

## NORTHCARE NETWORK

<b>POLICY TITLE:</b> Conflict of Interest Policy	<b>CATEGORY:</b> Compliance	
<b>EFFECTIVE DATE:</b> 6/4/19	<b>BOARD APPROVAL DATE:</b> 6/19/19	
<b>REVIEW DATE:</b> 7/24/23	<b>REVISION(S) TO POLICY STATEMENT:</b> <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	<b>OTHER REVISION(S):</b> <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
<b>RESPONSIBLE PARTY:</b> Compliance & Privacy Officer	<b>CEO APPROVAL DATE:</b> 8/1/23 Megan Rooney-Interim CEO	

### **APPLIES TO**

Covered Persons, as defined below

### **POLICY**

It is the policy of NorthCare Network to provide a means for any Covered Person to identify and report to NorthCare Network, as outlined in this policy, any direct or indirect Financial Interest and any actual or potential Conflict of Interest. Based on that information, to permit the review of such Financial Interests and Conflicts of Interest and to provide a process for NorthCare to follow when managing Conflicts of Interest, all in accordance with applicable law.

### **PURPOSE**

The purpose of this policy is to provide an effective oversight process to protect the interests of NorthCare Network when contemplating a transaction, arrangement, proceeding or other matter that might benefit the private interest of an individual or another entity. This Policy is intended to supplement, but not replace, any applicable state or federal laws governing conflicts of interest in governmental entities or charitable, tax exempt, nonprofit organizations.

### **DEFINITIONS**

1. **Board.** For purposes of this policy, Board means the NorthCare Network Governing Board.
2. **Conflict of Interest.** Conflict of Interest arises when a Covered Person participates or proposes to participate in a transaction, arrangement, proceeding or other matter for the Entity, in which the Covered Person, the Covered Person's Family Member, or an organization in which the Covered Person is serving as an officer, director, trustee or employee has a Financial Interest.
3. **Covered Person.** For purposes of this policy, covered person means members of the NorthCare Network Governing Board, SUD Policy Board, NorthCare officers, employees, independent contractors, volunteers, or agents who are responsible for the expenditure of federal or state government funds more than \$500 on behalf of NorthCare Network.
4. **Family Member** includes spouse, children (natural or adopted), parent, or sibling (whole or half-blood); all stepfamily members; father-in-law, mother-in-law, son-in-law, daughter-in-law, brother-in-law, or sister-in-law; grandparent or grandchild, and spouse of a grandparent or grandchild; and any person(s) sharing the same living

quarters in an intimate, personal relationship that could affect decisions of the Covered Person in a manner that conflicts with this policy.

5. **Financial Interest.** A Covered Person has a Financial Interest if he or she has, direct or indirect, actual, or potential, through a business, investment or through a Family Member:
  - a. an actual or potential ownership, control, or investment interest in, or serves in a governance or management capacity for, the PIHP with which the PIHP has a transaction, arrangement, proceeding or other matter.
  - b. an actual or potential compensation arrangement with any entity or individual with which the PIHP has a transaction, arrangement, proceeding or other matter; or
  - c. an actual or potential ownership or investment interest in, compensation arrangement with, or serves in a governance or management capacity for, any entity or individual with which the PIHP is contemplating or negotiating a transaction, arrangement, proceeding or other matter.
  - d. Compensation includes direct and indirect remuneration, in cash or in kind.
6. **Interested Person** is a Covered Person who has a Financial Interest.

