

**NASSAU HEALTH CARE CORPORATION
EAST MEADOW, NEW YORK 11554**

**SECTION: LEADERSHIP
POLICY/PROCEDURE**

<u>TITLE:</u> COMPLIANCE PROGRAM GUIDELINES
<u>Approved:</u> Julie Mirkin, Sr VP patient services; Steven Walerstein, MD, Sr VP medical affairs
<u>Cross References:</u> Code of Conduct (Policy #LD-220)

1.0 POLICY

The Nassau Health Care Corporation (NHCC) comprises Nassau University Medical Center, A. Holly Patterson Extended Care Facility, several community health centers and the medical service of the Nassau County Correctional Center. NHCC is committed to integrity, and it has enacted a CODE OF CONDUCT, which sets forth the general principles to which every “*member*” of NHCC—every Director, Officer, Clinical Practitioner, Employee (full-time and part-time), Student, and Volunteer—is expected to adhere. Additionally, NHCC expects outside colleagues, including, vendors, consultants and others whose actions could be attributed to NHCC, to adhere to these standards in their dealings with NHCC and with others on its behalf.

This policy is intended to provide every NHCC member with additional guidelines that supplement the Code of Conduct and thereby assist members in making appropriate choices with respect to matters covered by the Code. Since a member’s failure to comply with both the letter and the spirit of applicable laws, regulations, and/or NHCC Policies, Procedures, and Rules constitutes a violation of the Code of Conduct, the failure to adhere to any of the compliance program guidelines contained in this policy is necessarily a violation of the Code. When any doubt exists as to how one should proceed, a member should seek advice from his or her supervisor, the Office of Legal Affairs, or NHCC’s Chief Compliance Officer. Full and timely disclosure of the facts to the proper authority and resulting approval will generally meet a member's responsibilities under the Code. It is the responsibility of all those having supervisory authority to assure consistent adherence to the letter and spirit of the Code and any related procedures.

A member who has a question regarding the application or interpretation of the code should use the procedure specified in section 2.10, “*Complying with the NHCC Compliance Program*”. If a member detects or suspects that any employee or agent of NHCC, or any person with whom the NHCC deals, has engaged or is engaging in any

behavior that may be improper or inconsistent with the guidelines contained in this code or the law, the member should report it immediately as provided in Section 2.10. Anything that constitutes improper or questionable behavior on the part of an NHCC member is also unacceptable if engaged in through a third party, such as a spouse, other family member, friend or any other person or entity with whom the member is closely identified or in which he or she has any significant ownership or financial interest or position.

If a violation of this code is established, any involved employee or agent is subject to discipline, which may include termination of employment or contract. Referral by NHCC for prosecution will be made when appropriate after review by the Office of Legal Affairs.

2.0 PROCEDURE

2.1 Conducting NHCC's business

NHCC's activities involve thousands of transactions each day. Obviously, NHCC must have strict rules to guard against fraud or dishonesty and guidelines for addressing problems that may arise.

2.1.1 Using NHCC's assets

All managers and administrators must establish appropriate internal controls over all areas of their responsibility to ensure the safeguarding of NHCC's assets and the accuracy of financial statements and all other records and reports. All employees, within their areas of responsibility, must adhere to these established controls. To be certain that NHCC's policies on proper use of resources are implemented, employees must observe the following long-standing accounting rules:

2.1.1.1 *Payments--* Employees must make outside payments only with a draft or check or through other properly documented sources. No payment on behalf of NHCC shall be approved or made without adequate supporting documentation or with the intention or understanding that any part is to be used in any way other than as described in the supporting documents.

2.1.1.2 *Undisclosed Accounts--* Employees must not establish any undisclosed or unrecorded corporate account, fund or asset for any purpose.

2.1.1.3 *Opening new accounts--* Employees must get proper authorization before opening any new account, either on the NHCC's books or with an outside agency, such as a bank.

2.1.1.4 ***Misleading purposes; concealments--*** Employees must not use any account for a misleading purpose or to conceal the existence or use of any corporate resource.

2.1.1.5 ***Recordation of payments and transactions--*** Employees must record every payment to and every transaction with an outside party on NHCC's books promptly, accurately and through normal financial reporting channels. If an employee is involved in or accountable for any such transaction, the employee must make sure that a prompt and accurate accounting is made.

Generally accepted accounting principles-- If an employee becomes aware of any improper use of, or accounting practice inconsistent with, generally accepted accounting principles or the guidelines of the Financial Accounting Standards Board, the employee must report the matter immediately.

Business partners--Employees must select NHCC's business partners solely on their merits, in the best interest of NHCC, and without regard to non-business-related considerations. NHCC's policy with regard to conflicts of interest is stated below in section 2.5, *Employee loyalty and conflicts of interest*.

2.1.2 Trade practices/antitrust

Antitrust laws are designed to preserve and foster fair and honest competition within the free enterprise system. To accomplish this goal, the language of these laws is deliberately broad, prohibiting such activities as "unfair methods of competition" and agreements "in restraint of trade." Such language gives enforcement agencies the right to examine many different business activities to judge the effect on competition.

NHCC's policy requires full compliance with all antitrust laws. No employee, under any circumstances, shall approve a violation of the law. Anyone who violates the law or knowingly permits a subordinate to do so is subject to disciplinary action, up to and including dismissal.

Penalties for antitrust violations are severe for NHCC and for the individual(s) involved. They include the following:

- Imprisonment of individuals;
- Substantial fines against NHCC and against the individual for each criminal offense;
- Payment of treble damages, plus attorneys' fees and litigation costs, to firms or individuals injured by the violation; and

- Injunctions or consent decrees prohibiting certain activities. Consent decrees can seriously limit a company's future freedom to engage in business activity and can be applied across a broader scope than was involved in the original alleged violation.

Therefore, it is important that employees have a basic knowledge and understanding of the requirements of antitrust laws. The major risk of violating the antitrust laws arises out of relationships with competitors. Antitrust laws make illegal any agreement or understanding, expressed or implied, written or oral, which restricts competition or interferes with the ability of the free market system to function properly. In the eyes of the law, good intentions, customer benefits and/or consumer benefits do not justify or excuse violations. For NHCC, a "competitor" may be a hospital or, depending on the circumstances, any other health care provider.

