Compliance Program Policy and Procedure Manual

Category/Section: Compliance Program

Title: Whistleblower and Non-Retaliation/Intimidation

Policy Origination Date: April 15, 2016

Effective Date of Current Revision: March 5, 2024

POLICY:
Episcopal Health Services Inc. ("EHS") is committed to fostering a culture of compliant and ethical conduct. Accordingly, EHS strictly prohibits intimidation, harassment or retaliation, in any form, against any individual or entity who *in good faith* participates in the EHS Compliance Program by reporting or participating in the investigation of any known or suspected violations of law, privacy, EHS policies and procedures, potential fraud, waste and abuse or other non-compliance. Any attempt to retaliate against or intimidate an individual or entity who participates in the EHS Compliance Program will result in action up to and including termination of employment, contract, or affiliation with EHS.

PURPOSE:
The purpose of this policy is to establish written policies and procedures that are designed to support compliance with various applicable Federal and New York State ("State") laws as they pertain to non-retaliation or intimidation of all EHS employees, affiliates, contractors, volunteers, students and trainees (collectively "Personnel"), members of the EHS Board of Trustees ("Board Members"), or other individuals or entities.

SCOPE:
This policy governs the requirements outlined herein and applies to all Personnel at all EHS owned, operated or affiliated facilities, entities and programs.

ATTACHMENTS:
None.

DEFINITIONS:

A. **In Good Faith:**
Means reporting or participating with the honest and reasonable belief that at that time, non-compliance may have occurred.

B. **Retaliation or Intimidation:**
Means an adverse action taken against an individual or entity as a direct result of that individual's participation in the EHS Compliance Program. Actions generally include but are not limited to the inappropriate discharge, suspension or demotion of an individual or any threatening, discriminatory or other adverse action taken against an individual or entity in the terms and conditions of such employment, contract or other affiliation with EHS.

C. **Whistleblower:**
Means EHS Personnel or other individuals or entities that know or have reason to suspect non-compliance have occurred and who *in good faith* participates in the EHS Compliance Program and as described in this policy.

RESPONSIBILITIES:

1. **Compliance and Privacy Department:** in collaboration with other departments, is responsible for ensuring that, in accordance with applicable law, EHS complies with the statutory and regulatory requirements with respect to protecting Personnel, Board Members and other individuals or entities from retaliation or intimidation, including participation in the development of policies and internal controls or systems designed to do such.

2. **Personnel:** are responsible for performing their job functions in compliance with this policy. Failure to maintain such compliance may result in disciplinary action up to and including termination of employment, contract or other affiliation with EHS.

PROCEDURES/GUIDELINES:

A. **General Obligations**

1. Personnel, Board Members or other individuals or entities have an obligation to report or participate in the investigation of any known or suspected non-compliance. Non-compliance includes, without limitation, the following:
   a. Known or suspected misconduct, compliance or non-compliance issues;
   b. Known or suspected violations of employee or patient privacy or confidentiality;
   c. Known or suspected violations of any applicable law or regulation;
   d. Known or suspected violations of EHS's policies and procedures, the EHS Code of Conduct or the EHS Compliance Program;
   e. Potential overpayments;
   f. Related risks under self or external audit, review of investigation;
   g. Performing or participation in internal or external investigations, reviews and audits;
   h. Cooperating with or implementing remedial actions in response to noted compliance issues, deficiencies or failures;
   i. Known or suspected fraud, waste or abuse;
   j. Situations covered under Labor Law §§ 740, 741 which include, without limitation, violations that create and/or present a substantial and specific danger to the public health or safety, or which constitute health care fraud or situations where Personnel reasonably believes constitutes improper quality of patient care; and/or
   k. Situations covered under Labor Law § 218-b which include, without limitation, workplace safety, reporting in good faith potential violations of the Labor Law or seeking intervention related to such, refusing to work in environments where Personnel reasonably believe that such work exposes them or others to an unreasonable risk of exposure to disease due to failure to maintain compliance with applicable law or guidelines covering work conditions and disease prevention.

2. Personnel or other individuals or entities may report any suspected non-compliance or other issues outlined in this policy as follows:
   - By phone at 718-869-7721;
   - By email at compliance@ehs.org;
   - Via the 24/7 Confidential & Anonymous Compliance Hotline by calling 1-844-973-0162 or visiting www.ehs.ethicspoint.com;

- By mail at St. John's Episcopal Hospital, 327 Beach 19th Street, Far Rockaway, NY 11691. Attn: Compliance & Privacy.

Note: If you suspect Medicare fraud or that which involves a health plan, you can also contact the health plan sponsor directly or contact the OIG at 1-800-HHS-TIPS.

3. The Compliance and Privacy Department will review and investigate allegations of retaliation or intimidation resulting from a Whistleblower's action, report or complaint.

4. Whistleblower actions, reports or complaints, and the investigation of such, will remain confidential to the extent permissible under Federal, State or local law.

5. Whistleblowers, in many situations including without limitation, those involving potential false claims, workplace safety issues or other potential Non-Compliance, reserve the right to bring forth civil actions against the government ("Qui Tam"), or in certain situations, EHS, without fear of Retaliation or Intimidation. Whistleblowers may be entitled to a percentage of recoveries or other reward for reporting and participating in the investigation or settlement of such actions.

6. EHS may be civilly liable in some cases for acts or actions that violate this policy.

7. Personnel, Board Members or other individuals or entities who engage in non-compliance, violations of this policy or any form of retaliation or intimidation will be subject to action which includes but is not limited to termination of employment, contract or other affiliation with EHS.

8. Board Members, who may be the subject of a Whistleblower's action, report or complaint, may not be present at or participate in deliberations, or vote on a matter, item or issue related to such.

9. A copy of this policy (or a summary of essential elements, as identified in the EHS Compliance Plan) will be made readily available for Personnel, Board Members and other individuals and entities to review. This will include posting on websites or other easily accessible forums.

10. The Compliance and Privacy Department will perform a review of this policy on an annual basis.

RELEVANT REFERENCES:

1. 18 NYCRR § 521.3.
2. 45 CFR § 160.316.
3. 45 CFR § 164.530.
4. N.Y. Labor Law §§ 740, 741 and 218-b.
5. N.Y. Not-For-Profit Corporation Law § 715-b.
6. 42 U.S.C. 1396 a(a)(68).
7. U.S. Department of Health and Human Services Office of Inspector General's ("OIG's") *Compliance Program Guidance for Hospitals* (63 Fed. Reg. 8987; February 23, 1998).
8. OIG's *Supplemental Compliance Program Guidance for Hospitals* (70 Fed. Reg. 4858; January 31, 2005).

9. N.Y. Office of the Medicaid Inspector General's (OMIG's) Compliance Program Guidance (January 2023).
10. OIG's General Compliance Program Guidance (November 6, 2023).

RELATED POLICIES:
None.

LIST OF REVISIONS:

Revision No.	Date of Change	Additions/Amendments
1	11/30/2016	Updated format
2	12/01/2017	Updated content & format
3	01/01/2021	Updated content, reporting mechanisms and references
4	07/01/2021	Included Workplace Safety language for NYS HERO Act.
5	01/01/2022	Updated format
6	03/05/2023	Updated Compliance & Privacy contact information; Updated Relevant References

TITLE, POLICY OWNER:
Chief Compliance & Privacy Officer

RECOMMENDED/APPROVED BY:
Chief Executive Officer

DISTRIBUTION:
☑ Nursing Staff
☑ Medical Staff
☑ Department Heads
☑ All Employees
☑ Other: Board Members, Volunteers, Students, Contractors