

LaSalle Nursing Home	POLICY & PROCEDURE
SPONSOR: Administration	AREA: Administration
SUPERCEDES:	DESCRIPTION: Ethics Policy
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Ethics Policy

1) General Prohibitions (R.S. 42:1111 - 1121)

NOTE: The following is a synopsis of some of the key provisions of the Code of Governmental Ethics. It is only a summary. References to provisions that do not affect hospital service districts have been deleted. For the official text of the provisions described below and for the text of other provisions of the Code, including information relative to exceptions to these general restrictions, refer to the Code at LSA R.S. 42:1101 et seq.

The Code of Governmental Ethics prohibits the:

- A. 1111A - Receipt of a thing of economic value from a source other than the governmental entity for the performance of official duties and responsibilities.
- B. 111C(1)(a) - Receipt of a thing of economic value for the performance of a service substantially related to public duties or which draws on non-public information.
- C. 111C(2)(d) - Receipt of a thing of economic value by a public servant for services rendered to or for the following:
 - 1) persons who have or are seeking to obtain a contractual or other business or financial relationship with the public servant's agency;
 - 2) persons who are regulated by the public employee's agency;
or
 - 3) persons who have substantial economic interests which may be substantially affected by the performance or nonperformance of the public employee's official duties.

These same restrictions apply to the public servant's spouse and to any legal entity in which the public servant exercises control or owns an interest in excess of 25%.

- D. 1115 – Elected officials and public employees are prohibited from soliciting or accepting a gift from the following persons:
- 1) persons who have or are seeking to obtain a contractual or other business or financial relationship with the public servant's agency; or
 - 2) persons who are seeking, for compensation, to influence the passage or defeat of legislation by the public servant's agency

Public employees, not elected officials, are also prohibited from soliciting or accepting a gift from the following persons:

- 1) persons who conduct operations or activities regulated by the public employee's agency; or
- 2) persons who have substantial economic interests which may be substantially affected by the performance or nonperformance of the public employee's official duties.

The prohibition against soliciting or accepting a gift from certain persons, extends to officers, directors, agents, or employees of such person.

The gift prohibition does not prohibit food or drink consumed as the personal guest of the person providing the food or drink, including reasonable transportation and entertainment incidental thereto. The person providing the food and drink may not provide a public servant more than **\$60** of food and drink per single event. The \$60 limit does not apply to a gathering held in conjunction with a meeting of a national or regional organization or a statewide organization of government officials or employees, or to a public servant of a post-secondary education attending a private fundraiser for the post-secondary institution.

The gift prohibition does not prohibit the receipt of promotional items having no substantial resale value (i.e.: cups, hats, or pens with a company's logo).

- E. 1111E - Receipt of a thing of economic value for assisting someone with a transaction with the agency of the public servant.
- F. 1112 - Participation by a public servant in a transaction involving the governmental entity in which any of the following persons have a substantial economic interest:
- 1) the public servant;
 - 2) any member of his immediate family;
 - 3) any person in which he has an ownership interest that is greater than the interest of a general class;

- 4) any person of which he is an officer, director, trustee, partner, or employee;
- 5) any person with whom he is negotiating or has an arrangement concerning prospective employment;
- 6) any person who is indebted to him or is a party to an existing contract with him and by reason thereof is in a position to affect directly his economic interests.

Appointed members of boards and commissions may recuse themselves to avoid a violation of Section 1112. Unlike elected officials, they may not participate in the debate or discussion of the matter. They must recuse themselves from all participation. R.S. 42:1112D.

Other public employees who are not sole decision makers can be disqualified from transactions that would violate this prohibition. A mechanism for disqualification is found in the rules promulgated by the Board. R.S. 42:1112C.

