



Strong Home Care Group Corporate Compliance Manual

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Created by:
Robin McIlwaine, Director, Corporate Compliance and Quality Management
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I. Mission and Vision Statements

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SHCG Compliance Program

I. SHCG Mission:

The mission of Visiting Nurse Service (VNS) is to provide compassionate care and services to preserve quality of life and independence.

SHCG Vision:

We will:

- Enhance quality of care by collaborating with community and Strong Health system partners and by streamlining the continuum of patient care and services
- Define the future of home care by becoming the national benchmark for clinical and operational excellence through innovation and leadership
- Be the employer of choice by building a work environment that promotes satisfaction and success and by continuously educating current and future community health providers
- Achieve financial stability in an atmosphere of regulatory compliance and ethical conduct to reinvest in our people and services

II. Purpose of Plan:

The Corporate Compliance Plan is part of Strong Home Care Group's commitment to delivering high quality, medically necessary services to patients. It is used as a guide to assist us with meeting our mission and to ensure adherence to all federal, state and local regulations pertaining to the administration of clinical services and reimbursement aspects for said services.

III. Accountability and Responsibility for Plan Implementation

The SHCG Board of Directors is ultimately responsible for the quality of service to patients and clients. The President of the agency is responsible for the overall program within the agency. The Administrative Team is comprised of the key administrative positions of the agency and reports to the President. This team is responsible for overseeing SHCG's operations, corporate compliance and risk management activities, ensuring that a quality plan is implemented. It commissions teams to address specific Quality and Compliance needs. On a regular basis, the team leaders report to the Administrative Team on the team's progress on achieving its mission.

IV. Oversight and Coordination of SHCG Compliance Program

The compliance program will be overseen and coordinated by the Director of Corporate Compliance and Quality Management also known as the Corporate Compliance Officer (CCO). Corporate Compliance is an agenda item at all Quality & Compliance Committee (aka Professional Advisory Committee-PAC) meetings.

V. Objectives and Scope

V. **Objectives:**

- Assess key processes and measure outcomes.
- Improve outcomes based on above data.
- Effective internal processes and controls to assure compliance with Federal and New York State laws.
- Assure deficiency-free surveys.

Scope:

Quality Improvement and Corporate Compliance involve all departments.

VI. Program Philosophy

VI. Strong Home Care Group Compliance Program Philosophy

General Policy

It is the Policy of Strong Home Care Group (SHCG) to provide services in compliance with all state and federal laws governing its operations, and consistent with the highest standards of business and professional ethics. This Manual is a statement of that policy and sets forth the code of conduct and ethical behavior expected from all employees and staff. In order to ensure that the SHCG compliance policies are consistently applied and adhered to, SHCG has established a legal and regulatory Compliance Program. The program is directed by a Corporate Compliance Director (also known as the Corporate Compliance Officer [CCO]) and a Quality and Compliance Committee, who are charged with reviewing SHCG compliance policies and specific compliance situations that may arise.

This Manual includes statements of SHCG policy in a number of specific areas. All employees must comply with these policies, which define the scope of employment. Conduct that does not comply with these statements is outside the scope of employment and may subject employees to disciplinary action. If an employee is unsure whether any action complies with SHCG policies or applicable law, he or she should present that question to that employee's supervisor, or, if appropriate, directly to the CCO. All employees should review this Manual at least annually to make sure that these policies guide their actions.

All SHCG employees must carry out their duties in accordance with this policy. Any violation of applicable law, or deviation from appropriate ethical standards, will subject an employee or independent professional to disciplinary action, which may include oral or written warning, disciplinary probation, suspension, reduction in salary, demotion, or dismissal from employment. These disciplinary actions also may apply to a supervisor (or a staff member's department chief) who directs or approves the person's improper actions, or is aware of those actions but does not act appropriately to correct them; or who otherwise fails to exercise appropriate supervision or detect non-compliance with this policy.

If, at any time, any employee or professional staff member becomes aware of any apparent violation of these policies, he or she **must** report it to his or her supervisor (in the case of an employee), or to the CCO. **All** persons making such reports are assured that such reports will be treated as confidential except as required by law; such reports will be shared only on a bona fide need-to-know basis. No adverse action will be taken against persons making such reports in good faith, whether or not the report ultimately proves to be well-founded. If an employee or professional staff member does not report conduct violating SHCG policies, of which (s)he is or should be aware, that employee or professional staff member may be subject to disciplinary action, up to and including termination of employment.

The laws discussed in this Policy Manual are complex and many of the concepts are developed in case-by-case determinations. In addition, this Manual deals only generally with some of the more important legal principles. Their mention is not intended to minimize the importance of other applicable laws, professional standards, or ethical principles, which may be covered in other agency policies. Where appropriate, reference is made to specific policies that have been in place at SHCG and are an integral

part of the Strong Home Care Group Compliance Program. Any person who is in doubt as to the propriety of a course of action or concerned about whether a stated policy applies, must promptly communicate with his or her supervisor or with the CCO, before taking action.

Finally, all employees should recognize that this Manual may be amended from time-to-time, to reflect changes in applicable laws and policies. Employees are expected to familiarize themselves with such changes and to abide by them.

Confidentiality

SHCG employees and health care professionals possess sensitive, privileged information about patients and their care. SHCG takes very seriously the Health Insurance Portability and Accountability Act (HIPAA) regarding the confidentiality and security of such patient information within our system and will act immediately on any violation of a patient's confidentiality. Discussing a patient's medical condition, or providing any information to other unauthorized persons, will have serious consequences for the disclosing party.

