



CORPORATE COMPLIANCE PLAN
October 2021

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ORGANIZATIONAL STRUCTURE

Lakeshore Regional Entity (LRE) serves as the Medicaid Prepaid Inpatient Health Plan (PIHP) for the following seven county region:

Allegan County: Allegan County Community Mental Health Services;
Kent County: Kent County Mental Health Authority d/b/a Network 180;
Lake County: West Michigan Community Mental Health System
Mason County: West Michigan Community Mental Health System;
Muskegon County: HealthWest;
Oceana County: West Michigan Community Mental Health System;
Ottawa County: Community Mental Health Ottawa County

The Member Community Mental Health Service Programs have elected to configure LRE under the Michigan Mental Health Code Section 3301.1204b.

LRE as the PIHP

LRE serves as the Medicaid Prepaid Inpatient Health Plan (PIHP) for the region with authority and accountability for operations and fulfillment of applicable federal and state statutory, regulatory and contractual obligations related to the applicable waiver(s) and MDHHS contract(s). The role of LRE as the PIHP is defined in federal statute, specifically 42CFR 438 and the MDHHS/PIHP Contract.

LRE contracts with MDHHS for The Medicaid Managed Specialty Supports and Services 1115 Demonstration Waiver, 1915 (c)/(i) Waiver Program(s), the Healthy Michigan Program, the Flint 1115 Waiver and Substance Use Disorder Community Grant Programs

LRE: VISION and VALUES

Vision:

The vision of the Lakeshore Regional Entity is to promote the efficiency and effectiveness of the Members by jointly serving as the PIHP for Medicaid Specialty Behavioral Health Services for the region. Behavioral Health Services include services for persons with developmental disabilities, adults with mental illness, children with emotional disturbance and persons with substance use disorders. The Lakeshore Regional Entity seeks to build upon and maximize the unique strengths of the individual Member Boards serving Allegan, Kent, Lake, Mason, Muskegon, Oceana and Ottawa Counties, while establishing a regional organization and identity that supports an essential standard for services. The Lakeshore Regional Entity will promote performance that supports and advocates for and is informed by the needs of the individuals the Entity serves across the region.

Values:

- **Public Dollars.** Responsibility for the appropriate use of public dollars and accountability to the Members for the use of those dollars;
- **Successes.** Accountability for the successes and/or failures of the Entity;
- **Mental Health System.** Commitment to trust, honesty, openness, and commitment concerning the public mental health system in Michigan with the understanding that respect and transparency informs relationships and our dealings with and amongst Members;

- **Communities/Members.** Commitment to keeping the promises made to Region 3 communities and the promises made to Members;
- **Persons Served.** Commitment to ensuring that the voice of Persons Served, families and the supporters of Persons Served is heard, honored, and reflected in the work of Lakeshore Regional Partners in a meaningful and substantive manner;
- **Person-Centered.** Commitment to a person-centered, family centered approach, with emphasis upon self-determination, the rights of the persons served and the opportunity to engage in community living that has meaning and value for the person;
- **Growth.** Commitment to resolving conflicts that may arise as part of the Entity's growth; and
- **Integrity.** Commitment to achieving performance, ethically, effectively and professionally, in accordance with the Partner's Conflict of Interest Policy.

OVERVIEW

This Corporate Compliance Plan documents LRE's approach to assuring that federal and state regulatory and contractual obligations related to compliance of the Prepaid Inpatient Health Plan (PIHP) are fulfilled.

The LRE Corporate Compliance Plan addresses LRE's regulatory compliance obligations as a Prepaid Inpatient Health Plan (PIHP) and how, where it has obligations, it will oversee the PIHP functions it delegates to the Member Community Mental Health Service Providers (CMHSP). LRE's Corporate Compliance Program is designed to further LRE's commitment to comply with applicable laws, promote quality performance throughout the LRE region, and maintain a working environment for all LRE personnel that promotes honesty, integrity and high ethical standards. LRE's Corporate Compliance Program is an integral part of LRE's vision, and all LRE personnel, Member CMSHPs and contracted and sub-contracted Providers are expected to support the corporate compliance program. LRE's compliance plan is comprised of the following principal elements as outlined in the Federal Sentencing Guidelines:

- 1) The development and distribution of written standards of conduct, as well as written policies and procedures, that promote LRE's commitment to compliance and that address specific areas of potential fraud;
- 2) The designation of a Compliance Officer and other appropriate bodies, (e.g., a Compliance Oversight Committee), charged with the responsibility and authority of operating and monitoring the compliance program;
- 3) The development and implementation of regular, effective education and training programs for all affected employees;
- 4) The development of effective lines of communication between the Compliance Officer and all employees, including a hotline to receive complaints and the

- adoption of procedures to protect the anonymity of complainants and to protect callers from retaliation;
- 5) The use of audits or other risk evaluation techniques to monitor compliance and assist in the reduction of identified problem areas within delivered services, claims processing and managed care functions;
 - 6) The development of disciplinary mechanisms to consistently enforce standards and the development of policies addressing dealings with sanctioned and other specified individuals; and
 - 7) The development of policies to respond to detected offenses, to initiate corrective action to prevent similar offenses, and to report to Government authorities when appropriate.

