



Section 1 – ADA Compliance Plan

Issue Date: 09/30/13

Revision Date: 06/01/14, 05/26/16, 02/10/16; 10/01/16; 06/30/20

Prepared By: President|CEO

Reviewed By: In-House Counsel

Approved By: *[Signature]*

Section: Administration & Leadership

Chief Executive Officer

Program Application:

- Board of Trustees ✓
- Corporate ✓
- EverCare At Home ✓
- EverCare Choice ✓
- EverCare Life ✓

I. GENERAL STATEMENT OF POLICY

EverCare is committed to complying with all applicable provisions of the Americans with Disabilities Act [ADA], including making services accessible to all covered persons. Title II of the Americans With Disabilities Act [ADA] and Section 504 of the Rehabilitation Act of 1973 [Section 504] provides that no qualified individual with a disability shall, by reason of such disability, be excluded from participation in, or denied access to, the benefits of services, programs or activities of a public entity, or be subject to discrimination by such an entity. Public entities include State and local government and ADA and Section 504 requirements extended to all programs and services provided by State and local government. Health services provided through our organization must be accessible to all that qualify.

II. SCOPE

Board of Trustees, Managers, Staff, Providers, Students, Volunteers

III. IMPLEMENTATION

Marketing and Pre-Admission

Marketing events [i.e. presentations, health promotions and fairs] will be held in physically accessible locations with EverCare staff available in person to meet with potential patients, referral sources, to assist all individuals in understanding material presented. EverCare brochures will be translated upon request and read to aid those with visual impairment. For MLTCP – no marketing activities except as allowable under Department of Health’s marketing provisions for Managed Long-Term Care organizations, shall be participated in.

To ensure that no eligible individual with a disability is denied access to any of EverCare’s programs, no health or disability assessment will be completed prior to an official assessment visit. Thorough documentation is maintained on all prospective Members, Patients, Clients who meet the initial eligibility requirements but are not taken under care. This documentation is reviewed on a regular basis to ensure that those individuals not taken under care were denied enrollment only for bona fide reasons unrelated to any disability and is made available for immediate review by governing authorities upon request.

Accessibility

EverCare’s buildings are fully accessible to wheelchair-bound and other disabled persons needing mobility assistance. Each entry way features access to parking lot and sidewalk and ground-level doorways. In addition, the site is fitted with automatic doors and an area for drop off with protection from rain|snow. Interior rooms are spacious and wheelchair accessible. There are public restrooms accessible for persons needing mobility assistance. All providers who service Members, Patients, Clients of EverCare in their physical premises must ensure that their facility|property is accessible.

Technical assistance, Telecommunication Device for the Deaf [TDD], is available for people with hearing disabilities. Sign Language assistance can be arranged as needed. EverCare staff members are always available to explain and|or read material to people with visual disabilities.

Identification of Persons with Disabilities

EverCare follows established methods|guidelines for identifying Members, Patients and Clients at risk of, or having, chronic diseases and disabilities and determining their specific needs in terms of specialist physician referrals, durable medical

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equipment, medical supplies, home health services, etc. EverCare will not discriminate against a prospective Members, Patients and Clients based on his/her current health status or anticipated need for future health care nor will it discriminate on the basis of disability or perceived disability of an Member, Patient and Client or their family caregiver.

Disabilities will be identified at the time of enrollment, start of care, and/or recertification visits. Auxiliary aids and services needed by Members, Patients and Clients are evaluated, authorized as appropriate, referred as necessary/appropriate, and monitored by the assigned Case Manager, Care Manager, or Social Day staff.

Orientation and Education

All new Members, Patients and Clients are provided with an orientation to their program, including an explanation of how to access services. Similar educational opportunities are made available to existing Members, Patients and Clients at their request or any time a staff member or family/caregiver believes such education to be beneficial. Staff members are available to discuss and or read any material that poses a challenge to the visually impaired Members, Patients and Clients. TDD is available for Members, Patients and Clients with hearing impairments or sign language assistance can be provided. For persons with cognitive impairments, staff is available to assist in understanding the material. Case managers, care managers, clinicians, and office staff are always available to assist in accessing needed care [i.e. scheduling appointments, agency services, etc].

All Members, Patients and Clients are also educated regarding the Grievance and Appeal Process during the initial admission. This process is also documented in the Handbook|Enrollment Packet and includes the NYS DOH complaint toll free hotline phone number. Both are distributed at time of the initial visit, however a Member, Patient and Client is able to access this information at any time, or at any point while under our care. If for any reason there is a barrier to accessing the information the Member, Patient and Client is encouraged to speak to their assigned clinician for assistance. TDD capability and/or sign language assistance is available for those with hearing disabilities. Notification materials and complaint forms will be printed in alternative formats to accommodate with visual, hearing or cognitive impairments.

On-Going Case/Care Management

All Members and Patients are assigned a Case or Care Manager upon enrollment who is responsible for the Plan of Care and timely delivery of covered services. The Electronic Medical Record designates which Care Manager is assigned to each Member or Patient. Case/Care Managers advocate for preventative health services and ensure implementation of overall treatment plan including specialty care. Case/Care Managers are also accountable for ensuring that any disability-related needs are met and that discrimination based on disability does not occur.

Participating Providers

Contractors|vendors are required to maintain ADA compliance at all times. An onsite visit may be made to any provider who provides services at a physical location other than the Member’s or Patient’s home prior to final contract negotiation, or any time thereafter, to identify barriers to access and/or if modifications should be made as necessary, if applicable.

In the event EverCare cannot provide an ADA compliant provider in-network, out-of-network service authorization will be approved to ensure members obtain timely, appropriate covered services.

Additional ADA Responsibilities for Public Accommodations

Title III of the Americans with Disabilities Act [ADA] applies to all non-governmental providers of health care and the prohibits discrimination on the basis of disability in the full and equal enjoyment of goods, services, facilities, privileges, advantages, or accommodations of any place of public accommodation. A public accommodation is a private entity that owns,

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leases, or leases to, or operates a place of public accommodation. Places of public accommodation identified by the ADA include, but are not limited to, stores [including pharmacies], offices [including doctors’ offices], hospitals, health care providers, and social service centers.

Title III also requires places of public accommodation to provide any auxiliary aids and services that are needed to ensure equal access to the services it offers, unless a fundamental alteration in the nature of the services or an undue burden would result. Auxiliary aids include but are not limited to qualified sign interpreters, assistive listening systems, readers, large print material, etc. Undue burden is defined as “significant difficulty or expense”. The factors to be considered in determining “undue burden” include, but are not limited to, the nature and cost of the action required and the overall financial resources of the provider. “Undue burden” is a higher standard than “readily achievable” in that it requires a greater level of effort on the part of the public accommodation.

IV. GOVERNANCE

Americans with Disability Act of 1990, Section 504 of Rehabilitation Act of 1973

V. WHOM DO I CONTACT FOR FURTHER QUESTIONS

- VP|Operations
- Chief of Staff
- Chief Compliance Officer
- Director|Patient Services
- Director|Managed Care

VI. WEBLINKS

[www.dol.gov](http://www.dol.gov)

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**Section 02 – Weapons**

**Section: Human Resources**

Original Issue Date: 05/20/15

Site Application:

Prepared By: Committee

Revision Date: 05/26/16

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SDC

Approved By:   
Chief Executive Officer

Review Date: 02/10/16

**I. GENERAL STATEMENT OF POLICY**

EverCare recognizes the importance of a safe and secure environment for all persons. Accordingly, subject to the exceptions below, the possession and/or use of weapons or other instruments that can be used as weapons are strictly prohibited at all times in our offices, including parking lots, and Member/patient’s homes, regardless of whether the person is licensed to carry a weapon or not.

**II. SCOPE**

All Staff, Volunteers, Visitors, Contractors

**III. IMPLEMENTATION**

This policy applies to all individuals while on company property and/or on duty, and also prohibits weapons at any company-sponsored function, such as parties and/or picnics. Bringing weapons or firearms of any kind on premises, including parking lots or a Member/patient’s property is strictly prohibited.

For the purposes of this policy, weapons or instruments that can be used as weapons are broadly defined to include, but are not limited to: hand guns, rifles, shotguns, machine guns, semiautomatic rifles, B.B. guns, Tasers, dart guns, pellet guns, and other firearms; stilettos, razors and other knives or tools capable of inflicting harm; a weapon or other device that releases or emits tear gas or any other substance intended to produce physical discomfort or injury through being vaporized or otherwise dispensed in the air and any other objects that can reasonably be considered a weapon or any item that appears or looks like one of these items. For the purposes of this policy, a firearm is broadly defined as a weapon capable of firing a projectile and using an explosive charge as a propellant. If you have a question about whether an item is covered by this policy, you have the responsibility to contact your supervisor or Human Resources Representative.

In furtherance of EverCare’s prohibition on weapons in the workplace policy, from time to time EverCare may conduct internal investigations pertaining to security. Accordingly, whenever necessary, at the organization’s discretion, without prior notice, and to the extent permitted by law, the organization may search all persons entering its property (including but not limited to clothing, packages, containers, briefcases, purses, lockers, desks and filing cabinets) and/or employees entering into patients’ homes for the purpose of determining whether any weapon has been brought onto said premises or property in violation of this policy.

Therefore, the employee should have no expectation of privacy when on company property or on a Member/patient’s property. Employees are required to cooperate fully. Any employee failing or refusing to promptly permit a search under this policy will be subject to appropriate disciplinary action, up to, and including termination of employment.

For purposes of this policy, “company property” includes, without limitation, all company-owned or leased buildings, and surrounding areas such as sidewalks, walkways, driveways, and parking lots under the company’s ownership or control. Company-owned or leased vehicles are covered by this policy at all times regardless of whether they are on company property at the time. “Member/patient’s property” includes, without limitation, the Member/patient’s residence or any building containing such residence, driveway of Member/patient’s residence or their yard.

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Subject to the exceptions above, an employee found to be in possession of a weapon on company property or patient property or who has invited a guest who the employee knows to be in possession of a weapon on company property or patient property is subject to immediate disciplinary action, up to and including termination.

This policy shall not be construed to create any duty or obligation on the part of the organization to take any actions beyond those required of an employer by existing law.

Where state and/or local law covers possession of weapons and/or firearms, the organization will defer to and comply with those laws.

**IV. WHOM DO I CONTACT FOR FURTHER QUESTIONS**

Human Resources

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**Section 03 – Member Non-Discrimination & Anti-Harassment**

Issue Date: 12|01|16

Revision Date: 06|30|20


Program Application:

Prepared By: Committee

Reviewed By: Quality Team

Board of Trustees

Corporate

Approved By: 

Section: Eligibility

EverCare At Home

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Chief Executive Officer

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**I. GENERAL STATEMENT OF POLICY**

As a recipient of government funding, and consistent with our organization’s respect for the rights and dignity of each Member, EverCare does not exclude, deny benefits to, or otherwise discriminate against any person on the basis of race, color, national origin, disability, or age in admission to, participation in, or receipt of, the services and benefits under any of its programs and activities, whether carried out by EverCare employees directly or through a contractor or any other entity with which EverCare arranges to carry out its programs and activities.

The policy statement herein is in accordance with and governed by the provisions of Title VI of the Civil Rights Act of 1964, Section 504 of the Rehabilitation Act of 1973, the Age Discrimination Act of 1975, the Americans with Disabilities Act of 1990, as amended, and Regulations of the U.S. Department of Health and Human Services issued pursuant to these statutes at Title 45 Code of Federal Regulations Parts 80, 84, and 91.

**II. SCOPE**

Managers, Staff, Contractors, Students, Volunteers

**III. DEFINITIONS**

Our organization has adopted, and its policy is based on, the definitions of discrimination and harassment set forth by the Civil Rights Act of 1964, the Rehabilitation Act of 1973, the Age Discrimination Act of 1975, the Americans with Disabilities Act of 1990, as amended, and the Regulations of the U.S. Department of Health and Human Services.

**Discrimination**                      The lawfully unjust or prejudicial treatment of a person on the basis of a characteristic protected by law [i.e. race, color, religion, creed, sex, age, national origin, marital status, citizenship, disability, sexual orientation, military or veteran status, genetic predisposition or carrier status, or any other characteristic protected by law]. Examples of discrimination include, but are not limited to: denial of services due to specific religious practices, differential treatment on the basis of HIV status, differential treatment on the basis of race, denial of services to a transgendered individual, or denial of services due to multiple disabilities| diagnoses.

**Harassment**                              Verbal or physical conduct that denigrates or shows hostility or aversion toward an individual because of his|her race, color, religion, creed, sex, age, national origin, marital status, citizenship, disability, sexual orientation, military or veteran status, genetic predisposition or carrier status, or any other characteristic protected by law or that of his|her relatives, friends or associates. Harassment includes, but is not limited to, epithets, slurs, or negative stereotyping; threatening, intimidating, or hostile acts; written or graphic material that denigrates or shows hostility or aversion toward an individual or group.

**IV. IMPLEMENTATION**

Our organization requires the reporting of all incidents of discrimination, harassment, and retaliation, suspected or otherwise, including incidents that involve Members, regardless of the offender’s identity or position, family Member or non-employee status. Individuals who believe they have experienced or witnessed conduct that is contrary to our organization’s policy or who have concerns about such matters should file a complaint with their Care Manager and/or Program Director.

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Board of Trustees

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Approved By: 

Section: Eligibility

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Chief Executive Officer

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A prompt, impartial, and thorough investigation of the alleged incident will be conducted to the fullest extent possible and appropriate corrective action will be taken, if warranted. The investigation may include individual interviews with the parties involved, interviews with individuals who may have observed the alleged conduct or may have other relevant knowledge, and/or examination of documentation|records, including Member medical information. Confidentiality will be maintained throughout the investigatory process to the extent consistent with adequate investigation and appropriate corrective action. To protect the integrity of the investigation and the interests of those involved, the organization requires that employees fully participate and provide information in an investigation relating to the care and concern of our Members. It is also required that confidentiality be maintained by all interviewees. Failure to maintain confidentiality may result in disciplinary action up to and including termination of employment. The grievance procedure will be followed and all documentation retained as per the grievance procedure. Applicable agencies will be informed as appropriate.

EverCare, or its employees, will not in any way retaliate against a Member, family Member, contractor|vendor, employee or former employee who, in good faith, makes a complaint, or reports an alleged incident of discrimination or harassment, or participates in the investigation of a complaint or report. Under this policy, retaliation is defined as any action taken by any person covered under this policy in response to a complaint that would dissuade a reasonable person from making or supporting a complaint. Retaliation against any individual for reporting a claim of or cooperating in the investigation of it will not be tolerated and will itself be subject to appropriate discipline.

**V. PROCEDURES FOR MEMBER MATTERS**

Member	Is provided with accessible, easy reporting mechanism to report any all objectionable behavior, complaints, or grievances to their Care Manager, Program Director, and or Chief Executive Officer at any time and without delay
Program Director	Must initiate the Grievance Procedure, inform the next level supervisor, and must investigate the concern complaint grievance without delay and within same business day of receipt of complaint
Complaint Committee	Ensures a thorough, non-biased investigation occurs. On the basis of such evidence, determine appropriate resolution recommendation to be presented to the Chief Executive Officer which may include, but is not limited to, any of the following forms of recourse: reporting to government agencies as required, disciplinary action, training education, contract cancelation, policy systems review and revision.  All resolutions will be documented and communicated to the Member  representative without delay.
Complaint Committee	Ensures compliance with all state reporting requirements, as applicable  Monitor for reoccurrence and retaliatory action

**VI. GOVERNANCE**

Article II of MLTC Partial Capitation Contract  
 Title VI of the Civil Rights Act of 1964  
 Section 504 of the Rehabilitation Act of 1973  
 Age Discrimination Act of 1975  
 45 CFR 80

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Reviewed By: Quality Team

Approved By: 

Section: Eligibility

Chief Executive Officer

45 CFR 84

45 CFR 91

Americans with Disabilities Act of 1990, *as amended*

Program Application:

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**VII. WHOM DO I CONTACT FOR FURTHER QUESTIONS**

Director|Managed Care

VP|Utilization Review

VP|Operations

Chief Executive Officer

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Section 06 – Benefits, Specialty Services

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Prepared By: Policy Committee

Reviewed By: General Counsel

Board of Trustees

Corporate

Approved By: 

Section: Care Management

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Chief Executive Officer

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I. GENERAL STATEMENT OF POLICY

EverCare contracts with, and provides to its Members, Health Benefits including Dental, Optometry, Audiology, and Podiatry Services.

II. SCOPE

Managers, Staff, Contracted Provider

III. DEFINITION:

- ✦ **AUDIOLOGY/HEARING AIDES:** Audiology services include audiometric examination or testing, hearing aid evaluation, conformity evaluation and hearing aid prescription or recommendations if indicated. Hearing aid services include selecting, fitting and dispensing of hearing aids, hearing aid checks following dispensing and hearing aid repairs. Products include hearing aids, ear molds, batteries, special fittings and replacement parts
- ✦ **DENTISTRY** includes but shall not be limited to preventive, prophylactic and other dental care, services and supplies, routine exams, prophylaxis, oral surgery, and dental prosthetic and orthotic appliances required to alleviate a serious health condition including one which affects employability.
- ✦ **OPTOMETRY** includes the services of an optometrist and an ophthalmic dispenser and includes eyeglasses; medical necessary contact lenses and polycarbonate lenses, artificial eyes [stock or custom made] and low vision aides. The optometrist may perform an eye exam to detect visual defects and eye disease as necessary or as required by the Member's condition. Examinations which include refraction are limited to every two years unless otherwise justified as medically necessary.
- ✦ **AN OPHTHALMIC DISPENSER** fills the prescription of an optometrist or ophthalmologist and supplies eyeglasses or other vision aids upon the order of qualified practitioner
- ✦ **PODIATRY** means services by a podiatrist which must include routine foot care when the Member's physical condition poses a hazard due to the presence of localized illness, injury or symptoms involving the foot, or when they are performed as necessary and integral part of medical care such as the diagnosis and treatment of diabetes, ulcers, and infections.

IV. IMPLEMENTATION

✦ **OPTOMETRY**

- Consistent with Chapter 37 of the Laws of 2010 amending SSL § 364-j, optometry services provided by Article 28 clinics affiliated with the College of Optometry of the State University of New York may be accessed directly by Members without EverCare's prior approval and without regard to network participation.
- EverCare will reimburse non-participating Article 28 clinics affiliated with the College of Optometry of the State University of New York for covered optometry services provided to the Member at Article 28 Medicaid fee-for-service [FFS] clinic rates.
- If the Contractor does not provide upgraded eyeglass frames or additional features [such as scratch coating, progressive lenses or photo-gray lenses] as part of its covered vision benefit, the

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Section: Care Management

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Contractor cannot apply the cost of its covered eyeglass benefit to the total cost of the eyeglasses the Member wants and bill only the difference to the Member. For example, if the Contractor covers only standard bifocal lenses and the Member wants no-line bifocal lenses, the Member must choose between taking the standard bifocal or paying the full price of the no-line bifocal lenses [not just the difference between the cost of the bifocal lenses and the no-line lenses]. However, the Member may pay for upgraded lenses as a private customer and have the Contractor pay for the frames or pay for upgraded frames as a private customer and have the Contractor pay for the lenses. The Member must be informed of this fact by the vision care Provider at the time that the glasses are ordered.

- Ophthalmic Dispenser coverage includes the replacement of lost or destroyed eyeglasses. The replacement of a complete pair of eyeglasses should duplicate the original prescription and frames. Coverage also includes the repair or replacement of parts in situations where the damage is the result of causes other than defective workmanship. Replacement parts should duplicate the original prescription and frames. Repairs to and replacement of frames and/or lenses must be rendered as needed. Eyeglasses do not require changing more frequently than every two years unless medically indicated, such as a change in correction greater than ½ diopter, or unless the glasses are lost, damaged, or destroyed.
- If the Contractor does not provide upgraded eyeglass frames or additional features [such as scratch coating, progressive lenses or photo-gray lenses] as part of its covered vision benefit, the Contractor cannot apply the cost of its covered eyeglass benefit to the total cost of the eyeglasses the Member wants and bill only the difference to the Member. For example, if the Contractor covers only standard bifocal lenses and the Member wants no-line bifocal lenses, the Member must choose between taking the standard bifocal or paying the full price of the no-line bifocal lenses [not just the difference between the cost of the bifocal lenses and the no-line lenses]. However, the Member may pay for upgraded lenses as a private customer and have the Contractor pay for the frames or pay for upgraded frames as a private customer and have the Contractor pay for the lenses. The Member must be informed of this fact by the vision care Provider at the time that the glasses are ordered.

**✦ DENTISTRY**

- EverCare is currently contracted with HealthPlex to manage Dentistry Services.
- Consistent with Chapter 697 of the Laws of 2003 amending SSL § 364-j, dental services provided by Article 28 clinics operated by academic dental centers may be accessed directly by Members without prior approval and without regard to network participation
- EverCare will reimburse non-participating Article 28 clinics operated by academic dental centers for covered dental services provided to Members at approved Article 28 Medicaid clinic rates in accordance with the protocols issued by the Department
- EverCare will be responsible for functions delegated to HealthPlex contractor pursuant to the provisions of 10 NYCRR §§ 98-1.11 or 98-1.18
- See AGREEMENT BETWEEN EVERCARE AND HEALTHPLEX, INC. DENTAL SERVICES MANAGEMENT AGREEMENT, as approved by NYSDOH for specific details
- EverCare will follow Clinical Justification Guidelines for covered services and NEW YORK STATE MEDICAID PROGRAM DENTAL CARE MANUAL POLICY GUIDELINES

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Section: Care Management

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✦ **AUDIOLOGY**

- EverCare will follow Clinical Justification Guidelines for covered services and NEW YORK STATE MEDICAID PROGRAM HEARING AID/ AUDIOLOGY SERVICES POLICY GUIDELINES

✦ **PODIATRY**

- Includes the routine hygienic care of the feet, the treatment of corns and calluses, the trimming of nails, and other hygienic care such as cleaning or soaking feet, is not covered in the absence of pathological condition.
- EverCare will follow Clinical Justification Guidelines for covered services
- EverCare will follow NEW YORK STATE MEDICAID PROGRAM PODIATRY MANUAL POLICY GUIDELINES once they are completed from review *[continue to periodically check leading up to 062920]*

**V. PROCEDURE**

The following processes will be used to ensure that a Member receives maximum and continuing benefit, and duplication of services|payment of services is minimized:

TASK	DESCRIPTION NOTES	RESPONSIBLE PARTY
Education	<p>EverCare is responsible to provide the following Provider Services through its Provider Manual and other mechanisms:</p> <ol style="list-style-type: none"> <li>assisting Providers with prior authorization and referral protocols;</li> <li>assisting Providers with claims payment procedures;</li> <li>fielding and responding to Provider questions and complaints;</li> <li>orientation of Providers to program goals; and</li> <li>Provider training to improve integrations and coordination of care</li> </ol>	<p>Supervisor Assessment as delegated;</p> <p>Director Managed Care, as delegated;</p>
Authorization of Audiology Services	<p>Audiologist must prescribe a specific device by indicating manufacturer and model required.</p> <ol style="list-style-type: none"> <li>In support of a prescription for a specific hearing aid, sound field speech audiometry or equivalent testing methods must be performed. These tests must be conducted by or under the direction and personal supervision of an otolaryngologist or licensed audiologist. When a specific device is prescribed, the dealer must dispense as written</li> <li>Hearing aids must be dispensed within six months of the date of the recommendation.</li> </ol> <p>Care Management will update Member’s PCSP. Care Coordinator sends the authorization</p>	<p>Care Manager Care Coordinator</p>

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**Section 06 – Benefits, Specialty Services**

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Section: Care Management

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TASK	DESCRIPTION NOTES	RESPONSIBLE PARTY
Authorization of Optometry Services	<p>Eyeglasses may be dispensed to a recipient only after a complete eye examination by and upon the written prescription of an ophthalmologist or optometrist. Eyeglasses may be prescribed when the initial correction or change in correction is at least .50 diopter</p> <p>a. Care Management will update Member's PCSP b. Service Coordination sends the authorization</p>	Care Manager Care Coordinator
Authorization of Podiatry Services	<p>ROUTINE FOOT CARE: Routine foot care means: 1. the cutting or removal of corns, calluses, or warts and the trimming of nails [including mycotic nails]; 2. other hygienic or preventive maintenance care considered to be self-care, such as cleaning and soaking of the feet; 3. the use of skin creams to maintain skin tone; 4. services performed in the absence of localized illness, injury, or symptoms involving the foot.</p> <p>a. Care Management will update Member's PCSP. b. Service Coordination sends the authorization.</p>	Care Manager Care Coordinator
Authorization of Dentistry Services	<p>EverCare has subcontracted with HealthPlex Services for covered dental benefits</p>	Care Manager HealthPlex

**VI. GOVERNANCE**

Chapter 37 of the Laws of 2010 amending SSL § 364-j  
Chapter 697 of the Laws of 2003 amending SSL § 364-j  
10 NYCRR §§ 98-1.11 j. or 98-1.18

**I. REFERENCES**

Article VII sections D, E, G and H; Appendix G and J

NEW YORK STATE MEDICAID PROGRAM HEARING AID/ AUDIOLOGY SERVICES POLICY GUIDELINES

**II. WEBLINKS**

[https://www.emedny.org/ProviderManuals/HearingAid/PDFS/HearingAid\\_Policy\\_Guidelines](https://www.emedny.org/ProviderManuals/HearingAid/PDFS/HearingAid_Policy_Guidelines)

<http://www.health.state.ny.us/nysdoh/phforum/nycrr18.htm>

**III. WHOM DO I CONTACT FOR FURTHER QUESTIONS**

VP|Utilization Management

VP|Operations

Director|Managed Care

Chief of Staff

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Section 06 – Member Rights

Issue Date: 06/30/20

Revision Date:


Program Application:

Prepared By: Policy Committee

Reviewed By: General Counsel

Board of Trustees

Corporate

Approved By: 

Section: Care Management

EverCare At Home

EverCare Choice ✓

Chief Executive Officer

EverCare Life

I. GENERAL STATEMENT OF POLICY

EverCare values service delivery which respects the Member's dignity, rights, values, and preferences. We strive to maintain the Member's quality of life and highest level of independence consistent with the Member's capacity. As such, EverCare has identified Member Rights and communicates these Rights to staff, Prospective Members, applicants, and Members.

II. SCOPE

Managers, Staff, Contracted Provider

III. IMPLEMENTATION

All Members of EverCare have the right to:

- ✦ Receive medically necessary care
- ✦ Timely access to care and services
- ✦ Privacy regarding their medical record and during treatment
- ✦ Receive information on available treatment options and alternatives presented in a manner and language they understand
- ✦ Receive all Plan-related information in a language they understand; Members can get oral translation services free of charge
- ✦ Receive information necessary to give informed consent before the start of treatment
- ✦ Be treated with respect and dignity
- ✦ Receive a copy of their medical records and ask that the records be amended or corrected
- ✦ Take part in decisions about your health care, including the right to refuse treatment
- ✦ Be free from any form of restraint or seclusion used as a means of coercion, discipline, convenience, or retaliation
- ✦ Receive care without regard to sex, race, health status, color, age, national origin, sexual orientation, marital status, religion, or any other characteristic protected by law
- ✦ Be informed where, when and how to get the services they need from the Plan, including how to receive covered benefits from out-of-network Providers if they are not available in the Plan network
- ✦ File a complaint with the New York State Department of Health or their Local Department of Social Services; and, the Right to use the New York State Fair Hearing System and/or a New York State External Appeal, where appropriate
- ✦ Appoint someone to speak for you about your care and treatment
- ✦ Make advance directives and plans about your care

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**Section 06 – Member Rights**

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Issue Date: 06/30/20


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Prepared By: Policy Committee

Reviewed By: General Counsel

Board of Trustees  
Corporate

Approved By: 

Section: Care Management

EverCare At Home  
EverCare Choice ✓  
EverCare Life

Chief Executive Officer

**IV. GOVERNANCE**

Article V of MLTC Partial Capitation Contract, Appendix L, PHL4408, 10 NYCRR 98-1.14, 42 CFR 438.100, 42 CFR 438.10

**I. WHOM DO I CONTACT FOR FURTHER QUESTIONS**

VP|Utilization Management  
Director|Managed Care  
Supervisor|Assessment  
VP|Operations  
Chief of Staff

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Section 06 – Critical Incidents

Issue Date: 06/30/20

Revision Date:


Program Application:

Prepared By: Policy Committee

Reviewed By: General Counsel

Board of Trustees

Corporate

Approved By: 

Section: Care Management

EverCare At Home

EverCare Choice ✓

Chief Executive Officer

EverCare Life

I. GENERAL STATEMENT OF POLICY

Consistent with EverCare’s commitment to safeguard and protect the health and welfare of each Member, our Membership will be continually monitored for critical incidents that may negatively impact their well-being. The assigned Care Manager, contracted Provider, and/or any person[s] having any suspicion and/or knowledge, will pro-actively identify and immediately report any/all suspected, potential, and actual incidents covered by this policy. Critical incidents for the purpose of this policy include, but are not limited to: abuse, neglect, exploitation, use of restraints, medication errors that resulted in injury and/or wrongful death.

II. SCOPE

Managers, Staff, Contracted Providers

III. DEFINITIONS

ABUSE is the intentional infliction of pain or suffering and can fall into the following categories:

- *Emotional abuse*: inflicting mental pain, anguish, or distress on a Member through verbal or nonverbal acts, e.g. humiliating, intimidating, or threatening
- *Physical abuse*: inflicting physical pain or injury, e.g. slapping, bruising, or pushing
- *Sexual abuse*: non-consensual sexual contact of any kind. All sexual contact by paid caregivers is considered sexual abuse under this policy

CRITICAL INCIDENTS include violations of rights [including abuse, neglect, and exploitation], medication errors resulting in injury, wrongful death, and use of physical or chemical restraints.

EXPLOITATION the illegal taking, misuse, or concealment of funds, property, or assets of a Member for someone else's benefit.

MEDICATION ERRORS THAT RESULT IN INJURY refers to the administration of the incorrect medication, dose or frequency, or the failure to administer the correct medication, dose or frequency to a Member that results in an adverse event, causing harm to a Member.

NEGLECT is the failure by those responsible to provide food, shelter, health care, or protection for a vulnerable Member.

RESTRAINTS are any physical or chemical means imposed for discipline or convenience, and not required to treat the Member’s medical symptom.

- *Physical Restraints* are any manual method or physical or mechanical device, material, or equipment attached or adjacent to an individual’s body that the individual cannot remove easily which restricts freedom of movement or normal access to one’s body
- *Chemical Restraints* are any drug used for discipline or convenience and not required to treat medical symptoms

WRONGFUL DEATH refers to legal situations when the actions or neglect of one person caused the death of someone else. This policy covers all claims of wrongful death.