SHCG is the owner of the medical record which documents a patient's condition and the services received by the patient. Medical records are strictly confidential, which means that they may not be released to outside parties except with the written consent of the patient or in other limited circumstances. Special protections apply to mental health records, records of drug and alcohol abuse treatment, and HIV related information. Medical records must not be physically removed from the facility, altered, or destroyed. Personnel who have access to medical records must take pains to preserve their confidentiality and integrity, and does not allow access to the medical record of any patient without a legitimate, work-related reason for so doing. Any unauthorized release of or access to medical records should be reported to a supervisor, the CCO or the HIPAA officer.

New York State has enacted a series of computer crime laws that are designed to punish and deter computer crime. In compliance with the law, SHCG prohibits unauthorized access to its computer system, either directly or by network or telephone. An individual who does not have a legitimate password is unauthorized to gain access. The System also prohibits the destruction or corruption of electronically stored or processed data. Persons who violate these rules will be prosecuted to the full extent of the law.

Discrimination

SHCG is committed to a policy of nondiscrimination and equal opportunity for all qualified applicants and employees, without regard to race, color, sex, religion, age, national origin, disability, or sexual orientation. Our policy of non-discrimination extends to the care of patients (who also may not be discriminated against based on source of payment). Discrimination may also violate state and/or federal anti-discrimination laws and trigger substantial civil penalties.

If an employee feels he or she or any patient has been discriminated against or harassed on the basis of his or her race, color, sex, or other protected category, he or she should contact Human Resources so that an investigation may be initiated.

Conflicts of Interest

SHCG personnel should avoid all potential conflicts of interest. Adherence to this policy ensures that personnel act with total objectivity in carrying out their duties for the institution for which they work.

To this end, SHCG professional staff may not be employed by, act as a consultant to, or have an independent business relationship with any of an entity's service providers, competitors, or third party payers unless approved by the administrative team. Nor may personnel invest in any payer, provider, supplier, or competitor (other than through mutual funds or through holdings of less than 0.5 percent of the outstanding shares of publicly traded securities) unless they first obtain written permission from a senior level administrator.

Professional staff should not have other outside employment or business interests that place them in the position of (i) appearing to represent the system or one of its entities, (ii) providing goods or services substantially similar to those SHCG provides or is considering making available, or (iii) lessening their efficiency, productivity, or dedication to their organization in performing their everyday duties.

Personnel may not use assets owned or leased by SHCG for personal benefit or personal business purposes. Employees may not have an interest in or speculate in products or real estate the value of which may be affected by the business of SHCG. Employees may not divulge or use confidential information such as financial data, payer information, computer programs, and patient information for their own personal or business purposes.

Any personal or business activities by an employee that may raise concerns along these lines must be reviewed with, and approved in advance, by a senior level administrator.

In order for SHCG to comply with requirements of the Medicare program, every employee must notify a human resources supervisor and the CCO if he or she was at any time during the year preceding his or her employment with a Strong Health entity employed by the Medicare intermediary or carrier. An employee's failure to make this disclosure at the time of employment could cause the organization to lose its right to participate in Medicare.

Because the agency participates in state programs such as Medicaid, employees must inform a human resources supervisor and the CCO if they have previously been employed by the State of New York.

Record Keeping and Retention

SHCG is obligated under both state and federal law to maintain and retain numerous different types of records concerning nearly every aspect of their operation. Particularly important is the proper maintenance of agency records regarding patient treatment. Proper record keeping is necessary not only to comply with state and federal law but also to ensure proper documentation of medical treatment for patients. Patient records may also be important in the event there is litigation.

A. New York State Law

In order for a home health agency (HHA) to maintain and renew its HHA license under state law, it must comply with the following applicable record keeping requirements.

State law requires the HHA to maintain medical records of patients for 7 years after the date of discharge for adults. Records for minors are retained for no less than 7 years after age of majority or from date of discharge, whichever is longer.

The Department of Health also requires the HHA to maintain various other records including: contracts relating to the ownership of land, buildings and equipment; operating procedure manuals; patient complaints; personnel records and others enumerated in Department of Health Regulations.

Any questions about the HHA's duty to maintain specific records should be referred to the CCO or legal counsel.

B. Federal Law

Federal law also imposes strict record keeping requirements. Failure to comply with these laws and regulations may result in monetary penalties or suspension from participation in federal programs.

As a condition of continued participation in Medicare and Medicaid, federal law requires providers to maintain a variety of records, ranging from financial to medical. The principles of cost reimbursement require that providers maintain sufficient financial records and statistical data for proper determination of costs payable under the Medicare and/or Medicaid programs. Providers must maintain such records as are necessary to ascertain information pertinent to the determination of the proper amount of program payments due, including, but not limited to: agency ownership, organization, and operation; fiscal, medical, and other record keeping systems; federal income tax status, asset acquisition, lease, sale or other action; franchise or management arrangements; patient cost service charge schedules; cost of operation; amounts of income received by source and purpose; and flow of funds and working capital. The required professional certification and re-certification of nursing, therapy, social work and home health aides must also be maintained.

A home care agency must maintain medical records for every patient for a minimum of seven years. The individual records must contain information to justify home health services, support the diagnosis, and describe the patient's progress. All records must document the following, as appropriate: evidence of visits and assessments; home bound status; admitting diagnosis; results of all consultative evaluations; documentation of complications, and unfavorable reactions to drugs; properly executed Patient Bill of Rights; all doctors' orders, nursing notes, and vital signs and other information necessary to monitor the patient's condition.

C. Confidentiality

SHCG is committed to properly maintaining the required records as well as preserving their confidentiality in accordance with applicable law and SHCG's policies. Please consult the Confidentiality section of this manual for further details.

SHCG has established a record retention schedule based on state and federal requirements. If you have any questions, please contact the CCO.

