



Americare CSS

COMPLIANCE PROGRAM

Implemented: April 10, 2006

Last Revision: Jan 1, 2020



AMERICARE CSS COMPLIANCE PROGRAM

INTRODUCTION

Americare CSS ("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 at Americare CSS.

At the core of this program are the *Standards of Conduct* ("standards") established to describe the performance expectations under which all employees will carry out their professional responsibilities. The standards will be the focus for the compliance training completed by all employees. In order for the program to operate successfully, each employee 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 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. Under no circumstances shall any agency personnel attempt to conceal or cover up any potential wrongdoing by 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 agency or its personnel resulting from the making of a credible report of a violation of any standard(s).

Americare CSS 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. **Questions or reports of potential violations may be made: (a) in person, (b) by telephone to the Compliance Officer 718-535-3100 ext 3280 or to our toll-free telephone hotline 1-800-452-1897 or, (c) by submission of a written report on a form or by email to Mbank@Americareny.com**



STANDARDS OF CONDUCT

General Expectations – Americare CSS (“agency”) honors corporate and employee integrity as a critical component to its operations. Agency requires its employees to comply with laws and regulations governing the operation of its business. All agency employees, when providing services to or on behalf of the agency, must cooperate fully and completely with any compliance initiatives instituted by the agency. Employees 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 CSS employees must conduct their professional responsibilities in accordance with federal, state, and local laws. All agency employees are expected to maintain an ethical and honest adherence to policies and regulations set forth by the agency. Employees 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 and the Corporate Director of Compliance. The Corporate Director of Compliance will report these matters to the Governing Board. It is a violation of 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 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.

A summary of Americare CSS current compliance program will be provided to all agency personnel. 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 Rights – Americare CSS will provide every patient/client 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 and their representatives will be accorded appropriate confidentiality, privacy, security, counseling and opportunities for resolution of complaints.

Confidentiality of Information – Americare CSS will regard all patient health/care information as confidential. Information will only be made available to authorized users and employees 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 CSS 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 CSS will not directly or indirectly pay or receive from any person or entity anything of value in exchange of patient/client 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 in order to encourage them to receive services from Americare CSS. No personnel shall accept any gift as a condition of offering care. Agency’s business and patient/client records are highly confidential documents. Except as authorized or required by law, they shall not be disclosed or discussed with anyone not employed by the agency without the written permission of the agency or the relevant patient/client 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 CSS 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 actually 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 or referral sources that would compromise or influence patient 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 CSS except for the occasional modest expression of gratitude from patients, employees should refuse gifts, loans, or anything of value offered by outside individuals or companies is accepting such gift might make the employee 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 CSS personnel relating to agency operations must be made in the best interest of the patients and no considerations may undermine this fundamental commitment.

Policy#: C. 2.3

Title: STANDARDS OF CONDUCT



KEY ELEMENTS

Americare CSS 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
- Vice-President of Patient Accounts
- Director of Compliance
- Corporate Director of Human Resources
- Director of Patient Services

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

The Compliance Officer, with assistance from the Compliance Committee, has the overall responsibility for the development, implementation, maintenance, coordination, monitoring and periodic revision of Americare CSS 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 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 report directly to the Corporate Compliance Director. The Compliance Officer will have the power to communicate directly and confidentially with the Governing Board, if needed.

Policy#: C. 2.4

Title: COMPLIANCE OFFICER ROLE AND RESPONSIBILITIES



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 CSS 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 **718-535-3100 extension 3280**
 - (c) To our toll-free telephone hotline **1-800-452-1897**
 - (d) By submission of a written report on a form personally, via mail, or email to **Mbank@Americareny.com**

Policy#: C. 2.6

Title: COMMUNICATION WITH COMPLIANCE OFFICER



4. Disciplinary policies to encourage good faith participation

- Americare CSS 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 CSS 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 CSS, 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 amount 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: FRAUD AND ABUSE – THE FALSE CLAIMS ACT



5. Identification of compliance risk areas

- All Americare CSS 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
 - Electronic Visit Verification conflicts and exclusions
 - Forged beneficiary signatures on timesheets/logs that verify services were performed
 - Failure to adhere to home health agency licensing requirements
 - HIPAA/confidentiality violations

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 AND HUMAN RESOURCES – COMMUNICATION POLICY

- 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.

