

GLOBAL PRIVATE HOMECARE, LLC.
Policy and Procedure Manual
REVIEW OF PERSONNEL POLICIES AND PROCEDURES

POLICY X-1
Page 1 of 1

PURPOSE:

To maintain policies that reflect the personnel practices and management objectives of the agency and ensure timely, appropriate review and revision of the agency's personnel policies.

POLICY:

THE AGENCY Administrative Staff and Governing Authority will ensure that an annual review of the agency's personnel policies and procedures are conducted by the agency's CQI Committee. Initial adoption and subsequent revisions of the agency's personnel policies and procedures and revisions will be authorized by the Governing Authority.

PROCEDURE:

- The Agency Directors and Administrator will conduct a review of the agency's personnel policies and procedures annually in conjunction with the Pi/Continuous Quality Improvement Committee.
- The PI/CQI Committee will make recommended revisions to the policies to reflect the agency's personnel practices, objectives and required regulatory requirements.
- Recommended revisions will be reviewed by the Administrator who will submit the revisions to the Board for approval.
- Staff will be informed and in-serviced as needed regarding changes in the agency's personnel policies and procedures.

GLOBAL PRIVATE HOMECARE, LLC.
Policy and Procedure Manual
DISCRIMINATION IN EMPLOYMENT
(EQUAL EMPLOYMENT OPPORTUNITY & AMERICANS WITH DISABILITY ACT)

POLICY X-2
Page 1 of 2

PURPOSE:

To make known the agency's position regarding non-discrimination as an Equal Opportunity Employer and to implement the process to ensure compliance with applicable State and Federal Employment Opportunity regulations and laws and to ensure discrimination against people with disabilities* in employment.

POLICY:

THE AGENCY selects, develops, promotes individuals based on business needs, the individual's ability and job performance and experience without regard to race, color, creed, national origin, age, sex, marital status, sexual orientation disabilities or handicaps.

In situations where seniority is a consideration in an action, members of minority groups or employees with disabilities will continue to have seniority in the appropriate seniority groups for their position under rules uniformly applied to all similarly situated employees.

Every agency employee shares responsibility of assisting THE AGENCY to meet goals regarding non-discrimination.

THE AGENCY Non-Discrimination Policy affects decisions including, but not limited to, compensation, benefits, terms and conditions of employment, promotion, training and other employment privileges. THE AGENCY makes reasonable accommodation to the known limitation of a qualified applicant or employee, unless to do so would cause an undue hardship.** (Job Accommodation Network provides free technical assistance 1-800-526-7234.

THE AGENCY is committed to maintain the working environment free of sexual harassment.

PROCEDURE:

- The agency's Equal Employment Opportunity Policy will be explained verbally and in writing through:
 - Orientation for new employees;
 - Notification to employees of meetings, postings on bulletin boards;
 - Inclusion in manuals and training materials;
 - Statements in advertisements for employment;
 - Discussions at management and supervisory meetings; and
 - Incorporation of Equal Opportunity clause in all contracts.
- The agency will periodically evaluate its statistics related to its employment of protected groups to ensure full compliance with federal and state law.
- All agency activities, facilities and committees shall be on a non-segregated basis. Employment benefits will be provided without discrimination.

GLOBAL PRIVATE HOMECARE, LLC.
Policy and Procedure Manual
DISCRIMINATION IN EMPLOYMENT
(EQUAL EMPLOYMENT OPPORTUNITY & AMERICANS WITH DISABILITY ACT)

POLICY X-2

Page 2 of 2

- Questions on all pre-employment forms shall not reveal sex, color, creed, national origin, age, disability or any characteristic protected by federal, state or local law.
- The agency will ensure that the individual's right to file a complaint, provide information, participate in an investigation, a public hearing or other activity related to EEO law will be respected and not interfered or influenced by.
- Incidents of discrimination or sexual harassment by any employee shall result in immediate and severe disciplinary action, including possible termination. All employees are responsible to bring any evidence of discrimination or sexual harassment to the agency's attention. An investigation will be conducted and appropriate action taken.
- All complaints or charges concerning EEO are to be brought to the individual's supervisor's attention immediately.
- The ultimate accountability to ensure policy compliance is with the agency's Administrator.

*Disability: Anyone with a physical or mental impairment substantially limiting one or more major life activities; has a record of such impairment; or is regarded as having such an impairment, is considered a person with a disability. The Law defines a "qualified individual with a disability" as a person with a disability who can perform the essential functions of the job with or without reasonable accommodation.

**The ADA Law makes exception regarding the employment of a person with a contagious disease, a person who illegally uses drugs or alcohol.

GLOBAL PRIVATE HOMECARE, LLC.
Policy and Procedure Manual

PERSONNEL: LEGAL POSTING REQUIREMENTS

POLICY X-3

Page 1 of 1

PURPOSE:

The purpose of this policy is to ensure that THE AGENCY offices comply with the legal posting requirements under federal and state labor laws.

POLICY:

It is the policy of THE AGENCY to comply with the intent and purpose of all federal and state laws relating to its status as an employer including the obligation to post specific legally required material. All required posters shall be permanently displayed in conspicuous locations at each agency site where notices to applicants for employment and employees are customarily placed. Any questions regarding the following posting notices or applicable regulations should be directed to the government agency responsible for administering the law.

MANDATORY Federal posting requirements are as follows:

- **"Your Rights Under The Fair Labor Standards Act"**
Administered by the Department of Labor, Employment Standards Administration, Wage and Hour Division.

- **"Job Safety and Health Protection" and "200" form (OSHA) "**
Administered by the Department of Labor,
(Poster in Spanish will be posted on sites which have a large percentage of Hispanic employees).

- **"Equal Employment Opportunity is the Law"**
Administered by the Equal Employment Opportunity Commission.

- **"Your Rights Under The Family and Medical Leave Act of 1993"**
Administered by the Department of Labor,
Employment Standards Administration, Wage and Hour Division.

It shall be the responsibility of the Human Resource Manager to identify ongoing law requirements/standards to ensure all required postings are met.

GLOBAL PRIVATE HOMECARE, LLC.
Policy and Procedure Manual

PERSONNEL: DEFINITIONS

POLICY X-4
Page 1 of 1

PURPOSE:

The purpose of this policy is to standardize the terms used in the Personnel Policy and Procedure Manual. POLICY:

The terms listed below should be interpreted as is indicated beside each term.

1. Employees - All persons who receive wages or salaries from **GLOBAL PRIVATE HOMECARE, LLC.**
2. Full-time Regular Employee - A regular employee who works at least 35 hours a week on a regular scheduled basis.
3. Independent Contractor - A person who pays a set rate for specific services according to the terms of a written contract.
4. Introductory/Probationary Period - The three (3) months from the employee's date of hire. Such period may be extended by the supervisor, if necessary, for up to an additional three (3) months.
5. Introductory Period Employee - an employee who has not yet completed the introductory period.
6. New Hire - Original date of service with the company (For Per Diem Personnel this is when the first case is accepted).
7. Per Diem Status Employees - Employees who work as needed by the agency. These "per diem status employees" are non-regular employees and they are not eligible for benefits.
8. Hourly Employee- A person who is paid for actual hours worked or hours guaranteed per a written agreement.
9. Temporary Employee- A person who is employed for a 1 limited time to perform a specific job.
10. Special Project Employee- A person employed under a special program for the term of the program.
11. Part-time Employees - A regular employee who works fewer than 28 hours a week on a regular scheduled basis.
12. Regular Employee - An employee, full or part-time, who has satisfactorily completed the three (3) month introductory period.
13. Termination Date - In most cases, the termination date is the same as the last day worked.

GLOBAL PRIVATE HOMECARE, LLC.
Policy and Procedure Manual

PERSONNEL FILE

POLICY X-5
Page 1 of 2

POLICY:

A current and complete personnel file that complies with State and Federal regulations will be maintained for all staff.

PROCEDURE:

1. The Human Resource Coordinator or designee is responsible for ensuring that personnel files are complete.

The contents of a personnel file are maintained in a confidential manner.

Authorized individuals are permitted to review an individual personnel file with the DPS on a "need to know" basis.

Under no circumstances are personnel files allowed to leave the office.

Personnel files are maintained in a locked cabinet and are retained for three (3) years from the date of termination/resignation.

An individual staff person has the right of reasonable access to his/her own personnel file upon written request and at the convenience of the DPS.

2. Personnel documentation must include at a minimum the following items:

Signed and dated, completed Employment Application, including employment histories from previous employers;

Documentation of current licensure, registration and/or certification and documentation of credentials verification;

Pre-employment physical; including documentation of PPD skin test at hire, (and then annually if negative findings noted) For positive PPD results, a negative Chest X-Ray and clinical follow-up, as appropriate; evidence of immunity to rubella; evidence of immunity to measles for all personnel born on or after January 1, 1957; evidence of the Hepatitis B vaccination request/refusal form. (Health forms and documents are filed in a separate, confidential file);

Verification of two (2) work related references;

1-9 (filed separately);

W-4;

Contracts/agreements, if applicable;

Documentation of orientation and receipt of job description;

Verification of qualifications for the duties assigned;

GLOBAL PRIVATE HOMECARE, LLC.
Policy and Procedure Manual

PERSONNEL FILE

POLICY X-5

Page 2 of 2

Dates of employment, disciplinary actions, resignations, dismissals;

Annual performance evaluations, including at least one in-home visit to observe the performance, if the person provides services in the home;

Staff/staff development documentation, (PC A/6 hours; HHA/12 hours);

Skills/competency checklist;

3. All health related documentation, annual health assessments, TB Screening, Immunization status reports will be maintained in a file separate from the individual's personnel file.

GLOBAL PRIVATE HOMECARE, LLC.
Policy and Procedure Manual

EMPLOYEE SELECTION PROCESS

POLICY X-6

Page 1 of 1

POLICY:

THE AGENCY recognizes the importance of the recruitment, hiring and retention process to ensure the provision of quality home care services. This includes ensuring that the agency is adequately staffed to meet the needs of the patient's admitted for home care services and that the agency maintains a sufficient number of appropriately trained and oriented supervisory staff. To accomplish this, the employee selection process has been implemented.

Selection of candidates for all positions will follow THE AGENCY Equal Opportunity and Affirmative Action Policies. All candidates will complete an employment application. Job-related duties and qualifications, as listed on the position requisition will provide the basis for initial screening of applications. The tasks defined and stated qualifications will be the basis for screening applications. The Human Resource Coordinator/designee will assist the Director/RN conduct the initial interviews limited to job-related questions to assess the candidates' experience, demonstrated ability, and training.

Before extending an employment offer and upon the applicant's prior consent that inquiries may be made, at least two applicant references must be checked and verification of the individual's credentials completed. Inquiries will be made in a professional manner requesting only factually verifiable and job-related information.

GLOBAL PRIVATE HOMECARE, LLC.
Policy and Procedure Manual

JOB INTERVIEWS

POLICY X-7

Page 1 of 1

POLICY:

THE AGENCY interviews qualified prospective employees when vacancies exist, depending on its staffing budget and administrative approval. Initial screening will be conducted by the human resources coordinator and all appropriate applicants will be interviewed by the appropriate department director/supervisor.

