



# **Compliance Plan and Code of Conduct**

Corporate Headquarters:

85 Metro Park, Rochester, NY 14623 | 585-295-6455 | fax: 585-295-6568 | [HCRhealth.com](http://HCRhealth.com)

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## OVERVIEW

Since 1978 HCR Home Care (“HCR”) has taken pride in offering high quality home health care services to individuals and families in Rochester and the surrounding communities. As with any vital and vibrant organization, however, HCR cannot be content with the status quo, but rather must focus on the future. To preserve and enhance our well-deserved reputation, everyone associated with HCR must share a commitment not only to our clients and our work but also to compliance with the numerous laws, regulations, and policies that govern our conduct.

To assist us in our compliance goals, we have developed the HCR Compliance Plan which includes a Code of Conduct. In that Code, we have briefly summarized the provisions that govern various legal and ethical requirements we must meet. The Code is expected to serve as a useful guide to assist us and you in identifying and addressing those instances where there may not be compliance with the law or with HCR policy.

The failure to follow existing law can damage our reputation and threaten our ability to carry out our mission. Unlawful behavior also may result in criminal liability and civil fines and penalties. Individuals who knowingly violate or recklessly disregard this Compliance Plan, the Code of Conduct, or the laws, regulations and policies which govern HCR and those who fail to report or who participate in, encourage, direct, facilitate or permit non-compliant behavior will face severe consequences including termination.

We recognize that our ability to achieve compliance with the law depends upon our ability to recognize, avoid, and remedy existing problems. Our compliance, therefore, depends not only upon a choice to “follow the rules” but also our obligation to our mission, our agency, each other, and all those who serve HCR in any capacity, to comply with the laws and to bring all issues of potential concern to the attention of a supervisor or to an HCR Compliance Committee member (see “Discharging Your Obligations”, below). In return, you have our commitment that the issues you raise will be promptly and properly reviewed and that appropriate corrective action will be taken where necessary. Most important, you will not in any way be subject to any adverse consequences for making good faith reports; to the

contrary, we view the failure to bring appropriate concerns to our attention to be a serious breach of your obligations that could lead to disciplinary action including termination.

In short, we commend and will support strongly those who make the proper choices at HCR, and will hold accountable those persons who make inappropriate choices or those who turn a blind eye toward improper conduct. Through our collective efforts we are confident that we can and will enhance our existing reputation for excellence.

## **DISCHARGING YOUR OBLIGATIONS**

We recognize that there may be instances where you learn of practices at HCR that may be of concern to you. While there are many different ways for you to address those concerns, we recognize that your choice will likely depend upon your relationship with the particular employees, independent contractors or vendors involved in the conduct at issue; upon your relationship with your supervisors; or upon your knowledge of the laws, regulations and policies governing the practice that is of concern to you. We wish to assure you that this Compliance Plan as well as the Compliance Committee (see “Compliance Committee and Compliance Officer”, below) exist to help you when you are unable, for any reason, to assure yourself that the conduct in question is in fact appropriate, or if you believe that the problem has not been effectively remedied. In those instances, we fully expect that you will promptly inform your supervisor, if appropriate, or the Compliance Committee of the issue. That Committee is composed of senior members of HCR administration who are committed to ensuring full compliance with all existing laws, rules, regulations, protocols and policies that govern us.

### **The Compliance Committee and Compliance Officer**

The HCR Compliance Committee has been formed to aid in identifying any potential areas of non-compliance through audits, to assist in investigating areas of concern raised by our employees or by others, and to remedy any deficiencies. The Compliance Committee will meet quarterly or more frequently as necessary. The Compliance Committee is responsible for overseeing the development and implementation of policies and procedures for the Compliance Committee, informing employees, independent contractors and vendors of this Compliance Plan,

providing training regarding specific job responsibilities and requirements, and for conducting audits and monitoring employees and others responsible for documenting the services we provide, coding and submitting claims for reimbursement. These policies and procedures will be reviewed at least annually and revised if necessary. The Committee's work is intended to be and will be confidential and privileged to the extent permitted by law. If requested, the Committee also will make all reasonable efforts to protect the identity of the reporting employee or individual. When the Committee completes any necessary investigation, or implements any necessary steps to address the problems detected, the Committee will, whenever appropriate, inform the reporting employee or independent contractor of the result of the investigation and of any action taken concerning the issue presented. The Committee will review and, if necessary, modify this Compliance Plan and Code of Conduct annually.

