

**AMERICAN ASSOCIATION FOR HOMECARE  
CODE OF BUSINESS ETHICS\***  
**MAY 1, 2010**  
**[www.aahomecare.org/CodeofEthics](http://www.aahomecare.org/CodeofEthics)**

**Preamble: Goal and Scope**

AAHomecare recognizes that its member companies (“Members”) furnish homecare products and services to patients in their homes and that those Members must work closely with their patients, referral sources, payers, and vendors to coordinate and deliver quality care. Members also recognize the importance of promoting and adhering to ethical business practices and applicable laws and regulations in their dealings with patients, referral sources, payers, and vendors in order to further appropriate collaboration in the interests of patients. Members understand the importance of complying with applicable laws and regulations and of respecting the rights of referral sources, patients and payers to make independent decisions regarding the need for Member products and services. To achieve these goals, and to build trust between Members and all of their key constituents, AAHomecare has adopted this voluntary Code of business ethics (alternatively, “Code”). By adopting this Code of business ethics, Members intend to promote and encourage ethical business practices in all of their interactions using the following core principles to guide Member conduct:

- Members will comply with applicable, federal, state, and local laws and regulations.
- Members will promote and encourage conduct that builds trust between Members, patients, referral sources and private and public sector payers.
- Members will provide prompt and reliable homecare products and services, appropriate for each individual’s needs, health and safety.
- Members will encourage and promote ethical business practices and shall refrain from offering unlawful inducements in order to influence business.

Recognizing that it is not feasible to foresee every specific situation to which this Code of business ethics could apply, Members intend that the application of Code provisions to circumstances not specifically addressed herein should be made in light of the foregoing core principles.

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\* This voluntary Code of business ethics supersedes and replaces all previous AAHomecare Codes of Ethics. The provisions of this Code are intended to apply in those situations where Federal laws and regulations pertaining to unlawful inducements or physician self referrals would apply. Members should understand that other State or local laws may apply in these situations. AAHomecare and Members remain subject to and shall adhere to all applicable Federal and State antitrust laws and regulations. Nothing in this Code should be interpreted as a recommendation or suggestion that it is permissible for a group of competitors to agree to limit competition, fix prices, allocate territories or customers, engage in bid rigging, or engage in a refusal to deal. Individual Members are advised to consult their own legal counsel to determine how competition laws apply to their own business operations.

In addition, all Members have an independent obligation to ascertain that their interactions with referral sources, patients, and payers comply with applicable laws and regulations. By way of reference, information provided by the Department of Health and Human Services Office of Inspector General (OIG), as well as applicable laws or regulations, provides a basis for many of the provisions of this Code. Members should address questions about this Code and OIG guidance to their own attorneys. This Code of business ethics is intended to promote and facilitate ethical behavior and is not intended to be, nor should it be, construed as legal advice. AAHomecare does not intend for this Code to define or create legal rights, standards or obligations.

## **I. Interactions with Patients**

Members recognize and respect the independence of patients to choose among qualified homecare providers, products, and services free from unlawful inducements. Members also recognize that patients and caregivers should expect prompt, reliable homecare products and services that are appropriate to their individual needs, health and safety. The purpose of this section is to outline AAHomecare's position on Members' interactions with patients.

### **A. Products and Services**

Members recognize that they have a responsibility to provide patients with timely and appropriate service within the Members' scope of service. For every individual patient, Members understand the need to: provide products or services consistent with the physician's order and patient's needs; maintain the confidentiality of patients' personal health information; instruct patients on the use of Members' products and the plan of care ordered by their physician; explain patients' rights and responsibilities with respect to the products and services that Members furnish; provide an explanation of whether they can expect reimbursement from public sector payers; inform patients when a product or service is beyond the Member's scope of service and assist patients in finding another provider/supplier that can furnish the service.

### **B. Recommendation of Specific Products to Patients**

Members should never recommend a specific product to a patient if the Member knows that the product does not meet the patient's needs. Members will furnish products and services primarily based on their understanding of the patient's medical needs and personal preferences.

### **C. Continuum of Care**

Members recognize that they operate as part of a continuum of care for the benefit of patients. Consequently, Members recognize the need to collaborate with other members of patient care teams. Members recognize the importance of: reporting observed changes in a patient's condition to other members of the care team; reporting to appropriate care team members when they learn that a patient is not using a product furnished by Member in the manner prescribed by a patient's physician. Members also recognize the importance of documenting and addressing patient complaints.

