



STATE UNIVERSITY OF NEW YORK

DOWNSTATE MEDICAL CENTER

COMPLIANCE PROGRAM

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**STATE UNIVERSITY OF NEW YORK
DOWNSTATE MEDICAL CENTER
COMPLIANCE PROGRAM**

I. INTRODUCTION

State University of New York Downstate Medical Center ("SUNY DMC") is proud of its long tradition of ethical and responsible conduct and is committed to continuing to conduct its business lawfully and ethically. Each member of SUNY DMC is expected to adhere to this high standard whenever he or she acts on behalf of SUNY DMC. This includes, but is not limited to, when dealing with other employees, patients and their families, vendors, government regulators, or the general public. Violations of legal or ethical requirements jeopardize the welfare of SUNY DMC, its employees, patients and the communities it serves.

The Compliance Program ("CP") is intended to define the conduct expected of colleagues and employees, to provide guidance on how to resolve questions regarding legal and ethical issues, and to establish a mechanism for reporting of possible violations of law or ethical principles within SUNY DMC.

The term SUNY DMC is intended to include all SUNY DMC entities (Colleges of Medicine, Nursing and Health Related Professions, University Physicians of Brooklyn, Clinical Practice Management Plan, University Hospital of Brooklyn, Research Foundation, and Centerwide Administration). The term SUNY DMC employees is intended to include all employees of SUNY DMC. However, certain SUNY DMC Human Resource policies and procedures are not applicable to employees of the University Physicians of Brooklyn Inc., Clinical Practice Management Plan and the Research Foundation, as the aforementioned are separate entities.

The SUNY DMC CP is conducted under the auspices of the SUNY DMC President and the SUNY DMC Compliance and Audit Oversight Committee ("CAOC"), which consists of executives of each of the SUNY DMC affiliated entities and the President of SUNY DMC. SUNY DMC Management is responsible for implementing and enforcing the CP, as well as the Code of Conduct. The Compliance Program, which has been chartered by the SUNY DMC President, is comprised of the following components:

- A. The Code of Ethics and Business Conduct, included in this document, which establishes the general standards, policies and procedures with which all SUNY DMC employees must comply. Each SUNY DMC employee is required to read, understand, and comply fully with the standards established by the Code of Conduct.
- B. A Vice President for Compliance and Audit Services ("VP-OCAS") with responsibility for administering the Program.
- C. The CAOC will provide oversight of the Compliance Program. Members of the Committee include SUNY DMC's President, University Counsel, and Senior Administration from center-wide administration and each entity at SUNY DMC.
- D. Periodic educational programs on specific areas of compliance. These programs will be provided to employees in conjunction with the Compliance Office and relevant Department Heads and/or consultants.
- E. Monitoring and auditing systems. The VP-OCAS will oversee ongoing internal monitoring for compliance with established standards, policies and procedures.
- F. Corrective action, as appropriate, will be consistently enforced. However, the corrective action will be case specific.

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- G. A Compliance Line through which employees should report to the VP-OCAS any potential violations of law or deviation from compliance standards. All reports to the Compliance Line are confidential and may also be made anonymously. Reports to the Compliance Line may be made orally by calling **877-349-SUNY (7869)** or via a web-based report by clicking on the “Compliance Line” link on the main SUNY DMC web-page (www.downstate.edu).

II. SUMMARY OF CODE OF ETHICS AND BUSINESS CONDUCT

- A. Compliance with Laws and Regulations
- B. Adherence to Ethical Standards
- C. Patient Care
- D. Non-Discrimination
- E. Confidentiality
- F. Record Accuracy and Retention
- G. Protection of Assets
- H. Avoidance of Conflict of Interest
- I. Business Relationships
- J. Academic / Research Integrity
- K. Environmental Laws
- L. Occupational Safety
- M. Maintenance of a Drug and Alcohol Free Workplace

III. CODE OF ETHICS AND BUSINESS CONDUCT

A. COMPLIANCE WITH LAWS AND REGULATIONS

SUNY DMC will strive to ensure all activity by or on behalf of the organization is in compliance with applicable laws and regulations.

Overview of Law and Regulations

Not all laws and regulations are covered in this overview. The primary areas of concern for health care providers are set forth. Those concerns include the Medicare and Medicaid Anti-Kickback Statute, the Stark Self-Referral Statutes, State Self-Referral prohibitions, Federal and State civil and criminal false claims provisions, whistleblower protections and Physician at Teaching Hospital regulations. Additional civil monetary penalties and exclusion provisions also exist. These matters are summarized below.

1. Federal Anti-Kickback Statute

This statute makes it unlawful to give or receive any remuneration to another in exchange for a referral or an inducement to provide health care services paid for by Medicare or Medicaid. If these provisions are violated, it is a felony punishable by a \$25,000 fine and five years imprisonment. An individual or entity, which violates the statute, can be excluded as a participant of Medicare and/or Medicaid. The definition of remuneration in this statute is broad and includes virtually anything of value including any kickback, bribe, or rebate given "directly or indirectly, overtly or covertly, in cash or in kind." The statute and regulations promulgated by the Department of Health and Human Services ("HHS"), Office of Inspector General ("OIG") provide for a number of "safe harbors" or transactions that are expressly stated not to violate the fraud and abuse limitations if the intent or actual purpose of the transaction is appropriate. SUNY DMC's attorneys are available to assist in the structuring of and preparation of documentation reflecting legal arrangements with physicians. No employee should ever solicit or receive, or offer to pay or pay, remuneration of any type (including kickbacks, bribes, or rebates) in return for referring or recommending the referral of an individual to another person, SUNY DMC or other medical facility for services.

2. Stark Self-Referral Statutes

Under the Federal Stark statutes, a physician may not make a referral to an entity in which he or an immediate family member has an investment or with which he has a compensation arrangement for the furnishing of *Designated Health Services (DHS)* paid for by Medicare or Medicaid. However, Stark sets forth several exceptions to its provisions, which have the effect of permitting a physician with an ownership interest or compensation arrangement to refer Medicare or Medicaid patients to such entity for the provision of DHS. SUNY DMC's attorneys are available to assist in determining whether a specific situation meets a Stark exception.

There are various penalties for violating the Stark statutes. First, an entity to which a prohibited referral was made may not bill for services rendered. Therefore, if an entity provides DHS to a patient referred by a physician who has a compensation arrangement which does not meet the exception, the entity will not be paid for providing those services. If the entity received payment pursuant to a prohibited referral, it must refund the payment. In addition to having to return the money, both the physician who referred and the entity who accepted the prohibited referral may be subject to civil money penalties and exclusion from the Medicare and Medicaid program for making such illegal referrals.

3. New York State Self-Referral Statute

Article II – D §238 of the Public Health Law generally prohibits health care practitioners from referring patients for clinical laboratory services, pharmacy services, x-ray or imaging services where the practitioner or immediate family member has a financial relationship with such service. Financial relationship is defined as an ownership interest, investment interest or compensation arrangement.

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Immediate family member is defined to include spouse, parents, children, siblings, in-laws, grandparents and grandchildren.

4. Federal and New York False Claims Acts (FCA)

The Federal False Claims Act, 31 USC §3279, *et seq*, and the New York False Claims Act, State Finance Law §187-194, establishes liability for any person who engages in certain acts, including:

- knowingly presenting or causing to be presented a false or fraudulent claim to the Federal, State or local government for payment;
- knowingly making, using, or causing to be made or used, a false statement to get a false or fraudulent claim paid by the Federal, State or local government;
- conspiring to defraud the Federal, State or local government by getting a false or fraudulent claim allowed or paid; or
- knowingly making, using, or causing a false statement to conceal, avoid or decrease an obligation to pay money to the Federal, State or local government.

