

Compliance Program

Kentucky Department of Veterans Affairs,

Office of Kentucky Veterans Centers

(KDVA/OKVC), to include Eastern Kentucky

Veterans Center, Radcliff Veterans Center,

Thomson-Hood Veterans Center and Western

Kentucky Veterans Center

Approved by Mark Bowman, Executive Director November 4, 2019

Mark Bowman

Table of Contents

INTRODUCTION	1
CODE OF CONDUCT	1
STANDARDS OF CONDUCT	2
A. Residents Rights.....	2
B. Admission and Access to Care	2
C. Non Discrimination in the Provision of Services.....	4
D. Screening of Employees and Contractors/Medicare Exclusion List	5
E. Referrals.....	6
F. Conflicts of Interest.....	7
G. Outside Employment	7
H. Annual Disclosures	7
I. Political Activity	7
J. Billing and Cost Reporting.....	8
DESIGNATION OF COMPLIANCE PROGRAM CONTACT.....	9
TRAINING AND EDUCATION	10
A. Initial and Periodic Training	10
B. Failure to Attend Required Training	10
REPORTING METHODS.....	11
AUDITING AND MONITORING.....	12
DISCIPLINARY GUIDELINES	12
RESPONDING TO DETECTED OFFENSES.....	12
FEDERAL FALSE CLAIM ACTS	13
Attachment 1 - Admission to state veterans' nursing homes	
Attachment 2 - Charges for room and board, goods and services at state veterans' nursing homes	
Attachment 3 - Notice of Privacy Practices	
Attachment 4 - Internet and Electronic Mail Acceptable Use Policy	
Attachment 5 – Employee Screening	
Attachment 6 – Drug Free Workplace	
Attachment 7 – Drug Testing Program	
Attachment 8 – Medicare Exclusion List	
Attachment 9 – Code of Ethics	
Attachment 10 – Reporting Outside Employment	
Attachment 11 – Financial Disclosure Requirements	
Attachment 12 – Political Activities	
Attachment 13 – Improper Payments and Recovery Act (IPERA)	
Acknowledgment of Receipt	

INTRODUCTION

The Office of Kentucky Veterans Centers (“OKVC”) is committed to providing the care and services necessary to attain and maintain our residents’ highest practicable physical, mental and psychosocial well-being. To that end, the OKVC is dedicated to operating its facilities to the highest ethical, legal, and moral standards and to complying with all applicable state and federal laws, rules and regulations. This Compliance Program sets out the standards of conduct that all OKVC members, employees, physicians, volunteers, students, vendors, contractors, and personnel employed by such vendors and contractors are expected to follow.

CODE OF CONDUCT

The OKVC has adopted the following Code of Conduct as a central part of the OKVC Compliance Program. Compliance with the OKVC Code of Conduct is required of all employees and a condition of continued association with the OKVC for physicians, volunteers, students, vendors, contractors, and personnel employed by such vendors and contractors. All OKVC members, employees, physicians, volunteers, students, vendors, contractors, and personnel employed by such vendors and contractors shall, at all times in the performance of their duties:

1. Be honest and lawful in all of their business and professional dealings and avoid doing anything that could create even the appearance of impropriety.
2. Observe and comply with the OKVC’s mission, vision, values, policies, procedures and all applicable state and federal rules, regulations and laws.
3. Promote a culture of continuous quality improvement in care and services.
4. Treat all OKVC residents, family, visitors, employees, physicians, volunteers, students, vendors, contractors, and personnel employed by such vendors and contractors with professionalism, dignity and respect.
5. Comply with the OKVC’s policies with respect to harassment, threats, intimidation, discrimination and retaliation.
6. Promote a cooperative environment among OKVC staff and providers that fosters an environment of trust, exchange of information, identification of errors and problem solving.
7. Provide a physical environment that is safe for all OKVC residents, family, visitors, employees, physicians, volunteers, students, vendors, contractors, and personnel employed by such vendors and contractors.
8. Cooperate fully with the OKVC’s Compliance Program, including active participation in training activities, audits and implementation of corrective actions.
9. Report any instances of known or suspected non-compliance with applicable laws, rules, regulations, policies or procedures to the Executive Director, Executive Office staff, facility management or supervisors without fear of retaliation.
10. Refuse to accept any gifts or gratuities from OKVC residents, family, visitors, physicians, vendors, contractors, and personnel employed by such vendors and contractors (Attachment 9).
11. Treat as confidential and safeguard to the full extent permitted by law all medical, billing, employee and other OKVC information.
12. Ensure that all medical record documentation is timely and accurately completed, signed and dated as appropriate.
13. Ensure that all bills are accurate and reflect services actually provided and documented.
14. Use the OKVC’s property, network and software appropriately and only in connection with legitimate organizational activities.

STANDARDS OF CONDUCT

To assist employees, physicians, volunteers, students, vendors, contractors, and personnel employed by such vendors and contractors with their obligation to comply with our Code of Conduct, we have adopted the following Standards of Conduct. As with the Code of Conduct, compliance with the Standards of Conduct is required of all employees and a condition of continued association with the OKVC for physicians, volunteers, students, vendors, contractors, and personnel employed by such vendors and contractors.

Employees, physicians, volunteers, students, vendors, contractors, and personnel employed by such vendors and contractors are expected to report any suspected or known violations of these Standards of Conduct in accordance with the reporting requirements of the Compliance Program. All such reports will be treated as confidential to the extent permitted by law and shared only on a need to know basis. OKVC will take no adverse action against persons making such reports in good faith and without malicious intent whether or not the report is ultimately substantiated.

A. Resident Care and Rights

We are committed to providing the care and services necessary to attain and maintain the highest practicable physical, mental and psychosocial well-being of all residents. We believe that state and federal regulations provide a minimum baseline of care standards which we strive to exceed in the provision of care and services to our residents.

1. Admission and Access to Care

Admission to State Veterans Homes (“SVHs”) in Kentucky is governed by Kentucky statute. Pursuant to Kentucky Revised Statute (KRS) 40.320, The General Assembly has determined the establishment of state veterans' nursing homes to be in the best interests of the veterans of the Commonwealth and necessary to the wellbeing of our elderly and disabled veterans. Therefore, it is the purpose of KRS 40.325 to authorize the establishment of state veterans' nursing homes, to promote their construction or renovation, and to assign administrative responsibility for their planning and operation of these homes. Eligibility requirements for admission are outlined in 17 KAR 3:040 (**Attachment 1**). Charges for room and board, goods and services at SVHs are outlined in 17 KAR 3:020 (**Attachment 2**).

2. Protection and Promotion of Resident Rights

Our foremost goal is to protect and promote the rights of every resident. Residents have varying degrees of physical/psychosocial needs, intellectual disabilities, and/or cognitive impairments. A resident may be dependent on staff for some or all aspects of care, such as assistance to eat, ambulate, bathe, groom, dress, and toilet. Each resident has the right to privacy and confidentiality for all aspects of care and services. Only authorized staff directly involved in providing care and services for the resident should be present when care is provided, unless the resident consents to other individuals being present during the delivery of care. Each resident must be provided individualized care with dignity and respect. During the delivery of personal care and services, staff must remove residents from public view and provide clothing or draping to prevent unnecessary exposure of body parts. Taking unauthorized photographs or recordings of residents in any state of dress or undress using any type of equipment (e.g., cameras, smart phones, and other electronic devices) and/or keeping or distributing them through multimedia messages or on social media networks is a violation of a resident's right to privacy and confidentiality.

Every OKVC member, employee, physician, volunteer, student, vendor, contractor, and personnel employed by such vendors and contractors must protect and promote the rights of every OKVC resident and interact with residents in a courteous, professional and positive manner. Residents must be treated with respect and dignity at all times. Actions of neglect, verbal remarks which are unkind, hostile or

abusive, actions which are hostile or physical conduct that is harsh or inappropriate are considered forms of resident abuse. Mistreatment, neglect, or abuse of residents and misappropriation of resident property will not be tolerated. Allegations of resident abuse, neglect or misappropriation will be immediately reported in accordance with facility abuse reporting procedures and promptly investigated.

Annual and as needed intermittent in-services on resident abuse are conducted by the Staff Development Coordinator, Social Services, or through an online learning platform. All employees are required to attend these in-services so they have an understanding of the legal definition of abuse and the OKVC's definition of acts that constitute abuse.

All information concerning OKVC residents is confidential and should never be discussed with anyone other than those directly responsible for the residents' care and condition. Every OKVC member, employee, physician, volunteer, student, vendor, contractor, and personnel employed by such vendors and contractors must comply with the requirements of the Health Insurance Portability and Accountability Act of 1996 (HIPAA). A summary of pertinent HIPAA Privacy Rule requirements is set out in (**Attachment 3**) at the end of this Compliance Program. Should an employee breach confidentiality or violate HIPAA requirements, disciplinary action may be taken in accordance with the OKVC Employee Handbook. Compliance with HIPAA Privacy Rule requirements is a condition of continued association with the OKVC for physicians, volunteers, students, vendors, contractors, and personnel employed by such vendors and contractors.

3. Personal Use of Social Media

Social media is a term that encompasses the various activities that integrate technology, social interaction, and content creation. It includes, but is not limited to, social networking, the use of websites that allow users to share content, interact, and develop communities around similar interests. The lines between public and private, personal and professional are blurred in online social networks, and whatever you post on your personal account will likely reflect on the OKVC. Therefore, be aware of your association with the OKVC and thoughtful of how you present yourself online. A personal social media account, while an appropriate place to share personal opinions, is not a place to present an individual opinion as an official OKVC view. Be mindful that despite all privacy controls, whatever you publish can be seen by many different people, including your supervisors, co-workers, and resident families.

Personal use of social media must be consistent with the terms of use outlined in the COT Acceptable Use Policy (CIO-060 Internet and Electronic Mail Acceptable Use Policy, (**Attachment 4**) contained in all employees Employee Manual. OKVC employees cannot use personal social media sites for political purposes, to conduct private commercial transactions, or to engage in private business activities during business hours and with OKVC-issued property. OKVC employees are also prohibited from using social media to violate any other applicable state, federal, or local laws, policies, and regulations.

Employees' personal use should not be attributable to the OKVC or your job function at the OKVC facilities. An employee's use and comments made at social media sites are subject to First Amendment protections. However, any personal use must be conducted in such a manner that a reader would not think that the employee is speaking for or on behalf of the OKVC. If you list the OKVC as your employer on your personal social media profiles, any information you post will be held to a higher level of scrutiny.

Personal use of social media must be in conformance with relevant portions of OKVC workplace policies, and state and federal laws and regulations, including but not limited to, harassment and discrimination, confidentiality, ethics, code of conduct, workplace violence, etc.

Any OKVC or resident information that is considered confidential shall not be released on any social media account. You shall not use the OKVC logo or name on any personal postings. Your social media accounts may be subject to monitoring without notice or consent if these sites are accessed on OKVC property.

Violation of any of these policies may result in disciplinary action, up to and including termination.

4. Provision of Quality Care

OKVC residents receive services in accordance with a comprehensive plan of care developed by an interdisciplinary care team based on periodic comprehensive assessments of the resident's condition. Each plan of care is designed to ensure that the OKVC provides the necessary care and services to attain or maintain the resident's highest practicable physical, mental and psychosocial well-being. Where possible, residents and their family members or legal guardians are included in the development of care and treatment plans. Unless the resident has been declared incompetent or otherwise found to be incapacitated under state law, the resident has a right to participate in his/her care planning and treatment.

All services and care required by a resident's plan of care will be provided to the resident by qualified staff.

The OKVC carefully manages its pharmaceutical services to ensure accurate acquisition, receipt, dispensing and administration of all drugs. Drugs and medications provided by the contractor pharmacy are solely for the use of OKVC residents. Access to medications is limited to licensed personnel trained in medication administration. Distribution of medications to unauthorized persons is prohibited and could result in termination and criminal prosecution.

