

BEECHWOOD CONTINUING CARE'S FRAUD PREVENTION POLICY

Beechwood Continuing Care, which is comprised of the Beechwood Homes, Blocher Homes, Asbury Pointe and the Beechwood/Blocher Foundation, is committed to fully complying with all laws and regulations that apply to health care and to preventing, detecting, and correcting any fraud, waste, or abuse in Medicare, Medicaid, and other health care programs. Beechwood's commitment to compliance is reflected in its comprehensive Corporate Compliance Program, Code of Conduct and Compliance Procedures, and compliance policies and procedures.

Upon hire, at the General Orientation Program, each employee will receive a copy of Beechwood's Corporate Compliance Code of Conduct and Compliance Procedures. Likewise, companies doing business with any of the Beechwood Continuing Care companies will also be made aware of these policies. Any questions regarding our Corporate Compliance Program or this Policy may be addressed to our Corporate Compliance Officer, Mr. William A. Wells, Jr.

As part of our Compliance Program, we are providing you with detailed information on some of the laws that Beechwood Continuing Care is required to follow. Specifically, this document contains important information regarding: 1) how to report concerns; 2) the federal and state fraud and abuse laws; and 3) whistleblower protections.

WHAT TO DO IF YOU SUSPECT FRAUD, WASTE OR ABUSE

If an employee believes fraud, waste, abuse, or other improper conduct has occurred, the employee is required to:

- a. Contact his/her immediate supervisor and report the facts to him/her;
- b. Call and leave a voicemail on the Compliance Hotline at 716.636.4266; and/or
- c. Call the Corporate Compliance Officer at 716.504.1998.

Employees are encouraged to first report their concerns directly to Beechwood to allow Beechwood the opportunity to quickly address potential issues. Any employee who reports a concern in good faith will have the right to do so anonymously and will be protected against retaliation. However, if an employee has participated in a violation of law or Beechwood policy, Beechwood retains the right to take appropriate action against him/her. Beechwood is committed to investigating any allegation of fraud, waste, or abuse or other improper conduct swiftly and thoroughly and will do so through its internal compliance processes. Beechwood requires that its employees fully cooperate in the investigation. While Beechwood requires its employees report such concerns to Beechwood, certain laws discussed below provide that such concerns may be brought to the government. However, if an employee fails to report his/her concerns to Beechwood, they will be in breach of Beechwood policy.

If a contractor/agent believes fraud, waste, abuse, or other improper conduct has occurred, the contractor/agent is strongly encouraged to:

- a. Call and leave a voicemail on the Compliance Hotline at 716.636.4266; and/or
- b. Call the Corporate Compliance Officer at 716.504.1998.

Contractors and agents are encouraged to first report their concerns directly to Beechwood to allow Beechwood the opportunity to quickly address potential issues. Any contractor or agent who reports a concern in good faith will have the right to do so anonymously and will be protected against retaliation. However, if a contractor or agent has participated in a violation of law or Beechwood policy, Beechwood retains the right to take appropriate action against him/her/it. Beechwood is committed to investigating any allegation of fraud, waste, or abuse or other improper conduct swiftly and thoroughly and will do so through its internal compliance processes. Beechwood requires that its contractors and agents fully cooperate in the investigation. While Beechwood strongly encourages its contractors and agents to report such concerns to Beechwood, certain laws discussed below provide that such concerns may be brought to the government.

LAWS REGARDING THE PREVENTION OF FRAUD, WASTE AND ABUSE

I. FEDERAL LAWS

Federal False Claims Act. The Federal False Claims Act (“FCA”) imposes liability on any person who submits a claim to the federal government that he/she knows (or should know) is false. The FCA also imposes liability on an individual who: i) knowingly submits a false record obtain payment from the government; or ii) obtains money from the federal government to which he/she may not be entitled, and then uses false statements or records in order to retain the money. In addition to having actual knowledge that the claim is false, a person who acts in reckless disregard or in deliberate ignorance of the truth or falsity of the information can also be found liable under the FCA. Proof of specific intent to defraud is not required. However, honest mistakes or mere negligence are not the basis of false claims. The FCA provides for civil penalties of five thousand five hundred dollars and eleven thousand dollars per false claim plus three times the amount of damages that the government sustains. Employees may bring a civil action in the name of the government for a violation of the Federal False Claims Act. These individuals, known as “*qui tam* relators,” may share in a percentage of the proceeds from a False Claims Act action or settlement.

