

# Compliance and Ethics Committee Meeting

Sep 11, 2019 3:00 PM EDT

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# NOTICE OF MEETING

## **NORTH BROWARD HOSPITAL DISTRICT**

### **BOARD OF COMMISSIONERS**

A Compliance and Ethics Committee meeting will be held on Wednesday, September 11<sup>th</sup>, 2019, immediately following the Legal Affairs and Governmental Relations Committee meeting, at the Broward Health Corporate Spectrum Location: 1700 Northwest 49 Street, Fort Lauderdale, Florida, 33309. The purpose of this committee meeting is to review and consider any matters within the committee's jurisdiction.

Persons with disabilities requiring special accommodations in order to participate should contact the District by calling 954-473-7100 at least 48 hours in advance of the meeting to request such accommodations.

Any person who decides to appeal any decision of the District's Board with respect to any matter considered at these meetings will need a record of the proceedings, and for such purpose, may need to ensure that a verbatim record of the proceedings is made which record includes testimony and evidence upon which the appeal is to be based.

North Broward Hospital District Board Of Commissioners  
1700 Northwest 49th Street, Suite #150, Ft. Lauderdale, 33309

**Compliance and Ethics Committee Meeting  
Legal Affairs and Governmental Relations Committee Meeting  
August 21, 2019**

1. **NOTICE**

Notice of this meeting is attached to the official Minutes as EXHIBIT I. The official Agenda for this meeting, as presented for the consideration of the Board, is attached to the official Minutes as EXHIBIT II.

2. **CALL TO ORDER**

There being a quorum present, the meeting was called to order by Chair Nancy W. Gregoire at 2:29 p.m.

3. **COMMITTEE MEMBERS**

Commissioner Nancy W. Gregoire, Chair  
 Commissioner Andrew M. Klein  
 Commissioner Christopher T. Ure  
 Commissioner Ray T. Berry  
 Commissioner Stacy L. Angier  
 Commissioner Marie C. Waugh

**ADDITIONALLY PRESENT** Gino Santorio/President/CEO, Alan Goldsmith/CAO, Alex Fernandez/CFO, Linda Epstein/General Counsel, Jerry Del Amo/Managing Sr. Associate, General Counsel, Brian Kozik/SVP, Compliance and Privacy, Steve Forman/Compliance Consultant, Nigel Crooks/Chief Internal Auditor

4. **PUBLIC COMMENTS** None.

5. **APPROVAL OF MINUTES**

Approval of the Compliance and Ethics Committee Meeting minutes, dated July 24, 2019

**MOTION** It was *moved* by Commissioner Berry, *seconded* by Commissioner Angier, to:

**APPROVE THE COMPLIANCE AND ETHICS COMMITTEE MEETING  
MINUTES DATED JULY 24, 2019.**

Motion *carried* unanimously.

## 6. TOPIC OF DISCUSSION

### 6.1. Chief Compliance Officer Report- Brian Kozik

#### 6.1.1. Compliance Updates

Mr. Kozik updated the committee on the departmental activities since his last monthly report, as seen below.

- Completed third quarter Focus Arrangement audit
- Completed tracking and remuneration audits for Leases, Call Coverage and Medical Directorship
- Observation Stay/Condition code 44 audit, in progress
- Acute Care Discharge Transfer audit, in progress
- Completed Home Health Claims audit
- Internal Audit department conducting a review of the Compliance department's Tracking & Monitoring of Focus Arrangements, Hotline Calls and Remuneration
- Outside firm retained to complete internal compliance reviews for Physicians at Teaching Hospital (PATH) Review for Modifier Reporting, Same Day Readmissions, Medicare's Two Midnight Rule
- Finalization of annual Conflict of Interest Survey and Process, in progress
- Contracting outside consultant with HIPAA Privacy experience to assist in conducting a HIPAA Privacy Rule Gap Assessment
- Director of Pharmacy Services disclosed a drug diversion issue to the Health Resource and Services Administration. The specifics of the corrective action plan was included in the disclosure
- Notification received from HRSA regarding Broward Health Medical Center's corrective action plan from HRSA review conducted at BHMC during the period of July-October 2018
- Proposed organizational chart submitted to Human Resource

