



## UNIVERSITY POLICY

<b>SUBJECT:</b>	CORPORATE COMPLIANCE AND PRIVACY	<b>TITLE:</b>	REPORTING COMPLIANCE AND ETHICS CONCERNS		
<b>CATEGORY: Check One</b>	<b>Board of Trustees</b> <input checked="" type="checkbox"/>	<b>Presidential</b> <input type="checkbox"/>	<b>Functional</b> <input type="checkbox"/>	<b>School/Unit</b> <input type="checkbox"/>	
<b>Responsible Executive:</b>	Senior Vice President/Chief Ethics & Compliance Officer		<b>Responsible Office:</b>	Ethics, Compliance & Corporate Integrity	
<b>CODING:</b>	00-01-15-55:00	<b>ADOPTED:</b>	01/16/07	<b>AMENDED:</b>	03/15/11
<b>LAST REVIEWED: 03/15/11</b>					

### I. PURPOSE

The University of Medicine and Dentistry of New Jersey (UMDNJ) is committed to the prevention and detection of fraud, waste, and abuse related to all aspects of the operation of UMDNJ, including all UMDNJ, federal and state healthcare programs.

UMDNJ is also committed to the highest possible standards of ethical and business conduct and to the proposition not only that employees have a responsibility to report actual or suspected wrongful conduct but also that they should be able to do so without fear of reprisal. Such reports shall be accepted willingly, kept confidential to the extent possible in conformance with applicable laws, regulations and other procedures, and addressed promptly and appropriately.

Consistent with UMDNJ's commitments, this policy is intended to formalize and enhance existing procedures for reporting allegations of wrongful conduct.

### II. ACCOUNTABILITY

Under the direction of the President, the Senior Vice President and General Counsel, the Senior Vice President/Chief Ethics & Compliance Officer, and the Vice President of Investigations, shall be responsible for ensuring compliance and the implementation of this policy.

### III. APPLICABILITY

This policy shall apply to all employees of UMDNJ as defined below.

### IV. DEFINITIONS

- A. **Abuse:** Incidents or practices of providers that are inconsistent with sound medical practice and may result in unnecessary costs, improper payment, or the payment for services that either fail to meet professionally recognized standards of care or are medically unnecessary.
- B. **Adverse Employment Action:** Adverse employment action includes, but is not limited to, demotion, paid or unpaid administrative leave, termination, layoff, reduction of job and/or responsibilities, transfer to a lesser position, denial of promotions, denial of compensation or benefits, other significant adverse changes in terms or conditions of employment as a result of an employee's report of wrongful conduct.
- C. **Contractor or agent:** Includes any contractor, subcontractor, agent, or other person including, but not limited to those which or who, on behalf of UMDNJ furnishes, or otherwise authorizes the

furnishing of, Medicaid health care items or services, performs billing or coding functions, or is invoiced in the monitoring of health care provided by the entity.

