



MENTAL HEALTH AMERICA OF DUTCHESS COUNTY

Compliance Program

Date: Updated: 7/11/2023, 5/5/2023, 3/28/2023, 3/1/2022, 12/7/2021, 8/2018, 2/2011
Author: L. Reno Compliance, MHA Dutchess

Overview of the Compliance Program

Purpose

To prevent, detect, or deter fraud, waste or abuse, returning any improper payments, while promoting quality improvement and respect for the rights of others.

MHA of Dutchess County is committed to prompt, complete and accurate billing of all services provided. Employees, contractors, and agents shall not make or submit any false or misleading entries on any bills or claim forms. No employee, contractor or agent shall engage in any arrangement or participate in such an arrangement at the direction of another person, including any supervisor, or manager, that results in such prohibited acts.

Employees are trained in their responsibilities, and to report any suspected acts of false claims or noncompliance. Billing is monitored for accuracy and regulatory compliance. Relators of potential compliance issues are protected by the law from retaliation, or threats of retaliation, for their good faith participation. Concerns are investigated. The Compliance Officer oversees the compliance program and can be contacted for more information.

MHA of Dutchess County Compliance Hotline: 845-473-2500, ext. 1999

Scope

This policy applies to all employees, including management, and all contractors and agents. The program offers a framework for compliance for members of the MHA of Dutchess County community, including but not limited to, Board of Directors, executives, employees, business associates, volunteers, contractors and vendors, in accordance with state, federal, and contractual requirements.

7 Elements

1. Policies and Standards of Conduct/Code of Conduct
2. Compliance Officer and Compliance Committee
3. Education and Training

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4. Compliance Communication
5. Disciplinary Policy
6. Routine Identification of Compliance Risk
7. System of Response

The Compliance Program relates to:

- Billing
- Payments
- Medical necessity and quality of care
- Governance
- Mandatory Reporting of Compliance Concerns
- Credentialing- (including identifying individuals legally excluded from billing Medicaid)
- Other risk areas that are identified, (such as HIPAA compliance)
- The Code of Conduct as noted in Employee Handbook and Personnel Manual
- Fraud, Waste, and Abuse of Funds
- Conflict of Interest
- Payments for Referrals
- Timely, accurate documentation

Respect for the individual, their choices, and their rights, including the right to privacy, is always paramount. The MHA of Dutchess County Code of Conduct is found in the Employee Personnel Manual, and Conflict of Interest Statement. We also abide by our business associates' codes of conduct and policy and procedures as applicable.

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TITLE: Compliance Program: Fundamental Elements

POLICY:

MHA of Dutchess County maintains a compliance program and we are required to monitor, prevent, detect fraud waste or abuse of Medicaid funds, as mandated by the Office of Medicaid Inspector General of New York, (OMIG).

PROCEDURE:

1. Written Policies and Procedures

MHA of Dutchess County has written policies and procedures that address compliance expectations, compliance training, how instances of potential noncompliance may be reported, and how such reports will be investigated. It includes disciplinary and corrective action protocol for verified incidents of noncompliance.

Our Employee Handbook notes our standards/code of conduct. We also abide by our business associates' codes of conduct and policies as required.

In turn, we expect our effected contractors to also abide by our compliance program policies, rules and regulations as related to our cooperative agreements.

2. Compliance Officer and Compliance Committee

MHA of Dutchess County has designated an individual to serve as the CMA's compliance officer who has overall responsibility for the day to day operation of the MHA of Dutchess County's Compliance Program. The Compliance Officer reports directly to the Executive Director and Board of Directors. The Compliance Committee coordinates with the Compliance Officer in developing and implementing the Compliance Program.

The Compliance Officer shall cooperate with the designated Business Associates compliance contacts, as applicable.

Confidential and anonymous reporting of potential compliance violations can be made to:

Lynn Reno, MPS, Compliance Officer, MHA of Dutchess County, 253 Mansion Street, Poughkeepsie, NY 12601 Phone: 845-473-2500, ext. 3006 or at the Compliance hotline at 845-473-2500, ext. 1999.

Email: lreno@mhadutchess.org

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3. Compliance Training Program.

MHA of Dutchess staff receive at hire, prior to providing services and annually thereafter, comprehensive training in compliance, FWA, HIPAA and other state and federal confidentiality requirements, and specific compliance requirements as they may relate to effected business associates. Each employee is to sign attesting to the receipt of the compliance training and may be requested to complete post training questionnaires to review the effectiveness of training.

4. Reporting of Noncompliance and Fraud, Waste, or Abuse (FWA)

MHA of Dutchess County has established a 24-hour, confidential hotline that allows for confidential and anonymous reporting, by anyone, regarding potential noncompliance by a staff or affiliates of MHA of Dutchess County. A hotline voicemail is checked at least daily (except that on weekends or holidays the voicemails may be checked on the next business day). All calls or messages received on the hotline shall be documented and retained by the Compliance Officer. MHA of Dutchess County compliance hotline: 845-473-2500, ext. 1999. Whistleblower protection laws apply. Reporter and reports can remain anonymous and confidential. Good faith participation is encouraged, and any retaliation for good faith participation will not be tolerated. (See Compliance Policy regarding Non-Retaliation).

5. Investigating and Responding to Compliance Issues.

MHA of Dutchess County shall commence an investigation into a reported compliance concern within five (5) business days of its receipt and use best efforts to complete its investigation within thirty (30) days of its receipt of the reported concern. A final report summarizing the investigation, which includes a determination of whether the concern was substantiated, shall be developed. Periodic updates to the Executive Director and/or effected affiliate compliance officer will be provided as appropriate. (See Compliance – The Investigation Process).

6. Monitoring and auditing program

MHA of Dutchess County has developed a monitoring and auditing program to proactively identify and prevent instances of noncompliance, fraud, waste, or abuse of funds. Each year, the Compliance Officer will perform a risk assessment and develop a work plan for monitoring and auditing of our compliance with Policies and Requirements. MHA of Dutchess County shall consider and incorporate the prior year's reported issues of noncompliance, monitoring and audit results and any newly issued law, regulations or requirements.

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MHA of Dutchess County shall develop appropriate follow-up action to address any non-compliance identified, which may include but is not limited to: development and implementation of a corrective action plan, recommendation of staff discipline or termination, additional training or communications, and/or disclosure to the appropriate government agency or Health Home.

