



**Department: Human Resources**  
**Policy Number: 2018-08-001**  
**Initial Approval Date: December 2006**  
**Review Responsibility: Director of HR and**  
**Director of Physician Billing Compliance**  
**Review Date: 08/26/2019**  
**Revised Date: 02/2021**

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**TITLE:** Federal and State False Claims Laws

**POLICY/PURPOSE:** The Deficit Reduction Act of 2005 requires entities that receive state Medicaid payments of at least \$5,000,000 annually to establish written policies for all employees (including management), contractors or agents of the entity, that provide detailed information about: the Federal False Claims Act, the Florida False Claims Act, administrative remedies for false claims and statements, whistleblower protections under such laws, and how the entity detects and prevents fraud, waste, and abuse (see attachment A).

It is the policy of the University of Florida Jacksonville Physicians, Inc. (UFJPI) to comply fully with all federal and state legislation regarding the reporting of any false claims filed for payment. Following the procedures in this policy will help reduce the risk of individual and company liability for the filing of false claims. No one reporting violations in good faith will be subjected to any retaliation or harassment for bringing suspected illegal or unethical actions to the attention of the proper authorities in accordance with this policy.

**PROCEDURE:**

Employees, Contractors and Vendors

If anyone has reason to believe that anyone in our organization has engaged in the processing of false claims, fraud, or incidents of billing non-compliance, he or she may report these activities without fear of any retaliation. Employees, contractors and agents have a responsibility to report activities which they believe are illegal or unethical to their supervisor, departmental Compliance Leader, the Office of Physician Billing Compliance, the Audit Services Department, or via the confidential Billing Compliance and Corporate Responsibility Hotline number (each contact number is listed below). If employees, contractors or agents are uncertain what the law requires, they should ask for help from their designated manager, or representatives of the Office of Physician Billing Compliance, the Audit Services Department, the Human Resources Department or the UF Office of General Counsel. Employees, contractors and agents also have an obligation to cooperate with any investigation into these allegations.

Employees, contractors and agents who report possible compliance issues in good faith, suspected violations of the organization's Code of Conduct, or alleged violations of the False Claims Act, shall not be subjected to retaliation or harassment as a result of the report. Concerns about possible retaliation or harassment should be reported to the Human Resources Director, the Office of Physician Billing Compliance, the Audit Services Department, or the UF Office of General Counsel.

Office of Physician Billing Compliance (904) 244-2158 or Toll-free Hotline 1-877-556-5356  
Audit Services Department (904) 244-3440  
Human Resources Department (904) 244-9064



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UF Office of General Counsel (904) 244-2079

A list of Departmental Compliance Leaders may be accessed via the Office of Physician Billing Compliance internet website located at:

<https://med.jax.ufl.edu/compliance/>

Human Resources Department

The Human Resources Department will distribute a copy of this policy and procedure to all employees during their new hire processing on their first day of employment.

Means for Detecting and Preventing Fraud, Waste and Abuse

The University of Florida College of Medicine – Jacksonville Billing Compliance Investigation Guidelines (POLICY # 2020-04-005) outline how the Office of Compliance receives, documents and investigates allegations of billing non-compliance. Employees, Contractors and Vendors should refer to this document for more specific information on organizational means for detecting and preventing fraud, waste and abuse. This document, as well as other policies and procedures for detecting and preventing fraud, waste and abuse may be accessed via the Office of Physician Billing Compliance internet website located at:

<http://www.hscj.ufl.edu/college-of-medicine/compliance/Default.aspx>

The Office of Compliance will provide training on False Claims Laws at new employee orientation and during annual mandatory provider training. In addition, UFJPI senior management requires all newly hired providers to review this policy via the Compliance website.

**Commented [YB1]:** Is it better to say UFJPI senior management ....?

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**Attachment A Summary of State and Federal Laws**

**I. THE FEDERAL FALSE CLAIMS ACT**

The Federal False Claims Act (“FCA”) is a federal law that provides liability for certain acts of fraud involving federally funded contracts or programs, including Medicare and Medicaid.

**A. Damages**

Civil penalties of \$11,463 - \$22,927 per claim (includes adjustments for inflation effective February 1, 2019) plus three times the amount of damages. 31 U.S.C. 3729 (a)(1) (2012).

