

# STANDARDS OF CONDUCT HANDBOOK

Effective: October 2000  
Revised: October 2015



**Hickory Creek Healthcare  
6900 South Gray Road  
Indianapolis, IN 46237  
888-788-2501**

Dear Hickory Creek Healthcare Employees,

This is your personal copy of the Standards of Conduct adopted by Hickory Creek Healthcare. This booklet has been prepared to give every employee a clear understanding of what is expected in the work environment. The Standards have been developed using input from employees and are approved by the Board of Directors of the Company. These Standards represent a reaffirmation of our long-term commitment to compliance and quality of services to our residents and the communities we serve.

The Standards are designed to:

- 1) Communicate the commitment of management to compliance with laws, regulations, standards of care, and ethical business practices.
- 2) Familiarize all employees with the basic legal principles and standards of behavior expected in the workplace.
- 3) Ensure that all employees understand their responsibility to follow the Company's procedures for complying with all applicable laws, regulations, and policies governing business practices.

Everyone should become familiar with the Standards of Conduct and as a responsible person, apply them in your work. The Standards do not, nor are they intended to, cover every situation you may encounter. They provide only broad guidelines that are reinforced in greater detail by Hickory Creek's various policy and procedure guidelines.

If you observe violations of the Standards of Conduct, you have an obligation to report them. You should promptly report all violations or suspected violations to your immediate supervisor, who will follow the appropriate investigation procedure. If your concern is not being addressed promptly, you should either contact the Compliance Officer by calling the toll-free Compliance Call Line at 1-888-788-2502, or write to the Compliance Officer at 6900 South Gray Road, Indianapolis IN 46237. You can also report concerns through the Company's Compliance Email at [compliance@asccare.com](mailto:compliance@asccare.com). All reports will be treated as confidential. There will be no retaliation or retribution against anyone for reporting suspected violations to the Compliance Officer.

We pledge our commitment to the principles set forth in the Standards of Conduct and fully support our Compliance Program. We will never knowingly fail to follow any state or federal rule or regulation regarding quality of care or potential abuse of reimbursement or payment systems. We strive to hire and retain friendly personnel of ability, character, and dedication by providing good working conditions, training, leadership, and personal growth opportunities. We will continue to serve as a responsible corporate citizen to our residents and to the communities we serve.

## **INTRODUCTION TO THE STANDARDS OF CONDUCT**

Hickory Creek Healthcare (referred to herein as Hickory Creek or the Company) recognizes that health care operations involve significant legal and ethical responsibilities. These responsibilities extend not only to the residents of our facilities, but also to the many companies and agencies that we work with, our fellow employees, and the public at large. It is the policy of the Company that its officers, employees, representatives, and agents comply with all relevant laws, rules, and regulations and adhere to the highest ethical standards in the conduct of our business.

These Standards have been adopted as a guide to alert employees to the types of conduct expected in the workplace. Being aware of these areas should enable employees to identify and report potential problems to management so that these matters may be properly assessed and resolved.

The Standards of Conduct are an important element of the Compliance Program already in effect at Hickory Creek. However, the Company relies upon the integrity of its employees to comply not only with the expressed terms of the Standards but also with their spirit. Therefore, the Company depends upon each employee at all times to use good judgment, common sense, and to do the right thing.

For the Compliance Program to be effective, it must have the cooperation of all. Failure to observe the provisions of the Standards of Conduct can result in serious consequences for employees, such as dismissal or even criminal charges. Any failure to observe these provisions can also lead to severe consequences for Hickory Creek such as, criminal prosecution, substantial monetary fines and penalties; and perhaps most important, the loss of our reputation and integrity. The Hickory Creek Standards of Conduct does not alter the at-will employment status of every employee and neither creates a policy of progressive discipline, nor a guarantee of disciplinary measures less than dismissal.

In addition to the Standards, the Company will periodically distribute memoranda and policy statements describing matters of interest to the Company, or proscribing specified activities by all or some of Hickory Creek's employees. To the extent that these documents require or prohibit certain conduct, they should be considered part of our Standards of Conduct.

## **I. INTEGRITY OF BUSINESS PRACTICES**

The Company is committed to the delivery of quality health care at prices that are reasonable and competitive. Hickory Creek relies on the ability and professionalism of its employees and representatives to communicate effectively the merits of their services to residents, their families, physicians, and others; and expects them to use only legitimate competitive practices.

### **Ethical Practices**

We shall maintain a high level of integrity in business conduct and avoid any conduct that could reasonably be expected to reflect adversely upon the integrity of the Company, its officers, directors, or other employees.

We shall demonstrate honesty, integrity, and excellence in the performance of our duties. We will avoid practices that might bring discredit to the Company.

### **Employee Conduct**

We shall perform our responsibilities in good faith, in a manner that is in the best interests of Hickory Creek and with the due care that a reasonably prudent person in the same position would use under similar circumstances.

We shall avoid all illegal conduct, in both business and personal matters.

We shall avoid efforts to circumvent the law by devious means or questionable interpretations.

We shall comply with all laws, rules, and regulations at all levels of government.

We shall strive to be open and honest in our business relationships.

### **Integrity of Financial Reporting**

We shall assure that assets and liabilities are accounted for properly and in compliance with applicable laws, regulations, standards, Company policies, and generally accepted accounting principles.

All reports submitted to governmental authorities shall be made accurately, timely, and in compliance with applicable laws and regulations governing such reports.

