



Americare

CORPORATE COMPLIANCE PROGRAM

DOCUMENT CONTROL

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Approved By:

Elly Kleinman January 1, 2023

Chief Executive Officer **Date**

Elly Kleinman January 1, 2023

Governing Board Chair **Date**

Reviewed: 10/22/0225



AMERICARE COMPLIANCE PROGRAM

INTRODUCTION

Americare (“agency”) is dedicated to providing home health services in accordance with all pertinent laws and professional standards of care. The agency commits to follow all laws and regulations set forth by Federal and State authorities while conducting its business honorably and ethically. The agency has designed a compliance program, which defines a series of internal controls that promote the prevention, detection, and resolution of conduct that may be/is deemed illegal or that does not conform to the agency’s ethical standards. The program applies to all the employees/contractors at Americare

At the core of this program are the *Standards of Conduct* established to describe the performance expectations under which all employees/contractors will carry out their professional responsibilities. The standards will be the focus on the compliance training completed by all employees/contractors. For the program to operate successfully, each employee/contractor must recognize that he or she has assumed a number of ethical and professional responsibilities, including adherence to the fundamental principles of this program, compliance with the standards, and reporting of any violations of the agency’s standards.

All employees/contractors are encouraged to raise questions about any activity they think may be inappropriate, and to direct these questions to the agency’s Compliance Officer. The Compliance Officer, with the assistance of the agency’s Compliance Committee, has the responsibility of investigating, reviewing and evaluating all questions and reports. The Compliance Officer is also responsible for undertaking any corrective action, if deemed necessary. Under no circumstances shall any agency personnel attempt to conceal or cover up any potential wrongdoing by the agency, its employees, its agents, or its patients. Any individual attempting to conceal or cover up any such act shall be deemed to be acting outside of the scope of his/her employment or contractual duties. Under appropriate circumstances, and after proper procedures have been followed, violation of the Standards may subject personnel to discipline up to and including termination. To reiterate, however, there will be no retribution by the agency or its personnel resulting from the making of a credible report of a violation of any standard(s).

Americare commits to providing an environment where honest feedback from employees/contractors may be provided without any fear of retaliation. The agency, therefore, has a policy of non-intimidation and non-retaliation for good faith participation in this compliance program. The agency will make every reasonable effort to treat reports and inquiries confidentially. Every reasonable effort will be made to protect the identity of the reporting individual, while still allowing for fair and vigorous implementation of the program and compliance with State and Federal laws. **Questions or reports of potential violations may be made: (a) in person, (b) by telephone to the Compliance Officer (718)434-5100**



X3200) or to our toll-free telephone hotline (800) 452-1897 or (844) 271-7617 or, (c) by submission of a written report on a form or by email to afisherman@americareny.com.

STANDARDS OF CONDUCT

General Expectations – Americare (“agency”) honors corporate and employee integrity as a critical component to its operations. Agency requires its employees/contractors to comply with laws and regulations governing the operation of its business. All agency employees/contractors, when providing services to or on behalf of the agency, must cooperate fully and completely with any compliance initiatives instituted by the agency. Employees/contractors must also comply with agency’s policies and procedures, including any compliance policies and procedures listed within the compliance program.

Employee/Personnel Conduct – All Americare employees/contractors must conduct their professional responsibilities in accordance with federal, state, and local laws. All agency employees/contractors are expected to maintain an ethical and honest adherence to policies and regulations set forth by the agency. Employees/contractors are expected to perform their duties in full compliance with agency’s policies and procedures. All agency personnel must report any wrongdoing or suspected wrongdoing (including fraud, compliance concerns, ethical breaches, conflicts of interest, or violations or suspected violations of the compliance program, standards, or agency policies and procedures). The agency, through the Compliance Officer, will investigate reports promptly and fully, as appropriate under the circumstances. The Compliance Officer is obligated to report such matters to the Compliance Committee. The Corporate Director of Compliance will report these matters to the Governing Board. It is a violation of the agency’s *Standards of Conduct* for any person to harass, retaliate or take any adverse employment action against any person making a good faith report pursuant to this compliance program. Violations of laws and regulations governing the operation of the agency’s business, or agency’s policies and procedures or its *Standards of Conduct* will subject the violator to disciplinary action, including possible termination of employment/contract.

A summary of Americare’s current compliance program will be provided to all agency personnel/contractors. A master copy of the program will be maintained at the office of the Compliance Officer for viewing by all agency personnel at any time.

