

SBH

St. Barnabas Hospital

B R O N X

CODE OF CONDUCT



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I. POLICY STATEMENT

SBH Health System (“SBH”) has instituted a Compliance Program¹ (“Program”) to establish standards and procedures to: 1) prevent and detect criminal conduct, fraud, waste and abuse;² 2) to foster an environment that encourages ethical behavior and adherence to the law and ethical business practices; and, 3) to create a system of checks and balances designed “to prevent inaccurate billing and inappropriate practices in the Medicaid [and Medicare] program[s].”³

SBH is committed to providing patients with high quality and caring medical services, and to providing those services pursuant to the highest ethical, business, and legal standards. These high standards must apply to our interactions with everyone with whom we deal. This includes our patients, other health care providers, companies with whom we do business, government entities to whom we report, and the public and private entities from whom reimbursement for services is sought and received. In this regard, all personnel must

¹ Department of Health and Human Services Office of Inspector General; Publication of the OIG Compliance Program Guidance for health systems published in the Federal Register / Vol. 63, No. 35 / Monday, February 23, 1998 / Notices

² Federal Sentencing Guidelines section 8B2.1 (a)(1)

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

not only act in compliance with all applicable legal rules and regulations, but also strive to avoid even the appearance of impropriety. In short, we do not and will not tolerate any form of unlawful or unethical behavior by anyone associated with SBH. We expect and require all personnel to be law-abiding, honest, trustworthy, and fair in all of their business dealings.

SBH has adopted, as part of the Compliance Program, a Code of Conduct which outlines standards of conduct for personnel in the workplace and in any activity where personnel's actions reflect on SBH. Every member of personnel, volunteer, contracted practitioner or other agent of SBH shall be familiar with its contents and adhere to its code and standards. While a person's duties will vary depending upon his or her position within SBH, all individuals associated with SBH are held to the same legal and ethical standards discussed herein. It is the responsibility of all persons associated with SBH to understand, implement and uphold the standards set out in the Code of Conduct.

The Code of Conduct provides guidance to ensure that all of our work is done in an ethical and legal manner. Adherence to its spirit, as well as its specific provisions, is absolutely critical to our future. Personnel are advised to raise compliance issues or concerns with your supervisor, or you may contact the Compliance Officer at any time at (718) 960-3389, at



the dedicated anonymous Compliance Hotline at (844) 239-0567, in person or in writing.

It is a basic principle of our Compliance Program that there will be no retribution for asking questions, raising concerns about the Code, or reporting possibly improper conduct. All reports to the Compliance Officer will be held in the strictest confidence possible, consistent with the need to investigate the matter.

I. Applicability

Unless otherwise specifically stated herein, this policy and procedure applies to all SBH personnel.

II. SBH's Mission

SBH is committed to improving the health of our community and is dedicated to providing compassionate, comprehensive and innovative health care in a safe environment where the patient always comes first. All individuals will be provided complete, open and timely access to the highest quality of care, regardless of their ability to pay.

SBH is committed to providing residents with high quality and caring medical services, and to providing those services pursuant to the highest ethical, business, and legal standards. These high standards must apply to our interactions with everyone with whom we deal. This includes our residents, other health care providers, companies with whom we do

business, government entities to whom we report, and the public and private entities from whom reimbursement for services is sought and received. In this regard, all personnel must act in compliance with all applicable federal and state standards, and strive to avoid even the appearance of impropriety.

III. SBH's Compliance Goals

1. To prevent, detect, and correct fraud, waste, and abuse in the health system.
2. To conduct business operations and deliver healthcare services in compliance with all applicable laws, and SBH's standards of integrity and ethical business practices.
3. To protect its reputation and standing in the patient, business, government, and regulatory community.
4. To provide a work environment that is safe, secure, professional, respectful, and free of discrimination, harassment, intimidation, and retaliation.
5. To provide medical services and deliver patient care with quality, care, dignity, integrity, and respect while observing patient rights.