LRE's Corporate Compliance Program is committed to the following:

- Minimizing organizational risk and improving compliance with the service provision, documentation, and billing requirements of Medicaid;
- Maintaining adequate internal controls throughout the region and provider network;
- Encouraging the highest level of ethical and legal behavior from all employees and providers;
- Educating employees, contract providers, board members, and stakeholders on their responsibilities and obligations to comply with applicable local, state, and federal laws; and
- Providing oversight and monitoring functions.

There are numerous laws that affect the regulatory compliance of LRE and its provider network; however, in formalizing the PIHP's compliance program, the legal basis of the LRE compliance program centers around four key laws and statutes:

- **The Affordable Care Act (2010)** This Act requires the PIHP to have a written and operable compliance program capable of preventing, identifying, reporting, and ameliorating fraud, waste and abuse across the PIHP's provider network. All programs funded by the PIHP including CMHSPs, sub-contract provider organizations and practitioners, board members and others involved in rendering PIHP covered services fall under the purview and scope of LRE's compliance program.
- **The Federal False Claims Act** This Act applies when a company or person knowingly presents (or causes to be presented) to the Federal government (or any entity on its behalf) a false or fraudulent claim for payment; knowingly uses (or causes to be used) a false record or statement to get a claim paid; conspires with others to get a false or fraudulent claim paid; or knowingly uses (or causes to be used) a false record or statement to conceal, avoid, or decrease an obligation to pay or transmit money or property to the Federal government (or its designated entity).
 - **The Michigan False Claims Act** This Act prohibits fraud in the obtaining of benefits or payments in conjunction with the MI Medical assistance program; to prohibit kickbacks or bribes in connection with the program to prohibit conspiracies

in obtaining benefits or payments; and to authorize the MI Attorney General to investigate alleged violations of this Act.

- **The Anti-Kickback Statute** This Act prohibits the offer, solicitation, payment or receipt of remuneration, in cash or in kind, in return for or to induce a referral for any service paid for or supported by the Federal government or for any good or service paid for in connection with consumer service delivery.

There are numerous Federal and State regulations that affect the LRE compliance program. Some of these laws not referenced above include but are not limited to:

- The Balanced Budget Act of 1997
- The Deficit Reduction Act of 2005
- Social Security Act of 1964
- Privacy and Security requirements of the Health Insurance Portability and Accountability Act (HIPAA) and the Health Information Technology for Economic and Clinical Health Act (HITECH)
- 42 CFR Part 2 Confidentiality of Alcohol and Drug Abuse Patient Records
- Code of Federal Regulations
- The MI Medicaid False Claims Act (Current through amendments made by Public Act 421 of 2008, effective 1/6/2009)
- Michigan Whistleblowers Act, Act 469 of 1980
- Michigan Mental Health Code and Administrative Rules
- Medical Services Administration (MSA) Policy Bulletins
- State Operations Manual
- State of Michigan MDHHS/PIHP contract provisions
- Provisions from Public Act 368 of 1978 – revised – Article 6 Substance Abuse
- Michigan State Licensing requirements
- Michigan Medical Records Act
- Civil Monetary Penalty Law of 1981
- American with Disabilities Act of 1990

The LRE Compliance Plan is subject to the following conditions:

- A. LRE's Compliance Officer (CO) may recommend modifications, amendments or alterations to the written Corporate Compliance Plan as necessary and will communicate any changes promptly to all personnel and to the Board of Directors.
- B. This document is not intended to, nor should be construed as, a contract or agreement and does not grant any individual or entity employment or contract rights.

DEFINITIONS AND TERMS

Compliance investigation: the observation or study of suspected fraud, abuse, waste, or reported violations of applicable laws and regulations for all Medicaid covered services by close examination and systematic inquiry.

