

Prospect Child & Family Center

CORPORATE COMPLIANCE PLAN

*Approved October 25, 2007
Revised September 28, 2009*

**United Cerebral Palsy of the Tri-Counties
d/b/a Prospect Child & Family Center**

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**Prospect Child & Family Center
Board of Directors**

CORPORATE COMPLIANCE PROGRAM RESOLUTION

WHEREAS, Prospect Child & Family Center is dedicated to the vision of being a community leader in advancing the status of individuals with disabilities, and

WHEREAS, Prospect Child & Family Center's primary mission is to provide the highest quality service to individuals with disabilities, and

WHEREAS, Prospect Child & Family Center recognizes the great importance of conducting its business with the highest level of integrity, honesty, and ethical behavior in order to achieve its vision and mission, and

WHEREAS, Prospect Child & Family Center believes an established Corporate Compliance Program is vital to ensuring that adopted standards of business practices are followed by all persons in relation to Prospect Child & Family Center,

NOW, THEREFORE, be it

RESOLVED, that the Board of Directors of Prospect Child & Family Center hereby strongly endorses and is wholeheartedly committed to Prospect Child & Family Center's Corporate Compliance Program.

I HEREBY CERTIFY that this resolution was passed by the Board of Directors on this 24th day of September, 2007.



**Eric Cottrell, President
Board of Directors, Prospect Child & Family Center**

INTRODUCTION

The Corporate Compliance Program at Prospect Child & Family Center has been implemented to enhance the Agency's strong commitment to providing the highest quality of care and service to developmentally disabled children, adults, and their families by creating a work environment that emphasizes ethical, legal and prudent practices. Although it is recognized that no code of conduct or compliance plan can substitute for a person's own internal sense of fairness, honesty and integrity, Prospect Child & Family Center wishes to provide guidance and education to all parties to ensure that our work continues to be completed in an ethical and legal manner. It is the philosophy of Prospect Child & Family Center that a comprehensive Corporate Compliance Program is an integral and necessary part of the operation and to the Agency's mission.

Mission Statement

We have a commitment...

To provide sensitive, accessible and comprehensive services to individuals with disabilities and their families to promote independence, inclusion and an enhanced quality of life.

We believe...

That we are a community leader in advancing the status of individuals with disabilities through advocacy, education and innovation.

That all individuals have a right to meaningful, appropriate educational and social opportunities alongside their non-disabled peers.

That our consumers have the right and ability to shape their own futures through effective advocacy.

That we must attract, retain and develop a highly skilled workforce committed to assisting our consumers in achieving their highest potential.

That we must conduct our business in a fiscally sound manner to ensure the continued integrity, existence and growth of our organization.

CODE OF ETHICS

In order to effectively achieve our mission, Prospect Child and Family Center (hereafter referred to as PCFC) has adopted standards of ethical practice for its employees and others in relation to the Agency in order to maintain the highest level of integrity and ethical behavior. The standards are the foundation of PCFC's values, and they are expected to be adhered to in order that the Agency's business will be conducted in accordance with the highest level of business ethics and in compliance with applicable regulations and legal mandates.

