

## POLICY INFORMATION

**Policy Title:** Compliance Misconduct and Sanctions Policy and Procedure

**Departmental Owner:** Chief Compliance, Audit, and Privacy Officer

**Version Effective Date:** 2/28/24

**Last Reviewed:** 2/28/24

## SCOPE

This policy applies to the following individuals and/or groups:

- All of the below categories  
 All Employees  CT Employees  NY Employees  Remote Employees  Contractors  Volunteers  Students/Interns  Vendors

This policy applies to all above listed Nuvance Health workforce members including but not limited to the following locations:

- All of the below entities
- |   |   |   |
|---|---|---|
| <input type="checkbox"/> Nuvance Health Systems                                   | <input checked="" type="checkbox"/> Health Quest Systems, Inc. "HQSI"   | <input type="checkbox"/> Western Connecticut Home Care, Inc ("WCHN")                                  |
| <input type="checkbox"/> Danbury Hospital (including New Milford Hospital Campus) | <input checked="" type="checkbox"/> Health Quest Home Care, Inc   | <input type="checkbox"/> Western Connecticut Health Network Physician Hospital Organization ACO, Inc. |
| <input checked="" type="checkbox"/> Northern Dutchess Hospital                    | <input checked="" type="checkbox"/> Hudson Valley Cardiovascular Practice, P.C. (aka The Heart Center) ("HVCP") | <input type="checkbox"/> Western Connecticut Home Care, Inc   |
| <input type="checkbox"/> Norwalk Hospital   | <input checked="" type="checkbox"/> Other HQSI-affiliated Entities Not Listed                                   | <input type="checkbox"/> Other WCHN-affiliated Entities Not Listed                                    |
| <input checked="" type="checkbox"/> Putnam Hospital                               |   | <input checked="" type="checkbox"/> Nuvance Health Medical Practices (NHMP PC, NHMP CT, ENYMS & HVCP) |
| <input checked="" type="checkbox"/> Sharon Hospital                               |   |   |
| <input checked="" type="checkbox"/> Vassar Brothers Medical Center                |   |   |

## POLICY STATEMENT/PURPOSE

The purpose of this Compliance Misconduct and Sanction Policy and Procedure (the "Policy") is to establish that disciplinary sanctions will be applied against Nuvance Health and its affiliates ("Nuvance") Covered Individuals who fail to comply with Federal and State laws and regulations, the Code of Conduct policies and procedures for compliance, privacy and security of protected health information ("PHI") or who engage in behavior that may result in a compliance or privacy violation. This policy and procedure apply to all Covered Individuals, which include employees, independent contractors, agents, volunteers, trainees, or other persons who perform work for or on behalf of Nuvance.

## DEFINITIONS

**Director/Manager:** A Nuvance employee responsible for directing or managing day-to-day operations.

**Sanctions:** Disciplinary action issued for determined compliance misconduct.

**Covered Individual:** This term refers to all Nuvance Health workforce members, business affiliates, and agents. Workforce members shall include any of the following individuals at Nuvance Health: Members of the Nuvance Health Board and the boards of any Nuvance Health related entity; President/Chief Executive Officer; administrators; managers, officers; employees, affiliates; medical staff members; appointees; volunteers; personnel; interns; students, trainees, and any individual whose conduct is under direct control of Nuvance Health whether or not they are paid by Nuvance Health. Business Affiliates shall include any non-workforce member, contractor, independent contractor, vendor,

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Supercedes: HQ 5.1.23 Compliance Misconduct and Sanctions Policy;  
HQ 5.1.23 Compliance Misconduct and Sanctions Procedure

person, subcontractor or third-party, who or that, in acting on behalf of Nuvance Health: (i) delivers, furnishes, prescribes, directs, orders, authorizes, or otherwise provides Federal healthcare program items and services; (ii) performs billing or coding functions; (iii) contributes to Nuvance Health's entitlement to payment under Federal healthcare programs; and (iv) is affected by one or more of Nuvance Health's risk areas through the Business Affiliate's interaction with, or performance of their role, functions, and responsibilities or provision of contracted services at Nuvance Health. Agents include individuals or entities that have entered into an agency relationship with Nuvance Health. Agents fall under the category of either Workforce Member or Business Affiliate depending on their role, functions, and responsibilities.

