



**Carestream**

# Carestream Compliance Training



## Northern Cluster Partner Meeting



Castricum, NL 2014

# Carestream's Commitment

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*“Carestream is committed to achieving a culture of uncompromising ethics and high integrity. It is good for long term shareholder value and it is the right thing to do.”* Kevin Hobert, CEO

# Our Vision and Values

## OUR VISION

Our innovative solutions enable our customers' success, and help create a better life for people around the world.



## OUR VALUES

**CUSTOMERS** are the beginning and the end of everything we do. We understand their needs, exceed their expectations in ways that are meaningful to them, and enable their success.

**PEOPLE** are our most important asset. To our customers, our people are our company. We attract the best people and create an environment where they reach their full potential.

**EXCELLENCE** is our enduring aspiration. We take pride in our work and continuously improve.

**WINNING** is our ultimate goal. We stretch ourselves, we overcome obstacles, we play fair—and we win.

**INNOVATION** is our passion. With enthusiasm and creativity we develop high impact innovations.

# Bribery Conflicts with our Vision

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- EU Anti-Corruption Report March 2014:  
*“Corruption seriously harms the economy and society as a whole. Many countries around the world suffer from deep-rooted corruption that hampers economic development, undermines democracy, and damages social justice and the rule of law.”*
- 80% of all deaths from building collapses in earthquakes over the past 30 years occurred in countries with high levels of corruption.
- World Bank: *“Corruption significantly reduces private investment and restrains economic growth.”*

**We cannot help create a better life for people around the world if we support bribery and corruption.**

# Bribery Conflicts with our Values

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**Customers**-Paying Bribes robs customers of the honest service of their employees or government.

**People**-Harvard Business School found that bribery has a significant negative effect on employee morale.

**Excellence**-You do not show pride and confidence in the products or your work if the only way to win is bribery.

**Winning**-You do not win fairly if you are paying bribes.

**Innovation**-We cannot invest in innovation if money is diverted to pay bribes, investigation costs and fines.

# Bribery is Bad for Business

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**US Senate:** Corporate bribery is bad business. In a free market system it is basic that the sale of products should take place on the basis of price, quality and service. Bribery is fundamentally destructive of this basic tenet.

**EU ANTI-CORRUPTION REPORT 3 /2/14:** More than 4 out of 10 companies consider corruption to be a problem for doing business in Europe. Corruption in the 28 countries of the EU is costing European taxpayers about €120bn a year, the equivalent of the European Union's annual budget.

According to a survey done by the **World Bank**, more than half the respondents thought that paying a bribe was NO guarantee that the benefit they paid for would actually be delivered and many feared that they would be asked for more by another official.

# Bribery is Illegal

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The **Organization for Economic Co-operation and Development (OECD)** established the Anti-Bribery Convention in 1999

- The Convention establishes **legally binding standards to criminalize the bribery of foreign public officials** in international business transactions.
- **40 countries** have adopted this convention including: Austria, Belgium, Denmark, Finland, France, Germany, Greece, Iceland, Ireland, Italy, Netherlands, Norway, Poland, Portugal, Spain, Sweden, Switzerland, the UK and US. Each has implemented laws specific laws to combat both foreign and domestic corruption,
- Since the convention went into effect, **221 individuals** and **90 corporations** have been sanctioned in criminal court for bribery in **14 countries**.

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- Many countries have or are enacting laws that criminalize bribery of officials in other countries, and in some cases, individuals in the private sector.
- These laws, like the UK Bribery Act, apply to businesses that have operations in their country, regardless of where the bribery occurred.
- These laws also make companies responsible not only for their own actions, but also for the actions of anyone acting on their behalf, such as dealers, distributors and sales agents.
- You can be extradited and prosecuted in a foreign country.

# Bribery is Illegal

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- In 2011, eight former executives and agents of Siemens were indicted by the US Department of Justice.
- Many of them had already been convicted in German courts.
- Siemens itself paid \$1.6 billion in fines to US and German enforcement authorities.
- China has indicted a number of GSK executives, including a British national.
- The US Department of Justice successfully extradited and convicted an Italian citizen and two UK citizens in 2011.

