Code of Conduct

October 2019

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Welcome!

As a proud affiliate of The Pennant Group, Inc., we are committed to the mission of providing life changing service to our patients and residents. Whether you are beginning or continuing your relationship with us, it is important that you understand our commitment to the highest standards of ethics and business conduct. All individuals affiliated with us must act with integrity, honesty, and in compliance with all applicable laws and regulations. Herein this Code, "we", "our" and "us" will be used as reference for our communities, agencies, Service Center and business units.

One of our core values is ***accountability***. To us, accountability means we hold ourselves to the highest standards of care and professionalism. We developed our Compliance Program as a way to guide us in this effort. The Compliance Program establishes a process for educating, monitoring, auditing and documenting our efforts to comply with all applicable laws, regulations and our own internal policies and procedures.

This Code of Conduct ("Code") is intended for all employees, business associates, vendors, contractors and volunteers so that they understand how we expect them to act. We believe that our continued success requires that the policies and principles contained in this Code are a component of everyone's decision making process.

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COMPLIANCE

Every employee, business associate, vendor, contractor and volunteer is accountable for abiding by this Code and reporting all possible violations. If we determine that conduct occurred which violated any applicable laws, regulations or our own internal compliance policies, it will serve as the basis for disciplinary action up to and including termination of employment or of contractual or business relationships.

Resolving and Reporting Compliance Issues

The main purpose of our Compliance Program is to educate. Our Service Center has assembled a team of compliance experts, the Compliance Team, to lead and support us in this effort. The Compliance Team is comprised of professionals in nursing, therapy, billing, legal and human resources-related matters. From time-to-time, you may see them visit your location.

In addition to this Code, specific Compliance Policies and Procedures, a detailed description of the Compliance Program and individual contact information for our Compliance Team may be found on the Pennant Portal. You may request copies of any compliance-related documents from your Administrator or by calling the **Pennant Compliance Hotline at (866) 987-3715.**

How to Report

All contacts to the Compliance Team or Pennant Compliance Hotline are considered confidential. Anonymity will be maintained to the greatest extent possible. If a compliance question or concern cannot be answered by reading these materials or if you want to report any issue that you believe or know may violate the law or our policies and procedures, please follow these steps:

1. **Speak with the Compliance Officer or a member of the Compliance Team.** Our Chief Compliance Officer, Erin Peterson, is responsible for our Compliance Program and also serves as the Privacy Officer. Contact information for our Compliance Team appears on the Pennant Portal and as an attachment to this Code.
2. **Contact the Pennant Compliance Hotline.** You may also make a report to or consult the Compliance Team directly by calling **(866) 987-3715.** The Pennant Compliance Hotline is accessible 24 hours a day, 7 days a week, 365 days a year. An outside third-party operator will ask you for details about your question or issue, document them, and give you a reference number for follow-up. You may also submit a concern via web submission at **pennantservices.ethicspoint.com**. Reports to the Pennant Compliance Hotline via telephone or web submission may be made anonymously if you prefer.
3. If comfortable, you may discuss your concern with a supervisor or other leader and he/she will abide by his/her duty to bring the issue forward to Compliance.

Resolving and Reporting Compliance Issues

What to Report

You must make a report if you believe activities are occurring or have occurred that are illegal, unethical or violate this Code, the Employee Handbook or any policy or procedure.

Your duty to report also includes your knowledge of any criminal charges or convictions brought against you during your employment with us. Due to the very sensitive nature of our work, we will do everything possible to create a safe environment for our residents and patients.

If you reported a concern to a supervisor but it was not resolved or if you feel that you have been retaliated against for raising a concern, please report it directly to the Pennant Compliance Hotline. Failure to report a known or suspected compliance issue is itself a compliance violation.

What Not to Report

We take all reports of potential violations seriously. Therefore, a person should never make a false report. We will not take disciplinary action against a person who reports incorrect information that he/she believed or suspected to be true. However, knowingly reporting a false accusation is not in harmony with our core values or Code of Conduct and may result in disciplinary action.

If you are unsure whether to make a report, report it just to be safe.

Protecting Your Identity

The identity of individuals who report a violation in good faith or who participate in an investigation into any compliance concern are maintained confidential to the extent possible and permitted by law. Anonymous reports are permitted when calling or emailing the Pennant Compliance Hotline or if requested upon when contacting a member of the Compliance Team directly. We do not and cannot “trace” your identity, telephone number or email address.

Retaliation Is Strictly Prohibited

Intimidation or retaliation against anyone who in good faith raises or reports a compliance concern or who participates in any compliance investigation or proceeding is strictly prohibited. The term “good faith” means that the person acted with an honest and proper intention. This non-retaliation policy applies to reports made by ay person through any means.

Our Expectations Of You

Always Act with Honesty and Integrity

All of your actions as our representative should be truthful, honest and made with integrity. Please always:

- Protect our residents/patients and their property;
- Provide residents/patients with information that is accurate and appropriate;
- Enter only accurate information in any resident/patient record, including the medical record;
- Provide truthful information about our business operations in any of your communications with government agencies;
- Respect and protect our property and resources;
- Employees must work as scheduled, use sick and vacation days appropriately and record any and all of their actual hours worked;
- Avoid gossip or any other form of false or negative communication which undermines our organization or its employees and our professional purpose.

Please deal fairly with everyone you encounter in our workplace. Do not take advantage of us, our residents/patients, employees or anyone through any form of manipulation, concealment, abuse of confidential information, misrepresentation or any other unfair or dishonest practice.

Examples of unfair or improper conduct toward our residents/patients are acts such as:

- Borrowing money or asking for a donation from a resident/patient or their family member;
- Having anything other than a professional relationship with a resident/patient;
- Improper use of resident/patient funds;
- Using organizational property or resources intended for the care of the residents/patients for personal purposes.
- Lending money to a resident/patient or using personal bank accounts or funds to help a resident/patient.

Our Expectations Of You

Always Be Respectful

Everyone we interact with shall be treated with courtesy and respect; this includes residents/patients, family members, vendors or contractors, visitors and co-workers. Everyone has talents and capabilities that are valuable and worthy of your respect. You also possess individual qualities and characteristics which make you worthy of the respect of others.

If you have witnessed a situation which violates this expectation, or if you believe someone has behaved inappropriately toward you, please alert a supervisor, any leader or the Pennant Compliance Hotline or Compliance Team.

Always Follow Our Policies and Procedures

We adopted certain policies and procedures to instruct you on how to deliver care and to properly create and maintain accurate medical and financial records. You are expected to be familiar and comply with these standards, without exception.

If you are ever unsure about our policies or have any questions about the way you perform your job, speak with a supervisor. If you believe that any policy or practice compromises your ability to do your job, or conflicts with what you understand the law to be, please contact the Compliance Hotline or team or speak with a supervisor if you are comfortable doing so.

Always Use Good Judgment

Always use your best judgment when it comes to providing care to and communicating with our residents/patients.

Never say or do anything that might:

- Jeopardize your safety or the safety of others;
- Be considered offensive to anyone;
- Violate or appear to violate laws, regulations or our policies.

If you witness anything which suggests that inappropriate activity is occurring, report it immediately.

Our Expectations Of You

Avoid Conflicts of Interest

We value fair and honest dealings with our residents/patients, co-workers, vendors, competitors and other business partners. Employees must uphold these values by, among other things, avoiding actual or potential conflicts of interest.

What is a conflict of interest?

A conflict of interest exists if you have an interest that interferes with your responsibilities at work or may affect your judgment on behalf of our business. For example, a conflict may exist if a member of your family sells wheelchairs. This could affect your independent judgment on our behalf if you are asked to recommend wheelchair supply vendors.

You may work for another employer as long as it does not cause a conflict of interest or interfere with your job performance. Other examples of possible conflicts of interest include:

- Promoting a personal business during your working hours;
- Selling goods or services for an outside company during working hours;
- Recommending the hiring of a family member or close friend without first disclosing the relationship to your supervisor or a leader;
- Engaging in political activities at work;
- Serving in a position with a competitor or outside service provider;
- Giving endorsements or testimonials for a vendor without administrative approval.

Any business or financial opportunities you discover through the use of our information or your position belongs to us and may not be used for personal gain.

If you are in or know of a situation that might be viewed as a conflict of interest, you must inform your supervisor, the Pennant Compliance Hotline or Compliance Team immediately. They will help you determine if an actual conflict of interest exists and will take action if necessary.