## POLICY

It is the policy of Nuvance to fairly and consistently apply Sanctions to Covered Individuals who fail to abide by Federal and State laws and regulations; the Code of Conduct; compliance, privacy and security policies and procedures; or who engage in behavior that may result in a compliance or privacy violation. Sanctions will be administered to Covered Individuals for (1) failing to report suspected problems; (2) participating in noncompliant behavior; or (3) encouraging, directing, facilitating, or permitting noncompliant behavior. Misconduct will result in appropriate and immediate remediation and/or disciplinary action, up to and including termination of any employment or other work arrangement or business relationship with a Covered Individual. Disciplinary action will be based upon the type and severity of the misconduct, the relationship with the Covered Individual, the disciplinary record of the individual involved, and any existing collective bargaining agreements.

1. The failure to comply with Federal and State laws and regulations, the Code of Conduct, policies relating to compliance, privacy or security of PHI and other sensitive information ("misconduct") or behavior that may result in a compliance or privacy violation by a Covered Individual will result in Sanctions consistent with this Policy, Human Resources' Disciplinary Policy and Medical Staff Bylaws.
2. Directors/Managers who fail to detect or report misconduct on the part of a Covered Individual under their supervision shall be subject to Sanctions. Failure to detect misconduct means that the supervisor knew about the misconduct but failed to identify the misconduct as potential misconduct involving Federal and State laws and regulations, or the Code of Conduct, or compliance, privacy and security policies and procedures.
3. Compliance misconduct involving medical staff members will be referred to the appropriate Nuvance Chief Medical Officer or VP of Medical Affairs for Sanctions consistent with Medical Staff Bylaws.
4. Compliance misconduct involving any other Covered Individuals will be referred to the appropriate Nuvance Manager for Sanctions consistent with this Policy.
5. Nuvance may terminate the employment, contractual or other relationship with a Covered Individual without first resorting to less severe forms of discipline for misconduct involving Federal and State laws and regulations, the Code of Conduct, policies and procedures for compliance, privacy and security of PHI or behavior that may result in a compliance or privacy violation.
6. For misconduct involving Federal and State laws and regulations, the Code of Conduct, policies and procedures for compliance, privacy and security of PHI, or behavior that may result in a compliance or privacy violation, appropriate Sanctions will be in consultation with Compliance, Human Resources ("HR"), the General Counsel, and/or management, as appropriate. Management or Human Resources, as appropriate, is responsible for executing the Sanctions and/or corrective measures and issuing a written report to the Chief Compliance, Audit, and Privacy Officer ("CCAPO") documenting the Sanctions and/or corrective actions. The CCAPO, the General Counsel, or their designees may be involved in investigating misconduct and in following up to determine that proper Sanctions and/or corrective action have been taken. For all other misconduct under this Policy, management and/or Human Resources, as appropriate, is responsible for applying disciplinary Sanctions in accordance with this Policy, the Human Resources' Disciplinary Policy and Medical Staff Bylaws, and issuing a written report to the Compliance Office

documenting the Sanctions imposed and completion of corrective action. The CCAPO, or a designee, may follow up to determine that proper Sanctions and/or corrective actions have been taken.

7. Compliance misconduct may also result in notification to law enforcement officials and/or regulatory, accreditation and licensure organizations.

## CATEGORIES OF COMPLIANCE MISCONDUCT AND SANCTIONS:

**Categories of Compliance Misconduct:** The following guidelines have been established to provide consistency when determining Sanctions for compliance misconduct. The level of Sanction will depend on the severity of the misconduct, whether there have been previous transgressions, and a review of the Covered Individual's personnel file. The misconduct listed below, while not all inclusive, are organized according to the severity. Decisions may be made on a case-by-case basis, and any deviations from the guidelines should include consultation with the CCAPO or designee.

**Categories of Compliance Sanctions:** The failure to comply with Federal and State laws and regulations, the Code of Conduct, policies and procedures for compliance, privacy and security of PHI, or behavior that may result in a compliance or privacy violation will include Sanctions up to and including termination of employment. Other Sanctions may include, but are not limited to, termination of a contract, suspension of the right to access PHI and other sensitive information, and termination of other privileges.

**Category 1 Description:** Improper and/or unintentional disclosure of confidential information. This level of misconduct occurs when PHI, sensitive information or confidential Nuvance information is unintentionally or carelessly disclosed to others who do not have a "need to know" within the normal course of legitimate business or patient care activities.

**Category 1 Sanctions:** (First Offense) Sanctions will follow this Policy and Human Resources' Disciplinary Policy around disciplinary action and will include appropriate Compliance/Privacy/PHI Security training and may include:

- I. Written Caution or documented counseling to associate's personnel file.
- II. Repeated offenses may result in progressive discipline.