6. To avoid any deceptive business practice and to comply with any applicable competition law.
7. To avoid engaging in activities that creates any conflicts of interests or the appearance thereof.
8. To maintain and operate all health system facilities in a safe manner.
9. To be committed to environmental responsibility.
10. To maintain SBH records in accordance with applicable law, internal policies and procedures, and best practices for record management.
11. To conduct business in a fiscally responsible manner.
12. To prohibit, address, and mitigate any behavior, action, or practice that is deemed unprofessional conduct.

II. CODE OF CONDUCT

- A.** All health system activities must be conducted in accordance with SBH's mission, vision and goals.
- B.** All health system activities must be conducted in a manner that adheres to all applicable laws rules and regulations, including, without limitation, the

organization enabling statute, Center for Medicaid and Medicare (CMS) regulations; HIPAA; SAMHSA, DEA and certified opioid treatment regulations; Public Health Law; Education Law; Mental Hygiene Law; Social Services Law; Public Authorities and Accountability Act; and General Business Law.

- C. Each supervisor or manager is responsible for ensuring that the personnel within his or her supervision are acting ethically and in compliance with the Code of Conduct.

- D. Supervisors or managers will be sanctioned for failure to instruct adequately their subordinates or for failing to detect noncompliance with applicable policies and legal requirements, where reasonable diligence on the part of the manager or supervisor would have led to the discovery of any problems or violations and given the hospital the opportunity to correct them earlier.⁴

- E. Personnel shall be completely honest in all dealings with government agencies. No misrepresentations shall be made, and no false bills or requests for payment or other documents shall be submitted to government agencies or

⁴ See HHG/OIG, Compliance Program Guidance for health systems, Notice, 63 FR 8987, 8989-8990, Feb. 23, 1998

representatives. Personnel certifying the correctness of records submitted to government agencies, including bills or requests for payment, shall have actual knowledge that the information is accurate and complete before giving such certification

- F.** Actions that are dishonest, unethical or in violation of the organization's policies or procedures are violations of the Code of Conduct and are strictly prohibited.
- G.** Personnel shall not engage in any financial, business, or other activity which competes with the health system's business which may interfere or appear to interfere with the performance of their duties or that involve the use of the health system's property, facilities, or resources, except to the extent permitted under the health system's conflict of interest policies.
- H.** SBH shall not engage in unfair competition or deceptive trade practices.
- I.** SBH personnel are responsible for ensuring that the work environment is free of discrimination or harassment due to race, color, religion, creed, sex, national origin, citizenship status, age, disability, ethnic predisposition or carrier status, marital status, sexual orientation, transgender status,

gender identity, pregnancy, veteran status or any other characteristic protected by applicable law.

- J.** All health system records must be retained, maintained, and destroyed in a manner consistent with the health system's record retention policies and applicable law.

APPENDIX

III. APPLICABLE LAWS

A. Human Resource & Labor Law Compliance

1. Compliance with Sexual Harassment Laws
 - a) Any Employee who experiences sexual harassment may file a grievance with either his or her supervisor or the Human Resources Department.
2. Compliance with Equal Opportunity/Non-Harassment Laws
 - a) SBH does not tolerate harassment or discrimination against individuals who fall within any protected category and will treat such incidents as a form of misconduct. Sanctions shall be enforced against individuals engaging in such behavior. We provide equal opportunity to all employees.
3. Compliance with Labor and Employment Laws

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

4. Conduct Relevant Background Checks on All Representatives
 - a) SBH will conduct comprehensive background investigation checks on all employees, volunteers and independent contractors. Background searches will include, where appropriate, a driver's abstract, education verification of highest degree obtained, Medicare and Medicaid exclusion search, federal contracting excluded parties search, personal and professional reference verification, sexual offender database search, social security number search, credit report and/or a professional license and discipline search.
 - b) In addition, SBH will require that all employees, volunteers and independent contractors comply with all policies and procedures and undergo a criminal background check. This includes conducting checks to search out any criminal convictions and/or any pending criminal charges against applicants for employment.

