



Corporate Compliance Plan

Updated
October 1, 2024

CPW's Corporate Compliance Plan applies to all **Affected Individuals**. Regulation 18 NYCRR Part 521-1.2 defines "Affected Individuals" as:

"All persons who are affected by the required provider's risk areas including the required provider's employees, the chief executive and other senior administrators, managers, contractors, agents, subcontractors, independent contractors, and governing body and corporate officers"

This Compliance Plan outlines how CPW adheres to the
'7 Elements of an Effective Compliance Program'
per 18 NYCRR Part 521.

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MISSION AND EXPECTATIONS

1. Mission

The mission of CPW is to advance the independence, productivity, and full citizenship of individuals with Cerebral Palsy or other disabilities.

2. Expectations

CPW ensures that all aspects of care provided to all service recipients, and business conduct, are performed in compliance with our mission statement, policies and procedures, professional standards, and applicable governmental laws, rules and regulations and other standards. CPW expects every

person who provides services to our service recipients to adhere to the highest ethical standards and to promote ethical behavior. Any person whose behavior is found to violate ethical standards will be disciplined appropriately.

Affected Individuals may not engage in any conduct that conflicts – or is perceived to conflict – with the best interest of CPW. Affected Individuals must disclose any circumstances where they or their immediate family member is an employee, consultant, owner, contractor or investor in any entity that (i) engages in any business or maintains any relationship with CPW; (ii) provides to, or receives from CPW, any service recipient referrals; or (iii) competes with CPW. Affected Individuals may not accept, solicit or offer anything of value from anyone doing business with CPW, without permission of the Compliance Officer.

Affected Individuals are expected to maintain complete, accurate and contemporaneous records as required by CPW. The term “records” includes all documents, both written and electronic, that relate to the provision of agency services or provide support for the billing of agency services. Records must reflect the actual services provided. Any records to be appropriately altered must reflect the date of the alteration, the name, signature and title of the person altering the document, and the reason for the alteration if not apparent. No person shall ever sign the name of another person on any document. Signature stamps shall not be used. Backdating and predating documents is unacceptable and will lead to discipline up to and including termination.

When any person knows or reasonably suspects that the expectations above have not been met, this must be reported to immediate supervisors, the Compliance Officer, or the Executive Director, so each situation may be appropriately dealt with. The Compliance Officer may be reached at 914-937-3800, extension 721. If preferred, a voice message may be left on the Compliance Hotline, at 914-937-3800, extension 210.

This Compliance Plan is available upon request, and also at <https://cpwestchester.org/corporate-compliance/>

ELEMENT I - CORPORATE COMPLIANCE POLICY

1. Policy

It is the policy of Cerebral Palsy of Westchester (also referred to as CPW) to comply with all applicable federal, state and local laws and regulations, and payer requirements. It is also CPW’s policy to adhere to CPW’s Standards of Conduct, which is adopted by the Board of Directors, the Chief Executive and the Compliance Committee.

2. Commitment

CPW has always been, and remains committed to our responsibility to conduct our business with integrity based on sound ethical and moral standards. CPW holds our Affected Individuals to these same standards.

CPW is committed to maintaining and measuring the effectiveness of our Compliance policies and standards through monitoring and auditing systems reasonably designed to detect noncompliance by its Affected Individuals. We shall require the performance of regular, periodic compliance audits by

internal and/or external auditors who have expertise in federal and state health care statutes, regulations, and health care program requirements.

3. Responsibility

It is the responsibility of all Affected Individuals to report any instances of suspected or known noncompliance to their immediate supervisor, the Executive Director or the Compliance Officer. Reports may be made anonymously, and without fear of retaliation or retribution. Failure to report known noncompliance, or making reports which are not in good faith, will be grounds for disciplinary action, up to and including termination. Reports related to harassment or other workplace-oriented issues will be referred to Human Resources.

4. Policies and Procedures

CPW's Compliance Policies are distributed at new employee orientation, and are always available upon request. The Disciplinary Policy is available at cpwestchester.org

5. Enforcement

The 'Enforcement of Compliance Standards' Policy will be consistently enforced through appropriate disciplinary mechanisms including, if appropriate, discipline of individuals responsible for failure to report noncompliance.

