

General Information

Policy Name:	Whistleblower: Compliance Reporting
Category:	Risk Management – Corporate Compliance
Applies To:	Hospital-wide
Key Words:	Whistleblowers, Whistle, Blower, Fraud, Abuse, Compliance, Reporting
Associated Forms & Policies:	<u>Compliance: Federal and State False Claims Acts (P0079)</u> <u>Corporate Compliance Handbook (Doc #8537)</u> <u>Non-Intimidation & Non-Retaliation (P0170)</u>
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Policy

Consistent with the Hospital’s Code of Conduct, the Hospital Bylaws, and this policy, Crouse requires all employees (including former employees), independent contractors, agents, subcontractors, board members, officers, senior leadership, management, medical staff members and volunteers to observe the highest ethical and business standards. These individuals, also referred to collectively as [affected individuals](#) in this policy, shall practice honesty and integrity while complying with all applicable federal, state and local laws as well as Crouse Hospital’s internal policies and procedures. If any individual is aware of a violation or a suspected violation, they should bring the problem to the attention of the Compliance Officer/Director of Risk Management & Corporate Compliance, their immediate supervisor and/or any methods listed under the procedure section of this policy.

Crouse shall not take any retaliatory personnel action against an individual, whether or not within the scope of the employee’s job duties, because such individual does any of the following:

- (a) discloses, or threatens to disclose to a supervisor or to a public body an activity, policy or practice of the employer that the individual reasonably believes is in violation of law, rule or regulation which violation creates or that the individual reasonably believes poses a substantial and specific danger to the public health or safety;
- (b) provides information to, or testifies before, any public body conducting an investigation, hearing or inquiry into any such violation of a law, rule or regulation by such employer; or
- (c) objects to, or refuses to participate in any such activity, policy or practice in violation of a law, rule or regulation.

The protection against retaliatory action provided by paragraph (a) pertaining to disclosure to a public body shall not apply to an individual who makes such disclosure to a public body unless the individual has made a good faith effort to notify his Crouse by bringing the activity, policy or practice to the attention of a supervisor of the employer and has afforded Crouse a reasonable opportunity to correct such activity, policy or practice. Such notification shall not be required where: (a) there is an imminent and serious danger to the public health

or safety; (b) the individual reasonably believes that reporting to the supervisor would result in a destruction of evidence or other concealment of the activity, policy or practice; (c) such activity, policy or practice could reasonably be expected to lead to endangering the welfare of a minor; (d) the individual reasonably believes that reporting to the supervisor would result in physical harm to the individual or any other person; or (e) the individual reasonably believes that the supervisor is already aware of the activity, policy or practice and will not correct such activity, policy or practice.

Procedure

A. General Requirements

- i. The hospital shall publicize the anonymous compliance hotline number and anonymous reporting form to employees and affiliates during new employee, medical staff, volunteer or Board member orientation and periodically through other hospital publications.
- ii. Concerns or reports of suspected or actual violations may be made to the hospital in a number of ways:
 1. Orally or in writing to the staff member's supervisor/manager;
 2. Calling the Compliance Officer/Director of Risk Management & Corporate Compliance (315-470-7477). Or scheduling an in-person meeting;
 3. Calling the compliance hotline (315-470-7770) or completing the anonymous reporting form found on the Crouse Insider page under 'Corporate Compliance'.
- iii. The hospital shall also publicize lines of communication to the Compliance Officer, which are available to all [affected individuals](#) and all [MA](#) recipients of service. The anonymous hotline and contact information for the Compliance Officer shall be posted on the hospital's website. The hospital's policy shall also be posted conspicuously in easily accessible places frequented by employees and applicants for employment.

B. How the report will be handled

- i. Every effort will be made to treat the reporting individual's identity with the appropriate level of confidentiality. If it becomes necessary to take steps that might reveal their identity, if possible the hospital will make a good faith effort to alert the party in advance. If the individual wishes to remain anonymous, his/her complaint will be treated with the same level of care and attention as any other issue brought to the organization. The anonymous reporting party should be aware that it will be difficult for the hospital to provide feedback.
- ii. The confidentiality of the individual reporting a compliance issue shall be maintained 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 law enforcement, or disclosure is required during a legal proceeding, and such persons shall be protected under the hospital's Non-Intimidation & Non-Retaliation Policy (P0170).
- iii. No individual, who in good faith and/or reasonably believes and reports a violation, shall suffer harassment, retaliation, nor will he/she suffer any unfavorable employment consequences (see the Corporate Compliance Non-Intimidation & Non-Retaliation Policy (P0170)).
- iv. Reporting parties shall provide detailed and accurate information. Any reporting parties wishing or agreeing to be contacted must provide the appropriate contact information.
- v. Reports will be responded to according to the nature and extent of the potential non-compliance, rather than on a first-come, first-served basis. Reports will be investigated by the Compliance Officer with the assistance of applicable staff, as necessary.
- vi. The Compliance Officer, or his/her designee, shall document compliance reports and concerns in the

Compliance Reporting Log.

- vii. Outside auditors and/or counsel will be sought to provide objectivity or legal advice, if necessary.
- viii. Crouse may have an obligation to self-report to applicable federal and state agencies depending on the nature of the report and/or suspected violations.

C. Reports to the Board of Directors

The Compliance Officer is charged with oversight of this policy and will report to the Independent Directors of the Board on any issues that may arise hereunder.

References

Fraud and Abuse Laws and Whistleblower Protections

- a. Federal False Claims Act (31 USC §§ 3729 – 3733)
- b. New York False Claims Act (State Finance Law, Article 13)
- c. Social Services Law, Section 145-b – False Statements
- d. Social Services Law, Section 145-c – Sanctions
- e. Social Services Law, Section 145 – Penalties
- f. Social Services Law, Section 366-b Penalties for Fraudulent Practices
- g. Penal Law Article 175 – False Written Statements
- h. Penal Law Article 176 – Insurance Fraud
- i. Penal Law Article 177 – Health Care Fraud

Federal False Claims Act (31 USC §3730(h))

- a. New York State False Claims Act (State Finance Law §191)
- b. New York State Labor Law, Section 740
- c. New York State Labor Law, Section 741

Definitions

Whistleblower Protections: Individuals filing reports under this policy have rights that are protected under the Crouse Hospital Corporate Compliance Handbook (Doc #8537) and the laws listed above. Federal and New York State laws prohibit Crouse from intimidating or retaliating against any individual that reports suspected non-compliance in good faith. In addition, Crouse is prohibited from discriminating against an employee in the terms or conditions of his/her employment where the employee reports suspected non-compliance.

Independent Director: A director who: (i) is not, and has not been within the last three years, an employee of the corporation or an affiliate of the corporation, and does not have a relative who is, or has been within the last three years, a key employee of the corporation or an affiliate of the corporation; (ii) has not received, and does not have a relative who has received, in any of the last three fiscal years, more than \$10,000 in direct compensation from the corporation or an affiliate of the corporation (other than reimbursement for expenses reasonably incurred a director or reasonable compensation for service as a director); and (iii) who is not a current employee of or has a substantial financial interest in, any entity that has made payments to, or received payments from, the corporation or an affiliate of the corporation for property or services in an amount which, in any of the last three fiscal years, exceeds the lesser of \$25,000 or two percent of such entity's consolidated gross revenues. For purposes of this subparagraph, "payment" does not include charitable contributions.

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

MA: Medical assistance for needy persons provided under [Title 11 of Article 5 of the Social Services Law](#)

Addendums, Diagrams & Illustrations

Not Applicable