Never Offer, Solicit or Accept Bribes or Kickbacks

There may be occasions where your position may influence decisions affecting our business or our residents/patients. Examples of such decisions include the possibility of resident/patient referrals for services provided by another company; selection of goods or services or access to confidential information.

What is a "bribe" or a "kickback"?

A bribe is the offering of anything of value in exchange for referrals of business. A kickback occurs when a person receives anything of value in exchange for referrals of business. Offering, soliciting or accepting any type of bribe or kickback is strictly prohibited.

This prohibition applies not only to cash but also to anything of value, such as discounted or free goods or services, gift cards, gifts, office space, use of equipment or other services provided by physicians or vendors at less than fair market value, or waiving the co-payment of a Medicare beneficiary (e.g. patient or resident).

In addition, state and federal laws prohibit bribes or kickbacks in exchange for referrals of residents/patients whose stays or services are paid for by Medicare or Medicaid. For example, the federal Anti-Kickback Statute makes it a crime for anyone to knowingly and willfully solicit, receive or pay anything of value in return for referring an individual to a person for any item or service for which payment may be made in whole or in part under a federal health care program. Punishment for a felony conviction

Our Expectations Of You

under this law is a fine of not more than $100,000 or imprisonment for not more than 10 years, or both, administrative civil money penalties of up to $100,000, and exclusion from the federal health care programs.

Subject to specific exceptions, the Federal Anti-Self Referral (Stark) Statute (42 U.S.C. § 1395 (a) 42 U.S.C. § 1903(s)) prohibits a physician from referring federal health care program patients for certain designated health services to an entity with which the physician or an immediate family member has a financial relationship. No specific intent is required. A financial relationship is either a direct or indirect ownership interest or compensation arrangement. Those who violate the anti-self referral laws are subject to substantial civil money penalties and exclusion from the federal health care program for improper claims. The anti-self referral law imposes specific reporting requirements on entities that receive payment for services covered by federal health care programs. Failure to report would subject the entity to civil money penalty of up to $10,000 for each day for which reporting is required to have been made.

Examples of bribes or kickbacks include:

- Causing us to purchase any goods or services for which you receive a personal benefit;
- Accepting a below fair market price for goods or services covered by Medicare, Medicaid or any other federal or state health care program in exchange for referring business to a vendor for which the vendor charges the government program a higher price.

If you have any question concerning a potential offer, solicitation or other relationship or arrangement that may violate these laws, check immediately with the Compliance Officer. Any agreement, relationship or arrangement that may be a kickback or bribe, must also be reported immediately to the Compliance Team.

Your Duty to Report and Cooperate

If you are an employee, vendor or contractor of a Pennant-affiliated business or if you were given a copy of this Code then you have a duty to report any and all possible violations of this Code or any applicable laws or regulations using the reporting procedures set forth herein.

In addition, we also expect you to cooperate with any investigation into matters that might be compliance violations. If members of management, our Compliance Team or the Pennant Service Center contact you, please respond to their inquiries to the very best of your ability. You are also requested to maintain your knowledge of any investigation confidential to avoid impacting the effectiveness or integrity of the investigation.

Confidentiality and Nondisclosure Expectations

Information is one of our most valuable and sensitive assets. Internally, we want to take full advantage of it to provide the best care for our residents/patients. But we need to be careful not to reveal or misuse information which is proprietary, confidential or constitutes protected health information.

What Is Proprietary Information?

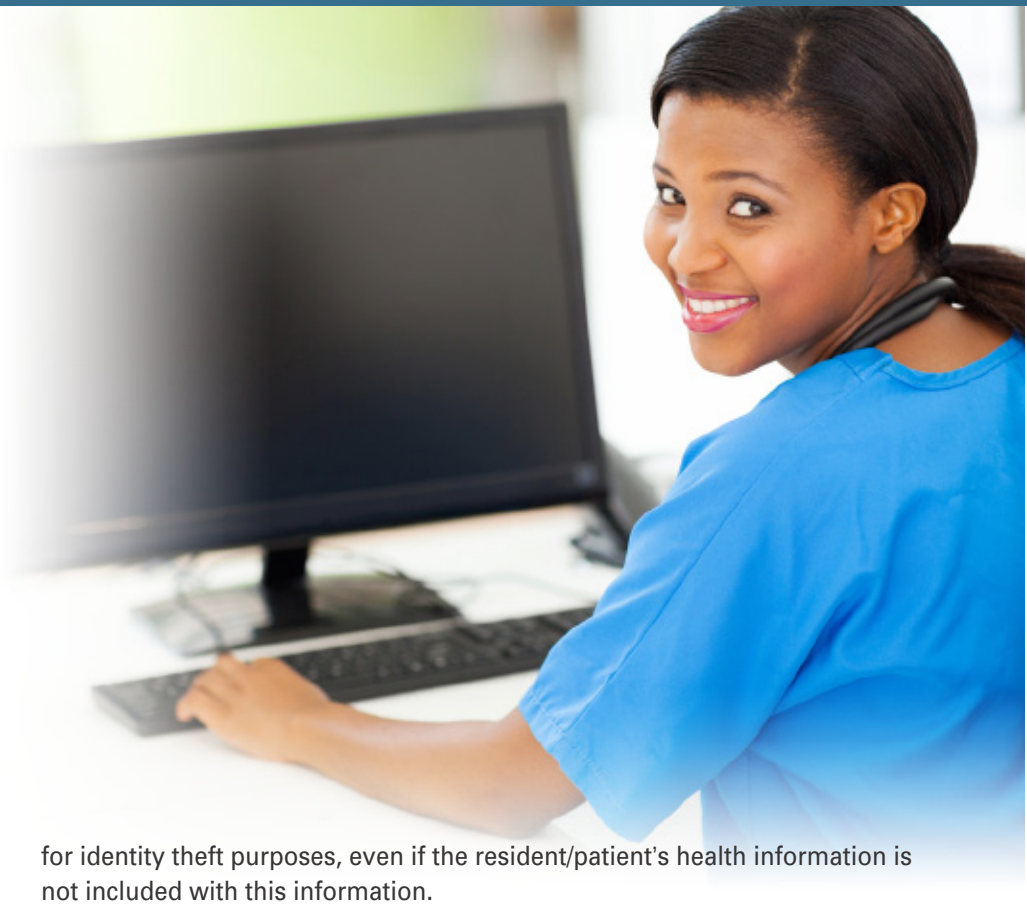
Documents and information that belong to us are "proprietary information." You may use it in the performance of your job, but you may not use it for any other purpose. Examples are:

- Records generated, received or viewed by you at work;
- Forms and manuals created by the Pennant Service Center or any Pennant-affiliated business;
- The unique and special ways in which we conduct our business and which are not publicly known;
- Our trademark or logo or those of The Pennant Group or Pennant Services

What Is Protected Health Information?

All resident/patient health-related information, such as health condition/diagnosis, treatment or care provided and/or payment for treatment that also includes personal identifiers such as name, Social Security numbers, dates of birth, full face photographs, address, phone number, email address, health insurance ID number or any other information that may enable someone to identify the individual may constitute "protected health information" as that term is defined by the Health Insurance Portability and Accountability Act, otherwise known as "HIPAA".

You should also protect any patient/resident identity related information (social security numbers, dates of birth, addresses, etc.) that could be used for identity theft purposes, even if the resident/patient's health information is not included with this information.



Our "Notice of Privacy Practices" was created to further explain the rights of our residents/patients as they relate to the protection of their health information. It lists our responsibilities to the resident/patient in relationship to protected health information.

Employees and business associates are expected to maintain protected health information confidential at all times. All disclosures of protected health information must be specifically authorized or permitted by state and federal law. If you are unsure about whether or not to release or use protected health information or identity related information, ask your Compliance Team first.

Confidentiality and Nondisclosure Expectations

What Is Confidential Information?

Proprietary and protected health information are considered confidential information, but there is other information we also treat as confidential:

- Information about our employees such as personal or personnel information, identity information, including Social Security numbers; however, for the purposes of this policy "confidential information does not include wages, hours, benefits, or other terms and conditions of employment except to the extent that an employee's actual job duties (e.g., as an Executive Director) require maintaining such information confidentially or an employee accesses such information unlawfully;
- Any information about our business that is unavailable to the public or non-employees should be considered confidential and proprietary information. Photographs of our care areas and our interior are examples.

