

PHLB	Administration		
	Original Date:	Revised Date:	Page Number
	Subject: FALSE CLAIMS ACT		President Approval:

SCOPE: All PHLB employees, management, and any contractor or agents of the Hospital.

PURPOSE: The purpose of this policy is to comply with certain requirements set forth in the Deficit Reduction Act of 2005 with regard to federal and state false claims laws.

POLICY: PHLB must ensure that all employees, including management, and any contractors or agents are educated regarding the federal and state false claims statutes and the role of such laws in preventing and detecting fraud, waste and abuse in federal health care programs.

FALSE CLAIMS LAWS

One of the primary purposes of false claims laws is to combat fraud and abuse in government health care programs. False claims laws do this by making it possible for the government to bring civil actions to recover damages and penalties when healthcare providers submit false claims. These laws often permit qui tam suits as well, which are lawsuits brought by lay people, typically employees or former employees of healthcare facilities that submit false claims.

There is a federal False Claims Act and a California state version of the False Claims Act. Under the federal False Claims Act, any person or entity that knowingly submits a false or fraudulent claim for payment of United States Government funds is liable for significant penalties and fines. The fines include a penalty of up to three times the Government’s damages, civil penalties ranging from \$5,500 to \$11,000 per false claim, and the costs of the civil action against the entity that submitted the false claims. Generally, the federal False Claims Act applies to any federally funded program. The False Claims Act applies, for example, to claims submitted by healthcare providers to Medicare or Medicaid.

One of the unique aspects of the federal False Claims Act is the “qui tam” provision, commonly referred to as the “whistleblower” provision. This allows a private person with knowledge of a false claim to bring a civil action on behalf of the United States Government. The purpose of bringing the qui tam suit is to recover the funds paid by the Government as a result of the false claims. Sometimes the United States Government decides to join the qui tam suit. If the suit is ultimately successful, the whistleblower who initially brought the suit may be awarded a percentage of the funds recovered. Because the Government assumes responsibility for all of the expenses associated with a suit when it joins a false claims action, the percentage is lower when the Government joins a qui tam claim.

However, regardless of whether the Government participates in the lawsuit, the court may reduce the whistleblower’s share of the proceeds if the court finds that the whistleblower planned and initiated the false claims violation. Further, if the whistleblower is convicted of criminal conduct related to his role in the preparation or submission of the false claims, the whistleblower will be dismissed from the civil action without receiving any portion of the proceeds.

The federal False Claims Act also contains a provision that protects a whistleblower from retaliation by his employer. This applies to any employee who is discharged, demoted, suspended, threatened, harassed, or discriminated against in his employment as a result of the employee's lawful acts in furtherance of a false claims action. The whistleblower may bring an action in the appropriate federal district court and is entitled to reinstatement with the same seniority status, two times the amount of back pay, interest on the back pay, and compensation for any special damages as a result of the discrimination, such as litigation costs and reasonable attorneys fees.

A similar federal law is the Program Fraud Civil Remedies Act of 1986 (the "PFCRA"). It provides administrative remedies for knowingly submitting false claims and statements. A false claim or statement includes submitting a claim or making a written statement that is for services that were not provided, or that asserts a material fact that is false, or that omits a material fact. A violation of the PFCRA results in a maximum civil penalty of \$5000 per claim plus an assessment of up to twice the amount of each false or fraudulent claim.

California has a state version of the False Claims Act that mirrors many of the provisions of the federal False Claims Act. The actions that trigger civil and criminal penalties are identical to those of the federal False Claims Act. However, under the California Act, a person or entity may also be liable if he or she is a beneficiary of an inadvertent submission of a false claim to the state, subsequently discovers that the claim is false, and fails to disclose the false claim to the state within a reasonable time after discovery of the false claim. The California False Claims Act also differs from the federal False Claims Act in that it does not apply to any claim of less than \$500 in value or claims involving workers' compensation or against public entities and employees.

The California False Claims Act also has a whistleblower provision. Like the federal False Claims Act, the California law includes provisions to prevent employers from retaliating against employees who report their employer's false claims.

The State of California has also adopted several other false claims statutes that are intended to prevent fraud and abuse in Medi-Cal, the California Medicaid program. These laws generally prohibit the filing of any false or fraudulent claim or documentation in order to receive compensation from Medi-Cal.

REPORTING CONCERNS REGARDING FRAUD, ABUSE AND FALSE CLAIMS

PHLB takes issues regarding false claims and fraud and abuse seriously. PHLB encourages all employees, management, and contractors or agents of PHLB to be aware of the laws regarding fraud and abuse and false claims and to identify and resolve any issues immediately. Issues are resolved fastest and most effectively when given prompt attention at the immediate level. PHLB, therefore, encourages its employees, managers, and contractors to report concerns to their immediate supervisor when appropriate. If the supervisor is not deemed to be the appropriate contact or if the supervisor fails to respond quickly and appropriately to the concern, then the individual with the concern should be encouraged to discuss the situation with its human resources director, its Compliance Officer, another member of management, or with the hospital's Ethics Hotline (877-309-4925).

PROCEDURE:

Responsibilities include, but are not limited to:

Ensuring that all employees, including management, and any contractors or agents of the facility, are provided with this policy, effective January 1, 2007.

Conducting training for all employees, management, contractors, or agents regarding this policy to ensure that all such persons are familiar with and understand the policy.

Making revisions to this policy as necessary to comply with changes in the law. Changes must be documented and implemented.

REFERENCES

Ca. Govt. Code § 12650-12656

Ca. Welf. & Inst. Code § 14107

Ca. Welf. & Inst. Code § 14123.2

31 U.S.C. § 3801-3812

31 U.S.C. § 3729-3733

Deficit Reduction Act of 2005, Sections 6031, 6032