Under the Federal & NY False Claims Acts, a person acts “knowingly” if s/he:

- has actual knowledge of the information;
- acts in deliberate ignorance of the truth or falsity of the information; or
- acts in reckless disregard of the truth or falsity of the information.

There is no requirement that the person specifically intended to defraud the government through his or her actions.

Under the Federal False Claims Act, a “claim” is any request or demand for money or property if the Federal, State or local government provides any portion of the money or property in question. This includes requests or demands submitted to a contractor of the Government and includes Medicaid and Medicare claims.

A violation of the Federal False Claims Act results in a civil penalty between \$5,500 and \$11,000 for each false claim submitted, plus up to three times the amount of the damages sustained by the Government because of the violation. In addition, the United States Department of Health and Human Services (HHS) Office of the Inspector General (OIG) may exclude the violator from participation in Federal health care programs.

A violation of the NY False Claims Act results in a civil penalty between \$6,000 and \$12,000 for each false claim submitted, plus three times the amount of damages sustained by the State and three times the amount of damages sustained by a local government because of the violation.

In sum, the FCA imposes liability on any person who submits a claim to the government that s/he knows or should know is false. An example may be a physician billing Medicare/ Medicaid for medical services not provided. The FCA also imposes liability on an individual who may knowingly submit a false record in order to obtain payment from the government. An example may be a government contractor who submits false records that indicate compliance with contractual or regulatory requirements. The third area of liability includes those instances in which someone may obtain money from the government to which he may not be entitled and then uses false statements or records in order to retain the money. An example of this so-called “reverse false claim” may include a hospital who obtains interim payments from

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Medicare throughout the year and then knowingly files a false cost report at the end of the year in order to avoid making a refund to the Medicare program.

Additional examples of the types of actions that could violate the FCA include:

- Filing a claim for services that were not performed as described;
- Filing a claim for services that were performed, but were medically unnecessary;
- Filing a claim for resident services without documented Teaching Physician presence;
- Duplicate billing for the same service, such as billing Medicare/ Medicaid and also a private insurer;
- Up-coding, such as providing a simple office visit and billing for a comprehensive visit.

In general, under the Federal & NY False Claims Acts, private parties may bring an action on behalf of the United States. These private parties, known as “qui tam relators” or “whistleblowers”, may share in a percentage of the proceeds from an FCA action or settlement. Both the Federal & NY False Claims Acts provide that when the Federal, State or local government intervenes in the lawsuit, the qui tam relator, with some exceptions, shall receive at least 15% but not more than 25% of the proceeds of the FCA action, depending upon the extent to which the relator substantially contributed to the prosecution of the action. When the Federal, State or local government does not intervene, the relator shall receive an amount that the court decides is reasonable and shall be not less than 25% and not more than 30%.

In addition, under both the Federal and NY False Claims Acts, an employee who is discharged, demoted, suspended, threatened, harassed or in any other manner discriminated against in the terms and conditions of employment as a result of the furtherance of an action under the FCA is entitled to all relief necessary to make the individual whole. Remedies include reinstatement with comparable seniority as the qui tam relator would have had but for the discrimination, two times the amount of any back pay plus interest and compensation for any special damages sustained as a result of the discrimination, including litigation costs and reasonable attorneys’ fees. At the same time, though, any person who brings a clearly frivolous case can be held liable for the defendant’s attorney’s fees and costs.

However, as Downstate Medical Center is a component of the State University of New York, and thus is a State agency, the United States Supreme Court has held that private persons may NOT be eligible to file qui tam/ whistleblower lawsuits against State agencies and may NOT be entitled to a share of the proceeds of any recoveries under the FCA.

5. Federal Program Fraud Civil Remedies Act of 1986

The Program Fraud Civil Remedies Act of 1986, 31 USC §§3801, *et seq*, is similar to the False Claims Act, establishing an administrative remedy against any person who presents or causes to be presented a claim or written statement that the person knows or has reason to know is false, fictitious, or fraudulent to certain Federal agencies, including HHS, and again, includes Medicaid and Medicare claims.

Similar to the False Claims Act, a person who “knows or has reason to know” is defined as one who:

- has actual knowledge of the information;
- acts in deliberate ignorance of the truth or falsity of the information; or
- acts in reckless disregard of the truth or falsity of the information.

Once again, there is no necessary proof of specific intent to defraud the government.

A violation of the Program Fraud Civil Remedies Act can result in a civil monetary penalty of up to \$5,500 per false claim and an assessment of twice the amount of the false claim. The penalty can be

imposed through an administrative hearing after investigation by HHS and approval by the United States Attorney General.

6. New York Social Services Law (NYSSL)

- a. Under NYSSL §145, §145-b & §145-c, it is a misdemeanor to knowingly make a false statement or representation, or to deliberately conceal any material fact, or engage in any other fraudulent scheme or device, to obtain or attempt to obtain payments under the New York State Medicaid program. For a violation of this law, the local Social services district or the State has a right to recover civil damages equal to three times the amount by which any figure is falsely overstated. In the case of non-monetary false statements, the local Social Service district or State may recover three times the damages (or \$5,000, whichever is greater) sustained by the government due to the violation.

The law also empowers the New York State Department of Health to impose a monetary penalty on any person who, among other actions, causes Medicaid payments to be made if the person knew or had reason to know that:

- the payment involved care, services, or supplies that were medically improper, unnecessary, or excessive;
- the care, services or supplies were not provided as claimed;
- the person who ordered or prescribed the improper, unnecessary, or excessive care, services, or supplies was suspended or excluded from the Medicaid program at the time the care, services, or supplies were furnished; or
- the services or supplies were not in fact provided.

The monetary penalty shall not exceed \$2,000 for each item or service in question, unless a penalty under the section has been imposed within the previous five years, in which case the penalty shall not exceed \$7500 per item or service.

If a person applies for or receives Medicaid by intentionally making a false or misleading statement or by intending to do so, the person's and his/her family's needs are not taken into account for a period of 6 months upon the first offense; for a period of 12 months upon the second offense or an offense for which benefits have already been received totaling over \$3,900; and for 5 years upon 4 or more offenses.

- b. Under NYSSL §366-b (2), any person who attempts to obtain Medicaid by means of a false statement, concealment, impersonation or other fraudulent means and any person who, with intent to defraud, presents for allowance or payment any false or fraudulent claim for furnishing services or merchandise, or knowingly submits false information for the purpose of obtaining compensation greater than that to which s/he is legally entitled for furnishing services or merchandise shall be guilty of a class A misdemeanor. If such an act constitutes a violation of a provision of the penal law of the state of New York, the person committing the act shall be punished in accordance with the penalties fixed by such law.

7. New York Penal Law (NYPL)

- a. Under New York Penal Law §155, the crime of larceny applies to a person who, with intent to deprive another of his property, obtains, takes or withholds the property by means of trick,

embezzlement, false pretense, false promise, including a scheme to defraud or other similar behavior. This law has been applied to Medicaid fraud cases.

