



# NJ Sharing Network Corporate Compliance Program

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New Jersey Organ and Tissue Sharing Network, Inc.  
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A Donate Life Organization



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Corporate Compliance  
**Corporate Compliance Program**

**New Jersey Organ and Tissue Sharing Network, Inc.'s  
Corporate Compliance Program**

Congress and various federal agencies have enacted laws and regulations requiring private companies who contract with the federal government to adhere to strict ethical and legal behavior. The healthcare industry has not been overlooked in this regulatory process. Indeed, the industry has come under closer scrutiny in recent years as the courts and enforcement agencies have vigorously enforced the various laws and regulations that impact healthcare. In further reflection of the federal government's interest in enforcement, the Office of Inspector General of the Department of Health and Human Services has issued a number of model compliance plans for various healthcare providers in an attempt to encourage such entities to develop and monitor such plans as a means of self-enforcement as well as a means of avoiding the harsh penalties that come from civil and criminal prosecution for violations of healthcare laws and regulations.

As a result, the Board of Trustees of NJ Sharing Network has established a Corporate Compliance Program that is administered by my office and overseen by the Board of Trustees. The purpose of this Program is to educate administrative directors, managers, employees and agents of NJ Sharing Network concerning the risks inherent in our operations, and to make certain that the organization continues to fulfill its mission without inadvertently violating the numerous laws and regulations that impact our organization. Attached is a copy of the Corporate Compliance Program as adopted by the Board of Trustees. As noted, my office in conjunction with NJ Sharing Network's legal counsel is responsible for implementing the program.

One of the most important aspects of this program is to continually educate all administrative directors, managers, employees and agents about the various laws and regulations that impact us. Please review and become familiar with the basic concepts outlined in the attached materials. Additional operational instructions may be contained in department manuals with which you will become familiar. Taken together, these materials will be useful, informative, and helpful as you assist the organization in achieving its mission and business objectives. Please note this program will remain current and available for future reference in MasterControl.

If you have any specific questions concerning the Corporate Compliance Program or related legal issues, please do not hesitate to contact me. I appreciate your help and cooperation on this important matter.

Sincerely,

A handwritten signature in blue ink that reads "Joseph S. Roth". The signature is written in a cursive, flowing style.

Joseph S. Roth  
President & Chief Executive Officer



## **NJ Sharing Network Corporate Code of Conduct**

### Purpose

- This Code of Conduct has been adopted by the Boards of Trustees to provide principles and standards by which trustees, administrative directors, managers, employees and agents of NJ Sharing Network (as defined below) will conduct themselves in order to protect and promote organization-wide integrity and to enhance the organization’s ability to achieve its mission.

### Introduction

- The Code of Conduct contains Principles articulating the policy of the organization and Standards which are intended to provide additional guidance to New Jersey Organ and Tissue Sharing Network, Inc.’s “Entities” and their trustees, administrative directors, managers, employees and agents. The Principles and Standards shall be distributed to each new trustee, administrative director, manager, employee or agent, and shall be reviewed periodically by all administrative directors, managers, employees and agents. All persons covered under this Code of Conduct are responsible to ensure that their behavior and activity is consistent with its content.
- As used in this Code of Conduct the term “NJ Sharing Network Entities” or “Entities” or NJ Sharing Network means, collectively, NJ Sharing Network Management Company, the New Jersey Organ and Tissue Sharing Network, Inc. and its Advisory Board, the New Jersey Sharing Network Foundation, and such other subsidiaries of the NJ Sharing Network Management Company as may adopt this Code of Conduct.
- The term “trustee” shall mean any individual acting in his or her capacity as a trustee or officer of the NJ Sharing Network Entities, not to include individuals serving on non-governing or Advisory Boards.
- The terms “administrative director”, “manager”, “employee” and “agent” include any person who fills such a role or provides services on behalf of NJ Sharing Network or any of its departments, including independent contractors and contract employees.
- The term “covered person” shall mean: trustees, acting in their capacity as trustees of the board of the Sharing Network Entities, administrative directors, managers, employees and agents of NJ Sharing Network Entities.

## CODE OF CONDUCT

### PRINCIPLE 1 – LEGAL COMPLIANCE

- NJ Sharing Network will strive to ensure all activity by or on behalf of the organization is in compliance with applicable laws.
- The following Standards are intended to provide guidance to covered persons to assist them in their obligation to comply with applicable laws. These standards are neither exclusive nor complete. Covered persons are required to comply with all applicable laws, whether or not specifically addressed in these policies. If questions regarding the existence of interpretation or application of any law arise, they should be directed to NJ Sharing Network’s legal counsel, through the Corporate Compliance Officer.

#### **Standard 1.1 - Antitrust**

- All covered persons must comply with applicable antitrust and similar laws which regulate competition. Examples of conduct prohibited by the laws include:
  - a) Agreements to fix prices, bid rigging, collusion (including price sharing) with competitors;
  - b) Boycotts, certain exclusive dealing and price discrimination agreements;
  - c) Unfair trade practices including bribery, misappropriation of trade secrets, deception, intimidation and similar unfair practices. Employees are expected to seek advice from Entities’ legal counsel, through the Corporate Compliance Officer when confronted with business decisions involving a risk of violation of the antitrust laws; and
  - d) Information on wages, marketing activity or any other activity with competitive information.

#### **Standard 1.2 - Tax**

- As a nonprofit entity, NJ Sharing Network has a legal and ethical obligation to act in compliance with applicable laws, to engage in activities in furtherance of its charitable purpose, and to ensure that its resources are used in a manner which furthers the public good rather than the private or personal interests of any individual. Consequently, NJ Sharing Network and covered persons will:

- a) Avoid compensation arrangements in excess of fair market value;
- b) Will accurately report payments to appropriate taxing authorities; and
- c) Will file all NJ Sharing Network tax and information returns in a manner consistent with applicable laws.

### **Standard 1.3 – Regulatory Reporting**

- As a regulated entity, NJ Sharing Network is required to report statistical and other information to governmental authorities. NJ Sharing Network expects its trustees, administrative directors, managers, employees and agents to report all information truthfully, accurately and within applicable time frames. It is further expected that all directors, managers and specifically designated employees preparing and transmitting documents, including but not limited to, reports, corrective action plans, and responses to inquiries, to governmental and accrediting authorities, have the approval of the President and CEO before transmitting any such communications.

### **Standard 1.4 – Fraud and Abuse**

- NJ Sharing Network expects covered persons to refrain from conduct which may violate the fraud and abuse laws. These laws prohibit:
  - a) Direct, indirect or disguised payments in exchange for referral of patients;
  - b) The submission of false, fraudulent or misleading claims to any government entity or third party payor, 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; and
  - c) Making false representation to any person or entity in order to gain or retain participation in a program or to obtain payment for any service.

### **Standard 1.5 – Lobbying/Political Activity**

- NJ Sharing Network expects each covered person to refrain from engaging in activity which may jeopardize the tax exempt status of the organization, including a variety of lobbying and political activities. Specifically the following:



- a) No individual may make any agreement to contribute any money, property, or services of any officer or employee at NJ Sharing Network's expense to any political candidate, party, organization, committee or individual in violation of any applicable law. Officers and employees may personally participate in and contribute to political organizations or campaigns, but they must do so as individuals, not as representatives of NJ Sharing Network, and they must use their own funds;
- b) Where its experience may be helpful, NJ Sharing Network may publicly offer recommendations concerning legislation or regulations being considered. In addition, it may analyze and take public positions on issues that have a relationship to the operations of NJ Sharing Network when its experience contributes to the understanding of such issues; and
- c) NJ Sharing Network has many contacts and dealings with governmental bodies and officials. All such contacts and transactions shall be conducted in an honest and ethical manner. Any attempt to influence the decision-making process of governmental bodies or officials by an improper offer of any benefit is absolutely prohibited. Any requests or demands by any governmental representative for any improper benefit should be immediately reported to NJ Sharing Network's Corporate Compliance Officer or its legal counsel.

