



<b>Title:</b> False Claims Act, Civil/Criminal Penalties and Whistleblower Protections	
<b>Review date(s):</b>	<b>Approved by:</b> Jen Cathy, President and CEO
<b>Revised date(s):</b> June 9, 2025	<b>Policy Owner:</b> Mary LaDuca, COO and Compliance Officer
<b>Approved date:</b> June 12, 2025	<b>Original Effective Date:</b> March 12, 2025

#### **PURPOSE:**

Delphi Rise is committed to complying with all applicable federal and state laws designed to prevent and detect fraud, waste, and abuse. This policy provides guidance on the federal False Claim Act (FCA), administrative remedies for false claims and statements, state laws regarding false claims and statements, and whistleblower protections.

#### **SCOPE:**

This policy applies to all Delphi Rise employees, contractors, board members, agents, and volunteers, collectively referred to as “affected individuals” throughout this policy and procedure.

#### **POLICY:**

Delphi Rise is committed to complying with all applicable laws, rules, regulations and standards that govern its operations, including but not limited to the Federal and State False Claims Acts, which have similar provisions and protections. All claims will accurately represent the services delivered to patients and must be provided in accordance with the requirements of payors and funding sources.

Any suspected unethical or illegal conduct must be reported per the procedure below and the related *Compliance Reporting Standard Operating Procedure*. The *Compliance Auditing and Monitoring Policy* outlines how Delphi Rise conducts routine audits to assess compliance. The results of such audits are provided to the Compliance Committee, in accordance with the Delphi Rise’s Corporate Compliance Plan, to ensure appropriate corrective action is taken.

Potential non-compliance is investigated, and overpayments are returned and reported to payors as stated in the *Self-Disclosure Policy and Procedure*.

#### **PROCEDURE:**

1. Delphi Rise maintains a robust compliance program to prevent and detect fraud, waste, and abuse, which includes:
  - Employee training on the FCA and whistleblower protections,
  - Regular audits and monitoring of claims and billing practices,
  - A confidential and anonymous reporting system for suspected violations, and
  - Immediate investigation and corrective actions when violations are identified.
2. All affected individuals will conduct their business in an ethical manner and act consistent with applicable laws, regulations, policies, procedures, the Compliance Plan and Delphi Rise’s Code of Ethics.
3. Documentation must be truthful, complete, contemporaneous, medically necessary and signed by the appropriate individual properly qualified and credentialed to do so. Under no circumstance can someone sign for someone else, nor may anyone authorize/sign a record outside of the scope of their authority, credentials



and/or job responsibilities.

4. Documentation must not be done pre-emptively.
5. All affected individuals are provided training and access to information about the Federal False Claims Act, State False Claims Act, Anti-Kickback Statute, civil or criminal penalties for false claims and statements, prevention and detection efforts, and whistleblower protections. These laws and other applicable laws are included in Appendix A of this policy.
5. Retaliation or intimidation against an affected individual for reporting a False Claims Act violation in good faith or cooperating in an investigation related to one is strictly prohibited. All affected individuals are protected by law and our *Non-Retaliation Policy*. Delphi Rise and its affected individuals are expected to comply with all applicable whistleblower protections.
6. Delphi Rise in no way prohibits or restricts affected individuals from reporting fraud, waste or abuse in accordance with law to an investigative or law enforcement representative of a federal or state agency authorized to receive such information.
7. Affected individuals are required and encouraged to report fraud, waste, or abuse concerns. This can be done through Delphi Rise's internal reporting process or to designated state and federal reporting mechanisms, as follows:
  - Delphi Rise's Compliance Officer: Mary LaDuca at 585-467-2230 ext. 432 or [mladuca@delphirise.org](mailto:mladuca@delphirise.org) or anonymously to the hotline at: 585-467-2230 ext. 629.
  - Government entities authorized to receive and investigate fraud, waste, and abuse, including but not limited to:
    - The U.S. Department of Health and Human Services, Office of Inspector General: 1-800-HHS-TIPS (1-800-447-8477) or <https://oig.hhs.gov/fraud/report-fraud/> with respect to fraud, waste, abuse, inducements, or kickbacks involving Medicare or Medicaid;
    - For Medicaid wrongdoing, such as submitting false Medicaid claims, the NYS Office of Medicaid Inspector General can be contacted at their fraud hotline number: (877) 873-7283, via mail to NYS OMIG Bureau of Fraud Allegations, 800 North Pearl Street, Albany, New York 12204, or through their online form <https://apps.omig.ny.gov/bmfa/bmfa.aspx>.
8. Failure to comply with this policy is subject to disciplinary action, including termination of employment or association, and may result in referral to authorities.
9. Any questions about this policy/procedure should be directed to the Compliance Officer/Policy Owner.

