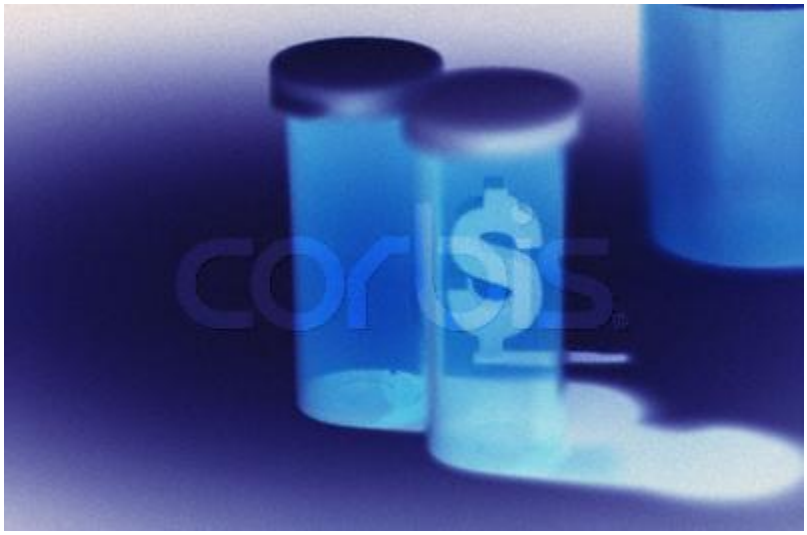
Americare Companies

Guide to Compliance



Addendum to the employee/agent/contractor/consultant/vendor hand book

For the purpose of this document, any independent contractor, vendor, consultant or an employee is considered an Americare agent. Americare companies (Americare) compliance education is designed to address legal, regulatory, or ethical issues that you may encounter as an agent of Americare. It is our goal that you will use this material as a guide to help you understand the legal and ethical obligations of your job.

Americare Compliance policies were developed to further promote and enhance the culture of compliance in our organization. Directors, managers and supervisors are responsible for ensuring that all agents understand and comply with our Standards of Conduct and with any applicable laws, regulations, and guidelines specific to their role here at Americare. All Americare agents are responsible for reading and understanding the Standards of Conduct, and are accountable for complying with these Standards. Agents are encouraged to ask questions if uncertain about ethical and legal conduct.

Americare strives toward building confidence in our agents to report issues that could potentially violate applicable laws, regulations, and/or our Standards of Conduct.
If you suspect that a violation has occurred, you should immediately contact your supervisor, Compliance Department, or call the Compliance Hotline
You have the assurance, as communicated in our Non-Retaliation/Non Retribution Policy that Americare will not tolerate retaliation or retribution against any agent who, in good faith, brings an issue forward.

As the regulatory environment continues to change, we must constantly monitor our internal operations to ensure that we are in compliance with the laws and regulations facing us today, tomorrow, and in the future. By adhering to and embracing these Standards, you are demonstrating your commitment to compliance.

AMERICARE COMPANIES COMPLIANCE PROGRAM

The Compliance Department has the day-to-day responsibility for the Americare Companies Compliance Programs. **Compliance Officer**, has been appointed to create and implement the Compliance Program and oversee the Compliance department at Americare.

Americare CSS:

Compliance Officer: Miri Bank

Questions or reports of potential violations may be made:

- in person,
- by telephone - (718) 535 3100, ext 3280
- Anonymous Hotline - 1-800-452-1897
- by submission of a written Report Form, or
- by email compliance@americareny.com or mbank@americareny.com

Americare INC:

Compliance Officer: Aleksandr Fisherman

Questions or reports of potential violations may be made:

- in person,
- by telephone 718-434-5100 Ext: ____)
- Anonymous Hotline - 1-844-2717617
- by submission of a written Report Form, or
- by electronic mail AFisherman@americareny.com

AGENT'S RESPONSIBILITIES

It Is Every Agent's Responsibility To:

• Read, understand, and adhere to our Standards of Conduct. For further questions about or to report violations of our Standards, you should contact your supervisor or the Compliance Department.

• Act appropriately. You are responsible for your conduct and behavior. If you are uncertain about the appropriateness of an action or behavior, contact your supervisor or the Compliance Department for clarification.

• Show your commitment to do the right thing.

• Promote compliance by being knowledgeable about and complying with the applicable laws, regulations, and guidelines specific to your job.

• Promote teamwork efforts and cooperation with coworkers and other healthcare team members.

- Act in an ethical and honest manner to develop trust among team members.
- Demonstrate professional respect and dignity.
- Avoid gossip.
- Develop open communication.

• Respect the diversity of all Americare agents and team members, value and appreciate personal and cultural differences.

• Comply with the general legal standards of conduct. Integrity and adherence to the law are basic obligations for everyone. The following are examples of activities that are illegal and a violation of Americare policy:

- Violating any federal, state or local law or regulation.
- Engaging in bribery.

