

**NORTHWEST COMMUNITY HOSPITAL  
ADMINISTRATIVE POLICY**

<b>PREPARED BY:</b>	<b>Ken Blickenstaff</b>	<b>NUMBER:</b>	<b>178</b>
<b>REVIEWED BY:</b>	<b>Mike Zenn</b>	<b>DATE:</b>	<b>2-07</b>
<b>APPROVED BY:</b>	<b>Mike Zenn</b>	<b>REVISION DATE:</b>	
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**SUBJECT: EMPLOYEE COMPLIANCE EDUCATION**

**POLICY:**

Northwest Community Hospital, and each of its affiliates and subsidiaries (collectively, “NCH”), requires compliance with the requirements of federal and state laws that prohibit the submission of false claims in connection with federal and state health care programs, including Medicare and Medicaid. Every NCH employee, as well as employees of NCH’s contractors and agents (as defined below), must receive the information set forth in this Policy.

**STANDARDS:**

- *Federal False Claims Act:* The Federal False Claims Act prohibits knowingly submitting (or causing to be submitted) to the federal government a false or fraudulent claim for payment or approval. It also prohibits knowingly making or using (or causing to be made or used) a false record or statement to get a false or fraudulent claim paid or approved by a state Medicaid program, the federal government or its agents, such as a fiscal intermediary or other claims processor. This law applies to claims filed by NCH for reimbursement for services provided to patients under the Medicare or Medicaid programs. Civil penalties can be imposed on any person or entity that violates the Federal False Claims Act, including monetary penalties of \$5,500 to \$11,000 as well as damages of up to three times the federal government’s damages resulting from each false claim. Additional information about the Federal False Claims Act is attached as Attachment A.
- *Federal Fraud Civil Remedies:* The Federal Program Fraud Civil Remedies Act allows the government to impose civil penalties against any person who makes, submits or presents false, fictitious or fraudulent claims or written statements to designated federal agencies, including the U.S. Department of Health and Human Services. Additional information about the Federal Program Fraud Civil Remedies Act is attached as Attachment B.
- *Illinois False Claims Act:* The Illinois Whistleblower Reward and Protection Act prohibits knowingly submitting (or causing to be submitted) to the State of Illinois a false or fraudulent claim for payment or approval. It also prohibits knowingly making or using (or causing to be made or used) a false record or statement to get a false or fraudulent claim paid or approved by the Medicaid program, or its agents, such as a fiscal intermediary or other claims

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processor. This law applies to claims filed by NCH for reimbursement for services provided to patients under the Medicaid program. Civil penalties can be imposed on any person or entity that violates the Illinois Whistleblower Reward and Protection Act, including monetary penalties of \$5,500 to \$11,000 as well as damages of up to three times Illinois' damages resulting from each false claim. Additional information about the Illinois Whistleblower Reward and Protection Act is attached as Attachment C

- *Illinois Insurance False Claims Acts:* Illinois has enacted several laws related to false insurance claims. Information about these statutes is attached as Attachment D.
- *Definition of a "Whistleblower" and Whistleblower Protections:* The Federal False Claims Act and the Illinois Whistleblower Reward and Protection Act permit private citizens with knowledge of fraud or attempted fraud against the U.S. government or the Illinois Medicaid program to file suit on behalf of the federal government or Illinois against the person or business that committed or attempted the fraud. If the action is successful, the individual who brought the lawsuit – known as a "qui tam" plaintiff or a "whistleblower" – is entitled to a percentage of the amount recovered. The Federal False Claims Act, the Illinois Whistleblower Reward and Protection Act and certain of the Illinois insurance false claims acts also prohibit retaliation against any employee for investigating, filing or participating in a whistleblower action. (See Attachments A through D.)

**PROCEDURE:**

Employees' Responsibilities: In addition to complying with NCH policies prohibiting the submission of false claims and/or for detecting fraud and abuse, including the NCH Code of conduct, each employee has individual responsibility to report any suspected misconduct, including suspected violations of NCH's policies or procedures or Federal or State laws, as required by NCH's Code of Conduct. Reports of potential improper activities can be made by an employee to his/her supervisor or the NCH Compliance Officer (847)618-5287, or by an anonymous phone call to the NCH toll-free Compliance Hotline: 1-888-203-2523.

