FALSE CLAIMS ACT POLICY

Purpose:
To educate all full time and part time Catholic Charities personnel, including volunteers, contractors and agents on the Federal and State False Claims Act as well as the legal protection under Federal and State law given to persons who report incidents of false claims to regulatory agencies, as required by the Deficit Reduction Act of 2005.

References:
New Jersey Medical Assistance and Health Services Act – Criminal Penalties, N.J.S. 30: 4D-17(a) – (d)
New Jersey Medical Assistance and Health Service Act- Civil Remedies, N.J.S. 30:4D—7.h.: N.J.S. 30:4D-17(e) – (i); N.J.S. 30 4D-17.1.a
Health Care Claims Fraud Act, N.J.S. 2C:21-4.2 and 4.3; N.J.S. 2C:51-5
Conscientious Employee Protection Act, N.J.S. 34:19-1 et seq.
New Jersey False Claims Act, P.L. 2007, Chapter 265 (approved 1/13/08)

Procedure:
1. Catholic Charities has adopted a non-retaliation policy that provides protection for Catholic Charities personnel who make a good faith report of issues or concerns, including reports of suspected fraud, waste, and abuse.
2. The staff member should first discuss any issues or concerns with their immediate supervisor. If, after consultation with your immediate supervisor, the concern or issues is not dealt with, you may request a meeting with your Service Director or the Compliance Director.
3. If the staff member is uncomfortable discussing the issue with their supervisor and/or Service Director and/or Compliance Director, the staff member may call the tool-free Employee Protection Line (1-800-576-5262, organization code 30053). The Employee Protection Line is available 24 hours, 7 days a week. Please indicate in your call that your concern is a compliance issue. Your message is then transcribed and placed in a sealed envelop marked confidential and delivered to the Executive Director for review and investigation.
4. If the staff member is uncomfortable with the above procedure, the staff member may contact the Office of the Inspector General within the Department of Health and Human Services. This office is charged with the investigation of suspected fraud and abuse.
Definitions:

a. The Federal False Claims Act:
   • Created by the Congress in an effort to combat fraudulent claims against the U.S. Government that cost the taxpayers large sums of federal funds.
   • The Act makes an individual or business entity liable for damages and penalties if the individual or business entity knowingly presents a false or fraudulent claim for payment to the U.S. government, or an employee, knowingly uses a false record or statement to get a false or fraudulent claim paid by the U.S. Government or knowingly uses a false record or statement to avoid or decrease an obligation to pay the U.S. Government.

b. Knowing and Knowingly
   • Has actual knowledge of the information
   • Acts in deliberate ignorance of the truth or falsity of the information or
   • Acts in reckless disregard of the truth or falsity of the information

c. Claim
   • Any request or demand, whether under a contract or otherwise, for money or property which is made to a contractor, grantee, or other recipient if the United States Government provides any portion of the money or property which is requested or demanded, or if the Government will reimburse such contractor, grantee, or other recipient for any portion of the money or property which is requested or demanded.

d. Statement:
   • any representation, certification, affirmation, document, record or accounting or bookkeeping entry made:
     o with respect to a claim or to obtain approval or payment of a claim – including relating to eligibility to make a claim or
     o with respect to – including relating to eligibility for:
       ▪ a contract with or a bid or proposal for a contract with
       ▪ a grant, loan or benefit from, an authority, or any State, political subdivision of a State, or other party, if the US Government provides any portion of the money or property under the contract, grant, loan or benefit or if the US Government will reimburse the State, political subdivision or party for any portion of the money or property under the contract, grant, loan or benefit.

e. Fraud
   • An intentional deception or misrepresentation that is made by an individual who knows it to be false and who receives an unauthorized benefit from the actions.
f. Abuse

- Payment for those items or services whereon legal entitlement exists and for which the health care provider has not knowingly or intentionally misrepresented the facts to receive payment.

Federal False Claim Act Policy Statement:
Catholic Charities personnel, (full time and part time) volunteers, contractors, or agents will not knowingly:
- present or cause to be presented a false or fraudulent claim for payment or approval to the US Government
- 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
- conspires to defraud the Government by getting a false or fraudulent claim allowed or paid
- 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 US government
- has possession, custody, or control of property or money 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.

