

**THEDACARE, INC.**

**CORPORATE**

**COMPLIANCE**

**PLAN**

**AND**

**CODE OF ETHICS**

Approved by Finance Committee 2-4-10, ThedaCare Board of Trustees, 2-16-10,  
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## CODE OF ETHICS

The Governing Board of ThedaCare, Inc. (“ThedaCare”) has established this Code of Ethics to highlight the principles which guide the activities of the Governing Board, Administration, Medical Staff members, employees and volunteers of ThedaCare, Inc. and its affiliated entities together referred to as either “ThedaCare” or the “Health System.” It is the responsibility of every member of the ThedaCare community to adhere to this Code and the Compliance Plan, which is described in more detail in the following pages.

The following list will give you a general sense of what behavior is expected:

### **DO:**

- Let truth, integrity and fairness be your guiding principles as you carry out your job.
- Treat all patients, employees, physicians and visitors with dignity, respect and courtesy.
- Document your activities accurately and completely.
- Maintain the confidentiality of all information related to patients and to the business of the Health System.
- Report any suspected violations of law or Health System policy to your supervisor or the Health System’s anonymous hot line at 920-933-3376.
- Ask when you are unsure about the propriety of your actions.
- Disclose actual and potential conflicts of interest.

### **DON’T:**

- Make inaccurate or incomplete entries in any Health System medical or business record or claims for payment.
- Accept cash gifts or any gifts of more than nominal value.
- Offer to pay, or pay for referrals.
- Seek or accept payment for referrals you receive.
- Make a decision in a matter where you have an actual conflict of interest or the appearance of a conflict.
- Engage in political activity or make political contributions on behalf of the Health System.
- Misuse Health System assets or put Health System property to a personal use.

Employees and medical staff are encouraged to refer to the ThedaCare Corporate Compliance Plan for more detail and to raise any questions they may have with their supervisor, the Compliance Officer, the Compliance Work Group or by calling the anonymous hotline at 920-933-3376. The Compliance Plan can be found on Heartbeat (ThedaCare’s Intranet site).

# WHAT THE COMPLIANCE PLAN MEANS TO YOU AND HOW IT WORKS

## **Purpose of the Compliance Plan**

This corporate compliance plan (the “Compliance Plan”) is our strategy to ensure that ThedaCare consistently complies with laws relating to its business activities. Every year, the laws and regulations that apply to ThedaCare become more complex. This makes it difficult for employees, agents, medical staff appointees and contractors of ThedaCare to avoid unintentional violations of these laws or to recognize a situation in which an employee may be violating the law whether for personal gain or to benefit ThedaCare. The federal government has recommended that health care providers adopt corporate compliance plans to help them fulfill their care giving mission to patients and the community and to operate their businesses efficiently in compliance with laws and regulations.

## **This Document**

This document sets forth in detail ThedaCare’s Compliance Plan and the standards, which cover the conduct of all ThedaCare employees. While the term “employee” is used throughout this document, it is ThedaCare’s intent that all agents, contractors and medical staff appointees also understand and adhere to this Compliance Plan. This document is intended to provide a source of information about the high standards of ethical and legal behavior ThedaCare has always expected of its employees. You are expected to review this document carefully and adhere to its requirements and to the Code of Ethics.

## **How ThedaCare Can Be Liable For Behavior of Its Employees and Agents**

Either intentional or unintentional violations of state or federal law can cause ThedaCare to be subject to significant fines or penalties. Individual employees can also be subject to fines and imprisonment. The potential for criminal prosecution has grown due to a liberal application of business organization “culpability” law by the courts. “Culpability” means “guilt”. In other words, ThedaCare, just like an individual, can be found guilty of a crime if an employee or agent of ThedaCare (1) violates a criminal law while acting within the scope of the employee’s authority with the intent to benefit ThedaCare and (2) ThedaCare benefits from the violation. This can be the case whether or not the officers and directors of ThedaCare sanctioned or even knew of the violation.

For example, ThedaCare could be convicted of a violation of the Medicare laws if an employee intentionally miscoded medical procedures for the purpose of increasing the amount paid by Medicare for those procedures. This could happen even though ThedaCare policy clearly prohibits this type of activity by its employees. If ThedaCare were to be convicted of breaking the Medicare laws (which carry criminal penalties), both the individual employee involved and ThedaCare would be sentenced pursuant to the federal sentencing guidelines. The criminal fines imposed on a business found guilty of a crime may be “mitigated,” or reduced, by a number of factors, including whether or not there is an effective compliance plan.

## **What a Compliance Plan Can Do for ThedaCare and You**

A compliance plan helps ThedaCare reduce the likelihood that criminal or other illegal conduct will occur within ThedaCare by educating employees on the types of conduct that are prohibited by state or federal law. An effective compliance plan can also help detect criminal or other illegal behavior that may occur. If such behavior does occur, the existence of an effective compliance plan within ThedaCare may reduce the risk of a charge or complaint being filed. Preventing a violation from happening or reducing the penalties involved if one does occur is important to ThedaCare and you. Each of us has an important stake in the successful and ethical operation of ThedaCare’s business.