5. Nondiscrimination in the Provision of Services

Section 1557 of the Affordable Care Act prohibits the OKVC, OKVC employees, and OKVC contractors and vendors and their employees from discriminating against potential and current OKVC residents in the provision of OKVC services based on race, color or national origin (Title VI of the 1964 Civil Rights Act), age (the Age Discrimination Act of 1975), disability (Section 504 of the Rehabilitation Act of 1973), or sex (Title IX of the Education Amendments of 1972). An individual shall not, on the grounds prohibited under title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.), title IX of the Education Amendments of 1972 (20 U.S.C. 23 1681 et seq.), the Age Discrimination Act of 1975 (42 U.S.C. 6101 et seq.), or section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794), be excluded from participation in, be denied the benefits of, or be subjected to discrimination under, any health program or activity, any part of which is receiving Federal financial assistance. No OKVC employee, contractor, vendor, or employee of any such contractor or vendor shall, because of race, color, national origin, age, disability, or sex:

- deny any individual any service, or other benefit, for which he/she is qualified;
- provide any individual any service, or other benefit, which is different or is provided in a different manner from that which is provided to others under the program;
- subject any individual to segregated or separate treatment in any manner related to his/her receipt of service;
- restrict an individual, in any way, in the enjoyment of services, facilities privilege or to others or any other advantage, other benefit provided under the program;
- adopt methods of administration which would limit participation by any group of recipients or subject them to discrimination;

- address an individual in a manner that denotes difference because of race, color, national origin, age, disability, or sex

Each OKVC resident shall receive all services that are ordered by the resident's physician; indicated as necessary by the resident's most recent MDS assessment; and/or contained in the resident's plan of care.

6. Resident Safety

OKVC residents have the right to be free from abuse and neglect. In order to ensure the safety of all OKVC residents, the OKVC has instituted certain measures to screen potential and current employees, medical staff, vendors, contractors, and the employees of such vendors and contractors; to train staff to recognize and report suspected abuse and neglect; and to screen, assess and monitor prospective and current OKVC residents for aggressive behaviors.

a. Employee Screening, Licensing and Certifications

The OKVC screens all employees as part of the hiring process. That process is outlined in Section 1 of the facility's abuse policy. (**Attachment 5**)

The OKVC maintains a drug-free workplace where employees are prohibited from using or possessing any illegal drugs, controlled substances, unauthorized alcoholic beverages and intoxicating substances, and equipment and paraphernalia pertaining to such use. All prospective employees are required to submit to a drug screening test after an offer of conditional employment has been made but prior to beginning employment. Current employees may be required to submit to a drug test under certain circumstances, including when there is reasonable suspicion of drug use or diversion or following an accident or injury on the job. Those requirements are found in KDVA Policy Directive 9 "KDVA Workplaces Shall Remain Free of All Illegal Drugs" (**Attachment 6**). KDVA's Drug Testing Program is found in Policy Directive 15. (**Attachment 7**).

OKVC employees are required to notify Human Resources and their Department Manager any time they are charged with a crime. Depending on the severity and nature of the crime, the employee may or may not be allowed to continue working pending the outcome of proceedings connected with the criminal charge. Incidents of this nature will be reviewed on a case by case basis.

b. Screening Medical Staff, Vendors, Contractors, and Their Employees

The OKVC maintains a temporary staffing contract which would allow the OKVC to purchase agency nursing services as needed. If such services were required, the nurse staffing agencies would be required to ensure that temporary staff assigned to the OKVC have undergone background checks to verify that they had not been convicted of an offense that would preclude employment at the OKVC facilities.

Before finalizing a contract with any entity that will provide direct care to OKVC residents and/or bill any federal program for such services, the OKVC also checks the Office of Inspector General (OIG) List of Excluded Individuals (LEIE) for all contracting entities and any known owners and officers of those entities known to the OKVC. During the term of the contract, the OKVC checks these lists monthly for each contracting entity, its known owners and officers known to the OKVC, and its known employees who perform services at the OKVC's facilities. The OKVC will not contract with any known individual or entity that is excluded from participation in a government health care program. Refer to the Medicare Exclusion List policy. (**Attachment 8**)

The OKVC also checks on a monthly basis the OIG LEIE all known medical staff, including attending physicians, psychiatrists, psychologists, dentists, podiatrists, and nurse practitioners. Medical staff subject to OKVC credentialing requirements will comply with OKVC credentialing policies and

procedures, including, but not limited to, the timely submission of all documentation, information, waivers and releases required for credentialing and re-credentialing. Medical staff members shall comply with all applicable laws pertaining to the practice of their profession and will avoid any actions or omissions that would constitute unacceptable practice under state law. Medical staff members will immediately notify the appropriate OKVC medical director of any events or circumstances that would adversely impact upon the member's professional privileges or professional practice, including, but not limited to, the initiation of any professional disciplinary action.

c. Recognizing and Reporting Suspected Abuse and Neglect

The OKVC prohibits mistreatment, neglect, and abuse of residents and trains employees to recognize the warning signs of abuse and neglect and report any suspected abuse and neglect. The OKVC is committed to protecting those who make reports from retaliation and keeps the identity of such persons confidential to the extent allowed by law. Reports of suspected abuse and neglect are promptly and thoroughly investigated. The OKVC also reports incidents of abuse and neglect to the proper authorities as required by law.

7. Safeguarding Residents' Financial Affairs

OKVC residents have the right to manage their financial affairs and the OKVC may not require residents to deposit their personal funds within the facility. However, upon written authorization of a resident, the OKVC will hold, safeguard, manage, and account for any resident's personal funds that are deposited with the facility consistent with federal requirements.

B. Referrals

Federal and state law prohibit the OKVC and its employees from soliciting or accepting or offering or paying remuneration in exchange for referrals of persons eligible for Medicare, Medicaid or another federal health care program, or for directly purchasing, leasing, ordering, or recommending the purchase, lease or ordering of any goods, facilities, services or items covered under the benefits of Medicare, Medicaid or other federal health programs. "Remuneration" includes not only bribes, kickbacks and rebates, but also anything of value in any form. The OKVC and its employees may not knowingly and willfully offer, pay, request or receive any money or other benefit, directly or indirectly, overtly or covertly, in cash or in kind.

Examples of transactions that may violate these laws include:

1. Routinely waiving co-insurance payments or deductibles without a good faith determination that the resident is in financial need or without reasonable efforts to collect the cost-sharing amount;
2. Offering free goods or goods at below market value in exchange for patient referrals or the purchase of other goods and services;
3. Accepting gifts, hospitality or entertainment of more than nominal value from any source that is in a position to benefit from the referral of business;
4. Entering into a professional service, management service or consulting service agreement where payment is based on other than fair market value or is based on the volume of referrals.

All OKVC contracts must comply with applicable state and federal laws and regulations. As a state entity, the OKVC follows state bidding and approval processes as required for most service contracts. Contracts for routine services and goods are subject to the OKVC's policies and procedures.

The OKVC prohibits OKVC employees, in the course of or in relation to their official duties, from soliciting or accepting, directly or indirectly, any gift, gratuity, service, favor, entertainment, lodging, transportation, loan, loan guarantee, promise of future employment or other future benefit from any source, except the OKVC, for any activity related to their duties as OKVC employees.

1. HOSPICE

- Provide services pursuant to a written agreement with a hospice program that meets the conditions of participation for hospices (42 CFR Part 418) upon evidence that the resident qualifies for and has properly elected the hospice benefit;
- Develop and implement, in conjunction with the hospice program, a coordinated plan of care;
- Bill the Medicare and/or Medicaid programs only for the treatment of conditions unrelated to the terminal illness; as permitted by law;
- For residents eligible for Medicare hospice benefits and Medicaid coverage of the resident's room and board, the facility shall not accept payment by a hospice for room and board provided to a hospice resident in excess of the amount that the facility would have received if the resident had not been enrolled in hospice. Any additional payments from the hospice for items and services purchased from the facility must represent the fair market value of such additional items and services actually provided to the resident that are not included in the Medicaid daily rate;
- Provide only those services the facility is allowed to provide to hospice residents under applicable law (see Note below); and
- Not engage in any arrangement in which the facility offers, accepts, provides, or receives free services to or from a hospice in exchange for a promise or agreement to refer nursing facility residents to the hospice; or vice versa.

2. Conflict of Interest

OKVC employees are also prohibited from participating in any activity in either a private or official capacity where a conflict of interest may exist. Those restrictions are outlined in KDVA Policy Direct 12 "Key Rules of the Executive Branch Code of Ethics". (**Attachment 9**)

3. Outside Employment

Employees' first loyalty should be to the OKVC and employees must avoid associations or interests that could affect their objectivity in performing their job or in making the decisions required of their position. OKVC employees should not engage in any outside employment or other outside activity not compatible with the full and proper discharge of the duties and responsibilities of their employment whether on their own behalf or for private individuals, firms, companies, institutions, or federal or local governments. Those requirements are outlined in KDVA Policy Directive 6 "Reporting all outside employment". (**Attachment 10**)

4. Annual Disclosures

In addition, the Kentucky Ethics Commission requires an annual report to be filed by all non-merit employees in the Executive Branch which requires certain financial disclosures, ownership interests and other information that may present a conflict of interest. The Ethics Officer monitors each employee's submission of that annual report. Those requirements are outlined in KRS 11A.050. (**Attachment 11**) and are monitored by the Kentucky Department of Veterans Affairs Ethics Officer.

5. Political Activity

Political activity by OKVC employees is prohibited during work hours. Therefore, during work hours, employees may not actively engage in a political campaign on behalf of any party, committee, organization, agency, or political candidate; or attend political meetings or rallies; or otherwise use their position or employment to interfere with or affect the result of any regular or special election; or perform political duties or functions not directly a part of their employment. Rules governing political activity are outlined in KDVA Policy Directive 11 "Political Activities and KDVA Employees". (**Attachment 12**)

C. Billing and Cost Reporting

Federal and state laws and regulations prohibit knowingly and willfully making or causing to be made any false statement or representation of a material fact in an application for benefits or payment. It is also unlawful to conceal or fail to disclose the occurrence of an event affecting the right to payment with the intent to secure payment that is not due. Examples of false claims include:

1. Billing for items or services not rendered or provided as claimed;
2. Submitting claims for equipment, medical supplies and services that are not medically necessary;
3. Filing duplicate claims;
4. Billing for services or items for which there is no physician order;
5. "Upcoding" a resident's condition to a higher RUGs category;
6. Altering documentation or forging a physician signature on documents used to verify that services were ordered and/or provided;
7. Billing separately for items or services included in a per diem rate or otherwise billed as a unit;
8. Failing to maintain sufficient documentation to support the diagnosis, justify treatment, document the course of treatment and results, and promote continuity of care; and
9. Including inappropriate or inaccurate costs on cost reports to be submitted under the Medicare or Medicaid programs.

The OKVC is committed to full compliance with all federal and state regulations governing billing, coding and documentation. OKVC employees with responsibility for entering charges and procedure codes are expected to exercise diligence, care and integrity when submitting claims for payment in order to maintain the accuracy of every claim processed and submitted. OKVC employees and contractors who document the services on which those charges are based are also expected to exercise the same level of diligence, care and integrity in the performance of their duties. Each of these individuals is expected to monitor compliance with applicable billing rules.

Only those medical services that are consistent with accepted standards of medical care may be billed. Billing and coding must always be based on adequate documentation of the medical justification for the service provided and for the bill submitted, and this medical documentation must comply with all applicable regulations. Only those codes that correspond to the service rendered and documented should be selected. The OKVC uses an Electronic Medical Record and Billing system that is widely used in nursing facilities throughout the United States and Canada. All billing for services provided by the OKVC facilities is billed through this program. Each OKVC facility also has a Quality Assessment and Assurance Committee and a Quality Assurance nurse that review applicable nursing information, including potential issues with physician documentation for services or inadequate or substandard care.

On a periodic, regular basis, the OKVC will generate reports of the status of any credit balances of refunds owing to Medicare and other third-party payors. Such refunds will then be made to the appropriate payor in a timely and reasonable manner.

All Medicare and Medicaid cost reports must be prepared in compliance with all applicable state and federal regulations utilizing generally accepted accounting principles based upon documents and reports that are maintained in the OKVC's day-to-day business. Costs will be claimed when based on appropriate and accurate documentation; unallowable costs will not be claimed for reimbursement; and all costs will be properly allocated to the appropriate cost centers based on verifiable information and data. Currently, the OKVC contracts out for the preparation of these cost reports for all of its facilities. A member of the financial staff of the OKVC gathers the appropriate detailed information to send to the contractor and then responds to any further dialogue that is needed to complete the cost reports.

Any error or inaccuracy in any cost report or in any claim for payment for health care services that has been submitted or will be submitted should be reported to the OKVC Budget Director or Executive Director. If an employee or agent who has any reason to believe that anyone (including the employee himself/herself) is engaging in questionable or false cost reporting or is engaged in questionable internal accounting practices, they shall immediately report the practice to his/her immediate supervisor, Executive Director, Ethics Officer or any other KDVA representative utilizing the reporting mechanisms outlined below under the heading “Effective Lines of Communication”.