– NOTICE –

**Section 06 – Critical Incidents**

Issue Date: 06/30/20

Revision Date:

Program Application:

Prepared By: Policy Committee

Reviewed By: General Counsel

- Board of Trustees
- Corporate
- EverCare At Home
- EverCare Choice ✓
- EverCare Life

Approved By:   
Chief Executive Officer

Section: Care Management

**IV. PROCEDURES**

<b>Accountable party</b>	<b>Responsibilities</b>
All Staff Contracted Providers	<ul style="list-style-type: none"> <li>• Immediately report all potential, suspected, or actual critical incidents to the Director Managed Care, VP Operations, VP Utilization Management</li> </ul>
Director Managed Care VP Operations VP Utilization Management	<ul style="list-style-type: none"> <li>• Investigates all potential, suspected, or actual critical incidents</li> <li>• Adheres to established timeframes: Investigations must begin within 1 day of initial report and must be concluded within 3 business days. Explanations for longer timeframes must be clearly documented</li> <li>• Documents results of investigation</li> <li>• Ensures incidents are communicated to the Systems Coordinator for inclusion in Quarterly report</li> <li>• For substantiated complaints of abuse, neglect, or exploitation               <ul style="list-style-type: none"> <li>○ If perpetrator is an employee of a contracted Provider, Provider is immediately notified, and an investigation is to be initiated by the Provider. Employee is immediately removed from servicing any EverCare Members</li> <li>○ If perpetrator is a Member of the family, community, or other informal support, a report will be made to Adult Protective Services</li> </ul> </li> <li>• Educates Member/family regarding notification of authorities and assists in notification as necessary</li> <li>• Any incident which includes legal involvement or representation on the part of a Member and/or his/her representatives will be forwarded to the Office of the Chief Executive Officer</li> </ul>
Chief Executive Officer Chief of Staff	<ul style="list-style-type: none"> <li>• Interfaces directly with attorneys or legal representatives of Members involved in critical incidents</li> <li>• Guides and directs actions and responses of managers to ensure adherence to all standards of communication and response</li> </ul>
Applications Specialist	<ul style="list-style-type: none"> <li>• On a quarterly basis, submits to the DOH, no later than the 15<sup>th</sup> day, a Critical Incident Report. This report will be formatted as per DOH specifications</li> </ul>

**V. GOVERNANCE**

Article V of MLTC Partial Capitation Contract

**VI. REFERENCES**

[www.aoa.gov/AoA\\_programs/elder\\_rights/EA\\_prevention/whatisEA.aspx](http://www.aoa.gov/AoA_programs/elder_rights/EA_prevention/whatisEA.aspx)

**VII. FORMS**

Critical Incident Reporting Form

**VIII. WHOM DO I CONTACT FOR FURTHER QUESTIONS**

Director Managed Care	VP Utilization Management
VP Operations	Chief of Staff

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**Section 06 – Do Not Resuscitate [DNR]**

Issue Date: 12|01|15

Revision Date: 06|30|20


Program Application:

Prepared By: Policy Committee

Reviewed By: General Counsel

Board of Trustees

Corporate

Approved By: 

Section: Care Management

EverCare At Home

EverCare Choice ✓

Chief Executive Officer

EverCare Life

**I. GENERAL STATEMENT OF POLICY**

It is the policy of EverCare to comply with the Patient Self-Determination Act of 1990. As such, it is the right of each Member to request that his/her physician issue a Do Not Resuscitate Order. Such orders will be followed in respect of the Member's request not to undergo Cardio Pulmonary Resuscitation [CPR] or Advanced Cardio Life Support [ACLS] in the event that they experience respiratory or cardiac arrest. Under New York State law, a request for such an order can be expressed either in a living will or health care proxy, but the actual DNR order itself must be in writing on a *Non-Hospital Order Not to Resuscitate* Form provided by the Department of Health.

**II. SCOPE**

Physicians, Managers, Staff, Students, Volunteers, Contracted Providers

**III. PROCEDURES**

Assessment Nurse,  
Care Manager

Ensures that all new Members are educated regarding their rights pertaining to Advanced Directives, including the right to request a DNR order

Direct Member|family to share wishes with Physician; facilitate as necessary

Upon receipt of Physician's Order, updates Medical Record

Ensures communication of all changes in status [new DNR order or revocation of DNR order] to all staff involved in Member care

Care Manager

Ensures communication of all changes in status [new DNR order or revocation of DNR order] to all vendors involved in Member's care

Ensures documentation is received every 90 days from Physician indicating the appropriateness of the continuation of DNR order

Physician

Within two business days, completes *Non-Hospital Order Not to Resuscitate* and promptly returns to EverCare

Every 90 days, or more frequently if the Member has a change in condition, reviews order to determine if it continues to be appropriate

Every 90 days, or more frequently if the Member has a change in condition, documents appropriateness of order in Member medical record

VP|Operations,  
as delegated

Marks the outside of the Member medical record with a red "DNR" sticker

Ensures that *Non-Hospital Order Not to Resuscitate* is filed in Advanced Directives section of Medical Record

Contracted Providers

Remain knowledgeable of DNR status for assigned Members;

Respect|honor Member's wishes

Considers existing orders to be valid unless they are known to be revoked; continues to follow orders, even after 90 day re-evaluation period has lapsed

Immediately communicates any Member questions related to Advanced Directives to Care Manager

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Section 06 – Do Not Resuscitate [DNR]

Issue Date: 12|01|15

Revision Date: 06|30|20

Prepared By: Policy Committee

Reviewed By: General Counsel

Approved By: 

Section: Care Management

Chief Executive Officer

Program Application:

Board of Trustees

Corporate

EverCare At Home

EverCare Choice ✓

EverCare Life

IV. GOVERNANCE

Article V of MLTC Partial Capitation Contract  
Federal Patient Self-Determination Act of 1990  
New York State Public Health Law Articles 29-B and 29-C  
10 NYCRR 98-1.14

V. REFERENCES

<http://www.health.ny.gov/professionals/ems/policy/99-10.htm>

VI. FORMS

Non-Hospital Order Not to Resuscitate [\[http://www.health.ny.gov/forms/doh-3474.pdf\]](http://www.health.ny.gov/forms/doh-3474.pdf)

VII. WHOM DO I CONTACT FOR FURTHER QUESTIONS

VP|Operations  
Director|Managed Care  
VP|Utilization Management

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**Section 09 – Quality Management | Performance Improvement Program**

Issue Date: 05|27|16

Approval Date: 05|27|16

Prepared By: Policy Committee

Approved By: 

Chief Executive Officer

Revision Date: 10|01|16, 06|30|20

Reviewed By: Quality Committee,  
Board of Trustees

Section: Quality

Program Application:

Board of Trustees ✓

Corporate

EverCare At Home

EverCare Choice ✓

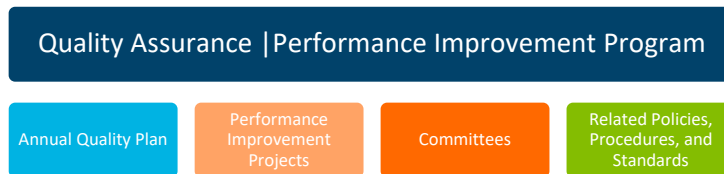
EverCare Life

**I. GENERAL STATEMENT OF POLICY**

EverCare implemented revised measures to address, and improve upon, its quality scoring with NYSDOH. Increased efforts were put in place in the Fall of 2017 with a strengthened commitment to continuous quality and performance improvement. We anticipated that the changes that were implemented, and the extensive training that was provided to staff, would address deficiencies that were identified. Increased knowledge and skills are expected to reflect an improvement in the Membership health status over time [2019/20 Reporting Cycle]. The changes, driven accountabilities, and strengthened commitment is reflected in our Core Values of Excellence:

*We do not tolerate the status quo or mediocrity. We are committed to achieving the highest standards in all that we do. We take pride in our work and do every task as though it would bear our personal signature.*

Our Quality Management|Performance Improvement [QM|PI] Program represents the platform used to ensure the ongoing assessment, implementation and evaluation of overall quality of care and services. The Program ensures that quality and performance improvement remain a central focus in our day-to-day activities. Our QM|PI Program consists of 4 components, which when combined, ensure that Quality Management and performance improvement efforts originate at the top of the organization and filter throughout the workforce. The 4 components are as follows:



**II. SCOPE**

Management, Staff, Contracted Providers

**III. PROGRAM COMPONENTS**

**A. Annual Quality Plan:**

On an annual basis, EverCare creates and submits for approval an Annual Quality Plan. This Plan serves as a blueprint to guide and direct quality and performance improvement initiatives throughout the year. The Quality Management Committee identifies specific and measurable activities to be undertaken by EverCare in the year ahead. It elucidates overall goals and objectives based on a number of indicators including, but not limited to:

- Available performance data related to clinical and non-clinical care area
- PAH rate
- Results of customer satisfaction surveys
- Changes in operational requirements or processes
- Introductions of or changes to regulatory requirements
- Audit results
- Identified trends that may lead to negative impact on Member care or outcomes

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Section 09 – Quality Management | Performance Improvement Program

Issue Date: 05/27/16

Approval Date: 05/27/16

Prepared By: Policy Committee

Approved By: 

Chief Executive Officer

Revision Date: 10/01/16, 06/30/20

Reviewed By: Quality Committee,  
Board of Trustees

Section: Quality

Program Application:

Board of Trustees ✓

Corporate

EverCare At Home

EverCare Choice ✓

EverCare Life

The Quality Plan is intended to be reviewed and revised periodically, as needed and requires approval by the Chief Executive Officer, Department of Health, and Board of Trustees prior to implementation.

B. Performance Improvement Projects

The Plan will implement, on an ongoing basis, Performance Improvement Projects through IPRO which identify specific and measurable activities to be taken to address goals and objectives identified as requiring Performance Improvement. These can be related to topics including, but not limited to:

- Any area identified by the Department of Health or Centers for Medicare and Medicaid Services
- Improvement in any service provided by the Plan, both clinical and non-clinical
- Potential clinical problem areas [high volume services, high risk diagnoses, adverse outcomes, etc.]
- Services provided in all care settings [e.g. day centers, nursing homes, in-home]

Performance Improvement Projects should focus on objective measurements of system interventions to achieve improvement in quality and should include mechanisms to evaluate effectiveness and to increase or sustain improvement. At least one Performance Improvement Project will meet the requirements of the annual IPRO project, including reporting requirements

As part of this process EverCare promotes and ensures the delivery of services in a culturally competent manner to all Members, including, but not limited to, those with limited English proficiency and diverse cultural and ethnic backgrounds as well as Members with diverse faith communities. Cultural competence means having the capacity to function effectively within the context of the cultural beliefs, behaviors, and needs presented by Members and their communities across all levels of the Provider's organization.

Upon approval by the Department, the Plan may offer its Members incentives for completing a health goal such as dental, eye and auditory preventative visits, participating in a smoking cessation session, and timely completion of immunization or other health related programs.

Member incentives will not be cash or instruments convertible to cash but rather, gift cards at participating pharmacies that limit to health & beauty aids, over the counter vitamins, or supplements and must be related to the delivery of preventive care services to the Member or the Member achieving a health goal. The value of such incentives may not be disproportionately large in relationship to the value of the preventive care service or health goal completed by the Member. EverCare will consider SSI earned income thresholds that may apply to SSI Members when developing incentive programs. EverCare will not establish incentive programs that result in Members that have achieved the same health goal or received the same preventive care service receiving an incentive of differing value.

- EverCare will maintain contemporaneous records identifying the Member, CIN, date, amount paid and the nature of the health goal for which the incentive is being paid.
- EverCare will not make reference to Member incentives in its pre-enrollment marketing materials or discussions


- NOTICE -

**Section 09 – Quality Management | Performance Improvement Program**

Issue Date: 05/27/16

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Prepared By: Policy Committee

Approved By: 

Chief Executive Officer

Revision Date: 10/01/16, 06/30/20

Reviewed By: Quality Committee,  
Board of Trustees

Section: Quality

Program Application:

- Board of Trustees ✓
- Corporate
- EverCare At Home
- EverCare Choice ✓
- EverCare Life

- EverCare will submit all incentive program related materials to the Department for review and approval at least 60 days prior to the commencement of the incentive program and include documentation that supports that the value of the incentive complies with subsection above. The Department will determine if the incentive meets the requirements at 42 CFR 1003.101 and outlined in DHHS OIG Special Advisory Bulletin “Offering Gifts and Other Inducements to Beneficiaries.”
- Board-level accountability for overall oversight of program activities and review of the QA/PI program, annual review, and approval, of the program by the board and periodic feedback to the board on the review process by oversight committees.

**C. Committees**

The activities of the QM|PI Plan will be supported by a Quality Committee, VBP, and Utilization Review Committee. The purpose of these committees includes, but is not limited to:

- Participation in the implementation of the Quality Plan and Performance Improvement Projects,
- Evaluation of quality indicators, performance standards, and Member satisfaction
- Evaluation of Provider performance
- Make recommendations to the Board of Trustees regarding the outcomes and processes associated with the QM|PI Program
- Provide input related to processes to evaluate ethical decision-making, including end-of-life issues
- Review of the effectiveness of Member care, including:
  - Appropriate assessment of care needs
  - Appropriate engagement of informal supports
  - Appropriate identification of treatment goals
  - Effectiveness of interventions
  - Adequacy and appropriateness of service utilization

**D. Related Policies, Procedures, and Standards**

As necessary for optimal performance and to address identified issues, the Plan will implement and revise appropriate Policies, Procedures and Standards in support of the QM|PI Program and will periodically test against established Policies, Procedures, and Standards to ensure that they continue to meet their intended objective; identified gaps will be addressed, and resulting changes will be reviewed against the qualifications of individuals participating in the process, accountable for actionable objectives, or on the committee[s]

**IV. COMMITTEE MEMBERS**

Supervisor Assessment	Chief Medical Officer	VP Utilization Management
VP Operations	Supervisor Quality	VP Provider Relations
Director Managed Care	Chief Executive Officer [ad hoc]	Pharmacy Consultant [ad hoc]
Transitional Care Nurse	Supervisor Care Coordination	Care Managers [as assigned]
Other Staff [as required]		

**V. GOVERNANCE**

Article V of MLTC Partial Capitation Contract  
42 CFR 438.240, 42 CFR 438.242

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Section 09 – Quality Management | Performance Improvement Program

Issue Date: 05|27|16

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Reviewed By: Quality Committee,  
Board of Trustees

Section: Quality

Program Application:

Board of Trustees ✓

Corporate

EverCare At Home

EverCare Choice ✓

EverCare Life

VI. FORMS

Annual Quality Plan Document

IPRO Performance Improvement Plan

VII. WHOM DO I CONTACT FOR FURTHER QUESTIONS

Supervisor | Assessments

Chief Medical Officer

Director | Managed Care

VP | Operations

Chief of Staff

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**Section 10– Provider Audit**

Issue Date: 10/01/16

Revision Date: 06/30/20


Program Application:

Prepared By: Committee

Reviewed By: Quality Team

Board of Trustees

Corporate

Approved By: 

Section: Provider Relations

EverCare At Home

EverCare Choice ✓

Chief Executive Officer

EverCare Life

**I. GENERAL STATEMENT OF POLICY**

EverCare reserves the right to conduct audits on a periodic basis, and as deemed necessary or appropriate, of Provider records to ensure that contractual requirements are being met, as well as to evaluate documented evidence of effective service delivery. These audits may or may not be related to a specific incidence or occurrence. In addition, providers must grant the Department of Health or other governmental entities timely access to books, records, or other information for purposes of audits, investigations, inspections, or reviews.

**II. SCOPE**

Contracts Department, Chief of Staff, VP|Provider Relations, Providers

**III. PROCEDURES**

Documents collected as part of a routine audit may include, but are not limited to:

- ✦ Criminal history checks or other contractually required employment documentation
- ✦ Provider employee competency and/or training records
- ✦ Medical records; clinical documentation
- ✦ Activity records
- ✦ Time slips; Sign-in logs
- ✦ DME delivery tickets
- ✦ Billing records
- ✦ Trip verifications
- ✦ Care Plans

General methodology includes the following:

- ✦ Providers must make available, with advanced notice and as outlined in cover letter, requested documents
- ✦ Providers must be accessible to Plan staff for follow-up conversations as warranted
- ✦ EverCare Choice will develop a report of findings, including issues/problems, if found
- ✦ Providers with identified concerns will be required to submit a Corrective Action Plan
- ✦ Failure to take corrective action may result in reduction, restriction, or termination of contract with notification to regulatory agencies if appropriate.
- ✦ Cases of suspected fraud, abuse or malfeasance shall be referred to the appropriate agencies for investigation without delay

**IV. GOVERNANCE**

Article VII of MLTC Partial Capitation Contract

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**Section 10– Provider Audit**

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Issue Date: 10|01|16

Revision Date: 06|30|20

**Program Application:**

Prepared By: Committee

Reviewed By: Quality Team

Board of Trustees  
Corporate

Approved By: 

Section: Provider Relations

EverCare At Home  
EverCare Choice ✓  
EverCare Life

Chief Executive Officer

**V. FORMS**

Provider Audit Form [s]

**VI. WHOM DO I CONTACT FOR FURTHER QUESTIONS**

Chief of Staff  
VP|Provider Relations

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**Section 10– Dispute Resolution**

Issue Date: 06/30/20

Revision Date:


Program Application:

Prepared By: VP|Provider Relations

Reviewed By: Quality Team

Board of Trustees

Corporate

Approved By: 

Section: Provider Relations

EverCare At Home

EverCare Choice ✓

Chief Executive Officer

EverCare Life

**I. GENERAL STATEMENT OF POLICY**

EverCare values its partnerships with its service Providers. As such, we recognize the importance of open communication between Plan and Provider Staff. While we believe that many issues and complaints can be addressed informally through direct communication, there may be times in which more formal communication may be beneficial to the Plan and/or the Provider. When such circumstances exist, the procedures below outline the steps to be taken to resolve issues as efficiently as possible.

**II. SCOPE**

Controller, VP|Provider Relations, Chief Medical Officer, Chief of Staff, Director|Managed Care, Contracted Providers

**III. PROCEDURE**

Contracted Providers are provided with information about the grievance and appeal system that includes, but is not limited to:

- a. the right of the Member, or, with the Member’s written consent, a provider or an authorized representative, to file grievances and appeals;
- b. the requirements and timeframes for filing a grievance or appeal;
- c. the availability of assistance in the filing process;
- d. the right to request a State fair hearing after the Contractor has made a determination on an Member's appeal which is adverse to the Member; and
- e. the fact that, when requested by the Member, benefits that the Contractor seeks to reduce or terminate will continue if the Member files an appeal or a request for State fair hearing within the timeframes specified for filing, and that the Member may, consistent with state policy, be required to pay the cost of services furnished while the appeal or state fair hearing is pending if the final decision is adverse to the Member.

For Disputes Related to Credentialing/Recredentialing Actions

Our quality standards require that we thoroughly credential/recredential all providers who belong to our Provider Network, initially, and at least every three [3] years thereafter. In the event that an interested provider is not granted access to our Network due to credentialing issues, or an existing Provider has continued access denied, reduced, or suspended as a result of recredentialing issues, and they wish to dispute the decision, the following procedures should be utilized:

<i>Responsible Party</i>	<i>Action[s]</i>
Interested provider/Provider	Submits a <i>Provider Dispute Resolution Request</i> , rebutting EverCare Choice’s decision regarding their participation in the Provider Network. Such statement should clearly outline the reason[s] for EverCare Choice’s decision with clearly elucidated evidence that contradicts EverCare Choice’s Decision <u>Sends to:</u> EverCare Choice Attn: Provider Disputes 31 Cerone Place Newburgh, NY 12550

– NOTICE –

**Section 10– Dispute Resolution**

Issue Date: 06/30/20


Revision Date:

Program Application:

Prepared By: VP|Provider Relations

Reviewed By: Quality Team

- Board of Trustees
- Corporate
- EverCare At Home
- EverCare Choice ✓
- EverCare Life

Approved By: 

Section: Provider Relations

Chief Executive Officer

Contracts Department

Acknowledges receipt of written statement, in writing, within 5 business days of receipt

Reviews submission for completeness. Requests additional information if necessary

VP|Provider Relations,  
Chief Medical Officer,  
Chief of Staff

Reviews submission. Determines whether initial adverse action will be upheld or overturned. Chief of Staff communicates to provider, in writing, the results of the review.

For Disputes Related to Determinations of Coverage and Medical Necessity

EverCare Choice will only authorize services that are covered by the Plan and meet determinations of Medical Necessity. In the event that a particular service is determined to be a non-covered service or not medically necessary, the requesting Provider will receive an Initial Adverse Determination from the Plan, outlining the decision and the justification for it. If the Provider disagrees with the decision, he or she may appeal the decision by utilizing the following procedure:

<i>Responsible Party</i>	<i>Action[s]</i>
Contracted Provider	Upon receipt of Initial Adverse Determination, submits a <i>Provider Dispute Resolution Request</i> , rebutting EverCare Choice’s decision regarding the medical necessity of the requested item or service. <u>Sends to:</u> EverCare Choice Attn: Provider Disputes 31 Cerone Place Newburgh, NY 12550
Contracts Department	Acknowledges receipt of <i>Provider Dispute Resolution Request</i> , in writing, upon receipt
Chief Medical Officer, VP Utilization Management Director Managed Care	Reviews submission for completeness. Requests additional information if necessary Collates all relevant material and makes an initial recommendation, in writing, for review by Chief Medical Officer
Chief Medical Officer	Reviews submission. Determines whether initial adverse action will be upheld or overturned. Communicates to provider, in writing, the results of the review.

For Disputes Related to Claims

In order to receive payment, services must be properly authorized, the claim submitted timely, and with all required information. If one or more of these requirements, is not met, the claim may be denied or partially paid. Upon receipt of a denial or partial payment, all contracted and non-contracted vendors are encouraged to follow the process below in the event that they dispute EverCare Choice’s payment action:

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**Section 10– Dispute Resolution**

Issue Date: 06/30/20

Revision Date:

Program Application:

Prepared By: VP|Provider Relations

Reviewed By: Quality Team

- Board of Trustees
- Corporate
- EverCare At Home
- EverCare Choice ✓
- EverCare Life

Approved By: 

Section: Provider Relations

Chief Executive Officer

<i>Responsible Party</i>	<i>Action[s]</i>
Contracted/Non-Contracted Provider	<p>If the Provider has not received an EverCare Choice Explanation of Payment identifying the status of the claim, they should call the Claims Department to inquire whether the claim has been received, processed and it's status. Please note that if a claim is in "pending" status in EverCare Choice's claims system, a dispute will not be investigated until the claim is paid or denied. The Claims department can be reached at 845 569 0500:</p> <p>Upon receipt of Explanation of Payment, Provider completes a <i>Provider Dispute Resolution Request</i></p> <p><u>Sends to:</u>            EverCare Choice            Attn: Appeals Department            31 Cerone Place            Newburgh, NY 12550</p>
Accounts Payable Manager	<p>Acknowledges receipt of <i>Provider Dispute Resolution Request</i>, in writing, within 5 business days of receipt</p> <p>Reviews <i>Provider Dispute Resolution Request</i>. Investigates dispute and collects additional information as necessary</p> <p>Collates all relevant material and makes an initial recommendation, in writing, for review by Chief Financial Officer</p>
Chief Financial Officer	<p>Reviews submission and AP Manager's recommendation. Confers with VP Provider Relations, Chief of Staff. Determines whether initial adverse action will be upheld or overturned. Communicates, in writing, to Provider, including Fair Hearing rights if the initial adverse action is upheld</p>

For All Other Provider Complaints

If a Provider is dissatisfied with an EverCare Choice administrative process or has some other service issue, other than those related to a claim or payment, the Provider may file a complaint on his/her own behalf.

<i>Responsible Party</i>	<i>Action[s]</i>
Contracted/Non-Contracted Provider	<p>Submits a <i>Provider Dispute Resolution Request</i>, detailing the specifics of their issue or concern. The request should provide clear and specific details related to the issue in question. Supportive documentation, if any, should be included with the initial complaint.</p> <p><u>Sends to:</u>            EverCare Choice            Attn: Provider Disputes            31 Cerone Place            Newburgh, NY 12550</p>
Contracts Department	<p>Acknowledges receipt of <i>Provider Dispute Resolution Request</i>, in writing, within 5 business days of receipt</p>

– NOTICE –

**Section 10– Dispute Resolution**

Issue Date: 06/30/20


Revision Date:

Program Application:

Prepared By: VP|Provider Relations

Reviewed By: Quality Team

Board of Trustees  
Corporate

Approved By: 

Section: Provider Relations

EverCare At Home  
EverCare Choice ✓  
EverCare Life

Chief Executive Officer

VP|Provider Relations,  
Chief of Staff

Reviews *Provider Dispute Resolution Request* and related documentation. Investigates complaint and collects additional information as necessary. Renders decision; communicates results of investigation to Provider, in writing  
Partners with EverCare Choice and/or Provider management to resolve the issue

**IV. GOVERNANCE**

Article VII MLTC Partial Capitation Contract

**V. FORMS**

*Provider Dispute Resolution Request*


**VI. WHOM DO I CONTACT FOR FURTHER QUESTIONS**

VP|Provider Relations  
Chief of Staff  
Director|Finance  
Chief Medical Officer  
VP|Utilization Management

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Policy | Conflict of Interest

Issue Date: 02 01 15	Revision/Review Date: 09 15 15; 01 11 17; 09 01 17; 06 30 20	Program Application:
Prepared By: <i>Chief Executive Officer</i>	Reviewed By: <i>Mintz, Levin Legal Counsel</i> <i>Jackson Lewis/General Counsel</i>	Corporate ✓
Approved By: 	Section: Corporate Compliance	EverCare Choice ✓
Chief Executive Officer		Evercare At Home ✓
		EverCare Life ✓

**I GENERAL STATEMENT OF POLICY**

In accordance with §715 of the Not-For-Profit Corporation Law, EverCare has adopted a Conflict of Interest policy to ensure that its Board Members, Officers, Key Persons, Staff, and Vendors act in the corporation’s best interests and comply with applicable legal requirements. In order to assure the highest degree of integrity and ethical behavior, and to assure that the business conducted by EverCare is free from the possible influence of conflicts of interest, all Board Members, Officers, Key Persons, Staff, and Vendors will disclose any existing or potential conflict of interest on an annual basis. The purpose of this policy is to assure that EverCare conducts business free from the possible influence of Conflicts of Interest. This policy applies to all Covered Persons as defined below who are in a position to exercise substantial influence over the affairs of the corporation.

**II DEFINITIONS**

- (a) **“EverCare”** means EverCare at Home, EverCare Choice, and EverCare Life.
- (b) **“Covered Persons”** means Board Members, Officers, Key Persons, Staff, Vendors.
- (c) **“Board”** refers to the Board of Trustees of EverCare. Board Members are the members of the Board as defined above
- (d) **“Officers”** means the elected or appointed officers of EverCare, as provided in its Corporate Bylaws.
- (e) **“Key Persons”** means the President and Chief Executive Officer and any Executive Vice President or Officer, Chief Financial Officer, Controller, Senior Vice President, Vice President, Assistant Vice President or Department Head, and other persons designated by the President and Chief Executive Officer, or his/her designee, who have roles in the management or administration of EverCare and are in a position to influence substantive business decisions on behalf of EverCare or persons who (i) have responsibilities, or exercise powers or influence over EverCare as a whole similar to the responsibilities, powers, or influence of directors and officers; (ii) manage EverCare, or a segment of EverCare that represents a substantial portion of the activities, assets, income or expenses of EverCare; or (iii) alone or with others controls or determines a portion of EverCare’s capital expenditures or operating budget.
- (f) **“Staff”** means full-time, part-time, temporary contracted, per-visit, or per-diem persons under the employment of EverCare, active or on leave.
- (g) **“Vendor”** means any person, company or entity that has or seeks to enter into a Transaction with EverCare, including but not limited to a manufacturer, supplier, lessor, financial institution, consultant, accountant, lawyer, independent practice association [IPA], insurance company, health maintenance organization or managed care organization; or any person, company or entity which provides services that supports or competes with EverCare.
- (h) **“Immediate Family Member”** is a spouse, parent, child, grandchild, great-grandchild, sibling, mother and father-in-law, son and daughter-in-law and brother and sister-in-law, or a domestic partner of any of the previously referenced individuals as defined by Public Health Law § 2994-a.
- (i) A person has an **Interest** when he or she, or a member of his or her immediate family, has some relationship with a Vendor that could be viewed as possibly compromising the person’s loyalty to EverCare and obligation to make decisions that are only in EverCare’s best interest. Such a relationship includes being a member, owner, director, or officer of, having a financial interest in, or a compensation arrangement with a Vendor:
  - a. from which EverCare purchases or leases equipment, services, or supplies, or that provides services that compete with EverCare;


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**Policy | Conflict of Interest**

Issue Date: 02 01 15	Revision/Review Date: 09 15 15; 01 11 17; 09 01 17; 06 30 20	Program Application:
Prepared By: <i>Chief Executive Officer</i>	Reviewed By: <i>Mintz, Levin Legal Counsel</i> <i>Jackson Lewis/General Counsel</i>	Corporate ✓
Approved By: 	Section: Corporate Compliance	EverCare Choice ✓
Chief Executive Officer		Evercare At Home ✓
		EverCare Life ✓

- b. with which EverCare negotiates, or is considering negotiating real estate transactions [such as the leasing of space], and which either benefits from the real estate transaction or competes with EverCare in the leasing or purchase of real estate; or
- c. which renders directive, managerial, or consulting services to any organization that does business with, or competes with, EverCare in providing services

(j) **“Transaction”** means the purchase, sale or lease of property, assets, goods or services by or to EverCare or the rendering of services in any capacity for remuneration to or from EverCare.

**III. DISCLOSURE AND MANAGEMENT OF POTENTIAL CONFLICTS**

To ensure that all Conflicts of Interest, or perceived Conflicts of Interest are declared, avoided, and/or adjudicated, the following practices related to disclosure and management of conflicts of interest must be adhered to at all times:

**A. Potential Conflicts**

A potential conflict may exist if a Covered Person, or his/her Immediate Family Member, seeks to engage in a Transaction, or has an Interest that could be viewed as potentially compromising the Covered Person’s loyalty to EverCare and/or his/her obligation to make decisions solely in the interests of EverCare. A potential conflict may also exist when an employee works for a competing organization, or an organization that conducts business with EverCare. All relationships must be disclosed on the ANNUAL CONFLICT OF INTEREST DISCLOSURE FORM. Working for another organization during established work hours for which the employee was hired, may not only be considered a conflict, but also, theft of time [see related conduct policies].

**B. Duty to Disclose**

Staff

Each staff member that is a Covered Person shall complete a Conflict of Interest Disclosure Form upon becoming a Covered Person and annually thereafter, and shall report to the Chief Compliance Officer any/all potential conflicts of interest and seek advice from the Chief Executive Officer to determine if a conflict does exist. If a matter is before the Chief Compliance Officer and the Covered Person believes that he/she has or may have a potential conflict, the Covered Person shall disclose the potential conflict to the Chief Compliance Officer for an immediate determination.

