

Compliance and Ethics Committee Meeting

Jun 25, 2019 1:30 PM EDT

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NOTICE OF MEETING

NORTH BROWARD HOSPITAL DISTRICT

BOARD OF COMMISSIONERS

A Compliance and Ethics Committee meeting will be held on Tuesday, June 25th, 2019, immediately following the Governance Committee meeting, at the Broward Health Corporate Spectrum Location: 1700 Northwest 49 Street, Fort Lauderdale, Florida, 33309. The purpose of this committee meeting is to review and consider any matters within the committee's jurisdiction.

Persons with disabilities requiring special accommodations in order to participate should contact the District by calling 954-473-7100 at least 48 hours in advance of the meeting to request such accommodations.

Any person who decides to appeal any decision of the District's Board with respect to any matter considered at these meetings will need a record of the proceedings, and for such purpose, may need to ensure that a verbatim record of the proceedings is made which record includes testimony and evidence upon which the appeal is to be based.

North Broward Hospital District Board Of Commissioners
1700 Northwest 49th Street, Suite #150, Ft. Lauderdale, 33309

COMPLIANCE AND ETHICS COMMITTEE
Immediately Following
Legal Affairs and Governmental Relations Committee Meeting
May 22, 2019

1. NOTICE

Notice of this meeting is attached to the official Minutes as EXHIBIT I. The official Agenda for this meeting, as presented for the consideration of the Committee, is attached to the official Minutes as EXHIBIT II.

2. CALL TO ORDER 12:01 pm

3. COMMITTEE MEMBERS

Commissioner Nancy W. Gregoire, Chair
 Commissioner Andrew M. Klein
 Commissioner Christopher T. Ure
 Commissioner Ray T. Berry (absent)
 Commissioner Stacy L. Angier
 Commissioner Marie C. Waugh (absent)

ADDITIONALLY PRESENT Gino Santorio/President/CEO, Alan Goldsmith/CAO, Alex Fernandez/CFO, Steve Forman/Compliance Consultant, Brian Kozik/CCO, Lee Ghezzi/VP Quality and Case Management, Melanie Hatcher/VP Human Resource, Denise Moore/VP Marketing, Dr. Andrew Ta/EVP/CMO, Beth Cherry/SVP Physician Practices, Lauren Brown/Director Compliance/Privacy Ops., Gabriel Imperato/Interim GC, Brett Bauman/Asst. GC.

4. PUBLIC COMMENTS None

5. APPROVAL OF MINUTES

Approval of the Compliance and Ethics Committee meeting minutes, dated April 17, 2019

MOTION It was *moved* by Commissioner Klein, *seconded* by Commissioner Ure, to:

**APPROVE THE COMPLIANCE AND ETHICS COMMITTEE MEETING
MINUTES DATED APRIL 17, 2019.**

Motion *carried* unanimously

6. TOPIC OF DISCUSSION

6.1. Chief Compliance Officer Report – Brian Kozik

6.1.1. Report from the Executive Compliance Group

Mr. Kozik gave an update on activities that had taken place within the compliance department since he last reported on April 17th.

6.1.1.1. CIA Status – Brian Kozik

Mr. Kozik reported on the positive interaction that took place at a meeting in Washington, DC, between the Executive Management Team, Chairman Klein, Monitor Laura Ellis and her supervisors.

Mr. Kozik reported on a conference call that he and Mr. Imperato had with the Monitor the prior week related to Grants, Applications, Managed Care, and GPO's that were identified as focused arrangements and were not.

Prior to submitting written responses to the third supplement to the second annual report second supplement, Mr. Kozik and Mr. Santorio had a conference call with Ms. Ellis to discuss the response in more detail.

Prior to Mr. Kozik's tenure, a 92.4% documentation error rate was reported to the Monitor related to a sleep study. The documentation did not support the medical necessity for the test, which resulted in a \$35k pay back. An additional audit of 100+ claims is pending, which could result in additional fees.

Now that an effective compliance program was put in place and permanent additions to the executive staff were made, Mr. Kozik shared that he did not foresee any issues in the Board certifying the end of the year report.

Note: Mr. Kozik modified the order of Subgroup Reports.