B. Family and Medical Leave Act (“FMLA”)

FMLA provides an entitlement of up to 12 weeks of job-protected, unpaid leave during any 12-month period to eligible, covered employees for the following reasons: 1) birth and care of the eligible

employee's child, or placement for adoption or foster care of a child with the employee; 2) care of an immediate family member (spouse, child, parent) who has a serious health condition; or 3) care of the employee's own serious health condition. It also requires that employee's group health benefits be maintained during the leave. The FMLA is administered by the Employment Standards Administration's Wage and Hour Division within the U.S. Department of Labor.⁵

C. Americans with Disabilities Act (“ADA”)

The ADA prohibits discrimination on the basis of disability in employment, State and local government, public accommodations, commercial facilities, transportation, and telecommunications. To be protected by the ADA, one must have a disability or have a relationship or association with an individual with a disability. An individual with a disability is defined by the ADA as a person who has a physical or mental impairment that substantially limits one or more major life activities, a person who has a history or record of such impairment, or a person who is perceived by others as having such impairment. The ADA does not specifically name all of the impairments that are covered.⁶

⁵ Family & Medical Leave Act

⁶ ADA www.ADA.gov

D. Environmental Compliance

1. SBH is committed to maintaining clean, safe and healthy healing and work environments at every facility for all patients, their visitors, employees, and contractors. It is SBH's policy to comply with all applicable health and safety laws, rules and regulations and require the use of appropriate personal protective equipment and safety measures, and insist that all work be performed in the safest possible manner in an effort to protect patients, employees, visitors and contractors from unsafe conditions.
2. SBH is committed to ensuring that all hospital and health facilities' generated waste streams are properly handled, recycled, and disposed of in accordance all applicable environmental safety laws, rules and regulations.
3. It is SBH policy to dispose of, and transport potentially infectious medical, radioactive, and hazardous waste in compliance with all federal, state, and local laws and guidelines.
4. All employees must report any unsafe or potentially unsafe conditions to their supervisor.
5. It is SBH policy to dispose of, and transport potentially infectious medical, radioactive, and

hazardous waste in compliance with all federal, state, and local laws and guidelines.⁷

6. All employees must report any unsafe or potentially unsafe conditions to their supervisor.

IV. MAINTENANCE OF CORPORATE RECORDS

⁷ FEDERAL:

Medical Waste Tracking Act of 1988 (Federal Register: Standards for the Tracking and Management of Medical Waste, 40 CFR Parts 22 and 259 (March 24, 1989)

29 CFR, Part 1910 Regulated Medical Waste Transport

49 CFR, Part 173 Non-Bulk Packaging of Waste

40 CFR Part 266: Storage, Treatment, Transportation, and Disposal of Mixed Wastes; Final Rule (EPA)

OSHA:

29 CFR Part 1910.1030 (OSHA Exposure to Bloodborne Pathogens Regulations)

New York State:

6 NYCRR (Environmental Conservation Law), Part 360 (Solid Waste Management Facilities and 364 (Waste Transporter Permits) Regulations

10 NYCRR Part 70 (DOH Regulations - Managing Regulated Medical Waste

TAGM SW-97-10 (Disposal of Regulated Medical Waste Sharps)

- A. According to 10 NYCRR 405.10, “All records shall document, as appropriate, at least the following:
1. evidence of a physical examination, including a health history, performed no more than thirty days prior to admission or within 24 hours after admission and a statement of the conclusion or impressions drawn;
 2. admitting diagnosis;
 3. results of all consultative evaluations of the patient and findings by clinical and other staff involved in the care of the patient;
 4. documentation of all complications, hospital acquired infections, and unfavorable reactions to drugs and anesthesia;
 5. properly executed consent forms for procedures and treatments;
 6. all practitioners' diagnostic and therapeutic orders, nursing documentation and care plans, reports of treatment, medication records, radiology, and laboratory reports, vital signs and other information necessary to monitor the patient's condition;
- discharge summary with outcome of

hospitalization, disposition of case and provisions for follow-up care; and

7. final diagnosis.”⁸
8. All books, reports, accounts and any other information generated in the course of business must be made in a complete and accurate manner, including electronic records. It is the responsibility of every SBH employee and affiliate to record information completely, accurately and honestly. Records must be legible and clear enough to not need interpretation. All documentation related to individual billing must be recorded at the time of service.
9. All business and financial transactions must be reported in the regular course of business. Under no circumstances should a SBH employee or affiliate create misleading records or disguise billing or expenses. The falsification of individual treatment, attendance or billing records is strictly prohibited.
10. Records may not be altered in any way without prior approval from the Program Director. If records are to be altered, the records must reflect the date of the alteration and must be signed by the employee that altered the record and the person

