

Compliance Standards: Legal Requirements

Standard

Fresenius Medical Care will comply with federal, state, and local laws and regulations that apply to its business.

The Company will establish policies and procedures to ensure compliance with such laws and regulations, and will not pursue business opportunities that are inconsistent with its regulatory obligations.

The Company will provide personnel with information and training on such policies and procedures. If there is a doubt as to the appropriateness of an action or a proposed action, personnel should seek advice from supervisors, managers, or other Company resources prior to taking the action. (See DRA Policy: Compliance with applicable federal and state laws - False Claims Act and Similar Laws.)

General principles require that a claim for health care services contain accurate and complete information, that the care provided be documented in the patient's medical record, and that the underlying care be consistent with a valid order.

Violations of the False Claims Act could result in:

- The payment of fines, up to \$11,000 per false claim, plus three times the actual amount of the government's actual damages; and
- Exclusions from participating in government health care programs.
- Individuals could also face imprisonment.

Examples of Health Care Law Violations

One purpose of these statutes is to prevent waste, fraud and abuse. Examples of health care law violations include knowingly and willfully:

- Billing for services not rendered;
- Including false entries on cost reports;
- Billing for medically unnecessary services;
- Assigning incorrect reimbursement codes to secure higher reimbursement;
- Characterizing non-covered services or costs in a way that secures reimbursement;
- Not seeking payment from beneficiaries or other insurers who may have other primary payment responsibility, co-pay or deductible obligations; and
- Offering, providing or receiving kickbacks.



Additional Regulations

In addition to the federal False Claims Act referenced above, the Federal Program Fraud Civil Remedies Act also prohibits and penalizes the submission of false claims and statements to federal healthcare programs. Likewise, many states have enacted their own false claims laws that are similar to the federal False Claims Act.

Compliance Program and Written Guidelines

FMCNA has developed an extensive compliance program and established written guidelines and policies in an effort to prevent waste, fraud and abuse and to comply with federal, state and regulatory guidelines.

In addition to the contents of this Code of Conduct, please review the general and functional compliance guidelines and policies of your business(es) and the Corporate compliance policies. The Five-Step Integrity process explains how to report suspected violations of law or FMCNA policy.

An effective compliance program includes the participation of all employees, who have an obligation to report to FMCNA instances where inappropriate activity may be occurring.

In keeping with federal and state law, and in compliance with its own policies and procedures, FMCNA will protect from retaliation any employee, who in good faith, reports a suspected violation.

Fresenius personnel are expected to know and comply with Company policies and procedures relating to their jobs, including the principles outlined in this Code.

Violation of Company Policy

Violations or suspected violations of the law or of Company policy must be reported to a supervisor or other appropriate Company manager.

Failure to report a potential problem deprives the Company of an opportunity to investigate and take corrective action.

Small problems that are not addressed in a timely manner can become serious issues for the Company in the future. Accordingly, failure to report a suspected violation may subject an employee to disciplinary action, up to and including termination of employment.

Industry Practice

“Industry practice” is never a basis for violating Company policies or regulatory obligations.

Disclosure of Violations

Every disclosure of suspected violation of law or policy will be thoroughly investigated and those who reasonably believe that a violation has occurred, and reports that violation, shall not be retaliated against per Corporate Policy and applicable law.

The False Claims Act also includes language protecting individuals who assert their rights under these Acts.

If you believe that following Fresenius policies would put the Company at a competitive disadvantage in a particular instance, you should bring the matter to the attention of the Law Department or the Office of Ethics and Compliance. Do not take it upon yourself to make an exception to company rules.

Legal Requirements: Q & A

Requests from Management to Violate Policy

Q: *My supervisor has asked me to do something that I believe is against Company policy and which may be illegal. What should I do?*

A: Discuss the situation with your supervisor to make sure that you agree on the facts of the situation. There may be a simple misunderstanding that requires clarification. If you are not satisfied with the answer, or if you still feel uncomfortable, contact a more senior manager, your Business Unit Compliance Officer, Divisional Director of Compliance or call the Office of Ethics and Compliance.

Reporting a Co-worker

Q: *One of my co-workers is doing something I believe to be illegal. I'm afraid that if I report his activities, he will lose his job. Can I simply talk to him about my concerns and ask him to stop?*

A: Talking to him would be a good first step, but may not fully address the problem. Even if he agrees to change his behavior, the Company may be required to report the activity and/or to repay money that may have been received as a result of improper activities. Both of you have an obligation to report the suspected violation, and to follow through with your supervisor or manager, or with the Office of Ethics and Compliance.