Policy#: C. 3.1

Title: COMPLIANCE INVESTIGATION POLICY



POLICIES



MANUAL: Administrative: <input type="checkbox"/> Departmental: <u>Compliance</u> Other: _____	TITLE: STANDARDS OF CONDUCT	POLICY # C. 2.3	Page 1 of 2										
APPROVALS 1. <u>Martin Kleinman</u> Governance	<table border="1"> <thead> <tr> <th data-bbox="639 579 769 611">Dates</th> <th data-bbox="769 579 889 611">Effective</th> <th data-bbox="889 579 1010 611">Reviewed</th> <th data-bbox="1010 579 1130 611">Revised</th> <th data-bbox="1130 579 1250 611">Approved</th> </tr> </thead> <tbody> <tr> <td></td> <td></td> <td></td> <td></td> <td align="center" data-bbox="1010 653 1146 684"><u>06/01/2016</u></td> </tr> </tbody> </table>			Dates	Effective	Reviewed	Revised	Approved					<u>06/01/2016</u>
Dates	Effective	Reviewed	Revised	Approved									
				<u>06/01/2016</u>									

Purpose

These *Standards of Conduct* (“standards”) are developed to clearly delineate the expected commitment to compliance by Americare Companies management and employees. These *standards* refer to written guidance on principles of conduct and expected behavior of all employees at Americare Companies.

Policy

1. We will maintain and periodically update a written policy to provide guidance on employee and organizational responsibilities related to compliance, and to address specific issues related to quality of care, reimbursement, financial relationships, and other critical areas, with a particular focus on fraud and abuse.
2. The *standards* will address important parts of the compliance program including but not limited to employee and management responsibilities, the problem-resolution process, and employee hotline and non-retaliation policy.
3. All employees will receive a copy of the *standards* and participate in annual compliance training sessions that include a review of the *standards*.
4. The Compliance Officer has the primary responsibility of developing and updating the *Standards of Conduct* as needed.

Procedures

1. The Governing Board will be responsible for the oversight and final approval of the *Standards of Conduct*.
2. The *standards* will be written at a basic reading level, avoiding complex or legal language.
3. The following critical areas will be addressed:
 - Agency’s mission and values
 - Quality of care/service
 - Compliance with laws and regulations
 - Billing/payment

- Conflicts of interest
 - Duty to follow laws and report suspected potential or known violations
 - Reporting options available to employees, including the hotline
 - Non-retaliation/Non-retribution policy
4. The *Standards of Conduct* will be distributed to all employees and those with whom business is conducted, as appropriate. Copies will also be provided to all new employees as part of their orientation. Recipients will sign a statement acknowledging.
 5. All employees will receive training on the *Standards of Conduct* to help them understand how it applies to everyday work situations. The Compliance Officer will ensure that documentation is maintained as evidence that those employees have received training.
 6. The Compliance Officer will investigate possible violations of the *Standards of Conduct* and ensure appropriate disciplinary or corrective action is taken when deemed necessary.



MANUAL: Administrative: <input type="checkbox"/> Departmental: <u>Compliance</u> Other: _____	TITLE: COMPLIANCE TRAINING AND EDUCATION	POLICY # C. 2.5	Page 1 of 2										
APPROVALS 1. <u>Martin Kleinman</u> Governance	<table border="0" style="width: 100%;"> <tr> <td style="text-align: left;">Dates</td> <td style="text-align: center;">Effective</td> <td style="text-align: center;">Reviewed</td> <td style="text-align: center;">Revised</td> <td style="text-align: center;">Approved</td> </tr> <tr> <td></td> <td colspan="4" style="text-align: center;"><u>06/01/2016</u></td> </tr> </table>			Dates	Effective	Reviewed	Revised	Approved		<u>06/01/2016</u>			
Dates	Effective	Reviewed	Revised	Approved									
	<u>06/01/2016</u>												

Background

Both the Federal Sentencing Commission and OIG guidelines make it clear that a compliance program must provide adequate direction to employees on how to comply with applicable laws and regulations. Proper training and re-training of all employees serve as integral elements of an effective compliance program.

Purpose

This policy is designed to formalize requirements for periodic compliance training and education of all agency employees.

Policy

1. All employees (including upper management) are required to attend compliance training and education, which focuses on compliance with federal and state statutes, regulations, and guidelines, as well as our compliance policies, procedures and standards of conduct.
2. All training will be documented and records will be maintained securely under Human Resources' possession.
3. Training will explain the agency's mission and operation of the compliance program, and roles and responsibilities of the Compliance Officer.
4. All new employees will receive an orientation to the compliance program within the first two weeks of employment.
5. All employees will receive a retraining to the compliance program annually.