A corporate compliance plan and code of ethics are only as good as the people who are involved in it. ThedaCare wants you to take an active role in following all the legal requirements, which affect your day-

to-day work activities. Remember, you must obey all laws and all ThedaCare policies whether or not discussed in this document.

## **AREAS OF LAW THAT MOST DIRECTLY AFFECT THE OPERATIONS OF THEDACARE**

The following sections contain brief summaries of laws that most directly affect the operations of ThedaCare. They are meant to give you a better understanding of some of the laws that apply to you and ThedaCare as you perform your job on a day-to-day basis. Some of the sections below may not apply to your specific position with ThedaCare. It is ThedaCare's policy, however, that if you have managerial or supervisory responsibilities or are a medical staff or board members; you must familiarize yourself with all of the sections. Otherwise, you should familiarize yourself with sections that apply to your work as a Health System employee.

### **Fraud and Abuse Laws**

The term "fraud and abuse laws" generally describes a number of federal and state laws that regulate the provision of services to beneficiaries of government programs, such as Medicare and Medicaid and the methods of submitting claims to either the government or beneficiaries for services rendered by health care providers. As a general matter, these laws impose penalties on individuals and organizations that submit claims for services which are: (1) not provided; (2) billed in a manner other than as actually provided; (3) not medically necessary; (4) provided by an improper person; (5) accompanied by an illegal inducement to use or refrain from using a service or product; or (6) billed in a manner that does not comply with applicable requirements. The fraud and abuse laws fall into essentially three categories:

- Laws prohibiting submitting false claims;
- Laws prohibiting payments of kickbacks or other payments in exchange for referrals; and
- Laws (commonly known as the "Stark" laws) restricting referrals by physicians to entities with which the physicians (or members of their immediate family) have a financial relationship.

These laws all contain provisions imposing criminal and civil penalties. Civil penalties can include fines and exclusion from government payment programs. Criminal penalties can include fines and imprisonment.

### **Confidential Information**

#### **Information Relating to Patients**

ThedaCare is committed to using, disclosing, and maintaining patient health information in accordance with the provisions under Wisconsin law that govern the confidentiality of patient health care records and the provisions under the HIPAA Privacy and Security Rules that govern the privacy and security of protected health information.

Toward that end, information concerning the identity, condition, care, or treatment of our patients must be held in strict confidence by all employees. This obligation of confidentiality applies not only to information on the patients' charts and records, but also to confidential matters learned in the performance of your duties. Under no circumstances should this information be discussed with anyone — even the patient's family or friends unless you are authorized to do so. Moreover, the charts and records must be safeguarded against inspection by those who have no right to see them.

You should not discuss confidential information with other employees unless it is required for the treatment or care of the patient. When such discussions are necessary, make sure your conversation is not overheard. Requests for information from the press or radio should be referred to the Marketing Department. Divulging any information without authorization may be grounds for corrective action including termination.

### **Employee Information**

As an employee, you also have a right to confidentiality concerning certain matters. Information concerning other employees such as medical condition, performance, phone number, etc. should not be discussed with anyone.

### **Business Information**

Health System information systems cannot be used to access confidential information that is not essential for your job. If you are an authorized user of any Health System information system you have an obligation to guard your password to prevent unauthorized access to the system.

### **Licensed Software**

ThedaCare has made significant investments in software to support its operations. We rely on software licenses and patent and copyright laws to protect this investment in technology. ThedaCare also licenses the use of software from a variety of outside companies. These other companies also rely on proper observance of their license provisions and other legal requirements. It is our policy to fully comply with all lawful requirements. Software (and related documentation) in use in the Health System may be copied only for backup purposes. Employees are strictly forbidden from making unauthorized copies of software used by the Health System.

## **Patients**

### **Quality of Care and Patient Safety**

Providing high quality, cost-effective healthcare is essential. To that end, ThedaCare is committed to the delivery of safe, effective, efficient, compassionate and satisfying patient care. When acting on behalf of ThedaCare, it is expected that each person dedicates himself or herself to achieving this goal. As a ThedaCare employee, if, at any time, there is a question about whether the quality of patient care or patient safety is being compromised, it is your obligation to raise this concern through the appropriate channels until it is satisfactorily addressed and resolved.

### **Patient's Rights**

ThedaCare recognizes and respects the diverse background of our patients. There will be no distinction in the availability of services or care provided based on age, gender, disability, race, color, religion or national origin. ThedaCare will also provide health care services to patients without regard to their ability to pay, in accordance with applicable law and ThedaCare's policies and procedures.