# Bribery and Corruption

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## What is a Bribe?

- **Bribery is giving or receiving, or agreeing to give or receive, a reward, whether financial or non-financial, to influence the behavior of someone in government or business to obtain an advantage. A bribe does not have to be actually given-the offer is sufficient.**
  - **While a reasonable amount of hospitality may be acceptable, receiving or offering expensive or excessive gifts or entertainment can be construed as a bribe.**
  - **Charitable contributions and sponsorships can also be construed as bribes or as a substitute for bribery if they are**
- ✓ **Tied to past, present or future business opportunities**
  - ✓ **Not given to a bona fide charity, non-profit association or educational entity**
  - ✓ **Not given for a proper purpose**

# Bribery and Corruption- Examples

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- **Paying money to a customs inspector to expedite clearance**
- **Giving a refrigerator to a hospital purchasing agent**
- **Hosting an elaborate party for clinic staff**
- **Paying a procurement officer to provide us with market intelligence or bid information**
- **Hiring for a speaking engagement the radiologist who wrote the procurement specs**
- **Making a donation to a particular charity at the request of the head of the Hospital**
- **Providing an internship to a tax official's son**
- **Sponsoring decision makers at global radiology conference**
- **Providing an inflated invoice to help the customer get additional funds from either a bank or government body and kicking back the difference**

# Bribery and Corruption

## Medical Device Industry Concerns

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- US has been engaged in an industry sweep of the pharmaceutical and medical device industries.
- Corruption in this sector deprives patients of critical medical care
- 3 pressure points for bribery in this sector:
  - Regulatory stage-bribes paid to get certifications or approvals
  - Tendering stage-bribes to hospital administrators, parties preparing tender specs, regional health care officials and tender committees
  - Payments or excessive gifts and entertainment of physicians and other hospital staff to influence purchasing or prescribing decisions.

# Bribery and Corruption

## Medical Device Industry Concerns

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Generally Healthcare is a Public Enterprise so most of the players are Government Officials.

- The Obvious Ones
  - Health Ministers, Government Hospital Officials, Government Procurement Officials
- The Not so Obvious:
  - Doctors and other health professionals employed by state owned health care facilities, universities or entities owned or operated by the government
- The Least Obvious
  - Doctors and other health professionals who receive funding, professional service fees or other remuneration from a government owned or funded hospital, clinic, university, etc.

# Bribery and Corruption

## European Healthcare Concerns

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### ***Koninklijke Philips Electronics N.V.***

SEC filed a settled administrative cease-and-desist proceeding against Philips in connection with at least 30 transactions where employees of Philips' Polish subsidiary "made improper payments to public officials of Polish healthcare facilities to increase the likelihood that public tenders for the sale of medical equipment would be awarded to Philips." Without admitting or denying the alleged books-and-records and internal controls violations, Philips agreed to disgorge \$3,120,597 in profits and pay prejudgment interest of \$1,394,581. The misconduct first came to Philips' attention, when Polish officials arrested two employees of the Polish subsidiary. Polish authorities later indicted 23 individuals, including three former employees of the Polish subsidiary and 16 healthcare officials.



# Basic Principles to Avoid the Appearance of Bribery

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All benefits to officials, customers, or potential customers must:

- ✓ Not be motivated by a desire to inappropriately influence;
- ✓ Be reasonable and commensurate with accepted standards for professional courtesy;
- ✓ Be open and transparent;
- ✓ Be given in good faith without any expectation of reciprocity;
- ✓ In the case of travel and hospitality, be provided only in connection with a legitimate business purpose;
- ✓ Be infrequent;
- ✓ Comply with the local laws, regulations and industry codes of conduct that apply either to our business or the recipient of the benefit.

# Intermediaries

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Carestream is responsible for its dealers, distributors, sales agents and others acting on Carestream's behalf ('**intermediaries**')

- Actual knowledge is not required, if we “knew” or “should have known” that the intermediary would use its compensation in a way that violated the law. Cannot take a ‘head in the sand’ approach
- Anti-bribery laws **require companies to take precautions and exercise due diligence** to prevent intermediaries from engaging in bribery and corruption.