## **REFERENCES**

- Mental Health Code, 1974 PA 258, MCL 300.1001 to 300.2106
- 1978 PA 566, MCL 15.181 to 15.185 (incompatible public offices)
- 1968 PA 317, MCL 15.321 to 15.330 (contracts of public servants with public entities)
- 45 CFR Part 74 (Federal Procurement Regulations)
- 45 CFR Part 92 (Federal Procurement Regulations)
- 42 USC 1396a (Federal Medicaid Statute)
- Michigan Medicaid State Plan
- 18 USC 208 (Federal Conflict of Interest Statute)
- IRS Conflict of Interest Guidelines, Policies and Pronouncements for Charitable Tax-Exempt Nonprofit Entities
- 1987 MDHHS Administrative Rules, R. 330.2067(g)
- MDHHS/PIHP Medicaid Managed Specialty Supports and Services Contract - Section 1902(a)(4)(C) and (D) of the Social Security Act: 41 U.S.C. Chapter 21 (formerly Section 27 of the Office of Federal Procurement Policy Act (41 U.S.C. §423): 18 U.S.C. §207)) 18 U.S.C. §208: 42 CFR §438.58: 45 CFR Part 92: 45 CFR Part 74: 1978 PA 566: and MCL 330.1222.
- PIHP Joint Operating Agreement
- PIHP Bylaws
- NorthCare Network Code of Conduct
- Disclosure of Ownership, Controlling Interest, and Criminal Conviction Policy
- NorthCare Network Code of Conduct and Conflict of Interest Attestation
- Disclosure – NC Financial Interest Disclosure Statement
- NorthCare Network Conflict of Interest Waiver Form

## **HISTORY**

NEW POLICY -6/4/19

*(Combined Conflict of Interest-General and Conflict of Interest-Board & Officers policies)*

REVISION DATE: 7/12/22, 9/13/22

REVIEW DATE: 4/21/20, 2/11/21, 7/12/22, 9/13/22,7/24/23

CEO APPROVAL DATE: 5/5/20, 3/2/21, 7/12/22, 10/4/22,8/1/23

BOARD APPROVAL DATE: 6/19/19

## **DUTY OF COVERED PERSONS**

### **Duty of Care**

Every Covered Person shall act in a reasonable and informed manner and perform his or her duties for the PIHP in good faith and with the degree of care that an ordinarily prudent person would exercise under similar circumstances.

### **Duty of Loyalty**

Every Covered Person owes a duty of loyalty to always act in the best interest of NorthCare Network. No Covered Person may personally take advantage of a business opportunity that is offered to NorthCare Network unless the Governing Board/CEO determines not to pursue that opportunity, after full disclosure and a disinterested and informed evaluation.

### **Duty to Disclose**

Each Covered Party has a duty to disclose the existence of the conflict of interest, financial or other, and be given the opportunity to disclose all material facts.

### **Conflicts of Interest**

No Covered Person may engage in any transaction, arrangement, proceeding or other matter or undertake positions with other organizations that involve a Conflict of Interest, except in compliance with this policy. Covered Persons should avoid not only actual but the appearance of conflicts of interest as well. Every Covered Person shall:

- a. Disclose all Financial Interests as set out below.
- b. Unless a Conflict-of-Interest Waiver has been granted, recuse himself/herself from deliberating or voting on any transaction arrangement, proceeding or other matter in which he/she has a Financial Interest, and not be present for any such discussion, deliberations or voting. The Interested Person may respond to inquiries the Board determines necessary for its discussions, deliberations, and/or decisions; and
- c. Comply with any restrictions or conditions stated in any Conflict-of-Interest Waiver granted for the Covered Person's activities; and
- d. Recuse himself/herself from, or not be present for, discussions, deliberations and voting in any matter that the Interested Person cannot act in the best interests of the Region, regardless of whether a Conflict-of-Interest Waiver covers the matter at issue. If the Interested Person recuses himself/herself, he/she may respond to inquiries the Board determines necessary for its discussions, deliberations and/or decisions.

## **PROCEDURES**

### **1. Duty to Disclose**

Each Covered Person has a duty to disclose the existence of a Financial Interest and all related material facts.