#### **Standard 1.6- Environmental**

- It is the policy of NJ Sharing Network to manage and operate its business in the manner which respects our environment and conserves natural resources. Employees and agents will strive to utilize resources appropriately and efficiently, to recycle where possible and otherwise dispose of all waste, whether onsite or offsite in accordance with applicable laws and regulations, specifically those contained in NJSA 13:1E-48 and NJAC 7:26-3A1, and to work cooperatively with the appropriate authorities to remedy any environmental contamination for which NJ Sharing Network may be responsible.

#### **Standard 1.7 - Discrimination**

- NJ Sharing Network believes that the fair and equitable treatment of employees, donors, donor families, patients and other persons is critical to fulfilling its vision and goals.
- It is the policy of NJ Sharing Network to serve employees, donors, donor families, patients and other persons without regard to race, color, religion, sex, ethnic origin, age, disability, sexual orientation, veteran status, marital or any other classification prohibited by federal or state law.



- It is the policy of NJ Sharing Network to recruit, hire, train, promote, assign, transfer, layoff, recall and terminate employees based on their own ability, achievement, experience and conduct without regard to race, color, religion, sex, ethnic origin, age, disability, sexual orientation, veteran status, marital or any other classification prohibited by federal or state law.
- No form of harassment or discrimination on the basis of race, color, religion, sex, ethnic origin, age, disability, sexual orientation, veteran status, marital or any other classification prohibited by federal or state law will be permitted. Each allegation of harassment or discrimination will be promptly investigated in accordance with NJ Sharing Network’s employment policy.

### **Standard 1.8 – Health and Safety**

- At NJ Sharing Network, the health and safety of our employees is a primary concern and responsibility. NJ Sharing Network is committed to making every reasonable effort to provide our employees, volunteers and visitors with a safe and healthy working environment. All employees and other staff members are responsible for compliance with these policies and must perform their jobs in compliance with federal, state and local laws affecting health and safety conditions of the workplace, including the rules and regulations of the Occupational Safety and Health Administration, New Jersey state law and licensing requirements, the Association of Organ Procurement Organizations (“AOPO”) and policies promulgated by the Safety Committee of New Jersey Organ and Tissue Sharing Network, Inc., located at 691 Central Avenue, New Providence, New Jersey 07974.
- Using good common sense and following New Jersey Organ and Tissue Sharing Network, Inc.’s safety regulations can keep accidents, to you and others, at a minimum. Employees who improperly or carelessly endanger themselves, other employees or clients of NJ Sharing Network or their properties will be disciplined.
- If you are aware of any instance in which NJ Sharing Network may not be complying with health and safety laws or policies, contact your immediate supervisor or Entities’ Corporate Compliance Officer.

## **PRINCIPLE 2- BUSINESS ETHICS**

- In furtherance of NJ Sharing Network’s commitment to the highest standards of business ethics and integrity, covered persons will accurately and honestly represent NJ Sharing Network and will not engage in any activity or scheme intended to defraud anyone of money, property, or honest services.



- The Standards set forth below are designed to provide guidance to ensure that NJ Sharing Network’s business activities reflect the highest standards of business ethics and integrity. Conduct not specifically addressed by these standards must be consistent with Principle 2.

**Standard 2.1 – Honest Communication**

- NJ Sharing Network requires candor and honesty from individuals in the performance of their responsibilities and in communication with our attorneys and auditors. No covered person shall make false or misleading statements to any, person or entity doing business with NJ Sharing Network.

**Standard 2.2 – Misappropriation of Proprietary Information**

- NJ Sharing Network and covered persons shall not misappropriate confidential or proprietary information belonging to another person or entity nor utilize any publication, document, computer program, information or product in violation of a third party’s interest in such product. All NJ Sharing Network covered persons are responsible to ensure they do not improperly copy for their own use documents or computer programs in violation of applicable copyright laws or licensing agreements.

**PRINCIPLE 3 - CONFIDENTIALITY**

- NJ Sharing Network shall maintain the confidentiality of donor, recipient, client and other confidential information in accordance with applicable legal and ethical standards.
- NJ Sharing Network and covered persons are in possession of and have access to a broad variety of confidential, sensitive and proprietary information, the inappropriate release of which could be injurious to individuals, NJ Sharing Network’s business partners and NJ Sharing Network itself. Every covered person has an obligation to actively protect and safeguard confidential, sensitive and proprietary information in a manner designed to prevent the unauthorized disclosure of information, including insuring proper disposal of documents, onsite or offsite.
- Care should be taken with documents that contain identifying patient information. Such documents should never be left in a publicly accessible space, and should only be disposed of in designated receptacles, where they will be appropriately shredded. Documents that contain confidential information should never be thrown in public trash.



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- Care should be taken with electronic devices, which should be password protected and safeguarded at all times. Any theft or loss of a device containing confidential information should be reported immediately pursuant to policy.
- Trustees have an additional, fiduciary duty to protect all confidential information that they obtain by virtue of being a trustee.

**Standard 3.1 – Donor/Recipient/Donor Family Information**

All covered persons have an obligation to conduct themselves in accordance with the principle of maintaining the confidentiality of donor, recipient and client information in accordance with all applicable laws and regulations. Covered persons shall refrain from revealing any personal or confidential information concerning donors, recipients, clients or their family members unless supported by legitimate business or health care purposes. If questions arise regarding an obligation to maintain the confidentiality of information or the appropriateness of releasing information, covered persons should seek guidance from management in accordance with specific administrative policies. All records requests or subpoenas received should be referred to the Corporate Compliance Officer.

**Standard 3.2 – Proprietary Information**

- Information, ideas and intellectual property assets of NJ Sharing Network are important to organizational success. Information pertaining to NJ Sharing Network’s competitive position or business strategies, payment and reimbursement information, and information relating to negotiations with employees or third parties should be protected and shared only with employees having a need to know such information in order to perform their job responsibilities. Covered persons should exercise care to ensure that intellectual property rights, including patents, trademarks, copyrights and software are carefully maintained and managed to preserve and protect its value.

**Standard 3.3 – Personnel Actions/Decisions**

- Salary, benefit and other personal information relating to employees shall be treated as confidential. Personnel files, payroll information, disciplinary matters and similar information shall be maintained in a manner designed to ensure confidentiality in accordance with applicable laws. Covered persons will exercise due care to prevent the release or sharing of information beyond those persons who may need such information to fulfill their job function.

### **Standard 3.4 – Responding to Requests by Governmental or Regulatory Authorities**

- It is the policy of NJ Sharing Network to cooperate with reasonable requests from any governmental agencies concerning NJ Sharing Network’s operations, including but not limited to, requests from the Department of Health and Human Services, Centers for Medicare and Medicaid Services (“CMS”), the Office of Inspector General of the United States Department of Health and Human Services (the “OIG”), the Federal Bureau of Investigation (the “FBI”), the United States Attorney’s office, the Occupational Safety and Health Administration (“OSHA”), the Equal Employment Opportunity Commission (“EEOC”), the New Jersey Department of Health and Senior Services (the “DHSS”), and the Food and Drug Administration (the “FDA”). However, it is NJ Sharing Network’s policy that covered persons shall notify Administration or the Corporate Compliance Officer prior to responding to any requests for information that are outside of the ordinary scope of routine reports which are regularly made to governmental authorities.
- Such requests include subpoenas, inspection requests, discovery requests and legislative or media inquiries.
- If a law enforcement agent or other governmental authority seeks to contact a NJ Sharing Network employee directly about NJ Sharing Network matters, be advised of the following:
  - a) you have the right and the responsibility to request credentials of the agent for identification purposes;
  - b) you have the right to speak or decline to speak, as all such conversation is voluntary;
  - c) you have the right to consult with an attorney before deciding to be interviewed; and
  - d) if you agree to be interviewed, you can insist that an attorney be present.
- Again, a covered person shall contact the Corporate Compliance Officer prior to responding to any requests that are outside of the ordinary scope of routine reports which are regularly made to governmental authorities.

