



## **CORPORATE COMPLIANCE PROGRAM HANDBOOK**

**Corporate Compliance Program Handbook has been approved by:**

**Chief Executive Officer:** \_\_\_\_\_

**Director of Risk Management & Corporate Compliance:** \_\_\_\_\_

Adopted 11/29/99

Revised 5/16/02, 12/09/95, 12/05/05, 9/26/07, 12/09, 7/10, 12/10, 10/11, 12/11, 9/12, 12/12, 3/13, 7/13, 4/14,  
1/15, 12/15, 9/16, 4/18, 5/20, 8/22, 5/23

## Table of Contents

<b>PART I CORPORATE COMPLIANCE PROGRAM</b>	<b>3</b>
a. <i>Introduction</i>	3
b. <i>Board of Directors' Authorization</i>	3
<b>PART II COMPLIANCE PLAN: SUMMARY OF KEY ELEMENTS</b>	<b>4</b>
a. <i>Development &amp; Implementation of Written Standards of Conduct, Policies &amp; Procedures</i>	4
b. <i>Delegation of Authority to the Compliance Officer &amp; Committee</i>	4
c. <i>Provision of Compliance Education &amp; Training</i>	4
d. <i>Reporting Concerns and Complaints through Open Communication &amp; Compliance Hotline</i>	5
e. <i>Requiring Employee Participation in the Compliance Program and Discipline</i>	5
f. <i>Conducting Audits and Routine Identification of Compliance Risk Areas</i>	5
g. <i>Responding to and Investigating Potential Compliance Problems</i>	5
h. <i>Non-Retaliation for Good Faith Reporting of Compliance-Related Concerns</i>	6
i. <i>Deficit Reduction Act of 2005</i>	6
j. <i>NYS's Mandatory Compliance Program Requirements and Certification (SSL)</i>	6
<b>PART III CODE OF CONDUCT</b>	<b>6</b>
a. <i>Introduction</i>	6
b. <i>Crouse Hospital's Mission, Vision and Values</i>	7
c. <i>Code of Conduct Principles</i>	7
1. <i>Quality Patient Care</i>	7
2. <i>Workplace Conduct</i>	8
3. <i>Exclusion Screening</i>	8
4. <i>Non-Discrimination</i>	8
5. <i>Compliance with Federal, State and Local Laws and Regulations</i>	9
6. <i>Health Care Fraud and Abuse Prevention</i>	9
7. <i>Coding and Reimbursement</i>	10
8. <i>Accurate and Truthful Documentation</i>	10
9. <i>Record Retention and Destruction</i>	10
10. <i>Confidentiality</i>	10
11. <i>Conflict of Interest</i>	11
12. <i>Provider/Hospital Business Relationships and Referrals</i>	11
13. <i>Protection of Crouse Hospital Assets</i>	12
14. <i>Gifts and Gratuities</i>	12
15. <i>Tax Exempt Status</i>	12
16. <i>Political/Lobbying Activity</i>	12
17. <i>Fair Competition</i>	13
18. <i>Marketing</i>	13
19. <i>Social Media</i>	13
20. <i>Prescription Drugs and Controlled Substances</i>	13
21. <i>Environmental Health and Safety</i>	13
22. <i>Scientific and Clinical Research</i>	13
23. <i>Government Investigations, Accreditations and Surveys</i>	14
24. <i>Responsibility for Reporting</i>	14
25. <i>Non-Intimidation/Non-Retaliation</i>	14
26. <i>Enforcement of the Code of Conduct</i>	15
<b>PART IV APPENDIXES</b>	<b>15</b>
<b>APPENDIX A: DESCRIPTION OF FRAUD AND ABUSE/NON-RETALIATION LAWS</b>	<b>15</b>

### a. Introduction

Crouse Health Hospital, Inc., d/b/a Crouse Hospital (the "Hospital") is committed to conducting its operations in an ethical and lawful manner. Accordingly, the hospital has developed and implemented a Corporate Compliance Program that applies to all [affected individuals](#) including employees, chief executive and other senior administrators, managers, contractors, agents, subcontractors, independent contractors and governing and corporate offices. The Hospital's Compliance Program is intended to prevent, detect, and correct violations of applicable law, regulations, third-party payer requirements, hospital's policies/procedures, the Code of Conduct and other applicable standards.

The Compliance Program consists primarily of the key elements described in the Compliance Plan, Crouse Hospital's Code of Conduct and various policies and procedures designed to implement the Compliance Program. The Handbook also contains a summary of the relevant health care fraud and abuse laws, including whistleblower protection laws. As described in greater detail in the Handbook and the Non-Intimidation/Non-Retaliation Policy, the hospital has adopted a strict non-intimidation/non-retaliation policy to protect affected individuals for their good faith reporting of compliance-related concerns or issues.

### b. Board of Directors' Authorization

Crouse Hospital's Board of Directors authorized the creation of a Corporate Compliance Program. The purpose of the program is to promote and support the highest standards of conduct-- legally, ethically and morally, on the part of the hospital, its personnel and vendors, regarding all laws that regulate the hospital, including, but not limited to, the applicable fraud and abuse laws.

The Board of Directors authorized the Hospital's President & CEO to appoint a Compliance Officer. The Director of Risk Management and Corporate Compliance serves as the Hospital's Compliance Officer ("CO"). He/she works with the Quality Improvement and Compliance Board Committee which serves as Crouse Hospital's Compliance Committee.

The Board of Directors shall act in good faith in the oversight of compliance. The Board shall abide by its:

- Duty of care (to be familiar with the finances and activities, attend meetings and participate in decision making, read material and minutes, encourage diversity).
- Duty of loyalty (to avoid transactions where there is personal gain and closely examine other transactions which may cause a conflict of interest).
- Duty of obedience (to ensure that Crouse Hospital is abiding by applicable laws and regulations and that the proper resources are dedicated to following the mission).

Any questions concerning the Hospital's Corporate Compliance Program should be directed to the CO, or his/her designee.

## Part II Compliance Plan: Summary of Key Elements

The key elements of the Hospital's Compliance Plan are designed to help prevent, detect, and correct violations of applicable law, regulations, third-party payer requirements, hospital's policies/procedures, the Code of Conduct and other applicable standards. These key elements of Crouse Hospital's Corporate Compliance Plan incorporate the applicable state<sup>1</sup> and federal<sup>2</sup> regulations and guidance. In addition, the hospital has developed certain compliance policies and procedures designed to implement the key elements.

### a. Development & Implementation of Written Standards of Conduct, Policies & Procedures

Crouse Hospital shall operate in accordance with applicable federal, state, local laws, and standards pertaining to the delivery of patient care and the billing for such care. To this end, the hospital has developed policies and procedures to foster compliance with such laws and standards and to promote conduct by the hospital and affected individuals that is ethical and upholds our mission and values.

The Compliance Officer ("CO"), or his/her designee, with input from the Compliance Committee, shall oversee the development and implementation of policies pertaining to the Corporate Compliance Program and/or the Code of Conduct. Corporate Compliance Policies and the Compliance Handbook are reviewed at least annually and in accordance with hospital procedures. The hospital shall update its standards, policies and procedures as necessary to remain current with applicable laws and regulations, the needs of the hospital and its Compliance Program and to reflect current ethical and legal business practices.

Employees and affected individuals who have questions, suggestions and/or concerns about current hospital standards, policies, procedures, business, patient care or other practices should notify their supervisor or the CO, or Compliance Hotline (315-470-7770) or by submitting a Compliance Form on the Hospital's Intranet.