Board

Each Board Member is a Covered Person and shall complete a Conflict of Interest Disclosure Form upon becoming a Covered Person and annually thereafter. If a Board Member has a potential conflict with a proposed Transaction, a proposed Interest in a Vendor, or other potential conflict of interest, he or she shall disclose promptly the details of such matter to the Governance/Human Resources & Compensation Committee to determine if a conflict exists or may convene the Board as a whole to reach a decision. If a matter is before the Board and the Covered Person believes that he/she has or may have a potential conflict, the Covered Person shall disclose the potential conflict to the entire Board for an immediate determination. The Disclosure Form for all Covered Persons shall be substantially in the form attached to this policy or as otherwise prescribed by the Board or Governance/Human Resources & Compensation Committee. If the Covered Person is not certain whether the matter poses a potential conflict of interest, he/she should discuss the matter with the Chief Compliance Officer.

**C. Determining Whether a Conflict of Interest Exists**


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**Policy | Conflict of Interest**

Issue Date: 02 01 15	Revision/Review Date: 09 15 15; 01 11 17; 09 01 17; 06 30 20	Program Application:
Prepared By: <i>Chief Executive Officer</i>	Reviewed By: <i>Mintz, Levin Legal Counsel</i> <i>Jackson Lewis/General Counsel</i>	Corporate ✓
Approved By: 	Section: Corporate Compliance	EverCare Choice ✓
Chief Executive Officer		Evercare At Home ✓
		EverCare Life ✓

The Chief Compliance Officer shall review all completed disclosure forms, all subsequent advice of changes and all disclosures of Interest and potential conflicts of interest and will discuss the Interest or potential conflict with the Chief Executive Officer. Following the disclosure of any potential conflict of interest in accordance with Section II.B above, the Chief Compliance Officer shall determine whether a potential conflict of interest is in fact a conflict of interest. Determination of a conflict of interest of the Chief Executive Officer or a Board Member shall be made by a majority vote of disinterested members of the Board.

**D. Procedures for Addressing the Conflict of Interest**

Staff

The Chief Compliance Officer shall review all completed disclosure forms, all subsequent advice of changes and all disclosures of Interests and potential Conflicts of Interest. The Chief Compliance Officer will discuss the Conflict of Interest or potential Conflict of Interest with the Chief Executive Officer, as appropriate, and with EverCare’s counsel, if necessary. The Chief Executive Officer, in consultation with the Chief Compliance Officer and counsel, shall determine if a Conflict of Interest exists.

If a Conflict of Interest exists, the Chief Executive Officer, if appropriate, shall take such action as is deemed appropriate to eliminate the Conflict of Interest, including such steps as reassignment of responsibilities, establishment of protective arrangements to prevent the person from participating in the Transaction or attempting to influence decisions regarding the Transaction, or modification of the Transaction

Board

All disclosures of Interests and potential Conflicts of Interest in completed disclosure forms, subsequent advice of changes and any other disclosures of Interests or potential Conflicts of Interest, unless clearly irrelevant or immaterial, shall be compiled and reported by the Chief Compliance Officer to the Governance/Human Resources & Compensation Committee of the Board.

If the disinterested members of the Board have determined that a conflict of interest exists with respect to a particular Transaction or Interest:

- The Chairman of the Board or Governance/Human Resources & Compensation Committee shall, if appropriate, appoint a disinterested person or committee to investigate alternatives to the proposed Transaction or Interest.
- After exercising due diligence, the Board or Governance/Human Resources & Compensation Committee shall determine by a majority vote of disinterested members whether EverCare can obtain a more advantageous Transaction or Interest with reasonable efforts from a person or entity that would not give rise to a conflict of interest.
- If a more advantageous Transaction or Interest is not reasonably attainable under circumstances that would not give rise to a conflict of interest, the Board or Governance/Human Resources & Compensation Committee shall determine by a majority vote of disinterested members whether the Transaction or Interest is in EverCare’s best interest and for its own benefit, and whether the Transaction or Interest is fair and reasonable to EverCare. The Board or Governance/Human Resources & Compensation Committee shall make its decision as to whether to authorize or approve the proposed Transaction or Interest in conformity with such determination.
- The Covered Person must not exert undue influence on decision makers. Improper influence includes coercing, manipulating, misleading or fraudulently influencing decision


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**Policy | Conflict of Interest**

Issue Date: 02 01 15	Revision/Review Date: 09 15 15; 01 11 17; 09 01 17; 06 30 20	Program Application: Corporate ✓ EverCare Choice ✓ Evercare At Home ✓ EverCare Life ✓
Prepared By: <i>Chief Executive Officer</i>	Reviewed By: <i>Mintz Levin Legal Counsel</i> <i>Jackson Lewis/General Counsel</i>	
Approved By:  Chief Executive Officer	Section: Corporate Compliance	

- makers when the Covered Person knows or should know that the action, if successful, could result in an outcome, which he/she could not directly deliberate or vote on.
- The affected Covered Person may address the Board or Governance/Human Resources & Compensation Committee to present information as background or answer questions, and may be counted in determining the presence of a quorum at a Board or Governance/Human Resources & Compensation Committee meeting to the extent permitted by New York state law and EverCare’s governing documents, but shall leave the Board or Governance/Human Resources & Compensation Committee meeting during the discussion of, and the vote on, the Transaction or Interest that results in the conflict of interest. Upon the determination that there is a conflict of interest, the existence and resolution of the conflict of interest must be documented in the minutes of any meeting at which the conflict of interest was discussed or voted upon, including the consideration of alternative transactions.

**E. Duty to Update Information and Resolution of Potential Conflicts**

Each Covered Person shall immediately advise the Chief Compliance Officer of any changes to the information provided in that person’s last completed Conflict of Interest Disclosure Form and of any potential Interest in a Vendor that may arise. If the person is not certain whether the matter poses a potential conflict of interest, he/she should discuss the matter with the Chief Compliance Officer.

**F. Acceptance of Gifts or Entertainment**

No Board Member, Officer, Key Person, or Staff shall accept gifts or entertainment from persons or Vendors that do or are seeking to do business with EverCare that might be considered by an objective observer to have the potential for influencing his/her conduct of business on behalf of EverCare. Any Gifts of money or of monetary value are never permissible. This policy is not intended to prohibit courtesies at social events, business meetings.

**G. Protection of Confidential Information**

Confidential information acquired by Covered Persons about the business of EverCare must be held in confidence and may not be used as a basis for gain by these persons, their immediate families, future/current employers, or others. Information relating to EverCare’s transactions is not to be released to any person unless it has been published or otherwise made generally available to the public. Similarly, if EverCare is considering buying, leasing, or selling any property, item, or interest, Covered Persons must not attempt to buy, lease, or sell for their own benefit [or for the benefit of their immediate family] the item under consideration, until EverCare’s decision on the matter has been executed. Other than in connection with the discharge of their responsibilities, all Covered Persons must refrain from disclosing information about any EverCare consideration or decision, or any other information which might be prejudicial to the interests of EverCare

**H. Violation of Conflict of Interest Policy**

Staff

Any non-compliance with this conflict of interest policy shall be investigated, reported to the Chief Executive Officer and governmental agencies, as appropriate, and corrective action shall be taken, including but not limited to, termination of employment.

Board|Officer

Upon reasonable belief that a Board Member or an Officer failed to comply with the policies and directives set forth in this Policy, the matter shall be reviewed by the Governance/Human Resources & Compensation Committee. Upon completion of its review, the Committee shall report its findings and recommendations to the Board of Trustees. After due deliberation, the Board shall determine the action to be taken, based on the best interests of EverCare. The affected person shall be provided an

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**Policy | Conflict of Interest**

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Prepared By: <i>Chief Executive Officer</i>	Reviewed By: <i>Mintz, Levin Legal Counsel</i> <i>Jackson Lewis/General Counsel</i>	Corporate ✓
Approved By: 	Section: Corporate Compliance	EverCare Choice ✓
Chief Executive Officer		Evercare At Home ✓
		EverCare Life ✓

opportunity to address the Committee, and by majority vote of the Board, may address the Board, but may not otherwise be present or participate in the deliberations of the Committee or the Board and shall not be counted for determining if a quorum is present.

**IV. The Following Special Provisions Apply to Board Members and Officers:**

**A. Participation in Board Discussion**

Following such disclosure, the affected Board Member or Officer may be provided an opportunity to address the Committee but otherwise shall not participate in the deliberations or attempt to personally influence the Committee’s deliberation in the matter

**B. Committee and Board Action** Following any such disclosure, and after such due diligence and consideration of other alternatives, if any, as the Governance/Human Resources & Compensation Committee shall deem appropriate, the Committee shall provide its recommendations to the Board. Upon receiving the Committee’s recommendations, the Board may, in its discretion, authorize or approve the proposed Transaction, personal interest in a Vendor or other matter as determined to be fair and reasonable to EverCare and in EverCare’s best interest. Such action shall be by a vote sufficient for such purpose without the vote of the affected person and such person shall not be counted in determining the presence of a quorum at the meeting

**C. Compensation Committees** No employee, member of the Professional Staff or any other person receiving compensation directly or indirectly from EverCare shall serve as a voting member of a Board committee responsible for executive compensation matters

**V. GOVERNANCE**

This policy and the directives which it sets forth shall be administered for EverCare by, or under the direction of, the Governance/Human Resources & Compensation Committee of the Board of Trustees.

**VI. FORMS**

CC P-06a Conflict of Interest Disclosure Form

**VII. WHOM DO I CONTACT FOR FURTHER QUESTIONS**

Chief Compliance Officer  
Chief Executive Officer


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**Policy | Deficit Reduction Act**

Issue Date: 09/13/12	Revision/Review Date: 02/01/15; 09/15/15; 02/10/16; 09/01/17; 06/30/20	Program Application:
Prepared By: <i>Chief Executive Officer</i>	Reviewed By: <i>Mintz Levin Legal Counsel</i>	Corporate ✓
Approved By: 	Section: Corporate Compliance	EverCare Choice ✓
Chief Executive Officer		Evercare At Home ✓
		Social Day Care ✓

**I. GENERAL STATEMENT OF POLICY**

The Deficit Reduction Act of 2005 [DRA] instituted a requirement for health care entities that receive or make \$5 million or more in Medicaid payments during a federal fiscal year to establish written policies and procedures for preventing and detecting fraud, waste and abuse in federal health care programs. The DRA also requires such entities to inform their employees and certain contractors and agents about federal and state false claims acts and whistleblower protections.

Pursuant to 42 CFR 438.608[a][6], EverCare has established these written policies for all employees of the organization, and of any subcontractor, contractor or agent, to provide detailed information about the Federal False Claims Act, and other Federal and State laws described in section 1902[a][68] of the Social Security Act, including information about the rights of employees to be protected as whistleblowers.

**II. SCOPE**

All Staff, Subcontractors, Contractors

**III. IMPLEMENTATION**

**Federal False Claims Act**

What it does:

Allows a civil action to be brought against a health care provider who:

- Knowingly presents, or causes to be presented, a false or fraudulent claim for payment or approval to any federal employee;
- Knowingly makes, uses or causes to be made or used a false record or statement to get a false or fraudulent claim paid; or
- Conspires to defraud the government by getting a false or fraudulent claim allowed or paid.

Examples of a false claim:

- Billing for services not performed or goods not provided;
- Falsifying information in the medical record to maximize payments;
- Failing to report overpayments or credit balances;
- Duplicate billing.

Remedies:

- A federal false claims action may be brought by the U.S. Department of Justice Civil Division, the United States Attorney.
- An individual may bring what is called a qui tam action. This means the individual files an action on behalf of the government and may be entitled to a reward.
- Violation of the federal False Claims Act is punishable by a civil penalty of between \$11,181 and \$22,363 per false claim, plus three times the amount of damages incurred by the government.


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**Policy | Deficit Reduction Act**

Issue Date: 09/13/12	Revision/Review Date: 02/01/15; 09/15/15; 02/10/16; 09/01/17; 06/30/20	Program Application:
Prepared By: <i>Chief Executive Officer</i>	Reviewed By: <i>Mintz Levin Legal Counsel</i>	Corporate ✓
Approved By: 	Section: Corporate Compliance	EverCare Choice ✓
Chief Executive Officer		Evercare At Home ✓
		Social Day Care ✓

- A statute of limitations says how much time may pass before an action may no longer be brought for violation of the law. Under the False Claims Act, the statute of limitations is six years after the date of violation or three years after the date when material facts are known or should have been known by the government, but no later than ten years after the date on which the violation was committed.

**Federal Whistleblower Protections:**

Federal law prohibits an employer from discriminating against an employee in the terms or conditions of his or her employment because the employee initiated or otherwise assisted in a false claims action. The employee is entitled to all relief necessary to make the employee whole.

**State Provisions:**

New York has criminal and civil laws that prohibit Medicaid fraud. Recent New York state legislation incorporated several new measures to combat fraud and abuse, including:

- Creating the new Office of Medicaid Inspector General;
- Increasing the legal classes of offenses for fraud and abuse and increasing the severity of criminal penalties;
- New whistleblower protections;
- Increased financial incentives for local authorities to pursue fraud and abuse financial recoveries;

**State Whistleblower Protections:**

New York State law contains several provisions that prohibit retaliatory action by a health care facility against an employee who, in good faith, brings evidence of unlawful healthcare facility practices to the attention of the proper authority. Further, an employee who believes he or she is the victim of retaliation may file a complaint with the New York Office of the Medicaid Inspector General.

**What you should do if you think EverCare may have made a false claim:**

If you see something that is not right, or looks like one of the examples of a false claim noted earlier, our organization encourages you to:

- Report it to the **Compliance Officer at 845|725|1117** for further investigation. If you are not comfortable doing this or do not see action in response to your report;
- Call **Corporate Compliance Hotline at 844|371|4700**.
- You are not required to report a possible false claims act violation to the organization first. You may report directly to the federal Department of Justice.
- This facility will not retaliate against you if you inform our organization or the federal government of a possible false claims act violation, or for a good faith reporting of any suspected noncompliance.

**IV. TRAINING**

We will train all new and current employees, contractors and agents regarding federal and state false claims acts and also provide periodic updates for existing employees, contractors and agents. All staff is required to participate in training. All contractors and agents are required to accept educational information offered by our organization or to participate in scheduled training, as determined by our organization.

If you have any questions about this information, please call the Compliance Officer at 844|371|4700.


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Policy | Deficit Reduction Act

Issue Date: 09/13/12	Revision/Review Date: 02/01/15; 09/15/15; 02/10/16; 09/01/17; 06/30/20	Program Application:
Prepared By: Chief Executive Officer	Reviewed By: Mintz Levin Legal Counsel	Corporate ✓
Approved By: 	Section: Corporate Compliance	EverCare Choice ✓
Chief Executive Officer		Evercare At Home ✓
		Social Day Care ✓

**V. GOVERNANCE**

The summary below, published by the New York State Office of the Medicaid Inspector General, is an integral part of this policy.

**FEDERAL & NEW YORK STATUTES RELATING TO FILING FALSE CLAIMS**

**I. FEDERAL LAWS**

**False Claims Act (31 USC §§3729-3733)**

The False Claims Act ("FCA") provides, in pertinent part, that:

(a) Any person who (1) knowingly presents, or causes to be presented, to an officer or employee of the United States Government or a member of the Armed Forces of the United States a false or fraudulent claim for payment or approval; (2) knowingly makes, uses, or causes to be made or used, a false record or statement to get a false or fraudulent claim paid or approved by the Government; (3) conspires to defraud the Government by getting a false or fraudulent claim paid or approved by the Government; . . . or (7) knowingly makes, uses, or causes to be made or used, a false record or statement to conceal, avoid, or decrease an obligation to pay or transmit money or property to the Government, is liable to the United States Government for a civil penalty of not less than \$11,181 and not more than \$22,363 , plus 3 times the amount of damages which the Government sustains because of the act of that person...

(b) For purposes of this section, the terms "knowing" and "knowingly" mean that a person, with respect to information (1) has actual knowledge of the information; (2) acts in deliberate ignorance of the truth or falsity of the information; or (3) acts in reckless disregard of the truth or falsity of the information, and no proof of specific intent to defraud is required.

31 U.S.C. § 3729. While the False Claims Act imposes liability only when the claimant acts “knowingly,” it does not require that the person submitting the claim have 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, also can be found liable under the Act. 31 U.S.C. 3729(b).

In sum, the False Claims Act imposes liability on any person who submits a claim to the federal government that he or she knows (or should know) is false. An example may be a physician who submits a bill to Medicare for medical services she knows she has not provided. The False Claims Act also imposes liability on an individual who may knowingly submit a false record in order to obtain payment from the government. An example of this may include a government contractor who submits records that he knows, or should know, is false and that indicate compliance with certain contractual or regulatory requirements. The third area of liability includes those instances in which someone may obtain money from the federal government to which he may not be entitled, and then uses false statements or records in order to retain the money. An example of this so-called “reverse false claim” may include a hospital that obtains interim payments from Medicare throughout the year, and then knowingly files a false cost report at the end of the year in order to avoid making a refund to the Medicare program.

In addition to its substantive provisions, the FCA provides that private parties may bring an action on behalf of the United States. 31 U.S.C. 3730 (b). These private parties, known as “*qui tam* relaters,” may share in a percentage of the proceeds from an FCA action or settlement.


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Policy | Deficit Reduction Act

Issue Date: 09/13/12	Revision/Review Date: 02/01/15; 09/15/15; 02/10/16; 09/01/17; 06/30/20	Program Application:
Prepared By: <i>Chief Executive Officer</i>	Reviewed By: <i>Mintz Levin Legal Counsel</i>	Corporate ✓
Approved By: 	Section: Corporate Compliance	EverCare Choice ✓
Chief Executive Officer		Evercare At Home ✓
		Social Day Care ✓

Section 3730(d)(1) of the FCA provides, with some exceptions, that a qui tam relater, when the Government has intervened in the lawsuit, shall receive at least 15 percent but not more than 25 percent of the proceeds of the FCA action depending upon the extent to which the relater substantially contributed to the prosecution of the action. When the Government does not intervene, section 3730(d) (2) provides that the relater shall receive an amount that the court decides is reasonable and shall be not less than 25 percent and not more than 30 percent.

**Administrative Remedies for False Claims (31 USC Chapter 38. §§ 3801 – 3812)**

This statute 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 \$5,000 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.

**II. NEW YORK STATE LAWS**

New York’s false claims laws fall into two categories: civil and administrative; and criminal laws. Some apply to recipient false claims and some apply to provider false claims, and while most are specific to healthcare or Medicaid, some of the “common law” crimes apply to areas of interaction with the government.

**A. CIVIL AND ADMINISTRATIVE LAWS**

**NY False Claims Act (State Finance Law, §§187-194)**

The NY False Claims Act closely tracks the federal False Claims Act. It imposes penalties and fines on individuals and entities that file false or fraudulent claims for payment from any state or local government, including health care programs such as Medicaid. The penalty for filing a false claim is \$6,000 - \$12,000 per claim and the recoverable damages are between two and three times the value of the amount falsely received. In addition, the false claim filer may have to pay the government’s legal fees.

The Act allows private individuals to file lawsuits in state court, just as if they were state or local government parties. If the suit eventually concludes with payments back to the government, the person who started the case can recover 25-30% of the proceeds if the government did not participate in the suit or 15-25% if the government did participate in the suit.

**Social Services Law §145-b False Statements**

It is a violation to knowingly obtain or attempt to obtain payment for items or services furnished under any Social Services program, including Medicaid, by use of a false statement, deliberate concealment or other fraudulent scheme or device. The State or the local Social Services district may recover three times the amount incorrectly paid. In addition, the Department of Health may impose a civil penalty of up to \$10,000 per violation. If repeat violations occur within 5 years, a penalty up to \$30,000 per violation may be imposed if they involve more serious violations of Medicaid rules, billing for services not rendered or providing excessive services.


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Approved By: 	Section: Corporate Compliance	EverCare Choice ✓
Chief Executive Officer		Evercare At Home ✓
		Social Day Care ✓

**Social Services Law §145-c Sanctions**

If any person applies for or receives public assistance, including Medicaid, by intentionally making a false or misleading statement, or intending to do so, the person's, the person's family's needs are not taken into account for 6 months if a first offense, 12 months if a second (or once if benefits received are at least \$1,000 but not more than \$3,900), for eighteen [18] months after a third offense [or if benefits wrongfully received are in excess of \$3,900] and five [5] years for any subsequent offense, 4

**B. CRIMINAL LAWS**

**Social Services Law §145 Penalties**

Any person, who submits false statements or deliberately conceals material information in order to receive public assistance, including Medicaid, is guilty of a misdemeanor.

**Social Services Law § 366-b, Penalties for Fraudulent Practices**

- a. Any person who obtains or attempts to obtain, for himself or others, medical assistance by means of a false statement, concealment of material facts, impersonation or other fraudulent means is guilty of a Class A misdemeanor.
- b. Any person who, with intent to defraud, presents for payment and false or fraudulent claim for furnishing services, knowingly submits false information to obtain greater Medicaid compensation or knowingly submits false information in order to obtain authorization to provide items or services is guilty of a Class A misdemeanor.

**Penal Law Article 155, Larceny**

The crime of larceny applies to a person who, with intent to deprive another of his property, obtains, takes or withholds the property by means of trick, embezzlement, false pretense, false promise, including a scheme to defraud, or other similar behavior. It has been applied to Medicaid fraud cases.

- a. § 155.30 Fourth degree grand larceny involves property valued over \$1,000. It is a Class E felony.
- b. § 155.35 Third degree grand larceny involves property valued over \$3,000. It is a Class D felony.
- c. § 155.40 Second degree grand larceny involves property valued over \$50,000. It is a Class C felony.
- d. § 155.42 First degree grand larceny involves property valued over \$1,000,000. It is a Class B felony.

**Penal Law Article 175, False Written Statements**

Four crimes in this Article relate to filing false information or claims and have been applied in Medicaid fraud prosecutions:

- a. §175.05, Falsifying business records involves entering false information, omitting material information or altering an enterprise's business records with the intent to defraud. It is a Class A misdemeanor.
- b. § 175.10, Falsifying business records in the first degree includes the elements of the §175.05 offense and includes the intent to commit another crime or conceal its commission. It is a Class E felony.
- c. §175.30, Offering a false instrument for filing in the second degree involves presenting a written instrument (including a claim for payment) to a public office knowing that it contains false information. It is a Class A misdemeanor.


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Chief Executive Officer		Evercare At Home ✓
		Social Day Care ✓

d. §175.35, Offering a false instrument for filing in the first degree includes the elements of the second degree offense and must include an intent to defraud the state or a political subdivision. It is a Class E felony.

**Penal Law Article 176, Insurance Fraud**

Applies to claims for insurance payment, including Medicaid or other health insurance and contains six crimes.

- a. §176.10 Insurance Fraud in the 5th degree involves intentionally filing a health insurance claim knowing that it is false. It is a Class A misdemeanor.
- b. §176.15 Insurance fraud in the 4th degree is filing a false insurance claim for over \$1,000. It is a Class E felony.
- c. §176.20 Insurance fraud in the 3rd degree is filing a false insurance claim for over \$3,000. It is a Class D felony.
- d. §176.25 Insurance fraud in the 2nd degree is filing a false insurance claim for over \$50,000. It is a Class C felony.
- e. §176.30 Insurance fraud in the 1st degree is filing a false insurance claim for over \$1 million. It is a Class B felony.
- f. §176.35 Aggravated insurance fraud is committing insurance fraud more than once. It is a Class D felony.

**Penal Law Article 177, Health Care Fraud**

Applies to claims for health insurance payment, including Medicaid, and contains five crimes:

- a. §177.05 Health care fraud in the 5th degree is knowingly filing, with intent to defraud, a claim for payment that intentionally has false information or omissions. It is a Class A misdemeanor.
- b. §177.10 Health care fraud in the 4th degree is filing false claims and annually receiving over \$3,000 in aggregate. It is a Class E felony.
- c. §177.15 Health care fraud in the 3rd degree is filing false claims and annually receiving over \$10,000 in the aggregate. It is a Class D felony.
- d. §177.20 Health care fraud in the 2nd degree is filing false claims and annually receiving over \$50,000 in the aggregate. It is a Class C felony.
- e. §Health care fraud in the 1st degree is filing false claims and annually receiving over \$1 million in the aggregate. It is a Class B felony.

**III. WHISTLEBLOWER PROTECTION**

**Federal False Claims Act (31 U.S.C. §3730(h))**

The FCA provides protection to *qui tam* relators who are discharged, demoted, suspended, threatened, harassed, or in any other manner discriminated against in the terms and conditions of their employment as a result of their furtherance of an action under the FCA. 31 U.S.C. 3730(h). Remedies include reinstatement with comparable seniority as the *qui tam* relator would have had but for the discrimination, two times the amount of any back pay, interest on any back pay, and compensation for any special damages sustained as a result of the discrimination, including litigation costs and reasonable attorneys' fees.


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**NY False Claim Act (State Finance Law §191)**

The False Claim Act also provides protection to *qui tam* relaters, who are discharged, demoted, suspended, threatened, harassed, or in any other manner discriminated against in the terms and conditions of their employment as a result of their furtherance of an action under the Act. Remedies include reinstatement with comparable seniority as the *qui tam* relater would have had but for the discrimination, two times the amount of any back pay, interest on any back pay, and compensation for any special damages sustained as a result of the discrimination, including litigation costs and reasonable attorneys’ fees.

**New York Labor Law §740**

An employer may not take any retaliatory action against an employee if the employee discloses information about the employer’s policies, practices or activities to a regulatory, law enforcement or other similar agency or public official. Protected disclosures are those that assert that the employer is in violation of a law that creates a substantial and specific danger to the public health and safety or which constitutes health care fraud under Penal Law §177 (knowingly filing, with intent to defraud, a claim for payment that intentionally has false information or omissions). The employee’s disclosure is protected only if the employee first brought up the matter with a supervisor and gave the employer a reasonable opportunity to correct the alleged violation. If an employer takes a retaliatory action against the employee, the employee may sue in state court for reinstatement to the same, or an equivalent position, any lost back wages and benefits and attorneys’ fees. If the employer is a health provider and the court finds that the employer’s retaliatory action was in bad faith, it may impose a civil penalty of \$10,000 on the employer.

**New York Labor Law §741**

A health care employer may not take any retaliatory action against an employee if the employee discloses certain information about the employer’s policies, practices or activities to a regulatory, law enforcement or other similar agency or public official. Protected disclosures are those that assert that, in good faith, the employee believes constitute improper quality of Member care. The employee’s disclosure is protected only if the employee first brought up the matter with a supervisor and gave the employer a reasonable opportunity to correct the alleged violation, unless the danger is imminent to the public or Member and the employee believes in good faith that reporting to a supervisor would not result in corrective action. If an employer takes a retaliatory action against the employee, the employee may sue in state court for reinstatement to the same, or an equivalent position, any lost back wages and benefits and attorneys’ fees. If the employer is a health provider and the court finds that the employer’s retaliatory action was in bad faith, it may impose a civil penalty of \$10,000 on the employer.

**VI. WHOM DO I CONTACT FOR FURTHER QUESTIONS**

Corporate Compliance Officer  
Human Resources  
Chief Executive Officer

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**Policy | Fraud, Waste, Abuse Prevention & Detection**

Issue Date: 05/27/16

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Program Application:

Prepared By: *Chief Executive Officer*

Reviewed By: *Mintz, Levin Legal Counsel*

Corporate ✓

EverCare Choice ✓

Approved By: 

Section: Corporate Compliance

EverCare At Home

EverCare Life

Chief Executive Officer

**I. GENERAL STATEMENT OF POLICY**

It is the policy of EverCare to ensure compliance with the highest principles of professional conduct and related laws, regulations and policies of our Managed Care Organization [MCO] on the part of all of our staff, employed or contracted, volunteers and members of the Board of Trustees. As a result, EverCare has established a Compliance Program with its underlying structure and process to prevent, detect, identify and mitigate Waste, Fraud and Abuse. PHL 4414 requires Plans [via the 2020 budget action] with enrolled populations over 1,000 persons to develop a plan to specifically and proactively audit for and investigate to ensure the prevention of fraudulent activities. This is accomplished via EverCare’s Special Investigations Unit [SIU] see policy CC P-15. Individuals who are reporting any violations, or presumed violations, are fully protected from any/all forms of retaliation.

**II. SCOPE**

Managers, Staff, Contracted Providers

**III. IMPLEMENTATION**

Identification of Waste, Fraud and Abuse:

- ✦ *Fraud* means any type of intentional deception or misrepresentation made by a person with the knowledge that the deception could result in some unauthorized benefit to he/she or some other person in a managed care setting including any act that constitutes fraud under applicable federal or state law, committed by a contractor, subcontractor, provider beneficiary or entity that receives funds in exchange for the provision or arranging for the provision of health care service to an enrollee. It is “*knowingly and willfully executing, or attempting to execute, a scheme or artifice to defraud any health care benefit program; or to obtain, by means of false or fraudulent pretenses, representations, or promises, any of the money or property owned by, or under the custody or control of, any health care benefit program.*” Simply, it is illegal to intentionally submit false information to the government in order to receive a monetary or other benefit. Fraudulent activity can be criminal or civil.
- ✦ In contrast, *waste* and *abuse* do not require intent and knowledge of wrongdoing. *Abuse* is payment for items or services that have no substantiated basis for payment and for which the provider has not knowingly and/or intentionally tried to obtain the payment. *Abuse* means provider practices that are inconsistent with sound fiscal, business or medical practices and result in an unnecessary cost to the state or federal government or in reimbursement for services that are not medically necessary or that fail to meet professionally recognized health care standards, committed by contractor, subcontractor, provider, beneficiary or enrollee. This also includes enrollee practices that result in unnecessary cost to the state or federal government, MCO, contractor, subcontractor or a provider which includes any individual or entity that receives funds in exchange for providing, arranging or the provision of a service.
- ✦ *Waste* is overutilization of services and is not generally thought to be a result of criminal negligence.

Waste, Fraud and Abuse Plan – EverCare’s SIU specifically seeks to identify Waste, Fraud, and Abuse and is a plan separate and distinct from any other function or unit of EverCare. This plan is responsible for investigating cases of suspected fraudulent and abusive activity and for the implementation of our fraud and abuse prevention and reduction activities under our fraud and abuse prevention plan which includes activities of our contracted providers. The SIU must comply with all applicable state and federal program integrity requirements, including, but not limited to, those specified

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**Policy | Fraud, Waste, Abuse Prevention & Detection**

Issue Date: 05/27/16

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Program Application:

Prepared By: *Chief Executive Officer*

Reviewed By: *Mintz, Levin Legal Counsel*

Corporate ✓

EverCare Choice ✓

Approved By: 

Section: Corporate Compliance

EverCare At Home

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Chief Executive Officer

in 42 CFR Part 455 and 42 CFR Part 438 Subpart H. Pursuant to 42 CFR 438.608[a], the SIU will implement and maintain arrangements or procedures to detect and prevent fraud, waste and abuse; these arrangements or procedures will meet all of the requirements of this Section.

