

**CERTIFICATION OF COMPLIANCE AGREEMENT
BETWEEN THE
OFFICE OF INSPECTOR GENERAL OF THE
DEPARTMENT OF HEALTH AND HUMAN SERVICES
AND
SRM ALLIANCE HOSPITAL SERVICES D/B/A PETALUMA VALLEY HOSPITAL**

I. PREAMBLE

SRM Alliance Hospital Services d/b/a Petaluma Valley Hospital hereby enters into this Certification of Compliance Agreement (CCA) with the Office of Inspector General (OIG) of the United States Department of Health and Human Services (HHS) to promote compliance at Petaluma Valley Hospital by the officers, directors, and employees of SRM Alliance Hospital Services d/b/a Petaluma Valley Hospital, as well as those contractors, subcontractors, agents, medical staff members, and other persons who provide patient care items or services or who perform billing or coding functions on behalf of Petaluma Valley Hospital. Contemporaneously with this CCA, SRM Alliance Hospital Services d/b/a Petaluma Valley Hospital is entering into a Settlement Agreement with the United States, and this CCA is incorporated by reference into the Settlement Agreement. For the purposes of this CCA, all references to “PVH” hereafter shall mean SRM Alliance Hospital Services d/b/a Petaluma Valley Hospital.

The effective date of this CCA shall be the date on which the final signatory of this CCA executes this CCA (Effective Date). Each one-year period, beginning with the one-year period following the Effective Date, shall be referred to as a “Reporting Period.”

II. INTEGRITY REQUIREMENTS

PVH agrees that, for a period of three years from the Effective Date of this CCA, it will fulfill the obligations set forth below:

A. Continued Implementation of Compliance Program at PVH. PVH shall continue to implement the compliance program (PVH Compliance Program), as described in the attached Declaration (which is incorporated by reference as Appendix A), and continue to provide, at a minimum, the same level of resources currently provided, throughout this time period. PVH may amend the PVH Compliance Program as it deems necessary, so long as those amendments are consistent with the overall objective of ensuring compliance with the requirements of Medicare, Medicaid, and all other Federal health care programs, as defined in 42 U.S.C. § 1320a-7b(f).

B. Reporting of Overpayments. PVH shall promptly refund to the appropriate Federal health care program payor any identified Overpayment(s). For purposes of this Agreement, an "Overpayment" shall mean the amount of money PVH has received in excess of the amount due and payable under any Federal health care program requirements. If, at any time, PVH identifies or learns of any Overpayment, PVH shall notify the payor (e.g., Medicare fiscal intermediary or carrier) within 30 days after identification of the Overpayment and take remedial steps within 60 days after identification (or such additional time as may be agreed to by the payor) to correct the problem, including preventing the underlying problem and the Overpayment from recurring. Also, within 30 days after identification of the Overpayment, PVH shall repay the Overpayment to the appropriate payor to the extent such Overpayment has been quantified. If not yet quantified, within 30 days after identification, PVH shall notify the payor of its efforts to quantify the Overpayment amount along with a schedule of when such work is expected to be completed. Notification and repayment to the payor shall be done in accordance with the payor's policies, and for Medicare contractors, shall include the information contained on the Overpayment Refund Form, provided as Appendix B to this CCA. Notwithstanding the above, notification and repayment of any Overpayment amount that is routinely reconciled or adjusted pursuant to policies and procedures established by the payor should be handled in accordance with such policies and procedures.

C. Reportable Events. PVH shall report to OIG in writing within 30 days after making a determination (after a reasonable opportunity to conduct an appropriate review or investigation of the allegations) that there is a Reportable Event, which shall mean anything that involves: (1) a substantial Overpayment, or (2) a matter that a reasonable person would consider a probable violation of criminal, civil, or administrative laws at PVH applicable to any Federal health care program for which penalties or exclusion may be authorized. In such report, PVH shall include the following information:

1. If the Reportable Event results in an Overpayment, the report to OIG shall be made at the same time as the notification to the payor required in Section II.B, and shall include all of the information on the Overpayment Refund Form, as well as:
 - a. the payor's name, address, and contact person to whom the Overpayment was sent; and
 - b. the date of the check and identification number (or electronic transaction number) by which the Overpayment was repaid/refunded;

2. a complete description of the Reportable Event, including the relevant facts, persons involved, and legal and Federal health care program authorities implicated;
3. a description of PVH's actions taken to correct the Reportable Event; and
4. any further steps PVH plans to take to address the Reportable Event and prevent it from recurring.