### **PRINCIPLE 4 – CONFLICTS OF INTEREST**

- NJ Sharing Network must protect itself from Conflicts of Interest, arising both from its covered persons who are not trustees, and from its trustees. As the circumstances which give rise to Conflict may differ as to each category of covered person, potential conflicts are subject to different methods of disclosure and approval.



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- As each covered person participates in the business of the Corporation, he/she has a fiduciary duty to act prudently and in the best interest of the Corporation, as opposed to his or her personal interest or the interest of some other person or entity. The Internal Revenue Code also requires that officers, directors, and other disqualified persons of a 501(c)(3) organization not engage in excess benefit transactions with the 501(c)(3) organization. Indeed, officers, directors, and other disqualified persons will be subject to onerous excise taxes if they do engage in excess benefit transactions with the 501(c)(3) organization. Covered persons owe a duty of undivided and unqualified loyalty to the organization. Persons holding such positions may not use their positions to profit personally or to assist others in profiting in any way at the expense of NJ Sharing Network.

**Standard 4.1- Conflicts of Interest for Covered persons:**

- An actual or potential conflict of interest exists **for a covered person and must be disclosed** when any of the following exists:
  - a) A covered person has an ownership or investment interest in or compensation relationship with an entity with which NJ Sharing Network does or proposes to do business or with an entity that competes with NJ Sharing Network or could reasonably be expected to do so;
  - b) A covered person who is not a trustee conducts unauthorized business not on behalf of NJ Sharing Network, with any vendor, supplier, contractor, or agency, or any of their officers or employees;
  - c) A covered person not a trustee represents NJ Sharing Network in any transaction in which he or she or a household member has a substantial personal interest. A household member is defined as a spouse, civil union partner, parent, sibling, grandparent, child, or in-law of the covered person;
  - d) A covered person discloses or uses confidential, special or inside information of or about NJ Sharing Network, particularly for personal profit or advantage of the covered person or a household member; and
  - e) A covered person competes with NJ Sharing Network directly or indirectly, in the purchase, sale or ownership of property or property rights or interests, or business investment opportunities.
  - f) A covered person not a trustee performs work or renders services for any competitor of NJ Sharing Network or for any organization with which NJ Sharing Network does business or which seeks to do business with NJ Sharing Network, outside of the normal course of his/her employment with NJ Sharing Network without the prior approval of the President & Chief Executive Officer of New Jersey Organ and Tissue Sharing Network, Inc.
  - g) A covered person not a trustee who serves as a director, officer or consultant of such an organization described in 6) above, or permits his/her name to be used in any fashion that would tend to indicate a business connection with such organization without the prior approval of the President & Chief Executive Officer of New Jersey Organ and Tissue Sharing Network, Inc.

h) A covered person or a trustee who is asked, or seeks to serve on the Board of Trustees of any organization whose interest would not impact NJ Sharing Network (for example, civic, charitable, fraternal and so forth) will not be required to obtain such approval.

i) All fees/compensation (other than reimbursement for expenses arising from Board participation) that are received for Board services provided during normal work time shall be paid directly to New Jersey Organ and Tissue Sharing Network, Inc..

#### **Standard 4.2-Conflicts of Interest for Trustees**

- An actual or potential conflict exists **for a trustee and must be disclosed** when any of the following exists:
  - 1) A trustee serves as an officer or director or key employee or medical staff member of an entity that competes with NJ Sharing Network, does business with NJ Sharing Network, receives significant contributions from NJ Sharing Network, or could reasonably be expected to do so; or
  - 2) A trustee has a right of indemnification and/or advancement of expenses under the Bylaws and NJ Sharing Network is determining whether and the extent to which such indemnification or advancement of expenses is proper.
  - 3) A trustee receives remuneration for performing services for NJ Sharing Network and NJ Sharing Network is determining his or her remuneration; or
- A conflict also exists when a similar circumstance exists with respect to a company 35% owned by Covered Individuals and/or their family members.

#### **Standard 4.3 – Disclosure of Conflicts and Outside Employment by Covered Person**

- A covered person who is not a trustee who has ownership in or employment by any outside concern must disclose this fact to management or the Corporate Compliance officer. This does not apply to stock or other investments held in a publicly held corporation, provided the value of the stock or other investments does not exceed 5% of the corporation's stock. NJ Sharing Network may, following a review of the relevant facts, permit ownership interests in such a concern which exceed these amounts, or employment in such a concern if management concludes such ownership interests or employment will not adversely impact NJ Sharing Network's business interest or the judgment of the covered person. Disclosure of ownership or employment shall take place prior to establishment of ownership or acceptance of employment



#### **Standard 4.4- Disclosure of Conflicts by Trustees**

- 1) **Disclosure Statements.** Annually, each Disclosing Individual shall complete a conflict of interest disclosure statement on a form provided by NJ Sharing Network. It is his or her duty to make a full, frank, and fair disclosure of the circumstances giving rise to an actual or potential conflict of interest. Each Disclosing Individual is also obligated to file a supplementary disclosure statement if, during the year, there is any change in circumstances that alters or makes incomplete the information provided in the original disclosure statement. Such statement shall be completed as soon as practicable after the change in circumstance commences. Each disclosure statement shall be reviewed by legal counsel and any perceived conflicts of interest shall be brought to the attention of the Board, or applicable committee.
- 2) **Additional Disclosure.** If, during the course of a meeting of the Board, a Disclosing Individual present at the meeting is aware that he or she (A) has or may have a conflict of interest in a matter under discussion, or (B) is unable to act in the best interests of NJ Sharing Network on any issue because of a personal situation, employment, conflicting interest, or other reason, the Disclosing Individual shall immediately disclose the material facts about his or her interest in the matter to the Board/committee. If, during the course of a meeting, the Chairperson/chair or any other person present at the meeting believes that another Disclosing Individual (A) has or may have a conflict of interest in a matter under discussion, or (B) is unable to act in the best interests of NJ Sharing Network on any issue because of a personal situation, employment, conflicting interest, or other reason, such person shall immediately make such concern known to the Board/committee (if the Disclosing Individual has not already done so).
- 3) **Analysis of Conflict Issue.** The determination of whether there is a conflict of interest in any particular circumstance shall be made by the Board, or committee, as applicable, with the guidance of legal counsel. The interested person shall leave the meeting while the determination of a conflict of interest is discussed and voted upon.
- 4) **Standard for Approval.** If the Board determines that a conflict of interest exists; the Chairman or majority of the disinterested Trustees present may appoint a disinterested person or committee to investigate alternatives to the proposed transaction or arrangement which presents the conflict. Alternatively, the Board or Executive Committee may approve the transaction or arrangement that is the subject matter of the conflict by an affirmative vote of a majority of the disinterested Trustees present so long as the disinterested Trustees constitute a quorum.