The SIU does in no way limit the authority of the New York State Office of the Attorney General, OMIG, OSC or Department to investigate, audit or otherwise obtain recoveries from EverCare or its Participating Providers, Non-Participating Providers, Subcontractors, or third parties.

All documents related to the activities of the fraud, prevention and detection plan shall be maintained in accordance with EverCare’s Record Retention Policies. In addition, if EverCare enters into a management contract to perform all or part of this function, the management contract shall be submitted to the department for prior approval and included as part of the Waste, Fraud and Abuse prevention plan.

✦ Procedures for detecting and preventing possible Waste, Fraud and Abuse include but are not limited to the following areas:

- Provision of preventive services
- Under/over utilization
- Marketing
- Provision of medically necessary services
- Assignment of a Primary Care Physician [PCP]
- Submission of claims for services not provided
- Referrals and the designation of individuals authorized to make such referrals
- Avoiding duplication of effort due to concurrent referrals

**IV. WASTE, FRAUD AND ABUSE REPORTING REQUIREMENTS**

Pursuant to 42 CFR 438.608[a][7], the Plan shall report all cases of potential fraud, waste and abuse to SDOH and OMIG. This includes the reporting of potential fraud, waste and abuse of all potential fraud, waste or abuse committed by, including but not limited to, the Plan, Participating or Non-Participating Providers, subcontractors, vendors, Enrollees, rendering professionals, ordering or referring professionals, the Plan’s or subcontractor’s employees, management or any third party.

The Plan shall submit to both the Department and OMIG the following information for each case of *potential fraud, waste or abuse* it identifies through complaints, organizational monitoring, contractors, providers, beneficiaries, Enrollees, or any other source:

- [1] The name of the individual or entity that committed, or is suspected of committing the fraud, waste or abuse;
- [2] The source that identified the potential fraud, waste or abuse;
- [3] The type of provider, entity or organization that committed, or is suspected of committing the fraud, waste or abuse;
- [4] A description of the potential fraud, waste or abuse;

Pursuant to 42 CFR 438.608[a][7], EverCare may also refer cases of *potential fraud* to the New York State Office of the Attorney General, within five [5] business days of identification. The Contractor shall include such referrals in reports submitted in accordance with the requirements of Section F[3][d] of Article VIII of the capitation model contract.

In each *confirmed case of Waste, Fraud, and Abuse* identified, the following shall be reported:

- Name of individual or entity that committed the fraud and abuse
- The source that identified the fraud or abuse

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**Policy | Fraud, Waste, Abuse Prevention & Detection**

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Program Application:

Prepared By: *Chief Executive Officer*

Reviewed By: *Mintz, Levin Legal Counsel*

- Corporate ✓
- EverCare Choice ✓
- EverCare At Home
- EverCare Life

Approved By: 

Section: Corporate Compliance

Chief Executive Officer

- o Type of provider, entity or organization that committed the fraud and abuse.
- o Description of the fraud and abuse
- o Approximate range of dollars involved
- o Legal and administrative disposition of the case including actions taken by law enforcement officials to whom the case has been referred
- o Other data/information prescribed by the department

An executive officer of EverCare reviews and signs the fraud and abuse plan/reports submitted to the DOH.

**V. COMPLIANCE WITH STATE MEDICAID PLAN, APPLICABLE LAWS AND REGULATIONS**

1. The Plan shall ensure that any cost sharing imposed on an Enrollee is in accordance with the State Medicaid Plan and with requirements at 42 CFR 447.50 through 42 CFR 447.60
  - a. The Plan shall exempt from MMC premiums any Native American Enrollee who is eligible to receive or has received a covered item or service furnished by an Indian Health Care Provider or through referral made by an Indian Health Care Provider.
  - b. The Plan shall exempt from all cost sharing requirements any Native American Enrollee who is eligible to receive or has received a covered item or service furnished by an Indian Health Care Provider or through referral made by an Indian Health Care Provider.
2. The Plan is prohibited from paying for an item or service [other than an emergency item or service, not including items or services furnished in an emergency room of a hospital] that is:
  - a. furnished under the plan by any individual or entity during any period when the individual or entity is excluded from participation under title V, XVIII, or XX or under this title pursuant to sections 1128, 1128A, 1156, or 1842[j][2] of the Social Security Act [Act];
  - b. furnished at the medical direction or on the prescription of a physician, during the period when such physician is excluded from participation under title V, XVIII, or XX or under this title pursuant to sections 1128, 1128A, 1156, or 1842[j][2] of the Act and when the person furnishing such item or service knew, or had reason to know, of the exclusion [after a reasonable time period after reasonable notice has been furnished to the person];
  - c. furnished by an individual or entity to whom the state has failed to suspend payments during any period when there is a pending investigation of a credible allegation of fraud against the individual or entity, unless the state determines there is good cause not to suspend such payments;
3. The Contactor shall not expend any funds provided through this Agreement for a purpose under or in violation of the Assisted Suicide Funding Restriction Act [ASFRA] of 1997; or
4. The Plan shall not expend any funds provided through this Agreement for roads, bridges, stadiums, or any item or service not described in the State Medicaid Plan, except when such expenditures are for an item or service:
  - a] otherwise permissible under this Agreement;
  - b] allowable under 42 CFR 438.3; or
  - c] that the Plan has been directed by SDOH to provide pursuant to Section 4.3 of this Agreement

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Program Application:

Prepared By: *Chief Executive Officer*

Reviewed By: *Mintz, Levin Legal Counsel*

Corporate ✓

EverCare Choice ✓

Approved By: 

Section: Corporate Compliance

EverCare At Home

EverCare Life

Chief Executive Officer

**VI. PERFORMANCE**

EverCare's shall review on an ongoing basis the performance of the SIU and cost effectiveness in implementing the plan and its proposals for modifications to the plan, amend operations, improve performance or remedy observed deficiencies including number of complaints regarding Waste, Fraud and Abuse made to us during the year. In-service training programs for compliance must be reviewed annually to address training needs as appropriate.

**VII. GOVERNANCE**

Article VIII of MLTC Partial Capitation Contract, PHL 4414, 10 NYCRR 98-1.21

**VIII. WHOM DO I CONTACT FOR FURTHER QUESTIONS**

Chief Executive Officer  
Chief Compliance Officer  
Director | Human Resources


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Policy | Trade Secrets & Confidential Information

Issue Date: 12|01|14                      Revision Date: 10|01|17; 06|30|20  
Prepared By: *Chief Executive Officer*                      Reviewed By: *Mintz Levin Legal Counsel*  
Approved By:                       Section: Corporate Compliance  
Chief Executive Officer

Program Application:  
Corporate ✓  
EverCare Choice ✓  
EverCare At Home ✓  
EverCare Life ✓

I. GENERAL STATEMENT OF POLICY

The purpose of this policy is to ensure that EverCare protects its trade secrets, business strategies and confidential information, and avoids improper access to the trade secrets, business strategies and confidential information of any other company, including EverCare’s competitors.

II. SCOPE

Board Trustees, Officers [Directors], Staff, Vendors

III. CONFIDENTIAL & PROPRIETARY INFORMATION

Confidential or proprietary information includes any information which is not generally known to the public and which is useful or helpful to EverCare and/or which would be useful or helpful including but not limited to: its competitor[s], potential future competitors, the public cohort, or common man. Common examples include business plans, processes/procedures, software, methods, financial data, sales figures, marketing data, business dashboards, business reports, policies, internal memos, for individual services or groups of services, planned new or improved services, or advertising programs, brand development, operational matters, areas in which EverCare intends to expand, vendor lists and/or prices, wage and salary data, client/patient lists or information, Protected Health Information [PHI] or any/all data protected under HITEC and/or HIPAA, capital investment plans, pending acquisitions, projected earnings, changes in management or policies, codes, passwords, meeting minutes, testing data, or any other like business information.

Such information also includes any related memos or documents, electronic or otherwise, notes, presentations, plans, charts, graphs, etc., or drawings including those that may be labeled confidential or proprietary.

IV. GUIDELINES

EverCare owns all rights to any information which could be classified as confidential or proprietary under the above–described standards and which is acquired by EverCare or developed in whole or in part by one or more of EverCare’s employees or agents in the course of, or as a result of, such employee’s or agent’s duties. Any proprietary information to which any EverCare employee or agent may have access shall be used only within the scope of the employee or agent’s duties, for proper purposes, and distributed to others within EverCare only on a need–to–know basis. Documents or computerized files containing EverCare’s proprietary information shall not be copied – in whole or in part – or be removed from EverCare’s premises, or released in any form, written or orally, to any person outside of EverCare, except as necessary to perform job functions or based upon prior authorization. All documents and computerized files containing EverCare’s proprietary information, as well as all other EverCare property, must be returned to EverCare immediately upon separation of employment or engagement.

If EverCare wishes to disclose its own trade secrets or confidential information to any person or company outside of EverCare, such disclosure shall be done only in conjunction with appropriate confidentiality or non–disclosure agreements which have been approved and signed by the Chief Executive Officer. All Board members, officers, employees, agents, and vendors of EverCare shall be alert to, and shall prevent, inadvertent disclosures, which may arise in either social conversations or in normal business relations with EverCare’s vendors, or other non–employed parties.

- NOTICE -

Policy | Trade Secrets & Confidential Information

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Section: Corporate Compliance

EverCare At Home ✓

EverCare Life ✓

Chief Executive Officer

EverCare shall obtain information about the marketplace in which it operates only in accordance with sound and ethical commercial practices. EverCare shall not become involved in any situation in which proprietary or confidential information has been improperly obtained.

If any EverCare employee or agent is approached with any offer of confidential information or receives confidential information which the employee or agent has reason to believe may have been obtained improperly, the employee or agent shall immediately disclose the matter to the Chief Executive Officer.

V. WHOM DO I CONTACT FOR FURTHER QUESTIONS

Chief Executive Officer


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Policy | Compliance Program

Issue Date: 09/13/12	Revision/Review Date: 01/04/13, 09/10/13, 01/01/14, 04/01/14, 02/10/16, 12/08/17; 06/30/20	Program Application:
Prepared By: <i>Chief Executive Officer</i>	Reviewed By: <i>Compliance Officer</i>	Corporate ✓
Approved By: 	Section: Corporate Compliance	EverCare Choice ✓
Chief Executive Officer		EverCare At Home ✓
		EverCare Life ✓

**I. GENERAL STATEMENT OF POLICY**

EverCare has a Corporate Compliance Program that ensures the highest principles of professional conduct and related laws, regulations, and policies on the part of all staff [employed and contracted], volunteers and members of the Board of Trustees. The purpose of this policy is to describe the underlying structure and process of the Corporate Compliance Program.

Our organization is to adhere to Federal and State Regulatory Agencies, including but not limited to, the Centers for Medicare and Medicaid Services [CMS], New York State Office of the Medicaid Inspector General [NYS OMIG], the federal Deficit Reduction Act of 2005 [DRA], and others. EverCare’s Compliance Program is a functional mechanism to put into action objectives that meet, and audits for, adherence. NYS OMIG requires that we have an effective Compliance Program to include the following eight [8] elements:

1. Written policies and procedures and Standards of Conduct
2. Designation of a Compliance Officer, Compliance Committee and high level oversight
3. Effective Training and Education
4. Effective lines of communication among the Compliance Officer, Compliance Committee, Employees, Governing Body and First Tier Downstream or Related Entity [FDR]
5. Disciplinary Measures
6. Effective System for Routine Monitoring, Auditing and Identification of Compliance Risks
7. Procedures and System for Prompt Response to Compliance Issues
8. Non-Discrimination and Non-Retaliation

- ✦ We expect everyone with whom we are associated to comply with all state and federal laws and regulations as well as the internally published policies and procedures of our organization.
- ✦ We encourage ongoing internal analysis of our organization Corporation Policies and Procedures and will rely on effective self-monitoring and internal reporting to ensure their efficient and effective operation.
- ✦ Our Corporate Compliance Program is designed to discover, remedy and deter non-compliant unlawful or criminal conduct.

The Corporate Compliance Program is intended to reinforce and supplement all policies currently in effect which pertain to organizational business ethics, possible conflicts of interest and disclosure of same, standards or codes of conduct for all employees and members of the Board of Trustees and progressive discipline guidelines.

In order to strengthen the Compliance Program, the structure of a Special Investigations Unit [SIU] was developed, and put in place, in June of 2020 [see policy CC P-21].

**II. SCOPE**

Board of Trustees, managers, staff, contract service providers, volunteers, students


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**Policy | Compliance Program**

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Approved By: 	Section: Corporate Compliance	EverCare Choice ✓
Chief Executive Officer		EverCare At Home ✓
		EverCare Life ✓

**III. PROCEDURE**

**Reporting**

It is the policy of EverCare to ensure that employees, staff, members of the Board and the community feel they can report concerns to EverCare without fear of intimidation or retribution. There will be no retribution or retaliation against any employee for making a report under the Corporate Compliance Program.

1. Every employee has an affirmative duty to report issues or concerns that come to his/her attention through the appropriate channels. Failure to do so can result in disciplinary action.
2. The entity will not take disciplinary or retaliatory action against an employee who in good faith raises a concern.
3. Retaliation or intimidation in any form by any individual is strictly prohibited and is itself a serious violation of the Code of Ethics.
4. Managers have the responsibility to maintain an environment where employees feel comfortable raising issues or asking questions.
5. If any employee feels that he or she is being intimidated or retaliated against, that individual needs to contact the Chief Compliance Officer, Chief of Human Resources or the General Counsel or if necessary the Chief Executive Office.

Employees may report possible violations of policies, regulations or laws as well as potential issues, investigating issues, self-evaluations, audits and remedial actions that they believe, in good faith, are wrong, illegal, unethical or a violation of EverCare’s policies or Code of Ethics.

Employees may report in person or in writing to the Corporate Compliance Officer, to any Corporate Compliance designee as outlined in the training material, or by using the Compliance Hotline

1. The Hotline is designed to allow callers to voice concerns or complaints through a voluntary and confidential internal reporting system. The confidentiality of the caller will be maintained as much as legally possible. The Hotline is available twenty-four [24] hours a day, seven [7] days a week, at 844-371-4700, internal extension 1117, direct dial 845-725-1117, or employees can e-mail the Chief Compliance Officer and ask to have the report kept confidential.
2. Written reports will be accepted, either signed or anonymously.
3. All allegations will be investigated
  - a. External counsel will be engaged and attorney-client privilege established, if deemed appropriate. Reports on Corporate Compliance activities will be made to the Board of Trustees at each of their regular meetings
  - b. Original records of each reported event and the name of the reporting individual, if known, will be maintained as confidential by the Corporate Compliance Officer unless disclosure to law enforcement authorities is required

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Chief Executive Officer		EverCare At Home ✓
		EverCare Life ✓

Employees are also made aware that they can contact government authorities and in New York, fraud can be reported to the Office of the Medicaid Inspector General at 1-877-87-FRAUD.

**Potential Risk**

EverCare has an enterprise-wide risk assessment process which identifies industry areas of risk and put in place controls to mitigate the risk. The Chief Compliance Officer meets regularly both on a one on one to review the controls and discusses the findings at the Compliance Committee meeting with all leadership. EverCare covers areas of risk for managed long term care plans, certified home health agencies and social adult day care centers.

The risk assessments process has specific and general areas of risk and includes those required by 18 NYCRR Section 521.3[a], namely:

1. Billings
2. Payments
3. Medical necessity and quality of care
4. Governance
5. Mandatory reporting
6. Credentialing
7. Other risk areas identified by the leadership of EverCare Choice

**Billing**

The Compliance Program, with the Finance Department, reviews, through audits, on the accuracy of our billing of Medicaid and Medicare as well as Third Party Payors through our Managed Long Term Program [MLTCP]; Certified Home Health Agency [EverCare at Home] and EverCare’s Social Adult Day Care Center. Audits are conducted and reviews the submission of data for accuracy to Medicaid as a basis for our receipt of capitation of our Managed Long Term Care plan.

**Payments**


The Compliance Program along with the Finance Department audits the accuracy of payments we receive from Medicaid, Medicare and third party payors. If EverCare has been overpaid, we immediately begin the process of returning the funds to the entity. EverCare controls the potential of being overpaid by NY Medicaid by having a regular audit process of managed long term care members eligibility and service gaps and when they are found a process is set off to return the capitation to NY Medicaid.

**Medical Necessity and Quality of Care**

The Compliance Program, through the bi-monthly Compliance meetings that include MLTCP and CHHA leadership, make certain that services provided to our members and patient are medically necessary with accepted health care services and supplies provided by health care providers appropriate to the evaluation and treatments of a disease, condition, illness or injury and consistent with the applicable standard of care and to which health care services increase the likelihood of desired health outcomes and are consistent with current professional knowledge.

**Governance**

Policy | Compliance Program

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Chief Executive Officer		EverCare At Home ✓
		EverCare Life ✓

EverCare has a Chief Compliance Officer, a Compliance Committee composed of leadership and a structure that requires compliance reporting from the Chief Compliance Officer to the Board. The Compliance Program oversees the governance structure of the organization and assures that compliance related information flows up to the Board through attendance and regular reporting by the Chief Compliance Officer and also alerts and information is provide throughout the organization through monthly newsletters, notices, training and meetings.

**Mandatory Reporting**

The Compliance program assures that the Chief Executive Officer is aware any issues and assures, with the Chief Compliance Officer, through at least regular monthly reporting, quarterly and annual reports to the Board of Trustees, and, when appropriate, is made to our stakeholders at Medicaid or Medicare. Duty to disclose and remediation are part and parcel of the regular reporting program.

**Credentialing**

The Compliance program, with the Contracts Department, assures that our contracting department credentials each vendor or supplier to our network and re-credentials on a three year basis, and sooner when necessary.

**Other Risks**

- ✦ Areas of operation deemed to have the highest degree of potential risk include, but are not limited to, areas where there may be violations of the False Claims Act, whether inadvertent or intentional, such as:
  - Areas where there might be kickbacks or other remuneration for individual referrals for services;
  - Vendor marketing programs which award frequent purchases with inappropriate discounts or prizes
- ✦ Continued reinforcement, communication and training regarding the Corporate Compliance Program is necessary, and must be provided by the Compliance Officer. The program will be presented:
  - annually to all existing managers, staff members of the Board of Trustees, volunteers, students/interns/trainees;
  - all new managers, staff, Board members;
  - volunteers, students/interns/trainees as part of their orientation; and
  - at other in service presentations as may be deemed appropriate
- ✦ Hotline information will be posted conspicuously throughout the corporation
- ✦ In support of the Corporate Compliance Program, our organization enforces disciplinary action, up to and including termination of violators or those who fail to carry out the intention of the Program. All staff are informed of same
- ✦ Our organization will use monitoring, auditing and reporting systems to achieve compliance, detect misconduct and encourage communications without fear of retribution
- ✦ Billing integrity audits by independent auditors will be conducted annually
- ✦ Organization-wide audits by independent auditors of all financial information and processes, including departmental policies and procedures and supporting documentation
- ✦ Independent auditors will supply a Management Letter to the Board of Trustees containing all audit findings
- ✦ The Corporate Compliance Officer will be responsible for the overall implementation of the Program
- ✦ The Chief Financial Officer & Chief Executive Officer will be responsible for internal audit oversight of campus-wide financial processes, procedures, transactions, and activities


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Approved By: 	Section: Corporate Compliance	EverCare Choice ✓
Chief Executive Officer		EverCare At Home ✓
		EverCare Life ✓

- ✦ The Corporate Compliance Officer will follow up on all Hotline, oral and written reports and report findings. Findings will also be reported to the Chief Executive Officer and the applicable Board of Trustees, as appropriate
- ✦ Our organization will send appropriate staff to outside conferences on Medicaid/Medicare compliance. Information thus obtained will be acted upon and disseminated
- ✦ A record of attendance at all related in-services and seminars will be maintained by the program

Furthermore, EverCare has zero tolerance for fraud or abuse and, as such, all reports of suspected fraud or abuse are immediately investigated by the Chief Executive Officer, or the Corporate Compliance Officer, as deemed appropriate. Additional responsibilities, including those under the Deficit Reduction Act, are explicitly reviewed with all new hires, and with all staff periodically thereafter. Findings of wrong doing are reported to the Chief Executive Officer, the Board of Trustees, as well as to applicable governmental agencies such as:

The NYS Office of the Medicaid Inspector General's Bureau of Medicaid Fraud Allegations

Email: [www.omig.ny.gov/contact-bmfa](http://www.omig.ny.gov/contact-bmfa)  
 Toll-Free: [877] 873-7283  
 Telephone: [518] 473-3782  
 Fax: [518] 408-0480  
 Internet: [www.omig.ny.gov](http://www.omig.ny.gov)  
 Mail: NYS OMIG – Bureau of Medicaid Fraud Allegations  
 800 North Pearl Street  
 Albany, NY 12204

Reports can also be reported to the following agencies based on the individual situation:

New York State Attorney General's Medicaid Fraud Control Unit

Toll-Free: [800] 771-7755  
 Telephone: [212] 417-5397  
 Internet: <http://www.ag.ny.gov/comments-mfcu>  
 Mail: Office of the Attorney General  
 The Capitol  
 New York, NY 12224-0341

Office of Inspector General

Hotline: [800] 447-8477  
 Fax: [800] 223-8164  
 TTY: [800] 377-4950  
 Internet: <https://oig.hhs.gov/fraud/medicaid-fraud-control-units-mfcu/index.asp>  
 Mail: US Department of Health & Human Services Attn: Hotline  
 P.O. Box 23489  
 Washington, DC 20026

NYS Department of Health Office of Professional Medical Conduct

Fraud Hotline: [877] 873-7283  
 Complaints/Inquiries: [800] 663-6114  
 Main Number: [518] 402-0836


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Prepared By: <i>Chief Executive Officer</i>	Reviewed By: <i>Compliance Officer</i>	
Approved By: 	Section: Corporate Compliance	

Chief Executive Officer

Internet: [www.nyhealth.gov/professionals/doctors/conduct/](http://www.nyhealth.gov/professionals/doctors/conduct/)  
 Mail: Office of Professional Medical Conduct  
 Riverview Center 150 Broadway Suite 355  
 Albany, New York 12204-2719

**NYS Department of Labor**

Toll-Free: [888] 469-7365  
 Telephone: [518] 457-9000  
 TTY|TTD [800] 662-1220  
 Mail: Building 12 W.A. Harriman Campus  
 Albany, N Y 12240

**NYS Department of Education, Office of the Professionals**

Email: [conduct@nysed.gov](mailto:conduct@nysed.gov)  
 Toll-Free: [800] 442-8106  
 Fax: [212] 951-6420  
 Mail: Office of Professional Discipline  
 1411 Broadway Tenth Floor  
 New York, NY 10018

The organization will immediately notify the DOH regarding any employee who was subjected to a criminal background check that is no longer employed pursuant to 10 NYCRR 402.4[b] [3]; 10 NYCRR 402.9[b][2]. Also, the Program will notify the Health Care Worker Registry [HCR] within 10 days when an employee who is on the registry is terminated [10NYCRR 403.5[a][7]]. Contact information listed below.

Debarments, suspensions or changes in circumstances are immediately reported to:

**The NYS Office of the Medicaid Inspector General's Bureau of Medicaid Fraud Allegations**

Email: [www.omig.ny.gov/contact-bmfa](http://www.omig.ny.gov/contact-bmfa)  
 Toll-Free: [877] 873-7283  
 Telephone: [518] 473-3782  
 Fax: [518] 408-0480  
 Internet: [www.omig.ny.gov](http://www.omig.ny.gov)  
 Mail: NYS OMIG – Bureau of Medicaid Fraud Allegations  
 800 North Pearl Street  
 Albany, NY 12204

The written report must include:

- Name, address, profession and license number of the individual
- A description of the action taken
- Reason for the action and the date or nature of the action or conduct
- Sufficient specificity to allow a reasonable person to understand the reason for the action
- Describe if an act or an omission occurred; include the description of the particular act or omission
- Copies [never originals] of supporting documentation, when available


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 Prepared By: *Chief Executive Officer*  
 Reviewed By: *Compliance Officer*  
 Approved By:   
 Chief Executive Officer  
 Section: Corporate Compliance

Program Application:  
 Corporate ✓  
 EverCare Choice ✓  
 EverCare At Home ✓  
 EverCare Life ✓

Reports can also be reported to the following agencies based on the individual situation:

NYS Department of Health Home Care Registry

Email: HCREG@health.state.ny.us  
 Toll-Free: [877] 877-1827

NYS Department of Health Criminal History Check

Email: CHRC@health.state.ny.us  
 Telephone: [518] 402-5549  
 Mail: CHRC Unit  
 PO Box 2607  
 Albany, NY 12220-0607

Office of Inspector General

Hotline: [800] 447-8477  
 Fax: [800] 223-8164  
 TTY: [800] 377-4950  
 Internet: <https://oig.hhs.gov/fraud/medicaid-fraud-control-units-mfcu/index.asp>  
 Mail: US Department of Health & Human Services Attn: Hotline  
 P.O. Box 23489  
 Washington, DC 20026

NYS Department of Health Office of Professional Medical Conduct


Fraud Hotline: [877] 873-7283  
 Complaints/Inquiries: [800] 663-6114  
 Main Number: [518] 402-0836  
 Internet: [www.nyhealth.gov/professionals/doctors/conduct/](http://www.nyhealth.gov/professionals/doctors/conduct/)  
 Mail: Office of Professional Medical Conduct  
 Riverview Center 150 Broadway Suite 355  
 Albany, New York 12204-2719

NYS Department of Labor

Toll-Free: [888] 469-7365  
 Telephone: [518] 457-9000  
 TTY|TTD: [800] 662-1220  
 Mail: Building 12 W.A. Harriman Campus  
 Albany, N Y 12240

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IV. WHOM DO I CONTACT FOR FURTHER QUESTIONS

Chief Compliance Officer  
Chief Executive Officer  
Chief of Staff

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Policy | Document Retention & Destruction

Issue Date: 10/01/17

Revision Date: 05/08/18; 06/30/20


Program Application:

Prepared By: *In House Counsel*

Reviewed By:

Corporate ✓

EverCare Choice ✓

Approved By: 

Section: Corporate Compliance

EverCare At Home ✓

EverCare Life ✓

Chief Executive Officer

**I. GENERAL STATEMENT OF POLICY**

The purpose of this policy is to: [i] ensure that all Records are retained for appropriate periods of time; [ii] require that all Records be stored consistently throughout EverCare’s programs; and [iii] allow for outdated records to be destroyed in a proper manner.

It is the policy of EverCare that all Records be retained, regardless of physical form, medium or characteristic, in accordance with applicable: [1] Federal, State and/or local law and regulation; [2] statutes of limitation; and/or [3] contractual requirements. All members of EverCare’s workforce shall adhere to the retention periods set forth, and shall be responsible for ensuring the security, privacy and confidentiality of medical records, as required by law, accrediting agencies, and specific EverCare policies. The same is also expected of EverCare’s contracted vendors of all care related documentation and its employee records.

**II. SCOPE**

Board of Trustees, Officers, Managers, Staff, Contracted Vendors

**III. PROCEDURE/GUIDELINES**

**1. Safeguarding Records**

All Records shall be adequately safeguarded and protected, through physical and technical security mechanisms, against intrusion, loss, damage, destruction, and tampering. All Records [regardless of physical form or medium] that contain protected health information [PHI] shall be maintained and protected in accordance with applicable laws, regulations and EverCare policies and procedures [including, but not limited to, HIPAA policies].

Each EverCare employee in consultation with IT and the Corporate Compliance Officer shall: [i] ensure that all Electronic Records are adequately protected against accidental erasure, hardware malfunction or destruction, whether by archival storage or by other suitable means providing equivalent protection; [ii] ensure that back-up procedures for information and Records stored on the organization’s computers are implemented on a regular basis to safeguard against the loss of information; and [iii] implement processes to prevent unauthorized access or alteration of a Record after it has been stored electronically.

**2. Record Retention Periods**

The Record Retention Schedule attached to this policy specifies the required retention periods for certain types of Records and identifies the department that is responsible for maintaining such Records.

The Record Retention Schedule attached to this policy does not address every Record that is created and/or maintained by EverCare. There may be Records not listed on the attached Record Retention Schedule that must be retained.

To the extent that any contractual provision requires the retention of a Record for a period longer than the retention periods listed in the below outlined record retention schedule or specifies the retention of documents not listed in the record retention schedule, the contractual requirement shall control. If a question arises regarding the retention period of a Record that is not listed on the schedule, contact your department director who, if uncertain, may contact EverCare’s General Counsel or Chief Compliance Officer for guidance.

The following table indicates EverCare’s document retention policy.


