
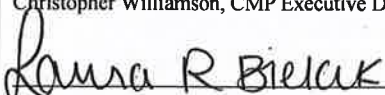


Policy Title:	Sexual Harassment Complaint/Investigation
Policy Number:	600-018
Effective Date:	02/05/2018
Revised Date(s):	11/28/2022; 3/6/2023
Purpose:	To define workplace sexual harassment and maintain a zero tolerance environment that is prohibited in all forms, and assign the appropriate disciplinary measure in the case of violations. To outline the procedure for lodging and investigating complaints about conduct that may violate this policy.
Regulation Reference (if applicable):	Title VII of the Civil Rights Act of 1964, (42 UCS § 2000) NYS Senate Bill S5870/A.7101 NYS Senate Bill S812B/A.2035B New York State Labor Law - LAB § 201-g. Prevention of sexual harassment N.Y. Executive Law, art. 15, § 290 et seq. Human Rights Law Sexual Harassment Policy for All Employers of New York State; NYSDOH Combating Sexual Harassment
Reviewed/Approved By:	
	 3/22/23 Christopher Williamson, CMP Executive Director Date
	 3/22/23 Laura Bielak, CMP Human Recourse Manager Date

Administration:

This policy will be administered through Crouse Medical Practice's Human Resource Manager.

Policy:

Crouse Medical Practice strives to maintain a work environment that fosters mutual respect and team work and promotes professional conduct. Therefore, Crouse Medical Practice (CMP) prohibits sexual harassment in all forms as defined below. This policy applies to employees, patients, guests, vendors and anyone else doing business with Crouse Medical Practice.

Definitions:

"Sexual harassment" is the unwelcomed/unwanted conduct of a sexual nature that is sufficiently persistent or offensive to unreasonably interfere with an employee's job performance or create an intimidating, hostile or offensive working environment. Sexual harassment is defined by the Equal Employment Opportunity Commission Guidelines as unwelcome sexual advances, requests for sexual favors and other verbal or physical conduct of a sexual nature when, for example: a) submission to such conduct is made either explicitly or implicitly a term or condition of an individual's employment; b) submission to or rejection of such conduct by an individual is used as the basis for employment decisions affecting such individual; c) such conduct has the purpose or effect of unreasonably

interfering with an individual's work performance or creating an intimidating, hostile or offensive working environment or d) harassment may occur remotely such as on virtual platforms and messaging apps. Sexual harassment is not limited to sexual contact, touching or expressions of sexually suggestive nature. It includes all forms of gender discrimination including gender role stereotyping and treating someone differently because of their gender. Harassment does not need to be severe or pervasive to be illegal in NYS.

“Retaliation” is any action to alter an individual’s terms and/or conditions of employment because that individual engaged in protective activities.

“Gender Spectrum” refers to the idea that there are many gender identifies (female, male, transgender, two-spirit, etc.). It acknowledges that there is a range of gender expressions, or ways in which people externally communicate their gender identity to others through behavior, clothing, haircut, voice and other forms of presentation. The three most common ways that gender aligns differently than the sex they were assigned at birth are as follows:

- Cisgender: someone whose gender aligns with the sex they were assigned at birth.
- Transgender: someone who’s gender is different than the sex they were assigned at birth.
- Non-Binary: someone who does not identify exclusively as a man or a woman, but is fluid in-between.

Under Title VII of the Civil Rights Act of 1964, there are two types of sexual harassment: 1) quid pro quo and 2) hostile work environment. Sexual harassment can be physical and/or psychological in nature. An aggregation of a series of incidents can constitute sexual harassment even if one of the incidents considered on its own would not be harassing. Incidents of harassment that occur outside of normal working hours or not on CMP premises are prohibited.

Examples of Prohibited Conduct:

Sexual harassment includes many forms of offensive behavior. Though sexual harassment encompasses a wide range of conduct, some examples of specifically prohibited conduct include the following:

- Physical assaults of a sexual nature, such as rape, sexual battery, molestation or attempts to commit these assaults, and intentional physical conduct that is sexual in nature, such as touching, pinching, patting, grabbing, brushing against another employee/individual's body or poking another employee/individual's body.
- Unwelcome sexual advances, propositions or other sexual comments, such as sexually oriented gestures, noises, remarks, jokes or comments about a person's sexuality or sexual experience.
- Preferential treatment or promises of preferential treatment to an employee/individual for submitting to sexual conduct, including soliciting or attempting to solicit any employee/individual to engage in sexual activity for compensation or reward.
- Subjecting, or threats of subjecting, an employee to unwelcome sexual attention or conduct or intentionally making performance of the employee's job more difficult because of that employee's sex.
- Sexual or discriminatory displays or publications anywhere in Crouse Medical Practice's workplace; including any display of electronic media.

- Retaliation for sexual harassment complaints. Retaliation against individuals who complain of sexual harassment or who testify or assist in any investigation or proceeding involving sexual harassment is unlawful. In addition, disclosure of an employee's personnel files because he or she filed a complaint or testified/assisted in any proceedings related to alleged unlawful discriminatory practice can be considered retaliation and is deemed unlawful, unless the disclosure of said records are necessary to comply with an investigation. Retaliation can include but is not limited to demotion, termination, denying accommodations, reduced hours or work responsibilities, moving an individual's desk to a less desirable office location, or passing over for a promotion.