Where required, ThedaCare provides each patient with a written statement of patient rights and a notice of privacy practices. ThedaCare will involve patients in all aspects of their care, including giving consent for treatment and making healthcare decisions. Patients are treated in a manner that preserves their dignity, autonomy, self-esteem, civil rights, and involvement in their own care. ThedaCare will inform patients of the grievance process including who to contact if an issue arises.

### **Emergency Medical Treatment and Active Labor Act (EMTALA )**

ThedaCare complies with the Emergency Medical Treatment and Active Labor Act (EMTALA) and provides a medical screening examination and necessary stabilization to all patients presenting for treatment on ThedaCare hospital property or at ThedaCare dedicated emergency departments, regardless of ability to pay. Provided ThedaCare has the capacity and capability, anyone with an emergency medical condition will be treated. ThedaCare will not admit, discharge, or transfer patients with emergency medical conditions to another facility based on their ability or inability to pay or any other discriminatory factor.

## **Political Campaign Contributions and Activity**

It is the responsibility of those individuals charged with the duty of managing ThedaCare to determine when and if ThedaCare will become involved in any political activity. As a not-for-profit organization, ThedaCare is subject to special additional limitations on its political activities. Failure to adhere to the proper procedures and legal requirements can result in criminal and civil liability under federal and state anti-bribery, anti-fraud, campaign finance, lobbying, tax and related laws, as well as create other disadvantages for ThedaCare with respect to its competitors.

When acting on behalf of ThedaCare, you may not contribute money, Health System products, services or other things of value, permit the use of Health System assets or facilities, or do any other similar act for the benefit of any political party or any candidate for political office or other government agency or official. This same activity is prohibited by law when it involves foreign officials, candidates, or political parties. Of course, you are not prohibited from personal political involvement outside the scope of your duties. However, any political involvement is limited to the extent permitted by law to activities that do not interfere with your ability to satisfactorily perform assigned duties and responsibilities, and do not reflect adversely on the goodwill and reputation of ThedaCare.

## **Proper Billing Practices**

ThedaCare is committed to accurately coding and submitting claims to private payors; government payors, including the Medicare and Medicaid programs; and patients. It has adopted a number of policies, procedures, and systems to facilitate compliance with Wisconsin and federal laws governing the coding and billing of health care services.

The accurate coding and billing of health care services can only be accomplished where medical records contain clear and appropriate documentation of services provided and where such documentation has been maintained and is available for audit and review. Medical records must be timely, complete and accurately document the services rendered, medications administered, supplies and facilities used and the identity of the individuals rendering care. Late entries in patient records must be noted and explained. Physician diagnosis, services and recommended course of treatment must be adequately documented.

Only accurate and properly documented services may be billed.

Medicare and Medicaid prohibit, among other things: double billing for services; submitting a bill for physician services when rendered by a non-physician; signing for physicians without physician authorization; alterations to medical records; billing in violation of bundling requirements; billing for outpatient services rendered in connection with inpatient stays; upcoding or miscoding services; or billing for inappropriate or unnecessary services. Violation of Medicare and Medicaid requirements can be treated as criminal conduct and subject ThedaCare and individual employees to significant penalties as well as lead to mandatory exclusion of ThedaCare as a provider from those programs.

## **Proper Accounting Practices**

ThedaCare must maintain impeccable standards for the oversight and preparation of its accounting books and records. If there is a failure to adhere to proper and accepted accounting standards, ThedaCare and the individuals charged with the oversight and preparation duties may be exposed to potential legal claims under tax laws, Medicare and Medicaid laws, anti-trust and other laws. All reporting of information (for example, expense reports, bill amounts, inventory records and cash vouchers) must be accurate, honest, timely and a fair representation of the facts. No transaction shall be effected, no bill rendered and no payment made with the intention that the transaction is other than as described in the documentation supporting the transaction.

Each Health System employee charged with the duty of oversight or preparation of the Health System's accounts and accounting records must comply with the accepted standard accounting practices, rules, regulations and controls at all times. In addition, each Health System employee charged with the duty of oversight or preparation of the Health System's accounts and accounting records shall not use or permit the use of assets of the Health System for any unlawful purpose, or permit undisclosed or unrecorded funds or assets of the Health System to be established or maintained for any purpose. Further, no ThedaCare employee shall make any payment, or cause any payment to be made on behalf of the Health System without adequate supporting documentation or with the intention or understanding that any part of such payment is to be used for any purpose other than that described by the documents supporting the payment.

## **Accuracy, Retention and Disposal of Records**

Each Health System employee is responsible for the integrity and accuracy of ThedaCare's documents and records, not only to comply with regulatory and legal requirements but also to ensure records are available to support our business practices and actions. No one may tamper with or falsify information on any record or document.