#### **MONITORING AND EVALUATION:**

This policy and procedure will be evaluated for effectiveness annually by testing staff's knowledge of the laws, consequences, protections, and reporting mechanisms through post-tests and/or surveys. At least annually, the Compliance Officer will review the type and volume of compliance reports made internally and externally to government authorities and consider whether any modifications are necessary to the Compliance Program.

#### **REVIEW AND REVISION:**

This policy will be reviewed annually and updated as necessary by the Policy Owner to ensure compliance with federal and state regulations.

#### **REGULATORY REFERENCES:**

18 NYCRR 521-1.4(a)(2)(ix)

18 U.S. Code § 220 – Eliminating Kickbacks in Recovery Act

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

31 U.S.C. § 3801



42 C.F.R. § 1000.10  
42 CFR § 1001.1901  
42 U.S. Code § 1320a-7a – Civil Monetary Penalties  
42 U.S. Code § 1320a-7b(b) - Anti-Kickback Statute  
42 U.S.C. § 1395nn – Physician Self-Referral Law  
42 U.S.C. 1396a(a)(68)  
Article 13 New York State Finance Law § 187-194  
New York State Executive Law § 63  
New York State Labor Law §740-741  
New York State Penal Law § 155  
New York State Penal Law § 175-177  
New York State Public Health Law § 238-A  
New York State Social Services Law § 145  
New York State Social Services Law § 366-b



#### **APPENDIX A**

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### 31 U.S.C. §3729. FEDERAL FALSE CLAIMS ACT.

#### Liability for Certain Acts.

##### (1) Any person who:

- (A) knowingly presents, or causes to be presented, a false or fraudulent claim for payment or approval;
- (B) knowingly makes, uses, or causes to be made or used, a false record or statement material to a false or fraudulent claim;
- (C) conspires to commit a violation of this paragraph;
- (D) has possession, custody, or control of property or money used, or to be used, by the Government and knowingly delivers, or causes to be delivered, less than all the money or property;
- (E) is authorized to make or deliver a document certifying receipt of property used, or to be used, by the Government and, intending to defraud the Government, makes or delivers the receipt without completely knowing that the information on the receipt is true;
- (F) knowingly buys, or receives as a pledge of an obligation or debt, public property from an officer or employee of the Government, or a member of the Armed Forces, who lawfully may not sell or pledge property; or
- (G) knowingly makes, uses, or causes to be made or used, a false record or statement material to an obligation to pay or transmit money or property to the Government, or knowingly conceals or knowingly and improperly avoids or decreases an obligation to pay or transmit money or property to the Government,

is liable to the US Government for a civil penalty of not less than \$14,308 and not more than \$28,619 per claim, as adjusted for inflation, plus 3 times the amount of damages the Government sustains because of the act.

#### Definitions. For purposes of this section:

##### (1) "Knowing" and "knowingly"

###### (A) Means that a person, with respect to information:

- (i) has actual knowledge of the information;
- (ii) acts in deliberate ignorance of the truth or falsity of the information; or,
- (iii) acts in reckless disregard of the truth or falsity of the information; and

###### (B) Requires no proof of specific intent to defraud;

##### (2) "Claim" means any request or demand, whether under a contract or otherwise, for money or property and whether or not the United States has title to the money or property, that:

###### (A) Is presented to an officer, employee, or agent of the United States; or

###### (B) Is made to a contractor, grantee, or other recipient, if the money or property is to be spent or used on the Government's behalf or to advance a government program or interest, and if the United States Government:

- (i) Provides/provided any portion of the money or property requested or demanded; or
- (ii) Will reimburse such contractor, grantee, or other recipient for any portion of the money or property which is requested or demanded; and

### 31 U.S.C. §3730. CIVIL ACTIONS FOR FALSE CLAIMS.

#### **Actions by Private Persons.**

(1) A person may bring a civil action for a violation of the Federal False Claims Act for the person and for the U.S. Government.