Procedure: Lodging & Investigating Complaints

I. Employees and/or Witnesses/Bystanders:

- a. If an employee and/or witness/bystander believes that he or she has been subject to sexual harassment or has witnessed sexual harassment he or she should directly and immediately inform the alleged harasser that conduct is unwelcome and that he/she must stop.
Management must be made aware of the situation so that it can conduct an immediate and impartial investigation and take appropriate action to remediate or prevent the prohibited conduct from continuing. The employee will immediately report the incident to his or her own supervisor or manager, or to the Human Resource (HR) Manager by way of completing form 600-18A which can be found attached to this policy. If you are seeking to file a complaint related to non-sexual harassment and/or discrimination, please see *Policy 600-009 Complaint of Harassment, Discrimination, and Retaliation*.
- b. To ensure the prompt and thorough investigation of a sexual harassment complaint, the employee and/or witness/bystander should provide as much of the following information:
 - The name, office location/department and position of the person or persons allegedly causing the harassment.
 - A description of the incident(s), including the date(s), location(s) and the presence of any witnesses.
 - The effect of the incident(s) on the employee's ability to perform his or her job, or on other terms or conditions of his or her employment.
 - The names of other individuals who might have been subject to the same or similar harassment, by the alleged harasser(s).
 - What, if any, steps the employee has taken to try to stop the harassment. For example interrupting the harassment by engaging with the individual being harassed and distracting them from the harassment. If a bystander feels unsafe interrupting, ask a third party to help intervene. However, confronting the harasser is not encouraged. The best approach is to report through the chain of command.

- Any other information the employee and/or witness/bystander believes to be relevant to the harassment complaint.

External Reporting Availability for Employees:

1. New York State Division of Human Rights (DHR)

- a. The New York State Division of Human Rights has established a toll-free, confidential hotline for complaints of workplace sexual harassment. Employees can call the hotline and receive advice on their legal rights as applied to their specific circumstances from attorneys, who staff the hotline pro bono. The hotline is operational from 9AM-5PM and can be reached at 1-800-HARASS-3 (1-800-427-2773).
- b. The Human Rights Law (HRL) 15 § 290 applies to employers in NYS with regard to sexual harassment and protects individuals. Complaints may be filed at any time within one year of the alleged harassment, or sue directly in state court under the HRL within 3 years of the alleged discrimination. You do not need an attorney to file a complaint and there is no cost. DHR's main office contact information is:

NYS Division of Human Rights

One Fordham Plaza

Fourth Floor

Bronx, NY 10458

(718) 741-8400

www.dhr.ny.gov

2. United States Equal Employment Opportunity Commission (EEOC)

The EEOC enforces federal anti-discrimination laws, including Title VII of the 1964 federal Civil Rights Act (42 UCS § 2000). An individual can file a complaint at any time within 300 days of the alleged harassment. There is no cost. A complaint must be filed with the EEOC before an individual can file in federal court. An individual can file a 'Charge of Discrimination' by:

1-800-669-4000 (1-800-669-6820 TTY)

www.eeoc.gov

3. Law Enforcement

Syracuse Police Department may be called in cases where there is; physical touching, coerced physical confinement or coerced sex acts. They can be reached at:

Non-emergency - (315) 442-5111

Information Desk - (315) 442-5200

Abused Persons Unit - (315) 435-3016

4. NYS Hotline

Provides information about filing a complaint, including speaking with a volunteer attorney who can provide limited free assistance.

1-800-HARASS-3

II. Patients:

- a. Patients who feel they have been the subject of sexual harassment have the right to file a complaint internally; report the incident to the local or state law enforcement; or choose not to report. If a patient believes that he or she has been subject to sexual harassment and has notified CMP staff that such a situation occurred, or if CMP staff suspect or witness suspected sexual harassment of a patient, CMP staff are to complete the following steps:
 1. CMP will ensure patient safety and ask the patient in a confidential manner whether they would like to file a complaint. If the patient consents to filing a complaint, the investigation process will begin by having CMP staff notify their supervisor immediately of the complaint.
 2. The supervisor will discuss the occurrence with the Director of Clinical Operations who will begin an investigation in unison with Human Resources, which could include involvement of the Executive Director, Security, and/or the Compliance Officer. The investigation may include fact-finding, interviews, and document procurement to obtain the following information:
 - i. The nature of the allegation
 - ii. Identity of the patient or patients who may have been victim(s)
 - iii. Physical and mental status of any person who may be the subject of abuse or neglect who made the complaint.
 - iv. Identity of CMP staff, visitor, or vendor who may have been responsible for the suspected harassment.
- b. If the complaint identifies a specific provider, employee, or vendor, CMP will work with the patient to promptly remove the provider, employee, or vendor from the patient's care while the investigation takes place. If the patient expresses the desire to remove the specific provider, employee, or vendor from their care team, CMP will work with the patient to meet this request which may include transferring the patient to a preferred practice/provider if such accommodations are available and agreeable.
- c. At the conclusion of the investigation, the participants of the investigation will keep all procured documentation and any relevant information obtained during the course of the investigation protected and confidential. If once a determination has been agreed upon and the

conclusion reached that there is credible evidence of a criminal act, the appropriate law enforcement authority shall be notified (NYSDOH and/or law enforcement) as soon as possible. In addition, the CMP staff tasked with leading the investigation will report the findings to the Compliance Officer/Director of Risk

Management who will inform MLMIC of the findings. The patient will be notified of the results of the investigation and informed of the corrective action and/or reporting that has taken place. If it is determined that the notification was not required, the patient will be educated on their ability to report any concerns to law enforcement as outlined in the below section titled "Reporting Requirements."