7. Disciplinary Policies and Procedures

MHA of Dutchess County:

- Encourages good-faith participation in the compliance program;
- Imposes discipline on any individual who does not adhere to the compliance program standards or who has violated Requirements or Policies or who has engaged in activities which are, or lead to, noncompliance, or FWA; and
- Ensures that discipline is enforced timely, consistently and fairly, regardless of the person's level or position.
- (See MHA Dutchess County's Employee Handbook for additional information.)

Non-Intimidation and Non-Retaliation Policy and Procedure

MHA of Dutchess County maintains a non-intimidation and nonretaliation policy, also known as a "Whistleblower Policy," prohibiting retaliation or intimidation of any person who in good faith reports actual or suspected violations of applicable federal or state laws or regulations, internal policies or procedures, or applicable Health Home Policies or Requirements. The Compliance Officer will ensure that the Whistleblower Policy is made available to staff at hire or engagement, anytime material changes are made, and annually. (See Compliance- Nonretaliation Policy). This is done through the Employee Handbook and Compliance Training and correspondence.

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FEDERAL & NEW YORK STATUTES RELATING TO FILING FALSE CLAIMS

FEDERAL LAWS

Federal False Claims Act (31 USC. §§ 3729-3733)

Federal Program Fraud Civil Remedies Act, (31USC §§3801-3812)

The Patient Protections and Affordable Care Act (Pub. L. No. 111-148, 124 Stat. 119)

Deficit Reduction Act of 2005

NEW YORK STATE LAWS

New York False Claims Act (State Finance Law §§ 187-194)

Social Services Law, § 145-b- False Statements

Social Services Law, § 145-c- Sanctions

Social Services Law, §145 — Penalties

Social Services Law, 366-b-§ Penalties for Fraudulent Practice

Social Services Law, 145-c-§ Sanctions

Social Services Law, § 363-d Compliance Programs

Penal Law Article 155- Application of the crime of larceny

Penal Law Article 175 — False Written Statements§

Penal Law Article 176 — Insurance Fraud

Penal Law Article 177 — Health Care Fraud

Chapter 18 NYCRR Part 521.1 Compliance Programs

OMIG Compliance Guidance and other New York State laws concerning false statements or claims and employee protection against retaliation.

WHISTLEBLOWER PROTECTION LAWS

Federal False Claims Act (31 U.S.C. § 3730)

New York State False Claims Act (State Finance Law § 190-191)

New York State Labor Law, Section 740

New York State Labor Law, Section 741

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Overview of Relevant Laws

A. **Federal False Claims Act (31 U.S.C. §§ 3729 – 3733).**

1. **Overview.** The False Claims Act is one of the laws the Government uses to prevent and detect fraud, waste and abuse in federal health care programs. The False Claims Act establishes liability for any person who “knowingly” submits a false claim either (1) directly to the Government or (2) to a contractor or grantee of the Government, if the money or property is to be spent or used on the Government’s behalf or to advance a Government program or interest. A violation of the False Claims Act can result in a civil penalty at least between \$13,508 and \$27,0189 or more for each false claim submitted, (subject to periodic upward adjustments for inflation), plus up to three times the amount of the damages sustained by the Government due to the violation(s). The False Claims Act defines “knowingly” to mean that a person (1) has actual knowledge of the false claim; (2) acts in deliberate ignorance of the truth or falsity of the information; or (3) acts in reckless disregard of the truth or falsity of the information. Specifically, the False Claims Act may be violated by the following acts:
 - a. Knowingly presenting, or causing to be presented, a false or fraudulent claim for payment or approval;
 - b. Knowingly making or using, or causing to be made or used, a false record or statement material to a false claim;
 - c. Conspiring to commit a violation of the False Claims Act; or
 - d. Knowingly making, using, or causing to be made or used, a false record or statement material to an obligation to pay money or transmit property to the Government, or knowingly concealing or avoiding or decreasing an obligation to pay money or transmit property to the Government.
2. **Applicability.** Among other things, the False Claims Act applies to claims submitted for payment by federal health care programs, including Medicare and Medicaid.
3. **Examples.** A few examples of actions that violate the False Claims Act include knowingly:
 - a. Billing for services that were not actually rendered;
 - b. Charging more than once for the same service;

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- c. Billing for medically unnecessary services; and
 - d. Falsifying time records used to bill Medicaid.
4. **Methods of Enforcement.** The Government, or an individual citizen acting on behalf of the Government (a “Relator”), can bring actions under the False Claims Act. IF a Relator brings an action under the False Claims Act, the Government has a period of time to investigate the allegations and decide whether to join the lawsuit. If the Government elects to join the lawsuit, the Relator is entitled to 15-25% of any recovery. If the Government elects not to join the law suit, the Relator may still proceed with the action and is entitled to 25-30% of any recovery.
 5. **Employee Protection.** The False Claims Act prohibits discrimination by MHA of Dutchess County against an employee, contractor or agent for taking lawful actions in furtherance of an action under the False Claims Act. Under the False Claims Act, any employee, contractor or agent who is discharged, demoted, harassed, or otherwise discriminated against because of lawful acts in furtherance of an action under the False Claims Act is entitled to all relief necessary to make the employee, contractor or agent whole. Such relief may include reinstatement, double back pay, and compensation for any special damages, including litigation costs and reasonable attorneys’ fees.
- B. **Federal Program Fraud Civil Remedies Act** (31 USC §§3801-3812). The Program Fraud Civil Remedies Act of 1986 is a federal law that provides for administrative recoveries by federal agencies including the Department of Health and Human Services, which operated the Medicare and Medicaid Programs. The law prohibits the submission of a claim or written statement that the person knows or has reason to know is false, contains false information or omits material information. Violations of his law are investigated by the Department of Health and Human Services and monetary sanctions may be imposed in an administrative hearing setting. Monetary sanctions may include penalties up to \$10, 957 per claim, (or more, subject to periodic increases for inflation), and damages of twice the amount of the original claim.
- C. **Patient Protection and Affordable Care Act “PPACA”** (Pub. L. No. 111-148, 124 Stat. 119). The Patient Protection and Affordable Care Act of 2010 is a federal healthcare law that through amendments expanded provisions of the Federal False Claims Act. Most significantly, PPACA expanded FCA liability for possession of overpayments (42 U.S.C. § 1320a-7k). The law clarified that an overpayment must be reported and returned by 60 days after the date on which the overpayment was identified.

