

ATTENTIVE CARE OF ALBANY, INC.
ATTENTIVE CARE, INC.
Standards of Conduct

I. STANDARDS OF CONDUCT

All of **ATTENTIVE CARE OF ALBANY, INC.** and **ATTENTIVE CARE, INC.** (the agency) business affairs must be conducted in accordance with federal, state and local laws, professional standards, applicable federally funded health care program regulations and policies and with honesty, fairness and integrity. Employees should perform their duties in good faith, in a manner that he or she reasonably believes to be in the best interest of the agency and its patients and with the same care that a reasonably prudent person in the same position would use under similar circumstances. To further these overall goals, a number of policies or standards of conduct have been adopted by the agency.

A. UNACCEPTABLE BEHAVIOR.

These include:

1. Intentionally or knowingly making false or erroneous entries on reports, patient charts or other agency records.
2. Dishonesty.
3. Unauthorized alteration or destruction of agency records including patients' charts.
4. Coding or billing which violates Medicaid rules or regulations or other federal rules or regulations.
5. Behavior detrimental to the operation.

Other unacceptable conduct may be defined in the agency's Policies and Procedures.

B. CONFLICT OF INTEREST.

In order to perform their duties with honesty and fairness and in the best interest of the agency and employees must avoid conflicts of interest in their employment. Conflicts of interest may arise from having a position or interest in or furnishing managerial or consultative services to any concern or business from which the agency obtains goods or services or with which it competes or does business, from soliciting or accepting gifts, excessive entertainment or gratuities from any person or entity that does or is seeking to do business with the agency and from using agency property for personal or private purposes. Conflicts also may arise in other ways. If an employee has any doubt or any question about any of his or her proposed activities, guidance or advice should be obtained from the Director of Human Resources. The agency policy on and prohibiting conflicts of interest may be obtained from the Department of Human Resources.

C. CONFIDENTIALITY OF INFORMATION.

A patient's health care record is the property of the agency and shall be maintained to serve the patient, necessary health care providers, the institution and third party payers such as Medicaid in accordance with legal, accrediting and regulatory agency requirements. The information contained in the health care record belongs to the patient and the patient is entitled to the protection of that information. All patient care information is regarded as confidential and available only to authorized users such as treating or consulting physicians and employees who may be providing patient care and to third party payers in order to facilitate reimbursement. The operations, activities, business affairs and finances of the agency should also be kept confidential and discussed or made available only to authorized users.

D. WORKPLACE ADMINISTRATIVE SEARCHES.

To assist in providing a reliable, efficient and productive work force for the proper care of patients, to assist in providing employees with a safe working environment, to assist in the effective operation of the Compliance Program, supervisors may conduct unannounced administrative searches of agency premises, offices, work areas, property and equipment and the contents of such property and equipment. No employee should have any expectation of privacy on the agency property or in their offices or work areas including lockers, desks, cabinets, drawers, shelves or trash cans or in folders, envelopes or packages located on agency premises. *In addition, searches of temporary space of live in aides at clients of the Agency may be subject to search at the discretion of the Agency as a result of a complaint of a patient whose property is occupied.* Personal possessions or materials should not be brought to work if they are of a sensitive or confidential nature. The agency policy on Workplace Administrative Searches may be obtained from the Department of Human Resources or designee. Other policies permit monitoring of and access to computers by supervisors. The use of computers, e-mail and access to the Internet must be reasonable and responsible.

E. FRAUD AND ABUSE.

Employees shall refrain from conduct, which may violate the fraud and abuse laws. These laws prohibit (1) direct, indirect or disguised payments in exchange for the referral of patients; (2) the submission of false, fraudulent or misleading claims to any government entity or third party payor, including claims for services not rendered, claims which characterize the service differently than the service actually rendered or claims which do not otherwise comply with applicable program or contractual requirements; and (3) making false representations to any person or entity in order to gain or retain participation in a program or to obtain payment or excessive payment for any service.

F. BUSINESS ETHICS.

Employees must accurately and honestly represent the agency and should not engage in any activity or scheme intended to defraud anyone of money, property or honest services.

G. FINANCIAL REPORTING.

All financial reports, accounting records, research reports, expense accounts, time sheets and other documents must accurately and clearly represent the relevant facts or the true nature of a transaction. Improper or fraudulent accounting, documentation or financial reporting is not only contrary to agency policy, it may be in violation of applicable laws. Sufficient and competent evidential matter or documentation shall support all cost reports.

H. PROTECTION OF ASSETS.

The agency will make available to employees assets and equipment necessary to conduct agency business including such items as computer hardware and software, billing and medical records, both hardcopy and in electronic format, fax machines, office supplies and various types of medical equipment. Employees should strive to use agency assets in a prudent and effective manner. The agency property should not be used for personal reasons or be removed from the agency without approval from a departmental manager. An employee who believes that any medical equipment is not operating properly nor has an inaccurate calibration should immediately report the problem to his or her supervisor.

I. ANTI-COMPETITIVE CONDUCT.

The agency will not engage in anti-competitive conduct that could produce an unreasonable restraint of trade or a substantial lessening of competition. Evaluation of anti-competitive conduct requires legal guidance. Communication by employees with competitors about matters that could be perceived to have the effect of lessening competition or could be considered as collusion or an attempt to fix prices should take place only after consultation with legal counsel.

J. CREDIT BALANCES.

The agency will comply with Federal and state laws and regulations governing credit balance reporting and refund all overpayments in a timely manner.

