

DEFICIT REDUCTION ACT AND FALSE CLAIMS POLICY INFORMATION
FOR ALL VERMONT WORKFORCE MEMBERS

The Company is committed to preventing health care fraud, waste and abuse and complying with applicable state and federal fraud, waste and abuse laws. To ensure compliance with such laws, the Company has mechanisms in place to detect and prevent fraud, waste and abuse. It also supports the efforts of federal and state authorities in identifying fraud, waste and abuse.

I FRAUD, WASTE AND ABUSE LAWS:

A. FEDERAL LAWS

1. ***Federal False Claims Act*** - The Federal False Claims Act ("FCA") imposes liability on any person who submits a claim to the federal government that he/she knows (or should know) is false. The FCA also imposes liability on an individual who: i) knowingly submits a false record to obtain payment from the government; or ii) obtains money from the government to which he/she may not be entitled, and then uses false statements or records in order to retain the money.

In addition to having actual knowledge that the claim is false, a person who acts in reckless disregard or in deliberate ignorance of the truth or falsity of the information can also be found liable under the FCA. Proof of specific intent to defraud is not required. However, honest mistakes or mere negligence are not the basis of false claims. The FCA provides for civil penalties of five thousand five hundred dollars and eleven thousand dollars per false claim plus three times the amount of damages that the government sustains.

2. ***Federal Program Fraud Civil Remedies Act of 1986*** - The Federal Program Fraud Civil Remedies Act of 1986 is a statute that establishes an administrative remedy against any person who presents or causes to be presented a claim or written statement that the person knows or has reason to know is false, fictitious, or fraudulent due to an assertion or omission to certain federal agencies (including the Centers for Medicare and Medicaid Services). The word "claim" in the statute includes any request or demand for property or money, e.g., grants, loans, insurance or benefits, when the United States Government provides or will reimburse any portion of the money.

The Federal Government may investigate and, with the Attorney General's approval, commence proceedings if the claim is less than one hundred and fifty thousand dollars. The Act provides for civil monetary sanctions to be imposed in administrative hearings, including penalties of five thousand five hundred dollars per claim and an assessment, in lieu of damages, of two times the amount of the original claim.

B. STATE LAWS

While Vermont has enacted a state false claims act as well as whistleblower protections, it is one of the minority of states that have not enacted state anti-kickback or self-referral laws. While Vermont's false claims laws are civil in nature, the Attorney General is authorized to impose administrative penalties (e.g., civil money penalties) in such actions and, separately, may pursue associated criminal statutes in the same actions (e.g., criminal fraud). Consequently, many of the relevant laws overlap. Some, for example, apply to recipient false claims and some apply to provider false claims. Others apply to whistleblower protections.

Vermont False Claims Act (32 V.S.A. § 630 et seq.)

The Vermont False Claims Act contains a provision that imposes liability on a person who, among other things, knowingly presents, or causes to be presented, a false or fraudulent claim for payment or approval. Under the Vermont False Claims Act, "knowing" or "knowingly" means

“that a person with respect to information has actual knowledge of the information;...acts in deliberate ignorance of the truth or falsity of the information; or...acts in reckless disregard of the truth or falsity of the information; . . . and requires no proof of specific intent to defraud.” See 32 V.S.A. § 630.

Violations of Vermont’s False Claims Act may be brought as civil actions by the Attorney General or under seal by a relator. Such actions are subject to a preponderance of the evidence standard. See 32 V.S.A. § 640. Separately, the Attorney General may bring criminal proceedings charging false statements or fraud. See 32 V.S.A. § 639.

Vermont False Claims Act Penalties (32 V.S.A. §§ 631, 632, 633 and 634)

The Vermont False Claims Act provides for civil penalties of not less than \$5,500 and not more than \$11,000 per false claim, plus treble damages and costs. See 32 V.S.A. § 631.

In Qui Tam matters, relators shall receive at least 15 percent, but not more than 25 percent of the proceeds recovered and collected in the action or settlement of the claim. See 32 V.S.A. § 635. Moreover, the Attorney General may elect to pursue its claim through any alternate remedy available to the State under any other law or regulation, including any administrative proceeding to determine a civil monetary penalty. See 32 V.S.A. § 634.