Patient/Client/Consumer Rights – Americare will provide every patient/client/consumer with appropriate, high-quality care regardless of race, color, religion, national origin, gender, age, or ability to pay. All services provided by the agency will be necessary and consistent with accepted professional standards of care. Patients/clients/consumers and their representatives will be accorded appropriate confidentiality, privacy, security, counseling, and opportunities for resolution of complaints.



Confidentiality of Information – Americare will regard all patient/consumer health/care information as confidential. Information will only be made available to authorized users and employees/contractors who may be providing/coordinating care. Information may be provided to third party payors in order to facilitate reimbursement. The operations, activities, business affairs and finances of the agency should also be kept confidential and discussed or made available only to authorized users. Agency will abide by all rules and regulations stipulated under the HIPAA/confidentiality laws. In addition, all disclosures shall be made in accordance with state and federal rules regulating privacy of individually identifiable health information. Americare will be forthright in dealing with any governmental inquiries. Designated staff will respond to any requests for non-privileged information with complete, factual, and accurate information tendered with a cooperative attitude. Requests for privileged materials will be considered on an item-by-item basis.

Business Conduct – Americare will not directly or indirectly pay or receive from any person or entity anything of value in exchange of patient/client/consumer referrals or for the arrangement of the purchase or lease of any item or service in violation of state or federal law. No agency personnel shall offer any financial inducement or gift (other than of nominal value) to prospective patients/consumers to encourage them to receive services from Americare. No personnel shall accept any gift as a condition of offering care. Agency's business and patient/client/consumer records are highly confidential documents. Except as authorized or required by law, they shall not be disclosed or discussed with anyone not employed/contracted by the agency without the written permission of the agency or the relevant patient/client/consumer or their representative.

Billing Practices – All agency personnel, to the extent applicable to their operational functions, are required to comply with all billing and claims submission requirements promulgated by federal, state, and other payers. Proper and timely documentation of all Americare services must be maintained to ensure that only accurate and properly documented services are billed. The agency will not submit claims for services not performed or for a level of service that exceeds the level of service provided. Duplicated claims shall not be submitted to a payer until the payer has indicated that the prior claim is lost or otherwise unavailable. The payer's statements regarding the status of the prior claim shall be documented.

Conflicts of Interests – A "conflict" includes any act that results in compromising one's responsibility to the agency. These acts of conflict may include accepting gifts or other items of value from patients/consumers or referral sources that would compromise or influence patient/consumer care, and interests or relationships with competitive practices. No outside employment is permitted if it interferes or conflicts with the employee's ability to fulfill his or her responsibility to Americare except for the occasional modest expression of gratitude from patients/consumers, employees/contractors should refuse gifts, loans, or anything of value offered by outside individuals or companies is accepting such gift



might make the employee/contractor believe he or she has an obligation to the giver of the gift or loan. Under no circumstances should non-nominal gifts or loans be accepted from outside individuals or organizations that currently or wish to conduct business with the agency. All decisions by Americare personnel relating to agency operations must be made in the best interest of the patients/consumers and no considerations may undermine this fundamental commitment.

Policy: C. 2.3

Title: STANDARDS OF CONDUCT

KEY ELEMENTS

Americare's Compliance Program will address the following key elements:

1. Designation of a Compliance Officer
2. Training and education
3. Communication lines to the Compliance Officer
4. Disciplinary policies to encourage good faith participation
5. Identification of compliance risk areas
6. A system for responding to compliance issues
7. Policy of non-retaliation and non-retribution (*Combined in 4.*)
8. Written policies and procedures

1. Designation of a Compliance Officer and Compliance Committee

The program includes organizational support in the form of the **Compliance Officer** and a **Compliance Committee** consisting of the following members:

- Vice-President of LHCSA
- Vice-President of CHHA
- VP of HR
- VP Patient Accounts
- DPS CHHA
- DPS LHCSA
- Compliance Officer

The Governing Board of Americare Companies has appointed these individuals to their respective positions.



The Compliance Officer, with assistance from the Compliance Committee, has overall responsibility for the development, implementation, maintenance, coordination, monitoring and periodic revision of Americare's compliance program. The Compliance Officer will be responsible for coordinating internal compliance audits, developing, and overseeing agency's compliance training programs, and serving as an advisor to the agency and its personnel/contractors on compliance related questions and issues.

