



TITLE

WHISTLEBLOWER

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Provincial

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1101

APPROVAL AUTHORITY

Alberta Health Services Board

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SPONSOR

Chief Ethics & Compliance Officer

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Not applicable

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NOTE: The first appearance of terms in bold in the body of this document (except titles) are defined terms – please refer to the Definitions section.

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OBJECTIVES

- To facilitate the disclosure and investigation of significant and serious matters at Alberta Health Services (AHS) that **AHS People**, or other individuals, believe may be unlawful, dangerous to the public, or injurious to the public interest.
- To provide protection from reprisal for AHS People who disclose, **in good faith**, wrongdoing or reprisal occurring within AHS. Protection from reprisal is also known as “whistleblower” protection.
- To promote awareness of and compliance with the *Public Interest Disclosure (Whistleblower Protection) Act (Alberta)* (“PIDA”).
- To provide clear guidance for the safe disclosure of and response to any alleged wrongdoing or reprisal occurring within AHS.

PRINCIPLES

AHS is committed to maintaining a positive working environment for AHS People and upholding the integrity of its business and clinical operations. AHS shall take action to address reports of alleged wrongdoing or reprisal within AHS without reprisal to AHS People who report alleged wrongdoing or reprisal in good faith.

This Policy shall be used in conjunction with the AHS *Medical Staff Bylaws and Rules*, the AHS *Midwifery Staff Bylaws and Rules*, and any relevant collective agreement, or terms and conditions of employment, where applicable.

APPLICABILITY

Compliance with this Policy is required by all AHS People, including AHS Board Members, AHS employees, AHS Medical Staff members (physicians, dentists, oral and maxillofacial surgeons, and podiatrists), AHS midwifery staff members, other Allied Health professionals with an AHS appointment and privileges, students, volunteers, researchers working with AHS or studying AHS staff or patients, and other persons acting on behalf of AHS.

ELEMENTS

1. Wrongdoing

1.1 Wrongdoing is:

- a) a contravention of an Act of the Legislative Assembly of Alberta, a regulation made pursuant to an Act of the Legislative Assembly of Alberta, an Act of the Parliament of Canada or a regulation made pursuant to an Act of the Parliament of Canada;
- b) an act or omission that creates a substantial and specific danger to the life, health or safety of individuals other than a danger that is inherent in the performance of the duties or functions of AHS People;
- c) a substantial and specific danger to the environment;
- d) gross mismanagement, including an act or omission that is deliberate and that shows reckless or wilful disregard for the proper management of:
 - (i) public funds or a public asset;
 - (ii) the delivery of a public service, including the management or performance of:
 - a contract or arrangement identified or described in the regulations, including the duties resulting from the contract or arrangement or any funds administered or provided under the contract or arrangement; or
 - the duties and powers resulting from an enactment identified or described in the regulations or any funds administered or provided as a result of the enactment; or
 - (iii) AHS People, by a pattern of behaviour or conduct of a systemic nature that indicates a problem in the culture of the organization relating to bullying, harassment, or intimidation;
- e) a wrongdoing prescribed in the PIDA regulations; or

- f) knowingly directing or counselling an individual to commit a wrongdoing mentioned in the above clauses.
- 1.2 Before making a disclosure of wrongdoing, an individual may seek information or advice from their **AHS Leader**, the AHS **Designated Officer**, the AHS **Chief Officer**, or the Office of the Public Interest Commissioner (“the PIC”).
- 1.3 AHS may seek advice from the PIC regarding a disclosure of wrongdoing.
- 1.4 Disclosures of wrongdoing may be made to AHS or to the PIC.
- 1.5 Disclosures of wrongdoing to AHS may be initiated verbally or by email, via the channels listed below. If a disclosure of wrongdoing to AHS is initiated verbally, the Designated Officer may require the person making the disclosure to confirm the details of the disclosure in writing.
- a) AHS People may disclose wrongdoing to their AHS Leader. Any AHS Leader who receives a disclosure of wrongdoing must promptly notify the Designated Officer of the disclosure.
- b) AHS People or the public may disclose wrongdoing to the Designated Officer via email to complianceofficer@ahs.ca.
- c) AHS People or the public may disclose wrongdoing to the **Safe Disclosure Line** via telephone at 1-800-661-9675.
- 1.6 A disclosure of wrongdoing to AHS shall include:
- a) a description of the wrongdoing;
- b) the name of the individual or individuals alleged;
- (i) to have committed the wrongdoing; or
- (ii) to be about to commit the wrongdoing;
- c) the date of the wrongdoing; and
- d) any additional information that the Designated Officer may reasonably require in order to investigate the matters set out in the disclosure.
- 1.7 Information about the process for disclosing wrongdoing to the PIC is available from the PIC via telephone at 1-855-641-9659 or email at info@pic.alberta.ca.
- 1.8 AHS People found to have engaged in wrongdoing may be subject to discipline, up to and including termination of employment, appointment/privileges, contractual or other relationship with AHS.

