

# CAREGIVER HANDBOOK

## APPENDIX

### WISCONSIN

Revised December, 2024

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## APPENDIX

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## COMPLIANCE POLICY STATEMENT

The Company (“Company”) is committed to maintaining an organizational and accountability structure that promotes integrity and ethical behavior, assures compliance with all governmental laws, rules and regulations, and supports the Company’s ethical standards, standards of conduct and zero tolerance for fraud and abuse.

### OBJECTIVES

The Company believes a compliance program is beneficial to everyone. It enhances employee morale, productivity and effectiveness. It also improves the quality of care. The Company’s goal is to integrate compliance into daily operations in order to create a better workplace and to ensure quality care.

### RESPONSIBILITY

The Company’s Corporate Compliance Officer, Ben Bledsoe, is responsible for overseeing the implementation of the Corporate Compliance program and monitoring adherence to its standards. The Risk Manager assists the Corporate Compliance Officer.

Each Program Manager, State Director or Operations Director is responsible for the compliance efforts within their areas of responsibility. All field and office employees, department managers, officers and their designees are directly responsible for ensuring that the Company, in the provision of services and in routine operations, is compliant with Federal and State law, and Federal, State, and private payer health care program requirements. Each employee is responsible for reporting any perceived or potential compliance infractions.

**Due diligence to prevent and detect violations of the law is everyone’s responsibility.**

### SCOPE

The Company’s Compliance program encompasses all aspects of the Company’s operations and involves all management, staff and employees of the Company.

### INTERNAL CONTROLS

#### **Prevention**

Pre-screening of potential employees includes OIG and criminal background checks. The Company may prohibit the employment of individuals who have been recently convicted of a felony, a criminal offense related to health care or who are listed as debarred, excluded or otherwise ineligible for participation in Federal health care programs.

#### **Standards of Conduct**

All management, staff and employees of the Company are expected to be familiar with and

abide by the standards set forth in the Company's internal policies as well as all governmental laws and regulations specific to their locations and services. The following issues are of particular concern.

**Discrimination or Harassment** of any kind is not tolerated by the Company, and should be reported immediately. The Human Resources Department investigates all reports of discrimination or harassment and takes whatever action is needed to resolve the situation.

**Safety** must function as an integral part of the operations of the Company. The Company must maintain a safe and healthful working environment and must comply with the requirements of Federal, State, and local safety and health codes to insure the well-being and safety of all employees and consumers. Employees must adhere to the proper operating practices and procedures designed to prevent injury, illness and loss of assets.

**Fiscal Responsibility** involves verifying eligibility of consumers, maintaining accurate records of services provided and billed for, and reconciling payments. The Company is diligent in its efforts to comply with all mandated accounting rules and regulations to ensure that current federal and state health care requirements are being met.

**Fraud** is defined as an intentional deception or misrepresentation that could result in any unauthorized benefit. Examples of fraud are listed in the Employee Handbook. Fraud is illegal and all discovered instances of fraud are reported to the appropriate authorities. The Company takes the commission of a fraud very seriously, and considers it grounds for immediate termination of employment. **All suspected fraudulent activity must be reported immediately to the department manager or compliance hotline.** In the event of no action, inappropriate action or lack of timely follow-up regarding a report, the Compliance Officer should be contacted.

A summary of the **Federal False Claims Act** is attached to this policy as Addendum 1. Addendum 2 is a brief discussion of **State Law** governing false claims and Medicaid fraud and is included in Employee Handbooks. Comprehensive training is conducted with all managers and staff regarding the provisions of the Federal False Claims Act.

### **Non-Retaliation**

The Company believes in an open-door policy that enables compliance officers, managers and employees to comfortably discuss ethical matters, to ask questions and get answers while preserving the employee's rights to anonymity and confidentiality. The Company does not engage in or tolerate any retaliation or threats of retaliation against anyone who reports, in good faith, a violation or suspected violation of the law, Company policy, standards of conduct or other improprieties.

### **Reporting & Response**

Reports of suspected offenses can always be discussed with an employee's immediate supervisor, department manager, Regional Director, Human Resources Director, or Risk

Manager. However, if an employee feels more comfortable reporting a suspected fraud or abuse outside of the “chain of command,” they can contact the Compliance Officer directly, at any time. Employees can make reports anonymously via the Fraud hotline, if they so desire.

No report of a suspected violation is ignored. Each allegation is fully investigated and documented. The investigation may be tailored to the level of the allegation, and if the allegation is substantiated, corrective action is taken. All reports and any corrective actions are documented. If appropriate, corrective actions are communicated to all employees.

If a violation calls for self-reporting to a government agency, the Company immediately does so, and may refer the matter to legal counsel, when appropriate.

### **Enforcement**

Disciplinary action for any employee who has failed to comply with the Company’s standards of conduct, policies and procedures, Federal health care program requirements, or Federal and State laws, or who have otherwise engaged in wrongdoing, is decided on a case-by-case basis, and takes into account both mitigating and aggravating circumstances. Corrective action is appropriate to the seriousness of the breach, and may include actions up to termination of employment.

Intentional or reckless noncompliance results in significant sanctions ranging from oral warnings to suspension, termination, or financial penalties. In addition, corrective action may be appropriate where a responsible employee’s failure to detect a violation is attributable to his or her negligence or reckless conduct.

The Compliance Officer, working with the appropriate manager or Regional Director, will determine the level of discipline in each case. If there is reason to believe that the misconduct violates criminal, civil, or administrative law, then the Company will promptly report the existence of misconduct to the appropriate Federal and State authorities.

### **Record-Keeping**

All reports of non-compliance, follow-up and disciplinary action are documented. The Company maintains adequate procedures and forms to address recurring issues, so that all incidents are recorded fully and consistently.

## **MONITORING**

The Company believes an ongoing evaluation process is critical to a successful compliance program. The Company’s evaluation process produces compliance reports that are maintained by the Compliance Officer. These include reports of suspected noncompliance and any subsequent investigation. The records of the investigation include documentation of the alleged violation, a description of the investigative process, copies of notes from interviews, the result of the investigation, including disciplinary action taken, and any corrective action that may have been implemented.

**TRAINING**

All new employees receive copies of the Employee Handbook or similar communication. The Handbook includes the Company's standards of conduct and a statement on Corporate Compliance. Modifications and updates are circulated in writing to all employees and discussed in department meetings.

Compliance awareness training is provided to employees at orientation and quarterly

Compliance Notices are sent to employees by the Compliance Officer via newsletter.

Approved by: Ben Bledsoe  
*signature on file*

Title: President/CEO

Date: 2/16/2015

## ADDENDUM 1

**FEDERAL FRAUD AND ABUSE POLICY**  
**United States Code Title 31 § 3729-3733****False Claims Act**

## I. DEFINITIONS

- A. Claim. "Claim" includes any request or demand for money, property, or services made to any employee, officer, or agent of the Government (including, without limitation, Medicare Part B Carriers and Medicare Part A Fiscal Intermediaries), or to any contractor, grantee, or other recipient.
- B. Knowing and Knowingly. "Knowing" and "knowingly" mean that a person, with respect to information, does any of the following:
  - (1) Has actual knowledge of the information.
  - (2) Acts in deliberate ignorance of the truth or falsity of the information.
  - (3) Acts in reckless disregard of the truth or falsity of the information.Proof of specific intent to defraud is not required.
- C. Person. "Person" means any employee, volunteer, manager, contractor or agent of Employer.
- D. Employer. "Employer" means Company.

