

**STANDARDS OF CONDUCT**

**Distribute to:** All Arc Herkimer Employees via All Staff Email, Payco, and posted on Arc Herkimer Intranet (Policy Section); Board Members, Independent Contractors/Consultants/Agents/Vendors, and volunteers, as well as posted on the Arc Herkimer website.

**Revision History**

Revision	Date	Description	BOD
4	7/5/2023	<b>Supersedes CORP-1 (Formerly Code of Conduct) dated 3/7/2023.</b>  This revision includes regulatory change of wording, including change of title from Code of Conduct to Standards of Conduct, and adds language referring to affected individuals.	6/26/2023

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# **Arc HERKIMER STANDARDS OF CONDUCT**

## **I. POLICY**

All employees, independent contractors and Board members must know, understand and follow the Arc Herkimer Code of Conduct (Rules of Conduct). The Standards of Conduct is an integral component of our Corporate Compliance Plan. The document provides guidance to all employees and assists us to carry out our daily activities within appropriate ethical and legal standards. The Arc Herkimer Standards of Conduct can be found at **Exhibit A**. Explanation of specific details of the Rules of Conduct may be found in related policies and procedures and in the Standards of Conduct Supplement, **Exhibit B**.

## **II. SCOPE**

This policy applies to each employee, volunteer, independent contractor (e.g., vendor, consultant, or agent), Board members and all affected individuals of Arc Herkimer.

Note: Throughout this document, “employees” will mean regular, full, part-time, relief staff, or temporary employees (whether hired or contracted). Unless otherwise stated, the term “Contractor” or “Agent” is an individual who on behalf of Arc Herkimer furnishes, or otherwise authorizes the furnishing of Medicaid health care items or services, performs billing or coding functions, or is involved in the monitoring of health care provided by Arc Herkimer.

## **III. PROCEDURE**

### **A. Employees**

Each staff member will be provided with a copy of the Standards of Conduct at the time of initial hire and during their annual evaluation.

New staff will be trained on our Standards of Conduct within three (3) months of hire and will sign an acknowledgement of the Standards of Conduct at that time. The acknowledgement indicates his or her understanding and commitment to follow the Standards of Conduct. The Acknowledgement Form is attached as **Exhibit E**.

Each supervisor will ensure each staff has an updated acknowledgement of the Standards of Conduct on file at the time of each employee’s annual evaluation. If one is not on file, the employee will be required to re-sign the acknowledgement form as part of the evaluation process. The forms will become part of the employees’ formal record and will be filed electronically.

### **B. Supervisors**

While all employees are obligated to follow our Standards of Conduct, all Arc Herkimer supervisory employees (members of the management team) are expected to set an example. We expect all Arc Herkimer supervisory employees to:

1. Exercise their responsibilities in a manner that is kind, sensitive, thoughtful, and respectful.
2. Create an environment where all employees feel free to raise concerns and propose ideas;

3. Ensure their employees have sufficient information to comply with laws, regulations, and Arc Herkimer policies and procedures, including but not limited to those related to the Arc Herkimer Corporate Compliance Plan, and to resolve ethical dilemmas.
4. Create a culture within Arc Herkimer which promotes the highest standards of ethics and compliance.

**C. Independent Contractors**

Independent contractors will be provided with a copy of the Standards of Conduct by Arc Herkimer at the time of entering into a written agreement with Arc Herkimer.

Each independent contractor will sign an acknowledgement of the Standards of Conduct at the time of initial contracting and at renewal, indicating his or her understanding and commitment to follow the Standards of Conduct. The Acknowledgement Form is attached as Exhibit C. The form will be part of the vendor file and will be kept in Finance.

**D. Board Members**


Each Board member shall be provided with a copy of the Arc Herkimer Standards of Conduct by the Executive Office Manager at the time of Board orientation and upon renewal of his or her Board seat.

Each new Board member will receive training within three (3) months of joining the Board of Arc Herkimer on the Standards of Conduct and will sign an acknowledgement of the Standards of Conduct at that time, indicating his or her understanding and commitment to follow the Standards of Conduct. Arc Herkimer's Executive Office Manager is responsible for conducting this training. The Acknowledgement Form is attached as Exhibit D. The form will be part of the Board Member file and will be kept in Administration.

**Exhibits**

- Exhibit A – Arc Herkimer Standards of Conduct
- Exhibit B – Standards of Conduct Supplement
- Exhibit C – Independent Contractor/Agents/Vendors Acknowledgement Form
- Exhibit D – Board Member Acknowledgement Form
- Exhibit E – Employee/Volunteer Acknowledgement Form

**APPROVED**

  
\_\_\_\_\_  
Kevin Crosley, President/CEO

7-5-23  
\_\_\_\_\_  
Date

## EXHIBIT A

### ARC HERKIMER STANDARDS OF CONDUCT

<div><b>Mission</b></div> <hr/> <div>Empowering people with disabilities and enriching lives throughout our community.</div> <hr/> <div>Building Community</div>
<div><b>Vision</b></div> <hr/> <div><b>IMPACT:</b> Individuals Making Partnerships, Achieving Community Together.</div> <hr/> <div>Building Community</div>
<div><b>Values</b></div> <hr/> <div> <b>U&amp;I CARE</b> <small>With Unity &amp; Integrity, through Compassion, Advocacy, Respect, and Empowerment We Show - U&amp;I CARE.</small></div> <hr/> <div>Building Community</div>

To this end, we will acquire and manage the resources necessary to accomplish our mission, vision and be true to our values.

