



BRONX PARTNERS FOR  
HEALTHY COMMUNITIES

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**BRONX PARTNERS FOR HEALTHY COMMUNITIES**  
**COMPLIANCE PLAN**



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## **I. INTRODUCTION**

### **A. BPHC Compliance Plan and Compliance Program**

This is the compliance plan (“Compliance Plan” or “Plan”) for the Bronx Partners for Healthy Communities Performing Provider System (“BPHC PPS” or “BPHC”). This Plan contains details on the status of the BPHC compliance program (“Compliance Program” or “Program”), as established by BPHC’s Executive Committee, and provides a roadmap for how BPHC will further develop and implement a robust and comprehensive Compliance Program in connection with the Delivery System Reform Incentive Payment (“DSRIP”) program. BPHC will review and update this Plan and the accompanying documents periodically to reflect any changes in the law, DSRIP, identified risks, and new policies impacting the Program.<sup>1</sup>

The Program satisfies all applicable legal requirements, including, but not limited to, New York Social Services Law Section 363-d (“SSL 363-d”) and Title 18 of the New York Code Rules and Regulations at Part 521 (“Part 521”). The eight specific elements of a compliance program required by New York State law that are reflected in the BPHC Compliance Program are:

- Written policies and procedures that describe compliance expectations as embodied in a code of conduct or ethics;
- Designation of a Compliance Officer who oversees the daily operation of the Program;
- Training and education of all affected employees and persons associated with the provider on compliance issues, expectations and the Program;
- Communication lines to the Compliance Officer that are accessible to all affected individuals to allow compliance issues to be reported, including a method for anonymous and confidential reporting;
- Disciplinary policies to encourage good faith participation in the Program;
- System for routine identification of compliance risk areas and non-compliance;
- System for responding to compliance issues when raised, for investigating and correcting problems; and
- Policy of non- intimidation and non-retaliation for good faith participation in the Program.

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<sup>1</sup> The BPHC Program is not intended to be a substitute for the compliance program of Member Organizations. In addition, the full scope of the Program, 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 Plan and/or Policies and Procedures approved by the Executive Committee or its designee.



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In addition, the Compliance Program adopts the Federal Sentencing Guidelines principles on what constitutes an effective compliance and ethics program.<sup>2</sup> The Program also follows applicable guidance related to compliance provided by the Department of Health and Human Services Office of Inspector General's ("HHS-OIG") 1998 *Publication of the OIG Program Guidance for Hospitals* and its corresponding supplement, *OIG Supplemental Program Guidance for Hospitals*, issued in 2005, and other HHS-OIG guidance.<sup>3</sup>

In developing its Compliance Program, BPHC considered the guidance that has been provided by the New York State Office of the Medicaid Inspector General ("OMIG") and the New York State Department of Health ("SDOH") regarding DSRIP compliance programs.<sup>4</sup> Specifically:

- BPHC's commitment to creating and maintaining a comprehensive Program is evidenced by the resources it is dedicating to ensuring that "the Medicaid funds distributed as part of the DSRIP program are not connected with fraud, waste or abuse." BPHC will "consider its network performing providers' program integrity systems when dedicating resources and developing" systems to identify fraud.
- BPHC's Program will evolve over the DSRIP years to first address the risks "associated with the current phase of the DSRIP program" and payments made in the current phase of DSRIP, and ultimately to address new risks as DSRIP progresses.
- Although BPHC "cannot be responsible for how network providers use their respective DSRIP distributions," BPHC will create and implement a Program with "adequate processes" established to "identify when network providers obtain DSRIP distributions in a way that is inconsistent with approved DSRIP project plans."

The goal of the Program is to establish standards and procedures to: 1) prevent and detect criminal conduct, fraud, waste and abuse in connection with DSRIP;<sup>5</sup> 2) to foster an environment in the BPHC PPS 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 in the Medicaid program"<sup>6</sup> specifically in connection with DSRIP.

