



BRONX PARTNERS FOR  
HEALTHY COMMUNITIES

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**BRONX PARTNERS FOR HEALTHY COMMUNITIES**  
**CODE OF CONDUCT**



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# BRONX PARTNERS FOR HEALTHY COMMUNITIES

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## **I. POLICY STATEMENT**

Bronx Partners for Healthy Communities Performing Provider System (“BPHC PPS” or “BPHC”) has instituted a Compliance Program<sup>1</sup> (“Program”) to establish standards and procedures to: 1) prevent and detect criminal conduct, fraud, waste and abuse;<sup>2</sup> 2) to foster an environment that encourages ethical behavior and adherence to the law and ethical business practices; and, 3) to create a system of checks and balances designed to prevent “inappropriate practices”<sup>3</sup> in connection with DSRIP.<sup>4</sup>

BPHC is committed to ensuring that the patients receiving services in connection with DSRIP are getting high quality and compassionate medical services, pursuant to the highest ethical, business, and legal standards. These high standards must apply to our interactions with everyone with whom we deal. This includes, but is not limited to, our patients, other health care providers and organizations, community based service organizations, companies with whom we do business, government entities to whom we report, and the entities from whom reimbursement for services is sought and received. In this regard, all workforce members<sup>5</sup> must not only act in compliance with all applicable legal rules and regulations, but also strive to avoid even the appearance of impropriety. In short, we do not and will not tolerate any form of unlawful or unethical behavior by anyone associated with BPHC. We expect and require all workforce members to be law-abiding, honest, trustworthy, and fair in all of their business dealings. BPHC has adopted, as part of the Program, a Code of Conduct which outlines standards of conduct for workforce members in any activity where workforce members’ actions reflect on BPHC. Every workforce member or agent of BPHC shall be familiar with its contents and adhere to its code and standards. While a person’s duties will vary depending upon his or her position within BPHC, all individuals associated with BPHC are held to the same legal and ethical standards discussed herein. It is the responsibility of all persons associated with BPHC to understand, implement and uphold the standards set out in the Code of Conduct.

The Code of Conduct provides guidance to ensure that all of our work is done in an ethical and legal manner. Adherence to its spirit, as well as its specific provisions, is absolutely critical to our future. Workforce members may raise compliance issues or concerns with your supervisor, or you may contact the BPHC Compliance Officer, who can be reached at (718) 618-8243. BPHC will also establish a dedicated anonymous

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<sup>1</sup> Department of Health and Human Services Office of Inspector General; Publication of the OIG Program Guidance for health systems published in the Federal Register / Vol. 63, No. 35 / Monday, February 23, 1998 / Notices; “DSRIP compliance Guidance 2015-02,” September 1, 2015, NYS Office of the Medicaid Inspector General.

<sup>2</sup> Federal Sentencing Guidelines section 8B2.1 (a)(1)

<sup>3</sup> Office of the Medicaid Inspector General, Mandatory Programs, Frequently Asked Questions: What is the Purpose and intent of the Mandatory Compliance Law?

<sup>4</sup> The BPHC Program and this Code of Conduct are not intended to be a substitute for the compliance program of Member Organizations. In addition, the full scope of the Code of Conduct, including how it will be implemented, who it will apply to, and the reach of key components such as training, discipline, investigations into allegations of non-compliance, and non-retaliation will be determined by BPHC leadership and reflected in an updated Code of Conduct and/or Policies and Procedures approved by the Executive Committee or its designee.

<sup>5</sup> The term “workforce member” as used throughout this document is an undefined term. BPHC leadership in determining the full scope and application of the Compliance Program will also define this term for purposes of this Code of Conduct. Any changes will be reflected in an updated Code of Conduct and/or Policies and Procedures as approved by the Executive Committee or its designee.



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Compliance Hotline to facilitate anonymous complaints. This Compliance Hotline will be well publicized once it has been established.

It is a basic principle of our Program that there will be no retribution for asking questions, raising concerns about the Code, or reporting possibly improper conduct. All reports to the BPHC Compliance Officer will be held in the strictest confidence possible, consistent with the need to investigate the matter. BPHC is a broad and diverse network of more than two hundred Bronx-based organizations (“Member Organizations”) working together to increase patient access, care quality, and efficiency in healthcare delivery. The BPHC Compliance Officer will promptly notify Member Organizations of complaints pertaining to them for the Member Organizations to take action.