Abuse: means provider practices that are inconsistent with sound fiscal, business, or clinical practices, and result in an unnecessary cost to the Medicaid program, or in reimbursement for services that are not medically necessary or that fail to meet professionally recognized standards of care. It also includes beneficiary practices that result in unnecessary cost to the Medicaid program. (42 CFR § 455.2)

Fraud (Federal False Claims Act): means an intentional deception or misrepresentation made by a person with the knowledge that the deception could result in some unauthorized benefit to himself or some other person. It includes any act that constitutes fraud under applicable Federal or State law including but not limited to the Federal False Claims Act and the Michigan False Claims Act. (42 CFR § 455.2)

Fraud (MI Medicaid False Claims Act): Michigan law permits a finding of Medicaid fraud based upon “constructive knowledge.” This means that if the course of conduct reflects a systematic or persistent tendency to cause inaccuracies” then it may be fraud, rather than simply a good faith error or mistake. (Public Act 421 of 2008, effective 1/6/2009)

Waste: means overutilization of services, or other practices that result in unnecessary costs. Generally, not considered caused by criminally negligent actions but rather the misuse of resources.

Member CMSHPs: Member CMSHPs hold a subcontract with LRE to provide supports and services to adults and children with mental illness, developmental disabilities, and co-occurring mental health and substance abuse disorders to Plan Members and to perform various delegated managed care functions consistent with LRE policy. “Member CMSHPs” includes the agency itself as well as those acting on its behalf, regardless of the employment or contractual relationship.

Contracted Providers: substance abuse, hospital and other Providers throughout the LRE region with which LRE directly holds a contract to provide Medicaid covered mental health and substance abuse services.

Subcontracted Providers: various Providers throughout the LRE region that contract directly with one or more of the Member CMSHPs to provide covered mental health and substance abuse services.

APPLICATION OF COMPLIANCE PLAN

LRE is a regional PIHP and as such, this Plan is intended to address LRE’s function as a PIHP. It is the intent of LRE that the scope of all its compliance policies and procedures should promote integrity, support objectivity and foster trust throughout the service region. This Plan applies to all LRE operational activities and administrative actions, and includes those activities that come within federal and state regulations relating to PIHPs.

LRE personnel are subject to the requirements of this plan as a condition of employment. All LRE personnel are required to fulfill their duties in accordance with LRE's Compliance Plan, human resource and operational policies, and to promote and protect the integrity of LRE. Failure to do so will result in discipline, up to and including termination of employment depending on the egregiousness of the offense. Disciplinary action may also be taken against a supervisory employee who directs or approves an employee's improper conduct, is aware of the improper conduct and does not act appropriately to correct it, or who fails to properly exercise appropriate supervision over an employee.

LRE directly and indirectly, through its Member CMSHPs, contracts services for adults and children with mental illness, developmental disabilities, and co-occurring mental health and substance abuse disorders within its seven counties (Allegan, Kent, Lake, Mason, Muskegon, Oceana, and Ottawa counties).

The PIHP Compliance Plan applies to all contracted and subcontracted providers receiving payment through LRE and/or through the PIHP managed care functions. All Member CMSHPs and contracted and subcontracted providers, including their officers, employees, servants and agents, are subject to the requirements of this Plan as applicable to them and as stated within the applicable contracts. Failure to follow the LRE Compliance Plan and cooperate with the compliance program will result in remediation effort attempts and/or contract action, if needed.

The LRE Corporate Compliance Plan, standards, and policies included or referenced herein are not exhaustive or all inclusive. All LRE personnel, Member CMSHPs and providers are required to comply with all applicable laws, rules and regulations including those that are not specifically addressed in the Corporate Compliance Plan.

SECTION I – STANDARDS OF CONDUCT

LRE Personnel and Board of Directors Standards of Conduct

In order to safeguard the ethical and legal standards of conduct, LRE will enforce policies and procedures that address behaviors and activities within the work setting, including but not limited to the following:

- 1) Confidentiality: LRE is committed to protecting the privacy of its consumers. Board members and LRE personnel are to comply with the Michigan Mental Health Code, Section, 330.1748, 42 CFR Part 2 relative to substance abuse services, and all other privacy laws as specified under the Confidentiality section of this document.
- 2) Harassment: LRE is committed to an environment free of harassment for Board members and LRE personnel. LRE will not tolerate harassment based on sex, race, color, religion, national origin, citizenship, chronological age, sexual orientation, or any other condition, which adversely affects their work environment. LRE has a strict non-retaliation policy prohibiting retaliation against anyone reporting suspected or

known compliance violations.