Always Protect Proprietary, Protected Health and Confidential Information

Protecting the proprietary, protected health and confidential information to which you have access is mandatory for our employees and for anyone doing business with or performing services for us.

You may not use our proprietary, confidential or resident/patient protected health information for any reason other than a legitimate business need. It also may not be used outside of a legitimate business need without the written consent of the resident or his/her Power of Attorney/Legal Guardian, removed from our premises or information systems at any time, shared with others or used by you for personal reasons.

Examples of improper uses of proprietary, confidential or resident/patient protected health information include:

- Taking copies of resident/patient medical records outside our workplace;
- Copying our Policy & Procedure Manual and giving it to a manager at a different job;
- Utilizing information obtained during the course of your employment with us to start your own business venture.

Any unauthorized disclosure of confidential information is called a “breach.” All breaches must be reported to our Compliance/Privacy Officer immediately upon discovery. Depending on the type of information disclosed, we may be required by law to notify government agencies and any individuals impacted.

Here are some examples of what may constitute a breach:

- A box of medical records is lost when transporting it to a storage area;
- You are speaking or text about the health condition of a resident/patient with an individual not authorized, allowed or does not have a valid business/care need to receive the information;
  You save or create protected health information (including photographs or recordings of residents/patients) on a personal device (laptop, cell phone, etc.);
- Photographs or stories of our residents/patients, our care areas and our interior are posted on the internet without appropriate written consent.

Even after your relationship with us ends, you continue to be contractually obligated to protect confidential information you learned while employed with us. Employees are bound by the terms of the “Access and Confidentiality Agreement” signed at the beginning of employment and by HIPAA regulations. Vendors or contractors must abide by the terms of the “Business Associate Agreement” executed at the time the contract or business relationship was entered and by HIPAA regulations.

Confidentiality and Nondisclosure Expectations

How to Respond to External Requests for Information

Please be careful in all of your communications about our business, its residents/patients, employees, vendors and competitors. If someone who is not a designated personal representative, power of attorney or legal guardian asks you about the status of a resident/patient, you may not respond without authorization as these discussions can result in inadvertent, but nevertheless inappropriate or illegal disclosure of information. If you are unsure if the person falls into one of these categories, speak with your supervisor before responding.

If you publish or post to an Internet source like Facebook or Instagram, please understand that the Confidentiality and Nondisclosure Expectations apply to **all** communications, even those made on the Internet or outside the workplace. You may not publish or post confidential information (including photographs containing proprietary, confidential or resident/ patient protected health information) to any Internet source.

Only certain designated employees may respond to requests for information regarding our employees. Even if you are the employee's Supervisor, you are not permitted to provide an employment reference or employment or wage verification, unless you have been specifically authorized by a manager, leader or the Pennant Services Human Resources Department.

If an employee receives any governmental request for information such as a subpoena, a written request from a government agency or a search warrant, the employee should immediately contact the Compliance Officer or the Pennant Services Legal and Risk Department at (208) 506-6100. If a government investigator or agent visits and requests information, the Administrator or business leader must be consulted before any information is released.

Employees are not permitted to respond to inquiries from the news media, including newspapers, television, radio, magazines or online publications seeking a statement from us. Refer all such inquiries to your leader such as the Administrator or Executive Director.

Prohibition Against Insider Trading

If you are the recipient of stock grants, stock options, or are an owner of stock of The Pennant Group, Inc., you need to be aware of the prohibition of insider trading. Your position within the organization may expose you to certain non-public information. If so, you are considered an "insider" and are subject to certain stock trading restrictions, including quarterly "black-out periods" and other pre-clearance procedures.

Federal law prohibits any person who has "material non-public information" (which includes important financial, clinical or other confidential information about the company's performance or prospects that are not public), from buying or selling stock, regardless of any policy or window. Additionally, this information should not be shared with those outside the organization as it may sway current or future investors.

For more detailed information on what is and is not prohibited, please see our "Policy Regarding Insider Trading" or contact the Pennant Services Legal & Risk Department at (208) 506-6100.

Protecting Our Residents/Patients

Our residents/patients are the reason we exist. Therefore, it is critical that we all understand their rights and our responsibilities to protect and keep them safe.

Resident/Patient Rights and Your Reporting Obligations

Residents/patients have the right to a dignified existence, self-determination, communication with and access to people and services, and to reasonable accommodation of individual needs. In addition, residents/patients have their rights identified in applicable state and federal laws, rules and regulations to be free of coercion, interference, discrimination, or reprisal in exercising autonomy and choice in their everyday lives.

Residents/patients also have the right to be free from verbal, sexual, physical and mental abuse, corporal punishment, neglect, and involuntary seclusion. All employees are required by law to report any incident of suspected abuse, including injuries of an unknown origin and the taking of personal property, to the state. Please report your suspicions to the Administrator, Executive Director or other leader so that the incident may be investigated and reported.

A statement of the resident/patient rights will be made available to residents/patients, their families, responsible parties and visitors as well. None of the rights listed shall be denied or limited, unless authorized by law.

Agencies and communities are expected to be familiar with the abuse reporting requirements outlined in Federal and State Regulations and are required to follow the time frames outlined as well as reporting requirements to various entities which may include but not limited to: Adult Protective Services, State Health Department, Ombudsman and/or local law enforcement agency. If you are unclear of the requirements, please speak with your Administrator or Compliance.

If you work for us, you are responsible for promoting, respecting and protecting resident/patient rights.

You must immediately report any possible violation of resident/patient rights, suspected abuse or suspicions that a resident/patient is the victim of a crime. If you believe we did not properly address any incident involving a resident/patient, please call the Pennant Compliance Hotline.

Protecting Our Residents/Patients

Reporting Changes To Your Employability

We screen all prospective employees to determine whether they have committed certain offenses or acts which would preclude employment in the health care setting or in a position with access to financial data or controls. This check includes a review of the Office of Inspector General's Cumulative Sanctions Report and List of Excluded Individuals/Entities and the General Services Administration's list of debarred contractors to preclude employment of applicants who have been excluded from the Medicare or Medicaid programs or other federal programs. This is then verified on a monthly basis post-employment. We also check applicable state nurse aide registries to verify that the registry contains no information that would preclude the individual's employment. A search of state and federal criminal records is also performed to the extent permitted by state law. Any required license or certification required to perform the job is also verified.

If, after your screenings are complete, you are charged with a criminal offense related to the delivery of health care services, endangerment of a child or an elderly person, or are proposed for exclusion from participation in any federal health care program, you must immediately report the matter to your supervisor. Being charged with or convicted of a crime directly related to your employment with us may result in termination of employment. However, we do consider all of the circumstances and your employment record with us in making any decisions.

If your job requires license or certification, you are expected to meet all the requirements associated with maintaining such license or certification in good standing at all times. If your license or certification lapses, is suspended or revoked, or if you are disciplined by your licensing body for any reason, you must immediately report this to your supervisor.

Registry and Staffing Agencies

Registry and personnel agencies that provide us with temporary staff must certify that their staff is licensed and certified as required by law and have undergone legally sufficient background checks that meet or exceed the standards set for our own employees.

Preventing Fraud and Abuse

Contracts

All contracts between a Pennant-affiliated entity and any contractor or vendor shall meet the requirements listed below:

- Be approved by the Pennant Services Legal & Risk Department;
- Be in writing;
- Be executed only by the Administrator, an officer of the Company, or another authorized agent of the Company;
- Be signed by all the parties;
- When taken as a whole, be reasonable in their entirety;
- Specify the terms by which compensation and any other benefits are provided;
- Specify all the obligations of the parties in reasonable detail;
- Not take into consideration in any way the volume or value of referrals provided;
- Be for a term of at least one year, provided that such contracts may contain termination clauses which permit termination without cause. However, if a contract is terminated before the end of the term, a new contract may not be entered into with the same entity or individual without the approval of the Pennant Services Legal & Risk Department;

Preventing Fraud and Abuse

- If the contract is for services subject to Medicare consolidated billing:
  - Confirm that the vendor will bill us for services provided to Medicare patients, and that the vendor will not submit bills to Medicare directly for these services, except for those services specifically excluded from the consolidated billing requirements;
  - Confirm that the vendor or its subcontractors will ensure we are provided with any necessary orders or certifications to provide the service in order to receive payment from Medicare for such service.
- Comply with all provisions required by federal and state healthcare programs, laws, and regulations. The law contains several "safe harbors" that provide protection from prosecution for certain transactions and business practices with further guidelines provided in 42 C.F.R. § 1001.952. Please consult with the Compliance Officer or the Pennant Services Legal & Risk Department for further information regarding "safe harbor" arrangements.