External Reporting Availability for Patients as well as Witnesses/Bystanders:

1. Reporting to DOH:

- a. Reporting to DOH is to be performed by a member of the investigating party. New York State Law requires any employee or licensed professional to report to the NYS Department of Health any abuse, mistreatment or neglect of patients. Failure to report may result in the employee or professional being found guilty of professional misconduct and potentially having the Department of Health recommend disciplinary action to the appropriate licensing board.
- b. Reporting can occur Monday through Friday 8:30AM-4:45PM by contacting 1-800-804-5447.
- c. Information that will be requested by DOH is as follows:
 - Identity of the person making the report
 - Name of facility
 - Name of CEO/Executive Director
 - Name of the subject of abuse/neglect
 - Name of the person committing the abuse/neglect
 - Nature of the abuse or neglect
 - Date, time and specific location of the abuse/neglect
 - Name of next of kin of the subject of the accusation.

2. Reporting to Law Enforcement:

- a. Law enforcement may need to be notified and involved when the following criteria are met: physical touching, coerced physical confinement or coerced sex acts. In addition, if the patient is offered and requests information on independently reporting their concern, CMP staff will provide them with the following information:

Syracuse City Police Department:

- Non-emergency line: (315) 442-5111
- Information Desk: (315) 442-5200
- Abused Persons Unit: (315) 435-3016

III. CMP Management:

Practice Administrators, Office/Clinical Managers, and/or Directors must deal expeditiously and fairly with allegations of sexual harassment within their offices whether or not the employee has made a formal complaint. They must:

1. Take all complaints or concerns of alleged harassment seriously.
2. Ensure that any alleged harassment is immediately reported to the HR Manager so that a prompt investigation can occur.
3. Take appropriate action as directed by the HR Manager and/or CMP Leadership to prevent retaliation or prohibited conduct from recurring during and after any complaint investigation.

Practice Administrators, Office/Clinical Managers, or Directors who knowingly allow or tolerate sexual harassment or retaliation, including the failure to immediately report such misconduct to the HR Manager, are in violation of this policy and are subject to discipline.

IV. Human Resources:

The HR Manager is responsible for ensuring that both the individual filing the complaint (hereafter referred to as the “complainant”) and the accused individual (hereafter referred to as the “respondent”) are aware of the seriousness of a sexual harassment complaint.

The HR Manager will:

1. Explain Crouse Medical Practice's sexual harassment policy and investigation procedures to both the complainant and the respondent.
2. Explore informal means of resolving the sexual harassment complaint if there has not been any illegal activity contained in the complaint.
3. Notify the police if illegal activities are alleged.
4. Arrange for an investigation of the alleged harassment and the preparation of a written report.
5. Submit a written report summarizing the results of the investigation and making recommendations to CMP's Executive and Medical Directors.
6. Notify the complainant and the respondent of the corrective action to be taken, if any, administering those actions.
7. Support the administration of any corrective action or discipline. CMP's HR Manager or Senior Leadership may retain legal counsel at any time during the investigation process.

V. Discipline/Corrective Action:

- a. Employees who have been found to be in violation of this policy after an investigation, are subject to the appropriate discipline, up to and including termination. Sanctions will be enforced not only against individuals engaging in sexual harassment but also against supervisory and managerial employees who knowingly allow such behavior to continue. Employees may also be subject to civil damages or criminal penalties in relation to confirmed allegations.
- b. Employees who have been found not to be in violation of this policy after an investigation may be subject to corrective action as mutually agreed to by employee and CMP Leadership, up to and including office transfer/schedule/shift change and referral to CMP's Employee Assistance

Program (EAP). The procedures available under this policy do not preempt or supersede any legal procedures or remedies otherwise available to a victim of sexual harassment under local, state or federal law.

- c. CMP's HR Manager will review CMP's Retaliation Policy (600-009) with the employees involved.

VI. Confidentiality:

- a. All inquiries, complaints and investigations will be treated confidentially, and information will be contained to only the parties required as part of the investigation or discipline/corrective action.
- b. During the investigation the identity of the complainant will usually need to be revealed to the respondent and any witnesses.
- c. The HR Manager and members of CMP Leadership will take adequate steps to ensure that the complainant is protected from retaliation during and after the period of the investigation.
- d. The HR Manager will retain in secure files all information pertaining to a sexual harassment complaint or investigation.
- e. The HR Manager will answer any questions relating to confidentiality during and after a complaint investigation.