6. In addition the mandatory annual compliance training, compliance education sessions will occur periodically when compliance concerns or risks are identified.
7. The Compliance Officer will report the statistics/outcome of compliance training to the Compliance Committee.

Procedures

1. Compliance training and education will be conducted for all agency employees. However, it will be designed to address clinical and non-clinical employees separately.
2. Training for non-clinical employees will include –
 - Introduction to Compliance Officer
 - Purpose of the training
 - Purpose of the Compliance Program
 - Components of the Compliance Program including and not limited to:
 - *Standards of Conduct* (copy will be distributed to all attendees)
 - *Non-retaliation/non-retribution Policy*
 - *Reporting of suspected wrongdoing*
3. Training for clinical employees will include all the information presented to non-clinical employees along with an overview on clinical compliance risks.
4. Compliance Attestation Form will be signed by the employee upon completion of the training class. This form will be forwarded to the Human Resources Department to be kept as part of the employee personnel file and renewed every year or as needed.



MANUAL: Administrative: <input type="checkbox"/> Departmental: <u>Compliance</u> Other: _____	TITLE: COMMUNICATION WITH COMPLIANCE OFFICER	POLICY # C. 2.6	Page 1 of 2										
APPROVALS 1. <u>Martin Kleinman</u> Governance	<table border="1"> <thead> <tr> <th data-bbox="633 615 763 646">Dates</th> <th data-bbox="763 615 885 646">Effective</th> <th data-bbox="885 615 1015 646">Reviewed</th> <th data-bbox="1015 615 1136 646">Revised</th> <th data-bbox="1136 615 1372 646">Approved</th> </tr> </thead> <tbody> <tr> <td></td> <td></td> <td></td> <td></td> <td align="center" data-bbox="998 688 1136 720"><u>06/01/2016</u></td> </tr> </tbody> </table>			Dates	Effective	Reviewed	Revised	Approved					<u>06/01/2016</u>
Dates	Effective	Reviewed	Revised	Approved									
				<u>06/01/2016</u>									

Background

The OIG/OMIG encourages the implementation of communication systems that employees may utilize to communicate/report compliance related concerns to the Compliance Officer anonymously (or as desired by the employee).

Purpose

This policy is designed to provide information on the available communication systems at Americare Companies, which may be utilized by employees for reporting compliance concerns to the Compliance Officer.

Policy

All employees regardless of their level and position in the agency are responsible for reporting misconduct, including actual or potential violations of law, regulation, policy, procedure, or the standards of conduct.

Procedure

1. When a suspected violation is reported to the Compliance Officer, the attached form (*Incident Report for Suspected Compliance Violation*) will be completed either by the employee or the Compliance Officer as part of the investigation process.
2. The following methods of communication may be utilized by the employees to report any compliance related concerns to the Compliance Officer:
 - (a) **In person** – employee may schedule an appointment to see the Compliance Officer or may choose to make an unscheduled visit to the office. Employee will be interviewed to reveal all/as much as possible details of the compliance related concern. The Compliance Officer documents all the details on the *Incident Report for Suspected Compliance Violation* form and investigates the concern.
 - (b) **By telephone to the Compliance Officer (1-718-535-3100 ext 3280)** – employee may call the Compliance Officer directly to discuss their concerns or leave a voicemail message. The Compliance Officer documents all the details on the *Incident Report for Suspected Compliance Violation* form and investigates the concern.
 - (c) **To compliance toll-free telephone hotline (1-800-452-1897)** – a telephone hotline permits employees to report problems and concerns anonymously. However, if they identify themselves, their confidentiality will be protected to the limit of the law. They will also be protected from any form of retaliation or retribution. The Compliance Officer is responsible for retrieving messages from the compliance hotline and documenting all the details on the *Incident Report for Suspected Compliance Violations* form (attached). The Compliance Officer then investigates the noted concern(s).
 - (d) **By submission of a written report on a form** – employee may choose to complete the *Incident Report for Suspected Compliance Violation* form and submit to the Compliance Officer personally/via mail or email concerns to Mbank@americareny.com The Compliance Officer will investigate the concern.



