

## **Commitment to Compliance**

Episcopal SeniorLife Communities is committed to providing high quality and caring programs and services pursuant to the highest ethical, business, and legal standards, including Federal health care program requirements (*e.g.*, Medicare and Medicaid).

These high standards apply to all ESLC staff, volunteers, partner organizations and business partners associated with ESLC. This includes our resident's, the community, other healthcare providers, companies with whom we do business (*i.e.*, "contractors"), government entities to whom we report, and the public and private entities from whom reimbursement for services is sought and received.

We expect and require all contractors to be law-abiding, honest, trustworthy, and fair in all business dealings. In short, we do not and will not tolerate any form of unlawful or unethical behavior by anyone associated with ESLC.

Our Compliance Program is designed to help ESLC prevent fraud, waste, and abuse in Federal health care programs. If fraud or abuse is detected, the Program provides a system for investigation, reporting and implementing corrective action. This document includes a Code of Conduct which is designed to assist our contractors in navigating the various compliance obligations of the highly regulated industry in which we provide care.

To the extent that contractors meet the definition of an "affected individual,"<sup>1</sup> they are subject to this Compliance and Ethics Program. Failure of an affected individual to meet the Program's requirements may result in termination of contract or affiliation with the ESLC.

Contractors should adhere to all policies, including ESLC's Standards of Conduct, to avoid any actions that could reasonably be expected to adversely affect the integrity or reputation of ESLC.

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<sup>1</sup> "Affected individuals" means all persons who are affected by ESLC's compliance risk areas. This includes our employees, the Chief Executive Officer, senior administrators, managers, contractors, agents, subcontractors, independent contractors and the Board of Directors. Contractors are subject to the Compliance Program to the extent that it is related to their contracted role and responsibilities within ESLC's risk areas. All contractors should adhere to all policies, including ESLC's Standards of Conduct, to avoid any actions that could reasonably be expected to adversely affect the integrity or reputation of ESLC.

## **Responsibility of Contractors.**

Contractors are expected to comply and be familiar with all federal and state law, rules and regulations that govern their work with ESLC. All contractors are also expected to comply with ESLC's Standards of Conduct, and any applicable compliance standards and policies. Compliance with the Code is a condition of association with ESLC, and violating the Code will result in discipline being imposed, including termination of contract or affiliation.

**Lawful Conduct.** Contractors should avoid all illegal conduct and not take any action that they believe violates any statute, rule, or regulation.

**Reporting Requirements.** If contractors become aware of or suspect misconduct or possible violations of ESLC Corporate Compliance Program, it is a requirement they are reported to an ESLC manager or supervisor, a member of senior management or the Corporate Compliance Officer.

ESLC's Corporate Compliance Officer is **Courtney McGinness, Vice President of Marketing and Community Engagement and can be reached at 585.546.8439 x3121.** In addition, individuals may submit, in writing, reports or suspected misconduct using any of the suggestion communication boxes located throughout the facility or report suspected misconduct by phone voice message through the Compliance Hotline at 585.546.8439 x3548 (VP of Human Resources).

Questions or concerns may be raised anonymously, via the Compliance Hotline, or suggestion boxes. The identity of callers to the Hotline will be kept confidential, whether requested or not, unless the matter is subject to a disciplinary proceeding, referred to or under investigation by the NY State Medicaid Fraud Control Unit (MFCU), the Office of Medicaid Inspector General (OMIG) or law enforcement or if disclosure is a requirement in connection with a legal proceeding.

## **ESLC Standards of Conduct**

ESLC has Standards of Conduct which are listed in the ESLC Employee Handbook. The organization's Corporate Compliance Program addresses the following:

- **Assets** – All assets of ESLC shall be used solely for the benefit and purpose of ESLC (i.e., equipment, computers, supplies, and vehicles). Personal use of corporate assets is not generally allowed. The Corporate Compliance Officer is responsible for determining the validity of personal use violations.
- **Billing** – Claims are only submitted for services that ESLC believes to be reasonable and medically necessary. ESLC will not tolerate billings for services not rendered, for unnecessary services or upcoding. Medicare, Medicaid and all other third-party payor rules and regulations will be followed. No claims will be submitted for services that are not reasonable or medically necessary. Documentation to support billing claims shall be maintained per the Record Retention Policy. Internal audit controls will be established by the Controller.
- **Bribes, Gifts and Gratuities** – No person associated with ESLC shall accept bribes, gifts, or gratuities intended to persuade business decisions, solicit an unfair advantage, or reward special attention or service. Loans to or from any individual or business (other than recognized financial institutions) that furnish or receive supplies or services to ESLC are prohibited. Offers of bribes, gifts, or gratuities must be reported to the Corporate Compliance Officer. Contractors offering bribes, gifts, or gratuities will be

promptly notified that those practices will not be allowed. Employees seeking bribes, gifts, or gratuities will be subject to disciplinary actions.