Response to Investigation

State and federal agencies have broad legal authority to investigate health care providers and review their records. SHCG will comply with subpoenas and cooperate with governmental investigations to the full extent required by law. The CCO is responsible for coordinating the response to investigations and the release of any information.

If a department, an employee, or a professional staff member receives an investigative demand, subpoena, or search warrant involving the agency, it should be brought immediately to the CCO. Do not release or copy any documents without authorization from the CCO or legal counsel. If an investigator, agent, or government auditor comes to the institution, contact the CCO immediately. In the CCO's absence, contact the organization's CEO or the Vice President for Finance. Ask the investigator to wait until the CCO or designee arrives before reviewing any documents or conducting any interviews. The CCO or designee is responsible for assisting with any interviews, and the agency will provide counsel to employees as representatives of the agency, where appropriate. If personnel are approached by government investigators and agents, they have the right to insist on being interviewed only at the facility during business hours and/or with counsel present.

If a professional staff member receives an investigative demand at his or her private office and the investigation may involve SHCG, the staff member is asked to notify the SHCG CCO immediately.

Employees of SHCG are not permitted to alter, remove, or destroy documents or records of their employer. This includes paper, tape, and computer records.

Subject to coordination by the CCO, SHCG will disclose information required by government officials, supply payment information, provide information on subcontractors, and grant authorized federal and state authorities with immediate access to the facility and its personnel. Failure to comply with these requirements could mean that the organization will be excluded from participating in the Medicare and Medicaid programs.

Subcontractors who provide items or services in connection with the Medicare and/or Medicaid programs are required to comply with these policies on responding to investigations. Subcontractors must immediately furnish the CCO, legal counsel, or authorized government officials with information required in an investigation.

Payments, Discounts and Gifts

SHCG participates in the Medicare program, a federal program which provides health insurance to the aged and disabled, and the Medicaid program, a federal/state program which provides health care coverage to low income persons. Federal law makes it illegal for any person or entity to provide or accept "remuneration" (i.e. cash or anything else of value) in exchange for referrals of patients covered by Medicare, Medicaid or other Federal Health Care Programs (such as CHAMPUS, the Federal Employees Health Benefit Plan and the Railroad Retirement Board). The law also bars the payment or

receipt of such remuneration in return for directly purchasing, leasing, ordering, or recommending the purchase, lease, or ordering of any goods, facilities, services, or items covered under the benefits of Medicare or Medicaid.

These so-called "fraud and abuse" or "anti-kickback" laws are designed to prevent fraud in health care programs and abuse of the public funds supporting the programs. SHCG is committed to carefully observing the anti-kickback rules and avoiding any practice that may be interpreted as abusive. Employees in the finance departments, procurement services or purchasing, and facilities departments and any department entering into personal service contracts are expected to be vigilant in identifying potential anti-kickback violations and to bring them to the attention of their supervisor or the CCO.

A. Anti-Kickback Laws

The federal anti-kickback laws are broadly written to prohibit SHCG personnel and representatives from knowingly and willfully offering, paying, asking for, or receiving any money or other benefit, directly or indirectly from third parties in connection with items or services billed to federal programs. The anti-kickback laws must be considered whenever something of value is given or received by SHCG or its representatives or affiliates that are in any way connected to patient services. This is particularly true when the arrangement could result in over-utilization of services or a reduction in patient choice. Even if only one purpose of a payment scheme is to influence referrals, the payment may be unlawful.

There are many transactions that may violate the anti-kickback rules. For example, no one acting on behalf of SHCG may offer gifts, loans, rebates, services, or payment of any kind to a physician or skilled nursing facility that refers patients to that entity, or to a patient, without consulting his or her supervisor, legal counsel or the CCO. Such persons should review any discounts offered by suppliers and vendors, as well as discounts offered to third party payers. Patient deductibles and co-payments must generally be collected and may not be waived without the prior authorization of the Director of Patient Financial Services. Rentals of space and equipment must be at fair market value, without regard to the volume or value of referrals that may be received in connection with the space or equipment. Fair market value should be determined through an independent appraisal.

Agreements for professional services, management services, and consulting services must be in writing, have specified terms to include compensation in advance. Payment based on a percentage of revenue should be avoided in many circumstances. Any questions about these arrangements should be directed to legal counsel or the CCO. Joint ventures with physicians or other health care providers, or investment in other health care entities, must be reviewed by legal counsel.

The U.S. Department of Health and Human Services has described a number of payment practices that will not be subjected to criminal prosecution under the anti-kickback laws. These so-called "safe harbors" are intended to help providers protect against abusive payment practices while permitting legitimate ones. If an arrangement fits within a safe harbor it will not create a risk of criminal penalties and exclusion from the Medicare and Medicaid programs. However, the failure to satisfy every element of a safe harbor does not in itself make an arrangement illegal. Analysis of a payment practice under the anti-kickback laws and the safe harbors is complex, and depends upon the specific facts and circumstances of each case. Employees within SHCG **should not** make their own judgments on the

availability of a safe harbor for a payment practice, investment, discount, or other arrangement. These situations **must** be reviewed with legal counsel.

Violation of the anti-kickback laws is a felony, punishable by a \$25,000 fine or imprisonment for up to five years, or both. Violation of the law could also mean that an entity (e.g. a facility) and/or a physician is excluded from participating in the Medicare and Medicaid programs for up to five years.

B. Entertainment and Gifts

It is recognized that business dealings may include a shared meal or other similar social occasion, which may be proper business expenses and activities. More extensive entertainment provided by vendors or service providers, however, only rarely will be consistent with SHCG policy and should be reviewed and approved in advance by the CCO, the President or a Vice-President. System employees may not receive any gift under circumstances that could be construed as an improper attempt to influence the provider's decisions or actions. When an employee receives a gift that violates this policy, the gift should be returned to the donor and reported to the CCO. Gifts may be received when they are of such limited value that they could not reasonably be perceived by anyone as an attempt to affect the judgment of the recipient. For example, token promotional gratuities from suppliers, such as advertising novelties marked with the donor's name (e.g. coffee mug) are not prohibited under this policy.

