

Reports of Compliance Concerns and Violations

Issued: November 1, 1999 Reports of Compliance Concerns and Violations

Revised: June 21, 2007 Page 1 of 5

Reviewed: Compliance Policy 10-01

Purpose

The University of Chicago Medical Center is committed to promoting conduct that is responsible, legally and ethically sound, and compliant with applicable federal, state, and local health care laws, regulations, and ordinances. Examples of applicable laws include the federal False Claims Act (31 USC § 3279), Illinois Whistleblower Reward and Protection Act (740 ILCS § 175), and the federal Program Fraud Civil Remedies Act (31 U.S.C. § 3801). The University of Chicago Medical Center, through the Office of Medical Center Compliance, maintains a Health Care Integrity Program that is designed to ensure accurate billing, coding, and documentation for claims submitted to all payers, including federal health care programs such as Medicare and Medicaid.

This policy establishes the obligation of University of Chicago Medical Center employees, vendors, contractors, and agents to promptly report knowledge of actual or potential wrongdoing in regard to federal and state law, including laws pertaining to billing, coding, and documentation practices.

Internal Reporting

Employees

All employees of The University of Chicago Medical Center are responsible for promptly reporting actual or potential wrongdoing, including actual or potential violations of law, regulation, policy, procedure, or the Healthcare Integrity Program and Standards of Conduct, through the proper channels. These channels include the employee's immediate supervisor, departmental manager, the Department of Human Resources, the Chief Compliance Officer, and the General Counsel. Additionally, the University of Chicago Medical Center has established the Compliance Resource Line. **The toll free number is 1-877-**

440-5480. Specific policies regarding the Compliance Resource Line are set forth below.

It is usually most effective for an employee to discuss concerns with his/her supervisor within the department. If an employee prefers not to do so, or is unable to do so, the employee may report the matter to a higher level manager or to the Compliance Resource Line. Employees may also raise concerns with the department responsible for the particular subject matter. For example, employees may contact the Department of Human Resources (employment conditions, health and safety, discrimination, sexual harassment), Security (physical safety, theft or abuse of property), Compliance (financial fraud, billing errors), and the General Counsel (legal and regulatory concerns).

Vendors, Contractors and Agents

University of Chicago Medical Center ('UCMC') vendors, contractors, and agents are expected to abide by the UCMC Health Care Integrity Program as well as applicable laws and regulations. Vendors, contractors, or agents who have knowledge of actual or potential wrongdoing should contact the **Compliance Resource Line at 1-877-440-5480.**

Non-Retaliation, Non-Retribution for Reporting

The University of Chicago Medical Center understands that employees may be concerned that reporting violations may result in retaliation, retribution or harassment. **No supervisor, manager or employee is permitted to engage in retaliation, retribution or harassment directed against an employee, who in good faith, reports a concern.** Any such retaliation, retribution, or harassment is a violation of the Medical Center's compliance policy. All instances of retaliation, retribution and/or harassment must be reported to the Chief Compliance Officer, who along with the Compliance Committee and the Department of Human Resources, will investigate the circumstances and, if there has been a violation, determine the appropriate discipline.

This is not to be taken to mean that an employee can exempt himself or herself from the consequences of misconduct or inadequate performance by reporting his or her own misconduct or inadequate performance. However, disclosure by an employee of his or her own misconduct is taken into consideration as a constructive action by the employee, as set forth in the Disciplinary Policy for Compliance Violations.

In summary, the employees of The University of Chicago Medical Center have a responsibility to report concerns about any real or potential wrongdoing. The Medical Center is firmly committed to a policy which encourages timely disclosure of such concerns and prohibits retribution or retaliation against any employee who reports such concerns.

Compliance Resource Line - 1/877-440-5480

The Compliance Resource Line is a toll-free phone line that may be used to obtain answers to questions relating to compliance and to report suspected or potential misconduct, violations of the Medical Center's compliance policies, or violations of the law. Although employees are encouraged to take their compliance questions and concerns to their supervisors when possible, any employee may call the Compliance Resource Line at any time. The Compliance Resource Line is a reporting mechanism that is outside the employee's reporting structure. Accordingly, employees who are uncomfortable approaching a supervisor with a compliance question or a report, or who believe their concerns have not been adequately resolved at a lower organizational level, should call the Compliance Resource Line. The Compliance Resource Line is also available to contractors, temporary staff, medical staff members, and patients.

