

10/2/2007 – 12:10pm

Supplement to Kerr Drug
Associate Handbook

Medicare/Medicaid
Compliance Policies and
Procedures

**KERR
DRUG**

TABLE OF CONTENTS

I.	INTRODUCTION	4
II.	WRITTEN POLICIES AND PROCEDURES.....	4
	A. Code of Conduct	4
	B. Policies and Procedures.....	5
III.	TRAINING AND EDUCATION.....	5
	A. General Compliance Training.....	5
	B. Specialized Compliance Training.....	5
IV.	EFFECTIVE LINES OF COMMUNICATION	5
	A. Compliance Hotline and Other Forms of Communication	5
	B. Anonymity	6
	C. Non-Retaliation.....	6
	D. Documentation of Reports.....	6
V.	ENFORCEMENT OF STANDARDS.....	6
VI.	PROMPT RESPONSES TO DETECTED OFFENSES AND CORRECTIVE ACTION	7
	A. Internal Investigations.....	7
	B. Government Investigations.....	7
	C. Corrective Actions	7
VIII.	MONITORING AND AUDITING	8

APPENDICES

1. Code of Conduct
2. Protocol for Responding to Government Investigations
3. Policy on Monitoring and Auditing
4. Protocol for Internal Investigations

- 5. Compliance Policies and Procedures
 - 5A. Billing and Pricing
 - 5B. Privacy and Security of Protected Health Information
 - 5C. Dispensing
 - 5D. Employing or Contracting with Sanctioned or Excluded Individuals or Entities
 - 5E. Inducements and Kickbacks
 - 5F. Records Management

Kerr Drug Inc. Compliance Manual

I. INTRODUCTION

Because compliance with applicable laws and regulations is a top priority for Kerr Drug, we endorse the implementation of a Compliance Program which sets forth the standards that will ensure compliance with applicable legal requirements and foster organization-wide integrity.

This Compliance Program Manual provides a description of these standards and Kerr Drug's plan for implementing the Compliance Program. The success of Kerr Drug compliance efforts depends on each associate's dedication to working with us to implement the Compliance Program. The Compliance Program describes Kerr Drug's expectations for associates and others associated with Kerr Drug and provides guidance on dealing with compliance issues that may arise in the daily course of business. In particular, all associates are responsible for acting consistently with the Kerr Drug Compliance Policies and Procedures, including the Code of Conduct. Kerr Drug's Compliance Officer responsibilities are assumed under Gray Stewart, Director of Pharmacy Administration and Compliance.

II. WRITTEN POLICIES AND PROCEDURES

Kerr Drug has established written policies, procedures, and standards that demonstrate our commitment to complying with all applicable federal and state statutory, regulatory and other requirements. These policies and procedures are a critical component of our efforts to detect, prevent and control fraud, waste and abuse. Kerr Drug will update all Compliance Policies and Procedures as necessary to remain current with legal and other current developments. All new associates will receive a copy of the Manual at the time of hire. The manual will be posted electronically for all associates to review. Upon implementation of required training, all associates will acknowledge receipt and understanding of all Compliance Policies and Procedures.

A. Code of Conduct

All associates must act in an ethical manner and adhere to applicable legal requirements in the course of performing their duties on behalf of Kerr Drug. The Code of Conduct, which is attached at [Appendix 1](#), articulates Kerr Drug's commitment to comply with all statutory, regulatory, and other requirements. It also describes the ramifications of any failure to comply with the Code of Conduct. Kerr Drug will also share its Code of Conduct with its vendors and other contractors and encourage them to follow a code of conduct that reflects a similar commitment to detecting, preventing, and correcting fraud, waste and abuse.

B. Policies and Procedures

In addition to the Code of Conduct, Kerr Drug has developed more detailed Compliance Policies and Procedures to guide conduct and to assist associates in addressing specific areas of possible fraud, waste and abuse. These Compliance Policies and Procedures may be found at Appendix 5 to this Manual.

III. TRAINING AND EDUCATION

Kerr Drug has implemented a training program to help associates identify, prevent, and report noncompliance. The training program is currently recommended and Kerr Drug will be fully compliant when it is deemed required by Medicare and Medicaid programs. Failure to comply with the Kerr Drug's training content may result in disciplinary action, including possible termination. The Kerr Drug Compliance Officer with assistance from the Training Manager will verify that all associates attend compliance training and maintain training records.

