



## **Highland Hospital**

# **Health Care Compliance Code of Conduct**

## Table of Contents

### **The ICARE Commitment**

### **The Highland Hospital Health Care Compliance Code of Conduct**

### **Compliance Program Overview**

- Fraud, Waste, and Abuse
- Exclusion Screening
- False Claims Act & Whistleblower Protection
- Compliance Program Training and Education
- Reporting Violations
- Integrity Helpline

### **Patient Care**

- Patient Care & Relations
- Emergency Treatment
- Patient Choice & Informed Consent
- Confidentiality

### **Business Conduct**

- Record Keeping, Retention, and Financial Reporting
- Billing for Services
- Payments, Discounts, and Gifts
- Conflict of Interest
- Industry Relationships
- Recruitment and Acquisitions
- Physician and Provider Relationships (Stark & Anti-Kickback Statute)

Competition and Market Conduct  
Cooperation with Law Enforcement  
Securities and Political Activity  
Communication and Marketing  
Scientific Integrity

## **Workplace**

Environmental Compliance  
Health and Safety  
Communication Systems  
Use of Resources  
Non-Discrimination – Equal Opportunity Employer  
Impairment and Substance Abuse

## **Reporting Violations**

## **Appendix**

State and Federal Laws Governing False Claims, Remedies, Penalties, and  
Protections

## The ICARE Commitment

Highland Hospital strives to achieve the highest standards of clinical quality excellence and safety in a trusting, compassionate, and inspirational work environment. One of the most powerful ways we can do this is by living our ICARE values: Integrity, Compassion, Accountability, Respect, and Excellence.

These core values make us a better place to heal, create, learn, and grow. They show our commitment to patients, families, and those who choose Highland Hospital and they guide our interactions with one another as valued colleagues and team members. They encourage us to appreciate one another's unique qualities and help build a culture of belonging. ICARE is about everyone!

**Inclusion • Integrity • Compassion • Accountability • Respect • Excellence**

## The Highland Hospital Health Care Compliance Code of Conduct

### Why is it important to have a Health Care Compliance Code of Conduct?

Highland Hospital is dedicated to delivering quality service to patients, with its reputation built on employees' honesty, integrity, and adherence to laws and ethical standards. The Health Care Compliance Code of Conduct (the "Code") reflects Highland Hospital's culture and promotes an environment for high-quality, compassionate, patient-centered care. It reinforces our shared commitment, vision, and values, guiding us to act with integrity and fairness in the best interests of Highland Hospital and those we serve.

### Who does the Health Care Compliance Code of Conduct apply to?

The Code and associated policies apply to all employees, volunteers, trustees, corporate officers, directors, administrators, managers, medical staff members, residents, fellows, providers, subcontractors, independent contractors, vendors, consultants, and other relevant third parties ("Affected Individuals"). Affected Individuals receive and have access to a copy of the Code.

The Code is not intended to cover all possible situations, but rather it is intended to help all Affected Individuals know and understand the ethical, legal standards, and company policies applicable in performing their daily tasks.

## Health Care Compliance Code of Conduct General Standards:

Our success in achieving our mission and vision is dependent upon maintaining our commitment to honesty, integrity, quality service, and excellent care. Highland Hospital is committed to an ethical environment founded on these principles of conduct:

- Treat patients, employees, and customers with dignity and respect.
- Abide by the applicable laws, rules, and regulations.
- Behave honestly and fairly.
- Use good judgment and high ethical standards in business dealings.
- Do not use confidential information for personal gain.
- Protect trade secrets and competitive information.
- Keep accurate and timely records.
- Maintain confidentiality of patient information.
- Strive for mutual respect and trust in relationships.
- Ensure a safe and healthy work environment.
- Do not seek or accept gifts, favors, or entertainment.
- Avoid personal conflicts of interest.
- Guard against theft and misuse of Highland Hospital's property.
- When in doubt about a situation, ask before acting.
- Do the right thing!