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Overpayments retained after the deadline are considered an obligation as defined in the FCA imposing FCA liability.

D. New York State False Claims Laws

1. **New York State False Claims Act** (State Finance Law §§187-194). The New York State False Claims Act was modeled after the Federal False Claims Act and its provisions are very similar. This Act provides that anyone who “knowingly” submits false claims to the Government is liable for damages up to three times the amount of the erroneous payment plus mandatory penalties between \$6,000 - \$12,000 or more for each false claim submitted. The False Claims Act defines “knowingly” to mean that a person (1) has actual knowledge of the false claim; (2) acts in deliberate ignorance of the truth or falsity of the information; or (3) acts in reckless disregard of the truth or falsity of the information.

The Government, or an individual citizen acting on behalf of the Government (a “Relator”), can bring actions under the New York State False Claims Act. In Addition, the New York State False Claims Act prohibits discrimination against an employee for taking lawful actions in furtherance of an action under the Act. Any employee who is discharged, demoted, harassed, or otherwise discriminated against because of lawful acts by the employee in furtherance of an action under the False Claims Act is entitled to all relief necessary to make the employee whole.

2. **Social Service Law §145-b**. Under this section it is unlawful to knowingly make a false statement or representation, or to deliberately conceal any material fact, or engage in any other fraudulent scheme or device, to obtain or attempt to obtain payments under the New York State Medicaid program. In the event of a violation of this law, the local Social services district or the State has the right to recover civil damages equal to three times the amount of the incorrectly paid claim. In the case of non-monetary false statements, the local Social Service district or State may recover three times the damages (or \$5,000, whichever is greater) sustained by the government due to the violation. In addition, the Department of Health may impose a monetary penalty of up to \$10, 000 per violation unless a penalty under the section has been imposed within the previous five years, in which case the penalty may be up to \$30,000.

3. **Social Services Law § 145-c**. Under this section, if any person individually or as a member of a family applies for or receives public assistance, including Medicaid, by intentionally making a false or misleading statement, or intending to do so, then the needs of that person shall not be taken into account for determining the needs of that person or those of his or her family: (i) for a period of 6 months if a first offense; (ii) for a period of

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12 months if a second offense, or upon an offense which resulted in the wrongful receipt of benefits in an amount of between \$1,000 and \$3,9000; and (iii) for a period of 18 months if a third offense or upon an offense which resulted in the wrongful receipt of benefits in excess of \$3,900, and 5 years for any subsequent occasion of any such offense.

4. **Social Services Law § 145.** Under this section, any person who submits false statements or deliberately conceals material information in order to receive public assistance, including Medicaid, is guilty of a misdemeanor. This crime is punishable by fines and by imprisonment up to one year.
5. **Social Service Law § 366-b.** Under this section any person who, with intent to defraud, presents for payment any false or fraudulent claim for services or merchandise, or knowingly submits false information for the purpose of obtaining compensation greater than that to which he/she is legally entitled to shall be guilty of a class A misdemeanor.
6. **Penal Law Article 155.** Under this Article, the crime of larceny applies to a person who, with intent to deprive another of his property, obtains, takes or withholds the property by means of trick, embezzlement, false pretense, false promise, including a scheme to defraud, or similar behavior. This Article has been applied to Medicaid fraud cases. This crime is punishable by fines and imprisonment up to twenty-five years.
7. **Penal Law Article 175.** Under this Article, four crimes relating to falsifying business records or filing a false instrument have been applied in Medicaid fraud prosecutions. These crimes are punishable by fines and imprisonment up to four years.
8. **Penal Law Article 176.** This Article establishes the crime of insurance fraud. A person commits such a crime when he/she intentionally files a health insurance claim, including Medicaid, knowing that it is false. This crime is punishable by fines and imprisonment up to twenty-five years.
9. **Penal Law Article 177.** This Article establishes the crime of health care fraud. A person commits such a crime when, with the intent to defraud Medicaid (or other health plans, including non-governmental plans), he/she knowingly and willfully provides false information or omits material information for the purpose of requesting payment for a health care item or service and, as a result of the false information or omission, receives such a payment in an amount to which he/she is not entitled. Health care fraud is punished with fines and jail time based on the amount of payment inappropriately received due to the commission of the crime.

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10. **Labor Law § 740.** In addition to provisions contained in the Federal and New York State False Claim Acts, this section offers protections to employees who may notice and report inappropriate activities. Under New York State Labor Law §740, an employer may not take any retaliatory personnel action against an employee because the employee:

- discloses, or threatens to disclose to a supervisor or to a public body an activity, policy or practice of the employer that is in violation of law, rule or regulation that presents a substantial and specific danger to the public health or safety, or which constitutes health care fraud;
- provides information to, or testifies before, any public body conducting an investigation, hearing or inquiry into any such violation of a law, rule or regulation by such employer; or
- objects to, or refuses to participate in any such activity, policy or practice in violation of a law, rule, or regulation.

To bring an action under this provision, the employee must first bring the alleged violation to the attention of the employer and give the employer a reasonable opportunity to correct the allegedly unlawful practice. The law allows employees who are the subject of a retaliatory action to bring a civil action in court and seek relief such as injunctive relief to restrain continued retaliation; reinstatement, back-pay and compensation of reasonable costs. The law also provides that employees who bring an action without basis in law or fact may be held liable to the employer for its attorney's fees and costs.

2. Labor Law §741. Under this section, an employer may not take any retaliatory personnel action against an employee if the employee discloses certain information about the employer's policies, practices, or activities to a regulatory, law enforcement or other similar agency or public official. Protected disclosures are those that assert that, in good faith, the employee believes constitute improper quality of patient care. The employee's disclosure is protected only if the employee first brought up the matter with a supervisor and gives the employer a reasonable opportunity to correct the alleged violation, unless the danger is imminent to the public or patient and the employee believes in good faith that reporting to a supervisor would not result in corrective action. The law allows employees who are the subject of a retaliatory action to bring a civil action in court and seek relief such as injunctive relief to restrain continued retaliation; reinstatement, back-pay and compensation of reasonable costs.

