



Title: Antitrust Compliance Policy

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Policy# CC12

Purpose:

The Care Compass Entities require compliance with applicable federal and state antitrust laws, rules and regulations (collectively, the “Antitrust Law”), by its officers, directors, employees, and its Participants and other entities participating with the Care Compass Entities to transform care delivery. The Care Compass Entities’ operations and activities will be conducted in accordance with Antitrust Law and this Policy including, but not limited to, Antitrust Law applicable to Medicaid, Medicare, and commercial insurance healthcare markets. A summary of the legal background of the major Antitrust Law principles is attached as Appendix A.

Definitions:

Care Compass Entities: Organizations that are directly, or indirectly through one or more intermediaries, owned or controlled by, or are under common ownership or control of, Care Compass Network (CCN), including Care Compass Collaborative, Inc. and Care Compass Supporting IPA, LLC.

Participant: Includes any organization that has signed an agreement related to a grant-funded program with the Care Compass Entities.

Staff: Employees, contractors, agents, consultants, volunteers, Board Members, and others who act on the Care Compass Entities’ behalf.

Policy:

Antitrust Law is designed to preserve and promote fair and honest competition within the free enterprise system. The Care Compass Entities are committed to complying with Antitrust Law and prohibit anti-competitive conduct, including the improper exchange of competitively sensitive information, collusion to limit competition, and actions to discourage its Participants from contracting with payors outside the context of the Care Compass Entities’ arrangements with such payors. The Care Compass Entities operate non-exclusive, voluntary networks and will not engage in anti-competitive behavior in violation of the Antitrust Law in its activities, operations and relationships with organizations in the Care Compass Entities’ Networks.

I. Competitively Sensitive Information.

- a. As a general rule the Care Compass Entities shall not exchange, not provide to, or obtain from a competitor, competitively sensitive information. Examples of what would be considered competitively sensitive information include, but are not limited to:

- i. Current or future prices¹ (caution should be taken in discussing past prices);
 - ii. Methods of calculating price;
 - iii. Discounts, credit terms, or other terms and conditions of sale;
 - iv. Possible increases or decreases in price;
 - v. Stabilization of prices;
 - vi. Timing or announcement of price changes;
 - vii. Costs (such as salaries, wages, and employee benefits);
 - viii. Reimbursement rates;
 - ix. Division or allocation of markets (by geography, customer, distribution level, types of services, or other factors);
 - x. Bidding plans, strategies, or tactics;
 - xi. What constitutes a fair profit level;
 - xii. Capacity, except publicly available information;
 - xiii. Revenues, except publicly available information;
 - xiv. Refusing to deal with a patient or group of patients, particular providers, suppliers, or payors (boycotting); and
 - xv. Other competitors.
- b. If it becomes necessary to exchange such competitively sensitive information to further the goals of the Care Compass Entities, it may be permissible if done with the assistance of legal counsel and in a manner that does not violate applicable Antitrust Law.
- c. Moreover, the Care Compass Entities will not use bargaining powers it may have in the Medicaid market arising from building an integrated delivery system and integrating clinical care which are violative of the standards and guidelines of the Federal Trade Commission, U.S. Department of Justice, or applicable judicial decisions which are binding within the State of New York as well as general principles of antitrust enforcement and competition policy for markets related to the coordination, payment or provision of health care products and services.
- d. Participants will continue to compete in the Medicaid market as well as all other markets in which Participants provide services and shall not be restricted in any manner by the Care Compass Entities which violate the standards and guidelines of the Federal Trade Commission, U.S. Department of Justice, or applicable judicial decisions which are binding within the State of New York as well as general principles of antitrust enforcement and competition policy for markets related to the coordination, payment or provision of health care products and services.
- e. The Care Compass Entities are voluntary, non-exclusive networks. Healthcare providers participating in the Care Compass Entities' Networks may enter into arrangements with Medicaid, Medicare, and commercial managed care plans without the participation of the Care Compass Entities and with providers outside the Care Compass Entities' Networks. Providers in the Care Compass Entities' Networks may provide healthcare services to Medicaid beneficiaries and other patients outside of the Care Compass Entities' Networks.

¹ The word "price" includes actual charges and negotiated rates.

II. Antitrust Training. The Care Compass Entities shall provide antitrust compliance training to relevant officers, directors, employees, Participants, and other organizations and individuals involved in the Care Compass Entities' Network-related activities, as necessary and appropriate, and shall actively monitor compliance with Antitrust Law through compliance programming.