MANUAL: Administrative: <input type="checkbox"/> Departmental: <u>Compliance</u> Other: _____	TITLE: NON-RETALIATION/NON-RETRIBUTION POLICY	POLICY # C. 2.7	Page 1 of 3										
APPROVALS 1. <u>Martin Kleinman</u> Governance	<table border="1"> <thead> <tr> <th data-bbox="625 630 771 661">Dates</th> <th data-bbox="771 630 885 661">Effective</th> <th data-bbox="885 630 1015 661">Reviewed</th> <th data-bbox="1015 630 1144 661">Revised</th> <th data-bbox="1144 630 1380 661">Approved</th> </tr> </thead> <tbody> <tr> <td></td> <td></td> <td></td> <td></td> <td align="center" data-bbox="998 703 1144 735"><u>06/01/2016</u></td> </tr> </tbody> </table>			Dates	Effective	Reviewed	Revised	Approved					<u>06/01/2016</u>
Dates	Effective	Reviewed	Revised	Approved									
				<u>06/01/2016</u>									

Background

As part of the Compliance Program, an organization must provide evidence of a policy of non-retaliation and non-retribution for employees who report violations of law, regulations, policies, and the standards of conduct.

Purpose

This policy is designed to protect employees who report violations of law, regulations, policies, and the standards of conduct. Positive employee relations and morale can be best achieved and maintained in a working environment that promoted ongoing open communication between supervisors and their employees.

Policy

1. Agency encourages employees to express their concerns and opinions on any issue without fear of retaliation or retribution.
2. All employees, including supervisors and managers, executives of the governing board and contracted associates have an affirmative duty to promptly report actual or potential wrongdoing, including an actual or potential violation of law, regulation, policy, procedure, or the standards of conduct.
3. All levels of management will maintain an open door policy for employees to report problems or concerns. All reports will be acted upon in an appropriate manner. If the problem is not satisfactorily resolved, the employee may proceed up the supervisory chain to a higher level. The employee hotline is designed to permit any employee to call, anonymously or in confidence, to report problems and concerns or to seek clarification of compliance related issues.
4. 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. No supervisor, manager or employee is permitted to engage in retaliation, intimidation, retribution or any form of harassment against an employee for reporting a

compliance related concern. Any supervisor, manager, or employee who conducts or condones retribution, retaliation, intimidation or harassment in any way will be subject to discipline up to and including discharge.

5. Employees cannot exempt themselves from the consequences of wrongdoing by reporting their own wrongdoing, although self-reporting may be taken into account in determining the appropriate course of action.

Procedure

1. Knowledge of actual or potential wrongdoing, misconduct, or violations of the standards of conduct must be immediately reported to management, the Compliance Officer, or the compliance hotline.
2. All managers and supervisors must take aggressive measures to assure their staff that the organization truly encourages the reporting of problems and that employees will not get into trouble for doing so.
3. All managers and employees must understand that any incident where intimidation, retaliation or reprisal can be related to an employee raising and/or reporting a problem, either at the organization level or through the compliance program, will not be tolerated. Reports of this nature must be investigated thoroughly and expeditiously, with appropriate disciplinary actions taken, up to and including termination of employment.
4. **Employee responsibilities** – all actual or potential compliance violations must be reported by employees to the appropriate management staff immediately. Americare Companies encourages the use of chain of command while reporting violations, however, an employee may choose to report violations to any of the below noted management staff:
 - Immediate Supervisor/Manager
 - Department Director
 - Compliance Officer
 - Compliance hotline
 - Corporate Director of Human Resources
 - Vice-President

Failure to report or the concealment of any knowledge of violations may result in administrative actions being taken, up to and including termination.

5. **Management's responsibilities** – all management staff must promote an open-door attitude to allow for employees to share their problems/concerns/opinions willingly. Human Resources must be informed of any concerns/problems raised by employees that fall within its area of responsibility. Management staff must ensure that confidentiality of employee's concerns/problems are respected and protected at all times as much as allowed for legal and practical purposes, informing only those personnel who have the need to know.