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TITLE: Compliance – Nonretaliation for Reporting Policy

DATE: Updated: 7/11/2023, 5/5/2023, 3/28/2023, 3/1/2022, 12/7/2021, 8/2018, 2/2011

Author: L. Reno Compliance, MHA Dutchess

POLICY:

MHA of Dutchess County encourages good faith participation in the reporting of suspected false claims or what the employee believes may constitute improper health service or billing practices and will receive such information with no intimidation nor retaliation.

PROCEDURE:

Relators may speak with their supervisor to relay their concern. Relators may also always speak with the agency compliance officer and does not have to follow a chain of command. Relators may also call the effected Health Home compliance office, or may call New York State OMIG, or the federal Medicaid hotline.

The agency cannot take any retaliatory action against an employee who, in good faith, participates in reporting suspected false claims, or quality concerns. The agency abides by the Whistle blower protections set forth in federal and state law. The agency makes whistle blower procedures and protections known to employees through its compliance training program. Whistle blowers and/or relators of false claims that result in legal action may be eligible for a % of a recovery in a lawsuit, as per federal and state law.

If any employee reasonably believes that some policy, practice, or activity of MHA of Dutchess County is in violation of law, the employee is encouraged to notify their supervisor or the compliance officer. A verbal report may be made, or a written complaint may be filed by that employee.

It is the intent of MHA of Dutchess County to adhere to all laws and regulations that apply to the organization, and the underlying purpose of this Policy is to support the organization's goal of legal compliance. The support of all employees is necessary to achieving compliance with various laws and regulations. An employee is protected from retaliation only if the employee brings the alleged unlawful activity, policy, or practice to the attention of MHA of Dutchess County and provides MHA of Dutchess County with a reasonable opportunity to investigate and correct the alleged unlawful activity. The protection described below is only available to employees that comply with this requirement.

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MHA of Dutchess County will not retaliate against an employee who, in good faith, has made a protest or raised a complaint against some practice of MHA of Dutchess County, or of another individual or entity with whom MHA of Dutchess County had a business relationship, on the basis of a reasonable belief that the practice is in violation of law or a clear mandate of public policy. MHA of Dutchess County will not retaliate against an employee who discloses or threatens to disclose to a supervisor, a compliance officer, or a public body any activity, policy, or practice of MHA of Dutchess County that the employee reasonably believes is in violation of a law, or a rule, or regulation mandated pursuant to law or is in violation of a clear mandate or public policy concerning health, safety, welfare, or protection of the environment.

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TITLE: Compliance - The Investigation Process

DATE: Updated: 7/11/2023, 5/5/2023, 3/28/2023, 3/1/2022, 12/7/2021, 8/2018, 2/2011

AUTHOR: L. Reno Compliance, MHA Dutchess

POLICY:

MHA Dutchess will follow a standard protocol for timely and fair investigation of compliance concerns.

PROCEDURE:

Upon being notified of a potential compliance violation, the compliance officer will generally follow the following guidelines, as appropriate:

1. Notify the Executive Director. If the potential violation involves the Executive Director, the Compliance Officer will instead notify the Board of Directors (i.e., nonemployee chair of the Board, or nonemployee chair of the Finance and Personnel Committee) of the potential compliance violation. All reports of suspected violations of compliance standards received the Compliance Officer shall be reported to the Compliance Committee as appropriate.
2. Review documentation and supportive documentation.
3. Meet with the person who reported the possible violation, if possible. It is recommended to interview the individual filing the report, unless anonymously filed, as soon as possible after the report has been filed. Such interview shall be conducted in private and in as confidential a manner as possible. The individual should be encouraged to disclose all facts and other relevant information regarding the alleged violation and the individual should be encouraged to sign a written summary of his/her complaint, as prepared by the Compliance Officer. The individual should be reminded that MHA of Dutchess County will not tolerate any form of retaliation or retribution against the individual for making the complaint or participating in a compliance program investigation.
4. Speak with potential witnesses when appropriate. Interview any witnesses or other individuals with knowledge regarding the reported suspected violation, including staff, clients, vendors, and other providers. Such interviews shall be conducted in private and in as confidential manner as possible. Such witnesses should be encouraged to provide all pertinent information and facts and encouraged to sign a summary statement. Witnesses should be reminded that retaliation or retribution against any individual who has participated in an investigation of a report of a suspected violation is not tolerated at MHA of Dutchess County.

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5. Assemble and review all appropriate documentation.
6. Meet with the person(s) who may have violated the policies of compliance, if possible. Interview the alleged wrong doer. Such interview should be conducted in private and in an as confidential manner as possible. Explain to the alleged wrongdoer that a complaint has been made condemning a possible compliance violation and that no conclusions or decisions have been and will not be made until the matter has been fully investigated. Remind alleged wrongdoer that failure to cooperate, untruthfulness and omission of pertinent information will result in disciplinary action. Remind the alleged wrongdoer that retaliation or retribution against the individual filing the report of the suspected violation or any individual who has participated in the investigation will not be tolerated and will result in appropriate disciplinary action being taken.
7. If necessary, internally perform or engage outside experts to conduct any required auditing functions required as part of the investigation.
8. Determine what happened.
9. Determine, in consultation with counsel, whether what happened violated state or federal billing rules and regulations.
10. Determine, in consultation with counsel, if other compliance laws may have been violated.
11. Determine the amount of funds that we may have billed in error, may verify through finance department.
12. Determine whether the violation was accidental or intentional.
13. Recommend to the department head and/or Executive Director the level of disciplinary action, if any that should be considered. The Compliance Officer will be notified of the disciplinary action that was decided upon in response to the violation.
14. Recommend to the department head and/or Executive Director the level of disciplinary action, if any that should be considered. The Compliance Officer will be notified of the disciplinary action that was decided upon in response to the violation.
15. Document the findings of the investigation and the action taken. Note the payback amount and date, if applicable. Upon completion of the investigation, the Compliance Officer will cause a report to be filed Recommend to the department head and/or Executive Director the level of disciplinary action, if any that should be considered. The Compliance Officer will be notified of the disciplinary action that was decided upon in response to the violation.