⁸ NYCRR 405.10

that approved the alteration. No person shall ever sign the name of another person to any document. Signatures should always be accompanied by the date the signature was made and such date must include the month, date and year. Documents may never be backdated or predated.

11. In the case of direct care billing documentation, if a correction needs to be made, a SBH employee or affiliate should make a single strike through the error and initial and date the error with the current date. The initials should correspond to a full signature at the bottom of the page.

V. DATA PRIVACY - SAFEGUARDING THE PRIVACY OF THE PEOPLE WE SERVE

A. Confidentiality of SBH Information

SBH's personnel shall not disclose to others any confidential information obtained during the course of employment. Confidential information includes, but is not limited to, methods, processes, techniques, computer software, equipment, service marks, copyrights, research data, clinical and pharmacological data, marketing and sales information, personnel data, individual lists, financial data, plans, and any other proprietary information in the possession of the



organization which has not been published or disclosed to the public.

The health system is responsible and accountable for the integrity and protection of business information. Documents and electronic media containing sensitive information concerning individuals and the organization Representatives should be handled carefully and must be properly secured. Particular attention must be paid to the security of data stored on the computer system. If you observe misuse of confidential information, or individuals whom you do not recognize using terminals in your area, immediately report this to your supervisor or to the Privacy Officer.

B. Disclosure of Protected Health Information

To protect individuals against misuse of information, access to individual information must be limited to the extent permitted by federal and state law and SBH policy. Any SBH employee and affiliate who engages in unauthorized disclosure, access, or misuse of information in violation of the privacy rights of patients may be subject to disciplinary action up to and including termination of employment or other association within the organization in addition to possible civil or criminal sanctions. Any person who becomes aware of such unauthorized disclosure, access

or misuse should report it immediately to their supervisor or the Privacy Officer.

1. Physician Patient Privilege

SBH is committed to respecting patient and employee confidentiality at its highest ethical standards and to complying with applicable laws and regulations.

2. Physician - Patient Privacy

“Certain communications are vested by law with a privilege against disclosure. New York, by statute, recognizes a privilege for confidential communications between attorney and client (CPLR 4503); physician and patient (CPLR 4504); spouses (CPLR 4502); registered psychologist and client (CPLR placed “on the same basis” as attorney client privilege, CPLR4507); a certified social worker and client (CPLR 4508) and rape crisis counselor and client (CPLR 4510).”⁹

C. Government Investigations

1. All SBH employee and affiliates must follow the appropriate procedure to ensure that the organization responds in a proper manner to all government investigations.

⁹Prince, Richardson on Evidence Article V. A General Considerations § 5-101, p. 225.

2. Some agencies are entitled by statute to immediate access to information. They include but are not limited to the Office of the Inspector General of the United States Department of Health and Human Services, the New York State Medicaid Fraud Control Unit, the New York State Department of Health, and the New York State Medicaid Inspector General. Proper identification must be presented by officials of these agencies before access can be provided. In virtually all cases, when a request by personnel of these agencies is made, access to the requested information should be delayed pending notification of the Executive Director and/or health system's Compliance Officer. Such notification should occur simultaneously with the requested access. Notification will ensure that the organization is aware of the inquiry, properly responds to it, and can take whatever action is necessary with regard to it.

3. SBH personnel and affiliates should be certain that any disclosure of individual or employee health information complies with all specific federal and state confidentiality laws relating to medical records, psychiatric records, AIDS and substance abuse (controlled drugs and alcohol).

