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Approved By: Chief Financial Officer
Owner: *Compliance Officer*
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FRAUD, WASTE, AND ABUSE PREVENTION

SCOPE: This policy applies to the entirety of the McGregor Organization including McGregor PACE, McGregor Foundation, McGregor Senior Assisted Living, and McGregor at Overlook, and all employees, staff, contractors, vendors or other members of McGregor's workforce.

PURPOSE: The purpose of this policy is to address the requirements of Section 6032 of the Deficit Reduction Act of 2005[1] by communicating certain federal and state laws relating to liability for false claims and statements; protections against reprisal or retaliation for those who report wrongdoing; and McGregor's policies and procedures to detect and prevent fraud, waste, and abuse.

POLICY: It is the policy of McGregor to obey all federal and state laws, to implement and enforce procedures to detect and prevent fraud, waste, and abuse regarding payment to McGregor and its related facilities from federal or state healthcare programs.

All McGregor employees, staff, students, volunteers, agents, contractors, and other members of McGregor's workforce shall abide by the Federal False Claims Act and Ohio's false claim provisions. Those reporting fraud, waste, and abuse concerns ("Whistleblowers") shall be protected from retaliatory action.

In order to assure that McGregor meets its legal and ethical obligations, obeys all federal and state laws, implements and enforces procedures to detect and prevent fraud, waste, and abuse, McGregor has implemented a Corporate Compliance and Ethics Program. The program is designed to comply with the Officer of Inspector General ("OIG") seven core elements of an effective compliance program.[2] McGregor PACE has implemented a Compliance Program designed to comply with the OIG seven core elements, and 42 C.F.R. §§422.503(b)(4)(vi) and 423.504(b)(4)(vi).[3] The Compliance Officer and members of Executive Leadership, in their capacity as the Compliance Committee, oversees the program through regular reports.

[1] https://www.congress.gov/109/plaws/publ171/PLAW-109publ171.pdf.
[2] https://oig.hhs.gov/authorities/docs/cpghosp.pdf;
https://oig.hhs.gov/fraud/docs/complianceguidance/012705HospSupplementalGuidance.pdf.
[3] https://www.archcare.org/sites/default/files/pdf/2012-42cfr422-503.pdf; https://ecfr.io/Title-42/Section-422.504.

PROCEDURE:

A. Federal False Claims[4]: No McGregor employee, staff member, student, volunteer, agent, contractor, or other member of McGregor's work force shall knowingly present or cause to be presented a false or fraudulent claim for payment by the United States Government (including but not limited to Medicare and Medicaid reimbursement).

1. "Knowingly" includes the following circumstances:

    a. Having actual knowledge of the information;

    b. Acting in deliberate ignorance of the truth or falsity of the information; or

    c. Acting in deliberate disregard of the truth or falsity of the information.

2. Penalties: In general, any person violating the Federal False Claims Act is subject to the following penalties:

    a. For a civil lawsuit by the Attorney General or a Qui Tam (whistleblower) action by a private party: A civil penalty of not less than $5,500 and not more than $11,000, plus three (3) times the amount of damages sustained by the federal government due to the person's act.

    b. For an administrative action: A civil penalty of $5,500 per false claim or statement. If a false claim was made, the government may make an assessment in lieu of damages in an amount not more than twice the amount of each false claim. An assessment shall not be made if the federal government has not already paid the false claim.

B. Ohio False Claims Provisions[5]:

1. "Medical Assistance Program" under Ohio law refers to the program established by Ohio's Department of Job and Family Services to provide medical assistance, as well as the Medicaid program promulgated under federal law.

2. No McGregor employee, staff member, student, volunteer, agent, contractor, or other member of McGregor's workforce shall knowingly make or cause to be made a false or misleading statement or representation for use in obtaining reimbursement from Ohio's Medical Assistance Program (including but not limited to Medicaid).

