development and billing will require additional compliance training and education addressing documentation, claims, billing, and fraud and abuse issues. Additional training attendance may be required as part of an employee performance improvement measure or action plan. Attendance at educational and training sessions is the responsibility of each Staff Member and will be documented. In addition to periodic training and in-service programs, Intellectual Gift, Inc. will distribute any relevant new compliance information to affected Staff Members.

Policy and Procedures: Employee and Other Association with the Agency Screening

It is the policy of Intellectual Gift, Inc. to ensure that its members, managers, officers, directors, employees, agents and independent contractors are properly screened in accordance with agency procedures, and in compliance with applicable laws and regulations, prior to employment or engagement with Intellectual Gift, Inc., and periodically during their tenure with Intellectual Gift, Inc. Offers of employment or engagement, as well as continued employment and engagement, shall be contingent upon satisfactory screening.

Policy and Procedures: Monitoring and Auditing

It is the policy of Intellectual Gift, Inc. to ensure that the agency, its members, managers, officers, directors, employees, contractors and agents conduct business and activities in compliance with all applicable laws, rules, regulations and other directives of the federal, state and local governments, departments and agencies. In this regard, and in furtherance of this policy, Intellectual Gift, Inc. shall

conduct periodic audits designed to address relevant compliance issues. Audits may be conducted by internal or external auditors, and will be overseen by the Compliance Officer.

Policy and Procedures: Internal Reporting of Compliance Related Matters

It is the policy of Intellectual Gift, Inc. to maintain an internal reporting mechanism for all members, managers, officers, directors, Staff Members, contractors, and agents to report actual or perceived violations of Intellectual Gift, Inc.'s Code of Conduct, Compliance Program, policies and procedures and applicable laws and regulations.

Anyone with knowledge of an event, occurrence or activity that appears to violate applicable laws and regulations, Intellectual Gift, Inc.'s Code of Conduct or any of its policies or procedures should promptly communicate the actual or perceived violation to their immediate supervisor, the Administrator the Compliance officer or other designated party.

If the individual reporting prefers not to report the matter to a supervisor the Administrator, Compliance Officer or other designated party he/she should call Intellectual Gift, Inc.'s Compliance Hotline at 718-524-7995. Callers to the hotline will remain anonymous.

As explained above, there will be no retaliatory action taken against individuals who conduct self-evaluations or audits, investigate issues, or report in good faith to the agency or any governmental official or agency. Retaliation or any form of reprisal based upon an individual's good faith reporting of potential fraudulent claims activity is strictly prohibited, will not be permitted or tolerated, and will be fully and completely investigated by Intellectual Gift, Inc.. Members, managers, officers, directors, employees, contractors and agents are expected to report any possible instances of retaliatory action immediately to the Administrator the Compliance Officer or other designated party.

Policy and Procedures: Investigations of Compliance Reports

It is the policy of Intellectual Gift, Inc. to make reasonable inquiry into any report concerning activity which may be contrary to applicable laws and/or regulations. Upon receipt of a report which suggests that improper conduct has occurred, an investigation either under the direction and control of legal counsel or the Compliance Officer may be commenced. 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.

Questions?

Intellectual Gift, Inc. encourages members, managers, officers, directors, employees, contractors, and agents to raise questions or concerns, and seek clarification regarding these laws or related policy issues with the Compliance Officer or other designated party.

Acknowledgement:

INTELLECTUAL GIFT, INC.

**CERTIFICATION OF RECEIPT OF CODE OF CONDUCT AND FEDERAL
FASLE CLAIMS ACT SUMMARY PURSUANT TO DRA SECTION 6032**

Questions?

Intellectual Gift, Inc. encourages employees, contractors, and agents to raise questions or concerns, and seek clarification regarding these laws or related policy issues with the Compliance Officer or other designated party.

Acknowledgement:

I HAVE RECEIVED THE FEDERAL FALSE CLAIMS ACT SUMMARY OF LAWS AND INTELLECTUAL GIFT, INC.'S CODE OF CONDUCT AND I UNDERSTAND AND AGREE TO CONDUCT MYSELF IN ACCORDANCE WITH AND IN COMPLIANCE WITH THE FEDERAL FALSE CLAIMS ACT, THE NEW YORK FALSE CLAIMS ACT, AND NEW YORK HEALTH CARE FRAUD LAWS AND THE FACILITY'S CURRENT CODE OF CONDUCT PURSUANT TO DRA SECTION 6032.

I ACKNOWLEDGE THAT I HAVE A DUTY TO REPORT ANY ALLEGED OR SUSPECTED VIOLATION OF THE PROVISIONS TO COMPLIANCE OFFICER OF INTELLECTUAL GIFT, INC. I ACKNOWLEDGE THAT I HAVE THE DUTY TO IMMEDIATELY DISCLOSE IN WRITING TO THE COMPLIANCE OFFICER ANY PROPOSED OR ACTUAL EXCLUSION OR OTHER EVENT THAT MAKES ME INELIGIBLE TO PARTICIPATE IN THE EI PROGRAM.

I FURTHER CERTIFY THAT I AM NOT AWARE OF ANY CIRCUMSTANCES THAT COULD REPRESENT A POTENTIAL VIOLATION OF THE COMPLIANCE PLAN AND CODE OF CONDUCT. I WILL REPORT ANY POTENTIAL VIOLATION OF WHICH I BECOME AWARE PROMPTLY TO THE COMPLIANCE OFFICER OF INTELLECTUAL GIFT, INC. I UNDERSTAND THAT ANY VIOLATION OF THE COMPLIANCE PLAN OR CODE OF CONDUCT IS GROUNDS FOR DISCIPLINARY ACTION, UP TO AND INCLUDING DISCHARGE FROM MY EMPLOYMENT OR CONTRACT WITH INTELLECTUAL GIFT, INC.

Signature

Print Name

Date