- G. 1113A – For public servants, other than legislators or appointed members of boards and commission, bidding on or entering into any contract, subcontract or other transaction under the supervision or jurisdiction of the public servant’s agency. This restriction also applies to the immediate family members of the public servant and to legal entities in which the public servant and/or his family members own an interest in excess of 25%.
- H. 1113B - Appointed members of boards and commissions are not only prohibited from bidding on or entering into such contracts, subcontracts or transactions under the supervision or jurisdiction of their board, but also being in any way interested in them. Also, the restriction applies to their immediate family members and legal entities in which they or their immediate family members have a substantial economic interest.
- I. 1116 - A public servant’s use of the authority of his office to compel or coerce a person to provide himself or someone else with a thing of economic value that they are not entitled to by law or the use of the authority of his office to compel or coerce a person to engage in political activity.
- J. 1117 - It is prohibited for a public servant or other person to make a payment, give, loan, transfer, or deliver or offer to give, loan, transfer or deliver a thing of economic value to a public servant when the public servant is prohibited by the Ethics Code from receiving such a thing of economic value.
- K. 1119 - Nepotism
 - 1) Members of the immediate family of an agency head may not be employed in the agency.
 - 2) Members of the immediate family of a member of a governing authority or the chief executive of a governmental entity may not be employed in the governmental entity. The term governing authority includes parish

councils, police juries, school boards, town councils, boards of aldermen, etc.

- 3) Note that the application of this restriction is not affected by whether the agency head, chief executive or governing authority member has authority over or actually participates in the hiring decision - such family members are simply ineligible for employment.

(4) **Exceptions:**

- a) persons employed in violation of this rule continuously since April 1, 1980;
- b) a person employed for one year prior to their family member becoming an agency head;
- c) employment as a health care provider, of an immediate family member of a hospital service district board member or of a public trust authority board member, as long as the family member is a licensed physician, allied health professional, or a registered nurse. Annual disclosure is required and forms are available from the Ethics Administration Program office. If the required disclosure is not timely filed, a late fee assessment of \$50 per day may be imposed, with a maximum penalty of \$1,500.

L. 1121- Post Employment

- 1) During the two year period following the termination of public service as an **agency head or elected official**, these individuals may not assist another for compensation, in a transaction, or in an appearance in connection with any transaction involving their former agency nor may they render any service on a contractual basis to or for their former agency.
- 2) During the two year period following the termination of public service as a **board or commission member**, these individuals may not contract with, be employed in any capacity by, or be appointed to any position by that board or commission. The Board has interpreted a board or commission to include a collective body that shares responsibility for its actions. This would include school boards, police juries, boards of aldermen, a group of selectmen, a council, etc.
- 3) During the two year period following the termination of public service as a **public employee**, these individuals may not assist another for compensation, in a transaction, or in an appearance in connection with a transaction involving the agency in which the former public employee participated while employed by the agency nor may the former public employee provide on a contractual basis to his former public employer, any service he provided while employed there.

The following information is supplemental to the prohibitions defined in Louisiana R.S. 42:1111 - 1121

PROCEDURE

- A. Complaints – The Louisiana Board of Ethics can initiate an investigation into any matter which it has reason to believe may be a violation of the Code by a 2/3 vote of its membership (8 votes). A copy of the vote and a detailed explanation of the matter are sent to the complainant and the respondent. Additionally, the Board must consider any signed sworn complaint.
- B. Investigations - The Board considers information discovered through a confidential investigation. Some cases lead to voluntary admissions of violations of the Code through the publication of a consent opinion.