## **A. Applicability**

The full scope and application of the Code of Conduct will be determined by the Executive Committee.

## **B. BPHC’s Mission Statement**

BPHC’s mission is to improve the health and wellness of the Bronx community and implement innovative community-level projects which transform the system of clinical delivery.

- **Vision Statement**

BPHC envisions a healthcare system in the Bronx that relies less on hospital care, focuses on prevention, and improves health outcomes, while at a lower cost to the system. To do this, BPHC will integrate community-based services into medical care, provide coordinated care to every Bronx patient, and adopt a value-based contracting model that allows our coalition to keep the Bronx healthy for years to come.

- **BPHC’s Values – Commitment to the Principle “Patients First”**

BPHC is fully committed to the principle that DSRIP is about patients, not institutional power or growth. The coalescing around SBH, a well-respected community hospital, as the lead applicant for DSRIP demonstrates diverse organizations’ commitment to work together to create a balanced governance structure prioritizing patients and their health outcomes.

## **C. BPHC’s Compliance Goals**

1. To prevent, detect, and correct fraud, waste, and abuse with regard to DSRIP.
2. To conduct business operations and deliver healthcare services in compliance with all applicable laws, and BPHC’s standards of integrity and ethical business practices.
3. To protect its reputation and standing in the patient, business, government, and regulatory communities.



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4. To provide a work environment for workforce members that is safe, secure, professional, respectful, and free of discrimination, harassment, intimidation, and retaliation.
5. To provide medical services and deliver high quality patient care with quality, care, dignity, integrity, and respect while observing patient rights.
6. To avoid any deceptive business practice and to comply with any applicable competition law.
7. To avoid engaging in activities that create any conflicts of interest or the appearance thereof.
8. To maintain and operate all health system facilities in a safe manner.
9. To be committed to environmental responsibility.
10. To maintain records in accordance with applicable law, internal policies and procedures, and best practices for record management.
11. To conduct business in a fiscally responsible manner.
12. To prohibit, address, and mitigate any behavior, action, or practice that is deemed unprofessional conduct.

## II. CODE OF CONDUCT

- A. All BPHC activities must be conducted in accordance with BPHC's mission, vision and goals.
- B. All BPHC activities must be conducted in a manner that adheres to all applicable laws rules and regulations, including, without limitation, Centers for Medicare and Medicaid Services (CMS) regulations; the Health Insurance Portability and Accountability Act and the regulations promulgated thereunder ("HIPAA"); SAMHSA<sup>6</sup>, DEA<sup>7</sup> and certified opioid treatment regulations; The following New York State Laws: Public Health, Education, Mental Hygiene, Social Services, Public Authorities and Accountability Act, General Business.
- C. Managerial staff are responsible for ensuring that the workforce members within their supervision are acting ethically and in compliance with the Code of Conduct.
- D. Managerial staff will be sanctioned for failure to instruct adequately their subordinates or for failing to detect noncompliance with applicable policies and legal requirements, where reasonable diligence

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<sup>6</sup> The federal "Substance Abuse and Mental Health Services Administration."

<sup>7</sup> The federal "Drug Enforcement Administration."



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on the part of the manager or supervisor would have led to the discovery of any problems or violations and given BPHC the opportunity to correct them earlier.<sup>8</sup>

- E.** Workforce members shall be completely honest in all dealings with government agencies. No misrepresentations shall be made, and no false bills or requests for payment or other documents shall be submitted to government agencies or representatives. Workforce members certifying the correctness of records submitted to government agencies, including bills or requests for payment, shall have actual knowledge that the information is accurate and complete before giving such certification.
- F.** Actions that are dishonest, unethical or in violation of the organization's policies or procedures are violations of the Code of Conduct and are strictly prohibited.
- G.** Workforce members shall not engage in any financial, business, or other activity which competes with BPHC's business, which may interfere or appear to interfere with the performance of their duties, or that involve the use of BPHC's property, facilities, or resources, except to the extent permitted under BPHC's conflict of interest policies.
- H.** BPHC shall not engage in unfair competition or deceptive trade practices.
- I.** Workforce members are responsible for ensuring that the work environment is free of discrimination or harassment due to race, color, religion, creed, sex, national origin, citizenship status, age, disability, ethnic predisposition or carrier status, marital status, sexual orientation, transgender status, gender identity, pregnancy, veteran status or any other characteristic protected by applicable law.
- J.** All records pertaining to DSRIP must be retained, maintained, and destroyed in a manner consistent with BPHC's record retention policies and applicable law.