(2) Before expiration of a 60-day period or any extensions obtained, the Government shall—

(A) Proceed with the action, in which case the action shall be conducted by the Government;

(B) Or notify the court that it declines to take over the action, in which case the person bringing the action shall have the right to conduct the action. When a person proceeds with the action, the court, without limiting the status and



rights of the person initiating the action, may permit the Government to intervene later upon showing of good cause.

#### **Award to Qui Tam Plaintiff.**

- (1) If the Government proceeds with an action brought by a person, such person shall, subject to the second sentence of this paragraph, receive 15-25% of the proceeds of the action or settlement of the claim. If the court finds it based primarily on disclosures of specific information relating to allegations or transactions in a criminal, civil, or administrative hearing, in a congressional, administrative, or Government Accounting Office report, hearing, audit, or investigation, or from the news media, the court may award up to 10% of proceeds in addition to an amount for reasonable expenses and attorneys' fees/costs.
- (2) If the Government does not proceed, the person bringing the action or settling the claim shall receive an amount the court decides is reasonable for collecting civil penalty and damages. The amount shall be between 25-30% of proceeds of the settlement and paid out of such proceeds. The person shall also receive an amount for reasonable expenses, attorney fees & costs.
- (3) If the action was brought by a person who planned and initiated the violation, the court may reduce the share of the proceeds. If the person bringing the action is convicted of criminal conduct arising from his/her role in the violation, that person will be dismissed and not receive proceeds.
- (4) If the Government does not proceed with the action and the person bringing the action conducts the action, the court may award to the defendant its reasonable attorneys' fees and expenses if the defendant prevails in the action and the court finds the claim of the person bringing action was frivolous, clearly vexatious, or primarily for purposes of harassment.

#### **Relief From Retaliatory Actions.**

- (1) Any employee, contractor, or agent shall be entitled to all relief necessary to make that employee, contractor, or agent whole, if that employee, contractor, or agent is discharged, demoted, suspended, threatened, harassed, or in any other manner discriminated against in the terms and conditions of employment because of lawful acts done by the employee, contractor, agent or associated others in furtherance of an action under this section or other efforts to stop 1 or more violations of 31 USC 3729-3733.
- (2) Relief shall include reinstatement with the same seniority status that employee, contractor, or agent would have had but for the discrimination, 2 times the amount of back pay, interest on the back pay, and compensation for any special damages sustained as a result of the discrimination, including litigation costs and reasonable attorneys' fees. An action under this subsection may be brought in the appropriate district court of the United States.
- (3) The civil action may not be brought more than 3 years after the date when retaliation occurred.

#### **31 U.S. CODE § 3731 – FALSE CLAIMS PROCEDURES.**

A civil action under §3730 may not be brought:

- (1) More than 6 years after the date on which the violation of section 3729 is committed, or
- (2) More than 3 years after the date when facts material to the right of action are known or reasonably should have been known by the United States official charged with responsibility to act, but in no event more than 10 years after the date on which the violation is committed, whichever occurs last.

If the Government elects to intervene and proceed with an action, the Government may file its own complaint or amend the complaint of a person who has brought an action under section 3730 to clarify or add detail to the claims in which the Government is intervening and to add any additional claims with respect to which the Government contends it is entitled to relief.



### 31 U.S. CODE § 3732 – FALSE CLAIMS JURISDICTION

Any action under section 3730 may be brought in any judicial district in which the defendant or, in the case of multiple defendants, any one defendant can be found, resides, transacts business, or in the act occurred. With respect to any State or local government named as a co-plaintiff with the United States in an action, a seal on the action ordered by the court shall not preclude the Government or the person bringing the action from serving the complaint, or written disclosure of substantially material evidence by the person bringing the action on the law enforcement authorities that are authorized by State law to investigate and prosecute such actions on behalf of such governments, except that the seal applies to law enforcement authorities to the same extent as it applies to other parties in the action.