Apart from False Claims Act penalties, criminal fraud penalties may vary. A first offense for insurance fraud, for example, may result in imprisonment for not more than five years or fines of not more than \$10,000.00, or both. See 13 V.S.A. § 2031.

II WHISTLEBLOWER PROTECTION:

A. FEDERAL LAWS

Employees may bring a civil action in the name of the government for a violation of the federal False Claims Act. These individuals, known as “*qui tam* relators,” may share in a percentage of the proceeds from a False Claims Act action or settlement. The FCA provides for protection for employees from retaliation. Any employee who is discharged, demoted, suspended, threatened, harassed, or discriminated against in terms and conditions of employment because of lawful acts conducted in furtherance of an action under the False Claims Act may bring an action seeking reinstatement, two times the amount of back pay plus interest, and other enumerated costs, damages and fees. However, if the employee brings an action against an employer that has no basis in law or fact, or is primarily for harassment, the employee bringing the lawsuit may have to pay the employer its fees and costs.

B. STATE LAW

Vermont Healthcare Whistleblower’s Protection Act (21 V.S.A. §§ 507-509)

Whistleblower laws encourage people to report fraudulent activities, including, but not limited to, health insurance fraud. These laws generally protect an employee from employer retaliation for disclosing information to a government or law enforcement agency if the employee reasonably believes the information violates state or federal law.

Vermont law protects healthcare employees who report their employers from retaliation by the employer. Among more, the law prohibits retaliatory action against any employee who “[d]iscloses or threatens to disclose [conduct] that the employee reasonably believes is a violation of any law or that the employee reasonably believes constitutes improper quality of patient care...[p]rovides information to, or testifies before, [a public body or inquiry] that involves allegations that the employer has violated any law or engaged in behavior constituting improper quality of patient care...[o]bjects to or refuses to participate in any activity...of the employer...that the employee

reasonably believes is in violation of a law or constitutes improper quality of patient care.” See 21 V.S.A. §§ 507-509.

III DETECTION AND PREVENTION OF FRAUD, WASTE AND ABUSE:

The Company has personnel dedicated to conducting periodic internal audits of our compliance with state and federal fraud and abuse laws. Issues identified on audit are reported to the Compliance Officer and may be elevated to regulatory agencies.

The Company maintains an anonymous compliance hotline to accept calls from employees and contractors concerning suspected fraud, waste and abuse. Employees and contractors are encouraged to report any issue of concern to the compliance hotline at 1-855-663-0144.

Some examples of reportable fraudulent activity may include:

- Offers of free gifts, services or care in exchange insurance information or for agreeing to get medical care.
- Billing insurance for services that are not provided or cost more than customary or expected.
- Providing services that are less than billed such as when a newly filled prescription bottle has less pills in it than what is indicated on the label.
- Persuading people to get healthcare services they do not need or billing for services that are not medically necessary.
- A person using someone else's insurance card information to get healthcare.
- Misuse or abuse of insurance paid medical services such as reselling drugs or medical supplies.
- Providing misleading information and forging or altering a medical records or prescriptions.
- Bribes or kickbacks for referrals, services or orders.
- Any violation of our Code of Conduct or business practice that does not seem right.

IV WHAT TO DO IF AN EMPLOYEE SUSPECTS FRAUD, WASTE OR ABUSE HAS OCCURRED:

The Company has a policy of non-intimidation and non-retaliation for good faith reporting of compliance concerns.

If an employee or contractor observes or suspects a violation of the previously listed laws and/or fraudulent activity, the employee is required to report the matter by:

- a) Contacting the supervisor or Compliance Officer
- b) Calling the anonymous reporting compliance hotline at 1-855-663-0144
- c) Reporting directly to the EAS Compliance Director at 716-633-3900.
- d) Completing an on line report at www.elderwoodadministrativeservices.ethicspoint.com
- e) Clicking the report form link in the compliance section of our website

**Deficit Reduction Act and
False Claims Policy for Vermont Workforce Members**

ATTESTATION

I have received a copy of the Deficit Reduction Act and False Claims Act Information for Vermont Workforce Members handout.

I am committed to preventing health care fraud, waste and abuse and complying with applicable state and federal laws. I understand that I am required by law to report any such violations to the Company Compliance Officer and may report to the Vermont Department of Health and Human Services.

Employee Signature

Date

Employee Name Printed