PENALTIES

- A. Agency heads have a responsibility to report possible Code violations to the Board. R.S. 42:1161A
- B. Penalties that may be imposed upon a finding of a violation of the laws under the Board's jurisdiction:
 - 1) Censure of an elected official or other person within its jurisdiction and imposition of a fine of not more than \$10,000 per violation. R.S. 42:1153A
 - 2) Removal, suspension, or reduction of the pay or demotion of a public employee or other person and imposition of a fine of not more than \$10,000 per violation. R.S. 42:1153B
 - 3) Imposition of restrictions on a former public servant and other persons to prevent appearances before the agency and to prohibit the negotiation for or entering into business relationships with the agency. R.S. 42:1151B
 - 4) Rescission of contracts, permits and licenses, without contractual liability to the public, whenever the Board finds that a violation has influenced the making of such contract, permit or license, and that such rescission is in the best interest of the public. R.S. 42:1152
 - 5) Order the payment of penalties if an investigation reveals that any public servant or other person has violated the Code to his economic advantage and penalties can include the amount of such economic advantage plus one half. R.S. 42:1155A
 - 6) Order the forfeiture of any gifts or payments made in violation of the Code. R.S. 42:1155B
 - 7) Imposition of late fees for reports that are not timely filed. R.S. 42:1157
 - 8) Object to the candidacy of a person who has an outstanding fine, fee or penalty equal to or greater than \$250 pursuant to the Code of

Governmental Ethics for which all appeals have been exhausted. R.S. 18:463A(2)(a)(vii).

PERSONAL FINANCIAL DISCLOSURE (PFD)

- A. **PFDs must be filed annually by May 15th. The report must be filed each year the office or position is held and the year following the termination of the office or position. The report filed by May 15th covers activity in the prior calendar year.** If a public servant's term of office ends in January, he may file a "final" personal financial disclosure statement for the days served in January, if the disclosure statement is filed on or before May 15 of the year in which his service ends. By filing this "final" personal financial disclosure statement, he is not required to file the year following the termination of the holding of such office.
- B. Tier 1 PFD - Filed by persons holding statewide elected office, the secretaries of certain departments of state government, the superintendent of education, the commissioner of higher education, the president of each public postsecondary education system, and persons holding certain positions in the office of the governor. R.S. 42:1124. The penalty for late filing is \$500 per day.
- C. Tier 2 PFD – Filed by state legislators, elected officials holding a public office representing a voting district with a population of 5,000 or greater, members of the Board of Ethics, the ethics administrator, and members of the Board of Elementary and Secondary Education, the superintendent of the Recovery School District, the executive director of the Louisiana Housing Corporation, and the members of the Board of Pardons. The penalty for late filing is \$100 per day. R.S. 42:1124.2.
- D. Tier 2.1 PFDs – Filed by members and designees of boards and commissions which have the authority to expend, disburse or invest \$10,000 or more in funds in a fiscal year, members of the State Civil Service Commission, and members of the Board of Commissioners of the Louisiana Stadium and Exposition District. The penalty for late filing is \$50 per day. R.S. 42:1124.2.1. Boards or commissions that do not have the authority to expend, disburse or invest more than \$50,000 in a fiscal year **and whose members are not eligible** to receive any compensation, per diem, or reimbursement of expenses for service on the board of commission are excluded from the reporting requirement.
- E. Tier 3 PFDs – Filed by elected officials holding a public office representing a voting district with a population of less than 5,000 and members of the governing authority or management board of a charter school. The penalty for late filing is \$50 per day. R.S. 42:1124.3.

ETHICS TRAINING

Each **public servant** shall receive a minimum of one hour of education and training on the Code of Ethics during each year of his public employment or term of office. Each political subdivision shall designate at least one person who shall provide information, notices, and updates to employees and officials of the political subdivision and assist the board in any way necessary to fulfill the education requirements. Newly elected officials must receive training within 90 days of taking the oath of office. (R.S. 42:1170)

- 1) Persons who are public servants solely because they are an uncompensated, volunteer fireman or an uncompensated, auxiliary or reserve law enforcement officer are exempt from the training.
- 2) Non salaried employees of hospitals operated by a hospital service are exempt unless the employee is authorized to enter into contracts on behalf of the hospital for goods or services or the duties of the employee include the supervision of another public employee.
- 3) A former public servant whose public service in a calendar year lasted less than 90 days shall not be required to receive education and training.

