

# NOTICE OF MEETING

## NORTH BROWARD HOSPITAL DISTRICT

### BOARD OF COMMISSIONERS

A Compliance and Ethics Committee Meeting will be held on Wednesday, November 18, 2020, immediately following the Legal Affairs and Governmental Committee Meeting, at 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.

For the most updated information, please check our website as schedules may change for reasons beyond our control: <https://www.browardhealth.org/pages/board-calendar>

Persons with disabilities requiring special accommodations in order to participate should contact the District by calling 954-473-7481 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** **Immediately following the Audit Committee Meeting** **October 21, 2020**

The Compliance and Ethics Committee Meeting of the North Broward Hospital District was held on October 21, 2020, immediately following the Audit Committee Meeting, via WebEx video conference.

### **1. NOTICE**

Official notice and agenda of this meeting is attached to the Minutes, as EXHIBIT I and EXHIBIT II, as presented for consideration of the Committee.

### **2. CALL TO ORDER**

There being a quorum present, the meeting was called to order by Chair Nancy W. Gregoire at 12:26 p.m.

### **3. COMMITTEE MEMBERS**

*Present:*

Commissioner Stacy L. Angier  
Commissioner Marie C. Waugh  
Commissioner Christopher T. Ure, Vice Chair  
Commissioner Nancy W. Gregoire, Chair

*Not Present:*

Commissioner Ray. T. Berry

*Senior Leadership*

*Additionally Present:*

Gino Santorio/President/Chief Executive Officer, Alan Goldsmith/Chief Administrative Officer, Alex Fernandez/Chief Financial Officer, Linda Epstein/Corporate General Counsel, Jerry Del Amo/Deputy General Counsel

### **4. GOVERNOR'S EXECUTIVE ORDER ANNOUNCEMENT**

General Counsel delivered the Governor's Executive Order for the record.

"This public board meeting is being conducted through communications media technology in accordance with the Governor's Executive Order No. 20-69, as extended by the Governor's Executive Order No. 20-246 and Section §120.4(5)(b)2 of the Florida statutes. This meeting is open to the public who are able to attend this meeting via telephone conference call. The conference call information is currently posted on Broward Health's website. All requirements of Florida's Sunshine Law are still in effect, including memorialization of minutes. While not a requirement under Florida law, we will attempt to record this meeting and post it on Broward Health's website for the public and for those who may not be able to attend this live telephone conference."

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**5. PUBLIC COMMENTS**

Chair Gregoire opened the floor for public comments, in which there were none.

**6. APPROVAL OF MINUTES**

Without Objection, Chair Gregoire Approved the Compliance Committee Meeting Minutes for September 8, 2020.

Motion *carried* without dissent.

**7. TOPIC OF DISCUSSION**

7.1. Chief Compliance Officer Report – presented by Brian Kozik, SVP/Chief Compliance and Privacy Officer

7.1.1. Compliance Department Updates

- Two-Midnight Rule Audit, completed
  - Objective is that if a physician believes that a patient requires two or more nights of medically necessary care, but the patient goes home before the second midnight, the provider is still eligible to receive the inpatient rate based on the initial documentation.
  - Originally identified a 22% error rate, resulting in a \$103,940.49 payback.
  - Look-back result identified a 9.8% error rate, which was a significant decrease from prior audit.
  - Email pending to OIG Monitor containing corrective action plan and recommendation for next audit to occur in early 2021.
- Non-Focus Arrangements Audit, completed
  - Objective is to review a sample of contracts and related documents to ensure internal review, approval process, and other internal procedures were followed and documented as required.
  - Final report issued on September 1, 2020. There were no findings that required a corrective action plan.
- Focus Arrangements Review for CIA Year 5, Q2, completed
  - Objective is to ensure internal review and approval processes and procedures were properly followed.
  - Final report issued on September 7, 2020. Insignificant findings with no serious corrective action required.
- Observation Stay/Condition Code 44 Audit, completed.
  - Condition Code 44 is when the Hospital Utilization Review Committee changes a physician’s order from inpatient status to outpatient due to lack of certain criteria.
  - Audit report completed and issued with minor findings corrected and no outstanding corrective action plan.