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16. MHA of Dutchess County will follow appropriate Self Disclosure guidelines as required based on the results of any investigation. The compliance officer will complete the self-disclosure with the Executive Director, and Director of Finance, as appropriate. OMIG's website outlines when and how to self-disclose over payments. MHA of Dutchess County intends complete cooperation with Health Home affiliate requirements, which may include reporting compliance concerns to the Health Home who then reports further as per their discretion, as per Health Home and OMIG policies.
17. The Compliance Committee will review the investigation report with the Compliance Officer and recommend to administration the appropriate form of corrective action to be taken. Administration, with the assistance of the Compliance Officer and Compliance Committee as needed, will implement appropriate corrective action.
18. Once a compliance investigation has been completed a report will be prepared which may include documentation of the issue and, as applicable, the following: A description of the investigative process.- Copies of interview notes and key documents - A log of the witnesses interviewed and the documents reviewed -The results of the investigation.- The corrective action taken implemented to prevent recurrence.
19. Reports of investigations and the status of the corrective action will be presented to the Executive Director and a summary be provided to MHA of Dutchess County Board Members.

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TITLE: Compliance- Exclusion Checks

AUTHOR: L. Reno, Compliance

REFERENCE MATERIALS: OMIG Compliance Program Guidance -2023

POLICY:

It is the policy of Mental Health America of Dutchess County, (MHA Dutchess) not to employ, contract with or otherwise do business with any individual or entity excluded from participation in federally sponsored health care programs, such as Medicare and Medicaid. To avoid affiliation with any such person or entity, MHA Dutchess has established the procedures described below.

This Policy and Procedure applies to all current and proposed MHA Dutchess employees, contractors and vendors. This Policy also covers any other individual or entity affiliated with MHA Dutchess as deemed prudent by the Chief Executive Officer or the Compliance Officer. For purposes of this Policy, all references to “employees” includes temporary, per diem, and full time employees. (The Employee Handbook provides further policies on background checks.)

PROCEDURE:

A. Definitions.

1. Exclusion Check. An Exclusion Check is a search of

(1) the U.S. Department of Health and Human Services, Office of Inspector General (“OIG”)’s List of Excluded Individuals/Entities (<https://exclusions.oig.hhs.gov/>); and

(2) the General Service Administration (“GSA”)’s System for Awards Management’s (“SAM”) Advanced Search – Exclusion (<https://www.sam.gov/SAM/>) to determine if an individual or entity’s name appears on either list. 2. Ineligible Person. For purposes of this Policy, an Ineligible Person is an individual or entity that is listed on the OIG’s List of Excluded Individuals/Entities and/or the SAM Advanced Search – Exclusion listing.

B. Employee Exclusion Check Procedures.

1. An Exclusion Check will be performed for all applicants for employment at as part of MHA Dutchess’ pre-employment background check as set forth in MHA Dutchess Employee Handbook, Background Checks for Employees.

2. If the Exclusion Check indicates that any individual is an Ineligible Person, the individual cannot be employed by MHA Dutchess.

3. To protect MHA Dutchess against individuals excluded subsequent to beginning their employment, an Exclusion Check will be performed on all employees monthly. If it is determined that a current employee is an Ineligible Person, MHA Dutchess reserves the right to

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immediately terminate the employment of the individual, and in the least, the individual or entity must be removed from direct responsibility or involvement in any federally funded health care program.

4. Search results for Exclusion Checks must be documented and maintained by the Compliance Officer, or designees of Human Resources for Employees, and Finance for Active Vendors.

C. Vendor/Contractor Certification Procedure.

1. Any vendor/contractor wishing to enter into a contract with MHA Dutchess is required to certify in its contract that neither it nor any of its employees is an Ineligible Person, requiring contractors, agents, subcontractors, and independent contractors to comply with checking monthly for excluded providers * See additional information in the Compliance Program Guidance on pages 14-1

D. Duty to Report.

All MHA Dutchess employees, contractors and vendors have a duty to report any action that would render that individual or entity an Ineligible Person.

E. Pending Actions.

1. If any MHA Dutchess employee, contractor or vendor is charged with a criminal offense related to healthcare or is proposed to be subject to debarment or exclusion from federal programs, the individual or entity must be removed from direct responsibility or involvement in any federally funded health care program while the matter is pending.

2. If resolution of the matter results in conviction, debarment or exclusion, MHA Dutchess reserves the right to immediately terminate its employment or other contractual arrangement with the individual or entity. The individual or entity must be removed from direct responsibility or involvement in any federally funded health care program.

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TITLE: Compliance Policy on Policy Writing

DATE: updated 7/11/2023, 3/13/2023

AUTHOR: L. Reno, Compliance

PURPOSE:

To outline how policies for the agency are written and approved.

REFERENCE MATERIALS:

18 NYCRR Part 521- (effective 12/28/2022)

SCOPE:

MHA Dutchess compliance policy writing

POLICY:

MHA Dutchess has a process for drafting, revising and approving written Policies. Policies are to be accessible and applicable to all affected individuals.

MHA Dutchess is committed to complying with applicable federal and state standards. MHA Dutchess shall identify governing laws and regulations applicable to the agency's risk areas, including any relevant Medicaid program policies and procedures.

Written policies describe compliance expectations as embodied in the code or standards of conduct noted in the Employee Handbook, as well as, the NYS Justice Center Code of Conduct for all affected individuals. MHA Dutchess policies describe MHA Dutchess's fundamental principles and values, and commitment to conduct business in an ethical manner.

Written policies that implement the operation of the compliance program are maintained. Written policies shall describe the structure of the compliance program, including the responsibilities of all Affected Individuals in carrying out the functions of the compliance program.

Written policies shall include specific guidance on dealing with potential compliance issues.

Written policies shall identify methods and procedures for communicating compliance issues to the appropriate compliance personnel.

Written policies describe how potential compliance problems are investigated and include a description of procedures for documenting the investigation and the resolution of outcome.

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A policy of non-intimidation and non-retaliation for good-faith participation in the compliance program, including but not limited to:

- Reporting issues
- Investigating issues self-evaluations
- Audits and remedial actions
- Reporting to appropriate officials as provided in sections 740 and 741 of the labor law.
- Reporting instances of intimidation or retaliation

Individuals who fail to comply with compliance policies. shall face consequences up to and including dismissal.

PROCEDURE:

The need for a policy and procedure will be identified, based on regulatory developments or perceived operational need.

The CEO, or designee, (such as the COO, Director of Human Resources, Compliance Officer, Program Directors, or others) shall write up a draft for review by the CEO.