### 31 U.S. CODE § 3733 – CIVIL INVESTIGATIVE DEMANDS

#### **Issuance and service.**

When the Attorney General, or a designee, has reason to believe any person may be in possession, or control of information relevant to a false claims investigation, the Attorney General/designee, may issue in writing and cause to be served upon such person, a civil investigative demand requiring such person:

- (A) to produce such documentary material for inspection and copying,
- (B) to answer in writing written interrogatories with respect to such documentary information,
- (C) to give oral testimony concerning such documentary material or information, or
- (D) to furnish any combination of such material, answers, or testimony.

#### **Protected Material or Information.**

- (1) The demand may not require what would be protected from disclosure under-
  - (A) The standards applicable to subpoenas or subpoenas duces tecum issued by a court of the United States to aid in a grand jury investigation; or
  - (B) the standards applicable to discovery requests under the Federal Rules of Civil Procedure, to the extent the application of such standards to any such demand is appropriate and consistent with the provisions and purposes of this section.

Disclosure to the express demand does not constitute a waiver of any right or privilege the person making such disclosure may be entitled to invoke to resist discovery of trial preparation materials.

#### **Petition to modify or set aside demand.**

Any person who has received a civil investigative demand may file, in the district court of the United States and serve upon the false claims law investigator a petition for an order of the court to modify or set aside such demand. For a petition to an express demand for any product of discovery, the petition may be brought only in the district court of the United States for the judicial district in which the proceeding such discovery was obtained is or was last pending. A petition must be filed:

- (1) Within 20 days after the date of service of the civil investigative demand, or at any time before the return date specified in the demand, whichever date is earlier, or
- (2) Within a longer period as may be prescribed in writing by the false claims law investigator.

### 31 U.S.C. §3801 — ADMINISTRATIVE REMEDIES FOR FALSE CLAIMS AND STATEMENTS

Any person who makes, presents, or submits, or causes to be made, presented, or submitted, a false claim or statement shall be subject to, in addition to any other remedy that may be prescribed by law, a civil penalty up to



\$5,000 for each such claim or statement., such person shall also be subject to an assessment, in lieu of damages sustained by the United States because of such claim, of not more than twice the amount of such claim, or the portion of such claim, which is determined under this chapter to be in violation of the preceding sentence except if payment by the Government has not been made on such claim.

#### ARTICLE 13 NEW YORK STATE FINANCE LAW § 187-194

Any person who:

- a. Knowingly presents, or causes to be presented a false or fraudulent claim for payment or approval;
- b. knowingly makes, uses, or causes to be made or used, a false record or statement material to a false or fraudulent claim;
- c. conspires to commit a violation of this Article,
- d. has possession, custody, or control of property or money used, or to be used, by the state or a local government and knowingly delivers, or causes to be delivered, less than all that money or property;
- e. is authorized to make or deliver a document certifying receipt of property used, or to be used, by the state or a local government and, intending to defraud the state or a local government, makes or delivers the receipt without completely knowing that the information on the receipt is true;
- f. knowingly buys, or receives as a pledge of an obligation or debt, public property from an officer or employee of the state or a local government knowing that the officer or employee violates a provision of law when selling or pledging such property;
- g. knowingly makes, uses, or causes to be made or used, a false record or statement material to an obligation to pay or transmit money or property to the state or a local government; or
- h. knowingly conceals or knowingly and improperly avoids or decreases an obligation to pay or transmit money or property to the state or a local government, or conspires to do the same;

shall be liable to the state or a local government, as applicable, for a civil penalty of \$6,000 to \$12,000, as adjusted to be equal to the civil penalty allowed under the Federal False Claims Act, 31 U.S.C. sec. 3729, et seq., as adjusted for inflation, plus three times the amount of all damages, the government sustains because of the act of that person. A person who violates this section shall also be liable for costs, including attorneys' fees, of a civil action brought to recover any penalty or damages.

#### **Qui tam civil actions.**

Any person may bring a qui tam civil action for a violation of this article on behalf of the state of New York or local government.

- a. If neither the attorney general nor a local government intervenes in the qui tam action then the qui tam plaintiff shall have the responsibility for prosecuting the action, subject to the attorney general's right to later intervene.
- b. If the attorney general converts the qui tam action into an attorney general enforcement action, or permits a local government to convert the action to a civil enforcement action, or if the attorney general or local government elects to intervene in the action, the person(s) who initiated the qui tam action shall be entitled to receive 15-25% of proceeds recovered. If the action was based primarily on disclosures of information (other than information provided by the person bringing the action) relating to allegations in a criminal, civil or administrative hearing, in a legislative or administrative report, hearing, audit or investigation, or from the news media, the court may award no more than 10% of proceeds. If the action was based on disclosure of specific information related to use of government funds during a declared state of emergency, the court shall increase proceeds up to 5% more than the maximum. The person shall receive an amount for reasonable expenses, attorney fees, and costs the court finds were incurred, awarded against the defendant.





