

The E. John Gavras Center's Compliance Plan

This is the Cerebral Palsy Associates of Cayuga County Inc. E. John Gavras Center's ("Gavras") Compliance Plan that was duly adopted by the Gavras Board of Directors on March 29, 2011. It replaces the previous E. John Gavras Center's Compliance Plan that was adopted in March of 2010. This Compliance Plan, and its accompanying policies and procedures, will be periodically reviewed and updated by the Board of Directors on an as-needed basis.

Gavras takes its Compliance Program, of which this Compliance Plan is a part, very seriously. Accordingly, all employees, staff, managers, volunteers, contractors, and agents of Gavras must read, understand, and agree to follow this Compliance Plan. As a 501 (C) (3) not-for-profit, social service agency that is funded by tax dollars and charitable contributions, Gavras seeks to provide high quality services and conducts itself in accordance with the highest level of compliance with applicable rules. Gavras is governed by many regulations, statutes, and policies of various governmental agencies. As a result, Gavras is committed to preventing, detecting and correcting any unintentional or intentional conduct that is inconsistent with these principles of compliance.

This Compliance Plan has been developed in accordance with applicable law and available guidance from governmental authorities, including the New York State Office of the Medicaid Inspector General, the New York State Office of People with Developmental Disabilities, and the New York State Department of Health. This Compliance Plan is intended to: (1) prevent unintentional and intentional noncompliance with applicable laws and policies; (2) detect such noncompliance if it occurs; (3) discipline those involved in noncompliant behavior; (4) remedy the effects of non-compliance; and (5) prevent future noncompliance. This Compliance Plan will be updated periodically as necessary to keep Gavras' employees, contractors and agents informed of the most current information relevant to compliance requirements for all Gavras operations.

While this Compliance Plan emphasizes the detection and prevention of fraud, waste and abuse in federal, state and private health care plans, the scope of this Compliance Plan is not limited to these issues. The Compliance Plan covers other areas of compliance to which Gavras is subject, such as the use of corporate funds and resources, agency budgeting rules, and corporate governance by the Board of Directors. Gavras will seek to promote full compliance with all legal duties applicable to it, foster and assure ethical conduct, and provide guidance to each employee and agent for his or her conduct.

The Gavras Vision Statement

Vision: Our Vision is to be an innovative leader in the provision of person centered services and supports, primarily for those individuals of all ages with special needs, and their families, through an array of quality programs and services.

The Gavras Mission Statement

Mission: The Mission of the E. John Gavras Center is to provide the highest quality Educational, Habilitative and Therapeutic Services in Cayuga and surrounding counties to help children, families and individuals grow as independent, healthy and productive citizens.

The Gavras Code of Conduct

The Gavras Board of Directors has adopted a Code of Conduct which is to be followed by all in the Gavras community. This includes all employees, staff, managers, contractors, agents, volunteers, and the Board of Directors. The Gavras Code of Conduct is as follows:

1. Services will be provided in an ethical, legal and professional manner.
2. Individuals shall not engage in any activity that constitutes abuse of any person served.
3. There shall be no use of corporal punishment.
4. There shall be no discriminatory activity against individuals served or others for reasons of race, religion, national origin, creed, age, sex, ethnic background, or any other class protected by law.
5. Individuals should not come to work, or work, at Gavras if their ability to perform their job is impaired due to the use of alcohol or illegal substances, controlled substance or other prescribed medication.
6. No individual shall distribute, sell, possess, purchase or consume illegal substances or alcohol while performing any work duties.
7. Persons receiving services shall not carry out duties that the program or facility is responsible for without adequate compensation.
8. Persons receiving services shall not be inappropriately exposed to firearms or other weapons.
9. No personal financial transactions, including the exchange of anything of monetary value, will occur between staff and persons receiving services.
10. All staff will respect and maintain all information regarding individuals receiving services, personnel issues, and program issues with confidentiality.
11. Services will be provided in accordance with applicable laws and policies.
12. This Compliance Plan must be followed.
13. For all members of the Board of Directors, the attached Gavras Conflict of Interest and Ethics Statement must be followed.

The Compliance Officer

A critical part of our Compliance Program is the Compliance Officer. The Compliance Officer reports directly to the Executive Director and the Board of Directors, and has the skills, character, training and experience to effectively perform the critical role of Compliance Officer. The Compliance Officer is a facilitator and provides guidance to all departments of Gavras while promoting quality, excellence, and adherence to the Compliance Plan and the Code of Conduct.