6. Agency Response

Noncompliance that is discovered thorough any mechanism (i.e. compliance auditing procedures, confidential reporting) will be responded to in an expedient manner. CPW is dedicated to the resolution of such matters and will take all reasonable steps to prevent further similar violations.

7. Due Diligence

At all times, CPW will exercise due diligence with regard to background and professional license checks for all prospective Affected Individuals.

ELEMENT II - COMPLIANCE PROGRAM OVERSIGHT

1. The Role of the Compliance Officer

a. Compliance Officer

The Board of Directors of CPW designates Lisa Fisher-Wheatley as the Compliance Officer. The Compliance Officer has direct lines of communication to the Executive Director and the Board of Directors, and agency counsel.

b. Job Duties

The Compliance Officer is directly obligated to serve the best interests of CPW, its service recipients and Affected Individuals. Responsibilities of the Compliance Officer include, but are not limited to:

- Developing and implementing compliance policies and procedures.
- Overseeing and monitoring the implementation of the compliance program.
- Directing internal audits established to monitor effectiveness of compliance standards.

- Providing guidance to management, medical/clinical program personnel, and individual departments regarding policies and procedures and governmental laws, rules and regulations.
- Periodically updating the Compliance Plan as changes occur within the agency, and/or in the law and regulations or governmental and third-party payers.
- Overseeing efforts to communicate awareness of the existence and contents of the Compliance Plan.
- Coordinating, developing and participating in the educational and training program.
- Guaranteeing that independent contractors (i.e., for care services, vendors, billing services, etc.) are aware of the requirements of CPW's Compliance Plan.
- Actively seeking up-to-date material and releases regarding regulatory compliance.
- Maintaining a reporting system (i.e., hotline) and responding to concerns, complaints and questions related to the Compliance Plan.
- Acting as a resourceful leader regarding regulatory compliance issues.
- Investigating and acting on issues related to compliance.
- Coordinating internal investigations and implementing corrective action.

2. The Structure, Duties and Role of the Compliance Committee

a. Reporting Structure and Purpose

Compliance Committee members are appointed by the Executive Director and approved by the Board of Directors. Compliance issues are reported by the Compliance Committee to the Executive Director and Board, where appropriate. The Committee's purpose is to advise and assist the Compliance Officer with implementation of the Compliance Plan.

b. Function

The roles of the Compliance Committee include:

- Analyzing the environment where CPW does business, including legal requirements with which it must comply.
- Working with departments to develop standards and policies and procedures that address specific risk areas and encourage compliance according to legal and ethical requirements.
- Reviewing and assessing existing policies and procedures that address these risk areas for possible incorporation into the Compliance Plan.
- Advising and monitoring appropriate departments relative to compliance matters.
- Developing internal systems and controls to carry out compliance standards and policies.
- Monitoring internal and external audits to identify potential noncompliant issues.
- Implementing corrective and preventative action plans.
- Developing a process to solicit, evaluate and respond to complaints and problems.

3. Delegation of Substantial Discretionary Authority

a. Requirement

Any Affected Individual or prospective Affected Individual who holds, or intends to hold, a position with substantial discretionary authority for CPW is required to disclose any name

changes, and any involvement in noncompliant activities including healthcare related crimes. In addition, CPW performs reasonable inquiries into the background of such Affected Individuals.

The following organizations and others may be queried with respect to potential Affected Individuals:

- U. S. Department of Health and Human Services, Office of Inspector General (OIG) List of Excluded Individuals and Entities (LEIE): <https://oig.hhs.gov/exclusions/>
- The System for Award Management (SAM) Exclusion List: <https://www.sam.gov/SAM/>
- New York State Office of the Medicaid Inspector General (OMIG) Excluded Providers List: <https://omig.ny.gov/medicaid-fraud/medicaid-exclusions>

ELEMENT III - EDUCATION AND TRAINING

1. Expectations

Education and training are critical elements of the Compliance Plan. Every Affected Individual is expected to be familiar and knowledgeable about CPW's Compliance Plan and have a solid working knowledge of their responsibilities under the plan. Compliance policies and standards will be communicated to all Affected Individuals through required participation in training programs.