No discussions with competitors-- Employees must not have any discussions, conversations or other communications with competitors: about business practices; the conduct of business with suppliers, insurance companies or customers; or about marketing efforts. Employees must avoid discussions with competitors regarding the future business plans of NHCC or any competitors. Employees must not have any discussions with competitors regarding prices, professional fees, reimbursement, or salary levels. Under NHCC policy, participation in surveys among competitors regarding information on salaries, fees, etc., requires prior authorization from the compliance officer and is permissible **only** if (1) the survey is managed by a non-competitor third party; (2) the information provided by survey participants is based on data more than three months old; (3) at least five hospitals participate in the survey; and (4) the information provided is not identifiable. Two competitors must not share this information directly between themselves even if the information is available through public sources.

Professional and trade associations-- One activity of particular sensitivity with respect to the antitrust laws is participation in professional and trade associations, which are not immune from the application of antitrust laws. NHCC encourages such participation in professional and trade associations, and the antitrust laws recognize the legitimate function of these associations. Because these associations are comprised of individuals and organization that compete with one another, the rules stated above apply to the activities of NHCC personnel undertaken in connection with these associations. Employees may, of course, discuss proposed legislation or regulations concerning sensitive matters if it is for the purpose of developing the trade or professional association's position, but they may not participate in any discussions that would violate any of these rules.

These points do not include every instance in which the federal and state antitrust laws may apply. Questions should be referred to the Office of Legal Affairs.

2.1.3 **Complying with anti-kickback and corrupt influence statutes**

The term, “*kickback*”, as defined in these statutes means remuneration, which is interpreted under the law as anything of value. Federal and state laws specifically prohibit any form of kickback, bribe or rebate made directly or indirectly, overtly or covertly, in cash or in kind to induce the purchase, recommendation to purchase, or referral of any kind of health care goods, services, or items reimbursed by Medicare or the Medicaid program. Under the federal law, a kickback is classified as a felony and is punishable by fine and imprisonment for up to five years.

Federal and state laws known as “*anti-referral laws*” prohibit NHCC under certain circumstances from billing for services referred by physicians or other health care practitioners who have a contractual or business relationship with NHCC or a NHCC employee under certain circumstances. Billing for such services may result in substantial penalties.

Employees should become familiar with these laws and assure that all of their activities are conducted in such a manner that no question may arise as to whether any of these laws have been violated. Any question concerning these laws or any business arrangement subject to anti-kickback or anti-referral laws must be directed to the Office of Legal Affairs.

Avoid improper inducements-- To list everything that may constitute an improper inducement under the anti-kickback laws is impossible. One thing is clear: NHCC must scrupulously avoid being either the offeror or the recipient of an improper inducement. Care must be taken in structuring relationships with persons not employed by NHCC, not to create a situation where NHCC appears to be offering an improper inducement to those who may be in a position to refer or influence the referral of patients to NHCC. For example, the offering of free goods or services, or those priced below market value, to physicians or administrators for the purpose of influencing them to refer patients to, or utilize the professional services offered by, NHCC is improper.

As a provider of patient care, NHCC must not receive any improper inducement from its vendors to influence it in making decisions regarding the use of particular products or the referral or recommendation of patients to other providers of goods and services reimbursed by Medicare or Medicaid. Free, or at below market value, goods or services from vendors, awards, discounts, prizes or other forms of remuneration may be treated as a kickback even if given as part of a promotional program of a vendor or provider, such as a pharmaceutical company or medical equipment supplier. There are certain exceptions to these rules including those that permit discounts, rebates and allowances under appropriate circumstances, provided there is proper disclosure of the discount or other remuneration to third-party payors. Given the complexity of those rules, no free goods or services, discounts, rebates, or allowances should be accepted without prior approval of the Office of Legal Affairs or a Vice President in the Finance Department.

Before entering into any business or contractual relationship with any person or organization that may raise a question under the anti-kickback laws, or with any physician or other health care practitioner who makes or may make referrals to NHCC, employees must obtain prior written approval from the Office of Legal Affairs.

No bribes-- Likewise, it is a violation of NHCC's policy, and an offense for which dismissal will be considered, for any officer, employee or any other person acting on behalf of or in the name of NHCC to make or authorize the paying of any bribe, any payment for an illegal act or any other use of a NHCC resource which, although arguably not illegal, could be interpreted as improper or unwarranted.

In general, any money, property or favor offered or given to induce someone to forego normal business or professional considerations in making decisions that affect NHCC constitutes improper use of a resource. Equally improper is any payment of any kind to consultants, agents, brokers, attorneys, other individuals or firms if there is reason to suspect that some or all of the payment is to be used to do anything that is prohibited by this code.

A useful test to apply in determining whether a payment -- or any other transaction -- is proper is whether such transaction, if disclosed publicly, could adversely affect the reputation of NHCC. Another useful principle to follow is an employee's not giving anything to a vendor, client or other person doing business with NHCC that the employee could not accept under NHCC's policies (see *section 2.1.6, Gifts and entertainment*) if it were offered to the employee under similar circumstances. If an employee has any doubts as to whether a payment is lawful, the employee should consult his or her supervisor, the compliance officer or the Office of Legal Affairs.

2.1.4 **Billing for NHCC services**

NHCC and its staff provide a wide range of services to patients and the community. Because of its mission, some of these services are provided at no charge or reduced rates. In most cases, billing statements are provided to the patient or a third party payor responsible for payment. These statements must accurately reflect the services provided, the identity of the person who performed the services, the precise charges for the services, and all other pertinent data relating to the patient.

No false claims-- No one at or acting on behalf of NHCC shall intentionally falsify a claim. Such conduct is a crime, is never in the interest of NHCC and will result in severe sanctions. Billing errors and billing improprieties of any kind may expose the NHCC and the individuals involved to civil or criminal liability. Medicare, Medicaid and other payors must be billed only for medically necessary services that are properly documented under the Medicare and Medicaid programs. An erroneous bill could, in certain circumstances, be deemed a "**false claim**". Aside from issues of liability, negligently prepared bills cause significant administrative problems and tarnish NHCC's reputation for professionalism.

Accordingly, all health care professionals who provide billing information and all employees who perform technical or clerical tasks in connection with preparing or submitting billing statements must become familiar with and abide by the NHCC's billing rules. Each employee must use his or her best efforts to prevent and, where appropriate, report errors, improprieties, or suspicious circumstances in billing that might violate applicable laws and regulations.

If an employee has knowledge of any billing errors or improprieties, or if an employee suspects that an individual's conduct with regard to billing is inconsistent with the NHCC's billing rules, this information must be reported to the employee's supervisor or to the Chief Compliance Officer. Failure to report a suspected billing error or impropriety of any type may result in discipline up to and including dismissal.

