

**CORPORATE INTEGRITY AGREEMENT**  
**BETWEEN THE**  
**NEW YORK STATE OFFICE OF THE MEDICAID INSPECTOR GENERAL**  
**AND**  
**ELANT, INC.,**  
**ELANT AT BRANDYWINE, INC., ELANT AT FISHKILL, INC., GLEN ARDEN, INC.,**  
**ELANT AT GOSHEN, INC., AND ELANT AT NEWBURGH, INC. D/B/A ELANT AT**  
**MEADOW HILL**

**I. PREAMBLE**

Elant, Inc., (Federal Employer Identification Number (FEIN): [REDACTED]) Elant at Brandywine, Inc., (FEIN: [REDACTED]) Elant at Fishkill, Inc., (FEIN: [REDACTED]) Glen Arden, Inc., (FEIN: [REDACTED]) Elant at Goshen, Inc., (FEIN: [REDACTED]) and Elant at Newburgh, Inc. d/b/a Elant at Meadow Hill, (FEIN: [REDACTED]) (collectively “Elant” or “Provider”), hereby enters into this Corporate Integrity Agreement (CIA) with the New York State Office of the Medicaid Inspector General (OMIG) to promote compliance with the statutes, regulations, program requirements, and written directives of New York State’s Medical Assistance Program (Medicaid), and all other applicable New York State and Federal laws and regulations pertaining to Medicaid. This CIA applies to Provider, any entity in which Provider has an ownership or control interest at any time during the term of the CIA, and any other Covered Persons as defined in Section III.D.

**II. TERM AND SCOPE OF THE CIA**

A. Except as may be provided elsewhere in this CIA, the term of this CIA shall be five Years from the Effective Date. The “Effective Date” shall be the date on which the final signatory of this CIA executes this CIA, unless otherwise specified.

B. Section VII – OMIG Inspection, Audit and Review Rights; Section IX – Breach and Default Provisions; Section XII – Effective and Binding Agreement shall expire no later than 120 days from OMIG’s receipt of: (1) Provider’s final Annual Report; or (2) any additional materials submitted by Provider pursuant to OMIG’s request, whichever is later.

**III. DEFINITIONS**

The CIA shall be governed by the following definitions:

A. “Breach” means: any failure by the Provider to meet any requirement of this CIA, including, but not be limited to, any intentional or unintentional failure to perform any duty established in Section IV – Corporate Integrity Obligations;

or any final determination by OMIG that the Provider has violated 18 New York Codes Rules and Regulations ("18 NYCRR") Part 515.

- B. "Compliance Program" means: a program adopted and implemented by the Provider that meets the requirements of New York State Social Services Law §363-d and 18 NYCRR Part 521 and, if applicable, the requirements of 42 United States Code ("42 USC") § 1396a(a)(68) and the requirements of Section IV of this CIA.
- C. "Covered Conduct" means:
1. the conduct that the Provider engaged in that resulted in OMIG seeking a CIA with the Provider;
  2. (a) Delayed Discharges. During 2008 to 2012 (the "Relevant Period", Elant engaged in a practice of delaying or postponing discharges of short-term residents, who were clinically ready to leave the facility, against the wishes and/or without the informed consent of the residents and their families; Elant's goals in delaying discharges were to maintain revenues derived from residents receiving rehabilitation services, and to keep census in the Elant Homes above the 95% occupancy level necessary under Medicaid rules to permit an operator to receive daily Medicaid reimbursement and hold a bed open for a resident in the hospital or temporarily away from the facility; Elant nursing home administrators were directed by Elant senior management to limit scheduled or "planned" discharges of short-term, rehabilitation residents to two or three residents per week and to engage in various practices that improperly prolonged resident stays and avoided discharges, including but not limited to, providing residents with additional services that were not clinically necessary, avoiding residents and their families who were actively seeking discharge, and delaying the completion of paperwork necessary for processing and effectuating discharges; these discharge practices pertained primarily to residents covered by Medicaid and Medicare; as a result of the above-described discharge practices, Elant billed Medicaid and Medicare for services that were not medically necessary in violation of 18 NYCRR § 515.2(b)(1)(c); in connection with these discharge practices, Elant also failed to disclose to residents that delays were due to low census levels or to improve Elant's finances and therefore resulted in the inability of residents to make informed choices as to their dates of discharge,

showed a disregard for residents' rights in violation of 18 NYCRR § 515.2(b)(1)(c) and § 518.1 (c), and Public Health Law §§ 2803-c(a), (e) and (g), and abused the Medicaid program in violation of 18 NYCRR § 515.1(b)(1);

(b) Improper Transfers. During the Relevant Period, Elant engaged in a practice of moving long-term residents with Medicaid coverage to Brandywine from other Elant Homes ("transferring facilities"); Brandywine had more difficulty filling its beds while the transferring facilities were more successful in attracting residents for whom reimbursement would be higher than for the transferred residents; the purpose of the transfers orchestrated by Elant was financial - to enhance revenues at the transferring facilities by filling the openings left by the transferred residents with new, higher reimbursement resident admissions, and to enhance revenues at Brandywine by increasing its census; in March 2009, Elant senior managers used resident transfers to create the impression that Brandywine's census had improved in order to mislead and deter Elant's Board of Directors from selling Brandywine; Elant's transfers of residents for these reasons was improper and violated 10 NYCRR § 415.3(h); Elant failed to fully inform residents as to the transfers, which were stressful, by not disclosing the true purpose behind the moves, in violation of 10 NYCRR § 415.3(h)(1)(i), 18 NYCRR § 515.2(b)(1)(c) and § 518.1(c); Elant staff members involved knew that the transfers were improper and did not complete required documentation showing the reasons for the transfers, in violation of 10 NYCRR § 415.3(h)(1)(ii).

D. "Covered Persons" means:

1. all affected persons<sup>1</sup> as required by New York Social Services Law ("Social Services Law") §363-d and 18 NYCRR Part 521, and
2. all employees and contractors as required by § 1902 of the Social Security Act, and 42 USC § 1396a(68).

E. "Material Breach" means the following:

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<sup>1</sup> Affected persons includes, but may not be limited to employees, executives, members of the governing body, and persons associated with the provider as set forth in SSL § 363-d subd. 2 and 18 NYCRR 521.3(c).