**B. Statute of Limitations**

A civil action may not be brought : (1) more than six years after the date on which the violation was committed, or (2) more than three years after the United States official responsible for investigating the violation discovered the important facts (but no more than ten years after the violation was committed). 31 U.S.C. 3731 (b) (2012).

**C. Qui Tam Actions**

An individual (or qui tam plaintiff) can sue for violations of the FCA. Individuals who file successful actions alleging fraud generally receive between 15 and 25 percent of the total amount recovered (plus reasonable costs and attorney fees) if the Government prosecutes the case, and between 25 and 30 percent (plus reasonable costs and attorney fees) if the qui tam plaintiff litigates the case on his or her own. 31 U.S.C. 3730 (d) (2012).

**D. Whistleblower Protections**

The FCA contains important protections for whistleblowers. Employees who report fraud and consequently suffer discrimination are entitled to all relief necessary to be made whole, including two times their back pay plus interest, reinstatement at the seniority level they would have had except for the discrimination, and compensation for any costs or damages they have incurred (including litigation costs and reasonable attorneys’ fees). 31 U.S.C. 3730 (h) (2012).

**E. Summary of FCA Violations per Title 31 Section 3729 of the United States Code:**

1. Knowingly presenting, or causing to be presented, a false or fraudulent claim for payment or approval; 31 U.S.C. 3729 (a)(1)(A) (2012).

2. Knowingly making, using, or causing to be made or used, a false record or statement material to a false or fraudulent claim; 31 U.S.C. 3729 (a)(1)(B) (2012).
3. Conspiring to commit a violation of provision(s) (1), (2), (4), (5), (6), or (7); 31 U.S.C. 3729 (a)(1)(C) (2012).
4. Having possession, custody, or control of property or money used, or to be used, by the Government and, knowingly delivers, or causes to be delivered, less than all of that money or property; 31 U.S.C. 3729 (a)(1)(D) (2012).
5. Making or delivering a document certifying receipt of property used, or to be used, by the Government and, without completely knowing that the information on the receipt is true; the person authorized to make or deliver the receipt intends to defraud the Government; 31 U.S.C. 3729 (a)(1)(E) (2012).
6. Knowingly buying or receiving 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 property; or 31 U.S.C. 3729 (a)(1)(F) (2012).
7. Knowingly making, using, or causing to be made or used, a false record or material statement to conceal, avoid or decrease an obligation to pay or transmit money or property to the Government, or knowingly conceals or knowingly and improperly avoids or decreases an obligation to pay or transmit money or property to the Government. 31 U.S.C. 3729 (a)(1)(G) (2012).

**F. “Knowing” and “Knowingly” Defined**

The terms “knowing” and “knowingly” mean that a person, with respect to information, (i) has actual knowledge of the information, (ii) acts in deliberate ignorance of the truth or falsity of the information, or (iii) acts in reckless disregard of the truth or falsity of the information. No proof of specific intent to defraud is required. 31 U.S.C. 3729 (b) (2012).

**II. FEDERAL PROGRAM FRAUD CIVIL REMEDIES ACT**

The Program Fraud Civil Remedies Act of 1986 (“PFCRA”) imposes civil penalties, and assessments against certain persons making false claims or statements. Furthermore, PFCRA specifies the hearing and appeal rights of persons subject to allegations of liability for such penalties and assessments. Violations are investigated by the HHS Office of the Inspector General and enforcement actions must be approved by the Attorney General.

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**A. Damages**

Civil money penalties range from \$11,463 - \$22,927 (includes adjustments for inflation effective February 1, 2019) per false claim or statement and up to twice the amount claimed in lieu of damages. Administrative sanctions may include debarment from participation in Federal programs or government contracts. 31 U.S.C. 3802 (a)(1)(D) (2012).

**B. Statute of Limitations**

A hearing with respect to a claim or statement shall be commenced within 6 years after the date on which such claim or statement is made, presented, or submitted. A civil action to recover a penalty or assessment shall be commenced within 3 years after the date on which the determination of liability for such penalty or assessment becomes final. 31 U.S.C. 3808 (a)-(b) (2012).

**C. Summary of PFCRA Violations per Title 31 Section 3801 of the United States Code:**

1. Any person who makes, presents or submits, or causes to be made, presented or submitted a claim or submitted, a claim or a statement that the person knows or has reason to know:
  - a) Is false, fictitious, or fraudulent;
  - b) includes or is supported by any written statement which asserts a material fact which is false, fictitious, or fraudulent;
  - c) includes or is supported by any written statement that (i) omits a material fact; (ii) is false, fictitious, or fraudulent as a result of such omission; and (iii) is a statement in which the person making, presenting, or submitting such statement has a duty to include such material fact; or
  - d) is for payment for the provision of property or services which the person has not provided as claimed.