PROCEDURE:

1. In the interview with the prospective employee, the appropriate director/supervisor:
 - Reviews the job description of the vacant position;
 - assesses the requirements of the vacant position;
 - reviews the individual's Employment Application, for complete information, the signature, and the date of signature;
 - collects relevant additional information from the prospective employee;
 - requests that the prospective employee provide two forms of identification; and
 - gives information to the prospective employee regarding the vacant position.

2. The appropriate director/supervisor:
 - Assesses the prospective employee's Employee Application and interview, and reference information with respect to the requirements of the vacant position;
 - assess other prospective employees applying for the same vacant position;
 - offers the vacant position to the most qualified applicants, following receipt of appropriate references and verification of training/education/licensure.

Every newly hired employee must verify their eligibility for employment within three business days of accepting employment (The Immigration Reform and Control Act of 1986). The employer will not notify other candidates that the position has been filled until the new employee has complied with the law. The employer will complete the I-9 Form after examining the employee's documentation of identity and employment eligibility.

GLOBAL PRIVATE HOMECARE, LLC.
Policy and Procedure Manual

REFERENCES

POLICY X-8
Page 1 of 1

PURPOSE:

To collect information regarding the qualifications, jobs experiences and work responsibilities/experiences of prospective employees and establish a procedure to obtain the information from current and former employers.

POLICY:

1. Each applicant is asked to provide names, titles, address and telephone numbers for three (3) references. THE AGENCY requires at least two (2) professional/work references be obtained on all applicants for a position prior to an offer of employment is made. References should be obtained from the previous employer or training program from a supervisor in a work related situation. If the individual has never worked before, non-related parties, including: teachers, superintendents, physicians, or clergy, will be accepted to provide character references for the person.
2. Reference forms approved by THE AGENCY are to be used in collecting this information. These forms are to be filed in the applicant's file. Written references are mailed to the identified reference; verbal references may also be obtained. When a verbal reference is obtained, the staff individual receiving the reference will document it on the agency's reference form and sign and date the form indicating that the reference was verbal. *The agency will not accept any reference letter brought into the agency by the applicant unless agency staff verbally verifies the reference using the agency's reference form.*
3. Requests for references on current or former THE AGENCY employees will be given by providing the following information:
 - Dates of employment; and
 - Position title.

The agency will only verify whether the person is/has been employed unless the person authorized the agency in writing to release additional information. (The agency's Release of Information Authorization Form is to be used).

PROCEDURE:

1. At the time of the interview, the Administrator/Department Director requested that the prospective employee completes/signs the agency's Release of Information Authorization Form.
2. The reference information obtained is to be used in deciding to extend an employment offer to the applicant.
3. The reference information is filed with the applicant's Employment Application Form in the applicant file. References may be obtained and/or verified by telephone by the Unit Director/Supervisor.
4. All reference information is regarded as confidential.

GLOBAL PRIVATE HOMECARE, LLC.
Policy and Procedure Manual
CRIMINAL BACKGROUND REPORT

POLICY NO. X-8.5
Page 1 of 7
Revised July 7, 2009

PURPOSE:

To provide information and direction in accordance with the decision for employment based on the criminal background report.

POLICY:

In compliance with NYCRR, the agency will obtain a criminal history record check from the United States Attorney General ("the Attorney General") to the extent provided for under section 124 of Public Law 105-277 for any prospective employee prior to employment on applicants applying for non-licensed positions that provide direct care or supervision to home care patients.

The agency will also obtain a signed sworn statement from the applicant disclosing any finding of patient or resident abuse or a conviction for a crime or violation other than a traffic infraction.

All applicants, applying for a position, fingerprinted after September 1, 2006 and whose fingerprints remain on file with the New York State Division of Criminal Justice Services, are not required to undergo fingerprinting for purposes of a new criminal history record check required by NYCRR.

The Agency will not seek, directly or indirectly, compensation from the applicant in any form for the payment of the fees or any agency or facility costs associated with obtaining the criminal history record check. (Cost of the Live Scan/CHRC is \$105.75. Reimbursements will be made for each provider as funds are appropriated in any given year by the DOH.)

Notwithstanding any inconsistent rule or regulation, neither the costs associated with obtaining the fingerprint scan, nor any administrative services costs incurred in implementing the criminal history record check will be deemed an allowable cost for Medicaid rate-setting purposes and all such costs shall be separately identified on any report of costs submitted to the department for the purpose of determining the facility's rate of Medicaid reimbursement, provided, however, that in the event funds are specifically appropriated in any given fiscal year for such Medicaid reimbursement, then for the purposes of determining rates of payment for such fiscal year, pursuant to this title and Title 18 of the Official Compilation of Codes, Rules and Regulations of the State of New York (NYCRR), the amount of the fee and the cost of obtaining the fingerprint card shall be a reimbursable cost to be reflected in such rates as timely as practical based on budgeted costs and subsequently prospectively adjusted to reflect actual costs.

The agency staff/person (AP) authorized to submit and receive criminal background report information is also authorized by the agency's operator/administrator to participate via HPN. The agency ensures registration of the authorized staff/person to the HPN Network. All forms required to ensure compliance with the criminal background report requirements are available on HPN.

Agency provides notice to the Department of Health when an employee is no longer employed or used by the agency to provide direct care or supervision clients of the agency.

*Effective June 15, 2009, CHRC fingerprinting will be completed by use of electronic process, i.e. Live Scan via a network of Live Scan sites established across New York State. Scan services are available within 20 miles/30 minute drive from a provider. A complete list of Locations is available at www.1-1enrollment.com.

GLOBAL PRIVATE HOMECARE, LLC.
Policy and Procedure Manual
CRIMINAL BACKGROUND REPORT

POLICY NO. X-8.5
Page 2 of 7

General Information/Background

Chapter 769 of the Laws of 2005, as amended by Chapter 331 of the Laws of 2006, imposed the requirement for review of the criminal history record of certain prospective employees of residential health care facilities licensed under Article 28 of the Public Health Law and certified home health agencies, licensed home care services agencies or long term home health care programs certified, licensed, or authorized under Article 36 of the Public Health Law who are hired or used on or after September 1, 2006 and who will provide direct care or supervision to patients, residents or clients of such agencies.

Definitions:

“Employee” shall mean any person to be employed or used by the agency including, those persons employed by a temporary employment agency, to provide direct care or supervision to patients. Persons licensed pursuant to Title 8 of the Education Law or Article 28-D of the Public Health Law are excluded from the meaning of employee pursuant to this section.

“**Authorized person**” means each individual designated by the agency who is authorized to request, receive and review criminal history information in accordance with this Part.

“**Commissioner**” means the Commissioner of the New York State Department of Health.

“**Criminal history information**” means a record of pending New York State criminal charges, New York State criminal convictions which have not been vacated or reversed, information from the Federal Bureau of Investigation (FBI) obtained as a result of a national criminal history record check, and certificates of relief from disabilities or certificates of good conduct filed pursuant to subdivision two of section seven hundred five of the Correction Law and which the Division is required to maintain pursuant to subdivision (6) of section 837 of the Executive Law.

“**Department**” means the New York State Department of Health.

“**Determination**” means the decision made by the Department after reviewing criminal history information to approve or disapprove a prospective employee’s eligibility for employment by an agency.

“**Division**” means the New York State Division of Criminal Justice Services.

“**Permanent record**” means a permanent, written record of a determination and the criminal history information maintained by the Department.

“**Prospective employee**” means any person to be employed or used by an agency beginning on or after September 1, 2006 including those persons provided by a temporary employment agency, to provide direct care or supervision to patients, residents or clients, and whom the agency reasonably expects so to hire, employ or use. Persons licensed pursuant to Title 8 of the Education Law or Article 28-D of the Public Health Law are excluded from the meaning of the term. Such term shall not include volunteers.

“**Agency**” means any residential health care facility licensed under Article 28 of the Public Health Law; or any certified home health agency, licensed home care services agency or long term home health program licensed, certified, or authorized under Article 36 of the Public Health Law.

“**Applicant**” means a person for whom an agency is authorized to request a check of criminal history information pursuant to section 845-b of the Executive Law, Article 28-E of the Public Health Law, and this Part.

“**Temporary employee**” means a prospective employee who has been temporarily approved by an agency for employment after a request for a criminal history record check and pending a determination by the Department.

Section X

Management of Human Resources

GLOBAL PRIVATE HOMECARE, LLC.
Policy and Procedure Manual
CRIMINAL BACKGROUND REPORT

POLICY NO. X-8.5
Page 3 of 7

PROCEDURE:

I. EMPLOYMENT APPLICATION

- a. The agency, as part of an application for employment, obtains information from the prospective employee that is necessary for the purpose of initiating a criminal history record check under section 124 of Public Law 105-277.
- b. Prior to initiating the fingerprinting process, the agency staff informs the prospective employee of the requirement to conduct a criminal history record check, and provide a description of the process for obtaining the criminal history record. The agency also informs the prospective employee that he/she:
 - Will have an opportunity to obtain, review and explain the information contained in the criminal history record check; and
 - May withdraw his or her application for employment at any time, without prejudice, prior to the operator's decision on employment, and that upon such withdrawal any fingerprints and criminal history record concerning such prospective employee received by the operator shall be destroyed.
- c. A CHRC 102 form (Employee Consent Form) must be signed by the prospective employee prior to fingerprinting and retained in the employee's file.
- d. A CHRC 103E form (Request for CHRC) must be completed and submitted electronically to CHRC by the AP.
- e. Upon receipt of the 103E Request for Services, the CHRC will determine whether the subject individual has been processed previously or is new to the system. A legal determination will be provided expeditiously for previously processed individuals.
- f. Prospective employees who are determined to be new to the program, a Request for Scan Services will be posted to the CHRC HPN file viewer.
- g. Upon receipt of the Request for Scan Services by the agency's AP, an appointment must be scheduled for the employee to be fingerprinted, along with the indication of the method of payment. This appointment must be scheduled by the agency via the Live Scan website: www.l-1enrollment.com or by phone. This can be done by any agency employee.
- h. The prospective employee is provided with a copy of the Request for Scan Services by the AP and should be directed to bring the form to the Live Scan site and present it to the attendant.
- i. The prospective employee is informed to bring to the Live Scan site two proper forms of identification, consistent with I-9 standards. Fingerprinting will not be done without two (2) forms of Identification. At the time of the appointment a digital photograph will also be taken. L-1 will provide a receipt to the employee.
- j. The Live Scan digital fingerprints will be transmitted directly to DCJS for review and results will be provided to CHRC by DCJS and the FBI. An employee eligibility determination will be conducted by CHRC Legal and a legal determination letter will be provided to the agency's AP via the VHRC HPN viewer.

GLOBAL PRIVATE HOMECARE, LLC.
Policy and Procedure Manual
CRIMINAL BACKGROUND REPORT

POLICY NO. X-8.5
Page 4 of 7

II. TEMPORARY EMPLOYMENT

- a. The agency can employ applicants on a Temporary basis if all of the following conditions are met:
 - i. The agency has submitted a request for a criminal history record check and maintain a copy of the completed request forms.
 - ii. The agency has no knowledge about the applicant that would disqualify the applicant from employment under this section.
 - iii. The applicant has submitted a signed sworn statement disclosing any finding of patient or resident abuse or a conviction for a crime or violation other than a traffic infraction.

