

 Kaleida Health POLICY	Title: Corporate Compliance Program Structure and Guidelines	# IAC.20
	Owner: Chief Compliance Officer	Issued: 7/1/98
Keywords: compliance, fraud, waste, abuse, non-retaliation		

I. Statement of Purpose

Kaleida Health is dedicated to achieving the highest standards of conduct, honesty, and reliability in its business practices. Kaleida Health is committed to comply with all applicable federal and state standards. To that end, Kaleida Health has developed the Kaleida Health Corporate Compliance Program (“the Program”) to prevent, detect, and correct fraud, waste or abuse particularly in Federal health care programs.¹ To ensure effectiveness, the Program contains a Code of Conduct and Business Ethics and the following eight basic elements

- A. Written policies and procedures
- B. Designation of a compliance officer
- C. Training and education
- D. Lines of communication to the compliance officer
- E. Disciplinary guidelines to encourage good faith participation in the Program
- F. A system for identifying compliance risk areas and non-compliance
- G. A system for responding to detected compliance issues
- H. A policy of Non-intimidation and non-retaliation

The Program facilitates compliance in the workplace with all applicable laws and regulations, as well as Kaleida Health’s policies and procedures. Actions by workforce members that violate such laws, policies or procedures will subject the workforce member to disciplinary or other corrective action, in accordance with the Program.

II. Audience

Chief Compliance Officer, Internal Audit and Corporate Compliance Department, Audit and Corporate Compliance Committee of the Board of Directors, all workforce members

For the purposes of this policy, the term “workforce member” includes all governing body members (i.e. Directors) and Corporate Officers as well as executives, employees, independent contractors, agents, vendors, first tier entities, down-stream entities, related entities, students, interns, residents, fellows, volunteers, appointees or other persons or entities who perform services or functions for Kaleida Health or who otherwise contribute to Kaleida Health’s entitlement to payment from Federal health care programs. This includes, but is not limited to, full and part time employees, affiliates, associates, managers and leaders (individuals with the designation of supervisor and above), physicians employed by or otherwise affiliated with Kaleida Health, medical residents, nursing students or others receiving training at any Kaleida Health facility, and others who provide goods or services to Kaleida Health. As used within this definition, “employee” refers to an individual who performs services as a W-2 employee of Kaleida Health.

III. Instructions – (Outline necessary steps for consistent completion of process/ procedure)

A. Written Policies and Procedures

The Code of Conduct and Business Ethics, the Corporate Compliance Program Structure and Guidelines, and related compliance policies have all been formalized in writing and

¹ The term “Federal health care program” means any plan or program that provides health benefits whether directly, through insurance or otherwise, which is funded directly, in whole or in part, by the United States Government, and includes certain State health care programs. Examples include, but are not limited to: Medicare, Medicaid, Veterans’ programs and the State Children’s Health Insurance Programs. The Federal Employees Health Benefits Program is not included in this definition.

adopted by the Audit & Corporate Compliance Committee of the Board of Directors (“the Committee”). The Chief Compliance and Privacy Officer (the “CCO”) and the Committee will meet at least annually (or more frequently as necessary) to review all Program documents and make any necessary changes.

B. Designation of Chief Compliance and Privacy Officer and the Committee

1. Audit & Corporate Compliance Committee of the Board of Directors

- a. The Audit & Corporate Compliance Committee has been established, in part, to assist the Board of Directors (“the Board”) in the oversight of Kaleida Health’s Corporate Compliance Program.
- b. The Committee is comprised of independent directors of the Board.
- c. Kaleida Health’s Chief Compliance Officer and designated senior executives are also members of the Committee.
- d. The Committee Chair is appointed by the Board.

2. Chief Compliance and Privacy Officer

- a. The Committee, working in consultation with Kaleida Health executive management, appoints the Chief Compliance Officer who is responsible for the continued development, implementation, and operation of the Program.
- b. Among other things, the CCO is responsible for: (i) receiving and responding to all reports, complaints, and questions about compliance issues; (ii) investigating instances of potential legal and ethical violations (and violations of the Code of Conduct and Business Ethics); and (iii) taking appropriate corrective action in response to such matters.
- c. The CCO reports directly to the General Counsel and to the Committee.
- d. The CCO and staff of the Internal Audit & Corporate Compliance Department work closely with General Counsel, clinical and non-clinical departments, and billing personnel to foster and enhance compliance with applicable legal and institutional requirements.

C. Education and Training

1. The CCO will oversee the compliance education and training process, which involves communication of applicable compliance policies and procedures to workforce members.
2. Education and training will involve basic instruction about the Program as well as specialized education for certain groups of employees who have unique responsibilities (e.g. billing, coding and documentation functions). This includes:
 - a. Training for all new workforce members as part of their orientation.
 - b. An annual review for all workforce members of the requirements of the Program, including any changes which have been adopted
3. Training and education are the responsibility of Kaleida Health management, including administrators, directors and managers.
4. The CCO will also receive compliance training.
- 5.