This facility is subject to the VA’s Compliance with Improper Payments Elimination and Recovery Act of 2018 and is therefore subject to monitoring by the VA to ensure proper payments for services and recovery of improper payments in addition to other federal compliance program. (**Attachment 13**)

COMPLIANCE AND ETHICS PROGRAM CONTACT

In accordance with 42 CFR 483.859(c)(1) The Executive Director is the program’s contact person and each facility administrator is the facility’s Corporate Compliance liaison. The Executive Director perform the following roles relative to the Compliance Program unless the OKVC Executive Director assigns another OKVC staff member or outside vendor to accomplish those tasks:

1. Oversee and monitor the implementation of the OKVC Compliance Program.
2. Establish and monitor a hotline for the reporting of any potential compliance issue by staff, residents, families, or others.
3. Report on a regular basis to the OKVC, Executive Director, and Ethics Officer, as appropriate, on any identified issues and measures that could help improve OKVC efficiency and quality of services, and reduce vulnerability to fraud, waste and abuse.
4. Periodically revise the OKVC Compliance Program to reflect changes in the OKVC’s needs and changes in federal and state law and regulation.
5. Develop, coordinate, and participate in a multifaceted educational and training program that focuses on the elements of the compliance program, and seek to ensure that all relevant employees and management understand and comply with pertinent federal and state standards.
6. Ensure that independent contractors and agents who furnish physician, nursing, or other health care services to OKVC residents are aware of the residents’ rights and the requirements of the OKVC Compliance Program applicable to the services they provide.
7. Ensure that any required reports to the National Practitioner Data Bank have been made.
8. Ensure that the OIG’s List of Excluded Individuals/Entities and federal SAM database have been checked with respect to all employees, medical staff, and independent contractors.
9. Assist OKVC financial management in coordinating internal compliance review and monitoring activities, including annual or periodic reviews of departments.
10. Independently investigate and act on matters related to compliance, including designing and coordinating internal investigations and any resulting corrective action with OKVC departments, subcontracted providers, and health care professionals under the OKVC’s control.
11. Participate in the appropriate reporting of self-discovered violations of program requirements.
12. Continue the momentum of the OKVC Compliance Program after the initial years of implementation.

TRAINING AND EDUCATION

To ensure that all OKVC members, employees, physicians, volunteers, students, vendors, contractors, and personnel employed by such vendors and contractors are familiar with their responsibilities under the OKVC Compliance Program, the OKVC is implementing the following mandatory ongoing educational and training program. In accordance with 42 CFR 483.95(f)(2) this

facility is exempt from the annual training requirement because the organization does not operate five or more facilities.

A. Initial Training

Initial training will focus on the requirements of the OKVC Compliance Program, fraud and abuse laws, and federal health care program and private payor requirements. This content will be communicated to all OKVC members, employees, physicians, volunteers, students, vendors, contractors, and personnel employed by such vendors and contractors through a variety of teaching methods, including live or taped training sessions, power point presentations, and distribution of the Compliance Plan and other publications that explain the requirements. The training materials will take into account the skills, experience and knowledge of the individual trainees, the goal being that, at the conclusion of the training, all trainees understand the OKVC's standards of conduct and procedures for alerting senior management to problems and concerns.. New employees will be trained during orientation. OKVC employees will be required to sign a certification acknowledging the training, which certification will be maintained by the facility, with a copy maintained in the employee's personnel file.

B. Periodic Training

Periodic training will also be provided for OKVC employees in specific areas pertinent to the employee's area of responsibility as needed.

C. Failure to Attend Required Training

Participation in Compliance Program training is a requirement for all employees and failure to comply with these training requirements may result in disciplinary action.

EFFECTIVE LINES OF COMMUNICATION

The OKVC considers it important to establish regular and ongoing communications concerning the Compliance Program, both for purposes of policy clarification and for reporting problems. The Executive Director is the designated contact for the OKVC Compliance Program and is available to answer questions concerning the Compliance Program during regular business hours. Questions and responses will be documented and, if appropriate, shared with other staff.

The Executive Director or designee will distribute in writing and/or post in conspicuous places, any modifications of or amendments to the Compliance Program. The Executive Director will also provide OKVC employees and, as appropriate, physicians, vendors, contractors, and personnel employed by such vendors and contractors employees, with written explanations of any substantial changes to the Compliance Program or, if the Executive Director determines that written materials are insufficient, interim training sessions will be conducted. OKVC employees and, as appropriate, physicians, vendors, contractors, and personnel employed by such vendors and contractors employees will be provided periodic information about the OKVC's Compliance Program, changes in applicable laws or ethical standards that may affect their respective responsibilities through written memoranda, newsletters, periodic training sessions or other appropriate forms of communication.

The OKVC has established several lines of communication for the reporting of any complaints from employees, residents, resident families, or others. Issues reported to these lines can either be made anonymously or with contact information.

Reporting

Each employee and contractor of must understand that we are committed to full compliance with all federal health care program requirements. We are particularly committed to preparing and submitting accurate claims consistent with such requirements.

Failure to comply with OKVC policies and procedures, with applicable laws, or with requirements for participation in federal health care programs by the OKVC or any of its employees, agents, contractors, or medical staff members may result in disciplinary action against that individual. Examples of a possible improper claim include:

- making false statements regarding a claim for payment;
- falsifying information in the medical record;
- double-billing for items or services;
- billing for services or items not performed or never furnished

If an individual associated with the OKVC believes that non-compliance may have occurred, they should report that issue in one of the following ways:

Any individual may report suspected violations to any supervisor, Assistant Administrator, Administrator, Deputy Executive Director, Deputy Executive Director or Ethics Officer (General Counsel). You can do so anonymously either;

- i. In person.
- ii. Anonymously By mail – Executive Director, 1111B Louisville Road, Frankfort, KY 40601.
- iii. By email; The Executive Director’s email is mark.bowman@ky.gov, Deputy Executive Director’s email is MarthaF.Workman@ky.gov, the KDVA Ethics Officers email is Dennis.Shepherd@ky.gov.
- iv. Anonymously by phone – the direct line to the Executive Director is 502-782-5725. The direct line to KDVA’s Ethics Officer is 502-782-5723.
- v. You can also call 1-800-572-6245 anonymously (not manned 24 hours). When necessary leave a message of your concern or you can leave a contact number and someone will follow-up with your concern).

Persons who report such alleged activity or conduct are protected under the Whistleblower Protection Act from retaliation or adverse employment actions. This act promotes program integrity by providing employees the means to exercise their right to expose wrongdoing.

Investigation of the reported activity or behavior will be conducted by persons not directly related with the department or area of administration under review. The investigation shall be conducted discretely and shall protect the identity of the person reporting the alleged false or fraudulent activity. The investigation shall be documented and reported to the Audit Committee of the OKVC. If the report or complaint is found to be valid, the appropriate actions shall be taken and appropriate authorities notified.

All reports are logged on the Corporate Compliance Database maintained by the Executive Director of the Kentucky Department of Veterans Affairs main office in Frankfort, Kentucky. If a call is determined to need follow-up, appropriate action will be taken by the appropriate OKVC executive office employee.

The OKVC will keep the identity of the person making a report confidential to the extent permitted by law. Information regarding significant reports received and any corrective actions taken will be

reported to the OKVC, Executive Director with the identity of the person making the report and other individual identifiers redacted whenever possible.

The OKVC posts information for the Compliance reporting and other pertinent State client advocacy numbers in conspicuous areas in each facility. Retaliation for reporting alleged improper activities is strictly prohibited.

AUDITING AND MONITORING

The OKVC Executive Director performs regular, periodic compliance reviews which focus on the OKVC's day-to-day operations, including compliance with OKVC policies and State and Federal laws and regulations related to Medicare and Medicaid program requirements, claims development, billing and cost reports, fraud and abuse, and relationships with other parties. The Compliance Officer completes an annual assessment of risk of the financial operations of the OKVC which is approved by the OKVC.

The reviews performed by the Executive Director are in addition to monitoring of clinical services performed by OKVC facility and Executive Office staff to ensure that there is a legitimate need for the service, the service is actually provided and adequately documented, and the service is not provided in a discriminatory manner. Contracts for clinical services provided on-site at the OKVC facilities are monitored by OKVC staff and management in an interactive process that results in continuous monitoring of service quality and compliance with contract terms and Title VI requirements. The OKVC Executive Office also monitors OKVC contracts for clinical and financial compliance.

DISCIPLINARY GUIDELINES

All OKVC members, employees, physicians, vendors, contractors, and personnel employed by such vendors and contractors are required to comply with applicable state and federal law, ethical standards and OKVC policies, including the Compliance Program code and standards of conduct.

The following shall be deemed violations of OKVC Compliance Program standards:

1. Failing to comply with any OKVC Compliance Program standard;
2. Authorizing, encouraging, directing, facilitating, permitting, or participating in any failure to comply with any OKVC Compliance Plan standard;
3. Failing to report a violation, withholding relevant and material information concerning a violation, or failing to cooperate in an investigation of a suspected violation;
4. Retaliating in any way against any individual who has reported and/or participated in an investigation of a suspected violation; and
5. Failing to participate in required training programs.

Any OKVC employee who violates these standards will be subject to disciplinary action, up to and including termination of employment. Compliance with these standards is also a condition of continued association with the OKVC for contractors, vendors, and their employees.

RESPONDING TO DETECTED OFFENSES

The Executive Director or Ethics Officer, or other OKVC staff or contractor as assigned by the OKVC Executive Director, will promptly investigate allegations to determine whether a material violation of applicable law or OKVC Compliance Plan standards has occurred and, if so, take decisive steps to correct the problem. As appropriate, such steps may include disciplinary action, a

corrective action plan, the return of any overpayments, a report to the appropriate governmental entity, and/or referral to the appropriate law enforcement authorities.

FEDERAL FALSE CLAIMS LAWS

The OKVC operates its facilities in compliance with all State and Federal laws and regulations and is committed to its role in preventing health care fraud and abuse and complying with applicable state and federal law related to health care fraud and abuse. The Deficit Reduction Act of 2005 requires information about both the federal False Claims Acts and other laws, including state laws, dealing with fraud, waste, and abuse and whistleblower protections for reporting those issues. This policy sets forth information concerning the OKVC's existing policies and procedures, including avenues for reporting concerns internally, and an overview of the Federal Civil False Claims and Program Fraud Civil Remedies Acts and applicable state laws.

The Centers for Medicare and Medicaid Services (CMS) defines "fraud" as the intentional deception or misrepresentation that an individual knows to be false (or does not believe to be true) and makes, knowing that the deception could result in an unauthorized benefit to himself or another person. MCS defines "abuse" as incidents or practices of providers that are inconsistent with sound medical practice and may result in unnecessary costs, improper payment, or the payment of services that either fail to meet professionally recognized standards of care or are medically unnecessary.

The Federal Government has enacted criminal and civil laws pertaining to the submission of false or fraudulent claims for payment or approval to the federal and state government and to private payors. These false claims laws, which provide for criminal, civil, and administrative penalties, provide governmental authorities with broad authority to investigate and prosecute potentially fraudulent activities, and also provide anti-retaliation provisions for individuals who make good faith reports of waste, fraud, and abuse. The Federal Civil Case False Claims and Program Fraud Civil Remedies Acts, applicable State laws, and anti-retaliation provisions are summarized in the following sections.

FEDERAL CIVIL FALSE CLAIMS ACT

The Civil False Claims Act (31 U.S.C. §3729 et seq.) is a statute that imposes civil liability on any person who:

- knowingly presents, or causes to be presented, a false or fraudulent claim, record or statement for payment or approval,
- conspires to defraud the government by getting a false or fraudulent claim allowed or paid,
- uses a false record or statement to avoid or decrease an obligation to pay the Government, and
- other fraudulent acts enumerated in the statute

The term "knowingly" as defined in the Civil False Claims Act ("FCA") includes a person who has actual knowledge of the information, acts in deliberate ignorance of the truth or falsity of the information, or acts in reckless disregard of the truth or falsity of the information. No proof of specific intent to defraud is required.

The term "claim" includes any request or demand for money or property if the United States Government provides any portion of the money requested or demanded. Potential civil liability under the FCA currently includes penalties of between five thousand five hundred (\$5,500) and eleven thousand (\$11,000) per claim, treble damages, and the costs of any civil action brought to recovery such penalties or damages. The failure to report an overpayment also qualifies as a possible violation of the FCA.