## Compliance Program

Highland Hospital's Compliance Program sets standards of conduct and policies, monitors adherence, and implements procedures to prevent, detect, and correct noncompliance or legal violations. Affected Individuals must follow laws and regulations because these rules help prevent fraud, waste, and abuse. Highland Hospital educates and trains its Affected Individuals on their responsibilities, fostering integrity and accountability in healthcare services.

## Highland Hospital Policy for Detection and Prevention of Fraud, Waste, and Abuse:

- **Compliance Information:** In compliance with the Deficit Reduction Act of 2005 and the New York State Social Services Law (SOS) Section 363-d, Highland Hospital provides information on federal and state False Claims Acts, penalties for false claims, and whistleblower protections to all Affected Individuals.
- **Prohibition on Fraudulent Claims:** Submitting fraudulent claims to federally or state-funded programs is strictly prohibited by any Affected Individual.

- Reporting and Education: Affected Individuals must report suspicions of fraud, waste, or abuse. Highland Hospital educates Affected Individuals to detect, prevent, and report such incidents.
- Penalties for Violations: Violating laws, regulations, Highland Hospital Health Care Compliance Code of Conduct, or policies can lead to criminal prosecution, civil penalties, and disciplinary actions, including termination. These violations also expose Highland Hospital to similar risks and penalties.

### Exclusion Screening:

Exclusion screening is a key part of Highland Hospital's Compliance Program to prevent fraud, waste, and abuse. Highland Hospital ensures that all Affected Individuals are eligible to participate in federal and state health care programs. This screening happens before hiring and continues monthly afterward.

People may be excluded for reasons such as health care fraud, patient abuse, licensing issues, or criminal convictions. If you suspect someone is excluded, contact the Office of Integrity and Compliance.

### Federal and State False Claims Laws, Remedies, and Whistleblower Protection:

There are both federal and New York State laws that address fraud, waste, and abuse when submitting claims for payment or approval to government programs or private payers. These laws:

- Give government authorities the power to investigate and take action against suspected fraud, waste, and abuse.
- Impose criminal, civil, and administrative penalties for fraudulent or abusive activities.
- Include protections against retaliation and intimidation for individuals who report fraud, waste, or abuse in good faith.

A link to the summary of these laws can be found in the Appendix.

### Compliance Program Training and Education:

Highland Hospital provides compliance training and education to ensure all Affected Individuals understand key components of the Compliance Program, including policies and procedures and relevant fraud, waste, and abuse laws. Training and education are required for all employees within 30 days of hire and must be completed annually.

## Quality and Patient Safety:

Highland Hospital's Compliance Program includes collaboration with clinical and quality leaders to help support their efforts in the delivery of quality care and patient safety. The Office of Integrity and Compliance works with the quality department to pinpoint various risk areas. This collaboration helps address both quality-related concerns and compliance functions effectively.

## Reporting Violations of the Health Care Compliance Code of Conduct:

If you know about or suspect a violation of laws, rules, regulations, or the Health Care Compliance Code of Conduct, it's important to report it right away. If you prefer to report anonymously, you can use the Integrity Helpline, which is available 24/7. You can call (585) 756-8888 or submit a report through the online form at [urmc.rochester.edu/compliance-office](http://urmc.rochester.edu/compliance-office).

Every report is taken seriously and investigated. Confidentiality will be protected, as permitted by law. Retaliation or intimidation against anyone who reports a concern is strictly prohibited. If you experience or witness intimidation or retaliatory behavior, report it to the Chief Compliance Officer or the Integrity Helpline.

## Integrity Helpline:

Affected Individuals can report suspected ethical or legal violations to the Integrity Helpline, (585) 756-8888, or via the online form.

Reports may be made anonymously, if desired, although all reasonable attempts will be made to preserve the confidentiality of those who give their names when reporting. Calls made to the Integrity Helpline are answered 24 hours/day, 7 days/week.

All reports are taken seriously and investigated.



## Patient Care

### Patient Care & Relations:

Highland Hospital prioritizes the well-being, comfort, and dignity of patients, providing necessary and appropriate care without discrimination. Clinical decisions are based on health care needs, not financial considerations. Highland Hospital adheres to the Patients' Bill of Rights in New York State.