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- Broward Health Medical Center's Institutional Review Board (IRB) Audit, in progress
  - Objective of the review is to use an FDA checklist to determine that Broward Health IRB is following the guidelines by the agencies listed below:
    - Code of Federal Regulations, subchapter part 56.
    - Institutional Review Boards.
    - Centers for Medicare.
    - Medicaid Services.
  - 40% complete.
- Focus Arrangements Review for CIA Year 5, Q3 and Q4, in progress
  - Objective is to ensure internal review and approval processes and procedures were properly followed.
  - 30% complete.
- Tracking and Remuneration Audit for Employed Physician Agreements, in progress
  - Objective is to review payments made during review period and verify internal controls were effective and consistent with terms of agreement.
  - Sampling 30 agreements.
  - 30% complete.
- BHIP/BHMC Coding Audit for Q2, in progress
  - Objective is to review inpatient and outpatient coding to ensure it meets federal coding guidelines and Broward Health's accuracy rate of 95%.
  - The BHIP review is 90% complete.
  - The BHMC review is in the closing process.
- Emergency Medical Treatment and Active Labor Act (EMTALA) Screening Examination, in progress
  - Objective is to ensure a proper medical screening examination is conducted in the Emergency Department to comply with EMTALA regulations. The review is being conducted at Broward Health Medical Center.
  - As a result of COVID-19 preventing emergency room visits, fieldwork was put on hold.
  - Working on plan to return to fieldwork.
  - Fieldwork is 10 % complete.
- SafeGuard Services Audit of Broward Health Medical Center Short Stay, completed
  - Objective is to determine whether Medicaid payments made for inpatient stays less than two days were in accordance with state and federal laws, regulations, and policies between October 1, 2014 through March 31, 2018.
  - Medical Center contested 37 of 38 findings, in which a letter in support of their position on August 26, 2020.
- Enterprise Risk Assessment Year-2, completed
  - Objective is for the system's leadership to identify high risk areas within their operations. The systemwide results would be used to identify risks

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and addressed by internal teams or added to the work plans of Compliance and Internal Audit. Said results will be reported to the Auditing/Monitoring subcommittee.

- 13 high risks identified.
- Enterprise Risk Assessment will not occur in 2021. These assessments are typically done every two-to-three years.
- HIPAA Breaches
  - Breach of impermissible disclosures of patient health information (PHI).
    - (1) Broward Health Medical Center.
    - (1) Broward Health North.
    - (1) Broward Health Coral Springs.
  - Broward Health is no longer required to report HIPAA breaches to the OIG Monitor/Federal Government, unless they are significant breaches.
- Semi-Annual Ambulatory Division Virtual Provider Meeting – October 15, 2020
  - Brian Kozik presented on the topic of “What happens post-CIA.”
- Compliance Department Rebranding
  - A code of conduct video released October 2, 2020 within the Broward News issue.
  - The pending video will feature Mr. Kozik thanking the entire workforce for a successful end of the CIA.

7.1.2. CURES Act – Information Blocking Rule – presented by Katherine Ross, Chief Information Officer

- CURES Act Overview
  - On March 9, 2020, Office of the National Coordinator (ONC) released its CURES Act Final Rule.
  - Objective
    - Implements key provisions to advance interoperability, support seamless exchange of access, and use of electronic health information.
    - Addresses information blocking.
  - Information Blocking Definition – A practice that is likely to interfere with, prevent or materially discourage access, exchange, or use of electronic health information (unless required by law or specified by the Secretary pursuant to rulemaking).
  - The information blocking rules fundamentally change how providers respond to requests from third parties for electronic health information and their customary approach for complying with HIPAA.
  - Results
    - Transparency into the cost and outcomes of care.
    - Competitive options in obtaining medical care.
    - Modern smartphone apps to provide convenient access to records.
    - Restricts information blocking.

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7.1.3. **OIG/CIA Update** – presented by Brian Kozik, SVP, Chief Compliance and Privacy Officer

- Sleep Study, closed
  - The Office of the Inspector General (OIG) exercised its discretion to not resolve this reportable event as a Civil Money Penalty (CMP) matter.
  - This is a savings of more than \$500,000.
- IRO
  - 50 transactions tested this year.
  - Initial results submitted to Compliance Department with a request for additional information. Information to be provided, with the assistance of Contract Administration, for outstanding items that could not be located during testing.
  - Draft report, pending additional information.
- CIA Year-5 Annual Report, 95% complete
  - Annual Report Committee meets biweekly.
  - Draft report, in progress.
  - Requested due date extension from OIG Monitor (November 4, 2020 to December 18, 2020) as a result of the IRO review being delayed.

