



PENOBSCOT COMMUNITY HEALTH CARE

COMPLIANCE PROGRAM AND CODE OF CONDUCT

MISSION & VISION: Penobscot Community Health Care's mission is to provide comprehensive, integrated primary health care services for all, to improve the health and wellbeing of our patients and the Maine communities we serve. Our vision for success is a community in which everyone has access to quality, cost effective health care, where people are empowered to advocate for their personal goals and needs and are supported by community based resources, and where health encompasses physical and emotional wellness, personal dignity and a sense of belonging.

We believe that health care is a right, not a privilege. This basic premise animates the PCHC Code of Conduct, and the overall ethical framework we use to guide and inform the organization and the decisions it makes.

PCHC Values: Patient-Centered Care, Respect, Passion, Quality, Innovation, Collaboration

I. Statement of Purpose

In our continuing effort to fulfill PCHC's mission and values, all those affiliated with PCHC must commit to high ethical standards and compliance with applicable laws and regulations. PCHC demands lawful, honest, fair, transparent and compassionate conduct of its employees, Directors, and other affiliated individuals and entities. PCHC relies on legal and ethical standards, clinical best practices, empathy and compassion to frame and guide its decision-making.

All PCHC Board members, employees, contractors, vendors, agents, and volunteers ("You") are expected to meet high standards of professional behavior whenever acting on behalf of PCHC. This applies to interactions with other employees, as well as patients, providers, vendors, healthcare partners, government regulators or the general public. You are personally responsible for becoming familiar with this Compliance Program and Code of Conduct, the goal of which is to ensure You comply with the laws, regulations, and policies and procedures related to your responsibilities. This includes reporting unethical, suspicious or unlawful behavior to a member of management, a member of the compliance team, or the Compliance Hotline, and making ethical choices in Your professional life.

II. General Responsibilities

The Board of Directors of PCHC ("Board") recognizes the paramount importance of building and maintaining PCHC's reputation for mission-focused care. This includes assuring compliance with applicable Federal, State, and local laws and regulations, fulfilling contractual obligations, improving access to high quality health care, and maintaining high ethical standards.

You are responsible for ensuring that your conduct is consistent with the Code of Conduct, with PCHC's Compliance Program and policies and procedures, and with generally accepted standards of professionalism. Furthermore, those of You in supervisory positions are charged with responsibility for ensuring both your own conduct and that of everyone you supervise complies with this Compliance Program and with the Code of Conduct (collectively, the "Program"), and where conduct falls short of expectations, employees are provided education and, where appropriate, disciplined.

You must formally agree to abide by this Program, which is a condition of your employment at PCHC, by signing and returning the agreement attached to this document as **Exhibit A**. You will be asked to review the Program and complete this acknowledgement form annually throughout your employment with PCHC.

III. Code of Conduct

PCHC believes deeply in the value of every human being, and that fundamental belief informs our actions. We strive always to ensure the best possible patient experience for all patients, and seek to improve access to high quality health care. Our policies and decisions shall not create barriers to accessing care, and our goal always is to improve access for the most vulnerable among us. You are expected to demonstrate a commitment to these core principles, by following the guidance, holding others accountable to these values, and speaking up when individuals or the organization falls short of meeting these standards. In addition to these general expectations, the Code of Conduct describes specific expectations and rules reflective of our mission and current law. These are meant to serve as guideposts. Your adherence to these rules and guiding principles are an essential part of your job.

1. Exercise Moral Courage: Speak Up, Speak Out

You must exercise moral courage in your everyday work. "Moral Courage" is "the willingness to stand up for and act according to one's ethical beliefs when moral principles are threatened, regardless of the perceived or actual risks (such as stress, anxiety, isolation from colleagues, or threats to employment)." As an organization, PCHC is obligated to foster an environment where speaking up is encouraged and honored, both explicitly and implicitly. PCHC enforces all legal and ethical protections that apply when an individual reports activity or behaviors s/he reasonably believes to be noncompliant, unethical or unlawful. You, in turn, must cultivate the moral courage to speak up when you see wrongdoing or questionable conduct, or when You have a question about compliance, ethics, patient safety, or any other related concern.

2. Provide High Quality, Integrated Care for Patients.

PCHC providers and staff are expected to be engaged in their work and committed to high quality, integrated, accessible healthcare for all. They should put patients first, make decisions about resource allocation, scheduling and coverage that reduce barriers to care, and provide adequate coverage for colleagues to ensure desktop coverage when providers are away from the clinic. Physicians are expected to assist mid-level providers for whom they are listed as secondary supervising physician with the Board. Providers are given the opportunity to supervise and mentor students, residents, and other providers. Providers and staff are expected to work as a team, to accept standardization of best practices, and to collaborate with other providers as well as PCHC administrators to review and share data that facilitates the implementation of clinical and operational best practices.

3. Be Honest and Forthcoming.

You are expected to be cooperative and truthful in Your dealings with any patients, staff, Directors, and members of the public, and to respond honestly and promptly to governmental inquiries or requests, including audits, surveys, and certifications reviews. Being honest means

- affirmatively and fully disclosing all relevant information to PCHC about your background, your qualifications, your ability to bill for healthcare services, or any other matter related to the functioning of the organization;
- safeguarding PCHC's assets, including the funds provided to us by governmental agencies, foundations and donors;
- responding truthfully to inquiries from patients, colleagues, Directors, auditors and agencies;
- communicating promptly with supervisors when you are approached by auditors, external agencies, or other similar persons or entities;
- ensuring documentation is timely, accurate and complete;
- providing complete, timely and accurate information to Your supervisor and, for executive leaders, to the Board of Directors;
- reporting instances of dishonesty or fraud through the appropriate channels; and
- communicating openly and constructively with fellow employees.