Medical and business documents are to be retained in accordance with ThedaCare's retention policy. This includes paper documents, computer based information, and any other medium that contains information about the organization or its business activities.

Under no circumstances, may a ThedaCare employee use any individual or entity information for his or her personal benefit.

## **Protection and Use of Assets**

Proper protection and use of the Health System assets, including proprietary information, medical equipment, supplies and medicines, is part of your fundamental responsibility as an employee. Employees must comply with ThedaCare security programs to safeguard physical property and other assets against unauthorized use or removal, as well as against loss by criminal act or breach of trust.

## **Employee and Contractor Screening Requirements**

It is the policy of ThedaCare to make inquiries required by law and other reasonable inquiries into the background of prospective employees and contractors, particularly those whose job function or activities may materially affect the Medicare and Medicaid claim development and submission process, patient well-being or the organization's relationship with physicians and other third parties.

### **Employees**

ThedaCare will screen employees as required by federal and state law. Among other things, this screening will determine whether screened employees have been (a) convicted of a criminal offense related to health care; or (b) listed by a federal agency as debarred, excluded or otherwise ineligible for federal program participation. Categories of employees subject to screening include:

- Any person occupying a supervisor position or higher or who has direct patient contact;
- Providers who do or will possess an individual Medicare provider number; and
- All billing office supervisors and managers.

### **Vendors and Contractors**

ThedaCare will not knowingly enter into a contract with or retain on its behalf any person or entity which has been (a) convicted of a criminal offense related to health care (unless such person or entity has implemented a compliance plan as part of an agreement with the federal government); (b) listed by a federal agency as debarred, excluded or otherwise ineligible for federal program participation; or (c) otherwise disqualified by law.

## **Business Courtesies**

### **Extending Business Courtesies/Receiving Business Courtesies**

Gifts, favors and entertainment may be given to others at Health System expense only under certain conditions. Gifts must be consistent with the law and with accepted business practices. They must also be of sufficiently limited value and in a form that could not be reasonably construed as a bribe or payoff. Gifts in the form of cash or its equivalent (items readily turned into cash) are prohibited. Neither you nor your family members should solicit or accept, either directly or indirectly, a fee, a substantial gift, or excessive entertainment from any present, past, or prospective patient, customer or supplier.

## **Antitrust Law**

The federal antitrust laws applicable to ThedaCare are the Sherman Act, the Federal Trade Commission Act, and the Clayton Act (as amended by the Robinson-Patman Act). A brief description of each is found in Appendix A. Wisconsin has enacted its own antitrust laws, which are generally modeled on one or more of the federal laws.

The antitrust laws prohibit a variety of business conduct including: agreements among competitors regarding price, division of markets, and group boycotts. These laws also prohibit resale of goods, extreme forms of competition, false advertising, and misuse of information taken from others. Any employee whose job might involve the potential for such activity must exercise caution. This is an area where even the appearance of impropriety can be damaging to ThedaCare.

## **Environmental Law**

ThedaCare policy requires compliance with all applicable environmental standards. ThedaCare has established programs for compliance with environmental regulations that cover specific chemical handling and disposal procedures, chemical safety procedures, hazardous spill response procedures, and the handling and disposal of infectious waste. Spills can include the improper disposal of any of these substances. If you witness any such spill, it should be reported to your supervisor immediately.

## **Employment Laws**

It is the policy of ThedaCare to comply with all employment laws, including those relating to workplace safety and those prohibiting discrimination and sexual harassment. ThedaCare's policies in this regard are detailed in the Employee Handbook. Some of the more significant laws in this area are described in Appendix A.

## **Conflicts of Interest**

A conflict of interest can occur whenever your personal situation or outside activities affects or may seem to affect your job-related decision-making. All employees must disclose any conflicts that arise and refrain from acting whenever in a conflict situation.

You should not identify yourself as official representatives or agents of ThedaCare in any outside business involvement without administrative approval. If there is ever any question regarding this policy, please check with the Compliance Officer or the Corporate Compliance Work Group for clarification.

All management personnel will, on an annual basis, sign a conflict of interest statement that will, among other things, disclose potential conflicts.

## **Tax Exempt Status**

ThedaCare is organized and operated exclusively under Section 501(c)(3) of the Internal Revenue Code as a tax-exempt health care organization. ThedaCare is committed to the health of the communities in which it serves and operates the Health System to benefit those communities as a whole, rather than private individuals or interests. Consistent with this commitment, ThedaCare provides care and treatment to everyone needing it, including those who have limited or no ability to pay, as permitted under applicable law and in accordance with ThedaCare's policies and procedures.

# **HOW THE COMPLIANCE PLAN WORKS**

## **Enforcement and Administration of the Compliance Plan**

At ThedaCare, enforcement and administration of the Compliance Plan occur at designated levels of the organization. A Compliance Officer, appointed by ThedaCare, is responsible for providing leadership and oversight of the Compliance Plan and reports directly to the CEO and the Governing Board of ThedaCare.