D. Notification of Government Investigation or Legal Proceedings. Within 30 days after discovery, PVH shall notify OIG, in writing, of any ongoing investigation or legal proceeding known to PVH conducted or brought by a governmental entity or its agents involving an allegation that PVH has committed a crime or has engaged in fraudulent activities. This notification shall include a description of the allegation, the identity of the investigating or prosecuting agency, and the status of such investigation or legal proceeding. PVH shall also provide written notice to OIG within 30 days after the resolution of the matter, and shall provide OIG with a description of the findings and/or results of the investigation or proceedings, if any.

E. Annual Reporting Requirements. PVH shall submit to OIG annually a report that sets forth the following information for each Reporting Period (Annual Report):

1. A description of any material amendments to the PVH Compliance Program and the reasons for such changes;
2. Any changes to the level of resources dedicated to the PVH Compliance Program and the reasons for such changes;
3. A summary of all internal or external reviews, audits, or analyses performed under the PVH Compliance Program (including, at a minimum, the objective of the review, audit, or analysis; the protocol or methodology for the review, audit, or analysis; and the results of the review, audit, or analysis) and any corrective action plans developed in response to such reviews, audits, or analyses;
4. A summary of all internal or external reviews, audits, or analyses related to inpatient or outpatient claims involving Federal health care program beneficiaries (including, at a minimum, the objective of the review, audit, or analysis; the protocol or methodology for the review, audit, or analysis; and the results of the review, audit, or analysis) and any corrective action plans

developed in response to such reviews, audits, or analyses;

5. A report of the aggregate Overpayments that have been returned to the Federal health care programs. Overpayment amounts shall be broken down into the following categories: inpatient Medicare, outpatient Medicare, Medicaid (report each state separately, if applicable), and other Federal health care programs. Overpayment amounts that are routinely reconciled or adjusted pursuant to policies and procedures established by the payor do not need to be included in this aggregate Overpayment report; and

6. A certification by the Compliance Officer that, (a) during the Reporting Period, PVH has complied with the requirements of this Section II; and (b) he or she has reviewed the Annual Report and has made reasonable inquiry regarding its content and believes that the information in the Annual Report is accurate and truthful.

The first Annual Report shall be received by OIG no later than 60 days after the end of the first Reporting Period. Subsequent Annual Reports shall be received by OIG no later than the anniversary date of the due date of the first Annual Report.

F. Notifications and Submission of Annual Reports. Unless otherwise specified in writing after the Effective Date, all notifications and Annual Reports required under this CCA shall be submitted to the following addresses:

OIG:

Administrative and Civil Remedies Branch
Office of Counsel to the Inspector General
Office of Inspector General
U.S. Department of Health and Human Services
Cohen Building, Room 5527
330 Independence Avenue, S.W.
Washington, DC 20201
Telephone: 202-619-2078
Facsimile: 202-205-0604

PVH:

Laurie Clayton
Compliance Officer
SRM Alliance Hospital Services
2227 Capricorn Way, Suite 100A
Santa Rosa, CA 95407
Telephone: 707-547-5415
Facsimile: 707-547-5433

Unless otherwise specified, all notifications and reports required by this CCA may be made by certified mail, overnight mail, hand delivery, or other means, provided that there is proof that such report or notification was received. For purposes of this requirement, internal facsimile confirmation sheets do not constitute proof of receipt.

G. OIG Inspection, Audit, and Review Rights. In addition to any other rights OIG may have by statute, regulation, or contract, OIG or its duly authorized representative(s) may examine or request copies of PVH's books, records, and other documents and supporting materials and/or conduct on-site reviews of PVH's locations for the purpose of verifying and evaluating: (a) PVH's compliance with the terms of this CCA; and (b) PVH's compliance with the requirements of the Federal health care programs in which it participates. The documentation described above shall be made available by PVH to OIG or its duly authorized representative(s) at all reasonable times for inspection, audit, or reproduction. Furthermore, for purposes of this provision, OIG or its duly authorized representative(s) may interview any of PVH's employees, contractors, or agents who consent to be interviewed at the individual's place of business during normal business hours or at such other place and time as may be mutually agreed upon between the individual and OIG. PVH shall assist OIG or its duly authorized representative(s) in contacting and arranging interviews with such individuals upon OIG's request. PVH employees may elect to be interviewed with or without a representative of PVH present.