## 6.1.2. OIG/CIA Updates

- Additional items requested by Monitor to be included in the Annual Report
- Certifying and sub-certifying employees to determine if there were specific issues they would be disclosing
- Completed Year-4 Arrangements Training sessions for all Covered Persons, including board members
- Conference call scheduled with Monitor on August 26, 2019
- Email received on August 12, 2019 from Monitor requesting copy of the settlement agreement entered into with former CEO Pauline Grant and to add as a Reportable Event
- Update on Sleep Study audit, \$35k repayment
- Status on items requested by IRO, draft report will be provided last week of August
- Response from Monitor pending regarding waivers requested
- Reported to Monitor: HMS (external auditor) identified overpayment related to outpatient claim 48-hour Rule
- Reported to Monitor: identified overpayment related to Gold Coast Hospice
- Reported to Monitor: identified overpayment related to First Coast Service Options, Inc., Medicare Administrator Contractor of Broward Health's region

## 6.2. Compliance Policy Submission for Board Approval

### 6.2.1. GA-004-285 Deficit Reduction

**MOTION** It was *moved* by Commissioner Angier, *seconded* by Commissioner Berry, to:

**APPROVE THE GA-004-285 DEFICIT REDUCTION POLICY.**

Motion *carried* unanimously.

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### 6.2.2. GA-004-345 Monitoring and Auditing

**MOTION** It was *moved* by Commissioner Berry, *seconded* by Commissioner Ure, to:

**APPROVE THE GA-004-345 MONITORING AND AUDITING POLICY.**

Motion *carried* unanimously.

### 6.3. Report from the Executive Compliance Group

#### 6.3.1. Training- Melanie Hatcher

Mr. Kozik presented updates in Ms. Hatcher's absence.

- Year-3 Training completed:
  - Live Manager Training
- Year-4 Training completed:
  - Online Training
  - Live Manager Training
  - Credentialing Staff Training
  - Covered Person Arrangements Training
  - 2,045 physicians' training completed
- Year-5 Training is the current focus

#### 6.3.2. Sanction Screening- Lee Ghezzi

Mr. Ghezzi reported that all of the areas his sub-committee was assigned to review had been completed. A number of changes were made to the process and a revision was made to the policy. The subcommittee was working closely with the audit and compliance departments to create an audit and monitoring system for sanction screening.

#### 6.3.3. Disclosures/HIPAA/COI- Ana Calderon Randazzo

Ms. Randazzo shared the breakdown of the remaining 144 open disclosures. She further reported that HIPPA violations remained in the lead of open disclosures.

- 8: Over 2-years old
- 64: over 90 days old
- 41: between 30-90 days old
- 39: Less than 30 days old

**\* Note, Mr. Kozik modified the reporting order of the Subgroups (6.3.4 is below 6.3.6)**

#### 6.3.5. Policies- Denise Moore

Lauren Brown presented the policies update in the absence of Ms. Moore.

- All compliance policies and procedures were reviewed during the year, as required by the CIA
- Deficit Reduction Act and Monitoring and Auditing policies were been approved by the board
- 6 additional policies were approved that did not require board approval
- General Counsel Interactions Policy, pending approval by board

#### 6.3.6. IRO Plan Correction- Beth Cherry

Ms. Cherry reported that 37 of the 43 items on the IRO plan of correction had been completed.

- 4 remained in progress
- 2 were substantially complete

#### 6.3.4. Risk Assessment Alex Fernandez

Mr. Fernandez reported that the initial risk assessment had been completed and that a team was selected to rate the internal controls. The team consisted of CFO, Alex Fernandez, CAO, Alan Goldsmith, CIO, Brian Kozik and CIA, Nigel Crooks. Once results were compiled, the team would begin to identify risks, manage them and create an action plan to mitigate the risks from reoccurring.

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The Auditing and Monitoring subcommittee would be transitioned to more of a monitoring type committee, which would include oversight of the audits performed within the compliance department, internal audit department and regional compliance committees. Updates, performance and outcomes would be monitored for said audits as well.