A. General Compliance Training

All associates must participate in general compliance training upon initial hire or engagement and at least annually thereafter and must acknowledge attendance at each session. Documentation of completion will be maintained in the computer-based training application.

B. Specialized Compliance Training

Specialized compliance training is provided to employees whose actions affect submission and reimbursement of claims, including those involved in dispensing, billing and reimbursement, and pharmacy marketing. Such training is furnished upon initial hire or engagement, when substantive legal requirements change, or in response to a finding of noncompliance.

IV. EFFECTIVE LINES OF COMMUNICATION

Kerr Drug associates are expected to report suspected violations of Kerr Drug's Compliance Policies and Procedures, including the Code of Conduct and applicable laws and regulations. An associate should make such reports to his or her supervisor or to the Compliance Officer. Such reports should contain enough information to allow investigation into the concerns raised.

A. Compliance Hotline and Other Forms of Communication

Kerr Drug associates are expected to report suspected violations of company policy, including the Code of Ethics, applicable laws and regulations. Associates may report the suspected violations to their District Pharmacy Supervisor or District Manager or to the

Compliance Officer. Such reports should contain enough information to allow investigations into related questions or concerns in person or by telephone, email or other written communications. Kerr drug provides a toll free number (800-494-3053). Associates may leave an anonymous voice mail at extension 155. Callers are encouraged to leave as much detail as possible in the message, as well as the name and/or contact number in order to enable a thorough investigation.

B. Anonymity

The identity of those reporting potential fraud, waste or abuse is generally protected if the individual wishes to remain anonymous. However, the investigation process may result in identity disclosure, particularly if federal or state enforcement authorities become involved in the investigation. Kerr Drug cannot guarantee confidentiality when an individual discloses material evidence of a violation of the law to the Compliance Officer or if that person is identified during the normal course of an investigation. Security measures are in place to preserve the confidentiality of hotline records.

C. Non-Retaliation

Kerr Drug will not engage in nor tolerate retaliation against individuals who report suspected wrongdoing. No reprisal, reprimand, or disciplinary action will be permitted or will be taken against anyone who discloses a compliance-related concern in good faith through the proper reporting procedures. This policy does not insulate the reporter from disciplinary action if it turns out that he or she is involved in any wrongdoing.

D. Documentation of Reports

The Compliance Officer documents and tracks all reported concerns and issues as well as the status of related investigations and corrective actions. Compliance-related questions and compliance personnel answers also are documented, dated and shared with others as appropriate.

V. ENFORCEMENT OF STANDARDS

Associates are expected to comply with the Code of Conduct and to adhere to applicable legal requirements during the course of performing their duties on behalf of Kerr Drug. Failure to do so may result in disciplinary action up to, and including, termination.

Certain offenses may justify the immediate termination of Ker Drug's relationship with an associate. Such wrongdoing includes, but is not limited to:

- violation of federal or state fraud and abuse laws
- failure to report conduct that the individual knows is illegal or that a reasonable person would have known is illegal

- intentional provision of materially false information to Kerr Drug, a customer, or a payer
- knowing provision of false or misleading information to the Compliance Officer

Conduct that would otherwise justify termination may result in less severe disciplinary action if the violator self-reported or if the individual cooperated fully during the investigation. However, anyone who self-reports is not immune from disciplinary action or termination.

Management will be held responsible for the actions of their associates if they facilitate or fail to appropriately forward report made to them as a result of their own negligence, carelessness or inattention.

VI. PROMPT RESPONSES TO DETECTED OFFENSES AND CORRECTIVE ACTION

Through the Compliance Program, Kerr Drug ensures prompt responses to and appropriate corrective actions for detected offenses. Responses to detected offenses vary according to the circumstances and may include immediate referral to criminal or civil law enforcement, a corrective action plan, and/or return of overpayments.

A. Internal Investigations

The Compliance Officer will conduct a timely and reasonable investigation of all credible reports of suspected noncompliance. A reasonable inquiry includes a preliminary investigation by the Compliance Officer or other compliance personnel. Associates should follow standard audit investigation processes by Kerr Drug. Kerr Drug's protocol for internal investigations may be found at [Appendix 4](#).

If an internal investigation results in the discovery of misconduct that may violate applicable laws or regulations, the Compliance Officer will consult with human resources, loss prevention and legal counsel before deciding how to proceed.