Whenever an employee or a professional is not sure whether a gift is prohibited by this policy, the gift must be reported to the CCO upon its receipt.

Billing and Claims

When claiming payment for services, SHCG has an obligation to their patients, third party payers, and the state and federal governments to exercise diligence, care, and integrity. The right to bill the Medicare and Medicaid programs, conferred through the award of a provider number, carries a responsibility that may not be abused. SHCG is committed to maintaining the accuracy of every claim. Many people, throughout SHCG have responsibility for documenting services rendered, entering charges, diagnoses and procedure codes. Each of these individuals is expected to monitor compliance with applicable billing rules and established coding guidelines. Any false, inaccurate, or questionable claims should be reported immediately to a supervisor or to the CCO.

False billing is a serious offense. Medicare and Medicaid rules prohibit knowingly and willfully making or causing to be made any false statement or representation of a material fact in an application for benefits or payment. Furthermore, federal law states that it is also unlawful to conceal or fail to disclose the occurrence of an event affecting a health care provider's right to payment with the intent to secure payment that is not due. Examples of false claims include, but are not limited to:

- Claiming reimbursement for services that have not been rendered
- Filing duplicate claims
- "Upcoding" to more complex procedures
- Including inappropriate or inaccurate costs on cost reports
- Billing for services for items that are not medically necessary

Failing to provide medically necessary services or items
Billing excessive charges.

Those who prepare or submit claims should be alerted for these and other errors. It is important to remember that outside consultants only advise the provider. The final decision on billing questions rests with the provider.

SHCG does not permit charging for any Medicaid service at a rate higher than that approved by the state or accepting any payment as a precondition of admitting a Medicaid patient.

SHCG carefully follows the Medicare rules on assignment and reassignment of billing rights. If there is any question whether SHCG may bill for a particular service, the question should be directed to a senior billing or finance supervisor, who may consult with the CCO. Special care should be taken in reviewing claims prepared by entities outside the System, and personnel should request documentation from outside entities if necessary to verify the accuracy of the claims.

A health care provider or supplier who violates the false claims rules is guilty of a felony, and may be subject to fines of up to \$25,000 per offense, imprisonment for up to ten years, or both. Legislation enacted in 1996 extends the reach of federal criminal penalties to false claims submitted not only to Medicare and Medicaid, but to any health care benefit program, including private third party payers. Other persons guilty of false claims may face fines of up to \$10,000 per offense, imprisonment for up to one year, or both. In addition to the criminal penalties, the Federal False Claims Act permits substantial civil monetary penalties against any person who submits false claims. The Act provides a penalty of triple damages as well as fines up to \$10,000 for each false claim submitted. The person (as well as the facility employer) may be excluded from participating in the Medicare and Medicaid programs. Violations of the assignment and reassignment rules are misdemeanors carrying fines of up to \$2,000 and imprisonment of up to six months, or both. State statutes impose similar criminal and civil penalties for false and deceitful conduct in connection with billing.

Numerous other federal and state laws prohibit false statements or inadequate disclosure to the government and mandate exclusion from the Medicare and Medicaid programs upon conviction. For instance, it is impermissible to make, or induce others to make, false statements in connection with a provider's Medicare certification. Persons doing so are guilty of a felony and may be subject to fines of up to \$25,000 and imprisonment for up to five years. A facility or individual health care providers will be excluded from the Medicare and Medicaid programs for at least five years if convicted of a Medicare- or Medicaid-related crime relating to patient abuse. Medicare and Medicaid exclusion may result if a facility or a provider is convicted of fraud, theft, embezzlement, or other financial misconduct in connection with any government-financed program.

It is illegal to make any false statement to the federal government, including statements on Medicare or Medicaid claim forms. It is illegal to use the U.S. mail in a scheme to defraud the government. Any agreement between two or more people to submit false claims may be prosecuted as a conspiracy to defraud the government.

SHCG promotes full compliance with each of the relevant laws by maintaining a strict policy of ethics, integrity, and accuracy in all its financial dealings. Each employee who is involved in submitting

charges, preparing claims, billing, and documenting services is expected to maintain the highest standards of personal, professional, and institutional responsibility.

Patient Referrals

SHCG policy is that patients, or their legal representatives, are free to select their health care providers and suppliers subject to the requirements of their health insurance plans. The choice of a hospital, a physician, a diagnostic facility, a supplier or any other healthcare provider should be made by the patient, with guidance from his or her physician as to which providers are qualified and medically appropriate.

Market Competition

SHCG is committed to complying with all state and federal antitrust laws. The purpose of the antitrust laws is to preserve the competitive free enterprise system. The antitrust laws in the United States are founded on the belief that the public interest is best served by vigorous competition, free from collusive agreements among competitors on price or service terms. The antitrust laws help preserve the country's economic, political, and social institutions; they apply fully to health care services and SHCG is firmly committed to the philosophy underlying those laws.

While the antitrust laws clearly prohibit most agreements to fix prices, divide markets, and boycott competitors which are addressed below they also proscribe conduct that is found to restrain competition unreasonably. This can include, depending on the facts and circumstances involved, certain attempts to tie or bundle services together, certain exclusionary activities, and certain agreements that have the effect of harming a competitor or unlawfully raising prices.