The FCA also provides for actions by private persons (qui tam lawsuits) who can bring a civil action in the name of the government for a violation of the Act. Generally, the action may not be brought more than six (6) years after the violation, but in no event more than ten (10). When the action is filed it is not disclosed (known as “under seal”) for at least sixty (60) days. The United States Government may choose to intervene in the lawsuit and assume primary responsibility for prosecuting, dismissing or settling the action. IF the Government chooses not to intervene, the private party who initiated the lawsuit has the right to conduct the action. In the event the government proceeds with the lawsuit, the qui tam plaintiff may a portion of the proceeds of the action or settlement. If the qui tam plaintiff proceeds with the action without the government, the plaintiff may receive a larger portion of the recovery. In either case, the plaintiff may also receive an amount for reasonable expenses plus reasonable attorney’s fees and costs.

If the civil action is frivolous, clearly vexatious, or brought primarily for harassment, the plaintiff may have to pay the defendant its fees and costs. If the plaintiff planned or initiated the violation, the share of proceeds may be reduced and, if found guilty of a crime associated with the violation, no share will be awarded the plaintiff.

The FCA provides protection to qui tam relators who are discharged, demoted, suspended, threatened, harassed, or in any other manner discriminated against in the terms and conditions of their employment as a result of their furtherance of an action under FCA, 31 U.S.C. §3730(h).

Remedies include reinstatement with comparable seniority as the qui tam relator would have had but for the discrimination, two times the amount of any back pay, interest on any back pay, and compensation for any special damages sustained as a result of the discrimination, including litigation costs and reasonable attorney’s fees.

FEDERAL PROGRAM FRAUD CIVIL REMEDIES ACT OF 1986

The Program Fraud Civil Remedies Act of 1986 (Administrative Remedies for False Claims and Statements” at 38 U.S.C. §3801 et seq.) is a statute that establishes an administrative remedy against any person who presents or causes to be presented a claim or written statement that the person knows or has reason to know is false, fictitious, or fraudulent due to an assertion or omission to certain federal agencies (including the Department of Health and Human Services).

The term “knows or has reason to know” is defined in the Act as a person who has actual knowledge of the information, acts in deliberate ignorance of the truth or falsity of the information, or acts in reckless disregard of the truth or falsity of the information. No proof or specific intent to defraud is required.

The term “claim” includes any request or demand for property or money, e.g., grants, loans, insurance benefits, when the United States Government provides or will reimburse any portion of the money.

The authority, i.e., federal department, may investigate and with the Attorney General’s approval commence proceedings if the claim is less than one hundred and fifty thousand dollars. A hearing must begin within six (6) years from the submission of the claim. The Act allows for civil monetary sanctions to be imposed in administrative hearings, including penalties of five thousand five hundred dollars (\$5,500) per claim and an assessment, in lieu of damages, of not more than twice the amount of the original claim.

Attachment 1, Corporate Compliance Program

17 KAR 3:040. Admission to state veterans' nursing homes.

RELATES TO: KRS 40.320, 40.325, 38 U.S.C. 1745(a)

STATUTORY AUTHORITY: KRS 40.325(2)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 40.320 authorizes state veterans' nursing homes. KRS 40.325(2) authorizes the Department of Veterans' Affairs to promulgate any administrative regulations necessary to operate the homes in compliance with applicable state and federal statutes and regulations. This administrative regulation establishes the eligibility requirements and monthly charges for admission into state veterans' nursing homes.

Section 1. Eligibility Requirements. (1) Except as provided in subsection (2) of this section, to be admitted to a Kentucky Veterans' Center, the person shall:

- (a) Be a veteran;
- (b) Be disabled by reason of disease, wounds, age, or otherwise be in need of nursing care;
- (c) Be a Kentucky resident as of the date of admission to a Kentucky Veterans' Center; and
- (d) Have a military discharge that is not of a dishonorable nature.

(2) A person shall not be eligible for admission if the person:

- (a) Has been diagnosed by a qualified health care professional as acutely mentally ill, as an acute alcoholic, as addicted to drugs, as continuously disruptive, or as dangerous to self or others;
- (b) Is ventilator dependent; or
- (c) Has needs that cannot be met by the Veterans' Center.

Section 2. Computation of Charges, Veteran Resident Resources. (1) Except as provided by subsection (4) of this section, each veteran shall contribute toward the cost of care based on the veteran's total resources and ability to pay in accordance with 17 KAR 3:020.

(2) The monthly charge for a Medicaid qualified resident shall be established by the Kentucky Department of Medicaid Services in accordance with 907 KAR 1:006.

(3) The monthly charge for a resident who does not disclose total resources shall be established in accordance with 17 KAR 3:020, Maximum charge for room and care at state veterans' nursing homes.

(4) If a veteran meets the requirements established in 38 U.S.C. 1745(a) for a service-connected disability, the veteran shall not be charged for room and care.

(5) The monthly charge for a Medicare recipient qualifying for skilled services shall be the applicable co-payments as established by the Centers for Medicare and Medicaid Services. (39 Ky.R. 1963; eff. 7-5-2013.)

Attachment 2, Corporate Compliance Program

17 KAR 3:020. Charges for room and board, goods and services at state veterans' nursing homes.

RELATES TO: KRS 40.320, 40.325, 38 U.S.C. 1745(a)

STATUTORY AUTHORITY: KRS 40.325(2)

NECESSITY, FUNCTION, AND CONFORMITY: KRS 40.320 identifies the Commonwealth's duty to provide for the well-being of elderly and disabled veterans within state veterans' nursing homes. KRS 40.325(2) authorizes the Department of Veterans' Affairs to promulgate any administrative regulations necessary to operate the homes in compliance with applicable state and federal statutes and regulations. This administrative regulation establishes the maximum monthly resident charge for room and board, and goods and services at state veterans' nursing homes.

Section 1. Definitions. (1) "Ancillary services" means services for which a separate charge is customarily made. Ancillary services include, for example, physical therapy, occupational therapy, speech therapy, laboratory procedures, x-ray services, oxygen services, optometry services, podiatry services, dentist services, audiology services, and pharmacy goods and services.

(2) "Non-routine goods or services" mean those that are directly identifiable with an individual resident and which are not customarily intended for use by all residents including such things as transportation, special activities, cable television services, pay-per-view channels, private or personal phone service, hospitalization, ambulance services, hearing aids, dentures, cosmetology or beautician services (other than basic haircuts), orthotic devices, and specialty care and equipment.

(3) "Nursing facility" means a state veterans' home (SVH) operated by the Kentucky Department of Veterans Affairs.

(4) "Private pay" means residents who pay for their nursing home care out of personal funds.

(5) "Private room" means a room in a state veterans' home that was not built in accordance with the federal VA's community living center requirements, VHA Handbook, Section 1142.01, and does not have a roommate.

(6) "Resident" means a Kentucky veteran admitted to a state veterans' nursing facility.

(7) "Room and board" means the room, dietary services, social services, nursing services, basic laundry services, the use of equipment and facilities, and routine medical and surgical supplies.

(8) "Routine goods or services" mean those which are not identifiable to a particular individual resident but which are used by all residents.

(9) "Semi-private room" means a room in a state veterans' home that was not built in accordance with the federal VA's community living center requirements, VHA Handbook, Section 1142.01, and does have a roommate.

(10) "Suite" means a private suite with a private bathroom including a shower that was built in accordance with the federal VA's community living center or small house design requirements, VHA Handbook, Section 1142.01, or Small House Model design guide.

Section 2. Charges at State Veterans Nursing Homes. (1) The private pay rate for room and board at a state veterans' nursing facility shall be according to the following schedule:

- (a) Semi-private room - \$4,000/month;
- (b) Private room - \$4,500/month; and
- (c) Suite - \$5,000/month.

(2) The total monthly charge for a private pay resident shall be:

- (a) The applicable private pay rate for room and board;
- (b) Any charge for non-routine goods or services; and
- (c) Any charge for ancillary services.

Section 3. Computation of Room and Board Charges. (1) The monthly charge (personal liability as indicated on the MAP-552) for a Medicaid qualified resident shall be established by the Kentucky Department of Medicaid services in accordance with 907 KAR 1:006. All items and services considered by the Medicaid program to be non-covered as defined in 907 KAR 1:022, that were provided to Medicaid residents during any period of a covered stay may be billed to the resident or another payer.

(2) The monthly charge for a private pay veteran shall be established in accordance with Section 2 of this administrative regulation.

(3) If a veteran meets the requirements established in 38 U.S.C. 1745(a) for a service-connected disability, the veteran shall not be charged for any room and board, goods, or services.

(4) The monthly charge for a Medicare recipient qualifying for skilled services shall be the applicable co-payments as established by the Centers for Medicare and Medicaid services in 42 C.F.R. Part 413.

(5) A late fee of six (6) percent per annum may be assessed on any unpaid balances.

Section 4. Incorporation by Reference. (1) The following material is incorporated by reference:

(a) U.S. Department of Veterans Affairs, "VHA Handbook, Section 1142.01", August 13, 2008; and

(b) U.S. Department of Veterans Affairs, "Small House Model design guide", January 2017.

(2) This material may be inspected, copied, or obtained, subject to applicable copyright law, at the Office of Kentucky Veterans Centers, Kentucky Department of Veterans Affairs, 1111B Louisville Road, Frankfort, Kentucky 40601, Monday through Friday, 8:00 a.m. to 4:30 p.m. (33 Ky.R. 1466; Am. 1787; eff. 2-2-2007; 35 Ky.R. 11; 611; eff. 12-4-2008; 38 Ky.R. 1460; eff. 5-4-2012; 44 Ky.R. 548, 902; eff. 12-1-2017.)

Attachment 3, Corporate Compliance Program

NOTICE OF PRIVACY PRACTICES

THIS NOTICE DESCRIBES HOW MEDICAL INFORMATION ABOUT YOU MAY BE USED AND DISCLOSED AND HOW YOU CAN GET ACCESS TO THIS INFORMATION. PLEASE REVIEW IT CAREFULLY.

Explanation of Forms. The Office of Kentucky Veterans Centers (“OKVC”) handles medical information about you, and how that information is handled is regulated by law. To comply with the applicable law, our facility requires you to receive this notice and, in some circumstances, to sign an authorization form.

OKVC is allowed by law to use and disclose information about you for the purposes essential to providing care, including, but not limited to, treatment, payment collection or health care operations.

An authorization allows OKVC to use and disclose information about you for any other reason that is listed in the authorization. OKVC may not refuse to admit or treat you for refusing to sign the authorization. Other rules about your rights regarding medical information are described in this notice.

Types of Uses and Disclosures. Medical information about you may be used or disclosed by OKVC for treatment, payment, and health care operations without your authorization. Treatment includes consultation, diagnosis, provision of care, and referrals. Payment includes all those things necessary for billing and collection, such as claims processing. Health care operations includes things OKVC does to assess the quality of care, train staff, and manage OKVC’s business. Some examples of disclosures and use are below.

Example of Treatment Disclosure. OKVC may disclose medical information about you to your treating physician, a hospital or other providers to help them diagnose and treat an injury or illness.

Example of Payment Disclosure. OKVC may disclose medical information about you when Medicare, Medicaid, or other payors require the information before paying for your health care services.

Example of Health Care Operations Use. OKVC may use medical information about you when it hires new staff whose training requires information about the medical needs of our residents.

Other Uses and Disclosures. We may use or disclose your protected health information in the following situations without your authorization. These situations include:

As Required By Law. We may use or disclose your protected health information to the extent that the use or disclosure is required by law. The use or disclosure will be made in compliance with the law and will be limited to the relevant requirements of the law. You will be notified, as required by law, of any such uses or disclosures.

Attachment 3, Corporate Compliance

Public Health. We may disclose your protected health information for public health activities and purposes to a public health authority that is permitted by law to collect or receive the information. The disclosure will be made for the purpose of controlling disease, injury or disability. We may also disclose your protected health information, if directed by the public health authority, to another government agency that is collaborating with the public health authority.

Communicable Diseases. We may disclose your protected health information, if authorized by law, to a person who may have been exposed to a communicable disease or may otherwise be at risk of contracting or spreading the disease or condition.

Health Oversight. We may disclose protected health information to a health oversight agency for activities authorized by law, such as audits, investigations, and inspections. Oversight agencies seeking this information include government agencies that oversee the health care system, government benefit programs, other government regulatory programs and civil rights laws.