Administrative Remedies for False Claims and Statements. This law allows for administrative recoveries by federal agencies. If a person submits a claim that the person knows is false or contains false information, or omits material information, then the agency receiving the claim may impose a penalty of up to five thousand dollars for each claim. The agency may also recover twice the amount of the claim. Unlike the False Claims Act, a violation of this law occurs when a false claim is submitted, not when it is paid. Also unlike the False Claims Act, the determination of whether a claim is false, and the imposition of fines and penalties, is made by the administrative agency, not by prosecution in the federal court system.

Federal Anti-Kickback Law: Individuals and entities can be held liable under the Federal anti-kickback law for knowingly and willfully offering, paying, soliciting, or receiving remuneration in exchange for referring, furnishing, purchasing, leasing, or ordering any good, facility, service or item that is paid for in whole or in part by Medicare, Medicaid, or other federal health care program. There are a number of practices that do not violate the law which are called “safe harbors”. Violations of the anti-kickback law may be criminal or civil and the penalties include repayment of damages, fines, imprisonment, and exclusion from participation in the federal programs.

II. STATE LAWS

New York False Claims Act. A person may not knowingly present a false claim to a state or local government or make a false record or statement to ensure payment of a false claim by a state or local government, or use a false statement to decrease an obligation to pay money to a state or local government. Honest mistakes or mere negligence are not the basis of false claims. The New York False Claims Act provides for civil penalties of between six thousand dollars and twelve thousand dollars plus two to three times the amount of damages which the state and/or local government sustains. Employees may bring a civil action in state court in the name of the government for a violation of the State False Claims Act, and may share in a percentage of the recovery.

New York False Statements Law. It is illegal for a person or corporation to use false statements to obtain (or try to obtain) public funds for Medicaid services or supplies, and such conduct may result in damages and monetary penalties.

New York Social Services Law: It is illegal for a person to obtain public assistance, including Medicaid, based on false information.

New York Anti-Kickback Law. Medicaid providers shall not accept or give (or agree to accept or give) anything in exchange for the referral of Medicaid services or to purchase, lease or order any Medicaid good, facility, service or item.

New York Self Referral Prohibition. Certain practitioners are not allowed to refer patients to health care providers when the practitioner, or the practitioner's immediate family member, has a financial relationship with such health care provider. There are a number of exceptions to this prohibition which may make such referrals acceptable.

Misconduct for New York Licensed Professionals. It is misconduct for licensed professionals to engage in certain activities, including: 1) willfully or grossly negligently failing to comply with substantial provisions of federal, state or local laws, rules or regulations governing the practice of the profession; and 2) willfully making or filing a false report, or failing to file a report required by law or by the Education Department, or willfully impeding or obstructing such filing, or inducing another person to do so.

New York Penal Law Health Care and Insurance Fraud. Health Care Fraud in the first through fifth degrees, Insurance Fraud in the first through sixth degrees, and Larceny in the first through fourth degree are included in the New York State Penal Law for filing false claims for payment.

III. WHISTLEBLOWER PROTECTIONS

Federal Whistleblower Protection: The False Claims Act provides for protection for employees from retaliation. An employee who is discharged, demoted, suspended, threatened, harassed, or discriminated against in terms and conditions of employment because of lawful acts conducted in furtherance of an action under the False Claims Act may bring an action seeking reinstatement, two times back pay plus interest, and other enumerated costs, damages, and fees. However, if the employee brings an action against an employer that has no basis in law or fact, or is primarily

for harassment, the employee bringing the lawsuit may have to pay the employer its fees and costs.

New York State Whistleblower Protection: State law protects *qui tam* relators against discharge, demotion, suspension, threats, harassment, and other manners of discrimination by their employer as a result of reporting of a false claim. Remedies include reinstatement, two times back pay plus interest, and litigation costs and attorneys' fees.

In addition, health care employers may not retaliate against employees who disclose a matter to a supervisor or after such disclosure to a supervisor, to a public body. Protected disclosures are those that assert that the employer is in violation of a law in a manner that creates a substantial and specific danger to the public health and safety, which constitutes health care fraud under Penal Law 177, or which the employee, in good faith, reasonably believes constitutes improper quality of patient care. Employees may sue in state court for job reinstatement, lost back wages and benefits, and attorneys' fees. However, if the employee brings an action without basis in law or fact, the employee may be liable to the employer for its attorneys' fees and costs.