6.1.1.7. Risk Assessment, Auditing and Monitoring – Alex Fernandez

Mr. Fernandez reported that the compliance risk assessment line item report was merged with internal audit's risk assessment report. A comprehensive comparison was made between the two so that duplicates could be omitted and items that should not have been included be removed. The list was also compared to the OIG Work Plan to ensure all required items were included on the list. Risk assessment training will be available for all employees that are responsible for their department's assessments.

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Mr. Goldsmith confirmed that an annual risk assessment report would be provided at the end of every fiscal year. In regards to audit and monitoring, Mr. Fernandez reported that all four hospital completed at least one regional compliance meeting and that the intent was to formalize and standardize the processes system wide.

6.1.1.2. Training – Melanie Hatcher

Ms. Hatcher reported that general compliance and ethics training for year four was launched on May 21st and that it was extremely successful. She briefly detailed the categories that were included in the training.

6.1.1.4. Disclosures, COI, HIPAA – Ana Calderon

Dr. Calderon reported on open disclosures that were over 30 days, which totaled to 178. In reviewing disclosure trends, HIPAA remained in the lead at 33% and HR at 16%. There was a focus on conflict of interest disclosures, as it was identified as having bottlenecks in its processes. In an effort to make compliance less intimidating, Ms. Hatcher and the marketing department were working together to rebrand and possibly rename the department.

6.1.1.3. Sanction Screening – Lee Ghezzi

Mr. Ghezzi reported that all sanction screening loop holes that were identified, had been closed. He further reported that the IT department continued to work on automating the system to eliminate the paper process.

6.1.1.5. IRO Plan of Correction – Beth Cherry

Ms. Cherry reported that the focused arrangement policy had been completed and was pending approval from the Executive Workgroup. Once approved, five items on the IRO Plan of Correction would be checked off as completed. It was decided that ongoing items that were being managed successfully would also be checked off as completed. An item listed by the former IRO was inaccurately reported to the Monitor and was being addressed. Ms. Cherry further reported that 37% of items on the plan of correction were completed, and that the remaining 63% were already in process and being heavily monitored.

6.1.1.6. Policies/Code of Conduct – Denise Moore

Ms. Moore reported that as a result of the Code of Conduct being approved and completed the subcommittee's focus transitioned to policies. She further reported that compliance policies were reduced from 50 to 27. The conflict of interest and gift policies would be brought to the Board the following month.

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6.1.2. Consultant to the Board of Commissioners – Steve Forman

Mr. Forman reported on the accomplishments and completed projects of the Executive Compliance Workgroup.

Mr. Forman recommended that the focus remain on the results of the risk assessments and monitoring and auditing. He further stressed that a timely and effective plan of correction was equally important to avoid risks from reoccurring.

6.1.3. Regulatory Environment Training – Brian Kozik

6.1.3.1. Department of Justice Criminal Division/Evaluation of Corporate Compliance Procedures – Brian Kozik

Mr. Kozik shared a PowerPoint presentation created by the Department of Justice Criminal Division for the Evaluation of Corporate Compliance Procedures that was recently revised in April 2019.

The committee complimented the current compliance department and executive team on what was described as monumental progress.

7. ADJOURNMENT 1:23 pm

MOTION It was *moved* by Commissioner Klein, *seconded* by Commissioner Angier, to:

ADJOURN THE COMPLIANCE AND ETHICS COMMITTEE MEETING.

Motion *carried* unanimously.

Respectfully submitted,
Commissioner Ray T. Berry, Secretary/Treasurer



Origination: N/A
Effective: N/A
Last Reviewed: N/A
Last Revised: N/A
Next Review: N/A
Sponsor: *Brian Kozik: SVP, COMPLIANCE & PRIVACY*
Section: *GA-Corporate Compliance*
Manual:

GA-004-001 Compliance Department and Human Resource Protocol

I. Purpose

The Corporate Compliance Department and Human Resource Administration each have their respective responsibilities and authorities when it comes to compliance matters. For example, both Human Resources Administration and Corporate Compliance Department are involved in the screening of Workforce Members, training and compliance education, and employee communication of problems and issues. In addition, Workforce Members may report HR and compliance concerns to either the Corporate Compliance Department or Human Resources Administration. Human Resources Administration and the Corporate Compliance Department work in conjunction with each other. The Corporate Compliance Department is dependent on humans and processes; appropriate and consistent governance is imperative to Broward Health as a compliance-driven organization.