### B. DSRIP and BPHC

DSRIP is a joint demonstration program by SDOH and the Centers for Medicare and Medicaid Services ("CMS" or "federal government") aimed at transforming the delivery of healthcare by investing in the Medicaid

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<sup>2</sup> 2010 Federal Sentencing Guidelines Section 8B2.1

<sup>3</sup> Department of Health & Human Services (HHS) Office of the Inspector General (OIG) Publication of the OIG Program Compliance for Hospitals (1998), see also 70 FR 4858 HHS OIG, OIG Supplemental Program Guidance for Hospitals (2005)

<sup>4</sup> On April 6, 2015, OMIG published "DSRIP Compliance Guidance 2015-01," subsequently replaced and superseded by a revised DSRIP Compliance Guidance published on September 1, 2015. DSRIP CG 2015-01 Rev. On July 14, 2015, OMIG and SDOH published "DSRIP Compliance Guidance 2015-02" in which they jointly answered "Frequently Asked Questions by PPS Leads regarding DSRIP Compliance" from the perspectives of both agencies. DSRIP CG 2015-02.

<sup>5</sup> Federal Sentencing Guidelines section 8B2.1 (a)(1)

<sup>6</sup> Office of the Medicaid Inspector General, Mandatory Programs, Frequently Asked Questions: What is the Purpose and intent of the Mandatory Compliance Law?



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program and working to achieve value based outcomes for patients. SDOH's website describes DSRIP as follows: "DSRIP is the main mechanism by which New York State will implement the Medicaid Redesign Team (MRT) Waiver Amendment. DSRIP's purpose is to fundamentally restructure the health care delivery system by reinvesting in the Medicaid program, with the primary goal of reducing avoidable hospital use by 25% over 5 years. Up to \$6.42 billion dollars are allocated to this program with payouts based upon achieving predefined results in system transformation, clinical management and population health."<sup>7</sup>

SDOH selected 25 organizations in New York State to participate in DSRIP as "PPS Leads." A PPS is made up of a coalition of organizations, including providers, community based organizations, and government entities, working collaboratively on DSRIP projects to build an integrated delivery system. A PPS Lead is the entity designated by SDOH to lead the organizations that belong to the PPS to achieve specified DSRIP goals.

With nearly 150 years of experience serving the Bronx, a proven commitment to care innovation and health outcome improvement in an underserved community, SBH Health System ("SBH") was chosen by SDOH to be a PPS Lead. The PPS over which SBH is the lead is BPHC. 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.

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. The coalition of providers making up the BPHC will perform ten DSRIP projects:

- 2.a.i: Create Integrated Delivery Systems that are focused on Evidenced-Based Medicine/Population Health Management.
- 2.a.iii: Health Home At-Risk Intervention Program: Proactive management of higher risk patients not currently eligible for Health Homes through access to high quality primary care support services.
- 2.b.iii: Ed care triage at risk populations.
- 2.b.iv: Care transitions intervention model to reduce 30 day readmissions for chronic health conditions.
- 3.a.i: Integration of primary care and behavioral health services.
- 3.b.i. Evidence-based strategies for disease management in high risk/affected populations - Cardiovascular Disease (adults only).
- 3.c.i: Evidence-based strategies for disease management in high risk/affected population - Diabetes (adults only).

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<sup>7</sup> See SDOH Website: [http://www.health.ny.gov/health\\_care/medicaid/redesign/dsrp/](http://www.health.ny.gov/health_care/medicaid/redesign/dsrp/)



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- 3.d.ii: Expansion of asthma home-based self-management program.
- 4.a.iii: Strengthen Mental Health and Substance Abuse Infrastructure across Systems.
- 4.c.ii: Increase early access to, and retention in, HIV care.

The Member Organizations who will receive funding as part of the BPHC DSRIP project (“Partners”) will sign a Master Services Agreement (“MSA”) with SBH that specifically requires adherence to BPHC’s Compliance Plan and the Policies and Procedures established by the Executive Committee or a Sub-Committee.