- **Cash and Bank Accounts** –No person with access to cash and bank accounts shall steal or otherwise misappropriate funds of ESLC. All internal control procedures shall be adhered to at all times. The Board will authorize bank relationships and account access as required. All employees with access to cash and bank accounts will be adequately trained. ESLC’s independent auditors will be required to review internal controls over cash and bank accounts during the annual audit.
- **Competition (Antitrust)** – All persons associated with ESLC shall respect the confidential nature of resident and ESLC information and shall refrain from disclosing or discussing issues of a confidential nature inappropriately. Information obtained through employment or association with ESLC must not be used to benefit other employees or organizations.
- **Conflict of Interest** – All persons associated with ESLC, including but not limited to board members, consultants and employees, shall disclose any potential conflict of interest and refrain from any activity that represents an unfair business advantage by virtue of their business interest or employment with ESLC.
- **Contributions** – No person associated with ESLC shall use force or coercion over another person to solicit contributions. This includes contributions to ESLC as well as organizations not affiliated with ESLC.
- **Credit Balances** – Payor credit balances will be refunded as soon as possible. In the event that the proper disposition of a credit balance is unclear, it will be reported immediately to the compliance officer to determine the appropriate action. ESLC files credit balance reports with Medicare as required by regulation.
- **Financial Reports** - Expense reports, reimbursement requests, financial statements and cost reports shall be completed thoroughly and accurately. No individual shall willfully or purposely misrepresent any financial reports or reimbursement requests. Any contractor who feels that expense reports, reimbursement requests, financial statements or cost reports are inaccurate must report their suspicions to the Corporate Compliance Officer.
- **Financing/Loan Agreements** – ESLC shall maintain a familiarity with the terms, conditions and covenants contained in any financing/loan agreements and shall refrain from engaging in any activity in direct conflict or breach of these terms, conditions, or covenants. The Board of Directors will approve financing and loan agreements.
- **MDS+ and PRI** – These instruments will be completed appropriately to reflect the resident’s true medical acuity.
- **Medical Supplies** – ESLC will only bill for medical supplies that are required for a resident’s care. ESLC will not engage in any questionable billing practices as outlined by the Office of Inspector General (OIG) such as the reclassification of supplies so as to qualify them for payment under Medicare Part B.

- **Medicare/Medicaid Anti-Kickback** – No individual associated with ESLC shall engage in any unlawful acts of accepting payments or benefits in return for generating Medicare/Medicaid business activity.
- **Non – Discrimination** - All persons associated with ESLC shall adhere to ESLC’s stated philosophy as well as State and Federal laws prohibiting discrimination because of age, race, creed, gender, color, marital status, disability, sexual preference, national origin, or sponsor while conducting business activity of the organization. Non-discrimination is addressed in the ESLC Employee Handbook.
- **Resident Rights** – All persons associated with ESLC shall adhere to the standards of conduct defined in the facility’s Bill of Resident Rights. The Residents’ Rights Policy addresses this.
- **Research Grants** – All individuals associated with an organizational sponsored Research Grant shall conduct their activity in accordance with the grant guidelines. All grant funds shall be used only in accordance with the grant approval with documentation to support all grant activity.
- **Services Rendered** - All services rendered at ESLC will be medically necessary and documented properly. This documentation shall substantiate the medical necessity and that the service was provided. These services include physical and occupational therapies, medical supplies, physician visits, mental health, podiatry, x-ray, and hospice.
- **Tax Exemption** – ESLC shall not engage in any prohibited activity that violates or could result in a challenge of its tax exemption status. No employee or any other person affiliated with ESLC will use ESLC’s tax-exempt status for their personal gain.