The purpose of this policy is to establish written guidelines promoting open communication and coordination between the Corporate Compliance Department and Human Resources Administration whenever an issue is raised to one department that may be the responsibility of the other department. This policy applies to any and all matters that may involve both the Corporate Compliance Department and Human Resources Administration.

II. Key Terms

SVP/Chief Compliance Officer (CCO): The individual responsible for overseeing, implementing, and monitoring the compliance requirements of the Broward Health Compliance Program. In addition, this individual also holds the title of Chief Privacy Officer.

SVP/Chief Human Resource Officer: The individual responsible for overseeing, implementing and monitoring the compliance requirements of the Broward Health Human Resources policies as well as federal and state regulatory compliance of all matters related to the terms and conditions of employment at Broward Health.

Confidentiality: Refers to those who contact a hotline and request that information provided through the Compliance or Workforce Diversity, Inclusion and Advocacy hotline be kept confidential. Such information must be kept confidential and be divulged only to those who have a need to know, such as those

performing an investigation into the concerns disclosed by the caller. Investigators should work to protect the source of their information, including a caller's name and contact information if these details are provided by the caller.

Covered Persons: Includes (a) all owners, officers, directors, commissioners, and employees of Broward Health; (b) all contractors, subcontractors, agents, and other persons who provide patient care items or services or who perform billing or coding functions on behalf of Broward Health excluding vendors whose sole connection is selling or otherwise providing medical supplies or equipment and who do not bill the Federal health care programs for such medical supplies or equipment; and (c) all physicians and other non-physician practitioners who are members of Broward Health's active medical staff.

Hotline: A confidential communication channel for use by all Workforce Members, patients, and patient families to report suspected or potential violations of law, regulations, standards, Code of Conduct, policies, or other wrongdoing, via a phone line answered by live operators or web-based reporting.

List of Excluded Individuals/Entities (LEIE): The OIG established a program to exclude individuals and entities that have been found to have violated federal law and/or regulations. The effect of OIG exclusion from Federal health care programs is that no Federal health care program payment may be made for any items or services (1) furnished by an excluded individual or entity, or (2) directed or prescribed by an excluded physician.

Retaliation: Defined under this policy to mean any adverse action taken against any Workforce Member because he or she reported or complained about a potential violation of the Code of Conduct, policies, laws, regulations, or professional standards. Any negative action that would deter a reasonable employee in the same situation from making a complaint or occurs within temporal proximity to the filing of the complaint may qualify as retaliation. Such action will be evaluated on a case by case basis. Any Workforce member found to be engaging in retaliation will be subject to disciplinary action up to and including termination of employment or related contract in accordance with Broward Health's policies and procedures.

Workforce Member: Any employee, independent contractor, agent, volunteer, trainee, or other person who performs work for or on behalf of Broward Health. This includes full-time, part-time, and pool employees; associates; directors; officers; managers; supervisors; volunteers; members of the Board and members of standing committees; medical staff employed by or otherwise affiliated with Broward Health; medical students and all other affiliated students or others receiving training at any Broward Health facility; and others who provide goods or services to Broward Health.

III. Policy

1. The Corporate Compliance Department and Human Resource Administration shall maintain consistent open communications and establish reciprocal reporting obligations to ensure that the appropriate department is apprised of issues that are of primary concern to the other.
2. The Corporate Compliance Department and Human Resource Administration shall coordinate to ensure that all employees are screened against the OIG's LEIE and that all Covered Persons are screened and tracked in compliance with Broward Health policy Background Screening and Ineligible Persons Policy, Policy No. GA-004-290
3. The Corporate Compliance Department and Human Resource Administration will coordinate

investigations and resolve allegations and complaints that fall within their respective areas of responsibility. Coordination will be done on a consistent basis to avoid unnecessary duplication of efforts and to ensure that the matter is investigated and addressed appropriately. A third party may be retained by the Corporate Compliance Department and/or Human Resource Administration in order to conduct investigations for matters that may be perceived as a conflict for either or both departments. Approval Involvement from the General Counsel will must be obtained in accordance with Broward Health policies and procedures prior to retaining and assigning the investigation to a third-party. The third-party must be appropriately experienced and/or professionally licensed if required by state statutory requirements and must provide evidence of professional liability insurance (i.e., errors and omissions coverage) prior to conducting any company-initiated investigation.