### 6.3.7. Annual Report- Lucia Pizano-Urbina

Ms. Pizano reported on the members within the new Annual Report Subcommittee, which included members from the legal and compliance departments, Alan Goldsmith and Gino Santorio. The goal of the subcommittee is to stay organized with the completion of the report and to ensure it's completed in a timely manner. An outline was created for required items on the annual report, including additional items requested by the Monitor. Once the pending IRO report is received, a response will be drafted, as the response is one of the most significant sections to the annual report.

### 6.4. NBHD 2019 Compliance – Arrangements Training

Due to lack of certain commissioners being present to receive the Covered Persons Training, item 6.4 was deferred to the August 28<sup>th</sup>, Board of Commissioners meeting.

## 7. **ADJOURNMENT** 3:22 pm.

**MOTION** It was *moved* by Commissioner Ure, *seconded* by Commissioner Berry, to:

**ADJOURN THE COMPLIANCE AND ETHICS COMMITTEE MEETING.**

Motion *carried* unanimously.

Respectfully submitted,  
Commissioner Stacy L. Angier, Secretary/Treasurer



**Origination:** N/A  
**Effective:** N/A  
**Last Reviewed:** N/A  
**Last Revised:** N/A  
**Next Review:** N/A  
**Sponsor:** *Brian Kozik: SVP, COMPLIANCE & PRIVACY*  
**Section:** *GA-Corporate Compliance*  
**Manual:**

## GA-004-002 Compliance Office and General Counsel Protocol

### I. Purpose

The Department of Health and Human Services (HHS) Office of Inspector General (OIG) Compliance Program Guidance calls for the organization’s Compliance Officers to be independent in carrying out the responsibilities of the Corporate Compliance Department. These responsibilities include conducting investigations, internal reviews, and audits. However, the OIG also recognizes the important role that the office of General Counsel serves in resolving potential violations of law and regulations. Furthermore, under the current Corporate Integrity Agreement (CIA) with the HHS OIG, prompt and efficient investigations of potential violations of law or regulation is critical.

The purpose of this policy is to provide written guidance regarding the relationship of the Corporate Compliance Department with the office of General Counsel regarding investigations and resolutions of potential wrongdoing. This policy applies to any and all matters that may involve both the Corporate Compliance Department and General Counsel.

### II. Key Terms

**Confidentiality:** Refers to those who contact a hotline and request that information provided through the Compliance or Workforce Diversity, Inclusion and Advocacy hotline be kept confidential. Such information must be kept confidential and be divulged only to those who have a need to know, such as those performing an investigation into the concerns disclosed by the caller. Investigators should work to protect the source of their information, including a caller’s name and contact information if these details are provided by the caller.

**General Counsel:** Either the General Counsel and/or his/her designee and/or an outside attorney at the direction and approval of the office of General Counsel acting on behalf of Broward Health.

**Hotline:** A confidential communication channel for use by all workforce members, patients, and patient families to report suspected or potential violations of law, regulations, standards, Code of Conduct, policies, or other wrongdoing, via a phone line answered by live operators or web-based reporting.

**Investigation:** The formal development of a factual record including but not limited to interviews, document review, research, expert opinions, if applicable; outside counsel guidance and opinions, if necessary, to determine if wrongdoings occurred.

**SVP/Chief Compliance Officer (CCO):** The individual responsible for overseeing, implementing, and monitoring the compliance requirements of the Broward Health Compliance and Ethics Program. In addition, this individual also holds the title of Chief Privacy Officer.

**Workforce Member:** Any employee, independent contractor, agent, trainee, or other person who performs work for or on behalf of Broward Health. This includes full-time, part-time, and pool employees; associates; directors; officers; managers; supervisors; volunteers; members of the Board and members of standing committees; medical staff employed by or otherwise affiliated with Broward Health; medical students and all other affiliated students or others receiving training at any Broward Health facility; and others who provide goods or services to Broward Health.