### **D. Gifts and Free Patient Items or Services**

Members recognize and respect patients' independence to make decisions regarding the products and services they receive from Members. Members should refrain from offering unlawful inducements to patients to influence their decision to receive a product or service from the Member. Unlawful inducements can take the form of gifts or services given with the expectation that patients will decide to receive or continue to receive products or services from the Member, including an expectation that a patient will switch from its existing provider/supplier to the Member. Members may give patients gifts of nominal value. Generally, gifts to patients should not include gift certificates, coupons, gift

cards, cash or other cash equivalents. Members are encouraged to consult with their counsel to determine under what circumstances such gifts may be acceptable.

AAHomecare recognizes that some payers, including the Medicare and Medicaid programs, do not explicitly cover certain homecare services or specific accessories that are required to safely operate home medical equipment that payers otherwise cover. Consequently, from time to time, there may be a need to supply an item that is not covered and separately reimbursed by those payers. However, home medical equipment, accessories, in-home visits and supplies should not be provided free of charge to patients if they are furnished with the purpose of encouraging the patient to remain on service with Member or to encourage him/her to switch to the provider who gave the gift. Members should consult their counsel if they have questions about what may be appropriate in this area.

#### **E. Copay and Deductible Amounts**

Members should not waive patients' copay and deductible amounts except when there has been a determination that a waiver is appropriate to avoid financial hardship. Members should standardize their policies on granting financial hardship waivers and ensure that the policies are applied uniformly.

#### **F. Gifts to Non-Profit Organizations or Charities Representing Patients**

Members may donate gifts to charities or patient advocacy organizations whose mission is to provide community education or benefit families and individuals in need as long as Members do not earmark their donation for the benefit of an individual patient or group of patients. For example, Members should not specify their own patient or patients to be the recipient of their contribution.

#### **G. Health Fairs**

Members may participate in community, hospital-sponsored, or other health fairs in which various organizations display booths or other information about their products and services. These events often include routine health screenings, and may include giveaways of specialty or promotion items, such as key chains, water bottles and the like. Health fairs can serve a useful purpose in educating the local community about chronic conditions and self-care. However, Members should refrain from giving attendees unlawful inducements such as free home medical equipment, supplies, accessories, parts, repair service, clinical advice, or other services that would, under other circumstances, constitute a product or service that is billable to a public sector third-party payer. For example, Members should not give away CPAP masks, wheelchair cushions, or other similar items.

Members may purchase advertisements and lease booth space for company displays at health fairs and other community events, provided the fees are paid to the event sponsors and not to any individual current or prospective patients or referral sources.

## **II. Interactions with Payers**

AAHomecare Members' commitment to ethical business practices includes a responsibility to public and private sector third-party payers. This responsibility also extends to patients that self-pay and patient co-pays and deductibles. Members recognize the importance of being informed about the basic billing rules and procedures of payers. The purpose of this section is to outline Members' responsibilities towards third-party payers.

### **A. Billing Policies and Procedures**

AAHomecare encourages all Members to adopt business practices that include policies and procedures to promote accurate billing. Members should avoid intentional conduct that includes the following:

- Billing for items or services not provided;
- Billing for a more expensive item or service when a less expensive one was actually provided ("upcoding");
- Billing for new equipment but providing used equipment;
- Altering or falsifying medical necessity or other documentation required by the payer.

Members should also have internal policies to periodically monitor their billing practices and to ensure that patient credit balances or identified over payments are promptly refunded.

### **B. Complying with Applicable Federal and State Laws and Regulations**

Members should have policies that promote compliance with applicable Federal and State laws and regulations, including policies that address the following:

- Employees or other personnel are appropriately licensed or credentialed for their specific functions within the organization pursuant to State or accrediting body requirements;
- Potential employees or other personnel are screened to ensure they have not been excluded or debarred;
- Members maintain a process to ensure that enrollment and reenrollment in the Medicare program occurs on a timely basis and that changes of information are reported promptly;
- Members maintain a process to comply with the prohibitions against telemarketing DMEPOS items and services to Medicare beneficiaries.