2. Reprisal

- 2.1 Reprisal is taking or directing any of the following measures because a disclosure of wrongdoing has been made in good faith, advice has been sought about making a disclosure of wrongdoing, or because there has been co-operation in an investigation or declined participation in an act of wrongdoing. Reprisal includes but is not limited to:
- a) dismissal, layoff, suspension, demotion or transfer, discontinuation or elimination of a job, change of job location, reduction in wages, change in hours of work, or reprimand;
 - b) any measure that adversely affects the employment or working terms or conditions of AHS People; or
 - c) a threat to take any of the above measures.
- 2.2 Disclosures of reprisal are to be made to the PIC.
- 2.3 Information about the process for disclosing reprisal to the PIC is available from the PIC via telephone at 1-855-641-9659 or email at info@pic.alberta.ca.
- 2.4 AHS People are protected from reprisal when, in good faith, they:
- a) seek advice about making a disclosure of wrongdoing;
 - b) make a disclosure of wrongdoing;
 - c) participate in an investigation under this Policy and/or under the PIDA; and/or
 - d) refuse to participate in wrongdoing.
- 2.5 Protection from reprisal is not intended to be used by AHS People as a tool to circumvent or halt ongoing performance management and/or normal employment action, taken as a result of performance or misconduct.
- 2.6 AHS People found to have engaged in reprisal may be subject to discipline, up to and including termination of employment, appointment/privileges, contractual or other relationship with AHS.

3. Roles and Responsibilities

- 3.1 AHS People shall:
- a) disclose any information or knowledge they have regarding an alleged wrongdoing or reprisal that has occurred or is occurring within AHS;

- b) comply with the established processes to report instances of wrongdoing and reprisal; and
- c) maintain the confidentiality of information pertaining to disclosures or processes underway, not discussing a disclosure or their involvement in a disclosure, except to the extent required for an investigation and resolution.

3.2 The Chief Officer shall:

- a) establish a work environment that encourages AHS People to disclose wrongdoing and reprisals;
- b) designate an officer to receive and manage processes for disclosing, investigating, and reporting wrongdoing and reprisal;
- c) ensure disclosures under the PIDA are dealt with appropriately;
- d) ensure information about the PIDA and this Policy are widely communicated within AHS;
- e) ensure sufficient resources are provided to achieve the objectives of this Policy;
- f) apply, or delegate the application of, appropriate disciplinary actions pursuant to this Policy, and follow up on corrective measures taken or directed pursuant to this Policy and/or the PIDA; and
- g) direct procedures respecting any other matter specified in the PIDA or the regulations.

3.3 The AHS Chief Officer designates the AHS Chief Ethics and Compliance Officer (ECO) as the Designated Officer under PIDA (see section 3.2 (b) of this Policy).

3.4 The Designated Officer shall:

- a) receive and oversee the investigation of disclosures under the PIDA;
- b) determine referrals for disclosures that are more appropriately handled by another party;
- c) prepare relevant reports required under the PIDA; and
- d) liaise with the PIC.

3.5 If it is determined that the Designated Officer is in a conflict of interest regarding a disclosure of wrongdoing or reprisal, the Chief Officer shall designate an Alternate Officer with sufficient objectivity to review the disclosure and oversee

the response. The Alternate Officer shall assume the role of the Designated Officer as outlined in this Policy.