## **Commitment to Stakeholders**

**To the individuals we serve:** We are committed to providing the highest quality of care, in a caring and compassionate manner.

**To the communities we serve:** We are committed to understanding the unique needs of the individuals we serve and to provide high quality services in a cost-effective manner.

**To our employees/volunteers:** We are committed to a work setting which is safe, which treats all with fairness, dignity, and respect, which affords all the opportunity to grow, to develop professionally, and to work in a team environment where all ideas are considered.

**To our third-party payors:** We are committed to working with our payors in a way that demonstrates our commitment to our contractual obligations and reflects our shared concerns for high quality services in an efficient and effective manner. We encourage our payors to adopt their own set of ethical principles that recognize their obligations to the individuals we serve, as well as the need for fairness between providers and payors.

**To our regulators:** We are committed to creating an environment in which compliance with applicable rules, laws and regulations is woven into the fabric of Arc Herkimer. We accept responsibility to self-govern and monitor adherence to requirements of law and the Arc Herkimer Standards of Conduct.

**To our suppliers:** We are committed to fair competition among existing and prospective suppliers. We encourage our suppliers to adopt their own set of standards and ethical practices.

**To our contractors:** We are committed to working with you in a way that demonstrates our commitment to our contractual obligations and reflects our shared concerns for high quality services in an efficient and effective manner. We encourage our contractors to adopt their own set of ethical principles that recognize their obligations to the individuals we serve, as well as the need to accept responsibility to self-govern and monitor adherence to federal and state law requirements and the Arc Herkimer Standards of Conduct.

## **Rules of Conduct**

We believe that certain rules of conduct must be observed to promote a positive and ethical work environment and pledge to abide by the laws, regulations Arc Herkimer policies and procedures, including, but not limited to those related to the Arc Herkimer Corporate Compliance Plan.

We also understand that, as individuals working for and on behalf of Arc Herkimer, we have the added responsibility of following specific rules of conduct, as described below:

1. To work cooperatively and respectfully with all Arc Herkimer employees, volunteers, Board members and agents to provide the highest quality of services;

2. To place the interests of the people we serve and their family members first and foremost in all aspects of what we do;
3. To represent Arc Herkimer positively in the community-at-large;
4. To conduct all activities in a fiscally responsible manner while staying abreast of applicable regulations;
5. To work in accordance with applicable laws, regulations, and Arc Herkimer policies;
6. To seek training and assistance in areas that would strengthen the ability to fulfill responsibilities to the individuals we serve and Arc Herkimer;
7. To avoid conflicts of interest and openly identify those which already exist or come into existence;
8. Any inappropriate relationship that is/could be deemed emotional, physical, or sexual between anyone working for or on behalf of Arc Herkimer and a person supported is prohibited.
9. To avoid the acceptance and giving of gifts (to include relationships with individuals supported) of more than a nominal value, unlawful referrals, and kickbacks;
10. To conserve resources of Arc Herkimer by not engaging in wasteful behavior, which includes using agency assets for other than their intended purpose unless pre-approved;
11. To treat confidentially, information related to Arc Herkimer and the individuals we support and to respect the privacy of individuals supported and fellow Arc Herkimer employees;
12. To complete tasks in a timely manner and meet expectations for the excellent quality of work that Arc Herkimer strives to achieve;
13. To bill individuals and third-party payors accurately, honestly, and comply with the Federal and New York State False Claims Acts;
14. To report to a supervisor, the Corporate Compliance Officer, or to the Ethics Helpline any potential violation of applicable laws, regulations and policies, including the Arc Herkimer Standards of Conduct;
15. To respect the role of the Board and management and to fully implement their decisions;
16. To consult Arc Herkimer leadership when questions arise as to the conduct permitted under applicable laws, regulations and policies, including the Arc Herkimer Standards of Conduct;
17. To report and record any and all information accurately, completely and honestly.
18. To refrain from engaging in any act, conduct or behavior which results in, or is intended to result in, retaliation or retribution against any employee or the agency.

## **Compliance with Arc Herkimer Standards of Conduct**

**Questions** - Contact the Corporate Compliance Officer.

**Reporting** - All employees must report suspected violations of the Arc Herkimer Standards of Conduct to a supervisor with whom they are comfortable, i.e., it does not necessarily have to be their immediate supervisor or the Corporate Compliance Officer. An Ethics Helpline is also available for confidential, anonymous reporting. Employees can be assured that no retaliation will result from reporting. A failure to report suspected problems or encouraging, directing, facilitating, or permitting non-compliant behavior may subject a person to disciplinary action up to and including termination.

**Investigation** - The Corporate Compliance Officer or designee appointed by the Compliance Officer will promptly investigate any alleged Arc Herkimer or Justice Center Standards of Conduct violation. All information will be treated as confidentially as circumstances permit. The Corporate Compliance Officer will report investigation results to the President/CEO, Executive Vice President, Board of Directors, as appropriate, and to the person reporting, as appropriate and if the name is known.

**Discipline** - Violators of the Arc Herkimer Standards of Conduct will be subject to disciplinary actions as outlined in Arc Herkimer's Personnel Policies Manual or in adherence with applicable rules, regulations, laws, policies, and contracts. Disciplinary actions may be instituted for:

- Authorization of or participation in actions that violate the Arc Herkimer Standards of Conduct.
- Failure to report a violation of the Arc Herkimer Standards of Conduct or to cooperate in an internal investigation.
- Failure by a violator's supervisor(s) to detect and report a violation of the Arc Herkimer Standards of Conduct if such failure reflects inadequate supervision or lack of oversight.
- Retaliation against an individual for reporting a violation or possible violation of the Arc Herkimer Standards of Conduct.
- Breach of Contract terms.