B. Government Investigations

Kerr Drug's policy is to be forthright and cooperative when dealing with government investigations, inquiries or information requests. If a government agent or employee contacts an associate of Kerr Drug, he or she should refer to Kerr Drug's protocol for responding to government investigations.

C. Corrective Actions

Corrective action aims to remedy the underlying problem that resulted in misconduct. It may include disciplinary action, prompt identification and refund of overpayments, or other actions. Each corrective action plan will be tailored to the particular misconduct identified and will include timeframes to prevent continued misconduct. The Compliance

Officer will document all elements of the plan and the ramifications for non-compliance and will engage in ongoing monitoring to ensure that the plan is carried out.

VII. MONITORING AND AUDITING

Internal monitoring and auditing are both important aspects of Kerr Drug's Compliance Program. Such activities can detect and prevent compliance problems through verification of compliance with contractual agreements, applicable state and federal requirements, and the Compliance Policies and Procedures. Compliance monitoring and auditing can be found in Appendix 3. Further, Kerr Drug may be the subject of audits by the Centers for Medicare and Medicaid Services, other government agencies, or entities with which it contracts, such as sponsors of Medicare Part D prescription drug plans. Protocols for responding to audits conducted by outside entities is set forth in Appendix 2.

The purpose of monitoring activities is to ensure corrective actions are carried out and to confirm ongoing compliance even when no specific problems are identified. The system of ongoing monitoring assesses performance in identified risk areas.

APPENDIX 1 CODE OF CONDUCT

I. INTRODUCTION

All associates must act in an ethical manner and adhere to applicable legal requirements in the course of performing their duties on behalf of Kerr Drug. This Code of Conduct, which is part of Kerr Drug's Compliance Program, is intended to be a clear and concise summary of fundamental ethical standards with which all associates must comply when conducting business on Kerr Drug's behalf. Kerr Drug's Compliance Policies and Procedures provide more detailed rules designed to ensure that Kerr Drug and those associated with it act legally and ethically at all times.

Kerr Drug expects all associates to read and adhere to the standards described in the Code of Conduct as a condition of employment. Any associate who violates the Code of Conduct will be subject to disciplinary action, up to and including termination.

II. STANDARDS OF CONDUCT

A. Comply with Laws and Regulations

All associates must comply with Kerr Drug's Compliance Program, including the Compliance Policies and Procedures, and with applicable laws and regulations. If associates have questions about the laws and regulations that apply to Kerr Drug or about Kerr Drug policies and procedures for complying with them, they are expected to seek guidance from supervisors or the Compliance Officer.

B. Act Ethically and Avoid Conflicts of Interest

Kerr Drug expects all associates to conduct business on its behalf in an honest, fair, and ethical manner and in Kerr Drug's best interests, without regard to personal considerations. Associates must refrain from participating in any activities or business endeavors that could pose a conflict with their responsibilities to Kerr Drug.

Kerr Drug does not employ nor contract with individuals or entities that are prohibited from doing business with the federal government. As a result, every new associate must reveal any convictions related to health care or any debarment, exclusion, sanction, or other adverse action taken against him or her by any federal or state agency. Kerr Drug will revalidate this information periodically and require all associates to give Kerr Drug notice if any such action is initiated.

C. Protect the Privacy of Customer Information and the Confidentiality of Kerr Drug Records

All associates must respect the confidential nature of protected health and any proprietary information received in the course of their work on behalf of Kerr Drug. In particular, associates must comply with state and federal laws and regulations, including the Health Insurance Portability and Accountability Act (known as “HIPAA”), governing the privacy and security of protected health information.

D. Prepare and Submit Accurate and Complete Claims for Payment

Preparing and submitting accurate and complete reimbursement claims is among Kerr Drug’s top priorities. Kerr Drug expects associates to adhere to the laws, regulations, and internal policies and procedures governing the billing and claims submission process. Associates must not present, nor cause to be presented, any false or fraudulent claims for payment.

E. Properly Dispense Prescriptions

Kerr Drug promotes full compliance with applicable dispensing requirements. All associates involved in the dispensing process must carry out their duties in accordance with legal and ethical standards and maintain a comprehensive working knowledge of all laws, regulations, and internal policies and procedures applicable to dispensing.

F. Participate in Compliance and Other Training Sessions

All associates must participate in compliance training and other professional skills development activities necessary to carry out their respective duties effectively and, if applicable, to maintain required professional licensure.