The following policies govern the Compliance Resource Line:

- Calls to the Compliance Resource Line are taken by the Office of the Chief Compliance Officer, and the line is available 24 hours a day.
- Callers may ask to remain anonymous and the Compliance Resource Line will not use any device that automatically identifies the source of the call. However, callers are reminded that in some circumstances their concerns cannot be adequately addressed unless certain information is revealed that may also reveal their identity.
- Callers are protected by a non-retaliation/non-retribution policy. Even if a report of a potential violation proves to be unfounded, a caller will only face discipline if he or she knowingly provides false information.
- Questions and reports are kept confidential to the extent this is consistent with the objectives of the Medical Center's compliance policy.
- The Chief Compliance Officer shall provide answers to all compliance questions received on the Compliance Resource Line, after conducting any

inquiry that may be appropriate.

- The Office of the Chief Compliance Officer will make a preliminary inquiry into all reports of potential violations to attempt to obtain sufficient information to determine whether a full internal review is appropriate.
- For any disclosure that is sufficiently specific to allow a determination of the appropriateness of an alleged improper practice and an opportunity to take corrective action, the Office of the Chief Compliance Officer shall conduct an internal review of the report and shall ensure proper follow-up.
- The Chief Compliance Officer will maintain a confidential disclosure log, which will include a record of each allegation received, the status of the investigation of the allegation, and any corrective action taken in response to the investigation.
- The Chief Compliance Officer will make a regular report to the Compliance Committee identifying the volume and nature of calls to the Compliance Resource Line.

Compliance Monitoring

The University of Chicago Medical Center, through the Office of Medical Center Compliance, maintains a Health Care Integrity Program that is designed to ensure accurate billing, coding, and documentation for claims submitted to all payers, including Medicare and Medicaid. The following policies provide detailed information about the scope of the Health Care Integrity Program and specific measures, including auditing, monitoring, and education, to promote compliance with federal and state law. These include:

1. Health Care Integrity Program Compliance Manual and Standards of Conduct (C00-03)
2. Reports of Compliance Concerns and Violations (C10-01)
3. Response to Government Inquiries and Inspections (C10-02)
4. Overview of Monitoring Methods (C10-03)
5. Compliance Education Policy (C20-00)
6. Disciplinary Policy for Compliance Violations (C30-02)
7. Screening of Vendors (C40-02)

8. Conflict of Interest (A00-12 and A00-19)

These policies are available on the University of Chicago Medical Center Intranet and the Office of Medical Center Compliance website at <http://compliance.bsd.uchicago.edu>.

Other Resources

The goal in providing so many options (immediate supervisor, departmental manager, the Department of Human Resources, General Counsel, Chief Compliance Officer, and the Compliance Resource Line) for reporting is to encourage our employees, vendors, contractors, and agents to fulfill their obligation to come forward with information about potential or actual wrongdoing. If concerns are reported, then the University of Chicago Medical Center can investigate and confirm whether or not actual wrongdoing has occurred. An employee, vendor, contractor, or agent who has not been able to get resolution through University of Chicago Medical Center reporting mechanisms should know that there are federal and state laws that are designed to prevent fraud, waste, and abuse in Federal Health Care Programs.

Federal False Claims Act of 1863 ('FCA')

The False Claims Act (31 USC § 3279) is a federal law that prohibits fraud against any federally funded contract or program, including the Medicare and Medicaid programs. This law establishes liability for any person who knowingly presents or causes to be presented a false or fraudulent claim to the United States government for payment. The FCA includes a "qui tam" or whistleblower provision. This provision allows a person who has actual knowledge of allegedly false claims to file a lawsuit on behalf of the United States Government.

Persons seeking whistleblower status must meet several criteria in order to file a lawsuit, including being the original source of the information. The government will be interested in knowing whether the whistleblower attempted to report problems through existing reporting mechanisms, such as an employer's hotline. If the government does decide to intervene in the lawsuit and it is successful, then the whistleblower may be eligible for a reward. The FCA protects employees from retaliation by an employer for filing or cooperating with a False Claims action. For more information about the FCA, please see Attachment A of this policy.

Federal Program Fraud Civil Remedies Act ('PFCRA')

The Program Fraud Civil Remedies Act (31 U.S.C. § 3801) establishes administrative remedies (civil penalties) against any person who makes, or

causes to be made, a false claim or written statement to certain federal agencies, including the Department of Health and Human Services, the agency that administers the Medicare and Medicaid Programs.