**Category 2 Description:** Intentional acts of noncompliance. Category 2 misconduct may also include any repetition of Category 1 or 2 misconduct.

This category of compliance misconduct may include, but is not limited to: providing free or discounted services to patients without prior authorization; manager's receiving a report of noncompliance from staff and failing to report such an event to the Compliance Office; unauthorized use, misuse or access of PHI or records (e.g., inappropriate access of the PHI of a family member or co-worker; looking up birth dates, addresses of friends or relatives; access of anyone's record out of curiosity or concern; accessing the Covered Individual's personal medical record on Nuvance's electronic health record systems, failing to safeguard computing device or application passcode that may result in another individual violating a patient's rights to privacy).

**Category 2 Sanctions:** (First Offense or Repeated Category 1 Offenses) Sanctions will follow this Policy and Human Resources' Disciplinary Policy around disciplinary action and will include appropriate Compliance/Privacy/PHI Security training and may include:

- I. Written Warning to personnel file.
- II. Repeated offenses may result in progressive discipline.

**Category 3 Description:** This level of misconduct occurs when a Covered Individual acts in deliberate or reckless disregard of Nuvance policies and procedures or Federal or State laws for personal gain or to expose Nuvance to fraud, waste or abuse claims.

This category of compliance misconduct may include but is not limited to, using PHI in a personal relationship where the disclosure is intended to damage or embarrass; sale of data for personal gain; billing for a service that was not rendered to increase revenue; solicitation of gifts from vendors or patients; or paying a referral source to provide referrals.

**Category 3 Sanctions:** (First Offense or Repeated Category 2 Offenses) Sanctions will follow this Policy and Human Resources' Disciplinary Policy around disciplinary action and will include suspension or termination of employment. Other penalties may include:

- I. Civil penalties as provided under HIPAA or applicable Federal/State law
- II. Criminal penalties as provided under HIPAA or other applicable Federal/State law

## PROCEDURE

1. In accordance with the Compliance Disclosure Program Policy, the Compliance Office will investigate any potential compliance misconduct in coordination with the HR department and management.
2. Covered Individuals are expected to identify and report potential compliance or privacy issues and are expected to assist in the resolution of such issues. Failure to adhere to these expectations constitutes a compliance violation. Furthermore, encouraging, directing, facilitating, or permitting either actively or passively non-compliant behavior constitutes a compliance violation.
3. If a compliance violation or behavior that may result in a compliance or privacy violation is confirmed, the HR department and management will determine the appropriate corrective, remedial, or disciplinary action will be made based on the specific circumstances of each case and in accordance with the Compliance Misconduct and Sanctions Policy.
4. The Compliance Office will be notified by HR prior to, or immediately following, the administration of the corrective, remedial or disciplinary action.
5. The Compliance Office will review the action to ensure alignment with the Compliance Misconduct and Sanctions Policy. Any misalignment will be resolved prior to the finalization of the action.
6. Any final sanctions taken against an Nuvance Covered Individual under this policy will be documented in the Covered Individual's personnel file, or other file, by HR, and a copy will be supplied to the Compliance Department.
7. The Compliance Office will coordinate with the Learning Talent and Development Department of HR, when necessary, to assign reeducation to the responsible Nuvance Covered Individual. Compliance may also provide or assign targeted training.
8. The responsible Covered Individual must complete the training within prescribed timeframes.
9. The Compliance Office will keep record of the completed training in compliance files.

## REFERENCES

Department of Health and Human Services, Office of Inspector General, Publication of the OIG Compliance Program Guidance for Hospitals, 63 Fed. Reg. 8987 (Feb. 23, 1998).  
 Department of Health and Human Services, Office of Inspector General, OIG Supplemental Compliance Program Guidance for Hospitals, 70 Fed. Reg. 4858 (Jan. 31, 2005).  
 United States Sentencing Commission, Guidelines Manual, Ch. 8 (Nov. 2015).  
 HIPAA Administrative Control 45 CFR § 164.308 (a) (1) (ii) (C) and 164.530 (e) (1)

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 HQ 5.1.23 Compliance Misconduct and Sanctions Procedure

HITECH, Subpart D 164.414 (a)  
NIST SP800-53 R2 PS-8  
New York State Social Services Law § 363-d, 18 NYCRR §521  
Nuvance Health Codes of Conduct  
Compliance Disclosure Program Policy

APPROVAL

DocuSigned by:

*Jared B Gaynor*

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Signature

2/28/2024

Date