G. Report Compliance Violations

Associates must report suspected violations of Kerr Drug’s Compliance Policies and Procedures or applicable laws and regulations. Kerr Drug encourages associates to come forward even if they are unsure of whether any misconduct has occurred. Kerr Drug will not engage in nor tolerate retaliation against an associate who reports suspected wrongdoing and will allow anonymity to the extent appropriate.

H. Cooperate with Internal and External Investigations

The Compliance Officer will conduct a timely and reasonable investigation of all credible reports of suspected noncompliance, and Kerr Drug expects everyone affiliated with it to cooperate fully with these investigations. Outside entities, such as government agencies and private third party payers, also may conduct investigations related to suspected noncompliance, and Kerr Drug encourages everyone to be forthright and cooperative.

III. CONSEQUENCES OF NONCOMPLIANCE

Failure to meet Kerr Drug's expectations for compliance with any law, regulation or internal policy may result in the imposition of discipline, up to and including termination.

APPENDIX 2
PROTOCOL FOR RESPONDING TO GOVERNMENT INVESTIGATIONS

PURPOSE:

Kerr Drug's policy is to cooperate fully with all appropriate government inquiries. It is Kerr Drug's intent to respond to inquiries in a complete, timely and properly coordinated manner so that the rights of those involved are protected.

Examples of state or federal agencies that may make inquiries include, but are not limited to, the following:

- Drug Enforcement Agency
- Federal Bureau of Investigation
- Centers for Medicare and Medicaid Services
- Medicaid Fraud Control Units
- Medicaid Programs
- Department of Health and Human Services Office of Inspector General
- State Attorney General's Office

PROCEDURE:

The government may contact an associate directly to request an interview about information relating to Kerr Drug or its business affiliates. The associate must notify the Compliance Officer, or other Kerr Drug personnel as instructed. When contacted by a government investigator, the associate should ask to see proper identification. An associate can refuse or stop an interview until legal counsel is present. Associates are entitled to have someone, like an attorney, with them during the interview and are encouraged to take notes.

Kerr Drug may make an attorney available for an interview upon an associate's request, but that attorney may be representing Kerr Drug rather than the associate as an individual. Kerr Drug's attorneys can assist the associate in evaluating whether the matter under investigation warrants the associate obtaining his or her own attorney.

APPENDIX 3
POLICY ON MONITORING AND AUDITING

PURPOSE:

An internal monitoring and auditing system protects Kerr Drug from fraud, waste, and abuse. In addition, ongoing evaluation of Kerr Drug's compliance with applicable statutes and regulations will promote the provision of high quality services.

Kerr Drug endeavors to monitor, audit, and evaluate its compliance with internal and external rules.

PROCEDURE:

Kerr Drug employs a dedicated third party auditor to oversee the compliance of its associates with state and federal regulations. The company also conducts routine checklists for compliance by the Loss Prevention Field Auditors and the District Pharmacy Supervisors. Routine reports are generated by Kerr Drug Corporate staff to focus on questionable third party claims and an investigation of these claims is performed.

APPENDIX 4
PROTOCOL FOR INTERNAL INVESTIGATIONS

PURPOSE:

The Compliance Officer will assess the validity of all credible reports of suspected wrongdoing and will determine whether a comprehensive investigation is warranted.

PROCEDURE:

The Compliance Officer will conduct a timely and reasonable investigation of suspected noncompliance. The Compliance Officer may determine that a compliance-related matter is an emergency requiring immediate action or that a certain matter is extremely sensitive or confidential. If an internal investigation results in the discovery of misconduct that may violate applicable laws or regulations, the Compliance Office will consult with legal counsel and human resources before deciding how to proceed. When the Compliance Officer determines that an allegation does not merit further investigation, he will document this decision with an analysis of the facts that resulted in the conclusion.

APPENDIX 5A BILLING AND PRICING

PURPOSE:

This policy sets forth the billing and reimbursement policies and procedures with which all associates must comply.

POLICY:

Accurate pricing, billing, and claims submission is a top priority for Kerr Drug. Kerr Drug is committed to ensuring that all prescriptions and related services are furnished in accordance with applicable federal and state laws, regulations, and directives and with the requirements of all public and private third party payers.

PROCEDURE:

I. ACCURATE AND COMPLETE CLAIMS DOCUMENTATION

Associates must ensure that billing documentation is accurate and complete and that it conforms to the applicable payer's requirements. All requests for reimbursement must contain only true and accurate data.