More detailed information about federal and state laws pertaining to false claims can be found in NHCC Policy #LD-226 ("Important Laws Concerning False Claims, False Statements, Insurance Fraud, Healthcare Fraud, And Whistleblower Protections").

2.1.5 Taxes; Maintaining NHCC's Tax Exempt Status

NHCC and its academic affiliates are charities, exempt from taxation by the federal, state, and local governments. Violation of the tax law can give rise to criminal penalties. Questions on tax issues should be referred to the Office of Legal Affairs.

In order to maintain federal tax-exempt status, which is critical to NHCC's survival, NHCC must operate for the benefit of the community and must avoid, according to the tax law, private inurement and private benefit. All nonexempt individuals or entities must pay fair market value for use of the services or property of NHCC. Revocation of an organization's tax-exempt status is the most extreme civil penalty available to the IRS. Charitable organizations, however, are subject also to civil penalty excise taxes known as intermediate sanctions that may be financially severe and that, in any degree, would damage NHCC's reputation. Intermediate sanctions may be imposed on persons in a position to exercise substantial influence over the affairs of an organization exempt from taxation under section 501(c)(3), as insiders who engage in an excess business transaction with the organization, such as entering into a non-fair-market-value transaction or receiving unreasonable compensation. Penalties may also be imposed on any officer, director or trustee, or individual having similar powers or responsibilities, who knowingly participates in such transaction.

Insider transactions-- There is a rebuttable presumption under the tax law that a compensation arrangement with an insider or the valuation of property sold (or purchased) by an organization to (or from) an insider is reasonable if certain criteria are met. Accordingly, it is the policy of NHCC to make certain that the following procedures

are followed with regard to such arrangements or transactions unless waived by approval of the NHCC Board of Directors:

- The Board or committee thereof reviewing and approving the arrangement (the "*Board*") is composed entirely of individuals unrelated to and not subject to the control of the insider;
- The *Board* obtains and relies upon data as to comparability; for compensation arrangements, for example, such data may include compensation levels paid by similarly situated organizations (both taxable and tax-exempt) for functionally comparable positions, the location of the organization (including the availability of similar specialties in the geographic area), independent compensation surveys by nationally recognized independent firms or actual written offers from similar institutions competing for the services of the insider; and
- The *Board* adequately documents the basis for its determination, for example, by including in the record of a compensation arrangement an evaluation of the individual whose compensation is being established and the basis for determining that the individual's compensation was reasonable in light of that evaluation and the data available. An economic benefit must be clearly intended to be compensation to be eligible for the rebuttable presumption of reasonableness.

Use of Sales Tax Exemption-- Care must be taken that NHCC's sales tax exemption is used only for legitimate NHCC activities. Personal items must not be purchased through NHCC, even if the employee reimburses NHCC.

Comply with NHCC Bond Covenant Restrictions-- Care must be taken not to violate restrictions that may exist with respect to bonds issued by NHCC. These restrictions may pertain to the use of this property and on other NHCC activities, which, if violated, could jeopardize NHCC's ability to borrow money. Questions about these issues should be referred to the Office of Legal Affairs or a Vice President in the Finance Department.

Withholding taxes--All appropriate taxes must be withheld from employees' wages, and the use of a purchase order to compensate individuals must be cleared by the Office of Legal Affairs and limited to true independent contractors.

2.1.6 **Gifts and entertainment**

No personal gift may be offered or received by any member of NHCC if done under circumstances that would raise reasonable questions as to whether the gift was offered or received with the apparent intent of trying to influence a person in the exercise of his or her proper business judgment. All gifts to NHCC must be processed through the Office of Legal Affairs.

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No NHCC employee shall provide to any person or entity with whom the NHCC has a competitive, regulatory, or other business relationship, or accept from any such person or entity, any gift of more than nominal value. Any gift from a program-related vendor may raise anti-kickback issues and therefore must be declined. **Gifts of money are never permissible.** Use of an employee's judgment is usually a reliable basis for determining when a gift is improper and when it should therefore be refused in order to prevent embarrassment and to avoid what may be an unintentional violation of the law. All offers of gifts, favors, or gratuities from vendors, even of nominal value, made to employees involved in or regarding patient care should be declined courteously.

Federal and state laws specifically prohibit gratuities to government employees in connection with business transactions. Unlike a bribe or kickback, gratuities are not permitted even if done without the intent to influence some official action. (See section 2.4, *Doing business with the government.*)

2.1.7 Fund raising

As a charity, NHCC relies on contributions from donors to support its many activities. Employees are encouraged to support this fund raising effort, but must coordinate all activities with the Office of Legal Affairs. Monies or other items received on behalf of NHCC as gifts must be deposited immediately in NHCC accounts.

Contributions from vendors-- Charitable contributions from vendors to the NHCC may raise issues involving federal and state anti-kickback laws, and must be reviewed with the Office of Legal Affairs. Care must be taken when soliciting or receiving such contributions that the contributor not be led to believe, either directly or indirectly, that the contribution will affect the goods or services which NHCC purchases, recommends, or provides to its patients. Processing of all such contributions must involve the Office of Legal Affairs.

2.1.8 Labor and employee relations

In the conduct of its business, NHCC deals with the Civil Service Employees Association, among others. It is NHCC's policy to comply fully with all applicable "wage-and-hour laws" and other statutes that regulate the employer-employee relationship and the workplace environment. Under federal and state law, it is illegal for NHCC or a NHCC employee to pay to or receive, any money or other thing of value from, any labor organization that represents NHCC employees. No NHCC employee shall interfere or retaliate against another employee who seeks to invoke his or her rights under those laws. Questions about the laws governing labor and employee relations should be directed to the Office of Legal Affairs.

2.1.9 Employment of Immigrants

Federal law prohibits employers from hiring employees who are not legally authorized to work in this country. Unless an employee is a U.S. citizen or has a "green card" or visa, which authorizes him or her to work in the position in question, NHCC may be subject to civil or criminal penalties if he or she is placed on the payroll. All prospective employees must present appropriate documentation of their citizenship status to the Division of Human Resources. To the extent possible, this should be done well in advance of the employee's first day of work to avoid hardship or embarrassment. Questions on immigration issues should be referred to the Division of Human Resources.