New Jersey Health Care Claims Fraud Act N.J.S.A. 2C:21-4.2 and 2C:21-4.3; 2C:51-5
- It is illegal to submit a false claim form to an insurance company in order to be paid for health care services, which were not received or provided.
- Punishable by 5 to 10 years in prison if the person is a doctor, chiropractor, dentist, psychologist, nurse, pharmacist, physical therapist, lawyer or other licensed practitioner and knows that the claim is false.
  - In addition, this person can be required to pay a fine of up to $150,000 and up to five times the amount of the claim, and could permanently lose their license.
- A person, who is not a doctor, chiropractor, etc., could be sentenced to 3 to 5 years in jail for filing just one claim that they know is false.

Federal Program Fraud Civil Remedies Act, 31 U.S.C. 3801 -3812

Provides federal administrative remedies for false claims and statements, including those made to federally funded health care programs. Current civil penalties are $5,500 for each false claims or statement, and an assessment in lieu of damages sustained by the federal government of up to double damages for each false claim for which the Government makes a payment. The amount of the false claims penalty is to be adjusted periodically for inflation in accordance with federal formula.
New Jersey Medical Assistance and Health Services Act – Criminal Penalties, N.J.S. 30:4D-17(a)-(d)

Provides criminal penalties for individuals and entities engaging in fraud or other criminal violations relating to Title XIX-funded programs. They include: (a) fraudulent receipt of payments or benefits: fine of up to $10,000, imprisonment for up to 3 years, or both; (b) false claims, statements or omissions, or conversion of benefits or payments: fine of up to $10,000; imprisonment for up to 3 years or both; (C) kickbacks, rebates and bribes: fine of up to $10,000, imprisonment for up to 3 years, or both; and (d) false statements or representations about conditions or operations of an institution or facility to qualify for payments: fine of up to $3,000 or imprisonment for up to 1 year or both. Criminal prosecutions are generally handled by the Medicaid Fraud Section within the Office of Insurance Fraud Prosecutor, in the N.J. Division of Criminal Justice.

New Jersey Medical Assistance and Health Service Act - Civil Remedies, N.J.S. 30:4D-7.h, N.J.S. 30:4D-17(e)-(i); N.J.S. 30 4D-17.1.a

In addition to the criminal sanctions discussed above, violations of the N.J.S. 30:4D-17(a)-(d) can also result in the following civil sanctions: (a) unintentional violations: recovery of overpayments and interests; (b) intentional violations of the Medicaid statute, and violations of the NJ False Claims Act, as of March 14, 2008: recovery of overpayments, interest, up to treble damages, and up to $5500 - $11,000 per false claim. Recovery actions are generally pursued administratively by the Division of Medical Assistance and Health Services, with the assistance of the Division of Law in the N.J. Attorney General’s Office, and can be obtained against any individual or entity responsible for or receiving the benefit or possession of the incorrect payments.

In addition to recovery actions, violations can result in the exclusion of an individual or entity from participation in all health care programs funded in whole or in part by the N.J. Division of Medical Assistance and Health Services. Recovery and exclusion can also be obtained as part of a criminal prosecution by the Medicaid Fraud Section of the N.J. Division of Criminal Justices.

Federal False Claims Act – Protection for Whistleblowers

- Federal Whistleblower Protection Laws exist to protect individuals who report suspected fraud, waste, and abuse to a regulatory agency. To encourage individuals to report misconduct involving false claims, the False Claims Act includes a “qui tam” or whistleblower provision. This provision allows any individual with actual knowledge of allegedly false claims to file a lawsuit on behalf of the U.S. Government in a federal district court. This lawsuit will be filed “under seal” meaning that it will be kept confidential until the government reviews it and determines how to proceed.
  - Consistent with Federal law, Catholic Charities will not terminate, demote, suspend, threaten, harass, or in any other manner discriminate against Catholic Charities personnel in the terms and conditions of their
employment because of lawful acts done by Catholic Charities personnel in making a report under the Federal False Claims Act.

- Relief under Federal law includes reinstatement at the same position, two times the amount of back pay owed plus interest and compensation for any special damages suffered because of the discrimination.

