

# NEW YORK EHEALTH COLLABORATIVE, Inc.

## POLICY ON CONFLICT OF INTEREST AND DISCLOSURE

### I. Purpose and Application of Policy

A. The conflict of interest policy is designed to ensure that directors, officers and Key Employees of New York eHealth Collaborative, Inc. (“NYeC”) act in NYeC’s best interest and comply with applicable legal requirements, including but not limited to Section 715-a of the New York Not-for-Profit Corporation Law.

B. This policy is intended to supplement, not replace, any applicable federal, state, or local laws governing conflicts of interest applicable to nonprofit organizations.

### II. Definitions

A. **Audit Committee:** is the committee of the NYeC Board of Directors constituted to fulfill the requirements of Section 712-a of the New York Not-for-Profit Corporation Law.

B. **Interested Person:** any director, officer or Key Employee of NYeC as well as any of his/her family members and any related entity.

C. **Family Member:** is a spouse, domestic partner, parent, child or spouse of a child, brother, sister, or spouse of a brother or sister or any other person residing in the same household as the person covered by this policy.

D. **Related Entity:** any entity in which any such person is a director, officer, partner, manager, member, trustee, receiver, guardian, custodian, conservator, or personal or legal representative.

E. **Key Employee:** any person who is in a position to exercise substantial influence over the affairs of NYeC, as defined in Section 4958(f)(1)(A) of the Internal Revenue Code and as further specified in Treasury Regulation Section 53.4945-3(c), (d) and (e), or succeeding provisions.

F. **Disclosure Questionnaire:** the written statement required by Section 715-a of the New York Not-for-Profit Corporation Law identifying, to the best knowledge of the person submitting such statement, any entity of which such person is a director, officer, trustee, member, owner (either as a sole proprietor or partner), or employee and with which NYeC has a relationship, and any transaction in which NYeC is a participant and in which such person might have a conflicting interest.

G. **Related Party Transaction:** is any transaction, agreement or any other arrangement in which a Related Party has a financial interest and in which NYeC or any Affiliate of NYeC is a participant.

H. **Related Party:** (i) any director, officer or Key Employee of NYeC or any Affiliate of NYeC or any other person who exercises the powers of directors, officers, or Key

Employees over the affairs of NYeC or any Affiliate of NYeC; (ii) any individual described in subclause (i) of this definition; or (iii) any entity in which any individual described in clauses (i) and (ii) of this definition has a thirty-five percent or greater ownership or beneficial interest or, in the case of a partnership or professional corporation, a direct or indirect ownership interest in excess of five percent.

I. **Affiliate:** any entity controlled by or, in control of, NYeC.

### III. Conflict of Interest

A. **Conflict of Interest:** A conflict may exist when the interests or concerns of an interested person may be seen as competing with the interests or concerns of NYeC.

B. **Financial Interest:** A conflict of interest may exist where an interested person directly or indirectly benefits or profits as a result of a decision, policy or transaction made by NYeC. For example:

1. NYeC contracts to purchase or lease goods, services, or properties from an interested person.

2. NYeC offers employment to an interested person, other than a person who is already employed by NYeC.

3. An interested person is gratuitously provided use of facilities, property or services of NYeC.

4. NYeC adopts a policy that financially benefits an interested person.

5. An interested person is provided with a gift, gratuity, or favor of substantial nature from a person or entity that does business or seeks to do business with NYeC.

6. An interested person has an ownership or investment interest in, or compensation arrangement with, any entity with which NYeC has a transaction or arrangement.

C. **Other Interests:** A conflict may also exist where an interested person obtains a non-financial benefit or advantage that he/she would not have obtained absent his/her relationship with NYeC. For example:

1. An interested person seeks to obtain preferential treatment by NYeC.

2. An interested person seeks to take advantage of an opportunity that he/she has reason to believe would be of interest to NYeC.

A financial interest or other interest is not necessarily a conflict of interest. A person who has a financial interest or other interest has a conflict of interest only if the NYeC Board decides that a conflict of interest exists.

#### **IV. Duty to Disclose**

A. A Disclosure Questionnaire and an Affirmation of Compliance shall be submitted to the Secretary/Treasurer of NYeC (i) upon the interested person's association with NYeC (including, in the case of a director, prior to the director's initial election to the Board) and (ii) annually thereafter. The Secretary/Treasurer of NYeC shall provide a copy of all Disclosure Questionnaires to the Audit Committee.