While You must be truthful and forthcoming in Your dealings with government officials, You may not speak to government officials *on behalf of* PCHC if not authorized to do so by PCHC's Chief Executive Officer. Governmental inquiries or requests, include audits, surveys, and certifications reviews. You are free to make reports individually to government officials should you determine that is necessary, and you will not be retaliated against for doing so. However, PCHC asks that you do not speak on its behalf, to ensure that responses are coordinated and comprehensive, and to ensure those with only limited information are not providing misinformation on behalf of PCHC. Moreover, PCHC maintains this Program and the Code of

Conduct to ensure you can make reports internally without fear of retaliation, so that PCHC can work to address any issues of noncompliance or breach of ethical standards.

If You receive an inquiry from a government official, You must promptly report the inquiry or request to PCHC's Chief Executive Officer ("CEO"), Compliance Officer or other member of senior management.

This Standard is not intended to interfere in any way with Your right under State or Federal law to report unlawful activity to a governmental agency.

4. Maintain Strict Confidentiality of Patient and other Sensitive Information; Maintain the Trust of the Community.

In any position at PCHC, You will acquire, have access to, or routinely access confidential and/or proprietary information by virtue of Your affiliation with PCHC. Confidential or proprietary information includes protected health information, vendor bids and other confidential bidding information, information related to business operations, including but not limited to information related to PCHC technology systems and processes, security protocols, personnel, building access, financial information, business strategy and marketing plans, joint ventures or other business arrangements, data management protocols, systems and plans, and other information not generally available to the public ("Confidential Information").

Confidential Information must be safeguarded. Disclosure of Confidential Information can harm the organization, its employees and patients, and undermine PCHC's ability to fulfill its mission. Regardless of Your position in the organization or degree of affiliation with PCHC, you are obligated to protect and not disclose Confidential Information.

Those involved in direct patient care or clinical administration are, in addition, entrusted with highly personal medical information about patients. "Protected health information," or "PHI," includes any information created or received by PCHC that relates to the past, present, or future physical or mental health or condition of an individual, the provision of care to that individual, or the past, present or future payment for the provision of health care to that individual. PHI may include mental health, substance abuse information, or HIV/AIDS information, each of which is afforded heightened legal protection because of the level of sensitivity of the information. This type of PHI must be safeguarded in accordance with the additional restrictions imposed by applicable law.

Many of Your colleagues and family members are PCHC patients and must be able to rely on PCHC to safeguard their private information. Significant personal and financial harm can come to patients as a result of a disclosure of PHI. Significant financial and reputational harm can come to PCHC as a consequence of breaches of PHI or other Confidential Information.

In short, You may not:

- (1) disclose Confidential Information outside of PCHC without authorization from the CEO;
- (2) physically remove Confidential Information from PCHC's systems or facilities without authorization from the CEO;
- (3) use Confidential Information for personal gain or for the benefit of a third party; or
- (4) risk inadvertent disclosure of Confidential Information by storing, transmitting or maintaining that information in a manner that is not secure, in violation of PCHC's Confidentiality Handbook, Security Management Plan, or Acceptable Use policy.

If you have any questions or concerns about the safeguarding or disclosure of Confidential Information, consult with PCHC's Compliance Officer (x2190) or the Privacy Officer (x1412).

Inappropriate disclosure of PHI (security incidents, breaches, or potential breaches) must be reported immediately to PCHC's Privacy Officer, pursuant to PCHC's Breach Reporting Policy.

5. Treat Everyone Fairly, Equally, and with Respect, and Promote Equal Opportunity for All.

As part of our mission, we are committed to improving access to care for everyone, regardless of their ability to pay, their socioeconomic status, their political affiliation, level of education, status as a homeless individual, sex, sexual orientation, transgender status, gender expression, gender identity, physical or mental disability, race, ethnicity, national origin, religion, or any other similar status. PCHC maintains an open and inclusive environment and designs policies and procedures that facilitate open access to care for everyone. You are prohibited from discriminating against anyone with whom You work or otherwise deal with in the course of your duties or obligations for PCHC on any of the grounds listed above. PCHC expects You to respect patients' dignity, privacy and cultural values, and to promote equal opportunity for all persons.

In addition, PCHC prohibits preferential treatment to anyone, regardless of their status as a personal friend of a PCHC employee, or whether they are a patient, employee, board member or otherwise. PCHC provides the same access to care and treatment for everyone, regardless of their affiliation with PCHC or other status. PCHC also prohibits nepotism.

6. Avoid or Mitigate Conflicts of Interest.

1. General Guideline and Prohibition

Principle: You must strive to make decisions fairly and objectively and in the best interests of PCHC. To that end, this Program articulates standards designed to ensure that those in a decision-making role or in a position of substantial influence over the organization act only in the best interests of the organization and the patients we serve by avoiding conflicts of interest in

the decision-making process. PCHC is a nonprofit and must ensure its profits are used to advance the mission and PCHC's public, charitable purpose. In addition, PCHC is a federal grantee, and must comply with the standards for managing conflicts of interest necessary to comply with federal regulations (e.g., 45 C.F.R. § 74.42).

Prohibition: You are prohibited from participating in the selection, award or administration of any contract or grant to which PCHC is a party or recipient, regardless of how funded but particularly if paid for in whole or in part with Federal or State funds, or from participating in decisions related to other business transactions when a real or apparent Conflict of Interest is involved. You are required to disclose any interest that could result in of Conflict of Interest before you participate in a decision impacting that interest. You are also required to disclose your business affiliations and those of your immediate family members annually as part of the annual disclosure process. **Exhibit B** explains in greater detail PCHC's full Conflict of Interest Policy, including the definition of key terms, the process for disclosing, addressing and documenting conflicts of interest when they arise, and the affirmative disclosure requirements and disclosure form.

7. Do Not Accept Gifts.

To ensure no undue influence taints purchasing, prescribing or other forms of decision-making, PCHC adheres to a strict policy prohibiting the acceptance of gifts from vendors or contractors, patients or other business affiliates. You may not solicit or accept gifts, gratuities, favors or anything of value from any patient, vendor or contractor or potential contractor of PCHC (including representatives of pharmaceutical or medical supply companies), any current or potential party to a sub-agreement with PCHC, or any other current or potential business associate or affiliate. By virtue of your position at PCHC, You are required to decline or return any gift given to you by any of the above-mentioned individuals or entities, and to notify the CFO and the Compliance Officer of such offer or gift. A "gift" is defined as anything of value, including, but are not limited to:

- personal gifts, such as sporting goods, household furnishings and liquor;
- social entertainment or tickets to sporting events;
- personal loans or privileges to obtain discounted merchandise, and
- meals or food items, even if provided along with educational sessions or materials;
- gift certificates.