- 4th degree grand larceny (Class E felony) involves property valued over \$1,000.
 - 3rd degree grand larceny (Class D felony) involves property valued over \$3,000.
 - 2nd degree grand larceny (Class C felony) involves property valued over \$50,000.
 - 1st degree grand larceny (Class B felony) involves property valued over \$1 million.
- b. **Penal Law §175** contains four crimes related to filing false information or claims, which have been applied in Medicaid fraud prosecutions:
- Falsifying business records, involving entering false information, omitting material information or altering an enterprise's business records with the intent to defraud is a Class A misdemeanor.
 - Falsifying records in the 1st degree, which includes the elements above and the intent to commit another crime or conceal its commission is a Class E felony.
 - Offering a false instrument for filing in the 2nd degree, which involves presenting a written instrument (including a claim for payment) to a public office knowing that it contains false information, is a Class A misdemeanor.
 - Offering a false instrument for filing in the 1st degree, which includes the elements above and the intent to defraud the state or a political subdivision is a Class E felony.
- c. **Penal Law §176** contains six crimes and applies to claims for health insurance payment, including Medicaid:
- 5th degree insurance fraud (Class A misdemeanor) involves intentionally filing a health insurance claim knowing that it is false.
 - 4th degree insurance fraud (Class E felony) is filing a false insurance claim for over \$1,000.
 - 3rd degree insurance fraud (Class D felony) is filing a false insurance claim for over \$3,000.
 - 2nd degree insurance fraud (Class C felony) is filing a false insurance claim for over \$50,000.
 - 1st degree insurance fraud (Class B felony) is filing a false insurance claim for over \$1 million.
 - Aggravated insurance fraud (Class D felony) is committing insurance fraud more than once.
- d. **NYPL §177** establishes the crime of Health Care Fraud. A person commits such a crime when, with the intent to defraud Medicaid (or other health plans, including non-governmental plans), s/he knowingly and willfully provides false information or omits material information for the purpose of requesting payment for a health care item or service and, as a result of the false information or omission, receives such a payment in an amount to which s/he is not entitled. Health Care Fraud is punished with fines and jail time based on the amount of payment inappropriately received due to the commission of the crime; the higher the payments in a one year period, the more severe the punishments, which currently range up to 25 years if more than \$1 million in improper payments are involved.
- 5th degree health care fraud (Class A misdemeanor) is knowingly filing, with intent to defraud, a claim for payment that intentionally has false information or omissions.
 - 4th degree health care fraud (Class E felony) is filing false claims and annually receiving over \$3,000 in the aggregate.
 - 3rd degree health care fraud (Class D felony) is filing false claims and annually receiving over \$10,000 in the aggregate.

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- 2nd degree health care fraud (Class C felony) is filing false claims and annually receiving over \$50,000 in the aggregate.
- 1st degree health care fraud (Class B felony) is filing false claims and annually receiving over \$1 million in the aggregate.

8. New York Labor Law (NYLL)

Under **NYLL §740 & §741**, an employer shall not take any retaliatory personnel action against an employee because the employee:

- discloses or threatens to disclose to a supervisor or to a public body an activity, policy or practice of the employer that is in violation of law, rule or regulation which violation creates and presents a substantial and specific danger to the public health or safety, or which constitutes health care fraud;
- 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
- objects to or refuses to participate in any such activity, policy or practice in violation of a law, rule or regulation.

To bring an action under this provision, the employee must first bring the alleged violation to the attention of the employer and give the employer a reasonable opportunity to correct the allegedly unlawful practice, unless the danger is imminent to the public or patient and the employee believes in good faith that reporting to a supervisor would not result in corrective action. The law allows employees who are the subject of a retaliatory action to bring a civil action in court and seek relief such as injunctive relief to restrain continued retaliation; reinstatement, back-pay and compensation of reasonable costs. If the employer is a health provider and the court finds that the employer's retaliatory action was in bad faith, it may impose a civil penalty of \$10,000 on the employer. The law also provides that employees who bring an action without basis in law or fact may be held liable to the employer for its attorney's fees and costs.

9. Provisions of the Social Security Act

The Social Security Act sets forth a variety of other provisions including civil monetary and other penalties, including exclusion from participating in Medicare and Medicaid, for various billing-related offenses. For example, civil monetary penalties apply to violations of Medicare assignment regulations, violations of participating provider agreements, use of false physician credentials, the filing of claims by excluded entities, and providing false or misleading information regarding SUNY DMC discharge decisions. HHS can also initiate permissive exclusion actions for such improper billing practices as submitting claims "substantially in excess" of the provider's usual costs or charges, or for unnecessary services; or failing to disclose ownership and officers, subcontractors and suppliers, and more.

10. Competitive Practices/Antitrust

Antitrust law and trade regulation laws prohibit actions that restrain competition. Competitors are prohibited from entering into agreements to fix prices or to reduce price competition. Price fixing has been interpreted broadly to include any type of joint action between two competitors which influences the price of products or services that the competitors sell either directly or indirectly.

Employees should never discuss prices or patients with competitors. You may not cooperate with competitors to fix or stabilize prices, "divide up" customers or markets, boycott competitors or customers or otherwise interfere with free competition. You should not even discuss the possibility of such

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activities with competitors. If a competitor attempts to discuss such activities with you, you should refuse to participate in the discussion and should notify the VP-OCAS of the discussion.

In all its business dealings, SUNY DMC will:

- Compete vigorously and equitably;
- Treat all customers and suppliers objectively, honestly and fairly;
- Not discuss pricing with competitors or customers in derogation of applicable antitrust laws;
- Avoid any program or practice that could be characterized as unfair or deceptive and always present SUNY DMC's services and products in an honest and forthright manner; and
- Make clear to all suppliers and potential suppliers that SUNY DMC expects them to compete fairly and vigorously for SUNY DMC's business and that SUNY DMC will select suppliers strictly on their merits.

11. Pharmaceuticals and Controlled Substances

Many of SUNY DMC's employees have responsibility for or access to prescription drugs, controlled substances, hypodermic needles, drug samples and other regulated pharmaceuticals. SUNY DMC is legally responsible for the proper distribution and handling of these pharmaceutical products. Federal, State and local laws covering prescription drugs and controlled substances are intended to maintain the integrity of our national drug distribution system and protect consumers by assuring that prescription drugs are safe and properly labeled.

These laws include prohibitions against diversion of any prescription drug or controlled substance, including a drug sample, in any amount for any reason to an unauthorized individual or entity. The distribution of adulterated, misbranded, mislabeled, expired or diverted pharmaceuticals is a violation of Federal and State law for which severe criminal penalties may be imposed on individual violators as well as on SUNY DMC.

It is SUNY DMC's policy that all employees be both diligent and vigilant in carrying out their obligations to handle and dispense SUNY DMC's prescription drugs and controlled substances in accordance with all applicable laws, regulations and SUNY DMC procedures. These SUNY DMC procedures and policies are available in written form from the Nursing and/or Pharmacy Manuals.

Every professional employee, whether physician, nurse, pharmacist or any other licensed individual authorized to prescribe, dispense, or handle prescription drugs or controlled substances, is expected to maintain the highest professional standards in safeguarding pharmaceuticals of all kinds and in preventing unauthorized access to them. This includes adherence to laws and regulations governing procedures for securing scheduled controlled substances and for their return or destruction. No prescription drug or controlled substance may be sold, transferred or otherwise distributed unless authorized by a written SUNY DMC policy or the appropriate SUNY DMC individual charged with such responsibility. If you become aware of any potential lapses in security, or any actual infringement of any law, policy or regulation relating to drugs, you must advise your supervisor or the VP-OCAS immediately.