H. Document and Record Retention. PVH shall maintain for inspection all documents and records relating to PVH's reimbursement from the Federal health care programs, or to PVH's compliance with this CCA, for four years (or longer if otherwise required by law).

III. BREACH AND DEFAULT PROVISIONS

PVH is expected to fully and timely comply with all of the Integrity Requirements set forth in this CCA.

A. Stipulated Penalties for Failure to Comply with Certain Obligations. As a contractual remedy, PVH and OIG hereby agree that failure to comply with the Integrity Requirements set forth in this CCA may lead to the imposition of the following monetary penalties (hereinafter referred to as “Stipulated Penalties”) in accordance with the following provisions.

1. A Stipulated Penalty of \$2,500 (which shall begin to accrue on the day after the date the obligation became due) for each day PVH fails to establish and implement any of the following compliance program elements as described in the Declaration attached to this CCA as Appendix A:

- a. a Compliance Officer responsible for PVH;
- b. a Compliance Committee responsible for PVH;
- c. a written Code of Conduct with respect to PVH;
- d. written Policies and Procedures for PVH;
- e. the annual training of owners, officers, directors, employees, and contractors, subcontractors, agents, medical staff members, and other persons who provide patient care items or services or who perform billing or coding functions on behalf of PVH;
- f. an external auditor that performs periodic coding reviews (at least quarterly) to monitor PVH’s compliance with the Federal health care program requirements;
- g. an internal audit department that performs periodic coding reviews (at least quarterly) to monitor PVH’s compliance with Federal health care program requirements; and
- h. a Disclosure Program.

2. A Stipulated Penalty of \$2,500 (which shall begin to accrue on the day after the date the obligation became due) for each day PVH fails to meet any deadlines for the submission of Annual Reports to OIG as described in Section II.E.

3. A Stipulated Penalty of \$2,000 (which shall begin to accrue on the date the failure to comply began) for each day PVH has as an owner, officer, or director, an

excluded individual, or for each day PVH employs, contracts with, or has as an agent, or grants staff privileges to an excluded individual and that person: (a) has responsibility for, or involvement with, PVH's business operations related to the Federal health care programs; or (b) is in a position for which the person's salary or the items or services furnished, ordered, or prescribed by the person are paid in whole or part, directly or indirectly, by Federal health care programs or otherwise with Federal funds (if the excluded individual is a physician with staff privileges at PVH, then the Stipulated Penalty shall accrue for each day that the excluded individual furnished, ordered, or prescribed any items or services at PVH that were payable in whole or in part by any Federal health care program). The Stipulated Penalty described in this Subsection shall not be demanded for any time period during which PVH can demonstrate that it did not discover the person's exclusion or other ineligibility after making a reasonable inquiry (as described in Paragraph 8 of the Declaration) as to the status of the person.

4. A Stipulated Penalty of \$1,500 for each day PVH fails to grant access to the information or documentation as required in Section II.G of this CCA. (This Stipulated Penalty shall begin to accrue on the date PVH fails to grant access.)

5. A Stipulated Penalty of \$5,000 for each false certification submitted by or on behalf of PVH as part of its Annual Reports or otherwise required by this CCA.

6. A Stipulated Penalty of \$1,000 for each day PVH fails to comply fully and adequately with any Integrity Requirements of this CCA. OIG shall provide notice to PVH, stating the specific grounds for its determination that PVH has failed to comply fully and adequately with the Integrity Requirement(s) at issue and steps PVH shall take to comply with the Integrity Requirements of this CCA. (This Stipulated Penalty shall begin to accrue 10 days after PVH receives notice from OIG of the failure to comply.) A Stipulated Penalty as described in this Subsection shall not be demanded for any violation for which OIG has sought a Stipulated Penalty under Subsections 1-5 of this Section III.A.