Nominal Value Exceptions: (1) promotional materials of little or nominal value, such as pens, calendars, mugs, and other items intended for wide distribution and not easily resold; (2) homemade items, excluding food, and (3) small prepackaged food items (e.g. a box of chocolates) given to a PCHC employee by a vendor or contractor as long as those items of nominal value are shared with colleagues. Food cannot be accepted from patients under any circumstances due to safety concerns.

Although pens, mugs and other items of nominal value are excluded from the technical definition of a Gift, PCHC strongly discourages the use of items in the workplace that contain logos or other information that amounts to free advertising for vendors or business associates. This is the best way to demonstrate to our patients and members of the public that we make informed and independent decisions about their care – unadulterated by industry giveaways – at all times.

8. Be a Good Steward of Public Resources: Do Not Engage in Bribery, Kickbacks, Fraud, Waste or Abuse.

You are expected to be a good steward of public resources. That means:

- You may not participate in schemes or practices that waste public resources.
- You are prohibited from offering or receiving, whether directly or indirectly, anything of value in exchange for the referral of healthcare business paid for in whole or in part by the state or federal government. Further, You may not participate in any arrangement or scheme that involves the receipt of any form of compensation in exchange for these types of referrals.
- Physicians are prohibited from referring designated health services to entities in which they or members of their immediate family have a financial interest.
- All services rendered by PCHC providers must be medically necessary, documented carefully and in a timely manner, and assigned the proper billing code prior to submission to any public or private insurance program for payment.
- PCHC will immediately dismiss You if You are found to have offered or accepted a bribe to secure funding or other any other benefit for or from PCHC, or if you have willfully or recklessly engaged in kickbacks fraud, waste or abuse.

9. Refrain from Political Activities

Because PCHC is a tax-exempt organization, it cannot endorse or support any candidate for public office. This means that You may not participate or intervene in any political campaign in support of or in opposition to any candidate for elected public office while at work during business hours. A political campaign is deemed to begin when an individual announces his or her candidacy for an elective public office, or is proposed by others for an elective public office. In addition, You may not use PCHC's name, facility or any PCHC resources in connection with political campaign activities.

10. Refrain from Lobbying Except as Authorized

Lobbying is generally defined as a communication (written or oral) that is an attempt to influence (for or against) specific legislation, including appropriations. Any lobbying activities proposed to be undertaken by PCHC or by You on behalf of PCHC shall require the prior approval of the CEO. If You undertake lobbying activities, You must work with the Compliance Officer, or his/her designee, to ensure that such activities are supported by non-Federal

resources, and to ensure that all disclosures and reporting of lobbying activities which are required by State or Federal law are submitted in a timely manner.

IV. Corporate Compliance Program

The health care industry is subject to many Federal and State laws and regulations that govern all aspects of the delivery of and payment for health care services. As part of the Program, You must become familiar with this regulatory environment and commit to comply with all applicable laws and regulations.

The following list is representative of the laws, guidance and regulations that PCHC incorporates into its Compliance Program. It is not an exhaustive list of all the requirements with which PCHC will comply, but rather describes those laws most relevant to the avoidance of fraud and abuse and maintenance of applicable licenses. The list will be updated as the laws change and PCHC's Compliance Officer will update its policies and procedures to reflect these changes. Additional information regarding some of these laws is provided as **Exhibit C** to this document.

- Civil False Claims Act: 31 U.S.C. §§ 3729-3733
- Criminal False Claims Act: 18 U.S.C. § 287
- Anti-Kickback Statute and Regulations: 42 U.S.C. § 1320a-7b(b); 42 C.F.R. § 1001.952
- Civil Monetary Penalties Statute and Regulations: 42 U.S.C. § 1320a-7a; 42 C.F.R. § 1003, *et seq.*
- Exclusion of Entities from Government Health Care Programs: 42 U.S.C. § 1320a-7
- Health Care Benefit Program False Statements Statute: 18 U.S.C. § 1035
- Health Care Fraud Statute: 18 U.S.C. § 1347
- Theft or Embezzlement in Connection with Health Care: 18 U.S.C. § 669
- Obstruction of Criminal Investigations of Health Care Offenses: 18 U.S.C. § 1518
- 340B Pharmacy Program Management: 42 U.S.C. § 256 *et seq.*
- Special Fraud and Abuse Alerts and Advisory Bulletins: www.oig.hhs.gov
- Advisory Opinion Materials: www.oig.hhs.gov
- Office of Inspector General Compliance Program Guidance and Work Plans: www.oig.hhs.gov
- Mandatory Compliance Programs as a Condition of Enrollment in Medicare, Medicaid, and CHIP: 42 U.S.C. § 1320a-7k
- Regulations governing Medicare shared savings accountable care organizations: 42 C.F.R. § 425
- State and federal non-discrimination laws, including but not limited to the Maine Human Rights Act, the Age Discrimination and Enforcement Act, the Americans with Disabilities Act, Title VII of the Civil Rights Act, etc.
- Maine Health Care Fraud and Abuse laws, including but not limited to the MaineCare rules in the MaineCare Benefits Manual, 10-144 C.M.R. Chapter 101, Ch. 1, Section 1.20-1, Maine's False Claims Civil Liability Statutes, 22 M.R.S.A. § 15

- Maine's Mandatory Reporter Statute
- Rules of the Maine Boards of Licensure in Medicine, Osteopathy and Nursing related to responsible prescribing practices for Controlled Substances
- Department of Health and Human Services Appropriations Act, Legislative Mandates, as outlined in related PCHC policy
- Accreditation Association for Ambulatory Health Care Standards

Violations, whether intentional or unintentional, may result in significant civil or criminal sanctions, or both, for institutions and personnel that do not comply with the law. Failure to adhere to Joint Commission Standards, rules of licensure boards or other similar standards can result in loss of accreditation or licensure or significant disciplinary action against individual providers and/or PCHC. PCHC is committed to ensuring that it complies with these laws, regulations and standards. As a result, PCHC has established a series of policies and procedures designed to assist it in:

- Detecting instances of non-compliance;
- Promoting open lines of communication so that every individual affiliated with PCHC feels comfortable reporting instances of non-compliance;
- Responding to any instances of non-compliance that are discovered; and
- Prohibiting retaliation of any kind against any individual who makes a good faith report of suspected unlawful activity.