2. Training Topics

All personnel and members of the Board of Directors shall participate in training on the topics identified in CPW's Corporate Compliance Training Plan. Some of those topics are:

- CPW's risk areas and organizational experience.
- The role of the Compliance Officer and the Compliance Committee.
- CPW's system of reporting Compliance issues.
- CPW's disciplinary standards.
- History of Corporate Compliance, laws and penalties.
- Documentation must be true and accurate.
- Definition of 'contemporaneous'.
- How to correct errors in an acceptable manner.
- The 7 Elements of an Effective Compliance Program.
- Standards of Conduct.
- Responsibilities of Affected Individuals.

3. Orientation

In addition to the above training topics, as part of their agency orientation, each new employee shall also receive a printed or electronic copy of CPW's Compliance Plan, compliance policies, and Standards of Conduct.

4. Attendance

All education and training relating to the Compliance Plan will be verified by attendance and a signed acknowledgement of receipt of the Compliance Plan and Standards of Conduct.

Attendance at compliance training sessions is mandatory and is a condition of continued employment.

ELEMENT IV – LINES OF COMMUNICATION

Reporting a Compliance Concern

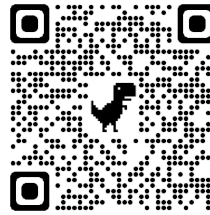
1. Expectations

Open lines of communication between the Compliance Officer and every Affected Individual subject to this Plan is essential to the success of CPW's Compliance Program. Every Affected Individual has an obligation to refuse to participate in any wrongful course of action and to report the actions according to the procedure listed below.

2. Reporting Procedure

If any Affected Individual learns of, or is asked to participate in potential noncompliant activities, in violation of this Compliance Plan or the Standards of Conduct, they should contact the Compliance Officer, their immediate supervisor or the Executive Director. Reports may be made by:

- Speaking in person or by phone to the Compliance Officer (914-937-3800, x721) or Division Director of Quality Management (914-937-3800, x723).
- Leaving a voice message on the **Compliance Hotline**, at **914-937-3800, extension 210**.
- Sending an email to ComplianceDept@cpwestchester.org
- Mailing a letter to **Compliance Officer, Cerebral Palsy of Westchester, 1186 King Street, Rye Brook NY 10573**
- Completing the form at <https://form.jotform.com/232604324311038>
 - This QR Code may also be used to access this form:



Upon receipt of a question or concern, any supervisor or director shall document the issue at hand and report to the Compliance Officer. Any questions or concerns relating to potential noncompliance by the Compliance Officer should be reported immediately to the Executive Director.

The Compliance Officer or designee shall record the information necessary to conduct an appropriate investigation of all complaints. If the Affected Individual was seeking information concerning the Standards of Conduct, the Compliance Officer or designee shall record the facts of the call, the nature of the information sought, and respond as appropriate.

3. Protections

The identity of reporters will be safeguarded to the extent that is practical and allowable by law. Affected Individuals should be aware that CPW is legally required to report certain types of crimes or potential crimes and infractions to governmental agencies; therefore, confidentiality cannot be maintained in these circumstances:

- When law enforcement must be involved.
- When an employment action must occur.
- For legal proceedings.

Reporters will be protected against retaliation per the federal and state False Claims Act's Whistleblower Protections, and CPW's False Claims Act Policy. Any threat of reprisal against a person who acts in good faith pursuant to their responsibilities under this Plan is acting against CPW's policy. Discipline, up to and including termination of employment, will result if such reprisal is proven.

4. Qui Tam Provision: This is a provision of the federal and state False Claims Acts that allows whistleblowers to report fraud on behalf of the US government. If the Department of Justice pursues the lawsuit and is successful, a whistleblower will receive a share of the recovered funds. This amount ranges from 15% - 30% of the total amount recovered by the government.

ELEMENT V - ENFORCEMENT OF COMPLIANCE STANDARDS

1. Background Checks

For all Affected Individuals who have authority to make decisions that may involve compliance issues, CPW will conduct a reasonable and prudent background check, including a reference check, as part of every employment application.

2. Disciplinary Action – General

Affected Individuals who fail to comply with CPW's compliance policy and standards, or who have engaged in conduct that has the potential of impairing CPW's status as a reliable, honest, and trustworthy service provider will be subject to disciplinary action, up to and including termination. Any discipline will be appropriately documented in the employee's personnel file, along with a written statement of reason(s) for imposing such discipline. The Compliance Officer shall maintain a record of all disciplinary actions involving the Compliance Plan and report at least quarterly to the Board of Directors regarding such actions.