**Conscientious Employee Protection Act “Whistleblower Act”, N.J.S.A. 34:19-4**

New Jersey law prohibits an employer from taking any retaliatory action against an employee because the employee does any of the following:

a. discloses or threatens to disclose, to a supervisor or to a public body, an activity, policy or practice of the employer or another employer, with whom there is a business relationship, that the employee reasonably believes is in violation of a law, or a rule or regulation issued under the law, or in the case of an employee who is licensed or certified health care professional, reasonably believes constitutes improper quality of patient care;

b. Provides information to, or testifies before, any public body conducting an investigation, hearing or inquiry into any violation of law, or a rule or regulation issued under the law by the employer or another employer, with whom there is a business relationship, or, in the case of an employee who is a licensed or certified health care professional, provides information to, or testifies before, any public body conducting an investigation, hearing or inquiry into quality of patient care; or

c. Provides information regarding any deception of, misrepresentation to, any shareholder, investor, client, customer, employee, former employee, retiree or pensioner of the employer or any governmental entity.

d. Provides information regarding any perceived criminal or fraudulent activity, policy or practice of deception or misrepresentation which the employee reasonably believes may defraud any shareholder, investor, client, customer, employee, former employee, retiree or pensioner of the employee or any governmental entity.

e. Objects to or refused to participate in, any activity, policy or practice which the employee reasonably believes:
   i. Is in violation of a law or rule or regulation issued under the law or, if the employee is a licensed or certified health care professional, constitutes improper quality of patient care;
   ii. Is fraudulent or criminal; or
   iii. Is incompatible with a clear mandate of public policy concerning the public health, safety or welfare or protection of the environment N.J.S.A. 34: 19-3.

The protection against retaliation, when a disclosure is made to a public body, does not apply unless the employee has brought the activity, policy or practice to the attention of a supervisor of the employee by written notice and given the
employer a reasonable opportunity to correct the activity, policy or practice. However, disclosure is not required where the employee reasonably believes that the activity, policy or practice is known to one or more supervisors of the employer or where the employee fears physical harm as a result of the disclosure, provided that the situation is emergency in nature.

**New Jersey False Claims Act – January 2008**
This Act, which is effective 60 days after its enactment on January 13, 2008, allows the New Jersey Attorney General, or private individuals for themselves and the State, to bring an action against any person who knowingly cause the State to pay a false claim. If a person is found guilty in court, the civil penalties would be between $5500 and $11,000 for each verified count of a false claim, as well as imposing up to three-times the cost of any losses the public entity would have sustained because of the false claim. (The new law also increases the false claims civil penalties in the Medicaid statute from $2,000 per false claim to between $5,500 to $11,000 per false claim if there is an intentional violation of the Medicaid statute, or a violation of the NJ False Claims Act.)

This Act sets up a whistleblower incentive to come forward with any information about false claims. If a false claim is proven in court, the whistleblower would be entitled to 15% to 25% of the proceeds recovered for New Jersey if the Attorney General brings the case and 25% to 30% of the proceeds if the case is brought by the whistleblower. The exact amount of whistleblower compensation is determined by the courts.

**Catholic Charities Non-Retaliation Policy**
Catholic Charities has adopted a non-retaliation policy that provides protection for Catholic Charities personnel who make a good faith report of issues or concerns, including reports of suspected fraud, waste, and abuse.

**Reporting Mechanism**
The staff member should discuss any issues or concerns with their immediate supervisor. If, after consultation with your immediate supervisor, the issue or concern is not dealt with, you may request a meeting with your Service Director or the Compliance Director. A toll-free Employee Protection Line has been made available to you when you have a compliance related concern and you do not feel comfortable discussing the matter with your supervisor/service director. Calls to the Employee Protection Line are answered by an outside third party 24 hours, 7 days a week. Please indicate in your call that your concern is a compliance related issue. Your message is transcribed and placed in a sealed envelop marked confidential and delivered to the Executive Director. Your compliance related issue or concern will be handled promptly, discreetly and professionally. All reports of improper conduct will be investigated. Please remember to provide enough
information so that a proper investigation can be conducted. No disciplinary action will be taken solely based on an Employee Protection Line report.

Although you are encouraged to identify yourself, you may make an anonymous report. However, if you tell others (i.e. co-workers, friends, etc) about your call, your anonymity and confidentiality cannot be guaranteed.