- Committing fraud.
- Stealing company property or the property of another.

LEADER RESPONSIBILITIES:

Americare Leaders are responsible for promoting an effective culture of compliance in our organization. Americare Leaders are accountable for demonstrating Americare values, ethics, and business integrity in our work environment.

As a Leader (Supervisor, Manager, Director), you are responsible for creating a working atmosphere that is conducive to effective compliance and freedom from retaliation for the reporting of compliance violations. Leaders are encouraged to promote teamwork between all Americare agents

It Is Every Leader's Responsibility To:

• Promote and enforce compliance to our Standards of Conduct, organizational policies and procedures, and applicable laws and regulations in the day-to-day operations of business at Americare.

• Provide job-specific training to Agents and to reinforce applicable laws and regulations, policies and procedures, and Americare Standards of Conduct, to ensure all agents or team members have sufficient information and knowledge to prevent errors or fraud.

• Act diligently to address and resolve compliance issues to prevent the escalation of an issue into a major problem for the organization:
  - Identify potential compliance risk areas or violations.
  - Take appropriate action.
  - Report compliance violations to the Compliance Department.
  - Develop and implement effective processes and procedures.
  - Document issues and properly maintain documentation.

• Evaluate and document the agent's compliance performance in the Annual Performance Evaluation.

ACCOUNTABILITY/CORRECTIVE ACTION

Americare has established and may apply appropriate corrective actions or sanctions against members of the workforce and other agents and contractors who fail to comply with our policies and procedures, Standards of Conduct, and laws and regulations. Appropriate corrective action will be taken against any agent who:

- Directly violates company policies, Standards of Conduct, or applicable laws, and regulations.
- Fails to report known compliance violations.
- Retaliates against another agent or individual for reporting a suspected compliance violation.
- Deliberately makes a false report against another agent.
- Refuses to cooperate in the investigation of a violation.

In contrast, promotion of and adherence to the provisions of the compliance program and participation in required training shall be factors in evaluating the annual performance of all agents and staff, and will be considered in decisions regarding promotion and compensation for all personnel.

Act Appropriately

Sometimes making the right decision to ensure effective compliance can be difficult or confusing. Common sense and sound judgment are your best guides in deciding how you should act. However, if you find yourself in a situation where you are unsure of the ethical implications, ask yourself a few simple questions:

- Is this the right thing to do?
- Is this in the best interest of the company and the patients we serve?
- Are my actions legal?
- Am I being fair and honest?
- Will my action stand the test of time?
- How will I feel about myself afterwards?
- Would I be proud to read about this in the newspaper or see it on the news?

If you are still in doubt or need clarification, please contact your supervisor, Compliance Department or Human Resources Department

Please Remember: Your commitment to do the right thing contributes to our goal of maintaining a culture of compliance in our organization. By adhering to and embracing Americare Standards of Conduct, you are demonstrating your commitment to our mission of providing high quality, cost-effective healthcare to benefit the community we serve.

Reporting Potential Compliance Violations

You have a duty to report possible violations of applicable laws, regulations, company policies and procedures, and our Standards of Conduct.

The Compliance Department will review these reports, and may work in collaboration with other departments (i.e., Human Resources) in the investigation of potential compliance violations. Failure to report compliance violations may place the organization at risk for irreversible damage; and, may prevent the immediate implementation of measures to resolve a violation or to prevent the escalation of a small issue into a major problem for the organization.

All inquiries or reports of violations will be handled in a confidential manner. Concerns may be raised anonymously to the Compliance Department or to the Compliance Hotline. Anonymous reports that provide adequate information to permit an investigation will be pursued. The caller should provide important details such as the department and facility where a violation occurred, names of individuals involved, events of the compliance violation, etc. Anonymity may make it more difficult to investigate and resolve an inquiry. We encourage you to identify yourself so that we may conduct appropriate follow-up.

To report possible compliance violations you may, without fear of retaliation, contact any of the following:

• Supervisor - Agents are encouraged to report suspected violations to your supervisor. If you feel issues are unresolved after reporting violations to your supervisor, or you are

uncomfortable speaking to your supervisor or to senior management, you are encouraged to contact the Compliance Department or to call the Compliance Hotline.

MEDICARE/MEDICAID ANTI-FRAUD AND ABUSE LAWS

Entities that receive funds for services provided under Medicare and Medicaid are subject to several laws and regulations designed to prevent fraud. These laws were created to make certain that federal funds, which finance Medicare and Medicaid, are used only for those purposes. Failure to obey these laws can result in fines, jail, or exclusion from Medicare and Medicaid programs. The following are a few of the laws relating to fraud and abuse:

Anti-Kickback Statute

The Anti-Kickback Statute is a federal law, known officially as the Medicare/Medicaid Anti-Kickback Statute. Anyone who willfully offers, pays, seeks or receives anything of value to bring about a referral for medical services or goods payable under Medicare or Medicaid violates this law. Failure to obey this law can result in fines, jail, or exclusion from the Medicare and Medicaid programs. This law prohibits kickbacks and bribes. It also affects the way in which healthcare entities carry out a broad range of ordinary business deals.