### b. Delegation of Authority to the Compliance Officer & Committee

Crouse Hospital has designated a Compliance Officer ("CO"), who reports directly to the Hospital's President & CEO, the Board of Directors and the Compliance Committee. The CO may delegate as appropriate certain duties of his/her office to other compliance professionals. The CO's compliance authority and obligations are more fully explained in the Hospital's CO policy.

Crouse Hospital has formed the Quality Improvement and Compliance Board Committee to function as the compliance committee. The CO is an active member of the Committee, as well as those individuals listed in the Committee charter. The Committee meets quarterly and is comprised of those individuals whose input is necessary for the proper oversight and implementation of the Hospital's Compliance Program. The Committee shall report directly and be accountable to the chief executive and governing body.

### c. Provision of Compliance Education & Training

Crouse Hospital conducts compliance training and education to help ensure that each affected individual is fully capable of executing his or her duties in conformity with applicable laws, rules, regulations, and other standards. It is an expectation of performance that employees and affected individuals meet their compliance education and training requirements. Failure to undergo compliance education and training may result in discipline, up to and including termination.

The hospital has developed a Compliance Training Plan that includes:

- An outline of the subjects and topics for the training education;
- The timing and frequency of the training;
- Which affected individuals are required to attend;
- How attendance will be tracked;

<sup>1</sup> 18 NYCRR Part 521 (New York State Office of Medicaid Inspector General's Provider Compliance Program regulations).

<sup>2</sup> <https://oig.hhs.gov/compliance/compliance-guidance/> The United States Department of Health and Human Services, Office of Inspector General's Compliance Program Guidance for Hospitals.

- How the effectiveness of the training will be periodically evaluated.

In general, employees shall undergo appropriate levels of compliance training during New Employee Orientation (NEO). Certain employees may also receive additional targeted compliance training depending upon the person's job-related obligations and responsibilities. Contractors and vendors that are affected by the hospital's risk areas shall receive annual compliance education and training. They will also be provided access to the hospital's Compliance policies and procedures, the Code of Conduct and contact information for the Compliance program via the website ([Crouse.org](http://Crouse.org)).

#### **d. Reporting Concerns and Complaints through Open Communication & Compliance Hotline**

All affected individuals have a responsibility to immediately report any activity involving or concerning the hospital that appears to violate the Compliance Program, the Code of Conduct or any hospital policy, as well as applicable laws, rules or regulations. Therefore, the hospital has established a means for concerns or complaints to be reported in a safe and private manner. There is absolutely no retaliation permitted for the good faith reporting of actual or suspected compliance problems. Failure to report may, by itself, be a violation of the Hospital's Compliance Program, which may subject the person to discipline, up to and including termination of employment or affiliation with the hospital.

The hospital has published on their website ([Crouse.org](http://Crouse.org)) the anonymous hotline reporting phone number and contact information for the Compliance Officer to report compliance-related concerns or issues and/or to ask questions or make suggestions about the Compliance Program.

#### **e. Requiring Employee Participation in the Compliance Program and Discipline**

It is the responsibility of all affected individuals to abide by applicable laws, regulations, support the hospital's compliance efforts, and to participate in the Corporate Compliance Program. Accordingly, each affected individual must report his/her good faith belief of any suspected or actual violation of applicable local, state or federal law or hospital policies and procedures, including, without limitation, the hospital's Compliance Program and Code of Conduct. There are many activities that could be considered a violation. Potential violations include fraudulent billing suspicion, incorrect patterned claim activity, misrepresentation, stealing, etc. In support of this principle, the hospital has also adopted a strict non-retaliation policy prohibiting any retaliation against anyone who in good faith reports a suspected or actual violation. The hospital shall take reasonable and appropriate efforts to maximize a reporting individual's confidentiality and will honor all requests for confidentiality to the limit allowed by law.

#### **f. Conducting Audits and Routine Identification of Compliance Risk Areas**

Crouse Hospital has established and implemented an effective system for routine monitoring and identification of compliance risks. This includes internal monitoring/audits and as appropriate, external audits, to evaluate the hospital's compliance program with the requirements of the Medical Assistance ([MA](http://MA)) Program and the overall effectiveness of the compliance program. The hospital shall assess its risk for noncompliance and shall take the steps necessary to reduce any identified compliance issues. The CO, or his/her designee, in conjunction with the Compliance Committee and the necessary hospital departments (for example, billing and coding) shall conduct ongoing and periodic reviews of the Compliance Program, its operations and systems.

#### **g. Responding to and Investigating Potential Compliance Problems**

Crouse Hospital takes potential compliance issues seriously and investigates compliance issues promptly, regardless of the source of the complaint or concern. The hospital has established and implemented procedures for responding to compliance issues including complaints, violations of applicable laws, regulations, hospital policies, procedures and standards (including the hospital's Code of Conduct and Corporate Compliance program), State and Federal laws, rules and regulations, and requirements of the MA program.

The purpose of an investigation is to identify those situations in which applicable laws and regulations may not have been followed. The CO, or his/her designee, has primary responsibility for conducting and/or overseeing investigations. When an investigation determines that a violation has occurred, corrective actions are initiated to ensure future compliance. These can include:

- Instituting disciplinary action
- Implementing corrective actions to prevent the violation from reoccurring
- Notifying the appropriate government agency
- Repayment of government funds within the 60 day timeframe for overpayments

#### **h. Non-Intimidation/Non-Retaliation for Good Faith Reporting of Compliance-Related Concerns**

The hospital is committed to maintaining a workplace where affected individuals are free to raise good faith concerns regarding the hospital's business practices and the care of its patients. It is the responsibility of all individuals to abide by applicable laws and regulations and support the hospital's compliance efforts, including reporting their good faith belief of any violation of applicable local, state or federal law or hospital policies and procedures, including, without limitation, the hospital's Corporate Compliance Program and Code of Conduct. The hospital is committed to fostering a workplace that is conducive to open discussions of its business and clinical practices. To promote an open culture, the hospital has adopted a strict non-intimidation, non-retaliation policy.

#### **i. Deficit Reduction Act of 2005**

The Deficit Reduction Act of 2005 requires any entity that receives at least \$5 million per year in Medicaid payments to make certain information available to its employees, contractors and agents. This information includes:

- The Federal and New York State False Claims Acts
- The rights of employees to be protected as whistleblowers
- The entity's policies and procedures for detecting and preventing fraud, waste and abuse

The hospital, in accordance with applicable local, state or federal law, and hospital policies and procedures, including, without limitation, the hospital's Corporate Compliance Program and Code of Conduct, fully complies with all applicable whistleblower protections.

#### **j. NYS's Mandatory Compliance Program Requirements and Certification (SSL)**

Per NYS Social Services Law (SSL) §363-d and 18 NYCRR Part 521-1.1(b), A compliance program is required of all providers that meet the following criteria:

1. Any person subject to the provisions of Articles 28 or 36 of the Public Health Law;
2. Any person subject to the provisions of Articles 16 and 31 of the Mental Hygiene Law;
3. Any managed care provider or managed long term care plan; and
4. Any other persons for whom the MA program is, or is reasonable expected by the person to be, a substantial portion of their business operations.

### **Part III Code of Conduct**

#### **a. Introduction**

***Why Have a Code of Conduct? To promote conduct that is honest, ethical and legal.***

Crouse Hospital has adopted this Code of Conduct (also referred to as the "Code") to provide standards and guidance by which employees, members of the medical staff, vendors and other individuals affiliated with Crouse Hospital will conduct themselves (Collectively referred to as "Affected Individuals").