This list is not exhaustive, but it is the minimum required.

Billing

We are committed to prompt, complete and accurate billing of all services for payment by residents/patients, government agencies or other third party payors. Billing will occur only for services actually provided and which complied with all terms and conditions specified by the government or private payor, or which are consistent with industry practice.

False Claims and Statements

False claims and billing fraud may take a variety of forms, including false statements supporting claims for payments, misrepresentation of material facts, concealment of material facts, or theft of benefits or payments from the party who is entitled to receive it.

Any person in any way affiliated with us must specifically refrain from:

- Billing for services not actually provided as claimed or for unnecessary services;
- Fraudulently changing procedure or diagnosis codes;
- Brand-name billing for generic drugs;
- Billing for services provided by unlicensed practitioners;
- Billing prior to Outcome and Assessment Information Set "OASIS" submission and acceptance from CMS;
- Billing for services that do not meet Medicare or Medicaid program requirements, such as the requirement that all services be "reasonable and necessary";
- Improperly or inaccurately completing assessments or any other forms that are used to determine payment amount.

Employees are strictly prohibited from making or submitting false or misleading entries on any bills or claim forms and from participating in any arrangement that results in those acts.

Preventing Fraud and Abuse

Fraudulent Financial or Accounting Practices

If you, or anyone you come into contact with through your employment, have reason to believe that our personnel or any person or business associated with us is engaging in false billing practices or improper or fraudulent accounting activities, you are required to immediately report the practice to the Pennant Compliance Hotline.

Positions that have financial or accounting responsibilities are prohibited from engaging in:

- Fraudulent or false accounting/record keeping entries;
- Waiving the co-payment of a Medicare beneficiary;
- Misuse of resident/patient trust funds;
- Transactions or contracts between us and any manager, supervisor, employee or their family members;
- Transactions or contracts obligating us to perform services or make payments, but directing the benefit for such services or payments to a different entity or person;
- Unauthorized impairment or write-off of assets that causes a material loss;
- Unauthorized payments of money to any organization or person, including payments of wages not earned.

Laws Prohibiting False Claims and Statements

Because we receive money from government health programs, we are required to follow strict legal requirements regarding the way we do business. Our failure to observe these rules and regulations could cause the government to refuse to do business with us which would jeopardize our ability to continue to operate.

Under the Deficit Reduction Act of 2005, a health care entity is required to provide all employees with information regarding the federal False Claims Act and similar state laws, an employee's right to be protected as a whistleblower, and our programs, policies and procedures for detecting and preventing fraud, waste, and abuse.

One of the primary purposes of the false claims act legislation is to combat fraud and abuse in government healthcare programs. False claims laws do this by allowing the government to bring civil actions to recover damages and penalties when healthcare providers submit claims based on false information. Some of these laws also permit lawsuits to be brought by lay people, referred to as "whistleblowers," with knowledge of alleged violations of false claims acts.

The Federal False Claims Act and Similar Laws

The federal False Claims Act (FCA) applies to fraud against the federal government through the federal healthcare programs, including Medicare or Medicaid purchases, as well as to government purchases and contracts. Actions that violate the FCA include: (1) submitting a false claim for payment, (2) making or using a false record or statement to obtain payment for a false claim, (3) conspiring to make a false claim or get one paid, or (4) making or using a false record to avoid payments owed to the United States Government. The FCA extends to those who have actual knowledge of the information as well as those who act in deliberate ignorance or in reckless disregard of the truth or falsity of information.

Examples of a false claim include submitting a claim for a service that was not rendered or billing for services which are not documented or supported in the resident/patient's medical record. Penalties include fines from $10,781 to $21,563 per false claim, payment of treble damages, payment of the costs of suit for recovery, and exclusion from participation in federal healthcare programs.

Laws Prohibiting False Claims and Statements

The FCA includes a whistleblower provision, which allows someone with actual knowledge of alleged FCA violations to file suit on the federal government's behalf. After the whistleblower files suit, the case is kept confidential while the United States Attorney General conducts an investigation to determine whether it has merit. The federal government may decide to take over the case. If so, the whistleblower receives between 15 and 25 percent of any recovery, plus attorney's fees and costs, depending on his or her contribution to the case. If the federal government declines to take over the case, the whistleblower may still pursue the suit. A whistleblower who prevails may receive between 25 and 30 percent of the amount recovered on the federal government's behalf as well as attorney's fees and costs.

The Program Fraud Civil Remedies Act of 1986 (PFCRA) provides administrative remedies for knowingly submitting false claims or making false statements. A false claim or statement includes submitting a claim or making a written statement that is for services that were not provided, or that asserts a material fact that is false, or that omits a material fact. A violation of the PFCRA results in a maximum civil penalty of $11,180 per claim plus an assessment of up to twice the amount of each false or fraudulent claim. The PFCRA is enforced through the federal agency that oversees the government program to which the false claim or statement was made.

State Specific Laws

For Arizona, California, Colorado, Idaho, Iowa, Nevada, Oklahoma, Oregon, Texas, Utah, Washington, Wisconsin and Wyoming, see **Appendix A**.

Employee Rights to be Protected as a Whistleblower

The federal False Claims Act (FCA) protects employees from retaliation if they, in good faith, report fraud. Employees are protected against retaliation such as being fired, demoted, threatened or harassed as a result of the employee's investigation or initiation of, testimony for, or assistance in a FCA action that has or will be filed. An employee who suffers retaliation can sue, and may receive up to twice his or her back pay, plus interest, reinstatement at the seniority level he or she would have had if not for the retaliation, and compensation for his or her costs or damages. This law does not insulate the employee from disciplinary action if it turns out that he or she is involved in the reported wrongdoing.

State Specific Provisions

For Arizona, California, Colorado, Idaho, Iowa, Nevada, Oklahoma, Oregon, Texas, Utah, Washington, Wisconsin and Wyoming, see **Appendix B**.

Furthermore, our policies require employees, contractors and agents with knowledge of potential fraud or violations of federal or state law to report such conduct. Retaliation for making a truthful report of suspected unlawful activities is strictly prohibited.

Our Policies and Procedures Preventing Fraud, Waste and Abuse

We are fully committed to compliance with all laws and regulations that apply to its business and has various policies and procedures in place for preventing and detecting fraud, waste, and abuse. These policies and procedures include this Code, and the overall Compliance Program. You may request copies of these policies or the Compliance Program from the Compliance Officer or the Pennant Service Center at (208) 506-6100. Our employees or anyone with a compliance concern may contact any member of our Compliance Team or the Pennant Compliance Hotline for guidance or to initiate an investigation.
In addition, our Compliance Team periodically audits us and all Pennant-affiliated companies to ensure compliance with applicable laws, regulations and internal policies and procedures designed to prevent fraud, waste and abuse.

How to Handle Gifts and Business Entertainment

Because of our unique role as a health care provider, the act of accepting gifts, tips or anything of material value from a resident/patient or their family member, vendor, competitor or others with whom we do business or may potentially do business may create the impression that the gift improperly influenced our judgment in rendering care or providing services. As a result, neither you nor your family members may give or accept anything of material value except under the limited circumstances described on this and the following pages.

Resident/Patient Gifts

- Gifts of cash or cash equivalents such as gift cards to/from a resident/patient are never allowed.
- We, and this includes all of our employees, are prohibited from accepting any gifts, tips, hospitality, or entertainment in any amount from or on behalf of a resident/patient. Consumable gifts given to a department or group are permitted. Examples include a resident's/patient's family providing baked goods or a box of candy to the staff.
- Under no circumstances may anyone solicit a gift of any kind, or show or imply special favoritism to a resident/patient who, or whose family, provides the gift.
- Gifts to/from a resident/patient or their family given as an inducement to admit the resident/patient are never permitted.
- Memorials and bequests made to all employees or to our operation may be accepted so long as the purpose is proper. Neither employees nor their family members may request memorials and bequests from our residents/patients, current or former.
- Gifts may be made to residents/patients who have no regular visitors or with limited or no personal funds on holidays, birthdays or for the resident's/patient's comfort or psychosocial well-being. Examples are clothes, personal supplies, or food.