### **C. Ensuring Ongoing Compliance**

Members will strive to maintain ongoing compliance with applicable law and regulations, including those that govern billing payers for Members' products and services. Members who adopt this code will provide annual training and education for their employees on what is required to maintain compliance with applicable law and regulations and this Code. Members also have a duty to inform their agents, subcontractors, and affiliates of their compliance policies and this Code and of the importance of complying with their provisions.

### **III. Interactions with Referral Sources**

AAHomecare recognizes that Members must respect the right of referral sources to remain independent with respect to their decision to select prescribe, purchase, rent, recommend, use, or arrange for the purchase, rental, or prescription of a Member's products or services. Consequently, Members have an obligation to refrain from conduct intended to improperly influence a referral source's decision with respect to a Member's products or services through unlawful inducements.

#### **A. Business and Promotional Meetings**

It is appropriate for Members to meet with referral sources to discuss their products and services. All members should refrain from engaging in promotional or sales activities that include furnishing gifts, meals, tickets to sporting events, or other items that have independent value outside the specific business context in which they are furnished and that may influence a referral source's decision making with respect to Member's products or services. Meetings should occur at or close to the referral source's place of business. It is appropriate for Members to pay for occasional hospitality only such as modest meals or, if the meeting includes a larger group of referral sources or potential referral sources, a reception for attendees that is conducive to the exchange of information. It is not appropriate to pay for meals or receptions for guests of referral sources or any other person who does not have a legitimate professional interest in the information being shared at the meeting.

Members are encouraged to adopt specific policies and procedures, including financial limits, for meals, entertainment, and hospitality to promote compliance with the language and spirit of this Code. Members are encouraged to consult their legal counsel to ensure that their policies are consistent with any applicable federal or state self-referral or conflict of interest laws.

#### **B. Provision of Services and Information**

It is important for Members to work with referral sources in a team approach in furnishing patient care. Members may provide referral sources with accurate object information about their products and services including payer policies on coverage, documentation and reimbursement. Members may also support referral sources, their organizations and patient advocacy groups to achieve appropriate public sector payer coverage and reimbursement policies that would permit appropriate access to homecare products and services. This could include support for public education to raise awareness of the need and benefits associated with homecare products and services.

Members may not perform activities that are the responsibilities of or otherwise offset a legitimate cost or burden incurred by a referral source. For example, while it is appropriate for a Member to provide instruction and education regarding third-party payer documentation requirements and the use of Member products and services, it is not appropriate for a Member to perform discharge planning and care coordination functions that are the responsibility of a hospital, or to complete medical necessity documentation such as certificates of medical necessity (CMNs) that the referral source is required to furnish. It is important that Members understand and respect the roles and responsibilities of the individuals and entities involved in patient care.

### **C. Supporting Third Party Educational Conferences**

Organizations that represent referral sources periodically sponsor educational conferences for their members. These conferences serve as an important forum for the dissemination of current clinical and technical information that promote the delivery of quality care, and provide important updates on laws, regulations, or public policy issues that affect health care delivery and access. This support could include:

- *Conference Grants.* Members make grants to conference sponsors to reduce the cost of the conference. Such grants should be used to defray legitimate conference expenses and be consistent with applicable standards established by the conference sponsor and any body accrediting the educational activity. The conference sponsor should independently control and be responsible for the selection of program content, faculty, and educational materials. Members may not pay for the registration or other fees of individual physicians or other health care professionals who receive continuing education (CE) credits after the educational session is complete.
- *Modest Meals and Hospitality.* Members may provide funding to the conference sponsor to support the conference's meals and hospitality. Also, Members themselves may provide meals and receptions for all referral source attendees, but only if it is provided in a manner that is also consistent with the sponsor's guidelines. Any meals, receptions, and hospitality should be modest in value and should be subordinate in time and focus to the purpose of the conference.
- *Faculty Expenses.* Members may make grants to conference sponsors defray the costs of reasonable honoraria, travel, lodging, and meals for referral sources who are conference faculty members. Members may not pay such speakers directly.
- *Advertisements and Demonstration.* Members may purchase advertisements and lease booth space for company displays at conferences.