- 3) Conflict of Interest: LRE Board members and personnel will avoid any action that conflicts with the interest of the organization. All Board members and personnel must disclose any potential conflict of interest situations that may arise or exist. LRE will maintain standards establishing a clear separation of any supplemental employment in terms of private practice and outside employment from activities performed for LRE.
- 4) Reporting Suspected Fraud: LRE Board members and personnel must report any suspected or actual “fraud, abuse or waste” (consistent with the definitions as set forth in this Plan) of any LRE funds to the organization.
- 5) Culture: LRE Board members, Executive Officer and management personnel will establish at LRE, and encourage throughout its region, cultures that promote prevention, detection, and resolution of instances of misconduct in order to conform to applicable laws and regulations. LRE will assist Member CMSHPs, contracted and subcontracted providers in adopting practices that promote compliance with Medicaid fraud, abuse and waste program requirements. The LRE Compliance Plan and program will be enforced consistently.
- 6) Delegation of Authority: LRE Board members, Executive Officer and management personnel will use due care not to delegate substantial discretionary authority to individuals whom they know, or should have known through due diligence, have a propensity to engage in illegal activities
- 7) Excluded Individuals: LRE will perform or cause to be performed criminal records checks and sanctions screenings on potential LRE personnel, and shall avoid placing untrustworthy or unreliable employees in key positions.
- 8) LRE Board members and LRE personnel are expected to participate in compliance training and education programs.
- 9) LRE Board members and LRE personnel are expected to cooperate fully in any investigation.
- 10) Reporting: All LRE Board members and LRE personnel have the responsibility of ensuring the effectiveness of the organization’s Compliance Program efforts by actively participating in the reporting of suspected violations of the Compliance Plan or policies and the standards stated in this Code of Conduct and Ethics.
- 11) Gifts from Consumers/Members: LRE personnel are prohibited from soliciting tips, personal gratuities or gifts from members or member families. Additionally, LRE personnel are prohibited from accepting gifts or gratuities of more than nominal value. LRE generally defines “nominal” value as \$25.00 per gift or less. If a member or other individual wishes to

present a monetary gift of more than nominal value, he or she should be referred to the Executive Officer.

- 12) Gifts Influencing Decision-Making: LRE personnel will not accept from anyone gifts, favors, services, entertainment or other things of value to the extent that decision-making or actions affecting LRE 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 of any purchaser, supplier, customer/member, government official or other person by any LRE personnel or LRE is absolutely prohibited. Any such conduct should be reported immediately to the CO, or through the LRE corporate compliance hotline at (800) 420-3592.
- 13) Gifts from Existing Vendors: LRE personnel may accept gifts from vendors, suppliers, contractors or other persons that have nominal values as defined in LRE financial and compliance policies. LRE expects LRE personnel to exercise good judgment and discretion in accepting gifts. If any LRE personnel have any concerns regarding whether a gift should be accepted, the person should consult with his or her supervisor. LRE personnel will not accept excessive gifts, meals, expensive entertainment or other offers of goods or services, which has a more than a nominal value as defined in LRE financial and compliance policies.
- 14) Vendor Sponsored Entertainment: At a vendor's invitation, LRE personnel may accept meals or refreshments of nominal value at the vendor's expense. Occasional attendance at local theater or sporting events, or similar activity at a vendor's expense may also be accepted provided that, a business representative of the vendor attends with LRE personnel. Such activities are to be reported to the Compliance Officer by LRE personnel.
- 15) Purchasing and Supplies: It is the policy of LRE to ensure that all rental, lease, and purchasing agreements are structured in accordance with applicable federal and state self-referral and anti-kickback regulations as well as federal guidelines regarding tax-exempt organizations. All agreements must be commensurate with the fair market value for equipment or space.
- 16) All subcontractor and supplier arrangements will be managed in a fair and reasonable manner, consistent with all applicable laws and good business practices. Subcontractors, suppliers, and vendors will be selected based on objective criteria including quality, technical excellence, price, delivery, and adherence to schedules, services and maintenance of adequate sources of supply. Purchasing decisions will be made on the supplier's ability to meet needs and not on personal relationships or friendships. LRE will always employ the highest ethical standards in business practices in source selection, negotiation, determination of contract awards, and the administration of purchasing activities.

- 17) Marketing: Marketing and advertising practices are defined as those activities used by LRE to educate the public, provide information to the community, increase awareness of services, and recruit employees or contractual providers. LRE will present only truthful, fully informative and non-deceptive information in any materials or announcements. All marketing materials will reflect available services.

The federal Anti-kickback Statute (section 1128B[b] of the Social Security Act) makes it a felony, punishable by criminal penalties, to offer, pay, solicit, or receive “remuneration” as an inducement to generate business compensated by Medicaid programs. Therefore, all direct-to-consumer marketing activities require advance review by the Compliance Oversight Committee or designee if the activity involves giving anything of value directly to a consumer.

- 18) Financial Reporting: LRE shall ensure integrity of all financial transactions. Transactions shall be executed in accordance with established policies and procedures and with federal and state law and recorded in conformity with generally accepted accounting principles or any other applicable criteria.

All financial reports, accounting records, research reports, expense accounts, time sheets and other documents will accurately and clearly represent the relevant facts or the true nature of a transaction. No undisclosed or unrecorded funds or assets will be established for any purpose.