The Compliance Officer has been given the resources necessary to effectively lead and monitor the compliance program. The Compliance Officer has access to all documents, systems and records to effectively execute responsibilities; has adequate time to devote to the compliance program; has access to internal and external expertise related to risk areas and compliance issues relevant to Gavras; and has sufficient resources to support and maintain an effective monitoring and auditing program that addresses risk areas and compliance issues.

The Compliance Officer advises Gavras about considerations involved in contracting with vendors and contractual provisions that ensure compliance. The Compliance Officer is responsible for the day-to-day operations of the Compliance Program, The Compliance Officer periodically gives reports directly to the Board of Directors and the Audit Committee on the activities of the Compliance Program. The Audit Committee of the Board of Directors has primary responsibility for oversight of the Compliance Program.

We encourage you to contact the Compliance Officer if you have a question about any compliance-related issue. The Compliance Officer will be accessible to all of the Gavras community. Gavras urges all employees, vendors, subcontractors, affiliates, members of the Board of Directors, senior management, and the Audit Committee to use any and all lines of communication to the Compliance Officer. Compliance Officer Contact information will be included in all new staff orientation, recurrent training, and vendor/subcontractor/affiliate training.

Gavras management and staff will forward information to the Compliance Officer from individuals reporting compliance issues to them. Management and supervisors will support and encourage staff contact with the Compliance Officer. The Compliance Officer may be contacted by telephone (315-255-2746, extension 4103), cell phone at (315-730-7678) to receive reports of potential compliance issues, or reports may be made in writing via letter to E. John Gavras Center, 182 North Street, Auburn, NY 13021, or e-Mail to compliance@gavrascenter.com. The Compliance Officer can receive reports from individuals who wish to remain anonymous. Anonymous reporters will be given a case number and can periodically call the Compliance Office back and provide the number to receive information from the Compliance Officer, or other arrangements can be made to provide feedback to anonymous reporters.

The Gavras Audit Committee is to provide support and oversight for the agency's compliance program. The Audit Committee will meet periodically over the course of the calendar year with the Compliance Officer and if needed, assist the Compliance Officer in analysis of technical or financial information and aid in the identification of risk areas within the agency. The Audit Committee will also assist if needed in the implementation planning of any non-compliance and assure that the corrective action and verification process has been executed.

The Compliance Officer is aware of self-evaluation and audit results, meets with auditors, and receives results of self-evaluations and audits. The Compliance Officer attends meetings of the Board of Directors concerning the Compliance Program. The Board of Directors will be apprised of significant compliance deficiencies and corrective action plans.

As a member of the Gavras community, your input into this process is invaluable. The Compliance Officer looks forward to hearing from you if you have any compliance-related concerns or issues.

Education and training

All affected employees and persons associated with Gavras, including executives, senior management, and members of the Board of Directors, will receive annual refresher training and education on compliance issues and the operation of the Gavras Compliance Program.

Training on compliance issues, expectations and the compliance program operation is part of orientation for all new employees and Board of Directors members. Effectiveness of such training will be periodically assessed by various forms of monitoring and auditing.

Individuals will receive specific training relevant to their specialized areas of work. The Compliance Officer will provide or oversee training to executive staff and the Board of Directors. Training on compliance issues, expectations, and the Compliance Program operation recurs periodically by qualified individuals and entities. Individuals will be required to certify that they have attended mandatory trainings. Knowledgeable individuals are available to answer questions that arise on the job that affect compliance.

Education and training will be provided on a variety of subjects including the following:

Regulations, policies and guidelines of the New York State Office of People with Developmental Disabilities, the New York State Department of Health and the Office of the Medicaid Inspector General;

Relevant information contained in the New York State Department of Health's *Medicaid Update* publications and other pertinent sources;

Gavras policies and procedures for detecting and preventing fraud, waste, and abuse and the Gavras Employee Handbook;

New York State laws pertaining to civil penalties for false claims and statements (the New York State False Claims Act);

New York State criminal laws such as Social Services Law § 366-b, Penal Law Article 177 Health Care Fraud and NYS Penal Law Article 155 Larceny offenses regarding health care fraud; and

Federal laws pertaining to health care including the Criminal False Claims Act (18 U.S.C. §§ 286 and 287), Criminal False Statements Related to Health Care Matters (18 U.S.C. § 1035), Health Care Fraud (18 U.S.C. § 1347), Civil Monetary Penalties Act (42 U.S.C. § 1320a-7a), administrative remedies for false claims and statements established under 31 U.S.C. §3801 et seq., and the False Claims Act.

