

<b>SUBJECT: Whistleblower Policy</b>	<b>DEPARTMENT: Corporate Compliance</b>
<b>APPROVED: Corporate Compliance Committee</b>	<b>EFFECTIVE DATE: March 16, 2017</b> <b>SUPERSEDES: All Prior Policies</b>

## **BACKGROUND**

The Lutheran Care Network (“TLCN”) believes that positive employee relations and morale can be best achieved and maintained in an environment that promotes ongoing open communication between supervisors, employees and volunteers, including discussions of employee/volunteer problems and concerns.

TLCN is committed to complying with all federal, state and local laws and regulations and adapting its internal policies and procedures to those requirements. TLCN is also committed to detecting and preventing any fraud, waste, or abuse, especially as it relates to federal and state health care programs. Every member of TLCN has an obligation to report situations or activities that may violate federal, state or local laws or regulations, TLCN internal policies and procedures, or the TLCN Code of Conduct.

We encourage our staff and advisors, from officers and directors to employees and volunteers to express problems, concerns, and opinions on any issue, but especially when it concerns fraud, waste, abuse or any other misconduct. No person reporting such concerns in good faith<sup>1</sup> will be the subject of retaliation, retribution, or intimidation.

## **POLICY**

1. No director, officer, employee, or volunteer of TLCN who reports any action or suspected action taken by or within TLCN the person in good faith believes is illegal, fraudulent or in violation of any adopted TLCN policy or any policies legally required to be adopted by TLCN, shall suffer intimidation, harassment, discrimination or other retaliation, or adverse employment consequences (in the case of employees).
2. The Compliance Officer (currently Jeanine Kurtz) or the acting compliance officer of the TLCN (the “Compliance Officer”) is hereby designated to administer this Whistleblower Policy and to report to the audit committee of TLCN’s board of directors (“Audit Committee”). If there is no Audit Committee, the Compliance Officer shall report directly to the TLCN’s board of directors (“Board”). However, no directors or members of the Audit Committee who are employees of TLCN may participate in Board or Audit Committee deliberations or vote concerning a whistleblower complaint.
3. A copy of this Whistleblower Policy shall be available on TLCN’s website and will be provided to all directors, officers, employees, and volunteers who provide substantial services to TLCN (“Required Persons”). The Policy will also be

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<sup>1</sup> For the purposes of this policy, a “good faith report” is one which the reporter reasonably believes to be true, and reasonably believes to constitute illegal conduct, fraud, or a violation of TLCN’s policy. (See Guidance Document 2015-5 V.1.0, issued April 13, 2015 by New York Charities Bureau.)

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included in any employee handbook. All Required Persons will be asked to sign an acknowledgment stating that they have received and reviewed the Whistleblower Policy prior to beginning employment or providing services to TLCN.

### **PROCEDURE FOR REPORTING CLAIMS**

1. If you are aware of a situation that you feel may be a violation of any applicable law or regulation, TLCN policies and procedures, or the TLCN Code of Conduct, you can report your concern in the following ways:
  - a) directly contacting the Compliance Officer at 914-365-6365 Ext. 7307 or [jkurtz@tlcn.org](mailto:jkurtz@tlcn.org);
  - b) calling the Compliance Hotline (877-395-4966), which is staffed from 8 a.m.-4 p.m./Monday-Friday by Jeanine Kurtz (any reports made to the Compliance Hotline will be strictly confidential; however, a person may call the Hotline anonymously); or
  - c) directly contacting the federal, state or local government agency with responsibility for the oversight of the program in question. The contact information for the New York Attorney General's office is as follows:

Office of the Attorney General  
The Capitol  
Albany, NY 12224-0341  
(212) 416-8401 (general inquires)  
[charities.complaints@ag.ny.gov](mailto:charities.complaints@ag.ny.gov). (use to file a complaint)

2. All reports made to TLCN shall be kept strictly confidential. Copies of all reports shall be kept in a locked or password protected file (which shall apply to hard copies and electronic copies of such reports). Only the Compliance Officer and Audit Committee (or the Board if the Compliance Officer reports to the Board) shall have access to such files (excluding any employees who may serve on the Audit Committee).
3. The Compliance Officer shall provide training to its staff and TLCN's officers and Board members about best practices for handling confidential information relating to whistleblower claims made pursuant to this Whistleblower Policy, including best practices for cyber security.
4. All whistleblower reports shall be shared strictly on a "need to know basis" and will only be shared with the Compliance Officer and the Audit Committee, the committee to which the Compliance Officer reports or to the Board (other than employees who serve on the Board, if the Compliance Officer reports to the Board).

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5. All questions and concerns will be investigated by the Compliance Officer and/or Audit Committee members. The investigation will include, without limitation, conducting interviews with relevant parties, reviewing TLCN's corporate records and other relevant materials and working with government agencies or law enforcement officials, as applicable. Any concerns that are substantiated will be addressed and corrective action taken to resolve any problems. The current status and results of all investigations will be kept on file by the Compliance Officer. The Compliance Officer will provide the results of any reports to the Audit Committee (excluding any employees who may serve on the Audit Committee) at least once per quarter.
6. The Compliance Officer or person(s) responsible for investigation of the concern may need to contact the person filing the report for additional information. With respect to anonymous reports, the investigation will follow any report with enough information on which to act. All such follow-up will be documented by the investigator(s) and kept in the records of TLCN.
7. If you believe you are experiencing retaliation or an adverse employment consequence as a result of reporting a concern, immediately report the situation to the Compliance Officer. Retaliation and adverse employment consequences include those identified in The Nonprofit Revitalization Act of 2013 (intimidation, harassment and discrimination) and can include failure to promote, adverse impact on compensation, termination, discharge, suspension, demotion, other change in responsibilities, whether formal or informal, and other negative consequences. Retaliation shall also include similar adverse actions taken against any charitable beneficiaries or tenants of TLCN or its affiliates.
8. Any person who is the subject of a whistleblower complaint shall not be present at or participate in Board or committee deliberations or vote on the matter relating to such complaint, provided that nothing in this subparagraph shall prohibit the Board or committee from requesting 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.
9. The Compliance Officer and/or Audit Committee as appropriate will document the results of any investigation, report violations as required by law, recommend corrective action and respond in any other way to address the concerns and resolve the concern.
10. A report found to be false or interposed for the purpose of avoiding the reporter's own responsibility in a matter shall be addressed as appropriate by the Human Resources Department, other management or the Board of Directors.

## **GENERAL MATTERS**

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1. Personal confessions of wrongdoing cannot be used to avoid disciplinary action or truncate an investigation but may be taken into account when determining an appropriate response.
2. The Compliance Officer will refer any matter in which it determines that an act of intimidation or retaliation has occurred to the Human Resources Department for appropriate action.
3. The Human Resources Department will take appropriate disciplinary action against any individual found to have intimidated or retaliated against any person who reports a concern or question as outlined above, up to and including termination.
4. The Human Resources Department and the Compliance Officer shall ensure that any individual making a report or filing a complaint in good faith shall be protected from acts of intimidation or retaliation.
5. TLCN certifies it is in compliance with the requirements of the New York State Office of the Medicaid Inspector General.