## Recent FCPA Cases Involving Intermediaries:

- **2013:** Out of **51** enforcement actions brought, **12** involved intermediaries, including **one** case in the health industry
- **2012:** Out of **59** enforcement actions brought, **23** involved intermediaries, including **4** cases within the health industry

# Bribery and Corruption-Intermediaries

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## Eli Lilly

**The SEC alleged that in 2007, Eli Lilly's Brazilian subsidiary allowed one of its third-party pharmaceutical distributors to pay bribes of approximately \$70,000 to government health officials in order to facilitate the sale of Lilly drug products to state institutions. According to the disposition documents, Lilly historically sold its products to third-party distributors at a discount between 6.5% and 15%, with the majority of distributors receiving a 10% discount. The distributors then resold the products to private and government entities at higher prices, taking the discount as compensation. The SEC found, however, that Lilly granted one distributor unusually high discounts of 17% and 19% but failed to perform any additional verification or analysis to ensure that no payments were being made to officials. The SEC stated that the distributor subsequently used approximately \$70,000 of the resale markup to bribe Brazilian officials to buy \$1.2 million worth of Lilly products.**

**The SEC further alleged that the typical policies and procedures Lilly-Brazil used to flag unusual distributor discounts were deficient. For the discount in question, the company's pricing committee relied on the representations of sales and marketing personnel without conducting additional verification and analysis of the surrounding circumstances of the transactions. According to the SEC, no efforts were made to assess whether, despite the existence of superficially acceptable paperwork, the transactions posed a risk of illicit payments to government officials.**

# Recent Issues

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- 2010 compliance investigation uncovered emails from an Iranian dental distributor dating back to 2005 asking for :
  - \$15,000 to use for gifts for local authorities like the Ministry of Health, Ministry of Commerce, Universities
  - \$10,000 to send VIP customers to International Dental trade shows
  - \$7,000 for drawing lotteries during the trade shows (prizes – 10 motorbikes)
- Carestream immediately terminated dealings with this distributor

# Recent Issues

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Recent email from a dealer requesting reimbursement from Carestream:

“To win this tender I has to oblige people over there as per my commitment with them at the time of winning the tender.  
Now detail of reimbursement is:

- 5000\$ will be given to the purchaser
- 3000\$ will be given to the Head of the Department
- 2000\$ will be given to the Accountant
- 500\$ will be given to the Radiographer”

Carestream immediately terminated dealings with this distributor

# Recent Issues

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Email from another dealer responding to a request for proof of what was originally called a “customs fine”:

“As I’ve written in the e-mail below broker has solved the problem paying 1500 USD directly to inspector.

These are undertable money and inspector risked when allowed us to clear this commodity.

Inspector will never sign any paper with confirmation what he has done.”

Carestream immediately terminated dealings with this distributor

# Due Diligence

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- This is why Carestream has begun asking you to undergo background checks, sign new contracts and take special training.
- You shouldn't take it personally. It is not that we don't trust you and value you as partners, but no matter how honest you are and how long you have worked with Carestream, due diligence is still required.
- Companies have to be able to show that they have a complete and up-to-date file on all of their third parties.
- You should also consider doing this with your own agents.

# Additional Safeguards

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- We will also be asking for more documentation when you ask us to reimburse you for Marketing, Registration or other expenses.
- We may conduct selective audits, typically by mail, but occasionally on site.
- At no cost to you, Carestream will be providing you and your employees with on-line Anti-Bribery training.
- We have introduced provisions in our contracts with you that ask you to warrant that you have not and will not violate the anti-bribery laws.



# What to do if you are asked for a Bribe

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- A polite no will work in many cases, so it is worth a try since the person is asking you to be an accomplice in an illegal act.
- Ignore the request, or laugh and pretend that you think he is making a joke. If the person feels you will not play the game, they will often back down.
- Tell them that the request must be reviewed by Carestream's legal department and that approval is very unusual.
- Explain that the laws are now very strict and you would both be risking jail.