D. Communication Lines to the Compliance Officer

1. Reports of Compliance Concerns
Any workforce member who in good faith believes that an activity may not comply with any applicable law, regulation, or applicable policies and procedures of Kaleida Health, must report the activity by:
 - a. Calling the Kaleida Health Chief Compliance and Privacy Officer at (716) 859-8633;

- b. E-mailing the Kaleida Health chief Compliance and Privacy Officer at vbelniak@kaleidahealth.org
 - c. Sending a written report to the Kaleida Health Chief Compliance and Privacy Officer through inter-office or regular mail;
 - d. Calling the Compliance Hotline at (833)990-0040;
 - e. A confidential meeting with a member of the Internal Audit & Corporate Compliance department
 - f. Submitting a STARS report
2. Internal Audit & Corporate Compliance will maintain documentation of all reported compliance concerns, including investigations and corrective actions resulting from the report. This documentation will be retained for a period of ten (10) years from the date of resolution/closure of the concern.
 3. All records related to reported compliance concerns will be preserved in accordance with law and in a manner that assures maximum protection under the attorney-client privilege and attorney work product doctrines.
 4. The identity of workforce members reporting through the Hotline will be kept confidential, whether requested or not, unless the matter is turned over to law enforcement or is required during a legal proceeding.

E. Disciplinary Policies to Encourage Good Faith Participation in the Compliance Program

All workforce members will be subject to disciplinary action if they fail to comply with any laws, regulations, or any aspect of the Compliance Program. This includes disciplinary actions for:

1. Failure to report suspected problems;
2. Participating in non-compliant behavior;
3. Encouraging, directing, facilitating, or permitting non-compliant behavior;
4. Refusal to cooperate in the investigation of a potential violation;
5. Refusal to assist in the resolution of compliance issues; or
6. Retaliation against, or intimidation of, an individual for reporting a compliance violation or otherwise participating in the Compliance Program in good faith.

Such disciplinary actions shall be fairly and firmly enforced. The types of discipline imposed will be commensurate with the severity of the violation, ranging from verbal or written warnings to termination of employment or contract, if appropriate.

F. Identification of Compliance Risk Areas and Non-Compliance

1. Kaleida Health will regularly monitor and audit compliance risks, focusing on areas that pose a potential risk of legal, financial, business continuity or reputational harm, including but not limited to billings, payments, medical necessity and quality of care, governance, mandatory reporting, credentialing, and other identified risk areas.
2. The Internal Audit and Corporate Compliance Department is authorized to have full, free and unrestricted access to all information including records, books, computer files, documentation, property and personnel throughout the organization in order to carry out their monitoring and auditing activities. The CCO will oversee the monitoring and auditing process and present written reports to the Audit & Compliance Committee at regularly scheduled meetings.
3. The Internal Audit and Corporate Compliance Department will ensure that all relevant publications issued by government or third-party payers regarding compliance rules or protocols relevant to Kaleida Health are reviewed and

appropriately implemented. Through this process, compliance risk areas specific to Kaleida Health will be identified and incorporated into the Annual Work Plan, or a focused audit, as appropriate. In addition, the CCO will monitor the Compliance Hotline and any other reports of compliance issues or violations that might be raised. As appropriate, the CCO will raise issues with the General Counsel, the President/CEO, or the Committee.

4. The CCO, working with the Internal Audit and Corporate Compliance Department, will formulate an annual Compliance Work Plan based on developments arising from internal reviews and issues and external areas of compliance concern. The Work Plan will be approved/ reviewed by the Committee.

G. **A System for Responding to Compliance Issues**

All compliance concerns must be brought to the attention of the CCO.

All reported compliance concerns will be investigated as they are raised, including those identified through audits and self-evaluations.

1. Investigations.
 - a. The CCO will oversee or conduct an inquiry into all potential compliance issues, using outside counsel or consultants as necessary. All workforce members are required to cooperate in such investigations.
 - b. No promises will be made to the party reporting the concern regarding his/her liability or what steps will be taken in response to the report, other than the assurance that Kaleida Health will not take any type of retaliatory action against the individual for having filed the report.
 - c. Depending on the nature of the potential compliance issue, an investigation may include interviews with workforce members, documentation reviews and a root cause analysis.
 - d. The CCO or his/her designees(s) will sufficiently document their investigative steps.
 - e. If it is determined that the allegation, if true, would or possibly could constitute a violation of State or Federal law, the CCO will report the allegation immediately to General Counsel. The CCO and General Counsel will determine whether the allegations have a basis in fact, whether remedial action is to be imposed, and whether disclosure to outside authorities is required by law.
2. Corrective Action.
 - a. The CCO will ensure that appropriate corrective action is implemented promptly and thoroughly.
 - b. All workforce members are required to assist in the resolution of compliance issues.
 - c. Corrective Actions. Corrective actions may include: conducting training and re-education; revising or creating appropriate forms; modifying or creating new policies and procedures; conducting internal reviews, audits or follow-up audits; imposing discipline (up to and including termination of employment or contract), as appropriate; and making voluntary disclosures and/or refunds to appropriate payers.
 - d. Discipline. If a workforce member fails to comply with the Program, including failure to comply with applicable laws and regulations and/or policies and procedures, management will take disciplinary or other corrective action, up to and including termination of employment or contract. Circumstances in which disciplinary or corrective action may be taken include:
 - 1) Failing to report suspected problems;