- c. A 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/conditions of employment, or a prospective employer, because of lawful acts by the employee, contractor, agent, or associated others in furtherance of an action brought under this Article or efforts to stop a violation, shall be entitled to all relief necessary to make the employee, contractor or agent whole. Such relief shall include but not be limited to:
- an injunction to restrain continued discrimination;
  - hiring, contracting or reinstatement to the position such person would have had but for the discrimination or to an equivalent position;
  - reinstatement of full fringe benefits and seniority rights;
  - payment of two times back pay, plus interest; and
  - compensation for special damages sustained as a result of the discrimination, including litigation costs and reasonable attorneys' fees.

3. *Claim* in this section shall mean any request or demand, whether under a contract or otherwise, for money or property that:

- (i) is presented to an officer, employee or agent of the state or a local government; or
- (ii) is made to a contractor, grantee, or other recipient, if the money or property is to be spent or used on the state or a local government's behalf or to advance a state or local government program or interest, and if the state or local government (A) provides or has provided any portion of the money or property requested or demanded; or (B) will reimburse such contractor, grantee, or other recipient for any portion of the money or property which is requested or demanded;

does not include requests or demands for money or property that the state or a local government has already paid to an individual as compensation for government employment or as an income subsidy with no restrictions on that individual's use of the money or property.

#### 42 U.S. CODE § 1320a-7b(b) – FEDERAL ANTI-KICKBACK STATUTE

Whoever knowingly and willfully solicits or receives any remuneration (including any kickback, bribe, or rebate) directly or indirectly, overtly or covertly, in cash or in kind—

- A. in return for referring an individual to a person for the furnishing or arranging for the furnishing of any item or service for which payment may be made in whole or in part under a Federal health care program, or
- B. in return for purchasing, leasing, ordering, or arranging for or recommending purchasing, leasing, or ordering any good, facility, service, or item for which payment may be made in whole or in part under a Federal health care program,

shall be guilty of a felony and upon conviction thereof, shall be fined not more than \$100,000 or imprisoned for not more than 10 years, or both.

#### 18 U.S. Code § 220 –ELIMINATING KICKBACKS IN RECOVERY ACT (“EKRA”)

Except as provided in subsection (b) of 18 U.S.C. § 220, whoever, with respect to services covered by a health care benefit program, in or affecting interstate or foreign commerce, knowingly and willfully—

- (1) Solicits or receives any remuneration (including any kickback, bribe, or rebate) directly or indirectly, overtly or covertly, in cash or in kind, in return for referring a patient or patronage to a recovery home, clinical treatment facility, or laboratory; or,
- (2) Pays or offers any remuneration (including any kickback, bribe, or rebate) directly or indirectly, overtly or covertly, in cash or in kind—



(A) to induce a referral of an individual to a recovery home, clinical treatment facility, or laboratory; or  
(B) in exchange for an individual using the services of that recovery home, clinical treatment facility, or laboratory,  
shall be fined not more than \$200,000, imprisoned not more than 10 years, or both, for each occurrence.

#### 42 U.S.C. § 1395nn PHYSICIAN SELF-REFERRAL LAW

Except as provided and permitted by specific exceptions in 1395nn, if a physician (or an immediate family member of such physician) has a financial relationship with an entity as specified below, then —

- (A) the physician may not make a referral to the entity for the furnishing of designated health services for which payment otherwise may be made under this subchapter, and
- (B) the entity may not present or cause to be presented a claim or bill to any individual, third party payor, or other entity for designated health services furnished pursuant to a prohibited referral

A financial relationship of a physician (or an immediate family member of such physician) with an entity specified in this paragraph is—

- (A) except as provided by exceptions in 1395nn, an ownership or investment interest in the entity. This may be through equity, debt, or other means and includes an interest in an entity that holds an ownership or investment interest in any entity providing the designated health service, or
- (B) except as provided by exceptions in 1395nn, a compensation arrangement between the physician (or an immediate family member of such physician) and the entity.