- a) In either case, the decision making body must have determined (i) that the transaction or arrangement is in NJ Sharing Network's best interest and for its own benefit, (ii) that it is fair and reasonable to NJ Sharing Network and (iii) after exercising due diligence, NJ Sharing Network would not obtain a more advantageous transaction with reasonable efforts under the circumstances. Where reasonably possible, the Board shall obtain comparable information to assist it in reaching such conclusions. Comparable information may include appraisals, valuations, competing offers or bids, compensation surveys, reports of experts and similar data. When setting compensation for disqualified persons, including without limitation officers and Trustees, NJ Sharing Network shall obtain comparable information and exclude from the decision making body the applicable disqualified persons and any persons they supervise.
- b) In all cases, the interested individual shall recuse him or herself from voting on the subject and shall leave the room while the matter is discussed. Recusing himself or herself shall not prevent an individual from making a presentation on the matter or from participating in other activities or discussions where no conflict of interest exists.

#### **5) Records of Proceedings**

- a) The minutes of all meetings (including, without limitation, committee reports submitted to the Board shall reflect (i) the names of the persons who disclosed any conflicts; (ii) the determination as to whether an actual or potential conflict of interest existed; (iii) the names of the persons who were present for discussions and votes relating to the transaction or arrangement; (iv) the content of the discussions, including any alternatives to the proposed transaction or arrangement and the basis for the determination of the Board, including any comparability data; (v) the voting record, including any abstention from voting; and (vi) any action to be taken.

#### **Standard 4.5 – Honoraria**

- Employees are, with the permission of their supervisor, encouraged to participate as faculty and speakers at educational programs and functions. However, any honoraria shall be turned over to New Jersey Organ and Tissue Sharing Network, Inc.'s Finance Department.

#### **PRINCIPLE 5 – BUSINESS RELATIONSHIPS**

- Business transactions with vendors, contractors, and other third parties shall be transacted free from offers or solicitation of gifts and favors or other improper inducements in exchange for influence or assistance in a transaction. This is not

to preclude the provision of: i.) complementary low-value items such as pens, key chains and t-shirts such as might be offered to the general public to publicize the NJ Sharing Network mission. The value of any such small gift or favor offered by the NJ Sharing Network shall be under \$10. ii.) the provision of a meal or refreshment to accompany an educational presentation or meeting at which the primary purpose is to conduct business; iii) the provision or acceptance of a gift or gifts or favors the aggregate value of which may not exceed \$350. Whenever possible, a gift to an employee shall be shared with other employees. Favors offered to employees such as event tickets, greens fees, or other tokens of appreciation or opportunities for business contact shall be reported to the Corporate Compliance Officer and evaluated by the President & CEO on a case-by-case basis, depending on its legitimate business purpose, monetary value, and potential for causing an appearance of impropriety.

- The Standards set forth below are intended to guide covered persons in determining the appropriateness of the listed activities or behaviors within the context of NJ Sharing Network's business relationships, including relationships with vendors, providers, contractors, third party payors and government entities. It is the intent of NJ Sharing Network that this policy be construed broadly to avoid even the appearance of improper activity. If there is any doubt or concern about whether specific conduct or activities are ethical or otherwise appropriate, you should contact the Corporate Compliance Officer.

#### **Standard 5.1 – Gifts and Gratuities to Employees**

- It is NJ Sharing Network's desire to at all times preserve and protect its reputation and to avoid the appearance of impropriety. Nothing in this policy shall prohibit management from establishing stricter rules relating to the acceptance of gifts, gratuities or other things of value from vendors. Consequently:

- a) Gifts from Patients or Members. Covered persons are prohibited from soliciting tips, personal gratuities or gifts from donors, recipients, clients and their family members and from accepting monetary tips or gratuities. If a donor, recipient, client, family member or other individual wishes to present a monetary gift, he/she should be referred to the NJ Sharing Network Foundation, which may accept such a gift in honor of an individual employee. Any personal gratuity or gift accepted by an employee must be reported to the Corporate Compliance Officer.

b) **Gifts Influencing Decision-Making.** Covered persons shall not accept gifts, favors, services, entertainment or other things of value to the extent that decision-making or actions affecting NJ Sharing Network might be influenced. Similarly, the offer or giving of money, services or other things of value with the expectation of influencing the judgment or decision-making process or any purchaser, supplier, customer, government official or other person by NJ Sharing Network is absolutely prohibited. Any such conduct must be reported immediately to the Corporate Compliance Officer.

c) **Gifts from Existing and Potential Vendors.** **Subject to paragraph b, above, Employees may retain gifts from vendors which have a value of less than \$50.00. NJ Sharing Network expects its employees to exercise good judgment and discretion in accepting gifts. If an employee has any concern whether a gift should be accepted, the employee should consult with his/her manager or the Corporate Compliance Officer. To the extent possible, these gifts should be shared with the employees' co-workers.** Favors offered to employees such as event tickets, greens fees, or other tokens of appreciation or opportunities for business contact valued at more than \$50 in the aggregate shall be reported to the Corporate Compliance Officer and evaluated by the President & CEO on a case-by-case basis, depending on its legitimate business purpose, monetary value, and potential for causing an appearance of impropriety. Whenever appropriate, such gifts and favors shall be shared and distributed to employees through a fair process.

d) Except as described above, Employees shall not accept expensive gifts, meals, expensive entertainment or other offers of goods or services which have more than a nominal value nor may they solicit gifts from vendors, suppliers, contractors or other persons.

#### **Standard 5.2 – Workshops, Seminars and Training Sessions**

- Attendance at local, vendor sponsored workshops, seminars and training sessions may be permitted upon prior approval by the Corporate Compliance Officer.
- Attendance, at vendor expense, at out of town seminars, workshops and training sessions is permitted only with the approval of an employee's manager and the Corporate Compliance Officer, upon evaluation of business purpose, reasonable alternatives, and risk of appearance of impropriety.

### **Standard 5.3 - Contracting**

- Employees may not utilize “insider” information for any business activity conducted by or on behalf of NJ Sharing Network. All business relations with contractors must be conducted at arm’s length both in fact and in appearance and in compliance with NJ Sharing Network’s policies and procedures. Employees must disclose personal relationships and business activities with contractor personnel which may be construed by an impartial observer as having the potential to influence the employees’ performance or duties. Employees have a responsibility to obtain a clarification from management on questionable issues which may arise and to comply, where applicable, with NJ Sharing Network’s conflict of interest policy.

### **Standard 5.4 – Business Inducements**

- Covered persons shall not seek to gain any advantage through the improper use of payments, business courtesies or other inducements. Offering, giving, soliciting or receiving any form of bribe or other improper payment is prohibited.
- Appropriate commissions, rebates, discounts and allowances are customary and acceptable business inducements provided that they are approved by NJ Sharing Network’s management and that they do not constitute illegal or unethical payments. Any such payments must be reasonable in value, competitively justified, properly documented, and made to the business entity to whom the original agreement or invoice was made or issued. **Such payments should not be made to individual employees or agents of business entities.**
- In addition, covered persons may provide gifts, entertainment and meals of nominal value to NJ Sharing Network’s customers, current and prospective business partners and other persons when such activities have a legitimate business purpose, are reasonable and consistent with all applicable laws, and are consistent with NJ Sharing Network administrative or departmental policies and procedures. This includes the provision of: i.) complementary low-value items such as pens, key chains and t-shirts such as might be offered to the general public to publicize the NJ Sharing Network mission. . ii.) meals or refreshments to accompany an educational presentation or meeting at which the primary purpose is to conduct business; iii) a gift or gifts or favors the aggregate value of which may not exceed \$350.