III. Key Antitrust Compliance Guidance.

- a. The Care Compass Entities will undertake clinical integration and care coordination activities necessary to support the Care Compass Entities' Networks and the individuals they serve.
- b. The Care Compass Entities will not enter into agreements or understandings between or among competitors to unlawfully limit competition in the Medicaid, Medicare or commercial markets, nor enter into agreements to divide or to allocate markets in relation to managed care contracts or other joint negotiations. The Care Compass Entities understand that competitors are strictly prohibited from agreeing to stay out of each other's markets. Markets are broadly defined to include geographical territories, customer types, distribution levels, and types of services.
- c. In connection with the Care Compass Entities' involvement in Medicaid, Medicare, and commercial business and subject to the standards and guidelines of the Federal Trade Commission, U.S. Department of Justice, or applicable judicial decisions which are binding within the State of New York as well as general principles of antitrust enforcement and competition policy for markets related to the coordination, payment or provision of health care products and services:
 - i. Staff and Participants must not discuss prices, whether actual charges or negotiated rates, with a competitor. It is strictly prohibited to reach any agreement or understanding with a competitor about whether to raise, lower, or stabilize prices. The Care Compass Entities and Participants must not exchange or discuss prices, elements of prices (as examples, costs, discounts, or credit), or any price information with any competitor. Participants must not exchange price lists with a competitor.
 - ii. Staff and Participants must not coordinate or discuss bids or quotes with a competitor. Bid rigging, collusion or undisclosed relationships involving bids or other forms of obtaining contracts or services are strictly prohibited.
 - iii. Staff and Participants must not agree with a competitor to deal with or refuse to deal with (or to boycott) a supplier, a customer, or another competitor.
 - iv. Staff and Participants must not tie or force the sale of one service or product to another service or product.
 - v. Staff and Participants should vigorously compete. The Antitrust Law promotes and protects competition.
 - vi. Staff and Participants must operate as a voluntary, non-exclusive network of health care providers in all markets.

- d. Staff, specifically, should refer to and must adhere to Appendix B of this Policy pertaining to Section 501(c)(6) Business League boundaries, guardrails pertaining to antitrust, and focused confidentiality and preventative conflict protections.
- e. If Staff have any concerns or questions about antitrust compliance or the application of this Policy to their conduct, they should contact the Director of Compliance.

APPENDIX A

Legal Background

The Antitrust Law promotes and protects competition.

The three, primary federal antitrust statutes are:

- 1) The Sherman Act, which prohibits unreasonable agreements to limit competition, monopolization, and attempts to monopolize;
- 2) The Clayton Act, which prohibits unreasonable tying arrangements; and
- 3) The Federal Trade Commission Act, which prohibits unfair methods of competition.

New York antitrust law generally follows federal law.

The courts have ruled that some types of agreements by competitors are per se (by itself) unreasonable or illegal, which prevents offering any defense or justification for the agreement. The per se illegal agreements are:

- 1) Price fixing;
- 2) Market division; and
- 3) Bid rigging.

Also, some agreements by competitors to refuse to deal with a supplier, a competitor, or a customer (group boycotts) can be per se illegal.

An antitrust lawsuit may be brought by the U.S. Department of Justice, the Federal Trade Commission, State Attorneys General, or private parties (including customers and suppliers). A violation of federal antitrust law carries serious consequences for companies and individuals. For each criminal violation, a company can be punished by a fine of up to \$100 million, and an individual can be fined up to \$1 million and sentenced to federal prison for up to 10 years. Alternatively, maximum fines can be increased to twice the gain (or twice the loss) resulting from the antitrust violation. In addition to criminal penalties, companies face potential civil liability from class actions seeking treble money damages (three times the actual money damages incurred), plus attorneys' fees, for an antitrust violation.

APPENDIX B

Focused Policy: Business League Boundaries, Antitrust Guardrails, & Conflict and Confidentiality Protections

This Appendix B sets forth guidelines relating to compliance with IRS requirements for business leagues exempt from taxation under 26 U.S.C. Section 501(c)(6). This Appendix will also apply to new activities to be conducted by CCN for periods following the expiration of DSRIP 1.0 in relation to sustainability of resources and integrated delivery of care. As both a non-profit corporation under New York State law and a “business league” under Federal IRS regulations for its tax-exempt status, there are unique requirements that apply to the on-going activities of CCN.

The boundaries and guardrails set forth in this Appendix B are derived from Federal compliance guidance as well as developments in the law, including, but not limited to issuances of the Internal Revenue Service, Tax Exempt and Government Entities Division¹.