## **II. Governance and Implementation of the BPHC Compliance Program**

### **A. BPHC Leadership**

BPHC’s Executive Director, who also serves as a Senior Vice President of SBH, oversees BPHC and its various projects. In addition, BPHC established an Executive Committee which serves as its primary decision-making and governing body. The Executive Committee is comprised of various representatives from the Member Organizations that form the PPS and are leaders in their fields and organizations. This wide representation is central to the Executive Committee’s role in ensuring participation, commitment, and collaboration by BPHC Member Organizations.

The scope of the Executive Committee’s role includes developing the vision for the PPS, evaluating performance, overseeing the financial management of the PPS, and the overall implementation of the DSRIP program. The Executive Committee will have ultimate responsibility for approving the BPHC Compliance Plan.

There are currently four sub-committees of the Executive Committee: 1) Finance and Sustainability; 2) Quality and Care Innovation; 3) Information Technology; and 4) Workforce.

BPHC and its governing body recognizes the importance of having a robust infrastructure to address the ever growing complexities of compliance issues found in the healthcare industry, and in particular, this new transformative initiative in New York State to move from a fee for service to value based payment model. Besides “address[ing] the public and private sectors’ mutual goals of reducing fraud and abuse, the success of the Program can lead to enhanced healthcare operations, improved quality of care, and a reduction of healthcare costs.<sup>8</sup> There are many benefits of an effective Program, including the following:<sup>9</sup>

- Demonstrating [BPHC’s] commitment to honest and responsible corporate conduct;

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<sup>8</sup> 70 Fed.Reg. 4858, 4859 Department of Health and Human Services Office Of the Inspector General OIG Supplemental Program Guidance for Hospitals (2005)

<sup>9</sup> Id.



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- Increasing the likelihood of preventing, identifying and correcting unlawful and unethical behavior at an early stage;
- Encouraging workforce members<sup>10</sup> to report potential problems to allow for appropriate internal inquiry and corrective action; and
- Through early detection and reporting, minimizing any financial loss to the government and taxpayers, as well as any corresponding financial loss to BPHC.

The BPHC Executive Committee has empowered BPHC’s Executive Director to develop and implement a Program aimed at creating a culture that promotes understanding of and adherence to applicable federal, state, local laws and regulations, and BPHC’s ethical and business practices in connection with DSRIP.

### B. Finance and Sustainability Sub-Committee

The Finance and Sustainability (FS) Sub-Committee monitors and makes recommendations to the Executive Committee on policies and procedures related to managing DSRIP funds. The FS Sub-Committee monitors BPHC’s budget and financial compliance plan and proposes strategies to distribute funds to partner organizations. It also designs the transition to value-based payments, an essential step towards high quality, low cost healthcare. Members of the FS Sub-Committee are executives in their respective organizations, with experience managing organizational budgets and financial statements. One of the FS Sub-Committee’s deliverables is preparing the Compliance Plan for submission to, and approval by, the Executive Committee.

## **III. COMPONENTS OF THE BPHC COMPLIANCE PROGRAM**

BPHC’s Program satisfies the eight elements set forth in SSL 363-d and Part 521 as discussed in detail below. The discussion is organized by the eight required elements.

### A. Written Policies and Procedures

BPHC must have “written policies and procedures that describe compliance expectations as embodied in a code of conduct or code of ethics, implement the operation of the compliance program, provide guidance to employees and others on dealing with potential compliance issues, identify how to communicate compliance issues to appropriate compliance personnel and describe how potential compliance problems are investigated and resolved.”<sup>11</sup> BPHC’s policies and procedures should, among other things, “describe compliance expectations specifically related to the compliance issues involving DSRIP funds”<sup>12</sup> and “identify how to communicate DSRIP related compliance issues identified by performing providers to the Compliance Officer at

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<sup>10</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 Plan and the Program. Any changes will be reflected in an updated Plan and/or Policies and Procedures approved by the Executive Committee or its designee.