LRE will not tolerate improper or fraudulent accounting, documentation, or financial reporting. LRE personnel have a duty to make reasonable inquiry into the validity of financial information reporting. In addition to employee discipline and termination, LRE may terminate the contractual arrangement involving any contracted provider due to fraudulent accounting, documentation, or financial reporting.

LRE shall develop internal controls and obtain an annual independent audit of financial records; shall ensure that reimbursement for services billed is accurate, appropriate, and based on complete documentation; and shall maintain accountability of assets.

- 19) Third Party Billing and Governmental Payers: LRE is committed to truthful billing that is supported by complete and accurate documentation. LRE personnel may not misrepresent charges to, or on behalf of, a consumer or payer.

LRE must comply with all payment requirements for government-sponsored programs. All LRE personnel must exercise care in any written or oral statement made to any government agency. *LRE will not tolerate*

false statements by LRE personnel to a governmental agency. Deliberate misstatements to governmental agencies or to other payers will expose the individual to potential criminal penalties and termination.

- 20) Responding to Government Investigations: LRE will fully comply with the law and cooperate with any reasonable demand made in a governmental investigation. LRE personnel may not conceal, destroy, or alter any documents, lie or make misleading statements to governmental representatives. LRE personnel may not aid in any attempt to provide inaccurate or misleading information or obstruct, mislead, or delay the communication of information or records relating to a possible violation of the law.

It is crucial that the legal rights of LRE personnel and LRE are protected. If any LRE personnel receives an inquiry, a subpoena, or other legal documents requiring information about LRE business or operation, whether at home or in the workplace, from any government agency, LRE requests that the person notify LRE's Executive Officer or the Compliance Officer immediately.

LRE will distribute the Code of Conduct and Ethics to all LRE personnel upon hire who shall certify in writing that they have received, read, and will abide by the organization's Code. In addition to the Code, all LRE personnel will be familiar with and agree to abide by all LRE operational and human resources policies and procedures. All operational and human resources policies and procedures are available to LRE personnel through the LRE intranet and the shared drive.

Member CMSHP and Contracted and Subcontracted Provider Relationships

It is the policy of LRE to ensure that all direct and subcontracted provider contractual arrangements are structured in accordance with federal and state laws and regulations and are in the best interest of the organization and the consumers we serve. In order to ethically and legally meet all standards, LRE will strictly adhere to the following:

- 1) LRE does not receive or provide any inducement for referrals. Consumer referrals and intakes will be accepted based on the consumer's needs, eligibility, and our ability to provide the services needed.
- 2) No employee, Member CMSHP, or contracted or subcontracted provider, or any other person acting on behalf of the organization is permitted to solicit or receive anything of value, directly or indirectly, in exchange for the referral of consumers.
- 3) LRE does not enter into financial arrangements with physicians that are designed to provide inappropriate remuneration to the organization in return for the physician's ability to provide services to state and federal health care program beneficiaries.
- 4) LRE does not enter into contractual relationships with individuals or

agents/agencies that have been convicted of a criminal offense related to health care or that are listed by a federal agency as debarred, excluded, or otherwise ineligible for participation in federal health care programs. Reasonable and prudent background investigations will be completed prior to entering into contractual relationships with all individuals and agents/agencies.

- 5) All Member CMSHP, contracted and subcontracted provider personnel have the responsibility of ensuring the effectiveness of LRE's Compliance Program efforts by actively participating in the reporting of suspected violations.

Member CMSHPs and contracted and subcontracted providers will be required to have written standards of legal and ethical conduct of their own. Member CMSHPs and contracted or subcontracted providers having developed their own standards of conduct will be required to provide evidence of such for inclusion in the contractor file. Member CMSHPs and contracted and subcontracted providers will be familiar with and agree to abide by the LRE Compliance Plan and all applicable policies and procedures as incorporated into relevant contracts. All policies and procedures relevant to the Member CMSHPs and Providers are available via the LRE Internet Website at www.lsre.org. Member CMSHPs and contracted and subcontracted providers are responsible for monitoring and staying informed of regulatory developments independent of LRE Compliance Program efforts.