The Federal and New York State False Claims Acts

Knowingly submitting false or fraudulent claims for payment to a state or federal agency may constitute a violation of the federal False Claims Act [31 U.S.C. § 3729 (a)] and/or the New York State False Claims Act. A person acts “knowingly” under these laws not only if he or she has actual knowledge of a false or fraudulent claim but also if the person acts with deliberate ignorance or reckless disregard of the truth or falsity of that claim. “Sticking your head in the sand” and avoiding knowledge of fraud is not a defense.

Penalties under the Civil False Claims Acts include treble damages (i.e., damages of three times the amount of the false claim) and penalties of up to \$12,000 per claim, regardless of the amount of the claim. Individuals who become aware of false claims may file “qui tam” lawsuits on behalf of the federal or state government and may be entitled to keep a portion of any recovery.

Disciplinary policies

Policies exist to encourage good faith participation in the Gavras Compliance Program by all affected individuals. Participation in Compliance is expected with disciplinary action for non-participation or non-compliance.

Individuals who fail to report violations of this Compliance Plan, acts of noncompliance, or suspected acts of noncompliance will be sanctioned.

Individuals who participate in non-compliant conduct will also be sanctioned, as will individuals who encourage, direct, facilitate, or permit non-compliant behavior.

Disciplinary policies will be fairly and firmly enforced.

Policy of non-intimidation & non-retaliation

Gavras has a policy of non-intimidation and non-retaliation against individuals for good faith participation in the Compliance Program. The policy protects individuals involved in good faith in reporting potential issues, investigating issues, self-evaluations, audits, remedial actions and reporting to appropriate officials as provided in New York State Labor Law §§740 and 741. These “whistleblower” provisions protect individuals under certain circumstances. The Gavras policy against retaliation or intimidation is designed to encourage individuals to come forward with any concerns regarding compliance and to cooperate fully in any investigation. This policy protects all individuals participating in good faith in any compliance activity.

Allegations of intimidation or retaliation against individuals who raise compliance issues should be reported directly to the Compliance Officer as soon as possible. Any such allegations will be promptly investigated impartially and objectively. The Compliance Officer oversees such investigations. Gavras will promptly re-employ any individual it finds was terminated as a result of unlawful retaliation.

A high-level manager must approve terminations before they are effectuated, and this manager will be told of any participation in the Compliance Program by the individual prior to any termination decision being made. To ensure that retaliation is not taken after the individual’s participation in the Compliance Program, performance evaluations of individuals participating in the Compliance Program are reviewed by Human Resources for two years subsequent to an individual’s participation in Compliance Program activities.

The Board of Directors will be advised of the frequency and types of alleged retaliation or intimidation claims.

This policy allows Gavras to terminate contracts and affiliations as a result of retaliation or intimidation against individuals who participate in the Compliance Plan to the extent permitted by law.

Identification of compliance risk areas

Gavras will conduct periodic assessments of compliance risk areas utilizing self auditing protocols, as well as work plans and other guidance provided by the New York State Office of the Medicaid Inspector General; the New York State Department of Health; the New York State Office of People with Developmental Disabilities; and the United States Department of Health and Human Services Office of the Inspector General.

Gavras will employ internal audits as its primary self-assessment tool, and, as appropriate, will utilize external audits. Gavras will conduct routine monitoring of compliance risk areas identified by the Compliance Officer, senior staff, and/or the Board of Directors. Gavras will impose Corrective Action Plans upon itself as a result of the self-auditing process and will monitor for improved compliance.

Gavras will conduct internal audits with sufficient frequency and thoroughness to effectively self-evaluate risk areas.

The Gavras Audit Plan is created annually and revised as necessary. The Audit Plan is created assessing compliance data from the previous year (audits, statistics, etc.) to identify the highest risk areas in the coming year. Gavras will identify existing corrective action plans that will require auditing to confirm compliance goals and determine whether corrective action plan benchmarks are met. All audit results are shared with the Compliance Officer and Audit Committee.