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 Chief Executive Officer

Program Application:  
 Corporate ✓  
 EverCare Choice ✓  
 EverCare At Home ✓  
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<b>CORPORATE / ADMINISTRATION / LEGAL RECORDS</b>	
RECORD	RETENTION PERIOD
By-Laws, Corporate	<u>Recommend:</u> Permanent
Certificates of Incorporation [including amendments]	<u>Recommend:</u> Permanent
Certificates of Need	<u>Recommend:</u> Permanent
Corporate Integrity Agreements	<u>Recommend:</u> 6 years
Filings: Governmental and Regulatory	<u>Recommend:</u> Permanent
Governmental Audits and Investigations [Federal and State]	<u>Recommend:</u> 15 years
Insurance: Policies / Riders/ Certificates / Papers	<u>Recommend:</u> Permanent
IRS Letter Recognizing Tax-Exempt Status	<u>Recommend:</u> Permanent
Licensing and Accreditation Surveys, Inspections and Reports	<u>Minimum:</u> 10 years <u>Recommend:</u> Permanent
Litigation: Final Judgments, Settlements, and Court Orders	<u>Recommend:</u> 20 years
Meeting Minutes: Board of Trustees Committee and Departmental	<u>Recommend:</u> Permanent
Board Charter	<u>Minimum:</u> Permanently
Operating Certificates, Licenses, and Permits	<u>Minimum:</u> 6 years <u>Recommend:</u> Permanent
Subpoenas	<u>Recommend:</u> 6 years
Correspondence [general]	<u>Minimum:</u> 2 years
Correspondence [legal and important matters]	<u>Minimum:</u> Permanent
Trademark registrations and copyrights	<u>Minimum:</u> Permanently
Patents and related papers	<u>Minimum:</u> Permanently
Insurance records, current accident reports, claims, policies, and son on [active and expired]	<u>Minimum:</u> Permanently

<b>FINANCIAL RECORDS</b>	
RECORD	RETENTION PERIOD
Annual reports and financial statements	<u>Recommend:</u> Permanent
Audit reports, external	<u>Minimum:</u> Permanent
Billing records, including but not limited to: <ul style="list-style-type: none"> <li>➤ Claims forms</li> <li>➤ Charge slips and encounter forms</li> </ul>	<u>Minimum:</u> 6 years from date of payment [except for MSP questionnaires, which is 10 years]  <u>Recommend:</u> 10 years



Policy | Document Retention & Destruction

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Program Application:

Prepared By: *In House Counsel*

Reviewed By:

- Corporate ✓
- EverCare Choice ✓
- EverCare At Home ✓
- EverCare Life ✓

Approved By: 

Section: Corporate Compliance

Chief Executive Officer

**FINANCIAL RECORDS**

RECORD	RETENTION PERIOD
<ul style="list-style-type: none"> <li>➤ Business and accounting records referring to specific claims</li> <li>➤ Patient/debtor billing history</li> <li>➤ Medicare secondary payor [MSP] questionnaires</li> </ul>	
Budget work papers	<u>Minimum:</u> 3 years from filing or date filing due, whichever is later <u>Recommend:</u> Current year + 6 years
Accounts payable ledgers and schedules	<u>Minimum:</u> 7 years
Bank reconciliations	<u>Minimum:</u> 7 years
Bank statements	<u>Minimum:</u> 7 years
Checks [for important payments and purchases]	<u>Minimum:</u> Permanently
Correspondence [with customers and vendors]	<u>Minimum:</u> 2 years
Cost reports – CMS requires records of providers [CHHA] submitting cost reports to be retained in original or legally reproduced form [42 CFR 482.24[b][1]]	<u>Minimum:</u> 5 years after closure of cost report
Deeds, mortgages, and bills of sale	<u>Minimum:</u> Permanently
Depreciation schedules	<u>Minimum:</u> Permanently
Invoices [no customers, from vendors]	<u>Minimum:</u> 7 years
Expense analyses/expense distribution schedules	<u>Minimum:</u> 7 years
Internal audit reports	<u>Minimum:</u> 3 years

**EMPLOYMENT RECORDS**

RECORD	RETENTION PERIOD
Application materials, including employment inquiries, applications, resumes,	<u>Minimum:</u> 1 year from date of hire, date record was made, or date of involuntary termination, whichever is later <u>Recommend:</u> 6 years from date of personnel action
EEO forms and related records / recordings, including but not limited to applications for participation in the apprenticeship program	<u>Minimum:</u> Varies depending on record: from most recent filed report up to 2 years <u>Recommend:</u> 6 years from filing
Employee Disability Plan and related records	<u>Recommend:</u> 6 years from date of retirement / termination of employment

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Policy | Document Retention & Destruction

Issue Date: 10/01/17


Revision Date: 05/08/18; 06/30/20

Program Application:

Prepared By: *In House Counsel*

Reviewed By:

- Corporate ✓
- EverCare Choice ✓
- EverCare At Home ✓
- EverCare Life ✓

Approved By: 

Section: Corporate Compliance

Chief Executive Officer

EMPLOYMENT RECORDS	
RECORD	RETENTION PERIOD
Employee medical records [as required by OSHA] <sup>1</sup>	<u>Minimum:</u> Term of employment + 30 years
Employment benefits plans and related documents	<u>Recommend:</u> 6 years from date of termination of plan
Employment contracts	<u>Minimum:</u> Active + 6 years <u>Recommend:</u> <ul style="list-style-type: none"> <li>➤ 10 years after termination or expiration for licensed practitioners</li> <li>➤ 6 years after termination or expiration</li> </ul>
Employment taxes and related documents [including, but not limited to, IRS forms W-2, W-4, W-9, 1099, 940, and 941, copies of returns filed and confirmation numbers, and records of fringe benefits and expense reimbursements provided to employees]	<u>Minimum:</u> Fiscal year + 4 years <u>Recommended:</u> Tax return filing date + 6 years
FMLA leave records	<u>Minimum:</u> No less than 3 years from date of termination of employment <u>Recommend:</u> 6 years from date of termination of employment
I-9 Forms	<u>Minimum:</u> 3 years from date of hire or 1 year from date of termination, whichever is later <u>Recommend:</u> Term of employment + 6 years
Paid time off records, including records of the amount of payments made to employees by the Hospital or other third party payer when an employee was on paid leave of absence due to sickness or injury	<u>Minimum:</u> Fiscal year + 4 years <u>Recommend:</u> Tax return filing date + 6 years
Pay scales [including charts used to determine salary for job classifications and other information gathered to determine salary guidelines]	<u>Minimum:</u> 2 years <u>Recommend:</u> 6 years
Payroll records [including, but not limited to, earnings records, record of hours worked, amount of gross wages, amounts deducted, net wages, wage rate tables, and time sheets indicating daily start/end times]	<u>Minimum:</u> 6 years <u>Recommend:</u> Term of employment + 6 years
Pension / 403[b] Retirement Plan and vesting files and related records	<u>Recommend:</u> 6 years from date of retirement / termination of employment

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Section: Corporate Compliance

Chief Executive Officer

EMPLOYMENT RECORDS	
RECORD	RETENTION PERIOD
Employment decisions / policies, including records related to hiring, promotion, demotion, transfer, and selection for training, layoff, recall, discharge, or termination, including merit and seniority systems	<p><u>Minimum:</u> 2 years from date of personnel action, date record was made, or 1 year from date of involuntary termination, whichever is later</p> <p>Recommend: 6 years from date of personnel action</p>
Employment Personnel records [excluding medical records]	<p><u>Recommend:</u> Term of employment + 6 years</p>
Employment records for volunteers, students, or other non-compensated personnel [including medical exams and screenings required for working in the Facility]	<p><u>Recommend:</u></p> <ul style="list-style-type: none"> <li>➤ 6 – 10 years for medical records</li> <li>➤ Active + 6 years for all other records</li> </ul>
Worker’s Compensation records relating to any injury or illness incurred by one of its employees in the course of employment	<p><u>Minimum:</u> Date of injury + 18 years</p>
ERISA documents – Health and Retirement Benefit Plan documents	<p><u>Minimum:</u> 6 years</p>

MEDICAL RECORDS	
RECORD	RETENTION PERIOD
Clinical records CHHA [including medical orders, source of referral, nursing assessments, progress notes, supervisory reports of the registered professional nurse, home health aide or personal care aide activity sheets, documentation of accidents and incidents, receipt of information regarding the patient’s rights; and a discharge summary when the patient is discharged from the agency, including certain specified items]	<p><u>Minimum:</u> 6 years after discharge. For minors, 6 years after discharge, or 3 years after reach majority [18 years], whichever is longer period.</p> <p>Recommend:</p> <ul style="list-style-type: none"> <li>➤ Adults: 10 years</li> <li>➤ Minors: 6 years from age of majority [18 years of age]</li> </ul>
Patient rosters	<p><u>Recommend: Permanent</u></p>
Physicians’ certifications and recertification’s	<p><u>Minimum:</u> <u>6 years after discharge. For minors, 6 years after discharge, or 3 years after reach majority [18 years], whichever is longer period.</u></p> <p><u>Recommend:</u></p> <ul style="list-style-type: none"> <li>➤ <u>Adults: 10 years</u></li> </ul>

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Reviewed By:

- Corporate ✓
- EverCare Choice ✓
- EverCare At Home ✓
- EverCare Life ✓

Approved By: 

Section: Corporate Compliance

Chief Executive Officer

MEDICAL RECORDS	
RECORD	RETENTION PERIOD
	➤ <u>Minors: 6 years from age of majority [18 years of age]</u>
Plan of care and comprehensive interdisciplinary patient assessment	<u>Minimum:</u> <u>6 years after discharge. For minors, 6 years after discharge, or 3 years after minor reaches age of majority [18 years], whichever is longer period.</u> <u>Recommend:</u> ➤ <u>Adults: 10 years</u> ➤ <u>Minors: 6 years from age of majority [18 years of age]</u>
Medical Records MLTCP	<u>Minimum:</u> 6 years from the date of creation or date last in effect
Records of grievances, complaints and appeals	<u>Minimum:</u> <u>3 years from resolution. Recommend:</u> <u>21 years</u>

CONTRACT RECORDS	
RECORD	RETENTION PERIOD
Contracts [expired]	<u>Minimum:</u> 6 years
Contracts [still in effect]	<u>Minimum:</u> Contract period plus 6 years post termination

3. Off-site Record Storage

Records that are stored off-site shall be labeled and marked with a disposal date equal to or beyond the period established for retention. The disposal date must always be no later than December 31 of the last year for which the Record must be retained. For example, a document dated May 23, 2016 with a ten-year retention period would be designated for destruction no later than December 31, 2026. Record storage containers and systems must be labeled in sufficient detail that permits prompt and accurate identification if retrieval of the Records become necessary. See CC P-13b Paper Records Retention Log Sheet.

Regardless of how the Records are stored, all storage and retrieval systems shall provide for the safety, security, confidentiality and overall integrity of the Records and ensure the security and confidentiality of any patient information contained therein.

4. Destruction of Records

Records that have satisfied their legal, fiscal, administrative and archival requirements may be destroyed upon expiration of the retention period set forth in the record retention schedule, unless the Record is the subject of a

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Prepared By: *In House Counsel*

Reviewed By:

- Corporate ✓
- EverCare Choice ✓
- EverCare At Home ✓
- EverCare Life ✓

Approved By: 

Section: Corporate Compliance

Chief Executive Officer

document hold, in which case such Records must not be destroyed. If there is any question as to how long a particular Record must be retained, that Record must not be destroyed until the question has been resolved.

A. Records Destruction Authorization

Upon identification of Records for which the retention period has expired, a “Records Destruction Authorization” form [set forth in Appendix B to this Policy] must be completed and must include: the date and method of destruction [if an outside vendor was used, the vendor that performed the service]; a description of the disposed Records; the time period covered by the Records; a statement that the Records were destroyed in the normal course of business; and the signature of the department administrator and/or other appropriate management staff who approved the destruction of the Records. All Records Destruction Authorization forms must be submitted to the executive office to be maintained permanently.

B. Methods of Record Destruction

Records subject to confidentiality restrictions [such as patients’ medical records, employee medical records and other similar records], regardless of format or medium, must be Destroyed in a manner that ensures confidentiality and renders the information unrecognizable. Accordingly, the following approved methods must be used to destroy Records:

- Paper Records: Paper Records must be destroyed by crosscut shredding, burning, pulping or pulverizing
- Electronic Records: Electronic Records, including all back-up tapes, must either be physically destroyed or destroyed by degaussing, zeroization or other method as identified by EverCare’s Information Services Department/Consultant to render the previous electronic data unrecoverable and impossible to reconstruct
- Portable electronic Storage Media: Data storage devices, such as tapes, CDs and floppy disks, must be physically destroyed rather than overwritten with other data to ensure that the data is irretrievable

C. Discontinuation of Operations

In the event the organization discontinues operations, timely notification will be made, in writing, to the state agency that records will be maintained in a secured, accessible location.

6. Investigations and Litigation

Upon EverCare’s [a] receipt of notice regarding the initiation of an audit or investigation by an outside agency [e.g., a Medicare or Medicaid audit]; [b] receipt of service of legal process which involves EverCare’s Records; [c] receipt of a complaint that EverCare determines may lead to a formal action or investigation; or [d] determination that it is conducting an internal investigation involving EverCare’s Records, the Chief Executive’s Officer must be promptly notified to assist in implementing, as deemed appropriate under the circumstances, document holds and issuing the requisite notices to retain relevant documents. Relevant Records shall be retained, and only in accordance with instructions from legal counsel, segregated and stored in a secure location until such time as notice is issued that the hold has been lifted and that the Records are again subject to the retention periods in the attached Record Retention Schedule.

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Issue Date: 10/01/17

Revision Date: 05/08/18; 06/30/20

Prepared By: *In House Counsel*

Reviewed By:

Approved By: 

Section: Corporate Compliance

Chief Executive Officer

Program Application:

- Corporate ✓
- EverCare Choice ✓
- EverCare At Home ✓
- EverCare Life ✓

IV. WHOM DO I CONTACT FOR FURTHER QUESTIONS

- VP Operations
- Chief of Staff
- Chief Compliance Officer
- General Counsel

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## Policy | Sanction Screening

Issue Date: 05|27|16  
 DOH Approval: 07|24|18

Revision/Review Date: 08|18|16, 12|12|19;  
 06|30|20

Prepared By: *Chief Executive Officer*

Reviewed By: *Compliance Committee*

Approved By: 

Section: Corporate Compliance

Chief Executive Officer

Program Application:

- Corporate ✓
- EverCare Choice ✓
- EverCare At Home ✓
- EverCare Life ✓

### I. GENERAL STATEMENT OF POLICY

EverCare supports and facilitates the highest standards of ethical conduct. This includes the encouraging the reporting of all potential and actual violations of any applicable laws, regulations, policies and procedures on a federal, state and our own internal policies and procedures. This applies to Exclusion/Sanctions Lists for employees, contracted service providers, vendors and suppliers. EverCare conducts Exclusion Lists reviews involving any federal and state healthcare programs in order to comply with the New York State Office of Medicaid Inspector General [NYS OMIG]; Office of Inspector General [OIG], Department of Human & Health Services [HHS] and Center of Medicare and Medicaid Services [CMS].

### II. SCOPE

Managers, Staff, Contracted Vendors, Interns, Students, Volunteers

### III. IMPLEMENTATION

The Compliance Officer reviews exclusion lists as provided by various governmental agencies. Some Medicaid providers on these sanction/exclusions list may have engaged in fraudulent activities such as billing for Medicaid services not provided; giving out or billing for unnecessary services; giving money or presents to consumers in return for agreeing to get medical care from someone; lending a Medicaid ID card to another person; using multiple Medicaid ID cards; intentionally receiving duplicative, excessive/conflicting health care services and supplies and re-selling items provided by Medicaid.

- ✦ **Mandatory exclusions:** OIG is required by law to exclude from participation in all federal health care programs individuals and entities convicted of the following types of criminal offenses: Medicare or Medicaid fraud, as well as any other offenses related to the delivery of items or services under Medicare, Medicaid or other State health care programs; patient abuse or neglect; felony convictions for other health care-related fraud, theft, or other financial misconduct; and felony convictions relating to unlawful manufacture, distribution, prescription, or dispensing of controlled substances.
- ✦ **Permissive exclusions:** OIG has discretion to exclude individuals and entities on a number of grounds including misdemeanor convictions related to health care fraud other than Medicare or a State health program, fraud in a program [other than a health care program] funded by any federal, state or local government agency; suspension, revocation or surrender of a license to provide health care for reasons bearing on professional competence, professional performance or financial integrity; provision of unnecessary or substandard services; submission of false or fraudulent claims to a federal health care program; engaging in unlawful kickback arrangements

### IV. EXCLUSION LISTS

At the point of hiring any employee or contracting/credentialing with a service provider, the Human Resource department and/or the Finance and/or Contracts department must check the following Medicare and Medicaid Exclusion lists as provided by NYS OMIG for credentialing providers and other persons associated with providers. This also includes monthly exclusion/sanction reviews to confirm that employees, vendors, physician contract providers, etc. have not been excluded from participation in Medicare and Medicaid programs:

- ✦ <https://exclusions.oig.hhs.gov> – list of excluded individuals/entities of federal office of Office of Inspector General [LEIE]

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- ✦ <https://www.sam.gov/portal/public/SAM> [Excluded Parties List System]
- ✦ <http://www.omig.ny.gov/search-exclusions> New York State of Office of Inspector General [NYS OMIG]

For Employees of EverCare:

- ✦ <http://www.npdb.hrsa.gov/hcorg/howToGetStarted.jsp> [National Practitioner Databank]
- ✦ <http://www.op.nysed.gov/opsearches.htm> [NYS Office of Professions]
- ✦ <https://registry.prometric.com/registry/public> [NYS Nurse Aid Registry]
- ✦ [http://www.criminaljustice.ny.gov/SomSUBDirectory/search\\_index.jsp](http://www.criminaljustice.ny.gov/SomSUBDirectory/search_index.jsp) [Sex Offender Registry]
- ✦ <http://www.health.ny.gov/professionals/doctors/conduct> [Office of Professional Medical Conduct]

If the exclusion search results in a match, suspected names must be immediately reported to EverCare's Human Resource and/or Corporate Compliance Officer.

Social Security Death Master File [SSDMF]: For Employees of EverCare in the capacity of Manager, Administrator, Director, who are in the capacity or who directly or indirectly conduct the day-to-day operations at initial hiring and annually, and any person with an ownership or control interest or who is an agent or managing employee initially and annually, must be checked against the SSDMF.

EverCare Choice [MCO] may not knowingly have a relationship with the following:

1. An individual or entity that is debarred, suspended or otherwise sanctioned/excluded from participating in procurement activities under the Federal Acquisition Regulation [FAR] issued under Executive Order No. 12549 or under its guidelines implementing Executive Order No. 12549
2. An individual or entity who is an affiliate

EverCare Choice may not have a relationship with an individual or entity that is excluded/sanctioned from participation in any federal health care program under section 1128 or 1128A of the Act convicted for health care fraud.

The relationships are as follows:

1. A Director or Officer of EverCare
2. A subcontractor of EverCare
3. A person with beneficial ownership of five [5] percent or more of EverCare
4. A network provider or person with an employment, consulting or other arrangement with EverCare under its contract with the State.

## V. RESPONSIBILITY OF PROVIDERS:

NYS OMIG recommends that provider exclusion screenings be performed on a monthly basis for providers and other persons associated with providers. **Likewise, it is the explicit responsibility of all vendors to perform monthly screens** on its employees, contracted individuals, associate providers and all persons providing services on behalf of the provider to, or for, EverCare in accordance with a Center for Medicare and Medicaid Services [CMS] policy directive, SMDL #09-001, which instructs State Medicaid Directors to require providers to search the HHS-OIG website monthly to capture exclusions and reinstatements that have occurred since the last search.

## VI. GOVERNANCE

Article VIII of MLTC Partial Capitation Contract, PHL 4414, 10 NYCRR 98-1.21

## VII. WHOM DO I CONTACT FOR FURTHER QUESTIONS

Chief Executive Officer  
 Chief Compliance Officer  
 Chief of Staff  
 VP|Human Resources  
 Controller

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## Policy | Financial Incentives

Issue Date: 06|01|14

Approval: 05|27|16

Prepared By: *Chief Executive Officer*

Approved By: 

Chief Executive Officer

Revision/Review Date: 05|27|16; 06|30|20

Reviewed By: *Compliance Committee*

Section: Corporate Compliance

Program Application:

- Corporate ✓
- EverCare Choice ✓
- EverCare At Home ✓
- EverCare Life ✓

### I. GENERAL STATEMENT OF POLICY

EverCare is committed to conduct business in a legal and highest ethical manner at all time and without fail. As such, financial incentives or enticements *will not be provided* to staff, physicians, or members of the Board of Trustees in relation to the operations or strategies of the corporation. Clinical decisions regarding care will be solely based on identified and required Member/Patient/Client care needs and only based on clinical/care necessity, in accordance with applicable laws and regulations, and in full accordance with best practice care standards.

### II. SCOPE

Managers, Staff, Contracted Vendors, Board of Trustees

### III. IMPLEMENTATION

Clinical care decisions are not based on any compensation or financial risks or incentive shared with staff, physicians, or Board Members. Furthermore, EverCare does not compensate staff, physicians or Board Members for direct referrals and/or for any transaction[s] established under its Conflict of Interest policy [see CC P-06].

Bone fide performance-based pay structure which was developed as part of an employee's total cash compensation that has been vetted against established market rates and is based on measurable performance goals as a result of operational outcomes, process improvements, successful implementation of strategic initiatives, and/or goal attainment, is deemed acceptable as long as such performance-based pay is related to job performance and not related to referral incentives and meets Rebuttable Presumption of Reasonableness under Intermediate Sanctions Regulations.

Upon request, EverCare makes information available to governing agencies regarding its compensation practices.

### IV. GOVERNANCE

Corporate Compliance Program  
 Executive Compensation  
 Intermediate Sanctions Regulations

### V. WHOM DO I CONTACT FOR FURTHER QUESTIONS

Chief Executive Officer  
 Chief Compliance Officer  
 VP|Human Resources

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Section 1 | Confidentiality

Issue Date: 06/01/18

Revision Date:

Program Application:

Prepared By: *Human Resources*

Reviewed By: *Leadership Team; General Counsel*

- Corporate ✓
- EverCare Choice ✓
- Evercare At Home ✓
- Social Day Care ✓

Approved By:   
Chief Executive Officer

Section: Introduction

I. GENERAL STATEMENT OF POLICY

Our organization is committed to maintaining confidential Member, Patient, Client and Employee information. Personal information as well as Protected Health Information [PHI] may not be discussed with, provided or distributed to, any unauthorized individual.

It is the responsibility of all employees to collect, store, maintain, manage and retrieve information without compromising security and/or confidentiality in accordance with the Health Information Technology for Economic and Clinical Health [HITECH] Act, enacted as part of the American Recovery and Reinvestment Act of 2009 to promote the adoption and meaningful use of health information technology and the Health Insurance Portability and Accountability Act of 1996 [HIPAA], Public Law 104-191, ensuring the privacy and security of health information [see related policies and annual compliance training].

II. SCOPE

Board Trustees, Officers [Directors], Staff, Volunteers, Students, Contracted Vendors











III. PROCEDURE

A. Patient Information

As required by Federal and New York State Law, information about Members, Patients, Clients, their Protected Health Information [PHI] such as illnesses, any/all aspects of their condition, care and/or treatment, or source[s] of funding is private and must be kept confidential. Member, Patient, or Client, condition[s], care and treatment can never be discussed with employees not directly concerned with the Member, Patient, Client, and never in public areas. All information of both a medical and non-medical nature is strictly confidential and is available to employees on a need-to-know basis only. PHI may never be discussed in open, non-confidential areas or with unauthorized individuals.

Employees are held accountable, *regardless of their position within the organization*, to at all times safeguard any/all PHI or related information. Furthermore, PHI cannot be removed from the organization's premises unless specifically authorized by a manager and chief compliance officer, and only if necessitated as part of primary job responsibility [nurse, therapist, on-call staff].

For field staff additional accountabilities apply and proper protocols must be adhered to at all times in the handling of PHI, including but not limited to:

-  Information Management Plan
-  Patient Confidentiality
-  Release of Information
-  Confidentiality
-  HIV Confidentiality
-  Reporting OASIS Information
-  Confidentiality of Patient Identifiable OASIS Information
-  Full Disk Encryption
-  HIPAA Breach Notification
-  Mobile Device Acceptable use

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Section 1 | Confidentiality

Issue Date: 06/01/18


Revision Date:

Program Application:

Prepared By: *Human Resources*






Reviewed By: *Leadership Team; General Counsel*

- Corporate ✓
- EverCare Choice ✓
- Evercare At Home ✓
- Social Day Care ✓

Approved By: 

Section: Introduction

Chief Executive Officer

-  Mobile Computing
-  Internet Usage
-  Remote Work
-  E-Mail
-  Removable Media Use

For additional information about the release of information or other pertinent information see related IT and Compliance policies.

*B. Company Information*

All company records and information relating to our organization are confidential and employees must, therefore, treat all matters accordingly. No company or Member/Patient/Client related information, including but not limited to, documents, electronic/hardcopy files, records, care plans, business plans, procedural manuals, intellectual property, work-products developed during the course of employment and on company time, documentation and internal and/or confidential memos released by the organization, or similar materials, may be removed from the premises without explicit written permission from the Chief Compliance Officer.

Additionally, the content of our organization’s records or business information obtained during your duties may not be disclosed to anyone, except where required for an appropriate business purpose, if it does not interfere with our business, unless required by law. Employees are subject to disciplinary action up to and including termination of employment for revealing certain protected or confidential company information.

*C. Employee Information*

All employee records are available to *authorized users only* and only on a need-to-know basis. Authorized users include members of the Human Resources Department who need access to records to perform Human Resources related activities and functions; managerial staff requesting information on employees under their direction; and/or the Chief Compliance Officer or General Counsel for the explicit purpose of conducting an authorized audit or related investigations in which case content is reviewed for applicable submission. All other access must be authorized by the Chief Executive Officer.

Employee records for currently employed and terminated staff members are maintained by the Human Resources Department in locked files. Specific information may be provided by the Human Resources Department to authorized staff only. The records may be reviewed, by appointment, upon written request in the Human Resources offices only. While viewing employee information, confidential components of the file are to be concealed so that unauthorized persons may not see said personal/confidential information.

Employees may have access to their own record by requesting, in writing and in advance, a time to review his/her record with a Human Resources Representative. The records can be reviewed in the Human Resources offices only.

Inquiries from regulatory agencies, prospective employers, financial/credit institutions, state and federal agencies, attorneys and other individuals/organizations pertaining to active or terminated employees are responded to by the Human Resources Department only. Information will only be given after Human Resources has verified the propriety of releasing the information and, where necessary, consent is obtained.

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Section 1 | Confidentiality

Issue Date: 06/01/18

Revision Date:


Program Application:

Prepared By: Human Resources

Reviewed By: Leadership Team; General Counsel

Corporate ✓

EverCare Choice ✓

Approved By: 

Section: Introduction

Evercare At Home ✓

Social Day Care ✓

Chief Executive Officer

Human Resources will respond only to written inquiries from non-governmental agencies, which have an authorized release of information signed by the employee. If Human Resources receives an inquiry, which has not been authorized by the employee or a legal entity it will be incumbent upon the employee to provide such authorization.

IV. LEGAL PROCEDURES & MEMBER, PATIENT, CLIENT FINANCES

Employees are not authorized to cash checks, witness wills or any other document[s], otherwise handle the financial matters of Members/Patients/Clients or accept subpoenas or any other legal document on behalf of them, the organization, or its staff, or to perform any related legal services directed at our organization, other staff members, and/or Member/Patient/Client. Employees may assist with certain tasks such as budgeting of bills [not paying] or reviewing/explaining [not completing] steps of the Medicaid application process to the extent that it is the primary job duty of an Employee. Under no circumstances can an employee sign on behalf of a Member/Patient/Client unless a specific case calls for it and is reviewed and specifically authorized by the Chief Compliance Officer or General Counsel. Any questions about these matters should immediately be referred to Administration.

V. GOVERNANCE

Any breach or unauthorized possession, improper handling or sharing of Member/Patient/Client, company, or employee confidential information is considered a major violation of our organization's policy and grounds for legal proceedings and/or immediate termination of employment. Under HIPAA Regulations, fines may be imposed.

VI. WEBLINK[S]

<http://www.hhs.gov/ocr/hipaa/>

<https://www.hhs.gov/hipaa/for-professionals/special-topics/hitech-act-enforcement-interim-final-rule/index.html>

VII. WHOM DO I CONTACT FOR FURTHER QUESTIONS

Human Resources  
Corporate Compliance Officer  
General Counsel

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**Section 2 | Equal Employment Opportunity [EEO]**

Issue Date: 02|01|15


Revision Date: 04|10|18; 02|07|20

Program Application:

Prepared By: *Human Resources*

Reviewed By: *Leadership Team; General Counsel*

- Corporate ✓
- EverCare Choice ✓
- Evercare At Home ✓
- Social Day Care ✓

Approved By: 

Section: Employment

Chief Executive Officer

**I. GENERAL STATEMENT OF POLICY**

Our organization is an equal opportunity employer. It is the policy of the organization to prohibit discrimination and harassment of any type and to afford equal employment opportunities to employees and applicants, without regard to age, color, creed/religion, disability, domestic violence victim status, familial status, gender identity or expression, marital status, military status, national origin, redispousing genetic characteristics, race to include traits historically associated with race, including but not limited to, hair texture and protective hairstyles [*protective hairstyles* include, but are not limited to, braids, locks, and twists], sex, sexual orientation, and any other classification protected by law. The organization will conform to the spirit as well as the letter of all applicable laws and regulations.

**SCOPE**

Board of Trustees, all staff, including all employment actions. This policy also applies to the selection and treatment of vendors|contractors.

**II. IMPLEMENTATION**

The practices supporting our commitment to remaining an Equal Opportunity Employer include:

- i. Prominent display of posters regarding equal employment opportunity
- ii. All advertising for job applicants includes the statement “*An Equal Opportunity Employer*”
- iii. Sound Human Resources procedures and practices that ensure employment practices are appropriate, sound, and administered with equity
- iv. Informing employees openly and candidly of EverCare’s EEO practices and encouraging the proactive reporting on behalf of self or others
- v. EverCare strict forbids the retaliation against any individual who files a charge of discrimination, reports harassment, or who assists, testifies or participates in an Equal Employment Proceeding. Retaliation may result in disciplinary action up to and including termination of employment
- vi. Employees are required to report to any member of management [s]he is comfortable with, Human Resources, the Chief Compliance Officer, Chief of Staff, or the Chief Executive Officer any perceived or apparent discrimination or harassment. The report should be made immediately when possible, but no later than within 24–48 hours of the incident or as soon as the employee became aware
- vii. A confidential investigation must be opened without delay

If it is concluded that discrimination has taken place, or that there is a probability that discrimination has taken place, EverCare’s Compliance Officer and/or Director|Human Resources will take immediate and appropriate measures to correct the matter/behavior and/or take action to make the employee whole [Non-Discrimination & Anti-Harassment]. Furthermore, the complainant will be assured that no retaliatory action will be taken as a result of reporting the incident. Appropriate action will be taken against an employee who violates this policy which may include disciplinary action up to, and including, the termination of employment.

**III. GOVERNANCE**

Equal Employment Opportunity Commission

- NOTICE -

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THIS POLICY IS THE PROPERTY OF EVERCARE AND CAN NOT BE REPRODUCED WITHOUT PRIOR WRITTEN APPROVAL.

Section 2 | Equal Employment Opportunity [EEO]

Issue Date: 02|01|15

Revision Date: 04|10|18; 02|07|20


Program Application:

Prepared By: *Human Resources*

Reviewed By: *Leadership Team; General Counsel*

Corporate ✓

EverCare Choice ✓

Approved By: 

Section: Employment

Evercare At Home ✓

Social Day Care ✓

Chief Executive Officer

IV. WEBLINKS

[www.eeoc.gov](http://www.eeoc.gov)

V. WHOM DO I CONTACT FOR FURTHER QUESTIONS

Human Resources  
Chief Compliance Officer  
Chief of Staff  
Chief Executive Officer

- NOTICE -

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Section 2 | Contractual Staff

Issue Date: 02|01|15


Revision Date: 01|15|16; 04|22|18

Program Application:

Prepared By: *Human Resources*

Reviewed By: *Leadership Team; General Counsel*

- Corporate ✓
- EverCare Choice ✓
- Evercare At Home ✓
- Social Day Care ✓

Approved By:   
Chief Executive Officer

Section: Employment

I. GENERAL STATEMENT OF POLICY

To ensure adequate staff to meet the needs of our Members|Patients|Clients, EverCare will contract with other agencies, organizations, and/or individuals as needed. All services provided by contractual staff must be in accordance with written agreements|contracts and as per written authorization.