I. Section 501(c)(6) – Business League Boundaries. As a Business League, CCN conducts activities pursuant to the corporate purposes and legitimate business objectives that apply across the distinct sectors involved in providing services and benefits to the populations identified as part of CCN’s goals and mission.

- a. Examples include:
 1. Certification of standards for open networks;
 2. Development of best practices;
 3. Research activities;
 4. Development of statistics and other measures to assist in service delivery;
 5. Development of quality/safety programs; and
 6. Other activities that are directed to the improvement of business conditions and that do not constitute performing particular services for individual members as a primary function.
- b. CCN shall not engage in a regular business of a kind ordinarily carried on for profit, even though the business is conducted on a cooperative basis or produces only sufficient income to be self-sustaining.
- c. CCN will continue to engage in activities which advance the interests of the industry sectors associated with the CCN Network, but will not primarily assist sector members in the pursuit of their individual businesses.
- d. Support both in terms of income and involvement by the industry-sector participants having common business interests will be at a “meaningful level,” with the following boundaries regarding income:
 1. Any income derived from the performance of CCN’s exempt functions or from substantially related activities should be treated as membership support.
 2. Grants and payments made by governmental and non-governmental sources, in relation to CCN’s corporate purposes, will be either directly related to this Appendix B or incidental to CCN activities.

3. Contributions or gifts from the general public as well as registration fees or dues will be treated as membership support, and
 4. Unrelated income should be excluded in measuring the extent of membership support and may be subject to unrelated business income tax.
- e. Operations and administration within the Care Compass Entities are “independent” of any member or participant and the entity is structured with participant organizations under a non-profit corporate model. Recommendations, programs, and contracting models will be developed on an objective basis with applicable Committee review and presentation to the Board of Directors.

II. Antitrust Guardrails. Pursuant to the Antitrust Compliance Policy, specific protections for risk areas have been assessed relating to activities during the period following termination of DSRIP 1.0. To the extent that such activities are directly related to DSRIP, Partner Agreements and projects that are to be completed through December 31, 2023, all applicable DSRIP PPS standards shall continue. To the extent that new activities or projects are developed under CCN’s sustainability plan or otherwise under CCN’s tax exempt status under section 501(c)(6), the following guardrails will apply to all CCN activities:

- a. Non-exclusivity/Non-tying requirements – Members may enter into separate agreements and use alternate means without any restrictions from CCN.
- b. Firewalls and restrictions on sharing pricing, wages, and related business information, which may be used in restraint of trade or price manipulation, will be enhanced through focused confidentiality and preventative conflict procedures as set forth in Section III of this Appendix B.
- c. Activities will adhere to Section I of this Appendix B, and be directed to the improvement of business conditions of one or more lines of business as distinguished from the performance of particular services for individual persons in tandem with the Antitrust Compliance Policy. Pilot programs and innovative projects with one or more members or organizations will continue in the course of CCN operations when they are designed to develop programs or capabilities for all similarly situated entities serving the Southern Tier communities and target populations.
- d. CCN may also sponsor programs under IRC 501(c)(6) which serve a quasi-public function imposed by law, which is directed at relieving a common cause of hardship and distress of broad public concern. Sponsorship may include shared activities with sponsored entities such as CCC as a 501(c)(3) entity, provided that such entities will develop and adopt separate compliance policies to include compliance with section 501(c)(3) and applicable antitrust standards for CCC and subsidiary entity activities. Sponsored entities may separately develop networks and activities that adhere to State and Federal public policies promoting value-based payment and similar goals designed to enhance service delivery and attain sustainable health care support within the Southern Tier communities.

III. Focused Confidentiality and Preventative Conflict Protections. Due to the significant overlap between the Care Compass Entities’ Conflict of Interest Policy and section 501(c)(6) boundaries, as

well as antitrust guardrails, a focused procedure will be applicable to ensure proper identification of information, subject to levels of protection as set forth in this Appendix B, as well as to preventative conflict protections designed for fiduciary review by Key Persons as defined in the Conflict of Interest Policy. These protections will ensure that:

- a. Key Persons have advance understanding of new contracting models and need to ensure uniformity of support to all participants.
- b. Key Persons understand the need for enhanced Conflict of Interest sensitivity practices and Fiduciary Confidentiality Requirements for Board and Committee members so that proactive efforts may be taken by all involved.
- c. Board contracting review and approval procedures are developed that may require redaction of antitrust or business-sensitive information.