Illinois Whistleblower Reward and Protection Act ('IWRPA')

The Illinois Whistleblower Reward and Protection Act (740 ILCS § 175) is a state law that prohibits fraud involving money or property belonging to the State of Illinois, including the Medicaid program. This law establishes liability for any person who knowingly presents or causes to be presented a false or fraudulent claim to the State of Illinois for payment. The IWRPA includes a "qui tam" or whistleblower provision. This provision allows a person with actual knowledge of allegedly false claims to file a lawsuit on behalf of the State of Illinois.

Persons seeking whistleblower status must meet several criteria in order to file a lawsuit, including being the original source of the information. The government will be interested in knowing whether the whistleblower attempted to report problems through existing reporting mechanisms, such as an employer's hotline. If the government does decide to intervene in the lawsuit and it is successful, then the person whistleblower may be eligible for a reward. The IWRPA protects employees from retaliation by an employer for filing or cooperating with a False Claims action.

Additional Information

For additional information about the Compliance Resource Line, Health Care Integrity Program, False Claims Act, Program Fraud Civil Remedies Act, or the Illinois Whistleblower Reward and Protection Act, please consult the Office of Medical Center Compliance website, <http://compliance.bsd.uchicago.edu>, or contact the Chief Compliance Officer at 773-834-4588.

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Chief Executive Officer,
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Attachment A

The False Claims Act ("FCA") provides, in pertinent part, that:

(a) Any person who (1) knowingly presents, or causes to be presented, to an officer or employee of the United States Government or a member of the Armed Forces of the United States a false or fraudulent claim for payment or approval; (2) knowingly makes, uses, or causes to be made or used, a false record or statement to get a false or fraudulent claim paid or approved by the Government; (3) conspires to defraud the Government by getting a false or fraudulent claim paid or approved by the Government;. . . or (7) knowingly makes, uses, or causes to be made or used, a false record or statement to conceal, avoid, or decrease an obligation to pay or transmit money or property to the Government,

is liable to the United States Government for a civil penalty of not less than \$5,000 and not more than \$10,000, plus 3 times the amount of damages which the Government sustains because of the act of that person

(b) For purposes of this section, the terms "knowing" and "knowingly" mean that a person, with respect to information (1) has actual knowledge of the information; (2) acts in deliberate ignorance of the truth or falsity of the information; or (3) acts in reckless disregard of the truth or falsity of the information, and no proof of specific intent to defraud is required.

31 U.S.C. § 3729. While the False Claims Act imposes liability only when the claimant acts "knowingly," it does not require that the person submitting the claim have 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, also can be found liable under the Act. 31 U.S.C. 3729(b). In sum, the False Claims Act imposes liability on any person who submits a claim to the federal government that he or she knows (or should know) is false. An example may be a physician who submits a bill to Medicare for medical services she knows she has not provided. The False Claims Act also imposes liability on an individual who may knowingly submit a false record in order to obtain payment from the government. An example of this may include a government contractor who submits records that he knows (or should know) is false and that indicate compliance with certain contractual or regulatory requirements. The third area of liability includes those instances in which someone may obtain money from the federal government to which he may not be entitled, and then uses false statements or records in order to retain the money. An example of this so-called “reverse false claim” may include a hospital who obtains interim payments from Medicare throughout the year, and then knowingly files a false cost report at the end of the year in order to avoid making a refund to the Medicare program.

In addition to its substantive provisions, the FCA provides that private parties may bring an action on behalf of the United States. 31 U.S.C. 3730 (b). These private parties, known as “qui tam relators,” may share in a percentage of the proceeds from an FCA action or settlement.

Section 3730(d)(1) of the FCA provides, with some exceptions, that a qui tam relator, when the Government has intervened in the lawsuit, shall receive at least 15 percent but not more than 25 percent of the proceeds of the FCA action depending upon the extent to which the relator substantially contributed to the prosecution of the action. When the Government does not intervene, section 3730(d)(2) provides that the relator shall receive an amount that the court decides is reasonable and shall be not less than 25 percent and not more than 30 percent.

The FCA provides protection to qui tam relators who are discharged, demoted, suspended, threatened, harassed, or in any other manner discriminated against in the terms and conditions of their employment as a result of their furtherance of an action under the FCA. 31 U.S.C. 3730(h). Remedies include reinstatement with comparable seniority as the qui tam relator would have had but for the discrimination, two times the amount of any back pay, interest on any back pay, and compensation for any special damages sustained as a result of the discrimination, including litigation costs and reasonable attorneys’ fees.

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