<sup>11</sup> SSL 363-d(2)(a).

<sup>12</sup> DSRIP CG 2015—1 Rev. at page 2.



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the PPS Lead. Reporting of compliance issues identified may be directly to the PPS Lead’s Compliance Officer or through compliance liaisons” in the Member Organizations.<sup>13</sup>

## 1. Code of Conduct

BPHC has adopted, as part of the Program, a Code of Conduct (Attachment A) which outlines standards of conduct for BPHC workforce members. The full scope and application of the Code of Conduct will be determined by the Executive Committee.

## 2. Written Policies and Procedures

To clearly state its compliance expectations and describe the Program and its approach to compliance, as DSRIP progresses and as deemed necessary, BPHC will enact policies and procedures pertaining to DSRIP that are regularly reviewed and updated. These policies and procedures may include, but not be limited to, clarifying the scope of the BPHC Compliance Program as determined by its Executive Committee, defining the parties who will be required to comply and the manner in which compliance may be demonstrated, addressing key issues such as compliance expectations for DSRIP Funds, refunds of identified overpayments, privacy and security of data, conflicts of interest, complaints, investigations, corrective action, and any other policy needed to address identified risks. These policies and procedures will be well publicized as they are developed.

### B. Designation of a Compliance Officer

BPHC must “designate an employee vested with responsibility for the day-to-day operation of the compliance program; such employee’s duties may solely relate to compliance or may be combined with other duties so long as compliance responsibilities are satisfactorily carried out; such employee shall report directly to the entity’s chief executive or other senior administrator and shall periodically report directly to the governing body on the activities of the compliance program.”<sup>14</sup> This compliance officer “must be an employee of the PPS Lead,”<sup>15</sup> “report directly to the PPS Lead’s chief executive or other senior administrator,”<sup>16</sup> and “periodically report directly to the PPS Lead’s governing body”<sup>17</sup> on compliance related activities. OMIG’s recommendation is that the compliance officer report to the governing body of the PPS Lead at least quarterly.

## 1. Compliance Officer

In order to uphold our values and monitor compliance with the Program, Code of Conduct and policies and procedures, BPHC has designated an employee, hired by SBH (the PPS Lead), “with responsibility for the day-to-day operation of the compliance program.” (Compliance Officer).

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<sup>13</sup> See Id.

<sup>14</sup> 363-d(2)(b)

<sup>15</sup> DSRIP CG 2015-01 Rev. at page 2.

<sup>16</sup> Id.

<sup>17</sup> Id.





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### 2. Responsibilities

The BPHC Compliance Officer will engage in the following day-to-day operation of the Program as it relates to DSRIP:

- Maintaining a reporting system and responding to concerns, complaints and questions related to the Program;
- Developing and implementing compliance policies and procedures, and overseeing adherence to the Program;
- Actively seeking and researching current material relative to regulatory compliance;
- Communicating the requirements of the Program to workforce members;
- Periodically updating the Program to reflect changes that may occur with BPHC, pertinent laws and regulations, and mandates of governmental and other relevant parties;
- Ensuring that training is updated at regular intervals to include new developments in the law and DSRIP;
- Scheduling, conducting and monitoring internal audits and monitoring external audits;
- Identifying and investigating areas of non-compliance; and
- Ensuring that corrective action plans have been implemented.

Consistent with the responsibilities described above, BPHC will provide training opportunities for the Compliance Officer to stay current about compliance guidance, changes to applicable laws and best practices in the compliance profession.

### 3. Reporting

The BPHC Compliance Officer reports directly to the Executive Director of BPHC who is also a senior executive at SBH. The BPHC Compliance Officer will also have a direct line of communication to the Executive Committee, SBH's compliance officer, and any other senior personnel as needed. The BPHC Compliance Officer shall report at least quarterly to the Executive Committee regarding the activities of the Program.



