

# Jericho Road Community Health Center

## Personnel Policies and Procedures



### Policy 10.7 Whistleblower Policy

Original Effective Date: February, 2017  
Reviewed and Approved: May, 2022

#### Purpose:

It is the intent of Jericho Road Ministries d/b/a Jericho Road Community Health Center (“JRCHC”) to comply with all applicable federal, state, and local laws, rules, regulations, executive orders, and any judicial or administrative decisions, ruling, orders, standards, and provisions set forth in JRCHC’s Compliance Plan, Code of Conduct, policies and procedures (hereinafter referred to collectively as “Laws”). To that end, JRCHC requires directors, officers, employees, volunteers, contractors, vendors, consultants and agents (collectively, “JRCHC Associates”) to observe the highest standards of conduct in fulfilling their responsibilities.

#### Definitions:

**Good faith reporting** – a report is made with honest intent and motive – where the JRCHC’s Associate reasonably believes that illegal conduct, fraud, or violation of any Laws may or has occurred, or poses a substantial and specific danger to the public health or safety. Reports can be made in good faith, but be wrong about the facts.

**Intimidation** – an act to force into or deter another person from some action by inducing fear, which may include a deliberate act or behavior meant to deter an individual from reporting a compliance concern or participating and cooperating with an investigation.

**Retaliation** – an adverse action taken against an individual because of the individual’s good faith reporting, or good faith participation in the Compliance Plan, Code of Conduct, and/or policies and procedures.

Retaliation and adverse employment actions include, without limitation:

- Termination, demotion, suspension, refusal to hire, adverse impact on compensation, and denial of training and/or promotion;
- Actions affecting employment or contractual relationships such as threats and unjustified negative evaluations or references, or unjustified increased surveillance or scrutiny;
- Threatening to contact or contacting U.S. Immigration authorities regarding an employee’s (or the employee’s family or household member’s) citizenship or immigration status; or
- Any other actions that are likely to deter a reasonable individual from reporting compliance concerns, illegal conduct, or violations of laws, rules, regulations, policies or procedures, and/or from cooperating with an investigation.

Adverse actions do not include employment action(s), disciplinary action(s), and termination(s) that JRCHC may take as a result of an individual’s own violation(s) of laws, rules, policies, or procedures; negative

comments in an otherwise positive or neutral evaluation; or based on an individual's poor work performance or history.

**Policy:**

JRCHC is committed to compliance with all laws and regulations that govern health care and wishes to foster an environment in which all JRCHC's Associates feel free to report actual or suspected instances of noncompliance. Accordingly, JRCHC has adopted this policy to promote, enable and protect the Associates who reasonably believe and/or who, in good faith, report, object to, or refuse to participate in any actual or suspected activity, policy or practice by or within JRCHC that is illegal, fraudulent, or in violation of any Laws and/or adopted policy of JRCHC, or poses a substantial and specific danger to the public health or safety, from intimidation, threats, coercion, discrimination, and other retaliatory action, or in the case of employees, an adverse employment consequence.

A summary of whistleblower protections under the federal and state false claims acts and Sections 740 and 741 of the NYS Labor Law, including employees' protections, rights and obligations thereunder is attached to this policy as Attachment A and incorporated by reference.

**Procedure:**

JRCHC maintains an "open door" policy at all levels of governance to encourage its Associates to report problems and concerns.

1. Any JRCHC's Associate who suspects or has knowledge of misconduct, including any activity, policy or practice that he or she reasonably believes does or may violate any Laws, or JRCHC's policies and procedures, including the Compliance Plan or the Code of Conduct, has an obligation to promptly report, in good faith, such activities with full confidence that they will not be subject to any form of retaliation or retribution from JRCHC or its representatives. Intimidation or retaliation is a violation of JRCHC policy and its Compliance Program and will not be tolerated.
2. No JRCHC's Associate will be subject to intimidation or retaliation by any person affiliated with JRCHC based on reports that he or she reasonably believes to be true submitted in good faith. Employees of JRCHC shall not be subject to an adverse employment consequence or threat of an adverse employment consequence, including but not limited to termination, demotion, suspension, or actions affecting employment or contractual relationships, or contacting U.S. Immigration authorities regarding citizenship or immigration status.
3. Any form of harassment, retaliation or intimidation should be immediately reported to the Chief Compliance Officer or to the Chief of Organizational Strategy for immediate investigation and corrective action. Any individual found to have violated this policy, including but not limited to harm or slander through harassment, false accusations, or malicious rumors, is subject to disciplinary action, up to and including immediate termination of employment or disassociation with JRCHC.
4. JRCHC Associates are encouraged to communicate any perceived issues, problems, concerns or violations to the Chief Compliance Officer or the Chief of Organizational Strategy, who have been designated as the individuals to administer this policy. Reports may also be made to a member of the

Compliance Committee or an immediate supervisor, who in turn can seek assistance from the Chief Compliance Officer.