K. FINANCIAL INDUCEMENTS.

No employee shall offer any financial inducement, gift, payoff, kickback, or bribe intended to induce, influence or reward favorable decisions of any government personnel or representative, any customer, contractor or vendor in a commercial transaction or any person in a position to benefit the agency or the employee in any way. Employees are strictly prohibited from engaging in any corrupt business practice either directly or indirectly. No employee shall make or offer to make any payment or provide any other thing of value to another person with the understanding or intention that such payment or other thing of value is to be used for an unlawful or improper purpose. Appropriate commissions, rebates, discounts and allowances are customary and acceptable business inducements provided that they are approved by Administration and that they do not constitute illegal or unethical payments. Any such payments must be reasonable in value, competitively justified, properly documented, and made to the business entity to which the original agreement or invoice was made or issued. Such payments should not be made to individual employees or agents of business entities.

L. ADDITIONAL STANDARDS.

The agency has adopted a number of other agency wide policies and procedures. Employees may obtain copies in the Department of Human Resources. Additional standards and policies may be applicable only to particular departments and copies may be obtained from supervisors or directors in those departments. It is particularly important that coding, billing and submission of claims to Medicaid and other third party payers, be appropriate, accurate and in compliance with applicable laws and regulations. Standards relating to billing will be found in a later section of this Program. These Standards of Conduct apply to *all* employees, including supervisors, managers, directors and administrators. They also apply to temporary and contract employees and where practical to independent contractors doing business with the agency. These Standards are not intended to cover every situation which may be encountered and employees should comply with all applicable laws and regulations whether or not specifically addressed in the Standards.

Questions about the existence, interpretation or application of any law, regulation, policy or standard should be directed, without hesitation, to an employee's supervisor, manager or director or to the Compliance Officer mentioned in a later section of this Program. Because laws, regulations and policies are constantly evolving, this Compliance Program will be revised and updated as needed. Revisions will be communicated timely to agency employees. Failure to comply with the Standards of Conduct or to conduct business in an honest, ethical, reliable manner can result in civil fines or criminal penalties against the agency and its employees or disciplinary action by the agency, including termination. Supervisors are responsible for ensuring that their employees receive a copy of this Program and participate in mandatory training related to the Program.

M. False Claims Act

The Federal False Claims Act is a law that prohibits a person or entity, such as the agency from "knowingly" presenting or causing to be presented a false or fraudulent claim for payment or approval to the Federal Government and from "knowingly" making, using or causing to be made a false record or statement to get a false or fraudulent claim paid or approved by the Federal Government. These prohibitions extend to claims submitted to federal health care programs, such as Medicaid. The terms "knowing" and "knowingly" is having knowledge of the information, acts in deliberate ignorance of the truth or falsity of the information and acts in reckless disregard of the truth or falsity of the information.

A person or entity found guilty of violation can be obligated to civil penalty up to \$11,000 plus three times the amount of actual damages. A person or entity can also find themselves excluded from the Medicaid programs if found in violation.

Note: A private person who brings civil actions for violations to the False Claims Act is entitled to receive percentages of monies obtained through settlements and is protected by the Non-Retaliation and Non-Retribution for Reporting Policy of the Compliance program.

New York State False Claims Act makes it unlawful to knowingly make a false statement or representation (or deliberate concealment of any material fact or other fraudulent scheme or device) to attempt to obtain Medicaid payments for services or supplies furnished under the New York State Medical Assistance Program. A violation of this Act can result in civil damages three times overstated amount or \$5,000 whichever is greater. The Agency or individual may also be required to pay civil monetary penalty to the Medicaid program if it was known that the services or supplies were not medically necessary, not provided as claimed, if the person requesting such was excluded from the program or the services or supplies for which payment was received were not provided.

New York State may also impose the threat of criminal prosecution who had the intent to defraud the State program a Class A misdemeanor punished in accordance with the penalties fixed by such law.

N. Non-Retaliation and Non-Retribution for Reporting

The agency understands that employees may not report concerns if they feel that they will be subject to retaliation or retribution or harassment for reporting the concern. To reassure employees who wish to report concerns through the Compliance Line, or directly to the Compliance Department, a non-retaliation /non-retribution policy has been established. Supervisors, managers or employees are not permitted to engage in retaliation, retribution or any form of harassment directed against an employee who reports a Compliance concern.

Anyone who is involved in any act of retaliation or retribution against an employee that has reported suspected misconduct in good faith will be subject to disciplinary action. Employees have the responsibility to report, in good faith, concerns about actual or potential wrongdoing.

The agency is committed to a policy that encourages timely disclosure of such concerns and prohibits any action directed against an employee, manager or staff member for making a good faith report of a concern.

Any manager, supervisor or employee who engages in retribution, retaliation or harassment against a reporting employee is subject to discipline up to and including dismissal on first offense.

All instances of retaliation, retribution or harassment against reporting employees will be brought to the attention of the Compliance Officer who will, in conjunction with Legal and Human Resources, investigate and determine the appropriate discipline, if any. If an employee reports a concern regarding his or her own inappropriate or inadequate actions, reporting those concerns does not exempt him or her from the consequences of those actions.

Prompt and forthright disclosure of an error by an employee, even if the error constitutes inappropriate or inadequate performance, will be considered a positive constructive action by the employee.

Compliance with and the promotion of the Standards of Conduct will be a factor in evaluating the performance of agency employees. Following the Standards of Conduct is not hard to do. Employees should not be apprehensive or frightened.

Employees may stop by in person and speak to Kelly Ottinger the Compliance Officer at 5 Computer Drive West, Albany, New York 12205, or call the Corporate Compliance hotline at 518-482-2273.