12. Labor and Employee Relations Matters

In the conduct of its business, SUNY DMC deals with a number of labor unions. It is SUNY DMC's policy to comply fully with all provisions of collective bargaining agreements, applicable wage and hour laws and other statutes regulating the employer-employee relationship and the workplace environment as well as all employment policies, which have been provided to employees of SUNY DMC. No SUNY DMC employee may interfere or retaliate against another employee who seeks to invoke his or her rights under collective bargaining agreements or laws.

B. ADHERENCE TO ETHICAL STANDARDS

In furtherance of SUNY DMC's commitment to the highest standards of business ethics and integrity, employees will accurately and honestly represent SUNY DMC and will not engage in any activity intended to defraud any individual or organization of money, property or honest services. Every employee is expected to adhere to high ethical standards when he or she acts on behalf of SUNY DMC. All SUNY DMC employees will deal with representatives of accrediting bodies and/or survey teams openly and honestly.

Every officer and employee in State service is bound by the provisions of the State ethics laws, which establish specific standards of conduct, restrict certain business and professional activities, both while in State service and after leaving government, and require financial disclosure of policymakers and other higher level officials. Violators face serious penalties.

1. Financial Disclosure

Annual statements of financial disclosure are required of all policy makers and of those who, unless exempted by the Commission, earn compensation in excess of a pre-determined salary rate. The salary level may change from year to year. Information on any change may be obtained from the Office of Human Resources or the Office of Scientific Affairs.

The statements requires filers to list major assets sources of income, liabilities, names of spouses and non-emancipated children, whether they are licensed by or do business with a State agency, offices held with a political party, sources of gifts, reimbursements, trusts, deferred income, real property, and other information.

All policymakers must file, but the Commission can exempt from filing individuals who are not policymakers and who do not perform certain job duties. In accordance with State Ethics Commission Advisory Opinion 90-15 and the Board of Trustees Policy on Conflict of Interest, academic employees are not required to file with the Commission but instead must file the SUNY I form with the Office of Human Resources. Faculty who apply to any external sponsor for funds and whose salaries equal or exceed the predetermined salary level, as well as faculty and professional employees, regardless of salary level, who apply for funds as principal investigators or co-principal investigators to the National Science Foundation or the Public Health Service must file SUNY II forms at the time of application with the Office of Scientific Affairs.

2. Political Activities and Contributions

SUNY DMC will not seek improper advantage through contributions of its funds, equipment or facilities or the provision of other gifts or benefits to public officials or political organizations. SUNY DMC will not make an illegal or improper payment to any person or entity. It is each employee's right to decide whether or not to participate in political and community activities. SUNY DMC may, from time to time, communicate information and opinions on issues of public concern that may affect SUNY DMC. However, decisions by our employees whether to contribute time, money or resources of their own to any political or similar activity are entirely personal and voluntary.

State officers and employees are often interested in seeking elected political office or volunteering for political campaigns. However, in doing so, they must ensure that they do not violate the law, including the code of ethics, contained in Public Officers Law 74. In general, State officers and employees are charged to pursue a course of conduct that will not raise suspicion among the public that they are likely to be engaged in acts in violation of the public trust.

For those planning to participate in campaigns, the following is offered as a guide to help candidates and political workers avoid violations of law (although all of the items listed may not be applicable to those who currently hold a State office and are seeking re-election).

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a) For Candidates:

- i) Consider whether the office sought might conflict with your State position. While a prospective candidate, you should seek an opinion from your employing agency and the State Ethics Commission. Should an incompatibility be found, you may be prohibited from seeking office.
- ii) Campaign on your own time. Depending on the amount of time you will devote to the campaign, you should discuss requesting a leave of absence with your supervisor.
- iii) Avoid using your State position to gain any special advantage over a political opponent.
- iv) Form a separate entity to receive campaign contributions. Take care in soliciting and accepting contributions. If they come from individuals or entities that do business with your agency, they might constitute illegal gifts or give rise to actual or apparent conflicts of interest.
- v) Refrain from using any State resources to aid the campaign. This rule applies to telephones, office supplies, postage, photocopying machines or support staff assistance.
- vi) Do not in any way indicate in your campaign literature or speeches that the State or your agency endorses your candidacy or positions. You may, however, use the name of your employing agency and description of your State position in a campaign biography.

b) For Others Participating in Campaigns:

- i) You may serve on campaign or fundraising committees of political candidates, but must be careful not to create suspicion among the public that you are violating your public trust by improperly soliciting or accepting contributions from individuals or entities under your agency's jurisdiction. Questions about such contributions should be directed to the Ethics Commission, which has addressed some of these issues in Advisory Opinion No. 92-16.
- ii) Follow Civil Service Law 107. It protects State employees from discriminatory practices based on their political affiliations:
 - Such employees' appointments, selections to or removals from office or their employment status may not be affected or influenced by political opinions or affiliations.
 - Your State authority or official position may not be used to coerce, intimidate or otherwise influence other State employees to give money or service for any political purpose, to influence the political action of any person or entity, or to interfere with any election. A State officer or employee may not be compelled or induced to pay any political assessment or contribution.
 - State offices may not be used for soliciting or collecting any political contributions.
- iii) Abide by Election Law 17-158. It prohibits those who hold public office or those nominated or seeking a nomination, from corruptly using or promising to use, directly or indirectly, any official authority or influence to secure or help secure any office or public employment. Restrictions include making offers to procure any nomination or appointment for any public office.

If you have any questions about the ethics law, contact the New York State Ethics Commission at 800-87-ETHICS or at 518-432-8207. The Commission interprets and enforces the ethics law as it pertains to State officers and employees of the executive branch of State government, public authorities, public

benefit corporations, many State commissions, the State University of New York and the City University of New York.

3. Gifts

The State Ethics Commission has issued Advisory Opinion No. 94-16, describing (i) those gifts that may not be offered to or accepted by State officers and employees, and (ii) those gifts that are acceptable. The following are the most important points.

a) Applicable Rules:

- i) A gift may be in many forms, including money, loan, travel, meals, refreshment or entertainment.
- ii) The value of a gift is the retail cost to purchase it; the value of a ticket entitling you to food, refreshments, entertainment, etc. is the face value of the ticket; if no value is indicated, the value is the actual cost to the giver. Multiple gifts from a single source given over a twelve-month period that add up to \$75 or more will be deemed to be one gift of the total value of all the gifts.
- iii) The offer of reciprocity, or even actual reciprocity, does not reduce the value of a gift given to you.
- iv) You may not designate a friend, family member or entity (for example, a charity) to receive a gift that you cannot receive.

b) What You Cannot Do:

- i) You are prohibited from soliciting or accepting any gift worth \$75 or more, when it could be reasonably inferred that the gift was intended to influence you or could reasonably be expected to influence you in the performance of your official duties or was intended as a reward for any official action. If you knowingly and intentionally do so, you are subject to a civil penalty of up to \$10,000 or being criminally charged with a Class A misdemeanor.
- ii) Gifts of \$75 or more cannot be received from a disqualified source, which is a person or entity that is regulated by, does business with, appears before or negotiates with your agency; lobbies or has litigation adverse to your agency; applies for or receives funds from your agency; or contracts with your agency or another agency when your agency receives the benefit of the contract.
- iii) You are prohibited from soliciting or accepting a gift of **any** value if it would constitute a substantial conflict with the proper discharge of your State duties. If you knowingly and intentionally do so, you are subject to fines, suspension or removal from your job by your appointing authority.

c) What You Can Do:

- i) Reasonable and customary presents given on special occasions.
- ii) Gifts given by someone based on a family or personal relationship with you.
- iii) An invitation to attend personal or private events with no connection to the State.