## II. ACTS SUBJECTING PERSON TO DAMAGES, COSTS AND CIVIL PENALTIES; EXCEPTIONS

- A. Liability under the Act. According to the Act, any person who commits any of the following acts shall be liable to the Government (the "Government") for two times the amount of damages that the Government sustains because of the act of that person. A person who commits any of the following acts shall also be liable to the Government for the costs of a civil action brought to recover any of those penalties or damages, and shall be liable to the Government for a civil action brought to recover any such penalty or damages:
  - (1) Knowingly presents or causes to be presented to any employee, officer, or agent of the Governments, or to any contractor, grantee, or other recipient of Government funds, a false or fraudulent claim for payment or approval.
  - (2) Knowingly makes, uses, or causes to be made or used, a false record or statement to get a false or fraudulent claim paid or approved.
  - (3) Conspires to defraud the Government by getting a false claim allowed or paid, or conspires to defraud the Government by knowingly making, using, or causing to be made or used, a false record or statement to conceal, avoid, or decrease an obligation to pay or transmit money or property to the Government.
  - (4) Has possession, custody, or control of public property or money used or to be used by the Government and knowingly delivers or causes to be delivered less property than the amount for which the person receives a certificate or receipt.
  - (5) Is authorized to make or deliver a document certifying receipt of property used or to be used by the Government and knowingly makes or delivers a receipt that falsely represents the property used or to be used.
  - (6) Knowingly buys, or receives as a pledge of an obligation or debt, public property from any person who lawfully may not sell or pledge the property.

- (7) Knowingly makes, uses, or causes to be made or used, a false record or statement to conceal, avoid, or decrease an obligation to pay or transmit money or property to the Government.
  - (8) Is a beneficiary of an inadvertent submission of a false claim to any employee, officer, or agent of the Government, or to any contractor, grantee, or other recipient of Government funds, subsequently discovers the falsity of the claim, and fails to disclose the false claim to the Government within a reasonable time after discovery of the false claim.
- B. Damages Limitation. Notwithstanding subsection (A) above, a court may decide that no civil penalty shall be assessed, if such court finds all of the following:
- (1) The person committing the violation furnished officials of the Government who are responsible for investigating false claims violations with all information known to that person about the violation within 30 days after the date on which the person first obtained the information.
  - (2) The person fully cooperated with any investigation by the Government.
  - (3) At the time the person furnished the Government with information about the violation, no criminal prosecution, civil action, or administrative action had commenced with respect to the violation, and the person did not have actual knowledge of the existence of an investigation into the violation.
- III. PROSECUTING AUTHORITY AND CIVIL ACTIONS BY INDIVIDUALS AS QUI TAM PLAINTIFF AND AS PRIVATE CITIZENS
- A. Responsibilities of the Attorney General. According to the Act, the Attorney General shall investigate a violation as described under section II above. If the Attorney General finds that a person has violated or is violating section II, the Attorney General may bring a civil action against that person as set forth below.
- B. Actions by private persons. A person may bring a civil action for a violation of the Act for the person and for the Government in the name of the Government. The person bringing the action shall be referred to as the qui tam plaintiff.
- C. Rights of the parties to qui tam (whistleblower) actions.
- (1) If the Government proceeds with the action, it shall have the primary responsibility for prosecuting the action, and shall not be bound by an act of the person bringing the action. Such person shall have the right to continue as a party to the action, subject to the following limitations:
    - a. The Government may seek to dismiss the action for good cause.
    - b. The Government may settle the action with the defendant.
    - c. Upon a showing by the Government that unrestricted participation during the course of the litigation by the person initiating the action would interfere with or unduly delay the Government's prosecution of the case, or would be repetitious, irrelevant, or for purposes of harassment, the court may, in its discretion, impose limitations on the person's participation, such as:
      - (i) limiting the number of witnesses the person may call;
      - (ii) limiting the length of the testimony of such witnesses;
      - (iii) limiting the person's cross-examination of witnesses; or
      - (iv) otherwise limiting the participation by the person in the litigation.
    - d. Upon a showing by the defendant that unrestricted participation during the course of the litigation by the person initiating the action would be for purposes



- of harassment or would cause the defendant undue burden or unnecessary expense, the court may limit the participation by the person in the litigation.
- (2) If the Government elects not to proceed with the action, the person who initiated the action shall have the right to conduct the action.
  - (3) The Government may elect to pursue its claim through any alternate remedy available to the Government, including any administrative proceeding to determine a civil money penalty, such as The Program Fraud Civil Remedies Act (the PFCR Act"). The PFCR Act permits Federal agencies to use administrative procedures to obtain penalties and assessments from persons who submit false, fictitious, or fraudulent claims, similar to the claims set forth in section II above. If an alternate remedy is pursued in another proceeding, the person initiating the action shall have the same rights in such proceeding as such person would have had if the action had continued under this section.
- D. Award to qui tam plaintiff.
- (1) If the Government proceeds with an action brought by a person under subsection (b), such person shall, subject to certain limitations, according to the Act receive at least 15 percent but not more than 25 percent of the proceeds of the action or settlement of the claim, depending upon the extent to which the person and/or his counsel substantially contributed to the prosecution of the action.
  - (2) If the Government does not proceed with an action in accordance with this section, the person bringing the action or settling the claim shall receive an amount that the court decides is reasonable for collecting the civil penalty and damages. The amount shall be not less than 25 percent and not more than 30 percent of the proceeds of the action or settlement. Such person shall also receive an amount for reasonable expenses, plus reasonable attorneys' fees and costs.
  - (3) If the Government does not proceed with the action and the person bringing the action conducts the action, the court may award to the defendant its reasonable attorneys' fees and expenses if the defendant prevails in the action and the court finds that the claim of the person bringing the action was clearly frivolous, clearly vexatious, or brought primarily for purposes of harassment.
- E. Government not liable for certain expenses. The Government is not liable for expenses that a person incurs in bringing an action under this section.
- IV. PRIVATE ACTION FOR RETALIATION (WHISTLEBLOWER PROTECTION)
- Any person who is discharged, demoted, suspended, threatened, harassed, or in any other manner discriminated against in the terms and conditions of employment by the employer because of lawful acts done by the person in furtherance of an action under this section, including investigation for, initiation of, testimony for, or assistance in an action filed or to be filed under this section, shall be entitled to all relief necessary to make the employee whole. Such relief shall include reinstatement with the same seniority status such person would have had but for the discrimination, two times the amount of back pay, interest on the back pay, and compensation for any special damages sustained as a result of the discrimination, including litigation costs and reasonable attorneys' fees. A person may bring an action in the appropriate court of the Government for the relief provided in this subsection.