1. PCFC shall transact business in compliance with all applicable local, state, and federal laws and regulations.
2. PCFC will provide quality care in the most appropriate setting and respect the rights and dignity of the individuals we serve.
3. PCFC shall not discriminate in any matter based on race, ethnic background, disability, national origin, sex, age, marital status or sexual orientation.
4. PCFC shall maintain a workplace environment free of harassment, disruptive behavior, violence, and hazards.
5. PCFC shall avoid any significant conflict of interest between the interests of the Agency and the interest of any employee, director, vendor, contractor or others in relation to PCFC in accordance with established policy.
6. PCFC shall maintain the highest degree of confidentiality regarding consumers, personnel and business information consistent with acceptable standards of information sharing as prescribed by regulatory bodies.
7. Employees, directors and others in relation to PCFC shall not accept receipt of a gift in any form, in accordance with Agency policy, that directly or indirectly may influence the Agency's relationship with a vendor, regulator, contractor, or other person or entity.
8. Any contributions or donations to PCFC shall be obtained without coercion, force or expectation of compensation in return and shall be used to benefit the organization.
9. PCFC shall ensure that advertising and marketing practices will be conducted in a professional manner consistent with the mission of the Agency and in compliance with regulatory requirements.
10. PCFC property, including facilities, equipment, supplies, information systems, software, furnishings and vehicles, is to be used for PCFC business purposes only, except where stated differently in PCFC policy or agreement.
11. PCFC shall ensure that all communications, statements and representations to suppliers, vendors, contractors, consumers and employees are accurate, truthful, fair and uniform without bias or favoritism.
12. PCFC shall maintain accurate, complete and timely records of all services provided with proper back-up documentation as required by regulatory agencies.
13. PCFC shall submit accurate, complete and timely claims and billing statements that reflect only the services rendered and will never knowingly submit false, fraudulent or fictitious claims.
14. PCFC shall prepare and maintain accurate, complete and timely cost reports, financial records and statements regarding the Agency's assets, liabilities, revenue and expenditures, according to generally accepted accounting principles.

15. PCFC shall maintain proper internal controls to assure security and accountability in all areas of the Agency through effective self-identification, monitoring, corrective action plans, appropriate disciplinary action, and enforcement of standards.
16. PCFC shall provide appropriate training and education to employees, directors and others in relation to the Agency to ensure proper knowledge of and procedures, as well as information appropriate to their function as it relates to the Agency.
17. PCFC shall provide employees, directors and others in relation to the Agency with the opportunity and mechanism to provide input and file complaints in good faith without fear of retaliation, retribution or punishment.
18. It is the responsibility of each employee, director, or others in relation to PCFC to ensure that his or her own conduct complies with the Agency's policies and code of ethics.

OVERSIGHT AND RESPONSIBILITIES

Prospect Child & Family Center recognizes that an ongoing Corporate Compliance Program must have the support of all parties, including the Board of Directors, employees, contractors and others in relation to the agency to ensure that it is truly effective, responsive to change, and meets its objectives.

Executive Director

As the agency's chief executive officer, the Executive Director's responsibilities include, but are not limited to, the following:

- the development, operation and maintenance of the corporate compliance program
- conducting investigations of ethical or legal compliance violations
- overseeing all programs and functions
- implementing policies and procedures
- reporting to and informing the Board of Directors on all compliance matters, as well of any new compliance regulations or information

Corporate Compliance Officer

The Corporate Compliance Officer is a Prospect Child & Family Center employee who has been designated as such and reports to the Executive Director for most compliance issues but has a direct line to the Board President as well. The Corporate Compliance Officer's responsibilities include, but are not limited to, the following:

- overseeing the day-to-day operation of the program
- ensuring consistency in the application of policies and procedures
- receiving and responding to complaints regarding compliance issues
- assisting in investigations of ethical or legal compliance violations
- coordinating and supporting monitoring / auditing procedures
- coordinating and supporting compliance education and training programs
- assisting in identifying trends related to compliance issues
- reporting to and informing the Executive Director and/or Corporate Compliance Committee of all compliance matters, and any new compliance regulations or information

Corporate Compliance Committee

The Corporate Compliance Committee's responsibilities include, but are not limited to, the following:

- review and approval of new program policies and procedures
- providing guidance, oversight and support for all program components
- monitoring investigations and corrective action plans
- monitoring internal and external audits
- meeting on a regular basis as determined by the committee
- making recommendations to the Board for the appointment of the Corporate Compliance Officer

Committee membership includes:

- Corporate Compliance Officer
- Member of the Board of Directors
- Executive Director
- Chief Financial Officer

- Director of Programs and Professional Services
- Director of Quality Assurance
- Human Resources Director
- Other Department Coordinators, as deemed appropriate

Board of Directors

As the governing body of Prospect Child & Family Center, the Board of Directors responsibilities include, but are not limited to, the following:

