

PURPOSE

The purpose of this Policy is to ensure that Circare's workforce and contractors are encouraged report Compliance Issues within Circare. Circare's workforce and contractors are protected from intimidation and retaliation for good faith participation in its Compliance Program, including but not limited to reporting Compliance Issues, investigating issues, conducting self-evaluations, audits and remedial actions, and reporting to appropriate officials.

DEFINITIONS

Compliance Issue: actual or suspected fraud, waste, abuse and other wrongful conduct, violation of law, regulation, administrative guidance, or Circare's Compliance Plan or policies.

Contractor: third-party individuals or entities who furnish Medicaid health care items or services, perform billing and coding functions, or are involved in monitoring health care provided by Circare.

Workforce: agency, embedded state, and temporary employees, Board of Directors, interns, and volunteers.

APPLICABILITY

This Policy applies to Circare's workforce and contractors.

POLICY

1. Circare prohibits any act of retribution, discrimination, harassment, intimidation, or retaliation, against any member of its workforce or contractor who, in good faith, participates in Circare's Compliance Program activities, including, but not limited to:
 - Reporting or responding to Compliance Issues;
 - Investigating Compliance Issues;
 - Conducting or responding to audits, investigations, reviews, or compliance self-evaluations;
 - Drafting, implementing, or monitoring remedial actions;
 - Reporting compliance-related concerns to any government entity;
 - Attending or performing compliance-related training;
 - Otherwise assisting in any activity or proceeding regarding any Compliance Issue.
2. A good faith report means one where the individual believes the information reported to be true and where the report is not made for the purpose of harming the standing or reputation of Circare, or a member of its workforce, or a contractor.
3. The protections of this Policy do not apply to:
 - Untruthful or unfounded allegations of wrongdoing;
 - Allegations whose nature or frequency indicate an intent to harass or embarrass Circare, a member of its workforce, or a contractor; or
 - Instances where individuals report their own lapses or complicity in unacceptable conduct. In such instances, the act of reporting will not be subject to sanctions, but the underlying conduct may be subject to disciplinary action.

PROCEDURE

1. Reporting Mechanisms. Circare's workforce and contractors have a duty to report actions that they believe in good faith to be an actual or suspected Compliance Issue. *See also Duty to Report Policy*. Circare's workforce and contractors have a variety of reporting options; however, they are encouraged to take advantage of internal reporting mechanisms. These include reports to the Compliance Officer, any Compliance Committee member, the Circare's Compliance Hotline, any Circare supervisor, or any other appropriate individual at Circare in a higher position of authority, up to and including the Executive Director and the President of the Board of Directors.

2. Reporting to Circare and Government. While Circare requires its workforce and contractors to report Compliance Issues directly to Circare, certain laws provide that individuals may also bring their concerns directly to the government. Any perceived intimidation or retaliation should be reported to the Compliance Officer immediately.
3. Confidentiality. Anyone who investigates a Compliance Issue shall maintain the confidentiality of the individual who made the report, unless the matter is referred to law enforcement or disclosure is required by law.
4. Statutory Protections. In addition to the protections afforded to Circare's workforce and contractors under this Policy, the following New York State laws also protect employees from retaliatory action for good-faith reporting:

- a. New York State Labor Law, Section 740

An employer may not take any retaliatory action against an employee if the employee discloses information about the employer's policies, practices, or activities to a regulatory, law enforcement, or other similar agency or public official.

Protected disclosures are those that assert that the employer is in violation of a law that creates a substantial and specific danger to the public health and safety, or which constitutes health care fraud under Penal Law § 177 or Social Services Law § 145-b. The employee's disclosure is protected only if the employee first raised the matter with a supervisor and gave the employer a reasonable opportunity to correct the alleged violation. If an employer takes retaliatory action against the employee, the employee may sue in state court for reinstatement to the same, or an equivalent position, any back wages and benefits, and attorneys' fees. If the employer is a health care 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.

- b. New York State Labor Law, Section 741

A health care employer may not take any retaliatory action against an employee if the employee discloses certain information about the employer's policies, practices, or activities to a regulatory, law enforcement, or other similar agency or public official.

Protected disclosures are those that the employee, in good faith, believes constitute improper quality of patient care. The employee's disclosure is protected only if the employee first raised the matter with a supervisor and gave the employer a reasonable opportunity to correct the alleged violation, unless the danger is imminent to the public or a patient, and the employee has a good faith belief that reporting to a supervisor would not result in corrective action.

If an employer takes retaliatory action against the employee, the employee may sue in state court for reinstatement to the same, or an equivalent position, any back wages and benefits, and attorneys' fees. If the employer is a health care 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.