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- iv) Meals received when you serve as a participant or speaker in a job-related professional or educational program and meals are available to all participants.
- v) Modest items of food and refreshment offered other than as part of a meal.
- vi) Unsolicited advertising or promotional material of little intrinsic value.
- vii) Most awards and plaques presented in recognition of your service.
- viii) Rewards or prizes given to competitors in contests or events, including random drawings open to the public.
- ix) Under some circumstances, meals, entertainment or hospitality, but not travel or lodging, from a disqualified source when your participation at an event is for a State agency purpose and related to your official duties, when your participation will further agency programs and the event is widely attended.

If you receive the offer of a gift, you should consult with your VP-OCAS and Legal Counsel to determine whether it is permissible to accept the gift.

4. Fund Raising

As a charitable organization, SUNY DMC relies heavily on contributions from donors to support its many activities. Employees are encouraged to support this fund raising effort but are required to coordinate all activities with SUNY DMC's Office of Institutional Advancement. Contributions by employees should be made voluntarily. Employees should not feel compelled to contribute. Monies or other items received on behalf of SUNY DMC as gifts should be deposited immediately into SUNY DMC accounts.

C. PATIENT CARE

All patients are entitled to equal access to care, to be treated with care and respect, and to the protection of their privacy and the confidentiality of their medical records.

All SUNY DMC employees must comply with the following:

- The standards set forth in SUNY DMC's Patient Rights Statements.
- The privacy and confidentiality requirements of the Health Insurance Portability and Accountability Act ("HIPAA").
- Patient care policies governing patient care including, but not limited to patient rights, patient complaints and the confidentiality of patient records and information.
- The Emergency Medical Treatment and Active Labor Act ("EMTALA") in providing emergency medical treatment to all patients, regardless of ability to pay.

D. NON-DISCRIMINATION AND HARRASSMENT

SUNY DMC is committed to providing an academic, workplace and patient care setting which treats all individuals fairly and respectfully. Discrimination or harassment on the basis of race, color, religion, gender, nationality, age, disability, sexual orientation or veteran's status is strictly prohibited.

It is the explicit policy of SUNY DMC to hire, promote and compensate employees according to their qualifications, performance and potential, without discrimination based on race, color, religion, national origin, age, sex, disability, sexual orientation or veteran's status. To that end, SUNY DMC has adopted a grievance procedure for the prompt and equitable investigation and resolution of allegations of unlawful discrimination. SUNY DMC's Affirmative Action Officer is the officer responsible for enforcement of

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this policy. If you either believe or are aware that this policy has been violated, you should contact the Affirmative Action Officer.

All employees must conduct themselves in a manner indicative of respect for one another. Every SUNY DMC employee must be free from discrimination or harassment from any other employee. Specifically, inappropriate actions that demean another individual on the basis of his or her personal attributes will not be tolerated. Inappropriate actions or behavior include, but are not limited to, jokes, slurs, disparaging or derogatory remarks that are racist, ethnic, sexist, or related to sexual orientation, age or disabilities. Everyone must adhere to this standard in the Program and should contact Human Resources Senior Administration immediately when he or she believes it is being or has been violated.

E. CONFIDENTIALITY

SUNY DMC employees are required to maintain the confidentiality of patients' protected health information (PHI) and SUNY DMC proprietary/ confidential information, in accordance with applicable legal and ethical standards.

1. Confidentiality of Patient Protected Health Information (PHI)

All employees of SUNY DMC are expected to adhere to SUNY DMC's policies on the Health Insurance Portability & Accountability Act (HIPAA) regarding the safeguarding of confidential patient information. Each employee is required to complete HIPAA training and to sign a statement that documents the employee's understanding of SUNY DMC's patient confidentiality policies. A HIPAA Pocket Guide, containing a summary of SUNY DMC's patient confidentiality policies, is provided to each employee upon hire and is available, upon request, from the Office of Compliance & Audit Services.

- All SUNY DMC staff members are required to keep protected health information out of public viewing and hearing.
- Confidential information may only be provided to SUNY DMC employees who need to know the information to perform their business responsibilities.
- SUNY DMC staff members are required to exit any confidential database upon leaving their workstations so that protected health information is not left on a computer screen where it may be viewed by individuals who are not authorized to see the information.
- SUNY DMC staff members are not to download, copy or remove from Downstate any protected health information, except as necessary to perform their duties.
- SUNY DMC staff members must ensure that all protected health information is disposed of in an appropriate manner.
- SUNY DMC staff members are not to access, review or discuss information for purposes other than their stated duties.
- PHI may only be disclosed to individuals authorized to receive such information or pursuant to a patient's authorization.

2. Confidentiality of SUNY DMC Proprietary Information

One of SUNY DMC's most valuable assets is its body of confidential information. The widespread use of computer terminals and computer systems has caused this information to be accessible to many employees. Failure to protect this information adequately can lead to the loss of highly confidential data that may place SUNY DMC legally at risk. Confidential information utilized in the scope of your

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employment is appropriate. However, because of this risk of harm to SUNY DMC, its employees and patients, generally, no employee shall utilize confidential information outside of their scope of employment.

Confidential information includes SUNY DMC's methods, processes, techniques, computer software, equipment, servicemarks, copyrights, research data, clinical and pharmacological data, marketing and sales information, personnel data, patient lists, financial data, plans and all other know-how and trade secrets which are in the possession of SUNY DMC and which have not been published or disclosed to the general public.

As an employee, you are responsible and accountable for the integrity and protection of business information and must take steps to protect information that has been entrusted to you. For example, you must not make inappropriate modifications of information or destroy or disclose information except as authorized. Documents containing sensitive data, including information concerning patients, should be handled carefully during work hours and must be properly secured at the end of the business day. Particular attention must be paid to the security of data stored on the computer system. It is essential that employees properly utilize and protect passwords and take other necessary precautions to guard access to information. If you observe individuals whom you do not recognize using terminals in your area, immediately report this to your supervisor.

Each SUNY DMC employee is required to complete and sign a statement to maintain confidentiality of SUNY DMC's records upon issuance of system passwords.

3. Confidentiality of Information Owned by Others

Like SUNY DMC, other organizations and individuals have intellectual property they want to protect. These other parties are sometimes willing to disclose their confidential information for a particular purpose. If you are on the receiving end of another party's confidential information, you must proceed with caution to prevent any accusations that you or SUNY DMC misappropriated or misused the information.

The receipt of confidential or restricted information, whether oral, visual or written, must not take place until the terms of its use have been formally agreed to in writing by SUNY DMC and the other party. Furthermore, unless otherwise delegated, establishing such an agreement for the receipt of confidential or restricted information of another party will require the prior written approval of an appropriate SUNY DMC officer. Once another party's confidential or restricted information is properly in your hands, you must not use, copy, distribute or disclose that information, unless you do so in accordance with the terms of the agreement.

