

## FALSE CLAIM ACT PROVISIONS

### I. PURPOSE

- A. The purpose of this policy is to inform Salinas Valley Memorial Healthcare System (SVMHS) Workforce Members, applicable contractor(s) and agent(s) about provisions in the federal False Claims Act and the State of California False Claim Act as required by the Deficit Reduction Act (DRA) of 2005.

### II. DEFINITIONS

- A. “Workforce Members” means all SVMHS directors, employees, (including management), medical staff members, and volunteers.
- B. “Contractor” or “agent” includes any contractor, subcontractor, agent or other person which or who, on behalf of SVMHS, furnishes or otherwise authorizes the furnishing of Medicaid health care items or services, performs billing or coding or is involved in the monitoring of health care provided by SVMHS.
- C. Unless otherwise stated, the term “FCA” used in this policy means the California and Federal False Claims Acts.

### III. POLICY

- A. All Workforce Members, contractors and agents of SVMH will receive education about provisions of the FCA no less than once during any period of employment, other work force related activity, or life of a contract. All new Workforce Members will receive FCA education during the orientation period.
- B. All Workforce Members, contractors and agents of SVMHS are required to follow the SVMHS Non-Compliance Reporting and Response and Non-Retaliation Policy; and the Standards of Ethical Business Practices which require reporting of actual or suspected non-compliance and false claims activities. In addition, reports of actual or suspected false claims activities will be investigated as set forth in the SVMH’s Non-Compliance Reporting and Response and Non-Retaliation Policy.
- C. Any Workforce Member, contractor or agent may act within the framework for the FCA to file a whistleblower suit.
- D. Retaliation, retribution and/or harassment for lawful reports related to false claims activities or other regulatory compliance issues is not allowed.
- E. As required by the SVMHS Corporate Compliance Program and Standards of Ethical Business Practices, SVMHS departments and staff working in areas of billing and coding shall develop and implement related policies and procedures requiring monitors for compliance with accuracy of claims.

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### IV. BRIEF SUMMARY

- A. The federal and California False Claims Acts set liability for false or fraudulent claims involving any federally or state funded contract or program. It has multiple components some of which are defined below.
- Under the federal False Claims Act, any person who knowingly submits or causes to be submitted a false or fraudulent claim to a federally funded program is liable to the Federal Government for three times the amount of the Government's damages plus civil penalties up to \$21,916 (as of 2017) for each false or fraudulent claim as well as payment to the government of costs of bringing the FCA action. Under the California FCA liability is three times the damages to the State and a civil penalty up to \$11,000 per claim.
  - Elements for consideration of a false claim may include, but not be limited to the below.
    1. Knowingly presenting, or causing to be presented, a false or fraudulent claim for payment or approval to a federally funded program such as Medicare or Medi-Cal.
    2. Knowingly making, using, or causing to be used, a false record or statement to get a false or fraudulent claim approved by a federally funded program.
    3. Conspiring to defraud federally funded programs to obtain payment.
    4. Knowingly making, using or causing 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 a federally funded program.
    5. Knowing or knowingly means that a person
      - a. Has actual knowledge of the information (or)
      - b. Acts in deliberate ignorance of the truth or falsity of the information (or)
      - c. Acts in reckless disregard of the truth or falsity of information.
      - d. No proof of specific intent to defraud the payer is required.
  - The FCA allows any individual who has knowledge that fraud has been committed against the United States Government (US) or the State of California Government (State) to file a "qui tam" or whistleblower lawsuit on behalf of the US or State against the individual or business that committed the fraud. If such action is successful, the individual filing the suit may be awarded a percentage of the dollars recovered.

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- For purposes of FCA, a claim is any request or demand for money that is submitted to the U. S. or State Government or any of its contractors.
- The FCA prohibits retaliation against any individual in response to the lawful reporting or filing of false claims actions.

#### **V. PROCEDURE**

##### **A. Education**

- Orientation materials
- Complete e-learning False Claims Act course in Rapid Regs.
- Initial Ethics & Compliance Overview
- As needed re-education.

##### **B. Report actual or suspected false claims act activities in any or all of the below methods. All actual or suspected concerns and issues must be reported. Reports may be anonymous.**

- Following the chain of command, report concerns and issues about claims management to the department supervisor, director, and Vice President.
- Contact the Corporate Compliance Officer (831-759-1958 or report in Ethics Point (Compliance Hotline) at <https://www.ethicspoint.com>. Reports in Ethics Point may be made anonymously.
- Report to Human Resources or the Corporate Compliance Officer concerns about retaliation or harassment related to filing a lawful FCA or compliance report.

#### **VI. EDUCATION/TRAINING**

- A. Workforce Member education is provided through e-learning. Links are available on the Hospital intranet. Contractor and agent education is provided by Vendormate, Human Resources or designee with whom the contractor / agent is working.
- B. Education for related department specific policies and procedures is provided by the department manager / designee or by the Director of Internal Audit and Compliance (Compliance Officer) upon request.

#### **VII. DOCUMENTATION**

- A. Documentation of work force education is provided by the e-learning system. Contractor education is documented using Vendormate. A Completed document is

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maintained by the individual providing the education and available to the Director of Internal Audit and Compliance (Compliance Officer) upon request.

Records of all compliance reports regarding [actual or suspected](#) false claims [will be](#) maintained by the Director of Internal Audit and Compliance (Compliance Officer) in [accordance with SVMHS's Non-Compliance Reporting and Response and Non-Retaliation Policy](#).

HYPERLINK "<http://policies/docview/?docid=6909>"

**VIII. REFERENCES**

- A. Federal False Claims Act (FCA), 31 U.S.C. 3729 – 3733
- B. The California False Claims Act, California Government Code § 12650 – 12655 (1992)
- C. California Welfare and Institutions Code 14115.75 Title 42, Section 1396.a.(68)
- D. California Hospital Association, [2017 Compliance Manual](#), Chapter 3
- E. NON-COMPLIANCE REPORTING AND RESPONSE AND NON-RETALIATION
- F. STANDARDS OF ETHICAL BUSINESS PRACTICES
- G. Salinas Valley Memorial Healthcare System [Corporate Compliance Program](#)

**FALSE CLAIM ACT PROVISIONS**

Signature on file \_\_\_\_\_ 03/23/2018  
Augustine Lopez Date  
Chief Financial Officer

Signature on file \_\_\_\_\_ 03/23/2018  
Renée W. Jaenicke Date  
Director, Internal Audit & Compliance  
Author

FORMULATION DATE: 12/06  
REVIEW INTERVAL: EVERY THREE YEARS  
ORIGINATING DEPARTMENT: COMPLIANCE  
  
LEGAL REVIEW 2/18