The following activities are illegal under the Anti-Kickback Statute:

• Offer or acceptance of payment that is other than fair market value for healthcare services as a way of securing more Medicare or Medicaid business.

• Financial or other improper incentives given to physicians that are linked to numbers of referrals, including free medical supplies and equipment, discounts, gifts, write-offs, or free rental space.

The following activities should be monitored to assure compliance with the Anti-Kickback Statute:

• Space and Equipment Leasing

• Management and Personal Services Contracts

• Physician Recruitment and Retention

• Physicians should never accept gifts, entertainment, or a financial bonus as an incentive for the referral of patients to Americare.
• Discounts on Goods and Services
• Americare may not offer special incentives or other benefits to patients in exchange for their choice to select Americare as their home care provider. This includes the routine waiver of deductibles on co-insurance, discounts on items and services, and other valuable benefits. Federal law prohibits the influencing of a patient's choice of provider or services with these improper incentives or kickbacks.

Stark Law – Physician Referrals

The federal Self-Referral Law or "Stark Law" prohibits a physician with a financial relationship with any entity from making a referral to that entity for the furnishing of "designated health services" for which payment may be made under the Medicare or Medicaid programs, unless the relationship or service qualifies under a Stark Law statutory exception. The Stark Law also prohibits an entity from billing the Medicare or Medicaid programs for items and services ordered by a physician who has a financial relationship with that entity, unless an exception applies.

To comply with the Stark Law:

• You must not ask for or receive, or pay or offer to pay any remuneration (money or anything of value) of any kind (including rebates, kickbacks or bribes), in exchange for referring or recommending the referral of any individual to Americare for services or in return for the purchase of goods or services to be paid for by Medicare or Medicaid;
• You must not offer or grant any benefit to a referring physician or other referral source on the condition that such physician or referral source refer or agree to refer any patients to Americare for services
• Physicians must not make referrals for designated health services to entities with which the physician has a financial relationship either through an ownership or a compensation arrangement unless the law provides an exception.

Anyone that knowingly violate the Physician Self-Referral Law may be fined (civil monetary penalties) and excluded from Federal Healthcare Programs; and, may face liability under the False Claims Act.

THE DEFICIT REDUCTION ACT OF 2005

The Deficit Reduction Act of 2005 (Section 6032 in the Social Security Act) was signed into law by President

Bush on February 8, 2006. The Deficit Reduction Act (DRA) includes healthcare specific provisions, some of which are designated to eliminate Medicaid fraud, waste and abuse. The DRA requires that any entity that receives or makes annual payments of at least $5 Million per year must provide detailed information to its Agents and contractors about the Federal False Claims Act (FCA)

False Claims Act

The False Claims Act is a federal statute that prohibits a person from "knowingly" submitting a false, fictitious, or fraudulent claim to obtain payment from the government (including Medicare, Medicaid and other federal and state programs.) The False Claims Act prevents the occurrence of fraud, waste and abuse in the Medicare and Medicaid Programs. This act was originally enacted in 1863 as the Federal Civil False Claims Act, known as the "Lincoln Law", to address fraud committed by government contractors during the Civil War.

At Americare, honesty and accuracy in billing and in the filing of claims for Medicare or Medicaid payment is mandatory. It is a federal felony to willfully make a false statement in connection with a claim for payment or an application for certification under Medicare or Medicaid.

<u>Definitions:</u>

FRAUD –

A deliberate deception practiced or misrepresentation made by a person or entity in order to obtain money, healthcare benefits, or other gain by unlawful acts. The Medicare and

Medicaid Anti-Fraud Laws and other Federal and State Laws specify what constitutes fraud.

Examples of Fraud:

- Submitting false claims to Medicare or Medicaid for medical or healthcare services that were never provided.
- Documenting on a claim form that more complicated services and or procedures were performed than those actually provided, resulting in higher cost of services.

ABUSE –

Abuse occurs when a provider not knowingly or intentionally misrepresents the facts in claims for items and services, and receives payments when there is no legal entitlement to the payments. Abuse may lead to unnecessary costs to the Federal Healthcare Program, improper payment, or payment for services that are not medically necessary or fail to meet criteria for professional standards of care.

Examples of Abuse:

- Claims for services or items not medically necessary, or not medically necessary to the extent the provider claimed to provide and billed for.