III. SUPERVISION/EVALUATION

- a. The agency staff will conduct supervision of the applicant through random, direct observation and evaluation of the applicant and care recipient by an employee who has been employed by the home care agency for at least one year. The results of the observations shall be documented in the employee personnel file.
 - i. A home care agency which has been in business for less than one year will supervise the applicant through random, direct observation and evaluation of the applicant and care recipient by an employee with prior employment experience of at least one year with one or more home care agencies. The results of the observations shall be documented in the employee personnel file.
- b. The supervision/evaluation, will begin at the time of the first assignment. The first supervision will be conducted via a home visit by the RN. The RN will initiate the agency Temporary Employee Supervision form. An on-site visit will be conducted every other week thereafter by the RN or an employee who meets the 1 year experience requirement. On alternate weeks the supervision/evaluation will be conducted via telephone by the RN or staff meeting the 1 year experience requirement. All supervisions/evaluations will be documented on the agency's Temporary Employee Supervision form. The form will be filed in the employee's personnel file when the report is received and the decision to hire is made by the agency.
- c. If the temporary employee is working under contract with another agency certified, licensed or approved under Article 36 of the Public Health Law, such contract agency's appropriate direct observation and evaluation of the temporary employee, is considered sufficient for the purposes of complying with the observation/ supervision requirement. Documentation of the observations must be submitted to the vendor agency and filed and maintained in the temporary employee's personnel file.
- d. If the information relating to the criminal history record check is received at any time during the Temporary employment and reveals that the applicant is disqualified from employment in accordance with this section, the applicant shall be dismissed immediately.

IV. CRIMINAL HISTORY RECORD CHECK REPORT

The agency maintains a log of all CHRC requests submitted to the Department that will be used in the scheduling of all on-site and off-site supervisory/evaluation activities for the Temporary employee. Once the report is received, it is entered on the log as received/date.

- During the Temporary employment period, the supervision and documentation requirements of this subdivision shall be continued.
- Following the review of a criminal history record of a subject individual the DOH and the Agency will take the following actions:
- No Criminal History Information is determined: the Department promptly advises the agency that the Department will not issue a disapproval for employment, is not directing the agency to issue a disapproval, and the agency may act on the application in its own discretion.

GLOBAL PRIVATE HOMECARE, LLC.
Policy and Procedure Manual
CRIMINAL BACKGROUND REPORT

POLICY NO. X-8.5
Page 5 of 7

- Positive Criminal History information is determined: The Department shall propose disapproval of such person's eligibility for employment, unless the Department determines, in its discretion, that the prospective employee's employment will not in any way jeopardize the health, safety or welfare of patients, residents or clients of the agency. The identified convictions include:
 1. Felony conviction at any time for a sex offense,
 2. Felony conviction within the past ten years involving violence,
 3. Conviction for endangering the welfare of an incompetent or physically disabled person pursuant to section 260.25 of the Penal Law, or
 4. Class A felony,
 5. Convicted within the past ten years of any class B or C felony,
 6. Any class D or E felony defined in articles 120, 130, 155, 160, 178 or 220 of the Penal Law or
 7. Any crime defined in sections 260.32 or 260.34 of the Penal Law or any comparable offense in any other jurisdiction.

- The Department shall provide to the agency and the prospective employee, in writing, a summary of the criminal history information along with the notification. Upon the agency's receipt notification of proposed disapproval of eligibility for employment, the agency will no longer allow the prospective employee to provide direct care or supervision to patients, residents, or clients of such agency until receipt of a final determination of eligibility for employment from the DOH.

- In cases where the Department determines that the prospective employee's employment will not in any way jeopardize the health, safety or welfare of patients, residents or clients of the agency and therefore neither issues a disapproval of eligibility for employment nor directs the agency to issue a disapproval, the agency may act on the application in its own discretion.

- When the criminal history information about a prospective employee reveals a conviction for any crime other than one identified in "b" the Department may, consistent with article 23-A of the Correction Law, propose disapproval of eligibility for employment.

- Where the criminal history information about a prospective employee reveals a charge for any misdemeanor, the Department may, after review of the severity of the misdemeanor, hold such determination in abeyance until the charge is finally resolved. If the Department holds such determination in abeyance, the agency shall not allow, upon receipt of notification of such determination from the Department, the prospective employee to provide direct care or supervision to patients, residents, or clients of such agency before final resolution of the criminal charge.

- Prior to making a final determination to disapprove a prospective employee's eligibility for employment pursuant to subdivision (a) of this section, the Department shall afford the prospective employee an opportunity to explain in writing, within thirty calendar days from the date the notification was mailed to the prospective employee, why the prospective employee's eligibility for employment should not be disapproved. This notice shall be sent non-electronically, in a manner of mailing that is capable of verifying the date of mailing.

- Where the Department directs an agency to disapprove eligibility for employment of a prospective employee, or terminate a temporarily approved prospective employee based on the criminal history information, the agency shall notify such prospective employee that such criminal history information is the basis of the disapproval. Such notification shall advise the prospective employee that a copy of the summary of the criminal history information provided by the Department to the agency is available from the agency upon written request by the prospective employee.

GLOBAL PRIVATE HOMECARE, LLC.
Policy and Procedure Manual
CRIMINAL BACKGROUND REPORT

POLICY NO. X-8.5
Page 6 of 7

- Upon receiving notification from the New York State Division of Criminal Justice Services that there is a pending criminal action or proceeding, or conviction, with regard to an employee, the Department of Health shall promptly notify an authorized person of an agency of the allegation or new conviction.

IV. DECISION TO HIRE

The Department of Health, upon receipt of the report of the Attorney General forwards the criminal history record information to the Agency.

The agency will not hire or utilize the prospective employee if the criminal history record check reveals a conviction for any of the following criminal offenses:

- i. Any Class A felony defined in the Penal Law;
- ii. Any Class B or C felony defined in the Penal Law occurring within ten years preceding the date of the criminal history record check;
- iii. Any Class D or E felony listed in article 120, article 130, article 155, article 160, article 178 or article 220 of the Penal Law occurring within ten years preceding the date of the criminal history record check;
- iv. Any crime defined in sections 260.32 or 260.34 of the Penal Law occurring within ten years preceding the date of the criminal history record check; and
- v. Any comparable offense in any other jurisdiction.

If the criminal history record check reveals a conviction for any other criminal offense other than a traffic infraction, the Agency in determining the suitability of the prospective employee in such employment position, shall make such decision in accordance with article 23-A of the State Correction Law to include consideration of any information produced by the prospective employee on his or her behalf as identified in Correction Law, Section 753(1) (g).

If denial of employment for an applicant, reasonably relies upon information provided by the Attorney General the agency will not be liable, pursuant to federal law, in any action brought by the applicant based on the employment determination resulting from the incompleteness or inaccuracy of the information.

The agency will provide the prospective employee with an opportunity to explain any criminal history record information contained in the record check and the agency will in writing provide the basis for not hiring the prospective employee when any such decision is based on the criminal history record information.

GLOBAL PRIVATE HOMECARE, LLC.
Policy and Procedure Manual
CRIMINAL BACKGROUND REPORT

POLICY NO. X-8.5
Page 7 of 7

V. CONFIDENTIALITY

- a. Recordkeeping the Agency establishes, maintains, and keeps current, a record of:
 - i. A roster of current employees who were reviewed and a list of their staffing assignments. The agency, on April 1st of each year or upon the written request of the DOH will submit the roster. The submission will be in a format specified by the Commissioner.
 - ii. Names of each person for whom a request for a criminal history information was submitted to the Department;
 - iii. For each such name, a copy of the signed informed consent form required, and the results of the criminal history record check and determination of the Department with regard to the employment.
 - iv. Such record shall be maintained in a manner that ensures the security of the information contained therein, but which also assures the Department of immediate and unrestricted access to such information upon its request, for the purpose of monitoring compliance.
- b. Any criminal history record information provided by the federal government is confidential as required by federal law.
- c. The information is to be used only by the requesting agency and only for the purpose of determining the suitability of the applicant for employment in a position involved in direct patient care including supervision of patients as required by federal law.
- d. The agency can disclose such criminal history record information at any administrative or judicial proceeding relating to a denial of an application for employment.
- e. Unauthorized disclosure of such records shall, subject the operator to civil penalties in accordance with the provisions of subdivision (1) of section 12 of the Public Health Law.
Notifications. An agency must immediately, but within no later than 14 calendar days after the event, notify the Department, and document such notification occurred, when:
 - o Any prospective employee who is subject to a criminal history record check in accordance with this Part withdraws an application for employment or is no longer being considered as a prospective employee as defined in this Part; or
 - o Any employee who was subject to, and underwent, a criminal history record check in accordance with this Part is no longer employed by the agency.
- f. The Agency will ensure that this information be retained for at least six years after the person ceases to be a subject individual, unless otherwise directed by the DOH after which the information can be disposed of in a manner which maintains confidentiality of the information.

GLOBAL PRIVATE HOMECARE, LLC.
Policy and Procedure Manual
NEW YORK PENAL LAW
CHAPTER 40 OF THE CONSOLIDATED LAWS
PART THREE-SPECIFIC OFFENSES
TITLE H-OFFENSES AGAINST THE PERSON INVOLVING PHYSICAL INJURY,
SEXUAL CONDUCT, RESTRAINT AND INTIMIDATION

ARTICLE 120-ASSAULT AND RELATED OFFENSES

Section 120.00 Assault in the third degree

A person is guilty of assault in the third degree when:

1. With intent to cause physical injury to another person, he causes such injury to such person or to a third person; or
2. He recklessly causes physical injury to another person; or
3. With criminal negligence, he causes physical injury to another person by means of a deadly weapon or a dangerous instrument.

Assault in the third degree is a class A misdemeanor.

ARTICLE 130-SEX OFFENSES

Section 130.00 Sex offenses; definitions of terms

The following definitions are applicable to this article:

1. "Sexual intercourse" has its ordinary meaning and occurs upon any penetration, however slight.
2. (a) "Oral sexual conduct" means conduct between persons consisting of contact between the mouth and the penis, the mouth and the anus, or the mouth and the vulva or vagina.

(b) "Anal sexual conduct" means conduct between persons consisting of contact between the penis and anus.
3. "Sexual contact" means any touching of the sexual or other intimate parts of a person not married to the actor for the purpose of gratifying sexual desire of either party. It includes the touching of the actor by the victim, as well as the touching of the victim by the actor, whether directly or through clothing.
4. For the purposes of this article "married" means the existence of the relationship between the actor and the victim as spouses which is recognized by law at the time the actor commits an offense proscribed by this article against the victim.
5. "Mentally disabled" means that a person suffers from a mental disease or defect which renders him or her incapable of appraising the nature of his or her conduct.

