

TITLE: False Claims
SECTION: Ethics, Compliance, Privacy & Security (ECPS)

PURPOSE

The purpose of this policy is to help Saint Luke's Health System (SLHS) employees, agents, and contractors understand the tools that SLHS, federal and state agencies and individuals can use to fight fraud, waste and abuse, including the federal and state laws prohibiting false claims, and the right of SLHS employees, agents and contractors to make a good faith report about any violations of such laws.

POLICY

SLHS will conduct all business practices in compliance with applicable laws and regulations and ethical business practices. SLHS has implemented an Ethics, Compliance & Privacy Program (ECP) in accordance with governmental compliance program guidance to provide the framework for its efforts to prevent and detect fraud, waste and abuse.

SLHS encourages its employees, contractors and agents to report any activities that they believe may violate the law or ethical business practices to the Chief Ethics and Compliance Officer (CECO), through the SLHS compliance hotline, or via other options as described below. This hotline can be accessed by dialling **(816) 932-3053** (23053 internally) or toll free **(888) 660-6227**.

PROCEDURE

The following information describes the laws, regulations and SLHS policies relevant to the purpose of this policy.

False Claims Act

The federal False Claims Act ("FCA"), in general, makes it illegal for a health care provider to knowingly present or be involved in presenting a false claim, record or statement to the federal government for payment. The FCA also makes it illegal to knowingly keep an overpayment discovered later. The term "knowingly" means the person has actual knowledge that the information is false, or deliberately ignores whether the information is true or false. As examples, prohibited conduct might include falsifying records, double-billing for items or services or submitting bills for services never performed or items never furnished. Anyone who violates the FCA could be subject to fines between \$10,957 and \$21,916 for each false claim, plus three times any actual payment made by the federal government that should not have been made.

Qui Tam "Whistle-blower" Provisions:

"Whistleblowers" are generally employees or other individuals who observe activities or behavior that may violate the law in some manner. These individuals report their observations either to management or to governmental agencies. To encourage these individuals to come forward and report possible misconduct involving false claims, the FCA includes a *qui tam* or whistleblower provision which essentially allows a person with actual first-hand knowledge of false claims activity to bring an action in federal court. The lawsuit is started by filing a copy of the complaint and all available relevant evidence with the federal government. The lawsuit will remain sealed (meaning it will be kept confidential) for at least 60 days so the

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federal government can investigate the complaint and decide how to proceed. The government may then decide to pursue the matter in its own name or decline to proceed, at which time the person bringing the action has the right to continue with the lawsuit on their own.

If the lawsuit is successful, the person bringing the action may receive between 15-30% of any proceeds, plus reasonable expenses, costs and attorney's fees, depending upon the contributions the individual made to the success of the case. Any case must be brought within six years from the date that the false claim was filed.

No Retaliation:

The FCA provides protection for whistleblowers. Anyone initiating a *qui tam* case may not be discriminated or retaliated against in any manner for filing the lawsuit. If an employee suffers any job related losses for reporting in good faith under the FCA, the employee can file a lawsuit against the employer.

Program Fraud Civil Remedies Act

The Program Fraud Civil Remedies Act ("PFCRA") is another federal law which addresses false claims. It is similar to the FCA, but imposes different penalties. In general, it subjects anyone who violates the PFCRA to administrative penalties if they submit an improper statement or file a false claim with the federal government: a) which they know, or should know, is false; b) which omits a material fact, making the claim false; or c) for payment of services not rendered. Anyone who violates the PFCRA could be subject to penalties of up to \$5,000 plus two times the amount of the claim if the claim has been paid. Although an individual can report any incidents to the government that they believe could be a violation of the PFCRA, the individual is not allowed to bring a *qui tam* lawsuit similar to what is allowed under the FCA.

Missouri and Kansas False Claims Statutes

Missouri and Kansas each have false claims statutes which generally prohibit submitting a claim for payment to any state agency or program that is known to be false. Examples include submitting a claim that falsely represents care given, is for medically unnecessary care, or conceals information to obtain payment. The Missouri False Claims Statute also prohibits knowingly offering or paying, or soliciting or receiving anything of value in exchange for referring a person for health care services or items. The Attorney General in both states brings all criminal or civil actions under the statute of that state. Because a violation can be criminal in nature, the Attorney General must prove that the health care provider intended to violate the statute. Violations of the statute constitute a felony punishable by fines, imprisonment or both.

Neither the Missouri nor Kansas false claims statutes have a "whistleblower provision" similar to the one found in the FCA. Therefore, an individual may not bring an action in state court. However, in Missouri, an individual who is an original source of information may receive a portion of any monetary recovery.