The Compliance Officer is assisted by a Corporate Compliance Work Group, consisting of representatives from the following Health System departments: Health Information, Human Resources, Billing/Coding, Central Registration, Finance, Information Technology, Risk Management and The Joint Commission (TJC) compliance, and other Health System employees, as determined appropriate by ThedaCare and the Compliance Officer. The Corporate Compliance Work Group will assist with the day-to-day administration of the Compliance Plan, and will be assisted as needed by designated employees. Certain managers will work directly with the Compliance Officer and facilitate Health System compliance. Together, the Compliance Officer and the Corporate Compliance Work Group will oversee all aspects of the Compliance Plan.

In addition, all employees with supervisory or management responsibility, the medical staff and the Governing Board of ThedaCare are responsible for enforcement of the Compliance Plan in their respective areas of activity and authority.

The Compliance Plan includes an internal monitoring system, which includes the following activities:

- All ThedaCare employees will be required to review the Code of Ethics and Compliance Plan as part of their new employee orientation.
- Each year all employees will be required to review the Code of Ethics and pertinent sections of the Compliance Plan as part of their annual performance appraisal.
- A copy of the Code of Ethics and Compliance Plan shall be made available to agents, contractors and medical staff appointees when they join the Health System.
- Under the direction of the Compliance Officer, the Compliance Committee will perform and oversee the performance of audits and interviews from time to time to test compliance with applicable laws, regulations and the Compliance Plan and Code of Ethics.
- The Compliance Officer will report issues investigated, any findings and resolutions, and plans of correction to the Corporate Compliance Work Group and to the Board of Directors.

## **Reports of Suspected Violations**

If you believe that ThedaCare policy is not being followed or that someone may be unintentionally or intentionally violating the law, you must report that conduct. Some examples of conduct, which should concern you, are the following:

- You believe that another employee, agent, or other person or firm representing ThedaCare is engaged in activity that violates law or the Health System's policies.
- You have been requested to make, accept, authorize, or agree to any offer, action, or payment, which is contrary to these policies.
- You have or you are aware of another employee who has or is considering having a financial interest or outside business relationship, which might involve a conflict of interest.
- You have been offered a gift or favor from an outside business that deals with or seeks to deal with ThedaCare.

Of course, any use of the reporting system must be done in good faith. If you are in doubt about a matter, it is better to report it so that all doubts can be resolved.

### **Filing an Oral Report**

You are encouraged to report any concern you may have about adherence with the Compliance Plan, the Code of Ethics or the law to your immediate supervisor or the manager of your department. If you are uncomfortable discussing a matter with your supervisor or the manager of your department, the Compliance Plan has its own reporting system. You may call the Compliance Officer directly, or call the anonymous Compliance hot line at (920) 993-3376 to report your concern.

### **Filing a Report in Writing**

You may also file a report by writing to the Compliance Officer or the Corporate Compliance Work Group. You may access the form through the HeartBeat website by going to Employee Resources and then Corporate Compliance, then Report Your Concerns. You need not sign your name or identify yourself in any way. However, your written report should contain enough information so that the nature of the reported activity and the persons involved can be determined. If you would like the Compliance Officer or the Corporate Compliance Work Group to be able to report back to you, an identifying report number will be assigned to your concern and you can ask for the number and then request an update on the investigation by referencing the report number at a later date.

### **Confidentiality**

Every reasonable effort will be made to protect the identity of those who bring issues to the attention of the Compliance Officer, the Corporate Compliance Work Group or their supervisors or department managers, but there may be situations where a reporter's identity must be disclosed (for example, if governmental authorities become involved).

ThedaCare will not discipline any employee not involved in the violation for reporting in good faith a suspected violation of the Code of Conduct, the Compliance Plan, policies, laws or regulations. ThedaCare will also protect from retaliation individuals who express reasonable suspicion or concerns.

## **How to Respond to Legal Claims or Investigations**

Employees may, during their work for the Health System, or perhaps at home, receive legal documents or inquiries from federal, state or local officials or other parties. These legal inquiries may relate to the serving of an official court summons or complaint, a demand (written or oral) from a patient or supplier of ThedaCare, or letters, phone calls or visits from government representatives requesting documents, ThedaCare records or other information.

If you receive a legal claim against the Health System or a request for information, inform your immediate supervisor promptly. You should in all cases request proper identification, if it is not provided to you. You should also contact the Corporate Compliance Work Group and provide it with copies of any documents you have received. You should follow this policy whether the request is written or oral. It is especially important that this notice procedure be followed before you respond to any request for information. The Corporate Compliance Work Group can be contacted through ThedaCare's Compliance Officer.