**EXHIBIT B**  
**Arc HERKIMER**  
**STANDARDS OF CONDUCT SUPPLEMENT**

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## I. STANDARDS OF CONDUCT

Arc Herkimer staff is expected to:

**A. Refrain from Misrepresentations** – Arc Herkimer employees/volunteers/contractors, all affected individuals, and Board members must report and record all information accurately, completely, and honestly in all cases, including, but not limited to marketing materials, individual records and their identity, requests for payment, timesheets, financial reports, etc. Marketing materials will accurately reflect certifications, licensure, and services available. All Arc Herkimer employees and affiliates must acknowledge and adhere to the Arc Herkimer False Claims Act Policy (CORP-4).

### B. Submit Accurate Claim Submissions and Financial Reports

1. **Claim Submissions** - Claim submissions activities are to be performed in a manner consistent with Medicare, Medicaid, Office of People with Developmental Disabilities (OPWDD), Office of Mental Health (OMH), State Education Department, and other payers' regulations and requirements. Arc Herkimer will comply with all pertinent regulations in its claim submissions practices, including but not limited to, specific program requirements, procedure codes, bad debt reporting, medical necessity, credit balances, and duplicate billing. Arc Herkimer also prohibits several practices related to claims such as false statements, mail fraud, wire fraud, or a conspiracy to commit fraud. It is the continuing goal of all Arc Herkimer employees participating in claims submissions to comply with all established legal and regulatory mandates, including but not limited to the False Claims Act(s), Patient Protection and Affordable Care Act (PPACA), and the Fraud Enforcement Recovery Act of 2009 (FERA).
2. **Reporting** - The Consolidated Fiscal Report and other external reporting documents will be prepared in compliance with all applicable regulations and reflect accurate information of Arc Herkimer. Claims submissions and cost reporting will be subject to internal and/or external audit to ensure that errors are remedied in a timely fashion.

When submitting any claim, the following conduct is unacceptable by Arc Herkimer employees (includes billing individuals supported, third party payers or others, including Medicare and Medicaid). They shall not do the following:

- Make any false statement of fact for use in determining rights to a benefit or payment or in any application for payment or benefit;
- Conceal or fail to disclose an event affecting a right to a benefit or payment with the intent to fraudulently secure the benefit or payment in an amount greater than is due or when no such benefit is authorized;
- Convert a benefit or payment for a use other than for the use of the person in whose name the application for the benefit was made;
- Request a payment in violation of the terms of an assignment or an agreement with the payer;

- Conceal or avoid the “obligation” to return funds as defined in the Fraud Enforcement Recovery Act of 2009 (FERA);
- Claim, charge, accept, or receive any payments for Medicaid services rendered unless they are medically necessary or described in the Individual Service Plan, and/or are billed according to applicable regulations.

**C. Ensure Proper Use of Arc Herkimer Assets** - All employees must adhere to established internal controls over all areas of their responsibility to ensure the safeguarding of Arc Herkimer’s assets and the accuracy of records and reports. This responsibility also applies to Individuals accounts as well as agency bank accounts. The established policies and procedures must be followed to assure the complete and accurate recording of all transactions. Employees must insure that all records, for which they are responsible, are fully and accurately completed and maintained consistent with proper business practices. The creation of fully accurate and complete records is a duty of each representative of the agency.

Purchase of goods and/or services from employees or their immediate family is allowable only when the employee is the lowest responsible bidder or is the sole provider of goods and services and there is no reasonable alternative to the goods and services.

No payment or charge on behalf of Arc Herkimer shall be approved or made without adequate supporting documentation or with the intention or understanding that any part is to be used in any way other than described in the supporting documents. All vendor accounts must be disclosed and recorded. Proper authorization must be obtained before opening any new vendor account. Every payment must be recorded to the Arc Herkimer books promptly, accurately, and through normal financial reporting channels.

Vendors must be selected solely on their merits that include quality of product or service and price, in the best interest of Arc Herkimer, and in accordance with any other applicable Federal and New York State requirements.

**D. Ensure Facility Certification** - Arc Herkimer staff must not make false statements with respect to the conditions or operation of any program for participation in the Medicare, Medicaid, or any other contract services program such as Office of People with Developmental Disabilities (OPWDD), Office of Mental Health (OMH) or Vocational and Educational Services for Individuals with Disabilities (VESID). Agency representatives must not make false statements with respect to information regarding ownership and control of a facility or program.

**E. Obtain Certificates of Need/Licensure** - Arc Herkimer is licensed by various regulatory and accreditation bodies. Through the training provided by their supervisors, each Arc Herkimer staff is expected to be familiar with the regulations governing their area, to stay abreast of new developments, and to alert their supervisor to possible noncompliance. Questions regarding regulatory requirements should be referred to the Program Vice President, and or the Corporate Compliance Officer.

**Employees are required to maintain proper licensure as described in their job descriptions ensuring that these are kept current and up to date.**

- F. Ensure Fair Trade Practices** - Arc Herkimer will comply with all laws pertaining to restrictions of trade and unfair competition. Such laws generally forbid any kind of understanding or agreement, whether written or verbal, between competitors to fix or control fees for services or to engage in any other conduct that results in the limitation of competition.