Many of the agencies compliance policies are integrated into the agency Employee Handbook or are noted in the Compliance Program. Additionally, program specific policy manuals and privacy and security policy manuals are maintained as needed.

A Compliance Program Manual, highlighting the 7 required elements of the Compliance Program, will be maintained by the Compliance Officer, as reviewed by the Compliance Committee and approved by the CEO.

The compliance policies will generally follow a standard format noting Title, Date, Revision Dates, Author, Purpose, Reference Materials, Policy, (Scope as appropriate), and Procedure(s).

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TITLE: Compliance Officer

DATE: 7/12/2023 3/17/2023

AUTHOR: L. Reno, Compliance

PURPOSE: To satisfy the compliance program regulations and define the role of the compliance officer as required.

REFERENCE MATERIALS: 18 NYCRR Part 521- (effective 12/28/2022)

POLICY:

MHA of Dutchess County has designated a compliance officer to oversee, monitor, review, and be responsible for the day-to day operation of the compliance program. The compliance officer will have sufficient staff support and resources to satisfactorily perform these duties.

PROCEDURE:

The Compliance Officer reports directly to the Executive Director and Board of Directors. The Compliance Officer shall cooperate with the designated Business Associates compliance contacts, as applicable.

The compliance officer will draft, implement and update a compliance work plan for the coming year at least annually or as needed.

The compliance officer is responsible for investigating and independently acting on matters related to the compliance program, including designing, coordinating, and documenting internal investigations and corrective actions, as required.

The compliance officer reports to the provider's governing body, chief executive, and compliance committee on the progress of adopting, implementing, and maintaining the compliance program on a quarterly basis or as needed.

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TITLE: Compliance Committee -Charter

DATE: 02/15/2023, updates: 7/11/023

AUTHOR: L. Reno, Compliance

RESOURCE MATERIALS: OMIG Compliance Program Guidance 2023, [Title 18 of the New York Codes, Rules and Regulations \(NYCRR\)](#)

POLICY:

The MHA Dutchess Compliance program is well-integrated into the agency's operations and is supported by the highest levels of the organization. MHA Dutchess ensures there is an active Compliance committee. This charter outlines the duties and responsibilities of the Compliance Committee.

PROCEDURE:

The Compliance Committee Chair will be the Compliance Officer.

Members: Director of Finance, Director of Human Resources, Chief Operations Officer, Director of Care Management, Division Director of Alcoholic Services, plus Department Managers, Medicaid Biller (as available). The committee benefits from the perspectives of individuals with varying responsibilities in the organization. Ad hoc members may be included as needed.

The meeting uses procedures as agreed to by the committee, generally running by agenda, and maintaining minutes of the meetings. The committee will meet on a quarterly basis, or as required by regulations.

Duties and Responsibilities:

The Compliance Committee coordinates with the Compliance Officer in developing and implementing the Compliance Program. The Compliance Program promotes adherence to legal and proper business obligations and works to prevent, detect, and correct non-compliance with Medicaid program requirements. (The Corporate Compliance Program includes elements of policy, training, lines of communication, disciplinary standards, auditing, and responding to compliance issues).

The Compliance Committee assists the Compliance Officer in analyzing and accessing the operational implications of new and proposed federal and state legal requirements and identifying specific areas of risk.

The Compliance Committee assists departments in assessing existing policies and procedures that address the area of compliance.

The compliance committee coordinates with the compliance officer to ensure that all

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Affected Individuals complete compliance training and education as needed/required.

Amendments and Changes:

Changes may be made to the charter at the discretion of the Chief Executive Director or the Board of Directors and updated as required by the Committee and the Compliance Officer.

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TITLE: Compliance Monitoring and Auditing

AUTHOR: L. Reno, Compliance

DATE: 7/11/2023, 3/13/2023

REFERENCE MATERIALS: 18 NYCRR Part 521-(effective 12/28/2022)

PURPOSE:

To outline compliance monitoring and auditing policy and procedures

REFERENCE MATERIALS:

18 NYCRR Part 521-1.4 (effective 12/28/2022)

POLICY:

MHA of Dutchess County has developed a monitoring and auditing program to proactively identify and prevent instances of noncompliance, fraud, waste, or abuse of funds.

PROCEDURE:

Each year, the Compliance Officer with the compliance committee will perform a risk assessment and develop a work plan for monitoring and auditing of our compliance with policies and requirements. MHA of Dutchess County shall consider and incorporate the prior year's reported issues of noncompliance, monitoring and audit results and any newly issued law, regulations or requirements.

MHA of Dutchess County shall develop appropriate follow-up action to address any non-compliance identified, which may include but is not limited to: development, implementation and modification of the Compliance Work Plan, quarterly review of internal audits and response, recommendations for staff discipline or termination, additional training or communications, and/or disclosure to the appropriate government agency or Health Home.

MHA Dutchess CMA conducts quality assurance and compliance reviews as required by our associate Health Homes. Results of those ongoing audits are reported to the Compliance Officer and Compliance Committee.

All programs and particularly Medicaid funded programs are reviewed on an ongoing basis for appropriate billing and quality improvement by billing staff and program management, with support from the compliance officer and/or specialists, and the result summaries are reviewed with the Compliance Committee

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TITLE: Compliance Education and Training

DATE: 7/12/2023, 3/13/2023 (2/2022), updated: 7/11/2023

AUTHOR: L. Reno, Compliance

REFERENCE MATERIALS: 18 NYCRR Part 521- (effective 12/28/2022)

PURPOSE:

To outline the Compliance Education and Training program at MHA Dutchess.

POLICY:

MHA of Dutchess staff receive at hire prior to providing services and annually thereafter, comprehensive training in compliance, covering Fraud, Waste, and Abuse (FWA), HIPAA and other state and federal confidentiality requirements, and specific compliance requirements related to the program where the staff will be working.

PROCEDURE:

Each employee receives orientation when hired. Compliance training is provided at orientation within 30 days of starting. Each employee is to sign an attestation attesting to the receipt of the compliance training.

Key compliance education is included in the Employee Handbook. Topics there include Business Code of Conduct- Code of Ethics and Corporate Compliance, Confidentiality, Detection of Fraud, Waste, and Abuse, Protection for Employees Reporting Wrongdoing.

Each employee is offered Compliance Training at least annually. In order to receive credit for participation, staff complete a quiz to demonstrate retention of key points or attest in writing that they received and understand the training received.