V. LIMITATION OF ACTIONS

- A. Statute of limitations. A civil action under Section III may not be brought more than 10 years after the date on which the violation was committed.
- B. Retroactivity. A civil action under Section III may be brought for activity prior to the effective date of this Act if the limitations period set in Subdivision A. has not lapsed.
- C. Burden of proof. In any action brought under Section III, the Government or the qui tam plaintiff shall be required to prove all essential elements of the cause of action, including damages, by a preponderance of the evidence.
- D. Estoppel. Notwithstanding any other provision of law, a guilty verdict rendered in a criminal proceeding charging false statements or fraud, whether upon a verdict after trial or upon a plea of guilty or nolo contendere, shall estop the defendant from denying the essential elements of the offense in any action which involves the same transaction as in the criminal proceeding and which is brought under subdivision A, B, or C of Section III.

### **Anti-Kickback Statute**

- I. OVERVIEW OF THE FEDERAL ANTI-KICKBACK STATUTE:
  - A. The Federal Anti-Kickback Statute's main purpose is to protect patients and federal health care programs from fraud and abuse. The Federal Anti-Kickback Statute prohibits certain conduct involving improper payments in connection with the delivery of items or services. These prohibitions apply to anyone who knowingly and willfully solicits or receives any payment in return for referring an individual to another person for the furnishing, or arranging for the furnishing, of any item or service that may be paid in whole or in part by the Medicare, Medicaid, or other federally funded health care program.
  - B. The federal Anti-Kickback Statute applies where an individual offers or makes payments to another person in order to induce referrals or other prohibited conduct. Illegal payments or solicitations of payments include those in cash or in kind, i.e., goods, those made directly or indirectly, and those made overtly or covertly.
- II. LIABILITY FOR VIOLATIONS OF THE ANTI-KICKBACK STATUTE:
  - A. Health organizations and providers that violate the Anti-kickback Statute can be subject to a maximum civil monetary penalty of \$25,000, imprisonment up to five years, or both.
  - B. Conviction would also lead to automatic exclusion from the Medicare, Medicaid, and other federally funded health care programs. Exclusion from these programs may also be sought by the Department of Health and Human Services ("HHS") through an administrative proceeding, without the need to initiate a criminal prosecution. Responsibility for enforcement of the statute is delegated within HHS to the Office of the Inspector General ("OIG").
  - C. Employer prohibits bribes or kickbacks, including a complex array of discounts, rebates, profit-sharing agreements, or other business arrangements that would violate federal laws such as the Anti-Kickback Statute.

### **Stark Laws**

- I. OVERVIEW OF THE STARK LAWS:

Stark I and II are federal statutes that prohibit providers from making referrals to any entity in which they, or an immediate family member, have a financial relationship and which provides certain designated health services, unless an exception applies. A financial relationship includes, but is not limited to, ownership or investment interest, and compensation arrangements.

II. LIABILITY FOR VIOLATIONS OF THE STARK LAWS:

- A. Providers that violate the Stark Laws can be subject to the denial of payment of all designated health service claims and civil money penalties for knowing violations of the prohibitions.
- B. Violations may also be pursued under the Federal False Claims Act.
- C. Employer prohibits referrals and prohibits providers from referring patients for health care services to entities in which the provider has a financial relationship that would violate federal laws such as Stark.

**Training**

I. ALL EMPLOYEES OF COMPANY:

- A. Consumer and Caregiver Training: A copy of this Summary is attached as an Addendum to the Company's Corporate Compliance Policy and provided to all employees. The Corporate Compliance Policy, with the False Claims Act Addendum, is provided to all new consumers and caregivers during orientation. In addition, all employee handbooks and consumer training manuals contain a summary of the False Claims Act, included in the Medicaid Fraud section of the handbooks and manuals.
- B. Administrative Staff: Comprehensive training is conducted with all managers and staff using the training booklet "Deficit Reduction Act Compliance Training Program – An Overview of the False Claims Act and Federal Health Care Programs."

II. CONTRACTORS AND AGENTS: All contractors and agents of the Company are provided with a copy of this Summary and the applicable State False Claims Act Summary.

**ADDENDUM 2****WISCONSIN MEDICAID FRAUD**

September 2008

**I. OVERVIEW OF WISCONSIN FRAUD AND ABUSE LAWS**

Wisconsin addresses Medicaid fraud & abuse in Wis. Stat. §49.485, False Claims, §49.49, Medical Assistance Offenses and §49.495, Jurisdiction of the Department of Justice. The Wisconsin Fraud statutes provide for civil penalties against anyone who knowingly presents or causes to be presented to any officer, employee or agent of the State a false claim for medical assistance.

**II. MEDICAID FRAUD CONTROL UNIT**

The Wisconsin Medicaid Fraud Control Unit investigates and prosecutes crimes committed against vulnerable adults in nursing homes and other facilities, as well as fraud perpetrated by providers against the Wisconsin Medicaid program. The Wisconsin Department of Justice Medicaid Fraud Control Unit (MFCU) is a unit within the Division of Legal Services that, often in conjunction with local law enforcement officials, investigates and prosecutes allegations of:

- A. Medicaid provider fraud;
- B. Abuse of, neglect of and misappropriation from residents or patients residing in facilities that receive Medicaid funds;
- C. Abuse and neglect of residents in board and care facilities that do not receive Medicaid funding, such as nursing home, CDRFs, adult family homes, etc.; and
- D. Criminal laws affecting the Medicaid program, including but not limited to laws relating to fraud and the health, safety and welfare of Medicaid recipients.

**III. LIABILITY FOR VIOLATIONS OF FRAUD AND ABUSE LAWS**

- A. The unlawful acts listed in the Federal False Claims Act, that subject a person to liability for Medicaid fraud, are substantially the same under Wisconsin's Fraud statutes. See Addendum 1, Federal Fraud and Abuse Summary.
- B. The Penalties for violating Wis. Stat. §49.49 are:
  - i. If violations by a person furnishing items or services for which medical assistance is or may be made, the penalty is not more than \$25,000 and classification as a Class H felony. This penalty is the same for a person convicted of kickbacks, bribes and/or rebates.
  - ii. If violations by any other person the fine may not be more than \$10,000 or imprisonment for not more than one year in the county jail, or both.
  - iii. The State shall have a cause of action for relief in the amount of 3 times the amount of the actual damages.
- C. No provider may knowingly impose upon a recipient charges in addition to payments received for services, or knowingly impose direct charges upon a recipient in lieu of obtaining payment under the statutes.
- D. Penalties for knowingly making or causing to be made any false statements or representations of a material fact in any application for benefits or payments, or for use in determining rights to a benefit or payment, or knowingly concealing or failing to disclose any event that would affect a recipient's entitlement to benefits may include forfeiture of

not less than \$100 or more than \$15,000 for each statement, representation, concealment or failure.

- E. The Department of Justice may impose liens on the homes of nursing home residents and inpatients at hospitals, as well as the estates of recipients to recover payments made due to fraudulent claims.
- F. With some exceptions, persons who have engaged in unlawful acts pursuant to the False Claims Act may be liable to the United States Government for a civil penalty that is not less than \$5,000 and not greater than \$10,000 **plus** three times the amount of damages the Government sustains because of the act of that person.