4. AHS Response to Disclosures and Decision to Investigate

- 4.1 The Designated Officer shall hold authority to determine whether an investigation will proceed under this Policy.
- 4.2 The Designated Officer may refer a disclosure elsewhere for assessment and investigation if it is more appropriately dealt with by law enforcement agency, professional regulatory body, government department, public entity, or other external party.
- 4.3 When making a decision of whether or not an investigation is warranted under this Policy, the Designated Officer shall consider:
- a) whether the subject matter of the disclosure is wrongdoing (see section 1.1 of this Policy);
 - b) whether AHS has jurisdiction regarding the subject matter of the disclosure;
 - c) whether the disclosure relates to a matter that is the subject of ongoing or threatened legal or tribunal proceedings, or an external investigation;
 - d) whether the disclosure is more appropriately dealt with elsewhere (see section 4.2 of this Policy);
 - e) legislation, bylaws, collective agreements, other terms and conditions of employment, or policies that may be impacted;
 - f) the timing of the alleged wrongdoing (see section 6.1 of this Policy);
 - g) whether the disclosure is frivolous or vexatious (see the *Frivolous or Vexatious Disclosures Procedure*); and
 - h) any other factors the Designated Officer may determine reasonably relevant.
- 4.4 The Designated Officer may direct that a single investigation proceed if multiple disclosures of the same matter are received.
- 4.5 If additional wrongdoing is identified in the course of an investigation under this Policy, the investigation panel shall report the additional wrongdoing to the Designated Officer (and/or Chief Officer and the PIC, as appropriate) to review and determine the most appropriate process to address the additional wrongdoing, including, but not limited to:
- a) continuing to investigate as a part of the original disclosure;

- b) initiating a separate investigation under this Policy; or
 - c) referring the matter to another party (per section 4.2 of this Policy).
- 4.6 If reprisal is identified in the course of an investigation under this Policy, the investigation panel shall report the reprisal to the Designated Officer, who shall in turn report the reprisal to the PIC, for additional handling as determined appropriate by the PIC.
- 4.7 During an investigation, if the Chief Officer or Designated Officer reasonably believes that an offence has been committed under a federal or provincial Act or regulation, they shall engage the AHS General Counsel and as soon as practicable, shall report the alleged offence to a law enforcement agency, to the Minister of Justice, and to the Solicitor General of Alberta.
- 4.8 During an investigation, if the Chief Officer or Designated Officer reasonably believes that the matter could constitute an imminent risk of a substantial and specific danger to the life, health, or safety of individuals, or to the environment, they shall engage the AHS General Counsel and shall disclose the matter to:
- a) an appropriate law enforcement agency;
 - b) the Chief Medical Officer of Health (as appointed under section 13 of the *Public Health Act* (Alberta)) in the case of a health related matter; and
 - c) the department, public entity, office, or prescribed service provider responsible for managing, controlling, or containing the risk, if any; and
 - d) the PIC.
- 4.9 The Chief Officer or Designated Officer shall suspend the investigation of matters noted in sections 4.7 and 4.8 of this Policy, and may resume a suspended investigation only after consultation with the AHS General Counsel and after any charge relating to an alleged offence, or any investigation by a law enforcement agency or the Minister of Justice and Solicitor General of Alberta, has been finally disposed of or completed

5. Investigation Panel

- 5.1 The Designated Officer has authority to assign a disclosure of wrongdoing to an investigation panel of at least three persons for investigation.
- 5.2 Factors to be considered by the Designated Officer in appointing members of the investigation panel may include, but are not limited to:
- a) ensuring the panel has adequate experience conducting workplace investigations;
 - b) the nature and seriousness of the disclosure;

- c) the requirement for objectivity in the investigation (i.e., no panel members have real, potential, or perceived conflicts of interest);
- d) the ability to maintain confidentiality of information;
- e) knowledge of legal and compliance requirements pertaining to the disclosure;
- f) the ability of panel members to identify and access appropriate resources to conduct the investigation in a timely manner; and
- g) the need to retain external investigators or experts in highly sensitive, specialized, or confidential matters.