D. Information Owned by Others

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

E. Records Retention/Destruction

SBH personnel and affiliates are expected to comply fully with the records retention and destruction policy for the department in which they work. If SBH personnel and affiliates believe that documents should be saved beyond the applicable retention period, their supervisor should be consulted. There are criminal penalties for any person who knowingly alters, destroys, mutilates, or conceals a document with the intent to obstruct justice or influence an official investigation or proceeding.

VI. BEHAVIOR DEEMED UNPROFESSIONAL CONDUCT

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

1. Submitting or causing to be submitted false claims for unfurnished medical care, services or supplies¹⁰; an amount in excess of established rates or fees¹¹; medical care, services or supplies

¹⁰ 18 NYCRR 515.2(b)(1)(i)(a).

¹¹ 18 NYCRR 515.2(b)(1)(i)(b).

provided at a frequency or in an amount not medically necessary¹²; amounts substantially in excess of the customary charges or costs.¹³

2. Inducing other employees to submit a false claim.¹⁴
3. Making any false statement or misrepresentation of material fact in claiming a medical assistance payment, or for use in determining the appropriate payment.¹⁵
4. Inducing other employees to make any false, fictitious or fraudulent statement or misrepresentation of a material fact.¹⁶
5. Failure to disclose any event affecting the right to payment.¹⁷
6. Converting any part of a medical assistance payment to use or benefit for

¹² 18 NYCRR 515.2(b)(1)(i)(c).

¹³ 18 NYCRR 515.2(b)(1)(i)(d).

¹⁴ 18 NYCRR 515.2(b)(1)(ii).

¹⁵ 18 NYCRR 515.2(b)(2)(i).

¹⁶ 18 NYCRR 515.2(b)(2)(ii)

¹⁷ 18 NYCRR 515.2(b)(3)

anything other than the intended benefit by the medical assistance program.¹⁸

7. Soliciting or receiving either directly or indirectly any payment, including any kickback, bribe, referral fee, rebate or discount, whether in cash or in kind, in return for referring a patient to a person for any medical care, services or supplies for which payment is claimed under the program.¹⁹
8. Soliciting or receiving either directly or indirectly any payment, including any kickback, bribe, referral fee, rebate or discount, whether in cash or in kind, in return for purchasing, leasing, ordering or recommending any medical care, services or supplies for which payment is claimed under the program.²⁰
9. Offering or paying either directly or indirectly any payment, including any kickback, bribe, referral fee, rebate or discount, whether in cash or in kind, in return for purchasing, leasing, ordering or recommending any medical care,

¹⁸ 18 NYCRR 515.2(b)(4)

¹⁹ 18 NYCRR 515.2(b)(5)(i)

²⁰ 18 NYCRR 515.2(b)(5)(ii)

services or supplies for which payment is claimed under the program.²¹

10. Offering or paying either directly or indirectly any payment, including any kickback, bribe, referral fee, rebate or discount, whether in cash or in kind, in return for referring a patient to a person for any medical care, services or supplies for which payment is claimed under the program; or in the connection with the performance of professional activities.²²
11. Failing to maintain or to make available for purposes of audit or investigation records necessary to fully disclose the medical necessity for the nature and the extent of medical care, services and supplies furnished.²³
12. Submitting claims or accepting payment for medical care, services or supplies furnished by a person suspended, disqualified or otherwise

²¹ 18 NYCRR 515.2(b)(5)(iii)

²² 18 NYCRR 515.2(b)(5)(iv); 8 NYCRR 29.1 (b)(3)

²³ 18 NYCRR 515.2(b)(6)

terminated from participation in the program.²⁴

13. Seeking or accepting any gift, money, donation or other consideration in addition to the amount paid or payable under the program for any medical care, services or supplies for which a claim is made.²⁵
14. Deceiving, misleading or threatening a patient, or charging or agreeing to charge or collect any fee in excess of the maximum fee, rate, or schedule amount from a patient.²⁶
15. Making any agreement, combination, or conspiracy to defraud the program by obtaining, aiding or engaging anyone to obtain payment for any false claim.²⁷
16. Furnishing or ordering medical care, services or supplies that are substantially in excess of the client's needs.²⁸