We shall report any transaction that violates any law, rule, regulation, Company policy, or the Standards of Conduct to Hickory Creek's President, the Chief Financial Officer and the Compliance Officer.

## **Control of Funds**

We shall be personally responsible and accountable for the proper expenditure of funds and for the proper use of Company property.

We shall follow established internal control procedures in handling and recording all funds and property. We shall make every effort to ensure that any expenditure or transfer of funds is made for a valid business purpose, with proper authorization, and is paid to the recipient indicated in the Company records.

## **Protection of Confidential Information and Documents**

We shall protect all Company and resident information against improper use and access.

We shall not use or reveal any confidential information outside the context of our official duties at Hickory Creek.

We shall retain documents in accordance with the time limits specified by law and Company policy.

We shall not remove corporate records or documents from our nursing facilities or regional or national offices or use such documents for personal gain or benefit. The unauthorized use or transfer of corporate or other information by means of computer or any other technology or means shall represent a violation of the Standards of Conduct.

## **Cooperation with Governmental Authorities**

We shall not only report suspected or actual illegal conduct to governmental authorities as required by laws, regulations or governmental guidance, we shall also provide governmental authorities with any and all information obtained by the Company in the course of investigating illegal conduct by employees of the Company.

## **II. QUALITY OF CARE**

We are committed to consistently providing the highest level of care in the most cost efficient manner. This means striving to meet the needs and hopefully surpassing the expectations of our residents, physicians, payers, employees, and the communities we serve through teamwork and commitment to a process of continuous improvement.

### **The Residents and Communities We Serve**

We shall be responsible for evaluating the needs of the residents we serve and fulfill this obligation by providing high quality, cost-efficient care.

We shall plan individualized treatment to our residents to best meet their particular needs.

A physician shall evaluate all residents before a treatment plan is finalized.

We shall demonstrate courtesy and respect towards our residents and comply with all laws and regulations regarding residents' rights.

It is the policy of Hickory Creek to provide service to all persons without regard to race, color, religion, sex, sexual orientation, national origin, disability, handicap, or age in compliance with 45 CFR parts 80, 84, and 91 respectively. The same requirements are applied to all and there is no distinction in eligibility for, or in the manner of, providing services. All services are available without distinction to all program participants regardless of race, color, religion, sex, sexual orientation, national origin, disability, handicap, or age. The facility does not, and will not, deny admission to people with a contagious disease including, but not limited to, HIV, MRSA, VRE, TB, and Hepatitis B in compliance with Section 504 of the Rehabilitation Act of 1973. All persons and organizations having occasion either to refer persons for services or to recommend our services are advised to do so without regard to the person's race, color, religion, sex, sexual orientation, national origin, disability, handicap, or age.

### **The Responsibilities We Share**

It is our duty and affirmative responsibility to maintain the quality and integrity of our job performance at all times.

We shall attempt to preserve the safety and security of residents and employees in all our activities.

We shall provide to residents only medical services and products that are ordered by physicians, supported by appropriate documentation and comply with all applicable laws, regulations, and professional standards.

We are committed to the goal of excellence and therefore shall employ only professionals with proper credentials, experience, and expertise in meeting the needs of our residents.

We shall never ignore any deficiency or error. Such matters will be reported to a manager or supervisor for resolution.

We shall maintain complete and thorough resident records.

We shall protect the confidentiality of resident information and records.

Only individuals who have the proper license/credentials may perform clinical assessments of our residents.

### **III. CONFLICTS OF INTEREST**

Employment with the Company involves a relationship of trust and loyalty. Employees must be free from any influence that might interfere with the proper and efficient discharge of their duties or be inconsistent with their obligations of loyalty to Hickory Creek Healthcare.

#### **Definition**

Conflicts of interest may exist where our actions or activities, on behalf of Hickory Creek or otherwise, result in improper personal gain or advantage, or an adverse effect upon the interests of the Company.

#### **Personal Benefit**

We shall avoid situations that would create an actual or apparent conflict of interest.

We shall conduct the business of Hickory Creek to the best of our ability for the benefit and in the best interests of the Company.

We shall not become involved, directly or indirectly, in outside commercial interests that could improperly influence our actions without seeking prior approval from a manager or supervisor. This includes being an officer, director, manager, employee, or consultant of an actual or potential competitor, vendor, or supplier of the Company, unless such involvement is disclosed in writing and is approved in advance by the Board of Directors.

The placing of any business with a person or business or entity that is owned, controlled, directed, managed, or operated by any other person related by blood or marriage to any Company employee constitutes a conflict of interest.

#### **Acceptance of Gifts and Entertainment**

We shall avoid accepting or providing benefits that could be seen as creating a conflict of interest by resulting in improper personal gain or the appearance of improper personal gain.

Neither we, nor any member of our immediate family, shall accept any personal gift, bequest, or favor from any of the Company's competitors, contractors, residents, family members, suppliers, or anyone with whom we do business on behalf of Hickory Creek Healthcare.

Perishable gifts and other gifts of nominal value, such as meal and entertainment courtesies, may be accepted, but must comply with standard Company policy. If the gift does not meet these criteria it should be declined or returned.



## **Outside Business Activities**

We shall devote our working time to the performance of our duties for the Company. We shall not engage in any outside business or consulting activities that would interfere with this responsibility. Investment in any organization that is a potential competitor, supplier, or customer of Hickory Creek requires prior written approval. An exception is granted for any investment in stock purchased on a public exchange that constituted less than 5% of the total outstanding stock of the issuing corporation.