All LRE personnel, Member CMSHPs, contracted and subcontracted providers will refrain from conduct that may violate the Medicaid anti-kickback, false claims or physician self-referral laws and regulations. A false claim includes the following: billing for services not rendered; misrepresenting services actually rendered; falsely certifying that certain services were medically necessary; or submitting a claim for payment that is inconsistent with or contrary to Medicaid payment requirements. In general, these laws prohibit:

- Submission of false, fraudulent or misleading claims for payment, the knowing use of a false record or statement to obtain payment on false or fraudulent claims paid by the United States government, or the conspiracy to defraud the United States government by getting a false or fraudulent claim allowed or paid. If the claims submitted are knowingly false or fraudulent then the False Claims Act has been violated;
- Knowingly and willfully making false representation to any person or entity in order to gain or retain participation in the Medicaid program or to obtain payment for any service from the United States government;
- A physician (or immediate family member of the physician) who has a financial relationship with an entity from referring a Medicaid patient to the entity for the provision of certain "designated health services" unless an exception applies, or an entity from billing an individual, third party payer; or other entity for any designated health services provided

- pursuant to a prohibited referral; and
- Knowingly and willfully making or causing to be made any false statement or representation of a material fact in any application (claim) for benefits or payments under a Federal health care program.

SECTION II - COMPLIANCE OFFICER AND COMPLIANCE OVERSIGHT COMMITTEE

LRE CEO will designate a Compliance Officer (CO), who will be given sufficient authority to oversee and monitor the Compliance Plan, including but not limited to the following:

- Recommending revisions/updates to the Compliance Plan, policies, and procedures to reflect organizational, regulatory, contractual and statutory changes.
- Reporting on a regular basis the status of the implementation of the Compliance Plan and related compliance activities.
- Assuring and/or coordinating compliance training and education efforts for LRE personnel, Member CMSHPs and contracted and subcontracted providers.
- Assuring continuing analysis, technical expertise and knowledge transmission of corporate compliance requirements and prepaid health plan performance in keeping with evolving federal requirements and MDHHS contractual obligations and standards.
- Coordinating and oversight of audits and monitoring activities
- Performing or causing to be performed risk assessments, verification audits, and on-site monitoring consistent with the approved annual PIHP compliance work plan(s) intended to reduce the risk of criminal conduct at LRE, Member CMSHPs, contracted and subcontracted providers.
- Ensure coordinating efforts with human resources, Provider Network Manager and other relevant departments regarding employee certifications/licensures, background checks, sanctions screenings, and privileging and credentialing.
- Developing and modifying policy and programs that encourage the reporting of suspected fraud and other potential problems without fear of retaliation.
- Independently investigating and acting on matters related to compliance.
- Drafting and maintaining LRE Board and executive reports including annual Compliance Program Evaluation.

The authority given the CO will include the ability to review all LRE, Member CMSHP, contracted and subcontracted provider Medicaid and Healthy Michigan documents and other information relevant to compliance activities, including, but not limited to, consumer records, billing records, employee records and contracts and obligations of LRE consistent with Section XVIII of the Medicaid Subcontracting Agreement.

LRE maintains and charters a Compliance Oversight Committee that oversees the implementation and operation of the LRE Compliance Program. The Compliance Oversight Committee reviews reports and recommendations made by the LRE CO

regarding compliance activities. This includes data regarding compliance generated through audits, monitoring, and individual reporting. Based on these reports, the Compliance Officer will make recommendations to the Executive Leadership regarding the efficiency of the LRE Compliance Plan and program.

SECTION III - COMPLIANCE TRAINING AND EDUCATION

Proper and continuous training and education of LRE personnel at all levels is a significant element of an effective compliance program. Therefore, LRE will establish a regular training program consistent with applicable compliance policies that covers the provisions of the Code of Conduct and Ethics, as well as the processes for obtaining advice and reporting misconduct. Training is provided upon hire for new employees; annual and periodic retraining is provided to existing LRE personnel and, as applicable, independent contractors.

LRE Board members and personnel will be scheduled to receive LRE's compliance program training on the Compliance Plan and Code at orientation or within thirty (30) days of employment. Tailored training may be required for employees involved in specific areas of risk and the CO will coordinate and schedule this as needed and will supplement with training and/or newsletters, e-mails and in-services. Records will be maintained on all formal training and educational activities. Training is considered a condition of employment and failure to comply will result in appropriate disciplinary action.

SECTION IV - COMPLIANCE REPORTING AND ONGOING COMMUNICATION

All LRE Board members and personnel must be familiar with applicable federal and state laws and regulations as well as LRE policies and procedures. Any LRE Board member and personnel that know, or has reason to believe, that an employee of, or independent professional providing services to, LRE is not acting in compliance with federal and state laws and regulations should report such matters to the CO. Reporting of suspected violations may be accomplished through a verbal, written, or anonymous report using the following mechanisms:

- LRE Telephone Hot Line – Suspected compliance violations or questions can be made to a toll-free hot line. The number is (800) 420-3592 and includes confidential voice mail.
- LRE Electronic Mail (E-Mail) – Suspected compliance violations or questions can be sent electronically via e-mail to the Compliance Officer.
- Mail Delivery – Suspected compliance violations or questions can be mailed to:

Lakeshore Regional Entity Attn:
Compliance Officer
5000 Hakes Dr. STE. 250
Norton Shores, MI 49441

- In Person - Suspected compliance violations or questions can be made in person to LRE's CO at the above address.