3. No McGregor employee, staff member, student, volunteer, agent, contractor, or other member of McGregor's workforce, with the purpose to commit fraud or knowing that the person is facilitating fraud, shall do either of the following:

[4] 31 U.S.C. §§ 3729-3733.
[5] Ohio Rev. Code §§ 124.34, 2913.40, 2913.401, 2921.13, and 5111.03.

a. Charge, solicit, accept or receive, goods or services under Ohio's Medical Assistance Program, any property, money or other consideration in addition to a reimbursement amount under the Medical Assistance Program, the applicable provider agreement, and any authorized deductibles/co-pays.

b. Solicit, offer, or receive remuneration, other than any deductibles or co-pays, in connection with furnishing goods or services that are wholly or partially reimbursed by Ohio's Medical Assistance Program.

4. No McGregor employee, staff member, student, volunteer, agent, contractor, or other member of McGregor's workforce, having submitted a claim under Ohio's Medical Assistance Program, shall knowingly alter, falsify, destroy, conceal, or remove any records related to reimbursement of the claim for at least (6) years.

5. No McGregor employee, staff member, student, volunteer, agent, contractor, or other member of McGregor's workforce shall knowingly participate in Medicaid eligibility fraud or assist in the occurrence of such fraud.

6. Penalties:

a. Medicaid fraud in an amount less than $500 is a first-degree misdemeanor. Medicaid fraud valued at $1000 - $7,500 is a fifth-degree felony. Medicaid fraud valued at $7,500 - $150,000 is a fourth-degree felony. Medicaid fraud valued at $150,000 or more is a third-degree felony.

b. Any person convicted of Medicaid fraud shall pay for costs incurred through investigating and prosecuting the case.

c. A provider who violates Ohio's false claim provision shall be liable for all of the following civil penalties:

i. Payment of interest at the maximum rate on the excess payments from the date the payments were made until the date on which repayment is made;
ii. Payment of an amount equal to three times the amount of any excess payments;
iii. Payment of $5,000 - $10,000 per false claim; and
iv. Payment of all reasonable expenses incurred by the State in legal enforcement.

d. Upon conviction of or entry of a judgement against a Medicaid provider or its owner, officer, authorized agent, associate, manager, or employee, the Director of Job and Family Services shall terminate the provider agreement

and stop reimbursement of claims for up to five (5) years. No provider, owner, officer, agent, associate, manager, or employee may provide services to any other Medicaid provider or risk contractor, arrange for Medicaid services, render Medicaid services, or order Medicaid services during the terminated period. No reimbursement will be made to such individuals during the termination period from or through any participating provider or risk contractor.

C. Whistleblower Obligations and Protections:

1. All McGregor employees, staff members, students, volunteers, agents, contractors, or other members of McGregor's workforce are responsible for promptly reporting actual or potential infringement of law, regulation, policy, or procedure related to federal or state fraud or abuse provisions, including the false claims provisions discussed in this policy.
2. Any employee or other party may report concerns in accordance with the procedures set forth in the Hotline Policy (C02). **The Compliance Hotline number is: (216)268-8400.** All such reports will be examined and investigated by the Compliance Officer in accordance with the Investigating Compliance Concerns Policy (C05). Further information regarding the prevention and deterrence of fraud, waste, and abuse can be found throughout McGregor's compliance policies, in the annual Fraud, Waste, and Abuse Training, the Corporate Compliance and Ethics Program Manual, the McGregor PACE Compliance Program, and the Code of Conduct.
3. Under no circumstances will the reporting of any concerns or possible impropriety serve as a basis for any retaliatory action(s) against an employee, staff member, participant, resident, or other person reporting such concerns.

D. Fraud, Waste, and Abuse Prevention and Deterrence:

McGregor expects all employees, staff members, students, volunteers, agents, contractors, or other members of McGregor's workforce to play an active role in preventing and deterring fraud, waste, and abuse in all areas and with regards to government healthcare programs. McGregor actively pursues legal compliance through implementation and enforcement of its Compliance Policies, Compliance Training, and Code of Conduct.

OVERSIGHT/RESPONSIBILITY: The Compliance Officer is responsible for the interpretation and application of this policy.

RELATED POLICIES: Hotline Policy; Investigating Compliance Concerns Policy; and Non-Retaliation for Reports of Non-Compliance Policy.

RELATED DOCUMENTS: Corporate Compliance and Ethics Program Manual; McGregor PACE Compliance Program; and the Code of Conduct.