Special care must be taken in acquiring software from others. As intellectual property, software is protected by copyright laws and may also be protected by patent, trade secret laws or as confidential information. Such software includes computer programs, databases and related documentation owned by the party with whom you are dealing or by another party. Before you accept software or sign a license agreement, you must follow established SUNY DMC procedures. The terms and conditions of such license agreements, such as provisions not to copy or distribute programs, must be strictly followed. Also, if you acquire software for your personally owned equipment, you should not copy any part of such software in any work you do for SUNY DMC, place such software on any SUNY DMC owned computer system, or generally bring such software onto SUNY DMC premises.

F. RECORD ACCURACY AND RETENTION

All SUNY DMC records, documents and reports must be accurate, complete and in compliance with SUNY DMC, accreditation and governmental requirements. Additionally, all records shall be retained in accordance with State and Federal record retention requirements. All bills for SUNY DMC services must

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be supported by actual services provided and by required documentation. Institutional records or documents of any kind must not be removed from the premises unless approved in conjunction with policies and procedures.

1. Coding and Billing for SUNY DMC Services

SUNY DMC and its professional staff provide a wide range of services to patients. It is crucial that billing statements to patients and third party payers accurately reflect the services actually provided (via the appropriate coding classification system), who performed the services, and the correct charges for those services. It is imperative that health care professionals and employees understand and follow SUNY DMC's coding and billing policies and procedures. The following coding classifications systems are utilized by SUNY DMC:

- a) **Guidelines for International Classification of Diseases, 9th Revision, Clinical Modification ("ICD-9-CM") Classification System:** SUNY DMC follows the ICD-9-CM coding guidelines in the American Hospital Association ("AHA") Coding Clinic.
- b) **Guidelines for CMS's Common Procedure Coding Systems ("HCPCS"):** HCPCS is a three level coding system which include; Current Procedural Terminology ("CPT") (procedure codes), national codes (supplies, drugs and medical equipment) and local codes (determined by local carriers). For Level 1 CPT codes, SUNY DMC follows the American Medical Association's publication, CPT Assistant. CPT Assistant is the authoritative source recognized by CMS on coding rules and guidelines for CPT coding.

No employee may make or present to any person, third party, government agency, or other entity, any claim for billing that he or she knows or has reason to believe is false, fictitious or fraudulent. Negligent or careless coding and billing practices can also subject SUNY DMC to potential liability if such bills are deemed to be false claims. Subcontractors engaged to perform coding, billing, or collection functions must be:

- Selected through a competitive bidding process as/if required;
- Staffed by appropriately trained and experienced personnel;
- Have in place the necessary systems of control, policies and procedures to ensure compliance with all laws and regulations pertaining to coding, claims, bills, collections and fraud & abuse regulations; and
- Perform functions specified by SUNY DMC within the terms of a written contract.

2. Monitoring Coding and Billing for SUNY DMC Services

SUNY DMC will monitor its operations to ensure accuracy with its clinical reimbursement coding and billing processes. Each employee is expected to exercise diligence in coding the medical record and the handling and issuance of bills. Furthermore, it is the obligation of each employee to report immediately to his/her supervisor, manager, the VP-OCAS, or the Compliance Line any known or suspected submissions of false, fictitious, or fraudulent claims.

3. Cost Reporting

SUNY DMC is required to submit annual cost reports to the State and Medicare Intermediaries. SUNY DMC's staff and SUNY DMC's external independent auditors are to guard against any submission of inflated or inaccurate cost reports.

4. Record Retention

State law prohibits the destruction of State records, including SUNY DMC records, except in accordance with State approved records retention schedules. Retention and disposition of the majority of SUNY

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DMC records are governed by the “General Retention and Disposition Schedule for New York State Government Records.”

This schedule provides retention and disposition authorizations for records commonly created and maintained by State agencies, i.e., administrative, personnel and fiscal records. The retention and destruction of records unique to SUNY and to SUNY DMC as an academic medical center, i.e., student records, patient records, hospital finance records and patient billing records, are governed by the SUNY Records Retention and Disposition Schedule. No records may be destroyed unless they are covered by the State or SUNY Schedules or unless specific approval is obtained from the New York State Archives and Records Administration in the State Department or Education. Questions about records disposition should be referred to the VP-OCAS or to SUNY DMC University Counsel.

One of the most important assets of a health care organization is the integrity of its records systems. The following general rules apply with respect to the handling of confidential information, the maintenance of records, and the retention/destruction of records:

- All records must be retained for at least the minimum periods required by State and Federal law.
- Records that may affect any SUNY DMC obligation to patients must be retained for a period of time that will ensure that they are available when needed.
- Adequate records must be made and maintained in order to document SUNY DMC's compliance with all relevant laws.
- Destruction of records may take place only pursuant to SUNY DMC's policies regarding destruction of records.

G. USE AND PROTECTION OF SUNY DMC ASSETS AND TRANSACTIONS

All employees will strive to preserve and protect SUNY DMC's assets by making prudent and effective use of its resources and properly and accurately reporting its financial condition.

It is the responsibility of each employee to maintain the integrity of SUNY DMC's financial records. Employees may never participate in any misstatement of SUNY DMC's accounts. There is never justification for maintaining off the book accounts to facilitate questionable or illegal payments. SUNY DMC's financial records serve as a basis for managing SUNY DMC's activities. These records assist SUNY DMC in carrying out its responsibilities to patients, colleagues, suppliers and others; and are necessary for compliance with tax and financial reporting requirements.

Each employee has a duty to maintain and protect SUNY DMC property prudently. You must respect and care for SUNY DMC's assets, both tangible and intangible, including:

- SUNY DMC's physical plant and equipment; and
- SUNY DMC's other resources such as reference materials and reports, computer software, data processing systems and databases.

You may not remove SUNY DMC property from the premises unless you have received prior approval from your supervisor. Any community or charitable use of organization resources must be approved in advance by your supervisor. Any use of organization resources for personal financial gain unrelated to SUNY DMC is prohibited.

If you are responsible for acquiring or disposing of assets, be careful to stay within the limits of your authority. If you report on such matters as travel and entertainment expenses, hours worked, petty cash or

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vacation time, be accurate. Receipts and expense reports must be provided for all expenditures, in accordance with SUNY DMC policy.

H. AVOIDANCE OF CONFLICTS OF INTEREST

Executives, managers, physicians, other employees, volunteer physicians and committee members owe a duty of undivided and unqualified loyalty to the DMC. Persons holding such positions may not use their positions to profit personally or to assist others in profiting in any way at the expense of the organization. We must avoid conduct which has even the appearance of conflict between our personal interests and those of SUNY DMC and comply fully with the New York State Ethics Commission Policy on Conflicts of Interest.

It is SUNY DMC's policy that all executives, managers, physicians, other employees, volunteer physicians, and committee members act in the best interest of SUNY DMC at all times and not engage in any activity in which private interests conflict with SUNY DMC interests. Generally, a conflict of interest exists when an obligation or a situation resulting from an individual's personal activities or financial affairs may adversely influence his judgment in the performance of his duty to SUNY DMC. There may well be cases in which an apparent conflict of interest is more theoretical than real, but it is important to resolve such doubtful cases promptly. For the protection of both SUNY DMC and the individual, it is essential that potential conflicts be fully disclosed and resolved, before they are realized. In all unclear cases, the individual should fully disclose the matter to the SUNY DMC Vice-President in charge of his/her department, who will then discuss the matter with the VP-OCAS or other appropriate member of the SUNY DMC Administration.

