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Sponsor:	Brian Kozik: SVP, COMPLIANCE & PRIVACY
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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 Workforce members can express problems, concerns, and opinions without fear of retaliation or reprisal; providing supervisor and managers with appropriate guidelines for addressing problems and concerns raised by Workforce members; and to reassure Workforce members who wish to report concerns through the available channels that a non-retaliation/non-retribution policy has been established. Broward Health considers such reporting, inquiring, or participating to be protected activities in which all Workforce Members of Broward Health may freely engage. Cooperating in a compliance investigation and/or seeking guidance on compliance concerns in good faith is protected from retaliation. 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: Unwelcome conduct when: 1) enduring the offensive conduct becomes a condition of continued employment, or 2) the offensive conduct is severe or pervasive enough to create a work environment that a reasonable person would consider intimidating, hostile, or abusive.

Retaliation: Defined under this policy to mean any adverse action, formal or informal, taken against any Workforce Member by a colleague, supervisor, or manager because he or she reported or complained about a compliance issue or potential violation of the Code of Conduct, policies, laws, regulations, or professional standards in good faith, 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. A person has reported in "good faith" when the information reported was believed to be honest and accurate, even if it was later found out to be mistaken. Acts of retaliation can occur on or off duty or can occur immediately or later in time. Therefore, any report of retaliation shall be evaluated on a case by case basis.

Formal retaliation includes, but is not limited to: termination, loss of promotion, a less-desirable

assignments, pay reduction, etc.

Informal retaliation includes, but is not limited to: being ostracized or shunned, coworkers expressing feelings of distrust and concern, etc.

Retribution: 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, 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; and 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, *Duty to Report, Policy No. GA-004-004*. 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 a higher level or contact the Corporate Compliance and Ethics Department. In addition, the Workforce Member has the option of calling the Workforce Diversity, Inclusion and Advocacy Hotline at 954-473-7323 and 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 and is consistent with Broward Health's commitment to legal and regulatory compliance and transparency with stakeholders. Although self-reporting may be taken into account in determining what, if any disciplinary action is appropriate or warranted, it will not exempt or insulate workforce members from disciplinary action (to the extent the Workforce Member has fault).

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 (if the supervisor is not involved in the matter), the Human Resources Department, the Office of the General Counsel, 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. Workforce member expressing feelings of distrust and concern;
 - f. Different treatment (e.g. ostracizing or shunning);
 - g. 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
 - h. Threats to engage in any of the actions listed above.
2. All managers and supervisors must encourage the reporting of problems and ensure 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, Human Resources, and any other department, as applicable, will be responsible for the prompt investigation and follow-up of any reported retaliation against a Workforce Member and will report the results of an investigation into suspected retaliation to the appropriate level of management as deemed appropriate.
 8. 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.

V. Related Policies and Compliance Documents

- Compliance Investigations, Policy No. GA-004-008
- Duty to Report, Policy No. GA-004-004
- Enforcement and Discipline, Policy No. GA-004-238
- Open Lines of Communication, Policy No. GA-004-234

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

Approval Signatures

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