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<sup>8</sup> See HHG/OIG, Program Guidance for health systems, Notice, 63 FR 8987, 8989-8990, Feb. 23, 1998



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**APPENDIX**

**I. APPLICABLE LAWS**

**A. Human Resource & Labor Law Compliance**

1. Compliance with Sexual Harassment Laws

Any Employee who experiences sexual harassment may file a grievance with either his or her supervisor or the Human Resources Department.

2. Compliance with Equal Opportunity/Non-Harassment Laws

BPHC does not tolerate harassment or discrimination against individuals who fall within any protected category and will treat such incidents as a form of misconduct. Sanctions shall be enforced against individuals engaging in such behavior. We provide equal opportunity to all workforce members.

3. Compliance with Labor and Employment Laws

It is BPHC's policy to comply fully with all applicable labor laws and other statutes regulating the employer-workforce member relationship and the workplace environment. Under federal and state law, it is illegal for BPHC or any affiliates to pay to or receive any money or other thing of value from any labor organization representing workforce members (excluding any amount paid in the normal course of business, e.g., union dues, political action committee).

4. Conduct Relevant Background Checks on All Representatives

BPHC will conduct comprehensive background investigation checks on all workforce members.

**B. Family and Medical Leave Act ("FMLA")**

FMLA provides an entitlement of up to 12 weeks of job-protected, unpaid leave during any 12-month period to eligible, covered workforce members for the following reasons: 1) birth and care of the eligible workforce member's child, or placement for adoption or foster care of a child with the workforce member; 2) care of an immediate family member (spouse, child, parent) who has a serious health condition; or 3) care of the workforce member's own serious health condition. It also requires that workforce member's group health benefits be maintained during the leave. The FMLA is administered by the Employment Standards



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Administration's Wage and Hour Division within the U.S. Department of Labor.<sup>9</sup>

**C. Americans with Disabilities Act (“ADA”)**

The ADA prohibits discrimination on the basis of disability in employment, State and local government, public accommodations, commercial facilities, transportation, and telecommunications. To be protected by the ADA, one must have a disability or have a relationship or association with an individual with a disability.

An individual with a disability is defined by the ADA as a person who has a physical or mental impairment that substantially limits one or more major life activities, a person who has a history or record of such impairment, or a person who is perceived by others as having such impairment. The ADA does not specifically name all of the impairments that are covered.<sup>10</sup>

**D. Environmental Compliance**

1. It is BPHC’s policy to comply with all applicable health and safety laws, rules and regulations and require the use of appropriate personal protective equipment and safety measures, and insist that all work be performed in the safest possible manner in an effort to protect patients, workforce members, visitors and contractors from unsafe conditions.
2. All workforce members must report any unsafe or potentially unsafe conditions to their supervisor.

**II. MAINTENANCE OF CORPORATE RECORDS**

- A.** All books, reports, accounts and any other information generated in the course of business must be made in a complete and accurate manner, including electronic records. It is the responsibility of every workforce member and affiliate to record information completely, accurately and honestly. Records must be legible and clear enough to not need interpretation. All documentation related to individual billing must be recorded at the time of service.
- B.** All business and financial transactions must be reported in the regular course of business. Under no circumstances should a workforce member or affiliate create misleading records or disguise billing or expenses. The falsification of individual treatment, attendance or billing records is strictly prohibited.

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<sup>9</sup> Family & Medical Leave Act

<sup>10</sup> ADA [www.ADA.gov](http://www.ADA.gov)





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- C. Records may not be altered in any way without prior approval from the appropriate authorized personnel.

### **III. DATA PRIVACY - SAFEGUARDING THE PRIVACY OF THE PEOPLE WE SERVE**

#### **A. Confidentiality of BPHC Information**

Workforce members shall not disclose to others any confidential information obtained during the course of working on a BPHC project. Confidential information includes, but is not limited to, methods, processes, techniques, computer software, equipment, service marks, copyrights, research data, clinical and pharmacological data, marketing and sales information, workforce members data, individual lists, financial data, plans, and any other proprietary information in the possession of BPHC which has not been published or disclosed to the public.