All affected individuals should strive to protect and promote patient's rights, quality of care, hospital-wide integrity, ethical business practices and fulfillment of our Mission, Vision and Values.

This Code of Conduct is a fundamental part of Crouse Hospital's Corporate Compliance Program, and works together with our Mission, Vision and Value statements and our Corporate Compliance Policies and Procedures.

It is important for all affected individuals to understand personal obligations under this Code of Conduct. The Code does not cover every situation one may encounter. Instead, the Code contains principles that are intended to guide individuals in making ethical decisions in carrying out duties for or on behalf of Crouse Hospital.

All affected individuals share in the responsibility to uphold the principles of caring, honesty and integrity that are fundamental to this Code of Conduct.

*If, at any time, you have questions, comments or suggestions regarding the Code of Conduct or your responsibilities under the Code, please call the Compliance Officer at (315) 470-7477, or contact another member of the Compliance Office at (315) 470-2861, (315) 470-8821, or (315) 470-2997.*

## **b. Crouse Hospital's Mission, Vision and Values**

**Our Mission:** To provide the best in patient care and to promote community health.

**Our Vision:** Crouse Health will provide an exceptional experience as the most trusted system for health care.

### **Our Values:**

Community – working together while appreciating our differences

Respect – honor, dignity and trust

Open and honest communication

Undivided commitment to quality and the patient experience

Service to our patients, physicians and employees

Excellence through innovation and collaboration

## **c. Code of Conduct Principles**

### **1. Quality Patient Care**

Our Mission, "To provide the best in patient care and to promote community health" requires the efforts and commitment of all Crouse Hospital Employees. It is an expectation that Crouse Hospital will provide high quality patient care, in a compassionate manner and in a safe environment. Each Crouse Hospital Employee should be committed to this expectation, even if such Employee does not provide direct patient care.

**Reporting Concerns.** All individuals should report any incident of patient care or safety that does not appear to meet Crouse Hospital's standards of care. Reports can be made to a supervisor, the Compliance Officer (315) 470-7477 and/or the Compliance Hotline (315) 470-7770 or compliance reporting form on the Crouse Intranet page. If an individual is not satisfied with the response from the hospital or believes a patient's immediate health and safety is in jeopardy they may contact the New York State Department of Health ("DOH") at 1-800-804-5447.

In the event a patient approaches an employee with an issue pertaining to patient care or other standards, he/she should also assist such patient in communicating such concerns to Crouse Hospital's Patient and Guest Relations Department ((315)470-7087). A patient can also choose to submit a grievance directly to the Department of Health regardless of whether they utilize the hospital's grievance process.

**Direct Care Providers.** All individuals who are directly involved in patient care must have the proper credentials, skill, expertise and competency to care for such patients. Each individual should promptly and efficiently fulfill any personal responsibility he/she may have concerning the delivery of patient care and compliance with applicable standards of care. Care must be medically necessary, appropriate to the situation, safe and in conformity with applicable standards of care. As appropriate, the patient's family should be kept informed of important aspects of the patient's care.

**Patient Rights.** Every patient is entitled to receive a copy of the booklet *Your Rights as a Hospital Patient in New York State*. Employees should become familiar with patient rights and, as appropriate, are encouraged to help patients and their families understand their rights as well. Examples of patient rights include, but are certainly not limited to, informed consent to treatment, participation in decision-making, non-discrimination and confidentiality.

**Emergency Care.** Crouse Hospital provides emergency care to patients in accordance with state and federal law, including the Emergency Medical Treatment and Labor Act (EMTALA) and the relevant regulations published by the Centers for Medicare and Medicaid Services ("CMS") to implement

EMTALA. Crouse Hospital provides emergency care to patients regardless of the patient's ability to pay and without delay.

**Patient Care Standards/Policies.** Crouse Hospital maintains extensive policies and procedures concerning patient care and rights. All employees are encouraged to refer to the policies and procedures that relate to their Crouse Hospital work-related obligations, which are available from their department supervisor and on Crouse Hospital's Intranet.

## 2. **Workplace Conduct**

Crouse Hospital works diligently to foster a safe, professional, cooperative and creative workplace for all affected individuals, and to comply with all health and safety laws and regulations governing the workplace.

All affected individuals will strive to work collaboratively with colleagues and communicate respectfully to and about others, and in a positive manner.

Affected individuals are expected to become familiar with and understand Crouse Hospital's policies and procedures developed to promote the protection of the workplace and to observe all posted notices, warnings and regulations.

Affected individuals shall comply with Crouse Hospital's policy of a smoke and drug/alcohol free workplace and must report to work free from the influences of illegal drugs and alcohol.

Crouse Hospital is committed to providing a work environment that is free from harassment, violence, threatening or intimidating conduct. All individuals must conduct themselves in an appropriate and professional manner. Engaging in verbal, physical or other conduct that creates an intimidating, hostile or offensive workplace will not be tolerated.

## 3. **Exclusion Screening**

Crouse Hospital does not hire, employ or enter into any business arrangement with any entity or person who is excluded from participating in any government health care benefits program. The hospital screens all applicants and employees, candidates for, and current members of, the Medical Staff, independent contractors, and vendors for exclusion from government health care programs. Exclusion screenings shall be conducted prior to the start of the business/employment relationship and at least every 30 days thereafter.

## 4. **Non-Discrimination**

Crouse Hospital believes that the fair treatment of affected individuals, patients and others is vital to the fulfillment of its Mission, Vision and Values.

Individuals shall treat all persons with respect and shall not discriminate or harass in any manner any person on the basis of race, color, religion, sex, sexual orientation, gender and/or gender identity expression, marital or parental status, national origin, ethnicity, citizenship status, veteran or military status, age, disability, reproductive health decision making, or source of payment with respect to patients.

Crouse Hospital recruits, hires, trains, promotes, assigns, transfers, lays off/recalls and terminates all members of its workforce based on the individual's ability, achievement, experience and conduct without regard to race, color, religion, sex, sexual orientation, gender and/or gender identity expression, marital or parental status, national origin, ethnicity, citizenship status, veteran or military status, age, disability, reproductive health decision making, or any other classification protected by law. All allegations of discrimination and/or harassment shall be promptly investigated in accordance with human resources, corporate compliance or other applicable policies and procedures.

## **5. Compliance with Federal, State and Local Laws and Regulations**

Crouse Hospital strives to ensure that all activity by or on its behalf complies with applicable laws and regulations. To foster this compliance, all affected individuals should familiarize themselves with the laws and regulations relating to their position. Employees who have management or supervisory positions should also seek out professional development opportunities that will help them carry out responsibilities.

Affected individuals who are licensed professionals should become familiar with the legal requirements associated with their licenses and should have an understanding of what actions constitute professional misconduct and should avoid such actions. The New York State Education Department provides detailed information on professional licensure requirements as well as information on professional misconduct: <http://www.op.nysed.gov/prof/>

The Compliance Office will develop educational programs to help affected individuals understand such applicable laws and regulations. If at any time, an individual has questions regarding a law, regulation or related Crouse Hospital Policy, the Compliance Officer and/or Compliance Office staff can serve as a resource.

All health care providers must be properly credentialed to perform the duties associated with their position. Credentialing reviews occur before the individual can work in the hospital. Credentials are re-certified at regular intervals by Medical Staff Administration. Background checks are also performed for all employees of the hospital.

## **6. Health Care Fraud and Abuse Prevention**

One of the primary goals of Crouse Hospital's Corporate Compliance Program is to prevent and detect fraud and abuse. Health care decision-making must be based upon the patient's medical needs, and must not be based upon financial benefits to Crouse Hospital, affected individuals (including medical staff), or that of any other entity or individual. Crouse Hospital is committed to this principle.