3. Performance Evaluation – Supervisory

CPW's Compliance Program requires that the promotion of, and adherence to, the elements of the Compliance Program be a factor in evaluating the performance of Affected Individuals. They will be periodically trained in new compliance policies and procedures. In addition, all managers and supervisors will:

- Discuss with all supervised individuals the compliance policies and legal requirements applicable to their function.
- Inform all supervised personnel that strict compliance with these policies and requirements is a condition of employment.
- Disclose to all supervised personnel that CPW will take disciplinary action up to and including termination or revocation of privileges for violation of these policies and requirements.

4. Disciplinary Action – Supervisory

Managers and supervisors will be sanctioned for failure to adequately instruct their staff, or for failing to detect noncompliance with applicable policies and legal requirements, where reasonable diligence on the part of the manager or supervisor would have led to the earlier discovery of any problems or violations, and would have provided CPW with the opportunity to correct them.

ELEMENT VI - AUDITING AND MONITORING OF COMPLIANCE ACTIVITIES

1. Internal Audits

Ongoing evaluation is critical in detecting noncompliance and will help ensure the success of CPW's Compliance Program. A ongoing auditing and monitoring system, implemented by the Compliance Officer, in consultation with the Compliance Committee, is an integral component of our auditing and monitoring systems. This ongoing evaluation shall include the following:

- Compliance audits of compliance policies and standards.
- Review of documentation and billing relating to claims made to federal, state and private payers for reimbursement, performed internally or by an external consultant as determined by the Compliance Officer and Compliance Committee.

The audits and reviews will examine CPW's compliance with specific rules and policies through on-site visits, personnel interviews, general questionnaires (submitted to Affected Individuals), and reviews of the documentation of service provision to service recipients.

2. Integrity of the Compliance Plan

Additional steps to ensure the integrity of the Compliance Plan will include:

- Annual review of all records of communications and reports by all Affected Individuals kept in accordance with this Plan.
- The Compliance Officer will be notified immediately in the event of any visits, audits, investigations or surveys by any federal or state agency or authority, and shall immediately receive a copy of any correspondence from any regulatory agency charged with licensing CPW and/or administering a federally or state-funded program or county-funded program with which CPW participates.
- Establishment of a process detailing ongoing notification by the Compliance Officer to all appropriate personnel of any changes in laws, regulations or policies, as well as appropriate training to assure continuous compliance.

ELEMENT VII - DETECTION AND RESPONSE

1. Violation Detection

The Compliance Officer shall determine whether there is any basis to suspect that a Compliance violation has occurred. If it is determined that a violation may have occurred, the matter may be referred to legal counsel, who, with the assistance of the Compliance Officer, shall conduct a more detailed investigation. Investigations may include, but is not limited to, the following:

- Interviews with individuals having knowledge of the facts alleged.
- A review of related documents.
- Legal research and contact with governmental agencies for the purpose of clarification.

If advice is sought from a governmental agency, the request and any written or verbal response shall be fully documented.

2. Reporting

At the conclusion of an investigation involving legal counsel, they shall issue a report to the Compliance Officer, Executive Director, and Compliance Committee summarizing their findings, conclusions and recommendations and will render an opinion as to whether a violation of the law has occurred. The report will be reviewed with legal counsel in attendance. Any additional action will be on the advice of counsel. The Compliance Officer shall report to the Compliance Committee and Board of Directors regarding each investigation conducted.

3. Rectification of Overpayments

If CPW identifies that an overpayment was received from any third-party payer, the appropriate regulatory authority will be appropriately notified (with the advice and assistance of counsel if necessary) and the overpayment will be promptly repaid to the appropriate payer, with interest if applicable. It is CPW's policy to not retain any funds which are received as a result of overpayment. Systems shall be put in place to prevent such overpayments in the future.

4. Record Keeping

Regardless of whether a report is made to a governmental agency, the Compliance Officer shall maintain a record of the investigation including copies of all pertinent documentation. This record will be considered confidential and privileged and will not be released without the approval of the Executive Director or legal counsel.

NEW YORK STATE PENAL LAWS

1. Article 176: Insurance Fraud

This law in its entirety can be found here: <https://www.nysenate.gov/legislation/laws/PEN/P3TKA176>
An excerpt of this law is below.