#### **Non-Retaliation or Intimidation.**

ESLC maintains a policy of non- retaliation and non-intimidation for good faith participation in the Compliance Program. Good faith participation includes, but is not limited to reporting actual or potential compliance issues via aforementioned communication lines; cooperating or participating in the investigation of compliance issues; assisting with or participation in self-evaluations and audits; assisting with or participation in remedial actions/resolution of compliance issues; reporting instances of retaliation/intimidation; and reporting potential fraud, waste or abuse to appropriate State or Federal entities. Acts of retaliation or intimidation should be immediately reported to the Corporate Compliance Officer or to the Hotline and, if substantiated, the individuals responsible will be disciplined appropriately.

#### **Accurate Records and Documentation.**

All of ESLC records, documents and reports must be accurate, complete and in compliance with all legal requirements. Claims for services provided must be based on the service actually provided and supported by adequate documentation to justify the claim.

#### **Exclusion Checks.**

ESLC conducts appropriate background checks on contractors and requires those who assign staff that may be providing services to check applicable federal and state databases prior to assignment and monthly thereafter to ensure contractors employees are not excluded from participating in

federal health care programs (e.g., Medicaid). Contractors are required to maintain documentation demonstrating compliance with this condition and immediately disclose to the Corporate Compliance Officer if the contractor or any of its staff becomes excluded or otherwise ineligible. The applicable databases are:

- <https://exclusions.oig.hhs.gov/> (the United States Department of Health and Human Services, Office of Inspector General’s List of Excluded Individuals/Entities); and
- <https://omig.ny.gov/medicaid-fraud/medicaid-exclusions> (the New York State Office of the Medicaid Inspector General’s Medicaid Exclusion List). ESLC’s contractors (as well as our employees) to report any reasonable suspicion of criminal activity including abuse against a resident of a long-term care facility or against any person receiving care from the facility to the state survey agency and to a local law enforcement agency. Retaliation for reporting a reasonable suspicion of a crime is prohibited and ESLC will not engage in any retaliatory action against any individual who files such a report. ESLC provides notice of this reporting obligation to contractors on an annual basis.

### **Compliance with the Deficit Reduction Act of 2005 (the “DRA”).**

In accordance with the DRA, ESLC has established written policies for all employees and contractors that provide detailed information about the federal False Claims Act, federal administrative remedies for false claims and statements, the New York State false claims provisions, state penalties (both civil and criminal) for false claims and statements, whistleblower protections under such laws, and the role of these laws in preventing and detecting fraud, waste and abuse in federal health care programs (e.g., Medicare and Medicaid).

### **Confidentiality.**

Contractors who learn confidential information about the residents may not share that information with anyone, including family or friends.

## **ESLC Corporate Compliance Operational Elements**

### **Written Standards and Procedures**

ESLC has developed and distributed written standards of conduct, as well as written policies and procedures that promote our commitment to compliance, address specific areas of potential fraud and abuse, and give guidance to affected individuals about how the compliance program operates and how compliance issues are investigated and resolved. The written policies and procedures are available to all affected individuals in Policy Tech, on ESLC’s website and in ESLC’s employee handbook. A list of current Program policies and procedures is included at the end of this summary. All written standards, policies and procedures are reviewed annually.

### **Oversight**

ESLC has a designated Corporate Compliance Officer and a Compliance Committee charged with the responsibility for developing, operating, and monitoring the Compliance Program. The Corporate Compliance Officer and the Committee are accountable to and report directly to ESLC’s Board of Directors and Chief Executive Officer.

### **Mandatory Education and Training**

ESLC has developed and conducts effective education and training programs that cover, among other things, compliance risk areas, expectations, disciplinary standards and the operation of the Compliance

Program.

### **Reporting System**

ESLC has established and implemented effective lines of communication, ensuring confidentiality, that are accessible to all affected individuals. This includes an anonymous method for reporting (i.e., the Hotline and comment boxes) and allows for questions regarding compliance issues to be asked and for compliance issues to be reported.

### **Disciplinary Standards**

ESLC's Code of Conduct standards shall be consistently enforced through appropriate disciplinary mechanisms, including discipline of individuals or contractors. Disciplinary standards will be engaged for the following violations:

- Failure to report suspected problems;
- Participation in non-compliant behavior;
- Encouraging, directing, facilitating or permitting either actively or passively non-compliant behavior;
- Failure by a violator's supervisor(s) to detect and report a compliance violation, if such failure reflects inadequate supervision or lack of oversight;
- Refusal to cooperate in the investigation of a potential violation;
- Refusal to assist in the resolution of compliance issues; and
- Retaliation against, or intimidation of, an individual for their good faith participation in the Compliance Program.