Crouse Hospital and its affected individuals may not give, receive, offer or ask for anything of value in exchange for referring patients, products, or services ("Anti-Kickback"). This includes accepting anything of value for purchasing, leasing, ordering, arranging for, or recommending a particular product or service.

Crouse Hospital shall ensure that its relationships with physicians satisfy the rules concerning the prohibition against physician self-referral (both the Federal Stark law and applicable state law).

Crouse Hospital employees and affected individuals must not submit false, fraudulent or misleading claims to any payer, including Medicare, Medicaid, or other government or commercial third party payers. Such prohibited claims include claims for services not rendered, claims which characterize the service differently than the service actually rendered, or claims which do not comply with payer requirements. Furthermore, no one may make false representations to any person or entity for purposes of participation in a health care benefits program or to get a claim paid. Crouse Hospital shall report, repay and address the system/process issues in regards to overpayments submitted to these programs. Federal Law requires all identified overpayments from Medicare or Medicaid to be reported and returned within 60 days of identification.

All affected individuals must report suspected or actual fraud and/or abuse activities by calling the Compliance Officer at (315) 470-7477, or by contacting another member of the Compliance Office at (315) 470-2861, (315) 470-8821 or (315) 470-2997. Reports can also be made anonymously using the Compliance Hotline (315) 470-7770 or by submitting the compliance reporting form on the Crouse Intranet page. See the "Responsibility for Reporting" Section of this Code of Conduct for more details. Crouse Hospital does not retaliate against anyone who reports in good faith suspected or actual fraud and abuse or other concerns.

## **7. Coding and Reimbursement**

Crouse Hospital promotes full compliance with all relevant billing and claims reimbursement requirements.

All persons who are involved in any aspect of the hospital's coding, billing and claims submission processes must be appropriately trained, credentialed and prepared for their responsibilities, including without limitation appropriate training with respect to the requirements of the Medicare and Medicaid programs.

The hospital only bills for services actually rendered as reflected in the medical documentation. All clinical staff are required to document health care services in an accurate, organized, legible and timely manner and in accordance with applicable Medical Staff and hospital policy.

#### 8. **Accurate and Truthful Documentation**

Individuals who are responsible for documenting in patient records, financial records or other Crouse Hospital business records must perform their duties accurately, truthfully, completely and in a timely manner. All patient records, financial and accounting reports, research reports, expense accounts, time sheets and any other documentation must accurately and clearly represent the relevant facts and the true nature of a transaction. No one may alter or falsify information on any hospital record or document. Anyone who suspects inaccurate documentation and/or record keeping must notify their supervisor and/or the Compliance Officer, Compliance Office or Hotline.

#### 9. **Record Retention and Destruction**

All individuals must protect the integrity of the hospital's documents and records to ensure that records are maintained in accordance with regulatory and legal requirements, and for the required length of time. All records, both medical and business, shall be retained in accordance with the law and the hospital's specific record retention policies. Records and documents, which include both written and computer-based information, such as e-mail or computer files on disk or tape, shall be retained and destroyed in accordance with hospital policy and procedures.

#### 10. **Confidentiality**

Crouse Hospital has in its possession a broad variety of confidential, sensitive and proprietary information, which if inappropriately released, could be harmful to individuals, our business partners and to Crouse Hospital itself. Therefore, individuals should always safeguard confidential information concerning patients, employees, and business matters in accordance with Crouse Hospital's policies and procedures and relevant state and federal law. Each individual must always respect and maintain the privacy of confidential information, even after they are no longer affiliated with Crouse Hospital.

Affected individuals should become familiar with their department's specific policies and procedures in addition to hospital-wide policies, such as the Notice of Privacy Practices as required by the Health Insurance Portability and Accountability Act of 1996 ("HIPAA").

Employees must also treat as confidential, salary, benefits, and other personal information pertaining to employees. Personnel files, payroll information, disciplinary matters and similar information will be maintained in a confidential manner.

In addition to safeguarding patient and personnel information, individuals must also protect Crouse Hospital's proprietary information. This means that no one should disclose the hospital's confidential business information, such as contractual arrangements, strategic plans, future marketing efforts, and financial information.

Generally, an affected individual should only access and use the information necessary to perform their work-related responsibilities and should only disclose information as authorized to others having an official need to know. If questions arise regarding an obligation to maintain the confidentiality of information or the appropriateness of releasing information, individuals should seek guidance from their supervisor. Supervisors in turn should seek guidance from an appropriate Crouse Hospital administrator or the Compliance Office.

Crouse Hospital will protect the confidentiality of patient information. Protected Health Information, or PHI, includes information such as: names, addresses, medical diagnoses, social security numbers, etc.

HIPAA also requires adherence to the minimum necessary standard for use and disclosure of patient information. Below are some examples of inappropriate disclosure:

- Access another employee's medical record unless it is for treatment, payment or operations
- Discussing patient information in public areas (e.g., elevator, cafeteria) where it can be overheard by others not involved in their care
- Sharing information about a patient with your family members or friends
- Reviewing your own medical records without following the proper procedure

#### **11. Conflict of Interest**

A conflict of interest may occur if an employee's outside activities or personal financial interests influence or appear to influence the employee's ability to make objective decisions in the course of the employee carrying out his/her Crouse Hospital responsibilities and obligations. Employees should always avoid such conflicts of interest.

An employee should never use his/her position to profit personally or to assist others in profiting at the expense of Crouse Hospital.

Crouse Hospital requires certain employees including board members to disclose financial interests that they or their immediate family member may have that would interfere or affect their responsibilities for on behalf of Crouse Hospital. Refer to Crouse Hospital's Conflict of Interest Policy for more details concerning conflicts.

#### **12. Provider/Hospital Business Relationships and Referrals**

Any business relationship or arrangement between the hospital and a physician, physician entity or other healthcare provider must be structured to ensure compliance with all legal requirements, including, but not limited to, the fraud and abuse laws and regulations, and to avoid jeopardizing the hospital's tax-exempt status as a not-for-profit entity. Such relationships and arrangements must be documented in writing, signed by the parties and subject to review and approval by the Hospital's counsel.

The hospital does not pay for patient referrals. The hospital's acceptance of patient referrals and admissions is based on the medical needs of the patient and its ability to provide needed services. All Hospital Directors, officers and employees are prohibited from paying or offering to pay, directly or indirectly, for referral of patients. In addition, the hospital will not accept payments for the referrals it makes to a provider, nor take into account the volume or value of referrals that the provider has or may make to the Hospital. No Hospital Director, officer or employee shall accept or solicit any payment or item of value, directly or indirectly, for referrals of patients to the hospital.

#### **13. Protection of Crouse Hospital Assets**

Employees must strive to preserve Crouse Hospital's assets, including equipment, materials, supplies, time and information, and to protect assets from loss, damage, theft, misuse, and waste.

Employees must not remove Crouse Hospital's equipment, materials and supplies from the premises for personal use and must only use such assets as authorized under Crouse Hospital policy.

Employees whose responsibilities include the management of departmental funds shall maintain internal controls and record keeping and shall exercise appropriate oversight. Any use of Crouse Hospital's resources for personal financial gain unrelated to Hospital business is not permitted.

Employee's use of travel expenses must be consistent with the employee's job responsibility and Crouse Hospital's needs and resources. Employees are expected to exercise reasonable judgment in incurring travel expenses and shall provide sufficient documentation for purposes of reimbursement.

As mentioned, time is also an asset. Employees shall report time and attendance accurately and shall use their work time productively.