6. ***Human Resources' responsibilities*** – HR must provide assistance and guidance to supervisors in receiving and resolving employee concerns, problems, and opinions. HR must investigate employee-related matters and, if a resolution may be reached within the facility, inform the employee of the results of the investigation and the resolution within seven working days, if possible. Confidentiality of employee's concerns/problems must be respected and protected at all times as much as allowed for legal and practical purposes, informing only those personnel who have the need to know.
7. ***Compliance Officer's responsibilities*** – the Compliance Officer will be responsible for the investigation and follow-up of any reported retaliation against an employee. The Compliance Officer is obligated to report the results of an investigation of suspected/actual retaliation to the Compliance Committee.
8. **All employees must receive a copy of this policy at the beginning of employment and at the annual compliance in-service.**



MANUAL: Administrative: <input type="checkbox"/> Departmental: <u>Compliance</u> Other: _____	TITLE: FRAUD AND ABUSE – THE FALSE CLAIMS ACT	POLICY # C. 2.8	Page 1 of 2										
APPROVALS 1. <u>Martin Kleinman</u> Governance	<table border="1"> <thead> <tr> <th data-bbox="621 646 764 684">Dates</th> <th data-bbox="764 646 878 684">Effective</th> <th data-bbox="878 646 1008 684">Reviewed</th> <th data-bbox="1008 646 1138 684">Revised</th> <th data-bbox="1138 646 1382 684">Approved</th> </tr> </thead> <tbody> <tr> <td></td> <td></td> <td></td> <td></td> <td align="center" data-bbox="1003 726 1138 758"><u>06/01/2016</u></td> </tr> </tbody> </table>			Dates	Effective	Reviewed	Revised	Approved					<u>06/01/2016</u>
Dates	Effective	Reviewed	Revised	Approved									
				<u>06/01/2016</u>									

Background

The Federal False Claims Act, United States Code and New York State laws discuss civil or criminal penalties for false claims/statements under such laws.

Purpose

To establish a policy for all employees including management and for any contractor or agent of the agency discussing fraud and abuse under the *False Claims Act*.

Definitions

- False Claims Act – federal statute that prohibits a person from “knowingly” submitting a false, fictitious, or fraudulent claim to obtain payment from the government. Consequences of failure to comply with the FCA may result in a) a mandatory civil monetary penalty ranging from \$5,500 to \$11,000 per false claims submitted, b) imprisonment maximum of 5 years, and c) providers who violate the law may be excluded from participation in Federal and State Healthcare Programs.
- Knowingly – having actual knowledge of information, acts of deliberate ignorance/reckless disregard of truth or falsity of the information.
- 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.
- 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.
- Anti-Kickback – anyone who willfully offers, pays, seeks or receives anything of value to bring about a referral for services or goods, violates this law. This law (also known as Medicare/Medicaid Anti-kickback Statute) prohibits kickbacks and bribes.

Policy

Americare Companies and its employees will comply with all established federal/state laws prohibiting healthcare related fraud and abuse. Any violations to the laws will be subjected to investigations and disciplinary charges as deemed appropriate to the severity and validity of the violation.

Procedure

1. Any person, who knowingly presents, uses, conspires to defraud, is in the possession, custody or control of information and uses that information for the inappropriate benefit of oneself or the agency, is liable to the United States Government for a civil penalty.
2. The agency or any agency personnel that gains knowledge of any such violation will immediately report the violation to the Compliance Officer.
3. The Compliance Officer in collaboration with the Compliance Committee will thoroughly investigate the violation and its details.
4. The agency and/or the agency personnel will fully cooperate with any governmental and/or institutional inquiries and investigations in this regard.
5. Any person who is found to have violated the law will be subjected to the agency's disciplinary policies and may sustain civil penalties as established by the federal/state laws.
6. In the event, the agency is found to have violated the law; the Compliance Officer with collaboration of the Compliance Committee will self-disclose the violation to the appropriate authorities.
7. The agency will comply with all consequences/penalties as set forth by the government based on the outcomes/findings of its investigation.



MANUAL: Administrative: <input type="checkbox"/> Departmental: <u>Compliance</u> Other: _____	TITLE: IDENTIFICATION AND RECTIFICATION OF COMPLIANCE RISKS	POLICY # C. 2.9	Page 1 of 2										
APPROVALS 1. <u>Martin Kleinman</u> Governance	<table border="1"> <thead> <tr> <th data-bbox="630 621 760 653">Dates</th> <th data-bbox="760 621 889 653">Effective</th> <th data-bbox="889 621 1019 653">Reviewed</th> <th data-bbox="1019 621 1149 653">Revised</th> <th data-bbox="1149 621 1370 653">Approved</th> </tr> </thead> <tbody> <tr> <td colspan="5" data-bbox="630 688 1370 720" style="text-align: center;"><u>06/01/2016</u></td> </tr> </tbody> </table>			Dates	Effective	Reviewed	Revised	Approved	<u>06/01/2016</u>				
Dates	Effective	Reviewed	Revised	Approved									
<u>06/01/2016</u>													

Purpose

The purpose of this policy is to demonstrate the process of identification and rectification of compliance risks.