IV. Procedures

1. Any Workforce Member that raises an issue in good faith, whether by direct contact or through the Compliance or Workforce Diversity, Inclusion & Advocacy Hotline, will be protected from retribution or retaliation in compliance with Broward Health's policies and procedures. Legitimate personnel action against a Workforce Member, proven as unrelated to the complaint/hotline report may not be covered by this policy.
2. If an issue is raised to Human Resources Administration or Workforce Diversity, Inclusion and Advocacy that includes, or may include, any of the following subject areas, a report of such issue should be forward to the Corporate Compliance Department within one (1) business day of receipt:
 - a. Billing/Coding
 - b. Physician/Referral Source relationship issues
 - c. Conflicts of interest
 - d. Medical records documentation
 - e. Contracts/Agreements
 - f. Arrangements with referral sources
 - g. Abuse of patients
 - h. Cost reports
 - i. Patient confidentiality
 - j. Embezzlement/Theft
 - k. Paying for referrals
 - l. False expense, reports, vouchers, etc.
 - m. Quality of Care
 - n. Fraud/False Claims
 - o. Retaliation or retribution as a result of a compliance complaint
 - p. HIPAA privacy/security problems
3. If an issue is provided to the Corporate Compliance Department that impacts the terms and conditions of employment, employee/employer relations, employee engagement, workplace safety, or any violation of Federal and State Laws governing the employment relationship, a report of such issue should be forwarded to the Workforce Diversity, Inclusion & Advocacy Department within one

- (1) business day of receipt. Examples may include but are not limited to:
- a. Allegations of harassment/discrimination
 - b. Wrongful discharge
 - c. Uncivil behavior
 - d. Unfair employment practices
 - e. Violent, disruptive, or threatening behavior
 - f. Violations of Broward Health Human Resource Policy and procedures
 - g. Discrimination/EEOC issues
 - h. Retribution/retaliation
 - i. Theft of time
 - j. Americans with Disabilities Act (“ADA”)
 - k. Family and Medical Leave Act (“FMLA”)
4. The Corporate Compliance Department and Human Resources Administration shall communicate and coordinate the investigation and resolution of any matters that fall under the purview/scope of both departments.
5. The Corporate Compliance Department and Human Resource Administration will participate in a meeting, at a minimum quarterly and as frequent as required, at least once a month, to discuss cases, coordinate efforts and resolve issues.
6. The Corporate Compliance Department, under the direction of the CCO, will have primary responsibility for ensuring this policy is followed.

V. Related Policies and Compliance Documents

- Broward Health Code of Conduct
- Broward Health Employee Handbook
- HR 001-020-EEO/Anti-Harassment Discrimination Policy
- Background Screening and Ineligible Persons, Policy No. GA-004-290
- Non-Retaliation or Retribution, Policy No. GA-004-305

VI. References

DHHS Office of Inspector General. OIG Supplemental Compliance Guidance for Hospitals, 70 Fed. Reg. 19, 4858, 4858 (Jan. 31, 2005). <http://edocket.access.gpo.gov/2005/pdf/05-1620.pdf>

DHHS Office of Inspector General. Publication of the OIG Compliance Program Guidance for Hospitals, 63 Fed. Reg. 35, 8987, 8987 (Feb. 23, 1998). <http://www.gpo.gov/fdsys/pkg/FR-1998-02-23/pdf/98-4399.pdf>

DRAFT



Origination: N/A
Effective: N/A
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Last Revised: N/A
Next Review: N/A
Sponsor: *Brian Kozik: SVP, COMPLIANCE & PRIVACY*
Section: *GA-Corporate Compliance*
Manual:

GA-004-004 Duty to Report

I. Purpose

Broward Health is committed to complying with all applicable laws and regulations including those designed to prevent and deter fraud, waste, and abuse. Broward Health fosters an environment that discourages improper conduct and facilitates open communication of any compliance concerns and/or questions. Broward Health has adopted a policy that all Workforce Members have an affirmative duty to report all workplace problems and concerns, as well as potential violations of federal, state, and local laws and regulations and the Broward Health Code of Conduct and policies and procedures.