## 2. **Disclosure of Financial Interests**

Each Covered Person shall submit in writing to the Compliance Officer the Financial Interest Disclosure Statement form listing all Financial Interests and affirming compliance with the Conflict-of-Interest Policy. Each Covered Person shall update his/her Financial Interest Disclosure Statement Form annually and immediately when any new Financial Interests or potential Conflicts of Interest occur. The Compliance Officer will review all forms and forward them to the Board Chairperson or CEO as needed. The Board Chairperson/CEO will review the specific Financial Interest Disclosure Statement forms and potential conflicts of interest to guide his/her conduct regarding the disclosed information. The Board/CEO may request that a Covered Person(s) appear before the Board or submit written information to supplement or to answer questions regarding information disclosed in the Financial Interest Disclosure Statement.

## 3. **Board of Directors - Addressing Financial Interests and Conflicts of Interest**

- a. **Board Deliberation** - After disclosing the Financial Interest or Conflict of Interest, together with any additional oral or written presentation of material or discussion requested by the Board, the interested person shall leave the Board meeting while the Board discusses the information and votes regarding how to manage the Conflict of Interest and whether or not to grant a waiver. The interested person shall not take part in the Board's due diligence deliberations.
- b. **Appointment of Disinterested Person** - The Board may appoint a disinterested person to conduct further investigation regarding the reported Financial Interest/Conflict of Interest and report back to the Board.
- c. **Board Vote** - The Board, after exercising due diligence regarding the reported Financial Interest/Conflict of Interest, shall, by vote, make a determination as to whether a Conflict of Interest exists and, if so, whether or not NorthCare can obtain a more advantageous transaction, arrangement, proceeding or other matter with reasonable efforts from another person or entity that would not involve the interested person, and the Financial Interest is so substantial as to be likely to affect the integrity of the services which NorthCare may expected form the Interested Person. The Interested Person shall not take part in the Board's due diligence deliberations or any vote on how to manage the Conflict of Interest and whether to grant a waiver.
- d. **Notice to Interested Person** - If the Board determines, by majority vote of disinterested members, that it may, with reasonable efforts, obtain a more advantageous transaction, arrangement, proceeding or other matter from another person or entity not involving the Interested Person, it shall notify the Interested Person and may pursue such other transactions, arrangements, proceedings or other matters or restrict the Interested Person's participation in the matter, as the Board determines appropriate.
- e. **Granting a Conflict of Interest Waiver** - If the Board determines that it is not able, with reasonable efforts, to obtain a more advantageous transaction, arrangement, proceeding or other matter from another person or entity not involving the Interested Person, or, that the Financial Interest is not so substantial as to be likely to affect the integrity of the services which NorthCare may expect from the Interested Person, the Board may vote to waive the

potential Conflict of Interest and proceed with the proposed transaction, arrangement, proceeding or other matter and/or the Interested Person's participation in the matter. A Conflict-of-Interest Waiver shall be made in writing and signed by the Chairperson of the Board on the Conflict-of-Interest Waiver form. The Conflict-of-Interest Waiver may restrict the Interested Person's participation in the matter, to the extent deemed necessary by the Board. Further, the Conflict-of-Interest waiver may cover all matters the Interested Person may undertake as part of his/her official duties with NorthCare, without specifically enumerating such duties. All Conflict-of-Interest Waivers shall be issued prior to the Interested Person's participation in any transaction, arrangement, proceeding or other matter on behalf of NorthCare.