Sometimes employees of a Company may work two jobs: one for the Company and one for another business. Our business is the care of residents and that is extremely important. We expect that our employees treat their employment with us as primary and that other jobs not involving resident care be treated as the “second job.” The needs of our residents must come first. If that cannot be accomplished, then the employee who cannot place employment with the Company ahead of employment elsewhere will be expected to resign or will be terminated.

## **IV. FRAUD AND ABUSE CONCERNS**

We believe that physicians will refer their residents to our nursing homes because of the quality of our services and equipment, the location, and technological sophistication of our facilities, and the competence of our facility care staff and other employees.

### **No Payments for Resident Referrals**

Every agreement with a physician or other referral source shall be in writing and approved by Company Officers to ensure compliance with applicable laws, regulations, agreements with lenders, and Company policies.

We shall not solicit nor receive, nor offer pay in any form, to physicians or other health care professionals for referrals of residents. Kickbacks, bribes, rebates, or the flow of any kind of benefits intended to induce referrals is strictly prohibited.

Payments or other benefits provided to physicians and referral sources must be reasonable and must be for the services and rates as specified in the contract. Every payment must be supported by proper documentation that the services contracted for were provided.

### **Joint Ventures with Physicians**

Joint ventures with physicians are expressly prohibited, unless approved in writing in advance by the Board of Directors.

### **Billing**

Submission of any claim, request for reimbursement, or payment that is false or inaccurate will not be tolerated.

We shall submit claims for payment or reimbursement using appropriate billing codes.

We shall only bill for those residents who meet the applicable requirements for Company services.

We shall submit claims only for services actually rendered which have been appropriately documented in the medical record. The submission of any data or document relating to a claim or a request for reimbursement that is false, fictitious, or inaccurate will not be tolerated.

If inaccuracies are discovered in claims already submitted for payment or reimbursement, the payor shall be immediately notified and appropriate actions taken to remedy the matter.

## **V. COMPLIANCE WITH LAWS AND REGULATIONS**

As a health care company, we have significant legal and ethical responsibilities. As such, we will comply with all relevant laws, rules, and regulations and adhere to the highest ethical standards in the conduct of our business.

### **In General**

We shall operate in accordance with all applicable laws and regulations at any level of government.

We will not pursue any business opportunity that engages in illegal or unethical activity.

We shall promptly report and correct violations of laws, regulations, standards, and Company policies and procedures.

### **Environmental Laws**

We shall promote sound corporate environmental and safety practices that will avoid damage to the environment and enhance human and community resources.

We shall comply with all applicable laws and regulations relating to the handling and disposal of hazardous substances and infectious waste while ensuring that contractors hired to dispose of such materials do so in an appropriate manner.

### **Anti-trust Laws**

We shall not engage in discussions, agreements, or understandings with any competitor concerning prices, or other terms or conditions of sale, or concerning product, service, territory, or customer allocation.

### **Political Contributions**

We shall ensure that our personal political activities are lawful and separated from those of the Company.

We shall not make, or reimburse another person for making, any contribution, expenditure, or payment directly or indirectly from Company funds for the use or benefit of, or in support of, or in opposition to, any political party or candidate.

## VI. ABUSE PROHIBITION / KNOW YOUR ROLE

We are a Company committed to continuous improvement in the quality of service we provide to those entrusted to our care. Our goal is to inspire confidence, provide stability and render quality resident care. As a Company, we strive to hire and retain personnel of ability, character and dedication and partner with those who are willing to provide the same quality outcomes to the residents that we serve consistent with our philosophy and mission.

We firmly believe each resident we serve has the right to be free from abuse, corporal punishment, involuntary seclusion, mistreatment, neglect, and misappropriation of property. Our residents must not be subjected to abuse by anyone, including, but not limited to, nursing home staff, other residents, consultants or volunteers, staff of other agencies serving the resident, family members or legal guardians, friends, or other individuals.

Following is our basic Abuse Prohibition protocol and your individual responsibility as an employee of Hickory Creek.

***Every resident has the right to be free from ABUSE (physical, sexual, verbal, mental or involuntary seclusion) MISTREATMENT, NEGLECT, INJURIES OF UNKNOWN SOURCE and MISAPPROPRIATION OF RESIDENT FUNDS OR PROPERTY.***

Recognize the Different Types of Abuse:

1. **ABUSE** – Any willful infliction of injury, unreasonable confinement, intimidation or punishment with resulting physical harm, pain, or mental anguish.
  - a. **PHYSICAL ABUSE** – a willful act against a resident by another resident, an employee, or other individuals.  
  
Examples: hitting, beating, slapping, punching, shoving, spitting, striking with an object, pulling/twisting, squeezing, pinching, scratching, tripping, biting, burning, using overly hot/cold water, and/or improper use of restraints.
  - b. **SEXUAL ABUSE** – Sexual harassment, sexual coercion, or sexual assault, including, but not limited to:
    - i. Nonconsensual sexual contact with a resident by another resident or visitor.
    - ii. Any staff to resident sexual contact.
    - iii. Any sexual contact involving a resident who lacks the ability to give consent because of cognitive impairment.