### Emergency Treatment:

Highland Hospital provides emergency medical care based on medical conditions. All patients receive a medical screening in the Emergency Department. If an emergency condition is found, treatment is given to stabilize the patient. Patients are admitted, discharged, or transferred as appropriate after stabilization.

### Patient Choice and Informed Consent:

Highland Hospital respects patient choices in clinical care. Patients review and have access to a statement of their rights upon admission. Informed consent is obtained before non-emergency procedures. Providers inform patients about care plans, risks, benefits, and alternatives. Highland Hospital honors advance directives and patient choice in selecting service providers.

### Confidentiality:

Patient information is confidential. Discussions about patients should not occur in public areas, and access to records is restricted to those involved in patient care. Information is disclosed only with patient authorization or as permitted by law.

Highland Hospital handles confidential information such as patient details, employee data, financial records, and research data. This information is only shared when necessary for job functions. Affected Individuals may also learn confidential information about vendors, suppliers, or business partners. This information must not be used for personal gain, including making investment decisions. Highland Hospital follows state and federal laws for record retention, keeping records as required. Before discarding any documents, consult your supervisor or the appropriate department to ensure compliance. All Highland Hospital personnel should know and follow record retention policies.

## Business Conduct

### Record Keeping, Retention, and Financial Reporting

#### Accuracy and Retention:

Affected Individuals must follow rules for regulatory, tax, and financial reporting. When entering information into medical records, business records, or reports, it must be truthful, accurate, clear, and done in a timely manner.

Highland Hospital follows strict record retention schedules for all patient and business records, including paper, electronic files, microfiche, and microfilm. Do not tamper with, remove, or destroy records before the specified date. For other records, contact the supervisor for guidance.

#### Financial Reporting and Records:

Highland Hospital maintains high standards for accurate and complete financial records. These records help manage our business, meet obligations, and comply with tax and financial reporting requirements. Highland Hospital follows all applicable laws, financial standards, and generally accepted accounting principles.

### Billing for Services

#### Basis for Coding and Billing:

Highland Hospital ensures that medical records are accurately coded using ICD-10-CM, ICD-10-PCS, CPT-4, and HCPCS, with all codes supported by documentation. If a diagnosis is unclear, Coders will review the records or consult clinical practitioners to gather the necessary information. Bills sent to patients or third-party payers must be accurate, reflecting only the services provided, and comply with legal requirements and agreements. Collections are pursued lawfully and without harassment. We are committed to billing fairly by:

- Billing only for documented and medically necessary services ordered by qualified professionals.
- Correctly representing the type and level of services provided.
- Accurately coding to ensure proper payment.

#### Billing Questions and Conflicts:

When patients or third-party payers have questions about an invoice or charge, authorized individuals will promptly review and address the issue. If they are not



authorized, they will refer the matter to the appropriate person. If a dispute cannot be resolved, further steps will be taken to find a solution.

### Billing and Coding Companies:

Any billing and coding companies engaged to perform billing and coding services must comply with both legal and Highland Hospital's requirements to generate accurate billing.

### Cost Reports:

Highland Hospital receives reimbursement from government programs that require complete and accurate reporting of operational costs and other information.

Highland Hospital complies with all legal, regulatory, and program requirements when preparing these reports. These rules define allowable costs and the correct methods for claiming reimbursement for services provided to program beneficiaries.

### Payments, Discounts, and Gifts:

#### Prohibited Payments for Referrals:

- Highland Hospital does not pay for or accept payment for referrals. Payments include anything of value, such as discounts or free services. You should not give or receive gifts to or from those who can refer patients or business to Highland Hospital.

#### Prohibited Gifts to Patients:

- Federal law prohibits offering anything of value to influence a Medicare or Medicaid beneficiary's choice of health care provider.
- Highland Hospital does not provide gifts or items of more than nominal value to patients. Nominal value is defined as items that do not exceed \$15 per patient, per occurrence, or \$75 per patient per year.
- Direct any questions about gifts or free items/services to the Compliance Officer or the Office of Integrity and Compliance.