5. Reports, including potential violations of JRCHC's policies or regulatory compliance may also be made by any of the various methods JRCHC has identified, including by phone, email, mail, or face-to-face. JRCHC's Associates are encouraged to report the misconduct confidentially by contacting the confidential and 24-hour anonymous Whistleblower Hotline (716) 348-3030, online via the Whistleblower Report Form (Attachment B) found on the employee's ADP portal or contact any Compliance Committee's member or the Chief Compliance Officer at (716) 348-3000 ext. 484.
6. A full investigation will be conducted of all reports in a prompt and reasonable manner by the Chief Compliance Officer or designee, as appropriate, in accordance with JRCHC's Investigations and Corrective Action Policy.
7. JRCHC's Associates cannot exempt themselves from the consequences of their own misconduct by reporting the issue, although self-reporting may be taken into account in determining the appropriate course of action.

### **Administration of This Policy:**

The Chief Compliance Officer will report on a periodic basis, but no less than annually, to the Board of Directors' Finance and Audit Committee on activities and reports of misconduct that arise under this policy, including the general type and resolutions of whistleblower complaints received.

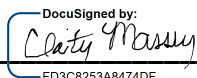
Any person who is the subject of a whistleblower complaint under this policy may not be present at or participate in Board or committee deliberations or votes on the matter relating to such complaint; provided, however, the Board or committee may request that the person who is subject to the complaint present information as background or answer questions at a committee or Board meeting prior to the commencement of deliberations or voting relating thereto.

### **Distribution of This Policy:**

A copy of this policy is distributed as part of the general orientation process to all JRCHC's new employees. A copy of this policy can also be found on JRCHC's website at [www.jrchc.org](http://www.jrchc.org). A hard copy of this policy will also be provided upon request.

**This policy may be amended, modified or rescinded, in whole or in part, by the Board of Directors of JRCHC.**

**This policy and procedure was reviewed and approved by the JRCHC Board of Directors.**

**Board Chair Signature:**  **Date:** 5/27/2022

## **Attachment A**

### **WHISTLEBLOWER PROTECTIONS**

#### **(1) Federal False Claims Act (31 U.S.C. §3730(h))**

The Federal False Claims Act provides protection to qui tam relators (individuals who commence a False Claims action) who are discharged, demoted, suspended, threatened, harassed, or in any other manner discriminated against in the terms and conditions of their employment as a result of their furtherance of an action under the FCA. 31 U.S.C. 3730(h). Remedies include but are not necessarily limited to reinstatement with comparable seniority as the qui tam relator would have had but for the discrimination, two times the amount of any back pay, interest on any back pay, and compensation for any special damages sustained as a result of the discrimination, including litigation costs and reasonable attorneys' fees.

#### **(2) New York State False Claim Act (State Finance Law §191)**

The New York State False Claim Act also provides protection to qui tam relators (individuals who commence a False Claims action) who are discharged, demoted, suspended, threatened, harassed, or in any other manner discriminated against in the terms and conditions of their employment as a result of their furtherance of an action under the Act. Remedies include but are not necessarily limited to reinstatement with comparable seniority as the qui tam relator would have had but for the discrimination, two times the amount of any back pay, interest on any back pay, and compensation for any special damages sustained as a result of the discrimination, including litigation costs and reasonable attorneys' fees.

#### **(3) New York State Labor Law, Section 740. Retaliatory Personnel Action by Employers; Prohibitions**

I. Definitions. For purposes of this section, unless the context specifically indicates otherwise:

(a) "Employee" means an individual who performs services for and under the control and direction of an employer for wages or other remuneration, including former employees, or natural persons employed as independent contractors to carry out work in furtherance of an employer's business enterprise who are not themselves employers.

(b) "Employer" means any person, firm, partnership, institution, corporation, or association that employs one or more employees.

(c) "Law, rule or regulation" includes: (i) any duly enacted federal, state or local statute or ordinance or executive order; (ii) any rule or regulation promulgated pursuant to such statute or ordinance or executive order; or (iii) any judicial or administrative decision, ruling or order.

(d) "Public body" includes the following:

(i) the United States Congress, any state legislature, or any elected local governmental body, or any member or employee thereof;

(ii) any federal, state, or local court, or any member or employee thereof, or any grand or petit jury;

(iii) any federal, state, or local regulatory, administrative, or public agency or authority, or instrumentality thereof;

(iv) any federal, state, or local law enforcement agency, prosecutorial office, or police or peace officer;

(v) any federal, state or local department of an executive branch of government; or

(vi) any division, board, bureau, office, committee, or commission of any of the public bodies described in subparagraphs (i) through (v) of this paragraph.