Examples: fondling, touching, rubbing, exposing, licking, biting, kissing, gestures, sharing pornography, assault, rape, harassment, seduction, coercion, photographing resident's rectal, genital or breast areas, and/or exhibitionism.

c. **VERBAL ABUSE** – Oral, written, and/or gestured language that includes disparaging and/or derogatory terms to residents or their families, either directly or within their hearing.

- i. Resident to resident verbal threats of harm.
- ii. Staff to residents – any episode.

d. **MENTAL ABUSE** – Verbal or nonverbal infliction of anguish, pain, or distress that results in psychological or emotional suffering.

- i. Resident to resident, if it appears to be willfully directed toward a specific resident.
- ii. Staff to resident – any episode.

Examples: humiliation, harassment, threats of punishment or deprivation, bullying.

e. **INVOLUNTARY SECLUSION** – Separation of a resident from other residents or from his/her room or confinement to his/her room (with or without roommates) against the resident's will, or the will of the resident's legal representative.

**2. MISTREATMENT** – treating a resident inappropriately or exploiting a resident.

Examples: rough treatment; taking unauthorized photos or recordings of residents; romantic and /or inappropriate relationship between staff and resident that does not involve physical intimacy; acceptance from a resident or attempts to gain from a resident personal items or money through persuasion, coercion, or solicitation.

**3. NEGLECT** – failure to provide goods or services necessary to avoid physical harm, mental anguish, or mental illness.

Examples: An action or lack of action that actually harms a resident, such as:

- Withholding food or fluids resulting in dehydration or weight loss.
- Failing to provide clothing or shelter resulting in exposure, heat stroke or hypothermia.

- Failing to provide personal hygiene resulting in embarrassment, depression, poor self-esteem, self-isolation or physical harm that requires medical treatment.
- Leaving a resident on a bedpan or toilet resulting in a pressure ulcer.
- Failing to respond to call lights / medical equipment alarms resulting in medical treatment.
- Placing call lights out of reach resulting in anxiety or mental distress.

An action or lack of action that places one or more residents in a life-threatening situation, such as:

- Staff intentionally deactivating call lights / door or medical equipment alarms.
- Direct care staff abandoning job without proper notification to any other staff person and leaving residents unattended.
- Staff failing to identify, access, monitor, and respond to a resident suffering an acute condition.

**4. INJURIES OF UNKNOWN SOURCE** – An injury should be classified as an injury of unknown source when the following conditions are met:

- The source of the injury was not observed by any person or the source of the injury could not be explained by the resident.
- The injury is suspicious because of the extent of the injury or the location of the injury (e.g., the injury is located in an area not generally vulnerable to trauma) or the number of injuries observed at one particular point in time or the incidence of injuries over time.

Examples of suspicious injuries:

- Black eye
- Marks of bruising:
  - In the shape of fingers / hand or an object
  - In genital or breast area
  - On back, buttocks, or neck

**5. MISAPPROPRIATION OF RESIDENT FUNDS OR PROPERTY** – deliberate misplacement, exploitation, or wrongful, temporary or permanent use of resident's property or money without the resident's proper and informed consent.

- a. Resident's property includes all resident's possessions, regardless of their apparent value since it may hold intrinsic value to the resident.
- b. Includes any medication dispensed in the name of a resident, but not provided to the resident.

**You are Responsible to Immediately Protect the Resident should you witness *ABUSE (physical, sexual, verbal, mental or involuntary seclusion) MISTREATMENT, NEGLECT, INJURIES OF UNKNOWN SOURCE and MISAPPROPRIATION OF RESIDENT FUNDS OR PROPERTY.***

- You must stay with the resident and call for assistance.
- Direct a caregiver to leave the room if he/she is witnessed to be abusive to the resident.

***All alleged violations of ABUSE (physical, sexual, verbal, mental or involuntary seclusion) MISTREATMENT, NEGLECT, INJURIES OF UNKNOWN SOURCE and MISAPPROPRIATION OF RESIDENT FUNDS OR PROPERTY are to be reported IMMEDIATELY.***

### ***To whom do you report?***

- Your Direct Supervisor; and
- The Administrator  
(If the allegation is towards your Direct Supervisor, contact the Administrator immediately)

### ***How should you report?***

- **Verbally** – and **IMMEDIATELY** to your Direct Supervisor and Administrator.
- **In writing** – after verbally reporting immediately to your direct supervisor and the Administrator, prepare a written statement including your printed name, signature and date and deliver to the Administrator.
- **Form** – for articles of clothing missing, or resident personal belongings, you may record this information on the Resident / Family Concern Form available at the Nurses Station.

These reporting obligations may be in addition to any obligations set forth under the Elder Justice Act. See pages 15-17 of this Standards of Conduct Handbook.

### ***When should you report?***

- **Immediately!**

### **You Must Report When You...**

- Actually see/witness an incident that meets the guidelines provided above regarding ***ABUSE (physical, sexual, verbal, mental or involuntary seclusion) MISTREATMENT, NEGLECT, INJURIES OF UNKNOWN SOURCE and MISAPPROPRIATION OF RESIDENT FUNDS OR PROPERTY.***

- Observe signs that “suggest” **ABUSE (physical, sexual, verbal, mental or involuntary seclusion) MISTREATMENT, NEGLECT, INJURIES OF UNKNOWN SOURCE and MISAPPROPRIATION OF RESIDENT FUNDS OR PROPERTY** may have happened, including a change in the resident’s behavior/demeanor (e.g. a resident becomes quiet, withdrawn, or flinches as if fearful when touched).