BPHC is responsible and accountable for the integrity and protection of business information. Documents and electronic media containing sensitive information concerning individuals and the organization's representatives should be handled carefully and must be properly secured. Particular attention must be paid to the security of data stored on the computer system. If you observe misuse of confidential information, or individuals whom you do not recognize using terminals in your area, immediately report this in accordance with the policies and procedures of your organization or to the BPHC HIPAA Privacy Officer.<sup>11</sup>

#### **B. Disclosure of Protected Health Information**

To protect individuals against misuse of information, access to individual information must be limited to the extent permitted by federal and state law and BPHC policy. Any workforce member who engages in unauthorized disclosure, access, or misuse of information in violation of the privacy rights of patients may be subject to disciplinary action up to and including termination of employment or other association within BPHC in addition to possible civil or criminal sanctions. Any person who becomes aware of such unauthorized disclosure, access or misuse should report it immediately to their supervisor or the Privacy Officer.

##### **1. Physician Patient Privacy**

BPHC is committed to respecting patient and workforce members' confidentiality at its highest ethical standards and to complying with applicable laws and regulations.

##### **2. Physician - Patient Privilege**

"Certain communications are vested by law with a privilege against disclosure. New York, by statute, recognizes a privilege for confidential communications between attorney and

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<sup>11</sup> The BPHC Compliance Officer also serves as BPHC's HIPAA Privacy Officer. You may direct complaints to 718-618-8243 or the Hotline that BPHC will establish to receive complaints anonymously.



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client (CPLR 4503); physician and patient (CPLR 4504); spouses (CPLR 4502); registered psychologist and client (CPLR placed “on the same basis” as attorney client privilege, CPLR4507); a certified social worker and client (CPLR 4508) and rape crisis counselor and client (CPLR 4510).”<sup>12</sup>

### **C. Government Investigations**

1. All workforce members and affiliates must follow the appropriate procedure to ensure that BPHC responds in a proper manner to all government investigations.
2. Some agencies are entitled by statute to immediate access to information. They include but are not limited to the Office of the Inspector General of the United States Department of Health and Human Services, the New York State Medicaid Fraud Control Unit, the New York State Department of Health, and the New York State Medicaid Inspector General. Proper identification must be presented by officials of these agencies before access can be provided. In virtually all cases, when a request is made by these agencies, access to the requested information should be delayed pending notification of the Executive Director and/or the Compliance Officer. Such notification should occur simultaneously with the requested access. Notification will ensure that BPHC is aware of the inquiry, properly responds to it, and can take whatever action is necessary with regard to it.
3. BPHC workforce members should be certain that any disclosure of individual or workforce member health information complies with all specific federal and state confidentiality laws relating to medical records, psychiatric or other mental health records, HIV- and AIDS-related information, STD-related information and substance abuse (controlled drugs and alcohol).

### **D. Information Owned by Others**

1. Confidential information (e.g. software, data, and reports) received from outside business associates for the benefit of BPHC must not be disclosed unless a business associate agreement has been signed. If the business associate has information in its possession that could possibly be confidential to a third party or may have restrictions placed on its use, the workforce member should consult with the appropriate personnel.
2. “Software” is intellectual property which is protected by copyright laws and may also be protected by patent trade secret laws or as confidential information. Approval in writing must be secured from the authorized personnel before software can be accepted or license agreements signed for its use. The terms and conditions of such license agreements, such as provisions not to copy or distribute software, must be strictly followed. If you acquire software for your personally owned equipment, you should not copy any part of such

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<sup>12</sup>Prince, Richardson on Evidence Article V. A General Considerations § 5-101, p. 225.



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software in any work you do for BPHC, place such software on any BPHC-owned computer system, or generally bring such software onto the premises.

**E. Records Retention/Destruction**

Workforce members are expected to comply fully with BPHC's records retention and destruction policy. If workforce members believe that documents should be saved beyond the applicable retention period, their supervisor should be consulted. There are criminal penalties for any person who knowingly alters, destroys, mutilates, or conceals a document with the intent to obstruct justice or influence an official investigation or proceeding.