II. DOCUMENT RETENTION

Associates are expected to maintain documentation demonstrating that prescriptions were prescribed, dispensed and received. Payers often take the position that a service was not performed unless the pharmacy has documentation supporting that fact. Consequently, documentation must be obtained and retained for all services furnished by Kerr Drug, in accordance with Kerr Drug's records management policy and with all applicable legal and contractual requirements.

III. SUSPECTED OR IDENTIFIED BILLING DISCREPANCIES

Examples of potential billing or reimbursement fraud, waste, and abuse include, but are not limited to, the following:

- filling a prescription with a cheaper generic drug, but billing the payer for the more costly brand name drug
- billing for non-existent prescriptions
- billing multiple payers for the same prescription

- billing a payer more than once for the same prescription
- failing to return credit balances to payers and/or customers
- intentionally providing less than the prescribed quantity without telling the customer, or arranging to provide the balance of the prescription, and then billing for the full prescription
- billing for prescriptions that are never picked up and therefore returned to stock
- splitting prescriptions in order to receive additional dispensing fees
- illegally diverting pharmaceuticals

Any associate who identifies such discrepancies with respect to claims already submitted must report them immediately in accordance with the requirements of Kerr Drug's Compliance Program. Prompt reporting is crucial because these and other billing and reimbursement discrepancies can lead to violations of the federal False Claims Act and other state and federal health care fraud and abuse laws. Associates can learn more about these laws by reading Kerr Drug's policy on Inducements and Kickbacks ([Appendix 5E](#)).

IV. PRICING

Kerr Drug prices its products fairly, competitively, and in accordance with applicable contract provisions and legal requirements, including laws requiring Kerr Drug to provide usual and customary prices to state Medicaid programs.

Kerr Drug offers discounts only for proper business reasons and in accordance with applicable laws and regulations and its third party contracts. Kerr Drug accepts discounts from suppliers and vendors on items to be furnished to federal health care program beneficiaries only if the arrangement complies with a safe harbor under the federal Anti-kickback Statute.

Kerr Drug strives to ensure that all communication to outside individuals and entities is truthful, accurate and complete. The prices advertised or otherwise communicated to customers and others are the prices ultimately charged at the point of sale.

With respect to Medicare Part D, Kerr Drug negotiates the prices it will charge with each Medicare Part D plan sponsor. As required by federal law, Kerr Drug offers Part D beneficiaries the price negotiated with his or her plan sponsor.

APPENDIX 5B
PRIVACY AND SECURITY OF
PROTECTED HEALTH INFORMATION

PURPOSE:

This policy sets forth Kerr Drug's expectations for the privacy and security of protected health information.

POLICY:

Kerr Drug expects associates to protect the privacy and security of protected health information and its proprietary information in accordance with applicable state and federal laws and regulations and Kerr Drug's policies and procedures.

PROCEDURE:

Kerr Drug requires every associate to respect the confidential nature of health and personal information and to use or disclose such information as allowed by law. Kerr Drug associates are bound to abide by the information and training presented in its Kerr Drug Privacy Training Manual.

APPENDIX 5C DISPENSING

PURPOSE:

Various federal and state statutes and regulations govern the dispensing process, and the purpose of this policy is to articulate clear requirements for those involved in the dispensing process.

POLICY:

Kerr Drug promotes full compliance with applicable dispensing requirements by mandating that all individuals involved in the dispensing process maintain high ethical standards and a strong knowledge of all laws and regulations applicable to dispensing.

PROCEDURE:

Kerr Drug pharmacists and technicians are bound by the rules and regulations of the Board of Pharmacy for the state in which they practice. State rules and regulations may be found on the Kerr Drug intranet site. Furthermore, Kerr Drug pharmacists and technicians are required to adhere to all state and federal regulations specific to their practice of pharmacy. In addition, Kerr Drug pharmacy associates are governed by the Kerr Drug Pharmacy Operations Manual readily available in each pharmacy or on the company intranet site.