B. Timely Written Requests for Extensions. PVH may, in advance of the due date, submit a timely written request for an extension of time to perform any act or file any notification or report required by this CCA. Notwithstanding any other provision in this Section, if OIG grants the timely written request with respect to an act, notification, or report, Stipulated Penalties for failure to perform the act or file the notification or report shall not begin to accrue until one day after PVH fails to meet the revised deadline set by OIG. Notwithstanding any other provision in this Section, if OIG denies such a timely written request, Stipulated Penalties for failure to perform the act or file the notification or report shall not begin to accrue until three business days after PVH receives OIG's written denial of such request or the original due date, whichever is later.

A “timely written request” is defined as a request in writing received by OIG at least five business days prior to the date by which any act is due to be performed or any notification or report is due to be filed.

C. Payment of Stipulated Penalties.

1. *Demand Letter.* Upon a finding that PVH has failed to comply with any of the obligations described in Section III.A and after determining that Stipulated Penalties are appropriate, OIG shall notify PVH of: (a) PVH’s failure to comply; and (b) OIG’s exercise of its contractual right to demand payment of the Stipulated Penalties (this notification is referred to as the “Demand Letter”).

2. *Response to Demand Letter.* Within 10 days after the receipt of the Demand Letter, PVH shall either: (a) cure the breach to OIG’s satisfaction and pay the applicable Stipulated Penalties; or (b) request a hearing before an HHS administrative law judge (ALJ) to dispute OIG’s determination of noncompliance, pursuant to the agreed upon provisions set forth below in Section III.E. In the event PVH elects to request an ALJ hearing, the Stipulated Penalties shall continue to accrue until PVH cures, to OIG’s satisfaction, the alleged breach in dispute. Failure to respond to the Demand Letter in one of these two manners within the allowed time period shall be considered a material breach of this CCA and shall be grounds for exclusion under Section III.D.

3. *Form of Payment.* Payment of the Stipulated Penalties shall be made by certified or cashier’s check, payable to: “Secretary of the Department of Health and Human Services,” and submitted to OIG at the address set forth in Section II.F.

4. *Independence from Material Breach Determination.* Except as set forth in Section III.D.1.c, these provisions for payment of Stipulated Penalties shall not affect or otherwise set a standard for OIG’s decision that PVH has materially breached this CCA, which decision shall be made at OIG’s discretion and shall be governed by the provisions in Section III.D, below.

D. Exclusion for Material Breach of this CCA.

1. *Definition of Material Breach.* A material breach of this CCA means:

- a. a failure by PVH to report a Reportable Event, take corrective action, and make the appropriate refunds, as required in Section II.C;

b. a repeated or flagrant violation of the obligations under this CCA, including, but not limited to, the obligations addressed in Section III.A; or

c. a failure to respond to a Demand Letter concerning the payment of Stipulated Penalties in accordance with Section III.C.

2. *Notice of Material Breach and Intent to Exclude.* The parties agree that a material breach of this CCA by PVH constitutes an independent basis for PVH's exclusion from participation in the Federal health care programs. Upon a determination by OIG that PVH has materially breached this CCA and that exclusion is the appropriate remedy, OIG shall notify PVH of: (a) PVH's material breach; and (b) OIG's intent to exercise its contractual right to impose exclusion (this notification is referred to as the "Notice of Material Breach and Intent to Exclude").

3. *Opportunity to Cure.* PVH shall have 30 days from the date of receipt of the Notice of Material Breach and Intent to Exclude to demonstrate to OIG's satisfaction that:

a. PVH is in compliance with the requirements of the CCA cited by OIG as being the basis for the material breach;

b. the alleged material breach has been cured; or

c. the alleged material breach cannot be cured within the 30-day period, but that: (i) PVH has begun to take action to cure the material breach; (ii) PVH is pursuing such action with due diligence; and (iii) PVH has provided to OIG a reasonable timetable for curing the material breach.

4. *Exclusion Letter.* If, at the conclusion of the 30-day period, PVH fails to satisfy the requirements of Section III.D.3, OIG may exclude PVH from participation in the Federal health care programs. OIG shall notify PVH in writing of its determination to exclude PVH (this letter shall be referred to as the "Exclusion Letter"). Subject to the Dispute Resolution provisions in Section III.E, below, the exclusion shall go into effect 30 days after the date of the Exclusion Letter. The exclusion shall have national effect and shall also apply to all other Federal procurement and nonprocurement programs. Reinstatement to program participation is not automatic. If, at the end of the period of exclusion, PVH wishes to apply for reinstatement, PVH shall submit a written request for reinstatement in accordance with the provisions at 42 C.F.R. §§ 1001.3001-.3004.