Abuse or Neglect. We may disclose your protected health information to a public health authority that is authorized by law to receive reports of child abuse or neglect. In addition, we may disclose your protected health information if we believe that you have been a victim of abuse, neglect or domestic violence to the governmental entity or agency authorized to receive such information. In this case, the disclosure will be made consistent with the requirements of applicable federal and state laws.

Food and Drug Administration. We may disclose your protected health information to a person or company required by the Food and Drug Administration to report adverse events, product defects or problems, biologic product deviations, track products; to enable product recalls; to make repairs or replacements, or to conduct post marketing surveillance, as required.

Legal Proceedings. We may disclose protected health information in the course of any judicial or administrative proceeding, in response to an order of a court or administrative tribunal (to the extent such disclosure is expressly authorized), in certain conditions in response to a subpoena, discovery request or other lawful process.

Law Enforcement. We may also disclose protected health information, so long as applicable legal requirements are met, for law enforcement purposes. These law enforcement purposes include (1) legal processes and otherwise required by law, (2) limited information requests for identification and location purposes, (3) pertaining to victims of a crime, (4) suspicion that death has occurred as a result of criminal conduct, (5) in the event that a crime occurs on the premises of OKVC, and (6) medical emergency (not on OKVC's premises) and it is likely that a crime has occurred.

Coroners, Funeral Directors, and Organ Donation. We may disclose protected health information to a coroner or medical examiner for identification purposes, determining cause of death or for the coroner or medical examiner to perform other duties authorized by law. We may also disclose protected health information to a funeral director, as authorized by law, in order to permit the funeral director to carry out his duties. We may disclose such information in reasonable anticipation of death. Protected health information may be used and disclosed for cadaveric organ, eye or tissue donation purposes.

Attachment 3, Corporate Compliance

Research. We may disclose your protected health information to researchers when the research has been approved by an institutional review board that has reviewed the research proposal and established protocols to ensure the privacy of your protected health information.

Criminal Activity. Consistent with applicable federal and state laws, we may disclose your protected health information, if we believe that the use or disclosure is necessary to prevent or lessen a serious and imminent threat to the health or safety of a person or the public. We may also disclose protected health information if it is necessary for law enforcement authorities to identify or apprehend an individual.

Military Activity and National Security. When the appropriate conditions apply, we may use or disclose protected health information of individuals who are Armed Forces personnel (1) for activities deemed necessary by appropriate military command authorities; (2) for the purpose of a determination by the Department of Veterans Affairs of eligibility for benefits, or (3) to foreign military authority if you are a member of that foreign military services. We may also disclose your protected health information to authorized federal officials for conducting national security and intelligence activities, including for the provision of protective services to the President or others legally authorized.

Workers' Compensation. Your protected health information may be disclosed by us as authorized to comply with workers' compensation laws and other similar legally-established programs.

Inmates. We may use or disclose your protected health information if you are an inmate of a correctional facility and your physician created or received your protected health information in the course of providing care to you.

Required Uses and Disclosures. Under the law, we must make disclosures to you and when required by the Secretary of the Department of Health and Human Services to investigate or determine our compliance with the law.

OKVC Directories. Unless you object, we will use and disclose in our OKVC directory your name, the location at which you are receiving care, your condition (in general terms). All of this information will be disclosed to people that ask for you by name.

Others Involved in Your Healthcare. Unless you object, we may disclose to a member of your family, a relative, a close friend or any other person you identify, your protected health information that directly relates to that person's involvement in your health care. If you are unable to agree or object to such a disclosure, we may disclose such information as necessary if we determine that it is in your best interest based on our professional judgment. We may use or disclose protected health information to notify or assist in notifying a family member, personal representative or any other person that is responsible for your care of your location, general condition or death. Finally, we may use or disclose your protected health information to an authorized public or private entity to assist in disaster relief efforts and to coordinate uses and disclosures to family or other individuals involved in your health care.

Authorized Uses and Disclosures. Additional uses and disclosure may be made if you have given written authorization, which may be revoked at any time in writing delivered to the Nurse Supervisor or Social Worker, except to the extent OKVC acted in reliance on the authorization.

Attachment 3, Corporate Compliance

Restrictions. You have the right to request restrictions on the use and disclosure of medical information about you; however, OKVC will only be bound by the restrictions if OKVC notifies you that it agrees with them.

Confidentiality. You have the right to have OKVC use only confidential means of communicating with you about medical information. This means you may have information delivered to you at a certain time or place, or in a manner that keeps your information confidential.

Access. You have the right to see and receive a copy of information about you kept by OKVC under most circumstances.

You shall have access to your medical information upon request, except in instances where your treating physician determines that it would not be medically advisable to provide the information to you, in which case the information will be provided to your legal representative.

Excluding weekends and holidays, you or your legal representative will have access to medical information within twenty four (24) hours of the request for access. Should you or your legal representative wish to obtain a photocopy of your medical information, copies shall be provided by OKVC upon two (2) working days notice.

Amendment. You have the right to have OKVC amend its records of information about you. OKVC may refuse to amend information that is accurate, that was created by someone else, or is not disclosable to you.

Accounting. You have the right to see a list of disclosures of medical information about you by OKVC, which includes the purposes and recipients of the information.

Copy. You have the right to receive a paper copy of this notice.

Privacy Notice. OKVC is required by law to keep medical information about you private and to give you this notice. OKVC must abide by this notice. However, OKVC reserves the right to amend this notice and make such changes applicable to all medical information maintained by OKVC. Any revised notice will be provided to you.

Complaints. You may complain to OKVC if you believe your privacy rights have been violated by giving a written complaint to Administrator of the facility. You may also complain to the Secretary of the U.S. Department of Health and Human Services. OKVC will not retaliate against you for making a complaint.

Effective Date. This notice is effective from July 1, 2013 until revised by OKVC.

Attachment 4, Corporate Compliance

Office of the Chief Information Officer Enterprise Policy

Policy Number: CIO-060

Effective Date: 05/15/1996

Revision Date: 12/15/2017

Reviewed Date: 12/15/2017

Subject: Internet and Electronic Mail Acceptable Use Policy

Policy Statement: The purpose of this enterprise policy is to define and outline acceptable use of Internet and Electronic mail (E-mail) resources in state government. These rules and guidelines are in place to protect both the user and the Commonwealth.

Policy Maintenance: The Personnel Cabinet, the Commonwealth Office of Technology (COT) Office of Infrastructure Services, and the COT Office of Enterprise Technology share responsibility for maintenance and interpretation of this policy. Agencies may choose to add to this policy, in order to enforce more restrictive policies as appropriate and necessary. Therefore, staff members are to refer to their agency's internal acceptable use policy, which may have additional information or clarification of this enterprise policy.

Authority: [KRS 42.726](#) authorizes the Commonwealth Office of Technology (COT) to develop policies that support and promote the effective application of information technology within the executive branch of state government, as well as information technology directions, standards, and necessary management processes to assure full compliance with those policies.

Applicability: This policy is to be adhered to by all Executive Branch agencies and staff, including employees, contractors, consultants, temporaries, volunteers and other workers within state government. This policy applies to all resources and information technology equipment owned or leased by the Commonwealth regardless of the time of day, location, or method of access.

Responsibility for Compliance: Each agency is responsible for assuring that staff under its authority is aware of the provisions of this policy, that compliance is expected, and that intentional, inappropriate use of Internet and E-mail resources may result in disciplinary action up to and including dismissal. To demonstrate awareness and knowledge of this policy, signed acknowledgement forms are required. It is also each Executive Cabinet's responsibility to enforce and manage this policy. Failure to comply may result in additional shared service charges to the agency for COT's efforts to remedy inappropriate usage.

Policy: As provisioned, Internet and E-mail resources, services, and accounts are the property of the Commonwealth of Kentucky. These resources are to be used for state business purposes in serving the interests of state government, citizens, and customers in the course of normal business operations. This Acceptable Use Policy represents a set of rules and guidelines to be followed when using the Commonwealth network or any other network that is used as a result of connecting to the Internet and E-mail.

Attachment 4, Corporate Compliance

In compliance with the laws of the Commonwealth and this policy, staff members of the Commonwealth of Kentucky are encouraged to use the Internet and E-mail to their fullest potential to:

- Further the State's mission
- Provide service of the highest quality to its citizens
- Discover new ways to use resources to enhance service, and
- Promote staff development

State government staff members should use the Internet and E-mail, when appropriate, to accomplish job responsibilities more effectively and to enrich their performance skills.

The acceptable use of Internet and E-mail represents the proper management of a state business resource. The ability to connect with a specific Internet site does not in itself imply that a staff member is permitted to visit that site. Tools are in place to monitor staff member's use of E-mail and the Internet. Staff shall have no expectation of privacy associated with E-mail transmissions and/or the information they publish, store, or access on the Internet using the Commonwealth's resources.

Incidental personal uses of Internet and E-mail resources are permissible, but not encouraged. Excessive personal use could lead to loss of the resource privileges and may result in disciplinary action pursuant to KRS 18.A up to and including dismissal. Staff members are responsible for exercising good judgment regarding incidental personal use. Any incidental personal use of Internet or E-mail resources must adhere to the following limitations:

- It must not cause any additional expense to the Commonwealth or the staff member's agency
- It must be infrequent and brief
- It must not have any negative impact on the staff member's overall productivity
- It must not interfere with the normal operation of the staff member's agency or work unit
- It must not compromise the staff member's agency or the Commonwealth in any way
- It must be ethical and responsible

Attachment 4, Corporate Compliance

By [Executive Order 2009-1198](#), the Governor prohibits state staff members from text messaging while driving government-owned vehicles. Additionally, the Commonwealth does not encourage nor support the use of any mobile communication devices while operating non-government owned motor vehicles. This includes reading from or entering data into any hand-held or other electronic device for purposes such as telephone calls, emailing, navigational information, text messaging or similar activities.

Staff/User Responsibilities:

- Read, acknowledge and sign an agency acceptable use policy statement before using these resources.
- Use access to the Internet and E-mail in a responsible and informed way, conforming to network etiquette, customs, courtesies, and any or all applicable laws or regulation. ([See also CIO-061 Social Media Policy.](#))
- As with other forms of publications, copyright restrictions/regulations must be observed.
- Staff shall be aware that their conduct or information they publish could reflect on the reputation of the Commonwealth. Therefore, professionalism in all communications is of the utmost importance.
- Staff members who choose to use E-mail to transmit sensitive or confidential information should encrypt such communications using the Enterprise Standards (X.509 certificates) and approved product for secure electronic messaging services.
- Staff shall represent themselves, their agency or any other state agency accurately and honestly through electronic information or service content.

Supervisor Responsibilities:

- Supervisors are required to identify Internet and E-mail training needs and resources, to encourage use of the Internet and E-mail to improve job performance, to support staff attendance at training sessions, and to permit use of official time for maintaining skills, as appropriate.
- Supervisors are expected to work with staff members to determine the appropriateness of using the Internet and E-mail for professional activities and career development, while ensuring that staff do not violate the general provisions of this policy, which prohibit using the Internet and E-mail for personal gain.
- Managers and supervisors that need to review a staff member's E-mail for a vacant position, such as employee Separation, employee on leave, or email forwarding due to departure are required to submit an E-mail Review Request Form ([COT-F084](#)) for a review of the e-mail account.
- Managers and supervisors who suspect that a staff member is using the Internet and/or Email inappropriately must submit a Security Investigation Request Form ([COT-F182](#)) to review the internet usage and/or E-mail.
- Agency Responsibilities:

Attachment 4, Corporate Compliance

- E-mail and Internet access should be used for “appropriate business use” only. Incidental personal use is permissible, but not encouraged. This policy recognizes the specific definition of appropriate business use may differ among agencies based on their mission and functions. Therefore, each agency should define appropriate business use to ensure staff members and users are fully informed.
- Create an Internet and E-mail Acceptable Use Policy statement and require a signed acknowledgement by all staff members and users before accessing these resources.
- Agencies that permit the use of E-mail to transmit sensitive or confidential information should be aware of the potential risks of sending unsecured transmissions. E-mail of this nature should, at a minimum, contain a standard agency-level confidentiality statement. E-mail content and file attachments considered sensitive or confidential must be encrypted using the Enterprise Standards (X.509 certificates) approved products for secure electronic messaging services. To protect confidential data, some federal laws require the use of encrypted transmission to ensure regulatory compliance. [Enterprise Standard 5100: Encryption](#) should be observed.
- Agencies are responsible for the content of their published information and for the actions of their staff, including the proper retention and disposal of E-mail records. [Enterprise Standard 4060: Recordkeeping – Electronic Mail](#) should be observed.
- Any commercial use of Internet connections by agencies must be approved by COT to make certain it does not violate the terms of COT's agreement with the Commonwealth's Internet provider. No reselling of access is allowed.
- Agencies shall not accept commercial advertising or vendor-hosted website advertising for which the agency receives compensation. As a general practice, state agencies should avoid endorsing or promoting a specific product or company from agency websites, however the placement of acknowledgements, accessibility and certification logos are acceptable

Prohibited and Unacceptable Uses: Use of Internet and E-mail resources are privileges that may be revoked at any time for unacceptable use or inappropriate conduct. Any abuse of acceptable use policies may result in notification of agency management, revocation of access and disciplinary action up to and including dismissal. Unacceptable use of internet and email resources includes, but is not limited to the following activities which are, **strictly prohibited**.