The Corporate Compliance Department provides many avenues to report suspected improper conduct. In most cases, any concerns should be brought to the attention of a supervisor. However, if this does not result in appropriate action, or if a Workforce Member is uncomfortable discussing these issues with their supervisor, he/she should take their concerns to another member of management, or one of the reporting methods available through the Broward Health Corporate Compliance Department (i.e. Compliance Hotline).

The purpose of this policy is to establish the requirement that certain conduct or suspected compliance issues be reported to the Corporate Compliance Department as set forth in this Policy. This policy intends to promulgate mechanisms, including a method for anonymous reporting, so that Workforce Members may disclose or report any known or suspected compliance issues or other activity that may be inconsistent with any provisions of the Broward Health Code of Conduct, Corporate Compliance Program, Broward Health policies, or that a Workforce Member reasonably believes may otherwise violate any applicable federal or state law or regulation.

II. Key Terms

SVP/Chief Compliance Officer (CCO): The individual responsible for overseeing, implementing, and monitoring the compliance requirements of the Broward Health Compliance Program. In addition, this individual also holds the title of Chief Privacy Officer.

Confidentiality: Refers to those who contact a hotline and request that information provided through the Compliance or Workforce Diversity, Inclusion and Advocacy hotline be kept confidential. Such information must be kept confidential and be divulged only to those who have a need to know, such as those performing an investigation into the concerns disclosed by the caller. Investigators should work to protect

the source of their information, including a caller's name and contact information if these details are provided by the caller.

Hotline: A confidential communication channel for use by all Workforce Members, patients, and patient families to report suspected or potential violations of law, regulations, standards, Code of Conduct, policies, or other wrongdoing, via a phone line answered by live operators or web-based reporting.

Workforce Member: Any employee, independent contractor, agent, volunteer, trainee, or other person who performs work for or on behalf of Broward Health. This includes full-time, part-time, and pool employees; associates; directors; officers; managers; supervisors; volunteers; members of the Board and members of standing committees; medical staff employed by or otherwise affiliated with Broward Health; medical students and all other affiliated students or others receiving training at any Broward Health facility; and others who provide goods or services to Broward Health.

Wrongdoing: Conduct that does not comply with federal, state, and/or local laws, Broward Health Code of Conduct (Code), or policies and procedures.

III. Policy

1. All Workforce Members have an affirmative duty to report problems, concerns, and misconduct in the workplace, including actual or potential violations of law, regulation(s), Broward Health Code of Conduct, policies, wrongdoing, and/or ethical standards. When in doubt, the better of course of action is to report all good-faith concerns.
2. All levels of management will maintain an "open-door policy" to encourage staff to report problems and concerns.
3. Failure to report or concealing knowledge of a potential violation may result in administrative actions being taken, up to and including termination.
4. A hotline has been established to permit any Workforce Member or member of the public to call, anonymously and in confidence, to report problems and concerns, or to seek clarification of compliance-related issues. However, complaints and concerns may be reported by any mechanism with which the employee is comfortable (i.e. web-based reporting).
5. All complaints and allegations will be addressed promptly and all information about the complaint or allegation will be kept confidential.
6. Retaliation or reprisal against anyone for making a good faith report is strictly prohibited by law and is a violation of both the Broward Health Code of Conduct and Broward Health policies and procedures.
7. Supervisors receiving a complaint from any Workforce Member that raises a potential compliance issue shall report the complaint to the Corporate Compliance Department. Complaints that do not raise a potential compliance issue should be referred to the appropriate department (e.g., Risk Management, Human Resources).

IV. Procedures

1. If at any time, a Workforce Member becomes aware of or suspects illegal or unethical conduct or a violation of Broward Health policies by another Workforce Member, the Workforce Member must

report it immediately to an appropriate individual. Such individuals may include the Workforce Member's immediate supervisor, management, Human Resources, Risk Management, the SVP/ Chief Compliance Officer (CCO), or the Corporate Compliance Department.