2.1.10 Emergency care

NHCC is required by state and federal law to provide medical screening, regardless of ability to pay, to patients who present to its emergency room and request examination. If the patient has an emergency medical condition, NHCC must treat and admit the patient, and can transfer him or her only after he or she has been stabilized. Any such post-stabilization transfer is allowed only in limited circumstances. Before admission of any person who is in need of immediate hospitalization, NHCC may not question the patient or any member of his or her family concerning insurance, credit or payment of charges, provided that the patient or a member of his or her family shall agree to supply such information promptly after the patient's admission. All Emergency Department personnel must be aware of this procedure. Special restrictions govern the transfer process. Failure to comply with the detailed requirements of federal and state law can subject NHCC or its staff to civil or criminal penalties. Questions should be referred to the Office of the Senior Vice President for Medical Affairs and the Office of Legal Affairs.

2.1.11 Certificate of need and licensure

State law requires NHCC to obtain the prior approval of the New York State Department of Health before changing the services it provides, purchasing major medical equipment, or making other significant capital expenditures. Questions regarding the certificate of need process should be referred to the Vice President for Planning and Corporate Development.

NHCC is licensed by the State of New York and it seeks accreditation on a continuing basis by the Joint Commission on Accreditation of Healthcare Organizations. These two agencies have numerous standards that affect the manner in which NHCC delivers its services. Each employee must become familiar with the regulations governing his or her area, stay current regarding new developments, and alert his or her supervisor to possible noncompliance. Questions regarding regulatory requirements should be referred to the office of the Senior Vice President for Medical Affairs.

2.1.12 Environmental, health and safety matters

In the course of NHCC's operations, hazardous materials and infectious wastes may be used or generated. NHCC is financially and legally responsible for the proper handling and disposal of these materials. Environmental responsibility is also an important component of NHCC's duty to the public and NHCC's reputation.

Employees must:

- Comply with all laws and regulations governing the handling, storage, and use of hazardous materials, other pollutants and infectious wastes;
- Comply with permits issued to NHCC that allow it to discharge safely 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
- Maintain accurately the records required by 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 or origin, destination and transporter of hazardous materials, and discharge of pollutants. These records must be administered pursuant to NHCC policy.

No one employed by or acting on behalf of the NHCC shall participate in concealing improper discharge or disposal of hazardous materials, pollutants or infectious wastes. Everyone at NHCC who deals with hazardous materials and infectious waste must comply with environmental laws and regulations and follow NHCC's environmental safety and infectious disease procedures as explained in NHCC's programs, policies and procedures.

Such laws are designed to ensure that each employee works in a safe environment. Therefore, due regard and attention must be paid to federal and state laws regarding the promotion of occupational safety and avoidance of job related hazards.

Before proceeding to take any environment-related action about which an employee is unsure, the employee should discuss the matter with the NHCC Safety Officer. Any employee who has reason to believe that there have been violations of any aspect of the NHCC's environmental compliance procedures or of the laws and

regulations regarding occupational safety should advise his or her supervisor, or the Safety Officer, or the Chief Compliance Officer.

2.1.13 Pharmaceuticals, prescription drugs and controlled substances

Many of NHCC's employees have responsibility for, or access to, prescription drugs, controlled substances, hypodermic needles, drug samples and other regulated pharmaceuticals. NHCC is legally responsible for the proper disposition of these pharmaceutical products. Federal, state and local laws covering prescription drugs and controlled substances are intended to maintain the integrity of the national drug distribution system and protect consumers. Such laws attempt to do so by assuring that prescription drugs are safe and properly labeled and by including prohibitions against diversion of prescription drugs and controlled substances. This includes diverting 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 NHCC.

All employees must be diligent and vigilant in carrying out their obligations to handle and dispense NHCC's prescription drugs and controlled substances in accordance with all applicable laws, regulations and NHCC procedures. These NHCC policies and procedures are contained in the administrative policy and procedure manual.

Every professional employee, whether physician, nurse, pharmacist or other licensed individual authorized to prescribe, dispense, or handle prescription drugs or controlled substances, must 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 shall be sold, transferred or otherwise distributed unless authorized by policy, other document or the appropriate individual charged with such responsibility. Under an exception to federal antitrust and price discrimination laws, not-for-profit hospitals, such as that operated by NHCC, are permitted to purchase drugs at a specially discounted price. The exemption permits NHCC owned or operated pharmacies to dispensing these drugs to hospital employees, students, and staff physicians for their personal use or for the use of their dependents. Such drugs may **not**, however, be used by non-dependents or by staff physicians for their private practice without the express approval of the Office of Legal Affairs.

All employees must adhere strictly to all laws and regulations with regard to personal use of prescription drugs and controlled substances. NHCC's personnel policies include mechanisms to deal with substance abuse in the interest of both the individual and NHCC. If an employee suspects that another employee may have a substance abuse problem, he or she must communicate such information promptly to his

or her supervisor or to the Chief Compliance Officer. Any such report shall be treated confidentially.

Any violation of any law or of any NHCC policy involving prescription drugs, controlled substances or other pharmaceuticals shall constitute grounds for discipline up to and including dismissal. If an employee becomes aware of any potential lapses in security or any infringement of any law, policy, or regulation relating to drugs, he or she must advise his or her supervisor or the Chief Compliance Officer immediately.

2.2 Research grant requirements

The commitment of NHCC to integrity encompasses all research grant proposals and activities, whether funded by government agencies, such as the National Institutes of Health, the United States Public Health Service and the federal Food and Drug Administration, or by private sources. NHCC has established policies and procedures to insure that research grants and their implementation are consistent with federal, state, local, and NHCC rules and regulations. Members of the scientific community, all faculty and staff must become familiar with the following requirements for research grants.

2.2.1 Research involving human subjects

The Institutional Review Board (IRB) of NHCC has authority for establishing and maintaining research standards for protecting human subjects of research consistent with federal and state law. A human subject is defined as a living individual about whom an investigator conducting research obtains data or identifiable private information through intervention or interaction with the individual. NHCC has obligations under federal and state law to monitor all federal grants and report violations to the appropriate governmental agency; it applies these standards to all NHCC research activity.

All grant proposals involving human subjects must be submitted to the IRB for approval. To assure the integrity of research conducted under the auspices of NHCC, wherever the actual research is carried out, all grant proposals and research must conform to IRB standards and to the hospital's informed consent policy. Grant recipients must be certain that funds are used in accordance with the approved research protocol.

2.2.2 Research involving animals

Although a number of years ago, NHCC had established an Institutional Animal Care and Use Committee (IACUC) to oversee the care and use of animal in research activities, the IACUC has since been disbanded. Accordingly, unless and until a new IACUC is established in accordance with applicable federal and state law, no animal research is permitted to take place at NHCC. Any suspicion that animal research is occurring at NHCC should be reported immediately to the NHCC Chief Compliance Officer.