**IV. BEHAVIOR DEEMED UNPROFESSIONAL CONDUCT**

A. The following actions are considered unprofessional conduct and a violation of this Code of Conduct:

1. Submitting or causing to be submitted false claims for unfurnished medical care, services or supplies;<sup>13</sup> an amount in excess of established rates or fees;<sup>14</sup> medical care, services or supplies provided at a frequency or in an amount not medically necessary;<sup>15</sup> amounts substantially in excess of the customary charges or costs.<sup>16</sup>
2. Inducing other workforce members to submit a false claim.<sup>17</sup>
3. Making any false statement or misrepresentation of material fact in claiming a medical assistance payment, or for use in determining the appropriate payment.<sup>18</sup>
4. Inducing other workforce members to make any false, fictitious or fraudulent statement or misrepresentation of a material fact.<sup>19</sup>
5. Failure to disclose any event affecting the right to payment.<sup>20</sup>

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<sup>13</sup> 18 NYCRR 515.2(b)(1)(i)(a).

<sup>14</sup> 18 NYCRR 515.2(b)(1)(i)(b).

<sup>15</sup> 18 NYCRR 515.2(b)(1)(i)(c).

<sup>16</sup> 18 NYCRR 515.2(b)(1)(i)(d).

<sup>17</sup> 18 NYCRR 515.2(b)(1)(ii).

<sup>18</sup> 18 NYCRR 515.2(b)(2)(i).

<sup>19</sup> 18 NYCRR 515.2(b)(2)(ii).

<sup>20</sup> 18 NYCRR 515.2(b)(3).



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6. Converting any part of a medical assistance payment to use or benefit for anything other than the intended benefit by the medical assistance program.<sup>21</sup>
7. Soliciting or receiving either directly or indirectly any payment, including any kickback, bribe, referral fee, rebate or discount, whether in cash or in kind, in return for referring a patient to a person for any medical care, services or supplies for which payment is claimed under the program.<sup>22</sup>
8. Soliciting or receiving either directly or indirectly any payment, including any kickback, bribe, referral fee, rebate or discount, whether in cash or in kind, in return for purchasing, leasing, ordering or recommending any medical care, services or supplies for which payment is claimed under the program.<sup>23</sup>
9. Offering or paying either directly or indirectly any payment, including any kickback, bribe, referral fee, rebate or discount, whether in cash or in kind, in return for purchasing, leasing, ordering or recommending any medical care, services or supplies for which payment is claimed under the program.<sup>24</sup>
10. Offering or paying either directly or indirectly any payment, including any kickback, bribe, referral fee, rebate or discount, whether in cash or in kind, in return for referring a patient to a person for any medical care, services or supplies for which payment is claimed under the program; or in the connection with the performance of professional activities.<sup>25</sup>
11. Failing to maintain or to make available for purposes of audit or investigation records necessary to fully disclose the medical necessity for the nature and the extent of medical care, services and supplies furnished.<sup>26</sup>
12. Submitting claims or accepting payment for medical care, services or supplies furnished by a person suspended, disqualified or otherwise terminated from participation in the program.<sup>27</sup>
13. Seeking or accepting any gift, money, donation or other consideration in addition to the amount paid or payable under the program for any medical care, services or supplies for which a claim is made.<sup>28</sup>

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<sup>21</sup> 18 NYCRR 515.2(b)(4)

<sup>22</sup> 18 NYCRR 515.2(b)(5)(i)

<sup>23</sup> 18 NYCRR 515.2(b)(5)(ii)

<sup>24</sup> 18 NYCRR 515.2(b)(5)(iii)

<sup>25</sup> 18 NYCRR 515.2(b)(5)(iv); 8 NYCRR 29.1 (b)(3)

<sup>26</sup> 18 NYCRR 515.2(b)(6)

<sup>27</sup> 18 NYCRR 515.2(b)(7)

<sup>28</sup> 18 NYCRR 515.2(b)(8)