Shall be subject to, in addition to any other remedy that may be presented by law, a civil penalty as discussed above under II.A. "Damages". 31 U.S.C. 3802 (a)(1) (2012).

#### **D. Limitations**

Claims made, presented, or submitted may not exceed a monetary value of \$150,000; and property or services requested or demanded may not exceed a value of \$150,000. 31 U.S.C. 3803(c)(1)(2012).

#### **E. “Knows” or “Has Reason to Know” Defined**

The term “knows or has reason to know” with respect to a claim or statement, means that a person has actual knowledge that the claim or statement is false, fictitious, or fraudulent; acts in deliberate ignorance of the truth or falsity of the claim or statement, or acts in reckless disregard of the truth or falsity of the claim or statement. No proof of specific intent to defraud is required. 31 U.S.C. 3801 (a)(5) (2012).

### **III. THE FLORIDA FALSE CLAIMS ACT**

The purpose of the Florida False Claims Act (“FFCA”) is to deter persons from knowingly causing or assisting in causing state government to pay claims that are false or fraudulent, and to provide remedies for obtaining treble damages and civil penalties for state government when money is obtained from state government (DLA—Department of Legal Affairs) by reason of a false or fraudulent claim.

#### **A. Damages**

Penalties of \$5,500 to \$11,000 per claim plus three times the amount of damages to the state government for FFCA violations may be imposed. FLA. STAT. § 68.082 (2) (2013).

#### **B. Statute of Limitations**

A civil action may not be brought : (1) more than six years after the violation was committed, or (2) more than three years after the state official responsible for investigating the violation discovered the important facts (but no more than ten years after the violation was committed). FLA. STAT. § 68.089 (1) (2013).

#### **C. Qui Tam Actions**

If the department is successful in proving their case, individuals who reported the fraud may receive between 15 and 25 percent of the total amount recovered. If the department does not proceed with an action, the person bringing the action or settling the claim may recover between 25 and 30 percent of the proceeds. FLA. STAT. § 68.085 (1)-(2) (2013).

#### **D. Whistleblower Protections**

An employee can sue for violation of the FFCA if the employee 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

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employee in furtherance of this act, including investigation for initiation of, testimony for, or assistance in an action filed or to be filed under this act. FLA. STAT. § 68.088 (2013).

**E. Summary of FFCA Violations per Florida Statute Section 68.082. An individual is liable to the state for a civil penalty discussed above for:**

1. Knowingly submitting (or causing to be submitted) a false claim for payment or approval; FLA. STAT. § 68.082 (2)(a) (2013).
2. Knowingly making or using (or causing to be made or used) a false record or statement material to a false or fraudulent claim; FLA. STAT. § 68.082 (2)(b) (2013).
3. Conspiring to commit a violation of provisions 1, 2, 4, 5, 6, or 7; FLA. STAT. § 68.082 (2)(c) (2013).
4. Having possession, custody, or control of property or money used or to be used by the state and knowingly delivers or causes to be delivered less than all of that money or property; FLA. STAT. § 68.082 (2)(d) (2013).
5. Being authorized to make or deliver a document certifying receipt of property used or to be used by the state and, intending to defraud the state, makes or delivers the receipt without knowing that the information on the receipt is true; FLA. STAT. § 68.082 (2)(e) (2013).
6. Knowingly buying or receiving, as a pledge of an obligation or a debt, public property from an officer or employee of the state who may not sell or pledge the property; or FLA. STAT. § 68.082 (2)(f) (2013).
7. Making or using (or causing to be made or used) a false record or material statement to conceal, avoid, or decrease an obligation to pay or transmit money or property to a state agency. FLA. STAT. § 68.082 (2)(g) (2013).

**Definition of “Claim”**

A claim is defined as a request or demand for money or property that is made either to (1) any employee, officer, or agent of the state; or (2) any contractor, grantee, or other recipient if the state provides or has provided (or will reimburse) any portion of the money or property requested or demanded. FLA. STAT. § 68.082 (a) (2013).

**APPROVED BY: Maryann Palmetter and William Davis**