2.2.3 Referrals and conflict of interest

It is extremely important to identify as early as possible in the grant application process, any conflict of interest between sources of grant funds and NHCC as recipient. Conflict of interest includes any actual or potential financial interest of a grant recipient in the outcome of the research. Such conflict is particularly likely to arise where grants are funded by private sources, which may include pharmaceutical companies and vendors of health care products or services. Researchers must abide by the hospital's conflict of interest policy related to research (a copy of which is available from the Department of Academic Affairs), and the American Medical Association (AMA)'s guidelines on clinical investigation (Code of Medical Ethics, Section 2.07, 1996-1997). A copy of the AMA guidelines is available from the office of the Senior Vice President for Medical Affairs. All conflicts must be disclosed to the IRB. Where conflicts cannot be resolved to the satisfaction of the IRB, a grant application must be withdrawn or redrafted. Researchers must be vigilant in considering whether grants could involve improper inducements for the referral of patients to NHCC. This could occur, for example, in a study of drug efficacy underwritten by a pharmaceutical company if the protocol were not designed appropriately. If improper, such referral practices would constitute kickbacks in violation of federal and state law. (See section 2.1.3, *Compliance with anti-kickback and corrupt influence statutes*). Any questions concerning whether anti-kickback or other statutes may be involved in a research proposal should be directed to the Office of Legal Affairs. Care must be taken that the purpose of the research and the protocol is consistent with proper objectives, and that the research is conducted consistent with approved the protocol.

2.2.4 Scientific misconduct

“Scientific misconduct” is defined as fabrication, falsification, plagiarism or other practice that seriously deviates from practices that are commonly accepted within the scientific community for proposing, conducting or reporting research. It does not include honest error or honest differences in interpretation or judgments of data.

NHCC defines scientific misconduct also to include failure to submit research projects to the IRB for approval, to fail to obtain informed consent in accordance with NHCC's informed consent policy or to fail to comply with the conflict of interest policy or any other NHCC policy on research activities. Fiscal improprieties and issues concerning the ethical treatment of human or animal subjects are also included in NHCC's definition of scientific misconduct. In addition to the risk of serious federal and state penalties, scientific misconduct is a violation of NHCC's policy, and an offense for which dismissal will be considered.

Each person employed by or doing research under the auspices of the NHCC shall report to the Chair of the IRB or the Chief Compliance Officer any instance of scientific misconduct, which he or she believes may have occurred, or any allegations

of scientific misconduct that are brought to his or her attention. NHCC has guidelines setting out the process for dealing with alleged or apparent scientific misconduct. The process is intended to protect the rights and reputation of all those who may be involved and to ensure that the integrity of NHCC is maintained in all research activities.

2.3 Political Activities: Contributions and Lobbying

Participation in the political process is one of every American's basic rights. Federal and state laws, however, limit the nature and extent of organizational political participation. For example, both federal and state laws prohibit tax-exempt organizations from contributing to political candidates or officeholders.

NHCC encourages employees to participate in the American political process if they so desire, and they may make personal political contributions or communicate their personal beliefs to elected officials.

No reimbursement of personal political contributions-- Federal law and NHCC policy prohibit reimbursement for personal political contributions; personal compensation must not be altered in any way under any circumstances to reflect such contributions.

Contact by legislators-- It is important to distinguish between personal and organizational political activities. Unless an employee is specifically requested by NHCC to represent it before legislative or other governmental bodies, he or she must clearly label any personal communication with legislators as his or her own and not that of NHCC. As a responsible civic entity, NHCC occasionally will speak out on issues of importance to it. Senior management is responsible for developing NHCC's position on relevant legislative and regulatory issues. If an employee is contacted by legislators or regulators regarding NHCC's position on issues, he or she should refer them to the President and Chief Executive Officer or to the General Counsel.

2.3.1 Lobbying

Certain management personnel may be called upon periodically by NHCC to make contact with members of city, county, state or federal legislative bodies and other officials to set forth and advocate for NHCC's positions on issues. These persons must abide by all applicable laws at all times. Any person who attempts to influence any legislative, executive or other governmental action, official or employee on behalf of NHCC may be required to register as a lobbyist and file certain reports concerning his or her activities. There are also registration and reporting requirements as well as explicit limitations on lobbying that apply to NHCC. Some laws provide rules of conduct for lobbyists. Federal law prohibits giving anything of value to any federal public official or person selected to be a public official in order to influence a decision by such official. In order to avoid ambiguity in such matters, NHCC prohibits the giving of gifts, meals, or gratuities to federal officials without prior authorization, as discussed in section 2.4, *Doing business with the government*. Similarly, although New York State law permits

gifts, including meals, up to seventy-five dollars to be offered or made to state executive or legislative officers or employees. In order to avoid the appearance of impropriety with respect to lobbying, NHCC prohibits gifts, meals, or gratuities to any government personnel without prior authorization, as above. To assure that these laws and policies are fully executed, no employee shall engage in lobbying without prior authorization from the President and Chief Executive Officer and the General Counsel.

NHCC periodically engages lobbyists or lobbying firms to help promote its interest and has established internal controls to assure that all activities are legal. Written authorization must be obtained from the President and Chief Executive Officer and the General Counsel prior to engaging any lobbyist, outside legal counsel or consultant to lobby for or otherwise promote NHCC's interests on any legislative, regulatory or other governmental issue. The following evidence must be submitted with the proper request for authorization to justify the engagement:

- The purpose for the engagement and the nature and extent of services to be performed;
- The basis for selecting the proposed individual, firm, or company; and
- The agreed-upon fee and the means by which the fee was determined to be reasonable and appropriate for the services to be performed.

All requests for reimbursement of expenses incurred by a lobbyist must be submitted after the expenses are incurred and must be accompanied by a specific expense reporting form completed and signed by that lobbyist.

2.4 **Doing business with the government**

2.4.1 **Medicare and Medicaid Requirements**

NHCC participates substantially in Medicare and Medicaid. Both titles are governed by complex, strict regulations on providers; those requirements are significantly different from and more extensive than those one encounters in non-government commercial contracts. For example, as noted in Section 2.1.4, *Billing*, Medicare and Medicaid have very complex payment guidelines that identify the circumstances under which how much those programs will reimburse NHCC for goods and services rendered to patients covered under those programs. These guidelines are often different from directives received regarding other third party payors.

