



4499 Manhattan College Parkway, Riverdale, New York 10471  
Phone: (718) 732-5100 Fax: (718) 548-3147

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## **WHISTLEBLOWER POLICY**

### **1. PURPOSE**

Methodist is committed to compliance with applicable laws, rules and regulations. In furtherance of these commitments, all directors, officers, employees, former employees, independent contractors and volunteers of Methodist (each, a “Protected Person”) must act in accordance with applicable laws and regulations, and with the policies of Methodist at all times, and assist in ensuring that Methodist conducts its business and affairs accordingly.

This Whistleblower Policy (this “Policy”) (a) establishes procedures for the reporting and handling of concerns regarding action or suspected action taken by or within Methodist that is or may be illegal, fraudulent or in violation of any adopted policy of Methodist (each, a “Concern”), and (b) prohibits retaliation against any Protected Person who makes a report when they reasonably believe there is a violation. By appropriately responding to Concerns, Methodist can better support an environment where compliance is valued and ensure that Methodist is meeting its legal obligations. This Policy does not replace any of the Methodist Home’s compliance protocols but is intended to encourage the reporting of Concerns and provide a culture of corrections when appropriate. This Policy is also adopted to strengthen compliance with the Nonprofit Revitalization Act of 2013.

### **2. REPORTING RESPONSIBILITY**

It is the responsibility of all Protected Persons to report in good faith any concerns they may have regarding actual or suspected activities which may be illegal or in violation of any law, rule, regulation, local ordinances, executive orders or judicial and administrative decisions, rulings and orders and/ or adopted policy of Methodist. Such reportable activity may include, for example financial wrongdoing (including circumvention of internal controls or violation of the accounting policies of Methodist), fraud, harassment, or any other illegal or proscribed conduct. Protected Persons may submit Concerns at any time but should seek to report a Concern as soon as reasonably possible after becoming aware of the matter. Further information and guidance are provided within the Methodist Compliance Manual in this regard.

### **3. HOW TO RAISE A CONCERN**

Any Concerns may be submitted either in writing or orally. No form is required to submit a Concern, but Protected Persons are encouraged to provide as much information and detail as possible so that the Concern can be properly investigated. The reporting of actual or suspected



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improper conduct is addressed in the “Reporting Requirements” section of Methodist’s Corporate Compliance Manual and the Appendix to this Policy.

A Concern may be submitted:

- To the administrator of this Policy (the “Compliance Officer,” who is an employee, officer or director of Methodist, as required by law), at the address set forth in paragraph 10 below.
- In writing to the Chair of the Board of Directors of Methodist at 4499 Manhattan College Parkway, Riverdale, NY 10471, who will turn forward the Concern to the Compliance Officer for review where appropriate.
- Report can be made to a public body prior to notification to the Employer, as long as the employee has made a good faith effort to do so, or reasonably believes that reporting the alleged wrongdoing to their Employer will result in destruction of evidence, other concealment, or harm to the employee, or if the employee reasonably believes that the supervisor is already aware of the practice and will not correct it.

Concerns may be raised anonymously; provided, however, that any individual reporting his or her own violation shall not satisfy his/her obligation hereunder with a Concern raised anonymously. The Methodist Compliance Manual provides further resources on how to raise Concerns anonymously. You may raise a Concern with a supervisor or Department Head understanding that all supervisory and management staff are also obligated to comply with this Policy as well as the Methodist Compliance Manual to ensure that Concerns and incidents are properly submitted to the Compliance Officer or Board for review and, if warranted, corrective action.

#### **4. PROCEDURES FOR RECEIVING AND REVIEWING CONCERNS**

Any supervisor, manager, or other person receiving a Concern must contact the Compliance Officer, who will coordinate further action. The Compliance Officer will assess each Concern on a preliminary basis to determine to what extent an investigation into the Concern is required and will direct all aspects of the investigation of any Concern. All investigations will be conducted in a confidential and sensitive manner, so that information will be disclosed only as needed to facilitate review of the investigation materials or otherwise as required by law. The Methodist Compliance Program provides further guidance in this regard. Protected Persons will be asked to cooperate, but not required, as necessary in connection with any such investigation. In the event a Concern involves or implicates the Compliance Officer, the Compliance Officer will promptly recuse himself or herself from the investigation and inform the Board in writing. The Board may investigate such Concern or appoint impartial attorneys to investigate the Concern.