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Missouri and Kansas law protect an employee from any discrimination or retaliation for good faith reporting of activity believed to be unlawful to SLHS or the government.

SLHS Policies and Procedures for Detecting and Preventing Fraud, Waste and Abuse

Through its Code of Conduct, SLHS has established standards and procedures to promote the highest ethical culture and discourage inappropriate conduct. It is the fundamental policy of SLHS to conduct its business in compliance with all applicable laws and regulations and the ethical standards/practices of the industry and SLHS. The Code of Conduct and this policy is available on the SLHS website, ePulse, and via the SLHS Policies and Procedures icon on Citrix.

SLHS is committed to ensuring its coding, billing and reimbursement procedures comply with all federal and state laws, regulations and guidelines. Accordingly, SLHS policy prohibits billing or submitting a claim for services that were not provided as stated, known to not be medically necessary, or false, misleading or inaccurate. If these types of inaccuracies are discovered in bills or claims already submitted to the payor, the individual who discovered the inaccuracies must immediately report the issue to his/her supervisor, the CECO, or via the SLHS compliance hotline, e-mail or incident reporting system so corrective action can be taken and any identified overpayment refunded as appropriate.

SLHS Reporting Procedures and No Retaliation:

As outlined in the SLHS Code of Conduct and in the SLHS policy on [Effective Lines of Communication and Reporting Policy](#), employees must report known compliance issues or they will be subject to disciplinary action. Employees who report compliance issues in good faith will not be punished in any way for reporting the issue. An employee that attempts to retaliate against another employee for reporting a compliance issue in good faith will be subject to disciplinary action, including termination if appropriate. If an employee makes a false or misleading report related to a compliance issue, the employee will be subject to disciplinary action.

Reporting suspected non-compliance with laws may be accomplished in a variety of ways. Employees and other individuals may report the incident directly to any member of the Ethics, Compliance & Privacy Department (ECPD) or to a member of the System or entity Ethics and Compliance Committee. Contact information for the ECPD can be found under the Department tab on ePulse. An email may be sent to compliance@saint-lukes.org. A report may also be made using the electronic incident reporting system. The employee or other individual may identify him/herself or remain anonymous. Every attempt will be made to keep the reporter's identity confidential unless he/she gives permission or requests that his/her identity be revealed through the process of investigation. However, there may be situations where the direction of the investigation may lead to identification of the reporter.

The employee or other individual may also use a hotline, which has been set up solely for the purpose of providing a secure means by which compliance issues can be reported. This hotline can be accessed by dialing **(816) 932-3053** (23053 internally) or toll free **(888) 660-6227**. This is not a manned line, but the CECO or his/her designee regularly

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checks the compliance hotline for messages. Calls may be made anonymously and every attempt will be made to keep the caller's identity confidential as described above.

An employee may also report the incident to his or her manager or supervisor, verbally or in writing. The manager or supervisor must promptly forward such report and concern to the CECO or the entity Ethics Compliance & Privacy Business Partner.

IN COLLABORATION WITH
SLHS Office of General Counsel

REFERENCES

False Claims Act (FCA), 31 U.S.C. §§ 3729 – 3733
Program Fraud Civil Remedies Act (PFCRA), 31 U.S.C § 3801- 3812
MO Rev. Stat. §§191.900 – 191.908
K.S.A. §§75-7502 – 75-7506

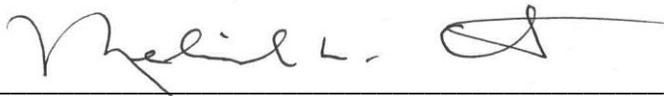
SEE ALSO

[SLHS Code of Conduct](#)
[Effective Lines of Communication and Reporting Policy](#)

SLHS Entities Covered by this Policy: This policy applies to all SLHS entities including all hospitals:

- Anderson County Hospital (d/b/a for Saint Luke's Hospital of Garnett, Inc.)
- Hedrick Medical Center (d/b/a for Saint Luke's Hospital of Chillicothe)
- Saint Luke's Cushing Hospital
- Saint Luke's East Hospital
- Saint Luke's Hospital of Kansas City
- Saint Luke's North Hospital (d/b/a for Saint Luke's Northland Hospital Corporation)
- Saint Luke's South Hospital, Inc.
- Wright Memorial Hospital (d/b/a for Saint Luke's Hospital of Trenton, Inc.)

APPROVALS



Melinda Estes, MD, President & CEO

06/28/2017

Date

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