## **PRINCIPLE 6 – PROTECTION OF ASSETS**

- All employees will strive to preserve and protect NJ Sharing Network’s assets by making prudent and effective use of its resources and properly and accurately reporting its financial condition.
- The Standards set forth below are intended to guide key employees by articulating NJ Sharing Network’s expectations as they relate to activities or behaviors which may impact NJ Sharing Network’s financial health or which reflect a reasonable and appropriate use of the assets of a nonprofit entity.

### **Standard 6.1 – Internal Control**

- NJ Sharing Network has established control standards and procedures to ensure that assets are protected and properly used and that financial records and reports are accurate and reliable. All employees of NJ Sharing Network share the responsibility for maintaining and complying with required internal controls.

### **Standard 6.2 – Financial Reporting**

- All financial reports, accounting records, research reports, expense accounts, time sheets and other documents must accurately and clearly represent the relevant facts or the true nature of a transaction. Improper or fraudulent accounting, documentation or financial reporting is contrary to the policy of NJ Sharing Network and may be in violation of applicable laws.

### **Standard 6.3 – Travel and Entertainment**

- Travel and entertainment expenses should be consistent with the employee’s job responsibility and the organization’s needs and resources. It is NJ Sharing Network’s policy that an employee should not suffer a financial loss nor a financial gain as a result of business travel and entertainment. Employees are expected to exercise reasonable judgment in the use of assets and to spend the organization’s assets as carefully as they would spend their own. Employees must also comply with NJ Sharing Network’s policies relating to travel and entertainment expense.

### **Standard 6.4 – Personal Use of Corporate Assets**

- All employees are expected to refrain from converting assets of the organization to personal use. All property and business of the organization shall be conducted in the manner designed to further NJ Sharing Network’s interest rather than the personal interest of an individual employee. Employees are





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prohibited from the unauthorized use or taking of NJ Sharing Network’s equipment, supplies, materials or services.

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- NJ Sharing Network expects each person to whom this Code of Conduct applies, to abide by the Principles and Standards set forth herein and to conduct the business and affairs of NJ Sharing Network in a manner consistent with the general statement of principles set forth herein.
- Failure to abide by this Code of Conduct or the guidelines for behavior which the Code of Conduct represents may lead to disciplinary action. For alleged violations of the Code of Conduct, NJ Sharing Network will weigh relevant facts and circumstances, including, but not limited to, the extent to which the behavior was contrary to the express language or general intent of the Code of Conduct, the egregiousness of the behavior, the employee’s history with the organization and other factors which NJ Sharing Network deems relevant. Discipline for failure to abide by the Code of Conduct may, in New Jersey Organ and Tissue Sharing Network, Inc.’s discretion, range from oral correction to termination.
- Nothing in this Code of Conduct is intended to nor shall be construed as providing any additional employment or contract rights to employees or other persons.
- While NJ Sharing Network will generally attempt to communicate changes concurrent with or prior to the implementation of such changes, NJ Sharing Network reserves the right to modify, amend or alter the Code of Conduct without prior notice to any person or employee.

### **Mandatory Reporting of Non-Compliance**

- It is the responsibility of every covered person to abide by applicable laws and regulations and support NJ Sharing Network’s compliance efforts. All employees are required to report their good faith belief of any violation of the Compliance Program or applicable law. **Such report shall be made as promptly as possible once the violation is known or suspected.** New Jersey Organ and Tissue Sharing Network, Inc., at the request of the employee, will provide such anonymity to the reporting employee as is possible under the circumstances in the judgment of New Jersey Organ and Tissue Sharing Network, Inc., consistent with its obligations to investigate employee concerns and take necessary corrective action. **There shall**



**be no retaliation in the terms and conditions of employment as a result of good faith reporting of a possible compliance issue.**

- The Compliance Officer will ensure that procedures are established and are disseminated whereby individuals can report any suspected violation of the law or this Program and/or ask questions when there is an issue regarding actions or conduct that might violate the law or the Program. As compliance is expected to be a priority for all NJ Sharing Network employees, it is strongly encouraged that compliance concerns be discussed first with the individual's manager.
- A designated telephone line, to be referred to as the Compliance Hotline, will be established allowing individuals to report information about suspected misconduct on a confidential basis. **NJ Sharing Network's Compliance Hotline number is: (908) 516-5469.** The hotline will be attached to a secured voice-mail system accessible only by the Compliance Officer or his/her designee. All reports of suspected misconduct or non-compliance received through the hotline will be investigated by the Corporate Compliance Officer or his/her designee. If the alleged misconduct involves the Corporate Compliance Officer, the employee or Board of Trustees shall inform the Chief Executive Officer, as appropriate, in the manner described in "Reporting Non-Compliance" and "Enforcement and Prevention" sections of this program. If the alleged conduct involves the Chief Executive Officer, the employee shall inform the Corporate Compliance Officer or the Board of Trustees, as appropriate.
- No individual shall be punished solely on the basis that he/she mistakenly reported what was reasonably and in good faith believed to be an act of wrongdoing or a violation of the Program. However, an individual will be subject to disciplinary action if it is determined that the report of wrongdoing was knowingly fabricated by that person or was knowingly distorted, exaggerated or minimized to either injure someone else or to protect himself/herself. Any employee of NJ Sharing Network who misuses this hotline or attempts to interfere with efforts to investigate or address a possible compliance issue will be subject to disciplinary action, up to and including termination of his/her employment or affiliation with NJ Sharing Network.
- An individual whose report of misconduct contains admissions of personal wrongdoing will not be guaranteed protection from disciplinary action simply because he/she made the report. In determining what, if any, disciplinary action may be taken against a reporting individual, the Compliance Officer will take into account an individual's own admissions of wrongdoing, provided, however, his/her involvement was not previously known to NJ Sharing Network or its discovery was not imminent, and the admission was complete and truthful.



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The weight to be given the self-confession will depend on all the facts known at the time NJ Sharing Network makes its disciplinary decision.

### **Corporate Compliance Officer**

- NJ Sharing Network has designated the Corporate Compliance Officer as the individual responsible for overall implementation and operation of the Corporate Compliance Program. The Corporate Compliance Officer shall be responsible, with consultation of legal counsel to ensure that:
  - a) Code of Conduct and Corporate Compliance Program are reviewed and updated annually and as necessary;
  - b) Employee and vendor screening mechanisms are in place and operating properly;
  - c) Covered persons are receiving adequate education and training and that such education and training is documented;
  - d) Complaints and other concerns regarding compliance are promptly investigated;
  - e) Procedures are adopted to preserve the anonymity of complainants; and
  - f) Adequate steps are taken to correct any identified problems and prevent the recurrence of such problems.
- The Corporate Compliance Officer shall report periodically to the Executive Committee of the Board of Trustees on the status of compliance within the organization. The Executive Committee shall report annually or more frequently if necessary, on the status of compliance within the organization to the Board of Trustees at a regularly scheduled meeting. The report shall include the results of any recommendations resulting from the audit work plans conducted during the prior year, and any other information requested by the Executive Committee or the Board.

### **Education and Training**

- Effective implementation and functioning of the Corporate Compliance Program requires training and education for all NJ Sharing Network covered persons so that each has a clear understanding of his/her responsibilities and rights under the Program. This document is an organization-wide statement of the responsibilities and obligations of all covered persons describing the expected behavior and responsibilities for proper compliance under the principles and

standards set forth above. However, this document is not inclusive of all details of compliance within each department of the organization.