### III. Policy

1. The Corporate Compliance Department and the Office of General Counsel shall maintain consistent open communications and establish reciprocal reporting obligations to ensure that the appropriate department is notified of issues that are of primary concern to the other.
2. The CCO, or designee, shall be responsible for conducting independent investigations, including having the authority to design and coordinate internal investigations (e.g., responding to reports of problems or suspected violations). The Corporate Compliance Department will coordinate any necessary corrective action and have oversight over the implementation of any such corrective action.
3. The CCO is empowered to review all documents and records without limitation, including all contracts and obligations, seeking the advice of General Counsel, as appropriate.
4. In situations where there are identified legal issues, including indications that workforce members or others associated with Broward Health may have participated in misconduct or committed wrongdoings, the CCO shall consult with the Office of the General Counsel to seek guidance regarding such issues.
5. If at any point during an inquiry or investigation, the CCO identifies potential legal issues or determines that there is evidence to support an allegation of violation of law or regulation; the Office of the General Counsel shall be immediately notified and consult with the CCO on what further investigative steps would be appropriate, as well as determining whether the investigation should be conducted by or at the direction of the Office of the General Counsel.

### IV. Procedures

1. Investigations conducted by the Corporate Compliance Department will be conducted under the direction of the CCO, including responding to complaints received by the Corporate Compliance Department, Compliance Hotline, referred to the CCO by management, or developed during the ongoing auditing and monitoring process.
2. Matters reported through the Compliance Hotline or other communication sources, managed by the Corporate Compliance Department, that suggest substantial violations of compliance policies,

- regulations, or statutes should be documented and investigated promptly to determine their veracity.
3. The CCO has the independent authority to interview Board Members, workforce members, and others associated with Broward Health. The CCO can review all relevant documents and information, including, but not limited to patient records, billing records, and records concerning arrangements with other parties.
  4. Upon report or notice of suspected non-compliance with any law or regulation, the CCO will promptly conduct an initial inquiry to determine whether there is sufficient information to warrant further investigation. If such evidence is found, the CCO will consult with the office of General Counsel to determine whether a full investigation is warranted.
  5. If an investigation evidences an alleged likely probable violation of law, the Corporate Compliance Department and the Office of the General Counsel shall notify Broward Health Executive Leadership, provide a description of the impact of the alleged violation to the organization and advise whether disclosure to the appropriate government authority is warranted pursuant to Broward Health policies and procedures. The Office of the General Counsel, in conjunction with the CCO will be responsible for notifying senior management of the results of any investigation under their direction.
  6. All documents created, obtained or produced during the investigation that are at the direction of the Office of the General Counsel must include the statement: "Confidential Communication/Attorney Client Privilege/Attorney Work Product/At the Direction of Legal Counsel."
  7. The Office of the General Counsel should be consulted on all matters related to potential liability resulting from inappropriate claims submission to assist in determining the extent of liability, as well as to assist in planning the appropriate course of action to correct deficiencies and resolve any liability issues.
  8. The Office of the General Counsel, in conjunction with the CCO will be responsible for notifying senior management of the results of any investigation under their direction.
  9. During any investigation, the Office of the General Counsel and the Corporate Compliance Department shall ensure that all evidence is preserved consistent with the Records Retention Policy.

#### V. Related Policy and Compliance Documents

- Actions and Events Reportable to the OIG under the Corporate Integrity Agreement, Policy No. GA-004-006
- Compliance Investigations, Policy No. GA-004--008

#### VI. References

United States Sentencing Commission. Guidelines Manual. 1 Nov. 2012.  
[http://www.ussc.gov/Guidelines/2012\\_Guidelines/Manual\\_PDF/index.cfm](http://www.ussc.gov/Guidelines/2012_Guidelines/Manual_PDF/index.cfm).

Department of Health and Human Services Office of Inspector General, OIG Supplemental Compliance Program Guidance for Hospitals. 70 Fed Reg. 19, 4858, 4858 (January 31, 2005).  
<http://oig.hhs.gov/fraud/docs/complianceguidance/012705HospSupplementalGuidance.pdf>

Department of Health and Human Services Office of Inspector General. Publication of the OIG

Compliance Program Guidance for Hospitals. 63 Fed. Reg. 35, 8987, 8987 (Feb. 23, 1998).  
<http://oig.hhs.gov/authorities/docs/cpghosp.pdf>.