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14. Deceiving, misleading or threatening a patient, or charging or agreeing to charge or collect any fee in excess of the maximum fee, rate, or schedule amount from a patient.<sup>29</sup>
15. Making any agreement, combination, or conspiracy to defraud the program by obtaining, aiding or engaging anyone to obtain payment for any false claim.<sup>30</sup>
16. Furnishing or ordering medical care, services or supplies that is substantially in excess of the client's needs.<sup>31</sup>
17. Furnishing or ordering medical care, services or supplies that fail to meet professionally recognized standards for health care or which are beyond the scope of the person's professional qualifications or licensure.<sup>32</sup>
18. Illegally discriminating in the furnishing of medical care, services or supplies based on the patient's race, color, national origin, religion, sex, sexual orientation, age or handicapping condition or any other protected class.<sup>33</sup>
19. Assigning payments under the program to a factor, either directly or by power of attorney; or receiving payment through any person whose compensation is not related to the cost of processing the claim, is related to the amount collected or is dependent upon collection of the payment.<sup>34</sup>
20. Offering or providing any premium or inducement to a patient in return for the patient's patronage of the provider or other person to receive care, services or supplies.<sup>35</sup>
21. Denying services to a recipient based in whole or in part upon the recipient's inability to pay a co-payment for medical care, services or supplies.<sup>36</sup>
22. Improper disclosure of confidential patient information.<sup>37</sup>
23. Any violation of the organization's policies concerning patient care or advance directives.<sup>38</sup>

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<sup>29</sup> 18 NYCRR 515.2(b)(5)(9)

<sup>30</sup> 18 NYCRR 515.2(b)(10)

<sup>31</sup> 18 NYCRR 515.2(b)(11)

<sup>32</sup> 18 NYCRR 515.2(b)(12)

<sup>33</sup> 18 NYCRR 515.2(b)(13)

<sup>34</sup> 18 NYCRR 515.2(b)(14)

<sup>35</sup> 18 NYCRR 515.2(b)(15)

<sup>36</sup> 18 NYCRR 515.2(b)(16)(iii)

<sup>37</sup> 8 NYCRR 29.1(b)(8)

<sup>38</sup> 8 NYCRR 29.1(b)



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24. Willfully or grossly negligent failure to comply with substantial provisions of Federal, State or local laws, rules or regulations governing the practice of the profession.<sup>39</sup>
25. Exercising undue influence on the patient or client, including the promotion of the sale of services, goods, appliances or drugs in such manner as to exploit the patient or client for the financial gain of the practitioner or of a third party.<sup>40</sup>
26. Permitting any person to share in the fees for professional services, other than: a partner, workforce member, and associate in a professional firm or hospital, professional subcontractor or consultant authorized to practice the same profession, or a legally authorized trainee practicing under the supervision of a licensed practitioner.<sup>41</sup>
27. Conduct in the practice of a profession which evidences moral unfitness to practice the profession.<sup>42</sup>
28. Willfully making or filing a false report or failing to file a report required by law or by the Education Department or impeding or obstructing such filing, or inducing another person to do so.<sup>43</sup>
29. Practicing or offering to practice beyond the scope permitted by law, or accepting and performing professional responsibilities which the licensee knows or has reason to know that he or she is not competent to perform, or performing without adequate supervision professional services which the licensee is authorized to perform only under the supervision of a licensed professional, except in an emergency situation where a person's life or health is in danger.<sup>44</sup>
30. Delegating professional responsibilities to a person when the licensee delegating such responsibilities knows or has reason to know that such person is not qualified, by training, by experience or by licensure, to perform them.<sup>45</sup>

## V. PROTECTION FOR WHISTLEBLOWERS AND PROTECTION AGAINST RETALIATION

- A. BPHC encourages the good faith reporting of violations of the Code of Conduct and any other potential wrongdoing by BPHC and/or its workforce members, without fear of retaliation.

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<sup>39</sup> 8 NYCRR 29.1(b)(1)

<sup>40</sup> 8 NYCRR 29.1(b)(2)

<sup>41</sup> 8 NYCRR 29.1(b)(4)

<sup>42</sup> 8 NYCRR 29.1(b)(5)

<sup>43</sup> 8 NYCRR 29.1(b)(6)

<sup>44</sup> 8 NYCRR 29.1(b)(9)

<sup>45</sup> 8 NYCRR 29.1(b)(10)