Violation of Medicare and Medicaid regulations is subject to criminal sanctions on the persons involved and the organization on whose behalf those persons act. If NHCC were found to be involved, it would be precluded from participating entirely in the Medicare and Medicaid programs. Therefore, there must be strict

compliance with all Medicare and Medicaid regulations with respect to services under these government programs.

2.4.2 Hiring former government employees

Specific rules exist to eliminate even the appearance of a conflict of interest by former government employees who seek employment, upon termination of their government service, with those who do business with the government. Employees must obtain clearance from the Office of Legal Affairs before discussing the employment or possible retention as a consultant of any current or former government employee. NHCC and any employee or consultant who is a former government employee must comply with all applicable rules while working on the NHCC's behalf.

2.4.3 Gratuities for government personnel

With very few exceptions, strict guidelines prohibit any type of gratuity. Unlike some other circumstances, even if there is no intent to influence an official action or decision, laws and regulations could be violated if anything of value is given. Therefore, no employee shall entertain a public official without prior written authorization from the General Counsel.

2.5 Employee loyalty and conflicts of interest

NHCC expects its employees to serve NHCC with undivided loyalty and with full regard to NHCC's interest and the public interest. Consequently, each employee is expected to: (a) devote his or her full time and ability in support of NHCC's interest during his or her regular hours of employment and for whatever additional time may be properly required; and (b) use NHCC assets only for the business of NHCC.

Employees must regard NHCC's interests ahead of any other business and commercial interest they may have as individuals. (See also section 2.1, *Conducting NHCC's business*.) Employment or personal business commitments outside regular hours of employment are prohibited if these impair the ability to meet regular job responsibilities to NHCC. Extra employment or other outside business commitments that appear to be, or are, in conflict with the mission or business of NHCC, must receive the approval of proper supervisory authority.

2.5.1 Outside associations and activities

Participation in civic, welfare, political, and similar activities is strongly encouraged in the interest of service to the public and the development of the individual. Nevertheless, if the nature of the association with an organization is such that NHCC's name may be publicly identified with the organization, it is expected that employees will

be sensitive to any embarrassment that may be caused NHCC and will seek the guidance of responsible supervisory authority before making commitments that may be potentially harmful to NHCC's interest. Endorsement of products or services is expressly prohibited unless authorized in writing by the Chief Operating Officer.

2.5.2 Conflict of interest

All employees of NHCC must adhere to the following standards, which are consistent with Policy RI-160, Conflict of interest, and in appropriate cases, must assure that members of their families adhere to these standards.

2.5.2.1 Relationships with suppliers or customers-- No employee, or any member of his or her immediate family, shall hold a financial or management interest in or maintain a relationship with a supplier or customer of NHCC, any enterprise which extends financing accommodations to, or receives such accommodations from, NHCC, or any other entity that does business with NHCC, unless the interest is fully disclosed to the General Counsel in advance and the employee is able to remove himself or herself from any position capable of influencing or affecting the business relationship between NHCC and the other entity.

2.5.2.2 Relationships with competing organizations-- No employee, or any member of his or her immediate family, shall have an interest in or relationship with a competing company, unless the interest or relationship has been fully disclosed to and approved in writing by the General Counsel.

2.5.2.3 Hiring of relatives-- No employee shall, on behalf of NHCC, do business with or hire a relative, or a company with which a relative is associated, unless the facts have been disclosed and approved in writing by the General Counsel. For this purpose, ownership by the employee and his or her spouse and relatives of less than five percent in the aggregate, of the outstanding stock in a publicly held corporation shall not be considered holding an interest in that corporation. Employees should avoid situations in which a conflict of interest, or the appearance of a conflict, could arise.

2.6 Use and Disclosure of Patient Information and NHCC Proprietary Information

2.6.1 Safeguarding the privacy of patients

The professions of NHCC employees involve the gathering of a great deal of personal information about individuals. Employees must avoid any unwarranted invasion of the privacy of patients. The privacy of employees also must be safeguarded. To these ends, the following standards apply:

2.6.1.1 Access to information regarding individuals must be limited to employees of NHCC responsible for maintenance of NHCC's records and others who need to know the information.

2.6.1.2 Employees must use only legitimate means to collect the information and, whenever practical, obtain it directly from the individual concerned.

2.6.1.3 When release of any information with respect to patients in drug and alcohol treatment programs is contemplated, the special confidentiality rules applicable to these patients must be followed carefully. Similarly, the confidentiality rules applicable to disclosure of HIV/AIDS related information must be followed strictly.

Any employee or agent of NHCC who, without authorization, discloses information in violation of the privacy rights of patients or others is subject to discipline up to and including immediate termination and to possible civil or criminal sanctions. Any person who becomes aware of such possible unauthorized disclosure should report it immediately to the NHCC Privacy Officer or to the NHCC Chief Compliance Officer.

NHCC has promulgated a number of detailed policies and procedures that address the specific requirements of the Privacy and Security Regulations promulgated under the federal Health Insurance Portability & Accountability Act ("HIPAA"). These can be found on the NHCC intranet among the NHCC Policies & Procedures tab.

2.6.2 **Protecting NHCC Proprietary information**

One of NHCC's most valuable assets is its body of "*proprietary information*". NHCC's proprietary information includes NHCC's methods, processes, techniques, computer software, equipment, service marks, copyrights, research data, clinical and pharmacological data, marketing and sales information, personnel data, patient lists, financial data, plans and all other trade secrets that are in the possession of NHCC and which have not been published or disclosed to the general public. The widespread use of computer terminals and computer systems has caused this information to be accessible to many employees. Failure to protect NHCC's proprietary information adequately may lead to loss of highly confidential data and may place NHCC legally at risk. Because of this risk of harm to NHCC, its employees and patients, no employee shall, during the term of his or her employment **or at any time thereafter**, use for his or her benefit or disclose to others any NHCC proprietary information obtained during the course of his or her employment without the written consent of NHCC.

Employees are accountable for the integrity and protection of business information and must take steps to protect information that has been entrusted to them. For example, employees shall not make inappropriate modifications of information or destroy or disclose information except as authorized. Documents containing sensitive data, including information concerning patients, must 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 in the computer system. If employees observe

individuals whom they do not recognize using terminals in their area, they should report this immediately to their supervisor, the NHCC Privacy Officer, the NHCC Information Security Officer, or the NHCC Chief Compliance Officer. These standards are consistent with Policy IM-090, Confidentiality, and Policy IM-200, Confidentiality of patient information.