#### IV. EMPLOYEE PROTECTION

- A. Federal law prohibits an employer from forbidding an employee to disclose information to the government or to act in furtherance of an action, including investigation for, bringing or testifying in such an action.
- B. An employer shall not discharge, demote, suspend, threaten, harass, deny promotion to or otherwise discriminate against an employee in the terms or conditions of his employment because of lawful acts done by him on his own behalf or on behalf of others in disclosing information to the government in furtherance of an action brought under the False Claims Act.
- C. With certain exceptions, an employee is entitled to remedies from an employer who retaliates against the employee for bringing or cooperating in an action involving a violation of the False Claims Act.

#### V. DEFINITIONS

- A. **FRAUD**  
The intentional deception or misrepresentation that an individual knows, or should know to be false, or does not believe to be true, and makes, knowing the deception could result in some unauthorized benefit to himself or some other person(s).
- B. **FRAUD & ABUSE**  
**Fraud:** To purposely bill for services that were never given or to bill for a service that as a higher reimbursement than the services produced.  
**Abuse:** Payment for items or services that are billed by mistake by providers, but should not be paid for by Medicare/Medicaid. This is not the same as Fraud.

#### VI. TRAINING

The Federal Act requires that all Company employees, contractors and agents receive training or education relating to the pertinent elements of the Federal False Claims Act.

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Please review the **Corporate Compliance Policy** and additional information relating to Fraud and Abuse in the **Caregiver Handbook**.

If you have any questions regarding this subject, please contact your manager, supervisor, or the Corporate Compliance Officer.

**EMPLOYEES ARE OBLIGATED TO REPORT POTENTIAL FRAUD AND ABUSE. EMPLOYEES WHO IN GOOD FAITH REPORT SUSPICIONS OF MEDICAID FRAUD OR ABUSE ARE PROTECTED FROM ANY FORM OF RETALIATION.**

**FITNESS FOR DUTY****DRUG FREE WORKPLACE POLICY**

Revision Date 5/1/2009

**POLICY STATEMENT**

Because drug and alcohol abuse in the workplace results in decreased productivity, increased liability exposure, and higher workers' compensation insurance premiums, Consumer Direct for Wisconsin, LLC ("Company") has a substantial and vested interest in not only providing, but also ensuring, a drug-free workplace for the safety and welfare of employees and consumers, as well as the Company.

**OBJECTIVES**

The goal of this Policy is to monitor and address any workplace or work time situation wherein a Supervisor or Manager determines an employee is unfit for duty, and/or address any substance abuse issues affecting the workplace, while adhering to the procedural requirements imposed by law.

**RESPONSIBILITY**

The Human Resources Manager is responsible for the overall implementation and management of the Fitness For Duty Drug Free Workplace Policy. This includes communication of the Policy's Standards of Conduct to all new employees, investigation of reports of violations of the Policy, and providing assistance to employees who voluntarily seek help with drug or alcohol dependency issues. The Risk Manager will assist the Human Resources Manager, as needed.

Senior Management approves and supports all aspects of this Policy.

Approved by: Signature on file Date: May 1, 2009  
Signature  
Bruce Kramer / Senior Vice President  
Name / Title

**SCOPE**

Compliance with this Policy is required of all Company employees.

1. Standards of Conduct. The following standards of conduct apply to all employees:
  - a. Employees are strictly prohibited from working while unfit for duty which may include but is not limited to impairment resulting from the use of legal or illegal drugs or alcohol.

- b. The use, possession, transportation, purchase, promotion or sale of dangerous drugs on Company property, while performing Company business, or while attending a Company function is strictly prohibited. In addition, the Company prohibits an employee from being at work under the influence of alcohol or dangerous drugs. Dangerous drugs are those drugs designated as controlled Substances in Title 21 of the United States Code, Section 812, except a drug used pursuant to a valid prescription or as authorized by law. Other than as set forth in subparagraph c. below, the use by employees of alcohol and/or being under the influence of alcohol while working, while on Company property, or while using a Company vehicle or equipment, is prohibited.

The term “Company property” is used in its broadest sense and includes all land, property, buildings, structures, installations, parking lots, and means of transportation owned by or leased by the Company or otherwise being utilized for Company business. Private vehicles used by employees for work-related activities and vehicles parked on Company property are included within this prohibition.

- c. If approved, employees may bring or consume alcoholic beverages on Company premises in connection with and during Company-authorized events, but only to the extent that such use does not lead to impaired performance, inappropriate behavior, endangering the safety of any individual or violation of applicable laws.

## 2. Policy on Rehabilitation.

- a. Any employee who feels that he or she has a problem with some form of chemical dependency is encouraged to seek assistance. Requests for information concerning such assistance will be kept confidential. An employee seeking assistance for drug or alcohol dependency **may be** afforded coverage under the Company's health care plan. The employee will need to review their benefit plan document to determine coverage issues.
- b. The Company will grant rehabilitation leave to employees seeking treatment on a voluntary basis. To request leave, employees must contact the Human Resources Manager. To be eligible for paid leave (use of sick or vacation days), employees must have completed the eligibility period of employment prior to seeking sick or vacation pay leave. Employees who have been with the Company for less than the described eligibility periods of time **may be** entitled to the same total leave, but it will be without pay. Once the Company has initiated a drug and alcohol test process for an individual employee, that employee no longer has the right to request treatment on a voluntary basis. The cost of rehabilitation will be at the employee's expense, except to whatever extent covered by the Company's health care plan.
- c. Any employee who leaves a treatment program prior to completion of, and proper discharge from, the program will be immediately terminated from employment.

## 3. Sanctions. The following sanctions shall apply to employees violating the Company's standards of conduct, for being unfit for duty, or testing positive for dangerous drugs or alcohol:

- a. Employees who violate company policy regarding standards of conduct set forth herein are subject to discipline up to and including immediate dismissal.
  - b. Employees who knowingly create a dangerous situation by working while impaired as a result of prescription or over-the-counter pain killers or other medicines, are subject to discipline, up to and including immediate dismissal.
  - c. Employees who test positive for dangerous drugs or alcohol pursuant to the procedures set forth below are subject to discipline up to and including immediate dismissal.
  - d. Employees who test positive the first time for dangerous drugs or alcohol may also be required to participate in a drug and/or alcohol counseling treatment or rehabilitation program at the employee's expense (unless covered by applicable health coverage), as an alternative to termination. Testing positive for dangerous drugs and/or alcohol a second time, will result in immediate termination.
  - e. Employees who test positive for dangerous drugs or alcohol will be subject to follow-up testing including random testing.
  - f. No negative sanctions will be imposed on an employee by the Company if the employee presents a reasonable explanation or medical opinion indicating the positive test results were not caused by illegal or otherwise prohibited use of dangerous drugs or by alcohol consumption. This explanation must be given to the Medical Review Officer ("MRO") and confirmed as a reasonable explanation, resulting in the rendering of the test as negative. Any such explanation will be treated as confidential
  - g. Refusal by an employee to submit to initial testing, follow-up testing, or random testing will be deemed a positive test and therefore subject the employee to immediate dismissal.
  - h. Employees who attempt to tamper with drug or alcohol test samples are subject to immediate dismissal.
4. Types of Testing. The Company may perform the following types of testing for dangerous drugs and alcohol:
- a. Fitness for duty reasonable suspicion testing of applicable employees.
  - b. Follow-up and random testing of employees who test positive, but per Management prerogative have not been immediately terminated. Follow-up and random testing may be performed up to two years from the date of the positive test.
  - c. Testing of applicable employees involved in work-related accidents causing death or personal injury or property damage.
  - d. Testing of applicable employees involved, or suspected of being involved, in causing or contributing to any work-related injuries.