The Compliance Officer reports directly to the Board of Directors of HCR. The Compliance Officer will chair the HCR Compliance Committee. The Compliance Committee members including the Compliance Officer are listed, along with their telephone numbers, in Attachment A to this Compliance Plan document.

### **The Process**

All HCR employees, independent contractors and vendors are strongly encouraged to bring concerns to the attention of the Compliance Officer or any member of the Compliance Committee. Reports may be made in person, in writing, or over the telephone to the individuals listed in Attachment A. Written communications should be marked "CONFIDENTIAL AND PRIVILEGED MATERIAL PREPARED FOR LEGAL COUNSEL." Although reports may be made anonymously, in order for the Compliance Committee to obtain more information from or respond to the reporting individual, he or she should provide his or her name and work location when the report is made.

All reports and communications received will be confidential and privileged to the extent permitted by law. Counsel for HCR and the Compliance Committee will review reports and assist in deciding upon an appropriate investigation. The cooperation of the reporting employee or individual may be sought during any investigation, and such cooperation will be positively noted in the employee's or individual's file. Upon conclusion of the investigation, with the advice of legal

counsel, the Committee will determine the necessary follow-up action to be taken. Any concerns about the Compliance Officer, the Committee members, or the Committee's actions or determinations may be brought directly to the Board of Directors of HCR.

## **ELEMENTS OF HCR'S CODE OF CONDUCT**

The following Code of Conduct summarizes the conduct we expect from all our employees, independent contractors and vendors, and highlights certain key areas where the potential for concerns may be significant. This Code will not serve as a substitute for a thorough understanding of your job function, your obligations, and the laws and institutional policies that apply to your job. It will not constitute an excuse to avoid training or in-service presentations in your area. However, it can and should provide useful guidance, make you sensitive to potential problems you may face, and help you to avoid particular pitfalls.

### **Key Areas**

Our agency is subject to many federal, state and local laws, together with various internal policies and protocols. We have attempted to summarize below the general obligations arising in key areas of our operations. The key areas are:

1. Billing
2. Client Rights
3. Confidentiality
4. Conflicts of Interest
5. Discrimination and Employment
6. Fraud and Abuse
7. Gifts and Gratuities
8. Government Audits and Investigations
9. Information Systems Issues
10. Occupational Safety and Health Administration ("OSHA")
11. Professional Licensure, Certification and Credentialing
12. Quality Assessment and Performance Improvement
13. Record Retention, Completion and Maintenance

14. Reporting Requirements
15. Reviews and Inspections
16. Wage and Hour Issues

**1. Billing:** Home health care services are paid for by government funds such as Medicare and Medicaid, as well as private insurance and personal funds. While there are established particular billing formats, protocols, and practices with which all employees involved in the billing process must become familiar, there are certain common issues that are important to mention.

HCR is prohibited from submitting false claims to obtain payment for the services we provide. False claims include claims for payment which the home health care services provider knows are unwarranted and claims the home health care provider submits with reckless disregard for their accuracy or “deliberate ignorance” of the applicable guidelines. False claims can result in significant penalties and costs to HCR. Obviously, therefore, HCR is committed to ensuring that all services delivered are medically necessary, and claims for payment are proper, that they accurately reflect the services necessarily delivered, and that they comply with existing billing and coding regulations, bulletins, advisories and guidelines. If you are uncertain as to a particular charge or billing practice, or if you believe the documentation supporting a claim for payment may be inadequate, you should contact your supervisor for guidance. If you seek guidance and you remain concerned about any aspect of our billing, you should immediately bring that concern directly to a Compliance Committee member.

It is our intention to comply with all payer requirements. Where the requirements are unclear, as they occasionally are, you or your supervisor may ask the Compliance Officer to seek guidance from the payer directly. The advice given should be carefully recorded, including the name and title of the payer representative, and the time, date, telephone number and place of the communication. A letter should be sent to the payer representative via receipted mail confirming the advice. Copies of that letter, together with any relevant correspondence, will be maintained by the Compliance Officer.