### Conflict of Interest:

It's important to avoid any situation that could be perceived as a conflict of interest. Here are some examples of what to avoid:

- Personally benefiting from business with Highland Hospital.
- Using Highland Hospital property or resources for personal gain.
- Reporting directly to a spouse or family member.
- Owning a material financial interest in a competitor or vendor.

## Disclosure:

- Disclose any potential conflicts to your supervisor. Questions regarding conflict of interest should be directed to the Office of Counsel or the Office of Integrity and Compliance.

## Relationships with Suppliers, Vendors, and Subcontractors:

- Selection is based on quality, price, service, delivery, and supply, not personal relationships or contributions.

## Industry Interactions

Highland Hospital follows clear ethical rules when working with Industry Representatives, such as those who sell medicines, medical devices, or supplies. Here are the main points:

- Ethical Practices: Highland Hospital avoids conflicts of interest and makes sure relationships with these representatives are appropriate and fair.
- Patient Safety and Reputation: All interactions must protect patient safety, ensure accurate data, support education and training, and maintain Highland Hospital's good reputation.
- Legal Compliance: Highland Hospital stays within the law, avoiding anything that could break federal or state kickback laws, which have serious consequences.

## Physician Recruitment and Practice Acquisition:

Highland Hospital sometimes invites doctors to join our team or purchase group practices, and these actions are carefully reviewed to ensure compliance with all rules and laws. Our policy is to pay a fair price for group practices and never offer anything extra to doctors to encourage patient referrals to Highland Hospital providers. Highland Hospital is committed to fairness, honesty, and integrity in everything we do.

## Physician and Provider Relationships:

The federal Physician Self-Referral Law (Stark Law) says that doctors and their immediate family members cannot refer patients for certain health services covered by Medicare to a place where they have a financial interest (like ownership, investment, or payment) unless there is an exception. It also means that the place cannot bill federal health care programs for those services if they were referred by the doctor or their family member.

The federal Anti-Kickback Statute (AKS) and Civil Monetary Penalties Law (CMPL) make it illegal for anyone to offer, ask for, give, or receive rewards (like money or gifts) to get or give patient referrals. Breaking these laws is a serious crime and can

lead to criminal and/or civil penalties. It can also lead to being banned from federal health care programs and facing penalties under the False Claims Act.

### Referral of Patients:

Highland Hospital makes patient referrals based on what the patient needs and the services we can provide. We don't pay for referrals, and aren't allowed to give or accept gifts, money, or favors for referring patients. When Highland Hospital refers patients, the decision is based on clinical needs, the provider's ability to help, and the patient's choice. Employees can't refer patients to providers where they or their family have financial interests unless they get approval first. If you have concerns, you should report them to the Office of Integrity and Compliance or the Integrity Help Line.

### Discussions with Competitors:

Antitrust laws are designed to keep competition fair and prevent businesses from working together in ways that harm the market. Companies are not allowed to coordinate things like prices, strategies, dividing markets, services, contract negotiations, hiring, or employee pay. Sharing private or confidential information about these topics is also against the rules.

If you have questions about sharing business information with competitors, reach out to the Office of Counsel or your supervisor for guidance.

### Cooperation with Law Enforcement:

Federal and state agencies, as well as Medicare contractors, can investigate patient care and billing. Highland Hospital cooperates with these investigations within legal limits. If contacted by an investigator, refer them to the Office of Integrity and Compliance or the Office of Counsel. If you receive a subpoena or court order, you have the right to an attorney. The Office of Integrity and Compliance or the Office of Counsel will handle the release of any documents to the investigator.

### Securities:

While performing duties, individuals may access non-public information about Highland Hospital or its business partners that could affect securities prices, also known as "insider information". This "insider information" must not be used to buy or sell bonds or shared with others for trading. Misuse is illegal and can result in fines, prison, and civil liability.

### Political Activity:

Federal and state laws prohibit Highland Hospital from participating in political campaigns for or against any candidate or party. This includes financial contributions and the

distribution of statements. Highland Hospital resources, such as personnel, email accounts, copiers, office space, vehicles, or publications, cannot be used for political purposes.