The following conduct is prohibited:

- Attempts to unlawfully monopolize the provision of services;
- Fixing or unlawfully controlling fees or prices, including setting unreasonably low fees or prices to drive or keep competitors out of the market;
- Unlawfully refusing to deal with, or to boycott, suppliers, third-party payers, or other providers;
- Discussing with competitors such information as pricing;
- Participation in surveys among competitors regarding information on salaries, fees, etc., is permissible only if (1) multiple organizations participate in the survey; and (2) the information provided is not identifiable. Questions regarding trade practices should be directed through the Program Vice President or Vice President of Human Resources to the Corporate Compliance Officer.

- G. Prevent Unlawful Referrals and Kickbacks** - Federal and state laws specifically, prohibit any form of kickback, bribe, or rebate made directly or indirectly, overtly or covertly, in cash or in kind, to induce the purchase, recommendation to purchase, or referral of any kind of services, healthcare goods, or items paid for by the agency through any of its funding sources. The term “kickback” as defined in these statutes means the giving of remuneration, which is interpreted under the law as “anything of value.”

Arc Herkimer must scrupulously avoid offering or receiving an offer of improper inducement. Arc Herkimer staff must refrain from acts which may be interpreted as:

- A personal offering of or request for personal remuneration of an improper inducement;
- Any suggestion that Arc Herkimer, as a provider of services, offers an improper inducement to or from its vendors to influence decisions regarding the use of products paid for by Medicare or Medicaid;
- Any suggestion that Arc Herkimer, as a provider of services, offers an improper inducement to refer or recommend its service recipient to providers of goods and services paid for by Medicare and Medicaid.

As a provider of services, Arc Herkimer also should not receive any improper inducement from its vendors to influence it in making decisions regarding the use of particular products or the referral or recommendation of individuals supported to other providers of goods and services paid for by the agency through any of its funding sources.

Any question concerning these statutes or any business arrangement subject to anti-kickback or anti-referral laws should be directed through the Program Vice President to the Corporate Compliance Officer.

- H. Adhere to Tax-Exempt Requirements** - Arc Herkimer is a tax-exempt entity. To comply with the applicable law, Arc Herkimer must operate for the benefit of the community and must avoid what the tax law calls “private inducement,” and “private benefit.” All non-tax-exempt individuals or entities must pay fair market value for use of services or property and cannot use Arc Herkimer’s tax-exempt status for their personal benefit. Violation of the tax law can give rise to criminal penalties.

Arc Herkimer sales tax exemption may be used only for legitimate Arc Herkimer activities. Personal items cannot be purchased through Arc Herkimer, even if Arc Herkimer staff reimburses the agency. All appropriate taxes must be withheld from Arc Herkimer staff wages. The use of a purchase order to compensate individuals must be limited to true independent contractors and must comply with New York State Finance Law. In accordance with federal law, in the absence of an Employer Identification Number, a backup withholding amount will be deducted from payments made to independent contractors.

New York State has issued tax-exempt bonds, which are secured by mortgages covering much of Arc Herkimer property. These bonds contain restrictions on the use of this property and on other Arc Herkimer activities, which, if violated, could jeopardize New York State’s ability to borrow money in the future. Questions on these issues should be referred to the Executive Vice President – Business Operations/CFO.

- I. Prevent Inappropriate Gifts and Entertainment** - Giving or accepting gifts and entertainment can sometimes be construed as an attempt to influence the other party. No personal gifts can be offered or received if the action could raise a reasonable question concerning whether the gift was offered or received to influence a person in the exercise of proper business judgment, as stipulated in the Public Officers’ Law. The New York State Commission on Public Integrity defines that a gift may be in many forms, including money, loan, travel, meals, refreshments, or entertainment. The value of a gift is the retail cost to purchase it; the value of a ticket entitling you to food, refreshments, entertainment, etc. is the face value of the ticket; if no value is indicated, the value is the actual cost to the giver. The offer of reciprocity, or even actual reciprocity, does not reduce the value of a gift given to you. You may not designate a friend, family member or entity (for example a charity) to receive a gift that you cannot receive. One cannot provide or accept gifts of more than nominal value, which is defined as \$75 per the Arc Herkimer Board of Directors from a vendor on an annual basis. For those occasions when staff has an established personal relationship with individuals which we support, there is a separate Gift and Gratuities Policy which must be utilized and adhered to (up to \$15 might be appropriate). If you receive the offer of a gift and are not certain whether it is permissible to accept it, contact your supervisor or the Corporate Compliance Officer for assistance.

- J. Engage in Appropriate Fundraising** - Only fundraising or solicitation of funds that results in a benefit to Arc Herkimer is permitted. Other fundraising events not related to

the mission, goals, and mandates of Arc Herkimer must be specifically authorized by the President/CEO or designee.

All fundraising and solicitation activities must be reported to and coordinated through the Vice President – Business Operations/CFO. In this way, conflict is avoided among fundraising programs, contracts/agreements, and while donor solicitation is facilitated and relationships with potential donors are fostered.

**K. Ensure Security of Resources** – When acting as an employee of Arc Herkimer, staff must not take, convert, consume, or use property, services, or funds belonging to Arc Herkimer or any company or private person or individual supported for personal use without the owner's consent or proper authorization. Borrowing money, property, or services from individuals supported is strictly prohibited. This includes facilities, equipment, or property from personal or non-qualified employees/volunteers.

**L. Commit to Fairness** - The principal rules governing employment and hiring, including examinations, appointments, promotions, transfers, reinstatements, etc., are contained in Arc Herkimer's Personnel Policies Manual.

All Arc Herkimer staff and Board of Directors must abide by the rules, regulations, and policies of equal employment opportunity. Equal opportunity affects all employment practices.