A. Discussion with Competitors

Strong Health policy requires that the rates its affiliates charge for care and related items and services, and the terms of its third-party payer contracts, must be determined solely by the individual entities. In independently determining prices and terms, a facility or provider may take into account all relevant factors, including costs, market conditions, widely used reimbursement schedules, and prevailing competitive prices, to the extent these can be determined in the marketplace. There can be, however, no oral or written understanding with any competitor concerning prices, pricing policies, pricing formulas, bids, or bid formulas, or concerning discounts, credit arrangements, or related terms of sale or service. To avoid the possibility of misunderstanding or misinterpretation, SHCG policy prohibits any consultation or discussion with competitors relating to prices or terms which the particular entity, Strong Health affiliate or any competitor charges or intends to charge. Joint ventures and affiliations that may require pricing discussions must be individually reviewed by legal counsel for antitrust compliance. Discussions with competitors concerning rationalization of markets, down-sizing, or elimination of duplication ordinarily implicate market division and must be avoided.

Facilities within the System are often asked to share information concerning employee compensation. SHCG policy prohibits the sharing with competing providers of current information or future plans regarding individual salaries or salary levels. System entities may participate in and receive the results of general surveys, but these must conform to the guidelines for participation in surveys provided

under Trade Associations below. Similarly, SHCG policy prohibits consultation or discussion with competitors with respect to its services, selection of markets, territories, bids, or customers. Any agreement or understanding with a competitor to divide markets is prohibited. This includes an agreement allocating shares of a market among competitors, dividing territories, or dividing product lines or customers.

B. Trade Associations

SHCG and individual professional staff are involved in a number of trade and professional associations. These organizations promote quality patient care by allowing professionals to learn new skills, develop policies and, where appropriate, speak with one voice on public issues. However, it is not always appropriate to share business information with trade associations and their members. Sharing information is appropriate if it is used to better inform consumers or to promote efficiency and competition.

SHCG may participate in surveys of price, cost, and wage information if the survey is conducted by a third party and involves at least five comparably sized facilities. Any price, cost, or wage information released must be at least three months old. If an employee is asked to provide a trade association with information about charges, costs, salaries, or other business matters, he or she should consult with his or her supervisor who may review the issue with counsel or the CCO. Joint purchasing through a trade association is probably acceptable, but any joint purchasing plan should be reviewed in advance by legal counsel.

C. Boycotts

SHCG policy prohibits any agreement with competitors to boycott or refuse to deal with a particular person or persons, such as a vendor, payer, or other health care provider. These agreements need not be written to be illegal; any understanding reached with a competitor (directly or indirectly) on such matters is prohibited. All negotiations must be conducted in good faith. Exclusive arrangements with payers, vendors, and providers must be approved by legal counsel based on an analysis of the relevant market.

D. Penalties

Penalties for antitrust violations are substantial. Individuals and corporations can be fined \$350,000 and \$10,000,000 respectively, for each antitrust violation, and individuals can be sentenced for up to three years in prison for each offense. In addition, actions giving rise to antitrust violations may violate other federal criminal statutes, such as mail fraud or wire fraud, under which substantial fines and even longer prison sentences can be imposed.

Antitrust violations also create civil liability. Private individuals or companies may bring actions to enjoin antitrust violations and to recover damages for injuries caused by violations. If successful, private claimants are entitled to receive three times the amount of damages suffered, plus attorneys' fees. Moreover, if the antitrust violation was a conspiracy, each member of that conspiracy may be liable for the entire damage caused by the conspiracy.

Tax-Exempt Organizations: Maintaining Tax-Exempt Status

A. General Principles

As non-profit providers serving charitable purposes, SHCG holds Federal tax-exempt status under section 501(c)(3) of the Internal Revenue Code. In order to qualify for the exemption, and to be eligible to receive tax-deductible contributions, an organization must be operated exclusively for charitable purposes. The organization's exempt status may be revoked if it permits any private inurement of its assets to organization insiders or allows individuals to enjoy more than an insubstantial private benefit from the organization's activities. Even if exempt status is retained, the organization may be subject to "intermediate sanctions" penalty taxes if it enters into transactions that excessively benefit private individuals. In addition, the organization will be subject to tax (at corporate rates) on any income it receives from trade or business activities unrelated to its charitable purpose.

B. Private Inurement

A section (501)(c)(3) organization is prohibited from engaging in activities that result in "inurement" of its assets or earnings to insiders that is, individuals whose special relationship offers them an opportunity to benefit economically from the exempt entity's income or assets. In the context of health care organizations, the IRS has broadly interpreted the term "insiders" to include not only founders, directors, and officers, but also physicians. If private inurement occurs, the IRS may revoke the organization's tax-exempt status.

C. Political Campaigns and Lobbying Activities

The Internal Revenue Code prevents a tax-exempt organization, or any of its representatives acting in an official capacity, from participating or intervening in any political campaign on behalf of, or in opposition to, any candidate for public office. The organization is also prohibited from carrying on more than an insubstantial amount of lobbying, propaganda activities, or other attempts to influence legislation.

D. Charitable Solicitations

A tax-exempt entity is required to provide written disclosure to any donor who retains an interest in contributed property (e.g., a charitable gift annuity, lead trust, remainder trust, or pooled income fund) that may be commingled with other tax-exempt assets in a collective investment vehicle. Similarly, the organization must provide disclosures to donors who have made quid pro quo contributions--that is contributions for which the donor has received something of value in return. The IRS may impose penalties in the amount of \$10 for each quid pro quo contribution (up to \$5,000 per fund-raising event) for which adequate disclosure is not provided.