To reach the Employee protection Line: Dial 1-800-576-5262, organization code 30053.

Internal Investigation
Catholic Charities will conduct an internal investigation if a situation, a billing concern and/or practice, third-party inquiry or questionable discrepancies by certain individuals-agency arises. Catholic Charities will determine the appropriate investigative protocol, take appropriate disciplinary actions if required and will document such actions and outcomes. Such documentation will be maintained and available for review upon request to the Executive Director.

Any violations of law or regulations will be reported to the appropriate government authorities. It is the policy of Catholic Charities to cooperate fully with law enforcement agencies in the investigation of any illegal conduct. Improper or illegal conduct will subject the offender to disciplinary action, up to and including immediate termination and could subject the offender to civil and/or criminal prosecution depending on the nature and severity of the offense.

Filing an Action under the False Claims Act: A private person can bring an action under the False Claims Act in the name of the United States or the State of New Jersey:

- The person can file a complaint "under seal" or confidentially on the court docket. "Under seal" means that the records are kept secret on the docket of the court.
- The U.S. Attorney or Attorney General has sixty days, or more if an extension is requested of the court, to review the complaint and consider the allegations and whether the United States or State of New Jersey will join in and take over the complaint.
- The Department of Justice or Attorney General then investigates the allegations of violations of the False Claims Act and may involve the FBI, the Office of the Inspector General of the Department of Health and Human Services, relevant state agencies and may issue subpoenas for documents or electronic records, may interview witnesses, and may compel testimony from certain individuals within the organization.
- After the investigation is complete, the Department of Justice or Attorney General decides whether it will intervene in the action filed by the employee, decline to intervene, or dismiss the complaint.
- If the action is pursued and is successful, the private person is entitled to part of the recovery, from 15 to 30%, depending on whether the Federal or State government becomes involved in the case.
Catholic Charities Programs to Prevent and Detect Fraud

Catholic Charities does not tolerate the making or submitting of false or misleading claims or statements to any government agency, health care program, or payer source.

Program Directors, under the directions of the Service Area Directors as well as the Billing Manager who is under the direction of the Associate Executive of Fiscal Affairs, will abide by all state and federal laws, rules, and regulations concerning billing, coding and reimbursement and accounting.

Service Directors and Program Directors will:

- Maintain complete, up-to-date, truthful, and accurate client records.
- Ensure that all clinical and administrative staff are knowledgeable about billing requirements applicable to their particular program. This includes coverage, medical necessity standards for billing, accurate coding of diagnosis and documentation requirements.
- Bill only for those services actually provided and documented in the client’s record
- Use billing codes that most accurately describe the services provided. Upcoding or improperly bundling charges to increase reimbursement is strictly prohibited.
- Submit claims only for services that are determined to be medically necessary.
- Store records in a safe and secure location for the period of time required by law.
- Review a sampling of client records quarterly, looking at the records both quantitatively and qualitatively.
- Health information will only be used, and disclosed in accordance with Catholic Charities HIPAA policies.

Associate Executive Director of Fiscal Affairs and the Billing Manager will:

- Work jointly with the Programs to review client insurance coverage on a monthly basis.
- Billing system will not drop a bill without an up-to-date diagnosis or an appropriate procedure code
- Billing system will not bill for group if more than the maximum allowable number of clients in a group based on payer’s expectations
- Review billing denials on an ongoing basis and discuss with program as needed
- Challenge any billing issues that are not routine.
- Maintains system updates in regard to procedure, billing and credentialing changes
- Review any discrepancies Service Director, Program Director, and Compliance Director. Any areas of disagreement will be brought to the attention of the Executive Director for resolution
Educating Employees (full time, part time and volunteers), Contractors and Agents on the Catholic Charities False Claims Act Policy

Catholic Charities will provide this False Claims Act Policy to all employees, full time and part time, volunteers. Contractors and agents will be provided with a False Claims Summary Sheet. This policy will be provided to all existing employees and to all new employees during the orientation process. All employees, volunteers and contractors will be required to sign off on an acknowledgement sheet indicating that they have reviewed the Catholic Charities False Claims Act Policy and/or summary sheet. The acknowledgement sheet will be filed in the employees personnel file. A summary of this policy will also appear in the Employee Handbook. Training will be provided to all staff annually.