II. SCOPE

All contractors, vendors, and agencies who provide care directly or who employ individuals who provide care directly to any EverCare Member|Patient|Client

III. IMPLEMENTATION

To ensure that care provided by outside agencies or organizations comply with the strict standards adhered to by EverCare employed staff, the following must be observed at all times:

- ☉ All contractual staff must be duly licensed or certified by their appropriate professional accrediting organization or licensing board prior to providing services to patients. Proof of such licensure|certification|registration must be provided to EverCare upon request
- ☉ Contracted organizations or contracted individuals must sign a written agreement with EverCare that outlines the rules governing the rendering of professional services by staff and all associated fees|charges. A copy of the contract will remain in EverCare Contract department
- ☉ Staff files will be maintained by the contracted organization|individual and must be made available to EverCare upon request. Such files shall contain, at a minimum:
  - References or work history
  - Licenses|certifications
  - Verification of competencies, as required under regulations
  - Confirmation of health clearance, as required under regulations
  - Performance appraisals|evaluations, as required under regulations
  - Criminal history check, if required by law
  - I-9 forms
  - CPR verification, if required
  - In-Service education records, as required under regulations
- ☉ An audit is conducted by EverCare as required in accordance with its Contract Vendor Audit Form
- ☉ Contractual organization|staff will bill EverCare directly for services rendered at the rate contractually agreed upon. Contractual organizations|staff will not bill any Member|Patient|Client directly for services rendered on behalf of EverCare At Home for any reason
- ☉ Contractual organizations|staff must comply with all applicable laws|regulations governing EverCare, such as Section 504 of the Rehabilitation act of 1973, the Age Discrimination Act of 1975, and Title VI of the Civil Rights Act of 1964
- ☉ Contractual staff are responsible to the Case Manager in charge of the Member's|Patient's care

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Section 2 | Contractual Staff

Issue Date: 02|01|15

Revision Date: 01|15|16; 04|22|18


Program Application:

Prepared By: *Human Resources*

Reviewed By: *Leadership Team; General Counsel*

Corporate ✓

EverCare Choice ✓

Approved By: 

Section: Employment

Evercare At Home ✓

Social Day Care ✓

Chief Executive Officer

- Contractual staff will be supervised and evaluated to ensure the competent, appropriate delivery of care and services by the appropriate EverCare staff during home visits as required or as needed.

For EverCare at Home, the in-home supervision of HHAs is provided by EverCare At Home Nurses and takes place:

- At time of orientation to orient the home health aide to the patient and Plan of Care
- At least every two [2] weeks thereafter, or more often as required, for patients receiving skilled nursing or therapy services; in cases in which home health aide services are provided to a patient who is not receiving skilled nursing care, physical or occupational therapy or speech-language pathology services, the registered nurse must make a supervisory visit to the patient's home no less frequently than every 60 days
- To demonstrate to and instruct the Aide in the treatments or services to be provided, with successful return demonstration by the Aide during the initial service visit, or where there is a change in staff providing care, if the aide does not have documented training and experience in performing the tasks prescribed in the Plan of Care
- Where changes in patient condition, adverse reactions, and problems with informal supports or home environment occur, to evaluate the change and initiate any revision in the Plan of Care which may be needed
- To instruct the aide as to the observations and written reports to be made to the supervising community health nurse or therapist

IV. GOVERNANCE

Medicare CoP numbers: 484.4, 484.14e, 484.14f

V. FORMS

Contract Vendor Audit Form

VI. WHOM DO I CONTACT FOR FURTHER QUESTIONS

Director|Patient Services  
Chief of Staff  
Chief Compliance Officer

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Section 2 | Criminal Conviction Screening

Issue Date: 02/01/15

Revision Date: 09/15/15; 05/27/16; 04/22/18


Program Application:

Prepared By: *Human Resources*

Reviewed By: *Leadership Team; General Counsel*

Corporate ✓

EverCare ✓

Approved By: 

Section: Employment

Evercare At Home ✓

Social Day Care ✓

Chief Executive Officer

I. GENERAL STATEMENT OF POLICY

This policy sets forth guidelines for performing background checks for external candidates for employment who have been identified for selection to positions within our organization. All candidates for employment must undergo a background check as part of the employment screening process. Temporary employees with direct care management or patient care responsibilities are covered by this policy; temporary employees without direct care responsibilities are covered at the discretion of the Chief Executive Officer and based on scope of work required to be performed. EverCare has selected an approved vendor to provide the services required to comply with this policy and the Fair Credit Reporting Act.





II. SCOPE

All candidates for employment; Contracted Agency Staff

III. IMPLEMENTATION




*Notification & Authorization* – Applicants will be informed during the pre-employment process that any potential initial offer of employment is contingent upon successfully meeting all on-boarding requirements including conviction screen and background check. The final candidate under serious consideration will be required to complete a consent form, which requests specialized information for the approved background investigation vendor. The Human Resources representative will initiate all background checks and provide instructions/paperwork to candidates as necessary and will provide the candidate’s rights under the Fair Credit Reporting Act.

*Collecting Background Check Information* – Background checks performed under these guidelines will provide some and/or all of the following information

-  Social Security Confirmation
-  History of Criminal Background
-  Driving Record
-  Consumer Credit Report

*Use of Background Check Results* – Background checks shall be initiated prior to a final offer of employment being extended. However, an offer of employment will be made *contingent upon successful completion* of the background check. Under no circumstances will a candidate for employment be allowed to begin work prior to receipt, review, and clearance of background check findings.

Failure to meet the requirements of the background check will eliminate the candidate from further consideration for the position. Some reasons that would qualify as a failure to meet these requirements are

-  Inconsistency of information provided by the candidate versus that obtained by the background check
-  Omissions of information by the candidate versus that obtained by the background check
-  Unsatisfactory information uncovered by the background check

Elimination of an applicant from consideration due to failure to meet the requirements of the background verification is reviewed and authorized by EverCare’s Director|Human Resources. Candidates obtain a written letter of this decision and are provided with options available to them including a curing period should certain information claimed to have been provided by the Background Check organization in error.

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Section 2 | Criminal Conviction Screening

Issue Date: 02/01/15

Revision Date: 09/15/15; 05/27/16; 04/22/18


Program Application:

Prepared By: *Human Resources*

Reviewed By: *Leadership Team; General Counsel*

Corporate ✓

EverCare ✓

Approved By: 

Section: Employment

Evercare At Home ✓

Social Day Care ✓

Chief Executive Officer

*Fair Credit Reporting Act [FCRA] Compliance* – The FCRA regulations are intended to give a candidate for employment the opportunity to correct any factual errors in their report before an adverse employment action is taken. Our organization provides up to five [5] business days between notification to the candidate of any disqualifying information and the actual rejection letter to correct these discrepancies.

*Record Retention* – All information obtained, as part of a background check investigation will be treated as strictly confidential. The documentation relating to all background checks will be retained for the regular retention period for applications and candidate pre-employment processing information.

IV. CONTRACTED AGENCY STAFF

It is the requirement of EverCare that all contracted Agencies are in compliance with regulations and to conduct required Criminal History Record Checks for all contracted staff that provide care to EverCare Members|Patients|Clients. Contracted staff must be fully cleared before providing services to an EverCare Member|Patient|Client. If the Department provides notification of proposed disapproval of eligibility for employment, the provider shall not allow the prospective employee to be placed on a case, or provide direct care to EverCare Members|Patients|Clients until receipt of a final determination of eligibility for employment is received from the Department. Supervision of contracted Home Health Aides and Personal Care Assistances is provided the assigned agency as outlined in Policy on Contractual Staff.

*Fingerprinting* – Unlicensed contracted staff used by EverCare, providing face-to-face care following the professional or paraprofessional plan of care developed for the individual, must not be placed on a case unless cleared by CHRC and taken off Provisional Status.

A copy of this Policy, and a list of Audit Requirements is provided to all Agencies at time of contracting, and ongoing thereafter, as necessitated. To ensure compliance with pertinent hiring regulations and other personnel requirements, agencies might be audited by EverCare, to ensure said requirements as outlined are met.

Contracts are not awarded to agencies that are deemed not to be in compliance with this Policy or State and Federal requirements. No cases are referred to agencies that are out of compliance until such time matters are adequately addressed/remedied and full compliance is sustained. All audits will be documented for review by the State Agency.

V. PROCEDURES FOR STAFF

<p>Human Resources Representative</p>	<p>Assures Fair Credit Reporting [FRCA] Compliance</p> <p>Sends letter to the candidate notifying him/her that our organization is in receipt of disqualifying information from the background check. A copy of the report and a summary of their rights under the FCRA will be attached.</p> <p>This notification is required before any adverse employment action can be taken based on the background check report</p> <p>Sends the prospective employee a second letter withdrawing the offer of employment based on disqualifying information in the background check if no acceptable response is received within five (5) business days</p>
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Section 2 | Criminal Conviction Screening

Issue Date: 02|01|15

Revision Date: 09|15|15; 05|27|16; 04|22|18


Program Application:

Prepared By: *Human Resources*

Reviewed By: *Leadership Team; General Counsel*

Corporate ✓

EverCare ✓

Approved By: 

Section: Employment

Evercare At Home ✓

Social Day Care ✓

Chief Executive Officer

VI. PROCEDURES FOR CONTRACTED AGENCY STAFF

<p>EverCare Auditor</p>	<p>A selected EverCare team member with proper audit experience [<i>e.g Chief Compliance Officer; Director Human Resources, Chief of Staff or as delegated;</i>] will, in accordance with an audit schedule set by Contracts, conduct a site visit as deemed necessary and audit for compliance with this policy</p> <p>Site visits may be unannounced</p> <p>All audits are documented, conducted by use of the Contract Vendor Audit Form, and reported to Contracts</p>
<p>Administration</p>	<p>Reviews findings and determines if findings are actionable</p>
<p>Contracted Agency</p>	<p>Ensures all criminal history information is requested, received, reviewed, and acted upon in a timely manner</p> <p>Develops and implements written policies and procedures related to conducting criminal history record checks that protects the safety of Members Patients Clients receiving services</p> <p>Compliance with all requirements; provides private desk and phone access to auditor during visit, fully participates in audit, provides all requested unedited documentation, employee files, policies, and other documentation without delay, does not obstruct the audit</p>

VII. GOVERNANCE

Fair Credit Reporting Act [FCRA]  
Title 10 NYCRR 402.4 to 402.9

VIII. REFERENCES

Contract Vendor Audit Form

IX. WEBLINKS

<http://www.ftc.gov/os/statutes/fcrajump.htm>  
<http://www.ftc.gov/os/statutes/fcra.htm>

X. WHOM DO I CONTACT FOR FURTHER QUESTIONS

Director|Human Resources  
Chief of Staff  
Chief Compliance Officer

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**Section 2 | In-Service Education, Mandatory Training**

Issue Date: 04/28/18

Revision Date:


Program Application:

Prepared By: *Human Resources*

Reviewed By: *Leadership Team; General Counsel*

Corporate ✓

EverCare Choice ✓

Approved By: 

Section: Employment

Evercare At Home ✓

Social Day Care ✓

Chief Executive Officer

**I. GENERAL STATEMENT OF POLICY**

Aligned with EverCare’s commitment to excellence in quality of care & services, we believe that a strong contributor to our success in meeting the needs of our Members|Patients|Clients rests on having staff members who are fully competent as well as a work environment that requires/encourages a high commitment to learning.

As such, our organization supports a culture of continuous education and places value on continuing learning and enhanced skills training. Training is regularly made available for employees including: a formalized corporate orientation program; training/lectures/workshops on pertinent topics; specialized job skills training; clinical advancement programs; regulatory seminars, etc.

**II. SCOPE**

Managers, Employees; Volunteers, Students, Vendors *as applicable*

**III. IMPLEMENTATION**

*In-Service Training* is defined as professional activities and opportunities designed to enhance the skills and abilities of individuals in their current areas of employment. Ongoing education, including in-services, are provided

- ☉ To increase staff knowledge or skills of job-related responsibilities
- ☉ To meet the needs of population served
- ☉ When job duties change
- ☉ To comply with applicable laws and regulations
- ☉ To improve operations
- ☉ To continually reinforce our commitment to quality and exceptional service

*Mandatory In-Service Training* is defined as a predetermined set of educational topics that must be completed by each employee annually. Topics identified as “*mandatory*” may be requirements under state or federal law or requirements as determined by EverCare. They include:

- ☉ Abuse, Mistreatment, & Neglect Prevention
- ☉ Member|Patient|Client Rights
- ☉ Corporate Compliance & Ethics
- ☉ Ergonomics|Safety
- ☉ Fire Safety|Emergency Preparedness
- ☉ Harassment Prevention
- ☉ Hazardous Communications
- ☉ HIPAA
- ☉ HIV Confidentiality
- ☉ Infection Control|Bloodborne Pathogens
- ☉ Mission & Standards
- ☉ Workplace Violence Prevention

**- NOTICE -**

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**Section 2 | In-Service Education, Mandatory Training**

Issue Date: 04/28/18

Revision Date:


Program Application:

Prepared By: *Human Resources*

Reviewed By: *Leadership Team; General Counsel*

Corporate ✓

EverCare Choice ✓

Approved By: 

Section: Employment

Evercare At Home ✓

Social Day Care ✓

Chief Executive Officer

All employees are required to complete training in each of the above topics on an annual basis as a condition of their employment. Newly hired employees meet this requirement during their attendance at Corporate Orientation. Rehired or reinstated employees must complete the above requirements in the calendar year of their rehire/reinstatement. Employees who are noncompliant with this requirement in accordance with the time lines provided [November–December] will be taken off the schedule and not allowed to work until the in-service requirements are met as required.

Completion of the Annual Mandatory In-services will be compensated at the regular hourly rate of pay. Therefore, if any hourly employee completes the in-service requirements on their own time, they shall be compensated for such time. This compensation is charged toward the salary budget line of the respective department.

**IV. IMPLEMENTATION**

Directors are responsible for compliance of all staff in their respective areas. Compliance can be met via the following delivery formats:

**Face-to-Face Methods:** Face-to-face training involves a facilitator leading the participants through materials, allowing for a question/answer period, and concluding with administration of the post-test. Face-to-face training is not always the most efficient method of delivery and can encounter scheduling difficulties. However, it can be utilized whenever feasible.

1. **Manager/Department Head Facilitation:** As a part of their general managerial responsibilities, each manager should be meeting with their employees at least monthly. Sharing mandatory in-service material during such a meeting is a highly effective way of ensuring employees receive, and understand, the material.
2. **Subject Matter Expert Facilitation:** In lieu of presenting the material themselves, Managers/Department Heads may choose to contact a subject matter expert [for example, the Director|Rehabilitation for Ergonomics training to conduct the in-service for their staff
3. **Attendance at Corporate Orientation:** Managers/Department Heads may choose to send their employees to an afternoon session of Corporate Orientation. To utilize this option, the Manager/Department Head should contact Human Resources to register their employee[s] and to receive the pre-work materials. Pre-work materials must be completed prior to attendance. Any employee arriving without completed pre-work materials will be turned away.
4. **Online Training:** An effective option for mandatory training is via a web-hosted portal [Relias] which was designed to replace the classroom component of the program. In order to participate in the online training, the employee must be able to read, comprehend, and write in the English language at the 7<sup>th</sup> grade level. If there is a question regarding whether or not a staff member meets this requirement, a face-to-face method must be utilized. The online method is not intended to be “easier” or “less time-consuming” than the face-to-face method. It is simply an alternative for those employees for whom attending a classroom presentation is not feasible. Full knowledge and understanding of all course material is still required and shall be demonstrated via a short-answer post-test for each section.
5. It is permissible for employees to work on the self-study or online session in a “team” fashion when determined to be appropriate by the Manager/Department Head. Each employee’s name must appear on the post-test.

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**Section 2 | In-Service Education, Mandatory Training**

Issue Date: 04|28|18

Revision Date:

Program Application:

Prepared By: *Human Resources*

Reviewed By: *Leadership Team; General Counsel*

- Corporate ✓
- EverCare Choice ✓
- Evercare At Home ✓
- Social Day Care ✓

Approved By:   
Chief Executive Officer

Section: Employment

**V. PROCEDURE/RESPONSIBILITIES**

- Human Resources
  - ☉ Provides Organization/Program Directors with current Mandatory In-Service Program Materials, including handouts and post-tests
  
- Program Director
  - ☉ Determines which means of completion is appropriate for each employee
  - ☉ Ensures online portal is operational, each active employee is properly credentialed, and all classes are appropriately assigned
  - ☉ Conducts the In-Service during a department meeting or other scheduled time, or
  - ☉ Contacts SME and arranges a presentation according to department needs, or
  - ☉ Provides the employee with the self-study materials
  - ☉ Ensures appropriate sign-in sheets/post-tests are obtained, tracked, reported on, and placed in employee file
  
- Employee
  - ☉ Attends In-Services, completes self-study materials, or completed online training annually and as required
  
- Human Resources
  - ☉ Tracks attendance for each employee, reports compliance to Program Director, Executive Offices

**VI. RELATED FORMS**

Mandatory In-Service Materials  
Relias Log-In Information

**VII. WHOM DO I CONTACT FOR FURTHER QUESTIONS**

VP|Human Resources

**- NOTICE -**

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Section 2 | ID Badges

Issue Date: 05/27/16

Revision Date: 04/22/18

Program Application:

Prepared By: *Human Resources*

Reviewed By: *Leadership Team; General Counsel*

- Corporate ✓
- EverCare Choice ✓
- Evercare At Home ✓
- Social Day Care ✓

Approved By:   
Chief Executive Officer

Section: Employment

I. GENERAL STATEMENT OF POLICY

To provide a safe and secure environment for all Members, staff, and our property, each employee, student, and volunteer will wear an Identification Badge, with picture facing forward, at all times while on our organization’s premises, while providing services to Members, and/or while representing our organization.

In addition, contracted vendors providing services on-site must wear a visitor badge while in the building. Lastly, contracted vendors who provide services in Member|Patient|Client’s homes must wear appropriate identification as per regulatory requirements and the policy of their organization.

II. SCOPE

Staff, Students, Volunteers, Contracted Vendors

III. IMPLEMENTATION

All staff, students, and volunteers are required to properly identify themselves in form of EverCare-issued, or official school issued, ID badges and comply with the following at all times while representing our organization:

- ☉ The front of the ID badge must be clean and visible with the logo, photograph, name and job title clearly visible
- ☉ No pins or stickers may be placed on the ID badge
- ☉ Lost or damaged ID badges require a \$5.00 replacement fee
- ☉ Any employees found using another person's identification card will be subject to disciplinary action up to and including termination of employment
- ☉ Employees refusing to wear [or to present when requested] their identification card, in the absence of a plausible reason, will be sent home and may be subject to disciplinary action, up to and including termination of employment
- ☉ Identification Badges are the property of EverCare and must be returned at separation of employment

All contracted vendors providing services on-site must sign-in at the front desk upon arrival and wear the EverCare issued visitor’s badge while providing services within the building.

All contracted vendors who provide services in Member|Patient|Client’s homes must ensure that their staff have appropriate identification as per their own regulatory requirements and policies. At no point should any contracted staff be in a place of residence without identification that includes a photograph, the employee’s name, and clear identification of the contracted vendor’s business name.

IV. WHOM DO I CONTACT FOR FURTHER QUESTIONS

Director|Human Resources  
Director|Operations

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Section 2 | Americans' with Disability Act

Issue Date: 06|01|14

Revision Date: 05|27|16; 04|29|18


Program Application:

Prepared By: Human Resources

Reviewed By: Leadership Team; General Counsel

Corporate ✓

EverCare Choice ✓

Approved By: 

Section: EMPLOYMENT

Evercare At Home ✓

Social Day Care ✓

Chief Executive Officer

I. GENERAL STATEMENT OF POLICY

Our organization is committed to complying with all applicable provisions of the Americans with Disabilities Act [ADA]. It is EverCare's policy not to discriminate against any qualified employee or applicant with regard to any terms or conditions of employment because of such individual's disability or perceived disability so long as the employee can perform the essential functions of the job. Consistent with this policy, our organization will provide reasonable accommodations to a qualified individual with a disability, as defined by the ADA, who has made our organization aware of his or her disability, provided that such accommodation does not constitute an undue hardship onto the organization.

II. SCOPE

Staff, Providers, Volunteers, Students, Interns

III. IMPLEMENTATION

Employees or applicants with a disability who believe they require reasonable accommodation to perform the essential functions of their job should provide same to the Human Resources Department, in writing, to ensure clarity as to the accommodation required. Our organization encourages and supports individuals with disabilities to come forward and request reasonable accommodation.

Upon receipt of a request of accommodation, the Human Resources Director and the employee's Manager will meet with the employee to discuss and identify the precise limitations resulting from the disability and the potential accommodation that our organization might be able to assist with in order overcome those limitations. Employees will be requested to suggest what he|she wishes our organization to consider as a reasonable accommodation.

Our organization will determine the feasibility of the requested accommodation considering various factors, including, but not limited to the nature and cost of the accommodation, outside funding, our organization's overall financial resources and organization, and the accommodation's impact on our organization's operation, including its impact on the ability of other employees to perform their duties and on our organization's ability to conduct business.

Our organization will request additional information as is necessary and inform the employee, in writing, of its decision on the accommodation request and, if able, how our organization plans to make the accommodation. If the accommodation request is denied, the employee will be advised of their right to appeal the decision by submitting a written statement to the Chief Executive Officer explaining the reasons for the request. If the request on appeal is denied, that decision becomes a final position of the organization.

An employee or applicant who has questions regarding this policy or believes that he|she has been discriminated against based on disability must notify the Human Resources Department *immediately*. All such inquiries or complaints are taken seriously, will be investigated without delay, and are treated as confidential to the extent reasonable or permissible by law.

IV. WHOM DO I CONTACT FOR FURTHER QUESTIONS

Department Director  
Director|Human Resources  
Chief Executive Officer

V. WEBLINKS

[www.dol.gov](http://www.dol.gov)

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Section 2 | Supervision of Staff

Issue Date: 02|01|15

Revision Date: 04|28|18

Program Application:

Prepared By: *Human Resources*

Reviewed By: *Leadership Team; General Counsel*

Corporate ✓  
 EverCare Choice ✓  
 Evercare At Home ✓  
 Social Day Care ✓

Approved By:   
 Chief Executive Officer

Section: Employment

**I. GENERAL STATEMENT OF POLICY**

In order to ensure that our members|patients|clients receive the highest quality of care and service practicable, our leadership team is entrusted with providing adequate management and supervision to all staff under their scope of responsibility. All program staff is adequately supervised and a sufficient number of appropriately trained managers|supervisors are available to oversee and guide the delivery of high quality care. This policy establishes employee supervision practices that are in accordance with applicable laws and regulations, as well as with best practice management standards.

**II. SCOPE**

Staff with Supervision Responsibility; Contracted Vendors

**III. IMPLEMENTATION**

Managers are responsible for leading their teams through effective guidance, support, and coaching. The basic functions implemented by managers are planning, organizing, staffing, directing, and controlling. Managers accomplish these functions through:

- ☉ Informal discussions with staff including clinical/performance consultation
- ☉ Ongoing review of cases and delegation of assignments to workers in accordance with their licensure, training, orientation and demonstrated skills
- ☉ In-home visits [CHHA] to direct, demonstrate, and evaluate the delivery of patient care by the clinician; a minimum of one home visit per year is required to observe performance if the clinician provides services in the home
- ☉ Informal record review to determine
  - that services are provided at the times and frequencies specified in the Member/Patient/Client's Plan of Care and in accordance with the policies and procedures of the program
  - that clinical records are complete and changes in Member/Patient/Client condition, adverse reactions and/or concerns with informal supports or the home environment are charted promptly and reported to supervisory staff; and Plans of Care are revised as needed by the patient and changes are reported to the patient's physician and other responsible staff providing care to the patient
- ☉ Observation of clinical skills, Plan of Care implementation, or specific interactions

In order to ensure compliance with applicable regulations, supervision of the following groups will be provided according to the following guidelines:

- ☉ Home Health Aides[CHHA] The registered nurse [or qualified therapist as appropriate] must make an on-site visit to the Patient's home no less frequently than every 14 days. In addition, they are available to provide professional guidance on program policies and procedures. Home Health Aides are supervised by a nurse, directly or indirectly, according to the program's regulatory requirements when skilled nursing, physical, speech, or occupational therapy is performed in addition to personal care services. All services must be in accordance with the established Plan of Care. A Physical Therapist can supervise a Home Health Aide when s/he initiates a Home Health Aide Plan of Care when the Plan of Care includes only restorative or maintenance therapy.

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Section 2 | Supervision of Staff

Issue Date: 02|01|15


Revision Date: 04|28|18

Program Application:

Prepared By: *Human Resources*

Reviewed By: *Leadership Team; General Counsel*

- Corporate ✓
- EverCare Choice ✓
- Evercare At Home ✓
- Social Day Care ✓

Approved By: 

Section: Employment

Chief Executive Officer

In-home supervision takes place:

- To demonstrate to and instruct the Aide in the treatment or service to be provided, with successful re-demonstration by the Aide during the initial service visit, or where there is a change in staff providing care, if the aide does not have documented training and experience in performing the tasks prescribed in the Plan of Care
- Where changes in Patient condition, adverse reactions, and problems with informal supports or home environment occur, to evaluate the change and initiate any revision in the Plan of Care which may be needed
- To instruct the Aide as to the observations and written reports to be made to the supervising community health nurse or therapist

☉ Therapy Assistants [COTA/PTA] Therapy Assistants are supervised, directly or indirectly, by the appropriate discipline's skilled therapist at least every 30 days or as necessary based on patient need/acuity

☉ Licensed Practical Nurse [LPN] Licensed Practical Nurses are supervised, directly or indirectly, by a Registered Nurse according to each program's regulatory requirements, but at least every 30 days, or more frequently when required by patient need/acuity

Elant At Home considers the following factors as evidence of adequate supervision:

- ☉ Supervision is conducted by the appropriate licensed professional
- ☉ Staff regularly provide services at the frequencies specified in the patient's Plan of Care, and in accordance with policies and procedures of their respective services
- ☉ Staff are assigned to the care of patients in accordance with their licensure, as appropriate, and their training, orientation, and demonstrated skills
- ☉ Clinical records are kept complete, and changes in patient condition, adverse reactions, and problems with informal supports or home environment are promptly documented and reported to supervisory staff
- ☉ Plans of Care are revised as needed by the patient, and changes are reported to the authorized practitioner or other staff providing care to the patient

**IV. WHOM DO I CONTACT FOR FURTHER QUESTIONS**

- Director|Patient Services
- Director|Rehabilitation
- Director|Human Resources

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**Section 3 | Abuse & Neglect, Patient Rights**

Issue Date: 04/28/18

Revision Date:

Program Application:

Prepared By: *Human Resources*

Reviewed By: *Leadership Team; General Counsel*

- Corporate ✓
- EverCare Choice ✓
- Evercare At Home ✓
- Social Day Care ✓

Approved By:   
Chief Executive Officer

Section: Employee Relations

**I. GENERAL STATEMENT OF POLICY**

It is the policy of our organization to at all times uphold a public trust of providing a safe environment of care to the Members|Patients|Clients to whom we provide services. Individuals using our services require a sense of security as any other person, even though they have been admitted to our programs because of their physical/mental capability, which prevents them from caring for themselves. Therefore, it is the policy of our organization to prohibit any form of abuse, mistreatment or neglect. If there is reasonable cause to suspect that such has taken place, the organization will investigate the same, and report it as is appropriate.

EverCare, as a community advocate, has embraced, developed, sponsored, and implemented a significant event in the Hudson Valley addressing “*World Elder Abuse Awareness Day*.” As an organization this cause is imbedded in our organization and as such our employees are expected to not only adhere to the policy, but champion it and become a loud, outspoken voice of advocacy. It is a requirement of all staff to assure all Members|Patients|Clients are free from verbal, sexual, physical, and mental abuse, corporal punishment and involuntary seclusion, mistreatment, misappropriation of property, or neglect as a natural and inherent right while under the care of our organization.

**II. SCOPE:**

All Staff, Interns, Volunteers, Students, Contracted Providers

**III. IMPLEMENTATION**

Definitions–

The term “Abuse” shall mean inappropriate physical or verbal contact with a Member|Patient|Client. Inappropriate physical contact includes, but is not limited to striking, pinching, kicking, shoving, bumping and sexual molestation. Inappropriate verbal contact includes, but is not limited to, screaming, cursing, yelling, raising the voice, threatening with physical harm, and speaking in a derogatory manner.

The term “Mistreatment” shall mean inappropriate use of medications, inappropriate isolation or inappropriate use of physical or chemical restraints.

The term “Neglect” shall mean failure to provide timely, consistent, safe, adequate and appropriate services, treatment and care, including but not limited to nutrition, medication, therapies, sanitary clothing and surroundings and activities of daily living.

The term “Reasonable Cause” shall mean that upon a review of the circumstances, there is sufficient evidence to believe that abuse, mistreatment or neglect has occurred. Circumstances to be reviewed shall include, but not be limited to a statement that physical and/or verbal abuse, mistreatment or neglect has occurred, the presence of a physical condition at variance with the history or course of treatment of the Member|Patient|Client, and the visual and aural observation of an act or condition of physical abuse, mistreatment or neglect.

The term “misappropriation of property” is defined as the deliberate misplacement, exploitation, or wrongful temporary or permanent use of a Member|Patient|Client’s belongings or money without consent.

EverCare operationalizes the following components as part of its abuse prevention protocol. Please see mandatory in-services for more information:

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Section 3 | Abuse & Neglect, Patient Rights

Issue Date: 04/28/18

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Program Application:








Prepared By: *Human Resources*

Reviewed By: *Leadership Team; General Counsel*

- Corporate ✓
- EverCare Choice ✓
- Evercare At Home ✓
- Social Day Care ✓

Approved By:   
Chief Executive Officer

Section: Employee Relations

-  Screening
-  Training
-  Prevention
-  Identification
-  Investigation
-  Protection
-  Reporting/Response

**IV. PROCEDURE**

**Reports –**

All responsible parties shall be made aware of the existence of this policy and the procedures involved in its implementation. All new employees will be made aware of the existence of this policy at the time of hire with a detailed explanation being furnished during his/her introductory period. All existing employees will be made aware of the existence of this policy as well as our organization’s Mission, Values & Standards and will receive regular and timely explanations of the policy through the organization’s mandatory education program.

If there is "*Reasonable Cause*" to suspect that physical or verbal abuse, mistreatment or neglect, or misappropriation of property has occurred, a report must be made immediately [but no later than 24 hours] to your direct Supervisor or a confidential report can be made to Program Director, Human Resources, the Chief of Staff, Corporate Compliance Officer, or Chief Executive Officer/Administrator.

Any employee witnessing an act of abuse, neglect or mistreatment or hearing about an act of abuse, neglect or mistreatment must report this. In such cases, leadership is available to assist with the completion of necessary forms and in contacting the NYS Department of Health and law enforcement agencies if warranted. Committing physical or verbal abuse, mistreatment, misappropriation of property, or neglect, or the failure to report it is professional misconduct. Staff who either commit an act or fail to report an act of abuse, mistreatment or neglect, shall be subject to termination and reported to their licensing body, as appropriate.

**Employees Required to Make Reports –**

All employees, licensed and/or non-licensed, are considered mandatory reporters by our organization, and are, as such, required to make an immediate report [but no later than 24 hours] or cause a report to be made if they have reasonable cause to believe that a Member|Patient|Client has been mistreated, neglected, or verbally, mentally, sexually, or physically abused. There is provision for a civil penalty, after a hearing, for committing physical abuse, mistreatment, or neglect of a Member|Patient|Client.