We reaffirm the principle that all Arc Herkimer staff has the right to be free from discrimination or harassment on the basis of race, color, religion, sex, sexual orientation, gender identity or expression, age, disability, marital status, citizenship, genetic information, or any other characteristic protected by law. Sanctions are enforced against individuals engaging in discriminating or harassing behavior towards others.

Arc Herkimer staff who consider themselves to be victims of discrimination, retaliation, or harassment may file a grievance in writing of the alleged discrimination act through their Program Vice President (or any management personnel with whom they feel comfortable), or to the Vice President Human Resources. Staff who choose to file a complaint within Arc Herkimer do not lose their right to file with outside enforcement agencies.

**M. Avoid Conflicts of Interest** - A perceived or potential conflict of interest arises if a person's judgment and discretion is or may be influenced by personal or business considerations, or if the interests of the Arc Herkimer are jeopardized. Arc Herkimer has a responsibility to preserve and enhance the public's trust in government. The New York State Ethics Commission states that any violation of that trust reflects poorly on employees; and some violations can result in the loss of a job, a substantial fine, or criminal prosecution. In addition, Arc Herkimer staff or Board of Directors must promptly disclose any existing or new relationships that may give the appearance of a conflict of interest to the Corporate Compliance Officer. The Corporate Compliance Officer may notify the President/CEO and members of the Executive Team as appropriate and necessary.

Immediate family members will not directly supervise staff and report to each other.

To avoid the potential for conflict of interest or the appearance of a conflict, Arc Herkimer will not employ relatives of Board Members. However, a Board Member may choose to step down to allow hiring. Further, employee relatives shall not participate in Board Committees which have any involvement in the function of a relative that is an Arc Herkimer employee.

Equipment, materials, or proprietary information owned by Arc Herkimer should not be used for any outside employment purpose or personal use unless pre-approved by the President/CEO or designee.

Situations which present the appearance of a conflict of interest, or in which a conflict of interest exists should be avoided, e.g., if an employee owns a business and sells something to Arc Herkimer. The Arc Herkimer Conflict of Interest Policy (CORP-9) defines relatives; key employees; provides examples of conflicts; outlines the procedure for disclosing potential conflicts; and violations of the Conflict of Interest policy. For more complete guidance to state policy on these types of issues: please refer to "New York State Ethics: A Guide to Public Law" and "Public Officers Law," both published by the New York State Ethics Commission. See also New York State Public Officers Law ~73, 74.

- N. **Comply with Labor and Employment Laws** - It is Arc Herkimer's policy to comply fully with all applicable labor laws and other statutes regulating the employer-employee relationship and the workplace environment. No Arc Herkimer staff may interfere or retaliate against another agency staff who seeks to invoke his or her rights under those laws. Questions regarding the laws governing labor and employee relations may be referred to the Vice President of Human Resources.
- O. **Comply with Immigration Requirements** - Arc Herkimer hires only persons who are legally authorized to work in the United States consistent with federal law. Only prospective employees who are United States citizens or who possess the required documentation entitling them to work in the United States will be hired. The appropriate documentation of citizenship status must be presented to the Human Resources Office at the time of hire. Questions on immigration issues should be referred to the Human Resources Office.
- P. **Comply with Environment Health and Safety Requirements** - All Arc Herkimer staff who deal with hazardous materials and regulated medical waste must comply with Occupational Safety and Health Administration (OSHA), Environmental Protection Agency (EPA) laws and regulations and follow the environmental safety procedures explained in the agency's programs and existing manuals. These laws pertain to hazardous materials, including but not limited to, exposure (infection) control, Safety Data Sheets (SDS), regulated medical waste, air pollution, and water pollution. Arc Herkimer staff representatives are expected to:

- Comply with all laws and regulations governing the handling, storage, disposal, shipment, and use of hazardous materials, other pollutants and regulated medical waste;
- Comply with its permits that allow it to safely discharge pollutants into the air, sewage systems, and water pollution control facilities or onto or into land;
- Hire only reputable, licensed services to transport and dispose of hazardous and polluted materials and regulated medical waste; and
- Accurately maintain the records required by the environmental laws and regulations, including those that require precise description of the amount, concentration and make-up of hazardous materials or other regulated pollutants and regulated medical waste that are used, stored, discharged, or generated; and the time and place of origin, destination and transport of hazardous materials, and discharge of pollutants. These records should be handled pursuant to agency policy.

No one at Arc Herkimer may participate in concealing improper discharge or disposal of hazardous materials, pollutants, or regulated medical waste. Any Arc Herkimer staff who has reason to believe that there have been violations of this, or any other aspect of the agency's environmental compliance procedures should report immediately to the Safety Officer, who will in turn investigate and, when appropriate, notify pertinent government agencies as required by law. Before proceeding to act on any instruction of questionable propriety, or to take any environment related action about which they are unsure, Arc Herkimer staff are expected to discuss their questions with the Safety Officer or the Corporate Compliance Officer.

Both federal and state laws regarding the promotion of occupational safety and avoidance of job-related hazards are designated to ensure that each of us works in a safe environment. Due regard and attention should be paid to those laws and regulations. In addition, we strive to create a safe work environment. Should you notice a potential or actual infringement of the laws and rules regarding occupational safety or unsafe working conditions, you must advise your supervisor or the Safety Officer.

- Q. Ensure Proper Control of Medications** - Arc Herkimer, and, therefore, its representatives, are legally responsible for the proper distribution and handling of pharmaceutical products and preventing unauthorized access to them under the direction of the Department of Health (DOH).