Given the number of client encounters within our agency, and the occasional ambiguous, complex, or conflicting rules, there may be times when you discover an error in a

previously submitted claim. Unless the correction of the error is a routine function of your job (e.g., change in payer), you should immediately report that error to your supervisor so that it may be rectified. If you are unsure whether to report an error to your supervisor, you should speak with your supervisor. If you feel you are unable to make such a report to your supervisor for any reason, or if appropriate corrective action is in your judgment not taken, you should contact a Compliance Committee member immediately.

**2. Client Rights:** HCR recognizes that each client and their family are entitled to receive ethical treatment in accordance with accepted standards of care. It should be the express goal of all HCR personnel and independent contractors to treat all clients and their families with courtesy, compassion and dignity, while recognizing and honoring the client's and family's right to privacy and confidentiality. All agency personnel and independent contractors shall fully familiarize themselves with the rights of our clients, and conduct themselves at all times in a manner consistent with these rights. In addition, all agency staff and independent contractors involved in the delivery of client services shall attend periodic in-service training sessions dealing with clients' rights requirements. Such training sessions shall cover:

- informed consent;
- privacy and confidentiality;
- client complaints; and
- access to services information.

If you become aware of any situation in which a client's or family's rights are being violated, you should immediately contact a supervisor or a Compliance Committee member.

**3. Confidentiality:** HCR recognizes the paramount importance of confidentiality in the provision of home health care services, and it is our policy to keep all information and records pertaining to a client's treatment confidential in accordance with applicable state and federal law including the Health Insurance Portability and Accountability Act of 1996 ("HIPAA") and HIPAA regulations. All personnel and independent contractors with access to confidential information and records are required to strictly adhere to confidentiality policies of our agency. If you become aware of unauthorized or inappropriate disclosure of confidential information or documents by an HCR employee or independent contractor, you should

contact your supervisor or the HIPAA Compliance Officer immediately. If the HIPAA violation is not resolved to your satisfaction, you should then contact a Corporate Compliance Committee member immediately.

**4. Conflicts of Interest:** A conflict of interest may arise where an employee stands to benefit personally at the expense of HCR, or where an employee is in a position to put his or her personal interests above those of HCR. We believe strongly that all HCR employees, independent contractors and vendors during the term of their contract, owe a duty of loyalty to HCR and, therefore, should avoid any actual or apparent conflicts of interest. While conflicts can arise in many different contexts, in general we expect that all employees, independent contractors and vendors during the term of their contract, will put the interests of HCR ahead of their personal concerns, and will not seek to benefit themselves at the expense of, or as a result of, their affiliation with HCR. We expect all HCR employees, independent contractors and vendors will become familiar with and obey policies in this area. Suspected violations should be reported immediately to a supervisor or Compliance Committee member.

**5. Discrimination and Employment:** HCR is committed to equal opportunity and to the respect for human dignity. Unequal treatment or discrimination based upon gender, color, national origin, age, religious affiliation or belief, disability, sexual orientation, or other non-performance or ability-related grounds is unacceptable. We will hire, promote, retain and contract with individuals based upon their ability to meet bona fide occupational qualifications, and to effectively and efficiently discharge the obligations of their job. Similarly, we do not condone and will not tolerate conduct that demeans or undermines our clients, or that creates or encourages a hostile or oppressive working environment.

HCR has developed and maintains various employment-related and independent contract-related policies that are available through supervisors. We expect that all employees and independent contractors will be familiar with and will adhere to these policies. Questions or concerns should be directed to a supervisor or Compliance Committee member.

**6. Fraud and Abuse:** Federal and state laws prohibit certain conduct by, and certain business arrangements for, home health care providers. These include arrangements where

goods, services, or office space are provided for some amount other than fair market value in return for referring a client for services or items. These kickbacks and other related practices are generally grouped under the heading “fraud and abuse.” While there are many practices that are prohibited or restricted, there are also several exceptions or “safe harbors” that apply under specified circumstances. The most common fraud and abuse issues arise in connection with referral practices and in vendor relationships.

As a general rule, you must avoid relationships with vendors or other third parties that appear to provide financial incentives for the use of their products or for the referral of clients to them. These incentives, moreover, are not necessarily in the form of cash payments, but may include consulting relationships, lease arrangements with vendors for other than fair market value, and gifts. A useful guide is to avoid arrangements that confer personal benefits to you over and above that which ordinarily would be provided for your services. You must also review with your supervisor any proposed arrangement with clinicians, vendors, contractors or suppliers; or any rebate, bonus or volume discount proposals.