Specific questions regarding this topic may be directed to the Office of Counsel or the Office of Government and Community Relations.

### Communications and Marketing:

Highland Hospital promotes its services in a way that is fair, honest, and ethical. Marketing materials only describe the services Highland Hospital offers and match the provider's license and accreditation. Highland Hospital uses advertising to educate the public, share updates with the community, raise awareness about its services, and recruit employees.

The URM C Communications Office is responsible for handling all media interactions. If you are not specifically authorized to speak to the media, it is essential that you contact the Communications Office. This applies whether a media representative reaches out to you directly or if you have information you wish to share with them. This encompasses any external source looking for information, including newspapers, magazines, trade publications, radio, TV, social media, or any other outlet.

If you have questions, concerns, or are contacted by the media about any topic, reach out to the URM C Communications Office at (585) 275-3676 or by email at [mediainquiries@urmc.rochester.edu](mailto:mediainquiries@urmc.rochester.edu).

### Scientific Integrity:

Grant recipients must follow federal regulations, including those against scientific misconduct, such as falsifying data or copying results. Highland Hospital does not tolerate such behavior and complies with investigation and sanction requirements. Report any suspected scientific misconduct to the Office of Research and Project Administration (ORPA).

## Workplace

### Environmental Compliance:

Highland Hospital complies with all environmental laws and regulations. All individuals must understand how their job impacts the environment and follow local, state, and federal laws, as well as Highland Hospital policies.

#### **Responsibilities:**

- Adhere to environmental laws and Highland Hospital procedures.

- Report any potential or actual violations immediately.
- Contact a supervisor with questions about regulations or hazardous materials handling.
- Report hazardous substance discharges or potential dangers to Highland Hospital or the national response center immediately.

For questions or comments, contact the Environmental Services department.

## Health and Safety:

Highland Hospital is dedicated to a healthy, smoke-free, and safe workplace, complying with all relevant laws and regulations, including those from the United States Occupational Safety and Health Administration (OSHA).

### **Safety Responsibilities:**

- Be aware of safety policies and issues related to your job, including proper handling and disposal of medical waste and contaminated materials.
- Report any workplace injury or dangerous situation to your supervisor immediately for timely corrective action.
- Weapons are prohibited on Highland Hospital property.
- Abuse or violence on Highland Hospital property will not be tolerated and will result in immediate disciplinary action, up to and including termination.

## Communication Systems:

Highland Hospital communication systems (email, Intranet, Internet, voicemail, paper) are primarily for business use. Reasonable personal use is allowed, but these communications are not private. Confidential information should not be sent through the Intranet or Internet.

Highland Hospital may review messages for business or quality control purposes. Abusing or excessively using the communication systems for non-business purposes can result in loss of privileges and/or disciplinary action.

Communication systems may not be used to:

- Send harassing, threatening, or obscene messages.
- Send chain letters.
- Access non-business information on the Internet.
- Send unauthorized copyrighted documents.
- Conduct a job search.
- Open misaddressed mail.

## Use of Resources:

Highland Hospital resources must be used only for Highland Hospital purposes. Resources include information, technology, intellectual property (for example, copyrights, patents, and trademarks), buildings, land, equipment, phones, voicemail, email, copiers, computers, software, supplies, cash, and employee time and skills.

Examples of misuse:

- Unauthorized personal use of company resources.
- Allowing others to misuse company resources.
- Using voicemail or email for personal advertisements (e.g., selling a house or car).

## Nondiscrimination in Employment Practices:

Highland Hospital is dedicated to a fair and respectful work environment for all employees, volunteers, subcontractors, vendors, and visitors. We provide equal opportunities for employment, advancement, and compensation based on performance and offer equitable benefits to all employees.

### Equal Opportunity Employer:

Highland Hospital does not discriminate based on race, color, creed, religion, sex, national origin, sexual orientation, veteran status, marital status, age, or disability. Highland Hospital makes reasonable accommodations for individuals with disabilities.

### Zero Tolerance for Harassment:

Discrimination, harassment, or abuse of any kind by employees, volunteers, supervisors, vendors, subcontractors, or visitors is not tolerated.