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- B.** A whistleblower is any workforce member who discloses information concerning acts of wrongdoing, misconduct, malfeasance, or other inappropriate behavior by any workforce members, concerning BPHC's DSRIP activities.
- C.** Workforce members who discover wrongdoing in BPHC have several options in reporting:
  - 1. Report the matter to his or her supervisor
  - 2. Report the matter to BPHC's Compliance Officer
  - 3. Report the matter to the toll free Compliance Hotline ~ the identity of the whistleblower and the content of the whistleblower's report will be kept confidential consistent with the need to investigate the matter. Complaints will be directed to the appropriate Member Organization for investigation and corrective action.
- D.** BPHC will not fire, discharge, demote, suspend, threaten, intimidate, harass or discriminate against workforce members because of their role as a whistleblower insofar as the actions taken by the workforce members are legal.
- E.** Any attempt to retaliate against workforce members for reporting a violation of this policy will itself be considered a violation of this policy that may result in disciplinary action up to and including termination of employment or other affiliation with BPHC.
- F.** BPHC will thoroughly investigate any allegation of retaliation against a whistleblower for reporting an alleged violation of the Code of Conduct and any other potential wrongdoing.

## **VI. CONFLICTS OF INTEREST**

The Executive Committee will determine who should follow BPHC's Code of Conduct policy. These policies shall serve as a guide for official conduct and are intended to enhance the ethical and professional performance of workforce members and to preserve public confidence in BPHC's mission.

- A.** BPHC workforce members shall perform their duties with transparency, without favor, and refrain from engaging in outside matters of financial or personal interest, including other employment, that could impair independence of judgment, or prevent the proper exercise of one's official duties.
- B.** BPHC workforce members shall not directly or indirectly, make, advise, or assist any person to make any financial investment based upon information available through the workforce member's official position that could create any conflict between their public duties and interests and their private interests.
- C.** BPHC workforce members shall not accept or receive any gift or gratuities where the circumstances would permit the inference that: (a) the gift is intended to influence the individual in the performance





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of official business or (b) the gift constitutes a tip, reward, or sign of appreciation for any official act by the individual. This prohibition extends to any form of financial payments, services, loans, travel reimbursement, entertainment, hospitality, thing or promise from any entity doing business with or before BPHC.

- D.** BPHC workforce members shall not use or attempt to use their official position with BPHC to secure unwarranted privileges for themselves, members of their family or others, including employment with BPHC or contracts for materials or services with BPHC.
- E.** BPHC workforce members must conduct themselves at all times in a manner that avoids any appearance that they can be improperly or unduly influenced, that they could be affected by the position of or relationship with any other party, or that they are acting in violation of their public trust.
- F.** BPHC workforce members may not engage in any official transaction with an outside entity in which they have a direct or indirect financial interest that may reasonably conflict with the proper discharge of their official duties.
- G.** BPHC workforce members shall manage all matters within the scope of BPHC's mission independent of any other affiliations or employment. Directors, including ex officio and board members, shall strive to fulfill their professional responsibility to BPHC without bias and shall support BPHC's mission to the fullest.
- H.** BPHC workforce members shall not use authority, property, including equipment, telephones, vehicles, computers, or other resources, or disclose information acquired in the course of their official duties in a manner inconsistent with federal, state or local law or policy and BPHC's mission and goals.
- I.** This Code of Conduct shall be provided to all workforce members and shall be reviewed periodically by the BPHC Executive Committee.
- J.** Penalties

In addition to any penalty contained in any other provision of law, BPHC workforce members who knowingly and intentionally violate any of the provisions of this code may be removed in the manner provided for by law, rules or regulations.





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**K. Reporting Unethical Behavior**

BPHC workforce members are required to report possible unethical behavior by any workforce members, including directors or officers of the organization. Workforce members may file ethics complaints anonymously and are protected from intimidation and retaliation by BPHC policies.

**VII. DEFINITIONS**

*Abuse:* Practices which are inconsistent with sound fiscal, business, medical or professional practices and which result in unnecessary costs to the medical assistance program, payments for services which were not medically necessary, or payments for services which fail to meet recognized standards for health care.<sup>46</sup>

*Centers for Medicare and Medicaid Services (“CMS”):* The Health and Human Services agency responsible for Medicare and parts of Medicaid.<sup>47</sup>

*Claim:* A claim is a request for payment for services and benefits you received. Claims are also called bills for all Part A and Part B services billed through fiscal intermediaries. "Claim" is the word used for Part B physician/supplier services billed through the Carrier.<sup>48</sup>

*Contaminated:* The presence or the reasonably anticipated presence of blood or other potentially infectious materials on an item or surface.<sup>49</sup>

*Drug Enforcement Administration (“DEA”):* The federal law enforcement agency responsible for enforcing the controlled substances laws and regulations of the United States.<sup>50</sup>

