

# Report on Medicare Compliance Volume 29, Number 32. September 14, 2020

## Sample Nonretaliation Policy to Protect People Who Report Compliance Concerns

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By Nina Youngstrom

Here's a sample nonretaliation policy (see story, p. 1).<sup>[1]</sup> Contact Bob Wade, an attorney at Barnes & Thornburg, at [bob.wade@btlaw.com](mailto:bob.wade@btlaw.com).

Policy Title: Nonretaliation/Nonretribution For Reporting Ethics or Compliance Concerns

Department: Corporate Compliance

Title of Policy Owner: VP & Chief Compliance Officer

Approved By: VP & Chief Compliance Officer

Effective Date: [Insert Date]

Reviewed Date: [Insert Date]

Revised Date: [Insert Date]

## PURPOSE

The [Hospital] Code of Conduct contains a nonretaliation provision with respect to compliance issues or concerns reported by employees. This policy establishes the standard by which this provision is carried out.

## SCOPE

This policy is applicable to all members of the Leadership Team, or any other workforce member or independent contractor that makes decisions about employment, advancement, promotion, benefits, performance or any other condition of employment of another workforce member.

## DEFINITIONS

“Good faith” means sincere and honest belief that a law, rule, regulation policy or ethical violation has occurred.

“Workforce member” means any individual in an employment relationship with [Hospital] or any of its owned or controlled affiliated companies. The term does not include an independent contractor.

“Retaliation” or “retribution” means material adverse action involving a decision about hiring, firing, suspension, pay, job assignments, promotions, layoffs, training, fringe benefits, and any other term or condition of employment. Included in the definition of retribution are: bullying, intimidation, harassment, increased

surveillance, social isolation, humiliation and other actions likely to deter a workforce member from reporting concerns. Adverse actions do not include petty slights and annoyances, such as stray negative comments in an otherwise positive or neutral performance evaluation, “snubbing” a colleague, or negative comments that are justified by an employee’s poor work performance, attendance or history. Likewise, a team leader’s sincere expression of disappointment or concern in response to a reported issue such as, “I wish you would have come to me first,” would not be considered material adverse action.

“Appropriate agency” means The Joint Commission or any agency of government charged with the enforcement of laws, rules or regulations governing an activity, policy, or practice of **[Hospital]**.

“Laws, rules or regulations” include any statute or ordinance or any rule or regulation adopted pursuant to any federal, state, or local statute or ordinance applicable to **[Hospital]**.

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