Whistleblower Protections for LRE Personnel

Employees who make good faith reports of violations of federal or state law are protected by state and federal whistleblower statutes, as more fully described below.

Under the *Federal False Claims Act* and the *Michigan Medicaid False Claims Act*, employees who report violations in good faith are entitled to protection from disciplinary actions taken by their employer.

The *Federal False Claims Act*, 31 USC §§3729 through 3731, provides for administrative remedies, encourages enactment of parallel State laws pertaining to civil and criminal penalties for false claims and statements, and provides "whistle-blower" protection for those making good faith reports of statutory violations.

Under the *Michigan Medicaid False Claims Act*, an employer shall not discharge, demote, suspend, threaten, harass, or otherwise discriminate against an employee in the terms and conditions of employment because the employee initiates, assists in, or participates in a proceeding or court action under this act or because the employee cooperates with or assists in an investigation under this act. This prohibition does not apply to an employment action against an employee who the court finds: (i) brought a frivolous claim, as defined in section 2591 of the revised judicature act of 1961, 1961 PA

236, MCL §600.2591; or, (ii) planned, initiated, or participated in the conduct upon which the action is brought; or, (iii) is convicted of criminal conduct arising from a violation of that act.

An employer who takes action against an employee in violation of the *Michigan Medicaid False Claims Act* is liable to the employee for all of the following:

1. Reinstatement to the employee's position without loss of seniority;
2. Two times the amount of lost back pay;
3. Interest on the back pay;
4. Compensation for any special damages; and,
5. Any other relief necessary to make the employee whole.

Under the *Federal False Claims Act*, any employee who is discharged, demoted, suspended, threatened, harassed, or in any other manner discriminated against in the terms and conditions of employment by his or her employer because of lawful acts done by the employee on behalf of the employee or others in furtherance of an action under this section, including investigation for, initiation of, testimony for, or assistance in an action filed or to be filed under this section, shall be entitled to all relief necessary to make the employee whole. Such relief shall include reinstatement with the same seniority status such employee would have had but for the discrimination, 2 times the amount of back pay, interest on the back pay, and compensation for any special damages sustained as a result of the discrimination, including litigation costs and reasonable attorneys' fees. An employee may bring an action in the appropriate district court of the United States for the relief provided in this subsection.

Partly because of their status as primary contracted agents performing delegated managed care functions and in order to minimize regional risk and harm, Member CMSHPs will report suspected compliance issues within three business days or less to the LRE Compliance Officer when one or more of the following criteria are met:

- 1) During an inquiry by the Member CMSHP compliance officer there is determined to be (reasonable person standard) Medicaid fraud, abuse, or waste as defined by federal statute, CMS, HHS OIG and applicable Michigan statute or regulation; or
- 2) Prior to any self-disclosure to any federal, state or Medicaid authority. In no way is this intended to nor should it be interpreted as a requirement or request to violate the letter or spirit of federal or Michigan reporting and whistleblower statutes or related regulations; or
- 3) When a Member CMSHP knows or (reasonable person standard) suspects that an action or failure to take action in the organization or its contractors would result in the improper application or improper retention of Medicaid funds.

Participant CMHPs shall undertake fraud, waste and abuse prevention, detection, and

surveillance measures per contractual obligations and industry standards.

SECTION V - COMPLIANCE AUDITING, MONITORING AND RISK EVALUATION

The LRE CO is responsible for monitoring compliance activities and operations within LRE. The CO must then report any determinations of noncompliance to the CEO, the Compliance Oversight Committee, and LRE's Board of Directors. The CO will identify, interpret and determine standards of compliance through internal audit and monitoring functions and external audits. The CO shall prepare an Auditing and Monitoring Plan addressing identified risk areas.

Monitoring and Auditing: LRE believes that a thorough and ongoing evaluation of the various aspects of LRE's Compliance Plan is crucial to its success. In order to evaluate the effectiveness of the Plan, LRE will employ a variety of monitoring and auditing techniques, including but not limited to, the following:

- Periodic interviews with personnel within LRE, Member CMSHPs, and contracted and subcontracted providers regarding their perceived levels of compliance within their departments or areas of responsibilities;
- Questionnaires developed to poll personnel within LRE, Member CMSHPs, contracted and subcontracted providers regarding compliance matters including the effectiveness of training/education;
- Information gained from written reports from LRE compliance staff utilizing audit and assessment tools developed to track all areas of compliance;
- Audits designed and performed by internal and/or external auditors utilizing specific compliance guidelines;
- Incidents of alleged noncompliance reports are investigated.
- Member CMSHPs, contracted and subcontracted providers are encouraged to perform auditing and monitoring functions involving Medicaid covered services through their own compliance program efforts.