§ 176.05 Insurance fraud; defined.

A fraudulent insurance act is committed by any person who, knowingly and with intent to defraud presents, causes to be presented, or prepares with knowledge or belief that it will be presented to or by an insurer, self insurer, or purported insurer, or purported self insurer, or any agent thereof:

1. any written statement as part of, or in support of, an application for the issuance of, or the rating of a commercial insurance policy, or certificate or evidence of self insurance for commercial insurance or commercial self insurance, or a claim for payment or other benefit pursuant to an insurance policy or self insurance program for commercial or personal insurance that he or she knows to:

(a) contain materially false information concerning any fact material thereto; or

(b) conceal, for the purpose of misleading, information concerning any fact material thereto; or

2. any written statement or other physical evidence as part of, or in support of, an application for the issuance of a health insurance policy, or a policy or contract or other authorization that provides or allows coverage for, membership or enrollment in, or other services of a public or private health plan,

or a claim for payment, services or other benefit pursuant to such policy, contract or plan that he or she knows to:

(a) contain materially false information concerning any material fact thereto; or

(b) conceal, for the purpose of misleading, information concerning any fact material thereto.

Such policy or contract or plan or authorization shall include, but not be limited to, those issued or operating pursuant to any public or governmentally-sponsored or supported plan for health care coverage or services or those otherwise issued or operated by entities authorized pursuant to the public health law. For purposes of this subdivision an "application for the issuance of a health insurance policy" shall not include (i) any application for a health insurance policy or contract approved by the superintendent of financial services pursuant to the provisions of sections three thousand two hundred sixteen, four thousand three hundred four, four thousand three hundred twenty-one or four thousand three hundred twenty-two of the insurance law or any other application for a health insurance policy or contract approved by the superintendent of financial services in the individual or direct payment market; or (ii) any application for a certificate evidencing coverage under a self-insured plan or under a group contract approved by the superintendent of financial services.

2. Article 177: Health Care Fraud

This law in its entirety can be found here: <https://www.nysenate.gov/legislation/laws/PEN/P3TKA177>

An excerpt of this law is below.

§ 177.05 Health care fraud in the fifth degree: A person is guilty of health care fraud in the fifth degree when, with intent to defraud a health plan, he or she knowingly and willfully provides materially false information or omits material information for the purpose of requesting payment from a health plan for a health care item or service and, as a result of such information or omission, he or she or another person receives payment in an amount that he, she or such other person is not entitled to under the circumstances.

Health care fraud in the fifth degree is a class A misdemeanor.

§ 177.10 Health care fraud in the fourth degree: A person is guilty of health care fraud in the fourth degree when such person, on one or more occasions, commits the crime of health care fraud in the fifth degree and the payment or portion of the payment wrongfully received, as the case may be, from a single health plan, in a period of not more than one year, exceeds three thousand dollars in the aggregate.

Health care fraud in the fourth degree is a class E felony.

§ 177.15 Health care fraud in the third degree: A person is guilty of health care fraud in the third degree when such person, on one or more occasions, commits the crime of health care fraud in the fifth degree and the payment or portion of the payment wrongfully received, as the case may be, from a single health plan, in a period of not more than one year, exceeds ten thousand dollars in the aggregate.

Health care fraud in the third degree is a class D felony.

§ 177.20 Health care fraud in the second degree: A person is guilty of health care fraud in the second degree when such person, on one or more occasions, commits the crime of health care fraud in the fifth degree and the payment or portion of the payment wrongfully received, as the case may be, from a single health plan, in a period of not more than one year, exceeds fifty thousand dollars in the aggregate.

Health care fraud in the second degree is a class C felony.

§ 177.25 Health care fraud in the first degree: A person is guilty of health care fraud in the first degree when such person, on one or more occasions, commits the crime of health care fraud in the fifth degree and the payment or portion of the payment wrongfully received, as the case may be, from a single health plan, in a period of not more than one year, exceeds one million dollars in the aggregate.

Health care fraud in the first degree is a class B felony.

§ 177.30 Health care fraud; affirmative defense: In any prosecution under this article, it shall be an affirmative defense that the defendant was a clerk, bookkeeper or other employee, other than an employee charged with the active management and control, in an executive capacity, of the affairs of the corporation, who, without personal benefit, merely executed the orders of his or her employer or of a superior employee generally authorized to direct his or her activities.