To prevent fraud, waste, and abuse, Kerr Drug prohibits all associates from engaging in any of the following activities:

- dispensing any prescriptions without proper authorization
- knowingly creating or dispensing a false prescription
- concealing or attempting to conceal from Kerr Drug a dispensing error
- altering a prescription to increase or decrease the quantity prescribed or the number of refills without the prescriber's permission
- dispensing a prescription drug that was not stored or handled in accordance with manufacturer or FDA requirements
- dispensing a prescription that is beyond its expiration date or is not refillable according to applicable legal requirements
- charging a patient or billing a third party payer for the full amount of a prescription, but providing less than the prescribed quantity without informing the patient or making arrangements to provide the full balance
- giving inappropriate pricing discounts
- knowingly billing a third party plan for a false or nonexistent prescription or exceeding authorized parameters of a prescription plan

APPENDIX 5D
EMPLOYING OR CONTRACTING WITH SANCTIONED
OR EXCLUDED INDIVIDUALS OR ENTITIES

PURPOSE:

This policy establishes Kerr Drug's process for ensuring that it does not employ nor contract with individuals or entities that are banned from doing business with the government. By not employing or contracting with such parties, Kerr Drug protects itself, and those with whom it does business, from fraud, waste and abuse, and also ensures that Kerr Drug is eligible for reimbursement from government programs.

POLICY:

Kerr Drug's policy is to hire, contract with, and retain trustworthy individuals and entities. Kerr Drug makes a reasonable and prudent effort to avoid submitting to government entities claims for products or services furnished by any person or entity excluded from doing business with the government.

PROCEDURE:

Kerr Drug reasonably inquires into the background of new associates, vendors and contractors. In addition, Kerr Drug periodically confirms that these individuals and entities have not been convicted of a criminal offense related to healthcare or have not been excluded or sanctioned by a federal or state agency.

Prospective associates, vendors and other contractors must, among other things, reveal to Kerr Drug any convictions of criminal offenses related to health care or any debarment, exclusion, sanction, or other adverse action taken against the individual or entity by government health care programs or any other federal or state agency.

Before employment, Kerr Drug's Human Resources Department will determine whether the individual at issue appears on the relevant lists of excluded individuals and entities compiled by the Office of Inspector General ("OIG") and other government agencies. Kerr Drug will refuse to be associated with any individual or entity that appears on these exclusion lists.

Although Kerr Drug reviews the relevant lists of excluded individuals and entities prior to its association with an individual, Kerr Drug also checks those lists at least annually for the names of current associates.

APPENDIX 5E INDUCEMENTS AND KICKBACKS

PURPOSE:

This policy outlines Kerr Drug's rules regarding offering, providing, soliciting or receiving something of value in connection with the referral of federal health care program business to or by Kerr Drug.

POLICY:

Kerr Drug is committed to compliance with federal laws prohibiting health care fraud and abuse. Generally, the laws described below govern Kerr Drug's relationships with federal health care program customers and referral sources, and these laws are implicated most often in the context of inducements and kickbacks.

APPLICABLE FEDERAL LAWS:

I. ANTI-KICKBACK STATUTE

The federal Anti-Kickback Statute prohibits the provision or receipt of any remuneration to induce a referral for, or for ordering, services covered by a federal health care program. "Remuneration" includes anything of value. Soliciting or accepting remuneration is as illegal as offering or paying such remuneration.

Violation of the Anti-Kickback Statute can result in substantial criminal and civil penalties. Such penalties may include imprisonment for up to five years, fines of up to \$25,000, not including fines applicable to corporations as a result of application of the federal corporate sentencing guidelines, and exclusion from the federal health care programs. The Civil Monetary Penalties Law, discussed below, establishes additional penalties for Anti-Kickback Statute violations, including payment of up to three times the amount of remuneration involved and \$50,000 for each item or service at issue. The False Claims Act also has been used to sanction Anti-Kickback Statute violations, and it can result in the imposition of treble damages, plus \$5,500 to \$11,000 penalties for each false claim. The Civil Monetary Penalties Law and the False Claims Act are both discussed in more detail below.

II. CIVIL MONETARY PENALTIES LAW

The Civil Monetary Penalties Law ("CMP Law") allows the Office of Inspector General for the Department of Health and Human Services ("OIG") to impose civil monetary penalties against any person or entity that presents or causes to be presented a claim to a federal or state agency that the person or entity knows, or should know, was not provided as claimed or was false and fraudulent. It also prohibits the following conduct:

- offering remuneration to a state or federal health care program beneficiary that the person knows, or should know, is likely to influence the beneficiary to obtain items or services billed to a state or federal health care program
- knowingly employing or contracting with an individual or entity that the provider knows, or should know, is excluded from participation in a federal health care program
- billing for services requested by an unlicensed physician or an excluded provider
- billing for medically unnecessary services

The penalties for violating the CMP Law include fines of up to \$10,000 per item or service; payment of up to three times the amount billed, depending on the nature of the offense; and exclusion. As mentioned above, it also provides for additional penalties for Anti-Kickback Statute violations.