You **are not** to make a determination that **ABUSE (physical, sexual, verbal, mental or involuntary seclusion) MISTREATMENT, NEGLECT, INJURIES OF UNKNOWN SOURCE and MISAPPROPRIATION OF RESIDENT FUNDS OR PROPERTY** **“has”** or **“has not”** occurred and then decide whether to report.

**If the resident makes an allegation (even if it doesn’t seem that it can be true) it must be reported IMMEDIATELY to your direct supervisor and the Administrator.**

If the report of alleged abuse involves the nursing home Administrator or any Hickory Creek Home Office personnel, then you are required to **IMMEDIATELY** contact the Director of Operations or Vice President of Operations for the nursing home and the Corporate Compliance Call Line or Email immediately, so that follow up by the appropriate corporate personnel can begin as soon as possible. The telephone number for the Compliance Call Line is 1-888-788-2502, or Email at [compliance@asccare.com](mailto:compliance@asccare.com)

**Retaliation / Retribution / Reprisal**

Employees have the commitment of Hickory Creek Healthcare that an employee can report under the Abuse Prohibition guidelines without fear of reprisal. No employee will be retaliated against by Hickory Creek management for making a report under the Abuse Prohibition guidelines, unless:

1. As an employee, if you fail to IMMEDIATELY REPORT to your Direct Supervisor and the Administrator any alleged violations of ABUSE (physical, sexual, verbal, mental or involuntary seclusion) MISTREATMENT, NEGLECT, INJURIES OF UNKNOWN SOURCE and MISAPPROPRIATION OF RESIDENT FUNDS OR PROPERTY.
2. You make a false report.

Under these circumstances you are subject to disciplinary action up to and including termination and the possibility of your infraction being reported to local law enforcement entities, licensure agencies or certification agencies.

**When in DOUBT – REPORT!**



## VII. ELDER JUSTICE ACT

### **The Act:**

Section 6703(b) (3) of the Patient Protection and Affordable Care Act, in part, amends Title XI of the Social Security Act by adding a Section 1105B. Section 6703(b) (3) is part of Subtitle H referred to as the *Elder Justice Act*. Section 1105B requires long term care facilities that receive at least \$10,000 in Federal funds under the Act, [referring to the Social Security Act] during the preceding year to annually notify each covered individual of their obligation to report to the State Survey Agency and at least one local law enforcement entity “any reasonable suspicion of a crime,” as defined by local law, committed against an individual who is a resident of, or is receiving care from the facility.

This “Act” is commonly referred to as the “*Elder Justice Act*.”

### **Determination:**

Hickory Creek Healthcare has determined that this nursing home received at least \$10,000 in Federal funds during the preceding year and, as such, shall annually notify each covered individual of that individual’s obligation to comply with the reporting requirements of the Act.

### **Covered Individual:**

A “covered individual” of this nursing home is defined as any individual who is an employee, agent, contractor, manager, owner, or operator. This nursing home must at least annually notify each covered individual of the reporting obligations described in the Act.

### **Reporting Requirements:**

Each employee, agent, contractor, manager, owner or operator of this nursing home is individually responsible to report the reasonable suspicion of a crime against a resident. An individual who fails to report is subject to a civil money penalty of up to \$300,000 and exclusion from participation in any Federal health care program.

Reports of the reasonable suspicion of a crime against a resident of this nursing home must be made to the:

#### **State Survey Agency**

(In accordance with the Abuse Prohibition / Know Your Role Protocol. See pages 10-14 of this Standards of Conduct Handbook. In addition, you will be provided with specific information regarding the Elder Justice Act and Reporting a Reasonable Suspicion of a Crime against a Resident, specific to this nursing home at the time of hire and annually thereafter)

### **Local Law Enforcement Entity**

(you will be provided with specific information regarding the Elder Justice Act and Reporting a Reasonable Suspicion of a Crime against a Resident, specific to this nursing home at the time of hire and annually thereafter)

### **Administrator**

(In accordance with the nursing home's Abuse Prohibition / Know Your Role Protocol, Elder Justice Act Protocol and the Accident / Incident / Reportable / State Officials Policy and Procedure for Indiana and Ohio)

within 2 hours if there is serious bodily injury. If events causing the suspicion do not result in serious bodily injury, it must be reported within 24 hours after forming the suspicion.

Serious bodily injury includes any injury requiring medical intervention, hospitalization or physical rehabilitation.

This nursing home will not retaliate against any employee who lawfully reports the reasonable suspicion of a crime against a resident.

This nursing home will not discharge, demote, suspend, threaten, harass, or deny a promotion or other employment-related benefit to an employee, or in any other manner discriminate against an employee, in terms and conditions of employment because of lawful acts done by the employee for making a report, causing a report to be made, or for taking steps in furtherance of making a report pursuant to the Act.

The nursing home will not file a complaint or report against a nurse or other employee with the appropriate state professional disciplinary agency because of lawful acts done by the nurse or employee for making a report, causing a report to be made, or for taking steps in furtherance of making a report pursuant to the Act.

An employee may file a complaint with the State Survey Agency against this nursing home if this nursing home retaliates against an employee who has lawfully reported the suspicion of a crime against a resident.