Revised 3/20/08
False Claims Policy Acknowledgement

Name: _______________________________ Program: ______________________
(print name) (print program name)

I acknowledge that I have reviewed the Catholic Charities False Claims Policy and Procedure and have been given an opportunity to have my questions answered.

Signature _______________________________ Date _______________________________
CATHOLIC CHARITIES
DIOCESE OF TRENTON

WHAT ARE MY DUTIES AS AN EMPLOYEE OR VENDOR OF CATHOLIC CHARITIES, DIOCESE OF TRENTON?

Each employee or vendor involved with providing or obtaining reimbursement for goods or services from or on behalf of Catholic Charities, Diocese of Trenton is responsible for submitting honest and accurate bills to federal and state programs, and for submitting honest and accurate invoices to Catholic Charities. All employees and vendors are expected to comply with Federal and State laws and administrative remedies designed to prevent fraud, abuse and waste. All employees and vendors are required to immediately report any illegal or wrongful conduct to their Supervisor, Program Director, Service Director, or the Director of Compliance.

WHAT ARE CATHOLIC CHARITIES’ POLICIES AND PROCEDURES FOR DETECTING AND PREVENTING FRAUD, ABUSE, AND WASTE?

Catholic Charities, Diocese of Trenton has implemented several measures for detecting and preventing fraud, abuse, and waste. These measures include: the review of and updating of the Philosophy and Code of Ethics, implementing the Catholic Charities False Claims Policy and Procedure, training of staff, standards for investigating and responding to potential claims of fraud, abuse and/or waste, alternative means to report illegal or wrongful conduct, billing reviews, and maintaining the billing system updates in regard to procedure, billing and credentialing changes.

WHAT IS THE FEDERAL FALSE CLAIMS ACT?

The False Claims Act is a statute that imposes civil and criminal liability on any person or entity who:

- Knowingly submits a false claim to the government for payment
- Knowingly makes or uses a false record or statement to obtain payment or approval of a claim by the government or
- Uses a false statement to decrease an obligation to the government

Knowingly means:

- Actual knowledge of the truth or falsity of a claim or statement
- Acting recklessly or
- Acting with deliberate ignorance of the truth or falsity of the claim

A claim includes a request or demand, under contract or otherwise, for money, property or services that is made to any employee, officer or agent of the government; or to any contractor, grantee or other recipient if the government provides any portion of the money, property or services requested or demanded; or if the government will reimburse the contractor, grantee or other recipient of any portion of the money, property or services requested or demanded.
WHAT ARE SOME EXAMPLES OF A FALSE CLAIM?

Examples of a false claim include billing for services or goods that were not delivered; billing for unnecessary services or goods; billing for more expensive services or goods than actually provided; or making a false record or statement to get a claim paid.

WHAT ARE THE PENALTIES UNDER THE FALSE CLAIMS ACT?

The civil penalty for each false claim is not less than $5,500 and not more than $11,000. Civil penalties also include an additional amount equal to three times the amount of damages, which the State or Federal government sustains because of the false claim. The government may also assert common law claims such as “common law fraud”, “money paid by mistake,” and “unjust enrichment”. Remedies for common law claims include compensatory and punitive damages, restitution and recovery of the amount of the unjust profit.

There are also criminal penalties associated with false claims. Penalties can include a fine up to $250,000, restitution, imprisonment of up to five years and exclusion from participation in federal and state programs.

Federal Program Fraud Civil Remedies Act, 31 U.S.C. 3801 -3812

Provides federal administrative remedies for false claims and statements, including those made to federally funded health care programs. Current civil penalties are $5,500 for each false claims or statement, and an assessment in lieu of damages sustained by the federal government of up to double damages for each false claim for which the Government makes a payment. The amount of the false claims penalty is to be adjusted periodically for inflation in accordance with federal formula.

