

## Exclusion Screening

<b>Objective:</b>	To comply with Federal and State mandates to screen employees, independent contractors, business vendors, key providers, and governing board members to verify that they have not been involved in adverse governmental actions related to fraud, patient abuse, licensing board sanctions, professional license revocation/suspension/surrender, or have <b>not</b> defaulted on Health Education Assistance Loans.	<b>Policy/Procedure Number:</b> 11-46
		<b>Effective Date:</b> June 22, 2011
		<b>Responsible Department:</b> County Administration
		<b>Modified Date (s):</b> February 19, 2019
<b>Reference:</b> <i>(All applicable federal, state, and local laws)</i>	Administrative Policy 08-29, Personal Conduct; Tompkins County Compliance Program Document; Code of Ethics, Local Law No.2 of 2013; NYS Civil Service Law, Section 75; Health Insurance Portability and Accountability Act (HIPAA) of 1996, Public Law 104-191; Medicare-Medicaid Anti-Fraud and Abuse Amendments of 1977, Public Law 95-142; and 8NYCRR §521.3, NYS Civil Service Law Section 50-4(a).	<b>Resolution No.:</b> 2011-100; 2016-157; 2019-26
		<b>Next Scheduled Review:</b> February 2024
<b>Legislative Policy Statement:</b>	Tompkins County government and its related entities are committed to maintaining high-quality service and integrity in its financial and business operations. Therefore, all necessary steps will be taken to ensure that employees, providers, and contractors, including healthcare-related employees, prescribing/authorizing physicians, contractors, etc., that provide and/or perform services for, or on behalf of the County have not been the subject of adverse governmental actions and/or excluded from the federal healthcare programs.	
<b>General Information:</b>	The County reserves the right and has the discretion not to employ or engage in a business relationship with any person or entity currently under sanction or exclusion by the federal Department of Health and Human Services Office of Inspector General (OIG) or any other duly authorized enforcement agency, such as the NYS Office of the Medicaid Inspector General, or licensing and disciplining authority, unless such relationship is otherwise required by law.	
<b>I. Definitions:</b>	<b>Exclusion Screening</b> - An inspection process for minimizing risk in hiring individuals or contracting with business entities that have been involved in adverse governmental actions related to fraud, patient abuse, licensing board sanctions, professional license revocation/suspension/surrender, or that have been excluded from federal healthcare programs.	
<b>II. Policy:</b>	<p><b>A.</b> The County will conduct monthly exclusion screening of all employees, governing board members, such as the County Legislature, contractors, and providers. In addition, for employees that require specific medical/healthcare license and/or certification in order to perform their duties, these credentials will be verified with appropriate licensing and disciplining authorities.</p> <p><b>B.</b> Individuals and entities excluded from federal healthcare programs will be prohibited from holding a position, or conducting business with the County in any area that is directly or indirectly funded by a state or federal program that bars participation by such excluded individuals and entities.</p> <p><b>C.</b> If an exclusion check indicates that a potential governing Board member has been excluded from federal or state healthcare programs, the individual must abstain from any vote on any measure before the Board that relates to programs or activities that are directly or indirectly funded by a state or federal program that bars participation by such excluded individuals.</p>	

- D. If a determination is required regarding whether an activity is directly or indirectly funded by a state or federal program that bars participation by excluded individuals, the determination shall be made by the Director of Finance, in consultation with the County's Compliance Officer and Human Resources Commissioner. If an employee or business seeks an appeal of that determination, that appeal shall be heard and decided by the County Administrator or his/her designee and reported to the relevant committee of the County Legislature.
- E. Any disciplinary action for employees must follow the removal policy and other disciplinary action policies established by applicable law and provisions of collective bargaining agreements.

### III. Procedure:

- A. The County will conduct **monthly** exclusion checks using multiple databases, including but not limited to, the following sources:
- Exclusion file maintained by General Services Administration (GSA);
  - List of Excluded Individuals/Entities (LEIE) maintained by the United States Department of Health and Human Service's Office of Inspector General;
  - Specially Designated Nationals (SDN) File maintained by the United States Department of the Treasury; and
  - Various state exclusion files that are made available to the public, such as the NYS Medicaid Fraud Database currently available from the NYS Department of Health.
- B. Specific responsibilities regarding exclusion checks are:
1. The **County Human Resources Commissioner** will ensure that exclusion checks are performed on candidates for employment **prior** to the official offer of employment and for potential governing board members, such as the County Legislature, that have authority to grant appropriations or that contribute to the development or execution of policy as these actions relate to the use of Medicaid or Medicare funds. The County Human Resources Commissioner will maintain the results of all exclusion checks for employees and governing board members and will report this information to the County Compliance Program Coordinator at the time of the annual compliance report.
  2. The **County Contracts Coordinator** who is responsible for processing contracts on behalf of the County will ensure that exclusion checks are conducted **prior** to entering into an agreement with contractors, including contractual agreements for healthcare-related services. If the exclusion check indicates that a contractor has been excluded from federal or state programs, including healthcare programs, the contract will not be executed until a determination is made by the Finance Director, in consultation with the County's Compliance Officer, as to whether the contract pertains to activities subject to the prohibition on participation by excluded entities. The County Contracts Coordinator will ensure that all contracts entered into by the County will contain a certification that the federal or state government does not exclude the contractor, its employees, or subcontractors. Departments needing assistance with screening certification should contact the Contracts Coordinator. The County Contracts Coordinator shall maintain the results of all exclusion checks and will report this information to the County Compliance

Program Coordinator at the time of the annual compliance report.

3. The **County Finance Director** shall ensure that an exclusion check of all existing contractors, including healthcare contractors, is conducted monthly through to the end of the contract performance period. If the exclusion check indicates that a contractor has been excluded from federal or state healthcare programs since the initiation of the contract, the County Finance Director, in consultation with the County's Compliance Officer, will determine if the contract is directly or indirectly funded by a state or federal program that bars participation by such excluded individuals or entities. The County reserves the right to terminate the contract based on the determination. The County Finance Director shall maintain the results of all exclusion checks and will report this information to the County Compliance Program Coordinator at the time of the annual compliance report.
  4. The County Compliance Program Coordinator will conduct an annual audit to verify that the County's exclusion screening policy is being enforced and share results annually with the County Compliance Committee. To verify adherence to this policy, annual audits may include auditing of employment applications, accounts payable records, and contracts with individuals or entities.
- C.** Any County department working directly with physicians and healthcare practitioners will ensure that an initial exclusion check is conducted on each practitioner who prescribes or orders Medicaid or Medicare-funded goods or services, and then monthly thereafter. If the exclusion check indicates that a practitioner has been excluded from federal or state healthcare programs, the services or goods will not be billed to Medicaid or Medicare. The results of all exclusion checks for physicians and healthcare practitioners will be reported to the County Compliance Program Coordinator at the time of the annual compliance report.