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| TITLE | False Claims Act | | |
| NUMBER | NH-LD-CP-220 | Last Revised/Reviewed Effective Date: | Apr13 |
| TJC FUNCTIONS | LD, CP | | |
| APPLIES TO | Corporate Wide | | |

I. SCOPE / PURPOSE

It is the policy of Novant Health to provide health care services in a manner that complies with applicable federal and state laws and that meets the highest standards of business and professional ethics. To further this policy, and to comply with Section 6032 of the Deficit Reduction Act of 2005, Novant Health provides the following information about its policies and procedure and the role of certain federal and state laws in preventing and detecting fraud, waste, and abuse in federal health care programs.

II. POLICY

Novant Health must ensure that all employees, including management and any contractors or agents, are educated on the federal and state false claims laws and the role of such laws in preventing and detecting fraud and abuse in federal health care programs.

False Claims Laws

Federal and state False Claims Acts allow the government to bring a civil action against individuals(s) or entity(s) that submit a false claim to a federal health care program, and collect damages and penalties against healthcare providers in violation. Additionally, many of these laws allow “qui tam” (or whistleblower) suits to be brought by individuals that have knowledge of the fraudulent activity.

The federal False Claims Act, 31 U.S.C. Sections 3729-3733, imposes liability on any person or entity who submits a claim to the federal government that s/he knows (or should know) is false. Specifically, the False Claims Act prohibits knowingly filing a false or fraudulent claim for payments to a federal funded health care program, knowingly making or using a false record or statement material to a false or fraudulent claim to a federally funded health care program, knowingly making or using a false record or statement about an obligation to pay a federal funded health care program, knowingly concealing or knowingly and improperly avoiding or decreasing an obligation to a federal funded health care program or conspiring to commit a violation of one of the above.

“Knowingly” in this context means not only having actual knowledge that the information the claim is false but includes acting in deliberate ignorance of whether the claim is true or false, or acting in reckless disregard of whether the claim is true or false. Specific intent to defraud is not required.

A person or entity found to have violated the False Claims Act is, generally, subject to civil or monetary penalties of between \$5,500 and \$11,000 per claim plus three times the amount of damages that the government sustained. In health care cases, the amount of damages is the amount paid for each claim that is filed and determined to be false.

Additionally, a person may bring a *qui tam* (or “whistleblower”) action under the False Claims Act in the name of the United States. The government, after investigation, may elect to pursue the case in its own name or decide not to pursue the case. If the government decides not to pursue the case, the person who filed the action has the right to continue with the case on his or her own. If the suit is successful, the individual whistleblower may be awarded a percentage of the funds recovered, with the percentage being lower if the government joined the claim. If, however, the whistleblower is convicted of criminal conduct related to the claim, s/he will not be permitted to any recovery.

Another federal law, the Program Fraud Civil Remedies Act of 1986, provides administrative remedies for knowingly submitting false claims and statements. A false claim or statement includes submitting a claim (or written statement) for services that were not provided or one that asserts a material fact that is false or omits a material fact. A violation of this act results in a maximum of \$5000 per claim plus up to double the amount of damages incurred by the government.

Many states, including North Carolina and Virginia, have adopted state false claims acts similar to the federal False Claims Act. Both state laws contain *qui tam* provisions similar to the federal law and prohibit retaliation by employers against employees who report the employer’s false claims. South Carolina, while not adopting a state False Claims Act with similar *qui tam* provisions, does have an anti-fraud statute that makes it unlawful to submit false and fraudulent claims to the South Carolina Medicaid program.

The Affordable Care Act also imposes False Claims Act liability on a person or entity who fails to report and return an overpayment from Medicare, Medicaid, or other federal funded health care program within 60 days the overpayment’s identification.

Hospital’s Policies and Procedures for Detecting and Preventing Fraud:

Novant provides varied healthcare services pursuant to appropriate federal, state and local laws. Novant expects and demands compliance by all of its employees and agencies with the statutes and regulations that govern Novant business. Accordingly, Novant has created a wide array of policies and procedures for detecting and preventing fraud, waste and abuse. For instance, Novant prohibits any employee or agent of Novant from knowingly presenting or causing to be presented claims for payment or approval, which are false, fictitious, or fraudulent. These policies include The Novant Health Compliance Plan, the Novant Health Code of Ethics, Anonymous Reporting of Wrongdoing Policy, and Management of Alleged Compliance Violations Policy. Novant also has implemented policies, procedures and systems to facilitate accurate billing. These policies are available on the intranet and should be consulted.

Novant employees are obligated to report any knowledge of suspected wrongdoing. All

reports of wrongdoing are taken seriously. Such reporting may be to the employee's immediate supervisor/manager, the corporate compliance office, the hotline (Alert Line 1-800-350-0094, or <https://novanthealth.alertline.com>) and/or Human Resources. Novant employees may also report any knowledge of suspected wrongdoing to state or federal government agencies with jurisdiction over the area of perceived wrongdoing.

Anti-Retaliation Protections

Individuals within the organization who observe activities or behaviors that may violate the laws in some manner and report their observations either to management or to governmental agencies are provided protections under certain laws.

For example, the False Claims Act includes protections for people who file qui tam lawsuits as described above. The False Claims Act states that any employee who is discharged, demoted, suspended, threatened, harassed, or in any other manner discriminated against in the terms and conditions of employment because of lawful actions taken in furtherance of a qui tam is entitled to recover damages. He or she is entitled to all relief necessary to make the employee whole, including reinstatement with the same seniority status, twice the amount of back pay (plus interest), and compensation for any other damages the employee suffered as a result of the discrimination. The employee also can be awarded litigation costs and reasonable attorneys' fees. State False Claims Acts Also include similar anti-retaliation protections.

Employees reporting suspected wrongdoing to Novant, or to a state or federal government agency, will receive protection from retaliatory workplace actions, consistent with the protections more fully described in the Novant policies and procedures addressing reporting options, including the Novant Health Compliance Plan, the Code of Ethics, and Anonymous Reporting of Wrongdoing Policy. All reports of suspected wrongdoing are investigated promptly and confidentially to the extent possible. Employees are expected to cooperate with investigation efforts.

III. QUALIFIED PERSONNEL

N/A

IV. EQUIPMENT

N/A

V. PROCEDURE

The procedure serves as a guideline to assist personnel in accomplishing the goals of the policy. While following these procedural guidelines personnel are expected to exercise judgment within their scope of practice and/or job responsibilities.

N/A

VI. DOCUMENTATION

N/A

VII. DEFINITIONS

N/A

VIII. RELATED DOCUMENTS

Novant Health Compliance Plan
Code of Ethics (NH-HR-7070)
Anonymous Reporting of Wrongdoing Policy (NH-LD-AD-213)
Investigation of Alleged Compliance Violations Policy

IX. REFERENCES

Federal False Claims Act and those included throughout policy

X. SUBMITTED BY

Legal Affairs; Corporate Compliance Office

XI. KEY WORDS

False Claims Act; whistleblower, fraud, waste and abuse, retaliation

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| XII. INITIAL EFFECTIVE DATE | September 2007 |
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| Date Due for Next Review | April 2016 |

SIGNATURE SHEET (one copy only to be maintained by author)

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APPROVED BY:

| Title | Approved By | Signature | Date |
|--------------------------------|--------------------|------------------|-------------------------|
| VP Internal Audit & Compliance | Matthew Molbert | | See electronic approval |
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COMMITTEES APPROVED BY:

| Committee | Chairperson/Designee | Date |
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