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Sponsor:	<i>Brian Kozik: SVP, COMPLIANCE & PRIVACY</i>
Section:	<i>GA-Corporate Compliance</i>
Manuals:	<i>Compliance</i>

GA-004-238 Enforcement and Discipline

I. Purpose

It is essential for organizations to commit to high standards of conduct and behavior, consistent with all applicable laws, regulations, and rules. This commitment should include ensuring that there are uniform practices in place to enforce a plan of correction to all workforce members who engage in wrongful conduct or fail to comply with federal or state laws or regulations, internal organizational standards, policies, or the Code of Conduct. The Department of Health and Human Services Office of Inspector General (HHS OIG) notes in their Compliance Program Guidance that an effective compliance program should include guidance regarding plans of correction for workforce members who have failed to comply with the organization's standards of conduct, policies and procedures, federal and state laws, or those who have otherwise engaged in wrongdoing, which have the potential to impair the organization's status as a reliable, honest and trustworthy health care provider.

The purpose of this policy is to provide guidance to ensure uniform enforcement and plans of correction for violations of law, regulations, or the Broward Health Code of Conduct or other applicable policies and procedures.

II. Key Terms

Deciding Authority: The party or parties who have the authority to act and decide upon findings and recommendations arising from an internal investigation.

General Counsel: Either the Office of General Counsel and/or his/her designee and/or an outside attorney at the direction and approval of the Office of General Counsel acting on behalf of Broward Health.

Workforce Member: Any employee, independent contractor, agent, 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; 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. Broward Health's Compliance Program seeks to assure compliance with applicable federal and state laws and regulations, The Joint Commission (TJC) standards, Broward Health's policies and procedures, and Broward Health's Code of Conduct.
2. A workforce member who fails to comply with applicable laws, regulations, the Broward Health Code of Conduct or policies and procedures governing Broward Health may be subject to a plan of correction consistent with the nature, severity, and frequency of the violation and without regard to the workforce member's seniority, rank, or position.
3. All allegations and complaints of wrongful conduct, including violations of applicable laws and/or regulations, and/or Broward Health's Code of Conduct and/or policies and procedures shall be investigated.
4. Broward Health will impose an appropriate plan of correction in a fair, consistent and unbiased manner to all workforce members, regardless of position, when it has been determined that the workforce member engaged in wrongful conduct that violated applicable laws and/or regulations, the Broward Health Code of Conduct and/or policies and procedures governing Broward Health.
5. The Human Resources Department shall consult with the Corporate Compliance Department and if necessary, the Office of General Counsel, regarding decisions of a plan of correction to be taken against a workforce member pursuant to this policy. Under no circumstances shall the Corporate Compliance Department make the final decision on the type of plan of correction to be taken against a workforce member.
6. The Corporate Compliance Department shall consult with the Human Resources Department, as necessary, to ensure that consistent disciplinary action is applied for all compliance related issues.

IV. Procedures

1. Workforce members charged with carrying out plans of correction will ensure such action is carried out in a fair, equitable and consistent manner.
2. Allegations of improper conduct by workforce members will be evaluated and may result in an investigation or internal inquiry by the SVP/Chief Compliance Officer (CCO), Human Resources, General Counsel, and/or other responsible investigating authorities.
3. The Human Resources Department may be consulted to review proposed plans of correction to be taken against a workforce member to:
 - a. Ensure the evidence adequately supports the decision; and
 - b. Ensure the plan of correction proposed is appropriate and consistent under the circumstances
4. All findings and recommendations for a plan of correction will include the basis for the allegations, all relevant documents generated in connection with the internal investigation, and grounds for proposed plan of correction.
5. A plan of correction imposed in response to instances of noncompliance that is evidenced through investigations and inquiries shall be determined on a case-by-case basis in consultation with appropriate management.