5.3 The investigation panel shall:

- a) establish and document terms of reference for the investigation which shall include:
 - (i) the scope of the investigation;
 - (ii) the projected timeline for the investigation;
 - (iii) a preliminary list of witnesses; and
 - (iv) key messages for the panel members to inform participants to the investigation of their rights and obligations;
- b) clarify information received and seek additional information, if required;
- c) ensure any information obtained for an investigation becomes part of the investigation record;
- d) conduct interviews with witnesses;
- e) compile all information about the investigation;
- f) draw findings objectively and impartially through sound and documented analysis processes;
- g) deliver a comprehensive investigation report with findings to the Designated Officer; and
- h) where appropriate, and subject to the Designated Officer's approval, develop recommendations to the Chief Officer concerning corrective action from the conclusions.

6. Timelines

- 6.1 AHS is not required to investigate a disclosure of wrongdoing if more than two (2) years has passed since the date that the wrongdoing was discovered.
- 6.2 The Designated Officer shall acknowledge receipt of a disclosure to the individual who made the disclosure within five (5) **business days** of receipt of the disclosure, except in instances where the individual is anonymous or where there is no contact information for the individual.
- 6.3 The Designated Officer shall determine whether to investigate a disclosure, and communicate the decision to the individual who made the disclosure within twenty (20) business days of receipt of the disclosure.
- 6.4 When an investigation is warranted, the Designated Officer, within fifteen (15) business days of receiving the disclosure, shall assign the disclosure to an investigation panel.
- 6.5 The written report of the investigation panel shall be submitted to the Designated Officer within one hundred (100) business days from the date the disclosure is first received by the Designated Officer. Any extension to this timeline shall be requested in advance and may be contingent upon extensions per Section 6.8 of this Policy.
- 6.6 The written report of the investigation panel shall be submitted by the Designated Officer to the Chief Officer within one hundred twenty (120) business days from the date the disclosure is first received by the Designated Officer. When appropriate, the Designated Officer shall forward a copy to the PIC.
- 6.7 Subject to privacy and policy considerations, the Designated Officer shall provide the person(s) making the disclosure and any respondent(s) to the investigation with the findings of the investigation panel and, as appropriate, any systemic recommendations for corrective action that may flow from the investigation within one hundred and twenty (120) business days from the date the disclosure is first received by the Designated Officer.
- 6.8 The timelines for investigation may be extended by the Chief Officer up to a maximum of thirty (30) business days. Additional extensions require approval of the PIC.
- 6.9 In the event of a conflict between the timelines of this Policy and the timelines of another applicable process (e.g., timelines specified in a collective agreement, *AHS Medical Staff Bylaws and Rules*, the *AHS Midwifery Staff Bylaws and Rules*), the shorter timeline shall apply.

7. Procedural Fairness

- 7.1 Investigators shall be free of bias.
- 7.2 Respondents shall receive reasonable notice of any investigation against them as well as sufficient specifics to understand the alleged wrongdoing.
- 7.3 Respondents shall be provided with a reasonable opportunity to respond to the alleged wrongdoing and provide their account of the matter/incidents/report under investigation.
- 7.4 Subject to privacy legislation and policies, persons making a disclosure and respondents shall be provided with:
 - a) the outcome of any investigation in response to their disclosure; and
 - b) systemic recommendations for corrective action that may flow from the investigation, as appropriate.

8. Review

- 8.1 If a person who has made a disclosure of wrongdoing seeks a review of an AHS investigation under this Policy, they may contact the PIC via telephone at 1-855-641-9659 or email at info@pic.alberta.ca.
- 8.2 If a person who has made a disclosure of wrongdoing disagrees with a decision made by the Designated Officer not to investigate the disclosure pursuant to this Policy, they may contact the PIC via telephone at 1-855-641-9659 or email at info@pic.alberta.ca.

9. Confidentiality and Privacy

- 9.1 Confidentiality of disclosures and subsequent investigations shall be maintained, to the extent possible, subject to:
 - a) the duty to report an alleged offense to the appropriate law enforcement agency;
 - b) the duty to report imminent harm ;
 - c) the principles of procedural fairness; and
 - d) requirements of law or AHS policies.
- 9.2 The *Freedom of Information and Protection of Privacy Act* (Alberta) places restrictions on the right of access to a record that would reveal the identity of a person who has requested advice about making a disclosure, made a disclosure, or submitted a complaint of reprisal, or whose complaints have been referred to the Labour Relations Board, unless that information can reasonably be severed

from a record. AHS shall adhere to these restrictions in processing access to information requests.

