

**TITLE: FALSE CLAIMS ACT AND DETECTING FRAUD AND ABUSE
(DRA 2005 UPDATE)**

PURPOSE: The purpose of this policy is comply with certain requirements set forth in the Deficit Reduction Act of 2005 with regard to federal and state false claims laws.

OVERVIEW of RELEVANT LAWS:

- **The False Claims Act (“FCA”)** is one of several laws the federal government has implemented to prevent and detect fraud, abuse and waste in federal health care programs (31 U.S.C. 3729 - 3733). The FCA applies to claims presented to federal health care programs for payment and permits the government to bring civil actions to recover damages and penalties when healthcare providers submit false claims. The FCA provides that anyone who “knowingly” presents, or causes to be presented, a “false or fraudulent claim” is liable for damages up to three (3) times the amount of the erroneous payment, mandatory penalties for each claim submitted, and administrative remedies such as exclusion from future participation in government health care programs. The FCA also permits qui tam suits which are lawsuits brought by private individuals. The FCA prohibits retaliation against any teammate that reports any actual or potential violation of the FCA or who is a relator.
- **The Federal Program Fraud Civil Remedies Act of 1986 (“PFCRA”)** allows the government to impose civil penalties against any person who makes, presents or submits (or causes to be made, presented or submitted) false, fictitious or fraudulent claims or written statements to designated federal agencies, including the U.S. Department of Health and Human Services. (31 U.S.C. 3801 – 3812).
- **Deficit Reduction Act of 2005 (“DRA”)** – The DRA of 2005 was signed into law in February 2006. This law contains many provisions reforming Medicare and Medicaid with two provisions specifically aimed at reducing Medicaid fraud. Under Section 6032 of the DRA, every entity that receives at least five (5) million dollars in Medicaid payments annually must establish, by January 1, 2007, written policies for all employees of the entity (including management), and for all employees of any contractor or agent of the entity, providing detailed information about false claims, the Compliance Plan and/or Policies & Procedures for detecting and preventing fraud, waste and abuse, and whistleblower protections under applicable federal and state fraud and abuse laws.

Note: Many states have enacted provisions that are very similar to the federal FCA. (For details on the states that have enacted such provisions, contact the Compliance Department at 1-888-200-1041 extension 156037 and please refer to the link on the Compliance Intranet home page entitled “*List of States with False Claims Acts and Whistleblower Protections*”).

POLICY:

DaVita shall provide all teammates and contractors/agents with information on the FCA and the organization's plan for detecting and preventing fraud, abuse waste via policies and procedures and in the Code of Conduct.

1. DaVita's billing processes and activities are to be performed in a manner consistent with Medicare, Medicaid and other payor regulations and requirements and in accordance with DaVita's documentation and billing policies and procedures.
2. DaVita will not retaliate against any teammate or contractor/agent for reporting any potential compliance concern in good faith. DaVita will not retaliate against any teammate or contractor for taking action under the FCA or state equivalents.
3. DaVita considers issues regarding false claims and fraud and abuse to be serious, and therefore, encourages all teammates, contractors and/or agents of the company to be aware of DaVita's policies and the laws regarding fraud and abuse and false claims in order to identify and resolve any issues immediately.

PROCEDURE:

1. DaVita teammates, contractors, and agents can access DaVita's DRA policy and information regarding State false claims laws, regulations and/or provisions on DaVita's internet website at page at www.davita.com/about/governance , as well as the DaVita intra-net webpage under "Departments/Compliance/LINKS – States with FCAs." Links are found on the right hand side of the Compliance webpage. This list will be updated periodically. The Compliance Department can also be contacted at 1-888-200-1041 extension 156037 for more information.
2. DaVita has developed policies and procedures that are designed to detect and prevent fraud, abuse and waste. These policies and procedures may be accessed on the DaVita intranet. Some examples of DaVita policies and procedures and methods designed to detect and prevent fraud, abuse and waste include, but are not limited to:
 - The Compliance Training Program
 - Audit & Monitoring Processes
 - Hotline for inputs/anonymous and investigations
 - Compliance Department Liaisons (CSLs) assigned to Key Areas in DaVita

- IT Root Cause Analysis policy and procedure
- IT Self- Monitoring policy and procedure
- Compliance Vendor policies and procedures
- Various billing and collections policies and procedures (ROPS policies)
- The Code of Conduct & Teammate Handbook

NOTE: DaVita's Code of Conduct and the Teammate Guidelines may be accessed on the DaVita Intranet; the Code of Conduct is accessible on the DaVita Internet Governance page as referenced above.

3. DaVita encourages teammates, contractor and/or agents to report any concerns regarding the FCA, fraud and abuse related matters, or any other ethical or potential compliance or legal matters, via the confidential Compliance Hotline (888-458-5848); thru the Compliance e-mail address QUESTionline@davita.com ; to their supervisor or any other management teammate; or by contacting the Chief Compliance Officer, other Compliance teammates, or members of the Legal Department (telephone numbers are available on the Intranet).
4. Any DRA-FCA related communications or inquiries that are received by a DaVita teammate or contractor/agent from any entity, provider, vendor or third party payor should be forwarded immediately to the Compliance Department – Lakewood, ATTN: DRA-FCA Inquiry, fax to:303-626-6323 or call the Compliance Department at 1-888-200-1041 extension 156037.
5. The Compliance Department should be contacted for any additional information regarding the Federal and various State false claims laws and about the Compliance Program at DaVita.

Teammates are expected to report possible violations of this policy and procedure. You may make your report to an appropriate DaVita manager, to the Corporate Compliance Hotline (1-888-458-5848) or to DaVita's Corporate Compliance Department (1-888-200-1041 x156037). You may make your report anonymously and you may request confidentiality. Questions regarding this policy should be directed to the DaVita Privacy Office at (303) 626-6280 or email HIPAA@davita.com.