Section X

Management of Human Resources

GLOBAL PRIVATE HOMECARE, LLC.
Policy and Procedure Manual
NEW YORK PENAL LAW
CHAPTER 40 OF THE CONSOLIDATED LAWS
PART THREE-SPECIFIC OFFENSES
TITLE H-OFFENSES AGAINST THE PERSON INVOLVING PHYSICAL INJURY,
SEXUAL CONDUCT, RESTRAINT AND INTIMIDATION

6. "Mentally incapacitated" means that a person is rendered temporarily incapable of appraising or controlling his conduct owing to the influence of a narcotic or intoxicating substance administered to him without his consent, or to any other act committed upon him without his consent.
7. "Physically helpless" means that a person is unconscious or for any other reason is physically unable to communicate unwillingness to an act.
8. "Forcible compulsion" means to compel by either:
 - a. Use of physical force; or
 - b. A threat, express or implied, which places a person in fear of immediate death or physical injury himself, herself or another person, or in fear that he, she or another person will immediately be kidnapped.
9. "Foreign object" means any instrument or article which, when inserted in the vagina, urethra, penis or rectum, is capable of causing physical injury.
10. "Sexual conduct" means sexual intercourse, oral sexual conduct, anal sexual conduct, aggravated sexual contact, or sexual contact.
11. "Aggravated sexual contact" means inserting, other than for a valid medical purpose, a foreign object in the vagina, urethra, penis or rectum of a child, thereby causing physical injury to such child.
12. "Health care provider" means any person who is, or is required to be, licensed or registered or holds himself or herself out to be licensed or registered, or provides services as if he or she were licensed or registered in the profession of medicine, chiropractic, dentistry or podiatry under any of the following: article one hundred thirty-one, one hundred thirty-two, one hundred thirty-three, or one hundred forty-one of the education law.
13. "Mental health care provider" means any person who is, or is required to be, licensed or registered, or holds himself or herself out to be licensed or registered, or provides mental health services as if he or she were licensed or registered in the profession of medicine, psychology or social work under any of the following: article one hundred thirty-one, one hundred fifty- three, or one hundred fifty-four of the education law.

Section 130.05 Sex offenses; lack of consent

1. Whether or not specifically stated, it is an element of every offense defined in this article that the sexual act was committed without consent of the victim.
2. Lack of consent results from:

GLOBAL PRIVATE HOMECARE, LLC.
Policy and Procedure Manual
NEW YORK PENAL LAW
CHAPTER 40 OF THE CONSOLIDATED LAWS
PART THREE-SPECIFIC OFFENSES
TITLE H-OFFENSES AGAINST THE PERSON INVOLVING PHYSICAL INJURY,
SEXUAL CONDUCT, RESTRAINT AND INTIMIDATION

- (a) Forcible compulsion; or
- (b) Incapacity to consent; or
- (c) Where the offense charged is sexual abuse or forcible touching, any circumstances, in addition to forcible compulsion or incapacity to consent, in which the victim does not expressly or impliedly acquiesce in the actor's conduct; or
- (d) Where the offense charged is rape in the third degree as defined in subdivision three of section 130.25, or criminal sexual act in the third degree as defined in subdivision three of section 130.40, in addition to forcible compulsion, circumstances under which, at the time of the act of intercourse or deviate sexual intercourse, the victim clearly expressed that he or she did not consent to engage in such act, and a reasonable person in the actor's situation would have understood such person's words and acts as an expression of lack of consent to such act under all the circumstances.

3. A person is deemed incapable of consent when he or she is:

- (a) less than seventeen years old; or
- (b) mentally disabled; or
- (c) mentally incapacitated; or
- (d) physically helpless; or
- (e) committed to the care and custody of the state department of correctional services or a hospital, as such term is defined in subdivision two of section four hundred of the correction law, and the actor is an employee, not married to such person, who knows or reasonably should know that such person is committed to the care and custody of such department or hospital. For purposes of this paragraph, "employee" means
 - (i) An employee of the state department of correctional services who performs professional duties in a state correctional facility consisting of providing custody, medical or mental health services, counseling services, educational programs, or vocational training for inmates;
 - (ii) An employee of the division of parole who performs professional duties in a state correctional facility and who provides institutional parole services pursuant to section two hundred fifty-nine-e of the executive law; or
 - (iii) An employee of the office of mental health who performs professional duties in a state correctional facility or hospital, as such term is defined in subdivision two of section four hundred of the correction law, consisting of providing custody, or medical or mental health services for such inmates; or

GLOBAL PRIVATE HOMECARE, LLC.
Policy and Procedure Manual

(f) Committed to the care and custody of a local correctional facility, as such term is defined in subdivision two of section forty of the correction law, and the actor is an employee, not married to such person, who knows or reasonably should know that such person is committed to the care and custody of such facility. For purposes of this paragraph, "employee" means an employee of the local correctional facility where the person is committed who performs professional duties consisting of providing custody, medical or mental health services, counseling services, educational services, or vocational training for inmates; or

(g) Committed to or placed with the office of children and family services and in residential care, and the actor is an employee, not married to such person, who knows or reasonably should know that such person is committed to or placed with such office of children and family services and in residential care. For purposes of this paragraph, "employee" means an employee of the office of children and family services or of a residential facility who performs duties consisting of providing custody, medical or mental health services, counseling services, educational services, or vocational training for persons committed to or placed with the office of children and family services and in residential care; or

(h) A client or patient and the actor is a health care provider or mental health care provider charged with rape in the third degree as defined in section 130.25, criminal sexual act in the third degree as defined in section 130.40, aggravated sexual abuse in the fourth degree as defined in section 130.65-a, or sexual abuse in the third degree as defined in section 130.55, and the act of sexual conduct occurs during a treatment session, consultation, interview, or examination.

ARTICLE 155—LARCENY

Section 155.00 Larceny; definitions of terms

The following definitions are applicable to this title:

1. "Property" means any money, personal property, real property, computer data, computer program, thing in action, evidence of debt or contract, or any article, substance or thing of value, including any gas, steam, water or electricity, which is provided for a charge or compensation.
2. "Obtain" includes, but is not limited to, the bringing about of a transfer or purported transfer of property or of a legal interest therein, whether to the obtainer or another.
3. "Deprive." To "deprive" another of property means (a) to withhold it or cause it to be withheld from him permanently or for so extended a period or under such circumstances that the major portion of its economic value or benefit is lost to him, or (b) to dispose of the property in such manner or under such circumstances as to render it unlikely that an owner will recover such property.
4. "Appropriate." To "appropriate" property of another to oneself or a third person means (a) to exercise control over it, or to aid a third person to exercise control over it, permanently or for so extended a period or under such circumstances as to acquire the major portion of its economic value or benefit, or (b) to dispose of the property for the benefit of oneself or a third person.
5. "Owner." When property is taken, obtained or withheld by one person from another person, an "owner" thereof means any person who has a right to possession thereof superior to that of the taker, obtainer or withholder.

Section X

Management of Human Resources

GLOBAL PRIVATE HOMECARE, LLC.
Policy and Procedure Manual
NEW YORK PENAL LAW
CHAPTER 40 OF THE CONSOLIDATED LAWS
PART THREE-SPECIFIC OFFENSES
TITLE H-OFFENSES AGAINST THE PERSON INVOLVING PHYSICAL INJURY,
SEXUAL CONDUCT, RESTRAINT AND INTIMIDATION

A person who has obtained possession of property by theft or other illegal means shall be deemed to have a right of possession superior to that of a person who takes, obtains or withholds it from him by larcenous means.

A joint or common owner of property shall not be deemed to have a right of possession thereto superior to that of any other joint or common owner thereof.

In the absence of a specific agreement to the contrary, a person in lawful possession of property shall be deemed to have a right of possession superior to that of a person having only a security interest therein, even if legal title lies with the holder of the security interest pursuant to a conditional sale contract or other security agreement.

6. "Secret scientific material" means a sample, culture, micro-organism, specimen, record, recording, document, drawing or any other article, material, device or substance which constitutes, represents, evidences, reflects, or records a scientific or technical process, invention or formula or any part or phase thereof, and which is not, and is not intended to be, available to anyone other than the person or persons rightfully in possession thereof or selected persons having access thereto with his or their consent, and when it accords or may accord such rightful possessors an advantage over competitors or other persons who do not have knowledge or the benefit thereof.

7. "Credit card" means any instrument or article defined as a credit card in section five hundred eleven of the general business law

7-a. "Debit card" means any instrument or article defined as a debit card in section five hundred eleven of the general business law.

7-b. "Public benefit card" means any medical assistance card, food stamp assistance card, public assistance card, or any other identification, authorization card or electronic access device issued by the state or a social services district as defined in subdivision seven of section two of the social services law, which entitles a person to obtain public assistance benefits under a local, state or federal program administered by the state, its political subdivisions or social services districts.

7-c. "Access device" means any telephone calling card number, credit card number, account number, mobile identification number, electronic serial number or personal identification number that can be used to obtain telephone service.

8. "Service" includes, but is not limited to, labor, professional service, a computer service, transportation service, the supplying of hotel accommodations, restaurant services, entertainment, the supplying of equipment for use, and the supplying of commodities of a public utility nature such as gas, electricity, steam and water. A ticket or equivalent instrument which evidences a right to receive a service is not in itself service but constitutes property within the meaning of subdivision one.

"Cable television service" means any and all services provided by or through the facilities of any cable television system or closed circuit coaxial cable communications system, or any microwave or similar transmission service used in connection with any cable television system or other similar closed circuit coaxial cable communications system.

Section X

Management of Human Resources

GLOBAL PRIVATE HOMECARE, LLC.
Policy and Procedure Manual
NEW YORK PENAL LAW
CHAPTER 40 OF THE CONSOLIDATED LAWS
PART THREE-SPECIFIC OFFENSES
TITLE H-OFFENSES AGAINST THE PERSON INVOLVING PHYSICAL INJURY,
SEXUAL CONDUCT, RESTRAINT AND INTIMIDATION

Section 155.05 Larceny; defined

L A person steals property and commits larceny when, with intent to deprive another of property or to appropriate the same to himself or to a third person, he wrongfully takes, obtains or withholds such property from an owner thereof.

2. Larceny includes a wrongful taking, obtaining or withholding of another's property, with the intent prescribed in subdivision one of this section, committed in any of the following ways:

(a) By conduct heretofore defined or known as common law larceny by trespassory taking, common law larceny by trick, embezzlement, or obtaining property by false pretenses;

(b) By acquiring lost property.

A person acquires lost property when he exercises control over property of another which he knows to have been lost or mislaid, or to have been delivered under a mistake as to the identity of the recipient or the nature or amount of the property, without taking reasonable measures to return such property to the owner;

(c) By committing the crime of issuing a bad check, as defined in section 190.05;

(d) By false promise.

A person obtains property by false promise when, pursuant to a scheme to defraud, he obtains property of another by means of a representation, express or implied, that he or a third person will in the future engage in particular conduct, and when he does not intend to engage in such conduct or, as the case may be, does not believe that the third person intends to engage in such conduct.

In any prosecution for larceny based upon a false promise, the defendant's intention or belief that the promise would not be performed may not be established by or inferred from the fact alone that such promise was not performed. Such a finding may be based only upon evidence establishing that the facts and circumstances of the case are wholly consistent with guilty intent or belief and wholly inconsistent with innocent intent or belief, and excluding to a moral certainty every hypothesis except that of the defendant's intention or belief that the promise would not be performed;

(e) By extortion.

GLOBAL PRIVATE HOMECARE, LLC.
Policy and Procedure Manual
NEW YORK PENAL LAW
CHAPTER 40 OF THE CONSOLIDATED LAWS
PART THREE - SPECIFIC OFFENSES
TITLE H - OFFENSES AGAINST THE PERSON INVOLVING PHYSICAL INJURY, SEXUAL
CONDUCT, RESTRAINT AND INTIMIDATION

- (iii) Engage in other conduct constituting a crime; or
- (iv) Accuse some person of a crime or cause criminal charges to be instituted against him; or
- (v) Expose a secret or publicize an asserted fact, whether true or false, tending to subject some person to hatred, contempt or ridicule; or
- (vi) Cause a strike, boycott or other collective labor group action injurious to some person's business; except that such a threat shall not be deemed extortion when the property is demanded or received for the benefit of the group in whose interest the actor purports to act; or
- (vii) Testify or provide information or withhold testimony or information with respect to another's legal claim or defense; or
- (viii) Use or abuse his position as a public servant by performing some act within or related to his official duties, or by failing or refusing to perform an official duty, in such manner as to affect some person adversely; or
- (ix) Perform any other act which would not in itself materially benefit the actor but which is calculated to harm another person materially with respect to his health, safety, business, calling, career, financial condition, reputation or personal relationships.