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### C. An Effective Training and Education Program for Workforce Members

BPHC's Compliance Program must include "training and education of all affected employees and persons associated with the provider, including executives and governing body members, on compliance program operation."<sup>18</sup> All PPS Members and their workforce must receive compliance training and education covering compliance issues, expectations of the PPS members and their workforce in creating an environment of compliance, and the operation of the program as it relates to DSRIP. Although not required "to provide the training and education itself" to the Member Organizations and their workforce, BPHC must develop appropriate methods to ensure that all appropriate workforce members receive training and education.<sup>19</sup>

#### 1. Effective Training and Education

The BPHC Executive Committee will determine how BPHC will provide compliance training and education for its workforce members regarding all compliance issues related to DSRIP, including, but not limited to, information regarding how to file complaints about any compliance related issue (including anonymously) and BPHC's protection for whistleblowers.

#### 2. Training Affected Employees and Persons Associated with the Provider

Member Organizations are responsible for designating the "affected employees and persons associated with the provider" who are engaged in any work related to BPHC's DSRIP projects for purposes of determining who should receive compliance training and education, and provide such training. BPHC's Compliance Officer will be a resource for Member Organizations as they implement this training requirement.

### D. A Confidential Reporting System and Open Lines of Communication

BPHC's Compliance Program must include "communication lines to the responsible compliance position....that are accessible to all employees, persons associated with the provider, executives and governing body members, to allow compliance issues to be reported; such communication lines shall include a method for anonymous and confidential good faith reporting of potential compliance issues as identified"<sup>20</sup>

#### 1. Open Lines of Communication

To maximize the opportunity to receive reports on compliance issues, BPHC is committed to establishing and maintaining communication lines to the BPHC Compliance Officer and ensuring that communication is available to all those involved with BPHC. Anyone wishing to make a complaint may contact the Compliance Officer as outlined below.

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<sup>18</sup> SSL 363-d(2)(c)

<sup>19</sup> DSRIP CG 2015-01 Rev. at page 2.

<sup>20</sup> SSL 363-d(2)(d)



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### 2. Anonymous Complaints

BPHC will establish a Compliance Hotline to receive DSRIP related complaints anonymously. In addition, complaints may be made by contacting the BPHC Compliance Officer directly either via phone at 718-618-8243, or via email at: [Sgordon2@sbhny.org](mailto:Sgordon2@sbhny.org). Written complaints may be submitted by fax (at a number that will be well publicized) or U.S. mail to Suzette Gordon, Compliance Officer, BPHC, 442 Third Avenue, Room 315, Bronx, NY 10457. All communications regarding potential compliance issues pertaining to BPHC's DSRIP projects will be investigated thoroughly and fairly and will be kept in the strictest confidence, to the extent possible.

BPHC will ensure the confidentiality of its records at all levels. Reports may be made without fear of retaliation, or retribution. Strict rules on privacy and confidentiality of information will be mandatory with restriction on the flow of information to those who need to know for investigative purposes. We will operate under the presumption of innocence with safeguard for the rights of the accused.

Retaliation or intimidation of any sort will not be tolerated against anyone for reporting an incident in good faith or for participating in an investigation.

Failure to report noncompliance, failure to cooperate with an investigation, or knowingly making a false report will be grounds for disciplinary action, up to and including termination of employment or other association with BPHC.

The BPHC Compliance Officer employs a systematic procedure for documentation and tracking all concerns reported. The procedure ensures that all compliance contacts, including but not limited to, letters, emails, in person complaints, hotline calls and other referrals are documented. The BPHC Compliance Officer will maintain the tracking system which will track entries for timeliness of action and ultimate resolution.

Information on how DSRIP related complaints may be made to BPHC will be well publicized and the BPHC Compliance Officer will promptly notify Member Organizations of complaints pertaining to them for the Member Organizations to take action.