B. Disclosure Questionnaires will be submitted to the Audit Committee.

C. An interested person is under a continuing obligation to disclose any potential conflict of interest, by filing a supplemental Disclosure Questionnaire, as soon as a potential conflict is known or reasonably should be known. The supplemental Disclosure Questionnaire shall be provided to the Audit Committee.

#### **V. Procedures for Addressing Potential Conflicts**

A. An interested person who has a potential conflict of interest with respect to a proposed action, policy or transaction of NYeC shall not participate in any way in, or be present during the deliberations and voting of NYeC regarding the conflict of interest. However, the interested person shall have an opportunity to provide factual information about the proposed conflict and/or action, policy or transaction prior to the deliberations and voting. Also the Board may request that the interested person be available to answer questions prior to the deliberations and voting. The interested person may not make any attempt to influence improperly the deliberation or voting on the matter giving rise to the conflict.

B. The Chair of the Board shall, if the Board determines that it is appropriate, appoint a disinterested person to investigate alternatives to the proposed transaction or arrangement.

C. The Board shall consider whether NYeC could obtain a more advantageous transaction or arrangement with reasonable efforts from a person or entity that would not give rise to a conflict of interest.

D. The Board shall determine by majority vote of the disinterested directors whether the transaction or arrangement is in NYeC's best interest and for its own benefit and whether the transaction is fair and reasonable to NYeC and shall make its decision as to whether to enter into the transaction or arrangement in conformity with such determination.

E. Interested persons who are not members of the Board of Directors of NYeC, or who have a conflict of interest with respect to a contract or transaction that is not the subject of Board action, shall disclose to the Chair any conflict of interest that such interested person has with respect to a contract or transaction. Such disclosure shall be made as soon as the conflict of interest is known to the interested person. The interested person shall refrain from any action that may affect NYeC's participation in such contract or transaction.

## **VI. Related Party Transactions**

A. NYeC shall not enter into any Related Party Transaction unless the transaction is determined by the Board to be fair, reasonable and in NYeC's best interest at the time of such determination. Any director, officer or Key Employee who has an interest in a Related Party Transaction shall disclose in good faith to the Board, or an authorized committee thereof, the material facts concerning such interest.

B. The NYeC Board, or an authorized committee thereof, shall, prior to entering into the transaction, consider alternative transactions to the extent available and shall approve the transaction by not less than a majority vote of the directors or committee members present at the meeting.

C. No Related Party may participate in deliberations or voting relating to matters set forth in this section VI; provided that nothing in this Section VI shall prohibit the NYeC Board or authorized committee from requesting that a Related Party present information concerning a Related Party Transaction at a Board or committee meeting prior to the commencement of deliberations or voting relating thereto.

## **VII. Violations of the Conflicts of Interest Policy**

A. If the Board has reasonable cause to believe a member of the Board or a Key Employee has failed to disclose actual or possible conflicts of interest, it 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 response of the member of the Board or a Key Employee, and making such further investigation as may be warranted in the circumstances, the Board determines that the member of the Board or Key Employee has in fact failed to disclose an actual or possible conflict of interest, it shall take appropriate remedial or corrective action.

## **VIII. Records of Proceedings**

A. The minutes of the Board meeting at which a possible or actual conflict of interest is discussed or voted upon shall contain:

1. The names of the persons who disclosed or otherwise were found to have a financial interest in connection with an actual or possible conflict of interest, the nature of the financial interest, any action taken to determine whether a conflict of interest was present, and the Board's decision as to whether a conflict of interest in fact existed.

2. The names of the persons who were present for discussions and votes relating to the transaction or arrangement, the content of the discussion, including any alternatives to the proposed transaction or arrangement, and a record of any votes taken in connection therewith.

B. The minutes of the Board meeting at which a Related Party Transaction is discussed or voted upon shall contain:

1. The names of the persons who disclosed a Related Party Transaction, the Related Parties with respect to such Related Party Transaction, a description of the Related Party Transaction, the content of the discussion, and the basis for the Board's approval of the Related Party Transaction, including its consideration of any alternative transactions.

2. The names of the persons who were present for discussions and votes relating to the Related Party Transaction and a record of the votes taken in connection therewith.

## **IX. Annual Confirmation of Compliance**

A. Each member of the Board of Directors and each Key Employee shall annually sign an Affirmation of Compliance, which affirms such person:

1. Has received a copy of the conflicts of interest policy;\
2. Has read and understands the policy;
3. Has agreed to comply with the policy; and
4. Has agreed to file a supplemental Disclosure Questionnaire whenever a potential conflict arises.

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