7.2. **Compliance Budget – Fiscal Year 2021** – presented by Brian Kozik, SVP, Chief Compliance and Privacy Officer

- Income Statement Summary – Budget Review
  - Salaries and wages makeup 72% of budget.
  - Budgeted for 18.5 full-time employees (FTE), aligns with work plan.
  - Significant reduction of *Fees Other* category from 2019 to 2020.
  - Significant reduction of *Other Expenses* category from 2019 to 2020.

**MOTION** It was *moved* by Commissioner Angier, seconded by Commissioner Waugh, that:

The Compliance and Ethics Committee Recommend that the Board of Commissioners of the North Broward Hospital District Approve the FY2021 Compliance Budget.

Motion confirmed by roll-call vote:

**YES** Commissioner Angier  
**YES** Commissioner Waugh  
**YES** Commissioner Ure, Vice Chair  
**YES** Commissioner Gregoire, Chair

Motion *carried* 4/0.

7.3. **Executive Compliance Group (ECG) – Self-Assessment Results** – presented by Brian Kozik, SVP, Chief Compliance and Privacy Officer

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- The ECG is the group that supports the Chief Compliance Officer (CCO) in carrying out compliance program responsibilities. To assist the CCO, the ECG implemented the following subcommittees that meet monthly:
  - Code of Conduct/Policies and Procedures.
  - HIPAA/Disclosures.
  - IRO Plan of Correction.
  - Risk Assessment/Auditing and Monitoring.
  - Sanctions Screening.
  - Training
- Self-Assessment Results
  - Each ECG member completed the self-assessment.
  - Assessment included 27 specific duties/responsibilities using a rating scale from 1–4 (1–not effective to 4–highly effective). There were no scores returned with a 1 or 2.
  - Assessments included anonymous comments regarding committee strengths and opportunities for improvement.
- Opportunities were shared.
- Next ECG meeting is November 17, 2020.

#### 7.4. Transition Plan – Post CIA – presented by Brian Kozik, SVP, Chief Compliance and Privacy Officer

- Compliance Program Administration
  - Mr. Kozik to continue to report to the Board of Commissioners.
  - Mr. Kozik to continue to provide the ECG and Committee with an annual report on the status of the program.
- ECG and subcommittees will continue to oversee the program at the operating level as well as provide program support to the CCO.
- Management Certifications
- Code of Conduct, Policies and Procedures – Compliance policies will continue to be updated as appropriate within a two-year cycle.
- Training – Compliance training for new employees, managers, board members and medical staff will continue, in addition to annual training.
- Focus Arrangements – To continue use of Compliance 360 as centralized tracking system for all new, existing, and renewed Focus Arrangements.
- Risk Assessment and Internal Review – Enterprise-wide risk will be reevaluated every two years or more, as appropriate.
- Disclosure Program – To report actual or potential violations of the Code, policies or applicable laws. Regulations will continue.
- Exclusion Screening – Exclusion screening activities will continue as they were under the CIA.
- Overpayments – To be processed and refunded in accordance with the Affordable Care Act and other applicable laws and regulations governing this area.

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7.4.1. Approval of Resolution FY21-07 Resolution for Oversight of Compliance Program and Obligations of the CIA

**MOTION** It was *moved* by Commissioner Ure, *seconded* by Commissioner Waugh, that:

The Compliance and Ethics Committee Recommend that the Board of Commissioners Authorize the North Broward Hospital District to Adopt Resolution FY21-07, Resolution for Oversight of Compliance Program and Obligations of the CIA, in Accordance with Section III.A.3 of the CIA for the CIA’s Fifth Reporting Period Running From August 31, 2019 to and Through August 30, 2020, to Document the Board’s Oversight and Conclusions Pertaining to the District’s Compliance Program and the District’s Obligations Under its CIA.

Motion confirmed by roll-call vote:

**YES** Commissioner Angier  
**YES** Commissioner Waugh  
**YES** Commissioner Ure, Vice Chair  
**YES** Commissioner Gregoire, Chair

Motion *carried* 4/0

7.5. Compliance Education – presented by Steve Forman, Board of Commissioners’ Compliance Consultant

Mr. Forman shared an overview of the “Health Care Fraud and Abuse Control (HCFAC) Program Report” issued annually by the Department of Health and Human Services-Office of Inspector General and the Department of Justice.