²⁴ 18 NYCRR 515.2(b)(7)

²⁵ 18 NYCRR 515.2(b)(8)

²⁶ 18 NYCRR 515.2(b)(5)(9)

²⁷ 18 NYCRR 515.2(b)(10)

²⁸ 18 NYCRR 515.2(b)(11)

17. Furnishing or ordering medical care, services or supplies that fail to meet professionally recognized standards for health care or which are beyond the scope of the person's professional qualifications or licensure.²⁹
18. Illegally discriminating in the furnishing of medical care, services or supplies based on the patient's race, color, national origin, religion, sex, age or handicapping condition.³⁰
19. Assigning payments under the program to a factor, either directly or by power of attorney; or receiving payment through any person whose compensation is not related to the cost of processing the claim, is related to the amount collected or is dependent upon collection of the payment.³¹
20. Offering or providing any premium or inducement to a patient in return for the patient's patronage of the provider or

²⁹ 18 NYCRR 515.2(b)(12)

³⁰ 18 NYCRR 515.2(b)(13)

³¹ 18 NYCRR 515.2(b)(14)

other person to receive care, services or supplies.³²

21. Denying services to a recipient based in whole or in part upon the recipient's inability to pay a co-payment for medical care, services or supplies.³³
22. Improper disclosure of confidential patient information.³⁴
23. Any violation of the organization's policies concerning patient care or advance directives.³⁵
24. Willfully or grossly negligent failure to comply with substantial provisions of Federal, State or local laws, rules or regulations governing the practice of the profession.³⁶
25. Exercising undue influence on the patient or client, including the promotion of the sale of services, goods, appliances or drugs in such manner as to exploit the patient or client

³² 18 NYCRR 515.2(b)(15)

³³ 18 NYCRR 515.2(b)(16(iii))

³⁴ 8 NYCRR 29.1(b)(8)

³⁵ 8 NYCRR 29.1(b)

³⁶ 8 NYCRR 29.1(b)(1)

for the financial gain of the practitioner or of a third party.³⁷

26. Permitting any person to share in the fees for professional services, other than: a partner, employee, and associate in a professional firm or hospital, professional subcontractor or consultant authorized to practice the same profession, or a legally authorized trainee practicing under the supervision of a licensed practitioner.³⁸
27. Conduct in the practice of a profession which evidences moral unfitness to practice the profession.³⁹
28. Willfully making or filing a false report or failing to file a report required by law or by the Education Department or impeding or obstructing such filing, or inducing another person to do so.⁴⁰
29. Practicing or offering to practice beyond the scope permitted by law, or accepting and performing professional

³⁷ 8 NYCRR 29.1(b)(2)

³⁸ 8 NYCRR 29.1(b)(4)

³⁹ 8 NYCRR 29.1(b)(5)

⁴⁰ 8 NYCRR 29.1(b)(6)

responsibilities which the licensee knows or has reason to know that he or she is not competent to perform, or performing without adequate supervision professional services which the licensee is authorized to perform only under the supervision of a licensed professional, except in an emergency situation where a person's life or health is in danger.⁴¹

30. Delegating professional responsibilities to a person when the licensee delegating such responsibilities knows or has reason to know that such person is not qualified, by training, by experience or by licensure, to perform them.⁴²

VII. PROTECTION FOR WHISTLEBLOWERS AND PROTECTION AGAINST RETALIATION

- A. SBH encourages the good faith reporting of violations of the Code of Conduct and any other potential wrongdoing by SBH, its

⁴¹ 8 NYCRR 29.1(b)(9)

⁴² 8 NYCRR 29.1(b)(10)

personnel and affiliates, without fear of retaliation.

- B.** A whistleblower is any personnel who disclose information concerning acts of wrongdoing, misconduct, malfeasance, or other inappropriate behavior by any personnel, concerning the health system's investments, travel, acquisition of real or personal property, the disposition of real or person property and the procurement of goods and services.