The diversion of any prescription drug or controlled substance, including a drug sample, in any amount for any reason, to an unauthorized individual or entity is forbidden. It is Arc Herkimer's policy that all Arc Herkimer staff be both diligent and vigilant in carrying out their obligations regarding Arc Herkimer's prescription drugs and controlled substances in accordance with all applicable laws, regulations and Arc Herkimer policies and procedures.

Staff for their own use may not use drugs stored in the various programs.

Should you become aware of potential violations of any law, policy, or regulation relating to pharmaceuticals, you must advise your supervisor or Program Vice President immediately.

- R. Adhere to Research Grant Requirements** - All research grant proposals involving the people we support must be submitted to the Human Rights Committee for review and approval following Part 633.

Researchers must be vigilant in considering whether grants could involve improper inducements for the referrals. If improper, referral practices could constitute “kickbacks” in violation of federal and state law. Any questions concerning whether the anti-kickback or other statutes may be involved in a research proposal should be directed to the Corporate Compliance Officer.

- S. Ensure Appropriate Political Participation/Government Relations** - Federal and state laws prohibit organizations from contributing to political candidates or officeholders. Federal law states that no one will be reimbursed for personal political contributions. Personal compensation will not be altered in any way, under any circumstances, to reflect such contributions. While Arc Herkimer encourages staff to participate in the American political process if they so desire, staff must distinguish between personal and organizational political activities. Unless specifically requested by Arc Herkimer to represent it before legislative or other governmental bodies, staff must clearly label any personal communication with Legislators as their own beliefs. If contacted by Legislators or regulators regarding Arc Herkimer’s position on public issues, staff should refer them to the President/CEO or designee. Any government lobbying activities must comply with applicable lobbying, ethical, and other applicable laws. To assure full compliance with these laws and policies, it is expected that no Arc Herkimer staff acting in their official capacity as Arc Herkimer staff, will engage in government advocacy activities regarding issues related to the mission of Arc Herkimer without prior authorization from the President/CEO.

Arc Herkimer must obtain clearance from the Department of Human Resources prior to discussing the employment or possible retention as a consultant of any current or former government representative. Insofar as the contact involves the operation of Arc Herkimer, no Arc Herkimer staff may provide or pay for meals, travel, or lodging expenses for government representatives. No Arc Herkimer staff should entertain a public official without authorization from the President/CEO.

- T. Ensure Appropriate Use of Arc Herkimer Information**

- 1. Safeguarding the Privacy of the People We Serve** - To protect individuals against misuse of information, access to Individuals’ information must be limited to the extent permitted by Arc Herkimer policy and state and federal law. Any Arc Herkimer representative who engages in unauthorized disclosure, access of, or misuse of information in violation of the privacy rights of people we serve, or others may be subject to disciplinary action in addition to possible civil or criminal sanctions. Any person who becomes aware of such unauthorized disclosure should report it immediately to their supervisor, Program Vice President, or the Vice President of Human Resources. “Legitimate” means must be used to collect information. Whenever practical, information should be obtained directly from the individual



concerned. Questions on the confidentiality rules should be referred to the Program Supervisor.

2. **Confidentiality of Arc Herkimer Information** - No Arc Herkimer staff shall disclose to others any confidential information obtained during the course of employment. Confidential information includes Arc Herkimer methods, processes, techniques, computer software, equipment, service marks, copyrights, research data, clinical and pharmacological data, marketing and sales information, personnel data, lists of individuals supported, financial data, plans, and all other proprietary information which are in the possession of the Arc Herkimer which have not been published or disclosed to the public. Arc Herkimer is responsible and accountable for the integrity and protection of business information. Documents and electronic media containing sensitive information concerning individuals supported and agency staff should be handled carefully and must be properly secured and/or disposed of. Particular attention must be paid to the security of data stored on the computer system. If you observe employee misuse of confidential information or individuals whom you do not recognize using terminals in your area, immediately report this to your supervisor. Management/Supervisory staff have an obligation to report misuse to the Corporate Compliance Officer. The Information Technology Department is obligated and will work to report any unauthorized uses of Arc Herkimer computers and software to the Corporate Compliance Officer or Program Vice President of the individual involved and assist with investigations of inappropriate use.
3. **Information Owned by Others** - Disclosure of confidential information (e.g., software, data, reports) received from outside organizations for the benefit of Arc Herkimer must not take place unless Arc Herkimer and the other party have formally agreed to the terms of its use. If Arc Herkimer staff have information in their possession that could possibly be confidential to a third party or may have restrictions placed on its use, they should consult with their Program Vice President. The agency must approve a written agreement. Once obtained, Arc Herkimer representatives must not use, copy, distribute, or disclose that information unless done in accordance with the terms of the agreement.

Software is an intellectual property protected by copyright laws and may also be protected by patent trade secret laws or as confidential information. Before software can be accepted or license agreements for its use signed, approval in writing must be secured from the Information Technology Department. The terms and conditions of such license agreements, such as provisions not to copy or distribute software, must be strictly followed. The exception is a copy for backup purposes. For downloading software from the internet, refer to the Acceptable Use Policy (TECH-1) If you acquire software for your personally-owned equipment, you should not copy any part of such software in any work you do for Arc Herkimer, place such software on any Arc Herkimer -owned computer system, or generally bring such software into the Arc Herkimer premises.

4. **Records Retention/Destruction** - Arc Herkimer staff are expected to comply fully with the agency Records Retention and Destruction Schedule. If Arc Herkimer staff

believe that documents should be saved beyond the applicable retention period, they should consult the Executive Office Manager.