The only exceptions to this policy involve routine inquiries or the filing of recurring types of reports or schedules. The policy is designed to help ThedaCare identify unusual or potentially serious activities or claims. If in doubt, you should follow the reporting procedure.

It is ThedaCare's policy to cooperate with all federal, state or local investigators seeking information. At the same time, ThedaCare and its employees are entitled to all of the safeguards provided by law for the benefit of individuals and entities under investigation. If a representative of federal, state or local government seeks copies of documents or access to files, or information through formal or informal discussion, you should tell him of the Health System's policy to cooperate with the government, but you should also tell him that the matter must initially be referred to legal counsel.

## **Review of Suspected Violations**

The Compliance Officer and/or the Corporate Compliance Work Group, with guidance from the Health System's legal counsel, will review and, if necessary, investigate reported activity. If warranted, ThedaCare will report suspected violations to the proper authorities.

## **Additional Information**

Inevitably, this Compliance Plan will address questions that escape easy definition about how the law or the Code of Ethics may apply. This Compliance Plan may not address every question, which you may encounter. The Compliance Plan is not intended to make you an expert in all of the areas it covers. It will, however, alert you to the types of activities, which may result in a violation of state or federal law so that you will be in a position to ask the appropriate questions or, at the very least, know that an issue should be reviewed. Supplemental information about applicable laws may be found in Appendix A.

## **Your Role in ThedaCare's Compliance Plan**

No compliance plan can cover every possible question of business practice. When in doubt, ASK BEFORE YOU ACT. Questions regarding the interpretation of the Compliance Plan should be referred to the Corporate Compliance Work Group.

The ThedaCare Code of Ethics and the Compliance Plan online training are conducted at the time you join the organization and annually to all employees. All Ethics and Compliance Plan training will be documented in the ThedaCare's learning management system. If training is not complete by an employee, the manager of the employee will follow-up to ensure completion.

As an employee, you are responsible for upholding the legal standards set forth in the Compliance Plan as you go about your job. Specific areas of the law that have or may have an effect on the Health System have been summarized in the Compliance Plan. You must immediately familiarize yourself with the laws that affect your areas of responsibility.

The Compliance Plan does not replace specific ThedaCare policies and procedures. Those policies and procedures should continue to be used by you as a source of specific information on procedures to be followed within the Health System. From time to time, ThedaCare may find it necessary to revise the Compliance Plan or the various policies described in the preceding paragraph. ThedaCare will provide you with revisions to the Compliance Plan or policies as these changes occur.

As a condition of employment with the Health System, you are expected to adhere to ThedaCare's Code of Ethics, the Compliance Plan and all underlying policies and procedures. ThedaCare will not tolerate violations. Violations, depending on the nature, severity, and frequency of the violation, may result in any or all of the following: Oral warning, written warning, suspension and/or termination from employment, and or civil and criminal liability.

ThedaCare considers your actions with respect to the Compliance Plan and the Code of Ethics to be significant indications of judgment and competence. Accordingly, these actions constitute an important element in the evaluation of your performance and in consideration for position assignments and promotions.

# APPENDIX A

## SUPPLEMENTAL INFORMATION

### **False Claims**

False claims are defined as knowingly and willfully making or causing to be made any false statement or representation of material fact in any application (e.g. claim or cost report) for benefits or payments under a federal healthcare program (including Medicare or Medicaid).

Examples of false claims may include: billing for services not rendered; misrepresenting services actually rendered (“upcoding”); falsely certifying that services were medically necessary; improperly billing for patient services that should be included as part of a diagnostic related group (“DRG”) payment rather than billed separately; and billing for services by an unlicensed professional.

### **Kickbacks and Rebates**

The Medicare and Medicaid anti-fraud and abuse laws prohibit “kickbacks and rebates” defined as the knowing and willful solicitation or receipt of any remuneration (this can include money or anything else of value) or the knowing and willful offer to pay or payment of any remuneration, whether direct or indirect, overt or covert, in cash or in kind, in return for: (a) referring an individual for the furnishing of any item or services; or (b) purchasing, leasing, ordering or arranging for or recommending or arranging for the purchase, lease or ordering of any item or service, paid for in whole or in part under a federal healthcare program. State law contains similar prohibitions.

The fraud and abuse laws, of course, prohibit payments in exchange for referrals. A wide variety of other conduct may fall under the scope of the law, since it is broadly worded. For example, the statute prohibits providers from offering patients incentives to use services. There are a number of statutory and regulatory exemptions.

### **Stark Anti-Self-Referral Law**

The federal anti-self-referral legislation (commonly known as the “Stark” law, named after the law’s principal sponsor, Rep. Pete Stark), provides that if a physician or physician’s immediate family member has a “financial “entity”, the physician may not make a referral to that entity for the furnishing of “designated health services” for which payment may be made under the Medicare or Medicaid programs. The entity may not present or cause to be presented a claim to any individual, third party payor or other entity for designated health services furnished pursuant to a prohibited referral.