#### 14. **Gifts and Gratuities**

Gifts that influence decision-making by or on behalf of Crouse Hospital are not permitted. Affected individuals are prohibited from *soliciting* tips, personal gratuities or any gifts from patients or their family members and from accepting any monetary tips or gratuities. Individuals may accept (if offered), gifts of appreciation of no more than a nominal value from patients/families such as flowers, food or candy. Monetary gifts of any value may not be accepted. If a patient or another individual wishes to present a monetary gift, he/she should be referred to the appropriate department manager or director who should reach out to Risk Management for further guidance.

Individuals may not accept or solicit from the hospital's business associates or vendors, individually or on behalf of Crouse Hospital, gifts, favors, services, entertainment or other things of value to the extent that decision-making or actions affecting the hospital might be influenced. Similarly, the offer or giving of money, services or other things of value with the expectation of influencing the judgment or decision-making process of any purchaser, supplier, customer, government official or other person is absolutely prohibited. Individuals must report any such conduct to their supervisor and/or the Corporate Compliance Office.

#### 15. **Tax Exempt Status**

Crouse Hospital is a not-for-profit, tax exempt organization and has certain legal and ethical responsibilities. Importantly, Crouse Hospital is obligated to engage in activities that support its charitable purposes and to ensure that its resources are used in a manner that furthers the public good rather than the private or personal interests of any individual. As a result, Crouse Hospital and its employees will only enter into compensation arrangements that reflect fair market value for the service or item. In addition, Crouse Hospital will accurately report tax payments and will file all tax information and returns in a lawful manner.

#### 16. **Political/Lobbying Activity**

Participation by Crouse Hospital in a political campaign or lobbying could jeopardize the hospital's tax-exempt status. Therefore, employees may not use Crouse Hospital's funds, time, equipment or other assets to campaign for or against any political candidate, or to engage in a lobbying activity. This includes contributing t-shirts, hats or any other tangible item that includes the Crouse logo.

Employees may participate in or contribute to, a political/lobbying activity of their choosing as a private citizen, but not as a Crouse Hospital representative.

Crouse Hospital, where its experience may be helpful, may publically offer recommendations concerning legislation or regulations being considered. In addition, Crouse Hospital may analyze and take public positions on issues that have a relationship to the operations of the Hospital when our experience contributes to the understanding of such issues.

Crouse Hospital has many contacts and dealings with governmental agencies and officials. Crouse Hospital and its employees shall conduct all such contacts and transactions in an honest and ethical manner. No one shall attempt to influence the decision-making process of government agencies or officials by an improper offer of any benefit. Employees should immediately report any suspected or actual improper requests or demands by a government agency or official to the Compliance Officer.

#### 17. **Fair Competition**

Crouse Hospital strives to ensure that all activity by or on its behalf complies with laws governing fair competition (these laws are also known as "antitrust laws"). These laws prohibit certain activity that could give an organization an unfair business advantage over a competitor. Examples of prohibited unfair competition activities include: agreements to fix prices, bid rigging, collusion with competitors, boycotts, certain exclusive dealing and price discrimination agreements, unfair trade practices, including bribery, misappropriation of trade secrets, deception, intimidation and similar unfair practices. Employees must not engage in prohibited unfair competition activities and must seek advice from the Compliance Officer when confronted with business decisions which might violate these laws.

## 18. **Marketing**

Crouse Hospital may use marketing and advertising activities to educate the public, provide information to the community and increase awareness of hospital services. The hospital will present only truthful, fully informative and non-deceptive information in these materials and announcements.

## 19. **Social Media**

Protecting the privacy and confidentiality of patient, employee and confidential business information is fundamental to our mission as a leading healthcare provider. Posting any patient or proprietary information on social media/networking sites such as Facebook, Twitter, or YouTube is prohibited. Authorized personnel at Crouse Hospital (i.e., Communications and Human Resources) may use social media in the course of their duties for approved, business-related purposes. Refer to Crouse Hospital's Social Media policy for more information.

## 20. **Prescription Drugs and Controlled Substances**

Crouse Hospital is committed to the safe and legal handling of all drugs and controlled substances. Employees having responsibility for, or access to, prescription drugs, controlled substances, over-the-counter drugs, or any street-valued medical supply (hypodermic needles for example) shall maintain the highest possible professional and ethical standards with regards to such drugs and supplies. Employees should become familiar with the laws, internal policies, and patient care standards that govern their work with these substances and supplies. Drugs must only be provided upon an order of a licensed provider who is authorized by New York State to write prescriptions. Employees shall take care to keep drugs secured at all times and not available to individuals who do not have a prescription. Employee must follow Hospital policy and procedures for handling outdated or unused drugs. Employees must immediately report any inappropriate distribution or diversion of drugs or supplies, or theft/loss of prescriptions, to their supervisor or the Compliance Officer.

The New York State Bureau of Narcotic Enforcement provides many references for providers concerning drug diversion and other controlled substances issues on its website:

<http://www.health.state.ny.us/professionals/narcotic/practitioners/>

## 21. **Environmental Health and Safety**

Crouse Hospital is committed to providing a workplace that is safe, healthy, smoke-free and in compliance with all applicable rules and regulations. Crouse Hospital shall manage and operate its business in a manner that respects our environment and conserves natural resources. Employees shall comply with the Hospital's safety and health policies to help ensure that patients, visitors, the workforce and others are protected from unnecessary risks and unsafe conditions.

For example, employees shall dispose of all waste in accordance with applicable laws and regulations and shall strive to utilize resources appropriately and efficiently, including recycling where possible. Employees shall immediately report suspected violations of an environmental or occupational health and safety law and shall work cooperatively with the appropriate authorities to remedy any environmental contamination that may occur in the workplace. If a workplace injury occurs or a potential danger for injury is discovered, employees must immediately contact their supervisor so corrective action can be taken to resolve the issue in a timely manner.

## 22. **Scientific and Clinical Research**

Crouse Hospital encourages the conduct of research in each of its departments, and in collaboration with other educational institutions, agencies, and organizations. In this regard, the Hospital is firmly committed to adhering to the basic ethical principles underlying the acceptable conduct of research involving human subjects, as set forth in The Belmont Report: Ethical Principles and Guidelines for the Protection of Human Subjects of Research. These three principles, respect for persons, beneficence, and justice are particularly relevant to the protection of human subjects in biomedical and behavioral research, and are the accepted requirements for the ethical conduct of such research.

- **Respect for persons** involves recognition of the personal dignity and autonomy (self-rule) of individuals, and special protection of those persons with diminished autonomy.

- **Beneficence** entails an obligation to protect persons from harm by maximizing anticipated results and minimizing possible risks of harm.
- **Justice** requires that the benefits and burdens of research be distributed fairly.

Employees who are involved in proposing and/or conducting research activities will ensure that their work is conducted with the highest ethical standards in accordance with federal, New York state and local laws and regulations, and applicable Hospital policy and procedures, including those from the Hospital's Institutional Review Board ("IRB"). Employees must always document accurately, truthfully and completely and must never make up and/or falsify research data or results. Employees who have concerns or questions regarding a research activity should contact their supervisor, the Corporate Compliance Officer or the Hospital's IRB Administrator at (315) 470-7235.

## **23. Government Investigations, Accreditations and Surveys**

Crouse Hospital and affected individuals shall cooperate fully and promptly with appropriate government investigations into potential violations of the law and to the efforts of our accrediting and surveying agencies. Governmental and/or agency inquiries or requests should be promptly referred to the Corporate Compliance Officer or Hospital Administration.