5. **Government Investigations** - Arc Herkimer must adhere to the following procedures to ensure Arc Herkimer responds in a proper manner to all government investigations. Any Arc Herkimer employee who is approached by any federal or state law enforcement agency seeking information about any aspect of the operations of Arc Herkimer or the job-related activities of any of the Arc Herkimer Officers or staff must call the Vice President of Human Resources or the President/CEO before releasing any information.

Some agencies are entitled by statute to immediate access to information. They include but are not limited to the Office of the Inspector General of the United States (OIG), Department of Health and Human Services (HHS); New York State Medicaid Fraud Control Unit (MFCU); New York State Department of Health (DOH); New York State Office of People with Developmental Disabilities (OPWDD); the NYS Office of Medicaid Inspector General (OMIG); and the United States Department of Homeland Security (DHS) which includes the Office of Fire Prevention and Control (OFPC). Proper identification must be presented by officials of these agencies before access can be provided. In all cases, when a request by personnel of these agencies is made, access to the requested information should be delayed pending notification of the Program Vice President, Director of Compliance & Quality, Vice President of Human Resources, and President/CEO or designee, whereupon access will be granted. Such notification should occur simultaneously with the requested access. Notification will ensure that the organization is aware of the inquiry, properly responds to it, and can take whatever action is necessary with regard to it. If under extraordinary circumstances only, access cannot be delayed pending notification to one of the four individuals, they should be notified immediately thereafter.

Other governmental agencies may look at Arc Herkimer documents and other materials only with Arc Herkimer's consent or by proper legal process. To ensure that government agencies are provided with the information to which they are entitled on a timely basis and at the same time to prevent the improper disclosure of private information, it is imperative that Arc Herkimer staff contact the President/CEO, Corporate Compliance Officer, Program Vice President, or Vice President of Human Resources as promptly as possible after receipt of, or compliance with, any request for information. In addition, please be certain to:

- a. Obtain the name and organizational affiliation of all persons from whom a request for access to information is received or to whom access is permitted before any access is allowed.
- b. Escort investigators at all times when on premises.
- c. Maintain a written record of each and every document to which access is given.
- d. Arc Herkimer staff must copy each and every record that investigators requests copies of and must maintain a copy of same for Arc Herkimer records.
- e. Keep a detailed record of all oral, written, and electronic communications

made, including specifically the name and affiliation of the parties to each conversation, the information requested, and the response given during the conversation.

- f. Notify the President/CEO, Corporate Compliance Officer, applicable Program Vice President, and the Vice President of Human Resources of the time and location of the exit interview or conference.

Specific federal and state confidentiality laws relating to medical records, pertaining to AIDS and substance abuse (controlled drugs and alcohol) and to psychiatric records, and employee records, may limit the general authority of government investigators. Arc Herkimer should be certain that any disclosure of such records complies with the policies and procedures of Arc Herkimer as well as with federal and state law.

#### **U. Ensure Quality of Care**

In keeping with **Arc Herkimer's** mission and values, employees will focus on providing quality care in all aspects of the work that they do which includes but is not limited to:

- Identifying quality of care risk areas;
- Completing accurate assessments of each individual's functional capacity and a comprehensive care plan that includes measurable objectives and timetables to meet the individual's medical, nursing, and mental and psychosocial needs;
- Appropriate treatment and services to address the individual's clinical conditions, including but not limited to skin breakdown, fluid intake, diabetes, malnutrition, incontinence of the bladder, and mental or psychosocial problems;
- Accommodate reasonable individual needs and preferences;
- Properly be prescribed, administered, and have prescription drug usage monitored;
- Have sufficient trained staff to provide medical, nursing, and related services;
- Providing appropriate therapy services;
- Providing appropriate services to assist individuals with activities of daily living (e.g., feeding, dressing, bathing, etc.);
- Provide ongoing program activities to support the individual's desired habilitation goals and needs; and
- To report potential incidents of mistreatment, neglect, or abuse to Arc Herkimer management and other officials as required by law (624, 633, 687) including but not limited to the NYS Justice Center at 1-855-373-2122.

Any issues of substandard care or conditions should be immediately brought to the attention of any Supervisor, Program Vice President, Executive Vice President, the President/CEO or a member of the Compliance & Quality Department.

## **EXHIBIT C**

### **ACKNOWLEDGEMENT FORM INDEPENDENT CONTRACTOR/AGENTS/VENDORS**

Arc Herkimer has developed a Corporate Compliance Plan that states that the organization and its employees, contractors, and Board of Directors will adhere to applicable federal, state and local laws and regulations and internal policies and procedures.

Our Corporate Compliance Plan is a combination of policy and procedure that assists our organization to monitor, detect, and correct actions that are not in compliance with applicable laws or our own policies and procedures.

As our agent, we expect that you will act in compliance with the laws that are applicable to our organization and to your organization and in compliance with our policies and procedures, particularly our Standards of Conduct that sets forth the overarching principles for conducting our business with integrity based on sound ethical and legal standards.

As our agent, we also expect you to report any suspected or potential violations of law or our policies and procedures of which you become aware by contacting our President/CEO at 315-574-7000, our Corporate Compliance Officer at 315-574-7881 or our Ethics Helpline at 315-866-7946.

As our agent, we expect you to understand your role in the Corporate Compliance Plan of Arc Herkimer and we expect you to request any policies and procedures that are applicable to you and your organization. You may contact the Corporate Compliance Officer for any questions or clarifications of your responsibilities.