- approval of the Corporate Compliance Program
- approval of the Corporate Compliance Officer
- assuring that a corporate compliance information and reporting system is in place and adequate
- providing advice and guidance by exercising 1) duty of care (acting in a manner that they reasonably believe is in the best interest of the corporation); 2) duty of loyalty (being aware of the types of transactions that may prohibit them conflicts of interest); and 3) duty of obedience (ensuring that the organization complies with applicable laws and regulations)

Employees

Employee responsibilities include, but are not limited to, the following:

- documenting all records and notes correctly and legibly to include, but not limited to, signature, title and date in order to prevent potential fraud, waste or abuse
- meeting all PCFC and regulatory requirements for their particular jobs, including being checked against Medicaid Exclusion Lists before being hired
- reporting all known or suspected violations of the Code of Ethics and/or State or Federal law
- complying with all requirements and prohibitions under the Federal and NYS False Claims Act

Legal Counsel

Legal counsel may be sought for advice on changes and developments in laws and regulations pertinent to the corporate compliance program to ensure that Prospect Child & Family Center conforms to current legal statutes and regulations for non-profit corporations. Counsel may also be utilized to assist in investigations and audits and/or in enforcement actions and negotiations of settlements.

Regulatory/Accrediting Agencies

Numerous federal, state and local regulatory and accrediting agencies provide various program and financial oversight, and Prospect Child & Family Center-expects adherence to all regulations, laws and statutes as promulgated by these the agencies.

Conflict of Interest

The Agency expects employees, board members and others in relation to the Agency to act in accordance with good faith and loyalty to the corporation and not act or vote on any matter involving their own substantial interest or involving a corporation in which they have substantial interest. The Agency understands that due to personal circumstances between individuals, conflicts of interest may exist and/or may develop and the Agency expects such circumstances to be discussed with the Executive Director and/or Human Resources promptly. The Agency strives to avoid conflicts of interest in supervisory/subordinate positions and, therefore, will not hire individuals who have a conflict of interest into such positions. If the Agency determines that a conflict of interest does exist, a plan will be developed to address such conflict and, if deemed appropriate, consult with legal counsel.

REPORTING AND RESPONSE

Prospect recognizes that a critical aspect of its compliance program is the establishment of a culture that promotes detection, reporting and resolution of violations related to the Code of Ethics standards and/or State or Federal requirements. **Any reports not considered to fall under the Code of Ethics standards will be referred to the proper source, including all reports of consumer abuse or neglect that fall under Section 624 of the OMRDD regulations.**

Detecting Violations

Employees, contractors and others in relation to the Agency are often the first to realize that there may be violations of laws or wrong doing within an Agency. It is expected that all employees and others have a duty and responsibility for promptly reporting any known or suspected violations of the Code of Ethics standards and/or State or Federal laws. In fact, failure to do so is a violation in itself. Examples of compliance violations that would need to be reported include, but are not limited to, the following:

- Revealing confidential information.
- Billing for services that were not provided or for more time than was actually provided.
- Being unlicensed and performing services that only a licensed professional should render.
- Unauthorized financial transactions involving Agency or consumer funds.
- Willful falsification of client, personnel or financial reports.
- Committing or contributing to workplace violence.
- Accepting a bribe from a vendor and/or contractor.
- Embezzlement of agency funds or property.
- Unauthorized use or disposal of a controlled substance.
- Willful violation of local, state and federal regulations and laws pertaining to services and programs.
- False representations to third parties with intent to deceive.
- Willful submission of a false compliance complaint or allegation.
- Willful falsification of records and information, including time cards, reports, etc.

Whistleblowing

The Agency recognizes that a person may not express their concerns because they feel that speaking up would be disloyal to their colleagues or to the Agency, or they may fear harassment or victimization. In these circumstances, they may feel it is easier to ignore the concern rather than report what may just be a suspicion of malpractice. The Agency is committed to the highest possible standards of openness, probity and accountability. In support of that commitment, the Agency strives to create an environment that 1) encourages confidence in raising, questioning and acting upon concerns; 2) outlines avenues to raise concerns; and 3) provides reassurances that the person will be protected from intimidation or retaliation for whistleblowing in good faith unless, of course, the violation was carried out by that person.