How to Handle Gifts and Business Entertainment

Business Gifts

Employees are discouraged from accepting gifts from our business partners.

- Employees are not permitted to solicit, require, receive or accept from any person or entity, or offer or give to any person or entity, any gift or other item of a material value if that person or entity is in a position to refer business to us.
- Non-monetary gifts of nominal value that are a customary token of appreciation of a business relationship by a person or entity that does business with us may be accepted or given on an infrequent basis. Examples would be a coffee mug, pens or a calendar given or received once or twice per year.
- Gifts of cash are never allowed. Because gift cards may be used like cash, they should not be accepted or provided.
- Gifts known or understood to be given to specifically induce or reward a referral of a resident/patient, services for a resident/patient or goods and services paid for by any federal health care program are never permitted.

Business Entertainment

You may be invited to attend a social event by a current or potential business partner in order to further develop a professional relationship. You may accept an invitation or invite a current or potential business partner if:

- The event is reasonable and customary (such as a restaurant meal). An all-expense paid vacation is not reasonable and customary.
- No travel expenses are involved (such as airfare and lodging).
- Employees may not solicit an invitation to a social event from a business partner and employees must refuse solicitations of invitations by a business partner.
- Events should occur infrequently and are limited to four times per year from or to the same business partner, unless approved in advance by the Compliance Officer.
- You may attend business meetings where food and beverages are provided; however, business must be discussed.

Training Events

Sometimes a vendor or supplier will invite you to participate in a training or educational activity, and will offer to pay for all travel and related expenses. As a general matter, you must refuse this type of invitation; acceptance may create the appearance of impropriety. If you have an actual need you can identify for the proposed trip, obtain prior approval from your operation's leader or the Compliance Officer.

All leaders must consult the Compliance Officer if in doubt about whether a gift, event or expense is appropriate.

We expect all of our contractors and vendors to comply with these guidelines and never offer or accept anything that may violate these standards.

Business Expenses

Our core values call upon us to be good and honest stewards of expenses. Some individuals are required to purchase items on behalf of the company, including travel and meal expenses. At times, these individuals may be issued a company credit card.

Purchases must be business-related and may not include items for personal use. Please do not purchase any product, service or use any merchant that may be considered inappropriate for payment using company funds.

Receipts with line item detail must be obtained and submitted for all business expenses over $25. Expense reports must be submitted within the month following the business expense. Company credit card users are required to use the online system to reconcile their business expenses. Those without a credit card may submit expenses through the online system with proper documentation. Employees are expected to reconcile company credit card statements and expense reports honestly and truth fully and shall include a brief description of the purpose of the expense.

Technology Use Expectations

Technologies such as voicemail, computers, software, e-mail and Internet access are provided for business purposes only.

We may have a legitimate business need to access, review, copy, move or delete the content and information carried by these technologies at any time and without notice, and retain the right to do so. We do not guarantee your privacy when using these resources, therefore, you should not have an expectation that your information, writings or communications will be private.

All workplace guidelines, including those in our Employee Handbook, apply to the use of technology. These include the guidelines concerning harassment and discrimination, sexual harassment and violence in the workplace. Discriminatory and/or inappropriate behavior when using these technologies will not be tolerated. Our **Information Systems Policies and Procedures** will help guide you.

Our Commitment to You

Another one of our core values is the concept "***customer second***". This means we put our employees first so that they are empowered and inspired to provide the best possible care to our residents/patients. The Employee Handbook details specific information regarding employee benefits and services. The following areas are our compliance commitment to you so that you understand what to expect from us.

Education and Training

New employees shall receive compliance education about this Code within 30 days of their hire date as part of the new employee orientation program. All employees shall be re-educated about the standards contained in this Code on an annual basis. If you do not receive this training, please contact the Pennant Compliance Hotline or a member of the Compliance Team.

You are expected to participate in education and training programs at least annually, which may include job-specific training on the relevant state and federal laws, rules and regulations. Additional specific education may occur as necessary to comply with a corrective action plan or to address recent changes in applicable laws or regulations. Training programs may include, but not be limited to, such topics as:

- Job specific overview of compliance policies and procedures for implementing the policies, focusing on the policies and procedures applicable to each employee's job responsibilities;
- Compliance with Medicare and Medicaid requirements of participation relative to specific functions, if applicable;
- Your duties and obligations as an employee of a covered entity under the Health Insurance Portability and Accountability Act (HIPAA);
- The personal obligation of each employee involved in patient care, documentation or reimbursement processes to ensure that such information is accurate;
- Claims submission requirements;
- Prohibiting bribes or kickbacks;
- Resident/patient rights;
- Duty to report actual or suspected abuse, misconduct or crimes against residents/patients;
- Fraud and abuse laws, including procedures for detecting and preventing fraud, waste, and abuse in state and federal health care programs;
- Other topics required by state and federal law.

Our Commitment to You

We take our obligation to train and educate our employees seriously on issues of compliance and the role it plays in its overall operation. Therefore, you are required to participate in these training programs as a condition of your continued employment.

Participation in these training programs is required for some contractors and vendors. This process is managed by the Pennant Service Center. These contractors and vendors must also receive a copy of this Code and are expected to comply with all of its provisions.

Nondiscrimination and Harassment

We are committed to the principles of equal employment opportunity and do not discriminate on the basis of any protected classification. Our policies governing these concepts may be found in the "**Preventing Discrimination, Harassment and Retaliation**" section of our Employee Handbook. Suspected discrimination, harassment and retaliation must be reported so that it may be investigated and corrective action taken, if necessary. Please use the reporting procedures set forth herein or contact the Pennant Human Resources Department directly at (208) 506-6100.

Your Privacy

We respect your privacy and take great care to protect your personal information. The Health Insurance Portability and Accountability Act (HIPAA) exists to control the use and disclosure of protected health information and your rights with respect to your health information. We typically have very little, if any, of your protected health information, such as the results of physical examinations or documents related to a workplace injury. However, we want to communicate how we protect your privacy.

We limit access to your personal information, including any protected health information we may process, and ensure that proper destruction of records occurs periodically as stated in our "**Record Retention Policy.**"

Conclusion

We hope you have found this Code useful and welcome your feedback and suggestions.

This Code covers a wide range of topics. It is intended to offer a framework to help you make good decisions that are compliant with our policies and the law in connection with your employment. However, no manual or guidebook can address every possible situation that may implicate these standards. Please ask questions if you are ever unsure about how to proceed.

Appendix A

ARIZONA STATE LAW

Submitting false claims to the state Medicaid program is illegal under Arizona Revised Statutes (A.R.S.) § 36-2918. The statute prohibits, in pertinent part, presenting or causing to be presented a claim for payment: (1) for a medical or other item or service that a person knows or has reason to know was not provided as claimed; (2) for a medical or other item or service that the person knows or has reason to know is false or fraudulent; and (3) that may not be made by the system because (i) the person or entity providing the service was terminated or suspended from participation in the program on the date for which the claim is being made; (ii) the item or service claimed is substantially in excess of the needs of the individual or of a quality that fails to meet professionally recognized standards of health care; or (iii) the patient was not a member on the date for which the claim is being made.

The Arizona Health Care Cost Containment System (AHCCCS) decides the amount of penalties or assessments imposed on a provider for violations of A.R.S. § 36-2918. False claims submitted to the state Medicaid program also may result in criminal prosecution. If convicted, the provider could be found guilty of a class 5 felony.

Arizona law further requires that providers of services under the state Medicaid program self-report, in writing, cases of suspected fraud to the Director of AHCCCS. The report is reviewed by AHCCCS and may be referred to the state attorney general. Anyone making a complaint or report in good faith is immune from civil liability by reason of that action unless that person has been charged with or is suspected of the violation reported.

Unlike the federal False Claims Act, Arizona law does not include a whistleblower provision allowing individuals with knowledge of false claims to the state Medicaid program to bring civil lawsuits to recover monetary penalties and damages.