PCHC refers to this series of policies and procedures as its Corporate Compliance Program Policies ("CP Policies"). PCHC understands and expects that this Program and the CP Policies will evolve as the laws, and interpretations of the laws, change, and as PCHC operations change or expand.

It is important to note that compliance is not limited to fraud and abuse or patient confidentiality. As a business entity, it is PCHC's objective to comply with all Federal and State laws and regulations, as well as to use general good business practices to protect its reputation and avoid or prevent actual or apparent Conflicts of Interest in its dealings with business partners.

PCHC's Corporate Compliance Program is a comprehensive organizational program that:

- Identifies the Federal and State laws and regulations governing the organization and ensures compliance with these mandates.
- Develops and maintains written policies and procedures, Standards of Conduct, and advances quality improvement programs throughout the organization.
- Performs periodic self-audits to monitor its compliance with applicable laws and policies governing the organization.
- Conducts ongoing, relevant, and comprehensive education and training for all Affiliated Individuals.

- Guides implementation of corrective action plans to improve PCHC's operations and practices.

IV. Elements of PCHC's Corporate Compliance Program

The Compliance Program is a process that has been established to assist You in understanding and complying with the Standards of Conduct and the different areas of PCHC's business. Each element is critical to the Compliance Program, and is set out in more detail below.

A. Appointment of a Compliance Officer

PCHC is committed to having a Compliance Officer as member of its senior leadership team to oversee the development and implementation of its Compliance Program and to ensure appropriate handling of instances of suspected or known illegal or unethical conduct. PCHC's Compliance Officer reports to the Chief Legal Officer and is assured direct access to PCHC's Board of Directors for the purpose of making reports and recommendations on compliance matters. The Compliance Officer's duties include:

- Taking reports of problems or violations and coordinating corrections;
- Suggesting policies related to compliance to the Board, developing procedures, and implementing policies approved by the Board;
- Overseeing periodic compliance audits, enforcing and updating PCHC's internal audit policy and processes, and monitoring compliance activities;
- Training Affiliated Individuals in compliance matters;
- Reporting incidents of non-compliant conduct to the CEO and Board, as appropriate and escalating instances of non-compliance or suspected non-compliance to the Board based upon the severity of the noncompliance or allegation, the potential reputational risk posed by the noncompliance or the allegations, or the involvement or potential involvement of the CEO in the noncompliance; and
- Ensuring that appropriate disciplinary actions or sanctions are applied.

To support the Compliance Officer in meeting his/her responsibilities, PCHC has established a staff-level Compliance Committee comprised of various members of PCHC's senior management that meet at least quarterly to review the Program, CP Policies, audit results, and other compliance matters that arise in the course of PCHC operations. The staff Compliance Committee is charged with recommending an annual compliance work plan to the Board Governance and Compliance Committee, which makes a recommendation to the Board with respect to annual compliance priorities for the organization.

The staff Compliance Committee reports to the PCHC Risk Management Committee on compliance risks and work plan progress throughout the year, and updates the CEO and Senior Management throughout the year on progress toward compliance goals.

B. Written Standards of Conduct and Policies and Procedures for Promoting Compliance

As part of its efforts to implement an effective Compliance Program, PCHC has established written standards to assist You in recognizing compliance issues and to guide You in your decision-making. PCHC will continue to develop, revise, and implement CP Policies and procedures consistent with the requirements and standards established by the Board, Federal and State law and regulations, relevant reviewing and accrediting organizations (such as the Bureau of Primary Health Care and Accreditation Association for Ambulatory Health Care) and, as applicable, commercial health plans. It is PCHC's policy to address identified areas of compliance risk and to promote compliance by CP Policies that establish guiding principles or courses of action for affected personnel.

C. Education and Training

PCHC develops and offers, among other things, ongoing and regular educational and training programs so that You are familiar with the Program and CP Policies. Specifically, PCHC designs or contracts for effective training in, fraud and abuse, licensure, standards, patient confidentiality, mandatory reporting, and non-discrimination laws, and, if applicable to their position, coding and billing requirements imposed by Medicare, Medicaid, and other applicable government health care programs and commercial health plans. PCHC communicates this information, along with information regarding its CP Policies and related procedures, to You through the New Employee Orientation Program; PCHC's Intranet site; weekly employee email news; targeted Compliance Updates to appropriate staff and Board members; compliance discussions at staff and provider meetings; workplace postings; targeted trainings based on weaknesses identified during internal audits; annual compliance notices; and annual on-line compliance training. Training completion is documented. The CO maintains an annual schedule of compliance trainings and related activities and ensures attendance is taken at each session.

D. Reporting Compliance Issues

PCHC is committed to establishing and maintaining meaningful and open lines of communication between the Compliance Officer, the CEO, and the Board, as well as between You and the Compliance Officer. In addition to encouraging reports to management and adhering to a strict non-retaliation policy, PCHC encourages reports to the Compliance Officer (x2190) and makes available a 24-hour compliance hotline that allows for anonymous reports to be made (*1- 877-874-8416*). The Compliance Hotline Policy is attached as **Exhibit D**.

E. System for Responding to Allegations of Improper and Illegal Activity

PCHC will take appropriate steps to respond to every report of suspected unethical or non-compliant conduct, as well as to address unreported incidents of suspected unethical or non-

compliant conduct. These steps may include conducting investigations, reviewing documents, implementing or revising policies and procedures, offering training, conducting audits, and imposing disciplinary action. See Policy, **Exhibit E**, Responding to Detected Offenses and Developing Appropriate Corrective Action.