The Compliance Officer will assist the agency's leadership in developing methods to reduce agency's vulnerability to fraud, abuse, and waste; oversee the development of compliance policies and standards; oversee the activities of the Compliance Committee; and take whatever action is necessary to investigate a complaint and institute corrective action(s). The Compliance Officer is responsible for carrying out the day-to-day program operations. The Compliance Officer shall have immediate and unrestrained access to all documents/information and the authority to attend any meeting that he or she deems necessary to conduct compliance oversight.

The Compliance Officer will report quarterly to the Compliance Committee. The Compliance Committee will review all corrective action plans to verify that they were implemented and were successful in eliminating identified deficiencies. The Compliance Officer will have the power to communicate directly and confidentially with the Governing Board, if needed.

Policy: C. 2.6

Title: COMMUNICATION WITH COMPLIANCE OFFICER

2. Training and education

- *New employees* – All new employees will receive a mandatory orientation at the beginning of their employment. This orientation will provide an overview of fraud and abuse laws, a summary of standards of conduct, an explanation of the elements of the compliance program, including the process of complaint reporting/investigation.
- *All employees* – All employees will receive an annual in-service/retraining on the agency's compliance program covering the fraud and abuse laws, examples/repercussions of compliance violations, reporting mechanisms, and compliance policies and procedures. The agency's designated Compliance Officer will be responsible for providing/overseeing the compliance training and education of all employees.
- *Training and education methods* – Training and education may occur in sessions as employee groups or one-on-one with individual employees (on as needed basis). Agency's Compliance Officer may plan mandatory in-services and/or departmental meetings to cover the material. Training may consist of live presentations, videos, questions and answer sessions and written material. An attestation from is to be signed by all individuals



acknowledging their attendance and understanding of the information provided during the training/education. Failure to comply with training requirements or to attend scheduled training sessions may result in disciplinary action leading to job in jeopardy.

Policy: C. 2.5

Title: COMPLIANCE TRAINING AND EDUCATION

3. Communication lines to the Compliance Officer

Americare commits to providing an environment where honest feedback from employees may be provided without any fear of retaliation. The agency, therefore, has a policy of non-intimidation and non-retaliation for good faith participation in this compliance program.

The agency will make every reasonable effort to treat reports and inquiries confidentially. Every reasonable effort will be made to protect the identity of the reporting individual, while still allowing for fair and vigorous implementation of the program and compliance with State and Federal laws.

All employees are encouraged to raise questions about any activity they think may be inappropriate, and to direct these questions to the agency's Compliance Officer. The Compliance Officer, with the assistance of agency's Compliance Committee, has the responsibility of investigating, reviewing and evaluating all questions and reports. The Compliance Officer is also responsible for undertaking any corrective action, if deemed necessary. To reiterate, however, there will be no retribution by agency or its personnel resulting from the making of a credible report of a violation of any standard(s).

Communication via the hotline may be made anonymously at any time of the day or night. The phone number of the compliance hotline has been posted at various places throughout the office premises. Employees will also be reminded of this hotline during compliance in-services/orientations, etc.

- **Questions or reports of potential violations may be made:**
 - (a) In person,**
 - (b) By telephone to the Compliance Officer (718-434-5100 X3200)**
 - (c) To our toll-free Compliance hotline (800) 452-1897 or (844) 271-7617**
 - (d) By submission of a written report on a form personally, via mail, or email to afisherman@americareny.com.**

Policy: C. 2.6

Title: COMMUNICATION WITH COMPLIANCE OFFICER



4. Disciplinary policies to encourage good faith participation

- Americare understands that employees may not report concerns voluntarily if they feel that they will be subjected to retaliation or retribution upon reporting a compliance concern. Therefore, the agency has established disciplinary policies that encourage good faith participation.
- **Non-retaliation/non-retribution** – to reassure that employees will report compliance concerns through the hotline or directly to the Compliance Officer, a non-retaliation/non-retribution policy has been established. Americare confirms that employees, who in good faith, report a potential violation of law, regulation, policy, procedure, or the standards of conduct will not be subjected to retaliation, retribution, intimidation or harassment. All managers and supervisors must take aggressive measures to assure their staff that the organization truly encourages the reporting of suspected wrongdoing and that employees will not get into trouble for doing so. Where employees cannot exempt themselves from the consequences of wrongdoing by reporting their own wrongdoing, self-reporting may be taken into consideration in determining the appropriate course of action.