All compensated employees, including officers, directors and supervisors are subject to this Policy. However, this does not include independent contractors.



Fitness For Duty Reasonable Suspicion Testing

Employees will be subject to a Fitness For Duty medical evaluation, to include appropriate current methodologies for drug and alcohol testing when any Supervisor or Manager determines there are reasons to believe that the employee is or was at work while in violation of this Policy or if the Company has reason to believe that an employee has negatively impacted the Company’s reputation via after hours use of dangerous drugs or alcohol. Testing methodologies include but are not limited to: urinalysis, saliva, breathalyzer, hair follicle, etc. A fitness for duty reasonable suspicion referral for testing will be made on the basis of documented, specific, contemporaneous, articulable observations concerning an employee’s appearance, behavior, and speech. The following, not all-inclusive, list of conditions may be signs that an employee is under the influence of drugs and/or alcohol and, if at work, is unfit for duty:

- Abnormally dilated or constricted pupils
- Dulled mental processes
- Glazed stare - redness of eyes (sclera)
- Flushed face
- Change of speech (e.g. faster or slower)
- Redness under nose
- Needle marks
- Change in personality (e.g. paranoia)
- Poor concentration
- Constant fatigue or hyperactivity
- Slurred speech
- Smell of alcohol
- Excessive, unexplained absences
- Slowed reaction rate
- Difficulty walking
- Forgetfulness/performance faltering

Reasonable suspicion determinations will be made by any Manager or Supervisor who reasonably concludes that an employee may be in violation of this Policy. A fitness for duty medical evaluation, including drug testing, may be conducted anytime while an employee is on duty, immediately before or after the employee’s regular work period, or anytime after hours if it is determined the employee’s behavior is negatively reflecting on the Company’s reputation. While waiting for the results of a drug test, the employee will be assigned to non-safety-sensitive functions.

5. Dangerous Drugs to be Tested for. The Company will utilize a 10-Panel test for the following types of dangerous drugs:

|                     | <u>Initial Screen</u> | <u>Confirmation Screen</u> |
|---------------------|-----------------------|----------------------------|
| Marijuana (THC)     | 50ng/ml               | 15ng/ml                    |
| Cocaine Metabolites | 300ng/ml              | 150ng/ml                   |
| Opiates             | 2000ng/ml             | 300ng/ml                   |

|                   |           |          |
|-------------------|-----------|----------|
| Amphetamines      | 1000ng/ml | 500ng/ml |
| PCP               | 25ng/ml   | 25ng/ml  |
| Benzodiazepines   | 200ng/ml  | 50ng/ml  |
| Barbiturates      | 200ng/ml  | 200ng/ml |
| Methaqualone      | 300ng/ml  | 300ng/ml |
| Propoxyphene      | 300ng/ml  | 150ng/ml |
| Methadone Ethanol | 300ng/ml  | 150ng/ml |

The Company reserves the right to modify this list from time-to-time to include additional substances in the Panel.

6. Prohibited Alcohol Concentration Level. Employees who test positive for alcohol concentration at or above .04 and/or are materially impaired will be deemed to be in violation of this Policy.
7. Testing Procedures. Fitness for duty medical evaluations will be conducted during, or immediately before or after the regular work period of the employee to be tested, and the time spent by the employee while being tested, and in going to and from the testing facility, will be considered work time for purposes of compensation and benefits. All drug and alcohol testing will be conducted at Company-designated laboratories approved or certified by the United State Department of Health and Human Services, the College of American Pathologists, or the State Department of Health Services. The Company has contracted with state-approved drug and alcohol testing service companies to perform all testing, using scientifically accepted analytical methods and procedures, which may involve urinalysis, saliva, breathalyzer, hair follicle, or any other current methodology utilized by licensed testing facilities, including any other reliable and scientifically accepted industry available tests that may be developed. All test samples will be labeled in such a manner as to reasonably preclude the possibility of misidentification of the employee tested in relation to the test result provided by the testing entity.

Positive tests will be subject to confirmation through a chromatographic technique, such as gas chromatography-mass spectrometry or another comparably reliable, analytical method. Confirmed positive tests will be reviewed by the Medical Review Officer prior to the imposition of sanctions against an employee. The initial test will be at the Company's expense and employees will be paid at their regular rate, including benefits, for time attributable to the testing procedure.

All testing results are confidentially maintained by the Human Resources Manager.

A copy of the testing protocols is available from the Human Resources Manager.

8. Dispute Resolution Procedures. If an employee is tested for drugs and alcohol and the employee disputes the test result or believes that they have a reasonable explanation for a failed test, the employee will be given the opportunity to provide the Medical Review Officer with any medical information that is *relevant* to interpreting the test *results*,

including information concerning currently or recently used prescription or non-prescription drugs.

The employee will be provided a copy of the test report. The employee has the right to request an additional test of the split sample by an independent laboratory selected by the person being tested. If a second test is requested, the cost of such test will be at the employee's expense if the test is positive and at the Company's expense if the test is negative. Employees with positive drug or alcohol tests will be offered the opportunity, in a confidential setting, to provide information that they believe may tend to rebut or explain the positive results obtained in their test. The Human Resources Manager will make the final employment decision or recommendation after considering the results of any drug test(s).

9. Confidentiality Requirements. All information, interviews, reports, statements, memoranda, and test results shall be confidential and shall not be disclosed to anyone, except:
  - a. The tested employee.
  - b. The Company's Human Resources Manager.
  - c. In connection with any legal or administrative proceeding arising out of the implementation of sanctions, or in response to inquiries relating to a work-related accident involving death, personal injury, or property damage when there is reason to believe that the employee may have caused or contributed to the accident.
  - d. Information obtained in the testing process that is unrelated to the use of dangerous drugs or alcohol may not be released by the Medical Review Officer to the employer.
10. Chain of Custody Requirements. The collection, transportation and confirmation testing of any drug test samples will be performed in accordance with 49 C.F.R. §40.73.
11. Summary of Criminal Sanctions for Use of Dangerous Drugs. The manufacture, distribution, possession, or use of dangerous drugs (other than pursuant to a valid prescription or otherwise authorized by law) is illegal under State and Federal law, and is subject to various criminal sanctions, including fines of up to \$50,000 and prison sentences of up to life in prison. In some cases there are mandatory minimum prison sentences. Federal sanctions are generally more severe than are State sanctions.
12. Distribution of Safety Materials. Company will make information available to all employees concerning the health and workplace safety risks of using controlled substances and alcohol. These materials will be distributed at the time each employee receives a copy of this Policy and to all employees who test positive for dangerous drugs or alcohol. Employees wishing to receive additional copies of these materials may do so by contacting the Company's Human Resources Department.
13. Search and Inspection. While on Company premises or while engaged in Company business, employee vehicles, desks, equipment, lockers, brief cases, back packs, purses, etc. may be

searched or inspected by a member of Management at any time, if the Company feels there is reasonable cause to do so.