It is our policy to prohibit harassment, discrimination, retaliation or discharge for making a report.

**Cooperation –**

Our organization shall cooperate with all other aspects of regulations as they pertain to abuse, mistreatment, or neglect.

**Disciplinary Action –**

Disciplinary action, including termination, and governmental referral, if warranted, shall be imposed when it has been concluded that an employee has abused, neglected or mistreated a Member|Patient|Client or had knowledge of abuse and failed to report it. Such disciplinary action may result in a written warning, suspension without pay, termination of employment, and/or reporting to appropriate licensing bodies,

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Section 3 | Abuse & Neglect, Patient Rights

Issue Date: 04/28/18

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Program Application:

Prepared By: Human Resources

Reviewed By: Leadership Team; General Counsel

Corporate ✓

EverCare Choice ✓

Approved By: 

Section: Employee Relations

Evercare At Home ✓

Social Day Care ✓

Chief Executive Officer

depending upon the severity and circumstances surrounding the incident. There will be no progressive discipline as all employees are regularly warned against such behavior during mandatory in-services and at general orientation for new employees.

V. WHOM DO I CONTACT FOR FURTHER QUESTIONS

- Human Resources
- Program Directors
- Corporate Compliance Officer
- Executive Office
- New York State Department of Health

VI. WEBLINKS

- <http://www.elderabusecenter.org/>
- <http://www.health.state.ny.us/nysdoh/consumer/patient/patient.htm>
- <http://www.ombudsman.state.ny.us/index.htm>


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**Section 3 | Employee Non-Discrimination & Anti-Harassment**

Issue Date: 02 01 15	Revision Date: 01 14 14; 06 01 14; 09 15 15; 04 28 18; 09 01 18	Program Application:
Prepared By: <i>Human Resources</i>	Reviewed By: <i>Leadership Team; General Counsel</i>	Corporate ✓
Approved By: 	Section: Employee Relations	EverCare Choice ✓
Chief Executive Officer		Evercare At Home ✓
		Social Day Care ✓

**I. GENERAL STATEMENT OF POLICY**

All employees have a right to work in an environment free from all forms of discriminatory conduct that is harassing, coercive, or disruptive. Consistent with our organization’s respect for the rights and dignity of each employee, harassment based on race, color, religion, creed, sex, age, national origin, marital status, citizenship, disability, sexual orientation, military or veteran status, genetic predisposition or carrier status, or any other characteristic protected by law is strictly prohibited and will not be tolerated. Any individual found to have engaged in any form of harassment will be disciplined as appropriate, up to and including termination of employment.

**II. SCOPE**

All Staff, Students, Volunteers, Interns, Contractors, Vendors

**III. DEFINITIONS**

EverCare defines harassment as “any act of systematic and/or continued unwanted and annoying actions of one party or a group, including threats and demands that include, but are not limited to: racial prejudice, personal malice, an attempt to force someone into an unwilling action, applying unreasonable pressure, or merely gaining pleasure from making someone fearful or anxious,” likewise, the Equal Employment Opportunity Commission [EEOC] defines sexual harassment, in specific, as “unwelcome sexual advances, requests for sexual favors, and other verbal or physical conduct of a sexual nature... when submission to such conduct is made, either explicitly or implicitly, a term or condition of an individual's employment; [when] submission to or rejection of such conduct... is used as the basis for employment decisions affecting such individual; or... such conduct has the purpose or effect of unreasonably interfering with the individual's work performance or creating an intimidating, hostile, or offensive work environment.”

Harassment on the basis of gender or any other protected characteristic is also strictly prohibited.

Under this policy, harassment is defined as verbal or physical conduct that denigrates or shows hostility or aversion toward an individual because of his|her race, color, religion, creed, sex, age, national origin, marital status, citizenship, disability, sexual orientation, military or veteran status, genetic predisposition or carrier status, or any other characteristic protected by law or that of his|her relatives, friends or associates, and that:

- has the purpose or effect of creating an intimidating, hostile, or offensive work environment;
- has the purpose or effect of unreasonably interfering with an individual's work performance;
- otherwise adversely affects an individual's employment

Harassing conduct includes, but is not limited to epithets, slurs, or negative stereotyping; threatening, intimidating, or hostile acts; written or graphic material that denigrates or shows hostility or aversion toward an individual or group, or is otherwise offensive, that is placed on walls or elsewhere on the employer's premises or otherwise circulated in the workplace.


**IV. IMPLEMENTATION**

Our organization strongly urges the reporting of all incidents of discrimination, harassment, and retaliation, implied or otherwise, regardless of the offender’s identity or position, including those incidents that involve members|patients, family members, and other non-employees. Individuals who believe they have experienced conduct that is contrary to our organization policy or who have concerns about such matters should file their complaints with their immediate supervisor, Human Resources, or the Chief Executive Officer.

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**Section 3 | Employee Non-Discrimination & Anti-Harassment**

Issue Date: 02 01 15	Revision Date: 01 14 14; 06 01 14; 09 15 15; 04 28 18; 09 01 18	Program Application:
Prepared By: <i>Human Resources</i>	Reviewed By: <i>Leadership Team; General Counsel</i>	Corporate ✓
Approved By: 	Section: Employee Relations	EverCare Choice ✓
Chief Executive Officer		Evercare At Home ✓
		Social Day Care ✓

Individuals are *not* obligated to file their complaints with their immediate supervisor before bringing the matter to the attention of a senior manager|officer. Prompt reporting to any member of management is a requirement.

A prompt, impartial, and thorough investigation of the alleged incident will be conducted to the fullest extent possible and appropriate corrective action will be taken, if warranted. Any complaints of harassment will be treated as confidential to the fullest extent possible or as necessary for a full and adequate investigation. The investigation may include individual interviews with the parties involved and, where necessary, with individuals who may have observed the alleged conduct or may have other relevant knowledge. Confidentiality will be maintained throughout the investigatory process to the extent consistent with adequate investigation and appropriate corrective action. To protect the integrity of the investigation and the interests of those involved, EverCare requests that employees who participate or provide information in an investigation respect and maintain the confidentiality of the investigation

*Important Notice to All Employees:* EverCare and its employees will not in any way retaliate against an employee, applicant, or former employee who, in good faith, makes a complaint or report of harassment, or participates in the investigation of a complaint or report of harassment. Under this policy, retaliation is defined as any action taken by any person covered under this policy in response to a complaint of harassment that would dissuade a reasonable employee from making or supporting a complaint of discrimination. Retaliation against any individual for reporting a claim of harassment or cooperating in the investigation of it will not be tolerated and will itself be subject to appropriate discipline.

**V. PROCEDURES**

Employee	must report objectionable behavior to supervisor manager Human Resources
Manager Supervisor	must forward the complaint to Human Resources, including complaints involving members patients or family members
Human Resources	must lead an immediate investigation of the concern complaint will follow-up with the employee bringing forth the complaint will determine appropriate action to be taken and, in cooperation with Manager, carry out this action will closely monitor how parties involved in making the complaint or participating in the investigation are treated after the conclusion of the investigation to ensure no retaliation occurs

**VI. GOVERNANCE**

Title VI of the Civil Rights Act of 1964	- <a href="http://www.dol.gov/oasam/regs/statutes/titlevi.htm">http://www.dol.gov/oasam/regs/statutes/titlevi.htm</a>
Section 504 of the Rehabilitation Act of 1973	- <a href="http://www.dol.gov/oasam/regs/statutes/sec504.htm">http://www.dol.gov/oasam/regs/statutes/sec504.htm</a>
Age Discrimination Act of 1975	- <a href="http://www.dol.gov/oasam/regs/statutes/age_act.htm">http://www.dol.gov/oasam/regs/statutes/age_act.htm</a>

Title 45 Code of Federal Regulations Part 80  
<http://www.ecfr.gov/cgiabin/retrieveECFR?gp=&SID=426d7d27605933339003c7c9bdb6c687&r=PART&n=45y1.0.1.1.38>

Title 45 Code of Federal Regulations Part 84 –  
<http://www.ecfr.gov/cgiabin/retrieveECFR?gp=&SID=426d7d27605933339003c7c9bdb6c687&r=PART&n=45y1.0.1.1.41>

Title 45 Code of Federal Regulations Part 91  
<http://www.hhs.gov/ocr/civilrights/resources/laws/ageregulation.html>


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## Section 3 | Employee Non-Discrimination & Anti-Harassment

Issue Date: 02 01 15	Revision Date: 01 14 14; 06 01 14; 09 15 15; 04 28 18; 09 01 18	Program Application:
Prepared By: <i>Human Resources</i>	Reviewed By: <i>Leadership Team; General Counsel</i>	Corporate ✓
Approved By: 	Section: Employee Relations	EverCare Choice ✓
Chief Executive Officer		Evercare At Home ✓
		Social Day Care ✓

Americans with Disabilities Act of 1990, as amended  
<http://www.ada.gov/pubs/adastatute08.htm>

Supervisors and Department Heads are responsible for assuring that no employee is subjected to conduct that constitutes any form of discrimination or harassment.

### VII. WHOM DO I CONTACT FOR FURTHER QUESTIONS


Program Director  
Human Resources  
Chief of Staff  
Chief Executive Officer

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**Section 3 | Sexual Harassment Prevention**

Issue Date: 01 14 14	Revision Date: 06 01 14; 09 10 13; 09 15 15; 04 28 18; 09 01 18; 03 30 22; 07 20 22; 05 01 23	Program Application:
Prepared By: <i>Human Resources</i>	Reviewed By: <i>Leadership Team; General Counsel</i>	Corporate ✓
Approved By: 	Section: Employee Relations	EverCare Choice ✓
Chief Executive Officer		EverCare At Home ✓
		EverCare Life ✓

**I. GENERAL STATEMENT OF POLICY**

EverCare does not tolerate and prohibits sexual harassment and retaliation of or against our employees, job applicants, contractors, interns, volunteers, vendors, consultants, or anyone providing services in our workplace [including independent contractors, gig workers, and temporary workers] by another employee, supervisor, vendor, customer, member/patient/client or any third party in all aspects of the employment relationship including: recruitment, hiring, placement, promotion, transfer, training, compensation, benefits, activities, access to programs and treatment. Sexual harassment is a form of workplace discrimination that subject an employee to inferior conditions of employment due to their gender [including pregnancy, childbirth and related medical conditions], gender identity, gender expression [perceived or actual], and/or sexual orientation. This policy is one component of the Company’s commitment to a discrimination–free work environment. EverCare also prohibits retaliation as defined below.

EverCare is committed to a workplace free of sexual harassment and retaliation. These behaviors are unacceptable in the workplace and in any work–related settings such as business trips and EverCare sponsored social functions, regardless of whether the conduct is engaged in by a supervisor, co–worker, member/patient/client, customer, vendor or other third party. In addition to being a violation of this policy, sexual harassment and retaliation are also unlawful. For example, sexual harassment and retaliation against an individual because the individual filed a complaint of sexual harassment or because an individual aided, assisted or testified in an investigation or proceeding involving a complaint of sexual harassment are unlawful.

In March of 2022, a bill was signed requiring that the New York State Division of Human Rights [NYSDHR] establish a toll–free confidential hotline for complainants of workplace sexual harassment. As of July 20, 2022, the hotline has been made operational during the hours of 9:00am to 5:00pm and can be reached at 1–800–HARASS–3 [1–800–427–2773]. To ensure your awareness, EverCare includes this information with its established Anti–Harassment Policy. In addition, posters were distributed as published by NYSDOL and NYSDHR with our other employment related posters. Our mandatory training material has been updated to reflect said changes and all employee of EverCare are mandated to attend this training annually.

**II. SCOPE**

All Staff, Students, Volunteers, Interns, Contracted Providers

**DEFINITIONS**

**Sexual Harassment Defined.** Sexual harassment is a form of sex discrimination. Discrimination of any kind, including sexual harassment, violates Company policy and is unlawful under federal, New York State and local law [as applicable]. Sexual harassment includes unwelcome conduct which is either of a sexual nature or which is directed at an individual because of that individuals’ sex or gender, gender identity or gender expression, and/or sexual orientation when:

- Submission to that conduct or those advances or requests is made either explicitly or implicitly a term or condition of an individual’s employment; or
- Submission to or rejection of the conduct or advances or requests by an individual is used as the basis for employment decisions affecting the individual; or
- The conduct or advances or requests have the purpose or effect of unreasonably interfering with an individual’s work performance or creating an intimidating, hostile, or offensive working environment.

Sexual harassment can be verbal [including slurs, jokes, insults, epithets, gestures or teasing], visual [including offensive posters, symbols, cartoons, drawings, computer displays, text messages, social media posts or e–mails] or physical conduct [including physically threatening another] that denigrates or shows hostility or aversion towards an individual on the basis of sex or gender,


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**Section 3 | Sexual Harassment Prevention**

Issue Date: 01 14 14	Revision Date: 06 01 14; 09 10 13; 09 15 15; 04 28 18; 09 01 18; 03 30 22; 07 20 22; 05 01 23	Program Application:
Prepared By: <i>Human Resources</i>	Reviewed By: <i>Leadership Team; General Counsel</i>	Corporate ✓
Approved By: 	Section: Employee Relations	EverCare Choice ✓
Chief Executive Officer		EverCare At Home ✓
		EverCare Life ✓

gender identity or gender expression [including transgender status], and/or sexual orientation. In New York, harassment does not need to be “severe or pervasive” to be illegal. Regardless, such conduct violates this policy, even if it is not unlawful. Because it is difficult to define unlawful sexual harassment, employees are expected to behave, at all times, in a manner consistent EverCare’s values and with the intended purpose of this policy.

Examples of conduct that violates this policy include:

- unwelcome sexual advances, flirtations, advances, leering, whistling, touching, pinching, assault, blocking normal movement
- repeated requests for dates or romantic gestures, including gift-giving
- requests for sexual favors or demands for sexual favors in exchange for favorable treatment
- obscene or vulgar gestures, or comments or posters [this also extends to the virtual or remote workspace and can include having such materials visible in the background during virtual meeting]
- sexual jokes, noises, or comments about a person’s body, sexual prowess, sexuality, sexual experience, romantic history, or sexual deficiencies
- propositions, or suggestive or insulting comments of a sexual nature
- derogatory cartoons, posters, and drawings
- sexually-explicit e-mails or voicemails
- uninvited touching of a sexual nature
- unwelcome sexually-related comments
- conversation about one’s own or someone else’s sex life
- conduct or comments consistently targeted at only one gender, even if the content is not sexual
- teasing or other conduct directed toward a person because of the person’s gender, gender identity, gender expression, or sexual orientation [including the intentional misuse of an individual’s pronouns and creating different expectations for individual based on their perceived identities]
- sex stereotyping, which occurs when someone’s conduct or personality traits are judged based on other people’s ideas or perceptions about how individuals of a particular sex should act or look

This list is just a sample of behaviors and should not be considered exhaustive. Any employee who believes they have experienced sexual harassment, even if it does not appear on this list, should feel encouraged to report it.

Sexual harassment is not limited to sexual contact, touching, or expressions of a sexually suggestive nature. Sexual harassment includes all forms of gender discrimination including gender role stereotyping and treating employees differently because of their gender. The intent of the behavior, for example, making a joke, does not neutralize the conduct. Not intending to harass is not a defense. The impact of the behavior on a person is what counts. In addition, sexual harassment is not limited to interactions in person. Sexual harassment can occur when employees are working remotely from home as well. Harassment can happen on virtual meeting platforms, in messaging apps, and during non-working hours, and regardless of whether the communication occurs on Company owned or personal devices.

**Retaliation Defined.** Retaliation means adverse conduct taken because an individual reported an actual or perceived violation of this policy, opposed practices prohibited by this policy, or participated in the reporting and investigation process described below. “Adverse conduct” includes but is not limited to: any action that would discourage an employee from reporting sexual harassment or retaliation; shunning and avoiding an individual who reports sexual harassment or retaliation; express or implied threats or intimidation intended to prevent an individual from reporting sexual harassment or retaliation; and denying employment benefits because an applicant or employee reported or encouraged another employee to report sexual harassment or retaliation or


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**Section 3 | Sexual Harassment Prevention**

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Prepared By: <i>Human Resources</i>	Reviewed By: <i>Leadership Team; General Counsel</i>	Corporate ✓
Approved By: 	Section: Employee Relations	EverCare Choice ✓
Chief Executive Officer		EverCare At Home ✓
		EverCare Life ✓

participated in the reporting and investigation process described below. No one should fear reporting sexual harassment if they believe it has occurred.

**IMPLEMENTATION**

**Reporting Procedures.** If an employee believes someone has violated this policy, the employee should promptly bring the matter to the immediate attention of their immediate supervisor, Human Resources, or the Chief Executive Officer. Written complaints can be submitted internally using the form provided with this policy. Use of this form is not necessary. Verbal or other written complaints [such as an email] on behalf of oneself or another employer will be treated with equal priority. If the employee makes a complaint under this policy and has not received a satisfactory response within five [5] business days, the employee should contact Human Resources immediately.

**Supervisory Responsibilities.** Supervisors and managers have a special responsibility to make sure employees feel safe at work and that workplaces are free from harassment and discrimination. Every supervisor who learns of any employee’s concern about conduct in violation of this policy, whether in a formal complaint or informally, or who otherwise is aware of conduct in violation of this policy, **must immediately** report the issues raised or conduct to Human Resources. Managers and supervisors should not be passive and wait for an employee to make a complaint. If they observe or are otherwise aware of conduct in violation of this policy, they must act.

**PROCEDURES**

**Investigation Procedures.** Upon receiving a complaint, EverCare will promptly conduct a fair and thorough investigation into the facts and circumstances of any claim of a violation of this policy to ensure fair and impartial investigation . To the extent possible, EverCare will endeavor to keep the reporting employee’s concerns confidential. However, complete confidentiality may not be possible in all circumstances. Employees are required to cooperate in all investigations conducted pursuant to this policy.

During the investigation, EverCare generally will seek to interview all parties involved , conduct further interviews as necessary and review any relevant documents or other information. Upon completion of the investigation, EverCare will determine whether this policy has been violated based upon its reasonable evaluation of the information gathered during the investigation. EverCare will inform the complainant and the accused of the results of the investigation, and will take such action as necessary to ensure that employees are provided with a safe working environment.

EverCare will take corrective measures against any person who it finds to have engaged in conduct in violation of this policy, if EverCare determines such measures are necessary. These measures may include, but are not limited to, counseling, suspension, or immediate termination. Anyone, regardless of position or title, whom EverCare determines has engaged in conduct that violates this policy will be subject to discipline, up to and including termination. This includes individuals engaging in sexual harassment or retaliation, as well as supervisors who fail to report violations of this policy, or knowingly allow prohibited conduct to continue may be liable for aiding and abetting such behavior. Individuals who engage in conduct that rises to the level of a violation of law can be held personally liable for such conduct.

**Bystander Intervention.** Any employee witnessing harassment as a bystander is encouraged to report it. There are five standard methods of bystander intervention that can be used when anyone witnesses harassment or discrimination and wants to help.

1. A bystander can interrupt the harassment by engaging with the individual being harassed and distracting


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**Section 3 | Sexual Harassment Prevention**

Issue Date: 01 14 14	Revision Date: 06 01 14; 09 10 13; 09 15 15; 04 28 18; 09 01 18; 03 30 22; 07 20 22; 05 01 23	Program Application:
Prepared By: <i>Human Resources</i>	Reviewed By: <i>Leadership Team; General Counsel</i>	Corporate ✓
Approved By: 	Section: Employee Relations	EverCare Choice ✓
Chief Executive Officer		EverCare At Home ✓
		EverCare Life ✓

- them from the harassing behavior;
2. A bystander who feels unsafe interrupting on their own can ask a third party to help intervene in the harassment;
  3. A bystander can record or take notes on the harassment incident to benefit a future investigation;
  4. A bystander might check in with the person who has been harassed after the incident, see how they are feeling and let them know the behavior was not ok; and
  5. If a bystander feels safe, they can confront the harassers and name the behavior as inappropriate. When confronting harassment, physically assaulting an individual is never an appropriate response.

As noted above, a supervisor or manager that is a bystander to harassment is required to report it.

Legal Protections and External Remedies. Aside from the internal complaint process at EverCare, employees may choose to pursue external legal remedies with the following governmental entities.

**State Human Rights Law [HRL]**

The Human Rights Law [HRL], codified as N.Y. Executive Law, art. 15, § 290 et seq., applies to all employers in New York State with regard to sexual harassment, and protects employees, paid or unpaid interns and non-employees, regardless of immigration status from unlawful discrimination and retaliation. The DHR has the power to award relief, which varies but may include requiring an employer to take action to stop the harassment, or redress the damage caused, including paying monetary damages, punitive damages, attorney’s fees and civil fines. A complaint alleging violation of the Human Rights Law may be filed either with the Division of Human Rights [DHR] or in New York State Supreme Court.

Complaints with DHR of sexual harassment may be filed any time **within three years** of the harassment. If an individual did not file at DHR, they can sue directly in state court under the HRL, **within three years** of the alleged sexual harassment. An individual may not file with DHR if they have already filed a HRL complaint in state court.

Complaining internally to EverCare does not extend your time to file with DHR or in court. The three years are counted from date of the most recent incident of harassment.

You do not need an attorney to file a complaint with DHR, and there is no cost to file with DHR.

DHR will investigate your complaint and determine whether there is probable cause to believe that sexual harassment has occurred. Probable cause cases are forwarded to a public hearing before an administrative law judge. If sexual harassment is found after a hearing, DHR has the power to award relief, which varies but may include requiring your employer to take action to stop the harassment, or redress the damage caused, including paying of monetary damages, attorney’s fees and civil fines.

DHR’s main office contact information is: NYS Division of Human Rights, One Fordham Plaza, Fourth Floor, Bronx, New York 10458. You may call [718] 741-8400 or visit: [www.dhr.ny.gov](http://www.dhr.ny.gov).

Contact DHR at [888] 392-3644 or visit [dhr.ny.gov/complaint](http://dhr.ny.gov/complaint) for more information about filing a complaint. The website has a complaint form that can be downloaded, filled out, notarized and mailed to DHR. The website also contains contact information for DHR’s regional offices across New York State.


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**Section 3 | Sexual Harassment Prevention**

Issue Date: 01 14 14	Revision Date: 06 01 14; 09 10 13; 09 15 15; 04 28 18; 09 01 18; 03 30 22; 07 20 22; 05 01 23	Program Application:
Prepared By: <i>Human Resources</i>	Reviewed By: <i>Leadership Team; General Counsel</i>	Corporate ✓
Approved By: 	Section: Employee Relations	EverCare Choice ✓
Chief Executive Officer		EverCare At Home ✓
		EverCare Life ✓

**Civil Rights Act of 1964**

The United States Equal Employment Opportunity Commission [EEOC] enforces federal anti-discrimination laws, including Title VII of the 1964 federal Civil Rights Act [codified as 42 U.S.C. § 2000e et seq.]. An individual can file a complaint with the EEOC anytime within 300 days from the harassment. There is no cost to file a complaint with the EEOC. The EEOC will investigate the complaint and determine whether there is reasonable cause to believe that discrimination has occurred, at which point the EEOC will issue a Right to Sue letter permitting the individual to file a complaint in federal court.

The EEOC does not hold hearings or award relief but may take other action including pursuing cases in federal court on behalf of complaining parties. Federal courts may award remedies if discrimination is found to have occurred. In general, private employers must have at least 15 employees to come within the jurisdiction of the EEOC.

An employee alleging discrimination at work can file a “Charge of Discrimination.” The EEOC has district, area, and field offices where complaints can be filed. Contact the EEOC by calling 1-800-669-4000 [TTY: 1-800-669-6820], visiting their website at [www.eeoc.gov](http://www.eeoc.gov) or via email at [info@eeoc.gov](mailto:info@eeoc.gov).

If an individual filed an administrative complaint with DHR, DHR will file the complaint with the EEOC to preserve the right to proceed in federal court.

**Local Protections**

Many localities enforce laws protecting individuals from sexual harassment and discrimination. An individual should contact the county, city or town in which they live to find out if such a law exists.

**Contact the Local Police Department**

If the harassment involves unwanted physical touching, coerced physical confinement or coerced sex acts, the conduct may constitute a crime. Those wishing to pursue criminal charges are encouraged to contact the local police department.

Remember, we cannot remedy claimed sexual harassment or retaliation unless you bring these claims to the attention of management. Please report any conduct which you believe violates this policy.

**III. RELATED FORMS/FILES**

Sexual Harassment Complaint Form

**IV. WHOM DO I CONTACT FOR FURTHER QUESTIONS**

Immediate Supervisor  
Human Resources  
Chief of Staff  
Chief Executive Officer

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**Patient Confidentiality**

Original Issue Date:

Revision Date: 05|08|18

Program Application:

Prepared By: Committee

Reviewed By: General Counsel, CCO

Corporate ✓

EverCare At Home ✓

Approved By:



Chief Executive Officer

Section: Information Management  
[S07 P-02 CHHA]

EverCare Choice ✓

SDC ✓

**I. GENERAL STATEMENT OF POLICY**

EverCare respects and protects the Member|Patient|Client’s right to confidentiality of health and personal information. As such, all information related to the provision of home care is treated as confidential. EverCare fully complies with all applicable HIPAA rules and regulations. Protected Health Information [PHI] may not be discussed with, or distributed to, any unauthorized individual. Each employee is responsible for respecting, protecting, and advocating for the privacy and confidentiality of all those who use our services. EverCare will inform all Member|Patient|Clients of policies and procedures regarding the disclosure of clinical records.

**II. SCOPE**

Officers, Managers, Staff, Students, Interns, Contracted Vendors, Volunteers,

**III. IMPLEMENTATION**

Applicable staff are responsible for reviewing EverCare policies related to Member|Patient|Client confidentiality with the Member|Patient|Client during the assessment process. Questions that cannot be directed at that time shall be directed to the Program Director.

All staff will treat any information obtained from Member|Patient|Clients, family/caregivers, physicians and other sources in a confidential manner. Discussions of clinical information regarding Member|Patient|Clients will be limited to information essential to the provision of care and services to the Member|Patient|Client.

All requests for specific Member|Patient|Client information, other than that related to provision of services, are directed to the Program Director. Request that do not comply with the requirements set forth in the Health Insurance Portability and Accountability Act will not be honored unless written permission is granted by the Member|Patient|Client or his/her legal representative.

When Member|Patient|Clients are mentioned in memos, minutes, PI reports, etc., they will be referred to by initials. If there is a request to publish Member|Patient|Client data, speak with Chief Compliance Officer, Chief Executive Officer, or General Counsel.

Discussion of Member|Patient|Client information in a public place is discouraged; if a public phone, a cell phone in a public place, or a Member|Patient|Client’s home phone must be used, care is taken to assure privacy. Care of one Member|Patient|Client will never be discussed with another Member|Patient|Client.

All written Member|Patient|Client information is stored in the Member|Patient|Client’s medical record. Charts are not removed from the office unless specific reason has been identified and approved. If documents containing protected health information must be maintained in a staff member’s office, it must remain in a locked drawer when the staff member is not physically present. All documents containing personal information that are no longer necessary must be shred. Shredders/shred boxes are available at each site.

**IV. GOVERNANCE**

Medicare CoP #s: 484.10 d, 484.12 a, 484.48 b

**V. WHOM DO I CONTACT FOR FURTHER QUESTIONS**

Program Directors  
Chief Compliance Officer  
Chief Executive Officer

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## HIV Confidentiality

Original Issue Date: 02|01|15

Revision Date: 01|15|16; 05|08|18

Program Application:

Prepared By: Committee

Reviewed By: General Counsel, CCO

Corporate ✓

EverCare At Home ✓

Approved By:   
Chief Executive Officer

Section: Information Management  
[S07 P-05 CHHA]

EverCare Choice ✓

SDC ✓

### I. GENERAL STATEMENT OF POLICY

In accordance with New York State Department of Health Public Health Law and as a result of our dedication to the privacy and confidentiality of those we serve, EverCare adheres to a procedure to ensure confidentiality of Human Immunodeficiency Virus [HIV] related information for any patient receiving services by the program.

### II. SCOPE

Management, staff, interns, students, volunteers, contracted vendors

### III. IMPLEMENTATION

*Confidential HIV-related information* is any information indicating that a person had an HIV related test, or has an HIV infection, HIV-related illness, or Acquired Immunodeficiency Syndrome [AIDS], or any information which could indicate that a person has been potentially exposed to HIV/AIDS.

Under New York State Public Health Law Article 27-F, *HIV-related information* is confidential and may only be given to:

- ✦ The Member|Patient|Client or a person authorized to give consent for the Member|Patient|Client
- ✦ Anyone whom the Member|Patient|Client has specifically authorized to receive such information by signing a written release on DOH form 2557 “*Authorization for Release of Confidential HIV Related Information*”
- ✦ An agent or employee of a health facility or health care provider that itself is authorized to obtain the information, if the agent or employee [1] is permitted access to medical records and [2] provides health care to the Member|Patient|Client and maintains or processes medical records for billing or reimbursement
- ✦ Medical professionals treating a Member|Patient|Client or Member|Patient|Client’s child may discuss HIV information with each other or with their supervisor, but only in order to provide necessary care for Member|Patient|Client or Member|Patient|Client’s child
- ✦ A health facility or health care provider where necessary to provide care to the Member|Patient|Client or the Member|Patient|Client’s child
- ✦ A health facility or health care provider that obtains, processes, distributes or uses body parts, tissue, semen or other body fluids for use in medical education, research, therapy or transplantation
- ✦ Federal, state, county, or local health officers when mandated by federal or state law
- ✦ An authorized foster care or child placement agency, with re-disclosure limited
- ✦ Third party reimbursers or their agents, to the extent necessary to reimburse health care providers for their services, provided that, when necessary, an otherwise appropriate authorization for such disclosure has been secured by the provider
- ✦ Insurance companies with specific HIV information releases that are dated and signed by the Member|Patient|Client [or other person authorized to consent, if the Member|Patient|Client is deceased, by a beneficiary or claimant under an insurance policy or benefit plan]

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## HIV Confidentiality

Original Issue Date: 02|01|15

Revision Date: 01|15|16; 05|08|18

Program Application:

Prepared By: Committee

Reviewed By: General Counsel, CCO

Corporate ✓  
 EverCare At Home ✓  
 EverCare Choice ✓  
 SDC ✓

Approved By:   
 Chief Executive Officer

Section: Information Management  
 [S07 P-05 CHHA]

- ✦ Anyone to whom disclosure is ordered by a court following a hearing [a routine subpoena is insufficient, even if signed by the court]
- ✦ A parole officer, medical director of a local correctional facility, or an employee or agent of the Department of Correction, when necessary, to fulfill their respective responsibilities
- ✦ To a state, county, or local health officer, upon the consent of the parent or guardian, for the purpose of reviewing the medical history of a child to determine the fitness of a child to attend school
- ✦ To a contact of the Member|Patient|Client [see paragraph ‘Contact Notification’]
- ✦ Funeral directors, when taking charge of the remains of a deceased person
- ✦ An employee or agent of the office of probation and correctional alternatives or any local probation department
- ✦ A law guardian, appointed to represent a minor pursuant to the social services law or the family court act, for the purpose of representing that minor. If the minor has the capacity to consent, the law guardian may not re-disclose confidential HIV related information without the minor’s permission. If the minor lacks the capacity to consent, the law guardian may re-disclose confidential HIV related information for the purpose of representing the minor

### IV. CONTACT NOTIFICATION

A physician may disclose confidential HIV-related information without the protected person’s consent to a contact of the Member|Patient|Client or to a public health official for the purpose of notifying a contact when:

- ✦ The physician reasonably believes disclosure is medically appropriate and there is significant risk of infection for the contact;
- ✦ The physician has counseled the Member|Patient|Client regarding the need to inform the contact, and the physician reasonably believes that the protected individual will not inform the contact; and
- ✦ The physician must inform the Member|Patient|Client of his or her intent to make such disclosure to a contact and give the Member|Patient|Client an opportunity to express a preference as to whether the disclosure should be made by the physician or public health official;
- ✦ If a former Member|Patient|Client is now deceased and the physician reasonably believes the protected person did not inform his/her contacts and reasonably believes disclosure is medically appropriate and that a significant risk of infection exists, the physician may notify the contacts;
- ✦ When notifying a contact, the physician must provide or make referrals for appropriate medical advice and counseling for the contact and shall not disclose the name of the Member|Patient|Client or any other contact. Such disclosure must be in person, unless conditions prevent it. Counseling for a contact must address the same information appropriate for counseling the Member|Patient|Client.