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## **5. RECORDS OF CONCERNS AND INVESTIGATION REPORTS**

The Compliance Officer will maintain a written record of all Concerns summarizing in reasonable detail for each Concern: the nature of the Concern (including any specific allegations made and the persons involved); the date of receipt of the Concern the current status of any investigation into the Concern and information about such investigation (including the steps taken in the investigation, any factual findings, and the recommendations for corrective action); and any final resolution of the Concern. The Compliance Officer will distribute an update of this record to the audit committee of the board or, if there is no such committee, to the board.

Reports of Improper Conduct will be maintained by Methodist's Corporate Compliance Officer for the latter of a period of six (6) years after the completion of Methodist's investigation of reported Improper Conduct or a period of six (6) years after the completion of a governmental investigation, if any, of the reported Improper Conduct.

## **6. CONFIDENTIALITY**

All Concerns received will be treated confidentially or anonymously, as applicable, to the extent reasonable and practicable under the circumstances. Confidentiality protections are addressed in the "Reporting Requirements" section of Methodist's Corporate Compliance Manual.

## **7. NO RETALIATION AGAINST WHISTLEBLOWERS**

It is Methodist's policy to encourage the communication of Concerns relating to the lawful conduct of Methodist's business. It is also the policy of Methodist to protect those who communicate Concerns from any retaliation for such reporting. No adverse employment action may be taken and retaliation is strictly prohibited, including, without limitation, intimidation, harassment, discrimination, coercion, or otherwise, whether expressed or implied, against any director, officer, employee, former employee's current or future employment or volunteer of Methodist who in good faith reports any Concern or assists in an investigation of, or the fashioning or implementation of any corrective action or response made in connection with, any Concern. Retaliation also includes contacting immigration authorities or reporting the immigration status of employees or their family members. Any person who violates this prohibition against retaliation will be subject to appropriate disciplinary action, which may include termination of employment or other relationship with Methodist. Protected persons who believe they have been retaliated against have two years to file a retaliation claim.



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Aggrieved plaintiffs are entitled to jury trials and recovery of front pay, civil penalties and punitive damages.

#### **8. POLICY DISTRIBUTION**

A copy of this policy will be distributed to each Protected Person promptly following the adoption of or amendments to this Policy.

#### **9. POLICY ADOPTION, OVERSIGHT and VIOLATIONS**

The Board is responsible for providing oversight of the adoption and implementation of, and compliance with this Policy. Only directors satisfying the definition of “independence” pursuant to as defined in New York Not-For-Profit Corporations Law Section 102(a)(21) are permitted to participate in any Board deliberations or vote on matters relating to this Policy.

A violation of this Policy will result in disciplinary action, including, but not limited to: (1) for a director or officer, up to removal from the Board of Directors and/or removal from office; (2) for an employee, up to termination of employment; (3) for a professional staff member, up to termination of staff privileges; and (4) for a volunteer, up to termination of volunteer privileges.

#### **10. CONTACT INFORMATION**

MARIA E. PEREZ  
Methodist Home for Nursing & Rehabilitation  
4499 Manhattan College Parkway  
Riverdale, NY 10471  
Telephone: 718-548-5100  
Email: mperez@mchny.org

Appendix A

**METHODIST HOME FOR NURSING AND REHABILITATION  
WHISTLEBLOWER DISCLOSURE STATEMENT**

Date of Report: \_\_\_\_\_

<b>REPORTER'S CONTACT INFORMATION: <i>Not required if being submitted anonymously</i></b>	
Name	Position/Title
Dept/Location	Work #
Home Address	Home/cell #
Best time to reach you	Email
Preferable method of communication:	

<b>PERSON AGAINST WHOM THE REPORT OF ACTUAL OR SUSPECTED COVERED CONDUCT IS BEING MADE: <i>If more than one, please complete additional form(s).</i></b>	
Name	Position/Title
Dept/Location (if applicable)	Phone # (if known)

<b>WITNESS(ES) TO ACTUAL OR SUSPECTED COVERED CONDUCT: <i>Attach additional sheets if necessary.</i></b>	
Name	Position/Title
Dept/Location	Phone # (if known)
Name	Position/Title
Dept/Location	Phone # (if known)

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## Appendix B

Division of Labor Standards  
Harriman State Office Campus  
Building 12, Albany, NY 12226

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### **Notice of Employee Rights, Protections, and Obligations Under Labor Law Section 740**

#### **Prohibited Retaliatory Personnel Action by Employers Effective January 26, 2022**

§ 740. Retaliatory action by employers; prohibition.

1. 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.

**To Be Posted Conspicuously in easily accessible and well-lighted places  
customarily frequented by employees and applicants for employment.**



- (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.
2. 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.
3. 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.
4. 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.
5. 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;

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customarily frequented by employees and applicants for employment.**



- (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.
6. 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.
7. 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.
8. 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.