### Fair Employment Practices:

Highland Hospital ensures equal treatment in hiring, promotion, training, compensation, termination, and disciplinary actions. Highland Hospital does not discriminate against employees or potential employees based on race, color, creed, religion, sex, national origin, sexual orientation, veteran status, marital status, age, or disability.

## Impairment and Substance Abuse:

Highland Hospital facilities are alcohol and drug-free. All individuals must perform their duties professionally and without the influence of alcohol, drugs, or other substances.

Suspected impairment may require drug or alcohol testing. Impaired individuals will be subject to Human Resources policies.

Only authorized personnel may handle pharmaceuticals, which must never be used personally. Report any drug diversion to the Pharmacy Department, Chief Compliance Officer, or the Integrity Help Line immediately.

## **Integrity • Honesty • Teamwork**

**University of Rochester Medical Center Compliance Office**

**601 Elmwood Avenue, Box 520**

**Rochester, NY 14642**

**(585) 275-1609**



**INTEGRITY HOTLINE: (585) 756-8888**

**E-Mail: [compliance@urmc.rochester.edu](mailto:compliance@urmc.rochester.edu)**

**Web: [urmc.rochester.edu/compliance-office](http://urmc.rochester.edu/compliance-office)**

## Appendix

### STATE AND FEDERAL LAWS GOVERNING FALSE CLAIMS, REMEDIES, PENALTIES AND PROTECTIONS

#### Federal False Claims Act (FCA) (Title 31 USC §§3729 - §§3733)

The False Claims Act (the "Act") imposes civil liability on any person who commits fraudulent acts including, without limitation, one who:

- (i) knowingly presents, or causes to be presented, a false or fraudulent claim, record or statement for payment or approval;
- (ii) conspires to defraud the government by getting a false or fraudulent claim allowed or paid; or
- (iii) uses a false record or statement to avoid or decrease an obligation to pay the government.

The term "knowingly" is broadly defined within the False Claims Act to mean: (a) having actual knowledge that the information on the claim is false; (b) acting in deliberate ignorance of whether the claim is true or false; or acting in reckless disregard of whether the claim is true or false.

There are mandatory civil penalties for each false claim, ranging from \$5,500-\$11,000 plus three times the amount of damages which the Government sustains because of the act of that person. Additionally, offenders may be excluded from participation in federal health care programs and/or face criminal penalties.

#### Administrative Remedies for False Claims (31 U.S.C. §§ 3801-3812)

This statute allows for administrative recoveries by federal agencies. If a person submits a claim that the person knows or has reason to know is false or contains false information, or omits material information, then the agency receiving the claim may impose a penalty of up to \$5,000 for each claim. The agency also may recover twice the amount of the claim.

Unlike the FCA, the determination of whether a claim is false, and the imposition of fines and penalties is made by the administrative agency, not by litigation through the federal court system. Also, unlike the FCA, a violation of this law occurs when a false claim is submitted, rather than when it is paid.



## Program Fraud Civil Remedies Act of 1986

The Program Fraud Civil Remedies Act (PFCRA) provides for the imposition of administrative remedies on any person who makes, presents or submits (or causes to be made, presented or submitted) to certain federal agencies a claim or statement that the maker knows or has reason to know: (i) is false, fictitious or fraudulent; or (ii) includes or is supported by any written statement which asserts a material fact which is false, fictitious or fraudulent; or (iii) includes or is supported by any written statement which omits a material fact, is false, fictitious or fraudulent because of the omission and is a statement in which the person or entity has a duty to include such material fact; or (iv) is for the provision of items or services which the person or entity has not provided as claimed.

This act is a complement to the Federal False Claims Act and typically involves smaller claims.

## New York False Claims Act (New York State Finance Law §§187-194)

Section 189 of the New York State Finance Law makes it unlawful for a person or entity to commit any of the fraudulent acts set forth in the federal False Claims Act. Both the federal and New York False Claims Acts impose civil liability on any person who commits fraudulent acts including, without limitation, one who:

1. knowingly presents, or causes to be presented, a false or fraudulent claim, record or statement for payment or approval;
2. knowingly makes, uses or causes to be made or used a false record or statement material to a false or fraudulent claim; or
3. Conspires to defraud the government by getting a false or fraudulent claim allowed or paid.
4. Has possession, custody

The term "knowingly" is defined with language identical to that of the federal False Claims Act. Proof of specific intent to defraud is not required, however.