2.6.3 **Handling of Proprietary Information owned by others**

Like NHCC, other organizations have intellectual property they want to protect. So do individuals. Also like NHCC, these other parties are sometimes willing to disclose their confidential information for a particular purpose. If an employee receives another party's confidential information, the employee must proceed with caution to prevent any accusation that he or she or NHCC misappropriated or misused the information.

Consult with Legal Affairs Before Receiving Other Parties' Proprietary Information--

To minimize the risk of an employee's or NHCC's being accused of misappropriating or misusing someone's confidential or restricted information, the following steps shall be taken before an employee receives such 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 accepted formally by written agreement with the other party, approved by the Office of Legal Affairs or a Corporate Vice President. After receiving another party's confidential or restricted information properly, an employee must not use, copy, distribute or disclose that information except in accordance with the terms of the agreement. In any case, an employee must not take the status of information for granted. If an employee possesses information that he or she believes may be confidential to a third party or may have restrictions placed on its use, the employee should consult with the Office of Legal Affairs.

Exercise Special Care with Regard to Others' Software-- 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 employees interact or by another party. Employees must follow NHCC procedures before accepting software or signing license agreements. The terms and conditions of such license agreements, such as provisions not to copy or distribute programs, must be followed strictly. If an employee acquires software for personally-owned equipment, he or she must not copy any part of that software in any work for NHCC, place it on any NHCC-owned computer system, or bring it onto the premises of NHCC.

2.7 **Retaining and destroying records**

Because many NHCC records guide treatment decisions for its patients, as a compilation of goods and services rendered for billing purposes, and as documentation of historical courses of treatment, it is critical to the successful accomplishment of the NHCC's professional goals that its records be fully and accurately completed and maintained consistent with proper business practices. Consequently, the proper and contemporaneous creation of fully accurate and complete records is a duty of each employee of NHCC.

NHCC is required by law to maintain certain types of medical and business records, usually for specified periods of time. Failure to retain such documents for such minimum periods may subject NHCC to penalties and fines, cause the loss of rights, obstruct justice, place NHCC in contempt of court or put NHCC at a serious disadvantage in litigation. Accordingly, NHCC has established controls to assure retention for required periods and timely destruction of retrievable records, such as hard copies and records on computers, electronic systems, microfiche and microfilm. Although a document might be retained for the minimum period, legal liability may result if a document is destroyed before its scheduled destruction date.

Employees must comply fully with the records retention and destruction schedule for the department in which they work. If an employee believes that documents should be saved beyond the applicable retention period, he or she should consult his or her supervisor, who in turn should contact the Office of Legal Affairs and seek advice.

2.8 **Government investigations**

The following standards regarding the response to government inquiries are intended to avoid providing inaccurate or incomplete information to government officials and to prevent unauthorized disclosure of information that may, among other things, jeopardize patients' rights to privacy.

HHS OIG and State Medicaid Fraud Control Units-- Two categories of agencies by statute are entitled to immediate access to information: the Office of Inspector General of the United States Department of Health and Human Services (HHS OIG”) and state Medicaid Fraud Control Units. Officials of these agencies must present proper identification before access is provided. In almost all cases, when a request by personnel of such agency is made, the Office of Legal Affairs and the Chief Compliance Officer should be notified immediately and access to the requested information should be delayed pending notification and an opportunity to take appropriate action. If access cannot be delayed pending notification of the Office of Legal Affairs and the Chief Compliance Officer, then the Office of Legal Affairs and the Chief Compliance Officer should be contacted simultaneously while allowing access to the data.

Food and Drug Administration-- Inspectors of the United States Food and Drug Administration (FDA) must present appropriate credentials and a written notice, but they do not need a warrant in order to inspect equipment, containers, etc. in facilities housing food, drugs, and devices. Such inspections, however, must be conducted at reasonable times, within reasonable limits and in a reasonable manner. FDA inspectors may also inspect records and files pertaining to prescription drugs or restricted devices under certain circumstances, including, upon request of an FDA official, all records and reports required to be kept or maintained in connection with scientific investigation of the safety and effectiveness of drugs and medical devices, including records relating to reports of adverse effects. Upon notice that the FDA has reason to suspect the submission or maintenance of improper records, including that

adequate informed consent was not obtained, investigators must require permit FDA officers to inspect and copy records that identify subjects. Authorized representatives of the FDA may also inspect and copy all records that are required to be prepared and maintained by the NHCC IRB. If requested by an FDA officer or employee, NHCC must permit that FDA officer or employee at all reasonable times and in a reasonable manner to have access to, and to copy and verify, all records that the must maintain under the medical devices provisions of the Food, Drug, and Cosmetics Act relating to information that reasonably suggests that a device has or may have caused or contributed to the death or serious illness of, or serious injury to, a patient, or other significant adverse device experience.

Other Governmental Agencies-- Other governmental agencies, including the Federal Bureau of Investigation, the Drug Enforcement Administration, the United States Postal Inspector, the State Attorney General, the county prosecutor, and local police departments, with the exception of the Medicaid Fraud Control Unit, may look at NHCC's documents and other materials **only** upon the NHCC's consent or by proper legal process.

Any employee of NHCC who is approached by any other federal or state law enforcement agency seeking NHCC documents or other written information about any aspect of the operations of NHCC or the job-related activities of any of NHCC's officers, employees, or agents must notify the Office of Legal Affairs and the Chief Compliance Officer **before** providing any NHCC documents or other written information. Upon receipt of any request for information, prior to providing the information, employees shall, in addition to notifying the Chief Compliance Officer, obtain the name and organizational affiliation of **all** persons from whom a request for access to information is received or to whom access is permitted. Employees must also maintain a written record of each document to which access is given and keep a detailed record of all telephone contacts made, including the name and affiliation of the parties to each conversation, the information requested, and the response given during the conversation.

Special consideration for HIV/AIDS, Substance Abuse, and Psychiatric Record Access by Government Agencies--Specific federal and state confidentiality laws relating to medical records pertaining to HIV/AIDS and substance abuse (controlled drugs and alcohol) and to psychiatric records may limit the general authority of government investigators. Employees must be certain that any disclosure of such records complies with hospital policies and procedures.

2.9 **Human resources**

NHCC has established human resources policies to guide NHCC's activities in employee relations. Each employee must adhere to NHCC's human resources policies, which include protection of the health and safety of employees in their work environment and NHCC's commitment to fairness and non-discrimination.

2.9.1 Committing to fairness

NHCC recognizes that its greatest strength lies in the talent and ability of its employees. It is NHCC's policy:

- To provide equal opportunity for employment and advancement on the basis of ability and aptitude without regard to race, color, creed, age, sex, or sexual orientation, handicaps or national origin, except where age, sex or physical status is a bona fide occupational qualification; and
- To evaluate employees fairly based upon their job performance.