- Each employee will receive a copy of the Corporate Compliance Program materials during their orientation. In addition, all new employees will be required to complete Corporate Compliance training within three (3) months of employment. Subsequently, all NJ Sharing Network employees will receive annual Corporate Compliance Training and Education.
- Some employees may receive specialized training as a result of the areas in which they work. The specialized training may focus on complex or high risk areas. As new developments or concerns arise, the Corporate Compliance Officer may require additional training sessions for some or all NJ Sharing Network employees. Such training shall utilize in-house expertise whenever possible. However, if deemed necessary and with prior approval of the Corporate Compliance Officer, the services of outside experts may be enlisted to conduct specialized or highly technical training.
- Participation in education and training sessions will be mandatory for all NJ Sharing Network employees, and only the Corporate Compliance Officer will have authority to excuse absences from such sessions. NJ Sharing Network will also inform those agents of NJ Sharing Network of education and training sessions in an effort to encourage their participation. Review and update of NJ Sharing Network's Corporate Compliance Program with the Governing Board, the Advisory Board, and the Foundation Board will occur annually, usually at the April meeting. Documented evidence of Corporate Compliance Education and Training will be retained by the Corporate Compliance Officer.
- Essential to the success of the Corporate Compliance Program is the effective and coordinated participation of all departments of the organization. Accordingly, the Corporate Compliance Officer will work with each department manager to determine if department specific Corporate Compliance Training is indicated.
- Department managers shall be responsible for coordinating any department specific required compliance training, as well as monitoring department compliance, relaying compliance-related communications to the department, and reporting perceived non-compliance to the Corporate Compliance Officer.



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## **Compliance Audits**

### **A. Corporate Compliance Officer Function Audit**

- a) The functions of the Corporate Compliance Officer shall be audited by Performance Improvement at least once annually.

### **B. Complaint Audits**

- a) Upon receipt of a credible allegation or complaint alleging non-compliant behavior within New Jersey Organ and Tissue Sharing Network, Inc., Performance Improvement may, in addition to the procedures regarding investigation and corrective action set forth in this Program, conduct an audit of the pertinent department or departments to ascertain the extent of non-compliance and to review inadequacies that may have led to such non-compliance. Such audit shall be conducted, as needed and deemed necessary, under the protocols as established by the Compliance Officer.

## **Enforcement and Prevention**

- The following procedures will be used by NJ Sharing Network to respond to reports by employees or others that any one or more of NJ Sharing Network administrative directors, managers, employees or agents are engaging in activity on behalf of or in the name of New Jersey Organ and Tissue Sharing Network, Inc., which may be contrary to statute or regulation governing New Jersey Organ and Tissue Sharing Network, Inc.'s operations or any principle or standard set forth in the Code of Conduct of this Program.

## **Investigation**

### **A. Purpose of Investigation**

- The purpose of the investigation shall be to identify those situations in which laws, regulations, principles or standards of conduct may not have been followed;
  - a) to identify individuals who may have knowingly or inadvertently violated a statute, regulation, principle or standard of conduct;
  - b) to facilitate the correction of any practices not in compliance with such law, regulation, principle or standard of conduct;
  - c) to implement those procedures necessary to ensure future compliance;

- d) to protect the organization in the event of civil or criminal enforcement actions;  
and
- e) to preserve and protect the organization's assets.

#### B. Control of Investigations

- All reports received, whether by a manager of NJ Sharing Network or directly through the Compliance Officer shall be forwarded to the Chief Executive Officer. The Chief Executive Officer will be responsible for directing the investigation of the alleged problem or incident. In undertaking this investigation, he/she may solicit the support of internal audit, external counsel and auditors, and internal and external resources with knowledge of the applicable laws and regulations, policies, procedures and standards which relate to the specific problem in question.

#### C. Investigative Process

- Upon receipt of an employee complaint or other information (including audit results) which suggests the existence of a serious pattern of conduct in violation of compliance policies or applicable laws or regulations, an investigation under the direction and control of the Chief Executive Officer shall be commenced. Steps to be followed in undertaking the investigation shall include, at a minimum:
  - a) Notification of New Jersey Organ and Tissue Sharing Network, Inc.'s legal counsel of the nature of the complaint; and
  - b) Commencement of an investigation as soon as reasonably possible but in no event more than 14 days following the receipt of the complaint or report. The investigation shall include, as applicable, but need not be limited to:
    - (1) An interview of the complainant and other persons who may have knowledge of the alleged problem or process and a review of the applicable laws and regulations which might be relevant to or provide guidance with respect to the appropriateness or inappropriateness of the activity in question, to determine whether or not a problem actually exists. If the review results in conclusions or findings that the complained of conduct is permitted under applicable laws, regulations or policy or that the complained of act did not occur as alleged or that it does not otherwise appear to be a problem, the investigation shall be closed; and

(2) Interviews of the person or persons in the departments who appeared to play a role in the process in which the problem exists. The purpose of the interview will be to determine the facts related to the complained of activity, and may include, but shall not be limited to:

- (a) Individual understanding of the pertinent laws, regulations and standards of conduct;
- (b) The identification of persons with supervisory or managerial responsibility in the process;
- (c) The adequacy of the training of the individuals performing the functions within the process;
- (d) The extent to which any person knowingly or with reckless disregard or intentional indifference acted contrary to the pertinent laws, regulations, and standards or conduct;
- (e) The nature and extent of potential civil or criminal liability of individuals or the Organization; and
- (f) Preparation of a summary report at least annually and as appropriate to the Executive Committee of the Board of Trustees which:
  - (i) Defines the nature of the problem;
  - (ii) Summarizes the investigation process;
  - (iii) Identifies any person whom the investigator believes to have either acted deliberately or with reckless disregard or intentional indifference toward the pertinent laws, rules and policies;
  - (iv) If applicable, estimates of the nature and extent of any overpayment by the government, if any, resulting from the activity; and
  - (v) Recommendation of action to resolve complaint.



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## Organizational Response

### A. Possible Criminal Activity

- In the event NJ Sharing Network uncovers what appears to be criminal activity on the part of any employee or department, it shall undertake the following steps:
  - a) It shall immediately take steps to stop the continuation of the activity;
  - b) It shall immediately notify legal counsel;
  - c) It shall initiate appropriate disciplinary action against the person or persons whose conduct appears to have been intentional, willfully indifferent or with reckless disregard for the pertinent laws. Appropriate disciplinary action shall include, at a minimum, suspension, and may also include demotion and discharge. Referral to the appropriate law enforcement agency will also be considered; and
  - d) In the event that Medicare or Medicaid fraud is involved, NJ Sharing Network shall notify the programs through the local United States Attorney's Office or the local office of the United States Department of Health and Human Services Office of the Inspector General Division, if and as legal counsel for NJ Sharing Network deems appropriate. NJ Sharing Network, through its legal counsel, may attempt to negotiate a voluntary disclosure agreement prior to the disclosure.

### B. Other Non-Compliance

- In the event the investigation reveals other problems which do not appear to be the result of conduct which is intentional, willfully indifferent or with reckless disregard for pertinent laws, NJ Sharing Network shall nevertheless undertake the following steps:
  - a) Correct the defective practice or procedure as quickly as possible;
  - b) If applicable, calculate and repay to the any improper payments resulting from the act or omission;
  - c) Initiate such disciplinary action, if any, as may be appropriate given the facts and circumstances. Appropriate disciplinary action may include, but is not limited to, reprimand, suspension or discharge; and
  - d) Promptly undertake a program of education in the appropriate department to prevent similar problems.



C. Discipline

- Employees may be subject to discipline for failing to participate in organizational compliance efforts, including, but not limited to:
  - a) The failure of an employee to perform any obligation required of the employee relating to compliance with the Program or applicable laws or regulations in a timely fashion;
  - b) The failure to report suspected violations of the Corporate Compliance Program or applicable laws or regulation to an appropriate person in a timely fashion; and
  - c) The failure on the part of a supervisory or managerial employee to implement and maintain policies and procedures reasonably necessary to ensure compliance with the terms of the Program or applicable laws and regulations.