- C.** Personnel who discover wrongdoing in the health system have several options in reporting:
 - 1. Report the matter to his or her supervisor
 - 2. Report the matter to the health system's Compliance Officer
 - 3. Report the matter to the toll free Compliance Help Line ~ the identity of the whistleblower and the content of their report will be kept confidential consistent with the need to investigate the matter.

- D.** SBH will not fire, discharge, demote, suspend, threaten, intimidate, harass or

discriminate against personnel because of their role as a whistleblower insofar as the actions taken by the personnel are legal.

- E. Any attempt to retaliate against personnel for reporting a violation of this policy will itself be considered a violation of this policy that may result in disciplinary action up to and including termination of employment or other affiliation with SBH.
- F. SBH 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.

VIII. CONFLICTS OF INTEREST

SBH' Code of Conduct policy shall apply to all personnel, including but not limited to officers, affiliates, auxiliaries, and volunteers of the organization. These policies shall serve as a guide for official conduct and are intended to enhance the ethical and professional performance of the organization's directors and employees and to preserve public confidence in the organization mission.

- A. SBH personnel and affiliates shall perform their duties with transparency, without

favor, and refrain from engaging in outside matters of financial or personal interest, including other employment, that could impair independence of judgment, or prevent the proper exercise of one's official duties.

- B.** SBH personnel and affiliates shall not directly or indirectly, make, advise, or assist any person to make any financial investment based upon information available through the director's or employee's official position that could create any conflict between their public duties and interests and their private interests.

- C.** SBH personnel and affiliates shall not accept or receive any gift or gratuities where the circumstances would permit the inference that: (a) the gift is intended to influence the individual in the performance of official business or (b) the gift constitutes a tip, reward, or sign of appreciation for any official act by the individual. This prohibition extends to any form of financial payments, services, loans, travel reimbursement, entertainment, hospitality, thing or promise from any

entity doing business with or before the organization.

- D.** SBH personnel and affiliates shall not use or attempt to use their official position with the organization to secure unwarranted privileges for themselves, members of their family or others, including employment with the organization or contracts for materials or services with the organization.
- E.** SBH personnel and affiliates must conduct themselves at all times in a manner that avoids any appearance that they can be improperly or unduly influenced, that they could be affected by the position of or relationship with any other party, or that they are acting in violation of their public trust.
- F.** SBH personnel and affiliates may not engage in any official transaction with an outside entity in which they have a direct or indirect financial interest that may reasonably conflict with the proper discharge of their official duties.
- G.** SBH personnel and affiliates shall manage all matters within the scope of the organization's mission independent of any

other affiliations or employment. Directors, including ex officio and board members, shall strive to fulfill their professional responsibility to the organization without bias and shall support the organization's mission to the fullest.

- H.** SBH personnel and affiliates shall not use authority, property, including equipment, telephones, vehicles, computers, or other resources, or disclose information acquired in the course of their official duties in a manner inconsistent with federal, state or local law or policy and the organization's mission and goals.
- I.** This Code of Conduct shall be provided to all personnel upon commencement of employment or appointment and shall be reviewed annually by the Governance Committee.

J. Penalties

In addition to any penalty contained in any other provision of law, the organization director or employee who knowingly and intentionally violates any of the provisions of this code may be removed in the manner provided for by law, rules or regulations.

K. Reporting Unethical Behavior

SBH personnel and affiliates are required to report possible unethical behavior by any personnel, including directors or officers of the organization. Personnel and affiliates may file ethics complaints anonymously and are protected from intimidation and retaliation by SBH policies.