- 1) Officers and employees of State government are restricted in the activities in which they may engage while in State service. Basically, they may not engage in activities that would create or appear to create a conflict with their public duties. Some of the specific restrictions are:
 - They may not sell goods or services to the State or any agency of the State except through a competitively bid contract.
 - They may not appear before any State agency or render services for compensation in a matter before any State agency in connection with such subjects as the purchase or sale of goods, ratemaking, funding or licensing.
- 2) More generally, State officers and employees must not have any interest in or engage in any business or activity "in substantial conflict" with the discharge of their public duties. This restriction prohibits them from:
 - Disclosing confidential information acquired in the course of their official duties or using such information to further their personal interests.
 - Using or attempting to use their official positions to secure unwarranted privileges or exemptions for themselves or others.
 - Giving reasonable basis for the impression that any person can improperly influence them or unduly enjoy their favor in the performance of their official duties, or that they are affected by the kinship, rank, position or influence of any party or person.

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- Finally, State officers and employees should endeavor to pursue a course of conduct which will not raise suspicion among the public that they are likely to be engaged in acts that are in violation of their public trust.
- 3) The New York State Ethics Commission's regulations restrict the outside activities of State officers and employees as follows:
- Certain high level officials, including all policymakers, are barred from serving as an officer of any political party or organization or serving as a member of a political party committee, including district leader or member of a national committee.
 - No salaried State officers or employees may engage in any outside activity that interferes or is in conflict with their duties.

I. ACADEMIC/RESEARCH INTEGRITY

SUNY DMC is dedicated to upholding the legal and ethical standards applicable to medical education and research, including Federal and State requirements relating to the protection of human subjects in research, the use of animals in research and the investigation and prevention of misconduct in scientific research.

All research involving human subjects must be submitted for review and approval to the Institutional Review Board (“IRB”), in accordance with SUNY DMC’s Assurance of Compliance with regulations for the protection of human subjects. Grant recipients must ensure any IRB imposed restrictions and requirements are complied with fully.

All research and educational use of animals must be reviewed and approved by the Institutional Animal Care and Use Committee (“IACUC”). The care of research animals and facilities must be in compliance with Federal and State laws and regulations and any requirements imposed by the IACUC.

All allegations concerning scientific misconduct shall be investigated in accordance with SUNY DMC’s Guidelines for the Review of Alleged Scientific Misconduct. Misconduct in the context of research means fabrication, falsification, plagiarism, or other practices that seriously deviate from those that are commonly accepted for proposing, carrying out or reporting results from research.

Questions concerning alleged scientific misconduct or compliance with requirements for research involving human subjects or the care and use of research animals should be directed to the Office of Scientific Affairs.

J. ENVIRONMENTAL LAWS AND OCCUPATIONAL SAFETY

SUNY DMC will comply fully with all environmental laws and regulations. All hazardous materials and infectious wastes must be stored, handled and disposed of in full compliance with all laws, regulations and institutional policies. Unsafe storage or inappropriate release of such materials into the environment must be promptly reported. We will work cooperatively with the appropriate authorities to remedy any environmental contamination for which SUNY DMC may be responsible.

SUNY DMC will abide by all laws and regulations regarding occupational safety.

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In the course of SUNY DMC's operations, hazardous materials and infectious wastes may be used or generated. SUNY DMC is financially and legally responsible for the proper handling and disposal of these materials.

It is essential that everyone at SUNY DMC who deals with hazardous materials and infectious waste complies with environmental laws and regulations and follows the environmental safety procedures explained in SUNY DMC's programs and existing manuals. Employees are also expected to enable SUNY DMC to:

- Comply with all laws and regulations governing the handling, storage and use of hazardous materials, other pollutants and infectious wastes;
- Comply with its permits that allow it to safely discharge pollutants into the air, sewage systems, water pollution control facilities, or onto or into land;
- Hire only reputable licensed services to transport and dispose of hazardous and polluted materials and infectious wastes; and
- Accurately maintain the records required by the environmental laws and regulations, including those that require precise description of the amount, concentration and make-up of hazardous materials or other regulated pollutants and infectious wastes that are used, stored, discharged or generated; and the time, place of origin, destination and transporter of hazardous materials, and discharge of pollutants. These records should be handled pursuant to proper SUNY DMC policy.

No one at SUNY DMC may participate in concealing improper discharge or disposal of hazardous materials, pollutants or infectious wastes. Any employee who has reason to believe that there have been violations of this or any other aspect of SUNY DMC's environmental compliance procedures should report immediately to the VP-OCAS, who will in turn investigate and, when appropriate, notify pertinent government agencies, as required by law.

Both Federal and State laws regarding the promotion of occupational safety and avoidance of job related hazards are designed to ensure that each of us works in a safe environment. Due regard and attention should be paid to those laws and regulations. In the event you have reason to believe a potential or actual infringement of the laws and rules regarding occupational safety has occurred, you must advise your supervisor, the VP-OCAS or the Compliance Line.

K. MAINTENANCE OF A DRUG AND ALCOHOL FREE WORKPLACE

The use, sale, purchase, transfer, possession or presence in one's system of illegal drugs is strictly prohibited. Similarly, the use, sale, purchase, transfer, possession or presence in one's system of alcoholic beverages while on duty is prohibited.

IV. ADMINISTRATION OF THE COMPLIANCE PROGRAM

A. OVERSIGHT RESPONSIBILITIES

The VP-OCAS shall be responsible for the day-to-day management and administration of this Program. The VP-OCAS' general responsibilities include:

- Overseeing and monitoring the implementation of the Compliance Program;
- Developing and coordinating educational and training programs to ensure employee compliance with Federal and State laws;
- Monitoring guidance, alerts or other requirements issued by the Office of Inspector General, the Department of Health & Human Services, the Centers for Medicare & Medicaid Services, the NYS Office of Medicaid Inspector General and other authoritative sources;
- Conducting regular internal compliance reviews and audits;
- Developing a system that solicits and responds to complaints related to fraud or other ethical violations;
- Investigating matters related to compliance and recommending the necessary corrective action plans or disciplinary measures.

In addition, the President shall designate certain employees to serve on a Compliance and Audit Oversight Committee ("CAOC"). The CAOC shall assist the VP-OCAS in the administration of the Program, including without limitation, the investigation of complaints, as requested by the VP-OCAS or the President. The CAOC shall meet on a quarterly basis.

It is essential that each employee fully adhere to this Program. All Department Heads are responsible for adherence to this Program in their respective departments. If any employee has any question regarding the applicability or meaning of any section of this Program, he or she should address such question to the VP-OCAS, in writing, orally or through the Compliance Line.

B. EMPLOYEE TRAINING

SUNY DMC recognizes the importance of communicating effectively its Code of Conduct and applicable Federal and State regulations to all of its employees and agents. Thus, it is the intent of SUNY DMC to require all new hires to be appropriately trained as part of the orientation program provided to new employees of SUNY DMC. New employee training includes, but is not limited to, education on the following topics:

- Code of Ethics & Business Conduct;
- Adherence by employees to SUNY DMC's Compliance Program;
- Deficit Reduction Act and associated fraud & abuse laws;
- HIPAA Privacy & Security;
- Documentation, coding and billing for Professional billing (ie. Professional Compliance);
- Documentation, coding and billing for Technical billing (ie. Corporate Compliance);
- Compliance Line system and employee obligation to report suspected violations.