A financial relationship is defined as an ownership or investment interest or a compensation arrangement between the physician or immediate family member and the entity. A referral is a request by a physician for an item or service for which payment may be made under Medicare or Medicaid. Designated health services are: clinical laboratory services; physical therapy services; occupational therapy services; radiology services; radiation therapy services; durable medical equipment; parental and enteral nutrients, equipment and supplies; prosthetics, orthotics and prosthetic devices; home health services; outpatient prescription drugs; and inpatient and outpatient ThedaCare services.

The Stark law is complex. The law, and regulations interpreting the law, define terms such as entity, ownership interest and compensation arrangement. The Stark anti-referral legislation contains a number of exceptions that if met, permit the physicians to refer patients to an entity and allow the entity to bill for those services.

### **The Sherman Act - Horizontal Agreements**

Section 1 of the Sherman Act prohibits contracts, combinations or conspiracies in unreasonable restraint of trade. Any agreement or coordinated joint conduct by two or more persons, which unreasonably restrains trade is unlawful. This is the antitrust law of primary concern to ThedaCare. It is discussed in greater detail below.

Section 2 of the Sherman Act prohibits monopolization, and attempts to monopolize, and also prohibits combinations or conspiracies to monopolize.

The following guidelines describe specific conduct, which is prohibited by the Sherman Act:

- Having discussions with, or attending meetings with, competitors at which anyone discusses or mentions prices, terms or conditions of purchase or sale, allocations of patients or territories or any other subject affecting competition. Of course, no agreement or understanding with a competitor regarding these topics can be discussed or reached in any context.
- Sending to or receiving from anyone associated with a competitor any kind of price information. While such information may be legally obtained from other sources, such as independent market studies, its source should be documented in writing, including all information obtained concerning competitors and their activities. The report should identify the source of the data, when and how it was obtained, what was said or done, and what the surrounding circumstances were. The point here is to document the fact that the information was not obtained directly from a competitor.
- Having discussions with outsiders or attending meetings with outsiders at which anyone discusses or mentions a boycott or collective refusal to deal with any supplier or individual or entity that purchases Health System services.
- Except with express approval of ThedaCare's counsel, discussing with any customer or supplier of the Health System any action, including action on prices, that either ThedaCare or the customer or supplier might take with respect to third parties.
- Submission of a bid or price for the sale of services or products or the procurement of supplies, known to be identical with that of a competitor, without advance clearance of ThedaCare's attorneys.

ThedaCare shall not enter into any joint venture without the advice of ThedaCare's counsel to assure that the joint venture complies with antitrust law.

## **The Robinson-Patman Act - Price Discrimination**

The Robinson-Patman Act prohibits a seller from charging different prices for tangible goods of like grade and quality to different purchasers who compete with each other. The Act also prohibits a buyer from knowingly inducing or receiving such a discriminatory price. Thus, ThedaCare must be concerned with this Act whenever it buys or sells tangible goods.

Sales of tangible goods to charitable institutions, such as not-for-profit health systems, are exempt from the Act so long as the tangible goods are for a ThedaCare's "own use". This "own use" restriction generally requires a ThedaCare to refrain from reselling any tangible good for which it has received a discriminatory price, except to its own patients and certain narrowly restricted other persons. Questions about the "own use" exemption should be referred to counsel.

## **Unfair Competition**

"Unfair competition" is a mixed bag of federal and state laws passed to prohibit action by businesses where competitive zeal is carried to extremes, thus offending the underlying rules of fairness that are basic to the free market system.

### **False Advertising**

False advertising may violate state law, the Federal Trade Commission Act, or the Lanham Act, which prohibits, among other things, false statements about the origin of products. Provisions of these acts are enforced by the FTC, the United States Justice Department, private parties and state attorneys general. State law equivalents are enforced by these state's attorney generals.

False advertising could be found in advertising, sales pitches, or literature of ThedaCare if such pieces made a false statement of fact about the quality of ThedaCare's or a competitor's services, or about some other aspect of ThedaCare's business. Claims for false advertising can result in civil damage claims that are both costly and time consuming.

### **Trade Secrets**

Trade secrets are protected against misappropriation under both state and federal criminal statutes. Theft of a trade secret is the same as theft of any other item owned by another person. Confidential information, which includes information and ideas regarding patient records, services and techniques, sources of supply, patient lists, computer programs, and marketing information, is also protected from misappropriation.

If an employee of ThedaCare uses the confidential technological or business information of another health care provider or insurer without its permission, (1) by snooping, or (2) by questioning its employees or former employees, or (3) by hiring its employees or former employees and putting them to work on similar projects in the expectation that they will use techniques or information developed in privacy by the other company, the employee of ThedaCare and ThedaCare may be subject to legal claims for misappropriation or theft of trade secrets. A violation can also occur if a ThedaCare employee obtains such information from a licensor or vendee under the terms of a license or other agreement, and then does not pay for such information according to the terms of the license, or uses the information in a way in which falls outside the scope of the agreement.

