

# **The American Association for Homecare**

## **Introduces the Updated Code of Business Ethics**

A guide to complying with current laws, rules and regulations related to the DMEPOS industry.

May 2010

[www.aahomecare.org/CodeofEthics](http://www.aahomecare.org/CodeofEthics)



# Highlights

- Board objectives for updating the AAHomecare Code of Ethics
- Background
  - Legislative/Regulatory
  - Review of other associations' Codes
- Implementation timeline



# AAHomecare Board Objectives

1. Update the existing AAHomecare Code to be more reflective of current laws, rules, regulations and official government guidance pertaining to the daily operations of DMEPOS providers and other members.
2. Demonstrate a voluntary, proactive effort which outlines the Association's "zero tolerance" for fraud.
3. Further improve the perception on Capitol Hill, among CMS policymakers and others involved in regulating our industry and overseeing government spending on Medicare/Medicaid.

# AAHomecare Board Objectives

4. Provide AAHomecare members with a clear understanding of the association's expectations.
5. Give the AAHomecare Board of Directors definitive criteria for individually evaluating membership action to be taken if a member is formally sanctioned by a regulatory body.
6. Give members a general overview of current regulatory issues affecting DMEPOS.



# Background

- **Legislative/Regulatory Environment**

- Congress, HHS/CMS, OIG and state policymakers are increasing their investments in anti-fraud and abuse efforts, including additional provider enrollment requirements, CERT and RAC audits, accreditation, etc.
- Policymakers appreciate professional associations' *voluntary* efforts to publicly raise the standards bar and develop anti-fraud and abuse recommendations for their industries
- New Health Reform package (HCERA) includes numerous compliance/ethics provisions, e.g.,
  - Overpayments must be refunded within 60 days of the date they are identified. Effective upon enactment.
  - Surety bond threshold must be commensurate with a supplier's Medicare billings. Effective 1/1/2011.
  - Impeding an audit may be the basis of an exclusion from Medicare. Effective upon enactment.
  - RAC audits will be expanded to Medicaid.
  - OIG will have expanded authority and money to pursue fraud and abuse activities including new provisions that expand the types of activities that may be subject to civil penalties or serve as the basis for exclusion.
  - Manufacturers and purchasing groups will be subject to reporting requirements for payments or "transfers of value" to physicians and hospitals.
  - Beneficiary inducement prohibitions are somewhat relaxed. Effective upon enactment.
  - Whistleblower and False Claims provisions are expanded.
  - Proposed amendments to the Federal Sentencing Guidelines place renewed emphasis on "effectiveness" of internal compliance plans.



• **AAH's original Code of Ethics was outdated**

# Preparatory Research for AAHomecare's Revised Code

- Reviewed, in detail, other similar organizations' Codes of Ethics or Standards, e.g.:
  - The Power Mobility Coalition
  - AdvaMed (medical devices)
  - Pharmaceutical Research and Manufacturers Association (PhRMA)
  - Health Industry Group Purchasing Organization (HIGPO)
  - American Medical Association
- Rated/ranked what we believed should be the primary focus of AAH's code based on member composition
- Considered various methods of adoption, enforcement and penalties/rewards for adoption/violations by Members
- Reviewed applicable laws, regulations, etc. that apply to Members' daily operations
  - OIG Guidance for DMEPOS Suppliers, Stark Laws, anti-kickback laws, anti-patient inducement laws, state licensure, accreditation, Medicare Quality Standards, Medicare Supplier Standards, etc.



# Scope of Final Code

## Important:

- All provisions are grounded in *current laws, rules, regulations or official government guidance that pertains to Members' operations*
  - Size does not matter: The government expects providers of all sizes and scope to comply
  - AAHomecare bylaws mandate members to comply with current laws and regulations

# Scope of Final Product

- Scope of Standards:
  - The Standards apply to all categories of AAHomecare members, although the primary focus is on provider members who bill payers
  - Provide Appendices, Legal References and FAQs to help members interpret them
  - AAHomecare expects that all members shall support compliance throughout their own organizations
- AAHomecare cannot and does not intend to serve in an “industry police” role
  - Members are encouraged to use existing channels to address concerns of competitors’ practices, e.g., contact corporate compliance officer or president; OIG hotline, etc.



# Major Sections of the Code

- Preamble and Scope
- Sets forth the principles underlying the Code and the association's expectation that Members will:
  - Comply with applicable, federal, state and local laws and regulations;
  - Promote and encourage conduct that builds trust between Members, patients, referral sources and private and public sector payers;
  - Provide prompt and reliable homecare products and services, appropriate for each individual's needs, health and safety; and
  - Encourage and promote ethical business practices and shall refrain from offering unlawful inducements in order to influence business.



# Major Sections of the Code

- Interactions with Patients:
  - Principles to guide Members' interactions with patients and caregivers
- Interactions with Payers:
  - Principles to guide Members' dealings with payers
- Interactions with Referral Sources
  - Principles to guide Members' dealings with referral sources
- Interactions with Vendors
  - Ethics and compliance considerations for Members' dealings with vendors

# Launch/ Implementation Timeline

- **May 2010 – Las Vegas, NV**
  - Preview Code of Business Ethics and FAQ's at Medtrade Spring, launch dedicated website, post Supporting Citations for Code
- **Summer & Fall, 2010**
  - Launch marketing plan, develop educational materials, introduce member tools
- **November 2010 – Atlanta, GA**
  - Present Code, FAQ's and supporting documents to Medtrade attendees
- **1<sup>st</sup> Quarter 2011**
  - AAH push for adoption of Code by full membership
- **Ongoing**
  - Update documents based on changing laws, rules, regulations or official government guidance; notify membership

# Summary

- “Code of Business Ethics” help set ethics/compliance standards for members and industry
- Code doubles as marketing/PR tools for AAHomecare
- Guidance for Board oversight on violations
- Launch timing in mid-2010 fits well with current and planned legislative/regulatory environment
- Positions AAHomecare as a leader in various constituents’ eyes and as a resource to members