Training may include web-based interactive courses, lectures, videos, classes and other modalities. The VP-OCAS, in conjunction with other SUNY DMC employees, will be responsible for training employees on the above topics.

Additionally, DMC will provide technical on-going training programs for certain employee groups, as necessary and as identified by specific departmental audit reviews and results. Annual training of University Hospital of Brooklyn personnel will include a summary of the above training topics.

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The VP-OCAS, in conjunction with other SUNY DMC employees, will periodically update SUNY DMC's training procedures to ensure that all sessions and materials are reflective of the most recent developments and decisions in the law.

Compliance training is required of all employees and is a condition of employment. Failure to meet education and training requirements will result in disciplinary action. Completion of required compliance training will be closely monitored and documented. The VP-OCAS maintains training records and reports detailing training activities for all employees. Summary reports of compliance with education and training requirements will be provided to the CAOC, as necessary.

C. MONITORING AND AUDITING

SUNY DMC will implement steps to monitor compliance with the Program. This will include monitoring and auditing to determine whether the Program is being adhered to and whether it is successfully serving its intended purpose. Compliance monitoring and auditing are aimed at ensuring adherence to general compliance policies and applicable federal and state laws and regulations. Audits will include on-site visits; interviews with personnel involved in administration, operations, billing, reporting, and other related activities; review of documentation and other written materials; and identification of patterns or trends.

The VP-CAS and CAOC will monitor each section of the Compliance Program for operational effectiveness during the year. On an annual basis, the VP-OCAS will develop a Compliance & Audit Work-plan, based upon SUNY DMC's high risk areas and the Office of Inspector General focused audit work-plan areas. The VP-OCAS, in conjunction with the CAOC, will:

- Identify the high risk compliance issues facing SUNY DMC;
- Establish priorities for addressing these risk areas;
- Coordinate monitoring activities and audits to review processes and control or reduce identified risks;
- Follow up on audit recommendations to ensure effectiveness.

Compliance monitoring and auditing will primarily focus on documentation, coding and billing of Medicare, Medicaid and other federal health care programs, as well as other fraud & abuse and regulatory issues. All contracts with suppliers and agents will also be monitored for compliance with the Program.

The VP-OCAS shall have access to all the necessary documents in order to effectively monitor and audit all elements of the Compliance Program.

D. REPORTING SYSTEM

Employees and faculty are required to come forward with any information regarding an actual or possible violation of this Code or SUNY DMC Policy and cooperate fully in the investigation of any alleged violation. SUNY DMC has established the following methods for employees to report, confidentially and anonymously, any questionable conduct or possible violation:

1) Reports may be made either in person, by telephone, or in writing to any of the following:

- Your Supervisor or responsible Vice-President
- Office of Compliance & Audit Services: 270-4033, Box #1248
- SUNY DMC University Counsel: 270-4628, Box #1258
- Human Resources Senior Administration: 270-1191/ 3019, Box #1224

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- HIPAA Privacy Officer: 270-7470, Box #1248
- Information Security Officer: 270-4454, Box #17
- Patient Relations: 270-1111, Box #23
- Regulatory Affairs: 270-1136, Box #1254
- Office of Opportunity & Diversity: 270-1738, Box #1220
- Office of Scientific Affairs: 270-2680, Box #129
- Facilities Management & Development/ Environmental Safety: 270-1216, Box #13
- University Police: 270-2626, Box #1201

2) SUNY DMC's Confidential Compliance Line is a 24/7 hotline service available as an internal reporting mechanism for reporting suspected fraud, abuse, waste or other illegal or unethical conduct regarding students, employees, volunteers and independent contractors. There are two methods for Compliance Line reporting:

- Call 877-349-SUNY (7869);
- Report online by clicking on the "Compliance Line" link on the main Downstate web-page (www.downstate.edu).

There shall be no reprisals for *good faith* reporting of actual or suspected acts of fraud, waste or abuse or violations of the Code or other wrongdoing or conduct. However, an employee who makes an intentional false report or a report not in good faith may be subject to disciplinary action. SUNY DMC will endeavor to keep the identity of anyone reporting a violation confidential, to the extent permitted by law, unless doing so prevents SUNY DMC from fully and effectively investigating an alleged violation.

As referenced above, SUNY DMC provides a Compliance Line as a means for employees to provide information to the VP-OCAS. Thus, reports of wrongdoing may be made directly to the individuals designated above or to the employee Compliance Line via an oral or web-based report. The VP-OCAS, CAOC or other individuals designated by the President will investigate any and all information provided.

E. ENFORCEMENT AND DISCIPLINE

SUNY DMC recognizes the necessity to enforce the standards and procedures of its Compliance Program and to discipline those employees who violate the Program or negligently fail to detect an offense. All employees of SUNY DMC will receive training relative to their obligations under the Program. Employees who fail to adhere to the standards of this Program will face disciplinary action, including termination. Depending on the facts and circumstances of each case, and in compliance with any applicable collective bargaining agreements, SUNY DMC may take one or more of the following actions:

- Reprimand the employee;
- Place the employee on probation;
- Suspend the employee;
- Dismiss the employee;
- Refer the employee for criminal prosecution; and/or
- Demand that the employee reimburse SUNY DMC for any losses or damages resulting from the violation.

If a consultant or independent contractor is working for SUNY DMC and he/she does not comply with the Program, SUNY DMC may:

- Terminate the consultant or independent contractor's agreement with SUNY DMC;

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- Refer the consultant or independent contractor for criminal prosecution;
- Demand that the consultant or independent contractor reimburse SUNY DMC for any losses or damages resulting from the violation; and/or
- Take any other actions that may be permitted by law or by SUNY DMC's agreement with the consultant or independent contractor.

SUNY DMC will also take disciplinary action against:

- Anyone who deliberately fails to report a violation or who deliberately withholds relevant and material information about a violation of the Program;
- A violator's supervisor, to the extent that the circumstances of the violation reflect inadequate supervision or lack of diligence;
- Any supervisor who directly or indirectly retaliates against someone who reports a violation of the Program;
- Any supervisor who encourages anyone else to retaliate against someone who reports a violation of the Program; and
- Anyone who knowingly falsely accuses someone of violating the Program.

F. RESPONSE AND PREVENTION

If an offense occurs and is identified, it is the policy of SUNY DMC to respond appropriately to the offense and to enjoin any further similar offenses. This will include amending SUNY DMC's Compliance Program to preclude and detect violations of law in the future.

After an offense or crime has been detected and after an internal investigation has been conducted, SUNY DMC will report the offense, as required, to the appropriate governmental authorities. All internal investigations at SUNY DMC will be headed by the appropriate Supervisor, Director, Officer, Vice-President, President, Human Resource Department and/or OCAS. The goal is to ensure that all legal obligations are fulfilled and all steps to prevent further violations are exhausted. In the event, after a violation has occurred, it is determined that authorities should be notified, it will be the VP-OCAS's responsibility, in conjunction with the President and SUNY DMC Counsel, to determine when and how the appropriate authorities should be apprised. At the conclusion of all internal investigations conducted by the VP-OCAS, and at SUNY DMC Counsel's direction, a report of the investigative findings will be prepared.

The VP-OCAS, in conjunction with the President and SUNY DMC Counsel, will report violations of law to SUNY Administration as necessary. Included in the report will be a full description of what transpired and what is being done to prevent similar conduct in the future.