#### E. Disciplinary Guidelines

BPHC's Program must contain "disciplinary policies to encourage good faith participation in the compliance program by all affected individuals including policies that articulate expectations for reporting compliance issues and assist in the fair resolution and outline sanctions for (1) failing to report suspected problems; (2) participating in non-compliant behavior; or (3) encouraging, directing, facilitating or permitting non-compliant behavior; such disciplinary policies shall be fairly and firmly enforced."<sup>21</sup> OMIG recommends that the disciplinary policies that BPHC develops "be communicated as part of the training and education"<sup>22</sup> and that the

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<sup>21</sup> 363-d(2)(e)

<sup>22</sup> DSRIP CG 2015-01 Rev. at page 3



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PPS Lead “coordinate with their network performing providers to support implementation of the policies and procedures throughout the network.”<sup>23</sup>

### 1. Disciplinary Policies

While all instances of noncompliance cannot be foreseen, there are several key steps that BPHC will take to try to prevent legal and ethical violations and enforce the standards described in this Program:

- BPHC shall conduct reasonable inquiries into the background of all prospective workforce members, prior to hiring, contracting with or appointing the individual.
- BPHC shall make compliance with this Program and applicable laws and regulations a condition of employment at or other association with BPHC.
- BPHC shall take appropriate action in response to failure to comply with this Program and such failure will be documented in the workforce member’s file.
- BPHC requires all workforce members to timely disclose to BPHC any activities which do not comply with regulatory standards including conviction of any crime.
- BPHC will sanction any managerial staff for failure to adequately instruct their subordinates in the requirements of this Program or for failing to detect non-compliance with applicable policies and legal requirements where reasonable diligence on the part of the director, manager or supervisor would have led to the earlier discovery of any issues or violations.
- BPHC requires all managerial staff to encourage and support the commitment and adherence to the policy and procedures of the Program.
- BPHC requires all workforce members to immediately notify the appropriate personnel in the event of any visits, audits, investigations or surveys by Federal or State agencies or authorities, and forward correspondence received from any regulatory agency charged with administering a Federal or State funded program or enforcing its relevant regulations to the BPHC Compliance Officer.

### F. Monitoring, Auditing and Review

BPHC must have a “system for routine identification of compliance risk areas specific to the provider type, including internal audits and as appropriate external audits, and for evaluation of potential or actual non-compliance as a result of such self-evaluation and audits.”<sup>24</sup> At this stage of DSRIP, this requirement is focused on the PPS Lead’s “provider type”, which in the case of SBH is a hospital, and OMIG has advised that risks “specific to PPS Leads during this phase of the DSRIP program include partners’ performance and

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<sup>23</sup> Id.

<sup>24</sup> 363-d(2)(f).



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progress toward DSRIP milestones. The PPS Lead’s systems should include a plan for auditing/monitoring network partners’ performance toward meeting DSRIP milestones.”<sup>25</sup>

## 1. Audits and Risk Assessments

BPHC will perform periodic, unannounced compliance reviews by staff that has familiarity with the applicable Federal, State and local statutes, regulations and program requirements. This will include the auditing/monitoring of Member Organizations who are receiving funding to determine their progress toward meeting DSRIP milestones. BPHC will also fully cooperate with external auditors and will contract for audits with outside firms as needed.

Risk Assessments are a component of the Program. The BPHC Compliance Officer is responsible for implementing, overseeing, and monitoring the Program which is centered on promoting the prevention, detection and correction of fraud, waste, and abuse, as well as any other unprofessional or criminal conduct; and ensuring BPHC’s compliance with City, State and Federal laws, rules, and regulations, and its own business and ethical standards of practice. This includes a review of pre-defined lists of risk areas identified by, among other authorities, HHS-OIG, SDOH, OMIG, and reviews of external and internal audits.