***It is likely that any "Reasonable Suspicion of a Crime against a Resident" would also fall under this nursing home's Abuse Prohibition Protocols and could involve mistreatment, verbal, sexual, physical and mental abuse, including injuries of unknown source, corporal punishment, involuntary seclusion, neglect or misappropriation of resident property. As such, these events would require reporting to this nursing home's Administrator and failure to do so could result in disciplinary action up to and including termination.***

**Contact Information for the Reporting of a Reasonable Suspicion of a Crime against a Resident:**

Refer to your nursing home's specific protocol.

**Issues that local law enforcement has indicated they wish to be reported to them are:**

Refer to your nursing home's specific protocol.

**Information to be Included in the Report:**

Nursing home name

Nursing home address, including city, state and zip

Person or persons making the report and title or titles

Date and time of incident

Resident or residents involved, room number, age and diagnosis

Staff involved, their title, and professional license or aide registry number

Brief description of incident – Take your time to describe what was observed

Type of injury/injuries

Immediate action taken

Preventative measures taken

Type of report (choose one): Initial / Follow-up / Initial with Follow-up

**Post Conspicuous Notices:**

This nursing home has conspicuously posted two notices regarding this Act for its employees in the same area that the nursing home posts other required employee signs, such as labor management posters.

**Reporting:**

Covered individuals are to immediately report any reasonable suspicion of a crime against a resident of, or who is receiving care from this nursing home.

## **VIII. EMPLOYMENT POLICIES**

Hickory Creek employees contribute directly to our success. We value and support our employees by maintaining a healthy, supportive and positive work environment.

### **Our Work Environment**

We shall demonstrate proper respect and consideration for one another, regardless of position or relationship. Discriminatory treatment, harassment, abuse, or intimidation of any type will not be tolerated.

We shall conform to the standards of our professions. Differences of opinions in professional judgment about resident care or otherwise should be referred to the appropriate level of management for resolution.

We shall ensure that Hickory Creek policies and procedures are followed in the performance of our duties.

We are committed to verifying the credentials of all medical professionals. A background investigation and working reference check will be completed before hiring employees who have access to residents or their possessions, or employees who have discretionary authority to make decisions that may involve compliance with the law. We will hire only employees and contracted labor that can be trusted to embrace a culture of compliance. No person will be hired who has been debarred, excluded, or otherwise become ineligible for participation in Federal or State healthcare programs.

Our work environments shall be free from all forms of sexual harassment and intimidation. Verbal and physical contact of a sexual nature by any employee, supervisor, manager, including sexual advances, requests for sexual favors, or other conduct which tends to create an intimidating, hostile, or offensive work environment, is strictly prohibited.

Retaliation or retribution against an employee reporting violations of laws, standards, or policies and procedures of the Company will not be tolerated and is strictly prohibited.

### **Equal Employment Opportunity**

It is the policy of Hickory Creek Healthcare to provide employment opportunities to all persons without regard to race, color, religion, sex, sexual orientation, national origin, disability, handicap, or age in compliance with all State and Federal regulations. The same requirements are applied to all and there is no distinction in eligibility for, or in the manner of, securing employment. All positions are available without distinction to all persons eligible for employment, regardless of race, color, religion, sex, sexual orientation, national origin, disability, handicap, or age. All persons and organizations having occasion either to refer persons for employment or to recommend employment

are advised to do so without regard to the person's race, color, religion, sex, sexual orientation, national origin, disability, handicap, or age.

## **Safety**

We shall be familiar and comply with all Hickory Creek and OSHA requirements related to work and safety.

We shall maintain a drug-free workplace and will not tolerate the manufacture, possession, distribution, sale, use, or being under the influence of illegal drugs or unauthorized alcohol on Company property or while employed by the Company. The illegal use or possession of drugs or other substances will result in dismissal. Possession or use of a prescription drug, where the prescription was issued to another person instead of the employee, will be treated as possession or use of an illegal drug.

We shall maintain a weapons-free workplace and will not tolerate the possession or use of any weapon on Company property, including the parking lot.

We shall report any practice or condition that may violate rules, regulations, OSHA requirements, and Hickory Creek policy or safety standards.

## **False Claims Act – Federal & Indiana overview**

(Federal - U.S.C. §3729 *et seq.* – State – Ind. Code § 5-11-5.5.1 *et seq.*)

This is a brief overview of the Federal / Indiana statutes. For more detailed information refer to the Administrative Policy & Procedure Manual – Policy # ADM-D007 – Deficit Reduction Act of 2005 – False Claims & Whistleblower Protection.

The primary activities that constitute violations under the False Claims Act are:

1. knowingly presenting, (or causing to be presented) to the Federal or State Government a false or fraudulent claim for payment, or approval;
2. knowingly using, (or causing to be used) a false record or statement to get a false or fraudulent claim paid or approved by the Federal or State Government;
3. conspiring to get a false or fraudulent claim paid by the Federal or State Government;
4. possession, custody, or control of property or money used, or to be used, by the Government and, intent to defraud the Government, or willful concealment of property, delivery of less property than the amount for which a person receives a certificate or receipt;
5. authorizing to make or deliver a document certifying receipt of property used, or to be used, by the Government and, intending to defraud the Government, making or deliver the certifying receipt without completely knowing that the information on the receipt is true;

6. knowingly buying, or receiving as a pledge of an obligation or debt, public property from an officer or employee of the Government, who lawfully may not sell or pledge the property; or
7. knowingly using, (or causing to be used) a false record or statement to conceal, avoid, or decrease an obligation to pay money or transmit property to the Federal or State Government.

