

**University Physicians, Inc.'s
Statement On Education Concerning Anti-Fraud Compliance**

Purpose:

To provide a written statement that provides detailed information about the federal False Claims Act, any state laws pertaining to civil or criminal penalties for false claims and statements, and whistleblower protections under such laws. The purpose is also to notify and advise employees, contractors, and agents of UPI's Compliance Statement and Standards of Conduct as they related to preventing, detecting, and reporting fraud, waste, and abuse.

Statement:

UPI is committed to complying with all applicable federal and state laws and regulations. To ensure compliance with federal and state false claims laws, UPI has procedures in place to detect and prevent fraud, waste, and abuse. UPI supports the efforts of federal and state authorities in identifying incidents of fraud and abuse.

Section 6032 of the Deficit Reduction Act of 2005 requires that entities that receive or make annual payments of at least \$5,000,000.00 under the state Medicaid plan establish written policies for all employees and entity contractors or agents to provide detailed information about:

- 1) The federal False Claims Act and whistleblower protections;
- 2) Federal administrative remedies for false claims and statements;
- 3) Any state laws pertaining to civil or criminal penalties for false claims and statements; and
- 4) Company policies for preventing and detecting fraud, waste, and abuse.

Federal False Claims Act:

The Federal False Claims Act ("FCA") is a federal statute that prohibits fraud involving any federally program, including the Medicare and Medicaid programs.

The FCA (in part) imposes liability on any person or entity who:

- 1) knowingly submits or causes to be submitted a false or fraudulent claim for payment to Medicare, Medicaid, or any other federally funded health care program;
- 2) makes a false record or statement in order to secure payment for such a claim; or
- 3) conspires to get a false or fraudulent claim allowed or paid.

Under the FCA, the term "knowingly" means that a person: has actual knowledge that the information on the claim is false; acts in deliberate ignorance of whether the claim is true or false; or acts in reckless disregard of whether the claim is true or false. The FCA does not require proof of a specific intent to defraud for there to be a violation of the law.

A person/entity that violates the FCA can be subject to civil money penalties of between \$5,000 and \$10,000 plus up to three times the amount of damages sustained by the federal government for each false claim submitted.

The FCA provides for actions by private persons (qui tam lawsuits) to encourage individuals to come forward and report misconduct involving false claims. A qui tam action allows any person with actual knowledge of alleged false claims to file a lawsuit on behalf of the United States' government. Such persons are referred to as "relators" or "whistleblowers."

If the lawsuit is successful, and provided certain legal requirements are met, the whistleblower may receive between 15% and 30% of the recovery. The whistleblower may also be entitled to reasonable expenses including attorney's fees and costs for bringing the lawsuit.

Finally, retaliation against a whistleblower for filing an action under the FCA or similar state laws or committing other lawful acts, such as investigating a false claim or providing testimony for, or assistance in, a false claims action is prohibited. An employee who is discharged, demoted, suspended, threatened, harassed, or discriminated against in the terms and conditions of employment because of lawful actions taken in furtherance of the FCA may bring an action in federal district court to recover damages. An employee may seek reinstatement, two times the amount of back pay plus interest and other costs, damages, and fees.

The FCA can be found at:

http://www.access.gpo.gov/uscode/title31/subtitleiii_chapter37_subchapteriii_.html

and is Sections 3729-3733.

Federal Program Fraud Civil Remedies Act of 1986:

The Program Fraud Civil Remedies Act of 1986 is a statute that establishes an administrative remedy against any person who presents or causes to be presented a claim or written statement that the person knows to or has reason to know is false, fictitious, or fraudulent due to an assertion or omission to certain federal agencies (including the Department of Health and Human Services).

The term "knows or has reason to know" is defined in the Act as a person who has actual knowledge of the information, acts in deliberate ignorance of whether the information is true or false, or acts in reckless disregard of whether the information is true or false. No proof of specific intent to defraud is required.

The Act allows for civil monetary sanctions to be imposed in administrative hearings, including penalties of \$5,000 per claim and an assessment, in lieu of damages, of not more than twice the amount of the original claim.

The Federal Program Fraud Civil Remedies Act of 1986 can be found at:

http://www.access.gpo.gov/uscode/title31/subtitleiii_chapter38_.html
and is Sections 3801-3812.

State False Claims Laws:

The Colorado False Medicaid Claims statute makes it unlawful for any person or entity to:

- 1) intentionally or with reckless disregard make or cause to be made any false presentation of a material fact in connection with a claim;
- 2) intentionally or with reckless disregard present or cause to be presented to the state department a false claim for payment or approval;
- 3) intentionally or with reckless disregard present or cause to be presented any cost document required by the medical assistance program that the person knows contains a false material statement;
- 4) as to services for which a license is required, intentionally or with reckless disregard make or cause to be made a claim with knowledge that the individual who furnished the services was not licensed to provide such services.

Any person or entity that violates provisions of this statute can be subject to civil penalties of between \$1,000 to \$50,000 dollars per claim or two times the amount of all medical assistance received.

<http://198.187.128.12/colorado/lpext.dll?f=templates&fn=fs-main.htm&2.0> Colorado Revised Statutes, Section 25.5-4-304.

The Colorado statute on offering a false instrument for recording provides criminal penalties for: presenting or offering a written instrument that contains a material false statement or material false information to a public office or to a public employee with the knowledge or belief that it will become part of the public record. A person who violates this statute knowingly and with intent to defraud is guilty of a felony. A person who violates this statute knowingly (without proof of intent to defraud) is guilty of a misdemeanor. This statute in full can be found at: <http://198.187.128.12/colorado/lpext.dll?f=templates&fn=fs-main.htm&2.0> Colorado Revised Statutes, Section 18-5-114.

UPI Procedures for Detecting and Preventing Fraud:

UPI takes issues regarding false claims and fraud and abuse seriously. UPI encourages all employees, management, and contractors or agents of UPI to be aware of the laws regarding fraud and abuse and false claims and to identify and resolve any issues immediately.

In UPI's handbook, you will find the UPI Standards of Conduct. These standards outline UPI's commitment to compliance with all Federal, State, and local laws and regulations. In addition, these standards describe UPI's whistleblower protection commitment. The UPI Standards of Conduct may be found at: <http://upi.uchsc.edu/handbook.htm>

In addition, all employees are required to sign UPI's Confidentiality and Compliance Statement. This Statement requires employees to keep confidential information confidential and requires employees to read and abide by organizational compliance plans and any related policies.