CALIFORNIA STATE LAW

The California False Claims Act (CFCA) applies to fraud involving state, city, county or local government funds, including funding for the California state health care program, Medi-Cal. (Cal. Gov't Code §§ 12650-12655.) Actions that violate the CFCA include: (1) knowingly submitting a false claim for payment, (2) knowingly making or using a false record to get a false claim paid, (3) conspiring to make a false claim or get one paid, or (4) making or using a false record to avoid payments owed to state or local government. The CFCA extends to those who have actual knowledge of the information as well as those who act in deliberate ignorance or in reckless disregard of the truth or falsity of information. In addition, anyone who benefits from a false claim that was mistakenly submitted violates the CFCA if he or she does not disclose the false claim to the state or local government within a reasonable time after discovery.

Penalties include payment of treble damages to the state or local government, payment of the costs of suit for recovery, and a maximum civil penalty of up to $10,000 for each false claim.

The CFCA includes a whistleblower provision, which allows someone with actual knowledge of alleged CFCA violations to file suit on the state or local government's behalf. After the whistleblower files suit, the case is kept confidential while the State Attorney General conducts an investigation to determine whether it has merit. The state or local government may decide to take over the case. If so, the whistleblower receives between 15 and 33 percent of any recovery, plus attorney's fees and costs, depending on his or her contribution to the case. If the state or local government declines to take over the case, the whistleblower may still pursue the suit. A whistleblower who prevails may receive between 25 to 50 percent of the amount recovered on the government's behalf as well as attorney's fees and costs.

Appendix A

COLORADO STATE LAW

The Colorado False Medicaid Claims Statute applies to Medicaid reimbursements and prohibits persons or companies from making or causing to be made false or fraudulent claims to the government for payment or knowingly making, using or causing to be made or using a false record or statement to get a false or fraudulent claim paid by the government. Therefore, this law prohibits conduct such as:

- Billing Colorado's Medicaid program for services or goods not provided;
- Billing Colorado's Medicaid program for undocumented services;
- Making false or inaccurate entries in resident medical records and any other documentation used to support reimbursement;
- Billing Colorado's Medicaid program for unnecessary services;
- Describing non-covered services in a manner that would qualify for reimbursement from Colorado's Medicaid program;
- Assigning incorrect codes to a service in order to obtain increased reimbursement;
- Failing to seek payment from beneficiaries who have other primary payment sources;
- Participating in kickbacks or rebates;
- Failing to maintain, or destroying, medical records or other documentation that support Medicaid reimbursement.

A person or entity convicted of violating Colorado's False Medicaid Claims Statute is subject to civil penalties of between $5,000 and $50,000 per claim or twice the amount of all medical assistance received. Suspension from Colorado's Medicaid program is also possible. Criminal penalties of fines and imprisonment for up to eight years also apply.

IOWA STATE LAW

Submitting false claims to Medicaid also violates the Iowa Medical Assistance Act. Iowa law imposes liability on any person who, with intent to defraud or deceive, makes, or causes to be made or assists in the preparation of any false statement, representation, or omission of a material fact in any claim or application for any payment, regardless of amount, from the Medicaid Agency, knowing the same to be false.

Violations may result in restitution of the overpayments and other sanctions, including suspension of payments for services, suspension or termination from the Medicaid program, and referral to state and federal authorities for prosecution. In addition, any person who violates these laws could be committing a felony punishable by imprisonment for up to ten years and a fine not to exceed $10,500.

Unlike the FCA, Iowa law does not permit individuals to bring civil lawsuits to recover monetary damages for violations of the Iowa Medical Assistance Act. Only the state government may bring such actions.

Appendix A

IDAHO STATE LAW

The Idaho Public Assistance Law (IPAL) applies to fraud or abuse of funds in the state Medicaid program (Idaho Code Ann. §§ 56-227, 56-227A and 56-227B.) The IPAL prohibits, in pertinent part: (1) presenting or causing to be made a false, fictitious, or fraudulent claim for a medical benefit, (2) presenting or causing to be made a claim for a medical benefit for services which were not rendered or for items or materials that were not delivered, and (3) presenting or causing to be made a claim for medical benefit which misrepresents the type, quality, or quantity of items or services rendered.

A person or organization that commits violations of the IPAL is liable to the state for civil penalties including restitution of the amount paid as a result of the violation plus interest and civil damages equal to three times the amount of the overstated claim. Additionally, a person or entity violating the Act has committed a felony criminal act punishable by a fine or imprisonment.

The Idaho Department of Health and Welfare or the state Attorney General's office investigate and prosecute actions under the IPAL.

Unlike the federal False Claims Act, the IPAL does not include a whistleblower provision allowing individuals with knowledge of IPAL violations to bring civil lawsuits to recover monetary penalties and damages.

NEVADA STATE LAW

Submitting false claims to the state Medicaid program or any state program is illegal under the Nevada False Claims Act (the "NFCA"). The statute, Nev. Rev. Stat. § 357.040 prohibits, in pertinent part, (1) knowingly presenting or causing to be presented a false claim for payment; (2) knowingly making, using or causing to be made or used, a false record or statement to obtain payment or approval of a false claim; (3) conspiring to defraud the state by obtaining payment or approval by the state of a false claim; (4) being a beneficiary of an inadvertent submission of a false claim and after discovering the falsity of the claim fails to disclose the falsity to the state within a reasonable time.

Penalties include a civil penalty of not less than $5,000 or more than $10,000 for each act, plus three times the amount of damages sustained by the state because of the act and the costs of a civil action brought to recover those damages. The Nevada Attorney General is required to investigate any alleged liability pursuant to the NFCA and may bring a civil action pursuant to the NFCA against the person liable.

A private person may bring a civil action for a violation of the NFCA on his own behalf and on account of the state and may be entitled to receive not less than 15% or more than 50% of any recovery, as the court determines to be reasonable, plus a reasonable amount for expenses necessarily incurred, including reasonable costs and attorney's fees.

In addition, Nevada law imposes penalties on persons making false claims or representations to secure payment specifically from the state Medicaid program. Under Nev. Rev. Stat. § 422.540 a person, with the intent to defraud, commits an offense if (1) he makes a claim or causes it to be made, knowing the claim to be false, in whole or in part, by commission or omission; (2) makes or causes to be made a statement or representation for use in obtaining or seeking to obtain authorization to provide specific goods or services, knowing the statement or representation to be false, in whole or in part, by commission or omission; (3) makes or causes to be made a statement or representation for use by another in obtaining goods or services pursuant to the state Medicaid program, knowing the statement or representation to be false, in whole or in part, by commission or omission; or (4) makes or causes to be made a statement or representation for use in qualifying as a provider, knowing the statement or representation to be false, in whole or in part, by commission or omission.

If the violation involves a claim or value of goods or services greater than or equal to $250, the offense is a Category D felony punishable by imprisonment of not less than 1 year or more than 4 years, with a possible fine of not more than $5,000. If the offense involves less than$250, the offense is a misdemeanor punishable by imprisonment of not more than 6 months or by a fine of not more than $1,000, or both.

Appendix A

OKLAHOMA STATE LAW

The Oklahoma Medicaid False Claims Act ("OMFCA") makes it unlawful for any person to: (a) knowingly present a false or fraudulent claim for payment or approval to an officer of the State, or a contractor or other recipient if the money is to be used on the State's behalf; (b) knowingly make, use, or cause to be made or used a false record or statement that is material to a false or fraudulent claim; (c) have control of money or property used or to be used by the state and knowingly deliver or cause to be delivered less than all of such money or property; (d) be authorized to make or deliver a document certifying receipt of property used by the State and intentionally make or deliver the receipt without completely knowing that the information on the receipt is true; (e) knowingly make, use, or cause to be made or used, a false record or statement that is material to an obligation to pay or transmit money or property to the State; or (f) conspire to commit a violation of the OMFCA. A violator of the OMFCA may be subject to a civil penalty that is not less than $5,500 and not more than $11,000, plus three times the amount of damages the State sustains because of the fraudulent act. See Okla. Stat. tit. 63, § 5053.1(B).

The Oklahoma Attorney General will investigate violations of OMFCA and may bring a civil action against a person found to be in violation. The OMFCA also includes a qui tam provision through which an individual may be awarded a percentage of the proceeds of the action if that person substantially contributed to the action and the State chose to pursue the claim. If the information was available through another source, such as an administrative hearing or news media, the whistleblower may recover less than he or see would other. See Okla. Stat. tit. 63, § 5053.2, §5053.