Deviations from practice and trends toward noncompliance will be identified as risk areas and incorporated into performance improvement plans. Findings of non-compliance will be further investigated and analyzed for breadth and scope of compliance problem and included in corrective action plans. Self-evaluations and monitoring efforts will be analyzed to identify risk areas, non-compliance, and benchmark achievement. Negative deviations and negative trends will be further investigated and monitored to enable Gavras to characterize them as risk areas or as areas of non-compliance. The Compliance Officer and affected departments are involved in creation of plans of correction.

Set forth below are the some of the most significant compliance risk areas identified by Gavras. While not covering every potentially problematic situation, these areas are designed to make employees and agents aware of key compliance issues that affect day-to-day operations. Employees are encouraged to contact their supervisor or the Compliance Officer if they have any questions regarding these risk areas or any other potential compliance issues.

The submission of accurate, appropriate and adequately supported and justified bills to Medicaid and other third party payers is one of the most important legal obligations of Gavras. While this Compliance Plan does not reference every potential issue that may arise, significant compliance issues include the following:

- billing for items or services not actually rendered;
- billing for inadequate quality of care;
- billing for the same service more than once;
- failing to maintain, for at least six years, sufficient documentation to demonstrate that services were performed;
- failing to make contemporaneous records relating to the service provided;
- making false or fraudulent entries in any Gavras business record, or altering any such record in an inappropriate manner;
- creating records well after the time that services were provided in an attempt to justify billing;
- failing to comply with applicable regulatory requirements, including but not limited to signed service/treatment plans, timely service/treatment plan reviews, progress notes, medical authorizations, etc.;
- failing to ensure that Medicaid services were provided face-to-face and that the documentation is signed and dated by the individual who provided the service;

- failing to ensure that a full month of billing for IRA Residential Habilitation services is based upon at least one properly documented and appropriate service on each of 22 days in that month, or that a half month of billing for IRA Residential Habilitation services is based upon at least one properly documented and appropriate service on each of 11 days in that month;
- billing where service times between different programs overlap and the minimum length of time for each service has not been achieved;
- having untimely, absent or forged physician or other certifications on treatment plans/service plans/plans of care;
- billing for visits that were not of sufficient duration for the type of visit billed;
- having inadequate or unsigned/undated treatment plans, or failing to review them in a timely manner or by inappropriate personnel;
- where applicable, failing to document start and stop times for services rendered;
- failing to return overpayments of which Gavras becomes aware;
- failing to void claims when it would be appropriate to do so;
- merely voiding claims and failing to self disclose overpayments when it would be appropriate to do so;
- inappropriately using Gavras funds and resources, including but not limited to purchasing, competitive bidding, and expenditures for staff;
- not following mandatory reporting obligations;
- not following due diligence principles in reviewing agency budgeting;
- other issues involving corporate governance at the Board of Directors level;
- other compliance areas that may arise over time.

The failure to adhere to these and other requirements could subject Gavras, and its employees and agents, to civil or criminal liability. Additionally, Gavras disciplinary policies will be applied, up to and including termination and/or referral for criminal investigation and prosecution.

Disqualified individuals

Any individual, who applies for a position with Gavras, and any Gavras contractor or agent, shall be required to disclose whether the individual has changed his or her name and whether they have ever been convicted of a crime, including, but not limited to, health care related crimes or larceny.

In addition, Gavras shall inquire into the status of each prospective employee and agent associated with OPWDD's Home and Community Based Services (HCBS), including, but not limited to, conducting criminal history background checks to ensure that there is no history of engaging in illegal behavior.

Gavras will conduct monthly searches of the New York State Education Department Office of the Professions website to verify the license status of all licensed professional staff at Gavras and all referring professionals. Additionally, Gavras will conduct monthly searches of the lists of disqualified individuals maintained on the New York State Office of the Medicaid Inspector General's

website, as well as the website of the United States Department of Health and Human Services Office of the Inspector General Medicaid Inspector General, to assess if any new or current employees, contractors, agents or referring individuals have been excluded from participation in the Medicaid program and/or other federal health care programs.

Gavras will terminate employees or its relationship with agents, who are excluded from participation in federal health care programs. Gavras shall remove from direct responsibility or involvement in any federally or state funded health care programs any employees or agents with pending criminal charges relating to health care or who have been proposed for exclusion from participation in federally or state funded health care programs.