Sanctions for violations of this include denial of payment, refunding the amount of the claims, civil monetary penalties up to \$15,000 for each improper claim, civil monetary penalties up to \$100,000 for each improper arrangement or scheme,

#### NEW YORK STATE PUBLIC HEALTH LAW § 238-A

Aside from exceptions identified in § 238-A, a practitioner authorized to order clinical laboratory services, pharmacy services, radiation therapy services, physical therapy services or x-ray or imaging services may not make a referral for such services to a health care provider authorized to provide such services where such practitioner or immediate family member of such practitioner has a financial relationship with such health care provider.

A health care provider or a referring practitioner may not present or cause to be presented to any individual or third party payor or other entity a claim, bill, or other demand for payment for clinical laboratory services, pharmacy services, radiation therapy services, physical therapy services or x-ray or imaging services furnished pursuant to a referral prohibited by NYS Public Health Law § 238-A.

#### 42 CFR § 1001.1901 EFFECT OF EXCLUSION ON EXCLUDED INDIVIDUALS AND ENTITIES.

Unless and until an individual or entity is reinstated into the Medicare, Medicaid, and other Federal health care programs, no payment will be made by Medicare, including Medicare Advantage and Prescription Drug Plans, Medicaid, or any other Federal health care program for any item or service furnished, on or after the effective date specified in the notice—

- (i) By an excluded individual or entity; or
- (ii) At the medical direction or on the prescription of a physician or an authorized individual who is excluded when the



person furnishing such item or service knew, or had reason to know, of the exclusion.

An excluded individual or entity that submits, or causes to be submitted, claims for items or services furnished during the exclusion period is subject to civil money penalty liability under section 1128A(a)(1)(D) of the Act and criminal liability under section 1128B(a)(3) of the Act and other provisions. In addition, submitting claims, or causing claims to be submitted or payments to be made, for items or services furnished, ordered, or prescribed, including administrative and management services or salary, may serve as the basis for denying reinstatement to the programs.

#### 42 U.S. Code § 1320a-7a – CIVIL MONETARY PENALTIES

Improperly filed claims shall be subject, in addition to any other penalties that may be prescribed by law, to a civil money penalty of up to \$100,000 for each act/false statement. In addition, such a person shall be subject to an assessment of not more than 3 times the amount claimed for each such item or service in lieu of damages sustained by the U.S. or State because of such claim. In addition, the Secretary may make a determination to exclude the person from participation in the Federal health care programs.

#### New York State Penal Law § 155 – Larceny

Anyone who steals, takes, obtains or withholds another's property, commits larceny and is subject to criminal sanctions depending on the amount of and circumstances surrounding the larceny. This ranges from Petit Larceny (a Class A Misdemeanor) to Grand Larceny in the first degree (a Class B Felony).

#### New York State Penal Law § 175 – OFFENSES INVOLVING FALSE WRITTEN STATEMENTS

Falsifying business records, instruments or statements is subject to criminal sanctions ranging from a Class A misdemeanor to a Class D Felony.

#### New York State Penal Law § 176– INSURANCE FRAUD

Penal sanctions for insurance fraud range from insurance fraud in the fifth degree (a Class A Misdemeanor) to insurance fraud in the first degree (a Class B Felony).

#### New York State Penal Law § 177– HEALTH CARE FRAUD

Penal sanctions for health care fraud range from health care fraud in the fifth degree (a Class A Misdemeanor) to health care fraud in the first degree (a Class B Felony).

#### New York State Social Services Law § 145

Any person who by means of a false statement or representation, or by deliberate concealment of any material fact, or by impersonation or other fraudulent device, obtains or attempts to obtain, or aids or abets any person to obtain public assistance or care to which he is not entitled, or does any willful act designed to interfere with the proper administration of public assistance and care, shall be guilty of a misdemeanor, unless such act constitutes a violation the New York State penal law, in which case he shall be punished in accordance with the penalties by such law.

The state has the right to recover civil damages equal to three times the amount by which any figure is falsely overstated or in the case of non-monetary false statements or representations, three times the amount of



damages which was sustained as a result of the violation or five thousand dollars, whichever is greater. Additionally, a monetary penalty up to \$10,000 can be imposed for each violation and up to \$30,000 for each violation if a penalty has been imposed within the previous 5 years.