E. Dispute Resolution.

1. *Review Rights.* Upon OIG's delivery to PVH of its Demand Letter or of its Exclusion Letter, and as an agreed-upon contractual remedy for the resolution of disputes arising under this CCA, PVH shall be afforded certain review rights comparable to the ones that are provided in 42 U.S.C. §1320a-7(f) and 42 C.F.R. Part 1005 as if they applied to the Stipulated Penalties or exclusion sought pursuant to this CCA.

Specifically, OIG's determination to demand payment of Stipulated Penalties or to seek exclusion shall be subject to review by an HHS ALJ and, in the event of an appeal, the HHS Departmental Appeals Board (DAB), in a manner consistent with the provisions in 42 C.F.R. §§ 1005.2-1005.21. Notwithstanding the language in 42 C.F.R. § 1005.2(c), the request for a hearing involving Stipulated Penalties shall be made within 10 days after receipt of the Demand Letter and the request for a hearing involving exclusion shall be made within 25 days after receipt of the Exclusion Letter.

2. *Stipulated Penalties Review.* Notwithstanding any provision of Title 42 of the United States Code or Title 42 of the Code of Federal Regulations, the only issues in a proceeding for Stipulated Penalties under this CCA shall be: (a) whether PVH was in full and timely compliance with the requirements of this CCA for which OIG demands payment; and (b) the period of noncompliance. PVH shall have the burden of proving its full and timely compliance and the steps taken to cure the noncompliance, if any. OIG shall not have the right to appeal to the DAB an adverse ALJ decision related to Stipulated Penalties. If the ALJ agrees with OIG with regard to a finding of a breach of this CCA and orders PVH to pay Stipulated Penalties, such Stipulated Penalties shall become due and payable 20 days after the ALJ issues such a decision unless PVH requests review of the ALJ decision by the DAB. If the ALJ decision is properly appealed to the DAB and the DAB upholds the determination of OIG, the Stipulated Penalties shall become due and payable 20 days after the DAB issues its decision.

3. *Exclusion Review.* Notwithstanding any provision of Title 42 of the United States Code or Title 42 of the Code of Federal Regulations, the only issues in a proceeding for exclusion based on a material breach of this CCA shall be:

- a. whether PVH was in material breach of this CCA;
- b. whether such breach was continuing on the date of the Exclusion Letter; and
- c. whether the alleged material breach could not have been cured

within the 30-day period, but that: (i) PVH had begun to take action to cure the material breach within that period; (ii) PVH has pursued and is pursuing such action with due diligence; and (iii) PVH provided to OIG within that period a reasonable timetable for curing the material breach and PVH has followed the timetable.

For purposes of the exclusion herein, exclusion shall take effect only after an ALJ decision favorable to OIG, or, if the ALJ rules for PVH, only after a DAB decision in favor of OIG. PVH's election of its contractual right to appeal to the DAB shall not abrogate OIG's authority to exclude PVH upon the issuance of an ALJ's decision in favor of OIG. If the ALJ sustains the determination of OIG and determines that exclusion is authorized, such exclusion shall take effect 20 days after the ALJ issues such a decision, notwithstanding that PVH may request review of the ALJ decision by the DAB. If the DAB finds in favor of OIG after an ALJ decision adverse to OIG, the exclusion shall take effect 20 days after the DAB decision. PVH shall waive its right to any notice of such an exclusion if a decision upholding the exclusion is rendered by the ALJ or DAB. If the DAB finds in favor of PVH, PVH shall be reinstated effective on the date of the original exclusion.

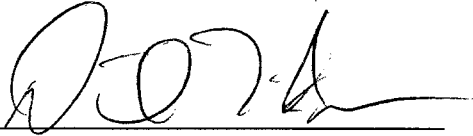
4. *Finality of Decision.* The review by an ALJ or DAB provided for above shall not be considered to be an appeal right arising under any statutes or regulations. Consequently, the parties to this CCA agree that the DAB's decision (or the ALJ's decision if not appealed) shall be considered final for all purposes under this CCA.