8. **ADJOURNMENT**

There being no further business on the agenda, the Chair adjourned the meeting at 1:13p.m.

Respectfully submitted,  
Commissioner Marie C. Waugh, Secretary/Treasurer

# North Broward Hospital District Board of Commissioners Compliance Education

Brian W. Kozik, CHC, CHPC, CCEP  
SVP, Chief Compliance & Privacy Officer

November 18, 2020



**BROWARD HEALTH**<sup>®</sup>

Corporate Compliance  
& Ethics Department

# COMPLIANCE & ETHICS COMMITTEE

Board of Commissioners  
Education



# COMPLIANCE & ETHICS COMMITTEE

The Department of Health and Human Services and The Department of Justice

Healthcare Fraud and Abuse Control Program

Annual Report for Fiscal Year 2019

June 2020



# COMPLIANCE & ETHICS COMMITTEE

- During Fiscal Year 2019, the Federal Government won or negotiated over \$2.6 billion in health care fraud adjustments and settlements, in addition to other health care administrative impositions.
- The DOJ opened 1,060 new criminal health care fraud investigations.
- Federal prosecutors filed criminal charges in 485 cases involving 814 defendants.
- Investigations conducted by the OIG resulted in 747 criminal actions against individuals or entities that engaged in crimes related to Medicare and Medicaid, and 684 civil actions, which include false claims and unjust-enrichment lawsuits filed in federal district court, CMP settlements and administrative recoveries related to provider self-disclosure matters.
- Funds awarded to private persons who file suits on behalf of the Federal Government under the qui tam (whistleblower) provisions of the False Claim Act totaled: \$254,579.804.



# COMPLIANCE & ETHICS COMMITTEE

## Office of Inspector General Hospitals and Health Systems

- February 2019 – Union hospital agreed to pay \$5 million to resolve civil FCA allegations in the Northern District of Georgia engaged in improper financial relationships with referring physicians.
- March 2019 – MedStar Health Inc. in Maryland, agreed to pay \$35 million to resolve civil FCA allegations that MedStar paid kickbacks to a cardiology group in exchange for referrals.



# COMPLIANCE & ETHICS COMMITTEE

## Office of Inspector General Physicians and Other Practitioners

- November 2019 – A doctor was sentenced to two years' probation in Missouri, after pleading guilty to obstructing an investigation by the FBI regarding whether he billed the Medicare program and private insurers for face-to-face office visits performed on dates when he was actually traveling outside of Missouri, and sometimes traveling outside of the U.S.
- July 2019 – A doctor pleaded guilty in Alaska to one count of conspiracy to commit controlled substances fraud and one count of health care fraud. The defendant knowingly and intentionally distributed controlled substances outside the usual course of professional practice and without a legitimate medical purposes.



# COMPLIANCE & ETHICS COMMITTEE

## Office of Inspector General EMTALA (Patient Dumping)

- December 2018- Hartford Hospital in Hartford, CT entered into a \$40,000 settlement agreement to resolve allegations that it violated EMTALA. The hospital failed to provide an appropriate medical screening examination to a 21 year old woman who was 23.5 weeks pregnant who presented to Hartford's ED with symptoms of preeclampsia.
- May 2019 – Park Royal Hospital in FL entered into a \$52,414 settlement agreement. The hospital, which has specialized psychiatric capabilities, failed to accept transfer of a patient with unstabilized emergency condition from another hospital's ED. The patient presented to the ED following a suicide attempt and was diagnosed with lacerations to the wrist an emergency psychiatric condition. They refused to take the transfer.



# COMPLIANCE & ETHICS COMMITTEE

## Office of Inspector General Self-Disclosure

- November 2018 – While onsite, the OIG discovered that OSD management, LLC, located in Texas, failed to screen its Covered Persons as required by the CIA. OIG issued a Demand Letter for Stipulated Penalties, and OSD paid Stipulated Penalties of \$35,000 for failure to screen its Covered Persons in accordance with the requirements of the CIA.
- June 2019 – The Broward Health Stipulated penalty of \$690,000 was noted for failure to comply with certain requirements of the CIA.



Thank You