- D. **Employee:** Any officer or employee (including faculty members), agent or, for the purposes of this policy, contractors and subcontractors when performing functions under the authority of, or acting on behalf of UMDNJ,
- E. **Ethics Help Line:** A confidential and independent mechanism for making reports of wrongful conduct to or making other communications seeking ethics or compliance guidance from, the Office of Ethics, Compliance and Corporate Integrity (OECCI). The Ethics Help Line is available 24 hours a day/7days a week, via a toll free phone number, 800-215-9664 or via a secure Internet web link. The Help Line accommodates 150 languages and special handling for challenged callers.
- F. **Fraud:** The intentional deception or misrepresentation that an individual knows to be false, or does not believe to be true, and makes, knowing that the deception could result in an unauthorized benefit to himself/herself or another person or entity.
- G. **Good Faith:** As applied to a whistleblower or a witness, a belief in the truth of one's allegations which a reasonable person in the complainant's or witness's position would have, based on the information known to the complainant or witness at the time and made without malice or consideration of personal benefit. An allegation is not in good faith or is made in bad faith if the complainant knew or had reason to know it was false, or if the allegation was made with reckless disregard for or willful ignorance of information that would negate the allegation.
- H. **Other Sanctions:** In addition to other laws, penalties and fines, the Federal Program and Civil Remedies Act of 1986 provides the Department of Health and Human Services (HHS) with the authority to impose remedial action or administrative sanctions against individuals who consistently fail to comply with Medicare law or are deemed abusive to federally-funded program including the Medicare program. Sanctions include:
1. Penalties
  2. Provider education and warning
  3. Revocation of assignment privileges
  4. Withholding of the provider's Medicare payments and recover of Medicare's overpayments
  5. Exclusion of the provider from the Medicare program and posting of the provider's name on a national Sanctioned Provider list that is sponsored by the U.S. Government.
- I. **Protected Disclosure:** Any communication that discloses or demonstrates an intent to disclose information that may evidence either (1) an instance of wrongful conduct, or (2) a condition that may significantly threaten the health or safety of employees or the public if the disclosure or intention to disclose was made for the purpose of remedying that condition. Protected disclosures shall be presumed to have been made in good faith.
- J. **Retaliation:** Inappropriate or unwarranted adverse employment actions, harassment, intimidation or discrimination threatened or imposed on an employee that is related to the employee having made a protected disclosure or having refused to obey an illegal order or an order that violates any UMDNJ policy.
- K. **Whistleblower or Qui Tam Relator:** Individual who reports Wrongful Conduct, defined above.
- L. **Whistleblower Protection and Anti-Discrimination:** Includes in addition to other rights and remedies stated herein and in federal and state statutes to an employee who is discharged, demoted, suspended, threatened, harassed, or discriminated against in terms and conditions of employment because of lawful acts in furtherance of an action under the False Claims Act to bring an action in Federal District Court seeking reinstatement, back pay plus penalties and interest, and other enumerated costs, damages, and fees.
- M. **Wrongful Conduct:** Any activity undertaken by an employee in the performance of the employee's duties or in the scope of his or her employment, that violates any UMDNJ policy or

violates any state or federal law or regulation, including, but not limited to, corruption, malfeasance, bribery, theft or misuse of UMDNJ property or services, fraud, abuse, or willful omission to perform duty, except for research misconduct, which is addressed in the University policy, Research Misconduct, 00-01-20-60:00.

## V. POLICY

UMDNJ has established, and shall continue to maintain, effective and confidential means for individuals to report allegations or concerns that include actual or suspected violations of law, violations of UMDNJ policies or procedures, or any other type of wrongful conduct. Individuals will be permitted to make such reports anonymously if they so desire, and their anonymity will be protected to the extent possible and as permitted by law. Reports of ASSAULT, or THREATS TO PEOPLE or PROPERTY must be made promptly to the Department of Public Safety (tel.: 973-972-4490), or if you are off campus, to local police (dial 9-1-1). The Ethics Helpline should not be used for this purpose.

"Whistleblowers" will be protected from all forms of retaliation, harassment, intimidation or discrimination. Any employee found to have retaliated against another employee who reported actual or suspected wrongful conduct shall be subject to appropriate disciplinary action up to and including termination.

All investigations of allegations of wrongdoing and/or of retaliation shall occur under the direction of the Vice President of Investigations. As the University's chief investigative officer, the Vice President of Investigations oversees the Investigations Group, and can require the investigation of any allegation or evidence of wrongful conduct. To ensure neutrality and independence, the Vice President of Investigations will report to the Audit Committee of the Board of Trustees and the University's President.

As stated above in Section I, it is the responsibility of all, employees of UMDNJ to report such actual or suspected violations. Reports may be made through the UMDNJ Ethics Helpline (800-215-9664) or directly in person to the Chief Ethics & Compliance Officer, Vice President of Investigations, or to the General Counsel; or to appropriate Federal and State authorities. UMDNJ will promptly take action to investigate the allegations and to keep the information as confidential as possible. Additionally, all employees are required to cooperate with officials conducting investigations pursuant to this policy. General outcomes of the investigation will be made available to the individual making the report through the Ethics Helpline.

In order to maintain the integrity of this process, the Vice President of Investigations may initiate a subsequent inquiry where there is evidence that an employee intentionally made a false, frivolous or bad faith report, there was intent to harass the subject; and, where the allegation was clearly not substantiated by the facts. The making of such false, frivolous, or bad faith reports by an employee is contrary to the intent and spirit of this policy, and may subject the reporter to disciplinary action.