IV. The Care Compass Entities will ensure that the following protections are used with regard to information or documents requiring distinct level of confidentiality:

- a. Confidential information will be classified into three levels of sensitivity:
 1. **Low:** Oral information provided to Key Persons, Committees, or the Board of Directors that does not include sensitive or detailed information or data.
 - i. Such information will be accompanied by a statement of the need to maintain the information's confidentiality within the Care Compass Entities, as applicable, and oral acknowledgment by all individuals to be recorded in the minutes, as applicable, or by email response.
 - ii. Individuals will agree not to take notes that include such information as a separate personal record.
 - iii. The applicable information will be redacted from the minutes and a separate un-redacted version will be maintained within the Care Compass Entities' records, as applicable and classified as confidential.
 2. **Medium:** Oral or written information that is sensitive in nature, as protected by contractual terms entered into by the Care Compass Entities or its contractors.
 - i. Such information will be provided in view-mode only during the course of any Committee or Board meeting.
 - ii. To the extent that such information requires review prior to any meeting or requires examination by appropriate Committee or Board members, the Care Compass Entities will establish a SharePoint file or data room that allows read only/view only access and tracks individual access.
 - iii. Affected individuals will be required to sign an Acknowledgment of Confidentiality prior to viewing such information.
 - iv. Individuals will agree not to take notes that include such information as a separate personal record.
 - v. The record of proceedings of the Committee or Board of Directors will be redacted or, as appropriate, an Executive Session will be authorized.

- vi. The unredacted version of the proceedings will be maintained in the Care Compass Entities' corporate records, as applicable and classified as confidential.
3. **High:** Oral or written information that is highly sensitive in nature, as protected by enhanced confidentiality terms with third parties, such as a non-disclosure agreement or for release only to designated individuals. Oral or written information that is highly sensitive due to antitrust restrictions and/or other compliance or regulatory prohibitions.
- i. Such information will not be made available, except as expressly authorized by contract and/or applicable compliance or regulatory standards.
 - ii. A summary of the subject matter may be disclosed if such summary may fall within the sensitivity levels set forth as "Low" or "Medium" in this Appendix B.
 - iii. Information may be released and subject to disclosure to Key Persons or the applicable Committee and the Board of Directors upon termination of any reason for restrictions, such as the conclusion of a Non-disclosure Agreement allowing for such release or other legal prohibitions that are contingent in time.
 - iv. Affected individuals will be required to sign an Acknowledgment of Confidentiality prior to viewing such information.
 - v. Individuals will agree not to take notes that include such information as a separate personal record.
 - vi. At the request of any member of the Board of Directors, the Board may direct review of the applicable information by the attorney retained by the Care Compass Entities to review and provide guidance as to the underlying matter, without disclosure of confidential information.
 - vii. The Board may authorize review of highly confidential information by establishing a temporary committee composed of a limited number of Board members to review, as may be necessary, such confidential information and provide recommendations to the full Board in relation to any transaction or project, as may be appropriate, but without disclosure of such confidential information to the full Board. Such temporary committee will be supported by leadership and counsel to the Care Compass Entities, as required.
 - viii. The record of proceedings of the Committee or Board of Directors will be redacted or, as appropriate, an Executive Session will be authorized.
 - ix. The unredacted version of the proceedings will be maintained in the Care Compass Entities' corporate records, as applicable and classified as confidential.
- b. Preventative Conflict Protections will be followed to ensure that potential conflicts of interest or future conflict of interest triggers may be avoided by Key Persons, Committee members, and members of the Board of Directors.
1. Where confidential information may cause a Key Person, Committee member, or Board member to assess matters that would also be of interest or potentially competitive to a third party in which such individual also maintains a fiduciary relationship, the impacted individuals will disclose the potential conflict through the Conflict of Interest

Policy, and either follow recusal protocols or agree to recuse themselves from future involvement with their fiduciary obligations with such third parties as to such information or matter.

Where confidential information or any matter relating to the boundaries and guardrails set forth in this Appendix B involves an agreement with one or more network participants that will form the basis for future relationships with competitive entities, the network participant will be required to include terms that may protect sensitive proprietary information as classified under the sensitivity level of “High,” provided that the remaining agreement and the results of such agreement may be used and replicated for any similarly situated network participant within the Southern Tier communities. A standard agreement will be developed for such purposes and the network participant involved will agree in advance to ensure that any Key Person, Committee member, or Board member who is a related party or associated with such organization will agree to be recused from participation in the approval or assessment and/or any other matter associated with such agreement.