Drug Free Workplace

SHCG is committed to a workplace in which all professionals, caregivers and employees are free from impairment brought about by the ingestion of any drug or alcohol. The manufacture, distribution or unauthorized possession of controlled substances by individuals affiliated with SHCG is strictly

prohibited. Any person who knows of the unauthorized possession of, use or distribution of controlled substances by persons employed by or affiliated with SHCG shall report the information immediately to his or her supervisor or the CCO. The Strong Health entities are committed to a "drug and alcohol free workplace."

Federally Funded Grants

SHCG professional staff from time to time receives various federal grants such as grant funding from the National Institutes of Health. Federal regulations impose duties and obligations upon the recipients of federal grants. Any recipient institution within Strong Health expects its personnel to abide by all applicable federal regulations, including but not limited to regulations relating to accurate reporting and appropriate expenditure of grant funds. Questions relating to matters concerning federal grants should be directed to the Director of ORPA (if the recipient holds a faculty appointment at the University of Rochester) or the CCO to ensure that all regulations are observed.

Regulations

The Strong Health entities, including SHCG, operate in a highly regulated industry, and must monitor compliance with a great variety of highly complex regulatory schemes. The cooperation is needed of employees and professional staff members in complying with these regulations and bringing lapses or violations to light. While the regulatory schemes may not carry criminal penalties, they control the licenses and certifications that allow the system to deliver care to its patients. The system's continued ability to operate and serve the community depends upon each employee's help in regulatory compliance.

Some of the regulatory programs which employees may deal with in the course of their duties include the following:

- New York State licensure
- Medicare certification and Conditions of Participation
- Certificate of Need
- Occupational Safety and Health regulation
- Building, safety, food service and fire codes
- Nurse Practice Act
- Rehab Practice Act

The CCO can provide employees with information on these rules, and can direct questions or concerns to the proper person.

Political Contributions

Strong Health believes that our democratic form of government benefits from citizens who are politically active. For this reason, the System encourages each of its employees and staff to participate in civic and political activities in his or her own way.

An organization's direct political activities, however, are limited by law. Corporations may not make any contributions whether direct or indirect to candidates for federal office. Thus, a corporation may not contribute any money, or lend the use of vehicles, equipment, or facilities, to candidates for federal office. Nor may it make contributions to political action committees that make contributions to candidates for federal office. No Strong Health entity may require any employees or professional staff members to make any such contribution. Finally, no organization may reimburse its employees or professional staff members for any money they contribute to federal candidates or campaigns.

Violation of federal election laws carries potential criminal penalties of up to one year in jail and a fine of \$25,000 or three times the amount of the illegal contribution, whichever is greater. Civil penalties also may be assessed.

New York law prohibits corporations from contributing more than \$5,000 annually to political candidates or organizations. The law prohibits not only cash contributions, but also contributions "in kind" such as office space, goods or services, in excess of \$5,000 annually.

Consistent with its charitable purpose, Strong Health entities should not carry on "propaganda" or attempt to "influence legislation," as these acts are defined under the Internal Revenue Code. The Strong Health entities and their representatives may not participate in or intervene in any political campaign for or against any candidate.

Purchasing

Purchasing decisions must be made in accordance with applicable policy. In addition, the prohibitions discussed in a preceding section of this Manual entitled "Payments, Discounts, and Gifts," apply to purchasing decisions made on behalf of the particular organization. Purchasing decisions must in all instances be made free from any conflicts of interest that could affect the outcome. SHCG is committed to a fair and objective procurement system which results in the acquisition of quality goods and services at a fair price. Any concerns about the legality of the terms of a proposed transaction, including but not limited to, inducements offered by a vendor or supplier, should be discussed with legal counsel or the CCO.

Independent Contractors and Vendors

Goods and services are purchased from many consultants, independent contractors, and vendors. SHCG policy is that all contractors and vendors who provide items or services to SHCG must comply with all applicable laws and SHCG policies. Contractors should bring any questions or concerns about SHCG practices or their own operations to the CCO.

Personnel who work with consultants, contractors, and vendors or who process their invoices should be aware that these compliance policies apply to those outside companies as well. Employees are encouraged carefully to monitor the activities of contractors in their areas. Any irregularities, questions, or concerns on those matters should be directed to the CCO.

Fund Raising

In furtherance of their charitable purposes, certain entities within Strong Health conduct fund-raising activities through various means. The organizations comply with New York State registration, record keeping, and reporting requirements with respect to its fund-raising activities. Strong Health policy requires that all solicitation of charitable contributions must be done under the supervision of the entity's foundation office. The Strong Health entities do not authorize any employee or other individual to use any entity's name in any fund-raising activities not approved or supervised by the organization's development office.

It is illegal for any person to make any false, deceptive, or misleading statement in connection with a solicitation of funds or a sale of goods or services to benefit an entity within the Strong Health system. It is against policy to use any sponsor or endorsement in connection with fund-raising activities unless the sponsor or endorsement has been verified by the entity's development office.

If an organization or its employees violate the law on charitable donations, the organization could lose its ability to raise funds. In addition, individuals could be subjected to criminal prosecution resulting in fines and imprisonment.

VII. Compliance Plan

VII. Strong Home Care Group Compliance Plan

Plans and Policies

Strong Home Care Group (SHCG), in conjunction with the Strong Health Compliance Office, has developed specific policies and procedures governing agency and individual compliance activity.

It is important to note that each Strong Health entity adheres to the guiding principles established in the URMCM Compliance Plan. Documents with site specific wording have been approved by each entity's governing board and are available from the Compliance Office upon request.

Policy Statement

SHCG has established this compliance plan to ensure that quality patient care is provided by each entity within the agency in a manner that fully complies with all applicable state and federal laws and regulations. It is the policy of SHCG that (1) all employees are educated about the applicable laws and trained in matters of compliance, (2) there is periodic auditing, monitoring and oversight of compliance with those laws, (3) there exists an atmosphere that encourages and enables the reporting of non-compliance without fear of retribution, (4) responsibility is not delegated to persons with a propensity to act in a non-compliant manner, and (5) mechanisms exist to investigate, discipline and correct non-compliance.