Non-Intimidation / Non-Retaliation

The Agency will not tolerate intimidation or retaliation and will do what it lawfully can to protect the person who raises a concern in good faith. This does not mean that if the person is already the subject

of disciplinary or redundancy procedures that those procedures will be halted as a result of their whistleblowing.

Confidentiality

The Agency will do its best to protect a person's identity when they raise a concern and do not want their name to be disclosed; however, it must be appreciated that the investigation process may reveal the source of the information and a statement by the person may be required as part of the evidence, particularly if law enforcement officials or external auditors become involved. In order to take effective action, the Agency will need proper evidence which may be required to stand up to examination in a court of law.

Anonymous Allegations

The Agency encourages employees, contractors and others in relation to the Agency to put their name to their allegation. Concerns expressed anonymously are much less powerful, but they will be considered at the discretion of the Agency. In exercising this discretion, factors to be taken into account would include:

- the seriousness of the issues raised;
- the credibility of the concern; and
- the likelihood of confirming the allegation from attributable sources.

Untrue Allegations

If a person makes an allegation in good faith, but it is not confirmed by the investigation, no action will be taken against them. If, however, a person makes malicious, baseless, or vexatious allegations that are for no other purpose than to cause trouble or annoyance or without good reason to discredit the Agency or members thereof, that person could face defamation proceedings or prosecution for wasting law enforcement time. If this person decides to address their concerns by going to the Press or the media, that person could also face defamation proceedings if their allegations are unfounded.

How to Raise a Concern

As a first step, corporate compliance concerns may be made with the person's immediate supervisor or the Human Resources Department. Depending, however, on the seriousness and sensitivity of the issues involved and who is thought to be involved, a person can bring their compliance concerns to the attention of the Corporate Compliance Officer or call the anonymous hotline number. The earlier a person expresses their concern, the easier it is to take action. Although a person is not expected to prove the truth of an allegation, they will need to demonstrate to the person contacted that there is sufficient grounds for their concern by providing sufficient details relevant to their complaint.

Compliance Officer

A verbal communication with the Compliance Officer regarding a compliance concern can be made at any time during normal work hours or at a mutual time as deemed appropriate by both parties. Compliance concerns can also be submitted to the Compliance Officer in writing.

Anonymous Compliance Hotline

If a person feels more comfortable disclosing information anonymously, the Agency has a confidential hotline (1-866-219-1122). **When calling this toll-free line, they will speak with a fraud examiner who will write down the information regarding the violation, assign a case number and prepare a written**

report. The fraud examiner will forward the report to appropriate Agency personnel for investigation by the proper authorities.

How the Agency Will Respond

When a complaint is received, a determination will be made whether it falls under the Corporate Compliance Program. **Concerns or allegations which fall within the scope of specific procedures (i.e., child protection, discrimination, etc.) will be redirected to the appropriate department or individual who can assist them.** If the complaint seems to fall within the compliance program, initial inquiries will be made to decide whether there is sufficient evidence of possible non-compliance to warrant further action and, if so, what form it should take. The Agency could decide 1) to resolve the matter internally or by agreed action without the need for investigation; 2) make a referral to law enforcement officials, an external auditor, and/or legal counsel; 3) form the subject of an independent inquiry; or 4) conduct a more thorough investigation. If urgent action is indicated, this will be taken before any investigation is conducted.

Investigations

If an investigation is warranted, it will be conducted in a professional and timely manner. Investigations may include interviews with involved parties, checking agency records and files, and conferring with appropriate staff, Board of Directors, and/or legal counsel if deemed necessary. Documentation will be kept of all investigations, as well as outcomes, and the findings reported to the appropriate entities.

Records Retention

The retention, disposal or destruction of records of, or pertaining to, the Agency must always comply with legal and regulatory requirements and Agency policy. If an investigation of potential wrongdoing is underway or planned, document purging will not be permitted.