EXHIBIT A

Acknowledgment of Confidentiality

The Care Compass Entities have established policies designed to protect the fiduciary obligations of members of the Board and committee members, as well as other Key Persons associated with the organization(s). As a member of the Board and/or member of committees established by the Board, I acknowledge my fiduciary duty of confidentiality and will not disclose confidential information belonging to, or obtained through, my affiliation with the Care Compass Entities to any person, business, and professional associates, unless expressly authorized. This policy is not intended to prevent disclosure where disclosure is required by law and directly relates to “confidential” information, as set forth in the organizations’ policies, which include the Conflict of Interest Policy and Antitrust Compliance Policy, in addition to specific requirements of contracts with third parties brought to my attention by leadership of the Care Compass Entities.

Confidentiality is the preservation of privileged information, and it only includes information provided to me in my capacity as a Board or Committee member that is not publicly available or restricted from disclosure by contract or by law. I also acknowledge that I have the option of recusing myself from access to certain confidential information if I believe it would create a conflict of interest for me with respect either to my service as a Board/Committee member or to my role within any other third-party organization.

I understand that the Care Compass Entities expect and encourage discussion of the organizations with one another and with the public on matters that are *not* restricted by confidentiality. I acknowledge that the opinions expressed in meetings, deliberations, and recommendations on confidential matters, however, must be kept confidential.

It is also expected that Board and Committee members will not use trade secrets, proprietary information, data or lists, or other confidential information acquired by virtue of being associated with the Care Compass Entities, even after I complete my term of association with the organization(s). To the extent that I have obtained confidential information in my own files or records, I will destroy or return such materials to the Care Compass Entities Director of Compliance at the end of my term of service with the Care Compass Entities.

Certification

I have read the Care Compass Entities’ policies on confidentiality noted above, as well as this Acknowledgment of Confidentiality, and I agree to abide by the standards set forth above. I will also inform the Board Chair and Director of Compliance immediately if I believe there has been any release of confidential information.

Signature _____

Name _____

Date _____

CCN Board Approval History: 6/9/2015, 2/12/2019, 11/10/2020, 6/8/2021, 11/9/2021, 11/8/2022, 6/13/2023, 12/12/2023, 8/13/2024, 6/10/2025, 8/11/2026

CCC Board Approval History: 1/9/2024, 9/24/2024, 7/22/2025, 7/21/2026

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Compliance Committee Review History: 10/28/2016, 11/17/2017, 1/18/2019, 11/15/2019, 10/16/2020, 10/15/2021, 11/1/2022, 5/12/2023, 10/13/2023, 7/24/2024, 5/22/2025, 6/4/2026

Policy Revisions:

Date	Revision Log	Updated By
6/8/2015	Original creation	Ann Homer
11/16/2016	Added Board Review History	Andrea Rotella
1/18/2019	Added definition of “staff” and other changes by the Compliance and Audit Committee	Andrea Rotella
10/16/2020	Removal of references to DSRIP	Andrea Rotella
6/3/2021	Addition of Appendix B	Bond, Schoeneck & King
9/1/2021	Removal of references to PPS and addition of Exhibit A (Acknowledgment of Confidentiality)	Cathy Petrak Andrea Rotella
8/29/2022	Added Partner definition and updated Partner Organization to Partner throughout	Cathy Petrak
4/5/2023	Removal of references to Antitrust Safety Zones	Cathy Petrak
7/13/2023	Updated to enterprise-wide policy	Cathy Petrak
10/12/2023	Added clarification to Section I(c) and I(d) and Section III(c) requiring compliance with all standards and guidelines of the FTC, DOJ, and judicial decisions that become binding in NYS following the removal of Antitrust Safety Zones	Bond, Schoeneck & King
6/5/2024	Updated Key Antitrust Guidance to include Medicaid and clarify that agreements will not be entered into to unlawfully limit competition	Bond, Schoeneck & King
5/12/2025	Updated “Affiliated Entities” to “Care Compass Entities” throughout	Cathy Petrak

This Policy shall be reviewed periodically, but no less than once every 12 months, and updated consistent with the requirements established by the Board of Directors, Care Compass Network’s Leadership Team, Federal and State law(s) and regulations, and applicable accrediting and review organizations.

ⁱ Issuances include the last issued summary of standards for section 501(c)(6) entities – “Exempt Organizations-Technical Instruction Program for FY 2003” found at: <https://www.irs.gov/pub/irs-tege/eotopick03.pdf>