

BLA PARTNERS, LLC
Compliance with Federal and State False Claims Laws
and Detection and Prevention of Fraud, Waste and Abuse

BLA Partners, LLC (“BLA”) is committed to complying with the requirements of Section 6032 of the Federal Deficit Reduction Act of 2005 and to informing employees about certain fraud and abuse laws, including whistleblower provisions in those laws as well as other federal and state laws prohibiting fraud, waste and abuse.

The purpose of this policy is to provide detailed information to all employees, contractors and agents of BLA Partners, LLC about (a) the federal False Claims Act and similar legislation enacted by the State of Vermont (b) “whistleblower” protections under both federal and state law, and (c) BLA’s policies and procedures to prevent, detect and remedy fraud, waste and abuse.

To this end, the BLA maintains a compliance program and its compliance policies and procedures are set forth in detail in its Compliance Plan. BLA continues to develop its policies and procedures as well as methods of education and dissemination of these policies and procedures to its employees and relevant contractors and agents.

In accordance with the above, BLA has adopted policies which address these areas. They include, but are not limited to:

Reflex Testing,
Billing Calculations,
Reliance on Standing Orders,
Requisition Design,
Selection of CPT or HCSPC Codes,
Tests Covered by Claims for Reimbursement, and;
Adherence to Compliance Standards

Employees can access these and other policies on the SharePoint Compliance folder.

Information about the False Claims Act:

The purpose of the False Claims Act is to prevent, detect and remedy fraud, waste and abuse. The federal False Claims Act (“FCA”) and the Vermont False Claims Act can subject individuals and organizations to significant fines and penalties if they commit fraud against either the federal or the state government. Under the federal FCA false claims may include “knowingly submitting false or fraudulent claims to the government for payment or making or using a false record or statement in connection with the submission of such claims”. In addition to willful and intentional acts of fraud, individuals and organizations can be penalized for submitting or causing the submission of claims in deliberate ignorance or reckless disregard for the truth. Examples of false claims include billing for services with knowledge that such services are not medically necessary or performed; intentionally billing twice or multiple times for the same items or services; falsifying internal records that are used to support claims; failing

to report known over payments and credit balances to a government payor; and upcoding claims in order to obtain reimbursement in excess of the proper amount due.

BLA policies require all employees to report any known or suspected improprieties to the Compliance Officer. Reporting actual or potential noncompliance is a condition of employment for all employees. BLA supports employees in fulfilling this obligation by its policies prohibiting non-retaliation against staff who report in good faith and by providing an external hotline that allows employees to report issues anonymously. Any person may, under certain conditions, become a whistleblower and notify the government of known or suspected fraudulent activity at BLA. As a matter of statute as well as its own internal policy, BLA is prohibited from taking any adverse action against persons who notify the federal government of potential violations. Both the federal and state FCA and BLA's internal policies protect persons who in good faith notify the government under the federal FCA from retaliation.

As stated in BLA's Compliance Plan, Section VIII. Reporting Issues:

“Retaliation for reporting or discussing an issue, either within BLA Partners, LLC or to an external agency, is a violation of this Compliance Plan and BLA Partners, LLC's policy on compliance. Any person found to have participated in retaliatory action will be subject to corrective action. Any instances of potential retaliation should be reported to the Compliance Officer, Human Resources or management immediately.”

FEDERAL FALSE CLAIMS ACT (31 USC §§3729-3733)

The False Claims Act ("FCA") provides, in pertinent part, that:

(a) Any person who (1) knowingly presents, or causes to be presented, to an officer or employee of the United States Government or a member of the Armed Forces of the United States a false or fraudulent claim for payment or approval; (2) knowingly makes, uses, or causes to be made or used, a false record or statement to get a false or fraudulent claim paid or approved by the Government; (3) conspires to defraud the Government by getting a false or fraudulent claim paid or approved by the Government. . .or (7) knowingly makes, uses, or causes to be made or used, a false recorder statement to conceal, avoid, or decrease an obligation to pay or transmit money or property to the Government, is liable to the United States Government for a civil penalty of not less than \$5,000 and not more than \$10,000, plus 3 times the amount of damages which the Government sustains because of the act of that person.

(b) For purposes of this section, the terms "knowing" and "knowingly" mean that a person, with respect to information (1) has actual knowledge of the information; (2) acts in deliberate ignorance of the truth or falsity of the information; or (3) acts in reckless disregard of the truth or falsity of the information, and no proof of specific intent to defraud is required. 31 U.S.C. § 3729. While the False Claims Act imposes liability only when the claimant acts "knowingly," it does not require that the person submitting the claim have actual knowledge that the claim is false. A person who acts in reckless disregard or in deliberate ignorance of the truth or falsity of the information, also can be found liable under the Act. 31 U.S.C. 3729(b).

In summary, the False Claims Act imposes liability on any person who submits a claim to the federal government that he or she knows (or should know) is false.

31 USC §3730 – Civil Actions for False Claims

Actions by Private Persons

In addition to its substantive provisions, the FCA provides that private parties may bring an action on behalf of the United States. 31 U.S.C. 3730 (b). These private parties, known as "*qui tam* relators," may share in a percentage of the proceeds from an FCA action or settlement. Section 3730(d)(1) of the FCA provides, with some exceptions, that a *qui tam* relator, when the Government has intervened in the lawsuit, shall receive at least 15 percent but not more than 25 percent of the proceeds of the FCA action depending upon the extent to which the relator substantially contributed to the prosecution of the action. When the Government does not intervene, section 3730(d)(2) provides that the relator shall receive an amount that the court decides is reasonable and shall be not less than 25 percent and not more than 30 percent.

31 USC §3730(h) – Relief from Retaliatory Actions (aka “Whistleblower” Protection)

IN GENERAL.—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 this subchapter.

VERMONT STATE FALSE CLAIMS ACT (§§630-642)

The State of Vermont has enacted a statute that prohibits the same sort of conduct prohibited by the federal FCA. In dealings with state commissions, boards, departments and agencies, a person with intent to defraud is prohibited from:

- (i) falsifying, concealing or covering up by any trick, scheme or device a material fact;
- (ii) making any false, fictitious or fraudulent claim or representation as to a material fact; and,
- (iii) making or using any writing or document knowing that it contains any false, fictitious or fraudulent claim or entry as to a material fact.

The penalties for engaging in this sort of conduct depend upon the value of any loss to the state or benefit to the guilty party and include fines and potential imprisonment.

All BLA employees are responsible for reading, understanding, and complying with this and all other company policies. If you have questions about any of BLA’s policies please contact the Compliance Officer or any Compliance Committee Member.

REFERENCES

Federal Laws and Guidance

Section 6032 of the Deficit Reduction Act

Section 1902(a)(68) of the Social Security Act (42 USC §1396a(a)(68))

- FAQ by CMS regarding DRA Requirements and False Claims Act compliance
- CMS Guidance to States regarding False Claims Act (2006)

Vermont State Laws:

False Claim Law, §§630-642