

Applicable To (select one):

All Divisions of UPH: X **UPH Hospital:** **UPH Practice Plan:**

UNIVERSITY PHYSICIANS HEALTHCARE

ADMINISTRATIVE

POLICY & PROCEDURE

SUBJECT: Fraud and Abuse
POLICY NUMBER: A401
See also Policy Number: A400

Responsible Administrator: Patti Vignone
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PURPOSE

The purpose of this policy is to prevent and detect fraud, waste and abuse by providing detailed information regarding (1) the federal False Claims Act, (2) state laws and penalties pertaining to false claims, and (3) whistleblower protections under such laws.

IMPLEMENTATION PLAN

This policy will be distributed via paper and/or Intranet posting.

APPLICABLE TO

The University Physicians Healthcare (UPH) Board of Directors (Board Members), employed physicians (Physicians), Employees, and contractors, subcontractors, agents or other persons who furnish or otherwise authorize the furnishing of health care items or services, perform billing or coding functions, or are involved in the monitoring of health care on behalf of UPH (Agents).

POLICY STATEMENT

UPH is dedicated to the prevention and detection of fraud, waste and abuse through its Board approved Corporate Ethics and Compliance Program (Program). This Program details in written form the laws described in this policy and the corporation's procedures for detecting and preventing fraud, waste and abuse. This fraud and abuse policy gives summary guidance regarding federal and state laws involving false claims and whistleblower protections under such laws.

1.0 DEFINITIONS AND EXAMPLES

- 1.1 False Claim: in the realm of healthcare, submitting or conspiring to submit a claim for payment for services or supplies that were not provided specifically as presented or for which the provider is otherwise not entitled to payment. For example, submitting a claim for a service that was never provided or a claim indicating a higher level of service than was actually provided or a claim or a claim for services the were not reasonable and necessary.

- 1.2 False Claims Act (FCA): the basis used to bring a case against a health care provider for the submission of a false claim involving any federally funded contract or program, with the exception of tax fraud (31 USC §3729-3733).
- 1.3 Forgery: falsely making, completing or altering a document with an intent to defraud and would include making false statements (ARS §13-2002).
- 1.4 Fraud and Abuse: an umbrella term that applies to a series of statutes and regulations designed to prevent government health programs from paying excessive and inappropriate claims.
- 1.5 Fraudulent schemes and artifices: pursuant to a scheme or artifice to defraud, knowingly obtains any benefit by means of false or fraudulent pretenses, representations, promises or material omissions (ARS §13-2310).
- 1.6 Fraudulent schemes and practices; willful concealment: pursuant to a scheme or artifice, knowingly falsifies, conceals or covers up a material fact by trick, scheme or device or makes any false writing or document knowing such writing or document contains false, fictitious or fraudulent statement or entry when related to the business conducted by a state department or agency (ARS §13-2311).
- 1.7 Prohibited acts: acts that are statutorily defined as prohibited and related to the submission of improper claims (ARS §36-2918).
- 1.8 The duty to report suspected fraud or abuse: statutory duty that such suspected fraud or abuse shall be reported by contracted, subcontracted and non-contracted providers of care (ARS §36-2918.01).
- 1.9 Theft: knowingly obtaining services or property without lawful authority. For example, obtaining Arizona Health Care Cost Containment System (AHCCCS) services when not eligible.
- 1.10 Whistleblower: an individual who reports misconduct to state or federal agencies involved with enforcing laws prohibiting fraud and abuse such as AHCCCS or the Office of Inspector General (OIG).

2.0 PROCEDURES TO PREVENT, DETECT AND EDUCATE

- 2.1 UPH, through its Corporate Ethics and Compliance Program, requires that UPH business will be conducted in an ethical manner and will comply with the above described federal and state laws involving false claims.