*Fraud:* An intentional deception or misrepresentation made with the knowledge that the deception could result in an unauthorized benefit to the provider or another person and includes the acts prohibited by section 366-b of the Social Services Law.<sup>51</sup>

*Furnish:* Medical care, services or supplies provided directly by, or under the supervision of, or ordered or prescribed by the person.<sup>52</sup>

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<sup>46</sup> 18 NYCRR 515.1(1)

<sup>47</sup> See <http://www.cms.gov/apps/glossary/default.asp?Letter=C&Language=English>

<sup>48</sup> Id., 18 NYCRR 515.1(3)

<sup>49</sup> OSHA

<sup>50</sup> See <http://www.justice.gov/dea/agency/mission.htm>

<sup>51</sup> 18 NYCRR 515.(7)

<sup>52</sup> Id. at (8)



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*Good Faith:* Information concerning potential wrongdoing is disclosed in “good faith” when the individual making the disclosure reasonably believes such information to be true and reasonably believes that it constitutes potential wrongdoing.<sup>53</sup>

*Health Insurance Portability and Accountability Act (“HIPAA”):* A federal regulation to guarantee patients' rights and protections against the misuse or disclosure of their health records.<sup>54</sup>

*Medical Waste:* Any solid waste that is generated in the diagnosis, treatment, or immunization of human beings or animals, in research pertaining thereto, or in the production or testing of biologicals. This definition includes, but is not limited to: blood-soaked bandages; culture dishes and other glassware; discarded surgical gloves; discarded surgical instruments; discarded needles used to give shunts or draw blood (e.g., medical sharps); cultures, stocks, swabs used to inoculate cultures; removed body organs (e.g., tonsils, appendixes, limbs); or discarded lancets<sup>55</sup>

*Substance Abuse and Mental Health Services Administration (“SAMHSA”):* The Health and Human Services agency established to target effectively substance abuse and mental health services to the people most in need and to translate research in these areas more effectively and more rapidly into the general health care system.<sup>56</sup>

*Wrongdoing* is defined as fraudulent, criminal, unethical, wasteful or abusive behavior. Any alleged corruption, fraud, criminal or unethical activity, misconduct, waste, conflict of interest, intentional reporting of false or misleading information, or abuse of authority engaged in by a BPHC workforce member that relates to BPHC.<sup>57</sup>

*Whistleblower:* BPHC workforce members who in good faith discloses information concerning wrongdoing by BPHC workforce members, or concerning the business of BPHC itself.<sup>58</sup>

*Regulated Medical Waste:* Consists of a variety of materials, including infectious animal wastes, human pathological waste, human blood and blood products, needles and syringes (sharps) and cultures and stocks (microbiological materials) generated in research or health care.<sup>59</sup>

*Regulated Waste:* liquid or semi-liquid blood or other potentially infectious materials; contaminated items that would release blood or other potentially infectious materials in a liquid or semi-liquid state if compressed; items that are caked with dried blood or other potentially infectious materials that are

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<sup>53</sup> See ABO Recommended Guidance, Whistleblower Access and Assistance Program, pg. 2

<sup>54</sup> See <http://www.cms.gov/apps/glossary/default.asp?Letter=H&Language=English>

<sup>55</sup> Medical Waste Tracking Act of 1988

<sup>56</sup> See <http://www.samhsa.gov/about/>

<sup>57</sup> Id.

<sup>58</sup> See ABO Recommended Guidance, Whistleblower Access and Assistance Program, pg. 2

<sup>59</sup> New York State Department of Environmental Conservation



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capable of releasing these materials during handling; contaminated sharps; and pathological and microbiological wastes containing blood or other potentially infectious materials<sup>60</sup>

**ACKNOWLEDGMENT OF RECEIPT**

I acknowledge that I have received a copy of the Code of Conduct for BPHC's Program.

I agree to read, and conduct myself in conformity with all of its requirements and adhere to the spirit and letter of the Code of Conduct, and to cooperate with management in carrying out the objectives of the Program.

**Acknowledged and agreed:**

\_\_\_\_\_  
Signature

\_\_\_\_\_  
Print name

\_\_\_\_\_  
Job Title or Description

\_\_\_\_\_, 20\_\_  
Today's Date

\_\_\_\_\_  
<sup>60</sup> (OSHA)