(e) "Retaliatory action" means an adverse action taken by an employer or his or her agent to discharge, threaten, penalize, or in any other manner discriminate against any employee or former employee exercising his or her rights under this section, including (i) adverse employment actions or threats to take such adverse employment actions against an employee in the terms of conditions of employment including but not limited to discharge, suspension, or demotion; (ii) actions or threats to take such actions that would adversely impact a former employee's current or future employment; or (iii) threatening to contact or contacting United States immigration authorities or otherwise reporting or threatening to report an employee's suspected citizenship or immigration status or the suspected citizenship or immigration status of an employee's family or household member, as defined in subdivision two of section four hundred fifty-nine-a of the social services law, to a federal, state, or local agency.

(f) "Supervisor" means any individual within an employer's organization who has the authority to direct and control the work performance of the affected employee; or who has managerial authority to take corrective action regarding the violation of the law, rule or regulation of which the employee complains.

II. Prohibitions. An employer shall not take any retaliatory action against an employee, whether or not within the scope of the employee's job duties, because such employee does any of the following:

(a) discloses, or threatens to disclose to a supervisor or to a public body an activity, policy or practice of the employer that the employee reasonably believes is in violation of law, rule or regulation or that the employee reasonably believes poses a substantial and specific danger to the public health or safety;

(b) provides information to, or testifies before, any public body conducting an investigation, hearing or inquiry into any such activity, policy or practice by such employer; or

(c) objects to, or refuses to participate in any such activity, policy or practice.

III. Application. The protection against retaliatory action provided by paragraph (a) of subdivision two of this section pertaining to disclosure to a public body shall not apply to an employee who makes such disclosure to a public body unless the employee has made a good faith effort to notify his or her employer by bringing the activity, policy or practice to the attention of a supervisor of the employer and has afforded such employer a reasonable opportunity to correct such activity, policy or practice. Such employer notification shall not be required where: (a) there is an imminent and serious danger to the public health or safety; (b) the employee reasonably believes that reporting to the supervisor would result in a destruction of evidence or other concealment of the activity, policy or practice; (c) such activity, policy or practice could reasonably be expected to lead to endangering the welfare of a minor; (d) the employee reasonably believes that reporting to the supervisor would result in physical harm to the employee or any other person; or (e) the employee reasonably believes that the supervisor is already aware of the activity, policy or practice and will not correct such activity, policy or practice.

IV. Violation; remedy.

(a) An employee who has been the subject of a retaliatory action in violation of this section may institute a civil action in a court of competent jurisdiction for relief as set forth in subdivision five of this section within two years after the alleged retaliatory action was taken.

(b) Any action authorized by this section may be brought in the county in which the alleged retaliatory action occurred, in the county in which the complainant resides, or in the county in which the employer has its principal place of business. In any such action, the parties shall be entitled to a jury trial.

(c) It shall be a defense to any action brought pursuant to this section that the retaliatory action was predicated upon grounds other than the employee's exercise of any rights protected by this section.

V. Relief. In any action brought pursuant to subdivision four of this section, the court may order relief as follows:

(a) an injunction to restrain continued violation of this section;

(b) the reinstatement of the employee to the same position held before the retaliatory action, or to an equivalent position, or front pay in lieu thereof;

(c) the reinstatement of full fringe benefits and seniority rights;

(d) the compensation for lost wages, benefits and other remuneration;

(e) the payment by the employer of reasonable costs, disbursements, and attorney's fees;

(f) a civil penalty of an amount not to exceed ten thousand dollars; and/or

(g) the payment by the employer of punitive damages, if the violation was willful, malicious or wanton.

VI. Employer relief. A court, in its discretion, may also order that reasonable attorneys' fees and court costs and disbursements be awarded to an employer if the court determines that an action brought by an employee under this section was without basis in law or in fact.

VII. Existing rights. Nothing in this section shall be deemed to diminish the rights, privileges, or remedies of any employee under any other law or regulation or under any collective bargaining agreement or employment contract.

VIII. Publication. Every employer shall inform employees of their protections, rights and obligations under this section, by posting a notice thereof. Such notices shall be posted conspicuously in easily accessible and well-lighted places customarily frequented by employees and applicants for employment.

**(4) New York State Labor Law, Section 741. Prohibition; Health Care Employer who Penalizes Employees because of Complaints of Employer Violations**

I. Definitions. As used in this section, the following terms shall have the following meanings:

(a) "Employee" means any person who performs health care services for and under the control and direction of any public or private employer which provides health care services for wages or other remuneration.