- 2.2 UPH activities to **prevent** fraud, waste and abuse include the following:
- 2.2.1 A decentralized Corporate Ethics and Compliance Program designed to build ethics and compliance accountability into the core operations of each UPH Division and Clinical Department.
 - 2.2.2 A Code of Conduct emphasizing the necessity for and the responsibility of all Board Members, Physicians, Employees and Agents to perform their duties in compliance with laws, regulations and UPH policies.
 - 2.2.3 Mandatory ethics and compliance training and education programs.
 - 2.2.4 Screening processes ensuring that UPH does not employ or contract with individuals or entities that have been sanctioned or debarred from government contracting or excluded from participation in Federal health care programs.
 - 2.2.5 Employee performance evaluations that include a component assessing compliance with their obligations as defined by the Ethics and Compliance Program.
 - 2.2.6 Education that the consequences for violating the above described laws can include, in addition to imprisonment and fines, civil monetary penalties, loss of licensure, loss of staff privileges and exclusion from participation in federal health care programs.
- 2.3 UPH activities to **detect** fraud, waste and abuse include the following:
- 2.3.1 Reporting resources such as a toll-free hotline number available twenty-four hours a day, seven days a week.
 - 2.3.2 Monitoring and auditing systems.
 - 2.3.3 Prompt investigation and corrective action for all instances of suspected non-compliance with the Corporate Ethics and Compliance Program.
- 2.4 UPH is dedicated to **disseminating information and educating** individuals regarding the above laws through the following processes:
- 2.4.1 The UPH Corporate Ethics and Compliance Department Intranet links to the Arizona's Medicaid program, Arizona Health Care Cost Containment System (AHCCCS) web site containing details for reporting fraud and abuse and the Arizona laws pertaining to civil or criminal penalties for false claims and statements.

- 2.4.2 The UPH Corporate Ethics and Compliance Program including a copy of this Fraud and Abuse Policy is distributed to Board Members, Physicians, Employees and Contractors, Subcontractors, Agents, or other persons which or who, on behalf of the UPH, furnish, or otherwise authorize the furnishing of, Medicaid health care items or services, perform billing or coding functions, or is involved in the monitoring of health care provided by the entity.
- 2.4.3 Annual mandatory UPH Corporate Ethics and Compliance Program education via web-based module, CD or paper format, including the False Claims Act, is a condition of association for all Board Members, Physicians, Employees and Agents.
- 2.4.4 The UPH Corporate Ethics and Compliance Program and Corporate Policies are posted on the UPH Intranet and accessible to all Board Members, Physicians, Employees and Agents.

3.0 PROCEDURES FOR REPORTING

- 3.1 UPH provides mechanisms within the corporation as described above to report potential acts of fraud, abuse and waste through the Ethics and Compliance Department:
- 3.1.1 The Corporate Ethics and Compliance Hotline.
- 1-800-910-6716
 - Available 24 hours a day – 7 days a week
 - Service provided by outside agency; no caller ID is used.
- 3.1.2 Direct Line to the Corporate Ethics and Compliance Department: (520) 874-3606
- 3.1.3 U.S. Mail: University Physicians Healthcare, Corporate Ethics and Compliance Department, 2701 E. Elvira Road, Tucson, AZ 85756
- 3.1.4 Interoffice Mail: Corporate Ethics and Compliance Department, Corporate Office, Elvira Road, PO Box 245005
- 3.1.5 Email: Compliance@UPH.org
- 3.1.6 Secure Fax: (520) 874-7072
- 3.2 Individuals seeking advice from the Corporate Ethics and Compliance Department have the option to remain anonymous and all inquiries are confidential subject to the limitations imposed by law.
- 3.3 Individuals may choose to report potential acts of fraud, abuse and waste to the Legal Department.

- 3.4 Civil liability for violating the False Claims Act is equal to three times the dollar amount that the Government is defrauded and civil penalties of \$5,000 to \$10,000 for each false claim.
- 3.5 An individual can share in a percentage of a government recovery in an FCA action or settlement if they bring an action on behalf of the United States as a “qui tam relator.”

4.0 ANTI-RETALIATION PROVISIONS

- 4.1 UPH strictly prohibits any type of retaliation against those who, in good faith, report any inappropriate activities described in this policy.
- 4.2 The False Claims Act protects qui tam relators against discharge, demotion, harassment or other discrimination as a result of the allegations made under the False Claims Act.
- 4.3 State and Federal laws provide protection for whistleblowers.