Risk Assessments will be conducted in furtherance of New York State Social Services Law §363-d(2)(f) and §521.3(c)(6) of Part 521, which requires the establishment of “a system for routine identification of compliance risk areas specific to the provider type, for self-evaluation of such risk areas, including but not limited to internal audits and as appropriate external audits, and for evaluation of potential or actual non-compliance as a result of such self-evaluations and audits, credentialing of providers and persons associated with providers, mandatory reporting, governance, and quality of care of [Medicaid] beneficiaries.”<sup>26</sup>

### G. Timely Response to Detected Offenses and Development of a Corrective Action Plan

BPHC is required to have a “system for responding to compliance issues as they are raised; for investigating potential compliance problems; responding to compliance problems as identified in the course of self-evaluations and audits; correcting such problems promptly and thoroughly and implementing procedures, policies and systems as necessary to reduce the potential for recurrence; identifying and reporting compliance issues to [SDOH] or [OMIG]; and refunding overpayments.”<sup>27</sup> In developing these systems the PPS Lead must consider “its own willful misuse of DSRIP funds, or false statements made by a PPS Lead or its network providers to obtain DSRIP funds, as examples of compliance issues.”<sup>28</sup> The “PPS Lead’s system must include a method for prompt corrective action and refunding overpayments. PPS Leads will need to work with their network performing providers to support compliance with this requirement.”<sup>29</sup>

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<sup>25</sup> DSRIP CG 2016-01 Rev. at page 3.

<sup>26</sup> 18 NYCRR § 521.3(c)(6)

<sup>27</sup> SSL 363-d(2)(8)

<sup>28</sup> DSRIP CG 2015-01 Rev. at page 3

<sup>29</sup> Id.



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### 1. Responding to Compliance Issues as They are Raised

BPHC shall take all necessary steps to respond to every allegation of noncompliance or violation of this Program. If it determines that a violation has occurred, an inquiry into the matter will be undertaken. All reasonable measures will be taken to maintain the confidentiality of such inquiries.

If BPHC determines that a violation of this Program has occurred, whether through monitoring, an anonymous tip, internal investigation, audit or other means, there are a series of corrective steps BPHC may take depending upon the severity of the violation. Such responses will serve two purposes: first, to correct the violation, and second, to prevent further similar violations. Corrective steps may include: revision of or implementation of new policies and procedures, refunding overpayments, training or re-training, written warnings, and/or suspension or termination of workforce members or persons associated with BPHC. All corrective actions will be determined on a case-by-case basis and may include disciplinary action up to and including termination of employment or other association with BPHC. Counsel shall be contacted as needed.

### H. Protection of Whistleblowers and Protection against Retaliation

BPHC's Compliance Program must include a "policy of non-intimidation and non-retaliation for good faith participation in the compliance program, including but not limited to reporting potential issues, investigating issues, self-evaluations, audits and remedial actions, and reporting to appropriate officials..."<sup>30</sup> In addition to developing policies that comply with this requirement, "PPS Leads will also need to work with their network partners to support compliance with this requirement."<sup>31</sup>

#### 1. Protection of Whistleblowers and Protection against Retaliation

BPHC strictly prohibits intimidation or retaliation in any form, against any individual who, in good faith, reports possible unethical or illegal conduct; such conduct is in itself a serious violation of the Code of Conduct. BPHC encourages the good faith reporting of violations of the Code of Conduct and any other potential wrongdoing by any workforce member, without fear of retaliation.

A whistleblower is any workforce member who discloses information concerning acts of wrongdoing, misconduct, malfeasance, or other inappropriate behavior by any workforce member, concerning BPHC's DSRIP activities. Workforce members who discover wrongdoing at BPHC have several options in reporting: report to his or her supervisor, to BPHC's Compliance Officer, or 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. BPHC's Compliance Officer will promptly notify Member Organizations of complaints pertaining to them for the Member Organizations to take action.

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. Any attempt to retaliate against workforce members for reporting a violation of this policy will itself be

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<sup>30</sup> SSL 363-d(2)(h).

<sup>31</sup> DSRIP CG 2015-01 Rev. at page 4



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considered a violation of this policy that may result in disciplinary action up to and including termination of employment or other affiliation with BPHC. 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.

Compliance Plan Submitted by:

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Suzette E. Gordon, JD

BPHC Compliance Officer