III. SAFE HARBORS

The OIG has promulgated safe harbor regulations specifying types of conduct that will not subject individuals or entities to sanctions under the Anti-Kickback Statute, certain provisions of the CMP Law, and the exclusion authorities. To obtain safe harbor protection, each aspect of the arrangement or conduct at issue must satisfy all the requirements of the applicable safe harbor. Failure to fall within the strict parameters of a safe harbor does not necessarily mean that the specified conduct or business arrangement is illegal. However, if all applicable safe harbor requirements are not met, the OIG will analyze the situation based on its particular facts and circumstances. Kerr Drug considers and seeks to comply with the safe harbor regulations whenever they are applicable to its activities or business arrangements.

IV. FALSE CLAIMS ACT

The False Claims Act (“FCA”) forbids knowing and willful false statements or representations made in connection with a claim submitted for reimbursement to a federal health care program, including Medicare or Medicaid. The FCA extends to those who have actual knowledge of the falsity of the information as well as those who act in deliberate ignorance or in reckless disregard.

Examples of a false claim include submitting a claim for a service that was not rendered or billing multiple payers for the same service. Penalties include fines from \$5,500 to \$11,000 per false claim, payment of treble damages, and exclusion.

The FCA includes a whistleblower provision, which allows someone with actual knowledge of alleged FCA violations to file suit on the federal government’s behalf.

After the whistleblower files suit, the case is kept confidential while the government conducts an investigation to determine whether it has merit. The government may decide to take over the case, but, if it declines to do so, the whistleblower still may pursue the suit. A whistleblower who prevails may qualify for 15 to 30 percent of the amount recovered on the government's behalf as well as attorney's fees and costs.

The FCA prohibits associates from retaliating against employees who file or participate in the prosecution of a whistleblower suit. An employee who suffers retaliation may, for example, qualify for back pay or reinstatement.

PROCEDURE:

I. RELATIONSHIPS WITH ACTUAL OR POTENTIAL REFERRERS AND THEIR FAMILY MEMBERS

A. General Prohibition on Paying, Offering, Soliciting, or Receiving Remuneration

Associates must never provide or offer a bribe to induce the referral of federal health care program business by a person or entity to Kerr Drug. Similarly, associates must never solicit or receive a bribe from any person or entity in exchange for referring federal health care program business to that person or entity. Such activities are prohibited because they could result in violation of the Anti-kickback Statute and other health care fraud and abuse laws.

Any compensation paid by Kerr Drug to a referrer or a family member of a referrer must be based on the fair market value of services provided and may not be related to the volume or value of any business referred to Kerr Drug.

B. Interaction with Medicare Part D Plan Sponsors

Ordinarily, neither Kerr Drug nor its associates may accept inducements in connection with the referral of potential enrollees to any Medicare Part D, Medicare Advantage ("MA"), or Medicare Advantage prescription drug ("MA-PD") plan. All payments made by plans to Kerr Drug for its services will be fair market value, consistent with an arm's length transaction, and for bona fide and necessary services, and will otherwise comply with all relevant laws and regulations, including the federal Anti-kickback Statute. Specifically, an associate cannot accept remuneration meant to induce or reward the associate to:

- switch federal health care program customers to different drugs
- influence prescribers to prescribe different drugs
- steer patients to particular Medicare Part D plans

C. Discounts

All discounts received from suppliers and vendors must comply with third party contracts and applicable laws and regulations. Kerr Drug will accept discounts from suppliers and vendors on items to be furnished to federal health care program beneficiaries only if the arrangement complies with the federal discounts safe harbor under the federal Anti-kickback Statute.

D. Professional Courtesy

The offering of professional courtesy is a practice that government officials believe may constitute an illegal inducement. The term “professional courtesy” includes a number of different practices, such as: (1) the waiver of all or part of the fee for services provided to prescribing physicians or other referral sources, their families, or their employees, and (2) the waiver of coinsurance obligations or other out-of-pocket expenses for the same groups (often referred to as “insurance only” billing). If a professional courtesy is extended in a way that directly or indirectly takes into account the recipient’s ability to affect past or future federal or state health care program referrals, the federal Anti-kickback Statute may be implicated. Consequently, Kerr Drug does not offer professional courtesy waivers nor discounts to federal health care program beneficiaries nor to actual or potential sources of federal health care program referrals, their families, or their employees.