NCH expressly prohibits retaliation against employees who, in good faith, report or participate in the investigation of any compliance concerns, or who, in good faith, investigates, files or

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participates in a whistleblower action as permitted by the Federal False Claims Act or the Illinois insurance false claims acts.

NCH's Responsibilities: NCH's policy on Prevention of Fraud and Abuse provides specific details regarding internal policies, procedures and individuals' responsibilities to prevent and detect fraud, waste and abuse. Additionally, NCH's Code of Conduct provides for rigorous internal investigations and prompt resolution of alleged violations. Depending on the nature of the violation, investigations of integrity or compliance issues may be performed by the Compliance Officer, Human Resources, legal counsel and/or other appropriate staff or consultants.

NCH, through this policy and training programs for new and current employees, educates and trains all NCH employees about the Federal False Claims Act, Illinois Whistleblower Reward and Protection Act, the Illinois insurance false claims acts, the Federal Program Fraud Civil Remedies Act of 1986 and all whistleblower protections available under these laws.

NCH makes available to all NCH employees this Policy including the descriptions in the Attachments of the Federal False Claims Act, the Illinois Whistleblower Reward and Protection Act, the Illinois insurance false claims acts, the Federal Program Fraud Civil Remedies Act of 1986 and all whistleblower protections available under these laws, through the inclusion of this Policy in the NCH Employee Handbook, the NCH and also in all other mediums used by NCH for communicating policies and anti-fraud practices and procedures to its employees.

**Attachment A**

**SUMMARY OF THE  
FEDERAL FALSE CLAIMS ACT**

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(Whistle Blower Provision)

Under the Federal False Claims Act, any individual who has knowledge of a fraud against the United States Government (the so-called “*qui tam* plaintiff”) may file a lawsuit on behalf of the United States against the person or entity that committed the fraud. If that legal action is ultimately successful, the *qui tam* plaintiff will be rewarded with a percentage of the amount recovered. The U.S. Department of Justice may intervene in any such lawsuit and take over the prosecution of the lawsuit. However, if the Justice Department decides not to intervene, the *qui tam* plaintiff may continue the pursuant of the lawsuit on behalf of the government. Generally, if the action is proven, the defendant will be liable for three times the damages sustained by the government and in addition will be forced to pay a penalty of up to \$11,000 for each false claim. In the case of Medicare and Medicaid payments, each submission by a health care entity of a claim for reimbursement is considered to be a separate claim that can be the subject of a lawsuit under the Federal False Claims Act. Generally, the *qui tam* plaintiff is entitled to 15 to 25% of the amount recovered.

Any person may be a *qui tam* plaintiff, including all employees of NCH. The alleged fraudulent act by the defendant can be either a deliberate act, merely one made with deliberate ignorance of the truth or falsity of the claim or one based on a reckless disregard for the truth or falsity of the claim. Thus, the Federal False Claims Act is not limited to those who intentionally misrepresent facts in order to obtain payments under governmental programs, including Medicare and Medicaid.

The Federal False Claims Act further provides protections to employees who are retaliated against by an employer because of the employee’s participation in a *qui tam* action. These protections include reinstatement and damages equal to double the amount of lost wages if the employee had been fired and/or suffered any other damages as a result of the employer’s discrimination. The *qui tam* plaintiff (the whistleblower) can bring any of these actions by hiring an experienced lawyer or, if the *qui tam* plaintiff does not have the financial wherewithal to pay the typical hourly cost charged by an experience lawyer, the *qui tam* plaintiff could seek out a law firm which would undertake the representation based on its ultimately receiving a percentage of the *qui tam* plaintiff’s share of the amount recovered.

**Attachment B**

**SUMMARY OF THE  
FEDERAL PROGRAM FRAUD CIVIL REMEDIES ACT OF 1986**

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As set forth in the United State Code, Title 31, Subtitle III, Chapter 38, the United States government has specific administrative remedies to recover amounts paid as the result of a false claim or statement. This statute applies to any executive department of the United States, including the Department of Health and Human Services. Thus, this statute relates, among other matters, to false claims made by health care providers for benefits under the Medicare or Medicaid program. The statute sets forth how the affected administrative agency of the United States can investigate a false claim, make a determination concerning the falsity of a claim, and recoup any amounts paid as a result of the false claim. The statute, however, does not permit private individuals, so-called whistleblowers, to bring any action under the statute nor to participate in any manner in any recoveries of amounts paid as the result of a false claim.

