

General Information

Policy Name:	Compliance: Federal and State False Claims Acts
Category:	Risk Management – Corporate Compliance
Applies To:	All Crouse Hospital employees, staff, contractors, subcontractors and agents who, on behalf of Crouse Hospital, furnish, or authorize the furnishing of, Medicare/Medicaid health care items or services, perform billing or coding functions, or are involved in the monitoring of health care provided by Crouse Hospital.
Key Words:	False Claims Act, Qui tam, Non-retaliation, Deficit Reduction Act, Fraud, Abuse
Associated Forms & Policies:	<u>Compliance Education & Training (P0163)</u> <u>Detecting and Preventing Fraud, Waste and Abuse (P0165)</u> <u>Internal Quality Audit Program: Compliance Risk & HIPAA Monitoring (P0169)</u> <u>Non-Intimidation & Non-Retaliation (P0170)</u> <u>Whistleblower: Compliance Reporting (P0174)</u>
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Policy

It is the policy of Crouse Hospital to adhere to all applicable state and federal laws and regulations concerning the submission of claims to state and federal health care programs. Such laws include, without limitation, the Federal False Claims Act and the New York State False Claims Act.

The purpose of this policy is to i) ensure that [affected individuals](#) covered by this policy are provided with sufficient information concerning New York State and Federal False Claims Acts as required by Crouse Hospital's Corporate Compliance Program and the Deficit Reduction Act of 2005; ii) ensure that all persons covered by this policy are made aware of the importance of complying with state and federal false claims acts and the penalties for non-compliance with such laws; and iii) to encourage the good faith reporting of instances of non-compliance and/or violations of the law without fear or concerns of retaliation.

Procedure

- A. The Compliance Officer ("CO") or his/her designee, shall ensure that affected individuals are provided detailed information concerning relevant fraud and abuse laws, including the state and federal false claims acts described above, in accordance with Crouse Hospital's Compliance Education & Training policy (P0163).
- B. The CO, or his/her designee, shall ensure that Crouse Hospital's contractors, subcontractors, agents and independent contractors who are covered by this policy are provided access to information concerning relevant fraud and abuse laws, including the state and federal false claims acts described above (such access may be via the Internet).
- C. The CO, or his/her designee, shall ensure that audits are conducted on a periodic, regular basis, to verify the accuracy of Crouse Hospital's claims submission processes and reimbursement practices.

1. Such audits will be conducted in accordance with Crouse Hospital's Corporate Compliance Program. Refer to Crouse Hospital's Corporate Compliance policy: Internal Quality Audit Program: Compliance Risk & HIPAA Monitoring (P0169).
 2. The results of such audits will be posted on the Risk Management Share Drive and reported to the Compliance Committee.
- D. Affected individuals covered by this policy should report questions, concerns, and/or suspected violations of Crouse Hospital's policies and procedures and applicable laws to the CO or to the applicable department's supervisor or manager. For further information, refer to Crouse Hospital's Corporate Compliance policies: Non-Intimidation & Non-Retaliation (P0170) and Whistleblower: Compliance Reporting (P0174).

References

New York State Office of the Medicaid Inspector General. Compliance Library:
<https://omig.ny.gov/compliance/compliance-library>

NYS OMIG Mandatory Provider Compliance Plan, 18 NYCRR § 521. OMIG's website is:
<https://omig.ny.gov/compliance/compliance>

31 USC Sections 3729-3733.

New York State Finance Law Article 13, Sections 187-194.

Crouse Hospital Corporate Compliance Program Handbook, Appendix A: Description of Fraud and Abuse/Non-Retaliation Laws.

Deficit Reduction Act of 2005, Section 6032.

Definitions

Affected Individuals: All persons who are affected by the provider's risk areas including employees, chief executive and other senior administrators, managers, contractors, agents, subcontractors, independent contractors and governing and corporate offices

Description of the Federal and State False Claims Acts: Penalties and Remedies

- A. A person (or entity) may be in violation of the Federal False Claims Act if such person:
 1. Knowingly presents, or causes to be presented, to the United States Government, 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 allowed or paid;
 4. Has possession, custody, or control of property or money used, or to be used, by the Government and, intending to defraud the Government or willfully to conceal the property, delivers, or causes to be delivered, less property than the amount for which the person receives a certificate or receipt;
 5. Authorized to make or deliver a document certifying receipt of property used, or to be used, by the Government and, intending to defraud the Government, makes or delivers the receipt without completely knowing that the information on the receipt is true;
 6. Knowingly buys, or receives as a pledge of an obligation or debt, public property from an officer

or employee of the Government, or a member of the Armed Forces, who lawfully may not sell or pledge the property; 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.