- Violating the rights of any person or company protected by copyright, trade secret, patent or other intellectual property, including but not limited to, the downloading, installation or distribution of pirated software, digital music and video files.
- Engaging in illegal activities or using the Internet or E-mail for any illegal purposes, including initiating or receiving communications that violate any state, federal or local laws and regulations, including KRS 434.840-434.860 (Unlawful Access to a Computer) and KRS 512.020 (Criminal Damage to Property Law). This includes malicious use, spreading of viruses, and hacking. Hacking means gaining or attempting to gain the unauthorized access to any computers, computer networks, databases, data or electronically stored information.

Attachment 4, Corporate Compliance

- Using the Internet and E-mail for personal business activities in a commercial manner such as buying or selling of commodities or services with a profit motive.
- Using resources to actively engage in procuring or transmitting material that is in violation of sexual harassment or hostile workplace laws, whether through language, frequency or size of messages. This includes statements, language, images, E-mail signatures or other materials that are reasonably likely to be perceived as offensive or disparaging of others based on race, national origin, sex, sexual orientation, age, disability, religious or political beliefs.
- Using abusive or objectionable language in either public or private messages.
- Knowingly accessing pornographic sites on the Internet and/or disseminating, soliciting or storing sexually oriented messages or images.
- Misrepresenting, obscuring, suppressing, or replacing a user's identity on the Internet or E-mail. This includes the use of false or misleading subject headers and presentation of information in the distribution of E-mail.
- Using the E-mail account of another employee without receiving written authorization or delegated permission to do so.
- Forging E-mail headers to make it appear as though an E-mail came from someone else.
- Sending or forwarding chain letters or other pyramid schemes of any type.
- Sending or forwarding unsolicited commercial E-mail (spam) including jokes.
- Soliciting money for religious or political causes, advocating religious or political opinions and/or endorsing political candidates.
- Making fraudulent offers of products, items, or services originating from any Commonwealth account.
- Using official resources to distribute personal information that constitutes an unwarranted invasion of personal privacy as defined in the Kentucky Open Records Act, KRS 61.870 – 61.884.
- Online investing, stock trading and auction services such as eBay unless the activity is for Commonwealth business.
- Developing or maintaining a personal web page on or from a Commonwealth device.
- Use of peer-to-peer (referred to as P2P) networks.
- Any other non-business related activities that will cause congestion, disruption of networks or systems including, but not limited to, Internet games, online gaming, unnecessary Listserve subscriptions, Chat rooms, messaging services or similar Internet-based collaborative services.

With proper exception approved, staff members may be exempt from these prohibitions during the course of completing job requirements and legitimate state government business.

Attachment 5, Corporate Compliance

1. Office of Kentucky Veterans Centers Employee Screening

Policy Statement

Our facility does not knowingly employ any individuals who (1) Have been found guilty of abuse, neglect, exploitation, misappropriation of property, or mistreatment by a court of law; (2) Have had a finding entered into the State nurse aide registry concerning abuse, neglect, exploitation, mistreatment of residents or misappropriation of their property; or (3) Have a disciplinary action in effect against his or her professional license by a state licensure body as a result of a finding of abuse, neglect, exploitation, mistreatment of residents or misappropriation of resident property.

Procedure

1. The Human Resources Administrator or other person designated by the administrator will conduct employment background checks, reference checks and criminal conviction checks on persons making application for employment with this facility. Such investigation will be initiated prior to employment or immediately after an offer of employment with a copy placed in the employee's personnel file.
2. Our facility will conduct the following **criminal background checks**:
 - a. The **KARES (KY Applicant Registry and Employment Screening) Program**, which includes the following checks and:
 - i. License or certification verification
 - ii. Kentucky Child Abuse Network Registry
 - iii. KY Nurse Aide and Home Health
 - iv. KY Adult Caregiver Misconduct Registry
 1. Queried for all prospective employees upon initial hire and annually thereafter
 2. Queried for certain Volunteers (KRS 209.032)

The facility must not employ an individual that has a finding entered into the State nurse aide registry concerning abuse, neglect, exploitation, mistreatment of residents or misappropriation of their property.

 - v. OIG List of Excluded Individuals/Entities
 - vi. KY Sex Offender Registry
 - vii. National Sex Offender Public Website
 - b. Administrative Office of the Courts (**AOC**) report.
 - c. If the criminal background check cannot be completed using the KARES system, the facility must conduct a state police criminal background check for all states that are listed in the employee's application or resume. This exception to using the KARES system must be approved in writing by the facility administrator and the reason for the deviation, such as, unable to read fingerprints, fingerprint reader is out of order or unavailable, documented in the employee's personnel file.
3. For all licensed professional staff, the respective licensure board will be contacted to confirm their **license is current and active** and that there are no sanctions assessed against their license. Documented proof will be placed in the employee's personnel file.
 - a. This facility will not employ individuals who have a disciplinary action in effect against his or her professional license or has had a disciplinary action taken against their professional license by a state licensure body as a result of a finding of abuse, neglect, mistreatment of residents or misappropriation of their property.
4. Prior convictions of offenses **other than** abuse, neglect, exploitation, misappropriation of property, or mistreatment by a court of law may not necessarily disqualify an applicant from employment with this facility. In such instances, serious consideration will be given to the position applied for, the seriousness of the offense, and how recently the offense was committed.

Attachment 6, Corporate Compliance

**KENTUCKY DEPARTMENT OF VETERANS AFFAIRS****KDVA WORKPLACES SHALL REMAIN FREE OF ALL ILLEGAL DRUGS****POLICY DIRECTIVE 9**

POLICY

By its own policy, the Personnel Cabinet has established that all state employees must comply with the drug-free workplace requirements of the 1988 Anti-Drug Abuse Act of the federal government as a condition of continued employment with the state. This policy directive restates the Personnel Cabinet's policy so that all KDVA employees clearly understand that failure to comply will lead to disciplinary action by the appointing authority for misconduct, up to dismissal from state employment processed under the appropriate personnel regulations.

LEGAL AUTHORITY

The 1988 federal Anti-Drug Abuse Policy places several requirements on the states as conditions for obtaining federal grants. Failure to meet these conditions leads to the loss of federal funding.

REQUIREMENTS IN THE KDVA WORKPLACE

1. Based upon the Personnel Cabinet's drug-free workplace policy, restated through this KDVA policy directive, all KDVA employees are placed on notice that any of the following acts shall be subject to disciplinary action by the appointing authority for misconduct, up to dismissal from state employment: unlawful manufacture, distribution, dispensation, possession or use of any controlled substance.
2. Understanding that a KDVA employee found in violation of Part 1 is subject to disciplinary action, the Kentucky Employee Assistance Program (KEAP) is an employee assistance program that provides resources for employees with drug or alcohol abuse problems. State-supported health insurance provides coverage for the treatment of the problem. The availability of this Assistance Program in no manner prevents any KDVA facility from taking appropriate disciplinary action for a workplace violation. Whether an employee in violation of the drug-free workplace

requirements is disciplined, required to complete a drug treatment program, or both, these are decisions that depend on the particular facts and circumstances of each case.

3. As part of the federal requirements of the Anti-Drug Abuse Act, each KDVA employee is required to report to the appointing authority any conviction the employee receives for violating any criminal drug statute, when the violation occurs in the KDVA workplace. Failure to report such a conviction within five days of receiving that conviction shall also subject the employee to disciplinary action.

4. Each nursing home, the field operations office, the headquarters office, and each cemetery office shall reproduce Parts 1, 2, and 3 above and place this as a Notice to Employees in a manner that is readable and accessible by all of that office's employees.

Attachment 7, Corporate Compliance



KENTUCKY DEPARTMENT OF VETERANS AFFAIRS

DRUG TESTING PROGRAM

POLICY DIRECTIVE 15

POLICY

Under current guidelines, designated employees of the Office of Kentucky Veterans Centers (OKVC) shall be subject to drug testing as well as designated applicants for positions within OKVC.

LEGAL AUTHORITY

41 U.S.C. 701 -707, Federal Drug Free Workplace Act of 1988. 17 KAR 3:030, Drug testing procedures at Kentucky Department of Veterans nursing homes. Crossreference this Policy Directive with KDVA Policy Directive 9, KDVA Workplaces Shall Remain Free of All Illegal Drugs.

EMPLOYEES SUBJECT TO TESTING

All test-designated employees are subject to drug testing under this policy. This means employees of the Office of Kentucky Veterans Centers who provide care, treatment, or support services to a resident of one of OKVC state veterans nursing homes.

APPLICANTS SUBJECT TO TESTING

All job applicants seeking a position within the Office of Kentucky Veterans Centers are subject to pre-appointment testing. The specific applicants to be tested shall be determined by the Appointing Authority. If selected for testing, the applicant shall agree to take a drug test and, should the test reveal a positive result without legal justification or excuse, the applicant shall not be appointed. No one shall be appointed who fails a drug test or refuses to test.

Attachment 7, Corporate Compliance Program

AUTHORIZED DRUG TESTING UNDER 17 KAR 3:030

17 KAR 3:030 authorizes the following categories of drug testing: (1) pre-appointment; (2) post-accident; (3) reasonable suspicion; and (4) random. Guidelines for this testing are found within the administrative regulation.

SAFEGUARDS TO PROTECT EMPLOYEE RIGHTS INCLUDING PRIVACY

The KDVA Drug Testing Policy is intended to comply with all state laws governing drug testing, and is designed to safeguard employee privacy rights as well as rights provided to merit status employees under existing statutes and regulations.

Only persons with a true need to know shall have access to an employee's drug test results. This shall include the Drug Testing Officer, the OKVC Executive Director, facility Administrator, the Appointing Authority, the agency staff attorney, and others deemed necessary by the Appointing Authority to effectuate the directives of 17 KAR 3:030, as well as other laws, and this policy. Test results shall be made available in any administrative or judicial proceeding arising out of the drug test result.

DRUG TESTING PROCEDURES - THE DRUG TESTING OFFICER

Each state veterans nursing home shall appoint a Drug Testing Officer (DTO) to serve as the primary point of contact for facility (nursing home) test designated employee drug testing. The primary DTO shall be the facility's Assistant Administrator. The alternate DTO shall be the facility's Administrative Branch Manager. The DTO shall coordinate all drug testing activity between the employee, the facility (nursing home), the Department* and the drug testing vendor.

The duties of each DTO shall include the following: (1) provide the drug testing vendor a current master roster of test-designated employees; (2) ensure that an on-site testing area is available and complies with federal drug-testing guidelines; (3) maintain all records pertaining to the facility's drug testing program in a confidential and secure manner; (4) and to ensure that no KDVA employee has any influence in the selection process used by the drug testing vendor to randomly select employees for drug testing.

Each DTO shall follow the same, standard drug testing procedures required by the drug testing vendor to ensure fair treatment and processing of all test samples.

EXPLANATION OF THE KDVA DRUG TESTING PROGRAM

Before being directed to take a drug test under this Program, each test-designated employee shall receive a detailed explanation of the Program, and shall be asked to sign an Acknowledgment of Understanding verifying that such an explanation has been provided.

Attachment 7, Corporate Compliance Program

NOTICE OF DRUG TEST RESULT - AGENCY DIRECTED SICK LEAVE

Any test-designated employee who and any applicant who tests shall be notified as soon as practical of the drug test result. In the case of a positive test result, the employee shall receive specific information as to the consequences of the positive result. For any employee testing positive, the normal procedure will be to place the employee on agency directed sick leave, pending consideration of disciplinary action. The employee shall remain in that status until such time as the employee provides documentation from a professional substance abuse treatment provider that verifies that the employee has been evaluated, has enrolled or has completed a drug treatment program, and the provider certifies that the employee is able to return to work and safely perform the essential functions of the job duties assigned. An employee who enrolls in a treatment program pursuant to a positive drug test (or other violation of drug or alcohol policies) shall remain in the program until completing the program to the satisfaction of the program administrators. Upon request of the Appointing Authority the employee shall produce documentation to confirm continued attendance in or completion of the program.

