

FRAUD, WASTE, AND ABUSE POLICY

PURPOSE

The purpose of this policy is to make faculty, trainees/students, and other members of MD Anderson's workforce aware that to prevent fraud, waste, and abuse of federal and state funds, both federal and the State of Texas false claims laws provide for stiff civil, criminal, and administrative penalties for violations of such laws.

POLICY STATEMENT

It is the policy of The University of Texas MD Anderson Cancer Center (MD Anderson) that (1) the institution has a "zero tolerance" policy toward any illegal/unethical activity or knowing, intentional, or willing noncompliance; and (2) every faculty member, trainee/student, and other member of MD Anderson's workforce is responsible for reporting a violation or potential violation.

SCOPE

Compliance with this policy is the responsibility of all faculty, trainees/students, and other members of MD Anderson's workforce.

TARGET AUDIENCE

The target audience for this policy includes, but is not limited to, all faculty, trainees/students, and other members of MD Anderson's workforce.

DEFINITIONS

None.

PROCEDURE

1.0 Responsibilities

Refer to The University of Texas MD Anderson Cancer Center's (MD Anderson's) [Hospital Compliance Plan](#) for the institution's policy on fraudulent activity, which, among other things:

- 1.1 Sets out the institution's "zero tolerance" policy toward any illegal/unethical activity or knowing, intentional, or willing noncompliance; and

- 1.2 Establishes that every faculty member, trainee/student, and other member of MD Anderson's workforce is responsible for reporting a violation or potential violation.

2.0 State and Federal Penalties

- 2.1 All faculty, trainees/students, and other members of MD Anderson's workforce should be aware that to prevent fraud, abuse and waste of federal and state funds, both federal and the State of Texas false claims laws provide for stiff civil, criminal, and administrative penalties for violations of such laws.
- 2.2 The federal False Claims Act (FCA) and the Program Fraud Civil Remedies Act (PFCRA) penalizes individuals or companies that knowingly submit or cause the submission of a false or fraudulent claim to the federal government. Billing a federal health care program, including Medicare or Medicaid, for medically unnecessary services, or providing false certification regarding compliance with a federal law or regulation is considered false or fraudulent under the FCA. Other examples of actions that may be considered a false claim include billing Medicare for services paid for by a clinical trial sponsor, or billing Medicaid for services provided to someone other than the Medicaid beneficiary. In addition to the FCA and PFCRA, State of Texas' laws specifically address fraud, abuse, and waste related to the Medicaid program. The Texas Medicaid Fraud Prevention Act (MFPA) provides for prosecution for over-billing or false billing for medical services.
- 2.3 Violations of the FCA can result in penalties ranging from fines of \$5,500 to \$11,000, up to treble the amount of damages, and/or imprisonment for 5 years. These penalties are assessed per false claim. In addition, administrative penalties such as suspension of provider agreement, license, permit or certification, and exclusion from the State's Medicaid program for at least 10 years, and exclusion from federal programs may be assessed. Violations of the MFPA can result in penalties ranging from fines of \$5000 to \$15,000 and/or an imprisonment term of up to 99 years imprisonment. Both the FCA and MFPA provide individuals the right to bring a civil action for violations of these laws in their individual capacity and on behalf of the government.

3.0 Non-Retaliation

All faculty, trainees/students, and other members of MD Anderson's workforce have the right to be protected against retaliation for reporting suspected wrongdoing or assisting appropriate authorities in investigating possible wrongdoing or doing lawful acts under the Health Insurance Portability and Accountability Act, the federal False Claims Act, Texas Medicaid Fraud Prevention law, or any other applicable law. Both the federal False Claims Act and the Texas Medicaid Fraud Prevention law provide remedies for workforce members who are retaliated against for lawful acts done under such laws. (Refer to the [Non-Retaliation Policy \(UTMDACC Institutional Policy # ADM0254\)](#).)

ATTACHMENTS / LINKS

[Hospital Compliance Plan.](#)

[MD Anderson Institutional Compliance Plans.](#)

RELATED POLICIES

[Non-Retaliation Policy \(UTMDACC Institutional Policy # ADM0254\).](#)

JOINT COMMISSION STANDARDS / NATIONAL PATIENT SAFETY GOALS

None.

OTHER RELATED ACCREDITATION / REGULATORY STANDARDS

18 U.S.C. § 286.

18 U.S.C. § 287.

18 U.S.C. § 1035.

42 U.S.C. § 1320(a)-7b.

Federal False Claims Act, 31 U.S.C. §§ 3729- 3733.

Program Fraud Civil Remedies Act, 31 U.S.C. §§3801-3812.

HIPAA Privacy Standards, 45 C.F.R. § 164.530(g).

Tex. Gov't. Code § 554.002.

Tex. Hum. Res. Code §31.001 et. seq.

Tex. Hum. Res. Code §36.115.

REFERENCES

None.

POLICY APPROVAL

Approved With Revisions Date: 09/13/2011

Approved Without Revisions Date:

Implementation Date: 09/13/2011

POLICY ROLES

Governor(s)

Quinn, Jessica L - VP & Chief Compliance Officer

Steward(s)

White, Angele T - Senior Legal Officer

Content Expert(s)

Purewal, Madhu - Senior Legal Officer

Weber, Max C - Senior Legal Officer

White, Angele T - Senior Legal Officer