Policy: C. 2.7

Title: NON-RETALIATION/NON-RETRIBUTION POLICY

- **The False Claims Act** – the Federal False Claims Act is a law that prohibits a person or entity, such as Americare, from “knowingly” presenting or causing to be presented a false or fraudulent claim/record/statement for payment or approval to or from the Federal Government. The term “knowingly” is defined as having knowledge of the information and acting in deliberate ignorance/reckless disregard of the truth or falsity of the information. These prohibitions extend to claims submitted to federal health programs, such as Medicare or Medicaid. A person or entity found guilty of violation can be obligated to civil penalty up to \$11,000 plus three times the number of actual damages. A person or entity can also find themselves excluded from the Medicaid programs if found in violation. New York State may also impose the threat of criminal prosecution on who had the intent to defraud the State program a Class A misdemeanor punished in accordance with the penalties fixed by such law.

Policy: C. 2.8

Title: THE FALSE CLAIMS ACT



5. Identification of compliance risk areas

- All Americare employees are responsible for adhering to compliance laws and regulations as well as the standards of conduct, policies, and procedures. Any actual or suspected compliance violations must be reported to their immediate supervisor or directly to the Compliance Officer. The Compliance Officer is responsible for receiving and resolving compliance problems and concerns identified by employees.
- Compliance risk may be identified when an actual or suspected compliance violation is reported and investigated. The Compliance Officer will determine the compliance risk(s) that may be associated with the reported violation during the investigation process.
- All reported compliance concerns will be reviewed to ascertain whether compliance risk is legitimate. Based on this review, the need for further investigations or future audits will be determined. Any necessary changes or remedial actions will be implemented to minimize compliance risk(s) in the future.
- Typical risk areas for home health agencies:
 - Billing for items or services not actually rendered
 - Duplicate billing
 - Incentives to actual or potential referral sources
 - Billing for visits to clients who do not require a qualifying service
 - Over-utilization and under-utilization
 - Insufficient documentation to evidence that services were performed and to support reimbursement
 - Billing for services provided by unqualified personnel
 - Falsified plan of care
 - Forged beneficiary signatures on timesheets/logs that verify services were performed
 - Failure to adhere to home health agency licensing requirements
 - HIPAA/confidentiality violations
- Annual Compliance Program Effectiveness Review
 - Formal annual effectiveness review
 - Results documented and presented to Governing Board

Policy: C. 2.9

Title: IDENTIFICATION OF COMPLIANCE RISKS

6. A system for responding to compliance issues

The primary purpose of the compliance program is to introduce employees with the concepts of health care compliance. The program also provides information on the alternative channel of communicating problems and concerns. Employees are encouraged to use the chain of command



when reporting/resolving issues; however, they also have the option of reporting their concerns to the Compliance Officer by using the various reporting mechanisms listed before (*3. Communication lines to the Compliance Officer*).

- The compliance program is designed to be broad; it is not limited to financial issues only. It is anticipated that employees may report human resource issues to the Compliance Officer, and conversely, compliance concerns may be reported to human resource management. Therefore, it is critical for the Compliance Officer and human resources department to establish a policy of open communication and initiate inter-departmental reports each time an issue is raised. Appropriate investigative and resolution efforts may be undertaken with efficient communication between all involved/responsible parties.

Policy: C. 3.0

Title: COMPLIANCE OFFICER AND HR COMMUNICATION

- All employees are encouraged to raise questions about any activity they think may be inappropriate, and to direct these questions to the agency's Compliance Officer. The Compliance Officer, with the assistance of agency's Compliance Committee, has the responsibility of investigating, reviewing, and evaluating all questions and reports. The Compliance Officer is also responsible for undertaking any corrective action, if deemed necessary. To reiterate, however, there will be no retribution by agency or its personnel resulting from the making of a credible report of a violation of any standard(s). The Compliance Officer will follow strict investigative protocols to explore the facts via reports/interviews, document findings and create a report. All reports will be forwarded to the Compliance Committee as deemed necessary.

7. Overpayment Reporting & 60-Day Rule

- Report, return, and explain overpayments within 60 days
- Use OMIG Self-Disclosure Program when required

Policy: C. 3.2

Title: Disclosure of Overpayments

8. Exclusion Screening Policy

- Monthly OMIG and OIG LEIE screening
- Documentation retained 6 years

Policy: C. 1.5

Title: Excluded Provider Program



9. Record Retention

- Compliance records remained at least 6 years

Policy: H.R 2.2

Title: *MAINTENANCE AND RETENTION OF PERSONNEL RECORDS*

10. Compliance Work Plan Requirement

- Annual compliance work plan maintained by Compliance Officer

11. Annual Certification to DOH

- Annual certification submitted

12. OMIG Review Response Protocol

- 30-day response to OMIG document requests
- Corrective action tracking if applicable