6. In most situations involving workforce members, plans of correction will be progressive, beginning with documented retraining and progressing to more serious forms of correction, including termination, if necessary. Broward Health may terminate the employment, contractual or other relationship with a Broward Health workforce member without first resorting to less severe forms of correction for violations of applicable federal and state requirements and Broward Health's Compliance Program requirements, and other related Broward Health policies.
7. If the Deciding Authority determines that the conduct of the workforce member is subject to an internal inquiry or investigation and is determined to be sufficiently severe, the inquiry or investigation may result in immediate termination.
8. Examples of serious violations that may subject an individual to immediate termination include, but are not limited to:
 - a. Intentional, reckless or negligent conduct that violates the Code of Conduct, applicable laws or regulations.
 - b. Failure to report conduct that the individual knew was a violation of the Code of Conduct, applicable laws or regulations;
 - c. Willfully filing a false report or providing false information in connection with an organization or government investigation of an alleged violation;
 - d. Failure to correct behavior for which a Covered Person was subject to prior disciplinary action; or
 - e. Retaliation against an individual that reports a violation or potential violation of the Code of Conduct in good faith.
9. During the investigation, a workforce member may be suspended without pay or temporarily relieved of job responsibilities related to the alleged violation depending upon the seriousness of the offense. If the investigation determines no wrongdoing was involved, the workforce member may be returned to his or her position without prejudice. If there is a suspension of the workforce member without pay and the investigation resulted in no finding of wrongdoing, the workforce member will be entitled to reimbursement of lost wages for periods of suspension that was determined to be inappropriate or excessive plan of correction.
10. Any plan of correction taken against a Broward Health workforce member will be documented in the appropriate location based on the applicable Broward Health policies and procedures.
11. For violations by Broward Health employees of applicable federal and state laws, regulations, or requirements and/or Broward Health's Compliance Program requirements, the appropriate plan of correction will be determined by the Chief Compliance Officer in consultation with Human Resources, General Counsel, and Senior Management, as appropriate. Regional Human Resources is responsible for executing disciplinary and/or corrective measures and is responsible for issuing a report to the Chief Compliance Officer documenting the completion of such actions. The CCO, General Counsel, or their designees may be involved in investigating alleged violations or misconduct and in following up to determine whether proper disciplinary and/or corrective action was taken.
12. Human Resources is responsible for executing the disciplinary and/or corrective measures pertaining to Broward Health employees and is responsible for issuing a written report to the Chief Compliance Officer documenting the completion of the measures. The Chief Compliance Officer, General Counsel, or their designees may be involved in investigating violations or misconduct and in following

- up to determine whether proper disciplinary and/or corrective action was taken.
13. A workforce member whose conduct otherwise would justify termination may, at the sole discretion of appropriate senior management, have lesser correction imposed as a result of voluntary disclosure of the violation and/or full and complete cooperation during any investigation or inquiry.
 14. The CCO will keep Senior Leadership, the Executive Compliance Group, and the Board of Commissioners informed as necessary on the enforcement and plans of correction actions under this policy.

V. Related Policies and Compliance Documents

- Compliance Investigations, Policy No. GA-004-008
- Compliance Office Protocol with Human Resources, Policy No. GA-004-001
- Compliance Office Protocol with General Counsel, Policy No. GA-004-002
- Duty to Report. Policy No. GA-004-004
- Ongoing Monitoring, Policy No. GA-004-013
- Sanctions for Non-Compliance with Information Privacy and Security Policies, Policy No. GA-004-160
- Progressive Action Policy (Corrective Action & Performance Improvement Plan) Policy No. HR-003-010

VI. References

42 U.S.C. § 1320 a-7(a); 42 C.F.R. § 1003.102; 21 U.S.C. § 335 (a), (b).

Department of Health and Human Services Office of Inspector General. *OIG Supplemental Compliance Guidance for Hospitals*. 70 Fed. Reg. 4858, 4865 (Jan. 31, 2005). <http://oig.hhs.gov/fraud/docs/complianceguidance/012705hospsupplementalguidance.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). <http://www.oig.hhs.gov/authorities/docs/cpghosp.pdf>

Department of Health and Human Services Office of Inspector General. "The Effect of Exclusion From Participation in Federal Health Care Programs." *Special Advisory Bulletin*. (Sept. 1999). http://oig.hhs.gov/fraud/alerts/effect_of_exclusion.asp

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

Broward Health Corporate Integrity Agreement with the DHHS Office of Inspector General, dated August 31, 2015.

Attachments

No Attachments

Approval Signatures

Step Description	Approver	Date
Final Approver	Brian Kozik: SVP, COMPLIANCE & PRIVACY	07/2020
	Jennifer Mosley: EXEC SECRETARY/ANALYST	07/2020