14. Pre-Employment Testing. At this time, the Company has chosen not to engage in pre-employment drug or alcohol testing, but reserves the right to change this policy at any time and without advance notice.

## EXPOSURE CONTROL PLAN

### Policy

The Company (“Company”) is committed to providing a safe and healthful work environment for its entire staff. In pursuit of this endeavor, the following Exposure Control Plan (“ECP”) is provided to eliminate or minimize occupational exposure to bloodborne pathogens in accordance with OSHA standard 29 CFR 1910.1030 “Occupational Exposure to Bloodborne Pathogens.”

The ECP is a key document to assist the Company in implementing and ensuring compliance with the standard, thereby identifying employees potentially at risk for occupational exposure to blood or other infectious materials and therefore are at risk for exposure to HIV and HBV.

This Plan is reviewed with all employees at orientation and thereafter at least annually.

### Approval

Approved by: Signature on File Date: April 18, 2008  
Signature  
Bruce Kramer / Senior Vice President  
Name / Title

### Program Administration

The Risk Management Department is responsible for the implementation of the ECP. The Risk Management Department will maintain, review and update the ECP at least annually, and whenever necessary to include new or modified tasks and procedures which affect occupational exposure and to reflect new or revised employee positions with occupational exposure.

Those employees who are determined to have occupational exposure to blood or other potentially infectious materials (“OPIM”) must comply with the procedures and work practices outlined in this ECP.

The Company will maintain and provide all necessary personal protective equipment (“PPE”), engineering controls (e.g., sharps containers), labels and red bags as required by the standard and applicable to home health care.

The Risk Management Department is responsible for maintaining appropriate employee health and OSHA records.

The Company is responsible for training and documentation of training. The Risk Management Department is responsible for making the written ECP available to employees, OSHA, and the NIOSH representatives.

### Exposure Determination

OSHA requires employers to perform an exposure determination concerning which employees may incur occupational exposure to blood or other potentially infectious materials. The exposure determination is made without regard to the use of personal protective equipment

(i.e. employees are considered to be exposed even if they wear personal protective equipment.) This exposure determination is required to list all job classification in which all employees may be expected to incur such occupational exposure, regardless of frequency. At this facility the following job classifications are in this category.

In addition, OSHA requires a listing of job classifications in which some employees may have occupational exposure. Since not all the employees in these categories would be expected to incur exposure to blood or other potentially infectious materials, tasks or procedures that would cause these employees to have occupational exposure are also required to be listed in order to clearly understand which employees in these categories are considered to have occupational exposure. The job classifications and associated tasks for these categories are as follows:

- Job Classifications in which *all* employees have Occupational Exposure:
  - Nurses, Home Health Aides, C.N.A.s., P.C.A.s, Habilitation Aides
  
- Job Classifications in which *some* employees have Occupational Exposure:
  - Physical Therapists
  - Occupational Therapists
  - Speech Therapists
  - Medical Social Workers
  
- Job Classifications in which there is *little* Chance of Exposure:
  - Office staff
  - Administrative personnel
  
- Tasks and Procedures in Which Occupational Exposure May Occur:
  - Handling of blood, blood products or body fluids or objects contaminated thereof
  - Invasive procedures
  - Care of newborns, infants and children
  - Phlebotomy or vascular access procedures and the care thereof
  - Contact with laboratory or pathological specimens
  - Wound care
  - Contact with mucous membranes or non-intact skin
  - Handling or disposal of medical waste
  - Cleaning or processing of contaminated equipment
  - Dialysis
  - Suctioning or sputum induction
  - CPR and intubation
  - Handling of soiled linen
  - Cleaning or decontamination of environmental surfaces

**Method of Compliance**

Methods of compliance to include but not limited to:

- ◆ Standard Precautions  
All employees will utilize standard precautions.
- ◆ Exposure Control Plan  
Employees covered by the bloodborne pathogens standard receive an explanation of the ECP during their initial training session. It will also be reviewed in their annual refresher training. All employees have an opportunity to review this Plan at any time during their work shifts by contacting the Risk Management Department. If requested, the employee will be provided with a copy of the ECP free of charge and within 15 days of the request.
- ◆ Engineering Controls and Work Practices  
Engineering controls and work practices controls will be used to prevent or minimize exposure to bloodborne pathogens. The specific engineering controls and work practice controls used are listed below:
  - ❖ Handwashing Policies and Procedures
  - ❖ Isolation Practices
  - ❖ Medical Waste Policies and Procedures
  - ❖ Personal Protective Equipment Policies and Procedures

Employees are prohibited from eating, drinking, smoking, applying makeup or handling contact lenses in work areas where there is a reasonable likelihood of occupational exposure. Food and drink should not be stored in refrigerators, freezers, shelves, cabinets or on countertops where blood or other potentially infectious materials are present.

Needles, razor blades, broken glass and other contaminated “sharps” must be placed directly in a puncture-resistant, biohazard sharps container at the point of use. Gloves must always be worn when handling sharps.

The Risk Management Department identifies the need for changes in engineering control and work practices through review of records, maintaining incident logs and analyzing trends by Safety Committee activity.

The Safety Committee will evaluate new procedures or new products regularly by reviewing literature, supplier information, and product demonstration.

Both front line workers and management officials are involved in this process, by posted notice, orientation, memo in pay checks, or annual recertification.

The Risk Management Department will ensure effective implementation of these recommendations.

**Hepatitis B Vaccination**

Hepatitis B vaccine is available to all employees (who have some risk of occupational exposure) unless the employee has previously received the complete Hepatitis B vaccination series, antibody testing has revealed that the employee is immune, or the vaccine is contraindicated for medical reasons.

The Hepatitis B vaccination series is available at no cost after training and within 10 days of initial assignment to employees identified as having risk for occupational exposure.

Vaccinations will be provided by the Public Health Department.

Employees who decline to accept Hepatitis B vaccination must also sign a consent form. This does not prohibit the employee from choosing to receive the vaccine at a later date nor shall it adversely impact their job assignment.

Employees will receive counseling from a health care provider on the Hepatitis B vaccine, including information on efficacy, safety, method of administration, and the benefits and side effects of being vaccinated.

**Post-Exposure Follow-up**

Should an exposure incident occur, contact your department supervisor.