## **Appendix A: Summary of Applicable Laws and Regulations**

The following is a non-exhaustive list of those state and federal laws and regulations which govern or impact upon New Jersey Organ and Tissue Sharing Network, Inc.

- Title XVIII-Health Insurance for the Aged and Disabled (42 U.S.C. §1395 et seq.)
- National Organ Transplant Act
- Clinical Laboratory Improvement Act
- Civil and Criminal False Claims (42 U.S.C. §1320a-7b(a))
- Anti-Kickback Act (42 U.S.C. §1320a-7b(b))
- Civil Monetary Penalties Act (42 U.S.C. §1320a-7a)
- Civil False Claims Act (31 U.S.C. §3729(a))
- Internal Revenue Code Section 501(c)(3)
- Civil Rights Act of 1964
- Americans With Disabilities Act
- Occupational Safety and Health Act
- New Jersey Determination of Death Act
- New Jersey Revised Uniform Anatomical Gift Act
- New Jersey Anatomical Research Recovery Organization Act
- New Jersey Law Against Discrimination (N.J.S.A. 10:5-12)(LAD)



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It is the policy of NJ Sharing Network to obey all federal and state laws as they are enacted, to implement and enforce procedures to detect and prevent fraud, waste, and abuse regarding payments to NJ Sharing Network from federal and state healthcare programs, and to provide protections for those who report actual or suspected wrongdoing.

Set forth below are summaries of certain statutes that provide liability for false claims and statements. These summaries are not intended to identify all applicable laws but rather to outline some of the major statutory provisions.

### **Federal False Claims Laws**

#### **A. Federal False Claims Act (31 U.S.C. §§ 3729-3733)**

- The Federal False Claims Act (FCA) imposes civil liability on any person or entity who:
  - a) Knowingly files a false or fraudulent claim for payments to Medicare, Medicaid or other federally funded health care program;
  - b) Knowingly uses a false record or statement to obtain payment on a false or fraudulent claim from Medicare, Medicaid or other federally funded health care program; or
  - c) Conspires to defraud Medicare, Medicaid or other federally funded health care program by attempting to have false or fraudulent claim paid.
- “Knowingly” means:
  - a) Actual knowledge that the information on the claim is false;
  - b) Acting in deliberate ignorance of whether the claim is true or false; or
  - c) Acting in reckless disregard of whether the claim is true or false.
- A person or entity found liable under the Federal False Claims Act is subject to a civil money penalty of between \$5,500 and \$11,000 plus three times the amount of damages that the government sustained because of the illegal act. In health care cases, the amount of damages sustained is the amount paid for each false claim that is filed.
- Anyone may bring a qui tam\* action under the Federal False Claims Act in the name of the United States in federal court. The case is initiated by filing the complaint and all available material evidence under seal with federal court. The

complaint remains under seal for at least 60 days and will not be served on the defendant. During this time, the government investigates the complaint. The government may, and often does, obtain additional investigation time by showing good cause. After expiration of the review and investigation period, the government may elect to pursue the case in its own name or decide not to pursue the case. If the government decides not to pursue the case, the person who filed the action has the right to continue with the case on his or her own.

- If the government proceeds with the case, the person who filed the action will receive between 15 percent and 25 percent of any recovery, depending upon the contribution of that person to the prosecution of the case. If the government does not proceed with the case, the person who filed the action will be entitled to between 25 percent and 30 percent of any recovery, plus reasonable expenses and attorneys' fees and costs.

### **Whistleblower Protections**

- Anyone initiating a qui tam\* case may not be discriminated or retaliated against in any manner by their employer. The employee is authorized under the FCA to initiate court proceedings to make themselves whole for any job related losses resulted from any such discrimination or retaliation.

### **Program Fraud Civil Remedies Act (31 U.S.C. §§ 3801 –3812)**

- The Program Fraud and Civil Remedies Act (PFCRA) creates administrative remedies for making false claims and false statements. These penalties are separate from and in addition to any liability that may be imposed under the Federal False Claims Act. Current civil penalties are \$5,500 for each false claim or statement, and an assessment in lieu of damages sustained by the federal government of up to double damages for each false claim for which the Government makes a payment. The amount of the false claims penalty is to be adjusted periodically for inflation in accordance with a federal formula.
- The PFCRA imposes liability on people or entities who file a claim that they know or have reason to know:
  - a) Is false, fictitious, or fraudulent;
  - b) Includes or is supported by any written statement that contains false, fictitious, or fraudulent information;

- c) Includes or is supported by a written statement that omits a material fact, which causes the statement to be false, fictitious, or fraudulent, and the person or entity submitting the statement has a duty to include the omitted fact; or
- d) Is for payment for property or services not provided as claimed.
- e) \*An individual can bring suit for a legal wrong that cost the government money, i.e. Medicare fraud is discovered and the individual discovering fraud can sue the person that committed the fraud even though the government lost money not the individual suing. The individual filing the action will receive a percentage of the monies recovered.

## **New Jersey False Claims Statutes**

### **A. New Jersey Medical Assistance and Health Services Act—(N.J.S. 30:4D-17(a)-(d))**

- Provides criminal penalties for individuals and entities engaging in fraud or other criminal violations relating to Title XIX-funded programs. They include: (a) fraudulent receipt of payments or benefits: fine of up to \$10,000, imprisonment for up to 3 years, or both; (b) false claims, statements or omissions, or conversion of benefits or payments: fine of up to \$10,000, imprisonment for up to 3 years, or both; (c) kickbacks, rebates and bribes: fine of up to \$10,000, imprisonment for up to 3 years, or both; and (d) false statements or representations about conditions or operations of an institution or facility to qualify for payments: fine of up to \$3,000, or imprisonment for up to 1 year, or both. Criminal prosecutions are generally handled by the Medicaid Fraud Section within the Office of Insurance Fraud Prosecutor, in the N.J. Division of Criminal Justice.

### **B. Civil Remedies, N.J.S. 30:4D-7.h., (N.J.S. 30:4D-17(e)-(i); N.J.S. 30:4D-17.1.a.)**

- In addition to the criminal sanctions discussed in section 3 above, violations of N.J.S. 30:4D(a)-(d) can also result in the following civil sanctions: (a) unintentional violations: recovery of overpayments and interest; (b) intentional violation: recovery of overpayments, interest, up to triple damages, and up to \$2,000 for each false claim. Recovery actions are generally pursued administratively by the Division of Medical Assistance and Health Services, with the assistance of the Division of Law in the N.J. Attorney General's Office, and can be obtained against any individual or entity responsible for or receiving the benefit or possession of the incorrect payments.
- In addition to recovery actions, violations can result in the exclusion of an individual or entity from participation in all health care programs funded in whole or in part by the N.J. Division of Medical Assistance and Health Services.

Recovery and exclusion can also be obtained as part of a criminal prosecution by the Medicaid Fraud Section of the N.J. Division of Criminal Justice.