This Plan provides for the existence of a Corporate Compliance Officer (CCO) who has ultimate responsibility and accountability for compliance matters. **However, each individual employee or agent of SHCG remains responsible and accountable for his or her own compliance with applicable laws.** Confirmed acts of non-compliance will be disciplined ("Discipline," as used throughout this policy shall include all steps described in the [Human Resource policy manual] including, without limitation, termination and tenure revocation).

This Plan is intended to provide a framework for individual or departmental compliance efforts and to apply generally to all SHCG personnel and functions. Detailed plans, codes of conduct, or manuals covering compliance in specific areas, such as billing for clinical services, may be separately developed and will fit within this framework. Each individual compliance plan or code must be submitted to and approved by the SHCG CCO.

Structure

There shall be appointed a CCO, reporting to the SHCG CEO and to the Strong Health Corporate Compliance Officer. To avoid any issues related to a conflict of interest regarding legal or financial matters associated with compliance, the SHCG CEO, the CCO have direct access to the Senior Vice President and Vice Provost for Health Affairs-Medical Center and Strong Health System Chief Executive Officer.

The CCO oversees the education of personnel regarding proper compliance, the auditing and monitoring of the status of compliance, and the reporting, investigation, discipline and correction of

non-compliance. It is also his/her responsibility to ensure programs are in place to guarantee that significant discretionary authority is not delegated to persons with a demonstrated or suspected propensity for improper or unlawful conduct.

It is not expected that the CCO will have the knowledge or expertise necessary to ensure compliance with all laws and regulations that affect the various entities of SHCG. He/she is responsible, however, for the overall program and must ensure that qualified, knowledgeable personnel within individual divisions of SHCG assist in monitoring and educational functions.

The Compliance Officer reports on the SHCG's fulfillment of its compliance goals to: (1) Quality and Compliance Committee (at least quarterly), (2) The SHCG Board (at least annually) and (3) to Strong Health Compliance Office Leadership (at least quarterly). The report includes but is not limited to: (1) the level of compliance or non-compliance found as a result of monitoring and auditing (both internal and external) (2) the success of efforts to improve compliance, including training and education (3) the non-delegation of discretionary authority to those with the propensity to act improperly, and (4) corrective or disciplinary action taken with respect to those found to be non-compliant. The CCO has full access to all personnel and relevant documentation (subject to state or federal confidentiality laws) deemed necessary to perform his/her oversight and reporting duties.

The CCO may appoint such staff as deemed necessary to assist in the performance of the responsibilities outlined above. Any members of the CCO's staff will be treated as the CCO for purposes of cooperation with his/her efforts to perform his/her duties.

Attachment A depicts the organization structure for SHCG Corporate Compliance.

Reporting

All employees have the responsibility to comply with applicable laws and regulations and to report any acts of non-compliance.

Any employee who perceives or learns of an act of non-compliance should either: speak to his/her supervisor, call the CCO or call the Compliance Integrity Hot Line at 787-8769. Supervisors are required to report these issues through established management channels and/or the CCO. Reports to the hot line may be made anonymously if the caller so desires, although giving a name and phone number generally makes investigating reports easier and more effective. All employees are encouraged to call the hot line if they have any question about whether their concern should be reported. A written record of every report received will be kept for a period of six years. Every effort will be made to preserve the confidentiality of reports of non-compliance (although calls made anonymously will always preserve the autonomy of the caller). All employees must understand, however, that circumstances may arise in which it is necessary or appropriate to disclose information. In such cases, disclosures will be on a "need to know" basis only.

All employees are required to report acts of non-compliance. Any employee found to have known of such acts but who failed to report them will be subject to discipline.

No employee of the SHCG shall in any way retaliate against another employee for reporting an act of non-compliance. Acts of retaliation should also be reported to the hot line and will be investigated by the CCO or his/her designee. Any confirmed act of retaliation shall result in discipline.

Investigation

The CCO or their designee(s) will investigate every report of non-compliance (and retaliation), whether reported through the hot line or otherwise. Investigations will be done promptly and will consist of interviewing personnel, examining documents, and consulting with legal counsel, if necessary. All employees must cooperate with those investigating such matters and non-cooperation may result in discipline.

The CCO or their designee(s) have full authority to interview any employee and review any document (subject to state and federal laws on patient confidentiality) he or she deems necessary to complete the investigation.

A written record of each investigation will be created and maintained by the CCO. He/she will make every effort to preserve the confidentiality of such records and will make any necessary disclosures on a "need to know" basis only.

The CCO will report the results of each investigation considered significant to the President or Vice Presidents. He/she will recommend a course of discipline and/or other corrective action. Sanctions for non-compliance may be imposed (see [Sanctions](#)).

Sanctions

Corrective Action or Discipline

Every confirmed act of non-compliance may result in corrective action or discipline. The sanction for a single act of non-compliance will be decided by the CCO. The President or Vice Presidents may advise on sanctions for severe or repeated instances of non-compliance. Sanctions may include a requirement to follow a certain process or procedure in the future, restitution, and/or discipline. This is not intended as an exhaustive list, and other sanctions may be recommended.

Non-Delegation of Authority

The CCO has the authority to revoke the delegation of discretion to any employee found to be non-compliant. Simply as an example, a person responsible for billing clinical services who is found to be coding bills improperly may be required to submit bills to the CCO or designee for some period of time necessary to ensure proper compliance.