F. Audits and Evaluation

PCHC conducts self-audits periodically of its operations to ascertain problems and weaknesses in and to measure the effectiveness of the Compliance Program. To that end, PCHC has adopted an internal “Audit and Monitoring Policy” that underscores the organization’s commitment to systemic compliance, to preventing, detecting and correcting offenses, and to reporting violations uncovered through internal audits to appropriate authorities as required by law. PCHC’s Audit Policy is attached as **Exhibit F**.

G. Corrective Action and Disciplinary Standards

PCHC is committed to the consistent enforcement of its workplace and compliance policies, which may be accomplished by effective performance coaching and/or imposing appropriate disciplinary action in accordance with the CP Policy “Addressing Instances of Non-Compliance through Appropriate Disciplinary Actions,” attached as **Exhibit G**. It is PCHC’s goal to ensure that You understand the consequences of improper or non-compliant activities and that violators are treated fairly and equally.

V. Your Role in the Compliance Program

You are expected to comply with PCHC’s Program and CP Policies, and You are ***required*** to promptly report concerns regarding compliance with the Program and CP Policies, or other laws, regulations or policies.

Such a report should normally be made initially through standard management channels, beginning with an immediate supervisor. As an alternative, You may make such report to the Compliance Officer. For Board members, reports should be made directly to the Compliance Officer. All reports may be made confidentially, and even anonymously, per the Compliance Hotline policy, as feasible and appropriate in a given situation. You are expected to cooperate fully in the investigation of any instance of potential non-compliance.

Reporting potential non-compliance and participating in PCHC compliance activities are essential functions of the job of each PCHC employee.

Anyone who reports a compliance concern in good faith is protected by law from retaliation. Anyone affiliated with PCHC who retaliates against You for reporting potential non-compliance or for participating in addressing potential non-compliance is subject to discipline or other



Date
Approved: 09/08/2021

appropriate action by PCHC. If You make intentionally false accusations regarding a compliance concern, You may be subject to discipline or other appropriate action by PCHC.

This Program and CP Policies shall be reviewed periodically and updated consistent with the requirements established by the Board of Directors, PCHC's senior management, Federal and State law and regulations, and applicable accrediting and review organizations.

Responsible Parties:

<u>Signature</u>	<u>Date</u>
Board President	

<u>Signature</u>	<u>Date</u>
CEO	

<u>Signature</u>	<u>Date</u>
Compliance Officer	



Date 09/08/2021
Approved:

EXHIBIT A
PCHC COMPLIANCE PROGRAM AND STANDARDS OF CONDUCT

**CERTIFICATION OF COMMITMENT TO COMPLY WITH
COMPLIANCE PROGRAM AND STANDARDS OF CONDUCT**

I hereby acknowledge and certify that I have received and reviewed a copy of the PCHC's Compliance Program and Standards of Conduct and I understand that they represent mandatory policies of PCHC.

By signing this form below, I agree to abide by this Compliance Program and Standards of Conduct during the term of my employment, contract or agency, or while otherwise authorized to serve on the PCHC's behalf. In addition, I acknowledge that I have a duty to report any suspected or known violation of the Compliance Program and Standards of Conduct or any PCHC policy or procedure to my supervisor or through the normal chain of command. I acknowledge that I may also report the information directly to the Compliance Officer, any other member of senior management, or anonymously to the Compliance Hotline.

Please return this completed, signed Certification of Commitment to the Compliance Officer.

Date

Signature

Printed Name

Title/Position



Date 09/08/2021
Approved:

EXHIBIT B
PCHC COMPLIANCE PROGRAM AND STANDARDS OF CONDUCT

[THIS EXHIBIT IS INTENTIONALLY BLANK]

REFER TO PCHC'S CONFLICT OF INTEREST POLICY

EXHIBIT C
PCHC COMPLIANCE PROGRAM AND STANDARDS OF CONDUCT
SUMMARIES OF LAWS ADDRESSING FALSE CLAIMS AND STATEMENTS

This Attachment summarizes a number of pertinent laws addressing false claims and statements for reference purposes. This is not intended to be an exhaustive list of all authorities pertaining to fraud and abuse, but is intended to serve as a general guide to laws and regulations applicable to nonprofit healthcare entities.

A. Federal Civil False Claims Act (31 U.S.C. §§ 3729-3733)

The Federal Civil False Claims Act (“FCA”) is a set of Federal statutes that, among other things, forbids “knowingly:”

- Presenting or causing the presentation of, a false claim for reimbursement by a Federal health care program, including Medicare or Medicaid;
- Making, using or causing to be made or used, a false record or statement material to a false or fraudulent claim;
- Repaying less than what is owed to the government;
- Making, using, or causing to be made or used, a false record or statement material to reducing or avoiding repayment to the government;
- Avoiding or decreasing an obligation to pay or transmit money or property to the government; and/or
- Conspiring to defraud the federal government through one of the actions listed above.

To take one of these prohibited actions “knowingly” means to have actual knowledge of the falsity of the information or to act in deliberate ignorance or in reckless disregard of such falsity.

The U.S. Attorney General may bring an action under this law. In addition, the law provides that any “whistleblower” may bring an action under this act on their own behalf and for the United States Government. These actions, which must be filed in U.S. District Court, are known as “qui tam” actions. The Government, after reviewing the complaint and supporting evidence, may decide either to take over the action, or decline to do so, in which case the whistleblower may conduct the action. If either the Government or the whistleblower is successful, the whistleblower is entitled to receive a percentage of the recovery. If prosecuted by the federal government, these qui tam actions are generally handled by the U.S. Attorney’s Offices, or by the U.S. Department of Justice.

Penalties for violations of the FCA include fines from \$11,665 to \$23,331 per false claim, payment of treble damages (*i.e.*, three times the amount of damages sustained by the government

due to the violation), and exclusion from participation in Federal health care programs such as Medicare or Medicaid.