(b) "Employer" means any partnership, association, corporation, the state, or any political subdivision of the state which: (i) provides health care services in a facility licensed pursuant to article twenty-eight or thirty-six of the public health law; (ii) provides health care services within a primary or secondary public or private school or public or private university setting; (iii) operates and provides health care services under the mental hygiene law or the correction law; or (iv) is registered with the department of education pursuant to section sixty-eight hundred eight of the education law.

(c) "Agent" means any individual, partnership, association, corporation, or group of persons acting on behalf of an employer.

(d) "Improper quality of patient care" means, with respect to patient care, any practice, procedure, action or failure to act of an employer which violates any law, rule, regulation or declaratory ruling adopted pursuant to law, where such violation relates to matters which may present a substantial and specific danger to public health or safety or a significant threat to the health of a specific patient.

(e) "Improper quality of workplace safety" means, with respect to employees, any practice, procedure, action or failure to act of an employer which violates any law, rule, regulation, or declaratory ruling adopted pursuant to law where such violation relates to matters which may present an unsafe workplace environment or risk of employee safety or a significant threat to the health of a specific employee.

(f) "Public body" means:

(1) the United States Congress, any state legislature, or any elected local governmental body, or any member or employee thereof;

(2) any federal, state or local court, or any member or employee thereof, any grand or petit jury;

(3) any federal, state or local regulatory, administrative or public agency or authority, or instrumentality thereof;

(4) any federal, state or local law enforcement agency, prosecutorial office, or police or peace officer;

(5) any federal, state or local department of an executive branch of government; or

(6) any division, board, bureau, office, committee or commission of any of the public bodies described in subparagraph one, two, three, four or five of this paragraph.

(g) "Retaliatory action" means the discharge, suspension, demotion, penalization or discrimination against an employee, or other adverse employment action taken against an employee in the terms and conditions of employment.

(h) "Supervisor" means any person within an employer's organization who has the authority to direct and control the work performance of an employee, or who has the authority to take corrective action regarding the violation of a law, rule or regulation to which an employee submits a complaint.

II. Retaliatory action prohibited. Notwithstanding any other provision of law, no employer shall take retaliatory action against any employee because the employee does any of the following:

(a) discloses or threatens to disclose to a supervisor, to a public body, to a news media outlet, or to a social media forum available to the public at large, an activity, policy or practice of the employer or agent that the employee, in good faith, reasonably believes constitutes improper quality of patient care or improper quality of workplace safety; or

(b) objects to, or refuses to participate in any activity, policy or practice of the employer or agent that the employee, in good faith, reasonably believes constitutes improper quality of patient care or improper quality of workplace safety.

III. Application. The protection against retaliatory personnel action provided by subdivision two of this section shall not apply unless the employee has brought the improper quality of patient care or improper quality of workplace safety to the attention of a supervisor and has afforded the employer a reasonable opportunity to correct such activity, policy or practice. This subdivision shall not apply to an action or failure to act described in paragraph (a) of subdivision two of this section where the improper quality of patient care or improper quality of workplace safety described therein presents an imminent threat to public health



or safety or to the health of a specific patient or specific health care employee and the employee reasonably believes in good faith that reporting to a supervisor would not result in corrective action.

IV. Enforcement. A health care employee may seek enforcement of this section pursuant to subdivisions four and five of section seven hundred forty of this article.

V. Relief. In any court action brought pursuant to this section it shall be a defense that the personnel action was predicated upon grounds other than the employee's exercise of any rights protected by this section.

VI. Publication. Every employer shall inform employees of their protections, rights and obligations under this section, by posting a notice thereof. Such notices shall be posted conspicuously in easily accessible and well-lighted places customarily frequented by employees and applicants for employment.

**(5) New York Not-for-Profit Corp. Law § 715-b**

No director, officer, employee or volunteer of JRCHC who, in good faith, reports any action or suspected action taken by or within Samaritan that is illegal, fraudulent or in violation of any adopted policy of JRCHC shall suffer intimidation, harassment, discrimination or other retaliation or, in the case of employees, adverse employment consequence.

**Attachment B**

**Whistleblower Report Form**

**Do you wish to remain anonymous?**

Yes  No

**Reporter's Contact Information**

First Name: \_\_\_\_\_

Last Name: \_\_\_\_\_

Title: \_\_\_\_\_

Work Phone: \_\_\_\_\_ Cell Phone: \_\_\_\_\_

Email address: \_\_\_\_\_

Best Time/Place to Reach You: \_\_\_\_\_

**Suspect Information**

First Name: \_\_\_\_\_

Last Name: \_\_\_\_\_

Title: \_\_\_\_\_

Office Location:

Manager/Supervisor: \_\_\_\_\_

**Allegation:**

**Evidence:**