At Americare, when preparing and submitting billing for medical services and supplies, it is important to:

- Accurately bill and submit claims for payment from Medicare and Medicaid.
- Properly code items and services billed.
- Not to submit false or fraudulent, or misleading claims for payment from or statements to any government agency or healthcare program
- Not to misrepresent services actually rendered.
- Not to bill for claims for services that were not accurately ordered and actually provided.
- Use accurate billing codes that describe the actual items or services provided.

Americare will maintain records of proper medical documentation to enable accurate billing. Without the appropriate documentation to substantiate services and items provided, we must assume that the services were not provided and must not be billed. Proper documentation of medical necessity by healthcare providers will be maintained. If an error is noted in a claim, bill or code, an investigation will be conducted and a correction will be made prior to the submission of the bill or claim. Errors submitted to Medicare or Medicaid should be reported to your supervisor and the Compliance Department. Errors in billing will be corrected promptly. Americare will promptly notify the payer source of any improper payments or overpayments (i.e., duplicate payments, errors in billing), and will refund improper payments received as a result of a billing by self-disclosure to payor source.

Consequences of Failure to Comply With the False Claims Act

Failure to comply with the False Claims Act can result in severe damages to healthcare providers and suppliers, including:

- **Federal False Claims Act:**
  - A mandatory civil monetary penalty ranging from $5,500 to $11,000 per false claim submitted.
- The FCA mandates both a fine and imprisonment for all convictions. It is a felony to violate the FCA. The maximum prison sentence is 5 years.
- For providers and suppliers convicted of violating the False Claims Act, the Office of the Inspector General (OIG) or Office of the Medicaid Inspector General (OMIG) may exclude them from participation in Federal and State Healthcare Programs and the receipt of Medicare/ Medicaid payments for claims for items and services.

Qui Tam "Whistleblower" Protection

The Department of Justice reported that for 2005, the federal government has collected more than $15 billion since the FCA was amended in 1986. Of the $1.4 billion collected from settlements and judgments for fraud committed against the government in 2004 -

2005, $1.1 billion was recovered from qui tam suits or lawsuits. The fraud committed included false healthcare claims.

The False Claims Act contains a "Qui Tam" or **whistleblowe**r provision. The FCA authorizes persons or private parties, having direct knowledge of fraud or false claims submitted to the government, to file a lawsuit on behalf of the government. According to the FCA, an individual who has direct and independent knowledge of the information that the allegations are based on and voluntarily provides the information to the government may initiate qui tam actions.

To initiate a qui tam action, a person – whistleblower files a lawsuit on behalf of the government in a federal court. The whistleblower files a complaint and provides relevant documentation "under seal", and serves the documents on the Department of Justice. While the lawsuit is "under seal", it is kept confidential, and the fraud allegations in the complaint are reviewed and investigated by the government.

The government will determine whether to intervene or to pursue the action, or to decline intervention in the action. If the government intervenes, the Department of Justice (DOJ) will direct the lawsuit. If the lawsuit is successful, the qui tam plaintiff may recover from 15% up to 25% of the proceeds of the action of the settlement. The percentage awarded depends on the qui tam plaintiff's substantial contribution to the prosecution. In addition, the qui tam plaintiff is entitled to recover reasonable expenses, including attorneys' fees and costs for bringing the lawsuit.

If the government declines intervention or elects not to pursue the lawsuit, the whistleblower may independently pursue the lawsuit. When the government does not intervene, the qui tam plaintiff can recover from 25% to 30% of the proceeds of the action of the settlement. And, the qui tam plaintiff is entitled to recover reasonable expenses, including attorneys' fees and costs.

The False Claims Act provides whistleblower protection rights for filing an action and prohibits retaliation of any agents who files a lawsuit or cooperates in an investigation. At Americare, we encourage our agents to report compliance violations of laws and

regulations, policies and procedures, and our Standards of Conduct; this includes the reporting of violations of the False Claims Act (FCA). Agents should report inappropriate coding, billing, or documentation practices to your supervisor or to the Compliance Department. Americare set up an outside Compliance Hotline for each company. Anyone may report compliance violations, such as violations of the False Claims Act, in an anonymous manner. This Hotline is available 24 Hours a Day/ 7 Days a Week.

Americare Companies Non-Retaliation/Non Retribution Policy

Americare has a strong Non-Retaliation/Non Retribution Policy to protect all agents and other individuals from retaliation for:

- Reporting in good faith actual or perceived violation of Americare Code of Conduct, including actual or potential violations of laws, regulations, policies and procedures.
- Assisting, or participating in a compliance investigation

Americare will:

- Maintain an "open-door policy" at all levels of management to encourage all agents to report problems and concerns.
- Protect against retaliation toward any agent, individual, or other.
- Subject any agent, who commits or engages in any form of retaliation, to discipline and corrective action up to, and including termination.

Americare will investigate allegations of retaliation against any agent who reports compliance violations.