B. Maine – Civil Liability for Persons Making False Claims, 22 M.R.S.A. § 15

Under Maine law, healthcare providers may be subject to civil suit by the State of Maine for

- making or causing to be made, or presenting or causing to be presented for payment or approval, any claim to DHHS knowing such claim to be false, fictitious or fraudulent; or,
- making any false written statement or submitting any false document, for the purpose of obtaining or aiding another to obtain the payment or approval of a claim that the person does not believe to be true; or
- entering into any agreement or conspiracy to defraud the Department.

C. Whistleblower Protections

The FCA and the Maine Human Rights Act provide that any employee who is subject to retaliation or discrimination by an employer in the terms and conditions of employment because the employee lawfully sought to take action or assist in taking action under this act (in the form of a good faith report or participation in an investigation into unlawful conduct) shall be entitled to all relief necessary to make the employee whole. This includes reinstatement with seniority restored to what it would have been without the retaliation or discrimination, double the amount of back pay, interest on back pay, and compensation for any special damages sustained as a result of the employer's actions, including litigation costs and reasonable attorney's fees.

D. Other Federal Laws Addressing False Claims and Statements

- Civil Monetary Penalties Law (42 U.S.C. § 1320a-7a)
Provides for civil fines for knowingly presenting or causing to be presented to the Federal or a State government a claim that the person knows or should know is false or fraudulent. Penalties include up to triple damages in addition to \$2,000 to \$100,000 for each violation, depending on the specific misconduct involved, including \$11, 665 to \$23,331 per claim or up to \$100,000 for a false statement or misrepresentation.
- Criminal Penalties Law (42 U.S.C. § 1320a-7b)
Provides for up to 10 years imprisonment and fines up to \$100,000 for knowingly and willfully making or causing to be made any false statement or representation of a material fact in any application for any benefit or payment under a Federal health care program.

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- **Criminal False Claims Act (18 U.S.C. § 287)**
Provides for up to 5 years imprisonment and fines of up to \$250,000 for making or presenting a claim to the Federal government, knowing such claim to be false, fictitious, or fraudulent.
 - **Conspiracy to Defraud the Government with Respect to Claims (18 U.S.C. § 286)**
Whoever enters into any agreement, combination, conspiracy to defraud the Federal government by obtaining or aiding to obtain the payment or allowance of any false, fictitious or fraudulent claim, is subject to a separate criminal penalty.
 - **Statements or Entries Generally; False Statements Relating to Health Care Matters (18 U.S.C. §§ 1001, 1035)**
Provide for criminal liability to anyone who “knowing and willfully falsifies, conceals or covers up by any trick, scheme, or device a material fact; makes any materially false, fictitious, or fraudulent statement or representation; or makes or uses any false writing or document knowing the same to contain any false, fictitious or fraudulent statement or entry. . .”
 - **General Health Care Fraud Statute (18 U.S.C. § 1347)**
The Government can prosecute an individual or entity who knowingly and willfully executes or attempts to execute a scheme or artifice to: defraud any health care benefit program, or obtain by means of false or fraudulent pretenses, representations or promises, any of the money or property owned by, or under the custody or control of, any health care benefit program, in connection with the delivery of or payment for health care benefits, items, or services.

Health care benefit program means “any public or private plan or contract, affecting commerce, under which any medical benefit, item, or service is provided to any individual.” 18 U.S.C. § 24. Penalties include a fine, imprisonment for not more than 10 years, or both a fine and imprisonment. If serious bodily injury results, the prison sentence may increase up to 20 years and/or a fine.
 - **Federal Program Fraud Civil Remedies Act (31 U.S.C. §§ 3801-3812)**
Provides federal administrative remedies for false claims and statements, including those made to Federally-funded health care programs. Current civil penalties are \$5,500 for each false claim or statement, and up to double damages for each false claim for which the Government makes a payment.
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EXHIBIT D

Reporting Concerns and Use of the Compliance Hotline

POLICY

As part of the Compliance Program, PCHC has established this Reporting Concerns and Use of the Compliance Hotline policy for reporting violations of law or the PCHC Standards of Conduct, as well as a strict non-retaliation policy to protect employees who report problems and/or concerns with honest intentions. The purpose of this Policy is to outline the channels available, including an anonymous hotline, for employees, vendors and Board Members to report any activity or conduct that they suspect violates PCHC's policies and procedures, and/or federal, state or local laws and regulations.

This policy applies to all Persons as defined in the Compliance Program.

REPORTING CONCERNS

Any Person who has a compliance related question or concern is encouraged to share that question or concern as soon as possible, so that appropriate action can be taken. Multiple communication channels are available for You to ask questions and report concerns. While PCHC employees are encouraged to obtain guidance or share concerns with their supervisor first, You may use any of the following communication channels:

- Discuss the issue with supervisory personnel.
- Contact the PCHC department that has subject matter expertise in the area of concern.
- Contact the PCHC Human Resources Department for human resources issues.
- Contact the Compliance Officer at x 2190(for those outside the organization, call 207-992-9200, x2190)
- Call the PCHC Hotline at **1-877-874-8416**
- Contact the appropriate state or federal ombudsman's office.

CALLS TO THE COMPLIANCE HOTLINE

The Compliance Hotline is operated by a third party organization hired to collect and document information provided on the call. It operates seven days a week, 24 hours a day, 365 days a year. **The Compliance Hotline phone number is 877-874-8416.** Callers to the Hotline may remain anonymous if they so choose. Once the report is made, the hotline company will generate a report to the Compliance Officer.

If the individual making the report identifies themselves, PCHC shall attempt to maintain the confidentiality of that individual if such a request is made. However, confidentiality cannot be guaranteed, and disclosure of the individual's identity may be necessary in order to fully investigate the concern.



NONRETALIATION

PCHC shall not retaliate in any way against You, including by disciplining You, for reporting a concern in good faith. However, reports made in bad faith about things known to be untrue will result in disciplinary action.

DUTY TO REPORT: Everyone associated with PCHC is responsible for enforcement of the Compliance Program. All PCHC staff is expected to know and follow applicable laws, regulations and policies, and to report compliance concerns as set forth in this Policy. Adherence to this Policy will maintain the integrity of PCHC's patient care, education and outreach mission.