2. Regardless of how a report is made, as a best practice in the detection and prevention of misconduct, the report must contain specific information regarding the suspected misconduct, including the following:
 - a. When and how the conduct occurred or is occurring;
 - b. Persons involved in the conduct; and
 - c. Specific nature of the conduct.
3. Any Workforce Member or member of the public may also make a report by using the toll-free Compliance Hotline (1-888-511-1370). Reports using this method may be made anonymously, if the reporter chooses.
4. Self-reporting is encouraged. A Workforce Member whose report of misconduct contains admissions of personal wrongdoing is not guaranteed protection from disciplinary action simply because they made the report. In determining what, if any, disciplinary actions may be taken against a reporting employee the Corporate Compliance Department and Human Resources Department will take into account a Workforce Member's own admission of wrongdoing, provided, that the Workforce Member's involvement was not previously known to Broward Health or its discovery was not imminent, and that the admission was complete and truthful. The weight to be given to self-reporting will depend on all facts known at the time Broward Health makes its discipline decisions and the applicable discipline policies and procedures set forth by the Broward Health Human Resources Department.
5. Once a report is received, the Corporate Compliance Department will then conduct a review of the allegations to determine the nature, scope, and duration of wrongdoing, if any. Broward Health investigates all non-frivolous claims of wrongdoing.
6. All those receiving information from Workforce Members raising a concern and problem must, at all times, insofar as legal and practical, maintain confidentiality and share information only those who have a need to know.
7. If the allegations are substantiated, a plan for corrective action will be developed. Appropriate corrective action may include restitution of any overpayment amounts, notifying an appropriate governmental agency, disciplinary action, or making changes to policies and procedures to prevent future occurrences.
8. If, after investigating any report, Broward Health determines that the report is not in good faith or that a Workforce Member has provided false information regarding the report, disciplinary action may be taken against the Workforce Member who filed the report or gave the false information up to and including termination.
 - a. No Workforce Member shall be subject to disciplinary action solely on the basis that they mistakenly reported what they reasonably believed to be an act of wrongdoing or a violation of law or Broward Health's compliance standards or policies. A Workforce Member will be subject to disciplinary action, however, if it is determined that the report of misconduct was knowingly or willfully fabricated by the Workforce Member or was knowingly or willfully distorted, exaggerated, or minimized to either injure someone else or protect themselves.
 - b. A Workforce Member "knowingly" provides false information if they know or reasonably should

know that the information is false or intentionally or recklessly disregards whether the information is false.

9. If any employee feels that they have been retaliated against, the employee should report it immediately, using any of the reporting methods referenced in this Policy.

V. Related Policies and Compliance Documents

- Compliance Investigations, Policy No. GA-004-008
- Confidential Reporting, Policy No. GA-004-009
- Enforcement and Discipline, Policy No. GA-004-238
- Hotline, Policy No. GA-004-005
- Non-Retaliation and Retribution, Policy No. GA-004-305
- Open Lines of Communication, Policy No. GA-004-234
- Voluntary Disclosure, Policy No. GA-004-012

VI. References

DHHS. OIG Supplemental Compliance Guidance for Hospitals. 70 Fed. Reg. 4858, 4865 (Jan. 31, 2005). <https://oig.hhs.gov/fraud/docs/complianceguidance/012705HospSupplementalGuidance.pdf>

DHHS OIG. Publication of the OIG Compliance Program Guidance for Hospitals. 63 Fed. Reg. 35, 8987 (Feb. 23, 1998). <https://oig.hhs.gov/authorities/docs/cpghosp.pdf>

United States Sentencing Commission. Guidelines Manual. United States Sentencing Commission. Guidelines Manual. <https://www.ussc.gov/guidelines/2018-guidelines-manual>

US Code of Federal Regulations § 483.85 - Compliance and ethics program. https://www.govregs.com/regulations/title42_chapterIV_part483_subpartB_section483.85

Broward Health Corporate Integrity Agreement with the DHHS Office of Inspector General, dated August 20, 2015.