# What to do if you are asked for a Bribe

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- It is your job to decline the payment. Be professional, diplomatic, firm and very clear that you do not make such payments.
- Then, report the incident immediately to Carestream along with a description of your response.

# Bribery and Corruption- Charitable Contributions

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- Must be transparent and not have the appearance of a quid pro quo
- Not given in exchange for past business or to encourage current or future business
- Can only be given to legitimate recognized charities
- Verify and document that you have verified
- If you are asking Carestream to make the donation, it must be reviewed by Compliance and approved by Senior Management
- Must be reported and accurately recorded in Carestream's records

# Bribery and Corruption- Gifts and Meals

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**Modest gifts or meals may be provided only if what is given is:**

- **Not excessive in value based on geographic norms**
- **Not intended to be, or capable of being construed as, a bribe**
- **Not in violation of applicable law or industry codes of conduct**
- **Not potentially embarrassing if publicly disclosed**
- **Not in violation of the rules of the recipient's organization**
- **Not given to gain advantage or induce the recipient to reciprocate**
- **Be given in good faith without any expectation of reciprocity**
- **In the case of gifts, be given only on recognized gift giving holidays or events**

**Cash or cash equivalents are NEVER permissible.**

# Bribery and Corruption- Travel

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**From time to time it may be necessary to pay the travel and lodging expenses of third parties; for example, to visit another hospital to demonstrate our products, or to attend a recognized and relevant trade show or conference.**

**If you are paying travel and lodging to demonstrate or highlight Carestream products, the travel must be approved ahead of time by your Carestream Manager, who in turn must get approval from the Chief Compliance Officer.**

**All such travel must have a business purpose only; no side trips for tours or other entertainment activities and no non-business guests.**

**All travel must be properly documented.**

# Bribery and Corruption- Travel

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**Consider the following before you commit:**

**Is it permitted by local law?**

**Is it directly related to the promotion, demonstration or explanation of our products or services; or**

**Required for the performance of the contract, such as for training; or**

**Incidental to the third party performing a contracted service for us, such as a speaking engagement; and**

**Is the distance of travel and duration of stay justified by good faith business reasons such as the location of our training facility, the location of the show site hospital with the most relevant mix of products; gathering of all relevant experts at a conference, etc; and**

**Could the business purpose be accomplished more cost-effectively without traveling or by traveling to a closer location?**

# COCIR CODE

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- COCIR is the European Coordination Committee of the Radiological, Electromedical and Healthcare IT Industry.
- Carestream has adopted the COCIR Code of Conduct.
- COCIR applies to our interactions with healthcare practitioners (HCPs) admitted to practice in geographic Europe (from the Atlantic to the Urals) no matter where those HCPs may be at the time of the interaction.
- COCIR has set up a process to report violations of the Code:
  - “Notifications of breaches of the Code will be centralised through the COCIR Office and will be allocated to the relevant COCIR member company. A monitoring committee composed of corporate members’ legal counsels will ensure the smooth functioning of the process.”
- Following the Code will help you avoid running afoul of the Anti-Bribery Laws.

Concerns about the code can be reported to Cocir ([www.cocir.org/code](http://www.cocir.org/code))

# COCIR CODE

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## ***Four Principles:***

- ***Separation*** – A clear separation should exist between benefits given by Members to HCPs and the decision making process resulting in the procurement of Members' products or services to ensure that such benefits do not influence the HCPs.
- ***Transparency*** - Benefits to HCPs should be disclosed to their institutions/employers .
- ***Proportionality***- Any consideration to a HCP for services should not exceed FMV.
- ***Documentation***-Advantages or benefits to HCP by Members should be documented.



# Help Carestream

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**If you have questions about a particular situation or you are asked to do something that makes you uncomfortable or that could hurt your reputation or Carestream's.**

**Please contact me [Walt.linscott@carestream.com](mailto:Walt.linscott@carestream.com) or my colleagues in compliance:**

**[Patricia.Mellon@carestream.com](mailto:Patricia.Mellon@carestream.com)**

**[Nicholas.Hawryschuk@carestream.com](mailto:Nicholas.Hawryschuk@carestream.com)**

**Carestream**

THANK YOU