

<b>Policy Number &amp; Title:</b>	07-08 Compliance Communication, Reporting, and Investigation
<b>Responsible Department:</b>	Compliance
<b>Author:</b>	Greg Daniels, Chief Compliance and Privacy Officer
<b>Original Implementation Date:</b>	June 16, 2020
<b>Revision Effective Date:</b>	September 1, 2022

**I. Purpose:** The purpose of this *07-08 Compliance Communication, Reporting, and Investigation Policy* ("Policy") is to set forth OneCare's expectations of its Workforce, Officers, Board of Managers, Committees, and members of the OneCare ACO Network, as well as any individual or entity conducting business with or on behalf of OneCare, to communicate questions and report potential or actual violations of OneCare's Compliance Program, this policy, and any and all Applicable Laws. This Policy also establishes the processes for reporting Compliance Events and for the investigations of such reports.

**II. Scope:** Applicable to OneCare's Workforce, Officers, Board of Managers, Committees, members of the OneCare ACO Network, and any individual or entity conducting business with or on behalf of OneCare.

**III. Definitions:** Capitalized terms have the same definition as defined in *OneCare's Policy and Procedure Glossary*. For purposes of this Policy, the below terms have the following meanings:

Applicable Laws means all federal state and local laws, rules and regulations and the terms and conditions set forth in the policies, procedures and payer agreements of OneCare. Applicable Laws shall include, but not be limited to, the following:

- a) federal criminal law;
- b) the federal False Claims Act (31 U.S.C. 3729 et seq.) and state law equivalents;
- c) the federal anti-kickback statute (42 U.S.C. 1320a-7b(b)) and state law equivalents;
- d) the federal civil monetary penalties law (42 U.S.C. 1320a-7a) and state law equivalents;
- e) the federal physician self-referral law (42 U.S.C. 1395nn) and state law equivalents;
- f) the federal and state antitrust laws (15 U.S.C. 1 et seq. and 10 M.R.S.A. § 1101-1102-A and 5 M.R.S.A. § 207, respectively);
- g) the federal and state patient privacy protection laws, including the Health Insurance Portability and Accountability Act of 1996 ("HIPAA");
- h) the terms and conditions set forth in the Vermont All-Payer Accountable Care Organization Model ("All-Payer Model") Agreement among the Centers for Medicare & Medicaid Services ("CMS"), the Governor of the State of Vermont, the Green Mountain Care Board ("GMCB") and the Vermont Agency for Human Services ("AHS"), and all related contracts among these parties in furtherance of the All-Payer Model;
- i) those regulating and governing the formation and operation of accountable care organizations ("ACOs") and other publicly funded health care programs, including those set forth by the GMCB or the State of Vermont through AHS;
- j) ethical standards set forth in OneCare's Code of Conduct; and

the terms of all other agreements of OneCare with CMS and other public and private payers.

Compliance Authorities means any and all laws, regulations, guidelines, or other authorities applicable to OneCare.

Compliance Event means any act, event, or circumstance that is related to or in furtherance of OneCare activities that is taken by, or involves, a member of the Workforce or ACO Network, and that may be perceived by a reasonable person to be a potential or actual violation(s) of OneCare's Compliance Program, including its *07-02 Compliance Policy*, *07-03 Privacy Policy*, *07-07 Code of Conduct*, or any other compliance or privacy-related policy or procedure, or any Applicable Laws.

Probable Violation of Law means a reasonable person acting in good faith believes that a violation of law has occurred.

#### IV. Policy

##### A. General Information

1. OneCare is committed to conduct its business in accordance with its Compliance Program and Applicable Laws, and expects all members of its Workforce and ACO Network to assist in fulfilling this commitment by reporting actual or potential Compliance Events, including, without limitation, any observed or suspected unlawful, unethical, or wrongful conduct, including suspected fraud, waste, and abuse.
2. OneCare recognizes that in order to demonstrate this commitment a reliable process must exist for the communication, reporting, and investigation of Compliance Events.
3. The members of OneCare's Workforce and ACO Network have an affirmative duty to report any actual or potential Compliance Event.
4. Reporting of any Compliance Event may be made anonymously and will remain confidential except as may be necessary to complete an investigation, notify the appropriate internal and external parties, implement corrective actions, or as required by law.
5. OneCare will not tolerate retaliation against any individual who reports, or cooperates in the investigation of, a Compliance Event. Reports of retaliation will be investigated thoroughly and appropriate discipline will be imposed on any individual participating in such retaliation.

##### B. Communication and Reporting of Compliance Events Process

1. Compliance Event communication and reporting may be made through any of the following methods:
  - a. Direct written or oral communication by mail, email, telephone, or personal contact with OneCare's Chief Compliance and Privacy Officer ("CCPO"): [Compliance@OneCareVT.org](mailto:Compliance@OneCareVT.org).
  - b. Direct written or oral communication by mail, email, telephone, or personal contact with the individual's immediate supervisor, Officer, or any member of OneCare's Compliance Committee.