**Attachment C**

**SUMMARY OF THE  
ILLINOIS WHISTLEBLOWER REWARD AND PROTECTION ACT**

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Under the Illinois Whistleblower Reward and Protection Act (740 ILCS 175/1 *et seq.*), any individual who has knowledge of a fraud against the State of Illinois (the so-called “*qui tam* plaintiff”) may file a lawsuit on behalf of Illinois against the person or entity that committed the fraud. If that legal action is ultimately successful, the *qui tam* plaintiff will be rewarded with a percentage of the amount recovered. Illinois, through the Attorney General, may intervene in any such lawsuit and take over the prosecution of the lawsuit. However, if Illinois decides not to intervene, the *qui tam* plaintiff may continue the pursuit of the lawsuit on behalf of Illinois. Generally, if the action is proven, the defendant will be liable for three times the damages sustained by the government and in addition will be forced to pay a penalty of up to \$11,000 for each false claim. In the case of Medicaid payments, each submission by a health care entity of a claim for reimbursement is considered to be a separate claim that can be the subject of a lawsuit under the Illinois Whistleblower Reward and Protection Act. Generally, the *qui tam* plaintiff is entitled to 15 to 25% of the amount recovered.

Any person may be a *qui tam* plaintiff, including all employees of NCH. The alleged fraudulent act by the defendant can be either a deliberate act, merely one made with deliberate ignorance of the truth or falsity of the claim or one based on a reckless disregard for the truth or falsity of the claim. Thus, the Illinois Whistleblower Reward and Protection Act is not limited to those who intentionally misrepresent facts in order to obtain payments under Illinois programs, including Medicaid.

The Illinois Whistleblower Reward and Protection Act further provides protections to employees who are retaliated against by an employer because of the employee’s participation in a *qui tam* action. These protections include reinstatement and damages equal to double the amount of lost wages if the employee had been fired and/or suffered any other damages as a result of the employer’s discrimination. The *qui tam* plaintiff (the whistleblower) can bring any of these actions by hiring an experienced lawyer or, if the *qui tam* plaintiff does not have the financial wherewithal to pay the typical hourly cost charged by an experience lawyer, the *qui tam* plaintiff could seek out a law firm which would undertake the representation based on its ultimately receiving a percentage of the *qui tam* plaintiff’s share of the amount recovered.

**Attachment D**

**SUMMARY OF THE  
ILLINOIS INSURANCE FALSE CLAIMS ACTS**

Illinois has several statutes, which deal with insurance fraud and recoupment of insurance payments made as a result of a fraudulent insurance claim. One of these statutes is found in the

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Illinois Public Aid Code (305 ILCS 5/8A-3 et seq.) and it relates only to fraudulent Medicaid insurance claims and also fraudulent claims by an individual to obtain public assistance in Illinois.

In addition, Illinois has enacted the Insurance Claims Fraud Prevention Act (740 ILCS 92/1 et seq.) which makes it a criminal act to offer any remuneration to induce a person to obtain services or benefits under a contract of insurance or to file a false claim related to insurance. A private individual (a whistleblower) may bring an action to enforce this statute. If the action is successful, the person bringing the action will receive a portion of the amount recouped, which can be as significant as 50% of the amount recouped from the entity or person committing the insurance fraud. Actions under this statute include actions to recoup Medicaid payments made as a result of a false claim. Any employee who brings such an action cannot be retaliated against by the person's employer. Any retaliation will result in reinstatement and the payment of two times the amount of any back pay and possibly special damages resulting from the retaliatory action (740 ILCS 92/40).

Finally, in addition to making insurance fraud a criminal act, Illinois also has a statute concerning civil damages for insurance fraud or fraud on a governmental entity (720 ILCS 5/46-5). Under this statute, the entity committing such fraud can be forced to pay up to three times the value of the fraudulent claim. However, only the affected insurance company or governmental entity may bring an action pursuant to this statute, such that a whistleblower could not file such an action nor recover any portion of the proceeds paid by the entity that committed the insurance