ARTICLE 160—ROBBERY

Section 160.00 Robbery; defined

Robbery is forcible stealing. A person forcibly steals property and commits robbery when, in the course of committing a larceny, he uses or threatens the immediate use of physical force upon another person for the purpose of:

1. Preventing or overcoming resistance to the taking of the property or to the retention thereof immediately after the taking; or
2. Compelling the owner of such property or another person to deliver up the property or to engage in other conduct which aids in the commission of the larceny.

Section 160.05 Robbery in the third degree

A person is guilty of robbery in the third degree when he forcibly steals property. Robbery in the third degree is a class D felony.

Section 160.10 Robbery in the second degree

A person is guilty of robbery in the second degree when he forcibly steals property and when:

Section X

Management of Human Resources

GLOBAL PRIVATE HOMECARE, LLC.
Policy and Procedure Manual

1. He is aided by another person actually present; or
2. In the course of the commission of the crime or of immediate flight therefrom, he or another participant in the crime:
 - (a) Causes physical injury to any person who is not a participant in the crime; or
 - (b) Displays what appears to be a pistol, revolver, rifle, shotgun, machine gun or other firearm; or
3. The property consists of a motor vehicle, as defined in section one hundred twenty-five of the vehicle and traffic law.

Robbery in the second degree is a class C felony.

GLOBAL PRIVATE HOMECARE, LLC.
Policy and Procedure Manual
NEW YORK PENAL LAW
CHAPTER 40 OF THE CONSOLIDATED LAWS
PART THREE-SPECIFIC OFFENSES
TITLE H-OFFENSES AGAINST THE PERSON INVOLVING PHYSICAL INJURY,
SEXUAL CONDUCT, RESTRAINT AND INTIMIDATION

Section 160.15 Robbery in the first degree

A person is guilty of robbery in the first degree when he forcibly steals property and when, in the course of the commission of the crime or of immediate flight there from, he or another participant in the crime:

1. Causes serious physical injury to any person who is not a participant in the crime; or
2. Is armed with a deadly weapon: or
3. Uses or threatens the immediate use of a dangerous instrument: or
4. Displays what appears to be a pistol, revolver, rifle, shotgun, machine gun or other firearm; except that in any prosecution under this subdivision, it is an affirmative defense that such pistol, revolver, rifle, shotgun, machine gun or other firearm was not a loaded weapon from which a shot, readily capable of producing death or other serious physical injury, could be discharged. Nothing contained in this subdivision shall constitute a defense to a prosecution for, or preclude a conviction of, robbery in the second degree, robbery in the third degree or any other crime.

Robbery in the first degree is a class B felony.

ARTICLE 178-CRIMINAL DIVERSION OF PRESCRIPTION MEDICATIONS AND PRESCRIPTIONS

Section 178.00 ~ Criminal diversion of prescription medications and prescriptions; definitions

The following definitions are applicable to this article:

1. "Prescription medication or device" means any article for which a prescription is required in order to be lawfully sold, delivered or distributed by any person authorized by law to engage in the practice of the profession of pharmacy.
2. "Prescription" means a direction or authorization by means of a written prescription form or an oral prescription which permits a person to lawfully obtain a prescription medication or device from any person authorized to dispense such prescription medication or device.
3. "Criminal diversion act" means an act or acts in which a person knowingly:
 - (a) Transfers or delivers, in exchange for anything of pecuniary value, a prescription medication or device with knowledge or reasonable grounds to know that the recipient has no medical need for it; or
 - (b) Receives, in exchange for anything of pecuniary value, a prescription medication or device with knowledge or reasonable grounds to know that the seller or transferor is not authorized by law to sell or transfer such prescription medication or device; or
 - (c) Transfers or delivers a prescription in exchange for anything of pecuniary value; or
 - (d) Receives a prescription in exchange for anything of pecuniary value.

Section X

Management of Human Resources

GLOBAL PRIVATE HOMECARE, LLC.
Policy and Procedure Manual
NEW YORK PENAL LAW
CHAPTER 40 OF THE CONSOLIDATED LAWS
PART THREE-SPECIFIC OFFENSES
TITLE H-OFFENSES AGAINST THE PERSON INVOLVING PHYSICAL INJURY,
SEXUAL CONDUCT, RESTRAINT AND INTIMIDATION

15. "Prescription for a controlled substance" means a direction or authorization, by means of an official New York state prescription form, a written prescription form or an oral prescription, which will permit a person to lawfully obtain a controlled substance from any person authorized to dispense controlled substances.

Section 260.32 Endangering the welfare of a vulnerable elderly person in the second degree.

A person is guilty of endangering the welfare of a vulnerable elderly person in the second degree when, being a caregiver for a vulnerable elderly person:

1. With intent to cause physical injury to such person, he or she causes such injury to such person; or
2. He or she recklessly causes physical injury to such person; or
3. With criminal negligence, he or she causes physical injury to such person by means of a deadly weapon or a dangerous instrument; or
4. He or she subjects such person to sexual contact without the latter's consent. Lack of consent under this subdivision results from forcible compulsion or incapacity to consent, as those terms are defined in article one hundred thirty of this chapter, or any other circumstances in which the vulnerable elderly person does not expressly or impliedly acquiesce in the caregiver's conduct. In any prosecution under this subdivision in which the victim's alleged lack of consent results solely from incapacity to consent because of the victim's mental disability or mental incapacity, the provisions of section 130.16 of this chapter shall apply. In addition, in any prosecution under this subdivision in which the victim's lack of consent is based solely upon his or her incapacity to consent because he or she was mentally disabled, mentally incapacitated or physically helpless, it is an affirmative defense that the defendant, at the time he or she engaged in the conduct constituting the offense, did not know of the facts or conditions responsible for such incapacity to consent.

Endangering the welfare of a vulnerable elderly person in the second degree is a class E felony.

GLOBAL PRIVATE HOMECARE, LLC.
Policy and Procedure Manual
NEW YORK PENAL LAW
CHAPTER 40 OF THE CONSOLIDATED LAWS
PART THREE-SPECIFIC OFFENSES
TITLE H-OFFENSES AGAINST THE PERSON INVOLVING PHYSICAL INJURY,
SEXUAL CONDUCT, RESTRAINT AND INTIMIDATION
ARTICLE 220--CONTROLLED SUBSTANCES OFFENSES

Section 220.00 Controlled substances; definitions

1. "Sell" means to sell, exchange, give or dispose of to another, or to offer or agree to do the same.
2. "Unlawfully" means in violation of article thirty-three of the public health law.
3. "Ounce" means an avoirdupois ounce as applied to solids or semisolids, and a fluid ounce as applied to liquids.
4. "Pound" means an avoirdupois pound.
5. "Controlled substance" means any substance listed in schedule I, II, III, IV or V of section thirty-three hundred six of the public health law other than marihuana, but including concentrated cannabis as defined in paragraph (a) of subdivision four of section thirty-three hundred two of such law.
6. "Marihuana" means "marihuana" or "concentrated cannabis" as those terms are defined in section thirty-three hundred two of the public health law.
7. "Narcotic drug" means any controlled substance listed in schedule 1(b), 1(c), 11(b) or 11(c) other than methadone.
8. "Narcotic preparation" means any controlled substance listed in schedule 111(d) or 111(e).
9. "Hallucinogen" means any controlled substance listed in schedule 1(d) (5), (18), (19), (20), (21) and (22).
10. "Hallucinogenic substance" means any controlled substance listed in schedule 1(d) other than concentrated cannabis, lysergic acid diethylamide, or an hallucinogen.
11. "Stimulant" means any controlled substance listed in schedule 1(f), H(d).
12. "Dangerous depressant" means any controlled substance listed in schedule 1(e)(2), (3), 11(e), 111(c)(3) or IV(c)(2),(31),(32),(40).
13. "Depressant" means any controlled substance listed in schedule IV(c) except (c)(2), (31), (32), (40).
14. "School grounds" means (a) in or on or within any building, structure, athletic playing field, playground or land contained within the real property boundary line of a public or private elementary, parochial, intermediate, junior high, vocational, or high school, or (b) any area accessible to the public located within one thousand feet of the real property boundary line comprising any such school or any parked automobile or other parked vehicle located within one thousand feet of the real property boundary line comprising any such school. For the purposes of this section an "area accessible to the public" shall mean sidewalks, streets, parking lots, parks, playgrounds, stores and restaurants.

Section X

Management of Human Resources

GLOBAL PRIVATE HOMECARE, LLC.
Policy and Procedure Manual

IMMIGRATION REFORM & CONTROL ACT

POLICY X-9
Page 1 of 1

PURPOSE:

To outline the requirements necessary to comply with the Immigration Reform & Control Act of 1986 (IRCA)

POLICY:

1. It is the policy of The Agency to comply with IRCA. The company will only hire applicants that have a legal right to employment in the United States.
2. All offers of employment will be made contingent upon the applicant's ability to present original documents that established both employment authorization and identity. The documentation must be presented before the applicant is allowed to begin work.
3. Prior to the first day of employment, the new hire shall be requested to complete the "Employment Eligibility Verification Form" (1-9). The HR Coordinator will examine the new hire's documents which provide evidence of the identity and employment eligibility of the individual. For a complete listing of acceptable documents, refer to the 1-9 Form.
4. If an employee cannot prove both identity and authorization to work in the United States within the time limitations listed above, the applicant's employment will be suspended until proper documents can be provided.
5. Once the HR Coordinator/designee has examined the new hire's identity and employment authorization documents, they shall then complete 1-9 Form, Section 2, "Employer Review & Verification" and sign the form indicating personal knowledge of the documents. The 1-9 Form and copies of the identification must be filed at the agency.
6. The 1-9 Form must be retained for three years after the date of hire or one year after the individual's employment is terminated.
7. The HR Coordinator must also re-verify documents that expire during the employee's period of employment and complete Section III of the 1-9 Form "Updating And Re-Verification".
8. If a former employee is re-hired who has previously completed the Form 1-9, the HR Coordinator or human resource representative must inspect the original 1-9 Form to determine if the individual is still eligible to work. The 1-9 Form must be updated in Section III if the employee's former identification has expired or any other information has changed (e.g., hire date, name, etc.)
9. Any requests for audit from the INS should immediately be referred to the agency's administrator.

GLOBAL PRIVATE HOMECARE, LLC.
Policy and Procedure Manual

VERIFICATION OF CREDENTIALS

POLICY X-10
Page 1 of 2

PURPOSE:

To ensure the authenticity of the person and the credentials presented prior to employment or prior to accepting authorization for services from a practitioner.

POLICY:

The Agency verifies that potential employees provide a prior work history. If none exists, the character of prospective employees is evaluated through contacts with non-related parties, prior to employment. Personal identification is verified, for the license, registration or certificate of each applicant or discipline functioning as a service provider or authorizing practitioner.