EXHIBIT E

PCHC COMPLIANCE PROGRAM POLICY AND PROCEDURE

Responding to Detected Offenses and Developing Appropriate Corrective Action

Policy:

Penobscot Community Health Care (“PCHC”) is committed to ensuring that its Compliance Program and Standards of Conduct, and its policies and procedures are adhered to by all individuals affiliated with the health center, including Board members, employees, contractors, vendors, agents, and volunteers (collectively, “You”), through the consistent enforcement of the aforementioned standards. Enforcement will be accomplished by imposing appropriate disciplinary action and by taking necessary corrective measures. PCHC will take appropriate steps to respond to every report of suspected unethical or non-compliant conduct, as well as to address unreported incidents of suspected unethical or non-compliant conduct. These steps may include conducting investigations, reviewing documents, implementing or revising policies and procedures, offering training, conducting audits, and imposing disciplinary action.

Procedure:

- 1. Reports to the Compliance Officer.** As set forth in the Compliance Program and Standards of Conduct, You are required to report instances of known or suspected non-compliance through the regular chain of command. Managers and supervisors will primarily be responsible for addressing reported issues. Individuals not comfortable reporting through the regular chain of command may report directly to the Compliance Officer, or may use the Compliance Hotline (see Compliance Hotline at Exhibit D).
- 2. Determining the Need for an Investigation.** The Compliance Officer will determine whether a formal investigation is needed or whether the issue may be resolved through other means.
- 3. Investigation.**

A. Purpose of Investigation

The purpose of an investigation is: (1) to identify situations in which applicable Federal or State laws or the requirements of PCHC’s Compliance Program may not have been followed; (2) to identify individuals who may have knowingly or inadvertently violated the law or PCHC’s Compliance Program requirements; (3) to facilitate the correction of any violations or misconduct; (4) to implement procedures necessary to ensure future compliance; (5) to protect PCHC in the event of civil or criminal enforcement actions; and (6) to preserve and protect PCHC’s assets.

B. Control of Investigations

Serious or otherwise sensitive matters for investigations should be conducted under the direction of or by PCHC's qualified legal counsel. Because PCHC's Compliance Officer ("CO") is also the organization's Counsel, if the CO determines that the involvement of qualified legal counsel is warranted, the CO shall, after consultation with the CEO, retain outside counsel and direct outside counsel to (1) initiate an investigation of the conduct in question; (2) prepare a report of findings to the CEO and/or CO; and (3) recommend the appropriate actions to be taken by the CO. At all times relevant to the investigation, the CO and anyone assisting qualified legal counsel in their investigation, will function under the direction and control of PCHC's qualified legal counsel.

C. Investigative Process

Upon receipt of information concerning alleged misconduct, the CO will, at a minimum, take the following actions:

1. Complete a Compliance Report Form that includes, if known, the name of the individual who made the report, the date of the report, and a detailed narrative of the individual's concern. Anonymity of the individual who made the report (if requested) and confidentiality should be maintained to the extent possible.
2. Notify the CEO, *and, if warranted by the potential seriousness of the reported conduct, the Compliance Committee of the Board of Directors*, of the nature of the alleged improper conduct and, if the involvement of qualified legal counsel is appropriate, obtain written approval from the CEO, as necessary, authorizing qualified legal counsel to initiate an investigation.
3. Ensure that the investigation is initiated as soon as reasonably possible but in any event not more than *fifteen (15)* business days following receipt of the information. The investigation may include, as appropriate, but need not be limited to:
 - a. Interviews of all persons who may have knowledge of the alleged conduct and a review of the applicable laws, regulations, and standards to determine whether or not a violation has occurred.

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- b. Identification and review of relevant documentation to determine the specific nature and scope of the violation and its frequency, duration, and potential financial magnitude.
 - c. Interviews of persons who appeared to play a role in the suspected activity or conduct. The purpose of the interviews is to determine the facts surround the conduct, and may include, but shall not be limited to:
 - i. The person's understanding of the applicable laws, rules, and standards;
 - ii. Identification of relevant supervisors or managers;
 - iii. Training that the person received; and
 - iv. The extent to which the person may have acted knowingly or with reckless disregard or with intentional indifference of applicable laws.
 - d. Suspension of an *employee (initially with pay) or Board member* from their job function to protect the integrity of an investigation.
 - e. Assessment of *PCHC's* potential liability by, for example, reviewing all of the claims affected or by reviewing a statistically valid sample of the affected claims.
 - f. Preparation of a summary report that: (1) defines the nature of the alleged misconduct; and (2) summarizes the investigation process.
 4. For all investigations in which *PCHC's* qualified legal counsel is not involved, ensure that significant developments are promptly reported to the Compliance Officer so that a determination can be made at any time during the investigation as to whether *PCHC's* legal counsel should be contacted.
 5. Establish a due date for the summary report or otherwise ensure that the investigation is completed in a reasonable and timely fashion and that the appropriate disciplinary or corrective action is taken, if warranted.
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4. Organizational Response to Non-Compliant Conduct.

In the event the investigation determines that there has been non-compliant activity, PCHC will undertake the following steps, as appropriate.

- A. Cease the offending practice as quickly as possible. If the conduct involves the improper submission of claims for payment, PCHC will immediately cease all billing potentially affected by the offending practice.
- B. Consult with qualified legal counsel to determine whether voluntary reporting of the identified misconduct to the appropriate governmental authority is warranted.
- C. Calculate and repay any duplicate or improper payments made by a Federal or State Government program as a result of the misconduct, if applicable.
- D. Initiate appropriate disciplinary action where appropriate, which may include, but is not limited to, reprimand, demotion, suspension, and/or termination. If the investigation uncovers what appears to be criminal conduct on the part of one or more individuals affiliated with PCHC, appropriate disciplinary action against the individuals who authorized, engaged in or otherwise participated in the offending practice will include, at a minimum, the removal of the person from any position of oversight and may include, in addition, suspension, demotion, and/or termination.
- E. Promptly undertake appropriate training and education of responsible staff to prevent a recurrence of the misconduct.
- F. Conduct a review of applicable PCHC policies and procedures to determine whether revisions or the development of new policies and/or procedures are needed to minimize future risk of noncompliance.
- G. Conduct, as appropriate, follow-up monitoring and auditing to ensure effective resolution of the offending practice.