## New York State Civil Liabilities, Penalties, and Administrative Sanctions for False Claims and Statements:

### *New York State Social Services Law §§145-b and 145-c*

This statute declares it unlawful to knowingly make a false statement or representation (or by deliberate concealment of any material fact or other fraudulent scheme or device) to attempt to obtain, or to obtain, payment from public funds for services or supplies furnished under the New York State Medical Assistance Program.

Civil penalties up to \$10,000 may be imposed for each item, unless the violation occurred within the previous five years, in which case the penalties of up to \$30,000 may be imposed per item.

Any person who applies for or receives public assistance by intentionally making false or misleading statements may be fined based on the number of offenses and period for which benefits were wrongfully received.

#### *New York Social Services Law §366-b*

This statute identifies which acts constitute fraudulent practices. Any person who, with intent to defraud, presents for allowance or payment any false or fraudulent claim for furnishing services or merchandise, knowingly over-bills for services or merchandise, or knowingly submits false information to obtain authorization to furnish services or merchandise shall be guilty of a class A misdemeanor (or a violation if so prescribed by a provision of the New York Penal Code).

#### *New York Penal Law 175 – Offenses Involving False Written Statements*

This law addresses crimes related to filing false information or claims.

#### *New York Penal Law 176 – Insurance Fraud*

This law applies to claims for insurance payments. Penalties can range from a misdemeanor to a felony.

#### *New York Penal Law Article 177 – Health Care Fraud*

Under this law, it is a crime to commit health care fraud, which is defined as when a person, with the intent to defraud a health plan by knowingly or willingly providing materially false information or omits material information for which they receive payment that under the circumstances, they are not entitled to. The penalties for health care fraud range from a misdemeanor to a felony. The penalty is based on the amount of payment fraudulently obtained from a single health plan during a one-year period.

#### *New York Penal Law Article 155 – Larceny*

Larceny is committed when a person intends to deprive another of property or wrongfully takes, obtains, or withholds property of the owner. This law also covers taking by trick, embezzlement, or obtaining property by false pretenses. Larceny is a felony, and punishment is based on the value of the property.

## Financial Relationships with Referring Providers New York Public Health §238-a

With certain limited exceptions, this statute prohibits the submission of Medicaid claims which are the result of a referral from a health care provider or a referring practitioner to a health care service provider (clinical laboratory services, pharmacy services, radiation therapy services, physical therapy services or x-ray or imaging services) who has a financial or familial relationship with the health care provider or referring practitioner.

## Federal and State Whistleblower Protections

### Federal False Claims Act (FCA) (Title 31 USC §3730(h))

The Federal False Claims Act protects an employee, contractor, or agent from retaliatory actions in response to a qui tam action or, whistleblower who questions a perceived violation of the Federal False Claims Act. Any employee who is discharged, demoted, suspended, threatened, harassed or in any manner discriminated against by his or her employer because of reporting violations of the Federal False Claims Act will be entitled to reinstatement with seniority, double back pay, interest, special damages sustained because of discriminatory treatment, and attorney's fees and costs.

### *New York State False Claims Act State Finance Law §191 - Remedies*

This state law provides relief to any current or former employee, contractor, or agent of any private or public employer who is discharged, demoted, suspended, threatened, harassed or in any other manner discriminated against in the terms and conditions of employment, or otherwise harmed or penalized by an employer, or a prospective employer, because of lawful acts done by the employee, contractor, agent, or associated others in furtherance of an action brought under this article or other efforts to stop one or more violations of this article, shall be entitled to all relief necessary to make the employee, contractor or agent whole. Such relief shall include but not be limited to:

- (a) an injunction to restrain continued discrimination;
- (b) hiring, contracting or reinstatement to the position such person would have had but for the discrimination or to an equivalent position;
- (c) reinstatement of full fringe benefits and seniority rights;