CONSEQUENCES OF A POSITIVE DRUG TEST RESULT

Any test-designated employee who tests positive shall be immediately removed from the care or treatment of residents. The employee's supervisor, in coordination with other levels of management, shall conduct a review of the employee's entire work record. The final decision to discipline the employee, involving a penalty up to and including dismissal from employment, shall be made after a whole record review, after hearing the employee's explanation if any, and after considering the drug screen report itself.

COSTS OF THE DRUG TESTING PROGRAM

KDVA shall pay the costs associated with the Drug Testing Program. Should an applicant or test-designated employee who tests positive seek an independent test of the remaining urine sample} that applicant or that test-designated employee shall bear the costs of the test.

DRUG COUNSELING AND DRUG TREATMENT

Every effort shall be made to provide any employee who tests positive for drugs with accurate information on available treatment and counseling programs. These employees will also receive information about the Kentucky Employee Assistance Program (KEAP) and how to contact KEAP.

Attachment 7, Corporate Compliance Program

SELF-REPORTING OF DRUG USE

When an employee self-reports under the guidelines found in 17 KAR 3:030, Section 5, no disciplinary action shall be taken for such a report and the employee shall be allowed to take the employee's own accrued leave time to enter a treatment program. Even in the case of self-reporting, the affected employee shall be removed from the care or treatment of residents.

DESIGNATION OF AUTHORITY

Pursuant to 17 KAR 3:030, Section 1 (3), the Deputy Commissioner, the OKVC Executive Director, and the Administrator and Assistant Administrator of each KDVA veterans center are designated to act as Appointing Authority.

Attachment 8, Corporate Compliance Program

Medicare Exclusion List

Highlights

Policy Statement

No Federal health care program payment may be made for items or services furnished by an excluded individual or entity.

1. All companies, providers, contractors and individuals that contract with the facility for any type of service must be screened to determine whether they are on the exclusion list. This must be completed before the contract begins.
2. The facility will not contract with any entity on the Medicare exclusion list.
3. Medicare exclusions may be checked by two methods. A) download the database and search for the entity, b) conduct an online search
4. The online search is the preferred option, however the facility may conduct a database search. When completing database searches, ensure the most recently available database is used.
5. The online search tool can be found at <https://exclusions.oig.hhs.gov/default.aspx>
6. The attached appendix offers tips and directions for conducting online searches.
7. The Procurement Specialist or designee will conduct the searches a) before any contract is entered into, and b) quarterly on all existing contracts.
8. The search and its results are to be printed and placed in a Medicare Exclusion List folder in date order, by year.
9. Any search that results in a positive result must be communicated to the Administrator immediately.

References	
OBRA Regulatory Reference Numbers	
Survey Tag Numbers	
Related Documents	56840 Federal Register / Vol. 73, No. 190 / Tuesday, September 30, 2008, Medicare Exclusion Audit Checklist, Quick Tips and Instructions
Policy Revised	Date: <u>9/12/2017</u> By: <u>MB</u> Date: _____ By: _____ Date: _____ By: _____ Date: _____ By: _____

Attachment 9, Corporate Compliance Program

KENTUCKY DEPARTMENT OF VETERANS AFFAIRS**KEY RULES OF THE EXECUTIVE BRANCH CODE OF ETHICS
APPLICABLE TO ALL KDVA EMPLOYEES****POLICY DIRECTIVE 12**

POLICY

This policy directive provides a summary of the key rules found in the Executive Branch Code of Ethics, rules that apply to all KDVA employees. These rules strive to avoid serious conflicts of interest between the duties we undertake on behalf of the Commonwealth and private interests. When such conflicts occur, public trust in the Department is damaged. Following the rules below helps maintain that public trust in all that KDVA seeks to do for Kentucky's veterans. This Department is committed to educating all KDVA employees on the Code of Ethics through annual training, and by incorporating key ethical rules in this directive.

LEGAL AUTHORITY

The Kentucky Department of Veterans Affairs is an executive branch agency that falls directly under the control of the Officer of the Governor. As such, KDVA employees must follow the Executive Branch Code of Ethics. Key legal guidance may be found on the Executive Branch Ethics Commission web site at: <http://ethics.ky.gov/>. See KRS 11A.001 – 11A.990 (also found on the Commission's web site) and the Guide to the Executive Branch Code of Ethics (contact the Ethics Commission for a copy).

SUMMARY OF THE KEY RULES ALL KDVA EMPLOYEES MUST KNOW**Accepting Gifts**

The Over \$25 Prohibition. Neither a KDVA employee, the employee's spouse, or the employee's dependent child may accept a gift valued at greater than \$25 per calendar year per source from any person or business doing business with KDVA, regulated by KDVA, seeking a grant from KDVA, in litigation against KDVA, or seeking in any way to influence the KDVA.

Limited Exceptions to the Over \$25 Prohibition. The prohibition against gifts of a value over \$25 does not apply to accepting a gift valued at more than \$25 from a family member if the family member is not acting on behalf of one of the interests listed in a. above. The rule also does not prevent an employee from accepting a door prize worth more than \$25 if that prize was available to the public. For a complete list of the exceptions, see the Guide cited above under Legal Authority.

Attachment 9, Corporate Compliance

Additional KDVA Reporting Requirement: Even though it is not strictly a requirement in the Code of Ethics, all KDVA employees are required to report to the Ethics Officer (Staff Attorney) any gifts bestowed upon the employee, the employee's spouse, or the employee's dependent child by any of the interests identified above. This includes gifts below the "over \$25" limit, other than nominal gifts (coffee and donuts, less than five dollars, etc.). This is so every such instance can be measured against the non-monetary standard of the "appearance of impropriety." Small gifts may not seem to present a conflict of interest, but over time, or to several employees in the same branch, these may raise questions in the minds of the public over the manner in which KDVA deals with the gift giver.

Managers and the Appointing Authority Control of Gifts: Because of the special trust between KDVA employees and the veterans they serve, nursing home administrators, branch chiefs, and any appointing authority can further restrict acceptance of gifts by employees to avoid the appearance of favoritism, bias, or impropriety.

Example: A KDVA employee making an authorized purchase in Office Depot using PRO Card is stopped by the store manager. "Here you go. Just to show you we appreciate your business." The manager hands the employee an envelope filled with gift coupons for Office Depot supplies worth twenty dollars. May the employee accept the gift? Under the Code, the employee MAY accept, but the real question is whether she should accept. If members of the public witness the transaction, will they think the employee is getting extra benefits as a state employee that she does not really earn? If the answer is yes, the employee may refuse to accept the gift or, if that is awkward, accept the gift and donate the coupons to charity. In any case, the incident must be reported to the Ethics Officer so the precise details can be used to answer the question of whether there is an appearance of impropriety raised by the gift of coupons.

Rule Against an Employee Soliciting for Gifts, Money, or Services.

KDVA employees cannot solicit for gifts, money or services from any person or business that does business with or is regulated by this Department.

Explanation: The first rule above is intended to prevent a conflict of interest when KDVA employee accepts a gift. This rule is to prevent a conflict of interest when an employee asks for something.

Exceptions: We can solicit from these sources if the purpose is to raise money for charitable, nonprofit organization. For a complete list of exceptions see the Guide, referenced above under Legal Authority.

Example: A member of the EKVC Wellness Committee is shopping one day in a Hazard, Kentucky sporting goods store. He sees the store manager and asks, "Would you like to donate any exercise apparel to be used by KDVA as incentives in our KDVA Wellness Program? We'll give your donated item to one of the winners of our year-end Wellness dinner." Did this employee violate the rule against solicitation? Depends. It's highly unlikely that KDVA regulates the sporting goods store. But if that store does business with EKVC, by supplying equipment to the therapy room, or in any other way, this would be a violation. However, if no business is done between KDVA and the store, this kind of solicitation is not prohibited under the Code.

Attachment 9, Corporate Compliance

KDVA employees may not appear to endorse a specific product or company.

Example: A KDVA branch chief is the guest speaker at a Veteran's Day event. While giving his speech he says, "I want to thank the wonderful sponsor of this event (a car company) for the time and money given in the cause of our veterans. I can honestly say that we of the Kentucky Department of Veterans Affairs, all think their cars and trucks are the best, and we hope you in the audience share our opinion." This is a classic endorsement of a private company and of that company's product. While it may be an honest personal opinion of the employee speaking, the impression given is that the entire Department is promoting the company. This is a clear violation of the rule.

The broad conflict of interest rules.

The first three rules above deal with very specific circumstances. But the Code of Ethics also sets out more generalized rules aimed at helping employees make ethical decisions.

Compromising the public interest for private gain. No KDVA employee shall knowingly use his or her influence as an employee to promote private interests over the duty to protect public interests.

Use of Official Position For Financial Gain. No KDVA employee shall knowingly use his or her job position to obtain financial gain for the employee or for the employee's family.

AUTHORIZED PENALTIES FOR VIOLATIONS

The rules stated above cover situations the average KDVA employee is likely to face while performing job duties for the Department. There are many more, such as restrictions on owning stock in a company doing business with KDVA, post-employment restrictions related to obtaining a lobbyist position, or a position with a company KDVA has regulated. The rules on maintaining a job outside of KDVA are found in Policy Directive 6, Reporting All Outside Employment. To see the full scope of the rules, see the Guide cited above, under Legal Authority.

Violations of the rules of the Code can lead to serious consequences if substantiated by the Executive Branch Ethics Commission. **The penalties range from a public reprimand to a recommendation for dismissal and a \$5,000 civil fine for each violation.**

Attachment 10, Corporate Compliance

KENTUCKY DEPARTMENT OF VETERANS AFFAIRS REPORTING ALL OUTSIDE EMPLOYMENT POLICY DIRECTIVE 6

POLICY

The Kentucky Department of Veterans Affairs is an agency of the executive branch of government. As such, it is governed by the ethical rules issued by the Executive Branch Ethics Commission. The rule on outside employment follows:

An employee is prohibited from accepting outside employment from any person or business that does business with or is regulated by the state agency for which the employee works unless the outside employment is approved by the employee's appointing authority.

In order for this determination to be made, all KDVA employees are required to report any outside employment to the headquarters. Once the Commissioner has determined that the outside employment does not present a conflict of interest, the employee shall be entered on an approved list. That list must be provided to the Executive Branch Ethics Commission on a quarterly basis.

All KDVA employees must report any type of outside employment including part-time, fulltime, and self-employment to the headquarters through their local facility's branch chief or administrator.

Reporting must be done using the standard form issued by the Executive Branch Ethics Commission and available at all KDVA offices.

All KDVA employees are responsible for accurate and timely reporting. All KDVA managers shall ensure that this policy directive is complied with in every aspect.

Appearance of Impropriety: Remember that there are many situations where there is no direct conflict of interest between outside employment and KDVA employment, but the circumstances raise the appearance by the general public of an improper work relationship. The appointing authority reserves the right to deny outside employment in these situations.

Attachment 11, Corporate Compliance

11A.050 Financial disclosure by officers, candidates, and public servants.