Following an exposure incident, all employees shall receive a confidential medical evaluation and follow-up that includes these elements:

- ❖ Documentation of the route(s) of exposure and the circumstances under which the exposure occurred.
- ❖ A description of the employee's duties as they relate to the incident.
- ❖ Identification and documentation of the source individual, when known. Arrangements will be made and consent obtained from the source individual to be tested as soon as possible to determine HIV, HCV and HBV infectivity; with documentation that the source individual's test results were conveyed to the employee's health care provider. If the source individual is already known to be HIV, HCV and/or HBV positive new testing need not be performed.
- ❖ Assure that the exposed employee is provided with the source individual's test results and with information about applicable disclosure laws and regulations concerning the identity and infectious status of the source individual (e.g. laws protecting confidentiality).
- ❖ After obtaining consent, collect exposed employee's blood as soon as feasible after exposure incident, and test blood for HBV and HIV serological status.
- ❖ If the employee does not give consent for HIV serological testing during collection of blood for baseline testing, preserve the baseline blood sample for at least 90 days; if the exposed employee elects to have the baseline sample tested during this waiting period, perform testing as soon as feasible.
- ❖ The employee's relevant medical records and vaccination dates shall be made available to the healthcare professional evaluating the employee.



Results of the source individual's testing, if known, shall be made available to the exposed employee and the employee shall be informed of applicable laws and regulations concerning disclosure of the identity and infectious status of the source individual.

A written report of this medical evaluation shall be available to the employee within fifteen (15) days of exposure. This report will be limited to:

- ❖ The employee being informed of the results of the evaluation
- ❖ The employee being told of any medical conditions resulting from exposure to blood or other potentially infectious materials which require further evaluation or treatment

All other finding or diagnoses will remain confidential and will not be included in the written report.

### **Procedures For Evaluation The Circumstances Surrounding An Exposure Incident**

The Risk Management Department will review the circumstances of all exposure incidents to determine:

- Engineering controls in place at the time
- Work practices followed
- A description of the device being used
- Protective equipment or clothing that was used at the time of the exposure incident (gloves, eye shields, etc)
- Location of the incident
- Procedure being performed when the incident occurred
- Employee's training

The Risk Management Department will record all percutaneous injuries from contaminated sharps in the Sharps Injury Log.

If it is determined that revisions need to be made, the Risk Management Department will ensure that appropriate changes are made to this ECP. (Changes may include an evaluation of safer devices, adding employees to the exposure determination list, etc).

### **Employee Training**

All employees who have occupational exposure to bloodborne pathogens receive training conducted by the Company.

All employees who have occupational exposure to bloodborne pathogens receive training on the epidemiology, symptoms and transmission of bloodborne pathogen diseases. In addition, the training program covers, at a minimum, the following elements:

- A copy and explanation of the standard.
- An explanation of our ECP and how to obtain copy.
- An explanation of methods to recognize tasks and other activities that may involve exposure to blood and OPIM, including what constitutes an exposure incident.

- An explanation of the use and limitations of engineering controls, work practices, and PPE.
- An explanation of the types, use, location, removal, handling decontamination and disposal of PPE.
- An explanation of the basis for PPE selection.
- Counseling from a health care provider on the Hepatitis B vaccine, including information on efficacy, safety, method of administration, the benefits of being vaccinated as well as the side effects of being vaccinated and that the vaccine will be offered free of charge.
- Information on the appropriate actions to take and persons to contact in any emergency involving blood or OPIM.
- An explanation of the procedure to follow if an exposure incident occurs including the method of reporting the incident and the medical follow-up that the employer is required to provide for the employee following an exposure incident.
- An explanation of the signs and labels and/or color coding required by the standard and used by the Company.
- An opportunity for interactive questions and answers with the person conducting the training session.

Training materials are available from the Company and the Risk Management Department.

### **Recordkeeping**

Training Records:

- Training records are completed for each employee upon completion of orientation. These documents will be updated yearly and kept with the employee's personnel file.

Training records include:

- The dates of the training session
- The contents or a summary of the training session
- The names and qualifications of persons conducting the training
- The names and job titles of all persons attending the training sessions.

Employee training records are provided upon request to the employee or the employee's authorized representative within 15 working days. Such requests should be addressed to the Human Resources Department.

### **Medical Records**

Medical records are maintained for each employee with occupational exposure in accordance with 29 CFR 1910.1020 "Access to Employee Exposure and Medical Records.

The Risk Management Department is responsible for maintenance of the required medical records. These confidential records are kept in the Risk Management Department for at least the duration of the employment.

Employee medical records are provided upon request of the employee or to anyone having written consent of the employee within 15 working days. Such requests should be sent to the Risk Management Department.

**OSHA Recordkeeping**

An exposure incident is evaluated to determine if the case meets OSHA's Recordkeeping Requirements (29 CFR 1904). This determination and the recording activities are performed by the Risk Management Department.

**Sharp's Injury Log**

In addition to the §1904 Recordkeeping Requirements, all percutaneous injuries from contaminated sharps are also recorded in the Sharp's Injury Log. All incidents must include at least:

- The date of injury.
- The type and brand of the device involved.
- The department or work areas where the incident occurred.
- An explanation of how the incident occurred.

The Sharps Log is reviewed at least annually as part of the annual evaluation of the program and is maintained for at least five years following the end of the calendar year that they cover. The Log is maintained by the Risk Manager. If a copy is requested by anyone, it must have any personal identifiers removed from the report.

**Communication of Hazards**

All blood or potentially infectious materials shall have a biohazard label affixed to the container (blood and blood products for clinical use are exempt) or shall be stored in red bags or red containers.

## SAFE DRIVING PROGRAM SUMMARY

### Policy Statement

The Company (“Company”) has made a commitment to safety, service, and quality to both our employees and customers. All employees assigned the privilege of driving a Company vehicle, as well as employees using personal vehicles in the course of company business, have an obligation to operate said vehicles in accordance with Federal, State and local laws, codes and regulations. Every Company employee has the responsibility to exercise safe conduct and common courtesy toward the general public, motorists and pedestrians while operating a vehicle during the course of company business.

### Motor Vehicle Record (MVR) Policy

It is a Company policy and requirement for employment that every employee with driving duties have a valid driver’s license and a motor vehicle record (“MVR”) that meets the grading requirements of the Company. This MVR policy applies to all drivers who operate a vehicle in the course of company business, including company-owned, leased or private vehicles.

### Insurance

All employees of the Company, who are authorized to use their personal vehicles in the course of company business, must carry adequate liability insurance coverage on their vehicle. The Company requires proof of insurance upon hire and periodically thereafter, as long as the employee is using their personal vehicle in the course of company business. Driving a personal vehicle without valid insurance is grounds for immediate termination.

### The Law

Company employees are instructed to obey all traffic regulations at all times. Any violations of traffic laws and any fines resulting from citations are the responsibility of the individual receiving the citation. Employees with an excessive number of traffic violations will not be allowed to drive as part of their job. (See MVR policy.)

### Cell Phones

It is against Company policy for anyone who is driving, in the course of company business, to talk on a cell phone – no exceptions. If an employee gets a call while driving, they must first pull over, and then answer the call, or simply let the call go to voice mail and check the message later, when not driving. If a call is missed, the driver must pull over before checking their voice mail. To use a cell phone during the course of Company business while in a vehicle, the vehicle must be parked.

### Seat Belts

Motor vehicle accidents are the number one cause of on-the-job deaths. To reduce risk, Company employees and passengers are required to use vehicle-equipped restraining devices (any/all seat belts and shoulder straps) when driving or riding while on company business.

