

## **Requirements for Employee Education about False Claims Recovery Under the Federal Deficit Reduction Act of 2005 (“DRA”)**

### ***What is the Deficit Reduction Act of 2005 (“DRA”)?***

The Deficit Reduction Act (DRA) is legislation addressing deficit reductions ranging from education to housing and Medicare to Medicaid. Although the Deficit Reduction Act of 2005 (DRA) would seem to have little effect on the University of California, it contains a provision entitled “Employee Education about False Claims Recovery” that imposes mandatory compliance obligations on any entity that receives annual Medicaid payments of at least \$5 million under a state Medicaid plan.

### ***What are the compliance obligations of the Deficit Reduction Act of 2005 (“DRA”)?***

Any entity that annually receives at least \$5 million in Medicaid payments (“Qualifying Entity”) is required to establish written policies and procedures about federal and state false claims laws and whistleblower protections. In addition, the DRA requires Qualifying Entities to include these policies and procedures in their employee communications. Failure to comply with the education requirements may render a Qualifying Entity ineligible to receive Medicaid payments. In addition to forfeiting Medicaid payments, any Qualifying Entity that knowingly violates the education requirements or is in non-compliance with the requirements after January 1, 2007 may be penalized for submitting false claims under the federal False Claims Act.

### ***What is the False Claims Act?***

The False Claims Act prohibits any person from knowingly presenting, or causing to be presented, a false or fraudulent claim for payment or approval of government funds. Under the federal False Claims Act, any person who knowingly submits a false or fraudulent claim to a Medicare, Medicaid or other federal healthcare program is liable to the federal government for three times the amount of the federal government’s damages plus civil penalties per false or fraudulent claim.

The State of California also has enacted laws prohibiting false claims and statements. The California False Claims Act prohibits any person from knowingly making or using a false statement or document to either obtain money or property from the State or to avoid paying or transmitting money or property to the State. California law also prohibits any person or entity from presenting a false Medi-Cal claim with the intent to defraud or knowingly submitting false information for the purpose of obtaining greater Medi-Cal compensation than such person is legally entitled to obtain.

### ***What are examples of a false claim?***

Under the federal and California False Claims Acts (FCA), the government prosecutes, criminally or civilly, individuals or entities who knowingly submit or cause to be submitted, claims for payment by the government, when the claims are false. In the healthcare industry this includes Medicare, Medicaid and other federal healthcare programs. Examples that may create a false claim include but are not limited to: billing twice for the same service; billing for services not rendered; billing for medically unnecessary services or falsifying certificates of medical necessity; unbundling or billing separately for services that should be billed as one; creating false medical records or treatment plans to increase payments; failing to report and refund overpayments or credit balances; physician billing for services rendered by medical students, interns, residents or fellows in teaching hospitals; and giving and/or receiving unlawful inducements to healthcare providers for referrals for services.

FCA whistleblowers are protected by the law from retaliation in any form as the result of their whistle blowing. These protections include reinstatement without loss of seniority if fired, recovery of two times lost wages plus interest and recovery of attorney fees and other reasonable costs in connection with pursuing a retaliation claim.

### ***What are the DRA Education Requirements?***

As a condition of receiving Medicaid payments, Qualifying Entities must establish written policies and procedures that provide detailed information to all employees, contractors, and agents regarding:

- The Federal False Claims Act;
- Administrative remedies for false claims and statements;
- Any state laws pertaining to civil or criminal penalties for false claims and statements; and
- The whistleblower protections under such laws.

## Requirements for Employee Education about False Claims Recovery Under the Federal Deficit Reduction Act of 2005 (“DRA”)

### ***How do University of California policies comply with the DRA education requirements?***

The University of California has a website dedicated to whistleblower procedures with information, frequently asked questions, resources and written policies which include specific details regarding policies and procedures for detecting and preventing fraud, waste, and abuse. The policies incorporate requirements under federal and state laws.

The [UC Statement of Ethical Values and Standards of Ethical Conduct](#) sets forth the expectations of all University personnel to report all known or suspected improper governmental activities (IGAs) under the provisions of the [UC Whistleblower Policy \(Policy on Reporting and Investigating Allegations of Suspected Improper Governmental Activities\)](#). Additional information may be found in [UCSF Campus Administrative Policy 150-23: Reporting Improper Governmental Activities and Protection Against Retaliation \(Whistleblower Policy & Whistleblower Protection Policy\)](#).

Managers and persons in supervisory roles are required to report allegations presented to them and to report suspected IGAs that come to their attention in the ordinary course of performing their supervisory duties. Reporting parties, including managers and supervisors, will be protected from retaliation for making such a report under the [UC Whistleblower Protection Policy](#). Those who report such suspected violations may remain anonymous and are protected from retaliation both by federal law and UC policies.

### ***What and how do I report?***

If you suspect instances of fraud, submission of false medical billing claims or other non-compliance with federal, state, local laws, regulations, and/or UC or UCSF policies, you should report it. Any activity by a UC or UCSF employee that violates any state or federal law or regulation (e.g., corruption, malfeasance, bribery, theft or misuse of government property, fraud, coercion, or conversation); wastes money; or involves gross misconduct, gross incompetence, or gross inefficiency can be reported.

### ***Where to Report?***

- University-wide confidential hotline (independently operated by EthicsPoint): 1-800-403-4744
- [University-wide confidential web reporting](http://universityofcalifornia.edu/hotline) <http://universityofcalifornia.edu/hotline> (independently operated by EthicsPoint)
- Director–Audit Services, UCSF Whistleblower Coordinator, 1 (415) 476-3851  
Campus mail: Box 0818
- Your supervisor (or other appropriate administrator within your unit), who will report it to the Whistleblower Coordinator, Human Resources, Academic Affairs, or [Office of Ethics & Compliance](#)
- Directly to any of the above offices
- Bureau of State Audits: 1 (800) 952-5665 or [www.bsa.ca.gov/hotline](http://www.bsa.ca.gov/hotline)
- California Attorney General Hotline: 1 (800) 952-5225

***Protection from Retaliation:*** If you believe you have been retaliated against for whistleblowing, you may seek redress through applicable grievance processes or by filing a formal complaint with:

- The Associate Vice Chancellor, Chief Ethics and Compliance Officer, who serves as the Locally Designated Official (LDO). The LDO can be reached at 415-502-3468 or via the [Office of Ethics & Compliance](#) website.

### ***For More Information:***

- Contact the [Office of Ethics and Compliance](#) at <http://compliance.ucsf.edu/>
- [UC Whistleblower Protection policies](#) and additional information can be found at: <http://www.ucop.edu/uc-whistleblower/>
- [UCSF Campus Administrative Policy 150-23: Reporting Improper Governmental Activities and Protection Against Retaliation \(Whistleblower Policy & Whistleblower Protection Policy\)](#) can be found at: <http://policies.ucsf.edu/policy/150-23>.
- [UC Statement of Ethical Values and Standards of Ethical Conduct](#) can be found at <http://policy.ucop.edu/doc/1100172/EthicalValuesandConduct>