- 2) Participating in non-compliant behavior;
 - 3) Encouraging, directing, facilitating or permitting either actively or passively non-compliant behavior;
 - 4) Failure of a supervisor or manager to assure that their subordinates understand the requirements of the Program;
 - 5) Refusing to cooperate in the investigation of a potential violation;
 - 6) Failure to assist in the resolution of compliance issues; and/or
 - 7) Intimidation of or retaliation against a workforce member who in good faith reports a concern relating to possible noncompliance or who otherwise participates in good faith in the Compliance Program.
- e. A workforce member who admits wrong-doing will not be guaranteed protection from disciplinary or corrective action. The weight to be given to the admission will depend on all the facts known at the time that Kaleida Health makes its disciplinary or corrective decision.

3. Refunds/Self-Disclosures

- a. It is Kaleida Health’s policy to promptly report, return and explain in writing to the appropriate government agency, contractor or payer, any identified overpayments in accordance with applicable legal, regulatory, contractual and/or other requirements or guidance. Kaleida Health exercises reasonable diligence in determining that an overpayment has been received and quantifying the amount of the overpayment. Kaleida Health will report, return and explain in writing any identified Medicaid and Medicare Part A and Part B overpayments within 60 days of identifying the overpayment, consistent with applicable law, regulation and/or guidance.
- b. When circumstances warrant, Kaleida Health will self-disclose to an appropriate governmental agency or other payer, to the extent required or otherwise appropriate (including, but not limited to the Federal DHHS, OIG and the New York State DOH and OMIG).

4. The CCO will report to the Audit & Corporate Compliance Committee all credible reported compliance concerns, including the results of the investigations and any subsequent action taken.

H. Policy of Non-Intimidation and Non-Retaliation

Intimidation and Retaliation Are Prohibited. All workforce members are expected to participate in and comply with the Corporate Compliance Program, including the reporting of any violation or compliance issue. Retaliation or intimidation in any form against an individual who in good faith reports possible unethical or illegal conduct or otherwise participates in the Compliance Program is strictly prohibited and is itself a serious violation of the Code of Conduct. Acts of retaliation or intimidation should be immediately reported to the CCO and, if substantiated, will be disciplined appropriately.

IV. Approved by – (Include date)

Office of General Counsel	6/12, 9/13, 9/15, 8/16, 5/18, 10/18, 3/19, 10/20
Corporate Policy Approval Committee	7/13/12, 9/13, 9/15, 6/8/18, 11/9/18, 4/12/19, N/A

V. References

NYS: False Claims Act; Social Services Law § 363-d; Title 18 NYCRR Part 521
 Federal: Deficit Reduction Act; False Claims Act
 HHS OIG *Compliance Program Guidance for Hospitals*

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HHS OIG *Compliance Program Guidance for Nursing Facilities*
HHS OIG *Compliance Program Guidance for Home Health Agencies*
HHS OIG *Corporate Responsibility and Corporate Compliance: A Resource for Health Care Boards*
(04-02-03)
HHS OIG *Supplemental Compliance Program Guidance for Hospitals (01/31/05)*
NYS OMIG *Compliance Program Assessment Tool*
NYS Nonprofit Revitalization Act of 2013

- ADM.18 – Business Associate Agreement
- HR.7 – Corrective Action
- HR.16 – Conflict of Interest
- IAC.11 – Exclusion/Sanction Screening
- IAC.14 – HIPAA Privacy and Security Sanctions
- IAC.18 - Fraud, Waste, and Abuse Compliance including Federal and New York State False Claims Act Information
- IAC.19 – Code of Conduct and Business Ethics
- IAC.22 – Notification of Breach of Protected Health Information
- IAC.31 – Language Assistance Plan
- MR.13 – Availability of Clinical Laboratory Results
- MR.14 – Release of Patient Protected Health Information
- RM.6 – Regulatory Agency and Other Access/Service of Process

Version History:

Effective Date:	Reviewed/ Revised
11/3/20	Revised
5/6/19	Revised
12/3/18	Revised
7/2/18	Revised
9/18/17	Reviewed no changes
9/12/16	Revised

Kaleida Health developed these Policies, Standards of Practice, and Process Maps in conjunction with administrative and clinical departments. These documents were designed to aid the qualified health care team, hospital administration and staff in making clinical and non-clinical decisions about our patients’ care and the environment and services we provide for our patients. These documents should not be construed as dictating exclusive courses of treatment and/or procedures. No one should view these documents and their bibliographic references as a final authority on patient care. Variations of these documents in practice may be warranted based on individual patient characteristics and unique clinical and non-clinical circumstances. Upon printing, this document will be valid for 8/19/2022 only. Please contact Taylor Healthcare regarding any associated forms.