### Accidents

All accidents are to be reported to the Risk Manager (via the Injury Hotline 877-532-8542, if necessary) as soon as reasonably possible, with written notification to follow within twenty-four (24) hours after the accident occurs.

As an employee of a Consumer Direct Care Network company (CDCN), you'll likely see or hear personal information that belongs to our service recipients and/or caregivers. Every day CDCN uses people's personal information to provide needed services. Because personal information is sensitive, we must take care to protect it as its disclosure could harm the individuals to whom it belongs. As such, CDCN employees must follow federal and state privacy laws.

This Guide will prepare you to recognize Personally Identifiable Information (PII) and Protected Health Information (PHI). You will learn CDCN's policies and procedures to safeguard PII & PHI, as well as the proper use and disclosure of PII & PHI. This Guide is meant for caregivers and nurses in co-employment, agency with choice, and agency-based traditional programs.

Please contact your local office or [InfoPrivacy@consumerdirectcare.com](mailto:InfoPrivacy@consumerdirectcare.com) if you have any questions or concerns about the topics in this Guide.

## INTRODUCTION TO PII & PHI

### **PERSONALLY IDENTIFIABLE INFORMATION (PII)**

PII is any information that links an individual's name with their Social Security Number, Driver's License number, Passport ID, Bank Account or Credit Card Account numbers, passwords, or other confidential information.

### **PROTECTED HEALTH INFORMATION (PHI)**

PHI is more restrictive than PII. PHI is any information from a service recipient that has a unique identifier that could be used to identify an individual. Some examples of PHI are a service recipient's:

- Full name
- Social security number
- Date of birth
- Medical diagnosis
- Address
- Phone number
- Medical record
- Account number
- Email address

## OVERVIEW OF PRIVACY LAWS

### **STATE PRIVACY LAWS**

Most states have privacy laws regarding the ways businesses collect PII & PHI. These laws ensure that PII & PHI is collected and retained in a protected manner. CDCN provides services in several states and must follow the privacy laws of each state. In addition, CDCN has developed strict PII & PHI protection rules as company policy.

**HEALTH INSURANCE PORTABILITY and ACCOUNTABILITY ACT (HIPAA)**

The Health Insurance Portability and Accountability Act of 1996 (HIPAA) is a federal law that requires companies and their employees to maintain the privacy and security of PHI for individuals receiving health care. Specifically, HIPAA explains when PHI may be used or disclosed.

Key ways HIPAA rules protect PHI:

- PHI may only be shared with the individual’s consent or when specifically allowed by HIPAA.
- PHI may only be changed or destroyed using procedures described in HIPAA; this protects the integrity of the information.
- HIPAA provides additional overall security and privacy protections.

**WHO MUST FOLLOW STATE PRIVACY LAWS & HIPAA?**

State privacy laws require any business that collects PII & PHI to protect the information from improper disclosure.

Federal HIPAA law requires healthcare providers and their business associates to protect PHI from improper disclosure. CDCN and all of our employees are always required to comply with HIPAA standards.

**SAFEGUARDING PII & PHI**

HIPAA and state privacy laws require us to make sure that PII & PHI is protected and not shared with the wrong people. PII & PHI must be protected and kept confidential in handwritten, printed, electronic, or oral form.

**KEEPING PII & PHI CONFIDENTIAL**

The most common cause of unauthorized disclosures of PII or PHI is human error which can be prevented. Below are best practices to help you protect PII & PHI:

- Keep all PII & PHI confidential
  - Treat PII & PHI as a “need to know” event. Share as little information with as few people as needed to complete your task. This includes coworkers or other service recipients/caregivers.
  - Do not bring unauthorized individuals with you to a service recipient’s home without prior permission from the service recipient.
  - Be aware of who is around you when on the phone. Minimize PII & PHI shared over the phone and don't share information if a non-employee is nearby.
  - Do not leave PII or PHI in a place where others can see it.
  - Do not use social media to post, transmit, or distribute PII or PHI.
  - Only use secure channels to send PII or PHI to CDCN. If you cannot send PHI using a secure method, obtain client permission before sending the PHI via an unsecured

method.

- Limit Sharing
  - Do not discuss PII or PHI in public areas such as elevators, restrooms, reception areas, or other areas where you can be overheard. Talking with a non-employee about a service recipient's unique name or any other minor detail can be considered a disclosure of PHI and may be subject to penalties.
  - Always make sure that you are giving PII or PHI only to individuals who are allowed to have it.

## USE and DISCLOSURE OF PHI AND PII

### WHAT ARE HIPAA "USES and DISCLOSURES" of PHI?

**Use:** occurs when a company that maintains PHI shares, analyzes, or examines the information.

**Disclosure:** occurs when PHI is shared, transferred, or released in any way by the individual or company holding the information.

### WHEN CAN PII or PHI BE DISCLOSED?

CDCN's policy states that PII cannot be disclosed without written authorization.

PHI may only be used or disclosed when one or more of the following situations is true:

1. The service recipient or their designated representative has agreed to the use or disclosure.
2. The service recipient or their designated representative allows information to be shared with a person involved in their health care.
3. PHI is being shared with the following:
  - Service recipient or their designated representative.
  - U.S. Department of Health and Human Services.
  - Covered Entity when CDCN is the Business Associate.
4. The use or sharing meets one of the HIPAA consent exceptions.

PII & PHI disclosed outside of these situations is considered an Unauthorized Disclosure. Please contact your local office, supervisor, or [InfoPrivacy@consumerdirectcare.com](mailto:InfoPrivacy@consumerdirectcare.com) if you have questions regarding whether a disclosure is authorized.

## UNAUTHORIZED DISCLOSURES

### WHAT ARE "UNAUTHORIZED DISCLOSURES" of PII & PHI?

"Unauthorized disclosures" of PII & PHI occur when PII or PHI is shared or released without the consent of the individual, or as otherwise authorized under state privacy law or HIPAA.

Examples of unauthorized disclosures include:

- Sharing the identity of, or information about, a service recipient with an unauthorized third party.
- Bringing a third party to a service recipient's home without permission.
- Speaking about a service recipient when a non-employee is present.

### **REPORTING PII or PHI DISCLOSURES**

CDCN's Privacy Officer manages our Privacy Program. If you are concerned that PII or PHI has been disclosed without authorization or in violation of CDCN's Privacy Policy, please immediately tell your supervisor and email [InfoPrivacy@consumerdirectcare.com](mailto:InfoPrivacy@consumerdirectcare.com) to report the incident.

## **NON-COMPLIANCE PENALTIES**

State penalties for disclosing PII in the wrong way can be applied to CDCN for failing to provide notification and identity theft protection to individuals affected. The cost of providing identity theft protection can range from \$50 to \$250 per person. The civil penalties for violating state statutes can range from \$10,000 to \$750,000.

Severe civil and criminal penalties can apply to CDCN and/or CDCN employees for disclosing PHI in the wrong way, even if it's an accident. Both CDCN and the individual employee can be held directly liable, and fines can range from \$100 to \$1,500,000.

Violations of state or federal privacy laws will result in corrective action, up to and including termination of employment.

Please remember to protect PII & PHI at all times and notify your local office immediately if you suspect an unauthorized disclosure has happened.