OREGON STATE LAW

The Oregon False Claims Act (OFCA) applies to fraud or abuse of funds in the state Medicaid program (Utah Code Ann. §§ 26-20-1 to 25-20-15.) The OFCA prohibits, in pertinent part: (1) presenting or causing to be made a false, fictitious, or fraudulent claim for services, (2) presenting or causing to be made a claim for services which were not rendered, items or materials that were not delivered or services that were medically unnecessary, and (3) presenting or causing to be made a claim which misrepresents the type, quality, or quantity of items or services rendered.

A person or organization that commits violations of the OFCA is liable to the state for civil penalties including restitution of the amount paid as a result of the violation, payment of the costs of enforcement, a civil penalty equal to three times the amount of damages.

Unlike the federal False Claims Act, the OFCA does not include a whistleblower provision allowing individuals with knowledge of UFCA violations to bring civil lawsuits to recover monetary penalties and damages.

Appendix A

TEXAS STATE LAW

The Texas False Claims Act (TFCA) applies to fraud or abuse of funds in the state Medicaid program (Tex. Gov't. Code Ann. §§ 531.101-531.108 and Tex. Hum. Res. Code Ann. § 32.039) The actions that trigger civil penalties under the TFCA include: (1) submitting a false claim for payment, (2) offering or receiving, directly or indirectly, any remuneration for securing or soliciting a patient, (3) offering or receiving, directly or indirectly, any remuneration for purchasing, leasing, ordering, or recommending such purchase, lease or order, of any good, facility, service, or item for which payment may be made under the state Medicaid program (or inducing another to do so), (4) offering or receiving, directly or indirectly, any remuneration for referring an individual to a person for the furnishing of any item or service for which payment may be made under the state Medicaid program (or inducing another to do so), and (5) providing, offering, or receiving an inducement for the purpose of influencing or being influenced in a decision regarding selection of a provider or receipt of a good or service under the state Medicaid program, the use of goods or services provided under the state Medicaid program, or the inclusion or exclusion of goods or services available under the state Medicaid program.

A person or organization that commits violations of the TFCA is liable to the state for restitution of the amount paid as a result of the violation, payment of an administrative penalty not to exceed twice the amount paid, and a penalty of $5,000 to $15,000 for each violation that results in an injury to a disabled person, an elderly person, or a person younger than 18 years of age. If the violation does not result in such injury, the law requires a civil penalty of $5,000 to $10,000 for each violation and damages of two times the amount of the payment.

The TFCA includes a whistleblower provision which allows someone who reports TFCA violations to the Texas Office of the Inspector General to receive an award not to exceed five percent of the amount of the administrative penalty imposed that resulted from the individual's disclosure.

THE TEXAS MEDICAID FRAUD PREVENTION LAW

The Texas Medicaid Fraud Prevention Law (FPL) applies to fraud by health care providers participating in the Medicaid Program. (Tex. Hum. Res. Code Ann. §§ 36.001-36.008; 36.051-36.055; 36.101-36.117; 36.132) Actions that violate the FPL include: (1) making a false statement or concealing information that affects the right to a Medicaid benefit or payment, (2) submitting a claim for Medicaid payment for a product or service rendered by a person who is not licensed to provide that product or service or fails to indicate the license of the practitioner who actually performed the service. (3) submitting a claim for a service or product that has not been approved by the treating health care practitioner, or (4) conspiring to defraud the state by obtaining an unauthorized payment from the Medicaid program or its fiscal agent. The FPL extends to those who have actual knowledge of the information as well as those who act in deliberate ignorance or in reckless disregard of the truth or falsity of information.

Penalties include restitution of the value of any Medicaid payment plus interest, damages of two times the value of the payment, and a civil penalty of $5,000 to $15,000 for each violation that results in an injury to a disabled person, an elderly person, or a person younger than 18 years of age. If the violation does not result in such injury, the law requires a civil penalty of $5,000 to $10,000 for each violation and damages of two times the amount of the payment.

Appendix A

UTAH STATE LAW

The Utah False Claims Act (UFCA) applies to fraud or abuse of funds in the state Medicaid program (Utah Code Ann. §§ 26-20-1 to 25-20-15.) The UFCA prohibits, in pertinent part: (1) presenting or causing to be made a false, fictitious, or fraudulent claim for a medical benefit, (2) presenting or causing to be made a claim for a medical benefit for services which were not rendered or for items or materials that were not delivered, and (3) presenting or causing to be made a claim for medical benefit which misrepresents the type, quality, or quantity of items or services rendered.

A person or organization that commits violations of the UFCA is liable to the state for civil penalties including restitution of the amount paid as a result of the violation, payment of the costs of enforcement, a civil penalty equal to three times the amount of damages and not less than $5,000 or more than $10,000 for violation of the Act. Additionally, a person violating the Act has committed a criminal act punishable by a fine or imprisonment. A corporation violating the Act is subject to a fine not to exceed $20,000 and additional sanctions including advertising the conviction and disqualifying the officers from serving in a similar capacity for another company for up to five years.

The Utah Department of Health investigates civil violations of the Act and refers suspected civil and criminal violations to the state Attorney General for investigation and prosecution.

Unlike the federal False Claims Act, the UFCA does not include a whistleblower provision allowing individuals with knowledge of UFCA violations to bring civil lawsuits to recover monetary penalties and damages.

WASHINGTON STATE LAW

The Washington Health Care False Claim Act (HCFCA) applies to fraudulent health care claims made to either a private or government health care payor (Rev. Code Wash. §§ 48.80.010 – 48.90.900.) Under the HCFCA it is unlawful to: (1) make or present or cause to be made or presented to a health care payer a claim for a health care payment knowing the claim to be false; (2) knowingly present to a health care payer a claim for a health care payment that falsely represents that the goods or services were medically necessary in accordance with professionally accepted standards; (3) knowingly make a false statement or false representation of a material fact to a health care payer for use in determining rights to a health care payment; (4) conceal the occurrence of any event affecting a continued right under a contract, certificate, or policy of insurance to have a payment made by a health care payer for a specified health care service; (5) conceal or fail to disclose any information with intent to obtain a health care payment to which one is not entitled, or to obtain a health care payment in an amount greater than that which one is entitled; and (6) for a provider to willfully collect or attempt to collect an amount from an insured knowing that to be in violation of an agreement or contract with a health care payor to which the provider is a party.

A person or organization that violates the HCFCA is guilty of a class C felony and regulatory and disciplinary agencies will be notified of the conviction.

Unlike the federal False Claims Act, the HCFCA does not include a whistleblower provision allowing individuals with knowledge of HCFCA violations to bring civil lawsuits to recover monetary penalties and damages.

Appendix A

WISCONSIN STATE LAW

The Wisconsin Medical Assistance Offenses statute and other Wisconsin laws impose liability on persons or companies that make or cause to be made false or fraudulent claims to the government for payment or who knowingly make, use or cause to be made or used, a false record or statement to get a false or fraudulent claim paid by the government. These Wisconsin laws apply to Medicaid reimbursement and prohibit, among other things:

- Billing Wisconsin's Medicaid program for unnecessary services;
- Describing non-covered services in a manner that would qualify for reimbursement from Wisconsin's Medicaid program;
- Assigning incorrect codes to a service in order to obtain increased reimbursement;
- Billing Wisconsin's Medicaid program for services or goods not provided;
- Billing Wisconsin's Medicaid program for undocumented services;
- Billing Wisconsin's Medicaid program for services that are medically unnecessary;
- Characterizing non-covered services or costs in a way that secures reimbursement from Wisconsin's Medicaid program;
- Assigning an incorrect code to a service in order to obtain a higher reimbursement;
- Failing to seek payment from beneficiaries who may have other primary payment sources;
- Participating in kickbacks or rebates;
- Accepting any gift, money, donation or other compensation from a Medicaid beneficiary or his or her family;
- Altering, falsifying, destroying, or concealing medical records, income and expenditure reports or any other records that support Medicaid reimbursement;

Civil and Criminal Penalties for False Claims or Statements

A violation of these Wisconsin laws may result in restitution for any improper payment and a civil penalty of up to $15,000 for each false statement, plus three times the amount of excess payments, payment of the government's expenses to remedy the harmful effects of the violation, and suspension or termination from the Medicaid program. In addition, a person who makes a false claim in connection with furnishing items or services under the Wisconsin medical assistance program in violation of this law commits a crime punishable by imprisonment of up to six years and/or a fine up to $25,000.