Corrective Action Plan

In the event the investigation of a complaint identifies a violation of the agency's Code of Ethics standards, a corrective action plan will be initiated. The primary purpose shall be to immediately correct any improper practice, assure necessary changes in Agency systems in order to prevent recurrence and/or refund any overpayments.

In cases where the alleged wrongdoing appears to violate State or Federal law, the matter will be discussed with the Agency's legal counsel who will make the determination whether or not a law has been violated. If it has, the NYS Office of Medicaid Inspector General and/or any other appropriate law enforcement agency will be notified and all subsequent proceedings will comply with the 1998 OMIG Self-Disclosure Protocol.

ENFORCEMENT AND DISCIPLINARY ACTION

Enforcement

Enforcement of the Corporate Compliance Program shall be accomplished through appropriate discipline of its employees and others in relation to the Agency when violations or repetitive errors occur. Continued adherence to the program shall be enforced through ongoing monitoring, auditing and training procedures.

Disciplinary Action

Disciplinary action shall be fairly and firmly enforced. The Agency recognizes that there are different levels of non-compliant behavior which determine the level of disciplinary action taken, and each violation will be reviewed on a case-by-case basis:

- If compliance “errors” are deemed unintentional, discipline might include a counseling session with their supervisor, Agency contact, and/or HR Director, with follow-up training to prevent recurrence. If the errors continue to occur after these measures have been taken, additional action, up to and including termination, may be warranted.
- “Serious violations” are deemed intentional and/or willful and occur when a person 1) knowingly commits a fraudulent act; 2) knows about a fraudulent act but doesn’t report it; and/or 3) facilitates or encourages a fraudulent act. Discipline for employees or others committing a “serious violation” leads to immediate disciplinary action, up to and including termination in accordance with established Human Resources policy, as well as a report to the appropriate law enforcement agencies.

TRAINING AND EDUCATION

Prospect Child & Family Center shall ensure that its employees and others in relation to the agency will be trained and educated about the Agency’s Corporate Compliance Program on an on-going basis. Training shall include information about the compliance issues, compliance expectations, how the compliance program works and other relevant topics as mandated.

MONITORING AND AUDITING

Prospect Child & Family Center has developed and implemented a monitoring and auditing plan to promote adherence to applicable federal and state laws and requirements, assist in the reduction of identified problems, and establish effective internal controls. All monitoring and auditing activity will occur on a regular basis and be properly conducted and documented.

Internal

Internal record reviews and audits will target identified risk areas (i.e., billing, fiscal management, program operations, service provisions, training, credentialing, medical records, etc.) and will include a

plan of corrective action. Summaries of all reviews and audits will be submitted to the appropriate entities for their review and input.

External

In addition to our internal monitoring / auditing process, outside agencies conduct various types of audits (i.e., financial, medical records, etc.) on a regular basis as well. The results of all external audits are reported to the Executive Director, who will then present the findings to the appropriate entities.

CORPORATE COMPLIANCE LAWS

PCFC is committed to conducting its programs and services in a lawful and ethical manner, in full compliance with federal, state and local laws and regulations.

Federal Requirements

Deficit Reduction Act

The Deficit Reduction Act of 2005 instituted a requirement for health care providers that receive or disburse \$5 million or more in Medicaid payments during a federal fiscal year to establish written policies and procedures informing and educating their employees, contractors and agents about federal and state false claims acts and whistleblower protections.

Federal False Claims Act (31 USC §§3729-3733)

- a. The Federal False Claims Act, in summary, makes a person liable when they (1) knowingly submit a false or fraudulent claim for payment or approval to the federal government; (2) knowingly submit a false record in order to obtain payment or approval from the government; or (3) knowingly 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. In addition, a person who acts in reckless disregard or in deliberate ignorance of the truth or falsity of the information can also be found liable.
- b. *Whistleblower or “Qui Tam” Provision* – The Federal False Claims Act allows private citizens (known as qui tam relators) with knowledge of potential violations to file their own personal law suits of fraud, abuse or waste on behalf of the United States government with potential proceeds coming to them if the lawsuit finds in the government’s favor. Whistleblowers are protected against discharge, demotion, suspension, threat, harassment, or other discrimination with regard to their employment as a result of their furtherance of an action under this Act.
- c. The federal False Claims Act also makes it a violation to employ or contract anyone who is excluded from participation in a federally sponsored healthcare program (i.e., Medicaid). All employees, board of directors, and contractors must be checked against Medicaid Exclusion Lists before being hired and, at least, annually thereafter. Federal regulations also require staff in certain positions to meet the following qualifications or a health care provider CAN NOT bill for Medicaid services:
 - Regulatory requirements per title
 - Job description qualifications