C. Health Care Claims Fraud Act ( N.J.S. 2C:21-4.2 & 4.3; N.J.S. 2C:51-5)

- Provides the following criminal penalties for health care claims fraud, including the submission of false claims to programs funded in whole or in part with state funds:
  - a) A practitioner who knowingly commits health care claims fraud in the course of providing professional services is guilty of a crime of the second degree, and is subject to a fine of up to 5 times the monetary benefits obtained or sought to be obtained and to permanent forfeiture of his license;
  - b) A practitioner who recklessly commits health care claims fraud in the course of providing professional services is guilty of a crime of the third degree, and is subject to a fine of up to 5 times the pecuniary benefit obtained or sought to be obtained and the suspension of his license for up to 1 year;
  - c) A person who is not a practitioner subject to paragraph a. or b. above (for example, someone who is not licensed, registered or certified by an appropriate State agency as a health care professional) is guilty of a crime of the third degree if that person knowingly commits health care claims fraud. Such a person is guilty of a crime of the second degree if that person knowingly commits 5 or more acts of health care claims fraud, and the aggregate monetary benefit obtained or sought to be obtained is at least \$1,000. In addition to all other criminal penalties allowed by law, such a person may be subject to a fine of up to 5 times the monetary benefit obtained or sought to be obtained;
  - d) A person who is not a practitioner subject to paragraph a. or b. above is guilty of a crime of the fourth degree if that person recklessly commits health care claims fraud. In addition to all other criminal penalties allowed by law, such a person may be subject to a fine of up to 5 times the monetary benefit obtained or sought to be obtained

D. The Uniform Enforcement Act (N.J.S. 45:1-21. b. and o.)

- Provides that a licensure board within the N.J. Division of Consumer Affairs “may refuse to admit a person to an examination or may refuse to issue or may suspend or revoke any certificate, registration or license issued by the board” who as engaged in “dishonesty, fraud, deception, misrepresentation, false promise or false pretense:, or has “[a]dvertised fraudulently in any manner.”

E. N.J. Consumer Fraud Act (N.J.S. 56:8-2, 56:8-3.1, 56:8-13, 56:8-14 and 56:8-15)

- Makes unlawful the use of “any unconscionable commercial practice, deception, fraud, false pretense, false promise, misrepresentation, or the knowing concealment, suppression, or omission of any material fact”, with the intent that others rely upon it, in connection with the sale, rental or distribution of any items or services by a person, or with the subsequent performance of that person.
- This law permits the N.J. Attorney General, in addition to any other penalty provided by law, to assess a penalty of not more than \$10,000 for the first offense and not more than \$20,000 for the second and each subsequent offense. Restitution to the victim also can be ordered.

F. Conscientious Employee Protection Act, “Whistleblower Act” (N.J.S.A. 34:19-4)

- New Jersey law prohibits an employer from taking any retaliatory action against an employee because the employee does any of the following: a. Discloses, or threatens to disclose, to a supervisor or to a public body an activity, policy or practice of the employer or another employer, with whom there is a business relationship, that the employee reasonably believes is in violation of a law, or a rule or regulation issued under the law, or, in the case of an employee who is a licensed or certified health care professional, reasonably believes constitutes improper quality of patient care; b. Provides information to, or testifies before, any public body conducting an investigation, hearing or inquiry into any violation of law, or a rule or regulation issued under the law by the employer or another employer, with whom there is a business relationship, or, in the case of an employee who is a licensed or certified health care professional, provides information to, or testifies before, any public body conducting an investigation, hearing or inquiry into quality of patient care; or, provides information involving deception of, or misrepresentation to, any shareholder, investor, client, patient, customer, employee, former employee, retiree or pensioner of the employer or any governmental entity. d. Provides information regarding any perceived criminal or fraudulent activity, policy or practice of deception or misrepresentation which the employee reasonably believes may defraud any shareholder, investor, client, patient, customer, employee, former employee, retiree or pensioner of the employee or any governmental entity. e. Objects to, or refuses to participate in, any activity, policy or practice which the employee reasonably believes: i.) is in violation of a law, or a rule or regulation issued under the law or, if the employee is a licensed or certified health care professional, constitutes improper quality of patient care; ii.) is fraudulent or criminal; or iii.) is incompatible with a clear mandate of public policy concerning the public health, safety or welfare or protection of the environment.



- The protection against retaliation, when a disclosure is made to a public body, does not apply unless the employee has brought the activity, policy or practice to the attention of a supervisor of the employee by written notice and given the employer a reasonable opportunity to correct the activity, policy or practice. However, disclosure is not required where the employee reasonably believes that the activity, policy or practice is known to one or more supervisors of the employer or where the employee fears physical harm as a result of the disclosure, provided that the situation is an emergency.

G. N.J. False Claims Act (NJS 2A:32C-1, 2A:32C17 and amending 30:4D-17(e))

- This law authorizes the NJ Attorney General and whistleblowers to file false claims lawsuits similar to what is authorized under the Federal False Claims Act, and also amends NJ's Medicaid statute to make a violation of this Act a violation of that statute, and increases the penalty per false claim in New Jersey to the same level as provided for in the Federal False Claims Act, currently \$5500 and \$11,000 per false claim.
- Specifically, a person shall be jointly and severally liable to the State for a civil penalty of not less than and not more than the civil penalty allowed under the federal False Claims Act (31 U.S.C. § 3729 et seq.), as may be adjusted in accordance with inflation for each false or fraudulent claim, plus three times the amount of damages which the State sustains, if the person commits any of the following acts:
  - a. Knowingly presents or causes to be presented to an employee, officer or agent of the State, or to any contractor, grantee, or other recipient of State funds, a false or fraudulent claim for payment or approval;
  - b. 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 State;
  - c. Conspires to defraud the State by getting a false or fraudulent claim allowed or paid by the State;
  - d. Has possession, custody, or control of public property or money used or to be used by the State and knowingly delivers or causes to be delivered less property than the amount for which the person receives a certificate or receipt;
  - e. Is authorized to make or deliver a document certifying receipt of property used or to be used by the State and, intending to defraud the entity, makes or delivers a receipt without completely knowing that the information on the receipt is true;
  - f. Knowingly buys public property from any person who lawfully may not sell or pledge the property; or
  - g. 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 State.



Corporate Compliance  
**Corporate Compliance Program**

H. Whistleblower Protections:

- No employer shall discharge, demote, suspend, threaten, harass, deny promotion to, or in any other manner discriminate against an employee in the terms and conditions of employment because of lawful acts done by the employee in disclosing information to a State or law enforcement agency or in furthering a false claims action.



Corporate Compliance  
**Corporate Compliance Program**

**Corporate Compliance Awareness Certification, Compliance Survey and Compliance Survey Disclosure Statement (Appendices B, C, D.)**

- NJ Sharing Network Corporate Compliance Program Awareness Certification Form, NJ Sharing Network Corporate Compliance Survey, and the NJ Sharing Network Compliance Survey and Disclosure Statement are to be completed by all administrative directors, managers, and employees upon distribution of the Corporate Compliance Program, and by all new employees.
- Certifications and disclosure statements for the NJ Sharing Network Corporate Compliance Program are contained within MasterControl NJ-002, Corporate Compliance Appendices BCD.

**Conflict of Interest Disclosure Statement**

- The Conflict of Interest Disclosure Statement is an important component of non-profit compliance. The form must be carefully completed by each Board member upon his or her appointment to the Board of Trustees and by each Covered Person at the time of his or her engagement as a Covered Person. The Conflict of Interest Disclosure must be updated annually thereafter if no changes in business or personal relationships occur.
- When new business or personal relationships with the potential for conflict arise during the course of the year the document must be updated and returned to the President and Chief Executive Officer.
- The Conflict of Interest Disclosure Statement for the NJ Sharing Network Corporate Compliance Program is contained within MasterControl NJ-042.

**NJ Sharing Network Corporate Compliance Program Awareness Certification Notice for Agents Contractors, Consultants and Vendors**

NJ Sharing Network is committed to conducting its business with integrity and in Compliance with applicable federal and state laws and regulations. To this end this Corporate Compliance Program applies to all contractors, consultants, agents, vendors and their employees

The NJ Sharing Network Corporate Compliance Program Awareness Notice and Corporate Compliance Program can be viewed at [www.NJSharingNetwork.org/CorporateCompliance](http://www.NJSharingNetwork.org/CorporateCompliance) .