Attachments:

No Attachments



Origination: N/A
Effective: N/A
Last Reviewed: N/A
Last Revised: N/A
Next Review: N/A
Sponsor: *Brian Kozik: SVP, COMPLIANCE & PRIVACY*
Section: *GA-Corporate Compliance*
Manual:

GA-004-305 Non-Retaliation or Retribution

I. Purpose

Broward Health is committed to its institutional integrity. It is the policy of Broward Health to foster an environment of open communication so that all Workforce Members understand their obligations to report compliance concerns and that Broward Health will not tolerate retaliation against those who do so. In addition, reported concerns will be maintained confidentially, to the extent it is possible to do so.

The purpose of this policy is to provide guidance by which employees can express problems, concerns, and opinions without fear of retaliation or reprisal, as well as providing supervisors with appropriate guidelines for addressing problems and concerns raised by employees. Broward Health considers such reporting, inquiring, or participating to be protected activities in which all Workforce Members of Broward Health may freely engage. All supervisors are responsible for enforcing this policy. Individuals who violate this policy will be subject to the appropriate and applicable disciplinary process, up to and including termination or dismissal.

II. Key Terms

Harassment: Defined under this policy as any systematic persecution through repeated annoyances, threats, or demands.

Reprisal: Defined under this policy as action with the intent of inflicting injury in return for someone reporting a perceived violation of the Code of Conduct, policies, laws, regulations, or professional standards.

Retaliation: Defined under this policy to mean any adverse action taken against any Workforce Member because he or she reported or complained about a potential violation of the Code of Conduct, policies, laws, regulations, or professional standards. Any negative action that would deter a reasonable employee in the same situation from making a complaint or occurs within temporal proximity to the filing of the complaint may qualify as retaliation. Such action will be evaluated on a case by case basis. Any Workforce member found to be engaging in retaliation will be subject to disciplinary action up to and including termination of employment or related contract in accordance with Broward Health’s policies and procedures.

Retribution: Defined under this policy as any act of punishing or taking vengeance for someone reporting a perceived violation of the Code of Conduct, policies, laws, regulations, or professional standards.

Workforce Member: Any employee, independent contractor, agent, volunteer, trainee, or other person who performs work for or on behalf of Broward Health. This includes full-time, part-time, and pool employees; associates; directors; officers; managers; supervisors; volunteers; members of the Board and members of standing committees; medical staff employed by or otherwise affiliated with Broward Health; medical students and all other affiliated students or others receiving training at any Broward Health facility; and others who provide goods or services to Broward Health.

III. Policy

1. All Workforce Members have the affirmative duty to promptly report actual or potential wrongdoing, including any violations of law, regulation, policy, or Code of Conduct in accordance with Broward Health policy, GA-004-004 Duty to Report. All Workforce Members, including supervisors and managers, have a responsibility to create a work environment where concerns can be raised, openly discussed, and reported without fear of retaliation. After reporting, if the problem is not satisfactorily resolved, the Workforce Member may proceed up the supervisory chain to higher level or go to the Corporate Compliance Department. In addition, the Workforce Member has the option of calling the Compliance Hotline at 888-511-1370, and can remain anonymous.
2. Workforce Members who, in good faith, report a potential violation of law, regulation, policy, procedure, or the Code of Conduct will not be subjected to retaliation, retribution, or harassment. In addition, no Workforce Member may be retaliated against for refusing to carry out a directive ordering the Workforce Member to engage in wrongful or unlawful activity. No supervisor, manager, or other Workforce Member is permitted to engage in retaliation, retribution, or any form of harassment against another for reporting compliance-related concerns. Anyone who conducts or condones retribution, retaliation, or harassment in any way will be subject to disciplinary actions, up to and including termination.
3. Self-reporting is encouraged. A Workforce Member whose report of misconduct contains admissions of personal wrongdoing is not guaranteed protection from disciplinary action simply because they made the report. In determining what, if any, disciplinary actions may be taken against a reporting employee the Corporate Compliance Department and Human Resources Department will take into account a Workforce Member's own admission of wrongdoing, provided, that the Workforce Member's involvement was not previously known to Broward Health or its discovery was not imminent, and that the admission was complete and truthful. The weight to be given to self-reporting will depend on all facts known at the time Broward Health makes its discipline decisions and the applicable discipline policies and procedures set forth by the Broward Health Human Resources Department.