Civil Lawsuits

Currently, unlike the Federal False Claims Act, Wisconsin law allows civil lawsuits to recover monetary damages to be filed only by the state government and not by private citizens or employees. There is no provision for a private citizen to share a percentage of any monetary recoveries.

Self-Report

Employee must self-report any knowledge of any governmental investigations for any offense or any criminal charges or convictions brought against employee during employment. Self-report should be made no later than next working day.

WYOMING STATE LAW

The Wyoming Medicaid False Claims Act (WMFCA), WSA 42-4-301 et. seq., prohibits a party from knowingly submitting a false claim under the state's Medicaid program. It further requires a party to report and repay, within 90 days of discovery, any false claim.

Penalties for violation of the WMFCA include repayment of the claim, treble damages (3 times the amount of the claim), and civil penalties of up to $10,000.

Appendix B

ARIZONA

The Arizona Employment Protection Act (A.R.S. § 23-1501) establishes a claim for termination of employment against an employer who terminates an employee in retaliation for the employee reporting their reasonable belief that the employer has violated or will violate Arizona law and that report is made to either their employer or to an employee of a public body or political subdivision of Arizona or any agency thereof. An employee who suffers retaliation can sue and be awarded statutory or tort damages which may include back pay, plus interest, reinstatement at the seniority level he or she would have had if not for the retaliation, and compensation for his or her special damages suffered as a result of the retaliation, including costs of litigation and reasonable attorney's fees. This law does not insulate the employee from disciplinary action if it turns out that he or she is involved in the reported wrongdoing.

CALIFORNIA

The California False Claims Act (CFCA) similarly protects employees from retaliation if they, in good faith, report fraud. Employees are protected against retaliation such as being fired, demoted, suspended, threatened, harassed, or in any other manner discriminating against an employee as a result of his or her involvement in a CFCA action. An employee who suffers retaliation can sue, and may receive up to twice his or her back pay, plus interest, reinstatement at the seniority level he or she would have had if not for the retaliation, and compensation for his or her costs or damages, and punitive damages if appropriate. This law does not insulate the employee from disciplinary action if it turns out that he or she is involved in the reported wrongdoing.

The California Health and Safety Code (Cal. Health & Safety Code § 1278.5) also prohibits health facilities from retaliating or discrimination against a patient, an employee or any other member of its staff because that person has presented or initiated a complaint, or initiated, participated, or cooperated in an investigation or proceeding of a government entity relating to the quality of care, services, or conditions of the facility or presented a grievance, complaint, or report to an entity or agency responsible for accrediting or evaluating the facility. An employee who suffers such retaliation or discrimination can sue, and may be entitled reinstatement, reimbursement of lost wages and work benefits caused by the act of the employer, or to any remedy deemed warranted by the court. A prevailing employee may also receive reimbursement for his or her legal costs in pursuing the case. This law does not insulate the employee from disciplinary action if it turns out that he or she is involved in the reported wrongdoing.

Appendix B

COLORADO

The Colorado Healthcare Workers Protection Law (Colo. Rev. Stat. § 8-2-123) also protects certified, registered or licensed employees who make good faith reports or disclosures concerning patient care or safety. The Colorado Healthcare Workers Protection Law requires that the employee first utilize the employer's internal reporting procedures before making a report to a government agency to provide an opportunity to correct the improper conduct.

In addition, Colo. Rev. Stat. §§ 26-3.1-102(6) and 26-3.1-204(6) forbid discriminatory, or retaliatory action against any person who, in good faith, reports of suspected mistreatment or neglect or known or suspected financial exploitation of an at-risk adult. Furthermore, the Facility's Non-Retaliation Policy protects all employees who make any compliance complaints, including good faith reports or disclosures concerning patient care, safety or because of their participation in any investigatory proceeding.

IDAHO

Idaho has not enacted similar legislation to prohibit private employers from taking disciplinary or retaliatory action against an employee who makes a lawful report of a violation of state or federal law. However, the Facility's policies require its employees, contractors and agents with knowledge of potential fraud or violations of federal or state law to report such conduct. Retaliation for making a truthful report of suspected unlawful activities is strictly prohibited.

IOWA

The Iowa False Claims Act (Iowa Code 70A.28, et seq.) prevents an employer from taking an adverse action against an employee who discloses information they reasonably believe evidences a violation of law or rule, mismanagement, gross abuse of funds, abuse of authority, or a substantial and specific danger to public health or safety, unless the employee's disclosure is prohibited by statute.

NEVADA

The NFCA provides whistleblower protections similar to the False Claims Act.

OKLAHOMA

Oklahoma law prevents employers from discriminating or taking adverse actions against an employee who reports a violation of state or federal law, rule, or policy or a danger to public health and safety. See 40 OK Stat. § 402, et. seq. and 74 OK Stat. § 840-2.5.

OREGON

Oregon law prohibits employers from retaliating, discriminating or harassing employees because of their good faith disclosure of information about a violation of a law or rule or a violation that poses a risk to public or patient health, safety or welfare, or their refusal to assist employers in activity that the employee reasonably believes is in violation of a law or rule. Oregon law also prohibits employers from discriminating against any employee who in good faith reports criminal activity or who cooperates with law enforcement in an investigation or at trial. These Oregon employee protection laws provide for both administrative and civil remedies which may include monetary awards for actual damages and punitive damages.

In addition, the Oregon Hospital Anti-Retaliation Law, unlike the other laws, requires any nursing staff to notify his/her employer in writing of any suspected illegal activity, policy or practice before disclosing it to the appropriate government agency. The purpose of this particular requirement is to give the employer a reasonable opportunity to correct the activity, policy or practice. This notice requirement does not apply to disclosures that the employee reasonably believes to be a crime or where the employee reasonably fears physical harm as a result of the disclosure or where an emergency exists.

These laws do not insulate an employee from disciplinary action if it turns out that he or she is involved in the reported wrongdoing.

Appendix B

TEXAS

The FPL, mentioned above, includes a whistleblower provision, which allows someone with actual knowledge of alleged FPL violations to file suit on the state or local government's behalf. After the whistleblower files suit, the case is kept confidential while the State Attorney General conducts an investigation to determine whether it has merit. The state may decide to take over the case. If so, the whistleblower receives between 15 and 25 percent of any recovery depending on his or her contribution to the case. If the state does not take over the case, the whistleblower receives between 25 and 30 percent of any recovery.

UTAH

Utah does not have a general whistleblower statue that applies to private (non-governmental) employees. Utah law does, however, prohibit an employer from discharging or discriminating in any manner against an employee who reports or complains of a violation of Utah's Occupational Safety & Health Act (Utah OSHA.) (See Utah Code § 43A-6-203.)

WASHINGTON

Washington has also enacted legislation protecting whistleblowers who make good faith reports to the government about suspected abandonment, abuse, financial exploitation or neglect of a vulnerable adult from workplace reprisal or retaliatory action. (Rev. Code Wash. §§ 74.34.180.)

Furthermore, the Facility's Non-Retaliation Policy protects all employees who make any compliance complaints, including good faith reports or disclosures concerning patient care, safety or because of their participation in any investigatory proceeding.

WISCONSIN

Similar to Federal law and Society policy, Wisconsin law prohibits state employers from retaliating, discriminating or harassing any state employee who discloses information that the employee reasonably believes demonstrates a violation of a state or federal law, rule or regulation. Wisconsin law does not contain similar protections for nongovernmental employees. Nevertheless, The Society expects employees to adhere to Federal law and to The Society's policy prohibiting retaliation.

Any employee who engages in or condones any form of retaliation against another employee because that employee either (1) reported

a potential violation of violation of The Society's Code of Ethics or regulatory violation, or (2) refused to violate The Society's Code of Ethics or a government law or regulation, will be subject to disciplinary action up to and including separation of employment.

Duty to report includes knowledge of any governmental investigations of employee for any offense or any criminal charges or convictions brought against employee during employment. An employee self-reports should be made no later than next working day.

WYOMING

Wyoming does not have a general whistleblower statute that applies to private (non-governmental) employees. Wyoming law does, however, prohibit an employer from discharging or discriminating in any manner against an employee who reports or complains of a violation of Wyoming's Occupational Safety & Health Act (Wyoming OSHA). See Wyoming Statutes § 27-11-109.