3. Article 155 : Larceny

This law in its entirety can be found here: <https://www.nysenate.gov/legislation/laws/PEN/P3TJA155>

An excerpt of this law is below.

§ 155.05 Larceny; defined.

1. A person steals property and commits larceny when, with intent to deprive another of property or to appropriate the same to himself or to a third person, he wrongfully takes, obtains or withholds such property from an owner thereof.

2. Larceny includes a wrongful taking, obtaining or withholding of another's property, with the intent prescribed in subdivision one of this section, committed in any of the following ways:

(a) By conduct heretofore defined or known as common law larceny by trespassory taking, common law larceny by trick, embezzlement, or obtaining property by false pretenses;

(b) By acquiring lost property.

A person acquires lost property when he exercises control over property of another which he knows to have been lost or mislaid, or to have been delivered under a mistake as to the identity of the recipient or the nature or amount of the property, without taking reasonable measures to return such property to the owner;

(c) By committing the crime of issuing a bad check, as defined in section 190.05;

(d) By false promise.

A person obtains property by false promise when, pursuant to a scheme to defraud, he obtains property of another by means of a representation, express or implied, that he or a third person will in the future engage in particular conduct, and when he does not intend to engage in such conduct or, as the case may be, does not believe that the third person intends to engage in such conduct.

In any prosecution for larceny based upon a false promise, the defendant's intention or belief that the promise would not be performed may not be established by or inferred from the fact alone that such promise was not performed. Such a finding may be based only upon evidence establishing that the facts and circumstances of the case are wholly consistent with guilty intent or belief and wholly inconsistent with innocent intent or belief, and excluding to a moral certainty every hypothesis except that of the defendant's intention or belief that the promise would not be performed;

(e) By extortion.

A person obtains property by extortion when he compels or induces another person to deliver such property to himself or to a third person by means of instilling in him a fear that, if the property is not so delivered, the actor or another will:

(i) Cause physical injury to some person in the future; or

(ii) Cause damage to property; or

(iii) Engage in other conduct constituting a crime; or

(iv) Accuse some person of a crime or cause criminal charges or removal proceedings to be instituted against him or her; or

(v) Expose a secret or publicize an asserted fact, whether true or false, tending to subject some person to hatred, contempt or ridicule;
or

(vi) Cause a strike, boycott or other collective labor group action injurious to some person's business; except that such a threat shall not be deemed extortion when the property is demanded or received for the benefit of the group in whose interest the actor purports to act; or

(vii) Testify or provide information or withhold testimony or information with respect to another's legal claim or defense; or

(viii) Use or abuse his position as a public servant by performing some act within or related to his official duties, or by failing or refusing to perform an official duty, in such manner as to affect some person adversely; or

(ix) Perform any other act which would not in itself materially benefit the actor but which is calculated to harm another person materially with respect to such other person's health, safety, business, calling,

career, financial condition, reputation or personal relationships; or

(f) By wage theft.

A person obtains property by wage theft when such person hires a person to perform services and the person performs such services and the person does not pay wages, at the minimum wage rate and overtime, or promised wage, if greater than the minimum wage rate and overtime, to said person for work performed. In a prosecution for wage theft, for the purposes of venue, it is permissible to aggregate all nonpayments or underpayments to one person from one person, into one larceny count, even if the nonpayments or underpayments occurred in multiple counties. It is also permissible to aggregate nonpayments or underpayments from a workforce into one larceny count even if such nonpayments or underpayments occurred in multiple counties; or

(g) By deed theft. A person commits deed theft when such person:

(i) Intentionally alters, falsifies, forges, or misrepresents any written instrument involved in the conveyance or financing of real property, such as a residential or commercial deed or title, with the intent to deceive, defraud, or unlawfully transfer or encumber the ownership rights or a portion thereof of a residential or commercial property; or

(ii) with intent to defraud, misrepresents themselves as the owner or authorized representative of residential or commercial real property to induce others to rely on such false information in order to obtain ownership or possession of such real property; or

(iii) with intent to defraud, takes, obtains, or transfers title or ownership of real property by fraud, misrepresentation, forgery, larceny, false pretenses, false promise, or any other fraudulent or deceptive practice.