## VI. RETALIATION

Reporting and Investigating Retaliation Allegations:

1. Reporting: Anyone who has provided information who believes he or she is the subject of retaliation should report the facts supporting the allegations of retaliation to any of the following individuals or entities:
  - a. The Chief Ethics & Compliance Officer;
  - b. The General Counsel;
  - c. The Ethics Liaison Officer;
  - d. The Compliance Officer for the Operating Unit;
  - e. The Vice President of Investigations

- f. The Locally Designated Official for the respective school or business unit, appointed by the Dean, Vice President, or President/CEO of the school or business unit, whose name and contact information must be kept current with the Chief Compliance Officer.
2. Investigating:
- a. The person to whom the complaint is made will immediately notify the Office of Ethics, Compliance and Corporate Integrity. The Chief Ethics & Compliance Officer, in consultation with the General Counsel and the Vice President of Investigations, will determine the appropriate investigative action, which may include internally investigating the retaliation allegation or referring the matter to external investigators, if necessary.  
  
All retaliation investigations will be conducted as sensitively and expeditiously as possible. Due consideration will also be given to existing grievance procedures under applicable collective bargaining agreements.
  - b. Should an investigation lead the appropriate UMDNJ authority to conclude that retaliation has been substantiated; the individual(s) responsible for committing the retaliation, in addition to any civil or criminal proceedings, shall be subject to disciplinary action up to and including termination.
  - c. Monitoring and tracking of whistleblower complaints will occur via a secure Office of Ethics, Compliance & Corporate Integrity database compilation of the names of employees who can be considered whistleblowers, the names of other employees with information about the whistleblower allegations and the names of employees who are the targets or subjects of the whistleblower allegations.
  - d. All employees of UMDNJ are responsible for creating and enhancing a workplace atmosphere that encourages employees to report their concerns, free of intimidation or harassment. UMDNJ will not tolerate any acts of retaliation against employees who report acts of wrongful conduct. The procedures outlined above will apply to any act of retaliation committed against any employee making a good faith report of actual or suspected wrongful conduct.
  - e. All employees of UMDNJ, are responsible to ensure that their activities on behalf of UMDNJ, and those of their colleagues, comply with all applicable laws and UMDNJ policies as well as with all relevant Federal and State laws, and UMDNJ policies and that they have familiarized themselves with the laws, regulations and UMDNJ policies that affect their workplace activities.

## VII. DISCIPLINARY REVIEW COMMITTEE

- A. The disciplinary review committee (DRC) shall review any proposed serious adverse employment action before it is taken against UMDNJ employees, whether for disciplinary or other reasons for the purpose of determining whether it could be considered an act of retaliation or has the potential to be an act of retaliation in instances where the employee:
  1. has provided information to initiate a pending investigation of a wrongful conduct allegation;
  2. has made a past allegation of wrongful conduct;
  3. is a party to any civil, criminal or administrative proceeding, or
  4. is a witness or interviewee in (a) - (c) above, against UMDNJ and/or its trustees, employees, students or associated persons.

If there is no record or evidence of any of these factors, prior to or concurrent with the adverse action, DRC review will not be necessary.

- B. The membership of the DRC shall consist of
1. The Chief Ethics & Compliance Officer, or a designee, who shall serve as chair of the DRC;
  2. The Associate Vice President for Workplace Diversity;
  3. The General Counsel's designee with responsibility for labor relations or employment matters;
  4. The Vice President for Human Resources or designees responsible for labor relations and general human resources matters; and
  5. The Executive Vice President for Academic & Clinical Affairs or designee, as required.
- C. Notice of a proposed adverse employment action in the instances noted above will be provided directly, or through the Office of Human Resources, to the Office of Compliance and Corporate Integrity and to the General Counsel with the name of the employee against whom the adverse action is contemplated. If one or both of these Officers believe the contemplated action constitutes an adverse employment action, the matter shall be referred to the DRC for consideration as to whether the proposed adverse employment action is appropriate and whether either is, or has the potential to be, an act of retaliation. If the DRC makes such a determination, it will advise the appropriate Vice President, Dean or Clinical Unit CEO, who will then consult with the General Counsel to determine whether the intended adverse employment action should and will be implemented.
- D. In extraordinary or emergency situations where an employee puts the safety and health of a UMDNJ employee at risk or threatens the continued effective management of operations of the University, both the Chief Ethics & Compliance Officer and the General Counsel, in consultation with appropriate school or business unit management and the Vice President for Human Resources, shall have the authority to immediately place that employee on paid or unpaid administrative leave pending a review by the DRC at its next weekly meeting.