- Degree/education requirements
- Experience requirements
- Reference requirements
- Licenses check (www.op.nysed.gov/opsearches.htm)

Criminal history background checks for staff in certain positions are also conducted in accordance with OMRDD regulations.

New York State Requirements

NYS Medicaid Inspector General Act

The NYS Medicaid Inspector General Act of 2006 requires each health care provider to have a corporate compliance program. Unlike Federal requirements, the SMIGA has no minimum payment provision and encompasses all health care providers that receive any amount of Medicaid funds.

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

- a. The NYS False Claims Act closely tracks the federal False Claims Act. Penalties and fines can be imposed 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. In addition, the false claim filer may have to pay the government's legal fees.
- b. *Whistleblower Provision* - The NYS False Claims Act encourages private citizens to file lawsuits in state court, just as if they were state or local government parties, with potential proceeds coming to them if the law suit finds in the government's favor. Known as qui tam relators, these whistleblowers are protected against discharge, demotion, suspension, threat, harassment, or other discrimination with regard to their employment as a result of their furtherance of an action under this Act.

NYS Social Services Law, §363-d

The NYS Social Services Law, 363-d, which became effective on January 1, 2007, requires Medicaid providers to develop and implement a corporate compliance program aimed at detecting fraud, waste and abuse in the Medicaid program. The purpose of this program is to organize provider resources to resolve payment discrepancies and detect inaccurate billings, among other things, as quickly and efficiently as possible, and to impose systemic checks and balances to prevent future recurrences. Basic statutory requirements for a corporate compliance program in NYS include the following:

- Written policies and procedures that a) describe compliance expectations; b) implement the operation of the corporate compliance program; and c) provide guidance to employees, contractors and others dealing with potential compliance issues, identify how to communicate compliance issues to appropriate compliance personnel and describe how potential compliance problems are investigated and resolved.
- Designate an employee vested with responsibility for the day-to-day operation of the corporate compliance program.
- Training and education of all affected employees, contractors and others associated with the provider, including executives and governing body members, on compliance issues, expectations, and the corporate compliance program operation.
- Communication lines to the responsible compliance position that are accessible to all affected individuals to allow the reporting of compliance issues, including a method for anonymous and confidential good faith participation.

- Disciplinary policies to encourage good faith participation, including policies that articulate expectations for reporting compliance issues and assist in their resolution.
- A system for routine identification of compliance risk areas for self-evaluation, including internal audits and external audits.
- A system for responding to compliance issues as they are raised; investigating potential compliance problems; responding to compliance problems as identified in the course of self-evaluations and audits; correcting such problems promptly and thoroughly and implementing procedures, policies, and systems as necessary to reduce the potential for recurrence; identifying and reporting compliance issues to the Medicaid Inspector General or DOH and refunding over payments.
- A policy of non-intimidation and non-retaliation for good faith participation in a corporate compliance program.

Other Applicable State Civil or Criminal Laws

The following laws are also applicable to filing false claims:

- 31 USC §3801-3812, Administrative Remedies for False Claims
- Social Security Act, Section §1902(a)(68)
- Social Services Law, §145, Penalties, False Statements, Sanctions
- Social Services Law, §366-b, Penalties for Fraudulent Practices
- Penal Law Article 155, Larceny
- Penal Law Article 175, False Written Statements
- Penal Law Article 176, Insurance Fraud
- Penal Law Article 177, Health Care Fraud
- NY Labor Law, §740
- NY Labor Law, §741