Crouse Hospital shall promptly and thoroughly investigate reports of suspected illegal activities or violations of the Corporate Compliance Program or this Code of Conduct. Affected individuals must cooperate with such investigations and may not take actions to prevent, hinder or delay discovery and full investigation. For example, individuals must never alter or destroy records or documents requested in the course of an investigation, nor shall they make a false or misleading statement on such documents or to an investigator. Also, individuals must never pressure any person to provide false information to, or to hide information from, an investigator.

## **24. Responsibility for Reporting**

Corporate Compliance is everyone's responsibility. Therefore, all affected individuals are required to report their good faith belief of any suspected or actual violation of the Code of Conduct, the Corporate Compliance Program, other Hospital policies or applicable law. Sometimes it is unclear whether a particular activity or situation may be a violation of the Code or the Compliance Program. When this happens, individuals should contact their supervisors or the Compliance Officer.

Reports of suspected or actual violations can be made in a number of ways as described below:

- Orally or in writing to the employee's director/supervisor;
- By calling the Compliance Officer at 315-470-7477; the Compliance Office at 315-470-2861, 315-470-8821 or 315-470-2997, or the Compliance Hotline at 315-470-7770;
- By mailing a written concern or complaint to the Compliance Officer; and/or
- By submitting the compliance reporting form on the Crouse Intranet page.

Crouse Hospital will maintain the confidentiality of the reporter unless the matter is subject to a disciplinary proceeding, referred to, or under investigation by the Medicaid Fraud Control Unit, the Office of Medicaid Inspector General or other law enforcement, or disclosure is required during a legal proceeding. Anonymous reporting is available. However, the hospital will be unable to provide feedback if anonymous reports are made.

Affected individuals who fail to report suspected or actual violations are themselves violating this Code and our Corporate Compliance Program and may be subject to discipline, which could result in termination from employment or affiliation with the Hospital.

## **25. Non-Intimidation/Non-Retaliation**

Crouse Hospital is committed to fostering a workplace that is conducive to open discussion by affected individuals of its business and clinical practices. To promote an open culture, the hospital has adopted a strict non-intimidation/non-retaliation policy to protect affected individuals. Accordingly, there will be no retaliation in the terms and conditions of employment or affiliation as a result of an individual's good

faith reporting of a violation or suspected violation. Any manager, supervisor or other individual who commits or condones any form of retaliation will be subject to discipline up to, and possibly including, termination or affiliation with Crouse Hospital. For more information regarding applicable non-retaliation and whistleblower protection laws, please refer to Appendix A of Crouse Hospital's Corporate Compliance Program Handbook and to the Non-Intimidation & Non-Retaliation Corporate Compliance Policy.

## 26. **Enforcement of the Code of Conduct**

Affected individuals must understand that they will be subject to discipline for violations of the Code of Conduct, up to and including termination of employment or affiliation with Crouse Hospital. The specific disciplinary action depends upon the nature and severity of the violation. Crouse Hospital imposes sanctions in a consistent manner in accordance with applicable Human Resources policies and procedures and collective bargaining agreements.

Examples of violations of the Code which could result in disciplinary action include:

- Participating in activities that violate the Code;
- Encouraging others to violate the Code;
- Failing to report suspected violations of the Code; and
- For employees who are supervisors or managers, failing to detect violations of the Code, if such violation should have been discovered in the reasonable course of the employee's job responsibilities.

## **Part IV Appendixes**

### **Appendix A: Description of Fraud and Abuse/Non-Retaliation Laws**

#### **I. Definitions**

- i. Affected individuals: All persons who are affected by the provider's risk areas including employees, chief executive and other senior administrators, managers, contractors, agents, subcontractors, independent contractors and governing and corporate offices
- ii. MA: Medical assistance for needy persons provided under [Title 11 of Article 5 of the Social Services Law](#)

#### **II. Federal and New York State Health Care Fraud and Abuse Laws.**

Both the federal and New York state governments fund health care programs that provide medical and mental health care benefits to qualified patients. Examples of such government health care programs include, but are not limited to, Medicare and Medicaid. To avoid waste, fraud and abuse in Medicare, Medicaid and other programs, there are Federal and State laws designed to deter fraud and abuse, some of which are described below.

##### **a. Federal False Claims Act, 31 USC §§ 3729 -3733.** This law applies to any person (or entity) who:

- i. Knowingly presents, or causes to be presented, to the United States Government, a false or fraudulent claim for payment or approval;
- ii. Knowingly makes, uses, or causes to be made or used, a false record or statement to get a false or fraudulent claim paid or approved by the Government;
- iii. Conspires to defraud the Government by getting a false or fraudulent claim allowed or paid;
- iv. Has possession, custody, or control of property or money used, or to be used, by the Government and, intending to defraud the Government or willfully to conceal the property, delivers, or causes to be delivered, less property than the amount for which the person receives a certificate or receipt;

- v. Authorized to make or deliver a document certifying receipt of property used, or to be used, by the Government and, intending to defraud the Government, makes or delivers the receipt without completely knowing that the information on the receipt is true;
- vi. Knowingly buys, or receives as a pledge of an obligation or debt, public property from an officer or employee of the Government, or a member of the Armed Forces, who lawfully may not sell or pledge the property; or
- vii. Knowingly makes, uses, or causes to be made or used, a false record or statement to conceal, avoid, or decrease an obligation to pay or transmit money or property to the Government.
- viii. Any person who engages in any of the above conduct may have violated the False Claims Act and may be liable for monetary penalties and damages, depending on the circumstances surrounding the false claim(s).

**b. Program Fraud Civil Remedies Act, 31 USC §§ 3801-3812 (PFCRA).** PFCRA provides for administrative remedies against any person who knowingly makes a claim or statement that the person knows or has reason to know is false, fictitious or fraudulent. The presence of a false claim is not required: a false statement is enough to trigger remedies under PFCRA.

**c. New York State False Claims Act, State Finance Law, Article 13.** The New York State false claims act is very similar to the Federal False Claims Act. It prohibits the filing of a false claim which means that a person:

- i. Knowingly presents, or causes to be presented, to any employee, office or agent of the state or a local government, a false or fraudulent claim for payment or approval;
- ii. Knowingly makes, uses, or causes to be made or used, a false record or statement to get a false or fraudulent claim paid or approved by the state or a local government;
- iii. Conspires to defraud the state or a local government by getting a false or fraudulent claim allowed or paid;
- iv. Has possession, custody, or control of property or money used, or to be used, by the State or a local government and, intending to defraud the state or a local government or willfully to conceal the property or money, delivers, or causes to be delivered, less property or money than the amount for which the person receives a certificate or receipt;
- v. Is authorized to make or deliver a document certifying receipt of property used or to be used by the state or a local government and, intending to defraud the state or a local government, makes or delivers the receipt without completely knowing that the information on the receipt is true;
- vi. Knowingly buys, or receives as a pledge of an obligation or debt, public property from an officer or employee of the state or a local government knowing that the officer or employee lawfully may not sell or pledge the property; or
- vii. Knowingly makes, uses, or causes to be made or used, a false record or statement to conceal, avoid, or decrease an obligation to pay or transmit money or property to the state or a local government; or
- viii. Knowingly conceals or knowingly and improperly avoids or decreases an obligation to pay or transmit money or property to the state or a local government, or conspires to do the same.
- ix. A person who does any of the above acts will be liable for a civil penalty of between \$6,000.00 and \$12,000.00, as adjusted, to be equal to the civil penalty allowed under the federal False Claims Act, 31 U.S.C. sec. 3729, as amended, and adjusted for inflation by the Federal Civil Penalties Inflation Adjustment Act of 1990, as amended (28 U.S.C. 2461 note; Pub. L. No. 101-410), plus three times the amount of all damages, including consequential damages, which the state or local government sustains because of the act of that person. The amount of damages may be reduced if the violator self-discloses the violation.

