



**PLEASE POST – DISTRIBUTE WIDELY**  
**ALL EMPLOYEE NOTICE**  
**December 2006**

**Requirements For Employee Education About False Claims Recovery  
Under the federal Deficit Reduction Act of 2005 (“DRA”)**

***What is the Deficit Reduction Act of 2005 (“DRA”)?***

On February 8, 2006, President Bush signed the Deficit Reduction Act of 2005 (the “DRA”). The DRA is legislation addressing deficit reductions ranging from education to housing and Medicare to Medicaid. Although the Deficit Reduction Act of 2005 (DRA) would seem to have little effect on the University of California, it contains a provision entitled “*Employee Education about False Claims Recovery*”, that imposes mandatory compliance obligations on any entity that receives annual Medicaid payments of at least \$5 million under a state Medicaid plan.

***What are the compliance obligations of the Deficit Reduction Act of 2005 (“DRA”)?***

Any entity that annually receives at least \$5 million in Medicaid payments (“Qualifying Entity”) is required to establish written policies and procedures about federal and state false claims laws and whistleblower protections. In addition, the DRA requires Qualifying Entities to include these policies and procedures in their employee handbooks. Qualifying Entities must comply with these educational requirements by January 1, 2007. Failure to comply with the new education requirements may render a Qualifying Entity ineligible to receive Medicaid payments. In addition to forfeiting Medicaid payments, any Qualifying Entity that knowingly violates the education requirements or is in non-compliance with the requirements after January 1, 2007 may be penalized for submitting false claims under the federal False Claims Act.

***What is the False Claims Act?*** The False Claims Act prohibits any person from knowingly presenting, or causing to be presented, a false or fraudulent claim for payment or approval of government funds. Under the federal False Claims Act, any person who knowingly submits a false or fraudulent claim to a state Medicaid program is liable to the federal government for three times the amount of the federal government’s damages plus penalties of \$5,000 to \$10,000 per false or fraudulent claim.

***What are the DRA Education Requirements?*** As a condition of receiving Medicaid payments, Qualifying Entities must establish written policies and procedures that provide detailed information to all employees, contractors, and agents regarding:

- ✓ The federal False Claims Act;
- ✓ Administrative remedies for false claims and statements;
- ✓ Any state laws pertaining to civil or criminal penalties for false claims and statements; and
- ✓ The whistleblower protections under such laws.

***How does the University of California’s policies comply with the DRA education requirements?***

The University of California has a web-site dedicated to whistleblower procedures with information, frequently asked questions, resources and written policies which include specific details regarding policies /procedures for detecting and preventing fraud, waste, and abuse. The policies incorporate requirements under State of California’s laws. The UC “Standards of Business Conduct” (employee Code of Conduct) has been updated with DRA information and includes a section covering the laws described above, the rights of employees to be protected as whistleblowers, and UC’s policies and procedures for detecting fraud, waste, and abuse. For more information on the UC Whistleblower policies visit:

<http://ucwhistleblower.ucop.edu/>

**Universitywide Whistleblower Hotline: (800) 403-4744**

*(The hotline is independently operated to help ensure confidentiality)*

UC Health Sciences “Standards of Business Conduct” – expectation of all University personnel:

*University personnel are strongly encouraged to report all known or suspected improper governmental activities (IGAs) under the provisions of the Policy on Reporting and Investigating Allegations of Suspected Improper Governmental Activities (Whistleblower Policy). Managers and*

*persons in supervisory roles are required to report allegations presented to them and to report suspected IGAs that come to their attention in the ordinary course of performing their supervisory duties. Reporting parties, including managers and supervisors, will be protected from retaliation for making such a report under the Policy for Protection of Whistleblowers from Retaliation and Guidelines for Reviewing Retaliation Complaints (Whistleblower Retaliation Policy).*

Those who report such suspected violations may remain anonymous and are protected from retaliation both by Federal law and UC policies.

**What do I need to do? What types of activities should be reported?** If you suspect instances of fraud, submission of false medical billing claims or other non-compliance with federal, state, local laws, regulations or UC policies, you should report it. Any activity by UC or a UC employee that violates any state or federal law or regulation (e.g., corruption, malfeasance, bribery, theft or misuse of government property, fraud, coercion, or conversation); or wastes money, or involves gross misconduct, gross incompetence, or gross inefficiency can be reported.

**What are examples of a false claim?** Under the federal False Claims Act (FAC), the federal government prosecutes, criminally or civilly, individuals or entities who submit or cause to be submitted, claims for payment by the government, when the claims are false. In the healthcare industry this includes Medicare, Medicaid and other federal healthcare programs. Examples that may create a false claim include but are not limited to: billing twice for the same service; billing for services not rendered; billing for medically unnecessary services or falsifying certificates of medical necessity; unbundling or billing separately for services that should be billed as one; creating false medical records or treatment plans to increase payments; failing to report and refund overpayments or credit balances; physician billing for services rendered by medical students, interns, residents or fellows in teaching hospitals; and giving and/or receiving unlawful inducements to healthcare providers for referrals for services.

FCA whistleblowers (or relators as they are referred to in the law) must be original sources of the allegations, thus they cannot use published accounts of fraud allegations or information that has already come to the attention of the government.

FCA whistleblowers are protected by the law from retaliation in any form as the result of their whistle blowing. These protections include reinstatement without loss of seniority if fired, recovery of two times lost wages plus interest and recovery of attorney fees and other reasonable costs in connection with pursuing a retaliation claim.

**What can the University of California do to prevent false claims?**

The UC has a Chief Compliance Officer (CCO) and local chief compliance officers and programs at each of the health and/or medical science campuses. The compliance department is charged with the operation and oversight of the compliance program at each UC campus, aimed at establishing a culture of compliance with all laws and regulations that affect the operations of UC.

UC Systemwide Compliance Officer: Rory Jaffe, M.D., e-mail: [rory.jaffe@ucop.edu](mailto:rory.jaffe@ucop.edu)  
UCLA Medical Sciences Compliance Officer: Carole A. Klove, RN, JD; e-mail: [cklove@mednet.ucla.edu](mailto:cklove@mednet.ucla.edu)

The campus CCO conducts reviews and audits of the functions of UC entities and departments to ensure that laws, regulations and internal policies are being followed correctly and that billing of payors is done properly. The CCO also investigates all reports of compliance violations and takes corrective action, if violations are found.

The UC General Counsel office and medical center Legal Services Department reviews contracts with physicians and others who provide services and material to the University of California to ensure that there are no violations of the Stark Self-Referral Law or the Anti-Kickback Law. The Compliance staff and the Patient Financial Services Department staff conduct regular audits and reviews of physician billing and hospital billing to insure that claims are properly documented, coded and submitted as required by the government and private payors.