PROCEDURE:

A. References:

1. If the individual has never worked before, non-related parties including: teachers, superintendents, : physicians, or clergy, will be accepted to provide character references for the person.
2. Individuals with prior work history will be asked to provide at least three names of contacts to verify work performance. References from NYS licensed health care providers are desired as they demonstrate oversight in a supervisory capacity.
3. The agency will not accept any reference letter brought into the agency by the applicant unless agency staff verbally verifies the reference using the agency's referral form.
4. Written or verbal references will be obtained from the contacts listed.
5. Verification will be identified on the Job Application or Reference Statement Forms and retained in the personnel folder.
6. Original documents must be presented when applying for employment.

B. Credentials

1. All applicants for positions requiring Certification, Special Training, Licensure will be asked to submit an original copy of the credential to the HR Coordinator/RN.
2. The HR Coordinator/RN will initiate communication with the appropriate credentialing authority to verify current status of the certificate/license. Validation of credentials may be accomplished by one of the following methods:
 - Telephone call to NYS Division of Professional Licensing Services (900-555-N YST or 900-555-6978) or on the Customer Service line (518-474-3817) for other information.

GLOBAL PRIVATE HOMECARE, LLC.
Policy and Procedure Manual

VERIFICATION OF CREDENTIALS.

POLICY X-10
Page 2 of 2

- Through the internet with the Department of Education/specific to discipline;
 - Telephone call to the training program for an oral verification of licensure or registration, or
 - A written verification of licensure or registration will be requested from one of the above if telephone verification cannot be obtained.
3. The first time an authorizing practitioner: Physician, osteopath, licensed midwife, or Nurse Practitioner, initiates a prescription for health care services, THE AGENCY staff shall validate that individual's credentials. This verification will be entered on the patient's profile.
 4. A physician's prescribing "pin" number does not constitute a validation of licensure.
 5. No person may be hired or services rendered without the agency having verification of their credentials.
 6. Licensure or other credentials shall be kept updated, as required, according to dates of expiration.
 7. Failure of an employee to maintain a current license or registration will constitute cause for immediate change to "inactive status" until the license is renewed.
 8. Failure to renew a license will be cause for dismissal.
 9. Failure of a potential employee to comply with this policy will make them ineligible for employment.
 10. Services will not be provided to a patient when the authorizing practitioner's credentials are found to be invalid or the practitioner is not in good standing with the DOH, DSS, NYS Education Law.

GLOBAL PRIVATE HOMECARE, LLC.
Policy and Procedure Manual

VERIFICATION OF HOME HEALTH AIDE/PERSONAL CARE
AIDE CERTIFICATES

POLICY X-10.5

Page 1 of 2

PURPOSE:

To ensure the authenticity of the person and the credentials presented prior to employment are true, accurate and verified to establish a procedure to obtain the information.

POLICY:

Advantage Homecare verifies that potential Home Health Aide/Personal Care Aide employees have successfully completed a valid and approved training program. This training will be verified prior to an offer of employment.

ADDENDUM:

1. Individuals who have successfully completed a home health aide training program but who have not been employed as a home health aide within any consecutive 24 month period will need to have a new certificate issued after completion of a competency evaluation program.
2. Competency evaluations can only be completed on the following eligible individuals:
 - a) A nursing assistant who had worked for one year full time in a hospital within the last 5 years.
 - b) An individual with a documented home health aide or nurse's aide training from an out of state training program
 - c) A nursing student who has completed the fundamentals of nursing coursework
 - d) A Home Health Aide who has documented Home Health Aide Training and who has not been employed as a home health aide for 24 consecutive months.

PROCEDURE:

At the time of the initial interview/application for employment with **NMC HOMECARE AGENCY OF NY, INC.**

1. The prospective employee will complete and sign the agency Release of Information form and the Home Care Registry Notice.
2. The HPN Coordinator/HR Associate will check the Home Care Registry database to ensure the applicant is registered in the Home Care Registry.
3. Applicants who are listed in the "public view" in the Home Care Registry are considered to have verification that they have successfully completed a valid and approved training program.
4. Applicants who reside in the "public view" of the Home Care Registry do not need to provide proof of a certificate to **NMC HOMECARE AGENCY OF NY, INC.** The applicant may choose to present a certificate.
5. Home Care Registry validations are printed and placed in the personnel file of the applicant.
6. The validation of the certificate via the Home Care Registry is noted on the personnel file audit sheet to be noted in the aide's profile and sent as appropriate to contractual arrangements requesting same.
7. Applicants who are not listed in the Home Care Registry must have their certificates verified by the training program they successfully completed.
8. A second printout will be completed upon hire for all employees and the Home Care Registry database will note "**NMC HOMECARE AGENCY OF NY, INC.**" as the employer in the database.
9. **NMC HOMECARE AGENCY OF NY, INC.** will keep the Home Care Registry validation of the HHA/PCA Certification file for six years.
10. Information will be entered into the Home Care Registry within five (5) days of the hiring or termination of an aide.

GLOBAL PRIVATE HOMECARE, LLC.
Policy and Procedure Manual

VERIFICATION OF HOME HEALTH AIDE/PERSONAL CARE
AIDE CERTIFICATES

POLICY X-10.5

Page 2 of 2

Verification of Certificates from schools that have closed:

1. If a school has closed, the HR Associate/HPN Coordinator will check the listing of closed schools.
2. If the school is closed, the HR Associate/HPN Coordinator will contact the previous employer
3. The previous employer will be asked to provide a reference and to verify that the applicant worked in compliance within the regulations pertaining to the definition of a Home Health Aide.
4. If no records are available, the applicant will be advised by the HR Coordinator to repeat their training or to complete a competency evaluation, which includes a written examination and demonstration of skills/tasks by an agency that operates a home health aide training program.

GLOBAL PRIVATE HOMECARE, LLC.
Policy and Procedure Manual

HEALTH REQUIREMENTS

POLICY X-11

Page 1 of 2

POLICY:

The Agency requires all employees performing direct patient care to comply with state mandates. To ensure that any employee performing direct patient care is free from any health impairment that is of potential risk to the patient, family/caregiver, or other employees, or that may interfere with the performance of duties, and to identify any pertinent health problems of employees.

PROCEDURE:

1. All new "patient care" employees must, prior to performing direct patient care, submit the following health information:
 - A. Proof of immunity to rubella, as evidenced by:
 1. A document prepared by a physician, physician assistant, specialist assistant, licensed midwife, nurse practitioner or a laboratory possessing a laboratory permit issued pursuant to Part 58 of this Title, demonstrating serologic evidence of rubella antibodies; or
 2. A document indicating one dose of live virus rubella vaccine was administered on or after the age of twelve months, showing the product administered and the date of administration, and prepared by the health practitioner who administered the immunization; or
 3. A copy of the document described above in A-1 or A-2 which comes from a previous employer or the school which the individual attended as a student;
 - B. PPD (Mantoux) skin test for Tuberculosis prior to employment, and every year thereafter for negative findings:
 - (1) Positive PPD findings shall require appropriate clinical follow-up, but no repeat skin test;
 - (2) The agency requires that any employee with a positive PPD must visit his/her family physician or a medical clinic for follow-up; and have proof of a negative C x R. The agency's Annual Physical Assessment form, contains a TB Screen and this screen and RN follow-up will be conducted as part of the annual health assessment.
 - (3) The employee with positive PPD results must provide the agency with a physician's release allowing the employee to have patient contact.
 - C. Proof of immunity to rubella if born on or after January 1,1957; as evidenced by:
 1. A document prepared by a physician, physician assistant, specialist assistant, licensed midwife, nurse practitioner or a laboratory possessing a laboratory permit issued pursuant to Part 58 of this Title, demonstrating serologic evidence of measles antibodies; or

GLOBAL PRIVATE HOMECARE, LLC.
Policy and Procedure Manual

HEALTH REQUIREMENTS

POLICY X-11

Page 2 of 2

2. A document indicating two doses of live virus measles vaccine was administered with the first dose administered on or after the age of 12 months and the second dose administered more than 30 days after the first dose, but after 15 months of age showing the product administered and the date of administration, and prepared by the health practitioner who administered the immunization; or
3. A document indicating a diagnosis of the person as having had measles disease prepared by the physician, physician assistant, specialist assistant or nurse practitioner who diagnosed the person's measles; or
4. A copy of the document described above in C-1, C-2, or C-3 which comes from a previous employer or the school which the person attended as a student.
5. If the individual was born prior to 1957, a Rubeola disclaimer will be kept in the health file.

* A written statement, if applicable, from any licensed physician, physician assistant, specialist assistant, licensed midwife or nurse practitioner, which certifies that immunization with measles and/or rubella vaccine may be detrimental to the person's health. This statement remains in effect until such time when such immunization is found no longer to be detrimental to the individual's health. The nature and duration of the medical exemption must be stated in the individual's personnel file and must be in accordance with generally accepted medical standards.

- D. A pre-employment physical assessment and an annual or more frequent health status assessment if medically necessary.
 1. Employees hired by the agency who have not submitted the health information required as above will not be assigned duties until such time as the information is submitted to THE AGENCY . Documented health information is held in strict confidence.
 2. A completed health records are filed separately from the employee's personnel file in a secured locked location.

GLOBAL PRIVATE HOMECARE, LLC.
Policy and Procedure Manual

PRE-EMPLOYMENT PHYSICAL EXAMINATION/ANNUAL HEALTH STATUS
ASSESSMENT/RETURN FROM SICK LEAVE

POLICY X-12
Page 1 of 2

POLICY:

Staff will participate in a pre-employment physical examination and an annual, or more frequently if necessary, health-status assessment. Employees indicated, will also participate in the requirements related to return from sick leave.

No person will be employed unless he/she is free from a health impairment which is of potential risk to the patient or which might interfere with the performance of his/her duties, including the habituation or addiction to depressants, stimulants, narcotics, alcohol or other substances that may alter his/her behavior.

GENERAL INFORMATION:

1. The pre-employment requirements include:
 - A. Physical Examination;
 - B. PPD testing or Tuberculosis screen, if proof of history of positive PPD, documentation of a negative chest x-ray;
 - C. Proof of immunity to Rubella; and
 - D. Proof of immunity to measles if born on or after January 1, 1957.
 - E. A health status assessment that documents that the individual is free from habituation/addiction from substances that alter behavior.

2. The annual requirements include:
 - A. Completion of health status assessment at least annually, or more frequently if necessary ensuring that the employee is free from any health impairment that is of potential risk to the patient, family or employees or that may interfere with the performance of duties; and
 - B. PPD testing every year, or Tuberculosis screen if documented history of positive PPD. The individual is responsible for completing all parts of the physical examination and for being medically cleared prior to start of employment.

3. Failure to provide true and complete information is cause for termination of employment.

4. Failure to comply with the annual requirements shall result in disciplinary action which will include suspension or termination of employment.

5. An individual may utilize the services of his/her private physician, but all requirements must be met and information submitted to the office.

GLOBAL PRIVATE HOMECARE, LLC.
Policy and Procedure Manual
PRE-EMPLOYMENT PHYSICAL EXAMINATION/ANNUAL
HEALTH STATUS ASSESSMENT/RETURN
FROM SICK LEAVE

POLICY X-12
Page 2 of 2

PROCEDURE:

1. The DPS/designee informs a new staff member of the pre-employment requirements and current staff of the annual requirements one (1) month in advance of the due date.
2. The individual staff person adheres to the requirements, as appropriate.
3. Completed forms are returned to the office for review for complete information.
4. As necessary, follow-up occurs with the individual regarding missing information.
5. Completed forms are filed in the personnel file.