Broward Health Corporate Integrity Agreement with the DHHS Office of Inspector General, dated August 20, 2015.

**Attachments:**

No Attachments

DRAFT

# **North Broward Hospital District Board of Commissioners Compliance Training**

**Brian W. Kozik, CHC, CHPC, CCEP  
SVP, Chief Compliance & Privacy Officer  
September 11, 2019**

# Scandal at University of Maryland Medical System: Board Members

- Inaugural Compliance Officer and Compliance Program implemented in 2010 including the seven (7) elements.
- In April 2019 the Compliance Officer resigned amid revelations that some Board members had contracts with the Medical System.
- Senior Leaders made deals with Board members that weren't always competitively bid or declared necessary by the full Board, including a consulting agreement with the chair of the Board's audit and compliance committee.

# Scandal at University of Maryland Medical System: Board Members

- Most Compliance Officers focus almost exclusively on conflicts of interest with respect to physicians, and conflicts of interest related to non-physician Board members may fall by the wayside.
- The reason is that physician conflicts pose obvious legal and regulatory risks, including Stark Law and Anti-Kickback Statute violations, while Board conflicts are more about violating corporate policies.

# Scandal at University of Maryland Medical System: Board Members

- The Compliance Officer indicated that she regretted not making sure there was better documentation of her questions and answers provided about the University's deals with certain Board members.
- The CEO, General Counsel, Chief Administrator Officer, the Chief Performance Officer and the Chief Compliance Officer resigned.
- Nine (9) of the thirty (30) Board members either personally or through other business relationships, had financial linkages to the University.

## Scandal at University of Maryland Medical System: Board Members

- The Chair of the Audit Committee earned revenue on the side. His firm entered into consulting arrangements with the CEO and another executive for performance improvement initiatives. He received a monthly retainer payment of \$15,000.
- The CEO acknowledged the Board was not told about the contract beforehand, but that it did appear on a disclosure of financial relationship form. The contract did not go through Supply Chain and the full Board was not apprised.

# Scandal at University of Maryland Medical System: Board Members

- Another Board member sold to the University \$500,000 worth of *Healthy Holly* books she self-published in a deal that was brokered by the former CEO. An outside consultant brought to review these issues concluded: “Our review has determined that management did not present the book purchases to the Board or any committee for prior approval, as required by then-in-effect Conflict of Interest policies”.
- At the University, conflict of interest disclosure forms were given to the general counsel. The disclosures were also summarized for the audit and compliance committee, which determined when they were significant. “According to minutes of the Committee’s meetings, either this nor other financial relationships of Board members was noted as significant”.

# Scandal at University of Maryland Medical System: Board Members

- The former CCO noted Board disclosures “were not on my risk radar. It is not a federal health care regulation”.
- The former CCO also noted the importance of compliance officers documenting their concerns with clarity. “Make sure the minutes are clear that you have brought up a potential issue and recorded the discussion details and the final Board decision.”
- She thinks Boards should have at least one member who is knowledgeable about compliance and the rest have to be educated by the compliance officers.

# Scandal at University of Maryland Medical System: Board Members

- Another CCO tells her Board, “every time you read about health care organizations that are in trouble or under investigation, you should ask your compliance officer, could it happen here?”
- If the Board asked her how the hospital prevents major conflicts of interest, she would describe its annual and new hire training; reviews of conflict of interest statements and monitoring; her ongoing awareness as CCO and not being ‘afraid to speak up about it’.

# Scandal at University of Maryland Medical System: Board Members

- In the wake of the scandal, the University adopted a new conflict of interest policy, and Board members are required to attest to their compliance with it. The policy prohibits sole sourcing contracting with Board members, who are forbidden to engage in personal services agreements, regardless of circumstances.
- The nine (9) Board members with potential conflicts “separated” from the Board. If they had personal service contracts with the University, the Board members resigned. Board members with professional services contracts took voluntary leaves of absence.