IV. Procedures

1. Workforce Members who believe they have been retaliated against for reporting, in good faith, suspected wrongdoing and/or assisting with an investigation, should report the issue by disclosing the act to his/her supervisor, the SVP/Chief Compliance Officer (CCO), the Corporate Compliance Department, or the Corporate Compliance Department Hotline at 888-511-1370. It is important to file the report of retaliation as soon as possible after the occurrence as a delay can impact the effectiveness of the investigation. Examples of actions that could constitute retaliation include, but are not limited to:
 - a. Reducing one's salary;

- b. Giving a negative performance evaluation;
 - c. Decisions relating to one's work assignments, vacation, or promotion or advancement opportunities (whether employment-related or academic);
 - d. Terminating employment;
 - e. Engaging in harassing conduct that is sufficiently severe, pervasive, and/or persistent to create a hostile environment; for this purpose, the existence of a hostile environment is to be judged both objectively (meaning a reasonable person would find the environment hostile) and subjectively (meaning the affected individual felt the environment was hostile); and/or
 - f. Threats to engage in any of the actions listed above.
2. All managers and supervisors must encourage the reporting of problems and that employees will not "get into trouble" for doing so. The following actions should be taken:
 - a. Senior management must brief subordinate managers on this policy;
 - b. The Non-Retaliation or Retribution, Policy No. GA-004-305 must be posted on employee bulletin boards;
 - c. Review with all lower-level managers the proper treatment of employees and the creation of a work environment that permits open communication; and
 - d. All first-line supervisors must meet with their employees and complete the above actions.
 3. All Workforce Members must understand that any incident where retaliation or reprisal can be related to another Workforce Member raising or reporting a problem will not be tolerated. Reports of this nature must be investigated thoroughly and expeditiously, with appropriate disciplinary actions taken as necessary, up to and including termination of employment.
 4. All supervisors and managers must promote an open-door policy to report employee problems and concerns at all times, receive all employee concerns, problems and opinions, and explore all possible options for resolving the issue with the employee.
 5. The confidentiality of employee concerns and problems must be respected and protected at all times to the extent that it is legal and practical. Only those personnel who have a need to know will be informed.
 6. Human Resource Administration and the Corporate Compliance Department must be available to provide assistance and guidance to supervisors in receiving and resolving employee concerns, problems, and opinions, and they will keep management informed of all concerns and problems raised by employees.
 7. The CCO will be responsible for the prompt investigation and follow-up of any reported retaliation against an employee and will report the results of an investigation into suspected retaliation to the appropriate level of management as deemed appropriate.

V. Related Policies and Compliance Documents

- Compliance Investigations, Policy No. GA-004-008
- Confidential Reporting, Policy No. GA-004-009
- Duty to Report, Policy No. GA-004-004

- Enforcement and Discipline, Policy No. GA-004-238
- Hotline, Policy No. GA-004-005
- Open Lines of Communication, Policy No. GA-004-234
- Voluntary Disclosure, Policy No. GA-004-012

VI. References

Department of Health and Human Services Office of Inspector General. OIG Supplemental Compliance Guidance for Hospitals. 70 Fed. Reg. 4858, 4865 (Jan. 31, 2005). <https://edocket.access.gpo.gov/2005/pdf/05-1620.pdf>

Department of Health and Human Services Office of Inspector General. Publication of the OIG Compliance Program Guidance for Hospitals, 63 Fed. Reg. 35, 8987 (Feb. 23, 1998). <https://www.gpo.gov/fdsys/pkg/FR-1998-02-23/pdf/98-4399.pdf>

United States Sentencing Commission. Guidelines Manual. United States Sentencing Commission. Guidelines Manual. <https://www.ussc.gov/guidelines/2018-guidelines-manual>

US Code of Federal Regulations § 483.85 - Compliance and ethics program. https://www.govregs.com/regulations/title42_chapterIV_part483_subpartB_section483.85

Attachments:

No Attachments