Disciplinary matters related to Trustees, are governed by to NJSA 18A:64G-4a. Each voting member of the Board may be removed from office by the Governor, for cause, after a public hearing.

In disciplinary matters related to UH Board of Directors, gubernatorial authority is again required.

The Chief Ethics & Compliance Officer will provide periodic reports to the Audit Committee of the Board of Trustees on the number of reported allegations of retaliation, the results of retaliation investigations, and the results of DRC determinations.

## VIII. TRAINING AND AWARENESS

- A. It is the responsibility of the Deans, Vice Presidents, President/CEOs of the Healthcare Units, and Clinical Unit Medical Directors to ensure that all Unit Heads are educated and understand the rights and responsibilities of all employees in reporting Wrongful Conduct or suspected Wrongful Conduct.

It is the responsibility of all Unit Heads to maintain an ethical working climate. Every Unit Head must:

1. explain to their respective employees the importance of complying with this policy;
2. encourage discussion of business practice standards and situations;
3. respond promptly and properly to concerns raised by employees; and

4. protect employees against reprisals and retaliation when the employees report, in good faith, actions they believe are a violation or suspected violation of law, UMDNJ policy or procedure, or any other type of wrongful conduct.

The Office of Ethics, Compliance and Corporate Integrity will include education on these rights and responsibilities in the annual University-wide mandatory compliance education course. Successful completion of this course by the UMDNJ workforce is mandatory and a condition of employment. In addition, the OECCI will conduct an ongoing awareness campaign across the enterprise of the rights and responsibilities of the entire UMDNJ workforce concerning the reporting of compliance concerns.

B. The Office of Ethics, Compliance and Corporate Integrity will ensure that:

1. UMDNJ runs a check of the OIG, GSA and Medicaid Fraud Exclusion databases (collectively Databases) before hiring employees or retaining vendors or contractors and periodically checks the Databases during the term of employment or agreement.
2. All employees are provided with this policy, and that the policy will always be available online.
3. Information related to the Deficit Reduction Act of 2005 will be incorporated into the UMDNJ Orientation Package and its on-line Faculty Handbook.
4. Information related to the federal Deficit Reduction Act of 2005 will be incorporated into the UMDNJ Orientation Package and its on-line Staff Handbook.
5. Information related to the federal Deficit Reduction Act of 2005 will be provided to all newly hired employees through the Orientation Package.
6. Compliance education will be provided annually to the UMDNJ workforce, and included in the education will be information regarding the Deficit Reduction Act of 2005 requirements.

C. The Department of Purchasing Services will:

1. Provide information regarding the role and responsibilities of contractors and agents relating to the federal Deficit Reduction Act of 2005 to all contractors and agents of UMDNJ.
2. Supply all appropriate contractors and agents with this policy.

#### IX. SANCTION

Failure to comply with this policy may result in sanctions up to, and including, termination of employment and termination of a contractor's contract.

#### X. EXHIBIT

RESOLUTION OF BOARD OF TRUSTEES OF  
THE UNIVERSITY OF MEDICINE AND DENTISTRY OF NEW JERSEY

By Direction of the President:

### Signature on file

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Senior Vice President/Chief Ethics & Compliance Officer

EXHIBIT

RESOLUTION OF BOARD OF TRUSTEES OF  
THE UNIVERSITY OF MEDICINE AND DENTISTRY OF NEW JERSEY

**BE IT RESOLVED**, that the University of Medicine and Dentistry of New Jersey Board of Trustees, upon recommendation of the Audit Committee adopts the policy on Reporting Compliance and Ethics at the Board of Trustees meeting on March 15, 2011.