#### NEW YORK STATE LABOR LAW §740 – PROHIBITED RETALIATORY ACTION BY EMPLOYERS

An employer shall not take any retaliatory action against an employee, whether or not within the scope of the employee's job duties, because such employee does any of the following:

- 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 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.

The protection against retaliatory action pertaining to disclosure to a public body shall not apply to an employee who disclosures 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 afforded the employer a reasonable opportunity to correct it. Employer notification is not required where: (a) there is an imminent and serious danger to public health or safety; (b) the employee reasonably believes reporting to the supervisor would result in a destruction of evidence or other concealment of the 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 the supervisor is already aware of it and will not correct the matter. An employee who was the subject of a retaliatory action in violation of this section may institute a civil action for relief within 2 years after the alleged retaliatory action.

The parties are entitled to a jury trial. The court may order relief as follows:

- a. an injunction to restrain continued violation of this section;
- b. 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;
- c. the reinstatement of full fringe benefits and seniority rights;
- d. the compensation for lost wages, benefits and other remuneration;
- e. the payment by the employer of reasonable costs, disbursements, and attorney's fees;
- f. a civil penalty of an amount not to exceed \$10,000; and/or
- g. payment by the employer of punitive damages, if violation was willful, malicious or wanton.

For the purposes of this section:

*"Employee"* means an individual who performs services for and under the control and direction of an employer for wages or other remuneration, including former employees, or natural persons employed as independent contractors to carry out work in furtherance of an employer's business enterprise who are not themselves employers.

*"Retaliatory action"* means 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 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, employee's family or household member's suspected citizenship or immigration status.

#### NEW YORK LABOR LAW §741 – PROHIBITED RETALIATION BY HEALTH CARE EMPLOYERS

No employer shall take retaliatory action against any employee because the employee:

- 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 action shall not apply unless the employee brought the improper quality of patient care or of workplace safety to the attention of a supervisor and afforded the employer a reasonable opportunity to correct it. This shall not apply to an action or failure to act where the improper quality of patient care or of workplace safety 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 reporting to a supervisor would not result in corrective action.

For the purposes of this section:

"Employee" means any person who performs health care services for and under the control and direction of any public or private employer which provides health care services for wages or other remuneration.

"Employer" means any partnership, association, corporation, the state, or any political subdivision of the state which:

(i) provides health care services in a facility licensed pursuant to article twenty-eight or thirty-six of the public health law; (ii) provides health care services within a primary or secondary public or private school or public or private university setting; (iii) operates and provides health care services under the mental hygiene law or the correction law; or (iv) is registered with the department of education pursuant to section sixty-eight hundred eight of the education law.

#### NEW YORK STATE EXECUTIVE LAW ARTICLE 5 § 63.

When any person engages in repeated fraudulent or illegal acts or otherwise demonstrate persistent fraud or illegality in the carrying on, conducting or transaction of business, the attorney general may apply to the supreme court of New York, on notice of 5 days, for an order enjoining the continuance of such business activity or any fraudulent or illegal acts, directing restitution and damages and, as appropriate, cancelling any certificate filed under the provisions of section 440 of the former penal law or section 130 of general business law, and the court may award the relief applied for or as it may deem proper.

#### NEW YORK STATE SOCIAL SERVICES LAW SECTION 366-B

Any person who knowingly makes a false statement or representation, or who by deliberate concealment of any material fact, or by impersonation or other fraudulent device, obtains or attempts to obtain or aids or abets any person to obtain medical assistance to which that person is not entitled, shall be guilty of a class A misdemeanor, unless such act constitutes a violation of NYS penal law, in which case such person shall be punished in accordance with the penalties fixed by such law.



Any person who, with intent to defraud, presents for allowance or payment any false or fraudulent claim for furnishing services or merchandise, or knowingly submits false information for the purpose of obtaining greater compensation than that to which he is legally entitled for furnishing services or merchandise, or knowingly submits false information for the purpose of obtaining authorization for furnishing services or merchandise, shall be guilty of a class A misdemeanor, unless such act constitutes a violation of New York State penal law, in which case such person shall be punished in accordance with the penalties fixed by such law.