II. RELATIONSHIPS WITH CUSTOMERS

A. Reduction or Waiver of Copayments and Other Payment Responsibilities

The federal Anti-Kickback Statute makes it illegal to offer, pay, solicit, or receive anything of value as an inducement to generate business payable by federal health care programs. In addition, federal law forbids offering or giving something of value to a federal health care program beneficiary if it likely will influence the beneficiary’s choice of provider. Kerr Drug therefore does not reduce customer copayment obligations or payment responsibilities absent an individualized, good faith determination of financial need or a legal requirement.

B. Medicare Part D Promotional Activities

Kerr Drug serves customers who are enrollees of various Part D plans. As such, associates may receive requests to educate potential enrollees on their plan choices or otherwise assist them with enrollment. When providing this assistance, associates are prohibited from steering enrollees to particular plans by offering them inducements or pressuring them in other ways. Kerr Drug requires all associates to follow certain guidelines established by the Centers for Medicare and Medicaid Services (“CMS”), the federal agency that oversees administration of the Medicare prescription drug benefit.

Associates may assist a potential or actual enrollee with an objective assessment of his or her needs and plan options that may meet those needs. To this end, associates may

engage in discussions with beneficiaries who seek information or advice regarding their options but should do so in strict compliance with Kerr Drug's policies and procedures. When communicating with beneficiaries about plan options, associates cannot attempt to switch or steer them to a specific plan or group of plans to further the financial or other interests of Kerr Drug.

To that end, associates cannot:

- accept enrollment applications or offer inducements to persuade beneficiaries to join particular plans
- direct, urge, or attempt to persuade beneficiaries to enroll in a specific plan
- offer anything of value to induce plan enrollees to select Kerr Drug as its pharmacy

Associates may distribute only those Medicare materials sanctioned by Kerr Drug. Associates may inform prospective enrollees where they can obtain information on the full range of plan options. Possible sources of information include, but are not limited to:

- the State Health Insurance Assistance Programs
- plan marketing representatives
- the State Medicaid Office
- the local Social Security Administration Office
- <http://www.medicare.gov/>
- 1-800-MEDICARE

Plans or plan agents may conduct sales presentations and distribute and accept enrollment applications as long as the activity takes place in common areas, such as the space outside of where customers wait for services or interact with employees and obtain medications.

In sum, when interacting with current or potential Part D plan enrollees, associates can:

- provide the names of plans in which Kerr Drug participates
- provide information and assistance to beneficiaries in applying for low income subsidies
- distribute Part D plan marketing materials in accordance with Kerr Drug's policies
- furnish objective information regarding specific plans, such as covered benefits, cost sharing, and utilization management tools
- provide objective information on specific plan formularies, based on a particular customer's medications and health care needs
- refer customers to other sources of objective information provided by third parties, such as state and federal agencies

- use marketing materials comparing plan information created by a non-benefit/service providing third-party

When interacting with current or potential Part D plan enrollees, associates cannot:

- direct, urge or attempt to persuade any prospective enrollee to enroll in a particular plan or to insure with a particular company based on Kerr Drug's financial or other interests
- collect enrollment applications
- offer inducements to persuade beneficiaries to enroll in a particular plan
- health screen when distributing information to patients, because health screening is a prohibited marketing activity
- offer anything of value to induce plan enrollees to select the organization as its provider
- expect compensation in consideration for the enrollment of a beneficiary
- expect compensation directly or indirectly from the plan for beneficiary enrollment activities

APPENDIX 5F RECORDS MANAGEMENT

PURPOSE:

This policy aims to ensure that Kerr Drug retains records for appropriate periods of time; destroys records that are no longer useful; and establishes a system and efficient method for storing retained records.

POLICY:

Kerr Drug's policy is to retain records in accordance with applicable statutes and regulations, its business needs, and its contracts.

PROCEDURE:

Kerr Drug will adhere to the record retention policies set forth by Medicare/Medicaid, State Boards of Pharmacy, Drug Enforcement Agency, State Pharmacy Agencies, and (but not limited to) HIPAA Privacy regulations. The Third Party Field Auditor will determine that the storage procedures of each store are appropriate and in compliance with regulations.

Kerr Drug will conduct an annual cleanup of prescriptions records and the clean up will adhere to the policies set forth by Kerr Drug. Records will be boxed appropriately and will be returned to the Kerr Drug warehouse for appropriate shredding.

10/02/07