- (1) Each officer, each public servant listed in KRS 11A.010(9)(a) to (g), and each candidate shall file a statement of financial disclosure with the commission, as follows:
 - (a) Each officer shall file the statement within thirty (30) days of employment as an officer, and each officer who occupies his or her position during any portion of a calendar year shall file the statement for that portion of the calendar year he or she occupied the position on or before April 15 of the following year, whether or not he or she remains an officer.
 - (b) Each public servant listed in KRS 11A.010(9)(a) to (g) who occupies his or her position during any portion of a calendar year shall file the statement for that portion of the calendar year he or she occupied the position on or before April 15 of the following year, whether or not he or she remains a public servant as listed in KRS 11A.010(9)(a) to (g).
 - (c) Each officer and public servant listed in KRS 11A.010(9)(a) to (g) who does not remain an officer or public servant listed in KRS 11A.010(9)(a) to (g) for the entire calendar year shall file the statement for the portion of the calendar year that the person served as an officer or public servant listed in KRS 11A.010(9)(a) to (g). The statement shall be filed with the commission within thirty (30) days after the date the person no longer serves as an officer or public servant listed in KRS 11A.010(9)(a) to (g).
 - (d) A candidate shall file the statement reflecting the previous calendar year with the commission no later than February 15.
- (2) The statement of financial disclosure shall be filed on a form prescribed by the commission. The commission shall provide copies of the form upon request without charge.
- (3) The statement shall include the following information for the preceding calendar year:
 - (a) Name and entire residential and business address of filer;
 - (b) Title of position or office whereby filing is required;
 - (c) Any other occupations of filer and spouse;
 - (d) Positions held by the filer or his or her spouse in any business, and the name and address of the business;
 - (e) Name and address of any employer by whom the filer was employed for the one (1) year period immediately prior to becoming an officer, not including those listed in paragraph (d) of this subsection;
 - (f) Names and addresses of all businesses in which the filer, his or her spouse, or dependent children has or had an interest of ten thousand dollars (\$10,000) at fair market value or five percent (5%) ownership interest or more;
 - (g) The name and address of any source of gross income exceeding one thousand dollars (\$1,000) from any one (1) source to the filer, his or her spouse, or dependent child, as well as information concerning the nature of the business and the form of the income;
 - (h) Any representation or intervention for compensation by the filer or his or her spouse for any person or business before a state agency for which the filer works or supervises or before any entity of state government for which the filer would serve in a decision-making capacity, including the name and address of the person or business;
 - (i) All positions of a fiduciary nature held by the filer or his or her spouse in a business, including the name and address of the business;
 - (j) Information, including a street address or location, regarding any real property in which there

is an interest of ten thousand dollars (\$10,000) or more held by the filer, his or her spouse, or dependent children;

- (k) Sources, including each source's name and address, of gifts of money or property with a retail value of more than two hundred dollars (\$200) from any one (1) source to the filer, his or her spouse, or dependent children, except those from a member of the filer's family;
- (l) Identity, including an address, of creditors owed more than ten thousand dollars (\$10,000), except debts arising from the purchase of consumer goods; and
- (m) Names and addresses of family members of the filer or persons with whom the filer was engaged in a business who are registered as legislative agents under KRS 6.807 or executive agency lobbyists under KRS 11A.211.

Paragraphs (a) to (m) of this subsection shall not require disclosure of specific dollar amounts or of privileged information.

Effective: June 27, 2019

History: Amended 2019 Ky. Acts ch. 74, sec. 2, effective June 27, 2019. -- Amended 2000 Ky. Acts ch. 417, sec. 5, effective December 1, 2000; and ch. 475, sec. 4, effective July 14, 2000. -- Amended 1998 Ky. Acts ch. 429, sec. 3, effective July 15, 1998. -- Amended 1993 (1st Extra. Sess.) Ky. Acts ch. 4, sec. 72, effective September 16, 1993. -- Created 1992 Ky. Acts ch. 287, sec. 7, effective July 14, 1992.

Legislative Research Commission Note (12/1/2000). The contingency on the effectiveness of this statute set by 2000 Ky. Acts ch. 417, sec. 18, was met, the voters of the Commonwealth having ratified at the general election on November 7, 2000, a constitutional amendment (see 2000 Ky. Acts ch. 399) abolishing the Railroad Commission.

Legislative Research Commission Note (7/15/98). A reference to "KRS 11A.010(9)(a) to (i)" in subsection (1) of this statute has been changed in codification to "KRS 11A.010(9)(a) to (h)" under KRS 7.136(1)(e) and (h). 1998 Ky. Acts ch. 429, sec. 1, eliminated the former paragraph (g) of KRS 11A.010(9) and renumbered the remaining subsections accordingly. Other actions within Acts Chapter 429, including in the section that amended this statute, used the "(a) to (h)" range in new language and modified existing language to use the "(a) to (h)" range. It seems clear from context, and this has been confirmed by the drafter of the bill, that this change was intended here as well but was inadvertently overlooked.

Attachment 12, Corporate Compliance

**KENTUCKY DEPARTMENT OF VETERANS AFFAIRS****POLITICAL ACTIVITIES AND KDVA EMPLOYEES****POLICY DIRECTIVE 11**

POLICY

This policy directive provides a summary of the key rules that apply to state employees regarding the exercise of political freedom. Because of the Department's need to seek legislative authority for its various programs periodically, these rules are stated in this directive within a KDVA context.

LEGAL AUTHORITY

KRS 18A.140, Prohibition Against Discrimination and Political Activities.

PROHIBITED POLITICAL ACTS

1. It is strictly prohibited for any KDVA employee, for the purpose of attempting to influence someone to vote for or take political action for any person, to use or to promise to use political influence of that KDVA employee's official job position to help someone
 - a. obtain an appointment, or
 - b. obtain an advantage in gaining appointment to a merit system position, or
 - c. obtain an increase in pay, or
 - d. obtain any other employment advantage.

Explanation: KDVA employee A works in Maintenance at a KDVA facility. She wants her friend, B, to vote for her favorite candidate. B is unemployed. A promises B to use her pull with management to get B a job if B will vote for A's favorite. A has just violated the law. The law does not distinguish between managers and non-managers, or between merit system and non-merit

system, as far as A is concerned. The language of the statute states clearly that “no person” shall use political influence in the manner stated above to try to influence a vote.

2. Solicitation of KDVA merit system employees to contribute money or services to political parties or candidates is prohibited.

Explanation: An appointed KDVA official calls her secretary into her office and suggests that a one hundred dollar contribution by the secretary to the Platitude Party would be greatly appreciated. Her secretary is a merit system employee. The official has violated the law.

3. Prohibition Against Active Partisan Politics

- a. Merit system employees shall not be actively involved in partisan political campaigns;
- b. Merit system employees shall not be candidates for elective political office.
- c. Exception to a. and b. above: Merit system employees may be candidates for town or school district office if the office provides no compensation other than per diem payment and the election process is nonpartisan.

Explanation: A KDVA merit system employee working at the Western Kentucky Veterans Center in Hanson was elected to the local school board. He ran as an independent, defeating a democrat and a republican candidate. School board members earn less than \$5,000 annually. May he take office? In this scenario, the employee seemingly qualified under exception c, but in fact, he violated both requirements of that exception. First, this was a partisan election. Second, more than per diem was offered since he earned an annual salary, even though it was small. Answer: He cannot take the elected position without being in violation of the law.

4. **Don'ts** that apply to KDVA merit system employees:

- a. Don't serve on a political committee.
- b. Don't solicit for a political contribution or political party tickets to a political fundraising event.
- c. Don't distribute campaign literature or material.
- d. Don't pass around or otherwise circulate a partisan political nominating petition.
- e. Don't canvass a district or solicit for political support for a party either in person or in writing.

LAWFUL EXERCISE OF POLITICAL FREEDOM

1. **Private** expression of opinions on all political subjects and on any and all political candidates is a right of all KDVA employees.

Impact on KDVA operations: Even though the right of private political expression is protected, KDVA employees are asked to consider the impact that this may have on the Department if private opinions are made public. If such publication could result in a negative impact, employees are encouraged to provide the appointing authority notice of where the opinion may appear. This is not a requirement, but a recommended courtesy. No employee will be disciplined in any manner for failure to provide courtesy notice. Cross-reference with Policy Directive 3, regarding Media Issues.

Explanation: A KDVA employee working as a field benefit representative is unhappy over recent reductions in VA benefits by the federal Department of Veterans Affairs. She therefore writes a letter to the editor complaining about the situation. She does not identify her KDVA job position. Her supervisor learns after the fact that the letter was published in a local newspaper. What should the supervisor do? In this example, the employee did nothing wrong. Assuming she did not attempt to connect her private political views with her state job, she lawfully exercised her right of political expression. While she could have given a courtesy “heads up” to her appointing authority, since the letter could result in a negative impact on KDVA, the fact that she did not is not actionable. Courtesy notice is just that: out of **courtesy**.

2. KDVA merit system employees (“They” below) may make voluntary cash contributions to political parties, candidates and organizations, but may NOT contribute goods, services and labor.
3. They may wear political badges and buttons when not working and when not conducting business on behalf of the Department.
4. They may display political bumper stickers on their private vehicles.
5. They may join political clubs and attend meetings, but may NOT hold office or serve on a political club’s committees.
6. They may attend political rallies and conventions.
7. They may actively work for constitutional amendments, referenda, and for local ordinances as long as that work does not involve state time or resources.
8. They may serve as precinct election officers.
9. They may transport friends and relatives to the polls, but may not transport voters to the polls as part of a political faction.

AVOIDING THE APPEARANCE OF IMPROPER POLITICAL CONTACTS

All KDVA employees are reminded that even the most innocent looking event can lead to a compromising position between the goals and activities of the Department, and the goals and the interests of political groups and parties. An innocently scheduled speaking engagement on behalf of Kentucky veterans may turn out to be a fundraiser for a particular political party. Be watchful of these potential political events and seek guidance from the headquarters if you have any misgivings at all.

Attachment 13, Corporate Compliance

Improper Payments Elimination and Recovery Act Appendix A: Background

Program Office Responsibility

VA's Improper Payments Remediation and Oversight Office, within the Office of Finance, provides oversight and coordination of IPERA compliance activities. Individual administrations and staff offices are responsible for performing IPERA requirements applicable to their programs and activities, which are described below.

Beneficiary Travel

Beneficiary Travel provides eligible veterans and other beneficiaries mileage reimbursement or common carrier or special mode transportation to receive VA-authorized health care.

CHAMPVA

CHAMPVA shares the cost of covered healthcare services and supplies as a secondary payer or payer of last resort for certain eligible beneficiaries.

Communication, Utilities, and Other Rent

Communications, Utilities, and Other Rent comprises payments for use of communications, utility services, and charges for possession and use of land, structures, or equipment owned by others.

Compensation

VA provides compensation to veterans who are at least 10 percent disabled because of injuries or diseases that occurred or were aggravated during active military service.

Medical Care Contracts and Agreements

Medical Care Contracts and Agreements includes contracts for research, medical and educational data or services, reimbursements at contract per diem rates for hospitalization, dialysis treatment furnished by non-VA facilities, and indirect charges added for research and demonstration projects.

Pension

The Pension program provides supplemental income to veterans and their families with financial challenges. VA's Compliance with the Improper Payments Elimination and Recovery Act for FY 2018 VA OIG 18-05864-127 | Page 21 | June 3, 2019

Post-9/11 GI Bill

The Post-9/11 GI Bill provides educational assistance to veterans who served on active duty on or after September 11, 2001. VA establishes an annual maximum tuition and fee amount for students attending private schools but has no limit for in-state students attending public schools.

Prosthetics

Prosthetics funds are used for the provision of medically prescribed prosthetics and sensory aids, devices, assistive aids, repairs, and services to eligible disabled veterans for the treatment of their medical conditions.

Attachment 13, Corporate Compliance

Purchased Long-Term Services and Supports

Purchased Long-Term Services and Supports is organizationally aligned under VHA's Geriatrics and Extended Care, focusing on serious illness and chronically ill veterans who require long-term services and support.

State Home Per Diem

Under the State Home Per Diem program, states may provide care for eligible veterans in need of care in three types of programs: nursing home, domiciliary, and adult day health care.

Supplies and Materials

Supplies and Materials are acquired by formal contract or other form of purchase consumed or expended within one year.

VA Community Care

VA Community Care was established to provide timely and specialized care to eligible veterans by authorizing veterans for care in the community if needed services are not available through the VA.

Prior Reviews

Since 2012, the OIG has issued annual reports on VA's compliance with IPERA as required by OMB. The three most recent reports are:

VA's Compliance With the Improper Payments Elimination and Recovery Act for FY 2017 (Report No.17-05460-169, May 15, 2018). VA did not comply with two of six requirements.

Review of VA's Compliance With the Improper Payments Elimination and Recovery Act for FY 2016 (Report No.16-04416-231, May 15, 2017). VA did not comply with two of six requirements.

Review of VA's Compliance With the Improper Payments Elimination and Recovery Act for FY 2015 (Report No.15-04252-284, May 12, 2016). VA did not comply with two of six requirements.

ACKNOWLEDGMENT OF RECEIPT

I acknowledge that I have received a copy of the Office of Kentucky Veterans Centers Compliance and Ethics Program. I agree to read the Program, to conduct myself in conformity with all of its requirements, to adhere to the spirit and letter of the Code of Conduct and Standards of Conduct, and to cooperate with management in carrying out the objectives of the Program.

Acknowledged and agreed:

_____Signature _____Date

_____Print name

----- Facility