

## POLICY INFORMATION

**Policy Title:** Disclosures by Whistleblowers 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

To provide for regulatory whistleblower exceptions to HIPAA Disclosure restrictions and to ensure that Nuvance Health and its affiliates ("Nuvance"), its employees and/or business associates are able to bring forward complaints or concerns without retaliation.

## DEFINITIONS

See HIPAA Glossary

**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, 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

Original Effective Date: LHQ= 2/27/14

Revision Dates: 2/28/24

Supersedes: HQ 5.2.06 Disclosures by Whistleblowers Policy;  
HQ 5.2.06 Disclosures by Whistleblowers Procedure

Health. Agents fall under the category of either Workforce Member or Business Affiliate depending on their role, functions, and responsibilities.

## POLICY

1. It is the policy of Nuvance in compliance with 45 C.F.R. §164.502 to restrict the Use and/or Disclosure of PHI unless otherwise permitted by law.
2. 45 C.F.R. § 164.502 provides Covered Entities a Whistleblower exception to the general privacy rule. Specifically, 45 CFR §164.502(j) provides that Covered Individuals may disclose PHI, to an entity noted below, if the individual believes that the Covered Entity has either:
  - a. Engaged in unlawful conduct;
  - b. Engaged in conduct that violates professional or clinical standards; or
  - c. Provided care, services or conditions that potentially endanger patients, workers or the public.

Therefore, Nuvance is not considered to have violated the requirements of this subpart if a member of its workforce or a business associate discloses protected health information in accordance with this policy.

3. It is important to note that this exception does not completely supersede the overarching Privacy Rule. The disclosing individual must have a good faith belief that one of the violations above has occurred, and the disclosure of PHI must be made to either:
  - a. A health oversight agency or public health authority legally authorized to investigate the alleged violations;
  - b. A healthcare accreditation organization, for the purpose of reporting violations of professional or clinical obligations; or
  - c. An attorney retained by the worker or business associate for the purpose of determining her legal options with respect to the observed misconduct.

Examples in which this exception may apply include a psychiatrist reporting concerns about patient safety to the State Department of Mental Health; and a nurse reporting deficient cancer treatment to an accreditor like The Joint Commission.

4. Nuvance has established and shall continue to maintain effective and confidential means for Covered Individuals and other individuals to report allegations or concerns that include actual or suspected violations of law, violations of Nuvance policies or procedures, or any other type of wrongful conduct without fear of retaliation or retribution.

## PROCEDURE

Nuvance Health has a process in place to accept and promptly investigate any reported disclosures by a potential Workforce whistleblower without the threat of retaliation.

Nuvance will implement its non-retaliation policy so long as the Covered Individual abides by 45 CFR 164.502(j) which requires that both of the following specific conditions are met:

1. The Covered Individual must believe, in good faith, that the organization has engaged in unlawful conduct, has violated professional or clinical standards, or the care, services or conditions provided by the organization potentially endangers one or more patients, employees or the public; and



2. The Covered Individual releases information to a health oversight agency, a public health authority, an accreditation organization or an attorney retained by the employee or business associate for the purpose of determining the legal options of the Covered Individual with regards to the conduct of the organization.

Covered Individuals are encouraged to first report any organizational misconduct to their immediate supervisor, the organization's Compliance Officer, and/or place a call to the Confidential Compliance Helpline 1-844-YES-WeComply (1-844-937-9326) or 1-844-395-9331. The Covered Individual may remain anonymous when calling the Compliance Helpline.

Whistleblower protections are provided in two important areas: confidentiality and retaliation. The confidentiality of the whistleblower will be maintained unless the identity has to be disclosed to conduct a thorough investigation, to comply with the law, and to provide accused individuals their legal rights of defense. Non-retaliation applies to all good faith whistleblower reports.

## ENFORCEMENT

All individuals whose responsibilities are affected by this policy are expected to be familiar with the basic procedures and responsibilities created by this policy. Failure to comply with this policy and related procedure may result in remedial and/or disciplinary action, up to and including termination of any employment or other relationship.

## REFERENCES

45 CFR §164.502(j); 160.316  
 Federal Sentencing Guidelines for Organizations, Guidelines manual section 8B2.1(b)(5)(c)  
 Detection and Prevention of Fraud, Waste and Abuse Policy and Procedure  
 Nuvance Health Whistleblower Protection Policy

## APPROVAL

DocuSigned by:

*Jared B Gaynor*

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2/28/2024

**Signature**

**Date**