IX. DEFINITIONS

Abuse: Practices that are inconsistent with sound fiscal, business, medical or professional practices and which result in unnecessary costs to the medical assistance program, payments for services which were not medically necessary, or payments for services which fail to meet recognized standards for health care.⁴³

Center for Medicaid and Medicare (“CMS”): The Health and Human Services agency responsible for Medicare and parts of Medicaid.⁴⁴

⁴³ 18 NYCRR 515.1(1)

⁴⁴See

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

Claim: A claim is a request for payment for services and benefits you received. Claims are also called bills for all Part A and Part B services billed through fiscal intermediaries. "Claim" is the word used for Part B physician/supplier services billed through the Carrier.⁴⁵

Contaminated: The presence or the reasonably anticipated presence of blood or other potentially infectious materials on an item or surface.⁴⁶

Drug Enforcement Administration ("DEA"): The federal law enforcement agency responsible for enforcing the controlled substances laws and regulations of the United States.⁴⁷

Fraud: An intentional deception or misrepresentation made with the knowledge that the deception could result in an unauthorized benefit to the provider or another person and includes the acts prohibited by section 366-b of the Social Services Law.⁴⁸

⁴⁵ Id., 18 NYCRR 515.1(3)

⁴⁶ OSHA

⁴⁷ See <http://www.justice.gov/dea/agency/mission.htm>

⁴⁸ 18 NYCRR 515.(7)

Furnish: Medical care, services or supplies provided directly by, or under the supervision of, or ordered or prescribed by the person.⁴⁹

Good Faith: Information concerning potential wrongdoing is disclosed in “good faith” when the individual making the disclosure reasonably believes such information to be true and reasonably believes that it constitutes potential wrongdoing.⁵⁰

Health Insurance Portability and Accountability Act (“HIPAA”): A federal regulation to guarantee patients' rights and protections against the misuse or disclosure of their health records.⁵¹

Medical Waste: Any solid waste that is generated in the diagnosis, treatment, or immunization of human beings or animals, in research pertaining thereto, or in the production or testing of biologicals. This definition includes, but is not limited to: blood-soaked bandages; culture dishes and other glassware;

⁴⁹ Id. at (8)

⁵⁰ See ABO Recommended Guidance, Whistleblower Access and Assistance Program, pg. 2

⁵¹ See

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

discarded surgical gloves; discarded surgical instruments; discarded needles used to give shunts or draw blood (e.g., medical sharps); cultures, stocks, swabs used to inoculate cultures; removed body organs (e.g., tonsils, appendixes, limbs); or discarded lancets⁵²

Substance Abuse and Mental Health Services Administration (“SAMHSA”): The Health and Human Services agency established to target effectively substance abuse and mental health services to the people most in need and to translate research in these areas more effectively and more rapidly into the general health care system.⁵³

Wrongdoing is defined as fraudulent, criminal, unethical, wasteful or abusive behavior. Any alleged corruption, fraud, criminal or unethical activity, misconduct, waste, conflict of interest, intentional reporting of false or misleading information, or abuse of authority engaged in by a SBH employee that relates to the health system.⁵⁴

Whistleblower: SBH personnel who in good faith discloses information concerning

⁵² Medical Waste Tracking Act of 1988

⁵³ See <http://www.samhsa.gov/about/>

⁵⁴ Id.

wrongdoing by SBH personnel, or concerning the business of the health system itself.⁵⁵

Regulated Medical Waste: Consists of a variety of materials, including infectious animal wastes, human pathological waste, human blood and blood products, needles and syringes (sharps) and cultures and stocks (microbiological materials) generated in research or health care.⁵⁶

Regulated Waste: liquid or semi-liquid blood or other potentially infectious materials; contaminated items that would release blood or other potentially infectious materials in a liquid or semi-liquid state if compressed; items that are caked with dried blood or other potentially infectious materials that are capable of releasing these materials during handling; contaminated sharps; and pathological and microbiological wastes containing blood or other potentially infectious materials⁵⁷

⁵⁵ See ABO Recommended Guidance, Whistleblower Access and Assistance Program, pg. 2

⁵⁶ New York State Department of Environmental Conservation

⁵⁷ (OSHA)

ACKNOWLEDGMENT OF RECEIPT

I acknowledge that I have received a copy of the Compliance Manual for SBH Hospital Health System's Compliance Program.

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

Acknowledged and agreed:

Signature

Print name

Job Title or Description

_____, 20__
Today's Date