



False Claims Act and Whistleblower Protections

The University of Texas Health Science Center at Houston is required by federal law to provide information to all of its employees, contractors and agents regarding the federal false claims act, administrative remedies for false claims and statements, the state false claims act and whistleblower protections under these laws to assist in detecting fraud, waste and abuse in federal health care programs.

Federal Law

The federal False Claims Act (31 U.S.C §3729(a) allows a civil action to be brought against a health care provider who:

- Knowingly presents, or causes to be presented, a false or fraudulent claim for payment or approval to any federal employee;
- Knowingly makes, uses or causes to be made or used a false record or statement to get a false or fraudulent claim paid; or
- Conspires to defraud the government by getting a false or fraudulent claim allowed or paid.

Remedies

- A federal false claims action may be brought by the U.S Department of Justice Civil Division.
- A private individual or *whistleblower*, with knowledge of past or present fraud on the federal government, may sue on behalf of the government to recover civil penalties. This is known as a Qui Tam case.
- Violations are punishable by a civil penalty of not less than \$5,000 and not more than \$10,000, plus 3 times the amount of damages which the Government sustains.
- The statute of limitations is six years after the date of violation or three years after the date when material facts are known or should have been known by the government, but no later than ten years after the date on which the violation was committed.

Texas Law

Texas has a state version of the False Claims Act that is substantially similar to the federal False Claims Act. (See Tex. Hum. Res. Code Ann. § 32.039; Tex. Hum. Res. Code Ann. §§ 36.001-36.008; Tex. Hum. Res. Code Ann. §§ 36.051-36.055; Tex. Hum. Res. Code Ann. §§ 36.101-36.117)

Offenses under the Texas Act are, in general, similar to those of the federal False Claims Act. However, under the Texas False Claims Act, a person may also be liable if he presents a claim for payment under the Medicaid program for a product or service that was rendered by an unlicensed provider or that has not been approved by a healthcare practitioner. Additionally, Texas law provides that the civil penalty is greater for unlawful acts that result in injury to an elderly person, a disabled person, or someone younger than eighteen.

Whistleblower Protections

Federal law prohibits an employer from discriminating against an employee in the terms or conditions of his or her employment because the employee initiated or otherwise assisted in a false claims action. The employee is entitled to all relief necessary to make the employee whole. (31 U.S.C. §3730(h)). Texas law also has a whistleblower provision which prevents employers from retaliating against employees who report their employer's false claims.

Reporting False Claims

If you are aware of a false claims act violation, the university encourages you to:

- Report it to your supervisor for further investigation.
- If you are not comfortable doing this or do not see action in response to your report, call the compliance hotline at 1-888-472-9868.

You are not required to report a possible false claims act violation to the university first. You may report directly to the federal Department of Justice or the U.S. Health and Human Services Office of Inspector General Hotline telephone number, 1-800-447-8477 (1-800-HHS-TIPS). The University of Texas Health Science Center at Houston will not retaliate against you if you inform the university or the federal government of a possible false claims act violation. The University of Texas Health Science Center at Houston has policies for detecting fraud and abuse in HOOP 2.01 *Standards of Conduct* and the *Standards of Conduct Guide* as well as The University of Texas System Business Procedures Memorandum 50. **If you have any questions about this information, please call the Office of Legal Affairs and Institutional Compliance at 713-500-3294.**