### **D. Arrangements with Consultants**

Members may at times need to engage a referral source to provide consulting services. These arrangements are appropriate as long as the consulting arrangement is for *bona fide* consulting services such as research, participation on advisory boards, presentations at Member-sponsored training, and product collaboration. It is appropriate to pay fair market value compensation for these services. Members are strongly encouraged to consult with their counsel before entering into consulting arrangements with physicians or other referral sources. The following factors are relevant to a determination of whether a consulting arrangement is *bona fide*:

- The arrangement is reduced to writing in an agreement signed by the parties which specifies all services to be provided.
- The compensation agreed to under the arrangement is consistent with fair market value for the services provided.

- The written agreement identifies specific services that will be provided and those services are justified by a business purpose in both scope and duration.
- Consultants are selected solely on the basis of their expertise and skills and not by the volume or value of referrals they might be expected to generate for Member.
- The venue and circumstances for Member meetings with consultants should be appropriate to the subject matter of the consultation. These meetings should be conducted in clinical, educational, conference, or other setting, including hotel or other commercially available meeting facilities, conducive to the effective exchange of information.
- Member-sponsored hospitality that occurs in conjunction with a consultant meeting should be modest in value and should be subordinate in time and focus to the primary purpose of the meeting.
- Members may pay for reasonable and actual expenses incurred by consultants in carrying out the subject of the consulting arrangement, including reasonable and actual travel, modest meals and lodging costs incurred by consultants attending meetings with, or on behalf of, Members. Members may not pay for such expenses for consultants' family members.
- When a Member contracts with a consultant for research services, there should be a written research protocol and clear definition of the services to be provided in association with the research.

#### **E. Gifts**

Members occasionally may provide a modest gift to a referral source, but only if: 1) the gift benefits patients and/or serves a genuine educational function; 2) the gift has a fair market value of less than \$100; 3) the gift is not given in exchange for a referral or is primarily for the personal benefit of the referral source. Gifts must be occasional, not routine or on a regular schedule, and should not include gift certificates, coupons, gift cards, cash or other cash equivalents in any amount. It is inappropriate to give gift to physicians' family members. Gifts cannot be given if they have been solicited by physicians, their family members or staff. Members are strongly encouraged to consult with their attorneys to determine whether gifts to referral sources conflict with state or federal self referral or conflict of interest laws and regulations.

In addition, Members may occasionally give referral sources branded promotional items of nominal value related to the Member's or referral source's work, or for the benefit of patients. Gifts may not be given in the form of cash or cash equivalents.

#### **F. Social and Holiday Events**

It is not appropriate for Members to provide support for referral sources' social events, such as office holiday parties, in which no product or service training or education takes place. Members are advised to consult with counsel on any exceptions.

#### **G. Grants and Charitable Donations**

Members may make donations to support genuine independent medical research for the advancement of medical science or education, indigent care, patient education, public education and awareness, or the sponsorship of events where proceeds are intended for charitable purposes. It is not appropriate for Members to make such donations for the purpose of unlawfully inducing referral sources to prescribe, purchase, rent, recommend, use, or arrange for the purchase, rental or prescription of Members' products and services. All donations should be appropriately documented. Examples of appropriate charitable grants and related considerations are:

- *Advancement of Medical Education.* Members may make grants to support the genuine medical education of medical students, residents, and fellows participating in fellowship programs, which are charitable or have an academic affiliation or, where consistent with the preamble to this section, other medical personnel. (For additional considerations regarding educational grants, see Section C, Supporting Third Party Educational Conferences.)
- *Support of Research with Scientific Merit.* Members may make research grants to support genuine medical research. The purpose of the grant must be clearly documented. (For guidance as to the limitations that apply when a Member contracts with a health care professional to provide research on behalf of a Member, see Section D, Arrangements with Consultants.)
- *Public Education.* Members may make grants for the purpose of supporting the education of patients or the public about important health care topics including the need for and benefits of homecare products and services.

#### **IV. Interactions with Vendors**

Members' policies should ensure that their interactions with vendors conform to the guidelines above. In particular, the policies should establish parameters on Members' staff requesting or accepting gifts from vendors when the request or acceptance of the gift, item or service would constitute an unlawful inducement. Areas that Members should address include: the use of sample or demonstration products such as medical equipment or supplies or soliciting other services from vendors such as free or deeply discounted advertising that could offset what otherwise would be a legitimate business expense for the Member. As in interactions between Members and referral sources, Members should consult with their counsel to address questions they might have in this area.

PREVIEW