A record is kept of all Compliance training provided, and of staff who received the training. A certificate of completion may be provided for staff personnel records. Staff who fail to meet minimum training requirements will be tracked and contacted to update their training.

Supervisory staff will support training attendance of staff whenever possible, and the compliance officer will work with supervisors to identify accommodating training times and locations. Training on the web via zoom, webinars, emails, and live training will be provided as appropriate. MHA Staff receive emailed reminders of compliance tips throughout the year. The curriculum will be developed by the Compliance Officer with input from the Compliance Committee and the CEO and will be reviewed at least annually and updated as needed. The curriculum will focus on the 7 elements of the compliance program and the compliance risks that could be associated with our organization.

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My signature below indicates my receipt and understanding of this Compliance Policy. I also verify that I have been provided with an opportunity to ask questions about the Policy. I understand that additional information regarding the code of conduct and privacy and security is noted in the separate Employee Handbook.

Employee Signature and Date

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(Excerpted 7/18/2023 From
**Mental Health America of Dutchess County Employee Handbook,
Chapter 300, 2/17/2022)**

BUSINESS CODE OF CONDUCT /STANDARDS OF CONDUCT

301 CODES OF ETHICS AND CORPORATE COMPLIANCE

To provide a safe, healthy and productive environment, MHA of Dutchess County expects its employees to conduct themselves in a professional manner. Employees are expected to maintain the highest standards of job performance and professional conduct at work and at Company sponsored functions outside of the office. Any such conflict or appearance of impropriety will result in disciplinary action, up to and including immediate termination.

MHA of Dutchess County is committed to avoiding fraud, waste, and abuse. To that end, the Agency has developed a Corporate Compliance Program to reduce the potential for fraud, waste, and abuse and to quickly identify and mitigate potential problems. This Program is designed to promote the Agency's compliance with all applicable federal, state, and local laws and regulations as well as government contracts and conditions of participation in public programs.

Under the Federal and State False Claims Acts (FCA), it is unlawful to knowingly submit or cause another to submit false claims for payment of government funds. Examples of FCA violations include filing a claim for services that were not rendered; filing a claim for services that were not medically necessary; or submitting a claim containing information known to be false. Information regarding additional applicable laws can be found in Appendix "A."

Employees are given a copy of the Corporate Compliance Program Manual at orientation, and it is available to them at any time by request of by pulling off ADP home page.

All employees are responsible for being fully familiar with the Corporate Compliance Program and to comply with those requirements. Employees are specifically obligated to report any potential violations of federal, state, or local laws or Agency policies or procedures. Questions regarding the Program may be directed to the Compliance Officer or the Executive Director.

MHA of Dutchess County prohibits intimidation or retaliation against individuals who participate in good faith in the compliance program because of such participation. Please refer to the Corporate Compliance Program for additional detailed information. Any person who has a concern about potential intimidation or retaliation is encouraged to contact the Compliance Officer or a member of the Finance and Personnel Committee.

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302 CONFIDENTIALITIES

Employees must assume the ethical obligation to keep in confidence all information pertaining to work and fellow staff members. Discussing or divulging confidential information, except in the legitimate performance of duty is prohibited. Confidential information includes lay employee or religious order personal information, financial records (including social security and credit card numbers), health records, personnel records other than an individual's own personnel record. Confidential information also includes the MHA of Dutchess County financial data; computer passwords, any information regarding policy or practices and any other information where the access, use, or disclosure is protected by federal, state, or local law.

A breach of this confidentiality policy may warrant disciplinary action including possible dismissal

303 DRESS CODE / APPEARANCE AND GROOMING

Service and professionalism are core principles MHA of Dutchess County. The nature of the MHA Dutchess County environment demands that an employee's appearance presents an appropriate professional image consistent with the employee's particular duties.

During business hours or when representing the MHA of Dutchess County employees are expected to present a clean, neat, and tasteful appearance. Dress and grooming should be in accordance with the requirements of the position and of accepted social standards.

Employees with special needs or questions or concerns regarding dress and grooming standards should contact a supervisor or the Human Resources Department.

Improperly groomed or dressed employees will be subject to corrective action.

304 SMOKING IN THE WORKPLACE

All facilities of Mental Health America of Dutchess County are designated smoke-free. MHA of Dutchess County employees, visitors, and clients are prohibited from smoking inside these facilities. Any OASAS program site is also smoke free anywhere on the property. Any disputes arising under this policy should be brought immediately to the Human Resources Manager.

305 ALCOHOL AND SUBSTANCE ABUSE

MHA of Dutchess County recognizes alcoholism and alcohol and substance abuse as treatable illnesses and shall assist an employee to obtain necessary treatment. The unlawful manufacture, distribution, dispensing, possession, or use of a controlled

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substance is prohibited in the workplace. Any person found to be in violation of this policy will be subject to disciplinary action, up to and including termination or.

An employee may be required to participate in a substance abuse assistance or rehabilitation program approved for such purposes by a Federal, State, or local health, law enforcement, or other appropriate agency. Failure to satisfactorily participate could result in termination.

As a condition of employment all employees will abide by the above and notify the employer in writing of his or her conviction for a violation of a criminal drug statute occurring in the workplace no later than five calendar days after such conviction.

306 VIOLENCE IN THE WORKPLACE

MHA of Dutchess County is committed to providing a safe and secure environment for our staff, clients, and visitors. All reported incidents will be properly investigated.

Workplace violence, including physical assault, threatening behavior or verbal abuse that threatens the safety of the MHA of Dutchess County staff, visitors or clients is unacceptable and will not be tolerated. MHA of Dutchess County has an obligation to provide for the safety of all people while on the premises.

What Constitutes Workplace Violence?

Workplace Violence can be defined as actions or words that endanger or harm another employee or result in other employees having a reasonable belief that they are in danger. Such actions include:

- Injuring another person physically.
- Behavior that creates a reasonable fear of injury in another.
- Possessing, brandishing, or using a weapon that is not required for work while on MHA of Dutchess County premises or doing MHA of Dutchess County business.
- Intentionally damaging property.
- Threatening to injure an individual or to damage property.
- Verbal and non-verbal threatening, bullying, or intimidating in person, through electronic communication or by phone; Committing injurious acts motivated by or related to domestic violence or sexual harassment.
- Retaliating against any employee who, in good faith, reports a violation of this policy; and
- Behavior that subjects another individual to extreme emotional distress.