Client referrals to health care entities in which the referring clinician or a relative has an ownership interest also are prohibited under statutes commonly known as the “Stark” laws. There are several exceptions to the Stark prohibitions, but the appropriate course of action is to raise all issues in this regard with your supervisor.

Any concerns regarding this area should be immediately brought to the attention of a supervisor or Compliance Committee member. Employees are expected to question and/or challenge situations where improper, unethical, or illegal behavior is suspected. The employee is obligated to report any suspected misconduct and is protected from retaliation of any kind under the False Claim Act’s Whistleblower Protection. The employee may discuss concerns with their supervisor, any member of the Compliance Committee, or by calling the toll-free Compliance Hotline at 866-875-2974.

Employees must review and become familiar with the full Compliance Plan, Code of Conduct, Deficit Reduction Act (DRA), and other compliance policies located on the HCR intranet by navigating to “Corporate Compliance & Quality,” then “Policies and Procedures,” then “HCR Compliance Policies & Procedures.”

**7. Gifts and Gratuities:** You should be aware that the receipt or giving of gifts by HCR personnel may raise questions about relationships with our vendors, governmental officials, or others who interact with HCR. We must always refrain from activities that could possibly be construed as an attempt to improperly influence these relationships. You should not offer or receive a gift in circumstances where it could appear that the purpose of the gift is to improperly influence HCR's relationship with a vendor, regulator, or other person or entity.

It is HCR's policy to reimburse its employees for all reasonable expenses, including meals, entertainment, and travel, that are appropriately incurred while conducting HCR business. Rarely, therefore, will justification exist for you to permit someone else to pay for such items. We are confident that if you follow HCR policy and exercise reasonable judgment and common sense with respect to gifts and gratuities, you will avoid situations that might bring you or HCR's integrity into question. If you have any questions in connection with the receipt or offer of gifts or entertainment, you should consult the applicable HCR policy and your supervisor. Any concerns regarding violations of policy in this area should be brought to the attention of a supervisor or Compliance Committee member.

**8. Government Audits and Investigations:** There may be times that HCR is asked to cooperate with an investigation of fraud by a federal, state or local governmental agency, or to respond to a request for information. A request may be formally addressed to HCR or to an individual within HCR. Staff must report any requests for information or cooperation with an investigation to the Compliance Officer immediately.

**9. Information Systems Issues:** One of our most valuable assets is our body of confidential information. As an agency employee or independent contractor, you are responsible for maintaining and protecting the information used by you in connection with your job duties. For example, you must not record inaccurate information, make inappropriate or unauthorized modifications of information, or destroy or disclose information, except as authorized. Additionally, no current employee or independent contractor, or former employee or independent contractor may, without the prior written consent of HCR, use for their own benefit or disclose to others any confidential information obtained during their employment or term of engagement.

Documents containing sensitive data, including information concerning clients, must not be left in public view or in an unsecured location. You also must be careful when you enter, secure, and store computer data. Given the widespread use of computers throughout HCR, the potential for a breach of security exists and must be considered at all times. If you observe individuals whom you do not recognize using terminals in your area, immediately report this to your supervisor. Any concerns regarding confidential information should be brought to the attention of a Compliance Committee member.

**10. Occupational Safety and Health Administration (“OSHA”):** In our various client encounters, we occasionally encounter potentially harmful situations. HCR expects that our employees will at all times follow safety procedures. HCR is subject to numerous federal and state statutes and regulations related to workplace safety, and we expect compliance with all relevant provisions in this area. Should you suspect there may not be compliance, you should contact your supervisor or a Compliance Committee member.

**11. Professional Licensure, Certification and Credentialing:** All home health care professionals and paraprofessionals providing client services must be fully capable of discharging their clinical responsibilities. No home health care professional or paraprofessional will be permitted to provide client services on behalf of HCR unless it has been demonstrated that he or she possesses the required education, licensure or certification, and experience necessary to perform his or her clinical responsibilities. All home health care providers affiliated with HCR shall be properly credentialed, and HCR will maintain a file on each home health care provider that contains documentation of the practitioner’s credentials.