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- ✓ I acknowledge that on behalf of myself and my organization that I have read and that I understand the Arc Herkimer Standards of Conduct and the policies and procedures of the Arc Herkimer Corporate Compliance Plan that are applicable to the services that are provided to Arc Herkimer.
- ✓ I understand and agree that I and all those in my organization who provide services to Arc Herkimer must comply with the Arc Herkimer Corporate Compliance Plan and the Arc Herkimer Standards of Conduct and all laws, regulations, policies, procedures, and other guidance applicable to the services that are provided to Arc Herkimer.
- ✓ I understand that it is my responsibility to see that individuals in my organization have read and understand the need to comply with the Arc Herkimer Corporate Compliance Plan and Standards of Conduct if they are going to be working at any Arc Herkimer premises.

- ✓ I agree on behalf of myself and my organization to fully cooperate with the implementation of the Arc Herkimer Corporate Compliance Plan, to participate in any auditing or monitoring processes and to report any instances of possible violations of law, regulations, or policies that are applicable to the Arc Herkimer of which I become aware.
- ✓ I acknowledge that the Arc Herkimer maintains an Ethics Helpline (315-866-7946) for the purpose of receiving notifications of possible violations of law, regulation, and the Arc Herkimer Corporate Compliance Plan.
- ✓ I understand that my failure to report any concerns regarding possible violations of law, regulations, or the Corporate Compliance Plan may result in corrective action, up to and including termination of my agreement/contract with Arc Herkimer.
- ✓ I understand that should my agreement be terminated with Arc Herkimer, I will need to repay any unused project funds.
- ✓ I certify that my business entity has not been excluded by the Office of Inspector General (OIG), NYS Office of Medicaid Inspector General (OMIG) or have an active exclusion listed on the U.S. government System for Award Management (SAM).
- ✓ I understand that should my business become excluded by the OIG, OMIG, or SAM that I must notify Arc Herkimer of this immediately.
- ✓ I understand that not being excluded by the OIG, OMIG, or SAM is a condition of my agreement/contract. If my business becomes excluded by the OIG, OMIG, or SAM it will immediately terminate my agreement/contract.

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Signature

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Print Name

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Title

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Date

## **EXHIBIT D**

### **ACKNOWLEDGEMENT FORM MEMBERS OF THE Arc HERKIMER BOARD OF DIRECTORS**

- ✓ I acknowledge that I have read and that I understand the Arc Herkimer Corporate Compliance Plan and the Arc Herkimer Standards of Conduct.
- ✓ I agree to comply with the Arc Herkimer Corporate Compliance Plan and the Arc Herkimer Standards of Conduct and all laws, regulations, policies, procedures, and other guidance applicable to the responsibilities of my membership on the Arc Herkimer Board of Directors.
- ✓ I understand that, as a member of the Board of Directors, I have a responsibility to oversee and support the implementation of the Arc Herkimer Corporate Compliance Plan, including participating in **oversight of** monitoring, auditing, investigations, and other activities related to compliance.
- ✓ I understand that my failure to report any concerns regarding possible violations of law, regulations, or the Corporate Compliance Plan may result in corrective action, including removal from the Board of Directors, civil or criminal sanctions, or personal fines.
- ✓ I certify that I am not currently excluded by the Office of Inspector General (OIG), NYS Office of Medicaid Inspector General (OMIG), or have an active exclusion listed on the U.S. government System for Award Management (SAM).
- ✓ I understand that should I become excluded by the OIG, OMIG, or SAM that I must notify Arc Herkimer of this immediately.
- ✓ I understand that should I become excluded by the OIG, OMIG, or SAM that I will be removed from the Board of Directors.

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Signature

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Print Name

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Title

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Date

## **EXHIBIT E**

### **ACKNOWLEDGEMENT FORM Arc HERKIMER EMPLOYEES/VOLUNTEERS**

- ✓ I acknowledge that I have read and that I understand the Arc Herkimer Corporate Compliance Plan and the Arc Herkimer Standards of Conduct.
- ✓ I understand and agree that I must comply with the Arc Herkimer Corporate Compliance Plan and the Arc Herkimer Standards of Conduct and all laws, regulations, policies, procedures, and other guidance applicable to the responsibilities of my position.
- ✓ I agree to fully cooperate with the implementation of the Arc Herkimer Corporate Compliance Plan, to participate in any auditing or monitoring processes, and to report any instances of possible violations of law, regulations, or policies that are applicable to the Arc Herkimer of which I become aware.
- ✓ I acknowledge that Arc Herkimer maintains an Ethics Helpline (315-866-7946) for the purpose of receiving notifications of possible violations of law, regulation, and the Arc Herkimer Corporate Compliance Plan.
- ✓ I understand that my failure to report any concerns regarding possible violations of law, regulations, or the Corporate Compliance Plan may result in disciplinary action, up to and including termination.
- ✓ I understand that failure to comply with some regulations may lead to the possibility of civil or criminal proceedings and the possibility of fines being attached to the infraction.
- ✓ I understand that Arc Herkimer does not condone retaliatory practices and I will not initiate or promote retaliatory practices against other employees/volunteers.
- ✓ I certify that I have not been excluded by the Office of Inspector General (OIG), NYS Office of Medicaid Inspector General (OMIG), or have an active exclusion listed on the U.S. government System for Award Management (SAM).
- ✓ I understand that should I be notified that I have been added to the OIG, OMIG, or SAM Exclusion list that I must immediately notify Arc Herkimer.
- ✓ I understand that should I become excluded from the OIG, OMIG, or SAM that it will result in disciplinary action, up to and including termination.

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Signature

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Title

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Print Name

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Date