“Knowing” and “knowingly” defined – means that a person, with respect to such information:

1. has actual knowledge of the information;
2. acts in deliberate ignorance of the truth or falsity of the information;
3. acts in reckless disregard of the truth or falsity of the information; and
4. no proof of specific intent to defraud is required.

“Claim” defined – includes any request or demand, whether under contract or otherwise, for money or property which is made to a contractor, grantee, or other recipient if the United States Government provides any portion of the money or property which is requested or demanded, or if the Government will reimburse such contractor, grantee, or other recipient for any portion of the money or property which is requested or demanded.

In general, the False Claims Act covers fraud involving any federally or state funded contract or program, with the exception of tax fraud. An example is when a health care provider bills Medicare and/or Medicaid for services that were not provided.

## **Civil Actions for False Claims**

The Attorney General / Inspector General diligently shall investigate a violation of the Act. If the Attorney General / Inspector General find that a person has violated or is violating the Act, civil action may be brought against the person.

A person may bring a civil action for violation of the Act for the person and for the federal / state government. The action shall be brought in the name of the federal / state government.

## **Liability for Violating the False Claims Act**

Violators of the False Claims Act are liable for up to three (3) times the dollar amount that the Federal or State Government is defrauded, (i.e. treble damages) and civil penalties of \$5,000 to \$11,000 for each false claim.

## **Award for Blowing the Whistle under the False Claims Act**

It is only the filing of a *qui tam*, (whistleblower) lawsuit and a subsequent favorable judgment which enables a private party, (person) to receive a recovery under the False Claims Act. First, in order to be eligible to recover money under the Act, you must file a

*qui tam* lawsuit. Further, a relater (i.e. *qui tam* plaintiff) can receive between fifteen percent (15%) and twenty-five percent (25%) of the total recovery from the defendant, whether through a favorable judgment or settlement.

Under the False Claims Act, an action must be filed within the later of the following two time periods:

1. six (6) years from the date of the violation of the Act; or
2. three (3) years after the Government knows or should have known about the violation, but in no event longer than ten (10) years after the violation of the Act.

### **Protection against Employer Firing or Otherwise Discriminating for Blowing the Whistle under the False Claims Act**

Under the Act, any employee who is discharged, demoted, harassed, or otherwise discriminated against because of lawful acts by the employee in furtherance of an action under the Act is entitled to all relief necessary to make the employee whole.

### **False Claims – Ohio**

Providers can be civilly liable for obtaining or attempting to obtain “payments... to which the provider is not entitled pursuant to the provider agreement, or the rules of the federal government or the Department of Job and Family Services.” Similar to the Federal False Claims Act, no actual intent to deceive or defraud the government is necessary.

### **Liability for Violating State Provisions for False Claims**

If a provider is found to have violated this particular law he or she could be subject to several civil penalties, including, but not limited to: payment of interest (at the maximum rate) on the amount of the excess payments, payment of three times (3X) the amount of any excess payments, a fine between five thousand (\$5,000) and ten thousand (\$10,000) dollars for each false filing, and any other reasonable expenses determined by the court.

### **State Whistleblower Protections**

ORC 4113.52 provides protection for employees who report:

1. a violation of state or federal law, or
2. the misuse of public resources that the employee becomes aware of in the course of employment.

## **Protection against Employer Firing or Otherwise Discriminating for Blowing the Whistle under the Ohio State Provisions for False Claims**

Employees are permitted to file a civil action for injunctive relief or other remedies in a court of common pleas, provided the action is brought within one hundred eighty (180) days after the date the disciplinary or retaliatory action was taken.



## **IX. HEALTH INSURANCE PORTABILITY AND ACCOUNTABILITY ACT (HIPAA)**

### **HIPAA: a Brief Summary**

The Health Insurance Portability and Accountability Act of 1996 (HIPAA) is Federal legislation that created national standards to protect the privacy of patients' medical records and other personal health information.

The HIPAA Privacy & Security Regulations give patients certain rights over their healthcare information and requires Hickory Creek Healthcare, to put policies and procedures in place to protect patients' health information, whether oral, written, or electronic, from being used or disclosed to individuals not authorized to access it.

HIPAA itself does not establish the regulations, but provides the framework for regulations (generally known as "rules") in four areas; transactions and code sets, identifiers, privacy, and security.

### **How does Information Security relate to HIPAA?**

The Health Insurance Portability and Accountability Act of 1996 (HIPAA) is a law that charges the Department of Health and Human Services (with the Federal Government) to establish regulations for the handling of protected health information (PHI).

EPHI is the electronic or digital form of protected health information, which is used in place of paper or oral forms of PHI.

Security and privacy have become increasingly important in our electronic age of healthcare. The Health Insurance Portability and Accountability Act of 1996 (HIPAA) contains regulations for maintaining the security of EPHI through the use of administrative, physical and technical security measures.

**Privacy** – The rule that provides guidelines intended to protect the confidentiality of PHI. Standards for identification and authentication of people and organizations requesting PHI are enumerated in this rule. Responsibility for compliance with the privacy rule falls under the responsibility of the Administrator at each nursing home Hickory Creek operates and the Administrator serves as the nursing homes Privacy Officer.

