

<b>ST. VINCENT MEDICAL CENTER</b>  Administrative Manual	<b>Page:</b>  1 of 3	<b>Originating Department:</b>  Compliance	<b>Originating Date:</b>  2-7-07	<b>Revised / Reviewed Date:</b>
<b>SUBJECT:</b>  False Claims Act	<b>APPROVAL:</b>  <input type="checkbox"/> SVMC Management Council  <input type="checkbox"/> SVMC Compliance Committee			
<b>REFERENCES:</b> Deficit Reduction Act				

**PURPOSE:**

To assure compliance with the False Claims Act and the Deficit Reduction Act.

**POLICY:**

This policy, in written or electronic form, will be available to officers and associates of St. Vincent Medical Center (SVMC) and contractors or agents that, on behalf of SVMC provide or authorize Medicaid items or services, perform billing or coding functions, or are involved in monitoring health care provided by St. Vincent Medical Center.

**INFORMATION:**

The federal False Claims Act, the federal Program Fraud Civil Remedies Act, and certain California laws were enacted to prevent, penalize, and recover losses from individuals and organizations that commit, or attempt to commit, fraud against the government. These federal and state statutes can subject individuals and organizations to significant fines and penalties if they commit fraud against either the federal or state government. The federal False Claims Act, the Program Fraud Civil Remedies Act, and the California False Claims Act prohibit the making of false claims or statements in connection with the submission of a claim for payment to the federal or state government. Under these statutes, false claims may include knowingly submitting false or fraudulent claims to the government for payment or making or using a false record or statement in connection with the submission of such claims. Examples of false claims include billing for services with knowledge that such services are not medically necessary or performed; billing twice or multiple times for the same items or services; falsifying internal records that are used to support claims; failing to report known overpayments and credit balances to a government payor; and upcoding claims in order to obtain reimbursement in excess of the proper amount due.

In addition to willful and intentional acts of fraud, individuals and organizations can be penalized for submitting or causing the submission of claims in deliberate ignorance or reckless disregard for the truth. Civil actions under these statutes must be brought within six years of a violation, or, if brought by the government, within three years of the date when material facts are known (or should have been known) to the government, but not more than ten years after the date the violation occurred. Civil penalties range from \$5,500 to \$11,000 per claim. Violators may also be assessed up to three times the amount of damages caused to the government. If found in violation, Medicare and Medicaid providers are subject to exclusion from both of these programs.

<b>ST. VINCENT MEDICAL CENTER</b>  Administrative Manual	<b>Page:</b>  2 of 3	<b>Originating Department:</b>  Compliance	<b>Originating Date:</b>  2-7-07	<b>Revised / Reviewed Date:</b>
<b>SUBJECT:</b> False Claims Act				

Local Health Ministries rely on associates, agents and contractors to assist it in its commitment to accurate billing by encouraging them to report any potential improprieties to a supervisor or to the Compliance Officer without fear of retaliation. Under the federal False Claims Act, any person, including: an associate, agent, or a contractor, may, under certain circumstances, notify the government if he or she believes the organization is not responding appropriately to reports of potential violations. Such person must have direct and independent knowledge of the false claims activity and voluntarily provide this information to the government. The federal False Claims Act permits persons with actual knowledge of the submission of false claims or statements to file a lawsuit in a federal district court on behalf of the U.S. government and, in some circumstances, to receive an award of 15-30% of the monies recovered for the government in addition to attorneys' fees and costs. This award, however, may be reduced or barred if a court finds that the notifying person planned or initiated the violation or if the matter disclosed is already the subject of a federal investigation or if the health care provider has previously disclosed the problem to a federal agency. Persons who bring frivolous claims can be held liable for the defendant's attorneys' fees and costs. Both the federal False Claims Act and the organization's own internal policies prohibit DCHS or any of its Local Health Ministries from taking any adverse action or discriminating when any person who in good faith notifies the federal government of potential violations.

Like the federal False Claims Act, the federal Program Fraud Civil Remedies Act imposes penalties on persons who deliberately submit false statements or claims and on persons who act in deliberate ignorance or reckless disregard of the truth or falsity of a claim. The Program Fraud Civil Remedies Act reaches the submission of false claims, false documentation supporting those claims, or material omissions that make a claim or statement inaccurate and which the claimant had a duty to disclose. Violators of the Program Fraud Civil Remedies Act are subject to civil monetary penalties of up to \$5,000 per false claim or statement and up to twice the amount of such claim in lieu of damages.

Several California statutes impose civil and criminal penalties for false claims and statements. California has enacted a state False Claims Act. Like the federal False Claims Act, it is an important law in state efforts to fight fraud and abuse. The California False Claims Act prohibits, among other things, the: (i) knowing submission to the state or any political subdivision of the state of a false claim for payment; (ii) knowing use or creation of a false record to get a false claim paid by the state or any political subdivision; (iii) defrauding the state or any political subdivision by getting a false claim paid by the state; (iv) knowing delivery of less property or money than the amount for which the recipient obtains a receipt; and (v) knowing use of a false record or statement to conceal, avoid, or decrease an obligation to pay or transmit money or property to the state or to any political subdivision. In addition to willful and intentional acts of fraud, individuals and organizations can be penalized for acting with deliberate ignorance or reckless disregard for the truth or falsity of the information.

Violations of the California False Claims Act subject a person or entity to civil penalties of up to \$10,000 for each false claim in addition to the costs of a civil action brought to recover

<b>ST. VINCENT MEDICAL CENTER</b>  Administrative Manual	<b>Page:</b>  3 of 3	<b>Originating Department:</b>  Compliance	<b>Originating Date:</b>  2-7-07	<b>Revised / Reviewed Date:</b>
<b>SUBJECT:</b>  False Claims Act				

damages. A court may assess not less than two times and not more than three times the amount of damages.

The California False Claims Act, like the federal False Claims Act, permits any person, under certain circumstances, to bring a civil action if he or she believes the organization is not responding appropriately to reports of potential violations. In some circumstances, such person can share in 15 -33% of any monies recovered in addition to attorneys' fees. Both the California False Claims Act and the organization's own internal policies prohibit taking action adverse to or discriminating against such person. Under the California False Claims Act, an employer who violates the Act must reinstate the employee, pay the employee twice the amount of owed back pay with interest, compensate the employee for any special damage sustained and may, in some circumstances, be subject to punitive damages.

In addition to the California False Claims Act, the state attorney general's office uses other state laws to penalize fraudulent acts against the government. The Welfare and Institutions Code makes it a criminal violation, from misdemeanor to felony, including jail time and monetary penalties, for persons to receive health care services they were not eligible to receive by making false declarations, presenting a claim with the intent to defraud, or receiving kickbacks or bribes in exchange for making referrals involving government programs, beneficiaries, or services.

The California Penal Code makes it a criminal violation, from misdemeanor to felony, including jail time and monetary penalties, to prepare anything in writing with the intent to present or support a false claim, knowingly make or present a false claim for a health care benefit, or submitting a claim for a benefit that was never received by the person claiming it.

The Business and Professions Code carries civil penalties for any unlawful, unfair or fraudulent business acts or practices, of up to \$2,500 per violation. The Government Code also carries civil penalties for knowingly presenting or causing to be presented a false claim to the state for money, property or services. Civil penalties go up to \$10,000 for each false claim and penalties of up to three times damages may be imposed.

*For more information regarding organizational efforts to detect and prevent fraud, please contact the Corporate Responsibility Officer.*