B. The New York State False Claims Act is very similar to the Federal False Claims Act. It prohibits the filing of a false claim which means that a person:

1. Knowingly presents, or causes to be presented, to any employee, office or agent of the state or a local government, 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 state or a local government;
3. Conspires to defraud the state or a local government by getting a false or fraudulent claim allowed or paid;
4. Has possession, custody, or control of property or money used, or to be used, by the State or a local government and, intending to defraud the state or a local government or willfully to conceal the property or money, delivers, or causes to be delivered, less property or money than the amount for which the person receives a certificate or receipt;
5. Is authorized to make or deliver a document certifying receipt of property used or to be used by the state or a local government and, intending to defraud the state or a local government, makes or delivers the receipt without completely knowing that the information on the receipt is true;
6. Knowingly buys, or receives as a pledge of an obligation or debt, public property from an officer or employee of the state or a local government knowing that the officer or employee lawfully may not sell or pledge the property; 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 state or a local government;
8. Knowingly conceals or knowingly and improperly avoids or decreases as an obligation to pay or transmit money or property to the state or a local government or conspires to do the same.

C. Any person who engages in any of the above conduct may have violated the Federal and/or New York State false claims acts and may be liable for monetary penalties and damages, depending on the circumstances surrounding the false claim(s).

D. Qui Tam Lawsuits. The Federal False Claims Act and the New York State False Claims Act also provide for qui tam lawsuits through which any person (the "qui tam relator") may bring a civil action for himself/herself and on behalf of the government for any violation of the False Claims Act. If the qui tam relator ultimately wins the lawsuit or if there is a settlement of the lawsuit, he or she may share in a portion of any money recovered with the government and receive reimbursement for reasonable expenses, reasonable attorneys' fees and costs. Please note, recovery by the qui tam relator is uncertain and dependent upon the facts and circumstances of the case.

E. Employment Protections/Non-Retaliation Under the False Claims Acts.

1. State and Federal false claims acts forbid retaliation by an employer against an employee who cooperates with investigators regarding potential false claims act violations or who commences qui tam actions in good faith. In accordance with such laws and its Corporate Compliance Program, Crouse Hospital fully complies with all applicable "whistle-blower" protections.
2. The Federal False Claims Act specifically provides that any employee who is discharged, demoted, suspended, threatened, harassed, or in any other manner discriminated against in the terms and conditions of employment by his or her employer because of lawful acts done by the

employee on behalf of the employer or others in furtherance of an action under the False Claims Act, including investigation for, initiation of, testimony for, or assistance in an action filed or to be filed under the False Claims Act, shall be entitled to all relief necessary to make the employee whole. Such relief may include reinstatement with the same seniority status the employee would have enjoyed but for the discrimination; two times the amount of back pay; interest on back pay; and compensation for any special damages sustained as a result of the discrimination, including litigation costs and reasonable attorneys' fees. The New York State False Claims Act has similar non-retaliation protections.

- F. Program Fraud Civil Remedies Act, 31 USC §§ 3801-3812 (PFCRA). PFCRA provides for administrative remedies against any person who knowingly makes a claim or statement that the person knows or has reason to know is false, fictitious or fraudulent. The presence of a false claim is not required: a false statement is enough to trigger remedies under PFCRA.

Description of Detecting and Preventing Fraud Waste and Abuse

- A. Crouse Hospital i) ensures that employees, staff and other persons covered by this policy are familiar with Crouse Hospital's efforts to detect and prevent health care fraud, waste and abuse as required by Crouse Hospital's Code of Conduct, Corporate Compliance Program and the Deficit Reduction Act of 2005; ii) assists employees, staff and other persons covered by this Policy in recognizing instances of potential fraud, abuse and waste; and iii) encourages the good faith reporting of potential fraud, waste and abuse involving Crouse Hospital.
- B. Please refer to Crouse Hospital policy: Detecting and Preventing Fraud, Waste and Abuse (P0165).

Addendums, Diagrams & Illustrations

Not Applicable