Education and Training

The CCO will monitor the education of employees concerning the existence of the compliance program, the contents of this plan, and the need to abide by the specific laws and regulations affecting individual departments and employees of SHCG. The CCO will ensure that SHCG employees receive

a copy of the Standard of Conduct. He/she will inform employees of changes in the laws or regulations periodically and systematically through written communications and in-service training.

All current and new SHCG employees will have access to this plan. Reference to its existence and how to secure a copy will appear in the SHCG Employee Handbook.

Monitoring and Auditing

The CCO will be responsible for monitoring employees' compliance with applicable laws and regulations. He/she will ensure that the level of compliance with the Conditions of Participation in each division or department is audited at least annually. He/she will arrange as well for external auditing as deemed necessary.

If the CCO discovers that a department's or individual's level of compliance is unacceptable, he/she may impose a plan of corrective action, which may include future monitoring of an individual, department or specific process on a more frequent basis. Corrective actions and sanctions for acts of non-compliance will be managed as outlined previously (see "[Sanctions](#)").

Annual audit and monitoring plans will be developed based on home health agency topics addressed in the annually published OIG work plan, CMS fraud alerts, previous audit findings and areas identified internally as needing improvement.

VIII. Program Specific Compliance Strategies

VIII. PROGRAM SPECIFIC COMPLIANCE STRATEGIES

Strong Home Care Group (SHCG) includes Visiting Nurse Service (CHHA Program), VN Hospice and Palliative Care and VN Signature Care. Each of the entities provide home health services to patients as ordered by their medical provider and follow state and /or federal regulations relative to the delivery of home health care.

A. Visiting Nurse Service

VNS is committed to following all federal, state and local regulations regarding the request for and delivery of home health services. Compliance with the adherence to the above mentioned regulations will be monitored on an ongoing basis. Results of the reviews will be shared with agency leadership. Review topics are selected based on known areas of concern, OIG work plan topics, CMS fraud alerts, Conditions of Participation Standards, previous audit findings and newly instituted policies and/or practices.

Audit Topics include but are not limited to:

- Adherence to COP
- Signed Bill of Rights
- Signed MD orders
- Documentation
- Adherence to plan of care
- Supervision of aides
- Presence of medical necessity
- Personnel records
- Aide schedules (current and posted in the home)
- Monitoring HHA via phone calls
- OBQI Adverse events
- COFOS0
- High therapy utilization

B. VN Hospice

VN Hospice is committed to following all federal, state, and local regulations regarding the request for and delivery of hospice services. Compliance with the adherence to the above mentioned regulations will be monitored on an ongoing basis. Results of the reviews will be shared with agency leadership. Review topics are selected based known areas of concern, OIG work plan topics, CMS fraud alerts, Conditions of Participation Standards, previous audit findings and newly instituted policies or practices.

Audit Topics include but are not limited to:

- Adherence to COP
- Signed Bill of Rights
- Signed MD orders
- SOC phone call to MD
- Presence of a discharge summary in patient's medical record for hospice inpatients

- Documentation
- Adherence to plan of care
- Interdisciplinary Group forms
- Supervision of aides
- Personnel records
- Bereavement services
- Volunteer supervision
- Volunteer records

C. VN Signature Care

VN Signature Care is committed to following all state and local regulations regarding the request for and delivery of home health services. Compliance with the adherence to the above mentioned regulations will be monitored on an ongoing basis. Results of the reviews will be shared with agency leadership. Review topics are selected based on known areas of concern, adherence to state regulations, previous audit findings and newly instituted policies or practices.

Audit Topics include but are not limited to:

- Adherence to NYS DOH regulations
- Signed Bill of Rights
- Signed MD orders
- Documentation
- Adherence to plan of care
- Supervision of aides
- Presence of medical necessity
- Personnel records
- Aide schedules (current and posted in the home)

D. Billing Philosophy

All claims for services rendered by SHCG submitted to health care programs (Medicare, Medicaid, Preferred Care, etc.) for reimbursement will accurately reflect the services ordered and performed by the agency. All billing information will be provided to the appropriate payer using accurate information including patient name and address, date(s) of service, date of birth, contract number and service identifiers (CPT-4 codes, HCPCS, Revenue codes or Rate codes).

Billing Codes

- Billing Codes (CPT-4, HCPCS, Rate or Revenue Codes) used to bill will accurately describe the service performed and will be payer specific.
- The health care provider's order will not be altered in any manner (increasing or decreasing the number and/or types of services) without the written consent of the ordering provider.
- Billing Code accuracy is reviewed at the initiation of a service and annually thereafter for each service by payer. (Refer to the Charge Master Review Policy)
- **Intentionally or knowingly upcoding a service to maximize reimbursement is forbidden and will result in disciplinary action.**

Selection of ICD-9 Codes

- For those payers that require an ICD-9 code to support medical necessity, SHCG will obtain from the ordering provider the necessary diagnostic documentation to support the claim. If the diagnostic information is received in narrative format, certified coders will translate them into ICD-9 codes.
- SHCG and coding staff do not
 - Use diagnosis information provided from earlier dates of service.
 - Create diagnosis information that has triggered past reimbursement.
 - Use computer programs to automatically insert diagnoses other than those received directly from the ordering provider.

Approved Billing Practices

SHCG bills:

- for medically necessary services
- for services ordered and rendered.
- Medicare for patients that are homebound.
- for services rendered that are supported by documentation in the patient's charts.
- for services provided by qualified and licensed clinical personnel.
- with the proper provider certification number.

SHCG billing / accounting practices:

- identifies and returns overpayments.
- allows for posting of defined costs to the cost report.
- works credit-balances in a timely fashion for all payers.

IX. Index of Corporate Compliance Policies

STRONG HOME CARE GROUP

COMPLIANCE POLICIES

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X. 2006 Compliance
Audit Plan