2.9.2 Non-discrimination; Entitlement to Respect

NHCC is committed to a work environment in which all individuals are treated with courtesy, respect, and dignity. Each person has the right to work in a professional atmosphere that promotes equal opportunities and prohibits discriminatory practices, including sexual harassment. Discrimination or harassment, whether based on race, color, religion, gender, national origin, age, disability or sexual orientation, regardless of whether it occurs at the office or outside NHCC-sponsored settings, is unacceptable and shall not be tolerated. All employees must adhere to all federal, state, and local laws prohibiting discrimination and harassment, including the federal Americans with Disabilities Act. Any unwanted sexual or social advances, or any comments of a sexual nature by a co-worker, including but not limited to a superior, particularly when persistent, may constitute sexual harassment.

2.9.3 Human resources manual

NHCC has prepared an extensive manual of policies designed to implement the above-stated goals of NHCC and the collective bargaining agreements into which NHCC enters with the union that represents its employees. Any questions about these or other NHCC human resources policies should be directed to the Division of Human Resources.

2.10 Complying with the NHCC Compliance Program

2.10.1 Questions regarding the Code of Conduct and the Compliance Program

The Chief Compliance Officer, in consultation with the Office of Legal Affairs and other NHCC administrators, shall implement NHCC's corporate compliance program, which includes the Code of Conduct and other NHCC Policies and Procedures designed to effectuate its principles. Questions regarding how to interpret the Code or

any other NHCC Policy and Procedure and questions as to how to apply the Code to specific situations may be addressed:

- **In writing**, to either the Chief Compliance Officer or to the Office of Legal Affairs in the DCB Building, 1st Floor, Suite 14. If the sender prefers, he or she may mark the correspondence as "CONFIDENTIAL—to be opened only by the Chief Compliance Officer"; or
- **By telephone**, by calling the Chief Compliance Officer at 572-6908 or the Office of Legal Affairs at 572-6062.

2.10.2 Reporting suspected violations

As part of its commitment to ethical and legal conduct, NHCC expects its employees to report suspected violations of the Code of Conduct and any other apparent irregularities without regard to the identity or position of the suspected offender. The employee must promptly report such information to his or her supervisor or Department Chair, the Vice President of Human Resources, the Vice President of Finance, the Privacy Officer, the Security Officer, the Medical Director, the General Counsel, or the Chief Compliance Officer, or the **NHCC NO CALLER ID COMPLIANCE HELPLINE 572-5800**. If an employee prefers, he or she may make the report anonymously (by mail or by Helpline). NHCC will, if requested, make every reasonable effort to keep confidential the identity of anyone reporting a suspected violation, to the extent permitted by law, and except if doing so would effectively prevent the Corporation from conducting a full and fair investigation of the allegations.

2.10.3 Failure to Report May Result in Disciplinary Action

Because failure to report criminal conduct can itself be understood to condone the crime, reporting suspected violations is important. Failure to report knowledge of wrongdoing may itself result in disciplinary action against those who fail to report. Any manager or employee relations representative receiving a report of a potential code of conduct violation must likewise immediately advise the Chief Compliance Officer or the Office of Legal Affairs of the violation or possible violation.

2.10.4 Promise of No Retaliation

NHCC Policy as well as federal and state law provide that there will be no adverse action, retribution, or other reprisal taken against any individual for the good faith reporting for a suspected violation of the Code of Conduct, even if the allegations ultimately prove to be without merit.

2.10.5 Investigating violations

All reported violations of the code shall be investigated promptly by NHCC and shall be treated confidentially to the extent consistent with NHCC's interests

and legal obligations. All investigations by NHCC of wrongdoing shall be conducted under the direction of the Office of Legal Affairs in coordination with the Chief Compliance Officer. Employees are required to cooperate in the investigation of an alleged violation of the code. If the result of the investigation indicates that corrective action is required, NHCC shall decide its course of action to address the problem and to avoid the likelihood of its recurrence.

2.10.6 Disciplining for violations

Disciplinary actions may be taken for any of the following:

- Authorization of, or participation in, actions that violate the Code of Conduct;
- Failure to report a violation of the Code or failure to cooperate in an investigation;
- Failure by a violator's supervisor(s) to detect and report a violation of the Code if the failure reflects inadequate supervision or lack of oversight; and
- Retaliation against an individual for having reported a suspected violation of the code.

Disciplinary action may, when appropriate, include dismissal. With respect to disciplinary action, principles of fairness shall apply, including, when appropriate, review of a disciplinary decision.

2.11 False Claims Laws and Whistleblower Protection

One of the primary purposes of false claims laws is to combat fraud and abuse in government health care programs. False claims laws do this by making it possible for the government to bring civil actions to recover damages and penalties when healthcare providers submit false claims. Some of these laws permit “qui tam” suits as well, which are lawsuits brought by lay people, typically employees or former employees of healthcare facilities that submit false claims. In addition to the protection provided by Article XII of the NHCC Code of Conduct (see NHCC Policy LD-220), there are a number of laws that protect a whistleblower from retaliation by his employer. These generally apply to any employee who is discharged, demoted, suspended, threatened, harassed, or discriminated against in his employment as a result of the employee’s lawful acts in furtherance of a false claims action. See NHCC Policy # LD-226 (“Important Laws Concerning False Claims, False Statements, Insurance Fraud, Healthcare Fraud, And Whistleblower Protections”) for more details.

2.12 Exercising Individual Judgment

The foregoing guidelines are intended to enhance NHCC employees understanding of what is expected from there in a number of different areas. They are not, however, all encompassing. Ultimately, employees are expected to exercise their judgment in deciding on the correct course of action in any particular situation. Consideration of the following factors may assist in evaluating a specific situation:

- Is the employee's action consistent with NHCC practices?
- Could the employee's action give the appearance of impropriety?
- Would the action bring discredit to any employee or to NHCC if disclosed to the public?
- Can the employee defend his or her action to his or her supervisor, other employees and to the general public?
- Does the employee's action meet his or her personal code of behavior?
- Does the employee's action conform to the spirit of this code?

Irrespective of whether a particular situation falls squarely within the guidelines set forth in this policy, it is expected that, whenever an employee encounters a situation in which the action would result in an affirmative answer to any of the foregoing question, the employee will bring his or her concern to the attention of his or her supervisor, the Chief Compliance Officer, or some other person cited in Subparagraph 2.10.2.