The LRE CO, legal counsel, Compliance Oversight Committee, and as appropriate, other LRE personnel will take actions to ensure the following:

- Access to and familiarity with the latest HHS OIG compliance guidelines and current enforcement priorities; and
- Assessment of the baseline risk of any significant issues regarding non-compliance with laws or regulations in accordance with LRE's Compliance Plan.

The CO is also responsible to ensure a risk assessment is performed annually with the results integrated into the daily operations of the organization.

SECTION VI - ENFORCEMENT OF COMPLIANCE POLICIES AND STANDARDS

Basis for Member CMSHP, Contracted or Subcontracted Provider Corrective Action:

Monitoring and auditing, and reports of questionable practices may form the basis for imposing corrective action.

Elements of a Member CMSHP, Contracted or Subcontracted Provider a Corrective Action Plan: As appropriate given the nature of the noncompliance, a corrective action plan submitted to LRE for approval shall include:

- A description of how the issue(s) identified was immediately corrected OR the reason the issue(s) cannot be immediately corrected (i.e. the consumer has been discharged).
- A description of the steps put to be put into place to prevent the issue(s), or a similar issue(s), from occurring again (i.e. staff training, process redesign, etc.)
- A description of the quality assurance program put into place for monitoring purposes to ensure the corrective action plan is effective and/or similar issues do not occur.

SECTION VII - CONFIDENTIALITY AND PRIVACY

All LRE Board members, LRE personnel, Member CMSHPs, and contracted and subcontracted providers must conduct themselves in accord with the principle of maintaining the confidentiality of consumers' information in accordance with all applicable laws and regulations, including but not limited to the Michigan Mental Health Code and the Privacy and Security Regulations issued pursuant to HIPAA and recent updated HITECH revisions, and 42 CFR Part 2 as it relates to substance abuse records. All will refrain from disclosing any personal or confidential information concerning members unless authorized by laws relating to confidentiality of records and protected health information. If specific questions arise regarding the obligation to maintain the confidentiality of information or the appropriateness of releasing information, LRE Board members, LRE personnel, and Member CMSHPs should seek guidance from the Compliance Officer/ Privacy Officer, or anonymously through the LRE corporate compliance hotline at (800) 420-3592.

LRE PERSONNEL COMPLIANCE CERTIFICATION FORM

- 1) I have received, read and understand the LRE Compliance Plan, Code of Conduct and Ethics, and related policies and procedures.
- 2) I pledge to act in compliance with and abide by the Code of Conduct and Ethics and LRE Compliance Plan during the entire term of my employment and/or contract.
- 3) I acknowledge that I have a duty to report to the Compliance Officer any alleged or suspected violation of the Code of Conduct and Ethics, agency policy, or applicable laws and regulations.
- 4) I will seek advice from my supervisor or the Compliance Officer concerning appropriate actions that I may need to take in order to comply with the Code of Conduct and Ethics or Compliance Plan.
- 5) I understand that failure to comply with this certification or failure to report any alleged or suspected violation of the Code of Conduct and Ethics or Compliance Plan may result in disciplinary action up to and including termination of employment or contract.
- 6) I agree to participate in any future compliance trainings as required and acknowledge my attendance at such trainings as a condition of my continued employment/contract.
- 7) I agree to disclose the existence and nature of any actual or potential conflict of interest to the Compliance Officer. Further, I certify that I am not aware of any current conflicts of interest.

Board/Employee/Provider/Contractor Signature

Date

LRE BOARD OF DIRECTORS COMPLIANCE CERTIFICATION FORM

- 1) I have received, read and understand the LRE Compliance Plan and Code of Conduct and Ethics
- 2) I pledge to act in compliance with and abide by the Code of Conduct and Ethics and LRE Compliance Plan during the entire term of my Board service.
- 3) I acknowledge that I have a duty to report to the LRE Chief Compliance Officer any alleged or suspected violation of the Code of Conduct and Ethics or related laws and regulations by myself, another Board Member or any other person.
- 4) I will seek advice from the LRE Board Chairman or the LRE Chief Compliance Officer concerning appropriate actions that I may need to take in order to comply with the Code of Conduct and Ethics or Compliance Plan.
- 5) I understand that failure to comply with any part of this certification may result in my removal from the Board of Directors.
- 6) I agree to participate in future Board compliance trainings as required
- 7) I agree to disclose the existence and nature of any actual or potential conflict of interest to the Board Chairman and Chief Compliance Officer. Further, I certify that I have disclosed all current conflicts of interest.

Board Member Signature

Date