New Jersey Medical Assistance and Health Services Act – Criminal Penalties, N.J.S. 30:4D-17(a)-(d)

Provides criminal penalties for individuals and entities engaging in fraud or other criminal violations relating to Title XIX-funded programs. They include: (a) fraudulent receipt of payments or benefits: fine of up to $10,000, imprisonment for up to 3 years, or both; (b) false claims, statements or omissions, or conversion of benefits or payments: fine of up to $10,000; imprisonment for up to 3 years or both; (C) kickbacks, rebates and bribes: fine of up to $10,000, imprisonment for up to 3 years, or both; and (d) false statements or representations about conditions or operations of an institution or facility to qualify for payments: fine of up to $3,000 or imprisonment for up to 1 year or both. Criminal prosecutions are generally handled by the Medicaid Fraud Section within the Office of Insurance Fraud Prosecutor, in the N.J. Division of Criminal Justice.

New Jersey Medical Assistance and Health Service Act - Civil Remedies, N.J.S. 30:4D-7.h, N.J.S. 30:4D-17(e)-(i); N.J.S. 30 4D-17.1.a
In addition to the criminal sanctions discussed above, violations of the N.J.S. 30:4D-17(a)-(d) can also result in the following civil sanctions: (a) unintentional violations: recovery of overpayments and interests; (b) intentional violations of the Medicaid statute, and violations of the NJ False Claims Act, as of March 14, 2008: recovery of overpayments, interest, up to treble damages, and up to $5500 - $11,000 per false claim. Recovery actions are generally pursued administratively by the Division of Medical Assistance and Health Services, with the assistance of the Division of Law in the N.J. Attorney General’s Office, and can be obtained against any individual or entity responsible for or receiving the benefit or possession of the incorrect payments.

In addition to recovery actions, violations can result in the exclusion of an individual or entity from participation in all health care programs funded in whole or in part by the N.J. Division of Medical Assistance and Health Services. Recovery and exclusion can also be obtained as part of a criminal prosecution by the Medicaid Fraud Section of the N.J. Division of Criminal Justices.

New Jersey Health Care Claims Fraud Act N.J.S.A. 2C:21-4.2 and 2C:21-4.3; 2C:51-5
- It is illegal to submit a false claim form to an insurance company in order to be paid for health care services, which were not received or provided.
- Punishable by 5 to 10 years in prison if the person is a doctor, chiropractor, dentist, psychologist, nurse, pharmacist, physical therapist, lawyer or other licensed practitioner and knows that the claim is false.
  - In addition, this person can be required to pay a fine of up to $150,000 and up to five times the amount of the claim, and could permanently lose their license.
- A person, who is not a doctor, chiropractor, etc., could be sentenced to 3 to 5 years in jail for filing just one claim that they know is false.

WHAT ARE THE WHISTLEBLOWER PROTECTIONS UNDER THE FALSE CLAIMS ACT?

The False Claims Act provides that no employer shall make, adopt or enforce any rule, regulation or policy preventing an employee from disclosing information to a federal, state or law enforcement agency or from acting to further a false claims action, including investigating, initiating, testifying or assisting in an action filed or to be filed under the False Claims Act. Additionally, no employer shall discharge, demote, suspend, threaten, harass, deny promotion to, or in any other manner discriminate against an employee in the terms and conditions of employment because of lawful acts done by the employee on behalf of the employee or others in disclosing information to a federal, state or law enforcement agency or in furthering a false claims action, including investigation for, initiation of, testimony for, or assistance in an action filed or to be filed under the False Claims Act. An employer who violates the whistleblower provisions of the False Claims Act shall be liable for all relief necessary to make the employee whole, including reinstatement with the same seniority status such employee would have had but for the
discrimination, interest on the back pay, compensation for any special damage sustained as a result of the discrimination and where appropriate, punitive damages. In addition, the employer shall be required to pay litigation costs and reasonable attorney’s fees associated with an action brought under this section. An employee may bring an action in the Superior court or District Court for the relief provided in this subsection.