### V. DISCLOSURE WITHOUT ADDITIONAL CONSENT

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## HIV Confidentiality

Original Issue Date: 02/01/15

Revision Date: 01/15/16; 05/08/18

Program Application:

Prepared By: Committee

Reviewed By: General Counsel, CCO

Corporate ✓

EverCare At Home ✓

Approved By:   
Chief Executive Officer

Section: Information Management  
[S07 P-05 CHHA]

EverCare Choice ✓

SDC ✓

While HIV related information will always be treated with the utmost levels of confidentiality, there are specific instances in which DOH form 2557 “*Authorization for Release of Confidential HIV Related Information*” does not need to be completed.

✦ For medical treatment; specifically:

- Medical professionals working on the treatment team with the person's existing provider may discuss a Member|Patient|Client's HIV-related information with each other or with their supervisors, but only to give necessary care. A general release is needed to disclose medical information to a provider who is not affiliated with the person's current medical provider
- With a general release, a hospital or health care provider may share HIV-related information with a Member|Patient|Client's insurance company if the information is needed to pay for medical care
- Medical staff and certain other supervisory staff may have access to HIV-related information to provide or monitor services if the person is in jail or prison or is on parole
- Disclosure may occur without consent in certain cases of on-the-job exposure to HIV
- Parents or guardians of a minor or individuals who are legally authorized to provide consent can be given HIV-related information about the person if it is necessary to provide timely care, unless it would not be in the person's best interests to disclose the information

✦ To monitor health care and disease prevention. Specifically:

- Health care facility staff and committees, oversight review organizations, or government agencies that are authorized to have access to medical records may be given HIV-related information when it is needed to supervise, monitor, or administer a health or social service
- Known partners of an HIV-positive person must be notified that they have been exposed to HIV by a physician or public health officer
- Public health officials may have access to this information when required by law, for example HIV/AIDS case reporting to monitor disease trends and plan prevention programs

✦ Other circumstances:

- Authorized agencies that work with prospective adoptive or foster parents may have access to this information
- A judge can issue a special court order that requires release of HIV-related information. HIV-related information cannot be released in response to a subpoena issued by an attorney

Disclosures must be accompanied by language such as *"This information has been disclosed to you from confidential records which are protected by state law. State law prohibits you from making any further disclosure of this information without the specific written consent of the person to whom it pertains, or as otherwise permitted by law. Any unauthorized further disclosure in violation of state law may result in a fine or jail sentence or both. A general authorization for the release of medical or other information is NOT sufficient for further disclosure."* Exceptions to the provision of this statement include disclosures

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**HIV Confidentiality**

Original Issue Date: 02|01|15

Revision Date: 01|15|16; 05|08|18

Program Application:

Prepared By: Committee

Reviewed By: General Counsel, CCO

- Corporate ✓
- EverCare At Home ✓
- EverCare Choice ✓
- SDC ✓

Approved By:   
Chief Executive Officer

Section: Information Management  
[S07 P-05 CHHA]

*to the protected individual, among health care providers, to third party reimbursors, disclosures made from physicians to contacts and public health officials, and disclosures from physicians that are deemed medically necessary to the provision of timely care.*

**VI. EDUCATION**

EverCare provides initial and annual employee education regarding the legal prohibition against unauthorized disclosure of HIV related information. A list of all employees who have had such training is maintained by the program as are signature acknowledgment forms. Education may occur 1:1, part of classroom training, or via completion of self-study materials.

**VII. AUTHORIZATION TO ACCESS HIV RELATED INFORMATION**

Only staff|contracted staff who [1] would have access to confidential HIV related information as part of his/her regular course of duties and [2] who need access for provision, supervision, monitoring, record keeping, or administration of services are authorized to access HIV related information.

The following positions are authorized to access HIV related information provided they meet the above criteria:

- i. Case Management/Coordination
- ii. Clinical Nursing
- iii. Rehabilitation Therapy
- iv. Respiratory Therapy
- v. Social Service
- vi. Physicians
- vii. Administrative staff performing duties relating to QA or reimbursement

✦ Only full or part-time employees, contractors and medical, nursing or health related students, or coordinators in aforementioned positions who have received such education on HIV confidentiality shall have access to HIV protected information

✦ All medical records will be maintained securely and not disclosed in any unauthorized fashion

✦ All requests for HIV related information by other parties will be forwarded to the Chief Executive Officer and handled according to established policy

✦ This policy must be reviewed as necessary to reflect current law and regulations but not less than annually

**VIII. DOCUMENTATION OF HIV RELATED INFORMATION AND DISCLOSURES**

Confidential HIV related information may be recorded in the Member|Patient|Client’s medical record. Where disclosure occurs, all disclosure of confidential HIV related information must be noted in the Member|Patient|Client’s medical record except as follows:

- Only initial disclosures to insurance companies must be noted
- Notation is not required for disclosure to agents or employees of health facilities or health care providers
- Notation is not required for access by persons engaged in quality assurance or by government payment agents

Upon request, the Member|Patient|Client shall be informed of all disclosures.

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## HIV Confidentiality

Original Issue Date: 02|01|15

Revision Date: 01|15|16; 05|08|18

**Program Application:**

Prepared By: Committee

Reviewed By: General Counsel, CCO

Corporate ✓

EverCare At Home ✓

Approved By:   
Chief Executive Officer

Section: Information Management  
[S07 P-05 CHHA]

EverCare Choice ✓

SDC ✓

### **IX. GOVERNANCE**

New York State Public Health Law Article 27-F

### **X. FORMS**

HIV Self-Study Packet

### **XI. WHOM DO I CONTACT FOR FURTHER QUESTIONS**

Program Director

General Counsel

Chief Executive Officer

**- NOTICE -**

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Confidentiality of Member|Client Identifiable Information

Original Issue Date: 02|01|15

Revision Date: 05|08|18

Program Application:

Prepared By: Committee

Reviewed By: General Counsel, CCO

Corporate ✓

EverCare At Home

Approved By: [Signature] Chief Executive Officer

Section: Information Management [P-07[a] CHHA]

EverCare Choice ✓

SDC ✓

I. GENERAL STATEMENT OF POLICY

Consistent with EverCare’s respect for the privacy and confidentiality of the individual, it ensures that all Member|Client personal identifiable and protected health information [PHI] contained in the clinical record, including data collected during the course of care, will be protected and treated as strictly confidential. Only those individuals designated by EverCare may access this information. Designated individuals include those responsible for creating and/or managing health related data, managers, billing staff, quality staff, and staff assigned to Systems & Data. Clinical data, including Member|Client identifiable information will not be released to the public.

The policy applies at all times and must be adhered to whenever or wherever accessing Member|Client information in any format and on any device.

II. SCOPE

All Staff, Students, Interns, Temps, Contracted Vendors

III. PROCEDURE

Information security is the protection of information against accidental or malicious disclosure, modification or destruction of personal data or other Protective Health Information [PHI] or the sharing of data prematurely, accidentally or unlawfully. As such, access level controls are put in place to protect information by controlling who has the rights to use different information resources and by guarding against unauthorized use. A formal procedure requiring several levels of approvals, including that of the Chief Executive Officer, are in place in order to control access to PHI information is granted, changed, or revoked. Individuals without the correct authorization and clearance may intentionally or accidentally gain unauthorized access to business information which may adversely affect the organization.

It is the responsibility of the IT contract service provider RSM McGladrey, in collaboration with EverCare IT Staff, Corporate Compliance Officer and General Counsel, to enforce security protocols that ensure PHI access is limited to only those persons EverCare designates as eligible, and to ensure sound encryption of all clinical data before and after transmission to the State.

Encryption:

To meet regulatory requirements governing the security of PHI data, EverCare utilizes full disk encryption as a first line of defense in the case of loss or theft of hardware that contains sensitive information. Full Disk Encryption – protects information by converting it into unreadable code that cannot be deciphered easily by unauthorized people. Full Disk Encryption prevents unauthorized access to data storage. Device – any computer equipment that is the property of EverCare. This includes, but is not limited to desktop PCs, laptops, thin clients, tablets, mobile phones, memory cards, flash drives, cameras and mp3 players.

Protecting Passwords:

A standard was implemented that requires for the creation of strong passwords, their protection, and frequency of change and access control rules and procedures are required to regulate who can access EverCare information resources, systems, clinical data [PHI], and other associated access privileges. It is of utmost importance that passwords remain protected at all times. EverCare staff must adhere to the following guidelines at all times:

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Confidentiality of Member/Client Identifiable Information

Original Issue Date: 02/01/15

Revision Date: 05/08/18

Program Application:

Prepared By: Committee

Reviewed By: General Counsel, CCO

Corporate ✓

EverCare At Home

Approved By: [Signature] Chief Executive Officer

Section: Information Management [P-07[a] CHHA]

EverCare Choice ✓

SDC ✓

- Never reveal your passwords to anyone
- Never use the 'remember password' function
- Never write your passwords down or store them where they are open to theft
- Never store your passwords in a computer system without encryption
- Do not use any part of your username within the password
- Do not use the same password to access different EverCare systems
- Do not use the same password for systems inside and outside of work

Changing Passwords:

All user-level passwords must be changed at a maximum of every 30 days, or whenever the computer system prompts you to change it. Default passwords must also be changed immediately. If you become aware, or suspect, that your password has become known to someone else, you must change it immediately and report your concern to EverCare IT Department 845|725|1120 without delay. Users must not reuse the same password within 24 password changes. The EverCare systems are configured to enforce the following:

- Authentication of individual users, not groups of users-i.e. no generic accounts
- Protection with regard to the retrieval of passwords and security details
- System access monitoring and logging-at a user level
- Role management so that functions can be performed without sharing passwords
- Password admin processes must be properly controlled, secure and audit-able

Network Access Control

In order to protect PHI information, EverCare's automatic electronic security protocols disable access to its network after ten [10] minutes of continuous inactivity. Employees must be re-credential by entering their user name and password in order to access the network.

The use of modems or personal access points on non-EverCare owned PC's connected to EverCare's network can seriously compromise the security of the network and is as such strictly prohibited. The normal operation of the network must not be interfered with. An employee must establish a business reason and receive explicit approval from the Chief Executive Officer before connecting any equipment to EverCare's network.

User Authentication for External Connections

Where remote access to EverCare's network is required, an application must be made to the Chief Executive Officer for approval. Remote access to the network must be secured by two factor authentications consisting of a username and a secure signed certificate token or VPN enabled token.

Employees found to have breached this policy, may be subject to disciplinary procedure up to including termination of employment. If a criminal offense is considered to have been committed in the matter, further action may be taken to assist in the prosecution of the offender[s]. If you do not understand the implications of this policy or how it may apply to you, seek advice from your Department Director.

When an employee leaves EverCare, it is their supervisor's and IT's responsibility to cut off access to any/all computer systems and data on the employee's last working day either at the close of business, or sooner when practical, or when

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## Confidentiality of Member|Client Identifiable Information

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Original Issue Date: 02|01|15

Revision Date: 05|08|18

Program Application:


Prepared By: Committee

Reviewed By: General Counsel, CCO

Corporate ✓

EverCare At Home

EverCare Choice ✓

Approved By: 

Chief Executive Officer

Section: Information Management  
[P-07[a] CHHA]

SDC ✓

the employee leaves the premises. It is the responsibility of the Department Head to inform the IT Department of the immediate suspension of all access rights.

EverCare does not outsource PHI transmissions to a third party vendor.

### IV. GOVERNANCE

Medicare CoP #2: 484.10 d, 484.11, 484.20, 484.48 b, 484.55

### V. WHOM DO I CONTACT FOR FURTHER QUESTIONS

Chief Compliance Officer

VP|Managed Care

Director|SDC

General Counsel

Chief Executive Officer

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**HIPAA**

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Program Application:

Prepared By: Committee

Reviewed By: General Counsel, CCO

Corporate ✓

EverCare At Home ✓

Approved By:   
Chief Executive Officer

Section: Information Management

EverCare Choice ✓

SDC ✓

**I. GENERAL STATEMENT OF POLICY**

EverCare will comply with the Health Information Portability & Accountability Act of 1996 [HIPAA]. HIPAA establishes a set of national standards for the protection of certain health information. The U.S. Department of Health and Human Services [HHS] issued the Privacy Rule to implement HIPAA. The Privacy Rule standards address the use and disclosure of individuals' health information called "protected health information" [PHI] by organizations ["covered entities"] as well as standards for Member|Patient|Clients' privacy rights to understand and control how their health information is used. Within HHS, the Office for Civil Right [OCR] is responsible for the Privacy Rule implementation and enforcement with respect to voluntary compliance activities and civil money penalties.

**II. SCOPE**

Managers, Staff, Contracted Vendors, Interns, Students, Volunteers

**III. PROCEDURES**

All staff, business associates, interns, students, and volunteers will recognize and adhere to the information and procedures as listed below:

- ✦ Assure that Member|Patient|Clients' health information is properly protected while allowing the flow of health information needed to provide and promote high quality health care and to protect the public's health and well-being.
- ✦ The Privacy Rule protects all individually identifiable health information held or transmitted by a EverCare or its business associate, in any form or media, whether electronic, paper or oral. This information is also called PHI.
- ✦ The individually identifiable health information, or PHI, includes
  - demographic data that relates to the individual's past, present or future physical or mental health or condition;
  - the provision of health care to the individual or the past, present or future payment for the provision of health care to the individual
  - identifies the Member|Patient|Client or for which there is a reasonable basis to believe can be used to identify the Member|Patient|Client.
  - individual Member|Patient|Client identifiable health information includes many common identifiers such as name, address, birth date, Social Security number.
  - Excluded from PHI are employment records that a covered entity maintains in its capacity as an employer and education and certain other records subject to or defined in the Family Educational Rights and Privacy Act.
- ✦ There are no restrictions on the use or disclosure of de-identified health information. De-identified information neither identifies nor provides a reasonable basis to identify an individual. There are two ways to de-identify information, either
  - a formal determination by a qualified statistician; or
  - the removal of specified identifiers of the Member|Patient|Client and of the Member|Patient|Client's relatives, household Member|Patient|Clients, and employers is

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**HIPAA**

Original Issue Date: 12|01|15

Revision Date: 05|16; 09|11|18

Program Application:

Prepared By: Committee

Reviewed By: General Counsel, CCO

Corporate ✓

EverCare At Home ✓

EverCare Choice ✓

SDC ✓

Approved By:   
Chief Executive Officer

Section: Information Management

required, and is adequate only if EverCare has no actual knowledge that the remaining information could be used to identify the Member|Patient|Client

✦ Minimum Necessary use and disclosure

- EverCare will make reasonable efforts to use, disclose and request only the minimum amount of PHI needed to accomplish the intended purpose of the use, disclosure or request by reasonably limiting uses and disclosures to the minimum necessary
- When the minimum necessary standard applies to a use or disclosure, EverCare may not use, disclose or request the entire medical record for a particular purpose unless it can specifically justify the whole record as the amount reasonably needed for the purposes

✦ Access and Uses

- EverCare has developed policies and procedures that restrict access and uses of PHI based on the specific roles of the employees
- These policies and procedures identify the employees who need access to PHI to carry out their duties, the categories of PHI to which access is needed and any conditions under which they need the information to do their jobs

✦ Privacy Practice Note

- The Privacy Rule requires that a Privacy Practice Notice contain certain elements including how we may use and disclose PHI; our duties to protect privacy; provide a notice of private practices and abide by the terms of the current notice
- The notice describes Member|Patient|Clients' rights, including the right to complain to HHS and to EverCare if they believe their rights are being violated
- The notice must include a point of contact for further information and deliver a privacy practice notice to Member|Patient|Clients as follows:
  - Not later than the first service encounter by Member|Patient|Client visits, by automatic and contemporaneous electronic reply and by prompt mailing
  - Notice is given to each new Member|Patient|Client plus a reminder at least once every three years, that the notice is available upon request
  - An acknowledgement must be made in good faith by EverCare to obtain a written acknowledgement and document the reason for not obtaining the Member|Patient|Client's written acknowledgement
- Notice is posted at each service delivery site in a clear and prominent place where people seeking service may reasonably be expected to read the notice
- In emergency treatment situations, the provider must furnish its notice as soon as practicable after the emergency abates.

✦ Authorizations

- Member|Patient|Clients may initiate transfer of her/his records to another person by completing a written authorization form. A Member|Patient|Client may revoke a written authorization at any time except to the extent that EverCare has already relied upon it.
- To revoke an authorization, please write to:

EverCare, Privacy/Compliance Officer  
31 Cerone Place, Newburgh NY 12550  
Telephone: 1-877-255-3678

✦ Required Disclosures

- EverCare must disclose PHI in only two situations;

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- to Member|Patient|Clients or their personal representatives specifically when they request access to, or an accounting of disclosures of, their PHI; and,
- to HHS when it is undertaking a compliance investigation or review or enforcement action.

✦ Permitted Uses and Disclosures

- EverCare is permitted, but not required, to use and disclose PHI without an individuals' authorization for the following purposes or situations: 1] To the individual unless required for access or accounting of disclosure; 2] Treatment, Payment and Health Care Operations; 3] Opportunity to Agree or Object; 4] Incident to an otherwise permitted use and disclosure; 5] Public Interest and Benefit Activities; 6] Statute, regulation or court orders.
- For Treatment, Payment and Business Operations:
  - EverCare may use and disclose PHI for its own treatment, payment and health care operations activities
  - EverCare may also disclose PHI for the treatment activities of any health care provider, payment activities of another covered entity and of any health care provider, or the health care operations of another covered entity involving either quality or competency activities or fraud and abuse detection and compliance activities
- Disclosure to family and friends involved with a Member|Patient|Client's care: EverCare may share information about a Member|Patient|Client's health with family and friends who are involved with their care, upon Member|Patient|Client's request/approval
- Fundraising
  - EverCare may use demographic information about our Member|Patient|Clients including information about age and gender, when deciding whether to contact the Member|Patient|Client or their personal representative to raise money to help us operate
  - Member|Patient|Clients have the right to opt-out of any future fundraising communications and it will not affect their treatment or payment for treatment
- Marketing: Uses and disclosures for marketing purposes, including communication which we receive remuneration from a third-party whose product or services are described, requires a Member|Patient|Client's written authorization.
- Incidental Use and Disclosure
  - The Privacy Rule does not require that every risk of an incidental use or disclosure of PHI be eliminated
  - A use or disclosure of the information that occurs as a result of, or as "incident to," an otherwise permitted use or disclosure is permitted as long as the covered entity has adopted reasonable safeguards as required by the Privacy Rule and the information being shared was limited to the minimum necessary.
- Public Health Activities
  - EverCare may disclose PHI to public health authorities authorized by law at federal or state levels, to collect or receive such information

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- For example, collecting information for preventing or controlling disease, injury or disability to public health or government authorities who are authorized to receive reports

 Access

- Public Need

- We may use or disclose a Member|Patient|Client’s health information in certain situations to comply with the law or meet important public need such as sharing a Member|Patient|Client’s information with public health officials at the Federal level, New York State or government health departments who are authorized to investigate and control the spread of diseases.
- Victims of Abuse, Neglect or Domestic Violence. In certain circumstances, covered entities may disclose PHI to appropriate government authorities regarding victims of abuse, neglect or domestic violence.
- Health Oversight Activities. EverCare may disclose PHI to health oversight agencies for purposes of legally authorized health oversight activities such as audits and investigations necessary for oversight of the health care system and government benefit programs.
- Judicial and Administrative Proceedings.
  - We may disclose PHI in a judicial or administrative proceeding if requested through an order from a court or administrative tribunal
  - Such information may also be disclosed in response to a subpoena or other lawful process if certain assurances regarding notice to the individual or a protective order are provided
- Law Enforcement.
  - EverCare may disclose PHI to law enforcement officials for the following six circumstances and subject to specified conditions:
    - as required by law including court orders, court-ordered warrants, subpoenas and administrative requests;
    - to identify or locate a suspect, fugitive, material witness or missing person;
    - in response to a law enforcement official’s request for information about a victim or suspected victim of a crime;
    - to alert law enforcement of a person’s death if EverCare suspects that criminal activity caused the death;
    - we believe that PHI is evidence of a crime that occurred on its premises;
    - by a covered health care provider in a medical emergency not occurring on its premises, when necessary to inform law enforcement about the commission and nature of a crime, the location of the crime or crime victims, and the perpetrator of the crime

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Section: Information Management

- Decedents: We may disclose PHI to funeral directors, coroners or medical examiners to identify a deceased person, determine cause of death and perform other functions authorized by law.
- Organ and Tissue Donation: We may use or disclose PHI to facilitate the donation and transplantation of cadaveric organs, eyes and tissue.
- Research
  - This is any investigation designed to develop or contribute to generalizable knowledge
  - In most cases, we will ask the Member|Patient|Client for written authorization before using her/his PHI or sharing it with others in order to conduct research
  - There may be some circumstances we may disclose a Member|Patient|Client's PHI without written consent if we obtain approval through a special process to ensure that research without the Member|Patient|Client's approval poses minimal risk to their privacy
  - Under no circumstance will EverCare allow researchers to use a Member|Patient|Client's name or identification to leave our facility
  - In the unfortunate event of a Member|Patient|Client's death, we may share your health information with those who are conducting research using the information of the deceased person as long as they agree not to remove from our facility any information that identifies the Member|Patient|Client in question
- Serious Threat to Health or Safety
  - EverCare may disclose PHI that is believed necessary to prevent or lessen a serious and imminent threat to a person or the public when such disclosure is made to someone they believe can prevent or lessen the threat including the target of the threat
  - We may also disclose to law enforcement if the information is needed to identify or apprehend an escapee or violent criminal
- Essential Government Functions: An authorization is not required to use or disclose PHI for certain essential government functions such as assuring proper execution of a military mission, conducting intelligence and national security activities that are authorized by law, providing protective services to the President, making medical suitability determinations for U.S. State Department employees, protecting the health and safety of inmates or employees in a correctional institution and determining eligibility for or conducting enrollment in certain government benefit programs.
- Worker's Compensation. EverCare may disclose PHI information as authorized by and to comply with, workers' compensation laws and other similar programs providing benefits for work-related injuries illnesses.
- Access to Member|Patient|Client Health Information. A Member|Patient|Client generally has the right to review, inspect and copy their health information.
- ✦ Correct Health Information. A Member|Patient|Client has the right to request EverCare to amend their health information if the Member|Patient|Client believes it is inaccurate or incomplete.
- ✦ Identify Others.
  - A Member|Patient|Client has the right to receive an accounting of disclosure which identifies others/certain persons or organizations that we have disclosed a Member|Patient|Client's health information in accordance with the protections described herein.

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Section: Information Management

- Many routine disclosures that we make will not be included in this accounting but it will identify many non-routine disclosures of a Member|Patient|Client's information.
- ✦ Further Restrictions
  - A Member|Patient|Client has the right to request further restrictions on the way we use their health information or share it with others
  - EverCare is not required to agree to the restriction a Member|Patient|Client may request, but if we do agree, we will be bound by the agreement
  - A Member|Patient|Client may also request that we contact in a way that is more confidential. EverCare will try to accommodate all reasonable requests.
- ✦ Personal Representative: A Member|Patient|Client has the right to name a personal representative, acting on the Member|Patient|Client's behalf, to control the privacy of your health information
- ✦ Civil Monetary Penalties – OCR may impose a penalty on a covered entity for a failure to comply with a requirement of the Privacy Rule
  - Penalties will vary significantly depending on actors such as the date of the violation, whether the covered entity knew or should have known of the failure to comply or whether the covered entity's failure to comply was due to willful neglect
  - Penalties range from \$100 per violation to \$50,000 or more per violation
  - The calendar year cap is \$1,500,000
  - If the failure to comply was not due to willful neglect and was corrected during a 30-day period after the entity knew or should have known the failure to comply had occurred, then a penalty will be imposed for violations in certain circumstances
- ✦ Criminal Penalties
  - A person who knowingly obtains or discloses individually identifiable health information in violation of HIPAA faces a fine of \$50,000 and up to one-year imprisonment
  - The criminal penalties increase to \$100,000 and up to five years imprisonment if the wrongful conduct involves false pretenses, and to \$250,000 and up to ten years imprisonment if the wrongful conduct involves the intent to sell, transfer, or use individually identifiable health information for criminal advantage personal gain, or malicious harm
  - Criminal sanctions will be enforced by the Department of Justice.
- ✦ Complaints
  - If a Member|Patient|Client believes that her/his privacy rights have been violated, a complaint may be file with us to:
    - EverCare, Privacy/Compliance Officer
    - 31 Cerone Place
    - Newburgh NY 12550
    - 1-877-255-3678
  - A complaint may also be filed with the Department of Health & Human Services
    - Department of Health and Human Services for Civil Rights
    - 200 Independence Avenue, S.W.
    - Washington, DC 20201
    - 1-877-696-6775
    - [www.hhs.gov/ocr/privacy/hipaa/complaints/](http://www.hhs.gov/ocr/privacy/hipaa/complaints/)

No one will retaliate or take action against a Member|Patient|Client for filing a complaint.

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Section: Information Management

- ✦ Obtain Copy. Member|Patient|Clients have a right to obtain a copy of the Privacy Notice by submitting a request to:

EverCare, Privacy/Compliance Officer  
31 Cerone Place  
Newburgh NY 12550  
1-877-255-3678

#### IV. GOVERNANCE

Article II of MLTC Partial Capitation Contract, Health Information Portability & Accountability Act of 1996

#### V. WHOM DO I CONTACT FOR FURTHER QUESTIONS

Chief Executive Officer

Chief Compliance Officer|Privacy Officer

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**HITECH**

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Program Application:

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Reviewed By: General Counsel, CCO

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Approved By:



Chief Executive Officer

Section: Information Management

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**I. GENERAL STATEMENT OF POLICY**

In order to ensure compliance with the Health Information Technology for Economic and Clinical Health [HITECH] passed as part of the American Recovery and Reinvestment Act of 2009 [ARRA], EverCare is committed to the adoption of Electronic Health Records [EHR] and supporting technology. Such commitment ensures the confidentiality, integrity and availability of Protected Health Information [PHI] as required by regulation.

**II. SCOPE**

Managers, Staff, Contracted Vendors, Interns, Students, Volunteers

**III. OVERVIEW**

EverCare is a “covered entity” and is mandated to comply with HIPAA Privacy and Security Rules. HITECH expands HIPAA privacy and security rules to cover the “business associates” of the Covered Entities. Business Associates are contractors, vendors, agencies or other organizations that provide services for EverCare and, in order to provide these services, need access to Member information.

EverCare clinical information is PHI if it includes information that can be used to identify a Member and relates to her/his care and treatment. HITECH ensures that each Member’s health information is secure and protected. It also seeks to improve health care quality, reduce medical errors and health disparities, and advance the delivery of Member-centered medical care.

Member rights exist for Electronic Health Records [EHR]. For example, Members may request an accounting of disclosures for treatment, payment, healthcare operations and those authorized by the Member of EHRs. Disclosure means the release, transfer, provision of, access to, or divulging in any other manner of information outside the entity holding the information. The requested accounting can go back as far as three years.

Members may file privacy complaints. These complaints can be forwarded to EverCare’s management or Compliance Officer, and the federal Department of Health and Human Services [HHS], Office of Civil Rights [OCR]. HITECH affords a right of action for HIPAA violations, giving prosecuting authority to State Attorneys General. HITECH significantly increases civil and criminal penalties for violating HIPAA requirements. Civil penalties are tiered and can range from \$100 per violation to \$1.5 million per year. Criminal fines are up to \$50,000 and/or imprisonment can result.

**IV. PRIVACY AND SECURITY SAFEGUARDS**

- ✦ Always follow the “*minimum necessary rule*” limit use and disclosure to the amount of PHI which is necessary to perform job functions
- ✦ Use file covers, locked filing cabinets and lock record rooms to protect PHI and avoid conversations identifying Members in public places
- ✦ Avoid posting PHI where it can be seen by unauthorized individuals
- ✦ Do not leave the worksite with unsecured PHI
- ✦ Do not share or document computer passwords
- ✦ Do not email confidential clinical information or PHI over the internet unless an ISO approved encryption method is used

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Section: Information Management

- ✦ Follow computer security policies for desktops, laptops, disks and other media
- ✦ Before faxing or phoning PHI, be sure to verify the receiving party and the contact numbers
- ✦ Keep track of paper files and secure electronic devices which contain PHI
- ✦ Dispose of PHI by shredding. There are designated shred bins throughout the office
- ✦ Do not store PHI on any personally owned devices or home computers
- ✦ Remove PHI from electronic files and storage devices when no longer needed and follow EverCare’s record retention policy
- ✦ When storing electronic PHI, choose the most secure, accessible and authorized locations such as encrypted portable devices and appropriate EverCare system drives
- ✦ When changing job functions or leaving EverCare, discuss with your supervisor the disposition of PHI under your control
- ✦ Report suspected violations of HIPAA privacy or security requirements to your supervisor or management or compliance officer
- ✦ Immediately report any suspected instance of lost or stolen paper or electronic files containing PHI to your supervisor or management or compliance office

V. GOVERNANCE

Article II of MLTC Partial Capitation Contract, Health Information Technology for Economic and Clinical Health [HITECH] passed as part of the American Recovery and Reinvestment Act of 2009 [ARRA]

VI. WHOM DO I CONTACT FOR FURTHER QUESTIONS

IT Department  
General Counsel  
Chief Compliance Officer  
Chief Executive Officer

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