- c. Anonymous written communication may be sent online by navigating to the following website in your internet browser: [www.onecarevt.org/contact-us/](http://www.onecarevt.org/contact-us/).
  - d. Telephone call to the Compliance Hotline, which allows for anonymous reporting: Local 802-847-7220; Toll-free: 877-644-7176, Option 3.
- 2. Any supervisor, Officer, or Compliance Committee member who becomes aware of a Compliance Event shall report it to the CCPO immediately.
  - 3. To enable the CCPO to conduct a thorough and non-biased investigation, any individual reporting a Compliance Event is required to disclose any and all information they have concerning the event.
  - 4. All reports of potential Compliance Events will be documented in a log maintained by OneCare's Compliance Department.

### **C. Investigation of Compliance Events**

- 1. Upon receiving a communication or report of a potential Compliance Event, the CCPO will review all available information and commence an investigation into the matter if warranted by facts, Applicable Laws, or professional judgment.
- 2. The CCPO will advise OneCare's CEO and/or ACO Legal Counsel of any potential Compliance Event in a timely manner and shall confer with them to determine whether the matter should be investigated internally, or by outside legal counsel. In the event the CEO or ACO Legal Counsel is involved in the Compliance Event, the CCPO shall confer with another appropriate senior Officer, such as the COO or VP of Finance, who will act as a designee ("Designee Officer") in making this determination.
  - i. When the determination is made to retain outside counsel, the CEO or Designee Officer must seek and obtain the Board's approval to retain outside legal counsel when required, or retain outside counsel immediately if such approval is not required. Further internal investigative activities or discussions concerning the potential Compliance Event shall only be undertaken at the direction of outside legal counsel.
  - ii. When the determination is made to conduct an internal investigation, the CCPO and ACO Legal Counsel shall confer and determine the nature and scope of the investigation, including any notice to members of the Workforce or any individuals who may be interviewed pursuant to the investigation.
  - iii. If during the course of an internal investigation the situation warrants the retention of outside legal counsel, the CCPO shall suspend the investigation until outside counsel can be engaged pursuant to the process set forth above.
- 3. **Confidentiality:** Reports and investigations of Compliance Event shall be kept confidential to the extent possible. No individual conducting or involved in such investigations shall discuss the investigation, or reveal any facts or details known to them, except as directed by the CCPO, ACO Legal Counsel, or outside legal counsel, or as required by law.

Failure to maintain the confidentiality of any investigation of a potential Compliance Event may

be grounds for disciplinary action, up to and including termination. Additionally, any document(s) prepared or received in connection with such an investigation, including but not limited to, summary reports, recorded statements, forms, or other supporting documentation, shall remain confidential and be maintained as such.

4. **Cooperation:** Members of OneCare's Workforce and ACO Network are required to cooperate with any investigation of a potential Compliance Event, including, but not limited to, requests for information, documentation, and witness interviews. Failure to cooperate may subject an individual to discipline up to, and including, termination of employment or exclusion from OneCare.

#### **D. Corrective Actions and Reporting Obligations**

1. The CCPO, ACO Legal Counsel, or outside legal counsel shall oversee the prompt implementation of any recommended corrective actions arising from a Compliance Event.
2. The CCPO will evaluate all potential Compliance Events and determine whether they qualify as probable violations of law or as incidents of fraud, waste, or abuse, and in consultation with the ACO Legal Counsel, shall make recommendations to the Board through the Audit Committee for any actions OneCare must take to comply with administrative or law enforcement reporting requirements.
3. OneCare will comply with all reporting requirements set forth in a Payer Agreement, or as required by law, including the prompt referral of any confirmed or suspected fraud, waste, or abuse by any provider participating in the Vermont Medicaid Program to the Department of Vermont Health Access Special Investigations Unit ("DVHA SIU").

#### **E. Documentation**

1. Upon completion of an investigation, the CCPO, ACO Legal Counsel, or outside legal counsel shall prepare a summary report of the potential Compliance Event, including all relevant investigative activities and any recommended corrective actions ("Investigative Report").
2. The CCPO, ACO Legal Counsel, outside legal counsel, and any Officer involved in overseeing the investigation, shall review the Investigative Report, after which they will determine the appropriate amount of internal or external notification to be given to stakeholders concerning the results of the investigation and any corrective action(s) that are being taken.
3. The CCPO shall provide to the Board through the Audit Committee with periodic status reports concerning any ongoing investigation(s) or corrective action(s), as well as investigative trends.
4. The CCPO shall be responsible for maintaining all documentation and records associated with the report and investigation of any potential Compliance Event, including the Investigative Report, in compliance with OneCare's *06-01 Record Retention Policy*.

**Review Process:** This policy shall be reviewed annually and updated to be consistent with revisions in laws, regulations and contractual requirements.

#### **V. References:**

- OneCare's Program Agreements with Payers
- GMCB Rule 5.000: Oversight of Accountable Care Organizations
- OneCare's Policy & Procedure Glossary

**VI. Related Policies/Procedures:**

- 06-01 Record Retention Policy
- 07-02 Compliance Policy
- 07-03 Privacy
- 07-07 Code of Conduct Policy
- 07-09 Security

**Location on Shared Drive:** S:\Groups\Managed Care Ops\OneCare Vermont\Policy and Procedures

**Management Approval:**

<i>Gregory Daniels</i>	August 22, 2022
Chief Compliance and Privacy Officer	Date
<i>Sara E Barry</i>	08/24/2022
Chief Operating Officer	Date