RETURN FROM SICK LEAVE GENERAL INFORMATION

1. It is the employee's responsibility to keep the administrator/DPS informed of their date of return. Written documentation must be provided every three months during and extended leave of absence.
2. Sick leave of three days or longer requires a note from a physician.
3. Sick leave notes must include:
 - A. The condition which the employee has received treatment, limitations.
 - B. A statement that the employee is able to return to full duties including the date of return.
4. Failure to bring a note which is not specific will prevent the employee from returning to work. Failure to provide truthful or complete information may result in termination.

GLOBAL PRIVATE HOMECARE, LLC.
Policy and Procedure Manual

EMPLOYEE ORIENTATION AND INTRODUCTION PERIOD

POLICY X-13

Page 1 of 2

POLICY:

Each employee of the agency will receive an orientation, prior to actually starting his/her position. Each new employee will have an introductory period of 90 calendar days.

The employee orientation goals are as follows:

- 0 To establish good employee-employer communication;
- 0 to reduce the anxieties of a new environment and new responsibilities;
- 0 to build teamwork spirit by providing an understanding of how their job interfaces with other departments;
- 0 to inform the employee of the agency's achievements;
- 0 to provide the employee with information about the agency benefit package;
- 0 to inform the employee of the Agency Policies and procedures;
- 0 to provide the employee with an understanding of the responsibilities of their job position; and
- 0 to provide the employee with information to promote safe and effective care for patients.

Orientation and initial training:

A. Paraprofessional Employees/Per-diem, Contract and Clinical Staff:

Prior to the first day of employment, the new employee must attend the agency's Orientation Program. The orientation is an introduction to THE AGENCY its policies and procedures. Orientation will also provide information on the specific topics:

- 0 Infection Control, with specific focus on the agency's Infection Control/ Universal Precautions and Standard Precautions,
- 0 OSHA Information pertaining to Blood borne and TB Exposure Control Plan of the Agency;
- 0 HIV and confidentiality,

GLOBAL PRIVATE HOMECARE, LLC.
Policy and Procedure Manual

EMPLOYEE ORIENTATION AND INTRODUCTION PERIOD

POLICY X-13

Page 2 of 2

- ° Hepatitis B vaccination program,
- ° Patient's Rights,
- ° Complaint Procedure,
- ° Patient's Self Determination Act/Advanced Directives,
- ° Quality Improvement Plan,
- ° Agency Policies and procedures pertaining to each specific job responsibility
- ° Job descriptions;
- ° Emergency and Disaster Preparedness Plan/ Fire and Safety. All employees will receive an orientation on appropriate aspects of the agency's operation, so they can understand how the functions they perform related to the functions of other members of the health care team.

All clinical staff must go through a competency review as part of the orientation process and must demonstrate competence prior to assignment.

The employee's supervisor is responsible for assisting the employee in completing all check-in and benefit enrollment procedures. The length of orientation depends on the specific staff position and the needs of the individual being oriented.

The human resources coordinator ensures the completion of the specific orientation checklist, final review with the employee, and filing in the employee's personnel file.

Introductory Period:

During this period, the employee's job performance will be reviewed in order to determine their suitability for employment with The Agency. This period of time is essential for both a new employee and his/her employer to get acquainted.

This Introductory Period may be extended if an employee has missed time during the first three months for any reason, or if the agency deems it necessary to evaluate the employee's job performance. However, completion of the Introductory Period should not be taken as indicating that the employee has any right to continue employment. If following completion of the Introductory Period and before the annual review, it appears that this job situation is not beneficial to both parties, then the employee may resign. The agency also maintains the right to terminate the employee at any time for cause. The date of hire is the employee's first acceptance of his/her first patient. The Introductory Period is the first 90 calendar days of employment.

GLOBAL PRIVATE HOMECARE, LLC.
Policy and Procedure Manual

ORIENTATION CHECKLIST

POLICY X-14
Page 1 of 1

PURPOSE:

To document completion of the employee's orientation to the agency and position responsibilities.

POLICY:

The agency's employee orientation checklist will be initiated at the time of completion of the agency's orientation program.

PROCEDURE:

1. The supervisor initiates the employee orientation checklist on the date of orientation/employment.
2. The orientation checklist is completed prior to assignment to a clinical case or at the completion of an extended orientation, as specified by the particular job description.
3. Upon completion of the employee orientation, the checklist is signed and dated by the employee and the supervisor and filed in the individual's personnel file.

GLOBAL PRIVATE HOMECARE, LLC.
Policy and Procedure Manual

PHOTO ID

POLICY X-15

Page 1 of 1

All Employees of the Agency will receive a photo ID at the completion of orientation to the Agency.

The Photo ID will identify the employee by:

Name;

- Title;
- Current photograph;
- Name of the Agency.

Photo ID badges are to be displayed while on duty. The ID will be reviewed annually during the employment period. There will be a charge, at the prevailing rate, for the replacement of lost, missing or damaged ID badges. All employees will be required to return the ID badge upon separation from the agency.

GLOBAL PRIVATE HOMECARE, LLC.
Policy and Procedure Manual

EXIT INTERVIEWS FOR EMPLOYEES

POLICY X-16
Page 1 of 1

PURPOSE:

To identify areas in which THE AGENCY can improve management/employee relationships.

POLICY:

THE AGENCY provides opportunities for terminating employees to participate in exit interviews.

PROCEDURES:

1. The DPS will schedule an exit interview with the terminating employee.
2. Discussion at the interview will include: Agency environment, assignments, staffing, benefits, career- ladder opportunities, wage/salary, intradepartmental/interpersonal relationships and agency communication.
3. The Supervisor discusses, with the employee, reasons for resignation from the agency.
4. The discussion is documented, in the employee's file.
5. Important issues identified during the interview are to be addressed by the agency manager.

GLOBAL PRIVATE HOMECARE, LLC.
Policy and Procedure Manual

FAMILY AND MEDICAL LEAVE OF ABSENCE POLICY

POLICY X-17

Page 1 of 3

The Family and Medical Leave Act of 1993 entitles eligible employees to take up to 12 weeks of unpaid, job protected leave in the 12-month period for certain family and medical reasons. The 12 weeks of family and medical leave is counted from the date the employee first takes leave.

DEFINITION: A family and/or medical leave of absence shall be defined as an approved absence available to eligible employees for up to 12 weeks of unpaid leave per year when: the employee is unable to perform the functions of his/her position because of serious health condition; the employee is needed to care for a spouse, son, daughter or parent who has a serious health condition; upon the birth of the employee's child or upon the placement of a child with the employee for adoption or foster care.

SCOPE: The provisions of this policy shall apply to all family and medical leaves of absence except to the extent that such leaves are covered under other paid employment benefit plans for any or all of the unpaid leave to which the employee would have otherwise been entitled to under this policy. In other words, if an employee is entitled to paid leave under another benefit plan or policy, the employee must take the paid leave.

ELIGIBILITY

1. To be eligible for leave under this policy, the employee must request a leave:
 - A. To attend to a son or daughter's birth, adoption or placement into the employee's home. In addition, the child must be either under the age of 18 or an adult dependent.
 - B. To attend to a spouse, son, daughter or parent with a serious health condition (which requires a family member's care during a period of care or continuing supervision or treatment by a health care provider). "Parent" includes biological, foster, or adoptive parents, step-parents or legal guardians.
 - C. To attend to the employee's own serious health condition which makes the employee unable to perform the functions of his/her job.
2. To be eligible for leave under this policy:
 - A. An employee must have been employed by THE AGENCY for at least 12 months.
 - B. An employee must have worked at least 1,250 hours during the 12 month period preceding the commencement of the leave.
 - C. An employee must not have taken a leave of absence, the duration of which when added to the current leave request does not exceed 12 weeks, during the previous 12 months.
 - D. An employee must work at a site at which the agency employs 50 or more employees, which includes employees employed within 75 miles of employee's work-site.

GLOBAL PRIVATE HOMECARE, LLC.
Policy and Procedure Manual

FAMILY AND MEDICAL LEAVE OF ABSENCE POLICY

POLICY X-17

Page 2 of 3

BASIC REGULATIONS AND CONDITIONS OF LEAVE

1. THE AGENCY will require medical certification to support a claim for leave for an employee's own serious health condition or to care for a seriously ill child, spouse or parent.
 - a. All requests for medical leaves of absence due to the employee's own serious illness must include medical documentation from the employee's physician stating the reason for the absence, the reason the employee is unable to perform the functions of his/her position, the dates of treatment or confinement, the prognosis and the expected date of return to duty. Forms to be used for this certification may be obtained from the Human Resources Department.
 - b. For leaves to care for a seriously ill child, spouse or parent, the medical certification must include an estimate of the amount of time the employee is needed to provide care. In its discretion, THE AGENCY may require a second medical opinion and periodic rectification at its own expense. If the first and second opinions differ, the Agency at its own expense, may require the binding opinion of a third health care provider, approved jointly by THE AGENCY and the employee. Any misrepresentation made to obtain or continue a leave will be grounds for immediate termination.
2. If medically necessary for a serious health condition of the employee or his/her spouse, child or parent, leave may be taken on an intermittent or reduced leave schedule. If leave is requested on this basis, however, THE AGENCY may require the employee to transfer temporarily to an alternative position which better accommodates recurring periods of absence or a part-time schedule, provided that the position has equivalent pay and benefits. In the case of the birth or adoption of a child, leave may not be taken intermittently or on a reduced schedule unless otherwise agreed to by the Homecare Agency.
3. Spouses who are both employed by THE AGENCY are entitled to a total of 12 weeks of leave (rather than 12 weeks each) for the birth of a child, the placement of a child with the employee for adoption or foster care.
4. Employees must apply any accrued vacation, personal or holiday leave towards any leave taken under this policy. Accrued sick leave must be applied to personal medical leave under this policy. However, the total leave period remains constant in compliance with this policy.
5. Employees do not accrue holiday, sick or vacation pay while on leave.

GLOBAL PRIVATE HOMECARE, LLC.
Policy and Procedure Manual

FAMILY AND MEDICAL LEAVE OF ABSENCE POLICY

POLICY X-17

Page 3 of 3

RETURN FROM LEAVE

1. Upon an employee's return to work, THE AGENCY will reinstate the employee to his/her former position or one with equivalent duties, pay and terms and conditions, unless a reduction in force or other reorganization has taken place during the leave, in which case the employees will be treated as if he/she has been working rather than on leave.
- 2 THE AGENCY may deny reinstatement (as per The Federal Family and Medical Leave Act of 1993) to employees whose salary is in the top 10%. Employees falling into this category will, if their leave request is approved, be informed of the decision regarding reinstatement at the time of approval.
3. In cases of leave related to the employee's own serious illness:
 - A. Upon clearance by the employee's physician to return to duty, the employee must present the clearance in writing on the physician's letterhead, to the Director of human Resources. The written notice of clearance must indicate the employee's expected date of return as well as work limitations if applicable. The written notice must be received by the Human Resources Department no less than 2 weeks prior to the requested date of return.
 - B. Once the medical certification clearance to return to duty is accepted by the Director of Human Resources, a return date will be scheduled. Failure by the employee to provide notice and proper medical clearance may result in a denial of reinstatement.