Responding to compliance issues

Gavras has a system to respond to compliance issues as they are raised. The procedures include taking immediate action to secure the health and safety of current patients if implicated by the issue raised.

Potential compliance problems will be promptly, fairly, and thoroughly investigated by impartial investigators. The Compliance Officer oversees investigations, which are assisted by Gavras staff as determined by the Compliance Officer. The Compliance Officer may bring in outside resources to assist with an investigation as appropriate.

Investigations are conducted independently of departments suspected of fraudulent conduct. Documentation related to the investigation is secured. All individuals who may have relevant information are promptly interviewed. Measures are taken to protect the integrity of the interview process. The legal rights of employees are considered and assured during investigatory interviews. Interviewees are reminded of the Gavras policy of nonretaliation and nonintimidation, as well as the protections afforded by law, at the outset of interviews. Supervisors are reminded that retaliation or intimidation against staff is unlawful.

A written investigatory report may be prepared that includes a timeline of the investigation. Investigative files are kept separate from personnel files. Investigators make findings of fact. As appropriate, outside legal counsel may be consulted.

Compliance problems identified in self-evaluations or audits will be investigated further to clarify the breadth and scope of the problem. Regular reports will be made to the Compliance Officer regarding progress of corrective action. The Board of Directors will be advised of progress of corrective action plans. Follow-up testing and monitoring will take place to verify that problem is corrected. Policies and procedures, and systems as necessary, will be implemented to reduce the potential for recurrence of identified compliance problems. Current policies are periodically reviewed when noncompliance is identified for outdated information and the need for new or updated policies and procedures. New

policies and procedures will be communicated to all individuals associated with Gavras.

Gavras will identify and report compliance issues to the New York State Office of the Medicaid Inspector General, New York State Office of People with Developmental Disabilities, the New York State Department of Health, or the United States Department of Health and Human Services Office of the Inspector General, as deemed appropriate in any particular case. Mandatory reporting will be done in compliance with governing law. Voluntary reporting will be timely made to the New York State Office of the Medicaid Inspector General or the United States Department of Health and Human Services Office of the Inspector General.

Inaccurate claims will be promptly voided when discovered. Investigations determine the root cause and scope of the cause of overpayments to prevent them from recurring in the future.

CONCLUSION

While Gavras has a Compliance Officer, the job of compliance is a job shared by all. Compliance requires vigilance and hard work by all involved. The success of the Gavras Compliance Program, and this Compliance Plan, depends upon the entire Gavras community. We are all responsible for compliance, and to that end, Gavras has established this Compliance Plan. You must follow this Compliance Plan, and we encourage your active participation in our Compliance Program as well as any questions that you may have.

Revised March 2011

ACKNOWLEDGMENT FORM

Gavras is completely committed to working in full compliance with all laws and policies that apply to our various programs.

The goal of this Compliance Plan is to maintain an ongoing, proactive system for preventing actions that might violate laws, regulations or ethical standards, for detecting such actions quickly when they occur, for making appropriate and consistent educational and disciplinary responses to such actions, and for continuously improving the quality of our various programs.

Gavras strives to meet all applicable legal requirements and avoids actual or apparent conflicts of interest in our business relationships and practices.

As an employee or agent of Gavras, I understand that I am expected to have a basic understanding of the laws and ethical standards that govern our organization. I am fully committed to abiding by them. I will cooperate fully with the Compliance Officer and the Audit Committee to the extent necessary or helpful to ensure the implementation and continued effectiveness of the Compliance Plan.

I hereby certify that I have read the attached Compliance Program and that I understand it.

I further certify that I understand what is expected of me as an employee/agent of Gavras with respect to the Compliance Program and that I will follow the Compliance Program to the best of my ability.

If I am ever unable to follow the Compliance Program for any reason, I certify that I will immediately inform the Compliance Officer of the reasons why.

I understand that my failure to follow the Compliance Program will be grounds for disciplinary action up to and including termination and/or referral to law enforcement.

I hereby accept, and agree to follow, the Compliance Plan of January 1, 2011 and approved at the Board of Directors Meeting of March 29, 2011.

(Signed)

(Date)

(Please Print Name)

(Job Title)