MISCELLANEOUS

- A. It is a violation of the Code to have one or more employees on the payroll who are not rendering services for which they are being paid or having one or more employees on the payroll whose employment is prohibited by the nepotism section of the Code. R.S. 42:1161F
- B. No action can be maintained by the Board more than 2 years after the discovery of the occurrence of the violation nor more than 4 years after the occurrence of the violation whichever is shorter. R.S. 42:1163
- C. It is a violation of the Code for any public employee to be disciplined or otherwise subjected to acts of reprisal for reporting to his agency head, the Board, or any person of competent authority or jurisdiction, information which he reasonably believes is in violation of any law, order, rule, or regulation within the Board's jurisdiction or any other alleged acts of impropriety within any governmental entity. A person who is a public employee because of a contractual arrangement with a governmental entity or agency, whose contract is wrongfully suspended, reduced, or terminated as an act of reprisal for reporting an alleged act of impropriety, shall be entitled to reinstatement of his contract and receipt of any lost compensation under the terms of the contract. R.S. 42:1169

Contact the Ethics Administration Program for additional information at 225-219-5600 or visit our web site at www.ethics.la.gov.

Rev. 07/15

2) Disciplinary Actions for Ethics Violations

All Employees are subject to the Code of Conduct/Ethics and performance set forth in the Employee Handbook, as well as any departmental standards. Employees who do not comply with the established rules will be subject to the following types of disciplinary actions:

1. Informal counseling – Supervisors and/or Department Head may meet with Employees to explain minor infractions of hospital or departmental standards without documenting such meeting.
2. Formal counseling – Supervisors and/or Department Heads may meet with Employees to explain infractions of hospital or departmental standards and make a written record of such meeting, which will be kept in the Employee's employment record. Formal counseling, or "writeups," will be signed by the Supervisor or Department Head, and may or may not be signed by the Employee.
3. Warnings – Supervisors and/or Department Heads may issue written or unwritten warnings to Employees about infractions of hospital and/or departmental policies.
4. Suspension – Employees may be suspended from work either with pay or without pay, as determined by the circumstances surrounding such suspension.
5. Probation – Employees may be put in probation status.
6. Immediate Termination – Employees may be discharged.

Department Heads can hold informal or formal counseling sessions and issue warnings to Employees at any time. Suspension, Probation and Termination will only be done after careful consideration and with the approval of the Human Resources Department and the Chief Executive Officer.

Discipline is intended to be progressive, and any disciplinary actions contained in the Employee's employment record will be considered in any evaluations of performance. However, the Nursing Home reserves the right to consider the specific circumstances of any such policy infraction, and use any disciplinary measure deemed appropriate to the infraction.

3) Systems to Monitor Ethics Violations

This system has been designed to provide LaSalle Nursing Home patients, staff, and members of the community with multiple means of reporting concerns regarding possible ethics violations. Every person has a responsibility to report facts giving rise to possible ethics violations so the hospital can conduct a prompt investigation and implement a timely and appropriate response. This system has been designed to ensure that reporting ethics concerns can be done easily and with assurance of

confidentiality to the extent allowable under the law. Anyone who has reason to believe that an ethics violation has occurred should immediately report known facts in one of the ways listed below. When reporting a violation, it is important to include the following information:

- A. Explain the facts of the incident
- B. Provide the name of the alleged offender
- C. Give the date the incident occurred
- D. Optional: Provide a contact name, number, and e-mail to allow for confidential follow up. *If you choose to remain anonymous, please understand that LaSalle Nursing Home's ability to respond may be limited if we are unable to verify the facts through other sources.*

Examples of Ethics violations include the following:

- A. Violations of any LaSalle Nursing Home policies regarding professional conduct, including:

- 1) Code of Conduct
- 2) Abuse Policy
- 3) Drug Diversion/Drug Free Workplace
- 4) Sexual Harassment
- 5) Tobacco Free Workplace
- 6) Violence in the Workplace
- 7) Patient Rights
- 8) Grievance Policy
- 9) Health Insurance Portability & Accountability Act (HIPPA) (Page 53)
- 10) Code of Conduct/Ethics
- 11) Purchasing Policies
- 12) Americans with Disabilities Act Policy
- 13) Civil Rights Policy
- 14) Government and private payor reimbursement principles
- 15) General prohibitions on paying or receiving remuneration to induce referrals
- 16) Improper alterations to clinical records
- 17) Providing medical services with proper authorization
- 18) Patient rights and patient education
- 19) Compliance with Medicare conditions of participation and/or coverage
- 20) Duty to report misconduct.