NOTIFICATION AND REPORTING REQUIREMENTS

When the need for leave is foreseeable, such as the birth or adoption of a child, or planned medical treatment, the employee must notify his/her Department Head of the request at least 30 days in advance of the anticipated leave. In addition, employees should make efforts to schedule leave so as not to disrupt THE AGENCY operations. The employee will be required to report periodically on his/her leave status and intention to return to work.

STATUS OF EMPLOYEE BENEFITS DURING LEAVE OF ABSENCE

Any employee who is granted an approved leave of absence under this policy is advised that THE AGENCY, will pay its normal share of the employee's group health insurance during such leave (to a maximum of 12 weeks) to maintain group health benefits at the level and under the same conditions as if the employee was not on leave. The employee will be required to continue to pay his/her share. If the employee misses any payments, THE AGENCY may, at its sole discretion, either cancel the employee's health coverage (after notice to the employee) or pay for the employee's share and recover those payments from the employee.

*In the event that an employee elects not to return to work upon completion of an approved unpaid leave of absence, THE AGENCY, may recover from the employee the cost of any payments made to maintain the employee's group health coverage, unless the failure to return to work was for reasons beyond the employee's control, as determined by The Agency.

GLOBAL PRIVATE HOMECARE, LLC.
Policy and Procedure Manual

BEHAVIOR STANDARDS/DISCIPLINARY ACTIONS

POLICY X-18
Page 1 of 3

PURPOSE:

To communicate to staff acceptable and unacceptable standards of behavior while on duty and to notify staff of the agency's progressive disciplinary process.

POLICY:

The Agency ., is committed to provide consistent, competent and quality home care services and as part of this mission, expects staff to follow all agency policies, procedures and processes and practice within the agency's code of ethical standards. Violations of these standards will be addressed by the agency's disciplinary process that include counseling, reprimand, probation, suspension up to termination of employment from THE AGENCY The severity of the discipline will take into consideration, but not be limited to, the seriousness of the offense, repeat offenses, related performance issues, etc.

GENERAL INFORMATION:

The Agency has certain rules of behavior, which must be observed to ensure a productive, safe workplace. Infractions such as the ones listed below will result in disciplinary action, which may be a warning, reprimand, suspension or termination, depending on the circumstances and the severity of the infraction.

The following list is not intended to be all-inclusive, but illustrates some types of conduct, which are unacceptable:

- Dishonesty, including intentional misstatements on employment application;
- Falsifying records, forgery of time and activity sheets, misrepresentation of time worked, submission of duplicate time sheets and any other attempt to defraud the agency.
- Unauthorized removal or damage to any property of the agency or the personal property of any other employee or patient including abuse of the patient's telephone.
- Insubordination, this includes, but is not limited to, failure to follow patient care instructions refusing an assignment or violation of agency policy.
- Failing to carry out an assignment in accordance with agency policy and procedure.
- Engaging in provoking or instigating disorderly conduct or an act of violence on the agency premises, patient's home.
- Gross mistreatment, abuse, assault of the patient or Attempt to involve patients in controversies between agency and the employee.
- Attempt to use patient to advance employee self interest. THE AGENCY staff is not permitted to accept or request money or gifts from patients or solicit the patient for private work.
- Possession, distribution, sale or use of any form of intoxicant, including alcohol or any form of narcotic or controlled substance on agency property or patient's home. Smoking in the agency office and/or on assignment at the patient's residence.
- Carrying unauthorized passengers in an agency vehicle.

GLOBAL PRIVATE HOMECARE, LLC.
Policy and Procedure Manual

BEHAVIOR STANDARDS/DISCIPLINARY ACTIONS

POLICY X-18
Page 2 of 3

- 0 Failing to immediately report an accident/occurrence to a supervisor.
- o Disrespectful behavior or treatment of a patient, fellow employee or supervisor.
- 0 Disregard for supervisor's instructions regarding required job tasks or assignments.
- o Failure to remain in compliance with personnel requirements.
- 0 Actions which may place the patient in danger.
- 0 Failure to follow agency policies and procedures and/or directions from your supervisor.
- 0 Unauthorized absence, unexcused absence for any period of working time without notifications to the supervisor and/or approval for absence.
- 0 Excessive unexcused tardiness and/or leaving assignments before the end of shift.
- 0 Neglect of duty, sleeping on duty.

PROCEDURE:

1. When a problem or complaint, is noted about an employee's job performance, the supervisor initiates a disciplinary report.
2. The supervisor will conduct an investigation of the circumstances. The investigation includes interviews, observations related to the issue. The involved employee is requested to come into the agency office to meet with his/her supervisor.
3. The employee is given the opportunity to explain his/her actions and prepare and submit a written account of the incident.
4. The supervisor completes an investigation of the incident. Actions taken by supervisory employees in this regard are intended to be corrective as well as disciplined. Therefore, depending on history, circumstances and the seriousness of the situation, disciplinary action involves an increasing series of sanctions coupled with employee conferences designed to instruct the employee on his/her errors.
5. The supervisor, in consultation with the Director of Patient Services and/or Administrator, as necessarily identifies the appropriate action to be taken.

Disciplinary action may fall within one or more of the following categories:

- Warning
- Reprimand
- Termination

GLOBAL PRIVATE HOMECARE, LLC.
Policy and Procedure Manual

BEHAVIOR STANDARDS/DISCIPLINARY ACTIONS

POLICY X18

Page 3 of 3

I. WARNING

A verbal warning usually given at the time of, or shortly after, a first infraction. The verbal warning is used when more drastic action seems not to be justified. The warning will be recorded in the employee's personnel file by use of a Disciplinary Report.

II. REPRIMAND:

Prepared as a formal written document. Reprimands should only be given after a conference with the employee. The results of the conference and copy of the reprimand shall be placed in the employee's personnel file. The reprimand must provide details of the cause of action. Issuance of reprimand requires that the employee also be placed on probation. A disciplinary action report must be prepared and placed in the employee's personnel file.

III. TERMINATION:

When other methods of disciplinary action have failed, **or when the infraction is of such serious nature, that no other disciplinary action is appropriate the individual may be terminated from agency employment.**

Termination is only final when approved by the Director of Home Care Services or designee.

All disciplinary reports are to be filed in the employee's personnel file.

GLOBAL PRIVATE HOMECARE, LLC.
Policy and Procedure Manual

SUPERVISION AND ANNUAL PERFORMANCE EVALUATION

POLICY X-19
Page 1 of 2

PURPOSE:

To monitor and evaluate the proficiency and competence of all THE AGENCY employees.

POLICY:

1. All agency employees will be evaluated, at least annually, to assess proficiency, competence and adherence to agency policies and procedures. Staff providing care in the home will be supervised in the home at a minimum annually to evaluate the delivery of services, the provision of patient care and to provide clinical consultation and direction.
2. Professional and clinical consultation will be provided subsequent to the performance evaluation and a home visit as appropriate and when otherwise necessary as determined by the supervisor.

PROCEDURE:

1. All agency staff providing care in the home will be observed in the field by supervisory personnel within the 90 day probationary period and at least annually.
2. Supervisory visits in the home may be performed at any time as determined by the employee's supervisor/DPS. The supervisory visit will consist of:
 - Observation of the aide/nurse's skill - following the policy and procedure for that specific skill.
 - Evaluation of aide/nurse's ability to prioritize needs and problems.
 - Review of all clinical documentation
 - Verify the institution and use of the nursing/aide plan of care.
 - Evaluation of aide/nurse's dependability, communication skills, knowledge base and clinical judgment.
3. Supervision also includes:
 - Ongoing review of an employee orientation checklist to determine needed areas of continued education.
 - Ongoing review of cases through clinical record review and case conference.
 - Provision of clinical consultation specific to the individual patient and treatments.
 - Professional consultation on policies and procedures during the annual performance evaluation or as indicated.

GLOBAL PRIVATE HOMECARE, LLC.
Policy and Procedure Manual

SUPERVISION AND ANNUAL PERFORMANCE EVALUATION

POLICY X-19
Page 2 of 2

4. Documentation of a supervisory home visit is recorded on the agency's Supervision Form.
5. All the Agency's staff will be evaluated as to their performance of duty in accordance with the individual's position. The supervisor utilizes the specific Position Specific Performance Evaluation Tool to document the annual review. Observations and conclusions as to the employee performance are reviewed with the employee and appropriate follow-up arranged as necessary.
6. The completed Performance Evaluation Form is filed in the individual's personnel file.
7. The Annual Employee Performance Evaluation will occur on an annual basis according to the individual's start of employment date.
8. The Annual Performance Evaluation form will be used for documentation.
9. Evaluation of the clinical performance (supervisory home visit) will occur on an annual basis prior to the annual performance evaluation.

GLOBAL PRIVATE HOMECARE, LLC.
Policy and Procedure Manual

STAFF COMPETENCIES AND PROFICIENCY TESTING

POLICY X-20
Page 1 of 2

PURPOSE:

To establish guidelines and standards in which staff is evaluated and expected to perform their specific job responsibilities. To evaluate the quality of care being given by new and experienced clinical staff. To maintain, upgrade and update the skills of the nursing staff,

POLICY:

All patient care staff/caregivers are competency tested at orientation. No staff testing as unsatisfactory will be assigned a home care case until remediation, with a satisfactory outcome, is applied.

Staff will be evaluated annually as to their ability / competency and proficiency to perform their job responsibilities. Specific, disciplinary skills checklists, job specific orientation, in-service programs and continuing education, as well as in-home/on-site visits to observe performance will be utilized to complete the annual evaluation.

DEFINITIONS:

Cognitive or critical thinking skills include skills such as recognizing that a situation exists and the staff involved conducts a further assessment to determine probable cause.

Psychomotor or knowledge-based physical task skills include performing CPR, inserting IV Lines for medication administration, transfer with hooyer lift, utilizing the various office equipment available, such as telephone system and computer.

Knowledge based skills include the staff being familiar with how to conduct/perform an assessment, knowing the correct interventions in specific situations or knowing how to obtain the necessary information, as necessary.

Interpersonal Skills include effective communication skills and involves being able to work effectively with other employees, customers, patients, physicians and agency administrative and supervisory staff.

Competency means that the individual is capable to perform their duties correctly.

Proficiency means that the individual does perform the duty/task correctly.

GLOBAL PRIVATE HOMECARE, LLC.
Policy and Procedure Manual
STAFF COMPETENCIES AND PROFICIENCY TESTING

POLICY X-20
Page 2 of 2

PROCEDURE:

1. THE AGENCY provides orientation for each newly hired employee, including contracted individuals.
2. Orientation will address general organizational wide topics and also provide job-specific knowledge necessary for each employee to function effectively.
3. The agency's orientation, by implementation of skills checklists, observations and lab sessions will confirm that a new employee qualifies for the specific position.
4. In-service programs will be developed and made available to staff to orient them with new equipment, new procedures, new or revised policies and procedures and to maintain and expand their competencies and improve performance over time.
5. Staff will be evaluated following the 90-day introductory period and thereafter at least annually by the department director/supervisor.
6. Staff who cannot demonstrate proficiency will receive additional education. All additional education will be documented in the individual's personnel file. Staff will not be assigned to perform the duty/task/skill until he/she has been evaluated, observed by a supervisor and identified as competent and proficient in that duty/task/skill.