Policy

1. All Americare Companies employees have personal responsibility for complying with all laws, regulations, policies, procedures, and the standards of conduct.
2. All executives, managers, supervisors, employees, and others working in the agency’s business environment must exercise reasonable diligence in identifying compliance risks.
3. All affected parties are responsible for reporting compliance violations to the Compliance Officer in adhering to the agency’s compliance program.
4. The Compliance Officer is responsible to review all reported compliance concerns and evaluate whether compliance risk(s) is legitimate.
5. Based on the above review, the Compliance officer will evaluate the need for further investigations and future audits.

Procedure

1. All Americare Companies employees will maintain compliance with laws and regulations as well as the standards of conduct, policies, and procedures.
2. All employees are expected to report actual or suspected compliance violations to their immediate supervisor or directly to the Compliance Officer.
3. Compliance Officer is responsible for receiving and resolving problems and concerns identified by employees. Duties include:
 - Maintaining an open-door policy, providing employees with ample opportunity to raise problems and concerns

- Supporting and enforcing the strict non-retaliation policy
 - Identifying potential risk areas based on reported concerns
 - Establish and execute a written auditing and monitoring plan, detailing issues that will be subjected to an audit within the next 6 months
 - Implementing any necessary changes or remedial action based on findings from the auditing and monitoring activities
 - Conducting any necessary auditing, monitoring, or investigation based on problems or concerns reported by employees/departments/vendors.
 - Implementing any necessary changes or remedial action
4. Other means of identifying compliance risks by the Compliance Officer:
- Review of OIG/OMIG work plan on an annual basis and as needed throughout a year
 - Subscription and review of OMIG/OIG compliance and fraud alerts
 - Participation in various online webinars



MANUAL: Administrative: <input type="checkbox"/> Departmental: <u>Compliance</u> Other: _____	TITLE: COMPLIANCE AND HUMAN RESOURCES – COMMUNICATION POLICY	POLICY # C. 3.0	Page 1 of 2										
APPROVALS 1. <u>Martin Kleinman</u> Governance	<table border="1"> <thead> <tr> <th data-bbox="639 625 764 653">Dates</th> <th data-bbox="764 625 889 653">Effective</th> <th data-bbox="889 625 1015 653">Reviewed</th> <th data-bbox="1015 625 1140 653">Revised</th> <th data-bbox="1140 625 1265 653">Approved</th> </tr> </thead> <tbody> <tr> <td></td> <td></td> <td></td> <td></td> <td align="center" data-bbox="1003 659 1146 686">06/01/2016</td> </tr> </tbody> </table>			Dates	Effective	Reviewed	Revised	Approved					06/01/2016
Dates	Effective	Reviewed	Revised	Approved									
				06/01/2016									

Background

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. The compliance plan is designed to be broad and 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.

Purpose

The purpose of this policy is to clarify the respective roles and responsibilities of the Compliance Officer and human resource management in addressing compliance related issues.

Policy

1. The Compliance Officer and Corporate Director of Human Resources will maintain open communications and establish reciprocal reporting obligations.
2. All investigative and resolution efforts will be well coordinated amongst both department heads.

Procedure

1. Any employee, who raises an issue to the Compliance Officer, whether by direct contact or through email or hotline, will be protected from retribution or retaliation (*Non-retaliation/non-retribution Policy#: C. 2.7*).
2. If an issue is raised to human resource management that includes or may include any of the following subject areas, a report of such issue should be forwarded to the Compliance Officer within 24 hours of receipt:
 - Fraudulent billing/claims
 - Kickbacks, bribes
 - Conflict of interest
 - Abuse of clients/customers
 - Breach in client/employee confidentiality
 - False expense reports, HHA timesheets
 - Retaliation, retribution or intimidation
3. The Compliance Officer, with the assistance of agency's Compliance Committee, has the responsibility of investigating, reviewing and evaluating all questions and reports.
4. Findings from the investigation and resolutions will be communicated to the human resource management promptly.
5. The Compliance Officer and/or the human resource management are responsible for undertaking any corrective action, if deemed necessary.