EXHIBIT F PCHC COMPLIANCE PROGRAM POLICY AND PROCEDURE

Conducting Compliance Audits

POLICY

As part of its efforts to implement an effective Compliance Program and its commitment to regulatory compliance in all aspects of its operations, PCHC will periodically conduct self-audits of its operations as set forth in this Policy to ascertain problems and weaknesses in its operations and to measure the effectiveness of its Compliance Program. PCHC will correct instances of non-compliance, report significant non-compliance to the Board of Directors or its designee, and report unlawful conduct to enforcement authorities as required by law.

PROCEDURE

PCHC will periodically conduct self-audits of its operations as set forth in the attached schedule of audits. In addition, audits shall be conducted of areas or instances of reported noncompliance as directed by the Compliance Officer.

Staffing. The Compliance Officer will designate members of PCHC's s Staff Compliance Committee, clinical, and administrative staff, and/or will retain outside auditing personnel to conduct periodic self-audits of its day-to-day operations, focusing their audits on PCHC's risk areas. Persons conducting the audits should have knowledge of the laws, regulations, grant conditions and/or other requirements pertaining to the audited practices and be familiar with their application. Audits should be adequately staffed to ensure accurate and complete results.

Covered Areas. Self-audits conducted by PCHC will include a review of the following areas:

- a. Coding and billing;
- b. Medical necessity;
- c. Written policies and procedures;
- d. HIPAA/HITECH and state privacy law compliance;
- e. Meaningful Use Data Submissions and Technology Requirements;
- f. Accuracy of shelter bed census data for purposes of HMIS reporting;
- g. Pharmacy and Lab inventory and claim submission;
- h. Finance and Procurement;
- i. The Compliance Program;
- j. Affordable Care (Sliding Fee) Program
- k. Scope of services and sites for purposes of Federal Tort Claims Act coverage; and
- l. Other clinical and/or business practice areas that merit concern as identified by the Compliance Officer based on guidance from the Department of Health and

Human Services, Office of the Inspector General, other Federal and/or State regulatory and enforcement agencies, prior audits, feedback from stakeholders, accreditation reviews, and other assessments.

All periodic self-audits should be performed according to PCHC's written policies and procedures governing audits or as directed by the Compliance Officer.

2. **Timing of Audits.** PCHC will conduct audits according to the attached Schedule of Audits.
3. **Audit checklist and annual review.** Internal Auditors shall utilize checklists developed in collaboration with the Compliance Officer and other key staff when conducting self-audits. The checklist shall be reviewed annually by the Internal Auditor, appropriate leadership as designated by the Compliance Officer, the Compliance Officer, and, from time to time, by appropriate outside consultant(s) selected by the Compliance Officer to ensure the policies and checklists remain current and properly address key compliance issues.
4. **Documentation.** Staff and outside auditors conducting audits pursuant to this policy and procedure will, at the time of the audit, prepare written documentation of the audit activities performed, including:
 - a. The Provider or area being audited
 - b. The purpose of the audit
 - c. The audit start and end date
 - d. The persons conducting the audit
 - e. The selected audit methodology
 - f. The sample size
 - g. The results of the audit
 - h. Recommended corrective/preventive action, if any.
5. **Role of the Compliance Officer and Reporting to the Compliance Committees.** The Compliance Officer, with the assistance of audit staff, will oversee and, as appropriate, participate in the audit functions performed pursuant to this policy and procedure. Consistent with PCHC's written policies and procedures for addressing perceived problem areas, the Compliance Officer will determine appropriate follow-up measures, if any, for addressing deficiencies and weaknesses detected in the course of a routine

compliance audit.¹ The Compliance Officer will prepare a report for PCHC's CEO and, as appropriate, the Compliance Committee of the Board on the audit findings in each of the various areas and on the status of any follow-up corrective actions, preventive measures, or other recommendations. The Compliance Officer shall utilize information and data learned during audits to inform and set the compliance budget for the upcoming year.

- 6. Audit Checklists.** Audit checklists shall be prepared and utilized, as appropriate, for each of the areas being audited. Blank form checklists shall be provided to the Compliance Officer, along with results of the audits performed and the completed checklist.

This policy and procedure shall be reviewed periodically and updated consistent with the requirements established by the Board of Directors, PCHC's executive leadership, Federal and State law and regulations, and applicable accrediting and review organizations.

¹ Providers with frequent or egregious deficiencies in coding or charting practices, including chart completion rates, will be subject to discipline, up to and including termination of employment.

EXHIBIT G

PCHC COMPLIANCE PROGRAM POLICY AND PROCEDURE

Addressing Instances of Non-Compliance through Appropriate Disciplinary Actions

Should problems arise, employees are encouraged to discuss the issues with their supervisors in an effort to arrive at a satisfactory resolution of the problem quickly and fairly. Likewise, supervisors are encouraged to discuss issues and concerns with employees as soon as noticeable to arrive at a resolution or solution quickly and fairly. Every effort should be made to resolve concerns and issues in this informal manner.

PCHC maintains an employee corrective action procedure that is meant to be both fair and impartial. The procedure is based on the premise that corrective action in its truest sense will mean working together with precision and skill, should usually be corrective in nature, instructional and positive rather than punitive in nature.

Should the employee's performance, work habits, attitude, conduct or demeanor become unsatisfactory to PCHC, the employee will be subject to corrective action, up to and including termination.

For initial minor infractions of PCHC rules or performance standards, formal corrective action will most likely not be necessary. For such infractions, an oral discussion between the supervisor and employee will probably remedy the situation.

However, repeated or more serious infractions will result in formal corrective action. In these instances, a written counseling report will be developed by the supervisor and placed in the employee's Human Resource file. The counseling report will document the problem, the expected behavior and the proposed further action which might result from a further breach.