In credentialing practitioners, HCR shall take steps necessary to document the practitioner’s education, licensure or certification, and competency. In doing so, HCR and personnel involved in the credentialing process shall comply with all applicable laws and regulations, and professional standards. If you become aware of any information or documentation indicating that anyone affiliated with HCR has not adhered to the requirement for credentialing, licensure or certification, you should immediately bring it to the attention of your supervisor or a Compliance Committee member.

**12. Quality Assessment and Performance Improvement:** Quality service is the hallmark of HCR, and each of us must strive to continually improve the quality of the services we provide and/or the job responsibilities we perform. It is expected that all HCR personnel and independent contractors, regardless of responsibility, participate as appropriate in our quality improvement efforts. We are each responsible for familiarizing ourselves with the quality assessment and performance improvement activities applicable to our position. To obtain information about HCR's overall quality improvement plans and activities, please contact your supervisor. Concerns about quality assessment or performance improvement issues should be directed to a Compliance Committee member.

**13. Record Retention, Completion and Maintenance:** The law requires HCR to retain certain records and documents for specified periods of time. Our failure to retain these records as required could result in substantial monetary penalties, prevent us from having the documentation to prove what services were provided to a particular client, and raise questions about our agency ethics. In order to comply with these obligations, HCR has implemented systems of controls and policies to assure proper maintenance, retention and destruction of records. You are expected to follow these policies. You are not, however, to destroy or discard any records if you know that they may be the focus of a pending investigation, or subject to a pending request. You should contact your supervisor or a Compliance Committee member in the event you learn of a potential or actual violation of our policies.

Client records must also be timely completed and accurately maintained. These records provide a basis for future treatment decisions and support for billing, as well as an important historical account of the actions taken by HCR personnel that is critical to respond to claims made against us. Client records are confidential and must carefully and accurately document the services provided. There are specific protocols on the completion, maintenance, and modification of these records, and you are expected to comply fully with those protocols. A failure to do so can result in internal sanctions as well as professional licensure action. Should you suspect any violation of recordkeeping protocols, you should contact your supervisor or a Compliance Committee member immediately.

**14. Reporting Requirements:** Our agency is reviewed and inspected by government agencies, which impose numerous recordkeeping and other requirements on us. You are expected to become familiar with these requirements as they affect your area, and to ensure compliance with them. Our failure to comply can lead to sanctions, to the implementation of detailed plans of correction and, in extreme circumstances, to the restriction of licensed services.

If you are aware of any incident or situation that may require reporting to a governmental agency, you should report it directly, according to the obligations of your profession, or bring it to the attention of the person responsible for making such report. If you have questions or concerns regarding reporting responsibilities, you should contact your supervisor or a Compliance Committee member.

**15. Reviews and Inspections:** HCR is reviewed and inspected by government agencies, which impose numerous recordkeeping and other requirements on us. You are expected to be familiar with these requirements as they affect your area, and to ensure compliance with them. Our failure to comply can lead to sanctions, to the implementation of details plans of correction and, in extreme instances, to the restriction of licensed services.

**16. Wage and Hour Issues:** As an employer, HCR is required to comply with all applicable wage and hour laws, and other laws governing the employment relationship. You are entitled to receive fair and equitable wages and benefits in connection with your services to HCR, and you may receive overtime pursuant to applicable HCR policies and contracts. You should report any suspected violation of the wage and hour laws, or other related provisions, to your supervisor or the Human Resources Manager. If you are not satisfied with the response you receive, you should contact a Compliance Committee member. You will not be subject to retaliation or adverse employment action for making such a report. You are encouraged to bring any concerns or dissatisfaction concerning wage and hour issues to your supervisor, the Human Resources Manager or a Compliance Committee member.

**ATTACHMENT A**

**HCR HOME CARE  
COMPLIANCE COMMITTEE**

**COMPLIANCE OFFICER:**

Cheryl Emiliano            585-295-6471

**COMMITTEE MEMBERS:**

Andrew Bascom            585-295-6441  
Christine Donsky           585-295-6501  
Dawn McGinnity           585-295-6504  
Carls Wahls                585-295-5253  
Beverly Veenstra           585-295-6457

**COMPLIANCE HOTLINE:**

Toll-Free                    866-875-2974

Adopted Date (Attachment A):    2007 February  
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