IV. EFFECTIVE AND BINDING AGREEMENT

PVH and OIG agree as follows:

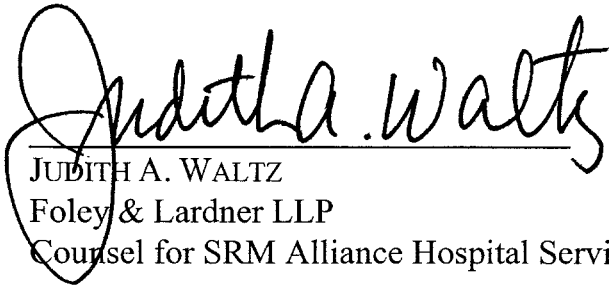
- A. This CCA shall be binding on the successors, assigns, and transferees of PVH;
- B. This CCA shall become final and binding on the date the final signature is obtained on the CCA;
- C. Any modifications to this CCA shall be made with the prior written consent of the parties to this CCA; and
- D. The undersigned PVH signatories represent and warrant that they are authorized to execute this CCA. The undersigned OIG signatory represents that he is signing this CCA in his official capacity and that he is authorized to execute this CCA.

ON BEHALF OF SRM ALLIANCE HOSPITAL SERVICES
D/B/A PETALUMA VALLEY HOSPITAL



DAVID AMEEN
President and Chief Executive Officer
SRM Alliance Hospital Services d/b/a Petaluma Valley Hospital

7/20/04
DATE



JUDITH A. WALTZ
Foley & Lardner LLP
Counsel for SRM Alliance Hospital Services d/b/a Petaluma Valley Hospital

July 15, 2004
DATE

**ON BEHALF OF THE OFFICE OF INSPECTOR GENERAL
OF THE DEPARTMENT OF HEALTH AND HUMAN SERVICES**

Larry Goldberg

LARRY J. GOLDBERG

Assistant Inspector General for Legal Affairs

Office of Inspector General

United States Department of Health and Human Services

28 July 2004

DATE

APPENDIX B

OVERPAYMENT REFUND

TO BE COMPLETED BY MEDICARE CONTRACTOR

Date: _____
 Contractor Deposit Control # _____ Date of Deposit: _____
 Contractor Contact Name: _____ Phone # _____
 Contractor Address: _____
 Contractor Fax: _____

TO BE COMPLETED BY PROVIDER/PHYSICIAN/SUPPLIER

Please complete and forward to Medicare Contractor. This form, or a similar document containing the following information, should accompany every voluntary refund so that receipt of check is properly recorded and applied.

PROVIDER/PHYSICIAN/SUPPLIER NAME _____
 ADDRESS _____
 PROVIDER/PHYSICIAN/SUPPLIER # _____ CHECK NUMBER# _____
 CONTACT PERSON: _____ PHONE # _____
 AMOUNT OF CHECK \$ _____ CHECK DATE _____

REFUND INFORMATION

For each Claim, provide the following:

Patient Name _____ HIC # _____
 Medicare Claim Number _____ Claim Amount Refunded \$ _____
 Reason Code for Claim Adjustment: _____ (Select reason code from list below. Use one reason per claim)

(Please list all claim numbers involved. Attach separate sheet, if necessary)

Note: If Specific Patient/HIC/Claim #/Claim Amount data not available for all claims due to Statistical Sampling, please indicate methodology and formula used to determine amount and reason for overpayment: _____

For Institutional Facilities Only:

Cost Report Year(s) _____
 (If multiple cost report years are involved, provide a breakdown by amount and corresponding cost report year.)

For OIG Reporting Requirements:

Do you have a Corporate Integrity Agreement with OIG? _____ Yes _____ No

Reason Codes:

<u>Billing/Clerical Error</u>	<u>MSP/Other Payer Involvement</u>	<u>Miscellaneous</u>
01 - Corrected Date of Service	08 - MSP Group Health Plan Insurance	13 - Insufficient Documentation
02 - Duplicate	09 - MSP No Fault Insurance	14 - Patient Enrolled in an HMO
03 - Corrected CPT Code	10 - MSP Liability Insurance	15 - Services Not Rendered
04 - Not Our Patient(s)	11 - MSP, Workers Comp.(Including Black Lung	16 - Medical Necessity
05 - Modifier Added/Removed	12 - Veterans Administration	17 - Other (Please Specify)
06 - Billed in Error		
07 - Corrected CPT Code		