- (d) payment of two times back pay, plus interest; and
- (e) compensation for any special damages sustained as a result of the discrimination, including litigation costs and reasonable attorneys

*New York Whistleblower Protection Statute (NY Labor Law §§740 and 741)*

**New York Labor Law §740** prohibits an employer from taking any retaliatory action against an employee who: (a) discloses, or threatens to disclose to a supervisor or to a public body an activity, policy or practice of the employer that the employee reasonably believes is in violation of law, rule or regulation or that the employee reasonably believes poses a substantial and specific danger to the public health or safety; (b) provides information to, or testifies before, any public body conducting an investigation, hearing or inquiry into any such activity, policy or practice by such employer; or (c) objects to, or refuses to participate in any such activity, policy or practice.

Retaliatory action is adverse action taken by an employer or his or her agent to discharge, threaten, penalize, or in any other manner discriminate against any employee or former employee exercising his or her rights under this section, including (i) adverse employment actions or threats to take such adverse employment actions against an employee in the terms of conditions of employment including but not limited to discharge, suspension, or demotion; (ii) actions or threats to take such actions that would adversely impact a former employee's current or future employment; or (iii) threatening to contact or contacting United States immigration authorities or otherwise reporting or threatening to report an employee's suspected citizenship or immigration status or the suspected citizenship or immigration status of an employee's family or household member, as defined in subdivision two of section four hundred fifty-nine-a of the social services law, to a federal, state, or local agency.

The protection against retaliatory action shall not apply to an employee who makes such disclosure to a public body unless the employee has made a good faith effort to notify his or her employer by bringing the activity, policy or practice to the attention of a supervisor of the employer and has afforded such employer a reasonable opportunity to correct such activity, policy or practice. Such employer notification shall not be required where: (a) there is an imminent and serious danger to the public health or safety; (b) the employee reasonably believes that reporting to the supervisor would result in a destruction of evidence or other concealment of the activity, policy or practice; (c) such activity, policy or practice could reasonably be expected to lead to endangering the welfare of a minor; (d) the employee reasonably believes that reporting to the supervisor would result in physical

harm to the employee or any other person; or (e) the employee reasonably believes that the supervisor is already aware of the activity, policy or practice and will not correct such activity, policy or practice.

An employee who has been the subject of a retaliatory action in violation of this section may institute a civil action within two years after the alleged retaliatory action was taken. If the court determines that the employee violated this law, the employee may be entitled to the following remedies: the reinstatement of the employee to the same position held before the retaliatory action, or to an equivalent position, or front pay in lieu thereof; the reinstatement of full fringe benefits and seniority rights; the compensation for lost wages, benefits and other remuneration; the payment by the employer of reasonable costs, disbursements, and attorney's fees; a civil penalty of an amount not to exceed ten thousand dollars; and/or the payment by the employer of punitive damages, if the violation was willful, malicious or wanton.

**New York Labor Law § 741** Prohibits health care employers from retaliatory action (means the discharge, suspension, demotion, penalization or discrimination against an employee, or other adverse employment action taken against an employee in the terms and conditions of employment.) against an employee who:

(a) discloses or threatens to disclose to a supervisor, to a public body, to a news media outlet, or to a social media forum available to the public at large, an activity, policy or practice of the employer or agent that the employee, in good faith, reasonably believes constitutes improper quality of patient care or improper quality of workplace safety; or (b) objects to, or refuses to participate in any activity, policy or practice of the employer or agent that the employee, in good faith, reasonably believes constitutes improper quality of patient care or improper quality of workplace safety.

The protection against retaliatory personnel action provided by subdivision two of this section shall not apply unless the employee has brought the improper quality of patient care or improper quality of workplace safety to the attention of a supervisor and has afforded the employer a reasonable opportunity to correct such activity, policy or practice, unless an action or failure to act or the improper quality of patient care or improper quality of workplace safety described presents an imminent threat to public health or safety or to the health of a specific patient or specific health care employee and the employee reasonably believes in good faith that reporting to a supervisor would not result in corrective action.