- 9.3 Unauthorized breaches of confidentiality related to a disclosure or investigation may result in discipline, up to and including termination of employment, appointment/privileges, contractual or other relationship with AHS.

10. Reporting

- 10.1 The Chief Officer shall prepare an annual report that must contain:
- a) the number of disclosures received by or referred to the Designated Officer;
 - b) the number of disclosures acted on and not acted on by the Designated Officer;
 - c) the number of investigations commenced by the Designated Officer; and
 - d) for an investigation under this Policy that results in a finding of wrongdoing:
 - (i) a description of the wrongdoing;
 - (ii) any recommendations made or corrective measures taken in relation to the wrongdoing; and
 - (iii) if AHS has not taken corrective measures in relation to the wrongdoing, the reasons provided.
- 10.2 The report shall be included in the AHS Annual Report, which is available to the public.
- 10.3 Information provided by the Designated Officer for the AHS Annual Report shall not include identifiable information and shall comply with all applicable information and privacy legislation and policy to protect the identities of the applicable parties.

DEFINITIONS

AHS Leader means the non-union exempt individual who has the delegated human resources authority for planning, monitoring, and supervising direct-report AHS People. Leader includes Medical Leaders responsible for members of the AHS Medical Staff.

AHS People means anyone who provides care or services, or who acts on behalf of AHS, which may include AHS board members, AHS employees, AHS Medical Staff members (physicians, dentists, oral and maxillofacial surgeons, and podiatrists), AHS midwifery staff members, other Allied Health professionals with an AHS appointment and privileges, students, volunteers, researchers working with AHS or studying AHS staff or patients.

Business day(s) means Monday to Friday, excluding Saturday, Sunday and any named holidays.

Chief Officer means AHS' President and Chief Executive Officer.

Designated Officer means the senior AHS official designated by the Chief Officer to manage and investigate disclosures under the PIDA.

In good faith means in accordance with standards of honesty, trust, sincerity, and without ulterior motive.

Safe Disclosure Line means the external confidential reporting and disclosure service AHS has contracted to receive anonymous or confidential disclosures.

REFERENCES

- Alberta Health Services Governance Documents:
 - *Code of Conduct*
 - *Collection, Access, Use, and Disclosure of Information Policy* (#1112)
 - *Conflict of Interest Bylaw*
 - *Duties and Reporting Under the Protection of Persons in Care Act* (#PS-01)
 - *Fraud, Theft, or Misappropriation Policy* (#1164)
 - *Frivolous or Vexatious Disclosures Procedure* (#1101-02)
 - *Investigations Policy* (#1163)
 - *Keeping Patients Safe From Abuse Policy* (#1153)
 - *Medical Staff Bylaws*
 - *Medical Staff Rules*
 - *Midwifery Staff Bylaws*
 - *Midwifery Staff Rules*
 - *Privacy Protection and Information Access Policy* (#1177)
 - *Records Retention Schedule* (#1133-01)
 - *Workplace Violence: Prevention and Response Policy* (#1115)
- Alberta Health Services Resources:
 - AHS Just Culture Guiding Principles
 - *Ethics Framework*
 - *Public Interest Disclosure (Whistleblower Protection) Act (PIDA) Frequently Asked Questions*
 - *Whistleblower Policy Frequently Asked Questions*
- Non-Alberta Health Services Documents:
 - *Complaint of Reprisal Form* (Alberta Public Interest Commissioner)
 - *Complaint of Wrongdoing Form* (Alberta Public Interest Commissioner)
 - *Criminal Code* (Canada) and associated regulations
 - *Freedom of Information and Protection of Privacy Act* (Alberta) and associated regulations
 - *Health Information Act* (Alberta) and associated regulations
 - *Health Professions Act* (Alberta) and associated regulations
 - *Labour Relations Act* (Alberta) and associated regulations

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- *Protection of Persons in Care Act (Alberta)* and associated regulations
- *Public Health Act (Alberta)* and associated regulations
- *Public Interest Disclosure (Whistleblower Protection) Act (Alberta)* and associated regulations

VERSION HISTORY

Date	Action Taken
May 3, 2012	Revised
June 29, 2015	Revised
April 22, 2019	Revised, includes a change in Title from "Safe Disclosure/Whistleblower"