**Security** – The rule that deals largely with the technical measures used to enforce the organization's information-handling policy. Compliance with the security rule is the responsibility of the Compliance Officer with Hickory Creek Healthcare

### **What are the implications for me?**

As an Employee, Volunteer, Student or an Individual with a contract assignment with Hickory Creek Healthcare with possible access to PHI / EPHI, it is your responsibility to become familiar with the policies and practices necessary for maintaining security and safeguarding patient privacy, especially with respect to their PHI / EPHI.

Failure to comply with these policies and procedures can result in disciplinary action up to and including termination.

### **For more information:**

Hickory Creek's full policy, procedures and protocols regarding the Health Insurance Portability and Accountability Act of 1996 can be found in the Administrative Policy and Procedure Manual.

Employees, Volunteers, Students or Individuals with a contract assignment with a Hickory Creek nursing home will be oriented during the initial introductory period with our Company and periodically thereafter as necessary.

## X. PROCEDURE FOR REPORTING COMPLIANCE CONCERNS

We believe that the Compliance Program can be effective only if there is active participation by all Hickory Creek employees and residents. Mandatory reporting, thorough investigation and uniform, fair remedial actions are a necessary component of an effective program.

Any employee who has knowledge of an actual or potential violation of law, regulation, policy, or procedure, and/or the Hickory Creek Standards of Conduct must report the matter to a Supervisor or, if appropriate, to your Department Manager. If the complaint involves that Supervisor or Department Manager, then the complaint shall be brought directly to the nursing home Administrator. If the matter is not resolved in a timely manner, employees are encouraged to directly contact the Hickory Creek Compliance Office.

Hickory Creek has implemented a Compliance Call Line for any person who wishes to report ethical violations, violations of law, or any other information the person feels he/she cannot otherwise report to a Supervisor. The toll-free Compliance Call Line is:

1-888-788-2503

If you feel uncomfortable about reporting via the Call Line, you may send a written report to:

Corporate Compliance Officer  
c/o American Senior Communities  
6900 South Gray Road  
Indianapolis, IN 46237

Email at: [compliance@asccare.com](mailto:compliance@asccare.com)

or through the website at:  
[www.hickorycreekcare.com](http://www.hickorycreekcare.com)

Whether reporting by telephone or in writing, please provide as much detail as possible, including but not limited to names, dates, times, location, and the specific conduct you feel may violate the law or Hickory Creek's policy. If writing, please try to include copies of all relevant documents, if applicable. No person shall be retaliated against for making a good faith report of a suspected violation. However, any employee who knowingly makes false allegations shall be subject to disciplinary action in accordance with Company policy. Employees who make anonymous reports of wrongdoing can actually harm the investigation process, because they prevent meaningful follow up of the complaint. Anonymous reports may lack credibility and are unnecessary due to the Company's anti-retaliation policy.

**CONFIDENTIALITY AGREEMENT**  
**Employee, Volunteer, Student or Individual - Contract Assignment**

I, \_\_\_\_\_  
(Print Employee, Volunteer, Student, or Individual - Contract Assignment Name)

agree that in the performance of my duties at Hickory Creek Healthcare, that I will hold ALL resident health information in the strictest of confidence. Further, I agree that I will never disclose or transmit any information, including especially any photograph or image, of any resident to anyone at any time.

- I understand that a violation of any resident’s rights to privacy or confidentiality of their health information (PHI/EPHI) may result in punitive action against me, including criminal prosecution and immediate dismissal from employment / volunteering / training.
- I understand that I must be aware, at all times, of residents’ rights to privacy, including when I am away from my designated area, such as when I am in the dining room or break room, in the hallways, or in any other part of the nursing home.
- When I am away from or leave this nursing home, I also understand that I still have a continued responsibility to uphold all residents’ rights to privacy. This means that I will not divulge confidential information about any resident at the nursing home when I am away from the facility.
- If I have access to computers within the nursing home, I will only access them for legitimate business purposes. I will not access computer information just because I am curious and want to know more about a particular resident or residents. In addition, I will not leave the computer screen unattended for any length of time, so as to allow unauthorized access to medical information. I will not, under any circumstances, divulge my computer password (allowing access to the computer system) to anyone at any time.
- When I am no longer affiliated with this nursing home, I understand that I still have continued responsibility to keep all residents’ health information in the strictest confidence.

\_\_\_\_\_  
Employee, Volunteer, Student, or Individual -  
Contract Assignment Signature

\_\_\_\_\_  
Date

**Effective: October 2015**

White – Personnel, Volunteer, Student or Contract File  
Yellow – Individual Signing Document

**STANDARDS OF CONDUCT  
ACKNOWLEDGEMENT**

I, \_\_\_\_\_  
(Print Employee, Volunteer, Student, or Individual - Contract Assignment Name)

as an employee of Hickory Creek Healthcare, acknowledge that:

- I have received and read the Standards of Conduct, and
  
- my continued employment with Hickory Creek Healthcare depends on my full Compliance with all Company rules, policies, and procedures; and obedience to all local, state, and federal rules, and regulations governing Medicare / Medicaid or other government funded health care programs, and
  
- neither the Standards of Conduct nor this Form:
  - create a contract of employment,
  - alter my status as an at-will employee, or
  - create a program of progressive discipline.

\_\_\_\_\_  
Employee, Volunteer, Student, or Individual -  
Contract Assignment Signature

\_\_\_\_\_  
Date

**Effective: October 2000**  
**Revised: January 2009**  
**Revised: January 2012**  
**Revised: October 2015**

White – Personnel, Volunteer, Student or Contract File  
Yellow – Individual Signing Document