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All personnel of the MHA of Dutchess County are responsible for maintaining a violence-free environment. Violation of this policy by an individual on the property of the MHA of Dutchess County is considered misconduct and will lead to strong disciplinary actions, up to and including termination and notification to the appropriate civil authorities.

Persons making deliberate false accusations of workplace violence will be subject to disciplinary action, up to and including termination. However, failure to prove a claim of workplace violence will not constitute proof of a false or malicious accusation.

PROCEDURE

1. If an employee believes that they have been threatened, the employee should immediately report the incident to their immediate Supervisor/Department Head. (This must include written Accident/Incident report, i.e., time, date, location, circumstances, parties involved, witnesses).
2. MHA of Dutchess County will immediately initiate an investigation into the reported incident and make an objective determination as to the appropriate action required; if any (This includes but is not limited to for example, calling 911).
3. Each alleged incident will be treated on a case-by-case basis and therefore the outcome of each case will depend on its precise facts and individual circumstances.
4. The employee and/or others lodging the complaint will be advised as to MHA of Dutchess County determination.
5. MHA of Dutchess County prohibits retaliation against any employee or others who make a complaint.

307 DETECTIONS OF FRAUD, WASTE, AND ABUSE

MHA of Dutchess County believes that one of the best ways of preventing the occurrence or reoccurrence of compliance errors is through training. MHA of Dutchess County has developed a policy on the dissemination and implementation of the Compliance Program and other compliance education and training.

- All employees and the Board of Directors will be introduced to and trained in the Compliance Program and other applicable MHA of Dutchess County policies and procedures. Expectations are given in writing and followed with signed acknowledgement. Such training will reinforce the need for strict compliance with the law and will advise employees that any failure to comply may be documented in the employee's file and may result in disciplinary action.

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- Within 14 days of actual employment, the Human Resource Director will meet with new employees and introduce them to the Code of Conduct, inform them of the Compliance Program and of ways in which they may communicate with the CO and/or the appropriate designee. The Compliance Officer will reinforce compliance training with the new employee within 30 days of employment or engagement.
- MHA of Dutchess County encourages all staff members to enroll in relevant educational seminars/courses on a periodic basis.
- MHA of Dutchess County Compliance Officer, and/or the Health Home Compliance Liaison, will periodically provide the training to staff.
- Annual compliance training will be provided as recommended by state and federal guidance, as a review and on emerging or changing compliance regulations. Employees should familiarize themselves with the laws in Attachment A that outline Detecting and Preventing Fraud, Waste and Abuse.
- Training completed by the Compliance Officer of MHA of Dutchess County and/or attendance to educational seminars specifically related to the Compliance Program will be documented in the employees' personnel file.
- Copies of educational training material utilized, as well as participant's sign in sheets, will be maintained by the Compliance Officer. Any pre/post test results will also be maintained. A tracking sheet will be used to monitor attendance.

308 PROTECTION FOR EMPLOYEES REPORTING WRONGDOING OR UNETHICAL PRACTICES

MHA of Dutchess County expects that all employees shall observe the highest standards of business and personal ethics in the conduct of their duties and responsibilities, and that they comply with all applicable laws and regulations.

If any employee of the MHA of Dutchess County reasonably believes that any policy, practice or activity violates any law, rule, regulation or a clear mandate of public policy, or if any employee becomes aware of any illegal or dishonest activity or other misconduct involving MHA of Dutchess County financial or business affairs, he or she should promptly report such concern to the supervisor, the Human Resources Department, or the Compliance Officer. Any conduct in violation of the Corporate Compliance Program must be reported in accordance with Program requirements.

Concerns may be submitted on an anonymous basis, and all communications will be confidential to the extent reasonably possible. Identity may have to be disclosed, however, to conduct a thorough and fair investigation and to comply with applicable law.

This policy is intended to encourage employees to raise concerns within the MHA of Dutchess County for investigation and appropriate action, but employees must exercise

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sound judgment to avoid baseless allegations. With this goal in mind, MHA of Dutchess County prohibits retaliation against any employee who, in good faith, reports a concern under the MHA of Dutchess County Compliance Program or any other MHA of Dutchess County policy or procedure.

Retaliation includes discharge, demotion, suspension, threats, harassment, or other adverse employment action. Any employee who believes that he or she is being subjected to retaliation because of having reported concerns about any policy, practice or activity of MHA of Dutchess County or any individual connected with MHA Dutchess County should immediately contact the Corporate Compliance Officer, the Human Resources Department, or to the Chief Executive Officer if the individual engaging in the suspected retaliation, the complaint should be made to the chair of the Board of Directors or the Finance and Personnel committee of the Board.

309 PERSONAL RELATIONSHIPS

Any sexual contact or romantic overtures, or other exploitive behavior, explicit or implied, including verbal or non-verbal interaction, written or pictorial communication, joking around with sexual contact, or other behavior that may be perceived by residents as sexual is strictly prohibited. Such behavior will be fully investigated and will result in disciplinary action that will likely include termination from employment.

MHA of Dutchess County appreciates that personal relationships may develop between staff and other staff of MHA of Dutchess County. MHA of Dutchess County does not encourage the formation of such relationships but does not wholly prohibit them.

However, there may be occasions when inter-office relationships between staff and/or staff and clients could cause a conflict of interest or give the impression that confidentiality may not be respected.

As an example, the MHA of Dutchess County interests could be compromised if the relationship is between a manager and a subordinate staff member. The MHA of Dutchess County needs to be made aware of such relationships to protect its integrity.

Accordingly, employees are required to inform the Human Resources Department of such a relationship so that the MHA of Dutchess County can put in place appropriate protections to ensure that the integrity is preserved. Confidentiality in such matters will be respected.

If the MHA of Dutchess County takes the view that a relationship could give rise to a conflict of interest or compromise its integrity, appropriate action will be taken, which can include the following:

1. Reassignment.
2. Altering duties and responsibilities.

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3. As a last resort, termination of employment.

Employees should use their judgment and discretion about when a relationship should be reported. If in doubt, please contact the Human Resources Department, Failure to comply with this policy could be regarded as gross misconduct and subject to disciplinary action, up to and including termination.