- B. Specific examples include:

- 1) Use of nursing home position or nursing home resources for personal gain

- 2) Actions that place the nursing home at risk
- 3) Fraud
- 4) Sexual Harassment
- 5) Retaliation
- 6) Intimidation
- 7) Misuse of Hospital Resources
- 8) Gross Misrepresentation
- 9) Discrimination
- 10) Bullying

Reporting Options

It is not necessary to provide a name when making a report.

- A. Contact the LaSalle Nursing Home Ethics Hotline at (318)992-6627
- B. Report information to the Phyllis Bryan, Compliance Officer, Human Resources Department (ext. 2291)
- C. Report information to their Supervisor
- D. Report information to LaSalle Nursing Home Legal Counsel:

Michael Schulze, Attorney at Law
Sullivan, Stoler, Schulze & Grubb
1042 Camellia Blvd., Suite 2
Lafayette, Louisiana 70508
Office: (337) 233-6210
Fax: (337) 233-6215
- E. OIG hotline, 1-800-HHS-TIPS.

In addition to the reporting of ethics violations, LaSalle Nursing Home will use appropriate software as an ongoing part of its auditing and monitoring efforts. In addition to using this software, as part of the review process the designated reviewer(s), might utilize the following techniques:

- A. On-site visits;
- B. Interviews with personnel involved in management, operations, coding, charge description master maintenance, claim development and submission, patient care and other related activities
- C. Questionnaires developed to solicit impressions of a broad cross-section of LNH's employees and staff
- D. Reviews of medical and financial records and other source documents that support claims for reimbursement and Medicare cost reports

- E. Reviews of written materials and documentation prepared by the different divisions of Hospital including contracts and other relevant documents
- F. Trend analyses, or longitudinal studies, that seek deviations, positive or negative, in specific areas over a given period.

4) Requirement for Annual Attestation

Training and education are critical components of the LNH's Compliance Program. In addition to the rules and regulations specific to LNH and employee positions, training in documentation and compliance issues is deemed to be a key element to be addressed by the LNH's training programs. It is imperative that staff members understand and abide by all rules for proper documentation of services, coding and the general reimbursement principles of government healthcare programs and other payors.

As mentioned earlier in the policy, LaSalle Nursing Home will adhere to the requirements outlined in the Code of Governmental Ethics.

- A. Each employee and Board member shall receive a minimum of one hour of education and training on the Code of Ethics upon hire or appointment and during each year of his public employment.
- B. The Chief Executive Officer has been delegated to provide information, notices, and updates to employees and officials of the hospital and assist the board in any way necessary to fulfill the education requirements.
- C. Not all employees will receive the identical amount of training and education, nor will the focus of training and educational efforts be the same for all employees. Some employees may receive specialized training that is tailored for their respective responsibilities, including topical areas such as federal and state statutes, regulations and guidance, private payor requirements and provider ethics. Education may be provided through a variety of means, including orientation, written materials, newsletters, staff meetings and formal internal and external education. This specialized training may focus on complex areas or on areas which have deemed as potential risk areas for noncompliance.
- D. All employees and Board members will be required to attend the ethics training required by the Louisiana Legislative Auditor either by attending the live program or via internet. Certificates of participation will be kept on file in the Human Resources Department.
- E. Signed annual attestations that all employees and Board members have read the LaSalle Nursing Home Ethics Policy will be kept on file in the Human Resources Department.

Ethics Statement

The personal integrity of each employee coupled with LaSalle Nursing Home's institutional commitment to the highest standards of professional conduct is the foundation of LaSalle Nursing Home's culture of compliance.