**WHAT IS THE CONSCIENTIOUS EMPLOYEE PROTECTION ACT “WHISTLEBLOWER ACT”, N.J.S.A. 34:19-1 ET SEQ.?**

New Jersey law prohibits an employer from taking any retaliatory action against an employee because the employee does any of the following:

a. discloses or threatens to disclose, to a supervisor or to a public body, an activity, policy or practice of the employer or another employer, with whom there is a business relationship, that the employee reasonably believes is in violation of a law, or a rule or regulation issued under the law, or in the case of an employee who is licensed or certified health care professional, reasonably believes constitutes improper quality of patient care;

b. Provides information to, or testifies before, any public body conducting an investigation, hearing or inquiry into any violation of law, or a rule or regulation issued under the law by the employer or another employer, with whom there is a business relationship, or, in the case of an employee who is a licensed or certified health care professional, provides information to, or testifies before, any public body conducting an investigation, hearing or inquiry into quality of patient care; or

c. Provides information regarding any deception of, misrepresentation to, any shareholder, investor, client, customer, employee, former employee, retiree or pensioner of the employer or any governmental entity.

d. Provides information regarding any perceived criminal or fraudulent activity, policy or practice of deception or misrepresentation which the employee reasonably believes may defraud any shareholder, investor, client, customer, employee, former employee, retiree or pensioner of the employee or any governmental entity.

e. Objects to or refused to participate in, any activity, policy or practice which the employee reasonably believes:
   i. Is in violation of a law or rule or regulation issued under the law or, if the employee is a licensed or certified health care professional, constitutes improper quality of patient care;
   ii. Is fraudulent or criminal; or
   iii. Is incompatible with a clear mandate of public policy concerning the public health, safety or welfare or protection of the environment N.J.S.A. 34: 19-3.

The protection against retaliation, when a disclosure is made to a public body, does not apply unless the employee has brought the activity, policy or practice to
the attention of a supervisor of the employee by written notice and given the employer a reasonable opportunity to correct the activity, policy or practice. However, disclosure is not required where the employee reasonably believes that the activity, policy or practice is known to one or more supervisors of the employer or where the employee fears physical harm as a result of the disclosure, provided that the situation is emergency in nature.

**WHAT IS THE NEW JERSEY FALSE CLAIMS ACT THAT WAS ADOPTED IN JANUARY 2008?**

**New Jersey False Claims Act – January 2008**
This Act, which is effective 60 days after its enactment on January 13, 2008, allows the New Jersey Attorney General, or private individuals for themselves and the State, to bring an action against any person who knowingly cause the State to pay a false claim. If a person is found guilty in court, the civil penalties would be between $5500 and $11,000 for each verified count of a false claim, as well as imposing up to three-times the cost of any losses the public entity would have sustained because of the false claim. (The new law also increases the false claims civil penalties in the Medicaid statute from $2,000 per false claim to between $5,500 to $11,000 per false claim if there is an intentional violation of the Medicaid statute, or a violation of the NJ False Claims Act.)

This Act sets up a whistleblower incentive to come forward with any information about false claims. If a false claim is proven in court, the whistleblower would be entitled to 15% to 25% of the proceeds recovered for New Jersey if the Attorney General brings the case and 25% to 30% of the proceeds if the case is brought by the whistleblower. The exact amount of whistleblower compensation is determined by the courts.

**HOW DOES A PERSON BRING AN ACTION UNDER THE FALSE CLAIMS ACT?**
A person can bring an action under the False Claims Act in the name of the United States or the State of New Jersey:

- The person can file a complaint “under seal” or confidentially on a court docket. “Under seal” means that the records are kept secret on the docket of the court.
- The U.S. Attorney or Attorney General has sixty days or more if an extension is requested of the court, to review the complaint and consider the allegations and whether the United States or State of New Jersey will join in and take over the complaint.
- The Department of Justice or Attorney General then investigates the allegations of violations of the False Claims Act and may involve the FBI, the Office of the Inspector General of the Department of Health and Human Services, relevant state agencies and my issue subpoenas for documents or electronic records, may interview witnesses and may compel testimony from certain individuals within the organization.
After the investigation is complete, The Department of Justice or Attorney General decides whether it will intervene in the action filed by the employee, decline to intervene, or dismiss the complaint.

If the action is pursued and is successful, the employee is entitled to part of the recovery, from 15 to 30% depending on whether the Federal or State government becomes involved in the case.

If you would like more information or want to report illegal or wrongful conduct, you may do so by contacting your Program Director and/or Service Director. You may also contact the Compliance Director at 609-394-5181, extension 150 or use the Employee Protection Line (1-800-576-5262) and enter organization code 30053. The Employee Protection Line is answered by an outside third party, 24 hours a day, seven days a week. Please indicate that your concern is a compliance related issue.

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