- f. Factors for Consideration When Granting a Waiver - In deciding whether a Financial Interest is substantial enough to be likely to affect the integrity of the Interested Person's services to NorthCare, the Board shall consider, as applicable:
- i. The type of interest that is creating the disqualification (e.g., stock, bonds, real estate, cash payment, job offer or enhancement of a spouse's employment).
  - ii. The identity of the person whose Financial Interest is involved, and if the interest does not belong directly to the Interested Person, the Interested Person's relationship to that person.
  - iii. The dollar value of the disqualifying Financial Interest, if known and quantifiable (e.g., amount of cash payment, salary of job to be gained or lost, change in value of securities).
  - iv. The value of the financial instrument or holding from which the disqualifying Financial Interest arises and its value in relationship to the individual's assets.
  - v. The nature and importance of the Interested Person's role in the matter, including the level of discretion which the Interested Person may exercise in the matter.
  - vi. The sensitivity of the matter.
  - vii. The need for the Interested Person's services; and
  - viii. Adjustments which may be made in the Interested Person's duties that would eliminate the likelihood that a reasonable person would question the integrity of the Interested Person's services.
- g. Waivers Supported by Michigan Law - Michigan law specifically provides support for granting a waiver of a Conflict of Interest arising under the following Conflict of Interest exception scenarios:
- i. A Community Mental Health Services Program ("CMHSP") Board member may be a party to a contract with a Member CMHSP or administer or financially benefit from that contract if the contract is between the CMHSP and NorthCare.
  - ii. A CMHSP Board member may also be a member of the Board, even if NorthCare has a contract with the CMHSP.
  - iii. A CMHSP Board may approve a contract with NorthCare if a CMHSP Board member is also an employee or independent contractor of NorthCare; and
  - iv. CMHSP public officers (e.g., Board members, officers, executives, and employees) may also be Board members, officers, executives, and

employees of NorthCare, even if NorthCare contracts with the CMHSP, subject to any prohibition imposed by the Michigan Department of Health and Human Services in that regard.

**4. CEO - Addressing Financial Interests and Conflicts of Interest**

- a. After discussing the Financial Interest or Conflict of Interest with the staff member, together with any additional oral or written presentation of material or discussion requested by the CEO, the CEO will confer with the Compliance Officer and/or supervisory personnel regarding how to manage the Conflict of Interest.

**5. Policy Enforcement**

- a. If the Board/CEO has reasonable cause to believe that a Covered Person has failed to disclose actual or potential Financial Interests or Conflicts of Interest, the Board/CEO shall inform the Interested Person of the basis for such belief and afford the Interested Person an opportunity to explain the alleged failure to disclose.
- b. If, after hearing the Interested Person's response and after making such further investigation as may be required, the Board/CEO determines that the Interested Person has in fact failed to disclose an actual or potential Financial Interest or Conflict of Interest, the Board/CEO shall take appropriate corrective action.
- c. Regardless of whether a Financial Interest has been disclosed or a Conflict of Interest Waiver granted, if a matter arises that a Board Member reasonable believes may create a Conflict of Interest for another Interested Person, the Board Member has a duty to inquire of that Interested Person to determine if the Interested Person can act in the best interests of the Region with regard to the matter at issue.

**6. Records of Proceedings** - The minutes of the Board, all committees with Board-delegated powers, or the CEO's actions shall contain:

- a. The names of Interested Person(s) who disclosed or otherwise were found to have a Financial Interest, the nature of the Financial Interest, any due diligence investigation of the Financial Interest and potential Conflict of Interest, and the Board/CEO's decision regarding the matter. If a written waiver of a Conflict of Interest is granted, a copy of the written waiver shall be attached to the minutes of the meeting at which it was granted.
- b. The names of all persons who were present for discussion and votes (as applicable) related to the transaction or arrangement involved in the Financial Interest, a summary of the content of the discussion, including any alternatives proposed to the transaction or arrangement, and a record of any vote taken in connection with the matter.
- c. If the Board/CEO grants a waiver of a Conflict of Interest, the waiver shall be in writing and shall be signed by the Chairperson of the Board/CEO, and shall describe the Financial Interest, the proceeding, transaction or matter to which the Financial Interest applies, the Interested Person's role in the proceeding,

transaction or matter, and any restriction on the Interested Person's participation in the proceeding, transaction or matter.

**7. Compensation Committees**

- a. A voting member of the Board or any Board committee whose scope of authority includes compensation matters and who receives compensation, directly or indirectly, from NorthCare, is prohibited, individually or as part of a group, from providing information to the Board or any committee regarding his or her own compensation and is precluded from voting on matters pertaining to his/her own compensation from NorthCare .