

## Education Concerning False Claims Liability, Anti-Retaliation Protections, And Detecting and Responding to Fraud

**Approval Date:** September 23, 2024

**Final Approver:** Corporate Compliance Committee

**Please check who this impacts:**

SYSTEM (ALL ENTITIES)

**\*Subject/Purpose:** To satisfy the requirements of Section 6032 of the Deficit Reduction Act of 2005 by setting forth certain federal and state laws relating to liability for false claims and statements; protections against retaliation for those who report wrongdoing; and Baptist Health's policies and procedures to detect and prevent fraud, waste and abuse.

**\*Scope of Responsibility:** This policy will remain posted to the Baptist Health website and MAPS as it is applicable to Baptist Health System

**Definitions:** N/A

**Regulatory Standards (if any):** N/A

**Equipment Needed:** N/A

**\*General Instructions:**

1. Federal and Arkansas laws strictly forbid any health care provider from submitting false or fraudulent claims to health care payers including Medicare, Medicaid, and other Federal or State healthcare programs. There are also a variety of laws that punish the making of false statements to the state and Federal health care programs. It is the policy of Baptist Health that no employee, medical staff member, contractor or agent violate any of these laws or be aware of another person violating these laws without making a report of such alleged violation to the individual's immediate supervisor or to Baptist Health's Corporate Compliance Officer.

a. **The Federal False Claims Act**

- i. The Federal False Claims Act (the "FCA") (31 U.S.C. §§3729-3733) helps the Federal government combat fraud and recover losses resulting from fraud in Federal programs, purchases, or contracts. A person or entity may violate the FCA by knowingly:
  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 or decrease payments owed to the U.S. Government (the "Government"). "Knowingly" means that a person:
    - a. has actual knowledge of the information;
    - b. acts in deliberate ignorance of the truth or falsity of the information; or
    - c. acts in reckless disregard of the truth or falsity of the information, and no proof of specific intent to defraud is required.

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- ii. The FCA imposes penalties of \$\$11,665 to \$ 23,331 per claim plus three times the amount of damages to the Government for FCA violations. Lawsuits must be filed by the later of either:
  1. three years after the violation was discovered by the federal official responsible for investigating violations (but no more than ten years after the violation was committed), or
  2. six years after the violation was committed.
- b. **Whistleblower Protections and Private or Qui Tam Actions under the Federal False Claims Act**
  - i. An individual has the right to file a civil suit for him or herself and for the Government to challenge a FCA violation. The suit must be filed in the name of the Government. Such an individual is called a qui tam plaintiff or "relator." Successful relator may receive between 15 and 30 percent of the total amount recovered (plus reasonable costs and attorney fees) depending on the involvement of the relator and whether the Government prosecuted the case. Individuals cannot file a lawsuit based on public information, unless he or she is the original source of the information.
  - ii. The FCA contains important protections for whistleblowers that apply to Baptist Health employees. Employees who file a qui tam action and consequently suffer discrimination are entitled to all relief necessary to be made whole, including two times their back pay plus interest, reinstatement at the seniority level they would have had except for the discrimination, and compensation for any costs or damages they have incurred in such a suit.
  - iii. These are summaries of very complex laws. Many of these laws have been further interpreted by state and Federal courts over the years. Thus, the application of any of these laws to any given situation will vary. Also, there are a variety of other state and Federal laws that prohibit (with civil and criminal consequences) the filing of false claims and the making of false statements. The Corporate Compliance Officer can provide you with more thorough discussions of any of these laws, or their application to any situation you may encounter. These laws all serve the important function of protecting the Federal and state healthcare programs from fraud, waste, and abuse and allow those funds to go to protect the beneficiaries of these programs. These beneficiaries are the patients of Baptist Health, and Baptist Health supports the goals of these laws and requires all employees, medical staff members, contractors and agents to comply with these laws, as part of our mission of providing services to our patients.
  - iv. As reflected in Baptist Health's Code of Ethical Conduct, at any time any employee or medical staff member becomes aware of any actual or threatened violation of any Baptist Health policy or of any applicable law (including but not limited to the Federal and State false claims and statements laws), regulation or standard of conduct, such Baptist Health employee, medical staff member must report the situation to the person's supervisor, Human Resources, Pastoral Care or the Corporate Compliance Officer. Questions about suspected violations may also be made to Baptist Health's Compliance Hotline (800-991-0888). Baptist Health will protect the privacy of the caller. Baptist Health will not take any adverse action against any Baptist Health employee, medical staff member, or contractor or agent who reports, in good faith, any violation, actual or threatened, regardless of whether the situation giving rise to the report is ultimately determined not to have any factual basis. If any Baptist Health employee, medical staff member, or contractor or agent knows of any actual or threatened

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violation of any applicable law, regulation or standard and fails to report the situation, such employee or medical staff member may be subject to disciplinary action.

### **c. Baptist Health Policies and Procedures for Detecting and Preventing Fraud**

- i. The Corporate Compliance Charter addresses the Seven Elements of an Effective Compliance Program as described by the Office of Inspector General. These elements define how “Baptist Health prevents non-compliance, detects it if it happens to occur, and takes appropriate corrective action to ensure such behavior does not recur”.

### **2. Enforcement**

- a. Adherence to this policy is mandatory and will be enforced when appropriate by the progressive discipline policy

### **References:**

### **Appendix:**

### **Revision History:**

<b>Approved/Revised/Reviewed Date</b>	<b>Approved By</b>
Revised: 06/22/2015	Corporate Compliance Committee
Reviewed: 11/2016	Corporate Compliance Committee
Reviewed: 11/2017	Corporate Compliance Committee
Revised: 11/26/2018	Corporate Compliance Committee
Reviewed: 11/25/2019	Corporate Compliance Committee
Revised: 11/23/2020	Corporate Compliance Committee
Reviewed: 11/2021	Corporate Compliance Committee
Reviewed 11/28/2022	Corporate Compliance Committee
Reviewed: 9/26/2024	Corporate Compliance Committee