**d. New York State Finance Law § Section 191.** Any current or former employee, contractor, or agent of any private or public employer who is discharged, demoted, suspended, threatened, harassed or in any other manner discriminated against in the terms and conditions of employment, or otherwise harmed or penalized by an employer, or a prospective employer, because of lawful acts done by the

employee, contractor, agent, or associated others in furtherance of an action brought under this article or other efforts to stop one or more violations of this article, shall be entitled to all relief necessary to make the employee, contractor or agent whole. Such relief shall include but not be limited to:

- (i) an injunction to restrain continued discrimination;
- (ii) hiring, contracting or reinstatement to the position such person would have had but for the discrimination or to an equivalent position;
- (iii) reinstatement of full fringe benefits and seniority rights;
- (iv) payment of two times back pay, plus interest; and
- (v) compensation for any special damages sustained as a result of the discrimination, including litigation costs and reasonable attorneys' fees.

For purposes of this section, a "lawful act" shall include, but not be limited to, obtaining or transmitting to the state, a local government, a qui tam plaintiff, or private counsel solely employed to investigate, potentially file, or file a cause of action under this article, documents, data, correspondence, electronic mail, or any other information, even though such act may violate a contract, employment term, or duty owed to the employer or contractor, so long as the possession and transmission of such documents are for the sole purpose of furthering efforts to stop one or more violations of this article. Nothing in this subdivision shall be interpreted to prevent any law enforcement authority from bringing a civil or criminal action against any person for violating any provision of law. An employee, contractor or agent described above in subdivision one of this section may bring an action in the appropriate Supreme Court for the relief provided in this section.

**e. Qui Tam Lawsuits.** The Federal False Claims Act and the New York State False Claims Act also provide for *qui tam* lawsuits through which any person (the "qui tam relator") may bring a civil action for himself or herself and on behalf of the US Government for any violation of the False Claims Act. If the qui tam relator ultimately wins the lawsuit or if there is a settlement of the lawsuit, he or she may share in a portion of any money recovered with the government and receive reimbursement for reasonable expenses, reasonable attorneys' fees and costs. Please note recovery by the qui tam relator is uncertain and dependent upon the facts and circumstances of the case.

**f. Federal Anti-Kickback Statute ("Anti-Kickback Statute"), 42 U.S.C. § 1320a-7b(b)**

- i. The federal Anti-Kickback Statute is a criminal statute that prohibits the exchange (or offer to exchange), of anything of value, in an effort to induce (or reward) the referral of federal health care program business (Medicare or Medicaid).
- ii. Criminal penalties include fines up to \$25,000 per violation and up to 5 years in prison per violation. Civil penalties include False Claims Act liability, Civil Monetary Penalties up to \$50,000 per violation, civil assessment of up to three times amount of kickback and program exclusion. Safe harbors protect certain payment and business practices that could otherwise implicate the Anti-Kickback Statute from criminal and civil prosecution. To be protected by a safe harbor, an arrangement must fit squarely in the safe harbor and satisfy all of its requirements. Some safe harbors address personal services and rental agreements, investments in ambulatory surgical centers, and payments to bona fide employees.

**g. Physician Self-Referral Law ("Stark Law"), 42 U.S.C. § 1395nn**

- i. The Physician Self-Referral Law (Stark Law) prohibits physicians from referring patients to receive designated health services (DHS) payable by Medicare or Medicaid from entities with which the physician or an immediate family member has a financial relationship, unless an exception applies. It also prohibits entities from presenting or causing to be presented claims to Medicare or Medicaid for those referred services.
- ii. Civil penalties include overpayment/refund obligation, False Claims Act liability, Civil Monetary Penalties (CMP) and program exclusion for knowing violations, potential \$15,000 CMP for each service and civil assessment of up to three times the amount claimed.

#### **h. Non-Retaliation Policy.**

- i. The False Claims Act forbids retaliation by an employer against an employee who cooperates with investigators regarding potential False Claims Act violations or who commences qui tam actions in good faith. In accordance with such laws and its Corporate Compliance Program, Crouse Hospital fully complies with all applicable “whistle-blower” protections.
- ii. The False Claims Act specifically provides that any employee who is discharged, demoted, suspended, threatened, harassed, or in any other manner discriminated against in the terms and conditions of employment by his or her employer because of lawful acts done by the employee on behalf of the employer or others in furtherance of an action under the False Claims Act, including investigation for, initiation of, testimony for, or assistance in an action filed or to be filed under the False Claims Act, shall be entitled to all relief necessary to make the employee whole. The New York State False Claims Act has similar non-retaliation protections.

#### **i. New York State Social Services Law § 145-b: False Statements.**

- i. Under New York Social Services Law § 145-b, it is unlawful for any person, firm or corporation to knowingly by means of a false statement or representation (defined below), or by deliberate concealment of any material fact, or other fraudulent scheme or device, on behalf of himself/herself or others, to attempt to obtain or to obtain payment from public funds for services or supplies furnished or purportedly furnished under the Social Services Law, including Medicaid.
- ii. "Statement or representation" includes, but is not limited to: a claim for payment made to the state, a political subdivision of the state, or an entity performing services under contract to the state or a political subdivision of the state; an acknowledgment, certification, claim, ratification or report of data which serves as the basis for a claim or a rate of payment, financial information whether in a cost report or otherwise, health care services available or rendered, and the qualifications of a person that is or has rendered health care services.
- iii. For the violations described in section i above, the government may recover civil damages (plus interest) equal to three times the amount of the false claim or in the case of non-monetary false statements, three times the amount of actual damages or five thousand dollars, whichever is greater.

#### **iv. DOH Penalties.**

The Department of Health may require the payment of a monetary penalty by any person who fails to comply with the standards of Medicaid or of generally accepted medical practice in a substantial number of cases or grossly and flagrantly violated such standards and receives, or causes to be received by another person, Medicaid payment when such person knew, or had reason to know, that:

1. the payment involved the providing or ordering of care, services or supplies that were medically improper, unnecessary or in excess of the documented medical needs of the person to whom they were furnished;
2. the care, services or supplies were not provided as claimed;
3. the person who ordered or prescribed care, services or supplies which was medically improper, unnecessary or in excess of the documented medical need of the person to whom they were furnished was suspended or excluded from Medicaid at the time the care, services or supplies were furnished; or
4. the services or supplies for which payment was received were not, in fact, provided.

- b. **New York State Social Services Law § 145-c: Sanctions.** It is a violation of the law for any person to apply for or receive public assistance, including Medicaid, by intentionally making (or intending to make) a false or misleading statement. Social Services Law §145-c sets forth certain sanctions which may be imposed against a person for such illegal actions.