MANUAL: Administrative: <input type="checkbox"/> Departmental: <u>Compliance</u> Other: _____	TITLE: COMPLIANCE INVESTIGATION POLICY	POLICY # C. 3.1	Page 1 of 3										
APPROVALS 1. <u>Martin Kleinman</u> Governance	<table border="1"> <thead> <tr> <th data-bbox="639 667 769 701">Dates</th> <th data-bbox="769 667 889 701">Effective</th> <th data-bbox="889 667 1019 701">Reviewed</th> <th data-bbox="1019 667 1149 701">Revised</th> <th data-bbox="1149 667 1279 701">Approved</th> </tr> </thead> <tbody> <tr> <td></td> <td></td> <td></td> <td></td> <td align="center" data-bbox="1008 743 1143 777"><u>06/01/2016</u></td> </tr> </tbody> </table>			Dates	Effective	Reviewed	Revised	Approved					<u>06/01/2016</u>
Dates	Effective	Reviewed	Revised	Approved									
				<u>06/01/2016</u>									

Purpose

This policy is designed to give direction to the procedures that should be followed when conducting a compliance investigation.

Policy

A. Responsibilities of Managers and Directors

All Managers and Directors at Americare Companies are responsible for investigating any report or reasonable indication of compliance violation by employee(s) or others within his or her direct supervision. Any such report or reasonable indication of compliance violation must be reported to the Compliance Officer prior to initiation of any investigation. Violations may also be reported to the human resources management with the understanding that compliance violations will be reported to the Compliance Officer simultaneously and promptly.

B. Responsibilities of the Compliance Officer

With any reported or reasonable indication of compliance violation, the Compliance Officer shall have the primary responsibility for conducting the investigation of the alleged situation or problem under the direction of the Compliance Committee. The purpose of the investigation is to determine whether or not there is reasonable cause to believe an individual(s) may have knowingly or inadvertently participated in violations of applicable laws or regulations to facilitate corrective action; and to implement procedures necessary to ensure future compliance.

Procedure

1. In conducting an investigation of wrongdoing, facts should be gathered as promptly as possible. Fact gathering requires a review of all pertinent documents and, in some cases, interviews with employees.

2. The Compliance Officer may conduct interviews with any agency employee and with other persons. Agency documents such as claims, client records, emails, etc., may be reviewed as part of the investigation when deemed necessary.
3. The Compliance Officer will ensure the confidentiality of the sources of information is protected. In each case, the facts of the situation will dictate the appropriate manner in which the issue will be handled.
4. Interviews should be conducted in person and in private with one interviewee at a time. In other than very routine circumstances, sensitive interviews should be conducted by two people (as deemed appropriate by the Compliance Officer). This is to ensure that the manner, circumstance, and content of the interview are supported by a witness.
5. The interviewer/investigator should:
 - Treat those being interviewed respectfully and with dignity
 - Explain that the purpose of the inquiry is to gather facts
 - State that the interview will remain in confidence to the extent compatible with a proper resolution of all issues, correction of any improprieties, and the requirements of law and regulation
 - Explain that the communication is privileged, but that the privilege rests with the agency, and that the agency can waive the privilege as it deems appropriate to resolve the issue in question
 - Make no threats and offer no opinions on how the matter under review will or should be resolved
 - Suspend the interview if the employee requests an attorney be present, and notify the legal counsel
6. In general the resolution process should include an analysis of the situation and state that a clear-cut decision will be made within 30 business days from receipt.
7. The Compliance Officer will organize the facts into a written report which:
 - Defines the nature of the situation/violation
 - Summarizes the investigation process
 - Identifies any person whom the investigator believes to have acted deliberately or with reckless disregard or intentional indifference, particularly toward the Medicaid laws, regulations and policies
 - Estimates the nature and extent of the resulting consequences/corrective actions
 - Makes recommendations to avoid future compliance risks/implications
8. A summary of the results of the investigation shall be sent for appropriate disciplinary action, if any, to the department director or manager of any employee whose conduct may be wrongful or inappropriate under the circumstances.
9. All voluntary self-disclosures will be guided by the OMIG Self-Disclosure Protocol.
10. The Compliance Officer shall furnish information (bearing in mind issues of confidentiality) about such investigations to the Compliance Committee and the Governing Board at its regular quarterly meetings.