Violations to ESLC's Compliance Program threaten our status as an honest and trustworthy provider capable of participating in public health care programs. Furthermore, detected but uncorrected misconduct can seriously endanger the reputation, mission and legal status of ESLC's programs and services. Consequently, upon reports or reasonable detection of noncompliance, the Corporate Compliance Officer will take steps to determine the scope of the violation and take steps to correct the problem. The disciplinary process explained in the Employee Handbook will be utilized when necessary. This may include a referral to criminal and/or civil enforcement authorities, a corrective action plan, a report to the government, and the submission of over payment as appropriate.

Disciplinary procedures for abuse of ESLC's Corporate Compliance Program and Standards of Conduct will follow the guidelines under existing Human Resources policies of the organization and may result in immediate contract or relationship termination.

Grievance procedures or opportunities to respond to allegations or evidence of misconduct will follow the guidelines under existing Human Resources policies of ESLC.

Disciplinary measures that are appropriate shall be determined on a case-by-case basis and may involve the advice of legal counsel.

Disciplinary measures and procedures may involve consideration and direction from outside third parties (i.e. governmental agency, law enforcement agency), including fines, reimbursement of funds, criminal prosecution and imprisonment.

The Corporate Compliance Officer will track all reported violations and look for systemic problems. If it is determined that there is credible evidence of misconduct that violates criminal, civil, or administrative law then ESLC will notify the appropriate governmental authority within a reasonable period. This period shall not exceed sixty (60) days from the date of the discovery of credible evidence. The purpose of reporting shall be to demonstrate a good faith effort and a willingness to work with governmental authorities to correct the problem.

### **Auditing and Monitoring System**

ESLC routinely uses audits and/or other risk evaluation techniques to monitor compliance and identify compliance risk areas, such as coding, billing and documentation and payment practices; issues relating to quality of care and medical necessity of services; the credentialing process; compliance with mandatory reporting requirements; governance standards; contractor oversight and other potential compliance risk areas that may arise from complaints, risk assessments, or that are identified by specific compliance protocols or through other means.

### **Response System**

ESLC has established and implemented procedures and a system for promptly responding to compliance issues as they are raised, investigating potential compliance problems as identified in the course of self-evaluations and audits, correcting such problems promptly and thoroughly, including reporting of any violations of state or federal law. These steps reduce the potential for recurrence, and ensure ongoing compliance with Federal health care program requirements (e.g., the Medicaid Program).

### **Policy of Non-intimidation and Non-Retaliation**

Intimidation and Retaliation are Prohibited. We expect all affected individuals to comply with this Program, including the reporting of any potential misconduct, illegal conduct or other compliance-related concerns. Retaliation or intimidation in any form against an individual who in good faith reports potential compliance issues or for other good faith participation in the Program is strictly prohibited and is itself a serious violation of the Code of Conduct. Acts of retaliation should be immediately reported to the Corporate Compliance Officer and, if substantiated, will be disciplined appropriately.

### **ESLC Compliance Policies Include the following:**

- Acceptance of Charitable Donations
- Admissions Policy
- Compliance Discipline Policy
- Compliance Reviews for Excluded Individuals/Entities
- Compliance Reviews of Clinical Staff Credentials
- Compliance Risk Assessment and Monitoring
- Compliance Standards Regarding Billing and Identifying Overpayments
- Compliance Standards Related to Documentation and Care Planning
- Compliance Standards Related to Rehabilitation/Therapy Services
- Compliance Standards Related to Contractors and Suppliers

Compliance Training and Education  
Compliance with Anti-Referral Laws  
Compliance with Federal and State False Claims Laws: Overview of the Laws Regarding False Claims and Whistleblower Protections  
Conflict of Interest  
Gifts and Gratuities  
Non-Retaliation/Non-Intimidation Policy Protocols for Investigations and Implementing Corrective Action  
Quality of Care  
Record Retention  
Reporting the Reasonable Suspicion of a Crime  
Resident Rights