- c. **Social Services Law § 145: Penalties.** Any person who submits false statements or deliberately conceals material information in order to receive public assistance, including Medicaid, is guilty of a misdemeanor.
- d. **New York Social Services Law § 366-b.** Any person who obtains or attempts to obtain, for themselves or others, Medicaid benefits by false means, is guilty of a Class A misdemeanor. In addition, any person who, with the intent to defraud, presents for payment any false or fraudulent claim, knowingly gives false information to obtain more money than they are legally entitled to, or knowingly gives false information in order to obtain authorization to provide items or services is guilty of a Class A misdemeanor.
- e. **New York Penal Law Article 155, Larceny.** A person steals property and commits larceny when, with the intent to deprive another of their property, wrongfully takes, obtains, or withholds such property by means of trick, embezzlement, false pretense or fraud. There are four levels of offenses, depending on the value of the property involved.
- f. **New York Penal Law Article 175, False Written Statements.** The crimes under Article 175, involve false written statements, including for example, filing false information, the falsification of business records and tampering with public records.
- g. **Insurance Fraud Under Article 176 of the New York Penal Law.** Under Penal Law § 176.05, a fraudulent insurance act is committed by any person who, knowingly and with intent to defraud, presents, causes to be presented or prepares with knowledge or belief that it will be presented to an insurer, including Medicaid or self-insurer, a claim for health benefits which such person knows to contain materially false or misleading information. There are six levels of offenses, generally depending on the value of the false claim. A person is guilty of aggravated insurance fraud when he commits a fraudulent insurance act, and has been previously convicted within the preceding five years of any offense also involving a fraudulent insurance act.
- h. **Health Care Fraud Under Article 177 of the New York Penal Law**
  - i. Penal Law Article 177 also involves offenses of health care fraud. Under Article 177, a person is guilty of health care fraud when, with the intent to defraud a health plan (including Medicaid), he or she knowingly and willfully provides materially false information or omits material information for the purpose of requesting payment from a health plan for items or services and, as a result of such information or omission, payment is received for which he/she or another person is not entitled. There are five levels of offenses, depending on the value of the fraudulent claims.
  - ii. It is a defense for crimes under Article 177 that the defendant was a clerk, bookkeeper or other employee (other than an employee charged with active management and control, in an executive capacity, of the affairs of the corporation) who, without personal benefit, merely executed the orders of his or her employer/supervisor.
- i. **Insurance Frauds Prevention.** Section 403 of the New York Insurance Law prohibits an individual, firm, association or corporation from committing a fraudulent insurance act as defined in Penal Law § 176.05. Violators may be subject to both criminal liability and money penalties.
- j. **31 U.S. Code § 3730 (h). Relief from Retaliatory Actions.** Any employee, contractor, or agent shall be entitled to all relief necessary to make that employee, contractor, or agent whole, if that employee, contractor, or agent is discharged, demoted, suspended, threatened, harassed, or in any other manner discriminated against in the terms and conditions of employment because of lawful acts done by the employee, contractor, agent or associated others in furtherance of an action under this section (31 U.S. Code § 3730) or other efforts to stop 1 or more violations of this subchapter (Subchapter III. CLAIMS AGAINST THE UNITED STATES GOVERNMENT).

Relief shall include reinstatement with the same seniority status that employee, contractor, or agent would have had but for the discrimination, 2 times the amount of back pay, interest on the back pay,

and compensation for any special damages sustained as a result of the discrimination, including litigation costs and reasonable attorneys' fees. An action under this subsection may be brought in the appropriate district court of the United States for the relief provided in this subsection. A civil action under this subsection may not be brought more than 3 years after the date when the retaliation occurred.

### **III. Employee Whistleblower Protection Rights/Non-Retaliation.**

- a. **Crouse Hospital's Non-Retaliation Policy.** As set forth in greater detail below, the False Claims Act forbids retaliation by an employer against an employee who cooperates with investigators regarding potential False Claims Act violations or who commences qui tam actions in good faith. In accordance with such laws and its Corporate Compliance Program, Crouse Hospital fully complies with all applicable "whistle-blower" protections.
- b. **Specific False Claims Act Protection.** The False Claims Act specifically provides that any employee who is discharged, demoted, suspended, threatened, harassed, or in any other manner discriminated against in the terms and conditions of employment by his or her employer because of lawful acts done by the employee on behalf of the employer or others in furtherance of an action under the False Claims Act, including investigation for, initiation of, testimony for, or assistance in an action filed or to be filed under the False Claims Act, shall be entitled to all relief necessary to make the employee whole.
- c. **New York Labor Laws Prohibiting Retaliatory Personnel Actions.** Two Laws prohibiting employer retaliation against employees are addressed below. The first is Labor Law § 740 and applies to employers in general. The second is Labor Law § 741, and is specific to health care providers.
  - i. **Labor Law § 740.** This law prohibits retaliatory personnel action by an employer against an employee who discloses or who threatens to disclose, to a supervisor or to a public body, an activity, policy or practice of the employer that the employee believes in good faith to be in violation of law, rule or regulation which creates and presents a substantial and specific danger to the public health or safety, or which constitutes health care fraud.
    - 1. The protection against retaliatory personnel action provided above pertaining to disclosure to a public body only applies when the employee has made a good faith effort by bringing the activity, policy or practice believed to be in violation of law, rule or regulation to the attention of a supervisor of the employer and has afforded such employer a reasonable opportunity to correct such activity, policy or practice.
    - 2. Labor Law § 740 also prohibits an employer from taking retaliatory personnel action against an employee who provides information to, or testifies before, any public body conducting an investigation, hearing or inquiry into a violation of law, rule or regulation by such employer. In addition, an employer may not take retaliatory personnel action against an employee who objects to, or refuses to participate in any such activity, policy or practice in violation of a law, rule or regulation.
    - 3. For purposes of Labor Law § 740, "retaliatory action" means the discharge, suspension or demotion of an employee or other adverse employment action taken against an employee in the terms and conditions of employment including actions that would adversely impact a former employee's current or future employment.
    - 4. An employee who has been the subject of a retaliatory personnel action in violation of Labor Law § 740 may commence a civil court action within one year after the alleged retaliatory personnel action was taken. The employee may seek the following relief:
      - a. an injunction to restrain the employer's continued violation;
      - b. the reinstatement of the employee to the same position held before the retaliatory personnel action, or to an equivalent position;
      - c. the reinstatement of full fringe benefits and seniority rights;
      - d. compensation for lost wages and benefits; and

- e. payment by the employer of reasonable costs, disbursements, and attorney's fees.
- 5. Labor Law § 740 does not diminish the rights, privileges, or remedies of any employee under any other law or regulation or under any collective bargaining agreement or employment contract. However, an action brought under § 740 is deemed a waiver of the rights and remedies otherwise available to the employee under any other contract, collective bargaining agreement, law, rule or regulation or under the common law.
- ii. **Labor Law § 741.** This law prohibits retaliatory action by *certain health care* employers against a health care employee who discloses or who threatens to disclose, to a supervisor or to a public body, an activity, policy or practice of the employer or employer's agent that the employee, in good faith reasonably believes constitutes improper quality of patient care. Labor Law § 741 also prohibits retaliatory action by such employer if the employee objects to, or refuses to participate in any activity, policy or practice of the employer that the employee, in good faith, reasonably believes constitutes improper quality of patient care.
  - 1. Protection against retaliatory action does not apply unless the employee has first notified the employer of the improper quality of patient care and has afforded the employer a reasonable opportunity to correct such activity, policy or practice. However, such notice is not required if there is an imminent threat to public health or safety or to the health of a specific patient and the employee reasonably believes in good faith that reporting to a supervisor would not result in corrective action.
  - 2. For purposes of Labor Law § 741, "retaliatory action" means the discharge, suspension, demotion, penalization or discrimination against an employee, or other adverse employment action taken against an employee in the terms and conditions of employment.
  - 3. Under Labor Law § 741, an employee has two years from the date of the alleged retaliatory action to commence a lawsuit. In addition to the remedies that may be available to the employee a court may assess a fine up to \$10,000 against the employer if the court finds that the employer acted in bad faith. These fines are not paid to the employee, but will be deposited into a state-wide fund to improve patient care.