## **Civil Rights and Equal Opportunity Laws**

Title VII of the Civil Rights Act of 1964 ("Title VII"), provides that it is unlawful for an employer to fail or refuse to hire or discharge any individual, or otherwise discriminate against any individual with respect to compensation, terms, conditions, or privileges of employment because of an individual's race, color, religion, sex, or national origin. Title VII also prohibits discrimination in employment by reason of pregnancy, childbirth, or related medical conditions. This law is administered by the Equal Employment Opportunity Commission.

Violations of Title VII may lead to injunctions against the employer, reinstatement or hiring of the employees discriminated against, other relief a court feels is appropriate, and attorney's fees for the party bringing the legal action.

It is the policy of ThedaCare to provide equal employment opportunity for all qualified employees and applicants for employment without regard to race, religion, color, sex, age, sexual orientation, national origin, physical or mental disability, marital status, pregnancy, childbirth or related medical condition, or unfavorable discharge from the military service.

Equal employment opportunity includes, but is not limited to hiring, training, promotion, and transfer to other jobs. You are expected to share responsibility for non-discriminatory treatment of co-workers.

## **The Americans with Disabilities Act**

The Americans with Disabilities Act ("ADA") was designed to prevent discrimination against persons with impairments and disabilities and bring them into the mainstream of employment. It is a violation of ADA to discriminate against a person in employment because of a disability that affects a major life function. People with disabilities who are covered by the ADA are those with a disability who, with or without reasonable accommodation, can perform the essential functions of the employment position that the disabled person holds or desires. An employer is required by the law to make reasonable accommodation to the known physical or mental limitations of an individual covered by the ADA, unless such accommodations will cause the employer an undue hardship.

Violations of the ADA can lead to private civil legal actions against ThedaCare. If an employer is found to have discriminated against an individual covered by the ADA, the employer can be subject to civil damage awards and injunctive relief, reinstatement or hiring of the employees discriminated against, and attorneys' fees for the party bringing the legal action.

## **Family Medical Leave Act**

The Family Medical Leave Act ("FMLA") requires ThedaCare to provide eligible employees with up to 12 weeks of unpaid leave during any 12-month period for certain purposes. Wisconsin has adopted a similar law. Additional information is available from the Human Resources Department. These laws prohibit employers from interfering with, denying or restraining any employee from exercising any right granted by these laws. Proven violations of these laws can lead to civil damage awards equal to lost pay and lost benefits as well as other equitable relief.

## **Occupational Safety and Health Laws**

The Occupational Safety and Health Act ("OSHA") provides a framework for employers and employees to reduce workplace hazards. OSHA standards, which apply directly to the health care field, include the blood borne pathogens rule, hazard communication training requirements, the rules governing the handling and disposal of materials containing asbestos, and the regulation of ThedaCare equipment sterilizers. OSHA also requires employers to maintain a reporting and record keeping system to monitor job related injuries and to develop mandatory job safety and health standards and enforce them effectively.

ThedaCare has established OSHA compliance plans. It is imperative that you familiarize yourself with the standards that are applicable to the health care industry and that OSHA requirements be kept in mind when interacting with outside organizations providing services in the Health System's facilities.

ThedaCare considers the maintenance of safe and healthful working conditions and the prevention of accidents to be integral to the operation of its business. You and every other employee have a responsibility to prevent accidents by maintaining a safe and healthful work environment, by following safe work procedures and practices, and by using all prescribed personal protective equipment and following universal precautions. Accident prevention and good patient care go hand in hand.

Violations of OSHA standards can lead to the issuing of citations by the local OSHA office stating what penalties and abatement actions the employer must take. Failure to comply with an OSHA citation subjects the employer to further civil fines. You must faithfully comply with all OSHA record keeping requirements. Falsification of records required under OSHA will subject the violator to criminal fines and imprisonment.

## **Sexual Harassment**

ThedaCare prohibits sexual harassment within its working environment. Sexual harassment includes certain conduct:

- unwelcome sexual advances;
- unwelcome physical contact of a sexual nature; or
- unwelcome verbal or physical conduct of a sexual nature;

in certain circumstances:

- when submission to such conduct is made (explicitly or implicitly) a condition of an individual's employment;
- when submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting the individual; or

- when such conduct has the purpose or effect of interfering with an individual's work performance or creating an intimidating, hostile or offensive environment.

Such conduct can include unsolicited gestures or comments, or the display of graphic sexual materials, which are unnecessary for business purposes. If you are concerned about such conduct, you should report it to a Human Resources representative. For further information on this topic, you should refer to the Employee Handbook.